

and not a fact guessed at by you, or inferred, implied or presumed by the law in the absence of knowledge. Can it be found in the evidence you have heard? The evidence is purely circumstantial. The State has not been able to introduce any positive testimony; not the least. There is nothing to guide you but circumstances, and therefore I have something to say of the nature and quality of that kind of evidence, and what it must be to warrant conviction. That such evidence has been treacherous all experience shows; that it must ever be treacherous philosophy makes manifest. What is circumstantial evidence but reasoning? It is dependent upon faith; faith in the ability and honesty of the witnesses for the circumstances; but what shall be done with the circumstances obtained by faith, is a question solved only by the reason of man. Every step afterwards is a process of induction, and by a series of inductions a conclusion is reached. If a single error is made in the process, the conclusion is necessarily wrong. One blunder does as much mischief as a hundred. If you conclude that one fact is necessarily dependent on another fact, and it should happen to be independent, the mistake is fatal. The logic you invoke in such case must lead you to a false result. The eulogists of this species of evidence find security in the number of the facts, "in the many links in the chain of evidence," but these likewise multiply the chances of mistake in the process of induction. The inherent vice of this kind of evidence is incurable, for being only a process of reasoning, human reasoning, it must be treacherous, until man becomes infallible. There is another prominent defect, incurable also, and that is the uncertainty of the facts or circumstances themselves. What you call a fact or circumstance may not be either, but only an inference or deduction made by a witness from some other fact, within his knowledge, and which inference he has unconsciously substituted for a fact. Any one at all acquainted with human testimony will concede that nothing is more frequent, or usual, than the substitution of an inference drawn by the witness upon something precedent for the fact itself. The liability to error is greater in proportion as the witness thinks the inference