TRIAL

OF

Mrs. Ellen G. Wharton,

ON THE CHARGE OF

POISONING

GENERAL W. S. KETCHUM.

TRIED AT

ANNAPOLIS, MD.

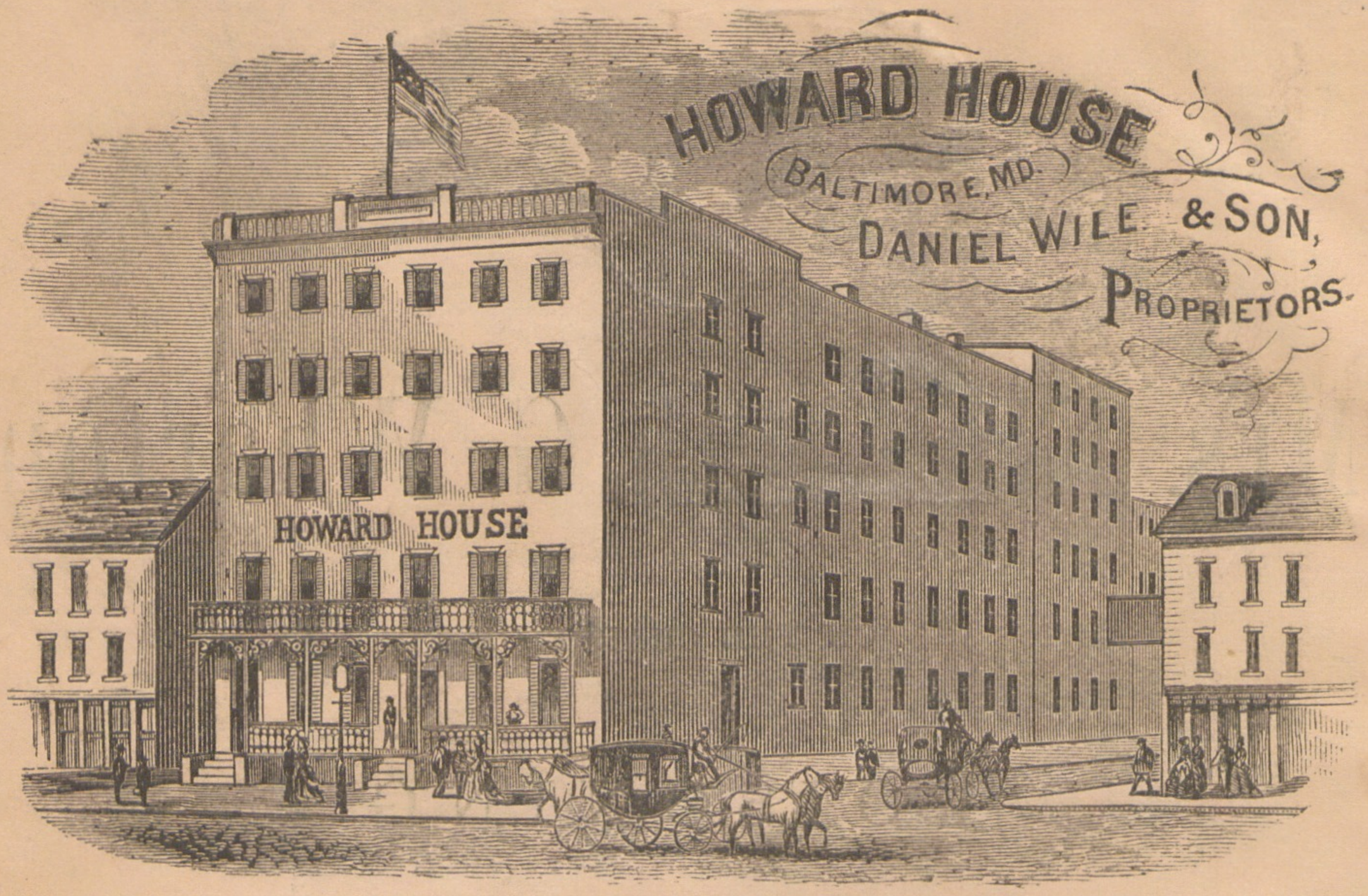
December, 1871—January, 1872.

REPORTED AND PUBLISHED

BY

THE BALTIMORE GAZETTE.

HOWARD HOUSE.



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THE ALLEGED

POISONING CASE IN BALTIMORE.

ARREST OF MRS. ELIZABETH G. WHARTON.

Great excitement was created in Baltimore in July, 1871, by the rumor that Mrs. Elizabeth G. Wharton was charged with poisoning several persons, visitors at her house.

The lady, charged with the crimes, moved among the most highly respectable, wealthy and influential circles in Baltimore, and extreme caution had been exercised by her friends and the officers of the law in keeping secret the facts of the case, for fear, doubtless, that there might be exaggerated and injurious reports. On the 24th of June General Ketchum, an old army associate and friend of the late Major Wharton, and intimate with his family, arrived at the residence of Mrs. Wharton, on Hamilton Place, intending to spend a few days. On the ~~24th of June, the day after~~ his arrival, he was taken suddenly ill, and died on the 28th.

During his illness he was attended by Dr. P. C. Williams. While General Ketchum lay ill Mr. Eugene Van Ness, for years on intimate terms with the family, called to spend the evening. Shortly after his arrival Mrs. Wharton offered him and several other persons, who were present, glasses of beer, which she said contained drops of gentian (a strong tonic), and her hospitality was accepted. In a brief time Mr. Van Ness became very sick and had to remain in her house. His family were notified, and Dr. Chew was summoned to attend him.

As the sudden death of General Ketchum had excited remark, the unexpected illness of Mr. Van Ness also created a suspicion of crime. At this time General Ketchum had not been buried, but his remains had been removed to Washington by his friends. Professor William E. A. Aikin, of the Maryland University, was requested to analyze his stomach, and after a patient performance of his work, reported twenty grains of tartar emetic. In the mean time Mrs. Wharton had continued her preparations to leave on Monday night, July 10th, for Europe, via New York, intending to sail on the Wednesday following.

On the 10th July, 1871, the following warrant was issued:

"Please issue bench warrant, on the oath of Deputy Marshal Jacob Frey, for the apprehension of Mrs. Henry Wharton, residing at 263 North Eutaw street, Baltimore, upon the charge of feloniously, willfully and of her malice aforethought, poisoning, killing and mudering General Ketchum, of the United States army, 28th June, 1871 Issue also bench warrant against the same party for attempting to poison Eugene Van Ness, on the 24th of June, 1871, on the oath of Deputy Marshal Frey.

"FREDERICK PINKNEY,

"Deputy State's Attorney for the city of Baltimore."

Marshal Frey immediately visited the house and laid the warrant and notified Mrs. Wharton, Miss Nellie Wharton and two colored servants in the house that they were in custody. Messrs. I. Nevitt Steele and John H. Thomas were promptly engaged as counsel by Mrs. Wharton's friends. They requested Judge Gilmor to be present in the city to receive an application for bail, if they thought proper to make it. His Honor complied with the request and decided to refer the case to the Grand Jury. Shortly after Mrs. Wharton was regularly presented and committed to jail. Her daughter was allowed to occupy her prison

room with her, and the two remained there until the case came up for trial at Annapolis, to which place it had been removed by the prisoner's counsel.

Mrs. Wharton's husband, son of Judge Wharton, of Philadelphia, was a graduate of West Point and an officer of the army. He died in 1867. Mrs. Wharton was Miss Elizabeth G. Nugent, of Philadelphia, and is sister of Dr. Nugent, now of Pittston, Pa. Early in 1870 Major Harry W. Wharton, Jr., of the United States service, and only son of Mrs. Wharton, died at his mother's residence. His life was insured for a very large amount in well known Life Insurance Companies. The full amount of these policies was paid to Mrs. Wharton.

The evidence in the case of General W Scott Ketchum is contained in the following report. He was connected with the Quartermaster's Department, was a widower, and left two children.

In the case of Mr. Eugene Van Ness, who was Clerk in the House of Alexander Brown & Sons, bankers, and who was an intimate friend of Mrs. Wharton's, and said to be very familiar with her accounts, it was stated that while on a visit to the residence of the accused, on the 24th of June, he drank a glass of beer, after pouring into it a few drops of tincture of gentian. He was immediately taken ill, and carried to a bed-chamber, where he was attended by Dr. S. C. Chew, and also by Mrs. Van Ness, his wife, until the Friday following, when he was removed to his home. Also that a glass of beer, directly from the hands of the accused, was offered Mr. Van Ness, and laid aside; that its contents were afterwards subjected to chemical examination, and found to contain fifteen grains of tartar emetic, an antimonial poison, composed of tartrate of potassa and antimony, ten or fifteen grains of which will produce death. This occurrred on the 28th of June, the day of General Ketchum's death, in the same house. Dr. Williams communicated these facts to the Marshal of Police, and to the brother-in-law of General Ketchum, Paymaster General Brice, at whose instance a post mortem examination was made of the stomach of deceased, resulting in the reported discovery of twenty grains of tartar emetic, which remained in the stomach after the continued vomitings of the deceased.

TRIAL

OF

MRS. E. G. WHARTON,

ON THE CHARGE OF POISONING

GENERAL W. S. KETCHUM.

On Saturday morning, December 2d, 1871, Mrs. E. G. Wharton, who since the date of her arrest had been confined in the Baltimore City Jail, was notified that she was to be removed to Annapolis for trial.

The message of the Warden was received by Mrs. Wharton with composure, and her last night in his custody was passed quietly. On Saturday morning at the hour named Warden Irvin ascended to Mrs. Wharton's room in the main tower of the jail, and requested her to accompany him. She and her daughter, dressed in mourning and wearing heavy veils, were in readiness, and without delay the party descended to the first floor. Here they were joined by Mrs. J. Crawford Neilson, of Harford county, who, from the beginning of Mrs. Wharton's incarceration, has been her most devoted friend. In a few minutes more the bars of the prison gate had been passed, and all were in readiness for the commencement of the

JOURNEY TO ANNAPOLIS.

A hack had been procured by the friends of Mrs. Wharton, and was in waiting. Warden Irvin assisted Mrs. Wharton, Mrs. Neilson and Miss Wharton into the vehicle, and, following, seated himself by the side of his prisoner. The time of Mrs. Wharton's departure had been kept secret, and with the exception of half a dozen police officers, who, after delivering prisoners to the jail, were on their return to the Middle District Station House, no one witnessed the scene. The drive to the steamer Sam'l J. Pentz, which had been selected by the Warden as the means of conveyance to Annapolis, was accomplished in good time, and was devoid of any incident of interest.

During the passage to Annapolis Mrs. Wharton's spirits seemed better than at any time since her arrest, and she evidently enjoyed the view and scenery of the bay. The ordinary subjects of the day's news formed the topics of her conversation, but she was silent as to her approaching trial, and no allusion was made to the occasion of her journey. At half past 9 o'clock the steamer reached Annapolis. It had become known that Mrs. Wharton would probably arrive by the route of the bay, and fifty or sixty persons were assembled on the wharf to get a look at the unhappy woman whose trial during the present week will be "the event of the day" in that quiet community. Alex. B. Hagner, Esq., associate counsel of Mrs. Wharton, and her old friend, Dr. Stewart, of the United States navy, were in waiting upon the wharf to receive her. As soon as she had left the boat the crowd gathered towards her, but there was no unbecoming demonstration. She appeared considerably annoyed by the attention she had attracted, but quietly entered a carriage which had been kept in waiting, and was quickly followed by her daughter, Mrs. Neilson and Mr. Irvin. The vehicle was then driven rapidly to the county jail of Anne Arundel county, situated on Calvert street, about a half mile from the wharf.

TRIAL

OF

MRS. E. G. WHARTON,

ON THE CHARGE OF POISONING

GENERAL W. S. KETCHUM.

REPORT OF THE TRIAL.

FIRST DAY.

ANNAPOLIS, MD., December 4, 1871.

As was anticipated, the commencement of the trial of Mrs. E. G. Wharton has occasioned much excitement in this city. The court room was crowded during the entire proceedings to-day, and everything indicated the deep interest felt in the case. A large number of ladies were constant attendants Many of the most prominent citizens of Annapolis were in the court room to-day, and the interest evidenced is earnest, but very calm and respectful.

At ten minutes before 10 o'clock Mrs. Wharton arrived in a hack In front of the court house, and was accompanied by her daughter, and Mr. and Mrs. J. Crawford Neilson, She entered the court room, leaning on Mr. Neilson's arm, without delay, and took a seat in the witness' box and to the right of the Judge's Bench. Her entrance was accomplished in a very quiet manner, and no particular excitement followed.

Upon the opening of the court Chief Justice Miller called cases No. 7 and 8 on the criminal docket, removed from Baltimore city, and inquired of the State's Attorney if the State was ready to proceed to trial. The State's Attorney replied that he had not called the list of the State's witnesses, and that he moved that the prisoner be first arraigned, as she had not been arraigned in the Criminal Court of Baltimore, and that it be on the first indictment, namely, for the murder of General Wm. Scott Ketchum. Mr. Steele, counsel for the defence, signified the assent of the prisoner's counsel, and the Chief Judge ordered the Sheriff to place the prisoner at the bar. Mrs. Wharton arose leisurely, and taking the arm of her counsel, Alex. B. Hagner, Esq , proceeded towards the prisoner's box, the crowd giving away as she passed. She removed her veil before leaving her seat, and for the first time revealed her countenance to the gaze of the crowd. Her daughter followed her closely, and Deputy Sheriff Basil followed at a pace. When she reached the prisoner's box she quietly took her stand, and her daughter, deeply veiled and with her head slightly bowed, stood close to her left, but outside of the box. Mr. Steele then requested the Chief Judge to allow the prisoner to take her seat, as the indictment was lengthy and her health feeble. Judge Miller said the Court would consent after the reading of the first count of the indictment. As Mrs. Wharton stood in the criminal box she wore a composed and sad expression. She showed no emotion, but seemed calm and resigned. Occasionally, however, a nervous movement of her lips and eyes showed that it was a painful and trying occasion to her. The crowd pressed toward her, and stared with earnest curiosity. Some stood upon the benches that they might obtain a better view of her.

As soon as the court had consented to the request of Mr. Steele, Colonel Sprigg Harwood said to the prisoner, in the usual court formula, "Raise up your right hand." At these words she looked at him steadily, and drawing her right hand from her muff, raised it to her shoulder. The reading of the lengthy indictment, naming her as Elizabeth G. Wharton, then followed, and at the conclusion of the first count she was allowed to seat herself. A half hour was consumed in the reading of the indictment, and when the momentous question, "What say you, guilty or not guilty?" was asked, Mrs. Wharton answered in a clear voice, but little tremulous, "Not guilty."

She then left the prisoner's box and took her seat immediately in rear of her counsel, with her daughter to her left and Miss Rosa Neilson and Mrs. J. Crawford Neilson to her right. Without delay she drew down her veil and she and her daughter sat close to each other, both appearing much relieved at the change in their positions.

After the long list of witnesses had been called, the Judge ordered the names of the first twelve jurors on the regular panel to be called, and Colonel Harwood proceeded to obey the order.

At this moment Mrs. Wharton removed her veil aside and sat calmly awaiting the call of the jurors. She seemed less agitated than her daughter, who kept her veil down, and it was noticeable that she manifested none of the nervous interest in the proceedings which usually characterizes persons on trial for their lives.

The selection of the jury was then proceeded with, and after a number had been challenged, and several had been excused, the following eight were selected:

J. Franklin Deale, foreman; George M. Taylor, Jr., Stephen Beard, Benjamin R. Davidson, Jas. A. Bruce, Lloyd Brown, George Johnson, Jr., and Chas. C. Stewart.

The court then adjourned for the day. The trial, of course, excites intense interest. The management of the case will doubtless show much ability and skill on both sides, and the court will be called upon to decide many delicate questions as to the evidence offered. Judges Hammond and Hayden will be present to-morrow and until the conclusion of the case. As the character of the alleged crimes becomes developed by the testimony, the attendance upon the trial will probably be considerably increased. Many of the details have never been published, and the contradictory statements which have been given have served to heighten the curiosity of the public to learn the fullest particulars.

SECOND DAY.

ANNAPOLIS, MD., December 5, 1871.

The proceedings to-day in the trial of Mrs. E. G. Wharton were marked by increased and more earnest interest. The court room was even more crowded than on yesterday, the large number of witnesses in attendance considerably augmenting the spectators. Judges Hammond and Hayden were on the bench to-day, and, as was anticipated, the counsel engaged have shown their determination to avail themselves of all the advantages they conceived the rules of evidence would allow. Hon. A. K. Syester arrived yesterday afternoon, and, together with a large number of the witnesses for the defence, is stopping at the Maryland Hotel. He qualified this morning before his Excellency Governor Bowie as Attorney General of Maryland, and has been actively engaged to-day with the State's Attorney.

The first business of the court was the completion of the panel. After some little delay the following four jurymen were selected, this completing the twelve: John H. Sellman, R. W. Sheckells, George W. Watkins and Robert H. Welch.

The Chief Judge then charged the jury, telling them that the trial would probably be long and tedious; that they must consider themselves set apart from the rest of men, and that no papers or any communications could be allowed them.

Mrs. Wharton, leaning on the arm of Deputy Sheriff Basil, then proceeded to the prisoner's box, her daughter following and seating herself at her side. Colonel Harwood, the clerk of the court, then said: "Elizabeth G. Wharton, stand up and hold up your right hand." She stood up, with the same composed look which had distinguished her conduct on yesterday, and gently removing her heavy veil, stood with her hand raised before the jury and court, awaiting the second reading of the indictment.

She seemed very calm, but, as on yesterday, it was evidently a struggle with her. Colonel Harwood then, in a loud and clear voice, read to the jury the lengthy indictment for the murder, by poisoning, of General William Scott Ketchum. The fearful issue was now made up between the State of Maryland and Mrs. Wharton, the law of the State declaring the crime of which she was thus formally accused to be punishable with death, and the jury being denied, by the law, the right to bring in a secondary verdict.

The Chief Judge now ordered the State's Attorney to proceed with his opening statement to the jury. Mr. Revell arose, amid profound silence, and said:

May it please the court, and you, gentlemen of the jury: The oath that you shall well and truly try, and a true deliverance make between the State of Maryland and the prisoner at the bar, has been so solemnly taken by you that I feel that I can add nothing to impress it upon you. Knowing you personally, and acquainted with your high character, I feel, too, that no word of admonition is necessary from me. While you will be called upon in the discharge of your high and solemn duty—solemn as the grave and as momentous as life—to extend the shield of the law to prevent wrong to the prisoner, you will be called upon to protect also the State of Maryland.

The State's Attorney then remarked to the jury that the case had been removed from Baltimore city, and came before the jury as if it had occurred in the county of Anne Arundel, and briefly stated the four counts of the indictment. The law on the subject of the indictment is brief and simple. The 137th section of the Code of Maryland, chapter 2d, declares all murder by poisoning to be murder in the first degree. He then read from Wharton on Homicide, giving the legal definition of murder. The question between the State of Maryland and the prisoner was one of murder in the first degree, or nothing—liberty or death. He then proceeded to introduce to the attention of the jury the main facts of the case.

The State would show that Major Harry W. Wharton, the late husband of the accused, was an intimate associate of General Ketchum in the Sixth Regiment of the United States Army, and that the intimacy between General Ketchum and Major Wharton's family continued after the death of Major Wharton, and led to business relations. General Ketchum loaned Mrs Wharton the sum of $2,600, and took her note. The last interest paid on the loan was on the 25th of January last, and it was known to the accused that interest was again due on the 17th of June last. On the 16th or 17th of June last Mrs. Wharton went to Washington to see General Ketchum about the note, and assigned as a reason for not paying the interest that her bankers had disappointed her. On the Saturday previous to his death General Ketchum left Washington in perfect health, and in company with Mrs. Chubb, an intimate friend, and arriving in Baltimore, went immediately to the residence of Mrs. Wharton to take leave of her before her contemplated departure for Europe, and for the purpose, as he declared, of collecting the amount of the note he held. On the evening of the day Gen. Ketchum arrived at Mrs. Wharton's he was taken violently sick. The State would prove that Mrs. Wharton had, after administering medicines which made General Ketchum each time violently sick, administered a final dose to him before the hour named for him to take medicine by Dr. Williams, who was in attendance upon him, and exhibited an eager desire to administer it. Mrs. Wharton did not leave the scene of her tragic act until General Ketchum in his agony commenced to tear his throat and stomach. The stomach of General Ketchum was carefully analyzed by Prof. Aikin, and twenty grains of tartar emetic found, and there were no indications in the brain, liver or heart of any natural disease. Mrs. Wharton purchased two quantities of tartar emetic on the day of General Ketchum's death. The State would also prove that Mrs. Wharton made contradictory statements in reference to her movements, and that she went so far as to try to induce a witness for the State to make a statement to the Grand Jury in Baltimore that was not true.

The State would show by the testimony of the doctors who attended General Ketchum, and of experts, that General Ketchum could have died from nothing but poison. Mrs. Wharton was, at the time of General Ketchum's death, very much straitened, and she had been trying for some time to raise a letter of credit before leaving for Europe. A human life had been foully taken, and the testimony for the State would connect Mrs. Wharton, beyond a doubt, as the principal actor.

Mr. Steele informed the jury that the counsel for the defence would reserve their statement. If he might be allowed to use a homely phrase in

speaking of so "eloquent" an opening statement, he would say "the bark was worse than the bite." He would say nothing further at present, but the defence was confident that it would be the duty, as well as the pleasure of the jury, after hearing all the testimony, to render a verdict of acquittal.

Mrs. Eliza C. W. Chubb, of Washington, was first called and testified—I reside in Washington city, and have lived there over thirty years; I am engaged in the Treasury Department. [Here the witness was stopped until the fire had been fixed, that operation causing considerable noise. [After some delay she continued—I knew Gen. Ketchum very well, and had known him for seven years; I have known the accused for twenty-two years; on the 24th of June last I went from Washington to Baltimore.

The witness was now asked if Gen. Ketchum accompanied her, and Mr. Steele objected, but after some slight discussion, she was allowed to continue:

General Ketchum accompanied me, and appeared to me to be very well; I had seen him nearly every day before we went together to Baltimore, and he appeared very well; I was in the habit of seeing him daily; I never heard that he had been sick the week before; we left Washington on the 10:40 A. M. train, and went directly to Mrs. Wharton's residence after reaching Baltimore; Mrs. Wharton met us at the door; she told us Mr. Van Ness was lying ill in her house; soon after arriving the General left his bag and went down town to purchase some tobacco. At the tea table both General Ketchum and I ate very heartily, remarking that we felt very hungry; Mrs. Wharton presided only a few minutes, when she was called away; she did nothing at the table except to give each of us a cup of tea; I don't recollect whether or not that was repeated; when supper was over General Ketchum and I went to the third story, as Mrs. Wharton's house was crowded by Mr. Van Ness' relatives and friends; we sat together in his room and talked until nearly 11 o'clock, when I bade him good night; while we were there Mrs. Wharton came and asked if we were comfortable and if we wanted anything; in the night General Ketchum was taken sick; I cannot tell the hour; I did not see him, and cannot say how he was taken sick; the only circumstance was that he came down stairs once or twice; some one remarked that the General was sick; there was a number around and don't know who said it; I cannot say how long he was down stairs; the next day (Sunday) he came down and partook of breakfast; he remarked that he had not been well the previous night; he assigned no cause and did not say how he was affected, except to say that he had been sick at the stomach; he complained, however, of giddiness; Sunday morning, after breakfast, he went out of the house and was gone nearly an hour; I left the house and did not return until after tea that evening; he told me that morning that he was not well enough to go church with me, and that I would have to go without him; I returned between 8 and 9 o'clock that evening; the General seemed brighter and better, and was sitting in the dining room, talking; several were in the room, but I don't think I can recall the name of any one; we sat and talked, and retired about 11 o'clock; some lemonade was offered by Mrs. Wharton to us, and he and I partook of it; I think she asked if we would like to have some; the General remarked that he was afraid of the acid, but that if "a stick was put in it," he would drink; some brandy was offered.

Mr. Steele—I suppose a "stick" meant brandy.

Mr. Revell—We have examined no experts about a "stick" in lemonade; we know nothing of "a stick" of our own knowledge. This caused some laughter, which the court promptly checked.

The witness continuing—A gentleman came in to speak with Mrs. Wharton, and I am under the impression that it was a Mr. Moale; the lemonade was prepared by Mrs. Wharton, in the dining room, almost at my elbow, and we were talking to her while she was making it; Gen. Ketchum sat half facing Mrs. Wharton, and talking to her; she was making it on a sort of buffet, or sideboard; in my turning to speak to her I could see the vessels in which she was preparing it; Mrs. Wharton handed it to us on a small waiter or a plate, I don't remember which; both glasses were together and I suppose I took the one nearest me; I don't remember who took a glass from the waiter first; brandy was suggested, but I don't remember who brought in the brandy or who went after it; the General poured brandy into his glass, but none was poured into mine; that was, I think, about 10 o'clock, and we did not retire until about 11 o'clock; I heard that General Ketchum had been taken sick during that night, but I had no conversation with him, nor did I see him after I bade him good night; I heard him coming down stairs; it was in the night, but I have no idea of the hour; I next saw him on Monday morning, just before breakfast, and he complained of being unwell; he again complained of a sick stomach and giddiness; he complained of nothing else; I heard him once or twice sick at the stomach, as if he was throwing up; I don't remember the number of times I was in his room that day; he continued unwell all day long, and in the afternoon consented to have a physician, and I went for Dr. Williams, and brought him over; I had suggested once or twice that he should have a physician; Mrs. Wharton had also urged upon him the necessity of having a physician, and asked me if I would go for one; on Tuesday morning I left the house twenty minutes of 7; on my return to Washington I first went to General Ketchum's room and talked with him through the keyhole; he told me he was better and would come over on the 11 o'clock train and take dinner with me; Dr. Williams prescribed a bottle of medicine for Gen. Ketchum; late in the evening Mrs. Wharton come down and said that going into the General's room and not seeing the bottle she had knocked it off a chair and broken it; I suppose that was an hour or two after the medicine had been prescribed; Mrs. Wharton said she was going to the druggist's to have it renewed, and I offered to go for her; she said the broken vial had been picked up and thrown into the slop-jar; I don't remember whether she said she or a servant had thrown it in the slop jar; she said she wanted the medicine replaced before the time came for General Ketchum to take it according to Dr. Williams' directions; Mrs. Wharton asked me to get for her a little tartar emetic for her breast; I then went to Gosman's drug store; I told the clerk that I wished medicine for a gentleman at Mrs. Wharton's who had been prescribed for just an hour before by Dr. William's; I got the medicine for General Ketchum and paid for it; I also asked

for a little tartar emetic for Mrs. Wharton; the clerk asked me if Mrs. Wharton wished it for her breast; and I told him she did; he then said something in an undertone to a boy, and after awhile gave it to me; Mrs. Chubb here folded a piece of paper, measuriug about 2½ inches square, and said the paper containing the tartar emetic was about that size. Continuing, she said:

I returned and Mrs. Wharton and several ladies were at the supper-table; I put General Ketchum's medicine on the mantel, and said audibly, "here is General Ketchum's medicine," I laid the tartar emetic on the mantel, also; that night, after we had gone up stairs together, I saw Mrs. Wharton shaking the little package over a mustard plaster, and I saw her throw the paper in a slop-jar; I was lying on the bed and could see her distinctly; I also saw her apply the plaster; she was standing at the washstand when she sifted the tartar emetic on the plaster; the gas light was burning rather dimly, but I could see her well; I remember the occurrence of nothing else during the evening: Mrs. Wharton and I occupied together the back-room, on the second-story; General Ketchum occupied the third-story front room; Mrs. Wharton did not retire any night; she was up off and on all Saturday, Sunday and Monday nights; I saw the servant taking General Ketchum a cup of tea and a slice of toast on Monday, but I saw nothing else taken to him: Susan Jacobs was taking it to him; Mrs. Wharton asked me, since I purchased the tartar emetic and after her arrest, if Icould identify the person from whom I had bought the tartar emetic; I told her I could, and she said it was important that I should have my mind clear on that subject, and not confuse one purchase with the other; she impressed upon me the importance of my being able to identify the person from whom I had made the purchases. Mr. Revell—"Was anything said about another purchase?" Mr. Steele objected; the cross-examination was going, he thought, too far, when the issue was one of life or death, and Judge Miller said he thought the cross-examination becoming too general. Mr. Revell said he merely desired to have the mind of the witness refreshed. Some desultory discussion followed, and the witness continued:

We both felt assured that but one purchase was made, and Mrs. Wharton said that as I was a stranger in the store, and several other purchasers were present at the time I was there, it was particularly necessary that I should be able to identify the person who gave it to me; I did not have any conversation with Mrs. Wharton on any other subject; the conversation took place in her own house a day or two after her arrest; I think she was arrested on Monday evening; I went to Baltimore, by invitation of Mrs. Wharton, to see her before she went to Europe, but the conversation about the tartar emetic did not occur at that time; when I reached Baltimore I found her in her house; I don't remember any other conversation about the tartar emetic; I don't think any one was present at the time of the conversation; I did not see Mrs Wharton out of her house on the Monday previous to the death of General Ketchum, except in the afternoon, when she went with me and returned with me.

Mr. Revell, having written out an interrogatory, proposed to read it to the court, and know whether or not the court wonld rule it out as one going too far as a leading question.

Mr. Hagner objected, and Mr. Steele further objected in some strenuous remarks.

The wrltten question was then passed by Mr. Revell to Mr. Thomas, who sat nearest to him.

Mr. Syester said the State only desired to recall to the recollection of the witness what had escaped her. The court considered the question for several minutes, and Judge Miller announced the decision of the bench substantially as follows:

The rules that govern the asking of legal questions have been in a great degree modified, and it has been left almost entirely in the discretion of the court. The object was to get at the whole truth, and the discretion of the court was governed by the circumstances in each case. The court did not conceive that there could be any objection in asking the question, considering the manner and character of the witness on the stand.

Mr. Revell then asked the written question: "Did Mrs. Wharton or did she not make any statement to you to the effect that she had bought tartar emetic on the Monday preceding the death of General Ketchum?"

Mrs. Chubb promptly replied: "She made no remark about it as far as I can remember, except that she never bought any tartar emetic."

The witness was next asked by Mr. Syester if she remembered having any conversation with General Ketchum on his way to Baitimore as to his object in going to Baltimore.

Mr. Hagner said quickly, "We object," and Mr. Syester said to Mrs. Chubb, "Don't answer that question yet."

The court asked Mr. Syester to state how he intended to follow up the question.

Mr. Thomas begged leave to suggest that it would be better for Mr. Syester to make his statement only to the bench, so as to avoid any prejudice, if there be possibly any prejudice, which might arise in a discussion of the question before the jury.

Mr. Syester said the same question of law involved in the question he had propounded would come up in a subsequent stage of the case, and he was willing that the question should be waived for the present if the counsel for the defence would consent that the witness should at another time be recalled to testify on the point raised.

Judge Miller said it made no difference with the court at what time the question was argued.

Mr. Syester then stated to the court that the State proposed to show by the witness that Gen. Ketchum went to Mrs. Wharton's to collect money which she owed him, and that he took with him the note of Mrs. Wharton for $2,600, and the State would further show that Mrs. Wharton's note was alone missing from the list of General Ketchum's assets as made up by him. The counsel for the State had laid no ambuscades and proposed to conduct the case according to the strict rules of evidence. Mr. Steele said the counsel for the defence imputed no improper motive, but desired to confine the examination to such questions as were strictly legal.

Judge Miller said that the court understood that the State desired to show that General Ketchum was going to Baltimore to collect money. Mr. Steele said the defence objected, and Mr. Thomas proceeded to state the legal grounds of their objection. If the evidence was admissible at all, it was only admissible as a part of the resgestae. Every declaration accompanying every act was admissible in evidence, and only when declar-

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; Peopie 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 Cnshing; 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 lett, 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; 20 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 evidence 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.

Judge Miller announced the decision of the court substantially as follows:

The discussion has been exceedingly able, and the court sees the importance of the question raised. But one witness has been brought, and her testimony has not been concluded. The State is bound to establish the fact of the murder of General Ketchum at Mrs. Wharton's house, and the State officers allege that they must make out their case by circumstantial proof. If it should be proved that there was an antecedent debt between the accused and General Ketchum, and that the note he held had not been found, it would be admissible for the State to establish it by competent proof.

The question before the court was collateral, and the court was of the opinion that the unsworn statement of General Ketchum was not admissible. When the documentary proof was offered a new phase of the case would come up, and the court would decide upon it.

Mrs. Chubb now resumed the witness stand, and Mr. Syester said the witness was in the hands of the defence. Mr. Steele proceeded to cross-examine her, as follows: The day was a warm summer day when General K. and I came from Washington; I did not dine before leaving Washington; I do not know that General Ketchum had dined; he told me he had not; we arrived between 6 and 7 o'clock; General Ketchum went into Mrs. Wharton's for a few minutes; then went out and returned in about three-quarters of an hour; we took supper that night; General Ketchum was at the table and ate very heartily; I cannot give the hour; about 9 o'clock I should judge, but I cannot tell the exact time; General Ketchum ate nothing but some bread and butter and some raspberries; I cannot say how much coffee or tea he drank; I did not observe; I cannot say whether or not biscuits were on the table; there was some bread; he did not eat very heartily of the raspberries; I remember helping him once, but do not know how often he was helped.

Mr. Steele—"Do you remember any reason assigned by General Ketchum for his eating so heartily?"

Mr. Syester objected, and after some discussion Judge Miller said the question might be asked.

Mrs. Chubb continued—He said he was hungry, as he hadn't eaten any dinner.

Mr. Syester—"A good reason."

The witness continued—General Ketchum mentioned on the cars that he had drank a great deal of ice water, but said nothing about it at Mrs. Wharton's.

The State objected, and the court ruled the answer inadmissible.

Mrs. Chubb continued—I met Gen. Ketchum at the cars in Washington, and he did not seem much fatigued; General Ketchum had nothing for supper that night except what we were partaking of together, as far as I know; I was not made ill by anything I ate; after supper General Ketchum stayed in the dining room a little while, and then went up to the third-story front room; I don't remember whether Mrs. Wharton was standing in the room or in the passage when we went up, she was standing somewhere near; I was with the General most of the time until he retired; I heard him lock his door; Gen. Ketchum went out on Sunday morning after breakfast for a few moments to see an old army friend; when he returned he did not say where he had been; I did not return to Mrs. Wharton's until after tea in the evening; General K. then told me he felt better; I don't know what he took at tea that evening; there were two glasses of lemonade made; they were presented so that I would naturally take the one nearest to me; they were handed to both of us at once; I took one first, and the one nearest to me; I was not asked to take that one particularly, and I could have taken the other.

Cross-examined by Mr. Hagner—I brought from the apothecary's one vial and one package; I did not see the druggist prepare the medicine; I suppose creosote was in the vial, but I did not smell it; I cannot say how long General Ketchum was smoking; he was smoking part of the time, and part of the time he was talking; he was sitting in an arm chair; I think it was between half-past 10 and 11 o'clock that I parted with him, but I cannot be accurate; in the night I heard him go down stairs only once; I heard him return to his room; he was not down stairs very long; I cannot give any idea of the time at which he went down stairs; I was waked by the noise of his going down. The witness was now asked to describe Mrs. Wharton's house, and she said it was a back building house, with the front door on the side opening into a passage, on either side of which is a room; I can give no idea, said she, of the width of the passage, but it was a small passage, wide enough, however, for a table; one room on the first floor is the parlor and the other a dining room; a small door opens from the dining room into a passage leading into the kitchen; I occupied the back room, second story; some ladies were occupying Mrs. Wharton's room at the time; I was not present when Mrs. Wharton asked General K. to send for a physician; he said two ladies were "one too many for him," and he would consent to have a physician.

Mr. Steele—"Have you any knowledge of General Ketchum's coming down on Monday morning, with the intention of going to Washington that day?"

Mr. Syester warned the witness not to answer, and asked Mr. Steele to state his object in asking the question.

After some consultation among the counsel for the defence the question was not insisted upon, and the witness was allowed to leave the stand.

Mrs. Meta Hutton was next called, and testified—I live in Baltimore, and am the wife of N. H. Hutton; I have lived in Baltimore nineteen years; I was not at all acquainted with General Ketchum until I met him at Mrs. Wharton's on Saturday, the 24th of June, 1871, about 7 P. M.; I have known the accused about seven years; I opened the front door for General Ketchum, and Mrs. Wharton met him and asked him to walk up stairs; he was not accompanied by any one at that time; I had seen Mrs. Chubb before that time; I met Mrs. Chubb going into the gate of Mrs. Wharton's yard as I went there about 6 P. M.; Mrs. Chubb had been for medicine for my brother, Mr. Eugene Van Ness, when I met her; my brother was at that time ill in the house; Gen. Ketchum appeared very well; I was in his company only a minute as he passed in; I saw him at the tea table when I went in, General Ketchum asked me to sit down and take some tea, and I declined; he said then I was a poor, nervous creature; Mrs. Wharton gave me the cup of tea and I left the room; I was in the room possibly three or four minutes; Mrs. Wharton was pre-

siding, and Mrs. Chubb and Gen. Ketchum were the only persons there; I think General Ketchum said, "If you were as hungry as I am you would take some tea;" I saw General Ketchum again that evening in his room in the third story; Mrs. Wharton and Mrs. Chubb were present, and I called Mrs. Wharton from the room; I next saw him on Monday evening; he was then sick in bed; it was between 7 and 8 P. M., but I am not positive; Mrs. Wharton was not present—only Mr. Hutton; I went to call Mr. Hutton.

Mr. Revell—What did General Ketcuum say in reference to the cause of his sickness?

Mr. Steele—We object; Mrs. Wharton was not present.

The court said the question could be asked.

Mrs. Hutton—He said he had been quite sick, but felt better, and that Mrs. Wharton had poisoned him with a glass of lemonade.

Mr. Steele, indignantly—That is wrong; it was a jocular remark of the old gentleman.

The court ruled the answer out.

Mrs. Hutton, continuing—He did not say anything as to his symptoms; had no further conversation with him about his symptoms; next saw him on the following Wednesday morning; reached Mrs. Wharton's between 9 and 10 o'clock; went through the dining room and gave a kettle of milk into the hands of a servant.

Mr. Steele, nervously—I must beg you to conduct the case—

Mr. Revell, interrupting—We will try to conduct the case properly.

Some earnest conversation now followed between counsel, and Mr. Revell said he waived the question he had asked for the present.

Mrs. Hutton continued—I followed Dr. Williams and Mrs. Wharton up stairs about 10 or half-past 10 (Wednesday) morning; did not go immediately into the room; waited at the door, and after I heard them lay the General down I went in; he was lying on the bed with his eyes wide open, and his arms stretched out; sat by the side of the bed, and began rubbing his hand; remained there until Dr. Williams gave me a prescription for the General; left the room, and called Mr. Sargent from my brother's room, on the first floor, and asked him to procure it for me, offering him my purse; Mrs. Wharton stepped forward and said she wanted it charged to her account at Gosman's; then returned to General Ketchum's room and watched from the window for Mr. Sargent's return; when I saw him enter the gate I went down to receive the medicine; Mr. Sargent went directly into my brother's room and gave the medicine to my sister-in-law, Mrs. Van Ness; got the medicine and gave it to Dr. Williams; he asked me to procure him a dessert spoon and a tumbler of water, and I went to the dining room for them and met a colored woman, Ellen, who gave me a tablespoon and teaspoon; took them up and gave them to Dr. Williams, and saw him drop in the tablespoon the medicine, and take the teaspoon and put two teaspoonsful of water in the tablespoon; asked if I should assist in giving the medicine, and Dr Williams said no; took my seat by the General's side; Dr. Williams said he would give me directions, as he wanted to leave and get a nurse; Mr. Hutton, General Ketchum and myself were the only persons present; the direction was forty drops in about two teaspoonsful of water, to be administered at 1 o'clock; Dr. Williams thought I ought to have some assistance, and I directed him to a male nurse; Mrs. Wharton came into the room and offered to remain with me until the nurse came; she asked me what the doctor was giving him, and I told her I did not know what it was, but that I had to give him at 1 o'clock forty drops in two teaspoonsful of water; the General made some effort to rise, and Mrs. Wharton left the room to call Mr. Snowden, who was in my brother's room, down stairs; the General made several efforts to rise, and I pushed him back on the bed; Dr. Williams now re-entered the room, with Mrs. Wharton; the doctor told me to remove the bags of ice from the General's head, and I moved them; after that the General became perfectly quiet; Mr. Snowden now came into the room; Dr. Williams stated that he had been unable to procure the nurse, and would have to leave me, and told me again to give the medicine at 1 o'clock; Mr. Snowden remained with me in the room; some one called me from the room to see my sister; Mrs. Wharton was not at that time in the room; Mrs. Wharton came into the door and said she would remain with Mr. Snowden and Gen. Ketchum; she told me to go with my sister into a small room opposite and hear what she had to say; my sister was Mrs. Loney; it was between 12 and half-past 12 that I went into the room to converse with my sister; Mrs. Wharton came out into the passage and spoke to my sister about a telegram to Gen. Brice, and asked Mrs. Loney if she would take it down town with her; she said she would go and get it, and went for it; this was before I returned to General Ketchum's room; the despatch to General Brice was given to Mrs. Loney; returned to General Ketchum's room; as I entered the room Mrs. Wharton remarked, "I have dropped the medicine for you, Mrs. Hutton;" I said, "it is not yet half-past 12;" I went to the bureau and found the medicine had been dropped in a tea cup, and I told Mrs. Wharton that there was too much in the tea cup, and that it was not the right dose; between two and three tablespoonsful were in the cup, as near as I can judge, and I took some upon a tablespoon; Mrs. Wharton remarked that it smelt so strong she had added more water; told her I did not think the General could swallow that amount, and that we had better drop another dose in the spoon as the doctor had directed; Mrs. Wharton insisted upon that dose being given, but I don't know the exact words she used; said "it is not yet time, at all events;" when she first told me she had dropped the medicine I looked at my watch and it was not quite half-past 12; then took my position by the side of General Ketchum, with Mr. Snowden opposite, and I had remained there but a little time when Mrs. Wharton asked me the time, and I said "twenty minutes of 1," and then again she asked and I said "eighteen minutes of 1;" she then asked the third time, and I said "fifteen minutes of 1;" then removed my watch from my belt and passed it by Mr. Snowden to Mrs. Wharton, telling her that as she was so anxious she had better keep my watch; she remarked, "maybe your watch is not right;" told her I had compared my watch with Dr. Williams' at a few minutes before 12 o'clock and it was right; she kept my watch until about five minutes of 1; she returned the watch then by Mr. Snowden, remarking "it is five minutes of 1, let us give him the dose; the first dose gave him so much relief I am anxious he shall have another;" she went to the

bureau and brought the cup to the side of the bed; before she went to the bureau I told her again I thought she had better let me drop another dose and she said, "Oh no, let us give him this;" she asked Mr. Snowden if he could give the dose; he said, "yes, Madame, my hand is steady, I will give it to him;" I asked Mr. Snowden to lift the General a little from the bed, and Mrs. Wharton handed him a tablespoonful of the mixture from the cup; we had some difficulty in getting the General to open his mouth; Mrs. Wharton told Mrs. Snowden, after his mouth was opened and the spoon inserted, not to remove the spoon and she would pour the balance into it; she then poured it in; Mrs. Wharton remained standing by the side of the bed, with the cup and spoon in her hand; after a little while (ten or fifteen minutes I should judge) the General began to be very uneasy; first he began slapping my shoulder; I was sitting on the side of the bed, by him; then he grasped, with both hands, the back of his neck, then the front of his throat, his stomach and his chest; (Mrs. Hutton here showed how he placed his hands to his throat); he cried out, "oh! oh! oh! don't! don't! dont!" he made his throat bleed; I got off the bed and went to his feet and endeavored to take hold of them; Mrs. Wharton was still standing at the bedside; endeavored to take hold of his feet, and he kept crying "don't! don't! don't!" asked Mrs. Wharton if she did not think he was going into convulsions, and I think she said "I think he is;" I said "I am going for a doctor;" Mrs. Wharton asked me to let a colored man, who was in the room, go for the doctor, but I questioned him and found that he did not know where Dr. Williams lived, so I went myself; Mrs. Wharton left the room just as I left; she still had the cup and spoon in her hand; she had held them all the time in her hand; don't know where she went; ran down stairs out into the street and into Dr. Williams' house; it was then before half-past 1, probably twenty minutes past 1; went into the doctor's office, wrote a message on his slate and ran back into the street; Dr. Williams' office is a little more than a square from Mrs. Wharton's house; a doctor's buggy was standing near; thought it might be Dr. Williams'; questioned the driver and found it was not, then saw Dr. Williams coming up the street, and asked him to go to Mrs. Wharton's to see General Ketchum, as hewas in convulsions; the doctor did not come with me, but went to his own house for a moment; returned to Mrs. Wharton's and went at once to General Ketchum's room; found Mrs. Hutton was there with Mr. Snowden and the colored man; Mrs. Wharton had told me the colored man was a friend of Susan's, the servant, and she had sent for him to nurse General Ketchum; Dr. Williams arrived almost immediately after my return, and on his motion I left the room; remained in the passage for some little time, and then went back into the room; General Ketchum was then under the influence of chloroform, chloral or something of the sort; remained with him until a few minutes before he died; left the room about a quarter of 3; think he died about 3; at about a quarter of 3 I went down to call Dr. Williams; he was in the second story back room; returned to the room, possibly ten minutes after 3, and General Ketchum was dead; Mr. Hutton and Mr. Crawford Neilson were in the room at that time; I have no recollection how General Ketchum described his sufferings; remember, however, that he said he was suffering; never heard him speak after I left him to go for Dr. Williams; was present on Monday evening when Mrs. Chubb was requested to go for medicine; Mrs. Wharton entered the room and said she had broken a bottle of General Ketchum's medicine; there was a noise in General Ketchum's room, and Mrs. Wharton came down stairs and said she had broken a bottle of General Ketchum's medicine; the noise was that of a fall; it was not the noise of a fall of a bottle of medicine; it sounded more as if some one had jumped on the floor; Mrs. Wharton was a good deal excited when she entered the room; I suggested that she should procure the label from the bottle and send it to the druggist; she said the label had been destroyed; told her if she would go to the apothecary's and state that the medicine had been bought for General Ketchum by direction of Dr. Williams she could have it replaced; Mrs. Chubb offered to go and Mrs. Wharton directed her to Gosman's, telling her, also, to bring her some tartar emetic; she said she had a pain in her chest and wanted some to make a plaster; Mrs. Chubb went out for the tartar emetic; at the tea table Mrs. Wharton asked if Mrs. Chubb had returned, and said she was worried about her, as it was getting late; I told her if she wished me to do so I would request Mr. Hutton to go for Mrs. Chubb, and she said she wished I would; as I went to the door to ask Mr. Hutton to go, Mrs. Chubb came up the steps; saw her with parcels in her hands as she passed me on the steps; I don't know what she did with them; when Gen. Ketchum's son came for his clothes I told Mrs. Wharton they were packed; that was late in the evening of the day General Ketchum died; asked her if she knew where General Ketchum's vest was, and she said it was in her closet or wardrobe.

At this moment the hour of adjournment having arrived, the witness was requested to suspend, and the court adjourned until to-morrow at 10 A. M.

The following additional medical witnesses for the defence have been summoned from Baltimore, namely: Drs. Ed. Derossett, John Morris, Wm. H. Baltzell, Peter Gorich, H. R. Trist and Harvey Bird.

OPENING STATEMENTS OF COUNSEL.

The following is the opening statement of Jas. Revell, Esq., the State's Attorney, delivered yesterday, and reported in full by Mr. Clephane, the stenographer employed in the case, in connection with Mr. Young.

REMARKS OF MR. REVELL.

Mr. Revell arose and said:

With the permission of your Honors and you, gentlemen of the jury—The oath that you have taken that you shall well and truly try, and true deliverance make between the State of Maryland and the prisoner at the bar, whom you shall have in charge, and a true verdict render in accordance with that evidence, so help you God," has been so solemnly administered to you by the clerk that I feel that no language of mine can more forcibly impress you with that great and solemn responsibility before God and man under the oath which you have just taken. And I will hardly feel it incumbent upon me, from my knowledge of the jury which has been empannelled in this case, from my knowledge of the high character for integrity of each of the gentlemen who constitute that panel, known as they are to me personally, to add one word of admonition or say

one word to you with reference to this great, solemn and awful responsibility which devolves upon you in this most important trial.

But, your Honors and gentlemen of the jury, while it is your duty, on the one hand, to interpose a barrier of protection against wrong and injustice, yet it is equally your solemn and sacred duty to protect the injured honor of the State, and by your verdict to uphold and maintain the best government and the dignity of the laws of the State.

This solemn and momentous duty is yours—a duty as solemn as the grave, as momentous as life. Gentlemen of the jury, the indictment you have heard read in this case was found by the Grand Jury of Baltimore city, as you are aware, and the case was removed to this jurisdiction under the high prerogative and constitutional right of the accused, upon suggestion and affidavit to the Court that she could not in that jurisdiction have a fair and impartial trial. The case then comes before you, gentlemen of the jury, as if it had occurred within the jurisdiction of this Court. I may, gentlemen, upon the threshold, state to you that this indictment, which has already taken so much of your attention and time, contains four counts, which I will simplify by informing you of their substance. The first count in the indictment charges death from the administration, on the 28th of June, 1871, of tartar emetic with yellow jasmine; the second count, death from the administration, on the 28th of June, 1871, of a poison, unknown to the jurors, with yellow jasmine; the third count, death from the administration, on 24th of June, 1871, of tartar emetic with lemonade; on the 26th day of June, 1871, tartar emetic with tea, and on the 28th of June, 187', tartar emetic with yellow jasmine. The fourth count charges on the 24th of June the administration of poison unknown with lemonade; on the 26th of June, 1871, poison unkown with tea, and on the 26th of June, 1871, poison unknown, with yellow jasmine. Such, gentlemen, are the charges in this indictment, which the State is called upon to sustain in whole or in part, it being competent for you to find a verdict for the State upon satisfactory proof of the allegations contained in any one of these counts. The law of the case, gentlemen of the jury, which I propose to put you in possession of, is short and simple. By the 137th section of the Code of Maryland, chapter 30, it is enacted "that all murder which shall be perpetrated by means of poison, or laying in wait, or by any kind of willful, deliberate and premeditated malice, shall be murder in the first degree.

The question of law, then, which will arise in this case are simply these: First, whether it was a case of murder; second, whether, if murder, it was by poison. The question of fact is, who administered that poison; who occasioned that death? Now, murder is defined to be—I read from Wharton on Homicide—"where a person of sound memory and discretion unlawfully kills any reasonable creature in the peace of the Commonwealth, and with malice, prepence or with forethought, expressed or implied." It is, in other words, the unlawful killing of another with malice aforethought, expressed or implied. But, you discover, there is in this an ingredient that malice is the gist of the inquiry, and if there is malice in the case then it is a case of murder, and it is for you to inquire in your prosecutions for murder whether it be a case of murder in the first or second degrees, because the statutes of the State make it murder in the first degree—if you find it was a murder. If you find the ingredient of malice in this act, then, gentlemen of the jury, it is a case of murder and being murder, if you find that this murder was occasioned by poisoning, it was murder in the first degree. That is the question, gentlemen. What is the issue between the State of Maryland and the accused in this case?

It is a question of murder in the first degree—it is a question of liberty or death. Gentlemen of the jury, the law, as I have endeavored succinctly to lay it down, is the only law on which the State will rely in this case, and after having made this brief exposition of it I will introduce to your attention the main facts and salient points upon which the State relies when it shall come before you to ask at your hands a verdict of guilty. We expect to show, gentlemen of the jury, that the deceased, General Ketchum, and Major Harry W. Wharton, the husband of the accused, were formerly connected with the old Sixth Regiment, United States Infantry, and that their relations were of an intimate character and existed up to the time of Major Wharton's death, which occurred some years since; that after the death of Major Wharton, the husband of the accused, the intimacy existing between the families was continued up to the time of this sad tragic occurrence, and this intimacy led to business relations, business transactions between the accused and General Ketchum; that two years before the death of General Ketchum, at the instance of the accused, he loaned to Mrs. Wharton a sum of money amounting to some $2,600, having parted, at her solicitation, with some bonds which he had held, and this money was loaned at the rate of 10 per cent. per annum. We expect to show that this amount was secured by note of Mrs. Wharton, for that amount; that interest was paid from time to time upon that sum, which would have annually amounted to $260, and that the agreement between them was that it should be paid in semi-annual installments. We expect to show you that several of these semi-annual installments of interest were paid, and that the last payment which was made was on the 25th of January, 1871. We expect to show you also, gentlemen of the jury, by satisfactory and competent testimony, that this indebtedness had not been discharged up to the death of the lamented Ketchum. We, on the other hand, will show and establish clearly to your minds that an entry, and not only the existence of an entry, but that a knowledge of such entry was brought home to the accused in this case; that there was an entry made that the next installment of interest would be due—principal and interest would be due--on the 17th of July, 1871. We expect to show you, gentlemen of the jury, incontestibly, that at that time this sum of money was due Gen. Ketchum; we expect to show you further, and it will come up in evidence, either brought out by the State or as part of the resgestæ, that when Mrs. Wharton's attention was called to this matter, when the books were presented to her which contained the evidence, beyond a doubt, that the apology which she made, denying the indebtedness, was that the mind of General Ketchum was blurred; that it had ceased to perform its functions; that memory was at fault; that she had notice, from time to time of this fact, and assigned as a reason for the discharge not having been entered on his book, that in conversation with him and in intercourse she had had with him, he could not keep the thread of his discourse. We will show to you that, notwithstanding this declaration, stated as an excuse, why this entry had not been upon the books, that the mind of General Ketchum was as strong and active as it ever was during the whole period of his life. We shall further show to you, as I think, by evidence that we think will be admissible and competent, that on the 16th or 17th of June, 1871, although Mrs. Wharton claimed that this note had been paid partially on the 17th of July, 1870, and the remainder on the 17th of January, 1871, she went to Washington, by agreement with General Ketchum, for the purpose of arranging about this very note, and assigned to him, as a reason for her inability, that her bankers had disappointed her. We expect to show you, gentlemen of the jury, further, that on the occasion of General Ketchum's visit to Baltmore city to Mrs. Wharton's on the 24th of June, 1871, that he left the city of Washington in the full enjoyment of perfect health; that he reached Baltimore on the afternoon of Saturday, in company with Mrs. Chubb, a mutual friend of Mrs Wharton and General Ketchum; that he went to Baltimore for the purpose of collecting this amount for the purpose of furnishing a house which he had recently purchased in Washington, and to take leave of Mrs. Wharton, who then contemplated taking the European trip.

We expect to show that he arrived in that city in the full enjoyment of health; that after he reached the house of Mrs. Wharton he went down town and came back, after having purchased some tobacco, and that he took tea at the house of Mrs. Wharton; that Mrs. Wharton presided over the tea table that evening a certain length of time, and left the General and Mrs. Chubb at the table; that after a certain time he retired to his room; that during that night he was taken very sick.

We expect to show you that this sickness continued with changing symptoms from that time to the time of his death, which occurred on Wednesday, about 3 o'clock in the afternoon.

I shall not attempt to detail to you, gentlemen, the various symptoms with which General Ketchum was affected on that occasion. The medical testimony which will be introduced to you on the stand on the part of the State will fully disclose the character of the disease under which he suffered, and the symptoms provoked by that disease, whatever it may have been, whether from natural causes or from other than natural causes.

We expect to show you that during that time Mrs.

Wharton administered to him or gave to him at various times tea, lemonade, water and finally what purported to be yellow jasmine, which had been prescribed by Dr. Williams. We expect to show to you that after the administration of each of these doses, or a short time afterwards, that the General became very sick, and that there was a recurrence of those symptoms which existed all through the course of his sickness—symptoms which existed at the period of his death. We expect to show to you that on the occasion of the administration of this last dose of medicine, the peculiar circumstances under which it was administered, that Mr. Snowden and Mrs. Hutton were in the room of the deceased performing a work of charity in nursing him and administering to his wants, and that Mrs. Hutton, for some reason, had occasion to leave the room; that Dr. Williams had been there in the morning and administered to him a dose of yellow jasmine---perhaps about 11 o'clock---with directions that if he did not return before 1 o'clock another dose was to be given to him---about forty drops of yellow jasmine; that it was to be given with so many teaspoonfuls or tablespoonfuls of water This was communicated by Mrs. Hutton to Mrs. Wharton at the time, but at the same time the strict injunctions of the doctor were that it should not be given till 1 o'clock. That when Mrs. Hutton temporarily left the room where General Ketchum was lying, Mrs. Wharton proceeded to pour a liquid into this cup; that Mrs. Hutton returned in about an hour---half-past 12---and seeing what she was doing, remarked, "I have prepared the General's medicine;" "dropped out his drops;" but that the time to take it had not come yet. She then exclaimed, "Why, that is not the medicine." She saw by the quantity and appearance it was not the medicine that had been administered by Dr. Williams on that day. She remonstrated with her and said, "You are wrong about it; there is too much of it." Mrs. Wharton replied that it seemed very strong, and she thought she would add a little more water to it. She then inquired the time, and appeared extremely anxious to administer this medicine at once, but at Mrs Hutton's remonstrance she did not do so. She again asked the time; it was then 20 minutes to 1 o'clock. She again asked the time; it was then 18 minutes to 1. Once more she asked; it was 15 minutes to 1. She betrayed a great degree of anxiety to administer this dose. Finally Mrs. Hutton took off her watch she had attached to her dress, and gave it to Mrs. Wharton on account of this anxiety. At last Mrs. Hutton again offered to drop the medicine, but Mrs. Wharton declined, saying "no, we will give him this." Again Mrs. Hutton offered, but Mrs. Wharton refused to permit it to be done, and Mrs. Wharton being hostess and Mrs. Hutton the visitor, she, of course, had nothing to say, and Mrs. Wharton was permitted to give this medicine.

We expect to show, then, that it was five minutes to 1 o'clock when she administered this medicine, and Mrs. Hutton, thinking the interval of five minutes made little or no difference, permitted it to be done. The medicine was carried over, and Mr. Snowden assisted in raising the General up from the bed, that he might be able to take it. A teaspoon or tablespoon was inserted in his lips that it might be poured from the cup into the spoon, which acted as a funnel for the conveyance of the liquid. In about fifteen minutes more very disagreeable symptoms began to manifest themselves. All that time she held within her hands this cup, never parting with it from her hands once. When the symptoms of convulsions and quiverings and the tearing and laceration of his throat commenced—tearing so violently as to make it bleed—then it was that Mrs. Wharton left the scene of that tragic act, and that was the last time, we expect to show, that she ever saw General Ketchum alive. He died about 3 o'clock that day. We expect to show that the body was removed after death to the house of Mr. Weaver, and that there a post mortem was had; that the stomach was taken out and conveyed to Dr. Aikin, who skilfully, accurately and carefully analyzed it; that there was found in the stomach of General Ketchum at least twenty grains of tartar emetic; that there was no indication about the liver, heart, lungs or brain, or any organ of life, that there was any natural disease there, nor was there anything through the period of his illness indicative of the fact of the presence of this tartar emetic in the stomach of General Ketchum; that from the admistration of poison he died, and from no other cause whatever.

We expect, furthermore, to show that on the Monday previous to this said event Mrs. Wharton purchased two quantities of tartar emetic, one in the morning of that day, perhaps between the hours of 6 and 8 o'clock, and the other by Mrs. Chubb, under Mrs. Wharton's direction, sometime in the afternoon of that day. We expect, moreover, to show the many contradictory statements which were made by Mrs. Wharton with reference to this matter; that she even went so far as to attempt to cause one of the witnesses on the part of the State to represent the facts to the Grand Jury which had no existence, which would have been untruthful; and that this witness peremptorily declined to do anything except what was truthful and would be borne out by the testimony on the oath which she gave before the jury. We expect, therefore, to show the opportunities which she had for the administration of this medicine. It was in her own house. She didn't retire that night, and didn't go to bed on the nights of Saturday, Sunday, Monday and Tuesday; she was in and out of the room which Mrs. Chubb occupied, and which she partially occupied at that time, all the time through the period that she remained—Saturday, Sunday and Monday nights.

We expect, furthermore, to show that in some punch, which had been prepared in that house during this period, there was found tartar emetic to the amount of eight or ten grains, by the same analysis by Dr. Aikin. We expect to show by the opinions of certain witnesses, and experts among medical gentlemen, that General Ketchum could have died from no other cause than that of poisoning. We expect also, to show that the circumstances of Mrs Wharton were quite contracted, and that she was endeavoring at this time get up a letter of credit for her European trip; that she attempted to borrow money at extravagant rates, and we shall argue before you that the motive in destroying the life of Gen. Ketchum was to get possession of the note, which we think we can show to you by circumstances, even to the most minute detail. All his bonds, all his bills receivable and everything of that character, were found, correspondingly in the minutest details, except the one for this note of $2,600, which could not be found, and never has been found among any of his papers. We expect to show you that a human life has been foully sacrificed; that the murder has been committed by poison. The evidence of this case will point clearly to the prisoner at the bar as being the actress who administered that poison.

REMARKS OF MR. STEELE.

At the conclusion of Mr. Revell's statement, Mr. Steele arose and said:

Gentlemen of the Jury---In accordance with the practice in cases of this kind, the counsel for the defence will reserve the right to make an opening statement until some subsequent stage of the case, when we shall have heard what evidence will be offered on the part of the State. We cannot well reply to the opening statement of the counsel for the prosecution at the present time, owing to the fact that portions of the evidence alluded to may not be admissible. The law may not permit certain portions to be introduced. Other portions, again, may not be proved. If I may use a homely phrase, I will say, gentlemen, that "the bark of an opening statement is sometimes worse than its bite," and so it may be with the eloquent opening of my friend. We must wait until the evidence is offered, so that we may know what we have to meet. In the meantime, it is not proper for me to say more to you than this, that we hope and believe that we shall be able to present to you a case, when you have the evidence on both sides, in which you will find it your duty, as well as your pleasure, to render a verdict of acquittal. A further statement, gentlemen, we hope to have the privilege of making to you at some subsequent stage of the trial.

FOURTH DAY.

ANNAPOLIS, MD., December 7, 1871.

The great trial is fully as tedious as was anticipated, and as yet neither side has shown any disposition to hurry. The interest is growing more intense as the testimony developing the corpus delicti is being given, and the deep silence which prevails while the witnesses are on

the stand shows with what anxitey even those who are mere spectators regard all that is said.

Yesterday, as Mrs. Hutton was detailing the circumstances of which she was cognizant, the jury, court and spectators listened most attentively. Mrs. Hutton gave her testimony yesterday very calmly and even deliberately, and her manner, tones and language were all very impressive. She was by no means an eager witness, and several times explained her words to the State's Attorney with an apparent desire to convey no improper inferences.

Mrs. Wharton was veiled during the whole of yesterday's proceedings, as were also her daughter and Mrs. Nugent, the wife of her brother, Dr. Nugent, of Norristown, Pennsylvania. Of course her countenance could not be seen to any advantage through the covering which concealed it from gaze, but by her manner it was evident that she was calm. Her daughter seemed considerably agitated, and showed her intense anxiety. Mrs. Nugent sat immediately in rear of Mrs. Wharton, and she, too, though deeply veiled, showed some nervousness.

Mrs. Wharton's counsel were keenly alive to the importance of the testimony which was be ing given, and Messrs Steele and Hagner were ever on the alert. Mrs Neilson and Miss Rosa Neilson, who sat near Mrs. Wharton, the former immediately to her right, were also anxious listeners.

It is the impression that Mrs. Chubb's testimony was not so strong for the State as it had been anticipated it would prove, and the decision of the court on yesterday against the admissibility of the unsworn statement of General Ketchum was considered a gain for the defence. There is a good prospect of a fierce war between the medical and chemical experts.

Professor Wormly, of Ohio, has not yet arrived, and it is not known at what particular time he will come. Nearly a dozen doctors and experts have, however, been summoned for the defence, and the short-hand reporters have provided themselves with Dunglison's Medical Dictionary, in anticipation of the necessity of frequent reference to it in writing out the testimony in full. Paymaster General Brice, the brother-in-law of the late General Ketchum, and the two sons of General Ketchum, are constant attendants, and yesterday the brothers seemed much affected as the painful account of the last sickness of their father was given by Mrs. Hutton. It was, indeed, well calculated to stir the blood of any hearer, and particularly when Mrs. Hutton repeated the final and agonizing cries of the dying man.

The Chief Judge again warned the jury on yesterday to be very careful to abstain from all conversation, except among themselves, in reference to the case, and said the court would severely punish any one who attempted to hold in any improper manner communication with them, or any juror who allowed any communication to be held with him. The beauty and fashion of Annapolis is each day largely represented, as are also the Naval Academy and St. John's College, and the fair attendants are among the most eager and attentive.

A number of the officers of the Naval Academy are also present daily. Upon the arrival of Mrs. Wharton's carriage this morning in front of the court house she was met by Mr. J. Crawford Neilson and escorted by him to her accustomed seat. As on yesterday, she appeared deeply veiled. Her devoted daughter, Mrs. Nugent, Mrs. Neilson and Miss Rosa Neilson accompanied her. It was noticeable that the number of ladies had been increased, all the seats provided for them being occupied. General C. W. Field, Col. James Howard and J. Harman Brown, Esq., were present to-day.

Frank Leslie's special artist arrived this morning, and has been busy sketching the scene in the court room. The great trial is evidently attracting much attention throughout the country. All of the principal New York dailies contain lengthy accounts, and several received here yesterday made editorial mention of the importance of the case and the interest felt in the proceedings. The medical gentlemen have thus far been patiently awaiting their turn. No doubt the lengthy legal arguments have proven especially tiresome to the eager experts.

Soon after the opening of the court Mrs. Hutton was recalled to the witness stand, and Mr. Revell said he had on yesterday waived a question about the making of a tumbler of milk punch in Mrs. Wharton's room, and in her presence, and of which Mr. Van Ness partook without experiencing any bad effects, and he now proposed to ask the witness to tell the jury all she knew about the punch alluded to.

Mr. Steele, promptly—"Do you mean to connect Mrs. Wharton with it?"

The State's Attorney said it was a part of the resgestæ, and Mr. Steele objected to its introduction.

The counsel for the defence, after some time had been consumed in bringing into the court room a number of law books, proceeded to argue the question of law involved.

Mr. Hagner opened for the defence, and said the jury had been empanelled to try the one charge—the felonious and willful killing of Gen. Ketchum—and the defence was prepared to meet that charge. But it was now sought to inject into the case before the jury and court testimony only relevant to another case.

Judge Hammond interrupted, and said he did not understand that it was proposed to prove that any of the milk punch was given to Mr. Van Ness.

Mr. Hagner and Mr. Steele briefly explained their understanding of the question, and

Judge Miller asked Mr. Syester to more fully state the object of the counsel for the State.

Attorney General Syester said the State proposed to show that in the vessels that were in that house, in daily use and used for medicine for the sick in that house, that there was found tartar emetic, and found on Wednesday, the day General Ketchum died. The State would, at another time, undertake to show that Mr Van Ness was at that time lying ill in Mrs. Wharton's house, and would show how far his symptoms corresponded with those of General Ketchum.

Mr. Steele said the defence of course objected and said the inference sought to be introduced was that Mrs. Wharton was connected with the poison alleged to have been found in the milk punch.

Mr. Syester said that, as a matter of course, the State proposed to connect Mrs. Wharton with the poison found in the milk punch.

The defence objected to the introduction of the testimony, and Mr. Hagner proceeded to argue the question at considerable length, and was listened to by the bench with great attention, both the counsel and court evidently earnestly appreciating the importance of the testimony sought to be introduced by the State.

Mr. Hagner quoted from the following authorities: Wharton Crim. Law, §§824, 640, notes 635.631; 15 New Hampshire, 169, State vs. Kenton; 18 Ohio (old), 222, Com. vs. Barton; 8 Cox's C. C., 411, Reg. vs. Holt; 8 Cox C. C., 397, Reg. vs. Winslow; 1 Leigh, 575, Walker's case; 2 Cush, 590, Com. vs. Wilson; 5 Guttar. 696, Cole vs. Com.; 3 Greef, on Ev., §19; 1 Hill, 316. Carey vs. Hotellery; 12 Eng. Com. Law, 295, R. vs. Smith.

Mr. Thomas followed Mr. Hagner, and quoted:

One presumption cannot be founded on another. McAleer vs. McMurray, 58 Penna., 126-135; Douglass vs. Mitchell, 35 Penna., 446; Potter vs. Ferguson, 18 N. H., 528; 1 Starkie's Evidence, 757.

Even in indictment for forgery, when a previous uttering of forged paper is offered to prove guilty knowledge, it is inadmissible unless proven by positive, not circumstantial, evidence. Rex vs. Milord, 1 Reese & Ryer, 244.

Upon the conclusion of Mr. Thomas argument Judge Miller said the mind of the court was clear on the point raised.

Mr. Steele said he desired to submit other authorities, but would, of course, defer to the wish of the bench.

The Chief Judge said he thought it would be consuming time unnecessarily, and announced the decision of the bench substantially as follows:

Mrs. Hutton has proved that a dose of medicine or mixture was given to General Ketchum about 1 o'clock on Wednesday, and that he died at 3 P. M. that day. It is certainly competent for the State to prove that tartar emetic was in Mrs. Wharton's possession on that day.

Mr. Steele begged leave to remind the bench that the question, as presented, was general in its character, and not specific, and was proceeding to address the court in support of his view of the legal bearing of the question, when Judge Hammond, interrupting, said he did not understand that the State proposed to show that Mr. Van Ness partook of the milk punch, but that tartar emetic had been discovered in a certain tumbler of milk punch in Mrs. Wharton's house. He thought it was competent for the State to prove that Mrs. Wharton had had an opportunity to use tartar emetic from the fact that it was in her house, and that she, as the lady of the house, had it under her control.

Mrs. Hutton, who during the argument had left the witness stand and taken a seat near the counsel for the State, was now recalled.

Mr. Revell said to her, "Be good enough to state all that occurred in reference to the kettle of milk you gave to a servant, and what you know of the milk punch."

Mrs. Hutton continued—Dr. Chew ordered a milk punch for my brother.

Mr. Hagner—"We object."

Mr. Revell—"Please state where the milk came from."

Mrs. Hutton—I brought it from my house on Wednesday, the 28th of June, and gave it to a servant to take to a refrigerator down stairs; assisted Mrs. Van Ness in preparing the milk punch; took a tumbler from the sideboard, and Mrs. Van Ness objected to a tumbler and proposed a wine glass; some one proposed a double punch; am not sure who it was; Mrs. Van Ness prepared the punch and placed half on the sideboard in a wine glass, and the other half in a tumbler, in a small nursery refrigerator in the dining room; that was the last I saw of it.

Mr. Revell said he proposed to ask Mrs. Hutton if the punch in the wine glass had any bad effect when it was drank by somebody.

Mr. Hagner—"We will admit that it had no pernicious effect," and to this Mr. Revell agreed.

Mrs. Hutton continued—I know nothing of what became of the tumbler, except that I saw it in the third story between 12 and half-past 12 o'clock; Mrs. Loney had it; there was a sediment in the bottom of the tumbler; nothing but a conversation occurred; saw Mrs. Loney place the tumbler in her pocket; Mrs. Loney is my sister. To the court—It was a small tumbler. Continuing—I am the sister of Mr. Van Ness; while I was gathering the General's clothes Mr. Crawford Neilson and a colored woman were present; the General's clothes were placed in a bag—a coat and a pair of pants were all; could not find the vest, and have never seen it; Mrs. Wharton said it was in her closet or wardrobe; the General had a carpet travelling bag, Mr. Crawford Neilson gave her the key to the bag, and I, after packing his clothes, gave the key to Mrs. Wharton; Mrs. Wharton assigned no reason for the vest being in her closet or wardrobe.

Mr. Syester said the witness was now in the hands of the defence.

Cross-examined by Mr. Steele—The nursery refrigerator stood upon the hearth in the dining room; the door of the dining room is near to the front door of the house; the front door was opened frequently, as a good many persons were coming in and out; somebody was generally in the passage to prevent the ringing of the bell; a door led from the dining room into a passage leading to the kitchen; the nursery refrigerator looked like an oblong tin kettle, it was not locked, but was closed with a tin cover setting on the top; the glass containing half of the punch was placed in the refrigerator; Mrs. Loney came up stairs with the tumbler between 12 and half-past 12, and it was then I went into a room to to which I was directed by Mrs. Wharton and had a conversation with Mrs. Loney; gathered up the General's clothes, and Mr. Neilson put them in the bag, and I handed them to him; didn't see the first punch given to Mr. Van Ness, but left the room before it was administered; more than two hours intervened before I saw the tumbler which, as I have said, Mrs. Loney brought up stairs at the time I had the conversation with her; Dr. Williams came to see General Ketchum about 10 o'clock that morning; that is, at least, the first time I know of; he prescribed for Gen. Ketchum, but was there an hour before he administered anything to him; he ordered ice to be put to his head; he directed me to give the Gen-

eral forty drops in two teaspoonfuls of water at 1 o'clock; he remained some time to see the effect of the first medicine he gave General K.; General Ketchum made efforts to get out of bed; that was a few minutes after Dr. Williams had left; think Dr. Williams remained longer than fifteen minutes; we compared our watches, and it wanted a few minutes of 12 o'clock; Dr. Williams said he would return, but don't remember that he said he would return at 12 o'clock; ten or fifteen minutes after the dose was given to General K. by Mrs. Wharton he began to put his hands to the back of his neck, his throat, his chest and his stomach, as described yesterday; no blood ran down from his throat, but it was scratched with his nails so as to draw the blood; the telegram to General Brice was given to Mrs. Loney at the time she came up with the tumbler; it was sent between 12 and half-past 12; Gen. Brice was a brother-in-law of Gen. Ketchum; think I said to Mrs. Wharton when I told her it was not time to give General K. medicine that it was not time, "at all events;" I smiled when I handed the watch to her finally, and I used the words "as you are so anxious."

Mrs. Hutton was now allowed to retire from the witness stand, and Mr. Syester called Dr. P. C. Williams, who, being sworn, testified as follows:

I reside in Baltimore, and am a physician there; have practiced there eighteen years; hold no official connection with any medical institution; did not know General K. until I saw him at Mrs. Wharton's on the 25th of June last; saw him in the afternoon between 3 and 4 o'clock; he was sitting on a sofa in a third story room of Mrs. Wharton's house; he was much nauseated, and had a weak, rapid pulse, and vomited every few moments; I ordered him to bed, and prescribed two drops of creosote and a tablespoonful of lime water, and that to be repeated every two hours until he was relieved; think I gave the direction to Mrs. Hutton, but am not positive; Mrs. Hutton was alone in the room when I arrived; saw no one else there; took the prescription to Gosman's, and sent the medicine; did not see the medicine administered; saw him the next morning at about 10 o'clock; that was Tuesday morning; reached his door and found it ajar, and saw that he was asleep, made sufficient noise to wake him; he said he was much better, and expressed his determination to return to Washington that morning; he said he had intended returning with Mrs. Chubb, but had overslept himself; he said he had been waked by Mrs. Chubb knocking at the door and asking him if he was ready; as far as I remember his reply was that he would join her later in the day; gave him no medicine, as we both agreed that it was not necessary; he insisted upon paying me; I left him, expecting him to leave for Washington; saw him again on Wednesday morning, having received a message from Mrs. Wharton, through a servant, about 10 o'clock, that he was worse, and she desired me to come at once to see him; found him lying on a sofa on his right side, his feet supported by a chair, and his face turned to the back of the sofa; after failing to arouse him by speaking I touched him to arouse him, but he made no reply, and a slight convulsive tremor passed over him, from head to foot; the room being dark I pushed open the shutters to examine him more minutely; upon examination I found his head and face very much congested; his face was red; not a bluish red, but of a color suggesting a purple tinge; roused him and asked how he was; he replied, "tolerably," and then relapsed into his previous condition; addressed him some commonplace questions to test him, and I got a muttered reply, and he relapsed again into the same state; he said nothing about his sufferings, and I don't think he was capable of speaking a sentence; decided to put him to bed, and called Mr. Hutton; let his feet fall from a chair upon which they rested, and raised him to a sitting posture; he was unable to walk to the bed; we raised him to his feet; when I got him to his feet I was surprised to find his arms and legs were stiff and rigid, and being taller than either of us he stooped; we had to slide his feet along, and in that way got him into bed; we sat him upon the edge of the bed, lifted his feet and put him in bed; have no recollection of his saying anything or uttering any sound after we took him from the sofa; we undressed him and I ordered ice to be applied to his head; wrote a prescription for a half ounce of the tincture of yellow jasmine, and gave directions on the prescription—"forty drops every two hours in two teaspoonsful of water;" Mr. and Mrs. Hutton were present when I gave the direction; reached Mrs. Wharton's about 10 o'clock on Wednesday morning; wrote the direction on the prescription; went down stairs to notify Mrs. Wharton of General Ketchum's illness, and converse about the propriety of telegraphing for his friends or relatives; told her of General Ketchum's condition; asked her if there were any near relatives who she thought should be notified; it was between half-past 10 or 11 o'clock; Mrs. Wharton said she would immediately notify General Brice; Mrs. Wharton asked me if Mr. Hutton had given me a bottle she had entrusted to him to give to me, and I told her he had; produced it and she asked me if I did not think it contained laudanum. [Here Dr. W. handed to Mr. Syester a small bottle.] I told her I thought it had contained laudanum; she then detailed the circumstances under which that bottle had been found, and asked that the fact of its having been found ought not to be known further than was necessary, as it might give rise to an unpleasant impression that General Ketchum had killed himself; she said the bottle had been found the evening before; she then went on to say that she and the servant, Susan, had gone to the General's room to make up his bed, and requested the General to change his position from the bed to the sofa, and that as Susan pulled off the bed clothes something rolled upon the floor; General Ketchum called out, "look out, you will break my watch;" she looked and saw the watch on his person; they completed the making of the beds, and left the General lying on the sofa; she went on to say that some time afterwards Susan came and said, "You know, Mrs. Wharton, something fell out of the bed, and the General thought it was his watch, but I afterwards went up to see what it was and found this bottle"—giving her the bottle; the bottle is precisely now as when I first took it; on the cork was printed "Coleman & Rogers;" there is such a drug house on Baltimore street, between Light and Calvert streets; it is probably a mile and a quarter from Mrs. Wharton's; after this conversation I returned to General Ketchum's room, and finding the medicine had been brought I asked Mrs. Hutton to bring me a tablespoon and a teaspoon, and she went for them; the General was at that time in a semi-comatose state; my first impression was that he had congestion

of the brain, threatening apoplexy; I examined him with some care; I found the pupils of his eyes of natural size, but insensible to light; that is, when I opened the eye, there was but slight sensibility to the light; continued of that opinion until Mr. Hutton and I raised him to his feet; then dismissed that idea, as I found that instead of giving way to the floor he was rigid and stiff in his limbs; I then feared paralysis; we put him to bed, and I went down stairs; said to Mrs. Wharton "I'm glad we have found this bottle, for it explains his condition on yesterday, and if he has taken nothing but laudanum he will recover;" had discovered no evidences of a dangerous amount of opium having been taken; administered the dose of jasmine; had he taken a dangerous amount of opium the pupils of his eyes would have been contracted, and I should have expected to have found a very different character of breathing; would have been slow and laborious; failed, too, to find the muscular relaxation which would have resulted from a dangerous amount of opium; have seen a good many cases in which overdoses of opium have been taken, and speak from experience, when I went to give the General the first dose I found his teeth so clenched that it was very difficult to introduce the spoon into his mouth, and if he had been under the influence of opium that would not have been the case, but the muscles would have been relaxed; remained to watch the result of that dose; in about fifteen minutes his appearance began to improve, his color was better, and the appearance of his eye notably better; I sat by his bed and watched for some time the effect of the medicine; when I gave the dose at 11 o'clock I gave the direction to repeat the dose at 12 o'clock if he continued in the condition in which he then was; I directed, after observing the effect of the medicine, to give the dose at 1 o'clock; went to the house to look for a nurse, but failing to obtain one, I returned and so informed Mrs. Wharton, and at the same time I told her I had given directions for a dose of forty drops to be given at 1 o'clock; found it necessary to use a catheter; Mrs. Hutton came for me as she described, and when I went into the room I found the General in convulsions; that was about 1 o'clock; had feared uriniic poison; put him under the influence of chloroform, by inhalation, that I might use my catheter; tested the urine and found it perfectly healthy; the convulsions were very peculiar, and there seemed to be an effort to throw himself from side to side; saw deep scratches on his neck, and a few on his forehead; found his stomach also scratched; the skin was practically torn off; not wishing to trust the inhalation of chloroform to inexperienced persons, I gave him thirty grains of chloral; when I returned to the General I remarked to Mr. Snowden "I fear the General has been poisoned;" that was about 2 o'clock; when my mind was in this condition of doubt and suspicion Mrs. Hutton called me aside, and we had a conversation. [The defence objected to the conversation being given, and the Doctor desisted.] I was sent for to see Mrs. Loney, and she took from her pocket a tumbler; I took out a minute portion of the sediment from the tumbler on my knife, and put it to the roof of my mouth; found it contained a strong metallic taste, and it also burnt my tongue; the taste was so strong that it persisted in my mouth until I got my dinner, about 5 o'clock; then remarked to Mrs. Loney (here the Doctor was again stopped by the defence); returned to General Ketchum's room with my doubt very much changed into a conviction that he had been poisoned; found General Ketchum growing rapidly worse; left General Ketchum's room to notify Mrs. Wharton of the General's impending death; left her room to return to General Ketchum's, and I met a gentleman coming down stairs, and he answered me that the General was dead; passed on up stairs and soon satisfied myself that he was dead; knew a telegram had been sent to General Brice; looked in General Ketchum's pockets and took his watch, rings and other valuables, which I found, and gave them to Mrs. Hutton; examined the coat and pants, but saw no vest; hunted for the vest so as to be able to discover anything valuable in his pockets; found in his pockets a pocketbook, a watch and a knife; waited for some time hoping General Brice would arrive, but feeling very tired I went home and requested to be informed of his arrival; saw General Brice that night at 9 o'clock at Mrs. Wharton's; then told him—(here the defence quickly interrupted, and the doctor was not allowed to relate what he said); we made the post mortem examination about 11 o'clock on Thursday morning; Drs. Chew and Miles assisted me in the post mortem examination; the body had been removed to Jacob Weaver's, the undertaker, on Ross street; we removed the skull, took out the brain, but failed to discover anything to explain the cause of his death, we then examined the liver, kidneys and spleen, and found them all healthy; we then applied a ligature above and below the stomach and removed that also with its contents; we next removed the bowels, opened them and found nothing especially noteworthy except occasional points of congestion; we had a slight discussion as to the propriety of opening the chest to examine the heart and lungs, but we did not open them; subsequently, when the Grand Jury found an indictment, we proceeded to Washington, had the body exhumed and found no evidences of disease in the heart or lungs; we placed the stomach in a glass jar and sent it to Dr. Aikin by Dr. Chew; we found the spinal column contained nothing we could regard as a cause of death; in the brain we discovered minute, little red points, which the book speak of as punctiform congestion; concluded that these little points were rather the effect of some other cause than that which resulted in his death; it might be looked for after a prolonged death struggle; there was no effusion of blood or of cerum in any part of the brain; the jar in which the stomach was placed was perfectly clean, and came from Marion's drug store.

Here the Court adjourned until to-morrow at 10 A. M. Mrs. Wharton sat during the whole day with her veil down and appeared very composed.

FIFTH DAY.

ANNAPOLIS, MD., December 8, 1871.

Though the testimony against Mrs. Wharton appears to be thus far of a strong character, and the fact that much of it has been circumstantial, does not appear to have weakened its force, she appears as calm as when she first entered the court room, and though her features are concealed by the heavy veil which she constantly wears, her manner indicates that she is composed and resigned Her daughter, Miss Nellie Wharton, appears more anxious.

The interest in the great trial appears to increase, and the attendance on yesterday and to-day shows the eagerness of the people to learn the whole story. The seats assigned to ladies are filled to overflowing, and the gentle sex are especially attentive, even to the arguments of the counsel. The intimation given in the GAZETTE of last Saturday, that it might become necessary to grant admission by tickets, caused a good many to stay away during the first two days of the trial, as the impression had gotten abroad that fifty cents would be charged for admission, but the crowd will now probably continue to fill the court room each day.

A few minutes before 10 o'clock Mrs. Wharton, with all of the ladies who accompanied her yesterday, entered the court room and their arrival created the usual stir. Mrs Wharton and her daughter were, as usual dressed in black and heavily veiled, and no change in the manner of the prisoner or her daughter could be seen. Professor Harry White, of St. John's College, was present, with Drs. Warren, of Baltimore, Reese and Genth, of Philadelphia, and Professor McCullough, of Washington-Lee University, and the medica and chemical witnesses for the State sat to their left.

Upon the opening of the Court Dr. P. C. Williams was recalled to the stand, but before his examination commenced the Chief Judge again warned the representatives of the GAZETTE, *Sun* and *American* to be very careful to make no comment upon the testimony in the hearing of the jury, and threatened to remove any offender. Mr. Hagner then requested the Court to instruct the Clerk to announce that all witnesses summoned for the defence, except the medical and cnemical witnesses, were excused until Tuesday next, and the announcement was made accordingly.

Dr. Williams then resumed—I first visited General Ketchum on Monday afternoon, the 26th of June; his pulse was feeble and rapid, indicating weakness, and I distinguished it from a pulse I would be likely to encounter in a case of poisoning from opium by its quickness; on Tuesday his whole condition had improved, and his pulse was much better; on Wednesday I found his condition very critical; his pulse was then quicker and feeble, but the general characteristics were the same as on Monday; I saw no symptoms of poisoning from laudanum; an ordinary medical dose of opium is exhausted in about nine hours; if an overdose the patients die in a state of total insensibility; the ordinary symptoms of poisoning from an overdose of opium would be extreme pallor, muscular relaxation and the pupils of the eyes firmly contracted and insensible to light; the breathing would be exceedingly slow and laboring; I have seen a great many cases of poisoning from overdoses of opium; I saw no evidences in General K.'s case of symptoms that would indicate a fatal dose, but I draw a distinction between a dangerous and a fatal dose; they might have been, but I did not see them; tartar emetic is a poison if taken in too large quantities; the amount of an overdose of tartar emetic would depend upon the fact whether or not the patient had been accustomed to take it; beyond five or six grains is ordinarily an overdose; the yellow jasmine I obtained from Mr. Gosman, and I presume it was made by him; I have used it for ten years in my practice; it is made by the maceration of four ounces of the root in twelve ounces of diluted alcohol; I have used it on myself; the symptoms of an overdose would be a wide dilation of the pupil of the eyes; the eyelids would become paralyzed so that it would be impossible for the patient to open his eyes; the skin would be bathed in perspiration, owing to the general relaxation; the breathing is not affected in the earlier stages of its action, nor does the heart become affected in its action until a late period; then the breathing becomes hurried and quick, and the heart acts in a corresponding way; I ought to state that in consequence of the dilation of the pupils the sight becomes impaired; I did not notice on any of my visits to General K. any of the symptons of an overdose of yellow jasmine; I gave him the first dose on Wednesday about 11 o'clock; I do not think Mrs. Wharton was present when I gave it; at 1 o'clock Mrs. Wharton told me General K. had seemed worse after taking the second dose; she said he had become more restless, and was threatened with convulsions; I expressed surprise, and said I could not account for that result from the jasmine; "because," said I to her, "You observed the effects of the first dose, how it soothed and quieted him, and I would expect a similar result from the second dose;" she said she could not account for it, but that as yet such had been the effect; she admitted that the first dose had quieted him; the last dose I gave him was one of chloral in a cup, a dessert spoonful of the solution, and about a wine glass of milk; he was then having violent convulsions, and I administered the medicine with my own hands; I dipped it up with a spoon, and I had difficulty in getting the spoon into his mouth; he bit upon the spoon so that his middle front tooth was loosened; if he had had an overdose of opium or jasmine the jaws would have been relaxed; had the vial of laudanum been full it would have been a fatal quantity to most people; that is to persons not accustomed to its use; it is impossible to say how long General Ketchum would have lived after taking an overdose of laudanum of that quality, as it varies so much; I had inferred when I saw him, from the information I had obtained of his sickness on Satur-

day night and Monday, that he had been suffering from cholera morbus; at least I found the irritability of stomach attending cholera morbus; there was not at that time in Baltimore more than the ordinary liability to cholera morbus; I should say that it was almost certain that anybody taking an overdose of opium on Tuesday would have been in a dangerous condition on Wednesday morning; I saw no such manifestations when I saw him on Wednesday; tartar emetic is used against febrile symptoms, or else as an emetic; on the subject of the effect of an overdose of tartar emetic I have no experience, except in this case; the symptoms are very uncertain usually; according to the authorities there would be in the case of an overdose of tartar emetic heat, pain and constriction in the throat, accompanied by a very strong metallic taste; there may or may not be vomiting; some times it is profuse, and again, even when large quantities have been given, no vomiting; there would also be pain and griping in the stomach, and usually extreme muscular relaxation up to a certain point; then we find a stiffness—what the books term a tetanic condition—especially about the neck, arms, and legs; sometimes the stiffness and rigidity is manifested at a very early period of the effect from an overdose; then there would be a reddish, bluish, livid appearance about the surface resulting from its action upon the heart, weakening the force of that organ so as to leave passive congestion throughout the venous system; upon the pupil no decided effect is produced; of course this condition of things is accompanied by a stupor, more or less profound, varying in extent; there is apt to be rather an increase than a diminution in the amount of urine; I never ordered porter for General Ketchum, and said nothing to Mrs. Wharton about giving him porter; on this subject I am perfectly positive; when I examined the body at Washington I found no indications of urinic poison if he died from apoplexy or paralysis, the post mortem examination would have revealed that fact; anterior to the post mortem examination I suspected that he had died from poison—simply poison; in fact my opinion was that he had died from poison; by the evidences of the post mortem my previous opinion was strengthened; the evidences were all consistent with the theory of poisoning from tartar emetic; I know of no instance in which yellow jasmine has produced convulsions, and my own practice has been to prescribe it to prevent convulsions; in some respects the symptoms produced by tartar emetic and by cholera morbus are similar; at certain periods of the action the symptoms of one might be mistaken for the other; tartar emetic is very soluble; more soluble in tea than in water; in lemonade its solubility would be equivalent to its solubility in water; the effect of tartar emetic and laudanum would be to prevent both vomiting and purging; I was present when the stomach was delivered to Dr. Aiken, and it was in the same condition as when first put in the jar; I should say that eighty drops of yellow jasmine would not be an overdose; I have frequently taken myself a teaspoonful, and in one instance I prescribed that amount to be taken every two hours; where yellow jasmine is administered the mind remains clear until the heart becomes weakened; forty drops of the tincture of yellow jasmine in two teaspoonfuls of water would give a color somewhat resembling pale sherry; forty drops in two tablespoonfuls would make it relatively paler and weaker. [The Dr. was now called upon to produce yellow jasmine, and took from his side pocket a small vial of the tincture. At the request of Mr. Revell, he then dropped forty drops in a little water in a tumbler, and showed it to the jury. The first juror took a tablespoon containing the mixture, and it was passed around among them and examined. The Dr. next put forty drops of yellow jasmine and two tablespoonfuls of water into a tumbler, and that too was shown to the jury.]

The witness was now turned over to the defence, and was subjected to a rigid cross-examination by Mr. Steele, substantially as follows: When I saw General K. on Monday I ascribed his irritability of stomach to cholera morbus; I gave the prescription of two drops of creosote in a tablespoonful of lime water to meet that condition; that relieved him; if he had had at that time tartar emetic in his stomach, or it had been absorbed in his system, the creosote would have had no effect, so far as I am informed, but the lime water might have had a neutralizing effect; tartar emetic is rapidly absorbed into the system through the kidneys; General K. did not tell me that he had been very much fatigued on Saturday, or that he had drank a great deal of ice water; on Tuesday morning he was much better and said he would have gone to Washington on that day with Mrs. Chubb if he had not overslept himself; he asked me to get his pocket book from his pantaloons in a closet a few feet from his bed; he then paid me for my services; he had not up to that time complained of headache or dizziness; General K. told me had had cholera morbus on Saturday and Sunday nights; I examined his tongue on Wednesday at the time of my first visit; it was natural, and he protruded it without difficulty; I prescribed the yellow jasmine to remove his congested condition; I feared there might be congestion about the brain; I would not say that yellow jasmine is a depressent; I call some medicines depressent, but I am not prepared to call yellow jasmine of that class. [Mr. Steele here produced the Baltimore *Medical Journal* for March, 1871, and asked Dr. Williams if he still entertained the views then expressed, and to which he replied in the affirmative. Continuing—"I was one of the first physicians in Baltimore to use yellow jasmine, and my friends say it is 'a hobby' with me." Mr. Steele—"Medical science is constituted of a good deal of theory." Dr. Williams—"I hope some facts, too." Continuing—General K.'s face was of a livid color when I saw him first on Wednesday; I ordered forty drops of yellow jasmine in two teaspoonfuls of water; General K. was quiet on Wednesday until I shook him; then there was a slight convulsive tremor, which passed over his whole body; I attributed his attempt to jump

out of bed to the disagreeableness of the ice which I had ordered to be applied to his head,and I ordered it removed; his convulsions were not of the ordinary character; the constant effort of the convulsion was to throw him from his back to his left side, and he uttered sounds which indicated great pain; after I had partially roused him he at once relapsed into a semi-comatose state; he continued in this semi-comatose or semi-conscious condition; in that condition his sense of pain would not be, of course, so acute as it would be in perfect consciousness; when I first spoke to Mrs. Wharton of General Ketchum's condition I simply told her that he was critically ill, and that his friends ought to be sent for; I considered him very ill and remained there with him two hours; when I tested the urine by the usual test of heat and nitric acid I did not suspect poison; I tested for albumen, and not for antimony; I found no albumen; I do not remember that I stated to Dr. Aiken when I took the stomach to him what medicines I had prescribed for General Ketchum; I did not intimate to him that the poisoning of General Ketchum had been by strychnine; I simply told him I suspected poisoning, and had not associated strychnine with the poisoning; there are no symptoms exclusively and invariably characteristic of any poisoning; I never saw a case of poisoning from tartar emetic, and what I have said on that subject has been derived from my reading; when I saw Gen. Ketchum, shortly after 1 o'clock on Wednesday, I regarded him as hopelessly ill; tartar emetic found in his stomach after death, and not absorbed into his system, could not have caused his death; I would not say that General K. was moribund when I saw him on Wednesday at 1 o'clock. (Here some desultory discussion took place between the counsel and the witness as to the proper use of the the term "moribund.") Continuing—I should say that when a man was uttering groans such as General K. was uttering, the presumption would be that he was suffering great pain; I found no blood upon his clothes; both on the neck and abdomen the skin was scratched and the blood was exuding; they were bloody without having any blood running from them; at Washington we took out only a few inches of the marrow in the spinal column; I did not examine or inspect the membranes of the spinal marrow beyond that distance; no blood was found on the sheath of the spinal column; no blood was effused from the brain, in the ordinary sense of the word effusion; the little points I spoke of yesterday were numerous; I should say they were of a dark red—brownish; they might have been post mortem; I cannot say whether they were ante mortem or post mortem; the presumption is, that they were ante mortem; Prof. Miles examined them with a microscope, but I did not; the post mortem examination was practically conducted by Prof. Miles; if I had known General Ketchum was under the influence of tartar emetic, I would have given him yellow jasmine; in the present status of medicine, I would prefer not to state any theory as to the modus operandi of yellow jasmine; I do not here, under oath, adopt the theory I expressed in the Baltimore *Medical Journal* of last March; I did not give Gen. Ketchum yellow jasmine as a stimulant; I do not admit that tartar emetic is a depressent; I suppose that some cases of poisoning by tartar emetic could not be distinguished from cholera morbus, that is, up to a certain period. Mr. Steele here desired to read to the witness a statement of a fact from Wharton and Stille's Medical Jurisprudence, but before reading it passed it to Mr. Syester, at his request. Mr. Syester said he had no objection to the closing sentence being read to the witness. The authority quoted said it would be hazardous to express the opinion that the symptoms of tartar emetic poisoning and of cholera morbus were different, and Dr. Williams said he agreed that it would be hazardous. Mr. Steele now read from Taylor on Poisonings, pages 520 and 521, in reference to the general effect upon the pupils of the eyes. Dr. Williams said it was recognized as high authority. Mr. Syester interrupted, and said he objected to the introduction of the books as authorities. Mr. Steele said he did not propose to use the books at that time as authorities, but would, as far as he was then advised, go before the jury with them. Judge Miller said the Court would then decide the question of the right to use them as authorities. The cross-examination of the witness was then resumed, and Mr. Steele read from the last mentioned authority an opinion as to the common English cholera, and Dr. Williams expressed his opinion with qualifications. Some persons, he said, could be poisoned by eating crabs, and others again by eating oysters, and the causes would vary. (Here Dr. Williams went into quite a lengthy explanation of the different classes of cases.)

Continuing—The gullet and oesaphagus were healthy, with certain limitations, when we examined them at Washington. Mr. Steele again quoted from Taylor as to the evidences of poisoning in post mortem examinations, and Dr. Williams again explained at some length. Continuing—Cholera morbus is apt to prevail in Baltimore during the summer months; there was cholera morbus existing in Baltimore at the time of General K.'s death; I would not say it was prevalent. Mr. Steele now read from Dr. Williams' testimony, as reported in the GAZETTE of to-day, in reference to the post mortem examination, and questioned him further in reference to what was then discovered. Dr. Williams again testified that he had failed to discover in the lungs, brain, heart or liver, any evidences of death from other than natural causes.

Dr. Williams was further examined at some length, but mostly as to points of theoretical bearing.

Dr. Samuel P. Chew, of the Maryland University, was next called, and testified—I have been a practicing physician for 13 years, and I have been Professor of Materia Medica in the University of Maryland for 7 or 8 years; I was requested by Dr. Williams to be present with him at the post mortem examination of General Ketchum's body at Mr. Weaver's, on Thursday, June 29; Professor Miles made it in chief, and Dr. Williams and I were present; we first examined the abdomnal viscera, liver, spleen and kidneys; then we examined

the alimentary canal; we found in the alimentary canal some evidences of congestion, not very well marked, however—not unmistakable, but we did not consider them very significant; the alimentary canal contained a considerable amount of whitish pulpy substance, streaked with bile; also a scaly substance on the mucus, which, in health, as in death, is always scaling off; after applying ligatures to the stomach Dr. Williams and I placed it in a glass jar which we had sent for from Marion's drug store; it was capable of holding about three pints of fluid, and was perfectly clean; it had contained iris root; we proceeded to examine the cavity of the skull, removing the cranium and then the brain, and found some evidences of congestion in the cerebral tubes; portions of brain and upper portion of the spinal column were taken away by Professor Miles for examination with the microscrope; the congestion was punctiform, occurring in spots; I took the jar, tightly corked, to the chemical laboratory of the University of Maryland, leaving it under lock and key; on the following day I went there to meet Professor Aiken, and Dr. Miles opened the stomach, and the fluid contents were left with Prof. Aiken for examination; I was present when the body was examined at Washington on the 13th of July; the body had been exhumed before our arrival; we examined the chest and removed the heart and lungs; they were found to be in a perfectly healthy condition; we found no change in any organ which we thought could indicate a disease sufficient to produce death; I did not attend General K. during his sickness; when we opened the stomach at the University of Maryland, there was some congestion about the lower part of it, but no evidence of ulceration; I heard the testimony of Dr. Williams as to the symptoms of General K.'s sickness; from the narration of these symptoms as given by Dr. Williams, and my own observations of the changes in the organs, I should say the case was a very obscure one, and I could not assign a cause for death; I cannot give a fixed opinion; I mean an opinion as an established conviction of my mind; it is my opinion from what I have heard Dr. Williams narrate on this stand, and from what I observed in the post mortem examinations, that he did not die from natural causes; the quantity of tartar emetic necessary to occasion death is exceedingly variable.

Some discussion now ensued as to the right of the witness to give his opinion, and the Chief Judge decided that he could give his opinion when founded either on his observation or reading.

Continuing—A quantity of twenty grains would generally produce violent symptoms, and might produce death; two grains have been known to produce death, and half an ounce not to produce death; the symptoms are various, whether it acts as an irritant on the bowels, or sedating the heart, and thus leading to venous congestion; in some cases there will be violent vomiting and purging; in others, rigidity of the muscle of the neck, jaws, abdomen and extremities, with convulsions; the symptoms may be explained by reflected irritation of the nervous system; when given in poisonous doses it produces pain in the abdomen and also burning and constriction in the throat: the pulse is depressed generally by the action of tartar emetic; it may cause giddiness; I do not know of any case in which insensibility was produced when given in poisonous doses.

The hour of 3 P. M. having arrived, the Court adjourned until to-morrow at 10 A. M. The examination of Dr. Williams was very rigid, and doubtless the same test awaits all the medical witnesses for the State. Mrs Wharton and Miss Wharton were calm and patient, and soon after the adjournment of the Court left for their prison room. Mrs. Nugent was again present to-day, and evidenced great interest. Mrs. and Miss Neilson were also in their accustomed seats. The tedium of medical testimony is promised for the next two days.

SIXTH DAY.

ANNAPOLIS, MD., December 9, 1871.

Now that the medical testimony for the State has been reached, the great trial is tedious, and but little occurs of special interest to the lovers of the sensational. The dramatic incidents of the case will be further narrated next week, and then the testimony will doubtless be listened to by the spectators with the same eagerness which was observable on the the three first days.

Mrs. Wharton, with her daughter and the ladies who have constantly accompanied her, was present promptly to-day. Miss Rosa Potts, of Washington, was also present with her within the bar of the Court.

Upon the opening of the Court Dr. Samuel C. Chew was recalled to the witness stand and testified: In my opinion, from the symptoms of General K's case, as narrated by Dr. Williams, and from what I observed, the case was not one of poisoning by opium; I did not find any indications of Bright's disease.

A tumbler was given to me by Mrs. Loney on the evening of Wednesday, June 28, containing a sediment, in the house of Mrs. Wharton; the sediment was a whitish deposit, and somewhat moist; I carried the glass home with me and locked it up in a medical case; on the 30th of June I carried that tumbler to Prof. Aiken, and delivered it to him in the laboratory of the University of Maryland; on my way I stopped at the house of a medical friend and we had a conversation. [Mr. Hagner here interrupted the witness and he did not relate the conversation.] Continuing—I tasted a very small fragment of the sediment; it had a slightly acrid taste; I applied no further test; tartar emetic, in substance or in concentrated solution, has an acrid taste, and the books say a metallic taste; I have never noticed that it had a metallic taste; chloroform is administered for the purpose of controlling or preventing pain; also to produce relaxation of muscle; also, to control spasmodic action; those are the main purposes; chloral is not very new to chemists; it has been known to them for the last forty years,

but it is new in its application; a medium dose is, I should say, thirty grains; the ordinary dose ranges from twenty to forty grains; it is administered principally to produce sleep, and sometimes to keep up the effect of chloroform; when it is administered, it is believed to undergo a conversion in the blood into chloroform; in the process of making chloroform, alcohol and chloride of lime react upon each other, this reaction forming the chloral; the conversion of chloral in the blood into chloroform was first discovered by a German chemist; so far as I can judge from General K.'s symptoms, as narrated by Dr. Williams, nothing would have been better than chloroform, followed by chloral.

The witness was then cross-examined by Mr. Steele—Instances of death have frequently occurred from the administration of chloroform; chloral is very soluble; some cases have been reported of death apparently resulting from the administration of chloral, but it is considered safer than chloroform; some physicians have, however, expressed the opinion that its use was dangerous, Dr. Smith, of Baltimore, among them; I think chloral was first used in Germany in 1867; it was used in this country soon after; I have never noticed any metallic taste about tartar emetic, but, as you may imagine, have not tasted it often; it operates by local irritation and by absorption; it is generally absorbed; after absorption it would probably be carried chiefly to the liver, and might be found there unless eliminated by the kidneys; the elimination is very rapid; it has, however, been found in the liver when administered some time before death, and may also be found in the kidneys; the tartar emetic found in General K.'s stomach was not, in my opinion, the cause of death; in the process of absorption tartar emetic passes also into the blood, and it might be found there; the authorities say it is most likely to be found in the liver; it might also be found in the lungs or the alimentary canal; in the post mortem examination the liver and lungs appeared to the unaided eye to be perfectly healthy; Orfila says he had observed a decided effect upon the lungs of dogs from tartar emetic; cases have been reported in which the system tolerates a very large dose; it was given by Razori and Lannecke in doses amounting to 30 grains and upwards in 24 hours; it is used less now in pneumonia than formerly, and has not, within my medical experience, been considered as having any specific influence over pneumonia; it was used formerly in large doses, with the view of checking the inflammatory process; it is now given in small doses, as a sedative to the heart, and as an expectorant; from the symptoms alone, as narrated by Dr. Williams, I would not say that death had resulted from other than natural causes; the opinion I expressed yesterday was formed from the narration by Dr. Williams of the symptoms, taken in connection with the post mortem observations which I made; my opinion that General Ketchum did not die from natural causes was formed from the fact that at the post mortem we found in no organ such changes as would have produced death; there was not, as far as I know, any analysis made of the liver or kidneys; there is a striking similarity between some of the symptoms of poisoning from tartar emetic and of cholera morbus; there are no symptoms exclusively and invariably attending upon poisoning from tartar emetic; the symptoms of poisoning from opium are very much more uniform, but they may vary in some respects; I do not remember seeing convulsions from opium poison, but I know from my reading that convulsions may occur in opium poisoning; it is common to administer opium by injection beneath the skin; the same process can be used with tartar emetic, but tartar emetic is not used medicinally in that way; the post mortem, taken alone, did not bring my mind to the opinion that General Ketchum died from other than natural causes; tartar emetic causes the pulse to become weaker on account of its sedative action upon the heart, and it may make it more frequent, but I question whether it makes it fuller; there are three doors to the labratory of the University of Maryland, in which I left the jar containing the stomach of General Ketchum; the chemical hall is the same as the laboratory; the keys are kept by Professor Aikin; I do not know that there are any duplicates of the keys, except those kept by the janitor; but it is my opinion there are not.

Dr. Chew now drew a sketch of the laboratory of the University of Maryland, and explained it at some length to the jury.

Continuing—I put the jar upon the large table in the laboratory; I called the janitor, and in that way got access to the room; the jar was not sealed, but was corked; the cork could have been extracted without difficulty; I did not observe particularly, except that it was a clean, white jar; not a green bottle jar, according to my recollection; I suppose it was about 3 P. M. when I left the jar there; rather before than after 3; I made an appointment with Prof. Aikin to meet him, Drs. Williams and Miles there in the afternoon of the 30th of June; we met about 5 o'clock; I did not observe the glass with enough particularity to say whether or not it was of the kind in the manufacture of which lead is used; I think only the membranes of the upper part of the spinal column—about two inches in extent—were examined at the post mortem; the nervous centres were examined more particularly by Prof. Miles; I think there may be symptoms during life referable to congestion, and yet no evidences of congestion discovered at a post mortem examination; on the 24th of June last the weather was, according to my recollection, very warm; I do not remember any special prevalence of cholera morbus at that time in Baltimore.

Mr. Steele—"If a man about 60 years of age, after going a good deal about the city of Washington during the day, drank a good deal of ice-water, and ate a hearty meal, would you say that he would be specially subject to cholera morbus?"

Mr. Syester objected, and Mr. Steele said he would postpone the question.

Continuing—Malarial fever generally begins to show itself about that time (June 24), and increases as the summer advances; malaria is

supposed to be an emanation from decomposition of vegetables, etc.; we know nothing of it except from its effect.

Mr. Steele—"Medical science is progressive, is it not?"

Dr. Chew—"I think so."

Mr. Syester—"I hope there are some things which are certain in the practice of medicine?"

Dr. Chew—"I think there are some things in it absolutely certain."

Mr. Steele—"Even lawyers differ."

Mr. Syester—"Not in all things."

Mr. Steele—"Well, to make it stronger, even clergy differ, very decidedly.

Mr. Syester now cross-examined the witness and he testified—Our knowledge of malaria is based only upon its effects; I put a very small fragment of the sediment in the tumbler in my mouth, and it tasted acrid as it dissolved; Dr. Smith has, I think, expressed an opinion upon the danger of using chloral; if tartar emetic was administered through the skin it would not be likely to be fonnd in the stomach, but it would affect the stomach. Mr. Syester proceeded to read from Beck's Medical Jurisprudence, vol. II, about the effects of tartar emetic to test the opinion of the witness.

Continuing—There are differences in the symptoms of a patient laboring from an overdose of opium and one laboring from an overdose of tartar emetic; when the stomach was delivered to Dr. Aikin the ligatures were not changed; I found everything precisely on Friday as when I had left it there on Thursday; congestion sometimes accompanies paralysis or apoplexy, but in the sense I attach to apoplexy I do not think congestion causes apoplexy; the name of the janitor is Peter Smith. Mr. Revell requested a subpœna to be issued for Peter Smith, and it was issued at once by the Clerk.

Mr. Thomas now read to the witness from Taylor on Poisonings, to the effect that convulsions sometimes ensue after the taking of an overdose of laudanum, and the witness agreed to the opinion.

Professor F. T. Miles was next sworn, and testified—I reside in Baltimore; I have been a practicing physician 20 years; I am now Professor of Anatomy and Clinical Professor of Nervous Diseases in the University of Maryland; I was for six or eight years Professor of Anatomy in the Medical College of South Carolina; on the 28th of June I was called upon by Professor Chew, and was requested to associate myself with him and Dr. Williams in the examination of the body of General K., who he told me had died under suspicious circumstances; we went about 11 o'clock the next day to Weaver's; the general appearance of the body was that of rigidity; there were red marks on the side of the neck and over the belly; they looked as if they had been scored by the finger nails; we opened the abdominal cavity, took out the liver, cut it into pieces, and examined it; we took out pieces of the intestine, which we slit open, washed and held up to the light; I selected pieces which showed a red tinge externally, marking that they were conjested, of which many patches appeared along the intestine canal, and presenting the appearances I have always found in the intestine where the mucous membrane has been highly irritated; in the intestine was a whitish, pulpy substance, which we found along the track of the intestine, inside; with the assistance of Dr. Williams or Chew the stomach was tied at its two extremities, and so removed; the spleen was examined, also the kidneys, taking each out and making a careful examination with the naked eye; the brain was next examined; we cut through the scalp, which was not tinged with blood, removed the top of the skull, first exposing the outer membrane of the brain; I examined the membrane for congestion, but found no mark of congestion; the popular name of the outer membrane is dura mater; that membrane is connected by veins with the brain; upon the removal of the dura mater the brain with its other membranes was exposed, and here the appearance of venous congestion showed itself, the veins of these membranes covering the brain being filled with dark blood; there was no cereous fluid under these membranes, the brain was then taken from the cavity of the skull, and examined particularly as to the arteries which supply it, and the substance of the brain itself; I carefully cut into and dissected the brain, and throughout, on the cut surfaces, found those dark points of blood which indicate passive congestion—that is, the veins were filled with blood; in the two lateral cavities of the brain (lateral ventricles) there was no unusual amount of fluid, nor, indeed, in the other ventricle; without opening the spinal canal, I cut out about two inches of the upper extremity of the spinal cord, which presented nothing abnormal; I examined the membranes at the upper part of the spinal cord to see if there was any effusion of fluid around the spinal cord more than normal; there was none; the stomach was placed in a glass jar, which had been sent for from Marion's drug store; it was corked up and delivered to Dr. Chew; I saw it the next day at the Laboratory of the University of Maryland; I took it out and examined it; it appeared to me to be in the identical condition in which it was placed in the jar; we did not examine at Mr. Weaver's the organs of the chest; I went to Washington with Drs. Chew and Williams, and examined the organs of the chest; taking them out, I laid them on a board, and observed them particularly; I opened the four cavities of the heart to see that the valves were in a perfect state; the lungs were examined by touch and cutting into them; they appeared perfectly healthy; the heart was perfectly healthy; I found the liver normal—no mark of disease; nothing that showed a diseased condition of it; the opening of the stomach at the laboratory was in the presence of Drs. Aikin, Chew, Williams and myself; we first poured out about three ounces of opaque brownish fluid; the interior of the stomach presented nothing very marked; the portion most dependent presented a dull reddish color; so far as my post mortem examination went, it devolved no cause of death from natural causes; from the narration of General K.'s symptoms and what I saw at the post mortem examination, my opinion is that

Gen. K. did not die from natural causes:I have had a good deal of experience in post mortem examinations, but none in cases of death from cholera morbus; apoplexy, in the ordinary acceptation of the English term, would have implied a clot of blood in the brain; no such clot was found; some writers distinguish a serous apoplexy; I did not find that form; I have never examined the brain of any one who had died from an overdose of laudanum; active congestion would almost always leave traces in the brain, discoverable either to the naked eye or microscope; I found no such traces; I deemed the examination of two inches of the spinal cord sufficient, after learning a detail of the symptoms from Dr. Williams; I never made a post mortem examination of a person who had died from an overdose of tartar emetic; I would expect more pain in the irritant poison of tartar emetic, and a more powerful depressing effect upon the heart than in cholera morbus; I have never seen a person die from cholera morbus; Niemyer, a very high authority, says it is rarely fatal except in cases of children or old persons; I think the symptoms narrated by Dr. Williams and the observations I made of the body of Gen. Ketchum, did not indicate death from an overdose of laudanum.

The witness was now turned over to the defence and Mr. Steele proceeded to cross-examine him. Continuing—An overdose of tartar emetic would produce vomiting, purging and pain; the tartar emetic found in Gen. Ketchum's stomach could not have produced death; it operates by absorption; we would find it in the tissues generally, the liver and kidneys, when absorbed: there was no analyis made as far as I know of the tissues, liver or kidneys; I examined pieces of the brain by the microscope at my house; if antimony had been given General Ketchum and absorbed, I presume it could have been found by a proper analysis of his liver or kidneys; I could not say, from the symptoms narrated by Dr. Williams, what was the cause of death; the negative evidences of the post mortem examinations would not alone be sufficient upon which I could base an opinion as to the cause of death; they did not disclose a cause of natural or unnatural death; I cannot recall any cases reported of death from nervous functional disorders which were diseased conditions, and were not discoverable by a sufficient post mortem examination; death might result from the effects of malaria and no obvious causes be discoverable after death; I have had no experience in cases of poisoning from tartar emetic; Orfila speaks of tartar emetic having a marked effect upon the lungs of dogs and a somewhat similar effect upon the human lungs; exceptional cases of convulsions from opium poisoning are reported; I have no knowledge of a peculiar type of disease being in Washington at the time of General Ketchum's death; cases of death from the administration of chloroform occur; I can recall but one or two physicians who think the use of chloral dangerous.

Re-examined by Mr. Syester—There are cases reported of a half-hour or more before the effects of tartar emetic, after being introduced into the stomach, are observable; the usual time is very much less than half an hour; 30 grains of chloral is a moderate dose; I have given as much as 60 grains; without pledging myself to do it under the same circumstances, I see nothing improper in Dr. Williams' having administered chloral and chloform to General Ketchum; Taylor describes tartar emetic as producing convulsive movements; rigidty of the limbs and muscles about the neck and jaw is also spoken of; also a burning sensation about the throat or the pit of the stomach;* some authors report the appearance of the face as livid, and some as pale, but of the latter I am not sure; there are cases reported of death in which lesions were not discoverable by post mortem examinations.

Professor Wm. E. Aikin was now called, and testified—I reside in the city of Baltimore, and am by profession an analytical chemist; I have been since 1837 Professor of Chemistry in the Maryland University; I was called upon by Professors Chew and Miles, I think on the 30th of June last, and given a glass jar containing the stomach of Gen. K.; I understood the request was to ascertain if anything was there of a poisonous character; my idea was that I was called upon as a chemical expert to satisfy myself if there was anything injurious in the stomach; I was to use all the appropriate tests that would lead me to a certainty; that I understand to be the duty of a chemical expert at all times; before beginning such work a chemical expert always seeks for something to guide his researches; the symptoms of the case are all important as determining him what he shall search for; I was governed by the information I received from the medical gentlemen who waited upon me; from some circumstances the idea of strychnine was presented to me. and from other circumstances the idea of arsenic; those two things were mentioned before I proceeded to make any investigation, and to the best of my knowledge nothing else; I proceeded to the work, the jar having been handed me by one of the three gentlemen; the stomach was unopen when removed from the jar; it was placed on a clean plate; Dr. Miles made an incision and poured out the contents into a beaker glass which I held to receiveit; the plate and beaker glass were perfectly clean; no possibility of extraneous substance; the fluid poured into the glass measured within a few drops of four fluid ounces; the stomach was tied at both ends when taken from the jar; I then proceeded to examine that fluid—a turbid brownish fluid; I first examined for the presence of strychnia and failed to find any traces at all; from what I had learned of the symptoms there was reasonable ground to suspect the presence of strychina; the particular reason for that was the spasmodic symptons as detailed to me by Dr. Williams; to determime the presence of strychnia in organic masses, advantage is taken of certain properties which strychnia possesses; strychnia, or strychnine, are vege

* Grisolle says tatar emetic in poisonous doses produces vertigo, spasms, convulsions and syncope.

table alkalies, and will unite to form a definite compound, which chemists call salts; I added tartaric acid, using enough to insure a surplus of the acid; the acid I employed would necessarily unite with any strychnia present, and give a compound; knowing that that compound is soluble in alcohol,I added a large quantity of alcohol to this mass I was examining, trusting to get a solution of any strychnia compound which might be present; then by filtering, I separated the alcoholic liquid from the insoluble matter, and by evaporating the alcohol obtained a small quantity of solid matter, which was then treated with water to remove everything soluble which water would dissolve, and adding to the filtrate a large bulk of sulphuric ether; I then added bi-carbonate of soda to neutralize any free acid, decomposed the strychnia saltz and set free the pure strychnia, if any was present: the object was to get an etherial solution; by the spontaneous evaporation of that ether there would be left behind in a solid state any strychnia which had been in solution; in my case the evaporation of the ether gave me no crystalline residue; no visible residue, except a few points of what appeared to be fatty matter; as strychnia would have been necessarily left, I concluded that no strychnia was there; the negative proof was to me conclusive.

The Court now adjourned until 10 A. M. Monday, when the examination of Dr. Aikin will be resumed.

Information was received to-day of the death of Mr. Ezra Sheckels, the father of one of the jurors, from old age, and also of the death last night of Mrs. Beard, the mother of one of the jurors in this case.

SEVENTH DAY.

ANNAPOLIS, MD., December 11, 1871.

The Ketchum-Wharton trial is still tedious, and promises to continue at least ten days longer. The interest of the public in the proceedings seems but little abated, and the court room is crowded daily. A larger number of witnesses for the defence were present to-day than upon any previous day. It is supposed that the testimony for the State will be concluded on Wednesday, but much time will be consumed in argument upon the questions of the admissibility of evidence. Mrs Wharton appeared calmer to day, and all the ladies with her, including her daughter, seemed in better spirits than on any previous day of the trial.

Soon after the opening of the Court, Dr. Aikin was re-called to the witness stand, and testified:

After concluding my examination for strychnine,I next proceeded to examine for the presence of arsenic; the material that I had to work with included everything originally present, and, in addition, those reagents, or some of them, which I had added in the search for strychnine; nothing was removed but what could have been dissolved by ether; the materials I used were tartaric acid in the first instance, and in the second, bicarbonate of soda in the search for strychinia; they left a residuum of tartrate of soda with an excess of the bicarbonate: these substances I knew could not have contained any arsenic, otherwise I would never have been sure of my results; with that material so made up, I began the search for arsenic; I mixed all the residue and divided it into two parts; one part I put into an evaporating dish and added strong hydro chloric acid, called also muriatic acid; I digested that, adding occasionally some crystals of chlorate of potash, the object being to break up and disorganize any organic matter which might be present; when all traces of organic matter had disappeared I had a clear yellow fluid resulting;I passed that through a filter, and washed it with distilled water until I had about a half pint of liquid filtered from this material; I placed it in a glass and passed through it a stream of sulphuretted hydrogen gas; the sulphuretted hydrogen used was washed by passing it previously through water; I used a washing bottle, knowing that the arsenical matter, if present, was not likely to be there in the condition of white arsenic, but was most likely to have been converted into arsenic acid, a different compound; in order to insure the action of the sulphuretted hydrogen, I applied heat to the vessel containing the material, this suspected matter; while the gas was passing through I had the temperature raised and then let it stand to cool; after standing twenty-four hours at rest I again used sulphuretted hydrogen gas, and again let it stand some twenty-four hours for the precipitate to subside; I then separated by filter the preciptate which had collected; it was of a dark color,brownish;I then examined the precipitate to ascertain what it was; if arsenic had been present it would have been a compound of arsenic and sulphur; the color was not that I would have suspected in the arsenical compound; I examined by one simple inquiry, knowing the extreme solubility of the sulphide of arsenic in ammonia; I tried it in spirits of ammonia; its action was so trifling that it dissolved so sparingly I was satisfied it could not be arsensical; that finished my inquiry for arsenic; I set the precipitate aside and reverted to the other portion of the original material which had not been used in the arsenic process; the color I had obtained, and its solubility in ammonia by that process, gave me good grounds to believe that a very different substance existed; they agreed with another known substance, leading me to suspect that antimony was present; the action of sulphuretted hydrogen on solutions of metallic compounds is used to separate metals into groups, and, in this case, two groups would have been—those which give dark or black sulphides, or those which give bright sulphides; there could not be present any metal which forms a black sulphide,or my precipitate would have been black; the only metal which could give a result anything like what I obtained was antimony, and for that reason I was led to search next for antimony; the presence of antimony is established by obtaining two or three results; these results I call characteristic—that is, they are not compatible with the presence of any other metals; the mo-

ment I began to search for antimony I had these results in my mind, and my object was to ascertain if I could get these results from this material; the results would be an orange red sulphide of antimony; that this orange red is soluble in strong boiling muriatic acid; that acid solution dropped into water gives a white precipitate; there are other metals which will give a white precipitate, but the white antimonial precipitate is made orange red by sulphide of ammonium; if it be anything else giving the same white it would be made dark by the same; any substance which under my examination would give me the orange precipitate, the solution of that in muriatic acid. the white product on the addition of water and the reappearance of the orange red when sulphide of ammonium was last added, must contain some antimonial; I don't know any one thing except an antimonial which could give those results, and as I got all those results in this case from that portion which I examined I could not entertain a shadow of doubt as to the presence of antimony; I took the portion of the material not used in the arsenical process, added to it an excess of tartaric acid, filtered it, and examined the filtrate with sulphurated hydrogen; I got an abundant brownish red precipitate; red brown and brownish red wil l convey the idea; I used the sulphurated hydrogen just as I have described in the other case; there was no necessity for destroying the organic matter, and I did not use muriatic acid and chlorate of potash; the precipitate I got when separated and dried was dissolved in muriatic acid; I did not use muriatic acid in preparing the material; the hydrochoric solution dropped into water gave me a white precipitate; that white precipitate became orange red when treated with sulphide of ammonium; it was soluble in a solution of tartaric acid; that completed, all that was necessary to satisfy me that I had been dealing with some preparation of antimony; I know nothing that could have produced those results except some preparation of antimony; as the only compound of antimony used in commerce is tartar emetic, the overwhelming probabilities were that it was tartar emetic; the only certainty with me was that antimony was present; tartar emetic is the only preparation of antimony I am acquainted with as an ordinary article of commerce; the amount of antimony present I could only approximate; my attention was not directed so much to the amount as to the character of antimony present; I have never attached any importance at all to the question how much was found in the stomach, except in cases in which things might accidentally get into the stomach are present in very minute quantities; the question of quantity is important when necessary to explain the presence of even minute particles of a substance which may have gotten their accidentally; in my opinion the quantity present could not have been less than twenty grains or more,if you call the compound tartar emetic; the orange red sulphide of antimony is a definite compound; in a given weight there will be, of necessity, a certain weight of metallic antimony and a certain weight of sulphur; tartar emetic is equally a definite compound; a certain weight of tartar emetic must contain a certain weight of metallic antimony with the other constituents; then it follows that the metallic antimony present in a certain weight of a sulphide of antimony would form a definite weight of tartar emetic, which may be calculated; that calculation gives this result, that ten grains of sulphide of antimony correspond to about twenty grains of tartar emetic; if I decompose exactly twenty grains of tartar emetic by means of sulphurated hydrogen, I would get sulphide of antimony, and the weight of that sulphide of antimony would be about ten grains; not exactly as two to one, but very closely; I would like to have it understood that nobody ever extracted tartar emetic in the form of tartar emetic from the stomach of any dead person; once let it enter into solution, it is beyond the reach of mere mechanical separation; the only evidence of the presence of tartar emetic would be to get evidence of the presence of some antimonial preparation; this is not peculiar to antimony, but is common to all poisons taken into the stomach; I based my estimate of the weight upon observation of the results of another examination; in that observation I was anxious to determine the weight which might be present from the observed weight of the sulphide of antimony; it was by comparing in my mind the quantities gotten in each case that I was enabled to make the approximation; in case I got ten grains in the other quantity of sulphide of antimony, and I thought myself safe in assuming that at least twenty grains of tartar emetic were present; the larger quantity of sulphide I obtained from the stomach; a tumbler containing a sediment was given me by Dr. Chew; he called my attention to the taste of the article; that was on the 30th of June; I put a particle in my mouth and found an unpleasant, biting, acrid. metallic taste, which I did not think resembled the taste of arsenic; to satisfy my mind I got a fragment of white arsenic and a crystal of tartar emetic and compared the taste of all three, the sediment, the arsenic and the tartar emetic; I found the resemblance was between the sediment and the tartar emetic; that was the only tumbler I ever got from Dr. Chew; I was then satisfied that I ought to look for tartar emetic; the color of the sediment was white, and the color of tartar emetic is white; I had in view, starting with that idea, to search for those characteristics of antimony, which I have already given, with this addition. that where tartar emetic is suspected to be present, unmixed with organic matter, it has a certain property which will aid in identifying it; the property is that when acted on by a drop of hydrochloric acid it gives a white precipitate which is soluble in excess of the acid; that experiment satisfied me that I ought to look for tartar emetic; I then proceeded to verify, as far as I could, my suspicion of the presence of tartar emetic; I used the same means employed before to get the orange red solution; about one-half of the original quantity was treated with sulphuretted hydrogen, and gave me a precipitate of orange red sulphide of antimony; it was a direct

comparison of that and the bulk of the other that authorized me to determine in my mind the approximate quantity present; the orange red preciptate was collected, dried and heated with boiling hydrochloric acid; the solution gave me a weite precipitate, which was soluble in tartaric acid, and when treated with sulphide of ammonium became orange red; thence I concluded that an antimonial was necessarily present; that furnished the chemical test of that material; in regard to the quantity, the only guide I had was acting on a known quantity; I weighed out one grain of the white sediment from the tumbler; the antimony obtained was in the shape of sulphide of antimony, and that dried and weighed was four-tenths of a grain, from which I inferred that the tartar emetic present in that grain of white sediment must have been eight-tenths of a grain; if that was true of one grain, eight-tenths of the sediment must have been tartar emetic; in my judgment fifteen grains were, speaking within bounds, present, and the tartar emetic I put at ten grains, desiring to underestimate rather than overestimate; no one can ever separate in substance tartar emetic after being dissolved; the only evidence of its presence is the presence of an antimonial compound; when taken into the stomach it becomes mixed with the organic matter; the means employed to destroy the organic matter destroys the tartar emetic, but does not destroy the antimony which existed as a part of it; it breaks up one compound and leaves the constituents of which that compound was formed; I did not use all the processes by which antimonial poisoning may be detected; I used means by which I arrived at what I have a right to consider a perfect certainty; the means I employed I learned when I was a student; they were then recognized as reliable; all the authorities, as far as I know, consider all the properties I have described as perfectly conclusive as to the presence of antimony; I have been teaching my classes so many years that these are the reliable methods for detecting antimony that I cannot remember when I began to teach them; I have practiced medicine only eighteen months; but I graduated in medicine.

Mr. Revell now proposed to ask the witness if a person might not die from poisoning, and the poison not be detected in the stomach?

Mr. Steele objected, as Professor Aikin was only a chemical expert and not a medical expert.

Judge Miller said the witness seemed to be only a chemical expert, and that the question should be propounded to a medical expert.

Mr. Revell desired to ask the witness if from his reading and his knowledge of the circulation of the blood, etc., he could answer the question?

Judge Miller requested the State's Attorney to reduce his question to writing, which he did, as follows: "Does your knowledge of chemistry and of poisons enable you to declare your opinion whether or not a person may die of poison, and yet no traces of the poison be found in the stomach after death; and whether it is not within the scope of your profession to know and explain the effect of poison in the human system?"

The Chief Judge said the Court did not think the question could be asked, as the answer of the witness, already given, was fatal to the question.

Mr. Syester said he had supposed the question involved was one well known to science, and especially to chemical science.

The witness continued—All the agents I employed were pure—that is, free from anything that could interfere with the success of my experiments.

Professor Aikin continued—The title of the chair I hold in the University of Maryland is that of Chemistry and Pharmacy; the duties of my chair involve a knowledge of the chemical properties of medicines; my duty is to teach everything connected with the chemical properties of medicines. Mr. Syester asked the Court if the latter answers of the witness laid the foundation for the question just ruled out, and the Court decided that they did not.

The witness was now turned over to the defence, and Mr. Steele proceeded to cross examine him: It was my intention to state all the processes I used, but I remember that I used metallic copper for arsenic, which gave me no result; after all my examinations, I have nothing to produce here in Court; the products were not preserved;

Mr. Steele—"Do you not know that in a case of life and death it is the custom to preserve the results of chemical analysis, and produce them in Court?"

Prof. Aikin said he knew of one instance, but none in the case of antimonial poisoning. Continuing—I was born in 1807; I did not inquire what had been administered to General Ketchum, and I knew nothing of his treatment; I had not heard of the yellow jasmine and the chloral; I did not make what are called laboratory notes, but made memoranda; they were thrown aside and I cannot furnish them; they were merely aids to my memory; I made a summary in October to Mr. Knott, or a part, in Baltimore, of the results of my analysis; as soon as I got results which only antimony could have furnished, I considered my duty done; I supposed evidences which would admit of but one result would be satisfactory to any reasonable mind; I did not understand them to be color tests; if I get a yellow precipitate, it is not alone satisfactory; lead will give a red precipitate sometimes; I rely upon the red precipitate as far as it goes, but not that alone; I have seen salts of lead produce a color which might be mistaken for the antimonial red; the color is important, but not conclusive; I presume I could have gotten metallic antimony; my object was to satisfy my mind of the presence of antimony, and I considered my duty performed; I do not admit of any degrees of certainty; having been made certain, I could not be made more certain; I evaporated only what passed through the filter; the test I then applied was directed exclusively to strychina; if laudanum had been there I think I would have obtained some indications of the presence of morphia; I got no trace of the alkaloid contained in yellow jasmine; my work was

done in the large circular room called the lecture room; there are three doors to the room; anybody in my absence can get into that room; when I lock the entrance door and the janitor cannot get in; I consider it necessary only to carry off the entrance door key; I have no knowledge of anybody having a key, but I cannot be positive; all the vessels I used were not new; I think some of the glass ware was new; I washed all of them myself; I used distilled water and made the ordinary examination by evaporation; incidentally I applied other tests; I distilled the water myself; it was hydrant water; the alcohol and ether I used left no residue upon evaporation; I examined the alcohol with sulphuretted hydrogen; tartaric acid may contain tin, lead, or arsenic; I tested it and knew it contained none of them; the most likely impurity of bicarbonate of soda is silica; I examined everything I used; arsenic may be found in sulphuric acid. The witness was now subjected by Mr. Steele to a rigid cross-examination as to the tests he used with the materials he used.

Upon comparison a copy of Dr. Aikin's report of this analysis, which Mr. Thomas said he had obtained from Mr. Knott, was found to vary from a paper in the hands of Mr. Revell. The State's Attorney said he would have Mr. Knott summoned to produce the original report made by Dr. Aikin, that the omissions might be suppied.

Professor Aikin continued—I know nothing of the chemical properties of yellow jasmine; I never read an article by Professor Wormley, of Ohio, in the *American Journal of Pharmacy*, on the subject of yellow jasmine; I am unable to say what would have been the result of my analysis as to colors if General Ketchum had taken chloral and yellow jasmine; the tests I applied to determine the presence of antimony were, I would say, both good and sufficient; as I had used conclusive tests I saw no reason to proceed further. Professor Aikin was now subjected to a lengthy cross-examination as to his knowledge of the tests known to chemists.

At 3 P. M. the Court adjourned until to-morrow at 10 A. M., when Prof. Aikin will be recalled by the defence. The spectators evidently tired of the testimony to-day, but the chemical and medical experts seemed to find special entertainment in the examination and cross-examination of Prof. Aikin.

All the chemical experts for the defence have been present since the examination of Prof. Aikin commenced, and it has been observable that they paid the strictest attention to all that fell from the lips of the venerable Professor. His cross-examination by Mr. Steele was very rigid, and will probably be continued for several hours to-morrow.

EIGHTH DAY.

ANNAPOLIS, MD., December 12, 1871.

As far as non-professionals are concerned, the trial of Mrs. Wharton degenerated on yesterday into a tedious bore. The medical and chemical experts were, however, deeply interested, and it was evident that for them it had reached a pleasant stage. The scientific war is determined and bitter. The cross-examination of Professor Aikin has been a most rigid one, and the defence have, seemingly, delighted to propound to him the most searching questions. The experts for the defence prepared numerous interrogatories, covering fifteen pages of foolscap, and Mr. Steele showed that he knew how to handle them. The Court, reporters, and spectators became wrapped, as it were, in "a sulphurous canopy," and could not determine what it all meant, except that a fierce, scientific assault was being made upon the Chair of Chemistry and Pharmacy.

The lawyers on both sides got somewhat "at sea," and soon found that facts and fictions had become curiously commixed. It is impossible to say what has been the effect upon the rural jurors, but they looked grave, and one, who had studied under Prof. Aikin, was observed to take many notes.

Mrs. Wharton arrived promptly in Court this morning, accompanied, as usual, by her daughter, Mrs. Nugent, Mrs. Neilson and Miss Rosa Neilson. Her manner indicated the composure which has distinguished her since the commencement of the trial, but Miss Wharton appeared improved in spirits.

Soon after the opening of the Court, this morning, Prof. Aikin was recalled to the witness stand for continued cross-examination by Mr. Steele. He was first handed his report of his analysis to Mr. Knott, the State's Attorney of Baltimore, and promptly identified it. He was positive, he said, that he had reported the fluid contents of the stomach to be of a "brownish" color, and not greenish; his handwriting had been mistaken. Continuing: The summary was made on the 14th of October; the memoranda made of the analysis were very scanty, as I considered the work very simple; when I made the summary I had the memoranda by me, but I do not know that I referred to them; I remember that I destroyed the memoranda, but cannot say at what time; I threw them in the waste basket; I trusted to my memory, and I think I have a good, accurate memory; if my testimony yesterday varied from my memoranda my testimony is right; I meant my report to convey to Mr. Knott the idea that tartar emetic was there; I have discovered this morning in my report an important error. [Dr. Aikin here took the report, and explained at some length how one white precipitate had become, through a clerical error, confounded with another; he then marked the error in the report.] Continuing—It was an error in my writing the report, and not in my judgment.

Mr. Steele—Then the test you report in this paper is entirely different from the one you have sworn to here?

Dr. Aikin.—Yes, sir.

Continuing—I did not discover the error until this morning; my attention was called to it by a comparison of the two documents; I consider that I know now as perfectly what I did in July as I did in October; I can't remember what I said yesterday about the metallic copper test; I have heard so much since yesterday that I can't remember what I said; I

remember, however, what I did in making that test.

Mr. Steele.—We are now asking you about what you said yesterday, and not about what you may have done, or ought to have done.

Continuing—I was speaking of a proof in another case; I used it in reference to some remains brought on from Norristown, Pennsylvania; I would have found something if the tests themselves had not been pure; I used the test in the antimonial test, and not the arsenical test; intending to give the test to the jury I yet forgot it.

Mr. Steele—Do you not remember that the first question I asked you yesterday was if you had told the jury all the tests you had used, and you answered that you had?

The witness said it had been his intention to omit nothing. Continuing—I use no memoranda except to keep numerical quantities in my mind; I had distinct recollection of what was to follow if antimony was present; the difference between a white chloride and a white precipitate is more in the name than anything else: tartar emetic is composed of antimony, potash and a vegetable acid called tartaric acid; tartaric acid is composed of oxygen, hydrogen and carbon; I made no examination for tartaric acid in the contents of that stomach; it would have been useless; most certainly if tartar emetic was there tartaric acid was there; the idea of looking for tartaric acid never entered my mind; I am unwilling to say that there are no tests by which tartaric acid can be discovered; I did not look either for the potash; I looked for antimony, but I did not find the metallic antimony; I did not endeavor to obtain the metallic potash; antimony was the only constituent of tartar emetic I discovered. Mr. Steele—"Do you understand that you are here not to convict the accused but to aid in giving her a fair trial?" Dr. Aikin—"Yes, sir; I have understood that from the beginning of my work."

Continuing---The antimony could have been reduced to metallic antimony; Marsh's test would have brought it, and I had at hand the materials for Marsh's test; if I had regarded other tests than those I used more certain I would have used them; I have never used the galvanic test for antimony; I know of that test only vaguely; my attention has never been directed to the galvanic test; I learned my tests when I was a student; I do not mean that I learned them when I was first a student, but I meant to convey the idea that I had known them for a long time; I said yesterday that I did not deem the quantity in the tumbler necessary to the work before me; I had a natural curiosity to find out, however, how much was there; I treated one grain with sulphuretted hydrogen; I weighed it and found it weighed forty hundredths of a grain; I weighed, I mean, the precipitate; all the precipitates from passing through sulphuretted hydrogen are not always of the same density; if the quantity was a capital point I would not consider sufficient an estimate by the eye; the amount of sulphide I got in one grain was used to determine the probable amount of tartar emetic in the tumbler; I did not test all portions of the sediment to see that they were the same; I made no test for the organic matter of the sediment in the tumbler; I know of nothing but antimony which would give all the results I got; if there was anything else which would give all those results I could not rely upon my tests; the sediment in the tumbler had a biting, acrid, metallic taste; the crystals evaporated by a drop of the solution of the sediment and the crystals evaporated by a drop of tartar emetic had a resemblance, but not identity; I don't think I did anything until Dr. Williams and Professors Miles and Chew had left; I think if I had been looking for prussic acid it would have been lost; I dont think there was any chance of finding prussic acid by the process I used; I have no product of any part of my analysis to bring into Court; in reference to my examination of the reagents, I knew the sulphuric acid was pure, because I had tested it by Marsh's test; I cannot swear that I had tried it within six months.

Prof. Aikin was now allowed to leave the stand.

Peter Smith was next called, and testified—I am janitor of the University of Maryland, and have been since '44; I keep the keys and have charge of the building; I always carry in my pocket the key to Dr. Aikin's room; only Dr. Aikin and I have keys; I remember the time last July when Dr. Aikin was looking for some poison; Drs. Chew, Miles, Williams, Aikin and myself were the only persons who had access to the room; I never disturbed the jar.

To Mr. Hagner—I have got the key in my pocket now; if anybody wanted to get in today they would have to stay out. [Laughter.]

The vivacious manner of this witness was a most agreeable relief to the tedious testimony of the preceding one.

By consent, Professor Chew made the following statement:

I desire to make a statement or a correction in my testimony, if such correction be necessary. I am represented in one or perhaps more of the public prints, as stating that Professor N. R. Smith had written a *newspaper article* on chloral. In response to a question from the Attorney General, as to whether Professor Smith had written anything on chloral, I stated that he had written an article on that subject in a medical journal. I did not remember whether the article appeared in the *Baltimore Medical Journal* or in the *American Journal of Medical Science*, or in what particular journal. I now know that it was published in the *Boston Medical Journal*. I make the statement to remove any false impression from Professor Smith's mind.

Mr. Jacob Weaver was next sworn, and testified—I am an undertaker in Baltimore; I assisted in removing, on the 28th of June, between 6 and 7 P. M. the body of General Ketchum from Mrs. Wharton's residence; I took it to my warerooms, and there put it in ice; I had the entire charge of it, and kept it until Thursday; on Thursday it was taken from the ice and examined by Drs. Chew, Miles and Williams; nothing had been done to it except to apply ice; after the examination I put it back in ice; I delivered the body in Washington, at General Brice's house.

The witness was not cross-examined.

A. A. Kleinschmidt was next sworn, and testified—I reside in Baltimore, and am an apothecary; I have been an apothecary eight or nine years; I am junior partner of the firm of Gosman & Co.; I know Mrs. Wharton; I have known her over two years; on the 26th of June last, between 7 and half-past, in the morning, Mrs. Wharton came into our store and asked first for a small vial of tincture of valerian; I gave her an ounce; she then asked for a small quantity, or some, I forget the exact words she used, of tartar emetic; saying immediately after that she wanted it for a a plaster; I don't distinctly remember the quantity I gave her, but my impression is I gave her 60 grains—one drachm; I charged it on our book.

The book was here shown to the counsel for the defence. and examined by them.

Continuing—That is the blotter I have here; on it appears, "Mrs. Wharton, June 26, 1 oz. tincture of valerian, 20 cts.; tartar emetic, 10 cts.;" no previous charges appear; that is the first charge on that day; it is in my handwriting; I sold it to Mrs. Wharton in person; I had not been to breakfast at the time I sold it to her; Mr. Hanna was the only other person present, but there may have been a customer; I think Mrs. Wharton lived at that time at 263 North Eutaw street, about a square and a-half from my store; I don't remember having sold yellow jasmine on Wednesday, the 28th of June, but it is charged on my book; the prescription is also marked in my handwriting. [The witness here produced the prescription, and it was examined by the counsel for the defence; it was passed to Dr. Williams, who identified it as one he had written.] Continuing—The Nos on the prescription are in my handwriting. [The witness then read the prescription, as follows: "For General Ketchum—Tincture of Gelseminium, ½ oz.; 30 or 40 drops every 2 hours. P. C. W."]

Continuing—the whole was one-half an ounce; I think I prepared the tincture, but I don't distinctly remember the time; it is made by percolating alcohol through four ounces of the gelseminum root until twelve fluid ounces of the tincture have passed through: some was made a few days since; I gave Dr. Williams an ounce of the same tincture he got for General Ketchum—out of the same bottle—on the day this trial commenced; at the time I sold to Mrs. Wharton, Mr. Gosman, Mr. Myer, Mr. Hanna, a colored porter and myself were employed in my store; Mr. Myer is slightly deaf.

Cross-examined by Mr. Steele—I have been in Baltimore since '66; previously I lived in Georgetown and Washington; I am a German by birth; I will be twenty-seven years old on the 2d of January next; we have a day book; I have not the ledger here; we have also a prescription book.

Mr. Steele asked to have the day book and a perfect copy of the prescriptions from the 26th to the 29th of June, inclusive, and the witness took a note of it.

Continuing—Generally the person that sells makes the entries in the blotter, but not always; I enter more than any one else; sometimes I enter sales made by others; Mr. Gosman, Mr. Hanna and Mr. Myer at that time also made sales; if I make the first charge I generally enter the date; the date is sometimes marked also at the side; I cannot say the charges are always made at the same moment the medicines are sold, but are made as soon as convenient afterwards; my attention was called to the entry for tartar emetic some time in July; Marshal Frey first called my attention to it; I referred to my book at that time; my bills are made out from the day-book; Mr. Hanna generally collects the money.

Mr. Steele now showed the witness a lengthy bill, and the witness said that as far as he knew it was in the handwriting of Mr. Gosman, and receipted by him.

Continuing—Sometimes charges are made on the day-book without being first put upon the blotter.

Mr. Steele now offered the bill in the handwriting of Mr. Gosman, and receipted by the witness, in evidence.

Mr. Revell objected; it was only a copy, and the original was in existence; under no possible circumstances could it be admissible. Mr. Hagner and Mr. Thomas explained that it was offered to test the accuracy of the memory of the witness. After some consultation the Court said the paper offered was not admissible even to test the memory of the witness. Mr. Steele said a bill was not a copy, but an original paper, and desired to call the attention of the Court to the fact that the bill offered was not offered as a copy; the question was one of the general correctness of the entries, and to be judged of by the jury.

The Court said the defence would have the fullest opportunity to cross-examine the witness after the books were brought into Court.

At request of Mr. Revell the witness now explained his way of dating his blotter. Continuing—Mr. Myer was not at the store when I sold the medicines to Mrs. Wharton; he is never there so early; bottles containing medicines are always labelled, even when sold to persons upon their personal application; that is the custom among the druggists of Baltimore.

Mr. Henry W. Hanna was next called, and testified—I live in Baltimore, and have been an apothecary four years; in June last I was with Gosman & Co., and am there still; I have known Mrs. Wharton three or four years; the last time I saw Mrs. Wharton in Baltimore was on the 26th of June last in our store a little after 7 A. M.; I do not know what she had come for; I had just reached the store; I had not taken my breakfast; Mr Kleinschmidt, Mrs. Wharton and myself were the only persons in the store; the store consists of one large front room and a back room, with a door on either side communicating with the back room; I was going forward to wait upon Mrs. Wharton when I saw Mr. Kleinschmidt going and I went back into the back room; I remember distinctly that it was on Monday morning; I remember it from the circumstance of a conversation with Mr. Kleinschmidt; (the witness was here interrupted and not allowed to relate the conversation.) Continuing—I remember to have

filled on that day a prescription of Dr. Wil liams'; it was: "For Gen. Ketchum, 16 drops of creosote 4 oz. lime water—a table spoonful every 2 hours, P. C. W." I filled it about 5 P. M.; Dr. Williams brought it himself. The witness was not cross-examined by the defence.

Mr. N. H. Hutton was next called, and testi fied--I reside in Baltimore, and am a civil engineer and architect; I know Mrs. Wharton, and have known her several years; I first saw General Ketchum on the stairs of Mrs. Wharton's residence, on the 24th of last June, between 6 and 7 P. M.; I first went to his room on Monday, at the request of Mrs. Wharton; she told me that General K. was sick, and a comparative stranger to most of the persons in the house, and asked me to go and see him, and keep him company; she said something about a physician, but I can't remember whether she said she had sent or was going to send for a physician; I went up and found the General sitting on a lounge; it was about 4 P. M., Monday; I explained the object of my visit to him; there was nothing very evident in his condition; he complained of nausea and sick stomach; a few moments after Dr. Williams arrived; shortly after his arrival I got General K. the slop jar which he used; after a time the medicine Dr. Williams had prescribed came and I gave him one or two doses, I don't remember which; the medicine smelled of creosote; after giving him one or two doses I had to leave him; they had a beneficial effect upon him; I returned to his room between 6 and 7 P. M.; I had left the bottle that smelled of creosote on the mantel; I remained with him until 9 o'clock, reading the newspaper to him and administering his medicine; as I came back to the house, between 6 and 7 P. M., some one asked to go up into his room, and told me that he wanted me; Mrs. Wharton informed me, in explanation of his call, that his bottle had been broken, and he was anxious for another dose of his medicine; it was to the general effect that I must explain to the General, and keep him pacified; she told me she had broken the bottle; I found the General lying on the bed, apparently better than when I had seen him at 4 o'clock; I gave him a dose of medicine from a new bottle which arrived soon after I searched his room; I don't know who went after that medicine; I remained with him until nearly 9 o'clock and then left him; my wife came about that time and called me out; I do not remember any one else calling me; I next saw General K. about 2 A. M. the next day; Tuesday, the same night on which I left him, I had occasion to use the same bottle of medicine he was using for another person, and I found his door wide open; I went in and saw him sitting up, with his back toward me, on the edge of the bed, and endeavoring to ascertain the time by his watch; he was apparently quite well; I got the medicine and left him; I next saw him on Tuesday night, at Mrs. Wharton's request; she told me the General was quite sick, and asked me to look at him and see if I thought he needed a physician; that was, I think, between half-past 7 and half-past 8; I found him lying on the lounge on his back; after looking at him a second or two I left the room and went to Dr. Williams' office; the General was sleeping heavily and breathing heavily; I returned to General K.'s room and looked at him again; he had turned on his side, and was breathing easily; I then left him; no one was with him; the following morning, between half-past 9 and 10, I either met or was called out by Mrs. Wharton to the front porch; she told me she had something very important and very disagreeable to communicate: that she had sent for Dr. Williams, and before he came she wished to communicate certain facts to me, in order that I might communicate them to him, and enjoined that I should not say anything to any one else about the matter; she produced from her pocket a vial which she said contained laudanum, and that it had been found about General Ketchum's bed by Susan, the colored cook, on the previous day; I think she said in the afternoon; I expressed my profound regret that she had not informed me on the previous day of the finding of the bottle, and she told me she could not make up her mind to mention the matter, as the inferences were disagreeable to her and to General Ketchum's family; she gave me to understand that General K. had used the laudanum himself, and was at that time in a very dangerous condition from the effects of it; about that time Dr. Williams arrived, and I went with him to General K.'s room; we found him lying on the lounge; I assisted Dr. Williams in raising him from the lounge and moving him to the bed; he appeared to be almost insensible, replying in an articulate manner; his legs were certainly stiff; while Dr. Williams supported him under the shoulders, I moved his legs, first one and then the other; the knees bent very slightly as we moved him; after getting him on the bed I took off his pantaloons; I left the room about 12 o'clock; I returned again about half-past 1, and found several persons were in the room; Dr. Williams, Mr. Snowden, my wife and a colored man were in the room, and General K. was then in a convulsion; the convulsions he had were very violent in their character and seemed to affect his back; I saw him frequently raise his body from his shoulders to his waist, and at the same time he made motions with his hands as if he wished to seize himself; we restrained him by holding his hands, and in opposition to us he uttered cries; they were inarticulate cries; towards the latter part of his attack I was left with the colored man; we continued to hold his hands until he died; he died in a convulsion; it was near 3 o'clock when he died; Dr. Williams came back into the room.

Cross-examined by Mr. Steele—It was about 10 o'clock on Wednesday when I went up with Dr. Williams. At the request of Mr. Steele the witness drew a sketch of the room in which General Ketchum died, and handed it to the counsel for the defence. Continuing---I should think the depth of the room was between 17 and 18 feet; the bed stood with its head to the wall next to the hall; the bed was short; the General complained that it was short; the foot of

the bed came near to the mantle piece; there are four windows; I think the shutters were open on Wednesday when I was there; I recollect that Dr. Williams opened the shutters; it is quite possible that I may be mistaken as to the hour I met General Ketchum on the stairway; I did not report to Mrs. Wharton that General Ketchum needed a physician; I did not tell her I had been for a physician until the next day; I saw Dr. Williams give General Ketchum what he told me was a dose of yellow jasmine; that was given in about an hour after we arrived.

The Court now adjourned until 10 A. M. to morrow. As new features of the case are being developed the interest in the trial revives, and the Court-room was again crowded to-day.

NINTH DAY.

ANNAPOLIS, December 13, 1871.

The interest of the public in the great Wharton trial seems unabated, and the court room has been again crowded to-day. The attendance of ladies was as large as on any previous day, and they sat patiently during the entire proceedings. The medical testimony for the State having been exhausted, except for rebuttal, the trial reassumed the interesting character which most engages the attention of the general public.

Mrs. Wharton and her daughter were still heavily veiled; Mrs. Neilson and Miss Rosa Neilson still accompany them, and there was nothing sensational apart from the testimony of the witnesses.

Upon the opening of the Court, Mr. A. H. Hutton was recalled and testified, under cross-examination by Mr. Steele—I don't suppose I asked Dr. Williams to come, but left it to him to decide; I told him General Ketchum was in a bad condition; I described his position and breathing, and I think I told him that I had not let Mrs. Wharton know that I was coming; he said he had seen him in the morning, and that he was not then very sick; that he had been weakened by vomiting, and sleeping would do him no harm; that he did not care to go unless it was absolutely necessary; that I should return to General K., and if I still thought his symptoms unfavorable, I should return and let him know; I have stated all the reasons he gave me; he did not tell me General K. had been rude to him; he said he did not care to go to see General K. unless it was absolutely necessary; Dr. Williams said nothing but what I have repeated: quite a number of persons were about Mrs. Wharton's house at times during the days I was attending upon General Ketchum. Mr. Hutton now gave to Mr. Steele a larger and corrected diagram of the room in which Gen. Ketchum died, saying that the one he had submitted yesterday had been drawn, of necessity, in a hurry.

Mr. Syester now asked the witness if he meant to say that a number of persons were in Mrs. Wharton's house or in attendance with him upon General Ketchum.

The defence objected, but Mr. Steele said he did not object if the witness would name all the persons. A tumbler which had been placed in a nursery refrigerator had been admitted in evidence, and it was right that the jury should know who were in the house. If the inquiry stopped there he would not object, but did not desire, of course, to go into the trial of another case.

The Court decided that the witness could state who were present in the house at the times he was there.

Mr. Hutton continued—Most of the persons in Mrs. Wharton's house were in attendance upon some one else; I went there to attend some one else; that person was not a member of Mrs. Wharton's family.

Professor Aikin desired to make an explanation in respect to his analysis, as reported to Mr. Knott, which was stated privately to the Court, and the Chief Judge decided that the explanation was not material to the case, and declined to allow it to be made. Some desultory discussion followed between Mr. Syester and Mr. Thomas in reference to the justice of allowing Dr. Aikin to make the desired explanation, and the Court still declined to admit it.

Mr. A. A. Kleinschmidt was now recalled, and testified that an entry on the blotter, on the 26th of June, was in his handwriting; he was then shown the day-book, and testified that the charges were copied on the bill made out in Mr. Gosman's handwriting.

Mr. Hagner said he proposed to show that the entries had not been regularly made, and that essence of peppermint was charged to Mrs. Wharton on the day she was alleged to have bought tartar emetic.

In support of the right of the defence to introduce the evidence, Mr. Hagner quoted from Atwell vs. Miller, 6 Md., and Lewis vs. Kramer, 3 Md.

Mr. Syester said that all that could be shown was that a mistake had been made in making the entry in the books.

Mr. Steele said the books had been brought that the memory of the witness might be refreshed, and they showed but one entry had been made of tartar emetic, and that another article had been charged on the day the witness had testified he had sold tartar emetic to Mrs. Wharton.

The Court said the witness could be asked to explain the mistakes that had occurred, but that the bill could not be offered as evidence.

Mr. Syester suggested that the witness had already stated that he did not make off the bill, and could not explain the mistake.

Mr. Kleinschmidt was then allowed to leave the stand.

Jacob Frey, Deputy Marshal of Baltimore, was next called, and testified—I reside at 271 South Sharp street; I am Deputy Marshal of Police at Baltimore; I know Mrs. Wharton; I first saw her on the 7th of July last at her own house in Baltimore; I called on her to make some inquiry in relation to the death of General Ketchum, which had been reported to the Police Department; I gave her my name, and told her I was there to get some information about the death of General Ketchum; she related to me the fact that Gen. Ketchum had

arrived at her house on the 24th of June, and further, his sickness, and that Dr. Williams had attended him; the only fact that impressed my mind—

Here the defence objected, and Mr. Steele said it was the duty of the witness to pursue the conversation and not select one single fact from the whole of his conversation.

Mr. Svester said he understood the grounds of objection to be that the witness remembered only one fact.

Mr. Steele said a mutilated statement could not be given, and briefly argued the legal right involved.

The Court decided that the witness must give the conversation as fully as possible.

Marshal Frey continued—Mrs. Wharton told me of General K.'s symptoms; all of the conversation did not impress itself upon my mind, but a part of it did; I asked her if she knew of any tartar emetic having been brought into her house, and she stated that she did; that she had bought some herself; I wish to state here that I had four or five conversations with Mrs. Wharton, but I can not draw the distinctions as nearly as I would like; I asked her who constituted her household, and she gave me her name, her daughter's, and the names of the two servants, Susan and Ellen; I asked if her daughter had been at home during the sickness of General Ketchum, and she said her daughter had only arrived home on the day of General Ketchum's death; this was the first conversation; I told her I wanted to take her servants to my headquarters to interrogate them; she told me I could see them in her house separately and privately, but consented that I should take them with me if I preferred; she asked me to let her know how I progressed with the investigation of the case, and stated that she had intended to leave for Europe on Saturday, the following day, and would sail on the next Wednesday; she said she would not leave us as long as any suspicions rested on her servants, or until the matter was cleared up; I promised to call again and let her know how I was getting along; after getting through with the servants, I called upon her again, that is, on Friday night, about 10 P. M.; I told her I had been unable to come to any conclusion, but was satisfied the servants were perfectly innocent; I had a further conversation with her that night that lasted not more than half an hour, and we went over the same ground we had gone over on the afternoon of that day; in that conversation I told her I thought she had better not think of leaving until the matter had been cleared up, telling her I thought it would be most satisfactory to her; I told her I was unable to say how long I would be working it up, and that some cases had taken me eighteen months; she told me I had been very kind in calling to see her, and reporting how I had been progressing, and then said she wished to make me a present, and reached out her hand with some money in it; it was rolled up, and I could not see the amount; I told her I could not receive any presents or money; she said she intended to make me a present anyhow, and I told her we would talk that over after the case was cleared up; I called again on Saturday; I cannot be positive as to the time, but I think it was about 10 A. M.; her daughter came to the door, and told me her mother was not at home, but wished to see me; I named the hour in the afternoon at which I would meet her, and at that hour met her; in the conversations I had with Mrs. Wharton after Friday night I questioned her more closely than I had done before about the purchase of tartar emetic, and when she purchased it; I asked her if it might not be possible that she had sent one of her servants for the tartar emetic, and that servant abstracted it; she said no, as she had bought it herself; I asked her if it might not have been possible that after using it she had laid the paper aside and some one in that way gotten it; she said no, she had kept it in her pocket; she said she did not remember the day she had bought the tartar emetic, but it was during the time the sickness was in the house; I asked her what time of the day, and she told me in the evening; she said that on her way down town, she had stopped and bought some tartar emetic, had put it in her portmonnaie, and kept it there until about retiring, when she put it on a plaster and put it on her breast; in one of the conversations, between Friday night and Sunday night, she again insisted upon my taking some money, and that time she spread the note out, and it was $20; she told me to take it and buy myself a present; I again told her I could not receive it, and was prohibited by the rules of the Police Department; she told me, that being the case, she knew the duty of an officer, and that certainly I could not take it; during these conversations the question of her leaving for Europe was discussed, one being a reiteration of the other; I promised to tell her when I thought the matter was in such condition as would justify her in leaving the city; on Monday morning, between 10 and 11 o'clock, I called upon her, and informed her that Mr. Pinckney, the Deputy State's Attorney of Baltimore, said it would be inadvisable for her to leave the city while this matter was pending; she said she was very sorry, and had expected to leave on that day, at 2 P. M., for Philadelphia; she asked me if I thought Mr. Pinckney would let her go if she saw him; I told her I did not know; she asked me if it would be improper for her to call on Mr. Pinckney with a legal friend, and I told her certainly not; in the afternoon of that day I again called upon Mrs. Wharton, and told her circumstances had come to our knowledge which made it necessary for us to place a guard over her house to prevent any person connected with her house leaving it; that arrangement was continued until the following Saturday; during the interval I did not see Mrs. Wharton; on Saturday I called with ex-Sheriff Albert and introduced him to her; my connection with the case here ended; I think she said General Ketchum had been taken sick on Saturday; she said he had taken a walk on Sunday, but said he was too unwell to go to church; she told me his sickness had continued, but I cannot remember the hours and days at which she stated he was worse; I don't remember the conversation, but in one she told me Gen.

K. was a singular man, and that he generally drugged himself, and was opposed to doctors; she told me a bottle of laudanum had fallen from his bed; I don't remember whether she said she or a servant had found it; she said that being a man who drugged himself, Gen. Ketchum might have taken the tartar emetic by mistake; I told her that to my mind it was impossible from the fact that tartar emetic had not only been found in Gen. Ketchum's stomach, but also in a tumbler of milk punch, and that that was satisfactory to my mind that the General could not have taken it by mistake and that he had not had access to the place where the second dose of tartar emetic had been found—that is in the tumbler; I don't remember that she made any reply; what I have stated is all I remember of the conversations I had with Mrs. Wharton.

The witness was now turned over to the defence, and, after a few moments' consultation with Mrs. Wharton, Mr. Steele proceeded to cross-examine him as follows:

I endeavored to be as kind to Mrs. Wharton as my official duties would allow; she told me that no gentleman was on the premises; I do not remember whether or not she asked me if the servants could be allowed to return that night; I remember that she was solicitous for her servants; we finished with both of the servants that night, but with Susan first; we sent an officer with the servants, that they might not be molested on the way; before arresting her I had never intimated that she was the suspected party; in the first conversation I did not suspect her at all; I cannot relate the whole of her conversations, but some I remember verbatim; I first saw her on the 7th of July; no one was present at the interviews between Mrs. Wharton and myself; I don't remember that upon one occasion, when her daughter was about to enter the room, that Mrs. Wharton shut the door; I remember that I desired my conversations to be with her alone, and that they were; I had at least five interviews with Mrs. Wharton, and I told her at the first that tartar emetic had been found in Gen. K.'s remains: it was after that conversation that she said he might have taken it by mistake; when I put the guard around her house I did not then tell her that she was suspected, but that no one connected with the house would be permitted to leave; I relate what I told her, but that was not what I really meant; the last conversation I had with Mrs. Wharton was on Monday, July 10, about half-past 3 P. M.

James C. Rogers was now called and testified—I have been in the drug business twenty-five years, and I am now of the firm of Coleman & Rogers; I am the proprietor, Mr. Coleman being dead; the witness was now shown the bottle of laudanum found in General K.'s bed. Continuing—I smell opium; by ordinary use I should suppose it would require six months or a year to assume its present look; I always label medicines sent out; this is not the style of bottle I use; we use the French square, and this is known as the flint bottle: it is our rule to stamp "Coleman & Rogers" on the cork; if this vial had been purchased of me on June 24, it would not now have the incrustations I observe unless heat had been applied to it.

Cross-examined by Mr. Hagner—I know of no case in which the label of laudanum has been left off in my store; it requires fully six months to make the sediment now in this vial; we do not keep laudanum bottled up, and would fill a bottle brought us by a person who wanted it; we would take one of our own corks and, most probably, stamp it with our firm name; I have never seen Mrs. Wharton in our establishment to know her personally; I did not know her by sight.

Mrs. Wharton now raised her veil, at the request of Mr. Revell, and there was a stir in the court room, many evidently desiring to get a glimpse of her face. Mr. Rogers said he did not recognize her, and she lowered her veil.

Colonel H. D. Loney was next called, and testified—I have lived all my life in Baltimore; I am a member of the bar; I know Mrs. Wharton; I never had any conversation with her until the week before General K.'s death; I was sent for to go to her house to see a sick person, and I was informed that General K., too, was sick there, but I did not see him; the only conversation I can recall about General K. was on Tuesday, the day before he died; I was in Mrs. Wharton's dining room on Tuesday, between 5 and 6 P. M.; Mrs. Wharton came in and stated that she was going to Stabler's to get brown stout; I offered to go for her, but she said she wanted the walk; she returned in a few moments with a bottle wrapped up, and said she was going to make a sangaree for General K.; she went to the sideboard and mixed it; I did not see how much water she used; I recommended her to put nutmeg in it; she stated it was difficult to get him to take anything when he was sick, and that he was peculiar about taking things, but that she would put the nutmeg in and try it; she took the sangaree up stairs and returned in a few moments, and said that Gen. Ketchum had taken it; I think that was all that occurred at that time; I don't remember anything further that she said at that time; subsequently she went out riding with me to Druid Hill Park; Mrs. Wharton said it was difficult to get General K. to take anything when he was sick, and that she did not know that he would take the sangaree without the nutmeg; I cannot state at what time we returned from our ride; I suppose it was about 8 o'clock.

Cross-examined by Mr. Steele—I had difficulty in fixing in my mind the day upon which this occurred; I thought it was Monday until about three weeks ago; I remember giving you (Mr. Steele) and Mr. Thomas a statement, but might have omitted to state all I have stated here.

Colonel Loney now explained how his memory had been refreshed in reference to the date, by going to Stabler's and finding out from their books the day upon which Mrs. Wharton had purchased the brown stout.

Continuing—I was summoned before the Grand Jury, but was not required to testify; I could not say who pulled the cork out of the bottle of brown stout; I don't remember who

was in the room; if I had seen Mrs. Wharton pulling the cork I think I would have offered to do it for her.

To Mr. Syester—Mrs. Wharton gave me no reason for getting the brown stout for Gen. Ketchum.

Mrs. Col. Loney was next called, and testified—I reside in Baltimore; I have known Mrs. Wharton between four and five years; I reside within three or four squares of her residence; I never knew Gen. Ketchum until I met him at Mrs. Wharton's on Saturday evening; I saw him when he entered the house, went up stairs, and afterwards when he came into tea; the General was simply introduced to me, and I was not present during the time he was taking tea; I was in the tea room on the next evening (Sunday) when he entered; I did not take tea with him; I never saw him again until just before he died; I heard him on Tuesday afternoon; I think it was between 6 and 7 o'clock; I heard him vomiting; I was on the first floor and he was on the third floor; I have no recollection how long the vomiting continued; I knew he was suffering, and I asked my mother to go to him; that was on the afternoon of the day my husband took Mrs. Wharton to ride; the vomiting was heard after they had left; I do not remember that my husband took Mrs. Wharton riding on any other occasion; on Monday morning I was standing on the front steps with Mr. Moale when Mrs. Wharton entered the gate; at first I did not recognize her; it was early, she said she had been out to the provision store; I think it was between 7 and 8 o'clock; breakfast had not been served; I don't recollect any other conversation with Mrs. Wharton; I went to Mrs. Wharton's on Wednesday a little after 11 A. M., and went ot once to my brother's room; after remaining there a very few minutes I was called to the door and had a conversation with Mrs. Van Ness; I entered the dining room and found her standing with a wine-glass of milk punch, which she had poured from a tumbler, in her hand; as far as I can recollect the tumbler was on the table, giving me an idea that something was wrong with the milk punch, the tumbler having a peculiar looking deposit in the bottom of it; I then asked her to hand me the tumbler, and tasted the sediment; I noticed nothing sweet about it, but it left a grating sensation in my throat such as I have felt after taking magnesia; it left also a very strong metallic taste in my mouth; I took a little of it, and rubbed it on my hand to see if there was anything sticky about it, but there was not; I asked them to let me have the tumbler, and I put it in my pocket; I returned to my brother's room, to avoid any suspicion he might have that anything wrong was going on in the house; I then took the tumbler to my mother's; I returned to Mrs. Wharton's with the tumbler, and went into the third story, where my sister, Mrs. Hutton, was; Mrs. Wharton very kindly showed me into a little room, and said I could converse there with my sister. (The witness was not allowed to relate the conversation). Continuing—Mrs. Wharton asked me if I was going down town, and asked me also to look at General Ketchum and see if I thought he was as ill as the others thought he was; she asked me to take a telegram which she had wriiten to General Brice; I looked at General K. a moment and told her he looked to me very much like a dying man; I took the telegram; that was between 12 and half-past 12 o'clock; I went to my husband's office, and he told me it was then twenty minutes of 1; I went in a car from Eutaw street and Madison avenue to the corner of Baltimore and Charles streets; my husband went with me to the telegraph office; the despatch was sent at 12:55; when I went into General Ketchum's room Mr Snowden was with him; I went from the telegraph office with my husband to the office of an analytical chemist named Tourney, on Postoffice avenue, but he was not at home; we then went to Andrews & Thompson, on Baltimore street, and found only Mr. Thompson there; I put the tumbler on the glass case in front of me, and Mr. Thompson took out a little on his penknife and put it on a copper cent, consulted a book, and put a drop of some acid upon it; he made one test, and then took out some more and made another test; acting upon his advice I put the tumbler in my pocket, got in the car, and went to Lanvale street, to Dr. Chew's house; he was not at home then; after stopping for a moment at my own house, I returned to Mrs. Wharton; all this time I kept the tumbler in my pocket, pinned in; I showed Dr. Williams the tumbler, and he put a little of the sediment on his tongue, but did not swallow it; he found his coat was too thin to disguise the shape of the tumbler, and he gave it back to me; I put it in my pocket; kept it until the afternoon and handed it to Dr. Chew; the tumbler was never out of my sight; Mr. Crawford Neilson took some of the sediment out; my mother took out a little; enough to blister her lips; Mr. Neilson said it did not taste peculiar to him; I don't know at what provision store at which Mrs. Wharton dealt; there is one (Keller's) near her residence; I know where Gosman's drug store is; the shortest way to Gosman's from Mrs. Wharton's residence is by Keller's store; I cannot state the direction from which Mrs. Wharton was coming when I saw her enter her gate on Monday morning; I heard General Ketchum coming down stairs on Sunday night.

Cross-examined by Mr. Steele—Mrs. Wharton said, when she came in, on Monday morning, that she had been to get something for breakfast; she did not say what she had gotten; Mr. Moale was the only person present with me at that time; I started from my house at 11 A. M. on Wednesday; I had the telegram stuck in my glove; I tied my pocket-handkerchief over the tumbler before leaving Mrs. Wharton's; I laid the handkerchief over the top of the tumbler, wrapped it around the base of the tumbler; it would have been as tight as a preserve jar if I had had a string to have tied it; I think all the fluid had been poured off; I hardly know whether or not the sediment was moist when I first took the tumbler; it became dry as I carried it in my pocket; I presume it was after 6 o'clock before my husband and Mrs. Wharton started on their ride; Mrs.

Wharton gave me the telegram after I came out the room up stairs in which I had the conversation with my sister, Mrs. Hutton; I did not see the little nursery refrigerator; it was not Mrs. Wharton's refrigerator, but had been brought there for the use of any other person who was sick there at the time; I cannot remember whether it was before or after I had had the conversation with Mrs. Hutton that I told Mrs. Wharton I thought Gen. Ketchum looked like a dying man.

Mrs. George Warner, Jr., was next called, and testified—I have resided in Baltimore fifteen years; I have known Mrs. Wharton since about the beginning of the late war; I saw her on the Monday preceding General Ketchum's death; she was on Biddle street, near Madison; I cannot say positively at what time; I left my home, No. 78 Franklin street, at a quarter-past 6 A. M.; I wished to see my sister, Mrs. Chubb, before her departure that morning from Mrs. Wharton's; I continued up to Eutaw street, and went as far down as Mount Calvary Church, thence to Biddle street; as I turned into Biddle street from Madson I saw Mrs. Wharton approaching me from the direction of her home; when we met I asked her if my sister had left; I think it is about seven squares from my house to the point at which I met Mrs. Wharton.

Mr. James McAvoy was next called and testified—I am an accountant in the banking house of Alexander Brown & Sons, corner Baltimore and Calvert streets; I have known Mrs. Wharton for five years; I was not acquainted with General Ketchum, but was once introduced to him; I went to Mrs. Wharton's about 1 P. M. on Sunday, June 24, and went again at 4 P. M.; I was there again at 9 o'clock that night; Mrs. Chubb and General K. were sitting at the tea table; Mrs. Wharton asked me if I would get her a bottle of brandy from the room of Mr. Van Ness; I got the brandy and handed it to her; she said she wanted to make General K. some punch or toddy, I don't remember which; after a short interval I looked in the dining room and saw the General stirring a tumbler; that was about 9 o'clock; I then went into Mr. Van Ness' room and staid with him until about 12 o'clock; I then went into the dining room and laid down on a lounge; in about ten minutes I heard a step on the stairs, and I heard a fumbling at the lock of the front door; I went forward and saw it was General Ketchum; as soon as I got to the door he evidently knew that I had come to stop the noise, for he said to me at once that he would not go out that door, but would go out the back; he came through the dining room and went through the kitchen, opened the back door and went out into the yard; I laid down again, and in about five minutes I heard another step on the stairs; Mrs. Wharton now came in, and said she was afraid the General was sick and that she was going to give him some brandy and ginger; she unlocked, I think, two cupboards and a sideboard; after she got the bottle of brandy she left the room and went up stairs; I then laid down again on the lounge and was there probably ten or fifteen minutes when I heard the back door open from the outside; I saw General K. come in; he passed through without stopping or saying anything, and went up stairs; I saw no one else from up stairs during that night; I do not know whether or not Mrs. Wharton got the ginger; the General did not tell me when he went out what was the matter with him;the yard of Mrs. Wharton's residence has an iron railing in front and a high wooden fence in the rear; I was not asleep in the interval between General K.'s going out and his return; I think I could have heard a touch upon the gate latch; I never saw General K. again; I left Mrs. Wharton's between 4 and 5 o'clock the next morning; I did not see Mrs. Wharton again that night; everything was quiet after General Ketchum returned upstairs.

Cross-examined by Mr. Steele—I saw Mrs. Chubb and General Ketchum sitting at the tea table, the room is not large; the dining room door and the parlor room door face each other; the brandy was sitting on the table in Mr. Van Ness' room with the other medicines; as near as I can remember Mrs. Wharton met me at the dining-room door when I handed the brandy to her; it is my impression that when Mrs. Wharton came down during the night she got the same bottle of brandy.

The Court now adjourned until to-morrow at 10 A. M.

The following additional witnesses for the State have been returned summoned: The Actuary of Girard Life Insurance Company of Philadelphia (to bring documents); administrators of J. F. Jones, of Philadelphia, to bring letters of exemplification; Samuel L. Phillips, lawyer, Washington; Dr. Frank Donaldson, Dr. Wm. T. Howard, Jas. Rogers, of the firm of Coleman & Rogers; Mr. Gosman, druggist; Gen. G. D. Wise and Jas. McAvoy, Henry Johnston and Josiah Lee Johnston, of Baltimore.

TENTH DAY.

ANNAPOLIS, MD., December 14, 1871.

Although the Wharton-Ketchum trial has been unusually protracted, and proved, for a day or more, a decided bore, the interest of the public seems as eager now as when a narration of the circumstances surrounding the case was begun. The general desire seems to be to learn every detail, and the testimony of the witnesses is heard with remarkable patience. The ladies who attend seem to attach more importance to the circumstantial evidence than to any that the doctors have given, and they appear to eagerly anticipate every new development, especially when made by the ladies who are called to the stand.

Mrs. Wharton's manner appears unchanged. She is still accompanied by the ladies who have been with her from the commencement of her trial. Soon after the opening of the court this morning Mr. Thomas held a consultation with his client, and her manner was earnest, but composed. Whenever these consultations occur the crowd in attendance evidences a desire to watch, and the eyes of all are directed at such times towards Mrs. Wharton and the counsel with whom she may be engaged.

Harry W. Snowden was first called, and testified—I have been a resident of Baltimore for the past three years; I am slightly acquainted with Mrs. Wharton; I first met her last spring; I did not know General K. personally; I saw him on Saturday, June 24th, on the Washington train; I took the train at Laurel Station, and my attention was attracted to General K. and Mrs. Chubb, who were pleasantly engaged in conversation; we got in the same street car, and they got out at Biddle street; General Ketchum seemed very well; I next saw them at Mrs. Wharton's house the following Monday; I next saw General K. on Wednesday, June 28th, at about 12 or a quarter past 12; I was summoned from the room of a sick man in the house by Mrs. Wharton to go to General K.'s room; she said he was sick, and it was thought advisable to have a gentleman with him; immediately upon my being called out Dr. Williams came, and I went up with him; I followed Dr. Williams into General K.'s room; I took my seat by his bedside, and did not vacate it, except at one time to aid Dr. Williams in moving him; when I first saw him he struck me as being a very sick man; he was quite quiet, however, and I only observed some little twitching of his fingers; I remained by his bedside holding his left hand; I cannot say positively that Mrs. Wharton entered the room when I did; shortly after half-past 12 o'clock Mrs. Wharton stated to Mrs. Hutton that she had prepared the medicine for General K. as the physician had prescribed for him; I did not see her drop the medicine; I only heard her say to Mrs. Hutton that she had dropped it; I do not remember how long Mrs. Wharton had been in the room before she made that remark to Mrs. Hutton; during Mrs. Hutton's absence I observed Mrs. Wharton at the bureau in a stooping position, and I suppose she was dropping the medicine; she had the medicine in a teacup; as well as I remember it was about twenty minutes of 1 o'clock when she proposed to give the medicine or asked the time; I remember hearing her say that as he had been eased or relieved by the former dose, that she would like to give the next dose; she inquired the time of Mrs. Hutton, who told her that the time had not arrived, and that 1 o'clock was the hour named by Dr. Williams; in a few moments more she inquired the time, and I said: "Time appears long when one is anxious;" after Mrs. Wharton had inquired the time again, Mrs. Hutton passed her watch to her; I handed it to her; at about five minutes to 1 Mrs. Wharton came forward and asked if I would administer the medicine to General Ketchum, and I told her I would; she passed me a tablespoonful, and holding him with my right hand, I gave it to him with my left; I gave the medicine with my left hand as I supported him with my right arm; Mrs. Wharton requested me to keep the spoon in his mouth, and said she would pour in the balance; she then poured in the balance; the first quantity given was a full tablespoonful; I did not see the cup, but I am satisfied that it was quite another tablespoonful; it may have been more or less; I did not see the 40 drops of yellow jasmine dropped here by Dr. Williams; after taking the medicine Gen. Ketchum laid down again and seemed quiet for about ten or fifteen minutes; he then began to show symptoms of uneasiness; those symptoms gradually became worse, until he was taken with convulsions, and they became more and more severe, and were, according to my judgment, uninterrupted, that is, a continuous convulsion; at times they were more violent than at others; I inquired of Mrs. Wharton if General K. had been in active service during the late war, thinking that he might probably have some brain affection; she at first replied that he had been in active service, and then, upon reflection, corrected herself and said he had not been; one reason why I made the inquiry was that I saw him place his hands to the back of his neck; that indicated to me that he might have had some trouble with his brain; shortly after placing his hands to the back of his neck he put his hand inside his shirt and grabbed himself in this way, [here the witness went through the motion]; when I asked Mrs. Wharton if General K. had been in active service during the late war, she said he had at one time a fall from his horse; I cannot remember when she said the fall occurred; I examined his breast, and removed his hand after I found he had been clutching himself; he made a slight impression on his throat, but it was not so marked as it was just under the collar bone; he next put his hands to his stomach; I asked him where his pain was, and after I had repeated the inquiry several times, he replied "in my stomach, Sir;" that was all that he said; when siezed with the convulsions he would make motions as if struck in the back; his countenance indicated intense pain or agony; his exclamations indicated, too, that he was in great suffering; the witness was now handed a glass and a vial containing yellow jasmine.

Mr. Syester here remarked that they would have to send for spoons, as General Butler was not present. This remark created some laughter. The spoons were sent for, and the witness continued:

The only part I could gather of the conversation between Mrs. Wharton and Mrs. Hutton was, that Mrs. Hutton told Mrs. Wharton it was too much, and offered to drop it again; I don't know positively what Mrs. Wharton did with the spoon and the cup, but I remember seeing her sitting afterwards on the sofa, holding them in her hand; I don't remember seeing them afterwards in the room; Mrs. Wharton left about twenty minutes before General Ketchum died; I did not see Mrs. Wharton prepare any drink or medicine; I remember hearing her say that she was going to give General Ketchum some brown stout; I can't remember the day; when she stated she was going to give General Ketchum brown stout, Colonel Loney advised her to put nutmeg in it; she said she scarcely thought he would take it with the nutmeg, but that she would try it; she then left the dining room; she said that Dr. Williams had said that General Ketchum might have brown stout; she did not say how Dr. Williams had come to recommend it; I don't remember whether or

not the bottle was wrapped; I don't remember whether or not the cork was drawn.

Dr. Williams was now called, and, at Mr. Syester's request, he dropped forty drops of the yellow jasmine prescribed for General Ketchum, and adding two teaspoonfuls of water, put it in a glass and next added two tablespoonfuls of water.

Mr. Snowden, continning—The dose administered by Mrs. Wharton to General Ketchum did not bear the color of this (holding the glass up to the jury); the dose which was handed me in the spoon bore a very different appearance from this.

Mr. Snowden now took up a tablespoonful and said it still did not look like what he had administered to General Ketchum.

Continuing—I could not see the bottom of the spoon through the dose Mrs. Wharton handed to me, but in this I can see it distinctly; the dose Mrs. Wharton gave me appeared of a grayish or leaden color; it looked turbid; I could see it perfectly well; I did not see any of the medicine except in the spoon; I saw, however, a drop of it on a towel put under General K's chin; it looked of a leaden color; the witness now put on his handkerchief a drop of the mixture he had shown the jury,and said it did not look like that he had observed on the towel under General K's chin; he next dropped forty drops of yellow jasmine in the mixture and said he did not observe the same cloudy appearance which he had seen in the dose administered to General K. Continuing—I was not present when General K. died; I was present when the chloraland chloroform were administered; his convulsions at that time were very violent and his face showed that he was suffering great agony; when a spoon handle was put in his mouth to enable Dr. Williams to look at his tongue he bit upon it so violently that one of his front teeth started to bleed, and the Doctor removed it; I saw Mrs. Wharton quite often while at her house; I was in attendance upon a gentleman who was lying sick in her parlor.

Cross-examined by Mr. Steele—I was asked to go to General K.'s room, as he had tried to get up and Mrs. Hutton was alone with him; I held his left hand nearly the whole time I was with him; he kept raising up the hand Mrs. Hutton held, and said "keep me in motion;" as well as I remember, the windows were open; the house stands between two larger houses, and the sun may have been excluded by them; the light was not at all disagreeable, but the room was quite light; I cannot say positively, but my impression is very strong that it was a cup in which Mrs. Wharton had the dose for General Ketchum; I do not remember that a glass was on the mantle; I did not see the first dose administered by Dr. Williams; General K. opened his mouth at Mrs. Hutton's request; he had little or no difficulty in swallowing; Mrs. Wharton approached me over my left shoulder. [The witness here showed how he held General K. and administered the medicine to him.] I did not see the cup as it stood upon the table; I have put tartar emetic in the same quantity of yellow jasmine and water I have shown the jury, and it did not produce the color of the dose given General K.; I did not state that to the jury, because I did not recall it at the time; the first motion I observed General K. make was the putting of his hands to the back of his neck; the next to put his right hand to his collar bone; then both hands to his throat, and next to his stomach; as well as I remember, Mrs. Wharton asked me the time, and I told her my watch was too unreliable; that was before giving the dose; I am certain that Mrs. Hutton was in General Ketchum's room when Dr. Williams arrived, but I cannot speak positively as to Mrs. Wharton's having been there at that time; I think Mrs. Wharton retired about a-quarter past 1 o'clock; a colored man was also in the room, but sat most of the time at one of the windows: the colored man was not there when I went in; I left him there when I retired, at about a-quarter past 2 o'clock; as well as I can remember, Mrs. Hutton sat on the edge of the General's bed, and opposite to me; the General lay near the edge of the bed next to me; it may have been ten or fifteen minutes after Dr. Williams' arrival before chloroform was given him; it was given in a towel; I don't remember that an additional supply of the chloroform was put to the towel; the adminstration of chloroform was, as well as I remember, given from time to time until the chloral was given; the chloral was given before I left the room, and as nearly as I can fix the time I left, it was half-past 12 o'clock; the towel was removed from his neck simultaneously with the removal of the spoon; I had no particular reason to look at the towel; I am only prepared to say that the drop on the towel was of a gray or leaden color; I do not remember that it was before or after she gave the dose to Gen. K. that she said he had been in active service; she at once corrected herself and said he had not been in active service; if General K. had been a friend of mine I confess I don't think I could have remained and witnessed his sufferings; Mrs. Wharton may have told me that General K. had been engaged in one of the Departments in Washington, but I can't remember now; Mrs. Eugene Van Ness is the sister of my wife.

To Mr. Syester—The experiment I made with the tartar emetic, which I have spoken of, did not originate in my mind entirely; laudanum was also added; it occurred in the office of Dr. Williams, on a Monday, early in July; that mixture produced a brownish color, with a cloud, which, in some lights, might give it a gray or leaden color.

Mr. Eugene Van Ness was next called, and testified—I reside in Baltimore, and have lived there about eighteen years; I have known Mrs. Wharton about nine years; I was at Mrs. Wharton's house on the 24th of June last; I was there while General Ketchum was in the house.

Mr. Syester—"Don't answer the question I am now about to ask you until we hear from the Court. I wish you to relate to the jury how you came to be at Mrs. Wharton's on that day, if you were well or sick, and describe your fellings and symptoms fully, and how you happened to be taken sick there?"

Mr. Steele—"Of course we object."

Mr. Syester—"Well, we will argue it before

the Court." To the Court—"We offer to show by Mr. Van Ness that he lay sick in Mrs. Wharton's house on the Saturday, Sunday, Monday and Tuesday preceding General K.'s death, and on the day he died; that his symptoms were the same with those of General K., and that tartar emetic was found in the vessels in use at Mr. Van Ness' sickness; and that Mrs. Wharton knew of the deadly character of the medicine; all this took place in the same house and at the same time at which it has been shown General K. lay sick and died."

Mr. Hagner said the question was not one of relevancy, but of admissibility. The rule would be clearly on the rules of common justice, to exclude such evidence; if one evil act could be brought in, fifty could be brought in. The Constitution of the United States and of Maryland guaranteed that a person should not be tried twice for the same offence, but it would be trying a person twice with a vengeance to bring in such testimony as was now offered.

Mr. Hagner proceeded to argue the question involved, and quoted from Rex vs. Oddy, 1 Hills Reports, 316; 15 N. H.,State vs. Kennard; 18 Ohio. 222, old series; 8 Cox,Queen vs. Winslow; 27 Law Journal, p. 214; 4 Foster and Finalson, Queen vs. Garner, 346; 1st Lee, 574; 2d Cushing, p. 590; 5 Grattan, Wharton, 635, 824 and 640; 3 Greenleaf, sec. 19; 20 Alabama, and other appropriate authorities.

Mr. Thomas followed, arguing that the evidence was inadmissible on general principles. The alleged crimes were not so connected as to admit of the introduction into the trial for the poisoning of General Ketchum of the evidence in the case of Mr. Van Ness. If both had partaken of the same food, and had been made sick, that fact would be most pertinent to the issue; but the State had admitted that Mr. Van Ness lay sick in Mrs. Wharton's house before General Ketchum arrived. A common motive had not been alleged, and it was not even offered to prove any motive for the alleged poisoning of Mr. Van Ness. The defence was not resisting the evidence from fear of the effect on the trial of the Van Ness case, but because it could only prejudice the minds of the jury now trying the graver charge, that of the murder of General Ketchum. What propriety could there be in this jury trying the question of the poisoning of Mr. Van Ness? It makes no difference that Mr. Van Ness' case is now pending in this Court.

Mr. Thomas quoted in his argument from Wharton's Criminal Law, sections 635 and 640, note, end; Rex vs. Thomas Smith, 2d Carrington and Paine, p. 295, and other authorities, and said, in conclusion, that in his opinion the evidence was clearly inadmissible even upon general principles of the law.

Mr. Revell said the circumstantial evidence was, after all, but presumptive evidence, and it was competent to make out, link by link, a perfect connection of circumstances. It had been shown that tartar emetic had been found in Mrs. Wharton's possession, and Marshal Frey had shown, by her admissions to him, that she had tartar emetic in her possession three times on Monday, June 25. Lord Ellenborough says: "If crimes do so intermix, the Court must go through the details." Mr. Revell read from Wills on Circumstantial Evidence, page 63, premeditated crime must be preceded not only by impelling motives but by the possession of the means. Wilson, Circumstantial Evidence, page 179. It is clearly established that it is not necessary to prove the corpus delecti by direct evidence; 1st Greenleaf, sec. 108; Roscoe on Criminal Evidence, 5th American edition, page 87; Wharton on Crime, sec. 649. When the acts form one transaction the evidence is admissible; 5th Carrington & Paine, 155, Rex vs. Salisbury—this seems to overrule Rex vs. Smith, in 2d C. & P.; 1st Archibald's Criminal Practice and Pleadings, page 120; 1st Lee Reports, page 576; 8th Cox, page 455; 4th Foster and Finlason, Regina vs. Garner, and Regina vs. Harris; 27 Law Journal, Rex vs. Garey, and 2d Cox, Queen vs. Bayley, page 311.

In conclusion, Mr. Revell said:

"The testimony of Mr. Van Ness is important and admissible, and it should go to the jury to unfold and reveal to them all the circumstances connected with this terribly dark transaction."

Attorney General Syester followed for the State, and said that if it was competent to prove that in Mrs. Wharton's house the deadly means of crime had been found, it was competent to prove it by Mr. Van Ness, who was there languishing. He did not understand that the evidence was objected to because it was relevant to another case. It was, however, contended that the mere fact of the pendency of another indictment cut the State out from the evidence relevant to both. Mr. Syester then quoted at some length from 1st Lee, State vs. Walker; 5th Carrington & Paine, claiming that the case quoted from 2d Carrington & Paine had been met and overruled; Lewwyn's Crown cases, p. 103, Jas. Kirwood's case, decided in 1830; note 3 and section 322, Taylor's Law of Evidence, Lord Denman's decisions referred to there; Wharton on Homicide, p. 324, and numerous other authorities.

Mr. Syester spoke with his usual earnestness and ability, and was listened to by the Court and audience with profound attention. Upon the conclusion of his argument the Chief Judge asked Mr. Steele if his health would permit him to further argue the question to-day, so that the Court might render its decision to-morrow morning upon reassembling. Mr. Steele said his health was too feeble to proceed further to-day, and that in consequence of his ill-health he had to go to bed in the afternoons.

The Chief Judge then adjourned the Court until to-morrow at 10 A. M., when Mr. Steele will close for the defence.

It is anticipated that the effort of Mr. Steele, to-morrow, will be a most able one, and in every way worthy of his high reputation.

The Chief Judge again ordered the Sheriff to-day not to take the jury out of the Court room until the audience had departed, and it seemed the anxious desire of the Court to keep the jury from even the slightest improper influence.

Geo. M. Gill, Esq., of Baltimore, having

been summoned by the State, appeared in Court to-day, and occupied a seat immediately to the left of Miss. Wharton. E. O. McNear, a banker of Washington, has also been summoned by the State.

ELEVENTH DAY.

ANNAPOLIS, December 15, 1871.

In many respects the great Wharton-Ketchum trial has become decidedly monotonous, and apart from the discussions of counsel, and the testimony of witnesses, there is but little to attract special attraction. The interest of the spectators has evidently been considerably subdued by the tedium of a great part of the proceedings, and the eagerness to see the prisoner and catch the slightest expression of counsel or witnesses, which was so marked during the first week, is no longer observable. The court room is, however, still crowded each day, and the public seem determined to learn all that is to be said on either side. The patience of the ladies is remarkable, and by the constant attendance they manifest the most earnest interest.

Mrs. Wharton's carriage arrives each morning in front of the Court House a few minutes before 10 o'clock, and Sheriff Chairs or Deputy Sheriff Basil, alighting, assists the prisoner, her daughter and Mrs. Nugent from the vehicle. Mr. and Mrs. J. Crawford Neilson and Miss Rosa Neilson then join them, and the party enter the court-room without attracting much attention, and quietly occupy the seats immediately in rear of Mrs. Wharton's counsel. Mrs. Wharton, Miss Wharton and Mrs. Nugent appear in black, and are deeply veiled, and the prisoner and her daughter remain veiled until their return to the carriage. Mrs. Nugent usually removes her veil after arriving in the court-room, and reveals a remarkably pleasant, though a rather sad, expression of countenance and a face that was doubtless beautiful in happier years. Her manners are very quiet, but she seems to keenly appreciate the sorrow which now surrounds her Mrs. Wharton's manner is still very composed, and except when consulting with her counsel, or exchanging a few words with her daughter or Mrs. Neilson, she remains perfectly quiet. Her countenance cannot be seen through her heavy veil, and no changes of expression can, of course, be observed. Miss Wharton appears in much better spirits than during the first week of the trial, and frequently converses pleasantly with Miss Neilson, who sits near her, and her cousin, Mr. H. Moon Wharton, of Philadelphia, who sits to her left.

Upon the opening of the Court this morning, the Chief Judge said the question argued on yesterday had before been considered by the Court, and the Court did not think that further argument would change its opinion, as it had already considered the question fully. The general rule of evidence was that the testimony must be confined to the issue. The important rule is also laid down that the prosecution cannot go into the question of the prisoner's character, unless the way is opened to them by the defence. These are two well defined rules. When the law allows the facts of another offence to be given in evidence, the pendency of another indictment makes no difference.

The Chief Judge then read from Roscoe, on Criminal Evidence, touching this point. It is not necessary to prove guilty knowledge in this case by the fact that tartar emetic is well known to be a deadly poison when given in overdoses. The Chief Judge then read from Archbald's Criminal Practice, touching the question of what constituted a whole transaction, and said the offence of attempting to poison Mr. Van Ness was a separate and distinct offence, and the testimony in his case was not admissible in the case at the bar.

During the delivery of the opinion of the Court the most respectful silence was observed, and both sides seemed to appreciate fully the importance of the decision.

After considerable consultation between the respective counsel, Mr. Syester submitted the following to the Court without reading it and without argument: "The State now offers to introduce evidence to show that whilst the deceased lay languishing in the prisoner's house certain articles of food and drink, to wit, milk and beef tea, were taken to the house; that when taken there these articles were free from all noxious or poisonous qualities; that after they had been a short time in the house, and in places where the prisoner had knowledge of them, these same articles were found to be impregnated with poison as far as that fact can be shown by the taste of the poison and the symptoms of those affected by it; and further, that the symptons of those who had occasion to make use of the milk and beef tea indicated the presence of tartar emetic."

The Chief Judge said that the Court would admit part of the offer. It was competent to show that tartar emetic had been found in Mrs. Wharton's house, and it could be proved by persons who tasted it, but not by the symptoms of those affected by it. If any person could say that he tasted poison in Mrs. Wharton's house, the testimony of such a person would be admissible to prove its existence there.

Charles L. Ketchum (a son of the late Gen. Ketchum) was now called, and testified—I reside in Georgetown, D. C., and I am a son of the late General Ketchum; I have known Mrs. Wharton over 20 years; I remember the day my father left Washington; his health was perfectly good; I had occupied the same room with him from the 5th of last April up to the day he left for Baltimore; I never heard him complain except of a slight sore throat; I next saw him on Friday, June the 30th; he was dead then, and had been brought to the house of my uncle, Gen. Brice; I saw Mrs. Wharton in Washington on the 3d of July; my brother and I called at Mrs. Chubb's to see Mrs. Wharton; she had telegraphed us to meet her; she commenced to sympathize with us at the death of our father and said she too had lost a true friend; while talking with us and expressing her sympathy, her eyes were filled with tears; she said she regretted very much to be compelled to talk about business so soon after my father's death,

but that necessity compelled her to do so; she then told me she had called upon me for $4,000 in Government bonds which she had given my father, and that wishing to make up a letter of credit before leaving for Europe she had called to secure the bonds; she said she would leave New York the following Wednesday; I asked her at what time she had given the bonds to my father, and she replied, "About eighteen months ago;" she told me they were four one thousand five-twenty bonds, bearing six per cent. interest, and were to be sold by him, and invested in ten-forty coupon five per cent. bonds; I asked if my father had given her any receipt for them, and she said he had not; she also said when I asked her that she had no witnesses to the transaction; I told her I could not do anything then for her as no administrator had been appointed, and that no appointment could be made until the following Saturday, when the Orphans' Court convened; I told her that none of us could touch a cent of my father's money until that time; she replied that that would not do, and that she would leave Baltimore on the following Saturday, and must have the bonds to make her letter of credit good before leaving; I told her that if she would go with me to Gen. Brice's office he might know of some means by which she could procure them of which I was not aware; she consented to go with me without hesitation; I then asked her if she would be offended at me for talking business matters to her, and she said she would not; I told her then that my father's books and papers showed that she was in his debt to the amount of $2,600; she replied that she had paid that upon two installments; on July 1, 1870, $1,300, and $130 interest; on January 17, 1871, $1,300 and $65 interest on that amount for six months; that my father had noted these payments on the back of the note, that he had entered on the back of the note $130, as having been received for the last interest, instead of $65; she said General, that is not right; it should be $65 instead of $130; he acknowledged the mistake, crossed out the $130 and put down $65; he then handed her the note and said, "Ellen, now that the transaction has ended you had better destroy the note, as it may give you trouble in the future;" she said she destroyed the note in his presence; I do not remember that she said how she had destroyed it; I asked her if there were any witnesses to the transaction, and she said there were not; she said also that she had no receipts to show for the principal or interest; we then proceeded to Gen. Brice's office, and I attracted his attention as he was busy at the time, and I introduced her to General Brice and requested her to make known the object of her visit to him; she then told him that she called to secure the $4,000 in Government bonds which she had loaned my father; that she was about to leave for Europe, and could not possibly go without getting those bonds. as she had to use them to make good a letter of credit; General Brice expressed his astonishment at her demand, and told my father's books and papers showed that she was in his debt to the amount of $2,600, and there was no evidence of his owing her $4,000; he asked when she had given the bonds to my father, and she replied, "About eighteen months ago;" he asked what description of bonds they were, and she replied that they were four 5-20 United States coupon bonds, and that she had given them to him to convert into the bonds I have mentioned; the General then spoke to her about the note for $2,600; she told him what she had previously told me in reference to the note; the General asked her in what manner she had paid the money to my father, and she replied. "In greenbacks;" he asked her if she was not afraid to carry so large an amount of money about her, and she said she was not; she told him she had no receipts to show, and told him there were no witnesses to the transaction; he then asked her if Mrs. Chubb was not aware that she had so large an amount about her; she replied that Mrs. Chubb did not know, and that no one knew of it; General Brice told her there was no possible means of her getting the money at that time, as the matter was in the hands of the Courts, and that if her trip to Europe depended upon her getting those bonds, that she had better give up all hopes of going; she took that announcement without showing any apparent emotion, and got up to leave the office, saying that she was sorry she had not time to call on Mrs. Brice, but thought that it was best as it was that she should not, as her presence might awaken afresh her grief; Gen. Brice's wife is a sister of my father's; she sent her love to Mrs. Brice by the General, and left the office; I accompanied her to the sidewalk and told her I would come the next day to Baltimore for my father's valise and effects; she gave me her address and we then departed; she said she had paid the interest on the 17th of June, 1871, at the house of Mrs. Chubb; I went to Baltimore on the 4th of July, arriving at Mrs. Wharton's about 10 o'clock; Mrs. Wharton came in the parlor and took her seat near the front window; I took from my pocket a small pocket diary belonging to my father, and handed it to her to examine and read for herself. [The witness here took the diary from his pocket and it was passed to the counsel for the defence]. Continuing—She declined to take it, saying she could not see to read it; it was then a few minutes after 1 P. M., and it was a clear day; I asked her if she had her glasses with her, and she said they would make no difference, and that she could not read it; I told her that if she would move to the opposite window I would read the contents of the book to her; the blinds of the opposite window were open; I then turned to the fly-leaf of the book, holding it so that she could look on at the same time; I commenced at the fly-leaf and read the contents of each page to her.

The defence here objected to the offer of the book as evidence.

The Court decided that so much as Mrs. Wharton assented to was evidence.

The witness continued—Arriving at one page I read the following: "Interest on E. G. W.'s note, 17 January, 1870, $130;" "Interest ditto, 17 July, 1870, $130;" arriving at another page, I read "January 25, 1871, interest from E. G. W., $130;" while I was reading this book to her she interrupted me and said she had

paid that money, and asked me how she could get her bonds; I told her that if she would wait until I got through reading the book to her I would talk to her about the $4,000; she remarked about the payment of $130 on the 25th of January, 1871, that it should be $65; she said that she had paid the last installment on the 17th of January; I asked her if she had paid it by a check on her banking house, and she said no; she said she had paid the note on the 17th of January, 1871; she said she had paid it out of money from rents and other sources; I asked her if she could give me from her books the dates of the payments of interest and principal, and she replied that she did not keep any books, but had at one time, and found them too much trouble; I asked her to send me a memorandum of the dates upon which she had paid the installments of interest and principal, and also the date when she gave my father the bonds; she said she would send them the next day, but would not like to be compelled to swear to the exact dates, as she kept no books; I told her I would take General Eaton with me to the Safe Deposit Company in Washington, and allow him to examine the bonds to see if they indicated on the face or back that they belonged to her; she consented to it; I do not remember what she said; she said she could not understand why my father claimed that she was in his debt, as she had paid the note in January, or why he should say that he was going to Baltimore to have a settlement with her; that was said in reply to my reading her the amounts from the book. [The defence here offered objection, and the Court decided that the witness could relate all the conversation that took place between the prisoner and himself.] Continuing—She said she did not understand why my father had said he was going to Baltimore to have a settlement with her before she left for Europe, as she had paid him all she owed him, unless it was that he had reference to a conversation she had had with him; she then told me that my father had told her she had been looking at a house somewhat above his figure, and that if he made up his mind to buy it, he would have to ask her to return the compliment of his loan to her; and that he would give her a mortgage on the house; she told him that she did not know that she could spare the money, but that if she could possibly let him have any of the $4,000 she would do so; and that as he had accepted her note, she would certainly accept his without taking a mortgage; she said that she was sorry to be compelled to say so, but that she had noticed that my father's mind was blurred at times and that in one or two recent conversations with him she had noticed that he had lost the thread of his conversation; I told her I had never noticed it nor heard any one else mention it; I don't recollect her reply to that; she offered the remark about my father's memory as an explanation of the mystery: I believe that was all that transpired in the parlor between us; while in Mrs. Chubb's house in Washington; I told her that on the 23d of June my father had told me, in answer to my inquiry if she had paid him the money on the previous Wednesday, that she had not paid him; because she had made a statement to him that, owing to some misunderstanding with her banker in Baltimore, he had neglected to forward the money to her; I also told her that my father had told me she had on that occasion extended an invitation to Mrs. Chubb, him and myself to spend the following Saturday and Sunday with her in Baltimore; I also told her that he had told me that she had promised to pay him the money she owed him; he did not state the amount; he said he had no objection to her having the money as long as she remained in this country, as she paid him good interest for it, but that he knew she was in delicate health and that he might never see her again, and he thought it was best for him to make the demand upon her before she left, as he needed the money to help to pay for his house and furnish it; he said that he was afraid that his having made this demand upon her had delayed her departure for a month; she said she had not been delayed on that account, as she had paid the money in January, and had intended leaving for Europe about the 1st of July.

Mr. Steele said he did not desire to be pertinacious, but he thought that some explanation should be made to the jury that these statements were not evidence as coming directly from General Ketchum, and the Court briefly explained to the jury the value of the evidence.

The witness continued—Mrs. Wharton told me she had received interest on the bonds in gold, greenbacks and coupons at different times; she attempted to describe the coupons but I do not remember her words; she said she had received the interest from my father; I went with General Eaton on the 5th of July to the Safe Deposit Company in Washington, and we found no indications that the bonds belonged to Mrs. Wharton; I looked also for the note and evidences of the alleged payments, but I could not find it; I informed Mrs. Wharton by letter on the Wednesday following of the result of my search; I found that all my father's bonds were 10-40 bonds, amounting in the aggregate to $59,700; my father bought a house in Washington on the 12th of June, giving for it $11,900, and paid the full amount on the 24th of June, 1871; I have the receipt for the whole amount. [A cancelled check for $11,900 was now shown, and the defence objected to its introduction; the counsel for the State said they would follow it up by the testimony of Mr. Garusi, a lawyer, of Washington.]

The witness continued—When I went to Mrs. Wharton's residence, she took me up to the room in which my father died; she showed me where his valise, hat, linen duster, and umbrella were; she then left me and went down stairs; when she returned she brought me the key of the valise, my father's watch, fob, pocket-book, pocket-knife, and a small pocket match safe; I opened the valise in her presence, and taking out the different articles of clothing I found there, put my hand in every pocket to see what it contained; I was looking for the note and found nothing; there was a vest also containing three

pockets; two outside, and one inside; my father always had an inside pocket made in his vests in which to carry money or valuable papers; he instructed my brother and myself to do the same; he was not in the habit of carrying valuable papers in his pocket-book; he generally pinned up his inside vest pocket if the papers would admit of it; my father never used any drugs, lotions or quack medicines, but was opposed to them; he was not in the habit of taking laudanum; the only medicine I remember him to have ever carried was prescribed by Dr. Morris, of Washington; his health was uniformly good; one of the ingredients of the prescription by Dr. Norris was sarsaparilla; my father was six feet in his stocking feet; he would have been 58 years of age on the 7th of July last; my father used to put the vial containing Dr. Norris' prescription to his mouth and in that way take it; I have no knowledge of his carrying any other medicine about him except some liniament for sprains; I never observed any failure of my father's memory.

Mr. Revell said the State now proposed to offer in evidence the books kept by General Ketchum to show an indebtedness of the prisoner to him during his lifetime.

Mr. Steele asked that the jury be retaired during the argument on the admissibility of the evidence. and the counsel for the State consenting the select twelve were marched from out of the court room. Mrs. Wharton and her party followed soon after, and the argument of the question then commenced.

Mr. Hagner opened for the defense, and submitted the following authorities, etc.

Such entries inadmissible on general principles. 1 Taylor's Evidence, § 510, 543; 1 Greenleaf's Evidence, § 124, 99, 102, 38; 2 B. and A. 185; Rex vs. Debenham.

Are they admissible as declarations against interest. 1 Taylor's Evidence, § 602 and seq; Best on Evidence, § 500; 30 Md., 326.

Such entries must be against the pecuniary or proprietary interest of the party making it, to be admissible, not merely in absence of interest. 1 Taylor's Evidence, § 604, 605, 7; 11 Clarke and Fin, 108 et seq; Madeline Smith's case, Jurist vol. 3, part 2, p. 333 et seq.

Are they admissible as having been made by General Ketchum in the course of his official business or employment. 1 Taylor, § 630, 632 1 Greenleaf, Evidence, § 116, note.

It must appear not only to be the *practice*, but the *duty* of the party to make the entry. 1 Taylor, § 633, 2 Queen's Bench, Rep. 326, Smith vs. Blakely.

H.s official character must be shown.

1 Taylor, § 635, 1 Car and Kee; 276, Davis vs. Lloyd.

Entry must be contemporaneous.

30 Md., 330, 2 C. and K., 718, 1 Taylor, § 636, 640.

Law as to entries in shop books not applicable in Maryland.

5 G. and I, 134, 6 Md., 16, 30 Md., 333.

There is no pretence that General Ketchum was performing any official act in making these entries.

Upon the conclusion of Mr. Hagner's argument the Court adjourned until 10 A. M. tomorrow.

TWELFTH DAY.

ANNAPOLIS, December 16, 1871.

It seems now that the testimony for the State, in the great trial at present engaging the attention of the Circuit Court of Anne Arundel county, will not be concluded until next Tuesday or Wednesday. Nearly a dozen witnesses remain to be examined, and the question of the admissibility of a good part of their testimony will give rise to much argument. The testimony for the defence will then occupy the Court at least a week, unless afternoon sessions be held, and it may be reasonably concluded that the argument of the case will not be commenced until the second or third day of Christmas. As the issue is the gravest known to the law, it is not probable that the Court will limit the arguments before the jury, and at least two days will be occupied in the closing efforts of counsel.

The State's testimony on yesterday partially developed a new phase of the case, and much interest is felt in the testimony bearing upon the alleged indebtedness of Mrs. Wharton to General Ketchum. The decision of the Court to-day was anxiously anticipated by both sides, and the arguments were earnest and able.

Mrs. Wharton remains very calm, but her daughter does not seem to-day in the good spirits which she showed several days since. Doubtless the anxiety she feels bear heavily upon her, and gives her but little thought save of the fearful issue which her mother has been called to meet.

Paymaster General Brice and the two sons of the late General Ketchum have been in attendance since the commencement of the trial.

General J. H. Eaton is also present to-day.

Upon the opening of the Court to-day the argument of the question of the admissibility of the books of the late General Ketchum, to show an indebtedness of Mrs. Wharton to him, was resumed, Mr. Thomas following Mr. Hagner for the defence. In support of his view of the question, Mr. Thomas earnestly argued against the admissibility of the evidence sought to be introduced, and made the following points:

That the entries offered in evidence are not admissible in this case, unless they would be in a civil suit by the executors of General Ketchum against Mrs. Wharton.

That entries of a deceased person are not admissible against a third party in either a civil suit or a criminal prosecution, unless they were made in the discharge of an official duty, or of a duty of an agent to his principal, or unless it be made clearly to appear that they *were against the interest* of the person making them at the time they were made.

The Western Maryland Railroad Company vs. Morse, 32 and 280; State vs. Woodward, 20 Iowa, 542.

The entry of a payment is not admissible as against the interest of the party making it unless there be other evidence of the debt than that in the book containing the entry. Higham vs. Ridgway, 10 East., 109; Gallop vs. Bowles, 1 Moody and Rob, 261; 2 Smith's Leading Cases, 336, 337 and 338, marginal pages.

The entries offered in evidence were not made in the discharge of an official duty, or of a duty of an agent to his principal; they were not *against the interest* of the person who made them; but on the contrary were *all* of them entries in his own favor. The State's Attorney, James Revell, Esq., replied as follows :

As our brothers on the other side have represented that they are not aware for what purpose we offer the testimony proposed, I will now state that it is for the purpose of showing motive for the perpetration of the crime, thereby strengthening the chain of presumptive evidence before the jury and connecting the prisoner with it.

I understand the decision of the Court excluding the declarations made by General Ketchum to Mrs. Chubb touching the object and purposes of his visit to Mrs. Wharton did not reach the question at bar, and that the question of the admissibility of this documentary evidence is now an open question.

In cases of death from a deadly weapon, accompanied by facts showing wilfulness and deliberation, there would be no necessity to show motive; but in a case of poison, where nearly in every instance the State must make out its case by circumstances, there motive, though not actually essential, is pertient and proper.

General K. had no object to make a false entry. This entry was made 25th January, 1871, and is offered for a two-fold purpose: 1st, to show an indebtedness at this time, and 2d, to contradict Mrs. Wharton's statement that she had paid the entire debt on the 17th January, 1871.

We further offer a schedule, which we can show by circumstances must have been made between 12th June and the 24th June, 1871, in which this indebtedness of Mrs. Wharton for $2,600 was still existing.

Further argued at length, thus the entries were again intact and properly receivable and cited and commented on.

Webster vs. Webster, 1 Foster and Fulason, p. 401.

Percival vs. Hanson, Exchequer Reports, p.1.

Davies vs Humphreys, 6 M. and W., p. 153, and other authorities.

That entries made by these parties were treated as original evidence:

Doe vs. Fenford, 3 B. and A., 890.

Champreys vs. Peck, 1 Starkee, 404.

Roscoe, pages 26 and 27.

Bank of U. S. vs. Davis, 4 Cr. C. C., 533.

1 Greenleaf, sections 115 to 120.

And, again, if the particular circumstances of the case afford a presumption that the evidence is true, then the offer is admissible. Quoted Roscoe and other authority in support.

Offer is in sound discretion of Court, &c. 1 Greenleaf, section 108.

Attorney General Syester further argued the admissibility of the books of General Ketchum as evidence. Mr. Syester contended as follows:

The evidence is properly divisable into two distinct heads. 1st. As to the entry made the 25th of January, 1871, by which General K. entered the payment to him of $130; that entry is against the interest of the party making it. It is the character of the entry as to interest at the time it was made that determines its quality, and this is admissible, even though such entry affords the only evidence of the claim which it purports to liquidate. See Rex vs. Lewer Hyford, cited at 2d Smith L. Co., 283; Rex vs. Hendon, 9 C. & P., 255; 1st Taylor on Evidence, secs. 610, 611 and 612, and Highman vs. Ridgeway, 10th East. 2d. The memoranda are admissible, because they are in the course of business and in reference to an important item of business, and every entry on the last memorandum will be shown to be verified, corroborated and fully sustained in the single entry of the debt of $2,600, due by Mrs. Wharton. It is mainly a proposition of probabilities, the other entries being verified and corroborated by subsequent inquiries and facts. It is because of these probabilities that such evidence is admissible. See Pattenshall vs. Furford, 3 Barn., 890, 388, 3d English Common Law Reports.

At the conclusion of Mr. Syester's argument Mr. Steele said he had never before, in a capital case, known of so many offers of inadmissible evidence as had been here made in the one at the bar. The offer made was a novelty, and, in his opinion, the evidence was clearly inadmissible. It had been published in the newspapers that General K. had entered in his books that interest was due him by Mrs. Wharton on the 17th of July last; but the papers here offered did not show it. Two statements of General K. are offered, and they bear no date, and it cannot be told which of these statements was made out first. If the evidence was admissible in law it would yet not be admissible on account of its intrinsic defects. The defence had had no opportunity to examine the papers until brought into court, and who knew but that there were other papers throwing light upon those offered? Mr. Ketchum might have omitted them, and done so honestly in his view of the case.

Mr. Steele here referred to 4 Gill, page 97, Jones vs. Jones—memoranda in pencil were of too loose a character to be admitted even in a civil suit. The Court of Appeals have decided in 32 Md. that the declarations of a party could only be given in evidence when against his interest, or in the course of business. Mr. Steele referred now to 3d Greenleaf, sec. 115; 1st Smith's leading case, page 504; 2d Queen's Bench; Smith vs. Blakeley, page 331—the entries were not made in the prosecution of business for a third party. The entries in General Ketchum's books did not even show whether the interest set down was one to or from Mrs. Wharton. In conclusion, Mr. Steele said that in no point of view was the evidence admissible.

The argument was concluded at twenty minntes of 2 o'clock, and the Court at once commenced an earnest consultation.

After some time had been spent in deliberation the Chief Judge said it was of course the duty of the Court to decide the question as Judges, and simply as one of law and without making comments, except so far as necessary to explain. It was a case between the State of Maryland and the prisoner at the bar, and the entries of a third party were offered to prove an indebtedness. It was clearly laid down by the authorities that such entries were not

admissible unless against the interest of the party making them, or in the discharge of official duty, or as agent, and all the entries were coupled with the note of $2,600. The Court, therefore, decided that the proffered testimony was not admissible.

Eugene Carusi was now called, and testified —I reside in Washington and have been a member of the bar since 1856; I knew General K. upwards of two years; in June last he purchased property which I sold as trustee; it was situated on K street, between Thirteenth and Fourteenth streets; he paid for it $11,900 on the 24th of June; I drew the money from the First National Bank.

Cross-examined by Mr. Hagner—My office is at 490 Louisiana avenue; it is upwards of two miles from my office to Gen. Ketchum's house in Georgetown; it was a warm day; he called at my office between 12 and half past 12 o'clock; we went to Latimer & Cleary's office five or six squares; when we got there he opened his vest and showed that his linen was saturated by perspiration and somewhat discolored; General Ketchum was a robust man; I parted with him at the corner of F and Fifteenth streets about 2 P. M.; I don't know that he was distressed by the weather; I can only say what effect it had upon me.

Mr. Syester—"We can very well imagine what effect the warm weather had upon you." This was said in Mr. Syester's vivacious manner and caused a laugh, in which the robust witness joined.

Mr. Carusi continued—The General and I walked; he preferred to walk; I heard no complaint from the General; I had suggested lemonade and he declined that; he did not drink any water either that I remember.

Dr. Basil Morris was now called and testified—I have resided in Washington since February, 1863; I am a surgeon in the army, and have been since 1852; I am also a physician; I knew General Ketchum from about the time I went to Washington in 1863; I was called to see him in 1866, and afterwards, probably two or three times, as I met him on the street I would prescribe for him; his general health was good; I recall from my books that I made a prescription for him last on the 5th of last May for slight sore throat;" half drachm chlorate of potassia, one ounce of bitter wine of iron, half ounce pulverized sugar and three ounces water; when I made that prescription I explained to him the ingredients and told him it was harmless; on the 14th of last February he complained of pain in his right wrist; I treated it as a rheumatic affection, and prescribed the iodide of potassium and the syrup of sarsaparilla, one tea spoonful three times a day; that was to promote the absorbants and secretions; the General did not call upon me until the 3d of March, but had the prescription renewed on the 24th of February; he desired to know if the medicine could have made him sick, and after some conversation with him I ordered the iodide of potassium to be reduced one half; he had that second prescription renewed on the 14th and 23d of March, and the 4th and 29th of April; I can say that General Ketchum had not the habit of tampering with drugs; I had no knowledge of his experimenting on himself with drugs; I was very well acquainted with him; I never heard him express an opinion on the subject of the use of drugs.

Cross-examined by Mr. Steele—I also prescribed for General Ketchum on the 3d of last March; that was the prescription I ordered to be changed; he had been sick in Baltimore when he came and asked to have the prescription changed; he was not, however, sick when he came to me; I have no knowledge of General Ketchum having been thrown from his horse while in the West, or that he had yellow fever or cholera at Fort Laramie; I first met him in '66, and he was suffering from carbuncle.

Mrs. Eliza W. Chubb was now re-called, as had been agreed on her first examination. She testified—Mrs. Wharton was in Washington on the 6th of July last; I saw her from half-past 2 o'clock until she left in the 5:40 P. M. train; she came to my office in the Treasury Department; the office of Mr. Charles L. Ketchum is opposite my office.

Mr. Syester now explained briefly that he wished, as did the witness, to have explained a portion of her testimony given when she was first called.

Mr. Steele objected, and considered that the nature of the testimony should be expiained to the Court.

Mr. Syester said it was simply to make an explanation in regard to the drug clerk from whom she bought the medicines. Mrs. Chubb was the first witness called in the case, and her embarrassment and omission was natural.

Mr. Steele said it was a dangerous precedent, and he would suggest that the utmost caution should be exercised in giving the right to the prosecution.

Mr. Revell briefly explained that Mrs. Chubb desired to explain as a matter of justice to herself.

Mrs. Chubb, in answer to the inquiry of the Court, said that it was her desire to explain a portion of the testimony she had given when previously on the stand.

Mrs. Chubb then testified—I was asked if Mrs. Wharton had made an statement or inquiry of me, and I forgot and did not state all; on the Thursday after Mrs. Wharton's arrest I received a telegram from her requesting me to come to Baltimore; I went and she said it was important to her that I could have my mind clear as to the person from whom I had bought the tartar emetic, and if I could identify the person; I told her I could, and that it was a deaf man; she replied, "That was not the man, but the man from whom I had bought was the one who said he had sold it to her, and that I must testify to that one; I said that if he was the man I could identify him, and if not, of course I could not testify that he was; she then said that Mr. Steele wished to see me, and had made an arrangement to meet me at 9 o'clock that evening at her house; I told her that I was obliged to return that evening to Washington; I asked if I could go to Mr. Steele's house instead, and was told that I could; Mr. Neilson went with me.

Mr. Steele.---Her conversation with me is not evidence; Miss Nellie Wharton telegraphed for her; I did not.

After some desultory conversation between Mr. Syester and Mr. Steele, Mrs. Chubb was allowed to continue, and said: Mr. Steele said he did not want to see me; Mrs. Wharton's manner was very nervous when she told me to go to Mr. Steele.

To Mr. Steele.---The telegram was signed "N. C. W.;" I was informed that the deaf man had said he was not in town on the day I made the purchases.

The Court now adjourned until Monday at 10 A. M.

It is remarkable that though an unusually large number of witnesses have been summoned in this case, that as yet none have been attached. Deputy Sheriff Graflin, of Baltimore, has been in constant attendance, and has discharged his labors with satisfaction to the Court and respective counsel.

THIRTEENTH DAY.

ANNAPOLIS, December 18, 1871.

The great Wharton trial still engages public attention here, but the near approach of the close of the State's case occasions a general feeling of relief. The proceedings have been so unusually tiresome and protracted that even the lovers of the sensational have found them wearisome, and desire now to hear what is to be offered by the defence. It is known, however, that the testimony for the defence will be in great part medical and chemical, and the general public have already been surfeited with scientific facts and fictions. It is not expected, therefore, that the learned experts will have large audiences. The ladies are still eager and assiduous in their attendance.

Soon after the opening of the Court this morning James D. Ketchum was called, and testified—I reside at present in Troy, N. Y.; I am a son of the late General Ketchum; on Monday, July 3d, my brother received a telegram from Mrs. Wharton desiring to see him at Mrs. Chubb's house; at 12 o'clock my brother and I went to Mrs. Chubb's and met Mrs. Wharton; she commenced by condoling with us upon the loss of our father, and said she, too, had lost a very dear friend; she stated that she had administered to his wants during his last sickness, and remained with him to within a few minutes of his death, when seeing him in such pain and spasms, she could not stand it any longer, and left his room; she excused herself for entering upon business matters at such a time, and said she had come to see my brother about four $1,000 Government bonds, which she had given my father about eighteen months before to be converted from 10-40 bonds into 5-20 bonds; she said that after their conversion my father had kept them in his safe for safe keeping, and would send her the interest from time to time; she said further that she was going to Europe, and would leave Baltimore on the following Friday or Saturday, and would require the $4,000 bonds to make good her letter of credit; she wished to know if there was any way by which she could obtain them; my brother said he could not do anything for her, as no administrator had been appointed, and would not be appointed until the following Saturday; she said that would be too late, as she would leave Baltimore on that day; my brother then told her that if she would leave her banker's address, and the bonds were found, he would have them placed to her credit; she said that would not do; my brother then told her that if she would go with him to General Brice's office, he might know of some way by which she could get the bonds; she consented to go; my brother then asked her if she would be offended if he talked business to her, and she said she would not; he then told her that my father's books showed that she owed him a note of $2,600; she said it had been paid, as follows: On 17th July, 1870, $1,300 of the principal and $130 interest, and on 17th January, 1871, the remaining $1,300 of the principal and $65 interest; that my father had endorsed the payments on the back of the note, and in recording the last payment had written $130, when she corrected him, and told him it should be only $65; she said my father had advised her then to destroy the note, as it might cause her trouble in the future; my brother related to her then a conversation he had had with my father before he left for Baltimore; he had told him, in answer to his inquiry, that Mrs. Wharton had not paid him the money; she owed him; he also told my brother that she had said she had been obliged to delay the payment on account of a misunderstanding with her banker; that she had invited Mrs. Chubb, my father and brother to spend the next Saturday and Sunday with her in Baltimore; and said she would pay him at that time; my father said he had no objection to her having the money, as she paid him good interest; but as she was going to Europe and was in bad health, he did not know that he would ever see her again; he said he was afraid he had delayed her departure fully a month by demanding the money; Mrs. Wharton said she did not know what he had reference to when he said she had promised to pay him on that occasion, as she had settled with him, unless it was in reference to his buying a house which he had told her was a little above his figure; he had asked her to return the compliment of his loan, lend him the $4,000, and take a mortgage on the property; she had told him she did not know that she could spare the money, as she wished to make up her letter of credit, but possibly she might let him have half of it, and that if she found that she did not need any of it he might have the whole of it; she said she told him that as he had taken her personal note she thought it would be proper for her to only take his personal note; my brother and Mrs. Wharton then left for General Brice's office, and that was all that was said in my presence; I never saw her again until I saw her here; I am twenty years old; I roomed with my father for two years; I then went to college; I was with him from August 1866 to September 1868; I was with him during my Christmas and summer vacations, and during those periods I roomed with him; he always had an aversion to quack

medicines, and I never saw him take any; his general health was very good, and his habits were very regular; he was an officer of the old army, and was first attached to the old Sixth Infantry; he was a member of the Episcopal Church, and was very regular in his attendance; he had been a member of that Church, for about two years before his death; he was always very cheerful whenever I saw him; he was very attentive to his business and was hardly ever absent except when off on leave; I never noticed that his mind wandered, but he was always clear in his remarks to me; he had a very good memory.

Cross-examined by Mr. Hagner—I was in Troy at the time of my father's death; I had not seen him since September, 1870; my brother was engaged in the Paymaster General's Office in Washington, but had gone to New York on leave; he went to Washington in April, 1871; my father was living on Georgetown Heights; my brother is married, but his family was not in Washington when my father died.

Mr. Hagner now asked the witness if he did not know of an estrangement between his father and his brother.

Mr. Revell objected, and Mr. Hagner said he desired to rebut the idea of such intimacy between them as had been testified to.

Mr. Revell said if an estrangement existed it should be proved by facts and not by unearthing family differences. Some desultory discussion took place between the counsel, Mr. Syester contending that it was only competent for Mr. Charles L. Ketchum to testify on that point.

The Chief Judge said the defence had better postpone the examination of the witness on that point until Mr. Charles L. Ketchum had been further examined.

Mr. Ketchum continued—Mrs. Wharton stated that the bonds belonged to her, but did not, as far as I can remember, say that there was anything on them to indicate that they belonged to her; my brother did not tell her in my presence that he would go and look for them among my father's papers.

Mrs. Helen Van Ness was next called, and testified—I am the wife of Mr. Eugene Van Ness; I reside at 94 W. Monument street, in Baltimore; I was at Mrs. Wharton's house from the 24th to the 29th of June last; my husband was ill there at the time; I left there on Friday, June 29th; I was there night and day from June 24th to June 29th; I saw Mrs. Wharton go out of her house several times; she was not a great deal with me, but was in and out of the room in which my husband lay ill; I saw her on the night of Sunday, June 25th; she came into the room I was occupying; I cannot say what time it was; I had been asleep; I was in the second room, front story; I was awakened by a noise, and I saw her at the washstand opening the door; I asked if I could do any thing for her, and she said General Ketchum was very sick and she was going to give him some paregoric and mint; she started to leave the room, and I asked her if she had found the paregoric, and she said "No, I think Susan must have it, she is very fond of taking medicines, and I will go and see;" she came back in a few moments, said Susan did not have it, and that she had remembered that Nellie had taken it to the country with her; she went to the washstand and looked again, and then left the room; some time after that I saw General K. coming down the steps; he went on down stairs; I did not speak to him; I do not know how long he remained down stairs, but it did not seem more than ten or fifteen minutes; before General K. came down I saw Mrs. Wharton coming from the third-story; she went on down stairs and I did not see either of them again that night; the room I occupied was immediately under General K.'s room; I had not heard him sick; I never saw General K. after that night; I made the milk punch spoken of here; the doctor ordered a milk punch for my husband; Mrs. Wharton, Mrs. Hutton, Mrs. Van Ness and myself were present when it was ordered; a wineglass was ordered to be given him, and some one suggested that we should make a double quantity: Mrs. Wharton made the suggestion; Mrs. Hutton took a tumbler from the sideboard and put a lump of sugar in it; I thought there was too much sugar, and broke a piece off; I poured the milk in first and then the whiskey; half of that punch I poured into a wineglass, and put the balance remaining in the tumbler in the nursery refrigerator in the dining room; I put nothing in except sugar, milk and whiskey; some time after I went back and took the punch from the refrigerator, stirred it with a spoon, and poured it in a wineglass; I noticed a sediment in the tumbler, and thought the whiskey had turned the milk sour; I put in my little finger and tasted it; it did not taste peculiar, but by the time I had reached the door of my husband's room it tasted so bad that I then tasted it again, and it was again so bad that I called the attention of my sister, Mrs. Loney, to it; she then took the tumbler; I then made a fresh punch, and took it to my husband; at the time that I first tasted the sediment it tasted as if I had put a brass pin in my mouth; Mrs. Wharton told me (upon what day I cannot now remember) that she had invited General Ketchum, Mrs. Chubb and Mr. Charles Ketchum to stay with her from Saturday until Monday; I was not all the time in my husband's room, as I had one of my little children in the second story; I drank a tumbler of the milk from which the punch was made, and experienced no ill effects; I drank it *after* the punch was made; it was just after we gave my husband the second punch; the milk was, I think, from a refrigerator in Mrs. Wharton's cellar; the punch was made the day General Ketchum died.

Cross-examined by Mr. Thomas—The room I was occupying was Mrs. Wharton's own room; I do not know that the washstand was kept locked; I never went to it, and only saw her open it.

Mr. Eugene Van Ness was next recalled, and Mr. Revell asked him if Mrs. Wharton had been in his room on Tuesday and Wednesday nights of the last week in June last? Mr. Thomas objected, and the Court decided that the witness could state what he knew of Mrs. Wharton's whereabouts during those nights.

Mr. Van Ness then testified—I don't remember seeing Mrs. Wharton in my room any night I was in her house; I saw her several

times during the different days I was there, but I cannot say how often or upon what days.

Mr. Revell said this was all the State proposed to ask Mr. Van Ness at this stage of the case, but would recall him at another stage.

General Benjamin W. Brice was next called, and testified—I reside in Washington, and am Paymaster General of the Armies of the United States; I have been holding that position nearly eight years; I was very well acquainted with General K., and had known him thirty odd years; I married his sister; I knew him well from his early cadetship at West Point; he was of a strictly moral character, as much so as any man of my acquaintance; he was a member of the Episcopal Church by reputation, but not of my knowledge; his general health was remarkably good all his life; he was a strong, robust man, and of such remarkably careful and regular habits that I do not think his health was ever materially impaired; he was a very conscientiously close business man; closely attentive to all his duties, public and private; he was not addicted to the use of drugs or quack medicines; I have heard him express his aversion to all medications for a sound person only slightly indisposed; his habits were remarkably systematic; he was a total abstinence man during the whole of my acquaintance with him, that is, I speak with reference to intoxicating drinks; I never noticed any change in the vigor and power of his mind; his disposition was not at all morose; he was a grave man, except among his intimates, but naturally cheerful and exceedingly fond of young company, children in preference to adults; I had a conversation with Mrs. Wharton on the 3d of July last at my office in Washington city; she came to my office, accompanied by Charles Ketchum; after the usual greetings, Charles Ketchum said, "Mrs. Wharton desires to have a conversation with you, and will explain her object;" I seated Mrs. Wharton close by my side, and she proceeded to state to me that she was going to Europe on one day of that week, and that she was unable to make her money arrangements, to get up a sufficient amount to procure the necessary letter of credit for her uses while abroad, and was, therefore, compelled to call upon us for $4,000 of her money, which were among the effects of General Ketchum, and which she had left in his possession; I inquired how that was; she replied that a year and a-half previous she had handed to General Ketchum four $1,000 5-20 coupon bonds of her's to be converted into 10-40 bonds; I inquired if General K. had made conversion of her bonds; she said she had, but had still retained them, and that they were in his possession when he died; I inquired if she had General K.'s receipt for the bonds, and she replied "no;" I asked if General K. had given her no sort of memorandum for her protection, and she said "no;" I asked then if she had herself kept no memorandum with a description of the bonds, and she said she had not; I asked if anybody besides herself and General K. had a knowledge of the transaction, and she answered "no;" I said, then, "Mrs. Wharton, this claim of yours takes us entirely by surprise; we have just had a thorough examination of all of General K.'s books and papers, etc., and they and other circumstances impel us to believe that instead of General K.'s being in your debt, you owe him borrowed money in the sum of $2,600, executed two or three years previous, at ten per cent. interest;" she admitted that such a note had existed, but said that on the previous January she had paid the note and all accrued interest; I asked if she had preserved the note, and she said she had not; and in substance, that at the suggestion of Gen. K. at the time she paid him she had destroyed it; I asked her where that occurred, and she said at Mrs. Chubb's house in Washington; I asked if Mrs. Chubb or any other person was present, and she replied in the negative; I then inquired how she paid the note, by check, certificate of deposit, or how? she replied that she had paid it in money; I inquired if she had brought that large sum of money with her from Baltimore, and she said she had; I asked then if Mrs. Chubb knew that she had such a large sum of money about her person, and she said she had not communicated it to her; she repeated to me again that the $4,000 was indispensably necessary to her European trip; I told her that General K.'s effects could not be disturbed until the Court had appointed an administrator; she asked me then, "can't I give you any security so as to get that $4,000?" I told her that was impossible, and that the assets of the deceased General were then in the hands of the law, and must be disposed of by a proper person to be designated by the law; I then remarked to her that the whole proceeding, as related by her, was the most extraordinary I had yet encountered; knowing General Ketchum's abhorence of debt, and knowing that he never permitted himself to be in debt a moment longer than it was possible to liquidate it, and that during all my long acquaintance with him I had never known him to be in a position in which he could not meet any debt he had contracted; I had previously inquired why she had left the bonds in his possession after their conversion, and she said, "For safe-keeping;" I asked her why safer there than in any of the public institutions where such deposits could be made; she said she had perferred, from her long acquaintance, personal friendliness and entire confidence, to leave them with him; then reverting to General K.'s dislike of debt I said that it was very strange that he would consent to be the custodian of her bonds and be responsible for them, but that if he could make up his mind to take a responsibility of that kind, his scrupulous and conscientious exactness in the performance of all business obligations would, I knew, have impelled him to require her to take a receipt or other voucher to protect her against just such a casualty as his death had brought; I said, too, "more surprising than all, Mrs. Wharton, is that one of your business experience and reputation for business shrewdness could consent to make a deposit of your money with any individual or institution without some evidence that it would be protection against loss;" that was

the import of my language; I told her I had already explained that she could not get anything until the administrator had been appointed, and that it was proper for me to add that unless she produced authentic evidence of her claim other than her verbal statement she never could get it; she said she thought that General K. might have placed some marks upon her bonds by which they could be distinguished from his own; I told her that Charles Ketchum and General Eaton, who I had designated as a witness to accompany him in his examination into his father's effects, should make a re-examination, and if any of the bonds belonged to her the administrator would be authorized to return them to her; I expressed my disbelief that any marks could be found, as they would have been found on the first examination; I told her General Eaton should go with Charles Ketchum, and the examination should be thorough and accurate; I suggested to her that it was strange that as she had received interest on her 10-40 bonds that she should pay ten per cent. interest, while her bonds in her creditor's possession were drawing only five per cent. in gold: I said, finally, to Mrs. Wharton, "If, as you inform me, that $4,000 is indispensable to your Eupopean trip, then you may as well abandon it;" when our conversation terminated, she rose to leave, inquired how Mrs. Brice was, told me to remember her to Mrs. Brice, regretted that she could not call upon her, and then remarked that it was perhaps best as it was, as the sight of her might be the cause of fresh grief; this was on the third day after General K.'s funeral; her manner was cool and self-possessed when I told her she had as well abandon the idea of going to Europe if her trip depended upon her getting the $4,000 from General K.'s estate; she did not show any disappointment or express regret.

Cross-examined by Mr. Hagner.—I do not think the interview continued longer than fifteen minutes; no one but Mr. Charles Ketchum was present that I remember; General Ketchum and Mrs. Wharton's husband had been together in the old army; General Ketchum had been married twice, and married sisters; he had been retired in January last, as Colonel; he rarely spoke to me of his business; he was retired for thirty years faithful service, and had not reached the age of sixty-two; I was never stationed with him except in Washington; I have only heard that he had had a fall from his horse; it was during the fitting out of the expedition against Utah; I do not know anything about his having had cholera or yellow fever at Fort Laramie; in some respects General K. was eccentric; his estate proved greater than I expected, but I knew he had something handsome saved during a frugal and careful life.

Mr. Hagner now asked the witness if he had not expressed the opinion that General K.'s son Charles probably knew least of any person about his money affairs.

Mr. Revell objected, and the Court said that the son of General K. was present, and he could be interrogated; General Brice said he may have made such a statement.

General Brice continued—He was not in the habit of conversing about his business affairs, and I never knew him to have a business confidante; in nothing, except that wonderful reticence and remarkable exactness, giving a blind negro a cent and entering it in his book, was he eccentric; I saw General K. frequently while he resided in Georgetown, but not daily.

Mrs. Harry W. Snowden next testified—I reside in Baltimore, and have lived there nearly all my life; I saw General K. on the 24th of June last on the cars coming from Washington; I was coming from Laurel Station with my husband; I was attracted by his merriment; Mrs. Chubb was with him; I never saw him again except in the street car after reaching Baltimore; he and Mrs. Chubb got out at Biddle street; I have known Mrs. Wharton perhaps 18 months; on the evening of Friday, June 30th, I saw Mrs. Wharton at her own house at the request of Mr. Van Ness; he told me to tell her he hoped she would go to Philadelphia as she had intended, as he was so much better; she said that as she was obliged to go to Washington on Saturday, she would prefer to go to Philadelphia on Monday, not caring to travel on Sunday; she then remarked, "you know General Ketchum took laudanum;" I said, "so I have heard;" I had heard it from some one else; she then said he was in the habit of taking medicine carelessly from a bottle, without measuring it; I don't remember that she said anything more about General K., but she talked principally of Mr. Van Ness and his sickness; Mr. Van Ness had been removed that afternoon from her house.

Mrs. Snowden was not cross-examined.

Chas. L. Ketchum was now recalled, and testified—I administered on my father's estate; no account has been presented by Mrs. Wharton since I received letters of administration; Mrs. Wharton told my brother and myself that she had taken good care of our father during his sickness, and had remained with him to within ten or fifteen minutes of his death; I made with General Eaton a second examination of my father's papers, and I found nothing to indicate that my father had owed Mrs. Wharton.

Cross-examined by Mr. Steele—I took my letters of administration the second Saturday after my father's death; I know that Mrs. Wharton has been in prison since; I had been living in Washington from the 5th of last April; I had been previously living in New York since the summer of '65, and had made frequent visits to my father; I had occupied the same bed with him in Georgetown, but had moved to another boarding house three weeks before he came to Baltimore; my father's vest was made of nun's cloth and was of a light gray color; the whole suit was of the same material; I have not talked often of the conversations I had with Mrs. Wharton; I recollect my conversations with her sufficiently to remember the words she used; I do not remember having had a long conversation with any one else about six months ago; I do not remember the ifs and ands, but I recollect the words Mrs. Wharton uttered to me; I was examined before the Grand Jury; I did not make the same full statement I have made here be-

cause I was not questioned so fully; I think I stated to the Grand Jury that she had told me she had paid the note in two installments; Mrs. Wharton did not tell me that she had paid the note in $1,000 notes and the balance in notes; I asked Mrs. Wharton if she knew my father had made a will, and she said he had; I never found the will; I did not tell her that I thought that if he had made a will he probably had not left me anything; I have no knowledge of my father having been thrown from a horse while in the West; he was on General Halleck's staff during the war; I lived in Harrisburg from September, '62 to June, '65; I had been living, previously, in St. Louis; I went there in January, '62, and lived there with my father.

Major Thos. H. Bradley was next called, and testified—I reside in Washington; I have resided there over eight years; I was associated with General K. officially and socially over eight years; for over seven years we occupied, almost daily, desks at the War Department; I was his principal assistant, and necessarily had his confidence to a certain extent; he was on duty as counsellor to Secretary Stanton; his peculiar duties were examinations of miscellaneous war claims; he was assigned to that duty in November, 1862; I first met him in December, 1861, in St. Louis; he was then on General Halleck's Staff and was Lieutenant Colonel of Infantry; he was afterwards made Brigadier General of volunteers; he was ordered to Washington in '62; on the 23d of August, '63, I reported to him for temporary duty, and from that time to his retirement, on the 15th of December, '70, I saw him almost daily; we were in the same room.

My. Syester now asked the witness if he had during all his long acquaintance observed in General K. any "suicidal tendency."

Mr. Steele objected, and the Court said the witness could state what were his habits and disposition.

The witness continued—During the whole time I had his acquintance his morals conformed to law or order in every respect, in my judgment; systems of morality and principle seemed to mark all his actions in public and private; he despised and seemed to spit upon anything that would seem to reflect upon his character.

Mr. Steele here interrupted the witness, and said the testimony as to General K.'s character was going too far.

After some explanation and desultory discussion, the witness continued—He was not a melancholy sort of a man, but was of rather cheerful disposition; I never noticed in him anything more than the ordinary absent-mindedness about trivial affairs; prior to '67 he seemed to avoid society, but subsequently he seemed to seek for cheerful society; I never noticed him in a melancholy or depressed state of mind, except when he lost his wife in '66; he was rather cautious about the use of drugs, and I never knew him to take medicine unless by medical direction, except upon one occasion; he then took chlorate of potash as a wash; about a week before his death he called at my office; he was then well and cheerful; he was a man of robust health; strong and muscular, and of rather an elastic step.

Cross-examined by Mr. Hagner—General K. frequently called at my house and spent evenings there.

The Court now adjourned until 10 A. M. to-morrow.

FOURTEENTH DAY.

ANNAPOLIS, December 19, 1871.

The great Wharton trial is still attractive to the public of Annapolis. Notwithstanding the heavy snow storm of to-day, the ladies were present in goodly numbers, the inclemency of the weather not seeming to abate their interest in the proceedings.

Mrs. Wharton appeared to-day in much better spriirits, and, as far as could be observed through her heavy veil, her expression was less anxious. She was still accompanied by Miss Wharton, Mrs. Nugent, Mrs. Neilson, Miss Rosa Neilson and Mr. Moon Wharton. Colonel Brantz Mayer was again with her to-day, and Hermann Stump, Esq., of Harford, was present with her counsel.

Judge Henry Sherman was first called to-day, and testified—I reside in Washington; I went there after the first battle of Bull Run; I knew General Ketchum very well; I had known him from 1865; he was very intimate in my family; he was a man of a very social, cheerful nature, not fond of gay, fashionable life, but of cheerful company; he came regular to my house twice during the week and on every Sunday evening; he was very fond of music, and particularly of sacred music; he was a man of uncommon purity of character; I saw him on the morning of the day he left for Baltimore; he came into my office about 7 o'clock in the morning and had some papers and a bunch of flowers in his hand; he left the flowers for one of my daughters; he took papers from his inside vest pocket and made some memorandum and put the papers back again; he was very exact in his habits, and was always very punctual in keeping his appointments; he was in perfect health when I last saw him and in very fine spirits; he was at my house in the country on the previous Thursday and was then very well and cheerful; he was opposed to all drugs and was very abstemious in his habits; I could never get him to take even a glass of wine in my house; I never noticed any failure in his mind, and would have done so, because I saw him so often; when he left Washington for Baltimore he was as fine a specimen of a man, mentally and physically, as I ever saw; he was frequently taken for me, as we are about the same size.

General Wm. Myers was next called, and testified—I am an officer of the army, and at present stationed at Washington; I first knew General K. at Fort Dalls, Oregon, in 1859, and served on his staff; I was there nearly a year with him; I served afterwards with him in St. Louis and Washington; during all my long acquaintance with him I never knew him to take much medicine, but he was very averse to taking medicines; he was remarkably robust

and healthy; I never knew him to undertake to treat himself with drugs, and I knew that he had a great repugnance to taking medicines of any sort; he was a very cheerful man and very fond of visiting his intimate friends; I never saw him morose or melancholy; he was exceedingly temperate, and I never knew him to drink any intoxicating drinks; he was a great walker, and always took a great deal of exercise; I saw him almost daily from the 1st of last June until he left for Baltimore; he was in his usual good health and spirits when I saw him a few hours before he left for Baltimore; I never noticed any thing in him to indicate a failure of his mind; my office is upwards of a mile from General K.'s house in Georgetown, and he came to my office about 9 o'clock; my office is between Nineteenth and G streets; Judge Sherman lives on I street, between Fifteenth and Sixteenth streets.

General George D. Wise was next called, and testified—I reside in Baltimore county; I have known Mrs. Wharton six or seven years, probably more; I saw her in Baltimore after the 4th of last July, and had a conversation with her.

Attorney General Syester here passed the following statement, in writing to the counsel for the defence.

"The object of the evidence to be offered by the State is to show that at this time Mrs. Wharton was extremely anxious to effect the loan of a large sum of money in order to enable her to leave the country for Europe; that she was prepared to make unusual sacrifices for that purpose, and manifested the greatest anxiety on the subject."

Mr. Hagner, after it had been read by the counsel for the defence, passed it to the Court, remarking that it appeared so clearly inadmissible that the counsel for the defence did not propose to argue it.

After a brief consultation, the Chief Judge said the Court was of the opinion that the question was entirely admissible.

General Wise now resumed—I met Mrs. Wharton at Mr. Kirk's jewelry store in Baltimore, on the 7th of July last, and she said she had been in search of me; she said she had been disappointed in funds in making her arrangements to go to Europe, and that she had reason to know that Messrs. Johntson & Bro. would furnish her the funds if I would endorse her note; she stated that her passage and her daughter's to Europe had been paid, and that she had purposed leaving on the next day for Philadelphia, on her way to New York, whence she would leave in a steamship; I inquired how much money she required; she said $11,000; I asked her how she intended to make good the note when it became due; she said from funds derived from her income, which was $11,000 a year; I asked her what security she had to give for this loan.

Mr. Hagner here interrupted, and said this was an attempt to show misconduct, and the Court had decided that the character of the prisoner could not be assailed.

The Chief Judge explained the view of the Court. Marshal Frey had testified that Mrs. Wharton had told him she would stay until an investigation was had, and the defence were now proving that she was at that time making efforts to raise money to leave for Europe.

Mr. Hagner again protested against the introduction of the testimony; he did not see where this sort of testimony would lead to, and the authorities spoke of it in no ambiguous terms.

Mr. Syester replied that the State proposed to show the extreme anxiety of Mrs. Wharton to leave for Europe.

Mr. Steele begged leave to correct the false impression; Marshal Frey had first seen Mrs. Wharton at 5 P. M. on the 7th of July, and General Wise had met her about 12 M. on that day; the matter was collateral, and it was not right that it should be brought into the case.

Mr. Revell stated that the State would follow up with testimony to show that the fact of the finding of the poison in General K.'s stomach was communicated to Mrs. Wharton on the 4th of July.

The Chief Judge said the Court thought the evidence admissible, but they would decide at a future time whether or not to allow the State to contradict the statements now being given in evidence.

Gen. Wise resumed—I asked her what security she would be able to give; she said she had Western bonds (I think St. Louis), and property in Baltimore and Philadelphia, but that she had given her word to a relative in Philadelphia, who she had reason to know had made his will in her favor to the amount of $600,000 or $700,000, that she would not hypothecate any of her estate, as he had little confidence in the business capacity of ladies, and by so doing she would break her word; I told her I would be glad to assist her, but under no circumstances could I accede to her request to sign my name as acceptance to her note; I suggested that she should go to some broker or banker of respectability who might arrange to obtain for her the funds she required; I also inquired if she had any banker or business agent who was in the habit of attending to her affairs; she said Mr. Van Ness was her business agent and kept her funds and accounts with Alex. Brown & Son, corner Calvert and Baltimore streets; she said Mr. Van Ness was sick and that she had been to the office of Alex. Brown & Son, and that Mr. Brown had not yet come in from his country residence; I then offered to accompany her to the office of Mr. Geo. Guest, a property broker, and told her I could recommend him as a gentleman to be relied upon to assist her to make a money negotiation; Mrs. Wharton intimated to me (I don't remember the precise terms she used) that she would be willing to pay a considerable sum to effect this negotiation, but she did not name the sum at that time; she accepted my offer, and we went to Mr. Guest's office; I introduced her to him, and I mentioned to him in a few words the object of her visit; he informed her that he could procure funds for her at a reasonable rate of interest if she could hypothecate bonds or give the security of real estate; she repeated to him much of the same she had spoken to me; I think she stated to him the same reason why she could not hypothecate her estate; Mr. Guest inquired into

her circumstances as I had done, and concluded by telling her that without the property security she could not obtain the money: she told him that she could not even have her accruing income so fixed as to pay off the note, as it was already in the hands of Mr. Van Ness and Mr. Brown, on account of her letters of credit; she told him she had no securities she could make use of for such a purpose; I am certain she told him the same she had told me about her uncle in Philadelphia; her first request of Mr. Guest was for $11,000; she did not state the exact time for which she wanted the money, but the inference was, that it was to be paid as her income became due; her conversation to Mr. Guest was partly addressed to me; Mrs. Wharton then asked Mr. Guest for $3,000 or $5,000 on the security of her furniture, which was worth $5 000; Mr. Guest informed her that property of that kind would not be taken as security for the proposed loan, and declined to attempt negotiation on such terms; that was all the conversation, except that Mrs. Wharton said, in a general way, both to Mr. Guest and myself, that she would pay almost anything to get the money, giving as a reason the great disappointment she would feel if obliged to forego her trip to Europe; she mentioned $1,000, but I cannot say whether it was in reference to the loan of $11,000 or $5,000; Mrs. Wharton's manner was very incoherent and wild, and somewhat contradictory, although she proposed to Mr. Guest to litigate the debt from income; her attention was called to the fact that she was prevented by the fact of her promise to her uncle in Philadelphia, and also that her income had to be paid to Messrs. Alex. Brown & Son on her letter of credit; she said then that I knew the loan would be paid; I suggested that she might be shipwrecked and lose her life, and she said that in case of any accident to her her daughter, Miss Nellie, would pay all honorable debts of her mother; both Mr. Guest and I again informed her that such was not security in a business point of view; I gathered from her conversation that Miss Nellie was going to Europe with her; I can't say that anything was said to her about the probability of Miss Nellie's being also lost by shipwreck; Mrs. Wharton said she had been to Messrs. Johnston & Bros., and they had promised to furnish her the money if she could get a reliable gentleman to endorse for her, and that Mr. Johnston had suggested my name, asking her if she knew me; Mrs. Wharton left Mr. Guest's office with me; I parted with her on Baltimore street, about half past 2 P. M.; her manner during all this time was very excited, and she appeared to be laboring under strong excitement, so much so that I did not think her entirely in her right mind; she said she had given her promise to her uncle in Philadelphia and would break her word if she hypothecated any of her estate; she did not say that her income would be pledged, but gave me to understand that it would be applied to the payment of the loan.

Cross-examined by Mr. Steele—She did not state when she had paid her passage and her daughter's, and how long they had contemplated their trip to Europe; the conversation at Mr. Kirk's took place about noon on the 7th of July last; she said the money was for the expenses of her European tour.

To Mr. Hagner—I told her I did not doubt the honesty of her purpose to pay back the money; and I then spoke of the impossibility of her paying it from her income, as she had stated it was in the hands of Messrs. Alex. Brown & Son.

Prof. Frank Donaldson was next called, and testified—I reside in Baltimore, and am a physician; I have been in active practice twenty years; I have had experience with gelsemiuim, or yellow jasmine, and have prescribed it very frequently within the last few years; I have generally prescribed it for facial neuralgia, and with good effects; I have generally given it in dose of thirty or forty drops, repeated every two hours; its effects have been principally to lull pain by its action on the sensory nerves; I have never given it to the extent of producing any decided impression upon the motory nerves, but the authorities state that it has a decided effect upon these nerves distributed to the upper eyelid and the lower jaw; I can't say that I have seen that condition brought about; cases have been reported of its beneficial effects upon the nerves of the sympathetic system distributed to the minute arteries; the nerves of the sympathetic system affected by it are called vasor mortor nerves; in many parts of the body the quantity of the blood is variable, and yellow jasmine lessens the increased flow of the blood to certain parts of the body; I have noticed a temporary dizziness; I have used it almost exclusively in cases of facial neuralgia; in my judgment, thirty or forty drops every two hours is not an improper dose; I have never seen any bad effects from that quantity, except the little dizziness I have spoken of; I have frequently not returned to my patients for twelve hours after giving it, so safe do I consider it; I did not hear Dr. Williams' testimony.

Mr. Syester here stated that he proposed to ask the witness a hypothetical question. He then passed to the defence a lengthy written statement of General K.'s symptoms, the result of the post mortem, the fact of the discovery of antimony, etc., and asking if, in his opinion, death was from natural causes.

After reading it Mr. Steele said to the counsel for the State, "Of course you put in your view of the case; we do not admit it, by any means."

Mr. Syester then read the question above given to the witness, and Dr. Donaldson replied: Of course it would be impossible to form a correct opinion without carefully comparing the symptoms during life with the post mortem lesions; doing that I acknowledge I would be very much puzzled to make a clear diagnosis, for, from the description given, I cannot say that I recognize any disease with which I am familiar, either from myown observation or from my reading; there are points of resemblance to several well known diseases, but at the same time there is the absence in each one of those cases of prominent symptoms which we usually find in those morbid conditions. The initiation of the dis-

ease has the appearance of what is commonly recognized as cholera morbus, from intestinal irritation caused by undigested or indigestible articles of food; the effect of that irritation is to produce profuse vomiting and intestinal discharges to an extent of exhausting in a great measure the blood of its watery elements; I have never seen a fatal case of cholera morbus, and I question if they often occur, and I think when met with they result from some poisonous substance eaten, for instance, decayed fish, vegetable matter or fruits; after the initiation of the disease, the individual seems to have entirely recovered from the effects; ordinarily after an attack of cholera morbus we expect the patient to be weak, but after rest to be able to digest ordinarily digestible food; in this case, if I understand the record, the patient had a return of the symptoms twice, and died in a semi-comatose state with convulsions; I have never seen a fatal case of cholera morbus, but I suppose the death would be similar to the death from Asiatic cholera, fatal cases of which I have frequently seen both in this country and in Europe; in those cases the consciousness is clear, skin clammy and bathed in perspiration; tongue cold; intelligence generally clear and the patient dying evidently from exhaustion; there is also the peculiar organic poison of Asiatic cholera; I would expect in the autopsy of a person who had died from cholera morbus the same condition of the heart and lungs as is found in Asiatic cholera; the venous blood collects in the right side of the heart, supposed to be the case in consequence of the small circulation in the minute capillaries of the body; the blood, to properly circulate, must have its proper quantity of water; I would expect to find the right side of the heart very much distended by this venous blood. Such being the case I could not state that the individual died of cholera morbus. There is some resemblance to the patient dying of what we call uraenic poison, where, owing to the deficient action of the kidneys from disease, there is retained in the blood an extra quantity of the effete substance, known as urea, resulting from the disintegration of the body; it accumulates in the blood, interferes with the capillary circulation, and produces a form of dropsy, and various other effects upon the organism, and frequently ends in convulsions; this disease is generally a gradually progressing one, and one of its most prominent symptoms is the presence of albumen in the urine, and under the miscroscope of what are known as casts of the kidneys. When a person dies from this poison we find evidences of disease of kidneys, of which there are two or three varieties; in this case no albumen was found in the urine, and no disease in the kidneys; I am, therefore, obliged to exclude the idea of uraenic poison; I would suspect some serious disease of the brain, and what is popularly known as apoplexy; true apoplexy is ordinarily a sudden disease, preceded generally by threatening such as numbness, owing to impaired sensibility or temporary lessening of the power of motion; ordinarily when the attack comes on it is sudden, the patient falls, has loss of consciousness, and frequently paralysis in different parts of his body; technically, we call those cases apoplexy in which there is cerebral hemorrhage—rupture of the minute vessels; the term is often applied popularly where there is no hemorrhage, but only momentary loss of consciousness; there is another form spoken of by the old writers, where there is no clot, but an effusion into the ventricle of the brain; more modern authorities do not bear that out; the symptoms of appoplexy vary according to the place where the clot is effused; if it is in or near where it presses upon what is known as corpus striatum and the optic thalmus, we will have paralysis; in other portions of the brain we would have restricted paralysis, not general paralysis; in cases of death from apoplexy we would expect to find relaxation of the limbs, complete coma, slow, measured respiration, and corresponding slow pulse; if I understand the record, those symptoms were not present in this case; in a post mortem of a case of apoplexy we would expect to find a clot of blood; the account, as read to me, does not state that such a clot was found, and I am, therefore, obliged to exclude the disease known as apoplexy.

There is another disease to which the symptoms bear some resemblance, known as congestion of the brain; there are two forms, one known as arterial congestion, the other as venous or passive congestion; before the circulation of the brain was as well demonstrated as it now is, it was supposed that congestion of the brain, as a primary cause, was a frequent disease, but modern investigation has shown that nature has protected the circulation of the brain with more safeguards than any other portion of the body; it is shut up in an air-tight box, where no atmospheric pressure can bear upon it directly; so true is that that for years it was questioned if there could be at different times any variable quantity of blood in the brain, the texture of the brain being of such a delicate nature that any pressure upon it would interfere not only with the functions of the brain proper, but of all the functions and organs of the body, because the nervous system, of which the brain is the centre, presides over all the organic functions of the body, so that if there was a congestion and over-distention of the blood vessels, it would produce serious results; it was found that nature had provided another fluid to pass in and out of the brain, according to whether the brain was active or quiet; it is called cephalo-zachidien fluid, it circulates from the spinal cord to the brain, so as to keep an equal pressure upon the brain; in addition, there is a peculiar construction of the large veins, which are adherent to the covering of the brain, by means of which they are kept open; this assists in the removal of the venous blood from the brain, by which it is known as the force of inspiration; my object in stating this is to show the obstacles to congestion of the brain; in addition there is a provision by which the larger vessels do not pass into the substance of the brain; there is also the presence of a double valve to prevent the venous blood from

regurgitating back into the head, at the point where the internal jugular vein empties into the unominata; from these physiological facts modern authors state that venous congestions, so as to produce death, very rarely occur except as the result of some preceding disease; when a patient dies and venous congestion is supposed to be the cause we would expect to find all the veins of the brain surcharged with blood; arterial congestion of the brain is not ordinarily an acute disease; when it does occur the inactivity of the circulation, not the quantity of the blood, is the cause of death; when persons are in convulsions there is almost always more blood found in the veins of the brain than when they die from ordinary diseases; this is in consequence of the fact that during a convulsion there is an interruption to the regular number of inspirations which are important to draw the venous blood down to the heart; I therefore can give the opinion that the individual named did not die of congestion of the brain of either form. There is still another disease of the brain to which there is some resemblance in the symptoms given, because, when consciousness is interfered with, we naturally suspect it results from some brain disorder; that is acute inflammation of the structure of the brain itself; it was formerly supposed to be met with as a disease independent of traumatic cause, injuries, for instance; but since the application of minute dissection and the microscope this is now known to be an exceedingly rare disease; when it does occur it is generally of what is now called from degeneration of the arteries, ending in red softening, a chronic disease; we can have inflammation of the membranes surrounding the brain, but it is very rare except as one of the forms of the development of tubucle, which occurs mostly in children; in inflammation of the structure of the brain we would expect to find punctiform extravisation; from the symptoms here related I exclude inflammation of the structure of the brain or inflammation of the covering of the brain; there are two other diseases of the brain in which there are one or two points of resemblance to the case here stated—one is known as cerebro spinal minigitis, that is where there is inflammation of the upper part of the spinal cord as it enters the skull; the only symptom of the disease here related is where the head is thrown back in convulsions; the preceding history of the case and the absence of the characteristic post mortem lesions preclude the idea of death from cerebro spinal minigitis. The tetanic spasms spoken of would suggest the possibility of its being a case of tetanus, which generally results from an injury; it very rarely occurs as a primary disease; if it had been tetanus I should have expected it to have had the peculiar tetanic spasms throughout the disease; this results from the spasmodic contraction of the muscles of the body, and is not connected with the brain itself; those are all of the natural causes to which I could impute the death in this case; I therefore feel justified in saying that to the best of my knowledge and belief he did not die of natural causes. There is one symptom which would make me strongly suspect opium, and that is the semi-comatose condition. I have seen persons die from opium, several suicides and deaths from the accidental administration of it, and in every one of those cases coma was profound; it was impossible to rouse them, and in this case we are told he spoke intelligibly; as far as my memory serves me in each of those cases of poisoning the pupil was excessively contracted, the breathing slow and measured, and the pulse generally correspondingly slow; in the cases I have seen, death was caused by a condition which we recognize as asphyxia, which is from deficient aeration of the blood; this is in consequence of the impairment of the muscles of respiration; from the salts of morphia, and the other alkaloids of opium; opium being the most powerful sedative of the materia medica; when the individual is sufficiently under its influence to die from it, there is a paralysis of the centres of sensation and the nerves of motion; the deficiency of air causes the venous blood to flow where the arterial blood flows; this, of itself, would cloud the intellect; I cannot see that the individual died from opium; the semi-comatose state would indicate that a moderate dose had been given, but not enough to overpower his system and cause death; my experience corresponds with my reading on the subject of opium poisoning; some of the authorities speak of the pupils becoming relaxed at the last moments of life from the general relaxation; I have, however, never observed that feature; it is estimated that one-sixth of the whole mass of blood goes to the brain; the time at which death would follow from opium would depend upon the condition of the patient's stomach and the susceptibility of his system to its effects.

To the Court—If the dose of opium had been administered on Tuesday afternoon, I suppose he would have died before Wednesday at 3 P. M.; the longest case I ever knew of was twenty-four hours, and the patient was then in a profound coma.

To Mr. Revell—If the individual had died two hours after a final dose had been given him, and twenty grains of tartar emetic was found in his stomach, I would naturally suppose that a much larger quantity had been absorbed; tartar emetic is one of those metallic salts which does not coagulate albumen, and when taken into the stomach freely diluted, passes with rapidity into the vessels known as absorbents, and into the minute veins; it circulates freely, and is readily eliminated, that is, it passes in and out of the organism with great rapidity; it is estimated that the circulation of the blood in an adult is accomplished in thirty seconds, and a metallic salt in the blood passes through the organs into the kidneys, from which it is eliminated; during the two hours, in the case given me, the absorbents and veins would be active in taking up what ever was there, and moreover, the mechanical action of the stomach would force the fluid into the upper part of the small intestines, where the absorption is still more active than in the stomach; in regard to the symptoms from tartar emetic, I have never seen a case of acute

poisoning from tartar emetic; I therefore cannot state what are the symptoms except from my readings; in this case the symptoms closely correspond to what the authors state —the frequent respiration, clammy skin, great prostration, and finally the convulsions, together with rigidity of the muscles of the extremity of the jaws; the authors speak of the patients dying in an insensible condition, but I don't remember ever in a stupid condition; they speak of great pain and a burning sensation in the stomach, violent vomiting, purging and disturbance of the cerebral functions; we are all in the habit of administering chloroform to control convulsions, no matter from what cause they come; chloral is given also frequently to keep up the effects of the chloroform; I should say that in this case chloroform was a very proper administration; upon the theory that gelseminum acts in controlling venous congestion, I should say it was a judicious prescription in this case; the observations made of gelseminum render that theory plausible; opium administered with tartar emetic would modify the effects of the emetic; it lessens the vomiting, and produces tolerance.

The Court now adjourned until to-morrow at 10 A. M., when the examination of Prof. Donaldson will be resumed.

FIFTEENTH DAY.

ANNAPOLIS, December 20, 1871.

The Wharton-Ketchum trial bids fair to prove as notable for the length of time it will occupy as in the circumstances and incidents which have attracted to it so large a share of public attention. The State's officers have evidently been active in preparing the case, and the testimony already offered is more voluminous than was at first supposed to be in their possession.

Prof. Donaldson was recalled upon the opening of the Court to-day, and turned over to the defence for cross-examination. In answer to Mr. Steele's interrogatories, he testified as follows: I am a Professor in the University of Maryland, and am associated with Professors Chew, Miles and Aikin; I had the paper read here yesterday read to me by Dr. Williams two days before; I had conversed with him before about the case; some persons are more susceptible to particular medicines than to others; it would depend very much upon the condition of the patient's health; we understand by the vital powers only those peculiar properties by which they appropriate nourishment; gelseminum would not be described as a sedative in the same sense as opium; it is somewhat of an anesthetic; there are three main forces governing the systemic circulation of the blood—that of the left ventricle of the heart, the elasticity and the muscular contractility of the arteries; gelseminum is not supposed to act on the centre, the heart, but upon the minute arteries; it does not affect the flow from the heart, but merely the arteries where they empty in the capillaries; I have heard of deaths resulting from chloroform, but they are exceptional; chloroform is pre-eminently an anesthetic, and in overdoses it acts powerfully upon the heart; chloroform deadens the acuteness of the sensory nerves; I suppose there is such a thing as an overdose of gelseminum; I know of two cases of death from gelseminum, but the doses were overlarge; one was reported by Professor Wormly, of Ohio, and the other by Dr. Davis, of West Virginia; there have been deaths from even table salt, and an overdose of almost anything will cause death; chloroform is the most powerful agent to control convulsions, and I think Dr. Williams was right to give it to General Ketchum when he did; I have never seen any sedative effect upon the heart by gelseminum; I have never prescribed it for congestion of the brain; I have never seen a post mortem of a person who had died from gelseminum; I remember, however, that Professer Wormly states in a case he reports that there were no decided lesions; I am certain that no convulsions were reported; I know of a case of death from chloral, 400 grains having been taken, and again in a case of attempted suicide 600 grains were taken, and after eighteen hours sleep the effects passed off; as a remedy chloral is in universal use; in my opinion the use of chloral is safe; the action of chloral is similar to the action of chloroform; it is decomposed in the blood and is considered a much safer remedy than chloroform; it is of course a dangerous remedy when the blood is surcharged with it; my opinion that General K.'s death was from unnatural causes was founded on the symptoms and the post mortem examination; I should have been puzzled to account for the cause of death from the symptoms alone, and I would not have given an opinion only on the symptoms; I should have also declined to have given an opinion from the post mortem observations alone; it is from the symptoms and the post mortem observations that I am enabled to arrive at an opinion; there are diseases in which there are no perceptible post mortem lesions; for example, persons sometimes die from a simple nervous shock; I have never seen a post mortem of a person who had died from cholera morbus; at the commencement there is a decided similarity between the symptoms of cholera morbus and irritant poisoning.

Mr. Steele here read from Taylor on Poisonings, page 124.

Dr. Donaldson continued—I stated yesterday that the initiation of the case indicated cholera morbus, but the subsidence of the symptoms in the progress of the case changed my first impression; the deaths recorded from tartar emetic are generally caused by the tetanic convulsions.

Mr. Steele here read from 2d vol. Beck's Medical Jurisprudence, page 647, as to the effect of tartar emetic in distending the heart, as in cholera morbus.

Dr. Donaldson distinguished the two cases in this instance from the symptoms; the condition of the heart was only one element; there may be a variance in the symptoms of cholera morbus or tetanic poisoning, but we would have to collect the various

features, and have some of the more prominent to enable us to recognize; there may be a deficiency in some of the prominent features owing to the intensity of the attack and the constitution of the patient; in the case here related, taking it altogether—symptoms and post mortem—the pathological lesions corresponded to those reported in cases of poisoning from tartar emetic; the symptoms of poisoning from arsenic, as reported by the authorities, are somewhat different from those reported in this case; if arsenic had been found in Genera Ketchum's stomach I would have looked for different symptoms; supposing that arsenic had been found instead of tartar emetic I could not have formed the opinion that death had resulted from arsenical poisoning unless I had found the symptoms of such poisoning; if laudanum had been found I would not have concluded, in the absence of the symptoms of opium poisoning, that death had resulted from an overdose of laudanum; I stated yesterday that the books did not report a semi-comatose state from tartar emetic; there are cases reported of convulsions in cases of opium poisoning; cases have been recorded where there was no vomiting or purging from tartar emetic poisoning; the general symptoms are burning, cramps and convulsions, vomiting and purging; the authorities state that very frequently after cases of tartar emetic poisoning there are points of congestion in the stomach and small intestines; the authorities state also that the lesions are very variable; I don't remember that the best authorities state that the lungs would be affected; if there was a profuse intestinal discharge I would suppose there would be an unusual quantity of venous blood in the lungs; gelseminum has been recommended to relieve both passive and active congestion, but I think it is principally for passive congestion; tartar emetic depresses the heart; it weakens its force and increases its frequency; as far as my experience goes gelseminum has no direct effect upon the heart, but upon the arteries, a long distance from the heart; it would do this without disturbing the action of the heart; tartar emetic is readily absorbed, and readily eliminated, and after an interval of twenty-four hours its effects might pass off; if a man had been lying semi-comatose from the evening of one day to 2 P. M. the next day, the circulation of the blood would go on, and I should say absorption would certainly go on; it might be somewhat lessened; I should think absorption would be less influenced by a semi-comatose state than the other active functions of the body, such as digestion; opium has the reputation of modifying the effects of tartar emetic, and I suppose laudanum would also; I cannot say that laudanum would lessen the absorption of tartar emetic; when we prescribed tartar emetic for pneumonia we would g ve five drops of laudanum to each fourth of a grain of tartar emetic; I think that was the proportion, if I remember correctly; that would be 600 drops of laudanum to 20 grains of tartar emetic; if 400 drops of laudanum had been taken it would have killed the patient, unless he had been an opium eater; if four large doses of tartar emetic had been given on four successive days, I could not say that the post mortem would show lesions decided enough for the formation of an opinion; semi-comatose condition is not mentioned, as far as my knowledge goes, as one of the symptoms of tartar emetic poisoning; insensibility, but not coma, is mentioned; if tartar emetic and laudanum has been administered two hours before death I cannot say how soon convulsions would follow, but, as I said yesterday, the absorption of tartar emetic is very rapid; I do not remember having read of a case of opium poisoning in which the pupil was not contracted; ordinarily the effect of opium upon the third pair of nerves is such as to produce contraction. Mr. Steele here read again from Beck's Medical Jurisprudence, as to the contraction of one eye and the dilation of the other. The witness continued—I have sometimes observed a temporary dizziness, and a little drooping of the eyelid in cases of the administration of gelseminum.

To Mr. Hagner—Some of the facts I mentioned yesterday, as to the circulation of the blood in the brain, have been known to the medical profession for a long time; Harvey knew of the presence of the valves, but he knew nothing of the capillary circulation; I hope medicine is a wonderfully progressive science.

To Mr. Revell—A fatal dose of arsenic is variable; sometimes one grain is fatal.

Dr. J. Harry Thompson was next called, and testified—I have resided in Washington nine years, and am Professor of Physiology in Georgetown College and Surgeon in Chief of the Woman's Hospital, Washington, D. C.; I have been practicing 26 or 27 years; I have seen a case of poisoning from tartar emetic; one fatal case I saw at St. Bartholomew's Hospital, London, in 1847; the patient, a woman, had taken, as far as we could ascertain, 10 grains of tartar emetic: it was followed by vomiting, purging and a complaint of a burning sensation in the stomach, giddiness and excessive prostration; she recovered from that dose, and in a few hours appeared to be well enough to go home; she took another dose the same evening; there was but little vomiting or purging following the second dose; her pulse became rapid and feeble, skin cold and clammy, face of a dusky hue, and she died in violent tetanic spasms; no post mortem was made; Mr. Wakley was Coroner at the time, and a post mortem was deemed unnecessary; I can give no other case in which it was clear that a poisonous dose of tartar emetic had been taken; we feared that other poisons had also been taken, and that the symptoms were masked; I cannot therefore give that case as one of tartar emetic poisoning; persons who brought the woman stated that she had taken it about half hour before; she was brought in a quarter past 6 P. M., and died quarter past 10 A. M. the next day; we knew of her taking in the two doses twenty grains; we learned that from the druggist; the time in which the alarming symptoms would appear would depend upon the size of the dose and the condition of the patient; the symptoms would be very much modified by the quantity given

and the way in which it was given; a very large dose, say twenty or thirty grains, administered at one time, would produce very different symptoms, and post mortem lesions from the same quantity given in several small doses; I have knowledge of the use of yellow jasmine; it is not an article of the materia medica I would select, but I would select it to give a soothing effect without any positive narcotic or sedative effect; I think chloral one of the most valuable of recent discoveries; I use it frequently and fearlessly, both in my public and private practice, not having regard to the quantity, but giving it until the desired effect is produced; I think that in cases of convulsions it would be of all remedies the best that could be selected.

Mr. Syester now read to the witness the same lengthy hypothetical statement he had read on yesterday to Prof. Donaldson, and propounded to him the same interrogatory as to his opinion of the cause of death.

The witness continued—A hypothetical case is always a difficult one upon which to give an opinion, but from the train of symptoms and post mortem examination given to me here, my decided opinion is that he did not die from natural causes; being acquainted with the lesions which attend most fatal diseases, and the symptoms which accompany those diseases, I find an entire absence of any data which would correspond to any disease with which I am acquainted; in my opinion the administration on Monday of the creosote and lime water was one which entirely met the indications of cholera morbus; I think it was eminently proper to have administered yellow jasmine, because it exercises a soothing influence more particularly upon the sympathetic or the ganglionic nervous system which controls the capillary system-it would assist in restoring the capillary circulation to a normal condition; I apprehend that no educated medical man who has any acquaintance with his profession, and the use of chloroform, could possibly take any exception to the administrations in this case; I have already given the symptoms of a patient suffering from an overdose of tartar emetic, and the jury can very well draw the proper inferences between the cases; the symptoms here related correspond very closely with those I would expect to follow repeated doses of tartar emetic; the effects of a dose of tartar emetic uncombined with anything else would naturally produce vomiting and purging, nature thereby eliminating it; I should think the administration of opium either before or after the administration of tartar emetic would have the effect of reducing the symptoms, so far as vomiting and purging are concerned, preventing its elimination from the blood, and hence producing a more lasting and profound impression upon the nervous system; the time of the absorption of the tartar emetic would depend upon the condition of the patient; I should expect it earlier in an empty stomach than in a full one; the effects of laudanum upon the system are so well known, that I presume there is no difference of opinion; the time in which its effects would pass off would depend upon the condition of the patient, usually in nine or ten hours; it is, however, sometimes retained for some time in the stomach: taking the whole case, symptoms and all, I should say decidedly that no symptoms of laudanum poisoning are found; I should say that not more than twenty-four hours would elapse before death from an overdose of laudanum, but that would depend upon the condition of the patient; in this case I should expect laudanum to be absorbed rapidly, and also produce its constitutional effects rapidly: I should expect the decided effect of this drug to be manifested in this case in two hours; if a fatal dose of laudanum had been administered on Monday afternoon, it is not likely that the patient would be well enough to be sitting up on Tuesday morning.

To Mr. Hagner—I am forty-nine years of age; in 1847 I was 25; the case I spoke of was not reported; those cases are so common that they are not reported; in one case I have seen arsenic was supposed to have masked the effects of the antimonial poison; I base my opinions expressed here upon the hypothetical statement presented, taking the case exactly as it is presented to me; some of the symptoms would correspond with a number of diseases, but the post mortem lesions do not carry them out; every physician has certain drugs which he more generally uses in his practice; death following a poisonous dose of opium would depend, as to time, upon the vital powers of the patient; I have seen cases of death in eight hours, and again a patient breathing at the expiration of twenty-four hours; in one case which I saw in 1852 the symptoms of tartar emetic had been masked by one ounce of laudanum; as far as we could get at the quantity of tartar emetic, it was ten grains; the case was that of a female; I think in that case the opium got the better of the tartar emetic; Rasori is still considered an authority by some ignorant members of the profession; Pareira is a high authority; I do not think that lemonade would have neutralized the effects of tartar emetic.

To Mr. Steele—Medical science is progressive; we have no security that all the theories now in vogue will not be upset in thirty years.

Dr. P. C. Williams was now recalled, and testified—I have exhumed the body of General Ketchum since I last testified; on last Saturday, at 8 P. M., I received a letter from the State's officers, requesting Drs. Miles and Chew and myself to go to Washington, exhume the body of General Ketchum, and bring back such portions as we thought proper; I reached Washington at about half-past 10 P. M. Saturday and I then proceeded to the office of General Brice, and then to his house, as he was not at his office; I failed to obtain an entrance, and the next morning, at half-past 6 o'clock, I met Professors Miles and Chew at the depot; we then dove to the residence of Gen. Brice, and obtained from him permission to exhume the body, and bring away such portions as we thought proper; in order to save time we left Dr. Chew to look for an analytical chemist, in whose hands we could place the portions of the remains; Professor Miles and myself drove to the cemetery, had

the grave opened, and obtained the liver, one kidney and the spleen or pancreas, and about six inches of the upper end of the intestine; we put the kidney in one glass jar and the other portions in another; I washed the jar myself; I put the liver in the larger jar and the kidney and the other portions in the smaller jar; we then secured them, returned to Washington, and retained them in our possession; I identified General Ketchum's remains as fully as I could any individual, by his uniform and the incisions we had made in previous examinations; we met Dr. Chew at General Brice's office, and ascertained, for reasons of public consideration, that we could not obtain the services of the chemist to whom we had applied; we were then recommended to Mr. Toury, of Baltimore; we returned to Baltimore, and after considerable difficulty, succeeded in finding Mr. Tonry; we communicated to him the material we had brought from General Ketchum's grave, &c., and requested him to take charge of this material, to subject it to a careful analysis, and report the result to the State's officers; I had a conversation with Mrs. Wharton on the night of the 4th of July in reference to tartar emetic having been found in General Ketchum's remains.

Mr. Steele here objected to the conversation being given, and Mr. Revell proceeded to state to the Court that the testimony of Dr. Williams was now in connection with Gen. Wise's testimony. When the witness was previously on the stand the inquiries had been omitted inadvertently.

Mr. Steele said he did not understand that it had been omitted inadvertently.

The witness continued—In order to explain fully that conversation it is proper to revert to the circumstances; I had been in communication with Prof. Aikin, and when I had been informed that he had obtained definite results I wrote a note to Mrs. Wharton, asking her to call at my house at 9 o'clock that night, telling her I would give her my reason; I also requested Dr. Richard McSherry to meet her; she and Dr. McSherry came promptly at 9 o'clock; I informed Mrs. Wharton that I had ascertained that day that poison had been found in General K.'s remains, in the milk punch, and that Mr. Van Ness had been poisoned also; I did not designate the particular poison; I then told her my duty to communicate this fact to her at the earliest possible moment, that she and her daughter might protect themselves against a similar accident, for, to be frank, I suspect one of your servants to have administered the poison; Mrs. Wharton then said that I must be mistaken as to the fact of having discovered poison, for it was impossible that he could have died from poison; I can't give, however, her exact language; I replied that there could be no doubt about the fact, as I had had the contents of General K.'s stomach analysed and also the punch, and the same poison was found in both; I repeated that there could be no doubt as to the poison having been found, and that the only question in doubt was who administered it; that, I said, will be the subject of future investigation, but in the meantime I desire both you and your daughter to be on your guard; Mrs. Wharton then replied that she was satisfied that her servants had had nothing to do with it; that Susan had lived with her five or six years, and she had the most implicit confidence in her, and added, "I know she could not have done it;" I replied that I would be exceedingly glad that she could show that not only Susan had not done it, but that no one else in her house had done it, for it was perfectly clear that some one in that house had administered it; after some further conversation of no importace Mrs. Wharton and Dr. McSherry rose to leave; I passed around my library table in order to be near the door to open it for her, and she said she had only one thing to say in reference to the subject, and that was that if anything was found in General Ketchum's stomach it was the result of his own hand; that remark was repeated three times in very close succession; after thanking me for my great kindness to her and my very assiduous attention to General Ketchum, she left my house; I never at any period of General Ketchum's sickness prescribed brown strout for him.

Cross-examined by Mr. Steele—When I had the conversation with Mrs. Wharton the analysis had reached a stage at which it was certain that some kind of poison had been found; that was the first time I ever told Mrs. Wharton that General Ketchum had died of poison; I did not mention this conversation when previously on the stand, because I did not think it was my business to give in evidence what I was not asked about; I had mentioned it to the counsel for both the State and the defence; the body of General Ketchum was in very good state of preservation; the grave was dug open in my presence; the coffin was wooden, covered with black cloth; we found the liver where we had left it; one jar was fastened with a cork and the other with a piece of very thick brown paper tied over the top of it; I had no conversation with Mr. Knott before I received the letter from him requesting me to go to Washington; I I know, however, that some gentlemen had seen him on the subject; I asked Mr. Tonry particularly to look for tartar emetic; I washed the jars at the grave; one had had perfumery in it, and the other, I think, had contained preserves; the larger one was furnished by the guardian of the cemetery, and the smaller one we took with us from Baltimore; we exhumed the body on last Sunday morning and carried the jars to Mr. Tonry Sunday afternoon; we did not examine the larger intestines or the blood on either occasion; nothing had been done to preserve the body; we made no additional examination of the spinal cord.

Wm. P. Tonry was now called, and testified—I reside at No. 20 Mulberry street, and have been practically engaged as an analytical chemist since 1863 in the laboratory of the Surgeon General's office in Washington; last Sunday evening, about 6 o'clock, I was called to my door, and was told that the gentlemen were Drs. Williams and Chew; they told me that the two jars contained the liver and kidneys of General K.; I received a package done up in brown paper, and was told the larger jar contained the liver, and the smaller the kidneys; I was told to examine only for antimony; also that it would be

necessary for me to come to Annapolis Monday evening; I undertook the analysis; locked up what was given me in a trunk, the key of which I kept; I took the package from the trunk on Monday, and carried it to my office in Maryland Institute, and by a string, and the use of sealing wax, secured it while I had to go out; I asked my friend, Dr. Forster, to be present with me; I cut the string, went in; found two jars; the larger one had no cork, but was covered with brown paper, and was wrapped in cotton; the smaller one was corked, and wrapped also in cotton; I took out the contents of the larger jar; four pieces and a very small quantity of dirty fluid; what they were I don't pretend to say; the small jar I found to contain, I think, four pieces; while opening that Dr. Chew came in; I put the contents of the smaller jar back again, put the cork in and put it aside; I also put the contents of the larger jar back again, except what adhered to the plates; I then commenced preparations for the analysis; I tested some new sulphuric acid which I had bought, some distilled water and, I think, some other things; meantime, before commencing, Drs. Chew and Forster left the laboratory; I then took the contents of the larger jar on the plate on which they had first been; I then cut about half of each piece, cutting it as nearly as I could in the centre; I put half of each piece back again in the jar; cut then each piece remaining on the plate tolerably fine with a new shoemaker's knife which I had bought for the purpose; I then put them in a porcelain evaporating dish which holds (here he referred to his pocket memoranda) about sixteen fluid ounces; the dish was new, and had been washed once with hydrant water and strong concentrated muriatic acid, and then with distilled water; I then dried it; I mixed about one fluid ounce of muriatic acid with four fluid ounces of distilled water; of that I poured two, perhaps three fluid ounces over the cut up mass which was now in the evaporating dish; I then put the dish over a water bath, and as soon as it commenced to heat, added powdered chlorate of potash, and continued to add small quantities of the powdered chlorate of potash, and continued stirring for sometime; I think it continued digesting about two hours; it may have been more; I don't think it was less; I then took a glass funnel and put a piece of filter paper and a piece of muslin inside; I then poured out into the filter all or very nearly all the liquid which was in the evaporating dish; I then took the solid part, tranferred the solid part to a Wedgewood ware mortar; this I mashed up with the pestle, and then put it back in the evaporating dish, which I replaced on the water bath; added the balance of the five ounces of muriatic solution which I had made; I poured that over the stuff, adding again small quantities of powdered chlorate of potash, and stirred as before; this digested about an hour, at least; I then found by a glass rod that all the tissue was thoroughly broken up; I then poured it into the same filter which I had used for the first part, and as soon as the liquid had drained through I washed the mass which had remained in the filter in distilled water; I washed it, of course, in the filter; we will now take the solution; I took a glass evaporating dish and a porcelain evaporating dish, and put both on the same water bath, each containing some of the solution, the object being to evaporate the solution to a convenient point and concentrate any metals present; I continued adding quantities from the filtrate to these dishes; then, while the filtrate was evaporating in the two dishes, I took the residuum from the cloth filter, collecting the four upper corners, and squeezing the liquid from that into what I had already obtained; I then put the cloth, after squeezing, on a plate, spread it out, and spread the mass over the cloth, so that it would dry, my object being to keep it; I put it aside to dry.

Mr. Syester here stated that the analysis had not been completed, and it was necessary that time should be allowed the witness to complete the analysis, some portions being uncompleted; it was not proposed to stop the cross-examination, as a part of the analysis was complete enough now.

The Chief Judge said the Court would see about the recall of the witness when the time came.

The Court here adjourned until 10 A. M. to-morrow.

Professor Aikin, ex-Mayor George William Brown, Wm. Sheppard Bryan, Esq., and Maj. R. A. Venable were present to-day. On yesterday Hon. Wm. Pinkney Whyte, Governor elect of Maryland, was present for a short time; also, William F. McKewen, Esq., Clerk of the Criminal Court of Baltimore, and Jno. M. Travers, Esq., delegate elect from Baltimore city.

Mrs. Wharton appears more anxious and sits almost motionless. Her daughter appears also to be careworn, and has been an eager listener to-day.

SIXTEENTH DAY.

ANNAPOLIS, December 21, 1871.

The introduction by the State of testimony in reference to the recent exhumation of the body of the late General Ketchum, and the subsequent analysis of portions of his remains by Prof. Tonry, has given increased interest to Mrs. Wharton's trial. It is now anticipated that the trial will not end for at least two weeks.

Prof. Tonry was recalled upon the opening of the Court to-day, and testified—Leaving the residuum to dry, we take now the solution, which was a good quantity; the solution was placed in evaporating dishes and evaporated to about three fluid ounces; it was then filtered into a clean glass, and the filtering paper through which it had been filtered was then washed with distilled water, and the washings collected till the whole amount reached four fluid ounces; now this solution contained *nearly* all the extracted matter I got from the sample taken; it did not contain all, because during the filtration I took two small quantities out; the first I took out to pass sulphuretted hydrogen through it, my object being to see what precipitate, if any, I would

get with sulphuretted hydrogen; that would be a guide as to the quantity of the solution it would be necessary for me to take afterwards; the second quantity of solution I took out at the instance of Dr. Chew, who called on Tuesday afternoon; he wished me to try a quantity of the solution with hydrogen to see if any dark spot could be obtained on porcelain—that is antimoniated hydrogen; I was told to examine only for antimony, consequently that was the only thing I intended to look for; I would have gotten a combination of hydrogen and antimony, if any had been present, which would give a spot on porcelain; I made some objection to taking away any part of the solution until I had completed the filtration, and I told him it could be done only very imperfectly at that stage, yet as he desired it I took a small quantity out; this test, which was not intended as a regular test, but merely to satisfy Dr. Chew, I did not make with perfect care; part of the small quantity which I had taken from the filtered solution had to be thrown away; on trying the result on porcelain the spot, or apparent spot, seemed to be so insignificant that I told him it was not worth while placing any reliance on a test made in that way, and that the analysis would have to take its regular course; having that filtered solution which was clear, but not colorless, the solution which had passed through four filters (the witness here referred to his memoranda), I now took one-fourth of a fluid ounce of it, the whole solution being four fluid ounces; that was about one-sixteenth of the whole solution; I wanted to try that by one test; it is a fact that where arsenic or antimony are present their presence can be detected by the formation of a spot from arseniuretted or antimoniated hydrogen; the test was made as follows: into a new flask, which had been washed out and perfectly clean, I put pure zinc with some distilled water over it; I then put in sulphuric acid, which would evolve hydrogen from this mixture; this flask was so arranged that all the hydrogen which would be evolved would pass over into another flask and through distilled water contained in it; that is called "washing;" this second flask I so fixed that all the hydrogen that would pass from it would pass through a tube containing chloride of calcium, broken up in fine lumps, the object being to dry the hydrogen; after passing through this chloride of calcium tube the hydrogen passesthrough a small tube which is drawn to a fine point about the size of a small pin's head, and which is open; the apparatus being put together and the sulphuric acid, zinc and water being put in, hydrogen is generated; the hydrogen, which is generated, passed into the second flask, through the chloride of calcium tube, and out through the small tube; after it has continued long enough to fill the apparatus and get rid of the common air, so that nothing but hydrogen would pass from the delivery tube, the hydrogen passing from the last tube is lighted; it is necessary to let all the air pass away to prevent an explosion; so the test that nothing but hydrogen is passing over is that there is no explosion; all the apparatus I used was new, except the piece of rubber joining the two vessels and the chloride of calcium tube; all were first washed with strong muriatic acid, and then with distilled water, so that no impurity could have been left; fixing the apparatus as I have described, I let it work for about fifteen minutes, taking in the meantime the cover of a porcelain crucible, washed that also with strong chemically pure muriatic acid and water, and after about fifteen minutes that the flask had been working, I lit the gas at the end of it; it gave a small flame, and after it had burned for some time I put the lid of the porcelain crucible in the flame and let it strike on the lid; I did this five or six times, and got no spot; that proved that the zinc, water and acid I had used contained no arsenic or antimony; I then took about one-sixteenth of the original solution and poured that into the first flask, while the hydrogen gas was being evolved; after trying the porcelain lid, I moistened it and rubbed it with a cloth and saw that no trace of a spot was left; putting this same cover in the hydrogen flame after adding the solution, in a very short time I got a decided stain, and I put it several times in the flame, collecting the stain each time on different parts of the cover; there are only two bodies or substances that are known which will give a spot under similar circumstances; I use the word spot or stain as equivalent; the two bodies which gives this spot are arsenic and antimony, consequently one or the other was present in the solution which I had added; these spots I did not touch, but left them on the cover as received; I then took a small paper box, put in the bottom a piece of filtering paper, put the porcelain lid on with the spots downward, put on the top of the box and sealed it with my private seal; that took me until last Tuesday; beyond this point I am not willing to go until I have completed the analysis; science can determine whether the spots are antimonial or arsenical, but I prefer to determine more from the solution itself; the solution, from which I took one-sixteenth, contained whatever was extracted from the contents of the larger jar, to which I added muriatic acid, water and chlorate of potash; none of these bodies or their constituents would have given these spots; when I say that, I don't mean to say that I have tried myself everything in the known world to prove it; but it is the usually received fact, and I do not think anybody will controvert it; when I first tried the apparatus adding this suspected solution, and received no spot, then I added the solution and received the spot; Mr. Davidson, one of the pupils of the Maryland Institute school, was present at that time; I much preferred to have it done in the presence of some one.

Prof. Tonry here exhibited the porcelain lid, and said: "Here, gentlemen, are the spots; the lid has not been taken from the sealed box I have here since it was closed in the presence of Mr. Davidson." The Professor then showed the lid and the spots to the respective counsel, the Court, the chemical experts for the defence, and the jury, by whom they were carefully examined. The porcelain lid was about two inches in diam-

eter, and the spots were thirteen in number and about the size of a pin's head.

While the lid was being shown, the most marked silence reigned throughout the Court room. Mrs. Wharton appeared calm, but those around her looked anxious. All the chemical and medical experts for the defence were present, and have been very attentive since the introduction of the testimony of Dr. Williams and Professor Tonry. His Excellency, Governor Bowie and Hon. R. C. Hollyday, Secretary of State, were present during the examination of Professor Tonry. After exhibiting the lid, Professor Tonry carefully replaced it in the small round paper box from which he had taken it.

Prof. Tonry then continued—There are tests known to science by which the presence of arsenic or antimony in these spots can be determined, but from experiments I made while engaged as chemist at the Baltimore Copper Company's works I prefer other tests; this box has been almost constantly in my possession, and whenever I had to leave my room I sealed the door by means of wax and a string; there is another door to the room, which is bolted on the inside; I have formed no idea of the quantity present, but I believe I could have gotten a dozen more spots; the test I used is generally considered a delicate test.

Mr. Steele—You mean to detect a very small quantity?

Prof. Tonry—Yes, sir.

To the Court—I believe the test is called Marsh's; I know it is so called when applied for arsenic, and I presume the same for antimony.

To Mr. Syester—The contents of the second jar I have not touched, and I will require two days more, at least, to finish my yet incomplete analysis of the first portion.

To the Court—If I get a precipitate with sulphuretted hydrogen from an acid solution of the suspected matter, and that precipitate is soluble in strong muriatic acid, and from that solution of muriatic acid a white precipitate is thrown down by water, and that precipitate produced by the water is colored orange by sulphide of ammonium, I would consider that unmistakable proof of the presence of antimony without the formation of the metal; if the quantity will allow me, I will try those tests, and try to get the antimony also, but it will depend upon the quantity I obtain.

Mr. Syester here stated that this was as far as the State could go at present with this witness, and that he would ask that the State be allowed to recall him, if his analysis was completed in a reasonable time.

Mr Steele said it was an "unprecedented application," and he knew of no parallel to such an offer. It was avowed that the analysis was incomplete, and no one ever heard of such a proposition in a court of justice as was here made. The indictment was found five months ago, and three weeks had been occupied in the trial, and it was now claimed by the State officers that they should be allowed more time in which to collect additional evidence.

Mr Revell said the counsel for the defence were here to secure even-handed justice between the State of Maryland and the prisoner at the bar. After seeing the array of medical and chemical witnesses for the defence, the State's officers had determined to give the fullest examination into the case and to make a further analysis of the remains of General Ketchum. The State's officers had felt bound to do what they had done, and he knew of no precedent for stopping the investigation at this stage. The State could not say what would be the result of the analysis to be completed, and all that the State's officers asked, in the name of justice to the State of Maryland, and to the prisoner, was that the fullest investigation be had.

Mr. Syester said the defence had arrayed three eminent experts, whose business it had been to sit and take notes for the avowed purpose of overthrowing the State's testimony, by giving their opinions and not by making experiments. He could not see that public justice, or the accused, would suffer by a complete analysis. He did not understand this to be a trial of wits, and it was of interest to all the people of Maryland to know how lives may be taken in secret. The analysis might result favorably to her who sat now with the paleness of death upon her face and the anguish of death at her heart, and if so, he would join heartily with his brothers in giver its full benefit.

Mr. Steele said the offer was unprecedented, and that the prosecutors, in their zeal, had gone too far. He thought the zeal of the Attorney General had led him further than his own better judgment would approve. The prosecution had no right to know what the defence proposed to show by experts, or that they would be called at all. As he understood the principles of law, even in civil suits, no man could be benefited by his own wrong. Would the learned prosecution for a moment consent that the defence should delay the Court and send for witnesses? He was certain they would not. The Courts lay it down that the State must exhaust their testimony, and could be allowed only to rebut. The object was to give the witness time to refer to books and make experiments, and come back here to give testimony after the defence had closed their case. It was his right and duty to speak plainly and to repel the remark of the prosecution that they felt sympathy for his client. The question was one of great importance, and it could not be told when or where such examinations would end; if such a rule was adopted it would be to change an English common law court into one of the inquisitorial courts of Continental Europe.

The Court was occupied some time in deliberating with deep earnestness, and the Chief Judge announced the opinion and decision of the Court substantially as follows: As the Court understands the case, the witness has been examined up to a certain point, and he is now making an analysis of portions of General K.'s remains, which he can complete in two days. The question before the Court is whether or not the scientific investigation shall go on. The case is an extraordinary one, and the indictment charges a most heinous crime. A chemist who has

analysed a portion of the body of General K. had been examined, and another analysis has been diligently pursued since the second exhumation of General K.'s body. The witness had sworn that he has discovered the presence of poison, and that a delay of a day or two will enable him to determine fully whether it is antimony or arsenic. The Court considers it to be its duty to allow that time. The State may go on, and, if necessary, the Court will take an adjournment to let the witness come back and testify to what he discovers. If a similar case was presented by the defence the Court would allow them time to make experiments. If, in a civil suit, it was necessary for a witness to send for a paper to establish his title to property, the Court thinks it would be monstrous not to allow him reasonable time in which to obtain it. The Court then gave the State's officers notice that if they did not recall the witness for further examination they must have him in Court for cross-examination by the defence. Mr. S'yester said he would be present.

Dr. Benjamin F.Craig now testified—I reside in Washington, and am an analytical chemist by occupation; I have been fifteen years so engaged;previously I was a practitioner of medicine for five years, and was also a professor of chemistry for three years; I have resided nearly twenty years in Washington, and I am now in charge of the laboratory of the Surgeon General's office, and employed to make investigations and to attend to other duties of a scientific character. The witness was here shown the report of Professor Aikin to Mr. Knott, and was occupied some time in carefully perusing it. He then continued—The tests used by Professor Aikin were the usual tests to discover the presence of antimony, and were in my opinion sufficient; the obtaining of the red color with sulphuretted hydrogen, under the circumstances, and the obtaining of a white precipitate by the action of water on the acid solution of that red precipitate, are sufficient to make the presence of antimony certain; all other substances known to science, except antimony, would have given a different color; there is no substance known to science which would, under the tests here described, have given the result here described.

Mr. Steele said the defence had no questions to ask the witness, and he was accordingly at this point allowed to leave the stand.

Mr. Revell stated to the Court now that the State had three more witnesses to examine, and he was informed that they would reach Annapolis by the half-past 1 o'clock train, and he would, therefore, ask the Court to wait for them.

The Chief Judge said that as it was already after 1 o'clock the Court would grant the request.

After a delay of twenty or thirty minutes Professor Richard McSherry came into court, and, being sworn, testified as follows: I reside in Baltimore, and have practiced medicine there about twenty years; I never prescribed tartar emetic for Mrs. Wharton; I was for six or seven years her family physician; I was present with Mrs. Wharton at Dr. Williams' office on the 4th of last July; Dr. Williams was under the impression that some domestic of Mrs. Wharton had been using poison in her house; his idea was, I think, to try to inform Mrs. Wharton that there was danger in her house, and that one of her domestics was using poison; he wished Mrs. Wharton to beware of the supposed facts, alleging that parties in her house had been given poison; he suggested one of her servants, and Mrs. Wharton said she had perfect confidence in that servant and no apprehension in that quarter; I don't remember anything else material that occurred except that Dr. Williams designed to put her on her guard; I don't remember that it was stated how the poison had been found; I don't remember that any explanation was offered as to the finding of the poison; I have a vague recollection of Mrs. Wharton's saying that the probability was that General K. had taken himself some injurious agent; there was nothing definite or conclusive in that conversation which I can now remember; I remember as one of the incidents of the interview that an empty vial was produced by Dr. Williams, and some suggestion made as to the probability of General K.'s having taking opium or laudanum; I can't remember who made the suggestion, but I remember that there was some conversation about it; I remember hearing Mrs. Wharton say that General K. was in the habit of drugging himself, but as I had various interviews with her, I am not prepared to say she said so on that night.

To Mr. Steele—I was not in Baltimore at the time of General K.'s sickness at Mrs. Wharton's residence.

Mr. Revell now stated that Dr William T. Howard, George M. Gill, Henry E. Johnson and Professor P. B. Wilson were the remaining witnesses. except Prof. Tonry, on the part of the State, but none of them were now present.

The Court then adjourned until 10 A. M. tomorrow.

SEVENTEENTH DAY.

ANNAPOLIS, December 22, 1871.

The seventeenth day of the great Wharton-Ketchum trial opened gloomily, a heavy snow storm prevailing at the hour the Court was called to order, and the surroundings of the Court House were in keeping with the dreariness within. But few spectators were present and most of them gathered near a stove in a corner of the room.

The jury was marched in at the usual hour, and looked weatherbeaten, restless and dissatisfied. Mrs. Wharton's carriage was promptly in front of the Court House, and she was accompanied to-day, upon her arrival, only by her daughter. She entered the court-room leaning on the arm of Sheriff Chairs, her arrival attracting but little attention, as she is constantly veiled, and the attendants upon the trial have become accustomed to her presence.

In a few minutes Mrs. Wharton and her daughter were joined by Mrs. Nugent, Mrs.

Neilson, Miss Rosa Neilson, Mr. H. Moon Wharton, of Philadelphia, and Hermann Stump, Esq., of Harford county. Mrs. Wharton for the first time since the commencement of her trial betrayed to-day considerable agitation. Her manner is not now so calm as was strikingly observable for the first two weeks following her arraignment, and she converses more frequently with her counsel and the friends around her. The heavy veil which drapes her countenance effectually prevents a close observation of her expression even by those who sit near her, and her seat is at such a distance from the jury that they cannot more than distinguish the outline of her most prominent features. Her faithful daughter is ever at her side, and seems to appreciate fully the position her mother occupies, and the troubles which surround her. The feelings of this entire community towards Miss Wharton are those of earnest sympathy with her in the afflictions and the present great sorrow which have clouded so sadly the morning of her life. No accusing word can be whispered against her, and whatever disposition there may be with some to prejudge her mother, finds a proper rebuke in the love and devotion of an only child. Her conduct from the hour she heard the first word of accusation against her mother has been such as to challenge the admiration of the most fault-finding, and to commend her to the heartiest sympathy.

Those who knew her in happier days remark the change which has passed so swiftly over her, and look in vain now for the charming vivacity of manner and conversation which made her a universal favorite. Her features show that the past six months have been to her full of anxiety and care, and though she bears herself with remarkable fortitude, yet it is evidently a hard and breaking struggle.

Upon the opening of the Court to-day Mr. Revell stated that, contrary to his expectations, no witnesses for the State were present. He had learned by telegraph from Deputy Sheriff Grafflin, of Baltimore, that Dr. Howard was still too sick to attend, and that Mr. E. Livezy, of Baltimore, was absent from that city.

The Deputy Sheriff had informed him also that he had used every exertion to secure the attendance of the remainig witnesses for the State, and had in his zeal roused Prof. Wilson from his bed at 1 o'clock this morning, and that Professor Wilson, Henry Johnston, Esq., and Geo. M. Gill, Esq., would leave Baltimore with him at 10 o'clock. Mr. Revell further stated that he could not now ask the Court to delay more than a reasonable time for the arrival of the State's witnesses.

The Chief Judge inquired if the State's officers proposed to close their case at this point, with the exception of the privilege granted on yesterday of recalling Prof. Tonry.

Mr. Revell said the State's officers could not, under the circumstances, ask a further delay, but that he felt certain that the witnesses spoken of would arrive by the next train.

In answer to the inquiry of the Chief Judge, Mr. Steele stated that the defence would not go on with the examination of their witnesses until the examination of Prof. Tonry was concluded.

Mr. Steele then said that he would propose to the State's officers to call the two servants of Mrs. Wharton, Susan Jacobs and Ellen Deddrick, who had been summoned by them and had been present from the beginning of the trial. He did not ask that they be accredited as State's witnesses, but he thought it was only just that the State should call them and not compel the defence to call them.

Mr. Revell said he was unwilling to call them, but he was willing that they should testify if accredited to neither side.

The Attorney General said he would consent that the witnesses spoken of should be called by the Court, but the State did not think proper to accredit them to the jury as its witnesses.

The Attorney General then added: "At the same time the State will, in this case, consent that if the defence see proper to call the two witnesses named, it may not be so far bound by their answers as to be concluded. We do this because they are, in some respects, witnesses to the transaction, and there is, in cases like this, some propriety in calling all witnesses to the transaction. It is, however, for the defence to assume the responsibility of the position in which it will place the witnesses themselves, they being, under such circumstances, wholly without protection."

The Court then stated that it would not wait further upon the State, and ordered the State's officers to close their case, with the exception of the examination of Prof. Tonry.

Some desultory discussion next ensued between counsel in reference to the calling of the two negro witnesses who have sat patiently in a corner of the Court room since the first day of the trial, and the subject was finally dismissed before the Court, with the understanding that an arrangement of the matter would be made by counsel before the conclusion of Professor Tonry's examination.

The Chief Judge then ordered that the Court stand adjourned until half-past 1 o'clock on Tuesday next. At this announcement the jury seemed much disconcerted, and one of them was overheard by the correspondent of the GAZETTE to express his decided disapprobation in language more energetic than elegant. It is evident that the jury are very restive and have become greatly dissatisfied since finding themselves bound to the State for a much longer time than any of them anticipated.

Some of them took their seats with evident satisfaction, doubtless anticipating a trial of not more than three weeks, with much of dramatic interest. In both they have been, thus far, much disappointed, and the tedium of the trial has, doubtless, proven as tiresome to them as to the prisoner. They are kept under the strictest guard, and, apart from comfortable quarters and good fare, at the City Hotel, there is nothing to make their situation pleasant. They are not allowed to read the papers, or to receive any communications, even from their families.

The Sheriff and his deputies are alone allowed to address them a word, and they are forbidden also Christmas luxuries from their homes.

In a case of so much importance, it is of course only proper that the jury should be kept above suspicion. Dr. Davidson and Mr. Sellman seem to take their confinement and restraint with commendable resignation and generally appear in good spirits and ready to make a joking remark to their discontented companions. The Chief Judge each day charges the Sheriff not to take the jury from the court room until the audience has retired, and to-day earnestly repeated the order, adding the injunction that the jury was to be cared for properly during the approaching holiday, but that they were not to be allowed to make themselves sick.

Soon after the adjournment of the court Mrs. Wharton and her daughter returned under the escort of Sheriff Chairs to their prison home. Mrs. Neilson, Mrs. Nugent and Miss Rosa Neilson will remain with them during the adjournment, and Mrs. Wharton's friends in Annapolis will doubtless remember the loneliness and unhappiness of her cheerless quarters.

Professor Wilson and Messrs. Johnston, Gill and Livezy arrived by the half-past 1 o'clock train, but found that the order of the Court had rendered their attendance unnecessary. It is understood that their testimony would have proved of no material importance.

Dr. P. C. Williams was the only medical gentleman present in the court room to-day, all the medical and chemical witnesses for the State and defence, with the exception of Prof. McCullough, having left Annapolis for their homes.

The experts confess that they have grown wearied with the trial, but they will no doubt be present at the proper time.

On Tuesday the State will recall Professor Tonry, and the defence will doubtless subject him to a rigid cross-examination.

EIGHTEENTH DAY.

ANNAPOLIS, December 26, 1871.

The attendance to-day upon the great Wharton-Ketchum trial was as large as on the opening day, many doubtless availing themselves of the leisure of a Christmas holiday.

The Court was called to order promptly at half-past 1 o'clock to-day, pursuant to adjournment, a full bench being present.

Prof. Wm. P. Tonry, at the request of the State's Attorney, resumed the witness stand, and testified as follows—Taking the dark spots on porcelain, my object was to determine whether they were arsenic or antimony; I have reference now to the lid I exhibited; taking one of the larger spots, and perhaps two of them, I tried their solubility in sulphide of ammonium, and the greater part of the spots dissolved readily; the ready solubility of the larger portion would denote, so far, antimony, but the more difficult solubility of the remaining speck or part of the spot would denote arsenic; applying a very slight heat the solution was evaporated to dryness, giving on the outer edge of the evaporated spot the unmistakable color of antimony; the centre of the spot was of a light yellow color, part of it inclining to white; this would indicate sulphur, which was very probably evaporated dry from the sulphide of ammonium or arsenic, one or both; adding now to this spot a drop or two of strong muriatic acid, and then perhaps a drop or two of distilled water, I took an apparatus evolving sulphuretted hydrogen, and squeezed the delivery tube so as to let the stream of sulphuretted hydrogen impinge on the spot or the solution of the spot; doing this till the solution of the spot was dry, the centre and greater part of the then resulting solid, gave the antimony color; now viewing the spot with the microscope, I found around the edges of the spot the canary yellow color of arsenic in exceedingly small quantities, too small to be readily detected by the naked eye; thus the spot is composed principally of antimony, with a very probable trace of arsenic; some of the spots I retained on the cover; that result satisfied me as to the nature of the deposit; with one or two other of the spots I tried nitric acid to see if I would get the white oxide of antimony, but as I got no satisfactory result, I did not try any farther experiments on the spots; the cover and spot as I obtained it I retained. Mr. Steele—"You mean the original porcelain cover?" Yes, sir, replied Prof. Tonry. He then continued—I then took another part of the solution. To Mr. Steele—"My notes were taken almost always while the experiment was going on; I have no objection to your seeing them." Prof. Tonry continued—I took part of the solution to see if I could obtain metallic antimony; precipitating first with sulphuretted hydrogen I got a precipitate of sulphide; washing this in distilled water, I transferred it with the filter to a porcelain evaporating dish; I got the precipitate and washed it, and I wanted to see if it was soluble in potash; so I added a strong solution of potash and filtered in an evaporating dish what was dissolved; the precipitate of antimony by sulphuretted hydrogen would be soluble in potash; applying heat to this, I added tartaric acid; that would give tartrate of antimony and potash, or leave the antimony in about the condition of tartar emetic; dissolving this, and precipitating again with sulphuretted hydrogen, I took this precipitate, mixed with carbonate of soda and cyonide of potassium, put it on a piece of clean charcoal, that is to say, charcoal which had not been used before in a blow-pipe; by using the blow-pipe and a spirit lamp, I fused the mass; by the naked eye I could detect no metallic spots, but putting it under the microscope three or four spots appeared which looked as if they might be metal; the reflection of light on some parts of the charcoal and on some parts of the flux used would, under the microscope, give a bright appearance; but these spots seemed different from either of these two causes; I put that test aside as of no particular value, on account of the exceedingly minute results, if any, obtained; I now took a very small portion of metallic antimony, tried it with the same flux and, readily obtained a metallic bead; taking now a very small quan-

tity of tartar emetic, which I had bought, I wished to see if that would, with the same flux, give a bead; I tried it with the same flux and obtained the metal; taking now a quantity of sulphide of antimony, prepared from tartar emetic bought at a drug store, and in quantity about the same, or perhaps a little more than the precipitate obtained from the suspected solution which I had tried, I did not obtain a visible globule of metal from that; that led me to infer that the quantity of material I had taken for this experiment was too small to operate upon for the production of metallic antimony; now taking another part of the original solution, I treated it with chlorate of potash, to see if I could get rid of the color of the solution, and I obtained a rather light-colored solution, much lighter than the solution was originally; I precipitated this with washed sulphuretted hydrogen, letting the gas pass slowly through for an hour or more, and letting the precipitate stand from Wednesday evening until Friday morning; I then decanted off the greater part of the liquid, which was over the precipitate; I washed it with distilled water and dissolved it in strong muriatic acid; I mean I washed the precipitate always; I then transferred it to a porcelain evaporating dish and evaporated it to dryness; part of the precipitate, or rather part of the evaporated solution, contained either organic matter or some coloring principle—it was a deposit, anyhow; it appeared to be other than a salt; dissolving all this evaporated residue with strong muriatic acid, and diluting with water, and passing sulphuretted hydrogen through it, I obtained a precipitate of sulphide of antimony, or what appeared to be so from the color; it was not the bright color of tartar emetic which you would get from the pure salt, but it seemed to be modified by some coloring principle which I could not get rid of; the color was modified only slightly, and not enough to cause any doubt in my mind that it was antimony which had given the precipitate; all the colors produced by sulphuretted hydrogen from metals are modified by circumstances, and the color obtained in this precipitate was more like what I would obtain from pure tartar emetic than any I had obtained so far; this precipitate was shown to Prof. Wilson, who did not hesitate—(Here Mr. Steele quickly interrupted, and Mr. Revell told the witness that the statements of another were inadmissible.) He continued—After pouring off the liquid from this precipitate and drying it; I weighed it in a glass beaker, deducting the weight of the beaker glass from the weight obtained by the beaker with the precipitate in it; the weight of the precipitate, from the quantity taken, was 25-100ths of a milligramme; the quantity of the solution I had taken was about 1-16th of the whole; that would give four milligrammes of the sulphide of antimony, which would have been the quantity I would have obtained from the whole solution; that would have been about 6-10ths of a grain; this 6-10ths would have been of the sulphide of antimony, which would have been equal to 3, perhaps, 4-10ths of a grain of metallic antimony; as I took a little more than half of the contents of the larger jar, if what remains in the jar contained the same quantity, the total amount of antimony would have been in round numbers from one-half to three-quarters of a grain; any coloring matter remaining in the solution in which the precipitate was formed might be expected to increase the weight slightly; it might or might not increase it; taking everything into consideration, I may be safe to say that about one-half of a grain of metallic antimony may be considered present; I say may be considered, because what remains in the jar may contain more or less of antimony, than what I took out; to this precipitate which I had weighed in the beaker, I added a drop or two of strong nitric acid; it was then in the beaker; after stirring round the nitric acid with a glass rod, some little time, I obtained as a result a white insoluble residue; that is, insoluble in nitric acid; tin would have given the same result; I know of no other metals than tin or antimony which would have given that result; arsenic would not; this white insoluble residue is soluble in tartartic acid, if antimony; it is not soluble if it is tin; filtering off this white deposit, and collecting it on filtering paper first before disolving, I evaporated to dryness to see if the nitric acid would dissolve it, and the white precipitate remained; while it was evaporating to dryness in the beaker I prepared a solution of tartaric acid in water, and added it to the white deposit, which it dissolved without much difficulty; now I got a solution of this white solution in tartaric acid and passed that solution through filtering paper into a clean vessel, taking the precaution of *not* washing the filtering paper lest the water might dissolve something else; to prove that this was dissolved and that there could be no mistaking it for antimony, I added a few drops of hydrochloric acid to the filtered solution, passed sulphuretted hydrogen through the solution and got the precipitate of sulphide of antimony; this finished my examination of the contents of the larger jar; having obtained the dark spots on porcelain and its subsequent reactions, the obtaining a precipitate by sulphuretted hydrogen from the acidified original solution, and the color of that precipitate, the white precipitate obtained by strong nitric acid, its solution in tartaric acid and subsequent precipitation by sulphuretted hydrogen and the solubility of the sulphide precipitated by sulphuretted hydrogen in caustic potash, leaves no doubt in my mind of the presence of antimony; that completed my examination of the contents of the larger jar; I now proceeded to take the contents of the smaller jar, which was said to contain the kidneys, etc.; I treated them in about the same manner I had treated the part of the contents of the larger jar; I only noticed in that analysis that the solution obtained was of a very light color after the first filtration, whereas in the first analysis it was much darker; in this second analysis, while evaporating the solution down to concentrate it the color remained light till towards the end, when it became much darker; this fact would have little if any bearing on the presence or absence of antimony; it might occur without

antimony; the whole quantity obtained was evaporated down quite low, and to get a definite volume of liquid I added distilled water till it reached fifty cubic centrimetres, which would be between an ounce and a-half and two ounces; about an ounce and a-half; I use the French measures; I took one-tenth of this solution to see if I could obtain spots on porcelain; trying by the same methods, I obtained very light spots, that is small spots; I mean light as regards weight; these spots seemed not readily volatile by heat and readily soluble in sulphide of ammonium; from the looks of these spots, as far as looks go, I would say they were antimony; there is no doubt of their being antimony or arsenic.

Mr. Revell—Did you preserve those spots?

Witness—Yes sir, and I have them here.

Professor Tonry then continued—While obtaining these spots I put a spirit lamp under the delivery tube; that gave me a ring near the heated part of the tube and inside; that also would indicate antimony or arsenic; then passed the hydrogen as it came from the generating glass, through a so lution of nitrate of silver; then I obtained what appeared last night a dark coloration, which this morning, on being looked at, had become a precipitate, a rather dark precipitate; from the looks last night by gas light, after the addition of the hydrogen gas, very small particles seemed to be floating around; there is no mistake this morning about the precipitate; setting this aside I next took three-fifths of the original solution, and passed through it sulphuretted hydrogen gas, and obtained a black or what appeared last night to be a black precipitate; this black precipitate would not necessarily indicate antimony, but antimony being a lighter color might be present with the black precipitate; this black precipitate was washed with distilled water, and then strong muriatic acid was added to it, and the resulting solution filtered; the filter was washed, and all the solution which had passed through the filtering paper retained; any antimony present would have been dissolved by the strong muriatic acid, and would have passed through the filtering paper, and would be, of course, in the resulting solution; now, passing sulphuretted hydrogen through this resulting solution, I obtained the unmistakable color of antimony, more so when the precipitate first formed than afterwards; these results induce me to say that antimony was present in the contents of the second jar; that completed the examination I made of the material brought me, and the silver solution and the ring inside of the tube I have not had time to test.

The witness here opened a sealed box, took from it a porcelain lid, showed it to the jury, the chemical experts, the respective counsel and the Court. Five spots, of a dark color, were present.

He then continued—When I opened the first jar on one of the pieces there appeared the unmistakable color of an antimony precipitate by sulphuretted hydrogen; that was as soon as I took it from the jar; also a slight canary yellow arsenic color; that is under the same process; I also looked at one of the pieces of the sample; it struck me that the sulphuretted hydrogen—

Mr Steele said any mere guess of the witness would not be evidence.

The witness continued—The decomposition of the body seemed to have caused any antimony present to have been precipitated; I asked one of the gentlemen to come to the laboratory when I opened the samples; after waiting sometime I requested my friend, Dr. Forster, to be present.

At this point, the witness having not yet concluded, the Court adjourned to 10 A. M. tomorrow.

NINETEENTH DAY.

ANNAPOLIS, December 27, 1871.

The large attendance yesterday upon the Wharton-Ketchum trial showed that the interest of the public is still eager and earnest, and though the proceedings partook of the tedium of the details of chemical investigations, the attention of the spectators seemed as patient as when the incidents of General Ketchum's last sickness were being narrated. An unusually large number of ladies were present, and among them several well known representatives of the upper circles of Baltimore society Colonel Harwood, the courteous and attentive clerk of the court, has assigned to the ladies nearly one-half of the space allotted to spectators, and with gallant forethought has provided for their special accommodation elevated seats, from which they can observe all that passes and hear everything that counsel, court and witnesses say. The gentle sex seem duly appreciative, and from the beginning of the great trial, have exhibited the most patient interest. A great desire was felt on yesterday to learn the result of Prof. Tonry's complete analysis, and during the delivery of his testimony marked silence reigned throughout the court room. The five dark spots on the porcelain lid exhibited by him were observed by those to whom they were shown with the same anxious scrutiny which the previous thirteen spots had attracted, and the experts for the defence were all attention while Prof. Tonry was on the stand. Prof. Tonry's manner was modest but self-possessed, and he gave his testimony in a quiet, unassuming way, which divested it in great part of any objectionable, sensational interest.

Mrs. Wharton exhibited again on yesterday the remarkable composure which distinguished her manner previous to the re-call of Dr. Williams, and the introduction of Prof. Tonry's testimony, and with the exception of a few words exchanged with her daughter and Mrs. Neilson, there was nothing to indicate that she was nervous or agitated. Her veil hung over her face in heavy folds, and it was impossible, except to those near her, to observe any changes of expression, if, indeed, there were any. She seldom changes her position, but sits quietly in the ordinary office cane-bottom chair provided for her, without

exhibiting the weariness which is experienced by those around her.

Her hands, neatly gloved in black kid, are kept most of the time in a handsome sable fur muff, which she has carried in Court constantly since her arraignment; and even when in conversation with those near her, she loses but little of the calmness of manner which she has so long maintained. Her daughter still occupies a seat immediately to her left, and, like her mother, is clad in black and heavily veiled. She was, on yesterday, very attentive to the testimony of Prof. Tonry, but exhibited no unbecoming anxiety.

Upon the opening of the Court to-day, Professor Tonry was re-called for cross examination by Mr. Steele and testified:I was employed in the Surgeon General's Office in Washington, from October, 1866, to July, 1869,when I accepted the position of chemist for the Baltimore Copper Company; I was with the Baltimore Copper Company for about four months; I was not discharged but resigned; on one or two occasions the President of the Company, Henry Martin, wanted me to return less than I found the ores contained, and I refused to do so and resigned; early in 1870 I opened a laboratory in Baltimore; I was set down as hospital steward on the rolls of the Surgeon General's Office, and was ordered to report for duty in the laboratory of his office; I was engaged in assisting Dr. Craig in making chemical analyses; we made them frequently for the Commissary Department, as well as for the Medical Department; I have never before analyzed the organs of a human body supposed to have been poisoned; my directions were "to examine only for antimony;" those were, I think, the words used to me, and that was the object of my examinations; one jar was covered with paper, and the other corked; I received the jars on Sunday, and commenced on Monday morning about 10 o'clock to prepare for the analysis; the color first precipitated was a brown, bordering on red; I object to your asking about the color of a precipitate which I took as a guide as to the quantity to be used; I can hardly consider the precipitate as an orange red; I cannot remember whether it was Tuesday or Wednesday evening that Dr. Chew said I would have to come to Annapolis; I measured the quantities I used, but not absolutely accurately; I havn't all the spots here, as of course some were used subsequently, as I have stated; the experiment made in Dr. Chew's presence was before the solution had been completely filtered; I would not pretend to decide how much weight of antimony one of those spots contained; the weight would depend upon the time it was kept in the flame; I have not had experience enough in the weight of those spots to state even an estimate of their weight; I would not estimate any weight so contingent; Wormley says in his Micro-Chemistry, that the thousandth part of a grain would give a spot; I described the test I used as a very delicate one; the weight of the spot would depend upon the strength of solution used; I absolutely refuse to give any estimate of the weight of antimony in the thirteen spots; the spots I exhibited yesterday were even more minute than those previously exhibited; in regard to their proportion in weight I can give no estimate, but as regards the surface covered I should say that the five spots shown yesterday covered about one-fifth of the space covered by the thirteen spots first shown; the reason why I said I took one or two of the spots was because the spots were close together; the manipulation of the minute quantity, that is its solubility, would not depend upon its minuteness; I decline supposing any weights; if a spot contained a thousandth part of a grain I certainly think I could manipulate it; I do not know that chemical authorities state that the one hundredth part of a grain is the smallest quantity that can be manipulated; Wormley, I know, goes further; I am not aware that any substance, other than antimony, under the process I used, would give the dark spots I obtained; Taylor says selenium, phosphorus, and some organic matter may unite with hydrogen and give dark spots; I would not think for a moment that organic matter gave me the dark spots I obtained; I never tried the experiment Taylor recommends; I followed Wormley principally, and he differs from Taylor; the balance I used was one of the new pattern of Becker & Bro.'s, of Belgium. [Prof. Tonry here referred to his laboratory notes to recall the exact figures he was now asked to give] and continued: The beaker glass was 16.019 grammes; the weight of the whole precipitate was 16.0215 grammes: I am pretty certain that the balance was horizontal on the knife edges; the balance I keep in a glass case which has sliding doors; I have used it for about a year and a half, and frequently; from these weights I came to the conclusion that the whole weight of the precipitate was twenty-five one-hundredths of a gramme; Prof. Tonry here exhibited his notes to Mr. Steele and explained to him how he had figured out the quantity; he next, at Mr. Steele's request, figured out the number of milligrammes in a gramme. He then continued: A gramme is equal to fifteen grains and forty-three hundredths one milligramme is equal to fifteen one thousandths of a grain, and a fraction over; I cannot get it otherwise; on my balance I can weigh the three-thousandth part of a gramme; it is guaranteed to me to weigh the twentieth of a milligramme; I took hold of the top of the beaker and not of the sides, lest the moisture from my fingers should adhere to the sides of the beaker; a very small portion of moisture from my hand might have adhered to the rim; I transferred the solution by washing from the filter paper; after settling, I drew off the supernatant liquid by a pipette, absorbed the greater part of the balance by filtering paper, by capillary attraction, and evaporated the slight balance in a beaker glass over a water bath, but I do not know how long I kept it over the water bath.

Mr. Steele here recalled the witness to figures, and sometime was occupied in figuring in decimals and vulgar fractions, the results being merely tests of the mathematical accuracy of the witness. He continued—My balances would, I think, turn with the one-twelve-thousandth part of a grain; it is guaranteed to be accurate to the one seven-

thousandth part of a grain; they are kept accurate by means of chloride of calcium powders, and are kept thoroughly dry.

The witness was here asked if four milligrammes were equal to six tenths of a grain, and after figuring said it was equa l to six one-hundredths.

Mr. Steele.—"You testified yesterday that it was six tenths, therefore ten times less than you make it to-day." The witness admitted the mistake.

Mr. Steele—"Assuming that your weights were correct, and you knowing and admitting that there was foreign organic matter in the solution, could you treat it as a pure sulphide?" The witness replied that the organic matter was very small: it was coloring matter.

Professor Tonry then continued—If the solution of the substance .is very acid and the sulphuretted hydrogen passed over slowly, there would be very little probabilty of a precipitate of sulphur; in *none* of my solutions did I pass the sulphur through twice without first washing the precipitate obtained and bringing it again into solution; I do not think there would be an excess of sulphur if the sulphuretted hydrogen passed through a washing bottle; if sulphuretted hydrogen is passed through a very acid solution there will be an excess of sulphur over that in combination; I deny that there would be an excess of sulphur in the precipitate—in the solution there would be an excess; (here Prof. Tonry explained the reasons for this opinion); sulphuretted hydrogen under certain circumstances may be decomposed in water into pure sulphur. Here Meesrs. Steele and Hagner referred to the report of Professor Tonry, in the GAZETTE of to-day, and the witness resumed: I added the potash to dissolve the sulphide, and I presumed it would be antimoniate of potash; I then added tartaric acid with the object of obtaining tartrate of potash; I would not have obtained an orange precipitate if no antimony had been present; I do not now remember that immediate compound; referring to the spots obtained on porcelain, I let the gas flow on the spot I used until it dried by spontaneous evaporation; I cannot, however, estimate the weight of antimony in that spot; I did not have to add heat to dry it; I would prefer to decline to give an estimate of the amount of tartar emetic that the spot would form; I simply say I can't make the estimate; I did not put anything into the hydrogen gas I used; I have no knowledge of anatomy, and no experience in post mortem examinations; to my knowledge there are no substances but antimony or arsenic that, under the circumstancess, would give those spots; new metals have been discovered from time to time, but not frequently; I cannot give you the dates of the discoveries of the rarer new metals; all the qualities of the new metals are not perfectly known; I obtained a metallic bead from the metallic antimony and from the tartar emetic I tried for that purpose, as I stated yesterday; I took about a half a grain or less, and it gave a bead without difficulty; that amount of tartar emetic would contain about a-fourth of a grain of antimony; the color of the pure sulphide of antimony is generally mentioned as orange red; I am not aware that any organic matter would give the orange red precipitate under the process I used; if there be any, then the test I have described is not conclusive, as far as color is considered; I removed the precipitate from the beaker glass by dissolving it in the glass; it was, perhaps, two hours after that I weighed the beaker glass. [The witness here, at the request of Mr. Hagner, wrote in chemical formula what was in the beaker glass before he added the potash, and it read "SbS^3."]

To Mr. Thomas—I found, by my tests at the Baltimore Copper Company's Works, that I obtained almost the same physical results from antimony or arsenic; I attached no importance to the physical appearance of the spots, as distinguishing between antimony and arsenic, but I rely upon the tests I used. The witness here briefly repeated his statements of the tests he had used. I tried the nitric acid as a matter of experiment; I threw that result aside as of no particular value under the circumstances; when I fused the sulphide precipitate on charcoal I failed to obtain any of the metal observable to the naked eye; one of the solutions from one sample I had taken, after having passing the sulphuretted hydrogen through it, and decanting the supernatent liquid, I put aside in a flask; when I went home from here on Friday I found in that flask the unmistakable bright red orange color of antimony, but as I broke the test tube in which I obtained what appeared to be the white antimony precipitate with water before it had time to settle, I did not think it necessary to speak of that portion of the sample; I showed the color to one of the experts for the defence—Prof. White.

To. Mr. Steele—Before I went to the Surgeon General's office I had been for three years at Georgetown College, the latter part of that time as Adjunct Professor of Chemistry; I was born in Ireland, lived in New Brunswick for a time, studied one year at Boston College, and also at St. Charles College, Maryland; I have lived most of my time in Maryland.

To Mr. Revell—I have seen it mentioned in some of the books that tartar emetic contains traces of arsenic.

To the Court—I have examined the stomach of an animal for strychnine.

Professor Toury's cross-examination was concluded at a quarter of 1 o'clock; Professor Aikin's cross-examination lasted twice as long.

Mr. Syester here stated, in answer to the inquiry of the Chief Judge, that the State had closed its case.

Some considerable time was consumed in consultation, but no mention made of an intention on the part of the defence to make an opening statement.

Testimony for the Defence.

Francis D. Cleary was first called, and, in answer to Mr. Hagner, testified as follows:

I live in Washington and am of the firm of Latimer & Cleary; I remember an interview I had at my office, corner Eleventh street and

Pennsylvania avenue, on the 24th of last June, about 2 P. M., with Mr. Carusi and General Ketchum; it was a very warm day; as I was writing a check for Mr. Carusi a drop of perspiration from my forehead fell on the check, and I tore it up; General Ketchum opened his vest, and his shirt was saturated with perspiration and stained, I suppose from the lining of the vest; I did not notice an inside pocket; my office is about a quarter of a mile from Mr. Carusi's office; I am very ignorant about the streets of Georgetown, and as near as I can say, General Ketchum lived a mile and a half or three quarters from Mr. Carusi's office; the check was for the money ($11,900) for the house I had sold General Ketchum; I did not know that the whole amount had been deposited; General Ketchum and Mr. Carusi left to get the check cashed; it had been deposited to our credit on June 13th; I did not know, however, that it had been deposited; I don't know positively who deposited it; the terms were one-third cash, the balance nine, fifteen and twenty-one months, with interest from day of sale. The Court here decided that anything General Ketchum may have said of his sufferings and symptoms could go to the jury. The witness then continued—The remark he made to me was not as to his state of health or his symptoms. Mr. Hagner here asked if anxiety had been expressed by General Ketchum as to the time he had to live, would it be within the ruling of the Court to give it in evidence, and the Chief Judge said it would not. Mr. Thomas said that the Court had admitted testimony of General K's., health, disposition and religion, and he desired to know if General K's., statement of his anxiety about his health would not be admissible to rebut the presumption raised by such testimony.

The Chief Judge said the Court had allowed testimony as to the general habits and character of General Ketchum, and if the witness knew of General Ketchum's habits and disposition he could state what he knew, but he could not state any particular statement.

The witness continued—I had no acquaintance with General Ketchum until the 12th of last June; the terms of sale required $250 on the fall of the hammer, but General Ketchum told me who he was, and paid the money next day.

To Mr. Revell—I am in my 39th year; I can't say whether or not he had an inside vest pocket or that he had any papers in his pockets.

To the Court—General Ketchum had paid the entire purchase money on 13th of June.

Ellen Deddrick, a negro servant of Mrs. Wharton, was next called, and testified: I lived in Baltimore from October, 1870, to July, 1871; I have been living since in Philadelphia, and lived there before going to Baltimore; I was at my father's, near Baltimore, during July, August and September of 1870, and went to Mrs. Wharton's in October, 1870; General Ketchum arrived at Mrs. Wharton's after 6 o'clock on the afternoon of the 24th of last June; Susan Jacobs was the only other servant Mrs. Wharton had; I was waiting on the table when Mrs. Chubb and General Ketchum took tea that evening: they had frizzled beef, ham, biscuit, bread, butter, tea, coffee, and raspberries; General Ketchum ate a very hearty supper; he took coffee; he ate so heartily as to attract my attention, and spoke as if he had to make up for two meals; he drank three cups of coffee, and I think four; he ate several biscuits; I think they must have been five or six; that is more than the usual number; he ate of all that was on the table, except of the bread; I don't remember that he ate any bread except biscuit; he ate of the raspberries, and the meats also; I think he was helped only once to raspberries. The State objected to the witness repeating what General K. had said about his having drank ice water, and the defence did not press the inquiry. The witness continued—I attended to General K.'s room on Sunday morning, but not on Monday; General K. seemed to be a sort of a peculiar man, and I did not care to wait on him; I took a glass of cracked ice to him on Monday night about 10 o'clock; he asked me to hand his pantaloons from the closet that he might get his watch key; the pants were in the closet near his bed; that was Mrs. Wharton's closet; Mrs. Wharton's own room was on the floor below, and there was neither a closet nor wardrobe in her room; Miss Nellie's room was the back room on the second floor, and that room had a closet and a wardrobe; the passage from the dining room to the kitchen was narrow; I can't give the exact width; several ladies were occupying Mrs. Wharton's room when General K. was sick; there was an old white nurse there with a child of one of the ladies; she was quite an old woman; during the sickness of General K. a great many persons were about the house; Mr. Van Ness was sick in the parlor, and the dining room was the only room open down stairs; the doors of the rooms were generally kept open, as the weather was very warm; I saw the little nursery refrigerator on the hearth in the dining room; there is one door on each side of the dining room, and in all three doors: one door leads to the cellar, one leads to the kitchen, and the third is the entrance door from the main passage way; several times servants came there to bring articles for Mr. Van Ness; I don't know how many times they came; a person could get from the cellar to the kitchen; there was a great deal of passing and repassing from the kitchen to the dining-room; the nursery refrigerator was not Mrs. Wharton's, but had been brought there it looked like tin; it was not the habit in the house to keep the closets locked; medicines were kept in Mrs. Wharton's washstand in the second-story room, which Mrs. Van Ness occupied; that washstand was not kept locked: whenever I wanted to go to it for anything I went; I saw the vial shown here by Dr. Williams and I had been shown it before by Susan Jacobs on the evening before Gen. Ketchum's death; I think she showed it to me while I was in the second-story of Mrs. Wharton's house. Mr. Steele asked what Susan Jacobs had said about it, but Mr. Syester objected and the inquiry was postponed.

The witness continued—As far as I know I had never seen the vial before Susan Jacobs showed it to me. Mr. Steele next renewed

his inquiry about what Susan Jacobs had said to the witness about the vial.

Mr. Revell objected to it as hearsay testimony, and said it only related to a conversation between the witness and Susan Jacobs, and not held in the hearing of Mrs. Wharton. It was not a part of the res gestæ, and not admissible.

Mr. Steele said the finding of the bottle had also been made an important part of the evidence by the State itself, and the defence wished to confirm the finding of the bottle. The conversation would give color to and confirm the finding of the bottle. The Chief Judge said the Court considered that the conversation spoken of was not evidence. Judge Hammond said Susan Jacobs had not yet been impeached, and it was not competent to prove by conversation with another the finding of the bottle.

The witness continued—Miss Nellie came home between 1 and 2 o'clock the day General Ketchum died; she had, I think, been absent since the previous Thursday; the main stairway led up between the dining room and parlor; there is also a stairway leading from the kitch n to the second story, and in coming that way it would be necessary to go through Miss Nellie's room; I attended to work generally throughout the house.

To Mr. Syester—Mrs. Wharton, Mrs. Chubb and General Ketchum were present at the tea table; the beef was smoked beef; the ham had been boiled and was cold; I think Mrs. Chubb ate of nearly all that was on the table, but I did not notice particularly; Mrs. Hutton did not take any tea; I can't tell what was served for breakfast; there was more quiet on the next day, and that is why I can't say what they had for dinner; I was sent from the room, too; I know that General K. took three cups of coffee, and I think four; General K. wound up his watch when I handed him his pantaloons; I lodged in Mrs. Wharton's house, and I sup pose I went to bed about 11 o'clock; I washed the tea dishes, and was in the dining room during tea; the period I speak of, when persons were passing in and out, was between Saturday night and Wednesday; I saw persons I did not know; Mrs. Wharton presided at the tea table, and poured out the coffee for General Ketchum; it was a round table and not large; I think I handed him the beef; I don't remember any more than one piece of the ham he ate; I kept account of the cups of coffee, because he said he was making up for two meals; General Ketchum ate four or five or five or six biscuits; sometimes I am in the habit of noticing how much people eat where I am waiting; I generally hand everything that is on the table; I am not certain how many biscuits Mrs. Chubb ate; I don't think there were very many vials in the washstand; I have seen four or five vials in there; I don't remember that I went to the washstand while General Ketchum was sick; I used to go to the washstand for paregoric and arnica, and also to get the ladies' shoes, and then to put them back; I don't think I ever saw any vials anywhere except in the washstand; the cups from which General Ketchum drank were of the size all first-class people use, not so large as common people use; I don't think they would hold quite as much as a tumbler; I retired about 11 o'clock on Monday, and got up about half past 6 o'clock; I don't remember that during General K.'s sickness my regular hours were broken in upon; I did not go into General K.'s room after Monday evening; I saw some of the servants who came to bring articles for Mr. Van Ness go into the dining-room; they were strangers to me, and I don't know the names of any of them; I did not have occasion to use often, the medicines in the washstand; there was Jamaica ginger in there, and I used to go for that; sometimes arnica, and sometimes paregoric would be in there also; there might have been something "simple" there besides; when I went for Jamaica ginger I did not look for anything else.

To Mr. Steele.—Sometimes when persons came to Mrs. Wharton's and took a very hearty meal, Susan and I would pass a joke about it, and we did so about General K.'s supper; I frequently had occasion to go to the washstand when the ladies' slippers or shoes were left out; it had two shelves; no place in the house was kept locked so that I could not have access to it.

Susan Jacobs (colored) was next called, and testified; I was living with Mrs. Wharton at the time of General K.'s death, and had been with her as a cook for nearly six years; I took charge of General K.'s room on Monday morning, and I went to his room on that morning about 8 o'clock; on that morning, between 9 and 10 o'clock, after breakfast, I saw a little vomit in the slop jar in General K.'s room, and again between 1 and 2 o'clock I found about the same quantity in the jar; General K. took breakfast in his room on Monday; I asked what he would have for breakfast, and he asked me what I had for breakfast; I told him the breakfast was nearly eaten up; he asked if I had any cold meat, and I told him I had cold roast beef and cold ham left from Sunday's dinner; he told me to cut him off three or four thin slices of the cold roast beef and to leave no fat on it; he wanted also a coup e of slices of dry toast, without butter, and a cup of tea; I got them for him about a quarter-past 9 o'clock; I continued to attend to his room until he died; on Tuesday morning I went to his room with Mrs. Chubb and I heard him tell her he would come in the next train; I found no vomit in the slop jar on Tuesday.

The Court here adjourned until 10 A. M. tomorrow, when Susan Jacobs will be recalled for cross-examination by the State.

The attendance to-day upon the trial was larger than usual, and notwithstanding the tedium of a great part of the proceedings, the spectators remained until the adjournment of the Court. Mrs. Wharton and her daughter occupied their accustomed seats, and there was nothing unusual in the manner of either. Mrs. Nugent, Mrs. Neilson and Miss Rosa Neilson were present with them. Mr. Charles L. Ketchum was the only member of the late General Ketchum's family present to-day. General Brice is absent in Washington. Among the spectators to-day were Commodore Decatur and Commander McAuley, of the navy; Rev. C. K. Nelson of St. John's College, and Lieutenant Colonel Loney, of the Fifth Regiment of Baltimore, were also present.

TWENTIETH DAY.

ANNAPOLIS, December 28, 1871.

The first act of the fearful drama which has for an unprecedented length of time engaged the attention of the Circuit Court for Anne Arundel County, and, in a measure, of the whole State of Maryland, closed on yesterday, but it cannot be said that the curtain rose upon the second. Contrary to general expectation, the learned counsel for Mrs. Wharton made no opening statement to the jury, and they did not, in the testimony of the witnesses they called, more than foreshadow what constituted the grounds of their defence. After the Attorney General announced the close of the State's case, there was a considerable intermission before a witness for the defence was called, during which time the counsel for the defence were engaged in close and earnest consultation. The jury, Court, reporters and spectators were evidently awaiting with no little interest the result of their deliberations, and there was a look of disappointment on many faces when Mr. Hagner, in a restless and somewhat vervous tone of voice, called upon Mr. Cleary, of Washington, to take the witness stand. Mrs. Wharton sat unmoved during all the time Messrs. Steele, Hagner and Thomas were deliberating, and, judging from her manner, her reliance in the wisdom of her counsel was implicit and steadfast. Her whole manner when the State's officers announced the close of their case was as calm, patient and resigned as when Mr. Revell moved her arraignment on the most fearful charge known to the law, and there was no observable change in her bearing during the anxious interval which her counsel occupied. Miss Wharton appeared more anxious and by the close attention she gave to all that was passing around her, and her avoidance of conversation with those of her friends who sat near her, showed that she fully appreciated the importance of the stage her mother's trial had reached. Her heavy veil concealed whatever of emotion her face may have betrayed, but it was noticeable that her manner on yesterday more than on any previous occasion partook of the sadness and composure which has so long characterized her mother. The attendance upon the trial was almost as large as on the opening day, but the interest manifested was calmer and more earnest.

Upon the opening of the Court to-day, Susan Jacobs, the colored cook of Mrs. Wharton, was recalled by the defence, and in answer to Mr. Steele, testified:

I took General Ketchum some dinner on Monday, and also tea at night; I do not recollect the time of the day Dr. Williams came on Monday; I heard he was there, but I was not in the room; I found vomit in the slop jar after Dr. Williams had left; on Tuesday I found no vomit, and I found no urine on Tuesday; I went to his room on Tuesday morning, and he told me to cut him off a couple of slices of the roast beef, and leave no fat on it, and to bring him two slices of toast without butter on it; after Mrs. Chubb left I went to his room and found him in bed; the family breakfasted that morning about 9 o'clock, and I took him his breakfast after the family breakfast; he was in bed when I took up his breakfast; I left his breakfast on a little table by the side of his bed and went down stairs; when I returned he had eaten a slice of toast and a small piece of beef; I took him up a cup of tea soon after Mrs. Chubb left, but he did not drink that one; he drank, however, the tea I carried him for breakfast; I made the tea and took it to him myself; he ate his breakfast in bed; when I thought he had finished breakfast, I went up to make up his chamber; he got up and went to the lounge; he did not seem well, but seemed quite feeble; he did not stagger, but when he sat down he seemed quite weak; he did not require any assistance in sitting down; when he sat down he put his hand under his jaw in this way.

[Here the witness showed how General Ketchum had leaned his head on his hand while sitting on the lounge.]

The witness then continued—Gen. Ketchum did not return to his bed while I was in the room; I went up again, found him in bed and in a kind of drowsy sleep; he told me, when I asked him how he was, to let him alone, and that he would soon sleep it off and feel better; he took no medicine while I was there; I asked him if the doctor had left him any medicine, and he said the doctor had given him but one dose, which he did not think was sufficient, and he had taken a dose of his own medicine, which he knew was sufficient; I went up about dinner time to see what he would have for dinner; I had cooked dinner, and generally got dinner cooked by 3 o'clock; when I went up I found him lying on the bed fast asleep; I woke him and asked him how he felt, and he said if I would let him alone he would soon sleep it off and feel better; I asked him what he would have for his dinner, and he said he would take a cup of tea and a piece of toast; he rose up in the bed and said he would try to set up while I was in the room; he got out of the bed and started over towards the lounge, which was between the windows; he got out of the foot of the bed; he appeared as if he was going to pitch over, and I ran with a pillow, and by the time he got to the lounge, put it under him; he appeared so weak that I fanned him awhile; I went down stairs, after fanning him awhile, and found Mrs. Wharton in the back room of the second story, sitting in a chair and reading; I asked Mrs. Wharton if she would go up to see General Ketchum, for he appeared so feeble that he was hardly able to walk across the room; she went up stairs to him; I went then to the kitchen; in a few minutes Mrs. Wharton rang the bell, and I went up to her; when I got up stairs she asked me if I would make up the bed, for she wanted the General to lie down, and he had said he could not lie on that bed, because his feet were up and his head was down; she told me to go down stairs and bring up the feather bolster which was on Miss Nellie's bed; I brought it up; Mrs. Wharton was sitting by the side of the General, and fanning him; I went on to make up the bed; I took off the cover, and had started to take off the bolster, when the General

spoke to me; I did not understand what he said, and I asked him what he had said; he spoke again, quite sternly, to me; I looked around to see what it was, and picked up the tumbler, which was the only thing I saw at the head of the bed; cracked ice was in the tumbler; it was between the bolster and the head-board; it was wrapped up in a couple of towels; I put the tumbler on the mantel-piece; I then took hold of the bolster to take it off, and as I took it off a little vial rolled down into the bed from about where the tumbler had been; I picked it up and laid it down on the floor by my side: I went on and made the bed up; the General did not go to bed while I was there; after I had made up the bed Mrs. Wharton left the room; I remained a few minutes and asked the General if he would get in the bed, and he said he would; he went to sleep and did not get what he had ordered for dinner; I saw him several times that evening; he was "kind of sleepy" the whole time; Mrs. Wharton went out driving with Colonel Loney on that evening; I saw the General quite often while she was absent; he was still drowsy; I found no vomit in the slop-jar on Tuesday night; in the morning he breathed very heavily, but after dark he did not breathe so heavily; I now refer to Tuesday; I came down and left the vial up stairs; I saw Mrs. Wharton after that and told her what I had found; I told her about it before she went out riding; she asked me if I had brought the vial down with me, and I told her I had left it up stairs and had forgotten it; I told her I would bring it down when I went up again; when I brought it down she had gone out riding; I took care of the bottle until she returned; I was standing in the entry, and when she came in the door, I threw my finger up to her so (here the beckoning motion); she came to me and I showed her the bottle; she looked at it and we saw what was in it; she told me to put it away and take care of it; I then put it away; I showed the bottle to Ellen Deddrick while Mrs. Wharton was out riding, and I told her where I had found it; I did not speak to Mrs. Wharton again about the bottle until Wednesday morning; she came to me, asked me to give her the bottle, and I gave it to her; she sent me for Dr. Williams on Wednesday morning, about 8 o'clock, I think; I saw him at the door of his office; he did not return with me; I told him the General was quite bad and quite drowsy, and that Mrs. Wharton wished him to see him; I saw here the bottle shown by Dr. Williams; to my knowledge I never saw it before I found it in General K.'s bed; right smart of people were about Mrs. Wharton's house while General K. was sick there; I had taken the tumbler of cracked ice to General K.; I saw no vomit in any place in General K.'s room; I had seen General K. quite often before at Mrs. Wharton's; I saw him take some medicine on one of his previous visits last summer; I was in the dining room putting away the silver, and he was at the mantel-piece with his medicine; I asked him if he would have a spoon, and he said he didn't want any spoon; he then said he generally drank out what he thought was enough for a dose; I did not know what the medicine was; the food I took to General Ketchum had been cooked and prepared by me; nothing was kept locked in the house except one drawer in Miss Nellie's bureau, where she kept her jewelry, and one side of the side board where the silver was kept, and to which I had the key.

Cross-examined by Attorney General Syester—I now live at 263 Eutaw street, Mrs. Wharton's late residence, and am taking care of it for her; about half of the ice had been used from the tumbler, but I cannot say how much water was in the tumbler; about two hours after I took up the tumbler I went up to make up his bed; I had wrapped it with a tea towel, and when I took it to him he wrapped another towel around it; he then put the tumbler between the bolster and the head of the bed; I did not see where the bottle was sitting; but it rolled down about where the tumbler was sitting; I did not look under the bolster when I took the tumbler away, and did not see the vial; it rolled right straight down into the middle of the bed and I picked it up; the General took breakfast in bed on Monday morning, and I took him four very little thin slices of the beef; he had eaten, when I went back, three slices of beef, two slices of the toast, (eating the crumb out), and had drank a cup of tea; I took him for dinner on Monday five slices of roast beef, and he left two slices; I also took him toast; he ate one slice, taking out all and leaving the crust; I did not take him any tea; he ate his dinner in bed; I took him breakfast on Tuesday morning; I heard him say to Mrs. Chubb that he would come on the next train; on Tuesday morning I took him three slices of beef, two slices of toast and a cup of tea; he ate only the toast, and drank the cup of tea; I found no vomit on Tuesday and none on Wednesday morning; I went in his room just before 8 o'clock on Wednesday; he was lying on the lounge, and he was dressed; the cover on the bed was just as I left it on the previous evening; he did not ask for breakfast on Wednesday morning, and I did not take him any; he took breakfast in bed on Monday and Tuesday mornings; it was Tuesday morning when he went to the lounge and laid his head on his hand; he dressed himself on Tuesday morning; that was about two hours after Mrs. Chubb left; Gen. Ketchum looked feeble, and I judge also from the way in which he sat down; when I waked him on Tuesday morning he seemed quite drowsy; he was snoring very heavily when I entered his room; I don't know what made him drowsy, but I had to wake him up every time I went into his room on Tuesday; I did not have to shake him, but only to call him; he did not say he was sick; I gave him his breakfast, and it was after that time that he told me to let him alone and he would soon sleep it off; he did not say what it was he was going to sleep off; he did not say what had become of the medicine the doctor had left; he said he had taken one dose of his own medicine, and he knew that was sufficient; he did not take any dinner on Tuesday, but I asked him

what he would have, and he said he would take two slices of toast and tea; I went up with it, but he was asleep and I did not disturb him; I went up quite often, because I was waiting on him; I saw the General on Tuesday about mid-day, but did not see him up Tuesday afternoon; Mrs. Wharton was not in the room when I put the pillow under the General's arm. (The witness here repeated her account of notifying Mrs. Wharton and sending her to General Ketchum; also her directions about the making up of Gen. Ketchum's bed.) The witness then continued—It was a little after 3 o'clock that Mrs. Wharton gave General Ketchum the pillow; she took it from under his arm, where I had placed it, and put it at the foot of the lounge; the General then laid down, and Mrs. Wharton sat by his side and fanned him: I did not understand what the General said to me, and I know now that I shall never know; I did not understand him when he spoke the second time; I laid the vial down on the carpet on the floor, and in a corner; I thought it was just as cheap to put it there as anywhere else; I saw that it had only one or two drops in it; Mrs. Wharton was in the room when the vial rolled down; General Ketchum did not go to bed at that time, but told me he would go; I went up frequently to General Ketchum's room while Mrs. Wharton was out riding; every time I thought of him I went up to see him, and I thought of him very often; the General breathed heavily until 1 or 2 o'clock on Tuesday, but when I went up at 3 o'clock he was breathing freeer; I thought then that he was quite feeble; I havn't often found vials in the beds of gentlemen, and I am old enough to know it was not there for any good; I smelled the bottle, and it smelled like laudanum to me; I told Mrs. Wharton that it smelled like laudanum; I dont think I told her that but once; I had not touched the stopper when I first told Mrs. Wharton about the bottle; General Ketchum did not tell me what kind of medicine he had been taking; Mrs. Wharton told me to take care of the bottle, and I did not think it worth while to take it back to General Ketchum, because he was asleep; I can't say at what time it was that I saw General K. taking medicine in the dining room; I don't know the month, but I know it was warm; I can't say how many weeks it was before General K.'s death; the General took a vial from the mantel, and I offered him a spoon before he took his medicine; that was on a Sunday morning, and he had come on the Saturday before; I spoke about seeing the General taking his medicine in that way; I thought it was a peculiar way of taking medicine; I did not notice the color of the medicine; I didn't look to see the color; I can't say whether it was before or after the month of April; I can't say either that it was before or after the month of March; I only know it was one time he was there, and in the same year; some of the people in Mrs. Wharton's house were strangers; I can give the names of Mrs. Van Ness, Mrs. Loney, Mrs. Hutton, old Mrs. Van Ness, Mr. Snowden, Mrs. Snowden, Col. Loney, an old nurse, a baby, and Mr. Hutton; some gentlemen came whose names I don't know; I saw old Mrs. Van Ness there; I did not meet her on the landing near General Ketchum's room; she came to the kitchen and asked to go to General Ketchum s room; I had no conversation with her on the steps; Mrs. Loney came to the kitchen with her mother and asked if any one was with the General; I told her no one was with him; she said her mother would go up and sit with him; I told her I would advise her mother not to go, as the General was a queer man, and he would not like to find, when he waked up, any lady in his room; Mrs. Loney and her mother gave no reason for wanting to go into General K.'s room; they did not say that the General was vomiting and should be attended to; I did not think he wanted me in his room; he had not told me that he did not; I had always waited upon him and I knew he was queer and would not like to find a lady sitting up in his room; I didn't think he would want anybody but me to come up and attend to him; I was afraid the General would ask me why I had sent a lady into his room; I had a conversation with Marshal Frev at his office; he asked me if General K., was taken the same way Mr. Van Ness was, and I told him no, and that the General had kind of slept; I did not tell Marshall Frey what I had taken General K., at his meals; he did not ask me anything about General K.

Mr Steele here objected to the conversation between Marshal Frey and the witness being given, and said it was not evidence.

The Court decided that the conversation could be given as laying the foundation for the offer of rebutting testimony.

Mr. Syester—"We will see about that after a while."

The witness continued—I did not tell Marshal Frey anything about the vial; I took General K. a cup of tea and a slice of toast on Monday evening, after I had sent my tea in; General K. then sat upon the side of the bed and took his tea; I moved a table up to him as he sat on the side of the bed: I can't give any idea of the hour; there was no vomit in the room at that time; Dr. Williams came before I took up his supper; I was confused on yesterday when I first came on the witness stand; after Dr. Williams got there, I found vomit there in the evening some time before I took tea up; I made a mistake yesterday about 1 and 2 o'clock; it was not on Monday between 1 and 2 o'clock, but it was after Dr. Williams came; I saw Mrs. Wharton at the dinner table before she went out riding; I told Ellen yesterday of the mistake I had made, and I thought if you would allow me the privilege I would speak it over right; I still live in Mrs. Wharton's house; I don't ask about my pay; I have not received any wages; I make my living by washing and sewing; I am not married now, but have been.

Colonel George Andrews was next called, and testified—I am a Lieutenant Colonel in the army, on the retired list; I graduated on the first of July, 1823, and was retired on the 15th of February, 1862; I knew General Ketchum as a Captain in the Sixth Infantry, in 1857 and 1858; he was under my command; it was during the Kansas difficulties; General

Ketchum was put in command of one of the companies of my command, and in April, 1858 I saw him when he was thrown from a horse; the first I saw was the horse plunging, and Ketchum was thrown off on the left hand side, and apparently struck on his head and shoulder; he was under treatment for about two weeks, but I never inquired particularly about his injuries; Dr. Milpao attended him, and is still in the army; I moved on the 7th of May three hundred miles—to Fort Kearney, and thence to Fort Bridger, in Utah, in all 2,240 miles; Captain Ketchum went but a few marches, and asked permission to drive his ambulance, and assigned as a reason that he did not have confidence in his driver; I granted the favor because of his recent sickness; whenever I asked him how he was he would say he was well with the exception of a little heat in his head; I can't say whether or not he was on the sick list during that time; we were in camp near Fort Leavenworth; I suppose General K., was nearly six feet in height: he was not an active man; he was a bad rider, and I don't think a good marcher; he was neither stout nor thin; his figure did not indicate strength or activity.

To Mr. Syester—He was what we of West Point would say, "well set up."

To Mr. Revell—I suppose it was two weeks, more or less, before he reported for duty after his fall; I never served with General K., after that; I think I saw him in 1860; I saw him but a moment; he made no complaint then of his head; he was then married; I reached my destination on the 14th of December, 1858.

To Mr. Hagner—If he had given his sickness as a reason for wishing to drive the ambulance, that would have deprived him temporarily of the command of his company.

Miss Nellie Wharton now took the witness stand, and, after removing her veil, testified—I was at home only about an hour and a-half before General K. died; I had left home the Thursday previous; I had been away before, at Mr. Hamilton Stump's, in Baltimore county, and had returned the previous Tuesday; I had been at Mr. Stump's nearly a week, I think; I carried to Mr. Stump's a bottle of paregoric, which I took from home; I gave it to Mrs. Post, at Mr. Stump's, when I came away: it had been kept in the washstand in my mother's room, and I got it from that washstand; my room was the back room on the second-story, and my mother's room was the front room on the same floor; there was neither closet nor wardrobe in my mother's room, and she used a wardrobe in the third-story; in my room there was a closet and a wardrobe; nothing was kept locked except one drawer of my bureau where I kept my jewelry, and one side of the side-board to which Susan kept the key; Ellen had access to all the places which were open; she generally put away our clothes; we always kept the medicines in the washstand; it was never kept locked, and was used also to put slippers in; there was not there ordinarily very much medicine; I went to it constantly. [The vial shown by Dr. Williams was now shown the witness.] She continued—I am positive that I had never seen this vial in our house before it was shown me after General K.'s death; when I reached home, after General K.'s death, I found my mother very much exhausted; my mother had written for me to come home; I was then at Mr. Neilson's, in Harford county; there was no male friend in our house when I reached home, and I went for Mr. Crawford Neilson; mother and I talked about Mr. Neilson, and we agreed that it was best to go for him; I took a carriage and went for him; I reached the house on my return just as General K. died; both at Mr. Neilson's and Mr. Stump's I have intimate young lady friends, and I was making them farewell visits before going to Europe; my mother and I had determined nearly a year previous to go to Europe in the month of last June; as far back as the October previous I had spoken of our intention of leaving for Europe at that time; I mentioned it to Mr. Hermann Stump; tickets were purchased in March in New York by my mother to go in June; I went with my mother to purchase them; our intention of going in June was changed late in May, because of my sickness; the tickets had been bought for the 7th of June, and the day was changed to the 12th of July; I was quite sick in May; my mother also, at that time, was not very well; I know that efforts had been made by my mother to lease out her house preparatory to her European trip; I had at that time $15,000, in United States bonds, in my own money.

Mr. Revell objected to the offer of testimony as to Miss Wharton's money.

Mr. Steele—"Well, you have said Mrs. Wharton was running away from justice, and we offer the testimony for what it is worth."

Mr. Revell said if this was persisted in it could probably be shown that a number of Mrs. Wharton's relatives had $10,000 or $15,000.

After some further desultory discussion, the Court decided that the testimony was admissible, and the witness continued—I was the sole owner of the $15,000 in bonds, and could do with them as I pleased; I was with my mother all the time after I reached home; I was not away from her more than five minutes at a time; generally when I was away one of the Misses Mayer remained with her; I was in my room with Miss Mayer, and Mrs. Hutton came in and asked where my mother was; I asked her what she wanted, and if I could do it for her, my mother not being in the room; she said she had brought General Ketchum's watch, pocket-book, keys, knife and match box; she said he wished to give them to my mother to lock up; I told her to give them to me, and I would lock them up in my drawer; I then took them, put them in my drawer, and locked them up; I always kept the key to that drawer; I kept them until Mr. Charles Ketchum came over on the 4th of July; I did not see him until dinner time, but my mother, after talking with him a while, let him go up stairs; my mother came into my room, and I unlocked my drawer, took out what Mrs. Hutton had given me, and gave them to her; I heard her as she went up stairs, and I heard her go into the front room into

whish Mr. Chas. Ketchum had gone; the key of the valise was among the things I gave my mother; I don't recollect distinctly, but I think Mrs. Hutton gave me the key to the valise after giving me the other things, and on the same evening; I did not give the key of the valise to my mother; she did not have the keys until I gave them to her on the day Mr. Charles Ketchum came; General Ketchum was in the habit of paying frequent visits to our house; he came several times in the year; I am certain of his being at our house three or four times a year Mrs. Chubb came also frequently; sometimes she would come up several Saturdays in suc cession, and spend Sunday; I think she averaged a visit a month; I went both to my wardrobe and my closet almost immediately after my return at the time of General Ketchum's death; very few things were in them; I had left my trunk at Mr Neilson's and most of my things were in it; the winter things had been packed up; I wished to change my dress, as I had been travelling and was very dusty; I saw no vest in either the closet or wardrobe; I found a pair of Mr. Van Ness' pants hanging in my wardrobe; Mrs. Van Ness said she had put them there; if a vest had been in the wardrobe I would certainly have seen it; a great many persons were about the house at the time I arrived; old Mrs. Van Ness, Mrs. Van Ness, Mrs. Hutton, Mrs. Loney, Mrs. Frick, Miss Sophie Frick, Mrs. Snowden, and an old nurse and a baby were there; the doors of the dining room and parlor were kept open all the time after I arrived; my mother had not been very strong for some time.

To Mr. Hagner—I left my trunk at Mr. Neilson's; I had intended staying, but was recalled by the letter from my mother; I telegraphed Mrs. Chubb to come from Washington; I wished her to come in consequence of a telegram she had sent the day before.

Mr. Syester here objected to the contents of the telegram being given, and, after some desultory remarks, Mr. Steele said he would ask the witness her motive in sending the telegram.

Miss Wharton then continued—It was about the beginning, you know, and I wanted Mrs. Chubb to come up; my telegram was in reply to one from Mrs. Chubb; I did not originate the interchange of telegraphic communication.

Mr. Syester—Gentlemen, we have not stopped the witness; let her go on and say what was in the telegram.

Mr. Steele—No, I stopped her; I take the responsibility, if there is any, for obvious reasons, which you would have seen if you had been looking at Miss Nellie; I saw that her feelings were about to overcome her.

Cross-examined by Mr. Syester—The property my mother desired to lease was her house and furniture, at 263 North Eutaw street; she had offered it to Mr. Webster Wilson; the house and furniture were advertised for rent; I don't remember the month in which the advertisement was put in, but it was last spring; the house belonged to Mr. Latimer; I am not positive, but I think my mother leased the house for fifteen or eighteen months; we had lived in the house for three years, and had renewed the lease for two years; the advertisements also offered the furniture for rent; the keys remained in my drawer until about 6 P. M. of the day General Ketchum died, when Mrs. Hutton came for them; I think it was Mrs. Hutton who brought the keys back to me; I do not recollect what time last spring it was that General Ketchum was at our house; I was not at home when he was there; I was away from home a great deal last spring.

Miss Wharton was now released, and resuming her seat by the side of her mother she again drew down her veil. There was quite a stir when she arose to proceed to the witness stand, and when she raised her veil the spectators manifested a desire to observe her closely. She gave her testimony in an exceedingly quiet and lady-like manner.

Miss Nellie Mayer next testified—I am a daughter of Colonel Brantz Mayer, of Baltimore; I have known Mrs. Wharton for about eight years; I went almost daily to her house; I visited the house every day during General Ketchum's sickness, and two days, I think, I was there twice; I found the front door always open, and I do not remember having to ring the bell; always a great many persons were there; I saw there Mr. and Mrs. Hutton, Mr. Van Ness' mother, Mrs. George Frick, Mrs. Charles Frick, Mr. and Mrs. Snowden, Mr. Tom Sargent, Mr. George Sargent, Mrs. Van Ness' nurse and two children; Mr. and Mrs. Henry Loney, Mr. Gorham Moale and Mr. McAvoy, Mrs. Chubb and Mrs. Wharton's two servants; during the time I was there, while General K. was sick in the house, a great many persons were coming in and out; I had seen General K. frequently before at Mrs. Wharton's; I had seen him previously during the present year; I had a conversation with him about his taking medicine, and he said he drank his medicine from a bottle; he said he did not see the use of having a teaspoon, as all teaspoons were not of the same size; that occurred during Lent; we were going to church and I was talking with him; I saw General Ketchum at Mrs. Wharton's on Sunday night, June 25; I don't remember his dress; it did not make any impression upon me; I have been intimate with Mrs. Wharton and her family for six years; at one time I lived within one square of her house; she was always considered very amiable, very charitable, and very hospitable indeed.

To Mr. Syester—The doors were kept open only while General Ketchum and Mr. Van Ness lay sick in Mrs. Wharton's house; I heard several times in Baltimore that General Ketchum drank medicine from a bottle, but I don't remember where I heard or from whom I heard it; General Ketchum did not tell me why he was taking medicine or who prescribed it for him; I do not remember seeing him taking medicine; he did not say that he had his medicine with him; we were on the street at the time; I don't remember whether he said bottle or vial; I saw him between 9 and 10 Sunday night, at Mrs. Wharton's; Mrs. Chubb, Mrs. Wharton, and

Mr. Lewis Mayer were also present; I don't remember hearing General K. complain when I went to church with him and had the conversation about the medicine, which way he preferred to take his medicine.

To Mr. Revell—The next time I saw General Ketchum he was in a carriage in Washington, and I did not speak to him; I can't remember when Lent commenced last winter; I think I had the conversation with General Ketchum about his medicine about the latter part of Lent; Lent lasts forty days; I may have seen General Ketchum at Mrs. Wharton's between the time I had the conversation with him about his medicine and last June, but I don't remember; I don't remember how long I had heard about his taking medicine from a bottle before my conversation with him about it; I think it was at least a month previous; I commenced the conversation by telling him I had heard he took medicine that way, and that I thought it was very imprudent.

Miss Mayer was here allowed to leave the witness stand, and took a seat by Miss Wharton.

The Court, after ordering the audience to leave the court room without delay, that the jury might be retired, adjourned until 10 A. M. to-morrow. The court room was crowded to-day during the entire proceedings, and much interest was manifested.

Among the Baltimoreans present to-day were Archibald Stirling, Jr., United States District Attorney; Andrew J. George, Clerk of the City Court of Baltimore; Colonel M. S. Hess, President of the Concordia Society; Professor Aikin and George C. Maund, Esq. Captain Waddell, famous as a Confederate cruiser, was also present to-day.

The weight of the precipitate obtained by Professor Tonry from 1-16th of the solution was 0025 expressed in fractions of a gramme. This would be equal to about 6-10ths of a grain of tartar emetic from the whole solution.

TWENTY-FIRST DAY.

ANNAPOLIS, December 29, 1871.

The testimony for the defence in the Wharton-Ketchum trial promises to be fully as tedious as was the greater part of that given by the State. It is understood that Mrs. Wharton's health is too feeble to admit of afternoon sessions of the Court, and the list of her witnesses is very lengthy, a large number of whom will testify to her character and reputation. Interest in the trial continues unabated.

Miss Jennie Mayer was first called and testified—I am the daughter of Colonel Brantz Mayer; I have known Mrs. Wharton very intimately for five or six years; I was at Mrs. Wharton's on the day General K. died; I went there about half past 2 o'clock; I went down the street with Miss Nellie for Mr. Neilson and came back, arriving before General K. died; I then went home to dinner; I returned in the afternoon and was present when Mrs. Hutton brought in General K.'s effects; she handed them to Miss Nellie; I know that Mrs. Wharton has the reputation of being very amiable and kind. and always willing to do anything she could for her friends.

To Mr. Syester—I could not see all Mrs. Hutton brought in; she brought them in her hands in this way [here Miss Mayer held her hands together]; I do not remember seeing a ring.

Capt Henry F. Brewerton next testified—I am a Captain of the Fifth Artillery, United States Army; I am at present stationed at Fort Preble, Maine; I have known Mrs. Wharton between three or four years; I was for a long time at her house under circumstances which enabled me to judge of her high character and remarkable amiabilty; I knew her in Baltimore; her general character for amiability and kindness were very well known and proverbial; every one who knew her knew her to be both kind and amiable, and an excellent friend.

To Mr. Revell—This opinion is based upon what I saw and experienced; I was at her house for several days, and again for two or three weeks; Mrs. Wharton then visited me at Portland, Maine; she paid me only one visit; I have seen her, I think, only four times in the time I speak of: Mrs. Wharton is an old friend of my wife; I knew of her well by reputation; I have also heard officers of the army speak of her reputation; she is well known in the army; I remember hearing General Sackett, Inspector General of the Army, speak of her; that was since her arrest; I have heard army officers speak of her amiability; I can't recall the exact words; it was simply that she was an amiable lady, or a very pleasant lady; it was of that nature.

Prof. R. S. McCulloch was next called, and testified—I am by profession a chemist and engineer; I am now a Professor in Washington-Lee University, Virginia; I teach natural philosophy and mechanics, and chemistry applied to metalurgy; I have been a professor in Jefferson College, Pennsylvania, and also at Princeton, New Jersey; I made chemical analyses for the United States Government for three or four years; I was also engaged as chemist in the United States Mint at Philadelphia; I was also employed as chemist and mining engineer by the Confederate Government; I heard all the testimony of Professor Aikin, and I read last night a paper purporting to be his report to Mr. Knott; Mr. Thomas had sent me a copy which did not differ from that I saw last night, with the exceptions of alterations made by Professor Aikin in his testimony; in my opinion the tests used by Professor Aikin were insufficient to establish the presence of antimony; I consider his analysis radically defective; in order to establish the presence of antimony it is absolutely necessary to get the metal itself, and then subject it afterwards to test after test to prove that it actually is antimony; antimony is a simple elementary substance, having very many properties by which it can be recognized, and if, in testing for it, any experiment fails, that would vitiate any conclusion; it must, of course, correspond to all of its properties; the quantity obtained must be sufficient to be subjected to all tests, to preclude the possibility of its being something else; if any one of the tests fail it

would prove that something else is there, or that the metal, if there, is not pure; if it is there it must correspond to all its properties which are positive; I consider Dr. Aikin's analysis radically defective because he did not get the substance, and operated more or less on organic matter, which would render the tests fallacious.

Mr. Steele here read section 503 of Wharton and Stille's medical jurisprudence, as to the necessity for care, accuracy and absolute certainty in the discovery of a poison; Prof. McCulloch said that was the opinion he held, and added: "I have just said the substance *must* be found, and in sufficient quantity." He then continued—Orfila is a good book and high authority; on some matters it is not considered so good as more modern authorities.

Mr. Steele now handed the witness a work of Orfila on poisons, and stated to him that, as he could not read French as fluently as he desired, he would be obliged if the witness would read it.

Prof. McCulloch said he read French freely, and, after reading over the paragraph shown him, translated it into English and read it to the jury; it stated that as a tube had been broken in the analysis of the body of La Farge, the presence of arsenic could not be determined; Orfila further stated, in a letter appended, that (metallic) arsenic must be found to make it conclusive.

The witness continued—If Dr. Aikin had been operating on a metal, and knew it to be a metal, the three tests he used would constitute a very strong probability that it was antimony I say a very strong probability, and not an absolute certainty, solely because there are other tests in addition to which antimony can be subjected, and, moreover, because new metals are constantly being discovered in chemistry; it is possible that even if a chemist possessed this metal it might fail in properties involving antimony; in a case involving life and death—[Here Mr. Syester interrupted and said that in this matter the witness was not competent to give an opinion.]

The Court decided that the witness could not give such an opinion to the jury.

Mr. Steele said the witness could say what reliance was to be placed in tests.

After some further desultory discussion, Professor McCulloch continued—In any case requiring certainty I should consider it necessary to go beyond the tests used by Professor Aikin, even in a commercial matter.

Mr. Syester said the witness could not add his opinion as to commercial matters, and he wished the witness to so understand.

Professor McCulloch continued—I would consider Professor Aikin's tests insufficient in any case; in a case in which a chemist operates on the contents of a stomach, containing substances of organic kind, animal or vegetable, it has been held for many years that such reactions as Professor Aikin described may prove entirely fallacious, especially in hunting for a metal; for that I can give you authorities if you wish them; those three tests are that a liquid supposed to contain antimony shall give with sulphuretted hydrogen or with sulphide of ammonium, an orange red precipitate; that is No. 1; the 2d is that this orange red precipitate shall be soluble in hydrochloric acid; and the 3d is that solution in hydrochloric acid, if dropped into water, shall give a white precipitate; if there are other substances which would produce these reactions, then they would not prove the presence of antimony; arsenic has also certain color tests, and it has been held that such tests are not reliable; the books are full of references to that matter; that doctrine is no new one; I have made a memorandum of the authorities I would name; I will first refer to a volume of Orfila, published in 1818, page 683; Orfila there says that the presence of articles of food in the stomach may produce fallacious tests; I refer you to the case of Donald, tried in England in 1817—2d Beck, p. 539; in that case it was in evidence that the deceased had eaten onions the day before his death, and Dr. Neal testified that a decoction of onions gave nitrate of silver a yellow color, resembling the yellow color arsenic also gives with nitrate of silver; he also testified that a decoction of onions gives a green precipitate with copper as arsenic does; and also that the phosphates of the human body give a yellow precipitate; in that case there was a failure to produce the metal, and the prisoner was acquitted.

Mr. Syester said to the Court that the witness could do more than give the results of the scientific experiments.

The Chief Judge said that the witness could give only the scientific results.

Mr. Syester said he did not find any fault with the witness, but he desired him to refrain from giving the results of criminal trials.

Professor McCulloch continued—I will refer now to Rose's Analytical Chemistry, page 186, a high authority among chemists, and also to Barresville's Analytical Chemistry—

Mr. Syester—If they are French you had better translate them.

Mr. Steele—I will give you a rough translation.

Mr. Steele then read from Rose that it was necessary to drive out or destroy the organic matter.

The witness continued—I have made experiments in this particular case; I tried the reaction of sulphuretted hydrogen on chloral and got from it a precipitate which might readily be mistaken by its color for one of sulphide of antimony; I repeated that experiment with sulphide of ammonium and with sulphide of sodium, and I got similar results; I then experimented similarly with yellow jasmine (gelseminum); I got also a precipitate which might readily be mistaken by its color for one of antimony; I then mixed these substances, gelseminum and chloral, and found they gave me similar results when mixed; I then put that mixture of chloral and yellow jasmine into organic substances; the tincture of yellow jasmine was sent to me at Lexington, and bore the label of Gosman & Co.; I then tried the experiments with a mixture containing organic matter, such as the white of an egg and milk that had soured for some days, using the whey and not the

coagulum; I then mixed them with beef tea and added a drop of lactic acid and a drop of hydrochloric acid, and a little pepsin, to try to imitate what is usually found in the human stomach; I tried these experiments, supposing these organic substances to be as near as I could get to what were the contents of General Ketchum's stomach; I obtained a red precipitate, closely resembling such a one as antimony would give: when thus mixed with animal matter, the precipitates were more bulky, more voluminous, than in aqueous solution; I did this in Lexington, Va., two or three days before coming to Annapolis; I have since repeated those experiments on other specimens of chloral and yellow jasmine, and with similar results; I have done it here in the presence of others, Dr. Reese, Dr. Genth and some others: another important experiment which I performed at Lexington, and have repeated here in concurrence with Drs. Genth and Reese, is this: the red precipitate thrown down by sulphuretted hydrogen in tincture of yellow jasmine, dissolves in hydrochloric acid, as that from antimony does; in other words, the two resemble each other in this property; they act alike; when this solution in hydrochloric acid is dropped into water it also gives a white cloud, just as antimony does; that white cloud is soluble in an excess of hydrochloric acid, which is also true of antimony; this solution, with sulphuretted hydrogen, again gives a precipitate which might be mistaken for one of antimony; the resemblance of the reactions is truly remarkable, so much so that I was astonished when I made the experiments; I made, last night, a mixture of chloral and yellow jasmine, in about the proportions in which they were administered to General Ketchum by Dr. Williams, and to this I added what Dr. Aikin added to the contents of the stomach in his search for strychnia, to wit: tartaric acid neutralized by bicarbonate of soda; I did this to make an aqueous solution to resemble, as near as possible, what was in General K.'s stomach; I have that solution in Court, and if desired I will show its reaction with sulphide of ammonium; I cannot try it here with sulphuretted hydrogen, because the gas would make the air of the room irrespirable, and moreover, it would take too long a time; when I put in hydrosulphate of ammonia I do not consider that I put in foreign matter.

Professor McCulloch now showed the experiment, and while going through the operation was closely watched by every person present in the court room. His experiments demonstrated the results he had described, the precipitates being of an unmistakable red color.

He continued—I have tried the experiment of the reaction of the sulphide of ammonium on several specimens of tartar emetic, and in only one or two did I get the pure red; only the pure article will give the pure red; the mixture with yellow jasmine and the mixture with tartar emetic have been placed side by side, and very little difference could be observed; when I tried the experiments in Lexington I had a letter from Mr. Thomas enclosing one from Dr. Williams, in which Dr. Williams stated, as he has here described, how he treated General K.; as far as I am aware there is nothing in any book on this subject, no such experiments as I have made being reported; now that I have made these tests they go very far to make me of the opinion that it was the medicines administered to General K. which gave Dr. Aikin his results.

After some time had been occupied by Messrs. Steele and Hagner in examining the short-hand report of Prof. Aikin's testimony, the witness continued, in answer to Mr. Steele—In addition to the three tests used by Dr. Aikin, there are quite a number of others which are used in testing for antimony; I heard Dr. Aikin say he had weighed one-grain of the sediment, and estimated from that; that could not be relied upon; the practice of chemists is to weigh always with great care; moreover, he operated in organic matter; to judge of quantity by eye comparisons of bulk would be utterly fallacious; no such estimate could be made with any accuracy; it is also not easy to weigh four-tenths of a grain with accuracy; the precipitates might, unless antimony was known to be present, contain nothing but organic matter, just as I have shown here; there is always more or less of free sulphur even in operating with metals; in operating chemists must always guard against free sulphur; water charged with sulphuretted hydrogen will not keep, but rapidly decomposes, and the sulphur falls; in no case would an eye comparison be sufficiently accurate; an estimate of weight cannot be made by observation of the bulk; it is of course more difficult to make comparisons by memory than by observations, and in analytical operations you *must* weigh, and must weigh *accurately*, too; the tests applied by Dr. Aikin to the sediment in the tumbler were not sufficient; he should have gotten the metal there, and then tested that metal; it is necessary in all cases that the metal be gotten of sufficient quantity to manipulate with the critical tests of analytical chemistry; the chemist must first know that he is operating with a metal; one test relating to the crystals would go to prove that something other than antimony was present; the fact that the crystals formed by a drop of tartar emetic, and those formed with a drop of the sediment were not alike, makes it absolutely certain that tartar emetic was not present; Dr. Aikin's testimony about the sediment differed from what he made in the written statement to Mr. Knott, and he corrected it here; in the written statement a chemical impossibility was given; it would have been, if anything, a proof that something else than tartar emetic was present; I heard the testimony of Professor Tonry; in my judgment the tests he employed, and the results he exhibited, did not prove in any manner that antimony was present in the substances he used; he got a number of little spots, but even if these were metallic, they were in insufficient quantities to prove of what metal they were composed; if they had been antimony they would have been abundantly and sufficiently explained by the mere impuri-

ties of the chemicals used; hydrochloric acid is liable to contain impurities; it often contains arsenic, and may contain antimony; the test used by Professor Tonry for the purity of his sulphuric acid, his zinc and his water was not sufficient; if you refer to the last London edition of Taylor's Medical Jurisprudence, you will find that when zinc is dissolved in sulphuric acid that dark flakes are found floating in the solution, and that these flakes are hydride of arsenic, which do not decompose as long as there is no organic matter present, but suffer decomposition as soon as any organic matter is added, and give rise to the escape of arseniuretted hydrogen, which would produce black spots; I have in the United States Mint passed many tons of zinc through dilute sulphuric acid, and I never yet saw a specimen of zinc so pure that it did not give those dark flakes; it was almost a daily operation in the mint, and we used the best materials, regardless of cost; Professor Tonry's spots may have been caused by just such an impurity in the zinc he used.

Mr. Thomas here read from pages 211 and 212 of Taylor's Medical Jurisprudence, London edition, in reference to the decomposition of organic matter in sulphuric acid.

The witness continued—I believe hydrochloric acid also contains antimony, but oftener arsenic, either of which would give black spots; Professor Tonry stated particularly that he washed all his vessels with hydrochloric acid, and then washed them with water; it is possible then that the hydrochloric acid introduced the antimony; I saw the spots first shown and can form a very probable estimate of their value from experiments I have made. The witness here showed a porcelain lid to the jury upon which were thirty spots; each spot, he said, represented the one forty-thousandth part of a grain; they appear to me larger than those of the first set exhibited by Prof. Tonry; the second set exhibited by him appeared to me very small, indeed, barely visible; the size of the spots is, however, a matter of judgment by the eye; I went to the Naval Academy Laboratory, where Professor Fisher, in my presence, weighed by his balances one gramme of tartar emetic; he kindly lent me a graduated pipette—a glass tube so graduated as to measure cubic centremetres; with that tube I made a solution in which the proportion of water to the tartar emetic was as one to a hundred; in other words I dissolved the gramme of tartar emetic in one hundred centimetres of water; I could then dilute this solution, or rather, a portion of it successively until I obtained an extremely dilute solution, a measured quantity of which contained, by calculation, reducing French weights to Troy grains, three-fourths of one-thousandth of a grain; those three-fourths of a one-thousandth part of a grain gave me the thirty spots, and seemed then exhausted; each spot represented the fortieth part of one one-thousandth of a grain; it is only by such a process that it could be performed; I don't think it possible that chemical manipulations could be performed on such minute quantities: I am confident I could not do it, and I have had a great deal of experience, and have been required to do my work very accurately; I say required, because part of the time I was absolutely required by law; I would not like to operate on the tenth or twentieth of a spot or even on a fifth: I doubt if I could operate on a spot containing so little as one thousandth, and I am certain I could not subject it to many tests; I doubt if I could subject a spot of one thousandth to tests to establish the presence of antimony; it may be possible, even assuming that the spots contained antimony or arsenic, that the impurities of the materials used would explain it all; it might even occur by accident; the merest particle of antimony or arsenic may have adhered to the hands of the chemist; I have seen a number of spots much larger than those shown here subjected to the sulphide of ammonium test, which spots were antimony; and, collectively, giving no result, as many as ten being used at a time: I don't think Professor Tonry could have obtained results from two or three of the spots he exhibited; the result he sought ought to have been obtained if antimony had been there, and their non-obtention would prove the contrary; the spots were, however, so small that I doubt if he could subject them to any decisive tests whatever; I regarded them as insignificantly small; some vegetable and animal matters may produce the black spots; hydrocarbons can do it; also chloroform and sulphide of carbon, and these will do it in combination; in order to determine what is in the black spots they must be well tested, and must be in sufficient quantities to be thoroughly tested, otherwise they prove nothing; I heard Professor Tonry's statement of his weights; I don't think it possible to weigh twenty-five one-hundredths of a milligramme; on that subject of weighing I have had a great deal of experience, and had to weigh accurately, both while a mint officer and while engaged in Washington with the late Professor Bache, of the Coast Survey, and also of the Office of Weights and Measures; from making investigations my experience enables me to say positively what can and what cannot be done in weighing; the balances in the mint are celebrated for their accuracy and workmanship as well as those made at the Office of Weights and Measures in Washington; both have been executed by a workman (Mr. Saxton) who is renowned for his mechanical skill; in the mint our assay balances, which were intended to be ten times as delicate as the balances usually employed by chemists and which were also much smaller and much lighter, and therefore far more delicate, did not permit weighings to be made with accuracy closer than the one-thousandth of a grain; great accuracy is necessary in mint calculations, or else gross errors would arise, unless the balances were extremely accurate; the smallest weight ever attempted in the assay balances was one-half of one one-thousandth of a grain, and that on a balance far more accurate than those ordinarily used by chemists; Professor Tonry stated that his balances were guaranteed to be accurate

to the one-twentieth of a milligramme; that reduced is seventy-seven one-hundred thousandth of a grain, or approximately one one-thousandth of a grain; this would be about the performance of one of the most delicate assay balances at the mint, which are far more accurate than those chemists use; the usual chemist's balances are reliable to determine the hundredths of a grain, but not the thousandths of a grain; when Professor Tonry stated that his balances had been guaranteed to him, he merely stated the ordinary commercial guarantee; it is absolutely necessary to the accuracy of a balance, that its knife edges be parallel, without which the lengths of the arms of the balance will not be equal, except by accident; without that the balance is worthless as to accuracy; when nice weighings are made it is necessary to make corrections for temperature, hygrometricity, atmospheric bouyancy and barometric pressure; a beaker glass could not have been put upon an assay balance; in handling a beaker glass even the moisture from the hands would make a difference, and chemists should always use forceps in delicate weighings; Professor Tonry would necessarily have obtained by his tests consiederable organic matter; it would be impossible to say how much organic matter was in the mixture besides sulphur; in so small a quantity any other substance would have been almost inappreciable; the precipitate Prof. Tonry got with nitrate of silver don't prove anything, as he did not follow it up; he said he did not have time; I don't consider that the analyses of Prof. Aikin or of Prof. Tonry prove anything; they do not prove the presence of any poison, and, in my opinion, only prove the presence in General K.'s stomach of the medicines administered to him by order of Dr. Williams.

Prof. McCulloch was now turned over to the State, and under cross-examination by Mr. Syester, testified—I think Professor Aikin's analysis radically defective and insufficient, because he did not get the metal, and not in sufficient quantity to test it; I don't know of any tests to determine the presence of antimony when the metal cannot be produced; I would not consider anything proof short of the production of the metal itself; some writers do not express that opinion; I am more governed in my opinion by chemical facts than by what I have read in books; I have not hunted up the authorities, but can furnish you to-morrow with as many as you please; I will give now a book written by Drs. Wood and Bache, of Philadelphia, of high reputation; it is Wood & Bache's Dispensatory; under the head of arsenic, you will find that Dr. Christison says that the color tests for arsenic are sufficient to prove its presence, but the authors (Wood & Bache) say they consider the production of the metal in all cases absolutely necessary; I think you will find in Barreswill, page 179, that the metal must be found; I was taught in a medical school, forty years ago, that the metal must be found; Taylor is high authority; I rarely refer to him; I am a chemist, and not a medico-jurist; I have been taught that mental satisfaction is not sufficient, but the direct, absolute proof; in cases of antimonial or arsenical poisoning it is the generally received opinion that the metal must be obtained, and for the reason that unless you operate on the metal your tests will be fallacious; I do not mean to say that some persons may not entertain a different opinion, but I should attach no importance to their opinions; it is a rule with me to find unmistakable, absolute proof in all scientific investigations; so far as strychnine is concerned, I cannot speak from experimental knowledge; I presume that some vegetable poison may be produced after absorption into the system; the tests Dr. Aikin applied to the organic matter may have produced fallacious results; Dr. Aikin's tests were utterly insufficient; I repeat that a chemist *must* know that he is operating on a metal; I know that chloral and yellow jasmine will produce similar results to those obtained by Dr. Aikin; two specimens will not produce exactly the same results; I have never tested all the properties of antimony, chloral or yellow jasmine; I will not say that the colors I have exhibited are identical with those produced by Dr. Aikin; in one solution Professor Aikin, when he precipitated with sulphuretted hydrogen, got one color, according to his report, and according to his testimony here he got another; I don't remember precisely what was his description of the color of the precipitate he gave in his testimony; chemistry may be very fallacious in examining organic substances, and chemists too, especially if they are careless; I should say that it would be very difficult to determine the presence of vegetable poisons; I don't know when antimony was discovered, but we read in the Bible that Jezebel put her eyes into a sulphuret of antimony, which in the English version is translated "She painted her face; organic chemistry is yet in its infancy; I do not think that any process used by Professor Aikin was sufficient to destroy the organic matter in General Ketchum's stomach; I can't say that any of the substances I dropped in water were colorless; when I made a precipitate with sulphuretted hydrogen, I got what, in the present state of chemical knowledge, it is impossible to say what it was; the simplest experiment is to precipitate gelseminum with sulphuretted hydrogen gas, well washed, dissolved in hydrochloric acid, and drop that solution into water, which will give a white cloud, but not an abundant precipitate; I did not undertake to dissolve that white cloud with tartaric acid; in one of Dr. Aikin's experiments he dissolved the white cloud with tartaric acid; the white precipitate, thrown down by antimony, dissolves in tartaric acid; I dissolved the white cloud, but not with tartaric acid; I used a different acid, and I did not use tartaric acid, because that acid holds substances in solution, and does not precipitate; I did not think it worth while to repeat the experiments Dr. Aikin made; I dissolved the white cloud in hydrochloric acid, precipitated with sulphuretted hydrogen, and got a yellow precipitate; I never got a pure orange red from antimony except when in pure aqueous solution.

Professor McCulloch was now subjected to a rigid test of his knowledge of the color tests known to chemistry.

He continued—Wormley is not good authority in inorganic chemistry; his work contains some mistakes; chloral is soluble in cold water, and I presume in boiling water; yellow jasmine when dropped in ordinarily cool water gives a turbidity to the water; there is a small portion which I suppose to be resinous matter, and it appears in the water.

The Court here adjourned until 10 A. M. tomorrow.

Rev. George Leeds, Profs. Aiken and Tonry, Drs Chew and Williams, and Marshal Frey, of Baltimore, were among those present today. Drs. William and Hiram Corson, of Norristown, Pennsylvania (the birthplace of Mrs. Wharton), arrived yesterday, having been summoned by the defence. The ladies were present to-day in full force, and, notwithstanding the tedium of a great part of Prof. McCulloch's testimony, sat patiently until the Court adjourned.

TWENTY-SECOND DAY.

ANNAPOLIS, December 30, 1871.

The great Wharton-Ketchum trial has again degenerated into a chemical lecture, and science has usurped the place of law and narrative. Prof. McCulloch on yesterday gave the jury, Court, counsel and spectators an idea of how certainly and uncertainly chemical investigations have or may have resulted. He proved himself a veritable free lance, and from the beginning stood strongly upon the offensive. For a time it seemed that Professors Aikin and Tonry had practiced a delusion and a snare; then it appeared that after all there is far more fiction than fact connected with the search of chemists for poisons. In Professor McCulloch's opinion there was nothing reliable in the analyses of Profs. Aikin and Tonry, from the first steps in their investigations to the weighing of the minutest particle; weights, colors, spots, and precipitates were alike utterly fallacious and too insignificant to be considered for a moment. Attorney General Syester, in a most astute manner, managed, however, by closely interrogating the Professor from Washington-Lee University to elicit some chemical truths, and to base upon them a framework upon which the chemical experts for the State might find a comfortable footing. It was doubtless all very interesting to those who had been initiated into the hidden mysteries of chemical lore, but to the great majority of those present the proceedings were decidedly tedious.

Upon the opening of the Court to-day Mr. Revell was sworn in by the Chief Judge for another term of four years as State's Attorney for Anne Arundel county, it being the fourth successive term with which he has been honored by the people of his native county.

Professor McCulloch, upon being recalled, said he desired to modify an answer he gave yesterday, by saying that oxide of antimony is soluble in boiling water.

Attorney General Syester then resumed his cross-examination of the witness.

Mr. Syester—You say you experimented on tartar emetic and obtained the spots exhibited in Court yesterday; why was not that experiment made on the pure metal itself?

Ans.—Simply because I had no pure metal; it had been given me by a chemist as tartar emetic.

Mr. Syester—Tartar emetic is white, is it not?

Ans.—Yes, sir, said the witness; because it responded to one test antimony was probably present; I do not swear that the deposits on the lid I exhibited yesterday were from pure tartar emetic.

Mr. Syester—In your experiment on the one gramme of tartar emetic, did you examine for its purity?

Ans.—I only examined by a test of sulphide of ammonium.

Mr. Syester—You say you dissolved that one gramme in 100 cubic centremetres of water; was that water distilled?

Ans.—It was hydrant water.

What reagents were employed in that experiment, and were they purified?

Ans.—I did not test their purity.

Mr. Syester—In getting those spots, your aim was to get the metal, and spread it out over the largest space, was it not?

Ans.—I went on making spots until the gas stopped making them; my object was to make a succession of spots and take their average value.

Mr. Syester—Did you aim at collecting on any one spot the largest amount of deposit possible to be collected there?

Ans.—No, sir; I did not.

Mr. Syester—Are not the spots on your plate less distinct than were those on Professor Tonry's plate?

Ans.—I think mine were larger; they were to my eye.

Mr. Syester—You say you obtained spots from chloral and yellow jasmine similar to those obtained and shown here by Professor Tonry; did you make any experiments on those spots to discover or test their nature and quality?

Ans.—I never got any such spots from chloral and yellow jasmine.

Mr. Syester—You said yesterday you had tested many tons of zinc and never saw a specimen of zinc so pure that it did not give the dark spots spoken of, and that when Professor Tonry collected the spots on the porcelain lid, those spots were likely to have been produced by the zinc which he used; so you undertake to declare that no zinc can be made absolutely free from the impuritiy which will produce such spots?

I did not say that no zinc was so absolutely free.

Here some discussion followed between Messrs. Syester and Steele in reference to the manner of the Attorney General in interrogating the witness, and after some explanations the witness continued:

I thought the one test of the zinc used by Prof. Tonry was insufficient, and I spoke of it because I thought it was the object here to ascertain the truth; the liquid above a precipitate is no part of the precipitate.

Mr. Syester here showed to the witness the precipitate shown by him on yesterday, and the witness said it had turned dark, as he had predicted, and it did not now look like an antimonial precipitate.

He continued—An orange red precipitate will change if the organic substance changes; I said yesterday that the precipitate I showed here might readily be mistaken for an antimonial precipitate; I can't say how long I kept the precipitates in the experiments I made at Lexington, Va.; I don't remember that Dr. Aikin said the color test was not sufficient; I merely showed those experiments to the jury to show them one result that could be obtained; I did not have time to go further with the test; at Lexington I dissolved several of my precipitates in hydrochloric acid; it was strong, but I don't remember that it was hot or cold; I have used it both hot and cold; I don't remember what particular precipitates I treated with boiling water: I simply used the Laboratory chloric acid, bought as pure; I did not test it; I cleaned my tubes well; I did not consider it necessary to test the purity of the chloric acid I used; I doubted my reagents and tested them; sulphide of antimony is not readily soluble in hydrochloric acid, but requires boiling hydrochloric acid; I threw my precipitates away, and of course brought none of them here; I experimented on some before I threw them away; I got a white cloud by dropping the acid solution in water, and that white cloud became a precipitate; I did not try to precipitate that white cloud with tartaric acid; if it had been an antimonial precipitate tartaric acid would have dissolved it; a chemist would ordinarily do as I did, that is, to dissolve in hydrochloric acid instead of tartaric acid, having the first named just at hand; the acid in the water became clear; I tried the addition of the sulphide of ammonium, and got a yellow precipitate; Taylor is a standard author on medical jurisprudence, but not on chemistry. Mr. Syester here read to the witness from page 484 of Taylor on Poisonings, 2d American edition, and the witness said he did not agree with Taylor's opinion, because he considered that a chemist should know that he was operating on the metal. He continued—I want the metal always; at the Naval Academy I was merely experimenting for comparative results on organic substances; I quoted Orfila as an authority, who, fifty years ago, had said the results produced by inorganic food were fallacious; I would not say that antimony was poisonous; other authors than Orfila say that organic matter may produce fallacious results; Orfila begins with the white powder, and there are millions of white powders; Mr. Syester here read to the witness, from page 214 of Wormley on Micro-Chemistry; and the witness said other things might produce the results Wormley there speaks of as the peculiar results of antimony. He continued—I think Wormley asserts more than he knows in that regard; I know no substance that would give the precipitates exactly as described by Professor Aikin; I don't think that tartar emetic ever would give those results; when a precipitate is thrown down from an acid solution it would become contaminated with sulphur, if sulphide of ammonium was used; I have not read Taylor on Poisonings; Wormley is more recent than Rose; no test is sufficient in my opinion in the search for antimony unless the metal itself is obtained; when the quantity is too small to work with, you can do nothing with it chemically; as a chemist I want something to work upon, and not an imaginary thing; if it was too small I could do nothing with it and could come to no conclusions: if I used the same tests Dr. Aikin used, and got the results he did, I would not be satisfied; if I got, under the same treatment, the results he got, I would have only a suspicion that antimony was present; after getting the metal I would try on that all the tests I know of; there is no one test that is sufficient, nor any two, or three, or four in my judgment; I yesterday said new metals might have new properties unknown to chemistry; about sixty-five elementary metals are known.

To Mr Revell—I say there might be a new metal, which would give the results obtained by Dr. Aikin, but I know of no such new metal; in my opinion the sediment in the tumbler contained organic matter largely; his correction of his report of his analysis of that sediment is unintelligible to me; as well as I can remember his oral testimony differed materially from his report; I did not say the analyses of Professors Aikin and Tonry proved the presence of tartar emetic or antimony, but that they were radically defective; Professor Aikin did not show what was in the sediment in the tumbler; I do not think that only white sugar, fresh milk, and a tablespoonful of brandy or whiskey would give the results that Dr. Aikin got from the sediment; something else must have been in the sediment; if chloral or yellow jasmine, it might have given Professor Aikin in his analysis of the tumbler the results he obtained; his results would create the basis for a suspicion that antimony was present; I have been at chemistry since a boy of 11 years; over 40 years; I have examined only one body for poisons; I did it when a young man as a lesson; I found nothing; no one assisted me; I applied all the tests for arsenic or antimony; I particularly examined for arsenic; that was before Marsh's tests were in use; that was as far back as 1832; I attribute the results Dr. Aikin obtained, in a great measure, to the fact that chloral and yellow jasmine had been administered by Dr. Williams; I have experimented with antimony mixed with those substances; I have no experimental knowledge on the subject; the books say that if antimony had been present the results would have been those obtained by Professor Aikin; I believe they might, however, be masked; if either chloral or yellow jasmine had been present, the results would have been modified; I see no reason why chloral, yellow jasmine and chloroform may not have given Professor Tonry his results; if everything was pure with which he operated there may be a probability that antimony was present; hydrochloric acid often contains arsenic, but if it is chemically pure it does not contain it; the absence of spots would show that the hydrochloric acid used

by Professor Tonry was pure; on a gold assay balance nothing less than the half of a thousandth of a grain could be weighed; I judge Prof. Tonry's balance only by this description of it; tartar emetic has very little taste to me; to me it tastes slightly saline, will you taste it?

Here the witness took a vial of it from his pocket. Mr. Revell quickly said: No, I thank you, sir, I don't want to taste poison! The witness continued: I believe Governor Bowie's tongue was blistered by it.

Mr. Steele—The Governor don't want that stated.

Mr. Revell—I dont know that he does, but we have a right to get at the truth.

Professor McCulloch continued—The books say its taste is acrid and made up with metallic; I have seen some books which said its taste was not metallic; it don't blister my tongue, but it did the Governor's; it left in my mouth only a little abiding taste, something like pepper.

To Mr. Syester—I would hesitate to say that spots produced by a process used by Professor Tonry would contain antimony.

To the Court—Organic substances might give such spots as Professor Tonry obtained; where organic matter was present Marsh's tests would be of no practical value.

Mr. Hagner here quietly but earnestly protested to the Chief Judge that he was cross examining the witness. The Chief Judge explained his reasons for interrogating the witness.

To Mr. Syester—The spot test is not deemed of importance in giving the arsenic or antimony in sufficient quantity to test for the metals; I have seen spots produced from an article obtained as tartar emetic dissolved in sulphide of ammonia; Marshs' test is not absolutely certain, but needs verification; my chemistry is more experimental than from books; I think one chemical fact of more value than all the books say; I do not think the books authorities.

Mr. Syester—"Your friends of the defence thought they were in the beginning of this trial."

Mr. Steele—"Yes, sir, and we will argue it with you now or at any time."

The witness continued—One fact is worth all the books.

Mr. Steele here read to the witness from Taylor in reference to a precipitate given by sulphuretted hydrogen in hydrochloric acid, and the witness explained his opinion on that subject. Mr. Steele then read from page 356 on the same work, as to the necessity in criminal trials to render the presence of poison most clear by other than Marsh's test. Prof. Tonry expressed then his agreement with the authority quoted, and said the quantity obtained should be large enough to be manipulated and put through other tests. Mr. Steele again read from page 384, and the witness expressed his opinion, with qualifications.

To Mr. Steele—I have given tartar emetic to about a dozen persons, besides Governor Bowie, and his tongue was the only one blistered.

To Mr. Thomas—Marsh's test consists in the obtaining of the spots and their verification.

To Mr. Syester—Bismuth, which I have said would give me a white cloud, is often used; it goes by the name of pearl, or lily-white, and the ladies use it on their faces; the doctors also use it for chronic indigestion; if bismuth had been present, it would not have given the same results as antimony.

The witness was here dismissed, and Dr. Frederick A. Genth was next called, and testified—I reside in Philadelphia and am an analyticalchemist; I made my first analysis in 1840, and have been ever since connected with analytical chemistry; I studied in Germany, first with Leopold Gmelin, in Heidelberg; then with Leibig, in Giessen, and afterwards Bunsen, in Marlburg; Leibig is the great chemist who made organic chemistry; I heard the entire testimony of Dr. Aikin; I have read his report to Mr. Knott, State's Attorney of Baltimore city; his tests and results obtained do not establish any presence of antimony; whenever a subject is to be treated for the presence of any poison, antimony for instance, it is necessary, under all circumstances, to use the best methods, and those not liable to error, and in cases of metallic poisons, to produce the metal, and to produce it in such a quantity that by subsequent investigations of that metal no doubt at all can be left as to its nature.

Mr. Steele here read to the witness from a portion of Professor Aikin's testimony as to the characteristic results of tests for antimony.

Dr. Genth said in answer—The three tests used by Professor Aikin are not certain; it is always absolutely necessary to obtain the metal and then to verify that by tests; there are about a dozen different methods of testing for antimony; if the quantity of metal obtained is sufficiently large to use all the tests, then all the tests should be used; if the quantity is not very large it should at least be large enough for the chemist to make all the characteristic tests after the metal been produced; the copper test would, if antimony had been present, have produced a crystalline powder like small needles, very minute of course, and they would have covered the inside of the tube; I have tried the experiment lately in Philadelphia and have observed it; the prismatic form was very distinct; I tried the experiment on antimony which was coating copper; the distinction between an amorphous cloud and crystalline powder is undoubtedly very important; I would now refer you to William Allan Miller's Chemistry, page 602. He read first from page 589, under the head of arsenic; He then read from page 602, in which it is said that the coating becomes condensed into needles. He continued—I recollect the two methods used by Dr. Aikin in testing his sulphuric acid. The witness here repeated the tests Dr. Aikin had used. He then said—His first test was altogether erroneous; I understand that he said that concentrated sulphuric acid would have decomposed sulphide of ammonia.

He continued---His tests for acids were not sufficient or reliable; he did not test them for this particular case, which should have been done under all circumstances; hydrochloric

acid is certainly liable to have impurities in it, and it is a very difficult thing to get pure hydrochloric acid; I have been trying experiments in Philadelphia in reference to this case, and when I first tested the hydrochloric acid, which I had bought as chemically pure from one of the best manufacturers, I found, to my great surprise, that it gave a dark coating on copper, which proved the presence of antimony or arsenic. The witness here showed a specimen to the jury, and continued.—I immediately sent to another one of the best houses dealing in chemicals to obtain another sample, and on testing that I found it too contained antimony or arsenic; at last I succeeded in obtaining a specimen, which did not give a dark coating on copper; last winter I had a number of students of analytical chemistry, and I gave them samples to find out what they were composed of; they invariably reported antimony: I saw it, too, myself; we went on for some time and I could not believe that there was antimony in that hydrochloric acid until a personal examination proved it to me; hydrochloric acid frequently contains antimony or arsenic, and it is very difficult to separate them; if antimony had been present Professor Aikin would have obtained crystals in the same form in each of the particular tests he used; it could not have been tartar emetic if the crystals differed; if both solutions had been tartar emetic the crystals would have been both of the same form, or with very slight modifications of the same form; Professor Aikin's analysis of the sediment in the tumbler does not prove that it contained either antimony or tartar emetic; I heard Dr. Aikin's statement of the manner in which he made his estimates of weights, and it is quite a new mode, but one to which I would not resort, because it is so full of inaccuracies that it is quite an impossibility to get anything out of it; I heard, also, Professor Tonry's testimony, and I saw the spots he exhibited; I have made experiments to determine the amount of antimony in those spots; such an experiment cannot be made accurately, and I could only follow him as near as I could; I first produced a hydrogen by the use of pure zinc, sulphuric acid and water; I then satisfied myself by testing the purity of that hydrogen; I then added a solution of tartar emetic containing the fiftieth part of a grain; I produced about a hundred and twenty spots; I acted upon the porcelain lids I have here as long as any were produced (here he handed them to the jury); if my eye is correct I believe them to contain twice or four times as much antimony as was in the spots shown by Professor Tonry; if I get 120 spots from the fiftieth part of a grain the average quantity of one spot is one-sixth thousandth part of a grain; therefore, one of Mr. Tonry's spots would contain from one-twelfth thousandth to one-twenty-fourth thousandth part of a grain of tartar emetic; it is quite impossible to manipulate with such minute quantities; I do not believe one of those spots could be tested with sulphide of ammonium and an orange color obtained; I have tried with twenty of my spots and did not get it.

[Here the witness exhibited to the jury the lid upon which he had experimented.]

He then continued—The color of the spots is yellow, and undoubtedly sulphur is in them to a great extent; Marsh's test is to get enough of the quantity to test; if it is not large enough it don't afford any evidence at all; the quantity obtained by Professor Tonry was entirely insufficient to make any reliable test; I heard his description of his experiment with the blowpipe; he took the sulphide precipitate and fused it on charcoal, and if antimony had been present it would have coated the charcoal with a white incrustation; Professor Tonry did not mention any such incrustation; no chemist would have used the process he used; the proper way would have been to cut off that portion that was fused, put it in an agate mortar, wash, and then if there had been any metal, it would have remained in the bottom of the mortar; he got a brownish solution in the evening by his nitrate of silver test, and in the morning he got a very small precipitate; nothing has been done with that, and therefore that experiment amounts to nothing; even disregarding the organic matter in such a case no analytical chemist would form an opinion as to the amount of antimony present in such a precipitate as Prof. Tonry obtained; it is laid down in all the books on analytical chemistry that the antimonial precipitate must be first freed or pumped from the free sulphur which it always contains; Prof. Tonry remarked that the precipitate he had did not contain any free sulphur, because he washed it with sulphuretted hydrogen; he exposed his precipitate from Wednesday night to Friday, and every chemist knows that the sulphur falls down in a half hour; the washing did no good; the longer it is exposed to the air, the more the sulphur will fall; I believe twenty-five one-hundredths of a milligramme could not be weighed; his quantantative analysis was absolutely unreliable; his tests did not establish anything at all, except that he had a trace of a metal there, and he did not establish what that metal was.

To Mr. Hagner—In poisoning cases it is always necessary to produce the metal in sufficient quantities, to be afterwards tested; that is the generally received opinion among scientists in Europe.

To Mr. Steele—I assisted in some of the experiments made by Professor McCulloch, and observed the same results to which he testified on yesterday.

Mr. Steele next read to the witness from Taylor on Poisoning, page 354, giving his objections to some of Marsh's tests, and the witness said he held the same opinion. Mr. Steele again read from page 356 of the same work, and the witness said he again agreed as to the great necessity for absolute certainty in cases of poisoning, and the authors objections to small quantities

The witness then turned to the jury and said: I repeat that the test must be used, and the quantity must be sufficient to admit of the use of all the characteristic tests.

Dr. Genth was now turned over to the State, and in answer to Mr. Revell, testified—The character of the crystals was not sufficiently described by Dr. Aikin to say what was their form; if tartar emetic had been present the

form of the crystals would have been rhombicoctohedron.

Mr. Revell here showed representations of such crystals in Taylor on Poisonings, and he said he recognized them: he then explained that though there might be modifications they would still be modifications of the same form. He then continued—I understood Professor Aikin to say that the crystals were not identical in form; the difference between the contents of the beaker glass and the contents used by Professor Tonry was six-tenth parts of a grain; I have proved by a test with the fiftieth part of a grain that I could get no results upon which I could place any reliance; I did not go further; when I speak of pure I mean that it was free from all impurities; in a poisoning case I must be satisfied by tests that it is free from all impurities; it is perhaps less that two or three seconds before a spot is made on porcelain; if I believed that, from the manipulations of one or two of the spots shown by Professor Tonry he had produced the orange red color of antimony, I would have to believe his eyes instead of mine, since I have found yellow spots, and I always prefer to believe my own eyes; when I have tried an experiment and ascertained positive results I will always believe my own eyes instead of another's; I assume that there was no white incrustation on the charcoal because Professor Tonry did not mention it; I have a right to presume it; I dissolved the spots I got by a drop of sulphide of ammonium; I did not subject them to any tests, but I know that undoubtedly they were principally composed of sulphur; it was apparent to the eye; I did not test it because I deemed it nseless; there is no use testing such things; if Professor Tonry obtained the orange red from a spot, I suppose there was present a minute quantity of antimony; there is no metal known which could have produced all the results testified to by Professor Aikin.

Mr. Revell—Would a small quantity of white sugar, two wine glasses of fresh milk and a tablespoonful or two of whiskey or brandy, stirred up with a silver spoon, and set away in a tin refrigerator for an hour or more, give the results testified to by Professor Aiken in his analysis of the sediment in the tumbler given him?

Dr. Genth—I never tried the experiment; they may or may not.

Continuing—There is so much discrepancy in both Dr. Aikin's oral and his written testimony about the sediment that I cannot give an opinion.

Mr. Revell now read to the witness the oral testimony of Professor Aikin, and the witness said he did not think such a mixture would give the results obtained by Professor Aikin. He continued—probabilities are things in chemistry with which we should not deal.

The Court here adjourned until 10 A. M. Monday. On Monday Dr. Genth will be recalled for further cross examination, and will be followed by Dr. Rease, of Philadelphia; Professor White, of St John's, and Professor Williams, of the Agricultural College of Maryland.

The testimony to-day was very tedious, and many of the spectators left before the adjournment of the Court. Mrs. Wharton's manner remains unchanged. Hermann Williams, Esq., of Baltimore, was present with her to-day.

TWENTY-THIRD DAY.

ANNAPOLIS, January 1, 1872.

The great Wharton-Ketchum trial has developed more scientific facts and fictions than ever before accompanied a criminal prosecution in Maryland, and some of them have proved as startling and dramatic in interest, even to the experts themselves, as were many of the details of circumstances supposed to connect the accused with the alleged murder by poisoning.

Mrs. Wharton sits unmoved amid all the agitations, and appears perfectly calm and self-sustained. Her daughter is closely attentive, and seems more interested than her mother.

The scientific war has now began in earnest, and after the chemical experts have been exhausted the medical experts for the defence will take the field in solid column. It is not known that they have made any actual experiments, but the books and their own experiences will doubtless furnish numberless precedents.

The attendance to-day, upon the opening of the Court, was smaller than it has been during any day of the trial. No ladies were present, the gentle sex being, doubtless, devoted to the pleasures of New Year's day. Dr. Genth was recalled for cross-examination, and in answer to Mr. Steele, said that Professor Tonry had stated a chemical impossibility when he said he got a solution of tartar emetic; if he had gotten what he said he did, it would have proved that no tartar emetic was there; sulphide of antimony is a compound of sulphur and antimony; potash is a compound of oxygen and potassium; if you dissolve sulphide of antimony in potash you make a double compound; first, potash and oxide of antimony, and the second, sulphide of potassium in combination with tersulphide of antimony; you get a clear solution anyhow, and if you add an acid to it you decompose the sulphide of potassium, and make sulphuretted hydrogen.

To Mr. Revell—I have never examined a stomach for tartar emetic, but I have had experience with it.

The witness was next shown the sediment from the precipitate Prof. McCulloch had made, and he said it did not, as far as he knew, resemble that from tartar emetic. He continued—I am 51 years old; I commenced the study of chemistry in 1839, and graduated in 1845; I have been engaged in mineralogy and geology in the silver and gold mines in North Carolina; I have given analytical chemistry my attention during all the time since my graduation; I have analyzed a stomach for arsenic; I found the metal and operated upon it; that was in

Marburg; I did not testify in the case; after producing the metal I tested it with all the known tests. The witness here related one of Marsh's tests which he had used. He continued—The quantity of metal was too small to weigh; you can weigh one milligramme of arsenic, but it requires great care; a milligramme is the one sixty-fifth part of a grain; there are scales which are said to weigh the tenth of a milligramme, and I have weighed that quantity, but the scales must be new and perfectly accurate; though I could not weigh the quantity of arsenic I obtained, I yet subjected it to all the tests; I proved its presence to my satisfaction; such weights as a tenth of a milligrane cannot be relied upon to base any results upon; when Taylor says a quantity of arsenic is "imponderable," he means that it cannot be weighed, but that it could be operated upon; reactions could be gotten from the one seven-hundred and twentieth part of a grain of arsenic, but it could not be done with antimony; I do not suppose the investigations could be carried far enough; antimony is not considered a poison unless found in large quantities; I do not know of any substance except antimony which would give all the results obtained by Dr. Aikin, that is, if the antimony was pure; I have, however, known the same "characteristic" tests of antimony to be proved to be perfectly unreliable; I have known bismuth to produce an orange red; if you have an acid solution and pour in any sulphide of ammonium, the sulphide of ammonium is decomposed, no matter whether any metals are there or not; a large quantity of sulphur is precipitated: that sulphur has a yellow color, and if minute quantities of metals are present which would in their pure state give a brown or dark precipitate like bismuth, that brown precipitate would be covered by the yellow color from the sulphur, and would be in appearance like an antimonial precipitate; copper may give also that result; I have obtained an orange red precipitate from lead; that precipitate is no proof that antimony is present; if no sulphur was mixed with them they would not give those results; bismuth is not soluble in tartaric acid.

To Mr. Syester—I could determine from the white cloud whether bismuth or antimony was present.

Mr. Syester then read to witness from Taylor on Medical Jurisprudence, page 127, as to the steps necessary to determine the presence of antimony, and the witness said Taylor was wrong. Mr. Syester then read from Wormley, page 223, and, after considerable questioning, the witness said Wormley and Aikin made the same mistake, and both were wrong in some of the steps they followed. He continued—Chemistry certainly gives reliable results in case of vegetable poisons; some of them may be reproduced, among them nicotine and strychnia; morphia is said to have been reproduced, but it is doubtful; the books say so, but that is not a sufficient guarantee to me, but, if I have found differently, I think I am as good authority as the books themselves; if vegetable poisons have gone into the system, and are still there, in their undecomposed state, I believe I could reproduce every one of them; the books say some can be reproduced and others cannot; it is my opinion that the vegetable poisons must be chemically reproduced or else there is no proof that vegetable poison was the cause of death; if such impurities as antimony reside in hydrochloric acid, I have no doubt they could be detected by Marsh's test; if thus found pure it would not become impure if only allowed to remain in the laboratory; I do not remember that Dr. Aikin said he had not used his hydrochloric acid after testing it by Marsh's test before he used it in his analysis; Prof. Aikin made a mistake in adding tartaric acid, which is one of the constituents of tartar emetic; I understood him to be looking for tartar emetic; if he was looking for antimony alone he was right in adding tartaric acid; a poisoning case by cream of tartar has been reported; Mr. Syester now read from Taylor on Poisons, page 478, and the witness explained his understanding of the statement there made in reference to the difference between cream of tartar and tartar emetic. He then continued—Professor Aikin's tests were characteristic of antimony, but not positive proof. Mr. Syester then read from pages 225 and 226 in reference to copper tests, and the witness said, as he did yesterday, that a crystalline and not an amorpheous deposit would be observed under the process there spoken of; pages 589 and 602 were again referred to by the witness, and the volume handed to Mr. Syester.

To Mr. Steele—The white cloud obtained by Professor Aikin was too small a quantity to be dried and tested. The witness next showed to the jury a piece of paper weighing ten milligrames, with each milligramme marked off. The jury took the minute piece and examined it; the witness then, at Mr. Steele's request, cut off what he believed to be the 25-100ths of a milligramme, which he took up with great difficulty, on the point of his knife; he then cut off two and a quarter of a milligramme, and the minute particles were put into a vial and passed around among the jury. He said the sulphide of antimony would have been only one-fourth or one-fifth of the bulk of the particle he exhibited.

Dr. Genth was then dismissed, and Dr. John J. Reese was next called, and testified—I reside in Philadelphia, and am a practicing physician; at present I occupy the Chair of Medical Jurisprudence and Toxicology in the University of Pennsylvania, at Philadelphia; I was formerly Professor of Chemistry in the Medical Department of Pennsylvania College, then located in Philadelphia; I have, in connection with my present chair, made toxicology a special study, but I do not give to it the same attention an analytical chemist would; I heard all of Prof. Aikin's testimony; his analyses do not, to my mind, establish proof of the presence of antimony in General K.'s stomach or in that tumbler; in my opinion a chemical analysis connected with a poisoning case should be so thorough and so exact ——

Here Mr. Syester interrupted the witness, and Mr. Revell briefly contended that the witness could not give his opinion in the way in which he was doing.

After some discussion the witness continued —One reason is the entire omission of some very important and characteristic tests for this poison alleged; another is that when tests, said to be characteristic, were employed, some of them failed; the third reason is that in the tests most relied upon there were sources of fallacy which rendered them uncertain and inconclusive; taking the first reason I would name, first, the omission to produce the metal antimony, and bringing it into Court, and submitting it to the defence for examination, and in sufficient quantities to enable the analylist to subject it to *all* the characteristic tests; this was in my opinion a very important omission, especially as it is very easy to obtain the metal antimony, and operate upon it; it is easily obtained if it is there; to my mind no test would be sufficient which did not produce the metal, and in sufficient quantities to be operated upon; secondly, of the tests called characteristic, which are said to have been used in this analysis, two failed; I heard all of Professor Tonry's analysis, and in my opinion his tests were also insufficient to establish the presence of antimony; I also read Professor Aikin's report carefully; returning to the characteristic tests which failed (I now allude to Prof. Tonry's analysis) was the application of nitric acid to one of the spots it failed to give the characteristic reaction of antimony, and the experiment with the blowpipe also failed to give the characteristic results; I refer also just here, under the first head, to the test called dialysis; it is very important, but is a very simple and beautiful method of separating crystalline substances from organic mixtures, such as tartar emetic, morphia, styrchnia, and indeed all crystalline bodies. The witness here explained how the method was accomplished, by passing the crystalline particles through parchment paper. Thirdly, was the fallacy necessarily attending the employment of those tests on which the chief reliance appears to have been placed; on the failure of these three tests I pass my opinion of the insufficiency of Professor Aikin's tests; I would not consider the three tests described by Professor Aikin sufficient to establish the presence of antimony, for the reason that organic matter placed under precisely the same conditions will give precisely the same results; I mean, treated in an acid solution and precipitated with sulphuretted hydrogen, they will give an orange red precipitate which will dissolve more or less in hydrochloric acid, and the resulting solutions, when thrown into water, will give a white cloud, which ultimately becomes a precipitate; the color will vary according to the kind of organic matter through which the sulphuretted hydrogen is passed; the general aspect of the precipitate is, however, a dull, reddish yellow or reddish brown; if a stream of sulphuretted hydrogen is passed through a solution of chloral and yellow jasamine there is a remarkable resemblance in color in the precipitate thus obtained to an antimonial precipitate; of this I was personally unaware until I witnessed Prof. McCulloch's experiments; I believe those experiments, if followed out with other organic substances, would develop other results in relation to this coincidence; the precipitate I saw him obtain was, to a great extent, soluble in hydrochloric acid, and produced a white cloud when thrown into water, and that cloud or precipitate was again soluble in hydrochloric acid to a great extent, I will not say entirely, and if into this solution sulphide of ammonium be dropped, it will reproduce the reddish color, or yellow red color; when copper is put into it and boiled, it will make a deposit on the copper organic substances generally, and especially those of a complex character, when mixed with hydrochloric acid and water, and then boiled on a strip of bright copper foil, will produce on that copper a dull stain which might be mistaken for an antimonial or arsenical stain; I saw the experiment tried with yellow jasamine, and I tried it too; it is well known that when a strip of copper is boiled in an acid solution of antimony, arsenic, mercury, tin and other metals, a deposit or precipitation is made on the copper by virtue of a known chemical law; the amount of the deposit on the copper will depend altogether upon the amount of metal in the solution and the time the copper is subjected to its action; from an organic solution in which no metal is present, boiled with muriatic acid, the slip of copper would gather a stain; if sulphur is present along with the organic matter, as it is very apt to be, if taken from a human body, the stain or deposit will be most decided and dense; furthermore, if this copper, with the deposit on it from organic matter, be washed, dried, rolled up and put in a small glass reduction tube, it will produce a white sublimate more or less decided, which, by an unpracticed eye, and even sometimes by a practiced eye, might be mistaken for the white antimonial sublimate. [The witness here handed to the jury a vial containing strips of copper with the deposits spoken of on them.] He continued—I have obtained the same results from yellow jasamine mixed with chloral; I speak now from my own personal experience; it is for these reasons that I call the color test fallacious in the search for antimony or arsenic; by the word fallacious I do not mean that I condemn the test, but only that it is liable to errors; as evidence of the presence of antimony I should require absolutely the production of the metal as the only positive, conclusive proof, and that in such quantities as to enable me to practice upon it all the recognized tests; I think that those only safe and conclusive tests as determining its presence; my rule in all poisoning cases is to insist upon all the known tests or be satisfied of the reason for the failure of any one of them; if one of the tests failed and was not satisfactorily accounted for, it would go far to vitiate the conclusion; I cannot go so far as to say that the failure of one test would prove the absence of the poison; if I made six tests and one failed, it would lead me to suspect that there was some intervening cause which gave me results not in accordance with previous experience; all the characteristic tests should be prac-

ticed and should be successful; there are four distinct methods by which the metal antimony may be reproduced; it is an established point among toxicologists that it is absolutely necessary that all the reagents should be perfectly pure, because, unless they are, the very poison sought for may be produced; the impurities likely to be found in such reagents as have been here sworn to are antimony and arsenic; they are the most important, and are very frequently found in just such reagents as Professors Aikin and Tonry used; the antimony occurs chiefly in the hydrochloric acid; sometimes in the sulphuric and sometimes in the zinc; the arsenic occurs in the sulphuric acid and zinc, and is quite frequently found in the hydrochloric acid; they get admission in the hydrochloric acid chiefly though the sulphuric acid employed in its manufacture; it is not possible to detect impurities in mineral acid by sulphide of ammonium; the application of such a re-agent would itself produce an impurity in that acid, namely, the precipitation of sulphur; it would be impossible, by such a process, to detect in it the acid minute particles of antimony or arsenic, even if they were present; the sulphur thrown down would entirely disguise any reaction which would otherwise ensue; if I was seeking to obtain a pure sulphide of antimony, if in an organic mixture, it would unquestionably be necessary to get rid of the organic substances and the sulphur; the presence of any organic substances weighed with the sulphuret would naturally vitiate the calculation; in regard to portion B of Professor Aikin's solution, he did not use anything to get rid of the organic matter: where sulphuretted hydrogen is passed through an acid solution, the amount of sulphur would depend upon the amount of mineral present; the whole precipitate might be sulphur and organic matter; I could not begin to form a conjecture of the amount of antimony present, if there was any, in Professor Aikin's solution B from the precipitate he obtained; I can only give an approximate estimate of the amount of antimony in the spots here shown by Professor Tonry; from the 50th part of a grain Dr. Genth and myself in Marsh's test obtained 120 spots which we think twice as large as those obtained by Professor Tonry; we estimated that each spot would represent one 6-1000th of a grain of tartar emetic, and that each of Prof. Tonry's spots represented one 12-1000th of a grain; I therefore consider the thirteen spots shown here by Prof. Tonry contained the 1000th part of a grain; I have no doubt that the 1000th of a grain would, by Marsh's test, give thirteen spots as large as those obtained by Prof. Tonry; I do not think I could apply tests for antimony to any one or two of the spots Prof. Tonry obtained; Dr. Taylor, who has been frequently quoted here as an authority, states that the smallest quantity he would consider it safe to operate upon, would be the 150th to the 200th part of a grain, and that even then the results would be very doubtful. Mr. Steele here read to the witness, from page 206 of Taylor's Medical Jurisprudence, and he agreed in the opinion there expressed. Mr. Steele referred next to Guy's Forensic Medicine, page 409, and Dr. Reese agreed also with the opinion of that author.

Dr. Reese then continued—The test Dr. Aikin used for the sediment in the tumbler is not in itself proof of the presence of antimony; the action of hydrochloric acid he described in that connection does not prove anything; Professor Aikin could not have made his estimates of weights with any certainty, or a probability of certainty; it is not the habit of chemists to make any such estimates; they *must* weigh and be fully assured, moreover, of the purity of the article they are weighing; it is the practice among chemists to insist upon the most absolute identity of the article presented for analysis; I mean, that it should be the very same; it is so important that even after a satisfactory conclusion is arrived at, if there should be any doubt of the identity of the substance analyzed, the analysis should be rejected; neither the tests of Professors Aiken nor Tonry are sufficient to establish the proof of the presence of antimony in the stomach or other viscera of General Ketchum, or in the tumbler; tartar emetic has very little taste to my palate, but I don't remember to have tasted it before I came to Annapolis; most of the books follow Orfila, and in mistranslating have made errors; no author would care to test it on himself, and Orfila has been followed, therefore, the more; the French word for the taste is *apre*, which means *rough* rather than acrid; there is a great diversity of tastes, as we all know, but Dr. Wood did not consider tartar emetic acid, for he speaks of it as "sweetish;" I have been a practicing physician over twenty-five years; as Professor of Toxicology I have my attention particularly directed to that branch of chemical investigation; I heard the testimony of Drs. Williams, Miles and Chew; I see nothing in the statement of the attending physician, or the eye-witnesses, of the symptoms observed in the deceased before death, nor in the results of the autopsy to exclude the idea that death was produced by natural causes, but those causes may have been obscure; it is necessary that the post mortem should have been thorough and exhaustive, leaving no part of the body not examined; that is, I believe, the invariable rule in all medico-legal cases where the autopsy is made to discover the cause of death—such has been my practice always; if the post mortem was not complete it obscures the results in so far as it was not complete.

Mr. Syester—"Obscures the result?"

Dr. Reese—Yes, sir.

Mr. Syester—That is a very good word, the best that could be used.

Dr. Reese then alluded to an instance in which a father beat his daughter, and she died, and the father was arrested. Only the post mortem revealed the cause of death—namely, the [illegible] of arsenic by the girl.

Mr. Syester here objected, but it was too late.

Dr. Reese continued—Some years ago I was called upon to examine for poison in the stomach of a man who had died under suspicious circumstances;

after a laborious examination I found nothing, but it was discovered that a vessel of the brain had burst, and the man had died of apoplexy; a poison is a noxious substance, which, when taken into the body, produces dangerous and sometimes fatal effects; tartar emetic is believed by high authorities to operate in two ways—by absorption into the blood and irritation of the mucous membrane of the stomach and intestines; when this or any other noxious substances goes into the circulation the effort of nature is to throw it out from the system. and that is accomplished by certain organs—the liver, spleen, kidneys, lungs and some other organs; poison is only active, it is believed, while it circulates in the blood, unless of the class which operates by direct irritation of the mucous membrane.

The Court here adjourned until 10 A. M. tomorrow. The attendance upon the trial today was very small.

TWENTY-FOURTH DAY.

ANNAPOLIS, January 2, 1872.

The war of the experts continues, and a strong effort is being made by the defence to develop what they consider the real state of the case.

Upon the opening of the Court today Dr. Reese, of Philadelphia, was recalled for continued examination by the defence. In answer to Mr. Steele, who recalled him, to a chemical inquiry, he testified—Crystalline substances always assume a definite geometrical form when the solution passed into a solid condition; this crystalline form is invariable to the same substance; there may be a variation as regards the corners and edges of the crystals, but the angles of the plane are fixed and invariable; chemists determined the measurement absolutely by using the gonniometer; if, therefore, a drop of solution be allowed to evaporate on a glass slide and to develope crystals, and another drop be treated similarly, and there is not an identity of crystals, I should infer that they were not the same substances, that is, so far as that experiment is concerned; the very first thing to be established in weighing such a residue as Professor Tonry had is to be absolutely certain as to the nature of the substance you are about to weigh, and from which you are to deduce results; the nature of the precipitate in question has not been determined; it has been admitted to have been composed partly, at least, of coloring matter, which is organic matter, and partly of sulphur; in my opinion the first step was defective, namely, an exact knowledge of the substance; in weighing the greatest possible care is necessary and is demanded; in the first place the drying of the substance is a very important matter; if I remember correctly, Professor Tonry stated that he dried his precipitate in a beaker glass over a water bath; I think that would not completely dry the substance as it would leave some moisture in it I think it should have been exposed to a drying oven for several hours, where the temperature was at least twelve or fifteen degrees higher than two hundred and twelve; then it should have been placed under a bell glass in which was a vessel containing sulphuric acid; this should have been continued until the temperature of the precipitate was the same as the temperature of the air; then it should have been placed on the balance, carefully avoiding the touching of the beaker even at the rim with the hands; it should only be handled with delicate forceps, which would leave no moisture; then, having accurately weighed it, it should have been again placed under the bell glass for several hours, and weighed a second time, and if weight was found to have been lost, the process should have been repeated until it ceased to lose any weight; this is in my opinion what should have been done; there are no symptoms which are exclusive to tartar emetic poisoning; none by which it can be recognized infallibly; with the exception of one or two organic poisons, there are no symptoms by which any poison can be exclusively recognized; there are some dozen irritant poisons, whose symptoms closely resemble each other; if a poison could be recognized by the symptoms alone, it would not, of course be necessary to make a chemical analysis; there are many diseases whose symptoms resemble closely those produced by symptoms closely resemble those of tartar irritant poisons, and also narcotic poisons, and I may also mention tetanic poisons, so called, or spinal irritants as they are also called; first I will mention cholera morbus, especially in its initial stages, and the disease known to physicians as gastro-entronitis, or inflammation of the stomach and bowels; peritonitis might also be confounded with it in some of its stages, and there are some others whose emetic poisoning; when a poisonous dose of tartar emetic is taken it very soon produces intense nausea, followed by the most violent vomiting and purging; there is also a sense of constriction in the throat; there are also violent pains in the abdomen, caused by the irritation of the mucous membrane of the stomach; there is excessive prostration, the whole muscular system being relaxed; the pulse becomes small an frequent, in consequence of the depressing influence of the poison on the heart; there is usually considerable perspiration; the secretions generally are increased, especially the secretions from the kidneys; in some exceptional cases the poison seems to act on the nervous centres through absorption, producing convulsions and sometimes delirium; that I think is about the description; the color of the fact varies; I have seen in my practice but one case of tartar emetic poisoning, and then there was a pallor in the face; the appearance of the tongue also varies; in the back part of the tongue there are little apthous ulcerations; as tartar emetic is a decided irritant, and occasionally produces that apthous ulceration on the tongue of even a living person, it frequently extends down into the stomach and bowels.

Mr. Steele here read from Wharton and Stille's Medical Jurisprudence, page 508, and the witness said he emphatically agreed with the opinion there expressed, that the symptoms of tartar emetic poisoning closely resemble those of cholera morbus.

Dr. Reese then called the attention of Mr. Steele to the mention made of a parallel case cited on page 64 of Dr. Wood's work on therapeutics. He continued—I would not pronounce this case here a case ot poisoning, from the symptoms alone; a pathological examination would not always determine the cause of death; I heard the testimony of Drs. Williams, Chew and Miles; I should not form the opinion that General K. died of poisoning from the symptoms of the disease and the post mortem combined, and for the reason that such symptoms and such post mortem signs might be logically accounted for from natural causes; there are many natural causes or diseases to which his death may be logically attributed; a physician who merely hears the details of symptoms in any particular case, cannot so well make up his mind as to the actual cause of death as if he had witnessed them; still, taking together all the symptoms in this c se, they would seem to indicate some disease which specially affected the brain and spinal marrow; a disease of this character was indicated by Prof. Donaldson, of Baltimore; cerebro spinal meningitis is the name of the disease; its name denotes inflammation of the membranes of the brain and of the spinal marrow; the symptoms in General K.'s case, which strongly resemble those of this disease, were the pain in the head, especially the back part of the head and neck, extending down the back—the pain extending around the abdomen; the lividity of the face, the suppression of the secretion of the kidneys, the excessive sensitiveness of the skin, termed hyperesthesia; the rigid contraction of the muscles of the neck, and more particularly the bending back of the body in the arched form, which is called opos-thotonos, the partial delirium and the condition of the eye; those are symptoms characteristic of this disease; then there may have been possibly another disease called spontaneous tetanus; though a very rare disease, it not unfrequently occurs; some of the symptoms strongly resemble those of that disease; those are the two diseases whose symptoms I think most resemble those described by the attending physician; I confess that Gen. K.'s symptoms all day Tuesday and on Wednesday morning presented to my mind an idea of an overdose of laudanum, though the symptoms presented during the last hours of his life were not those which usually accompany a fatal dose of opium; convulsions do, however, some time attend fatal cases of opium, but these are more frequent in children than in adults;in poisoning by opium, as a rule, the pupils of the eyes are contracted, but it is by no means invariable; in experiments made by myself on animals with opium, the pupils were first dilated and then contracted; Taylor mentions a case of opium poisoning in which one pupil was contracted and the other dilated, showing the uncertainty of this symptom; I hardly think that an examination of only two inches of the spinal cord would have decided whether General Ketchum died of poisoning or from a natural cause; this violent disease (cerebro spinal meningitis) does not invariably leave any lesions by which it can be discovered after death; these are, however, exceptional cases; the examination of the membranes of the brain of General K. did not disclose any such lesions; but as the spinal cord was not examined, it is, of course, impossible to say what was the condition of its membranes; the two inches spoken of as having been examined could not disclose the condition of the whole spinal marrow below it; I would like to add here nausea as a frequent accompaniment to cerebro spinal meningitis, especially in its early stage; I do not know in my own experience of the absence of these lesions, but the authorities cite many cases: it not unfrequently happens in cases of death from convulsive diseases that no lesion is discovered after death; this occurs especially in those convulsive diseases known as epilepsy and hydraphobia, and sometimes in tetanus; there are antidotes for many poisons, but for some there are none; an antidote is, chemically speaking, a substance which combines with the poison, rendering it inert, the new chemical compound being inert; if a physician finds a case of poison, the first thing is to give a strong emetic, then use the stomach pump, and then administer the antidote; the best antidote for tartar emetic poisoning is some vegetable astringent, such as an infusion of nut galls and tea and oak bark; their tetanic acid combines with the oxide of antimony and forms a neutral tannate of antimony; the post mortem signs, as mentioned, are chiefly of a negative character, and do not show anything of a decided character; they are not such as I would expect to find in a case of tartar emetic poisoning, chiefly for the absence of signs of decided inflammation in the stomachand the alimentary canal; I would add here the absence of congestion of the lungs and of the general engorgement of the venous system; neither the symptoms nor post mortem revelations present to my mind an ind cation of tartar emetic poisoning; viewing the case exclusively as to the symptoms and post mortem, I may say that the death may be fairly attributed to a natural cause; the symptoms may have been aggravated by what was administered; even an ordinary meal in some cases might result fatally; such cases have been reported.

Mr. Steele—You have heard the testimony of the symptoms and condition of General Ketchum on Wednesday morning. Supposing the last dose administered to him to have contained tartar emetic, could it have caused his death?

Dr. Reese—From General Ketchum's symptoms, especially towards 1 o'clock, I should have considered him in a dying condition; if the last dose administered to him contained a fatal dose of tartar emetic, I should certainly have expected it to have produced at once violent symptoms of vomiting and also of purging; as these are the natural and obvious symptoms of that emetic poison, I should not,

in their absence, infer that such poison had been given.

Dr. Reese continued—I am somewhat acquainted with the effects of chloral and chloroform; I think both valuable remedies; deaths from chloroform are, however, of frequent occurrence when it is used by inhaling: it is not considered nearly so safe as ether; as regards hydrate of chloral it has been in use as a medicine only about two or three years; it is a valuable remedy for relieving pain and producing sleep, but its precise mode of operation is not yet distinctly understood; a number of deaths have been reported as resulting from the use of chloral; the German authority, Liebreck, has a notion that when the hydrate of chloral enters the blood it is converted into chloroform and formeate of sōda; I think this, however, a mere speculation; it has never been proven, but it is quite possible that it might form other substances in the blood; Berzilleus has shown us that oxalic acid might be one of its products; oxalic acid is poisonous in large quantity; other poisonous substances might be produced by its action; its precise action has not been determined; I have not used gelseminum in my practice, and cannot speak from personal observation; there are various speculations and ideas as to its actions; I should say it was a depressant rather than an excitant; Wood and Bache so speak of it.

Cross-examined by Mr. Syester—My only profession is the practice of medicine; I have occupied for seven years my present Chair of Medical Jurisprudence and Toxicology; I graduated in the institution of which I am now a Professor; I was for nine years a Professor of Chemistry in the Medical Department of the University of Philadelphia; I can't say that I have had any practical knowledge of the effects of yellow jasamine; the authors do not concur in saying it is a depressant; there is very little literature on the subject of the action of gelseminum; I have read Dr. Williams' article on the subject; Berzelius is a chemical writer exclusively; I do not know that he demonstrated his theory which I have here stated; in cases of tartar emetic poisoning there will not always be discoverable after death the characteristic signs; it may be there will also be no signs of irritation in the intestines and alimentary canal; the congestion of the lungs is not an invariable accompaniment; I cannot say that a general engorgement of the veins is an invariable accompaniment; I have never examined a case of tartar emetic poisoning, and my information on the subject had been obtained from the books and what has been told me; there was nothing special in the post mortem revelations which showed the cause of death; I should describe them as of a negative character and not as indicating anything specially; the examination made of the brain might indicate some obscure disease of the brain; they did not, however, to my mind; they might be accounted for as changes occurring after death; I have known deaths from decided diseases of the brain and upper portion of the spinal cord and the brain, and on examination I did not discover more decided lesions than those observed in the brain of General Ketchum: that case I attended myself, and the symptoms before death brought me to that opinion; they were very similar to those of General Ketchum, namely: Violent pain in the head and back, tetanic rigidity of the muscles of the neck, some delirium and automatic putting of the hands to the head; I had expected to find decided lesions after death, but merely found some slight congestion, which, if I had merely seen after death, without witnessing the symptoms, I would not have considered as accounting for death; I had been attending the patient for ten days or two weeks, but the severe symptoms did not come on until within a day or two of death; they gradually increased in severity from the time of their first appearance, and the patient died unconcious, the disease being some disease of the brain, and I simply gave in the certificate disease of the brain; I only examined the brain and the upper portion of the spinal cord; the patient became very delirious at times two or three days before death; I regarded that as a decided symptom, and it became more decided and more continuous before his death; it became continuous within one or two days before death.

Dr. Reese continued—Berzelius has shown that chloral might produce several substances in he blood; the symptoms from chloroform or oxalic acid would differ from those of an over dose of chloral; the congestion of the membranes of the brain may have been produced by natural disease or the convulsions before death; there was in the case I examined a slight congestion about the base of the brain; I should not term it an active congestion; it was arterial rather than venous; it was visible to the naked eye; I did not examine it with a microscope; I don't think that Dr. Miles said the por ions of General Ketchum's brain which he examined with the microscope presented evidences of active congestion: I have some knowledge of diseases of the brain; mere passive congestion does not, to my mind, generally indicate the presence of disease; a general engorgement of the veins of the brain would indicate disease, but it might not be a disease of the brain; in deaths from brain disease I would say it was a rule that evidences of active rather than passive congestion were discoverable; I don't recall having examined a case of brain disease in which there was no evidence of active congestion; I don't remember any particular authority on the subject which states that active congestion was not observable; in the case I examined opportunity was not afforded for further examination than that I made; to one of the diseases which I have named as having similar symptoms to those described in General K.'s case might be attributed his death: I attribute it to cerebro spinal meningitis; in the patient I had, there was a very slight arterial congestion at the base of the brain, and in General K.'s case there was passive congestion and some little points; there was not in the case I examined and General K.'s any decided resemblance or decided difference; from my recollection of the testimony here there was an absence of

one lesion in General K.'s brain which I observed in mine and which led me to the opinion that he died from cerebro spinal meningitis; in my case there was not an absence of passive congestion, but only a very slight arterial congestion; if a patient had been in the condition here described to have been that of General Ketchum on Wednesday morning, and a dose of yellow jassamine had been administered at 1 o'clock, I am not well enough acquainted with its effects to say what would have been its effects; if tartar emetic had been given at that hour, I do not think it would have produced the symptoms described; tartar emetic produces great pain in the stomach, which is usually accompanied by violent vomiting and purging; convulsions are exceptional; they are alternating convulsions, sometimes said to be tetanic; I heard in this case of symptoms which led me to the opinion that he had tetanic convulsions before the last dose was administered; I remember that General Ketchum said he had pain in his stomach; from my recollection of the symptoms and post mortem, I would ascribe the convulsions to a fuller developement of the disease already existing, and as having no natural connection with the last dose given him; I should not ascribe them to yellow jassamine; I think that at the time the chloral or chloroform were administered it would not have any effect either one way or the other; I think if tartar emetic had been in the last dose, it would have produced great prostration, and that if it had produced any effects at all, it would have relaxed the muscles; tartar emetic was finally used to overcome rigidity of the muscles; if a dose of tartar emetic had been given in anysize, it would not have had the effect of overcoming the effects of the chloral and yellow jassamine; I don't recall that the books say it would; tartar emetic might have neutralized the effects of the chloral and yellow jassamine; the books say that by taking repeated small doses of tartar emetic every three or four hours for three or four days the system becomes tolerant to its whole action, and it does not produce vomiting, and, that after the system has become thus accustomed to it, very large doses may be taken without any effects, except for the cure of certain diseases for which it is in that way used; after a man's stomach has become tolerant of tartar emetic it is possible to kill him with it, that is if you give him enough of it; if the system had become so far tolerant of it as not to throw it off, I think it would lie in the stomach perfectly innoxious; I think, however, it is possible to give even then a dose which would kill; Razzori gave as much as 60 to 120 grains a day after a graduation administration; I don't know that a person could not be poisoned by tartar emetic after the system had been made tolerant of it; I don't mean to say that necessarily vomiting and purging would accompany an overdose of tartar emetic; it might be possible to give an overdose without producing vomiting or purging; the books say that even a fatal result has been produced without vomiting or purging; they do not account for the absence of those symptoms.

To Mr. Revell—I mentioned that the symptoms of Gen. Ketchum may have been those of cholera morbus or other cholera; I do not think he died from cholera morbus; the symptoms of cholera morbus are a cold sweat, pain in the stomach, small and frequent pulse, purging, great prostration and pain sometimes in the calves of the legs; I should think whatever of cholera morbus he may have had terminated when his physician took leave of him on Monday; I don't think he died from inflammation of the bowels and stomach, called gastro-entrinetis; I do not think he died from peritonitis; the symptoms only suggested that at one stage of his attack; neither of these diseases, in my opinion, caused his death; in my judgment he did not die from an overdose of laudanum, but some of the symptoms indicated that for the last three or four hours preceding his death; I have seen cases of opium poisoning, but no fatal ones; in those I witnessed there were no convulsions; in cases of death from opium poisoning the patient dies in complete coma; in some cases of narcotic poison remissions of insensibility occur; the ulcerations I spoke of finding in the throat, from tartar emetic, do not always occur; in some cases the skin has pustules upon it, so violent is the poison; Grisole is an authority, but I am not familiar with his work.

Mr. Revell then read from Grisole the symptoms of tartar emetic poisoning, and the witness said he considered Grisole's statement, in the main, correct.

He continued—I consider the convulsions exceptional. Mr. Revell then read from Taylor On Poisonings, page 476, of the symptoms and effects of tartar emetic, and that "sometimes" there were tetanic convulsions. Dr. Reese continued—Convulsions may occur in cases of death from any other cause. Mr. Revell next read from Taylor's Medical Jurisprudence, page 123, as to the symptoms in an acute case of poisoning from tartar emetic, and the witness said he agreed with the opinion there expressed.

Dr. Reese continued—The only disease to which I could refer the symptoms in General K's case is cerebro spinal meningitis; in its epidemic form it is very violent; Dr. Alfred Stille is a colleague of mine, and has written a monograph on the subject of cerebro spinal meningitis.

Mr. Revell now read from page 76 of Dr. Stille's work, and the witness said he did not agree with Dr. Stille in the opinion there expressed, if he meant to exclude the idea that in certain cases the disease may prove fatal without leaving definite and characteristic lesions. He continued—Dr. Stille is not in accord with other writers on the subject of which he writes; I would cite here Drs. Aitkin, of England, Reynolds, Flint and Radcliffe, and, I think, Tanner, another English writer; I have seen those books since I have been in Annapolis, and have refreshed my memory from them; death may occur without leaving any positive pathological lesions.

Mr. Revell again read from Stille that congestion of the brain was an unfailing accompaniment of the disease, and the witness said that he believed that the general rule was

that no positive pathological lesions would be discovered.

Dr. Reese continued—There is one form of the disease, called fulminant, which is rapid in its effects, and the absence of pathological lesions is more particulary confined to cases of that kind; I think headache is, as a rule, present, but I do not know myself that it is always present: I think it one of the most characteristic symptoms: I do not remember that it was here testified that he had a headache; I got a very decided impression that he had a headache from his putting his hands to his head, the throwing back of his head; he might, however, have put his hands to his head because of the pain caused by the ice bag put to his head; his disease may have commenced when he had his first sickness; pain in the head is certainly one of the accompaniments of the disease. Dr. Reese here inquired if Stille said anything about the spinal marrow, and Mr. Revell proceeded to read that another symptom was vertigo, anxiety at the stomach, and activity of the pulse, and Dr. Reese called his attention to the variety of the symptoms, and said they all pointed to the brain and spinal marrow as the seats of the disease; it was also declared by Stille that there was great cutaneous sensitiveness, so great, as to cause a shiver when touched, and the witness agreed that it was a decided symptom.

Mr. Revell continued to read at some length as to the symptoms, and the witness said he was willing to accept the exhaustive description as generally correct, but there were symptoms stated which he did not recognize.

Dr. Reese again asked to be read what the author said in reference to the membranes of the spinal marrow, and Mr. Revell read from page 87 on the subject of the spinal marrow, and found that no mention was made of the condition of the membranes. Dr. Reese said he supposed the author would have mentioned it, and continued—I do not wish to be understood as asserting that General Ketchum died of cerebro spinal meningitis; I think the cause of his death obscure, but the absence of certain pathological lesions would indicate that he died from that disease; there was intense pain in the upper part of the spinal cord of the patient I treated for this disease; the pain will sometimes extend further down the cord, owing principally to the inflammation; I believe there was pain and inflammation in the upper part of General Ketchum's spinal cord; there would not necessarily be paralysis; paralysis of the bowels would depend upon the condition of the spinal cord; I mean only to say that there was a probability that General Ketchum died from this disease: I do not think he died from poison. Mr. Revell now asked the witness if the autopsy was described correctly, and antimony had been found in the stomach and kidneys and liver of General Ketchum, would he believe that he died from poison. Dr. Reese said it would not necessarily, but would depend upon the quantity found: if it was found in a small quantity it would be entirely compatible with the idea that it had been originated from a medicine used, or from accident, or introduced by the impurities of the reactions used by the chemist. He continued—If five grains or upwards had been found, I would then consider that it had something to do with it; my opinion as to the cause of death would be modified by the discovery of that quantity; General Ketchum's symptoms strongly indicated idiopathic tetanus, and the post mortem appearances werecompatible with that disease; in idiopathic tetanus we would look in the spinal column for the cause of death; the symptoms rigid contraction of the muscles of the neck and jaws, usually great pain in those parts, sometimes extending round the back and abdomen, febrile action, not general, very high, general convulsions sometimes, but the mental faculties not usually much disturbed; therefore, I do not consider this disease as answering to the symptoms exhibited by the deceased as closely as cerebro spinal meningitis; I have never known a case of tetanus to produce exactly the same symptoms General Ketchum exhibited; there is a possibility that General Ketchum died from idiopathic tetanus, and a probability that he died from cerebro spinal meningitis; probably his death might be attributed to many causes, and there are many causes to which it could not be attributed; it may possibly be attributed to poison; all unknown causes of death may be attributed to poisons, and that is the reason we make such rigid examinations.

By consent, Mrs. J. Hough Cottman was here examined and testified—I am a daughter of Mrs. Chubb, and lived with her in Washington on the 17th of last January; that day was my sister's birthday and I remember it distinctly; General Ketchum came to the house; I was in the parlor when he entered, and Mrs. Wharton was also in the parlor; I left the parlor almost as soon as he entered; Mrs. Wharton and General Ketchum remained in the parlor; in a few momentsMrs. Wharton came to my room; I went into the parlor after General Ketchum left and there were scraps of paper lying on the hearth. [The witness was about to narrate a conversation, when she was interrupted, and it was agreed that it should be understood that Mrs. Wharton had on that occasion sent for General Ketchum to come to Mrs. Chubb's residence.]

To Mr. Syester—Gen. K. had not left the house long before I went back to the parlor; I suppose it was about an hour after Mrs. Wharton had left the room that I re-entered; Gen. K. was in the parlor when Mrs. Wharton came into my room; I did not see him; I heard him go out; my mother was in Baltimore; I am not certain, but I think I saw him go out; I heard him open and shut the door; I was familiar with his walk; there was no one else in the house except myself and servants; Mrs. Wharton returned to my room; we burned a grate in the parlor; there are two parlors, and my room is over the front parlor; Gen. K. was in the back parlor when I left; the parlors connect; we warmed the front parlor by a Latrobe stove; I do not know which parlor Gen. K. went out of when I heard him go out, as the doors are close together; I had the usual parlor furniture—sofas, chairs and tables, pictures and ornaments, mirrors, a piano and one book case.

Mr. Syester, emphatically—"Was there a writing case there."

Mrs. Cottman, with equal emphasis—"No; there was not."

The witness was then allowed to leave the stand. She was the most positive witness in her manner who has yet appeared in the case.

The Court then adjourned until 10 A. M. to-morrow, when Dr. Reese will be recalled for continued cross-examination by the State. The attendance upon the trial to-day was again large, and the ladies were present in force. His excellency, Gov. Bowie, was present to-day.

TWENTY-FIFTH DAY.

ANNAPOLIS, January 3, 1872.

The scientific prolificacy of the great Wharton trial seems to be unending. Dr. Reese, the first medical witness called for the defence, has given opinions which show that the medical facts and fictions connected with the death of General Ketchum are as numerous as the chemical He descended, however. from positive statements of the fallacies of the chemical analyses to medical probabilities and possibilities of the cause of death.

Upon the o ening of the Court to-day Dr. Reese was recalled by the State, and in answer to Mr. Revell testified—I never held an autopsy of a case of tartar emetic poisoning; the lesions usually found in such a case are excessive irritation of the mucous membrane of the stomach and bowels, congestion more or less of the lungs; usually, if I remember right, an empty condition of the left side of the heart, with engorgement of the right side, and general venous fullness; but the lesion most constantly present is the irritation of the mucous membrane of the stomach and bowels; that irritation is produced sometimes even if the substance be not swallowed into the stomach,but if access be gained to the blood through some other avenue, because tartar emetic, like arsenic, seems to have a special affinity for this membrane, even if applied to the external skin, it will produce its specific action upon the mucous membrane. Mr. Revell now read to the witness from page 462, of Stille's Thereapeutics, and called his attention to the statement there made of the discovery of internal lesions and the softening of the mucous membrane, and that none of those lesions occur frequently. Dr. Reese said those lesions were evidences of the most intense irritation, and that he agreed in the main with Dr. Stille.

He continued—Sphacelus is very rare, but it sometimes proceeds to produce death or the destruction of the part it affects. Mr. Revell next read from page 645 of Stille's work, and Dr. Reese said he would expect the violent symptoms of tartar emetic poisoning to show themselves in fifteen or twenty minutes after the administration of the poison. Mr. Revell then read the case cited by Stille on page 645. Dr. Reese said Stille alluded to a remarkable exceptional case in which a man took 240 grains and did not vomit for two hours, and finally recovered.

Mr. Revell again read from page 646, giving Stille's statement of the symptoms of tartar emetic poisoning, and Dr. Reese did not agree in the inference there given that the nervous system was afflicted by non-production of vomiting.

Dr. Reese continued—Cases are reported of death from poisoning in which the poison could not be discovered by chemical analysis; this is especially true of organic poisons; all the authorities are full of this; in cases of the non-detection of the poison we should always be able to give a reason for not detecting the poison; if it is there it should be detected infallibly.

Mr. Revell now read the statement of Wormley, on page 56 of his "Micro-Chemistry," as to the large number of cases of poisoning, in which the poison could not be detected, and Dr. Reese said he knew they were frequent.

Dr. Reese continued—A fatal dose of tartar emetic is variable; Orfila reports that in one case out of four, forty grains produced death, but cases of death from much smaller doses are reported.

Mr. Revell now read from Wormley on the subject of the fatality of tartar emetic.

Dr. Reese was now re-called to the case in his practice which he had cited yesterday, in which he had found no active congestion of the brain, and at Mr. Revell's request gave a statement of his patient's symptoms in attacks previous to the one which proved fatal; he was a gentleman largely and closely engaged in financial matters, and the witness attributed his death somewhat to that cause.

To Mr. Syester—I said Professor Aikin's analysis lacked confirmation in three ways; the failure to produce the metal was one of the reasons I gave.

Mr. Syester—If antimony or arsenic are present in a given matter. are there any processes known to you by which it can be proved without separation?

Dr. Reese—No, sir; especially if in connection with organic matter; some of the books say that the presence of antimony may be proved without its separation in the metallic form, but the weight of the authorities is decidedly against such an opinion.

Mr. Syester now read from Wharton and Stille's Medical Jurisprudence, section 656, as to the propriety of the addition of the tartaric acid and the reasons for its addition. Dr. Reese said he recognized the work cited as an authority, and said the form there described was a very good form of metallizing antimony. He continued—If it was not crystalline at all it would be amorphous. Dr. Reese said the further statement of the results from bismuth was perfectly correct if the pure metal was first obtained. Dr. Reese continued—I condemn the use of tartaric acid if you wish to separate the antimony from the arsenic. Mr. Syester read further, comparing the process Wormley commends and the one used by Professor Aikin, and Dr. Reese said Professor Aikin should have first filtered the cloud he obtained, if possible, so as to remove

the acid, before adding the sulphide of ammonium; if that precipitate or cloud had been pure oxide chloride of antimony, and had been touched with the sulphide of ammonium, it would have given the characteristic orange red of antimony. and not otherwise; if it was not filtered off, and entirely free from the acid, the result must have been necessarily unreliable; Dr. Aikin boiled his precipitate in hydrochloric acid, but I do not remember what he said was the color of the precipitate he thus obtained; it was brownish red or reddish brown; it ought not to have been colorless,even if it had not been antimonial;if it had been a colorless liquid I cannot say what would have been the result if sulphide of antimony had been put into it; you ask me a chemical impossibility, and I do not wish to be understood to be equivocating.

Mr. Syester now read from pages 127 and 128 of Taylor's Medical Jurisprudence, and Dr. Reese said the process there laid down was correct, and that Dr. Aikin had followed that process exactly, yet it was fallacious in it results. Mr. Syester read further, and after considerable questioning Dr. Reese said he found fault with them all, because the same results might be obtained from other substances, especially if yellow jessamine and chloral were present.

Mr. Syster then read from Wormley, page 233, and Dr. Reese said Prof. Aikin was right, except that he got a cloud instead of a precipitate. He continued:—Taylor's Medical Jurisprudence, pages 127, 128; Wharton & Stille, Medical Jurisprudence, 656 sec; Turner, page 6; Wormley, p. 233, are all right as to their method of proceeding, but their conclusions of the presence of antimony are erroneous, that is as to the substances being necessarily antimony, and for this reason, the presence of organic matters and especially of jessamine and chloral, as lately demonstrated by Professor McCulloch will, under the same process produce precisely the same results up to a certain point; first, an orange red precipitate is formed, identical in appearance with the orange red precipitate of antmony; second, the boiling of this precipitate in hydrochloric acid, dissolved it; and third, the formation of a white cloud which may become a precipitate when that hydrochloric solution is thrown into water; if this cloud is redissolved in muriatic acid, it will give a yellowish or reddish brown color upon the addition to it of sulphide of ammonium, and this without the presence of a particle of antimony; here it should be observed that the only point of distinction between the two cases is the single fact that this white cloud is soluble in tartaric acid if the antimony is present, not combined with organic matter, but if there is no antimony present I cannot say what would be the result; I know that all organic matter will give nearly the same result, and the results from yellow jessamine are truly remarkable; I think the experiments by Professor McCulloch have opened up a new field for investigation, and that is why I say the tests you have found in the books are fallacious; Professor McCulloch has developed the remarkable similarity in color; a remarkable change takes place after the precipitate is exposed; it soon changes to a black; if antimony had been present in the stomach of General Ketchum with the yellow jessamine and chloral, I think the precipitate he obtained would have turned dark. Mr. Syester here sent for the vessels containing the mixtures Professor McCulloch had made, and they were brought into Court; they looked black.

Dr. Reese continued—Professor McColloch tested the reagents he used in the experiments he made in my presence; I dont know that he tested the yellow jessamine he used, and I don't know that Dr. Williams tested the yellow jessamine he administered.

Mr. Syester—Never mind; Dr. Williams is no chemist.

Dr. Reese—But if he had tested the yellow jessamine, and found antimony, that would nicely account for its presence after using the yellow jessamine.

A vial containing a mixture Professor McCulloch had made, and one alleged by Mr. Syester to contain an antimonial precipitate, were held up by Mr. Syester, and Dr. Reese said the precipitates were not now identical in color.

Dr. Reese continued—The white cloud obtained by Professor McCulloch redissolved in hydrochloric acid, but he did not use tartaric acid; when treated with a sulphide of ammonium it turned to a yellowish brown, but not to the antimonial orange red characteristic of pure antimony; I should not say that if Dr. Aikin obtained an orange red precipitate it was characteristic of antimony, but only indicative of the presence of antimony; that is as far as I will go; I know of no substances but pure antimony which would give that orange red precipitate but organic matters; I do not know, however, that there are any organic matters that would give the orange red precipitate except yellow jessamine and chloral; in using the copper tests I got an amorphous deposit; I don't know that Dr. Aikin dissolved his deposit in tartaric acid; I did not attempt to dissolve the one I obtained in tartaric acid; I dissolved the white cloud in muriatic acid, and I don't know why it was not dissolved in tartaric acid; I saw the tests pursued until the white cloud was obtained from yellow jessamine and chloral; I don't know why it was stopped there; the great importance I attach to those experiments is that they throw doubt upon the whole matter; that is all I claim for them; I would not say that the tests of Prof. McCulloch were analogous to those obtained by Professor Aikin; they were remarkably similar in three points, and perhaps four; I believe the yellow jessamine was not absorbed into General Ketchum's system when it was administered; I consider that he was at that time a dying man; an artificial gastric juice can be made: I don't think the gastric juices would change the yellow jessamine in General Ketchum's stomach; I do undoubtedly assert that the metal antimony ought to be obtained and brought into court; I think Professor Tourry said he used only one sixteenth part of his solution in making

his five spots; unless the metal was obtained in quantities large enough to be tested it would create only a suspicion that it was there; if a little child, three or four months old, was poisoned by tartar emetic, and a very small particle of it was discovered, I think it would be only an indication; the books say a grain will kill a child; I would not like to operate on less than the fiftieth part of a grain of tartar emetic, and then I would be skeptical of my results; I cannot say how much would be obtained from the liver of the little child spoken of to whom a grain had been administered; if it was less than the fiftieth part of a grain I would be unwilling to swear that antimony was present; in case of opium poisoning we look for morphia, but more particularly for meconic acid; the morphia would not be reproduced, but it would be in the form of meconic acid; there are about a dozen principles in morphia; tartar emetic is dissolved in the stomach, and enters the blood as a solution of tartar emetic; if forty drops had been administered to General Ketchum at 1 o'clock, it could have been found in his stomach at 3 o'clock; it would have masked the chemical results, which would have been otherwise obtained if antimony had been in the stomach; I made no experiments with chloral alone, but chloral and yellow jessamine would, in my opinion, give the results we have been considering; Prof. Aikin relied upon the same tests in his analysis of the sediment in the tumbler, and organic matter being in it, they were as fallacious as were his tests of the contents of the stomach; sugar, milk and brandy, or whiskey, subjected to the processes described by Professor Aikin, would give nearly the fallacious results Professor Aikin obtained from the sediment in the tumbler; they would give very similar results; I do say that the results obtained from the sediment by sulphuretted hydrogen and the subsequent tests were fallacious, there being organic matter in that sediment; those three substances alone, which you have mentioned, under the process followed by Professor Aikin, would give a yellowish brown precipitate, which would be more or less soluble in boiling hydrochloric acid, and which solution, when dropped into water, would give a white cloud; I am drawing my inference from his report, rather than his oral testimony.

Mr. Syester now read Professor Akin's oral testimony, which gave an account of his first steps in satisfying himself that, he should have looked for tartar emetic, and at Dr. Reese's rsquest continued to read his entire statement. Dr. Reese then said that, under the same circumstances, milk, sugar and brandy or whiskey would have produced essentially the same results.

He continued—There was not much coloring matter in the mixture in the tumbler; but organic matter in an acid solution would give a similar orange red precipitate; neither milk or sugar would give that color test; if I remember correctly Professor Aikin did not use Reinsch's test except on the acid solution; by the naked eye crystalline sublimates are easily mistaken for amorphous sublimates; Professor Wormley calls them amorphous, and other authors call them crystalline; I understand that Professor Aikin used his eye and not the microscope; the microscope should have been used.

To Mr. Steele—Professor Aikin said the acid solution and not the precipitate gave the dark coating on copper.

Mr. Steele here referred to page 503 of Wharton & Stille's Medical Jurisprudence, that the most positive proof was necessary, and that a substantial portion of the alleged poison should be subtracted from the dead body, and Dr. Reese agreed in the opinion there expressed.

Mr. Steele next read from Woods' Therapeutics, vol. 2, page 63, as to the unmistakable inflammation of the mucous membrane of the stomach and bowels, and Dr. Reese said he held the same opinion.

Mr. Steele further read that convulsions "occasionally" occurred from tartar emetic poisoning, and Dr. Reese agreed in that statement also. Mr. Steele again read from Orfila that it is necessary to produce the metal in poisoning cases, and Dr. Reese said he was in perfect accord with Orfila on that point. Mr. Steele again read from Taylor's Medical Jurisprudence, page 214. the statement that in the case of Madam Lafarge the one hundredth and twentieth part of a grain was only found, and that in the author's opinion her conviction was a disgrace to the age; Dr. Reese agreed with the authority quoted, and said the discovery of a minute particle of antimony or arsenic was in no case sufficient.

Dr. Reese was here dismissed.

He gave his testimony in a very calm and dignified manner, and impressed every one with the candor and impartiality of his opinions. He is a strikingly handsome gentleman, with a Bismarck cast of features. His cross-examination by the State's officers showed that they now fully comprehend the chemical and medical questions involved in this case, and have devoted to their study much patient inquiry and research.

Dr. Reese's cross-examination occupied in all more than ten hours.

Dr. Edward Warren was next called, and in answer to Mr Steele testified as follows:

I am a practicing physician in Baltimore city; I have been engaged in the practice of medicine for nearly twenty-two years; I graduated first in the University of Virginia and then in Philadelphia; I completed my studies abroad; before the war I was Professor of Materia Medica in the University of Maryland; during the war I was Medical Inspector-in-Chief of General Lee's army, and Surgeon General of North Carolina, my native State; after the war I held the Chair of Surgery in the Washington University of Baltimore, but, for private reasons, resigned that position in April last, and am now devoting my attention to the practice of medicine and surgery; I have heard the testimony of all the medical witnesses for the State, except that of Dr. Miles, and I have read the official copy of his evidence attentively; I can see nothing in the symptoms described in General Ketchum's case, or in the revelations of the post mortem examination of his body, or in them both combined, inconsistent with the

operation of natural causes in the production of death; I have seen men die as suddenly, and with identical symptoms. from a disease that, to a certain extent, has been epidemic in Baltimore for the last ten months. This disease is described by all the modern authorities of reputation, and especially by Radcliffe, Tanner, Niemeyer, Aitken, Flint and Hartshorne, and is known as malignant purpuric fever, or epidemic cerebro spinal meningitis, by the profession generally. When I heard the symptoms of General Ketchum's case detailed by Dr. Williams, I was reminded in the most forcible manner, not only of the description given of this fearful malady in the text books, but of some cases of it which have come under my professional observation, and especially of one which I attended in May last, in consultation with Dr. W. H. Baltzell, of Baltimore city. The resemblance between those two cases, that of General Ketchum and that of Dr. Baltzell's patient was most remarkable; alike in the suddenness of their development, the violence of their symptoms and the rapidity of their course, their identity was complete. Both were characterized by a condition of semi-unconsciousness, and increased sensitiveness of the surface, so that they shivered when touched; rigidity of the muscles of the neck, back and inferior extremities; pupils neither contracted nor dilated, but insensitive to light; suppression and retention of urine; rapidity and compressibility of pulse; lividity of countenance; trismus; opisthotonos; convulsive movements; disposition to turn upon one side involuntarily; occasional jactation and restlessness; incoherent articulations, and a speedy and violent death; and to make the parallelism still more patent, the administration of the tincture of gelseminum had a similar effect upon the two patients; they were improved by it temporarily; their eyes grew brighter; the tegumentary congestion disappeared, and they became more tranquil and intelligent, only to lapse speedily in articulo mortis, with the same history as described before; I have seen others die in a similar manner, with the same disease, cerebro spinal meningitis, an affection of the membranes of the brain and spinal cord; this disease has repeatedly prevailed in different parts of the world, and is accurately described in the leading text books, and also in the medical journals of this and other countries; Radcliffe gives perhaps, the best description of it; according to this author, it is an acute epidemic disease, characterized by profound disturbance of the central nervous system, beginning with nausea and vomiting, difficulty in walking and staggering, and followed by dizziness, lassitude, headache or coma; delirium, alternating with somnolence; tetanoid spasms, especially of the posterior muscles of the neck, back and lower extremities; occasionly retraction of the head. an increased sensitiveness of the surface, causing shivering when touched; marked depression of the vital powers indicated by a feeble and frequent pulse and respiration; lividity of the face and head, severe abdominal pain, countenance rigid and contracted, indicating great suffering; surface cold and clammy; loud and disjointed complaints; suppression and retention of urine; trismus, with convulsions as in lockjaw; restlessness, with efforts to get out of bed; pupils dilated, or motionless and insensible to light, and the tongue moist and natural in many cases to the last moment of life. Tanner declares that these different symptoms come on *suddenly* in the midst of apparent health, so that "*sometimes the sick man can scarcely be persuaded that he has not been wilfully poisoned,*" and that "this opinion gets confirmed also, if, as may happen, the symptoms succeed each other rapidly," etc,; Radcliffe says that "in the fulminant form of the malady, the onset is without premonition." It is well known to the profession that no disease is more sudden in its attacks, and that the man who is seemingly the strongest, and in best apparent health on one day may be fatally prostrated by it on the morrow; it is an epidemic disease, and has prevailed to a certain extent in Baltimore for several months, as can be easily established by the testimony of several physicians of that city; I not only know this fact from my own personal observations, but because I have heard it alluded to and discussed in the medical association of which I am a member; and yet though it be due to some peculiar ferment which enters the blood and poisons that fluid, making it a source of irritation and disturbance to the economy, rather than a fountain of health and vitality, experience teaches that the system is best prepared for its invasion by all those circumstances, such as fatigue, mental exertion, irregularities of diet, etc., which are calculated in themselves to lower the tone of the vital powers; it is a disease of rapid development and of a speedy issue in many cases: the fulminant or explosive form runs its course with terrific celerity, hurrying the most healthy and athletic to a fearful death, and through the ordeal of the terrible symptoms primarily described; indeed, it is stated in Reynolds' System of Medicine that "life may be extinguished in less than five hours or it may be prolonged for two or three days;" the rapidity of its advent and termination has scarcely a precedent in the history of disease; it strikes without warning and kills almost with the certainty and celerity of the deadliest poison; strange to relate, the fulminant or explosive form of this disease, that variety which is so especially characterized by violence of symptoms, rapidity of march and fatality of termination, frequently leaves no lesion behind in the body of its victim; it kills without tracing a sign upon any structure or organ to tell how its fatal work has been done; under some circumstances the most active and exhaustive post mortem reveals nothing by which the cause of death can be explained, save, perhaps, but not invariably even in that, a slight passive congestion of the nerve centres and of their enveloping membranes; thus Radcliffe, page 513, Reynolds' System of Medicine, says: "In the fulminant form of this disease they (anatomical lesions) are often absent;" Dr. Murchison records a case in which "no appreciable lesions of the membranes of

the brain or spinal cord could be discovered;" Dr. Lyons reports an epidemic which prevailed in Dublin in 1866, and describes two forms of this disease—"the one characterized by colapse, &c., great rapidity of course, excessive fatality and the absence of anatomical lesions in the nervous centres after death;" Hartshorne states that in the most violent form of this disease, no post mortem lesions are discoverable; Tanner says, essential lesions "are present, save in the explosive (fulminating form) of the disease." In an antopsy reported by Gerhard, there were no products of inflammation within the skull or spinal canal." Flint concedes that in some cases, the evidences of cerebro spinal meningitis are wanting after death; in a recent discussion before the Academy of Medicine, &c., in Philadelphia, this fact—the frequent absence of all pathological lesions in the most fatal form of this disease, was specially adverted to by one of its members (Dr. Hartshorne), and though various attempts were made to account for the fact, it was controverted by no one, but, on the contrary, received as an established truth in medicine. Authorities in this regard might be multiplied indefinitely by culling from the journals the thousands of cases which have been reported in confirmation of this phenomenon, but the occasion does not demand such a labor, as the authors before mentioned are the latest and most reliable known to the profession.

The absence of pathological lesions is not peculiar to cerebro spinal meningitis; post mortem examinations in fatal cases of tetanus, epilepsy, sunstroke, chorea, hysteria, infantile convulsions, &c., have over and over again been attended with purely negative results.

These circumstances, taken in conjunction with the fact that the spinal canal was not opened, and that the cord was examined only for the distance of some two inches, have a most important bearing in this case, as will be presently demonstrated. The history of General Ketchum's illness and death corresponds, then, in every particular, not only with the phenomena observed by me in Dr. Baltzell's case, but with the descriptions which have been given of the disease by the ablest authors. In fact, it seems to me, after a careful and candid examination of this whole matter, that if an attempt were made to convey an adequate idea of cerebro spinal meningitis to the mind of a person entirely ignorant of its nature and phenomena, no more effectual mode could be devised than to give an elaborate and faithful narrative of General Ketchum's case, from its sudden inception to its fatal termination; and to add that, in accordance with the previous observations of the most reliable men in the profession, no anatomical lesions of an important character were discoverable after death; each individual symptom which has been referred to, may be present in various affections, for there are multitudes of maladies, natural and non-natural, which at some points in their history, and especially at their climax, present a close analogy to each other; but it is only in this particular connection—in cerebro spinal meningitis, that they are found grouped and blended, as they appeared in General Ketchum's case. In other associations they are anomalies, while in this connexion they appear, as natural phenomena, the legitimate indices of the disease to which they give character and existence; there are but few diseases which have symptoms that present themselves invariably and in a definite concatenation; certainly but few of the poisons can assert such a claim, whether they be irritants or narcotics, or both combined; the phenomena which associate themselves with nervous diseases generally are inconstant in their development and irregular in their mode of combination; in this respect cerebro spinal fever presents a character unique and remarkable; its essential features—the pathological entities which give it form and being—approximate to uniformity in the certainty of their occurrence, and in the order of their succession; head-ache, or stupor, or somnolence, a cerebral disturbance coming on suddenly; prostration so great and rapid as to strike the patient with astonishment; a cutaneous hyperasthesia, such an abnormal sensitiveness of the skin as constrains a "shiver" when the hand is applied, even though a condition of coma exists, and as induces the sufferer to remove automatically everything which touches and irritates it; rigidity, especially of the muscles of the neck, jaws, back, and inferior extremities, causing opisthotonos, etc.; abdominal pain of the most aggravated character, and a delirium which induces restlessness and signs of distress, taken in connection with a certain suppression and a positive retention of urine, constitute a groupe or a chain of morbid phenomena too unique and exclusive to admit of a mistake in diagnosis upon the part of those acquainted with the clinical history of this fearful malady; these considerations, strengthened and intensified as they are by the facts that the most rapid and fatal form of cerebro spinal fever gives purely negative results in a post mortem examination; that the strong and healthy succumb as readily and as suddenly as the most feeble to its malignant influence; that fatigue of mind and body together with unusual indulgence in food and drink, predispose to its invasion, and that at the very time this unfortunate man was attacked the potential influences of epidemicity conspired to produce the disastrous result, render the conclusion not only probable but almost inevitable that he died from the operation of *purely natural causes, and not from the effects of a deadly poison.*

Tried by every test known to the most advanced science; by the criteria of symptoms, whether initial, consecutive, or final; by the standards of development, progress and conclusion as established by the critical observations of the ablest clinicians; by the requirements of the scapel in the hands of competent experts, the case of General Ketchum, from the first pain to the last convulsion, in all its phases, bearings and combinations, illustrates nothing more nor less than a typical example of that form of cerebro spinal fever to which the name of fulminant has been so aptly given, as indicating the suddenness of its in-

vasion, the intensity of its phenomena, the rapidity of its march, and the fatality of its termination,

In my opinion no other theory will explain the history of his sickness and death; nothing else will adequately account for all the facts which have been detailed in this case.

I am familiar with the action of poisons, especially of opium and antimony, having had practical experience with both of them and having accurately investigated the effects which are ascribed to them by the best authorities.

It is unnecessary to give more than a passing notice to opium in this connection, for it has been demonstrated that he did not die from an over dose of that drug, although I think it more than probable that he was narcotized by it to a certain extent at one period in the history of his case; in other words there is certainly nothing inconsistent in the symptoms ascribed to him on Tuesday, the 27th of June, with such an hypothesis.

I have seen two cases of poisoning from antimony, and can consequently speak advisedly in regard to the symptoms, etc., which it produces; I have also studied faithfully all the cases of antimonial poisoning which are reported by Taylor, Christison, Wormley and others; in my judgment General Ketchum did not die from the effects of tartar emetic, for the action of that drug, even in the most poisonous doses, and with a due allowance for every anomolous symptom which has been recorded in connection with it, cannot account for the phenomena which were observed in this case, either before or after death—either for the symptoms or the pathological revelations as described by the witnesses for the State. When tartar emetic is taken into the stomach of a human being it produces either local or remote effects or both combined; the local effects manifest themselves in the form either of irritation or inflammation, followed by some change of structure in the parts with which it comes in contact, and, though frequently not developed, on account of the rapidity with which the drug is ejected or absorbed, they *must* be produced when from any cause tartar emetic is brought in contact with the mucous coat of the stomach or intestines. At frequent intervals or protracted periods, as is evidenced in the cases of chronic poisoning with antimony which have been reported, and in those instances in which vomiting has not occurred, and the process of absorption has been interrupted; taking into consideration the irritant properties of antimony, as illustrated by its effects, even upon the skin and tongue, and the intrinsic delicacy and susceptibility of the mucous membrane, it may be stated in specific terms that the amount and extent of the inflammation induced by its presence in the stomach and intestines, must bear a direct proportion to the length of time which it has remained in contact with them, and to the frequency and amount in which it has been administered. The local effects are also illustrated by a peculiar burning pain in the mouth, throat, stomach and bowels; spasmodic contraction of the fauces and gullet, and by the destruction of the epithelium of the tongue and mucous surface generally, with which it comes in contact. The remote effects result from its absorption into the blood, and subsequent action upon the nervous system, and upon the organs which eliminate it; they may, therefore, be classified into nervous and glandular phenomena, according as they are developed in connection with the structure as above mentioned; the nervous symptoms, considered in the order of their occurrence, as well as in the light of their distinctive differences, are primary, intermediate and consecutive: of these the first are developed because of its action as a special sedative upon the par vagum nerve, and manifest themselves in disturbances of the digestive organs (especially the stomach) of the heart and of the lungs; the second results from a participation of the motor centres in those disturbances, and show themselves in a profound depression of the voluntary muscular system, and almost complete loss of contractile power in those muscles which are ordinarily controlled by the will, or in involuntary contraction of them; and the third are the sequilae or resultants of that abnormal condition of the circulation, passive congestion, which results from the sedation of its great central organ, and by depriving the nerve centres generally of a condition necessary to their proper nutrition, disturbs their functions, induces coma, delirium, alterations in the pupil, rigidity, convulsions and death.

The glandular symptoms result from and indicate the elimination of antimony from the system, and are expressed in certain aberrations of the secretions peculiar to the special organs by which it is discharged. After being absorbed, this substance is rapidly eliminated by the skin, liver and kidneys, especially the last named; that copious production and discharge of urine which has been observed so universally in antimonial poisoning, and which is undoubtedly its most infallible phenomena, is a typical example of the glandular symptoms incident to the toxic action of that powerful agent.

The quantity of tartar emetic necessary to cause death in a healthy adult is variable; I have seen the most positive poisonous effects produced by a dose of two grains, while half an ounce did not prove fatal in another case, reported by the toxicologist. The symptoms indicative of the toxic or poisonous action of this drug are as follows: A sensation of burning in the mouth, constriction in the throat, and pain in the stomach, and which are local phenomena; speedy development of nausea and vomiting; sedation of the heart's action as indicated by a feeble, frequent and compressible pulse; and disturbance of the respiratory function, together with the most profound muscular prostration; cramp, or convulsive movements in certain groups of muscles, a cold and clammy skin, copious secretion and discharge of urine, and a constant disposition to syncope or fainting, which are the "primary" and "intermediate" remote symptoms, resulting from the absorption of the antimony, its direct action on the nerves, and its indirect influence upon the spinal centres; and then, in exceptional cases, when the orig-

inal dose has been large, and death from syncope has not occurred, notwithstanding the great tendency incident thereto, a profound and prolonged sedation of the heart, passive congestion is induced in the nerve centres, interfering with their nutrition, and developing, as a consequence, stupor, delirium rigidity, convulsions, alterations in the pupil, and, it may be, death, which are the "consecutive," remote symptoms of tartar emetic poisoning. In some instances, in consequence of a more profound impression upon the vagus nerve, there is neither nausea nor vomiting, and the disturbance in the circulation being speedily and thoroughly developed, the consecutive or nerve symptoms are primarily induced and continuously exhibited until the close of the scene.

The muscular prostration, the insensitiveness of the skin, the tendency to syncope, and the augmented secretion of urine are, however, invariably present in this stage or phase of the antimonial impression, whether it be developed secondarily or primarily, complicating it and giving it character to the last. It is a great mistake to suppose that tartar emetic kills without producing lesions of an appreciable character in the organism, although it is possible that these lesions may not be decided or invariable in those cases in which a single dose has been administered; yet, under other circumstances, they must be produced, and they have always been discovered; this drug is an irritant when given in repeated doses within a brief period, or when not immediately absorbed or ejected, it necessarily inflames the mucous coat of the mouth, gullet and intestines, and thus leaves behind it the product and effects of inflam matory action as a legacy to the pathologist; acting as a special sedative upon the vagus nerve, and thereby disturbing respiration and circulation, it necessarily induces changes in the apparatus by which each of these functions is performed; as might reasonably be expected, therefore, Orfila and Taylor regard pulmonary congestion as one of the most constant of the post mortem appearances exhibited in this connection; and, so also with regard to the circulation; sedation of the heart, especially if profound and protracted, must inevitably induce venous congestions of a decided character, throughout the organisms; in truth, the most decided and dangerous of the symptoms incident to antimonial poisoning—its nervous phenomena—are due to the perversion of nutrition in the nerve centres, which results from the accumulation of venous blood within them, the duration and intensity of the one being in the very nature of things the measure of the development of the other; for the same reason, a similar congestion must be developed in other organs, and also in the right side of the heart, wherever venous radicals are found and dark blood circulates; these are not simply logical inferences, for they are sustained by the recorded observations of Ellis, Lee, Cristison, Orfila and Taylor; they are the established truths of toxicology.

The Court here adjourned until 10 A. M. tomorrow. The attendance upon the trial to-day was again large. Among those present to-day were Dr. Geo. R. Dennis, of Somerset county, and Hon. James T. Earle, of Queen Anne's county. General Brice and Charles L. Ketchum have been in attendance for the past two days. James D. Ketchum has returned to New York. Mrs. Nugent, Mr. and Mrs. J. Crawford Neilson, Miss Rosa Neilson, Mr. Herman Stump and Mr. H. Moon Wharton have been present with Mrs. Wharton and her daughter each day. Dr. Genth returned to Philadelphia as soon as his testimony was concluded. Prof. McCulloch remains in attendanee upon the trial.

TWENTY-SIXTH-DAY.

ANNAPOLIS, January 4, 1872.

The efforts of the defence in the great Wharton-Ketchum trial are at present directed towards what they consider the medical facts in the case. Notwithstanding the tedium of the testimony, much interest is still manifested.

Dr. Edward Warren was recalled this morning, and, in answer to Mr. Steele, testified—

After a dispassionate and faithful review of the facts which have been thus established in regard to the symptoms incident to poisoning by antimony, its modus operandi as a toxic agent, and the pathological lesions which it induces in the human organism, I am constrained to the opinion that General Ketchum could not have died from the effects of that drug for the following reasons:

1st. He could not have been poisoned with it on Saturday night or on Sunday night, as is alleged, for it is in evidence that, after eating for the last time on those occasions, he sat up for some time, smoked and talked quietly with his friend, retired without complaint and was not disturbed for some hours afterwards; tartar emetic is not only one of the most powerful but also one of the most prompt of known agents—when it acts at all it acts quickly; the delay in this case is fatal to the theory of poisoning at that time; the idea of a man smoking, chatting and sleeping for hours with a poisonous dose of tartar emetic in his stomach is an absurdity; he also dresses himself and walks down in the yard, an act entirely inconsistent with that extreme prostration which is invariably incident to poisoning with this agent.

2d. He could not have been poisoned on Monday, as is alleged, first, for the reason that when Dr. Williams saw him he was "sitting up and holding a slop jar between his knees," neither of which is reconcilable with the theory of antimonial poisoning, as no fainting man voluntarily assumes the erect posture, and as the muscular exertion necessary to maintain himself in such a position, and to hold a vessel in the manner described, does not show that profound loss of power in the muscular system which is invariably produced by the absorption of antimony; secondly, because he was relieved by creosote and lime water, which are not antidotal, in this regard, either chemically or physiologically, and which must have proved only topical anæsthetics without neutralizing the an-

timony in his stomach or counteracting the destructive effects of that portion which had already been absorbed in the blood; and thirdly, such a supposition is entirely precluded by the speedy and complete disappearance of the effects and consequences of the supposed toxic agent, under circumstances unprecedented in the history of such poisons.

3. He could not have been poisoned by tar tar emetic on Tuesday, because neither the local nor remote symptoms showed themselves in any form, notwithstanding his continued impression by some morbific cause during the entire day, and for the additional consideration that the phenomena which did present themselves were incompatible with the well established action of that drug; there was neither burning in the throat, nor pain in the stomach, nor cramps in the bowels; he did not vomit or purge, for no ejected or dejected matters were found in the vessels of his room, and he was confined to his chamber during the whole time; there was no tendency to death by fainting and no complete prostration of the voluntary muscular system since it is proven that he sat up and walked about when it was necessary for him to do so; there was no coma or rigidity or convulsive movement or coldness of the surface, and, in fact, no symptoms connecting themselves with the nervous system, save a disposition to sleep continuously, torpidity of the mental faculties, and unsteadiness of gait in walking; and to complete the disparity, there was no redundancy of the urinary secretion, but on the contrary there were suppression and retention of urine in a most remarkable degree, as is established by the testimony of the only witness who had an opportunity of observation in this regard.

If, then, he was poisoned by antimony on that day, every precedent established in toxicology and the criteria of symptoms and clinical history are a delusion and a snare.

4. He could not have been poisoned by tartar emetic on Wednesday, for reasons equally as potent and palpable. I have shown in this connection that the symptoms which were observed on that day were essentially those of epidemic cerebro spinal meningitis, such as I have seen in other instances, and as are graphically described by all modern authors; the differential diagnosis between the morbid phenomena which characterize that disease, and the symptoms indicative of antimonial poisoning can be determined with almost absolute precision in this case; the fact that when first seen by Dr. Williams on Wednesday morning, notwithstanding his condition of semi-unconsciousness from which he was with so much difficulty aroused, even by rough shaking and loud appeals, a decided shiver passed over his frame when the physician's hand was simply placed upon him, demonstrates the existence at that time of cutaneous hyperasthesia—a symptom which has never been observed in a single instance of antimonial poisoning since the discovery of that metal, and which in numerous outbreaks of meningial fever has been one of its most characteristic phenomena; the additional circumstances that "he attempted to get out of bed, slapped the shoulder of an attendant, and applied his hand at will to various portions of his body," thus showing the existence of normal contractile power in such of the voluntary muscles as were not rigid or convulsed, and the ability to employ it at discretion, form another stable link in the chain of proof which associates the morbid condition then developed with the operation of a natural cause, and a wide hiatus in the connexion which is sought to be established between it and the action of this or any other poisonous agent.

And so, also, with regard to the fact that he abraded his throat and abdomen, apparently in the effort to remove some source of irritation in those parts; if he really experienced pain at that time, and sought to relieve it in the manner described, that circumstance affords strong confirmation of the existence of meningial fever and almost positive proof against antimonial poisoning; neuralgic pains in those localities, especially in the abdomen, of the most intense character, are the usual concomitants of this affection, and it is far more rational to conclude that he was able to appreciate and respond to them, when in a condition of unconsciousness than that he should feel, under such circumstances, the local irritations producable by an agent which, it is alleged, had been administered to him on several occasions, with impunity in this regard, when perfectly conscious, and therefore infinitely more susceptible to such impressions; the movements alluded to were, however, more probably automatic—mere phases of the death struggle, and had no clinical significance; and finally, the ominous fact that he had passed no water during the whole of Tuesday, and that though none was on Wednesday in the vessels of his chamber, his bladder was not preternaturally distended, in other words that there was decided suppression of urine, completes the line of demarcation and furnishes the data for an exact discrimination between the malady from which he actually died and the antimonial poison to which it is alleged that he succumbed.

The *negative* results elicited by the post mortem examination of his body are a doubled-edged sword, cutting in twain alike the hypothesis of death from poisoning by tartar emetic, and all the other theories which have been advanced in connection with the case; it is far more probable that a natural disease should have terminated fatally, under the circumstances, without leaving a lesion, than that the non-natural agent should have had such an issue as the result of its action; cerebro spinal meningitis, in its fulminant form, often hurries its victims to the grave without the development of any appreciable change whatever; and the same is true of many other maladies well known to the profession; it is a matter of physical impossibility, however, that in a case of tartar emetic poisoning, characterized by such symptoms as were present in this and with so remarkable a history, could have produced death in the manner described, without the development of unequivocal lesions; had it been applied to the skin of a healthy indi-

vidual as often and continuously as it is alleged to have been introduced into the stomach of General Ketchum, decided inflammation would have been the result. And yet, notwithstanding its well known irritant properties, and the peculiar sensibility of the mucous surfaces, and the supposed ante mortem evidences of its local action in this particular instance, nothing was discovered in the stomach and intestines but some scattering red patches—such as are frequently produced by the most innocent causes, or as result from the mere act of dying; not a single product or result of inflammatory action—not a trace of cell-proliferation, or of pyogenesis, or of ulceration, is pretended to have been discovered; the supposition of poisoning by antimony is, therefore, contradictedby a positive fact, eliminated in this connection.

Again, the extreme and protracted sedation of the heart of this man, if he really was poisoned with tartar emetic as alleged, must have produced venous congestion throughout his entire system; while the nervous symptoms, so prominently and continuously manifested, could have been nothing more nor less than the results and the measure of the development of that passive hyperæmia; and yet, contrary to the plainest laws of physiology and physics, as well as the experience of the most reliable authorities, the lungs were found perfectly normal; there was no accumulation of dark blood in the right side of the heart, and no congestion whatever in any organ save the brain, and that of a very insignificant character

Passive congestions, most marked and distinguishable, should have been discovered everywhere, and especially in the lungs and nerve centres, while the autopsy really revealed it nowhere, save in the piamater and in the brain substance, to a limited and uncertain extent; for according to Andral and Rokitausky, the accumulation of venous blood in the vessels of the membrane referred to, is an ordinary phenomenon of the act of dying, while Nismeyer declares (page 156, vol. II) that the punctiform appearances observed on the cut surface of the central substance, have but little value as proof of previous hyperœmia, and "depend far more on the fluidity of the blood than on the fullness of the vessels."

The results of the post mortem examination *were*, therefore, really negative, and that fact *per se* completely negatives the theory of antimonial poisoning in the case, for its symptoms, together with its whole history, absolutely required for their production certain precedent and essential changes in General Ketchum's body, which would immediately have been discovered after death in the most positive form.

He might readily have died from cerebro spinal meningitis, with no precedent structural changes of sufficient gravity and permanence to be discernable after death, for a condition precedent to nutrition may be precluded by the blood poisoning incident to that and kindred diseases, but it is impossible to suppose that he could have succumbed to the effects of antimonial poisoning, under the circumstances, without the existence of such palpable lesions as would necessarily be revealed by an adequate autopsy.

The negative results, therefore, which have been so persistently and prominently relied upon in this case, to establish death from a toxic agent, prove too much, if they prove anything; they demonstrate the operation of purely natural causes and an inevitable death.

After weighing all the facts in this case, as adduced by the testimony of the medical witnesses for the State, and devoting to their investigation much patient research and honest labor, I feel constrained to say, alike in the interests of science, justice and humanity, that the unfortunate man died, not from the action of poison, but from the effects of disease—not by human hands, but in the dispensations of Providence.

I do not wish to criticise my professional brethren, but I think it would have been more conclusive if more than two inches of the spinal cord had been examined; negative results would, however, in all probability, have been obtained from a further examination of the spinal cord; I have seen several cases of opium poisoning, and also of antimonial poisoning; but one of the cases of opium poisoning terminated fatally.

To Mr. Revell—I have been practicing medicine twenty-two years; I do not think opium, chloral, chloroform or yellow jessamine killed General Ketchum; I cannot speak with accuracy as to the time cerebro spinal meningitis appeared; the first vomiting showed, in my opinion, the premonitory symptons of the disease; it is impossible to say accurately from the testimony when the vomiting commenced; on Saturday night he went into the yard, and on his return said he had been sick at the stomach; I do not know that vomiting commenced then; I judge that General K.'s disease belonged to the fulminant form; the vomtings may have been due to indigested matters in his stomach; the disease is divided into the simple, the purpuric and the fulminant forms; that is the classification the books give; I have read a portion of Dr. Stille's monograph, and he describes the inflammatory very well, but General K. did not have that form; I did not omit chilliness, but I described a chill, and gave all the symptoms of a chill; in any form even this chilliness may be absent; headache frequently presents itself; indeed it is one of the most constant symptoms; I mentioned headache as one of the symptoms, and used the disjunctive conjuction to show the connection; I spoke of headache as one of the symptoms, but I did not dwell upon it, because it is frequently slight; it is not observed sometimes in the fulminant form, and is then slight; the putting of his hands to his head might indicate a headache; I was impressed with the opinion that General K. had died of cerebro spinal meningitis as soon as I read a written statement to Mr. Thomas, of the symptoms; when I heard the testimony here, I was more impressed with that opinion; I had not entirely made up my mind before hearing the testimony; I told Mr. Thomas at the time that I did not think the symptoms indicated tatar emetic poisoning, but another disease; I have seen fifty cases of cerebro spinal

meningitis, but they were not all of the fulminant form; I held a post mortem examination in a violent case of cerebro spinal meningitis; all the violent symptoms had manifested themselves; I made the examination with a competent man, and found no decided lesions; after hearing General K.'s case described, I was struck with the similarity; we examined thoroughly, the spinal cord partially; we examined all the viscera minutely; that was several years ago, and occurred in Virginia; I suppose I have seen half a dozen persons die from the fulminant form of the disease; the case I spoke of occurred in Baltimore; I think the man's name was Frederick Hinner, on Hamburg street; he was attacked the latter part of May, and died in two days; the symptoms developed themselves rapidly; an autopsy was not held; we were anxious to make it. but it could not be done; evidences of inflammation might be found in the lower portion of the spinal column when they were not present in the upper part of the spinal cord; it might occur, but it is not likely; hyperesthesia is one of the symptoms of cerebro mainly meningitis; I infeired hyperesthesia only from the fact that when Dr. Williams touched General K. he shivered or shuddered; in some forms of cerebro spinal meningitis it does not occur, yet it is one of the most constant symptoms, but in many it is only slightly present; it was present in most of the cases I saw; the absence of it is exceptional, but not very exceptional; Ratcliffe states that in the majority of cases it is present; I mean to say that in a majority of cases it is present; whether slight or excessive, it is a very important symptom; in Dr. Baltzell's case there was the same rigidity of muscles which Dr. Williams described; the pupils of the eyes are in cerebro spinal meningitis always affected; most generally dilated, sometimes of normal size, but not responding to light; I had seen the dilation of the pupils in another case than that which I attended with Dr. Baltzell. Mr. Revell now read from page 19, volume 49, of the *Journal of Medical Science*, and Dr. Warren said the absence of albumen in the urine was not an invariable symptom, but many cases had been observed in which it was, but it was not connected necessarily with the history of the case; not a part of the disease, but a complication; not an essential feature, but an accident. Mr. Revell read further from page 19 of the above-mentioned volume, that a rapid and profuse effusion of serum was prominent, and Dr. Warren said there were epidemic forms of the disease, in which it did not occur. Mr. Revell next read from Reynolds' System of Medicine, 2d vol., page 679, that the patient frequently fell into a collapse, etc., and Dr. Warren expressed his opinion that the symptoms there described were not invariable, they were frequently present and frequently absent. Mr. Revell further read that the urine was loaded with albumen, and Dr. Warren said it was emphatically untrue that such was necessarily the case; it was a complication, as he had before said.

To Mr. Syester—The very nature of the disease I have described does not necessarily produce the albumen in the urine. Dr. Warren here explained the reason for the failure to produce albumen in all cases.

To Mr. Revell—Chilliness by shivering, vertigo and persistent vomiting, are not invariably indicated at the outset.

[Dr. Warren here gave the reason why he could not regard those symptoms as characteristic or invariable.]

He continued—There is no one invariable symptoms of cerebro spinal meningitis, but it is only by grouping the symptoms that the presence of the disease can be determined.

Mr. Revell again read from second volume of Reynolds, page 676, and Dr. Warren said the symptoms there described were not invariable. Mr. Revell again read from the same author, page 677, and Dr. Warren said there were thousands of cases in which hemorrhage was not developed, and that he disagreed with the author on that point on the authority of all the other authors, and because of his own observations. Mr. Revell read further from page 677 of the symptoms and post mortem evidences which showed themselves in the back of the brain, back and spinal column, and Dr. Warren said he agreed generally with the description there given; it was a good general description. Mr. Revell again read that there was acute shivering followed by headache; Dr. Warren said that frequently the shivering and headache was slight. Mr. Revell proceeded to read further, and Dr. Warren agreed with some of the opinions of the author and expressed, at some length, his reasons for disagreeing with others. Mr. Revell again read from the same author at some length, and Dr. Warren expressed his opinion with qualifications. It had been shown, he said, that the amount of lesions discoverable boreno proportion to the duration of the disease.

Dr. Warren continued—Dr. Klebs' cases and observations of certain conditions in the liver and kidneys are not confirmed by other authors; I cannot believe him if he says such are invariable characteristics, because he is contradicted by all the most respectable authors on the subject; cerebro spinal asphyxia is only a conclusion of cerebro spinal meningitis; the coating of the tongue is not a characteristic symptom; the case I had in Baltimore was a decided case, and from my previous knowledge of the disease I readily recognized it; the invariable symptoms of tartar emetic poisoning are the prostration of the heart, the secretion of urine and the relaxation of the muscles; all the books speak of muscular relaxation being present to a greater or lesser extent; paralysis of the lower extremities sometimes accompanies cerebro spinal meningitis. Mr. Revel read now from Niemyer, 2d volume, page 223, and Dr. Warren said he did not describe the non-inflammatory form of cerebro spinal meningitis, which is alluded to in Valleix, who objects to the nomenclature given to the disease.

To Mr. Syester—There must be in the brain some one of the symptoms of one of the forms of cerebro spinal meningitis; it is not, however, an inseparable condition; there are

symptoms which are connected with the brain in this disease, but any one may be absent and any one present; loss of sight in some rare cases, loss of hearing in some rare cases, congestion of the face in some cases, congestion of the scalp in some cases, heat of the surface in some cases, coldness of the surface in some cases, loss of memory in some cases, vertigo in some cases, headache in some cases, delirium in some cases, incoherency of speech in some cases, staring expression of the eyes in some cases, suffusion of the eyes in some cases, loud cries in some cases; coma in its different grades· contraction and dilation and insensibility of the pupils are among the symptoms which connect themselves in this disease with the brain, and I could name a dozen more; none of these might leave a post mortem lesion; the name of the disease indicates inflammation of the membranes of the brain and of the spinal cord; the name does not properly describe the disease; Niemyer's description of cerebro spinal meningitis in general does not apply to that form of the disease of which I believe General K. died; he only describes the form in which lesions do occur; Dr. Williams' letter simply suggested to my mind that General K. had died of cerebro spinal meningitis; that disease is no hobby of mine; the slight passive congestion only added to my opinion; the absence of lesions was one link in the chain of proof.

Dr. Warren—A link has a connection both ways.

Mr. Syester—Yes, sir, if it is not at the end of the chain.

Dr Warren continued—I saw a letter from Dr. Chew, giving an account of the post mortem, and I inferred that the results of the post mortem had been only negative; no fact in this case, except that Dr. Williams found that a shiver passed over General Ketchum when he touched him, brought me to the opinion that he had hyperesthesia; you can't make anything else out of it; if it had been tartar emetic poisoning, he would not, according to my experience, had felt a mustard plaster in two hours; differences were observable in the pupils of the eyes in the six cases of cerebro spinal meningitis; no two were, however, alike; I did not see Dr. Baltzell's patient die, and I did not perform a post mortem; I do not know that he died in tetanic convulsions, but I know that he died in convulsions; in the case I examined in Virginia there was an absence of characteristic post mortem lesions; I examined every organ likely to be effected; the brain and its membranes, about two inches of the spinal cord, the lungs, the liver, the stomach, the intestines, and the kidneys; I did not examine the brain with a microscope, because I was not then familiar with the use of the microscope; Gen. K.'s brain was examined with the microscope and I have no doubt very thoroughly examined; there may be cases of active or passive congestion of the br in which do not reveal themselves to the naked eye; there may be two forms of hyperemia; it is the greatest mistake in the world to suppose that convulsions or paralysis are caused by the pressure of that blood upon the brain, but it is exceedingly difficult to ascertain whether or not the brain has been congested, and I was, therefore, led to the opinion that though the brain of General K. had been thoroughly examined, the punctiform congestion observed was in all probability negative in its character; the microscope does not reveal in a post mortem examination the evidences of congestion in the brain in such a case; Dr. Woodward, of the United States army, who is a most accomplished microscopist, says the post mortem lesions could not be discovered with the microscope; I cannot say how many cases of cerebro spinal meningitis were in Baltimore last summer, but it was more of an epidemic there than I have ever before known; it occurs oftener in winter than in summer; it is called popularly the cold plague; I know of and have seen several cases of it in Baltimore; I suppose I have seen half-a-dozen in Baltimore; some of them died, but I don't know how many died.

Mr. Syester—I want their names and their ages as near you can.

Dr. Warren—I can't do that; Dr. Morris will give them to you.

The witness continued—I do not know how many of the cases were those of infants, but I suppose three or four were infants; in some epidemics, perhaps in a majority, the children are most often attacked; in others it is more indiscriminate in its ravages, and neither age nor condition of health constitute a barrier to its invasion; a difference in that respect manifests itself in various epidemics; old persons are not so apt to be affected by it as young persons; I think a majority of the cases of the epidemic of the disease in Baltimore last summer were those of children; I don't recollect ot any old persons being attacked by it; I think the old are less liable to be attacked than children or the middle aged.

The Court here adjourned until 10 A. M. to-morrow, when Dr. Warren will be recalled for continued cross-examination by the State's officers.

Among those present to-day were Hon. Wm. M. Merrick, M. C.; A. Leo Knott, Esq., State's Attorney, of Baltimore city; Col. H. D. Loney, of the Fifth Regiment, of Baltimore; and Drs. Williams, Miles and Chew. Prof. Tonry was not present to-day, but remained in attendance until the conclusion of Dr. Reese's testimony. Dr. Reeese returned to Philadelphia on yesterday, and Professor McCulloch left to-day for New York. Professor White, of St. John's, is still in attendance upon the trial. General Brice was not present to-day. Susan Jacobs still occupies the seat in the corner which she took at the commencement of the trial. Dr. James C. Welling, ex-President of St. John's College, now connected with Princeton College, and Professors Nelson and Dashiel, of St. John's were also present to-day. Drs. Hiram and Wm. Corson, of Norristown, Pennsylvania, have been in attendance each day since then arrival. Prof. Harvey L. Bird, of Washington University, Baltimore, has been summoned for the defence, and has been present for several days.

TWENTY-SEVENTH DAY.

ANNAPOLIS, January 5, 1872.

It has been shown, both by the State and the defence, that those who were not cognizant of the circumstances alleged to connect Mrs. Wharton with the death of General Ketchum, have more to say at her trial than those who were present at the death-bed. Medical and chemical science seem to have found in the great trial a happy opportunity for airing themselves; chemistry has shaken off much of the dust of years, and put rather a new face on an old body, while medicine has delighted in something of a gladiatorial exhibition. From the looks of the jury it is evident that they have ceased to take much interest in scientific revelations.

Dr. Edward Warren was re-called to-day, and in answer to Mr. Svester, testified—I have no recollection that the ages of any of the patients in Baltimore afflicted with cerebro spinal meningitis exceeded fifty years; I cannot say definitely that the age of any of them exceeded fifty years; the cases occurred in various parts of Baltimore; Dr. Baltzell's case was in South Baltimore; I saw a case in East Baltimore, one on Calvert street, and one on St. Paul street; out of the six cases only one was fatal; that was the only case which assumed the fulminant form; the others were ordinary cases; the rule is that the duration of the disease has nothing necessarily to do with the amount or development of lesion, but it has much to do with the extent of lesion; a case however protracted would not necessarily leave lesions; the vepid form of it would not be followed by as extensive lesions as a longer attack; the lesions depend invariably upon one form or other of the disease; that is on one form (the inflammatory) if there be time enough for their development; there is no difference in the symptoms of these two forms which have been distinguished; you cannot tell until after death and the post mortem examination has been made which of the two forms you have been dealing with; you determine that by the lesions; Dr. Baltzell's case was of the fulminant form; fulminant applies to the inflammatory and the non-inflammatory form alike; there may be lesions in the fulminant form, but they are not so likely; that form is too rapid for the development of lesions; it is impossible to say how long it takes to develop the lesions; they do not depend upon the violence of the symptoms, but upon the duration of the disease; in the fulminant form it is as if a man was stricken down almost by lightning, as it were; the nervous system is so prostrated that inflammatory action cannot be produced; the time and the condition of the system in the fulminant form both concur to hinder the development of the lesions; pathology, like everything else, is not a matter of accurate exactness. (The witness here explained the prostration of the system in the fulminant form.) He continued—By a post mortem examination and the lesions you could determine, in a majority of cases, whether the inflammatory or non-inflammatory form had existed, but if it had terminated in too brief a period the post mortem would not determine what had been the disease.

To the Court—There is no absolute rule for determining the time in which the lesions would develope.

To Mr. Syester—There is no rule as to the length of time in which the fulminant form would develope lesions; the most violent inflammatory form may not develop any lesions; it must be either the inflammatory or the non-inflammatory form; you can't tell to which form it belongs; I examined one case of the fulminant form; sometimes the inflammation limits itself to the brain; sometimes the lesions revealed at post mortem examinations are difficult to determine; it is difficult for an inexperienced eye to determine the lesions in a case of passive congestion.

The witness here referred to Dr. Woodward, and Mr. Syester said Dr. Woodward was not in Court, and he protested against a reference to him.

Mr. Steele replied, and said he hoped the Court would lay down some rule to be observed in cross-examinations.

Mr. Syester said he was sensible of the indulgences which had been extended to him on the other side, but he did not think the course of the cross-examination had gone wrong. He then continued to explain how he considered the state of the case.

The Chief Judge said it was impossible to lay down any rule but what had already been enforced; namely, that a direct answer must be given to a catergorical interrogatory, and then, if necessary, an explanation could be made afterwards.

Dr. Warren continued—The difficulty of determining the post mortem lesions may account for many of the varying reports, but it cannot account for all. Dr. Warren then referred to Reynolds' System of Medicine, page 513. He continued—Ratcliffe says the lesions are often absent in the fulminant form; according to his observations, it would be inferred that the lesions are very few; scarlet fever and measles often carry off their victims without leaving traces behind them. Dr. Warren then referred to page 514 of Reynolds' System of Medicine.

Mr. Syester—We ought to be able to tell where these forms run to, no matter where they run.

Dr. Warren—We can tell as much about it as a lawyer.

Mr. Syester—Lawyers' mistakes appear to all the world, and doctors bury their mistakes six feet under ground.

Dr. Warren—Yes, but sometimes lawyers hang their mistakes on a tree.

The spectators seemed to enjoy this little spat.

Dr. Warren continued—The authorities I have quoted do not refer to the microscope, but say the lesions are not present, and take the responsibility; they are proficient microscopists and I conclude they used the microscope in their examinations.

Objection was made to the witness stating that he concluded that the microscope had been used by the authors he had quoted, in their examinations, and the Court decided

that it was a matter for argument by counsel before the jury, and not one that the witness could give as his conclusion.

Dr. Warren continued—There is no exact location for the inflammation of the brain from fulminant cerebro spinal meningitis: it may be found on its surface, in its substance, in its ventricles or in the spinal cord; I said yesterday that I thought it would have been better if the whole spinal cord had been examined; it is simply possible that lesions would have been discovered on further examination of the spinal cord; I do not know of any laws which would have made it certain that lesions would have been discovered; I do know that lesions might have been discovered; the books give cases in which lesions were found in the spinal cord and nowhere else; in those cases the lesions were not found anywhere else: I do not remember that the cases were of the fulminant form, but I suppose—

Mr. Syester—Never mind, Doctor, what you suppose.

Dr. Warren—Well, I doubt the authenticity of the cases reported. He continued—I doubt if a further examination would have developed lesions: if lesions had been found in the lower portion of the spinal cord. I think they would have been of those of the inflammatory form; they might have been of the fulminant form; I do not know that the spinal cord is only affected, if at all, in violent forms of the disease.

Mr. Syester now read a note in Reynolds' System of Medicine, edition of 1868, as the nomenclature of the disease; and the witness repeated in the main what he had said previously of the different forms.

Mr. Syester here read from Flint, page 654, of two cases there reported, in which there were no effusions in the nervous centres, and Dr. Warren said he did not think the author referred to them as the products of inflammatory action.

Mr. Syester next read from Stille, page 76, and Dr. Warren said he agreed with the opinion there expressed; he understood the author to be treating of the fulminant form, and continued, I do not know that he treats of any other form.

Mr. Syester then read from Niemyer, volume 2, page 222, that in some cases the disease ran its rapid course and no symptoms of tetanic convulsions showed themselves, and the witness agreed with the author, and continued—A man may be stricken down without being able to speak or make a sign; headache may be very slight, and it may not occur; it might last five hours, and there might be no headache, and again in two days it might not show itself; I would not conclude that if a man said two hours before death that the pain was in his stomach, that headache was necessarily absent; I would not conclude either, that there was general paralysis; when paralysis is present it connects itself oftener with the inflammatory form than any other.

Mr. Syester again read from Niemyer, page 222, as to the symptons and rapid course of the disease, and Dr. Warren said the author did not refer to the tetanic form in his remarks about general paralysis.

He continued—Hyperesthesia may occur at any period of the disease, and may disappear at any time; I think the tremor described by Dr. Williams indicated it; I did not hear Mrs. Hutton's testimony about having sat by and rubbed his hands; I would not consider the failure to respond then an indicationof hyperesthesia; I do not mean to say that it was present at that stage; the tremor observed by Dr. Williams was a sufficient indication to my mind of the presence of hyperesthesia; I know from that tremor that hyperesthesia was at that time present; if it did disappear; the fact that he afterwards put his hands on his body and scratched himself is another indication, not amounting to positive proof, that irritation was present; I can well understand how a man in a state of semi-consciousness would, in his efforts to remove the sources of irritation to his skin, abrade his skin; my judgment is that those movements of General K's hands, in scratching himself, etc., were automatical; but if they had any pathological significance, they pointed either to the existence of pain or hyperesthesia; a shiver passing from head to foot never occurred under such circumstances; his sleep amounted to semi-unconsciousness, as he had to be shaken before his physician could awake him; I admitted from the start that it was a slight circumstance; I simply said that at the moment General K. applied his hands and scratched himself indicated that hyperesthesia might at that time have been present; I would not say that during the time Mrs. Hutton was rubbing General K's hands that hyperesthesia was present just at that time; I can't say that it disappeared just at that moment; I have not read Dr. Williams' letter since yesterday, but I can give you my reason, for the opinion to which it led my mind.

Mr. Syester—Never mind, Doctor; you could not give an opinion yesterday without having re-read the letter, and we don't want it to-day, as you have not read it since yesterday.

Dr. Warren continued—Opium would prevent vomiting if given in a sufficient quantity; the urine would be last affected in opium poisoning; I have said that muscular relaxation was among the symptoms of tartar emetic poisoning. [Mr. Syester here read from Taylor on Poisons, page 249; Stille on Poisons, 2d vol., page 40; Taylor on Poisons, page 390, and Wormley, page 216, and Dr. Warren expressed his concurrence with the opinions there expressed.] He continued—If the symptoms I have described and agreed to were present, and antimony was discovered in his stomach, I would investigate the case, and if I found the symptoms of antimonial poisoning I would infer antimonial poisoning; but if the post mortem lesions and the symptoms were those of another disease, I would refer it to that disease; if I found the characteristic symptoms of tartar emetic poisoning, and the post mortem confirmed these symptoms, my opinion would be that tartar emetic had caused death; special tetanic spasms may occur in connection with muscular relaxation; profound coma is sometimes a symptom of cerebro spinal meningitis; I don't know how much I get as a fee in this

case; I expect to be paid a proper fee; it is customary in this country and in England to employ proper medical experts; I have fixed upon no sum, and have had no understanding about it; I have heard by common report that there were witnesses for the State are to receive fees; I heard it from Dr. Morris; he told me that a witness for the State had told him he was employed as an expert, and expected to be paid a proper remuneration for his services and time; he said Dr. Williams was the gentleman; I never expressed an opinion on the streets of Baltimore that Gen. Ketchum had died of cerebro spinal meningitis before; the letter of Dr. Williams gave me the suspicion of that disease; I can't remember the symptoms which gave me that suspicion; I can name convulsions, also the fact that the catheter was used; also a semi-conscious state of the patient; the symptoms which showed themselves in General K.'s case late on Tuesday and Wednesday may have been those of the fulminant form of the disease; I do say that a persou attacked in the way in which General K. was would have the fulminant form; I should not think he could walk about, talk, and then live with an attack of the fulminant form of the disease.

Mr. Revell now read from Niemyer & Grisole as to the symptoms of tartar emetic poisoning, and the absence of lesions discoverable by post mortem examinations, and Dr. Warren said they were generally correct.

The State's officers here announced that they had closed the cross-examination of the witness.

Dr. Warren here desired to make a personal explanation as to his connection with Mrs. Wharton's case, and the Court consented.

Mr. Steele said he did not think it was necessary, but Dr. Warren insisted, and was proceeding to narrate a conversation with Mr. Thomas, who, he said, had called upon him in the interests of justice aad humanity, when Mr. Syester objected, and after some desultory discussion as to the propriety and right to make the desired explanation, the Attorney General said he had not intended to cast an imputation upon the character of Dr. Warren. The explanation was then left unfinished.

Dr. Warren continued, in answer to Mr. Syester (by consent of the defence)—Cerebro spinal meningitis does not in all its forms begin with a chill; the most violent form occurs in the epidemic; I think that was Gen. K.'s case; it had been present for several days, and fulminated on Wednesday.

To Mr. Steele—Congestion of the kidneys is one of the complications of cerebro spinal meningitis. Mr. Steele then read from Niemyer on the subject to which he had just referred, and Dr. Warren agreed with the opinion held by that author. Mr. Steele read next from Stille, page 93, and Dr. Warren reiterated his opinion that the symptoms and lesions there described were complications. Mr. Steele again read from Niemyer on the subject of headache and coma in spinal meningitis, and Dr. Warren said the opinions were in agreement with his own.

Dr. Warren continued—The epidemic may recur, and its influence does not necessarily disappear. Mr. Steele then read from several authorities, as to the microscopic revelations, and Dr. Warren briefly expressed his opinions.

Dr. Warren was then allowed to leave the stand.

Dr. John Morris was next called, and, after affirming, testified—I am a medical man and reside in Baltimore; I have practiced medicine nearly six and twenty years; I have had three unmistakable cases of cerebro spinal meningitis; I have one of the three under treatment now; some of mine were solely fulminant in the manner of invasion and not the termination; the two first cases recovered, to my surprise, and my present patient will, I think, recover, though paralysis has supervened.

Mr. Hagner now read to the witness the following hypothetical case and interrogatory:

A gentleman about fifty-eight years of age, residing on the Heights of Georgetown, D. C., on the morning of the 24th of June, 1871, at 7 o'clock A. M., was in Washington city, more than a mile and a half from his home, having already breakfasted. After other occupations he called about 12 M. at an office more than a mile farther off, and there he was engaged about important business, in completing which he walked about a mile and a half further. The day was excessively warm, and he seemed to be much heated. He took no dinner. He came over to Baltimore in an afternoon train, and after reaching there drove and walked about a mile from the depot to his lodgings, and immediately walked out again and was absent sometime. Between 8 and 9 o'clock P. M. he partook of a hearty meal of meat, biscuits, coffee, etc., of which raspberries were the concluding course, and after smoking and talking with his friends until 11 o'clock P. M. he retires to bed. Some hours afterwards he is taken sick, and leaves his room and walks down stairs into the yard.

Sunday morning, though still complaining of not feeling well, he goes out, visits a friend, and remains for some time. He then returns indisposed. Between 8 and 9 o'clock P. M. he drinks a glass of lemonade, with brandy in it, and after an hour or two retires to bed. During the night he is attacked with symptoms of cholera morbus, and goes to the yard once about 12 o'clock. On the next morning (Monday) he is still unwell, and complains of nausea and giddiness, but eats some breakfast in bed. He vomits at abont 10 o'clock A. M., and again about 4 or 5 o'clock P. M.

At 4 or 5 o'clock P. M. of the same day he is visited by a physician, who finds him very much nauseated, pale and prostrated, with a rapid and feeble pulse, sitting up and holding a slop bucket between his knees, into which he vomits frequently. A dose consisting of two drops of creosote and a tablespoonful of lime water, is given him, and ordered to be repeated every second hour, and it relieves him. He is seen again at 2 o'clock P. M. on Tuesday, sitting upon the side of his bed examining his watch, but makes no remark

He is visited by his physician again on Tuesday morning, about 10 o'clock, and is found asleep; but on being aroused, expresses him-

self as well enough to leave Baltimore during the day. He continues to sleep during the morning, and when aroused and induced to walk from his bed to a lounge in the room, seems feeble and exhausted. He returns to his bed and sleeps heavily, with heavy breathing, for several hours. He is again aroused and returns to the lounge while his bed is being made up. In walking from the bed to the lounge, it is observed that he has difficulty in walking, that his gait is unsteady, and that he staggers as he moves along. He lies down on the lounge. No vomited matters are found in his room during the whole of that day, and he passes no urine. At 6 o'clock P. M. he is discovered sleeping profoundly and breathing stertoriously, but afterwards, without waking, changes his position and seems to breathe better. He spends the night on the lounge. His physician is sent for on Wednesday morning, and visits him about 10 o'clock A. M. and finds him semi-comatose, with a feeble and rapid pulse; pupils natural in size and insensible to light; respiration slightly hurried, and the muscles of the neck, back and extremities rigid; he is aroused with difficulty, and immediately relapses into a profound sleep; a tremor passes over him when touched; he can only articulate a single word at a time, and is unable to frame a sentence; he has passed no urine for more than twenty-four hours; no special relaxation of such muscles as are not rigid is observed; his face is turned towards the back of the lounge, and is livid, of a purplish, bluish and reddish tinge.

At 11 o'clock A. M. forty drops of the tincture of yellow jessamine (gelseminum) are administered in two teaspoonfuls of water, his physician having previously removed him to his bed and applied ice to his head; his teeth are clenched, his jaws are opened with difficulty to receive the medicine. In a short time his color improves, and his eyes look notably better, although he still remains unconscious and rigid. He then shows signs of great restlessness, struggles to get out of bed, and then relapses into a state of quiescence and semi-consciousness. At five minutes before 1 o'clock another dose is administered, containing more liquid, between two or three tablespoonfuls, as alleged, and in about 15 minutes afterwards he slaps the shoulder of an attendant, grasps the back of his neck, seizes various parts of his body, scratches himself with his nails, utters disjointed words and cries, and then is seized with tetanic convulsions. Opistholonos is developed, At each convulsive movement there seemed to be a systematic effort to throw himself on his left side; he emits groans; trismus shows itself; coma increases, and the patient is apparently in articulo mortis. At about 1:30 o'clock P.M. chloroform is administered, and at about 2 o'clock P. M. 30 grains of chloral are given, and at about 3 o'clock P. M. he dies without abatement in his symptoms.

His urine is drawn off about 1:30 o'clock P. M., and tested with nitric acid and heat, without the discovery of any abnormal substance in it.

The post mortem examination reveals a rigor mortis, red marks like scratches on his neck and abdomen, some red patches in the mucous coat of the stomach and intestines, but no product of inflammatory action; the liver, spleen, eosophagus, lungs and heart in a healthy condition; the vessels of the dura mater were not very full of blood; the vessels of the pia mater somewhat congested; the veins filled with dark blood, indicating passive congestion; the brain substance natural and healthy, with some dark points of blood, indicating passive congestion on its cut surface; "such," in the language of his physician, "as are frequently produced by the mere act of dying, and which may have been post mortem;" no extraversation of blood; no increase or diminution of the cerebro spinal fluid; no effusion of serum, and no signs or results of inflammation in any organ or structure; about two inches of the spinal cord, the medulla oblongata, were examined without the discovery of lesions. The rest of the spinal cord itself was not examined.

From the symptoms as there described, and the post mortem revelations there described, do you think the deceased died from natural or non-natural causes?

Dr. Morris replied—It is a very difficult and delicate question; but if I were asked that naked question, and had no knowledge of surrounding things, I could not assign a cause of death; I see nothing to exclude the theory of death from a natural cause, but at the same time I cannot venture to say what that natural cause was or might have been; Dr. Warren saw two cases of mine—one of an adult and one of a child; in truth, I invited the whole profession, as far as I could, to see my case, so anxious was I to investigate the nature of this new and insidious disease; it is at least new to us in Baltimore; two of my cases (of children) were suddenly taken, after returning from school, with the characteristic symptoms, which manifested themselves in forty-eight hours; then the fulmination terminated; one case was of a vigorous, stout man, and he still lives to tell the story.

The witness was now turned over to the State, and in answer to Mr. Syester said—I suppose the man I speak of (his name is Jacob Armer) is about 38 years old; I don't remember the month, but think it was in August or September; I know his wife told me she had used six bushels of ice on his head and spine.

Mr. Syester—Well, Doctor, was that before you got at him?

Dr. Morris, nervously—Oh! no, sir, that was what I prescribed for him.

Dr. Morris continued—Mr. Armer was a tanner, and subject to labor, exposure and heat, and perhaps they superinduced the disease; the popular name is cold plague, but that is a very vulgar name; when medical men and chemists disagree it don't signify anything to laymen, but it may to medical jurists; I would not like to say positively that it was an epidemic disease in Baltimore, but it was a new disease to the profession in Baltimore; it is not a contagious disease; it occurs oftener in cold weather than in warm weather; I know personally of only three cases; I know of 50 others by hearsay.

Mr. Steele here desired to know if the existence of the disease as an epidemic could be given in evidence by only one medical man, or would it be required that all the physicians who had cases of it were to be called to establish that fact. The Court decided that it was not evidence.

Dr. Morris continued—The first cases I had was in June; it occurs oftener in crowded populations, and I believe it would attack children in a crowded city soonest; I will tell you more about its season for appearing when I see more of it in Baltimore; I don't go by the books; headache was in all the cases I had; I never saw such a case of headache as poor Armer had; I cannot say that it is ushered in with a chill; it is a blood poison; I believe every case of fever is ushered in by a chill; I will now give a description of one of my cases; the patient, apparently in goood health, is taken suddenly with an attack of disease; headache and vomiting are the first symptoms, the latter almost invariably; then almost a train of nervous symptoms set in; delirium was one of the first symptoms of this; disturbance of vision and of hearing; excessive sensibility; loud cries in cases of children, cries not so marked in the cases of adults; jactation, restlessness, pain well marked about the nape of the neck, which extends afterwards down; I have now given the symptoms attending the invasion of the disease; afterwards you have hyperesthesia of the skin; I do not know at what point that comes in; it may show its appearance the first day, but I am not sure at what time it manifests itself; this hyperesthesia continued in all my cases, but none of my cases were fatal; the condition of the eye varies very much, and frequently very much the same day; sometimes the patients can't see, and then again they can see; it may seem strange, but it is nevertheless so; the mind is very much disturbed, but not persistently; at one time the patient will speak intelligently and then again unintelligently; I think there is a fixedness about the nerve of the ear, and I saw no change in the hearing; strabismus and double vision appeared in all my cases; the symptoms vary very much even in an epidemic; no two persons are attacked entirely alike; delirium occurred in my cases; the patients were thrown on one side; the opisthotonos causes that; the pain is so excessive that the patient cannot bear to be moved or touched; I think strabismus is characteristic of the disease; it appeared in all my cases; the varied condition of the eyes is, in my opinion, one of the characteristic symptoms; I do not say they occur in all cases; I never held a post mortem of a case of death from cerebro spinal meningitis; the pulse is not as much interrupted or disturbed as you might expect from so terrible a disease, but it is not full; there is usually very little change in the condition of the tongue; it is generally moist; it is a strange disease, inasmuch as there is so little disturbance in the digestive organs; I would not like to say that the cries were caused by lacerating pain, as the patient is not a responsible person at the time; there is nothing intelligible in the cries; I believe the movements are more automatic than otherwise; the intelligence is not always lost, and may for a moment be restored, and the patient may give an answer half intelligent, half truthful. The witness was here dismissed.

Dr. Morris here desired to make a personal explanation, as his name had been brought into the case in an unpleasant connection. After some conversation with the respective counsel, Mr. Syester said he had been betrayed into his line of remark, and he regretted it. He had to say to Dr. Warren and all present, that he had no doubt of his candor and his freedom from bias, and he had been assured from his testimony of his professional ability and learning.

Dr. Morris then left the stand without making an explanation, and Mr. Steele expressed his gratification at the termination of the disagreeable occurrence.

Professor Harvey L. Byrd next testified—I am a practicing physician in Baltimore, and am Professor of Obstetrics in Washington University, in Baltimore; I was also a Professor in the Medical College of Savannah, Georgia, and also of Oglethorpe Medical College; I was in the Confederate army as a surgeon until the couclusion of the late civil war; I have been practicing medicine thirty years; I graduated at the Pennsylvania College, and afterwards in the Medical Department of the University of Pennsylvania; I have read the hypothetical statement read here to-day, and I have carefully reflected on its contents; the result has been to decide, from the facts presented in that statement, that General Ketchum must have died from a natural cause or causes, or, in other words, from disease; I do not know that I could give my reason very clearly, without going into a repetition of some of the testimony in the case; it is necessary, perhaps, that I should remark to the jury that health is a variable condition; as long as there is perfect harmony between the destructive and the reproductive forces, there is, of course, no disease; but when we take into consideration that this harmony of relation, which we find existing in the capillaries which connect the arterial and thevenous systems, it will require but little thought to discover how easy extraneous causes may disturb this balance; if the balance is immediately restored, no permanent injury ensues; this delicate arrangement may be influenced by a thousand causes.

Prof. Byrd then went on with quite a lengthy disquisition upon the natural forces, the sources of vitality, etc., etc., and said he had endeavored to avoid circumlocution, etc.

He continued—The raspberries were extremely indigestible; he smoked tobacco, which, of itself, is a strongly depressing agent, and retired to bed under the conjoint effects of heat, fatigue and tobacco; then the taking of the raspberries is another reason why he was disturbed; the indigestion might have predisposed to the establishment of some other disease; now, what that particular disease was I am somewhat puzzled to know; there are phenomena in connection with disease of great and significant importance, which a physician may omit to note, and I experience here embarrassment; the

disease bears no absolute resemblance to any with which I am acquainted; in some of its features it resembles the disease known as cerebro spinal meningitis; taken as a whole, however, it bears no identity to any disease with which I am acquainted; the hyperesthesia is a striking feature in cerebro spinal meningitis; there is also allusion to the pain and rigidity in the back of the neck: if the disease had gone further I might be able to find other more striking symptoms resembling those of cerebro spinal meningitis; I don't know that there are any other symptoms which require to be commented on, and I am confining myself to the hypothetical case as rigidly as if I had never heard of General K.'s case; the incompleteness of the symptoms leaves the question problematical in my mind, but the probability is that he died from some natural cause; my mind is very clear on that point; the assemblage of the symptoms leads me to that opinion; I have seen a few cases of cerebro spinal meningitis; I saw them in consultation; I saw them in Mobile, Ala., during the war, while there in charge of a hospital; the disease has not only prevailed in different parts of the United States, but also in Europe; it does not seem to have been understood a century ago, and I don't think it is perfectly understood now; there is a great deal to learn of its cause or causes; I incline to the opinion that it is due to some influence in the atmosphere; it is a blood poison undoubtedly; opisthonos is a symptom of the disease; I have also observed in the disease plurosthotonos, the bending of the body to one side; the cases I saw presented plurosthotonos in a very striking manner; I am not prepared to say that the suppression of urine is another symptom; I don't care to rely upon the books, but I do not regard my opinions as superior to those of authors; all the cases, even in an epidemic, do not present the same symptom; I have known epidemics of yellow fever in which the symptoms varied and a change of treatment was then necessary.

The Court here adjourned until 10 o'clock to-morrow. The attendance to-day was not large, and medical testimony seems to be "dry, stale, flat and unprofitable" in the opinion of those who have interested themselves in the trial.

TWENTY-EIGHTH DAY.

ANNAPOLIS, MD., January 6, 1872.

It was expected upon the opening of the Court to-day that the medical testimony for the State would be continued, but in a few moments after the Court had been called to order the Chief Judge announced to the jury that for reasons which the Sheriff would explain to them the Court would adjourn until 10 A. M. Monday.

It has already been announced that during the first week of the trial the mother of one of the jurors, Stephen Beard, Esq., died suddenly, and this morning information was received by Mr. Beard of the death of his wife. In consideration for Mr. Beard in his affliction, the adjournment was ordered to-day, and, by consent of counsel, Sheriff Chairs was instructed to allow him to attend the funeral of his wife, but only in company with all the other jurors. Wagons were procured soon after the adjournment of the Court to-day, and the jury, under the charge of Sheriff Clairs and Deputy Sheriff Bryan, were taken to the residence of Mr. Beard, about seven miles from Annapolis. The Sheriff was ordered to return to-night, with the jury, to their quarters, at the City Hotel.

The jury is evidently much wearied by the length and tedium of the great trial, and those who were most industrious in the beginning in taking notes, now recline in their high chairs and look on complacently. Dr. Davidson, the ex-pupil of Professor Aikin, still takes a note now and then, but the accuracies and inaccuracies of medical and chemical science do not seem now to attract the attention of the majority of the all-important twelve.

The Court takes the utmost precaution to keep the jury free from even a breath of popular feeling, and they are not allowed to leave the court room, after adjournment, until the entire audience has retired. The reporters are also subjected to the order to retire, and have to gather up their notes in haste, and leave with the rest of the audience.

Mrs. Wharton still maintains the remarkable composure which she exhibited on the first day of the trial, but seems much wearied, and at times exhibts considerable restlessness. Miss Wharton is each day at her side, and manifests deep interest in all that occurs. Mrs. Nugent, Mr. and Mrs. J. Crawford Neilson, Miss Rosa Neilson, Mr. H. Moore Wharton and Herman Stump, Esq., of Harford county, are present with her each day.

The counsel in the case show that they too are fatigued and overworked. The trial has entailed great labor upon them and severely taxed their powers of endurance. Attorney General Syester entered the trial without previous preparation, having been constantly occupied before receiving the order of the Governor to assist in the prosecution of Mrs. Wharton, and Mr. Revell, while conversant with the material facts of the case, had not anticipated the course and length to which it has led. The counsel for the State have, however, shown themselves fully equal to the exigencies and demands of the case.

It is well known that the able counsel for the defence, with conscientious fidelity to the interests of their client, have devoted, from the beginning of their acceptance of the case, much study and research to the questions they anticipated, legal, medical and chemical. They have well maintained in this trial their high reputations.

The State's Attorney in his opening statement to the jury made the issue of a verdict of murder in the first degree or of acquittal, but the terms of the indictment leave the discretion to the jury of bringing in a verdict of murder in the first or second degrees, or of manslaughter.

Mr. Steele, on yesterday, replied to the explanatory remarks of the Attorney General as follows:

"We are glad that the Attorney General has made the remarks he has, because every one who knows Dr. Williams, knows that he is wholly above such an imputation, and we are glad to have the opportunity of saying that we do not propose to offer a challenge to Dr. Williams on any subject whatever."

The following was to day sent to Dr. Williams by the prosecuting counsel:

ANNAPOLIS, MD,, January 6, 1872.

Dr. P. C. Williams:

Dear Sir—Our attention having been directed to certain accusations charging you with being a volunteer prosecutor of Mrs. Wharton, &c., we feel it our duty, and do but a simple act of justice to your high character for integrity and honor, in stating that your presence during this trial has been *cumpulsory, under the State's process, and not voluntary,* and your connection with the case has been in strict accordance with our legitimate requirements.

You are at liberty to make whatever use of this letter you see fit.

Very truly, yours, &c.,

JAS. REVELL,
State's Attorney for A. A. County.

ANDREW K. SYESTER,
Attorney General.

TWENTY-NINTH DAY.

The great trial has grown almost monotonous, and is now unusually free from the exciting incidents which ordinarily accompany a criminal prosecution. The ladies, especially, have become tired of the scientific disquisitions, and comparatively few have been present during the last three or four days. There is a general impatience for the beginning of the end, and the court room will doubtless be crowded almost to suffocation when the arguments before the jury commence. All the counsel engaged in the case are earnest and forcible speakers, and in a cause of such gravity they will, doubtless, exert themselves with even more than their accustomed ardor.

It is anticipated that the trial will continue at least two weeks, and probably longer. It has been demonstrated that medical and chemical witnesses occupy much time in the delivery of their testimony, and a number of medical gentlemen and two chemists are still on the list of witnesses for the defence. The testimony in relation to Mrs. Wharton's character will perhaps occupy two days, a large number of her associates having been summoned.

The jury was taken on Saturday to the residence of Stephen Beard, Esq., in charge of Sheriff Chairs and Deputy Sheriff A. S. Bryan, agreeably to the instructions of the Court, and the afflicted juror was allowed to converse with the members of his family in the presence and hearing of the Sheriff. In accordance with the strict orders of the Court the jury was at no time divided, but were kept in the same room. They were most hospitably entertained by Mr. Beard's family during their stay at his home.

On Sunday, at 2 P. M., the funeral sermon of Mrs. Beard was preached by Rev. Mr. Mercer, of the Methodist Episcopal Church South, in the presence of a large concourse of the relatives and friends of the deceased lady, from the text: "The righteous hath hope in His death." Mr. Beard did not follow to the grave of his wife, but in consideration for his fellow-jurors returned to Annapolis without a further delay than the services at his residence necessitated. The death of Mrs. Beard was very sudden.

On Friday night, after partaking of a hearty meal, she retired to her room, but in a few moments called for water, which was at once procured. She expired in a few moments from an attack of heart disease. She was 60 years of age, and is spoken of as a most estimable lady. Much sympathy is expressed in this community for Mr. Beard in his sudden affliction.

The Court was called to order at half-past 10 o'clock to-day, and Prof. Harvey L. Byrd being re-called, testified, in answer to Mr. Thoma, as follows: I have said that, in my opinion, Gen. Ketchum's death did not arise from unnatural causes; the suppression of urine is a very important point and in certain conditions of cerebro spinal meningitis it constitutes an almost unfailing symptom; it is a very common symptom in all rapidly fatal diseases; it is not so in cases of tartar emetic poisoning; there are certain symptoms common to a very large number of diseases, and where they run paralel, as is often the case, but little importance can be attached to them individually; but, again, other symptoms are found of a marked character; the physician at once begins to form the opinion as to the existence of particular diseases; vomiting occurs both in cerebro spinal meningitis and in tartar emetic poisonings, also the rigidity of the jaws occurs in both; in the case before us we have a paralellism; in tartar emetic poisoning the skin wants sensibility, and in cerebro spinal meningitis the skin is over sensitive; tartar emetic has an affinity for the kidneys, and is absorbed by them; the urinary secretion would, therefore, be increased in tartar emetic poisoning; in cerebro spinal meningitis the urine would be decreased and suspended; in the cases I have had there was a tendency to bend the body to one side, known as pleurosthotonas; I found that in the four cases I have before spoken of; if the man was in bed he would still bend to one side; I prefer not to refer to the books, and I am speaking of the cases which have been under my observation; I think it probable that General K. died from cerebro spinal meningitis; I came to the conclusion that he did not die from tartar emetic poisoning, because of the absence of many of the characteristic symptoms of such poisoning; tartar emetic has an affinity for the stomach, and its action seems to be directed to that organ, whether taken in by swallowing or applied to the cuticle surface, the true skin, or injected into the cellular system; when applied locally for some time, its tendency is to first irritate

and then to pustule the surface; we should necessarily expect this tendency upon the mucous coat and membranes of the stomach: then one of the characteristic symptoms would be high irritation, and if continued a long time, abrasion of the mucous membrane of the stomach; in the hypothetical statement there is no mention of these characteristic symptoms in the stomach; that, taken in connection with the want of lesions, would be sufficient to satisfy one that General Ketchum did not die from tartar emetic poisoning; the post mortem appearances revealed nothing to me upon which I could rely, and scarcely anything more that we might expect to find in any other case than that which we have under consideration; I think the symptoms indicate cerebro spinal meningitis more strongly than anything else; some of the symptoms look in one direction and others in another; on the whole, I regard the case as an anomalous one, and, indeed, an extraordinary one; some of the symptoms refer to either variety of tetanus. (The witness here went on at some length in explanation). He continued—I do not, however, know of any disease which so nearly suits as cerebro spinal meningitis; we could, however, go on and find a hundred parallelisms. The witness was now turned over to the State.

The Chief Judge said the Court did not, in its ruling on Friday as to the presence of an epidemic of cerebro spinal meningitis, mean to exclude proof that it was so by general reputation. The Chief Judge then read 1st Starkie, page 44, touching the point he was considering.

Cross-examined by Mr. Syester—In the cases which came under my observation, in two of them I was in attendance some hours after the commencement of the attack, and in others from the commencement; in two cases the chill was present at the commencement; chills were reported in the other cases, but I did not see them; one patient lived four hours and another five and a-half hours; those cases were of the fulminant form; one of the four cases extended for five days and another for seven days; where the disease is rapid in its character I should think they belonged to the epidemic form; it is necessary that there should be a number of cases before the disease could be well regarded as an epidemic; I did not find a state of general paralysis in the cases I attended; there were symptoms which might at first blush have induced the opinion that traumatic tetanus was present; the patients died within a few hours, and I cannot say that the symptoms disappeared at one time and again returned; there was no partial recovery; a patient once attacked by the fulminant form would not, in my opinion, be able to get up and walk out of the house; profound coma soon supervenes; I would not think that Gen. K., had the fulminant form if he got up and walked about; laudamun administered in large doses retards the action of the kidneys; I never saw a death from tartar emetic poisoning, and my knowledge of the symptoms has been obtained from books; I have kept aloof from books in this case, but I think Taylor is clear that the stomach is highly irritated; I think some of them, Taylor among them, speak of the ulceration of the stomach; I could not now name the author; I scarcely think I can be mistaken as to the statement that ulceration is produced; Taylor being a standard author, I should think if ulceration occurred he would be most likely to state it; I am very happy to say that I think the administration of both yellow jessamine, chloral and chloroform was judicious; I do unhesitatingly endorse the treatment by Dr. Williams as proper under the circumstances; I am not sufficiently acquainted with the pathological history of cerebro spinal meningitis to say that it leaves dark red patches in the intestines; in cases I have examined there was some enlargement of the small glands of the intestines; I am not certain that any yellow substance was found in the intestines; I made post mortem examinations of two of my cases; the brain and its membranes and the spinal marrow were examined for some distance, and there were no lesions whatever; those were the two last cases in which I had come in after the commencement; we did not use the microscope; it was during the war and we could not obtain a microscope; the failure to observe with the microscope may account for the absence of the appearance of lesions to our eyes; we examined the ventricles of the superachnoid space, and we could see no lesions whatever; there seemed to be even slight evidences of passive congestion; lesions would, I think, be more likely to occur in the superachnoid space than anywhere else; in the two first cases I attended (those which were protracted) the lesions were quite marked; there was decided softening of the brain substance; one of the cases lasted forty-eight hours, and the other for several days; I saw pus as well as lympth; the lesions, I judge from personal experience, depend upon the length of time the attack lasts; if General K.'s case was one of cerebro spinal meningitis from the outset, I think the lesions would have most probably appeared; it is very difficult to say when he was attacked with cerebro spinal meningitis; the symptoms stated in the hypothetical statement are not sufficiently connected to enable me to decide that it was a case of cerebro spinal meningitis; I think there were some of the symptoms on Tuesday; I am aware now that I am going on the record as a professional man and into history, and I wish to appear as an intelligent professional man; I would not say that tartar emetic had produced the irritation in the stomach described in the hypothetical statement; I would say that almost any irritant poison might have caused it; any indigested matter in the stomach might have caused the irritation; cerebro spinal meningitis would not necessarily have produced it; it is a blood poison; I do not think a fulminant case would have produced it; I should think that tartar emetic, if continued for any length of time or given in large doses, would produce the irritation spoken of; I have been obliged to suspend the use of tartar emetic on account of irritation of the stomach: it is a most extraordinary fact that a half century ago

members of high standing in the profession were in the habit of giving it in huge doses; when a large dose is administered nature struggles to protect herself, and it then acts more as a sedative; in the hypothetical statement there was rigidity of the muscles, difficult swallowing, a semi-comatose condition, suppression of urine, and I infer also hyperesthesia of the skin; also, a tendency to pleurosthotonas; these I regard as the characteristic symptoms of cerebro spinal meningitis; a great many things would give rise to the difficulty in swallowing, and if tartar emetic had been given often it would produce that difficulty; I have never looked in the case of Cook, who was poisoned by Palmer, in England, and I cannot, therefore, say that the same symptoms were present in that case as in General K.'s; tetanic convulsions sometimes accompany tartar emetic poisoning, but it is not invariable; tetanic convulsions may accompany cases which are not cases of poisoning; rigidity of the muscles is occasionally produced by large doses of tartar emetic, but its usual effect is to relax the muscles.

To Mr. Revell—Tartar emetic very often produces burning in the pit of the stomach; also constriction of the throat; tartar emetic belongs to the corosive class rather than the irritant; spasmodic contraction of the muscles of the upper part of the abdomen occurs in the latter part of a case of tartar emetic poisoning; suppression of the urine does not always occur, and neither does the absence of albumen in the urine; the eye is not uniform in its appearance; in one of the cases I attended from the inception the pupil of one eye was contracted and of the other dilated; in one case there was also strabismus, particularly during the tetanic spasms; I think the eye would be liable to a great many variations; I remember that in one of my protracted cases the eye was turned back, exposing but little more than the white of the eye, all the visual portion of the eye was obscured; in both my cases total suppression of the urine was observed; I have not read Dr. Stille's work on cerebro spinal meningitis, but I know him well, and anything he might say of the general symptoms would be authority for my opinion; headache is one of the most constant symptoms; as long as my patients were capable of complaining they complained of headache; there were no lucid intervals in either of the rapid cases; there was a great degree of sensitiveness of the skin; it may not have gone all the way with the disease, but I think it was observed in my cases to continue; in the case of an athletic negro man, who I had to bleed, I observed that as soon as the bandage touched his arm he showed great sensitiveness, and as soon as the lance was inserted he had a violent convulsion.

Mr. Revell now read from Stille, page 87, and Prof. Byrd said he thought the symptoms which were described were referrable to the fulminant form of cerebro spinal meningitis. Prof. Byrd continued—I have seen cases of yellow fever, in which there was no black vomit, and also in cases of Asiatic cholera I have known of the absence of the characteristic rice water discharge.

Mr. Revell again read from page 129 of Stille's work, as the necessity for the use of the microscope, and Prof. Byrd said he had no doubt that, in many cases, the microscope would reveal lesions, but he was not prepared to say that cases might not occur in which the microscope would not reveal them.

Mr. Revell read further from pages 129 and 130 of the same author, and Professor Byrd agreed in the main with the statements there made, Mr. Revell again read from page 126, that the principal symptoms were referrable to the brain and the nerves. Mr. Revell then read from page 20, and Professor Byrd said he had observed the peculiar sunken countenance there spoken of.

Prof. Byrd continued—I noticed in my cases a disturbance of the hearing; in the protracted cases there was certainly a disturbance of the hearing, but in the rapid cases we could not observe that symptom so closely; in my cases I observed also loud groans and incoherent expressions.

Prof. Byrd was now dismissed and Dr. Peter Goolrick was next called, and in answer to Mr. Steele, testified—I have been a practicing physician nearly twelve years; part of the time in Baltimore; I heard the testimony of Drs. Williams and Chew, and read the testimony of Dr. Miles; from the symptoms and the post mortem revelations, I would say that General Ketchum might have died from natural causes, and not from tartar emetic or any other poison known to me; I saw a child of Mr. Dyer, of Prince George's county, poisoned from Coxe's Hive Syrup, which contains tartar emetic, seneca, squills, and simple syrup; I was called to the case as one of croup, and when I reached the child I found that it had a pulse scarcely perceptible, with a cold, clammy surface, and was thoroughly relaxed; I ascertained that that preparation had been given by Mrs. Dyer; the case did not prove fatal; it was an old preparation, and had, I suppose, grown stronger from age; I should attribute the symptoms I observed to tartar emetic; that is the only case of tartar emetic poisoning I have ever seen; I have given tartar emetic in doses of twenty grains, to relax the system in invagination; I saw no appreciable result, and was compelled to use subsequently tobacco; I don't think the death of General Ketchum is traceable at all to tartar emetic poisoning, and I think natural causes will account for it.

To Mr. Syester—There are several diseases which leave no lesions, and it would be unsafe to say that they were caused by tartar emetic poisoning; several diseases would produce the symptoms I have heard described in this case; hysteria might produce them; I am not acquainted with cerebro spinal meningitis, but its symptoms, as described, would resemble those of Gen. K.; the mother of the little child did not tell me how much of Coxe's syrup she had given, but said she had given a good deal; the squills are an emetic, and in large doses an acro-narcotic poison; it might produce relexation; the seneca is an expectorant, and is supposed to play that part in the combination; I think it likely that it may in

large quantities excite the nervous system; simple syrup is very harmless; in Coxe's syrup about a grain of tartar emetic to the ounce is the proportion; the tetanic spasms in tartar emetic poisoning are a divergence from the usual symptoms; they sometimes appear; Taylor says they "may" appear; he says suppresion of urine never occurs; they occur so rarely that they are omitted from Beck and from Tanner, and when they do occur I think you would find certain morbid conditions which did not occur in General K.'s case; I don't know that Taylor at one time swore that tetanic spasms occurred; with the tetanic spasms present in General K.'s case I would expect passive congestion of the spleen, liver and lungs, and blood in the right side of the heart; I think it quite likely that passive congestion would be found in the brain; the slight passive congestion observed was less, in my opinion, than would have occurred in tartar emetic poisoning to the development of tetanic spasms; I will name also the absence of irritation in the stomach and alimentary canal; opium may have relieved, to a certain extent, the effects of tartar emetic; to a certain extent laudanum may have modified the vomiting.

To Mr. Revell—In tetanus, idiopathic or traumatic, spasms occur; in tetanic spasms from tartar emetic we would have coma; in tetanus there is an absence of coma in either form; in tetanus, lockjaw is among the first symptoms, and rigidity of the inferior extremities succeeds it; I can't state the order of succession of the symptoms in tartar emetic poisoning, as too few cases are reported; the books say that sometimes in cases of tetanus, no lesions occur; I cannot conceive of a case of tartar emetic poisoning, in which the symptoms were so violent as General K's case presented, in which lesions would not be discovered; lockjaw, the books say, rarely occurs from tartar emetic poisoning; the red tinge in the intestines might be a proof of congestion from the action of an irritant poison; excessive vomiting may have produced the evidences of irritation; I cannot say how long after the vomiting ceased the evidences of irritation would continue; in a case of tartar emetic poisoning there would not be active hyperemia of the brain, but there would be cerebral depression; I think it would be passive congestion of the brain and other organs too.

Mr. Steele now read from Tanner as to the post mortem appearances from tartar emetic poisoning, and Dr. Goolrick agreed with the description given by that author.

Mr. Revell read from Tanner as to the symptoms of tartar emetic poisoning, and the witness said they would indicate a state of passive congestion.

Dr. Goolrick was now dismissed, and Dr. John R. McClurg was next called, and, in answer to Mr. Hagner, testified—I reside in West Chester, Pennsylvania; I graduated at Jefferson Medical College in 1846; I have been in West Chester nearly four years; previously I practiced in Philadelphia, and during the war was a surgeon in the army; I was at one time stationed at Jefferson Barracks, near St. Louis; I then went to Cleveland, Ohio, and was there eighteen months; I was then sent to Cincinnati, and then I went to Jackson, Michigan; I was ordered next to Louisville, Ky., and was afterwards assigned to Joe Holt Hospital, and I remained in charge of that hospital until the war closed; at Cleveland I delivered several lectures on military surgery.

Mr. Hagner now read to the witness the hypothetic statement, and the accompanying interogatory, which has appeared in the columns of the GAZETTE, and Dr. McClurg testified —I have no hesitation in saying that death was the result of natural causes, and I say so after the most mature deliberation, from all the experience I have had; it resembles, undoubtedly, cerebro spinal meningitis more particularly than any other disease; I have had certainly fifty cases of cerebro spinal meningitis; they were in private and military practice; three cases occurred within the past three months; it may be well to say that cerebro-spinal meningitis means inflammation of the membranes of the brain and of the spinal cord; it is a blood poison, just as typhoid fever; both are blood poisons, but the lesions from them apply in different parts of the organisms; you must have different symptoms in the two, and that is because different nerve centres are affected; in cerebro spinal meningitis you have no invariable symptoms; as no tree has no two leaves exactly alike, so no case of cerebro spinal meningitis has the same symptoms of another; the sum total of symptoms makes up the character of the disease; in making up my conclusion from the hypothetical case, I took all the symptoms, etc., into consideration; I start as it were with a strong man on a warm day who had taken no more than his usual exercise; I infer that he took a large quantity of water and no dinner; I found him at the end of that day taking a hearty meal, and he retired to bed doubtlessly before that meal had digested, and he is called up soon after as thousands of others have been; as far as we know there was no more difficulty in the night, and in the morning we find him complaining of languor, dullness, and with but little appetite; as I understand it he took no breakfast.

Mr. Hagner here requested the witness to make as few inferences as possible, and Mr. Syester said he did not think the defence had a right to interrupt the witness in his details of the reasons which had brought him to the conclusion he had expressed.

Mr. Steele said it would be laying down a new rule to say that the defence could not direct their own witness. Mr. Syester further contended that the witness should give all that had led his mind to the conclusion for which he had been asked to give the reasons present in his mind.

Mr. Steele said that the defence had a right to suggest to the witness that he was drawing inferences from the facts stated in the hypothetical statement.

Mr. Hagner expressed his view of the question before the Court.

Judge Hayden said the witness had asked to be allowed to give his reasons for his conclusion, and if he had drawn inferences which had gone to make up his conclusion, in his

opinion he should be allowed to state those inferences.

The Chief Judge said the witness should be allowed to continue to give his inferences.

Dr. McClurg requested that he be allowed to read over the hypothetical statement, and he would then give his opinion, so as to avoid any of the objections made to the manner in which he was giving his reasons for his opinion. The written statement was handed to him, and, after reading it for some time, he continued—I find that he complained on Sunday that he was not well, and that his indisposition remained unbroken; nothing was taken to relieve him, and on Sunday night he had symptoms of cholera morbus; on Monday morning he was still indisposed, and took breakfast in bed; he vomits about 10 o'clock, and I say to myself that the food he has taken is not digested; about 4 or 5 o'clock he vomits again, and he is seen by his physician at that time and is found sitting up and holding a slop jar between his knees; he is given creosote and lime water, just what he would have given a child for sick stomach; I say to myself that if anything more serious had been present that prescription would not have removed the indisposition; on Tuesday he appeared to suffer but little from his sickness, but passes no water; at 6 P. M., Tuesday, he is found asleep and breathing heavily; on Wednesday morning he is found semi-comatose, pulse rapid, and the muscles of the neck and back rigid; his face is turned to the back of the lounge and is of a purplish bluish tinge; in my opinion his brain was then in a congested condition. (The witness here grasped his arm and showed in explanation how blood would gather in his hand.) Dr. McClurg here referred to Aitkin's Practice, under the head of apoplexy. He then continued—The tincture of yellow jessamine was not a bad remedy; a worse might have been given; his physician applied ice and he improved, but it was removed too soon, and the passive congestion returned worse than before. Dr. McClurg then continued to read of the further treatment described in the written statement, and said—So far as the administration of chloral and chloroform, it is to be considered whether or not they were proper; I come to the conclusion, then, that cerebro spinal meningitis had set in; I say that it is impossible that a poisonous dose of tartar emetic could have remained in his stomach from half-past 8 A. M. until half-past 12 o'clock without producing the characteristic symptoms of tartar emetic poisoning; I can't for the life of me see when the tartar emetic was given; I have seen in my practice many cases of tartar emetic poisoning, but none of them were fatal; my first patient had taken twenty grains by mistake; he had great pain in the bowels, much prostration, vomiting, and some other characteristic symptoms of tartar emetic poisoning; I relieved him by copious draughts of green tea; it was impossible for him to have walked down stairs, as he was in a fainting condition; I had another case of a child of five years of age, who drank a glass of water containing ten grains, and the mother said he had thrown up his windpipe; he had thrown up the whole lining of his throat but recovered; I have seen many other cases; a person suffering from tartar emetic poisoning might be able to walk about his room even after the vomiting had commenced.

The Court now adjourned until 10 A. M. tomorrow. The attendance to-day was unusually small.

Mr. Joseph Becker, a member of Frank Leslie's corps of special artists, was present today, and was busily occupied in sketching the court room, Court, counsel, the prisoner, her daughter and friends, and the spectators in general. The public will doubtless become quite well acquainted with Mrs. Wharton's personal appearance through the medium of illustrated prints.

THIRTIETH DAY.

ANNAPOLIS, January 9, 1872.

The great trial "drags its slow length along," and cerebro spinal meningitis and chemistry are still discussed with tedious prolixity. The counsel for the defence seem determined to fortify the position taken by Dr. Warren, and the State's officers seem equally determined to insist upon their view of the absence of natural causes.

Dr. McClurg, of Pennsylvania, was recalled upon the opening of the Court to-day, and in answer to Mr. Hagner, testified—I have seen post mortems of the bodies of persons who had died from cerebro spinal meningitis; the lesions are very various; in some all the manifest symptoms of the membranes of the brain and spinal cord appear; those vessels appear all injected with blood and an effusion of serum between the dura mater and the eracnoid; there is no external effusion at all; at times we have been able to find no marks of inflammation, but only a congested condition of the blood vessels and membranes of the brain, but without effusion; the lesions are as variable as are the symptoms; I have seen probably twenty post mortems of cases of cerebro spinal meningitis; I saw them in Cleveland, Ohio, Louisville, Kentucky, and in private practice; the disease prevailed a good deal during the war; I am very familar with the use of yellow jessamine and use it frequently; I carry it in my pocket almost as faithfully as I do my watch; General K.'s eyes would not have been, in my opinion, improved, as stated, by the use of yellow jessamine; I never heard that it was an antidote for tartar emetic poisoning; I do not know that I would expect yellow jessamine to have improved the appearance of Gen. Ketchum's eyes at the time it was given; in my opinion he was too far gone for any remedy to have much effect; it would have mattered but little whether strychina or corosive sublimate had been given him, for I consider that he was at that time a dying man; if Gen. Ketchum had not drank a large quantity of ice water, as I inferred yesterday, my opinion, based upon the hypothetical statement, would not be changed in the slightest.

To Mr. Syester—I am the only one of my family who belong to the medical profession; after graduating I practiced in New Garden township, Chester county, Pennsylvania; I was there twelve or fifteen years; I then went to Philadelphia and remained there from February, 1859, to October, 1862, when I went into the army as a surgeon; I met with three cases of children attacked with cerebro spinal meningitis before I left Philadelphia; I gathered the inference that General K. had taken more than the usual amount of exercise from the hypothetical statement; I tried to account, in the first place, for the derangement of the digestive organs; I judged that General Ketchum had taken considerable exercise; I care nothing about the fatigue, as it is no matter to the case; I was not accustomed to address myself to a jury, and being "green" I brought that matter forward, but I am willing to drop that and start "fresh;" I cannot explain to the jury the circumstances which I inferred; if General Ketchum had had a good appetite on Sunday, ate breakfast and tea, it would not alter my opinion; I know that it would have been impossible for a man to have eaten three meals under such circumstances; his indisposition on Saturday and continued indisposition on Sunday confirmed my opinion; I am judge of his case as far as my opinion, as a medical man, goes; it is very often the case that a patient may be better because of the company he has; it may have been so with General Ketchum; if he had had no company he might have been found "nigher" the true state of his case; the removal of the ice and the change for the worse was one circumstance which led me to my opinion; the symptoms of cerebro spinal meningitis were there; the improvement of the patient from the application of ice bags to the head, and his change for the worse when it was removed, had their share in making up my opinion; if the application of ice had made him worse instead of better, it would have been like kicking a dead man's skull, as there was not then blood enough in his head; it would be doubtful whether the application of ice to his head made him better or worse; it makes no difference with the opinion I expressed yesterday whether ice was applied with benefit or removed with bad effect; the condition of his countenance was produced by a congested condition of the capillaries; take the converse of the statement as to the effects from ice, and it would make no difference with my opinion; I do not think irritation of the intestines and the finding in them of a yellow, pappish substance, would change my opinion; I rely entirely on one connected chain of symptoms, from the inception of the attack to its close; there was really no "let up"; I will mention among the symptoms that there was no improvement from Saturday until Sunday night; then he had symptoms of cholera morbus, but was required but once to go to the yard; on Monday morning he was still worse, and the gastric trouble increased, and a new set of symptoms manifested themselves, for with nausea he had giddiness; on that morning, so my record says. he ate some breakfast in bed, vomited about 10 A. M., and again he vomited at 4 P. M.; the doctor finds him prostrated, pale and feeble, and with a rapid and feeble pulse; he prescribed creosote and lime water; on Tuesday, about 10 A. M., his physician finds him asleep; he is aroused and says he is able to go that day to Washington; yet he continues to sleep; he is no judge of his own case, and his physician was deceived; his symptoms grow more deadly every hour; he grows worse; his gait is unsteady, and he staggers when he walks; he passes no urine; he breathes stertorously; all this was on the day he said he was well enough to go to Washington; on Wednesday morning he was worse, and his physician finds him at 10 A. M. semi-comatose, and with the symptoms stated in the hypothetical statement. [The witness then went on narrating the symptoms as described in the hypothetical statement; confining himself to them, and said the symptoms continued without abatement, only giving way to others more deadly.]

He continued—The symptoms are apparently of the same disease; all are due to cerebro spinal meningitis; the apparent trouble commenced on Saturday night: I cannot say that if General K. had been found sitting up at 2 A. M. on Tuesday, looking at his watch and conversing. that it would have changed my opinion; I say in the face of the medical world that Gen. K. was not able to go to Washington when he told Dr. Williams that he was, and I can give a case in point; the symptoms which followed showed that he was not able to make the trip; the shiver spoken of is frequently present in cases of cerebro spinal meningitis; it is not of much importance, but was only one circumstance in the chain; I consider that General K.'s case was not one of the active form, and but resembles the fulminant form; if General K. had had the fulminant form, lesions might or might not be discoverable; we may have a case lasting four days, and no lesions would be discoverable; I have examined such a case, but I do not know that it could be classed as of the fulminant form; I know of cases of the fulminant form occurring when there was no decided epidemic; I have always found some lesions, such as congestion of the brain, but no inflammatory lesions; the brain and brain substance may be poisoned and no inflammatory lesions be left; I do not know of a case in which no lesions could have been discovered by the microscope; there is always some embarrassment of the nerve centres, and they may only be deadened by the nerve poison; I never made microscopic examinations after death; I never knew it to commence with a chill on a child, and it commences only sometimes with a chill on grown persons: I know that the books say it commences with a chill, but my experience says it does not: I would not be surprised to learn that it had commenced with a chill on a grown person; the symptoms of the case, and not the post mortem appearances alone, will account for the presence of the disease; one of the peculiarities of the disease is, that the post mortem does not account for the symptoms manifested; General Ketchum's case has the appearance of a semi-fulminant form; that is, one of the congestive forms, without active inflammation.

To Mr. Revell—In this disease it is very difficult to tell when an improvement commences; it is very important to be present and observe the symptoms as they occur; I said there would be an enemic condition of the brain previous to the application of the ice bags; the books do not say that the absence of lesions is attributable to the rapidity of the disease. Dr. McClurg here referred to Aitkin, page 1,007, and said that active congestion of the brain did not necessarily follow. He continued—I have had cases in which this congestion could be observed without the use of the microscope.

Mr. Revell here read from Niemyer, page 155, and Dr. McClurg said Niemyer was good authority, and he agreed with him in the statement read.

He continued—As a general rule, in cerebro spinal meningitis there is a suspension of all the secretions; the suppression of urine is one of the characteristic symptoms of the disease, and as a general rule it is always found; I have failed to find it in chronic cases; the suppression shows itself early in the attack.

Mr. Revell here read from Stille, page 53, on the subject of the suppression of the urine, and Dr. McClurg expressed his opinion, with qualifications.

He continued—Headache is by no means an invariable symptom in the fulminant form.

Mr. Revell here read to the witness a statement embracing the points which he contended had been established by the testimony, and those contained in the statement read to Professor Donaldson, and Dr. McClurg testified—I would have no doubt at all in believing that he had died from some brain trouble and I would conclude from the symptoms that he had died from apoplexy from congestion; the red clots in the brain would not necessarily appear in the post mortem examination; apoplexy from congestion is a different disease from cerebro spinal meningitis; if antimony had been found in his stomach, liver and kidneys, I could not say whether he died from antimonial poisoning, cerebro spinal meningitis or apoplexy from congestion; the case is an anomalous one; if I had seen the case and watched the symptoms I might be able to give an opinion; many things are omitted from the hypothetical statement which I would have looked for, and I have to form my judgment from the chain of symptoms stated; I would say that he died from a deranged condition of the nerve centres; the finding of antimony would not change my opinion as to that having been the case; the violence of the symptoms of tartar emetic poisoning, do not always depend upon the quantity administered; three grains may produce as much vomiting as fifty grains; two or three grains is a uniform dose; the secondary effects resulting from a large dose may not result from a small dose; I do not think that a large dose would destroy the muscular power of the stomach so suddenly as to suppress vomiting.

Mr. Revell here read from the London *Medical Times* and *Gazette*, volume 12, page 403, as to the effects of a large dose of tartar emetic, and Dr. McClurg said he had had no experience in injecting tartar emetic in the blood vessels, and would not like to give any opinion.

Mr. Revell again read from Taylor on Poisons, page 477, and Dr. McClurg said he agreed with the author in his statement of the symptoms, but those given there were only some of the symptoms.

Mr. Revell continued to read further of the symptoms, and Dr. McClurg said it might act as a corrosive poison and destroy the coats of the stomach, but that he agreed with Taylor in the main; in case of apoplexy from congestion we may not always have extravasation; I do not know that Niemyer holds that opinion, but I know that such is the fact.

To Mr. Syester—I use yellow jessamine generally in cases of inflammatory attacks; I think yellow jessamine would be a pretty good remedy in cases of apoplexy from congestion; I do not know that I would use forty drops, but I use Taylor's extract, and it is much stronger than the ordinary tincture; forty drops of yellow jessamine would not have thrown General K. into convulsions, no matter what he had been suffering from; the most rapid case of tartar emetic poisoning I ever had was that of a gentleman who took twenty grains of tartar emetic, instead of calomel, which I had prescribed for a plaster, and he recovered in about a day; if he had taken the calomel, instead of the tartar emetic, I don't know that he would have been well so soon.

Mr. Hagner here read to the witness from Taylor as to the symptoms of tartar emetic poisoning, and Dr. McClurg agreed with the opinion.

Mr. Steele read from Aitkin, page 1007, and the witness agreed with the statement of the absence of appreciable lesions.

To Mr. Thomas—I don't think that the change for the better after 1 o'clock on Wednesday was at all attributable to yellow jessamine.

To Mr. Syester—I do not think that if tartar emetic had been given him at 1 o'clock it would have had any effect, for he was too far gone; if tartar emetic had been found in his stomach I would say that it had been administered before 1 o'clock; cerebro spinal meningitis affects the digestive organs; the appetite is generally poor, and digestion is retarded during the whole course.

The witness was here dismissed.

Henry Martin was next called, and testified—I was President of the Baltimore Copper Company, but resigned about a year ago.

Mr. Steele here, in answer to Mr. Revell, said he desired to show by the witness what were the facts in reference to the connection of Prof. Tonry with the Baltimore Copper Company.

Mr. Revell said he objected, as the defence had brought it out in cross-examination, and he considered that it bound the defence.

Mr. Steele replied, and stated what he expected to prove, namely, that Prof. Tonry was never employed as a chemist by the Baltimore Copper Company, but that he had been refused employment as a chemist by that Company, and had left because of some difficulty about his salary.

Mr. Revell replied at some length, earnestly

contending that the defence had brought out the answer from Prof. Tonry, that he had left the service of the company because the President, now on the stand, had required him to return the ores as less than he had found them to be, and in his opinion the defence was so bound by the answer that they could not now go into the question of fact.

Some desultory discussion ensued, and Mr. Revell read from the report of the GAZETTE, to show how the answer had been brought out.

The Court decided that there was not sufficient ground upon which to impeach the testimony of Prof. Tonry. The Court also decided that the fact of Prof. Tonry's having been chemist of the Baltimore Copper Company, could not be inquired into, and the witness was dismissed.

Prof. Harry C. White was next called, and testified—I reside in Annapolis; I am by profession an analytical chemist; I graduated of the University of Virginia; I took there my diploma and degree; I began the practice of my profession in Baltimore city; I had charge of the analytical department of the chemical school of the Maryland Institute; Professor Tonry succeeded me last October; I am now a Professor in St. John's College in this city; I am also a lecturer on physics at the Peabody Institute, Baltimore; I heard Prof. Aikin's testimony, except his correction of his mistake in his written statement; I have, however, read the official report of his testimony; in my opinion his tests were not sufficient to establish the presence of antimony in the stomach of General Ketchum or in the sediment in the tumbler; I heard Professor Tonry's testimony, and I do not think he established the presence of antimony in the jars brought him; if I remember correctly Professor Aikin took the residues left from the strychina process; he had added bicarbonate of soda, tartaric acid, alcohol and ether; he divided it into two portions, A and B; to A he added hydrochloric acid, heated on a water bath and at intervals added crystals of chlorate of potash; I am now speaking of his testimony.

Mr. Hagner here read from his notes, as to the process pursued by Prof. Aikin, and Prof. White said it agreed with his recollection of the testimony he had heard. He continued—I do not agree that only antimony could have given the dark precipitate Prof. Aikin obtained with sulphuretted hydrogen gas.

Prof. White then named tin, selenium and a number of other substances, which would have given such a precipitate as Prof. Aikin's process yielded, and concluded by saying: I see no reason why antimony only should have given the precipitate Prof. Aikin obtained.

He then continued—Professor Aikin could have used sulphide of ammonium with more certainty; I did not understand that Professor Aikin took any steps to separate the organic matter from portion B. Mr. Hagner read further to the witness from Professor Aikin's testimony, and Professor White said he did not think Professor Aikin's three tests furnished, under the circumstances, any proof of the presence of antimony; in the first place the precipitate he obtained is not peculiar to antimony because other substances give that result; second, the solubility of that precipitate in hydrochloric acid is not peculiar to antimony; and third, the appearance of the white cloud is not peculiar to antimony; the three taken together are not peculiar to antimony, because other substances would give the same results; sulphate of ammonium, added to an acid solution, would give a light colored precipitate; I know of organic matters which would give the results Professor Aikin obtained; almost any organic matter, such as was operated upon, would give the same results; I have tried experiments with yellow jessamine and chloral, and obtained similar results; I cannot think that the tests applied were sufficient to establish the presence of antimony; a dark precipitate, with a tinge of red, is not, in my opinion, characteristic of antimony; as far as my knowledge goes no metal but antimony would give the result obtained by Prof. Aikin from the use of tartaric acid, but there are organic substances which would give a similar result; as far as I have read the authorities would not consider the tests of Prof. Aikin sufficient, under the circumstances, to establish the presence of antimony; the best and most conclusive test in the search for antimony is the production of the metal; so far as I know that is the opinion of the best authors; only after the metal has been tested in its metalic form can it be relied upon.

Mr. Hagner read now from Taylor on Poisons, page 351, as to the liquid tests, and Prof. White agreed with the opinion there expressed.

He continued—If I had a solution of the sulphide of antimony, I could, with the blowpipe and the use of flux, produce the metal in about a minute; the reduction of the metal can be accomplished by four tests.

Mr. Hagner now read from Taylor's Medical Jurisprudence, page 202, and Prof. White agreed with the statements there made of the different processes for reducing the metal.

Professor White continued—James' Powders, Golden Sulphurets and other compounds are the compounds from tartar emetic in general use in commerce; I do not think that Professor Aikin's estimate of weights was at all accurate. Professor White here detailed the processes pursued by Professor Aikin in making his estimates of weights. Mr. Hagner next read to the witness the process pursued in the analysis of the sediment of the tumbler, and Professor White said in answer: The test of a drop of hydrochloric acid was not characteristic of antimony, and neither was the disappearance when an excess of tartaric acid was added; none of the tests, nor all of them together demonstrate the presence of antimony in the sediment in the tumbler; I understood Professor Aikin to say that if the sulphide of antimony which he had obtained, if allowed to stand, might turn from red to black; I agree with him that the supernatant liquid over the precipitate he obtained might turn black; I suppose it was not only possible, but easy and feasible, to have tested further for tartar emetic: I would have used the method of dyalysis. [Professor White here explained the process as Dr. Reese had done.] He continued—the crystals should

have been definite in their formations if the substances had been the same; if tartar emetic had been present in the urine Dr. Williams tested with nitric acid, that acid would have given a white precipitate: I have made the experiment; I know well the laboratory room at the Maryland Institute, and I fitted it up; I know Professor Tonry's scales, and I do not think any reliance could be placed in delicate weighings made in the Maryland Institute building; the building is shaky, and the continual passing also interferes; the building is on made ground; I saw the spots showed by Professor Tonry; I could not say from the appearance of those spots whether they were antimonial or arsenical; in my opinion they resemble arsenical spots; in the 1-16th part of the solution used by Professor Tonry there was 1-64-100ths of a grain; then each spot would contain 1-832d of a grain; Professor Tonry said he had four milligrammes, and that it was equal to six-tenths of a grain; I find by a calulation that it would have been 6-100ths of a grain—ten times less; I do not believe that such minute spots could have been manipulated; so far as his manipulation of the spots goes it gave rather negative proof of the presence of antimony; if he had had a precipitate of sulphide of antimony and dissolved it in potash, and added tartaric acid, he would have gotten a yellow precipitate if antimony had been present in the solution: I never used Prof. Tonry's scales, and don't know that they would weigh the 25-100ths of a milligramme; I do not think that all of Prof. Tonry's tests, taken together, demonstrated the presence of antimony in any portions of the solutions he used: the five last spots he obtained were much smaller than the first thirteen, and I think they were too insignificant for any reliable manipulation; the spots were too small to determine their character; the nitrate of silver test was never carried out, and no precaution was taken to prevent the passage of sulphuretted hydrogen gas into the nitrate of silver; Prof. Tonry showed me a small tube, and it contained a few minute flakes of a light colored substance; I suppose there were only eight or ten flakes, and the average size was about that of a pin's head; I came to no conclusion as to their character; I could not conclude that they had been produced by sulphide of antimony.

Cross-examined by Mr. Syester—If I remember Prof. Tonry's testimony he did not say that he came to any conclusions as to the character of those flakes, but he said they looked more like antimonial flakes than anything else: they resembled more the sulphide of antimony than anything else: they did not look like the orange red sulphide of antimony which I have seen in my experience, but I do not say that they did not look like flakes of that size which sulphide of antimony might give; they did not have the decided orange red color of sulphide of antimony which I have seen, but I would not say that they were not characteristic of the sulphide of antimony in such small quantities; I think I know other metals which would give similar results, if treated in the same way in which Professor Tonry treated his solution with the nitrate of silver test; chadmum, arsenic or tin would have yielded similar results; I would not pretend to account for the presence of chadmum in a man's liver; it was first discovered as an impurity in the salts of zinc, and, for all I know it may yet be given in medicines; I would not know how to account for the presence of tin in a man's stomach; chadmum occurs in ores of zinc as a sulphide of chadmum: chemists find it in the market, and it is used for the purpose of manufacturing fusible alloys; I think it has also some minor uses in medicine; I should certainly call all Professor Aikin's tests liquid tests; I do not consider a gaseous and a liquid test identical.

Mr. Syester then read from Taylor on Poisons, page 351, and Professor White said he agreed with the author because he stated that the results he reported had been obtained in the absence of organic matter.

Mr. Syester read further, and Professor White said that the metallic sublimate spoken of was the metal itself, but that it was objectionable as determining the presence of antimony.

Mr. Syester further read from Taylor's Medical Jurisprudence, page 127, and Professor White said he agreed that the tests there described were characteristic, but not decisive of the presence of antimony.

Prof. White continued—I did not understand Prof. Aikin to say that the dark brownish precipitate which he obtained from a portion gave him the characteristic results of antimony; in the experiments I took a mixture of yellow jessamine and chloral, passed sulphuretted hydrogen gas through it, dissolved the precipitate in boiling hydrochloric acid, dropped that solution into water and obtained a white cloud; I did nothing with that white cloud; Dr. Aikin treated his white cloud with sulphide of ammonium and obtained an orange red precipitate; I do not recollect that he did anything else with that precipitate, but I remember that he said it was characteristic of antimony; I remember that Taylor also says such a precipitate would be characteristic of antimony; I remember that Professor Aikin, in portion, dissolved his white cloud in tartaric acid; I think the results I obtained were analagous to those obtained by Professor Aikin.

The Court here adjourned until 10 A. M. to morrow.

The attendance was much larger to-day, notwithstanding the character of the testimony. Among those present were Colonel Brantz Mayer, Hon. Barnes Compton, Ex-President of the Senate of Maryland; Capts. Greer and McAuley, of the navy; and Hon. Daniel Clarke, of Prince George's county.

THIRTY-FIRST DAY.

ANNAPOLIS, January 10, 1872.

The great trial has become as regular and monotonous as a country school, and the proceedings are devoid of sensational interest.

Professor White, of St. John's, was recalled, upon the opening of the Court to-day, for cou-

tinued cross-examination, and in answer to Mr Syester, testified—Professer Aikin's tests were what I should call liquid tests; I think most of the books call them liquid tests; I have not said that Taylor condemned or suspected such tests; Taylor does not condemn the gaseous tests when fully carried out, and I agree with him when I take into consideration all he says on that subject; my objection to Professor Akin's test is that he did not get rid of the organic matter in portion B; it obscured the results which were obtained; he did not go far enough; he used no processes by which he could have gotten rid of the organic matter in portion B; the metallic antimony should, in my opinion, have been produced; I would not have been satisfied to have said that antimony was present unless I had so produced it, and that, too, in an ordinary analysis; there are certainly methods which may be applied to a pure solution known to contain a metal by which its presence would be established without the production of the metal; if I did not know the character of the metal in the solution, I would of course prefer to produce the metal.

Mr. Syester—Suppose you have a solution of organic matter containing a metal also in solution, do you know of any processes by which that metal could be identified without the production of the metal?

Professor White—I do not know of any processes by which it could be *absolutely* identified.

Professor White continued—I have never tested such a solution without producing the metal; I was never satisfied without the production of the metal; I do not recollect having proved the test fallacious without the production of the metal; I do not know that I ever produced the metal, without having found its presence previously indicated; I do not agree with the tests with which I have expressed my disagreement, because my experience has taught me that they are fallacious; I have made tests for antimony in organic matter, in which I did not know that antimony was present; I am sure that some of my tests in those instances misled me; I have been deceived by some of my tests as to the presence of the particular metal for which I was searching, and I afterwards proved it by the production of the metal; that may have occurred from my ignorance on the subject, and it might occur to any man, but nevertheless it was sufficient to my mind to establish the fallacy; I recollect mistaking lead for silver, iron for chromium in my first tests; I do not recollect having ever made a mistake in antimony; Dr. Aikin got rid of organic matter in portion B in some degree, and in other degrees did not; I do not think that he got rid of it so as not to obscure the results of his analysis; his reagents were not sufficient to have gotten rid of the organic matter in any case, yet I do not know but that I would not have used tartaric acid; but I would have gone further; I think it was very proper for him to have used tartaric acid; I did not hear Dr. Genth's testimony.

Mr. Syester here read from Dr. Genth's testimony to the effect that if Professor Aikin was looking for antimony the use of tartaric was right, but that if he was looking for tartar emetic the use of tartaric acid was wrong, and Professor White expressed his agreement with the opinion of Dr. Genth.

Professor White then continued—I do not think that any of the reagents Professor Aikin used with portion B were sufficient to have gotten rid of the organic matter; I do not remember that Professor Aikin said he obtained a clear solution by dissolving the sulphide in hydrochloric acid; I remember that he obtained a white cloud by one of his tests with portion B; the boiling of his reddish-brownish precipitate in hydrochloric acid would very probably have destroyed a very small portion of the organic matter; in his report that boiling gave him the odor of sulphuretted hydrogen; that odor would not be due to the destruction of the organic matter; tartaric acid may have removed a portion of the organic matter; he first undertook to dissolve a portion of his residues in tartaric acid, but it did not dissolve; the hydrochloric acid he used afterwards did not remove more than a small portion of the organic matter; I can't say what wou'd have been the effect upon the coloring matter, but I suppose it would have had the effect of removing a portion of the coloring matter; he might have, by continued treatment with those acids, have removed the coloring matter; it is not impossible that he could have gotten a clear solution by boiling his reddish brownish precipitate in hydrochloric acid; if the solution had been colorless the white cloud would have been an indication of the probable presence of antimony; when I got the white cloud in my experiment with yellow jessamine and chloral I stopped; Professor Aikin treated his white cloud with hydrosulphate of ammonium, and obtained an orange-red precipitate; bismuth would not have given that orange-red precipitate; I stopped in my experiment because I attached very little importance to the experiment with yellow jessamine and chloral; I think other organic matters than yellow jessamine and chloral would have gi[illegible]me the results I obtained in that experiment; if Prof. Aikin had used muriatic acid or hydrochloric acid the result would not have been the same as if his white cloud had been treated with the hydrosulphate of ammonia; I do not know that Prof. McCulloch's white cloud would have given an orange red precipitate if treated with muriatic acid; I did not hear Prof. McCulloch; I can not say what would have been the result if he had treated his white cloud with hydrosulphate of ammonia.

Mr. Revell now showed to Prof. White a vial, and he said the flakes in it looked like those Prof. Tonry had shown him, but that he had not taken much notice of them at the time.

Mr. Steele said the State had no right at this stage of the case to bring in this matter, and they could not now introduce new testimony on this point. The rule was that the State must exhaust its testimony, and not, under the guise of cross-examination, bring in such testimony as was now sought to be introduced.

Mr. Hagner contended that if the sediment

had been believed to be an antimonial precipitate the State's officers should have then brought forward their witnesses

Mr. Revell said that the object of the State's officers was to show how a witness might be mistaken, and at some length contended that it was competent to present the vial to the witness, and that it was a legitimate matter of cross-examination. The matter was brought out by the examination in chief of the witness on the stand, and not by the State's officers.

Mr. Syester said the question was one as to the right of cross-examination. The witness had declared on his examination in chief that the deposit in the tube was not the orange red color peculiar to the sulphide of antimony. The State on cross-examination desired to correct that impression by exhibiting to him the very color that he saw.

Mr. Steele replied and insisted upon the rule that the State should exhaust its evidence. He had recently examined into the decisions of great English judges and the rule was invariable that the plaintiff should exhaust its testimony and not hold back any portion of its testimony. If the object was only to refresh the memory of the witness the vial should be shown to him merely and not to the jury; he understood that the design was to offer it to the jury.

The Court decided that the question before the Court was not one of rebuttal, but of cross-examination, and it was competent that the memory of the witness could be tested by exhibiting to him the vial alleged to contain the flakes about which he had testified.

Professor White continued—I do not identify this vial, but I suppose it is the same Professor Tonry showed me; I did not observe it closely, and I would not like to say that it was the same; I can hardly state now whether or not my recollection is refreshed, as I looked at the vial only casually when Prof. Tonry showed it to me; as far as my recollection goes the flakes in this vial are in appearance the same as those which Professor Tonry exhibited to me; in my experiment with yellow jessamine and chloral I did not test them; I did not add to them any tartar emetic; the metallic antimony can be obtained also by what is known as the galvanic test, and it is regarded as a good test for reducing the metal; in my experiments with yellow jessamine and chloral I used an acid solution; I have now none of my results from those experiments; I think Professor Tonry's tests were not improper as far as they went, yet I cannot but think that one or two of his conclusions from one or two of his reactions, as to the presence of antimony were improper; the precipitate obtained by the use of sulphuretted hydrogen he dissolved in potash, and treated it then with tartaric acid; if antimony had been present in the original sulphide a yellow or orange red precipitate would have been given.

Mr. Revell here read from Wormley's Micro-Chemistry, page 234, and Professor White said he agreed with the test there described, but that Professor Tonry had omitted the nitric acid. He continued—As I understood him he omitted to state that he used the nitric acid, and if he had used that acid my objection to his test on that score would not, of course, hold; I understood him to state generally that he followed Prof. Wormley; I am not criticising his testimony, and my opinions are based upon what he said were his experiments.

Mr. Revell now asked the witness, after stating to him the contents of the tumbler as he had stated them to Dr. Genth, if those substances would give the results obtained by Prof. Aikin from the sediment in the tumbler, and Prof. White said he thought they probably would not.

He continued—I do not mean to say that cadmum, tin or arsenic would give all the results Professor Tonry obtained; I don't think antimony or any other metal would have given all those results; I speak from both my personal knowledge and from the books; I consider his two negative results as especially damaging; my chief objection, however, is to the smallness of the quantities upon which he was operating; if the quantity had been sufficient he would have been as likely to have obtained those results as any others.

Professor Tonry was now desired to stand up, and Mr. Syester held up before him the vial which had been shown Professor White; he identified it as the same he had shown Professor White, and said it had not been unsealed since before it was shown to Prof. White.

Mr. Syester desired that the vial should be shown to the jury, and it was passed around among them and examined closely.

Professor White said he desired to explain that he did not mean on yesterday to say that weights made now at the Maryland Institute were not sufficiently accurate for all commercial purposes. He further said that he would not like to weigh there less than the fiftieth or the twenty-fifth of a grain.

Prof. White continued, in answer to Mr. Revell—The 25-10,000ths part of a gramme is the 375-10-1000ths of a grain; that is about 1-35th part of a grain; by closer calculation it is the 1-26 or 1-27 of a grain.

Prof. White was here dismissed.

Dr. Wm. H. Baltzell was next called, and testified—I reside at 175 St. Paul street, Baltimore, and I have been practicing medicine about thirty years; I have been always extensively engaged in the practice of medicine; I have read the hypothetical case, and from its contents I should say that General K. had died from natural causes; from my experience with a great many cases of what is termed by the books cerebro spinal meningitis I should say it most resembles that disease; in my answers I want to be pre-eminently practical, and I think we have had enough of books in this case; last May I had a case so nearly similar that I could not help remarking the similarity to General Ketchum's case; I called Dr. Warren in consultation; the patient was a man of a robust, powerful constitution, residing in South Baltimore, who I knew well and saw frequently; I knew of his regular habits, and his previous exemption from disease; on a Sunday in the latter part of May he took a long walk into the country, and after going some distance he drank one or two glasses of lager beer, and seated himself; he remained seated

about half an hour, and returned home the same evening, when he complained of feeling badly; I was sent for, and saw him the next day: I found him mentally unable to give me correct answers to my questions as to his condition; from the symptoms in his case I was not long in making up my mind as to the character of his disease; it presented well marked symptoms of cerebro spinal trouble: on visiting him early the next morning (Tuesday), I found all his symptoms aggravated; a constant disposition to throw himself on his right side, mutterings, delirium, incoherent answers, a most wonderful sensibility to the touch, his head and neck drawn backwards were the symptoms; I administered yellow jessamine without any benefit: I would state that one of the best marked symptoms in his case was the total insensibility of his pupils to light, but they were not abnormally dilated or contracted; I tested with my finger nail on the ball of his eye, and there was no sensibility at all; there was retention of urine, and upon using the catheter I found suppression, obtaining only a very small quantity; so exquisitely sensitive was he to touch that his wife complained that I was hurting him; I saw him three times on Wednesday, and he died that night about 11 o'clock in convulsions; lockjaw had. I learned upon inquiry, set in just after I left at 2 P. M.; I saw in that immediate neighborhood, about the 1st of June, two other cases equally sudden, and terminating similarly; I saw other cases of the same disease that terminated favorably; there was a difference between them—those which terminated fatally were of the fulminant form; my experience teaches me that when the attack is protracted beyond four or five days the disease is more manageable: the first case I have mentioned is, I consider, a typical case; there were other cases in the city at the time, but it is difficult to say that it was an epidemic disease, because many physicians classed it as typhus, or spotted fever; the termination of the cases termed typhus, into which I was called in consultation, proved them to be cerebro spinal meningitis; where a disease prevails over a whole city it is epidemic, and when confined to a locality it is called endemic; some years ago cerebo spinal meningitis was so endemic, that Elbow lane, in South Baltimore, was closed up by the health officer; the cases I attended and was called in to see were in different parts of the city; I think there was enough of the disease prevailing in Baltimore for it to be known to the profession that it did prevail; I certainly knew that it prevailed; other cases which I saw continued along in the month of June; the hypothetical statement points distinctly to cerebro spinal meningitis, and is an admirable description of the disease; I have seen cases of tartar emetic poisoning; I saw a child die from an accidental dose; the quantity that the child took was not known; the muscular system was perfectly relaxed in the cases I saw of tartar emetic poisoning: the skin was moist and insensitive; no impression was made by handling; the circulation was very feeble; the attack upon the kidneys was powerful, by increasing the secretion; I used tartar emetic constantly in cases of dropsy, and I had seen a great deal of tartar emetic used to produce sufficient relaxation to enable the physician to reduce a dislocation: my preceptor, Professor N. R. Smith, so used it before the introduction of chloroform; a man could not use tobacco after the persistent nausea of tartar emetic, and General K. could not have sat, smoked and talked on Saturday night if he had taken tartar emetic; I have seen its effects last several days; in giving tartar emetic much depends upon the peculiarity of the patient's constitution, some being much effected by small quantities, and others being able to take large quantities with impunity; in fact there is a dual action in almost all medicines, and I have seen small doses of tartar emetic stop vomiting; in 1843 I was called to see Mrs. Andrews, the wife of an apothecary, in Hughes street, who wished to take a dose of Rochelle's powder, which so nearly resembles tartar emetic in appearance as to make it difficult to distinguish them; she took two teaspoonsful of tartar emetic in sweetened water instead of the powder; I found her lying on her back, to all appearances powerless; her head was turned to one side and the vomit was flowing freely; learning the mistake she had made, I immediately administered tanic acid, followed by mustard and water; the bowels were perfectly relaxed and the kidneys acted very freely; the patient recovered; the child that I saw die drank a glass of antimonial wine, and died from excessive vomiting and purging; but for appearances the case might have been mistaken for either a case of Asiatic cholera or cholera infantum; if General Ketchum had been given tartar emetic he might have gone down stairs, but could never have gotten up stairs; I had to treat Mrs. Andrews for months after she was out of danger; I never saw a person's throat so excoriated as her's, except by a mineral acid; I don't think she could have held her arms up; a person who had been poisoned with tartar emetic would not have hyperesthesia at once; I have never seen it from tartar emetic; I have never seen suppression or retention of urine from tartar emetic poisoning, but always increased action of the kidneys; I have never seen a post mortem from tartar emetic poisoning; in case of death from tartar emetic the par vagum nerve would be paralyzed, and the patient would die from paralysis; tartar emetic is a powerful irritant, and produces pustules by application to the surface skin; if taken in large and poisonous doses it would excoriate the tongue, the desophagus, the stomach and every other portion of the mucous membrane with which it came in contact; if it was vomited up at once it would not irritate, but when it remains in the stomach it produces the irritation I have spoken of; I have read of cases of natural diseases terminating fatally without leaving lesions; but I don't remember to have failed to find them; when in charge of the Baltimore City Almshouse I saw a case of acoholic poisoning in which the lesions were so slight as not to account for the death of the patient; I never

made a post mortem of a case of cerebro spinal meningitis: in the case to which I called Dr. Warren in consultation the man's limbs below the knee seemed to be paralyzed, and he did not respond to my touch on those parts; when I touched about the knee it seemed to disturb him, and he moved; he first complained that he did not feel well about the head, and was chilly; that was on Sunday, when he returned from the country; there is the greatest variety imaginable in the symptoms of cerebro spinal meningitis; in the inception of nearly all diseases there is a chillness; in all three of the fatal cases I saw there was no reaction, but a continuous cold stage; in all of the cases the symptoms were very nearly the same; from what I read in the hypothetical statement my determined conclusion is that the patient died from natural causes, as I did not see the patient and can only make my conclusion from the hypothetical case; I am in full practice, but I am not a professor in any medical institution.

To Mr. Revell—As a general thing medical nomenclature is an unintelligible jargon; medical nomenclature does not explain the hypothetical case; cerebro spinal meningitis is a blood poison acting upon the nervous centres, and in some cases produces death in an exceedingly short time; how it is impossible to say, unless we could open the door of the laboratory of the human system; in some cases there are well marked lesions of inflammation, and in others no lesions; cerebro spinal meningitis means inflammation of the membranes of the brain and spinal sheath; I first remarked the similarity betwen my case and General Ketchum's when the post mortem was made in July; the report was handed about among different physicians; I saw it in a written paper which was handed to me by a brother physician, whose name I do not recall; it bore no signature, and I do not know who wrote it; it was a general subject of talk among the doctors of Baltimore; I did hold a post mortem examination of the case of cerebro spinal meningitis, in which Dr. Warren was called in; I don't remember who were present when the statement of the post mortem of General Ketchum was handed to me; it was after a meeting on Courtland street of our Medical Association; I think Drs. Erick, Wayson and Hartman were present; I read the paper and handed it back to some one; I don't know that any of the others read it; in reflecting upon the cases afterwards I remarked the similarity; I don't think I mentioned it to the other physicians; I can't fix the time nearer than that it was in the month of July; I won't swear that it was in the latter part of June or in July; I have attended very few of the sessions of our Association within the last eight months; I think the meeting at which I met Drs. Erick, Wayson and Hartman was in the latter part of June; it was the time the case was talked of so generally; I took the symptoms of the two cases; the train of symptoms was the same; I never made a post mortem in a case of cerebro spinal meningitis, but I have read of a great many; I was called by Dr. Yeates, who lives on Exeter street, in a case on Canal street, and he called that case one of typhus fever; from its peculiar purple spots, and from the opisthonos, the semi-comatose condition, and the suppression of urine, I believed it to be a case of cerebro spinal meningitis; that case was fatal; hyperesthesia was present in that and in all the fatal cases I saw; I don't remember any of the other symptoms; I don't remember any of the other cases to which I was called in consultation, except one to which a German doctor, named Rostmyer, called me; he called it spotted fever, and used the word "flec," which means spot in German; I don't think hyperesthesia was in that case; generally in cases of typhus fever the sensibility of the skin is not increased, and I have never seen hyperesthesia in that disease; sometimes suppression of the urine occurs in typhus fever, and there is no one symptom invariably present in typhus fever; according to my observation suppression of the urine is rather an exception in typhus fever; the purplish spots in cerebro spinal meningitis are so different from those of typhus fever, that I can't understand how a mistake could be made; I have never seen opisthotonis present in typhus fever; there is a semi-comatose condition in typhus fever; there is never in any city an accurate report of deaths; and then for reasons which I don't understand the presence of disease in Baltimore is suppressed; my practice is almost exclusively German; I speak German, and I prefer to practice among the Germans; my case with Dr. Warren was that of Fred. Hinner, who kept a grocery store on Hamburg street; his habits were very correct, and he was a very exemplary man; I think I heard him say that he took a glass of beer once in two or three weeks; he said he was "wrong in his head;" when I first saw a case of cerebro spinal mennegitis it reminded me, from the effects upon the head, of a congestive chill; in one fulminant case there was a vertigo, and in an ordinary case there was a fullness about the head; headache is among the most constant symptoms attending this disease, but not in the fulminant form, because the poison is so rapid that it destroys sensation; in only one of my three cases of the fulminant form did I get an answer; sometimes the fulminant form will kill in five hours, and again not for three or four days; I approve most cordially of Dr. Williams' treatment of General Ketchum; Dr. Baltzell here went on to state what he understood to have been the case, and without confining himself to the hypothetical statement, said his cases were similar. He continued—If I had been with General Ketchum I think I could have told when cerebro spinal meningitis set in; I am a very close observer; it may have set in on Saturday night; tartar emetic in the stomach is emphatically not a symptom of cerebro spinal meningitis.

Mr. Revell here read to the witness a statement containing what he believed to be a proper addition to the hypohetical statement of the facts on Sunday and Monday, and asked the witness if his opinion was unchanged.

Dr. Baltzell said Gen. K. supposed he had not digested his food, and the vomiting on Monday morning was natural. Mr. Revell further

read that General K. was better on Tuesday, talked with his doctor and paid his bill, and the witness said he had never seen such symptoms or evidences in his cases of cerebro spinal meningitis. Mr. Revell read further of the symptoms, conversation, etc., and Dr. Baltzell said, taking the two statements together, it would be difficult to say whether or not he died of cerebro spinal meningitis.

He continued—The stimulant he took into his stomach might have produced the vomiting; if I had seen the case, I could give a definite answer, but the chain of symptoms is not that which I observed in my cases of the fulminant form; I have read of such cases, but I have never seen such a case; I don't remember to have read of but one such case; it was reported three or four years ago in Haze's Medical Journal, and occurred in a little town in Pennsylvania; it last four or five days; I do not mean to say that the cases correspond; in fact I don't know of any cases which correspond with that which the two statements present; the case reported by Haze corresponds only in the vomiting with General Ketchum's case; if twenty grains of tartar emetic had been found in the stomach, it would have showed a deadness of the stomach which would have prevented any effects from it; if additional antimony had been found in the liver and kidneys, I would say that he was moribund, and no medicine would have had any effect; if the tartar emetic had been found in his liver, kidneys and lungs, I would say it had been in his stomach long enough to have been absorbed; tartar emetic may be absorbed in thirty seconds, but it depends very much upon the condition of the patient, and the peculiarities of his constitution; if I were to find antimony in the stomach, kidneys and liver, I would say that they had had some effect in producing death; if antimony had been found it would be difficult to say what had caused his death; if I had seen him all through his sickness, and made a post mortem examination, I think I could have ascertained the cause of his death; by increasing doses of tartar emetic nausea may be produced when the first dose had failed to produce it; if the first dose does not have effect, and the medicine is rapidly repeated, it will increase the nausea; the greater the quantity of nauseating medicine the greater the nausea produced; tartar emetic affects some persons differently from what it does others; if the child I have spoken of had taken a smaller dose it might have died in tetanic convulsions; the books speak of vertigo as one of the symptoms of tartar emetic poisoning, but I do not think it would be produced; constriction of the throat is undoubtedly one of the most marked and violent symptoms.

Mr. Revell read from Taylor on poisons, page 337, and Stille, page 467, as to the symptoms of tartar emetic poisoning, and Dr. Baltzell agreed generally with the descriptions given.

Dr. Baltzell continned—Opium and its preparations might modify the effects of tartar emetic poisoning; I have read of cases in which tartar emetic was taken into the stomach and retained without producing irritation; but in those cases the lesions were so well marked that a simple post mortem would reveal them. Dr. Baltzell here referred to Orfila, who, he said, had reported such a case. He continued—Fred. Hinner was in a semi-comatose condition when I saw him, and he groaned and shivered when I took hold of him; just prior to his death the application of a stimulant had no effects; I make use of the *attachee meningitigue* without getting a response; his pulse was remarkably feeble, showing a wonderful depression of the heart's action; it was very compressible; in all the fatal cases I saw the faces were congested, livid, purplish; I am familiar with the use of gelseminum; when I administered it to Fred Hinner I noticed the peculiar paralysis of the upper lids of the eyes; that was the only effect I observed; it expelled temporarily the turgidity of the face; that was only momentary; when I said in my examination in chief that the administration of yellow jessamine was without results, I meant beneficial effects; the effects I noticed was a falling of the eyelids, and a temporary blanching of the cheeks; I gave him only thirty drops, repeated every four hours.

The Court here adjourned until 10 A. M. tomorrow.

Among those present to-day were Judge William P. Maulsby and General Shriver, of Frederick City; Colonel Fred. Raine, editor of the *German Correspondent*, Baltimore; Col. Brantz Mayer, Dr. Edward Warren, of Baltimore; Major H. Kyd Douglass, of Hagerstown; P. M. Snowden and William Fell Giles, Jr., of Baltimore; Judge Pinckney of the City Circuit Court of Baltimore; and Col. James Howard, of Baltimore.

THIRTY-SECOND DAY.

ANNAPOLIS, January 11, 1872.

The State has thus far, in Mrs. Wharton's trial, examined twenty-six witnesses, the Court has called two (Mrs. Whartons house servants), and the defence called yesterday their nineteenth witness. The following witnesses returned summoned for the State have not been called, namely: Mrs. Charles Frick, J. Gorham Moale; General J. H. Eaton, Mr. Zugg, of Washington; T. B. Sargeant; Colonel William Myers. Mr. Latham, of Washington; General George H. Steuart, General Donelson, the Actuary of the Girard Life Insurance Company, of Philadelphia; J. F. Jones, of Philadelphia; General L. Phillips, Dr. William T. Howard, Mr. Gosman (druggist); George M. Gill, E. O. McNair, S. Eugene Poultney, Henry E. Johnston, Professor P. B. Wilson and Elias Livezy. The list of witnesses for the defence still contains more than forty names. The State will, it is believed, probably occupy two days in rebutting, and more medical and chemical testimony is doubtless in store on the vexed questions which this trial has brought to the surface.

Mrs. Wharton appeared ta-day in better spirits, and manifested more interest in the proceedings than she has shown at any time during her trial. Her manner is still very

calm, but she seems to appreciate that the time draws near when a jury of her countrymen will decide the momentous question of her guilt or innocence.

Dr. Josiah Simpson was first called to-day, and in answer to Mr. Thomas, testified—I am a surgeon in the United States army, and was commissioned on the 11th of July, 1837; I am now in charge of the medical post of Fort McHenry; I have known Mrs Wharton for twenty-nine years; I first met her at Fort Gibson, in the winter of 1843; her husband was then stationed there; I was there off and on for two or three years; I have met Mrs Wharton frequently since, and knew her in Baltimore; I was on intimate personal and professional relations with her and her family; I have been stationed in Baltimore since December, '61, except for a year in Louisville, Kentucky; I have never known anything of Mrs. Wharton but what was perfectly correct and proper; no lady stood higher in my acquaintance; I never heard her reputation for amiability and humanity impeached: I read last evening the hypothetical statement of the defence; I may add that no lady enjoyed a higher reputation, and among the better class of officers: I see in examining this statement carefully no indication of death from unnatural causes; my conclusion is that his death was from natural causes, and I see nothing in the symptoms or post mortem examination to justify me in any other conclusion; I have seen in children the effect of an overdose of tartar emetic, and I have experienced the effects myself; I was laboring with acute bronchitis, and took it as medicine; I commenced with a sixth of a grain, and increased to a fourth, and then to a half; it completely prostrated me, and I could not raise my head to vomit; that occurred at Fort Hamilton, but I don't remember the year.

Cross-examined by Mr. Revell—I entered the army from New Jersey; I could not say from this hypothetical statement what particular disease the patient had; I never saw a case of cerebro spinal meningitis; I have never read the books attentively on the subject: I have read of it, however, in medical journals, and I have read of it in Reynolds' Practice of Medicine; I never read Aitkin on the subject; I have read a portion of the article in Dr. Wood's work; I had been slightly nauseated from tartar emetic before taking the last dose; I vomited after increasing it from a sixth to a half of a grain; I became prostrated after taking the last doses, which aggregated three or four grains: I took a-half of a grain every two hours; I had retching before I had the vomiting; after the retching ceased, my helplessness continued, and I suppose for eighteen or twenty hours; the complete prostration lasted for more than twenty-four hours, and I could not have gotten from my bed if I had tried.

Miss Rosa Potts was next called and testified—I know Mrs. Wharton very well; I live in Washington and am the daughter of Mr. John Potts, the Chief Clerk of the War Department; I knew Mrs. Wharton in Baltimore in 1863; I saw her every day when I went to Baltimore, and I have visited at her house several times; her reputation could not have been higher or better for amiability, humanity and gentleness; I visited her at her house in Baltimore last May.

To Mr. Revell—I have heard so many persons speak well of Mrs. Wharton prior to her arrest that it would be difficult to say who did not; I have heard General David Hunter speak of her in the highest possible terms; I have also heard General Dyer, Colonel Chaflin and Colonel Dupont speak in the best terms of her; if I had never had any opinion in regard to Mrs. Wharton I would give the same opinion I have expressed from what I have learned of her character from others; my personal knowledge of the character of Mrs. Wharton has nothing to do with the testimony I have given as to her character by reputation.

Mr. Thomas now informed the witness that he was about to ask her a question, but did not desire her to answer until she was told to do so. He then proposed to her the following question:

From your knowledge of Mrs. Wharton's general reputation as to the qualities of humanity, kindness and amiability, as you have testified to, would you or would you not believe her capable of committing the crime of murder?

Mr. Revell objected, and after some desultory remaks, Miss Potts was allowed to leave the stand, and it was agreed among counsel that after the argument of the question she should be recalled if the Court decided that the question of Mr. Thomas was a proper one.

Dr. William H. Baltzell was here recalled, and before he proceeded, said he desired to correct his remarks of yesterday by saying that the symptoms and treatment, and not the symptoms and post mortem, had been the grounds of his opinion of the cause of the death of General Ketchum. He further stated that Dr. Yeates' case was in 1865, and Dr. Rostmyer's in 1861.

He continued—I still have no idea who handed me in Baltimore the statement of the post mortem; I remember the symptoms stated; I remember his position in bed, remaining on his side; difficulty in using his legs, and also red marks on his abdomen; I considered his treatment most admirable for cerebro spinal meningitis or some brain affection, especially the chloral and yellow jessamine; all those symptoms, except the brain difficulty, would be present in tetanus; I have seen a great many cases of tetanus, and the mental faculties were perfect to the last moment of life; delirium was mentioned in the paper I saw in Baltimore; I think it said he died unconscious; in tetanus the patient becomes unconscious only a few moments before death; I gave Fred. Hinner yellow jessamine two days before his death; after the second visit I noticed the falling of the eyelid; the momentary blanching of the cheek showed the effect upon the capillaries; I think the falling of the eyelids continued after he had taken the third dose; I had three cases last year; one was a Mr. Frank, who enlisted sailors; he was about fifty-three years old; the next was a German woman, named Muller, who lived on Plum street; two children and three adults recovered; one of the children lived in Henrietta street and one in Sharp

street; one adult lived in Howard street near the Depot, one in Green street, and also one in Hill street; the case stated in the hypothetical statement has the appearance of a semi-fulminant case, terminating in a fulminant; I would say, from the hypothetical statement, that the disease commenced on Monday or Tuesday, and fulminated on Wednesday; these hypothetical cases are very difficult to determine; in England cerebro spinal meningitis was first called "Death by the Grace of God;" suppression of the urine is a characteristic symptom; some authors consider it a cause, others an effect; Dr. Stille has compiled an admirable book, but unless he has seen the cases he cites I have no confidence in his statements about them; I say his book is a mere compilation of statistics; in those cases he has seen and reported, I have confidence in his opinion; I agree with Dr. Stille in his general history of the disease, but I do not agree with him as regards the fulminant form; the headache is present as long as sensation lasts, and that may come and go, but when the disease becomes so violent as to paralyze, the patient does not feel the headache; paralysis does not always appear in its semi-fulminant form; in the fulminant form it generally sets in at an early stage; hyperesthesia of the skin and ænesthesia of the eye may exist at the same time; yellow jessamine may have also paralyzed the ball of the eye of Fred. Hinner; he did not feel my finger-nail on his eye-ball; the hyperesthesia of the skin would not make the eyes more than usually sensitive to light.

To Mr. Syester—I have never observed a case of the fulminant or semi-fulminant form which was not attended with suppression of urine; there may be a retention of the urine and no suppression; I ascertained by the use of the catheter that there was a suppression of urine in my cases; after the neumograstric nerve is paralyzed the patient cannot vomit, and a speedy death follows.

Mr. Syester here asked the witness if he had expressed the opinion that General K. had died from cholera morbus; and Mr. Hagner objected.

After some brief and desultory discussion, Dr. Balzell continued—I have never expressed an opinion that General K. died from any disease but cerebro spinal meningitis, but I at one time thought that the incipient stages were those of cholera morbus; the condition of paralysis is one likely to occur in the fulmimant form of cerebro spinal meningitis.

Mr. Steele here read from page 1015 of Aitken, as to the proper nomenclature of cerebro spinal meningitis, and its difference from typhus fever; and Dr. Balzell agreed with that author's opinion.

Mr. Steele further read from page 1013 of the same author; and the witness agreed with the opinions there expressed as to the epidemic character of the disease.

The desired legal authorities having been brought into Court and the medical and chemical authorities being put under the table for the time being, Mr. Revell commenced the argument of the legal question involved in the interrogatory propounded to Miss Potts by Mr. Thomas. He contended that the jury was the only proper tribunal for the decision of the question of the capability or incapability of the accused to commit murder, and to allow the witness to give her opinion would be to change her into a juror. He believed that the testimony sought to be introduced was against the law, and the reasons upon which the law was founded.

In support of his view of the question involved, Mr. Revell quo ed from 1st Greenleaf, sections 54 and 55; Wharton on Homicide, pages 244 and 245; and 1st Phillip, page 763.

Mr. Revell said he had authority to show how far the inquiry as to character should go, and in none of them could be found a precedent for the question asked of Miss Potts.

Mr. Hagner said the counsel for the defence had raised the question because they believed it to be supported by law and precedent. It was settled in the books that a witness could be asked if he would believe an accused party on his oath, and the question before the Court was analogous. The witness was not being asked as to the question of guilt or innocence, but only from her knowledge of the reputation of the accused she believed Mrs. Wharton capable of committing murder.

Mr. Hagner here referred to 1st Taylor, 325, note A. If it was true, as contended by the State's Attorney, that the question was an innovation, he still believed that the Court would be warranted in admitting it. In 29th Md. the Court of Appeals had turned down Greenleaf and his supporters and set a precedent.

Mr. Hagner here referred to the trial of Alexander Davidson, reported in 31st State Trials, page 187, who was charged with peculation.

Mr. Hagner next referred to 10 Cox, Queen vs. Rout, pages 33 and 34; 5th Cox, page 284 (reversed by the decision in 10th Cox), and Wills, on Circumstantial Evidence, page 131, margin, 153 of the top—as to the correct mode of inquiry into character.

Mr. Thomas said that the authorities quoted by the State sustained only the point that general, and not particular traits of character, could be inquired into. If the counsel for the defence had asked questions only as to the general reputation and character of the accused, they would have been shown to have been so high that any lady in Maryland society might feel proud of such a record; but the defence had chosen to limit themselves to questions of character involving only the probability or improbability of the capability of Mrs. Wharton to commit the crime with which she was charged. The province of the jury was not invaded by the question, but the question was only designed to guide and enlighten them in making up their final decision of her capability or incapability to commit the murder charged against her.

Mr. Thomas here referred to No. 29 Md., page 198, Knight vs. House.

Mr. Steele said the objection to the question had been put upon two grounds: First, that it was unsupported by authorities, and, secondly, that it was an innovation. The defence had cited the decision of Lord Ellenborough, and he did not suppose that his decision of a question would be considered an

innovation upon the common law. The question of character could not be brought down, and the real matter reached unless the witness was asked the question propounded. In his opinion, upon principle and upon authority, the question was a proper one.

Mr. Syester said the question asked was conceded to be in the face and teeth of the Court before which it was raised. He believed there was but little doubt that it was contrary to the decisions of every Circuit Court of Maryland. The same question had been raised last spring in the Circuit Court for Frederick county, in the great trial of Harry Crawford Black for the murder of Colonel W. W. McKaig, but was overruled by the Court with but little hesitation. No Circuit Court of Maryland, as far as he knew, had ever allowed the introduction of such testimony. He knew of no authorities or rules of law which suffered the opinion of a person to go to a jury except in the instances laid down in the books, and those instances are: 1st, where the iden tity of a person or handwriting are involved; 2d, where questions involving subjects not known to the common experiences of life, as science, &c.; 3d, the opinions of subscribing witnesses to wills.

Mr. Syester further said the decision in 29th Md. presented no antagonism to the opinions expressed by Mr. Revell. No well considered case had been produced upon which the defence could rest their foundation for the question, and even the elementary books were in opposition to it. The defence relied on a single case in 31st State Trials. From that case, and that alone, Wills had gathered his text as pa. 131. But in that case no objection was raised. No point—no argument. It was not a well considered case. It is true Lord Ellenborough allowed such question, but at the same time it is to be noted that he also asked the question whether the witness thought the accused capable of committing a fraud. Would any Court in Maryland allow that proof? If it were competent for the defence to rely on such evidence, of course the State in reply could do the same. And we would be confronted by the alarming spectacle of the State striking down the liberties and lives of its people, not by the judgment of a jury, but by the opinions which passion, prejudice and unmerited opprobrium had engendered in a community.

At the conclusion of Mr. Syester's argument Judge Hammond requested Mr. Thomas to read the question again, and Mr. Thomas complied with the request.

After a consultation of about a minute the Chief Judge said the Court was clearly of the opinion that the question could not be asked. The question was certainly an innovation upon the practice in Maryland, and the Court could not adopt it in the case at bar.

Benjamin B. Hughes was next called, and testified—I live at Bridgeport, Montgomery county, Pa.; I have known Mrs. Wharton since she was three or four years old; I lived within half a mile of her father's house; I have seen much of her since 1849; I knew her before her marriage; no one's character in the community stood higher than Mrs. Wharton's particularly for amiability and kindness; her general reputation was remarkable, and was spoken of by the neighbors generally; I don't remember to have seen her after 1849 until I saw her here.

To Mr. Revell—At that time I lived about a half mile from her; she was married in 1841; she was generally more kind and more charitable than the other neighbors; very few in the neighborhood stood as high as she did.

Wm. H. Holstein next testified—I have resided in Montgomery county, Pennsylvania, all my life; I lived two miles northwest from the residence of her father; I have known her for thirty-five years; her reputation was good, *very* good, for amiability, humanity and gentleness; I have known her from the time she left St. Mary's Hall, Burlington, New Jersey, where she finished her education.

To Mr. Syester—Mrs. Wharton left my neighborhood soon after her marriage, thirty-one years ago; five or six years after her marriage she returned and lived there some two or three years; she was then at her father's house; she came and went during the five or six years; she repeatedly returned, but not to make a permanent stay.

Colonel James Wallace was next called, and testified—I am a lawyer at Cambridge, Md.; I have lived there since 1840; I became acquainted with Mrs. Wharton in September, 1861, and I have known her from that time to the present; her husband was sent to the Eastern Shore of Maryland, in command of the Second Delaware Regiment; she camped with him, and lodged in the same tent; I was in company with him: I saw her almost daily; she was there until November, 1861; I saw her afterwards at Drummondtown, Va., under similar circumstances; she was there during the winters of '61-'62; her general reputation for kindness and amiability was equal to that of any lady of whom I have ever knewn or heard; this opinion was held by people on both sides of the controversy then in the country.

Mr. Syester objected to this last answer, and after some brief remarks from Mr. Thomas, the Court decided that her general reputation among all classes could be testified to.

Colonel Wallace said her reputation was general, and was not confined to the army.

General George H. Steuart next testified—I reside in Baltimore, and was formerly in the United States army; I knew Mrs. Wharton fifteen years ago; her general reputation for amiability, humanity and gentleness was unexceptionable; I knew her first at Fort Kearney; I have known her in Baltimore for a little over five years.

General Richard C. Drum next testified—I am a Colonel and Assistant Adjutant General of the army; I am stationed at present in Philadelphia; I have known Mrs. Wharton since 1851; I met her at Fort Kearney; I was her guest four or five days; I was then only temporarily at that post; I met her again at Fort Kearney in 1855, and again at Fort Leavenworth in 1856 or '57; I have not met her since; her general reputation for amiability, gentleness and humanity was unexceptionably good.

To Mr. Syester—In 1851 my proper station was at Governor's Island, and I took out recruits to Fort Kearney; I heard her

character then spoken of; from '57 to the present time, I had not seen her.

General Delos B. Sackett next testified—I am Inspector General of the United States army, and am stationed at Philadelphia; I have known Mrs. Wharton since February, 1847; I met her then at Fort Gibson, and I remained there for about fifteen months; I have only met her once since, and that was in Wilmington, Delaware, in 1864, and then only for a few moments; her reputation could not have been higher for amiability, gentleness and kindness.

To Mr. Syester—I only lived fifteen months at a frontier post in Mrs. Wharton's neighborhood.

Mrs. Col. Brantz Mayer testified—I reside in Baltimore; I have known Mrs. Wharton between nine and ten years; a part of the time I lived near her, and she has been my near neighbor a long time; when we were in the same street our houses were not a square apart; our families were very intimate indeed; her general reputation for amiability, kindness and gentleness was without reproach, and she had the happy faculty of making friends; she was remarkable for her fidelity to her friends; I saw her very often, and my daughters saw her almost daily; I had a full opportunity of knowing of her general reputation, and everybody spoke well of her.

Miss Mary Mayer testified—I reside in Baltimore, and am the daughter of Col. Brantz Mayer; I have known Mrs. Wharton for nine or ten years, and very intimately for six or seven years; we lived at one time on the same street; I visited at her house daily, and was very intimate with her; we had many mutual acquaintances and friends; her general reputation for amiability, gentleness and kindness was unexceptionable; I think she was considered a most self-sacrificing woman.

Mr. Syester objected to this last answer, and said the question of general character for amiability, kindness and gentleness was the only one upon which testimony could be given. After some desultory discussion the Court said the answer that Mrs. Wharton was a "self-sacrificing woman" could be given, but that the statement that she was "remarkable for her fidelity to her friends" was going a little outside of the rules of the law on the subject.

Mr. Hagner read from the report of the Black-McKaig trial in support of his view that the question was a proper one, and read the answer to a similar question propounded by Mr. Syester in that trial.

Miss Emily Eccleson testified—I reside in Cambridge, Md.; I became acquainted with Mrs. Wharton in September, 1871; I have kept up my acquaintance with her, and stayed several days with her during the latter part of last March; I never heard any one speak of her except in praise; I saw her nearly every day for two months while she was in Cambridge, and I became very intimate with her.

Frank Henry next testified—I reside at Cambridge, Maryland, and I am Clerk of the County Court; I first knew Mrs. Wharton in the fall of 1861; I saw her frequently both at my house and in camp; she made a great many acquaintances in Cambridge; I know that she was universally admired; I never heard her spoken of except in a complimentary way; I never heard her general reputation for kindness, amiability and gentleness discussed or questioned.

T. T. Martin next testified—I reside in Baltimore; I have known Mrs. Wharton since September, 1861; Colonel Wharton encamped on my farm, near Cambridge, Md., and I then made acquaintance; I afterwards saw her at Drummondtown, Va.; I have known her ever since, and have visited her occasionally; I have heard a great many express their opinions about her: her reputation was the very best for kindness, humanity and amiability; she was spoken of by every one in the best terms.

Dr. Burton Randall testified—I am on the retired list of the United States Army officers; I first knew Mrs. Wharton at Fort Gibson in 1842; I was there four years; I saw a great deal of Mrs. Wharton and attended her family; she was there during the four years I was there; her reputation was very good for kindness, amiability and gentleness; her reputation was very good for affection; I saw her for a few hours about twelve years ago in Philadelphia at a hotel as I was passing through that city.

Benjamin F. Price testified—I have resided in Baltimore eleven years and am a member of the bar; I have known Mrs. Wharton about nine years; I think I made her acquaintance in the fall of 1862; her reputation was especially good for kindness, amiability and humanity.

Colonel Frank M. Etting testified—I reside in Philadelphia, and am a member of the bar; I was in the army from the commencement of the war, and resigned a year ago; I have known Mrs. Wharton eight or nine years; I have known her family intimately, and was much thrown with her, her family and surroundings, for five years while I was stationed at Baltimore; I think kindness and amiability would have been always mentioned as two of her prominent characteristics.

To Mr. Syester—I am a lawyer in Philadelphia, and have no other occupation there.

General Winfield S. Hancock was next called, and testified—I am a Major General in the United States army, and now reside at St. Paul, Minnesota; I know Mrs. Wharton quite well; I think I first knew her, in 1842 or 1844; I do not recollect which of those years; I have seen her quite frequently since that period; for the exercise of amiability, kindness and humanity, she was always admired by all I ever heard speak of her without exception; knew Colonel Wharton very well, and was in the same regiment for sixteen years; he served on my staff for about a year; I knew his family quite well in the army and out of it; they came from my own county, Montgomery county, Pennsylvania; my father lived about four miles from her father's residence; I knew of her before I met her in the army; I had not seen her since 1866, before seeing her here; I am now commanding the Military Department of Dakotah.

Mr. Revell—General Hancock we are very

glad to have, seen you and have no questions to ask you.

The Chief Judge then shook hands with General Hancock, and expressed his gratification at having met him. The Court then adjourned until 10 A. M. to-morrow.

The attendance to-day was large have interest in the trial seems to have revived. The attendance of ladies was especially large, and they will doubtless attend in large numbers until the trial closes.

THIRTY-THIRD DAY.

ANNAPOLIS, January 12, 1872.

The increased attendance on yesterday upon Mrs. Wharton's trial shows that popular interest and feeling still centres strongly in her case. Notwithstanding the protraction of the proceedings (unprecedented, doubtless, in the history of criminal prosecutions in Maryland), and the tedium which accompanied a great part of the testimony, both for the State and the defence, it is evident that as the end draws near popular interest is unabated. There is too much of a sensational character surronnding and underlying the charges against Mrs. Wharton, both in the case at bar and the minor charge of the attempted murder of Mr. Eugene Van Vess, to permit popular feeling, even in the event of conclusions as to her guilt or innocence, to be lessened except temporarily, and the latter days of the great trial will, no doubt, be more significant than were the first of the eagerness and anxiety of the public. For the first time in the history of Maryland has a woman of Mrs. Wharton's social rank and antecedents been called to answer the charge of murder, and there naturally gathers around the prisoner a feeling deep in all its currents, and earnest in its every expression. It cannot be forgotten that the life of a woman is at stake, and that in a brief time the momentous question of her guilt or innocence will be solemnly submitted for final decision. There is, too, so much of uncertainty always attending a trial by jury that the idea of a human life depending upon the opinions of twelve men is at once sufficient to awaken fear and excitement.

As far as can be judged, Mrs. Wharton is to-day as calm and resigned in manner and feeling as when the officers of the law first announced to her that she was a prisoner. There has been nothing in her manner during the whole trial to show that she was agitated by anything that occurred and was uttered by the Court or counsel. She is, however, by no means listless, but at times manifests considerable interest and converses quietly with those around her. Her patience, too, is remarkable, and she shows less weariness than those who accompany her. It is known that Mrs. Wharton has shown but little feeling against her accusers and prosecutors, and her conduct in this regard has been unusually free from resentment. Indeed, not the least remarkable phase of the case has been Mrs. Wharton's freedom from those feelings which might be naturally expected to find expression from a lady who considered herself the victim of a false prosecution. She has contented herself with a calm expression of her entire innocence, and has not seemingly shared in the feelings of some of her friends who deeply sympathize with her.

Mrs. J. Crawford Neilson was first called to-day, and testified:—I reside in Harford county in the summer, and in Baltimore in the winter; I have known Mrs. Wharton eight or nine years intimately; our families have been as intimate as families could possibly be; she has always been spoken of as possessing in the highest degree kindness, amiability and gentleness; I would be glad to say to the jury what I know personally of her; she was intimate with Gen. Ketchum, and very kindly disposed towards him, as he was towards her; he preferred to be in her house in case of sickness or trouble to any other; I came up from Washington last February with General K.; just before leaving he was very uneasy about a bottle of medicine, and felt in his pockets for it; he found it, and said he would not have been willing to have left Washington without it; he said he was not fond of doctors, and preferred to drink his medicine from the bottle; I have been with Mrs. Wharton constantly, and with her associates constantly during the last eight or nine years, and have had abundant opportunities of knowing of her reputation and character. Mrs. Neilson gave her testimony in a very earnest manner, and evidently desired to be allowed to say more for her cherished friend.

Miss Martha Stump next testified—I am the daughter of Mr. Hamilton Stump, and reside in Baltimore county; I have known Mrs. Wharton intimately for six years; I have known her as well as it was possible to know any one; I have visited at her house during the winter and have travelled with her during the summer; I have had every opportunity of judging of her character and knowing her reputation; she possessed the reputation for kindness, amiability and gentleness, to a greater degree than any one I know; she had the reputation of possessing them in a remarkable degree; my father is President of the George's Creek Coal Company of Baltimore.

J. Crawford Neilson next testified—I reside in Harford county, but my time is spent in Baltimore; I have known Mrs. Wharton very well, indeed, for at least eight years, and our families have been extremely intimate; I have had unusual opportunities for judging of her character and knowing her reputation; I have met old acquaintances of Mrs. Wharton who spoke to me of her character for thirty years back; for kind-heartedness, amiability and Christian charity her reputation was such as very few women have ever enjoyed; it was as high as it could be.

Dr. Abram Claude next testified—I reside in Annapolis and I have been thirty years engaged in the practice of medicine; I am the Professor of Natural Sciences at St. John's College; I had charge of some wards in the United States hospitals here during most of the war; they were large hospitals and I sometimes had 200 patients; I heard the testi-

mony of Drs. Miles, Chew and Williams; I would, from General Ketchum's symptoms and the post mortem revelation, ascribe his death to rather a natural than a non-natural cause; I am acquainted to some extent with cerebro spinal meningitis; it prevailed here in the winter and spring of '62 sufficiently to be called an epidemic; I saw a good many cases then; I have seen since sporadic cases; I don't remember to have seen any case very recently; in describing the symptoms of the disease the authors describe them as they are grouped, as no case presents the same symptoms; hyperesthesia is often a symptom of cerebro spinal meningitis; I observed the insensibility of the eyes to light; if I were to select any one symptom as characteristic of the disease I should think the rigidity of the muscles of the back and neck, and the throwing back of the head; if I saw a disease with those symptoms cerebro spinal meningitis would be at once suggested to m mind; the rigidity and spasms may be extended to the extremities; the pupil is generally insensitive to light, changing its size as the light is thrown on it or withdrawn; in one case I saw one eye was contracted, and the other dilated; in a case which I recall one half of the body was cold, and the other warm; I have seen a pupil unequally expanded; some cases were ushered in like cases of cholera; the first case I ever saw ended in three hours after I saw it; in that case there was great vomiting and purging with coma, rigidity, stertorous breathing, and the pupil not changing when exposed to light; I did not recognize the case when I first saw it; there were some few spots about the face and chest, and had increased in size and number when he died; they were not post mortem, but such as accompany cerebro spinal meningitis; different cases have different groups of symptoms; most of the cases I saw were those of colored persons, but the first case I saw was that of a young white man; there is generally some curviture to one side or the other; there was retention of urine in some cases; the catheter had to be used for a week in one case; there was nothing so remarkable about the tongue as to impress itself on my memory; in most cases there were indications of discomfort manifested by more or less restlessness; that may have been more or less a voluntary act; in some cases there is delirium and even talkativeness; there were evidences of venous engorgement; one to the changes of the blood from venous to arterial; I am familiar with tartar emetic as a medicine and have used it very much internally since I have been a physician; it is used externally as a counter irritant; I still so use it and would dislike very much to have to abandon it; it has been at one time very popular, but there are tides in the popularity of medicines as in the affairs of men; the estimation of a medicine fluctuates, and does not find its true level until the fluctuations have been long and constant enough; I have never seen a fatal case of tartar emetic poisoning; from my reading and experience I should expect to find first nausea and vomiting, then the pulse reduced in frequency and force, muscular relaxation, possibly some purging, but not necessarily; I should not, from my personal observations, expect convulsion or rigidity; increased secretions, generally by the lungs, kidneys and skin, especially from the skin, kidneys and mucous membrane of the lungs; in medicinal doses it produces pallor, and in large doses lividity would ensue from its sedative action upon the heart and circulation; I never saw any effect upon the coat of the mouth, but that would depend upon how it was administered, whether or not in solution; I have been tasting it for years and it never produced any soreness about my mouth or tongue: it is my inference that if General Ketchum had taken a poisonous dose of tartar emetic he could not have gotten up and walked down stairs; I have seen great prostration from medicinal doses; I have never seen an autopsy of a person who had died from tartar emetic poisoning; I should expect to probably meet with some irritation and inflammation, and in some cases ulceration of the intestinal canal; congestion or engorgement of the lungs would be found where death had been immediately preceded by convulsions; in cases of pneumonia the medicine is given because of its pulmonary action; a man may die from natural causes and the post mortem fail to reveal them; it is common, and it is true, particularly of diseases affecting the nervous apparatus; lockjaw, for instance, affects a certain part of the nervous system, and there is no change of structure or lesion to be found after death to account for the diseases. [Dr. Claude then went on at some length, and stated how poisons were generated in the blood.]

He continued—I consider abrasions of the skin might be caused by any feeling of distress; I think in General Ketchum's case it was for the want of air, and I do not think it necessarily indicated pain; apoplexy would not necessarily leave a clot of blood upon the brain; General Ketchum could not have been in good health if he required the medicines prescribed by Dr. Norris, of Washington; I should think, from the symptoms at 10 A. M. Wednesday, it mattered very little what was done for General K. after that time, and I consider that he was at that time laboring under a mortal disease, which steadily progressed up to the time of his death; I do not mean to say that those around him did not think he was improved by the medicines given him after that time; the administration of the yellow jessamine and the application of the ice appeared to improve him, but as I understand the case the important symptoms were never removed, and his death was but the culmination of the fatal causes under which he was laboring; the last dose did not have any important effect, if any, in hastening the termination of the case; in my opinton he would have died without regard to what was given him after 10 A. M. Wednesday; I don't think the absence of lesions indicates anything; the best mode, in my opinion, of analizing this case is to revert it and go from the post mortem to the inception of the attack; the three great functions cannot cease for any length of time without death following, and all causes of death must affect one or the other of these functions; in General K.'s

case the death seems to have resulted from the effect upon the functions of inervation; artificial poison must produce death by its operation on some of the of the organs, and must leave evidences after death; I am not an analytical chemist, but I have made chemistry my study; I teach chemistry, but not analytical chemistry; I can't say that I have studied chemistry thoroughly.

Objection being made by the State to Dr. Claude's being allowed to give his opinion as a chemist of the analyses of Profs. Aikin and Tonry, the Court decided that it had not been shown that he possessed sufficient knowledge and experience to entitle him to be considered an expert, and that therefore his opinion could not be given.

To. Mr. Syester—I have not said that my conclusion was that General K. had died of cerebro spinal meningitis; I am not prepared to say positively and decidedly what was his disease; I can't say how many cases of cerebro spinal meningitis have fallen under my observation, but I think about twenty; a considerable number of the cases I saw were fatal; I should say it was at one time epidemic in Annapolis, in 1862; we had then a great number of troops encamped here; there was a great deal of hauling by mule teams, and the roads were nearly impassable; the cases were not, however, confined to sections most cut up by the wagons; I do not recognize any forms of the disease as a difference of the disease; it is all one disease; the term fulminant conveys to my mind only the idea of its sudden invasion and rapidly fatal termination; the first case I saw occurred with vomiting and purging, and I had some suspicion of poisoning;it was proved afterwards by the occurrance of other cases to be one of cerebro spinal meningitis; I think Gen. K'.s case might be called of the fulminant form; my theory is that cerebro spinal meningitis is the result of a poison; I cannot say positively whether Gen. K'.s case was of the inflammatory or fulminate form; in my cases the chill was not a prominent symptom; I can't say it was present at all; I was once poisoned with copper, and the first symptom I had was a chill; all who ate of the food from the same copper kettle had the chill as the first symptom of the poisoning; I have never seen but one case of lockjaw from natural causes; I have seen two cases of tetanus; the nervous centres may be disturbed by either natural or unnatural causes, and no post mortem lesions be discoverable; I incline to the opinion that General Ketchum died from a natural cause, but I am not able to say what was that cause; the effects upon the pupils of the eye in the cases of cerebro spinal meningitis which I saw were very various; I do not know that there was in any of my cases no change in the pupils of the eyes; I have noticed the open and staring expression of the eyes; it is not a constant symptom; there is no one certain symptom which would enable me to diagnosize the disease; I do not remember to have seen the open and staring expression of the eye before a convulsion had set in; that expression of the eye would not indicate to me the presence of the disease, if unaccompanied by other symptoms; there may be suppression of the urine at one stage of the disease and not at another; I did not test the urine, and, of course, cannot say that it was albumenous; I do not remember to have seen hyperesthesia in all the cases I attended, or in the majority; cases of tartar emetic poisoning without lesions are described; tartar emetic has a very decided taste to me; it first tastes sweetish, then biting or peppery, or what is ordinarily described as metallic; the taste is persistent; a man who had taken an overdose of strychnia might move about for a time, but the effects of tartar emetic are quite different; it prostrates the muscular system without exciting it as strychnia; a party might take a medical dose of tartar emetic and yet get up and walk down stairs; what would prostrate one man would not prostrate other; a man might take a dose of tartar emetic and vomit and purge from its effects, and yet not be prostrated; it is recorded that the par vagum nerve was cut from the stomach of an animal, and that afterwards whenever anything was introduced into its stomach it was vomited up; I don't think I ever observed hyperesthesia of the skin more than once, and that was in a case of spinal meningitis—not cerebro spinal meningitis; it was not general, but was confined to the lower extremities; the patient was perfectly conscious; he did not abrade his skin; I think General Ketchum's abrasions of his skin even after he had said the pain was in his stomach, were due more to his want of air than to his pains; I think if an overdose of tartar emetic was in a concentrated solution or in a powder it would probably produce a burning sensation about the throat and stomach of the patient; I can't say whether or not an overdose of tartar emetic would have caused General Ketchum to abrade his skin; I suppose any poison may cause convulsions.

Mr. Syester now read from the 13th volume of the London *Medical Gazette*, edition of 1856, page 7, a case of antimonial poisoning, and Dr. Claude said he had had no such case and could not express any opinion from personal knowledge, and that all he could say was that from his reading he would not have expected such symptoms. Mr. Syester then proceeded to read from the same work of the symptoms of Cook, who was poisoned by Palmer with strychnia, but Mr. Hagner objected, and said it was not a statement of Cook's symptoms. He thought it was an attempt to give the facts in Cook's case in the guise of cross-examination, and said the statement proposed to be read had no authoritative authenticity, and did not rise to the dignity of a medical treatise. He had never known a book of such a character to be allowed to be quoted from as an authority.

Mr. Steele said the wi ness should be asked if the authority offered was a good one.

Mr. Syester said he had his notions about medical books, and he knew that it was easy to get almost any statement into the books, and it was often done by ambitious and not over careful physicians. He then referred to Taylor, and found that he, in his work, which had been over and over cited in this case, referred at some length to the very case about which he had proposed to read from the Lon-

don *Medical Gazette*. Mr. Syester then went on to comment upon the manner in which cases were introduced into medical works.

After some other discussion Mr. Syester waived the authority, and said he would not insist upon its being read.

Dr. Claude continued—In medicine we must have a great many cases concurring and establishing the truth of the disease; apoplexy may occur from an increased quantity of blood in the blood vessels and without any rupture of those vessels; a death may occur with all the symptoms of apoplexy and without rupturing a blood vessel; I say this on the authority of Andral, who I regard as high as any authority in the world; I do not know that he speaks of having used the microscope; in passive congestion of the brain the veins are full of blood; in active congestion of the brain the blood is propelled too much into the arteries of the brain.

Mrs. Samuel L. Smith was next called, and testified—I reside in Baltimore, and I have known Mrs. Wharton quite well for six or seven years; she has the reputation of being an upright and religious woman; her reputation has always been very good for amiability, kindness and humanity; I am a daughter of Thomas W. Levering; I think Mrs. Wharton was kinder than most persons, and more charitable than most persons.

To Mr. Revell—I associated with some of Mrs. Wharton's acquaintances, but I cannot say how many; I have heard some of them express an opinion such as I have expressed before her arrest; I talked to Mrs. Neilson frequently last fall about Mrs. Wharton; I talked with her also before Mrs. Wharton's arrest.

Mr. Steele now asked the witness if she had ever heard that Mrs. Wharton was very kind to Confederate prisoners.

Mr. Revell objected, and the Court sustained the objection.

Rev. Dr. George Leeds was next called, and testified—I reside in Baltimore, and have been rector of Grace P. E. Church since 1867; I have known Mrs. Wharton very well for the past four years, and she is a communicant in my church; so far as I ever heard there was no blemish upon her good name for kindness, humanity and amiability; she was above criticism as far as I have known.

To Mr. Syester—I can't say I have heard her spoken of frequently: she has been in affliction nearly ever since I knew her; I visit and associate with her acquaintances, and from their lips I have heard but one testimony, and that was in her favor; that was long before her arrest; the time I particularly refer to was a year ago last summer.

Gen. Charles W. Field was next called, and testified—I reside in Baltimore; I was an officer of the old army from '49 to '61; I was a Major General in the Confederate army; I have known Mrs. Wharton since December, 1849, and first met her at Fort Leavenworth; I was not in the same regiment with her husband; I was in the dragoons, and he was in the infantry; I met Mrs. Wharton again at West Point in '59 or '60 for a week or two; I have not met her since; I was at Fort Leavenworth six months; on the first occasion I met her I had particularly good opportunity; her reputation was as good as anybody's could be.

Thomas King was next called, and after affirming, testified—I reside in Harford county, Maryland, and am a son of the late Jos. King, Jr.; I have known Mrs. Wharton for six or eight years, and I know her very well; I have visited her in Baltimore, and also in Harford county; her reputation for amiability, kindness and humanity was very good indeed; her amiability and her charity for the feelings and opinions of others were proverbial.

General Henry Lockwood next testified—I reside in Georgetown, D. C.; I am Professor of Mathematics in the United States Navy, and am at present stationed at the Naval Observatory in Washington; I made Mrs. Wharton's acquaintance in Cambridge, Maryland, in 1861; I afterwards knew her very well at Drummondtown, Virginia, and afterwards in Baltimore; in Drummondtown I saw her nearly every day; I commanded the United States troops at Drummondtown, and Major Wharton commanded one of my regiments; with regard to her amiability I heard nobody abuse her, and I suppose she was amiable; her reputation for humanity was good.

To. Mr. Syester—I knew Mrs. Wharton from October, '61, to January, '62; I suppose Mrs. Wharton was a month or six weeks at Cambridge; I saw her frequently after I was ordered to Baltimore after the battle of Gettysburg; I was in Baltimore two or three years; I knew her well, and visited her occasionally.

Col. Thos. Hendricks next testified—I am a Major and Brevet Colonel in the United States army, on the retired list; I have known Mrs. Wharton about twenty-nine years; I became acquainted with her at Jefferson Barracks, but I was there only two or three weeks; in 1848 I met her again at Fort Gibson; she was there six weeks or two months; her reputation for kindness, amiability and humanity was very good; I never heard any complaint of her on those points; I have resided in Baltimore for the last four or five years, and knew Mrs. Wharton there; I visited frequently at her house.

To Mr. Syester—I have now no fixed residence, but was in Wisconsin when I received a summons to attend this trial; I never heard any thing to the contrary of what I have said about Mrs. Wharton's reputation.

J. Gorham Moale next testified—I reside in Baltimore and am an attorney at law; I have known Mrs. Wharton about 9 years; I visited her family and I am acquainted with a great many of those who visited her; her reputation for kindness, amiability and humanity, was very good; at the request of Miss Nellie Wharton I went to see Marshal Frey and was at the house when he came; no money was offered in my presence, but Mrs. Wharton said—

Here the witness was interrupted by Mr. Syester, and

Mr. Steele said the idea had been attempted to be given that Mrs. Wharton had offered Marshal Frey a bribe. The offer had been openly made, and Mrs. Wharton designed only to compensate Marshal Frey for his kindness to her servant. The State had brought this out, and was it right that the latter part of a

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 Tonry, Dr. William T. Howard, Commander J. S. Skerrett, of the Navy; Colonel Loney, 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. Keighler 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.

Mr. Hagner, by consent of the Court, said the letter of Dr. C. A. Finley, late Surgeon General of the United States army, and now a resident of Philadelphia, was to the effect that Mrs. Wharton's reputation was unexceptionably good for the qualities of amiability, humanity and gentleness. General Heth's letter was also to the effect that Mrs. Wharton's reputation was unexceptionably good for gentleness, kindness and humanity. General Heth wrote that he had known her since 1849, and that he was at one time an officer in the old army and under her husband's command.

At this point, Mr. Steele said: Our case is now closed.

Mr. Syester said the counsel for the State now desired a few minutes for consultation, and the request was granted. An informal recess was taken, and after more than half an hour Messrs. Revell and Syester returned.

Prof. N. R. Smith was then called, and testified—I reside in Baltimore, and have resided there 43 or 44 years; I practice medicine and surgery, and have been most of that time connected with the University of Maryland; I have practiced medicine 52 years; I have also been a professor in Vermont, Pennsylvania and Kentucky; my office is at the corner of Saratoga street and College alley; I have still a very large practice, and was not absent from Baltimore for more than a day at a time during last summer; I have often encountered the sporadic form of cerebro spinal meningitis, especially in children; to my knowledge it has not, during the past year, as an epidemic, prevailed in Baltimore; I mean the epidemic form of the disease; my practice embraces the entire limits of Baltimore city, and I am often called in consultation in every part of the city.

Mr. Syester said he now proposed to read to Prof. Smith the hypothetical statement of the defence and the accompanying interrogatory, and Mr. Steele objected.

Mr. Syester said the defence had offered testimony to prove that cerebro spinal meningitis was the single cause of Gen. K.'s death, and the State now desired to rebut that evidence.

Mr. Thomas said the rule was clear that the State was required to exhaust the burden of its proof in the opening of its case. He then read from 1st Greenleaf, sec. 469 (A); also, secs. 74 and 81 of the same work; 1st Starkie, marginal page, 425; 1st Taylor on Evidence, secs. 358 and 359; Rex vs. Simpson, 2d Carrington and Paine, page 414; Rex vs. Hildredge, 5th Carrington and Paine, page 299; Regina vs. Powell, 1st Carrington and Marshman, page 500; and Brown vs. B. Murray, Ryan and Moody, page 254, in support of his opinion.

Those authorities, he said, established that it was the duty of the plaintiff, in making out that portion of the case which the burden of proof imposed, to exhaust all the evidence necessary to sustain that burden of proof. The very element of the case at bar was, that General Ketchum did not die from natural causes, and unless the prosecution made that out they had, of course, failed to make out their case If the State had a right to introduce new evidence on that point of the case, upon what point then were they precluded from offering new testimony? It was incumbent upon the State to prove, upon every hypothesis, that General Ketchum had died through the instrumentality of the defendant. Were the witnesses for the defence the first to express the opinion that General Ketchum had died from cerebro spinal meningitis? The Court would remember that Professor Donaldson, in his elaborate testimony, had given the opinion that General Ketchum had not died from cerebro spinal meningitis, and the State had thus first introduced it into the case. The testimony offered now by the State was not on any new point brought out by the defence, and was therefore not admissible.

Mr. Revell said the State's officers were not disposed to controvert the general principles and practices of the law. The State exhausted its testimony, and reserved only the right to rebut. Professor Donaldson had said that the case, presented in the hypothetical statement of the State, has some resemblance to cerebro spinal meningitis, but had not said so upon the testimony of Drs. Williams, Chew or Miles. If the Court would examine the hypothetical statement of the defence it would discover that it contained statements not brought out by the State's testimony, and such as had never been brought to the attention of Drs. Williams, Chew, Miles, or any of the medical witnesses for the State. Mr. Revell next read the hypothetical statement of the defence as published in the GAZETTE, and called the attention of the Court, as he proceeded, to what he considered "new matter." The witnesses for the defence had predicated their opinions upon the array of new facts found in the hypothetical statement. The State was testing the accuracy of those witnesses, one of whom (Dr. McClurg) had gone so far as to say that even if tartar emetic had been found in General Ketchum's stomach he would attribute his death to apoplexy from congestion. When new facts were brought into the case, the general rule of law did not bind the State. Who had brought out the statement that hyperesthesia existed? Dr. Warren had first brought forward such a theory, based upon the single fact that a shiver passed over General Ketchum when he was touched. The defence had been jumping and leaping from inferences to theories, and it was the undoubted right of the State to rebut such false data as had been placed before the jury. Mr. Revell further argued the question earnestly and ably, and said he believed authority, reason and right supported the offer and purpose of the State.

Mr. Syester said he admitted that the State was bound to exhaust all its affirmative evidence, and he did not think the State was now trespassing upon any rule of law binding the State in that particular. The defence had distinctly evolved new matter, and that not in the way of general or special denial. Mr. Syester then read from the 469th section of 1st Greenleaf, touching the question before the Court. The State had not, he said, called Dr. Smith to make good what the State had offered, but to rebut the new matter brought out by

the defence. In this case there were no pleadings,and it would have been just as competent for Mrs. Wharton to have proved that she was not in Baltimore on the days of General Ketchum's sickness as to have proved that General Ketchum died from natural causes. The plea of insanity could have been brought in, so great was the latitude allowed to the defence, but it could not be said that if such had been the plea the State was bound to have anticipated it, and could not have gone into an investigation. The State had not, in its testimony, attempted to exclude a natural cause, but the defence had not contented itself with meeting the State upon its own grounds, but had brought forward new facts and made a new record to go to the jury. Were the hands and lips of the State of Maryland to be closed under such circumstances? The State desired to respond to the new matter brought out by the witness Susan, and such as the State could not have anticipated. Mr. Syester then read from 1st Starkie, page 423, in support of his views at this point. Could it be possible, he inquired, that the State was to be concluded because Prof. Donaldson had said cerebro spinal meningitis might have had "a local habitation and a name" in General Ketchum's case? Mr. Syester next referred to the case of Rex vs. Simpson, 2 Carrington and Paine; also to 5th Carrington and Paine, Rex vs. Hildredge, page 299. Mr. Syester further said cerebro spinal meningitis was a disease which he had never heard of before he came into this court room,and to say that the State should have anticipated it would have been to attribute to its officers a degree of prescience and omniscience which he could not claim. Mr. Syester next referred to the case of Regnia vs. Powell, 1 Carrington and Marshman, page 500, and closed his remarks by saying that he submitted the question to the Court with perfect confidence.

Mr. Steele said he had been struck with the fact that the State's Attorney had not cited a single case bearing upon the question before the Court. He believed it to be an effort to lead the Court astray from the ancient paths which the Courts of Maryland had so long trodden. The Atttorney General had referred to two points which he considered supported his view, and had named, first—that of an alibi. The object of the testimony was to bolster up what the State was bound to prove originally, namely, that General K. did not die from natural causes. The plea of insanity was an independent plea, and the State was not bound to anticipate it. Mr. Steele next read from 3d Greenleaf, section 134, to show what was incumbent upon the State to prove. The State had no right under the guise of cross-examination to offer cumulative evidence, but was bound to exhaust its testimony, and he begged the Court to pause ere they admitted such evidence as was now offered. It was the entering wedge, and the reputation of this Court was enough to make it a precedent, and no man could tell where it would lead. The State had gone so far as to call experts to prove that General K. did not die from natural causes, and had called a number of witnesses to negative the idea that he died from natural causes.

Prof. Donaldson was one of the most learned gentlemen the State had called, and he had negatived specially and particularly cerebro spinal meningitis. The State had assumed to negative the idea of death from natural causes, and he submitted that the rules of rebuttal evidence did not countenance the evidence offered.

Mr. Steele then said: I beseech your Honors to pause and look well at the English authorities! Say if it has ever been done in this State before! say if it has ever before in this State been offered to be done!

Mr. Steele, in further arguing the question referred to Rex vs. Hildredge, 5th Carrington, page 299, also to Phillips, as to the strict observance of the rule of law involved, in his view of the question.

The arguments of Messrs. Thomas, Revell, Syester and Steele were heard with great attention by the Court, and evidently with much interest by the spectators. The jury seemed to anticipate the decision of the Court with much anxiety, and Mrs. Wharton appeared more disturbed than at any previous time. Miss Nellie Wharton was absent during the arguments. After a considerable time had been occupied in consultation, and reference made to Greenleaf, section 469 A., the Chief Judge announced the decision of the Court substantially as follows.

I suppose there is no Court in the State in which the rules of rebuttal evidence have been more strictly enforced than in this Court, and we will not now depart a hair's breadth from that course. The Court has always observed the rules of the common law. The Chief Judge then, at some length, reviewed the testimony bearing upon the question before the Court. A new hypothetical statement had, he said, been presented,and was a new point opened by the defence. The Court was clearly of the opinion that the State could reply to it The Court was of the opinion that the witness could be asked his opinion on the hypothetical statement, but the question of death from poison was closed.

Prof. Smith then testified in answer to Mr. Revell—I have read the hypothetical statement of the defence; according to the best of my judgment the party therein described died from non-natural causes; I am not acquainted by personal observation with the epidemic form of cerebro spinal meningitis; it has not been epidemic in Baltimore since I have lived there; by epidemic I mean widespread among the people, and by endemic, confined to jails, hospitals, alleys and the low places of a city; I remember that when I was a student of medicine it was called spotted-fever in New England; I think the patient described in the hypothetical statement did not die from cerebro spinal meningitis.

To Mr. Steele—I have seen cases of cerebro spinal meningitis in Baltimore within the past year, but not of the epidemic form; it is not uncommon, but always prevails, to a certain extent, that is, I meet with four or five cases during a year, but generally among children. I never heard a word of cerebro spinal meningitis existing in Baltimore, even in the endemic form, until this trial commenced; it may be endemic in dif-

ferent parts of a city, but I call it epidemic only when it spreads among the people; if fifty cases occurred and were scattered over different parts of Baltimore I should regard it as an epidemic to a certain extent; I do not think it prevailed in Baltimore in 1864 to such an extent as to be considered an epidemic; I do not know of what disease Mr. Frederick Sangston died last summer in Baltimore; I read the hypothetical statement on last Monday evening; it was handed to me by Mr. Knott, and Dr. Williams was present; I had read it before in a newspaper; the yellow jessamine, chloral and chloroform were not such agents as I should have prescribed; they were depressing agents, and inappropriate, but I do not think they had any effect in determining the result, for the patient seems to have been in a dying condition when he took them; I think chloral is a very dangerous remedy to employ, and I have seen very disastrous results from its administration.

To Mr. Syester—According to my recollection of the wording of the hypothetical statement, I consider that the party described was dying at 11 A. M on Wednesday.

Dr. George W. Benson next testified—I reside at 144 Hanover street, Baltimore; I graduated in medicine in 1852; my friends say my practice is a large one, and it yields me a very comfortable living; I have never known cerebro spinal meningitis to be epidemic in Baltimore in the last twenty years; I had two cases on Henrietta street, near Dr. Baltzell's case; I have read the hypothetical statement, and I do not think the party therein described died from cerebro spinal meningitis; it is my opinion that he died from non-natural causes.

To Mr. Steele—I generally have one or two cases of cerebro spinal meningitis every year; there was a case about four doors from Dr. Baltzell's case; Dr. Warren told me about two days ago that Mr. Frank Sangston had died from cerebro spinal meningitis; I was teasing him about the length of his testimony here; I am generally occupied so much in my practice that I don't hear much outside of it.

The Court here adjourned until 10 A. M. Monday, when the testimony for the State will be resumed and probably continued during the session of the Court on that day.

Dr. Genth and Professor McCulloch were present to-day.

THIRTY-FIFTH DAY.

ANNAPOLIS, January 15, 1871.

A calmer or more impressive scene was never witnessed in a court house in Maryland than that which occurred on Saturday at the close of Mrs. Wharton's defence. After weeks of hard and anxious struggles and the delivery of all the testimony that the rules of law would allow to be given in behalf of the accused lady, the time had at last come when legal proof of her innocence was to cease. Mr. Thomas E. Coale was the last witness called to testify to her good name and high reputation for the possession of those qualities which contradict the idea of crime, and when he left the witness stand deep feeling seemed to pervade all present.

Then followed the reading of the testimony of General Heth and Dr. Finley.

Her counsel next engaged for a minute or two in an earnest consultation, and during the time they thus occupied they were closely watched by the anxious spectators. Mrs. Wharton sat quietly in her chair, seemingly the calmest person in the court room, and there was nothing even in the movement of a hand to tell that it was a painful moment to her. Her daughter sat at her left, an eager listener and observer; her steadfast friend, Mrs. Neilson, occupied her accustomed seat to the right, quiet and calm in her demeanor, but watchful of all that passed. Mrs. Nugent occupied a seat behind her, and leaning forward, showed the deep concern which she felt. When Mr. Steele, in a calm, but quick tone, announced "Our case is now closed," there was deep silence for a minute or two, and a feeling of relief seemed to be felt when Attorney General Syester arose and requested the Court to allow the State's officers to retire for consultation. The request was at once granted, and the Court took a brief recess. The audience seemed to feel but little concern in the result of a consultation in which only the State's officers could share, and there soon arose the murmuring of human voices in animated conversation. The jury had during these exciting moments observed the most respectful silence, and their faces wore looks which betokened deep reflection. After more than a half hour had elapsed, Messrs. Revell and Syester returned, the Chief Judge rapped to order, and the name of Professor N. R. Smith, of Baltimore, was given as the first witness the State had called for rebuttal. As the venerable and distinguished Professor ascended to the witness stand all eyes were turned upon him. His evidence and opinions, were however, delayed by the objection made by the defence and the earnest arguments which followed.

The present week will be full of anxiety and concern to Mrs. Wharton, her daughter and her friends, as in all probability the trial will be brought to an end within the next four or five days.

Notwithstanding the severely cold weather and the chilliness of the court room, a large number of ladies were present to-day a half hour or more in advance of the opening of the court, and there seems to be a general desire among them to secure eligible positions. His Excellency Governor Whyte conducted two ladies into the cour troom a few minutes before the court was called to order, but retired after securing seats for them.

A few minutes before half-past 10 o'clock Mrs. Wharton entered the court room, leaning on the arm of Mr. J. Crawford Neilson, and followed by her daughter. Miss Nugent, Mrs. Neilson and Miss Rosa Neilson soon after joined her. Dr. Genth in a moment more came forward and took a seat by the side of Miss Wharton. Prof. Aikin soon after appeared, and after warming himself by the stove, took a seat in full view of the jury.

Dr. Girard E. Morgan was first called, and testified—I reside in Baltimore, at No. 31 Courtland street; I have been practicing med-

icine in Baltimore since the spring of 1851; my own personal knowledge would hardly enable me to say that cerebro spinal meningitis was an epidemic last year in Baltimore; I saw but one case: that was on Calvert street, near Mulberry; Dr. Warren was not called in consultation in that case or any other with me; I have read the hypothetical statement of the defence; this case is very l ttle like the case of cerebro spinal meningitis which I had, and my knowledge is confined to one case; I cannot give a direct answer to the inquiry appended, but I have never seen such an assemblage of symptoms from a natural cause; I saw my patient on Wednesday and he died on Sunday; I thought it was a case of cerebro spinal meningitis; objection being made, the witness was not asked if it was a case of the fulminant or inflammatory form.

To Mr. Steele—I heard of other cases than the one I attended; one I heard of was within a square of mine; I heard of two other cases, but I don't recollect their localities, but think they were on the line of Jones' Falls.

Dr. Chas. H. Ohr next testified—I reside in Cumberland, and graduated in the spring of 1834; I have been practicing ever since; I have had experience with cerebro spinal meningitis; I have studied the disease, and made a post mortem examination in perhaps as marked a case as ever falls under the eye of a physician; I don't think from the hypothetical statement of the defence that there are any symptoms of cerebro spinal meningitis in the case described; in my opinion he did not die from a natural cause.

Mr. Syester next asked the witness to say what lesions, if any, he had discovered in his post mortem, and if, in his opinion, a man could die of cerebro spinal meningitis, and lesions not be discoverable.

Mr. Steele objected, as the State had brought out that matter in full.

Mr. Syester referred to the testimony, and contended that it was perfectly competent for the State to go into that branch of the case.

Mr. Steele said that Dr. Warren had not said that the post mortem indications had alone given him his conclusions, and at some length explained the object of the testimony on the subject of the absence of lesions which the defence had given. Upon every principle of law the State could not now introduce cumulative evidence, and the Attorney General had insisted upon it as counsel for the defence in the Black-McKaig trial, before he had been elevated to his present position and bore the laurels he now wears.

Mr. Steele then read from the testimony of Drs. Miles and Donaldson to show how the subject had been brought forward. If the State could do what was now proposed it would be perfectly competent then to call the weakest physician in the State, and when the lips of the defence were sealed to call a dozen others to fortify the opinion of the weak one. The defence had brought out their testimony to meet the case of the State as it had been made out and left.

The Court decided that the question did not come within its ruling on Saturday.

Dr. Ohr continued—I don't wish to be understood as saying that none of the symptoms of cerebro spinal meningitis were present in the hypothetical case; I mean none which themselves distinctly characterize the disease known as cerebro spinal meningitis; there are many diseases which have common symptoms which are not at all distinctive of the disease itself; there are symptoms in that hypothetical case which we find in a great many others, and which are entirely distinct from cerebro spinal meningitis; there is no pathognomonic symptom of cerebro spinal meningitis as I understand the disease, but the symptoms described are common to a variety of other diseases.

Dr. Ohr was not cross-examined.

Dr. Abram P. Arnold next affirmed and testified—I reside at No. 7 South High street, Baltimore; I have been in practice twenty-two years, and all the time in Baltimore; I saw four cases and heard of three other cases of cerebro spinal meningitis early last spring; I am not inclined to call the disease an epi demic, because of the small number of cases I have seen or heard of; I have repeatedly read the hypothetical statement of the defence; as far as my knowledge goes the symptoms there stated do not at all correspond with what I know to be those of cerebro spinal meningitis; I am not prepared to give a direct answer to the interrogatory appended; the symptoms do not agree with any set of symptoms which correspond to a well established and well defined disease with which I am familiar from my own experience or from the books; I am, therefore, of the opinion that the set of symptoms which preceded the death of the party described were of a very suspicious character.

Mr. Hagner objected to this last sentence, and Dr. Arnold explained that he thought it absolutely necessary that the physician should know all the symptoms, the circumstances surrounding the case, and the post mortem revelations, before giving a decided opinion, and he could, therefore, only say that the symptoms described did not correspond to those of any disease with which de was familiar from experience, or knowledge derived from the books.

To Mr. Revell—One of my cases was at the corner of Centre Market place and Hawk street; I saw another case on Calvert street, near Mulberry street, in connection with Dr. John Morris; I saw another case in Lombard street, near Caroline; I saw another case at the corner of Greenmount avenue and Madison street, with Dr. Baldwin; all those cases were children; two of them died.

Dr. Arnold was not cross-examined.

Dr. Wm. T. Howard next testified—I reside in Baltimore; I commenced the practice of medicine in Warren county, N. C., on the 1st of May, 1844; I am a Professor in the University of Maryland; I never had any other official position; I am now the Professor of the Diseases of Women and Children; I have read the hypothetical statement of the defence; I read it when it appeared in the papers, and again this morning in Court; I do not think the party therein described died of cerebro spinal meningitis; taking into con-

sideration the clinical history of the case as recorded in that hypothetical statement, and finding no adequate lesion after death to account for those symptoms, I know of no natural disease of which he could have died, and do not think he could have died of cerebro spinal meningtis; I do not think, with my view of the character of an epidemic, that cerebro spinal meningitis was an epidemic in Baltimore last year; persons may differ very much as to the number of cases which may constitute an epidemic, but so far as my knowledge of the disease is concerned I do not think it was an epidemic; I live at 181 Madison avenue.

To Mr. Steele—I had no case of the disease in my practice, but treated a sailor from South America in the Baltimore Infirmary, who was admitted on the 1st of June; there was another case at the Baltimore Infirmary; it was that of a sailor, and was treated by Prof. Miles; I saw Dr. Arnold's article in the Baltimore Medical Journal in May last, in which he said he had treated four cases and heard of three others; I have not heard of any other cases except those which have been spoken of here; if there were fifty cases scattered over Baltimore at the same time I should say it was prevailing epidemically to a slight extent; I do not remember how soon after the case occurred that I talked with Dr. Williams about it.

Mr. Revell objected to a conversation with Dr. Williams, and Mr. Steele said it was a legitimate matter of cross-examination, and the object of the defence was to show the influences under which the witness appeared.

Mr. Syester said if the purpose was to show that the witness had had a conversation with Drs. Miles, Chew or Williams, the State did not object; they might go as far as they chose.

To Mr. Steele—I had a conversation with Dr. Williams about the case; it was common talk among the physicians of Baltimore; Dr. Chun died on the 24th of February, 1867, of a malignant type of typhus fever, and not of cerebro spinal meningitis; I never heard that Mr. Sangston died of cerebro spinal meningitis until I saw it announced in the course of this trial; I heard that Dr. Winslow died of typhus fever.

To Mr. Syester—I never heard Dr. Warren talking about General Ketchum's case, but everybody was talking about it in and out of Baltimore.

Mrs. Julia Van Ness was next called, and testified—I reside in Baltimore at present; I was living last June in Carlisle, Pennsylvania; I was not in Baltimore during last June, until the 26th day, when I was telegraphed for; I reached there on Monday evening; I don't exactly know the hour; I know Mrs. Wharton; I went first to the house of my daughter, Mrs. Loney, and then to Mrs. Wharton's; I remained there until Friday evening; I know Susan Jacobs, Mrs. Wharton's servant.

Mr. Syester next asked—Did you have any conversation with Susan Jacobs in the kitchen about General Ketchum or did you have any on the stair steps?

Objection was made by Mr. Hagner, and after some consultation Mr. Syester proceeded to state that he desired to contradict the witness, Susan Jacobs. She had testified that no vomit had been found in General Ketchum's room on Tuesday afternoon, and the State's officers desired to contradict that statement. He proposed to show that no conversation occurred between Susan Jacobs and Mrs. Eugene Van Ness, but between Mrs. Julia Van Ness, Mrs. Loney and Susan Jacobs.

Mr. Hagner said he did not see how it implicated Mrs. Wharton; she could not be held responsible if Susan Jacobs chose to put on airs and refused to allow ladies to go into General Ketchum's room.

Mr. Revell said the matter before the Court was not a collateral inquiry, but the object was to affect the reliability of the testimony of Susan Jacobs. The State had a perfect right, within the rules of evidence, to contradict her evidence. The Court had allowed her conversation with Marshal Frey to be given in evidence for the very purpose of laying the foundation for a contradiction, and it was competent for the State to give evidence to affect the credit of Susan Jacobs.

Mr. Syester said it was always competent to show what interest a witness had in a case. Susan Jacobs had contradicted the State's evidence to the effect that General Ketchum was heard vomiting on Tuesday afternoon, and that vomit was found in his room on that afternoon. She might not be regarded as standing indifferent between the State and the accused. Mr. Syester next referred to Roscoe on Criminal Evidence, section 96. Could it be possible that Susan Jacobs was to be allowed to make statements upon which the theories of medical experts had been based, and the State be prevented from going behind her testimony and showing its falsity? The State desired to show that Susan Jacobs was engaged in making a state of affairs by which General Ketchum's condition could not be known. Was the State to be prevented from showing that General Ketchum was in the condition to which its witnesses had testified? She had resorted to expediencies and devices to prevent his real condition from being known to those who would contradict her.

Mr. Steele said he did not propose to criticise the argument of the Attorney General, but he had charged indirectly that Susan Jacobs had manufactured testimony, and he would say that when it came to be argued before the jury that it might be necessary to say to them that there were witnesses who had sworn in this case, whose skins were white, but who were no more entitled to credit for veracity than the black woman who had testified.

Mr. Steele then read from Greenleaf, 449 sec., touching the question of evidence involved. He did not suppose that the Attorney General would say that the paid servant of Mrs. Wharton was the only person who might be accused of bias in this case; there were others whose relations were closer and dearer to those supposed to have been injured by Mrs. Wharton, than were those between Mrs. Wharton and her servant, and would the

Attorney General say that they had no bias?

Mr. Steele then read from Roscoe's Criminal Evidence, page 139, and said he submitted that there was no possible reason, no plausible reason assigned by the State's officers, why the rules of evidence should be departed from.

The Chief Judge said the Court was of the opin ion that the evidence proposed to be offered was not admissible, as it did not come within the rule of a witness testifying to a material fact upon cross-examination, which may becontradicted, but within the rule of cross-examination on a collateral matter, by the answer to which the cross-examining counsel must be content.

Mrs. Van Ness was then allowed to leave the stand.

Deputy Marshal Frey, of Baltimore, next testified—I had one conversation with Susan Jacobs.

Mr. Syester next asked—Was General Ketchum's condition the subject of that conversation?

Marshal Frey said he had had a conversation with Susan Jacobs about General Ketchum's condition, and continued—I asked her about General Ketchum's condition at the time he was in Mrs. Wharton's house, from Saturday afternoon to the hour of his death, on Wednesday.

Mr. Syester next asked the witness if Susan Jacobs had told him anything about having visited General Ketchum frequently, and what she had said.

Mr. Hagner objected, and after several references to the manuscript and newspaper records of Susan Jacobs' testimony and some desultory discussion, the Chief Judge said there was no doubt about the rule of law, but the Court's recollection of the testimony was, that the State had laid a sufficient foundation for the question to be asked, but if the Court was not right it was willing that the witness, Susan Jacobs, should be recalled.

Judge Hammond said he had no recollection of the specific questions which were asked.

Judge Hayden said his recollection was that the Attorney General had asked a great many questions to which the answers did not appear in the reports which had been read; he could not recall the particular questions, but he was under the impression that a sufficient foundation had been laid for contradicting the witness.

Messrs. Hagner, Revell and Steele, explained their recollection of the cross-examition, and the Court said that it was willing that the witness should be recalled.

Mr. Steele said the counsel for the defence had given their understanding, and would of course submit to the decision of the Court without questioning it.

Marshal Frey continued—She told me in the presence of Marshal Grey, who assisted in the investigation, that she had seldom visited General Ketchum during his sickness; I asked her who prepared his meals.

Objection was made by the defence, and the Court said the witness, Susan Jacobs, was in Court, and she must be called to testify on the controverted points.

Mr. Steele offered some objection, as the case of the defence had been closed, and the Chief Judge said it had been repeatedly done in this Court.

Mr. Hagner desired to know if she was to be asked new questions, or was she to be asked only questions bearing upon what she had testified.

Mr. Syester said he would waive the question for a time, and put another witness on the stand, that he might in the meantime refer to his notes, which he had left at his hotel. If his notes did not bear him out in his recollection, he would withdraw the question.

Marshal Frey was then allowed to leave the stand.

Prof. Wm. E. Aikin was next recalled. Mr. Syester said Prof. Aikin had some vials in a basket, which he desired to bring into Court, and the venerable Professor was allowed to retire to secure the desired trophies.

The Court, jury, counsel and spectators were kept a few moments on the tip-toe of expectation, but Prof. Aikin finally reappeared bearing a basket. He took the witness stand, and in answer to Mr. Syester, said, I heard Professor McCulloch's testimony in part and read it.

Mr. Syester then said to Professor Aikin—You have heard the testimony of McCulloch, in which he stated that he had conducted an analysis on chloral and yellow jessamine, and had employed in that analysis the same tests and reagents employed by you in your analysis of Gen. K's. stomach, and obtained results which a chemist might mistake; we desire to know whether, since then, you have experimented on these substances in the same way and obtained any results resembling yours or calculated to mislead a chemist.

Mr. Hagner quickly objected, and said Prof. Aikin had sworn that only antimony could have given him his results, and contended that would it be reopening the matter upon which he had given his testimony at great length. He earnestly asked that the Court would rule it out.

Mr. Steele read from the official report of Professor Aikin's testimony that he had declared that the results were characteristic of antimony, and could not have been given by anything else. The State had now no object but to cumulate evidence, and Dr. Craig had already said that he was satisfied with two of the tests Professor Aikin had employed. The State could not, he said, under the guise of cross-examination, introduce new proof to sustain their theory that antimony alone could have given Professor Aikin his results. Mr. Steele further argued the question earnestly.

Mr. Revell said the question propounded by the Attorney General was in strict rebuttal. Prof. Aikin had only negatived the idea that any substance known to him would, under the same circumstances, give the same results. Prof. McCulloch had said his results had opened a new field of investigation, and was it possible that the State was not to be allowed to show the inaccuracies of this science, so abstruse, so deep, so hidden, and so uncertain? He submitted that it was in strict rebuttal.

Mr. Syester said the defence, in answering the evidence of the State as to the analysis of Gen. K.'s stomach, had not confined themselves to the tests followed by Prof. Aikin, but had made every effort to impair the force and invalidate the evidence of the witness now on the stand. They had called experts to show that the same results had been obtained from chloral and yellow jessamine. It was in every view of it new matter, and Dr. Reese had gone into exstacies over it, and on his solemn oath declared that it opened up a new field to science. Professor McCulloch, Drs. Reese and Genth had formed themselves into a mutual admiration society, and had held themselves up to the public, the Court and the jury, which was to be the final arbiters of this cause, as showing that Professor Aikin's tests were all fallacious. It was introduced to show that Professor Aikin had made false conclusions. The State proposed to show now the monstrous fallacy to which the defence had resorted. Was Prof. McCulloch to be allowed to come into court, hold up a vial and say to the jury, "there is the same that Prof. Aikin obtained?" The defence had not been satisfied to put opinion against opinion, but had gone further, and had attempted to show the jury that the State's evidence was all a fallacy. Did not the State have a right, and did not public justice have the right, to demand that this new matter should be inquired into, and the truth reached at last? The State was ready to show that it was a fraud, or the result of the grossest ignorance. Professor McCulloch had come into court with vials and acids in his pockets, and had experimented, and then sworn that the results Professor Aikin had not obtained were not alone compatible with the presence of antimony, but that other substances would give them. The offer was now, on the part of the State, to rebut new evidence brought to assail the evidence of the State.

The State was prepared to follow Professor McCulloch step by step, and show how fallacious his results had been. If Professor McCulloch said he had obtained from his white cloud with the sulphide of ammonium results characteristic alone of antimony, the State was prepared to meet him, and show that it was all false. The State was prepared, too, to show that the laws of chemistry forbade such results as he had sworn his processes had yielded. He, too, should be subjected to the experimental crucible, and his accuracy fully tested. Professor Aikin had been fully tested, and they had declared that he was ignorant and unfit to be heard in a Court of Justice. The State was now prepared to show that Professor McCulloch's experiments would produce no such results as he had sworn to before the jury.

Mr. Thomas said he would not follow the example of the Attorney General, who, in addressing the Court on a question of law, had addressed the jury, but he would address the Court on the plain principles of law, which he considered applicable to the question before the Court. The State had chosen to go into the negative evidences of the presence of antimony, and had excluded itself from contradicting any of the evidences offered by the defence in opposition to the negative evidence of the presence of antimony in General K.'s stomach. The State's officers had undertaken to meet in advance the negative evidences of the presence of antimony, and Dr. Aikin had used the words, "such substances must contain antimony." The witness had no right to assert that no other matter would give such results, unless he knew that they would not, and the defence had really rebutted the State's evidence. Again, Professor Aikin had said "There is no one thing but antimony which would give those results," and the evidence of the defence had been to rebut that testimony. The attempt on the part of the State was to add cumulative evidence on points which they had brought out on examination in chief. He was sorry to have to say that the Attorney General had used language which was unbecoming a gentleman holding his high position. The gentlemen of whom he had spoken were as high in character as any in this community or any other, but the Attorney General of Maryland had chosen to say that they had practiced "a fraud," and had held themselves up as a mutual admiration society. He could inform the Attorney General that if he admired the witness on the stand he was alone in his admiration of him.

The Chief Judge said the Court was of opinion that the testimony now offered came directly within the rule laid down in the decision of the Court on Saturday, and was admissible. The defence had experimented on particular substances, and if the same substances had been experimented on by the State, and produced different results, it was only replying to the defence on the new point raised by them.

The Court here adjourned until 10 A. M. tomorrow.

Great interest was manifested to day, and the attendance was very large. The jury does not seem to relish the idea of hearing more chemical testimony, and the foreman was heard to express the hope that Professor Aikin would break his bottles before the Court met again. Professor Aikin was observed to handle his basket very tenderly, and to watch it closely. At times to-day Mrs. Wharton appeared anxious, but is still calm.

Since the last decision of the Court it is anticipated that the trial will now be considerably protracted, and it is understood that the State has chemical testimony additional to that now in the possession of Professor Aikin.

THIRTY-SIXTH DAY.

ANNAPOLIS, January 16, 1872.

The proceedings on yesterday in Mrs. Wharton's trial were exciting and important. At no other previous stage of the trial had the opposing counsel exhibited so much determination to urge their views upon the Court, and the arguments partook more than on any preceding occasion of the spirit and temper of recrimination. The spectators seemed to enjoy the excitement and to share in the feel

ings of the legal combatants. The jury, too, appeared not averse to witnessing a contest of such a character and to forget, for a time, the tedium of their position. An unusually large number of ladies were present, and they paid great attention to all that occurred.

The interest exhibited by the ladies is remarkable for its constancy, and they appear to have formed themselves into a court for the hearing of all the testimony, arguments and decisions, and doubtless for the formation and expression of opinions. A fair representative of the sex, who attends the trial only semi-occasionally, has declared that she "got mad" a day or two since "because she could not say anything herself." A trial of female wits would doubtless be an instructive commentary upon legal proceedings. Notwithstanding the beating snow storm of last night a large number of ladies were present this morning in advance of the opening of the court, and there is something of a contest among them for the best seats. Mrs. Wharton and her daughter, accompanied by Mr. J. Crawford Neilson, entered the court room shortly before 10 o'clock this morning, and took their accustomed seats. Mrs. Wharton appeared as calm as on the first day of her trial, and entered with as firm a step.

Upon the opening of the Court to-day Professor Wm. E. Aikin was recalled, and in answer to Mr. Syester, testified—On Monday of last week I was instructed by the Attorney General to proceed to investigate this new discovery of Professor McCulloch; I provided myself with yellow jessamine and chloral from Mr. Gosman's drug store, and then, taking Professor McCulloch's statement as I read it in a newspaper, I provided myself with all the materials he used; the portion representing the contents of the stomach was represented by a solution of albumen and other things. Here he referred to his note, and continued.

To Mr. Steele—I did not make this memorandum at the time, but made it from the one which I made at the time I made the experiment; taking Professor McCulloch's statements that he took the same materials which I did and applied the same tests, I failed utterly in getting the results which he obtained; I can show exactly what I did not get and what I did get, as I brought the liquids down with me; here my first experiment was with what represented the contents of the stomach; with that liquid I used sulphurretted hydrogen: I got this turbid liquid [here he held up a vial containing a turbid whitish fluid]; it is marked with the letter V, and is marked, also, "food" and "chemicals;" it has not the most remote resemblance to what I got in my analysis of General K.'s stomach; I next proceeded to ascertain if chloral by itself, or with yellow jessamine, would give the same results; I first passed sulphurretted hydrogen through the yellow jessamine, and got this [here he held up a vial containing a yellow looking liquid]; it bears no resemblance to the results I got in my analysis of General Ketchum's stomach; his vial is marked tincture of gelseminum, containing a resinous principle that would be precipitated by water; I suspected the apparent action of the sulphuretted hydrogen might be in reality the effect of the water used in making the solution of yellow jessamine; I then added hydrant water to the same tincture of jessamine and found the result as I anticipated; a deposit was produced very similar to that in the vial where sulphuretted hydrogen was used, as seen here; I then proceeded to examine chloral by itself, and passed sulphuretted hydrogen through an acid solution of chloral; this is the result (here he held up a vial containing a pearly, colorless, whitish liquid, with the precipitate adhering principally on the sides of the vial. He continued—These results bore no resemblance whatever to those I got in my analysis of General Ketchum's stomach; I marked the third vial with the letter "T" and "chloral, tartaric acid and sulphuretted hydrogen" written beneath; I next tried tincture of yellow jessamine in connection with tartaric acid, and obtained an equally colorless deposit, but the color of the liquid was yellowish; I got a chloral precipitate exactly like Dr. McCulloch; I resorted to the process he used here in Court, and instead of using sulphuretted hydrogen I used sulphide of ammonium; I got a precipitate like Professor McCulloch's; the use of sulphide of ammonium explained to me Professor McCulloch's oversight in using an alkaline solution instead of an acid one; in my first step I used sulphuretted hydrogen instead of sulphide of ammonium; I have here a vial, lettered "B," a solution of chloral tincture of gelseminum and organic matters, and on the other side of the label is sulphide of ammonia; this I believe is the experiment Professor McCulloch made in the court room; I am afraid all the gelseminum I used was in connection with chloral: I have here what represents that tincture of yellow jessamine used with sulphide of ammonia; the coloring matter remained in the liquid, and a white sediment was in the bottom; I took the precipitate which resulted from the sulphide of ammonium used with yellow jessamine and chloral and organic matters, and another which I obtained by using a solution representing the contents of the stomach of Gen K., and compared them; the chloral precipitate I tried to dissolve in strong boiling hydrochloric acid, and it was very sparingly soluble; I examined the precipitate which was thrown down from the other solution, and found that wholly dissolved; the precipitate I got from the solution which represented the contents of General Ketchum's stomach was soluble in boiling hydrochloric acid, but the precipitate I got from the chloral and yellow jessamine and organic matters was only sparingly soluble in hydrochloric acid; I got the white cloud from my work on General K.'s stomach; it dissolved in tartaric acid, but in the white cloud I got by following Prof. McCulloch would not dissolve in tartaric acid; that which represented the contents of the stomach gave me this clear liquid, and the one obtained from the chloral deposit did not dissolve; the acid liquid remains turbid instead of being limpid; the white cloud formed by the antimonial compound gave me, when

treated with tartaric acid, this (here he held up a clear liquid)—but Mr. Steele promptly objected, and it was put back in the paper collar box with the others; the white cloud, which was supplied by the precipitate I got from General K.'s stomach, when treated with sulphide of ammonium, gave me an orange red precipitate, but when I treated similarly the chloral precipitate I got this whitish precipitate; I have noted the time in which th results showed themselves; when sulphuretted hydrogen was passing for one hour through the mixture used by Prof. McCulloch I found it was slow in its action; when chloral and tinct. gelseminum was treated with sulphuretted hydrogen for half an hour I got a similar action; in my experiments upon what represented the contents of the stomach of General Ketchum I got results in about two seconds; the one fundamental error made by Professor McCulloch was in overlooking the character of the solution he used; it is inadmissible, in examining for antimony, to use an alkaline solution, as Professor McCulloch must have done. Professor Aikin now took out a precipitate dried on a piece of filtering paper, and continued—I took the colored liquid which Professor McCulloch obtained; it is very important to determine the color of the precipitate by separation; the precipitate is a dingy white. [Here Professor Aikin showed it to the jury.] He continued—Nobody but a blind man could mistake it. [The piece of paper was now passed to the jury and examined by them.] Professor Aikin then passed to the jury the vial of dark liquid from which he had obtained the precipitate exhibited on the filtering paper. He continued—It does not bear the slightest resemblance to the precipitate I obtained from General K.'s stomach; I have here an antimonial precipitate.

Mr. Hagner objected to the introduction of this testimony, and the Court said it would hear the question argued.

Mr. Hagner said he had understood that Professor Aikin had said he had experimented with the supposed contents of General K's stomach and gotten results different from those obtained by Professor McCulloch, and he further argued that the subsequent results were not so similated as to be admissible as evidence to the jury.

Mr. Revell reblied and said he thought it was admissible to let the jury know the results.

Mr. Syester said Professor McCulloch had sworn that his results were similar to those which an antimonial compound would yield, and he did not suppose it would be wrong to show that he could not have gotten a result which would have deceived any one. Professor Aikin had experimented with an antimonial compound, and the State desired to show the two precipitates to the jury and let them decide if it could have been mistaken.

Mr. Steele said he thought his brothers had overlooked the fact that they were now offering rebutting testimony. Professor Aikin had given his testimony-in-chief as to specific colors and results, and without showing results. He was proceeding to address the Court when Judge Hayden interrupted and said he understood that the offer was now to show what were the results obtained by using antimony in contradistinction to the absence of antimony.

Mr. Steele said the defence were not objecting to the right of the State to offer such testimony, but to the time at which it was being offered. The defence had closed its case, and now after the same question had been brought forward by the State in its testimony, the attempt was made to confirm their testimony in chief that antimony, and antimony alone, would give the results Professor Aikin obtained. It would work a great wrong and injustice to the prisoner, and he submitted that by all the rules of evidence it was not admissible.

The Chief Judge said the Court would confine the witness to his testimony, and not allow him to exhibit an antimonial compound to the jury. He could swear to the results from the two precipitates in question.

Judge Hayden said he differed with great reluctance from the balance of the Court. It was his opinion that the two experiments (with and without antimony) could be shown the jury, and they allowed to judge.

Professor Aikin continued—The two precipitates were obtained from precisely the same liquids and by the same reagents, except that antimony was present in one and not in the other; one precipitate was turbid white and the other an orange red; to one afflicted with color blindness, which is a disease—here the Court interrupted the witness. He continued—I cannot see how it is possible that anybody in the possession of his senses could mistake one result for the other.

Professor Aikin was now turned over to the defence, but Mr. Steele said he did not desire to ask him any questions.

He was recalled for a moment and said, in answer to Mr. Steele, whether Berzillius was an authority in chemical matters, that in his opinion Berzillius was undoubted authority.

Dr. Christopher Johnston next testified—I reside in Baltimore, at 82 Franklin street: I practice medicine and surgery; I am at present Professor of Surgery in the University of Maryland; I have been Professor there for seven years; before occupying my present chair I was Professor of the Principles and Practices of Surgery; I have been practicing medicine about twenty-five years; my practice extends through all sections of Baltimore; cerebro spinal meningitis was not an epidemic in Baltimore last year.

Mr. Revell now read to the witness the hypothetical statement of the defence, which was published in the GAZETTE.

Professor Johnston answered—In my opinion the party therein described did not die from cerebro spinal meningitis; as that picture presents no symptoms with which I am acquainted, I should infer that he died from non-natural cause; I am acquainted with cerebro spinal meningitis.

To Mr. Steele—I saw last year two cases, both children, one in consultation with Dr. Kirby, and the other with Dr. Bull, which were referred to cerebro spinal meningitis; casually, I may have heard of other cases,

but I do not remember hearing of any specific cases; to the best of my recollection I did not hear the profession speak of any other cases; I attended Mr. Edward Sangston, who lived in Monument street, and I certified to the insurance company that he died of meningitis; I found him in a convulsion in the morning, he rallied a little and then died; he lived at the northwest corner of Monument and Calvert streets; I did not observe opisthatonas; he was out walking with his wife the evening before; I should call his convulsion of an epileptic form; I found him in a dying state and I did not investigate the condition of his urine; as soon as he was taken his father came for me; I dressed quickly, went with him, and stayed with him until he died; Mrs. Chesborough died recently in Baltimore of cerebro spinal meningitis.

Mr. Syester objected, as the case had occurred since the trial had been in progress. He would waive his objection if the defence would allow the State to investigate into the new matter.

Mr. Steele did not insist, and Professor Johnston continued—I have no recollection of having heard cerebro spinal meningitis spoken of either as epidemic or endemic in Baltimore during the last year.

To Mr. Revell—Mr. Sangston's disease was positively not cerebro spinal meningitis.

Dr. P. C. Williams was again recalled, and testified—I have read the hypothetical statement of the defence.

The Court said Dr. Williams must now divest himself of all knowledge of the case as he had seen it, and confine himself to the hypothetical statement.

Mr. Hagner objected, and said Dr. Williams was called upon in reality to pass upon his own testimony.

The Court said Dr. Williams had given his opinion of the case simply as it came under his observation, but it had been since modified by Susan Jacobs' testimony.

Dr. Williams continued—I am familiar with cerebro spinal meningitis; it was not epidemic in Baltimore during last year, or in any preceding year, that I know of; I live about a square from Mrs. Wharton's, and I heard of no cases of cerebro spinal meningitis in the northwestern section of Baltimore; I do not think the patient described in the hypothetical statement died of cerebro spinal meningitis, or of a natural cause.

Mr. Syester next asked the witness if hyperesthesia was present in General K.'s case, but objection was made by Mr. Steele, and the Court ruled it out.

Mr. Syester next asked the witness if there was suppression of urine, but objection was made and sustained by the Court.

To Mr. Steele—I attended one case of cerebro spinal meningitis, but by general conversation know of others; I learned from the reading in our Medical Association of Dr. Arnold's article there were other cases; those were all I heard.

Mr. Syester now said the State had additional testimony to offer, and suggested that the jury be retired. The jury was accordingly retired.

Mr. Syester said the offer the State proposed to make was a simple one. The experts for the defence had assailed the analyses of Professor Tonry, and said his results were insufficient. Professor Tonry had made further tests, and had now the metallic antimony in the Court which, he was willing to submit to the Court and jury, and to the tests of the experts of the defence. The State's officers considered it admissible on two grounds, first, that it was new matter discovered since the commencement of the trial, and second, that it was strictly in rebuttal; Professors McCulloch, Genth, Reese and White had declared on their oaths that the results obtained by Professor Tonry were insufficient, and that the spots which he declared were antimonial, were not antimonial, and that there was no antimony in General K.'s liver or kidneys; the State's chemist had now pursued the same tests as he first used on the first portion of the liver, and he now had the metal in Court to be subjected to the tests of the experts of the defence, and to make certain that which they had declared uncertain. The State had produced the metal, and he considered that it would put to flight the theories of the experts for the defence. The testimony was clearly admissible also on the ground that it had been discovered since the State had closed its case. Dr. Warren, the chief medical witness for the defence, had confessed that if antimony had been discovered in General K.'s stomach it would put to flight his belief as to the cause of General K.'s death. The State could not have possessed itself sooner of this testimony, and it was due to the State that all the facts should be eliminated and brought forward. Even though the trial had closed and the jury had returned a verdict of guilty against the greatest criminal in the annals of time, the discovery of new evidence would be sufficient grounds upon which to move for a new trial.

The Chief Judge said it could be done if due diligence had been used in discovering the new evidence.

Mr. Syester continued to argue that the testimony was admissible on the second ground he had named. It might be contended that the State could have come before armed with this testimony, but no one could have dreamed that it would be contended by the defence that the metal should be produced; the books did not so lay it down,

The Chief Judge said that question could be argued before the jury.

Mr. Syester replied that he would argue it before the jury.

The Chief Judge said it had allowed an opportunity before the State had closed its case for Professor Tonry to make a complete analysis, because the Court thought the ends of justice demanded it. The Court was now dealing with a question of rebuttal evidence, and must view it alone in that connection. The testimony prepared to be offered went to the very heart of the case, and was not strictly in rebuttal. The death had occurred in June, and a plenty of time had been allowed for the investigations. If the Court admitted Prof. Tonry's testimony it would entirely reopen

the case. The Court had considered the question and thought that it could not admit.

Mr. Revell said the State here closed its case, as Marshal Frey was not present.

Mr. Steele said, as he observed that the reporters were reporting Mr. Syester's remarks, he wished to say that the counsel for the defence desired to say that they positively and emphatically denied that there had been any production of the metal, and to assert that it had not been shown by the first tests, and that they did not believe the subsequent tests had discovered it.

The defence then, at 12:45, announced that they had closed their case.

At this announcement there was a stir in the court room, succeeded by a moment of intense excitement. The Chief Judge next ordered a change to be made in the arrangements of the seats of the counsel and reporters, which created considerable moving.

The Court remarked that there must not be during the argument by any one a motion of assent or dissent, and that any offender would be removed. By consent of the counsel for the State, Mr. Hagner next read from Berzilius, page 451, a passage touching the importance of the production of the metal.

Mr. Revell then, at 1:10 P. M., amid perfect silence, arose to address the jury, and, after a graceful introduction, said he came as a minister of justice, who had no resentments to gratify. It was no unusual thing in the history of medical jurisprudence that a woman occupying high social position should be accused of the crime of murder by poisoning. Even as far back as the days of Rome it was known, and in more recent days Madame Brinvilliers was known in France. He mentioned these instances to show that the crime of murder by poisoning was not unusual Six weeks ago the accused had entered this Court clad in the vestments of innocence. Now the scene was changed, and Mrs. Wharton now stood before the world with her hands stained with the blood of murdered Ketchum. All that human skill and foresight could do had been done for her, and her counsel were unexcelled. Poor Ketchum sleeps in his grave, with none to plead for him, unless it were his virtues, which, trumpet-tongued, pleaded against the deep damnation of his taking off. Mr. Revell then earnestly exhorted the jury to exclude from their minds all extraneous matter, and to discharge the duty which they owed alike to God, themselves and their country. They were to give a verdict in accordance with the facts in the case, and with them alone.

Mr. Revell next referred to the legal definition of murder and the investigation the jury was to make in determining the question of malice. The case was ever one of murder in the first degree, or else Mrs. Wharton was entitled to go free. The Court had ruled out some of the matters which he had mentioned in his opening statement, and the jury was to discard them from their consideration. The indictment contained four counts, and Mr. Revell briefly reviewed the final count, which charged the administration of an unknown poison on the day of Gen. Ketchum's death. The jury then would not be required to determine the character of that poison, but only if a poison had been administered. Mr. Revell next read from the testimony in reference to Gen. Ketchum's character, and said here is the victim whose life we say has been taken, and who the defence contended had died from cerebro spinal meningitis. He would beg the jury to bear in mind the character and physical strength of the man who had been presented to them by the testimony. At 7 A. M., June 24, he was seen by Judge Sherman, in Washington, in perfect health, and he had seen him take from his pocket a memorandum book, made notes in it and returned it to his pocket. He begged the jury to bear this fact in mind. Mr. Revell then followed General Ketchum as his movements had been testified to by the State's witnessess.

When he reached Mrs. Wharton's house he was not debilitated or fatigued from his travels, and he had come from a city which the State had a right to assume was perfectly healthy, and certainly with no cerebro spinal meningitis in its limits. At Mrs. Wharton's he had showed his humor by rallying Mrs. Hutton as a poor nervous creature. Well might she be nervous within Mrs. Wharton's doors. General Ketchum had been attacked the night of his arrival with cholera morbus, and the testimony had shown that the symptoms of that disease were similar to those of tartar emetic poisoning. Mr. Revell then reviewed the statements made by the State's witness as to the symptoms and sickness of General Ketchum before Dr. Williams was sent for. He was found suffering with nausea and holding a slop-jar between his knees, not holding it between his knees, but having it between his knees. He continued to improve. Mrs. Wharton had been seen by Mr. McAvoy looking for brandy and peppermint, and he wished the jury to bear in mind that Mrs. Wharton had not gone to bed regularly any night, and the State's testimony showed that she was not in Mr. Eugene Van Ness' room. He desired the jury to bear in mind his symptoms as they occurred, for they all bore upon the theory set up by the defence that he died from cerebro spinal meningitis. Dr. McClurg had come as a wonderful apostle of medicine; had come to base an opinion upon ex parte statements of the defence, and to say that Dr. Williams, who stood as high as any medical gentleman in Baltimore, had made a mistake. He had said that Dr. Williams did not know what he was talking about, and that if he, the embodiment of all medical wisdom, had seen the symptoms, he could have told what was Gen. K.'s disease. Mr. Revell then referred to the official report of Dr. Williams' testimony, and remarked. as he proceeded, upon the character and succession of General K.'s symptoms. Gen K. had shown, even from the beginning of his sickness, mind and intellect, and that ruling passion, strong in death, which had prompted him to note down all his expenditures, and those exact habits which distinguished him

If the jury believed Susan Jacobs told the truth when she said that General K. had on Tuesday had the conversation with her about

his taking medicines, they must believe that General K. falsified. He (Mr. Revell) would show to the jury, in the course of his argument, that Susan Jacobs was entitled to no credit. If she had told the truth, then Mrs. Wharton had falsified, and if Mrs. Wharton falsified the witnesses who had sworn here had sworn falsely.

Mr. Revell here alluded at some length to the scene in General K.'s room when the vial was discovered, and commented in earnest terms upon the testimony of Susan Jacobs, as to the occurrences at that time. In less than fifteen minutes after Mrs. Wharton had left, with Colonel Loney, on Tuesday afternoon, General Ketchum had been heard vomiting violently, as Mrs. Loney testified, and when she went to Susan Jacobs and asked that some one be allowed to go to him,she had said no, he is a queer old man and would not like to find a lady in his room. So General Ketchum was left alone with no one to minister to him or inquire into his wants. Mr. Revell then read at length from the official report of Dr. Williams' testimony as to his efforts in rousing General K., and his apearance at the time he and Mr. Hutton had assisted him from the lounge to his bed. He then followed closely the testimony as to the symptoms and death of General K., and in conclusion, Mrs. Wharton, the only friend of Gen. K., had turned first from his deathbed, and never saw him alive again. He now turned his attention to the medical theories of the defence, and said the State had been drifted about from theory to theory. The theories of permanent injury from his fall from his horse in 1858, of death from laudanum, or cholera morbus, or tetanus, had been abandoned, and the defence had, at last, fastened upon cerebro spinal meningitis. He would say that it was an insult to science, and to the high professional attainments of Dr. Williams, to say that he alone would least know whether or not General Ketchum was suffering from cerebro spinal meningitis.

Mr. Revell then referred to the hypothetical statement of the defence, and desired to see what value was to be attached to the testimony of Drs. Warren and all who had come after him. He inquired of the jury if they could say that such a statement as the defence had offered contained the appropriate facts of General K.'s sickness. He then noted briefly the omissions. He asked the jury to consider if the shiver which passed over General K. could warrant the far-fetched idea that he died from cerebro spinal meningitis. Mrs. Hutton had been by him as a ministering angel, and had not, as she kept rubbing his hands, observed any shiver. It was a house of sand built by the defence, and no wonder that all the witnesses for the State, from Dr. Smith down, had scouted the idea. When General K. was suffering the agonies of death he had, in answer to an inquiry as to where his pain was, replied, "In my stomach, sir." That alone was incompatible with the idea of death from cerebro spinal meningitis. Mr. Revell next came to the post mortem evidences, reviewing them at some length and commenting with great particularity upon them, and claiming that they gave no evidence that General K. had died of cerebro spinal meningitis. He would ask the jury if the opinions of those who had formed their judgments upon such an ex parte statement were worthy of weight.

At this time, 2:55 P. M., the Court informed Mr. Revell that he could continue his argument to-morrow, and adjourned until 10 A. M. to-morrow.

Mrs. Wharton was as calm as she has ever been during the time Mr. Revell was addressing the jury, but listened attentively. Mrs. Nugent was not present to-day, but Mr. and Mrs. Neilson and Miss Rosa Neilson occupied their accustomed seats. The court room was not so crowded as had been anticipated, owing, doubtless, to the inclemency of the weather, and the expectation that the arguments would not commence to-day. Mr. Revell was heard with great attention and spoke with his accustomed fervor and ability.

Messrs. Thomas and Hagner will follow tomorrow for the defence, upon the conclusion of Mr. Revell's arguments.

To Messrs. Steele and Syester will be left the final efforts in the great trial.

THIRTY-SEVENTH DAY.

ANNAPOLIS, January 17, 1872.

Yesterday was fraught with momentous interest to Mrs. Wharton, as the beginning of the end of her trial for life, and the scene which that beginning brought, in all its surroundings and accompaniments, was sufficient to stir the hearts of all present. "The prisoner at the bar," as she is known in the par lance of lawyers, seemed to appreciate the solemnity of the hours and the gravity they bore, but her remarkable calmness did not more than momentarily forsake her, and save a passing excitement immediately preceding the commencement of the argument of Mr. Revell there was nothing in her manner to indicate that she was struggling against any trong emotions.

Her face was concealed from view by the heavy crape veil which she has so constantly worn, but her erect position and the steadiness of her figure, showed that whatever of agitation she may have felt was controlled and suppressed. Her daughter sat close to her left, veiled, like her mother, listening and observing with anxious interest, but yet quiet and calm. Mrs. Neilson still held her seat to Mrs. Wharton's right, and appeared much concerned. Miss Rosa Neilson sat immediately in rear of Miss Wharton, and looked sad and thoughtful.

The crowd of spectators, although not so great as had been expected, was sufficient to fill the court room, and the positions assigned to ladies were all filled, obliging some of the fair attendants to stand. The jury evidently recognized the solemnity of the duty which devolved upon them, and Mr. Revell was heard with great attention. The interest of the spectators did not partake of undue excitement, and at times a deep silence reigned, broken only by the clear, ringing tones of Mr. Revell, as he denounced Mrs. Wharton, pleaded for the murdered Ketchum and the

vindication of the laws of Maryland, and step by step unfolded to the jury what he believed to be the shallowness of the theories of the defence.

There was one person among the spectators to whom the scenes seemed to be painful in the extreme, namely, Charles L. Ketchum, the eldest son of Mrs. Wharton's alleged victim. He has been a constant attendant upon the trial, but has manifested no unbecoming interest in the result, and on yesterday, at the commencement of Mr. Revell's argument, occupied a position in an extreme corner of the court room. To him the scene must have been one of painful interest, and it doubtless recalled to him memories which are enough to sadden a lifetime.

When Mr. Revell, in feeling and eloquent terms, painted the death bed scene of his father, and in strong and forcible words described his agonies, and the circumstances which surrounded him during all his sufferings and in his last hours, young Ketchum was observed to bow his head. To his feelings and memories at that moment belongs the sanctity of a sorrow too deep for any but his own heart to realize or appreciate.

The seats assigned to ladies were occupied to-day considerably in advance of the opening of the Court, and the choice of seats seems to be as much a matter of interest among them as would be the lead of the German, or the best positions at a marriage. The majority of those who attend are among the most fashionable and cultivated in Annapolis Society.

At precisely one minute of 10 o'clock to-day Mrs. Wharton entered the court room, leaning on the arm of Sheriff Chairs, and closely followed by her daughter and Mrs. Nugent, who were under the escort of Mr. Steele. Mrs. Wharton appeared pale to-day, and the pallor of her countenance could be readily remarked through her heavy veil.

The Court was called to order promptly at 10 o'clock, and at the bidding of the Chief Judge Mr. Revell resumed his argument before the jury. He said that when he closed on yesterday he was criticising the hypothetical statement of the defence, and he would now turn to some of the striking points of the medical testimony for the defence, which did not, in his opinion, sustain the theory that General Ketchum died from natural causes.

He first addressed himself to the testimony of Dr. Reese and, after commenting upon the efforts he had made, said he found that even Dr. Reese had confessed that the cause of General Ketchum's death was an obscure one. Mr. Revell then read at some length from the testimony of Dr. Reese, and singled out the symptons which he had declared were characteristic of cerebro spinal. He then compared them with those of cerebro spinal meningitis as given by the authorities. All the authorities and medical witnesses had said that headache was one of the most constant symptoms of cerebro spinal meningitis, and the defence had drawn the far-fetched idea that General Ketchum had headache, from the single fact that he put his hands to the back of his head.

Mr. Revell next reviewed the testimony bearing up the theory that hyperesthesia of the skin existed, and claimed that one by one the the baseless inferences of the defence were dissipated by the actual facts of the case. He next referred to the alleged suppression of the secretions of the kidneys, and declared that there was not a particle of testimony to sustain the theories of the defence based upon that supposition. Dr. Reese, though a master of his profession, had claimed, in opposition to all the authorities, that venous congestion was not an evidence of the non-existence of cerebro spinal meningitis. Not one of the medical witnesses for the defence had examined the brain with the microscope in a case of cerebro spinal meningitis, and yet they undertook to speak positively and authoritatively of the post mortem revelations. He then claimed that cerebro spinal meningitis always left invariable lesions. The testimony of Dr. Williams and the words of Gen. K. to him, stamped the testimony of Susan Jacobs, in reference to his sufferings and symptoms, as a link in the chain of her flagrant falsehoods. Dr. Reese had said that he did not wish to be understood as saying that General K. died of cerebro spinal meningitis, but only that he "might" have died of that disease; he had thus launched himself out upon a sea of possibilities, when probabilities were the only things that could be considered in this case. Mr. Revell then further read at considerable length from Dr. Reese's testimony, commenting on it briefly. He next turned his attention to the testimony of Dr. Warren. He had claimed that the identity of General Ketchum's case with that of Dr. Baltzell's patient was complete, and yet another medical witness for the defence had said that as no two leaves were alike so no two cases of any disease were exactly alike. Hyperesthesia had been lugged into this case by Dr. Warren, and made the basis of a theory designed to mislead and deceive the jury, and without the slightest warrant. Another symptom relied upon by Dr. Warren, namely, the condition of the pupils of the eyes, had also been exploded by the testimony of the defence. Dr. Warren had brought into the case what was never in it, and had upon groundless inferences based his plausible theories. The defence had claimed in support of their theories that there was an improvement at times in General K.'s case, during the last hours of his life, and yet had asserted almost in the same breath that he was in articulo mortis. Dr. Warren had drawn inference after inference in his attempts to account for the disease, and had gone so far as to claim that the alleged fatal malady of cerebro spinal meningitis was epidemic in Baltimore at the time of General Ketchum's death. It was insult to science and to the intelligence of the jury to assert the monstrous doctrine that General Ketchum could have been taken with epidemic cerebro spinal meningitis five hours after his arrival in Baltimore. It was necessary for the defence to prove that cerebro spinal meningitis was epidemic in Baltimore to sustain their theory of the cause of General Ketchum's death, and in that they had failed. No witness had testified that a single case of that disease was within a mile of the house in which General Ketchum died. Mr. Revell

next came to the testimony of Dr. Morris, and claimed that his testimony had not sustained the theory advanced by Dr. Warren. When he was plied with the ex parte hypothetical statement he was compelled to say that he could not assign any cause, natural or non-natural, for General Ketchum's disease.

Mr. Revell then noted the distinctions which Dr. Morris had drawn, and commented on the fact that the great majority of cases were those of children. Dr. Morris had said he would not like to say that cerebro spinal meningitis was epidemic in Baltimore, and the Court had confined him to the cases which he saw.

Mr Revell next reviewed the symptoms of the disease to which Dr. Morris had testified. There was an absence of all hyperesthesia in General K.'s case, but there was anesthesia, one of the symptoms of tartar emetic poisoning. Dr. Byrd's testimony was next considered by Mr. Revell. He had said the disease, as stated in the hypothetical statement of the defence, bore no possible resemblance to any disease with which he was acquainted, and he had left the matter problematical. Mr. Revell then spoke cursorily of the testimony of the other medical witnesses for the defence, and next read from pages 10, 17 and 19 of Dr. Stille's work as to the nature of the disease of cerebro spinal meningitis, and the varied symptoms, but the uniformity of the post mortem revelations. He claimed that all who saw General K. had said he died from non-natural causes, and those who had not seen him had yet come forward and said he died from a natural cause. There could not, he believed, be a rational doubt that General K. died from natural causes. Mr. Revell continued to read from Stille of the symptoms and post mortem revelations of the fulminant form of cerebro spinal meningitis, and claimed that even admitting that General K. had that disease it could not have been of the fulminant form unless it had been epidemic in Baltimore. Mr. Revell said he thought it had been clearly demonstrated that General K. did not die from natural causes, and he now proposed to speak of the unnatural causes of his death. He then referred to the various symptoms of General K.'s case, as was testified to by Dr. Williams, and read from page 11 of Dr. Grisole's work, as to the symptoms of tartar emetic poisoning He next read from page 645 of Beck's Medical Jurisprudence, citing a case which he believed to be in point. He next referred to Taylor on Poisonings, pages 476 and 477, and Stille's Therapeutics, page 457. Mr. Revell next referred to the purchase of tartar emetic, and claimed that two purchases had been proved. Mrs. Chubb had been unable to say that she saw the tartar emetic fall on the plaster Mrs. Wharton applied to her breast, but had only seen her going through the motions of sifting it. He contended that the sediment in the tumbler had the unmistakable taste of tartar emetic, and that the chemical testimony had not controverted that fact.

Professor McCulloch has volunteered to give him (Mr. Revell) some of the deadly drug, and had claimed that it had no taste to him. But Governor Bowie and Dr. Claude tasted it, and they found out that it was bitter and biting. The authors said it was accurate, and it was not to be supposed that they would make an assertion which they did not know was true. He declared that Professor Aikin had not been successfully contradicted, and referred to the official report of his testimony. The experts for the defence had harped upon the production of the metal, and yet they could not deny that no organic matters would have given the results which Dr. Aikin obtained.

Dr. Genth had sworn that in a similar experiment he had gotten at the same stage the characteristic results of antimony or arsenic, and yet the defence contended that when Prof. Aikin got the same results he was to be turned down. The experts for the defence had gone so far as to claim that even Wormley was to be turned down, and here Mr. Revell compared the processes recommended by Wormley with those used by Prof. Aikin. According to the defence Wormley, Aikin and Tonry were all to be turned out of Court, and they only were to be believed. The circumstantial evidence was strong enough to fasten the guilt upon Mrs. Wharton without the production of the metal. Suppose poor Ketchum had lived (and he wished to God he had lived), would the defence then contend, if on an indictment for attempt to poison, that the metal should be produced? The experts for the defence had made ostentatious experiments, but their substances were left in Court too long, and on the morrow the jury saw what it all meant. Those experiments were unfair and calculated to deceive the jury. If he had time he could demonstrate to the jury that the results of Professors Aikin and Tonry were conclusive, and that no man, be he professional or layman, could doubt them, unless he was like the doubting Thomas. Prof. Tonry had obtained results which he swore to, but the defence had opposed to him their opinions alone, and had not made experiments sufficient to demonstrate that Prof. Tonry was wrong. He then reviewed at some length the results obtained by Profs. Aikin, Tonry and McCulloch, and claimed that they agreed in establishing the presence of antimony.

Mr. Revell next referred to the circumstances of the alleged crime, and claimed that they pointed unerringly to Mrs. Wharton as the author of the foul crime with which she stood charged. Murders by poisoning, he said, were always of that mysterious character which would deceive any but a professional man. The State could show that there was a motive. First, he would mention the conduct of Mrs. Wharton in going to Washington and making a false claim upon his estate for $4,000. A note for $2,600 was in existence, and though she claimed that she had paid it in January last, it could be demonstrated, he believed, that it was false. General K. was a man of great particularity and exact business habits, and when his papers were examined nothing was found to show that Mrs. Wharton had ever paid the note, and the note itself could not be found. No witnesses were present when she paid the money, and the papers of the deceased gave

no evidences that it was ever paid. Is it reasonable to suppose that General K. held Mrs. Wharton's bonds bearing 5 per cent interest, and that she would be then paying him 10 per cent interest? Mr. Revell here reviewed much of the testimony of Charles L. Ketchum, and claimed that his testimony showed how far-fetched was Mrs. Wharton's plea that she had paid her indebtedness to General Ketchum. Mrs. Wharton had claimed that she tore the note up, but the idea was inconsistent and contradicted. The State had a right to argue that General K. never owed Mrs. Wharton $4,000, but on the contrary, Mrs. Wharton's note was yet unpaid. General Ketchum went to Mrs. Wharton's a well man, and the State had shown that she had abundant opportunities to give him any drug she might have prepared. She had within her control the instruments of crime, and the opportunities were afforded her for using them.

The State's witnesses showed what opportunies she had, if this woman, whose character had been so high for goodness, had such opportunities,it was resonable to suppose that she was ministering to him. She was applying poison during those days—for a smart woman would do it in the most scientific manner—and if she gave it in small doses in the beginning, she knew that the symptons it would produce could be mistaken for those of cholera morbus. Mr. Revell then referred to the significance of poison having been discovered in the sediment of the tumbler. He then referred to Mrs. Wharton's attempt to account for General Ketchum's failure to be accurate in making entries on the back of the note she owed him, and her contradictions and inconsistences. When she met the sons of the dead man she sympathized with them, she who had turned so recently from his death agonies and left him to the death she had prepared for him; again, she had attempted to suborn Mrs. Chubb and to bribe Marshal Frey. When Dr. Williams had advised her to telegraph to General Ketchum's relatives or friends, she had kept the telegram from 10 o'clock until after 12 o'clock, and she had asked Mrs. Loney to give her opinion ere she telegraphed. This she did, that General K.'s friends might not arrive until late that night. Mr. Revell next referred to the vest and to the testimony of Judge Sherman and Charles L. Ketchum on the subject. It was a prominent circumstance of the case, and one of the chain which, taken together, fixed the guilt upon Mrs. Wharton. No other person but Mrs. Wharton had a motive to murder General Ketchum, and it had not been traced to any one but her. When Mrs. Wharton was told by Dr. Williams that poison had been found, she had exonerated her servants; she was found agitated and nervous, and making the most contradictory and unreasonable statements about the possession of pecuniary means The defence say that because Miss Nellie Wharton had $15,000 her mother had no need to borrow, but the defence might have with equal consistency shown the possession of wealth by Mrs. Wharton's reputed uncle in Philadelphia. One remarkable feature of the case was that when Mrs. Hutton returned to General K.'s room she found Mrs. Wharton there with a cup, and that Mrs. Wharton exhibited great anxiety to administer medicine to General Ketchum.

Mr. Revell here dwelt upon the testimony of Mrs. Hutton with Mrs. Wharton at that time. Mrs. Wharton exhibited great anxiety to give the medicine, but she showed no anxiety to send the telegram. Her impatience grew thread bare, and at 5 minutes to 1 o'clock, she gave the final dose and stood by until the convulsions of death came; then she fled from his room, taking with her the cup and the spoon. Shades of death then gathered around him, his agonies increased and death at last relieved him of his sufferings. Carried away suddenly, with none around him to sympathize with him, he was left by her who claimed to be his friend, and that too in his direst extremity.

Mr. Revell next read from Will's on Criminal Evidence, 152, and said the State was not here to do away with Mrs. Wharton's character, but a striking fact was that the majority of those who had testified to her character did not come from Baltimore, but from a distance. If the jury was convinced that she committed the deed, then character was out of the question. Mr. Revell here read from the charge of Chief Justice Shaw in the case of Dr. Webster, convicted of the murder of Dr. Parkman.

In conclusion, Mr. Revell referred to the circumstances of General Ketchum's visits to Mrs. Wharton's house, and claimed that the symptoms of his sickness showed the guilt of the prisoner at the bar. The State had showed the possession of the means and the motive. She had sent General Ketchum unheralded to his grave; but, thank God, he had left behind him a record of which any man might be proud.

He then exhorted the jury to discharge their duty with stern impartiality, and to give such a verdict as would bring them no regret in after life. Mrs. Wharton could not claim clemency because she was a woman, and the jury were to steel their hearts and judge according to the evidence. They had nothing to do with mercy; that was lodged in another tribunal. If the jury extended mercy to the prisoner they would be doing injustice to the State. Here. Mr. Revell, at three minutes of 1 P. M., closed his argument, having addressed the jury for four hours and fifty-eight minutes.

Mrs. Wharton was very calm during the delivery of his argument to day, and seemed unmoved by even his most earnest words.

After a recess of 10 minutes, Mr. Hagner opened the argument for the defence. He said it was with deep feelings of solicitude that he arose to address the jury, and that he had but one regret, and that was that he occupied the place of a better man. He would address the jury upon the facts and principles of law applicable to them. The case was extraordinary for the length of time it had occupied, the character of the prisoner and the fact that though crimes were committed in secret, this case occurred in open daylight. It was more extraordinary still that on a hypothetical

statement, which he would show was correct, but one witness for the State had ventured to say that the symptoms were those of a case of poisoning. Mr. Hagner then referred to the removal of the case from Baltimore, which had been alluded to, and said when a fictitious cry was raised against a prisoner, it was a right held upon the Constitution to move the case, so that a fair trial might be had. Mr. Hagner then read from Bentham's Treaties on Evidence as to the question of character, and said the law presumed the good character of the prisoner. The defence challenged the State to bring any man, woman or child who would say ought against Mrs. Wharton's fair name, and none had been produced and could not have been produced Mr. Hagner then commented on the extent of power confided to the jury, and the fact that the law presumed the innocence of the prisoner, which was to her an armor of power, and could not be pierced except by arrows of strength. In Maryland there was no appeal in criminal matters; but the smallest Court case could be taken to the Court of Appeals. Mr. Hagner here read from the case of Corner vs. Pendleton, being the case of suit brought against gamblers, who had seduced into gambling a young man in the employ of a business firm, and at some length Mr. Hagner referred to its bearing upon the case at the bar. There was another fact to which he would refer, and that was, that the jury had seen the daughter of the prisoner clinging to her mother. Poet and painter had vied in painting the virtues of that Roman maiden who fed her imprisoned father from her own bosom. It was this girl who the jury would bury in a common grave with her mother, chaining them, as galley slaves, in a common death.

Mr. Hagner next read from 31st Indiana Reports a case in point. The jury must require the same proof, as it was in the power of the Judge, after they had returned a verdict of guilty, to order one of them to take a deadly weapon and instantly execute the prisoner, and he would inquire of them what manner of proof they would require before any one of them could lay his hand on his heart and be prepared to do the deed. The illustration was in point, for the Sheriff could not execute unless the jury agreed. Mr. Hagner next referred to the case of Madeleine Smith, and read at some length as to the necessity for the most positive proof. The jury must have the most convincing proof of the administration of poison, before they could convict, and the evidence must be satisfactory, complete and distinct. The books were filled with instances in which persons were convicted on circumstantiol evidence, and in after years it was proved that the persons were guiltless. Mr. Hagner cited the case of Jacob when he saw the bloody coat of of Joseph, and also the case of St. Paul, when he was cast upon a desert island, and a viper, coming from the fire, fastened upon his hand, as illustrating the error of human infererences and presumptions of guilt. Mr. Hagner, in further illustrating this point, inquired of the jury how many men they would require to swear that the Grand Duke Alexis, who recently visited Annapolis, had picked the pocket of one of their fellow-citizens, before they would believe him guilty. Mr. Hagner read from Wills on Circumstantial Evidence page 184, as to the great necessity for the most convincing proof and the effect of the non-production or suppression of evidence. He then read from Archibald's Criminal Practice, 4th Howard, and other authorities, bearing upon the necessity for absolute proof of the commission of crime. Mr. Hagner in pursuing this branch of his subject quoted from the Bible the requirements of the Mosaic law. From first to last in this case the principal facts relied upon were each proven by only one witness. General K. died of a sudden and violent disease, but it was alleged that he died by Mrs. Wharton's hand. The proofs the State relied on were, first, the moral circumstances, and secondly, on the medical circumstances. He thought he could demonstrate to the jury that it would be their duty, as it would their pleasure, to render a verdict of acquittal. Mr. Hagner here read from Wills on Circumstantial Evidence, page 63.

The motive asserted was that Mrs. Wharton wished to cover up her indebtedness to Gen. Ketchum and to secure $4,000 from his estate, but nothing but conversations had been brought to sustain the theory. Mrs. Cottman had come in as unexpectedly as if she had come down from the clouds, and had shown how the matter stood. Young Ketchum had sworn that his father had told him on the 23d of June that he wanted the money to pay for his house, and it had been shown that he paid for the house on the 13th of June. It was a matter of particular importance that Mrs. Wharton took no receipt; such things were frequently done, even by men. Mr. Hagner now quoted from a decision of the Court of Appeals of Maryland, sustaining his point that such things were not unusual. General Ketchum had been said to be very exact in all his business habits, even setting down a cent given to a blind negro, yet he had paid the money ($11,000) for his house to an unauthorized party, and taken no receipt. Mr. Hagner here came to the testimony of General Brice, and contended that his testimony did not sustain the State's theory as to motive. Could Mrs. Wharton have been such a fool as to go to Washington and demand $4,000 unless she had a legitimate claim? He would venture to say that it was no unusual thing for intimate friends to confide in each other as Mrs. Wharton had in this matter confided in General Ketchum. General Ketchum went to Mrs. Wharton's house to tell her good-bye, and not to collect her indebtedness.

Mr. Hagner next referred to the symptoms of General Ketchum's sickness, and contended that there was no proof that Mrs. Wharton had tartar emetic in her house until Monday. Mr. Hagner now read from page 282, of the report of the trial of Madeline Smith, noting the character of the testimony there referred to. He then dwelt upon the testimony as to the purchases, and contended that he could demonstrate that but one purchase of tartar emetic was made for or by Mrs. Wharton. Kleinschmidt was a for-

eigner, and somehow or other people get in the habit of raising their voices in talking to foreigners, and, therefore, Mrs. Chubb had raised her voice—thought Kleinschmidt was deaf. Why was not Myer brought? He could have solved the matter. Mr. Hagner now took up the sales book of Gosman & Co., and continued to advance his views on this point of the case.

The Court here adjourned until 10 A. M. tomorrow. The court room was crowded during the entire session of the Court, and great interest was manifested in the arguments. Among those present to-day were Judge Randall, Commodore Worden, Commander J. S. Sherrett, and others of prominence. Mr. Hagner will continue his argument to-morrow and it is anticipated that Mr. Syester will not reach the jury before late Friday or Saturday morning. Mr. Charles L. Ketchum was again present to-day, but General Brice has been absent for more than a week.

THIRTY-EIGHTH DAY.

ANNAPOLIS, January 18, 1872.

The expectation that great interest would be manifested by the public in the arguments in Mrs. Wharton's trial, has been proved to have been well founded, and the patience of the spectators shows with what earnestness the proceedings are regarded. There was but little in the well conceived and forcible argument of Mr. Revell of the essential claptrap of jury appeals, and Mr. Hagner, on yesterday, showed that he, too, had come to address himself in the language and manner of the true lawyer to the questions before the jury; but everything is of interest to the attendants upon the great trial, and they seemed to be determined to hear all that is to be said on either side.

For several days past there has been much speculation and discussion as to the probable result of Mrs. Wharton's trial, and the opinion that the jury will acquit or disagree is generally expressed.

Mrs. Wharton was promptly in Court this morning, and her arrival attracted, as usual, much attention. She was accompanied by her daughter, Mrs. Nugent and Mr. and Mrs. Neilson. The ladies, who are always first to arrive, had already filled the seats assigned to them, and they appear more interested than ever in the proceedings.

A few minutes after 10 o'clock Mr. Hagner resumed his argument, and said he was endeavoring on yesterday, when he closed, to show how groundless was the charge that there had been more than one purchase of tartar emetic. He was sure that if the jury would follow him he would convince them that there was but one purchase of tartar emetic, and that that was made by Mrs. Chubb from Mr. Kleinschmidt. It was not reasonable to suppose that anybody but an idiot who proposed committing crime would have bought the tartar emetic at a store where she was perfectly well known, and had it charged to her on the books.

Mr. Hagner then went on, and contended that all that Marshal Frey had said was reconcilable with the idea that there had been but one purchase. It was natural that Mrs. Wharton should have offered the small sum of money to Marshal Frey as he testified, for it was only reasonable that she should havebeen anxious that her servants should be relieved from suspicion. Mr. Hagner then contended that Marshal Frey had had misunderstandings, and so had all who had testified in the case, and was it to be said that no charity was to be extended to this poor, nervous woman, who was not allowed to have even her daughter present when she was being closely questioned by the astute Marshal Frey? Mr. Hagner then read from appropriate authorities, touching the danger of misunderstandings between even the most particular persons. It was contended that Mrs. Wharton had induced Mrs. Chubb to purchase tartar emetic as a blind, and Mr. Hagner then addressed himself to the facts of the case bearing on that point, and claimed that there was nothing in Marshal Frey's testimony to be relied upon as proving Mrs. Wharton's purchases. Mr. Hagner next spoke of the purchase of porter, and said that Mrs. Wharton had, in that matter, as in all others, acted openly and without endeavoring to conceal anything.

The States's officers contended that in fifteen minutes after, Gen. K. was heard vomiting, but the testimony did not sustain them. Mr. Hagner next read from Mrs. Loney's testimony, to show that such had not been the fact. Susan Jacobs had testified that there was nothing to show that he had been vomiting, and even if he had been vomiting, might not the porter, which Col. Loney had said was not the thing for him, have disagreed with him and caused the vomiting? Mr. Hagner then spoke of the different counts in the indictment, and contended that neither count of the indictment could be sustained by the proof of the administration of poison in porter.

He then spoke of the testimony as to the vial, and contended that the fact that there was no label on it signified nothing, for General Ketchum might have himself torn off the label. Mr. Hagner next came to the testimony of Drs. Williams and McSherry in reference to the interview with Mrs. Wharton at Dr. Williams' office, and claimed that if Mrs. Wharton had been the artful woman she had been represented, she would have laid the blame on Susan Jacobs, and at once relieved herself. In reference to the sediment found in the tumbler, Mr. Hagner claimed that it had been proved that only Mrs. Wharton's servant was in the room in which it was found, and that Mrs. Wharton was in another part of the house.

At this point of Mr. Hagner's argument a large number of ladies, who had come from Baltimore on the half-past 10 o'clock train, arrived, and the disturbance of seating them was so great that Mr. Hagner was obliged to suspend for five minutes or more.

Mr. Hagner resumed, and contended that there was not the slightest motive for Mrs. Wharton to have put poison in the tumbler; it had not been proved, and the jury could not consider it in the case. Even if a servant had put the poison in the tumbler it might have

been with no intention to even trick anybody; it might have been in the yeast powders used in the kitchen. Suppose one of the servants had been tempted to drink of the liquor and then replenish the glass, could Mrs. Wharton be held responsible? Mr. Hagner here read from an authority a case illustrating the danger of holding an owner of a house responsible for all that was committed within its walls.

The sons of Mr. Nathan, who was murdered in New York, might, with as much reason, be held responsible for his death, as that Mrs. Wharton should be held responsible for such matters as the sediment was claimed to support.

Mrs. Wharton was undoubtedly anxious to give the last dose, because Dr. Williams had ordered it. She dropped it in Mrs. Hutton's absence, but how did Mrs. Wharton know that Mrs. Hutton would return? She knew that Mrs. Loney had gone down the street, and how did she know that Mrs. Hutton would not go with her?

Much stress had been laid upon the fact that the dose Mrs. Wharton gave General K. was cloudy, but Dr. Aikin had proved that yellow jessamine would cause a sediment. The jury had doubtless seen signs on the street which, from one point of view, read one way, and from another read an entirely different way, and so it was with this case, and he begged the jury not to regard everything in an odious light, but to consider all the circumstances surrounding Mrs. Wharton as calmly and dispassionately as if she was one of their well-known friends.

Mr. Hagner next addressed himself to the testimony in reference to the vest, and said it was an absurdity to claim that Mrs. Wharton would have taken the vest. Even if she had wanted to take the note, would it be supposed that she would be so idiotic as to take the vest too, and thus make evidence against herself? Mr. Hagner next referred to General Wise's testimony as to Mrs. Wharton's anxiety to borrow money, and said none of her statements had been disproved, and the State had not sustained that point.

Next, Mr. Hagner returned to the interview of Mrs. Wharton with Marshal Frey, and the offer of money, and at some length claimed that the wretched, open way in which Mrs. Wharton had gone about the alleged attempt to bribe disproved the thing on every fair consideration. It had been also claimed that Mrs. Wharton had attempted to suborn Mrs. Chubb, and Mrs. Wharton had only desired Mrs. Chubb to recall the circumstances and to state them as she (Mrs. Chubb) believed them.

The very mention of the name of Mr. Steele by Mrs. Wharton to Mrs. Chubb showed that she wished her to tell her account to a person who was incapable of placing a wrong construction upon it, or making a wrong use of the information. Mr. Hagner next reviewed the testimony about Mrs. Wharton's statements in reference to General K.'s mind being blurred. The great chain of circumstances which had been relied upon to connect Mrs. Wharton with the murder of General K. was broken in many places, and though some of its links might be gigantic in strength, yet, unless they were connected throughout, they were no more than withes would be to a Sampson.

Mr. Hagner next read from Taylor on Poisons, page 406, as to the symptoms of tartar emetic poissning and their uncertainty. It had been alleged that the case of the defence had been changing, but that was not so, and many of the facts had been introduced only when Mrs. Wharton had been accused of making false statements. There never had been, in this Court, as far as he (Mr. Hagner) remembered, a longer opening statement than the defence had made in this case, and it was sufficient that the prisoner should deny guilt, and say that she was ready to meet the charges against her. At some length Mr. Hagner reviewed the testimony of several witnesses as to General K.'s symptoms, and claimed that they did not support the assertion that they were those of tartar emetic poisoning, but that they were clearly absent in the case. Here he referred to page 478 of Wharton and Stille's Medical Jurisprudence, claiming that all exceptional cases were to be considered in favor of the prisoner. Mr. Hagner then noted the exceptional symptoms. It had been over and over again claimed that Dr. Williams, General K.'s attending physician, was the best person to judge of General K.'s symptoms, and yet at the time he had discovered no symptoms of tartar emetic poisoning. The fact that he looked back upon the symptoms with suspicions in his mind might partly account for his recollection in this particular, and there is a homely adage which says that "hind knowledge is often better than foreknowledge." Neither Drs. Miles nor Chew, who stood just as high as Dr. Williams deserved to stand, had said that the symptoms were those of tartar emetic poisoning. Dr. Williams' opinions were inconsistent with the statements laid down in the books.

The State had prepared a hypothetical statement, but they had dropped it and taken up the hypothetical statement of the defence. At much length Mr. Hagner reviewed the symptoms of Gen. K.'s sickness and the circumstances bearing upon them, in presenting his view of the case in regard to them. No part of the opinions of Drs. Donaldson and Thompson could be relied upon because the assertions set forth in the hypothetical statement of the State were not sustained by the testimony in the case.

Mr. Hagner next reviewed the opinions of other medical experts for the State, and contended that they, in reality, sustained the plea of the defence. If Gen. Ketchum was moribund at 11 A. M. on Wednesday, the last dose did not kill him, and if he was not at that time moribund, then Dr. Smith had more than intimated that the chloral might have killed him. He respected Dr. Smith's ability and reputation, but old doctors often thought it was presumption for younger doctors to say that a new disease had started up, and it seemed to be so with regard to cerebro spinal meningitis. The State's officers had almost claimed that the defence had invented that disease just to apply to this case, but the books were full of it. Mr. Hagner

next read from page 243, of Tanner's Practice of Medicine, and from Reynolds, as to the symptoms of cerebro spinal meningitis, and said it was not unreasonable that a man who had slept all night on a sofa, between two open windows, should have had a chill as General Ketchum had, and yet the State claimed that the chilliness was one of the principal symptoms. The State's officers might quarrel about terms, but he (Mr. Hagner) would be sorry to know of more of an epidemic of the disease in Baltimore than the testimony had shown. He (Mr. Hagner) had never heard more intelligent testimony than that given by Dr. Warren; he had borne himself like a man, and though great efforts had been made to break him down, he had fortified himself, and stood upon established authorities. Mr. Hagner next referred to the uncertainty of life and the suddenness of death, closing with eloquent remarks upon the subject. He next passed to the subject of the analysis of General K.'s stomach, and said that the books laid it down that the use of strong words, such as "unmistakable" and "without a shadow of a doubt," which Professor Aikin had used, created a doubt that the witness was not sincere. The authorities all insisted that the notes of the analyzing chemist should be produced, but Dr. Aikin had nothing to show, and had showed how unusually forgetful he was even in his last experiments with chloral and yellow jessamine. Mr. Hagner then insisted upon the production of the metal and quoted from section 503 of Wharton and Stille's Medical Jurisprudence.

Berzillius and Orfila claimed the same, and so did Dr. Taylor, if his writings were rightly considered. Dr. Aikin had said it was usual to produce the metal in Court in arsenic cases, and Dr. Craig and Professor Tonry had not been questioned on the subject. Even the liquid tests contemplated the production of the metal, and so did the sulphureted hydrogen test. Marsh's tests contemplates unquestionably the production of the metal. The metal ought to be produced, because it was the best proof. Prof. Aikin had said, over and over again, that anything which would give the three results he obtained, must be antimony, and that he knew of no other substances which would give them, but he introduced two other tests in his further analysis. The experts for the defence had shown that organic matter would give such results as Professor Aikin obtained, and the defence could claim that there was not antimony in the portions analysed by Professor Aikin. Four of the witnesses for the defence had proved that Dr. Aikin was mistaken in saying that only antimony would have given the results he obtained. Even Tonry was not asked if Aikin's testimony was right, and Aikin's evidence stood in Court like Melchisedec, with a pedigree without beginning or end. Then Dr. Aikin had come with his lunch basket filled with wretched little vials to prove that he was the Simon Pure in this case. If he could not do better than he did in this case, he (Mr. Hagner) would not buy a jar of pickles or a wheelbarrow of guano upon his analysis. Mr. Hagner next referred to the high reputations and characters of the experts for the defence. In conclusion, he passed a high encomuim upon the youngest expert, Prof. White, for his intelligence, truthfulness and modesty. All of them most unquestionably differed with Prof. Aikin. The Attorney General had charged that they had practiced a fraud, and the jury could consider how soon the Attorney General could come to a conclusion when they saw with what eagerness he charged fraud upon these gentlemen. A more unfounded charge was never made in a Court-house, and Prof. Aikin's best friend could not wish for him a better character than either of those gentlemen possessed.

After a recess of 10 minutes, Mr. Hagner resumed, and said he would first call attention to Prof. McCulloch's tests on organic matter, irrespective of chloral and yellow jessamine. Mr. Hagner then read at some length from Prof. McCulloch's testimony, and contended that Prof. Aikin had made but one test which Prof. McCulloch made. Mr. Hagner noted the differences as he proceeded, and called particular attention to Prof. Aikin's testimony that he had made no experiment on yellow jessamine, except in connection with chloral. He had not followed Professor McCulloch, and he had established nothing. His evidence showed that he actually did not know what were the experiments Prof. McCulloch had made, and yet he was bold enough to claim that he had shown a difference. He had omitted yellow jessamine, and was not certain that Prof. McCulloch had used it. There was no identity at all in the experiments, except in the action of sulphuretted hydrogen on chloral. He had undertaken to show the same experiment, and yet he had left out the yellow jessamine, the lactic acid and the soda. That was all the support that Mr. Syester had for his charge that a "fraud" had been practiced. It seemed to him (Mr. Hagner) that the University of Maryland was on trial, and that blood was demanded to support it.

Mr. Hagner next came to Professor Tonry's tests, and said the spots he obtained were so infinitesimal that they could not be looked at with the eyes that God gave us, but had to be looked at with the microscope. His calculation, too, was wrong one way or the other; and here Mr. Hagner commented upon and noted the estimates Professor Tonry made. He had not formed an estimate of the quantity of antimony supposed to have been present in General Ketchum's liver, and his spots did not give it. Mr. Hagner next referred to page 356 of Taylor on Poisonings, touching the inaccuracies of any tests in determining the presence of imponderable particles of poison. Dr. Genth had gotten larger spots, and yet they did not show it. If General Ketchum had taken tartar emetic when a baby, as much as Professor Tonry had claimed to have found, might have been found, and the little minute particles, no matter what it contained, was not enough to hang a cat. He (Mr. Hagner) thought it would be an insult to the intelligence of the jury to take such evidences as any proof.

In conclusion, Mr. Hagner said he trusted the jury with an unshaken confidence, and he would leave them with the prayer that the law put in the mouth of the Clerk of the Court, "May God grant you a good deliverance."

Mr. Hagner here, at 1:30 closed his argument. His effort was throughout well sustained, close, thorough and forcible. He was heard by the jury and all present with marked attention.

Mr. Thomas followed, and said that the law made it the duty of the jury to consider every prisoner innocent until proved guilty. Heretofore the public press had taken upon itself to favor the prisoners of the law; but in this case a portion of it had played into the hands of her enemies to make malignant prejudice. A portion of the public press, forgetful of its high duty, had fed the very flame it ought to have extinguished. It had permitted itself to be duped into poisoning the public mind, and for months the columns of the press were filled with one charge or another, proved to be false and known to be false. He referred to them only to denounce them as base calumnies, and to say that the same brain which had woven them was still busy in wrapping around her the mantle of prejudice. It was the duty of the jury to break down the wall of public prejudice and to still the clamor which had been raised against her. All the defence asked was simple justice.

Mr. Hagner had covered the ground in the case exhaustively, and he (Mr. Thomas) only addressed the jury to prevent his silence from being misconstrued and misinterpreted. He would address himself to the intelligence of the jury, and would begin the history of the case with General Ketchum in Washington, early on the 24th of last June. Mr. Thomas next reviewed the testimony as to General Ketchum's movements on that day, and commented on them. He then inquired if there was a plowman upon the farm of any one of the jury who would not have been likely to have had cholera morbus under similar circumstances? If he had been taken ill as soon as he ate his supper, there would have been nothing suspicious in the circumstance. But Mrs. Chubb had eaten of the same things that General Ketchum ate of and she was not made sick. Did any one ever hear of a man taking tartar emetic, sitting up, smoking and talking for two hours and not having during all that time any of the symptoms caused by that medicine? The theory of the State was, that Mrs. Wharton had invited General Ketchum to her house for the purpose of poisoning him, but if such had been her purpose she would have availed herself of the absence of Mrs. Chubb. While she (Mrs. Chubb) was there, there would have been no risk in poisoning her or anyboby else. Mrs. Chubb was absent the whole of Sunday, and in the evening she found General Ketchum and Mrs. Wharton sitting around the dining-room table and he was better.

Why did she wait until Mrs. Chubb returned, if she designed poisoning him? Her conduct in this particular presented the strongest possible proof of her innocence. There was no poison, it was reasonable to infer, in the lemonade. Mr. Thomas now came to the fact that brandy, which General K. called "a stick," was added. Mrs. Wharton had gotten that brandy from Mr. Van Ness' room, and there was nothing suspicious in her conduct in that connection.

For a long time after the taking that lemonade there was no evidence that poison had been in it. All the witnesses had said that the effects of tartar emetic were speedy, but General K. was not disturbed for three hours. Between 12 and 1 o'clock in the night he was taken sick, and when Mrs. Wharton went to him, every good act, every natural prompting of her heart was perverted and construed into suspicious acts. The washstand was in her own room, and when she went to it to get medicine for General K., the theory of the State was that she went there to get poison. The washstand was never kept locked, and was it reasonable to suppose that she would have put poison in that place? She told Mrs. Van Ness that she went there to get paregoric, and that was a proper medicine for General K. She then went down stairs to get brandy and peppermint for him. There was nothing in all these things to create the slightest suspicion against the prisoner. If Mrs. Wharton had designed to let him die, why did she send for a physician? She had secretly urged upon General K. to send for a physician, and but for the fact that Gen. K. mentioned it to Mrs. Chubb, that fact would have died with him. Dr. Williams saw no symptoms of poisoning on Monday afternoon, but gave it as his professional opinion that he was suffering from the irritation of the stomach following his attack on Sunday. It was the opinion of the attending physician, and General Ketchum, too, that he was suffering on Saturday and Sunday from an attack of cholera morbus. Mrs. Wharton knew that General Ketchum would return to Washington on Tuesday; then why did she not poison him before if she proposed taking his life? Nothing but the accident of his oversleeping himself gave her another opportunity. Mr. Thomas then referred to the testimony of Susan Jacobs. General Ketchum had told her twice that he would "sleep it off." What was it that he meant to "sleep off?" It was something that he knew he must "sleep off." He (Mr. Thomas) did not charge that General K. contemplated committing suicide, but the circumstances warranted the conclusion that he took something to alleviate his pains. The conclusion from the fact that he said to Susan Jacobs every time she roused him, "Let me alone and I will sleep it off," was irresistible that he had taken something which he knew he would have to "sleep off." He told Susan Jacobs that he had taken a dose of his own medicine, which he knew was "sufficient." Who put the vial of laudanum under his pillow? Suppose he had discovered it, would he not have called the people of the house and complained that he was being dealt with in a suspicious manner? We find that whenever Mrs. Wharton wanted "poisons," she went with the prodigal confidence of an innocent woman, to those

nearest to her and who knew her best. Mr. Rogers looked at her, and said he had never before seen her. The State's officers had contended that the presence of the vial of laudanum was merely a stage trick.

On Tuesday afternoon, he was found to be in the same condition in which Susan Jacobs had described as his condition previously on that day, Why does it happen that the defence never heard of the brown stout until this trial commenced? Why was it not mentioned in the indictment? Is it anything more than an aid introduced by the State to account for what they claim were the symptoms? Why did Mrs. Wharton tell Colonel Loney that she would give it to him? It was given to him innocently, and for his benefit. If the woman was in her senses it would be impossible that she acted in such a manner if she had designed poisoning him. The jury could not believe it, unless they were satisfied that she was equally intent upon her own destruction.

Mr. Thomas now referred to the testimony of Mrs. Hutton and Mr. Snowden, and inquired if their statements bore the air of probability. He did not charge either of them with making false statements, but their statements of what occurred then were, he feared, colored with their present suspicions. In spite of all Mrs. Hutton's suspicions gained from her sister she was instrumental in administering the poison. If what the State alleged was true, then Mrs. Hutton was equally guilty with Mrs. Wharton; she was a particeps criminis. It was but charitable to Mrs. Hutton to say that what she testified to here was the creation of her imagination, and not the actual facts of the case. What reason had Mr. Snowden to suppose that the medicine was dark? There was nothing to attract his attention to it. It was remarkable that he should have noticed the color of a drop on a towel around the neck of the dying man whom it took all his strength to support. The story was too incredible.

Mr. Thomas next inquired what possible motive Mrs. Wharton, even if she had been a fiend incarnate, would have had in giving General K. poison at that time. The doctor had told her that his friends had better be sent for, and Mrs. Wharton could herself see that he was a dying man. The State's officers would have the jury believe that though she knew he was a dying man, that still she gave him poison. Mrs. Wharton must have known that he was a dying man, and knowing that, could she have had any motive in administering poison to him unless she wished to torture him needlessly in his dying moments?

Here Mr. Thomas referred to the fact that she bought tartar emetic on Monday morning, which the defence relied upon as one of their main pillars. If she had designed poisoning General K. or any body else, would she not have gone to Philadelphia or to some obscure apothecary in Baltimore and bought it? Instead, she went to her own apothecary and the nearest one to her. This was as indubitable proof of her innocence as if her heart was the purest in the world and all its promptings were laid bare before the jury. He wished the jury to bear in mind the fact that there was no charge of the tartar emetic which Mrs. Chubb has testified she bought on Monday evening; the charge was no where on Gosman's books. There was but one charge, and that was for the purchase made by Mrs. Wharton on Monday morning. The recollection of Mr. Kleinschmidt had, it was reasonable to suppose, become confused, and, in fact, the purchase he claimed that Mrs. Wharton had made was made by Mrs. Chubb. It was said that Mrs. Wharton had attempted to suborn Mrs. Chubb, but Mrs. Wharton had told her that she wished her to be particular, and wished her to go and look for herself, and see if she had not mistaken the person from whom she had bought the tartar emetic. It had been brought out that Mr. Myer said he was not in town on the day Mrs. Chubb said she had bought tartar emetic from him, and yet the State had not called him. He would have corrected the error, and shown that Mrs. Chubb purchased from Mr. Kleinschmidt, and not from him.

The circumstances surrounding the vest were claimed to be overwhelmingly suspicious. The weather was the hottest in June, and everybody knows that a gentleman leaves off his vest first when the heat oppresses him. Why could the State suppose that General K. had that vest on during all the time he was there? No witness had mentioned that he did wear it.

At some length Mr. Thomas went over the facts about the vest, and contended that every hypothesis that the State had about the matter was based upon the supposition that she was either an idiot or insane.

Mr. Thomas then contended that the pocket-book which the State had claimed General K. had put in the inside pocket of his vest, in Judge Sherman's presence, was never taken from Washington, but had been produced in Court by Chas. L. Ketchum.

Next Mr. Thomas addressed himself to the theory that Mrs. Wharton had a pecuniary motive, and said no sufficient motive had been proved. There was no imprisonment in Maryland for debt, and Mrs. Wharton could have gone to Europe or made over her property to a relative.

The Court here adjourned until 10 A. M. to-morrow.

The attendance to-day was greater than on any previous day of the trial, and intense interest was manifested.

THIRTY-NINTH DAY.

ANNAPOLIS, January 19, 1872.

As the day draws near when the momentous question, "guilty or not guilty," is to be decided in the great cause which has so long engaged the attention of the Circuit Court for Anne Arundel County, and to an unprecedented degree the interest of the people of Maryland and elsewhere, there gathers around Mrs. Wharton an intense and absorbing feeling. Nothing could more strikingly testify the earnestness of public sentiment than the crowded attendance daily upon the trial, and the patience and eagerness of the spectators.

Since the commencement of the arguments, there has been every manifestation of popular interest, and the closing hours promise to be distinguished by that thrilling sympathy with the gravity of the issue of life and death which especially attaches itself to the trial of a woman.

During all the trying hours of the last two days, Mrs. Wharton has maintained, with stoical fortitude, the wonderful calmness which has made her an object of peculiar regard, and she appears equally unmoved by fierce invectives or eloquent appeals. Calm, patient and resigned in manner, though pale in countenance and sad in her expression, she has sat, almost like a statue, in the midst of the surging feelings which have surrounded her, and there gathers around the veiled prisoner a feeling which she, by her own unwearied composure, calms and subdues.

At lengthy intervals the movement of a hand, or oftener, the compression of the lips and the slow movement of the eyes, show that to her the scene is one of anxiety and weariness, and that beneath the heavy drapery which conceals her emotions from public gaze lies a deeper mystery of character than the unthinking can rightly estimate. Her figure is slender, and it requires but a glance to tell that her physical powers have been well nigh wasted in the fifty-five years which have left her wan and broken.

It is well known that since her imprisonment her health has required constant medical attention, and whatever may be the result of this trial, or of the one yet in store for her, there can be but little doubt that the evening of her life has already reached the shadows of its ending. Her devoted daughter is each day at her side, and her presence adds to the dramatic interest which centre's now in her mother's trial. The eloquent tribute paid by Mr. Hagner to her unflinching devotion found a response which the deep silence with which it was heard rendered impressive in the extreme.

Mrs. Wharton and her daughter entered the Court room to-day at five minutes after 10 o'clock and were accompanied by Mrs. Nugent, Mr. and Mrs. J. Crawford Neilson, Miss Rosa Neilson and Mr. Fendall, of Washington. They were soon joined by Mr. John B. Murray, of New York, who occupied a seat by the side of Miss Nellie Wharton.

The court room was crowded in advance of her arrival and all the seats assigned to ladies were filled. Many of the ladies arrive an hour in advance that they may secure choice seats. Each day as Mrs. Wharton enters the court room all eyes are turned upon her, and her every movement is closely watched.

Mr. Thomas resumed his argument, and in dwelling upon the presumption of the prisoner's innocence, quoted appropriately from the first volume of Greenleaf; he further quoted from the same author as to the amount and character of proof necessary before conviction. On yesterday he had shown the jury that there was no adequate motive shown by the State's testimony, and even upon the supposition that Mrs. Wharton owed General Ketchum $2,600, she had no obstacle to prevent her from going to Europe and leaving her debt unpaid, if she had so designed. There was no evidence to show that Mrs. Wharton owed General Ketchum.

The Court had instructed the jury that the declarations of General K's son to Mrs. Wharton were not to be taken, except so far as she assented to them, and Mr. Thomas then, at some length, contended that there was no evidence that she had not paid her indebtedness to General K. Mrs. Cottman had come almost as if from heaven, and she had fixed, with absolute certainty, the date of Mrs. Wharton's visit to Washington. That was on the very day upon which Mrs. Wharton had told Charles L. Ketchum and General Brice she had paid the note. If the scraps of paper which were found on the hearth were not those of the note which Mrs. Wharton said had been torn up, what were they?

Mr. Thomas hear explained Mrs. Cottman's testimony. He next referred to the testimony in reference to the claim for $4,000, made by Mrs. Wharton against Gen. Ketchum's estate, and contended that there was no improbability that she should have entrusted her bonds to him. She could have left them with either Mr. Van Ness or Gen. Ketchum, and there was no risk in leaving them with either. It was easier for Gen. Ketchum to collect the coupons at the Treasury in Washington, and it was only natural, considering the relations between them, that she should have entrusted them to him without taking a receipt. Mr. Thomas reviewed much of the testimony of Gen. Brice and Chas. L. Ketchum in further explanation.

He then addressed himself to the conduct of Mrs. Wharton in exonerating her servants, and commented at length upon the testimony relating to it.

Mr. Thomas next addressed himself to the testimony of General Wise, and claimed that it had no bearing upon the question of Mrs. Wharton's guilt. He then came to the scientific testimony, and said the course pursued in the obtention of both the chemical and medical testimony was unprecedented in the history of criminal prosecutions. Dr. Williams went to his personal friends, and the jury was asked to attach as much importance to their testimony as if there had been assistants and other eye witnesses. He did not mean to say that those gentlemen were capable of doing what was wrong in the matter, but they made their observations with their own prepossessions foremost, and they interested the whole University of Maryland in sustaining their theory. Every member of the faculty of that University has been called upon to sustain it, and after the chemical testimony for the State was broken down, they went to Washington and dug up the dead man. Why did not they give the defence the opportunity to co-operate with them? Were not the experts for the defence as honest and as able as their experts? The precedent was a dangerous one, and if physicians, no matter how high they might be, were to be allowed to be independent of the coroner, there was no security for the life and liberties of any one.

Mr. Thomas next spoke of the chemical testimony, and commented upon it. Professor

Aikin had come into Court without even a memorandum, and he could not remember whether or not he made his report to the State's Attorney of Baltimore from such memoranda as he may have taken. He had contradicted, in his testimony, his reports to Mr. Knott. Mr. Thomas here handed the two reports of Prof. Aikin to the jury, and called their attention to his writing of the word "brownish." In October he wrote that the color of the contents of General Ketchum's stomach was "greenish," and in December he swore that it was "brownish." He had then tried to make the jury believe that it was a chemical error. He wrote that a precipitate he had obtained was "yellowish," and then he swore that it was "brownish. Every time Mr. Steele, in his ingenious cross-examination, asked him about colors, he each time gave a different one, and finally confessed that all he knew about it was that it was not "black." Mr. Thomas then reviewed much of Professor Aikin's testimony, claimed that it was all involved in contradictions, and that no possible importance could be attached to his analysis. His test was faulty in the very beginning, because he had not gotten rid of the organic matter, and he could not himself attach any importance to the color of the first precipitate he obtained. He did not get any of the characteristic results of antimony. If antimony had been present, he ought to have obtained all the characteristic results. He never got anything more than a white cloud from his first test, and that white cloud was never allowed to settle. In his report to Mr. Knott he stated that he had obtained a result which was a chemical impossibility. Mr. Thomas here read from Professor Aikin's report to Mr. Knott, and called the attention of the jury to the errors. Mr. Thomas, in commenting upon Professor Aikin's testimony, said the Attorney General must have felt sorely the desperate exigencies of the case to have aspersed the character of such a gentleman as he knew the experts for the defence to be. If Prof. McCulloch had wished to mislead the jury he would not have made any experiment before the jury; the facts of the experiments sustained him. Without meaning to say anything unkind of Professor Tonry, he would say that the temptation offered him was too great to be offered to any man who was believed to be above suspicion. He had been afforded an opportunity of making a world-wide reputation by discovering antimony in General K.'s remains. The prayer, "Lead us not in temptation," which the Saviour of the world taught us, was a wise one, for but few of us can resist temptation. The temptation offered Professor Tonry was too great for him, and that fact alone should make the jury regard his testimony with extreme caution.

Mr. Thomas then reviewed much of Prof. Tonry's testimony, and quoted from Orfila and Berzillius, as to the importance of the production of the metal. The master rule of legal evidence was, that the best evidence must be always produced, and this rule was particularly applicable to a case of circumstantial evidence. When a thing could have been done, and was not done, it justified the jury in believing that nothing could have been gained by the attempt. Mr. Thomas said he proposed to refer to the medical proof in determining whether or not the corpus delicti existed. He then read from Wilis on Circumstantial Evidence, marginal page 200, as to the necessity for proof of the corpus delicti. First, there should be proof of the fact of death and, secondly, of the specific cause of death. The law imposed no obligation to explain suspicious circumstances until these facts were proved beyond a reasonable doubt. Mr. Thomas here read from 39 California Reports, People vs. Phips, as to the necessity for proof of every material fact. The defence might exclude all their medical testimony, and, relying upon the medical testimony for the State, yet say to the jury that General K. did not die from tartar emetic poisoning, for not one of the medical witnesses for the State had ventured the opinion that he died from that medicine. The jury was justified in believing that if he did not die from tartar emetic he died from strychnine, and if he died from strychnine then there had been no more proof that Mrs. Wharton administered it than that any lady in the Court House administered it. No witness for the State had said that General K. died from poisoning, and the State had failed to come up to that requirement of law which demanded proof of the specific cause of death. The defence had produced nine witnesses who said he had died from natural causes, and the State had produced only eleven who said he died from unnatural causes. The defence might rest the case there and rely upon the rules of law, and it did not matter whether he died from cerebro spinal meningitis or not, for the State must show that he died from tartar emetic poisoning. Mr. Thomas then commented on the symptoms in General Ketchum's case, and called attention particularly to the fact that instead of the muscles being relaxed as in tartar emetic poisoning, they were rigid. Dr. Warren had ably described the prominent features of cerebro spinal meningitis, and here Mr. Thomas called the attention of the jury to the opisthotanus and pleurosthotonos in General Ketchum's case. Another characteristic symptom was hyperesthesia, and what was the shiver which passed over General Ketchum from head to foot when Dr. Williams touched him but an evidence of the presence of hyperesthesia?

Mr. Thomas then remarked upon other prominent symptoms in General Ketchum's case, and commented on them and read from several medical authorities in support of his views. The State, he said, had tried to prove that cerebro spinal meningitis was not an epidemic in Baltimore last year when the defence had never alleged it. Dr. Warren had only testified that there was only an epidemic tendency, and the State's witnesses in part and the witnesses for the defence had sustained him. Here Mr. Thomas referred, at some length, to the testimony on that subject, and claimed that eight physicians had seen twenty-eight cases, and there were yet three hundred and fifty physicians in Baltimore who had not testified. The defence had traced the disease to nearly every part of Bal-

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 whichwould 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

the exigency of its case that it asked the jury to believe that she was simulating.

Mr. Steele then referred to the testimony as to General K.'s physical strength, and contended that the fact that he was found in Secretary Stanton's office, looking over miscellaneous papers, during the late war, when the Government needed every man in the field, showed that something was the matter with his health.

At the conclusion of his remarks upon this point (it being twenty minutes past 2 o'clock), Mr. Steele asked the Court to adjourn until to-morrow, as he felt his strength failing him. The Court at once acceded to the request of Mr. Steele, and adjourned until 10 A. M. to-morrow.

The attendance to-day was large, and unabated interest was manifested throughout the proceedings. A large number of ladies arrived by the train from Baltimore.

Mrs. Wharton left the court room soon after the adjournment, leaning on the arm of Sheriff Chairs, and followed closely by her daughter and Mrs Nugent, who were under the escort of Mr. Murray.

Each day for the last week the crowd, immediately upon the adjournment of the Court, has ranged itself in double columns, often three deep, from the door of the court room to the carriage of Mrs. Wharton, and she and those with her are eyed closely. So great is the eagerness to obtain a view of the famous prisoner that many gather around her carriage each day and watch her every movement. Ladies are found standing in the ranks by the side of jostling men, and they are among the most eager in their observations.

Among those present to-day were Commander J. S. Skerrett, of the Navy; Wm. H. S. Burgywn, J. A. L. McClure, T. Wallis Blackistone, Upshur Dennis, Wm. Fell Giles, Jr., of Baltimore; Rev. C. K. Nelson, of St. John's College; John Scott, of Baltimore; Drs. Williams and Chew, Wm. Mackall and Thos. S. Baer, of Baltimore; Judge Randall, of Annapolis; and General Shriver, of Frederick City.

Mr. Steele will close to-morrow, and he will be followed by Mr. Syester. It is reported that Hon. Daniel W. Voorhees, of Indiana, who was associated with Mr. Syester in the great Black-McKaig trial, will arrive to-night that he may hear to-morrow the argument of the Attorney General.

FORTIETH DAY.

ANNAPOLIS, January 20, 1872.

The proceedings on yesterday in Mrs. Wharton's trial were marked by increased interest and feeling, and the eloquent appeals of her counsel were heard with that impressive silence which manifests popular concern. Whenever Messrs. Thomas or Steele alluded to the character of the prisoner and the circumstances which surrounded her, or to her daughter's claim for sympathy, the spectators appeared anxious to catch each word as it fell from the lips of the advocates, and the conclusion of Mr. Thomas' fervent appeal was signalized by a slight applause, which seemed to be the outburst of a feeling suppressed only by the stern formalities of the Court.

The tribute to Mr. Thomas, and to the cause which he had so ably and earnestly pleaded, was promptly checked by the quick cries of the bailiffs, but the tearful eyes of the ladies, who, during all these exciting moments, seemed almost spell-bound by the tones and words of the friend Mrs. Wharton had called first to her side, showed the tenderness of the response which their hearts had prompted. The jury, too, were evidently moved by Mr. Thomas' language and manner, and when, in subdued, sad tones, he recalled to them the lesson which death had so recently impressed upon them, and begged them not to forsake the widowed woman whose life was in their hands, from more than the two sorrowing hearts among them came the silent answer of manly tears.

Mr. Thomas took his seat amid the most impressive silence, and for a minute or two a solemn stillness brooded over the crowded audience. Then Mr. Steele arose and advanced to the front of the jury. All eyes were turned upon the great lawyer of Maryland as he took his position, and he too seemed to feel that the closing argument for his client had brought to him a measure of duty which it was expected he would discharge with all his ability. In the earnest, nervous tones, which are so peculiarly his own, and in the chaste and eloquent sentences which distinguish all his efforts alike before a Court or jury, he dwelt upon the feelings which Mr. Thomas had stirred to their depths, and in the manner of a master of his profession, drew the interest of all who heard him around the prisoner he had come to vindicate.

Almost his first words bore the prayer of the girl who, he said, had never doubted the purity and goodness of her mother; and, sharing her prison life, with all her heart still bound to her, had refused to leave her prison walls until both were free alike. Then he drew a glowing picture of the mother's life and character, as it had been shown to the jury, from the days when she was the pride of her native town to the hour when the darkness of suspicion and prejudice surrounded her. Next he denounced in withering, burning words the clamor which had been raised against her, and deprecated the feelings which had prompted cries which drowned the voice of her virtues as they pleaded for her against the injustice of the charges against her, and, turning from the world's suspicions, prejudices and falsehoods, he confided to the jury the cause of the woman who did not believe that a breath of suspicion or a murmur of prejudice could sway their minds, but that at their hands she would receive the justice which had been so long denied her.

While the counsel for Mrs. Wharton were thus engaged in urging their case, near them sat two calm and thoughtful men, whose faces told that they did not shrink from the support of the cause which the State of Maryland had entrusted to them, and that they knew well how to count all these efforts of their opponents. They were the State's

trusted officers, Jas. Revell, Esq., State's Attorney for Anne Arundel county, and Hon. Andrew K. Syester, the newly elected Attorney General of Maryland.

The first named had already ably presented his view of the case, but was still at his post of duty to see that those who had been brought against him did not, in their zeal, overstep legal bounds; the second was there to hear and to note all the points which those who he would succeed would endeavor to make against him. Upon his handsome face there appeared the look of a man who was content to listen, but determined to reply. Occasionally he would remind his opponents to give him the page of an authority, and at other times he was observed to write a few hurried words upon the note sheets before him. He listened quietly to all that was said, and showed that his thoughts were centered in those views which he believed to be the right ones.

Mrs. Wharton was calm during all this time, but her daughter several times shed tears. The friends who sat with them seemed to appreciate deeply all that was said in her behalf.

The court room was crowded to-day long in advance of the opening of the court, and the ladies composed at least half of the audience. The crowd exhibited much impatience for the arrival of Mrs. Wharton and her party.

At five minutes of 10 o'clock Mrs. Wharton entered the court room, leaning on the arm of Deputy Sheriff Bryan, and followed by her daughter, Mrs. Nugent, Mr. and Mrs. J. Crawford Neilson, Miss Rosa Neilson, Mr. Murray, of New York, Mr. Chas. Neilson and Mr. Fendall, of Washington. The arrival of the party created a general stir, and there was the noise of many voices in subdued conversation. A few minutes after the jury entered, and quiet soon reigned.

Mr. Steele promptly resumed his argument, and begged the indulgence of the jury while he read to them from Taylor on Circumstantial Evidence, touching the credit to be given to the evidence of interested witnesses. Mr. Steele, before proceeding further, referred to the testimony of Dr. Williams, and said it was not in the nature of things that his recollections of General K.'s symptoms should not have been warped by his subsequent suspicions. He did not believe that any man could but doubt the evidence, when it was considered from what streams of feeling it had come. Mr. Steele then read the passage from Taylor. He next spoke of the part Marshal Frey had played. He was as respectable a man as could be found in the vocation of the detective, but he had admitted that he practiced a deception and a fraud, and he went to Mrs Wharton with a lie in his mouth. We must have detectives, but we must not convict on the evidence of detectives.

Mr. Steele then asked the jury not to attach too much importance to the testimony of a man who had confessed that he obtained his information by means of a lie.

Mr. Steele then desired to go on with the examination of the testimony, and referred again to the inferences to be drawn from the testimony that General K. was not the physical giant which the State had represented him to be. Major Bradley had observed a dullness about him which was doubtless due to the concussion of the brain, which such a fall as Gen. K. had in 1858 would occasion. Mr. Steele then reviewed several of the circumstances of the purchase of a house, made by General Ketchum, which showed, in his opinion, that he was not a man competent to engage in busines matters. His mind had not the same activity it had formerly had, but there was such a lethargy as would be caused by the long after effects of such a fall and injury as he had received. Mr. Steele then spoke of the uncertainty of life, and said he did not suppose the State's officers would contend that as Achilles was vulnerable only in the heel, so General Ketchum was vulnerable only by tartar emetic. He was arguing the case, not to show the want of evidence, but he sought to show that the State's own evidence showed that she was innocent, and that there could not be a doubt about it.

At this time the crowd which had arrived by the train from Baltimore reached the court room, and so great was the confusion, bustle and jam caused by the rush that Mr. Steele was obliged to suspend his argument.

Mr. Steele resumed and addressed himself to the consideration of the circumstances claimed by the State to support the theory that General Ketchum was poisoned before Tuesday, and said it was an absurbity and a libel upon justice to say that poison was administered to General Ketchum during Saturday, Sunday or Monday. He reviewed the circumstances of those days, and said the evidence not only did not prove her guilt, but it established her innocence. Hermann, the great presdigitateur, could not have given poison at the times during those days at which the State had claimed it was given by Mrs. Wharton. There was no medicine so certain and so speedy in its effects as tartar emetic, and when it was swallowed it was bound to come up, and that speedily.

Mr. Steele then spoke of the symptoms which disproved the State's theory of its administration, and proved, besides, that it could not have been done. If it had been administered the symptoms of tartar emotic poisoning would have inevitably followed. If no poison was given on Saturday, Sunday or Monday, in God's name how could it be said that she gave him poison afterwards? Mr. Steele then cited, appropriately, from the trial of Madeleine Smith, and said that as the charges of the administration of poison by Mrs. Wharton on Saturday, Sunday or Monday had crumbled to the ground, so the charges of the administration of poison on Tuesday or Wednesday fell with them. At 2 o'clock A. M., Tuesday, Mr. Hutton had seen General Ketchum sitting on the side of his bed, looking at his watch, and he (Mr. Hutton) had said he was "well." How did Mr. Hutton know that he was "well?" If General K. had been well he would have been asleep at that hour. Dr. Williams had said that when he saw Gen. K. on Tuesday morning that he was "well," but he had not examined him, and General K., being a man who looked to small

savings, abruptly discharged him. Dr. Williams had no chance to find out whether or not he was "well," and if the seeds of any disease, cerebro spinal meningitis, or any other, had planted themselves in him, Dr. Williams could not have then known it. It might have been that the seeds of his fatal malady, no matter what it was, had even then shown themselves, but Dr. Williams did not examine him and could not know. Mr. Steele then came to the testimony of Susan Jacobs, who he characterized as a brave, honest woman. The State's officers had summoned both Ellen Deddrick and Susan Jacobs, but at the last had refused to call them. Dr. Williams had said here, in the hearing of Susan Jacobs, that he had told Mrs. Wharton he had suspected her, and yet she came on the stand and told the truth. Ellen Deddrick, too, had clung to Mrs. Wharton, and the conduct of her servants was the best proof of how this reputed murderess and poisoner gained and retains the love of those who knew her. Susan Jacobs had had the strongest motives known to a human being to testify against Mrs. Wharton, for she had heard herself openly charged, in this Court, as the suspected party, but she came forward and told the truth. Mr. Steele then reviewed, at some length, the testimony of Susan Jacobs about her attentions to General K., and the circumstances which occurred while Mrs. Wharton and Susan Jacobs were present together in his room. Mrs. Wharton showed the vial to Mr. Hutton. Would she have done that if she purposed,as the State charged, to similate? Why did not she leave the vial in his bed, and let it be found there when he died?

He (Mr. Steele) had no more doubt that General K. had taken laudanum than that the jury was occcupying their seats, and the suspicion against Mrs. Wharton about this vial was unjust and ungenerous. Mr. Steele then refered to the circumstances in reference to the vomiting, and claimed that Mrs. Loney was mistaken when she thought she heard him vomiting He (Mr. Steele) believed that he was only breathing stertorously. If he had been compelled to vomit, Mr. Hutton would have detected it when he went into the room, for General K. could not have gotten out of bed, and must have vomited as he laid in bed. His testimony showed that Susan Jacobs was right and Mrs. Loney was wrong, though he (Mr. Steele) had no doubt that Mrs. Loney thought she heard him vomiting. Mr. Steele then referred to the testimony about the sangaree, and said that in that matter, as in all the others the State had charged against her, this poisoner who the State claimed had it in her heart to murder her best friend and was bent upon her deadly purposes, had acted openly, and had told Colonel Loney that she was going out to buy the porter, and she mixed it in his presence. Was the woman deranged? There had been no proof of even idiosyncrasy, and yet the State would have the jury believe that she went on accumulating proof against herself. She never seemed to move that she did not encounter eyes, and was listened to as she moved by the ladies in the house. He then claimed that Col. Loney was mistaken, and contended that it was utterly impossible that she should have told Col. Loney that she was going to take a walk to the grocery store for a little fresh air when he was waiting with his buggy to take her to ride. Col. Loney was an unexceptionable gentleman, and his (Mr. Steele's) friend, and he did not charge him with having done any intentional wrong. Mr. Steele then gave a brief detail of an interview he had held with Colonel Loney, soon after the charge was made against Mrs Wharton, in which Col Loney had made no mention of the sangaree, and it was not mentioned in the indictment. Ladies would talk, and men would talk, and many of the witnesses were relatives or friends of Mr. Van Ness, all very good people, but they must have talked about it. He (Mr. Steele) did not accuse any one, but he feared suspicions had been sworn to as facts in the case. Mr. Steele then referred to the manner in which Col. Loney, who was undoubtedly a frank man, had refreshed his memory about the porter or brown stout just before the trial came on by referring to Mr. Stabler's books. Everything showed that he was mistaken about Mrs. Wharton's having given General Ketchum sangaree. Even if she did give it to him, there was no poison in it except what suspicion, which had haunted this case from beginning to end, put into it. Mr. Steele said he next desired to speak of the circumstances on Wednesday. On the morning of that day General Ketchum had been found semi-comatose, his eyes fixed, his limbs rigid and tetanic spasms already upon him. Taking him just as he was then, Dr. Williams must have had great faith in his medicine if he thought a dose of yellow jessamine would have saved that dying man. Dr. Smith,whose skill in surgery had given him a world wide fame,and of whose reputation we of Maryland are proud and have a right to be proud of, said he was a dying man at 11 o'clock on Wednesday. Mr. Steele then referred to other portions of the testimony to show that Mrs. Wharton gave him no poison on that day. Could she look for a more speedy death than that which she saw was coming on? And then how did she do it? First, in the presence of Mr. Snowden, she dropped the medicine. If she was sane would she have gone into the room and thus openly, in his presence, have put poison into the medicine General Ketchum was to take? It was impossible that she could have put it in without Mr. Snowden's seeing her. Mr. Snowden had confessed in his cross-examination that he had found out by experiment the color of tatar emetic and yellow jessamine and laudanum, yellow jessamine and tartar emetic, and that shows that there was doubt about the whole thing. Mrs. Hutton had seen the dose as it was being given, and she had not noticed that it differed a hair's breadth from the right color. If laudanum had been in it Mrs. Hutton and Mr. Snowden would have smelled it. Dr. Donaldson had said that it would have required twenty drops of laudanum to have overcome the effects of one grain of tartar emetic, if that quantity had been in it, Mrs. Wharton and Mr. Snowden would have

smelled it inevitably. Mr. Steele then contended that General K.'s symptoms themselves contradicted the idea that tartar emetic had been given on that day. General K. was given depressants, and they might have hastened his death. He made no charge against Dr. Williams, and knew him to be a skillful physician, and he believed he had done what he thought best for General K. He was not on trial, and no one thought of making a charge against him. There was no suspicion against Mrs. Wharton even when Mr. Van Ness left her house, and even afterwards, for Mr. Van Ness had sent Mrs. Loney with a kind, considerate message to her. It showed his affection for her, for he had been to her a son, and he was as good a young man as was in Baltimore. But afterwards suspicion arose, and suspicion was a plant of rapid growth; it grew up like the mushroon and with no more strength. All that the State could possibly claim was that she might have poisoned him, not that she did poison.

Mr. Steele then reminded the jury of the dreadful responsibility which rested upon them, and said he would like to speak to them of the alleged motive, but his strength would not allow him. He reminded them, however, that the testimony of General Brice and Charles L. Ketchum, as to her declarations to them, were, by the rulings of the Court, no more in the case than if they had never heard of it, except just so far as she had assented. He then referred to the testimony about the vest, and said it was of no more importance than if his boots or his hat had been missing.

The Court here took a recess for ten minutes, and the gallant Chief Judge insisted that the ladies should all have seats; he requested those who occupied seats to sit closer, and allow those who he observed were standing to be comfortable. Some of the ladies bring lunch and candies, and stoutly maintain their positions.

Upon the return of the jury the Chief Judge informed them that it was impossible to conclude the arguments to-day, and that Mr. Steele was too much fatigued to proceed. The Chief Judge further informed them that the Court would then, at 12:30, adjourn until half-past 10 o'clock on Monday next. This announcement was received by the solemn-looking twelve with looks of disappointment, and the audience (especially the ladies) seemed to share in their feelings of impatience to have the trial proceed.

The Chief Judge next ordered the audience to leave the court room, and there was at once something of a rush from the building by those who desired to secure front positions in the files which each day enclose Mrs. Wharton until she reaches her carriage. After the files had formed, the officers of the court, under orders from the Chief Judge, widened the distance between them from three to ten or twelve feet. A delay of five minutes or more followed before the objects of the eager expectations of the crowd appeared. Miss Wharton, on the arm of Mr. Fendall, of Washington, came first, and was followed at a few paces by Mrs. Wharton, on the arm of Sheriff Chairs.

As they passed they were closely observed, and around the carriage which was in waiting a jostling crowd of men and women had already gathered. Every movement was scrutinized, and not until Mrs. Wharton's carriage had gone ten or fifteen yards was she relieved from the gaze of the curious.

The jury was soon after marched to their quarters at the City Hotel. They are there kept in an upper room of a retired part of the building, and are closely watched, night and day, by the officers in charge of them. Many of them show signs of extreme restlessness, and two of the seven bachelors among them are said to be all anxiety for an early release. The five married jurors look as if they would prefer even a little henpecking to the loneliness which has proved so irksome and hard to bear.

The attendance to-day was greater than on any previous, and the interest was of the most earnest character. So great was the crowd of ladies, that notwithstanding the surrender of more than half the court room to them, a number were observed to be sitting in the laps of others, and others again were obliged to stand. The aisle of the court house was crowded with men, who seemed eager to catch every word. It is not improbable that during the closing hours of the trial ladders will be put up to the windows by the irrepressible masculine attendants.

Mrs. Wharton and her daughter were still very calm to-day, and the accused was a most attentive listener to Mr. Steele. Notwithstanding the heaviness of her veil she recognizes many of the familar faces of the Baltimoreans who attend now, but does not make known her recognition to any of them until the session of the Court closes.

It is said by those who have visited Mrs. Wharton in her prison, that these latter days of her trial bear heavily upon her, and that the long surpressed feelings of herself and daughter find relief in weeping when they reach the privacy of their room in jail. The Sheriff allows her such privileges as are consistent with the regulations of the jail, and her room is comfortably but plainly furnished. Her meals have been served from Black's restaurant, and she is each day conveyed to and from the court house in a carriage.

Mr. Steele will resume his argument on Monday, and will probably occupy two hours and a half in concluding his exhaustive effort. Attorney General Syester will follow, and will not conclude until Tuesday, unless the Court holds an afternoon session, which, it is said, Mrs. Wharton's health will not allow. Mr. Syester is a lawyer of undoubted ability, and is one of the most effective speakers in Maryland. He has great earnestness of manner, and a rare command of language, frequently using as many as one hundred and fifty words a minute. Though under 45 years of age he has been engaged in more than 25 murder trials, and has established a high reputation as a criminal lawyer.

Mr. Charles L. Ketchum was not present on yesterday, but returned to-day. He left this afternoon for Washington, and announced that he would not return. General Brice has not been present for ten days or more.

Among those present to-day were Hon. Frederick W. Stone, Judge Randall, of Annapolis; Hon, James T. Earle; Hon. Barnes Compton; Colonel H. D. Loney; Drs. Williams, Chew and Miles; Professor Aikin; Captain J. Henly Smith, of Baltimore; Commodore Worden, Superintendent of the Naval Academy; Commander J. S. Skerrett; Dr. Landsdale, of the navy; James M. Garnett, President of St. John's College; Rev. C. K. Nelson; M. Wilson Carey, of Baltimore; Captain James Clarke, member of the Maryland House of Delegates; Colonel Albert Ritchie, Wm. Fell Giles, Jr., Colonel G. W, P. Smith, James M. Buchanan, Charles Beasten, J. A. L. McClure, Upshur Dennis, and Thomas J. Baer, of the Baltimore bar; and H. S. Howison, James B. Hodges, John Mason, Philip Randall, and others of the Annapolis bar.

FORTY-FIRST DAY.

ANNAPOLIS, January 22, 1872.

The excitement attending the close of Mrs. Wharton's trial seems to be increasing, and it requires but a glance at the dense crowd assembled to-day in the court room to tell that the hearts and minds of the spectators are stirred by a feeling of intense interest in the proceedings. The life of a woman is in the balance, and the approach of the hour when the question of life or death to her is to be finally decided, draws around her an absorbing consideration.

The court room was crowded to-day long in advance of the assembling of the Court, and the ladies exhibited much anxiety to secure positions from which they could see and hear all. The train from Baltimore brought a greater number than on any previous day, and the court room was crowded to its utmost capacity. When the Chief Judge and Mrs. Wharton's counsel arrived, the jury were in their seats, and Mrs. Wharton, unaccompanied to-day for the first time by her daughter, and only by Mrs. Nugent, Mr. and Mrs. J. Crawford Neilson, who have constantly attended her, occupied their accustomed position. All was in readiness for the commencement of the closing week of the great trial.

At 20 minutes past 11 o'clock Mr. Steele resumed his argument, and after thanking the jury for their patience in having previously heard him, he came to the moral circumstances, and said that the State had over and over again substituted naked and prurient suspicions in the place of acts. The State had not only not proved Mrs. Wharton's guilt, but had proven that she could not have poisoned Gen. Ketchum. He then referred to the medieal and chemical testimony, and in the beginning said the proof offered fell far short of the charges the State had made, and that there was a virtual abandonment of the case by the State. He first referred to the testimony of Prof. Aikin, and said he desired to say nothing unkind of him, but the testimony he had given was no proof, and that, moreover, Prof. Aikin had showed on the witness stand that he was singularly unconscious of the responsibility which rested upon him. One would have supposed that he would naturally have inquired into the symptoms of General K., but he knew of none of them. One would have thought that he would have used every precaution in his laboratory, where no human eye could see his results, but he had come before the jury without a memorandum, and nearly empty-handed. He threw everything away, and divested himself of the proofs which would have told the whole truth. He had sought by the positiveness of his own assertions to eke out what he considered proof. He had said that his three tests were conclusive of the presence of antimony; he had already examined for arsenic and strychnia and failed to find them. Mr. Steele here reviewed the first tests of Prof. Aikin, and claimed that his very first test had failed. He could not tell what color he had obtained, and yet he came and told the jury that they should take the life of this woman on his judgment alone. Mr. Steele further reviewed, in an able manner and without the use of a note, much of Professor Aikin's testimony as to his final tests. The jury was asked, after all these tests had failed, to believe, on *Professor Aikin's judgment*, that twenty grains of tartar emetic were in the stomach he examined.

When he was cross-examined it was discovered that before he asserted in his report to the State's Attorney of Baltimore that he had found antimony he made a test which he did not mention in his examination in chief. Yet, without having mentioned that final test, which settled his opinion when he made his report, he came before this jury and asked them to believe that he had found antimony without that final test. In God's Providence he was not permitted to stop where he had determined to stop, something carried him one step further, and that last test proved that there was no antimony.

The State's own witness had thus proved that no antimony was in General K.'s stomach. Dr. Williams had tested the secretion of the kidneys with nitric acid and heat, and had found nothing abnormal. Professor White then made an experiment, which proved that, if antimony had been in the secretion of the kidneys, it would have been inevitably discovered. Was it not a crime for Dr. Aikin to have stopped where he did? If ten grains of gold, instead of antimony, had been present in that stomach, he (Mr. Steele) expected that Professor Aikin would have found them, but yet in a case in which a human life was at stake, he had stopped when he had obtained what he thought was proof. Mr. Steele said he would like to review the testimony further, but his strength would not allow him.

He then referred to the solemn warnings of the law, and said Professor Aikin could ask no jury to find on their oaths that tartar emetic was in the stomach of General K. Mr. Steele came next to the analysis of the sediment in the tumbler, and said that in that, too, Providence had shielded the prisoner. He then spoke of the failure of Professor Aikin to pursue his tests in analyzing the sediment in the tumbler.

Drs. Chew and Williams had tasted the sediment before they took it to Professor Aikin, and they, experienced as they were, did not think it was tartar emetic. But what did Mrs. Wharton have to do with that tumbler? It had been lugged into this case by the State's officers because they felt the weakness of Professor Aikin's testimony, and there was no proof that Mrs. Wharton had put tartar emetic in it, or had an opportunity. If that tumbler had been found full of tartar emetic it would not show that Mrs. Wharton had anything to do with it, and not half so much as some others. The room in which it was, he might say, was a public one, and the jury could not accept an inference in this case, but only positive proof. Mr. Steele, to illustrate the uncertainty of chemical processes, here related a recent experiment on mustard, made by the celebrated chemist, Dr. Doremus, of New York, in open court, in which he showed that a piece of filtering paper, and not the mustard he used, gave him results which even he had at first thought were positive. Mr. Steele then referred to the great necessity for the most absolute proof of the presence of the suspected matter, and said Professors McCulloch and White and Drs. Reese and Genth were right when they swore that Professor Aikin's results gave them only a suspicion that antimony had been present in General Ketchum's stomach and in the sediment. He next referred to the testimony of Professor Tonry, and said the manner in which it had been introduced was enough to cast doubt upon the whole matter. Drs. Williams and Chew, who had sworn against Mrs. Wharton, had gone to Washington, unknown to the counsel for the defence, dug up General Ketchum, and without giving the defence an opportunity to cooperate, had placed them in the hands of Professor Tonry. When he analyzed the remains in his first test he failed to get a trace of antimony, and his test actually showed that no antimony was there. When, at the end of the time the Court allowed him, he returned, he was empty-handed. He brought with him only a few little spots and left all his precipitates behind him. Mr. Steele then ably reviewed the tests of Professor Tonry. Dr. Genth had brought before the jury spots undoubtedly caused by antimony, four or five times larger than those exhibited by Professor Tonry, and yet he got no such results as Prof. Tonry said he obtained. Prof. Tonry intentionally kept back what would have been proof of the value of his tests, and under such circumstances the jury could not hang a dog. Professor Tonry was told to look for antimony, and that was a fact which the jury should not lose sight of for a minute. Mr. Steele then related how Christison, the great Scotch chemist, had saved a man in Dublin by a simple test of the saliva from the mouth of the judge, showing that even in that prussic acid existed. The State's chemical testimony in this case not only did not prove that there was tartar emetic in General Ketchum's stomach, but had disproved it.

If tartar emetic had not been found, then there could be no conviction of Mrs. Wharton. There was not a particle of proof that there was any other poison, and it was not charged in the indictment. Mr. Steele again referred to the testimony as to the symptoms of Gen. Ketchum's sickness during Tuesday and Wednesday, and said that Dr. Williams, though a skillful physician, and one who always looked well to his case, had no suspicion of the existence of any poison. Drs. Williams, Miles and Chew made the post mortem, and yet they went before Professor Aikin and mentioned nothing but strychnine. There was no suspicion, even by these experts, that tartar emetic had been given. Dr. Chew said the case was an obscure one, and said he could not, in his own mind, assign a cause for Gen. Ketchum's death. He was the first expert called by the State. and if he could not decide the cause of death, how could the jury decide it? Dr. Donaldson had gracefully evaded the question whether or not Gen. Ketchum died of tartar emetic poisoning, and after Dr. Chew previously had declined to say that Gen. Ketchum died of tartar emetic poisoning, the State dropped the question and virtually abandoned the case, because it was bound to prove death *from tartar emetic*. When this ship, which the State's officers had so ably steered, freighted though it was by suspicions alone, sank at that inquiry of Dr. Chew, the case against Wharton sank with it. The jury could not stultify themselves by undertaking to decide the cause of death when the State could not itself decide it. Mr. Steele then addressed himself to the symptoms attending Gen. K.'s sickness, and called attention first to the rigidity of the muscles. He then noted the absence of those symptoms which the books laid down as those of tartar emetic poisoning. In some rare cases there are what are called tetanic spasms, but they did not exist in General K.'s sickness. The larger portion of the symptoms of cerebro spinal meningitis were present, and the jury could say from the symptoms alone that it was infinitely more probable that General K. died from cerebro spinal meningitis than from tartar emetic poisoning. Drs. Williams, Chew and Miles, after they believed that tartar emetic had been found, posted down to Washington, dug up General K., and looked for the lesions attending tartar emetic poisoning, especially the engorgement of the right side of the heart. They swore that all the organs were perfectly healthy. The evidences of congestion which they discovered were perfectly consistent with the belief that cerebro spinal meningitis was the cause of death, and inconsistent with tartar emetic being that cause. Until the State had proved that tartar emetic was the cause of death, its officers could not ask the jury to convict Mrs. Wharton. Mr. Steele here referred to the testimony of Dr. Warren, and said he had testified ably. It had been attempted to cast discredit on his testimony, and to have it believed that he said cerebro spinal meningitis was an epidemic in Baltimore. But Dr. Warren had only said that it was a disease which was epidemic in Baltimore to a certain extent, and not that it was an epidemic. His testimony would be regarded by the medical profession as a valua-

ble contribution to science. If the jury had to decide the question, even in a civil suit, the great weight of the testimony was on the side of cerebro spinal meningitis.

The case was one which justified the accused in asking a prompt acquittal. Let your verdict be one which will not hereafter bring upon you the reproaches of your own consciences. Let your verdict be such as will not bring upon you the judgment of your God. Do your duty, and those who may seek to cast blame upon you will be those whose censures you would covet, whose praise you would scorn. Mrs. Wharton had sat before the jury, not permitted to say anything, and her counsel had only been allowed to say what they might think was best. The time was at hand when nothing more could be said for her, and the case was near its close. The Attorney Genoral, who so worthily wore the laurels which had graced the brows of a long list of distinguished men, would doubtless endeavor to have the jury convict her; but he begged the jury to let no considerations except those of the law and the proof to influence their minds. He did not ask for mercy for the prisoner, for that implied guilt. She had been more sinned against than sinning, and all her hopes for happiness had already been blurred and blasted. The past could not be recalled, and she must now seek for consolation from God. Mr. Steele then referred to the daughter of the prisoner, and said the filial devotion of the Roman daughter of whom Mr. Hagner had spoken so eloquently, paled before the devotion of this girl. She had opposed her only slender form but great heart between the world and her mother, and he begged the jury not to take that mother from her. In conclusion, Mr. Steele, in the most feeling manner, begged the jury to give such a verdict as would give them no reproach of their consciences in all their after lives.

Mr. Steele then, at 12:30, closed, and the court took a recess for ten minutes. During the delivery of his closing remarks to the jury many of the ladies shed tears, and there was an impressive silence throughout the dense audience. Mrs. Wharton was very calm while he was arguing in her behalf, but when he took his seat she was for a moment, but only a moment, visibly affected. She very soon, however, recovered herself and resumed her erect position. Mrs. Nugent, for the last twenty or thirty minutes of Mr. Steele's argument, sat just behind Mrs. Wharton with her handkerchief to her eyes and weeping bitterly, but in a suppressed manner. Mrs. Neilson also hung her head and seemed to feel deeply the eloquence of Mr. Steele.

The argument of Mr. Steele was throughout a most able effort. He showed that he had brought to bear upon every question involved in the case the energies of a master legal mind, and his analysis of the testimony was thorough, and showed that he had grasped all its connections and bearings. Soon after taking his seat he turned around to Mrs. Wharton, and was engaged for a minute or two in earnest conversation with the prisoner in whose cause he had exerted himself so ably. Mrs. Wharton spoke to him in earnest but hurried tones, but not more than a sentence or two.

At the conclusion of Mr. Steele's argument there was such a crowd within the bar that the confines of the jury were almost invaded, and the Chief Judge had finally to order the Sheriff to remove the intruding spectators.

At 10 minutes of 1 o'clock Mr. Syester began his argument. The case was one of circumstantial evidence, and he admitted that the last syllable of legal proof must be exhausted before the jury could lay their hands upon a hair of the prisoner's head. The case was fraught with all the sympathies of the human heart, but this was not a new aspect of criminal prosecutions, and the case itself was not a new one. If the testimony brought the jury to the conviction of the prisoner's guilt they could not consider upon whose head the blow fell or whose heart was torn by their verdict. A long portion of the long imprisonment was due in a great measure to the removal of her case from Baltimore from among those who knew her. He first assumed that General K. died from unnatural causes, and in strong and forcible language described General K. He went to Mrs. Wharton's house a well man, but the angel of death hovered over that house, and ere he had been four hours beneath he was stiffening and straightening for the grave. In less than three days more he had already been involved in the game of life and death. The jury must inquire whether that fearful death was caused by a natural or unnatural cause. We lay our hand at the threshold of the case that Mrs. Wharton had bought deadly poison. Her counsel had not even attempted to prove that she was in the habit of using as medicine that deadly drug, or that any one had prescribed it for her. No one had come forward and said that it was ever bought by Mrs. Wharton before those fatal days when General K. was in her house, and this one fact crushed the case of the defence to atoms.

Mr. Syester then read from an authority, touching the question of the fact of the discovery of a poison, and recognizing no necessity for the actual discovery of the poison in a dead body. Mr. Syester then addressed himself to the consideration of the testimony in reference to the purchase of tartar emetic, and said that no man could doubt that Mrs. Wharton had tartar emetic in her possession, unless they believed that Mrs. Chubb and Mr. Kleinschmidt lied. Mrs. Wharton had the poison, and the opportunity to use it. Dr. McSherry had sworn that he never prescribed it for her. Then what did she want with it? Did Mr. Van Ness need it? Did General Ketchum need it? No attempt had been made to deny the possession of the poison, and that fact stared the jury in the face at the very first step in the case. Mrs. Chubb had sworn that she bought the tartar emetic and delivered it to Mrs. Wharton, and yet the defence asked why Mr. Myer had not been brought in this case. What did the State want with Mr. Myer when Mrs. Chubb had sworn she had bought it from him? Why then did the defence not bring Mr. Myer if they wanted to prove that Mrs. Chubb never bought tartar emetic from him?

Susan Jacobs had sworn to the vial of laudanum. What was it doing in General K.'s bed? The defence had brought out that fact only to show that Mrs. Wharton herself had a theory of the cause of death. But it stood out like a finger-board of crime. It was no new thing in the history of those acts by which criminals sought to conceal their crimes. The defence had gravely contended that the old, fatigued man, as they called him, had on the very evening of the day he reached Baltimore walked to Coleman & Rogers, passing, perhaps, a dozen drug stores, and bought that vial of laudanum. Was it reasonable? It was not. And then let us look at the vial. It holds but an ounce, and yet the defence had come before this jury and claimed that it was emptied only after three days. Did Mrs. Wharton act as an innocent woman when she found that vial in his bed? No, she did not. She believed then, if she ever believed, that her friend and guest was taking means to end his own life. But what did she do? Did she try to save him? Did she call medical attention t him? No, she told no one, and only mentioned it to Mr. Hutton when it was too late. That was a damning fact in the case. And then, again, how about the sangaree? She said Dr. Williams had told her he might have it, and yet when Dr. Williams was sworn he said he never mentioned it to her. She told Colonel Loney that General Ketchum had taken it, and in a few minutes after she had left with him for a pleasure ride, Mrs. Loney heard him vomiting. That was the vomiting which even old Susan did not see, and which Mr. Steele had tried to persuade the jury was only snoring, and that his snoring in a room of the third floor had been mistaken by Mrs. Loney on the first floor for vomiting. No ordinary motive prompted Mrs. Wharton to accuse her "friend," General Ketchum, of suicide. What reason had he to commit suicide? There was no proof that he had any reason to be wearied of life—the contrary had been shown to the jury.

Mr. Syester then read from an authority touching the importance to be attached to the misrepresentations of criminals and their attempts to avoid surprise from the sudden deaths of their victims. Susan Jacobs, that immaculate witness before whose testimony every other witness was to go down, had sworn that she was called to make up General K[illegible]chum's bed because his feet were higher than his head, and yet that the vial of laudanum had rolled down into the middle of the bed. Would the jury believe that? Could any man believe it? One striking and remarkable fact was that the physicians and those who were around General Ketchum had not been summoned, but that in their stead hired partisans had been summoned. Experts were paid, and it was no more to be expected that they would not sustain the case as best they could, that the counsel themselves would. The experts for the defence, in their exigency, brought into the case what was never in it, and had attempted to have the jury believe that General Ketchum was on the very day he reached Baltimore enfeebled in mind and in body. They had fastened on that terrible disease, cerebro spinal meningitis, which struck down its victims like lightning. They started with the idea that he was fatigued before he left Washington, and that he was fatigued by a walk from Georgetown Heights to Washington, and it mattered not to them that he refused to ride when Mr. Carusi proposed it. There was no business transacted by him on that day calculated to fatigue his mind, and Mr. and Mrs. Snowden had been attracted by his cheerfulness and animation as he rode from Washington to Baltimore. Dr. Warren, Dr. McClurg and the others, who had been bold enough to assert that he died of cerebro spinal meningitis, had clung to the idea that he was fatigued when he reached Mrs. Wharton's, and that his decease was superinduced by cerebro spinal meningitis. They had claimed that it was a terrible fact that he had eaten no dinner that day, and the jury was, in reality, asked to believe in the dreams, speculations and theories of experts who had come into this case with the determination to force it from the hands of the State. Dr. Warren had contended that there was in Baltimore an epidemic tendency to cerebro spinal meningitis, but when he was faced with the broad question whether or not it was an epidemic in Baltimore, he had asked to explain, and so it was always with the experts who came to swear to one thing, and that only; they always wanted to explain. Afterwards he confessed that the irregularities of General K.'s diet and the "potent" influences of that epidemic tendency had caused General K.'s attack. That was the testimony of the man whose testimony Mr. Steele said was to stand as a monument of medical science. He loved to use medical terms, for he was in the army during the late war, and he spoke fluently of the suddenness of its invasion, the rapidity of its march, and the fatality of its termination; then he said that the identity between this case and Dr. Baltzell's was "complete." Mr. Syester then reviewed the testimony of Dr. Warren, Dr. Baltzell and Dr. Williams in conjunction, and said he utterly denied the identity which Dr. Warren claimed, or that hyperesthesia existed. No medical witness, except Dr. Warren, who had seen a case of cerebro spinal, would say that in any case of cerebro spinal they had seen hyperesthesia exist. No matter that Dr. Warren fought hard to get hyperesthesia in this case. He said that a touch was sufficient to show it, and that it was shown in General K.'s case by a touch, but that taking hold of him would not have shown it. But what did Dr. Bird say? He said that in his case, when he bandaged the arm of his patient and inserted the lancet, the patient was thrown into convulsions. Then when Dr. Williams and Mr. Hutton undressed Gen. Ketchum, touching and handling him, there was no hyperesthesia. Where was the hyperesthesia then? So when Mrs. Hutton rubbed his hand there was no hyperesthesia. But Dr. Warren said it was present one moment and gone the next. The other witnesses next testified that hyperesthesia was

constant; so much for that theory of Dr. Warren. The defence had again claimed that there was a total suppression of the secretions of the kidneys, but at last the defence had been, when Dr. Williams was recalled, forced to admit that his bladder had been found full. Then two of the main, prominent, monumental symptoms, which the defence claimed, hyperesthesia and a suppression of the secretions of the kidneys, were not present, and the theory of their experts fell to the ground. Mr. Syester next came to the testimony as to the pupils of General K.'s eyes, and claimed that the claim the defence had made, that their condition (abnormal, but insensitive to light) was not sustained by the testimony of their own witnesses, who had testified to the symptoms of cerebro spinal menigitis, and particularly that of Dr. Baltzell's. Dr. Morris, who had given his testimony in an admirable manner, when he read the hypothetical statement, he one of the most astute and experienced physicians in Maryland, had said he could not assign a cause for the death of the patient described. Dr. Warren had said that the attack General Ketchum had was as rapid as a train of cars going down hill with the brakes all up, and that it went too fast to take up the effects of tartar emetic even if it had been given him.

At this time a lady in the audience fainted, and a commotion was caused by the untoward event. The Court suggested to Mr. Syester that as it was five minutes of 3 o'clock he had better suspend. The Attorney General suspended and the Court adjourned until to-morrow at 10 A. M.

The audience was so great that a considerable time elapsed before the room was emptied. The crowd was greater to-day than the room could possibly contain, and men were observed clinging to the tops of the doors as they swung back; they were thus enabled to hear and to see.

Miss Wharton was not present to-day, and has been unable to leave her room since yesterday morning. The rial has proved too great a burden upon her, and she is now receiving medical attention.

Mrs. Wharton and those with her had again to-day to pass through files of eager men and women, and her carriage was surrounded by a large crowd. Rev. A. M. Randolph, rector of Emmanuel P. E. Church, Baltimore, was in conversation with her for a few minutes after the close of Mr. Syester's argument.

During the delivery of Mr. Syester's argument to-day, Mrs. Wharton was very calm, and listened attentively to all that was said. Mr. Syester showed that he was determined to analyze the case to the utmost of his abilities, and urge his views upon the jury in a forcible manner, and was heard with marked attention and several times caused slight laughter among the crowd by his comments upon the testimony of the medical witnesses for the defence. He will close to-morrow, and the case will probably be given to the jury between 12 and 1 o'clock. To-morrow will be the most exciting day of the trial, and the crowd will doubtless be very great.

Among those present to-day were Hon. John Thompson Mason, Secretary of State; Drs. Williams, Miles and Chew, Col. H. D. Loney, Wm. P. Preston, Commodore Decatur, Commander J. S. Skerrett, Jas. McClure, Hon. Jas. T. Earle and several others of prominence.

FORTY-SECOND DAY.

ANNAPOLIS, January 23, 1872.

The forty-second day of Mrs. Wharton's trial opened brightly, indeed more pleasant weather could not have been desired.

The great trial was, of course, uppermost in the thoughts of the Annapolitans, and there was an eager desire to secure good seats that the closing scenes of the exciting proceedings, which all knew to-day would witness, might be fully observed.

So great was the anxiety among the ladies to be present, that a number assembled at the door of the court room two hours before the time for the opening of the Court, and the ever courteous clerk, Colonel Sprigg Harwood, appreciating their impatience, opened the doors, and at once the rush and scramble began. Many of the ladies occupied seats in the windows, that they might overlook the entire court room.

It was not long before it was crowded with ladies, and the murmur of conversation which had commenced when the first arrivals took their seats. soon arose into the hum of numerous voices in animated comments and discussions.

Everything showed unmistakably that the excitement over "the event of the day" was widespread and earnest, and never before in the history of Maryland was such an anxiety shown by the upper classes of society to be present at a criminal trial. On yesterday Judge Hammond, appreciating the situation, said from the bench: "Gentlemen, you must give up your seats to the ladies, for we will have no quiet in the court room until they are seated and satisfied." The same remark would have been equally applicable to-day. Mr. Revell was the first officer of the law to arrive.

Judge Hammond entered soon after, and was in a short time followed by Chief Judge Miller and Judge Hayden. By this time the court room was jammed, and many who despaired of finding even standing room made quickly for the outside positions at the windows. These are all high, and ladders, planks and fence-rails were brought into requisition. The one desire to-day of the eager crowd was to see, if possible, and to hear by all or any means. At 20 minutes of 10 Attorney General Syester arrived and seated himself in front of the jury-box.

He betook himself at once to his voluminous notes, and was in a few minutes joined by Mr. Revell, who held an earnest conversation with him.

At ten minutes of 10 o'clock, Mrs. Wharton entered, leaning on the arm of Sheriff Chairs, and followed by her daughter, Mrs. Nugent, and Mr. and Mrs. J. Crawford Neilson, and Miss Neilson. Mrs. Wharton was at once "the observed of all observers." She and her

daughter appeared very calm, but the latter betrayed a little nervousness. Mrs. Wharton was a little pale, and her eyes looked as if she had been weeping.

Miss Wharton seemed to be sustained by a desire to appear as calm as possible, but her face lacked the color which she usually wears. Both mother and daughter were dressed in deep black, and wore the heavy crape veils which have so long concealed their faces from the gaze of the spectators. Mrs. Wharton, soon after taking her seat, assumed the erect position and calm,stoical look which has so remarkably characterized her each day.

At 10 o'clock Mr. Steele entered the court room, and the crowd regarded him with much interest as he advanced and took his seat in front of Mrs. Wharton, and shook hands with her. Messrs. Hagner and Thomas soon fol lowed, and in a short time quiet was restored, proclamation was made, and all was in readiness.

At five minutes after 10 o'clock, Mr. Syester resumed his argument amid an impressive silence, and said he was considering the testimony of Dr. Morris when he suspended yesterday. Dr. Morris had impressed him as a perfectly honest man, there were no evasions and no attempts to cover up mistakes in long explanations. All was perfectly fair, and Dr. Morris deserved great credit. His testimony showed that General K. did not die of cerebro spinal meningitis. The experts for the defence had in their exigency found that no disease would suit the symptoms of Gen. K.'s sickness and the post mortem revelations, except the one disease, cerebro spinal meningitis. Never before, in a criminal cause, were the issues of life and death staked so confidently, one and only one cause. The jury owe it as well to society as to themselves to explore this theory and to test all the testimony relating to it. He (Mr. Syester) had found, upon inquiry, that Dr. Morris stood at the head of his profession in Baltimore, and he deserved to stand as he did. He (Mr. Syester) was willing to take Dr. Morris' testimony, and he could, by his testimony, explode the theory of cerebro spinal meningitis. When the skillful hypothetical question was asked Dr. Morris, he had replied that he was unable to to say what was the natural cause of General Ketchum's death, if there was any natural cause, and that he could not assign any cause. He had said he saw nothing to exclude the theory of death from a natural cause, but he was unable to say what that natural cause might have been. The defence had left out of that hypothetical statement the important fact that the post mortem revealed the irritation of the intestines. They had thus omitted what would have been a certain guide to any medical man. Mr. Syester said he regretted to occupy the time of the Court and jury by reference to notes, but he found in the official short hand report of Dr. Miles' testimony that he had testified that when he examined the intestines, they presented the appearance which he had always found when the mucous membrane was particularly irritated, and that many patches appeared along the inside of the intestinal canal. He further said that he had always found such irritation when the mucous membrane had been highly irritated. Mr. Syester then read portions of the hypothetical statement of the defence, and claimed that they had skillfully omitted the observations of irritation in the intestines. It declared that there was no product of inflammatory action, and yet Drs. Miles, Williams and Chew had declared that those products were unmistakably present. Mr. Hagner had gone into a most ingenious mathematical calculation, and said as the symptoms of the sickness alone signified nought, and the post mortem lesions signified another nought, so two noughts made nothing. That was a most ingenious attempt on the part of Mr. Hagner. Mr. Steele had passed strictures upon the University of Maryland, an institution which every Marylander should be proud of and especially those who heard the testimony of its professors in this case. Dr. Morris said that not one of the symptoms of cerebro spinal meningitis in the cases he saw were present in General Ketchum's case, even as presented in the hypothetical statement of the defence. The defence had gone on when Dr. Morris said he never saw such a headache as poor Armer had; that General Ketchum too had a headache. But when did General Ketchum have a headache? Not in theearly stage of his attack, but only when the hand of death was upon him. Then they claimed that among the sixteen symptoms Dr. Warren had claimed were referable to the brain alone, was the peculiar condition of the eyes, loss of sight, looking crossways, etc.; but where was it in General K'.s case? At 2 A. M. on Tuesday, Mr. Hutton found him sitting on the side of his bed, *and looking at his watch.* Gen. K., with his eyes crossed, was looking at his watch at 2 o'clock in the morning. Who would believe it? Mr. Syester then continued his close and able view and comparison of the symptoms of General K.'s sickness with the facts in the case, as they had been brought out both by the witnesses for the State and for the defence. Dr. McClurg, who had seen nothing of the case, and whose judgment was to override that of the attending physician, had come forward and said that when General Ketchum said on Monday that he was well, that he was not well, and that he was not well either, on Tuesday morning, when he was looking at his watch. Dr. McClurg was hundreds of miles away in Pennsylvania, and yet he knew more about the case than those who attended the dead man. Dr. Warren was sure that General Ketchum's attack was of the fulminant form of cerebro spinal meningitis, and Dr. Bird said he was not sure that it was not of the non-inflammatory form; then Dr. McClurg came, and thought he would divide the spoils, and said it was of the semi-fulminant form. Mr. Syester continued to review at much length the testimony of Dr. McClurg, and in an astute manner called attention to the absurdities of such statements. He then reviewed the symptoms of cerebro spinal meningitis, as testified to by Dr. Warren, and compared them with those in General K.'s case. He did not believe that any man on the jury entertained an idea that

cerebro spinal meningitis had caused the death of General K.

He next came to the symptoms of tartar emetic poisoning. The possession of the poison in that house, and in the medicines and drinks in that house had been proved. Who put it there? Nobody but Mrs. Wharton could have put it there. She alone had it in her possession, and she had armed herself with that deadly drug. But the defence say that Dr. Aikin did not get the poison. No matter, it was tasted there, and there was no mistake about the fact that it was tartar emetic. Dr. Aikin was as fair and honest a man as ever stood upon the witness stand of this Court and appealed to God for the purity of his heart, and no one had dared to impeach his integrity throughout this case. Mr. Syester next referred to the symptoms of tartar emetic poisoning as described by Dr. Thompson, of Washington, in the case which came under his observation. He (Mr. Syester) did not understand why the medical books were allowed by the Court to be read to the jury, when they did not come with the sanction of an oath, yet as the defence had adopted them he would adopt them too. He then read from 2d Beck's Medical Jurisprudence, page 646, as to the symptoms of tartar emetic poisoning. He then read further from Taylor on Poisons, pages 476 and 477, as to the symptoms attending an overdose of that drug. Nobody had been bold enough to claim that General Ketchum had cholera morbus, not even the cerebro spinal meningitis men, and the State utterly denied that General Wharton had cholera morbus. Then what was said on the other side of cerebro spinal meningitis, for he, Mr. Syester, had in his previous remarks omitted to call attention to it. First came Nathan R. Smith, of Baltimore, a man who was known, not only in Maryland, but in Europe, and whose opinions were authority for all people. When he was asked if he believed, from the hypothetical statement of the defence, that General Ketchum died of cerebro spinal meningitis, he not only said that he did not die of that disease, but that he knew of no disease of which he could have died with such symptoms.

No human being had attempted to deny that Mrs. Wharton had tartar emetic in her possession, and the defence had tried to get rid of it by denying that she bought it.

Mr. Syester then addressed himself to the chemical testimony in the case. The defence had claimed that Professor Aikin's tests were wrong and insufficient, for only two reasons: First, that he had not produced the metal, and secondly, that there might have been substances present which would have given similar results. Notwithstanding the attacks which had been made upon him he still stood at the head of his profession in Maryland, and no chemist ever came into a murder case without knowing that he would have to encounter, as Professor Aikin had encountered, all the ill feelings which would spring from the side of the criminal. Drs. Reese and Genth had said that they know of no substance, except antimony, which would give the result which Prof. Aikin had obtained, and even McCulloch, who, he (Mr. Syester) repeated, before the court and the world, had practiced a fraud under the administration of public justice, or else was grossly ignorant. Before his voice had died away in the court the precipitate which he said was antimonial, because it was red, had turned black, and when one of the vials was broken it stained Mr. Thomas' hands. It was only then that he (Mr. Syester) saw where this case was going, and he knew that Professor McCulloch had either come to impose upon the Court, jury and counsel, or was grossly ignorant. Then again when Prof. McCulloch obtained a white cloud, he failed to dissolve it in tartaric acid because he thought it was "not necessary." He (Mr. Syester) begged the jury to remember, in justice to Professor Aikin, who had been grossly attacked in this case by the experts for the defence, went further and dissolved his white cloud in tartaric acid. When Professors Reese, Genth and McCulloch were asked why they had not gone further, they said they did not think it necessary, and that Wormley and Taylor were wrong in the process those great authorities claimed were right. Dr. Genth, who thought more of his reputation than a great many people did of their oaths, said that if Dr. Aikin was looking for antimony he was right, and Dr. Aikin never said he was looking for anything but antimony. No authors claimed that the production of the metal was absolutely necessary in a poisoning case, and how would it be in a case of attempted poisoning? The poison could not then be produced, and would the defence claim that in such a case the metal must be produced? When Prof. White was asked if he saw the morning skies streaked with the glories of morning would he believe that the sun was rising, and he had said he had rather see the daylight. Such men would doubt everything, and would refuse, like doubting Thomas, to believe until they touched the bones of the crucified Saviour. They would doubt the spring time and put behind them all the visible proofs of nature. Mr. Syester next commented in warm terms of eulogy upon the opinions of the great authors, Orfila, Taylor and Wormley, who supported Professor Aikin.

At ten minutes after 12 o'clock Mr. Syester suspended, that the jury might have a recess of ten minutes.

A large number of persons, both ladies and gentlemen, had arrived by the half-past 10 o'clock train from Baltimore, and the court was even more densely crowded than on yesterday. It was several minutes before the Sheriff could remove the crowd sufficiently for the jury to retire.

Mr. Syester resumed at twenty minutes past 12 o'clock, and again referred to the claim of the defence that the poison should have been produced in the metallic form. All the authorities said it was not absolutely necessary to produce the metal. If that, true criminals could never be brought to justice, no matter what were the circumstances surrounding the crime, why pause and ask if it was antimony Prof. Aikin found in General K.'s stomach?

The circumstances of the case must be looked at. Gen. K. was in Mrs. Wharton's house, without anybody to watch over him. Mrs. Wharton was up and down during all of Saturday, Sunday and Monday nights; so Mrs. Chubb said. What was she doing while she was up on those nights? She was not in her own room, and she was not in Mr. Van Ness' room. Then where was she? The defence could have shown where she was, but they did not. Where was she? What was she doing? Where was she on Monday night? Mrs. Van Ness swore that on Sunday night she came into the room she was occupying, and went to the washstand. If she was so attentive to him on Sunday night, it was reasonable to suppose that she was equally attentive on Monday night. On that night she came down from his room in an excited state, and said she had broken the bottle containing Gen. Ketchum's medicine. But the noise in his room at that time was that of a jump on the floor. Nobody knows what happened in that room at that time. She then said that this man who was in the habit of drugging himself, was, she feared, impatient to have the medicine Dr. Williams had prescribed for him. When Mr. Hutton went to his room at 2 A. M. Tuesday, he made known to him the object of his visit, telling him he wished the bottle of medicine which he was using to take to Mr. Van Ness. Mrs. Wharton then consented that his medicine should be taken from him.

When, at 7 o'clock that day, Mrs. Chubb stopped to inquire about him, he told her he was well enough to come over to Washington on that day, to take dinner with her. Do sick men do such things? Then, when Dr. Williams called at 10 o'clock, he was well, but Susan Jacobs, immaculate Susan, found him at 3 o'clock so dizzy that he could hardly walk across the room. He (Mr. Syester) did not believe that General Ketchum ever saw the vial of laudanum. Mr. Rogers had sworn that he had not sold such a vial for six months, and yet the defence would have the jury believe that the sick man had gone more than a mile to get it. Mrs. Wharton waited until Wednesday morning before she mentioned the vial of laudanum to any one but Susan Jacobs. She sent for no physician, and she only asked Mr. Hutton to see what he thought was General K's condition. If she then believed what she said she believed, she ought to have sent for a physician without a moment's delay. On Wednesday she did not send for a physician until 8 A. M.—so Susan Jacobs says—but Dr. Williams says not until 10 o'clock. He did not arrive until 10 o'clock. Mr. Syester continued to review the testimony as to Mrs. Wharton's movements and declarations, and in strong and forcible language presented to the jury the importance of the testimony as to the administration by Mrs. Wharton of the final dose to General Ketchum. The defence had undertaken to make the jury believe that what Mrs. Hutton swore to was but a dream of her immagination and the offspring of her suspicions, but Mrs. Hutton had seen a former dose of yellow jessamine given to General Ketchum, and she had seen its results. When Mrs. Wharton insisted upon giving him the dose she had "dropped," Mrs. Hutton remonstrated. How will the defence meet that fact? Again, why was Mrs. Wharton so anxious to take away from that room the cup and the spoon which had been used by her in giving General Ketchum that final dose? She stood and watched the dying agonies of the man, and when she saw that there was no more hope for him, then she went away and took with her the instruments she had used. They never left her hands, and she carried them away with her. These circumstances were all suspicious enough. The United States had been ransacked for witnesses to testify to Mrs. Wharton's character, but the great body of those who knew her in Baltimore are not here; they are as silent as the grave. Then, too, what has the question of character to do with a case in which the circumstantial evidencesare all cogent and forcible? It had nothing more to do with the case than it had to do with removing the suspicions of which Mr. Steele had spoken so earnestly. When Mrs. Wharton was told that poison had been found in General Ketchum's body, and in the vessels in her house, what did she do? Did she act as anybody would have done when they were told that a friend had been poisoned? No; she said if tartar emetic had been found in his stomach. he put it there himself. She not only acquitted her servants, did nothing, made no search, but was cold-blooded enough to suggest that the friend who had died in her house had himself taken the poison. Where was her humanity in that? Here Mr. Syester, in eloquent language, begged the jury to consider the significance of that fact. General Ketchum was hardly dead before Mrs. Wharton had her hands on his estate. When his clothes were packed no vest was to be found. Mr. Syester referred, at some length, to the testimony about the vest, and said that all the probabilities were that Mrs. Wharton had the vest. And she had a motive in having it, for the State still claimed that she owed General Ketchum $2,600. Mrs. Cottman's testimony was the merest child's play that was ever introduced into a criminal case. The defence did not dare to ask her if there were any scraps of paper on the hearth before she saw those which they claimed were those of the note she owed General K. Mr. Syester next addressed himself to the testimony as to the bonds, and claimed that it was absurd to believe that Mrs. Wharton would have been paying General K. 10 per cent interest on $2,600 when he held $4,000 of her bonds, bearing only 5 per cent.

The defence had proven that Nellie had bonds and enough money to take them across the water, and they had the right to prove that Mrs. Wharton, too, had bonds. But they did not attempt to do it. If they could have done it they would have done it, as sure as sunrise.

Mr. Syester next addressed himself to the proof of Mrs. Wharton's indebtedness, and contended that it was sustained by his papers. Earnest objection was here made by Mr. Steele to a reference to the bank book, and, after some excited discussion between counsel, Mr

Syester said the Court would have ruled out such testimony as irrelevant if it had been offered, and it was material to the main issue

Mr. Syester next asked the jury to consider the acts of Mrs. Wharton in attempting to get Mrs. Chubb's mind so confused about the purchase of tartar emetic that she would not be able to testify at all about it.

The defence had charged that the whole University of Maryland was influenced by prejudice, but such was not the case.

In conclusion, Mr. Syester reminded the jury in an earnest manner, that they had solemnly pledged themselves to a true deliverence make between the State of Maryland and the prisoner. He concluded at exactly 2 P. M., having argued the case for six hours and a half. His effort in this great trial was such an one as well became him as the chief judicial officer of Maryland.

The Chief Judge then called for the indictment, and directed Deputy Sheriff Bryan to carefully perform the duty the law imposed upon him. Mr. Bryan then, amid an impressive silence, took the following oath:

"You shall well and truly keep this jury together, without meat or drink; you shall suffer no person to speak to them, neither shall you speak to them yourself, unless it be to ask if they are agreed upon their verdict, without the permission of the Court—so help you God."

In a moment more the indictment was handed to the jury, and the Chief Judge informed the jury that the form of their verdict must be, not guilty, or murder in the first degree. The jury then retired, in charge of Deputy Sheriff Bryan, and ascended to their room in the story above the court room.

During all these tryiag moments Mrs. Wharton and her daughter were very calm. Both of them were most attentive listeners to Mr. Syester's argument. When the jury retired no word passed between Mrs. Wharton and those near her; both of them seemed to appreciate the solemn issues which had been now submitted to the jury. The crowd still remained in the court room, and all seemed determined to be present when the jury returned.

In a few minutes the Chief Judge said the jury had requested to have chairs, and that the twelve chairs which had been taken from their room must be returned. Twelve ladies were accordingly dispossessed that the jury might be comfortable while they deliberated. In a few minutes more the Chief Judge announced that the Court would take a recess, but mentioned no limit of time. The crowd lessened, but the court room was still filled. The Judges soon left the bench, and the anxieties of the crowd seemed considerably calmed by their absence.

At sixteen minutes of 3 o'clock, Sheriff Chairs came for Mrs. Wharton to return to jail. She arose quietly, and taking his arm, left the court room. She was preceded by her daughter and Mr. Fendall, of Washington, and Mr. Nugent, Mr. and Mrs. J. Crawford Neilson and Miss Rosa Neilson followed close behind. As the now famous prisoner over whose head hung the issue of life and death passed out, she was scrutinized by every one who could get near enough to her, and a rush was made for the passage way, the brick walk leading to the court house door, and around her carriage, as soon as her approach was heralded by the bustle of the crowd. She was conveyed to her prison home to await a summons to reappear in court.

Mr. Steele and Marshal Frey—An Explanation.

[We are authorized to state that the words "going with a lie in his mouth," &c., which appeared in the report ot Mr. Steele's speech, were used by him as generally descriptive of a detective and his business. They were not applied personally to Marshal Frey, or to his conduct in this case.]

FORTY-THIRD DAY.

ANNAPOLIS, January 24, 1872.

At ten minutes of 10, the Chief Judge was informed that the jury had agreed. The court room was soon filled by an eager crowd, but few ladies being present. At twenty minutes past 10, Mrs. Wharton and her daughter, accompanied by Mr. and Mrs. J. Crawford Neilson, entered the court room. Mrs. Nugent and Miss Rosa Neilson were also present. Mrs. Wharton, her daughter, and her friends appeared in good spirits, as the favorable character of the verdict was known to them. At twenty-five minutes past 10, the Chief Judge directed that the jury be brought in. At 26 minutes past 10, the jury entered. Mrs. Wharton had already been placed in the prisoner's box. At twenty-seven minutes past 10, the verdict of "Not Guilty" was rendered.

The oppressive silence was broken by the calling of the jury by the clerk, and their answering. Colonel Harwood, clerk, then said: "Gentlemen of the jury, are you agreed upon your verdict?" There was a nod of assent by the jurors.

Clerk—"Who shall answer for you?"

A juror answered—"Our foreman."

Mrs. Wharton was then directed to raise her right hand.

Clerk—"Gentlemen of the jury, look upon the prisoner at the bar. How say you; is she guilty of the matter whereof she stands indicted, or not guilty?"

Foreman (Franklin Deale)—"Not Guilty."

As the foreman answered, there was a slight manifestation of applause, which was instantaneously checked by the Court and bailiffs. Every eye was fixed upon the prisoner, who still stood calm and apparently unmoved, but through the heavy black crape veil, which was not displaced, tears could be seen streaming down her face. Otherwise there was no sign of emotion. Miss Nellie wept and was deeply affected. When Mrs. Wharton left the prisoner's box, Mr. Steele, Mr. Thomas and Mr. Hagner, her counsel, each shook her hand, with brief words of congratulation. Her friends present also took her hand, expressing gratification at the result of the trial.

It is understood that before agreeing the jury stood eight for acquittal and four were not fully determined on their verdict. It was first decided they would agree and not go in a hung jury. During the time they were out five ballots were taken, after which a verdict of "not guilty" was agreed to.

From its commencement to its close the trial of the case has been conducted with marked ability, equally in the matter of evidence and argument. The State has been represented by Attorney General Syester and State's Attorney Revell, who stand at the head of the profession as able and skillful attorneys; while the prisoner was defended by gentlemen who have few superiors at the Bar. The Court was composed of Judge Miller, of the Court of Appeals of the State, and Chief Justice of this District, assisted by Judges Hayden and Hammond, three as able jurists as sit upon the bench of this State. In every respect the trial has been impartial and ably conducted.

There was no charge to the jury by the Court, the Constitution of Maryland containing a provision that in criminal cases the jury shall be judges of the law as well as the facts.

Before adjourning, it was understood between the Court and counsel that the trial of Mrs. Wharton on the indictment for the attempt to poison Mr. Van Ness would come off at the regular term of the Court in April.

Previous to the entry of the jury in the court room, Chief Judge Miller admonished the audience that no manifestations of approval or disapproval would be permitted on the rendering of the verdict. After the jury had entered and taken their seats, for a few minutes a stillness and silence as solemn as ever witnessed at a death-bed scene pervaded the room. Mrs. Wharton was standing in the prisoner's box, with Mr. Crawford Neilson at her side, and by them stood Miss Nellie Wharton with Mr. Thomas, one of the counsel.

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