

against this character of evidence by parading before you the case of the servant girl who was executed in England for the murder of her mistress, when the homicide in fact was committed by another. He has also quoted one or two other cases in which innocent persons charged with the commission of high crime have been convicted upon circumstances. These cases are mentioned in the books as having occurred at an early period, and are as familiar to the law student as the story of "Mother Hubbard" is to the school boy in his apron. Upon all prosecutions for murder, in which the State has to rely chiefly upon circumstantial evidence, they are galvanized into life and held *in terrorem* over the heads of jurors. Upon examination of these cases it will be found that but few circumstances tending to establish guilt, were proved. Take, for instance, the case of the servant girl charged with the murder of her mistress. The proof was that the only persons found in the house were the murdered mistress and the prisoner; the doors and lower windows were found closed and secure and upon the presumption that no other person could have had access to the house, but herself, she was convicted and executed. No motive whatever was shown for the perpetration of the crime, and it did not even appear in evidence that any difficulty had occurred between her and her mistress. The rules of law governing circumstantial evidence were not strictly enforced in her case, for the circumstances did not by any means exclude every other reasonable hypothesis but the one contended for by the government; for it turned out afterwards by the confession of the murderer that he gained access to the house by means of an upper window.

But suppose it to be true that in the history of criminal jurisprudence some few persons have suffered upon circumstantial evidence for crimes which they did not commit; is it not also true that for every such case you will find ten who have been wrongfully convicted upon positive evidence. A long train of circumstances well connected, each one perfectly consistent with the others, established by different witnesses, who have had no opportunity for concert or agreement, can-