

ing, if the answer should be "alive," to crush its life out; if "dead," to open his palm and give the captive liberty, with this difference in the cases: The life of the bird hung upon the caprice of a mischievous youth; that of the prisoner hangs upon the judgment of his peers, sitting to administer the humane and merciful spirit of our law. You will bear me witness that the defense has, in its entire scope, addressed your intelligence and reason only. It has never made one appeal even to that sympathy from which man should never be quite shut out. I have been alone—alone, against a powerful array of talent and learning, combined for the destruction of the prisoner. I have been at great disadvantage in meeting them, but I have, in behalf of the prisoner asserted no doctrine, advanced no principle of law or morals, which will not survive the passions of this hour and continue to be cherished as true by all good men. Mine is the only voice that has been raised for the prisoner, and now that voice is still.

MR. BAY, FOR THE STATE.

*Mr. Bay.* Gentlemen of the jury: Repeatedly during my professional life have I been called upon to defend, and in some few instances to prosecute, persons charged with a violation of the criminal laws of the land; but never under circumstances so painful, and responsible as those which surround me on this occasion.

Gladly would I have evaded the task could I have done so without disregarding my obligations to society and the requirements of my profession; but the necessity of a prosecutor in the attainment of public justice is equally as great as that of a judge or jury. It is true the State is here represented by the regularly appointed officer of the law, but to have imposed upon him the entire labor of the prosecution, under the peculiar circumstances of the case, would have been extremely unkind, inasmuch as the crime was not committed in his circuit, and the witnesses supposed to have any knowledge of facts pointing to the perpetrator, reside beyond the