

not lie; but witnesses may, and often do, and the experience of mankind shows that jurors are often imposed upon by witnesses who testify under strong bias or prejudice, and by so doing give a coloring to the case which the facts do not warrant; more particularly is this the case when the testimony goes to the jury with an imperfect cross-examination. A juror cannot always know what is transpiring in the breast of a witness. A well-trained witness will sometimes testify as if he felt no interest in the case, and was indifferent as to the result, when in point of fact he is panting for the conviction of the accused. How often is it that the executive of the State is compelled to interpose the pardoning power in cases of wrongful conviction upon positive evidence. A wrongful conviction upon circumstantial evidence is an event rarely met with, and I will venture the assertion that the counsel, whose experience in criminal practice is large and extends over a period of thirty years, cannot point to a case where an innocent person has been convicted and executed upon such evidence. The danger resulting from this character of evidence does not lie in the possibility of a wrongful conviction, but in the proneness of jurors to let the guilty escape upon vague conjectures.

Mr. Starkie, speaking of this character of evidence, in his book on the law of Evidence, says, "To acquit upon light, trivial and fanciful supposition and remote conjectures is a virtual violation of the juror's oath, and an offense of great magnitude against the interests of society, directly tending to the disregard of the obligations of a judicial oath, the hindrance and disparagement of justice, and the encouragement of malefactors."

If, gentlemen, you abolish circumstantial evidence, or cease to give it the weight that it is entitled to upon every principle of human reason, you will destroy every safeguard that the law has thrown around your persons. The passions will go unbridled, and murder will become as common as the lowest grade of misdemeanor. You will not be able to travel upon the highway, or repose upon your couch at night with any security against the bloodthirsty assassin. High crimes