

THE
FORREST DIVORCE CASE.

CATHARINE N. FORREST
against
EDWIN FORREST.

FULLY AND CORRECTLY REPORTED BY THE REPORTER OF THE NATIONAL
POLICE GAZETTE; WITH OPENING AND CONCLUDING ARGUMENTS OF
COUNSEL, CHARGE OF THE COURT, LETTERS FROM MR. AND
MRS. FORREST, AND OTHER PERSONS OF STANDING
AND INFLUENCE, TOGETHER WITH

THE CONSUELO LETTER,

AND OTHER INTERESTING DETAILS, LEADING TO THIS CONTROVERSY.



CATHARINE N. FORREST.

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1852.

FORREST DIVORCE CASE

CASE NO. 1000

EDWIN FORREST

THE COURT OF THE DISTRICT OF COLUMBIA
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THE COURT OF THE DISTRICT OF COLUMBIA

AND OTHER INTERESTING DETAILS LEADING TO THE

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1852

THE FORREST DIVORCE CASE.

SUPERIOR COURT OF THE CITY AND COUNTY OF NEW YORK.

Chief Justice OAKLEY, presiding.

TUESDAY, December 16th, 1851.

Catharine N. Forrest vs. Edwin Forrest.—This much talked-of case, which for more than twelve months had been the subject of general conversation and conjecture, was definitely set down for trial for this day, the news of which spread like wildfire through the city, and caused a numerous attendance of spectators to invest the avenues leading to the Court room long previously to the commencement of the proceedings. So great, indeed, was the crowd, that after the opening of the Court, Judge Oakley found it necessary for the convenience of himself, counsel, and witnesses, to adjourn to the Court-room of the Oyer and Terminer, which, being more capacious, held out promises of accommodation to all eager applicants for admittance.

We need not here dwell upon the causes which led to this lengthy and extraordinary controversy between the parties at issue. The many publications, in the shape of affidavits, by Mr. and Mrs. Forrest, and others, which appeared in the press previous to the trial, may have prejudiced the public in some measure; but the statements were so numerous, and the charges against each other of so singular, and, in some instances, of so gross a character, that a suspension of opinion was soon deemed advisable by those interested in the case, until the sworn testimony of witnesses should cast a clearer light upon the mass of allegations. To this testimony we now refer our readers; it is taken in full, and correctly, and embodies everything worthy of note that transpired during the lengthy trial.

COMMENCEMENT OF THE PROCEEDINGS.

At half-past ten o'clock the Court opened, Mr. Forrest and his counsel, Mr. John Van Buren, being already in attendance. Shortly afterwards, Mr. Charles O'Connor, leading his client, Mrs. Catharine N. Forrest, came in, and both took seats close against the bench, and facing the jury box. Several ladies accompanied Mrs. Forrest, among them Miss Virginia Sinclair, her youngest sister, but they all left soon after the opening of the proceedings.

Mrs. Forrest is rather above the middle height, of extremely good figure, and carries herself very gracefully. Her features are not of the English cast, although the *tout ensemble* reminds the spectator of her origin. The nose is rather prominent and aquiline; the dark eyes are large and full, surmounted by a bold, high front, and beautifully arched eyebrows; the mouth small, and well cut; the hair dark, and parted in the middle. She was dressed in black silk, and wore a black silk bonnet, trimmed with a white cap and lace veil. Her demeanor was most lady-like and becoming.

Mr. Edwin Forrest, the defendant in this suit, is so well known, that we need not give a description of his person. Suffice it, that he looked remarkably well, dressed as he usually is, in a black surtout, faced with velvet, his shirt collar turned down, and his expansive chest covered by the finest linen. He was frequently conversing with his counsel, and paid the strictest attention to the proceedings. When called to the stand, at a later stage of the proceedings, he gave his testimony with great firmness, and with an earnestness of manner which showed how deeply he felt the importance of the moment.

After the Clerk had called a full panel of jurors, the Chief Justice ordered twelve to be drawn, and then asked counsel if they wished to object or challenge. Both parties answered, that they only wished the jurors to be asked if they had formed any such opinion of the case as would incapacitate them from giving a verdict according to the evidence.

Judge Oakley, in a short address to the jury, called upon them to say if they had formed such an opinion from the many publications which had taken place concerning this case. Both parties had the right of having an unbiassed jury, who could divest their minds of any extraneous influence, and decide the case upon its merits.

Several jurors thereupon withdrew, and the following gentlemen, comprising some of our most worthy citizens, were finally empanelled and sworn:—Stephen W. Meech, William Earle, Horace Beals, Theodore De Witt, Daniel Edsall, Calvin H. Merry, Pelatiah P. Page, Thomas B. Harris, Meigs D. Benjamin, John C. Ernestputsch, F. S. Schlesinger, John Caswell.

Mr. Charles O'Connor, on the part of Mrs. Forrest, then opened the case. He called the attention of the jury to the importance of an action like the present one, the result of which was the dissolving of the holy bonds of wedlock, and alluded to the multiplicity of publications on this controversy, either in favor of one or the other party. This jury would have the task imposed upon them to test the public opinion thus manufactured, and whatever might be their first impression, when called upon to adjudge upon the merits of this case, he (counsel) trusted they would stamp the seal of their approval on what was true—the seal of their repudiation on what was false. It was to be regretted that instead of allowing this case to be shrouded in secrecy until it was carried before a court of justice, the many family disputes and difficulties had been laid before the public; but he (counsel) was glad that at last the time had arrived when the full testimony, embracing every branch and particular of the case, was being spread before a jury of his country, whose verdict would for ever settle the question of guilt or innocence.

This was a suit of divorce, brought by Mrs. Catharine N. Forrest against Edwin Forrest, her husband, on the ground of his breaking the vows of matrimony; such, indeed, was the legal title of the cause, but the jury would in the course of the trial find, that it was rather Edwin Forrest who sued for a divorce, in order to rid himself of her, and forever disgrace her in a manner which would render it impossible for her to associate with the respectable portion of her sex. The action, on her part, was not a voluntary one; unaccustomed as she was to appear before the public in any capacity, she had shrank from this exposure of her family troubles, but was at last forced to appeal to the law for protection. It would be necessary for the jury to know the causes which led to this controversy, and he (counsel) would endeavor to

do so in good faith, and without stating any thing but what he expected to prove by the testimony of unimpeachable witnesses.

As early as 1837, Mr. Forrest had attained great renown, in this country as well as in England, in the profession which he followed. Whilst in London, in the year stated, he was introduced to Mr. John Sinclair, who was a singer, and consequently connected with Mr. F.'s profession. The acquaintance brought about an introduction to the family of Mr. Sinclair, which then consisted of Mrs. Sinclair, Catharine Sinclair, then 19 years old, Miss Margaret Sinclair, who was a few years younger, and Virginia, an infant then, and now 14 years of age. During the same year, Mr. Forrest was married to Miss Catharine Sinclair, his present wife; and in the following year, they came to this country, where, up to 19th January, 1849, they lived in as great a state of bliss and harmony as any married couple ever did—a period of nearly 12 years. The dates might hereafter become important to the jury. In 1849, the time when the first indication of a misunderstanding among the parties occurred, Mrs. Forrest frequented the house of her sister, and was there one evening to a late hour, probably till midnight. Many of Mr. Forrest's friends were there, but he himself was not present, as he never frequented such scenes of pleasure. On her return home, Mr. Forrest asked his wife who had been at her sister's party, and received an answer which must have been satisfactory, as none but his personal friends and acquaintances had been present. Among other questions, he asked if Mr. Andrew Stevens had been of the party, and was answered in the negative. He (counsel) would here observe, that Mr. Stevens was a particular friend of Mr. Forrest's, who probably would take a conspicuous part in the present proceedings. Whether annoyed by the absence of Mr. Stevens, or instigated by other motives, Mr. Forrest then commenced speaking in derogatory terms, which he (counsel) would not now enlarge upon, of a female relation of Mrs. Forrest's, and she answered in a manner which his observations called forth. Mr. Forrest answered that he would not take such a reply from any living man, and he would not live with a woman who used such an expression. Some more high words passed, and before they parted for the night, Mr. Forrest had expressed his determination to separate from her—a determination which but too soon became public.

As for the conduct and general demeanor of Mrs. Forrest, he (counsel) would only say that all who ever became acquainted with her, soon learned to admire her, nor would there be found a human being to speak disparagingly of her character, except, perhaps, some individuals who would be introduced here as witnesses for the defence. At the time spoken of, no reason was assigned by either party for the separation; it was postponed by Mr. F. from day to day, until, wishing to dispose of his house in Twenty-second street, in May, it finally took place on the 30th April, 1849. Mrs. Forrest was taken by him in a carriage to the house of his friend, Mr. Parke Godwin, where he left her, whilst his furniture was removed to Fonthill, his country residence. His silence led to another conclusion than to that of criminal acts on the part of Mrs. Forrest, for within a day or two of this separation he presented his wife with a copy of his own treasured book, Shakspeare, and wrote his name on the blank page, whilst in the carriage which conveyed her to another home, he presented her with his own portrait, which was still in her possession, though notice had been given that it would be taken away. Nor was this all, for to his residence, in Westchester county, he took with him the portrait of Mrs. Forrest, and it still remained there as a memento of happier days.

Mr. Sinclair, the father of Mrs. Forrest, at that time resided in England, and at her request, Mr. James Lawson, the agent for Mr. F., wrote to him, informing him of this separation, in which letter he stated to Mr. S. that whilst he could not account for the disagreement, he (Mr. Sinclair) might be sure of one thing—"her honor was untarnished." Mr. Forrest saw a copy of the letter after it was sent, and signified his approval of it. But in December, 1849, the conduct of Mr. Forrest assumed a different character. It would be necessary to state that on coming back from Europe, in 1846, he returned a soured and disappointed man, not from any fault of Mrs. F., but from causes which it was not here necessary to go into. His first trip to Europe, in 1837, had been a successful one, he had made money; but during his second absence, at an age when men can bear no check, he met with that disappointment, and it might be said of him as of Alexander—the world was silent before him. From that time forth he labored under the excitement which that disappointment called forth, and to this source many of his acts might be traced. Whilst the internal conflict was at its height, the external portion of it was the cause of great excitement in this city; he gave up acting, as was supposed for ever, but very recently he had again appeared on the stage. He had a princely fortune, was the possessor of a magnificent mansion on the banks of the Hudson, and had in his reach every thing which human wishes could aspire to.

He (counsel) must now return to December, 1849. On the first of that month, Mr. Forrest went to Philadelphia, and assumed the character of a resident of that State. Near the close of that month he sent by the hands of Mr. Andrew Stevens, a letter to his wife, taking care to keep a copy of it, that he might use it in evidence. The letter contained criminations against her, accused her of circulating the causes of their separation, and hinted that hostile proceedings would be commenced. The answer was such as an honorable, virtuous and obedient wife, would write to a proud, powerful and affluent man. More steps were then taken. He engaged counsel, and also directed Mrs. Forrest to consult a legal adviser, which she, thus forced, consented to do. She subsequently was informed by Messrs. Sedgwick and Randall, that a letter, which Mr. Forrest alleged to have found in her drawer, and to which he then attached no importance, was now construed by him into evidence of criminality. That letter, the subject of so much controversy and newspaper comment, was written by George W. Jamieson, a fellow-actor of Mr. F.'s, who through him had been offered the hospitality of his house, but whom he now stigmatized as a bad man. The next step was a petition to the Pennsylvania Legislature, by Mr. Forrest, for a divorce from his wife, on the strength of the letter referred to—a divorce from a marriage solemnized in England, and which had its home and residence in this city. The proceeding was an unlawful one, and it would have been infamous, had the Legislature granted a divorce which no Court would give. The contending parties met, and on that occasion the counsel for Mrs. Forrest were told that their client had said to her husband, "If you want a separation, and to be married again, I will be no obstacle to your happiness, and will go to any State that you may obtain a divorce, so long as your application does not stain my honor or fair fame, so that when I stand alone, friendless and unprotected, I may not be called a vile woman." To this Mr. Forrest replied that he did not want a divorce; that men of higher standing in society had been separated from their wives, and no one would dare to ask him the cause, whilst he still should be able to extend his protection to her.

The Legislature of Pennsylvania, however, refused the divorce, without a proof of unchastity; and whilst Mr. Forrest's counsel told him that it would be impossible to obtain the decree on the mere ground of incompatibility of temper, Mrs. Forrest revolted against an impeachment of her virtue. Proceedings were then commenced in a Court of Law in Philadelphia, but she merely protested against them, and took no further steps. Again means were taken by Mr. Forrest to get the petition granted by the Legislature, and for this purpose it was brought up three times, and once rejected by the Senate.

To sustain the petition, a Mr. Lawson procured the testimony of an old lady, implicating Mrs. Forrest into gross indecencies with eight different persons, but the testimony was upon its face so improbable, that it was at once rejected by the Legislature. The bill filed by Mr. Forrest against his wife in Philadelphia, implicated a Capt. Howard, a friend of twenty years' standing of Mr. F.'s, as the ninth person who had committed adultery with the plaintiff, how and when these proceedings were taken, which brought up the question whether Mrs. F. should be held amenable to the laws of Pennsylvania, she filed her bill in the Supreme Court of this city, and obtained a decree, restraining her husband from prosecuting the suit alluded to.

The answer to the present complaint set forth that Mrs. Forrest was guilty of adultery, and the jury were called upon to decide who of the two parties was the delinquent. The original charges made by Mr. Forrest were in his present answer cut down to six distinct allegations of commission of adultery, omitting the statement that she had been equally criminal with a highly distinguished clergyman of this city, and with her physician. In September last the trial of this cause was postponed upon the application of Mr. Forrest, that he might be able to obtain the testimony of a highly important witness, one Anna Flowers, who was at that time alleged to reside in New Orleans. She was now in attendance, as he (counsel) had been informed, and there was no further ground for postponement. The case stood now simply thus. There were distinct allegations in the complaint of Mr. F. having committed adultery with various persons, and Mr. F. denied in his affidavit the whole of these charges, throwing recriminations upon herself. Testimony would be

produced which would clear up all doubts on this head, whilst on the other hand, the charges which Mr. F. brought against his wife before the Legislature of Pennsylvania, had not been substantiated. Since December, 1849, the defendant had been exclusively engaged in ferretting out testimony; Anna Flowers, the witness before alluded to, had been advertised for in 1850 to apply to Mr. Forrest's lawyer, whilst at the same time she had been at a boarding-house in this city, (of course a respectable one,)—having been brought to New York, communicated with by the advertisers, and then advertised for. The plaintiff would be able to bring home the putting in of this advertisement to the friends of Mr. Forrest, if not to himself, and the jury would from that make their own conclusions. This Anna Flowers had, in June last, when the cause was called up for trial, left New Orleans and gone to Texas, where a commission had been sent to examine her, and some time afterwards it was ascertained that she was in this city, at a hotel which Mr. Forrest was in the habit of frequenting. Anna had been staying as a servant with Mr. and Mrs. Forrest previous to their going to Europe in 1844; whilst there she was detected in the act of improper intercourse with the Capt. Howard before referred to, and she was subsequently confined of a child. Since then she had been married, and now came here to testify, having told some of her relatives that she was paid for doing so. At the age of fifteen she was engaged by Mrs. Forrest; her character was none of the best; she was proved to have been appropriating to her own use the small change in her employer's house, but not content with this, she mounted through the scuttle of the house on the roof, and entered the house of a neighbor, and stole whatever was in her reach. For this offence she was tried and imprisoned, and now this same woman was brought on the stand to give testimony on which alone rested Mr. Forrest's whole case. Another witness, a sailor, whom Mr. Stevens had procured, had already been examined, and his deposition would be read, he himself having conveniently been provided with a passage in a ship which sailed this very morning for California. There might be others whom he (counsel) has not yet heard of, but before concluding he would pass a remark or two on Mr. Jamieson. To judge of the worth of this man it would be sufficient to state, that in a newspaper controversy, got up by several editors, one suggested, that if Mr. F., who was then in New Orleans, was desirous of obtaining an admission from Jamieson in regard to his criminality with Mrs. Forrest, it was only necessary to make him drunk, and tell him that the fact itself would be no disgrace, but rather a feather in his cap. Such was the man to whom Mrs. Forrest was alleged to have surrendered herself in adulterous embrace—she, a woman who was adored almost by those who knew her. To her, the law was the only protection against disgrace and persecution. She offered her whole life for investigation, and, rather than give countenance to the slanderous reports which had been brought about, she would, if the verdict of the jury so willed it, sink into an early grave, than live the part of an injured woman.

With a few more earnest and emphatic appeals the learned counsel concluded his eloquent address.

It was then admitted by counsel on both sides, that the marriage between the parties had taken place on the 23d of June, 1837, the plaintiff being then nineteen years of age.

(In order to facilitate the comprehension of the testimony, we will here state, *that in a suit for divorce, where the defendant proves commission of adultery by the plaintiff, this is held a sufficient answer to the complaint, although the defendant may be conclusively proved guilty of the same offence.* REP.)

The issues framed in this case are as follows:

- I. Whether the defendant in this action, since the marriage with the plaintiff in this action, has committed adultery, as in the complaint in this action charged.
- II. Whether the said plaintiff and the said defendant were both inhabitants of this state at the time of the commission of such adultery by such defendant.
- III. Whether such adultery was committed by the said defendant within this state.
- IV. Whether, at the time of such adultery by said defendant, within this state, and also at the time of the commencement of this action, the said plaintiff was an actual inhabitant of this state.
- V. Whether the said plaintiff has committed adultery as alleged in the answer to this complaint.
- VI. Whether at the time of the commencement of this action the said plaintiff was a resident and inhabitant of this state.
- VII. Whether at the time of the commencement of this action the said defendant was a resident of the state of New York.

THE TESTIMONY.

Judge—Proceed with your testimony, gentlemen.

Mr. O'Connor—We call Henry W. Bashford.

Henry W. Bashford, sworn—The witness deposed that he was town clerk in Yonkers; that Edwin Forrest had a residence near there, and that he had seen him there three months ago.

Caleb Vantassel, sworn—Reside in Yonkers; was inspector of the Second District Poll in the election of 1849; Edwin Forrest voted there on that occasion.

Mr. O'Connor—We now call the defendant, Edwin Forrest. (Great excitement in Court. Mr. Forrest goes up to the clerk, is sworn and takes the stand.)

Q Did you know Josephine Clifton, formerly of the State of New York?

Objected to by Mr. Van Buren.

The Court ruled that the question, as it stood, was admissible.

A. I did.

Q. Is she still living?

A. She is not.

Q. How long is it since she died?

A. I do not know; probably two or three years ago. I don't know how long it is since I heard of her death.

Q. Can you not say that you have heard of her death more than two years ago?

A. No.

Q. Did you go from the city of New York to New Orleans, in the year 1848?

A. I believe I did.

Q. Was it in the spring of that year?

A. I think it was in the winter that I started to go—that is, in the month of January or February.

Q. Had you, before that time, heard of the death of Josephine Clifton?

A. I believe I had, but I'll not be sure.

Q. Had you frequently performed as an actor in the same pieces in which Miss Clifton appeared as an actress?

A. I have.

Q. Had you frequently travelled with her on long journeys in the United States?

A. No.

Q. Have you never travelled with her?

A. Yes, but not frequently on long journeys; do not know when I first became acquainted with her; do not know if it was before or after my marriage; cannot say, with any certainty, if I was introduced to her before my marriage, but think it very likely that I was; am introduced to a great many persons, and cannot, of course, recollect.

Q. Have you ever, since you were married to Mrs. Forrest, had sexual intercourse with Josephine Clifton?

Mr. Van Buren objected.

Judge—On what ground?

Mr. Van Buren—On the ground that they have no right to ask the question, since the answer might criminate the witness.

Mr. O'Connor insisted that he had a right to the answer, as, if answered in the affirmative, it would convict the witness of a misdemeanor only. He was interrupted by Mr. Van Buren, who thought it would be sufficient to state that married people could never testify against one another. He (counsel) begged the jury, however, to understand that the objection to this question was raised by him alone, as he did not know that Mr. Forrest had any objection to answering.

The question was warmly and ably discussed on both sides, the Chief Justice finally ruling against it. Prior to the rising of the Court, Judge Oakley requested the jury to abstain from any outside conversation on this case, and if any person should venture to approach them they were to inform the Court of it. The further proceedings were then adjourned until next day.

SECOND DAY.

WEDNESDAY, December 17.

The Court opened at a quarter past ten o'clock.

Mr. and Mrs. Forrest were in attendance fifteen minutes previous to the commencement of the proceedings, dressed as they were on the previous day.

Mr. O'Connor added a few remarks to his argument of the previous day, in support of the admissibility of the question which he put to the witness, Mr. Forrest.

Judge Oakley thought it unnecessary to discuss the point further. Yesterday he (the judge) had remarked that the question was an attempt to drive the defendant to a confession which would subject him to indictment, but this had been sufficiently answered. Yet they might give to the code a different construction; there might be many instances when a wife and husband wished for a divorce, and the husband might by putting her on the stand, be induced to give such testimony as would relieve them both, and fulfill their wishes. The confessions of a defendant were not to be taken as evidence at least in the form now presented, and the question must therefore not be asked.

Mr. O'Connor—Does your honor mean to say, that the confessions of a defendant are not to be taken in evidence?

Judge—I dispose of that question in the form in which it now arises.

Mr. O'Connor offered an authority in which the confessions of a party formed the *sole* ground of the verdict of the jury. He then asked on what ground the question was overruled.

Judge—On the ground that it cannot be put—that it is irregular.

Exception noted on the part of plaintiff.

Fanny Maria Godwin, sworn—Am the wife of Parke Godwin; I have known Edwin Forrest for fifteen or twenty years past; until the separation of Mr. and Mrs. Forrest, I and my husband were on terms of intimacy with them; in January, 1849, they were residing in Twenty-second street in this city; that establishment was broken up about the 1st of May of that year; Mrs. Forrest came to reside at my house about the 1st of May; she resided with me for about one month; she then went to reside at Mr. Ingham's; during the winter and spring, prior to the month of May, I and my husband used to visit the Forrests at their house in Twenty-second street; they used to come in a carriage. Mrs. Forrest was only accompanied by her husband. Mr. Forrest brought a portrait of his own in the carriage when he left Mrs. Forrest at our house. Forrest carried the portrait from the carriage into the hall, and Mr. Godwin received it there; the portrait was a full sized one. I had seen the portrait before; it used to be kept in their dining-room or drawing-room; there was a picture of the same size of Mrs. Forrest in the same room; the latter picture was not brought to our house; I last saw it at their house; Forrest called twice at our house to see his wife, while she resided with us; his conduct toward her was friendly, for what I know, on the first occasion; on the second I was not present; his conduct on the first occasion must have been friendly, for I did not even notice it.

Cross-examined—I was married in 1842. I knew Mr. and Mrs. Forrest before their marriage; as far as I know, they were always on friendly terms; his treatment of her was kind, so far as I know. I invited Mrs. Forrest to our house in May, 1849. I heard, the day before I invited her, that they were going to separate. Forrest remained about ten minutes when he brought his wife; he told me Mrs. Forrest was in the parlor, and I motioned him to go in, but he left; when he next called I think he remained half an hour, or longer; his conduct was simple and proper; besides the picture which Mrs. Forrest brought with her, she brought a glass and a chair, but not at that time. Mrs. Voorhies lived at that time in Great Jones street. Mrs. Forrest took some few things to the house of Mrs. Voorhies—I believe a bedstead. Mrs. Forrest was with me altogether, and I do not know that she was with Mrs. Voorhies; she may have been there without my knowing; do not believe that Forrest, on calling at our house, had to send for his wife to the house of Mrs. Voorhies. I think she was in our house both times Forrest called. Mrs. Voorhies lived at Mr. Ingham's boarding-house in Great Jones street; Mrs. Forrest subsequently kept house in Sixteenth street. I have visited her a good deal up to the last eight months, since which time I have not visited at all, in consequence of sickness in my own family; prior to that time I called upon her perhaps once in two weeks.

Witness—It was at my own suggestion that I invited Mr. Forrest.

Mrs. Godwin here remarked that although Mr. Forrest was not unkind towards his wife, as the world called it, he, however, was not considerate so far as regarded her feelings.

By Mr. Van Buren—I never thought Mr. Forrest very considerate, but remarked it most toward the latter part of their living together.

Re-examined—Mrs. Forrest was embroidering a stage-dress for Mr. Forrest during the period from February to May, 1849; I have not in any way withdrawn my friendship or confidence from Mrs. Forrest since the separation from her husband.

The question was objected to, but answered by the witness before objection was raised.

Witness—I have seen Forrest's handwriting, (a copy of Shakspeare produced;) this is Forrest's handwriting on the title page.

Mr. O'Connor read the writing:

"Mr. Edwin Forrest to Mrs. Edwin Forrest, 29th of April, 1849."

The witness then left the stand.

Thomas W. Whiteley, sworn—I reside in this city; am an artist and a dealer in wine and spirits; my business place is 543 Broadway, and in Pine street; I know Forrest for ten or twelve years; during 1850 and 1851 it has been my business to be much in Broadway; have met Mr. Forrest several times in Broadway during that time, also at the office of the *Evening Post*, at Florence's, and at Niblo's; have seen him at least a dozen times in Broadway.

The plaintiff intimated that she wished to prove Mr. Forrest resided in this State. Allowed.

Witness—Do not know that Forrest has removed from here; not long ago Mr. Forrest addressed me in the street and I answered him; since then I have had no conversation with him; was four or five months ago.

Q. Did he on that occasion say anything in regard to any houses in this city which he had visited?

Objected to.

The judge asked what the plaintiff was going to prove?

Mr. O'Connor—I intend to prove by this witness that Mr. Forrest admitted on that occasion that he was in the habit of visiting houses of ill-fame in this city, for purposes for which such houses are usually visited.

Mr. Van Buren objected, particularly on the ground that the allegation had not been made in the complaint, and also that Forrest's declarations were not evidence.

The judge expressed his opinion that admissions of adultery were not good evidence. There could be no collusion between the parties expected here, yet the standing rule was sufficient to exclude the testimony.

The witness begged to explain; he said he knew not what inference might be made of the testimony offered, but he would say that he (the witness) had no proof of Mr. Forrest having been guilty of the acts imputed to him.

Mr. O'Connor—No; we only want you to prove his admissions.

Andrew Jackson Allen, sworn—I reside at No. 37 Bowery; I am a costumer, (laughter;) have made costumes for the stage for forty years past; I have the honor of knowing Forrest for a great many years, longer than any other gentleman in this court or this city, (laughter;) I have served Forrest as costumer from 1826 to 1843. (The witness indulged in a lengthy speech, giving an outline of what he had served Forrest with in the shape of costumes, including those of

Gladiator, &c. &c.) I traveled with him when he went to perform engagements in different parts of the Union; I was acquainted with Josephine Clifton; she was an actress; she resided in White street, two doors west of Elm, in a two story brick house.

(The Court reproved the frequent laughter of the audience.)

Witness—I think Forrest and Miss Clifton were on intimate terms whilst I traveled together with them; Mr. Forrest and Miss Clifton traveled together considerably, off and on, for a year or two.

Q. Were you with them when they were traveling South on a theatrical excursion, and when they performed for a term in Norfolk, Va.?

A. As near as I can recollect, I was; at Norfolk they lived together at the same hotel; Mrs. Forrest was not with her husband at that time; they stopped at French's hotel; the engagement lasted for about two weeks; they performed together at the theater; I attended to the settling up of their affairs on their departure.

Q. When thus traveling together, what was the action of Forrest and Miss Clifton, in the absence of Mrs. Forrest?

A. They seemed to be very fond of each other, and had I not known that Forrest was actually married—

The witness was here stopped by the Court.

Mr. O'Connor—I want the particulars; I shall get to them by and by.

Witness—I heard every thing that passed; I saw their familiarity, (laughter;) I saw nothing positively criminal; I am rather deaf, and could not hear all that took place, but I could see; I saw them kiss and embrace, but I did not see any thing criminal; I did not hold a candle to it, (much laughter.)

Q. Was this kissing and embracing common or frequent?

A. Oh, when they were together, and were in that humor, they generally did it; I never saw that kind of amusement carried on between them when Mrs. Forrest or any one else was present; cannot say if I was with Mr. Forrest and Miss Clifton on the evening prior to their departure from Norfolk; I was generally with them; they had one parlor together, and separate bed-rooms; they did not go to the public table, but dined together; I presume they occasionally supped together in that parlor; I have seen them sup together occasionally; Forrest's bed-room communicated with the parlor; that of Miss Clifton also communicated that way.

Q. Was there any occasion, during their stay there, that you saw them at supper, and called again early next morning?

A. There was; I once went into his room before he had breakfasted; do not know if the table was set; it was between nine and ten o'clock; Forrest was not in his bed-room that morning; his bed had been made up; the girl had been there before I came; I never looked into Miss Clifton's bed-room that or any other morning; I never interfere with the ladies (great laughter); Forrest came into the parlor as I was coming out of his bed-room; I was afterwards with them when they lodged at a hotel in Providence, R. I.; they lodged at Earle's City Hotel there for two weeks; they occupied, in the same way, a parlor and two bed-rooms, not going to the public table, but taking their meals privately. Witness explained that, on that occasion, he was manager, not superintendent; that he sent them some oysters, and partook of them with Forrest and Miss Clifton.

Witness—Did so but on one occasion; did not call on Forrest early in the morning whilst staying at Earle's Hotel; Mrs. Forrest was not with her husband in Providence; Miss Clifton was about twenty-five years of age then; she is dead now; I am sorry for it; I occasionally visited Miss Clifton's house on White street; I worked for her; have visited and dined with her; there was another gentleman, but I do not know him; have seen Forrest there on one occasion, just before he left this country for the last time, to go to England; that was about noon; I had been sent for by Miss Clifton, on business; before I saw Forrest on that occasion, I was in Miss Clifton's room.

Q. Was she up?

A. No, she was down. (Loud laughter.)

Q. What do you mean by down?

A. Laying in bed; I inquired for Josephine; the servant said she was up stairs, and she heard my voice, and called me to come up; I was going out, when I met Forrest in the entry, asking for Josephine, or Josy; the servant answered "up stairs;" and Miss Clifton hearing his voice in the same way, called to him, and he went up, whilst I went out; I went out immediately; do not know if Miss Clifton was dressed, or otherwise; she was covered by the bed-clothes; I saw one of her legs sticking through the bedclothes, and there was a stocking on it, but no shoe; so far as I could see, all the leg was covered; observed none of the ornaments in that bed-room.

Mr. O'Connor again read an authority showing that confessions of a defendant might be received if surrounded and sustained by collateral evidence.

Decision reserved until a future stage of the proceedings.

Counsel then gave in evidence an exemplified copy of a mortgage executed by Forrest in August, 1849, on a piece of land in Westchester county, stated to be adjoining the residence of defendant; Forrest describes himself therein as "Edwin Forrest, of the town of Yonkers, county of Westchester, State of New York."

An exemplification of a record of a suit commenced by Forrest against his wife for a divorce, in the Common Pleas for the city and county of Philadelphia, was then given in evidence. It is filed 7th August, 1850, and the summons is to Mrs. Forrest to appear on the 3d Monday of September following.

The petition charged Mrs. Forrest with criminality, and further shows (which is material) that deponent, Forrest, is a citizen of Pennsylvania, and had resided in that State for more than one year, that is to say, from the 7th August, 1845.

Theodore Sedgwick, sworn—I have known Forrest for several years. (Papers produced.)

Q. Were these papers prepared in your office at the request of Mr. Forrest and served upon Mrs. Forrest?

Objected to, and the object of the question asked for.

Mr. O'Connor—This is another paper in regard to the residence of Mr. Forrest.

Witness—I was employed as counsel by Mr. Forrest, and should not wish to testify to more than I am obliged to.

Witness in answer to the question says, that the papers produced were the copy of original papers prepared at the request of Mr. Forrest to be served on Mrs. Forrest.

Cross-examined—There is one word in the copy in my own handwriting; do not know if I compared it to the original; I drew it before it was signed.

Q. Now look at the copy and say if you believe it to be like the original.

A. I have no doubt this is a copy of the original drawn by me. The copy is made by Wm. Henry Sedgwick and another gentleman in my office.

Wm. Henry Sedgwick, sworn, documents produced—The body of this paper is not in my writing; I served it on Mrs. Forrest; the note at the bottom is in my writing; I compared the copy with the original before serving it.

Cross-examined—Have no distinct recollection of having compared the copy with the original.

The Court ruled, that unless the original of the petition or an exemplified copy of it be produced, the evidence so far adduced in this branch of the matter was to be stricken out.

Mr. Whiteley recalled, (letter produced)—I have some knowledge of Forrest's handwriting; this letter is written by him. (The letter is from Forrest to his wife, dated Richmond, Va., March 20th, 1842. The letter winds up by saying, "I close here to-morrow night, and then go to Washington to perform three nights," &c., &c. The evidence is given to fix the exact time of Forrest's travels in Virginia.)

The case for the plaintiff rested here for the present. Mr. Van Buren then rose to make some suggestions as to the further progress of the cause. The complaint had been made by Mrs. Forrest complaining of the adultery of her husband, which was denied with recriminations upon herself. There had not been the most distant proof of adultery on the part of defendant, nor had there been any evidence offered which would in any way induce a jury to return a verdict against him. It might, therefore, be proper for the court to make a speedy termination of these proceedings, by granting a nonsuit against the plaintiff, and in order to save any vexatious delay, and to protect both parties from further exposure, he (counsel) now called upon the court to grant the relief asked for.

The Court could not agree with the suggestion of counsel that there was no proof on which the jury could not re-

turn a verdict against the defendant. The court would moreover leave open the evidence as to the confessions of Forrest, as to isolated confessions, appertaining to particular cases such as had been offered to be proved by Mr. Whiteley; any proof of Forrest's confessions as to what transpired, for instance, in White street, as testified to by Mr. Allen, might be given in evidence. The rest of the offers to prove were to be left open until next morning, meanwhile counsel would be heard for and against the offer.

Mr. O'Connor said that he was not in possession of any evidence appertaining to any specific admission of Forrest, but that he had the proof of general declarations by Forrest, without being sustained by circumstantial evidence.

The Court said that were this an ordinary case he would rule upon it according to his first impressions, as a sound rule of law, and in keeping with the policy of it, but owing to the peculiar position of the parties, which excluded all presumption of collusion, he would take time to consider it till the morning.

The Court having expressed some surprise that recriminating charges should have been laid in the answer by Mr. Forrest, and that the evidence being on these charges was to be adduced in the same trial,

Mr. O'Connor explained, that if such recriminating charges by a defendant were proved true, they formed a good defense to the complaint, although the defendant might have been guilty of the adultery. Mr. Forrest had the right to have filed a cross bill, but as he had not done so, and thrown out the recriminating charges in his answer, both parties had now an affirmative issue, and the plaintiff was as usual entitled to the last address to the jury.

The Court left the latter question open.

Mr. John Van Buren then rose to address the jury in opening his case. He had expected that some lewd, improper act would have been proved on the part of Forrest, whose whole life was open to inquiry. There was no lack of charges against him, as he (counsel) would show, (what Mrs. Forrest had stated in her complaint under oath. She swore, that he, Forrest, had had carnal knowledge of Josephine Clifton, who died in 1845 or 46; she died before any difference between Forrest and his wife—she died before the least suspicion of guilt had been held out. She died unmarried, so far as counsel knew, or she might have been married *after* the alleged guilt on his part. Her character stood such as in itself to refute any charge of improper conduct, yet, it had been thought proper by Mrs. Forrest, to charge her with prostitution in 1841, 42, 43 and 44, in various places, and at various times. Now, was there any testimony in this case after these wholesale charges upon this dead woman to reflect upon her character in the least degree? Counsel should think not. She and Forrest were in the same profession, thrown together daily on the stage and at rehearsals; was it then surprising that they should have been on terms of intimacy? Nay, more, the plaintiff had no hesitation to state under oath that her husband had entertained criminal connection with as respectable a female as there was in this city, whose name had since then by consent been stricken from the pleadings. This name had been published in the newspapers by the plaintiff, but now, here on the trial, there was no pretense of proving the truth. Forrest was further charged with having committed adultery at the house of a Mrs. Martin, in Broome street, at the house of Caroline Ingersoll, in Greenwich street, at a house in Cherry, between Market and Pike streets, in 1838; where now was the proof, nay, where was the slightest pretence of the truth of such allegations. Further, that he had criminal connection with Ann Dempsey, otherwise called Mrs. Flowers, in this city, and at New Brunswick. This Ann Dempsey was an important witness for the defendant, and this alone was the reason why the charge had been put into the complaint, by way of prejudicing the minds of the jury against the witness.

Counsel alluded to several more charges against Forrest, condemning the fact of their having been made, when now there was no attempt to prove the truth of them. Where was the evidence to support the charges; and if there was such evidence why was it not brought forward? The plaintiff could not say that she had no opportunity of knowing what her husband was about, for it could be shown that his steps had been dogged whenever he was in this city, on a visit from Philadelphia.

Counsel would now state what the defence offered to prove, and would be obliged to go into the former life of the plaintiff. Her father, Mr. Sinclair, was originally a drummer in an English regiment, then he became a respectable stage singer, and throughout the union with his wife lived on the most unfortunate terms with her. Shortly after Forrest's marriage, his father-in-law, with the whole of his family, came to this country, and took up their quarters at Forrest's house, which they rendered a place of riot and dissipation. It would be shown that Mrs. Forrest was on terms of the closest intimacy with an actor named Jamieson, and on a certain day, returning home unexpectedly with a gentleman named Smith, he found his wife in a position with Jamieson, the details of which would be shown by testimony. Shortly before, when starting from Pittsburg for Cincinnati, a letter was handed to Mrs. Forrest, (May, 1848,) and three weeks after the receipt of it the scene above detailed took place. The letter was already referred to, and in proof. In January 1849, when there was no difficulty between the parties, and the suspicions which had been called up by the scene in Cincinnati had been dispelled, Mr. Forrest, in looking over some letters in the bureau belonging to his wife, found the famous "Consuelo" letter, which as counsel thought, was a complete proof of the guilt of the party to whom it was addressed. Counsel would now read it.

Mr. O'Connor objected to the reading before the letter was proved.

Mr. Van Buren said that the receipt of the letter by Mrs. Forrest had not been denied; moreover the contents of it were in a special deposition, which counsel would now read.

The Court ruled that the letter could not be read as proof, but only as referring to something intended to be proved. As to the admission or denial of its receipt, the Court knew nothing about it.

Mr. Van Buren said he would confine himself to stating the contents of the letter. It would be found to address her in language of strong affection, referring to their past illegal and criminal intercourse, and it would be found to state as nearly as possible—

"And now, sweet Consuelo,——"

Court—Now, this will not do, let us deal candidly.

Mr. Van Buren—Well, then, it speaks of the realization of voluptuous enjoyment, it referred to the pleasures of their past licentious intercourse, and called upon the other party to give her experience of that enjoyment in reply; it would speak of the bliss of the recollection of that enjoyment, and of the reality which stared them in the face; it would speak of the love, of the fidelity of the writer, and would speak of the recollections of the writer, and would say, "I do not doubt you, and you have assured me that you do not doubt my love." It described the passion with which the writer regarded the party as a mixture of admiration, pride, and veneration, and concludes with saying how miserably the writer felt in comparison with past times.

(Mrs. Forrest seemed much affected by the remarks of counsel, and shook her head repeatedly when the stronger portion of the language reached her ears.)

Counsel—The letter had been kept for 7 or 8 months by Mrs. Forrest before it was found, yet the jury might say that the insolence of some scoundrel had thrust it upon her; but would she then have carefully guarded the letter, or would she have presented it to her husband for him to act upon as he thought proper? The jury must recollect that the most perfect understanding was at that time existing between man and wife, yet instead of informing him of the insult which had been offered to her, she treasured it up with letters of a most exceptionable description from Mrs. Forrest's own sister. The letter alone would be sufficient to prove Mrs. Forrest's guilt, but it was not all; the same intimacy had been kept up between Jamieson and Mrs. Forrest. Six months after the receipt of the letter, Jamieson was received by Mrs. Forrest, shut up for more than an hour with her at Forrest's house, and in the absence of her husband. The discovery of the letter, therefore, surrounded by the circumstances alluded to, had convinced Forrest of his wife's dishonor—hence his resolution to separate from her.

Counsel then described the consideration which Forrest had shown to his wife, and the delicate manner which he had pursued in separating from her, to spare her the disgrace of a public separation.

Proceeding with his argument counsel said that Forrest subsequently found that his wife had kept up a close intercourse with her sister, who had the misfortune of having a child before she was married, that men, little known to him, had stopped at his house day and night, that a *coterie* of literary gentlemen, at whose head stood Nathaniel P. Willis, had rendered his house a place of wassail and dissipation; that Richard Willis, with whom Forrest had no acquaintance

whatever, had for three days and three nights stopped at the house; that Capt. Calcraft had been seen at three o'clock in the morning in the hall of the house, carrying in his hand a glass and pitcher, to carry up to the ladies, with whom he stayed all night; that upon him and Willis, Mrs. Forrest and Mrs. Voorhees had waited as servants, as chambermaids—and if all this was to be proved on the present trial, would it not be conclusive proof of the plaintiff's guilt?

Counsel then alluded to the witnesses whom they meant to examine. Ann Flowers would swear that in 1844 she saw Captain Howard have criminal intercourse with Mrs. Forrest. It was on this account that the tremendous attack had been made upon the witness, but counsel did not believe that a single word of those charges against her true. Counsel went on speaking about the character and standing of the witnesses whom he meant to introduce, until the rising of the Court at 3½ o'clock.

THIRD DAY.

THURSDAY, December, 13, 1851.

The Court opened at 10 o'clock precisely, the room being again filled to suffocation.

Mr. John Van Buren opened the argument in opposition to the motion of plaintiff for the admission of confessions (made yesterday) on the part of Mr. Forrest, as to his having illicit intercourse with various women during the period of his being married to his present wife.

He was answered by Mr. O'Connor, who argued strongly for the admission of the evidence. Reading numerous authorities bearing on the case in hand, he dwelt upon the fact, that there could not exist any collusion between the parties at issue; the rule laid down by the Court was simply to prevent collusion—not to prevent the due exercise of justice. As no collusion could be presumed here, the object of the rule was soon done away with, and the evidence ought to be admitted.

Mr. John Van Buren answered, commenting upon the authorities adduced by plaintiff's counsel. A strong objection to the admissibility of the evidence consisted in the fact that the alleged confessions of Forrest had been made long after the filing of this complaint.

The Chief Justice then gave his decision, ruling out the offer made by plaintiff's counsel, on the ground that it was too general. The offer was not as to any commission of adultery with a party named in the complaint, nor had it reference to time or place. Confessions of the commission of adultery should never be received in evidence, and although such had been done in England, when these cases came before the Ecclesiastical Judges, yet they never had been allowed to be brought before a Jury there, on a feigned issue, since it was deemed too dangerous, as it might influence their minds, which it would not do if tried by Judges.

Mr. O'Connor excepted to this decision.

N. Gray, sworn—I reside in this city; am Commissioner of Deeds; was so on February 16th, 1851; my office was then in Wall street, P. Sedgwick; I know E. Forrest by sight; he deposed to a paper before or about that time; I had no knowledge of its contents; it was not a very large paper; I heard a few days afterwards that an application for divorce had been made by Forrest to the Pennsylvania Legislature.

Francis H. Dikers, sworn—Am Attorney at law; I was doing my business in Mr. Sedgwick's office in February, 1850; (papers produced;) gave some attention to Mr. Sedgwick's business; this paper is written by myself, except the pencil-marks and a word written by Mr. Sedgwick himself; do not know if I copied this from the original or from a draft; I saw an original of this at some time in the office; know Mr. Forrest; saw him at the office about that time.

Charles Condit, sworn—Am an Attorney at law; I went to Harrisburgh some time ago, in February, 1850, and made search for an original of a petition by Mr. Forrest to the Legislature for a divorce from his wife; made search with the clerk; found but one paper and had a copy made; compared it myself; (paper produced) that is the copy; the clerk made it.

Cross-examined—The clerk's name who made the copy was Adams, I think; the Legislature was not in session. The examination of this witness continued for some time, with a view of showing that the paper produced was not an admissible document, since it could not be conclusively shown, that it was a copy of an original.

The Court admitted the reading of the document.

Mr. O'Connor read the paper and the note accompanying it. The paper gave notice to Mrs. Forrest that the petition would be presented to the Pennsylvania Legislature for a divorce. The petition was dated 16th February, 1850, and stated that he resided in New York until 1st December, 1849.

Christiana Underwood, sworn. (This witness is of middle height, very coarse-featured, and over-dressed to a degree which elicited the smile of the audience as she passed.)

Mr. O'Connor stated that he would at the outset inform his opponents, that he would make no objection to any testimony which might tend to impeach the testimony of Mrs. Forrest, either by this or any other witness.

Mr. Van Buren begged leave to ask if this voluntary statement of counsel was intended as a flourish, or with a view of telling the jury beforehand that they were to place no reliance on the testimony for defence.

Mr. O'Connor had no particular object in making the observation, but considered it his duty to inform the court and jury that the whole life of his client was open to investigation.

Witness examined—I reside at No. 118 Sixteenth street; I am married; I am a Scotchwoman; have been in this country since 1837; I know Mr. and Mrs. Forrest; I have known the family of Mrs. Forrest, but did not know her until just before her marriage; I knew her father; he was in the Argyleshire militia, stationed on Aberdeen at the time; he played an instrument in the band; I came to this country with my husband and family; my first husband's name was Bedford; I came here before Mrs. Forrest; I was not then engaged in their family; Mr. and Mrs. Forrest afterwards called upon me at my residence in Pearl-street, and wanted me to take care of a house in Reade-street; they were going to Philadelphia soon after, and I took charge of the house and had it cleaned; that was their home at that time; I and my family lived in the house after Mr. Forrest moved to Second street; a cook and a boy were in his house at the time; the family of Mrs. Forrest arrived about two months after we came; they were Mr. and Mrs. Sinclair, Virginia, Margaret, and a servant; they also resided in that house in Reade-street; Mr. and Mrs. Forrest were in New Orleans when they arrived; the house was furnished; I got the provisions and all that; I remained in the house until May; they lived very well together, and were very affectionate; Mrs. Forrest seemed very happy in every respect; I remember their going abroad afterwards; I was in this city at that time, living in Grand-street; I saw them abroad; they lived together the same as before; I saw them in London; they went to Scotland, and I returned to America; saw Mrs. Forrest once or twice a week in London, for about a month; Mrs. Forrest dictated a letter for me to Mrs. James Harper, recommending me to her as a bookfolder, for I was destitute at the time; I went to live with the Forrests again in the first or second January following my return; I went to live with them again it was in January, 1845, I think; I lived with them about two years and a half before they separated; they were going to travel for two or three months; I came to the house the day before they went; it was in January; do not know how they lived together then; saw five or six servants who were very unruly, and I had much trouble with them; when they returned Mr. Forrest engaged a cook and a boy; they were about three months gone; I was then as housekeeper; Mrs. Voorhees was not living at the house at the time; she was not one of the family; she was up-stairs in the attic; she did not see Mr. Forrest; Mrs. Voorhees sometimes came into our kitchen and asked if Mr. Forrest was at home, whereupon some servant went to see, and if he was not, she would pass up into the attic; her visits were always the same, except on one Saturday, when

Mr. Forrest invited her and her husband to dinner ; there was no other company that time ; do not know the occasion of that dinner, but I thought it very strange——

Mr. O'Conor—Confine yourself to facts, for if we get your thoughts we shall never finish.

Witness—Mrs. Forrest told me that the dinner was to get a reconciliation with the Voorhees', at the intercession of Drs. Gray and Wainwright ; that was soon after Mrs. Voorhees's marriage ; she came one day, and it was snowing, and as she shook off her clothes, I looked at her ; she said, "Why are you looking at me ;" I said, "Yes, you are growing stout ;" she answered, "I have been in the family way for some time ;" I remained at the house until they separated ; their manner of living, and conduct of Mr. and Mrs. Forrest, was then much the same as before ; Mr. Richard Willis was not at that time visiting the house, but Mr. N. P. Willis was ; never saw him at the house before their return from Philadelphia ; Mrs. Forrest was acquainted with him in 1844 ; she told me one day in 1844 that she expected a gentleman, and she appeared rather confused and flushed, and I thought very strange of it ; Mr. Willis did come ; do not know that any thing occurred ; a servant came and told Mrs. Forrest that Mr. Willis was in the drawing-room ; she went down and stayed for about half an hour ; she looked flushed and flurried ; when she returned she regulated her hair ; Mr. Forrest was not at home at that time ; (the circumstance alluded to occurred, as stated, in 1844,) in England, Mrs. Forrest told me that she thought a great deal of Mr. Willis, that he had classical ideas, and a good taste for ladies' dress ; that he generally arranged her dress, and once kissed her on the shoulder in the presence of Forrest, and she was scared to death ; Mr. Willis had then been in London, and had gone to Paris ; she said nothing further about him ; Willis rarely called when Mr. Forrest was at home ; he called in the morning and in the afternoon ; one day it was very stormy, and Mrs. Forrest told me she expected Willis at 2 o'clock ; I said the weather was such that she could not expect any one to come, but he did come ; he was in the drawing-room, and the blinds were all closed ; Mrs. Forrest told me there had been some one outside, and Mr. Willis had heard a footstep ; that she had opened all the windows, but had not seen any one ; do not know how the drawing-room was arranged ; that was the servant's work ; sometimes Willis staid later in the evening, and Mrs. Forrest then came down to me and said Mr. Willis was up-stairs, and she did not want him to be seen going out ; Catharine, the servant, came down and told me that Willis was up-stairs, and wanted to go out without being seen ; that was between nine and ten o'clock at night ; Mr. Forrest was not at home then ; Willis left by the hall door ; I stood there and saw that nobody came from the kitchen ; Willis was in the habit of coming very familiarly ; he called one evening after Mrs. Forrest had been waiting for him, and had gone out, leaving a note for him, and word, that if he wanted to write an answer, there was pen and ink in the dining-room ; he came about 8 o'clock ; do not exactly remember how she used to express her feelings in regard to Willis ; I know Richard Willis ; do not know if Mr. Forrest knows him ; Mrs. Forrest and her sister were going to a party, and after they were gone there was a great noise ; I went down stairs and saw the servants laughing and carrying on, and all the gas lighted ; I spoke to Miss Virginia, and asked why the gas was burning, and ordered it put out ; Miss Virginia said, "Oh, no, do not put it out ;" I said it was unusual to have it burning in Mrs. Forrest's bedroom, and was then told that a gentleman was in there ; the servants were Mrs. Voorhees' nurse, the cook, Robert, and another servant ; Mr. and Mrs. Forrest's bedroom adjoined the parlor ; the gas was burning in the library ; Miss Virginia told me not to turn out the gas in the library, for a gentleman was coming there to hear her lessons ; I asked her to go into the dining-room, but she said, "No ;" I was then going to the bedroom to put out the gas there, when she caught hold of me behind, and said, "You must not go there, there is a gentleman there ;" she said it was young Mr. Willis, and he was coming to hear her lesson in the library ; I then went into the kitchen and asked the servants ; the next day, after breakfast, I saw Mrs. Forrest ; she was writing in the library, and I asked her who was the man that was locked up in her room for three days and three nights ; Mrs. Forrest said, "Good God, who says so ?" I said, "All the servants say so ;" she then desired me to go and tell the servants that Mr. Willis had desired his brother to go home to New Haven, but that he had wanted to spend his Christmas in the city ; she also said that N. P. Willis had called the previous day, and expressed his satisfaction that Richard had gone, whilst Richard in reality was in the next room at that time ; she had seen N. P. Willis in the library, and Richard was in her bedroom ; it opens upon the hall ; N. P. Willis had said to her that his brother had made his wife like his music too well, and although he was not jealous of his wife, yet he did not want her to make a fool of herself.

Witness here suddenly said—"I don't believe that Richard Willis came to see Mrs. Forrest."

Witness continued—I asked Mrs. Forrest who made up Richard's room ; she said, "Never mind ;" he took his breakfast in his room and dined at the table ; I did see him at table myself.

By the Judge—I did not see him at table ; I was only informed he was there.

To Counsel—The same evening Mrs. Ibbotson, Mrs. Voorhees, and Mr. and Mrs. Willis were there ; I came up-stairs next morning and heard a great noise ; Mrs. Forrest met me, and I asked her what all that noise was ; she said, "Oh, we have been sitting up all night, amusing ourselves ;" Robert took Mrs. Willis home in a carriage ; Forrest was in Philadelphia at that time ; they went out in the carriage with Mrs. Willis and Forrest, and Voorhees breakfasted at Willis's ; they took Richard Willis with them, but she said he did not go to his brother's ; I never saw Richard Willis at the house but on that occasion ; on one morning in the summer, before they separated, the dining-room was all in confusion, things broke and lying about, and Mrs. F.'s fan broken ; Raymond, Mrs. F. and Voorhees went out some where the night before that ; we had no servant then but Voorhees's servant and the sewing girl ; when I spoke of the confusion in the drawing-room, Mrs. Forrest said she went to put the gas out, and her foot slipped, she fell and broke the things ; Mr. Forrest was not at home at that time ; he must have been in Boston ; Mrs. Voorhees lived in Great Jones street ; she always remained in F.'s house during his absence ; the carriage that took Forrest away generally brought Mrs. Voorhees to the house ; Forrest never saw her when he came back ; they knew when he was coming, and she then went away ; Raymond was in the habit of coming there very frequently, and going out with the ladies ; one day she expected him ; she dined alone ; she was going up stairs after dinner ; she tripped, and she said she had sprained her ankle : she asked me if I would go to the druggist's for some liniment, and I did ; when I returned Raymond was in the parlor ; she was going to have her foot rubbed, and I asked him would he walk into the dining-room ; he walked out to the hall while it was rubbed ; he then went into the room ; Mrs. F. was lying on the sofa ; she called for hot water and glasses and brandy ; about ten o'clock she rang the bell, and desired me to tell the servants to go to bed, and said I might go to bed too ; I said, "I had better wait up, as you'll not be able to walk to bed ;" there was no one in the room but her and Raymond at the time ; I went up stairs ; I did not go to bed till twelve o'clock ; next morning she said to me "that wretch," or "that devil," I don't recollect which, "stayed all night," and that she wanted him to stop for breakfast ; I asked her where did he sleep ? and she said, "in the spare bed ;" I said there were no bedclothes on it ; I asked her what became of the clean clothes that came home from the wash, and which were laid on the bed ; she said she had removed them ; she also told me that Raymond caught hold of her petticoat that was lying on the bed, and asked her if that was a tin petticoat.

Chief Justice—A what ?

Witness—A tin petticoat ; you know they put such a deal of starch in them. (Continued laughter.) She said to me she wished him to get his breakfast before he went, and asked me what she should do ; I said he had better go out first, and come back and ring the bell ; he did so ; I went into the spare bed-room ; the clean clothes were not on the bed ; the bed was not at all disturbed ; it was a mattress with a counterpane and pillows, but no pillow-covers ; Forrest was not at home at that time ; I don't know the occasion of her slipping, but her leg was well in the morning.

Q. What do you know of Mrs. Forrest being dressed by any gentleman ?

A. She was going to a party at Lynch's on Saturday evening and was dressing ; Raymond came in, and she wanted some things from Thompson and Weller's, in Broadway, and asked me to ride down with her ; I went up stairs to dress, and when I came down she had on an exceedingly tight velvet dress, which I couldn't fasten, and which Forrest used to find difficult to fasten ; I asked her who fastened it, and she said Raymond ; I said, "Oh, my ! how did you do it ?" Raymond then came in the carriage with us down Broadway, and stopped at his boarding-house ; I did not observe anything particular in the carriage ; it was dark.

Q. What do you know of Mr. Granby Calcraft ?

A. The first time I saw him Willis brought him to a party ; Forrest was not at home ; Calcraft called again next day in the forenoon, and stayed till five o'clock ; he was in the drawing-room with her all the time ; he did not dine there ; dinner was ordered at two o'clock ; but they didn't have it till they were gone ; Voorhees was there ; Calcraft came almost every day, and when he didn't come, he sent his servant with notes and presents—bouquets and segars.

Chief Justice—What ?

Witness—Segars—ladies' segars !

To Mr. Van Buren—Mrs. Forrest smokes a little ; they were small white segars, tied with blue silk ; Mrs. Forrest has written to Mr. Calcraft ; I took notes on two occasions from her to his house, No. 9 Warren street ; I did not see him on those occasions ; Mr. Forrest did not know of my taking those notes from Mrs. Forrest to Captain Calcraft ; Mr. Forrest ordered the servants always to go to bed at ten o'clock when there was no company ; Mrs. Forrest gave a party, and some English nobleman came there with Captain Calcraft ; next day, or the day following, Captain Calcraft and the English nobleman, I forget his name, but he was a nephew of Lord Fortescue, went out to look at Fonthill, Mr. Forrest's place in the country ; on the night of that day two gentlemen were at Mr. Forrest's house ; I went to bed, and heard the servants go to bed at the usual hour ; I heard laughing and talking ; at about three o'clock in the morning I heard some talking as if in the kitchen ; I generally keep my bedroom door open ; I thought some of the servants were up, and I got out of bed and looked down stairs, and presently I saw Captain Calcraft come up with a tray, glasses, and bottles, and Mrs. Voorhees behind him, carrying a silver pitcher ; Mr. Calcraft went into the drawing-room with the bottles, and opened them ; I went to bed again, and I awoke about six o'clock in the morning ; Mrs. Forrest told me the gentlemen stayed all night, and she wished they had stayed a little longer, and all could have gone together, as she was going down to the boat to send Virginia to Bridgeport ; this English nobleman was not a friend of Mr. Forrest ; Mr. Forrest was not at home at that time ; when Mr. Forrest was performing in New York, he would be at rehearsals in the morning, and return for dinner at half-past three o'clock.

Q. When he was at home, did either of these gentlemen sit up with his wife at night ?

A. No ; they would stop with Mr. Forrest perhaps till twelve o'clock ; Captain Calcraft would call about nine o'clock, to see Forrest, after he was introduced to him, and stop an hour or so.

Q. What were the habits of the house when Forrest was at home ?

A. The servants generally went to bed at ten o'clock, and the house was perfectly quiet ; I never was woke up at night in that way when he was at home.

Q. What was Mrs. Forrest's habit with regard to taking wine ?

A. Mrs. Forrest was accustomed to drink generously ; she was in the habit of taking two or three glasses of wine at dinner, every day ; I remember when Mr. and Mrs. Forrest returned from the South ; it was the last summer before they separated ; Forrest went back in about a week to finish an engagement in Michigan ; Jamieson called at the house while Forrest was in Michigan ; the drawing-room windows were shut while he was there ; I asked the servant who was there, and he said a person named Jamieson, and I said, "Oh, dear, how foolish ;" Mrs. Forrest told me afterwards that Jamieson had told her that a Mrs. Mossop had been staying at the same hotel with Forrest, and that Mossop, who was at another hotel, was a very convenient husband ; Jamieson came a second time, and I thought it very imprudent for her to see him after what he had been saying to her ; one night I was at church ; I came in at the basement door, and went up to my room for an umbrella to lend a friend who was with me ; Mrs. Forrest called out, from her bedroom door, "Who's there ?" and I said, "Oh, it's only me ;" the library door was locked, and Robert told me that Captain Calcraft was there ; there were four servants present at the time he told me ; I don't recollect anything peculiar about the library next morning ; I noticed one day that Forrest's arm-chair was broken, and Mrs. Forrest told me that Lawson had broken it ; Forrest was not at home at that time ; in January, 1849, Mr. and Mrs. Forrest had some difficulty ; Mrs. Forrest and Virginia went to a farewell party, at Mrs. Voorhees' ; I went to bed, and Forrest waited up for them ; he was at home all the evening ; he seemed to be very wretched, and was walking about and sighing all the evening ; next morning, when Forrest went to his dressing-room, I went into Mrs. Forrest's bedroom ; I saw she had been crying, and I asked her what was the matter ; she said they didn't go to bed till six o'clock ; she said that Forrest had something terrible in his head, and she didn't know what was the matter with him ; she began telling me what a pleasant evening she had spent at the party ; this was on Friday ; on Saturday morning I was making the bed, when Mrs. Forrest came from the library into the bedroom, and opened the bottom drawer of the bureau with a key ; she said, "Oh, good God ! oh, sister Katten, sister Katten, what a fool you are !" she seemed surprised when she opened the drawer ; "Katten" was a name her sisters called her, and sometimes, in speaking, she applied it to herself ; she said to me, "Forrest has opened my drawer, and got all my letters ;" I asked what letters, and she said, "my correspondence with my sister, all the time ; had been in the South ;" I said, "Oh, it isn't much consequence, Margaret's letters ;" she replied "there is a fooler letter from Jamieson amongst them, that I didn't want Forrest to see ;" then she opened a drawer in a small work-table and took out two letters, and said, "I am glad he didn't get these, for they would have been of more consequence," she then took them and put them in the library fire ; I said it was very foolish to keep old letters ; she then went one stairs and brought down a bundle of letters, and was burning them till near two o'clock ; she didn't call the letters any name, nor say what it was about, at that time ; on next Monday, Mrs. Forrest told me that Forrest had seen Jamieson's letter, and he was determined on a separation ; I said, "Perhaps he doesn't mean it, that he only wants to try that he you ;" and she said, "Oh, yes, he does—I never saw him so serious ;" always after that Forrest had his break-told Lawson ; Mrs. Forrest breakfasted in the dining-room ; once or twice, when going to Fonthill with Mr. Godwin ; gentlemen, he breakfasted in the dining-room ; he did not breakfast with her alone ; they slept together, but statement rest told me to leave the bed a little from the wall, that she might go in, as she and Forrest had no commun went there one another ; I said she could coax Forrest if she wished ; Mrs. Forrest said that she had knelt, prayed, and it was, and Forrest not to expose her, but that he was obdurate ; and she also said that she didn't care if it was with Jamieson ; I made the reply, "if it had been the nobleman !" when I told her she could coax Forrest, she bad as Willis and Calcraft, for they had told her the same thing, and that a woman could coax a man to she also said that Willis told her to be very vigilant and attentive to Forrest ; she also said to me, when Forrest's being obdurate, that "a man can crush a woman any day ;" Mrs. Forrest had lived for four months at examining me second street, little more than an upper servant ; she could not go into the library without Forrest's permission ; ped at Mrs. Forrest often asked me, during that time, to bring up coals, and leave them at the library door, that she might burn them ; when I had my and told every- and make up the fire.

Chief Justice—How do you reconcile that to your statement that she could not go into the library ?

The witness gave a long explanation ; in the course of which she said that Mrs. Forrest used to humble herself before the used to take Forrest's letters in to him, and that it was to have an excuse to go into the library that she asked would have leave the coals at the door ; when any gentleman was there, she was allowed to go in, but not when Forrest was present ; with this was for nearly three months ; after the first week or two, Mrs. Forrest was in the habit of carrying up her letters were breakfast.

Q. What do you know of the manner in which she went to Mr. Godwin's ?

A. I asked her how she was going, and she replied it did not matter how ; I then said, "surely you are not going to walk it, as if you were leaving like a servant ?" she said, who would know whether she went in a carriage or not ; she said her own conscience would, and do not do it ; she said she would send for Mr. Godwin, and I replied, "No, let him stay at home to receive you ; send for Mr. Lawson ;" Mrs. Forrest asked Forrest next morning, as he was going to Wall street, to tell Lawson that she wanted to speak to him ; he asked what she wanted, and she told him she wanted Lawson to take her in the morning to Mr. Godwin's ; he replied, "I'll do that ;" Mrs. Forrest got her own bed-room furniture, and she told me she was to have anything else she wished ; when they were giving up house, I said "what is to become of me, as I gave up my situation to settle with them for life ;" Mrs. Forrest told me if I spoke to Forrest about it, not to say that I knew they were going to separate, but to let on that I thought they were going to travel ; I went to Forrest and said to him that I understood they were going to travel ; I asked him if he would let me stop at the farm-house at Fonthill ; he said he would think of it ; I went again a few days afterwards, and asked him if he had thought of it, and

he said that I had been talking of things out of the house ; he said no more, and I came out ; I met Mrs. Forrest in the hall, and she looked frightened ; I said to her, "you need not fear, I have not been speaking of you, but some one has been saying a great deal about me ;" she said, "never mind, you cannot expect anything from him ; you do not know him as well as you do me ; come with me."

Witness then stated that she went to reside with Mrs. Forrest, who commenced keeping house in Sixteenth street.

Q. What visitors had Mrs. Forrest in that house ?

A. A great many gentlemen, but very few ladies visited her ; some gentlemen visited her that I never saw before ; the first visitor was Doctor Dewey ; the habits that I spoke of in the house in Twenty-second street, of the servants retiring and leaving men up, was continued at the house in Sixteenth street, and to a much greater extent ; I have known gentlemen there when I retired, at twelve o'clock ; Professor Hackley was there frequently ; the gentlemen used to be drinking brandy and water ; a great many gentlemen came and went, but I was not allowed to open the door, and cannot say who they were ; Professor Hackley, N. P. Willis, and Dr. Rich visited there frequently.

It being after four o'clock, the Court adjourned till next week.

FOURTH DAY.

FRIDAY, December 19, 1851.

Again a large crowd occupied the entrance to the Supreme Court room, and officers were stationed on the staircase with orders to let only those pass who, by being either witnesses, members of the Bar, or the Press, were qualified for admittance.

At 10½ o'clock Chief Justice Oakley took his seat.

Mrs. Forrest came in, accompanied by Mrs. N. P. Willis and Mr. Charles O'Connor, her counsel. She wore a close fitting velvet dress, and appeared to be in better spirits and health. Mrs. Willis remained by her side throughout the whole of the day, and seemed much amused with several statements of Mrs. Underwood relative to herself and her husband.

Mrs. Underwood, recalled—Professor Hackley was coming very often to Mrs. Forrest's ; she was not very well and in bed ; I went up stairs to sit with her ; I sat by the bed-side and soon after Mrs. Voorhees came in ; she came through the bed-room and bath-room, and I asked "how did you come in ;" she said "through the front-room ;" she said we had been talking so loud that we did not hear her ; I then left, and on going out saw Professor Hackley come out of Mrs. Forrest's bed-room ; Mr. Rich also came there at all hours ; I heard him speak in Mrs. Forrest's bed-room but never saw him ; the cook once got very ill with cholera morbus ; and I told Catharine to go to Mrs. Forrest to get something ; she brought some camphor and brandy ; I sent her again but she would not go in, and told me Dr. Rich and another gentleman were in there ; Mrs. Forrest afterwards said to the cook, "Mary, do not be alarmed, I have a doctor in the house and he will see you." I heard the voices of the gentlemen in the dining-room ; that was about 11½ o'clock at night ; did not hear the voices again that night ; at 12 o'clock I came to look for Mrs. Forrest ; there was no light ; I called for Mrs. Forrest, but no one answered, and I told the girl that I could not find her ; the gentlemen's hats were on the table, but I did not open any door ; Mr. Sinclair lived at Forrest's house after they went up into 22d street ; I did not live there with them ; there was no difficulty in regard to Mr. Sinclair whilst in 22d street ; the Sinclairs saw a good deal of company whilst in Reade street, and sat up to 3 or 4 o'clock ; I could not go to bed for fear of them setting fire to the house ; Mr. Sinclair slept generally on the carpet, Mrs. Sinclair behind the door ; he could not get up, he was tipsy ; know nothing of Mrs. F.'s acquaintance with Capt. Howard ; saw him twice in Reade street, and never afterwards ; in 22d street Mr. and Mrs. Sinclair did not live with Forrest ; one morning Forrest was gone to Fonthill sometime after the discovery of the Consuelo letter (I think it was the Saturday following) the boy asked me if I would assist him, as he had to take a letter for Mr. Forrest ; Mrs. F. met me and I told her Robert, the boy, had to go with a letter ; she asked "what letter ;" I said it was laying on the kitchen table and directed to Mr. Jamieson ; she said afterwards that she wished she could have got that letter ; I said it was gone, but she had better write one after it ; she sat down and wrote the letter and sent it to Mr. Jamieson in New Orleans ; she said she would take it herself to the post-office ; the answer was to come to Great Jones street to Mrs. Voorhies ; Mrs. F. told me so ; I do not know much about the drink that used to be sent to the street ; Capt. Britton of the Constitution used to come there ; there were several things sent by Capt. Britton, Calcraft, and others ; two large hogsheads were sent by Capt. Britton, who was called "Uncle Johnny ;" Mrs. Voorhees called him so ; he sent wine and brandy, also game and other things ; Mrs. F. asked me, one day, to carry a letter to Capt. Britton ; I did so ; I was married from 16th street, and left there in November ; there were a great many gentlemen visiting there whom I did not know, Capt. Britton and other gentlemen.

O'Connor—Let us have their names ; she must tell her whole story.

Well, you are trying this case among yourselves ; do as you like.

—I found I could not live there any longer, and I kept my room pretty much ; do not know of any other men ; Mr. Stevens supped there one night, and stopped till 1 o'clock, in the basement ; Capt. Calcraft was there

at the time ; Miss Forrester, the sister of defendant, came into Court at this stage of the proceedings, attended by Mr. Dogherty, and took her seat in the place allotted to reporters, close to the witness-box. Mr. John Van Buren at once came up to the witness-box, perceiving which, Mr. O'Connor rose and said, "If the Court please, there is a gentleman near the witness whom we object to being there, in so close vicinity to her."

Mr. Van Buren looked up, as if wishing the matter to be explained.

Mr. O'Connor do not refer to the lady, or to the counsel ; there is another person there whom I object to.

Mr. Van Buren remained seated, every eye in the Court room being fixed upon him.

Mr. O'Connor there is any gentleman in that part of the room who is not attached to the Press, or an officer of the Court, he may take a seat some where else.

Mr. Van Buren still remained seated.

(raising his voice)—The person I object to still remains. Now I desire him to go away from there, since he is not a reporter, or a member of the bar.

Mr. Dogherty then rose, eyeing O'Connor as he passed him, but met with an unflinching look, which never left him until he had taken a seat in a distant part of the room.

Mr. O'Connor—Cross-examined by Mr. O'Connor.—I am about 58 years of age ; in 1837 I went to live in Reade street, and Mrs. Forrest employed me as housekeeper ; remained so for a year and a half ; do not know who succeeded me as housekeeper in Twenty-second street ; I understand Mrs. Voorhees or Mrs. Leggett ; I don't know which ; my husband, Bedford, died in 1841 ; I went to England two months after the Forrests ; I went to England because my son had not very good health ; I was made destitute by the death of my husband ; Mrs. Harper is dead ; I was a member of Mr. Harper's class from a year after Bedford's death ; when I got married I left John street Church ; I kept up an intimacy with Mr. Harper ; it must have been in 1847 that I went to live with Mr. F. again ; it must have been two and a half years before their separation that I went there ; it was the first January after their return from Europe ; I was sewing books in Mr. Harper's establishment before I went there ; Mrs. F. engaged me ; she wrote me a note, and asked me to call and bring my son with me ; she asked me to come for three months, and I said I would give her an answer ; I asked Mr. Harper, and he thought I had better go ; at the end of three months my situation became permanent ; Mrs. F. asked me to remain ; Harper told me if I did not like it I could come back and sew books ; I said nothing to him about Mrs. Forrest ; told him she was a very nice lady, because I did not know any thing else about her at that time ; never had any conversation with

her since ; never spoke to her since the separation ; have not told him since that Mrs. F. was a very nice lady ; I have not since the separation consulted Mr. Harper whether I should live with Mrs. F. again ; I told him there was a great deal of impropriety there ; I have not in any way consulted Mr. Harper after the separation whether I should go and live there ; did not consult him after 1st January, 1849 ; may have said to him that they were going to separate, and there was a lady—

Mr. O'Connor—Do leave that lady out : we will get at her by and by. (Laughter.)

Witness.—Did not tell him whose fault the separation was ; did not tell him anything against Mrs. Forrest ; told him I was going to live with her before I went to Sixteenth street ; told him nothing else ; he said very little ; told him so because I considered him my friend ; never had any dispute with Mrs. F. before May, 1849 ; I received the first addresses of Mr. Underwood when I was with Mrs. F. in Twenty-second street ; he did the washing, and I became acquainted with him then, but nothing particular took place ; never had any visitor but Mr. Underwood ; Mr. Harper and the minister called when my son was sick ; I subsequently asked Mr. F. if I might live at Fonthill as a home without any compensation ; did so because I had given up my situation ; Mrs. Forrest told me I should live and die with her, if I lived for one hundred years ; Mr. Forrest said he would consider of it ; he told me, " You tell tales out of the house ; " he did not say what tales they were ; he said, " You have seen Mr. Allen ; " I did not know what he meant, but knew afterwards ; that was soon after the separation was agreed upon ; I asked Mrs. Forrest, " What is to become of me ? " she said, " Well what is to become of me ? You will be provided for : but what shall I do ? " Mrs. F. told me I was to go with her ; she said, " While I have a shilling I will share it with you. " Mrs. Forrest made no objection to my asking Mr. F. to go with him ; she objected, however, to my saying that they were going to separate ; I must say they were going to travel for pleasure ; I lived previous to that in Sixth avenue ; in September or 1st day of October I went to Sixteenth street ; on Sunday, November 25th, I was married to Underwood ; I lived then in Mrs. F.'s house ; my son slept there too ; his name is James Beresford ; he is nineteen ; I left the day following my marriage for Boston ; Underwood did not sleep with me that night ; two months before we got married we agreed upon getting so ; in Sixteenth street I thought things were so little to my liking that I must leave ; that was not the reason why I married my husband ; I thought him a very nice, pious old gentleman, and thought I should be happy with him. (Laughter.)

Mr. O'Connor.—And probably he thought the same of you ?

Witness.—I suppose so. (More laughing.) I never said any thing about Mrs. Forrest to Mr. Forrest until February, 1850, after I was married ; it might have been January, but it was after my marriage ; it was after New-Year's day, 1850 ; I told two ladies all about it four or five years ago.

Court.—What do you mean by four or five years ? these things had not transpired.

Mr. O'Connor.—What is that the Court says ?

Court.—I call her attention to discrepancies, as they strike me.

Mr. O'Connor.—Then I shall give up my cross-examination ; it will never do for my client to have that done by the Court.

Witness.—I made the first communication in 1850 to Mr. Lawson ; his name is James Lawson ; he is agent to Mr. Forrest ; made the communication in Mr. Lawson's office ; went there on some private business.

Mr. O'Connor.—What was that private business ?

Mr. Van Buren.—Is that material ?

Mr. O'Connor.—Yes it is, if you please.

Mr. Van Buren.—We object to it.

Admitted.

Witness.—It was about my son ; he was bound to a gilder, and he was sent out a good deal, and I wanted to know if that was right ; I asked Lawson's advice about it ; did not ask his opinion ever before ; I said to Lawson, " If people were honest and acted upright and downright, I should not have all that trouble. " He asked me what I meant by that expression. I told him I thought Mrs. Forrest very imprudent and very foolish ; that was called out by something being said about the separation ; Lawson said he did not know the cause of it ; he did not produce a memorandum of something I had said on a former occasion ; Lawson was much surprised, and said he would as soon have suspected an angel from heaven as Mrs. F. ; did not tell him any thing more at that time ; I subsequently made a statement of all I knew at Mr. Sedgwick's house ; it was taken down ; I signed and swore to it, but not then ; Mr. Forrest called upon me before I made the statement ; he came to my house ; he was alone, did not tell him my story ; he came to complain to me of Mrs. Forrest's conduct ; he came first to apologize to me ; that was before I saw Lawson ; again about three or four days after I saw Lawson first, he said a great deal about Mrs. Forrest, and allowed me to tell her all he had said, but I was not to say he was angry, for he was not ; I went to Mrs. Forrest and told her ; did not tell Mr. F. what I knew ; I told him I thought he must be mistaken, it could not be so ; I thought I would pacify him as much as I could ; I was not speaking the truth to him. (Great laughter.) I saw Lawson next to that at my own house a day or two after Mr. Forrest had been there ; he came alone ; he asked me what I knew ; Lawson said it must be settled privately, and would not come before the public ; he did not take down what I said ; do not know how long he was there ; some days afterwards I went to Sedgwick's office ; Mr. Forrest called in the interim, and told me to meet him at Sedgwick's at one o'clock ; he told me that Mrs. Forrest had misrepresented to him things about me, or he would not treat me as he had done ; that had been done during the last three months and once in Twenty-second street ; he did not state any particulars ; he said that what she said was untrue ; he did not reproach me for having told him a few days previously that he must be mistaken about Mrs. Forrest ; I know Mr. Lawson was his agent ; I know that a few days before I had told Lawson that Mrs. Forrest had acted imprudently ; I went to the Astor House subsequently, but there was no examination ; was never examined after the interview with Mr. Sedgwick ; Lawson alone was present then ; never made a statement any where else ; Mr. Stevens brought me a note to come to the Astor House ; do not know who wrote it ; I went there alone ; a gentleman read over what I had said at Mr. Sedgwick's, and asked me if it was correct ; I said it was, and signed it ; I swore to it ; do not know where the statement is.

O'Connor to Van Buren.—Gentlemen, I have given you notice to produce it.

Van Buren.—We have a copy of it.

The original was subsequently produced.

Witness—(papers produced)—This is my signature ; it is dated February 28, 1850 ; Sedgwick did not examine me very fully ; I was there for an hour or more ; do not know if I told him all I said here ; my son remained at Mrs. Forrest's house after I got married ; he slept there ; he remained there up to February ; he was still there when I had my first interview with Mr. Forrest ; I believe he left before I saw Mr. Sedgwick ; I told Mrs. Forrest that I had told everything to Mr. F. ; she asked, what ; I said I had not seen her take improper liberties with any one, or in bed with any one ; she said then I only gave circumstantial evidence, and that went for nothing. I begged her not to let it come before the public ; she said she would, and she must have \$3,000 a year—she could live on no less a sum ; she said she would brave it out ; I entreated her not to do it ; I then took my son away ; did so of my own accord ; had not had any dispute with her up to that time ; never went there after that day ; had visited there up to that time ; do not know if her sisters were present at the last interview. I knew Isabella Sinclair ; she is not sister to Mrs. Forrest ; she is a dressmaker ; she was not present ; she called afterward at my house ; I was surprised at it, and she said she wanted to see if I wanted any dresses made ; said nothing to her or in her presence ; told her and her mother that all the affidavits in the newspapers were true. I told her I was sorry I had not told Lawson all when I went to him for money.

By the Court—That was when they had gone to New Orleans.

By Counsel—Mr. Forrest and his wife left the day after I came to Twenty-second street, in January, 1847 ; they returned in July, 1847. Mr. Forrest was absent a good deal—sometimes for a month or six weeks. In January, 1848, they went off and remained till July ; after that he went to Detroit ; he was gone some weeks ; do not know how long he was gone ; from that time up to January, 1849, he was absent several times ; he was in Boston, Philadelphia, and other places ; between January and May, 1849, he did not go out any where that I know of ; do not know that during that time he was out of the house one night ; I never saw his temper disturbed until after January, 1849 ; after that he took his

breakfast in the library, but never before ; he took it before that in the dining-room ; toward the latter time Mrs. Forrest attended upon him during breakfast in the library. Robert Garvin did so before that. Mrs. Forrest attended him for more than a month. Mrs. Forrest and the sewing-girl attended to the mending of the clothes before January, 1849. Mrs. Forrest also made up his dresses for the theater; never heard her prohibited from going into the library. She was always there when Forrest was out, but not when he was at home ; previously to January, 1849, she was always in the library when Forrest was there ; they dined in the dining-room (lower floor ;) I did not dine with them ; was not present at dinner ; never was in the dining-room during dinner ; know her to drink wine at dinner.

Q. How do you know ?

A. I saw the glasses, and knew the wine was on the table ; perhaps I was in and out before they came out. I saw her drink many glasses of wine. I did not perhaps see it. I never saw her drink a glass of wine at dinner.

Mr. O'Connor—Well, that will do. By and by you can swear that you saw her drink in other places, and then I will cross-examine you.

Witness—I saw Mrs. Forrest smoke a segar twice ; it was in the garden one day, when Mr. and Mrs. Lawson were there ; Mr. Forrest was also there ; do not know what kind of a segar it was.

Q. Did you see it ?

A. No, sir. (Laughter.)

Witness—I saw the smoke, and asked her if she did it to annoy Mrs. Lawson ; I stood in the kitchen and asked her afterward ; saw the smoke waving over her head ; she laughed about it ; do not remember the year it happened ; the other time I saw her smoke was in the garden too ; I think Mr. Wykoff and Forrest were present ; did not see the segar ; her back was turned to me ; do not know what segar it was ; did not see the smoke then ; she did it in a quieter manner ; the gentlemen were smoking ; do not know how I came to know she smoked ; did not see the segar or the smoke ; saw her throw something out of her hand ; do not know what it was ; did not ask her about it ; never saw a segar in Mrs. Forrest's mouth, but I took plenty of segars at the door ; Mr. Forrest smoked ; he smoked different segars to those that were sent to Mrs. Forrest ; never saw Mr. Willis at Mr. Forrest's in London ; only know from what Mrs. Forrest told me ; never saw Mr. Willis before I went to live with Mr. Forrest in Twenty-second street, in February, 1847 ; the house in Twenty-second street is on the south side ; there are no buildings opposite ; the first floor had a dining and drawing-room in it ; the drawing-room is opposite the hall ; the dining-room is on one side as you enter ; there are four rooms and a bath-room on the second story ; one of them is the library ; it is in the rear, and communicates with the hall ; Mrs. Forrest's bedroom is next to the library, in the front ; the spare bedroom is next to Mrs. Forrest's bedroom, and communicated with the hall by a door, but not with her bedroom ; there was another spare room, used by Mr. Forrest as a dressing room ; servants went to bed at ten o'clock, when Mr. Forrest was at home, and there was no invited company in the house ; if so, the waiter was not to go until they were gone ; as to the rest of the servants the rule was the same ; I was in the habit of taking care of the library ; never was in there while there was company ; Mr. Forrest did not see much company when home ; gentlemen only came to see him ; very few ladies called upon Mrs. Forrest ; no ladies called upon Mr. Forrest ; Mrs. Godwin, Willis, Bryant, Lawson, and Miss Knower used to come : there was also a Madame Labatt from Alabama, and Miss Ann Lynch : Mr. Forrest had one or two ladies to company for dinner, but gentlemen almost every day : one New Year's day he had four gentlemen to dinner : he had company for dinner every Sunday : they stayed sometimes to one and two o'clock in the morning, or later, for what I know, but they were friends : they might have remained till four, but Mr. Forrest keeps good hours always : the drawing-room had four windows : they look upon the garden : that was the sunny side of the house : there were green blinds against the windows outside : there are no curtains : the blinds were generally kept half open : the interviews with Mr. Willis were in the drawing-room : there was not much company ever in that room : do not call Mr. Willis any company : Mrs. Forrest always received ladies and gentlemen in the drawing-room : there was not a rule in the house that no one was to pass up and down stairs when the library was open : never heard Mr. Forrest say he wished to remain undisturbed in the library : never knew that whenever a servant wanted to speak to Mr. Forrest it was to be done through Mrs. Forrest : Mrs. Voorhees told me she was married to Mr. Voorhees : have seen the child spoken of before : saw him when he was born, and also at the house when Forrest was absent : the boy was born in Broadway, at a boarding-house near Union-square, where the Voorhees' boarded : so far as I know, that was her first child : it is still living ; she and her husband dined with Forrest before the child was born, the first year I lived there : there was no stranger at the dinner : I saw no one else : never saw Dr. Wainwright there : Forrest dined with them that day : he came down when the bell rang, and went up stairs immediately after dinner.

At the interview alluded to by me, between Mrs. Forrest and Willis, when she came down flushed and confused, I did not mean to convey the idea that there had been something improper between them, but I thought they had been kissing. (Laughter.) I do not think much about a kiss. (Loud Laughter.) I did not speak to her about it, but thought of it myself. I thought it very foolish when she told me in London that Willis had kissed her shoulder ; never saw her do anything improper, or heard her tell me of anything except what I stated, and I thought it very foolish and flippant, and unlike her ; her whole conversation was about Mr. Willis—otherwise her conduct was modest, ladylike, and becoming. I had forgot all about that then, when I afterwards told Mrs. Harper she was a nice and good lady ; heard that Willis had been sick, and Mrs. Forrest told me she had waited upon him a good deal. I saw Richard Willis at the house for the first time in December 1848. I asked Mrs. Forrest who the man was that was in the bed-room—he was in the spare bed-room ; know of his having been there by the servants telling me ; saw the room after he had gone ; it was kept locked while he was there ; saw him the night that he came out to keep Miss Virginia company ; did not know till then that he was in the house, and was surprised Virginia said so. I saw him go out the next day with Mrs. Voorhees and Mrs. Forrest in the carriage. Mrs. Forrest asked me to stand at the head of the kitchen stairs while Richard Willis went out through the hall ; should have pushed the door to, if any of the servants had come up ; it was Richard Willis that I was stationed to see out ; he never came to see Mrs. Forrest ; saw him pay most attention to Mrs. Voorhees ; the servant who told me he was in the house for three days was Chary, the nurse of Mrs. Voorhees. I brought down the breakfast things that I found in Mrs. Forrest's bed-room, and the servants laughed on seeing me. I thought they belonged to Mrs. Voorhees. The servants then told me. I brought the things down twice ; that was while Willis was in the house, as they told me. Mrs. Voorhees, Mrs. Forrest, and Virginia had breakfasted in the dining-room that day ; the night following the day when Mrs. Forrest and Mrs. Voorhees went out with Richard Willis to the house of N. P. Willis they all sat up together the whole night. Mrs. Voorhees, Ibbotson, R. Willis, and Mrs. N. P. Willis were there ; they all went away at six o'clock ; they went to N. P. Willis's house to excuse his wife for staying out all night. Richard Willis went with them ; but they did not go into the house. R. Willis dined there that afternoon ; immediately after dinner a boy took away his carpet-bag, and he went home. I have seen Forrest and N. P. Willis in company together, but not much ; they once went with Mrs. Forrest to Fonthill ; have seen brandy taken to the dining-room when gentlemen were there, but do not know who drank it ; have often seen Mrs. Forrest drink brandy and water ; no one but me ever was present when she drank it. I often mixed it for her ; she asked me to have some, but I would not take it ; I have seen her drink wine ; it was a general custom for her in the morning to have two glasses of wine ; have seen her drink them ; have not seen her do so very often ; have seen her six times at least ; it was sherry ; she would take a little, and have some cake with it ; do not know that any one but me saw her take wine. I saw Raymond at the house the first summer I lived there ; saw him very often ; on the morning after Raymond slept there I stood at the top of the kitchen stairs and saw him go out of the front door ; never saw a Miss Raymond there. I carried two notes to Captain Calcraft for Mrs. Forrest. I carried two notes to Raymond ; on the evening that the English nobleman was there I saw Captain Calcraft come up the stairs with bottles. I stood on the kitchen stairs ; Raymond was not there that evening ; the next morning Virginia went to Bridgeport. I have seen Mr. Jamieson in the house ; was told it was him ; was told so by the waiter : Mrs. Forrest also told me so in her conversations with me about Jamieson ; there was no one present when she spoke to me.

The Court here adjourned until next day.

FIFTH DAY.

SATURDAY, December 20, 1851.

At a quarter past ten o'clock Chief-Justice Oakley took his seat, both parties being present attended by their respective counsel.

Miss Henrietta Forrest, the sister of the defendant, was the first witness called to the stand. Her testimony was merely as to the residence of her brother after his separation from Mrs. Forrest. She deposed that he came to live with her in Philadelphia, saying, "Now this is my home—I have no other."

Robert Garvin, sworn.—I live at 166 Twenty-second street. I came from Ireland. In June 1848, went to live at Mrs. Forrest's. I left in the March following. Mrs. F. said they were going to break up house-keeping. While I was there Mr. Forrest was absent three or four times. When he was home the usual hour was from ten to eleven o'clock for shutting up at night. When he was absent I always retired at the same time, unless I was required to stay up, when parties were there. I noticed Capt. Calcraft coming there frequently to see Mrs. Forrest. Several times he came and went into the library to Mrs. F. At those times Mr. F. was not at home; he was absent on professional business.

Q.—What were Mrs. F. and Capt. Calcraft doing when you went into the room?

A.—Keeping company. (Laughter.) I carried in some whiskey and wines; I recollect his dining there sometimes—once I remember he came at 11 o'clock, A. M., staid all day; I waited at table; he dined with Mrs. F. and I think Virginia; there was drink for dinner; Mrs. F. and Capt. C. drank wine generally at dinner-table. I did observe that when they came down to dinner they both seemed the worse for drinking; I considered Mrs. F. a nice carver of meat, and during dinner she could scarcely carve it; I observed that Mrs. F. told me not to light the gas until after dinner; after dinner I went to the kitchen; no one told me to go; I came back to the dining-room afterwards to light the gas; I did not go in; the door was fast; when I went out I left the Captain and Mrs. F. alone; I came again in five or six or ten minutes; I lighted the gas in the hall; I returned in ten minutes, entering by the pantry door of the dining room entering by the front hall; Mrs. F. and Captain C. were there; Mrs. P. was sitting on his knee, with one arm across his shoulder, the other on his breast; her dress I pass no observation on; I returned immediately.

Q.—What was said?

A.—Mrs. F. reproved me, and said I should have knocked on the door before entering; nothing else; some minutes after they went into the library; I went to bed, leaving him there; I heard Mrs. Bedford say he was there at another time; he was in the library.

Q.—What do you know of Richard Willis?

A.—I have known him to come there frequently; once he was there three nights and three days; Mr. Willis had the front spare bed-room; no other waiter was there but me; I did not serve Mr. Willis's breakfast—I did to the other members of the family; Mr. Willis was not present; he was there one day and one night before I knew of it; I do not know who served his breakfast; I know of Mr. Willis coming out of the spare bed-room to get fresh water; he was dressed in his shirt and pants; never saw Richard Willis there when Mr. Forrest was at home.

Q.—What do you know of persons sitting up all night?

A.—Mrs. Forrest, Mrs. N. P. Willis, Mrs. Voorhees, Mr. Ibbotson, and R. Willis sat up all night; I don't know what they were doing; N. P. Willis used to come frequently with his wife to see Mrs. F.; he usually went to the drawing-room; it was in an ordinary condition; the blinds were shut up with the exception of one half, which was open; I saw it open; I was on the back piazza; I saw them sitting on the sofa called laying on each other; I was in the room after; they were from half an hour to an hour; Mr. Forrest was not at home; I noticed some hair pins and an elastic garter in the room; they were not there in the morning; I know nothing of Mr. Jamieson, but that he called there once or twice to see Mrs. F.; he saw her in the drawing-room; I can't say how long; he paid his visit and went off; I know Henry Wykoff; saw him there; he came to see Mrs. F.; I recollect when going up to my bed seeing them skip and play in the hall, and heard him kiss Mrs. F.; they had come from the Opera or the Theatre, I don't know which; I saw a chair which belonged to Mr. F. broken after he had been there the night before; it was a chair which rolled out below to stretch your feet or legs; the Captain was with Mrs. F. when I went to bed between ten and eleven o'clock that night; I was in the room again after breakfast; I had seen the chair whole some days previous. In January, 1849, I heard a controversy between Mr. and Mrs. F.; as I understood it was about Mrs. F. being at a farewell party for Mr. Voorhees going to California; Mrs. F. returned between one and two o'clock that night, or thereabout. He, Forrest, had been in the library the whole evening; I do not know what he was doing; I saw him as I was going to bed; as I was going up stairs I took a pitcher of hot water to the library door; after this I went to the kitchen, and on my return saw Mr. and Mrs. F. in the room.

As I passed the door I heard loud and angry words; heard Mrs. F. say, *it's a lie; it's a lie*, (striking her hand on the table) or words to that effect; I then retired to my bed.

Q.—What do you know of Mrs. Forrest drinking on other occasions; when company called did you take what was taken in?

A. Usually; when company called, or going to bed at night, she would take a glass of wine or so; I have nothing particular to say about her drinking other liquors; I had never heard angry words between Mr. and Mrs. Forrest before this time; when I tried the library door and could not get in, my suspicions were excited, and I wanted to see; it was about this time that the chair was broken; I thought of climbing the back piazza, but as the blinds were tightly shut, I thought there would be no reason in my doing it; I am not living out now, by reason of my attending here; I am residing with my brother; I last lived with Mr. A. Seaton, in Throgs Neck, Westchester County; I have lived there all the summer; he is the president of the Sun Insurance Company; I left when the family came to the New York Hotel for the winter; Mr. Raymond was in the habit of coming to the house of Mr. F.; I don't know his name. (Counsel stated it to be Samuel Mark Raymond.) He came frequently in the absence of Mr. Forrest; the other gentlemen the same; I saw Mr. Raymond there one night in particular; I went to the parlor and saw this Raymond and Mrs. Voorhies lying on the carpet.

Q. How near?

A. He was lying on the top of her; this was in the absence of Mr. Forrest; Mrs. Voorhies said, what did you want, Robert? I said, to shut up; I left her and Mr. Raymond there; Mrs. Forrest and Mr. Calcraft were in the library when I went to bed.

Cross-examined—I don't know my age, there is no date to it; I suppose between twenty to thirty, that is the neigest way to it; I first told of these things to some lawyer; I think Mr. Sedgwick, in Irving-place, Fifteenth or Sixteenth street; I was there myself, at the request of Mr. Stevens; he called at Depau Row, No. 4; he, Stevens, called on me some weeks before I went; he came once or twice, I think; it was within a fortnight before, I think, or within a month; I did not tell him the story before I went to Sedgwick's; he told me he wanted me to be a witness for the rights of Mr. Forrest; I did not tell him anything against Mrs. F. then; I was very unwilling to go; he told me by the right of the law I must go; he may have seen me five or six times, though I might not see him; I don't recollect if he called five or six times; I did not say anything to Stevens to the prejudice of Mrs. F., nor did not see Mrs. Bedford; Mr. Forrest called once, but I did not tell him anything to the prejudice of Mrs. F.; he only requested me to come to Mr. Sedgwick's, in Irving-place; nothing else; Mr. Lawson, I believe, was present at Sedgwick's, and I think Stevens was there; Lawson had not called on me.

Q. Except at Sedgwick's and in the kitchen, you never said a word against Mrs. F. to any one?

A. Not to any effect anywhere; at Sedgwick's I was examined, and part of my statement taken down; I don't recollect whether he took down; yes, sir, he did write down; I believe I told him the story about N. P. Willis lying on the sofa with Mrs. F.; some months after I was examined before an officer, and signed my statement; it was at the

Astor House; the statement I made was read over to me; it was the same I had given to Mr. Sedgwick, as I recollected it. (A paper was here shown to witness, which he recognized as his signature. It was dated Feb. 28, 1850.)

Q. Have you been out of service since you left Mr. Seaton, the 1st of December?

A. Yes, staying with my brother; I say Capt. Calcraft came frequently, sometimes once or twice a week; I only remember his seeing Mr. F. once; it was in the library; I don't recollect what day of the week, if on Sunday or not; he, Capt. C., staid part of the evening when he came to see Mr. F.; he came about six or seven, left about ten or eleven; he had an English nobleman with him, Mr. Lawson and some other gentleman; I don't remember the name of the Englishman; I have heard it; I can't say if it was Fortescue; I only know Mrs. Forrest wanted to introduce him to Mr. F.; I don't know the names of other gentlemen; Mrs. F. did not spend the evening in the library, but only occasionally went in and out; I do not know her business in the library; she was in the dining-room or drawing-room; I do not recollect which.

Q. Did you ever know Capt. Calcraft to come there more than once?

A. He may have come; I don't remember attending on him more than once; he came in the forenoon; remained all day to dinner and until I went to bed at night; Mrs. Voorhies was not there; I do not recollect if Virginia was; when I found the door fast, Mrs. Forrest told me she would light the gas; the door was a painted or varnished one, white; when Mr. Forrest was home he sat in the library, and in the evening when he had company, he generally received them in the library; there was a closet there, in which liquors were kept; after dinner and a little entertainment, they went up to the library when Mr. F. had company to dinner; he had ladies sometimes to dinner; I did not always stay until the company left on Sundays; when Mr. F. was at home and had dinner company, I did not generally sit up (laughing).

Q. Why did you smile just now?

A. You asked me so many questions; it is no harm to smile; Mr. Andrew Stevens and Mr. Lawson dined there on Sundays.

Q. Do you know Mr. Carr?

A. Mr. Carr called there of a Sunday, but did not make a practice of it, as Stevens did; in the evening they passed the time reading, drinking, and smoking segars; the Calcraft affair was in 1848; I saw Richard Willis get water near his door where it was left for him; I was in the habit of washing up the breakfast things; there came down fresh breakfast things, which led me to think the man was up stairs; I got the things in the dining-room; I saw Richard Willis go out; the next day I cannot recollect if I saw him or not. (Here the witness got into a fog, and had to go over the story again.) The first morning I saw Richard Willis take the water, the family breakfasted in the dining-room; I don't recollect if Richard Willis breakfasted with the family that day; I don't recollect if he dined with the family or not; I do not recollect if I saw him again on the day he got the water, or that night; I can't give a decided answer if I saw or heard of Richard Willis again that day or night; I don't recollect taking down dinner things, time goes, and memory does not hold out; on the next day the family breakfasted and dined in the dining-room; I saw Richard Willis come out of the front door of Mr. F.'s house the next day, between nine and ten, after breakfast; I do not know if he came again after dinner; he was there that night; Mrs. F. asked him to stay, and made him stay.

Q. Did you hear her ask him to stay?

A. No; I was informed.

Mr. O'Connor—Not what you was informed—what you know.

Witness—I must tell you what I was informed, and you must tell the judge what you know; I can't say of my own knowledge, if he was there; I can't say if I saw him there the second day or night; he was in the house that second day; he came with Mrs. F., in a carriage, in the dusk of the evening; I did not see him go away; I can't say when I saw him next, or if I saw him on the following day or night. At the time I spoke of, when they sat up all night, Mr. Ibbotson was there; Mr. Voorhies was there during the evening; I went to bed later than usual; next morning I saw Mrs. F., Mr. N. P. Willis, Mr. Ibbotson, Richard Willis, and Mrs. Voorhies; I can't say if I saw Mr. Raymond; I can't say if I saw Mr. Ibbotson, because I went for a carriage to take these visitors home; when I went on the back piazza to see if N. P. Willis was there, it was on the night—

Mr. O'Connor—Is it Willis, or Calcraft, you mean?

A. Willis.

Judge—When did you see persons on the sofa?

Witness—That was in the day time, between 11 and 12 o'clock; I got up from the garden; I came from the kitchen with the hose to wash the piazza; I did not do it; I just saw them and returned; I can't say if any body else was there; the room has either four or five windows; the sofa is not placed near the windows; the sofa was placed between the fire place and the rear wall at the side of the house; the sofa was in the usual place; I had a full view of the sofa; there were no pictures which came down from the ground.

To the Judge—Mrs. Forrest seeing me, told me not to mind washing the piazza at that time; she did not come instantly; I did not stop till she rose; I heard the words as I went down; I did not continue looking; Mrs. Forrest came to the window, but I was proceeding down; it was Mrs. Bedford's business to arrange the furniture in that room, and to sweep and dust it; I went next in the drawing-room, in twenty minutes after Mr. Willis had left; I went in the drawing-room to see what I could see, after the sight I had seen; I called Ann O'Brien, the cook, to see the sight, and told her what I had seen; I had showed her the things; I can't say if I gave her the things, or what became of them; I saw Ann O'Brien last at my brother's house, within a month; I do not know where she is now; I do not know her present residence; when I saw her last she was out of place; whilst I was in Mr. Forrest's service, Miss Virginia generally took her breakfast with the family; sometimes she would go round to Great Jones street.

Here Mr. O'Connor called the attention of the witness to the statement made at Mr. Sedgwick's.

Judge Oakley—Anything about the sofa, Sir?

Mr. O'Connor—No, Sir; only that the room was very dark. Can you tell me, Robert, if, in the statement you made at the Astor House, there is anything about Mr. Willis and Mrs. Forrest being on the sofa?

A. Yes; I told it to Mr. Forrest as a second statement, which I did not like to make public at first; you call me here as a witness, and I have a right to tell what I know; it was some time after that I made this second statement; I made it at the Franklin Hotel—I mean Florence's, corner of Walker street and Broadway; I can't tell if the weather was warm or cold; I think it was within six months after I was examined at the Astor; I went there at my own request, to do justice to Mr. Forrest; nobody advised or requested me to go; I only went once; it was in the evening; I can't tell the hour; I had no watch; I know he was there, for Mr. Stevens told me so at his office; I can't say how long before; two or three days or a week; Stevens did not give me any advice; he didn't know I was going to call; I asked if he knew where Mr. Forrest was; I supposed Stevens would know, as he was a friend of Mr. Forrest's; I used to call on Stevens to see him, but I never talked with him about this other than at Depau-row; I do not recollect if he talked to me. At that time I lived with Daniel Le Roy; was there for eight months; I never had any dealings with Stevens; never bought of or sold anything to him; received no money from him or Forrest; I made that second statement from a sense of justice; that is the properest; I did not like to do it first, because Mrs. F. was always kind to me; I have not seen Mrs. Bedford from the time I left Mr. F. until I saw her in this court, except once, and then I wanted to see Mrs. Forrest; I did not wish to let the worst be known at first; I was desirous of stating as little as I could against Mrs. F.; I kept that back. [The witness was pressed to say if he kept it back intentionally; but he would not answer.]

Q. Did you not tell me this day that you told the affair of the sofa to Mr. Sedgwick, and of Mr. Willis and Mr. Forrest lying on the sofa?

A. I may have said so.

Q. If so, was it true?

A. I made a statement—

(The former question was repeated.)

The witness said, I may have said so, but I cannot say.

Q. When you made the statement to Mr. Sedgwick, did you intend to keep back anything?

A. Yes ; the affair of the sofa I did intend to keep back.

Chief Justice—You say in your statement that the room was quite dark, and the shutters closed, and now you say the blinds were half open ; how do you reconcile that and what you say here ? What do you say to that ?

A. Why, I made two statements.

Q. I ask you now, did you tell Mr. Sedgwick anything about what you saw of Mr. Willis and Mrs. F. on the sofa ?

A. No ; it was the last statement I made to Mr. Forrest. I think it was made in December, 1849.

Q. Was it your practice at that season of the year to wash your piazza with hose ?

A. Yes ; if there was frost or snow, it was my practice to wash it off with the hose.

Mr. O'Connor—Now, sir, I have done with him.

By Mr. Van Buren—I remember showing the garter to Ann O'Brien. She said—

Mr. O'Connor—We don't want the say-so of Ann O'Brien.

Mr. Van Buren said they had a right to her declarations.

The Court held they must produce her.

By Mr. Van Buren—I recollect not mentioning to Mr. Sedgwick the seeing of Mr. Raymond and Mrs. Voorhies on the floor ; I was with Sedgwick about an hour or so ; he asked me questions ; the time I then spoke of, about the blinds being closed, and the time I now speak of, is not the same time ; one took place before the other ; Willis was there several times—more than the two times ; the blinds were usually shut up ; before I saw Richard Willis in his trousers and shirt I knew he was in the house, by the breakfast things I had taken down once ; that led me to inquire of Mrs. Bedford where they came from ; the things for Richard Willis's breakfast came to us on a small tray after I had washed up the other things ; the others I spoke of were for only one person ; Mrs. Voorhies did not visit at the house when Mr. Forrest was there ; Mr. Forrest came home sooner than he was expected, and she made her escape by the area.

By a Juror—You have told us you liked Mrs. Forrest—did she always treat you well, and you wished to spare her ?

A. Yes.

Juror—Then why did you call a witness to see the garter and other things you found ?

A. I said that with reference to the statement I made to Sedgwick. I called Ann O'Brien, and she said it was no—

Mr. O'Connor—Never mind what she said.

Judge Oakley—When you went to see Mr. Forrest, after seeing Mr. Stevens, tell us what was said or done.

Witness—I told him I had something more to say to him, as things was a going the way things was.

Q. How ?

A. Why, that he was going to have a divorce.

Q. What did he say ?

A. Nothing, but thanked me for the information.

Q. Well, at the Astor House did you know it was a proceeding for a divorce ?

A. I don't recollect ; I was only there about ten minutes.

Mr. O'Connor then read the statement of the last witness, and made some comments on it.

Mr. Van Buren called Ann Flowers, but Mr. O'Connor said it would take up too much time to commence with her ; and the Court said that upon the whole it would be better to adjourn until Monday morning.

SIXTH DAY.

MONDAY, December 22.

The Court opened at 10½ o'clock

Ann Dempsey alias Flowers, came into Court shortly previous to the opening, attended by Mr. Dogherty. She is a good looking woman about 25 years of age, rather small in figure, but well made, with dark hair, eyes, and eye-brows. She was dressed in black silk, with mantilla of the same color, and wore a straw bonnet with a green veil.

Mrs. Forrest was accompanied by a lady who took a seat near her.

The Court room was, as on previous days, densely crowded.

Anna Flowers, sworn (excitement in Court when the witness appeared on the stand)—I am a resident of New Orleans, but am here now ; came to this city from Texas ; I am married ; my husband's name is George W. Flowers ; he is an inspector of pork and beef ; my family consists of three children, two servants, and a niece of Mr. Flowers ; Henry Dogherty came with me to this place ; my husband placed me under Dogherty's charge ; nurse and child came with me ; I left two children at home ; I am stopping at Florence's Hotel ; Mr. Dogherty put me there ; I am Irish ; have been in the service of Mr. and Mrs. Forrest ; went to live with them in May 1844 ; that was before they went abroad ; I went there in May, and they left in December following ; I was there as chambermaid ; I slept in the third story, I mean the attic ; they lived in Twenty-Second street ; Mr. Willis, Wykoff, Godwin, and Captain Howard, were in the habit of visiting at the house then.

Q. State what you saw occur between Willis and Mrs. Forrest.

A. They were sometimes together in the library and drawingroom ; Forrest was from home then ; it was in the daytime ; recollect Willis calling to see Mrs. Forrest before she was dressed ; I showed him to the library ; Mrs. Forrest was in bed ; I told her Willis was there ; she told me to leave him there and she would get up and dress ; I did so : it was in the morning, about half past seven o'clock : did not see them together that day : have seen Mr. Wykoff at the house.

Mr. O'Connor objected to the introduction of Wykoff's name, as it had not been named in the answer of defendant.

Mr. Van Buren answered that it was proper to show bad conduct on the part of the plaintiff with any man, by way of proving adultery, which rarely could be shown by direct testimony.

Whilst Mr. O'Connor was replying to this, there was a hiss from some of the audience.

"I perceive," said Mr. O'Connor, "that there are some members of the theatre here. I have had the honor of being hissed just now, for daring to stand up for the rights of my client here."

Judge—Who is the individual ?

Mr. O'Connor—It is impossible for me to tell, but many have heard it.

Judge—Officers, bring any person before me whom you find giving utterance to approbation or otherwise.

Officers were stationed throughout the room to watch the audience.

The portion of the evidence alluded to was suspended for the present.

Q. State any familiarity between N. P. Willis and Mrs. F.

A. I have seen him kissing Mrs. F. in the library : it was warm weather, and in the daytime : it was when he first came : Mrs. F. was in the library, and I showed him in : I went across the hall, and turning round I saw Willis's hands on Mrs. Forrest's neck, and he kissing her : saw them several times afterwards but never saw anything between them after that : he was there a good deal : on the occasion referred to, they were several hours together in the library ; I know Captain Howard : I remember one morning when Willis was to call early : Mr. F. was away then : he got home just before Willis called : he got in just before him : I answered the door when Willis called, and I told him Mr. F. was at home : "Oh, very well," he said, and went off : he asked for Mrs. F. : did not tell him that Mrs. F. was at home : Captain Howard visited the house frequently : do not know his occupation : (it was conceded that F. lived in Twenty-second street in 1849 :) Capt. Howard usually saw Mrs. F. when she was home ; recollect his remaining there all night when Mr. F. was home, and also when he was away : Godwin was also there when Howard stayed the night ; Mr. F.

was away : they passed the evening in the library : they were talking and laughing : I was down stairs : I retired that night about 11 o'clock : I slept with Mrs. F. in the front bedroom : that was the first night I ever slept with her : I was woke up by their laughing and Mrs. F. came in a few moments afterwards to undress and go to bed.

Q. What did she say or do ?

A. She did not do anything until she got into bed : she then called me "Anna," but I did not answer : I was afraid she might accuse me of listening, as she had already accused the boy, who was there, of listening at the door.

Q. What did she then do ?

A. She left the room.

Q. In what condition ?

A. In her night clothes,

Q. When next did you see her ?

A. I did not see her for some time after that night, until I got out of bed : I got up because I was afraid I had misunderstood her about the bed I was to get in as I heard her whispering in the next bed-room.

Q. What did you then do ?

A. I got up and took the little lamp that stood lit on the hearth and I went into the front bedroom—the spare bedroom—and I went to the foot of the bed and looked in it.

Q. Whom did you see ?

A. I saw Mrs. F. and Capt. Howard. (Sensation in Court.)

Q. Where were they ?

A. In the bed ; both in the same bed.

Q. What was their position ?

The Court thought this unnecessary.

Q. What did you do ?

A. I said "Mrs. Forrest ;" she did not answer me ; I stood a few minutes at the door outside ; Mrs. Forrest said to me, "Anna, what is the matter ?" I said I was afraid to sleep alone (laughter) ; nothing more was said ; I went back into Mrs. F.'s bed room ; She came in about 15 minutes after that ; there was no light in the room where I saw the parties ; you had to pass out from the entry to get from one room into the other ; my door was entirely open ; the other was half shut ; after 15 minutes she came to bed to me ; she told me not to cry, she only went in there to see if there were sheets on the bed ; there was nothing but blankets on the bed ; did not remark anything particular in Mrs. F.'s walking at the time ; had seen her take two glasses of wine that evening ; saw Captain Howard again next morning in that bed-room ; there was nothing on the bed but a blanket and two pillows without pillow cases ; I have mentioned this to Mrs. F. ; told her so before she left for England ; did not say I had seen her ; she told me next morning never to mention it ; that was in the dining-room ; I was setting the breakfast table ; she told me to take a comb and brush to Captain Howard, and also one of Mr. F.'s shirts that she left out ; (much excitement ;) I did so ; I knocked at the door, and gave them to Captain Howard ; the shirt had been left by her on our bed in her room ; I went down stairs after having handed the shirt ; Mrs. F. came to me and said, "Anna, I never treated you as a servant, and I do not want you to mention anything you see in this house ;" that was all she said ; I was about 15 years old then ; I remained with them until the 1st of April following ; that was 1845 ; it was in July or August that I witnessed the scene described ; F. was in Philadelphia then ; Mrs. F. told me Mr. Godwin had slept in the back bed room that night ; I did not see him ; I continued sleeping with Mrs. F. for three days, and then she went to Philadelphia ; when she returned I slept in the front spare bed-room ; when they went to England I was left in the house ; they went in the winter ; had some conversation with Mrs. F. before they left ; she gave me \$30, and some baby clothes before she left ; since her return I mentioned the matter to her in New Orleans ; never mentioned it to Mr. F. ; Mrs. F. was at the St. Charles, and I went to see her there ; she said I had made a great deal of talk about her in her absence ; I told her then that she was my ruin ; she told me not to be so passionate ; I told her she did not stick to her promise which she had made before she went away ; she said she had told Miss Margaret to provide everything for me whilst she was gone ; (Miss Margaret is now Mrs. Voorhies ;) I told her I was going to ask Mr. F. if he would not do something for my child, and see Captain Howard about it ; she told me not to do it, as Mr. F. was very angry with me ; I said I would, for the child was wanting, and its nurse had not been paid ; I said if I told one thing I should have to tell the whole ; she told me not to do it, ; she said, "for God's sake, Anna, don't you do it, I have always been your friend ;" she was very much excited ; I stopped Mr. F. in the street, and said something about Captain Howard ; he said, "I don't want to hear anything about it ; I would not speak to such a man ;" nothing more was said ; I spoke to Mrs. F. before she went to Europe ; Mrs. F. was always very kind to me ; Miss Margaret engaged me to live there ; Mr. Dogherty paid my expenses coming.

By the Court—I saw Mrs. F. in New Orleans in 1848.

Cross-examined by O'Conor—I introduced myself to Miss Sinclair ; that was in Twenty-second street ; no one went with me ; Miss Margaret sent after me ; she sent to my mother's ; had seen her before at the house in Twenty-second street ; I went to see Jane, the girl who was chambermaid there before ; she is dead ; it was through Jane I knew Miss Sinclair ; my mother had been washing for the family ; she is still living in this city ; have not spoken to her for a long time before I was married ; I was married in January, 1847 ; spoke to her last in 1846 ; came from New Orleans and stayed with her ; my first child had then been born ; it is yet living ; it is at my mother's ; she lives in the city ; have seen that child two years ago ; have been here about six weeks ; the first two weeks I stopped at the Mansion house, and since then at Florence's ; Dogherty furnished the accommodation for me ; do not see him in Court ; have been visited by him every morning ; he brought me the papers ; he also came in the afternoon and evening ; Forrest was at the Mansion house for about five minutes to see me ; New Orleans is my residence now ; I was just going to move back to New Orleans when Dogherty came ; went to Texas last summer ; went there from New Orleans in June last ; I was in this city last summer or the summer before about this case ; I think it was last June, or June, 1850 ; Mr. Flower asked me to come on then ; there was an advertisement in the New Orleans Picayune about it ; I told my husband of it, and he directed me to come on ; I came in the steamer Florida ; I came alone ; the advertisement did not offer a reward, but said I should hear something to my advantage ; I thought I should get a fortune, but got nothing ;—(laughter)—there was a letter handed to me from Mr. F. by the person in the newspaper office ; he asked me if I knew a person named Anne Dempsey ; I said, "No ;" he said he knew me and I need not deny it ; I told Flowers, and he told me to come on by all means ; I told him when I was first married of this thing ; Flower paid my expenses to come on here ; he had not received any letter from Forrest or his friends ; he told me to tell the truth ; he did not know Forrest ; my purpose in coming on here was to tell what I know ; the person in the Picayune office told me the advertisement was from F. ; did not expect a reward for coming on here, not one cent ; I am well able to live without a reward ; did not expect to receive my expenses, for I had plenty of money to take me home ; did not write a letter to my husband, saying that I was coming here ; I stopped at Havana when I was coming to New York ; I visited my sister, Mrs. Ann Hart, who resides there ; my real name is Honora, but I did not like the name and changed it. (Laughter.)

Q.—Did you tell that sister that you were to be paid for coming on and testifying against Mrs. Forrest ?

A.—I never did ; did not disclose to her my object in coming on ; told her I was coming to New York to see my husband's friends ; that was not the truth ; my family altogether had forbidden me to appear against Mrs. Forrest ; they had done so when they heard of it ; cannot say when they forbid me to appear ; my mother and sisters and brothers forbid me to appear ; my sisters are named Ellen Honesdale, living at New Orleans ; Mary Dempsey, living in this city, and Ann, of whom I have before spoken ; the brothers who forbid me testifying are John Dempsey, living in New York, an engraver, and Frederick Dempsey, living in New York, a carpenter.

Q.—When did your mother forbid you from appearing against Mrs. F. ?

A.—After I went back to New Orleans, in 1850, I got a letter from my mother, forbidding me to appear ; had not received any forbidding from her before that ; sister Mary wrote the letter to me for my mother ; Mary had not forbidden me before that ; my brother John also forbid me in that letter from appearing ; saw brother Fred last in New Orleans, about two years ago, before the trip to New York ; he did not speak to me then about this affair ; cannot tell

when and where he forbid me from appearing; am not quite certain he ever did forbid me; sister Ann forbid me last summer—I mean the summer of 1850; she did so in this city; that was after I had seen her in Havana; my sister Hosdale in New Orleans forbid me from appearing after the receipt of my mother's letter; she did not forbid me before; I think I remained a week when I was here the first time; I stayed at the Irving house; I furnished myself with accommodation there; saw Forrest at that time; saw him at the Irving; Sedgwick and two or three other gentlemen, whom I do not know, were there; saw F. twice at the Irving; saw him no where else; Dogherty was present the last time I saw him, the day I went away; Forrest paid my expenses at the Irving; I saw Mr. and Mrs. Lawson before I saw F.; I saw them at their house in Twelfth-street; went there to see F.; knew Lawson to be his agent; I left my address, and he called at the Irving to see me; the Irving was the first place I put up at; got there in the morning; had been in quarantine twenty-four hours; first saw Dogherty at the Irving; saw him also at a house in Mercer-street; that was after I had gone to the Irving, on the second day after my arrival; had seen Lawson before I met Dogherty in Mercer-street; the house there is kept by a person named Wilson; it is a boarding-house; went there to have an interview with Mrs. Forrest; did so on my own motion; a gentleman from the Irving accompanied me; do not know his name; I wanted to go and see Mrs. F., and they told me I had better have some one with me.

Q.—Who told you?

A.—Mr. Forrest told me this; he said so at the Irving; all the gentlemen I have named were present; do not know if a man named Patterson was there, but there were others whose names I do not know; two others were present; my deposition was taken when that happened; I had signed it and sworn to it; they were about an hour with me on that occasion; Sedgwick never called upon me again; never saw him again; never made but one deposition; do not know if I spoke to all the gentlemen named about going to see Mrs. F., or to Mr. F. alone; it was not one of the company named that went with me to Mercer-street; I did not go till the next day; I think it was Dogherty recommended the person to me to accompany me to Mercer-street.

O'Connor—I will call that person your "escort" to distinguish him from others.

Witness—The person told me to what house we were going in Mercer-street; did not know anything about the place where I was to meet Mrs. F. until he told me; remained there from the morning till about five o'clock; went there about eleven o'clock; was visited there while waiting, by Dogherty; he took me back from there to the Irving House; saw no one connected with Mr. F. at that house except Dogherty; I got my dinner there alone; I was in one room all the time I was there; there were six beds in it; did not see Mrs. F.; I wished to tell her what I had done and what I had said; that was all the motive I had for wishing that interview; Dogherty was there once for five minutes; I took some measures to get Mrs. F. there; I wrote her two notes; I wrote them there; I gave them to a small boy; wrote them one after the other, when I saw that Mrs. F. did not come; said nothing about Mr. Willis, while there, to any one; from there I went back to the Irving; did not visit Brooklyn while here; I intended to visit Brooklyn, but did not go because I did not full like it; I thought of going shopping there, to buy some stamps for braiding; that was all the business I had there; did not know where to get them in New York; intended to get them of Mr. Miller in Fulton-st.; when I told Mr. F. that I wanted to see Mrs. F., I said that I wished to tell her what I told him; he told me not to go to the house where she lived on account of Mrs. Voorhees; do not know if he said he would find me a place where to meet her; do not know who paid my bill at Wilson's; I returned to New Orleans by land alone; went the Buffalo route; received no money, except \$50 to pay my passage home, and \$75 for my passage hither; as I left, I promised to return when needed; I was applied to to come back last summer; did not do so because one of my children was very sick; on this occasion all my expenses have been paid by Dogherty; heard of no promise to give me a reward, and expect no compensation; saw an advertisement in the newspaper here after I came from New Orleans; Dogherty showed it to me; I think it was in the *Herald*; he showed it to me in Mercer-street; had not seen it before; he said nothing in explanation about it; he handed me the paper and said, "do you see that?" I waited until I had read it, and then kept the paper; he then left the room. (Notes produced.)

Q.—Are these the notes you sent to Mrs. F.?

A.—I wrote the first one, but not the second which you produce; I never wrote it.

Q.—Look at it carefully and attentively and come to a conclusion.

A.—It looks very much like my writing, but I did not write on such paper.

Q. That is not the question—did you write it?

A. I wrote two notes, but do not know if this is mine; (this is the note No. 2 denied by her as being from her.)

Q. Do you believe it to be your handwriting?

A. I do not believe it to be mine.

By the Court.—Is your signature to it?

Witness.—Yes, sir.

Mr. O'Connor.—Do you believe any part of it your handwriting?

A. No, sir.

Q. Look on the back of it. Is that your writing?

A. Yes, it is.

Q. What is it?

A. "Mrs. Forrest."

Q. Did you send Mrs. F. the advertisement?

A. Yes; it is in this letter, (No. 2), do not know if I sent it in the first or second letter.

Note No. 1 was then read in evidence.

(No. 1.)

Dare Mrs. Florrist I have just arived from New Orleans, and I want to See you very much before I see anybody else. I am going to Brookling this morning, but I will be hear at half-past 5 this afternoon, do pleas com and see me for I have so much to tell you. I don't want to be seen here untill I see you. Call at #2 Marcer street, Willson's whotel. Pleas send answers by the bearer

ANN DEMPSEY.

O'Connor.—Now, sir, I propose to read the second note.

Van Buren.—I object.

Court.—On what ground?

Van Buren.—The witness says it is not written by her.

Court.—She admits the address, and that is sufficient presumptive evidence of it being sent by her.

(Note produced.)

Witness.—I am not certain that the writing is not mine; I am certain that it is not my handwriting; am not sure that is not my handwriting.

Q. On looking at it, are you sure that the inside is not yours?

A. I am not sure.

(Note once more offered in evidence.)

Mr. Van Buren objected, but the Court admitted the evidence.

Mr. O'Connor then read the note:

(LETTER NO. 2.)

Mrs. Forrist you must excuse me for writing to you so often but the reasons is that I did not want anybody to see me. I see they have a notice in the papers. if you dont it want to please send me a word. the place is private and I am a lone.

ANNA.

The advertisement of the *Herald* affixed to it, said that—"If Mrs. Ann Flowers, late Miss Dempsey, who is supposed to be now in this city, will call at the office of Theodore Sedgwick, Esq., Wall street, she may hear of something to her advantage."

Witness.—I entered the name of Mrs. Flowers at the Irving House; after Mrs. Forrest went to Europe, I did not see her again until I met her in New Orleans in 1848; no one was present when we met; saw her there twice; stayed three hours with her the first time; have not seen her since that; previous to the night that Mr. Godwin and Capt. Howard

were there, I slept in the attic; Mr. F. and her two sisters were away, and I therefore slept with her; I supposed this was the reason of my sleeping with her; she asked me to sleep with her; Mrs. F. had always been very kind to me; I was then fifteen years of age; I am now nearly twenty-three; before going to Mrs. F.'s I lived with Mrs. Moore; had been four months with her; she lived in Nineteenth street; her husband was a dry goods merchant; I was sick there; lived with Mrs. Russell before I lived with Mrs. Moore; her husband lived at New Orleans; she boarded at the U. S. Hotel; do not remember where we lived, or in what street; was eighteen months with her; was at service with her before that; went to school before that for a long time; was also in the service of a Mrs. Hart in Waverly Place; was quite small then, and was there a long time; that was my first service; was not at service with any one after Mrs. Hart and before Mrs. Russell; do not remember living with a Doctor Lee in Hudson street; remember living with a doctor, but do not know his name or where it was; after living with the doctor I went to reside in the House of Refuge; do not know how long I was there; do not think I was there a year; my mother made complaint against me and had me put in; I was not sent from the House of Refuge to the service of a Mr. Dickinson in Connecticut; served with a Mrs. Russell in Connecticut; went by the name of Anna Dempsey in the House of Refuge; did not return there from Connecticut; I left Mrs. Russell because she was going to New Orleans; do not remember Mr. David Terry of the House of Refuge; remember Miss Taylor; do not remember being examined there; heard my mother say I was nine years old when I went to the House of Refuge.

Q. Shortly before you went to the House of Refuge did you steal any thing?

Mr. Van Buren requested the Court to inform the witness of her rights.

Mr. O'Connor said she had no right to refuse answering in regard to anything that would enlighten her character; she only was at liberty to refuse answering such questions as might submit her to a criminal prosecution if answered affirmatively. The object of the inquiry was to show that at thirteen years of age she had commenced a career of vice, with a precocity rarely to be met with in females, and had followed it up during her stay in Mr. Forrest's house, the details of which had already and would more fully appear.

After some further remarks between counsel, Mr. O'Connor said he would take up another branch of the examination, in order to give the Court an opportunity of looking into the authorities and weighing the admissibility of the question; the subject could be brought up again in the morning.

Cross-examination of the witness continued.—When the waiter was engaged in his business, I would go to the door; his name was Barney McCabe; we went to the door when we felt inclined to go; don't know that it was my practice to go to the door and answer it when the waiter was there and not engaged; Captain Howard was in the habit of sleeping at Mrs. Forrest's; have known him to sleep there when Mr. F. was not at home, on other occasions besides that night; can't say how often; knew him to sleep there very often when Mr. Forrest was at home; do not remember his sleeping there two or three nights immediately before Mr. and Mrs. F. went to Europe, but I remember him sleeping there; I don't know of Parke Godwin sleeping there on any other occasion; I did not see him at breakfast next morning; it was the last part of August or first of September, 1844; I went to bed about eleven o'clock; have not any idea how long I was in bed before the voices awoke me; could not tell how many voices I heard; did not hear Captain Howard go to bed; when Mrs. F. came into my room, (the room where I was sleeping,) the house was silent; there was a light on the hearth; Mrs. Forrest did not bring any additional light with her; when she came to bed, she did not lock the door nor close it, she did not lie down; she undressed herself and left the room; the door was half open while she was undressing; it took her about twenty minutes to undress; when she went out from my room she did not close the door; could not say how far it was from Howard's room to my room; it was the very next room in the same hall; it was as far as from me to the gates of the railings, (about eight feet); if she had opened the door I should have heard it; can't say how long it was before I went to Howard's room; it was about twenty minutes when I heard whisperings and a noise of the bedstead; their door was partly lying open when I went there, and I had to open it more; took the lamp in my hand into Howard's room, and looked into the bed, having the lamp in my hand; when I saw the way they were, I turned to the door and began crying; I did not make a noise in crying, for I was frightened, and merely shed tears; I cried loud enough for her to hear me, and said, "Mrs. Forrest!" I continued crying; she did not answer me; when she did answer, she said "Anna, what's the matter?" I said I was afraid to sleep alone, (laughter); to that she said nothing; I took the lamp and went away; I have told you all I said to Mrs. Forrest when I was speaking to her next morning in the parlor; did not speak to her after that day until before she went to England, on the subject; it was about a month before she went to England I spoke to her; have told you all I said to her on that occasion.

Q. Did you ever mention this occurrence between Capt. Howard and Mrs. F. to your mother?

A. I did, next morning; never told it to her at any other time; told it to my sister Mary.

The Chief Justice said he had got it down in his notes that the witness had said in her direct examination that Mrs. F. undressed and got into bed; she now said that Mrs. F. did not get into bed, and therefore would ask about this matter.

Mr. Van Buren—We have it down otherwise; the witness did not say Mrs. Forrest had come to bed to her before she went to Capt. Howard's room.

Mr. O'Connor—Yes, she did.

Judge Oakley—It matters very little. I only wished to call her attention to the discrepancy.

Cross-examination continued—I told this affair to my sister Mary, in 1847, in New Orleans; I never told it to my brothers; I said nothing in reply to Mrs. Forrest, when she said she only went in to see if there were sheets on the bed; in a few minutes after, I asked her if Mr. Godwin slept in the house.

Q. You have mentioned about your first child; when was that child born?

Mr. Van Buren asked the Court to instruct the witness in the same manner as he had before requested.

Mr. O'Connor remarked that they had it on her direct examination, that she said Mrs. Forrest was her ruin, and the plaintiff was entitled to some explanation.

Judge—What is the object of the question?

O'Connor—We have the extraordinary statement from this witness that she cried when she saw Capt. Howard in that equivocal position with Mrs. Forrest; we must now be allowed to show that it was no crying matter to her.

Mr. Van Buren submitted that his direct questions did not entitle the cross-examination to this; or, that if she was not privileged to decline answering, she could give an explanation of the entire transaction.

The Chief Justice understood the witness to speak of a child before her marriage, and this question was to prove that she had had an illegitimate child before her marriage. He had no hesitation in saying, that in inquiries of this kind, questions as to the chastity of a witness ought to be permitted. If he agreed to the views of Mr. Van Buren, no party would be free from charges of the kind, on the testimony that might be procured from every brothel in town.

Mr. Van Buren was satisfied that it was a rule which this court, with its knowledge of the law, could not enforce.

The Chief Justice did not wish to take any step in the case that would be likely to embarrass it. He was of opinion that the examination on this point may be further gone into. He would permit that inquiry to be gone into. The witness had admitted that she had a child before her marriage; there was no further degradation in asking the particulars.

Witness continued—That child was born in May 1845; Captain Howard was the father of that child; it was in Mr. F.'s house I had intercourse with Capt. Howard; I had no intercourse with any other man in that house, or any other house; the family were not at home at the time he had intercourse with me.

Q. Were you, in that house, in the summer of 1844, in bed with McCabe, the waiter of whom you spoke?

A. (Emphatically.) No, sir, I was not.

Q. You never had intercourse with him?

A. No, sir; he was nothing but a small, dirty boy (laughter); I had a fellow servant named Catherine in the house at that time.

Q. Were you or not charged with having intercourse with McCabe in the presence of Catharine and Mr. Raymond?

A. No, sir; I was not.

Q. Did you ever charge this child upon Capt. Howard by legal proceeding or affidavit?

A. Yes; in some office in the Park here; there was an officer named Hopkins with me when I did so; I never saw McCabe since I left Mr. F.'s.

Q. Did you not, after you made the affidavit against Capt. Howard, call and see McCabe, and ask him not to swear that he had anything to do with you?

A. No, sir; I needn't do it; a dirty boy that he was (laughter).

The Chief Justice inquired if Mr. O'Connor had many more questions to ask this witness, as it was now four o'clock, the hour of adjournment.

Mr. O'Connor said he had some few questions more.

The court then adjourned.

SEVENTH DAY.

TUESDAY, December 23

Chief Justice Oakley took his seat at quarter past ten o'clock.

The court-room was again filled to suffocation, there being not even a single vacant place in the galleries, which are but rarely occupied on other occasions.

Mr. Forrest was present at an early hour; Mrs. Forrest, accompanied by Mrs. N. P. Willis, came in immediately after the opening of the court.

Anna Flowers recalled by Mr. O'Connor—Did not live with a Mr. Earle before going to Mr. Forrest's; never lived at service in Beekman street; never lived in Grand street; did not say so to my brother John; told you where I lived, and I think that is sufficient.

Q. Previously to going to the House of Refuge, did you not steal money, and also steal a watch?

Judge—Stop one moment, witness.

Mr. Van Buren—I merely request the Court, as I did yesterday, to inform the witness that she may or may not answer, and if she does answer, she is entitled to a full explanation.

The propriety of the question was ably discussed by Messrs. O'Connor and Van Buren.

The Court thought there was no absolute duty on the part of the Court to make any suggestion of that kind. The proposition that witnesses were under no circumstances bound to answer questions which would degrade them, was certainly no law; where the question bore directly on the main issue, that excuse was not sufficient, but the present question did not bear directly on the issue, and asked about a particular offence of a witness which was barred by the statute of limitation, and the witness could not therefore be coerced to answer. If the question arose in such a shape as only to affect her character, the Court would then rule upon it.

The Court then instructed the witness as desired.

Question repeated.

The witness remains silent and looks at Mr. Van Buren.

Court—Do you answer or decline?

(Witness still silent.)

Q. Did you steal the watch?

Witness—I did.

Q. From whom did you steal the money?

A. I did not steal it, it was handed to me by the servant of the house; I do not know whose money it was; believe it was the Doctor's; do not know how much it was; the money and watch was handed to me all in one bundle; it was the cook in the house who handed it to me; I believe she is a white woman; have not seen her since; do not know her name; had it about fifteen minutes before it was found on me; it was in the morning; do not remember if it was found on me; do not know what I did with it.

Court—I thought you said you had it for fifteen minutes.

Witness—Yes, sir; my mother came in there, and I told her about it; when she was there, the doctor came down, looking for the things, and inquiring what was in the kitchen; I told him the girl handed the things to me; the girl was there; she was put in the House of Refuge the next week after I was; she was about sixteen or eighteen years of age; I went home to my mother that same morning; I was taken right away to the boarding school; I call the House of Refuge a boarding-school; my mother put me there; I never got on the roof of the doctor's house to pass into that of a neighbor; I am not so great a climber as that (laughter); never opened the bundle the girl gave me; never saw either the watch or the money; I think my mother told me I was nine years old; when I got to the House of Refuge, I was afraid that I should not get out soon, and therefore laid on a year or two; I was so small that I could not wash or dress myself; do not know how old I stated myself to be; I was born in 1827; I stated my age to a gentleman there; he was writing at the time; do not know if he asked me any other questions; if he did, he got the answers; think he was writing on a loose sheet; never told any one in the house that I climbed over the doctor's roof into the house of a neighbor.

Mr. O'Connor—I have done with the witness.

Re-examined—I have nothing more to say; I have been abused all through my life, and never had justice done me. [The witness here became much affected.]

Mr. Van Buren—I think the witness ought also to be apprised at what time, and in what manner, she was got with child.

The Court thought counsel had the right to ask witness any questions in regard to that.

Witness—The first person I saw after the girl had handed me money and watch, was my mother; I told her, as the doctor came down, what the girl had handed me; the girl was at that time fixing to go away; I said to my mother, "Look here, what Martha has given me;" Mrs. Forrest did not come to bed the night before; I saw her with Captain Howard; I did not say so yesterday; my intercourse with Captain Howard was after this transaction; three days afterward; Mrs. Forrest went away, and left me there; she went to Philadelphia to Mr. Forrest; the servant girl and boy were left with me; I had got orders to stay home that night, and the others were to go out; Mrs. Forrest told me so before she went.

Q. What occurred further?

A. I was to have the next day, all day to go out; Captain Howard came there that evening; I let him in; he asked me who was home, and I told him, "nobody but me;" he came in, shut the door, and caught hold of me; the door was fastened with a chain and hook; he said he wanted to come in, Mrs. Forrest's house was always open to him, and he wanted some brandy and water; (Laughter.) I then let him in; I got the brandy and water for him.

Q. What occurred then?

A. He caught hold of me, and I said Mrs. Forrest would be angry with him; he said "No, she thinks a good deal of me;" I said, "Yes if Mr. Forrest knew how you did him, you would not come here very often;" he answered that unless I told Mr. Forrest he would never know.

Q. What occurred further?

A. He visited after that two nights handrunning; he had intercourse with me on the night spoken of.

Q. What objection did you make?

A. I made a great deal of objection, but he caught hold of me, and being a great deal stronger, knocked me down. This happened again the second night.

Q. Did you resist the second night?

A. No, sir.

Q. Why not?

A. Because he made a great many promises the first night; I never had intercourse with him again after that; I made these facts known to Mrs. Forrest before she went to Europe; (the time of their going was agreed upon as the 24th December, 1844); do not know if Mrs. Forrest knew if Captain Howard had been there; she said to me on her return from Philadelphia, "Ah, Miss Annie, you have had Captain Howard here;" I said, "How do you know?" she replied, "I have seen him;" do not know if there was anything in my appearance to show that I was in the family way before Mrs. Forrest went to Europe; my connection with Captain Howard was on the 1st September; did not state this occurrence to any one but Mrs. Forrest; she said, "Oh, that is too bad!—a young girl like you! I declare I will give him a good scolding!" Captain Howard was in the house that very night, visiting Mr. Forrest; I was treated kinder than ever by Mrs. Forrest, after I told her; I did no work at all, but was paid my wages; I wanted to tell Mr. Forrest the same night I told her, but she said I had better not, for he would shoot me; he did not know I was pregnant; had no correspondence with Mrs. Forrest except the notes here shown, but I had with her sister Margaret; I was confined in Connecticut; went there because I was acquainted with a great many families there; my child was born at Norwalk, on the 25th of May, 1845.

Q. After you went away, how were you provided for?

Objected to. Ruled out.

Mr. Van Buren offered to show that Mrs. Forrest, until she went to England, and Mrs. Voorhees afterward, paid all the expenses of the witness's confinement.

The Court ruled, that if they could show that Mrs. Voorhees acted as agent for Mrs. Forrest they might go on to prove.

Q. Who was left in charge when Mrs. Forrest went away?

A. Miss Margaret (Mrs. Voorhees). Mrs. Forrest told me I was to stay there until the very night of my confinement, and Miss Margaret was then to get money from Captain Howard and provide for me after I left the house; I left on the 1st of April; Miss Margaret and Captain Howard gave me money and she also gave me some baby clothes; Mrs. Forrest also gave me some before she left; Miss Margaret sent me money every week during my confinement; I corresponded with her; after my child was born I came to New York, corner of Barclay and Church; my nurse was a Mrs. Butler; I remained five months before I went to New Orleans; Miss Margaret paid my nurse through my mother; I went with my sister, Mrs. Hinsdale, to New Orleans; I returned here in 1846; I made complaint against Captain Howard in 1849; nurse told me that Miss Margaret neglected the child, and paid not as much attention to it as she ought to, and I got very angry; Mr. Raymond told me I must settle it some other way and he would provide me with money; he gave me money and paid the nurse's bill; I was then living with my mother; I was here again in 1850; I came on here then to be witness for Mr. Forrest, and did not go to see my child because my brother John told me he would kill me if I came near the family for coming on such an errand; (notes produced, No. 1.)

Van Buren—Look at the note and read it.

Witness—I wrote the note; I state in this note that I wanted to see Mrs. F. before I saw any one else; I had already seen some one; what I stated in the note was not true; I stated so because I wanted to deceive Mrs. F. on purpose to get her there to see me; she had treated me well, and I wanted to tell her all; if she had thought I had seen the lawyers she would not have come to see me; (note No. 2 produced.) I believe I wrote the note No. 2; I wrote the first in the morning, and the other at 2 o'clock; I wrote No. 1 first; a boy carried the first.

Cross-examination resumed—Do not know where my fellow servant, Catherine, went on the night when Howard visited me; she came back by 9 o'clock; she went at 5½ o'clock; Howard promised to marry me when he first visited me; he said he was not a married man; I told him Mrs. F. said he was married; he answered, "Oh, she is only joking;" he had intercourse with me in the drawing-room; he knocked me down before he made the promises to me; he made the promises before he knocked me down; did not consent to the intercourse on those promises; I did not think a servant girl and a gentleman ought to go together (laughter); he effected his object by force; I had not yielded to him any way; he got hold of my arm; it would not be fit for me to say what he did besides; he remained in the house till after the servants came home, for 3 or 4 hours; they saw him going out of the door; they both were at the head of the kitchen stairs when I let him out; did not tell them what had happened; Catherine said, "You are a lucky one, you have always somebody on hand." I said Captain Howard had come to look for Mrs. F., and had just come in; on the first evening I agreed with him that he was to come the next night; he came about 7 o'clock the next evening; he remained until half-past ten; I let him in; I also let him out; we were in the drawing-room; on the second night he made another appointment; he said when he would be sleeping in the house, he would come to my room; Catherine was in the kitchen the second night; we had company; they were Catherine's relations; they came in the evening before Howard came; I met with them in the kitchen, and stayed until he came; I left Howard in the drawing-room several times, and returned to the kitchen; did so three or four times; my motive in doing so was not to be suspected; he told me to do it; we had no light in the dining and drawing-room; do not know if I locked it while he was there.

Elias L. Magoon was called, but did not answer. Attachment ordered.

Witness continued—He first went into the dining-room.

C. Edwards Lester was also called, and not answering, an attachment was issued.

Witness—There was a light in the hall; I hallooed loud enough to be heard when the Captain was there; did not halloo so loud as I could; I screamed when he knocked me down; do not know why I did not scream as loud as I could; he told me not to scream; I was then still resisting him; I suspected myself to be pregnant when Mrs. F. went to Europe; I suspected it when I spoke to her; Capt. Howard slept in the house frequently after this when Mrs. F. was home; made up his bed three or four times after telling Mrs. F. about it; think he slept there within a week of their departure; Barney had left the house two months before they went away; Catherine was the cook of the house; during the two months before their departure, I or Catherine attended the table; know she did so on one occasion; there was one dinner—the last they took in the house—that they did without a waiter at dinner; Howard, Wykoff, the Forrests, Mr. Stevens, and Miss Sinclair were at dinner that day; I did the chamber work before Mr. F. and Mrs. F. left; my nurse, Mrs. Nancy Butler, lives in 21st street; the paper which Mr. Raymond took from me was a writ or something to arrest Captain Howard, which I got at the office in the Park; he gave me \$25 to pay the nurse and doctor; I saw my child last in New Orleans in 1848, after I was married; my brother Frederick took it back to New York; my brother John wrote me in a letter to New Orleans, that he would kill me if I came near them on such an errand; that was after my return in 1850; in the summer of 1850 I went with my husband to the house of my mother, but she would not see me; my sister, Mrs. Anne Hart, saw me; Mr. F. and Dogherty told me that Mrs. F. would not come to see me; it was a thought of my own to tell her that I had not seen them; my object in wanting to see her was friendship to her; I was at that time very friendly to her.

Re-examined—My child was taken away from New Orleans without my consent; Mr. Raymond came down on board the ship as I was going to New Orleans, and asked me to open my trunk and show him the letters of Mrs. Voorhies; he promised me \$50 for them, if they contained any thing about Miss Margaret, but as soon as he had them he went off, and did not give me a cent.

By the Court—Mrs. F. knew I was pregnant when she went to England; she told me in New Orleans that she told her husband I had a child by Howard.

By Counsel for Plaintiff—Mrs. F. told me in New Orleans that her husband was angry with Captain Howard and me; she did not say he was angry with any body else about it; I was married then; Mr. Flowers lived at New Orleans; had been married nearly a year, and I had a baby.

Re-examined—Do not know of Mr. F. knowing that I had a child until Mrs. F. told him.

By O'Connor—She had told me so on the same day that I met Mr. F. in the street.

Mr. O'Connor said it might be desirable that the witness should stay in the city.

Mrs. Flowers then left the Court, accompanied by Mr. Dogherty.

C. Edwards Lester sworn—I reside at the Globe Hotel, in Brooklyn; it is difficult to say what my occupation is; I am an editor; I was U. S. Consul at Genoa, in Italy; I know Mr. and Mrs. Forrest; the first time I saw her was at her house in 22d street, about Christmas, 1848, I believe; I had written a play, and having written a note to Mr. F., whom I did not know then personally, requesting the favor of an interview, that he might look at the play, I called, in pursuance of an appointment made by him, at his house; I called very early in the morning, and got there before 10 o'clock; did not see Mr. Forrest; was told he had gone to Philadelphia; I saw Mrs. F.; had never seen her before; ascertaining from the servant that Mr. F. was not at home, I left my card and went, but before I had passed off the steps, the servant came and told me Mrs. F. desired to see me, or something like that, which, from the courtesy of it, induced me to return; I believe I saw Mrs. F. coming down the stairs while the servant showed me in the parlor.

O'Connor—I want to know what the counsel means to prove.

Van Buren—I will prove, as near as I can, the manner in which he, a stranger, was received, and the feelings manifested by Mrs. F. towards Mr. F., and what took place at the time.

O'Connor—But this individual is not one of the adulterers named in the answer, and therefore the feelings manifested towards him are no evidence.

The Court thought the testimony competent.

Mr. O'Connor still objected, and was answered by Mr. Van Buren. As yet, he said, only parties which the plaintiff called "kitchen evidence" were called, and they meant now to ascend into the drawing-room, and show Mrs. Forrest's conduct there.

The Court ruled that they might show declarations which went to prove a breach of the marriage vow, or tending to show a lascivious disposition. Feelings of hostility between husband and wife could not be shown.

Officer Acker, at this stage of the proceedings, after having spoken to Deputy Sheriff Drake, requesting him to sit down, informed the Court that he refused to do so.

Judge—If he will not, turn him out.

In another instant Mr. Drake was bundled out of Court, perceiving which, Mr. Van Buren informed the Court that he was a Deputy Sheriff, and held a person under attachment here.

The Court then ordered that Mr. Drake be hustled in again, which was done in quite as prompt a manner. He then explained that he would have sat down if a chair had been presented to him, and would else have made his return of the person under attachment had not Mr. O'Connor been on the floor and speaking.

The parties subsequently came to an understanding, and all sat down, looking a good deal flushed with their recent adventure.

After another lengthy argument in regard to the admissibility of the question, the judge ruled as before, that no hostile feeling could be shown as existing between the parties; the offer as made was too general, and must be ruled out. Specific questions ought to be put.

Mr. Lester's testimony was then reserved for next day.

Court—Go on, Mr. Van Buren.

Van Buren—Why, sir, we want to hear Mr. Magoon.

Court—Well, call him.

Van Buren—He will not come into court without physical force, and at this stage of the proceedings I will try to do without him.

Court—Why will he not come in?

Van Buren (smiling)—Well, he is a clergyman, and would rather not testify. We will call Mr. Blake.

Wm. Rufus Blake, the actor, was then sworn, and proved that he was acquainted with Geo. W. Jamieson, and knew his handwriting; (letter produced;) look at this paper.

Mr. O'Connor—One moment; if that letter is from Jamieson, we object to it, for we are not responsible for his acts.

Admitted.

Witness—To the best of my belief this is Jamieson's handwriting; (this is the Consuelo letter;) Mr. Forrest showed it to me first; I put my initials to it; did so at Mr. Sedgwick's chambers; saw it first time before that; saw Mr. Forrest in the winter before he separated from his wife; saw him in December, 1848, and in January, 1849.

Q. What was his condition then?

O'Connor—What do you mean by "condition?"

Van Buren—I wish to show the effect which the finding of the letter produced upon my client and his frame of mind.

O'Connor said they wanted to prove the acting and gesticulating of Forrest at a time when he had already determined upon a divorce from some cause or no cause. This might all be fabricated by the party, and therefore very unreliable.

Ruled out.

Q. What was the general character of Jamieson in his intercourse with women? (Laughter.)

Objected to by Mr. O'Connor, who said that after it had been proved that Jamieson had been introduced by Forrest himself to his wife, it would not be just to Mrs. F. now to infer from his character that she was guilty of the offence charged.

Blake—I do not wish it to be inferred, that I could prove—

Van Buren—Hold on, Mr. Blake, until the question is put. Counsel then went on to argue the admissibility of the evidence.

Ruled out.

John Livingston sworn—I reside at the Astor House; am a Commissioner for the State of Pennsylvania; some depositions were taken before me in that capacity; it was in relation to some proceedings pending before the Pennsylvania Legislature, in regard to Mr. F.'s application for divorce; it was on the 28th February, 1850; two or three days were occupied in taking the testimony; (document produced;) this was produced before me at that time; I put the endorsement on the back of it; Mr. Forrest produced it before me.

Van Buren—I will now read the deposition of Mr. Smith.

Court—Mr. who?

Van Buren—Mr. Smith.

Court—Well, that is not much of a name anyhow. (Laughter.)

Van Buren—Samuel S. Smith is the name of the person. [He then read the deposition.]

It stated that he lived at Cincinnati, and had seen there Mr. and Mrs. Forrest in 1848; he had seen George W. Jamieson there the same year, at the City Hotel, and most in company of Mr. and Mrs. Forrest; had been present at a time when Mr. and Mrs. F. were about starting on a visit to a phrenologist; Mr. Forrest had an engagement with an artist an hour previously, but not finding the artist at home, he and F. returned to the hotel; Forrest preceded him a few yards, and entered his room where Mrs. F. was first; Jamieson was with her at the time; they subsequently went to the phrenologists without Jamieson, and Forrest displayed displeasure and petulance to his wife; the object of the visit to the artist was known to all. In the cross-examination, the witness deposed that he thought Jamieson had, subsequent to the day referred to, escorted Mr. and Mrs. Forrest to the cars on their departure from Cincinnati.

Mr. Van Buren then offered the Consuelo letter in evidence.

Mr. O'Connor objected. He said he might illustrate this position by a supposable case. Suppose now a husband, anxious to rid himself of his wife, possessed himself of a letter written by a person, and calculated to impeach the virtue of his wife; suppose that man was an alien, a resident of another State; suppose that man was poor and could not come; suppose a wealthy husband, who had declared his readiness to destroy his wife at even the cost of half his fortune, had induced some parties to make that poor, degraded being, before alluded to, drunk, in order to extract from him an avowal that he committed adultery with the wife of so distinguished a personage; suppose, also, that the same poor, degraded being, after seeing the consequences of his avowal, declared himself ready to appear at the trial and testify, but, on the

day fixed for the trial, backed out—still residing in another State where the process of a court could not reach him; suppose all this—would it be right to admit such a letter written by him?

Mr. O'Connor went on arguing the question at great length, and with extraordinary ability, maintaining that if even the letter was proved to be written by Jamieson to Mrs. F., it still could not be read in evidence. He was followed by Mr. Van Buren, in an equally elaborate argument.

The Court decided that there was, at the present stage, not sufficient to identify the Consuelo letter. It bore no characteristic, there were no names in it, no direction; no name of the writer, and it was altogether vague in its nature. There was also no proof of Mrs. F. ever having possessed the letter, except the general fact that she once admitted having a letter from Jamieson; but it was not shown to be *this* letter. Any man of depraved habits might write a similar letter to any woman, and it was therefore all important that it should be proved Mrs. Forrest had had it in her possession. As the case now stood, the Court excluded the letter. The Court then adjourned.

EIGHTH DAY.

WEDNESDAY, December 24th, 1851.

The large crowds of spectators who this morning have again crowded the Court-room, show how the interest of all classes of society is concentrated upon the developments of this cause. The standing of the parties in society, and the public position which Mr. Forrest occupies, render it a matter of little surprise, that the details of this controversy are looked for with such intense interest, but if to this we add the fact that the evidence, independent of the bearing which it has upon the parties most concerned, has extended into a development of the manners and morals of a large number of other persons more or less known in this city and elsewhere, and has laid open to public view a detail of their domestic life; their difficulties, extravagances and *faiblesses*, it is not to be wondered at that the Court is daily crowded by an anxious multitude, and that the papers containing correct reports of the proceedings, are carried home and read with an avidity which renders the reader liable to suspicions that he himself is afraid of having his merits inquired into in this controversy, and his character brought in issue.

So far as we can judge from personal observation, the unravelling of the circumstances surrounding this case has had least effect upon the contending parties themselves. Mr. Forrest continues to be an early attendant at Court, and his cloudless brow, knit only when something extremely personal or gross is called out, gives evidence of the quiet state of his mind, and the little fear he has of the ultimate result. His demeanor throughout has been that of a gentleman, and he shows his implicit confidence in the ability of his talented advocate by abstaining from all hints or suggestions. As for Mr. Van Buren, he takes the matter as coolly as usual, and with that extreme good temper, for which he is so eminently distinguished, but he also pays that intense attention to the proceedings, which the importance of the matter to his client demands.

Upon Mrs. Forrest the effect of the testimony has been of a more perceptible nature. Her demeanor, at first extremely timid and shrinking, has given place to a more decided and resolute appearance, and her courage seems to rise in the same proportion as the evidence of gross criminality and lewdness is heaped upon her. Her spirits, which seemed to be much depressed at the early stages of the trial, appear to keep pace with her rising courage, and like her husband, she exhibits an unflinching confidence in regard to the result. Mr. Charles O'Connor fights the battle in a manner which will add fresh laurels to his already great renown; his deep reasoning has evidently made a strong impression upon the minds of the jury, whilst the brilliancy of his style and address render him a favorite with the audience.

The jurors having answered, the Chief Justice called upon Mr. Van Buren to proceed.

Mr. Van Buren called—

Elias L. Magoon.—I am a clergyman, pastor of a Christian church—the Oliver Street Baptist Church of this city; I know Mr. and Mrs. Forrest; I have known them twelve years; I think in the spring of '49.

The witness here said—

May it please the Court—I should desire to make an explanation which I consider due to the cause of public justice and myself to state all I know of the matter. Twelve years ago I was pastor of a church at Richmond, Va.; I resided in a family, my host having been a school companion and playmate of Edwin Forrest.

O'Connor—How do you know all this, Mr. Magoon?

The Witness—Why, it was told me.

The Court—It is not necessary to go into particulars. Now, sir, you can answer the question.

Mr. Magoon said he was compelled to come here.

Chief Justice—I must treat you, sir, like any other witness; I do not know you as a clergyman, but only as a witness; you must only answer the question.

Q.—Did you in the spring of '49 learn the particulars of the terms upon which she had been living with Mr. F. in the spring of '49?

Witness—Yes, sir; I had occasion to see Mrs. F.; she stated to me that for several months previous to the outbreak they had lived together as brother and sister; by outbreak I mean the notoriety that had been given to them in relation to their domestic affairs; I mean their separation.

By Mr. O'Connor—In January, 1850, I was residing in this city, and continued so during the year; I had this conversation at the residence of Mrs. F. in Sixteenth street; I had seen her before during that year at my church, at her house, and at the house of Mr. Willis, of an evening; in midsummer I called at an invitation I think from Mrs. or Mr. Willis; it was to meet some literary friends at tea; I don't recollect seeing her at any other times; the interview in Sixteenth street was in the autumn; I knew that they were about to proceed for a divorce between Mr. and Mrs. F.; think I knew it both by public report and private communication; I had previously called at the house in Sixteenth street, to see Mrs. F.; I think my lady was with me; I know she proposed to call with me, but don't know if she did go; I think I called there more than once; this was a call for friendship; I think I was there half an hour; I sat in the parlor; it is impossible for me to recollect who introduced the conversation on the difficulties; it had always been a matter of conversation when we met; I can't say if I asked her what his demeanor was; I think I did ask her if they occupied the same bed and chamber; I do not recollect she said so; I don't know why that topic should have been introduced; it could not have originated with me, and I do not think it did with her; she usually spoke of his habitual kindness, and spoke of his uncommon demeanor at an interview just previous to my visit.

Q.—Did not Mrs. F. say to you that Mr. F. was varied in his demeanor—sometimes morose, and frequently treated her more like a sister than a wife?

A. She may have spoken so; I know she spoke of his demeanor to her as variable, as she said she had recently encountered a burst of temper from him on his return; she referred to the portrait, and said, that is the portrait of my husband, but you are not my husband; I remember she spoke of his treatment as variable, but she may have used that phrase "more like a sister than a wife."

Q. Do you mean to say she used this language—"For several months we have lived together as brother and sister?"

A. Yes, sir, I remember those precise words; I remember nothing else definitely; I have no recollection of the phrase "more like a sister than a wife"; I do not recollect that she said so; I recollect no remark about "brother and sister"; I saw things had come to such a pass that a divorce or separation was inevitable; I had no knowledge, or thought upon the subject of their occupying the same bed; my mind was not upon that; I think there was no other conversation between us as to marital intercourse; it is the only time Mrs. F. made any allusion to that matter in that shape.

Q. Did you communicate this fact to anybody?

A. Yes; I cannot say definitely the time; I cannot say if it was or was not within a week; I communicated it to Mr. F. in my library; no one else present; I think no one was present during my conversation with Mrs. F.; members of the family were passing in and out; Mrs. F. usually attended my church in Richmond, Va., and other places, to hear me, but I only came here, to take charge, shortly before these difficulties commenced; she doubtless came out of deference to me as a personal friend; I have called on Mrs. F. once since the conversation alluded to, and then I did not see her; I cannot recollect the date of these calls; I visited at Fonthill in the season of fruits, the only time I enjoyed the hospitality of the host; I visited Mrs. F. to apologise for not being able to dine with her; she was not in, and I left a note; that note will explain the time; in that I referred to the unhappiness of Mr. F.; I went again, with some ladies, to see the edifice at Fonthill, and saw Mr. F. at the farm-house, as it is called; my wife went with me the first time; we dined there, remained a short time, and returned about three o'clock, P.M.; Mr. F. showed us through the house; I saw no one but the attendant on the table; saw Mr. F. making his own fire in his own room where his books were; there was very little arrangement about the room; I did not see his sleeping apartment; there is a stone building in the Elizabethan style which we have here, and is a disgrace to this country. (Laughter.)

Van Buren—Is that the castle?

A. I know nothing about the castle.

By O'Connor—It is of a very costly character, displaying great taste, and evidence of great value; I should suppose it would be very expensive to live there, and to indulge in the splendid misery of fashionable life, would cost a good deal in such a building.

O'Connor referred to the note of the witness, and said he was afraid it was without date, and would not help them.

Witness said Mrs. F.'s young sister was present, and he desired her to bring writing apparatus; and the note would be found couched in the language of regard he honestly felt.

[Note produced; it bore no date. The witness identified it, and said when it was written, he was about to bury the dead, and referred to that circumstance.]

O'Connor read this note:

DEAR "KATE,"—Your kind invitation to "eat in," at 3 P.M., came to hand at 11 o'clock this morning. I forthwith posted to your tabernacle, and now here I *is*, to say that it is impossible utterly to be with you as desired.

At the hour you name the *dead* are to be buried, and at almost every other hour for many days and nights to come, I shall be up to my eyes in work. Last week I was in four congregations in Providence, Boston, and Salem. Next week—but no matter. Wife sends lots of love.

Yours pertinaciously,

MAGOON.

O'Connor remarked, in justice to the witness, that the ungrammatical parts of the note were intentional, and underscored by the writer.

By Van Buren—Certain portions of the mansion house at Fonthill were incomplete when I was there; I had frequently occasion to see Mr. F., and, for twelve years, I have occasionally seen the parties; Mr. F. broached the subject of their difficulties to me at my church, but I cannot say when it was; I knew the matter had become notorious before he had said anything to me of the causes of their separation.

Q. What accommodations had Mr. F. at Fonthill?

A. He was in the farm-house, and the place did not manifest any good housewifery; there was an air of desolation about the place, and myself and my wife both felt oppressed with it as we came away; there were a few books there; the coal lay in one quarter of the room, and shavings in another; his garments were there; one of my books was there, addressed to them as personal friends; it was "Republican Christianity;" I did not see that there; I do not know where it is now; I have usually called Mrs. F. "Kate," and Mr. F. "Ned," whatever may have been their relations to me.

Van Buren—That is all, sir.

Witness—Shall I be required again? If so, please do not send three officers after me.

O'Connor—No, sir; we'll only send one constable next time.

John Kent called by Mr. Van Buren—I live No. 20 Av. B.

Van Buren asked to substitute Mr. Burr, but O'Connor declined to accommodate Mr. Burr.

Kent's examination resumed:

Q. Where are you from?

A. Europe, county of Tipperary; (laughter.) I have been here three years; lived with Mr. Grinnell; then went to N. Willis; he lived then at No. 19 Ludlow place, Houston street; I came in February, and we remained to May, 1849; then I removed to Fourth street; I know Mrs. F.; I stayed with Mr. Willis until the 17th of July, 1850; I have seen Mrs. F. often at the house of Willis; I was sent for her often by Mrs. Willis; Mr. Willis gave me a letter or note for Mrs. F. at about 11 or 12 o'clock at night, I can't say which; it was along in April or May, when in Fourth street, in 1850; I gave the note to Mrs. F.; I can't say if it was her or the servant; I waited for the answer; Mrs. F. came out to the door to me, and told me she would be down there.

When Mr. Willis gave me the note, he told me to attend Mrs. F. down; I didn't wait, I came home; I saw her come in and go up stairs, the same night, on the third floor of Mr. Willis's house, the same evening as I took the note; she could not have been in very long at the time I saw her going up stairs; she had her street dress on; I can't say if her bonnet was on or off; there was a room on the third floor front, always for her when she came; I don't know if she saw anybody before she went up to this room; I saw her next morning going out at the front door; I don't know who let her out, herself was able to open the door; I saw no one was with her; I had not waited breakfast for her; we had breakfast after she went away a long time; I have seen her there ten or twelve times dining with Mr. and Mrs. Willis; I have known her to dine when Mrs. Willis was not alone; I remember they dined twice alone; that is all I remember of it; once a visitor called while they were at dinner; he was shown into the front parlor; the dining room was in the back room; there was a door leading from the dining-room to the parlor, which was shut; you could not see except when the curtains were drawn; they were drawn then in a way no one could see through; Mr. Willis would pass out of the entry until he came to the door.

Q. Have you seen them together?

A. No; but I have seen Mr. Willis come out of Mrs. F.'s room on the third floor, front; I was going up to bed with a light in my hand, and Mr. Willis was coming out of Mrs. F.'s room; when he saw me he thought to draw back, but he came so far that he came ahead. [A laugh.]

Q. How was he dressed?

A. Well, he had his pantaloons on him, and no shoes excepting he might have slippers; I think he had nothing on but his stockings, no coat on, nor no hat; he had the rest of his clothes on, his shirt; I mean he had no waistcoat on; he said, "Good night, dear," to Mrs. F.; that was about the time he saw me; he was speaking the word as I came up; I left Mr. Willis in July, 1850; I have been in the Astor House for seven or eight months.

Q. At these dinners who drank, and what was drank?

A. Mr. Willis drank wine, and Mrs. F. drank champagne; I cannot tell how much, sometimes more and sometimes less; she always took a good quantity; I have been at Washington of late; I got a letter from Mrs. F.; it was handed to me by Mr. Blankman, for to convey me on to New York; I don't know who paid my expenses; but Mr. Blankman paid me.

By O'Connor—He is in court, (witness points Blankman out) he called on me in Washington last Friday evening; I had no other call from any other agent whilst there; I was there not quite a fortnight; I was in no employment but looking for it; I was living in Pennsylvania avenue with a Mr. Gardner, who is working at the National Hotel there; Mr. Stevens, Andrew Stevens, has spoken to me once or twice before; I cannot say how often.

By the Court—It was in New York.

By O'Connor—I say if he spoke once or twice, nor more than twice, nor more than six times, nor more than a dozen times, I cannot tell when that was, some time last summer; it was at his own office; I knew Mr. S. was a friend of Mr. F.;

that was not quite the reason I went there; I came there to tell Mr. S. that I should like to see Mr. F. to testify to the truth of what I had seen between Mr. Willis and Mrs. Forrest; Mr. Stevens did not take my story then; he told me to come to his office another time; I did so in two or three days after; I then saw him with Mr. Burr and some of the workmen; he took me down to Wall street to see Mr. Van Buren, and he took my story; Mr. Forrest was present; I was there three quarters of an hour; I don't recollect if I signed the statement; I did not go to Mr. Stevens by advice of any body; on my own motion; he was the first man I saw on the affair; I was then living at No. 30 Avenue B; I had been a week idle; perhaps a little longer; before that I worked at No. 650 Broadway; the livery stable I left because he would only pay me half what I earned; not even that; I left on my own accord; he asked me to stay; I was there nine or ten weeks; I was looking for an employment after that; I can't tell how long after I began to look for employ.

The question was repeated as to one, two, three, four, five, six and seven months, and at last the witness said, "I looked for it for seven months;" first worked in a store three miles out of Troy, in Lansingburg; can tell the name of one gentleman; his name was Garwin; I was only there four days; it was a grocery store; I left as they didn't want me; they did not take me on trial either; they took me while packing sugar, and when that was done I left; before that I looked for employ in New York; one I asked for work was Mr. Jones, corner of Houston and M'Dougal street; I went up to Troy on the boat; I did not try here very hard for work; I went to find work at Albany; got some of one Riley in Lansingburg; it was a boarding-house; I was there near three weeks; it is a country place; I looked all over the country for work; I got back to New York.

Q. At the time you left Brewer's had you any money?

A. Yes; I should say something less than \$20; I don't know if I had \$10; I don't know if I had \$5; I know I had \$1 and \$2; but I don't know if I had \$3; I came to this country in February, 1849; I came alone; my brother came here since; he lives up town; I cannot tell the number of the street; somewhere about Fiftieth street; his name is Patrick Kent; he came about two months ago, and has not done much since; I pay twenty shillings a week for my board in Avenue B; I lived at Mutcatty's, until I started to Troy; I paid some, I don't know how much I owed; I cannot tell how many weeks I owed, whether one or two weeks when I left.

By the Court—You don't know how much you paid for your board?

Witness—No sir.

O'Connor—Did you see any other agent of Mr. Forrest's from the time you saw Mr. Stevens until you saw Mr. Blankman?

Witness—No; I saw another gentleman, named Graham, before I saw Blankman; it was before I saw Stevens; I met him in a house on Broadway; don't know the number or between what streets; it is not a store; do not know if it is a private house: it is on the left hand side as I go up, but I can't say; I don't know his business; I think he is a counsellor-at-law; don't know if he is in Court; I think I have seen him but once; can't tell; it is a large brick building, somewhere about Tenth street; his own name is on the door, on a plate either brass or silver; Mr. Stevens gave me word to be there such an evening; it was after I had seen Van Buren that I saw Graham; my statement was made before that; they asked me a few questions, and I answered them; I don't recollect any other agent of Mr. Forrest; I have received money from Stevens; he lent me \$5, and I paid him back again; it was when I was at work at the Astor House before I called; I went there to work in April or May, 1851; I was there seven or eight months; the \$5 loan was during that time; I had been working there before he lent me the \$5; I can't tell how long; when I left Brewer it was the summer of 1850.

Q. Was that the only money you received from Stevens?

A. I got \$3 or \$5 after that, and I think I never repaid it; I ran Stevens' errands pretty much while I was idle; I can't tell how long; more than a month; can't say if it was two; Mr. Stevens paid me for running his errands.

Q. How much?

A. Well, he didn't pay altogether; he sometimes gave me \$1, sometimes \$2; I made no bargain, and he gave me no receipt; sometimes I would go to his store, sometimes he would send; once he came himself; I don't remember what he wanted me to do; I went down town with him, not to his store, but to Wall street; he took me out to a commissioner of deeds somewhere near Chambers and Center streets; I signed and swore to the statement; it was after I had been at Van Buren's; Stevens did not send for me to do any other business except this about the Forrests' business; when I went to Stevens to go on errands, the appointment was for me to go about twelve o'clock, and sometimes not until three o'clock; what I did was pretty much all about the Forrest case; I have not stated all the places I have been to about the Forrest case; I cannot say where or when; I cannot say if I was more than once at Van Buren's, only once to Graham's; I don't recollect any other place.

Q. Did Stevens at any other time give you money?

A. Yes, he gave me \$10 at another time; I think it was in the beginning of the year; I think he gave \$2 or \$2.50, at another; he did not give me money twenty times; I can't say if he gave me money ten times; he said he would pay me for everything I did for him, and he gave me the \$10; I had no money from the time I left Brewer, except from him, until I went to Troy; I had not \$5, I had \$1; at this time Stevens did not know me; the summer I went to Stevens was that of 1851; I left Willis's in July, 1850; it was not that summer I went to Stevens; it was in April or May, 1851; I went to the Astor house, and before I went to Stevens, and I think in the winter time; I worked for Brewer in 1850; I was not in any employ when I went to Stevens; my last employ before that was four days in Lansingburg; can't say how long it was before I went to Stevens; next got into the Astor house; lived some part of the time in Tenth street and Avenue B; got some of the money from Stevens, and some earned myself; worked along shore; cannot tell who with or how I earned it; cannot tell how I earned it; cannot tell how much money I got from Stevens.

Q. Have you received any money from Forrest?

A. No, nor nothing else; have not received any money from any other agent of Forrest's.

Q. Do you know General Lyman?

A. Yes, I knew him at Willis's, and at the Astor house; had a conversation with him about this business; did not tell him anything; he asked me the question; told him I knew nothing about it; told him I knew nothing against Mrs. Forrest or Mr. Willis; had seen Stevens before that; heard the statement before the commissioner; Stevens told me if any one should ask me, to tell them I knew nothing of it; it was untrue what I said to General Lyman; [here the witness smiled] had no other reason.

Q. Do you say what Stevens tells you, whether it is true or false?

A. Not on many accounts; told it on that account.

Q. How many times have you seen Mrs. Forrest at Mr. Willis's?

A. More than ten times; she remained there for weeks at one time; think she has lived there two or three weeks, more or less; think it was in Fourth street; think in the summer time; Mrs. Willis was at home at the time.

Q. Who formed the company at dinner?

A. I did; (a laugh.) I cannot tell who dined there; Mr. and Mrs. Willis sometimes; I can't say if Mr. Willis was home that time; the time I saw Willis come out of Mrs. Forrest's room was not during the spell when Mrs. Forrest was living there; at the time I took the note to Mrs. Forrest of an evening, Mrs. Willis was unwell; I do not know the cause of her illness; I don't know if a child had been born before she arrived, but one was born after she came; I don't know if it was within a week or a month or two months; I can't say if Mrs. Willis was sick for several days, but she was sick and I don't know how long she was sick; I knew of no other women being there except the servants of the house; Mrs. Willis was sick three or four weeks more or less; I often brought Mrs. Forrest a note, but can't say whether it was whilst Mrs. Willis was sick or not; I think Mrs. Benson has sat up with Mrs. Willis; I don't know if Mrs. Benson was there the night Mrs. Forrest came, but she sat up or lay down with her; I did not go into Mrs. Willis's sick room very often; after the note I saw Mrs. Forrest on the first flight of stairs; I was going up from the kitchen to the parlor; she was going up; I did not see any body in the parlor; Mrs. Forrest did not go into any room on the second story, but went in the third story; I did not follow her, but I went half up the second flight of stairs so that I could see her; she had no light; there was no light that I could see, and she went up to her room; I could see because there was light from below, and I went up to close the shutters; I did not hear her open the door or close it, and I did not see anything of her again that night; I

think she had gone up to her room, but I did not mention it to anybody, until I did to Mr. Stevens; Mr. Willis gave me the note for Mrs. Forrest in the bed room of Mrs. Willis; he told me to wait for an answer, and to wait on Mrs. Forrest; I don't suppose there was anybody else in the room except myself and Mr. and Mrs. Willis; she was sick; I don't know if anything was said before I started with the note; I did not see anybody write the note; I can't say if Mrs. Benson was in the room or not; I cannot say if anybody else was there; I am not sure if there was a light there; I don't suppose Mr. Willis was undressed entirely; I don't suppose he had any coat—he had pantaloons on; I think I was up stairs or in the kitchen, I don't know; I don't know if Mr. Willis had to come for me, or to send some one; when Mrs. Willis was sick, Mr. Willis did not occupy the same room; I have no recollection of being in her room after dark; it was the same night I carried the note, that I saw Willis coming out of the room of Mrs. Forrest; I think it was pretty near twelve and before twelve; I think it was ten or fifteen minutes after I saw Mrs. Forrest go into the room; I had a lamp with me, and had stopped in the parlor to close up; when I went up I did not run up; I went slowly; I don't suppose I made much noise, as I did not wear heavy shoes, but wore slippers; I think the door was fifteen or twenty feet from the head of the stairs; I did not stand at all when I saw Mr. Willis; I was walking; I can't say in what part of the entry I was; I was not quite to the top of the stairs; I was something less than twenty steps from the top when I caught view of Willis; he was just at the door; I could not see him if he was half in and half out; he was near the door; there was a little bit of an entry way near the door, and the entry of Willis's room came a small bit further than the room which Mrs. Forrest occupied; he was about the length of his arm from the door.

By the Court—He came out from Mrs. F.'s room by a door which led into the entry.

By Mr. O'Connor—He caught sight of me as I was coming straight a-head; I heard the door closed; Willis went into his own room and I went straight to bed; there was a door directly communicating between Willis's and Mrs. Forrest's room; I never spoke of that meeting to Willis or to anybody until I spoke to Mr. Stevens; I don't recollect if Mrs. Forrest occupied that room any other times except that night and the spell she lived there.

Q.—Did you ever see Mrs. Forrest go into that room on any other night except the spell she lived there and that night?

A.—I don't recollect that I ever saw her or knew her to spend the night there at any other time; I don't recollect that I carried any other notes to Mrs. Forrest of an evening but this one; I heard Mr. Willis say, "Good night, dear," just as I caught sight of him; I suppose he commenced it before he saw me, and finished it as I hove in sight; I heard it very distinctly; it was in a clear, loud, distinct tone; there was another female who slept in the third story; Willis's daughter slept there, Miss Imogene; her door was very near the door of Mr. Forrest's room; the door closed after I caught sight of Willis.

By the Court—How old is the daughter of Willis?

Mr. O'Connor—Nine years, I should say, sir.

Judge—How old is Miss Imogene?

Witness—I should think she is about seven or eight; she is the only child of the first Mrs. Willis.

Q.—Did you ever hear Mr. Willis say good night before or since?

A.—Yes; I think I have often heard him say it to Mrs. Willis or Miss Imogene; I don't recollect if he said it in the third story; he may have said it to Miss Imogene when she was going to be put to bed from the parlor pretty early.

Q.—How long did you stay with Mr. Grinnell?

A.—I think ten or eleven days; I worked in South street, working a team of horses, and loading the New World.

Q.—How long since you left the Astor House?

A.—Last Monday was a fortnight; I gave up work to go to Washington; I left of my own accord, and was not discharged; on the morning of Mrs. Forrest's visit I gave Mr. Willis his breakfast; I don't recollect who was there, Mrs. Willis or Miss Imogene.

By Mr. Van Buren—I was recommended in England by a lady to Willis; she was on a visit in Ireland at a gentleman's house; she took a liking to me, and sent me off to America, and paid my passage all the way, and gave me a letter to Mr. Willis; Grinnell and Mrs. Willis are connected; my face was towards Willis, and his towards me when I saw him in the third story; I was facing and I was coming up; I had got very near the top of the landing; Willis occupied the back room, third story, and the room I call Mrs. F.'s was in the front; I have never seen the passage open; Miss Imogene's room was in front and over the hall; to Mrs. Forrest's room there is a closet, which has an inner communication from the front to the back rooms; the doors are about ten feet apart; after that I returned to the kitchen, after I had closed the blinds on the second stair-case; I remained in the kitchen seven or eight minutes, but stepped in the parlor to shut the blinds.

Q.—Who is Mrs. Benson?

A.—Mrs. Benson is a monthly nurse; I do not suppose she was there at this time, but I can't say; I can't say if Mrs. Willis knew of Mrs. Forrest being there; I know where Grace Church is on Broadway.

[It was here admitted that it was David Graham's house to which the witness had been taken. Mr. O'Connor said that there could be no difficulty about that.]

Q.—What did General Lyman say to you?

A.—He said he met Willis on Broadway, and he told me that I (witness) was going to give evidence against him (Willis) for Forrest; after that Gen. Lyman brought Willis to tea, and Willis asked me if I would go up to his house on the following evening, when I did go up to Fourth-street; Mrs. Willis was then in the country, he said.

Objected to.

Q.—How long did you stay there?

A.—About half an hour, he told me—

Objected to, and admitted.

Witness—Mr. Willis asked me—

Objected to by Mr. O'Connor.

Mr. Van Buren—Did he suggest to you to go to Washington?

Objected to.

Mr. Van Buren contended that this was admissible, as Willis was one of the parties charged, and had been introduced.

Chief Justice—Willis is not a party charged, and his declarations cannot affect Mrs. Forrest.

Mr. Van Buren—What I purpose to prove is that Willis suggested to the witness to go to Washington, and offered him facilities for that purpose.

The Court said it must be excluded.

Mr. Van Buren—At that interview with General Lyman, was any money given you?

Witness—Yes, one dollar that Sunday or the Sunday before Mr. Willis came; I don't remember what time Imogene went to bed; not so late as ten or eleven o'clock; her door was closed.

Mr. Van Buren—That's all.

Chief Justice—This witness has said he told Gen. Lyman that he knew nothing of this transaction; was this before or after Willis was present?

Witness—Willis was not present at that time.

By Mr. O'Connor—Mrs. Willis was not at home at the time; I was at Willis's house and remained half an hour; that is I did not see her; I generally gave Gen. Lyman his breakfast at the Astor House; it is usual for gentlemen to give a gratuity of a dollar or a half dollar to the waiter; between the second and third story of Willis's house there is a back window, and we generally kept the windows closed in winter time; it was April or May when Mrs. Willis was sick.

Parke Godwin, called by Mr. Van Buren—I reside in Lexington avenue; I am the husband of the lady who was examined here the other day; I have known Mr. and Mrs. Forrest ten or twelve years; in January, 1849, I loaned Mr. Forrest a book; it was a translation of a French novel, called "Consuelo;" the original was written by George Sand.

Q.—Is George Sand a woman?

A.—It is the name under which a woman writes; I presume Mrs. F. knew of it from a question she asked me, why did he borrow that book, I think she asked me, but I don't know; I said I supposed he had borrowed them to read

them; there were two volumes; she said it was not that, it was about a foolish or a ridiculous letter which Jamieson had written; I did not learn that it was a letter written to her or in the possession of Mr. F.

Van Buren.—You may examine him.

O'Connor, producing the book:

Q. Is that the book, sir?

A. It is not the same edition, but it is the book; I have read it; the principal character is Consuelo, a lady, the heroine, a woman.*

Q. Is she a loose or lascivious character?

Van Buren objected.

O'Connor said he proposed to call an expert witness, a literary gentleman, who had read the book and was able to describe it to the jury.

Van Buren replied that the result of fixed facts might be sworn to by a witness. When we left that region we got into that of opinion, and then we could gather the opinions of experts; but on morality he (Van Buren) supposed there were no experts.

The Chief Justice said he presumed they could produce some one acquainted with the book, in order to save the time of reading it to the jury.

Cross-examined by O'Connor.—I am one of the editors of the *Evening Post*, published in this city; my lady is the daughter of William C. Bryant, the senior editor of that paper; I was introduced to Mr. and Mrs. F. by Mr. Bryant's family; it was about twelve years ago, before I was married; since then I have been more or less intimate with Mr. and Mrs. F.; Mr. F. visited the family of Mr. Bryant up to the time of the separation; he had amicable and friendly relations with our family; between January and May, 1849, I visited the family of Mr. F. once or twice; my lady was with me; once we took supper there, at ten or eleven o'clock; Mr. and Mrs. F. and ourselves were there; perhaps Virginia—I don't recollect; my wife wrote me not to come home to dinner, but to come up to her at Mrs. F.'s, and I think I rode up with Mr. F. from the theater; he was playing at that time; I cannot say what time it was—whether before or after I lent the book; I visited Fonthill with Mr. F.; it was before they broke up housekeeping; no, I am wrong; it was after we came down from Fonthill to Thirteenth street, where Mrs. F. hired a horse, and we walked up to take supper with him; I went to Fonthill with Mr. F. and returned with him that day; I was present when Mrs. F. was brought to my house at the time of the separation; she came in a carriage with Mr. F.; I do not know but I saw him there once after that; I have no distinct recollection, my family consisted of me and my wife's sister, Julia Bryant, and our children, who are small.

Q. Were you at Mr. Voorhees' farewell party, previous to his going to California?

A. Yes, at the house of Mr. Ingham, in Great Jones street, where they were boarding.

Q. Was Mrs. F. there?

A. She was; when she left Mr. and Mrs. Lawson, myself and wife went with her in the same carriage; she took them first to their house, and then left us at our house; she then left for her home; it was pretty late; could not give the date of that party; it was the depth of winter, a pretty cold night; Mr. and Mrs. Voorhees were present; they gave the party; one of his sisters, perhaps two; Mr. and Mrs. W. C. Bryant were there; Mr. Valentine G. Hall, Rev. Mr. Bellows, Mrs. Kirkland and daughter; Mr. and Mrs. N. P. Willis; don't remember any more; yes, Mrs. Kate Sedgwick was there; Capt. Britton and his daughter, I think, were there; Mr. and Mrs. Ingham and Charles Ingham; I am not certain about him; Rev. J. T. Headley was there; Mr. and Mrs. Lawson were there, and others, making a large company; do not know if Mr. Andrew Stevens was there or not; previous to this I had visited the house a good deal in Twenty-second street; mostly of an evening, but occasionally at dinner at three or four o'clock; if there was no invited company, we sat in the library equally so, whether he was at home or not at home; we took supper always in the dining-room, and not in the library; when Forrest was at home we would go away earlier or later; no uniform rule about it; have stayed there till twelve or one o'clock; the lady of the house generally stayed up in the library; know Captain Howard and have seen him; I don't recollect any special evening when I was there and Forrest absent, although I think I was present on two occasions when Howard was there and Forrest absent; have no recollection of remaining all night; was present when Mr. and Mrs. Forrest and Mr. and Mrs. Voorhees dined together; cannot say if the invitation was given by Mr. or Mrs. Forrest, or whether it was to me or to me and my wife; have dined there so often cannot distinguish one time from the other; can't recall the year; the year previous to the separation Mrs. F. was in the habit of visiting the family of the Bryants or my own; have seen Forrest at the house of Bryant rarely; came to my house not more than once; have visited Mrs. Forrest while she lived in Sixteenth street; once in the day time, but generally in the evening; my lady generally called in the day time; she was there twice in the day time, certainly once; it was at a dinner; a Christmas dinner; Mrs. Forrest, Mrs. Voorhees, Mr. and Mrs. N. P. Willis, Mr. and Mrs. Godwin, Virginia, Miss Carnes, and a young lady from Boston, a niece of Willis, were there.

By Van Buren.—Mrs. F. did not speak to me of having received a Consuelo letter, nor any written communication, from Jamieson; don't know that she said Mr. F. had found such a letter; she said he had rummaged her drawers and found some letters; I understood he had found some of her sister's letters, or her private letters; it was since this talk of a separation was going on; she did not refer to any thing at Pittsburg, but said she had met Jamieson at Cincinnati; she did not refer to any communication made by Mrs. F. to Mr. Jamieson; she said Mr. F. had come in the room and found Mr. Jamieson there; I have no remembrance of any other words; at the dinner I speak of, I knew Mr. and Mrs. Voorhees were married a month or so before; I do not know how long; at the party of Mr. Voorhees I did not see Mrs. F. smoke, it was too cold; I have seen her put a cigar in her mouth and take a puff or two; I did not see her smoke; I don't remember it; Captain Howard was there.

By O'Connor.—I boarded in the same house with Mr. and Mrs. Voorhees, when the child was born; I was present at her marriage.

O'Connor submitted to the Court whether it would be allowed for counsel to go on and make it appear that Mr. and Mrs. Voorhees have not been married within nine months of the birth of their first child, and thereby bastardize their offspring.

The Chief Justice said.—I can only say that the most extreme latitude has been taken, and with respect to this lady the insinuations had been most unwarrantable, and so far as regards the character of the lady, her reputation has been blasted.

To Van Buren.—I saw Capt. Howard in Great Jones street only once.

Van Buren having no other questions at this part of the case, the court adjourned till Friday morning, at 10 o'clock.

NINTH DAY.

FRIDAY, December 26th, 1851.

Mr. Forrest and his friends were in attendance before the opening of the Court. Mrs. Forrest, accompanied by Mrs. N. P. Willis and several gentlemen, came in with the Chief Justice, and took their seats as usual.

Egbert Deming was called, but did not answer.

William H. Smith was also called, but did not answer.

Attachments were granted against both the witnesses.

* The novel "Consuelo" and its sequel, "The Countess of Rudolstadt," both of which have of late attained so much popularity, are the best specimens of modern literature, and confer credit upon the author, George Sand. The character of Consuelo, the heroine, is that of the most chaste and virtuous woman, one who, although she met with, and was constantly exposed to temptations, and surrounded by circumstances which were eminently calculated to bring about her dishonor and lead her to depravity, overcame those threatening dangers by the strength of her principles, and kept her honor unsullied. The book has gone through several editions.—REP.

Van Buren suggested that this was the proper time to argue the admissibility of Mr. Lester's testimony, and similar evidence from other witnesses.

Judge—What is the precise character of the evidence?

Van Buren—We mean to prove by Mr. Lester and others, improper and lewd conduct on the part of Mrs. Forrest with persons who are not charged with having committed adultery with her.

O'Connor thought this offer was a satisfactory illustration of departure from the rules of evidence, yet, as the jury might infer something to the disadvantage of Mrs. F. from refusing this evidence to be allowed, he (counsel) would now retract his objection, and hear what Mr. Lester had to say, as well as any other witnesses who might be able to testify to the same subject. Mrs. F. would defend herself against such testimony, for there never had been any thing in her conduct that could reflect upon her character. If hereafter a witness should be called to the stand whom counsel did not know, or could not approach in any manner, by way of showing who and what he was, he (counsel) would object, but he knew all about Mr. Lester, and therefore would not object to him.

The Court wished it to be understood that they would not bind themselves to admit rebutting testimony of a similar character; the question would be argued when it arose.

Van Buren then read the testimony *de ben esse* of John Green, manager of a theatre at Nashville, Tenn.

It referred to a conversation which he had with Mrs. F. in April, 1849. The subject of her separation from Mr. F. was discussed, and she admitted, with tears, that it was too true, and that she was the cause of it; she was of a very high temper, and showed it too much. He offered to be the means of reconciliation between them, but Mrs. F. said she feared it could not be done.

He knew G. W. Jamieson.

O'Connor said he would not object to the reading of the whole depositions.

The Court said they would instruct the jury to determine the case by legal evidence only, no matter whether counsel allowed the introduction of testimony wholly irrelevant to the matter.

Deposition continued—Mr. F. treated his wife with uniform kindness.

O'Connor read a portion of the deposition left out by Van Buren.

Never had a conversation with George Roberts, of Boston, relative to F.'s separation from his wife.

Edward W. Burr sworn—I reside No. 122 Allen street; am a manufacturing jeweller; my firm is Burr & Stevens; Stevens' first name is Andrew; I know Mr. and Mrs. Forrest; have known her since shortly after New Year's day, 1849; she used to come to our place of business, which was then 189 Broadway; she used to come once or twice a week until May, and after that she came oftener; she used to come three or four times a week during the summer, 1849; we have several men to work in our workshop, which is divided by a partition from the store; had no employment for her or commission; she once requested me to look out for a house for her, in September or October last; she has spoken to me about the treatment of her by Forrest; have known him since the summer of 1847; the subject of this difference was often spoken about; Mrs. F. said the cause of this separation was a difference of opinion between them; she named the cause of her separation shortly after her return from the country; she said she had never known a lady with a more kind and considerate husband than Forrest up to the Macready difficulty.

I had before that time read in the papers, and also heard in the street, that this was the cause of their separation; never learnt from Forrest the cause of the separation; never heard him speak of it in the most remote manner until within a day or two of Christmas, 1849; never told Mr. F. what cause she had assigned to me until last January; know of no agency on my part for F. further than acts of kindness which I have done for him; have paid out money for Forrest; we keep an open account; he has loaned me money up to \$500; do not know how the account stands now; have heard Mrs. Forrest speak of the custom of society compelling people to live together when there was no affection between them; she said on one occasion that it would be better to separate as they had done, that living together without affection was nothing better than a legalized prostitution; that was her exact expression; she said so in the fore part of the summer, 1849; agreed with her in opinion; the Macready difficulty was on the 10th May, 1849.

Cross-examined—Have been in partnership with Stevens since 1st May, 1847; I keep now at No. 315 Broadway; I deal in watches; do not mend watches; do not take in watches to mend except from personal friends; do not know if the account between us and Mr. Forrest is entered up; do not know of any difficulty in producing our account book here; keep no longer accounts with him; keep a ledger; I think every item paid for F. is entered on the cash books; do not choose to produce the book without a subpoena; last saw Mr Stevens at our place of business this morning; do not know that I was regularly introduced to him; he came to the store to see Stevens; he has been very intimate with him; and also with me; have dined at least fifty times with him; never dined with him at Twenty-second street; first dined with him after the separation; Stevens has been more active than I in attending to matters for Mr. F.; have done nothing for F. in obtaining or speaking to witnesses; I think it is very likely Mr. Stevens has; he has spoken to persons who are going to be witnesses; that was at our place; have seen Robert Garvin and John Kent there; Stevens and I met Mr. Blankman in the street; I think Stevens was at home during my conversations with Mrs. F.; Mrs. F. was better acquainted with him than with me; know of Mr. and Mrs. F. meeting at our place after their separation; it was about noon; think it was accidental; it was in summer, 1849; some of our workmen were present; did not hear what passed between them; Mrs. F. called at the office door, and I invited her in, telling her that Mr. F. was in the shop; when I went in Mr. F. spoke to some other person; I told him Mrs. F. was there; he said he knew it; think he knew it from seeing her pass the window; I have not been subpoenaed here; have been requested to come since the first day of the trial here; Mr. F. told me he would want me; have been here but twice; do not know if my partner has been subpoenaed; he was in Court the first day; I know a man named George C. Carter; saw him first in the latter part of August last; do not know that he received money from our firm; he may have received money from Mr. Stevens; I think he did once; that would be three or four weeks ago; do not know how much he got, or for what purpose; do not know if he is in Court; think he is gone to sea; was not present at the Astor Place riot; was at Christie's at the time; think the Macready difficulty occurred at Philadelphia; do not know it occurred in Europe; Mr. Macready was playing at the Astor Place opera house when the difficulty took place; in speaking of the Philadelphia difficulty, I refer to a card published by Forrest, in answer to a speech made by Macready.

Re-examined—Have seen Mr. Stevens receive letters and he said they came from Mrs. F.; recollect seeing a letter written by Mrs. F., and I noticed it by the peculiar handwriting; never saw her write; (notes produced.)

Witness read here several of the notes.

A juror called the attention of the Court to this fact. He said witness had deposed to only having seen the outside; why was he now reading these notes?

The Court said the juror was correct; the witness testified to only seeing the outside.

Witness—I saw the *inside*, but did not read it; do not know if the letter is among these; Mr. and Mrs. F. were together only a few moments when they met at our store.

Mr. O'Connor—The witness has read these letters, now we want to read them; they may be very important to us for aught I know.

Judge—You have no right to read them until they are offered in evidence.

Re-examined—When I told Mr. F. that his wife was there he seemed to hesitate, and after a moment or two he suddenly turned and went into the office; Mr. F. left first and she followed soon after.

By O'Connor—Mr. F. has called upon us every day when he was in the city during the past year; think he has been quite a hundred times there in that period; he may have been there 200 times; know of his being at Harrisburg about the divorce in May, 1850; from that time up to December he was at our store as frequently as he was since then; I visited at his house during that time and dined there.

Anna Flowers re-called—I was known to my nurse under the name of Mrs. Elmendorf; took that name at the suggestion of Miss Margaret Sinclair (Mrs. Voorhies).

Cross-examined—Did you not go by any other name? A. No, sir.

Q. Not by the name of Raymond?

A. No, but he laid his plans.

Counsel—Well, that will do.

Witness—And I hope you have done with me—I declare!

O'Connor—But the witness must not leave the city.

C. *Edwards Lester* re-called—The servant who called me back showed me into the parlor or reception room, and immediately after Mrs. F. entered herself; it was about Christmas, 1848.

Q. State what occurred

A. Mrs. F. introduced herself on entering; I knew it was her either because she or the servant said so; I had no business with her or she with me; I called to see Mr. F.; she had seen my card, because the servant handed it to her, and I think she had it in her hand when she came into the parlor; I think I had written Mr. F.'s name on it, or requested the servant to give it to him.

Q. What was said and done?

A. Have no distinct recollection of what was said; can give a general idea of the matter; I know positively that Mrs. F. and I had some conversation about Mr. F. and Macready, and am equally sure that she introduced it herself.

Q. What did she say?

A. She remarked that Mr. F. was acting very strangely about Macready, and another expression I remember distinctly, she said "He was acting like a fool"—and I was thinking—

O'Connor—Don't give us your thoughts.

Witness—I shall give honest testimony, and I wish you would restrain all your thoughts except such as bear upon the legality of the testimony. (Loud laughing.)

O'Connor—Your way of thinking is illegal.

Witness—She said he was acting in a very strange manner, and she gave me to understand that the less I had to do with Mr. F. about the play I had, the better it would be for me; I think she also said that Mr. F. had told her about my note to him or wished him to look at the play; cannot state anything else Mrs. Forrest said on that point; I felt it did not concern me at all; our interview lasted 20 or 25 minutes; I rose to go because I knew of no reason in the world why I should stay; I never had heard of any difficulty between them, and I felt as if I wished to leave; I did not sit down long; she invited me to take a seat as any other lady would do; I believe Mrs. F. asked me to sit a little longer; it struck me that she was very polite; it was a very cold morning, and Mrs. F. asked me if I would drink something; I remarked it was rather early to drink, (laughter) and I usually began later in the day, but I had walked through the snow, and about that time the servant brought a decanter and glasses and I drank some very excellent brandy and water; she asked me also if I would not drink some champagne; I said I never did before dinner; am almost positive the champagne was not drunk; think it was brought in; Mrs. F. whether from compliment or not drank or began to drink a glass of brandy and water with me.

By the Court—She raised the glass to her lips as any two persons do when they drink.

To Counsel—I did not carefully watch her glass to preserve a recollection of what became of her drink; she drank or sipped from it; the water was cold; did not stay long enough to watch the effect of the drinking; did not observe any; I discovered something familiar in her demeanor; she was in her morning dress; a lady's plain dress, such as is worn by ladies before the usual hour for receiving company; I thought—

O'Connor—Don't tell us your thoughts. (Laughter.)

Witness—I know that I thought—(stopped.) (Great laughter.)

Witness—I observed that Mrs. F. seemed to me, in her manner, very much as other ladies whom I have sometimes seen after drinking more or less wine that excites the blood—the pulses.

Q.—Was there anything else peculiar in her manner?

A.—I thought that any well-bred lady—

Court—Give us facts, sir, not thoughts or conclusions.

Mr. O'Connor begged to restrain the witness as directed by the Court.

Witness—When I went away Mrs. F. left the drawing-room when I did, and our conversation continued till I got to the front door; I opened the door; Mrs. F. remained in the hall till I opened the door and left; the ordinary compliments passed at the door, and she invited me to call again; this was before 10 o'clock in the morning; I never called again at that house; subsequently I went to Mrs. F.'s house in Sixteenth street; went there three times—twice in the evening, and once in the daytime; this last time was about one o'clock; I saw Mrs. Forrest, Mrs. Voorhees, Madame de Margueritte, who then lived with Mrs. Forrest, Brougham the actor, and George G. Foster; I went in a carriage with the latter two at their request to consult about a play; do not know if Madame de Margueritte is married or a widow; the first time I went was in the evening while I was boarding at the Union Place Hotel; I went at the request of Foster to be introduced to Madame de Margueritte as a literary woman; I found Mrs. Forrest, Madame de Margueritte, and Mrs. Voorhees at home.

Mr. Van Buren stated, on inquiry, that he wished to prove the general way in which the house was kept by Mrs. F. in Sixteenth street—that gentlemen visited there without their wives, that they were furnished entertainment, that most unseasonable hours were kept, that there was drinking and disorder, and that on such occasions gentlemen were received separately, and invited to different rooms by the ladies living in the house.

Mr. O'Connor objected to particular licentious acts committed by the plaintiff since the separation from her husband; as to general character, he (counsel) would be glad to have it inquired into, as it would enable him to give an answer to the same.

The question was argued at very great length, and the Court decided that the defendant had in his answer charged particular acts of adultery with six distinct persons, but that even if the witness could prove adultery with another person, not named in the answer, this could not possibly have any bearing upon the issue framed. The jury were not to indulge in any extravagant conjecture or inference, but hold themselves strictly upon the proof bearing upon the distinct issue. It was different in England where these cases were tried without a jury, with ecclesiastical judges who would divest this misdeed of every extraneous influence, but here the Court had no such power, and could not know how much effect any such testimony as offered might have on the jury. The testimony, therefore, was ruled out.

Cross-examined—I am Editor of the *Herald of the Union*; it is printed in Ann street; one number of it is printed, and the other will be when I get away from Court; it was published on the first of December; it is a folio double sheet, size of the *London Times*; before that my occupation was that of a literary man, in history, geography, travels, &c.; have been connected with the "Gallery of Illustrious Americans" before that; the first number has appeared; about a year ago; my employment as Consul at Genoa expired in the spring of 1848; I was recalled; since then I have lived in this country; I am not a clergyman.

Q.—Have you ever been what is commonly called a Minister of the Gospel?

A.—I have preached, and do so still.

Q.—Do you still preach the Gospel?

A.—When I take up that subject I do; (laughter) the last sermon by me was in a Methodist Church, before a number of Odd Fellows, in Columbia County; (much laughter) never was a clergyman, as I define the term; have been before that in the same church; have had charge of a Christian congregation as a Minister of the Gospel; that was eleven years ago, for a few months only; that was in West Stockbridge, Mass.

Q.—In what persuasion?

A.—As Congregationalist; left that occupation in the main after I left the congregation; was subject to much bleeding of the lungs, and had to stop preaching; resigned, there was no power to remove me, I was entirely independent and on my own hook; was called then and before and since the "Reverend Mr. Lester;" may have called myself so, but do not know that I assumed the title; the cause of my leaving was the bleeding of my lungs; there was no other cause; it was the desire of my congregation to stay, or I should have gone before; delivered last summer an address to the congregation there; first spoke to Forrest about a month ago; met him at Brady's daguerreotype gallery; had not before that been

spoken to, or subpoenaed; was first subpoenaed on the third day of the trial; did not know until then that I was to be a witness; first told my wife the circumstance of the interview with Mrs. Forrest immediately after getting home, as I generally do; do not know what gentleman I spoke to about it first; think I spoke to Forrest about it; meeting him in the gallery, we had a word or two about his difficulty; I spoke about it first, and he asked me did I know her, and how long I had known her; told him, in answer to his question, that I had called at his house to see him; do not remember that I had another conversation with him on the subject; never borrowed or received money from him; never had seen Mrs. Forrest before that morning in Twenty-second street; no one was present at our interview but the servant, and she only came in and out.

Q.—You said her appearance was that of a lady who had been drinking. What is your experience on that?

A.—If the Court wishes it I will give a catalogue; (laughter) I have seen women drunk, sir, a great many, and if the course of justice demands it, I can prove it; am not sure my call was within a week before or after Christmas.

Re-examined—Do not of my own knowledge know that F. was at home or not.

Wm. H. Smith sworn—I reside No. 235 West Twenty-first street; have been once at Mr. F.'s house; that was in '48; I saw a servant and she asked me in the dining-room where I saw Mrs. F.; did not enter the drawing-room; only entered the door; a gentleman was in the room with her; do not know who he was; they were engaged in conversation; they were seated and Mrs. F. rose on my entering; I asked if Mr. F. was at home; made this inquiry at the front door; Mrs. F. said he was out of town; Mrs. F. was sitting on an ottoman and the gentleman on a chair; did not see anything peculiar about them; saw nothing pass, said or done between them, no more than I supposed they were conversing; it was mid-day.

Van Buren spoke for a short time with Mr. F., and then told the witness he was not wanted any longer.

No cross-examination.

James Lawson sworn—I reside No. 136 West Twelfth street; I know Mr. and Mrs. F., have known Mr. F. for 25 years, and Mrs. F. since she has come to this country; I know the pecuniary terms of their separation; Mrs. F. was to receive through me \$1,500 a year, payable quarterly, in advance; I paid it up to November of last year; the next was due the 1st of February, and I refused to pay it.

Q. Why?

A. I explained that to Mr. Holland who called to see me; I had read a pamphlet of previous proceedings in this case, and after reading that I refused to pay the money; I refused to pay in writing, and referred her to Mr. F.; up to the 20th January, 1849, Mr. F. was always kind to his wife; I used to see them very frequently, my wife less; I am a Scotchman born; I believe Mrs. F. was born in London; my relations with her were of the most intimate kind; the fact of their separation was communicated to her father by me at her request; it was done by letter; (letter produced.) This is the letter I wrote; prior to this time Mr. F. had never spoken to me about the cause of the separation; he spoke to me about it in December following; Mrs. F. told me that the cause could never be communicated to any living creature, that she had asked Forrest not to mention it, and that he promised; I think this was prior to their parting; the letter was written by me on the evening of May 1st, 1849, at Mrs. Forrest's request; it went to the post-office to go by the steamer Europa next morning; I showed Mr. Forrest a copy of the letter in the course of the next morning; Mr. Godwin called between one and two o'clock same day, and I also showed him the copy; I showed Mr. F. the note of Mrs. F., asking me to write, and the letter I had written; I cannot state the exact words of Mr. F., but I think they were "that will do;" said to him, it was a difficult and a delicate task I had had to perform; to which he replied, in effect, it is a good letter; I inquired of Mr. F. the causes of separation; I went to his library, after an article I had seen in *The Mirror*; it was about eight or ten days afterward; last of March or beginning of April; I did so by knowledge and consent of Mrs. F.; I saw Mrs. F. a few days afterward, and told her what Mr. F. said; I asked Mr. F., in the library, if the report of the intended separation, in the paper, (about half a dozen lines,) was true; he said almost these words: that he would not speak on this subject even to me; I said, in reply, I would, and I must speak, for my heart was full; I spoke in terms of great commendation of Mrs. F. to him; his reply was, as near as I can recollect, that no third party ever yet interfered between man and wife to advantage, and he would allow no man to interfere with him; I was to have made a communication to Mrs. F. that evening, but I did not see her.

Q. What was his look and manner?

Objected to and ruled out.

Witness—I tried every way in my power to bring about a reconciliation, to about the last of November, 1849; Mrs. F. told me it was impossible to bring about a reconciliation; I do not know what I said to her, but my impression at the time was that it was possible. (Objected to.)

By the Judge—There was so much said at the various times, that I cannot state the precise time.

Q. What was said by her at any time as to third persons being acquainted with the separation?

A. She never spoke about it till one evening in the hall in Sixteenth street, when she consented to Mrs. Voorhees' leaving, which I thought indispensable to reconciliation (objected to); I asked her who was in the wrong; she said she was; she said the difficulty in our case is, a third party knew it.

The letter of Mr. Lawson to Mr. Sinclair (father of Mrs. F.) was then read, which stated that Mrs. F. had asked him to write to her father on the subject of the separation; she had gone to the house of Mr. Godwin; the writer did not know the cause of separation; there was no apparent cause for the separation; the conduct of both was admirable, and the honor of Mrs. F. was untouched, &c.

Witness sent a copy of the letter to Mrs. Forrest. I called upon Mrs. F. soon afterward, and asked her if she approved of it; she approved of all of it, except that part of it which spoke of her honor being unsullied; she said "why speak of that which nobody has doubted," and I answered that if I was in her father's place and he in mine, the first thing I should wish to know would be that. During the times I tried to bring about a reconciliation, she said I was working in the dark, and did not know what I was about, that it would be impossible; was present when Robert Garvin made a statement before Mr. Sedgwick.

Q. Are you able to say whether he testified willingly or reluctantly?

O'Connor—What have we to do with that?

Van Buren—Wait a minute. It is important to us.

The Judge said he could not show more than what was said or done by Garvin.

Witness—It was at Sedgwick's house; I said to Garvin he had not told all; I did not tell all; I did so from his apparent reluctance; thought so from the expression of his face and his referring to persons other than himself for information; he referred us to this person and to that person; to a girl by the name of Ann, and Mrs. Underwood, and a Swiss boy; do not recollect of a Swiss boy, as a servant, being in the house; am acquainted with Mrs. F.'s handwriting; have no doubt as to the four notes shown, that they are Mrs. Forrest's handwriting; they were not read.

Q. What were Forrest's feelings towards Mrs. Forrest?

O'Connor objected—the witness has already said that the treatment of Forrest to his wife was always kind. To answer such a question as this would be to go into a man's heart.

Witness—I said his treatment was always kind up to Jan., 1849; as to after that I have not been asked any questions.

The Court allowed anything to be stated as to what Mr. F. did or said up to that time.

Van Buren repeated the question, but objected to. The Court would permit acts to be shown.

Witness—With scarcely an interval Mr. F.'s treatment to Mrs. F. was always kind and considerate.

Q. I want to ask as to his love for her? (Objected, but allowed.)

Judge—What did you ever see him do or say to exhibit love for her?

A.—He would always say—What will Kate say of this? One time, after a dinner, and there was an incorrect newspaper report of his speech, he came to my house in the after part of the day, somewhat excited, and said, I would give \$20, or \$100, or something of the kind, to know what Kate would say of this; have seen him standing over her at the piano, in old times, and praising her handiwork incessantly; I was at Mr. Voorhees's farewell party; I have seen Mrs. F. smoke cigars occasionally; she was present at Mrs. Voorhees's; after the chief guests were gone, we went up to Mrs.

Voorhees's private room, where there were several gentlemen and ladies; Mrs. Forrest handed me a beautiful little cigar, out of a box, which she said had been given her by some person; it was tobacco; I think she smoked part of a cigar; the box was then about one-third full.

Four notes were then produced and proved by witness to be in the handwriting of Mrs. Forrest. They were handed to the Court, and marked, whereupon Mr. Van Buren read them in evidence. They are all addressed to Andrew Stevens.

MY DEAR FRIEND:—I am going to ask you a favor, and rely on your refusing, if it should cause you the least inconvenience. I want \$25; Margaret will have some in two days, and I will return it to you, or failing that, certainly on the 1st. I hope you will pardon me for thus trespassing on your friendship; but there are not many persons of whom I would ask this, and you know the *present* circumstances. If you have not this by you do not take any further trouble about it, and think no further of the matter.

Truly yours,

C. N. F.

I see by the papers a race comes off to-day—so I presume I may hope to see Madame and her Cavalier to-morrow.

MONDAY AFTERNOON.

MY DEAR SIR:—I have just received yours of this morning, and shall be most happy to see Mrs. Stevens to-morrow, at any time during the day, or if she cannot come then, on Wednesday. I do not think I shall be able to get out even by that time, for I am sorry to say that you were a much better judge than I was of the effects of a fall, and I have been suffering rather severely.

You must not suppose I am in the habit of indulging in "universal confidence." My friends are few. What you say of our California conversation, I have only to reply, "of course I shall not mention it."

Matters here are in *statu quo*. Pray come and see us soon.

Very truly yours,

C. N. F.

Addressed A. Stevens, Esq., 183 Broadway.

MY DEAR SIR:—I have just received your note as I was about to tell you (by note) that it will be impossible for me to go to Bridgeport. My cold is very bad, and but for engagements of some standing, I should give up and go to bed. To-morrow I am engaged, during the early part of the day, and, indeed, my throat and chest are not in a state to venture upon the water. I shall send Virginia on Thursday. Hope you shall come and see me soon—any evening after to-morrow.

With kind regard to all yours, always truly,

C. N. F.

Addressed to Andrew Stevens, Esq., Vestry-street.

FRIDAY, 4 P. M.

MY DEAR FRIEND:—I have just received yours of this morning, and shall be most happy to see you and Mr. Valentine on Monday evening. You possess, I think, a knack of knowing precisely what one most wishes. *If it should rain*, I may hope to see you on Sunday.

Truly yours,

C. N. F.

The Judge said he would be compelled to sit in General Term on Saturday, and would not to be able to continue the trial on that day.

Van Buren then called *Thomas N. Carr* as a witness, but not answering, he asked for an attachment, which was granted.

Adjourned to Monday forenoon, at 10 o'clock.

TENTH DAY.

MONDAY, December 29.

The Court opened at quarter past ten o'clock.

Mrs. Forrest came in accompanied by Mrs. N. P. Willis, Mr. de Margueritte, and another gentleman, and the party took their seats, as usual, at the table nearest the Bench.

The court-room was again densely crowded.

Judge—Proceed, Mr. Van Buren.

Van Buren—They will cross-examine Mr. Lawson, I suppose.

O'Connor—Yes, sir, we will.

James Lawson, cross-examined—I have attended to the disbursements of Mr. Forrest; have done so partly since 1847; do not know that he had any other agent except a person who lives in Ninth avenue and collects the rents for the house in Twenty-second street; I am not indebted to Mr. Forrest; have an open account with him, and there may be a balance in his favor, which is payable at demand; am not a mortgage debtor of his; my intimacy with him has been very great; between my family and Mrs. Forrest, the intimacy has not been so great; in November, 1849, I visited Mrs. Forrest last; she said by the person who answered the door that she was not at home, but she was.

Q. How do you know she was at home?

A. I saw it this morning under her own hand, Mr. Forrest told me —

O'Connor—Confine yourself to your own knowledge, if you please; now answer the question.

Witness—Have no personal knowledge that she was at home; Mrs. Bedford answered the door; she said Mrs. Forrest is not at home; was not requested to write down what I had to say; I was asked if I had any message, and I answered, "no." I visited at least once a week at Mr. and Mrs. Forrest's; probably visited more than that; my visits were sometimes long, sometimes short; I frequently called in the evening—very seldom in the daytime; frequently called when Mr. Forrest was not at home; my conversations were free, cordial and intimate with Mrs. Forrest as well as with Mr. Forrest; I frequently dined there; saw Mr. Bryant, Godwin, Wykoff, N. P. Willis, Captain Howard, and Mr. Stevens there for dinner; never saw Mr. Carr; saw Montgomery there; have been there at two large dinner parties; one was given to Mr. Macready, and there were ladies present; have seen ladies there at other times; have seen Mrs. Godwin there; Miss Knower of Albany was also there; she stopped there some time; was told she was there on a visit; I think it was a rare occurrence to see a lady at dinner there, except she belonged to the family.

Being asked the object of his interrogatory, Mr. O'Connor stated he wished to prove that Mr. Forrest, who had not any superior education beyond the necessary limits of his profession, but having acquired a large fortune, was desirous to assume a certain position in the world, and whilst he himself showed a decided objection to carry on the social intercourse with parties whose acquaintance he was then desirous of forming, he wished his wife and sister-in-law, both highly accomplished ladies, to act his part, and procure for him that station in the world to which he aspired.

Mr. Van Buren replied, saying that the testimony was totally irrelevant, if the other was to prove that Mr. Forrest wished his wife to receive *gentlemen* in his absence, then perhaps it might be proper to show. At all events, Mrs. Forrest ought to have conformed her conduct to the wishes of her husband, and not have countenanced those scenes of wine and wassail which were carried on during his absence.

Mr. O'Connor repeated that he wanted to show that Mrs. Forrest did everything to conform to the wishes of her husband, as the wife of a man rising in wealth and position, and aspiring to an eminence not only as an actor on the stage, but also in social life.

The Court ruled it might be relevant to show whether Mrs. Forrest received company by or against the will of her husband; her receiving visits of gentlemen was a matter of so ordinary a custom that no inference whatever could be drawn from it, particularly of the visits of gentlemen so well known to the husband. The present inquiry might therefore be immaterial and also lead too far, yet he would permit it.

Q. Did Mr. Forrest go much to evening parties where ladies and gentlemen were present?

A. So far as I know he confined himself to a very few intimate friends; he visited my house, Mr. Bryant and Mr. Phalon; have seen him several times at parties at Mr. Bryant's; he has been at parties at my house, perhaps four or five times; he would stay from five minutes to five hours with me; I bought Fonthill for Mr. Forrest, after his return from England, on the 6th February, 1845 or 1846; they went to England in December, 1844, or January, 1845; if they went in January, I think they returned in October, 1846; think I bought Fonthill on the 6th February, 1847; in 1849 the work of completing Fonthill was going on.

Q. What had been the cost of Fonthill up to that time? I do not want to know within a thousand or five thousand dollars.

Objected to and ruled out by the Court.

Mr. Van Buren withdrew the objection if they would allow Mr. Forrest to prove for what purpose the building was to be applied after the death of Mr. and Mrs. Forrest.

O'Connor—Oh, I do not care about unexecuted intentions.

Witness—The fresco work was going on then and was completed; I understood he finished off the house for a residence for himself and family.

Q. What would be the expenditure per annum in an establishment like that?

Objected to, and ruled out.

Witness—I have frequently visited the building since 1849; that was in the spring and fall of every year since 1849; have been there without him to attend to some of his little matters; have been there half a dozen times with him; rode out with him once; we dined there; sometimes in the farmhouse or in the village; may have slept there two or three times; Forrest told me he had no home between May 1st and December 1849; he stopped part of the time with me, and part in Philadelphia; towards the latter part of May, 1849, he came to my house very sick and stopped a week; during that time the allowance for his wife was concluded; Mrs. Forrest then lived with Mrs. Voorhees, in Great Jones street; she came to see her husband at my house; I was not present; do not know if I wrote her a note requesting her to call; I asked Mr. Forrest to make my house his home after he left Twenty-second street; up to eighteen months ago, he made it his home; afterward he boarded corner of Howard street and Broadway; he slept every night at my house when he was in New York from May, 1849, till June, 1850; his longest visit was in the fall of 1849; I understood Mr. Forrest promised to pay \$1500 a year as allowance to his wife; he at first refused to give more than \$500 and a house in Twenty-second street as residence, but this she refused, as it was too near the place where she had been accustomed to live.

Q. Was that the only objection?

A. It was.

Witness—Do not know if Mrs. Godwin was present at this interview; I think it very likely Mrs. Forrest said it would be impossible to live at that house with \$500 a year; Mr. Forrest then wanted her to board, and I advertised to know for what genteel board could be had; answers were received but they did not name the amount; the first instalment of the \$1500 was paid I think on the 1st August, 1849; I think she left \$100 with me which I afterward paid at her request to Mr. Ingham, with whom she boarded; (note produced) this is written by me I think, (marked No. 12); I continued to pay until November, 1850; think I paid the last quarter to Mr. O'Connor's partner, Mr. Boardman; I think I told Mr. Boardman the money was right, but I would not pay it on the order as written; I think I wrote a new receipt for it; no man ever called for the money on me with a proper receipt without getting it; when Mr. Howland next called in February, 1851, I totally refused to pay the quarter; I had then read the publications in the papers by Mrs. Forrest.

Q. Did you not say that you would not pay the money because Mrs. Forrest had contradicted your testimony, and injured thereby your credit?

A. No, I think not; I think I said that I had read some printed proceedings, and then, with a sore heart, I added, "May God forgive her as I do;" I may have added about her contradicting my testimony, but I do not recollect it; during Mr. Forrest's absence in England, I had orders from him to pay Miss Margaret whatever she wanted, and I did so on demand; did not supply money for the house in Twenty-second street, except when he was in England; never paid anything except by express orders; I had an interview with Mrs. Underwood at my office on the 1st February, 1850; did not expect her.

Q. Did she then for the first time communicate to you any representations to the prejudice of Mrs. Forrest?

Objected to by Mr. Van Buren as leading. Allowed in a modified form.

Witness—She did; she never had made such representations to me before, but she made a remark to me in the spring preceding while Mr. and Mrs. F. were south; she called for money that time; I told her I had no money to pay her; she said Mrs. F. had told her that if she wanted money she was to call on me; she said, "If people were more correct or upright there would be less trouble;" on the 1st February, 1850, she called, and I thought she came for Mrs. F.'s money; she said she had seen Mrs. F., and she had not a cent in the world, and she would take it to her; I refused to give it to any but Messrs. Bryant or Godwin; she then spoke of her own private affairs, and asked my advice, but how she began about Mrs. F. I cannot precisely answer: I have tried to recollect, but could not; did not then get a statement in writing from her; had no written statement before that; I wrote a letter to Philadelphia to Mr. F. saying that Mrs. Underwood knew much more than he suspected, but I gave him no intimation what it was; told him about a week afterwards; he then asked me to write down what she said; he did not fall in consequence of what I said; I never said that he started and fell on the floor on hearing what I had learned; I made such a statement in regard to another occasion and occurrence; did not name it in regard to this occurrence to Mr. Darley or to Mr. Fanton; Garvin was examined after the 1st February; all the information about him came from Mrs. Underwood; I did not find Garvin or any other witness; do not know who found him; when Mr. F. came from Philadelphia, Mrs. Underwood was sent down to Sedgwick, and in a week afterwards Garvin was brought up; I expressed surprise to Mrs. Underwood when she told her story; do not recollect my precise words; all I have known of Mrs. Forrest from the first day to the last is nothing against her except her own declarations; I may have said, "I would as soon have believed it of an angel from heaven than from Mrs. F.;" the words are in my character; the letter which I wrote to Mr. Sinclair was written without instructions, except Mrs. F.'s note to me, which I have here; I framed the letter from experience, information, and belief. (note produced and marked No. 13.)

Mr. O'Connor then read the note.

[No. 13.]

"MY DEAR SIR,—I am going to ask a favor of you, which I trust will not be irksome. Will you be so kind as to write by the steamer, which leaves to-morrow, a few lines to my father, informing him of all that has taken place lately concerning myself. I have made one or two efforts to do so, but find myself quite incapable of saying any thing now requiring cool attention.

But for the impertinent interference of newspaper scribblers, this would not have been necessary; but they would be almost distracted in England to learn a matter of so much moment through such a source. I am sorry to give you this trouble, but you are the only person, except myself, who could, with propriety, write to my father on the subject. A very few lines will suffice.

"Truly yours,

C. N. F.

"Address to my father, '5 Clipstone street, Fitzroy Square, London.'

"I will write by the next steamer."

Witness—I spoke sincerely in what I wrote to Mrs. Sinclair and said to Mrs. Underwood; I think the party at Voorhees' was on the 18th January, 1849; I have stated that Mrs. Forrest handed me a box partly filled with segars; she took it from a closet in the room; the segars were very small and beautifully flavored; I smoked mine; I think she smoked part of hers; I think Mr. Godwin was there; I knew of the intended separation of Mr. and Mrs. Forrest the day after Mrs. Voorhees' party; I dined with Mr. and Mrs. Forrest that day; I was invited, and Mr. Wykoff came uninvited; I would not not then believe they intended to separate; Mrs. Forrest called me into the drawing-room, and said—

Van Buren—Wait a moment.

O'Connor—Well, we do not care about it.

Witness—Mrs. Forrest afterwards authorized me to speak to her husband about the separation, and to use an article in the *Mirror* as my source of information; that was about six weeks after Voorhees' party.

Q. When you had her consent to speak to Mr. Forrest, what was agreed upon between you to speak about?

A. I was to sound his feelings, and see if the matter could not be arranged; she said Stevens had tried to speak to Forrest, but that he could get no answer; she thought I would have more weight with Forrest; my view and I believe her wish was—

O'Connor—No, no, we do not want that.

Witness—I was to see if his mind was definitely fixed, or if by any influence of mine his judgment could be reversed. I was not to ask the cause of the separation, because that was never to be told.

Q. Did Mr. Forrest before the 1st December, 1849, say to you, in substance, that there was no guilt on the part of Mrs. Forrest, and that he wished to God there was?

A. He never said such words; Mrs. Forrest used similar words to me.

Q. Have you stated any thing to that effect to Mr. Parke Godwin, or to Mr. Darley, or Mr. Penton?

A. I have not, but I have quoted Mrs. Forrest's words to them, and Mr. Darley must have misapprehended me; the words of Mrs. F. I quoted to all parties; I manfully took her part, and that of Mrs. Voorhees; took steps to bring about a reconciliation from the first time of the separation; in Sixteenth street told her that my hopes were much less because she had refused in the early part of the summer to separate from Mrs. Voorhees; I deemed it of vital importance that Mrs. Voorhees should leave the house before a reconciliation could take place.

To Van Buren—This was not at Forrest's suggestion.

O'Connor—(note produced)—The proposal I made to Mrs. F. in writing, and this was her answer; I obtained her consent to Mrs. V. leaving the house; I advised this even from May, when Mr. Godwin informed me of her derelictions.

O'Connor reproved the witness for this manner of attack upon Mrs. Voorhees, and was sustained by the Court.

Witness—I did so from very good reasons.

Examination continued—I obtained her consent before this note (marked No. 14) was written.

O'Connor—Well, now I will read the note.

Witness—I inclosed this note to Forrest that same afternoon; saw him next morning at Fonthill.

Van Buren objected to the reading of the letter. Witness had made the request of his own motion, and the letter, therefore, could not be made evidence against Mr. F.

The Court allowed the reading of the note.

[No. 14.]

“SATURDAY, 7 A. M.

“MY DEAR SIR.—Immediately after your departure last evening, I told my sister the subject of our conversation; and what had been your former suggestion, of which she was not aware. Without further consultation she proposed to leave the house on Monday, and I consented she should do so, feeling assured you would not urge a step of so much importance, and attended with at least temporary extreme pecuniary embarrassment, unless you had some reliable ground to suppose it would further a good object. That your motives are the purest and the best I have no doubt, and that your chief aim in this is to effect a reconciliation between Mr. Forrest and myself you avow. Whether you act wisely in assuming this heavy responsibility you best know; but as I said last night you are working blindfold, not knowing the causes which led to the present state of things, and, as you told me, with the assurance from Mr. Forrest that we could not live happily again together. Of this you cannot be so good a judge as he is, who weighed all the circumstances, and considered the matter of our separation for many months before it took place. I do not feel equal now to entering more fully upon this subject, and I follow your advice willingly, but without one ray of hope. I write hurriedly, that you may have this to-day; and briefly, as I have not slept since I saw you, and I am sick at head and heart.

“Yours,

C. N. FORREST.”

“Please let me have a few lines from you on Monday.”

O'Connor—The seal of the letter is part of it: it says, “My star shines darkly over me.”

Witness—I went alone to Fonthill; Stevens was there, he had carried up the letter; I think I saw Mrs. Forrest on Monday of the week following; (another note produced;) this is a note I received about the 14th November; (note produced by O'Connor;) this is a note I wrote to Mrs. Forrest on the 14th November, 1849; I think it was not written with Mr. F.'s knowledge; do not know if he was present when I wrote it, (the note marked No. 15;) I inclosed a paper in that letter to Mrs. F.; see from the letter that it was a milliner's bill.

O'Connor—Now I will read the letter, and ask some questions afterwards.

Van Buren objected.

The Court thought there had been sufficient ground to show the agency of witness in this matter.

The note was then read.

[No. 15.]

“NEW YORK, Nov. 14, 1849.

“MY DEAR MRS. FORREST—I regretted I did not see you on Monday evening. I was at Fonthill last Friday; Forrest never looked better, and despite the dull day was cheerful. This morning he came to the office. Among a number of letters waiting for him, was the enclosed, a similar one I handed to you a while ago. He was a little chafed, and asked me to send it to you.

“I suppose you never intend to see me at home again; you have not called for time immemorial. I shall call on you, however, and I live in good hope, if no new annoyances come in the way; but that hope may not be all realized as soon as at one time I expected. Forrest was cross to-day, and I said little of you. He returns to-morrow, dines out, in honor of some friend who departs for New Orleans, and may spend the evening and night at my house.

“Yours, ever truly,

J. L.”

Witness—I can only say from this letter that I enclosed the milliner's bill to Mrs. F. by Mr. F.'s request; my letter is true.

O'Connor—Look at this, if this not the answer, (note produced, marked No. 16.)

Witness—You know you asked me to bring all these papers.

O'Connor—Of course, it is all right; we are not afraid, and you need not be. (Laughter.)

Witness—I think this (No. 16) is the reply to my letter.

The note was then read.

[No. 16.]

“MY DEAR SIR—After waiting with some anxiety for the letter which you promised me I should have last Monday week—I received one to-day which is not very satisfactory. The bill you enclose shall be immediately paid.

“You say ‘I live in good hope’—if you have any grounds for this hope, I think I have a right to know them. You were at Fonthill twice since I saw you, and had ample time to ascertain Mr. Forrest's wishes and views. Again you say, ‘Mr. Forrest was cross to-day, and I said little of you.’ I hope you will remember that I have not asked you to act as intercessor between Mr. Forrest and myself. I have simply agreed that your advice be adopted, and await the result.

“I have to-day a renewal of my former sickness, and do not expect to leave my room for some days, but I hope you will write to me as soon as you have any instructions from Mr. Forrest to communicate.

“Very truly yours,

C. N. FORREST.”

WEDNESDAY, 3 P. M.

O'Connor—Now, sir, look at this, and see if it is not the answer.

Witness—Yes, sir, it is, (marked No. 17.)

O'Connor then read the answer.

[No. 17.]

"SATURDAY MORNING.

"MY DEAR MRS. FORREST—Yesterday I received your note of Wednesday, the first angry one that ever came from your pen to me—it could not surely come from your heart. You are sick, and that is reason enough to put any one out of temper.

"If I did not come or write at the time appointed, you who have known me so long and so well, must surely have guessed that a cause more than ordinary existed; and one, whose anxiety must have been so intense as yours is, might have called or sent to my house for an explanation. It was not far to go, or much to do.

"In very truth, you have shot your arrow too high, and hurt one of your best friends, and remain in ignorance that he is wounded. Well so be it. The glitter is too frequently taken for the gold; and men who speak what is acceptable is more prized than those who speak truly or act wisely.

"Yours, ever,

J. L."

Mr. O'Connor then read No. 18, Mrs. Forrest's reply to No. 17.

O'Connor—This is the answer, I believe.

Witness—I believe it is.

Note read (marked No. 18.)

[No. 18.]

"TUESDAY EVENING.

"MY DEAR SIR—Yours of Saturday has just arrived. I was not angry when I wrote, but hurt that my feelings should be trifled with; nor did I write until I received your note, which gave no explanation of your silence, nor have you done so yet, and I am still in ignorance of the cause more than ordinary which prevented your writing, and of the success or failure of your proposed undertaking, which affects me somewhat dearly. I should have sent to inquire of you, but that I heard of your being well enough to go out of town; and when you called here, Mrs. B., knowing the importance of the mission you had undertaken, asked you if had any message for me, and you said no. You can scarcely know my anxiety, which has contributed somewhat to keep me where I still am a prisoner; and indeed, during the present state of things, I am anxious to avoid all questions, and see no one but most intimate friends. I do not understand the close of your note. No one has professed more friendliness for me than you—and at the same I know of no one whom I should allow to speak with the freedom (and yet not take it amiss) which I have always been glad you should do. I am far from meaning to wound you or any one by my remarks, for I have lately suffered too much myself willingly to inflict unnecessary annoyance on others. I write with some difficulty; I am suffering from neuralgia as well as other annoyances; I cannot bear much light.

"Truly yours,

C. N. F."

Witness—I should like to make a remark.

O'Connor—Well, I have no objection.

Witness—The reason of my not answering was a distressing occurrence in my own family.

O'Connor—Yes, sir, we give you full credit for it. (Paper produced.)

Witness—This is a copy of my letter to Mr. Sinclair.

Another paper produced, marked No. 19.

Witness—This is a letter written to me by Mrs. F., and enclosing a copy of the letter to Mr. Sinclair.

Mr. O'Connor then read the note.

[No. 19.]

"MAY 2, 1849.

"MY DEAR MRS FORREST—Your note came to me last evening as I was going home, but I did my best in obeying your mandate. It was a difficult task. A copy is herewith, which please preserve, or, after you have perused it, perhaps I had better hold.

"Forrest came this morning. I told him I was your friend as well as his; that I had no disguise from either, and mentioned that I had received a note from you, which, if he wished to see, was at his service. He read it; he read, too, the letter referred to.

"He exhibited much feeling, and approved of my course. I may talk freely to him of you. His deep feeling, and this estrangement, make me wonder. All is a mystery.

"I shall call on you at the first moment. I trust you approve of what I have done, as he does. He was very angry about the *Atlas* article; had not seen it till it appeared in the *Herald*. Southworth wrote it, he supposes; and, on Monday, ignorant of the article, met him, and was kind to him.

"Ever yours, truly,

J. L."

Witness—The article in the *Atlas* referred to Mrs. Forrest living a long time with her husband, and having so many children. (Files of the *Atlas* brought in. Mr. O'Connor examines them.)

Mr. O'Connor—Well, sir, I propose to read the paragraph, or at least a part of it; if the other side wish, I will read the whole of it.

Mr. Van Buren—We suppose it is totally irrelevant, and although I have differed with the Court on some occasions, yet in this instance there can hardly be any difference of opinion about the testimony.

Mr. O'Connor—It depends upon the contents of the article how far it is admissible. Mr. Burr was called to the stand, and testified that in the fall of 1849 Mrs. Forrest said, that until the Macready difficulty there could not have been a kinder husband than Mr. Forrest. This proof was given to weaken a point for defence, but it would fail. The reason for the change in Mr. F.'s conduct towards his wife in 1849, is attempted to be shown as growing out of the moodiness attending his dispute with Macready. My object now is to show that before the separation the fact of their approaching separation was given to the world by an entire stranger asserting, that there was no ground for jealousy or complaint, that he felt annoyed at the article, but yet, a few days afterwards, signified his approval of Mr. Lawson's letter to Mr. Sinclair. In brief, the object is to show that Mr. Forrest felt annoyed at a publication which, in his subsequent complaint for divorce, he countenanced.

Mr. Van Buren argued the admissibility of the evidence.

The Judge ruled against the offer, and Mr. O'Connor gave notice that he would bring the subject up again in the progress of the cause.

Witness continued—Mrs. Forrest spoke to me about this separation between the 19th of January, 1849, and the time of their leaving Twenty-second street; I think it was mentioned in a conversation in which she told she had asked Edwin if he had anything against her as a wife; she told me he replied—"no, Catherine, no, and would to God I had, for then I would not suffer the agony which I now endure"—I feel quite sure that it was her request to him that the cause of the separation should not be mentioned; never heard that Mr. Forrest exacted from her a pledge that it should not be mentioned.

Q. Did she not say it was an insult Mrs. F. could not get over?

A. No sir, I will tell you what she said at the first interview; she told me that she and her husband had a quarrel the night before, when she went out to dine; that he was very angry; that she said in the course of the discussion that "he told a lie" or "was a liar." I said it was a great offence against a man so full of truth as Mr. F., and she said she knew it; she promised to make every atonement that a wife could make to a husband for those words; she said that F. replied that no man could say to him "you lie" and live, and that no woman could say those words to him and live with him. I think the 19th of January was on Friday.

Q. Do you know how Mr. F. occupied the next day, whether he went up to Fonthill on the Saturday following?

A. I do not know; I have at Mr. Forrest's requests on and after the 1st of February, 1850, taken down Mrs. Underwood's testimony in writing and went to the house where other testimony was taken; I have procured or got no witnesses for him: I have twice made affidavits in this matter; one for the purpose of being sent into Pennsylvania; (documents produced) this is one of my affidavits taken on the 29th of February, 1850.

Mr. O'Connor—Now look at that whilst I read a fair copy of it to the jury.

(He then read the affidavit.)

The points of this affidavit were that Mrs. F. had told him (witness) that she and Forrest could never live as man and wife together; that he subsequently asked her who was in the wrong, and she answered "I am"—that Forrest never told him the cause of this separation until late in December 1849; that Mrs. Underwood told him in February, 1850, what she knew of Mrs. Forrest.

Witness—I am not sure of the day in December, but think it was after the middle that F. told me the cause of the separation.

Mr. O'Connor proposed to give in evidence the existence of a suit brought by Mrs. F. against Mr. F. in the Supreme Court of this city in 1850, and the injunction which was issued.

Objected to but admitted.

The record was then produced. The suit dates September 2d, 1850. Catharine N. Forrest agst. Edwin Forrest, praying for an injunction restraining the prosecution of the Philadelphia suit. The injunction against this suit was produced enjoining F. from prosecuting the suit for divorce against Mrs. F. by libel in the Court of Common Pleas in Philadelphia. Next the motion to dissolve the injunction dated 28th April, 1851. Next from the files presented to the witness of papers in support of that motion, the affidavit of witness 15th November, 1850.

Witness—I remember making this affidavit; it does not contain all I know.

O'Connor—Oh, no, I suppose not; it would be a long one if it contained all your knowledge.

Witness—The writing is by one of my clerks.

O'Connor—I will read it now.

The affidavit was then read.

"*City and County of New York, ss.*—James Lawson, of the city of New York, being duly sworn, says:—I first became acquainted with Edwin Forrest in the fall of eighteen hundred and twenty-six, and ever since I have been on terms of the closest intimacy with him. I have known Mrs. Forrest, wife of said Edwin Forrest, since the first day of her arrival in this country, namely, in the fall of eighteen hundred and thirty-seven. Until the month of January, eighteen hundred and forty-nine, I always thought and believed that the said Edwin Forrest and his wife lived on terms of kindness and affection. Mr. Forrest always treated his wife with great tenderness. In the said month of January I first heard from Mrs. Forrest that a separation between her and her husband was resolved on; about the last of April following they parted. In my interview with Mrs. Forrest, endeavoring to obtain certain concessions, which I thought important to bring about a reconciliation with Mr. Forrest, she often said, 'you are working in the dark; you do not know what you are striving for—it is an impossibility that Mr. Forrest and I,' she said, 'can ever live together again as man and wife.' On one occasion, repeating this or similar words, she said she would repeat them in a note, and underscore the words, and that I should point them out to Mr. Forrest, and ask him if it was not true; but she never wrote the words she promised as aforesaid. On or about the second day of November last, when at an interview, Mrs. Forrest had consented to send her sister, Mrs. Voorhies, from her house in Sixteenth street, which I thought a necessary step before the question touching the reconciliation could be put to Mr. Forrest; I asked Mrs. Forrest, 'Now, since we have come to this point, pray tell me who was wrong in that unknown cause which separated you; I do not ask the cause, for that, you say, is never to be told—but who was wrong?' Mrs. Forrest answered, 'I was;' to this I remarked, I am glad to hear you say so, for confession is the first step to repentance—and added, what can a wife say to a husband, or a husband to a wife, which cannot be atoned for, since the matter is known to themselves alone. Mrs. Forrest replied, 'Ah, sir, but the difficulty in our case is, that a third party knows it.' These were her very words. This last interview was in the hall of her house in Sixteenth street, where she now resides, and lasted but a few minutes. The reason that this interview was held in the hall, was that Mr. Henry Placide, during the whole evening, was in the parlor, that I was present, and neither I nor Mrs. Forrest wished him to hear the conversation between us. During the whole course of the year 1849, though I was on terms of the closest intimacy with Mr. Forrest, and in the habit of constant intercourse, the said Forrest never told me what the cause of the separation was until some time late in the month of December, 1849. I had no suspicion of the true cause until the last conversation had with Mrs. Forrest as above stated. That conversation excited doubts in my mind, and for the very first time. On the first day of February, instant, Mrs. Underwood called at my office, No. 82 Wall street, on private business, and then communicated to me for the first time, her knowledge of the facts contained in her deposition. Mr. Forrest was then absent from the city of New York; and upon his return, a few days afterwards, I communicated to him the result of my interview with Mrs. Underwood, and have no doubt that this was the first knowledge Mr. Forrest had of the nature of the facts stated in that deposition, at all events, through me.

"(Signed,)

"JAMES LAWSON.

"Examination through me taken, and by the witness sworn to and subscribed before me, the 28th day of February, 1850, as witness my hand and official seal.

"JOHN LIVINGSTON,

"Commissioner for Pennsylvania, in New York."

A note by Mr. Lawson, informing Mrs. F. of the failure of his attempt at reconciliation was then read:

"SATURDAY MORNING, Dec. 1, 1849.

"MY DEAR MRS. FORREST:

"Not unmindful of your interests, I laid the whole matter I was bent on before Mr. Forrest, in the best phase I could command, and asked him to think calmly, and let me know his feelings. It was only last night that I received a decided answer. You were right. You said it was impossible—that a cause insuperable existed, and I was only working in the dark. I see no chance of reconciliation; indeed under the feelings you have expressed to me, and his entire lack of confidence in your sincerity, a re-union would not, I am persuaded, conduce to the happiness of either. Did the power lie in my hands alone, I would not for both your sakes insist upon it.

I am satisfied Mr. Forrest has suffered—suffered acutely. He is unhappy—no bright future before him, and the cloud that darkens his pathway is cast over it by the only woman he ever loved, or ever can love. He did not, of course, tell me the cause, though he said much last night. You know it.

Now, as I promised, I shall do what in me lies to meet your views in every way. If you go to England, as you said you would if Mr. Forrest asked it, or if you go to some quiet place in the country near, as you also talked of, what I can do shall be done to serve your interests. How far it may be in my power to meet all your wishes, I know not. Much will depend upon yourself. If your sister returns to your house, I fear I shall not be able to serve you to the extent I desire; but still all in my power, as I said, is at your best service.

* * * * *

The residue was not read. (See Tuesday's proceedings.)

This ended the examination.

Mr. Van Buren asked leave to examine a poor woman who attended here with great inconvenience, before he re-examined Mr. Lawson.

Judge—It is not the usual course.

Van Buren—Does plaintiff object to it?

O'Connor—Yes, sir, I do.

Witness re-examined.—I stated, in the last letter to Mrs. F., that she was the only woman that Mr. F. loved, or ever could love; that was true; F. told me so; the statement was a part of a conversation which I had with Mr. F. on the 30th of November; we conversed till after midnight about the reconciliation; I remember another expression; he said he had begun like a poor boy, and had toiled on till he reached the pinnacle, and that just at that time he should have met with his misfortune; he said, "how hard it is, that all the happiness in this life depends upon one human being!" He thanked God that he had no children living; this was called out by my saying, that if children had been living, all that might not have happened; before this I praised Mrs. F.'s intellectual and physical beauty, and he said that she was now ugly

to him, and her face was black and hideous; the conversation took place in my house; not a word was said of the cause of the separation; he told me the cause would be known after his death; when he lay sick at my house, Mrs. F. and I corresponded about money matters, and the settlement, and while I was urging him to give her \$1500 a year, he first offered \$500, and then \$1000 a year, then he—

O'Connor—Hold on a moment. This is not called for by our cross-examination.

Van Buren argued in support of the question, and the Court ruled against it.

Q.—When Mr. Forrest said he would give \$500 a year for the support of his wife, what reason did he assign for doing so?

Objected to—1st, because it assumed a reason; 2d, because it is incompetent.

Question altered, but still objected to.

Judge—The only difficulty is, that the matter about the \$500 was called out by yourself.

Van Buren—Then I claim to examine the witness as to a difference of opinion between the Court and me.

O'Connor—Oh, no, it will not do to raise an issue between the Court and counsel, and then get a witness to swear the Court down. (Laughter.)

Ruled out by the Court.

Witness continued—Mrs. F. said she could not live on the \$500 in a house so near the one in which she had before lived in so different a style; I was asked by Mrs. F. to tell this to her husband.

Q.—What did he say in reply?

A.—He made no direct reply to that, but rather to a remark of mine; I was advocating Mrs. F.'s cause—

O'Connor—Yes, you had a counsel fee, I suppose.

Witness—I told him that if he did not give a much larger sum, it would come by and by to a suit for alimony, and I wished that to be kept from the public.

Judge—What did he say then?

Witness—He said he wished that it would come to that, for then his lips would be unsealed, as he was bound to tell the Court all he knew; I persuaded him to raise his offer to \$1000 a year; I told Mrs. F. of this offer; she said she could not live on \$1000; I think she wanted \$2000, that was her mark; I am satisfied I told Mr. F.; he then said he would not advance one cent; and then at an interview between them, when I was not present—

O'Connor—That's right; tell us all what happened when you were not present. (Laughter.)

Witness—They agreed upon \$1500, and it was to be paid through me; he assigned no reason for not giving the \$2000, for his lips were sealed; he said he was going to make his will.

O'Connor—Are we to have that in?

Judge—I think not.

Witness—I understood that Fonthill was to be Mr. F.'s residence; that it was planned by Mrs. F., and I called her the architect; after their death, it was to be left as a public charity to decayed actors.

Q.—Was there a declaration to that effect made at the time of the laying of the foundation?

Objected to, and the Court ruled it out.

Witness—Forrest had three rooms in the cottage at Fonthill.

By the Court—I have said that Forrest had no home in December, 1849, and that he lived part of the time with me or at Fonthill; I added that he was going to his sister's.

Court—You wish to add that?

Witness—I did add it.

To Counsel—I have said that Forrest fell to the floor at one time, but not when I told him of Mrs. Underwood's testimony.

Q.—On what occasion did that take place?

A.—I have it from himself; on discovering—

Mr. O'Connor objected.

The Court confined the witness to the particular occasion of F.'s conduct on being communicated the testimony of Mrs. Underwood.

Witness—Mrs. Underwood never told me she had seen F. fall to the floor.

By a Juror—I never saw him fall to the floor; he did not do so, nor have I said that he did when I told him Mrs. Underwood's testimony.

To Counsel—Mrs. Forrest always sanctioned my efforts at reconciliation; I volunteered them to her; (note 12 produced) my impression is that Mr. F. was out of town when I wrote this letter; Mr. F. never told me to write to Mr. Sinclair; the note, No. 14, was received by me in November, 1849, from Mrs. F. herself; prior to that letter she never complied to send her sister away; I knew F. was hostile to her, and hence my request; he did not desire me to make the request; I think he afterwards expressed his satisfaction that she was gone; (No. 16 produced;) I do not think it is true what Mrs. F. says in this note regarding her not having asked me to act as mediator; I was much surprised at her saying so; Mr. F. never asked me to act as mediator; I thought at one time, from his manner, that there was hope of a reconciliation.

This ended the proceedings of the day, the examination of Mr. Lawson not yet having been terminated.

ELEVENTH DAY.

TUESDAY, December 30, 1851.

The Court opened at half-past 10 o'clock.

James Lawson recalled—When Mrs. F. spoke to me about the difficulty she had with her husband the night of the party she did not tell me anything about communicating to him in regard to it; she afterwards asked me to speak to Mr. F., she insisted that her information be not used, but the article in *The Mirror*; I desired to speak from it, and she consented.

[Letter produced and marked No 20.]

Witness—This is Mrs. F.'s handwriting.

Van Buren—Then I will read it. [Reads the letter.]

[No. 20.]

“MONDAY NIGHT.

“MY DEAR SIR,—Thank you for the message you kindly sent me by Dr. Simpson, but I have not seen Mr. Forrest; is he still in town? As I was anxious in the event of his coming, not to be interrupted, I gave a general order that I should be at home to *no one else*. Lawson called, and was told I was out; but as he said he had *no message* for me, and had not seen Mr. Forrest since Friday, (and was consequently not aware of his being in town to-day,) I did not regret not seeing him; he might have written to me as he promised. Send me a verbal message as to whether Mr. Forrest is in town; and if I can see you at your office, and at what hour.

Sincerely yours,

C. N. F.”

Witness—This is the note which refers to my call. [Note No. 18 produced and read.]

Q. Do you find any assertion there that Mrs. F. was out?

Mr. Van Buren objected.

O'Connor—Read the whole letter.

A Juror—And read it loud.

O'Connor—I will read it myself, and we will see if it says Mrs. F. told a lie.

Van Buren objected to summing up the cause in this manner at this stage.

O'Connor then read the whole note, [as above.]

Q. What impression did the letter convey to your mind as to her being home?

Objected to. Withdrawn.

Q. To what extent were you Mr. F.'s agent in settling this allowance on Mrs. F.?

Objected to. Ruled out.

Mr. Van Buren—I ask you the same question in regard to the reconciliation.

A. I know of no agency for Mr. F. in that matter; I never said I was an agent for him in any way; if Mr. O'Connor will tell me what he means by an agent.

Mr. O'Connor—Oh, I am not here to answer questions, I want them answered. Mr. Lester asked me what I meant by a Minister of the Gospel, (laughter.)

Witness explained that he had conducted several business affairs for Mr. F. without any compensation. After the building of the houses in Twenty-second street he told Mr. F. that the labor was too much and he wanted to give it up. Mr. F. then offered him a commission on the collecting of rents on some houses, which he accepted, it yielding him about \$250 a year—not an equivalent for the labor and loss of time.

Witness continued—In spring, 1848, Mrs. Bedford came to my office and wanted money; she said something about going to a pawnbroker to pledge something for want of money; I lent her \$10 or \$11 out of my own pocket; (note produced, witness read the residue of it which is that of December 1st, 1849.)

“I received your note of Tuesday evening; you still labor under a mis-apprehension. You wrote unkindly—nay, harshly, to your best friend. Never, since I first knew you, to this hour, have I left a word unsaid, or an act undone, that would please or serve you. If I understood you rightly people have convinced you that I am your enemy. What are these people, what am I accused of? I am willing to plead before any one or all of them at once. Ready at all times to confess the truth, but firm to repel what is untrue. Not knowing how I might be received after two such epistles, I have written this which I should much prefer to have spoken.

“I am, my dear Mrs. Forrest, Yours kindly, J. L.”

Witness—When Mr. F. was absent Mrs. Voorhees frequently stayed at the house; do not know if Mr. F. was aware of her staying there.

Q. What further do you know of Mrs. F.'s smoking?

A. She was not an habitual smoker, but she did so occasionally; she gave my little boy, on one occasion, a paper segar, that is, paper with tobacco inside; never saw her smoke a tobacco segar, except the one I have spoken about in my previous examination; have had a letter from Mrs. F. from Chicago or Pittsburgh. [Witness searches among his papers, and finds a note.] It is dated Chicago, it was, I think, written in 1848; she says in the letter that she had shown it to Mr. F.; he afterwards told me he had not seen it.

Mr. O'Connor objected to any declaration of Mr. F.'s. [Note marked No. 22. It is dated June 11th.]

Q. You have been asked if Mr. F. did not go out much; how did he occupy himself?

In reading books, and conversing with intelligent friends; I never saw a private library of more value than his; do not know if he is a member of the Century Club; know of his being at Mr. Bryant's house at Springbank; I know Mr. Jamieson by sight; never saw him at Forrest's; have seen Richard S. Willis at the house of Mrs. Forrest, in the absence of her husband; Mrs. Forrest became acquainted with the Bryants through her husband.

Mr. Van Buren again urged the propriety of asking the witness about what he had said to Messrs. Darley and Penton about Mr. Forrest falling to the ground in consequence of some information conveyed to him about Mrs. Forrest.

The witness begged to make an explanation on another point. He had been asked whether he had ever said to Godwin, Darley, and Penton, that Mr. F. had told him he had never found any guilt on the part of his wife. Witness now begged permission to say what he had stated on that occasion.

O'Connor objected. He said he had discovered that there was a perfect understanding between this witness and another party, to give such a statement as would open the door for further inquiries by the defence. If the witness was contradicted hereafter, he would be recalled.

Mr. Van Buren denied that there was any understanding between him and the witness. It was a privilege of the witness to explain and it must be granted.

The Court, however, overruled it.

Witness to counsel.—I have been at Forrest's on Sundays, but never to dine.

Mr. Van Buren now read the Chicago letter before referred to.

[No. 22.]

“CHICAGO, June 11.

“MY DEAR SIR,—It has been a question with me for some days, whether I should reply to the letter I received from you in Pittsburgh, or leave the matter you therein write about for future discussion; but as a chance for that seems somewhat remote, I will for a few moments tax your well known patience.

“In referring to my letter from New Orleans you speak as though I had written you a treatise on the rights of women, and the doctrines of Fourier; if I err not greatly, I neither mentioned one nor the other of these topics, for indeed I had half determined never to discuss them with you again. I remember telling you in my letter that I had greatly enjoyed the society I had met in New Orleans, especially that of some intellectual persons.

“When I inquired of you in my letter from Pittsburgh what you thought of Fourier's system now, of course I could only refer to such portion of it as has been influential in bringing about the great change in France, such as refers to the organization of labor, &c., and which all those whose minds keep pace with the progress of the age, regard as the only means for ameliorating the condition not only of the probatory but of the great mass of mankind suffering from the pressure of the past. Had any one else written as you do, I should be apt to suspect that he had received his ideas of Fourier from some such source as the *New York Herald*, whose editor, lacking capacity to comprehend a system so vast and profound, as well as so ennobling to humanity, has selected only what he conceives to be the most vulnerable portion of the doctrines of association, and indulges in a wholesale denunciation of the immoralities which his prurient mind alone can discover.

“I do not for a moment think that the most enthusiastic follower of Fourier expects the people of the present age to throw off all the ties of society, and social life, and attempt to carry out in all respects the views of this great man; there are few, very few persons, who have thought out these matters sufficiently to be prepared for such a change, and it is the mission of those few to prepare the way for the coming generations of the earth. The disciples of Fourier do not desire the subversion of all social order; this is one of the many slanders which attaches to them as well as to all other reformers, and which is not worth while to refute. All improvements, social or political, must be accomplished by degrees. Our minds must be educated up to the appreciation of the doctrine of a man whom we must admit was like many of the greatest benefactors of the human race, in advance of his age, and by education only can we hope to bring his views successfully into practice; for to attempt to bring the present generation at once into association, with all the bigotry, selfishness, and deeply rooted prejudice which many people hug so closely, would be as absurd as to take the poor Indian from his wilderness, and expect him to be happy in civilization; and yet you will not, I am sure, tell me that the life of the savage is the best.

“It is impossible, my dear friend, that the wonderful change which has taken place in men's minds, within the last ten years, can have escaped the notice of so acute an observer as you are, and if you have read the works which the great men of Europe have given us within that time, you have found they all tend to illustrate the great principle of progress, and to show, at the same time, that for man to attain the high position for which he is by nature fitted, woman must keep pace with him. ‘Man cannot be free if woman be a slave,’ so writes a mighty mind. You say, ‘the rights of woman, whether as maid or wife, and all these notions I utterly abhor.’ I do not quite understand what you here mean by the

rights of woman. You cannot mean that she has none. The poorest and most abject thing of earth has some rights; but if you mean the right to outrage the laws of nature, by running out of her own sphere, and seeking to place herself in a position for which she is unfitted, then I perfectly agree with you, and think a woman has no more business in the halls of legislature than a man has in those portions of his house devoted to domestic affairs. At the same time, woman has as high a mission to perform in this world as man has; and he never can hold his place in the ranks of progression and improvement who seeks to degrade woman to a mere domestic animal. Nature intended her for his companion, and him for her; and without the respect which places her socially and intellectually on the same platform, his love for her personally is an insult. Again you say, 'A man loves her as much for her very dependence on him as for her beauty or loveliness.' [Intellect snugly put out of the question.] This remark from you astonished me so much that I submitted the question at once to Forrest, who instantly agreed with me, that for once our good friend was decidedly wrong. [Pardon the heresy; I only say for once.] What! do you value the love of a woman who only clings to you because she cannot do without your support? Why this is what in nursery days we call 'cupboard love,' and value accordingly. Depend upon it, as a general rule, there would be fewer family jars, if each were pecuniarily independent of the other. With regard to mutual confidence, I perfectly agree with you that it should exist; but for this there must be mutual sympathy; the relative position of man and wife must be that of companions—not mastery on one side, and dependence on the other. Again you say, 'A wife if she blame her husband for seeking after new fancies, should examine her own heart and see if she find not, in some measure, justification for him.' Truly, my dear friend, I think so too, [when we do agree, our unanimity is wonderful!] and if, after that self-examination, she finds the fault is hers, she should amend it; but if she finds, on reflection, that her whole course has been one of devotion and affection for him, she must even let matters take their course; and rest assured, if he be a man of appreciative mind, his affection for her will return. This is rather a degrading position; but a true woman has pride in self sacrifice.

"In any case I do not think a woman should blame a man for indulging in his fancies. I think we discussed this once before, and that I then said, as I do now, that he is to blame when these fancies are degrading, or for an unworthy object; the last words I mean to apply not morally but intellectually. A sensible woman who loves her husband in the true spirit of love, without selfishness, desires to see him happy, and rejoices in his elevation. She would grieve that he should give the world cause to talk, or in any way risk the loss of that respect due to himself and her; but she would infinitely rather that he should indulge 'new fancies' (I quote you,) than lead an unhappy life of self-denial, and unrest, feeling each day, the weight of his chains become more irksome; making him, in fact, a living lie. This is what society demands of us; in our present state we cannot openly brave its laws, but it is a despotism which cannot exist forever; and in the mean time, those whose minds soar above common prejudice, can, if such be united, do much to make their present state endurable. It is a fearful thing to think of the numbers who, after a brief acquaintance, during which they can form no estimate of each other's characters, swear solemnly to love each other while they 'on this earth do dwell.' Men and women boldly make this vow; as though they could, by the magic of these few words, enchain forever every feeling and passion of their nature. It's absurd. No man can do so; and society, as though it had made a compact with the devil, to make man commit more sins than his nature would otherwise prompt, says:—'Now you are fairly in the trap; seek to get out, and we cast you off forever—you and your helpless children.' Man never was made to endure even such a yoke as unwise governments have sought to lay on him; how much more galling, then, must be that which seeks to bind the noblest feelings and affections of his nature, and make him

'So with one chain'd friend, perhaps a jealous foe,
The dreariest and the longest journey go.'

That there is any necessity to ensure, by any means, a woman's happiness, is a proposition you do not seem to have entertained while writing your letter of May 24th, but perhaps we are supposed to be happy under all circumstances. I shall scarcely dare to hope you will pardon me for taking up so much of your time as it will need to read this; but you will please remember that I have bestowed an equal time in writing to you, and I will add that there is no other one of my friends on whom I would, at this time, expend so much. Pray let me have a line from you first, to say I am forgiven for the trespass, not that I would ask you to answer this, for I have no desire to write again on these subjects, but just to let one know how the world is jogging on with you. Your reply will reach me at Detroit, if it be there before the 4th of July, and afterwards at Buffalo.

"Forrest commenced here on Thursday last, and has had very good houses. I suppose he will play till the 23d. We received the *Evening Post*. *Grand merci, mon ami*. Of course I hope you will receive this letter, merely as a sort of discussion among friends who desire to know each other's opinions. I read it to Forrest, and he agrees perfectly with all I have said. We shall be very glad to get home; indeed, I may say I am as much tired as he is. Since we left New Orleans, I cannot say I have enjoyed anything except a few hours with Magoon, and hearing him preach. I hope you heard him in New York. I trust averages are 'looking up,' and that you are once more in a cheerful mood. None wish you more success than your friend,

C. N. F."

Cross-examined—I do not remember ever seeing Mr. Jamieson at Mr. Forrest's house; I may have slept four times at Mr. Forrest's house; Mr. Forrest was home then; slept in a spare bedroom on the second floor adjoining this room; I heard from Mr. and Mrs. Forrest that the Macready difficulty began in England; after Forrest's return from England, he said he considered Macready as being the cause of some disrespect to him; he said in London he had not met with his previous success; he believed Macready was at the bottom of it, and that his (Macready's) friends did him injustice in the newspapers.

Q. Did he not tell you that he had hissed Macready in London?

A. I do not think he ever denied it in conversation about it; Mrs. Forrest had a father, mother, and two sisters when she came to this country; Mr. and Mrs. Sinclair returned to England; cannot tell the date or year; I took their passage; got them off by the aid of Mr. Voorhees.

O'Connor—See if you have Mrs. Forrest's answer to your note of December 1, 1849.

Note produced.

Witness—This is a note I wrote to Mrs. Forrest (marked No. 23); it was written whilst Mr. Forrest was lying sick at my house, in May or June, 1849.

[The letter was read.]

[No. 23.]

"FRIDAY MORNING.

"MY DEAR MRS. FORREST—Forrest was too tired last evening to call; in not a great time over an hour after he came back, he took a bath and went to bed. I sat with him from 8 to 10. Then he was comfortable. We talked of various matters. This morning, going to his room, I found he had passed a very restless night, having been in considerable pain—but easier now. I don't think he can possibly go to Philadelphia to-day. Stevens has gone for Dr. Gray. Forrest feels so much better, and has so many around him, he bade me say, after reading your note, that he is obliged by your kindness, but does not wish to trouble you, as he is in want of nothing to make him comfortable. He is now reading the long note, which I have not read; but I am sure there is nothing in it he should not see. I have so great confidence in your judgment, I had no hesitation in handing it to him. Had Forrest been able, he would have called this morning, with a check for \$200, to pay the past, and a proposition for the future. Pray rest in patience while he is sick. I shall do all in my power to bring up the amount as high as possible. He has much kind feeling for you, but none for your sister. If he goes to Philadelphia, you shall hear from me, and I shall try to get the check, if he cannot call himself.

"Ever yours, and truly,

J. L."

Witness—I have not the answer to the note of 1st December; the note of December 20 is the next to it; prior to the letter of May (No. 22) Mrs. F. had asked me to speak to her husband about the settlement; all her notes to Mr. F. were at that time addressed to me; (note produced;) this is the note which I showed to Mr. F. before I answered hers in May (note marked No. 24); Mr. F. played in this country after his return from England.

Q. With what success?

A. He played with no less but if any thing greater success than before ; a public dinner was given to him ; the Sinclairs went away at my request, and that of Miss Margaret ; Mrs. F. thanked me on her return for getting the Sinclairs away, and said I had managed it very adroitly ; do not think I lent Sinclair any money on F.'s account ; I lent him some on my own, and got it returned ; F. being unwilling to lend Sinclair any money direct, gave me \$200 to give him at his risk ; I got a bill of fifty pounds to send to Sinclair to buy furniture for Fonthill ; have no knowledge of their accounts now.

This ended the examination of the witness.

Van Buren—I shall want you to be here again !

O'Connor—Oh, I wish you would go out of town for a time. (Laughter.)

Ann Butler, sworn, (a poorly dressed woman, of advanced age)—I live in Twenty-first street ; I am from Ireland ; have been here for nineteen years ; I am married ; my husband's name is Thomas Butler ; he is a laboring man ; I know Mrs. Flower.

Q. Do you know any thing of a child of hers ?

A. Yes, I wet nursed it ; it is six years ago last July ; it was the 9th July.

Q. How do you remember that ?

A. By my own marriage ; I was then a year and a month married.

Van Buren—Ah, you had a child of your own !

Witness—What kind of a child, you ask ? (Laughter.)

Van Buren—No, I didn't ; I only made a remark.

Witness—I kept the child until the August of the following year ; I know Miss Margaret Sinclair ; she used to come to my place while I had the child ; she came to see it ; the name of the child was William Henry.

Q. What else ? What was the mother's name ?

A. Elmendorff ; Miss Margaret never called Mrs. Flower by any other name : she once brought the child a present of a nice cap ; she appeared to think a great deal of the child ; Mrs. Dempsey and Mr. Raymond afterwards took the child from me ; Raymond called on me the first time on the 7th of May ; no one was with him ; I would not give him the child then, and Mrs. Flower had told me not to part with it until she sent for it herself ; he came again next morning ; I lived in Perry street then ; Mrs. Dempsey came with him the second time ; I refused to give up the child, and he threatened to bring an officer to fetch it away ; I told him he might do so ; he then tried to come around me quite softly, but I would not give it up.

Q. Was the softly before the officers ?

A. He did it both ways, rough and smooth. (Laughter.)

Q. What do you mean by rough ?

A. He cursed and swore, but that did no good ; he came the next week and took me around to Mrs. Dempsey to get me to give up the child ; I would not give up the child until I had written to the mother ; Raymond said if I kept the child I should not be paid ; I said I did not care, the child was worth the money ; (great laughter ;) did not see him again until the 23d August ; I had gone to Mrs. Dempsey and told her she might have it, for my friends had all told me I had better do it, as long as they were so fond of having it ; I also left word at Mr. Raymond's office to call at Mrs. Dempsey's ; he came and asked if I was willing to give up the child ; I said I would ; Mrs. Dempsey was in the room with us ; my bill was \$18 50 from May to August ; I had been paid up to May ; Mr. Raymond paid me \$17 when he took the child away ; he was very angry, and swore and damned the child and all belonging to it, and me too ; he is as rough spoken a gentleman as ever I met with ; he came in a carriage ; he took the child out ; I followed, and saw another man in the carriage ; he was a stout, noble looking man ; did not know him ; did not know if he had a cap or a hat on ; I cannot write ; did not communicate with the mother at New Orleans ; Mrs. Dempsey took the child with her ; the gentlemen went off with the carriage.

Egbert Deming, sworn.—I reside at No. 273 Twenty-first street ; have resided there for nearly four years ; do not know Mr. and Mrs. Forrest ; I know them by sight ; Mr. F. owns the house in which I live ; my house is on the line of his lot which runs through to Twenty-first street ; I cannot look into their drawing-room when I am on my back piazza ; I never tried, I can see the windows of their drawing-room ; I have a back piazza to my house ; do not know that I have seen Mrs. F. from the piazza ; have seen her from the back part of my house walking in the garden ; have seen her in the house I think ; have seen her on the back piazza, and in what I took to be Mr. F.'s study ; I know Mr. N. P. Willis ; saw him once in Mr. F.'s house ; it was in the evening, in the fall of the year.

Q. Who was with him ?

A. I think Mrs. F. was with him ; did not see any one else.

Q. Where were they ?

A. Standing by the window of what I took to be Mr. F.'s study.

Q. How were they standing ?

A. Side by side.

Q. Where was his arm ?

A. I think one of his arms was round Mrs. F.'s waist ; did not see any other mark of affection ; the other arm was by his side I think ; I do not recollect distinctly.

Q. Where was her arm ?

A. I cannot say, I should judge—

Mr. O'Connor—Don't judge.

Witness—I think by her side ; I saw nothing passing between them ; they stood there for a minute perhaps ; they seemed to be in conversation ; their heads were slightly bent forward, as if conversing ; they then walked back into the room ; I was at the time in the second-story back room of my house ; Mrs. F. left first, and walked around the table ; Willis followed ; it would be about ten o'clock in the evening ; did not see them again ; I left the window ; I last saw them standing near the table under the gaslight ; have not seen Mrs. F. with any other gentleman but her husband, except that time ; I believe F. was not at home then.

Cross-examined—This was in the fall of 1848 ; I never communicated this fact to Mr. F. except now ; never told it to Mr. Van Buren ; I know Mr. Lawson ; did not tell him ; do not know Mr. Stevens ; I am now a tenant of that house ; I think I had a lamp in my room ; I was called into the room by Mrs. Germaine to look at them ; she is a sister of my wife and then resided with me ; no one else was in the room at that time ; I think it was early in the fall—not very cold weather ; I think it was very pleasant ; did not charge my mind with it, and hardly ever thought of it since ; there are two piazzas to Mr. F.'s house ; the one at Mr. F.'s study has green blinds and they were generally open ; sometimes saw Mr. and Mrs. Forrest in the study ; was not in the habit of trying ; the gaslight lit the room very well ; the room has two windows ; the distance from that room to my room was over 100 feet ; the two lots are 200 feet deep ; my house is 40 feet deep ; Mr. F.'s house is larger than mine ; have seen other persons in the library on one or two occasions, perhaps more frequently ; have no acquaintance with Willis ; knew him by sight for 10 years ; they were standing close to the window with their backs to it ; Willis' left arm was round Mrs. F. ; I think Mrs. F. walked away first ; he did not then keep his arm round her waist ; their heads were bent slightly forward towards the middle of the room ; there may have been other persons in the room with them ; I did not try to ascertain ; I could not clearly see the whole inside of the room ; I think I could see one half of it ; I am a merchant in Wall street ; am not at present in mercantile business ; I operate in stocks ; deal in stocks on my own account ; have done so for three or four years ; have been in the chemical manufacturing business before at Yorkville ; left it two years ago ; my firm was Deming & Colt ; George Colt was my partner ; (the witness went into some further particulars.) I was first subpoenaed on Friday last.

Re-examined—Was served with an attachment on Saturday last.

O'Connor—Yes, Mr. Lester was also attached. (Laughter.)

Both of the counsel here indulged in some severe remarks, which the Court reproved.

Witness continued—Have been in custody of an officer since Saturday ; I have not made a statement of what I know to

any one connected with this case; never spoke to Mr. F. in all my life until yesterday; and never on this subject; have no idea how you know this.

By the Court—I may have spoken to my next door neighbor about it; I think the sashes were both down and the blinds open; never looked into the drawing-room; Mrs. Germaine called me in, and asked me if I knew who those were, (meaning Mrs. F. and Mr. Willis;) I was in the front room when I was called; I believe Mrs. Germaine is in Albany or Troy; she is a widow.

By the Court—I suppose I know Mrs. F. and Mr. Willis with their backs turned to me; Mrs. Germaine has a son; he resides in Williamsburgh.

Henry D. Sedgwick sworn—I am an attorney at law; Mr. Theo. Sedgwick is the attorney of record in a suit of Willis ag. Forrest, but I attend to the business; had charge of his business during his absence in England; I know John Kent; know of his being subpoenaed in the case referred to; it was noticed for trial in October, 1850.

O'Connor—What is the object of all this?

Van Buren—We want to show the attendance of several witnesses and the reason of keeping them here.

O'Connor—But there is a positive denial of having received money by any of them, except Kent.

The Court allowed the inquiry in regard to Kent.

Q. Was that cause tried?

Judge—The question is not worth asking or answering to. (Laughter.)

Witness—The cause was noticed from Oct. 1850 until last month; Kent attended at various times; he was subpoenaed as a witness for defence; I regarded him as a material witness; Garvin was also subpoenaed; Mr. F. was in attendance at the various terms; I considered his presence material; do not recollect sending for him; recollect him being out of town when I thought he was here; do not know of writing to him to any place out of the city.

Hiram Johnson was called but did not answer.

Mr. O'Connor then read the letter No. 12, which was produced yesterday, but not then read.

(No. 12.)

“MONDAY AFTERNOON.

“MY DEAR MRS. FORREST:—I meant to have called on you yesterday. I meant to have addressed a note through the despatch post this morning, but ‘the best concerted schemes of men and mice’—you know the rest.

“Well, you had not been long gone, on Saturday, till Forrest appeared. I told him I had seen you—that your quarter was due, \$375. He authorized me to pay you and I am ready. There is a proviso. You have got \$40; and there is something else, I hardly know what, which Forrest says, in settling the next quarter, is to be considered. The impression on Forrest’s mind is, that the balance will be against you. You thought, as I understood, that it would be in your favor.

“How shall I send you the *cashibus*—in what size of notes? in gold, or how? Your ladyship’s commands shall be obeyed.

“I see, by the paper to-day, that Mrs. Butler is to get \$1,500 a year—that is the interest on \$25,000 at 6 per cent. My powers of locomotion are both to be taxed. You are young and agile. Pray why not condescend on some leisure hour to spend it personally, at 136 Twelfth street, at an hour when I am at home.

“Ever yours, truly,

J. L.”

Van Buren—I move for an attachment against the witness, Hiram Johnson, and then propose to read the Consuelo letter.

O'Connor—I don’t know what the gentleman means.

Van Buren—I mean that I intend to read it, and if objected to, I will see the position in which we now stand.

O'Connor—Well, then I object.

Judge—State your ground, then, for the objection.

O'Connor said the letter had been previously offered in evidence, and the Court had heard at length the argument of both counsel. Since that time no person had testified to any thing in regard to the letter, except it be Mr. Godwin, who testified to nothing but negatives in the matter. If any evidence on that subject had escaped his (counsel’s) notice, he would be glad to be reminded of it.

Van Buren replied that, in addition to the previous evidence bearing on the letter, they had now the testimony of Mr. Godwin, who proved that he had been asked by Mrs. Forrest, “So you have loaned a volume of Consuelo to Mr. Forrest?” Godwin answered he had, and was then asked if he knew for what purpose it had been borrowed. “I suppose he wants to read it,” answered Mr. Godwin; but Mrs. F. said, “it was not for that; he had got it in consequence of a foolish letter which Jamieson sent.” Here, then, was the identification of the letter, which had sufficient effect upon Forrest to prevent him from having any marital intercourse with his wife thereafter. Counsel, therefore, claimed the introduction of the letter.

O'Connor replied, and in the course of his remarks said, “I am greatly obliged to my learned opponent for the assertion that no marital intercourse took place between the parties since the finding of the letter. Allow me to remark, that there were many spare bed-rooms in the house, where he might have preserved the sanctity of his person, yet we find him for four long months occupying her chamber, lying by her side, without a drawn sword being between them to prevent their embrace. If, under such circumstances, counsel will assert that no intercourse took place, he will say that, which no man ever gave or will give credit to.”

The learned counsel spoke with extraordinary eloquence, and at great length, strongly urging the Court to exclude the letter, as it had not been identified as having been in the possession of Mrs. Forrest.

The Court said that when the letter first was brought up for introduction, it was on the proof of Mrs. Underwood, that Mrs. Forrest in her presence had alluded to the loss of “a foolish letter from Jamieson, which I did not want my husband to see.” Upon that state of the case, the defendant produced this paper, (the letter,) and the Court remarked that it had no address, signature or name, and was not sufficiently identified as having been addressed to, or possessed by Mrs. Forrest. If Mr. F. did find the letter in the drawer of Mrs. F., he must prove it, not on account of any suspicion that the testimony was fabricated, but because so important a proof, in cases of this kind, which might be fabricated, without the possibility of Mrs. F. disproving it. Courts of law should hold the rights of both parties in respect, and guard against any infringement. Suppose even the letter had been in the hands of Mrs. Forrest, the Court would remark, that any virtuous woman might receive a similar letter, without any impurity on her part, however she might act upon it. The only additional circumstance testified to since that state of the case, was in the testimony of Mr. Godwin, (which the Judge read.) The question whether Mrs. F. adverted to this letter, was the question now, for the mere statement that Jamieson had written a letter, could not stamp it as such. However unfortunate it might be for Mr. F. that he could not more clearly identify the letter, the Court must decide against the offer, and the defendant only stood in the same position as any other man who could not establish a fact. The letter was therefore ruled out.

Mr. Van Buren then offered in evidence an affidavit of Mr. Forrest in which he charged his wife with the receipt of the Consuelo letter, receiving it in May, 1848, keeping it until he found it in January, 1849; charging her with improper intimacy with the writer both in Cincinnati and here; showing how and where it was kept, and the contents of Mrs. Voorhees’ letters among which it was found, also the admission under oath of all these facts, and her answer to a letter charging her with guilt.

Mr. O'Connor remarked, that if papers were offered in evidence, these were usually given to the Court without entering into the contents. He must now follow the example of counsel in denying *in toto* the allegations about the letter charging Mrs. F. with guilt, so far as her answer was concerned asserting her innocence. As for the rest of her offer, it would be proved *viva voce* by Andrew Stevens, if they would only call him. They had called Lawson, and he (counsel) was much obliged to them for it; to fill the measure of his gratitude they might only call Stevens now.

Mr. Van Buren—And Jamieson!

Mr. O'Connor—I care not much about him; he is a poor creature as you say, and certainly from his late transactions I agree with you in so calling him.

The question as to the admissibility of the evidence was further discussed by both counsel.

The Judge ruled, that the defendant might read any affidavit of Mrs. F.'s, and so much of his own as explained the first; as for the general offer made, the Court would consider the admissibility of it, and decide hereafter. The Court then adjourned.

TWELFTH DAY.

WEDNESDAY, Dec. 31, 1851.

The Court opened at ten o'clock precisely, in the presence of a large audience.

Mr. Forrest was accompanied by Mr. Dogherty, Mrs. Forrest by Mrs. N. P. Willis and several gentlemen.

Prior to the commencement of the proceedings Judge Oakley informed the counsel, that he had this morning received an anonymous communication, written in a female handwriting, and informing him that evidence bearing upon this case would be procured in a certain quarter. The Judge strongly reprov'd this mode of addressing the Court, and stated that he had been at a loss to know how to act in this case; he had at last come to the conclusion of offering both counsel to see the letter, to act as they thought proper, and if they did not wish to take any notice of its contents, the note would be destroyed.

No application was made by counsel on either side, and the note was torn up.

Judge—Mr. Van Buren, have you any other testimony to offer?

Van Buren.—If the Court please, we now offer to read an affidavit by Mrs. Forrest, which will be followed up by reading certain portions of an affidavit made by the plaintiff, in reply to the first.

Mr. O'Connor.—The true way of beginning is by reading a portion or the whole of Mrs. F.'s affidavit.

Van Buren.—Our object in offering this testimony is to show the fallacy of the argument of counsel for plaintiff, that the letter, the Consuelo letter, which the Court have deemed it wise to rule out, is fabricated, or may be fabricated evidence against this lady. We will by her own admissions show, that the letter is the genuine one, that it was received and kept by her, and that, at a time when she was placed in a position to explain it, she failed to do so. The affidavit of Mrs. F. will be a firm commentary upon the assertions of counsel that this defence which we make is a fictitious one, and that we conspired against her by putting in another letter for the one that she received.

O'Connor.—I disclaim the imputation that I stigmatized the letter as a forgery. It may be a genuine one for what we know, and when I spoke of conspiracy, I thereby meant more wicked injuries than that letter, which have been brought to bear against my client. As for our answer to a complaint which has been alluded to, the Court is aware that such documents are framed under the eye of counsel, whose care and prudence is to guard the interests of their client, and if they deem proper to remain silent on some subject, or refuse to disclose an important fact, it is only because they know that such disclosure may be vastly more important on the trial than during the preliminary proceedings.

The Court said it never had been the practice to read the affidavits, that is, the declarations and allegations, of a party in his own party. The other course had to be pursued: Mrs. F.'s affidavit must first go before the jury, and then so much of those of Mr. F. as was necessary to explain hers. Any thing in Mrs. F.'s affidavit, bearing directly upon the identification of the Consuelo letter, might be given into evidence.

Mr. Van Buren, after a long pause, proposed to read parts of the affidavit of Catherine N. Forrest, dated December 20, 1850.

Mr. O'Connor.—If your Honor please, we claim that he read the whole of it.

Chief Justice.—I think it will be sufficient for them to read what they think proper and applicable to this part.

After another lengthy discussion, Mr. Van Buren commenced to read.

The portions read by him consisted mostly of those bearing upon the receipt and keeping of the famous Consuelo letter by Mrs. Forrest from Jamieson, and, although numerous, did not consume a great length of time since counsel restricted himself to only those passages which were of use to his theory of defence.

The reading of these extracts was listened to with very great attention.

Van Buren.—I now propose to read the way and manner in which the Consuelo letter was secreted, and found by Mr. Forrest, from his own affidavit, explanatory to the statement of Mrs. Forrest.

Mr. O'Connor insisted that he would first read the whole of Mrs. F.'s affidavit, now since the reading of the few paragraphs would do serious injustice to his client, and prejudice the jury against her.

The Court sustained this proposition, and gave leave to Mr. O'Connor to read the affidavit, or have it read by the clerk. Whether Mr. F.'s declarations in regard to the letter could be read at all, would be decided upon when the question came up.

Van Buren—Will your honor then note our exception?

Judge—I note nothing but my rejection of the reading of Mr. F.'s affidavit at this stage of the case.

O'Connor—We call for the reading of the whole paper, with the exception of a part, wholly irrelevant to the issue.

Van Buren—We deny the right of the other side to call for the reading of the whole affidavit, but only those parts which may be deemed explanatory to what we have read.

It was at last resolved upon to read the whole affidavit if Mr. O'Connor wished it.

Judge—It is rather an irksome task for counsel to read so lengthy a document. If there is any other gentleman who is a good reader, and will undertake it, it would be preferable.

Van Buren—I would as soon read it myself.

O'Connor—So far as the mere mechanical labor is concerned I will relieve the counsel as soon as he wishes.

Van Buren—Yes, as soon as I am tired (smiling) I will call on you.

The learned counsel then commenced reading an affidavit covering 36 printed pages of the pleadings. It is a full explanation of Mrs. Forrest's version of the beginning and progress of the difficulties, with her husband, detailed in earnest, dignified language, without any attempt to gain sympathy, but demanding strict justice between herself and her husband. The affidavit itself has been published on several occasions, and its length precludes the possibility of its appearance here, which is rendered unnecessary moreover from the fact, that much of the allegations contained therein are embodied in the testimony for prosecution and defence.

The concluding remarks of this extraordinary document, which are in the language and in keeping with its general character, read as follows:—

"Though I would cheerfully suffer any other evil rather than say or do aught in opposition to my husband, in this public manner, I cannot give even a tacit admission of charges which, if established in a due course of trial, would justly exclude me from the society of all virtuous persons, involve my innocent young sisters in shame, and bring the gray hairs of my beloved father with sorrow to the grave. To do and suffer all things that Mr. Forrest desired, save this, I have freely offered, but to submit to this degradation I have declined, and must still decline. Silence might seem an admission, and therefore I am constrained, most reluctantly, to make this statement.

"Mr. Forrest was dissatisfied with me in November 1845, for a difference of opinion on a subject not relating to the present question, and from that time I was subjected to occasional marks of his displeasure. In January, 1849, about the 17th, he stated to me that a lady had influenced me against him. For her sake I repelled the charge. The denial was couched in terms too direct and unequivocal. This Mr. Forrest at once pronounced an unpardonable offence. He stated that he could not permit any man so to address him, nor live with any woman who did it. He imperatively demanded that we should live apart. I reluctantly, but fully and implicitly, acquiesced in his pleasure.

"From this time it was distinctly understood that we should separate and live apart, and the precise time was fixed.

Circumstances connected with his convenience caused several postponements; but, from January 17th until April 29th, 1849, when we actually parted, there was always a certain day for our final separation agreed upon and fixed between us. On the last named day, Mr. Forrest accompanied me to the residence of Mr. Parke Godwin, and there left me to be an inmate of that highly estimable gentleman's house, and the associate of himself and his amiable and gifted lady. Not merely for this, but for my first introduction to this estimable family, I was indebted to Mr. Forrest.

"They are his friends—for them he has always expressed and I believe entertained, and still entertains, the highest respect. Mr. Godwin and his lady had, subsequently to January, visited Mr. Forrest and myself at our residence, by his invitation, and were entertained by our mutual care and attention. After he thus introduced me into their family, he visited me on two occasions. These undeniable circumstances reflect a light upon the course of Mr. Forrest's advisers upon which I will not comment.

"After we had been long separated, Mr. Forrest informed me that report attributed our separation to a cause which reflected unfavorably upon him, and that he must establish the existence of another motive. He suggested a divorce, employed counsel, and at length in January, 1850, I sought similar assistance. Our counsel met, and with my approval it was offered that I would not oppose Mr. Forrest's application for a divorce or any similar act which might conduce to his happiness, provided he would not impeach me with want of virtue. It was said it was impossible to obtain a divorce without making this charge, and many propositions for the preservation of secrecy were made to me. To all such propositions, though accompanied by the offer of a provision for life, I felt myself bound by every consideration of honor, virtue and duty, to return an absolute and unqualified refusal.

"When giving this refusal, I had already been advised not to appear before the legislature of any sister State which might be solicited to pass an act against me. I was advised that such an act, if any legislature could be induced to pass it, would be wholly inoperative. Especially was this considered to be the case in respect to Pennsylvania, the constitution of that State expressly forbidding the trial of such cases by the legislature. For this reason I have not left the State of New York to appear before the committee to which Mr. Forrest's petition was referred. Nor has it been thought proper that I should appear on notice of Mr. Forrest's counsel to cross-examine his witnesses. My counsel conceived that the only consistent course on my part was a full appearance and defence, or a total declinature of the peculiar and inappropriate jurisdiction invoked by Mr. Forrest.

"I am without pecuniary means to follow Mr. Forrest into another State, and there conduct a litigation. Far from my native land and only male relation, I have no fit protector to accompany me in the requisite journeys. Distant from the witnesses who knew of my life and conversation, and without process to enforce their attendance, I would appear before your body under disadvantages. But if none of these objections existed, my course would have been the same. In this, to me, untried field, I must submit to the judgment of others, better informed; and by their advice I am governed in respectfully protesting against the exercise of jurisdiction, by your honorable body.

"I have too much respect for your honorable body to suppose this protest necessary; my sole motive in this address is to place upon your files, side by side with the accusations, this solemn declaration.

"I have never committed any act of infidelity to my marriage vows; I have never committed any criminal act or any act inconsistent with the dignity and purity of the marriage state; I have never, in deed, word or thought, deviated in the slightest degree from entire purity and chastity of life. Nor have I, since my marriage with Mr. Forrest, failed in affection or honor for him, unless it be in some thoughtless occasional expressions wrung from me by wounded pride since this most cruel accusation.

"Whenever summoned, I am ready to appear in a court of justice, and there to vindicate my perfect innocence. In any result of the present proceedings, I am consoled by the moral certainty that Divine Providence will afford me an opportunity of disproving the charges now before your honorable body.

"Respectfully submitted,

"CATHARINE N. FORREST."

Mr. O'Connor then called for the reading of the affidavit of Mrs. Forrest, of the second day of September, 1850, given on the proceeding in the Supreme Court, in the *ne exeat* against Mr. Forrest. The Court advised it to be read, as having been specifically referred to, and its statements re-affirmed, in the affidavit just read. Mr. Van Buren excepted, and then proceeded to read the affidavit, occupying eighteen pages large printed folio octavo.

This affidavit has already been published in the papers. It is virtually to the same effect as the larger one just read; among other things, taking the ground that Mr. Forrest, at that time, second of September, 1850, did not believe deponent criminal; giving circumstances to prove this, such as his intimacy with her, carrying her to Mr. Godwin's house, his continued subsequent rides, gifts, the portraits, &c., &c. That the design of imputing criminality to her, was conceived by him near the latter end of December, 1849, he at the same time believing her innocent; her declaration of entire innocence; her willingness for a divorce, "provided it did not go upon grounds that would dishonor or degrade her;" her proceeding, under counsel, for an allowance; her declining to appear before the Legislature of Pennsylvania, to answer Mr. F.'s proceedings for divorce; the testimony given in those proceedings by Stevens, Lawson, and others; the libel and process served on her in those proceedings; the non-residence in Pennsylvania of herself and everybody else connected with those proceedings; her inability to compel the attendance of witnesses in Pennsylvania; Mr. Forrest's influence in that state; his alleged residence there, though a citizen of New York; and circumstances going to prove her allegations on those points; as the building fitting up and furnishing at Fonthill, his voting in New York state, his describing himself, in legal papers, as of New York—that he had treated her always as a citizen of New York; that on one occasion he called on her, and insisted upon her giving her a written statement that she would make no opposition to his application for a divorce; that she had not instructed her counsel to oppose it; and that she had made that statement of her free will, and that she wrote, and gave him a certificate, which he took and carried away, and which was in the following words:

"I will make no opposition to the petition for divorce, provided it be not made on criminal grounds, nor with any criminal imputation.

CATHARINE N. FORREST.

"I do this with my own free will and accord. I told Mr. O'Connor that I would consent to the divorce if it were not brought on criminal grounds; but, of course, I gave him no instructions, as I left everything else to him, he knowing better than I what was to be done."

The affidavit concludes as follows:

"This deponent says, that since her marriage to the said Edwin Forrest, she hath ever been a true, chaste, and faithful wife unto him; that she entertained great affection for him; devoted her best exertions and abilities, in truth, sincerity, and tenderness, to lighten his cares, and make pleasant for him his path in life; that she scrupulously guarded his honor and good name, so far as it depended upon her, and abstained to the best of her judgment and ability, from any and every imprudence or error of life, that might affect the same, or tend in any degree to impair his position in society, or disturb his serenity of mind; conceiving at all times, however mistakenly it may now seem, that their honor and interests were interwoven, as those of one person; that even when repudiated, she still loved and honored him; that when, as aforesaid, she yielded submissively to his said demands for a divorce, it was from a desire to do and suffer patiently all things that might conduce to his happiness, and not without hope that he would yet feel and repent of his error and injustice toward her; that until he had pledged his oath to her imputed guilt, and made the same a record forever on the public archives, attachment to him, and respect for his name, yet animated her. But she says, that, thence hitherto she hath been and is most anxious to sever the tie existing between her and said Edwin Forrest, and if possessed of adequate proofs, she would long since have instituted an action for that purpose in the courts of this State. That early in January last (1850) when consulting counsel, she first perfectly realized the nature of the desired divorce; that counsel had informed her, that if amicable measures were to be adopted, she would probably be required to relinquish her matrimonial name; and this thought was new to her and filled her with anguish and distress too poignant; and she mentions these facts in order to show to how late a period and through how many and protracted trials she has gone for the honor of her husband, and how slowly she yielded to the conviction that her destruction had become his fixed purpose. CATHARINE N. FORREST."

Mr. O'Connor here remarked that he should claim to read Mr. Jamieson's affidavit as having been made by the introduction of this long affidavit of Mrs. F. He should bring up the point hereafter.

Mr. Van Buren—Why not now?

Mr. O'Connor—Very well; have it now.

Mr. Van Buren submitted to the Court whether under the rule adopted this would be admitted.

The Court decided that it would not, and asked, "Have you got through your reading?"

Mr. Van Buren—No, your honor; I am just about beginning.

Court—Then we will postpone the rest until next year. (Laughter.)

Mr. Van Buren hoped the Court will now hear his proposition, to view as evidence, Mr. Forrest's affidavit, referred to in that Mrs. F. just read.

Mr. O'Connor objected.

Mr. Van Buren argued the point. The reference of Mrs. Forrest, in her affidavit, to this affidavit, (hers being a reply thereto.) makes it admissible.

Mr. O'Connor said the defense had no right to put an affidavit of Mr. Forrest before this jury, at all; under any aspect that it can possibly be presented in, to this Court.

Mr. Van Buren insisted, at some length.

The Judge said that this subject would be disposed of on the next day of the session. He was entirely exhausted, and would close the business of the year at this point.

The Court adjourned until Friday morning at 10 o'clock.

THIRTEENTH DAY.

FRIDAY, JANUARY 2, 1851.

The Court opened at half-past ten o'clock; owing, probably, to the consequence of the numerous calls on the preceding day, the attendance of spectators was a great deal smaller than at the early stages of the trial. From the fresh looks of Messrs. O'Connor and Van Buren, we incurred that they had made the holiday a day of repose rather than one of feasting and hilarity.

Several ladies were in Court and took their places in a distant part of the room.

After the jury had answered to their names, the Chief Justice asked if any further argument was going to be adduced on the part of the defendant in favor of his motion, to read the *whole* of Mr. F.'s affidavit. Counsel made no answer.

Judge Oakley then said that the door had not been opened by the plaintiff's counsel for the reading of the *whole*. Some parts explanatory of the affidavit of Mrs. Forrest might be read.

Mr. Van Buren then pointed out the portions of the affidavit which he meant to read, all of them referring to the Consuelo letter, and the circumstance attending the concealing and finding of it.

Mr. O'Connor said, the course of this defence since the morning of the 31st Dec., had been a very extraordinary one. There were now in evidence three distinct proofs of adulterous commerce on the part of the plaintiff, made by the defence; Anna Flowers had proved her adultery with Captain Howard, accompanying it with all the circumstances down to the music of the bedstead; Garvin, who testified to finding Mrs. F. lying on the sofa with Willis on the top of her, and Kent who proved, if it might be thus called, equally criminal conduct, were as positive and distinct as that of Mrs. Flowers, yet they now wanted to introduce the letter of a rhapsodical person who either designedly, with a view of injuring the lady, or otherwise, had written some silly, foolish, and senseless verses, which, if misunderstood by the jury, might seriously reflect on the character of Mrs. Forrest. He (counsel) wished to sift the truth of this matter; he wanted to know—were it but for his own satisfaction, but more so for the satisfaction of the Court and Jury—whether there had been any adulterous intercourse carried on between the parties; whether, in short, Jamieson would, under oath, allege any immodest conduct on the part of Mrs. F., and for this reason he had this very morning made an offer in writing to the defendant's counsel, to issue a commission for the examination of Jamieson at St. Louis, which he took upon himself to transmit by telegraph, so that in the course of this day or to-morrow the telegraph wires would bring back the full answers of the party in question. This offer had been made in good faith, but the paper containing it had been returned to him (counsel) this morning, without a signature, thereby giving full evidence of the refusal of the defendant to comply with it.

After a lengthy argument by O'Connor he was answered by his opponent, who, in a clear and brilliant address, touched upon the various points in Mrs. F.'s affidavit, which called for an explanation by quoting sentences from the affidavit of Mrs. F. Van Buren, in announcing the suggestion "that he might put Mrs. F. on the stand to prove whatever he wanted about the Consuelo letter," answered that "if he had as much confidence in the truthfulness of Mrs. F. as the plaintiff's counsel seemed to have by putting Mr. F. on the stand, then they would also call her."

O'Connor replied, that in following up that resolve in the view stated, they would mark their want of confidence in a manner stronger than could otherwise be expressed.

After another long argument, the Judge ruled that the reading of the affidavit of Mrs. F. did not necessarily call for the reading of that of Mr. F. It was necessary to show that the subject on which the affidavit treated was material, and if so, it was considered whether it needed any explanation, or was sufficiently explanatory by itself. The proposition of defendant's counsel to read an affidavit treating on occurrences at Cincinnati, on the letters of Mr. Voorhies, on the Consuelo letter and numerous other subjects, would therefore not be entertained.

The decision created a great deal of excitement in court.

O'Connor objected to this.

The Chief Justice said it did not appear to come within the rule he had adopted as to the admissibility of the letters of Mrs. Voorhies. With respect to the Consuelo letter, as set forth in *hæc verba*, the evidence struck him as quite satisfactory that the letter was identified as the one found by Forrest in his wife's drawer, and which had been kept by her for a very considerable space of time.

O'Connor requested the Court to note his exception of this decision.

Van Buren said that having been reprehended for his bad reading he would endeavor to amend his fault.

The learned gentleman then went on to read the well-known composition called the "Consuelo Letter."

THE CONSUELO LETTER.

"And now, sweetest Consuelo, our brief dreams are over—and such a dream! Have we not known real bliss? Have we not realised what poets love to set up in an ideal state, giving full license to their imagination, scarce believing its reality?—Have we not experienced the truth that estacy is not a fiction? I have, and as I will not permit myself to doubt you, am certain you have. And oh! what an additional delight to think—not to know, that I have made some hours happy to you. Yes, and that remembrance of me may lighten the heavy time of many an hour to come. Yes, our little dream of *great account* is over; reality stares us in the face. Let us peruse its features. Look with me, and read as I do, and you will find our dream is 'not all a dream.' Can reality take from us, when she separates and exiles us from each other? Can she divide our souls, our spirits? Can slander's tongue or rumor's trumpet summon us to a parley with ourselves, where to doubt each other we should hold a council! *No! no!* a doubt of thee can no more find harbor in my brain than the open rose could cease to be the hum-bird's harbor. And as my heart and soul are in your possession, ex-

amine them, and you will find no text from which to discourse a doubt of *me*. But you have told me, (and oh! what music did your words create upon my grateful ear,) that you *would not doubt me!* With these considerations, dearest, our separation, though painful, will not be unendurable; and if a sombre hour should intrude itself upon you, banish it by knowing there is one who is whispering to himself *Consuelo*. There is another potent reason why you should be happy—that is, having been the means of another's happiness, for I *am* happy, and with you to remember, and the blissful anticipation of seeing you again, I shall remain so. I wish I could tell you my happiness. I cannot. No words have been yet invented that could convey an idea of the depth of that passion, composed of pride, admiration, awe, gratitude, veneration and love, without being earthly, that I feel for you.

"Be happy, dearest, and write to me, and tell me you are happy. Think of the time we shall meet again. Believe that I shall do my utmost to be worthy of your love; and now God bless you a thousand times my own, my heart's altar.

"I would say more, but must stow away my shreds and tinsel patches—ugh! how hideous they look after thinking of you.

"Adieu! adieu! and when thou art gone,
My joy shall be made up alone,
Of calling back with fancy's charm,
Those halcyon hours when in my arm,
Clasp'd Consuelo.

"Adieu! adieu! be thine each joy,
That earth can yield without alloy,
Shall be the earnest, constant pray'r,
Of him who on his heart shall wear,
But Consuelo.

"Adieu! adieu! when next we meet,
Will not all sadness then retreat,
And yield the conquered time to bliss,
And seal the triumph with a kiss—
Say, Consuelo."

The reading of this letter, which was performed in masterly style, caused a painful sensation in court.

Van Buren next proposed to read a letter from Forrest to his wife, dated Dec. 24, 1849, and a reply dated Dec. 24, 1849:

"I am compelled to address you, by reports and rumors that reach me from every side, and which a due respect for my own character compels me not to disregard. You cannot forget that before we parted you obtained from me a solemn pledge that I would say nothing of the guilty course, the guilt alone on your part—not on mine—which led to our separation; you cannot forget that at the same time you also pledged yourself to a like silence—a silence that I supposed you would be glad to have preserved. But I understand, from various sources, and in ways that cannot deceive me, that you have repeatedly disregarded that promise and are constantly assigning false reasons for our separation, and making statements in regard to it, intended and calculated to exonerate yourself and to throw the blame on me, and necessarily to alienate from me the respect and attachment of the friends I have left to me. Is this a fitting return for the kindness I have ever shown you? Is this your gratitude to one who, though aware of your guilt, and most deeply wronged, has endeavored to shield you from the scorn and contempt of the world? The evidence of your guilt you know is in my possession. I took that evidence from among your papers, and I have your own acknowledgment by whom it was written, and that the infamous letter was addressed to you. You know as well as I do that the cause of my leaving you was the conviction of your infidelity. I have said enough to make the object of this letter apparent. I am content that the past shall remain in silence, but I do not intend, nor will I permit, that either you or any one connected with you, shall ascribe our separation to my misconduct. I desire you, therefore, to let me know at once whether you have, by your own assertions, or by sanctioning those of others, endeavored to throw the blame of our miserable position on me. My future conduct will depend on your reply.

(Signed)

"NEW YORK, Dec. 24th, 1849."

"Once yours, EDWIN FORREST.

"I hasten to answer the letter Mr. Stevens has just left with me, with the utmost alacrity, as it affords me at least the melancholy satisfaction of correcting mis-statements, and of assuring you that the various rumors and reports which have reached you are false.

"You say that you have been told, that I am 'constantly assigning false reasons for our separation, and making statements in regard to it, intended and calculated to exonerate myself, and to throw the whole blame on you;' this I beg most distinctly to state is *utterly untrue*.

"I have, when asked the cause of our sad differences, invariably replied, that this was a matter known only to ourselves; and which would *never* be explained; and I neither acknowledge the right of the world, nor of our most intimate friends to question our conduct in this affair.

"You say 'I desire you, therefore, to let me know at once whether you have by your own assertions, or by sanctioning those of others, endeavored to throw the blame of our miserable position on me.' I most solemnly assert that I have never done so, directly or indirectly, nor has any one connected with me ever made such assertions with my knowledge, nor have I ever *permitted any one* to speak of you in my presence with censure or disrespect. I am glad you have enabled me to reply directly to yourself concerning this, as it must be evident to you that we are both in a position to be misrepresented to each other; but I cannot help adding that the tone of your letter wounds me *deeply*. A few months ago you would not have written thus; but in this neither do I blame *you*, but those who have for their own motives poisoned your mind against me—this is surely an unnecessary addition to my sufferings; but while I suffer, I feel the strong conviction that some day, perhaps one so distant that it may no longer be possible for us to meet on this earth, your own *naturally* noble and just mind will do *me* justice, and that you will believe in the affection which for twelve years has never swerved from you. I cannot, nor would I endeavor to, subscribe myself other than

(Signed)

"December 24th, 1849."

"Yours, now and ever, CATHARINE N. FORREST.

Mr. O'Connor asked if Mr. Van Buren intended to read the letter of December 29.

Mr. Van Buren said he would read it as their evidence, and on condition of having a right to read the reply of Mr. Forrest.

"SATURDAY, Dec. 29.

"In replying to the letter I received from you on Monday last, I confined myself simply to an answer to the questions you therein asked me; for inasmuch as you said you were content that the past should remain in silence, and as I was myself unwilling to revive any subject of dispute between us, I passed over the harsh and new accusations contained in your letter; but on reading and weighing it carefully, as I have done since, I fear that my silence would be construed into an implied assent to those accusations. After your repeated assurances to me prior to our separation, and to others since then, of your conviction that there had been nothing criminal on my part, I am pained that you should have been persuaded to use such language to me. You know as well as I do that there has been nothing in my conduct to justify those gross and unexpected charges; and I cannot think why you should now seem to consider a *foolish and anonymous letter* as an evidence of guilt, never before having thought so, unless you have ulterior views, and seek to found some grounds on this for a divorce. If this be your object, it could be more easily, not to say more generously, obtained. I repeatedly told you that if a divorce would make you more happy, I was willing to go out of this State with you to obtain it, and, at any future time, my promise to this effect would hold good; you said such was not your wish, and that

we needed no court of law to decide our future position. From the time you proposed our separation I used no remonstrance save to implore you to weigh the matter seriously, and be sure, before you decided, that such a step would make you happy; you said it would, and to conduce as much as lay in my power to that happiness was my only aim and employment until the day you took me from our home. Of my own desolate and prospectless future, I scarcely dared to think or speak to you, but once you said that if any one dared to cast an imputation upon me, not consistent with honor, I should call on you to defend me; that you should, therefore, now write and speak as you do, I can only impute to your yielding to the suggestions of those who, under the garb of friendship, are daring to interfere between us; but it is not in their power to know whether your happiness will be insured by endeavoring to work my utter ruin. I cannot believe it; and implore you, Edwin, for God's sake, to trust to your own better judgment; and as I am certain that your heart will tell you, I could not seek to injure you, so likewise I am sure, your future will not be brighter if you succeed in crushing me more completely, in casting disgrace upon one, who has known no higher pride than the right of calling herself your wife.

(Signed)

"CATHARINE FORREST."

"I answer your letter, dated the 29th, and received by me on the 31st ultimo, solely to preserve my silence from being misunderstood.

"Mr. Godwin has told me that the tardy reply to the most material part of mine of the 24th, was sent by his advice. I should indeed think, from its whole tone and character, that it was written under instructions. I do not desire to use harsh epithets or severe language to you; it can do no good. But you compel me to say that all the important parts of yours are utterly untrue. It is utterly untrue that the accusations I now bring against you are 'new.' It is utterly untrue that since the discovery of that infamous letter, which you so callously called 'foolish,' I have ever in any way expressed my belief of your freedom from guilt. I could not have done so, and you know that I have not done it. But I cannot carry on a correspondence of this kind. I have no desire to injure or to crush you; the fatal wrong has been done to me, and I only wish to put a final termination to a state of things which has destroyed my peace of mind, and which is wearing out my life.

[Signed]

EDWIN FORREST.

"New York, Jan. 2, 1850."

Mr. Van Buren next proposed to read letters from Mrs. Forrest in relation to the Macready difficulties.

[No. 29.]

"THURSDAY MORNING.

"MY OWN EDWIN,—I send you the last speech of the great superannuated phenomenon, delivered last night. I suppose he thinks himself safe now; but the Ides of March are not over.

"Last evening Judge Conrad came on, and brought the MSS.; he seemed most sadly disappointed at not seeing you. It seems he thought you were to be here this week. Stevens came in while he was here, and hearing the Judge say he could not stay till you came, but must go this afternoon, he (Stevens) proposed to drive us out to Fonthill this morning. The Judge, who only came to see you, and had no other business, willingly assented, and so did I; so I have sent this morning to see if we can have Wagner and the carriage. Mr. Smith called the other day, and said the horse wanted driving, and urged me to go out, but I have not been. To-day my head is very bad, (*comme a l'ordinaire* at this time) and I think the drive will do me good. But even Fonthill and all its beauty has a want, which you only can supply, by being with your own

KATE.

There was no date to the above. Mr. Van Buren said he supposed it was written in October 1848, or supposed to be so by Mr. Forrest.

[No. 30.]

"FRIDAY MORNING, NOV. 24, 1848.

"MY OWN DEAREST EDWIN,—I have this moment received your most welcome letter; it should have reached me yesterday, but being Thanksgiving Day, the Post-Office people had a holiday; and as I was impatient to hear, Stevens, who knows the man, went there this morning, and has just brought me the blessed letter and to-day's *Herald*—another of which he will send you, and from which I cut the enclosed. Macready's speech was most impertinent, and I was especially delighted at your pointing out so openly what first struck me as being so sneaking in him—his not *daring to name* you—but saying simply, 'an actor.' I was also glad that you took the trouble—for I know how you hate writing—to enter so fully into an explanation. The public required it, as your treatment in England has never been clearly understood since your return, and whatever was written about it was rather evasive; but what more than all the rest I like about your card, is its simple, bold, and *unmistakable* language. I can see it is wholly your own, and I am glad (for I feel quite assured of the fact) that you advised with no one about it. Had you spoken less boldly—and some persons might doubtless think it more politic—you would have been sorry ever after. Bless you, my own Edwin, I only hope that all this excitement, in addition to the exertion of acting, will not fatigue you too much. Peabody has this moment called to say he is off to Boston this afternoon, and returns in a week, to sail from New York for England. He has just been offered the editorship of a *temperance paper* in Boston. What would become of the Heavenly Angel? If Mac. does not reply to you he tacitly acknowledges that he has told "a wilful and unblushing falsehood."

"I want to know how he is to get out of *that*?

"I yesterday sent you a package, which the man promised should be delivered to-day. We have a sort of muggy imitation of Indian summer weather, and I have left the furnace out to-day, to the infinite relief of my head. Next week I do not expect to suffer so much, and will begin upon *The Gladiator* when the 'storm dwindles to a calm.' Write me, my own Edwin, how your engt. is—how long you play, &c. Give my regard to R. P. Smith, I am so glad to hear of him; and pray give my best love to your sisters, and tell them that I feel happy in the thought that they are taking good care of you. God bless you.

YOUR OWN KATE."

[No. 31.]

"WEDNESDAY EVENING, NOV. 22, 1848.

"MY DEAREST EDWIN,—Various are the accounts (as you may fancy) which have reached me about the doings on Monday night, but they all seem to agree on the main point—that there was a row!—and that the 'old woman' played Macbeth without being heard by the audience. So far, well enough *pour le commencement*, but I hope they are following the matter up to night, and I long to hear from you, how you *are*, first and foremost, and how you are satisfied. When I found you were to play *Metamora* last night, I readily supposed you would be too busy with rehearsal, and *other matters*, to write to me. My own Edwin, pray, take care of yourself.

"I send you the dress and shoulder drapery for the *Gladiator*, and the dress for *Rolla*, which I hope will suit you, (by Adams' express to-morrow.) Pray, let me have a line—for which I will send to the post on Sunday. I hope you will be pleased with the copy of *Metamora*. Do you want the part of *Spartacus* omitted—like that of *Metamora* in the new copy? You know you 'gave me an order' for one.

"I hope you found your sisters all well; pray, let me be affectionately remembered to them, and with regard to the Conrads. God bless you, my own Edwin.

Your own

KATE.

[No. 32.]

"WEDNESDAY EVENING.

"MY DEAREST EDWIN :—I send you the biography of the 'Eminent,' which I think *gives it to him* nicely. I hope you will get some portions of it republished, especially that about his *condescending* to play 'Hamlet,' and his impudent remark about Charles Kemble.

"I received your letter to-day, just as I had returned from seeing Fanny Whitney, whom I had engaged to spend Sunday and Monday with me; she is particularly anxious to see Fonthill, and I have promised to take her there on Sunday; the Monday engagement I of course will put off. If I hear from you that you are going to Baltimore, and come to Philadelphia on that day, I should like to stay with you till you go to Baltimore, and pack up your wardrobe, &c., so that you may have every thing comfortable.

"I do not think it would be wise to leave the house long in the hands of the Philistines; but if Mrs. B. *does up* all her praying on Sunday, I can make her promise not to leave the house till I return.

"As to the attacks upon you by the penny-a-liners, they are beneath notice, and I sent them because, having seen them myself, I feared that you would be angry if I withheld the vile trash from you.

The Judge—What date do you place that?

Mr. Van Buren—Well, we'll call it Oct. 1848.

Mr. O'Connor—Or suppose we call it the Fall of 1848.

The following letters were read by Mr. Van Buren:

"Thank you for your inquiries after my unworthy head; it troubles me a good deal, but I think I will take some of Dr. Weldon's prescription on Saturday, and so, if possible, insure my being in tolerable condition when I come to you, my own blessed Edwin.

"I will give your remembrances to Stevens, who will most likely come on with me.

"I am glad you have fair weather, as I know it helps to make you happy. I hope your cold is better, my own Edwin.

"With kind love to your sisters, ever your affectionate

KATE."

[No. 33.]

"FRIDAY EVENING, Oct. 1848.

"How sorry I am, my own Edwin, to think that you have suffered so much. I do most truly hope that you will have no return of that pain. For mercy's sake, wear that flannel when you are acting; for that cold wind in Boston is enough to kill one. I wish you were safely out of it. I wish you would take some *nux vomica*; you may remember it did you good before—two drops on a lump of sugar, once a day.

"I am really glad you are with Mrs. Mestayer, for I think she would be careful of you if you are not well. I hope, however, you will have no return of sickness, and that you will be home on Sunday week. I have not seen any one who has seen the 'superannuated,' and the papers, I see, do not mention him; but 'there's a good time coming' for him in Philadelphia.

"I have not been doing much since you were here. I am copying *Metamora*, and attending to working matters generally. On Tuesday, (according to the arrangements made on the day you took Simms out,) he and his daughter, and the Lawsons, Miss Lynch, &c., spent the evening here, and stupid enough it was—at least I thought so, or my cold made me feel so. A few days ago Willis was attacked, very much in the same way I was, with vertigo, only much more severely; he was insensible for so long, that Mrs. Willis thought he was dead. Dr. Gray has forbidden him to write or *think* about any thing. I have packed up and sealed all the tragedies, ready for sending off when you come; of course you have found nothing good among those you took. I am very glad the 'wood carving man' is here, as I think you will find him useful. Write to me, my own Edwin, and tell me when I shall see you—on Sunday morning, I hope it will be. God bless you, my own precious Edwin.

Your own

KATE."

[No. 34.]

"MONDAY MORNING.

"MY OWN DEAREST EDWIN:—I send you the enclosed scraps from the Sunday papers, not because they are worth sending, but because I think you would wish to see every thing which is said about 'the Row.' The article from the *Evening Post*, I think exceedingly good. Lawson told me yesterday that he wrote it. I requested him to get, if possible, the articles from the *London Times*, which were given to Brady, at the time of your dinner here.

"Your pantaloons came home just now, and I shall send them by Adams' Express to-morrow. I wait till then, in case I should hear from you, requesting me to send any thing else.

"I think you will have some fun out of that '*suit*,' but hope it will not come off while you are acting.

"Yesterday being a very fine day, Stevens drove Jane Knower and me out to Font Hill. She was delighted with the place, and the house; and Wagner and the carriage came back without damage.

"I hope you are well, my own blessed Edwin, and that you will *give it* to the 'superannuated.' I wish Conrad would send me a paper now and then, for I know you are too busy; but I like to hear all about you, if it is only to know what you are playing. God bless you.

Your own

KATE.

"Stevens is very kind in sending the news."

[No. 35.]

"SATURDAY, 1½ o'clock.

"MY OWN EDWIN—I have just sent to Mr. Blake all the articles I could lay my hands on. I will rummage up stairs, and if I find any thing else of consequence, will send it to you. I had the lock picked of the library drawer, and the man will give me a key to it, which I shall give you, as I thought you would not like it to be left open. Mrs. W.'s letter I have likewise sent to Blake. Give it him (Mac) now your hand's in, my own Edwin.

Your own

KATE."

[No. 36.]

"SUNDAY EVENING, Dec., 1848.

"I sent down to-day, my own Edwin, and was delighted to receive yours of 15th, and am so happy that you write in better spirits, and still more so in better health. When shall I see you home, my own precious childie? By the papers you will learn the destruction of your '*favorite establishment*,' the Park Theatre. Well, peace to its ashes. It is, to a certain extent, hallowed as being the first place where true justice was rendered to you.

"Yesterday I sent your chains to Driesbach—as he did not call for them—and he told Robert he was exceedingly obliged for the trouble I had taken, but finding some others which answered his purpose he would not keep them.

"I am glad you have driven Mac out of the field; his curtailing his engagement was certainly an acknowledgment of defeat. I shall assuredly not die happy unless he gets punished in some way for the annoyance he has caused you.

"I rather like Mr. Nules' reply to your letter; the whole correspondence reads well, and will be re-published here.

"The Sunday papers have no news—you will say they never have much.

"Write me a line, my own Edwin, and tell me when I shall see you. Oh, how I long for your engagements to be over. Kind regards to Wagner, and all the love of which your own *Kate* is capable to you, my blessed Edwin."

The reading of these notes called out frequent laughter on the part of the audience.

Counsel then offered in evidence the receipts of Mrs. F., for moneys paid to her quarterly, after the separation, up to 1850.

O'Connor (smiling)—Do you intend to put in the later ones, too?

Van Buren—Oh, no; only these. (Counsel then read the receipts, which were in the shape of an order to J. W. Pell, for \$375, or in the ordinary modes of receipts.)

Van Buren—I now offer, if the Court please, copies of Mrs. Voorhees' letters.

Judge—As contained in the affidavits?

Van Buren—Yes, sir.

Judge—Do you mean the extracts from those letters?

Van Buren—Yes, sir; they are alluded to in Mrs. F.'s affidavit, where she says, "I knew he had seen my sister's letters, and had examined them without telling me; for he had made extracts from them, which I had found in his portfolio. I told him he was most welcome to see them, and I then spoke with him, and made such explanations as seemed to be perfectly satisfactory to him."

O'Connor—This is hardly fair, if the Court please. Here we have an offer to put in evidence extracts from letters which are still in existence, the other contents of which are explanatory of such extracts. If anything at all is to be read, the letters as they are must be read.

Mr. Van Buren said that plaintiff might have kept Mrs. Voorhees here to testify; as she was now absent, the other side must content themselves with her letters, or such extracts as they thought fit.

Mr. O'Connor answered, that this was the second time that reference had been made to the absence of Mrs. Voorhees. He would only say that she had waited nine months to be a witness on this trial, and being poor and friendless, she had

then to obey the summons of her husband, who called her away to resume the protection which he owed to her. The plaintiff in this case had made the most diligent efforts to bring it to trial, but in June last, when, in opposition to their strenuous efforts, a commission was granted to examine that Texas witness, Ann Flowers, it was deemed imprudent to keep her here, to run the risk of incurring thereby the displeasure of her husband.

The Judge ruled that the letters were not admissible in any view.

Van Buren—Then I suppose that your Honor's decision rules out the originals of those letters.

O'Connor—I will see them, and I may then, perhaps, give them in evidence. Go on with something else in the meanwhile.

Van Buren—There is another of Mrs. F.'s letters, dated Dec. 23th, 1848, (No. 37.) which I wish to give in evidence.

Mr. O'Connor, after having read the note alluded to, objected to the reading of a sentence of it which, whilst it had no bearing upon the present case, might possibly draw upon the writer the animosity of a third party.

The Court concurred in his opinion, and the note was not read.

Mr. Van Buren then offered in evidence the complaint and answer in a suit instituted by Mrs. F. against her husband, for divorce, in the Supreme Court of this city.

Judge—That is the complaint and answer in this suit, is it not?

Van Buren—No, sir, it is another. We were sued for an absolute and for a limited divorce.

The precise offer was to prove the complaint and answer, in which the defendant recriminated, as in this case, and the notice from her attorneys of discontinuance of the suit against payment of costs.

Mr. O'Connor asked of what this fact could be evidence. As for the supposition that she had no means of sustaining her charges, that was done away with, by the fact that another suit had been instituted within five minutes after the discontinuance of the first. He (counsel) would simply suggest, that this proceeding might have been determined upon for the purpose of expediting the suit which it might have taken years to reach in the Supreme Court.

Mr. Van Buren referred the Court to the affidavit of Mrs. F., which alleged "that Mr. F. had made no reply to her charges of having had intercourse with several persons named, and that she took this silence for a virtual admission of his guilt, and was so advised by her counsel." The discontinuance of this suit, which according to her statement was already at the outset in her favor, could therefore not be accounted for by the mere allegation that it was done for the sake of expedition.

O'Connor—I object to the notice of discontinuance *in toto*, for it will be argued to the jury, that this is sufficient proof of our not being unable to substantiate our charges.

Judge—If the jury will listen to such argument, I really despair of ever having justice done any way.

O'Connor—Still I wish to keep irrelevant testimony out.

The Court admitted the reading of the notice.

O'Connor excepted.

The notice was then read and proved to be an ordinary one, discontinuing the suit. Dated Nov. 19, 1850.

James Lawson recalled—I hold in my hand a printed copy of an affidavit by Mrs. F.

O'Connor—Is he to have it in his hand as a sort of brief to swear by, and try to swear us down?

Van Buren—That is our object.

The Court suggested to the witness to put the book on one side.

Witness—I have perused an affidavit of Mrs. F., dated Dec. 20, 1850; the copy which I received some time ago I have marked carefully—(Objected to.)

Q. What knowledge have you of Mrs. F. imputing the separation to the Macready difficulty?

A. She never on any occasion alleged that as the cause to me.

Q. What do you know as to their agreeing about Macready?

Objected to.

By the Court—Heard you any conversations between them about him?

A. When the speech of Macready in Philadelphia reached this city, I wrote a reply—

Objected to.

Witness—I called on Mrs. F. after the article was published. Mr. Godwin was present. She asked who wrote the article in the *Post*?

Objected to. Allowed.

Witness—She said it was the best article that had been published, and asked me to go to the Sunday papers and have it republished; I went there at her request, and the editor asked me a shilling a line—

Judge—Well, and you published it?

Witness—No, sir; I refused to pay the price. (Loud laughter.) She afterwards regretted I had not paid the price; that was in April, 1849; or in the spring; it was at the time between the separation was resolved upon and the actual parting; I can fix the date only by the speech; I have never since spoken to Mrs. F. about it; (it was resolved upon to send for the paragraph to fix the date;) I once conversed with her about Forrest's hissing Macready; she did not approve of it; do not know the date; think it was soon after their return from England; cannot remember any other conversation than the one spoken of; Mrs. F. never stated to me the cause of the separation; when I visited her in Sixteenth street, I always rang the bell at the front door; came there before the parlors were finished.

The court then adjourned, Mr. Van Buren informing his opponent that he meant to rest his case after closing the testimony of this witness.

FOURTEENTH DAY.

SATURDAY, January 3d, 1852.

Judge Oakley took his seat at 10½ o'clock, the audience being less numerous than on the previous day.

Mr. Van Buren offered to call the attention of James Lawson, who was recalled to the stand, to certain portions of Mrs. F.'s affidavit, and hear his views on the subject.

Allowed.

Q. What is your knowledge about Mr. Forrest having declared his intention, and devoting money for the purpose of driving Macready from the stage?

Objected to. Ruled out.

Mr. O'Connor objected generally to this way of leading the witness. The Court said, he would rule on every question as it arose.

Q. What do you say about Mrs. Forrest saying, "I never said to Mr. James Lawson that my husband had never imputed any guilt to me, nor did I say that he exclaimed, when I asked him whether he had any fault to find with me as a wife, 'No, Catherine, no; I wish to God I had, for then I should not endure the agony that I now endure?'"

Objected to, as already answered by the witness, and ruled out.

Several more questions were put to witness in regard to the affidavit, but were ruled out.

(Paper produced.)

Witness—The signature to this paper is by Mrs. Forrest, (marked No. 33,) the body of it is in the handwriting of Mr. Forrest.

Van Buren—I now offer to read a letter from Mrs. Voorhees to Mrs. Forrest, on which we had no ruling yesterday.

O'Connor—There is a witness in this country to prove the facts alleged in the letter. I may perhaps procure that witness, and therefore cannot at present consent to the reading.

Van Buren—It remains, then, with the Court to rule upon it. The objection of the Court is overcome by the production of the *original* letter.

The Court saw no principle on which the letter was admissible. Mrs. Voorhees was still living, and might be called by either party.

Judge—A thought occurs to me that I should like to see you about, gentlemen, both of you; step this way.

Messrs. O'Connor and Van Buren stepped up to the bench, and had a consultation with the Judge, which resulted in the issuing of an order prolonging the term of this Court for a week.

Mr. Van Buren then offered to read in evidence two letters from Mrs. Voorhees to Mrs. F., for the purpose of showing the character of her correspondence, the declarations made by her, the plans suggested as to her movements, and suggestions of untruths in regard to plans of hers and Mr. Voorhees.

Judge—Were the letters received by her?

Van Buren—Yes, sir; the letter is addressed to her by mail, but it does not bear the signature of Mr. Voorhees.

Judge—This is most clearly not competent.

James Lawson cross-examined.

Q. I think you are a very good clerk?

Witness—I never said so!

Judge—Ask him if he is.

O'Connor—I put it in an interrogative form, and he understands me perfectly well.

Witness—I do not like to praise myself, but I think I am a good judge of handwriting.

Q. Can you, by looking at the paper No. 38, tell me if the date was written at the same time, and with the same pen, as the body of the letter, (the paper is dated January 18, 1849.)

A. I think it is written at the same time.

Q. See if there is not some painting in the figures?

A. I think not; the "1849" seems to have been made with a fresh dip of ink.

Q. Do you know of the use of such a word as painting among writers?

A. I do.

Q. Look particularly at the January, and see if you observe any evidence of painting?

A. I could not say there is; it is written in a firmer hand, but I see no evidence of painting. I say, it is written in a firmer hand than the body of the letter.

Q. Has it not the appearance of being written much more carefully than the body?

A. (after examining the paper.) I think it was written slower than the body, but not seemingly with more care.

Q. Do you know any thing of Mr. F.'s general habit of writing?

A. I have seen him write many a time; do not know that he is in the habit of writing closely to the top of a sheet when commencing to write.

O'Connor—Well, sir, I have done examining you about that.

Witness—I wish to correct something of my testimony.

Judge—Well, go on.

Witness—The date of the card written by Mr. Macready is November 25th, 1848.

O'Connor—I want the date of your article.

Witness—It is easily to be found in the *Evening Post*.

O'Connor—Look at the *New York Herald* of June 15th, 1850, in regard to the advertisement for Mrs. Flowers, *alias* Dempsey; did you insert that?

A. I did not; do not know who put it in; I saw it published in the *Herald*; was not present at the Irving House when she was examined; I had seen her before she was examined; saw her in her own bed-room in the Irving House; there was nobody with me; I communicated the fact of her presence by telegraph to Mr. F. before I had seen her; it was four or five days before Mr. F. saw her; I telegraphed three or four times to him before he came.

O'Connor—That may not be correct, for she says she was only five days in the city.

The *Herald* of June 15th, 1850, was given in evidence, although objected to as irrelevant.

Witness—I was at the Voorhies' party; Mr. V. went to California soon afterwards; never saw him again but once, probably last summer, when I met him in the street, but I do not think he saw me.

The date of Mrs. Flowers's stay at the Irving House was asked for by the Court, and Mr. O'Connor promised to furnish it hereafter.

(Note produced, and marked No. 39.)

Witness—This was probably written the last of May or first of June, 1849; I have not called upon witnesses, or spoken to any, since I have been on the stand.

Q. Do you know Mr. Wendell?

A. No, sir.

O. No?

A. I know a Mr. Wendell, the reporter, and his son.

O. Have you called on him since you were on the stand?

A. No, sir.

Re-examined—The speech of Forrest, before referred to, was in November, 1848; I went to the Sunday paper office on the Saturday following; had my conversation with Mrs. Forrest at about the same time.

This ended the examination.

Mr. Van Buren now offered to read letter No. 24, a note written by Mrs. F. to Mr. Lawson, in May, 1849.

(No. 24.)

"SATURDAY AFTERNOON.

"MY DEAR SIR—In our conversation this morning, which was somewhat hurried, there were some remarks made which I think require a little more explanation. You say that Mr. Forrest objected to give me the sum you proposed, lest it should go towards the support of my sister. Now you know enough of the expenses of housekeeping in New York to know that, out of two thousand dollars, after paying house-rent, there could not be much to give away; and besides that, I have not the remotest intention of making arrangements to have Margaret to live with me; and I think I explained to you the other night, that if her husband did not return, (which he may very likely do, and in which case of course we could not be together,) if he should not return, I might take her, with her child and servants, to board with me for the winter, and the six hundred dollars she would pay me, would materially assist me in housekeeping, and then leave her two or three hundred besides, for her other expenses. She has, since her marriage, always supported herself and her child, and is now under engagements for an increased number of pupils. Again, you said that Mr. Forrest said his sisters had lived on a much smaller sum. I know they did, but you must take several matters into consideration about that. First, that everything is more expensive in New York than in Philadelphia; and, secondly, that they have, during a long term of years, been accustomed to practice habits of more strict economy than I ever knew any thing about, but which, at the same time, I by no means despise, and shall strive in some measure to emulate; but I cannot hope to do so at first. Then again, they had their house rent free, and completely furnished—which, you will own, makes some difference. The mere fact of there being three of them, adds by no means to the expense of living, for they all assist in housekeeping, and thereby save much extra expenditure; they have, likewise, been in the habit of remaining in one place, and I have been accustomed to change of air and active life. I do not for a moment wish you to think that I would be understood to say I must live in the manner I have done; although throughout my life I could never tax myself with extravagance—yet I am even now suffering from the confinement of the last few weeks, and feel the necessity of air and change.

"The expenses of this house, with strict economy, amount to \$2,000 a year; the rent, certainly, is \$500, and I hope to

get a place for something less. I have put down all the items, and cannot, with any calculation, bring them to less than \$1,900, and surely \$100 may be allowed for incidental matters. I have thought about a boarding-house life, but feel that it would be a very wretched one to me, and one to which I am SURE Mr. Forrest would not willingly doom me. No one knows better than he does the horror of being surrounded constantly with strangers. Were it for a time or season, I could endure it; but to resign myself to it for life, I could not.

"The expenses of boarding, with any thing like tolerable rooms and some conveniences, would be nearly as great—to say nothing of sundries. You were one of the first to propose the sum to which you say Mr. Forrest objects; but I think he will not consider it unreasonable, when he remembers that, besides rent, I must make a considerable deduction from each quarter's payment to get the place furnished by degrees, and that out of the first quarter, (from 1st May, when I left Twenty-second street,) I have to pay three hundred dollars, which I find in counting up I am now indebted. The hundred which he gave me the other day was, I then said, already appropriated, and was the balance of my allowance due to the 1st of May—for that portion which he paid me for the February quarter I used for the house, and have not till now spent one cent for myself since last November. If I have this first quarter, it will enable me to pay my debts, without which I cannot leave town, and refit for the summer, and pay my board, (which I shall have to do every where except at Roslyn, where I shall pass some ten days with Mrs. Bryant,) until the 1st of August. As I do not wish to take a house till the summer is over, I purpose, if possible, to pass August and September in the country, at some quiet but clean and healthy place. I am sorry to have to bore you so much with my affairs, and you may conceive how sad and painful it is to be forced to make plans for my future, disconnected with all that has brightened some years of the past. Indeed, I do not feel myself equal to making any very definite plans, but I shall endeavor to do my best when I know my means. At present I am very wretched, and feel the additional care of pecuniary difficulties press heavily on me. It is the first time in my life that I have felt homeless and poor. Truly, for whatever wrongs we may commit in this world, our punishment is here.

"If I had any means of making money, I should not try or importune Forrest for it. It would require some time for me to fit myself for a profession with any prospect of success, and teaching is totally out of the question.

"Fanny goes to Roslyn to-morrow morning, (being prevented by the cold from doing so this last week,) and sets house cleaners in train. She returns on Wednesday morning, and goes for good on Thursday. As this house is let for the summer, I shall therefore have to take board for a short time here; as although Mrs. Willis has urged me strongly to go there, yet there will be more company at her house than I am at this moment prepared to go into, and she is too sick to need any extra trouble. If Mrs. Ingham has not accommodation for me at her boarding-house, I shall have to go with Virginia to the Astor House, where I suppose I can get some out-of-the-way apartments, and where I shall then have friends staying.

"I am sorry that this matter should have been left till this time, when Mr. Forrest must be so much hurried; but it is not my fault—and the reason of my writing this now is, that I fear he and I cannot discuss the matter so well as you and he can. I am most anxious to see him, but not on this subject. Please explain this to him; and leaving the matter in your hands, I remain
Yours most truly,
C. N. F.

"You yesterday said that Mr. Forrest had made some reference to the cause of our unhappy separation. That is a matter which I can never discuss with any one, and we mutually agreed not to mention. I know in some instances Mr. Forrest has said he would not speak to ANY ONE LIVING on the subject."

Mr. O'Connor then read the answer of Lawson, (No. 39,) to the letter above.

(No. 39.)

"SUNDAY MORNING.

"MY DEAR MRS. FORREST—When I wrote you a brief note, about an hour ago, by Virginia, I mentioned that yours, of last night, I had not read; it was in the hands of Forrest.

"Returning to his chamber, he called my attention to the P. S., in which you say that I mentioned in my interview of Saturday morning 'that Mr. Forrest had made some reference to the CAUSE of our unhappy separation.'

"I am sure you misunderstood. I could not have said so: for Forrest has not even hinted to me the 'unhappy cause.' But he did say, and so I said to you, that HE WAS NOT THE CAUSE—it was brought about by no act of his—that had it been, he might think very differently of the amount of alimony.

"I would not be misunderstood in any matter; but in one like this, where my deep anxiety is to keep the harmony entire that now exists, I hope that all I say, from one to the other, shall not be misconceived.

"Another point, to which Forrest has made no reference whatever, viz.: that I was the FIRST to propose \$2,000. My impression is very strong on that point, I think I did not; but when the sum was named to me, I said that the law, if resorted to, would allow as large a sum, and perhaps larger, and that no law should be resorted to in the case. I was and am anxious to bring about as large a sum as will remove all asperity on your side or his.

"Ever very truly yours,

J. L."

Judge—Well, gentlemen, what next?

Thaddeus Meighan sworn—I reside in 26th street now; in summer, 1850, I resided in 16th street; resided directly opposite to Mrs. Forrest.

Q. What occurred at that house so far as you saw?

Mr. O'Connor—What do you mean by that, if you please?

Mr. Van Buren offered to prove that in July, 1850, the witness, who was a neighbor, was woke up on several occasions by the disturbances in Mrs. Forrest's house during the night, that he saw numbers of men coming out after midnight, and that several of them were in a state of intoxication.

Objected to as irrelevant, and as even more vague than the testimony of Mr. Lester, who was an indoor witness to these scenes of dissipation, whilst this gentleman was only an outdoor witness.

After an argument from Mr. Van Buren, bearing upon the admissibility of the question, Mr. O'Connor stated he would not reply to such offers of testimony by proving the general good character of Mrs. Forrest, and therefore begged the Court to restrict the defendant to a proof of lewd or improper conduct with parties charged in the answer.

The Court ruled it as inadmissible.

The witness then left.

Mr. Van Buren now offered an exemplification of a writ of *ne exeat*, issued in this case, and the fact of Mr. Forrest being arrested and held to bail in \$10,000, and that the writ was set aside by the Supreme Court, on condition that he should not sue for false imprisonment; also the opinion of Judge Edwards at the Special Term, and Judge Edmonds of the General Term, setting aside the writ; also an injunction on Mr. Forrest to prevent his prosecuting the Pennsylvania suit, prevent his calling on his wife and taking her to Philadelphia, together with the order of the Supreme Court, setting aside that order.

O'Connor—Do you also give the opinion of the Court on that order.

Van Buren—We have no objection.

O'Connor—Taking the whole of these offers, I object to them; the injunction and order we have no objection to, but we see no relevancy in the offer of the writ of *ne exeat* and the opinion thereon, together with other portions of the offer.

Mr. Van Buren thought the writ of *ne exeat* clearly admissible. It had been shown here that Mr. Forrest was a resident of this State, it would therefore be competent to show, that he was forced to be within the limits of the State of New York, by this very writ.

The Court said the residence of Mr. Forrest was a distinct issue in this case. If he was a forced resident of this State at any time of the pending of this case, it was competent to prove that, in order that no unfavorable impression might be had against him from that fact.

Van Buren—I then begin with the writ. It is dated September 2d, 1850.

[It is worded in the usual manner, calling upon the Sheriff to bring Edwin Forrest before the Supreme Court, and hold him to bail in \$10,000, that he might not leave the State.]

O'Connor—Read the order now which dissolves the first.

The order was then read. It dissolved the order made by the writ of *ne exeat*, and restrained Mr. Forrest from suing Mrs. Forrest or the sheriff for false imprisonment.

The injunction, restraining Edwin Forrest from prosecuting his suit for divorce in Pennsylvania, was then read; also restraining him from selling his real estate; from calling at the domicile of his wife and from carrying her or causing her to be carried into any other State. (It is dated September 2, 1850.)

A subsequent order of the Supreme Court dissolving parts of the above order, was also read in evidence.

Van Buren—Now, I should like to give in evidence the number of motions which have been made in this case; I think a fair average is one per day.

O'Connor—If you include the motions made by your client, I will agree upon five hundred a day. [Laughter.]

Van Buren—What do you agree to then?

O'Connor—To five hundred per day [renewed laughter] up to the 5th July, 1851.

Van Buren—Very well; now I want to prove the existence of an order issuing a commission to examine Anna Flowers at New Orleans, dated 2d June, 1851.

O'Connor—Read it.

Mr. Van Buren then read the order authorizing three counsel at New Orleans to take the testimony of Anna Flowers, orally and on oath, on the part of the defendant in the usual form prescribed by the statute in that behalf.

The affidavit of Mr. Forrest, in support of the application for this commission and stay of proceedings until such commission be executed, was then read, setting forth that he had fully and fairly stated his defense to Van Buren and Robinson, his attorneys, and that he was informed by them and fully believed, that Anna Flowers, by whom he meant to prove a distinct act of adultery on the part of his wife with one William H. Howard, was a material witness for his defense. It is dated May 25, 1851.

Mr. Van Buren then asked if it was necessary to offer some testimony in regard to the character of the house in Mercer street, to which Anna Flowers was taken. If there was any suggestion on the part of plaintiff, that the house was an infamous one, he (counsel) who had the pleasure of living in that street (loud laughter), would show the contrary.

O'Connor—We merely wish to show, and shall at least attempt to do so, that the whole occurrence in Mercer street was a most disreputable affair. I do not know that the number of the house is at all material.

No testimony to the effect stated was offered.

Mr. Van Buren then read an extract of an affidavit of Mrs. Forrest, dated September 2, 1850, which stated, "that the letter received by her on the 24th December, 1849, was the first intimation which she had that the said Edwin Forrest suspected or had cause to suspect her purity."

Counsel then offered to read a part of another affidavit of Mrs. Forrest, explanatory to the above.

Mr. O'Connor wished to read it himself, as Mr. Van Buren had read former portions in so bad a style. (Laughter.)

Mr. Van Buren insisted upon reading it now and did so.

The affidavit has been before referred to.

The offer of Mr. Van Buren to read parts of Mrs. Forrest's affidavit been objected to by Mr. O'Connor, the Court ruled them out as had been previously done, unless counsel would again read his whole affidavit. The passages read from Mrs. Forrest's affidavit were moreover quite intelligible and their truth would not be controverted by reading Mr. Forrest's version of any occurrences with a view of contradicting her.

Mr. Van Buren then read No. 38, the exhibit proved by Mr. Lawson.

(No. 38.)

"With the sincere and awful conviction that I now stand in the presence of Almighty God, I call him to witness and record the truth of what I now utter, and also that I utter it without mental reservation. I have never been unfaithful to the marriage bed: I have never at any time permitted any man whatever to take a liberty with me, that might not be warrantable in the conduct of the purest wife: that no man whatever has for a moment caused me to falter in my fidelity to my lawful husband: that the solemn vows of duty and affection and obedience to him have with the best of my ability been faithfully observed; I have never permitted the caress or caresses, the embrace or embraces of any other man than my lawful husband.

"I call God to witness and attest that no man has ever by word or action, with the least assent or connivance on my part, proposed, offered, or accomplished any thing that might not have been said and done in the presence of my lawful husband. I never have, by intent of word or action, given any man cause to suppose that I could fail in my allegiance to my husband, or that my love for my husband had in any degree diminished.

"All this, in the presence of Almighty God, I swear; and if it be not true, may peace, comfort and happiness forsake me in this life, and forsake my soul forever in the life to come.

CATHARINE N. FORREST.

"JANUARY, 1849."

Mr. O'Connor—(taking the paper)—I call the attention of the jury—

Van Buren—That's right, sum it up.

O'Connor—Yes, I have a right to say something, and will call the attention of the jury to the writing of the date and month, to which I called the attention of Mr. Lawson.

(The jury inspect the paper.)

Van Buren—*We rest our case now.*

Charles A. Lee sworn for plaintiff.

O'Connor—I wish to give in evidence merely to fix a date, the commitment on which Anna Flowers was sent to the House of Refuge, 2d October, 1838.

Van Buren—We object to it on this ground, and on any evidence to this subject, on the ground that it was an irrelevant inquiry of Anna Dempsey, and she having given her statement of it, they must abide by it.

O'Connor—I am not going to contradict her.

Van Buren—Well, then, I object all the stronger, for you cannot then advert to any specific acts of the witness to be impeached, but must question in regard to her general character.

Mr. O'Connor thought it was perfectly relevant and proper to show her real age at the time of her coming to House of Refuge; to show also, that she was utterly unchaste at that time; to show thereby the moral impossibility of her behavior, as described by her, when she found Mrs. Forrest in the arms of Captain Howard, that he might argue therefrom the entire untruth of her whole story. The Court would remember that Anna Flowers testified that she had an illegitimate child, that Captain Howard was the father of her child, and that Mrs. Forrest was the cause of her seduction. Thus, an enormous part of wickedness was spread out against Mrs. Forrest, which, if unexplained, might tell terribly against her with the jury.

Judge—What do you mean to prove by this witness?

O'Connor—I mean to assail her general character and prove her age.

Judge—You may prove her age, but as to character that has to be considered.

Van Buren—We object to the proof as regards the age, but as to character, they may go into that if they restrict themselves to or about the time when she testified.

The Court allowed the proof in regard to age.

Mr. O'Connor then stated that the commitment was dated October 2, 1838, and signed by James Palmer and Robert Taylor, police magistrates.

Examination continued—I am a physician; I live at Peekskill; am now engaged as a teacher in medicine in medical institutions; I formerly resided in this city, in Hudson street.

Q. Had you while there residing a servant named Anna Dempsey in your employ?

A. I had; I know her mother, Mrs. Dempsey; that was in 1838.

Q. Did you at that time become acquainted with the general character of Anna?

Objected to as too remote.

The Judge said it had never been decided that bad or good character might be shown to exist within a certain period only. There was no limit to such inquiry; the jury were to judge of the weight that the testimony bearing upon character at a very remote period was established.

Witness—She was in my family only about ten days; I knew nothing of her character when I employed her, or I would not have done so; after she had stolen—

Court—That won't do, Doctor, tell me her age at that time?

Witness—She was about fourteen or fifteen, as she stated to me; her character, upon inquiry, proved to be bad.

Q. From the degree of acquaintance which you formed of her character, would you confide in her statements under oath?

Objected to. Allowed.

Witness—Unless her character had changed materially, I would not believe her under oath; I have not seen her since.

Q. Where did she go to from your house?

A. I took her to the upper police office.

Q. How many servants had you at that time?

Objected to.

Mr. O'Connor stated he wished to contradict Anna Flowers; she testified that she was as innocent of the stealing as of the seduction, and that a servant in the house had stolen the watch and then handed it to her; he now offered to prove that Anna Flowers stole money from Dr. Lee at several times; that she stole five half eagles from a fellow-servant, that she entered the house of a neighbor, Dr. Forbes, by the scuttle and stole articles there; that there was no servant named Martha with Dr. Lee at that time, and that there was a full-grown servant, named Bridget, who was not accused of stealing the watch, nor did she go away or was sent away in consequence of that theft; that, in short, Anna's whole story as to the watch and money being stolen by a servant named Martha, and handed to her, was untrue in every particular.

Ruled out.

No cross-examination.

William C. Foster, sworn—I reside in Rochester; am engaged in the forwarding business; I have seen Edwin Forrest; I knew Miss Josephine Clifton by sight.

O'Connor—Did you at any time see Mr. F. in company with Miss Josephine Clifton?

Van Buren—What is the object of this question?

O'Connor—To show an unbecoming familiarity between the two, tending to establish our case.

Van Buren—We suppose this case ought not to be reopened by the plaintiff, and this may be the proper time to determine that question. (Counsel then went on arguing against the admission of the testimony.)

Mr. O'Connor supposed that it ought to be the wish of Mr. Forrest to have this carefully and fairly tried. What was his object in making a defence of this kind? Why, it was to render his wife infamous, to hold her up to disgrace, but still keep her as his lawful wife, in which he would succeed, if the jury believed the testimony for defence. Mr. Forrest had, on a previous occasion, himself sued for a divorce. Why now interpose obstacles which would bring about that result? Was it not fair to both parties that the guilt of Mr. Forrest should be fully inquired into, so that in case the jury placed no confidence in the recriminations by the defence, they might come to a proper conclusion, and give such a verdict, which would put an end to these controversies?

Mr. Van Buren again and strongly argued against the admissibility of the testimony.

The Court said it was discretionary with him whether the case should be reopened. Judges were more or less strict; his own course had been not to reopen causes but in few instances, and in so doing he had mainly looked upon the question whether the reopening of the case might subject the defendant to severe hardship. In this case, the application to close the testimony for plaintiff, after hearing the witness, Allen, had been denied by the Court, and the defendant's counsel had thought that testimony so insignificant, and so signally a failure, that he had not even cross-examined the witness. Mr. Forrest might, therefore, be supposed to be in as favorable a position for refuting the charges as he then was, and the Court could, therefore, not see why the truth, if such would be obtained, should not be established. (The Judge then went on commenting upon the various issues in the case.) If Mrs. F. had brought no testimony at all to offer in support of her charges, Mr. Forrest might have gone on proving the truth of his charges against her, and might have obtained a decree of divorce, if the jury found her guilty of adultery. It would, therefore, be manifestly unjust to Mrs. F. to refuse the reopening of the court; suppose both were found innocent of the charges brought, they would go out of court as they came in, and as their object was a permanent separation by divorce, the interposing of a technical rule ought not to be countenanced by the court, as it might prevent the due exercise of justice to both parties. The testimony, therefore, was allowed.

Witness—I saw Mr. F. and Miss Clifton together in 1842; saw them at Albany; saw them together in two places there; once at the theater.

Q. In what other house?

A. At the Eagle Tavern; I was stopping there at the time.

Q. Go on, and state the particulars of what you saw.

A. It was in November or December, 1846; I was stopping at the Eagle Tavern; in the morning, before breakfast, I saw Mr. F. coming out of a room on the opposite side of the hall, where my room was; he stepped forward, a step or two, to a room on the north side of the room which he came out of; it was an adjoining room; a person stepped to the door of the room he came out of, and gave a signal; I mean the person came to the inside of the door; that stopped F.'s course, and he stepped back to the door; he stood and talked to the person within the room, and while in that position I closed my door and started to go down stairs; when I got to the head of the stairs, and turned to go down, that brought them in front of me again; the door was then closed, and he was passing to the other room; that is all I saw of the matter.

Q. Did you get sight of the person in the room who gave that signal?

A. I saw the face.

Q. What face was that?

A. I supposed it to be Miss Clifton.

Q. Why did you suppose so?

A. I believed it to be her face.

Q. In what condition as to dress was Mr. F. at the time you saw him then?

A. In an undress, with a cloak over his shoulders. (Laughter.)

Q. Explain what you mean by undress.

A. He had nothing on but his linen and the cloak. (Great laughter.)

Cross-examined—This occurred between seven and eight o'clock in the morning; it was in the year 1842; cannot give you the day of the month; it was November or December; all I saw occupied but half a moment; the signal of which I spoke was a sort of call; heard nothing but a sound; no one but me was in the entry; I had seen them play the night before; I was not in the room when I saw Miss Clifton; cannot say if it was a sitting or bed-room; I came here on the 1st instant, as a witness in this case; left Albany on the 1st; a man named Strong, at Albany, subpoenaed me now; in reading the report of this trial, I communicated what I could prove; I was in Albany on my own business; had no expectation of being subpoenaed, or of being a witness, until I was actually subpoenaed.

Q. You are somewhat surprised now that you are here, are you not?

A. Yes, sir.

Van Buren—Well, so am I! (Loud laughter.)

Judge—It is the time of adjournment now.

O'Connor—I would again request your honor to call the attention of the audience to the fact that we are not here in a

theater. It appears to me, and it must have struck you so, likewise, that whenever a witness on our part is introduced, an audience is prepared for him. I claim a fair trial for my client. We ask no favors, but strict justice, and these demonstrations on the part of the audience might have some influence.

The Court hoped that such was not the case, and requested the audience to abstain from any marks of approbation or disapprobation.

The proceedings were then adjourned until Monday.

FIFTEENTH DAY.

MONDAY, January 5.

Owing to the commencement of the Supreme Court term, the room of the Oyer and Terminer had to be vacated by the officers of the Supreme Court, and the audience, jury, and witnesses were requested to go to the adjoining room, above the Law Library.

Mr. Foster, the witness who was examined on Saturday, was called by Mr. Van Buren, but did not answer.

The Judge informed the counsel that Mr. Foster had mentioned his intention of leaving town directly for his home at Rochester.

Mr. O'Connor said that if the defendant would give him a memorandum, offering to pay the travelling expenses of Mr. Foster, he (counsel) would give almost a certain promise of his attendance here before the close of the trial.

Judge—Well, gentlemen, you will agree about that; now let us go on.

Mr. O'Connor—I now offer to read the deposition taken by us of Dr. John Hawks and his wife Laura, which we took, subject to the objection of the defendant, as provided for by the statute.

Mr. Van Buren objected, stating several technical points to sustain his argument, and referring to various authorities.

Mr. O'Connor said that there had been a mere vague objection raised by the defendant's counsel at the time of the taking of the deposition, without pointing out the details of it. Counsel had also cross-examined the witnesses at very great length, and in other respects his testimony had been taken on the strict letter of the order and in compliance with the rules laid down for such proceedings. Counsel would remark that Dr. Hawks, at the time of the testimony, was on the road to the house of his father, and although he and his lady were still living, yet their health was such as to almost preclude the possibility of his coming here; yet if the Court deemed it necessary, he (counsel) would send a carriage.

The Court suggested that some testimony as to the state of their health would be required.

O'Connor—Judge Paine will probably be able to elucidate your Honor on that subject. The examination was taken on the 31st of December and 1st of January, before his Honor, and he can speak as to their health.

Judge Paine was then sent for to give his testimony in regard to this matter.

Mr. Van Buren stated that Dr. Hawks had certainly appeared rather infirm, and his lady had complained of dyspepsia, yet they had stated their intention of proceeding to Rochester the next day.

O'Connor—They have not gone, sir; and if you prefer it I will send for them.

Mr. Van Buren still insisted upon the inadmissibility of the opposition, the affidavit on which the order was read, not having been in compliance with the statute.

Judge Paine here came into court.

Chief Justice Oakley overruled the objection so far as the question of sickness or infirmity of the witnesses was concerned, but the objection in regard to the omission in the affidavit of the words that the testimony of Dr. Hawks and his lady was deemed "necessary," struck him with some force. A great many cases might arise when the testimony was material, yet not "necessary," and the letter of the statute ought to be complied with before the order was granted. The objection on the part of the defendant, therefore, precluded the admissibility of the testimony.

The Court then ordered that the order for taking the deposition of Dr. Hawks, and Laura his wife, be amended and granted.

O'Connor—Mr. Clerk, will you now call Caroline Ingersoll, otherwise called Irving.

The name was called, but no answer returned.

Mr. O'Connor read the service of the affidavit, made between 10 and 11 o'clock this day.

Attachment granted.

James A. Satterlee sworn—I am engaged at the Irving House; was there in January, 1850, as bookkeeper; I have my books in Court with me.

Q. Was Anna Flowers a boarder at your house in January, 1850?

A. Yes, sir; she arrived on the 10th of June, and left on the 15th of June, 1850; she left in the afternoon.

Cross-examined—She left between dinner and tea; Mrs. Forrest stays now at the Irving House; do not know when she came; do not know the lady's name who is staying with her; I presume I heard the name; could tell if I had my book here.

Witness was required to bring the book.

Van Buren—Mr. O'Connor, do you admit the fact of a lady staying with your client?

O'Connor—No, sir; you might attempt to prove a case of *crim. con.* between them (laughter)—and so you may go on.

Witness—Do not know of any one else staying with Mrs. F.

Robert Freeman sworn—I reside in this city; am a tailor; do business at No. 237 Broadway, corner of Park Place; I know Mr. Wendell, the gentleman now present in Court.

Q. Were you, some years ago, on board a North River steamer, where Mr. Wendell was also a passenger?

A. I think I do, but rather indistinctly; it is impressed on my mind that he was in company with me; it may be from six to ten years ago; we went up in a night boat.

Q. Was your attention drawn to a gentleman and lady on board that boat?

A. It was; I did not know them personally.

Q. Were you informed by any one who they were?

Objected to, and asked what Mr. O'C. meant to prove.

O'Connor—I mean to prove that Mr. Forrest and Miss Clifton went up the North River one evening, about six years ago, and were together in the same state-room, for their occupation during the evening, was to impress others with a belief that they were man and wife. This witness did not know them, but I shall call another to prove their identity.

Mr. Van Buren said, that as they now had got into a new court-room, and into a new year, there seemed to be a disposition to spin out this trial for an indefinite period. He (counsel) would therefore raise an additional point, namely, that the testimony of this witness was altogether too vague, and too unlimited as to time. It would also be unjust to admit testimony which, by the death of Miss Clifton, could not be controverted. The admission of the testimony was entirely discretionary with the Court, and counsel therefore trusted that the matter would meet with proper attention.

The Court thought that Mr. Forrest might be placed in a very embarrassing position by the admission of the testimony, but that fact did not in any way affect the admission of it, as he was in the same position only as other parties who were unable to explain a particular transaction. The jury would, however, look with more care and caution upon the testimony.

Question repeated.

A. I believe I was informed who the persons were; I think Mr. Wendell called my attention to them.

Q. What did you notice in their conduct that evening?

A. Nothing peculiar ; the lady was shown into a state-room of the steamboat ; Mr. F. was afterwards pointed out to me, and in 15 or 20 minutes he also went into the room where the lady was ; do not know who showed her into the state-room ; I believe she went into the room.

Q. Did he leave the door open or close it after him ?

Objected to. Ruled out.

Q. What was the condition of the door ?

A. I believe it was closed ; the state-room was on the side of the boat on the upper deck ; there was no saloon ; think it was the steamboat Swallow ; the state-rooms were occupied as sleeping apartments ; they all have beds in them ; they are also used as sitting rooms ; have seen Mr. F. often since that ; could not swear that the man whom I saw go into the state-room was Mr. F. ; had seen him before.

Mr. O'Connor said he would call the witness back when he had examined Mr. Wendell.

Cross-examination postponed till then.

Cornelius Wendell, sworn—Reside at Williamsburgh ; I am a printer ; formerly resided in Albany ; I know Mr. Freeman ; I know Edwin Forrest ; have known him for 25 or 30 years ; I knew Miss Josephine Clifton in her lifetime.

Q. Have you any recollection of having seen her and Mr. F. on board a steamboat on the North River ?

A. Yes, sir ; cannot say the time ; it is 7 or 8 years ago ; we went in a night boat going up ; saw them side by side walking in the saloon ; saw them first on the lower deck and then on the upper deck ; saw them promenading by state-room doors ; did not see them go into a state room ; do not recollect mentioning who they were to any one.

Q. If you did state to any one that those persons were Mr. F. and Miss Clifton, was the statement correct ?

Objected to.

A. Do not remember if Mr. F. was on board.

Former question repeated, and again objected to.

The Court over-ruled the question.

Q. Did you at any time within the last ten years state to any person that two individuals present were Mr. F. and Miss Clifton, when it was not the fact ?

Judge—It seems to me too loose, sir.

Cross-examined—I have stated what I knew since I have been subpoenaed to Mr. Andrew Stevens, Thomas Seaman, Cornelius Bogardus, and one or two more who asked me questions ; do not know Mrs. F. ; know her counsel ; stated to Mr. O'Connor what I would testify to, on Friday last at his office in Dey street ; did not go there of my own accord ; was asked by a Mr. Martin to go there ; he is a lawyer I believe. (Witness pointed out the gentleman.)

Re-examined—Mr. Martin served me with a subpoena.

Caroline Ingersoll, sworn (excitement in court)—I reside at No. 4 Murray street, in this city ; have resided four or five years in this city ; when I first came to New York I resided at No. 355 Greenwich street ; am not certain of the number ; I lived for about 18 months in that house ; moved in there in the fall ; it was in September ; left the house on the first of May—the second May after I came to it ; from there I moved into another house, 628 Houston street ; think I lived three years and a half in that house ; left it on the 1st May last ; I think I was only two years residing there ; I know Mr. Forrest ; have known him since I lived in Greenwich street.

Mr. Van Buren—How far is this case to be opened ?

Judge—Broadly and unlimitedly. (Laughter.)

Witness—He has been in my house in Greenwich street ; he was there more than once ; cannot say when he first called there ; cannot say how often he called ; he used to come alone.

Q. Whom did he come to see ?

A. He came and engaged a room.

Q. For a long or short time ?

A. He did not specify the time ; do not know for how long he kept the room engaged ; he would be three or four hours in the room ; I never to my recollection saw him go into or leave it, but I judge about that time ; he engaged the room from me more than once

Q. About how often did he engage the room ?

A. I do not remember ; it was not frequent.

Q. Can you give any idea of the number of times he was in your house in Greenwich street ?

A. I should think three or four times ; the room was a second story front room.

Q. How was it furnished ?

A. As a sleeping apartment.

Q. Did he state what he wanted the room for ?

A. No, sir, not at any time.

Q. Did you ever see him in the room ?

A. I told you—I did not, sir ; never saw any other person go into that room or come out of it ; it was in the daytime when he took the room from me.

To the Court—Never saw him at any other part of my house but my parlor ; the parlor was in the front room of the first story.

To O'Connor—I received him in the parlor and left him there ; I would either leave by the folding doors or the door leading to the hall ; when I thus left him, I left him alone ; do not know if the engagement was then made to go up immediately to the upper room, or come again at another time ; never sent any body to meet him in the parlor ; he came in the morning generally, and when I was about my household duties, I asked him to excuse me.

Q.—How much was the charge for the use of the room on these occasions ?

A.—I cannot remember.

Q.—What kind of a room did he ask for ?

A.—He simply asked for a room, and told me who recommended him ; there was a small parlor attached to the room, but do not know if he used it ; do not remember who recommended him.

Q.—Did you hear him go into the room ?

A.—I think I did ; afterwards heard him leave it—sometimes ; think I heard him come down stairs and up stairs.

Q.—Did you hear any body else go up ?

A.—No, sir, I did not.

Q.—Was Mr. F., who lived at that time—

Van Buren—Ask two leading questions at once, if you please.

O'Connor.—I shall break my heart with your wit yet. (Laughter.)

Witness—Mr. F. was not acquainted with any one living at my house then ; do not remember of ever going on the same day into the room after he left it ; I had upper rooms to let—four—four chambers I mean ; do not call the parlors anything, for they adjoin the chambers ; the parlors are very small over the hall door ; all the chambers are provided with a bed, or they could not be chambers ; (laughter) I let the chambers out by the quarter, month, day, week, or hour—just as long as a person chose to occupy and pay for them.

Q.—Did you occasionally let them in the evening for an hour ? (Laughter.)

A.—Have done so, but not for any specified time.

Q.—Always to gentlemen, or also to ladies ?

A.—Sometimes to both.

Q.—Was it usual for a gentleman and a lady to come to your house and occupy one of the rooms for an hour, less or more ?

Objected to.

Witness.—Are you ready to hear my answer, sir ?

O'Connor.—Not until the Court determines if we may ask it.

The Judge thought the object of this proof was probably to show it to be a house of assignation, and was therefore competent, as it had been shown that Mr. F. had frequented the house.

Question repeated.

A.—I decline answering the question. (Great laughter.)

Q.—Did you or not move into the house in Houston street on the 1st of May, 1848?

A.—Cannot tell you without referring to my book, and then I will let you know correctly; it may appear as a great piece of stupidity in me, but really I cannot remember.

O'Connor.—Oh, one may forget that.

Witness.—I have forgotten it.

Mr. O'Connor now insisted that the previous question be answered, contending that he had a perfect right to the reply, as the matter was relevant to the issue, and the witness, therefore, was not privileged to refuse on the ground of degradation to herself.

Judge.—Why do you decline answering?

Witness.—I have my reasons; they are important to myself alone.

Judge.—But that cannot be permitted; the reasons must be sufficient in law to shelter you.

Witness.—Well, yes, there has been times when ladies and gentlemen together occupied rooms in my house for a short time in the evening. (Much sensation.)

Q.—Were not the chambers generally used for the purpose of a lady and gentleman-meeting therein?

A.—(Decidedly.) No, sir; they were generally used by boarders, people boarding with me; my boarders were both gentlemen and ladies; do not remember the names of any of the gentlemen; they were generally transient boarders.

Q.—What do you mean by transient?

A.—Persons who come from other cities, staying from a day to a week, or longer; some of my lady boarders were permanent; two or three months at a time, and one or two longer; I have had three lady boarders on an average; sometimes but one.

Q.—Were they living with husbands, or alone?

A.—I decline answering; (laughter) I think it would be difficult for me to say if they were husbands.

Q.—Was it usual for your lady boarders of the permanent class to occupy the same chamber?

A.—Generally, sir.

O'Connor.—You have not heard me out—with your transient gentlemen boarders? (Laughter.)

Witness.—I do not understand you.

Question repeated.

Witness.—Was it usual?

O'Connor.—Yes.

Witness.—No, sir.

O'Connor.—Did it occasionally happen?

Witness.—Is it necessary for this case, to ask the questions? (Excitement in the audience.) I meant to say that if transient ladies and gentlemen came to my house, they occupied the chambers as man and wife; I have had ladies with me who kept company with gentlemen, but do not know if they were husband and wife.

Q.—Some of these ladies who lived with you, did they occupy an apartment with different men—more than one?

Witness.—Are you waiting my answer, sir?

O'Connor.—Yes, madam.

Witness.—I decline answering.

O'Connor.—Well, I should like to have the answer.

Judge.—I have no doubt the witness must answer, unless it subjects her to a criminal prosecution, however embarrassing it may be for the witness.

Witness.—I am alone here, and therefore appeal to the Court to protect me in this case. I suppose the question has nothing to do with this trial.

O'Connor.—I would willingly spare you, but I must show what Mr. Forrest did there, or may be inferred to have done.

Mr. Van Buren thought that if witness believed her answer might *tend* or form a link to a prosecution, she was excused.

Question repeated.

Witness.—I cannot remember.

Q.—By what name or designation was Mr. F. known in your house in Greenwich street?

A.—He came there alone, and saw no one but myself.

Q.—Do you mean to swear that he saw no one but yourself?

A.—I meant the servants in the house; he came two or three times before I knew him; he did not tell me his name, but I suppose he thought I knew it, as everybody knows him: (laughter) a person in my service attended to letting persons in at the door: I went to the door often myself; sometimes an Irish girl; do not know her last name; her first name was Ellen; do not know where she is now; after Mr. F. came there the first time, no one attended the door for him; he walked into the parlor by himself; there was a lady living with me who was a relative of mine; her name was Calista Russell; they often called her Sarah; she was also called Josephine; do not know where she lives now;—I think in Laurens street; her husband is lying a corpse now; had a servant named Rachel living with me then; she is cook, and knows nothing of the house; her name is Rachel Kinseln; Mr. F. called at my house in Houston street; also in the same way as before named; he did not continue calling all the time I lived there; carried on the same kind of house in Houston street; he always occupied the same room in Greenwich street; he went in and out as if it was his own; I mean by that, that no one waited on him; he took the room in the same location in the house in Houston street; I had two more rooms in Houston street; no servant in the house knew Mr. F.; never heard them speak of him; heard him come down stairs occasionally in Houston street; never knew him to stay a whole night; he came very rarely to Houston street; by very rarely, I mean once or twice a month when he was in the city; he usually came in the day-time; I never *saw* any one with him; never heard any one with him; never saw him together with any one else in my house in Houston street; it may seem very strange to you, but—

O'Connor.—No, madam, I will ask you a question that may account for it.

Q. Did you make it a practice of hearing and seeing as little as you could?

Objected to. Question modified.

Witness.—I did not usually endeavor to hear and see all I could; it is not my character and disposition.

Q. Do you know any use or purpose for which Mr. F. used those rooms?

A. I could not, without seeing.

O'Connor.—Well, you might have an idea, whether he was constructing a machine, or something. (Laughter.)

Witness.—I never saw him do any thing; do not know of any business he had in the room.

Q. Did he ever pay you any money for the use of the room?

A. He has; do not know how often; do not think he paid me each time; left it to his own memory; kept no account against him; I kept a boarding-house, and did nothing else.

Cross-examined.—Never saw Mrs. Forrest until now; never was spoken with by any one in her behalf; do not know Messrs. Willis, Wykoff, or Capt. Calcraft; no representations have been made to me by either of them, or I should not be sitting here.

Re-examined.—I came here from Philadelphia.

Mr. O'Connor said he wished the witness to attend again, and as she gave the promise, she was discharged from the attachment. She was then ordered to bring up her papers to fix the date.

After a short recess, the Chief Justice said that the court room was too much crowded; it had been stated that there

was danger of the ceiling giving way, and he, the Judge, had therefore given orders that only professional gentlemen be admitted.

Thomas S. Hamblin was called, but did not answer. Proof of service of subpoena was given and attachment granted. Service of subpoena on Dr. John Hawks and Laura Hawks, his wife, was read, and attachment asked for. Granted.

Theodore Sedgwick, recalled.—In 1849 I was counsel for Mr. F., and had been so before.

Q. Had you an interview with the counsel of Mrs. F., in reference to a contemplated application for divorce by Mr. F. in another State?

Mr. Van Buren asked the object of the inquiry.

Mr. O'Connor wished to verify a portion of Mrs. F.'s affidavit, stating in the main, "that she had offered to make no opposition to an application to a divorce, if her virtue was not impeached, &c. &c."

Mr. Van Buren allowed the inquiry.

Witness—I wish to answer that I was employed in this matter by Mr. F., and was anxious for it to be settled. I therefore made propositions on the basis of an allowance and divorce, and we came to a point which I thought would settle it. At that time the matter went into the hands of Mr. O'Connor, and as I acted as counsel I should wish to answer as little as possible.

As counsel made no objections, the witness was told to answer.

A. I had; it took place at my house in Irving Place; it was in the morning, I think; Mr. O'Connor, and Mr. Randall, of Philadelphia, were present; cannot state the time it took place, except that it was the winter of 1849 to 1850; Mr. Randall came on here for a short time only, and solely for this business; saw him once at the Astor House.

Mr. O'Connor then read a portion of the statement from Mrs. Forrest's affidavit.

O'Connor—Now, sir, is that correct or not?

Witness—I think you took that ground; had no correspondence about the case before that interview.

Q. Was it not our ultimatum not to impeach the chastity of Mrs. F.?

A. I cannot recollect it, but you took that ground from the beginning, and adhered to it throughout.

Q. Did you or Mr. Randall propose that the charges would be gently made?

A. I really do not remember.

The witness was requested to stand aside for a moment until further papers were procured from Mr. O'Connor's office.

Robert Lochead, sworn.—I am a policeman at present; am stationed in the Fifth Ward; I know Mr. F. by sight.

Q. Did you know the house occupied by Caroline Ingersoll, when she kept it?

A. I know the house which she was reported to occupy, but do not know the lady herself; have never been in the house.

Q. Have you seen Mr. F. go into it?

A. Saw him go up the stoop once, and on another occasion saw him go in.

Q. Did you see him go there on any other occasion?

A. No, sir, not that I recollect; did not see him come out; I was not a policeman then.

Q. What was that house commonly known and reported to be at that time?

Objected to—withdrawn.

Theodore Sedgwick, recalled.—(Notes produced,) these are my notes, one private, the other professional. (The notes were then read, dated January, 27, 1850, calling upon Mr. O'Connor, to have an interview with them in regard to the contemplated divorce.)

Witness—Have no doubt the interview was on a Monday; I recollect you made a proposition; that we were to pay an agent of Mrs. F., who was to watch the proceedings at Harrisburg, to see that the stipulation not to impeach the chastity of Mrs. F. was respected.

Q. Do you remember sending the petition to me without the word "criminal" in?

A. No, sir; my impression is—

O'Connor—Do not give me your impression.

Witness—I recollect communications between you and me afterwards.

Copy of a letter presented.

Witness—I recollect your sending me the original of this letter; (the first note is dated Feb. 15, 1850.) I never saw Mrs. F. in regard to the matter.

Mr. O'Connor then read the letter of his to the witness, as follows:—

"FRIDAY, Feb. 15--10 o'clock.

"MY DEAR SIR—Mr. Bryant has made an appointment with Mrs. Forrest, to be at my office to-day, at 3 o'clock. I have this moment been apprised of it, and I am desired by Mr. B. and Mrs. F. to request you to meet us at that time and place.

Yours, truly,

THEODORE SEDGWICK."

"THEODORE SEDGWICK, Esq.:

"NEW YORK, Feb. 16, 1850.

"My Dear Sir—I have seen Mrs. Forrest. She is perfectly willing to suffer any personal deprivation which may conduce to her husband's happiness: provided she is not required to acquiesce in a criminal imputation. By this is meant any charge that she has failed in purity as a wife, in deed, word, or thought. Neither directly nor indirectly will she acquiesce in such an imputation.

"Should she accept any settlement, however large, and promise not to oppose an application for a divorce, founded on such an imputation, she would virtually confess the guilt alleged. She, therefore, declines the request communicated through you to-day.

"She understands the petition to be a charge of criminality, couched in delicate and decorous language; and, therefore, she will promise nothing in that respect to that petition, or any other similar accusations. If Mr. Forrest should be advised to present his application in any other State than that in which he and his wife have long resided, Mrs. Forrest reserves for future consideration what shall be her course in relation to it.

"I am, dear sir, with great respect, yours, truly,

C. O'CONNOR."

"MONDAY, February 18.

"MY DEAR SIR—I received your letter late on Saturday. I regret very much that, as far as I can gather from its contents, I do not appear to have succeeded in giving you a correct idea of the object of my interview with you, and that you have quite misapprehended my intentions.

"I am obliged to leave town to-morrow for some days, and time presses so closely that I fear there is nothing to be attained by the continuance of our correspondence on the subject.

"With great respect and regard, yours truly,

THEODORE SEDGWICK.

"CH. O'CONNOR, Esq."

Witness—Do not recollect giving you a copy of the petition without the word "criminal" in it.

Q. Did you not, in our interview on the 27th January, endeavor to persuade me that the proofs in support of the petition would be kept from the public?

A. I said that it need not go beyond the committee of the House, and some of its leading members; also that it should be kept out of the press. Most of these suggestions were made by Mr. Randall; Mr. Randall promised to conceal the proof, except so far as it was absolutely necessary to show it.

Q. Was there not a distinct offer and pledge that the committee should not give it to the public?

A. Yes, so far as I have already stated; it was not necessary to put it on the files, or let it go beyond the committee; you would not assent to the petition being put in that shape.

Cross-examined—Do not know when I was first consulted by Mr. F. about the divorce; when he first told me about it I endeavored to bring about a reconciliation; on her part I first saw Mr. Bryant of this city, and Mr. Ogden of Chicago.

Q. How far had the negotiations progressed at that time?

Objected to.

Mr. Van Buren said he wished to prove that all preliminaries had at that time been settled, and that the question of allowance was then open. Every body had known that no divorce could be procured without an allegation of criminal conduct on the part of Mrs. F.

The Judge ruled that it must be shown first that Bryant or Ogden acted as authorized agents for Mrs. F.; Mr. Ogden's declarations could not be given, nor indeed did the judge consider this whole inquiry into this agreement as at all material; for the law repudiated every agreement made between husband and wife for the purpose of obtaining a divorce.

Offer over-ruled.

Witness—I had a general authority from Mr. F. to act as counsel in the matter for him.

Q. What were your instructions from Mr. F. in regard to prosecuting the divorce?

Objected to.

Witness—He gave me no specific instructions and the difficulty was that I had to act at my own discretion and consult with him; my interview with Mr. O'Connor stood on the same basis as the interviews with the other gentlemen; his instructions were to obtain a divorce for him on any legal grounds; he instructed me to go into a Court of Law and make an affirmative charge; I did not understand that any instructions were needed in regard to the interview with Mr. O'Connor; my object was to find out if Mrs. F. would engage to remain silent if a petition was presented; do not think Mr. F. gave me any specific instructions as to the harshness or softness of the charges to be made against Mrs. F.

Q. How far was Mr. F. satisfied with what transpired between Mr. O'Connor and yourself?

Objected to. Ruled out.

The court said the examination of the witness had better be postponed till next day.

Caroline Ingersoll, recalled, produced a paper with the date when she came to Greenwich and Houston street.

She took possession of the house 355 Greenwich street, Nov. 5th, 1846, and left May 1st, 1848, going to 628 Houston street, where she remained until the 1st of May last. She now lives at No. 4 Murray street.

The Court was then adjourned.

SIXTEENTH DAY.

TUESDAY, January 6th.

Mr. Sedgwick, who acted as Mr. Forrest's counsel in the negotiation for a divorce before the Pennsylvania Legislature, on taking the stand corrected his testimony of Monday so far as to show that the negotiations with Mrs. Forrest's friends, Bryant and Ogden, were not entered into by him, (Sedgwick,) until *after* the interview with Mr. O'Connor, proved Monday. This, it will be remembered, was a matter of some interest that day between counsel.

Mr. Sedgwick, in reply to Mr. Van Buren, then went on to give the particulars of the negotiation alluded to, which are familiar to all by this time. Mr. Bryant was proposed by Mr. Sedgwick as a mutual friend of both parties, and as such was consulted in the course of the negotiation. Before this note of the 9th of Feb, I had not written to or seen Bryant. This is a part of the negotiation. I had communicated to him the views of Mr. Randall (the other counsel for Mr. Forrest) and myself.

Mr. Van Buren then offered several notes for and to Mr. Bryant, to show that Mrs. Forrest was willing to acquiesce in the arrangements proposed by Messrs. Sedgwick and Randall, and was only waiting about the arrangement of the allowance.

Mr. O'Connor objected. There were other notes, in his possession, which will fill up the dates, and explain the others. Mr. Bryant should be sworn with regard to the offered papers.

Mr. Van Buren expressed the opinion that these were the acts of an agent of Mrs. Forrest, and that she was bound by them.

Mr. O'Connor gave a review of the course of the negotiation. He held that Mr. Bryant was not authorized as an agent, did not assume so to act, and if he did anything in the matter it was not as an agent. Mr. Sedgwick invited his agency and assistance. Mrs. Forrest was willing to let Mr. F. have the divorce he so much desired, provided that her own moral character were not thereby to be impeached; but she was not willing to accede to the half-way propositions of the negotiators. Mr. O'Connor contended that the agency of Mr. Bryant should be proved before what he did is shown.

The Court said this matter was all settled yesterday. There must be proof of Mr. Bryant's being authorized as Mrs. Forrest's agent, before his acts can be shown.

Mr. Van Buren excepted.

Mr. Van Buren then showed Mr. Sedgwick a note of Mr. Bryant, and asked him if that was not the note which elicited the following from him (Sedgwick).

"FRIDAY, Feb. 15—10 o'clock.

"MY DEAR SIR—Mr. Bryant has made an appointment with Mrs. Forrest to be at my office to-day at three o'clock. I have this moment been apprised of it, and I am desired by Mr. B. and Mrs. F. to request you to meet us at that time and place.

"Yours truly,

"THEODORE SEDGWICK."

Mr. O'Connor objected on the same grounds as before; and the Court decided it as then. If Mr. Bryant is to be used as a witness here, call him and let him testify. Mr. Sedgwick seems to have viewed Mr. Bryant as a mutual friend of the parties, that's all.

Q. Why did not that interview take place?

A. Mr. O'Connor's note declining it prevented.

The petition that was proposed to be joined in by Mrs. Forrest to the Pennsylvania Legislature, was here shown to the witness, and proved; and Mr. V. B. asked him if that was drawn up in accordance with the negotiations alluded to.

Ruled out.

The word "criminal" was interlined, he said, by himself, on the day of the *jurat*.

Mr. Forrest was less satisfied with the result of my interview with Mr. O'Connor, at my house, in January, than I was. Yet he ratified all I did. I was desirous to bring about an amicable adjustment, and he was not. There was no objection on the part of Mrs. Forrest to proceeding in Pennsylvania at that time.

Q. Who advised the proceedings in the courts of Pennsylvania?

Mr. O'Connor objected. What matter was it? The fact that the course adopted was advised by the most eminent counsel, would not make it a proper course.

Mr. Van Buren defended his question.

The Court thought it very unimportant, as well as irrelevant. Of course he acted under advice.

The witness said of course Mr. Forrest all along acted under advice of counsel.

Witness was then shown the following letter, in the progress of the attempted negotiations in Feb. 1850, relative to the petition.

"MONDAY, February 18.

"MY DEAR SIR—I received your letter late on Saturday. I regret very much that, as far as I can gather from its contents, I do not appear to have succeeded in giving you a correct idea of the object of my interview with you, and that you have quite misapprehended my intentions.

"I am obliged to leave town to-morrow for some days, and time presses so closely that I fear there is nothing to be attained by the continuance of our correspondence on this subject.

"With respect and regard, yours truly,

"THEODORE SEDGWICK.

"CHARLES O'CONNOR, Esq."

Q. What did you mean by a misapprehension of your intentions?

A. Cannot say certainly. Can only conjecture from a perusal of Mr. O'Connor's to which it is an answer.

Dr. John Hawks, sworn—Physician; aged 43; now staying at a friend's house here, 180 Henry street, on my way from Boston to Rochester; do not know Mrs. Forrest; know Mr. Forrest by sight; did not know Josephine Clifton in her lifetime, but by sight; some 7 or 8 years ago was travelling with my wife from New York to Rochester, and stayed over night at Utica; in the morning, when we took the railroad cars, Mrs. Hawks being unwell, I obtained a part of that portion of the car called the saloon; the latter part of a car partitioned off, with a door leading to the car; a sofa or settee on each side, about 6 feet long; on entering that part of the car, one of the sofas was occupied by a lady; my wife took possession of the other side; at the first or second stopping place, at some eating-house, Mr. F. came to the outside window and spoke to the lady; I then saw it was Miss Clifton; after speaking to her, he went and got a glass of brandy, or brandy and water, and handed it to her through the window; I was frequently in and out of the saloon, to see my wife; a mulatto servant girl was in attendance on Miss Clifton; her own servant girl; Miss Clifton was apparently not well; I saw indications of considerable pain, groaning, twisting of the body, contortions of the face, at times; this condition of things changed before I left the cars; I left at Rochester, and when I got out of the cars, I left Miss Clifton and the servant in the saloon; my wife remained in the saloon nearly all the time, all but the space of half an hour; she came to me in the main cabin, and gave me a reason why she left the saloon; afterwards she returned to the saloon; Mr. Forrest came to her and stated that she might return to the saloon, and she did so; it was after this temporary absence of my wife from the saloon that Miss Clifton seemed to be better; several times during that day met Mr. Forrest in the saloon; Miss Clifton, after the change alluded to, was quiet; did not complain of pain; from all I saw on that occasion, before my wife left the cars, and her condition afterwards, formed an opinion of what had caused the change; Miss Clifton, once at least, during the day, took a pill or some other medicine, while he was present; can't say which.

Q. What was the opinion you say you formed as to the cause of the illness, or the relief thereof?

Mr. Van Buren objected to this, on the ground that there were no facts here on which to form a professional opinion, nor is it the detail of facts by an expert.

Mr. O'Connor would waive that question until after the examination of Mrs. Hawks.

Mr. Van Buren would waive the cross-examination until the same time.

Mrs. Laura L. Hawks, sworn—Wife of the last witness; corroborates the particulars he swore to; and added the following: Miss Clifton, soon after I went into the saloon, began to complain; she seemed to suffer a good deal of pain; she said she suffered as she did every month; she grew worse all the time; complained more; her maid loosened her dress or something of the sort; she took medicine several times during the day; do not recollect who administered it; it was in the shape of pills; she said opium; I left the saloon once, at the request of Mr. Forrest; he and Miss Clifton spoke together, and he turned to me and asked me to leave the saloon; which I did; went into the main body of the car; my husband sat with me there; I told him the reason of my leaving the saloon; Mr. Forrest, Miss Clifton, and her servant girl I left in the saloon; was out of it about half an hour; returned; Mr. Forrest came to the door and told me I could go back if I wished; up to the time I left the saloon, her pains had not diminished; after my return to the saloon I heard no more complaint, nor saw any writhings nor contortions; she was quiet; did not complain; reclined upon the sofa; I had been a mother before this; while with her in the saloon, and about to leave, she requested me to stay with her while her maid got her dressing gown; she said she could not be removed to the hotel, until she was wrapped in her dressing gown; she said she flowed so much she could not be removed without that precaution; my husband told me that the persons were Mr. Forrest and Miss Clifton.

Mrs. Hawks cross-examined—Don't know whether the saloon was attached to the car, or was separate from the car; I usually rode forwards; I asked her what was the matter; she told me without hesitation; she said she had traveled on account of the complaint she had, and had taken a good deal of medicine for it, and it never had relieved her; she said she was not married; this, in answer to my suggestion, that she had better send for her husband; she replied he was not her husband, but a married gentleman, and a friend; have no means of telling how long I was out of the saloon; nor at what point of the journey; should think we had got further than Canandaigua; it was warm weather; do not remember the month; towards night we left the cars at Rochester; got into them in the morning; think it was near noon when I went out of the saloon at Mr. Forrest's request; think this was seven or eight years ago; cannot tell any nearer than that now.

Direct—I took for granted that the gentleman with her was her husband; nothing more than that; he was very attentive to her.

Mr. Hawks again took the stand.

Direct resumed—I was, before the time of this occurrence, a physician.

Q. Taking into view what you saw before and after the pains, &c., this lady suffered, and the fact that she could not be removed without being wrapped up, did you at the time form an opinion as to what was the cause of her illness?

Witness—I did form an opinion.

Q. What was that opinion?

Objected to on grounds already stated.

Mr. O'Connor defended the question as regular and admissible, and Mr. V. B. replied.

The Court could see no objection to this evidence. Of its value the jury must judge.

Witness—My opinion, from all that I saw and heard from my wife, of that occurrence, was at that time, and is now, that it was a case of abortion; I mentioned to my wife, at the time, that the parties were Mr. Forrest and Miss Clifton.

Cross-examined—I was residing at Rochester at this time; was regularly educated in my profession, and graduated at the Medical College, Weston, N. Y., in 1826 or '27; spent a year and a half in Cherry Valley, thence to the village of Newark, in Wayne Co.; I left Cherry Valley to embrace the opportunity offered me of practising my profession; I staid in Newark nearly five years; thence I went to Rochester, and went into the drug business, quitting the practice of medicine; was in the drug business nearly twelve years; came to this city to settle up my affairs at Rochester; was unsuccessful in my business at Rochester; removed here between two and three years, and then went to Boston; I lived here in Dey street, and after about six months went into the upper part of the city, in Chelsea, to practice; I boarded, in the first place, in 19th street, at Mr. Ransom's, and some other places; kept my office on the 9th avenue; my intention in going to Boston was, to improve my prospects; I practised in East Boston for two and a half years; ill health compelled me to leave that place; don't know but I can judge of my own diseases as well as of another person's.

Q. Were you asked, on New-Year's Day, of the state of your health? (Objected to.)

Did you say, on New-Year's Day, that your health would not permit you to attend this trial? (Witness shown his deposition.)

A. On New-Year's Eve I stated so; had shortly before arrived from Boston, and was intending to go, next day, to Rochester; Mr. Forrest did not sit in the saloon, generally, during the passage; don't recollect omitting to state any thing I observed with regard to Miss Clifton's health; she did not speak to me about her health; some women suffer intense pain from these monthly recurrences; it is generally relieved by the flow of blood. (This inquiry was extended somewhat further than our report of it can be.)

Direct—Mr. O'Connor asked witness if he testified, on New-Year's Eve, (reading from his deposition,) that he was intending to go to Rochester, every day. This being objected to, the deposition was put into his hands, and he was asked what he said then. He said he should go as soon as his health admits; that he probably should not be able to go the next day.

Catharine Weston sworn—Know Mr. Forrest by sight; I was pointed out to him in Broadway; never was in any

house with him; never saw him any where than in a public street; never knew him to be any where else. (Mr. O'Connor—"That's all!" and the witness left the stand.)

Mary Suydam sworn.

Q. Do you know Mr. Edwin Forrest?

A. No, sir.

Q. Have you ever seen him?

A. Only on the stage.

Mr. O'Connor—That's all.

Mr. Van Buren—When were you subpoenaed?

A. This morning.

Q. Who subpoenaed you?

A. Do not know.

Luther Horton sworn—Reside 47 Leonard street; am an agent; have been in the police, two different times; five years in 5th ward; two years in 2d ward; over two years in the 5th ward; knew the house 355 Greenwich street, occupied by Caroline Ingersoll; it was then occupied by her; her name was on the door; don't know what the business carried on in that house; was in it, once, on account of the bursting of the Croton water pipe in it, one night; might have been in it twice; knew nobody who resided there but Miss Ingersoll; never saw Mr. Forrest go into that house; frequently saw other persons going in and coming out of it, in the evenings; don't know who; they were males.

Q. What was the character of that house?

Objected to, and allowed.

A. At that time, from my observation, and what I had seen and heard, I reported the house as a house of ill-repute, an assignation house, a suspicious house.

Daniel Carpenter sworn—A captain of the police, 5th ward, since February, 1848.

Witness was asked to produce the report of the police from February, 1848. (It was shown, but not read from.)

Wm. H. Appleyard, carman, sworn—Was formerly a fifth ward policeman in the fore part of 1848; in 1847; left off 7th July, 1848, to the best of my knowledge; three years previous to that time—

Q. Did you know the house 355 Greenwich street, kept by Caroline Ingersoll?

A. Well, I can't say; I ain't posted up now in these things; if there's any reports or documents, they are right; I seem to remember something about it, and that there was some talk of its being a house of ill-fame; believe I was in it once; don't remember who kept it; forget; had two captains that year, Perry and Carpenter. (Shown entry book of the police.) In that book entries of the reports of the police were made. (Shown the entry of Caroline Ingersoll.) Don't remember their names; slipped my memory; was in that house once or twice; 355 Greenwich was within my district to make reports; went in it "to sight around;" when I went into it, don't recollect that I saw any thing very bad; the reputation of the house being that of a fancy house of the upper ten. I wanted to see how they did things up; to see how many there were in the house at that time; how many lady boarders; could not tell what was the result of my observation; if I reported at the time about that house, it is on the book; have a faint recollection of making such a report.

The Court—Either this witness knows nothing, or will tell nothing, about the matter.

Mr. O'Connor—When we have an unwilling witness, your Honor, we must try various ways to obtain their testimony.

Witness.—Was in the habit of stepping in, asking the landlady how many boarders she had, and stepping out again; saw nothing, when sighting around in that house, to indicate the purpose for which the house was used; guess I did not see any woman there I knew, or knew before.

Mr. O'Connor moved for an attachment against Ellen Lawless, subpoenaed as a witness, and refusing to attend. Granted.

Samuel Marsden Raymond, sworn—Live in Lexington Avenue; am a clerk in the employ of Raymond & Fullerton, Cliff street; am in my 30th year; know Mr. Edwin Forrest; first became acquainted in December, 1846—some time near Christmas; at his own house in Twenty-second street; I was introduced to him by Mrs. Forrest, or by myself; I called, sent up my name, and was received in the library; it was half-past ten when I called, or a little later; I remained till half-past one, in the library; Mr. and Mrs. Forrest were there; do not remember any others being there; visited there occasionally afterwards; down to, I think, September, 1848; I then went West—to Pennsylvania; after they had separated, and Mrs. Forrest was living in Sixteenth street, having returned from the West. I visited there; I returned in the Spring of 1850; Mrs. Forrest never committed any act of impurity with me—nor I with her; never took any liberty with her person that I would not have taken with any lady in the country.

Q. Did she ever, in any way whatever, do or say anything to encourage any liberty on your part?

[The form of asking this question was objected to, as leading, and was not insisted on.]

Witness—Never hooked or fastened Mrs. Forrest's dress, nor aided her, in any way, in dressing; never thought of it; was at the house in Twenty-second street, once, when the parties stayed up late; Mr. and Mrs. Forrest were both out of the country; was there one evening in August, 1848, when there was something of a party; it was given to Mr. Sims, of S. C.; Mr. Forrest was not at home; Sims and daughter, Lawson and wife; I think, Mr. and Mrs. Voorhees, Captain Calcraft, Mr. Fortescue, from England, and quite a number more, were present; Mr. and Mrs. Godwin were present also; that party, I think, broke up about 1 o'clock; I was one of the last that went; don't recollect who went away with me; some few were left there, when I came away, but most of the company had gone; the evening was spent, as usual in such parties—conversation and music, but no dancing; one other evening, a few evenings after, spent there, with Capt. Calcraft and Mr. Fortescue, Mrs. Forrest and Mrs. Voorhees, in the library; the evening was spent in conversation, ordinarily; that party broke up between 12 and 1 o'clock; Mr. Fortescue was to leave the next morning for the West, and the time was particularly alluded to; we all left together; I quitted them at the corner of Ninth Avenue and Fourteenth street; I never saw Mrs. Forrest before Mr. Forrest returned from England, in 1846, nor Mr. F. except on the stage; there was no wine in the room where, on the last occasion testified to, we were; just before we went away, something was said about some wine; Mrs. Voorhees went down stairs to get it; and Capt. Calcraft volunteered his assistance; Capt. Calcraft is an elderly man—in this country; on their return, they appeared to be merry, at some good thing said, or an awkwardness; Mrs. F. remarked upon it at the time; saw nothing excepting hearty merriment, such as I have seen in a thousand other cases—in the cases of respectable people, with a flow of spirits; Mrs. Forrest did not participate in the merriment, but remarked upon it, in a cautionary way, as they entered the room; am certain it was in August or September, took particular notice of the time when we left; on that evening saw nothing unusual, excepting the smoking of some little paper cigars; my recollections of the evening are rather unusually distinct, and of the conversation that took place there; do not remember that the rank of Mr. Fortescue was talked of; I had learned that he belonged to an aristocratic family in England; he was a gentlemanly man; that's all I know of him; I remember using such an expression as "a tin petticoat;" it was used about a lady who was at a small party, in the dining-room, at Mr. Forrest's house, in the evening; do not remember who the lady was; her dress rustled considerably as she moved about the room, and I made the remark aside, to Mrs. Voorhees or to Mrs. Forrest; I did not use it a second time; I heard it laughed about afterwards as an odd expression; I never made the remark, except as I have described; slept at Mr. Forrest's one night; Mrs. Forrest was at home; I do not recollect any one else; do not remember whether Mrs. Voorhees was; my impression is she was not; that was in the spring or summer of 1848; it was after Mr. Forrest returned from his farewell tour in the South; he was not at home at the time. It was a violent rain; Mrs. Forrest gave me a reluctant half-invitation to stay, which I distinctly remember; I said I thought it was not uncommon for gentlemen to sleep there, as Mr. Placide, Mr. Godwin and Mr. Howard had done so; she said it would be too bad to turn me out such a night; I slept in the room over the hall door; went into no other bed-room that night.

The Court adjourned till Wednesday morning.

SEVENTEENTH DAY.

WEDNESDAY, JANUARY 7, 1852.

The Court opened at 10½ o'clock.

Mr. Van Buren begged to state that Mrs. Flowers had attended until now, and as a vessel was sailing on Friday, he asked for her discharge, for unless she went on Friday she could not go for a month after.

Mr. O'Connor said that if the witness was in attendance to-morrow, he would probably put a question or two to her, and then consent to her discharge. A fellow-servant of Mrs. Flowers, who had already made an affidavit and had seemed willing to come, had since disappeared, and there was every probability that she would not come. If he (counsel) could find her by to-morrow he would consent to the discharge of Mrs. Flowers, but if not, she must stay here until that witness was forthcoming.

Samuel Marsden Raymond recalled.

Q.—You say that you saw Mrs. Forrest smoke; say in how many instances.

A.—I recollect but two instances; the first was in 1848; I called on Mr. F., and passed the evening on the upper verandah; there was a Mr. Oxley, an actor, Mr. F., Mrs. F., myself, and some one else, but do not know who. In the course of the evening Mr. F. said, "Kate, make us some mint juleps;" Mrs. F. made them; afterwards Mr. F. and Mr. Oxley smoked; Mrs. F. brought them the cigars; Mrs. F. then took a little paper cigar and lit it, and offered one to me; I do not smoke but I took the little cigar and partly smoked it; she did so in the presence of her husband; it was the first time that I had seen a lady smoke so, though I have seen a great many women in the country smoke—farmer's wives.

Mr. Van Buren objected to these voluntary statements of the witness.

Witness.—The second time I saw her smoke was when I passed the evening there together with Capt. Calcraft and Mr. Fortescue; Capt. Calcraft was not in any way affected by liquor that evening; I distinctly recollect some of the topics of his conversation; he told us a long story which I perfectly recollect; we had no liquor until the wine was brought up by Capt. Calcraft and Mrs. Voorhees; we drank just a glass of wine as we were going away, and the quantity was not large enough to affect us in any way; am certain that there was no wine in the room before that; I have never seen Mrs. Forrest disguised by liquor nor have I ever heard it hinted at; I was present one evening when Mrs. F. had sprained her ankle; she did not sprain it in my presence; I saw her that day in her drawing-room in 22d street; I was there when she came in limping; that was some eight or ten months before the night that I slept in the house; I returned from the West the latter part of October or November 1847, and had been a year away; I went to England on the 21st of July 1846, and returned in November of the same year; I stopped a fortnight in the city then, during which time I became acquainted with Mrs. F. but not with Mr. F.; I went to Western Pennsylvania, where I remained until the latter part of 1847; I remained in the city then until August 1848; when I saw her ankle sprained was not long after my return in '47; the time I slept there was in the summer of '48 after Mr. Forrest returned from his farewell tour south; the time I saw her ankle sprained was before I became acquainted with Mr. F.; I think he was in Boston at the time; I breakfasted in the house on the morning after the evening when I had slept there; I walked out before breakfast; was in the habit of doing so sometimes for four or five miles.

Objected to by Mr. Van Buren.

Mr. O'Connor maintained the pertinency of the question which went to show the habits of the witness, as unfair inferences had been drawn from the fact that the witness had gone out before breakfast.

Witness.—I was in the habit of taking breakfast from an hour to an hour and a half earlier than the habit was at F.'s house; I went out like any other man, by the front door; in fact, I never went in or out of Mr.'s house in any other manner.

Q.—Did anything occur the evening that you were there about the making up the bed?

A.—Nothing whatever; I took a candle and went up to my room; no one went with me; Mrs. F. told me what room to take; have no recollection of how I slept, only that I occupied the room allotted to me and slept there; I went two or three times in a carriage to the house of Mr. Forrest; once I went down to Burton's theatre with Mr. and Mrs. Voorhees and Mrs. Forrest; another time I drove out Mrs. F. and Mrs. Underwood; Mrs. F. got out at Miss Lynch's; she went to a party there; I did not go; once Mrs. F. went round to Mrs. Voorhees and took her to Godwin's; I went with them to Godwin's; I know Capt. Wm. A. Howard; I think his family resides near Boston; he was intimate with my brother in Pittsburgh, and he introduced me to him.

Q.—Did you at any time come in contact with Ann Dempsey?

A.—I helped her off to New Orleans; I first saw her in March or April, 1846; that was while Mrs. F. was absent from this country.

Q.—When did you first see her?

A.—At her mother's house; I think it was in West Washington street.

Q.—State what passed between you and her.

Van Buren.—Has she been asked about it?

O'Connor.—Yes, sir, by you.

Witness.—I saw Ann at her mother's house; she alleged that Captain Howard was the father of her child, and that she was about to get out an arrest for him, expecting his arrival at the Astor; I believe he usually put up there; I went to the Commissioners and asked if a complaint had been lodged; I had two or three interviews with Ann, and tried to settle it for Capt. Howard; she would not settle it without at least 2 or \$300; do not know the exact sum; that was her demand; I was told by Margaret Sinclair—

O'Connor.—Leave that out for the present.

Witness.—There was a girl named Catharine in Mr. F.'s house, and I brought her together with Anna into the drawing-room.

Q.—What passed then?

A.—Catharine distinctly charged Anna with having been in the habit of sleeping with a boy in the house whom I never saw; Anna attempted to deny it—

Judge.—Tell us what she said.

Witness.—Catharine turned upon Anna and said, "You ought to be ashamed of yourself to deny it; I found you in Barney's bed that morning; (laughter,) she also said, "You know that Captain Howard is not the father of the child, and you ought to be ashamed for saying so;" Anna made no reply to that; Anna then spontaneously told me that she could have a free passage to New Orleans; I had before told her she must be aware that she could not get anything by law with such evidence against her; I talked very plainly to her, and said she could not impose on me as Howard's agent; I told her very strongly that she could not impose on me, she might impose upon somebody else; she said she only needed some little money to pay necessary expenses, among which was a doctor's bill, and she also wished that something should be given for the support of her child for six or seven months, until her sister should bring her child to her in New Orleans; she said \$7 a month was necessary; I told her that if she would give a solemn declaration that Capt. Howard was not the father of her child and never charge it to him, I would agree to give her the money for six months; the extra sum of money she wanted was \$25; she gave the declaration; I paid her the money and \$2 more to pay some little extra bills which she wanted to pay; the paper I gave to Capt. Howard.

Mr. Van Buren.—Have you the paper here?

O'Connor.—No, sir.

Van Buren.—Then of course we object to it.

O'Connor.—We will not press it unless you show that the paper is out of the country. I have therefore a right to inquire into it.

Witness.—I gave him the paper in this city; I understood he left the country; he never lived in New York to my

knowledge; I gave him the paper at my boarding-house, No. 68 Broadway; Mrs. Flowers went off the time I stated; I went on board the vessel with her to make sure she was going; Capt. Howard refunded the \$25 to me, and expressed his satisfaction at what I had done; I paid the nurse, Mrs. Butler, \$17, as I read from her testimony; I made an effort to take the child from her, and put it with some one else; when Anna went away the arrangement with her and I think with the grandmother of the child was, that the child after a few weeks should go to the grandmother; the \$7 a month were to be sent to Mrs. Dempsey; all the money was to be sent by Howard; Anna said to me that she told Mrs. Butler to give up the child when her mother demanded it; about a month after, Mrs. Dempsey complained not having received the money, and he assured her he had sent \$7 to Mrs. D. in a letter; on my return I inquired for but could not find the letter; in the mean time Mrs. B. refused to give up the child without orders from Anna herself; I went to Mrs. Butler and demanded the child, offering to pay what was due; she said she would keep the child until she got a direct order from Anna; I said that if she was determined to keep it she would not be paid; about the middle of July some one came to me, Mrs. Butler or Mrs. Dempsey, and said Mrs. Butler wanted to give up the child and get paid for what was due; I went there one day in a carriage; I went to Mrs. Dempsey's house, took her to Mrs. Butler's, paid her the money due; she dressed the child, but after I had paid her the money she showed a determination still to keep the child; she said she had no right to give it up without an order from Anna; that was after I had paid the money; hearing this determination I snatched the child from her and passed it to Mrs. Dempsey who took it away; no one was in the carriage with me; Howard was not in town; Mrs. Dempsey went home on foot; never heard of the child after; paid the money on Howard's account; the transaction was a simple nuisance to me; (laughter) have heard the child was not living; I was not in Court when Garvin was examined.

Q. Did you ever take any immodest liberty with Mrs. Voorhees?

A. No, sir, I never did—the statement is a sheer lie; I did not expect any testimony from Mr. Garvin about myself, and was not here.

Cross-examined—I became acquainted with Mrs. F. through her sister, Mrs. Voorhees.

The Judge asked to what statement of Garvin's the contradiction of witness was applied.

Witness—It is about finding me on the sofa with Mrs. Voorhees, and I think the man must have been paid for testifying so. (Excitement.)

O'Connor—Oh! we do not say that—it is your own suggestion that—not ours.

Witness—I first knew Mrs. F. in November, 1846; that was in her house in Twenty-second street; on my return from England I was in town about a fortnight, and called perhaps three times at the house; once I saw Mrs. Voorhees alone, and afterwards called twice, and saw them both; I called in the evening; Mr. F. was then in Boston; no one was present that I know of when I called but Mrs. Voorhees; Mr. Voorhees was present at my other calls; had visited the house prior to that time, before I knew Mr. and Mrs. F.; I visited Margaret Sinclair—she kept the house during their absence; it was January, 1846, when I visited the house pretty frequently; my sister stayed there some time, and during that period I spent every evening in the house; after she left I continued calling, sometimes three or four times a week and sometimes once a fortnight—on an average two or three times a week; there were no gentlemen living at the house at the time; Mr. F. did not know my sister; do not know that he ever knew her; she left town for the West in March or April, 1846, and married there; she has not been here since then; sometimes there were a few people—"Chelsea folks," in the dining-room, but no large party; only recollect being there twice on such an occasion; did not see Mr. F. in November, 1846; I became acquainted with Mr. F. about Christmas, 1847; did not say that I became acquainted with him at Christmas, 1846—if I did so, I was wrong; may have been at the house six or eight times after my return before I knew Mr. F.; saw Godwin there those times, and Wykoff and Stevens, before I knew Mr. F.; there never was any party that time to fix my mind upon; did not then see Capt. Howard there; saw him there once on another occasion, in March, I think, before the Anna Dempsey affair took place; did not see Calcraft till next year, I think; on the occurrence of the tray being brought up by Calcraft there had been no party that evening at Mrs. F.'s; we did not come there together; I was there three or four hours, I think; my impression is I found the other gentlemen there; I went to the library when I came, and remained there; do not recollect who carried up the tray, Calcraft or Mrs. Voorhees; Mrs. F. made a remark rather disapproving of the noisy mirth of her sister; Mrs. F. proposed that the drink should be got; she did so soon before we went out; that was after twelve and before one o'clock; cannot state the time nearer, have a distinct recollection of it being after midnight; we could not hear Mrs. Voorhees and Capt. Calcraft in the cellar; heard them in the room below talking, and some laughing; as they came up stairs they laughed louder; Mr. F. was then in Baltimore, I think; I think Mrs. F. proposed a segar; I think we all smoked, except perhaps myself; I think I lit one; the ladies smoked, too.

The Court suggested to counsel to agree upon a period when Mrs. Voorhees ceased to be Margaret Sinclair.

Van Buren thought it was rather a delicate affair to do so.

Witness—I think we all took a glass of wine, and drank a good voyage to Mr. Fortescue; it was sherry, I think; when the julips were brought that other time; Mr. F., Oxley and myself were present; Mrs. F. did not drink; think I should have observed her drink if she had, as I observed her smoking; saw her once drink a glass of porter, but never any whisky punch; nothing but little cigarettas were smoked; I believe they were made of tobacco, covered by paper; Mrs. Underwood rubbed the foot of Mrs. F. when she had sprained her ankle; I went into the other room at the time; it was early in the evening; it was just dusk, in the month of November, 1847; I was there alone; Mrs. Underwood asked me to step out; Mrs. F. asked me not to leave the house; I afterwards went back into the room; she was seated on a sofa; her foot was not on it; I remained half an hour after the lotion was applied; do not remember Mrs. F. saying to Mrs. Underwood that she might go to bed; the night I remained at the house I retired to bed about 11 o'clock; do not think any one but Mrs. F. was there; I came about eight or nine o'clock in the evening; it did not storm when I arrived, but it commenced raining while I was there; I waited with the idea that it was a summer storm, and would pass over; about eleven o'clock I determined to remain; do not think any of the servants were up at the time; when I undertook to settle that matter for Capt. Howard, I made some inquiries about him, and was told by Mr. Godwin and Margaret Sinclair, that he and Godwin and Mr. Placide had stopped at F.'s house one night; I mentioned this to Mrs. F. when I spoke about remaining that night; no one lighted me to bed; I bade Mrs. F. good night in the drawing room; have no recollection of the condition of the bed I slept in; recollect of but one occasion saying to Mrs. F. or Mrs. Voorhees anything about the tin petticoat; am not in the habit of repeating a joke in the same house; I have heard that remark repeated by Mrs. F. or Mrs. Voorhees subsequently; I think I heard it alluded to two or three times; cannot say when; it was in the summer of 1848 when I made the remark; do not recollect of there being any clothes from the wash in the room where I slept; I think I went out next morning before breakfast; I think I walked up Tenth Avenue; was gone an hour, I think; I let myself out; some one of the servants let me in; am very confident that I did not see Mrs. F. before I went out; do not know if I recollect this transaction better now than when I made an affidavit of the matter; I think I do.

Q. Why?

A. Persons thinking over a matter of this sort sometimes change their recollection or opinion; cannot tell why I recollect it better now; my impression was, I think, that I had not gone out of the house; and on thinking of it since, I came to the opinion that I did go out before breakfast; do not know what I said in my affidavit; did not cram myself for the purpose of testifying; I expected to be a witness; talked to Mr. O'Connor and to Mrs. F., but not about the particulars of my testimony; I intended to have a conversation with Mr. O'Connor about my testimony yesterday, but did not have it; have scarcely ever seen Mrs. F. lately without some allusion being made to this case; spoke perhaps 50 times to her about it; had an interview with Mr. O'Connor soon after I arrived in this city, in 1850, and again in Dec., 1850; also when the case was expected to come on last spring; have since then spoken to him about once a month in regard to the suit, but not about my testimony; have suggested no witnesses except that of Mr. Whiteley; have not employed counsel in this case, nor suggested the employment; I once suggested that Mr. Hoffman be engaged to sum up this case; O'Connor was employed as counsel before I first spoke to him; spoke to him first in May, 1850; I think I spoke to Mrs. F. about my going out before breakfast; she thought I had not gone out of the house at all; I think I told her quite lately that I had gone out; I have testified that Mrs. F. seemed reluctant to ask me to stay; it was in the manner of her speaking; the

general idea of what she said was, that she seemed reluctant to ask me ; I lived down town ; she did not ask me to go to the party ; I was not in party dress ; I think Mrs. Underwood came as far as the Carlton House ; I don't recollect Robt. Garvin to know him ; I saw him called upon the stand, but did not know him ; I recollect having been alone with Mrs. Voorhies frequently ; I recollect one evening the servant came in to shut the blinds ; I think one evening she was playing on the piano ; I was seated a little way off when the servant came in and shut the blind ; I have not a distinct recollection of that ; I do not know who was that servant ; I recollect that servant coming in several times ; after January, 1848, I have no recollection of seeing Mrs. Voorhies in the house when Mr. Forrest was at home ; the last time was on New-Year's day ; I saw her there frequently when he was not at home ; but my impressions were and are that she was visiting ; it seems to me I have seen her nurse and child there.

Q. How was the interview with Anna Dempsey brought about ?

A. By Miss Sinclair's telling me ; I brought Anna to the house from her mother's ; Capt. Howard returned a little time after the settlement was effected ; he was not here at the time Miss Sinclair first spoke of it to me ; Capt. Howard first wrote to a Mr. Sargent, a patent lawyer, in Wall street, and I went to see him on the subject ; at the interview I spoke of, no one was present but myself, Catharine, and Anna ; I asked her to come to Mr. Forrest's ; I was trying to settle the matter, and I did not tell her I was going to confront her ; it was in the day-time, in the forenoon ; the interview lasted but a short time—perhaps a quarter of an hour ; Anna denied, at first, what Catharine charged her with, but not very strongly ; Anna said Capt. Howard was the father of the child, and she denied cohabiting with the boy Barney ; independent of the writing, she did not admit, at any other time but this, that Capt. Howard *was not* the father of the child.

Q. Have you been in any other business ?

A. The iron manufactory, and I studied law three years, and was admitted in the Spring of 1846 ; I went into other business immediately ; I first went in the employ of an iron manufactory establishment, in England ; then I went West, my father had the usual extensive ideas of a professional life that some people have at home.

Mr. Van Buren—Never mind his ideas on the professions. (Laughter.)

Here the witness went again over the story of "catching the child" from the arms of Mrs. Butler, adding that he did not recollect what was said. He paid the money.

Q. What knowledge had Mrs. Forrest of the birth of the child ?

A. I don't know.

Q. When did you first hear of the separation of Mr. and Mrs. Forrest ?

A. By reading it in the papers out West ; I had no correspondence ; I think I spoke to Mrs. Forrest about this child very soon after I got acquainted with her ; I don't recollect more than once ; I have not spoken to Mr. Forrest about it ; I understand he—(objected to.) I went down to see the captain of the ship, but not to see Anna off ; it was to see if her story was true, and she was really going ; I took from her possession eight letters of Margaret Sinclair's ; she brought them to me, on board the ship ; I did not see them in her trunk ; she said she would get them, and brought them to me ; the captain was present ; the vessel lay at the foot of Pine street ; I can only say, this was in the cabin ; it was a small vessel, I have forgot the name of it and the captain ; my object was not to get these letters, but it was part of my object ; Miss Sinclair told me of the letters, and it was at my suggestion that I got them back, and I handed them over to Miss Sinclair ; it was at the time of the settlement that I demanded the letters. I told her she must give up these letters ; she was willing to give them up, but when she saw I wanted them she seemed unwilling to let me have them ; I paid her the money in her mother's house, a day or two before she sailed ; I trusted she would give me letters as she said she would when I paid her the money ; I went to the ship with her once, and once alone, but I took leave of her when I got the letters ; I gave her \$2 after the \$25, making \$27 and no other money ; I promised her no other money except the \$7 business ; I must have looked at the address of the letters, and my general recollection is that it was some place in Connecticut ; I can't say if the address was Mrs. Elmendorf or Anna Dempsey ; I can't say at all.

Mr. Van Buren—That's all.

To Mr. O'Connor—I made the affidavit spoken of in great haste, as I was going to Mobile ; I hunted you up and told you if it was done it must be done at once, and I sat down in very great haste and wrote it off ; some things you rejected as superfluous.

Q. What is the character of Ann Dempsey ?

A. Bad ; I would not believe her under oath.

To Mr. Van Buren—I mean her reputation for veracity as given by her mother ; I heard that Catharine spoke about it ; I've heard Capt. Howard deny the paternity of the child ; I have heard various people speak against her ; Mrs. Godwin, Dr. Gray, Dr. Warner ; they only spoke from hearsay ; don't recollect any one else who knew her except Mrs. Forrest and Mrs. Voorhies ; others that didn't know her ; Godwin spoke about her a long time ago, at the time of the Howard settlement ; I have heard Mrs. Godwin say she never liked the girl's looks ; that was the time I helped Anna to New Orleans ; the Godwins and the Deweys all knew of it before I did ; I board with Mr. Godwin—have done so for more than a year ; he has gone to England.

Mr. O'Connor—You have stated that Miss Margaret Sinclair directed you to see about the settlement and the getting off.

A. Yes : she told me she had written her some letters.

Q. What did she say ?

Objected to by Mr. Van Buren. Ruled out.

Q. Have you made an affidavit that you gave Anna Dempsey \$50 to settle this complaint, besides the \$25 or \$27 you spoke of ?

Witness—I may ; if I did, I meant the \$7 per month, which, altogether, would amount to \$50, or about that sum.

[The printed book of this case shown to the witness—page 305.]

The witness admitted the affidavit to be his, and Mr. Van Buren read it to the jury.

Witness—I drew the affidavit, and did not think it necessary or desirable to state all the particulars ; I supposed it would be impertinent and irrelevant to state more than the terms, and I said nothing about the demand of two or three hundred dollars.

John Dickinson, called by Mr. O'Connor.—I live in New Canaan, Conn. ; am a shoemaker, with a wife and family ; I have lived there about seventeen years ; came from there this day ; my wife is unable to attend court from a broken knee, which happened to her last July. (Book shown to witness.) That is my signature, and the other Anna Dempsey's ; I don't remember seeing her sign, but she came into my service after that ; it was in March she came to me, and left finally in November or December of the same year.

Q. What was Anna's character for truth and veracity whilst she was with you, and when she left ?

Objected to.

Q. Did you become acquainted with her character ?

A. I did.

Q. What was her character ?

A. It was any thing but commendable for truth and veracity ; I would not place a straw's value upon her word ; I would not believe her oath as a witness in a Court of Justice ; she came to me the 30th or 31st of March, 1840 ; I believe the indenture was dated the 30th—and I got her from the Refuge in time for the boat next morning ; she came to me again in 1843, and wanted me to receive her again, but I would not ; I am not certain as to that date, but I think from all the evidence it is correct ; I did retain her for her term of service ; when she came to me again she knew me, and told people my family, when she was with me, consisted of my wife, James Curzan, and John Chrystain, who worked for me ; at the time I took her, she was about sixteen or seventeen years of age ; this was in 1840.

Q. Was her demeanor modest and chaste, or otherwise ?

(Objected to and ruled out.)

Q. Did you hear or witness any speech or act on the part of Anna Dempsey which would indicate to you that she was an unchaste person? (Objected to.)

The Chief Justice said that the question presented itself under two aspects; first, as it would show her as a truthful witness. On that ground, if I had only my own views to guide me, I should have no hesitation about it, for I never could see why a woman brought from a brothel should have the same degree of evidence as a strictly virtuous woman. Still the Courts had so ruled, and at one time nothing but the question of truth could be inquired into, and though the rule had been extended, yet it was not so broad as to admit this question on that ground. With respect to her having represented herself as a virtuous female, she said she was affected at what she saw, &c., and added, Mrs. Forrest was the cause of her ruin—yet I am not satisfied this inquiry ought to be gone into.

Mr. O'Connor said he wished the Court would give the question a little more consideration, for he, Mr. O'Connor, had consulted the authorities, and would refer his Honor; the Court could see that Mrs. Forrest and Capt. Howard were charged before this jury with conspiring to effect the ruin of this girl.

The Chief Justice said he did not so understand it.

Mr. O'Connor contended it was as he stated it. He quoted from 19 Wendell, 195.

The Chief Justice said he would look into this question, and give it his mature consideration by the morning.

Mr. Van Buren said he would like to be heard, and the Chief Justice said he would hear Mr. V. B. now or in the morning. The learned gentlemen then went on with his argument until the rising of the Court, when his Honor again said that he would give the question a mature examination, and decide it in the morning.

The Court then adjourned.

EIGHTEENTH DAY.

THURSDAY, January 8th, 1852.

Owing to the unsafety of the floor of the court-room only very few persons were allowed into the body of the court, but the galleries were well filled as on previous days.

John Dickinson, re-called.

Mr. O'Connor stated that he would now put the question which he had started yesterday, and was ready to argue the admissibility of it.

Chief Justice—Put your question.

Mr. O'Connor, to witness—Did you hear or witness any speech or conduct of Ann Dempsey, while living with you, indicating that she was an unchaste or or lewd character?

Objected to by Mr. Van Buren as collateral.

Mr. O'Connor pointed out to the Court the necessity of proving facts which went to disprove the whole of Anna Flowers's story. It was a matter of impossibility almost to prove the fact of a criminal connection, as hardly ever any person was allowed to witness such an act. Anna had testified that she never had any connection with any man but Capt. Howard and her lawful husband, and if he (counsel) was now able to prove that she was of a lewd disposition, this fact would disprove all her statements in regard to the circumstances which surrounded the adultery of Mrs. Forrest with Captain Howard, so far as her own (Anna's) conduct was concerned on that occasion.

Mr. Van Buren answered, reading numerous authorities in support of his argument. He contended that if the fact of the adultery was to be disproved, Capt. Howard himself might have been called. This suit had not come suddenly upon the plaintiff; nine months had elapsed since notice had been given that Anna Flowers was to be examined, and ample time had been given to procure the attendance of Howard. There was another way of obtaining his attendance, and that was by commission. Counsel for plaintiff had hinted that a commission had been executed, but it had not yet appeared in evidence. He (counsel) argued also, that the matter on which the question bore, was totally irrelevant and would not be gone into.

Mr. O'Connor made a lengthy and eloquent reply, saying that he would trace the character of Anna Flowers as lascivious down from the time of her employment with Dr. Lee to the present moment. The present witness would not testify to all that, but there were two or three witnesses in court now who would give *direct* testimony in regard to her habits.

The Judge said counsel on each side had indulged in a great many remarks totally irrelevant to the cause, and he would in future request all remarks to be addressed to the Court. As for the offer, it had struck the Court yesterday that it was incompetent; he had since then examined it more fully, and also heard counsel at large; he found on the examination of Anna Flowers a question by the defendant's counsel, whether she had ever stated her transactions with Captain Howard to Mrs. F; she said she had done so at New Orleans; also distinctly disclosing the fact that she had illicit intercourse with Capt. Howard. She had then been asked who was the father of the child, and her answer was, that Capt. Howard was the man, and that she had no illicit intercourse with any other person. The question, therefore, presented itself in two aspects: 1st. if she was or was not a chaste woman at the time of her intercourse with Capt. Howard. This inquiry would lead to the inferences as to her credibility as a witness, and as to the chastity of her character. In regard to her credibility as a witness the offer was not competent, for it did not affect her character for truth and veracity, and specific acts of lewdness were not admissible in proof. The other aspect of the case was different. She represented herself as a chaste girl, spoke of being seduced by Capt. Howard, and held out explicitly that this was her first fall, in which character she presented herself to the jury. The question now was whether the effect of that testimony could not be disproved. Suppose she had said that she never had connection with any other man, was a virtuous girl, and that Howard had done so in order to destroy her character as a witness, would it not then have been competent to show that she falsely represented herself as a chaste girl, and that all the circumstances as regarded herself upon witnessing the act of adultery are highly improbable? The jury might possibly infer that a conspiracy did exist between Capt. Howard and the plaintiff, and the Court had therefore changed their opinion of yesterday, and ruled this course of inquiry competent.

Q. State any act or conduct of Anna, while in your service, showing her chastity or the want of it.

A. My own personal knowledge, what I saw myself, was her coming out of her bedroom undressed without being called for; I was present when she thus came out; it was early in the morning, when she knew I usually lit the fire.

Judge—What had she on?

Witness—Nothing but her chemise (laughter).

The Judge expressed his surprise at the laughter of the audience, and begged it not to be repeated.

Witness—She came out without saying anything, and I asked her why she made her appearance in that manner for; I told her to go back and dress herself; it was not far from sunrise; I have a letter in my overcoat which she brought with her from the house of refuge (letter produced); this is the letter; I received as a guide what I was to do with the girl; when she came again to our part of the country, four years after, I had an extensive opportunity of judging of her character for truth and veracity; her character then was about the same as it was before.

Mr. O'Connor—I offer now to prove that Anna absconded from the service of Mr. Dickinson with some property, was pursued, arrested, and brought back, and the property taken from her.

Mr. Van Buren objected.

Offer ruled out.

Cross-examined—There was not a Mrs. Russell living with us; do not know her at all; I occupied the house alone; Anna was employed in common housework; I had no other servants; my wife was in feeble health, and did as much work as she could; had made no inquiries about Anna before I got her from the house of refuge; the house allows no

choice; they give such girls as they think proper; I told them I wanted a girl of good character; of course I did not want a bad girl; I live in New Canaan, a mile and a half from the village; it lays west of Norwalk; my nearest neighbor was William Henry Scofield; he lived a hundred yards from me; Mrs. Tristram was the next; she lived one hundred and fifty yards from me; Anna was with me in 1843; I returned her to the house of refuge; she came there again 2½ years after I returned her; had a servant by the name of Newton living with me then; she was an old lady; she and my wife did the work; Anna Dempsey stayed there an hour that time in my house; she wished to know if we would take her back; my wife told her no; she went to a lady named Mitchell in search of a place; I lived in the village at that time; Anna did not stop there; Mrs. M. came to my wife for a character (stopped); she went to Norwalk from Mrs. M.; she was there 3 or 4 days; do not know with whom; that was the last I heard of her; do not know if a Mrs. Russell is living as Norwalk; Abigail Seymour spoke to me about Anna; Mrs. Tristram also spoke about her; she was my second neighbor; Abigail Seymour spoke to me about her at my own house; she is 70 years old; Mr. Scofield and his family also spoke to me about her; that was while she lived with me and after she went away; Mrs. Hooker also spoke to me about Anna; she knew her by visiting my house; she spoke to me when Anna returned the second time; I can give you her reasons; my wife caught Anna in a number of falsehoods the second time she came; Mrs. Tristram had also seen her the second time she came and spoke to me about her; so did Mrs. Hooker and Mrs. Mitchell; I arrived here yesterday; Mr. Hardenbrook subpoenaed me; he paid my travelling expenses; he sat at that table there yesterday.

Q. Where do you stay?

O'Connor—Shall I tell him?

Van Buren.—No let him tell himself.

Witness.—Give me time to remember—I stay at the Waverley; I was promised I should not be under any expense; there was no promise of compensation for loss of time; never thought or expected to be paid; I am an Englishman from Staffordshire; have been here nineteen years; I have not spoken of this suit since it commenced; did not even know it was pending; have no recollection of ever speaking about it when years ago I heard of it; never spoke against Mr. Forrest in connection with this matter; do not know Mrs. Forrest; spoke first to Mr. Hardenbrook about this suit last Tuesday; Anna was three or four minutes out of her room when I saw her in her undress; she went back when I told her to do so; judge of her age by what they told me at the House of Refuge; judged her to be fifteen or sixteen from her size; she was of a short stature; do not know her family here; do not know Mr. Sinclair; heard him once at the theatre; am not acquainted with him.

Re-examined.—I have heard the members of my own family speak about Anna; had no idea I was to be a witness in this case until I was subpoenaed; never spoke to any one connected with the case until I saw Mr. Hardenbrook; the letter shown by me was given to me with the indenture.

Mr. O'Connor offered to read a portion of the letter, to show that the officers of the House of Refuge did not pass Anna off as a girl of good character.

A Juror here asked if Anna had admitted to have been in the service of Mr. Dickinson; the Jury were under the impression that she had denied it.

The Jury were informed that she had distinctly denied having been in the service of Mr. Dickinson.

The witness stood aside for a short time.

David Terry sworn.—I am clerk of the Board of Missions for the Methodist Episcopal Church; I was an officer of the House of Refuge before that; (book produced) this is the book of minutes kept by myself then; Anna came to the House of Refuge the 2d of October 1833, by the record; she left on the 2d of September, 1841; (another record produced) am the subscriber to this record of indenture here produced; (letter produced) this was signed by me as superintendent, which was sent by me with Anna to Mr. Dickinson.

Mr. O'Connor then read the indenture, saying Anna was 15 years 8 months and 28 days old, and of her own accord, put herself in apprenticeship with Mr. John S. Dickinson of New Canaan, in the usual words of indentures. It is dated 20th of March 1840, and is for 2 years 6 months and 2 days.

Witness.—Have no particular recollection of the girl; I might identify her; (Anna Flowers was asked for, but was not in Court) I think I saw a female on the stand whom I recognized; I would say that she was the girl who was in the House of Refuge; have no recollection of what her reputation was; must be confined to the record about that; I kept a memorial about delinquents coming in; I did it in the case of Anna Dempsey; we take their own statements after a few weeks have elapsed; if we have reliable statements from other sources we incorporate them; in looking at this memorial I can say that it was from her own statements; when I took the statement of others I should make a note of it.

Q.—Look at it now, and say if it came from herself.

Witness and Van Buren read the record.

Witness.—It is from herself; the whole of it, ending with "enters class."

Q.—What did she say of herself—use your book.

A.—I must depend upon it wholly.

Mr. Van Buren objected, and ruled out.

Cross-examined.—Anna was first bound out to Mr. Dickinson; she was not subsequently bound out; she suffered from ill health while at the House, according to the Record

Mr. Van Buren asked if Mr. O'Connor would object to the the reading of record, except the statement.

Mr. O'Connor assented.

It was then read. It says that Anna had been suffering from ill health and rheumatism; Dec. 2, 1840, Anna was returned by Mr. Dickinson, having been unfaithful, disobedient, and attempted to run away. Dec. 2, 1841, she was returned to her parents and was learning a trade.

Witness.—I think Miss Taylor was the matron of the establishment; there was a Miss King; do not know where she is now.

Mr. Dickinson wished to correct the name of one of the persons referred to in his testimony; he said he mistook the name of Wm. Henry Scofield for Charles W. Scofield.

W. B. Coleman sworn.—I am employed at the Astor House; have referred to my register about Mr. Randall being at our house in 1850; he came the 27th of January, and left on the 29th; the 27th was on a Sunday.

Cross-examined.—He may have been there before that; Mr. Forrest was there at the same time.

The evidence was merely to prove that the note written by Mr. Sedgwick was written on Sunday.

John Tristram sworn.—I reside at New Canaan, Conn.; have resided there 16 years; am foreman of the shoe manufactory of Benedict & Bradley; am 29 years old; I resided there in 1840; became acquainted with Anna Dempsey; knew her from the time Mr. Dickinson had her, about 9 months; I never saw her afterwards; heard of her being at my house afterwards; that was in July 1843; I became acquainted with her general character for truth; her character for truth was very bad; I would not believe her on oath in a Court of Justice.

Cross-examined.—I am married; was not then married; I lived the second house below Mr. Dickinson with my mother; I with my sisters lived with her; Anna did not visit at my house, but came frequently on errands; do not know any house where she visited; I think she was about sixteen at that time; she was middle-sized; have not seen her since; have heard Miss Abigail Seymour speak of her—

Van Buren.—That is the young lady of 70, is she not?

Witness.—That is her, sir; cannot recollect any one else now except my own family.

Granby Calcraft sworn.—(Great excitement in Court.) I reside in Chambers street in this city; know Mr. Forrest; became acquainted with him in autumn of '48, at his house in 22d street; his wife introduced me to him; saw him repeatedly at his house after that; I think I was introduced to Mrs. F. about a month before her husband's return; I had an invitation to go to a party at Mrs. F.'s house when I first became acquainted with her; the party I think was given in honor of Mrs. Lavert; her father was Colonel Walton; Mr. F. was absent from the city; Mr. and Mrs. Godwin, Mr. Bryant, and a number of others were present; am not sure Mr. Bryant was there; I have been after that at parties there when Mr. F. was not at home; was there at an evening party in the autumn; do not recollect who was there; I think Mrs. Willis was present,

and Mr. and Mrs. Godwin; Mr. Fortescue was there also; I was there with him on two occasions; I think Fortescue came with me; I think Miss Lynch was there, and came with us; I believe the party broke up about 1 o'clock or later; I believe we took Miss Lynch away as we brought her, in our carriage; we went about the time of the breaking up of the party; there certainly was not any impropriety committed during that evening different from what generally takes place in good company; Mr. Fortescue is the second or third son of the Earl of Fortescue, and is a member of Parliament for the borough of Barnstaple; I was once in company with Mr. Fortescue after that party, a few days afterwards; Mrs. F., Mrs. Voorhees, Mr. Raymond, Fortescue, and myself were there; we called in the evening; we remained to about 12 o'clock; we certainly did not leave later than 1 o'clock; Fortescue had to leave town very early in the morning; I know Mr. Raymond; did not know him before then; we came away together; we did not return that night to Mrs. F.'s house; Fortescue resides in London; we passed the evening in conversation.

Q.—At any time during the evening was there wine brought in?

A.—Yes, sir; just as we were going away; we had no wine until that time; I believe I took only one glass, but may have taken two; just as we were rising to depart Mrs. F. asked if we wanted a glass of wine previous to going on our long walk, if we did, we had to go into the dining-room for it, as she had forgotten to order the servants to bring in the tray; she added, "unless Margaret will go down and fetch it;" she acquiesced to do so and I said, "Will you permit me to assist you in bringing it up?" I accompanied Mrs. Voorhees to the dining-room and assisted her in bringing the wine and water up.

Q.—Who carried the tray?

A.—I believe I had that honor; (laughter) we took it to the library when the other persons were in the act of going away; Mrs. Voorhees and I did not go lower than the dining-room which is on the entrance; I think I even waited outside whilst she went in for the wine; on coming up stairs we were mutually laughing at our offices in carrying the things up; I believe Mrs. F. said something in a reproving way about our laughing and making too much noise; I had not drank a drop previous to that; Mrs. Voorhees certainly had not drank anything, to judge from her appearance; I was not any part of that evening affected by liquor; I went away almost immediately after taking the wine; Fortescue left the next morning at 7; I say most distinctly that there was no deviation that evening from the general rules of good society; Fortescue also behaved himself correctly; I have dined at Mrs. F.'s on one occasion during the absence of Mr. F.

Q.—Tell me distinctly the circumstances of that occasion.

A.—It was in the autumn of 1848 that having paid a morning visit to Mrs. F., and the dinner bell ringing as I was about to go, I said, "If I was in England, Mrs. F., I should presume upon an acquaintance of twelve years standing to ask myself to dinner, for I have to be up town again at 7 o'clock, and it would save me a great deal of trouble." Mrs. F. then said, "You may if it is any convenience to you, provided Margaret returns; but you must expect no dinner, for we are quite alone;" by "no dinner" I suppose she meant no preparation; there was plenty to eat for many more; Mrs. Voorhees did come in and I was allowed to remain, and I believe I asked permission to carve and did so; a younger sister of Mrs. F.'s was also present, and I think Mrs. Voorhees's child and nurse; I certainly left before 7 o'clock, but do not know how long before; I did not return the same evening; I was not in any way affected by liquor during the dinner, nor were the ladies, certainly not; I think that after dinner we drew around the fire and chatted for a short time; Mrs. Voorhees was almost constantly in the room; she may have gone out for a moment or two; I think Virginia left with the nurse and child.

Q.—During that dinner or at any other time were you ever lying or half-lying on Mrs. F. or she on you?

A.—Most distinctly not.

Q.—Had she her arm on your person or you yours on her?

A.—No, sir; never was in a locked room with her unless it was done outside intentionally; never took any liberties with Mrs. F.'s person, emphatically not; she never made any amorous approaches to me; never knew of any such act of hers to any male person; never saw her in the slightest degree disguised by liquor.

Witness stated that the visit with Mr. Fortescue was not a premeditated one; he had taken him there to thank her for allowing him to take Fortescue to see Fonthill.

Witness—Have visited Fonthill myself more than once; have been taken there once by Mr. Forrest, in company with Mrs. F. and Mrs. Lavert; I had breakfasted by invitation at F.'s house on the morning of our going; Mr. and Mrs. F. were present; occasionally called on Sundays, when F. was home; it was the only day he received visitors; always met him in his library; there always was wine and water for people to help themselves to if they chose, was introduced to Mrs. F. by her father, Mr. Sinclair, in Liverpool; she was then unmarried; I was in 1848, and am now, agent of the British Government packets, resident in New York; arrived here late in the fall of 1847, and the introduction took place in summer, 1848; I was in the British Army for ten years; was not to my knowledge in F.'s library at any time with Mrs. F. or any one else when the door was locked; never passed a whole day there; the earliest hour I was there was once at 9 o'clock, when I breakfasted with Mr. F.; never was there before 1 o'clock on any other occasion; never was present at any immodest act in that house; I have been addressed by Mr. F. in the street since this litigation commenced; it was in Sept., 1850.

Q.—State the circumstances.

A. It was a packet morning, and I was going to the post office, when I saw F. looking fixedly at me; I stopped to give him a chance to speak to me; he came up behind me, looked very excited, and asked if I was going to England; I asked in return, "pray, Mr. F. do you address me?" I also added "if you will do so in a more courteous tone I shall be happy to give you any information I can;" he continued in the same abrupt way, the amount of which was, that he advised me to go to England; I felt a little nettled and said "that is my affair;" did not say whether I had an intention of going to England or not.

Cross-examined—I resided No. 9 and 11 Warren street, when I first came here; remained there over two years; I was wrong, I resided there till May last; from there I went to live at the College Hotel, Murray street; only went there temporarily until I could get suitable lodgings; have no relations here; was introduced to Mrs. Forrest in this country by Mr. and Mrs. Willis; a Miss Lynch and me went to a party there in 22d street; believe I was taken there at my own request.

Q.—Are you married?

Witness—I would ask the Court if it is necessary to refer to circumstances of a very painful nature to me, which occurred twenty years ago.

Mr. Van Buren insisted on the answer.

Witness—I was married in the year 1829.

Q.—To whom?

Witness—Does the Court compel me to answer?

Court—I do not compel at all.

A. I decline answering, unless the Court insists.

Court—Can you point out any connection with the person he married and this controversy?

Van Buren—Undoubtedly; I propose to ask further if he is living with his wife. All this is very pertinent to this case, and would be so to any case. I refer your honor to the length which the examination of Mr. Deming was gone into.

Judge—Yes, but there was no objection made.

Mr. O'Connor said he knew of no reason why witness refused to name the person he married; whether she had been here, or how long he ceased to live with her; but if the witness objected to answer, he must be protected.

Witness—Unless compelled by the Court I will not answer any question on the subject at all. I will say that I never lived with her in this country.

The Court did not see why the name of a lady should be introduced here, if she had no connection with this case.

Mr. Van Buren said that witness was, what the law called, an accomplice, and he must find out something about the habits, manners, and practices of the witness.

Mr. O'Connor advised that the witness be compelled to answer, as the jury might take unfavorable inferences from his

refusal. This witness was divorced from his wife by an ecclesiastical tribunal, which had no power to grant an absolute divorce.

The Court said an unwarrantable latitude had been taken by counsel in the course of this case, but as no objection was made he had to allow it. Here now was an inquiry without any relevancy, and the witness, therefore, has a right to refuse naming the lady.

Witness—I am not living with my wife, nor have I been since 1830; have no means of knowing if she is alive; for many, many years, I have not heard from her; she has not been in this country that I know of; do not know if Mr. Sinclair is acquainted with her; I have no children; it was a clandestine marriage, and we never avowed it; we never positively lived together; she continued her maiden name; I have not seen her in twenty years; she was in London then; I did not leave her.

Q. What was the occasion of her leaving you?

Witness—She eloped with another person; do not know where from; I was with my regiment at the time; had seen her a month or two before she eloped; my regiment was at Portsmouth; that is seventy miles from London; I desired to keep my marriage secret on account of my family; do not know her reason for desiring the same; all the world might know of these facts, and so might Mrs. F., for I got my divorce by an open trial, but I do not think she knows; she never asked me if I was married or single; I had an action for damages and a limited divorce, and there were also proceedings in the House of Lords, but were quashed by the dissolution of Parliament, for an absolute divorce. I think that was in 1830. I am quite sure Mr. Raymond was with me and Fortescue at Mrs. F.'s that evening; I think we found him there; we may have smoked there; it is my impression that Mrs. F. had a cigarette, but did not smoke continuously; I have sent her a small box of paper cigars when they were first introduced here as a curiosity. When we went out to Fonthill we took out a small pocket flask with us, I think, with a little brandy; got it at a restaurant in Broadway, named Sherwood or Clark; Mrs. F. sometimes received me in the drawing-room, sometimes up stairs; I think the first visit I made her she was alone; there never were any refreshments given to me in the morning, except New Year's day; the day I dined there I called in the afternoon; we dined near five o'clock, I think; I am not accustomed to drink in the morning, still less in ladies' company—I therefore think I had not drunk there before dinner; I sat in the library before dinner; Miss Virginia and Mrs. F. were there with me, and servants were going in and out; did not then know Mr. F., I think; think he was absent on a professional tour; do not think he knew Fortescue; I think the nurse and child dined with us; it was not dark when we got through dinner; there was a strong fire in the room; cannot recollect if the gas was lit, but should judge it was; heard of a boy named Garvin living in Mrs. F.'s house then; he was attending table, and was in and out after dinner; Mrs. Voorhees remained in the room almost the whole evening; do not think Garvin came in whilst she was out; recollect nothing of an order to Robert to light the gas, or his coming to the door to do it; I think I had left my hat in the library and I went to fetch it; no one went with me to my recollection; do not know if Mrs. F. went up with me; do not think I am bound to answer where I called; it was a call—a visit; it was in the upper part of the city.

Q. What is his name?

Witness—I decline to answer, unless the Court tells me that I must. I had an engagement at seven o'clock which took me away.

Court—Why do you refuse to answer?

Witness—It was a private affair of mine, and I do not think all my visits ought to be promulgated in a court of justice.

The Court told him he had a right to refuse if it were on the ground that the answer would disgrace him or render him liable to a prosecution.

The witness still declined, but the Court ordered him to answer in regard to the person he called on.

A. I really do not recollect; I had to go out at that time.

Q. Was it a man or a woman?

A. It was a woman. (Laughter.)

Q. Was it a woman you knew before?

Witness—Must I answer, if the Court please?

Court—Certainly, unless the answer tends to disgrace you.

Witness—Then I decline on that ground.

Mr. Van Buren argued that he must answer, and was replied to by Mr. O'Conor.

The Court sustained the witness in his refusals, and then adjourned.

NINETEENTH DAY.

FRIDAY, JAN. 9.

Long before the hour for opening the doors of the Court room, there was a large collection of persons to gain access to the gallery, which was soon full; and then the Chief Justice gave special instructions to the officers to admit no more than could be seated. [The floor of the Court room is very weak, and there is a perceptible vibration to the feet when the room is crowded. It certainly would be expedient to prevent, for once, "a terrible catastrophe."]

Mrs. Forrest, Mrs. N. P. Willis, and a third lady, entered. Mr. F. came in shortly after, with his counsel.

A little after 10, the Court ordered the jurors to be called.

The Chief Justice said, the question at the adjournment, yesterday, was, whether the witness should be excused answering as to the name of the party with whom he had the engagement. The name would disclose nothing, and the nature of the engagement he might have a right to refuse, as it might be important for the party to call this party, and see if he had made the engagement. The witness has said he did not recollect the name; but still it might be of importance for the other side to be informed thereon.

By Van Buren.—What is the name of the person with whom you had the engagement?

Before the witness answered, the Chief Justice explained the rule of law to him again.

Witness.—As I before stated, I do not know the name; I was so pained at the course of the cross-examination, in your alluding to the most painful circumstance in my life, and that twenty years ago, that I said more than I intended; I have no distinct recollection.

Q. Do you know Mrs. Robinson, of Watt street?

A. I decline answering.

The Chief Justice said he did not know there was any harm in the witness knowing Mrs. Robinson.

Witness.—I do not know where she resides now; she did live at 21 Watt street; she was on the stage; I should call her an "ex-actress;" I don't frequently visit her; I have not seen her for many months.

Q. For what purpose did you visit her?

Objected to by Mr. O'Conor.

The Court required Mr. Van Buren to state for what purpose the inquiry was made.

Mr. Van Buren said, to ascertain the practices of this witness with other women.

This was objected to by Mr. O'Conor, and the objection maintained by the Court as irrelevant, and administering to an appetite for scandal.

To Mr. Van Buren.—I should say it was not Mrs. Robinson; the engagement was up town; you may term it a call, or

what you please ; the precise nature of the engagement I don't recollect ; only know that I had one, on which plea I asked Mrs. Forrest for permission to remain to dinner.

Witness.—You attained your purpose in confusing me yesterday ; your questions about circumstances which transpired long ago, and which were very painful to me, tended to make me hasty and confused, and I stated that the person I called upon was, or might be, a woman ; having said that, I thought that the natural construction would be put upon it, that it was something degrading to me ; I said I did not recollect the name ; did not say the name might degrade me ; I recollect of Fortescue and Raymond being with me at Forrest's, from the time of our visit there ; I have spoken to Mr. Raymond about the case generally, but not on the subject of his having been there ; I fix the hour of our leaving Mr. Forrest's by the time of our coming and being there : we came between 8 and 9 o'clock : I was only once with Mrs. Fortescue in the library, with Mrs. F. and Mrs. Voorhees : on the evening of the party in honor to Mrs. Lavert, there was a regular supper set out in the drawing-room : there was wine, but no spirits : I read Mr. Raymond's testimony in the papers in regard to the time of our leaving : I judge the tray was brought up from 12 to half past 12 ; I did not answer Mr. F. when he asked me whether I was going to England, because I thought it none of his business ; did not answer him after I had called upon him to answer in a more courteous way ; recollect distinctly that I said nothing more than "that is an affair of mine : " made him no other answer bearing upon my going to England [affidavit produced] : this bears my signature.

Mr. Van Buren read part of the affidavit, which set forth an answer of the witness to Mr. Forrest, as follows : "I have at present no intention of going to England."

Witness.—That part has quite escaped my recollection, and without any intention of mine ; it cannot be anything but a slip of memory.

Mr. Van Buren read another affidavit of witness as follows :

"I have recently read in the *New York Herald*, an affidavit purporting to have been sworn to by Mr. Forrest, in which my name is introduced, and alleged acts and conduct attributed to me, as having occurred at his house in Twenty-second street, which allegations are wholly untrue. Mrs. Forrest, to the best of my knowledge, information, and belief, is a perfectly modest, chaste, and virtuous woman." * * * * * "The other circumstance before referred to, happened on an occasion when I had been driving out of town, to Fonthill castle, to show the place to an English gentleman, who was then travelling through the States, and who, having expressed himself much pleased with all he had seen there, I urged him, on our return into town (as we, of necessity, had to pass so near Twenty-second street), to call at Mr. Forrest's house, where I would introduce him : and that he should express to them the pleasure he had enjoyed in viewing Fonthill. We accordingly called, and found Mrs. Forrest and Mrs. Voorhees at home. As we were about to leave, we were asked if we wished a glass of wine and water, Mrs. Forrest adding, "you will have to go down stairs for it, unless Margaret will go and fetch it, as I forgot to tell the servants to prepare the tray before going to bed. I said I would assist Mrs. Voorhees in bringing it up, and did so. We left said house by about half past eleven o'clock that evening. During our visit that evening, Mrs. Forrest, Mrs. Voorhees, my friend, and myself, all remained in the room together, with the exception of when Mrs. Voorhees and myself left to bring the refreshments, which did not occupy more than a very few minutes."

Witness.—That must be an omission of the party who drew the affidavit : I now recollect the circumstances of the visit as well as I did then : the occurrences are not now so fresh in my recollection, but I have a general recollection of them : we either found Raymond at the house, or he came in shortly after : I am sure I was not at the house with Mr. Fortescue, when Raymond was not there : do not know if Fortescue is a married man : my own request it was, which obtained for me an introduction to Mr. Forrest ; I wished it because he was a man of eminence in his own country : I also thought it due to him in courtesy, that I should be presented to him : did not know Mr. F. was absent or not, when I first asked to join the Willis's in going to Twenty-second street : I believe I received one or two notes from Mrs. Forrest : they are on perfectly trivial subjects.

Van Buren.—I did not ask that. Have you them ?

Witness.—No : I think I threw them away as waste paper, with other notes, official and otherwise : recollect Robert Garvin bringing me a note once : I presume it was mentioned to Mr. F. when I became acquainted with him, that I had visited his house before that : I take it for granted it was : have not procured, or endeavored to procure, any witnesses for this case—oh, stop, I will explain—I told a woman that—

Van Buren.—Wait a moment. Have you endeavored to furnish testimony against Mr. F. ?

Witness.—Let me understand you : I do not wish to be caught in another trap.

Van Buren.—I do not wish to trap you. [Question repeated.]

Witness.—I must explain.

Van Buren.—No, sir—say yes or no.

O'Connor.—He has the the privilege to explain.

Judge.—The proper way to answer is to give an exact account of what he did.

Van Buren.—But I object to it : he must answer the question as it is put.

O'Connor.—I agree to let him omit everything that anybody may have told him against Mr. F.

The Court then instructed the witness.

Witness.—I did not volunteer the procurement of evidence : that is the answer, unless you want the details, which I would rather not mix myself up with.

Q. Have you suggested to any one the propriety of testifying ?

A. No : she suggested it to me : I told her she might or might not, acting upon her own judgment, inform Mrs. F.'s counsel of what she knew : I gave no advice whatever beyond this : do not know what she did : I have no counsel employed in this case, either for myself or Mrs. F.

Re-examined.—Q. How long ago is it that this individual was spoken to by you about telling Mrs. F.'s counsel of what she knew ?

A. Over a year ago, but I want to wash my hands —

O'Connor.—Never mind, sir : they are well enough washed on this score.

Witness.—I believe I once sent a bouquet to Mrs. F. : I was invited, by note, to Mr. Forrest's to breakfast with him : Mrs. F. wrote the note : I believe I sent Mrs. F. a second box of cigarettes, which she asked for, to give away : I believe she acknowledged these little complimentary presents by note.

O'Connor.—That is common in good society, is it not ?

Van Buren.—Oh, leave the common law out.

Court.—Let us keep out the laws of fashion. (Laughter.)

Witness.—Cannot remember that she sent any other notes ; have no recollection of a chair, or other article of furniture, being broken whilst I was in the house.

Cross-examined—I sent, on New Year's Day, a present to Miss Virginia ; I think it was Burns's Works ; think I did so on last New Year's ; never sent Mrs. F. any turtle soup (much laughter) ; I believe I sent her some English game on one occasion ; it was a Scotch grouse ; it was either partridge or grouse ; did not send her any wine ; it was, I believe, after the introduction to Mr. F. that I sent the grouse.

Witness.—I hope the counsel for Mr. F. will understand that I had no act or part—

Judge.—No matter, sir, about the estimation they hold you in. Exit Capt. Calcraft.

Catharine Levins sworn—I reside at No. 46, Avenue B ; keep house for myself ; I am single and a widow ; I know Mr. and Mrs. F. ; I have been in the employ of Mr. F. in 1844, and remained whilst they were in Europe and after they came back ; I know Ann Dempsey, a domestic in the house ; she was chambermaid ; I was hired as cook, and after they went away I took charge of the whole house ; Barney McCabe was in the house also when Ann first came there ; he was waiter ; he left two months before the family went to Europe ; Ann came there in June before the Christmas that F. went to Europe with his wife ; have not seen her since the summer they were away, when she came with Mr. Raymond.

Q. Did you become acquainted with Ann's general character? A. Not at first, but I did while I knew her; I became acquainted with her general character for truth. Q. Was it good or bad? A. It was bad. I would not believe her under oath—would not believe any thing she says. Q. Did you on any occasion in that house see Ann in any immodest position? A. Yes, sir, I did. Q. Please to describe what you did see? A. I saw her in bed with the waiter boy, (laughing among the audience); I mean Barney McCabe; she was locked up with him in a room during the daytime, and it excited my suspicions; I then watched her, and looked in her room at night and found them together. Q. Did you speak to her? A. Yes, sir; she ordered me out of the room, and said if I would not go she would strike me, and slammed the door in my face; she sat on the side of the bed and I stood in the door; next morning she came to me crying and begged me not to tell Mrs. F., that she would do any thing for me, and promised I should not catch her in the same act again. Q. Do you remember an occasion that year when Mrs. F. went to Philadelphia to meet Mr. F.? A. Yes, sir. Q. Was there any appointment or leave for you to go out the night of the first day that Mrs. F. went away? A. No, sir. Q. Did you go out that afternoon or evening? A. Yes, sir, I did, in the afternoon; I cannot exactly say when I went away, but I was home before five o'clock; I went to a milliner in 9th Avenue, corner of 17th street, or somewhere there; I was away about twenty or twenty-five minutes at the furthest; I was not out again that evening; spent the evening in the kitchen, and Ann was with me then; Mrs. McClane sat there a while, and Miss Virginia; Mrs. McClane nursed Virginia and had charge of her; before she got married we called her Jane; she is not living; she died with her first child; Virginia used to go to her in 20th street when Mrs. F. was away; Mrs. McClane took her home that evening. Q. Did Ann go out that day? A. Yes, sir, she left the house the same time I did; we did not go or return in company; we got in about the same time; she was in a few minutes before me; she told me so.

Q. Did any gentleman call at the house that evening?

A. Yes, sir; Ann came down stairs laughing and told Mrs. McClane that Capt. Howard was up-stairs and wanted some brandy; Mrs. McClane and Virginia were in the kitchen; she asked where the brandy was, and was told between the dining and drawing-room; Mrs. McClane went up together, but I do not know if she went into the parlor and they came down again together; there was something said about Capt. Howard wanting water as well as brandy; Ann also said Capt. Howard had gone out; they were absent no longer than ten minutes; I did not then suspect of any thing that has turned up since; I heard the front door shut; that was just about dark; no light had been lit; Capt. Howard nor anybody else was there after that the same night; when I came home I asked Ann where Barney was, and she said she had sent him to the store; he was out; he came back but do not know if he was in all evening.

Q. Is it true that you came home late that evening?

A. No, sir; I never left the house after dark; I had no party or friends in the kitchen on the following day; I had no friends here, my husband was then in Florida; cannot say whether the finding of Ann and Barney in bed by me was before or after Mrs. F. had gone to Philadelphia; I think it occurred about the same time; Miss Margaret was in the country, and Mr. and Mrs. F. were also away from home; Ann generally used to talk of houses of ill-fame, and all kinds of smutty discourse (laughter); I was in the house no more than two weeks with her when she began that kind of talk; I walked away from her on such occasions; the door of the room when I caught her with Barney was shut, but cannot tell if it was latched; I got in such confusion, knowing him to be there, that I forget if I opened the door; when I saw Barney he was laying in bed in his shirt; she stood by the side of the bed and laid her hand on the door, which came against the bed; she had a night-gown on; my room was next to Barney's in the garret, and hers was opposite to his; I think we came up to bed together; the front door was locked; Barney went into his room before he went to Ann's; I went into my room and closed and locked my door; I had a light with me; I put the light out; it was about half an hour after I put out my light that I started to Ann's room; I heard Barney unlock his door and go out; I then lit my light again and walked to Ann's room; I did not go very quick; did not want to go quick, and wanted her to know I was coming; I opened my door so that they might hear me, and walked rather heavy out on the landing; I thought he would come out on hearing me.

Cross-examined—I was with Mr. F. some time after they returned from Europe; went to housekeeping then myself in the Eighth Avenue; I am a widow now, and used to work at house-cleaning, but since the fall I have had a baby to nurse; it belongs to Mrs. Connor; I took it in October last a spoon-feeding; it is between seven and eight months old; she is herself nursing for a lady named Hart; Mrs. Connor is the mother of the child I took; she is wet nurse to Mrs. Hart, and is paid by the month; I am paid \$4 a month for taking care of the child; my sister, Mrs. McMann, who lives in Eleventh street, helps me; have done nothing since the fall but nurse the baby; before the fall I got four shillings a day for white-washing, and six a day for paint-washing; have worked for Mrs. Wright, 670 Fourth street; worked a year for her; got paid according to the work; have done her house-cleaning in the spring, and half a day every week; worked for a Mrs. Loder; she gave me fifty cents a day for doing her cleaning on Saturdays; done nothing else for her; have not worked for Mrs. Willis; do not know her; worked for Mrs. Forrest the first summer after they separated, but not since; have seen her once in two or three months; took her washing when she boarded in Great Jones street; she paid me for it, but got no money from her for any thing else; she has always been very charitable to me, and helped me.

Q. What did she give you?

A. A shawl, and some articles like that; it is about a year ago, or a little later; she gave me a black muslin frock in the beginning of last summer; I know Mrs. Voorhees; she gave me a frock four years ago, and clothes that did not fit her child; the latter is about a year ago; I came from my own house to Court; I went to Mrs. Forrest at the Irving House, and came here with her; I had charge of the house whilst Mr. and Mrs. F. were gone; Miss Margaret boarded and slept at the house, but went out much, for she had pupils on the piano; recollect Ann being in the family way; she told me she was; that was about Christmas; she left in March; she went to Connecticut.

Q. Who sent her?

A. Herself; (laughter,) she said she knew people there, and could get better on there; I am sure Miss Margaret did not send her, or advise her to go; never heard Miss Margaret tell her to go; did not see her again till the next summer, at the house; have seen Barney catching hold of Ann in the kitchen, and kiss her; I alone was present; that was before I caught them in bed; (laughter;) that was both in the daytime and the evening, in the kitchen, area, and yard; he never caught hold of me; I told Mrs. F., after I caught Ann in bed with Barney; did not tell Mrs. F. of the smutty talk; thought I would keep it from her until I saw more of Ann's conduct; told her all about it after I caught them in bed; never was fond of telling tales, and did not like to tell; it was September when I caught them in bed; I kept Ann at a distance from me mostly all along; did not tell Mrs. F. when I saw Barney kiss Ann in the area and kitchen; I never mentioned it to Mr. F., and never spoke to him as long as I lived in the house; did not tell him because I thought it was not my business.

Q. Why did you not tell Mr. Forrest?

A. I did not like to tell a gentleman such things as that, and I never had spoken to him.

The evening I found Barney in bed with her we went up stairs about 9 o'clock; Barney locked his door; judged of it by the sound he made; saw Ann go into her room; she left it open; I had been half an hour in my bed-room when I heard Barney's door open; I left my room about ten minutes after I heard him leave his; I did not want to go into Ann's room, for I thought it improper, and I felt mortified, but as the family was out of the house I thought it was my place to try and break her of that habit; (laughter,) do not know if he had been at night with her before; the habit I wanted to break her of, was the kissing and carrying on with him in my presence; I heard him go into her room; his room was next to mine, and hers opposite to his; he had nothing but his shirt on; I heard Barney's door opening, and his foot across the landing; I knew that he ought to be asleep, and no other person would walk about the house but him; I had caught him in the room the same day, and thought he could not go any where but to her room; cannot say that I heard him enter her room; I had undressed before I heard him open the door, but I put my clothes on again; I followed him in ten minutes; guessed at the time; there was no light in her room; Ann started up to close the door, but I had opened it before she could; she was standing up on the side of the bed; when the door opened it struck against the side of the bed; she was in front of the bed; I did not ask her if she had been asleep, nor did she tell me; I made a kind of alarm

before I went to the door; I was so alarmed that I did not think whether I liked her to hear me come or not; I asked Barney what brought him there, but he made no answer; I then walked into my room and closed my door; I left them there; I was afraid of her, as there was no one in the house but myself; she spoke so awful wicked that I left her in her room and went to mine; do not know if Barney remained with her; did not hear him return to his room; I did not sleep all night, I was too much afraid of them; I saw Barney next morning down stairs; I mentioned this to Mrs. F. in October, about a week after she returned; I think it was about October; cannot tell how long before Mrs. F. went to England I told her; she went to England about Christmas; I had seen Ann locked up with Barney in the back bed-room, adjoining the bath-room, the same day that I caught her in the evening; did not see her go in the room; did not see Barney go in; I saw her come out; did not see him come out; it was in the forenoon, about 11 o'clock: I had called for him and her about twenty minutes before from the landing; I wanted her; I called to her from both landings; I had tried the knob of the door before she came out, and found it locked; could not find Barney, and therefore thought he was in the room; he was in the house, and must have been there; that is my reason for saying he was in the room with her; think it was more than three days after Mrs. F. had gone to Philadelphia; Mr. McClare was no acquaintance of mine; did not see Capt. Howard that time; Mrs. F. did not give me permission to go out; I was in the house before that; was in the house the night after; did not leave the house on any occasion; do not know how I was occupied the night before; saw Mrs. McLain and Ann go up and come down again for the brandy for Captain Howard; Ann was in the kitchen most part of the evening; recollect it from the fact that we were alone in the house, and I asked her not to go to her bedroom, but to stay with me; Barney was in the house awhile that evening, but went out again; he had permission to go, as we had been out all day; I had been out shopping from about 3 o'clock to some time in the afternoon; Ann was also out that afternoon; Mrs. Forrest came to see me last summer; the house of Mr. F. was as quiet when he was away as when he was home; when he had a headache we were told not to slam the doors; I know Mr. Isaac B. Smith; did not say to him that when Mr. F. was home the house was quiet, and when he was away we had a good romp; never told Mrs. Smith so; I once told her that when Mr. and Mrs. F. were away we had permission for one of the servants to go out whilst the other stayed in; did not tell her there was no fun in the house when Mr. F. was at home; told her Mrs. F. was a good, charitable woman, and that I did not believe anything that was said against her; do not know if Ann Dempsey slept with Mrs. Forrest; never heard Mrs. F. say that Ann slept with her; I think Ann told me she had slept with her; Mrs. F. was not present then; after she had been a month or six weeks with us, she told me Mrs. F. thought a great deal of her, as she was so nice and clean a girl, and had asked her to sleep with her; that was when Mrs. Voorhees was absent from town; Ann did not sleep with Miss Sinclair after the F.'s went away; there was no servant but Barney, Ann, and myself; my sister, Mary M'Cullough, was there after Forrest went to Europe; she did the washing; another woman had been engaged to do it, and I asked Miss Sinclair to give her the job; Howard was at the house once after that to dinner with Mr. F.; do not recollect his having slept there.

Re-examined—Q. What did you tell Mrs. F. about the Barney affair?

Objected to. Allowed.

A. I told Mrs. F. that Ann's conduct was not good, and that I did not wish to be in the house with her; I told her I caught Barney in bed with her.

Q. What did Mrs. F. say to that?

Objected to.

Mr. O'Connor said that counsel had given in evidence a particular occurrence, for the purpose of drawing an inference from an act of Mrs. F. in regard to it. It was but just therefore to show the impression produced upon her by the communication.

The Court allowed the inquiry.

Witness—She said she would have to turn her away; the presents given to me were old things that Mrs. F. had cast off.

Cross-examined—My husband died two years ago last July, in Fifth street; was married in Ireland; came over with him; he did not live at Mr. F.'s; he was enlisted by officer Brady, and went to Florida for five years; he came back when I lived with Mr. F.; he took me out of there; about four months after he returned; had never any difficulty with him; he was intemperate sometimes.

Re-examined—Never saw Ann Dempsey afterwards but that once, when she came with Raymond; at that time I found her sitting in the drawing room, and I asked her what she was about; she said, "I ought not to prevent her doing the best;" I said, "how can you lay the child on Captain Howard, when you know very well I caught you in bed with Barney?" she told me "that if I said so she would have my life, or set the house on fire;" I threatened to have her arrested if she talked that way to me; Mr. Raymond walked into the room just as I was talking to her.

Court—How old is Barney?

O'Connor—We shall produce him, sir, and he can tell his own story.

To Van Buren—No one asked me to go into the drawing-room; Miss Margaret told me not to go in, because she had threatened violence against me several times; I did not know she was coming there; I did not know Raymond was coming there; I did not stay as long as Ann did in the room; I left her and Raymond there; Ann did not deny when I told her I had caught her in bed with Barney.

Q. How old was Barney?

A. 17; she told me he was older than (laughter) he looked; had only one quarrel with her; she then took up a knife to stick me; the morning after I had caught her with Barney she came into my room and prayed that I would not tell Mrs. F.; I ordered her out, and told her not to come near me; she was angry the morning that I and Raymond saw her; we had a few angry words.

Harriet White, sworn—I am the wife of Isaac White; reside in Brooklyn; in 1843, '44, and '45, I resided in Norwalk, Conn.; I became acquainted there with Ann Dempsey; she first called herself Adams; she only stayed one night and part of a day with us the first time, in 1843; saw her next the following fall, in October; I mean the fall of 1843; her name then was Ann Dempsey; she then stayed about 3 months with me; next saw her in 1845; her name was Mrs. Elmer dorff then; she came to me to get board; she stayed a little over two weeks; she left my house for that of Mrs. Raymond, Mary Raymond, of Flatshill, near Norwalk; she went there in April, and stayed till the last of May or June; the second time she represented herself as a single lady; a letter came addressed to Ann Dempsey, and to my care; I asked her if her name was Dempsey, and she blushed very hard, and asked "why?" I told her about the letter, and she put on her bonnet and went to take it out; when she returned I blamed her for coming under a false name, and telling me all that story; from what I heard of other people, and what I saw myself, I became acquainted with her general reputation; as to her truth and veracity.

Q.—Was it good or bad? A.—It was bad. Q.—Would you believe her on oath? A.—No, sir, I would not.

Cross-examined.—My husband is in the wholesale oyster business; have been married twenty-one years last August

The witness looks young, and the audience evinced their surprise at her having been married so long.

Witness (perceiving this).—Do you doubt my word?

Van Buren.—Oh, no, madam. (Great laughter.)

Witness.—I am forty years old; I have a family; Anna used to live with a Mrs. Russell, a neighbor of mine; Mrs. R. was from New Orleans, and is dead now; Ann took care of a child for Mrs. Russell; the first time I saw Ann, it was in July, and the next time in October; she came alone; I kept no boarding-house; Mr. Russell kept a shoe-store; I told Ann I would take her for a spell as boarder; she may have come in September; she stayed about three weeks and paid for it; do not know how long she was with Mrs. Russell; she did no work in my house; she worked at tailoring there, or learned it; she was a stranger in the place both the times she was there; we lived in the village; do not recollect hearing any one speak against her character for truth; heard several of my neighbors speak against her in other respects; heard a Mrs. Brower; it was the general talk; Mr. Brower's mother, Mrs. Hodge, and Mrs. Vernet, spoke also against her; she came again in 1845, and remained two weeks with me; she was confined at Mrs. Raymond's at Flatshill, where she went to board from my house; she gave the name of Adams to me the first time she came; I continued calling her Mrs. Adams when

she came again, and when the letter came she owned that her name was Dempsey; do not know whom the letter was from; I used, before that, to call her Miss Adams.

Miss Harriet White, a very good looking young girl, sworn.—I am the daughter of the last witness; shall be nineteen years old in March; I know Ann Dempsey; have seen her three times at Norwalk; I used to call her Ann the first time; called her the same name the second time; did not hear of her whilst she lived at Mrs. Raymond's; recollect a time when she was boarding there, when my mother was absent.

Q.—Did Ann do anything very remarkable? A.—Yes, sir. Q.—State what it was. A.—She locked herself up in a room with two men, and turned me out; (general hilarity) I told my mother when she returned.

Cross-examined.—That took place about seven o'clock in the evening; the men are named Henry Hand and Andrew Ressler; do not know how old they are; they were not married; they did not visit us; one was a stage-driver, and the other attended a stable; I went to bed, and do not know how long they stayed there; I was then ten years old; no one else was in the house except a family who lived down stairs; we occupied the upper part; I think four rooms; I used to call her Ann on purpose to make her mad; recollect mother calling her Miss Adams the first time she came there; I went away on a visit the day after she came the last time, in 1845; I was there when she came there; she then went by the name of Mrs. Elmendorff.

James Curzon sworn.—I reside in New Canaan; am a daguerreotypist; am a nephew of Mr. John Dickinson; became acquainted with Ann Dempsey while she was there; never saw her after she left his service, in 1840; became acquainted with her general reputation.

Q.—Was it good or bad? A.—Bad enough. Q.—In respect to truth, what was it? A.—Bad. Q.—Would you believe her? A. (emphatically)—No, sir.

Van Buren.—What's that? A Voice.—He won't believe her under oath. Van Buren.—Oh, of course not. (Loud laughter.)

Witness.—Recollect one evening her jumping out of her bed-room; Mr. Dickinson and I were in the kitchen; she had her night-clothes on; one day Mr. D., with wife and children, went to Norwalk; they left me at home, requesting me to see she did not run away; I had a gun that I was cleaning in the attic, and she came up to ask me if I would make her a corset-board; she said, "James, if you will make me a corset-board, I will grant you any favor you can desire."

Q.—Did she do anything? A. Nothing by action; nothing further than looks.

The Judge thought it was unsafe to go by looks. (Grinning among the spectators.)

Cross-examined. I did not make the board. (Laughter.)

To O'Connor. Think she was about seventeen years old then; her bust was well rounded, and she seemed stout.

To Van Buren. The occurrence about her getting up in her night clothes took place but once; uncle and I were in the kitchen; I saw her getting up; she came into the kitchen; the bed-room door opened right into the kitchen; it was from six to nine in the evening, in summer time, and about dusk; she was one or two minutes out of the kitchen; Mr. Dickinson told her to go back to bed; do not know when I went to bed; it took place very shortly after I went there; I came to New York this morning; am an Englishman; was subpoenaed yesterday, at Bedford, Westchester county, this State; my business brought me there; my expenses coming here were paid; do not know whether I am to be paid anything else.

Bernard McCabe called. (He is a most original looking being, of the ordinary height, lank and sleek, and stupid looking, whilst his *tout ensemble* perfectly correspond with Ann's allusion to him, as "that dirty boy." He was dressed in a snuff-colored dress-coat, originally made for a person twice his size, the tails of which nearly touched the ground. He wore it buttoned up to the throat, exposing a bare neck, of grayish color, and as he came up, cap in hand, and the other in his pocket, the audience indulged freely in their laughing propensities. Barney is decidedly a character and a genius.) My name is Bernard McCabe; I shall be twenty-four in February; I live at 218 Ninth Avenue, in this city; live with Mr. Butler; I lived with Mr. Forrest at one time; lived with him for three years and eight or nine months; was employed as waiter; I used to attend the door; think I left him in the fall of 1845; before he and Mrs. F. went to England; when I left I went to work in the Sixth Avenue, in a marble yard; Catharine Levins and Ann Dempsey were in the house when I left; cannot remember how long Ann had been in the service when I left, perhaps from four to six months. Q. Were you at any time in the evening in Ann's bed-room? A. I was one evening. Q. Did any one come in? A. Mrs. Levins. came in. Q. Where were you when she came in? A. I was in Ann's bed. (Laughter.) Q. How much dress had you on? A. Only my shirt. Q. How was Ann dressed? A. She was in her night clothes. Q. Had you at any time sexual intercourse with Ann? A. I believe I had once or twice before. (Roars of laughter.)

O'Connor—Speak up, and let us hear you.

Q. Was it in the daytime or at night that you first had intercourse with her? A. In the daytime, I believe. Q. When? A. In the bed-room, next to the bath-room, I believe. Was it on the same day or different days that you were found in her bed? A. I think it was on the previous day. Q. Did you solicit her, or did she come to you to have intercourse? A. I can't say; I was awake when Margaret came into the room.

Cross-examined—I am in a store in the Ninth Avenue now; I believe I can write a little; I mentioned these facts to Mr. O'Connor six or eight months ago; I think I was sent for; can't say who sent for me; the boss told me there was a note for me; when I returned from an errand; I was told to go down to No. 2 Dey street: saw Mr. O'Connor there; do not know if he was up to see me; can't say if I went there more than once; I believe my statement was taken down; I think I signed it; I believe I swore to it; I was not paid anything for going; have not been paid anything since, except sixpence, to pay my stage fare. Q. Have you made a statement denying the truth of the first? A. I believe I have; I was forced to it, I think. Q. Did you swear to the second? A. I don't know; I believe I held up my hand; can't say if I was sworn to it; do not know before whom I made the second statement; it was made in a place in Broadway; do not know if I was sober when I made the first statement; do not know if I was drunk; I came home drunk, at least the boss told me I was drunk; do not know if the second statement was made at Mr. Sweney's office; do not know if it was made in Franklin street. (Paper produced.) Q. Is that your writing? A. I believe it is.

Mr. O'Connor reads the statement.

Mr. O'Connor said he would not object to the reading of the affidavit, except the latter portion of it, about which he had not been examined at all.

The Court ruled that the part alluded to, be left out.

Mr. Van Buren read the affidavit.

"*City and County of New York. ss.*—Bernard McCabe, of said city, being duly sworn, deposes and says:—Several months ago, when I was in the employ of Mr. Bryan, the proprietor of a Bowling Alley, at the corner of Twenty-fifth street and Ninth Avenue, in said city. I was informed that one Charles O'Connor, the counsel of Catherine N. Forrest, had been frequently seen walking up and down said Avenue, making inquiries as to my whereabouts. Shortly after I was so informed, a colored woman called at my place of business, and informed me that the said Catherine N. Forrest desired to see me at her residence in Sixteenth street. Accordingly I went to see said Catherine N. Forrest, who informed me that said O'Connor desired to see me at his office, No. 2 Dey street, and promised that, if I would go there, and sign any paper the said O'Connor might request me to sign, she, the said Catherine, would pay me well for it. I declined this proposition. Shortly afterwards I received a note from said O'Connor, in which I was informed that, by calling at his office, I might hear of something to my advantage. This invitation was also declined. Some time after this last occurrence, I saw in the daily papers several affidavits in the Forrest divorce case, and among them, one of a certain Catherine Levins, in which it was stated that she, the said Catherine, had once seen me in bed with Ann Dempsey, at the house of Edwin Forrest, in Twenty-second street, in said city. About the time I saw this publication, I was informed that I myself had made an affidavit to the effect that I myself had sexual intercourse with said Ann Dempsey. I then remembered that several months before, whilst I was very much intoxicated, (I being in the habit of drinking to excess,) I went to the office of said O'Connor, in Dey street, and saw a man write something there; but I had not then, nor have I now, any recollection of making such an affidavit; nor could I, in my sober senses have made such a statement respecting the said Ann Dempsey. On the contrary, I have uniformly declared, and do now declare, that I never had sexual intercourse with the said Ann; and I solemnly declare that I was never seen in bed with her by said Catherine Levins, or by any other person. I have care-

fully avoided meeting the said Catherine N. Forrest, ever since I was reminded of my having been to the office of said O'Connor, for the reason that I did not wish to receive compensation for having done an unjustifiable act. In or about the year 1841, I being about 12 years of age, went into Mr. Forrest's employ, and there remained about four years. During that time Mrs. F.'s household affairs were quietly and regularly conducted in his presence, and frequently otherwise during his absence.

* * * * *
"BARNEY McCABE."

"Sworn before me, this 27th day of November, 1851.

"JAMES M. SWEENEY, Commissioner of deeds."

Witness—This paper is signed by me; a gentleman who fetched me there was present; I think his name is Burr; Townsend, a policeman, came where I was working, and said Mr. F. wanted me, and asked if I would be ready in the morning to ride down with him; I said I did not care about going, and he then said it was no harm, Mr. F. only wanted to ask me a question or two; the boss asked why he wanted to force me to go, if I did not wish to go; he then persuaded me to be ready next morning at 9 o'clock, to go down with him; we did go to Florence's hotel, where Mr. F. was boarding; he gave me the newspaper to read, Mr. Burr gave it to me; he was in there when we came; I think it was in room No. 12; he then asked me to go out a little ways; I went with him; it was last Thanksgiving Day; we went around the Park, then we came up Centre street, and went up another that I don't know the name of; we went into a house in the street, and he asked me to sign my name to a paper; I did so; he gave me a dollar bill; he gave me that when we came out of Florence's; he asked me if I wanted a glass of brandy, but said no; I read part of the paper before I signed it: there was some of it that I could not make out: it was not read to me by anybody, to my recollection: I tried to read it the last time at Florence's: tried to read it in Broadway: close to the hospital, in a jeweller's shop: saw Mr. Stevens there: that was before I was at Florence's: on a different day than that I was at Florence's: this Townsend fetched me to Stevens: it might be a month before I was at Florence's: Townsend brought me there: I was then asked to sign the paper: I believe I signed it: I held up my hand: that was at Stevens': cannot say if it is the same paper I signed afterwards: I signed another paper after that (paper produced): I do not know if this is the paper I signed: put two signatures on the paper: do not know if this is the same paper: Townsend persuaded me to sign it: he wanted me to say I was drunk when I made the first affidavit: he called on me three or four times about it, I suppose: he said it would not harm me any.

To Van Buren—Have once seen Mrs. F. at her house since the separation; she wanted me to go to Mr. O'Connor's office; saw her in Sixteenth street.

O'Connor—Did Mrs. F. tell you she wanted you to sign any paper I might write? A. No, sir; she never told me that.

Q. Did she tell you she would pay or reward you for anything? A. She said she would pay me for any trouble; I believe one or two persons told me you had been walking up the avenue, looking for me; cannot tell the names of either of them; Townsend I think was one of them; I think somebody else told me so; he said he had seen you walking on the Ninth Avenue; the note spoken of by me had your name to it; I believe it stated that I should hear of something to my advantage by calling. Q. Well, when you called, did you hear of anything to your advantage? A. No, sir (laughter); you never gave me anything but sixpence; you told me I was entitled to nothing but witness fees; that was a week ago; I asked for the sixpence spoken of; don't know if I was drunk when I called upon you, but I was drunk when I got home. (Laughter.)

To Van Buren—Mr. F. told me once to go and see you. Q. What did I tell you? A. Nothing. Q. Did I not tell you to clear out? A. Yes, you did. (Laughter.)

To O'Connor—Forrest told me two days before to call upon you.

Barney then waked off amidst uproarious mirth, and the Court adjourned.

T W E N T I E T H D A Y .

SATURDAY, Jan. 10th, 1852.

The jurors were in attendance at the usual hour, and the court opened at 10½ o'clock.

Mrs. Forrest, Mrs. N. P. Willis, and another lady, came into court with Mr. Charles O'Connor.

Mr. Edwin Forrest and his friends were in attendance before the commencement of the proceedings.

Mr. Charles O'Connor offered to read the deposition taken by commission of John W. Forney, of Philadelphia, editor of the *Pennsylvanian*.

Mr. Van Buren objected.

The Court overruled the objection, but allowed special objection to be taken to the questions as they arose.

Mr. O'Connor then read the deposition.

"Depositions of witnesses produced, sworn, and examined the twenty-second day of December, in the year one thousand eight hundred and fifty-one, in the city of Philadelphia, in the State of Pennsylvania, under and by virtue of a commission issued out of the Superior Court of the city of New York, in the form of letters rogatory in a certain cause therein depending and at issue between Catharine N. Forrest, plaintiff, and Edwin Forrest, defendant.

"JOHN W. FORNEY, of the city of Philadelphia, editor, aged thirty-four years and upwards, being duly and publicly sworn pursuant to the directions hereto annexed, and examined on the part of the plaintiff, doth depose and say as follows, to wit:

"First.—To the first interrogatory he saith: My name is John W. Forney, aged thirty-four years, by occupation an editor. I reside in the city of Philadelphia, and have resided there six years and upwards. I am a married man.

"Second.—To the second interrogatory he saith, I do know Edwin Forrest, who is by profession a tragedian. I have known him about fifteen years. I have been during all that time on the most intimate, confidential, and friendly relations, and am so still.

"Third.—To the third interrogatory he saith, I am and have been within and during the last two years editor of a newspaper extensively circulated in the State of Pennsylvania. The name of said paper is the *Pennsylvanian*.

"Fourth.—To the fourth interrogatory he saith, I have looked at the paper now exhibited to me and annexed to the commission marked A: I believe it is the copy of a letter written by me—a private letter written by me to George Roberts of the *Boston Times*. I believe it to be a true copy. The said Edwin Forrest was not present when I wrote the said letter; he did not see it; it was sent off without being exhibited to him. I told him I had written it directly after I had written it; there were two passages in the letter which showed that it was written with his cognizance. The said Edwin Forrest and myself spoke of writing such a letter before hand, but did not go into details, and while the letter sent no doubt met Mr. Forrest's approval, he never saw it before it was sent, to the best of my knowledge; but of that I am perfectly certain; I got an answer to that letter. I wrote the letter by Edwin Forrest's authority. He did assent to my writing it. I wrote that letter to a person that I believed to be a gentleman, in confidence, for the purpose of vindicating a valued friend whom I believed to be an injured man. I had a reply to my letter to Mr. Roberts from him, cordially seconding the suggestions which I made to him; that letter is now lost or mislaid. That is all I have to say.

JNO. W. FORNEY.

"Examination taken, reduced to writing, and by the witness subscribed and sworn to, this twenty-second day of December, 1851, before me,

"OSWALD THOMPSON,
President Judge of the Court of Common Pleas
of the city and county of Philadelphia."

O'Connor—Now I want to read the letter.

Van Buren—There is one objection; the original ought to have been submitted to the witness, and the more material objection is, that Mr. F. never saw it at all, was not present when it was written, and although there are suggestions in it purporting to come from him, there are also statements in it which would not have got in had he seen the letter. In order to charge a man with the acts of another, that other should be shown his agent for that specific purpose. (Counsel then read again so much of the deposition as related to the agency of Forney in the premises, contending that the same had not been sufficiently proved.)

Mr. O'Connor said the copy, attached to the deposition, was as good as the original letter, and the letter was out of the State, which rendered it impossible for plaintiff to produce it. To show that every diligence had been used to procure the original letter, he (counsel) would read the deposition of George Roberts, of Boston, editor of the *Boston Times*.

The point of this deposition was that he received a letter from John W. Forney, of Philadelphia, which he declined to give up, as it contained important matters in regard to persons wholly unconnected with this matter, and which the witness would not divulge without the consent of the writer; also that the copy annexed to the deposition of Forney was a true copy of the letter referred to, so far as its contents bore upon the Forrest case.

Mr. O'Connor went on to say that the deposition of Forney showed sufficient authority on his part to act for Mr. Forrest in the writing of the letter.

The Court thought the objection of the original letter not being produced here, there was no force in that, as every diligence had been shown to bring it here. Mr. Roberts had refused to produce it, and there was no power to compel him, secondary evidence could therefore be introduced. The second question was as to the authority given by Mr. Forrest to write the letter. There was *prima facie* evidence that a certain letter, proved to be this, had been written by the authority of Mr. Forrest, and it might therefore be read.

Mr. O'Connor—Take the date first, if you please, it is January 25th, 1850, written by John W. Forney to George Roberts, of Boston. He then read the letter:

THE "FORNEY" LETTER.

"PHILADELPHIA, Jan. 25, 1850.

Private] "Our friend Forrest is now here, and is about to apply for a divorce from his wife. He has had, for eighteen months, the proofs of her infidelity; but has chosen to keep them quiet, and would have done so still, but for her folly in censuring him for leaving her. It is really astounding how he has kept these proofs to himself, from all his friends, for all that time, but it is so nevertheless.

"The facts are these: Eighteen months ago, while playing in Cincinnati, he caught Mrs. F. in a very *equivocal* position with a young man in his own parlor, not in actual connection, but near it. She protested innocence, and he let it pass by, loving her as he did profoundly. They passed on to New Orleans, and so home to New York. After they reached, and had been there some time, he found one evening, on his wife's table, a *billet-doux* in the handwriting of, though not signed by, this young man, in which she was alluded to in terms the most amorous and unmistakable. The language alluded to her "white arms that wound about his neck;" to the "blissful hours they had spent together;" and the letter had been kept as a memento, until it was quite well worn. Upon this evidence, with other confirmatory proofs, he intends applying to our Legislature for a divorce. But you are now in a position to serve him *in a manner he never will forget*. The person who wrote to Mrs. F., and in whose company she was detected, is George Jamieson, now playing in New Orleans. If you don't know him you can, as the editor of a leading paper, soon make his acquaintance. What Forrest now desires, to clinch the nail, is to obtain, in some way, an *admission* from Jamieson. I named you to him as a safe, steady and intelligent friend, and he never will forget whatever you may do for him in this, to him, most vital matter. He suggests that you might institute intimate relations with J., and then induce him, either in your presence or in company, to *admit*, as a thing to be proud of, his connection with Mrs. F. He is fond of a glass, and possibly in a convivial mood, might become communicative.

"No harm will come to him; he is game too small for Forrest; and any admission he may make, may be important only as aiding an injured man in getting relieved from a now hateful bond. Can you manage this thing, my friend? It will require skill and caution, and if successful, will warmly endear you to Forrest. He is nearly crazy at the idea of being placed in his present position; but he will spend half he is worth to be relieved from it. This matter must be kept secret. Above all, do not name me in connection with it. Excuse me for troubling you in regard to it. My ardent attachment to glorious Forrest must be my excuse. Now, won't you help to relieve him?"

"It would help in the matter, probably, to know that John Greene, the actor, now in New Orleans, is the warm friend of Forrest, and may know Jamieson well.

"You can use your own discretion in letting him know the facts, and invoking his aid.

"This letter is addressed to you with the knowledge of Mr. Forrest.

"Please write as soon after receipt as you can find opportunity to look about you. With kind regards,

"I am, dear Roberts, yours very truly,

"JOHN W. FORNEY."

"Geo. Roberts, Esq.

The reading of this letter was listened to with intense attention and caused a profound sensation in the court-room.

O'Connor—I now will read the deposition of Capt. Wm. A. Howard, which was sent by us to California, and has been returned to the clerk of this court.

Van Buren—I object, if your honor please, on the ground that the deposition is imperfect. You will find that the witness refused to answer to several questions, the reply to which is material to our defense. I refer the court to 3d Hill, 333, case of Smith against Griffin; 25th Wendell, 268, Brown against Kimball; and 4th Wash. Rep. 324, which will show that an objection of that kind is fatal to the whole deposition. (Counsel then went on commenting upon several questions put to the witness in the deposition, all of which he read, which Howard either unqualifiedly refused to answer or give his reasons for not doing so.)

The Court asked Mr. Van Buren if this was the legitimate way of taking advantage of an objection. The usual way in which depositions were treated, was exactly as if the witness himself was in court and on the stand.

Mr. O'Connor said, that up to the time of the application being made to examine Anna Flowers by commission, the plaintiff had no idea that Capt. Howard was to be sworn to as being the father of Anna's illegitimate child, and that they had therefore, in June last, been ready to go to trial without his testimony; nay, from the testimony of a person who happened to overhear the whole of Anna's conversation in that house in Mercer street, they were even then left to suppose that no such charge was going to be made. His refusal to answer questions bearing upon his compromise of Anna's claim, might be looked upon as perfectly natural after he had point-blank sworn to the fact of never having had carnal intercourse with her. As for his compromising any claims of Anna, such could not be a matter of great surprise, for it was well known, that at the present moment, one or more members of the legal profession were in the State Prison for aiding and abetting others in extorting money from good citizens by similar false charges.

Mr. Van Buren said he understood counsel not to controvert any of the legal propositions promulgated by himself. The defendant was most decidedly entitled to the answer of the second interrogatory: "Whether Mrs. Forrest had been aware of his criminal intercourse with Anna, and whether he visited the house after that." Counsel thought the answer to this question, if affirmative, went more strongly against Mrs. Forrest than anything else; the keeping of Anna, the conversing with her and Capt. Howard about this delinquency was the most conclusive corroboration of all criminal evidence against herself.

The Judge said if he was at liberty to act in this matter according to his own judgment, he would have no difficulty. The question here was, whether the refusal of Howard to answer bore on matters so material as to preclude, in common justice, the admissibility of all his other testimony. If Howard had been here, certainly he might have been compelled to answer such questions as would appear material, but as he had point-blank denied the existence of any criminal connection with Anna, it appeared to be rather silly to question him whether he had communicated to Mrs. F. a fact which had never existed. Still, the same course as if Capt. Howard had been on the stand had to be persevered in, when questions might be objected to, or replies enforced as the case might call for. Although the objection to the deposition

at this stage was not proper, and was against the general rule, the court ruled that the reading of the document could not now be proceeded with.

Margaret Longstreet, sworn—I reside No. 99 Sixteenth street; my husband is Samuel Longstreet; he is the owner of No. 102 Sixteenth street, where Mrs. Forrest resided; I know Christiana Underwood, formerly Mrs. Bedford; she came over to see when the house would be ready for Mrs. F. to move in; do not remember the time (time agreed upon as Oct. 1st, 1849); do not know how long before Mrs. F. moved in Christiana came there; I then had some conversation with Mrs. Underwood about Mrs. Forrest; I inquired what kind of woman Mrs. F. was; she said she was a very nice woman, and had known her from her childhood; she said nothing in any way against her in that conversation; had no other conversation, except at one time when she came to the basement door and asked me to send my milkman to them.

Q. At any time while Mrs. Underwood was living there did you hear her say a word against Mrs. F. in any way?

A. No, sir; never met with her except on the two occasions stated.

Q. Did you ever ask this woman who were all the gentlemen with the hairy faces who came to see Mrs. Forrest?

A. No, sir, never; I never inquired of her if any particular person, or any man with a hairy face was Mr. Forrest.

Cross-examined—The conversation began when she came to see if the house was ready, by my asking what kind of a woman Mrs. F. was; at the time of the second interview about the milkman, Mrs. F. had taken possession of the house; did not know Mrs. Underwood before she came to live there; did not ask her who she was; did not ask her if she was Mrs. F.'s mother; she was there from ten to fifteen minutes; she only told me Mrs. F. was a very nice woman; that was all the conversation; she first asked if the house was ready; do not know what she answered; never saw Mr. F. till he came to our house two or three weeks ago.

Q. Had you any curiosity to see him?

A. Not at all, sir (laughter); have no curiosity for seeing any gentleman; did not ask her what kind of a man Mr. Forrest was; the house was finished at that time; the second time, Mrs. Underwood came to the basement; I have been sworn on this subject once before, by Mayor Woodhull; that is nearly a year ago; do not know who was present; Mrs. Forrest was with me the day I went down; there was another young lady with us; never made any inquiry of any body who were the men going to Mrs. F.'s house.

Q. Did you ever see hairy faced men go in there?

A. Never (laughter); have seen a gentleman and lady who boarded there go in and out a good deal; did not make it my business to watch.

Q. Did you see as many hairy faced men go in there as in other houses?

No answer.

Van Buren—Heh, maam? did you see them?

Witness—No, sir; we generally retire about 11 o'clock.

Re-examined—My husband was present when Mrs. Underwood called the first time.

Samuel Longstreet, sworn—Am the husband of the lady who just left the stand; I own the house No. 102 Sixteenth st.; I let the house to Mrs. Forrest; she may have been at my house, but do not recollect it; there was a gentleman and lady with her when she took it; she referred me to Mr. Lawson; I called on him and satisfied myself; she came in Sept. to hire it; she took possession on the 1st of October; the painting was not quite done when she moved in, and some little fixings at the doors; I think the bell of the front door was not hung; I recollect it distinctly; it was hung in three or four days, or maybe longer; I think my oldest brother, Archibald Craigh Longstreet, worked at the house; he intends to go to California; he lives somewhere in James street; I have seen Mrs. Underwood a great many times; I was present when she called to inquire about the house being ready; do not know who answered her; she was talking to me particularly; my wife made an inquiry about Mrs. F. of her.

Q. What did she say?

A. She asked if Mrs. F. was a nice woman, and she answered that she was, and that she had known her even from her childhood, or something to that effect; she said nothing in the least against Mrs. F.; my wife never asked her in my presence or hearing about any hairy faced men coming to the house.

Cross-examined—Was not present at the second interview; never heard anything about it till the trial commenced; Mrs. Underwood came to my house about a week before they moved in; do not know if they used the front door; I think they used the basement door for a day or two until the front door was fixed; I always went in that way at that time; do not think I ever saw Mrs. F. go in the basement door.

By O'Connor—(Receipt book produced.) This was my first receipt for rent for Mrs. F. (it is dated Nov. 1st 1849, and is for \$40 as one month's rent in advance). The brother to whom I have alluded has already gone to California, as I hear.

To Van Buren—As she began a month before the regular quarter, she paid it to get time straight.

Judge—Well, what next?

O'Connor—We call Mrs. Willis.

Cornelia Grinnell Willis, sworn—I am the wife of Mr. Nath. P. Willis; was married the 1st Oct., 1846; never knew Mr. or Mrs. Forrest before my marriage; first became acquainted with Mr. Forrest; he called on New Year's day, 1847; he stayed over an hour; Mr. Willis was not at home; my little step-daughter, Miss Imogene, recognised him; I think he spoke at that time of Mr. Willis to me; I saw Mrs. F. about four weeks after that; her sister, Mrs. Voorhies, came with her; next saw Mr. F. in the spring; he came with Mrs. F. at the New York Hotel, where we were living; Mr. Willis was at home then; they asked us to come and dine with them, which we did; I accepted that invitation, and dined with them accordingly; Mr. James Wallack, the actor, was present; Mr. Stevens was also there I think, and Mr. Lawson; I think there was no lady present but myself and Mrs. Forrest; do not remember if Mrs. Voorhies was present; on the 1st January, 1848, Mr. F. came again to see us; remember the Forrests going South in 1848; they dined with us the day of their going, or the day before; Mr. Willis was home, and we had some other friends; Mrs. F. again visited us after her return from the South; I also visited her; I took tea once at Mrs. F.'s with Mrs. Lavert; Mr. Willis and some other persons were present; do not know if Mr. F. was at home; my first child was born during Mrs. F.'s absence South; my first visit out was to see her; I was very ill, indeed, and so was my child, and Mrs. Voorhies rendered us a great favor; I have since that time been on very intimate terms with Mrs. F.—very much so.

I knew Mrs. F. to be boarding in Great Jones street after the separation from her husband; she passed a month with us in the early summer; she lived and slept in our house; she had a room assigned to her for a bed-room; I assigned it to her; it was the third story front room; I had a very long and severe sickness after Mrs. F. left the house; I had it in the winter and spring of 1850; she paid me great attention, and came to see me almost every day, and occasionally stayed all night with me; she executed several errands and commissions for me; I was ill between four and five months; I had not a nurse staying with me all the time, and was part of the time alone except ordinary servants; when Mrs. F. stayed with me all night it was in pursuance of an agreement that I would send for her whenever I wished her to; I was part of the time very unwell, and was desirous of not being left alone all night; she slept with me when she thus came to see me; she came for that purpose; Mrs. Benson was the nurse who attended me; she was with me for six weeks after my confinement; I was three months from that time lying in my bed; I recollect an occasion on which Mrs. F. was sent for very late; Mr. Willis came home between 11 and 12 o'clock, and came into my room, as was his habit, before he went up stairs; I told him I was very unwell, and asked him to send for Mrs. F. or go for her; he wrote a note and sent it by our servant, John Kent; Mrs. F. came; she stayed with me all night, slept in my bed with me, and breakfasted there the next morning; think she left about 10 or 11 o'clock.

Q. Was there any occasion, whilst Mrs. Benson was there, when Mrs. F. came to stay up with you?

A. There was one; I was very ill then, sir, indeed; I heard Mrs. F.'s voice in the entry; she came at my own request; did not see her in the room during the night; I think she came between 9 and 10 o'clock; it was the agreement that she should be there that time; she had been there during the day, and the appointment was made then; John Kent was not sent for her on that occasion; she was sent for to watch with me at my own request; she slept in the same room.

(Diagram produced.)

Q. Is this a fair statement of the relative position of the rooms in the house?

A. It is. (submitted to the jury.)

Q. Could John Kent, whilst being on the stairs and before getting in the entry, see the door of Mrs. F.'s room and that of Imogene?

A. When standing at the top of the stairs he might see Imogene's door, but not that of Mrs. F.; I live in that house yet; Imogene was home the night that Mrs. F. came and slept there; Imogene is Mr. Willis' only child of the first wife; the night that Mrs. F. slept there she did not breakfast the next morning at our house; I was very ill that time and wanted to have a friend with me; I and nurse had quite a quarrel about it, and, to pacify me, Mrs. F. promised to come; nurse felt afraid for me to have any person, for fear I would talk too much; and when Mrs. F. came that night she would not let her into the room, as she was the nurse and responsible for me; I was too ill to give up the care of me to any other person.

Q. When had you first any intimation that Mr. F. was hostile to your husband or had any jealousy of him?

A. I think it was in January, 1850.

Q. How did that intimation come to you?

A. I received a letter—an anonymous letter—but there were certain things in it which made me quite certain whom it came from.

O'Connor—I will not ask about it unless the other side choose.

Q. Have you learned, in any way from your husband, anything on that subject the same day?

A. Not of him, sir.

Q. In all your friendly intercourse with Mrs. F., have you ever seen her in any degree disguised with liquor?

A. Never, sir.

Q. Did you ever hear any unchaste or immodest expression from her?

A. No, sir.

Q. Did you ever witness any immodest acts of hers?

A. Most certainly not, sir.

Q. Did you ever spend one whole night at Mrs. F.'s in Twenty-second street?

A. (smiling) I did, sir; it was some time in the autumn of 1848; Mr. Forrest was not at home; Mr. Willis was not there.

Q. I now ask you to narrate the particulars of that evening; go on slowly.

A. We were all invited, Mr. Willis, R. Willis, and myself, to pass the evening at Mrs. F.'s house; we all dined at our own house and took tea together; Mr. N. P. Willis had an engagement and did not go, but R. Willis and I went; we got there about 8 or 9 o'clock; there were about twenty persons, I should think; remember the names of a few only; Mrs. Voorhees was there, Mr. and Mrs. Godwin, Dr. Dewey and some of his family, and others; the party, I think, broke up about 11 o'clock, and I moved to go about the same time but did not leave; we were asked to stay longer, as Mrs. Voorhees or Mrs. Forrest wished to try over some music with R. Willis, of which he had several books of original manuscript music with him; he had been studying musical composition in Germany for six years; this was his own composition; Mr. Voorhies and a Mr. Ibbotson, who had a very fine bass voice, also remained; the whole of that company did not remain until morning; we had some supper, and Mr. Voorhees and Mr. Ibbotson left after that; it would be between 1 and 2 o'clock then; I should have gone too, but it rained very hard; Mrs. F. offered to send for the carriage or that we should stay all night, and as it was so late I thought the latter part the better; I know why Mr. Willis sent no carriage, but only from what he has told me since; no carriage came.

O'Connor—Well, now, we have one gentleman and three ladies left; what did you do?

A. We did not go to bed; we stopped all night in the drawing-room; it was only about three hours to daybreak, and I wanted to leave the first opportunity I had; we sang, played on the piano, and talked; it was not very difficult to pass the hours; Mrs. Voorhees sang most beautifully; she gave music lessons; that was her profession; I think we left between six and seven in the morning; I asked Mrs. Forrest and Mrs. Voorhees to go home and breakfast with me, and we all went in a carriage; we all went to the house; Mr. Willis, my husband, took breakfast with us, or at least he was present; he may have had his breakfast before.

Q.—During that night was there any deviation from chastity or propriety that you are aware of?

A.—None, sir—I know of none, and saw none; Mr. R. Willis had just returned from Europe and was staying with us then; I think he stayed ten or fourteen days, then went to Boston where he stayed about as long, and then returned and stayed with us to near Christmas—about a month; I knew that he frequently visited Mrs. Voorhees during that time; he was introduced either by Mr. Willis or myself; I know that he spent a night in 22d street; he never stayed there three successive nights; I know that he was away one night and came home for breakfast, when he told me that he had stayed all night at Mrs. F.'s; I did not ask Mrs. F. or Mrs. Voorhees to come home with me the time I stayed with them all night, to apologize to my husband for my absence; I had not the least thought of it; Mr. Willis knew where I had gone; I was quite a frequent visitor at Mr. F.'s house after the separation was agreed upon, but before they actually did agree; I never have during that time heard Mrs. F. speak in any way against Mr. Forrest.

O'Connor.—Now, Madam, you can pass into the hands of the other party.

Cross-examined.—My home before my marriage was at New Bedford, Mass.

To O'Connor.—I was frequently in the drawing-room in 22d street; there were two sofas; one was on the rear wall between the window-space; the other was opposite to it in a like position; they were small sofas of irregular shape; they were about as large as three chairs together; there was a place near the fire-place where a sofa might have stood had it not been otherwise occupied; there was a large painting from the ceiling to the floor; (paper produced) this is a correct diagram of the lower part of the house, except the "China closet" which I do not know.

By Mr. Van Buren.—I came to this city when I was married; do not think Mr. F. knew R. Willis; he returned from Europe the latter part of October; the sofas could be moved; I never saw a fire in the fire-place; the room was heated by a furnace; R. Willis went to Boston to see his relatives there; he had been about ten days with us when he left for Boston; I had letters from Boston saying of his being there; did not see him to the boat or cars; I think Mr. Willis and myself took R. Willis to F.'s house and introduced him; when he came back from Boston he stayed again with us until near Christmas, when he went to New Haven; we heard from him from there; he left the house and said he was going there; he remained there till spring; went there to live; it was at the end of November or 2d week of December that we stayed up all night at Mrs. F.'s; I think she was absent the first week; I do not think the night referred to was in the same week that R. W. left for New Haven; do not remember that I dined home the next day.

Q.—Have you any recollection of his sleeping at your house any night after that before he went to New Haven?

A.—Yes, sir, I am quite certain of it; the early part of the evening we spent in conversation; there was some music; Richard W.'s books were there at the commencement of the evening; my brother was not in the habit of playing his music before all, and he was desirous of keeping a few pieces until the others were gone, and for Mr. Ibbotson's benefit; when Mr. Ibbotson and Mr. Voorhees moved to go, we all moved; to go home we had to call up a servant first, and before he could go home and get a carriage it would have been very, very late; we preferred to sit up because it was only two or three hours until we could get a carriage; I had a young infant at home and was very anxious to get away; there were sufficient accommodations for us all if we had chosen to go to bed; there was no smoking that I know of.

Q.—You do not smoke, of course?

A.—I do not, sir—but I do not know why you say, "of course;" have never seen Mrs. F. smoke; have seen two American ladies smoke; I know who they are but do not visit them; I think we left Mrs. F.'s house between six and seven o'clock; do not know if my husband had breakfasted; my impression is that R. Willis stayed one night previous to the night spoken of, and one night subsequently at Mrs. F.'s house; it was neither the previous nor subsequent night to that; he stated to me on both those occasions, that he had stayed at Forrest's; I knew Mrs. Voorhees quite well; have no positive recollection of seeing her at F.'s house after January 1848, when Mr. F. was at home; Mr. Willis slept in the third story, back room, the night that Mrs. F. set up with me when I was sick; Mrs. F. was there only one night, the time that Mrs. Benson was there; my husband was in my room before he went to bed; I was able to ask my nurse for anything I wanted; I did not see Mrs. F. at all that night.

For four days and nights my nurse had been up with me unceasingly, and I was anxious to relieve her, and also to have a friend with me; Mrs. Forrest went to her room that night with the understanding that she was to be called the moment she was wanted; during my last illness Mrs. F. certainly called every other day; she visited very constantly during that time; I was ill for four or five months.

Q. When did you first hear of the intention of Mr. and Mrs. F. to separate?

A. I think I knew it in February, 1849; I knew it before it took place.

Q. From whom?

A. From Mrs. F.

Q. Directly?

A. If I remember rightly; I remember no statement of hers that they had differed about Mr. Macready.

Q. You spoke of a letter received by you—did you before that hear that he was jealous of your husband, or anybody else?

A. I understood quite the contrary; never saw any thing indicating the slightest suspicion of his wife; had no conversation with Mr. F. after May, 1849.

Re-examined—Q. Was there any other lady who visited you as frequently during your illness?

A. Yes, sir; Mrs. Richards and Miss Lynch did; Mrs. R. is now in Court; they came at different times, in such a way that they divided the time between them.

To Van Buren—Do not know Mrs. Benson's address.

O'Connor—I shall probably produce her on Monday morning.

Witness—May I say something about Mrs. Forrest dining so often at our house?

Court—Certainly, Madam; any thing that occurs to you.

Witness—She used to go from my room into the dining-room, where she took her dinner, and she also took tea there at my own request. My mother was staying with me part of the time.

The Court then adjourned.

TWENTY-FIRST DAY.

The Court opened at 10 o'clock.

MONDAY, January 12, 1852.

Cornelia Grinnell Willis recalled. Q. Have you ever heard in the night time in your house any expressions of endearment made aloud by Mr. Willis? A. Yes, his little daughter sleeps in the third story; I have heard him bid her good night; it is his habit to go to her room and see her; I have heard him say, "Good night, dear;" she is a very wakeful child, and sometimes calls to him when he goes up stairs; I have heard this late as well as early; it is his habit, and I suppose four nights out of the six he would go to her room. Q. Your child that was at home that night you staid out, did you raise it by the ordinary method? A. No, sir, I never gave it any nourishment.

By Mr. Van Buren—Imogene goes to bed at seven or eight o'clock; she would not sleep with the door shut; I never sleep with my door open; during those four months I was ill I was not in Imogene's room, but I heard that expression; part of the time I was ill, I was not suffering from acute pain; I was only obliged to keep my bed and remain very quiet; the night Mrs. F. was to watch I was suffering acute pain; I did not take any opiates; I was very wakeful at that time; I am a homœopathist, and we take no opium in that system; none other to promote sleep. Q. When Mrs. F. spoke to you of the intended separation, what cause did she give? A. I would not be willing to say when I first knew of the cause; I don't remember that she told the cause, or that I asked her the cause; I could not remember when I was first told; I can't remember when it was, but I think since the separation; I have always understood that it was because Mrs. Forrest told him something he said was untrue; I think it quite possible she has mentioned that more than once, although I don't remember the times; she never declined telling me the cause; cannot say when Mrs. F. first told me the cause of this separation; I think it was after the separation, when she was staying with me; that was part of May and June.

Re-examined—I did not see or speak to Mrs. F. the night that she was sent for to watch with me.

By a Juror—On ascending the top flight of stairs you face the rear of the house; you then come to a landing, and from there a few steps lead to the front of the house.

O'Connor—I shall send an architect to examine the premises and make his report.

Clarissa Benson sworn—I reside at No. 700 Broadway; am staying with Mrs. Banker; I am a monthly nurse; I know Mrs. Willis; I also know Mrs. Forrest; I was nursing Mrs. Willis in 1850, at her house; I think it was the 27th April; I was in attendance for six weeks; Mrs. Willis was very ill indeed. Q. By what ladies was she most visited? A. By Mrs. Richards and Mrs. Forrest. Q. Do you remember any occasion when Mrs. F. came there to watch? A. Yes, sir. Q. State what happened that day and night? A. Mrs. Willis was very anxious—

Mr. Van Buren objected to this course of examination, but was overruled.

Witness—Mrs. Willis being so ill, I was very much fatigued; it was either four or six nights that I had been up myself every night, and Mrs. W. said to me she wished Mrs. F. to sit up with her that night, as I was so much fatigued; I replied I could not consent to it; I felt they might get in conversation if Mrs. F. stayed with her, and I thought, as she was so ill, that it was much better I should sit up myself; she was then very decided, and said Mrs. F. must sit up with her that night; I consented to it, as she was so decided about it, and she wanted me to ask Mrs. F., if she came as she usually did, to sit up with me; when Mrs. F. came I did so; she told me she would come with pleasure. Q. Did she come? A. Yes, sir, between nine and ten o'clock in the evening, as near as I can remember. Q. What happened when she came? A. Mrs. Willis had been delirious during the afternoon, and I thought it better that Mrs. F. should not sit up, as I did admit no one into the room except myself and Mr. Willis; Mrs. F. came up to the nursery door, with the intention of coming in to sit up; the rooms communicated; the rooms are on the second story; I told Mrs. F. I would rather that she would not sit up with me, as Mrs. Willis was too ill, and I considered myself responsible for her; I told Mrs. F. to go to bed, and if I wanted her, which I might at any moment, I would call her; I expect she went up to bed. Q. When did you next see her? A. Very early next morning; she came to the nursery door, and as I was making some tea for Mrs. Willis, I asked her if she would have a cup; she said "No," and then inquired about Mrs. Willis; she went away without waiting for breakfast; I told her how Mrs. Willis was. Q. Have you been in the third story of Mr. W.'s house, to examine the stairs and open hall, with reference to the room Mrs. F. occupied? A. Yes, sir, I looked at it. Q. Can a person on the stairs see the door of the room this side of Miss Imogene's room? A. You can see Miss Imogene's room from the top of the stairs. Q. Can you from the top of the stairs, see the door of the other room, next to Miss Imogene's? A. No, sir.

Cross-examined—Do not know the hour in the morning when Mrs. F. came on the day she was sent for to watch; it was in the forenoon; she came alone and remained only a few moments; she saw me but did not see Mrs. Willis; did not see her again until she came in the evening; Mrs. Willis, I think, was delirious twice during that period of her sickness; that was after her confinement; she was not flighty or delirious but the two occasions I spoke of; she was troubled with wakefulness; there was no anodyne given to her; she had homœopathic medicines; Mrs. F. did not watch with her at all that night, nor did she watch any night while I was there; she did not stay in the house any other night while I was there; no one slept with Mrs. Willis while I was there; I had a couch in the room; do not know of any lady's sleeping with her on any occasion; Mr. Willis retired between 11 and 12 o'clock, I think, the night spoken of; did not see him again during the night; did not call Mrs. F. during the night; did not call Mr. F. during that night, my only reason was—

Van Buren—I did not ask your reason.

Witness—I never saw Mrs. F. dine there whilst I was there; know of her taking tea three several times in Mrs. W.'s room with her and Mr. Willis; the nursery was the back room on the second floor; it was a day nursery, no bed in it; do not know who kept the key of the front door; never saw it except in the door; my business was in Mrs. W.'s sick room; I had nothing to do with the keys; it was the fifth or sixth day after the confinement that Mrs. F. was sent for; never saw any familiarity between Mr. Willis and Mrs. F.—never in the slightest degree.

By a Juror—The third story back room projected out the hall and prevented you from seeing the room Mrs. F. occupied.

To Van Buren—You could not see the door within two feet.

O'Connor again produced the diagram to the jurors; he also asked them to go with an officer of the court to examine the premises.

Foreman—Oh, we understand it.

O'Connor—I now call Mr. Richard Willis, but I will first ask Mrs. Benson another question.

Mrs. Benson—Both the delirious attacks of Mrs. Willis took place in the day time, and lasted an hour or two.

To Van Buren—With those exceptions she was never flighty at all.

Richard S. Willis sworn—(Great curiosity displayed by the audience, as the witness makes his way towards the stand)

I am 32 years of age; have been married three months since. Q. Do you know Edwin Forrest? A. I know of him; have no acquaintance with him; I reside in Twenty-ninth street; I know Mrs. F.; I became acquainted with her in October, 1848; made her acquaintance at her house in Twenty-second street through Mr. and Mrs. N. P. Willis; it was in the evening; it was a call suggested by my brother; I was then stopping at my brother's house; I had just returned after six years absence in Europe; I went abroad after I had graduated, to study the art of musical composition in Germany; was engaged in that during my absence; I was about six weeks in New York during the fall and winter; my brother's house was my home during that time. Q. Were you at Mrs. F.'s in Twenty-second street on an evening when you stayed there all night? A. I was. Q. Tell us distinctly the circumstances of your going there and staying.

A. We were all invited to Mrs. F.'s to pass the evening; my brother had an engagement and could not go, so that I and Mrs. W. went together; there was a small party and they broke up about 11; Mrs. W., myself, and two other gentlemen, Mr. Voorhees and Ibbotson, remained later, and then we had a supper in the dining-room, after that we had some music in the dining-room; there was an old piano there; we then returned to the drawing-room; the two gentlemen left and Mrs. W. and myself made a move to go; we found it was a stormy night, our carriage had not come, the servants were in bed, and Mrs. F. proposed to call up the servant and send for a carriage, or proposed also that we should remain the rest of the night; Mrs. W. determined to remain, as it was very late, and only a few hours till morning; we did remain, and sat up the few remaining hours, occupied with chatting and singing and used the piano, but of the latter I am not sure; we took a cup of coffee and sent for a carriage; we then returned home, and Mrs. F. and Mrs. Voorhees came with us; we breakfasted at Mrs. Willis'; he was at the table with us; did not observe if he took any breakfast, he ordinarily breakfasted in his own room; I visited the house of Mr. F. on other occasions during that fall. Q. What was the particular cause of your visits? A. Mrs. Voorhees is a very accomplished musician, and was interested in my studies; I went there to look over with her my portfolio of music, which I brought with me, and which comprises most of the exercises of the studies which I had been pursuing. Q. Did you ever remain in the house except the time stated? A. I did, sir, on several occasions; I think I remained at the house on three occasions besides the one already mentioned. Q. Explain how it came about that you did stay? A. I remained longer than the omnibus hours, was a stranger in the city, and unacquainted with the localities of New York, and was offered and accepted the hospitalities of the night. Q. Did you thus stay in the house three successive nights? A. Not three successive ones, sir; I have an indistinct impression that the night we all remained and another night of my stay there were not far removed from another; it may possibly be that I stayed two successive nights. Q. Were you ever concealed at any time, day and night, at Mrs. F.'s house? A. Most emphatically not, sir; I had never, during that fall, any thought or desire of concealing my movements from N. P. Willis; I never left my bed-room undressed, or in any part undressed, any night I stayed there. Q. Did you leave it to get water? A. No, sir; the room was perfectly appointed in every respect; did not take breakfast in the house after any night I slept there; never took a meal in any other room but the dining-room; never heard my brother express a desire during that fall, that I should leave New York at any particular time. Q. Did you ever give a lesson in music to Miss Virginia? A. Never, sir; I was no teacher in music and gave no lessons; I recollect an evening when I stayed alone in the company of Miss Virginia in the library; I was invited by Mrs. F. to accompany her and her sister to a party, which I declined doing; I remained part of the evening with Miss Virginia in the library; Mrs. F. and Mrs. Voorhees went to the party. Q. Were you in a bed-room in that house when N. P. Willis was in the house as you then knew or supposed? A. Never, sir; we never were in the house together except when we were in the same room; heard nothing said about Mrs. F. and Mrs. Voorhees excusing Mrs. Willis for staying out all night. Q. Did you ever take any liberties with the person of any woman in that house in Twenty-second street? A. No, sir. Q. Did you ever hear any immodest speech, or witness any immodest action in that house? A. Never, sir. Q. Did you ever see any woman therein affected with liquor? A. No, sir.

Cross-examined. I never saw Mr. F. during the time I visited the house, neither in the street nor on the stage: never saw him till last spring, when he accosted me in the street: I was not married then: I have two brothers—E. P. and N. P. Willis: the latter is in this city: do not know where E. P. Willis is: we got to the house of Mrs. F. about 9 o'clock on the night when we sat up: we passed the evening in conversation and music until 11: there was no refreshments until then: there was no dancing: a table of refreshments was set out in the parlor: only a bit of cake and a glass of wine—no meat: I do not think it rained when we went there: we had an informal supper—a few oysters about 11 o'clock: I mean it was not a supper that had been prepared or contemplated.

Van Buren. By you? (Laughter.)

Witness. Of course, I speak for myself: I think there was bread with the oysters and wine: we had no champagne: had no brandy or porter: we may have been an hour at supper: do not remember that any one waited at supper: remember helping myself and the ladies: did not leave the table to help myself: my best recollection is that there was no waiter: Mr. Voorhees and Ibbotson went away on foot: it rained then: know it was storming: the stages pass within a block or two of the house: do not know how late they run: cannot say how late I have taken a stage from there; I was introduced to Mrs. F. on my first arrival there, and went once or twice to the house: I then went to Boston, stayed there about three weeks, and then returned to this city: do not distinctly recollect the first night I slept in the house: slept there at the invitation of the lady of the house, Mrs. Forrest: do not know how long after my return from Boston that was: Mrs. F. on my second visit was at Philadelphia, as I was told: Mr. N. P. Willis was then living at the corner of Macdougall and Houston street: and Mr. F. in Twenty-second street: the first night I slept there it must have been after midnight, because I think I might have got a stage before that: it was the custom of the house to have a late supper, but do not recollect having any: I called late, 11 or 12 o'clock: do not know if the servants waited at supper: my impression is they did not; I slept in a small front room, second floor, over the front door, that is, next to a room, but do not know if it is Mrs. F.'s bedroom; do not know it to be so from her statements or any other; do not know where Mrs. Voorhees slept; I presume she slept in the house; have no recollection in what terms I was invited to stay the first night; there was but one reason for my staying—remaining beyond stage hours; no one lighted me to bed the first night; the room which I was to occupy was described to me, I think by Mrs. F.; Mrs. F., Mrs. Voorhees and Mr. Voorhees were in the house the same night; I thought Mr. Voorhees stayed in the house; have no knowledge if he stayed; I rose about daylight the first night I was there; I remained long enough to dress myself, and then left; I went out by the front door; I don't know of any other; do not know if it was locked; do not remember any one letting me out; did not see the ladies before I went in the morning; do not know how soon after I stayed there again; it was not the next night; know that there was an interval between the nights I stayed there, except the two referred to, which may have been consecutive; do not know how soon I slept there again; do not recollect supping there the next night after the first; do not remember being lighted to bed by any one, or being let out by any one; I did let myself out on all these

occasions at about the same hour in the morning; I have not slept as many as ten nights in the house—oh! no, sir; would not swear to any number of nights I slept there, for I have no recollection about it; I was not expected, so far as I know; there was not one occasion when I came there prepared to stay all night; I said that I had on no occasion asked for water, and added that the rooms were well appointed for water and towels; I knew the servant, Robert Garvin; remember seeing him there; do not know where the water was obtained from for the room; had no convenience of my own for sleeping there, and that is the reason why I returned so early in the morning; I know I did not go out of my room in my shirt and trousers to get water to wash with; Mrs. F. does not smoke as a habit.

Van Buren. That is not my question.

Witness. I have seen her draw from a cigarette.

Van Buren. That is what I mean by smoking.

Witness. Then she smokes, sir! (Laughter.) Have seen her draw two or three times; Mrs. N. P. Willis was not there; think Mr. Voorhees and Andrew Stevens were present on the same occasion in the library; it was in the evening; the last time I saw her draw was in Sixteenth street; do not remember having a carpet bag at Mrs. F.'s; the music I had may have been in a small carpet bag; I must have taken it to New Haven with me, as it formed part of my luggage; I think I started from my brother's house for New Haven; did not start from F.'s house at any time for New Haven; have no recollection of Robert Garvin conveying a parcel for me to the cars; I graduated at Yale College; I went abroad immediately after graduating; spent my time in study only; have been connected with the press more or less since my return; with the *Albion* and *Tribune*, as an occasional writer; still continue my occupation as a composer of music for sale; have charge of an organ in the Union Square Church for a year past; never heard Miss Virginia play the piano; we spent the evening in conversation in the library; I did not play; there is no instrument in the library; do not know Mrs. Bedford or Mrs. Underwood; have seen her here in Court, but nowhere else; do not remember seeing any other servant but Robert; Mrs. Forrest usually calls me "Richard," or "Mr. Richard," or "Mr. Willis;" Forrest was not in the library during that time, and I did not ask his wife for that reason to introduce me; he was absent all the time I called there; she often regretted that F. was away, so that I could not see him; she never proposed introducing me; do not recollect having breakfasted at the house; at home I usually breakfast in the dining room; I am certain I did not breakfast in the room where I slept, or in either of the rooms on the second story of F.'s house; cannot fix the time when we sat up there that night; it could not have been the day before I went to New Haven; do not remember where I dined that day; do not remember an evening that I came home in a carriage with Mrs. Forrest and Voorhees, or with Mrs. F. alone; I did not say that I never taught music; took the place of a gentleman for a year whilst he went to Europe; that was at Rutgers and Spingler Institutions; I acted as a substitute; the gentleman has since returned.

Re-examined. Q. Do you remember being at a concert in the Tabernacle when Mrs. F. was present? A. No, sir; I recollect being at a Philharmonic concert in the Chinese Rooms, but do not know if Mrs. F. was present.

Mr. O'Connor read a portion from the affidavit of Mrs. Underwood. "After that Mr. Richard Willis and Mrs. Forrest came home once very late in a carriage together. * * * * "On this occasion Mr. Forrest was absent. Mrs. Forrest got out of the carriage and ran up the steps where I was standing. Mr. Willis put out his head, and was getting out; when he saw me he went back into the carriage, but Mrs. Forrest called to him, 'Richard, come on!' and he followed her. Mrs. Forrest knew that I had seen him, and that there was no use in trying to conceal it. Mr. Richard Willis never came when Mr. F. was at home." Q. Did such an occurrence take place? A. No, sir; I have not the slightest recollection of it.

To Van Buren. Cannot remember ever coming home in a carriage with Mrs. F.

John Britton sworn. I reside at Brooklyn; am about forty-eight years old; am a shipmaster; have followed the pursuit for thirty years; I know Mr. and Mrs. Forrest; they have been passengers with me from Europe, in August, 1846; did not know them before that. Q. Did you ever make any presents to either of these parties? A. Yes, sir, a few dozen of London porter; perhaps four or five; do not know if I did so on one or at different times; I sent it packed up in two flour barrels; I am in the habit of doing such things very frequently, and had no particular reason for it; I did it on my return from the next voyage; Mr. F. came on board the ship and made some remark about the quality, commending it; he expressed his thanks for the courtesy; never in my life sent any liquor to Mrs. F. or Mrs. Voorhees; was not a frequent visitor in Twenty-second street or Sixteenth street; am very actively employed when here, and have little time; I know of the reading of a note to me by Mr. F.; the purport of it was to go on board the ship *Gladiator*—

Objected to. Allowed.

Witness. I never keep notes; the purport of it was to go on board the packet *Gladiator*, and ask Captain Bunting for a parcel which Mrs. F.'s mother sent from London; extended no invitation to Mr. or Mrs. F.; an invitation was sent by a clerk of Grinnell, Minturn & Co., for Mr. and Mrs. F. to attend the launch of the *Constitution*; Mrs. F., with Mrs. Voorhees, my wife, and another young lady, went there in a carriage; I saw them at the launch; understood Mr. F. was absent.

Mr. O'Connor read a portion of Mrs. Underwood's testimony relating to "Uncle Johnny," as she said the Captain was called by Mrs. F.

Witness. I never was called "Uncle Johnny;" (loud laughter,) I was very much surprised on reading this in the paper; never spoke to Mr. F. since I saw the paper.

Cross-examined. I am an Englishman; visited Sixteenth street a very few times; did not know the Sinclairs; took F. and his wife the passage home; visited Mrs. F. once in company with my wife, in Great Jones street; that was after the separation; have visited her in Sixteenth street once or twice; Mrs. Britton was with me on one occasion; do not think any one was with me the second time; recollect sending porter only once; that was at Twenty-second street; the porter was sent to "Mr. and Mrs. F., with Captain John Britton's compliments;" do not recollect sending her anything to Sixteenth street; I certainly never sent her any articles of clothing; I have spent but two evenings with Mr. F. in my life, one by invitation to dine, and one in company with Captain Eldridge; never visited Mrs. F. in Sixteenth street in the evening; have not seen Mrs. F. anywhere else in town, except in Great Jones and Sixteenth streets; I know Weller's refreshment rooms; never met Mrs. F. there to my recollection, but may have seen her there; Mrs. F. never spent any time in my state room during the passage home; I think she suffered from sea-sickness; do not remember her ever using my state room when sick; Mrs. Britton was not with me; the vessel is named the "*Rochester*;" we were 27 or 28 days coming. Q. Did you ever witness or hear any act unchaste on the part of Mrs. F.? No, sir; I cannot say that I ever was more pleased than with Mr. and Mrs. Forrest.

N. P. Willis sworn. (Another buzz of excitement as Mr. W. takes his place. Being the principal actor in the alleged misconduct on the part of Mrs. F. he is eyed narrowly by every person in Court.) I have known Mr. Forrest. Q. Do you know Mrs. F.? A. I do, sir. Q. Did you ever take any liberties with the person of Mrs. F.? A. No, sir. Q. Did you ever kiss any part of her person or of her dress? A. No, sir. Q. Did you ever, either in the drawing-room of Mr. F.'s house, in Twenty-second street, or anywhere else, lie upon or against her person, or any part of it? A. No, sir. Q. Did you ever in Mr. F.'s library, in that house, or anywhere else, place your arm around her body, or waist, or shoulder? A. No, sir. Q. Did you ever hear or see any unchaste or immodest act of Mrs. F.? A. No, sir. Q. In what way did your personal acquaintance with Mr. Forrest commence? A. I have been in the habit of writing about him as a critic for the last 16 or 17 years, but I think our real acquaintance commenced by his leaving his card at my lodgings in London, in '35 or '36. Q. When and where did you first see Mrs. F.? A. I first saw her when she first came to this country as a bride in '37 or '38; I went to call upon her as a bride, at the Astor House, in company with my wife who is not now living; did not follow up that acquaintance; did not see her to speak to her again for several years, until '44 or '45; called on Mrs. F. on New Year's day, 1844; afterwards I called, on an average, perhaps, once a fortnight; think I called immediately before their departure for Europe; it was a farewell visit if I made one; I went abroad in the autumn of 1845; was taken ill with the brain fever on the day of my arrival; had not seen Mr. or Mrs. F. before that; did not see either of them before I left my house; was out of my mind most of the time, and should not probably have known if they had been there; my wife's sister was with me at the time; she had charge of me during my illness. Q. Did you learn anything of any visit paid to you by Mr. and Mrs. F.? A. I was told they had called once or twice to inquire after my health; was about a fortnight

in London after I got better, and F.'s lodgings were near mine on the same side of the street, I walked to his house almost every day during that fortnight; was exceedingly weak during that time, too much so to allow of my travelling; I dined with them once; may have done so often, but do not recollect it; they took me once to the play with them; went once to church with them on a Sunday; never went during that time to any place with Mrs. F. alone; did not recover my health for five or six months afterwards; was an invalid in Germany and in England also afterwards; did not see Mrs. F. again until after her return to New York; I came back in the autumn of 1846, or the summer; remember dining with Mr. F., on a formal invitation, in New York; my wife and Mrs. F. were present; he and his wife dined with me soon after; have visited Fonthill with Mr. F.; do not know if it was before or after his Southern trip; think he asked me to go, at his own house, and drove me out with his own horse. Q. Was there an occasion when you visited F.'s house in Twenty-second street, and when means were taken to let you out of the house somewhat secretly? A. Never, to my recollection, sir—I do remember since you ask the question, that a gentleman called whose acquaintance I was not desirous of making; Mrs. F. was up stairs, and the gentleman was shown into the drawing-room; think that Mrs. Bedford, the house-keeper, was directed to keep the door of the drawing-room shut while I went out.

Q. Who was the person? A. I think it was Mr. James Lawson; know Henry Wykoff; recollect the occurrence above stated only since I have been in Court; it may have been Wykoff; Mr. F. had a set of acquaintances whom I was very anxious to avoid.

Van Buren—Yes, of course.

Q. From the time you heard of the intended separation until they actually separated, did you visit their house? A. I have no distinct recollection that I did. Q. Before this actual separation, did you ever say any thing to Mrs. Forrest about the way she should behave to or manage her husband? A. It is a subject on which she never conversed with me, and I never said any thing of the kind to her; after my return from Europe, after Jan. 1st, 1848, I did not visit them for two or three months, and after that once a week or once a fortnight; during that time I was confined to my house from six to ten months, and was ill for some time after; the average of my visits is for the time that I actually did visit; the visits were generally in the evening, when I took a long walk after having all day sat at my desk; my visits lasted from half an hour to an hour; they were very friendly calls. Q. When did you first learn that any such idea as to your acting improperly with Mrs. F. was entertained by any one? A. From an anonymous letter which was sent to my wife the morning after I had an interview with Mr. F. at the corner of Vesey street and Broadway; Mr. F. had two people talking with him when I came up; they stood not within hearing, I think; was on speaking terms with him at that time. Q. Did he intimate any suspicion of your having improper intercourse with his wife? A. Not a word; it was in the winter of 1850, near January. Q. How long was it before the application to the Pennsylvania Legislature? A. Do not know, sir; I do not know who opened the anonymous note.

O'Connor (producing a note)—See if this is it.

Witness (reading)—Yes, sir, I think it is.

O'Connor—I do not know if I may read it; I suppose not.

Van Buren—Oh no! we will not bother with anonymous letters; we get plenty of them.

O'Connor—They have of late, indeed, become very frequent; they used not to be so at the time referred to, and therefore command more interest.

Witness—My daughter, Imogene, is nine years old; she is the only offspring of my first wife; she usually sleeps on the third floor—the same floor where my study is; I always sleep in my study when I am ill, or when my wife is ill; there is a room adjoining mine and hers, between the two, if you stand at a certain angle; I had no difficulty in passing from my room to the adjoining one, as there is a door between and a key in it; have never been in the third story of my house in any room with Mrs. F. without my wife being present; usually go to my daughter's room before I retire, to bid her good night; she usually continues bidding me good night until I am out of hearing; my daughter is very wakeful, and she hears my foot on the steps, so that I rarely go to my room without being called by her; my health has been bad ever since January, 1849; have been in the hands of a physician all that time, up to this moment.

O'Connor—That's all; cross-examine him.

By Van Buren—I resided in Tioga county, at a place called Glenmary, before I came to New York; lived there from three to five years; lost my wife in 1845; wrote two plays for Miss Clifton, and knew her well; was not in the habit of visiting her for the last four or five years of her life; she died two or three years ago; do not remember calling upon her for several years, although I have no doubt I did, as there was no interruption to our friendly intercourse; she visited me in Glenmary, after I had written the first play for her; that was in 1838 or '39; she remained three or four weeks; she was on intimate terms with my former wife, as well as myself; I wrote an obituary notice of her after she died. Q. Was it eulogistic? A. I cannot say without reference to the files of my paper, the *Home Journal*. Q. Were the statements in that, so far as you remember, the result of your own experience?

Mr. O'Connor objected. The witness had been called by plaintiff to rebut the delinquencies heaped upon her, and now the defendant tried to make him his own witness. These questions could not possibly be put with a view to attack Miss Clifton's moral character.

Van Buren—No, we put these questions to sustain *his* moral character.

O'Connor—You mean *hers*, I suppose, for Mr. Willis's character is not brought in issue here.

Van Buren replied, but the Court ruled out the evidence.

Witness—My wife did not keep up her intimacy with Miss Clifton until she died; have no recollection of seeing them together after the visit at Glenmary; do not recollect calling on her in this city with my wife. Q. Do you know John Kent? A. I had a servant of that name; he lived about a year with me; he brought me a letter from a connection of mine in Ireland, a lady, Miss Frayne; she gave it him at the request of another lady; she did not know him; recollect sending him for Mrs. F. on one occasion to come down to my house; I recollect my wife being very ill, and that I sent Kent for Mrs. F.; do not know if I sent him on more than one occasion; I probably met him very often on the staircase on his going to bed; do not know of his having heard me say "Good night, dear;" do not remember meeting him at any time, while Mrs. F. was in the front room, third story; recollect Mrs. F. coming one evening and going up into the third story without seeing my wife; I saw her that evening before she retired; either below in the drawing-room, or at Mrs. Willis's door; do not recollect seeing her in the third story that time; I probably bid her good night either in the drawing-room or at Mrs. Willis's door; I did not bid her good night in the third story, because I did not see her there at all; I remember no instance when I have waked up my daughter to bid her good night; she generally awakes with my coming; do not recollect any other occasion of Mrs. F. coming to the house to watch with my wife; Mrs. F. dined frequently at my house; with her remarkable powers of conversation we rarely had any friends without inviting her, and that was once or twice a week, or oftener; she dined there frequently whilst my wife was sick; she dined there probably as often or oftener during Mrs. Benson's stay; on such occasions she dined with me and any other guest that might drop in; if I was in alone she used to dine with me, but do not remember a single instance now, although it may have frequently happened; the servants, whomever we had, waited at the table; I saw Kent last about a month or two ago; he came up and spoke to me at the Astor House whilst I was at table; these are the only two occasions that I saw him after leaving my service; during my morning calls at Mr. F.'s house I usually saw Mrs. F., sometimes alone, sometimes with her sister; do not remember seeing her sister there after January, 1848, when Mr. F. was at home. Q. Tell us the names of the men of F.'s acquaintance whom you wished to avoid? A. I do not remember them at present. Q. What was your objection to them? A. Very vulgar habits and conversation. Q. How do you know that? A. From having been once asked into F.'s library, and listening to them for a while; Andrew Stevens was one; do not think he was intimate with Mrs. F.; also Mr. Lawson and Mr. Wykoff, and two others of F.'s intimate friends; know Wykoff only in the way of my profession; should suppose him not intimate with Mrs. F.; do not know that he acted on her behalf in the difficulty with F.; Lawson was very vulgar on the occasion referred to by me; do not say that he was in the drawing-room; I was there perhaps an hour, and had nothing to keep me but courtesy to the gentleman who had asked me in; did not reprove them. Q. So far as you know they are honest men who pay their debts—are they not?

O'Connor—We will have none of this wholesale evidence of paying debts (laughter).

Witness—The drawing room door was closed and kept closed, because I was anxious to avoid Lawson, as I was afraid he might be introduced to me; it is often my habit to avoid a man's friends by visiting his house; do not recollect who went down stairs with me that time; I came from the library; I should very likely have been introduced to Lawson by Mrs. F., if she had come down; she may have come down with me, because that circumstance makes it probable; she might have introduced me with or against my will; have a very indistinct recollection of the whole occurrence; such an occurrence happened but once. Q. Are you a member of the Church?

O'Connor—What have we to do with that? (Laughter.)

The Court said that counsel had enjoyed every latitude, and begged they would restrict themselves to narrower limits.

Witness—Had no acquaintance with Lawson before that; believe I had spoken to him; do not treat him as an acquaintance; have bowed to him, and he to me; never saw Mrs. F. smoke; do not recollect calling on Mrs. F., and finding her packing to go away; had no particular objection to F. while I called there, but would rather not have seen him; his manners towards his wife were so rude that it was disagreeable to be in his company; my object was not to call and protect her; I had a general dislike to his character; have had that almost ever since I have known him; Mrs. F. was probably not acquainted with the state of my feelings towards him. Q. Did the dislike increase or diminish? A. It increased with knowing him; do not know if I tried to avoid him; did not desire to see him. Q. At the time he met you in 1850, did he give you any caution as to your calling at his house? A. Yes; Mrs. F. had been calling at our house, and he called this interfering with his domestic affairs; never wrote a line on this subject; prior to the separation did not learn from Mrs. F. that they intended to separate; she never spoke to me on the subject; did not know that they intended to separate; do not think my wife mentioned it to me; it was, I think, in June that Mrs. F. passed a month with us; have no recollection of any conversation with Mrs. F. on the subject of this separation; I think Mrs. Voorhies told me they had separated on account of some difference about Macready; wrote a defence of my wife, myself, and my brother, when Forrest attacked us in his pamphlet before the Pennsylvania Legislature; I wrote and published on the subject, and talked about it; never assailed Forrest, except in defending my brother, my wife, and myself, in my own paper. Q. Did you confine yourself to a defence?

Objected to.

O'Connor demanded the production of the papers.

Witness—Have published card in the *Tribune* and the *Herald*; those were about a controversy between Mr. F. and myself; on this subject I have never written in the *Herald* or *Tribune*; have talked with counsel about this case; have been called upon by witnesses who offered testimony, and referred them to counsel; have taken no part whatever in the employment of counsel; Mr. Hoffman once on the stage expressed himself very strongly on the subject, and that is all the conversation I have had; (witness here gave a description of the upper story of his house;) my wife got lodgings for Mrs. F. 10 miles from New Bedford with some relations; she was there five or six weeks; I was at New Bedford part of the time; visited her several times with my wife's family, but never alone; I have received notes from Mrs. F., but not frequently; have written to her frequently; I have written one note to her during this trial; I think no more; do not think I have received any notes from her during the trial; she has apprised my wife of the trial, but has never written specially to myself; do not recollect R. Willis staying at Mrs. F.'s house for several days; never heard he was there when I supposed him to be out of town.

Re-examined—I have never seen Mrs. F. in the least degree affected with liquor; Mrs. Benson dined with the children at noon when she stayed with us; during my wife's illness, my mother and niece stayed with us a considerable time; I have never kissed Mrs. F. or any part of her body or dress, when wishing her good by; the first publication I made on this subject was a defence of myself, my wife, and brother, against the attacks of Mr. F.; the *Home Journal* is a weekly paper, the *Herald* a daily; published a card in the *Herald* in defence of my brother. Q. State what that interview in Broadway was? A. Mr. F. took me aside and began with a gross, indecent, and vulgar abuse of his wife's character; I expressed my entire disbelief in the charges against her; told him that I wanted other proofs than his assertions, and that until we had such proof Mrs. W. and I should always treat her as the friend we had known; he went on for some 10 or 15 minutes, with this coarse and disgusting abuse and finally left me, telling me that he would hold me responsible for any further meddling with his domestic affairs; he mentioned no further "meddling" than our continued hospitality and kindness to Mrs. F., and her being intimate with our house.

Cross-examined—Do not recollect the precise words of my conversation with Mr. F., except the last phrase; I mean to say that he spoke of our hospitality as meddling with his affairs; he did not speak of any private visits to his wife; he spoke of no liberties I had taken with her; up to that time I had made no publication about it; he appeared excited; I was not agitated I think (a laugh from Forrest); I made no unnecessary haste in going away; do not know that Forrest ever invited my brother to Fonthill.

The Court then adjourned.

TWENTY-SECOND DAY.

TUESDAY, January 13th.

The Court opened at half-past ten o'clock.

Mrs. Forrest was, as before, accompanied by Mrs. N. P. Willis and Mrs. Richards. Mr. F. was, as usual, early in attendance, and was this day joined by Mr. Doherty, who has been absent from Court for several days.

Jonathan M. Wainwright, sworn—I am a clergyman of the Protestant Episcopal Church; do not know Mr. or Mrs. F.; did not speak to either of them or any body else about bringing Mr. F. and Mrs. Voorhies together for the purpose of a reconciliation.

O'Connor—That is all, sir.

Bridget Dempsey, sworn, (an aged and respectable looking female, well dressed, and giving her testimony with great clearness)—I reside in Twenty-eighth street; am the mother of Ann Flowers; I recollect my daughter living with Mr. and Mrs. F. in Twenty-second street. Q. Did Ann tell you anything about an impropriety between Mrs. F. and Captain Howard? A. Not to my knowledge while she was there; I never heard her say anything of her but what was proper and good. Q. How long is it since Ann's child died? A. Since the 10th of January, 1851; my daughter Mary was home last night, but left town this morning; she was subpoenaed last night to come here; do not know where she is gone.

Cross-examined—I am married; my husband's name is Michael Dempsey; he is in the city, but do not know the number where he lives; cannot think of the name of the street; he lives near Bleeker street; do not know with whom; he is a carman.

Mr. O'Connor informed counsel that the name was in the Directory.

Witness—I think it is four years since we separated; have not seen Ann since she went to New Orleans; have seen her on the sidewalk since, but did not know her, and was told it was her; Ann never told me anything about improper conduct between Mrs. F. and Captain Howard; Messrs. Howland and Chase subpoenaed me to come here; Ann's child has been with me for about three years; recollect his being with Mrs. Butler; do not know who paid Mrs. Butler from month to month; I was once or twice handed the money by a servant of Mrs. F.; I think her name was Catharine; saw her once at Mr. O'Connor's office; Mrs. F. was there and my daughter Mary; nobody but the servant handed me the mo-

ney; she once gave it to me at my house, and once I got it from Catharine at Mrs. F.'s house; I used to know Miss Margaret Sinclair; she never gave me any money to give to Mrs. Butler that I remember; never went with her to see the child; I know Mr. Raymond; went with him once and got the child away from Mrs. Butler; am sure I never went but once; never saw Captain Howard; I have ten children—Ellen Honesdale, Mrs. Hart, Mary, Patrick, Ann, or Honora, John, Michael, Thomas, William, and Margaret; Patrick went by the name of Frederick Laughlin; I did not sign the name of Adelia Dempsey to an affidavit; Mr. O'Connor made the mistake; I can read and write; put a cross under the affidavit; I used to write, but have got rather out of practice; Ann is between 24 and 25 years old; do not know the year she was born; I was married April 3d, 1815; have been 16 years in this country; am 52 years old; I do not know the year I was born; Ann was born in Ireland; do not know how big or old she was when she came here; we lost the book which contained the children's ages on the voyage; Patrick is the next oldest to Ann; John is between 22 and 23 years old. Q. How old is Mary?

O'Connor—She is a single young lady, and it is hardly fair to ask (laughter).

Witness—Mr. F. inquired of me some time ago where Ann was; do not know the month or day; it is more than a year ago; she was in New Orleans at the time; told Mr. F. I did not know where she was because I had no knowledge or correspondence with her; employ myself with keeping my house; my two sons and two daughters live with me; Margaret, Mary, John, and William; the latter two have not been subpoenaed; they know nothing about the case; have never seen Mrs. F. since the difficulty arose, only that once in Mr. O'Connor's office and another time, but I did speak to her; I called on her, but did not see her; went of my own motion; Mrs. Voorhies sent for me to go to O'Connor; never got any money, nor never looked for it; have supported the child myself; got 3 months payment for him from Mr. Godwin; got \$7 a month; that was the arrangement when I took the child from Mrs. Butler; do not know how long the arrangement was to continue; Mr. Godwin paid me the money at my house; no one was with him; some clothes were sent to him to send him to his mother in New Orleans; money was given to me by Mr. Voorhees and he was to get it back from Capt. Howard; the clothes cost \$15; that was shortly after I got the child; the child was taken by Mrs. Hinesdale to her mother; she was to visit my place, and on going back she took the child with her; do not know the time; my memory is very bad; the child died on the 10th of June in my house; I was present; the child was buried at Greenwood; all my family and myself went over with him; my son John went; a good many went; Raymond was not there; the child was ill a long while; Drs. Rogers and Forrester attended; my son John was to pay them, but do not know if they have been paid; Dr. Forrester sent in his bill; Mr. Forrest or Mrs. Voorhies did not call to see the child whilst he was ill; never lived in Beach street; lived in Bank-street; Mrs. F. did not call to see me there; did not tell Mr. F. his wife had called to see me; Mrs. F. once came as far as the stoop of my house about two weeks ago, but I did not want to see her, and told the servant I was out.

Mr. O'Connor—She went at my request.

Van Buren—Is it right, sir, to keep up this running commentary?

O'Connor—I am wrong, sir, I confess it.

Van Buren—Well, then, I trust it will not be repeated.

O'Connor—You have my apology.

Re-examined—I told F. that his wife ought to have a fair trial, and that if my daughter had any respect for herself she would not appear in the case. He answered that she was a married woman, and that her testimony was good; but I told him that if she came she would disgrace her husband and children. She has done so now, and the stain will never be washed off.

By Van Buren—I am from County Galway, Ireland.

O'Connor—Not from County Tipperary, Europe, (laughter.)

Nancy McLaughlin was called, and not being in attendance, proof of service was made and attachment issued.

Calista Russell sworn—I reside No. 50 Laurens street; know Mrs. Caroline Ingersoll; she is my aunt. Q. Did you live with her at the house 355 Greenwich street? A. Yes, sir. I was there eighteen months; was with her in Houston street for about five months. Q. Was the house in Greenwich street what is called a house of assignation? A. It was said it was such a house. Q. Did you ever see any of the gentlemen who frequented it? A. I did, one or two, do not know their names. Q. Were they known by any name in the house, either of them? A. No sir. Q. Who were the women boarding in the house? A. Mrs. Davy and Miss Eliza; I believe Eliza's name was Pierpont. Q. Did she receive gentlemen visitors? A. Not to my knowledge; Mrs. Davy had her husband there; do not know where he lives; have seen him only once; went occasionally to the door; I went very seldom to the door in the evening; the neighbors used to say it was a house of assignation; had no other lady boarders but those two while I was in the house; do not know if they slept alone; never heard of a husband of Miss Eliza; do not know of any other ladies who came to the house; I took my meals in the basement; Miss Eliza, Mrs. Ingersoll and Davy sat with me; no gentlemen were at any meals with us to my recollection; no other women with us. Q. Did you frequently hear the door open and shut in the day time and at night? A. Yes, sir. Q. Did you know who came in and went out? A. No, sir, I did not; I had no reason to suspect from anything that transpired that anything was wrong; I am a widow; I have not seen in Court any one I have seen in the house. Q. Look about you, don't you see any one? A. I see one. Q. Who is he?

(A gentleman in court here bowed and said, "I am the man;" she gave his name as Dr. Follen.) (Loud laughter.)

Witness—I never saw Mr. F. in that house or in Houston street; cannot tell what Mrs. Davy did for a living; I think her husband took care of her; saw him but once; do not know what Miss Eliza did for a living; she never told me her business; I have several times talked to Mrs. Ingersoll about her house being an assignation house; do not recollect the ladies who boarded with us at No. 628 Houston street; Mrs. Davies went there with us; she did not stay long; she was backwards and forwards to Philadelphia for four months; we also had a lady named Miss Merrifield boarding with us; took my meals in the basement with Mrs. Ingersoll, Miss Merrifield, and Mrs. Davies, if she was there; saw several gentlemen in that house; they took no meals there to my recollection; they stayed from one to three days; they stayed sometimes less than a day; they stayed in the parlor and took their chambers in the evening; they sometimes slept there all night; two ladies named Miss Charles' used to come there; they stayed in the basement; they just called on Mrs. Ingersoll in the evening; they came through the front door or the basement; do not recollect seeing them in the basement; had no gentlemen in the basement; do not recollect Miss Charles going into the second story; they called two or three times a week; do not know their business; they stayed an hour or so; they did not go further up than the parlor that I know of; I believe they now live in Franklin street; do not know the number; do not recollect seeing any other ladies there; Mrs. Ingersoll never told me what Miss Charles came for; never saw the husband of Miss Merrifield; have seen her frequently talking to gentlemen in the parlor; do not know the gentlemen; Miss Charles came in the day time or in the evening; no one accompanied them to the house or away from it; there were four Miss Charles', but only two came to visit us; have known them to be there as late as 10 o'clock; the eldest was about 21 years old; never saw any of their male relatives; there was no difference between the house 355 Greenwich street and 628 Houston street, that I could see.

Wm. McKellar sworn—Am clerk to the Chief of Police. Q. Have you charge of his records of police made at the house No. 355 Greenwich street? A. I have on record of suspicious persons and places made to the Chief of Police. Q. Turn to the record of 1846. A. The record of 1846 was not very regularly kept; the first regular record is of 1847, and I find the house No. 355 Greenwich street mentioned in it; I have the report of Feb. 1st, 1847; I have a report of Nov., 1847; the last is made by a person named M'Cord; the report of Feb., 1848, is by Mr. Appleyard; the next is for the Eighth Ward, reported by Fountain and Craft about 628 Houston street; the November report is by Chambers and Craft; in Feb., 1849, there is a report by Robbins and Craft, and May, 1849, is a report by John Craft; August, 1849, by Robbins and Craft, and Nov., 1849, by John Craft; in Feb., 1849, is again reported by Craft, and the same in May, 1850. Q. Are these the regular reports made of houses of improper description? A. Yes, sir; these are made and kept at the station-house and reported to the Chief of Police every quarter.

O'Connor—Will your Honor suffer them in evidence to show what the nature of the house was?

Judge—It does not strike me as competent.

O'Connor—This is all, Mr. McKellar.

John P. Hubert sworn—I am a butcher; reside at No. 358 Greenwich street. Q. From November, 1846, to May, 1848, did you reside in the same place? A. Yes, sir. Q. Did you during that time notice the house No. 355, occupied by Mrs. Ingersoll? A. Yes, sir, I did. Q. For what purpose was that house applied?

Van Buren objected. Mrs. Ingersoll had been called as a witness by the plaintiff to prove the presence of Mr. F. at her house; she being their witness it was incompetent now to impeach or disgrace her.

O'Connor replied that he might be allowed to prove a fact by several witnesses. If for instance a *particeps criminis* was called, it was quite competent to corroborate him by other testimony, and in this case when he (counsel) could not recommend the credibility of the lady witnesses who had testified on the subject, it was quite natural that he ought to surround their testimony with such evidence as would stamp truth upon it. The Court must be aware, that there had been a studied ignorance on the part of those witnesses, and this gentleman was called to supply, not to contradict their testimony.

The Judge thought there was no doubt about the rule. Parties might call witnesses, and take their testimony, but they were not bound by the truth of it, for a witness might out of court tell one story and on the stand another. Witnesses could not be impeached by the party who called them, by proving general bad character for truth and veracity, but suppose Mrs. Ingersoll had sworn that Mr. Forrest had never been in the house, it would have been competent to contradict her. The character of the house might also be gone into.

Question repeated. Witness—I thought it was a bad house, but cannot say for what purpose it was applied. Q. State what you noticed about the persons coming in or out. A. I saw a great many people go into the house and come out during the daytime as well as night to as late as I sat up; I sat up to nine or ten o'clock on a week day, and on Saturday to eleven or twelve o'clock; the people I saw go there by night were both men and women, some with carriages and some without; they came by one or two at a time; I am forty-five years of age next June. Did you ever see people in that way, and in that number go into a house before? A. In such houses I have.

Mr. Van Buren—Perhaps Mr. Hubert has never seen a church. (Laughter.)

Witness—I know none of the women in the house, except the colored girl, who came for meat?

Q. Was she a modest woman? A. That's more than I can say. (Laughter.)

The Judge thought this rather "loose" testimony.

O'Connor—I think it is "loose" enough.

Witness—On two occasions I saw women at the window putting their thumbs to their noses at gentlemen as they were going out (laughter); that's all I know of the house, and it made me believe it was a bad house (great merriment); that's all I judged by, Mr. Van Buren.

O'Connor—Exhibit the mode of that experiment. Witness—You know well enough, I guess, how it's done; I thought it immodest, and never did it in my life, and won't do it now.

Francis Sharleau sworn—I am a barber and hairdresser; I reside No. 367 Greenwich street; resided at No. 342 Greenwich street in 1847 and '48; I know the house of Mrs. Ingersoll as I would notice any other house. Q. Were you ever in it whilst she was there? A. I was not, sir; did not know any body who lived in it; I have seen carriages frequently stopping there as they would at other private houses; cannot judge of the interior of a house by the exterior.

O'Connor—That is all, sir.

Lorenzo D. Savage sworn—I reside No. 55 Greene street, near Broome; I did not know Caroline Ingersoll. Q. Have you been in the house 628 Houston street? A. I have been there once, in 1848 or '49; it was in an evening. Q. How did you happen to go there? A. I went there in company; met the company on Broadway; there were two persons besides me. Q. Two females? A. No, sir, men. Q. What was your purpose going there? A. None but going with these men; do not know their purpose; we stayed ten minutes; I saw two ladies; could not recognize them again if I met them; saw them in the parlor. A. Did you leave your friends there? A. Yes, sir. Q. What passed between them and the ladies before you left? A. I cannot recollect; I expect they knew them, but I did not ask; did not introduce them; I was not introduced to them; there was some conversation; do not know what it was; I expect my friends knew the way there without my showing them; do not know their object; they asked me to take a walk with them to Houston street; my friends knew how I was situated, and did not ask me to stay longer with them; I may have seen the ladies before, but do not recollect; do not know of having seen them since. Q. Were they women of the town? A. I cannot say; my friends live in New York. Q. What are their names? A. (reluctantly) They were men of my acquaintance.

O'Connor—Well, that will not tell me their names. Witness—Well, they were policemen, and I was a policeman myself. Q. Then I suppose they went there to see the premises? Witness—No, I suppose not. O'Connor—Tell me their names. Witness—One was called Walter Edgerton; he lives in New Haven; the other is named Morrison, but do not know where he is now; have not kept track of him; he was attached to the Eighth Ward; do not recollect being at the house on any other occasion.

Charles S. Turnbull was called but did not answer.

Henry Clough sworn—Am a policeman; of the Eighth Ward; the house 628 Houston street is in that district, I believe; I have visited that house officially; in August, 1850; Have not visited it previously, or made any observations upon it.

Wm. Richard Warrington sworn—I am a physician; I was requested to call professionally at the house 628 Houston street; I think it was in summer, 1850; I went to the house in pursuance of that call; it was in June or July. Q. What kind of persons did you see in the house? A. Mrs. Ingersoll and the person who requested me to call. Q. Did you see any thing tending to show the character of the house? A. No, I did not see any thing beyond the person I went to see.

Mr. O'Connor offered to show that witness attended a person in that house for a disease which is attending a course of life such as is led by the inmates of such houses. (Objected to.)

Mr. Van Buren said that the statute forbade a physician from divulging the secret of his client.

The witness intimated that he would not disclose any names.

Mr. Van Buren referred the Court to the 2d Revised Statutes, page 406, which forbids a physician from giving any information about any fact that he may have acquired in his practice, so far as the prescription of medicine or the nature of the sickness is concerned.

The Court overruled the offer.

Witness—I met the lady in Broadway, and have seen her elsewhere. Q. What was her pursuit in life so far as you know, independently of what you may have learned by prescribing for her? A. My only knowledge is of my going with my friend to her house, and his going to her bed-room; of course I was never present at any overt act. Q. What then was her pursuit in life? A. That of illicit intercourse; may have seen Mrs. Ingersoll once before.

Cross-examination—I reside at No. 872 Broadway; board there; some ladies named Perkins keep a school there; have kept rooms there for a year; have gone as surgeon on board the Georgia, south; have not attended any particular families here; am an Englishman; have been five years in this country. Q. Who was the friend you spoke of? A. Why, he is a friend of yours, and once did me the honor to introduce me to you: as he is abroad now I would rather not name him.

Van Buren—Did he introduce you to me? A. Yes. Q. When? A. In Albany. Q. Where there? A. At Congress Hall; he was married, but his wife has since died; have seen the female spoken of perhaps a dozen times; have seen her and my friend go to her room together and stay a short while; I know Capt Calcraft; am on speaking terms with him; have not seen him for ten days; know Mr. Willis; have not spoken to him for two years; do not know Mrs. Forrest.

Henry Clough recalled—The occasion of my visiting Mrs. Ingersoll's house in 1850 was for the purpose of putting out two young men who had been requested to leave; it was night, between nine and ten o'clock; saw Mrs. Ingersoll; did not make any observations on the house that would enable me to speak of its character; the two young

men came to the door and wanted to see "the girls"—she said she had no girls, and the men sat down in the hall, lighted cigars, and said they would stay until they did see the girls; I was from five to ten minutes in the house.

James Carlock sworn—Am an officer of the Fifth Ward; have been on it for about three and a half years. Q. Were you ever in the house 355 Greenwich street? A. Yes, sir; Mrs. Ingersoll occupied it then. Q. For what purpose did you visit it? A. I took out a man who was not sober; I lived four or five rods from that house then. Q. Did you notice any thing in the demeanor of the inmates of the house? A. I saw a good many go in and out, most of them in the first part of the evening. Q. For what purpose was the house occupied during 1845, '46 and '47? (Objected to and ruled out.)

Witness. I recollect one female going there who was not exactly square. (Laughter.)

Van Buren. No, the others were square. (Loud merriment.)

By the Court. By not square, I mean that she was a lewd woman; some of the women who went there in the early part of the evening, came rather under false colors I thought. Q. What do you mean by that? A. Muffled up, without any necessity for it from the weather; have seen them go there alone or with a man along with them. Q. Had these women the appearance and carriage of modest women? Objected to—ruled out.

To Van Buren. It is two and a half years since I took the man out who was not sober; I was not sent for; the colored woman came on the sidewalk and requested my assistance; was not there on any other occasion; it was in the winter when I saw the woman go in that was not "square;" it is three winters ago; did not see her come out; did not remain to see when she came out.

Nancy McLaughlin sworn. (The witness seemed greatly amused with the idea of coming upon the stand, and kept grinning all the while.) I have lived in Buffalo; have been employed at the American Hotel there. Q. In what capacity? A. Oh, in a good many; I was a house-keeper.

Mr. O'Connor requested the Court to inform the witness that she was bound to tell all she knew, and nothing but the truth. He had reason to believe that the witness was a very unwilling one.

The Court said the witness was old enough to understand the nature of an oath, and must act as she thought proper.

Witness. Have seen Mr. Forrest in Buffalo at the American Hotel; I saw Miss Josephine Clifton at the American Hotel at the time Mr. Forrest was there.

The witness had answered the preceding questions with great volubility, and once gave an answer before even the question was asked. The audience burst out in a roar of laughter, and were sharply reprimanded by the Court.

Q. How often have you known them stopping together there? A. Only once; do not recollect how long they stopped there; do not know if it was a week or three days; they stayed there over one night. Q. Did you see and know the room in which Miss Clifton slept. A. I do not recollect. Q. Did you ever see Mr. F. in the same room with Miss Clifton? A. No, sir, I never did; never saw him go into any room but his own; have seen no person but him go into his room.

O'Connor. That will do, Mrs. M'Laughlin.

Van Buren. Where do you live, Nancy? A. In Seventeenth street; do not know who subpoenaed me.

As the witness left the stand Forrest went up and shook hands with her, whereupon she turning to O'Connor said, "Aye, he is more of a gentlemanly man than you are!" (Loud laughter.)

Edwin Nicholls sworn. Have been a conductor of the Hudson River Railroad; had the New York & Peekskill train; run on it in October 1849 up to the 5th of December last. Q. Have you had on that train during that period Mr. F. for a passenger? A. Yes, sir, between this city and Yonkers. Q. How often since the fall of 1849 was he a passenger, or since January, 1850? Q. I saw him a great number of times; I think I saw him twice a week on an average since January 1850 to December 1851.

Cross-examined. May not have seen him for a month together.

John Craft sworn. I was a policeman, but am not now; I was in the eighth ward; my post extended so as to embrace the house 628 Houston street; began there in 1848 down to middle of 1851; I had a man named Fountain for a partner awhile, and also Chambers, and Robbins; I have been only once in the house; Mrs. Ingersoll's name was on the door; I did not watch the house any more than I would any other house; I made reports concerning the house to my chief. Q. What did you found these reports on? A. I saw men get out of carriages about half a block off, or further, and go into the house; that was of an evening; have seen women go into the house, but not very late; did not know the women; did not know the men. Q. That one occasion that you were in the hall, what was that? A. I found the door open one night between twelve and one o'clock; did not see any one; I rang the bell, and knocked at the door; once saw a man and woman go there.

Anthony Austin sworn. Am a policeman of the eighth ward; have been sixteen months engaged there. Q. Have you had occasion to visit the house 628 Houston street? A. Yes, sir. Q. How often have you visited it? A. Twice; I went there for the purpose of making my quarterly reports; the first time I did not see Mrs. Ingersoll, but saw the man-servant and colored woman. Q. What else did you see? A. Nothing particular; the second time I saw Mrs. Ingersoll at the front door. Q. Have you made observations from the outside? A. Yes, sir; I have seen men go in and out at all hours of the night; did not know who they were; I also saw women go in and out in the early part of the evening; did not know them; they came alone; this was quite a frequent occurrence; I observed nothing else from the outside.

Cross-examined. My watch during the night was at various hours; they change every night.

Augustus Goodrich sworn. Am a policeman of the eighth ward; have been so for eighteen months; I was called once to the house No. 628 Houston street, where Mrs. Ingersoll lived in 1850; I was sent for to put out two young men; have been in the house before I was policeman in 1849; visited it then two or three times; I was a cabinet-maker, and went there to do some job; did not visit it at night then; saw the landlady herself; whilst I was a policeman I observed nothing externally of the house.

Uziah Fountain sworn. Was a policeman four years ago; in August 1848, I was engaged with Craft on the eighth ward police; had been on the police three years; knew the house 628 Houston street, after Mrs. Ingersoll came there; never was in it; it was out of my post.

John Milburn sworn—Reside in New York; am an interior decorator; know Mr. Forrest; I did some work for him at Font Hill on the large building; was engaged on that work from the 5th July, 1849, to the 14th February, 1850; spent there nearly the whole of my working days; saw Mr. F. frequently there; in the early part of the term Mr. F. was there almost daily up to December; never saw him there after that time but once or twice.

Cross-examined—Mr. Smith, the builder, employed me for that work; that was on the 25th January, 1849; have no memorandum of when Mr. F. was there and when he was absent; the house was not occupied nor finished; have no recollection that would enable me to swear that he was not a week or two absent before December.

Clements Robbins sworn—Have been a Policeman of the Eighth Ward. Q. Did you observe, whilst on the Police, the house No. 628 Houston street? A. I knew the house from reputation; I never was in the house; made no particular external observations on the persons who visited it; merely have seen females pass in and out, and men also.

John B. Rich sworn—Reside at No. 111 Tenth street. Q. Were you ever at the house, in Sixteenth street, during the time that Mrs. F. lived there? A. Yes, sir. Q. Were you ever in Mrs. F.'s bed-room? A. Yes, sir. Q. How often? A. Three or four times; the first time I was called she was suffering from neuralgia arising from a decayed tooth; I had been sent for during the day, but could not leave, and then said I would come in the evening; she suffered from neuralgia and also from congestion of the lungs; I had a gymnasium at that time—a school for physical training; I called the next day, after staying half or three-quarters of an hour and prescribing for her, to see the effect of the prescription; I have visited the house when I did not go for the purpose of medical treatment; my wife was also a visitor at the house. Q. Were you ever in Mrs. F.'s bed-room alone with her? A. No, sir; her sisters, Mrs. Voorhees and Virginia, were usually present; my family had been intimate with Mrs. Voorhees previous to that; she has resided with my family, having left her sister in the fall of 1849; she was a teacher in my family some time previous to that; I was engaged in my institution till nearly 10 o'clock, and when they called upon me to come, I distinctly said I could not come until night if that would do; it therefore was after 10 o'clock when I called, and, being particularly intimate with the family, I never was in a particular hurry to get away; I was, as I have already said, intimate with the family, and if there

was any thing to provoke laughter, I probably did laugh; I never witnessed any indecent or immodest act on the part of any person in that house; never was in Mrs. F.'s bed-room except she was ill; I was there one night when the cholera was in the city; as I was going out Mrs. F. told me the cook had been taken ill, and expressed a fear that it was the cholera; I went to see her and found it to be the cholera; and after I had prescribed for her I sat a while in the parlor, until I heard that she was better.

Cross-examination—Am not a licensed physician; studied dentistry in Paris in 1830, '31, '32, or '33, with Mr. Delabar; was occasionally out of Paris; was under his instruction for three months in 1830; I was a grown man then; I did not intend it as a profession at that time; I am a New Yorker, and my parents are both Americans.

O'Connor—Suppose you try what his grandfather was? (Laughter.)

To Van Buren—Have practiced dentistry since 1840; was connected with a hotel before that for about a year; was a bookkeeper before that; never kept a furniture store; Mrs. F. called on me as a dentist shortly after the separation; first spoke to her on the night of May 10, 1849; I prescribed for her lungs; I think Dr. Warner was her physician; she had another dentist previously to my operating upon her; I have called on Mrs. F. during the day; drove her out once; that was when she became convalescent; I have remained as late as twelve o'clock of an evening at her house; have supped there; have not remained till half-past twelve in her bed-room; she was in bed; I think she had a morning gown on, rather a dress gown; she was in her bed every time I saw her in her bed-room; had known her but a short time then; it was in October or November, 1849; have been in her bed-room three or four times, and she was in bed every time; the first time I prescribed leeches, and waited until they had been applied; she suffered from severe palpitation of the heart, and was very ill indeed; her face was greatly swollen; she might have sat up the last time was there; Mrs. F. had not been in bed the evening that I attended the cook; I think there generally was wine at the supper table, but no porter or segars; Mrs. Rich was not with me when I stayed very late, or the time I drove Mrs. F. out; I kept the school for five years, but abandoned it this month a year ago; I was a dentist before I kept the school; was introduced to Mrs. F. by Mrs. Voorhees on the night of the riot; had known her before, but never spoken to her; have taken Mrs. Voorhees, Mrs. Forrest, and another lady of their family, out riding; never stopped any where with them; we went to the Bloomingdale Road and back; I will correct that; I once took Mrs. F. to the Greenwood Cemetery, where I had selected a piece of ground, and she got out to look at it with me; we never stayed longer than one and a half hours; never returned so late as ten o'clock; I recollect stopping in front of the next house to Mrs. F.'s in consequence of a pool of mud before her door; never stopped a few doors from the house to call for her; I was never afraid of going to the house, and always drove up to the door; never saw the ladies smoke.

Van Buren—That will do, sir.

The witness was passing out, making a remark to Mr. O'Connor that he did not know what he had been wanted for. As he passed near Forrest, Dogherty, who sat near him, said to the doctor, "You may know some time or other yet." Dr. Rich hereupon turned to Dogherty, and begged that he be at once apprised of the object, and several angry words passed which might have led to a personal collision, had not at that moment Mr. Van Buren recalled the witness, to ask him some further question of little importance. The angry tones had meanwhile been overheard by the Judge, who asked the reason of the disturbance.

Dr. Rich—The person with the glasses there (pointing to Dogherty) told me I might yet know the reason of my being called. If he thinks I am afraid of him, he is very much mistaken, so he need not make all that fuss. Chief Justice—Who is the gentleman? Van Buren—It is Mr. Dogherty, if your honor please. Dogherty—I did not address that observation to Dr. Rich. Dr. Rich—Yes, sir, you did; you spoke to me as I passed.

The doctor then again left the stand, and as he passed Messrs. Dogherty and Forrest a cross-fire of angry glances was kept up between them, in which he achieved a victory, having stared them both out of countenance. He then took up a position immediately behind Forrest, looking very belligerent; but the crowd passing out, he was forced to abandon his position, and the matter passed off.

The Court then adjourned.

TWENTY-THIRD DAY.

WEDNESDAY, 14th January, 1852.

Once more a dense crowd occupied the court-room, and the passages leading to it long before the commencement of the proceedings. Mrs. Forrest came in shortly after the opening of the court, accompanied by Mrs. N. P. Willis.

Wm. H. Canfield was called, but did not answer. Attachment asked for and granted.

An attachment was also granted against John Florence.

Mr. O'Connor said, that during the progress of the proceedings, certain parts of an affidavit of Mr. Forrest, in his application for a divorce to the legislature of Pennsylvania, had been put in evidence. He would now call upon counsel to read the passages which had been left out by counsel, as not explanatory of the passages read from the affidavit of Mrs. F. The offer was reduced to writing, and handed to the Court.

Mr. O'Connor then said, that an issue had been raised whether Mrs. F. was a citizen of the United States. To settle this point he (counsel) would now produce the certificate of naturalization, dated March 8, 1850, and issued by the Court of Common Pleas. Mr. Van Buren objected to the introduction of the evidence. Mr. O'Connor replied that the fact had been alleged in the pleadings, and although not denied, had better be brought in proof.

Philologus Holly sworn—Am an architect and real estate broker; have been at Mr. Willis's house last evening, and made a correct diagram of the third story. (Diagram produced, and witness explained it to the jury in presence of both counsel.) Q. When examining the premises did you stand at the top of the stairs, and by the help of a lady could you see a person come out of the door? A. You might if you kept your eyes directed towards it; a small person might secrete himself in the recess; after a person had come out into the hall, you could not tell which door he came from, except you saw him at the moment that he entered.

Cross-examined—The length of the jog into the hall is 16 inches; further on towards the bedroom door it is a little less; any person who was more than 16 inches big could be seen from the staircase; if a person had advanced a step or two from either door, you could not see which door he came from; Mr. N. P. Willis employed me to take the diagram.

By a Juror—At the commencement of the latter flight of stairs, a person coming up could not see either door; from the centre of the stairs a person might see two-thirds of the doors.

By O'Connor—You might see the top of the door after getting two or three steps up. O'Connor—I think the jurors better take a little journey to the house, and look for themselves. A Juror—I think it is not at all necessary, Mr. O'Connor. O'Connor—Very well, sir; if you are satisfied, I am.

Wm. M. Doty sworn—I know Mr. Forrest by sight. Q. Did you know Miss Clifton by sight? A. Yes, sir. Q. Did you at any time know the two together going up the North River on a steamboat? A. I have seen them go up together in the Albany; I was going to Troy myself; it was a night boat. Q. State how they came on board. A. They came together in a carriage; they were locked-armed as they came on board. Q. State what you know about their occupying the same state-room? A. They occupied the same state-room together adjoining mine; Miss Clifton spoke to me before they retired, and I answered her. Q. Were you yet on board the vessel when they left the following morning? A. I was on board when they were called previous to our getting to Albany in the morning. Q. Were you still on board after they left their room? A. Yes, sir. Q. Did you see in the room after they left it? A. I took the liberty of looking in then as I was alone (laughter); they landed at Albany, as I understood; I got up about the time the boat landed at Troy. Q. What did you see in the state-room? A. I saw a bed made upon the floor, and no mattresses in the berths; I started in 1843 to visit my mother in Rochester.

Judge—How did you ascertain that they were in the room together?

A. A few moments before the boat left this city, Mr. F. and Miss Clifton came up in a carriage, and he had two carpet-bags; I saw them at supper, and later on I saw Miss Clifton in the saloon alone; she said, "Are you going to Saratoga this summer?" I said I was not, and asked her where she was going; she said, "We are going to take a turn in the country;" I saw them afterwards go into the state-room together, and then heard a little disturbance in the cabin; they were a loving couple together (laughing.) Van Buren—Don't give us your opinion, sir.

Witness—Well, I heard them kissing (laughter); that is what I mean by "loving couple;" I heard her voice in the morning, and also heard his voice; the lock was turned when they went into the room; I looked into the room the next morning, and saw the bed made up on the floor; it looked as if they had been laying on it.

Cross-examined—I reside No. 59 Broome street; have been steward of the steamboat "Troy" for 2 years past; I am a married man; have been married for 20 years; have resided 2 years in Broome street; in 1843 I resided No. 49 Mac-Dougal street; after that I resided No. 284 Bleecker street; before that corner of Laurens and Prince street; lived a little less than 2 years in 284 Bleecker street; was then in the Columbia, running between this city and Troy; was steward in her; before that I lived with Hiram Nott, who kept a dining saloon in Nassau street; was his steward and carver; was about a year with him; that was in 1846 or 1847; before that I was steward of the Revere House, Boston; Parent & Stevens kept it; left them to come to this city to live; was before that at the Croton Hotel, 142 Broadway; was there less than 2 years; John L. Moore kept it; left him because he hired a man for less money; before that I kept a coffee and pie stand in the Merchants' Exchange, in Wall street, for Ring & Rushton; was about a year with him; that was when I went up the river with Forrest; he paid me \$10 or \$11 a week; left him because he got a man for \$6; I fix the date of the transaction on board the steamboat at 1843, because it was the first year that I was home since I was 9 years old.

Q. How old were you then? A. I was 38 last 4th July, now make the calculation yourself. (Roars of laughter). Q. Well, I ask you old you are? Witness—This is 1852, is it not? Van Buren—My business is to ask questions, not answer any. Witness—Well, I was 29 years old then; my mother corrected me, for I thought I was 30; she lives in Burlington, Vermont; she lived in Rochester at that time; my father also lived there; he is now in California; he has been there 4 years; have seen him about 5 years ago; he was a farmer at Rochester, but he has been sick several years; his farm was in the town of Gates, 4 miles from Rochester; he owned it; my mother is a dressmaker; I have 3 sisters and 3 brothers living; the sisters live in Burlington; they are not married.

Q. When did you first mention what you stated to-day? A. I spoke of it several times during that evening to a man on board the boat; do not know the name of the man, for I never knew it; he told me he was a merchant; have seen him in Charleston and New Orleans, at Charleston in 1840, '41, and '42; I did not mention it to the gentleman till after he spoke to me about it; that was about 9 o'clock; we had supper about 8 o'clock; I mentioned it on several occasions after my return home; I went to Rochester by way of Troy, and mean to go to-morrow, at least I calculate doing so (laughter); I was travelling alone; there was no one in the state-room with me; stayed 4 or 5 days in Rochester; then came back to New York by way of Troy; I think I told a man named Davies, after my return, about Forrest; he was steward for the Merchants' Exchange at that time; he left that fall; have not seen him since; never knew his first name; there were 80 occupied in that establishment, and of course I did not know everybody's first name; mentioned it to the bar-keepers and other servants; did not tell Mr. Rushton, because I did not like to take liberties of that kind with my employer; stopped at the Troy House on going up; have been there several times since, but not that season; do not remember the name of any other of the crowd, except by "John" or "Joe;" Davis was the steward; have not seen any of them in town within a year; I think I entered my name on the book in Troy, but am not certain; the next time I mentioned it to a man named Doughty, in the Chatham Theatre; we talked about a good many things, and among others came to speak of Mr. Forrest and Miss Clifton; he told me what he had heard, and I said what I had seen (loud laughter); had seen Doughty at Charleston; he was a theatre loafer, you know what I mean by that (roars); he used to come for drinks to my house for the actors at Charleston; never saw him since; never remember speaking of the matter since until to-day.

Van Buren. Not till to-day, wait a minute.

Witness. Spoke about it this morning to Mr. O'Connor at his office; I was subpoenaed to come here, night before last; I came down to his office to see what I was subpoenaed for on a case that I knew nothing of; he said: "We know better," or something like it; I told him so, because I did not wish to come here, and be brought up in other people's broils. Q. Did you dislike to testify to the fact? A. I had an objection to come into Court, since the time I mentioned it to Mr. Doughty, I made up my mind that it was none of my business, and I had an objection to making it public; I told thousands of people that I knew nothing of Mr. and Mrs. Forrest; did not tell Mr. O'Connor just now that I knew nothing about it; do not know the man who subpoenaed me; do not see him here; he subpoenaed me at my house, the night before last; he read the subpoena to me; did not tell me on what point I was to be examined; he was the first person who spoke to me about attending as a witness; I asked him why I was subpoenaed? he said he did not know; I told him I did not want to go into Court; he put 50 cents on the hatstand, and went out without saying "good night;" it strikes me I did not tell him I knew nothing about the case; he said Mr. O'Connor would make me come; have not seen any one on this subject since I was subpoenaed except Mr. O'Connor; I was born in Wallingford, Rutland county, Vermont; may have told my wife about what I knew, since I was subpoenaed, cannot be certain if I told her all the particulars; do not think I have ever told my wife what I saw on board the steamboat, unless I told her since I was subpoenaed; have not told any one else; did not think it was my business to circulate this story about town, that was my only reason; I think the captain of the boat was Macy; presume he lived on the boat; understood he had no family; understand he is purser now on board the Golden Gate in the Pacific; do not know who the clerk was; don't remember any passenger; there were some I knew by sight; there was not a single passenger on board that I knew by name; knew Forrest by sight for 15 years; never spoke to him; I know Mrs. F. by sight; have seen her several times since she came to this country; knew her by sight in 1843; have seen her at Washington, Charleston, Philadelphia, New York and Boston; I knew Miss Clifton; knew her 7 or 8 years before 1843; she introduced herself to me in 1838 or '39, at Saratoga Springs; I was steward at Congress Hall. Q. Who was with her then? A. A good many. (Laughter.) I think she came with her brother, that is, she called him her brother; do not know the particular purpose of her introduction; Mr. Monger kept Congress Hall then; did not visit her subsequent to that time; have seen her often since, and talked to her; saw her in the railroad cars and in Philadelphia; that was the same summer, 1838 or '39; think it was the latter part of September; she asked me to lend her my cloak, as she was cold; her brother was with her; do not know if she had a cloak; he did not have one; I was standing alone at the gangplank when Mr. F. came on board; I believe the captain stood there too, and several passengers; next saw F. in the state-room hall; there were many passengers, but none with her; I think this was in June, just before the 4th July; I think I was with my mother on the 4th July; I took the first train of cars from Troy; I spoke to Miss Clifton for a minute or two; she was alone when she spoke to me; after we had done speaking, Mr. F. came up and offered her his arm, and they went to the state-room together; there were between 50 and 300 people in the saloon then (laughter); that was the last time I saw them that night; when they went in, they locked the door; that might have been three hours after we started, more or less. (There was a small controversy between witness and counsel, which resulted in witness going over the whole ground again, the whole difference existing in the fact that he had seen Miss Clifton in the state room hall upon passing the gangplank, which Mr. Van Buren mistook as having seen her then in the state-room.)

Witness—Saw her cast her eyes on me with one of her angelic smiles (laughter); she did not bow to me, and walked past me with Mr. Forrest; saw her again the next "turn-round;" have seen her walking there from 10 to 20 minutes; next saw her at supper table with Mr. F.; I left them walking in the state-room hall and saw them at supper from 10 to 15 minutes afterwards; do not know how long I was at supper; they left before me; they said they had plenty and walked off; next saw them again in the state-room hall; there was from 50 to 300 persons present; they walked for about half an hour; she took a seat in the hall and he walked away; she sat until he returned; after I had walked the whole length of the stateroom Miss Clifton spoke to me, she said "I am going to take a little turn with Ned" (laughter); I saw Forrest come up stairs and left and walked aft; she rose up, took his arm, and walked with him to their state-room; do not know how many passengers were present then; 75 or 50 or about that; they locked the door after they went in; I believe I stated that two or three spoke about it that evening; I tell you what they said —

Van Buren—No, I'll not trouble you.

Witness—It was between 9 and 10 o'clock when they went in; did not see them take a light to the stateroom; he was in the saloon at the time; I then retired to go to bed; they talked perhaps half an hour after they went into the room; next heard them speak in the morning when they got up; servant said "We are in a few miles of Albany, if you want to go on shore you must hurry,"—he called no name; Miss Clifton answered first; she said "Come Ned, it's time to get up!" (laughter); I heard her distinctly; that was about the only thing I could understand distinctly; heard them converse more, but indistinctly; I heard Mr. F.'s voice; could not understand him; cannot remember a word he said, or anything else Miss Clifton said; heard them unlock the door when they went out; did not hear them laugh; cannot remember the subject of their conversation; cannot tell the time they got to Albany; we got to Troy about 6 o'clock; it would be more than half an hour before that at Albany; a man-servant called them; it sounded like a negro's voice; do not know if Mr. F. played at Albany; I got back here the first or second Sunday morning after 4th July; it may have been the third Sunday; Forrest was not playing at the Chatham Theater when I was there; cannot say what was played; Miss Clifton was not playing then.

Re-examined—Never spoke to Mrs. Forrest. Mr. Van Buren asked the witness to keep in town until the trial was over. Whereupon Mr. Doty said he would remain in town until to-morrow afternoon, but he had no objection to stay longer, as his visit to Rochester was of no moment at all. Mr. O'Connor—Better put it off for a week; I should not like counsel to work so very hard. Witness—Well, I will remain then. Mr. O'Connor then gave in evidence the dates of the letters which were not originally dated by Mrs. Forrest. They were written between the third week of October, 1848, and the second week of December, 1848. This evidence was subject to any correction which the defendant might make or suggest.

James Harper sworn—I know Christiana Underwood. Q. Did she speak with you after the separation of Mr. and Mrs. F. was in contemplation, about Mr. and Mrs. F.? A. I should like to know the year you refer to; she has spoken several times about their being her friends; have no direct recollection of the time, but know that she has spoken about them frequently. Q. Do you know the circumstance of her last marriage? A. I think it was in '49; do not recollect any distinct conversation with her that year about Mr. and Mrs. Forrest; have no recollection of any conversation with her about the time of the separation, or any consultation or advice on that subject. Q. Whenever she spoke to you about Mrs. F., before her marriage to her present husband, how did she speak of her? A. Always spoke of them as her friends for a good many years. Q. Did she ever, previously to that time, speak of Mrs. Forrest? A. I think I received the impression, perhaps from her, or some other source, about a difficulty between Mr. and Mrs. Forrest. Q. Did she speak of her quality and conduct? A. I think she spoke of her as being a lady, and her friend. (Objected to.)

Mr. O'Connor directed the attention of the Court to Mrs. Underwood's testimony, which he meant to contradict, and offered to show, that up to the last conversation which she had with Mr. Harper, she had uniformly spoken in the most favorable terms of Mrs. Forrest. The Court thought the witness has testified she had said nothing about Mrs. F. after the separation. She ought to be impeached on that.

Q. When you found Mrs. Forrest and Mrs. Underwood living together in Sixteenth street, did you hear her speak of Mrs. F.? A. If she did, she spoke nothing against her; they appeared very happy together, and I saw nothing but friendly feeling; I do not think the separation was alluded to by Mrs. U. Q. Did she, on any occasion whilst there, speak of Mrs. F. in your presence? A. Nothing about the separation, and do not recollect her making any remark about Mrs. F. at all.

Cross-examined—Mrs. Underwood was in our employ; do not know how I became acquainted with her; saw her after she left our employ; met her at the church where I attend; that was at the Methodist Church in John street; she was a member of that church at that time; Mrs. Harper was acquainted with her; she is dead since; she died on the 4th March, 1847; called once on Mrs. Underwood in Sixteenth street; called on her twice at her present house; have seen Mrs. F. in Sixteenth street; we have spoken together; saw her before I saw her in Sixteenth street; saw her once at our church; I think she was down with Mrs. Bedford one evening to our church, and I believe she was introduced to me by her.

By a Juror—Mrs. Bedford was not in my employ in 1849.—Mr. O'Connor now offered to prove that just before the commencement of this suit a special messenger had been sent to the residence of Mr. Jamieson, at St. Louis, and offered to pay all his expenses if he would come on to New York, and that he refused to come. Objected to. Judge—I do not think it is competent. Any body else. Mr. O'Connor? O'Connor—I have sent for Mr. Placide, and besides him I have but one witness in attendance to-day. Van Buren—We should like to know if they will occupy the day, for I have no witnesses in Court now, as I did not expect they would get through. O'Connor—I can examine my witnesses in a few minutes, but, of course, I do not know how long the cross-examination will take.

George Weir, sworn—I reside in the city of New York; I never was in the house 355 Greenwich street; I have been once in the house 628 Houston street; that is a year ago this month; I saw Mr. Slam go into the house with a lady, in the afternoon, towards sundown; this attracted my attention, he being an old acquaintance of mine, and I was determined to find out the character of the house: he went there with a lady whom I had known for some time, and whom I considered respectable; a gentleman went with me; we went in the day time, latter part of the afternoon; we went in without any introduction; there was some little opposition first, but we got in; they did not know who we were, and it was usual to have an introduction; we insisted upon going in. Well, what else? A. We drank a little wine, paid for it, and came away. Q. What company did you meet? A. There were two ladies, but I do not know who they were; have not seen them since: we went in the latter part of the afternoon, and stayed, perhaps, for an hour and a half. Q. What passed between you and the ladies? A. Nothing but the usual conversation that may be supposed to occur between gentlemen and women that were not over nice (laughter): one of them was a tallish, good-looking woman, of middle age: the other not so large; do not know if any of them was Mrs. Ingersoll. Q. Did you form any opinion of the house? A. I formed one, that's certain: I went for that purpose: was received in the room level with the stoop: think it was the front room: the blinds were closed: there were no beds in the room: do not now recollect the conversation with the two women: it was partly loose conversation, and remarks such as a virtuous, modest woman would not use. Q. Give us any of the phrases or the substance of what was said. A. Oh, nothing particularly striking—it was a random conversation: saw none but the ladies referred to: they did not say if they were married or single: no engagements or invitations were made: we left them with the promise to "call again," but never did: they asked us if we would call again, and my answer was, "In a few days, perhaps." Q. Was any invitation other than that given by the ladies whilst you were staying there? A. Not that I now can recollect: I and my friend and the ladies drank wine: I did not put my hands on the girls in any way, nor did my friend, so far as I saw: did not assign any motive for calling, or why we came in: that is the only time I ever was there.

Cross-examined.—I believe Mr. Slam was a married man; saw him go in there twice—once in company with a gentleman at about three o'clock p. m., as far as I recollect, and the next time I saw him walk in the street with a lady; he left her at the corner and walked ahead of her to the door, which was kept open until she came; I know the lady. Q. Was she married? A. I will rather not answer, my feelings and wishes do not allow me to.

Mr. Van Buren—Well, then, you need not.

Witness—I had known her for ten or twelve years; always considered her respectable; she lived in this city; have known her well as a visiting acquaintance; we had nothing but wine—no supper or segars.

Re-examined—Q. After your visit to the house, did you consider that lady respectable? Objected to and ruled out.

By Van Buren—I was once in conversation with a young lad, who told me something about carrying notes from Capt. Calcraft to Mrs. Forrest; the boy is an apprentice to the trunkmaking business at No. 9 Thomas street; I was present where he spoke to another individual last summer, and I joined the conversation.

Henry Placide sworn—I know Mr. Forrest, and Mrs. Forrest; I am an actor; became first acquainted with Mr. Forrest he introduced me to Mrs. F.; I have occasionally visited them in Twenty-second street; I have occasionally dined with them there. Q. On occasions when you dined there, how late would you stay? A. To different hours; I sometimes slept there, and if not, I generally went away about twelve o'clock; occasionally remained all night; that may have occurred.

six or eight times; we have broke up on such occasions at two or three o'clock in the morning; there was one occasion when we stayed all night; it was an evening party, who went after the first supper, and Mr. F. told Mr Willis, Jones and myself, that if we would remain, there would be some wild ducks, &c., for supper; it was on that occasion we stayed all night; Mr. and Mrs. F., Mr. Willis, Jones and myself sat up; I do not think I went to bed at all, and took a walk with Mr. Jones shortly after sunrise; Mr. F. went out before that to swim his dog, or returned to the house for breakfast; do not remember our going into the garden that morning; Jones and I took a walk, and Mr. and Mrs. F. retired to bed; I think we took a mint julep after daybreak; Mrs. F. prepared them; I think Mr. F. called for them, but am not positive; I think he asked her to bring a mint julep; they were brought and drank; do not know if we had a servant waiting on us; we usually sat in the dining-room during the latter part of the evening that I was there; do not remember that Mrs. F. retired before we went; I recollect the fact of Mr. F. going to Europe the last time; I have visited several times at his house since his return; do not know if I visited as frequently as before.

Cross-examined—Cannot tell the date of the party spoken of; am not sure it was before he went to England the second time; I think there were thirty ladies and gentlemen present; I think it is seven years ago; do not remember whether there were more gentlemen or ladies; I think an equal number of each; I think I resided in Warren street, and Mr. Jones at the Battery Hotel; the regular supper was served between twelve and one, and the second at two o'clock; it was spring or fall; it was after daylight, I think, that we broke up; we remained there from half to three-quarters of an hour with the mint juleps, and so on; never slept at Mr. F.'s house when he was out: I have frequently visited Mrs. F. in Sixteenth st. since the separation; have not visited Mr. F. since; I think Mr. F. has dropped my acquaintance; he has not spoken to me three or four times that we met in the street, and that may be considered a suspension of acquaintance; Mrs. F. sat at supper with us, and remained till we had finished; cannot recollect if I have supped very frequently otherwise with them; have seen Mrs. F. drink champagne and sherry at table; do not remember having seen her drink brandy and water; have not remembered it to-day, that I know of; have no recollection of seeing her drink porter; she may have done so, but do not recollect; never to my recollection saw her drink mint julep; I have not said to-day that I had seen her drink brandy and water; told you of her drinking champagne and sherry; did not say to you she had drunk mint julep; I have seen her smoke, perhaps half a dozen times, more or less; she smoked the small ladies' segars, "cigarrettes," made of tobacco; saw her smoke them at her house in Twenty-second street, in the dining-room; have not visited her for eight or nine weeks; I reside out of town; was in town about five weeks ago; the last time I saw her was about the middle of November, at the Irving house; as a general rule, I think Mr. F. had the reputation of keeping early hours; often have been there myself, and knew I was keeping him up after twelve o'clock, and I then left, although I had no inclination to retire.

Re-examination—I think Mr. F. was present when I saw Mrs. F. smoke; my memory is treacherous and I may perhaps be mistaken; have seen her light Mr. F.'s segars now that you come to speak of it; she put her segar to his; never saw her have any of his segars in her mouth.

Mr. O'Connor said he had an attachment against one of the persons who had witnessed the scene in the house in Mercer street, when Mrs. F. was expected. The witness had been subpoenaed and stated that she would not come, he (Counsel) therefore begged that another day be granted to effect her arrest. The name of the contumacious witness was Ellen Lawless. Mr. Whiteley had also been subpoenaed but was not in attendance; it would therefore be desirable that the case adjourned. Judge—Mr. Van Buren, are you ready to proceed? Van Buren—If your Honor means whether we have any witnesses in court, we say that we have; if you ask whether we are prepared, I will say that we are, but we must see the whole of this hand first. The Court said, that the case would certainly be deemed closed after Mr. O'Connor had rested his case. The former rule of re-opening would not again be applied, but the plaintiff would be at liberty to answer to anything new that might be brought in by the defendant.

Mr. Van Buren agreed to take the testimony of Professor Hackley, who had been absent from the city for some time, and the Judge moreover said that any person who at this time was actually under attachment could be examined at any stage of the case, prior to the actual closing.

The Court then adjourned until Thursday.

TWENTY-FOURTH DAY.

THURSDAY, 15th January, 1852.

The Court opened at 10 o'clock, in the presence of a large audience, a good many ladies being also in Court to be called as witnesses.

Thomas Whiteley recalled—Q. Had you within the last 2 or 3 years any conversation with Mr. Forrest in which houses of ill-fame were mentioned? A. I had, sir. Q. What did he say?

Objected to by Mr. Van Buren, who referred the Court to his former argument on the admissibility of the same testimony.

Mr. O'Connor said that the Court had ruled, on a former occasion, that the *naked* admissions of the defendant would not be taken in evidence, but they might be allowed if surrounded by corroborative testimony, which rendered any collusion of the parties at issue out of the question. If therefore, at a former stage, the evidence had been ruled out, there was no ground for it now, as since then evidence had been given of the positive fact that Mr. F. had been in the habit of visiting houses of ill-fame. Counsel for defendant had intimated that the admissions of Mr. Forrest did not point directly to the houses kept by Mrs. Ingersoll, but he (counsel) trusted the Court would not force him to be so specific.

The Court said that Mr. F. had himself been put on the stand, and an attempt had been made to draw from him the confessions alluded to, but they were overruled. The subsequent offers to prove isolated confessions had also been overruled, and the present offer, as to the complaint of Mr. F. that he could not go into a house of ill-fame without being watched, was still more vague, as it did not in any way establish any misconduct on the part of Mr. F.

Mr. O'Connor said he brought in this offer only by way of supplying testimony as to the character of the houses visited by Mr. F.

The Court overruled the offer. Exception noted. Witness then left the stand.

Michael G. Hart sworn—I do not know two young ladies named Misses Charles; they have been pointed out to me, but I do not know them.

O'Connor—Well, then, I will not examine you. I will now give in evidence three letters of Mr. Forrest, marked each of them A. No. 1, 2, 3.

MY DEAR KATE,—I shall dine in town to-day, so don't wait for me. I shall be at home some time between dark and daylight.

Yours truly,
EDWIN.

Mrs. Edwin Forrest, 22d street.

MY DEAR KATE,—Mr. Grattan, Mr. Bryant, Mr. Placide, and Mr. Lawson, will probably dine with us to-day, so please make preparations. I have sent a basket of champagne home.

Yours entirely,
EDWIN.

MY DEAR KATE,—I have got an invitation from some southern chaps to dine with them at the Astor House, and I have accepted it, so you need not expect me in 22d street this afternoon. I will return some time betwixt this and morning.

Half-past 2.

Yours ever,
EDWIN.

O'Connor—I will now give in evidence 7 notes, marked B, from 1 to 7 consecutively. I mark them in different letters, on account of the variance in the subject matter. They are supposed to have been written most in 1848. He then read as follows:

[We will not tire our readers by an insertion of these letters addressed by Forrest to his wife. Their general import was about Macready, to whom allusion was made by Mr. F. in the same terms as those used by his wife in letters to him, previously inserted. The letters breathed a feeling of sincere affection towards Mrs. Forrest on the part of the writer. We select the following letter as a fair specimen of this correspondence:]

(B 4.)

"BALTIMORE, Dec. 15th, 1848.

"This is a warm, bright, beautiful day, and I am sitting at an open window in the Eutaw House; and while I write, there is above me a clear, blue, cloudless sky—just such a day as I yearn to have with you at Font Hill; but that must not be—at least for some time.

"I am better to-day, thank God. How much fine weather can raise my spirits, and how depressed I am by a dark and cheerless day!

"The houses continue to be very good. Last night was a *rusher*, and to-night bids fair to be equally good.

"Mac' closes to-night, against ——'s wishes, who swears, I am told, that he will not pay him, for having broken his engagement. 'Mac' goes to Richmond to-morrow. I really have been of great service to him, in a pecuniary view. Since the publication of my 'card,' the public is anxious to see him, and particularly in the *pas de mouchoir*, which he now gives with *tours des forces*.

"Wagner wishes to be remembered. Tell Stevens I received his letter, and have no wish to buy the 'Napoleon Gallery.' The catalogues have not as yet come to hand.

"With sincerest affection, I am, my dear Kate, your own

EDWIN."

O'Conor—Now, sir, I call a witness, whom I should not call but for the sole reason that something unfavorable might be inferred from my not calling her.

Virginia Sinclair sworn—(Witness is rather a good-looking young lady. She gave her testimony in a manner which convinced every body that she had not been trained for the purpose.) Am a sister of Mrs. F.; was fifteen last March; am the youngest of the family. Q. Do you remember the circumstance of Mr. and Mrs. F. going to Europe? A. I remember they did go but not the year; my memory is not distinct as to occurrences previous to that time. Q. Since the return of Mr. F. have you frequently spoken to him? A. Not very often, unless he spoke to me; he did not very often speak to me. Q. Do you remember who were the persons who most frequently kept Mr. F.'s company when at home? A. Mr. Stevens, Mr. Lawson, Mr. Montgomery a bachelor, Mr. Smith a builder, and a Mr. Carr; he had not frequently ladies with him. Q. Who generally attended to Mr. F.'s affairs? A. Mrs. Forrest; he had very little correspondence with the servants; he would communicate with them through Mrs. Forrest; since his return from England she made up all his professional wardrobe and packed up all his things. Q. Did you ever know of Richard Willis being concealed or locked up in the house in Twenty-second street? A. No, sir; he could not have been concealed there without my knowledge; I saw him there very frequently, but never concealed; he never gave me a lesson at any thing. Q. Did you ever tell Mrs. Underwood that Richard Willis, or any gentleman, was in any of the rooms concealed? A. No, sir. Q. Did you, at any time, catch hold of Mrs. Underwood or forbid her to go into any of the bed-rooms, because Willis was there? A. No, sir; I never told Mrs. Underwood that he was going to give me a lesson in the library or anywhere else; I remember the drawing-room in Twenty-second street; there were two sofas between the windows; the space between the fire-place and the rear window was occupied by a large picture, coming nearly down to the floor; a sofa could not, conveniently, be placed there (diagram produced); I was present when this was made; I consider it correct; it represents the lower floor of the Twenty-second street house (handed to the press); the blinds of the drawing-room were always shut; Mr. and Mrs. Voorhies are now in Italy; they left this country on the 26th July, 1851; I have been in court during the opening speech on the first day. Q. Were you present on any occasion within a month or six weeks past, when your sister received a visit from a gentleman in the evening? A. Yes, sir. Q. How was his coming announced? A. He sent up his card.

Van Buren—Wait one moment, what is the object of all this?

O'Conor—I design to prove that just about the time the trial was commencing, upon an evening, soon after dark, Mrs. F. had a card sent to her. On looking at the name, and not knowing why an unknown person should call upon her, she nevertheless asked him up, and was told that he had understood Mrs. F. had sent for him, leaving a card, with her name and address, at his office, with a request to call. After a profession of entire ignorance on her part, the gentleman took leave. The name on the card, which he declined to leave, but offered to surrender, if called upon by her counsel, was Mr. Blankman, the same who has been to Washington for John Kent, and has been in attendance at this trial as counsel for Mr. F. This is all I mean to prove. It has already appeared that Mr. Blankman was, long previously to that, in the case as counsel or attorney.

Mr. Van Buren said he could not see the competency of this offer, and it was, in fact, the first intimation of this circumstance which he had received. Mr. B. was also a competent witness upon any thing that took place between him and Mrs. Forrest.

Mr. O'Conor said the fact that Blankman was an agent of Mr. F. had already been shown by his going to Washington for him; the offer was made to furnish one of the items which rendered the defense of this case so very extraordinary. As for calling Blankman to the stand, it could not well be done if the object of the visit was, as he (O'Conor) supposed, an improper one.

The Court said that the only connection between F. and Blankman had been shown in his being sent to Washington. This was too vague to make defendant responsible for any thing Blankman might have done by misapprehension or otherwise.

Cross-examined—I first went to school at Sheffield, Mass.: I was there for a year or two, I suppose: have not been to school since then: have received instruction at home from Mrs. Forrest: had no other teachers: do not know who paid my school bills, but I presume Mrs. F. did; Mrs. F. also paid for my dresses, I believe: I think that has always been the case: do not know from whom the money came for this purpose: I presume she got it from Mr. F.: do not remember ever hearing her say so: do not remember Mr. F. ever sending money to me or to my schoolmistress to pay any bills: have always lived with them since I came to this country: I came over with my father and mother, after my sister had come: I was three years old when I came: I was about ten or eleven years old in 1848, I think: I retired usually at eight or nine o'clock then: I used to sleep in the third story: I rose about seven or eight o'clock: there would have been no difficulty for a gentleman to remain in the house if he stayed after nine o'clock, and went before I got up, but I do not think it could have happened, for I think I should have heard somebody speak of it: unless I heard somebody speak of it there was nothing else to prevent it: do not recollect Mr. R. Willis ever sleeping in the house: I do not think he ever slept there: I should have heard of it if he had: (witness again gave the names of Mr. F.'s companions, as before): Mr. F. had other friends, but I do not remember their names: Mr. Raymond never slept in the house: I think I should have heard from the servants if he had: do not know that Captain Howard ever slept in the house: do not know of Captain Calcraft being there very late: the sofas that I spoke of generally stood in the places I stated: they may have been moved: the blinds were very nearly always closed: I mean by that the green sashes or blinds, so that you could not see into it: there was a piazza, with green blinds to the library: they were all shut but one: Mr. N. P. Willis occasionally visited Mrs. F.: he visited perhaps once a month: do not think he visited twice a month: Mrs. Willis sometimes came with him: Mr. Placide used to visit Mr. Forrest, and Mr. Godwin, Mr. Bryant; do not recollect Macready dining with Mr. F.: I was not present—I was up stairs: do not know how long ago that is: have no idea of the time: do not know Mr. Jamieson: do not think he visited Mrs. Forrest, because I never saw him at the house or heard of his being there: I usually dined with Mr. and Mrs. F. at three o'clock: that was Mr. F.'s dining hour when he was acting: when he was not playing we dined later: cannot remember any time seeing sister Margaret in the house and Mr. F. at the same time: I remember the year when the separation took place: I then lived with them: my sister did not tell me the reason why they separated, nor did Mr. F.: I went to live with Mr. Voorhies when they separated: I remained there until Mrs. F. went to live in Sixteenth street: now live at the hotel with her: recollect Mr. R. Willis being sometimes at our house during the day time: he was staying with his brother then: never saw him in a bedroom there: I should recollect it had I seen him in one: he never spent an evening or part of an evening alone with me: he never was in the library with me alone in the evening, or in any other room of the house: Capt. Calcraft may have dined with my sister whilst Mr. F. was away, but I do not recollect having been present: my sister used to make the dresses for Mr. F. as long as I can remember, ever since she came from Europe: I do not remember ever seeing N. P. Willis and my sister alone in the library: never saw Mrs. Bedford let him out.

Re-examined.—Q. Have you ever seen any of the proceedings or affidavits in this case? A. None but Mrs. Underwood's; I saw that in the paper, a week or two ago; I read that from the morning paper; I was alone at the time; saw only one paper. Q. Was it before or after the family went to England that you went to Sheffield? A. I went after their return to England; do not know how long after. Q. Is your memory good about any thing that happened about the house about dismissing, or who issued them? Objected to. Ruled out.

To Van Buren—Madame De Margueritte, a friend of my sister's, went to the Irving House with me.

O'Connor—I will now call Ellen Lawless.

Ellen Lawless sworn—(a very decent-looking young girl, who gave her testimony in a good and straight forward manner.) Q. Were you living with Mr. Wilson in 182 Mercer street, in 1850? A. Yes, sir. Q. Do you remember a woman coming there who had the use of a room for part of a day? A. Yes, sir. Q. Do you know who brought her there? A. I do not know the man, I had seen him, I presume, before, but have no particular knowledge of him; she occupied the third story back room; it had two windows in rear and a small window which led into a dark bedroom, which received its light from that; do not know the time of day the woman came; I think she left in the evening between six and seven o'clock. Q. Was any lady with her then? A. I don't know but that there was a gentleman in the room with her, I think there was as near as I can recollect, but I will not be sure; I took her a pitcher of ice-water; nothing was done to the room to fit it for her purpose. Q. Was anything done to any of the windows? A. I think there was a piece of new muslin put over the small window leading to the bedroom, and one of the rear windows was also covered in a similar way.

By the Court—The windows were not usually covered.

To O'Connor—I did not put up the muslin and do not know who did; it was fastened by pins or tacks. Q. How often were you in the room during that day? A. I may have been twice or three times, I do not recollect: the second time I went in there I think I carried her something to eat. Q. Were the curtains up before she came? A. No, sir; I cannot say, but believe they were not left there when she left; do not think I would know the man who was with her, if I was to see him now.

Cross-examined—Do not know what I went in the third time for; there were two beds in the room; am no relation of Mr. Wilson's; he keeps a boarding house; I know the Rev. Dr. Cox; he boards there.

Judge—Well, what next?

O'Connor—I will now read some letters. (The learned counsel here got out a bundle containing apparently from thirty to forty letters, notes, &c., all of which he scanned over to pick out those which suited his purpose.)

O'Connor—I now begin with reading; the letters have all been marked C., but I cannot go on in chronological order.

The reading of these letters, nineteen in number, occupied a considerable space of time, and on account of the very little interest which they offer, we again refrain from inserting them. This object was to show the state of feelings of Mr. Forrest at the time of writing them, (close of 1848). The missives are well written and in the style of an affectionate husband to a beloved wife. Many of them give accounts of Mr. F.'s success in different cities. We again select one of the letters which is written in the spirit which pervades all the others.

(C. 14.)

MY DEAREST CATHARINE:—I received your letter, together with Captain Waring's. You cannot think how I longed to be with you on your arrival in New York. Here everything is comfortless. I opened on Thursday, to about \$266, Vandenhoff at the Holiday street theater, about \$90. Last night a rain storm, which still continues, I had \$136. At the Holiday street, Miss V.'s benefit, two pieces, about \$100. I shall not remain here after Thursday next.

I have just received a letter from Hamblin, in reply to one which I wrote him from Philadelphia. He wishes me to take \$100 per night, and every sixth night to divide. This proposition I shall not accede to.

Mr. Calvert called yesterday; I did not see him. I am glad to hear "Claude" is well and improving in growth. Does he look as much like old Allen as formerly? By-the-way, Allen has promised to send you some green peas, of which there is an abundance here.

I prefer to rent the house at New Rochelle by the year, and not give a lease of it. It would be difficult to find a purchaser for the property subject to so long a lease, and I wish to get rid of it.

I received a letter from Mr. Smith at Cincinnati. His wife has just presented him with a fine dark-haired lassie, whom he has called Lavinia, after Miss Carll, or Mrs. Somebody now, whom you met at Cincinnati. Mr. Wagner desires to be remembered; he is looking very well.

The whigs seem to be in great good spirits here, quite sure of Harrison's election, and the complete overthrow of the democratic party. May they be sadly disappointed.

How I long for the end of next week, which I hope will restore me again to my dearest Catharine.

EDWIN.

George Boyd sworn—I am a cabinetmaker; I know the house, No. 355 Greenwich street, kept by Mrs. Ingersoll; I sold her a bill of furniture and went several times before I got my money; saw Mrs. Ingersoll then; my men were engaged putting up the furniture for about a month; I went to superintend this work; was frequently in the house then. Q. Whom did you see there besides Mrs. Ingersoll? A. I saw two or three different ladies, but never knew their names but one. Q. Who was that one? A. She called herself Mrs. Clayton and came with Mrs. Ingersoll to select the furniture. Q. Do you know her pursuit in life? A. Not from my own knowledge; she told me she had been married; never saw her husband; do not know if any of the other women of that house were married; do not know the pursuit in life of any of them; saw three different females there besides Mrs. Ingersoll; I think one of them was a Mrs. Russell; do not know the other; Mrs. Russell afterwards bought some furniture of me; have not been there in the evening unless I stopped till after dark to work; have seen gentlemen come in and put into the parlor, and we were told to go into another room whilst they were there, so that they should not be seen; the "yaller" girl, the servant, pushed us into the other room; never saw any gentlemen to recognize them; this occurred about three times in Greenwich and in Houston street; the rooms that we were sent out of had beds in them; we were fitting up the bedsteads at that time; never tried to see the gentlemen; do not know if there was any other woman but the colored girl in the room when we used to be sent out; cannot particularize any other action of theirs which could illustrate this mode of life; Mrs. Ingersoll gave me a reference when I trusted her the money and I made some inquiry about her; she run short of money; never made observation of the outside of the house as to people going into it.

Q. Did you ever return into the bedrooms soon after the men had gone out? A. I do not remember any particular time. Q. Had you any difficulty of what you saw what the character of the house was? Objected to.

Mr. O'Connor said he designed to produce Charles H. French, but he was sick, and his testimony would be taken conditionally. Professor Hackley would be produced as soon as he returned to town, and there might be some fuller evidence as to the character of the two houses. Besides these, there were no further witnesses on the part of plaintiff.

The Court said, that the testimony must be considered as closed as to new matter, except such witnesses who are under attachment, and commissions that might have been issued.

Mr. Van Buren asked if he might consider the inculcating testimony of the plaintiff closed.

The Judge said it was, unless indeed very good reason was shown why it should not be otherwise, such as proof of attachment, or issuing of commission.

TESTIMONY FOR DEFENCE.

Henry J. Hants sworn—I live in Norwalk, Conn.; lived there since my childhood; I was a stage driver there in 1842 and 1844; the stage runs from Wilson's to the steamboat; the horses were kept at the house of Mr. Brooks; I know Mrs. Harriet White. Q. Do you recollect a girl staying there, named Anna Dempsey? A. Have no recollection of the Dempsey part (laughter); I knew a girl named Anna; recollect her boarding with Mrs. White for a month or two; I know Anna, and saw her frequently. Q. Did you ever see anything immodest or lewd in her conduct? A. No, sir. Q. Did you ever hear of her lewdness? Objected to. Van Buren—This is the man you swore had— O'Connor—No. I swore no such thing. Van Buren—I mean your witnesses.

Witness—Was never locked up in a room with Anna; cannot exactly tell how old she was; should think about 16 or

17; I never heard anything said against her general character; it was good so far as I know anything about it; cannot tell her character for truth and veracity; never heard any thing against it; I think I would believe her under oath just as quick as any other lady; I know Mrs. White; never heard anything against her until I came down here last Monday. Van Buren—Did you say last Monday? Witness—Ay that's what I said.

Cross-examined—I have seen Anna there more than once; never saw her but one season; she was there two or three months; I never visited her, or kept her company; I talked to her as often as to any body else; I saw her at Mrs. White's house; never saw her at any other house; do not know if she was married, for I know nothing about her business. Q. Was she called Elmendorf? A. Oh, I know nothing of Elmendorf, or Dempsey, or anybody but Anna; it may be 8 or 10 years ago, or 12 years; am 30 years old; I was driving then, and took care of horses; have never said that I got of Anna what I wanted of her, that's false; I know a young man named James Mitchell; know his father, James Mitchell, senr.; think he is called his father (loud laughter). Q. Did you ever say in the hearing of Mr. Mitchell, that you got of Anna what you wanted? A. No, sir, nor to anybody else.

Mary Raymond sworn—I reside at South Norwalk; I am a widow; have a granddaughter living with me; have lived there for more than 40 years; have four children living; I know Mrs. Flowers; she stayed nearly three months at my house by the name of Elmendorf; that was in 1845, about seven years ago; she came there some time in April, and remained till last of June; she was confined at my house; cannot say what time; she remained three or four weeks after her confinement; recollect clothes being sent to her; she told me— (stopped). They were a merino cloak and cap; that was after the child was born; her clothes came for her to go to New York; she received letters as often as once a week; she wrote letters directed to Miss Mary Sinclair about once a week. Q. Did you see anything lewd and immodest in her conduct? A. Nothing, but what was becoming in any respectable lady. Q. Did you know her general character? A. I never heard the neighbors say anything about her; do not know what their thoughts were; never heard anything said against her truth and veracity; I should not be afraid to believe her under oath; I do not know Mrs. White; she lives a quarter mile from me; do not know when she left Norwalk; I know what the neighbors generally said about her. Q. Was what they said good or bad? A. Well, it is not much to her credit.

Cross-examination—I came here on Monday last; a New York gentleman came with me; do not see him now; it was not Mr. Blankman; Harts came with me, and Mrs. Flowers and two gentlemen; both the two gentlemen belonged to New York; I suppose they came to Norwalk to get me to come. Q. Was one of them Mr. Dogherty? A. I think that is the name; never saw Anna before she came to my house; I think she came the first of April; her health was as good as is usual under such circumstances.

Re-examination—The doctor who attended her was named Gregory.

Jeremiah E. Brooks sworn—I reside in Chatham street; keep a gentlemen's furnishing store No. 446 Broadway under the firm of Houton & Brooks; I have lived in Norwalk; was born and brought up there; know Dr. Ira Gregory; in 1843 I was a tailor in Norwalk; I shall be thirty-two years old in spring; I know Mrs. Flowers; first saw her at Mrs. White's; saw her sit at the window as I passed the house; I lived within a "hollering" distance; was not married then; my present wife lived there; I knew Mrs. White from my childhood up; next time I saw Anna was at my establishment, I think; she came there, I think on Mrs. Russell's recommendation, to work; I gave her work for about three weeks; she would be there from eight o'clock till sundown; when she came to me she said she had been some time at the business, and I then proposed to her to go and work with my present wife, who was a vest maker; I think she remained for about a week with her; she then left, and went to Mrs. Russell; I told her her work was not of a kind that I had much to do, as it was rather of a coarse kind; she was boarding at Mrs. White's; did not see any lewd and immodest conduct on her part; I formed a very correct idea, that is of her correct deportment; I knew her character among the neighbors; it was good for any thing I knew; have no recollection of hearing any thing against her; I would have no hesitation to believe her under oath; I know Mrs. White. Q. What was her general character among the neighbors in Norwalk? A. I should prefer not to answer, sir; I know her general character among the neighbors; there are associations that exist among her family which prevent me from answering.

Judge—Tell us what is usually said about her. Witness—The general speech about her was not good. Q. What was the reason why Anna left Mrs. White? O'Connor—Confine yourself to your own knowledge. Witness—My impression is— O'Connor—We don't want that. Witness—Tell me what you want, and I will tell you. Van Buren—I would rather you tell me what I want. (Laughter.)

Witness—Anna applied to me to get her board in another house; would not get her any at that particular time, but I promised her I would see; she applied twice to me for board. Q. What was the reason she assigned for her design to leave Mrs. White? (Objected to and ruled out.) Q. What was the character of Mrs. White for chastity? (Objected to and ruled out.) Q. Was Mrs. White's reputation for chastity made known to Anna? A. I think it was, sir— I suppose I shall now have to bring her in. O'Connor—Her! Anna! oh no, you are not to do that. Witness—I did not tell her any thing myself about Mrs. White, but I suppose she knew from what she told me. Afterwards I had some conversation with Anna about it. Q. What was the reputation of Mrs. White? A. I told her I did not think Mrs. White's reputation good, and I advised her to get another boarding-house. Q. Was it in consequence of this that she left? (Objected to.) Witness—She left the house; I should not like to answer any more questions on this subject, for, as I said, there were associations with the family which I respected highly. Q. What was Mrs. White's reputation for chastity? A. It had been considered bad.

Cross-examined. Q. Who in Norwalk spoke ill of Mrs. White? A. It will be hard for me to enumerate, and also perhaps hard to answer particular names. O'Connor. Well, Sir, I can't help that, and give me their residence too. Witness. If I must answer, I will refer you to Mr. Absalom Day's family, he is dead, but his family is living; one of them is in Brooklyn, I think; her name is Mrs. Peck, I believe; I think her husband's name is Charles Peck; Mr. Noah Day lives in Norwalk; did not understand you to ask me if these people spoke bad of Mrs. White. O'Connor. Oh! I asked you that. Witness. I understand you, who could speak ill of her. O'Connor. No, Sir, who did? Witness. The community had, more or less. O'Connor. Well, I want to have the names of the community, so that I can judge of the correctness of the information. Witness. Dead evidence is not good for anything, I suppose? (Laughter.) O'Connor. Not exactly, pass over the dead ones. Witness. I think I have heard a family named Seymour speak ill of Mrs. White; Mr. Uziah Seymour, Stephen Seymour—how many more would you like? O'Connor. As many as you can.

Witness. I think I heard Mr. Lorenzo Wheeler speak ill of her, and Mrs. Wheeler also, I think; they live near Norwalk; do not now distinctly recollect any other person; I also heard my sister Mary Van Houten speak ill of her; she lives in Williamsburgh; her husband's name is Maurice Van Houten; Mrs. Julia Rogers also spoke ill of her; she resides in Norwalk; do not think I have heard any others speak about her since 1843; Mrs. Rogers is a sister of mine; in 1843 Anna went by the name of Dempsey; I left Norwalk about six years ago; do not think I saw her in 1845; did not see her since 1843.

The Court then adjourned.

TWENTY-FIFTH DAY.

FRIDAY, January 16, 1852.

The Court opened at 10½ o'clock, the attendance being a good deal smaller than on any of the previous days. In the course of the day, however, the room filled up fast, and towards the end of the proceedings it was as crowded as ever.

Alexander E. Hosack. I reside No. 101 Franklin street, N. York; am physician and surgeon; I knew Miss Clifton professionally many years ago. In my professional practice I have often seen the effect of menstruation in females; they suffer more or less pain in that process; flooding generally relieves the severity of the pain; have not had my attention called to the testimony of Dr. and Mrs. Hawks; have not read the proceedings of this trial. Van Buren offered to read a portion of Dr. Hawks' testimony by way of getting the witness' opinion on it, but was overruled by the Court. Counsel were allowed to show that the symptoms displayed by Miss Clifton were those of ordinary menstruation, if that could be done.

Q. Suppose it to be true that a witness testified that a lady is observed in the cars, in a recumbent posture, suffering and complaining of great pain, and on being inquired of, states that she suffers so every month, that she takes flowing powders and opiates, and that she cannot be removed until her dressing-gown is put on, does that indicate that an abortion has taken place? A. By no means, sir; some women of gross habits menstruate enormously, as much as a quart, and cannot be relieved except in the manner stated; a woman might flow enormously if excited by travelling. Q. Suppose an abortion had taken place, would there be pain afterwards? A. Yes, sir, more or less pain, but it could be concealed if attempted. Q. Would you from these circumstances draw an inference that an abortion had taken place? A. Certainly not, but it might very readily occur, nevertheless. Q. What opinion would you form from these circumstances? A. That there had been either profuse menstruation or abortion; but I should not say that she aborted without more proof, or an admission of the female, or examination. I should not arrive at a definite conclusion without that.

Richard Persell. (Counsel for plaintiff admitted that the witness was a respectable physician of long standing in New York.)

Witness. Have been attached to the New York Dispensary from 1818 to 1821; then was attached to the New York Hospital for about three years; I knew Miss Clifton for over twenty years; I attended her as a physician from 1825 up to the last time she was in New York; do not know when she married; do not know the name of her husband; he was from New Orleans; she was a large, athletic woman, as large as I ever saw; she was above the ordinary height; I think she weighed over two hundred pounds; her menstruation was very difficult; for two or three days prior to her regular time she suffered intensely, more so than any female I ever saw; Dr. Cheeseman and Dr. Manly were in consultation in reference to this difficulty. Q. What medicines were given her for the purpose? A. Blood-letting, opiates, and other antispasmodics; the flowing of blood would relieve her in some measure; the flowing would sometimes instantly relieve her, but it would not cause a cessation of the pain; the pain would be most acute the day previous to the flowing, or the day before that. Q. Did you hear the questions asked of Dr. Hosack? A. Yes, sir. Q. Suppose you see a lady under the circumstances described to Dr. Hosack, would you draw an inference from that, that an abortion had taken place? A. No, sir. Q. Could any inference of that kind be drawn by a medical man? A. I should think not. Q. What should you infer from circumstances? A. Nothing more than her common menstruation. In the sudden subsiding of the pain I should not find any evidence that an abortion had taken place. Q. What would you infer from that circumstance? A. That the flow had just commenced, and that she had temporary relief; the flow from her on such occasions was very copious.

Isaac B. Smith sworn. I reside at No. 90 Perry street, in the ninth ward; am not alderman of the ward; I knew Catharine Levins; she came to this country in 1842; she lived with me in 1844; she went from my house to that of Mr. F.; she stayed there two or three years; she told me that her husband came with her, and that on the third day he ran away; saw her husband in 1847; he was gone five years; they lived together after that; I saw Catherine after he returned. Q. What was her condition as to bruises? Objected to. Van Buren. I offer to show that they kept up a pretty general fight. A Juror. She said he was intemperate. Van Buren. Well, I admit she made the best fight of the two. Judge. We have nothing to do with all that—leave that out. Witness. I asked her how Mr. F. acted in his house when at home; she said that when at home the house was so still that you could hear a mouse run over the floor, and when Mr. F. was away she would enjoy herself and have her parties. No cross-examination.

Thomas C. Smith sworn—I reside in 20th street; am a builder; I know Mr. and Mrs. Forrest; have known them since the spring of 1847; I have been very frequently at the house in 22d street; 2 or 3 times a week, and sometimes not in 2 weeks; I have seen Mrs. F. at Fonthill and other places besides that in 22d street; saw her on several occasions in Fonthill; I have seen her smoke there and in 22d street; have seen her smoke small and ordinary sized cigars. Q. Have you seen her drink? A. Yes, sir, wine and punch; there has been punch made in Mr. Forrest's library, and I have seen her partake of it with the rest; I think it was whiskey punch; never saw her take mint juleps or brandy. Q. Have you seen her on the ground at Fonthill? O'Connor—What is your object? Van Buren—I do not exactly mean to prove adulterous intercourse, but I mean to show her conduct at Fonthill, her laying on the ground, and so forth. O'Connor—How, sir, with any person named in the answer? Van Buren—No, sir. O'Connor—Then I object to it, and with good conscience too. Van Buren—I offer to show that she was seen by witness laying on the ground in an indelicate position. O'Connor objected, if the defendant had charged adultery with persons unknown, he (counsel) would have objected to it; the responsive criminatory answer was sufficiently particular, persons and places were named, and now, after the case had first rested, a new one was opened. This was objectionable. Van Buren said that he proposed to do nothing but what had been allowed to the plaintiff. The Court overruled the offer as irrelevant. Witness—Do not recollect seeing Mrs. Willis at Mrs. F.'s house; have seen her at Fonthill. O'Connor—What have we to do with that? Van Buren—Simply a contradiction of your witness. Objected to. Ruled out. The Judge said he would have ruled out the whole smoking business had he been applied to.

Cross-examined—Mr. F. was present when Mrs. F. partook of the punch; he was not present when she smoked an ordinary segar at Fonthill.

Elisha Bartlett sworn—I am a teacher of medicine in this city, and in a medical school in Vermont; am one of the lecturers of the University; the building is in Crosby street; I noticed the testimony of Dr. and Mrs. Hawks in the paper; I was admitted in 1826 to practice medicine. The same question was put to this witness as to Dr. Hosack, and the witness stated that the symptoms did not necessarily indicate that an abortion had taken place. Witness—Difficult menstruation would account for all those symptoms; the pain of menstruation frequently diminishes with the flow of blood; it is doubtful, perhaps, whether the flowing always relieves the pain.

Alex. P. Fonda sworn—I am occupied in the Hudson R. R. Co., as receiver and auditor; in '43 I was in the Hudson River Steamboat Association as secretary; was with them from 1833 to 1843; I have not left the Association—that is, they separated in 1842, but the old Association having kept up, I was retained; there was the Troy Line, a branch of our association, and has kept up a distinct association ever since; I think that the steamboat Albany was sold in 1842 or '43 to the Troy line; she was changed from a day into a night boat after the Troy people bought her; before that she was run as a day boat; think that she had before that no saloon or state room on the promenade deck; when she was a day boat, and had any state-rooms, they were below deck.

Cross-examined—After she was altered to a night boat, she had state-rooms on the promenade deck.

Wm. C. Bryant—I reside in this city; am proprietor of the *Evening Post*; know Mrs. Forrest; have known her ever since she came to this country; have known Mr. F. longer; think I called on Mrs. F. after her arrival; Mrs. Bryant was an acquaintance of hers; I think it is two years ago since I last spoke to Mrs. F.; think Mrs. B. has seen and called on her very lately; Mrs. Godwin is a daughter of mine; Mr. and Mrs. F. have visited at my place in the country three or four years ago. Q. In February, 1850, were you consulted by Mrs. F. in regard to a separation between her husband and herself? A. No, not in 1850; it must have been in 1848 (produced letters); it must have been in Feb. 1850; I understood Mr. O'Connor had been employed when she consulted me; that is my recollection, but my memory is not very perfect; I have a copy of a letter which Mr. Sedgwick wrote to me; Mr. Sedgwick had stated to me, prior to February, 1850, how the divorce was intended to be procured. Q. Had you communicated this to Mrs. F.? A. She said that she was willing to consent to a divorce; I communicated her reply to Mr. Sedgwick. Q. Is that the letter which you have there? Objected to. Mr. O'Connor insisted on the full answer to the previous question. Allowed. A. This is the note I wrote to Mr. Sedgwick. Van Buren—Now I will read the note in evidence. O'Connor—I object to it. Judge—It is not competent; the witness may refresh his memory by the note, but he cannot read it.

Mr. O'Connor said that he had conclusively proved by Mr. Sedgwick that Messrs. Bryant and Ogden had not been entrusted with the management of the affair until after he (O'Connor) had been retained as counsel in this case. It would, therefore, be unfair to show the declaration of a party to the plaintiff, by reading his letter, which set forth that declaration and the reply to it. All that could be shown by the witness was the statement of the plaintiff, and he (counsel) would gladly take Mr. Bryant's *viva voce* testimony on this subject or any other.

Van Buren replied in an able argument.

The Court said that it had first to be proved that Mr. Bryant was an agent of Mrs. Forrest; it might therefore be well

to go into the particulars of the interview, by way of showing whether or not he was authorized to act for her. If not, he had no right either to write or say anything in behalf of Mrs. F. The letter was suggested to contain the authority to act for her, and in that view, if offered for the purpose, it might be read.

Q. Did Mrs. F. authorize you to act as her agent? Objected to. The Court said counsel must confine himself to facts constituting the authority, but subsequently admitted the inquiry. A. I cannot remember the words of the conversation, but I can tell the general bearing of it. She said that she was willing to consent to a divorce, and we spoke about the allowance; do not recollect her telling me that I was to communicate her statement to Mr. Sedgwick; he sent me with a proposition to her. Q. Did you communicate the result of the interview to Mr. Sedgwick? Objected to and ruled out. Van Buren. Then I offer the note of witness to Mr. Sedgwick. Objected to and ruled out. Q. Did she make any other objection in that interview as regards the divorce, except as to the amount of allowance? Objected to and ruled out. Witness—Do not know if there was any other difficulty suggested by her in that interview, except the conversation about the allowance. Q. Subsequently to that time, did you receive a communication from Mr. Sedgwick? A. I had more than one from him, but do not know the time (letter produced); I must have had another interview with Mrs. F. previous to Feb. 14, 1850; there was an interview suggested at Sedgwick's office for the 15th Feb. I have no personal recollection of the date; it was expected that Mr. O'Connor should be present; I believe that both Mr. Sedgwick and Mrs. F. suggested it. Q. See, by referring to your notes, whether it was your own suggestion that he should be present. A. I remember having some conversation with Sedgwick, and saying that I thought it would be well if Mr. O'Connor was present, and he said—"By all means—let him come." I think the original suggestion of his being present came from Mrs. F.; that is my best recollection.

The Chief Justice commented upon the anomaly of the thing to talk about "good," "better" or "best" recollection. A witness could only have one recollection, or none at all. It was a loose way of examination.

Q. What was the object of having Mr. C. present? Objected to. Mr. O'C. insisted that the cause of intervention by any counsel should be conclusively brought home to Mrs. F. A. I have no recollection about that at all; do not know what she said to me her reason was for having Mr. O'C. present; I take it for granted that what I stated in the note is true, but as for personal recollection, I have none. Van Buren—I now offer the note by which the interview was appointed. The Judge said that authority for the writing of the note must be shown. Witness—I recollect of no authority to write the note; I was authorized to appoint an interview by Mrs. F.; I appointed it by this note. Van Buren—I now offer the note again.

Judge—As for fixing the date, you may, but any other remarks of Mr. Bryant are subject to the same objection. After reading the note, the Judge said that the first sentence alone could be legitimately admitted, that was, so far as the authority given by Mrs. F., stated in regard to the interview. Mr. Van Buren also offered the communication of the result of the interviews by Mr. Bryant to Mr. Sedgwick. Ruled out. Another note produced to witness. Q. Up to the time of writing the note, had you heard from Mrs. F. of any other difficulty except as regarded the allowance? A. I should think I had. Q. Had you communicated to Mr. Sedgwick as to another difficulty? A. I should think I had, for I had a very free conversation about it with him. The appointment was not kept, and there was an end of the matter. Q. How are you able to fix any date as to hearing of any other objection except the one in relation to the allowance? A. I am not able to fix a date—in fact, I am not certain of any date at all; I recollect Mrs. F. was desirous of having a settlement fixed; did not do any thing in reference to the securing of the allowance; the interview fixed upon for the 14th did not take place; I think I went to Mr. Sedgwick's office that day; he was there; Mrs. F. was not there; remember going frequently to his office about that time.

Cross-examined. Q. When did your lady last go to pay a visit to Mrs. F.? A. Within a week past; do not think she was with me when I conveyed to Mrs. F. the proposition of Mr. Sedgwick in Sixteenth street. [Note produced.] This is in the handwriting of my youngest daughter, who resides with me; the original was written by me, and this is a copy of it; I am not certain that I delivered to Mrs. F. this paper when I conveyed to her the propositions of Sedgwick; I should rather think that this was given to her subsequently; this was given, I think, before the agreement to have an interview at Mr. Sedgwick's; this paper was the proposition of Mr. Sedgwick, as I understood it. [Paper marked No. 40.]

Q. Did you at any time before the agreement to meet at Mr. Sedgwick's have delivered to you the draft application which was intended to be presented to the Pennsylvania Legislature? A. I believe I saw it at Mr. Sedgwick's; I saw it for certain, but am not sure if with him. Q. Previous to the interview, as appointed, did you address this letter to me? (Letter produced.) A. Yes, Sir; I did it at an early part of the negotiation.

O'Connor. I now propose to read the letters No. 40 and 41.

Van Buren. I will agree that the whole of the correspondence be read.

O'Connor. The question refers to those two letters; if you agree, I will read them, if not, I will meet your objection. No objection being made, Mr. O'Connor read No. 40. First—That the agreement between the parties which Mr. O'Connor had seen, be executed. James Lawson is the trustee, but any respectable and proper person may be substituted. Secondly—That this agreement be left with William C. Bryant as an escrow, to be delivered to Mrs. Forrest in case of a divorce obtained from the Pennsylvania Legislature, otherwise to be handed back to Mr. Forrest's counsel. Thirdly—Mrs. Forrest is expected to promise some mutual friend, who will give assurances in her behalf, that she will not interpose to prevent his obtaining the divorce from the Pennsylvania Legislature. Fourthly—That Mr. Forrest will pledge himself to some mutual friend that he will not give any publicity to the charges or testimony adduced on the application, and will prevent any publicity being given now or hereafter. He engages also that the application shall be couched in the most delicate and general terms possible, and contain no charges which may be unnecessary to the object of obtaining a divorce.

Mr. O'Connor then read the exhibit No. 41.

NEW YORK, Feb. 6, 1850.

DEAR SIR,—I yesterday premised that I wanted to see you this morning, and I called at your office for that purpose, but, unfortunately, just as you had gone out. As I am about to go out of town, I must say, on paper, what I had to communicate, though, perhaps, the terms I shall use will necessarily be more reserved than if I could have spoken with you. The memorial by which Mr. Forrest, in case there is no opposition from Mrs. F., intends to apply for a divorce, has been read to me; and I have been put in possession of the testimony by which it is to be supported. The memorial does not state the grounds of the application in such a manner as necessarily to imply criminality on the part of the wife; the terms are general, and their import would be satisfied with the proof of great indiscretions of behavior. The affidavits, &c., are of a nature that the publication of them would be extremely unpleasant to her and her friends, however well satisfied the latter might be of her complete innocence; and in such a world as this, I would not answer for their effect upon those who did not personally know her, or did not pay particular attention to her defence. If the divorce be opposed on her part, the publication would follow, I suppose, as a matter of course. That a divorce would be for the happiness and peace of both parties, there can be no doubt. I have, therefore, advised Mrs. F.—and some of her friends, I understand, agree with me, though not with so full a knowledge of the circumstance as I possess—that her better course is to let Forrest take a divorce, making no opposition to it before the Pennsylvania Legislature. A painful notoriety would be avoided by this means, and the advantage—for such I deem it to her—of a legal separation would be gained. Mrs. F., if I have properly understood her, is prepared to follow this course, and to make no opposition to the application—and this is what I had to communicate. Of course, it is understood that a competent maintenance is to be allowed her.

I am, Sir, yours truly,

WM. C. BRYANT.

CHAS. O'CONNOR, Esq.

Re-examined. I wrote to Mr. Sedgwick on the 9th of February, as the counsel of Mr. Forrest; I must have had an interview between the 6th and 9th with Mrs. F.; Mr. O'Connor was not present; I suppose that interview led to the letter referred to; I understood that she then consented to a divorce; do not remember her sending for me; I have no distinct recollection of the nature of that conversation.

Van Buren again offered the note of Mr. Bryant to Mr. Sedgwick, dated Feb. 9, 1850. (Ruled out.)

Witness—The proposition read here was the original and only one known of; I cannot by looking at my notes tell when I first heard of any objection from her; never heard the objection from Mr. O'Connor; I had no conversation with him of it; I heard from her of the objection first.

Lemuel H. Tupper sworn—Am an agent of the Troy and New York Steamboat Company; have been so for nineteen years; I recollect the steamboat Albany as a day boat; Capt. Jenkins was, in her when she was a day boat; she ran between this and Albany; she was afterwards furnished with a hurricane deck and state rooms, as a night boat; I got this done; Mr. Bell was the contractor of the work; Decker & Brown did the other work; it was done in the winter of 1843 to 1844; I think it was not commenced till January, 1844; it was finished in the spring of 1844; in March or April; she first run as a night boat in the spring of 1844; as a day boat she only had a small ladies' saloon aft; had no hurricane deck; I think there were no berths in the ladies' saloon when she ran as a day boat; there were some berths below the main deck and in the fore-castle, where the deck hands slept.

No cross-examination.

By the Judge—Capt. Macy run her in 1844; he is purser on the Golden Gate.

Charles Brown sworn—I reside in this city; am a shipjoiner; I changed the Albany from a day boat to a night boat; Mr. Decker, of the firm of Decker & Brown, was with me; Robert C. Bell was also to work on the job; we began it about the 10th of February, 1844; it was finished about the 13th of April; she was a day boat before then.

S. V. R. Moore sworn—I reside in this city; am a merchant; Richard Canning Moore was my father; I resided in Nineteenth street in the fall of 1843 and 1844; I left there in April, 1844; my family consisted of myself, my wife and three children, I think. O'Connor—What's all this about, sir? Van Buren—It is all about that little Ann Dempsey. (Laughter.) Witness—A girl, Ann Dempsey, lived with us for six weeks; she was waiter and chambermaid. Q. While she lived with you did you discover any thing lewd or immodest about her? A. Not particularly so, sir. Q. Well, did you particularly or generally? A. I don't know that I did; so far as I know her general character it was good; I heard my wife say that Ann left because her health was poor. Cross-examined—I think Ann left us in 1844; I think she was there three months in 1843, and three months in 1844; Ann told us she was about eighteen years of age; don't recollect her saying so to me, but she represented herself as eighteen. To the Judge—She had the appearance of that age, and I took her to be so old. To O'Connor—Never heard any body out of my family speak of her.

Mary Sturgess sworn—I reside in Brooklyn; am a widow; have four children and my mother with me; I know Mrs. Flowers; her husband is my brother; I live with my mother; Mr. Flowers visited me, with his wife, about eighteen months since; they were here nearly three months; they went about the last of October; she was ill at my house; was confined there; have seen her since she has been here at the Mansion House; she called on me and I called on her; Dr. Marvin attended her; during the time she was with me I saw a good deal of her; never saw any thing lewd or immodest in her; I do not know her general character, but of what I saw of her when she was with us; I heard nothing of her but what was good; I should have no hesitation to believe her under oath.

Leonard H. Good, sworn—I am cashier for Ball, Black & Co.; was a general clerk for S. B. Reeve & Co., 1843; they are coal dealers; I know Mr. Forrest; he dealt with them; I think it is likely I saw him in June, 1843; he gave me an order for coal that year; I saw him (witness having examined his book) on the 27th June, 1843; that day he paid me a balance for coal of the previous year; saw him again next day, the 28th; he then gave me an order for twenty-four tons of coal.

David M. Hollister, sworn—I reside in Fortieth street, near Broadway; keep a restaurant; I know Wm. N. Doty; have known him about 2 years; I am not intimately acquainted with him; I think I know his general character. Q. Is it good or bad for truth? I should think rather below par. (Laughter.) Q. Would you believe him under oath? A. Not if he was much interested in the case; I mean if the result would affect him much; if he was interested in his feelings it would have the same effect. Cross-examined—Have had some little dealings with Doty; have had no dispute with him that I know of; I should think it was about 2 years ago, in May, that I first heard people speak against him. Q. Whom did you hear speak against him? A. Charles Swift, for one; he resides at the corner of Crosby and Houston streets; he keeps a restaurant also; do not know that I can name any other person now; I think I inquired about him of Thomas Swift, also; I met him in New York; he is a farmer in Dutchess county; cannot name any other person at present; since that I have never made any inquiries except what came up in natural conversation; spoke to Christopher Hawkins about him; he is a grocer, No. 102 Murray street, and also to his partner, H. M. Stuart, Samuel Lockwood, a grocer in Newark, and Horatio Reed, a butcher, in the Bowery, near Bayard street; I was about to have a dealing with him when inquired; I had the dealing with him; a place I had an interest in was hired to him; I did not hire it to him; Hawkins and Stuart, I think, hired it to him; they had not hired it from me before; I made the inquiry about him from Hawkins & Stuart; I knew what kind of a man he was; Charles Swift is slightly related to my wife.

Henry E. Degraw was called, but did not answer.

Edward H. Quinn, sworn—I reside in Williamsburgh; am a builder; have resided there near 8 years; I know Wm. N. Doty; have known him 4 or 5 years; I can pretty much endorse the last witness; I know his general character. Q. Was it good or bad? A. Bad. Q. Would you believe him under oath? A. I should not like to go so far as say I would not believe him under oath; a man may be very bad yet swear straight. The Judge requested the witness to frame his answer upon the general character that he knew Doty bore. Witness—Well, upon the general character I should say it is not to be believed. Cross-examined—I have unfortunately had dealings with him; he is indebted to me for about \$100; I have heard his waiter and kitchen maid speak bad of him, at his place, corner of Bayard and Bowery; they said they could not get their pay; that is all they said; some ten or twelve told me so, or five or six of them; he commenced there two years ago; as soon as he had fitted up he cleared out and sold off; he carried on business there for a couple of months, more or less; cannot give you the names of his servants; the man who put up the steam boiler for him in the same place, also spoke bad of him; do not know his name; he complained he was not paid; the names of those who spoke against Doty is Legion; almost every body who knows his name speaks bad of him; never heard him spoken ill of until he kept that place; I know he was a carver for Swift.

Re-examined—I made inquiries about him on account of the bill he owed me. To the Judge—I have heard nothing against him but that he did not pay. Judge—And will you not believe him under oath for that? Witness—No, sir; I go by his general character; I heard he contracted debts without intending to pay them, and a man who is dishonest I do not believe under oath. To O'Connor—The boilerman did not say that Doty never intended to pay; the waiters told me he had fitted up the place to sell it out and cheat his creditors. Van Buren—How about his speaking the truth? Witness—Well, he don't speak the truth—there is the difficulty.

Hamilton Degraw sworn—I reside in Brooklyn; have lived there several years; am in the clothing trade; I know Wm. N. Doty; have known him between three and four years; know his general character; from what I have heard, it is bad; I would not believe him under oath.

Cross-examined—Have spoken to Doty; had dealings with him very slight; he is not indebted to me; had dealings with him at No. 80 Nassau street; he came to me to get some clothing; it was a small amount, a pair of pantaloons; he paid for them; never spoke to him on any other occasion; heard Mr. Quinn speak ill of him; one of the men who was working where Doty was spoke about him more by inuendo, than any thing else; he was then working for Hiram Nott, in Nassau street; I inquired of Mr. Crandall, who was with Nott, whether Quinn was good for any clothing; he answered that he did not know how he could dress so well on so small a salary; he said he got only six or seven dollars a week; heard no other persons speak of him until within a week past.

Re-examined—Crandall intimated something else, but cannot recollect what it was, unless you can interpret the shrug of shoulders.

John A. Watkins sworn—Am a coachman; I drive for Hammills & Wilson, corner of Crosby and Bleecker streets; have been there, off and on, since 1835; I know Mr. Rich; have driven him out; have taken him to Sixteenth street, No. 102 (Mrs. F.'s house); I think I left him there twice on Sundays; it would be between 10 and 12 in the morning; that would be after church calls; have left him once at the corner of Sixteenth street and Sixth Avenue; that was also on a Sunday, about the same time; do not know where he was going; saw him going towards Seventh Avenue; that is towards No.

102; he told me to stop there and let him out; No. 102 is, I think, the middle of the block between Sixth and Seventh Avenues.

Robert C. Bell sworn—I am a land agent; in '43 and '44 I was a ship-joiner; put up some berths on board the Albany. Q. What was the object? A. To get pay for it; that was my object (laughter); I made a night-boat of it, the berths; got it done in 1844.

The Court then adjourned.

TWENTY-SIXTH DAY.

SATURDAY, 17th January, 1852.

From the regular and early attendance of the Jurors we should judge, that, in spite of the length of the trial, their interest in it has in no degree diminished. The audience, also, was as large as on any of the preceding days.

Thomas W. Gale sworn. Am a merchant, live at No. 11 College place; am not in business now; know Mr. Forrest: (check produced) received this from him in July 1843, on the Bank of America; do not know if Mr. F. gave to me himself; it is endorsed by a former clerk of mine, Mr. Thorne; he is in this city now, I believe.

Mr. O'Connor said he would consider this evidence as good as given by Mr. Thorne.

John M. Copperthwaite sworn. I was a bookkeeper of the Bank of America in 1843; I know Mr. Forrest; he kept an account in our Bank; (book produced) this is his pass book. Q. Look at the checks then, is there one of July 3d? A. There is, it is dated New York, July 3d, \$100; the other is dated July 5, 1843, for \$50, and the third for \$75 17, dated July 5, 1843, to Wiffan and Gale or order; the two for \$100 and \$50 were presented at the Bank the same day.

Mr. O'Connor demanded to see the Bank book, but Mr. Van Buren refused.

The Court said he thought this proof seemed to him altogether immaterial, as it had the effect only of fixing Mr. Forrest's whereabouts. If Doty had spoken the truth as to the occurrence on board the Albany, he must clearly be mistaken about the time, and this proof therefore was useless.

Van Buren. So we presume, your Honor; if they will fix another date, we will show, that in 1844 for instance, Mr. Forrest was more than a thousand miles off.

The Court said that might all be true, but at present the admission was out of order.

Mrs. John P. Germaine was called, but did not answer. Attachment asked for and granted.

Mr. O'Connor meanwhile examined Mr. F.'s bankbook, which had been given to him by defendant's counsel.

The witness was not cross-examined.

Horatio Reed was called but did not answer.

Hiram Williamson. I reside at No. 160 Barrow street; I am a merchant; have been so for fifteen years; my place of business is No. 116 West street, firm Williamson and Vale; I know Wm. M. Doty; have known him since 1846. Q. What is the general speech of people about him? A. So far as I have heard his name brought in question, not very good. Q. Would you believe him under oath? A. I should not like to in any matter where he is interested.

Cross-examination. He has had dealings with me; he has been indebted to me, but is not now. Q. When did you first speak any way ill of him? A. I cannot say the precise time; should say two or three years since; knew a man named Ironsides; think he is in California now; do not know his business; heard Charles Swift speak in unfavorable terms of Doty; heard a Mrs. Brown, a school teacher in Varick street, speak bad of him; he had not paid her a school bill, and she thought she had been badly treated; do not know if the bill has been paid; cannot now recollect any one else.

John L. Moore sworn. I am an agent in the employ of J. G. Wilson, of Hastings; I know W. M. Doty; became acquainted with him in March 1845; he applied to me for a situation as steward; I took him; he remained with me till July, 1846. Q. Why did he leave?—Objected to as collateral. Mr. O'Connor said he had not been allowed to contradict Anna Flowers as to the circumstances of her going to the House of Refuge; the Court had also overruled other offers to disprove circumstances of a much more material nature.

Mr. Van Buren said they would show that instead of Doty discharging himself from the employ of Mr. Moore, he was discharged by him, thus showing a contradiction of a fact on which he could not well be mistaken.

Mr. O'Connor again replied in a lengthy and eloquent argument.

The Court did not recollect the precise testimony of Doty on this point, but thought that the fact alluded to had come out on the cross-examination. Mr. Van Buren having admitted this, the Court intimated that the present inquiry was incompetent, as it would never do to inquire into the truth of a mere collateral matter. The court would moreover limit the inquiry as to character to eight or ten witnesses on either side.

Q. Do you know what people generally say of him?

Judge Oakley commented again upon the difficulty of getting witnesses to testify in the right manner about character. Witnesses must not go by any particular act of the party inquired into, but by the general talk of people about him.

Question repeated. A. Under the explanation which the Court has given, I do not think I can answer in the affirmative, for I do not know what people generally say about him. Q. Have you frequently heard people speak about him? A. I have, several times; I have heard people speak against him. Q. Was that favorable or unfavorable to him? A. So far as I have heard him spoken of, it is unfavorable to him. Q. How is it in respect to his truth and veracity? A. I have heard it questioned; I regret to say it is not as I should like to have heard of any man. Q. From what you have heard of him, would you believe him under oath? After a long silence on the part of the witness, he begged to ask the Court whether the question was to be answered strictly. The Court informed the witness, and said that if the witness actually knew that Doty had committed perjury, he (witness) would not from that say that he would not believe him under oath; the witness must go by what he had heard of the general talk of people.

Witness.—Suppose my confidence had been shaken as regards Doty, and that coupled with what people say, will that do?

Judge.—The general reputation is the only thing to guide us by.

Witness.—I am in a delicate position here, and have no feeling in the matter, but I should like to speak the truth; what is the question? (Laughter.)

Cross-examination.—I do not include in that what I heard of him during the present week; have heard Henry Dexter of Washington city, and John Thomas of Washington, speak bad of him; do not think of any other name at present; have heard Dexter speak of him in 1850, and Mr. Thomas in 1847; I live at Hastings; have kept an hotel here; failed in business; was indebted to a good many people; some of them spoke very hard of me; had about fifty creditors; one or two spoke very hard of me to my face, and I do not know what others said behind my back; I was indebted to a great many of my servants. (Laughter.)

O'Connor said he did not offer this as an impeachment of the witness; only as an illustration of what character was judged by (laughter).

Thomas White, sworn—I live in Brooklyn, No. 29 Myrtle Avenue; am a house painter; have lived in Brooklyn 6 years next June; with the exception of 3 or 4 months I have lived there all the time; went to New Orleans in Sept. 1848; I knew Mrs. Flowers there; have not seen her here since; her husband's name is George W. Flowers, I think; I boarded with his mother, in Brooklyn, and when I went to New Orleans she gave me an introduction to them; on the Tuesday following my arrival in New Orleans I became acquainted with them; knew them from the 24th Sept. to the latter part of November; boarded with them from 5 to 6 weeks; never went out or visited with her. Q. Did you see anything lewd or immodest in her conduct? A. I cannot say I have; I have seen nothing; I know very little of her more than boarding with her; never heard any one speak bad of her. Q. From what you heard of her would you have any hesitation to believe her under oath? A. Not the least, sir.

No cross-examination.

The Judge asked if it was agreed upon on both sides that the transaction testified to by Mr. Doty had taken place on board the Albany; he did not find it in the minutes.

Counsel said that the fact had been thus testified to. (See Doty's examination—REPORTER.)

After a short recess, Mr. Van Buren complained that he had not yet been able to find Mrs. Germaine; she had been here on the previous day, but would not be able to be produced until Monday. Not having any other witnesses now to examine, he would give in evidence a card of Mr. Forrest's, published in the *Pennsylvanian* of Nov. 22d, 1848, in reply to a speech of Macready's in the Arch street theatre.

"A CARD.

"Mr. Macready, in his speech, last night, to the audience assembled at the Arch street theatre, made allusion, I understand, to an 'American actor,' who had the temerity, on one occasion, 'openly to hiss him.' This is true, and, by the way, the only truth which I have been able to gather from the whole scope of his address. But why say an 'American actor?' Why not openly charge me with the act? for I did it, and publicly avowed it in the *Times* newspaper, of London, and at the same time asserted my right to do so.

"On the occasion alluded to, Mr. Macready introduced a fancy dance into his performance of Hamlet, which I designated as a *pas de mouchoir*, and which I hissed, for I thought it a desecration of the scene, and the audience thought so too, for in a few nights afterwards, when Mr. Macready repeated the part of Hamlet with the same 'tom foolery,' the intelligent audience of Edinburgh greeted it with a universal hiss.

"Mr. Macready is stated to have said last night, that up to the time of this act on my part, he 'had never entertained towards me a feeling of unkindness.' I unhesitatingly pronounce this to be a wilful and unblushing falsehood. I most solemnly aver and do believe, that Mr. Macready, instigated by his narrow, envious mind, and his selfish fears, did secretly—not openly—suborn several writers for the English press, to write me down. Among them was one Forster, a 'toady' of the eminent tragedian—one who is ever ready to do his dirty work; and this Forster, at the bidding of his patron, attacked me in print, even before I had appeared upon the London boards, and continued his abuse of me at every opportunity afterwards.

"I assert also, and solemnly believe, that Mr. Macready connived, when his friends went to the theatre in London, to hiss me, and did hiss me, with the purpose of driving me from the stage—and all this happened many months before the affair at Edinburgh, to which Mr. Macready refers, and in relation to which he jesuitically remarks, that 'until that act, he never entertained towards me a feeling of unkindness.' Pah! Mr. Macready has no feeling of kindness for any actor who is likely, by his talent, to stand in his way. His whole course as manager and as actor proves this—there is nothing in him but self—self—self—and his own countrymen, the English actors, know this well. Mr. Macready has a very lively imagination, and often draws upon it for his facts. He said, in a speech at New York, that there also, there was an 'organized opposition' to him, which is likewise false. There was no opposition manifested towards him there, for I was in the city at the time, and was careful to watch every movement with regard to such a matter. Many of my friends called upon me when Mr. Macready was announced to perform, and proposed to drive him from the stage for his conduct towards me in London. My advice was—do nothing—let the superannuated driveller alone—to oppose him would be but to make him of some importance. My friends agreed with me, it was, at least, the most dignified course to pursue, and it was immediately adopted. With regard to an 'organized opposition to him' in Boston, this is, I believe, equally false; but, perhaps, in charity to the poor old man, I should impute these 'chimeras dire' rather to the disturbed state of his guilty conscience than to any desire upon his part wilfully to misrepresent

EDWIN FORREST.

"Philadelphia, Nov. 21, 1848."

The Chief Justice then inquired how many more witnesses Mr. Van Buren wished to examine, and called upon him to give the names of those whom he intended to call, with a view to reserve the testimony prior to the closing of the case.

Mr. Van Buren answered that he would call on Monday Mr. Thomas C. Smith, Mrs. Deming, and Mrs. Germaine.

Being called upon to say what course he meant to pursue, Mr. O'Connor said, he did not intend to call any witnesses until the other case was closed; but upon request of defendant's counsel, assented to read the affidavit of Christiana Underwood, which had been taken in support of the application for a divorce from the Pennsylvania Legislature.

Counsel then read the affidavit, which in substance contains the same matter testified to on her direct examination by Mr. Van Buren during this trial. She winds up by saying, "that she has always been on good terms with Mrs. F., and that she gives her testimony reluctantly, out of a sense of justice to Mr. Forrest."

After the reading of the affidavit, the Judge said, that as the testimony was now about to be closed, counsel had better prepare themselves to proceed with summing up, as soon as the case rested.

Mr. Van Buren inquired relative to the order of the summing up, and was told that the plaintiff's counsel had that privilege, as having the first affirmative issue. The Chief Justice also said, that the plaintiff had not rested his case, but was now unprepared to continue, and would call his witnesses after the defendant had rested.

The Court then adjourned.

TWENTY-SEVENTH DAY.

MONDAY, January 19th, 1852.

The Court opened at half-past ten o'clock. In spite of the severity of the weather the usual large attendance was present.

Chauncey Smith sworn for defense—I reside on West Broadway; I am in the saltfish trade; I know William M. Doty; have known him for four or five years; I have heard people speak against and for him; the general speech against him is bad I should say. Q. Would you believe him under oath? A. Yes, sir, I would. No cross-examination.

Thomas C. Bertine sworn—I am a butcher in Washington Market; have been there five or six years; I have a slight acquaintance with Wm. M. Doty for four or five years; I have heard considerable said in relation to him; I can say but very little about his character for truth and veracity; in his general business transactions but little dependence can be placed in him; do not know his general character; the general speech about him is rather unfavorable; know nothing of the man myself. Van Buren—That's all, sir. O'Connor—I have nothing to say, as you do not ask him the final question.

Robert Forsyth sworn—I reside at No. 76 Warren street; am an oyster dealer; I know Wm. M. Doty for four or five years; do not altogether know the general speech of people about him; have heard him spoken of lately in reference to this case; have not heard him spoken about indifferently before that. Cross-examined—Q. From all you heard of Mr. Doty, except what you heard since this trial, would you believe him under oath? A. I would, sir. By Van Buren—Have heard some speak favorable, and some unfavorable since this case.

Frances H. Germaine sworn—I reside in Troy; I am a widow; my late husband was named John P. Germaine; am a sister of Mr. Deming; I was in this city in the fall, '48; stayed with my sister Mrs. Deming; my attention was called to something in Mr. Forrest's house. Q. State what it was. A. I was retiring for the evening and saw a gentleman and a lady standing against a window in Mrs. F.'s house; I do not know the gentleman; he was tall and of light complexion; his arm was round the lady's shoulder; their backs were towards the window; saw them for about five minutes; it was between 11 and 12 at night; I had that lady before that pointed out to me as Mrs. F.; I had seen her with Mr. Forrest, and also saw her in the library with him; Mrs. F. left the window and went to the table; the gentleman followed her in a few minutes, and, after standing there a short while, they both left the room; there was gaslight directly over the table, near which they were standing; as they left the room the gentleman passed his arm round Mrs. F.'s waist, and left with her in that way; I have seen Mr. F. several times; never spoke to him; I can say positively that the gentleman was not Mr. Forrest who was with Mrs. F.; he was not in town then; he was playing an engagement, but do not know where; when they moved round the table I could distinctly see the gentleman's face; I called the attention of Mr. and Mrs. Deming to it; had been only looking a moment at him when I called them; they were in an adjoining room to mine;

they came. Q. Did they tell you who the gentleman was? Objected to. Mr. Van Buren offered to show that Mr. Deming told witness at the time who the gentleman was. Objected to. Ruled out.

Cross-examined—I was staying at a visit with Mr. Deming; I was staying for about a year with them; it took place in the fall of the year; I go rarely to the theatre; did not go that fall: have seen Mr. F. once on the stage; had seen him two or three years before this occurrence; it was about my usual retiring hour; I knew by the papers that Mr. F. was playing an engagement about that time, but do not remember where; do not think I ever saw another lady in that library. Q. Did you ever see any other lady of Mrs. Forrest's family except herself? A. Only Miss Virginia, her younger sister.

Elizabeth Deming sworn. (The previous witness having left the stand, she took a place close by Mrs. Deming; and Mr. O'Connor perceiving this, spoke a few words to the clerk, who then offered a seat for the lady further off. Mr. Van Buren had seen all this, and said, "Is there any objection to the lady remaining where she was?" No answer. "If the Court please, I should like to know why the lady has been shown into the other room; I prefer her to remain here." Judge—It is altogether unusual, Mr. Van Buren. Van Buren—But there is no objection; I prefer her to remain. Judge—It is out of order, and I object. Van Buren—Exactly so, your Honor (laughter.) Witness—My name is Elizabeth; my husband is named Egbert Deming; in the fall of 1848 I resided in 21st street, where I reside now; our house is not exactly opposite that of Mr. F. in 22d street, but separated by one lot; in the fall of 1848 my attention was called to a circumstance; Mrs. Germaine called my attention to some parties who were standing close to each other in Mr. F.'s library; it was between 11 and 12 at night; the persons were in the library, I suppose; the gentleman was standing with his arm on Mrs. F.'s shoulder. Q. Did you say "on"? A. His arm was thrown round her shoulder; their backs were toward me; they afterwards both went to the table; that brought their faces directly toward us; there was a gaslight exactly over the table; I could then see them perfectly plain; had seen their backs distinctly before, and their position. Q. Who was the lady? A. Mrs. Forrest. Q. Who was the gentleman? A. Mr. N. P. Willis.

Cross-examined—Have never spoken to Mrs. F. or N. P. Willis; I had often seen Mrs. Willis before; have never been in company with him; have frequently seen him in the street; have seen Mrs. F.'s youngest sister; do not know ever seeing any other lady in that library; I could see very distinctly of an evening into the library when the gas light was lit; there is a French window that opens like a door to the piazza, and it is through that one I saw; the other window was also open; there is but one other window; I have lived nearly four years in that house; I was first subpoenaed last Saturday.

Re-examined—I have had Mrs. F. pointed out to me, and also seen her with her husband in the garden and library.

By O'Connor—Cannot positively say what month it was; it was cool weather, and we kept our window closed; cannot say if it was November or not.

Thomas C. Smith, re-called (diagram produced)—I have made this diagram of the house in 22d street. Q. When you stand on the 3d story stair case can you see the kitchen stairs? A. Yes, sir, when you stand at the railing in the hall you have a full view of the kitchen stairs. Q. Did you have a conversation with Mrs. F. about the difference between F. and Macready. A. Yes, sir; she said that there was no difference of opinion between them as regarded the quarrels of her husband and Macready, except she did not like the tone of the card published by the former in Philadelphia; that was the latter part of January preceding the April of their separation; she said the language of the card was rather stronger than she admired; I learned in January from Mrs. F. that they were about to separate; I am wrong in the month—one moment—it was later in the season, about the 1st of March, when we re-commenced our work at Fonthill; Mr. F. had no conversation with me on the subject.

Cross-examined—This conversation about the Macready card was after or about the time she told me of the separation; I think Mr. F.'s house stands on a 33 f. lot; the house is on the south side; the street runs east and west; Mr. Deming's house lays east of the house; you have no view of the cellar floor from the 3d story stairs; I think there are 14 steps to the cellar; there is a turn half way down; I think there are more than 14 steps before you get to the turn; taking the most favorable position on the 3d story, you would see, I think, but 3 or 4 of the cellar steps; the house of Mr. F. occupies the whole lot; it is wider in the rear than in front; there is a jog of about 8 inches thick, I think. By a Juror—The jog is east towards Deming's house. By another Juror—The two lots, F.'s and Deming's, are about 196 feet deep; Deming's house occupies about 40 of it; I think there is about 100 feet between the two houses. By another Juror—Deming's house is on the east side of Mr. F.'s. To Van Buren—There is a difference of about 25 feet deviation from the direct line from the centre of Mr. F.'s house to Mr. Deming's house. (The diagram was here produced to the jury.)

George Roberts was called, but did not answer.

Judge—Proceed, Mr. Van Buren. Van Buren—We are through; I'll tell you in a moment. After a short pause, Van Buren said, "we rest here, your Honor." The Court said that this must be the final close of defendant's case, except on the conditions formerly referred to, namely, the calling of such witnesses as are actually under attachment. Mr. Van Buren said he would like to examine Dr. Gregory, of Connecticut. Judge—You may do so; proceed, Mr. O'Connor. Mr. O'Connor—According to stipulation I will now read the affidavit of Charles S. French, who is sick in bed. The document was read: it bore upon the residence of Mr. F., he having on the 2d Nov., 1849, bought two sofas of H. H. Leeds and Co., and had them transported to his place, Fonthill. O'Connor—I will now read the deposition of Mrs. Dickinson, the wife of John Dickinson, at Norwalk, Connecticut. Mr. Van Buren objected; he said the defendant had not been able to get track of the commission probably because it had not been taken by the parties to whom it was addressed. The same was directed to a Mr. Orris F. Terry, and the person who returned it signed Horace F. Ferry. The first name would be accounted for by the pronunciation of the H. of Mr. Dickinson as an Englishman, but the Terry was not decidedly the Ferry to whom it was directed; in addition to this, the deposition contradicted the testimony of her husband, and hers was altogether irreconcilable as to time and place. O'Connor—That's all the worse for us, and the better for you; I never heard of so odd an objection. Counsel then argued the admissibility of the deposition, and offered to send it back to be received or answered. The Court admitted the reading of the deposition, and Mr. O'Connor said he would read it in the course of Monday. Judge—Proceed then, gentlemen. O'Connor—I have four more short letters to read. Counsel then read letters marked B. W. 8 and 9, and C. W. 20, 21, 22, and 23, all of them written in the spirit and style of letters similarly marked and previously referred to.

Joseph Staples, sworn—I am a grocer; I know Mr. Rushton, who kept under the Exchange at one time; I had that establishment previous to his taking it; he got it from our firm, Staples and Ford; (books examined by witness;) he took possession from us on the 3d April, 1844, and then purchased the establishment; he was there as superintendent; cannot say positively when he left, but I think he did in 1848.

Cross-examined—Rushton is near Sandusky, in Ohio, now; remember Doty being with him here; one Joseph G. Dutcher, who is now dead, was there also, and John M. Bottner; have not seen the latter for 2 or 3 years; do not know the names of any others there; do not know any one in town who was a waiter there then.

James M. Sanderson, sworn—I keep the College Hotel; I know Wm. M. Doty; have known him for 8 years, or longer. Q. Do you know his general character? A. I do not recollect ever having heard him spoken of except within the last few days; cannot recollect definitely; would have no hesitation to believe him on oath.

Cross-examined—Have only had general acquaintance with Doty; he has called on me at Philadelphia, as being one of the same profession; during the past summer I have purchased many things from him; have frequently met him in the street; he has called frequently at my hotel, to sell his produce, or get his money; have seen him at the Croton Hotel; Capt. Calcraft does not stay at my house now; he was there for 2 or 3 weeks; do not know that I have talked much about this case; it has been discussed a good deal in my presence; talked to Capt. Calcraft about it in the evening after giving his testimony; have spoken to others about it; I have been swayed a good deal by the testimony; have taken Mr. F.'s side before the trial began; think I always did; do not know if I have conversed with Mr. Van Buren about it; do not recollect that I have spoken to him whilst breakfasting there; do not recollect his breakfasting there; do not remember of my having spoken against Mrs. F. there. Q. Since the trial commenced have you spoken against Mr. F.? A. Not personally, for I know nothing against him. B. Have you spoken against his case? Witness—Must I give an opinion on the case? (laughter.)

Van Buren—No, tell us if you spoke.

Witness—I have said he had a pretty hard case; do not know of speaking against it.

Dexter C. Forst, sworn.—I reside 191 East Broadway; I make steam boilers; made the boilers for Mr. Doty's place in the Bowery, a year or two ago; do not know Mr. Edw. H. Quinn, the mason; do not know I ever saw him. Q. If you did see him, did you speak ill of Mr. Doty's character, honesty or veracity? A. Certainly not, sir, never; I was creditor of Mr. Doty when the place was closed; first saw him at the Croton hotel in 1846; have met with him occasionally for the last five years; never have, previous to this trial, heard him spoken against at all; would have no hesitation to believe him on oath. Cross-examined—Mr. Wm. H. Mellon was the principal in that boiler-making establishment at the time; I had two or three men putting up Doty's boilers; I paid them as usual; they worked under my directions; no boilers were put up that I know of, but those of mine; have met Doty frequently since 1846; I am not a companion of his; never visit him. Re-examined.—Mr. Mellon had no acquaintance with Mr. Doty. By Van Buren—Doty told me, before I put the boiler in, that he had no money, and wanted it on credit; he paid me part of it. (Witness went on explaining the transaction, when Mr. Van Buren cut him short by asking whether Doty paid for the boiler. Witness said he had not, for he, witness, had taken the boiler back.) O'Connor—Was it a straightforward transaction? Objected to. Ruled out.

Wm. H. Conklin, sworn.—I knew Wm. M. Doty when he lived in Charleston: recollect his leaving there for this city; received a letter from him shortly after he came to New York; think he had been living at Charleston more than a year, (letter produced); this is the letter I received from him in New York; (it is dated Jan. 21, 1844. Mr. O'Connor said he put in the letter only to fix the date); have known Doty since 1840; he always seemed an honest, upright man during that time; never heard any one speak against him; would have no hesitation at all to believe him under oath. Cross-examined—Doty kept a hotel and eating-house in Charleston; there was a ninepin alley and a billiard room attached to it. Q. Did he keep any thing else down there? Witness—I don't know what you mean. Q. Was his wife there? (Laughter). A. Yes, she was; am a bricklayer by trade; have been in Providence and Boston; my residence is in New York now; have been here since May last; I work for myself in Twenty-Fifth street; I think Mrs. Doty left Charleston before he left; do not know how much longer he remained. Q. Do you know of his living with another woman there? Judge—Are you going to get up a new case of adultery? (Loud laughter.) Van Buren—I want to know how Doty got his good character.

Christopher Hawkins, sworn.—Am a grocer in Murray-street; have a partner; firm is Hawkins & Stuart; I know David N. Hollister. Q. Did you say any thing to him against the general character, truth and veracity of Wm. M. Doty? A. Never to my knowledge; have known Doty for two years past. Q. Would you hesitate to believe him on oath? Witness—Whether interested or not? O'Connor—That is not the question, sir; interested parties are not allowed to testify. Witness—I should want to hear what it applies to; there is testimony which, if probable and consistent, I would believe him under oath; Doty owes us money. Cross-examined—Q. Suppose it was an unreasonable story, would you believe him? A. No, sir; people speak rather against his character for truth and veracity. Q. Suppose he testified in a matter in which he had feeling or interest, could you believe him? A. It depends upon how much feeling and interest he has. Van Buren—Oh, the quality. Witness—Yes, sir. By O'Connor—Do you consider a man A No. 1, who pays his debts? A. No, sir. Q. Do you consider Mr. Hollister A No. 1? A. No, sir—A No. 2. (Loud laughter.)

Charles S. Brown, recalled.—I was examined as witness for defense; know Doty; heard nothing against his general character; would not hesitate to believe him under oath. Cross-examined—He has been attached to the Troy steamboat line, which I am engaged on; I worked on the boat on which he traveled; used to see him two or three times a day last winter; have not seen him so often since then; he was no associate of mine.

Hiram Nott sworn.—I know Wm. M. Doty since 1841; he commenced in my employ then; he was with me some time, and I ought to know his general character; never heard any thing against it; he was about twelve or fifteen months with me; should have no hesitation to believe him under oath.

Cross-examination—Have not heard him spoken of much; am in the lime business now; have seen him once or twice on the steamboat "Troy"—have met him often at No. 25 Pine street; that is a restaurant; never heard his truth questioned; have had people come to me who were indebted to him; those people did not speak against him; sometimes I joked with them, and asked what they would take for their debt. Q. Did you buy any? A. No, sir (laughter); never heard him spoken of as a talking, blowing man.

George O. Tupper sworn.—Am brother of Capt. Tupper, who was examined by defence; know Wm. M. Doty since 1845; am not in the steamboat line; Doty has been in the employ of the steamboat line for a year or two; I am acquainted with his general character; his general character, I believe, stands very good; would have no hesitation to believe him under oath.

Cross-examination—Knew him as steward at the Croton Hotel in 1845; have known him all the while since; have not been a companion of his; have resided in this city for the last three or four years; have heard him talked of about some liabilities that he could not meet; he had promised to pay and not kept his engagements; never heard of his incurring debts when he could not pay them; never heard his truth and veracity questioned, or heard him charged with telling lies.

Alfred A. Phillipps sworn.—I am a counsellor at law; reside in this city; know Wm. M. Doty for eight or ten years; know his general character. Q. What is it? A. Good; I should have no hesitation to believe him under oath.

Cross-examination—First knew him as a member of our lodge of Odd Fellows ten years ago; also knew him at his hotel and on board the "Troy"—so far as being a member of our lodge, he was an associate of mine; he was not a visiting acquaintance; had no business with him; have practiced law for eleven years; never heard Doty spoken against.

Eldridge Parker sworn.—Am a poultry dealer in Washington Market; know Doty for five years; his general character is good so far as I know; have no hesitation to believe him under oath.

Cross-examination—First knew him at the Croton Hotel; have lived thirty-three years in this city; have served the steamers he was in, both the Franklin and Troy; saw him nearly every other day; knew him also in the Bowery; once heard a person speak against him; that was John L. Moore, of the Croton Hotel—he told me he did not like him, he did not say why he did not like him.

Charles King sworn.—Am President of Columbia College; know Professor Hackley; he is absent in Philadelphia; he is detained there by the illness of his wife; has been there since the 24th of December.

Cross-examination—I know this from a letter of his.

Wm. Allen sworn.—Reside No. 60 Third street; am an attorney; know Doty since the fall of 1850; I think his general character is good; should have no hesitation at all to believe him under oath.

Cross-examination—Have lived in the same house with him; I believe my folks have called on him once or twice; have never heard his character questioned up to the time of this trial.

John Harris sworn.—Am a butcher; do business in Washington street; have known Doty since 1846; never heard any thing against his general character; I would believe him on oath.

Cross-examination—He has traded with me as steward of the Croton Hotel and of the steamboat.

Moses J. Kip sworn.—Butcher of Washington Market; knows Doty, and has never heard any thing against him; has no hesitation to believe him under oath.

Jacob Brinkerhoff sworn.—Resided at No. 626 Houston street in 1848, and live there still; that is next door to the house occupied by Mrs. Ingersoll. Q. Had you any opportunity to make observations on the exterior of the house. (Objected to and ruled out, as the case in that respect had been rested.)

James W. Hale sworn.—I reside No. 108 West 13th street; am in the forwarding business; I know Wm. M. Doty; have known him six or seven years; I never heard his general character questioned at all; never heard him in the least spoken against; I should have no hesitation to believe him under oath.

Cross-examination—Knew him as steward of the Revere House and of one of the European steamers; he has since then been engaged as steward of the Croton Hotel.

Charles Swift sworn—Reside No. 555 Houston street; am a restaurant; know Wm. M. Doty and David N. Hollister; I think I was spoken to about Mr. Doty by him; did not say anything then to Mr. Hollister against the character, for truth and veracity, of Doty; have known him since 1846; I supposed I was acquainted with his general character until this trial began; leaving out of view what people have said on this trial, I should say his character was good; would not hesitate to believe him under oath.

Wm. Spratt sworn—I sell powder in this city; know Wm. M. Doty since he was at the Croton, in 1845; I know his general character; it is good; would not hesitate to believe him under oath.

Cross examined—Known him in the market.

Stephen A. Pierce sworn—Am in the iron safe business; know Doty for twelve years; I know his general character; so far as I know it is good; have no hesitation to believe him on oath.

Wm. M. Doty recalled—I am able, by referring to my books and accounts, to fix the precise date when I came here from Charleston; the last receipt I took in Charleston was Jan. 3d, 1844; I left a day or two after that; I commenced there in 1840; during the whole of 1843 I was in Charleston; it was after I came back to New York that I went to the employ of Rushton; commenced for him at the Exchange in April '44; I left in the fall; my landlord in No. 42 Macdougall street, Abraham B. Rich; went there on the first Monday after 21st Jan., 1844; I remained there till May 1845; had only one part of the house; Mr. Rich had the other part (paper produced); this receipt I got from him at the time it states.

Mr. Van Buren objected to this examination.

The Judge said it had no relevancy, except it was to show that the witness was not here in 1840, which seemed to be admitted on all hands.

Mr. O'Connor said the testimony of the witness showed that at the time of his seeing the occurrence on board the Albany, he was living in Macdougall street, and employed by Rushton. It was necessary, therefore, to fix a date which had been erroneously stated on his first examination. Allowed.

Witness—This receipt is a true record, made at the time (December, 1844); I think Mr. Van Buren asked me if I had brought any one with me, and I said I had brought my sister; my mother and other sister followed soon after; we took a place from Mr. Holly (receipt produced); this is my first receipt for payment of rent to Mr. Holly; it is dated Oct., 1844. Q. Did the occurrences that you have spoken of before take place in 1843? A. I should decidedly say not, by this book. Q. Did they take place any other year? A. Yes; the first occurrence after I came from Rochester when I visited my mother in Rochester; that was in 1844. (The book shown to Mr. Van Buren.)

Cross-examined—I did business in Charleston in my wife's name, Mrs. E. F. Doty; she was not there at the date of the last receipt for \$2; do not know how long before she had left; think about three months; gambling was not allowed at my saloon; I had two colored girls at work there; I wrote to one of them for a bird, some four or five years since; she did not send it; I think I sent the letter by mail; I did not send her a bird; did not send her a present; should know if I had done so; do not know the steward of the Northerner; do not know there was one of that name; there might be one, though; have heard of a black man named Cowles; he was pointed out to me as a steward of the Georgia; did not send a bird by him to a colored girl named Julia, or any other present; do not recollect getting an answer to my letter to Julia; do not recollect writing to her a second time; do not know that she has a husband or a child.

Mr. Longstreet was recalled, but did not answer.

ALIMONY.

Mr. O'Connor here addressed the Court, saying that his attention had been called to a subject which, until then, had quite escaped his observation. The new code provided that in divorce cases the jury had to pass upon the amount of damages or alimony in case of a verdict against the defendant, as in a simple suit for assault and battery, or any other which involved the question of damages. He (counsel) had said that the code directed this, but he would modify this by stating, that according to his own opinion the verdict of the jury without an assessment of alimony would be imperfect. Formerly, the jury had to try the fact only, and the judge, after ascertaining the amount of property of the party against whom the verdict had been given, made such an allowance as they thought proper. If the jury here, in rendering a verdict for the plaintiff, made an assessment of alimony, no harm could thereby be done, whilst the omission of it might possibly invalidate the verdict, and cause it to be set aside. If the defendant preferred it, he (counsel) was quite willing to enter into a stipulation with him, and have this matter settled by mutual agreement.

Mr. Van Buren thought this question came up rather late, but if the matter was to be settled at all, he preferred the jury to pass upon it.

The Judge intimated that this question was an altogether new one, and struck him as foreign to this case. If, however, both parties agreed to take the verdict of the jury on it, there could be no objection from the Court; at the same time he would ask both counsel to look into the matter, and bring it up again next morning.

O'Connor—Now I have had Mr. Rich in court, and he has gone again, being told that the testimony was closed; I shall also call Wm. Longstreet to correct the length of time occupied in the fitting up of the house in Sixteenth street, after Mrs. F. came in. As a formal of exception has been taken, I will not read the deposition of Mrs. Dickinson, for I have known these little exceptions to upset a case.

Judge—Well, then, you rest with the exception of Longstreet?

O'Connor—Yes, sir.

Court—Now, Mr. Van Buren, what have you to offer?

Van Buren—Having now understood from Doty, that he fixes all occurrences to have taken place in 1843, we recall Mr. Lawson.

Mr. Lawson recalled—Mr. F. was in St. Louis in June, 1844; he was not here any time of June; he did not come back before the 5th July, 1845; (book produced); the entries in this book are in the handwriting of Mrs. F.; she was with him; I have a memorandum book from which I fix the date, and also from two letters which I have seen since I came into court. Mr. Van Buren—I put the entries in evidence. On Monday, 19th June, Richelieu was played in St. Louis by Mr. Forrest; receipts \$255; the 11th June, Metamora, \$456; 12th June, Othello, \$375 70; 13th June, Gladiator, \$519 50; 14th June, Richard III., \$341 35; 15th June, Metamora, \$250, and so on, covering from the 10th to 23d June; then there is an entry from Detroit; on the 4th of July he was in Buffalo, where he stayed until the 13th July; prior to June 10th, he was at Nashville, Tenn., on the 27th May. Witness—I wrote to Mr. F. on the 25th and 28th of June. Mr. O'Connor admitted that Mr. F. returned with his wife from the West on the 17th of July, 1844. Witness—The sofas were kept in more places than one in the drawing-room in Twenty-second street; they stood near the rear window, or against the fire-place, or between the windows.

Cross examined—Have sat on them near the fire-place in the drawing-room; have seen a fire there; before the furnace was put up; do not know if I saw a fire there after Mr. F.'s return from Europe in 1846; do not know if the furnaces were up when Mr. F. returned; I remember the Spanish pictures which were placed in the drawing-room; do not recollect having seen the sofas put near the fire-place after the Spanish pictures were placed there; the pictures were sent, I believe, after Mr. F.'s return from Europe; I think they came in the Rob Roy from Cadiz; I think it very likely that the pictures were there during the whole of the year 1843; I know the pictures were hanging there, but do not know the time; I think it most likely that the pictures hung there for more than six months previous to the separation; also think the furnace was put up long before that.

Re-examined. I think there was plenty room below the pictures to allow of the sofa standing there.

Edward Eddie sworn. Van Buren. I now propose to prove what has become of Jamieson. O'Connor. What has become of him! Van Buren. Yes Sir, I will show that Jamieson was backward and forward in Albany, Rochester, and so forth. O'Connor. And will your Honor then allow us to prove that whilst in the State of New York Jamieson solemnly pledged himself to— Court. Oh no, I shall allow of no proof whatever on that subject.

Henry Quackenboss, sworn.

O'Connor. What do you mean to prove? Van Buren. We only mean to prove that Miss Clifton was sick and in bed at the time when Doty says he saw her on board the Albany. Witness. Was the physician of Miss Clifton from 1842 up to the time of her leaving for the South; she was married in 1845, and left in the fall; she returned in 1846, and

died on the 23d November, 1847; from the 26th April up to August she was confined to her house, the greater time to her bed. Cross-examined. I speak from dates and recollections, and also from a memorandum; it is in a book; I have had it here; did not exhibit it to any one here; told Mr. Dougherty I had such an account; I have an entry for a visit on September 10th, and from that day back to the 26th April; I left the book in my carriage, and it was carried off whilst I was in Court; I was told I should not be wanted, and missed the book on my return; I examined the book to look at '44, when I heard that Doty had said he had made a mistake in the year; that was the latter part of the week; I came alone in my carriage; have often lost whips and so on.

Re-examined. My subpoena was signed by Howland & Chase; do not know if they were the plaintiff's attorneys. By a Juror. Have not been out of town in 1844; and never go out in the summer; I am tied fast here all summer. By O'Connor. Have never had any subpoena but the one from Howland & Chase; my coming here with a book was not at the request of either party. By a Juror. Miss Clifton suffered severely from gout; it went into her stomach on the 19th of June, and she vomited occasionally for four days and four nights. (Great laughter.) Mr. Van Buren said that he closed his testimony. Court. Then it is closed on both sides, except Longstreet's testimony and the alimony, which I beg gentlemen to consider of. The Court then adjourned.

TWENTY-EIGHTH DAY.

TUESDAY, Jan. 20, 1852.

The Court opened at half-past ten o'clock. The attendance being rather smaller than on the previous days.

In regard to the alimony, Mr. O'Connor said he had looked at the statute, and his apprehensions as to the insufficiency of the verdict without an assessment of an allowance had not been removed thereby. Mr. Van Buren replied, that the suggestion might have been made at an earlier stage of the case. The Court said that under the old mode of settling divorce cases the general practice was to refer it, after the decree, to a proper officer, who took testimony as to the property of the party, and gave allowance in proportion to it. This was the old practice, yet it might be as well for the Jury to pass upon it as the Code left a doubt as to the course which should be pursued, and he therefore would allow the inquiry.

Thomas Whiteley recalled. I have known Mr. Forrest some time; have a knowledge of his real estate in 21st and 22d street. Q. Tell me what the six lots with houses on them, exclusive of the present residence of Mr. Forrest, are worth. Objected to, as the ownership had not been proved. Mr. O'Connor replied, that the complaint set forth the ownership, and as it had not been replied to it was admitted as true. The Court concurred in his opinion.

Witness. The lots are worth from \$6 to \$7,000 each; the double lot on which Mr. F.'s present residence is built is worth about 18 or \$20,000. Q. What are the ground and buildings of Fonthill worth? A. It has an artistic value besides the intrinsic value, and I should judge the property worth from 50 to \$60,000; the property in Ohio near Cincinnati is very much like that of Fonthill; it is invaluable to a gentleman of property, and I think it would bring \$25,000 in the market any day; I know Mr. Forrest's property in Cincinnati, corner of Main and 6th or 7th streets; I should think it worth from 15 to \$20,000; do not know of any other real estate of Mr. F.; know nothing of his Michigan property; do not know his personal property. The Judge remarked that the estimate by the witness was very near the estimate which Mr. F. himself made in his answer.

Cross-examination. Do not know the income of the Fonthill property; I was four years on the Ohio property at Covington; my rent I paid by services and superintending the farm; I left him because Mr. F. failed in completing his contract; I brought the estate into debt; Mr. F. paid me \$500 dollars when I went out; the Cincinnati property is improved; there are stores on it; have not been active in this case; am an Englishman.

Samuel Longstreet recalled. Q. Are you now able to state how long the painter was at work at Mrs. F.'s house after she moved in? A. About three weeks.

Cross-examination. He had been there about two months before she moved in and three weeks after she came; she moved in about the first October; the first story was the last work the painter did.

Mr. Van Buren then commenced summing up by congratulating the Jury upon the early close of the case, and praising them for the commendable patience which they had exhibited in listening to testimony which according to their opinion might have no bearing on the case. The Jury must take into consideration the great importance of the case; that their verdict would stamp the seal of infamy upon the party against whom it was found, and this alone was an excuse for the great exertions of Counsel to bring in everything that might be of use to either side.

GENERAL STATEMENT.

There were several facts in the case which remained undisputed and Counsel would call the attention of the Jury to them first. The parties were married in 1837; came to this country in the same year, lived in uninterrupted happiness for twelve years, and in 1849 came to the separation which now led to the divorce suit. It was uncontroverted also that during all this time Mr. F. had been the kindest of husbands, affectionate and indulgent; there was in fact no disagreement of any kind between them until a circumstance occurred which influenced him to put his wife away from him. For months he was silent as to the cause of this determination, and this very silence was now brought against him as a proof of fear. He had been making her the very liberal allowance of \$1,500 a year, paid without compulsion of law. After they separated he removed to Philadelphia and after having so removed, the fact of his separation he found to have been made a subject of remark, attributing to him the causes of it. He accordingly commenced a correspondence with her, and she denied unqualifiedly having charged him with the cause of this separation, but he subsequently found his information correct; the testimony abundantly showed that she had spoken in terms derogatory to him, and it then became necessary, to vindicate his own honor and integrity, to take the necessary steps for a divorce. He was then a resident of Philadelphia, and being anxious to avoid any publicity of charges which would ruin Mrs. F. in the eyes of the world, he made such proposals through his Counsel, Mr. Sedgwick, as were likely to meet the approval of all parties. Mr. Bryant, a man of eminent standing in this community was also spoken to as a mutual friend of both parties, and the famous Consuelo letter being at that stage laid before him, he was called upon, with such proofs, to advise Mrs. F. as to the most proper course which she could pursue (Counsel then read the letter of Feb. 6). It seemed that at that time already the memorial had been laid before the writer; was the divorce then to be obtained on the ground of incompatibility of temper or abandonment by the wife? No, the Legislature were to be informed of the criminal conduct of the wife, but the documents were to set forth that conduct only as great indiscretion. Mrs. F. seemed at that time to have been prepared to follow the course proposed by her husband, and would make no opposition to the application. Now, this was on the 6th Feb., and on the 9th Mr. Bryant again wrote to Mr. F.'s Counsel, stating that he had another interview with Mrs. F., wherein she had again consented to the divorce, and only stipulated that a proper allowance should be made and secured to her.

Again on the 14th of February Mr. Bryant wrote to counsel, and then for the first time suggested another difficulty to the consummation of the proposal, and on the 15th, when a formal interview was to take place, neither Mrs. F. nor her counsel attended, and on the very day following a letter was received from Mr. O'Connor, saying that if the least imputation was made against the honor of Mrs. F. no proposal of a divorce would be entertained, whatever amount of alimony might be offered. Thus the matter was broken off after Mrs. F. had over and over again assented to the course on the grounds stated. The negotiation failed, but it was important to bear in mind, as it threw a strong light upon some of the testimony offered here. Mr. F. returned to Philadelphia, the home of his birth and childhood, and there prosecuted his divorce before the Legislature in precisely the manner as he had intended to do before. The application failed, and a law was passed which passed the case to the civil courts of the State, who were empowered to grant a divorce to any individual applying for the same on proper grounds, if the applicant had for one year been a resident of the State. While the application was being made, a commission was issued to take the testimony of witnesses in this city and notice of it was given to Mrs. F., who, however, refused to appear, protesting against the interference of the Pennsylvania Legislature in her conjugal relations. The protest was followed up by several suits against Mr. F. when he returned to this State; suits, for an absolute and limited divorce; suits, for the purpose of constraining him to carry her beyond the seas for the purpose of trying her for offences never committed; suits for restraining him from alienating his property, for restraining his coming into any place where his wife was, and also restraining him from prosecuting his divorce suit in Pennsylvania. The latter injunction was the only one now remaining in force, all the others had been disposed of, mostly by the same judge who had granted the injunctions. The present suit was the last one that grew out of those controversies. The answer to it denied the charge of adul-

tery and set up recriminating charges, all of which the jury were now called upon to try. The jury must therefore first understand the issues in the case—that of alimony would not now be dwelt upon. (Counsel then read the seven issues framed and reported at the commencement of the case.) Counsel would now state what questions the jury had to pass upon in his opinion :

THE MAIN QUESTIONS AT ISSUE.

1st. Was the defendant a resident of the State of Pennsylvania at the commencement of this suit, which dates 5th of September, 1850.

2d. Has the defendant committed the adultery charged against him : and

3d. Has the plaintiff, Mrs. F., committed the adultery charged against her ?

These were the main questions ; there might be other incidental ones, and counsel would in the progress of the argument comment upon them. The jury must now divest themselves of all the prejudices which belong to human nature. It had already been said that the defendant had to contend against a *woman*, on whose behalf the sympathies of most men were engaged ; there was a sympathy for the gentler sex, which nearly deprived a man of a hearing, and sometimes of common justice. This sympathy was just and proper ; it belonged to the weaker sex ; but if the testimony left no doubt as to its justice, then he (counsel) expected that the simple fact of contention between a man and woman would not deprive the defendant of his verdict. She appeared here under every advantage ; she had no lack of means in procuring the attendance of witnesses from distant States, and the same might be said of her ability to procure counsel. Her adviser was second to none ; his zeal and devotedness had been sufficiently shown, and she had also connected with her in these charges several influential men, connected with the press, means of transportation and the places of amusement of this city, all of whom afforded her an ample opportunity to bring forward the witnesses required. Counsel would satisfy the jury that in addition to truthful witnesses, testimony had been introduced so obviously false as to contaminate her whole case, but he would not now anticipate that portion of the case.

Having thus called the attention of the jury to the prejudices which might be entertained in favor of or against Mrs. F., might he now ask them if they were not prejudiced against the defendant ? Had they not heard of his violent temper, his irritability, his ignorance, his overbearing manners ?—might they not have been influenced by the many attacks of newspapers or other means which have been brought to bear against him ? If the jury were thus prejudiced, they should look at the letters to Mrs. F., letters which were not prepared for publication, or to be put before a jury but were the outpourings of an honest and affectionate heart. The letters spread over a period of nearly ten years, written under the most unreserved circumstances and under the most confidential relations. The letters put in evidence here were selected from a number amounting to thousands, as the most unfavorable amongst them, with a view of giving light and character to this suit. They were written under excitement, brought on by traveling, physical and intellectual excitement, rivalry with other actors, and a thousand other circumstances ; yet was there in the whole, evidence of anything but the most delicate and cultivated feeling ? Was there one unkind word or thought in those letters, or even an impatient remark growing out of the non-compliance with any demands of his ? But again. What else was there in the letters ? Why, the most passionate admiration of his wife, and his preference for all who spoke in high terms of her. If a man's letters thus written and produced were fair transcripts of his character, then the jury had as fair a picture of a devoted and affectionate husband as ever was presented in a court of justice. Mr. Willis alone spoke against the conduct of Mr. F. to his wife ; he was the only human being, the solitary person of all who had been brought to the stand who heard a word to give countenance or color to that deposition. Were they not authorized then to draw the inference that Mr. F. had been uniformly kind and considerate, and therefore stood in a position which entitled him to that verdict which is always given to the kind husband ?

Counsel then argued the first of the issues, framed by him, as to the residence of the defendant at the commencement of the suit, and gave authorities, (1st. Kent's Commt., 6, Second Volume of N. Y. Legal Observer, 1840, and 19th Wendell, 13 to 15,) to sustain his propositions that F.'s declarations to his sisters, if made in good faith, were good evidence. It had been shown that he was frequently in this city ; but it must be remembered that all these litigations were pending here, and that accounted for his presence. His voting at Yonkers, after he had lived for five or six months in Philadelphia, was certainly illegal, but that fact could be explained by Mr. F.'s ignorance of the laws bearing upon that subject. The question moreover was not, whether Mr. F. was a resident of Philadelphia in 1849, but whether he was so in 1850 ; on that, no two opinions could be entertained. (Counsel read a portion of the Petition to the Pennsylvania Legislature, introduced by the other side, wherein Mr. F. swears on the 15th February, 1850, that he is a resident of that State.)

IS MR. FORREST GUILTY ?

The next inquiry was, whether the defendant was guilty of the charge made against him, and in order to find what the charges were, it would be necessary for counsel to call the attention of the jury to the complaint in the case.

Counsel then read the complaint. The whole of the charges had been denied in the answer, not specifically but generally. The jury would observe there was no lack of disposition to make charges against Mr. F. ; a large number of persons were named as having had intercourse with Mr. F., yet it did not appear in evidence that the persons so charged were lewd. He was charged with habitually committing adultery with a person on every Tuesday in 1842, and even the name of each person had been withdrawn from the record previous to the commencement of the suit. So also in the charges made with Anna Dempsey, Mrs. Martin, and others, all of which were wholly unsustained by any evidence. Counsel would now call the attention of the jury to the testimony in the case ; and after the gross, nay scurrilous charges, the evidence of guilt had been singularly scant, although any class of our fellow-citizens, and any class of testimony had been adduced. Now, if Mrs. F. had really had the information that her husband indulged in vitiated habits at places of the lowest repute in this city, what then had become of it ? Or was the jury to believe and infer, that she really never had any such information, and that she put the charges into her complaint only to defame her husband before his fellow-citizens ? Counsel would now dwell upon the testimony, and show, that not alone there was no ground for convicting him of adultery, but also that there was not the slightest ground of suspicion against him. There was an elementary work which said, that if a married woman visited a house of prostitution, it was a strong proof that she committed adultery ; and the same work added, that a married man going into such a house, was likewise liable to the same suspicion. The evidence here shown did not in the least show that the house kept by Mrs. Ingersoll, was what the English law meant by a bawdy house ; and it had also affirmatively been shown that Mr. F., if he had ever visited the house, certainly never had done so in company of a female. The character of Mrs. Ingersoll's house was to be proved by the plaintiff, what then had been proved ? Mrs. Ingersoll said that she kept a boarding-house, where men and women took rooms for a month, week, or less ; that some of the parties were married, and that of others she did not know their relations. Mrs. Russell corroborated her, and said that although the house among the neighbors had the reputation of being a house of assignation, yet she had never seen any body to excite her suspicions in the house. It was true, also, that the attention of the police had been called to the house, that men and women had been seen to go in there at different times ; and although the witnesses called on this subject, might have made up an opinion as to the character of the house, still the testimony did not show that the house was one used for the purposes of prostitution. How evidently dangerous would it be to convict a man of adultery on such suspicion. Let the jury take the case of the house in 22d street. Men had not been taken out there because they were drunk, or because there was smoking in the drawing-room or the hall ; carriages stopped at half a block's distance from the house to let out men, yet never a suspicion had been raised against that house, in which the open act of prostitution had been proved by Mrs. Flowers and Mr. Garvin. The character of Mrs. Ingersoll's house, therefore, was by no means established. But suppose the jury were satisfied as to the character of the house ; suppose they were satisfied also that Mr. F. visited it, had not Mrs. Ingersoll positively sworn, that Mr. F. never on any occasion came accompanied by a female, or had conversation with any one in the house but herself ? The case of the witness Weir illustrated the fallacy of suspicions in regard to visiting a house of ill-fame ; he had gone there for a legitimate purpose, yet, unless he had proved this, would not the same suspicion of adultery have been raised against that man, as well as against Mr. Forrest.

He (counsel) would now proceed to state how far the charge of adultery with Miss Clifton was sustained by the evidence. It was a remarkable circumstance, that this very person, who, after having long ago been respectably married, had since died, should have been made the target of so violent attacks. Mr. Allen was the first witness in regard to Miss Clifton. (Counsel then read the testimony of Andrew Jackson Allen.) There was nothing in the testimony to convey an impression that anything improper had taken place between them in Richmond, Va., beyond a solitary kiss, and a famili-

arity which might be explained by their long friendly intercourse. As for the occurrence in White street, Mr. Allen himself might as well be suspected of having committed adultery with Miss Clifton, and neither his denial nor his age could have saved him from a conviction of that offence, for he was shown to have been in Miss Clifton's bedroom, whilst Forrest, who called as Allen went away, was not shown to have been further than the hall or the staircase at furthest. As for the testimony of Mr. Foster of Rochester, it had made so little impression on his (counsel's) mind, that he had not even asked Mr. Foster to stay in order to cross-examine him. The jury must bear in mind the difference in dress between actors and other people. If the jury were to see him (counsel) dressed up as Metamora, they would consider it a most extraordinary exhibition, whilst if they saw Mr. Forrest dressed that way, they would consider it a matter of no moment. If they were to see a lady of their acquaintance with her petticoats up to her knees, they would set her down as very indecent, but if they happened to run against Lola Montez or Miss Elssler, with not half as much dress on her (laughter), they would think it very proper indeed. So too with kissing on the stage, which common mortals would have imputed to them as a strong proof of adulterous habits, whilst on the stage it did not even elicit a remark. These remarks would bear upon the conduct of Mr. F. to Miss Clifton at Albany; they felt under less restraint, and acted in a manner so open and unconcealed, that no wrong could be inferred from it.

Counsel next came to the testimony of Dr. Hawks and his wife. Miss Clifton had been shown to have been very sick in the cars, and that she was attended by Mr. Forrest, who asked Mrs. Hawks to go for a short time from the private saloon where she was, and when he was left alone with her and a maid servant. The monstrous assertion, that during Mrs. Hawks's absence an abortion had been practiced, was in keeping with the general character of the complaint, for if even a miscarriage had taken place in the cars, why call it an abortion, when there was not the slightest proof to sustain that assertion? Respectable physicians had, however, shown the sickness of Miss Clifton to have been her natural menstruation, and that no scientific man could possibly infer, from the symptoms of Miss Clifton that a miscarriage or abortion had taken place. Counsel on the other side, however, would call upon the jury to frame their verdict upon this very circumstance, and would argue that if a lady even was desired by Mr. Forrest to leave the saloon, how could Mr. F., a married man, be allowed to stay there, without a criminal understanding between them? Counsel would only say, that there was no proof of the presence of Mr. Forrest in the saloon, unless the jury would infer that fact from the assertion of Mrs. Hawks that she had not again seen Mr. F. until he called her back to the saloon.

It would now become the duty of counsel to touch upon the last witness in the case, one who had come it remarkably strong—he alluded to Mr. Wm. M. Doty. Before commenting upon it, he would say, that all the prior testimony had failed to show that Mr. F. and Miss Clifton had ever been seen together, but at a late hour, when all the testimony was presumed to have been in, when Massachusetts, Connecticut and New York had been ransacked, Mr. Doty presented himself to the Jury. This individual said—(Counsel then read Doty's testimony.) Thus Doty described the circumstance on board the Albany. If he had not contradicted himself at all, the story would not have found belief. There was not a married man or an unmarried woman so degraded in this city; there was not so common a profligate in the United States, in the shape of a man, who would be guilty of such gross conduct. But one test of the truth of a witness is the facility which he afforded to contradict them, if it could be done. Mrs. Flowers, for instance, had furnished every information about her doings, but how did Doty compare with her? He did not know whom he had informed of what he had seen; gave the Christian names of a few, but professed not to know the surnames; could not tell who were the passengers on board the boat, and only named a solitary "theater loafer" of Charleston, as having informed him of it. Yet after saying that he had told all these persons, and a hundred thousand besides, he added, on inquiry, that he had denied to Mr. O'Connor knowing any thing of the case, and now swore that he did not like to make the matter public. But let the jury look at the impeachment of Doty; one of his own witnesses had even said he would not believe him under oath, if he was in the least interested. There was, however, a readier way to dispose of Mr. Doty's testimony; if three hundred persons had known of the circumstances, the city would have sung of it, it would have become a matter of notoriety, and Mr. Forrest and Miss Clifton would have been mobbed long before they left the boat, for such outrageous conduct was not suffered on board the North River boats.

Mr. Doty subsequently found it necessary to change the year when the occurrence took place, for it was idle to retain the time when it was conclusively proved that the Albany had not been altered into a night boat until 1844. Whilst he changed the year, he still clung to the date of the 4th of July, his *functum tempori*, stating that he had spent that day with his mother, at Rochester, and had returned straight back to New York, when it was at the same time admitted that Mr. Forrest, accompanied by his wife, did not return to this city until the 17th July. The very painful feature in this case was, that Mrs. Forrest had allowed Doty to change his year when she knew perfectly well that he could not have been present on the North River boat at the time when Doty swore to.

Dr. Quackenboss sustained the proof of Doty's perjury by showing that during the whole of the summer, 1844, Miss Clifton was sick in bed, and could not possibly have been where the witness swore her to have been. There was, however, no object in dwelling further on the testimony of Doty or the plaintiff; he (counsel) had endeavored to show that cruel as had been the course of the other side, it had utterly failed, and recoiled with immense force upon the plaintiff herself. The grave of Josephine Clifton has been desecrated; her life, which formerly bore no stain, had been held up to public view at a time when her lips were sealed by death from replying to the charges.

IS MRS. FORREST GUILTY?

Counsel would now proceed to the charges against Mrs. F. It had been said that she was the real defendant in this case, and, if that was true, she had at least the advantage of having the last proof and argument. He (counsel) would endeavor to show the truth of the charges of adultery on her part with Mr. Jamieson, Captain Howard, and Nathaniel P. Willis. There were other charges, but he would mostly confine himself to the parties stated. Counsel would beg the jury once more to cast aside all prejudices. It was an occurrence of frequency that juries made compromises by either acquitting or convicting both parties, but he hoped that strict justice would be done in this case. To appreciate the charges and to understand how women of her intellect and standing could debase themselves in such a measure, the character of the woman must be gone into, her associations and habits must be shown, as they mainly gave coloring to the charges. The first inquiry would be, who were Mr. and Mrs. Sinclair? He was a man of humble origin, and that was a credit to him if he behaved himself, but he lay drunk in one part of the house of Mr. Forrest, whilst Mrs. Sinclair was lying behind the door in another part. The sister of Mrs. Forrest was shown to have been in the family way before she was married; and Miss Virginia spoke for herself, inasmuch as she attempted to degrade her benefactor, Mr. Forrest by mentioning his connections with people of vulgar habits or humble origin. (Counsel read part of Miss V.'s testimony and commented upon the carelessness in giving her testimony, in positively denying every fact which had been proved by the witnesses for plaintiff.) Mrs. Forrest was a shrewd, acute woman, one which the world called "world wise," yet this was by no means the highest praise which could be bestowed upon a woman. She would have been wiser, had she preferred the company of her husband to that of the miserable creatures with whom she used to associate. It was undisputed that men had slept at her house while her husband was absent; she was shown to be a free liver, and although counsel would not say that she was positively intemperate, yet it had been proved, that she indulged freely, if Mr. Lester was to be believed. As for her smoking, the Court and many others attached not much importance to it, yet, although there might be countries where women were habitual smokers, yet the English were uniformly against this practice, and he (counsel) had never seen a woman of that nation indulge in the manner described. As for her associations, it had been shown that most of those who visited the house had not the slightest acquaintance with Mr. F., yet, the ridiculous theory was put up by the defense, that she was the means of procuring an eminent social position to her husband! Let the jury look at the testimony of Mrs. Willis, as to the manner in which they spent the night at the house in the absence of Mr. F. Their practice was quite ahead of his (counsel's) time, and what would the jury say if any such orgies had been carried on at their house and in their absence.

Having now described the habits of Mrs. Forrest, counsel would now revert to her sentiments by reading a few extracts from her letters. (Counsel argued from the previously reported letter to Mr. Lawson, that Mrs. F. argued and admitted the propriety of a husband's indulging in his fancies, allowing it to the jury to infer, that what she admitted on the part of one, would by her be found excusable on the part of the other.) The illustration of Mrs. F.'s character having been thus completed, counsel went on commenting upon the truthfulness of Mrs. Forrest, asserting that her affidavits in this case had brought forth frequent violations of it. Counsel pointed out the part in Mrs. F.'s affidavit in

relation to Mr. Magoen, also in relation to the scene between herself and her husband on the night of the 18th January, after returning from the party given by Mrs. Voorhies, and in relation to her difference with Mr. F. about Macready, contending that she was contradicted in every one of these statements by the testimony on the case, and her own letters. Counsel then referred to the statement of Mrs. F. where she says Lawson had informed her that Mr. Forrest, on being inquired of by him if there could any guilt be imputed to his wife, replied, "No, no, would to God there was." The affidavit of Mrs. F. set forth that she would bring two respectable witnesses besides Mr. Godwin to prove this, but where were those witnesses? Mr. Godwin had been examined, and had denied having heard Mr. Lawson say so; the latter himself had most unqualifiedly contradicted her, and of the other two respectable witnesses no further mention had been made by the plaintiff. The Court here interrupted counsel, and adjourned the proceedings for the day.

TWENTY-NINTH DAY.

WEDNESDAY, January 21, 1852.

The Court opened at 10¼ o'clock, a dense crowd of spectators surrounding the court-room, a few of whom only were allowed to enter. Anna Flowers, accompanied by Mr. Dogherty, came in shortly after the Court opened.

Mr. John Van Buren resumed his argument by calling the attention of the jury to the solemn statement made by Mrs. F. to her husband, in regard to her fidelity to him and strict adherence to the duties of a wife. She said that prior to their separation Mr. F. had never questioned her fidelity, but that in the month of October following, he at her request drew up the awful statement which subsequently, she insinuates, had been antedated by him and falsified by adding something above her signature. Counsel then allowed the jury to inspect the document, showing that there still remained a space between her signature and the body of the letter, arguing that the date was entirely immaterial, since she herself stated that the document had been drawn up before this separation.

Counsel would point out another contradiction. Did she agree to keep silent as to the cause of the separation, and did Mr. F. make a similar pledge? That Forrest did so was obvious, for his sister even did not know the reason, nor did that zealous friend Lawson, although he importuned him day and night on the subject. (Counsel read a portion of her affidavit, wherein she denies having made an agreement with Mr. F. to keep secret the causes of her separation, and then read a letter of hers to Mr. Lawson stating that she had made the solemn pledge not to reveal the causes to any one living, which she repeated in the letter of December 24th, 1849, to her husband in Philadelphia, denying that she had refused her most intimate friend to name the reason.) And in the face of all these assertions, had she not told Lawson, had she not told Mrs. Willis, and spoken freely on the subject? If then the jury had reason to believe that Mrs. F. was unreliable in common statements, and unreliable under oath, the jury had a guide to the truth of the criminal charges.

Counsel would now pass to the testimony which had been introduced to substantiate the criminal conduct of Mrs. F. He would first dwell upon that of Mrs. Underwood. Much had been said against her, and it would be necessary to understand the precise nature of the connection between her and the plaintiff. She was shown to be an early friend of Mrs. F., an acquaintance of her father, nay more, she had even introduced her to Mr. James Harper, whom counsel named as one of Mrs. Forrest's most valuable acquaintances. At a later stage, when the separation was talked about, Mrs. F. kept her with her, told her not to go to Mr. F., but to remain and share her last dollar. Hence it might be inferred that the obviously friendly feeling existing between them, would prevent her from testifying to anything but truth. True, Mrs. Longstreet did not recollect her observation about the hairy faced men, but what had that to do with the case? Moreover, the more important testimony of Mrs. Underwood was substantiated by the witnesses for the plaintiff; R. Willis admitted that he had been sleeping at the house even oftener than testified to by Mrs. U., and the sitting up all night had been freely admitted by Mrs. Willis, who formed one of the party. It must not be lost sight of that most of her testimony was based on the declarations of Mrs. F. to her; so in regard to the interference of Dr. Wainwright, and the three nights' concealment in the house of Richard Willis; and she would not be held accountable for any untruth on the part of the plaintiff.

As for the testimony of Robert Garvin, counsel would attach no sort of belief to the statements of servants after they were discharged by their employers, but here, corroborated as Garvin was, there could not be any possibility of doubt that he was truthful. It had been called out from him upon his cross-examination, that he told Ann O'Brien of what he had witnessed in the drawing-room in 22d street, between Mrs. F. and N. P. Willis; he had thereby furnished the means of being contradicted, but the plaintiff had omitted calling her as a witness and the jury might take the whole as truth.

After dwelling for a short time upon the testimony of Capt. Calcraft, Counsel went over to that of John Kent, detailing the occurrence in Mr. Willis's house which he had witnessed. Why not had the plaintiff, instead of raising theories that Mr. Willis might have bid good night to his daughter Imogene, in the endearing terms mentioned, instead of to Mrs. F., got Mr. Willis to swear that all that portion of the testimony was untrue, if he dared to do so? Kent was confirmed in all his statements about this occurrence, and the very diagrams produced by plaintiff tended to substantiate the truth of his testimony.

Counsel would now touch upon a circumstance which fixed the guilt of Mrs. F. beyond all doubt—it was the fact, that Willis was seen with her in the library of the house in 22d street, in the absence of Mr. F., with his arm over her shoulders, and leaving the room with her twining his arms round her waist. This was sworn to by three different witnesses, how then could the plaintiff get over it? Was there any reason for the Jury to disbelieve Mr. Deming, who had been put on the stand without any knowledge on the part of the defendant as to what he would swear to? On the cross-examination it had been proved by the witness that Mrs. Germaine had been present when he saw the occurrence, and who, together with his own wife, Mrs. Deming, had testified to the same fact. The testimony of Mrs. Flowers, Anna Dempsey, was that, which Counsel would now have to dwell upon, and he would point out whether and to what extent that witness had been impeached. She undoubtedly had forgot, that she lived with Mrs. Dickinson, but what object could she have had in denying her presence in that house? She was then only 11 or 12 years old, had since then been subjected to a severe attack of illness and it was for the Jury to say if this would not have affected her memory at that tender age. Again, an attempt had been made to attack her chastity, and he (Counsel) would have to comment upon this. She had been to the House of Refuge, had been bound out but returned by her employer because she was disobedient, and her statement as to not having stolen money from her employer remains uncontradicted by any testimony, was then the Jury to find an impeachment in these facts? What then had been proved against the chastity of Anna Dempsey? Why, that during a period of nine years she had once ran into the room where Dickenson and Curzon sat, she being in a loose dress! Did not this speak volumes for the character of that child? True, it had been sworn to by Mrs. and Miss White that she had been in a room with two men, and locked herself in with them, after having turned Miss White out, but one of the very persons named as having been with her, had been produced on this stand, and had unqualifiedly denied the allegation. And how was her character sustained? Moore, with whom she had lived before going to Mrs. F., gave her a good character, so did Mrs. Brooks, for whom she had worked; also Mr. Hants and Mr. White who knew her at New Orleans, and never saw anything lewd or improper in her conduct.

Had her intercourse with Barney M'Cabe been sustained? Was there anything in the story of Mary Levins, if even assumed true, that Anna had intercourse with that wretched creature, Barney? Suppose Barney had, as alleged, sneaked into her room, was it not natural of Anna to stand in the position in which she was found to defend herself against his vicious attempts? Mary Levins was the only person who swore to the "smutty talk" of Anna, was it not possible that her affection and gratitude for Mrs. F. might have made her misapprehend the tenor of that conversation? Would Mary Sinclair have petted that degraded child? would she have corresponded with her, if she had known her to be so bad a character?—nay, would Mrs. Forrest have taken her into her bed, had she known the vitiated disposition of Anna? There was another contradiction in Anna's statement as to the manner in which she was got with child. She says that after she had seen the adultery of Mrs. F. she was left alone in the house, and Capt. Howard came there and asked for some brandy and water; this was corroborated by Mrs. Levins, except as to the second night which the latter did not recollect. But suppose Mrs. Levins was erroneous about the day, if instead of the first day, Mrs. M'Cann had been with her the second day, and that during the first day she was away from home, then the testimony of Anna was fully corroborated. (Counsel then examined and commented upon the testimony of Anna Flowers, bearing upon the circumstances attending her witnessing the act of adultery by Mrs. F.) If Anna's story was natural, if there was no after witness to testify to the same thing, was there any thing in the improbability of the story which could influence the jury to discredit her? Her corroboration lay in the treatment of her by Mrs. F. after the occurrence, which had been so amply illustrated in the testimony. (Counsel then read the affidavit of Barney M'Cabe.) Counsel thought that Barney had been drunk when he was called to the stand, at all events he himself had proved that he was drunk when he called at Mr. O'Connor's office, and he certainly was particularly drunk

when he returned home,—so at least his boss had informed him, no doubt on good authority. Counsel therefore might safely say, that Barney's evidence was utterly worthless, to say the least of it.

Counsel then adverted to the scene in Mercer street, which he described as unimportant, and merely illustrating a wish on the part of Anna to see Mrs. F. and tell her the precise truth of what she had already stated to Mr. Forrest and his counsel. Did she invite Mrs. F. to come alone? Was there any trickery? Was there any desire to extract from Mrs. F. an admission of a circumstance which had no foundation? The simple object was to ask Mrs. F. to come there and see the witness face to face, and there never had, to the present time, been any reluctance on the part of Anna to face those whom she accused, and to take the consequences of such assertions.

What was the course taken towards Anna Flowers after it was ascertained that she was with child? Instead of discharging this girl, whose language was filthy and smutty—instead of discharging her, who was worse than a common prostitute, for she slept with Barney, they kept her—allowed her to remain till April a lady-boarder in the house; after Mr. and Mrs. F. had left for Europe she remained there doing nothing, and when the time of her confinement arrived, she went, by the advice and desire of Miss Margaret, to Connecticut, and there she was confined at a respectable house. Who paid the expenses? Barney? no, by Mr. Raymond, Godwin, Miss Sinclair, and Capt. Howard. Why, Barney had attained eminence by being put at the head of this literary coterie (loud laughter); Barney's child was dressed in merino (laughter)—rather an unusual clothing for Barney's children. The child had been christened; what? Barney? No; William Henry, probably after his real father, Capt. Howard. What was then done? A complaint was instituted by Anna, as her child's maintenance had not been provided for; she made the complaint; but subsequently, through Raymond, an agent of Capt. Howard, an arrangement had been made, and he himself had furnished the money, partly through Miss Sinclair, partly through Raymond. Why had the surrender of Miss Sinclair's letters been made the subject of separate contract? Why had Mr. Voorhies even followed Anna to New Orleans to obtain the balance of the letters? Why had, at a later period, Parke Godwin advanced \$15 for the clothing of the child, and its being sent to New Orleans by order of Capt. Howard? Was it likely, then, that Barney was the father of the child? And why did not Mrs. F., on hearing that Capt. Howard was the father, say to him, "Sir, you have disgraced my house, never come into it again?" Why not, also, did she order Anna to leave the house, unless that girl's bosom contained a secret which she could at any time use with the most stunning effect upon her? What, also, was the jury to infer from the absence of Capt. Howard and Mrs. Voorhies? Where were these persons who had ample notice given them that their character, their fame, was to be made a question in this controversy? Why were the Curzons, the Dickinsons, the Rochester and East Boston witnesses, the Doty and the Barney, the Whites, and all the prostitutes, put on the stand, when the principal witnesses could be procured at so much less an expense? Why were these numberless witnesses brought to bear upon the character of that poor, friendless girl, Anna Flowers, unless it was for the awful conviction, that her testimony alone would blast the case of the plaintiff? But these witnesses would not succeed; Anna stood firm; her testimony bore on its face the stamp of truth, and the learned counsel would find, that so far from being discredited by the jury, they would find her the Flower of their Forrest instead of his. Recess for ten minutes.

Mr. Van Buren re-commenced by calling the attention of the jury to the only remaining charges against Mrs. F. in having committed adultery with Jamieson, and first pointed out several passages in the affidavit of Mrs. F., which he contended were contradicted by the deposition of Mr. Smith, of Cincinnati. The jury would remember the violent struggle for the introduction of the letter sent by Jamieson, and known as the famous "Consuelo letter." Counsel had held out to the jury, that the letter might be the result of a conspiracy between Forrest and Jamieson, to place such testimony in his hands as might enable him to convict his wife of adultery, and with a view of showing the conspiracy the Forney letter was introduced. It would now be proper for him to comment on this letter (counsel read the deposition of Forney and the letter), contending that the letter showed conclusively that Mr. F. did not want Roberts to get from Jamieson the confession of a falsehood; was there any suggestion in that letter that fabricated evidence was to be obtained, evidence, moreover, which could never be received in the trial of the cause. Whatever might be said in regard to the prudence of this matter, no man who knew Forney, would hesitate to testify that he was convinced of the guilt of Mrs. F., and that he supposed this way of getting the proof an honorable one. It would be proper to add that no admission of Jamieson had been procured or attempted, and that the Consuelo letter was in the possession of Mr. Forrest long before the letter to Roberts was written.

It only now remained for counsel to advert once more to the Consuelo letter, which he read. If the letter contained simple declarations of admiration, or even declarations of culpable love on the part of the writer, she might still be innocent; but this letter referred to her own declaration of a return of this love, and could then possibly the theory of innocence be maintained? What was the consolation that she was to whisper to herself? why, that of their past intercourse, their illicit love, which their separation had interrupted. Reminded of her love in times past to this man—inquired of whether when again united their triumph was to be sealed with a kiss, could Mrs. Forrest still be innocent of the charges brought against her? Had she but handed the letter to Mr. Forrest, and informed him that Jamieson must be crazy, since she had no recollection of the circumstances or feelings to which he alluded in his letter, her course would have been that of an honest and virtuous woman; but what did she do instead? Why, she kept up as great, if not a greater, intimacy with Jamieson, and concealed the letter. He (counsel) did not know what might be necessary to substantiate a charge of adultery, but if these incontestable proofs of criminality were to be given without calling to the stand the only man who could explain them, how could the inference of guilt be removed? Counsel then read a portion of the correspondence between Mr. and Mrs. F., with a view of showing that every inference was rendered unnecessary by an admission of her guilt, by not denying the charges of Mr. Forrest until several days afterwards, when she did so by the advice of Mr. Godwin.

Having thus gone over the testimony, counsel would call the attention of the jury to several circumstances which surrounded this case. He adverted to the silence of Mr. F. on the subject of his wife's guilt for so long a time, and regretted that this very silence should be made to bear against him now. Why had not Mrs. F. brought forward the numberless respectable ladies and gentlemen of her acquaintance to show her good general character, and contradict the assertions of Garvin and Mrs. Underwood as to the manner in which her house had been kept? Who had been the men with whom she kept the most intimate friendship? Why, the first was Andrew Stevens, with whom she kept so close a friendship indeed, that she borrowed money of him, and called him her "dear friend." The same was the case with Mr. Burr, and Lawson seemed her next intimate friend, for she said, that he alone could communicate the fact of her separation to her father, yet all these men had left her, and why? because *they*, too, saw that she was guilty of the charges brought against her.

After some further highly eloquent remarks to the jury, in which Mr. Van Buren expressed his hope and conviction that they would give his client a verdict, he concluded by the following words—But, gentlemen, I am to be followed by a counsel whose acuteness is of the subtlest kind, and well known. He is again to be followed by the Court—perhaps an unfriendly Court. Long before you retire to the jury-box the sounds of my voice will have died away from your ears, and I fear the arguments may have passed from your recollection. You will for hours, and perhaps for days, be addressed by them, but I simply ask you to recall the suggestions, if possible, that I have made to you, and you will be enabled to decide this case justly and righteously, and then I am entirely content with the verdict you shall give.

As Mr. Van Buren sat down, the Court said, "You have omitted to speak upon one subject."

Mr. Van Buren—The alimony? Court—Yes, sir. Mr. Van Buren—I have nothing to say upon that.

Court—Perhaps I ought to remark, I am not in the habit of interrupting gentlemen, but I did not see the pertinency of the exclamation of counsel in his closing sentence about the Court being unfriendly. It is a very unusual observation for the counsel to make, and it attracted some attention.

Mr. Van Buren—I very much regret that I attracted special attention. It was a mere inadvertent remark.

Court—It don't much affect me. At the same time it is travelling out of the legitimate path of the counsellor.

Mr. Van Buren—I hope the Court have known me too long to suppose it was an intentional offense.

The Court then adjourned.

THIRTIETH DAY.

THURSDAY, January 22, 1852.

The Court opened at 10½ o'clock, with a larger audience than ever before.

Mr. O'Connor then proceeded to sum up. He commenced by saying to the court that early attention had been directed to several things which might have been complained of, but had not been so by him. He begged to say that it had been his desire to avoid everything that did not directly bear upon the persons now on trial; he avoided also with the greatest strictness everything which could give rise to a ribald jest followed by a ribald laugh. He had never complained of anything which he or any others might deem a transgression from the rules of the court, which if not observed made it impossible to observe that rigidity of decorum which was so necessary for the administration of justice. He had not complained of the tragedy which had been enacted or the farces that had been played; but there had been one departure from propriety that might entrench upon the intrinsic rights of his client, and which might materially affect her case. He (counsel) would therefore complain of this last impropriety, consisting of the attacks, not upon person, but upon the reputation—he meant the remark of yesterday, the remark upon the probable unfriendliness of the court. He (counsel) imputed this remark not to his learned opponent, but to the voice, the instruction, the will of his client. This was the last impropriety, and he hoped that there would be another—a denunciation of the twelve men who by this verdict had to stamp the seal of truth upon one or the other party. He complained of this last impropriety as a transgression upon the right of his client; both counsel had come here, and had stood up for five or six weeks in behalf of his party, as their champion, both counsel came with the assertion and the deep conviction of being right, both made contradictory statements—how then were the jury to come to a righteous conclusion except it be through the court as an arbiter? He (counsel) had expected that the enlightened judgment of the court, which no counsel had ever questioned, a judgment so marked by sound common sense that it went right to the heart, he (counsel) had expected from the outset that the common justice which for twenty-five years had been extended to every applicant, was to be meted out in this case also; and that where counsel were at conflict the scale would be righted by the court. He trusted, he prayed—nay, he demanded as common justice, that the court by the last violation of propriety be not turned aside from that impartial course which had been exhibited by him before during this trial.

The case was now drawing to a close; nothing but a few remarks proper to the evidence in the case yet remained to be given, and he (counsel) would do so calmly and dispassionately. There might be some trouble in doing this, for there are passages in the testimony on which it was easier to remain silent than speak. The jury were much interested in a case like this. The controversy was between two individuals, and might have been tried as was usually done by a simple inquiry into the acts of both parties. That course had not been adopted. By the one side, numberless individuals had been drawn into the case, and the plaintiff was obliged by that action to call into court such witnesses as would defend the parties thus called to trial. He was bound to say, that he once heard from the jury box the expression, "Have mercy on us;" he had heard on occasion, "We have been here four weeks already;" and he had therefore been constrained to close his case without further embarrassing it by repelling testimony which had nothing to do with the issues on this trial. After being addressed by him, the jury must consider themselves as having in their hands the destinies of many. There was old Mr. John Sinclair and his wife, distant from this country, retired from the stage of life, and having nothing left on earth but the affection of their children. There, too, was Benjamin F. Sinclair and his wife, and their bright little child now in sunny Italy; the verdict of the jury was to make the mother a prostitute, the father a blackguard, and the son a bastard. They had also the fate of Virginia in their hands; she, too, was to be contaminated; she, too, was to be drawn into this gulf of infamy. There was another person whose destiny was to be decided by this verdict—it was Mrs. Forrest herself. Captivated by the art, the fame, the appearance of the young American, she had intrusted her hand to him, and for eleven years had shown a conduct which even the most villanous attacks could not defame. There were the parties standing around the jury who claimed the first consideration of the jury; he would afterwards call their attention to the remaining parties, who were to be condemned by this verdict. It certainly was extraordinary for the jury to see so many individuals in one scale, and a solitary person in the other, who still claimed this commiseration.

THE ISSUES.

Counsel then called the attention of the jury to the issues raised by the opposing counsel. The first two had been gone over with surprising quickness by Mr. Van Buren, and he (counsel) would now take the liberty of stating his views of the same. The first question was, was the defendant a resident of this State at the commencement of this suit? It had been sworn to that Mr. F. was a native of Philadelphia, but it was also true that he was many years a resident of this State. It was to be supposed that Mr. F. had been advised, that his nativity of Philadelphia gave him the right of calling himself ever after a resident of that State, by merely calling himself so, and it was only in view of this extraordinary power of will that his oath of his being a resident of that State on the 1st June, would be explained. At that very time Mr. F. was engaged in the erection of his lovely mansion on the river Hudson; from that time he has made no attempt to part with it, and according to the testimony of all witnesses, for defence as well as for plaintiff, he was as frequent a visitor at that place as any man possibly could be. This shows that he had by no means abandoned his design of making the Empire State and the Queen City of the New World his residence. Again, it had been stated that Mr. F. had not continued his improvements there, but the plaintiff had called Mr. Milburn, the principal decorator, who proved that he had not been introduced to Mr. F., nor had even contracted the work until June, —, after the date when Mr. F. swore he had made Philadelphia his residence. The deposition of Mr. Charles U. French stated that in Nov. 1849, Mr. F. purchased at the store of Mr. Leeds, in Wall street, two sofas, and directed them to be sent to his residence at Fonthill. This testimony alone was sufficient to break down the unfounded pretence; but counsel would go farther, and show that on the 4th Nov., 1849, Mr. F. went to the poll at Yonkers, and there put in his vote as a resident of this State. And was this to be explained by the ignorance of Mr. F., by the child-like belief that he could vote at any place he had a mind to? There would be some reason to indulge in the belief that he labored under such a delusion, if his counsel had been able to show that F., after voting at Yonkers, had come to this city and voted again in the 18th Ward, where his city property were situated. Was it possible to suppose that F. was so ignorant of the laws of his country, the violation of which would subject him to a criminal prosecution and imprisonment in the State prison? Counsel quoted an authority showing that the exercise of franchise was the conclusive evidence of a man's residence.) What was the offset to all this proof? Why, the simple fact, that from the time that he began life as an actor, he had a room, called his room, at the house of his sister, in Tenth street, Philadelphia, with the additional fact, that he came there in June, 1849, and said, "I have now no other home than this," and slept there about half the time. It had, however, been shown that he slept there as frequently before that time, and this brought back the question, did he change his residence, for he must have changed it then, or never? Counsel then referred to the two affidavits of Mr. Forrest, one of them stating that he was a resident of Pennsylvania, while the other, at precisely the same time, showed him to be a resident of this State.

At the precise point of time when he ceased to be a resident of this State, he demanded a divorce from the Pennsylvania Legislature. Mr. Sedgwick stated that even at a later period than this—1850—it was Mr. F.'s wish not to go to the Legislature, but go to the Courts of Law, in Philadelphia. That would have been rather an inconvenient operation, for as the law of Pennsylvania then stood, he had to be a resident of the State for two years; and as the law now stood, he must be a resident of the State for one year at least. This was a sufficient proof that he never entertained any view of prosecuting the divorce in a Court of Law. His changing the residence, if ever it had been done, was therefore to give certain coloring to his application for divorce upon the Pennsylvania Legislature. Counsel read the opinion of Hon. Judge Edmonds, in the motion for an injunction to restrain Mr. F. from prosecuting his divorce suit in Philadelphia, on the ground that the going of a party to another State, for the mere purpose of getting a divorce, was a fraud on the law.)

HAS EDWIN FORREST COMMITTED ADULTERY?

On going to this issue, he (counsel) must say that the defendant had been happy, very happy, after the plaintiff had proved enough against F. on this issue of infidelity, to have condemned the whole swearing army, but indeed any number of human beings, it became the plaintiff's lot to be advised by a person not known even to Doty himself, to call that person as a witness, although counsel did not know if he would be a better witness than Kate Western or Mary M'Laughlin. Doty had furnished to defendant some material on which the defendant could call witnesses and make an argument. This testimony, however, was wholly immaterial, for what was the use to pile a vessel after it was full? Yet, counsel was not in the habit of throwing away testimony which might possibly do good and could do no harm. He would now call

their attention to Doty's testimony, as the least important and only part of this evidence, which had been contradicted. Doty, if believed, proved an act of distinct adultery committed in a brazen-faced manner, and it was on that very ground that counsel on the other side sought to impeach it. But was the brazen-facedness a proof of its untruth? Let the jury refer to the statement of Mr. F. made in answer to this complaint, under advice of counsel, when he said, "that he did *not* commit adultery at the times or places stated in the complaint;" this was what lawyers called a "negative pregnant." Suppose a man was charged with having at a certain place and time stolen certain things, and he answered that he did not steal them at the place and time stated, was not this an affirmation rather than a denial of the charge? Mr. F. did not, therefore, attempt to deny the accusation, and was then the story of Mr. Doty improbable? The daring act had been adverted to; true, there were a great many people would not commit an outrage on propriety, but others would, as bold and bolder even than the occurrence referred to. Of Miss Clifton the jury knew nothing but that she was dead; of Mr. F., the five weeks acquaintance which the jury had with him might speak for itself. Another characteristic of his was displayed in his visiting the house of Mrs. Ingersoll, though a married man, and choosing broad daylight even to make these visits, nay more, even after the commencement of this suit, he had continued these calls, and in the face of these damning facts, would the jury say that Doty was not to be believed because the affair which he detailed was too bold a one? Which argued the greatest audacity? On the steamboat he was seen for a moment only, going into the state-room, which he never left often; but here the jury saw him the almost daily visitor of a bawdy house, in the face of heaven and all mankind.

In regard to the date, Doty was most manifestly mistaken. The error in the year had been satisfactorily explained by him, for to contradict him he had stated where he lived and with whom he was employed. The other side had established, that in 1843 the occurrence could not have taken place. (Counsel then commented upon the testimony of Mr. Doty, allowing that he must be mistaken in the date, but that the jury was from that fact not to infer the untruth of the whole story.) As for the character of Doty, it stood as fair as that of any witness. All those who, on the part of the defendant, had testified to having heard ill reports about Doty from others, were impeached by those persons, and the only exception to this, Mr. Hollister, had been shown to stand A No. 2, when the same witness thought it doubtful whether Doty might be classed A No. 1. If, however, the statement of Dr. Quackenboss was correct, Doty must be clearly wrong. But could not Dr. Quackenboss be mistaken? He was a witness for plaintiff, and he (counsel) was not going to say anything about him; but after attending here with remarkable fidelity, the jury found him in conversation here on Saturday with Mr. Dogherty, the friend of Mr. F., the travelling companion of that amiable child Anna Flowers. (Laughter.) What had become of the book which Quackenboss exhibited to Mr. Dogherty? The gig had not stolen it, Anna Flowers had sufficient to account for without being encumbered with the theft of the book; it might therefore be fully inferred that Mr. Dogherty in his friendly feeling had taken good care of the book, and would make it come forth at a time when it no longer could be used on this trial. (Loud laughter.) The loss of documents had too often impeded the course of justice, and he (counsel) trusted that the loss of Quackenboss's book would not have the same effect here. As the doctor mainly relied for his recollection upon that book, he might well be mistaken now that he had it not here to refresh his memory by, or else the jury must conclude that Doty had committed wilful and corrupt perjury.

Counsel would now proceed to the examination of the other testimony, exclusive of that of Mr. Doty. The defence might be properly called a masterly inactivity, for not alone was the omission to deny the offence, but also a total omission to cross-examine any witness for the plaintiff, and as they said, an utter failure in shaking the testimony of their witnesses or raising any discredit against them. The jury would be aware of the great difficulty of proving adultery in a case like this, when the offense was charged as a habitual visiting of houses of ill fame; the evidence to sustain this had to be taken from those very dens of infamy, and people must be brought on the stand who testified reluctantly, since they drew their support in life from the vicious habits of others. Who are the witnesses through whom the adultery of Mr. F. has been established? The omission of the denial of the offense was sufficient proof; but the law deemed it necessary that to it should be added further proof, to prevent collusion among the parties at issue. Who were the witnesses? Mr. Andrew Jackson Allen, whose manner of testifying had elicited the mirth of the audience, had shown the manner in which Mr. F. and Miss Clifton travelled together. (Counsel went over the testimony of the witness.) His testimony left open the question, whether the last offense had been committed then; but the jury who would disbelieve that, and still convict Mrs. F. upon the testimony which had been adduced against her, would do the most signal injustice. Next to that of Allen, in gravity, came the testimony of Dr. Hawks and his wife. The medical opinion introduced by the defence proved that the *medical* evidence of the occurrence in the cars might as well bear out the fact of a simple but peculiarly laborious menstruation, as that of an abortion. But there was another fact in that occurrence which the medical witnesses had overlooked, and that was, that a single lady, laboring under the circumstances described, should request a married gentleman to ask a mother, an elderly lady who was sitting with her, to leave the saloon, that she might be alone with the gentleman, in order that a matter of some kind be performed. It was this circumstance which Dr. Hawks took into consideration when making up his opinion as to the real sickness of Miss Clifton. (To fix the date counsel read the letter of Mr. F. to his wife, Oct., 1842.) In addition to this testimony, although in itself sufficient, there was the testimony of Mr. Foster, of Rochester, a respectable merchant. This evidence was altogether inconsistent with the innocence of Mr. F. He saw him come in his shirt, with a cloak thrown over his shoulders, out of the room of a female, whose face he saw and imagined as that of Miss Clifton, and the only explanation given by counsel was, that actors are in their habits and dress different from other people. Did the defendant pretend that on the morning in question he had rehearsed the part of *Metamora* with Miss Clifton (laughter), and was the jury to believe that Mr. Foster had mistaken the garb of *Metamora* for the shirt and cloak of Mr. Forrest? How much more was needed to settle the question about Miss Clifton? but he (counsel) had done with her—he had felt pained to dwell upon the dead, and would not have done so but for the protection of the living, whose reputation was threatened.

What else remained to be said? He (counsel) had now to advert to testimony which rendered the guilt of Mr. F. so conclusive, that it might well be said, he (counsel) had spent his breath in vain in dwelling on the previous points. It was the fact that from the year 1846 up to some time in 1851 he had been the habitual frequenter of a house of ill fame. The counsel on the other side had admitted that his client had visited the house once or twice, and called upon the jury not to convict, as the going into the house did not necessarily prove adultery; counsel also said that Mr. F. might have expected to find a woman there, but the testimony of Mrs. Ingersoll shows conclusively that he had been disappointed. What remarkable perseverance poor Mr. F. had displayed in going to that house at least once a month for four years! Did it not look as if he liked the disappointment? (Counsel here dwelt upon the testimony, bearing on the character of the house.) So much, then, for the issue against Mr. F.; and he (counsel) thought it would have been fairer had the other side admitted the fact of the conclusive proof, and had restricted themselves to the question whether—if Mr. F. was black Mrs. F. was almost as dark.

IS MRS. FORREST INNOCENT?

In regard to this question an enormous mass of circumstances were presented, and he (counsel) must say that, unless indeed Mr. F. was convinced of the innocence of his wife, his conduct was altogether inexplicable. It had never been asked what motive Mr. F. had in destroying an innocent, honorable, and faithful wife; she was amiable, accomplished, attentive to his wishes—she was a mere upper servant, taking care of him with a fidelity, more like unto the fidelity of a faithful dog, ever ready to sacrifice himself for the welfare of his master. She was so good, so kind, so obedient, that, up to 1848, he could not but address her as his "dearest Kate," and in all his letters he expressed his thanks for her devotion.

The theory of plaintiff was that Mr. F. never suspected his wife, and did not now, and he (counsel) was called upon to reconcile this to the facts. A new attachment might be the reason of Mr. F.'s conduct, and that alone would sufficiently account for it. But there might be another reason for it. The jury had read Forrest's letters which spoke of his disgust to the stage; he had, in 1848 made his farewell visit to the South, yet he had begun building the lovely mansion of Fonthill, though not possessed of more than \$150,000. Parties were to be given, the hospitalities of Fonthill should be extended to all illustrious foreigners and at the head of that establishment should stand his beloved wife. May Forrest not have begun to think towards the close of 1848, when his mind was embittered against all foreigners, and against the English in particular, may it not have struck Mr. F. that he would not get an adequate reward for his cash outlay? May he not have thought that the company of his boon acquaintances, Lawson, Stevens, and others, would never amply recompense him, and may not here the first wish have arisen that he be separated from his wife? The conduct of Mr. F., as he (counsel) would show, was such as to forbid the belief that he doubted her innocence at the time of the separation.

The theory of defense was, that in 1848, at Cincinnati, he found his wife standing in an indelicate position with Jamieson, that later, he found the Consuelo letter; that he there determined to separate from her, and, in his high and manly spirit, he allowed her \$1,500 a year—that, subsequently, when he heard that Mrs. F. had mentioned the grounds of the separation, he determined, for the *vindication of his own character*, to sue for a divorce on the true ground. Let the jury not lose sight of the fact, that up to that period, he had no grounds whatever to sue for a divorce save and except the Consuelo letter.

But he (counsel) would disprove the whole of this, and more clear than anything else, he would make it manifestly clear that Mr. F. had no such intention as obtaining a divorce for the purpose of vindicating his own character. (Mr. O'Connor here read the deposition of Samuel S. Smith, arguing therefrom that Mr. F. did not find fault with, and show petulance for any familiarity or indelicate position between Jamieson and Mrs. Forrest, but because Jamieson refused to go to the phrenologist with her, probably because his phrenological bumps did not speak favorably of him.) The seven letters addressed by Mr. F. to his wife long after the pretended occurrence at Cincinnati, proved conclusively that his confidence in her had not been shaken. There was no hint as to guard her steps, there was no doubt of her fidelity, no, like the other letters, they are full of affection, full of love, conveying the assurance of her incomparable excellence, and the best proof of success on the part of a dutiful wife.

THE CONSUELO LETTER.

He (Mr. O'Connor) would now proceed to show, that Mr. F. never considered the Consuelo letter as a proof of Mrs. F.'s guilt, and that on the contrary he attached no importance to it. (To establish this, counsel read part of Mrs. F.'s affidavit showing that her husband determined upon the separation in consequence of her giving him the lie, and also containing an extract from Mr. Forrest's affidavit, stating that he considered the Consuelo letter as a mere extract from a French novel, and that he would take no steps in regard to it. Another pregnant fact was, that Mr. Forrest occupied the bed of Mrs. F. for four months after the finding of the Consuelo letter. Would he have done so had he believed the infidelity of his wife? How would it have screened the reputation of Mrs. F. to occupy the same bed with her, if it was intended that they should separate forever after? If she had requested Mr. F. to occupy the same bed with her for the remaining four months, would it have been likely that she would have told the Rev. Mr. Magoon that all this was sham and calculated only to save her from disgrace? In April, prior to the separation, the testimony showed Mr. and Mrs. F. riding out together, her own picture, the picture of a harlot, as he now said, was taken to Fonthill to decorate the halls of that princely building as soon as it was ready for the reception; his own picture, the family picture, was given to her, he himself, with his own hands, carried it to her place of refuge, and thus they parted—not as lovers with a broken sixpence each keeping a half, but each holding the picture of the other.)

Counsel then adverted to the fact of Mr. F. placing his wife, contaminated, polluted as she was, in the house of a pure family, the daughter of an ancient and esteemed friend, Mr. Bryant, contending, that this was the most conclusive proof of his belief of her innocence. The Court here interrupted Mr. O'Connor, and adjourned until next day.

THIRTY-FIRST DAY.

FRIDAY, 23d January, 1851.

The Court opened at a quarter past ten o'clock. The audience being even more numerous than on the previous day.

Mr. O'Connor resumed his argument. He had been discussing the history of this affair, of the transactions occurring before the separation, and had arrived at the important period, the day of the actual separation. He had attempted to show that at that period Mr. F. had no suspicion of his wife, no doubt of her fidelity and chastity, which could have influenced him to wish for a divorce. The next important fact was the settling of the alimony, and he (counsel) would not dwell upon the liberality of Mr. F., or the manner in which the quarterly instalments were paid. It appeared, however, in evidence that the settling of this alimony required a little stimulus on the part of Mr. F., for it had been shown that \$500 a year had been offered and attempted to be coerced upon Mrs. F. Finally \$1,500 a year was offered, but Mrs. F. demanded \$2,000, as with a less sum she would not be able to maintain that station which the name and standing of her husband required her to keep up. It seemed that Mr. Lawson did not find this demand too high, for although he did not propose it, yet he acquiesced in it, and told Mr. F. that the law might even allow her more. Was this conduct, this fortitude of Mrs. Forrest any evidence of her consciousness of guilt, or was it rather the conduct of a virtuous but wronged wife, who will not allow her rights to be trampled upon?

But there was another circumstance pregnant with importance, to which he (counsel) would now advert—it was the letter to Mr. John Sinclair by his fellow-countryman, James Lawson. Here was Lawson endorsing the character of Mrs. Forrest, pledging himself that her honor was unsullied, and that no charge of criminality could possibly be the cause of the separation! Yet this woman, this common harlot, as the defendant would have the jury believe her to be, this being steeped in infamy, repudiated this endorsing of her character, and asked, "Why speak about my honor, when it never has been attacked!" Were she guilty, would she not have rejoiced at the idea of having in her possession a proof of her innocence, given by the adviser, the bosom friend of her husband? The letter was produced to Mr. Forrest on the day it was written to be sent across the Atlantic; he read it, and then this man, who now asserted that at that very time he had in his possession the irrefragable proofs of his wife's guilt, he approved of the mission and said it would do. What were the jury to infer from this? Were they to believe that Mr. F., at that or any other time, doubted the fidelity of his wife, whose character he thus unequivocally endorsed? No, he never did doubt the purity of that devoted wife, and does not doubt her to the present hour.

It would be necessary now to dwell upon the circumstances which followed, and the interference of Mr. Lawson to bring about a reconciliation. (Counsel read several letters of Mrs. Forrest to her husband and to James Lawson, the latter of which upbraided him with being the cause of the estrangement from her husband, which took place after the separation, and saying that, but for his interference, an amicable arrangement would have taken place, as they had parted as friends.) Was the letter of December 24th an avowal of Mrs. F.'s guilt by her allowing the charges of criminality to remain unanswered? The letter was written by Mr. F. on the 24th, and a prompt answer was returned, bearing the same date, in the style, the language, and the spirit of a devoted and obedient wife. What was Mr. F.'s object in writing this letter? Clearly to get from her an assertion, that she had not divulged the causes of their separation, and his demand for it was pressed by his adding, that his future conduct would depend upon her answer. Yet the conclusion of her letter showed how deeply she was grieved by the inuendos of her husband, and would twelve American jurors stamp her as a harlot on the strength of that reply?

The next step in this matter was the employment of Mr. Sedgwick, and then followed the Forney commission. His letter was dated January 25th, 1850. In it, were given the statements of Mr. F., and it was said that certain conflicting statements in it with what F. now said, was a proof of his not knowing anything about it; the jury would be the best judges of this. What was the object of this letter? Why, to get the admission of a poor, miserable creature, whether drunk or in a sober mood, that he had had connection with Mrs. Forrest (counsel read the famous letter to the jury.) This Jamieson was to be immortalized by avowing himself the desecrator of glorious Forrest's marriage bed, and half the fortune of the defendant was placed at the disposal of any vagabond in this country, if he would contrive to attain the darling object—the separation from the wife. Did not this account for all that followed? Seventy four thousand dollars were to be spent to sever the hateful bond, and he (counsel) thought that although this might not be quite so liberally meant, yet a very small portion of that corruption fund would be sufficient to bring up any number of Anna Flowers' to deflower half the ladies of the city.

The jury were aware of the proceedings which next followed. Counsel had made an agreement to meet, proposals were made by one party and entertained by the other, and a full consent was obtained from Mrs. Forrest to submit to a divorce, provided no criminal charges were made against her. A strenuous effort had been made to falsify the affidavit of Mrs. F. and show that his (Mr. O'Connor's) engagement as counsel was the reason of her withdrawing her consent, she having previously assented to the advice of Mr. Ogden and Mr. Bryant. All this was untrue, as appeared conclusively from the testimony of Mr. Sedgwick; after the plaintiff found that it was necessary that all proposals should be refused, because the divorce could not be obtained without imputing criminality, then, and only then, he (Mr. O'Connor) advised to call in Mr. Bryant, whose very first letter shows that no guilt should be imputed to her. Thus the matter was satisfactorily explained; had there been any pretence that he (counsel) had ever known or spoken to Mr. and Mrs. Forrest, and what then could be his object for breaking off an amicable arrangement? Was it to be supposed that he was so hard run for business, that he coerced or influenced this lady, with \$1,500 a year, into opposing an application for divorce in another State?

Counsel now adverted to the petition to the Penn. Legislature, which gave as a ground for it "acts inconsistent with the dignity and purity of the marriage state," arguing that Mrs. F. had not been shown the petition by Mr. Bryant, and that, when after engaging counsel, a copy of it was given to him, (O'Connor,) he at once advised her that this ground neces-

sarily implied criminality; and, under her instructions, wrote to Mr F's counsel, that she would strenuously oppose any petition on the grounds stated, and accept no allowance, however large it might be, as compensation for such a consent.

Thus the circumstances attending the treaty had been fully dwelt upon, and it was a matter worthy of remark, so far as regarded that man Lawson, that within three days after the breaking off of the treaty, Mr F had plenty of evidence, and Mr Lawson happened to get that good old creature, Mrs Underwood, to his office, where, on hearing of the charges against Mrs F, he exclaimed that he would as soon have believed it "of an angel from heaven;" nay, more remarkable still, on the 25th of January, Mr. F. already offered, through Forney, half his fortune to get released from the marriage bond. The petition to the Legislature, then, was pressed by Mr F on such grounds as he thought proper; but instead of defending herself, Mrs F contented herself with sending on a mere protest against the proceedings, avowing her readiness to appear in any court of law to defend herself. But the other counsel say, that she subsequently refused to appear in the Court of Common Pleas of Philadelphia, and that by this refusal she had violated her oath! Was it meant, then, that she would go to Constantinople or any other foreign place to defend herself, when all her witnesses lived in this State, where the happy years of this union had been spent? Suffice it, that the application to the Legislature failed; true, he had no Anna Flowers there—true, he did not then even charge Captain Howard, yet the appliances of his wealth might have been supposed equivalent to all that proof.

Counsel then dwelt upon Barney M. Cabe, commenting upon the scene between him and Mr. Van Buren. He said, "when my learned opponent asked Barney, whether he had not been ordered out of his office, and was answered in the affirmative, a friend who sat by my side, whispered to me that all this was done for effect. Although, at the time, I doubted it, yet this assertion was most unequivocally endorsed by Mr. Van Buren, who told you, gentlemen, that the whole of that scene was drama. Mr Forrest had sent poor broken Barney there for Mr Van Buren to see him, to send him away, so as to make a scene before the Jury—he sent him that my learned opponent might for once actually enact the part of Metamora, and send Barney away to his Satanic Majesty below. (Loud and continued laughter.)

He (Mr O'Connor) had reason to thank the other side for the introduction of Mr Lawson, for whilst he had not made out one material fact against Mrs Forrest, he had brought to light a number of circumstances which supported the plaintiff's theory. He (counsel) did not say this with a view of giving any credit to Lawson, for his conduct throughout this case had been that of the sycophant, the willing and pliable tool in the hands of his lord and master. (Mr. O'Connor read a portion of Lawson's affidavit before the Penn. Legislature which omits to state that he produced a copy of the letter to Sinclair to Mr Forrest, and therefore argued that Lawson must have had the intention of concealing that fact, together with F's approval of that letter, from the tribunal.) It was not his (counsel's) desire to impeach Mr Lawson, further than was applicable to a single portion in his testimony, namely, that Mrs F had told him she had obtained a pledge from her husband, not to reveal the cause of this separation. (Counsel then dwelt upon the inconsistency of the declaration there testified to.

THE CONSUELO LETTER.

In commenting upon this extraordinary piece of poetry, it must first be borne in mind by the Jury, that it was not written by Mrs Forrest, nor was any act shown that she countenanced it. It was without address, without signature, and without a letter that would lead to an identification as to whom it was addressed—it looked more like a copy from some book than like the composition of a lover. It was written to Consuelo, and who was the person thus named? An effort had been made by him (counsel) to show by an expert the character of Consuelo, the heroine of a French novel, but it had been objected to, and all the proof that now could be established, was from the affidavit of Mrs F (which counsel read.) He had found in Howitt's Journal, the following paragraph in regard to the authoress who wrote Consuelo, in the following words:—

"It is a gross mistake to confound George Sand with the depraved writers of Balzac, and the Sue school, for she never makes vice, beautiful—never rewards crime, never strews roses over corruption: virtue is by her always surrounded with the glory of art, and the blessedness of well doing is represented as the highest aim and reward of life."

Counsel read another paragraph in regard to Consuelo, and then asked the Jury, whether if they supposed Jamie had addressed Mrs F in that character, could he have been guilty of any criminal intercourse with her? She did not show the composition to Mr F. She did not urge him to devour or cut the throat of Jamieson, and it might be inferred that she understood the letter as it ought to be interpreted,—an homage to the superior attainments, the exalted virtue of Mrs Forrest. As for the prose in the letter, the most of it was the most confounded nonsense, and the practical license of poetical necessity had been most magnificently illustrated in the poetry part of the composition.

(On this part of the letter Mr. O'Connor dwelt with a humor which it is impossible to give on paper, and kept the audience in a continuous roar of laughter. Nothing could surpass the ability of the learned speaker on this subject.) The presence, the matronly appearance of Mrs Forrest, was it not enough to inspire a feeling of reverence to the most licentious beholder; and did not even Mr F's letters breathe the deepest deference to her during a union of twelve years, and was such a woman to fear that her character could be assailed or reputation ruined by a letter of this description? Let the Jury keep in mind, that an admission, by fair means or foul, was to be obtained of Jamieson, that he had enjoyed illicit intercourse with Mrs F, and this alone would cast sufficient light on what he himself thought of the composition referred to; treated it as an idle rhodomontade, which his lady had been incautious but certainly not imprudent in keeping.

He (counsel) would now refer to the last remaining document, the declaration of Mrs F's innocence, which the other side described as a declaration of her guilt. The precise object of this being put in did not appear, for the theory for defense was, that the separation was made, because he knew her to be guilty. What, then, was the use of a declaration of innocence?

In reading the solemn declaration, counsel charged, that the first lines of it had been added long after it was signed by Mrs Forrest, and begged the Jury to inspect the paper. A recess for ten minutes was here granted.

Mr. O'Connor continued. The Macready difficulties, in regard to which the counsel on the other side had imputed to Mrs. F. the grossest falsehoods, would be dwelt upon by him (counsel) in a few remarks only. The apparent contradictions were fully cleared up by the affidavit of Mrs. F.; although she disapproved of the conduct of her husband in hissing him on the stage at Edinburgh, she, nevertheless, at a time when Mr. F. was in Philadelphia, did not dare to incur his anger by written demonstrations, and apparently coincided with him, and finally her feelings were excited by the virulent attack by Macready of her husband, and she then really enlisted in his cause.

Counsel must again advert to another proceeding prior to this trial. In the petition to the Pennsylvania Legislature, Mr. F. charged eight or nine persons—namely, N. P. Willis, Richd. Willis, Wykoff, Raymond, John B. Rich, Granby Calcraft, and Professor Hackley; the latter was subsequently left out and deemed innocent, although during the present trial counsel on the other side had insinuated, that now again he was considered guilty of adultery with Mrs. F. The number was, however, not considered complete, and it was sworn to by Mr. F. that the testimony of Anna Flowers was deemed necessary to substantiate his case. The case at last had come to trial, and what was the testimony advanced in support of the many charges? There was the fact that Mr. and Mrs. Sinclair had drunk more than was proper; it had been insinuated that Mrs. Voorhies had been pregnant with child before the union with her present husband had been recognized or known by the world; but this slander had not been proved. Then, as far as regarded Miss Virginia Sinclair, a total want of truthfulness had been alleged; but the jury, who had it told to them on the testimony, that up to a late period of her short existence she was suffering from severe malady, could have seen, whilst the witness was on the stand, that, except in physical development, she was equal to a child of nine or ten years. This great backwardness in intellect fully accounted for her deficiency in memory, and at all events her total denial of what had otherwise been sufficiently shown by plaintiff's witnesses, was the best proof that she was not tutored for the stand. Thus the inferences which his learned opponent sought to draw from the pedigree of the persons were done away with.

Counsel would now speak of Mrs. Forrest herself, contending that the way in which Mr. F. kept his house, sitting up all night with his friends and drinking mint julep in the morning, fully justified her in keeping company with her lady friends and those gentlemen connected with them, in his absence, as he objected to all female society. Much was said about Mrs. F. staying up one whole night; it seemed that Mr. R. Willis, coming home highly accomplished in the art of musical composition, was at a party in Mrs. F.'s house, and after the party was over, he and Miss Margaret, who had also acquired great attainments in music, naturally were desirous of cultivating each other's acquaintance and receiving mutual benefit from each other. Could there be any more chaste manner than that in which that night was spent? He (counsel) deeply pitied the defendant when Mrs. Willis detailed the pure enjoyments of that evening; how, when sitting here, he must have compared that conduct with his own—when at night he was smoking and drinking with such men as Andrew Stevens, and during the daytime visited the house of Caroline Ingersoll! (Counsel dwelt upon all the actors in this drama, whose association with Mrs. Forrest had been interpreted as criminal. Counsel argued, that Cal-

craft, Raymond, N. P. Willis, and others, were the friends of Mr. F., and that Mrs. F. was obliged to receive their visits in that quality.) It was true that Mrs. F. had kept up the acquaintance of people whom her husband objected to and disliked, but this was only since the separation; for Mrs. F. had been advised—and the jury would endorse the correctness of such advice—that her reputation required it that she should continue her acquaintance with such families, the male members of which her husband had impeached as assailants of her honor. What else were the charges against Mrs. F.? Why, that she was addicted to drinking and to smoking segars; as to the latter it had not been shown that she had smoked through a single segar, and if she had playfully puffed at one now and then, it certainly was always done in the presence of her husband.

In regard to the drinking, there never has so wanton and infamous attack been committed upon any woman as the "rum drinking" portion of Mrs. Underwood's testimony. (Counsel commented upon it showing that Mrs. Underwood had never seen Mrs. F. drink at all.) As for Lester, the man who did not know what a minister of the Gospel meant, he was altogether too illustrious an American for counsel to dwell upon; the defendant's counsel had thrown Lester overboard and he was probably drowned, never to come to life again.

With these general remarks, counsel would now go over to the joint imputations which were made against Jamieson, Willis, and Captain Howard. As to Jamieson, the testimony in regard to him rested entirely upon the Consuelo letter; the defendant had the advantage in Mr. Jamieson not being present, and the Jury might infer from the inducements held out on the Forney letter, that Jamieson had an adequate motive for staying away, whilst the plaintiff had no means of compelling his attendance. Next to Jamieson came the circumstance attending the visits of N. P. Willis at the house of Mrs. Forrest. (Mr. O'Connor referred to the very friendly relations existing between Mrs. F., Mrs. Voorhees, and Mrs. Willis, arising from the very important services which Mrs. Voorhees rendered to the latter, when confined of her first child, and the kindness displayed by Mrs. Forrest towards her during her second confinement.) The testimony of Robt. Garvin showed that he had seen Mr. Willis and Mrs. Forrest on the sofa together, he laying over her, but counsel had said that this was not by him considered adultery, although Garvin added that when subsequently coming into the room, he, like the camp follower, discovered the spoils of the battle between the two in the shape of some hair pins and an elastic garter. Garvin, when asked on the stand, why he had omitted the material portion of this statement, when making his affidavit for the use of the Penn. Legislature, said, that he did so from an affectionate regard to Mrs. Forrest, whilst it was conclusively shown, that he told his story to Mr. Sedgwick. (Counsel pointed out a number of other contradictions in Garvin's testimony, contending that if he was to be believed, the want of caution, and secrecy on the part of Mrs. F. and Mr. Willis was so great, that they might as well have put the sofa into the entry and rung the bell for the servants to see them on the sofa together.) Not satisfied with his own kitchen, Mr. Forrest invaded the kitchen of Mr. N. P. Willis himself, to furnish the means of that gentleman's conviction of impropriety with Mrs. F. on another occasion. John Kent, the witness thus procured, testified that he was sent by Mr. Willis with a letter to Mrs. F.; that Mrs. F. came to the house that same night, let herself in, went up stairs into the third story, and that he heard Mr. Willis say to Mrs. F. in the most cavalier manner "Good night, my dear;" leaving the Jury to infer that he saw Mr. Willis come out of Mrs. F.'s room, where, of course he had been guilty of the last delinquency. The cross-examination, however, showed that this very letter had been given to Kent in the very presence of Mrs. Willis in her sickness, thus making an appointment in her hearing. Was it a probable story? Would a man run all the danger of detection in his own house, rather than quietly go himself to the house of Mrs. F., where he might receive her favors without any risk? (Counsel then dwelt upon the real circumstances of Mrs. F.'s visit to the house, according to the testimony of Mrs. Willis, and the nurse, Mrs. Benson.) The only remaining evidence against Mr. Willis was that of Mr. Egbert Deming and his female relations. He said that on a certain evening he saw standing, with their backs to the window, the light being in front of them, Mr. Willis and Mrs. F., he having his arm round her waist. What kind of a story was that to gain credence with men of understanding? At a distance of from 120 to 150 feet, through the darkness of the night, seeing through his windows, and in a slanting direction, he pretended to recognize distinctly the features of the two. He (counsel) had allowed this testimony to stand on its own intrinsic value, and left it to the Jury to determine its truth. Deming had concealed the fact upon his examination, that his wife knew anything about it, and up to the closing of the case in the first instance, the defendant had not attempted to bring Mrs. Deming to the stand or to obtain the testimony of Mrs. Germaine from Troy. Their testimony was somewhat improved, as is usually the case with witnesses that follow; they swore that Mrs. F. and Mr. Willis sat down at the table beneath the gaslight, probably for the very purpose of being seen by the auditory, and that they then left the room, he (counsel) supposed, to go to bed.

Mr. Van Buren said that a suggestion had been made to the Jury to go and see the house of Mr. Willis; the defendant was anxious that they should. Mr. O'Connor said he would consent to it if the Jury still desired. The Court then adj.

THIRTY-SECOND DAY.

SATURDAY, JANUARY 24, 1852.

The Court opened at 10¼ o'clock, with a large audience. Mrs. Forrest was again accompanied by several lady friends.

Mr. O'Connor resumed his argument. He said he had already occupied the attention of the jury in dwelling upon the points advanced by him yesterday. In addition to what he had stated in regard to the "Deming Vision," he would say that all that was testified to by the witnesses might be true and yet be consistent with Mrs. Forrest's innocence. The arm might have been held in a position which gave rise to the belief that it encircled her waist. There was another consideration which must not be overlooked. The Deming witnesses had proved that they had never seen any other member of the F. family; they had never seen Mrs. Voorhees, and if it be true, which however the plaintiff disputed, that the rumor of Mrs. Voorhees having accepted the addresses of her present husband before the public ceremonial of marriage was gone through, this might well explain the occurrence adverted to.

Thus, the evidence against Mr. Willis was disposed of. Counsel for defense had advanced the argument that the participators in the offense could not be believed under oath; this was certainly not borne out by the simple and straightforward manner in which those witnesses had testified. If such a dogma of morality existed, if witnesses were charged with corrupt perjury, merely to screen themselves from the conviction of a moral offense, the jury were the judges to receive or reject the testimony upon the intrinsic value that it exhibited when delivered on the stand.

Mr. Willis had been produced here, and from the commencement he might be called a "pretty dead set." The jury must have heard the many threats of the defendant's counsel, if we undertook to impeach a witness by impeaching his chastity. Was not this threat meant as an inuendo, that they would assail the character of N. P. Willis? It was, but he remained unquestioned on the subject; nor were any questions bearing upon that point directed to any of the witnesses but Capt. Calcraft, and this inquiry had, as counsel admitted, been brought on by the accidental discovery of Calcraft's relations towards his wife. There had been no impeachment attempted upon the testimony of Mr. Willis, and he stood before the jury perfectly untainted and perfectly unimpeached. His visits to the house had been satisfactorily explained, and when the jury came to the staying late at the house, staying all night, or sleeping there, they would invariably find N. P. Willis absent, though his wife was there. And would the jury endorse the statements of defendant's counsel, that N. P. Willis was a gay Lothario? Did they not find him at the sick-bed of his wife, lavishing upon her those endearments and attentions which none but a good husband extended to a beloved wife? He (counsel) had yet to present a moral proof on this point of the case that would outweigh a thousand Deming visions. Why, during all this time, the most intimate relations existed between Mrs. Willis and Mrs. F., continued down to the present hour, with a strength, courage, and heroism, which did the most infinite credit to this young and feeble lady. With the delicate and sensitive demeanor which she exhibited here, after showing her quick perception, after hearing the testimony of Garvin and Flowers, would she sit here as the champion of her friend, placing the most infinite trust in the fidelity of her husband? He presented a moral proof of the innocence of Mrs. F. and her husband, which went further than any affirmative testimony could establish.

He (counsel) would now say a few words about the principal witness, the originator of these charges—he meant Mrs. Underwood. She said she never had a quarrel with Mrs. F., was poor, needy, and destitute, and that she intended to remain for life in the house of Mrs. F. After hearing of the intended separation, and not being advised by Mrs. F. as to what she should do hereafter, she goes to Mr. F., and humbly begs that she may be allowed to go to Fonthill and stay there. She

was refused this request, because Mr. F. thought her, and righteously too, a tale-teller. Then Mrs. F. tells her she is to stay with her, that she will share with her her last dollar, thus once more showing the kindness which distinguished her on all occasions. Shortly afterwards Mrs. Underwood thinks there is something wrong in Mrs. F., yet she attaches herself to her fortunes, speaks highly of her, and marries her present husband out of that house, leaving, after her departure, her son dependent on the bounty of her benefactress. Nothing was said by her until February, 1850, when Lawson threw his net around her, and then she came to the conclusion that it would be unsafe for her son to remain in Mrs. F.'s house any longer. Mrs. Underwood says that in a subsequent conversation with Mr. F., this man told her, that his wife had poisoned his mind against her (Mrs. U.) Was this true? Was it probable? Would he not have resorted to any servant against whom his wife had made charges, to investigate them? Would he have suffered any servant to remain in the house when his lady, with whom he then stood on the best of terms, made charges against them? Her testimony, which, unlike the others, did not come to a positive delinquency, but detailed a number of circumstances which were to give greater probability to the charges of adultery sworn to by Garvin and Anna Flowers. (After reading a portion of Mrs. U.'s affidavit, bearing upon the visits of Professor Hackley at the house of Mrs. F., Mr. O'Connor painted in glowing colors the ingratitude of the witness Underwood, in thus misrepresenting a circumstance which was calculated vitally to affect the reputation of the lady who was ready to sacrifice the half of her little pittance to secure her a comfortable home.) Let the jury see the fiend-like disposition of the woman Underwood, by reverting to another portion of her affidavit, when she said, that "Mrs. F. left her husband in May, 1849, and went travelling for four months, and then took a house in Sixteenth street," an assertion which amounted to an abandonment by Mrs. F., nay, even to an elopement, with the only exception that the male party to that escapade had not been named.

And this had been laid before the Penn. Legislature for the purpose of obtaining a divorce. Was it true? had she left had she abandoned her husband, or did she state so with a view of injuring the lady who had showered numberless benefits upon her. Unimportant, as her testimony was, so far as it might seem to prejudice Mrs. F., yet, with the malice that was displayed in it, the Jury were bound to attach no credit to it.

The last act in this drama yet remained—the charge of criminality between Captain Howard and Mrs. Forrest. It had been shown that Howard was the bosom friend of Mr. F. so much so that the latter expressed his high satisfaction for his having taken his wife and sister to the Chatham theater. There was no pretence, that Captain Howard had slept in the house since the 1st Sept., 1844; nay, there was no proof that he had visited that house since that time, and there was consequently no accuracy of recollection in the statement by defendant's counsel in summing up, that the intimacy had continued down to the presentation. There was but one witness, in regard to Capt. Howard—Anna Flowers. The Jury knew how her testimony was obtained, by an advertisement that she would hear of something to her advantage, after the time when Mr. F. had failed in getting his divorce upon the other charges. He had cast his net for a witness, who, from her general character, was likely to give satisfaction. Let the Jury look at the intrinsic value of her testimony. She said that she had twice come from the South for the mere love of justice, without any reward or hope of it; the love of justice made this woman come to benefit a man, who, as she said, had insulted her; and she came, for what purpose? Why, to injure a lady, who had heaped benefits upon her, a lady, for whom she entertained the most intense feeling of admiration and gratitude, as she herself testified to on the stand? Was it out of love to this lady that Anna Flowers came, out of love to a woman whose reputation she was to blast, whose ruin she was to bring about? If Anna had come to the stand and said, that she was an unwilling witness to the criminality of Mrs. F., that subsequently this lady had formed a plot against her, with a view of involving her own seduction, that she thereby might seal her lips against herself,—had she come and stated this, adding that she felt on this justifiable ground the deepest hatred against Mrs. F., and was ready now to avenge herself by laying open the whole plot, then, then indeed, the jury might have believed her. (Counsel then dwelt upon the alleged contradictions of the witness, Anna Flowers, her statements in Havana and this city.) What was the occurrence in 1844? Mrs. F., in the absence of her husband, entertained Captain Howard and Mr. Godwin. Up to that time, Anna had stayed and slept in the upper story of the house, and Mrs. F. being so good a lawyer as to know that a deed was not good without a subscribing witness, tells Anna, that she must sleep with her that night. There were Mrs. F. and Anna in the usual sleeping chamber, and the man, with whom the act of infidelity was to be committed, in the next room, a few feet off. It must be admitted, that by the calling of Anna, she did not afford herself any very great facility for committing the offense charged, without been seen; but was it at all probable, would the most credulous man be influenced to believe, that Mrs. F., who was admitted by the defense to be so cunning, should have acted thus?

But the caution used by Mrs. F. did not rest there; previous to going into the room she called upon Anna, and this young creature was so artless and guileless that she feigned to be asleep, thus depriving Mrs. F. of the chance of having a witness to the delinquency. After Mrs. F. left the room, Anna followed her, saw the adulterous act, and like an innocent virgin began to cry. Such was Anna's conduct. What was that of Mrs. F.? Why, she turned round with the greatest composure to Anna, and merely asked her, "What is the matter?" How very similar this conduct on her part was to that of Mrs. Voorhies, when Garvin found her in criminal connexion on the carpet in the drawing-room with Mr. Raymond. The very narrative of Anna showed the fabricated character of her testimony. What were the circumstances attending Anna's own loss of virtue? Why, after being against her will violated by Capt. Howard, she actually, on the strength of his promise of marriage, though she knew him to be a married man, made an appointment with him to come again next day to continue the intercourse—it must be admitted, at least, that she was a very apt learner. She had been asked on the stand if she had cried, and having answered "Yes," she was further asked, if she had cried to the utmost of her power; she answered "No," and gave, as her reason, that Capt. Howard, her ravisher, the man who was with brutal force accomplishing her ruin, requested her not to cry so loud. Was this consistent with virtue, with innocence?

Such was the intrinsic value of Anna's testimony. As for the contradiction, as direct as such could be given, Catharine Lewis, a witness whose testimony allowed of no doubt, had distinctly disproved the whole of the narrative given by Anna, of the occurrences of the evening, when her (Anna's) violation was said to have taken place. In relation to the question whether Anna was seduced by Capt. Howard, a set of circumstances had been introduced, probably more with a view of defaming Miss Sinclair than to affect Mrs. Forrest. It was undoubtedly true that Catharine had informed Mrs. F. of some misconduct of Anna and Barney, but she had not conveyed the full extent of the misconduct to her. It was equally true, that Mrs. F. had taken a liking to Anna, and when subsequently she was apprised of the true state of things, she expressed her surprise at the misconduct, blamed her for it, but allowed her to remain in the house, whilst she with her husband left for England. The conduct of Miss Sinclair was fully explained by her being left alone; she extended every facility to Anna rather than incur the shame and scandal upon the house, until Mr. Raymond, whose firmness the jury had witnessed on the stand, made an end to the case by a vigorous action in the matter. After Feb. 1847, nothing more had been paid for the child, and no further intercourse took place between Mrs. F. and Anna, Mrs. Voorhies and Anna or Mr. Raymond.

(Counsel dwelt further upon the relation between Mrs. F. and Anna, contending, that if Mrs. F. had been anxious to seal the lips of Anna, whilst at New Orleans, she might easily have done so by money which she had at her command—that consequently she had nothing to fear.)

He (counsel) must advert to some more contradictions of Anna's. She confessed that she stole, she being then instead of 8 or 9 years of age, as she stated, at least 13, as shown by the testimony of Dr. Lee, but after admitting the theft she showed herself to be an innocent receiver. Why did she seem ignorant of the name of her employer? Because she was aware that her whole story would be contradicted, and she believed that by not mentioning his name the plaintiff might be unable to find him. The motive was apparent, but her prevarication did not end here. She was asked if she had stayed with Mr. John Dickinson, and counsel on the other side very charitably admitted that she had forgot it. Thus she had forgot that she had been bound out from the house of refuge, had stayed 9 months with Mr. Dickinson, and had been returned by him as unfaithful and disobedient; yet, her residence at Mr. D.'s house had been kept alive in her memory by a subsequent visit there, three years afterwards. The denial could not but be a wilful one, and if so was a corrupt, wilful, rank, and point-blank perjury. *Falsis in uno, falsis in omnibus*, was to be applied to such witnesses according to the well established rule of the law, witnesses upon whose testimony not a dollar of a man's property, far less the life and reputation of a fellow being, should depend.

He (counsel) had yet to advert to that most villainous transaction about the 15th June, 1850, in Mercer street, in which Mr. Forrest, Mr. Dogherty, and another person, so far unknown, were participators. After Anna had given her testimony

before F.'s counsel, and upon the direct advice of F. himself *not* to go to Mrs. F. in 16th st., an arrangement was made by Dogherty to take her to a house in Mercer street, and invite Mrs. F. to meet her there. As for the character of the house, he (counsel) thought that the mere residence there of Rev. Mr. Cox was no proof of respectability; the family of Cox was large, and he might possibly be such another reverend gentleman as the Rev. Mr. Lester. It was not his (counsel's) object to impeach the house, but it had been shown, that Anna spent a whole day in that house, that she occupied a room in which there were at least two beds, and that Anna put up two curtains, one over the rear window, the other to cover the window of a small dark bed-room, adjoining the one she was in. Strenuous efforts had been made to get Mrs. F. there; a deep plot was laid; here was a notice in the *Herald* calling upon Anna to come to the office of Mr. Sedgwick after she had already been there and given the whole of her evidence. This, as well as the curtains, was an elaborate preparation; the notice was to wheedle Mrs. F. into the house; and what was the object? Only to deceive Mrs. F., as Anna very candidly admitted, and inducing her to fall into this trap which was set for her by Forrest, her husband, and the very honorable New Orleans witness. Was it to tell Mrs. F. that she had given the whole truth against her in evidence? Was that true? Did ever any body go through a mass of deception except for the purpose of further wickedness? And what was that plot, and what were the curtains up for? What and who was to be in the dark-bed room? Counsel on the other side had suggested that there could not be any harm in Mrs. F. complying with the invitation, as she might have taken one of her male acquaintances with her. Well, now, suppose Professor Hackley, Capt. Calcraft, or any other of her male friends, had been found with her in a third-story bed-room, with the windows carefully covered, and with two such subscribing witnesses as Anna Flowers and Mr. Dogherty, what would have become of her reputation? Was that the advice counsel would have given to her were she his client?

What was the object of the interview, but some unexplored and infamous iniquity? For six weeks the learned counsel had had an opportunity to think about it, and yet could say nothing but give his opinion that Mrs. F. might very well have gone with Captain Calcraft or somebody else. Unexplained as this infamous plot was, it served as an illustration to the jury of the general character of the testimony.

He (counsel) did not mean to insinuate any such thing as a general conspiracy in the defense set up here. There was no working together of many minds; several agents might have been employed, but there was one principal only—one employer. He (counsel) discovered throughout this case the same hand, the same spirit, the same peculiarities which a bungling counterfeiter would exhibit in the worthless trash got up by him. He would advert to the letters of Lawson to Sinclair, and Forney to Roberts. Neither of them was sent or written by Forrest, yet he was here made responsible for both, and they went against his case with fearful violence. Whilst Forrest had approved of the Sinclair letter after it was sent, he had furnished the material and given his consent to the Forney letter. The next striking peculiarity was the advertisement in the *Picayune*, calling upon Anna Flowers to appear and hear of something to her advantage, and this advertisement was by Forrest. The next, put in by him or his agents, was the advertisement by which Mrs. F. was to be drawn into a house where some odium was to be imposed upon her, and lastly, the anonymous letter to Barney, calling upon him to come to his (O'Connor's) office, where he might hear of something to his advantage, thus allowing the inference to be made by the jury that he (O'Connor) had half his fortune in the market for the purposes of this suit. (Counsel detailed a number of other peculiarities, before referred to, and dwelt on forcibly in other portions of his address, charging, that the same master-hand, the same composer might be recognized in every one of these circumstances.) The jury could not, therefore, shut their eyes to marked evidence of fabrication, and this accounted for there being so much of it, for when a man went into the market, offering half his fortune, he would get many so degraded as to be willing to swear to anything, on the maxim that where there is so much smoke there must be some fire.

It would be unnecessary to make any further observations upon the facts. They established that Mrs. F. had never been guilty of any act but that of incaution. But, matronly like, she knew of no caution; no thought of being doubted ever entered her mind. As to the other side of the case, it had been shown that Mr. F. had no fault to find with his wife, except the giving him the lie, that he never doubted her innocence, that he had no testimony to support his petition to the Penn. Legislature, and that subsequently he had procured the testimony now adduced, by unfair means. It would be, therefore, common justice only, on the part of the Jury, to enable Mrs. F., by their verdict, to abandon that name which now remained only a stigma to her.

Mr. O'Connor then adverted to the question of alimony, which he called the jury upon to fix according to the circumstances in life of the party complained of. He showed that Mr. F. had an income of \$10,000 a year; if F. had been stricken down by Providence in 1849, his widow would have been entitled to one-third of his estate during her lifetime; and that now, when she was likely to become a widow, through his guilt, she ought to be entitled to certainly not less.

Mr. O'Connor then resumed his seat.

AFTER RECESS.

The Court having allowed Mr. Van Buren to make such corrections of the testimony as had been incorrectly stated by Mr. O'Connor, he called the attention of the Court to various points in regard to the denial of criminal charges with Miss Clifton in answer to the present complaint; also in regard to the assertion of Mr. O'Connor, that Mr. F. had, for 4½ years, visited the house of Mrs. Ingorsoll once or twice a month.

The Court inquired if there was any evidence as to the time when the letter from Jamieson was received by Mrs. F., and was told that the letter was received on the day of her leaving Cincinnati for Pittsburgh.

Mr. O'Connor again replied to the corrections made by Mr. Van Buren, and proved from the testimony of Mrs. Ingorsoll, that Mr. F. had visited her house in Houston street, until she quitted it. Counsel adverted to the other corrections in a brief manner.

THE CHARGE.

Chief Justice Oakley then proceeded to charge the jury in the following manner:—

GENTLEMEN OF THE JURY—I shall not consume a great deal of time in submitting this case to you; my duty lies plain before me. Before, however, I proceed to dwell upon the remarks appropriate to the case, I feel constrained to advert to a circumstance which had a direct bearing upon the Court.

The counsel for the defendant made use of a word which seemed to imply to the Court an unfriendly state of feeling towards his client, or with other words, a feeling of hostility. I feel, however, quite satisfied that counsel did not intend to use the word in that sense, for he could not be ignorant of the gross impropriety of thus applying it, as well as of the illegitimacy of such remarks. The remark, therefore, I take it, was meant to indicate that the Court had conceived an unfavorable expression against his client, from the testimony adduced here, and would thus remind me of the rule applicable in such cases, that I should guard the jury against any influence on my mind which might extend to them, when the case is by me laid before them. Let me here remark, gentlemen, that if counsel see the operation of testimony on the mind of the Court, they may, if they think the case calls for it, advert to it in much stronger and broader terms; they may even call upon the jury to disregard such influence, and rely entirely upon their own judgments. I need hardly say, that it is impossible for any Judge to sit and listen to testimony, without arriving at an opinion, and no Court ever tried a case without deriving some impression from it, but the charge of the Court never allows the jury to think that such effect of the testimony upon his mind is to influence them in the slightest degree. I can say, with great confidence, that I have never submitted a case to the jury without saying what I now say, that whatever my views or impressions of this case may be, you are not to determine your verdict according to them, but according to their own. The verdict is yours, not mine; you are responsible for it, whilst my responsibility ceases when I have charged you fairly and impartially. It is very difficult for a Court to call the attention of the jury to the testimony without indicating what bearing that testimony has upon the case, according to his opinion, but it is my duty to tell you, gentlemen, that you are in no way to regard the inferences which I might draw as influencing, or intended to influence your ultimate finding.

It is the right always, and often becomes the duty of the court to dwell *in extenso* upon the evidence, and it is invariably their duty to caution against the influence which their inferences may have upon the jury, except so much of it as by the exercise of their proper judgment they may deem fit to adopt.

I now proceed to submit this case to you; and it first becomes my duty distinctly and clearly to make you understand the issues which you are to try. Mrs. Forrest filed her complaint against Mr. F., charging him with committing adultery

with various individuals, and at various times. Of the charges, the only material ones for the purposes of this suit are so much of them as relate to Miss Clifton and Mr. F.'s alleged visits to houses of a peculiar description. There are many other charges, but no testimony is introduced in regard to them, and we have nothing to do with them. Mr. Forrest, on his part, puts in an answer, and after denying *in toto* the charges made by his wife, sets up counter charges against Mrs. F., charging her with adulterous intercourse with six different men. These, she, in her reply to that answer, denies; and the parties come before you on those issues. A good deal of criticism has been made by both counsel as to the effect of the character of the answer by Mr. F.; it is said, that he does not deny the broad fact of the adultery, but that he denies having committed it at the times and places stated, and that you are to infer therefrom that he could not under oath deny the fact itself, and thereby virtually admitted his guilt.

You must understand the nature of pleadings, gentlemen. They do not constitute evidence, and cannot in any way be used before the jury, unless allegations on one side are not denied by the others, in which case the code provides, that such uncontested allegations are to be taken as admissions of their truth. If, on the other hand, a denial is made in the answer, and such denial does not seem sufficiently broad to the other party, they have a right to call upon the Court to compel the answer to be amended. If Mrs. F.'s counsel had viewed the answer referred to in that light, the same rule would have applied in their case, and they could have compelled Mr. Forrest either to withdraw the answer, or to make it more definite. It seems, however, that they have deemed it sufficient to form an issue on, as to the fact whether or not he was guilty of the alleged adultery; and as the matter thus stands, you are not to attach any importance to the peculiar wording of the pleadings, nor must you allow yourselves to draw any disadvantageous inferences from it to the prejudice of the defendant.

The Court, or the judges of this Court, have thought proper that certain issues should be framed, which will be submitted to you, although in a somewhat different order. The first issue is, whether Mr. Forrest has been guilty of the adultery charged against him. This is the first and main question, and it entails several incidental questions, all of which will be submitted to you at the proper time. They will be submitted to you in writing, in order to guide you in your deliberations, and to enable you to frame your answers upon them in the affirmative or negative. The first question then, as I stated, is, has or has not Edwin Forrest committed adultery, as charged in the complaint? It seems that the parties at issue here have been married for nearly fourteen years, have lived together in a state of great happiness, and that some years ago difficulties arose which led to a separation; that out of this separation grew further difficulties, which eventually brought the parties before you in a suit for divorce. The case is a somewhat peculiar one. In ordinary cases of divorce, generally but one question presents itself—whether he or she be guilty of the charges made; but here a different state of things presents itself, one is arraigned against the other, both are charged with offences of the same nature, and in such cases the legal effect of the testimony is, that if it proves both either guilty or innocent, the law allows them to remain in the same position; for in either case it does not deem the parties entitled to a divorce. Mr. Forrest puts in his allegation of criminality on the part of his wife, not on the ground of obtaining a divorce from her, but as a reason that if the testimony be credited, she may not be entitled to a divorce in case even the testimony as to his own guilt was conclusive. I say, that in his answer he does not claim a divorce from his wife on the ground of the charges made by him, but on the basis of your verdict. If you acquit him of criminality and convict her, he might go into this or another Court, and claim his decree on the facts here decided, so that, virtually, they sue each other in the same trial. If Mrs. Forrest sustains the allegations made by her, she is entitled to a divorce and alimony, the amount of which you are also called upon to assess.

The case is peculiar in many other respects; it involves the trial of several distinct causes of action, and it is these which have consumed so much of our time. There are allegations of adultery on Mr. F.'s part, and the same charges are made by him; each of them gives rise to a fresh issue, and have formed the longest trial in which I have ever been concerned. I cannot but advert to the extraordinary and exemplary patience which you have displayed throughout this case, and feel satisfied that it will lead your deliberations to a safe result. The case does not call for any minute examination of the testimony on my part, for it is certain, that if the witnesses are to be believed, there can be no question of the guilt of both parties. I shall therefore not go into an examination of the testimony; everything bears upon the credibility of the witnesses—on this point the whole case turns. If Mr. Doty were, for instance, to be relied upon against Mr. Forrest, there could remain no shade of doubt of the defendant's guilt, and the same rule might, by way of illustration, be applied to the testimony of Anna Flowers in regard to the conduct of Mrs. Forrest. It being, therefore, a question of credibility of the witnesses, all that the Court has to do is to lay down certain rules and to commend them to the good sense and understanding of the jury, who would thereby be enabled to test the credibility of the evidence.

It is important in all cases, that the Jury should understand everything in regard to the issues in the case, and they have firstly to inquire, who holds the affirmative issue, for from that results another circumstance, namely, that the party holding the affirmative issue, is bound to make out a clear case, and if he leaves it so that a reasonable doubt can be attached to it, the case would remain in the same state as before. Mrs. Forrest holds the affirmative of the issue, and Mr. F. is, like all other men, presumed to be innocent until the charges be conclusively made out against him; if, therefore, the plaintiff leaves her case in a reasonable state of doubt, then it will be your duty to say that the charges have not been proved. This is the first point to which I had to call your attention, as one of considerable consequence. The next is in reference to the circumstances attending the trial of this case. It is, indeed, an extraordinary case. There are two persons living in a state of great happiness, evidently interrupted in a most disastrous manner; they separate, commence charging each other, and it now appears that, if the allegations against each other are to be taken as proved, both lived in a state of utter abandonment, Forrest being a habitual visitor of houses of a certain description, and traveling with a female under circumstances of the strongest suspicion; Mrs. F. living in a state of open adultery with various individuals, and apparently prepared to receive and countenance the approaches of every man, whilst all the time, the parties are writing to each other in terms of devoted love and with peculiar delicacy, as it struck me. It is an extraordinary case to try. I will here call your attention to another circumstance attending and surrounding this, not alone in this court-room but among the public; an atmosphere has been created, so tainted with prejudice as to become highly dangerous to the rights of both parties and to the proper administration of justice; the press has spread the details of this case before the public, and the consequence is that every bar-room, every grog and barber's shop has rung with it—the matter has been constantly tried and dismissed—the public have taken sides with either party—families have made it the topic of their conversation, and in this mist of conflicting influences you have been obliged to live for thirty days.

It would be miraculous, indeed, had not some of the outside views been suggested to you in that way, and I am sorry to say that articles have been brought to my notice which exhibit in the strongest manner the prejudices conceived by the editors. Among them is one which says:—"We understand that the jury in the Forrest case have made up their minds as to the verdict, and —" I shall not read the remaining portion to you, which states in whose favor the verdict was going to be, but the same article winds up with, "Why then should the case be further tried?" This language, if not entirely fabricated, must have been directly or indirectly received from some hints of one of your number going to show what his intention was; but I have no doubt that the whole is totally false and entirely unfounded on such authority—yet, how reckless a disregard of private rights, or of the ends of justice.

There is no question, either, that an enormous amount of perjury has been committed on one side or the other of these parties. I do not know how far this evil, also, grows out of the publication of the details of trials of this character, which were injurious to the public morals, dangerous to the administration of justice, and ought to be prevented. I sincerely trust that the Legislature will give the Courts the power hereafter to prevent the publication of such matter, at least until the conclusion of the trial. There is no reason why the public should be admitted to proceedings of this nature; they lead to a morbid appetite for scandal, and serve no purpose.

I proceed to call your attention to some rules of evidence regarding the questions which appertain to the credibility of witnesses. In the first place there are two kinds of evidence, first, positive proof, and second, circumstantial; either of which will enable you to draw certain inferences from. Thus some say, that circumstantial proof is better than absolute, when given by an honest witness; for example, if a man say that he saw a particular thing done by a person when no other person was present, or if a man say, that another party told him a certain thing in reference to another, when no other was present, the matter of credibility would depend altogether on the honesty of the witness. Thus the testimony of Mr. Doty against Mr. Forrest, charging him with adultery, and the testimony of Anna Flowers in respect to the adultery alleged to have been committed by Mrs. F., would be positive testimony, and if believed, would bear no doubt of the guilt of the parties. The great view with respect to circumstantial evidence, is this: that every man being presumed to be innocent,

the testimony must be looked at under that presumption. The first thing to be considered is, that the testimony which lays those circumstances before the jury must be credible according to the following tests. The credibility of a witness can be shown by his evidence not being contradicted by himself or by others; this character must be unimpeached—we live in a community where any man or woman wishing to falsify evidence can be furnished with the witnesses to do it. Persons should be careful in alluding to the character of witnesses without proper proof to guide them. Some men will on account of some transaction, neither justifiable or desirable, make up their opinion that they will not believe him under oath. Such person has no right to come to this stand and say so, as it is a person's general reputation for truth and veracity which should be entered into. Next, gentlemen, in respect to contradictions. It is always important to look at the whole evidence of the case and see whether there be any contradiction to the statements of witnesses made under a y material circumstances. When a man comes forward and gives evidence he may be believed until his character is impeached. A witness who has violated the truth in one particular is unworthy of belief, and incapable of stating the truth in another. There are some other remarks to be made in respect to the character of evidence, and the confessions of a party.

Of all species of evidence the most dangerous is the confessions of a party, first, because the party may not be understood; secondly, because it is a species of proof entirely incapable of being contradicted. One party thus swears against the other and there is no possibility of contradicting him, unless the character of the party can be reached, or other circumstantial evidence be adduced to contradict what he stated. The jury is called upon to weigh most conclusively the circumstances that go to weaken the facts adduced in evidence. Now, there seems to have happened in this case, that a witness in testifying will mix up things that he professed to have heard or seen, with what has been told to him, and this trial has been commenced in a loose manner, by opening the door very freely to such evidence. Now I never have found a more safe mode of trying a cause than to settle the proof according to the strict rules of legal evidence. With regard to the testimony of Mrs. Underwood, she has opened a very long story, consisting of what Mrs. F. told her, and what she heard from others, and it is my duty, as far as it is practicable to direct you, to separate what she has sworn to you, what she saw, and what she has been told.

His Honor then dwelt at some length on the duty of jurors, with regard to their consideration of evidence. Now, gentlemen, having thus endeavored to explain to you the nature of this controversy, I proceed to call your attention to the first issue you have to consider. That is, whether Mr. Forrest is guilty of the charge made against him, that consisting in the allegation that he was criminal in his connection with Josephine Clifton, at various places, and on various occasions. Counsel have adverted very frequently as to what witnesses have stated in this matter; and therefore it becomes the duty of the Court to state to you what the witnesses have sworn; but you are not to take my statement as your guide, if it does not bring before your minds what you recollect of the evidence. You must depend on your recollection. The history, then, of this allegation against Mr. Forrest seems to be this, and I allude to the testimony of W. M. Doty. Without attributing to him the charge of wilful perjury, it is certain that from his confession it is impossible that the fact should have taken place at the time. He begins by stating that the transaction occurred in 1843. That, however, is of no importance, especially when he procures written evidence to show that it must have been in 1844. But referring the matter to 1844, the difficulty becomes quite as serious, as it was an admitted fact that Mr. and Mrs. Forrest did not return from their tour to this city until the 17th of July, while his impression was that the fact took place some time about the 4th of that month. Again, the testimony of Dr. Quackenboss, a witness who has not been impeached, shows that that transaction could not have taken place, certainly until the end of Dec. 10th. No prudent jury should rely upon such testimony, and it would be just to dismiss that transaction entirely from our notice.

The history of Mr. Forrest's conduct with respect to Josephine Clifton, at Norfolk, Va., depends upon the testimony of Mr. Allen, a sort of attache, or servant, performing Mr. Forrest's duties. He states that Miss Clifton and Mr. Forrest were on that occasion together at Norfolk in the same hotel, that he believed that the conduct between them was such as would, if he had not been aware that Mr. Forrest was already married, indicate that they were man and wife. This, however, was in the presence of no one but himself. Subsequently, in White street, New York, this Mr. Allen went on a certain occasion to see Miss Clifton there, at her house, on theatrical business, and found her in bed, though he says nothing in relation to the state of her dress. Going down, he states that he met Mr. Forrest in the hall, who went up on being called. Such facts show a state of great familiarity.

Passing then to the next case, though not in the regular order of time, his Honor dwelt on the testimony of Dr. Hawks and his wife, in which a doubt of the real origin of the cause of her sickness was conveyed, which the defendant should receive the benefit of.

He next reviewed the testimony of Mr. Foster, whose character was also not attempted to be impeached, who saw Mr. Forrest and Miss Clifton playing about the latter part of November or December, 1842; that he stopped in the same hotel with them, and saw, at an early hour in the morning, between seven and eight o'clock, Mr. Forrest coming out of the room which he supposed was Miss Clifton's, with only his cloak and shirt on. His Honor, on this subject, remarked that if this room was proved to be that of Miss Clifton, Mr. Forrest was much to blame, and also that there was not sufficient examination to show what sort of costume he was in. He would leave it to the jury to decide according to the rules of evidence he had laid down, whether such facts were reconcileable to the innocency of Mr. Forrest. He next alluded to the frequent visits of Mr. F. to the house of Caroline Ingersoll, and left it to the opinion of the jurors as men of the world, what they considered with regard to the character of the houses both in Greenwich street and Houston street. If they came to the conclusion that they were houses of ill-fame, their next question was to decide how far Mr. F. has been proved to go there, and the inference to be drawn from it. His honor then alluded to the manner in which actions of divorce are tried in England, namely, before an ecclesiastical consistory, in order to show that the jurors now stood in the same position as an ecclesiastical consistory.

He next came to the charges as against Mrs. Forrest, alluded to the statement in one of her letters, upon which so much time had been spent, which gave rise to the presumption that he would be in danger of falling into a course of evil, but he said that it would be dangerous to believe the guilt of a woman charged with such an offence, because she entertained certain principles with regard to the rules of society. With regard to the Consuelo letter, no proof could have been given of its being addressed to Mrs. Forrest, unless by her own statement, which had been read, showing its receipt from Mr. Jamieson. His Honor, after reviewing the principal features in the case, said that it would be unsafe to rely on it. He then dwelt on the testimony of both Garvin and Kent, and showed the great discrepancies that existed in each. He next alluded at considerable length to the testimony of Mrs. Ann Flowers, the most important witness in the case, if believed, reviewed her character, as exhibited by the evidence produced from those with whom she lived from an early age, exhibited the contradictions that were found particularly in her statement to her sister in Havana, to whom she stated that she came to see her husband's family, while afterwards she said that she had been threatened by her family in a letter, directed to N. Orleans, which could not have reached her at that period. He next adverted to the time she took up her residence at the Irving House, when she saw Mr. Forrest, Mr. Dogherty, Mr. Sedgwick, and others, and where her deposition was taken, and also to the fact of her taking a room in Mercer street, at the suggestion of Mr. Forrest, in order to invite Mrs. Forrest to see her by a letter, which she sent to her, but which was either not received or not attended to.

Then he spoke of Mr. Dogherty calling to see the witness next day, and presenting her with an advertisement from the New York Herald, which was inserted in a second letter to Mrs. Forrest, evidently intended to deceive. That advertisement his Honor said was beyond all question a palpable falsehood, and intended to deceive, because it desired this woman Ann Flowers to give notice at the office of Mr. Sedgwick, she having been in the city five days, and known to all these parties. It was evidently a mere sham taken taken to this woman, and sent to Mrs. Forrest for the purpose of deceiving her, and a transaction that could not be justified by anybody engaged in getting it up; for he never knew that falsehood would ever be resorted to for any honest purpose.

His Honor concluded his remarks on this feature in the case, with some very severe strictures. He next alluded to the subject of alimony, and left the decision of the case in the hands of the jury.

Counsel on each side having drawn up two verdicts in legal form, one for the plaintiff and the other for defendant, they were, by mutual consent, handed to the jury, who retired at about 5 o'clock.



EDWIN FORREST.

☞ THE VERDICT. ☞

At 10 o'clock on Monday, 26th Jan., the Jury came in with their sealed verdict. The same was opened; a death-like silence pervading throughout the Court room, which was filled by a dense crowd. The Clerk then read the verdict,

That Mr. Forrest is guilty of adultery.

That he was a resident of New York and not of Pennsylvania.

That Mrs. Forrest is entirely innocent.

That the amount of alimony allowed Mrs. Forrest be \$3,000 per year.

The verdict was received with shouts of approbation from Mrs. F's friends.