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REPORT OF THE

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FORREST DIVORCE CASE,

CONTAINING THE FULL AND UNABRIDGED TESTIMONY OF ALL THE WITNESSES, THE AFFIDAVITS AND DEPOSITIONS, TOGETHER WITH THE

CONSUELO AND FORNEY LETTERS.



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THE

FORREST DIVORCE CASE.

December 16th.

This important and exciting case, after numerous postponements, is at length fairly before our Courts. The anxiety of the public to hear and see all the facts and proceedings connected with it was sufficiently manifested by the crowds which thronged every avenue promising access to the Court Room. We noticed many of our most respectable citizens among the assemblage, eager to rush in at the first opening of the doors.

After patiently waiting for some time, the Supreme Court Room was thrown open, and in a moment, as it were, densely crowded. The Chief Justice soon made his appearance, quickly followed by the principal characters in this domestic drama, who were both attended by their learned counsel Messrs. Charles O'Conor and John Van Buren. Mrs. Catharine N. Forrest rather exceeds the medium height, is of good figure, and very erect carriage. She was habited in black, wore a black silk bonnet lined with a white cap, with a black lace veil covering her face. Her countenance indicates her English birth; the face is plump and rather round, the nose prominent and slightly aquiline, the mouth good, and the teeth faultless. Her eyes are extremely large, and shadowed by a bold, high forehead, and strongly defined eyebrows, her black hair being parted in the centre. During the whole of the day she sat by the side of her counsel.

Mr. Edwin Forrest, the respondent in this suit, is too well known to require us to give a description of his person. He looked extremely well, and was marked with all the outward characteristics of a gentleman, equally as Mrs. F. bore every indication of a lady. Truly it was a sad exhibition to behold these individuals, so well calculated to adorn society in public, and to contribute to each other's happiness in private, thus pitted against each other in that legal arena from which no party ever yet came forth unscathed.

Mr. F. wore his usual dress, namely, a black frock, with velvet facings, collar á la Byron, with ample exhibition of snowy linen covering his broad chest.

Mrs. F. was attended by several ladies, among whom were her sister, Miss Sinclair, and Mrs. Parke Godwin.

Chief Justice.—Gentlemen, only twenty-four jurors have answered to their names. I will wait a little longer, to see if others will come in, unless you consent to take a jury from the twenty-four. Probably we had better wait a few moments. Two or three gentlemen wish to be excused. I am willing to hear them now.

Several jurors were then excused, for various reasons. The list was again called, and some few more answered. The list then contained twenty-three names, who answered and were not excused.

Chief Justice.—Proceed to the empannelling of the jury.

Mr. Ed. H. Mann was excused on the ground of illness in his family and his residence being out of town.

The names of twelve jurors were then drawn from the ballot.

Chief Justice.—Is there any desire to ask these jurors any questions?

Mr. J. Van Buren said that probable it would be well to ask them if they had any prejudices.

The Chief Justice then told the jury the nature of this action, which was one of peculiar circumstances; and if any of them had formed any impression on the matter, such as to render them prejudiced, they should say so. It is an action between Edwin Forrest and his wife. Each party brings charges against the other, and seeks a divorce on the ground of adultery.

Mr. L. S. Battelle (a juror) said he had often expressed an opinion on the subject. He was directed to stand aside. Mr. W. E. Corey was excused on the same ground.

Mr. Elias A. Day said he read the history of this cause in the newspapers, and had expressed an opinion on it. He was also excused.

Mr. Daniel Edsall said he had read the charges and refutations, but he could give a verdict according to the evidence.

Chief Justice.—Under that declaration, sir, you are eligible. Take your seat.

Three other jurors were then called, in lieu of those excused.

Mr. Nathaniel Sawyer said—I beg to to be excused, for the same reasons that the other gentlemen expressed.

Chief Justice.—Have you formed an opinion in the matter?

Mr. Sawyer.—I must confess my mind is very much prejudiced. Mr. Sawyer was excused, and the jury then stood as follows:

1. Stephen W. Meech,
2. William Earl,
3. Horace Beales,
4. Theodore De Witt,
5. Daniel Edsall,
6. Calvin H. Merry,
7. Pelatiah P. Page,
8. Thomas B. Harris,
9. Meigs D. Benjamin,
10. John C. Ernestputsch,
11. Fred. S. Schlessinger,
12. John Caswell.

Chief Justice.—Gentlemen, this cause will be tried in the court room of the Oyer and Terminer, in the other building, which has been obtained for the purpose.

A rush was here made for the door, and the crowd of persons all made for the appointed place.

Mrs. Forrest entered the Court of Oyer and Terminer, escorted by Mr. Howland, of the firm of Howland & Chase, her attorneys, and accompanied by her sister, Miss Virginia Sinclair, a very mild and interesting young lady, about fifteen years of age. Mrs. Parke Godwin was also with Mrs. Forrest.

Mr. Charles O'Conor attended as counsel for Mrs. Forrest.

Mr. Forrest was also in court, seated near his counsel, Mr. J. Van Buren and Mr. Robinson.

The Chief Justice said he observed by the papers handed to the Court, that there were a number of issues which had been settled by the Court. He wished to know how they were to proceed, and if they were to conform to those issues.

Mr. O'Conor replied that he supposed they were to try the whole case, and it may be well that the jury should pass specifically on each.

Chief Justice.—I suppose, from the nature of the controversy, it would be necessary to have it in that form.

Mr. O'Conor then rose to open the case for the plaintiff. He said—Gentlemen of the jury, the action which you are about to try is one which, as you have already learned in the proceedings of this court, has attracted no small degree of attention, by its publicity through the newspapers—publications, perhaps, differing in many instances, according to the views of the writer. You, gentlemen, are called upon to bring public opinion to the test, on a fair, impartial, and just inquiry; and whatever may have been said out of doors, or published in the newspapers, you are called upon to stamp the seal of your approval on what is true, and to stamp the seal of your repudiation on what is false. It was desirable in all cases of such importance, that the facts should go before the public in the shape of testimony of witnesses; but, unfortunately, that was not the case in this instance, and family secrets have been unceremoniously laid before the public. You are not here for the purpose of circulating family secrets and family discords. I trust that we shall be able to have this case spread fully and fairly before you, so that when your verdict shall have been rendered, no man can doubt that it has been rendered according to the evidence and to truth. This suit is brought by Catharine N. Forrest against Edwin Forrest for divorce—to relieve her from the bonds of matrimony, by reason of his delinquency. That is the legal description of the suit. But it might more properly be called an action of Edwin Forrest for a divorce from his wife, to cast her off from his protection, and, in addition, so blasting her reputation and her fame that she could never raise up her head amongst women. She is not here a voluntary plaintiff—her whole course of life has been such as to induce her to shrink from exposure—her life has been altogether private, whatever may have been the career of the other party.

It will be necessary, gentlemen, to give you a detail of these circumstances, which I shall endeavor to do calmly, and without misstating the facts, as I expect they will come out in evidence before you.

In 1837 Mr. Forrest was by profession, as he now is, a tragedian, and as such he became distinguished in this country as well as in England. During Mr. Forrest's visit to England, it was not singular that he was introduced to Mr. John Sinclair, who was a singer, and in some way connected with the profession of Mr. Forrest. Mr. Sinclair's family consisted of his wife and three daughters—Catharine N. Sinclair (then nineteen years of age,) another daughter some years younger, and the third a young lady now about fourteen years of age. A marriage took place between Mr. Forrest and Miss Sinclair in 1837, and in 1838 they came to New York and established themselves here, permanently it was hoped. Mr. and Mrs. Forrest, he was warranted in saying, as far as the evidence will go, lived together in as much bliss, and in as great a state of harmony as any married couple, until the 19th of January, 1849—a period of about twelve years. It may be important for you, gentlemen, to take particular note of these dates. At that time, 1849, Mrs, Forrest was in the habit of visiting the house of her sister. One night she was at a party there, and returned home at a late hour, perhaps 12 o'clock. Mr. Forrest, who was not in the habit of going to parties of that kind—I mean where friends are assembled—unions or re-unions, as they are called—was not there, though many of his friends were. He asked Mrs. Forrest, when she returned home, who were the persons at the party, and her answer could not have been unsatisfactory to Mr. Forrest; they were his friends, though with some of them he was not on terms of intimacy. He asked her if Mr. Stevens was there. Mr. Stevens is a gentleman who will figure in this cause, if it is tried as extensively as we expect. Mr. Stevens is a jeweller in Broadway. Mr. Forrest was told by Mrs. Forrest that Mr. Stevens was not at the party. Mr. Forrest then

spoke of one of Mrs. Forrest's relatives, a lady, in terms which, however, I will not mention, as it may not be proved. Mrs. Forrest was somewhat annoyed, and she flatly contradicted him. I will not use the term which she expressed, but it was one which his observation called forth. To this Mr. Forrest said that, as he would not suffer any man to say the same to him and live he would not live with any woman who would say so. Before Mrs. Forrest retired to bed that night, Mr. Forrest told her that she should separate from him, and this was soon rumored amongst their friends.

No individual ever came in contact with Mrs. Forrest who did not admire her for her good and amiable qualities. I have never found a person, except, perhaps, some witnesses who may be brought forward here to speak disparagingly of her. Neither party assigned a reason at this time for the separation; Mrs. Forrest was not called upon for one. Mr. Forrest postponed the separation from day to day, to suit his own convenience. He was then residing and keeping house in Twenty-second street, and he wished to dispose of his house in May, so this separtion actually took place on the last day of April, 1849. The furniture was removed to Mr. Forrest's country residence, and he took Mrs. Forrest in a carriage to the house of his friend, Mr. Parke Godwin, and left her there—this being the separation. From his silence, there was no declaration of any deadly acts on the part of Mrs. Forrest; on the contrary, his acts would lead to a different conclusion Two or three days before this separation he presented his wife with a copy of what, I suppose, is his own treasured book, Shakspeare, and wrote her name on the blank page. In the carriage, also, he brought a portrait of himself, which he presented to her as a more treasured memento, which she has yet got, though we have had notices that it would be taken from her possession. This is not all, gentleman; Mr. Forrest took with him to his residence in Westchester county the portrait of Mrs. Forrest.

The plaintiff's father resided in England, and it was necessary to communicate with him on the subject of this separation between his daughter and Mr. Forrest. Mr. James Lawson, who was the agent of Mr. Forrest in this city, wrote, at Mrs. Forrest's request, to Mr. Sinclair, informing him of the separation. In that letter, Mr. Lawson told Mr. Sinclair that he could not account for the separation; but he also said in it, "of one thing you may be assured—her honor is untarnished." That letter was shown by Mr. Lawson to Mr. Forrest, and he approved of it. On the first of December, 1849, Mr. Forrest's conduct assumed a new phase. Mr. Forrest had previously visited England, and returned to his own country pleased with the reception he had met with there. He again visited England with his wife (this was in 1844, before any difficulty occurred between them) From causes, which it is not necessary for me to explain, he was not happy. Not from any fault of Mrs. Forrest; but in 1846 he returned to this country a soured and disappointed man. It may be said of him, as it was said of Alexander, the world was silent before him. He had been previously very successful, and had made money; and at a period of life at which man cannot bear a check, he met with that disappointment. The constitution has attained its highest mental vigor, and a check then enlists the passion of resentment to the very highest degree. Mr. Forrest, I can take leave to say, has been laboring from that time to the present under the excitement consequent upon his disappointment on that occasion, and many of his acts may be attributed to that source. The internal conflict which he experienced was at its height, and the external portion of it excited the attention of every person in New York, so as to be a matter of public notoriety to all. At this time Mr Forrest gave up acting, as we supposed, for life; though recently he has returned to the stage. He was a man of large fortune; he had built himself a magnificent mansion on the banks of the North River.

In December, 1849, Mr. Forrest took it into his head that he would become a resident of Pennsylvania, and so far as a man residing at his residence in this State can be, he was, as he claims to be, a resident of Pennsylvania since December, 1849. On the 1st of December, 1849 he assumed, to some extent, the character of a resident of that State. Towards the close of that month he wrote a letter from Philadelphia to his wife, keeping a copy to be used in evidence. He sent it by Mr. Andrew Stevens. Mrs. Forrest, of course, answered that letter. His letter contained some guilty accusations, and charged her with circulating the cause of their separation, and threatened that he would commence hostilities against her. Mrs. Forrest wrote such a letter as a virtuous, obedient, honorable and submissive wife would write to a man who was proud, powerful, and affluent. Mr. Forrest then opened his battery to charge criminality. He had retained counsel before this, and it was desired by his counsel that Mrs. Forrest should have counsel also, and for the first time she then obtained legal advice. Through Mr. Sedgwick, one of Mr. Forrest's attorneys in New York, and Mr. Randall, his counsel in Philadelphia, we learned that Mr. Forrest had found a letter in a drawer which he regarded, not at the time, but on subsequent inquiry, he supposed contained some evidence of criminality on the part of Mrs. Forrest. That letter was written by Mr. Jamieson, a fellow actor of Mr. Forrest, and whom he had entertained at his table, and had left alone frequently with his wife, but who he now says was a bad man. Mr. Forrest thought proper to make application to the Legislature of Pennsylvania upon the evidence of that letter, for a divorce from his marriage, solemnized in England, and which during its whole existence, had its home and residence in New York. He asked the State of Pennsylvania to grant him a divorce on that letter, which no Court would grant, and which would have been scandalous of the Legislature to have granted. He should have put his wife on her trial

here, as she has now put him on trial. When the counsel met, Mrs. Forrest's counsel were instructed that she had said—"if you want a permanent separation, and wish to marry again, I will not be an impediment in your way. I will go to any State to allow yon to obtain a divorce, so that your application does not contain a reproach upon my honor, so that when I go forth to the world without a husband, I may not be reproached as a vile woman." Mr. Forrest's reply to this was—'Oh! I don't want any divorce; men in higher station have been separated, and no one has asked them the cause. No one will dare to ask me; and my strong arm will protect you." It, however, appeared that the Legislature would not grant a divorce without some slight accusation, and the question presented itself whether Mr. Forrest could go before the sovereign Legislature, and make proof of implied unchaste conduct against his wife. The counsel for Mr. Forrest said it was impossible to get a divorce on the ground of incompatibility of temper, and Mrs. Forrest of course would not submit to any accusations against her honor and virtue. He commenced proceedings in Philadelphia—she resolved to set at nought the proceedings, and contented herself with sending a protest against them. Mr. Forrest until the dissolution of the Legislature, was endeavoring to get his bill passsd. It was brought up three times; it was once rejected by the Senate. A Mr. Lawson, early in February, procured an old lady, who gave evidence, implicating eight different persons in indelicacies, amounting to adultery with Mrs. Forrest, all of different ages; but the testimony was, upon its face, so unjust that it was rejected by the Legislature. In the bill filed against Mrs. Forrest in Philadelphia, by Mr. Forrest, a Captain William A. Howard was implicated as the ninth adulterer with Mrs. Forrest. This man is a friend of Mr. Forrest of some twenty years' standing. The process issued by the Legislature of Pennsylvania was served on Mrs. Forrest at a farmer's house, where she was staying. The question of the Philadelphia suit was whether Mrs. Forrest's case should be transferred to Pennsylvania or not; Mrs. Forrest therefore determined to apply to the Supreme Court of New York, and in September, 1850, she filed her bill and obtained an injunction to restrain him from proceeding with his suit in Philadelphia; it therefore became necessary for Mrs. Forrest to bring her suit in the State of New York. Although Mrs. Forrest is charged in this court with adultery, you, gentlemen of the jury, have to decide whether Mrs. Forrest is a delinquent, or Mr. Forrest is a delinquent. Mr. Forrest, in this case, is a little more liberal than on other occasions; he now charges Mrs. Forrest with adultery with only six persons: he has been kind enough to leave out of the case, the name of a highly respectable clergyman; also that of Mrs. Forrest's doctor. Mr. Forrest, in September last, had the trial postponed, until he should obtain a material witness, namely, Anne Flowers, who was at that time stated to be in New Orleans.

Now, gentlemen, it may be asked what evidence can be produced against Mr. Forrest, to show that he himself has committed a delinquency, which would obtain Mrs. Forrest such relief as Mr. Forrest seeks? Is there not some delinquency alleged? Mrs. Forrest charges him with adultery with quite a number of persons. Mr. Forrest, in his affidavit, denies the offence charged against him by Mrs. Forrest. We will produce testimony that will not leave that matter in any doubt. On the other side, the charges which Mr. Forrest has prosecuted against his wife, in the Legislature of Pennsylvania, have not been substantiated. Mr. Forrest has been engaged since Sept. 1849, in searching out testimony. This Anne Flowers was, in the month of Sept., advertised for in the Herald, to send her address to a lawyer in Wall Street, who was the lawyer of Mr. Forrest. At this time Anne Flowers was at a boarding-house in Mercer-street, in the city of New York—of course a respectable one. She was brought to this city, closeted, and then advertised for. We shall be enabled to trace home the advertisement to a friend of Mr. Forrest's if not to Mr. Forrest himself. When this cause was called on in June last, Anne Flowers was gone to New Orleans. From thence she was traced to Texas, where we obtained a commission to examine her. Some time afterwards we ascertained that she was in New York, staying at a hotel where Mr. Forrest was in the habit of staying. In 1844, Mr. and Mrs. Forrest went to England. Previous to that time, Anne Flowers, a girl of eighteen years of age, was introduced into his family as a servant. She was detected in the act of improper intercourse with Captain Howard, the fruit of which subsequently appeared. Anne Flowers has since been married. She has told some of her friends that she has been paid for coming here as a witness. This woman began her career at fifteen years of age. She was suspected, and it was proved that she possessed herself of all the small change which happened to lie about her employer's house. Not satisfied with this, she entered through the scuttle of a neighbor's house, and stole everything she could lay hands upon. She was tried for this offence, and suffered imprisonment. This is the character of the witness without whose testimony Mr. Forrest stated it was impossible for him to proceed to trial. Another witness, whose testimony is to be produced, is a sailor, who has been procured by Mr. Stevens, and conveniently provided with a passage in a ship which sailed this morning for San Francisco. There are, no doubt, more witnesses which may have been procured. This is, as far as we know, the testimony to be brought forward by Mr. Forrest; but, gentlemen, I ought, perhaps, before closing, pass a remark about another witness—Mr. Jamieson. About the time Mr. Forrest was proceeding before the Legislature, he procured the sympathies of some newspapers, who continually expressed their pity for an injured man. In a letter from one of the editors to

another, it was stated that as Mr. Forrest was then in New Orleans, and wanted an admission, the propriety of getting Jamieson drunk, and thus implicate him in the crime of adultery with Mrs. Forrest, was suggested, adding that it was no disgrace, but, on the contrary, that it would be a feather in his cap. Mrs. Forrest is a woman who has endeared herself to all who have seen her in the domestic circle. She comes here not to escape from the law. If your verdict should be against her, she would rather at once sink into the grave, than live the life of an injured woman. At the time Mr. Forrest cast her forth, he had no idea of bringing all these charges against her; on the contrary, he said that he never believed anything to her disparagement. Some time after their separation, he met a friend in the street, and having advanced arguments about his separation from Mrs. Forrest, the friend said to him, "that there were circumstances under which even guilt might be palliated." Mr. Forrest replied, "There is no guilt—would to God there was." The learned counsel then concluded.

Chief Justice asked for the date of the marriage of the parties.

Mr. O'Conor.—The 23d June, 1837, the plaintiff being then, as admitted on the other side, nineteen years of age.

The issues to be tried in the cases are—First, Whether the defendant in this action, since his marriage with the plaintiff in this action, has committed adultery, as in the complaint in this action charged? Secondly, Whether the said plaintiff, and the said defendant, were both inhabitants of this State at the time of the commission of such adultery by the said defendant? Thirdly, Whether such adultery was committed by the said defendant within this State? Fourthly, Whether at the time of the commission of such adultery by the 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? Fifthly, Whether the said plaintiff has committed adultery, as alleged in the answer to this action? Sixthly, Whether at the time of the commencemnnt of this action, the said plaintiff was a resident and inhabitant of this State? Seventhly, Whether at the time of the commencement of this action the said defendant was a resident of the State of New York?

Henry W. Bashford was the first witness called, and being examined by Mr. O'Conor, deposed, I am Town Clerk of Yonkers, in Westchester county; I know Mr. Forrest, the defendant; I know he has a house in that town; I think I saw him there about a month ago.

Q.—Will you produce the poll list of Election District No. 2 for that county, of the general election of Nov. 6th, 1849.

A.—I can produce one I found in the office. [Produces it.]

Mr. O'Conor then read it, and said that the fifty-eighth name on the poll-list was Edwin Forrest.

The Chief Justice said it would be well to explain to the jury the nature of this evidence, which was taken out of order.

Mr. O'Conor explained that in 1849 Mr Forrest claimed to be a resident of Pennsylvania and according to the construction of law, the residence of the husband is the residence of the wife, and we are going to prove that Mr. Forrest voted in the State of New York in November, 1849, so that up to that period, at least, he was a resident of this State. In a word, we wish to show that Mrs. Forrest is in fact a resident of the State of New York, and has a right to maintain her action here, and that she should not be compelled to go to Pennsylvania to prosecute or defend it. Mr. O'Conor then stated that he also read from the list the eighteenth name of it—Caleb Vantassell.

The witness was then cross-examined by Mr. Van Buren:—When I speak of Mr. Forrest's house, I mean the Castle; I don't believe he ever occupied it; I believe it has never been finished, and I don't think it has ever been occupied by any one; it was at the depot I saw Mr. Forrest; I do not know that there is any place, any premises, which he occupies when he is kept there over night; I was not present when Mr. Forrest voted; I don't think the poll list would show whether he was challenged or not.

Caleb Vantassell, being sworn, deposed.—I reside in the town of Yonkers; not in the village; I was Inspector of District No. 2 at the general election of 1849; I voted there myself; I know Edwin Forrest by sight; he voted at that election; I can't recollect when I last saw him in that town; I know where his place is; I live some way (about two miles) from that.

Cross-examined.—Mr. Forrest was not challenged at the poll.

Matthias Warner deposed.—I reside in the town of Yonkers, not in the village; I reside within the Second Election District; I keep a store; the general election for 1849 was held quite close to my store; I know Edwin Forrest by sight; I think I saw him on the day of that election about the poll; I know the place that Mr. Forrest owns; there is quite a large residence on the premises; a large stone building of an expensive character; there is another very nice building on the premises, a stone building; I believe Mr. Hobbs, the gardener of Mr. Forrest, lives in it; it is the best part of two miles from where I live to Mr. Forrest's place.

Cross-examined.—Mr. Hobbs has a wife and several children; I am not able to say whether the other building is furnished or not; I have not been by it for twelve months.

Mr. O'Conor.—We call the defendant, Edwin Forrest. [Miss Sinclair here left court.]

Edwin Forrest was then called, and being sworn and examined, deposed.—I am the defendant in this cause.

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

Mr. Van Buren objected to this course.

Chief Justice.—There is no objection to that question as it now stands.

The question was repeated. A. I did; she is not now living; I don't know how long she is dead; I don't know if it is two or three years since she died; I don't know how long it is since I heard of her death. Q.---Can you not say that you 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 places 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; I have travelled with her, but not frequently on long journeys; I can't tell about what time I first became acquainted with her; I can't tell if it was subsequently to my marriage with Mrs. Forrest; I am introduced to a great number of persons, and I can't recollect; I may have been introduced to her before my marriage; I think I was, but I'll not be sure; I can't say positively that I recollect seeing her before my marriage; I have no positive recollection, but I think it very likely that I did. Q.---Have you ever, since you were married to Mrs. Forrest, had sexual intercourse with Josephine Clifton?

Mr. Van Buren.—We object to the question as improper, because the answer may implicate the witness. He is not bound to answer the question, nor has the counsel any right to ask it.

Mr. O'Conor contended that the question was admissible. He referred to the code, section 157, for the purpose of showing that the defendant was bound to answer the question in his answer to the complaint; and if he has omitted to answer it in his answer, then we contend that by a legal consequence he ought to answer it now. The want of an answer may embarrass us, because the evidence may not have as much weight with the jury, if coming from other witnesses. He (Mr. O'C.) need not refer to the section of the code, which states, that all the allegations not denied in the answer are admitted. A witness may decline to answer any question implicating him in a felony, but he is compelled to answer a question involving a misdemeanor. Counsel also referred to section 340-344 of the code, to show that a party to a suit may be compelled to testify as any other witness. Also to section 495. There is a rule that a witness may decline to answer a question which would tend to degrade him; but on that we take issue. It never has been decided in England nor in this State, nor, he believed, anywhere else, that where a question is material to the issue, a witness was at liberty to decline to answer, on the ground that it tends to impeach him. If the witness says no, then it does not degrade him; if he answers yes. then it seems that the interests of justice and the cause of truth demand that the court and jury should be informed of it.

Mr. Van Buren said that a husband cannot be a witness for or against his wife. He Mr. Van Buren) would make that objection. Mr. Forrest had made none,

Mr. O'Conor continued to cite Starkie on Evidence in support of his views. He referred to the ancient case of Lord Audley, in England, who for having procured the perpetration of a gross outrage on his wife, was indicted with his accomplices or instruments, and the wife was admitted as a witness against her husband. Lord Audley was convicted and hanged.

Mr. Van Buren, in reply, did not mean to argue the privilege of the witness; it would be time enough to do so when he claims the privilege of declining to answer. The question put has been already answered by the witness in his answer under oath, as to the several times and places specified in the complaint, and he (counsel) saw no other mode that could have been adopted in the answer. The argument of Mr. O'Conor would have been proper, if the witness had declined to answer; but I alone object now on the universal rule which prohibits a wife being a witness against her husband, or a husband against his wife—a rule which has but one exception. As a general rule, the wife cannot proceed in a court without being joined by her husband, but there is an express statute which permits her, in cases of this kind, to sue alone. But it does not follow that the rule preserving the confidence between husband and wife shall be violated; it is a rule founded on the good order of society, and has but one exception, and that is where a personal injury is inflicted; there the law allows the wife to become a witness to protect her from personal violence. Counsel referred to 4th vol. of Howard, p. 1, where the precise question was presented.

Chief Justice.—As far as the general principle is concerned, the question has been decided in this Court. As to the general principle, that a wife cannot be a witness against her husband, you may consider it settled.

After some further remarks from Mr. Van Buren—

The Chief Justice said that the witness is called upon to give evidence in favor of his wife, because he is asked to implicate himself, the legal consequence of which would be, that Mrs. Forrest would be entitled to a divorce against him. That a husband cannot be a witness for his wife, has been ruled time out of mind. It is simply this—it does not go upon the principle of interest; it stands upon higher grounds; it rests upon the ground that the law will not allow a husband and wife to be witnesses against each other, because it would lead to domestic quarrels, domestic broils, and be entirely destructive of domestic peace. Now, to that general rule, there have been some exceptions. It is contended here, that these exemptions are personal violence aed personal wrong—cases where

there is no other evidence for proceedings in court. The case alluded to in the English books, is one of these exceptions. The husband was there indicted for the procurement of a grievous personal wrong on his wife, and she was admitted as a witness against him; but the principle of that rule, when it comes to be analyzed, seems to be this: Here is a case of a peculiar character—of a wife against a husband, seeking for divorce. It is a personal wrong—a personal injury of the highest character. But it seems to me that it is one of those cases in which the exception to the rule ought to be applied; but there are other views in the matter. The party is called upon to admit himself guilty of adultery. Now, adultery is, by the laws of this State, an indictable offence. There is, however, a limitation to the indictment prescribed by law. If it appears that Mr. Forrest was guilty of this offence, it must have been more than two years ago, and he could not be indicted for it now. It would be taking the matter very nicely, however, to compel him to answer on that account. The question is, could he be put to the inconvenience of a prosecution? It is a rule that no man can be compelled to answer a question involving an indictable offence. Whether Mr. Forrest could be put to the necessity of answering that charge, I would hesitate long before I would compel a man to answer a question which might subject him to such a difficulty. But if no answer is made in the reply to the complaint, the law assumes that it is an admission, yet the court can make no decree on such admission—it must be proved under oath For what purpose, then, do you call upon a man to answer a question which the court cannot act upon? If the admission be a confession, and avails anything, it is upon the records. If the charge is denied, and he is called upon now to answer the question in a certain way, he may be indicted for perjury; and it is a rule that a man cannot be compelled to answer a question which will subject him to such a charge. For all these reasons, I do not think Mr. Forrest is bound to answer; but, if gentlemen think proper, I will hear them, as to Mr. Forrest's right to decline to answer. I think upon collateral matters a party cannot refuse to answer.

Mr. O'Conor was then heard, and argued at considerable length as to the limitation. He cited several authorities, and concluded about four o'clock.

The Chief Justice said that he would dispose of the question in the morning. He said the time for adjournment had now arrived, and perhaps it would not be necessary for him to state to the jury the necessity of guarding against the approach of any person on this subject. If such an attempt was made, he hoped the jury would have no hesitation in communicating the name of the party to the court. They would not converse among themselves on the subject, and they would keep their minds as uncommitted as possible until the whole case was tried.

Adjourned.

December 17th.

On the assembling of the Court, Mr. O'Conor asked permission to present an illustration or two in addition to those he presented yesterday on the admissibility of the question propounded to Mr. Forrest as a witness on the stand. Counsel then proceeded to amplify the argument he previously adduced.

Mr. Van Buren was about to reply, when

The Chief Justice said he did not think it was necessary to delay the cause in discussing this question. He had remarked yesterday that the witness could not be called to testify in favor of his wife; he was still of that opinion. He did not want to hear any further argument on it at present. As he suggested yesterday, it was an attempt to draw from witness a confession of a criminal offence. That was, however, sufficiently answered by the limitation of the liability; but, upon reflection, he thought the witness could not be compelled to answer. Formerly, in the Court of Chancery, a defendant could not be compelled to answer under oath a bill filed for a divorce. That was modified by the code, but the Court must give the modification a fair construction. There may be many instances, and no doubt there are many, when a man and wife are anxious to procure a divorce, when the wife might proceed, and the husband admit, and thus, by collusion between the parties, obtain a divorce of the marriage tie, which the law deems should not be lightly severed. I think, therefore, the question cannot be put.

Mr. O'Conor.—Do I understand your honor that the confessions of the defendant should not be received in evidence?

Chief Justice.—That is my present impression. It will be time enough to decide that when the question arises. But the confession, in the nature of evidence, ought not to be received.

Mr. O'Conor thought the witness should state a reason for not answering before the question is ruled out.

The Chief Justice said he ruled that the question is irrelevant and improper as regards the witness, although he assigns no reason except that his counsel objects.

Mr. O'Conor took an exception to the ruling of the Court.

Fanny Bryant Godwin, being sworn, deposed.—I am the wife of Parke Godwin; am acquainted with Mr. Edwin Forrest for ten or twelve years; it may be a little more. Q—In and previous to the year 1849 were you and your husband on terms of intimacy with him? A.—Until the separation of Mr. and Mrs. Forrest. Q.—Where were Mr. and Mrs. Forrest residing in January, 1849? A.—In Twenty second street; they kept house; that establishment was broken up just about the 1st of May, a few days before it. Mrs. Forrest came to reside at my house about the 1st of May. She resided as an inmate of my family one month, I think; cannot be positive; then she went to board at Mr. Ingham's, Great Jones street. Previously to the month of May, Mr. Godwin

and I visited Mr. and Mrs. Forrest at their house in Twenty-second street.

Q.—In what way did Mrs. Forrest come to your house?

A.—In a carriage, accompanied by Mr. Forrest; I think it was a day or two before the 1st of May, 1849. Mr. Forrest brought his own portrait in the carriage; he carried it in from the carriage, and Mr. Godwin brought it into the room from the hall; it was a full-sized portrait, three or four feet square; I was familiar with it, having seen it before; I think it was usually kept in their dining-room, but I am not certain about that.

Q.—May it not have been in the drawing-room?

Mr. Van Buren.—Yes, it was.

Witness continued—It was in one of the two. There was a picture of Mrs. Forrest, a match picture to this, about the same size; that was in the drawing-room, I remember; that was not brought to my house; the last time I saw it was in Twenty-second street. Mr. Forrest called twice to see Mrs. Forrest while she was at my house. Q.—What was his manner towards her? A.—Perfectly friendly as far as I know on the first occasion; on his second visit I was not in the room; when I saw him come in I went out; his manner the first occasion must have been perfectly friendly, for I did'nt even notice it.

Cross-examined.—I was married in 1842; I was acquainted with Mr. and Mrs. Forrest before I was married; I was somewhat intimate with them from that time to the 1st of May. Q.—What was Mr. Forrest's usual treatment of his wife? A.—As far as I know they lived on friendly terms. Q.—Was his treatment of her kind? A.—As far as I know it was. Q.—Who invited Mrs. Forrest to your house in May? A.—I invited her myself. Q.—Did you know at that time that she was going to be separated? A.—Yes; I heard of it the day before. Q.—How long did Mr. Forrest remain when he brought his wife to your house? A.—He must have been there ten minutes; I saw him in the hall; he shook hands with me; I asked him where Mrs. Forrest was, and he motioned his hand to the parlor, and told me to go in there; he went out; on the occasion that he came to visit her he stayed about half an hour; Mrs. Forrest brought a chair and glass to my house, but not at that time; Mrs. Voorhies (Mrs. Forrest's sister) lived at that time in Great Jones street; that is the next street to me; I believe Mrs. Forrest took some few things to Mrs. Voorhies'; I think she took a bedstead; Mrs. Forrest must have been at Mrs. Voorhies' sometimes, but she was with me most of the time. Q.—Do you not recollect, on one of the occasions that Mr. Forrest called, being obliged to send to Mrs. Voorhies' for Mrs. Forrest? A.—No; I do not think it was so; I do not recollect sending anywhere for her; I think she was at home on both occasions; I know she was on the first; Mrs. Voorhies lived at Mr. Ingham's; Mrs. Forrest commenced keeping house in Sixteenth street; I visited her frequently; I have not visited Mrs. Forrest or any one else for the last six or seven months, in consequence of a violent illness in my own family; prior to that time, I visited her as often as I did my other friends, once in several weeks; once in two weeks.

Mrs. Godwin here remarked to the Court that she wished to make an explanation with regard to her answer respecting Mr. Forrest's treatment to Mrs. Forrest.

To Mr. Van Buren.—It was entirely at my own suggestion Mrs. Forrest came to my house.

Chief Justice.—Now, madam, you can make any explanation.

Mrs. Godwin.—When I said his treatment was kind, I should say I cannot say it was unkind, as the world calls it; but it was not considerate with respect to Mrs. Forrest's feelings.

To Mr. Van Buren.—I never thought it considerate; but in the latter part, and before the separation, I observed it more.

To Mr. O'Connor.—I know that Mrs. Forrest was employed from February to May in embroidering a dress for Mr. Forrest for the stage.

Mr. O'Connor asked the witness if she had ever withdrawn her friendship from Mrs. Forrest; but the Court said that it was not necessary, as it had not been contended that she had.

[A copy of Shakspeare produced, with an inscription written, "Mrs. Edwin Forrest from Edwin Forrest, 27th April, 1849."

Mrs. Godwin.—That is Mr. Forrest's handwriting.

Thomas W. Whetley, examined.—I reside in New York; I am an artist, and dealer in wines and spirits, 543 Broadway, and 147 Prince st.; I know Mr. Edwin Forrest; during 1850 and 1851, I have been a good deal in Broadway, in the day time; I have met Mr. Forrest several times in Broadway, in the office of the *Evening Post*, at the Broadway Theatre, once I believe at Niblo's, and at the Opera.

Q.—As far as your knowledge goes, what do you think is his place of residence?

Mr. Van Buren objected.

A.—I have met him about a dozen times in Broadway.

Q.—Do you know of his having gone to live out of the State of New York?

A.—Nothing but what I have heard in the prints; on one occasion, not a great while since, I was talking to a gentleman, and he asked to speak with me; since that I have had no conversation with him; that may be within seven months, and over five.

Q.—Did he say anything to you with respect to houses that he was in the habit of visiting in this city?

Mr. Van Buren objected to the question.

The Court wished to know what was intended to be proved.

Mr. O'Connor.—Intended to prove that Mr. Forrest admitted to this witness that he had been

in the habit of visiting houses of ill-fame in this city and for the purpose for which such houses are visited.

The Chief Justice ruled that the admissions of Mr. Forrest are not competent evidence. There is no reason in this case to suppose that there is any collusion between these parties, but it is quite clear that it would be a very easy mode of obtaining a divorce. Ruled out and exception taken.

The witness here said that, from the question, it might be supposed that he had some knowledge of the fact; but he wished to say, that he had no proof that Mr. Forrest visited those houses.

Andrew Jackson Allen deposed—I reside at 37 Bond street; my business is internal and external costumer (laughter); that is, I feed the inner man and clothe the outer man (continued laughter); I have made costumes for the stage for upwards of forty years. Q.—Do you know Mr. Edwin Forrest? A.—(With emphasis) I have the honor to be acquainted with that gentleman, I believe, longer than any other man in this Court, or in the city of New York! I served him with costumes for many years; I travelled with him all over the United States, by sea and by land (laughter); I made all his dresses from '26 to '43; I made his dresses for the Gladiator and Metamora (continued laughter); I travelled with him when he went to perform throughout the Union; I was acquainted with Josephine Clifton; she was an actress; in the city of New York she resided in White street, a few doors west of Elm street; a two-story brick house. (Laughter.)

The Chief Justice said he did not see anything in this to create laughter; they should remember they were in the investigation of a solemn inquiry, and he should deem a repetition of it disrespectful to the Court.

Witness continued.—Mr. Forrest and Miss Clifton stopped together at the same hotel.

Q.—Did Mr. Forrest and Miss Clifton travel together for a considerable extent? A.—I believe off and on for a year or two they travelled together considerably. Q.—Were you with them when they were travelling together South, on a theatrical excursion, and when they performed in Norfolk, Virginia? A.—As nearly as I can recollect, I was with them. Q.—Did they at Norfolk lodge in the same hotel? A.—They always stopped at the same hotel when Mrs. Forrest was not with him; at that time Mrs. Forrest was not with them; they stopped at French's Hotel, Norfolk; they were there a couple of weeks, and played together at the theatre; I can't recollect if I went with them from Norfolk; I sometimes went before them, or after them: I attended to settling their affairs on their departure; my business was to superintend Mr. Forrest's wardrobe, and attend to their departure. Q.—When thus travelling together, in the absence of Mrs. Forrest, what was their action and carriage towards each other? A.—They seemed to be very fond of each other, and had I not actually known that Mr. Forrest was married to another woman, I should have thought that Miss Clifton was his wife; I am hard of hearing, and could not hear everything that was said; but I can see as far as most folks (laughter); I saw them kiss and embrace, but I did not see anything criminal; I did not hold a candle for them; when together, they generally amused themselves in that kind of way. Q.—When Mrs. Forrest was along with Mr. Forrest, or any other company was present, did you ever see any of that kind of amusement carried on between them? A.—No, sir. Q.—On the evening or night next previous to Mr. Forrest leaving Norfolk, were you present with Mr. Forrest and Miss Clifton? A.—I was frequently with them, but whether on that occasion I cannot say. Miss Clifton and Mr. Forrest occupied one parlor, and separate bed-rooms; they did not go to the public table, but breakfasted and dined together; I presume they occasionally supped together there; I may have seen them; it was generally my business to make up the receipts of the house, and hand him his share from the manager, and I sometimes saw them at supper. As generally in the southern hotels, two bed-rooms communicated with the parlor; one of them was Mr. Forrest's and the other Miss Clifton's. Q.—Did you call on a particular morning, and go into Mr. Forrest's bed-room before breakfast? A.—I did before he had taken his breakfast. Was the breakfast table set? A.—I can't say; I don't mind other people's breakfast tables; I look after my own (loud laughter); on the morning that I went into his bedroom he was not there; he had been out; he was a very early riser, and sometimes walked five or six miles before breakfast; I do not know whether he supped with Miss Clifton the night before; his bed, I presume, had been made up; I don't recollect anything particular that occurred in Norfolk; I loved and honored Mr. Forrest in my heart, and love him still; I followed his fortunes for a long time; I never looked into Miss Clifton's room; I am an old man now, and I never interfere with the ladies (laughter); when I came out of Mr. Forrest's bed-room, I met him in the parlor; he came in from the hall. I was manager of the Providence theatre, Rhode Island, and during September, '44, I engaged Mr. Forrest and Miss Clifton; they lodged at Earle's Hotel, in Providence; they occupied in the same way two bedrooms and one parlor, and not going to the public table; on one occasion I ate an oyster supper with them; never but on one occasion; I don't recollect calling on Mr. Forrest, at Earle's Hotel, early one morning; I think it must have been in '42 they were at Providence; Mrs. Forrest was not with Mr. Forrest on this trip to Providence; Miss Clifton was at that time about 26 years of age. Q.—She is dead, I believe? A.—I am sorry for it; I don't know how long back she died; I occasionally visited Miss Clifton at her house in White street; I made dresses for her, I visited her and dined with her, with another gentleman; I don't know who it was; it was not Mr. Forrest, however; I saw Mr. Forrest

on one occasion, just before he left this country to go to England; it was between twelve and one o'clock in the day; she sent for me on business; before I saw Mr. Forrest on that occasion I was in Miss Clifton's room. Q.—Was she up? A.—No, she was down (laughter); I mean she was lying in bed; I inquired for Josephine, and the servant told me she was up stairs; she heard my voice, and called me up; I went up, but seeing she was in bed, and being a very modest man, I retired; I finished my business very quick; as I was going out, I met Mr. Forest; he inquired for Josey; she heard his voice and called him up in the same way, and he went up and I went out; when I was in Miss Clifton's bedroom, I cannot say whether she was dressed; she was covered over by the bed-clothes; I saw one of her legs that had a stocking on it; as far as I saw her leg, she had a stocking on (laughter); I had never been in that bedroom before; that was the first and last time; I did not observe any paintings or ornaments in the room.

The witness was not cross-examined.

Mr. O'Conor put in evidence several documents. One was an exemplification of a mortgage dated 14th August, 1849, presented to Jas. L. Valentine, on his property in Westchester county, in which Mr. Forrest is described as Edwin Forrest, of the town of Yonkers, in the State of New York. Another was an application to the Legislature of Pennsylvania, filed by Mr. Forrest, for a divorce from Mrs. Forrest, dated 7th August, 1850, citing Mrs. Forrest to appear on the third Monday in September before the Legislature.

Theodore Sedgwick (papers produced). Mr. Sedgwick wished to say that he was counsel for Mr. Forrest, and he did not wish to answer any more questions than he was obliged to. The paper produced is a copy of a document prepared in his office.

Mr. Van Buren objected to the copy, if the original was in existence.

Mr. O'Conor,—The other is in a foreign State, and consequently we cannot produce it.

Mr. Sedgwick,—A copy of the paper was served on Mrs. Forrest.

Wm. A. Sedgwick deposed that he served the petition and notice on Mrs. Forrest; made an affidavit of service, and had no doubt he compared the copy produced with the original.

To Mr. Van Buren—I don't remember the fact of having compared them.

To Mr. O'Conor—I made an affidavit of the service, and in the affidavit I swear that it is a copy, and we are in the habit of comparing them.

To Mr. Van Buren—Thinks the affidavit would be made on the paper that went to Harrisburg; my affidavit was made on that paper, I have no doubt.

Mr. Van Buren objected to the copy of the paper being received in evidence.

The Court ruled against the admission of the copy of the paper served on Mrs. Forrest.

Mr. Whitley recalled.—Deposed that the letter produced is in the handwriting of Mr Forrest.

Mr. O'Conor read the letter; it was addressed to Mrs. Forrest, and dated Richmond, Virginia, March 20, 1842. Mr. Allen (said Mr. O'Conor). was not able to fix the date, but this letter would do so. Mr. O'Conor then said, that with the exception of the testimony of Mr Conduit, the case for the plaintiff would rest for the present.

Mr. Van Buren said if it would facilitate the issue, he would ask the Court to submit the case to the jury on the evidence. There is hardly a pretence of guilt, not a color of it, and he took it that there was no jury could find a verdict against the defendant on the testimony. He therefore suggested that this issue be submitted to the jury before the defendant presents the issue he has to try.

The Chief Justice said that the case was peculiarly situated. The defendant here holds the affirmative in one of the issues. The Court was not prepared to say whether there was, or was not, evidence on which to find Mr. Forrest guilty of adultery. He would keep open his decision as to the admission of the confession, and would hear counsel further on the question in the morning.

Mr. Van Buren—We must insist on all the testimony for the plaintiff being put in before we open our case.

Chief Justice.—That is within the discretion of the Court. I will act in this case as in all other cases, and exclude no testimony that may be competent.

Mr. O'Conor offered proof of the declarations of Mr. Forrest.

Chief Justice.—General declarations, or of any particular transaction?

Mr. O'Conor.—General declarations.

Chief Justice.—I will reserve the question. Were it an ordinary matter, I would rule it according to my present impressions; but a mistake would put those parties to an expense which it is very desirable to avoid. In the meantime, I would recommend counsel to look into authorities. Mr. O'Conor has referred to Shelford on Marriage and Divorce.

Mr. Van Buren.—The Court would see that if after the defendant commences his case new evidence is produced by the plaintiff, we would be all at sea again.

Chief Justice.—We must be at sea rather than defeat justice.

Mr. Van Buren.—I will stay with the Court in that case. (Laughter.) It seems to me a matter for the sound discretion of the Court, to see that the defendant should not be taken by surprise.

Chief Justice.—I will act in this case as in all others, and if I see new evidence attempted by the plaintiff, I will then decide upon its admissibility.

Mr. Van Buren asked if he was to have the privilege of reply on the issue in which the defendant had the affirmative?

Mr. O'Conor.—Where there are several affirmatives with the plaintiff, it is an established rule (he would call it an arbitrary one), that the plaintiff opens and closes.

Chief Justice.—According to my present view, I can only be guided by the position the parties occupy on the calendar. The Court then called on Mr. Van Buren to proceed with the case for the defendant.

Mr. Van Buren then rose to open the case to the jury, in a speech of considerable length, of which the following is but a brief outline:—It became his duty to submit some remarks to the jury, on behalf of the defendant in this case; and he would be, as the counsel for the plaintiff was, brief with regard to the charges against Mr. Forrest. He stated that not much time would be occupied in proving those charges, and that the practice exhibited by Mr. Forrest was rather moderate than otherwise. He considered this rather a serious charge made against Mr. Forrest; and he supposed that at least some lewd, sensual act on the part of Mr. Forrest, whose whole life had been thrown open here, would have been adduced. He would ask the jury very briefly to consider the charges made by Mrs. Forrest against her husband, and then to consider the evidence. She charges him with having carnal knowledge of Josephine Clifton in 1840; and the jury would bear in mind that Josephine Clifton died in 1844, some four years after, and some years before there was the slightest difference between Mr. Forrest and his wife. She died long before the separation; and as to the charge of criminal intercourse with her, some ten years elapsed before the complaint is filed. We shall meet, as we expect, and as we hope, a prejudice against us. It is inherent in manhood to have sympathy with a woman; it is creditable to the human mind and human heart; but we shall ask you at the outset, how far these charges made by Mrs. Forrest, are consistent with female delicacy. Josephine Clifton, so far as I know, when she was living, was a virtuous female, and was never charged with any such act; and yet it remains for Mrs. Forrest, after her death, to charge that she had committed acts of adultery, at various places: in Providence, in Virginia, in this state, in White street, from 1840 to 1844, at various times and places. It will thus be observed, that all the charges against this deceased woman, made by this live female, relate to years previous to this difficulty. As far as he knew, Miss Clifton maintained throughout her life a respectable character; and, he would ask, was there any foundation for these wholesale charges against Miss Clifton? She and Mr. Forrest, it appears, were engaged together to perform a professional tour, and were brought into close intimacy. And could they draw from that intimacy evidence of adultery? Mr. Forrest had also been charged with having committed adultery with a most respectable lady of this city, whose name he would not now mention, as it had been struck from the pleadings. The first the defendant saw of this complaint was in the newspapers; but the charges against this respectable female are abandoned, and stricken from the pleadings. He is also charged with adultery at a house, 704 Broome street, kept by a woman named Martin. That he ever entered such a house, there is no evidence. A man like him, so well known, would be easily recognized; and it could be easily proved if it were true: if there was the slightest foundation for this calumny which has been put on record, of course some testimony would have been adduced. Again, he is charged with acts of adultery at the house of Caroline Ingersoll, in Greenwich street: and not a particle of evidence that he ever entered that house, or was seen in that street, has been produced. He is charged with adultery in the year 1838 (twelve years before this complaint was filed), at a certain house between Cherry and ——— streets. Not a particle of evidence is brought forward to substantiate it; but he is charged upon the information and belief of the plaintiff; and the persons who inform her have not been called to the stand. He is also charged with having committed adultery with Ann Dempsey (or Ann Flowers), in 1850. Ann Dempsey, whom the counsel had made such an assault upon in opening the case, is an important witness for the defendant. Mr. Van Buren repelled the accusations made against Ann Flowers, as unjust.

Again, the defendant is charged with frequent acts of adultery with several women; and also, with having committed adultery with Margaret Clinton, in Mercer street, near Canal, on a certain day. Why this specific charge, naming the person, naming the day, and yet wholly omitting a particle of evidence to sustain the charge? Again, he is charged with having committed adultery at the house of Mrs. Lewis ———, No. 6 Thomas street, with some women there. Where is the evidence that he had been there? These are charges put down upon the records of this court, by one who claims the position of a wife, and made by one who claims the sympathy of this jury, as a female. So far as the evidence goes, we are warranted in saying that these charges are scandalously false. Now, that is the complaint we are called upon to answer. There would be no difficulty if Mr. Forrest were guilty, in producing evidence to prove it. You will find that his steps have been dogged everywhere through the city, and efforts have been made to procure testimony to show that he had entered houses of that kind. He (counsel) therefore called the attention of the jury to the evidence, to prove how utterly unfounded are these charges. It is quite true, that Mr. Forrest—as has been stated on the part of the plaintiff—that Mr. Forrest was married to a daughter of Mr. Sinclair. It may be necessary, in the progress of this cause, to call the attention of the jury to the conduct of Mr. and Mrs. Sinclair; for it will throw some light on the conduct of Mrs. Forrest. Mr. Sinclair was formerly a drummer in the British army, and afterwards became a respectable singer on the stage. The habits of Mr. and Mrs. Sinclair

were unfortunate; and the influences of their early habits had shown their effects upon Mrs. Forrest. They came to this country; and Mr. Sinclair, his wife and daughters, did Mr. Forrest the favor to make his house their home, where they carried on scenes of revelry and disorder. Mrs. Forrest was, as the jury might see she still is, a woman of uncommon personal attractions; and she was the idol of a husband who yielded to her every caprice and wish. In 1844, Mr. Forrest went abroad, with his wife, and returned in 1845, when he went to perform a professional engagement at Cincinnati, and was accompanied by Mrs. Forrest and Mr. Jamieson: the letter received by Mrs. Forrest at that time, and which led to the separation, will be given in evidence. Mr. Forrest left his hotel for an hour, for the purpose of having his portrait taken; but, disappointed by the painter, he returned suddenly. The situation in which he then found his wife, I will not now mention; it will be given in evidence: it startled and shocked him. Mr. Van Buren then referred to the Consuelo letter, written by Mr. Jamieson to Mrs. Forrest, the receipt of which, he said, had not been denied by her. In January, 1849, without any previous difficulty between Mr. Forrest and his wife, except the circumstance which excited his suspicion in May, he discovered, when looking over a bureau, this letter, called the Consuelo letter. I say to you, that that letter contained an admission of the guilt of Mrs. Forrest, and that it would satisfy any married man of the guilt of the party who wrote it. Mr. Van Buren was proceeding to read the letter, when

Mr. O'Conor objected to its being read until it was proved in evidence.

Mr. Van Buren said he was not surprised at this interruption; he sat quiet while the counsel for Mrs. Forrest stated all the evidence he intended to prove, and all that the defendant intended to produce, and he (Mr. Van B.) did not interrupt him. I state that the receipt of the letter of Mrs. Forrest has never been denied, and I am utterly at a loss to know by what rule I am to be prevented opening the case for the defendant.

Mr. O'Conor.—The letter is not proved and cannot be proved; as to what is not denied, I apprehend Mrs. Forrest is not bound to deny anything until it is put in evidence. If your honor will allow this paper to be read to the jury now, I undertake to say it is the only time it will be read to them.

Chief Justice.—The letter cannot be read until it is proved.

Mr. Van Buren.—The only instance in which I have ever known a court to interfere with counsel in opening, is where they are stating what they will not be allowed to prove.

Chief Justice.—I see no objection to your stating at large that you will prove such things; but you cannot read the document in detail.

Mr. Van Buren.—Then I propose to state to the jury what was in the letter.

Chief Justice.—The jury will be careful not to pay the slightest attention to what counsel on either side say in their opening. My experience has shown me frequently that counsel do not attempt to prove all they profess in the opening.

Mr. O'Connor.—If the counsel reads the letter, the Court will understand us as objecting.

Mr. Van Buren.—Nothing can be more true than what the Court says with regard to the statements of counsel; and before the conclusion of this trial, the jury would find that this case is not an exception to the rule. (Laughter.) Mr. Jamison addressed a letter to Mrs. Forrest, and we will prove that. It will be found that in that letter, he addressed her in a language of deep affection, and that it contained admissions of criminality. It will be found that that letter speaks of the realization of a voluptuous enjoyment. It states that ecstacy is not affection; it contains intense appeals to the party to whom it was addressed to give him the benefit of her experience; that letter will speak of the recollection of their enjoyment, and of the bliss attending it it will speak of the termination, and of the reality that stares them in the face; it will speak of the fidelity of the love of the writer, and it will speak of the declaration on the part of the party who wrote, and of the party to whom it was addressed. It will say, "I do not doubt you, and you have assured me that you do not doubt me." It not only speaks of the declaration of the writer, but of the party to whom it was addressed. It speaks of adoration and love without being earthly; it speaks about putting away the shreds and patches of the profession of the actor, and refers to the past; and it will conclude with a poetic picture, descriptive of when they lay enfolded in each other's arms in the enjoyment of a kiss. This letter was written to Mr. Forrest; it was found in her possession in May, 1849, some nine months after it was written. You will say that an innocent woman might receive such a letter; that some impudent person might have thrust it on her; but would a virtuous wife have treasured it, or would she not rather have shown it to her husband, and said, "Here is a man who has dared to address me in terms implicating my honor?" Would not any virtuous woman have taken that course? You will bear in mind that the most unalloyed confidence and happiness existed between Mr. and Mrs. Forrest at that time, and you will admit that he should have been the possessor of her secrets, as he should have been the possessor of her affections and her person. Now, gentlemen, that letter is no kitchen testimony. That is not a witness who has taken any one's small change, nor been indicted, nor sent to the State prison. It is no kitchen evidence; it comes from the dining room; it is a witness that cannot lie, and when it is adduced in testimony, as I assure you it will be, you will hear the explanation that will be made on the other side.

But this is not all. After the reception of this letter, the same intimacy was kept up by Mrs. Forrest with that man, who gave drunkenness as his excuse. The occasion which so startled Mr. Forrest in Cincinnati was three weeks after

the receipt of that letter. Jamieson came on to this city and was shut up for more than an hour in the house of Mr. Forrest during his absence. The discovery of this letter satisfied Mr. Forrest that his happiness was destroyed. Gentlemen, I do not believe that it is necessary for me to argue to you that Mr. Forrest separated from his wife because Mr. Stevens was not invited to a tea party at Mrs. Voorhies' house. I do not think that a man in the prime of life, at the head of an honorable profession, with a wife whom he loved, would have separated from her for any other reason but because he believed he was dishonored. He said to her, "We must separate—we never can live as man and wife; I have no desire to crush you;" and we shall show this woman going to him from time to time, beseeching him not to crush her, and destroy her in public estimation, that she made repeated efforts to be restored to him, that during this time he treated her with the same humane kindness which he had always observed towards her. He gave her a book with simply written in it, "Mrs. Edwin Forrest, from Edwin Forrest;" not from her husband or her affectionate husband. He found himself a lost man—all his hopes of domestic happiness gone, the realization of his bliss destroyed; and if he had become a maniac, as Mrs. Forrest's counsel want to represent him, it would not have been extraordinary, under the peculiar afflictions which had visited him. He retired from this city to Philadelphia, to the home of his sister, his own house, which had been the residence of his mother, and on entering it he said, "this is my home. I have no other." Counsel went on to state that Mr. Forrest had no idea of then prosecuting a suit for divorce, until certain rumors reached him. He recounted the circumstances of Mr. Forrest's proceedings before the Legislature of Pennsylvania, its passage in one house and the reasons of its defeat in the other. Mr. Van Buren also stated the facts respecting the injunctions granted against Mr. Forrest in this State, restraining his proceedings, and defended AnneFlowers from the accusations made by the plaintiff's counsel and said that he regretted to say that Mrs. Voorhies had met with the misfortune which had been attributed to Anne Flowers, of having had a child before her marriage. The evidence will also declare the fact, that in Mr. Forrest's absence, his house was made a scene of wassail. It discloses the fact that a literary coterie, by the fiat of whom every man must fall, and at the head of which was Mr. N. P. Willis, were in the habit of visiting Mr. Forrest's house during his absence, and that by them his wife was taught to look down upon the simplicity of her husband's character. It discloses the fact that Mr. Richard Willis, (the brother of Mr. N. P. Willis,) entirely unknown to Mr. Forrest, was in bed in Mr. Forrest's house for three days; and that to conceal the fact, Mrs. Forrest and her sister, Mrs. Voorhies, acted the parts of chambermaids. It describes the fact that Mrs. Forrest and this coterie sat up carousing whole nights. It discloses the fact, that Captain Granby Calcraft at midnight was seen coming up the stairs with decanters and glasses, and that Jamieson was in the habit of visiting at Mr. Forrest's house during his absence. Those disclosures convinced Mr. Forrest that his wife was not only guilty in one instance, but many.

I would not thus speak to a jury, particularly in a case where a woman is concerned, but that I have seen the witnesses beforehand. I trust in God they will not make the same impressions upon you, for no one would rejoice more than myself if you could find that Mrs Forrest is not guilty. It was true that the most part of the testimony will be given by servants; but an objection to that will come with bad grace from the counsel on the other side, who have produced Andrew JacksonAllen a discharged servant. We will prove by Anne Flowers, that she saw Capt. Howard having criminal connexion with Mrs. Forrest, and it is from that circumstance the storm has been poured out on her. He(Mr. VanBuren) denied that any of the charges could be proved against Anne Flowers except indeed that she was debauched by Howard shortly after she witnessed the transaction between Howard and Mrs. Forrest. She is now a married woman, with four children, and the jury would say how far it is reasonable for the counsel to make these charges against her. Mr. Van Buren then stated that if his witnesses swore falsely, the plaintiff could bring others to contradict them, or could indict them for perjury, and concluded by saying that no one who knows Mr. Forrest would believe that he is capable of hiring testimony to injure his wife—such an idea is contrary to humanity—it is contrary to his nature.

The Chief Justice said it was now near the hour of adjournment, and that the first business in the morning would be the argument on those questions which he had reserved

Adjourned.

December 18th.

Long before the hour for commencing the proceedings in this case, the spacious court-room was densely crowed, and the stairs and principal passage so thronged with persons anxious to hear the evidence, that it was necessary for many whose business compelled them to be present, to gain access thro' the Judge's chamber of the adjoining court. Mrs. and Mr. Forrest sat with their respective counsel. There were three other ladies present, who were not in attendance on either of the previous days, and it is therefore presumed that they are witnesses for the defendant.

Counsel on both sides argued at some length on the questions reserved as to the admissibility of Mr. Forrest's admissions, or his own testimony.

The Chief Justice said that he considered the case of this admission of the confessions to Mr. Whitley, and the general offer under consideration the same. The offer with regard to Mr. Whitley, was to prove that Mr. Forrest con-

fessed he was in the habit of visiting houses of ill-fame. This is a very general confession. The Court considered the matter might be disposed of with the question as to Mr. Forrest's confessions of having committed adultery, without reference to time or place. There are allegations on the complaint with respect to several women named, and also with women unknown. As to the admission of confessions, the Court was free to say, according to his judgment, that under no circumstances should they be admitted He had looked into what has been called the rule of evidence by competent authorities, both in England and in this country; and though in the English ecclesiastical courts, where judges only tried causes, they heard evidence of confessions, yet in their decisions they did not allow them to influence their minds. Here a jury is empannelled to try the charges specially made in the complaint. The Court cannot find, and had not been able to find, in any case in England or in this country, where the general confessions of adultery have ever been received in evidence, and admitted. They may have been received, as he has said, by the ecclesiastical judges. There are some very strong ojections why these confessions should not be admitted. The Court, therefore, ruled against the admission of Mr. Forrest's evidence, but said if evidence of his having committed any specific acts of adultery were adduced, then it would be time enough to consider whether the defendant's confessions are admissible.

Mr. O'Conor wished to offer proof as to the papers produced yesterday before the defendant proceeded. He then called

Neil Gray, Commissioner of Deeds, who deposed that about the beginning of 1850, Mr. Edwin Forrest deposed to a paper before him; did not read or take any notice of its contents; within a few days after that, I became acquainted with the fact, through the newspapers, that Mr. Forrest had applied to the Legislature for a divorce.

Francis H. Dykers, counsellor-at-law, deposed that the paper produced (one of the exemplifications produced yesterday), was written by him at Mr. Sedgwick's office; he could not say whether it was made from the original or from a draft; I imagine I saw the original; I have seen Mr. Forrest sign several papers, but can't say that I saw him sign the original of this.

To Mr. Van Buren,—I can't say I saw the original at all.

Charles Conduit, attorney-at-law, residing in Brooklyn. I proceeded to Harrisburg last winter, to search for the petition filed by Mr. Forrest; found a paper on the records of the lower house; I did not find more than one; I procured a copy from the officer in charge of the house: this produced is the one; the officer (I think his name is Adams) copied it, and I compared it with him; I proceeded to Pennsylvania afterward; I was not at that time acquainted Mr. Forrest, and I can't say if he was in train with me.

n Buren.—I am not acquainted riting of Mr. Forrest; the Legislature was not sitting at the time; it was February, 1850; I am not acquainted with the handwriting of Mr. Gray; it was not at the clerk's house I found the paper; it was at the capitol.

Q.—What means have you of knowing that that was an original paper?

A.—It purported to bear the signature of Mr. Forrest, but I have no positive means of knowing it to be an original; the signature, Edwin Forrest, was in a different handwriting from the body of the paper.

Mr. Conduit recalled by the court—said he could not say whether the word "copy" was on the paper at the clerk's office; searched through all the records of the Senate that Adams said there were, and could find none there.

Mr. O'Conor offered the paper in evidence.

Mr. Van Buren objected.

The Court admitted the paper, and counsel for defendant excepted.

Mr. O'Conor 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, being sworn and examined by Mr. Van Buren, deposed—I live at 118 Sixteenth street; I am married; my husband's name is Joseph Underwood; I was originally from Scotland; I have been in this country since '37; I am acquainted with Mr. and Mrs. Forrest; I was acquainted with Mrs. Forrest a short time previous to her marriage; I was acquainted with her family since I was 18 years of age; her father was in the Argyleshire militia, he played some instrument in the band. I came here first in '37, with my husband and family; my first husband's name was Thomas Bedford, I came here before Mr. and Mrs. Forrest; I was not engaged in any capacity in their family when I arrived here, at that time; Mr. and Mrs. Forrest called at my residence in Pearl street, and wished me to take care of a house which he had hired; they were going to Philadelphia, and I immediately took charge of the house. This was towards the end of '37; I stayed there about two years; it was in Reade street, near Broadway; Mr. and Mrs. Forrest did not live there all that time, while they were there, themselves, a cook, and a boy composed their family. Mr. and Mrs. Forrest went to live in Twenty-second street, and I and my family resided in the Reade street house, Mr. and Mrs. Sinclair, Margaret, Virginia, and a servant, arrived from England, and stopped at that house. Mr. and Mrs. Forrest were in New Orleans at the time, and returned in five or six months after the arrival of Mr. Sinclair and family; the house was furnished and I had the care of marketing, and so forth; after Mr. and Mrs. F. returned from New Orleans, they went, in the December following, to Twenty-second street; they lived together, at that time, very happy—very affectionate; she spoke very affectionately of him, as a newly married wife would do; I

remember their going abroad; I was, at that time, living in Grand street; I afterwards went abroad—they went in January, and I went in the June following; I saw them abroad; I should say their manner of living together, at that time, was much the same as before; it was in London, I then saw them; they went to Scotland, and I returned to America soon after. There was no arrangement made then for me to live in their house; I used to see Mrs. Forrest in London about once or twice a week for about two months. Mrs Forrest dictated a letter to Mrs. Harper for me to obtain employment, being destitute after my husband's death; Mrs. Harper had previously asked me, before I left New York, and Mrs. F. dictated that letter to say I would accept of it. I went again to live with Mr. and Mrs. Forrest, in the following January, after their return; I think it must have been in 1846: I lived with them until the May they left the house; I can't recollect the year exactly; I lived with them until about two years and a half before they separated. When I left them they were going to travel; they were going to Philadelphia; it was in January; I don't know what was their manner of living then; they had six or seven servants who were very unruly. (Laughter.) When they returned from travelling, Mrs. Forrest engaged a cook and a Swiss boy; Mrs. Forrest asked me to come to her as housekeeper, when I was working at Mr. Harper's. Mrs. Voorhies was not living there at that time as one of the family; she was up stairs in the attic, the day Mr. and Mrs. Forrest were going away; I suppose she came to bid her sister goodbye; she did not see Mr. Forrest. Mrs. Voorhies used to come in a clandestine manner; she used to come to the basement, and enquire if Mr. Forrest was at home, or if the library door was open, and then some one would go and see, and she would pass up to the attic; it was always the same except, on one occasion, on a Sunday, when Mr. Forrest invited Mr. and Mrs. Voorhies to dinner; there was no other company there; Mr. Forrest came down to dinner when the bell rung; Mrs. Forrest told me the occasion of the dinner was at the intercession of Dr. Gray and Dr. Wainwright, to make a reconciliation between Mr. Forrest and them; I heard, after Mr. and Mrs. Forrest left town, of Mrs. Voorhies being married; it was a snowy day; she came in and said she had fallen; she took off her coat, and I thought she looked rather stout; she said, "You are looking at me," and then she told me she was married and in the family way.

The Chief Justice said that they seemed to be trying Mrs. Voorhies, instead of the parties in the case.

Witness continued.—I lived with Mr. and Mrs. Forrest up to the time of their separation; Mr. Richard Willis was not in the habit of visiting them at that time, after they returned from Philadelphia; Mr. N. P. Willis was in the habit of visiting there; before Mr. and Mrs. Forrest went to England, in 1844, she was packing up her clothes and she said she expected a gentleman to call at two o'clock; Mr. N. P. Willis called, and I thought it very strange; she looked very much confused; a servant came up and said to Mrs. Forrest that Mr. Willis was in the drawing-room; Mrs. Forrest went down and stayed some time—about half an hour; on her return she looked rather flushed and flurried; she said she was afraid Mr. Forrest would be home soon, and she regulated her hair; Mr. Forrest was not in at the time; he was in town; I was not living there then—I only called in; in England Mrs. Forrest spoke a good deal about Mr. Willis; she said he was very classic in his ideas, and particularly about ladies' dresses; that he arranged her ornaments and dress one evening, when they were going to the Opera; he was arranging her dress—and he kissed her shoulder, and that Mr. Forrest was in the room, and she was very much terrified; Mr. Willis had been in London, but was gone to Paris; she spoke of Mr. Willis like a giddy school-girl; Mr. Willis used to call at Mr. Forrest's house, after their return from England; he called in the morning, and in the day time; Mrs. Forrest told me one day that she expected him to call at two o'clock; it was a very stormy day, and I said she could not expect any one; Mr. Willis did come; they were in the drawing-room, and the blinds were shut; when he was gone, Mrs. Forrest told me he kept his appointment; and that while he was there they thought they heard footsteps at the window, and that Mr. Willis went and opened the windows immediately, and could not see any one; I said, perhaps it was the cook going to feed the dog; Willis used to come frequently; one evening, when I returned from prayer-meeting. Mrs. Forrest met me in the hall, and she told me that Willis was in the house, and she wished to get him out without being seen; I had asked the boy when I came in if there was any one in the house, and he said no; shortly after that Mrs. Forrest rang the bell, and told me Willis was above, and she wished to get him out without being seen; this was about ten o'clock at night; Mr. Forrest was in Boston at the time; I stood there to see that nobody came from the kitchen while Mr. Willis was going out; I cannot say how long his visits would be in the day time; he was in the babit of coming very frequently when Mr. Forrest was at home; Mrs. Forrest was waiting one evening for Mr. Willis, and he did not come; she said she could not wait any longer; she left me a note for him, and to tell him to write if there was any answer; he came; I gave him the note, and he said there was no occasion to write, as he would attend to it; she did not, that I remember, express any feeling about Mr. Willis at any time; Mr. Forrest did not know Mr. Richard Willis; he was in the house on one occasion for three days during Mr. Forrest's absence; Mrs. Forrest and Mrs. Voorhies were going to a party at Mrs. Watson's, I believe, near the Fourth avenue; I was in my own room, above the library; I heard a great noise, and laughing, and I came down to

see what was the matter, and the servants (Mrs. Voorhies' nurse, the cook, Robert, and a sewing girl) were in Mr. Forrest's dressing-room, standing laughing; I told them to go down stairs; the library is in the back-room; Mr. and Mrs. Forrest's bed-room was in the front; I was going to put the gas out in the library, and Virginia said I must not, as there was a gentleman coming there to give her a lesson; then I said I would put out the light in Mrs. Forrest's bed-room, and Virginia caught me and said I must not go there, as there was a gentleman there; she said it was young Mr. Willis, and he was going to teach her her lessons in the library; I went down to the kitchen; I didn't know Mr. Willis was in the house, only from what the servants told me; next morning I saw Mrs. Forrest; she was writing, and I asked her who was the man that was locked up in her bedroom for three days and three nights, and she said, "My God, who says so?" I said that all the servants said so; she then told me to go down and tell the servants that Mr. N. P. Willis wished his brother to go home to New Haven, but that he (the brother) desired to spend his Christmas in New York; she also told me that Mr. N. P. Willis called the day before, and said that he was glad Richard was gone; Richard was in the next room at the time; she said that she was in the library with Mr. Willis at the time, and Richard Willis was in her bedroom; Mrs. Forrest told me that Mr. Willis said his wife was very fond of music, but he did not like her to make a fool of herself about it, and that was the reason he wished Richard to go to the country; I do not believe Mr. Richard Willis came to see Mrs. Forrest; I asked Mrs. Forrest who made his bed and gave him his breakfast in the room, and she said, "never mind;" he dined at the table, but breakfasted in the bedroom; Mrs. Forrest and Mrs. Voorhies took Mr. Richard Willis out in the carriage with them that day; that same evening, Mr Ibbotson, Mrs. N. P. Willis, Richard Willis, and Mr. Voorhies were there.

Q.—How did they spend that night? A.—They were singing and drinking wine; I was in my own room, and I heard loud talking about six o'clock in the morning, and I came down stairs; I met Mrs. Forrest, and I asked her what was all that noise, and she said, "we have been sitting up all night amusing ourselves;" that Robert was gone for a carriage, and that they were going home with Mrs. Willis to make an excuse for her being out all night; Mr. Forrest was in Philadelphia at the time; they went out in the carriage with Mrs. N. P Willis, and Mrs. Forrest and Mrs. Voorhies breakfasted at Mr. Willis's; they took Richard Willis out with them, but Mrs. Forrest 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 Mr. and Mrs. Forrest separated, the dining-room was all in confusion, things broken and lying about, and Mrs. Forrest's fan broken; Mr Raymond, Mrs. Forrest, and Mrs. Voorhies went out somewhere the evening before that. we had no servant then but Mrs. Voorhies' nurse and the shewing girl; when I spoke of the confusion in the dining-room, Mrs. Forrest said she went to put the gas out and her foot slipped. she fell down and broke the things; Mr. Forrest was not at home at that time; he must have been in Boston; Mrs. Voorhies lived in Great Jones' Street; she always remained at Mrs. Forrest's house in his absence; the carriage that took Mr. Forrest away generally brought Mrs. Voorhies to the house; Mr. Forrest never saw Mrs. Voorhies when he came back; Mrs. Forrest knew when he was coming, and Mrs Voorhies then went away; Mr. Raymond was in the habit of coming there very frequently and going out with the ladies; one day Mrs. Forrest expected him; she dined alone; she was going up stairs after dinner; she tripped, and she said she sprained her ankle; she asked me to go to the druggist's for some liniment, and I did; when I returned, Mr. Raymond was in the parlor: Mrs. Forrest 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 Mrs. Forrest's foot was rubbed; he then went into the room; Mrs. Forrest 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 Mr. Raymond and Mrs. Forrest at the time; I went up stairs, I did not go to bed till twelve o'clock; next morning Mrs. Forrest 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 was no bed-clothes 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. (Laughter.)

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 that she wished him to get his breakfast before he went, and wanted to know 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 at all disturbed; it was a mattress, with a counterpane and pillows, but no pillow covers; Mr. Forrest was not at home at that time; I don't know the occasion of Mrs. Forrest slipping, but her leg was well in the morning. Q.—What do you know of Mrs. Forrest being dressed by any gentleman? A.—Mrs. Forrest was going to a party at Mrs. Lynch's on Saturday evening, and was dressing; Mr 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 Mr. Forrest used to find it difficult to fasten: I asked her who fastened it, and she said Mr. Raymond; I said, "Oh, my! how did you do it?" Mr. Raymond then came to 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, Mr. Willis brought him to a party at Mrs. Forrest's; Mr. Forrest was not home at the time; Mr. Calcraft came again next day in the forenoon and stayed till five o'clock; he was in the drawing room with Mrs. Forrest all that time; he did not dine there; dinner was ordered at two o'clock, but they didn't have it till he was gone; Mrs. Voorhies was there; Mr. Calcraft came almost every day, and when he didn't come, he sent his servants with notes and presents to Mrs. Forrest—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 occaaions 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 Capt Calcraft; Mr. Forrest ordered the servants always to go to bed at 10 o'clock when there was no company: Mrs. Forrest gave a party, and some English noblemen came there with Capt. Calcraft; next day, or the day following, Capt. Calcraft and the English nobleman, I forgot 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 Mrs. 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. Voorhies 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 he 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 Mr. Forrest after he was introduced to him, and stop an hour or so.

Q.—What were the habits of the house when Mr. 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; Mr. Forrest went back in about a week to finish an engagement in Michigan. Mr. Jamieson called at the house while Mr. 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 Mr. 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 particular about the library next morning; I noticed one day that Mr. Forrest's arm chair was broken, and Mrs. Forrest told me that Lawson had broken it; Mr. 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. Voorhies's; I went to bed, and Mr. 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 Mr. 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 to till six o'clock; she said that Mr. 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 bed-room, and opened the bottom drawer of

the bureau with a key; she said, "Oh, good God! oh, 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 I had been South;" I said, "Oh, it isn't much consequence, Margaret's letters;" she replied, there is a foolish 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 did'nt get these, for they would have been of more consequence," and she then took them, and put them in the library fire. I said it was very foolish to keep old letters; she then went up stairs and brought down a bundle of letters, and was burning them till near two o'clock; she didn't call the letter by any particular name, nor say what it was about, at that time; on next Monday Mrs. F. told me that Forrest had seen Jamieson's letter, and he was determined on a separation. I said, "Perhaps he doesn't mean it, he only wants to frighten you;" and she said, "Oh yes he does, I never saw him so serious." Always after that Mr. Forrest had his breakfast in the library; Mrs. Forrest breakfasted in the dining-room; once or twice, when going to Fonthill with Mr. Godwin, or other gentlemen, he breakfasted in the dining-room; he did not breakfast with her alone; they slept together, but Mrs. Forrest told me to leave the bed a little from the wall, that she might get in, as her and Mr. Forrest had no communication with one another; I said she could coax Mr. Forrest if she wished; Mrs. Forrest said that she had knelt, prayed, and entreated Forrest not to expose her, but that he was obdurate; and she also said that she didn't care if it was with any one but Jamieson; I made the reply, "if it had been the nobleman?" when I told her she could coax Mr. Forrest, she said that I was as bad as Willis and Calcraft, for they had told her the same thing, and that a woman could coax a man to do anything; she also said that Willis told her to be very vigilant and attentive to Mr. Forrest. She also said to me, when speaking of Mr. Forrest being obdurate, that "a man can crush a woman any day." Mrs. Forrest had lived for four months in Twenty-second street little more than an upper servant; she could not go into the library without Mr. Forrest's permission; she often asked me during that time to bring up coals and leave them at the library door, that she might take them in 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 so; she used to take Mr. Forrest's letters in to him, and that it was to have an excuse to go into the library that she asked witness to leave the coals at the door; when any gentlemen were there, she was allowed to go in, but not when Mr. Forrest was alone. This was for nearly three months; after the first week or two, Mrs. Forrest was in the habit of carrying up Mr. Forrest's 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; I 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 Mr. Forrest next morning, as he was going to Wall street, to tell Mr. Lawson that she wanted to speak to him; he asked what she wanted, and she told him she wanted Mr. 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 you for life?" Mrs. Forrest told me if I spoke to Mr. 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 Mr. 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 to him a few days afterwards, and asked 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 good 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 Dr. Dewey; the habit 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 12 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, Mr. N. P. Willis, and Doctor Rich visited there frequently.

It being four o'clock, the hour of adjournment,

the further examination of this witness was postponed.

December 19th.

Mrs. N. P. Willis was with Mrs. Forrest in Court this morning. Mr. Forrest and Miss Forrest, his sister, were also in Court; and the room was, as heretofore, densely crowded.

Christiana Underwood was again called to the stand, and her direct examination continued.

Q.—Can you state the name of any person who was in the room of Mrs. Forrest?

A.—Professor Hackley was in the habit of being there. One night Mrs. Voorhies was at a party, and Mrs. Forrest was not very well, and was lying in bed; I was sitting with her; Mrs. Voorhies returned; I went up to bed; as I was going, I saw Professor Hackley standing at Mrs. Forrest's bedroom door; I went up stairs, and he went into Mrs. Forrest's bedroom; Dr. Rich was in the habit of being there; heard his voice in Mrs. Forrest's bedroom; have heard gentlemen's voices in the dining-room, and saw their hats on the table. (Witness here told some long story about a servant girl being attacked with cholera in Mrs. Forrest's house.) Mrs. Forrest said to me, "Don't be alarmed, I have got the Doctor in the house;" I went to bed, and told the girl if she was not better, to call me; the lamps were out; Mr. Sinclair lived at Mr. Forrest's house in Reade street, after they went up to Twenty-second street; they were in the habit of seeing a great deal of company in Reade st., and would not go to bed till three or four o'clock in the morning; I used to be afraid to go to bed for fear the house would be set on fire; Mr. Sinclair used to be lying on the carpet, and Mrs. Sinclair lying behind the door; I know nothing of Captain Howard's acquaintance with Mrs. Forrest; I never saw him but twice; I saw a letter on the table, addressed to Mr. Jamieson, New Orleans, which the boy Robert was sent with to the Post Office by Mr. Forrest; I told Mrs. Forrest of it, and she said, "Oh! dear me, what shall I do?" and I said, "You had better write another one, and send it after it;" Mrs. Forrest then sat down in the dining-room, and wrote a letter; Mr. Forrest had gone to Fonthill with some gentlemen; it was Saturday, I think, because I had a deal of work to do; Mrs. Forrest said she would take the letter to the Post herself; all I know about the letter is, that the answer was to be sent to Great Jones street, to Mrs. Voorhies; Mrs. Forrest said so; I don't know much about drink in the house in Sixteenth-street; I know Captain Britton, of the ship Constitution, used to come there; quantities of wine, "Gaime" brand (a large hogshead), used to be sent there; they came from Captain Calcraft and "Uncle Johnny."

Q.—Who's Uncle Johnny?

A.—Captain Britton; Mrs. Voorhies and Mrs. Forrest used to call him so; Mrs. Forrest asked me to take a note down to Captain Britton, to the Constitution; I did so; I left Mrs. Forrest because I was married there, on the 25th of November, 1849; I now reside in the same street, a few doors from that.

Q.—Independent of the gentlemen you have named, were there others whom you did not know?

A.—Yes; Captain Britton named two gentlemen.

Mr. O'Conor.—Let us have their names.

Chief Justice.—I beg you to understand, gentlemen, that you're trying all this among yourselves; I have nothing to do with it. (Laughter.)

Q.—Were there others whose names you did not know?

A.—I don't know who came or didn't; I didn't give myself much trouble about it; but I found I could not live there any longer; I didn't open the door, as Mrs. Voorhies gave direction I should not be allowed. Mr. Stevens and another gentleman supped there one night, and stayed till half-past one o'clock.

[Mr. Doughterty here entered the court with Miss Forrest, and took a seat near the reporters' table. Mr. Van Buren went forward to speak to her, and Mr. O'Conor made some remark. Mr. Van Buren said he was not speaking to the witness—that he was addressing Miss Forrest. Mr. O'Conor replied that he did not allude to the counsel, but there was a person near the witness who was not a counsel nor a reporter, and he begged that he might be directed by the court to leave that place. One or two gentlemen essayed to leave. Mr. Dougherty still sat down, looking steadfastly at Mr. O'Conor. Mr. O'Conor.—The person I allude to still remains there. The Court requested any gentleman who was not a counsel or reporter to remove to some other part of the court. Mr. Dougherty then removed.]

The witness was then cross-examined—I am about fifty-eight years of age; it was in '37 I went to live in Reade street; Mr. and Mrs. Forrest employed me as a housekeeper; I was housekeeper about a year and a half, but remained two years in the house; I don't know who succeeded me as housekeeper; I understood it was Mrs. Voorhies or Mrs. Leggatt; I don't know which. My husband, Mr. Bedford, died in '41; I don't remember what year I went to London; I have a son there in business, and he invited me to come; I was left destitute when my husband died; I returned to get employment with Mrs. Harper; Mrs. Harper is now dead; I was a member of Mr. Harper's class from a year after the death of Mr. Bedford until my marriage with Mr. Underwood; I met Mr. Harper every Wednesday at the class, and every Sunday at Church. After the return of Mr Forrest and his wife from Europe, I was again employed by them; Mr. Forrest was then in Boston; it was Mrs. Forrest called me in.

Q.—According to your best recollection, was it one year and a half or two years and a half before their separation?

A.—I think perhaps it was two years and a half; I was sewing books in Mr. Harper's establishment when I was engaged by Mrs. Forrest; Mrs. F. invited me to dine, and bring my son there; I was asked by her to stay there for three

months; I consulted Mr. Harper, and he advised me to take it, and said if I didn't like it, I could always come back; at the end of three months, Mrs. Forrest made the situation permanent; I said to Mr. Harper that Mrs. Forrest was a very nice lady, for at that time I thought she was; I don't recollect speaking to Mr. Harper about Mrs. Forrest since 1849; I did not say she was a very nice lady since their separation; I did not consult him about going to live with Mrs. Forrest, in Sixteenth-street, but I told him there was a great deal of impropriety there; I did not consult Mr. Harper at all about going to live there.

Q.—Did you, during the year 1849, consult with Mr. Harper about going to live with Mrs. Forrest?

A.—I don't remember having done so. I might have said to Mr. Harper that they were going to separate by mutual consent. There was a lady—

Mr. O'Conor.—Now, let that lady alone; one is enough at a time, at least for me. (Laughter.)

A.—I did not say to Mr. Harper that Mrs. Forrest was a very good lady; I consulted him as a friend about going to live with Mrs. Forrest.

Q.—Before the 1st of May, 1849, had you any difficulty with Mrs. Forrest?

A.—No, sir. I first received the addresses of Mr. Underwood at Mrs. Forrest's, in Twenty-second street. I became acquainted with him by his bringing home the clothes from the wash, but nothing particular occurred. I received no other visitors. Mr. Harper and the minister called at the time my son was sick. I did not claim from Mr. Forrest to live at Fonthill because I was losing my situation, but because Mrs. Forrest told me that I should live and die there, if I was a hundred years old. Mr. Forrest's answer was, "You have told tales out of the house." I asked him what it was, and he said, "You have seen Mr. Allen." He gave me no other answer. I did not know what he meant by that then. It was by the approval of Mrs. Forrest I asked him. I said to her, "What's to become of me?" She said, "You'll be provided for, but what's to become of me?" My second application to Mr. Forrest was about a fortnight after the first; Mrs. Forrest said, "Why, he is a stranger to you except through me? You know my family a long time; come live with me; while I have a shilling I will share it with you."

Q.—When you had your first conversation with Mrs. Forrest respecting your application to be allowed to live at Fonthill, did she make any objection?

A.—Nothing further than that I should not say anything about their going to separate; I was to say I understood they were going to travel, as the house was not ready for them; I lived in Sixth avenue before I went to Sixteenth street; I kept house there; my son was with me at Mrs. Forrest's; he is nineteen years of age; I was married on the 25th of Nov., at Mrs. Forrest's house; I slept alone that night, and the next day went with my husband to Massachusetts; I had made no preparation to leave the house; Mrs. Forrest had a letter from Mr. Godwin, and I begged of her for God's sake to go to Fonthill; and she said, "You can't go there?" I said God would take care of me, that I was going to get married (laughter); I was very comfortable at Mrs. Forrest's, but Mr. Underwood is a very nice respectable old gentleman, and I thought I could live comfortable with him (laughter); it must have been after New Year's day, 1850, I first communicated anything about Mrs. Forrest, except to two ladies, who knew all about it four or five years ago.

Chief Justice.—How do you reconcile that discrepancy by saying these things took place four or five years ago?

Mr. O'Conor.—If your honor calls her attention to discrepancies, I will give up the cross-examination.

Q.—To whom did you first make the communication except those two ladies?

A.—To Mr. James Lawson: I understood him to be the agent of Mr. Forrest; I told him in his office; I went there on private business of my own.

Q.—What was that private business?

Mr. Van Buren objected.

The Court considered it admissible.

Witness continued.—I went to ask Mr. Lawson's opinion about my son's boss, who was sending him out too much; I never had occasion to ask his opinion before; I went to ask him several times about money, and told him I had been obliged to go to the pawn office; I had formerly said to him, if people were honest, and acted upright and downright, I should not have so much trouble; and he asked me, when I went to consult him about my son, what I meant by that expression; that was the way the conversation about Mr. and Mrs. Forrest commenced; he said he did not know why the separation took place; and I said there was a great deal of blame to Mrs. Forrest, that she was very foolish; I do not recollect all the conversation I had with him that day.

Q.—Did Mr. Lawson produce any memorandum to you of the circumstances you had mentioned before?

A.—No, sir; Mr. Lawson was very much surprised, and said he would as soon have suspected an angel from heaven as Mrs. Forrest; I did not tell him any more than what I have stated at that time.

Q.—Did you at any time after that go before any examiner or officer and make a statement?

A.—Yes, sir, at Mr. Sedgwick's house in Irving place; some one took down what I said; I did not then sign and swear to it; after my interview with Mr. Lawson, Mr. Forrest called on me at my house; there was no one with him; he came to complain to me of Mrs. Forrest's conduct; he first apologized to me; after my first interview with Lawson, I saw Mr. Forrest before my second interview with Lawson; Mr

Forrest apologized for treating me with such coolness, when leaving Twenty-second street; he then complained about Mrs. Forrest, and I asked him if I might tell Mrs. Forrest what he said, and he said, "Yes, every word, but do not tell her I am in a passion, for I am not;" I did not tell Mr. Forrest anything, but I said to him that he must be mistaken; I said it to pacify him, as I saw he was very much excited; I was not speaking the truth when I told him he was mistaken. (Laughter.)

Q.—Which did you see next—Forrest, Lawson, or Sedgwick?

A.—Mr. Lawson; he called at my house; I told him what I knew; he said it would be settled privately, and would not be made public; I went some days after to Mr. Sedgwick's office; Mr. Forrest called and told me to go there at one o'clock; he told me that Mrs. Forrest misrepresented me to him, and that was the reason he treated me so; he said she had been poisoning his mind against me for the last three months we were in Twenty-second street; he did not state any of the things she had said against me, but that he had found out that they were untrue; he did not say how he found it out.

Q.—Did he ask you on that occasion why you had told him on his first interview with you that he was mistaken?

A.—No. I knew that Mr. Lawson was Mr. Forrest's agent at the time, but he didn't allude to it; I was not examined after the interview at Mr. Sedgwick's; I went to the Astor House, but there was no examination there; I never made any statement about this matter after that interview at Sedgwick's; I was desired to go to the Astor House; I think Mr. Stevens brought me a note; I forget who it was from; there was little in it, only "Come to the Astor House at 10 o'clock;" it was after I was at Sedgwick's; it was within three months after; a gentleman read over what I had said at Mr. Sedgwick's, and asked me if that was correct; I said yes, and signed it, and swore to it; I do not know where that statement is.

Mr. O'Conor.—Gentlemen, I have given you notice to produce that deposition. Will you produce it?

Mr. Van Buren.—We have got a copy of it.

Witness continued.—The statement produced was signed by me on the 28th February, 1850; Mr. Sedgwick did not examine me very fully; I was with him about an hour; as well as I remember, I told him all I told here; at the time I left Mrs. Forrest's to get married, my son, James Bedford, stopped at Mrs. Forrest's house, and continued to sleep there up to February; he was there when I told Mr. Forrest, and when I told Mr. Lawson about Mrs. Forrest; he was not there at the time of my interview with Mr. Sedgwick. Q.—How came he to leave? A.—Because I told Mrs. Forrest I had been obliged to tell Mr. Forrest many things about her, but that I never saw any man take improper liberties with her; Mrs. Forrest then said I could have only told him circumstantial evidence, and that would go for nothing; that her counsel told her she could have $3,000 a year, and she would brave it out; I took my son away from her house of my own accord; I never visited her after that time; up to that time I was on friendly terms with her. Q.—Do you know Isabella Sinclair, who is not a sister or relative of this lady? A.—Yes; she is a dress-maker; she was not present during any of my conversations with Mrs. Forrest; she called at my house, and said that, perhaps, as I was married, I would want some dresses made; I told her all the affidavits that were in the newspapers were true, and that I was sorry I did not tell Mr. Lawson all I knew; I never had any conversation with her about the affair before that; Mr. and Mrs. Forrest left home the day I went to Twenty-second street, and returned from the South on the 1st of January, 1847; they were absent two months; I don't remember where they next went; I don't remember that Mrs. Forrest was absent again in 1847, except that she went to see Mr. Forrest's mother in Philadelphia when she was ill; Mr. Forrest did not come home with her; I don't remember when he next went away; he was absent, but I can't tell how often he was absent between that and 1848: he was in the habit of going and coming very frequently; they went off in January, '48, and returned about July, '48; Mr. Forrest went to Detroit after that; I can't remember how many weeks he was away. Q.—Except his trip to Detroit, was he anywhere between that and January, '49? A.—Yes, he was in Philadelphia and Boston or Baltimore; I can't remember which. Q.—After this dispute in January, '49, did Mr. Forrest go anywhere between that and May, '49? A.—No, not that I remember; he may have gone to Fonthill; but I do not remember that he was out of the house one night; I did not notice any alteration in Mr. Forrest's temper until after the dispute; after that he was very unhappy. Q.—Did Mr. Forrest before this dispute in January ever take his breakfast in the library? A.—Never; he generally took his breakfast before that in the dining-room. Q.—Did Mrs. Forrest uniformly attend on him with his breakfast in the library? A.—No, not at first; Robert used to attend on him; I do not remember her giving him his breakfast before 1st January; he always came down to his breakfast; Mrs. Forrest and the sewing girl attended to Mr. Forrest's clothes; she has always done that as long as I have known her; Mrs. Forrest made up his dresses for the theatre always. Q.—Then the only thing that you remarked different, after the 1st of January, was her giving him his breakfast in the library? A.—And her being prohibited, as it seemed to me, from going into the library; she was in the library when he was out; she was always in it previous to January, 1849; the family dined in the dining room; it is on the first floor; I did not dine with them; I was not present at dinner. Q.—How do you know Mrs. Forrest drank wine at dinner? A.—I have seen the glasses and wine

on the table. Q.—Have you ever seen her take a glass of wine at dinner? A.—No, sir, perhaps not. Q.—You say Mrs. Forrest smoked segars; have you ever seen her smoke? A.—Yes, twice; once in the garden, when Mr. and Mrs. Lawson and Mr. Forrest were there; I don't know what kind of a segar it was; I didn't see it; I saw the smoke coming over her head, and I afterwards asked what she did that for, and was it to annoy Mrs. Lawson; I don't remember her answer, but she laughed; I don't know what year it was; the second time I saw her smoke was in the garden also; I think Mr. Wyckoff and Mr. Forrest were there; I did not see the segar; I did not see the smoke either, that time; Mr. Forrest and Wyckoff were also smoking; I did not ask her anything about smoking that time; I saw her throw something out of her hand.

Q.—Now, madam, at any time, did you ever see a segar in Mrs. Forrest's mouth?

A.—No, sir, but I took plenty in at the door. Mr. Forrest smoked; his segars were different from those that were sent to Mrs. Forrest.

Q.—Did you ever see Mr. Willis at Mr. Forrest's, in London?

A.—No, I only know from what Mrs. Forrest told me in London.

Q.—Were the visits of Mr. Willis to Mrs. Forrest in Twenty-second street before the first of January, '49?

A.—I never saw Mr. Willis until I went to live there. (The witness here described the house in Twenty-second street.) There is a dining-room at the end of the hall; up-stairs there are four rooms and a bath-room; one of these is the library; it is in the rear; the next room towards the front is Mrs. Forrest's bedroom, and that occupies the whole of that side of the house; the spare bedroom was in front, and communicated with the hall; it did not communicate with her bedroom; there was also another spare bedroom, which was used as Mr. Forrest's dressing-room; when there was no invited company in the house, Mr. Forrest's rule was that the servants were to go to bed at ten o'clock; if there were, the waiter was kept up; the cook would wait up, if her services were required; the rule uniformly was for the rest of the servants to go to bed at ten; I usually went to my room at ten; I had care of the library; I was not there when there was company; he always made his friends welcome and comfortable when they called on him; his company were generally gentlemen; no ladies called on Mr. Forrest; ladies called on Mrs. Forrest, but it was seldom, and only three or four; they were Mrs. Willis, Mrs. Godwin, Mrs. Bryant, Miss Noah, Miss Lynch, and Mrs. L. Bach; during the whole time, Mr. Forrest had ladies to dinner but once; ladies may have dropped in and stopped to dinner; he had male company very often, one or two at a time; it was very seldom he had invited company to dinner, except when strangers came to town; on one occasion he had four or five gentlemen to dinner, on Sunday he usually had company; I have gone to bed and left him and his company up; they might have remained there till twelve or one o'clock.

Q.—Might it not be till three or four o'clock, for all you know?

A.—It might, if Mr Forrest was a person of that kind, but he always kept good hours; there were four windows with blinds in the drawing-room; they were at the back of the house; there was no other mode of getting light into it; they were shaded with blinds outside; there were no curtains or blinds inside; as a general rule, the blinds were kept half open.

Q.—How was it when company was there?

A.—They never had much company in the drawing-room.

Q.—Don't you say Mr. Willis was in the drawing-room?

A.—Yes; I do not call him company (laughter); the leaves of the window raised up; there was no rule in that house that no one should pass up and down stairs while the library door was open.

Q.—Do you not know that Mr. Forrest did not wish to be disturbed when in the library, and gave orders that no one should pass up and down stairs, and that leaving the door open would be notice that he was there?

A.—No, I never heard so; I do not know that the servants could not speak to Mr. Forrest without Mrs. Forrest first asking him; Mrs. Voorhies told me she was married to Mr. Voorhies; I saw her child when it was born, and since; it is still living; the invitation of Mr. and Mrs. Voorhies to dinner was in 1847; Mrs. Forrest told me that Margaret was coming to dinner, and that Dr. Gray and Dr. Wainwright had interfered for a reconciliation between Mr. Forrest and Margaret; there was no one to dinner but the two; Dr. Gray nor Dr. Wainwright was not there; I never saw them at the house; Mr. Forrest came down to dinner when the bell rang, and went up immediately after dinner.

Q.—Did you mean to say when Mrs. Forrest came up stairs one day flushed and flurried, that you supposed anything improper had taken place between her and Mr. Willis? A.—No, but I supposed he had kissed her.

Q.—Don't you think that improper? A.—Well, if she had respect for herself—

Q.—Don't you think it improper? A.—Well, there's no harm in a kiss. (Laughter.) I did not speak to her about it, but I thought of it at the time.

Q.—Did you not think it improper that a gentleman should kiss her shoulder? A.—I thought it very foolish; I thought she spoke very giddy and very foolish about Willis in London, and I thought her very much altered.

Q.—Did you not, with the exception of that foolish talk, consider that her deportment was lady-like? A.—I lived four miles away from her; I did not tell Mr. Harper about her conduct when I said she was a very nice lady; I forgot all about it at that time; I heard that Mr. Willis was ill while he was in London, but that was before I went there, I did tell Mr

Harper that Mrs. Forrest was a very nice lady; I thought very highly of Mr. Forrest, and I went to take care of his house for three months, while they were travelling; it was in Dec. 1848 that Mr. Richard Willis was in the house.

Q.—Do you know, of your own knowledge, that he was there for three days and three nights? A.—I told Mrs. Forrest that the servants said there was a gentleman in the house, and she told me it was Mr. Richard Willis; I saw him cross the hall to the library with Virginia; I saw him go away the next morning with Mrs. Forrest and Mrs. Willis; Richard Willis did not come to see Mrs. Forrest; I saw him pay great attention to Mrs. Voorhies; Mary (Mrs. Voorhies's nurse) told me of his being in the house three days and three nights; I brought down some breakfast things that morning from Mrs. Forrest's bedroom; I thought they were Mrs Voorhies's, but the servants laughed at me, and at night they asked me where I got them; I do not know myself whose breakfast things they were; Mrs. Forrest, Mrs. Voorhies, and Virginia breakfasted in the dining room, Mr. Richard Willis went with the ladies in the carriage in the morning; he did not return with them, but was there in the evening, and sat up all that night; that is the night Mr. Ibbotson was there; I don't know what other company were there; I went to bed; Mrs. Voorhies, Mrs. Forrest, Mrs. N. P. Willis, and Richard Willis, and Ibbotson were there; they went away at 6 o'clock in the morning to take Mrs. N. P. Willis home; Richard Willis dined there again that evening, and went away that night; the boy toook his carpet bag up to the stage for him. I have not seen N. P. Willis much with Mr. Forrest; he went with Mr. and Mrs. Forrest to Fonthill, and she was the architect that planned it and laid out the grounds. [The witness's testimony was here, as well as in several other instances, unintelligible, wandering and irrevelant.] Brandy and water were brought in when gentlemen were there; I have seen Mrs. Forrest drink brandy and water; I have gone down stairs for water and mixed it for her, and stood by when she drank it; she has asked me to take some, and I said no; there was no one present but myself when she drank it; she generally drank two glasses of wine in the morning, about one o'clock, before she went out; I have seen her drink two glasses of wine very often; more than six times; it was sherry wine; she would have some cake with it; there was no one present; she used to say sometimes she was cold, and took the wine to warm her. The first time I saw Mr. Raymond, I think, was the first summer I was there; I saw him often, but did not know him, nor should have known him, but for circumstances.

Q.—Did you ever know Miss Raymond, his sister, to stop there?

A.—I never saw Miss Raymond; she was never in the house while I was there. I carried two notes to Capt. Calcraft from Mrs. Forrest; I never carried any others to him; I carried notes from her to Mr. Raymond.

Q.—The evening that you say the English nobleman was there, you say you saw Mr. Calcraft go into the cellar and bring up wine?

A.—No; I did not see him go into the cellar; it is a spira' staircase, and I could see him from the very garret come up with the glasses and bottles; Mr. Raymond was not there; the sewing-girl was a stupid, foolish-looking girl; Mrs. Forrest used to say she was half-witted, and Mr. Forrest said she was a fool.

Q.—When Mrs. Forrest mentioned about being spoken of with Jamieson, and you said if it had been that English nobleman, what was her reply?

A.—She said, "To be spoken of with such a thing as Jamieson!" and when I said, "If it had been the English nobleman," and she said, "Or any one but Jamieson."

Q.—Why did you suggest the English nobleman?

A.—Because he was a very handsome man (laughter)—and so he was. I have never said to any living being since the separation that it was all the fault of Mr. F., and that Mrs. Forrest was a very correct lady; I have spoken to a Mrs. Longstreet: she is the landlady of Mrs. Forrest's house in Sixteenth street; I never spoke to her but twice; it was after the separation.

Q.—Did you not speak favorably of Mrs. Forrest to her?

A.—She asked me was I Mrs. Forrest's mother, and I said no; she then said Mrs. Forrest seemed a very nice lady, and I said she was. She then asked me who were all those gentlemen with the hairy faces that were coming to see her, and if any of them was Mr. Forrest; I replied not, that Mr. Forrest did not come there. She asked, "What is he like?" and said, "I would give the world to see him." I replied that she might see him. I have a daughter named Mrs. Dunn; I have spoken very little to my daughter about Mrs. Forrest, because she belongs to one of the theatres (Brougham's), and I did not think it right; I never spoke to her about it until Mrs. Forrest gave me liberty to do so; Mrs. Forrest said she ought to hear it, and that the public ought to hear it; I spoke to my daughter about it in 1849, before I saw Lawson; she had heard the rumors, and asked me if Mr. and Mrs. Forrest were going to separate, and I said, "Yes, by mutual consent."

Q.—Did you speak favorably to your daughter of Mrs. Forrest in 1849 when they were going to separate?

A.—I told her it was all Mrs. Forrest's own fault.

Q.—Did you not after the separation was spoken of in the year 1849 speak very favorably of Mrs. Forrest to your daughter, Mrs. Dunn?

A.—No, sir, I did not. I did not speak very favorably of Mrs. Forrest to Mr. Underwood's family before my marriage; I told them the truth.

Q.—Have you not been called on since the separation by Mr. Andrew Stevens?

A.—He called twice.

Q.—Was it about this business?

A.—He called once about my son going into a company. I saw Professor Hackley sometimes twice and three times a week at Mrs. Forrest's; he came on Saturday, before the house was furnished, and he sat on a wooden box with Mrs. Forrest; Mrs. Hackley called once; Mrs. Forrest was not in, and she never called again. Doctor Rich was there very often, though I never saw him; I heard the servants say when the bell was rung and the door opened, there's Doctor Rich; I never saw Mrs. Rich there; she was there one evening to tea; I know that by the servant that opened the door. I saw Dr. Dewey there, not very often; I saw a Miss Dewey there after I was married; I don't know that she was Doctor Dewey's daughter. I never saw Mrs. Britton, the wife of "Uncle Johnny," there; I saw her once with her daughter in a carriage at the door in Twenty-second street, but Mrs. Forrest told me to tell her she was not at home; Captain Britton was not much an acquaintance of Mr. Forrest's; I understand the acquaintance with Captain Britton commenced by their crossing the Atlantic with him. I understood that Mrs. Forrest's sister was one of the choristers of Trinity Church, and that she was making application for Mrs. Forrest to become one.

Q.—Why did you not go home to your husband's house the first evening of your marriage? A.—Because he did not wish his family to know it; he has a daughter that was opposed to his marrying; he is 74 years of age; I do not know a Mr. De Forrest; I never spoke to him about Mr. Forrest, because I don't know him; the Mr. Stevens I spoke of as supping with a gentleman at Mrs. Forrest's one evening, and stopping until one o'clock, is Mr. Andrew Stevens; I don't know who the gentleman was that was with him; he was a singer, and came to sing with Mrs. Voorhies; among the ladies that visited Mrs. Forrest in Twenty-second street, was Mrs. N. P. Willis; she and her husband very seldom came together; I have not been very busy in hunting up witnesses for this case; I have too much to attend to at home; I called on Lavina, a colored cook, whom I had recommended to Mrs. Forrest, to ask her if there were any debts due and left unpaid by Mrs. Forrest in the neighborhood. I called on her at Mr. Forrest's request. Q.—What did he pay you for that trouble? A.—Nothing; I would do twenty, a thousand times as much for him; he was not in the habit of speaking to me in his own house; but if I met him in Broadway he would salute me; if I asked him a question, he would answer me; but it was very seldom I spoke to him unless I was sent with a message to him by Mrs. Forrest; I was on friendly terms with Mrs. Forrest. Q.—If you were friendly to Mrs. Forrest, how came you to tell these things to Mr. Lawson? A.—In justice to Mr. Forrest; when I went down to Mr. Lawson it was not with the intention of telling him about this. Q.—If Lawson had not ingeniously drawn the information from you, your sense of justice would not have induced you to tell these things? A.—I don't know that; the man who came home with me from church one evening in the rain, was a friend of Mr. Howe's, our baker, and Miss Howes asked him to come home with me; I lent him an umbrella, as it was raining. Q.—Did you ever get it back? A.—Yes, but I lent an umbrella once to a gentleman, and he never had the manners to return it. (Loud laughter.)

Re-examined by Mr. Van Buren.—One of those two ladies to whom I communicated these circumstances is Mrs. Lent, and I believe she is in court; when I spoke to Mrs. Forrest about what I had been obliged to tell, I did not tell her the particulars; but I said I had been obliged to tell a great many of her improprieties.

Mr. Van Buren.—Did she deny them at the time?

Mr. O'Conor.—I object to that. The witness says she did not tell her the particulars.

Witness continued to state, as she did in her direct examination, that she told Mrs. Forrest that she had never seen any man take any liberties with her, or anything criminal on her part; and Mrs. Forrest's reply was that she could only give circumstantial evidence, and that her counsel told her she would get $3,000 a year, &c. There is a piazza at the windows in the drawing-room; I forget whether there is a roof to it; in my conversation with Lawson I told him that Mrs. Forrest had left me without money, and desired me to come to him; but he said he would not give it; he had plenty of money of Mr. Forrest's, but he had no directions to give me any; I told him that I had been obliged to go to the pawnbroker's, and he said, "My God, I did not think you had been so badly off as that," and he gave me $10, and wrote to Mr. Forrest, who immediately sent me an order for $50, and $200 for the butcher—that's all. Please may I go. (Laughter.)

Adjourned.

December 20.

Henrietta Forrest being sworn, deposed—I am a sister of Edwin Forrest; I reside in Philadelphia, at 144 North Tenth street; my brother owns it at present; the family consisted of two sisters and myself prior to 1849; my mother is dead since 1847; she lived in the same place twenty-five years; my brother was born in Philadelphia; he resided there until he was fifteen; he then went South, travelling about; his home was with us, going and coming continually; after his marriage his home was in New York Before his marriage, he had no other residence than Philadelphia; his separation from his wife was in the beginning of '49; after his separation he came to our house, Tenth street, Philadelphia, to reside; it was about June; he had a bedroom and library; his clothes were kept in Philadelphia at that time; he was there about three weeks; the first day he came, he said, at the dinner-table, "Now, this is my home—I have no other;" when he left home, he merely took such clothing as he would want, the re-

mainder was eft at home; after that, he did not move away from us, or change his home; he would return to New York occasionally, when business required; I have heard of the building at Fonthill; I have never been there; so far as I know, neither of my sisters has ever been there.

Cross-examined.—Q.—When were those two rooms first assigned to him? A.—He had those rooms always; he had the use of them after his marriage, when he came to Philadelphia; we used it in his absence; there are not many books in it; when he got married, he removed some of his books; some have remained; there are between 20 and 30 books there; when he was married, he took away four cases of books; none of them ever came back; it was the first week in June he made that remark at dinner; he remained there steadily for three weeks; he was not doing anything particular; it was after the 20th of June he left; he went to New York; I do not know what his business in New York was; we saw him next after the 4th of July; he then remained six weeks, taking all his meals and sleeping in the house; he then went on to New York again; he made short stays in New York; he received letters on business and was obliged to go; he stopped at our house from that to the end of July; he was not absent half the time; I do not know of his going anywhere else but to New York; I think he spent his Fourth of July at Fonthill; I have heard something of his giving an entertainment there; I think he was at Harrisburg in January, 1850; he may have been three months there; from May, 1850, the time of his return from Harrisburg, he has spent most of his time at our house; I think he has for the last eighteen months slept there more than half his nights; I do not know thas he has brought any articles of furniture to our house from New York; he has purchased some in Philadelphia—a shaving table and a book rack; I think he has spent half his time in Philadelphia; after his marriage he made the house in Philadelphia over to his mother; it came back to him after his mother's death, but by no particular act of any one; since her death we consider it as belonging to him.

Re-examined.—I think he has for the last eighteen months been as much as half his time in Philadelphia; I did not learn the cause of his separation from him when he came to Philadelphia.

Robert Garvin deposed.—I reside at 166 Twenty-second street; I came from Ireland in June, '48; I went to live with Mr. Edwin Forrest after I came here; it was Mrs. Forrest who employed me; it was in the morning I went there; some days after I was engaged I was told to come; I stayed at the house for eight months till the following March; I left by reason of Mrs. Forrest saying to me that Mr. Forrest was going to break up house-keeping.

Q.—While you were living there, was Mr. Forrest much away from home?

A.—Three or four times; when he was at home, the usual time for shutting up the house was between 10 and 11.

Q.—When he was absent, how was it?

A.—I always retired the same time, unless when there was a party, and requested to stop up.

Q.—What do you know of Captain Calcraft being there?

A.—I noticed him coming there frequently to see Mrs. Forrest.

Q.—State anything that you now recollect in reference to his coming there, and being in the library.

A.—Several times he came there, and went into the library to Mrs. Forrest; Mr. Forrest was not at home at those times; he was away on professional business; when I went into the room they were keeping company, sitting together.

Q.—Was anything taken into the room by you?

A.—Yes, some whiskey (laughter) and wines; I remember Capt. Calcraft dining there on one occasion; he came in the morning, about 12 o'clock; he went to the library; Mr. Forrest was not at home; he saw Mrs. Forrest, and remained there the day; I waited on table; Capt. Calcraft dined there that day with Mrs. Forrest, and, I think, her sister Virginia; there was drink for dinner; Mrs. Forrest and Mr. Calcraft took wine; she generally drank wine at dinner.

Q.—Did you notice any effects on her?

A.—Yes, when they came down from the library to dinner, they both seemed the worse for drink; I considered Mrs. Forrest a nice carver generally, but there was a chicken before her, and she could scarcely carve it; I asked Mrs. Forrest should I light the gas, or I rather was going to light it, as I generally did for dinner, and she said I need not mind; after dinner I went to the kitchen; no one told me to go there; I returned to the dining-room afterwards to light the gas; I did not go in.

Q.—Why not?

A.—The door was fastened; when I went out of the room I left Captain Calcraft and Mrs. Forrest alone in the room; I returned immediately, in about five or ten minutes, from the kitchen; I tried the handle of the door leading into the hall, and found it fast; I lighted the gas in the hall; in ten minutes after I returned again, and entered the dining-room by the pantry or side closet door; I entered the pantry passage from the front hall, and then into the room; Mrs. Forrest and Captain Calcraft were there; Mrs. Forrest was sitting on Capt. Calcraft's knee, with one arm leaning on his shoulder, and the other across his breast rather.

Q.—What was the condition of her dress?

A.—Nothing that I could pass any observation on; I turned immediately; Mrs. Forrest reproved me, and said I should have knocked at the door when entering; Captain Calcraft and Mrs. Forrest went up to the library some minutes after; I went to bed leaving them there; I

recollect Mrs. Bedford speaking of Captain Calcraft being there; I have no recollection what time it was; he was in the library at the time Mrs. Bedford spoke of.

Q.—What do you know of Richard Willis being there?

A.—I have known Richard Willis to frequent that house frequently; I recollect on one occasion he was there for three nights and three days; Mr. Forrest was not at home at that time; he (Richard Willis) occupied the front spare bedroom; there was no other waiter in the house but me; I did not serve him with breakfast; I served the family at breakfast; Richard Willis was not present; I knew of his being in the house after he had been there one day and one night; I do not know who served his breakfast to him; I saw Mr. Willis there; I saw him come out of this spare room one morning to get some water; he was in his shirt and pantaloons; I never saw Mr. Richard Willis there when Mr. Forrest was at home, that I recollect.

Q.—Are you able to say whether Mr. Forrest knew Mr. Richard Willis?

A.—Yes, sir, I am; Mr. Forrest never knew the man; I remember Mrs. Forrest, Mrs. N. P. Willis, Richard Willis, Mr. Ibbotson, and Mrs. Voorhies sitting up all night; I don't know what they were doing all night; I know of N. P. Willis coming there frequently without his wife; he saw Mrs. Forrest on those occasions usually in the drawing-room; the room was in the ordinary condition; the blinds were shut up with the exception of one part, which was open; I saw it open; I was on the back piazza; I saw Mr. N. P. Willis and Mrs. Forrest in the room; they were sitting on the sofa.

Q.—In what condition?

A.—Called lying on each other; they remained there from half an hour to an hour; Mr. Forrest was not at home; I went into the room after; I noticed some hairpins and an elastic garter in the room; they were not there when I dusted up the drawing-room in the morning; I know nothing of Mr. Jamieson more than his calling and making a visit in the fall; I remember seeing him once or twice; he saw Mrs. Forrest in the drawing-room; nobody else was with them; I can't say how long he was there; I know Mr. Wyckoff; I remember his being there; I was going to bed, and I saw him and Mrs. Forrest skip and play around the dining room and front hall; and to the best of my recollection, I heard him kiss Mrs. Forrest; he had come in with Mrs. Forrest from the opera; I do not how they came, whether they came in a carriage or otherwise; I know of Mr. Forrest's chair being broken; I noticed it being broken one morning after Captain Calcraft had been there the night before; it was a chair that falls back and opens out, with a place to rest the feet upon; Capt. Calcraft was there with Mrs. Forrest alone; I went into the room after breakfast; I had seen the chair whole a few days previously In January, '49, I heard a controversy between Mr. and Mrs. Forrest; I understood Mrs. Forrest had been at a party at Mrs. Voorhies; a farewell party, given by Mr. Voorhies on going to California, I believe; Mrs. Forrest returned between one and two o'clock, or thereabouts; Mr. Forrest was in the library; he was there the whole evening; I do not know what he was doing; I saw him there when I was going to bed; I was not up there; Mrs. Bedford said he was there; I brought up a pitcher of hot water to the library door, and went down again for my candle, and returned immediately; the door was open, and I saw Mr. and Mrs. Forrest in the library; I heard loud and angry words; I stopped for a moment and heard; I distinctly heard Mrs. Forrest strike her hand on the table and say, "It's a lie! it's a lie!" or words to that effect; I don't recollect any other words; I retired to my bed.

Q.—What do you know of Mrs. Forrest's drinking on other occasions?

A.—I usually took in things when company called; they would take a glass of wine or so.

Q.—What do you know of any other drink, hot or cold?

A.—I have nothing particular to say about it, prior to the time I speak of, I had never heard any angry words before; I never made any great efforts to see what was going on; I thought of doing so one day, but gave it up, as the blinds were closed; I live with my brother, 166 West Twenty-second street; I am not in any place now, by reason of my attendance here; I lived last with Mr. A. Seaton, at a place called Throg's Neck, Westchester county; I was with him part of last summer; I believe he is President of the Sun Insurance Company, on the corner of Wall and William streets; I left because the family came to board at the New York Hotel; I know of Mr. Raymond (Samuel M. Raymond) coming there frequently when Mr. Forrest was away; I should say he was there more during Mr. Forrest's absence; it was the same with the other gentlemen; on one evening, at 10 o'clock, I saw this Raymond and Mrs. Voorhies lying on the carpet—[Here the witness's testimony is unfit for publication.] Mr. Forrest was absent at the time; I returned into the pantry; Mrs. Voorhies asked me, "What do you want, Robert?" I said I wanted to shut up the windows; I then retired to bed; I left Raymond there and Mrs. Voorhies; Mrs. Forrest and Captain Calcraft were up in the library at that time.

Cross-examined.—Q.—What is your age? A.—I don't rightly know, sir. Q.—About what? A.—Between twenty and thirty (laughter.) I first gave information to a lawyer, Mr Sedgwick, Irving place; I went there at the request of Mr. Andrew Stevens; he called on me at Count De Dion's, number 4 Depeau row; he called on me once or twice before I went to Mr. Sedgwick's; I can't say if his first call was within a fortnight before I went to Sedgwick's; it was within a month; I did not tell him any of my story before I went to Sedgwick's; he called on me in reference to this divorce; he asked me to be a witness as to the rights of Mr.

Forrest; he said he was going to law; I did not ask and he did not tell me anything; I was not willing to go; I was very unwilling to go; he said by the rights of the law I must go; he may have seen me five or six times, though I didn't see him (laughter): I did not see Mrs. Underwood before I went to Sedgwick's; Mr. Forrest called on me and requested me to go to Mr. Sedgwick's; I did not tell Mr. Forrest anything to the prejudice of Mrs. Forrest; I don't remember any other witness being there; Lawson was there; I think Stevens was there; I'm not sure; Lawson had not called on me before I went to Sedgwick's. Q.—Except what you may have said in the kitchen, did you ever say anything before that to the prejudice of Mrs. Forrest? A.—I do not recollect speaking of it to any acquaintance; I think Mr. Sedgwick took down what I said; I believe I told him this story that I have told now, about Mr. N. P. Willis lying on the sofa with Mrs. Forrest; I was examined again some months after, or some time after: I think it was at the Astor House, before an officer, who swore me to what I said; I signed my statement there; I was not examined afresh, but the statement which I had given Mr. Sedgwick was read over to me. [Statement produced. Witness identified it.] It was dated 28th February, 1850; I have been out of service since I left Mr. Seaton; I left him the first of the present month; Captain Calcraft used to come once or twice a week; he saw Mr. Forrest once—only once, I believe; he met Mr. Forrest in the library; I don't recollect whether Captain Calcraft called on Sundays or not; he stayed part of the evening with Mr. Forrest, the time I speak of; he left before I went to bed; there was an English nobleman there, Mr. Lawson, and some other gentleman there also; I don't remember the English nobleman's name; I can't say that it was Fortescue; he came over from England, and Mrs. Forrest said she wished to introduce him to Mr. Forrest; there were no ladies there; Mrs. Forrest went in there occasionally; she was in the dining-room or drawing-room; I don't recollect that she had any company except her sister Virginia; I can't say that Captain Calcraft dined there more than once; he may have dined there twice, but can't remember my attending on him more than once; on that occasion, I mean to say he came in the forenoon, remained all day, dined there, and remained there till I went to bed; Mrs. Voorhies did not dine there that day; I think Virginia did not dine there.

Q.—When you tried the door on first coming up, why did you not go through the pantry? A.—Mrs. Forrest asked me what I wanted; I said to light the gas, and she said she would light it herself; I can't say what kind of a door it was; when Mr. Forrest was at home he usually sat in the library; when at home in the evening he sat in the library, and when he had company he generally entertained them there; there was a closet adjoining the library in which liquors were kept; when Mr. Forrest had company it was the practice, after a little entertainment to go up to the library; Mr. Forrest had company frequently to dinner; he may have had some ladies once or twice; I can't remember who they were; after he and his company retired up to the library they had wine occasionally; he generally had some gentlemen to dinner with him on Sundays; I did not always stay up till the company went; I did not generally stay up.

Mr. O'Conor.—Robert, why did you smile?

Witness. — Because you ask me the same questions so often. (Laughter.) It's no harm to smile. Mr. Stevens was one of the gentlemen who used to dine on Sundays with Mr. Forrest; Mr. Lawson, his agent, used to dine also; Mr. Thos. N. Carr dined there, but not so frequently as Mr. Stevens; they used to pass their time reading, drinking, and smoking segars; the Calcraft affair was in Dec., 1848; I saw Richard Willis next after the time I saw him come out to get water, on the second morning afterwards, when he was leaving the house; the way I knew he was there was, I was in the habit of washing up my dinner and breakfast things after the family mealed with me in the dining-room, and a fresh set of breakfast things used to come down, and then I knew they were from the man I had seen in his shirt; Mrs. Bedford, I believe, brought them down to the kitchen, or I may have got them in the dining-room; I saw him (Richard Willis) go out of the house the second morning after; I think I saw him the second morning he came down to breakfast publicly when the servants knew he was in the house; I remember asking the servants where these things came from, and then seeing Mr. Richard Willis next morning I knew; the first morning I saw Mr. Richard Willis the family breakfasted in the dining-room; I don't recollect that he breakfasted with the family that morning; I don't recollect whether he dined with the family or not that day; I don't recollect seeing him that night; I can't give a decided answer whether I saw or heard him that night. Q.—On that day that you saw Willis in his shirt and pantaloons, did you carry down the breakfast things from the family? A.—I did; I can't recollect that I carried down the dinner things; I don't recollect that I carried down any second set of breakfast things that day; I don't recollect distinctly if the family breakfasted in the dining-room that day; they always dined there; I can't recollect carrying down any second set of breakfast or dinner things on the second day Richard Willis was there; I saw him coming down the steps of the house on the second morning; he came back again that day; I don't recollect whether it was before or after dinner; he stopped there that night; Mrs. Forrest made him stop—I heard the servants say so; I did not see him or hear him in the house that night, that I can recollect; I can't say, of my own knowledge, that he was in the house the three nights, but I saw him there that one morning; but Mrs. Bedford (Underwood) said he was.

Mr. O'Conor.—You must not tell us what

any one else said, but from your own knowledge.

Chief Justice.—I myself have lost all distinction in this case between what the witnesses knew and what they heard. (Laughter.)

Witness continued—I saw him come to the house on the second evening in the carriage with Mrs. Forrest; it was in the dusk of the evening; I did not see him go away that night; the time Mrs. N. P. Willis, Mrs. Voorhies, Richard Willis, and Mr. Ibbotson were there, I went to bed and left them up; Raymond was not there; I saw Mrs. Forrest and Mrs. Willis, and Richard and Mrs. Voorhies next morning; I did not see Mr. Ibbotson; I was sent for a carriage to take Mrs. Willis home; I can't speak of any sitting up all night but this once; the occasion I speak of going on the back of the piazza was, in the day time, between ten and twelve o'clock; I got up by steps from the garden; I came up from the kitchen; I went up there to wash the windows with the hose; I observed the persons in the room, and I retired; there are four or five windows in the drawing-room; the sofa was placed between the end of the fireplace and the side wall; it was not placed against the end of the house where the windows were; when I looked through the window I had a full view of the sofa; it was in its usual place; there were not pictures on that side of the house that extended down to the floor.

Chief Justice.—Do I understand the witness to say that he did not stop at the window any time, but merely passed by?

Witness.—No, sir; Mrs. Forrest came to the window and said to me not to clean them at that time. I did not remain at the window. I saw this and I returned. After I swept and dusted that room, it was always Mrs. Bedford's business to arrange it. When Mr. Willis went away, I went into the drawing-room to see what I could after the sight I had seen (laughter.) I called Anne O'Brien, the cook, to witness those things—the hair-pin and the garter—and told her what I saw. I took them up in my hand, but did not take them away—I don't know what became of them. I have seen Anne O'Brien within the last month at my brother's house. I don't know where she is now. She was then out of place. It was my business to attend table. Miss Virginia would usually be at table. I have known her to be absent. She used to go round to her sister's in Great Jones' street.

Mr. O'Connor read to the witness a portion of the statement he had made and sworn to. It was, "I recollect that once Mr. N. P. Willis came in the morning and stayed some hours with her (Mrs. Forrest); the window-blinds which ran along the lower piazza were shut, and the room was very dark."

Chief Justice.—Is there nothing in it about he sofa?

Mr. O'Connor.—Not a word, sir.

Mr. O'Connor.—Now, Robert, can you tell why in that statement, you said nothing about Mr. N. P. Willis and Mrs. Forrest lying on the sofa?

Witness—That was what I told Mr. Forrest afterwards; I did not wish to make it public at first; I told him at Florence's, corner of Franklin street and Broadway; it was within six months after I made the first statement; there were one or two gentlemen there at the time; I went there at my own request (laughter) to do justice to Mr. Forrest; no one asked me to go down there; I found him there the first time I called; I don't know what hour it was. Q.—How did you know you would find Mr. Forrest there? A.—I heard he was there. Q.—Who told you? A.—Mr. Stevens; I called at his office in Broadway, and asked him if he knew where Mr. Forrest was; no one told me to go to Mr. Stevens'; I went to him because I knew he was a friend and associate of Mr. Forrest; I never talked with Stevens about this affair after the time I saw him in Depau row; I was living with Mr. Daniel Leroy at the time I called on Mr. Forrest; I was about seven or eight months living with Mr. Leroy. Q.—Have you ever had any dealings with Mr. Stevens? A.—No; I never bought anything from him, nor sold anything to him. I have never received any money from Mr. Forrest. I never saw Mrs. Underwood since I left Mr. Forrest until I saw her in court; I saw her one day at the house in Sixteenth street at the door, but she went in, and did not speak to me. Q.—Will you tell us why you thought of mentioning this circumstance after your first statement? A.—A sense of justice to Mr. Forrest. Q.—Had you no sense of justice when you were examined at Mr. Sedgwick's office? A.—Mrs. Forrest was always very kind to me, and I did not wish to state it; they did not ask me the question, as they did not know I knew it, and I did not tell them; I was desirous at that time of telling as little as I could against her. Q.—Did you keep back anything you knew against her? A.—I kept back that. Q.—Did you not tell me on your cross-examination this day that you had told Mr. Sedgwick the story about your seeing Mr. Willis and Mrs. Forrest lying on the sofa? A.—I may have said so. Q.—If you said so, was that statement true? A.—I made a statement to Mr. Sedgwick. Q.—When you were making your statement to Mr. Sedgwick, did you intend to keep back anything about Mrs Forrest? A.—I did; I intended to keep that about the sofa.

Chief Justice.—You say in your statement that the windows were closed, and the room was very dark; how do you reconcile that to your testimony here to-day, in which you say that part of the blinds were open, and that you saw this transaction?

A.—I made two statements.

Cross-examination continued. I did not tell Mr. Sedgwick anything about the sofa. It was the last statement I made to Mr. Forrest; it was in December, 1848, or thereabouts, the

transaction took place; it was my practice to wash the windows with a hose; it was not warm weather; it was frost and snow.

Direct examination renewed. Q.—What did Ann O Brien say when you showed her the things?

Mr. O'Conor objected to the question. Mr. Van Buren contended, that as the fact was brought out on cross-examination, of her having been shown the things, he had a right to the question. The Court ruled it out, and Mr. Van Buren excepted.

Witness continued—I recollect not mentioning to Mr. Sedgwick the circumstances about Mrs. Voorhies and Mr. Raymond; the time I spoke to Mr. Sedgwick about the blind being shut, and the time I now speak of were not the same; Mr. Willis called frequently; when he called, the blinds were usually shut; before I saw Richard Willis in his trowsers and shirt I knew he was in the house, from the circumstance of my taking down the breakfast things; the day before I saw him I took down the breakfast things; I enquired of Mrs. Bedford where the breakfast things came from; they were on a small tray; those breakfast things were only for one person; Mrs. Voorhies did not visit the house when Mr Forrest was at home; I knew of her being in the house when Mr. Forrest was there: Mr. Forrest was from home, and he returned sooner than was expected, and Mrs. Voorhies and her nurse and child got down through the area; I don't recollect any other occasion particularly.

A Juror—You have told us that you liked Mrs. Forrest. Did she always treat you well?

Witness—Yes.

Q.—You said you did not wish to expose her? A.—Yes.

Q.—Why then did you call a witness to see the garter and hair pins?

A.—I called her up at that time to see them.

Chief Justice—How did the conversation commence between you and Mr. Forrest at Florence's Hotel? A.—I told Mr. Forrest I had something more to tell; and as the case was going to court, as he was going to have a divorce, it was right he should hear it.

Chief Justice—When this statement was read over to you at the Astor House, did you know there was any proceeding for a divorce? A.—I don't recollect, I was only there about ten minutes.

Mr. O'Conor then read the statement made by the witness on the 28th February, 1850.

Ann Flowers was then called; but the Chief Justice said that as it was impossible to get through with her testimony, it would be desirable to commence it on Monday morning.

Adjourned.

December 22.

THE TESTIMONY OF ANNA FLOWERS.

Anna Flowers was called and sworn, and being examined by Mr. Van Buren, deposed as follows—I live in New Orleans when I am there, I live here now; I came from Texas to this place; I am married; my husband's name is Geo. W, Flowers; he is inspector of pork and beef; my family at home is composed of three children, two servants and a niece of Mr Flowers; Mr. Henry Dougherty came with me to this place; my husband put me under Mr Dougherty's charge; my nurse and child, a baby, came with me also; that child is one of the three I have spoken of; I left two children at home; I am stopping at the Florence Hotel, Mr. Dougherty put me there; I am an Irishwoman; was born in Ireland; I was in the service of Mr. and Mrs. Forrest; I went to live with them in May, 1844; it was before they went abroad; I went to them in May, and they went away in December following; I was in the capacity of chambermaid; I slept, when the family was home, on the third story; by the third story I mean the attic floor; it was in Twenty-second street.

Q.—What gentlemen were in the habit of visiting the house while you were there? A.—Mr. N. P. Willis, Capt. Howard, Mr. Wykoff, and Mr. Godwin. Q.—State, if you please, anything you saw occur between Mr. Willis and Mrs. Forrest? A.—They were several times together alone in the drawing-room; Mr. Forrest was not at home; it was regular hours in the day time; I could not say what hour. Q.—Do you recollect Mr. Willis, on one occasion, calling on Mrs. Forrest before she was dressed? A.—Yes, I showed him up to the library; Mrs. Forrest was in bed; I notified her; she told me to leave him there and she would get up and dress herself; I did so; it was in the morning, about half-past seven; I did not see them together afterwards, that day. Q.—Did you see Mr. Henry Wykoff there?

Mr. O'Conor thought it a humbug to be going into anything about Mr. Wykoff when the defendant himself, in his reply, has altogether exonerated him. I therefore object to anything from this witness, at all events about Mr. Wykoff.

Mr. Van Buren replied that Mr. O'Conor, in his opening, said he would not object to any evidence against Mrs. Forrest; and the Court had intimated its desire to have the cause fully investigated; he submitted that it was quite relevant to the case at issue, to prove the lewd and licentious conduct that was pursued in the house. There are cases in which actual adultery may not have been proved, and yet the conduct, and habits, and circumstances would be deemed sufficient to warrant a divorce being granted.

Mr. O'Conor—As to the first statement of the counsel, it is entirely unfounded.

Mr. Van Buren—There is a difference of opinion between us. I had not asked one word up to the general defiance of the counsel for the plaintiff.

Mr. O'Conor made some further observations, and concluded by saying that he thought when he closed his case for the plaintiff, the defendant and his counsel ought to have walked out of court and consented to a verdict.

[Hisses in the body of the court.]

Mr. O'Conor continued—We have some mem-

bers of the theatre here, and as I am an actor in this scene, I am hissed.

Chief Justice—Who has hissed?

Mr. O'Conor—Oh, in this crowd it is impossible to see, but there are some members of the theatre here; some whose business it is to laugh, and some to hiss.

The Chief Justice ordered the officers to bring up any person whom they should detect disturbing the court.

Mr. O'Conor again contended that the testimony respecting Mr. Wykoff was improper.

The Chief Justice said that he had thought it is duty to interfere several times with respect to the testimony which implicated third parties, who have no opportunity of defending themselves, but he had permitted it to proceed, thinking that counsel had been advised that it was essential to the inquiry. He would wish to be referred to some authority on the subject.

Mr. Van Buren referred to second Greenleaf on evidence, p. 51. Mr. Van Buren then referred to the habits of Mrs. Forest—her drinking and smoking.

Chief Justice—I should not have admitted that evidence if it had been objected to; at all events, I do not consider the testimony of the slightest consequence.

Mr. Van Buren said he would suspend that part of the examination for the present.

Chief Justice—that would be the better way.

Witness continued—I saw Mr. N. P. Willis kissing Mrs. Forrest in the library; I could not say exactly when it was, but it was in the day time, in warm weather; it was when he first came in; Mrs. Forrest was in the library when I showed him in; I went across the hall, and on turning round, I saw Mr. Willis with his arm round Mrs. Forrest's neck and he kissing her; I saw them several times together before that; he was there a good deal: I saw nothing, but I showed him into the library several times, and they were several hours together; Mr. Forrest was away; saw no one else in the library at the time with them; I know Captain Howard; I remember one morning that Mr N. P. Willis was to call early; Mr. Forrest was away, but came home unexpected; he just got in before Mr. Willis called and Mrs. Forrest did not see him; Mr. Forrest was in the library; I answered the door when Mr. Willis came; I told him Mr. Forrest was come home; and he said, "Oh! very well," and then went off; it was Mrs. Forrest he asked for; I did not tell him Mrs. Forrest was at home; Captain Howard was in the habit of visiting there frequently; I did not know what his occupation was.

Chief Justice inquired what time these parties went to live in Twenty-second street?

Counsel conceded it to be towards the close of '39.

Witness continued—Captain Howard usually saw Mrs. Forrest when she was home; I recollect his remaining there all night when Mr. Forrest was home, and also when he was away; the night that Howard stayed all night and Mr. Forrest was away, Mr. Godwin was there also; they were in the library all night; I cannot say what they were doing; they were talking; I was down stairs doing my work; I retired that night about eleven o'clock; I slept with Mrs. Forrest in the front bedroom; that was the first night I ever slept with her; I heard them talking and laughing; I was awoke afterwards in the middle of the night, and Mrs. Forrest came in and undressed herself for bed: she did not say anything until she got into bed, she then called me "Anna," and I did not answer. Q.—Why not? A.—I was afraid she might think I was listening, as she accused the boy that was there of listening at the door; she then left the room in her night clothes: I did not see her for some time after on that night until I got out of bed; I was afraid I had misunderstood her and got into the wrong bed, as I heard whispering in the next room; I got up and took the lamp that was lit on the hearth, and I went into the next bedroom—the next spare bedroom—I went to the foot of the bed and looked over it, and I saw Mrs. Forrest and Captain Howard; they were in the bed; both in the same bed. Q.—How were they lying?

Chief Justice.—It is not necessary to go into particulars.

Mr. Van Buren said he would comply with the suggestion of the Court.

Witness continued—I called Mrs. Forrest, and she did not answer me; I then commenced crying; Mrs. Forrest then said to me, "Anna, what's the matter?" I said I was afraid to sleep alone; nothing further was said, and I went back into the bedroom where I had been; Mrs. Forrest came in in about fifteen or twenty minutes after that: there was no light in the bedroom where Mrs. Forrest and Capt. Howard were; I had to pass out into the entry from the room; my door was entirely open, the other was half shut; Mrs. Forrest came to bed to me after that; she told me "not to cry—that she only went in there to see if there were sheets on the bed;" there were no clothes on the bed but a blanket; I do not remember remarking anything in Mrs Forrest's walking at the time; I saw her taking two glasses of wine that evening; I saw Captain Howard next morning in that bedroom; there was nothing on the bed but a blanket and two pillows, without pillow cases; I have mentioned this to Mrs. Forrest; I mentioned it to her in the house, before she left for England; 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 go up stairs, and take Captain Howard a comb and brush; and a shirt, one of Mr. Forrest's shirts, that she had left on the bed that we slept in; I did so; I knocked at the door, and handed them to Captain Howard; I went down stairs into the dining-room; Mrs. Forrest came to me and said, "Anna, I have never treated you as a servant, and I don't want you to mention anything you see in this house," nothing further occurred; I was about fifteen years of age then; I remained there until [illegible] April of the

following year 1845; it was the latter part of August or 1st of September I saw them in bed; I could not say which; Mr. Forrest was in Philadelphia at the time; I did not see that Mr. Godwin slept in the house that night, but Mrs. Forrest told me he had slept in the back bed-room; I slept with Mrs. Forrest after this occurrence, until she went to Philadelphia; she went in three days after that; when she returned, I slept in the front spare bed-room; when Mrs. Forrest went to England, I was left in the house, and remained till the following April; about the time of their leaving for England, I had a conversation with Mrs. Forrest.

Q.—Was anything given you by Mrs. Forrest before she went away? A.—Nothing but thirty dollars and some baby clothes.

Q.—Since her return, have you mentioned this occurrence to her? A.—I have, in New Orleans; I had never mentioned it to Mr. Forrest; Mrs. Forrest was at the St. Charles Hotel, in New Orleans, and I went to see her there; she said I had made a good deal of talk about her in her absence; I told her then that she was my ruin; she told me I was angry, and not to be so passionate; I told her that she did not stick to her promise, as she said she would do before she went away; she said she had told Miss Margaret (her sister) to provide every thing for me; her sister Margaret was Miss Sinclair; I never knew her as Mrs. Voorhies; I told Mrs Forrest I was going to see Mr. Forrest, to try if he would see Captain Howard about doing something for my child; she told me not to see Mr. Forrest about it, for that he was very angry with me; I said I would, for the child was in want, and its nurse was not paid; I said, "If I tell one thing I shall have to tell the whole;" I then left the St. Charles, and I met Mr. Forrest in the street; 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 said nothing further; her manner was very much excited. Q.—Did you mention it to Mr. Forrest? A.—I met him in the street, and I mentioned Capt. Howard's name, and he said "I don't want to hear anything of the kind—I would not speak to such a man." Q.—Did you speak to Mrs. Forrest about it on any other occasion? A.—I told you before she went to Europe. Q.—On any of those occasions did she admit or deny it?

Mr. O'Conor objected.

The Court thought it unimportant.

Mr. Van Buren—I think so too. Q. What was Mrs. Forrest's uniform treatment of you? A.—Always very kind; it was her sister Margaret engaged me, Mr. Dougherty paid my expenses coming here and while I am here.

To the Chief Justice.—It was the year '48 I speak of in New Orleans.

Cross-examined by Mr. O'Conor.—I introduced myself to Miss Sinclair at Twenty-second street; don't remember any one going with me; Miss Margaret sent after me to my mother's; I had seen Margaret at the house in Twenty-second street before I was introduced to her; I went to see the other chambermaid, Jane, they had; dont know her other name; she was married after; she is not now living; it was through Jane I became acquainted with Miss Sinclair; my mother had been taking washing from the family; my mother is yet living in this city; I could not tell when I last spoke to her; it is a long time ago; it was before I was married; I was married 23d Jan., '47; was in the city here in '46; I was staying with her then; I came from New Orleans then; my first child, of which I have spoken, had been born then; it is yet living; it is at my mother's; she yet lives in the city. Q.—How long since you have seen that child? A.—I think it is two years; I have been here this last time about six weeks; the two first weeks I stopped at the Mansion House; since then at Florence's; Mr. Dougherty furnished me the accommodation in both places. Q.—Is he in Court? A.—I do not see him; he visited me every morning, and brought me the papers; sometimes he would come in the afternoon, and sometimes in the evening; I have never had any visits from Mr. Forrest, except one at the Mansion House, for five minutes; my home is New Orleans; I was just going to move back from Texas when Mr. Dougherty came about six weeks ago; I went from New Orleans to Texas last summer about April or June; I came on to New York last summer, or the summer before, in relation to this business; think it was last June; think it was June of '50; it was Mr. Flower who asked me to come on; nobody applied to him; I told him about it; there was an advertisement put in the New Orleans *Picayune* for me, and I told him of it, and he directed me to come on; I came in the steamship Georgia; no one came on with me; the advertisement did not offer a reward; it said if I would apply to the *Picayune* I would hear of something to my advantage; I did apply; I thought I was going to get a fortune—(laughter)—I got nothing at all; the gentleman that put in the advertisement had a letter from Mr. Forrest, and he asked me if I knew Anna Dempsey, and I said I did not; he said he knew me, and there was no use in denying it; I told Mr. Flowers, and he told me to go on by all means; I had told Mr. Flowers before my marriage what had occurred; the gentleman was a clerk there, and I saw him on going to inquire what the advertisement was; he said nothing else to me to induce me to come on to New York; Mr. Flowers paid my expenses on at that time. Q.—Had he received any communication from Mr. Forrest or any of his friends? A.—None whatever; he told me to come on to New York and tell the truth; he did not know where to tell me to go; he was not acquainted with Mr. Forrest; my purpose and object in coming on to New York was to tell what I knew: I understood I was to be examined by Commissioners; several of my friends in New Orleans told me, if the trial was not going on, I would be examined by Commissioners, they were ladies who told me; they did not know Mr. Forrest: the clerk at the Picayune

told me the advertisement was from Mr. Forrest, and that I ought to go on, or they would take my examination there.

Q.—What reward did you expect to get for coming on to New York to testify? A.—Not one cent; I am very well able to live without rewards; I don't know that I expected to receive my expenses, for I had plenty of money along to pay them; I did not write or take any step to let Mr. Forrest know I was coming on to New York; on my way to New York I stopped at Havana for three days to see my sister, Mrs. Anna Hart.

Q.—How is it that your sister's name is Anna and yours Anna also? A.—My real name is Honora, but I did not like it, and I changed it. (Laughter.) Q.—Did you tell that sister that you were to be paid for coming on to New York to testify for Mr. Forrest? A.—I did not; I told her that I was coming on to testify for Mr. Forrest; I told her I was coming on to see Mr. Flowers' friends; that was not the truth; I told her so because my family had altogether forbid me to appear against Mrs. Forrest; I cannot say when they bid me not to appear against Mrs. Forrest; they all told me; Ellen Linsden, at New Orleans, Mary Dempsey, living in New Orleans, at my mother's, and my sister Ann forbid me; my brother, John Dempsey, living in New York, forbid me; my brother Frederick, living in New York, forbid me.

Q.—I want to know when your mother forbade you? A.—After I went back to New Orleans from this in June, 1850, I received a letter from her, forbidding me to appear against Mrs. Forrest; I had not received any forbidding from my mother before that; my sister Mary wrote the letter; my mother had all the "say" in it; Mary had not forbid me to appear against Mrs. Forrest before that; my brother John forbid me in that letter; he never forbid me before; I don't remember when Frederick forbid me; I last saw him in New Orleans, about two years ago, before my trip to New York; he did not then say anything to me about not appearing against Mrs. Forrest; I am not certain about his ever forbidding me; last summer my sister Anna forbid me; I mean the summer of 1850; she forbid me in New York, after I had been at Havana and seen her there; she never forbid me until then; my sister, Mrs. Hinsden, forbid me after I received the letter from my mother, which was written by Mary; she never forbid me before; I remained in New York then a week or five days; I stayed at the Irving House; I furnished myself with accommodations there. I saw Mr. Forrest during that visit, but not when I arrived; I saw him at the Irving House; Mr. Sedgwick and two or three other gentlemen that I don't know were with him; I saw him more than once; I saw him twice at the Irving House—that time and the day I was going away; I did not see him anywhere else; Mr. Dougherty was with him the day I was going away; I did not pay all my expenses at the Irving House; Mr. Forrest paid them; I first saw his friends, Mr. and Mrs. Lawson, when I came on; I saw them at their house in Twelfth street; I wanted to see Mr. Forrest, and I knew Mr. Lawson to be his friend and agent; I did not see Mr. Lawson when I called; I left my address, and he called on me at the Irving House; it was the first house I put up at; I arrived in the morning; I don't recollect what day it was; we were quarantined twenty-four hours before the vessel came up; I had not taken any means to inform Mr. Forrest of my coming; I proceeded immediately to the Irving House, to take accommodation there; I took dinner there; first saw Dougherty at the Irving House; saw him at a house, I think it was in Mercer street; that was after I had taken lodgings at the Irving; it was the second day of my arrival; I had spent one night at the Irving before that; I had seen Mr. Lawson before I had seen Dougherty in Mercer street. Q.—What house was that? A.—I think it was a boarding house, named Wilson's; I went there to have an interview with Mrs. Forrest; I went there on my own motion; there was a gentleman with me from the Irving House; I don't know his name; I wanted to go there and see Mrs. Forrest, and they said I had better have some one go with me. Q.—Who said that? A.—Mr. Forrest said it; it was at the Irving House he said so; all those gentlemen, Commissioners, were present; Dougherty and Mr. Sedgwick were present; I don't know of a man named Patterson was present; there were others besides those named; I think there were two others.

Q.—When these gentlemen, whom you call Commissioners, were present, was your deposition taken? A.—Yes, I signed and swore to it; they were about half an hour or an hour with me on that occasion; Mr. Sedgwick never called on me again; I never saw him that I know of, but once; I never made any deposition or statement but that one while I was on here at that time; I don't know that I spoke in the hearing of the Commissioners about going to Mrs. Forrest; it was not one of that company that went with me to Mrs. Forrest; I didn't go to Mercer street that day; it was the next day that I went. Q.—Who recommended or introduced you to the gentleman who accompanied you? A.—I think it was Mr. Dougherty who introduced him, but I can't say, I am not positive; it was the next morning I was introduced to him; that gentleman, my escort, told me where we were going; until he told me, I did not know anything about the place I was going to in order to meet Mrs. Forrest; I remained at that house from about 10 o'clock in the morning till about 5 o'clock; I was visited by Dougherty while in that house; he took me back from that place to the Irving; I did not see any other person at that time who appeared to be an agent of Mr. Forrest, or who had anything to do with me, or my business or Forrest's business; I had no conversation with any person while I was there about Mrs. For-

rest's transactions; I got my dinner there; nobody dined with me; I was in a room all the time; it was a large room; there were half-a-dozen beds in it; I did not see Mrs. Forrest while in that house; I wished to see Mrs. Forrest, to tell her what I had done and what I had said; that was my sole and only business in seeking that interview; Dougherty was not more than five minutes there. Q.—What measure did you take, if any, to get Mrs Forrest there? A.—I wrote two notes to her; I wrote them there; I gave them to a small boy; I wrote the second note after I found Mrs. Forrest did not come; I did not say anything about Mrs. Willis while I was there to any body; I went back to the Irving House; I did not go to Brooklyn when I was here.

Mr. Van Buren said with regard to the answer about Mr. Willis if the counsel intended to contradict the witness it was usual to call her attention to the particular fact.

Mr. O'Conor said he was much obliged to the counsel for teaching him the rules of evidence, though he did know something about it a short time ago.

Witness continued—I did not go to Brooklyn, because I didn't feel like it; I intended to go there to shop, to buy stamps to stamp children's dresses; I did not know where to get such things in New York; I expected to get them at, I think, Mrs. Miller's, in Fulton-street; Mr. Forrest told me not to go to the house where Mrs. Forrest lived, and I said I didn't want to go to the house where Mrs. Voorhies was; I can't say that he told me he would find me a place to go to meet Mrs. Forrest—I don't remember; I don't know who paid my bill at Mrs. Wilson's; I returned home to New Orleans by land; I went to Albany and Buffalo; I received no money except what I received from Mr. Forrest, for my expenses; he gave me $50 to pay my expenses home, and $75 which I had paid for my passage here; I received no other money in any shape or form; I believe I promised to come back when needed; there was nothing said about paying my expenses for returning; I did not come again, for one of my children was very sick. Q.—How soon, after you refused to come, did you go to Texas? A.—I can't say; I did not get one cent compensation; there was nothing said about reward or compensation, for coming; I don't expect any; I saw an advertisement in a newspaper in this city after I came here; Mr. Dougherty showed it me; I think it was the HERALD; he showed it to me in Mercer-street; I had not seen it before he showed it to me; he did not explain anything about it; he handed me the paper, and said, "Do you see that?" I said, "Yes;" I did not say anything else; he left the room. [Two notes produced.] Q.—Are those the notes you addressed to Mrs. Forrest? A.—No; I never wrote that one; the other (marked No. 1) is mine. [Witness examines them.] I wrote two notes; this second one is like mine; but I am not certain.

Mr. O'Conor.—It is hard to be certain about anything.

Mr. Van Buren objected to Mr. O'Conor's introducing his question with a flourish.

Mr. O'Conor said he would stand corrected when the Court corrected him.

The Chief Justice thought all those observations should be avoided.

Witness continued—I don't think this letter (No. 2) is my handwriting.

Mr. O'Conor.—Now look at the back.

Witness (looks at it).—Yes, that is my writing—it is addressed to Mrs. Forrest; I enclosed the advertisement in one of them, I forget in which.

Mr. O'Conor then read the letter No. 1:—

[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 hear untill I see you Call at 142 Marcer street, Willson's whotel. Pleas send answers by the barer.

ANNA DEMPSEY.

[Directed Mrs. Forrest, Sixteenth street.]

Mr. O'Conor to witness.—Are you certain that the writing in the second letter is not yours? A.—It looks like it, but I am certain it is not mine; it's very much like the outside; I am not sure the inside is mine.

Mr. Van Buren submitted that there was nothing in the testimony of the witness to show that she is unwilling to testify as to these notes. She said at once, when the first letter was shown her, it was hers. The second letter, he maintained, was not proved, and was illegal evidence, and inadmissible.

Mr. O'Conor contended that it was admissible.

The Chief Justice said the question is whether there is proof enough to submit it to the jury. I think there is abundance, and there is no use in any further discussion. When counsel come to address the jury, they can satisfy them that it is or is not evidence.

Mr. O'Conor then read the letter:—

LETTER, NO. 2.

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

In this letter was enclosed an advertisement, cut from the *Herald*, which was as follows:

"NOTICE.—If Mrs. Anna Flowers, of New Orleans, formerly Miss Dempsey, who is supposed to be in this city or vicinity, will call (or send word where she may be seen) at the office of Theodore Sedgwick, Esq., 56 Wall street, she may hear of something to her advantage."

Witness's examination continued.—I left my own name (Mrs. Flowers) at the Irving House; it

was, I think, the day before Christmas day, 1844, that Mr. and Mrs. Forrest went to England; I did not see Mrs. Forrest again until 1848, when I saw her in New Orleans; I stayed with her at the St. Charles Hotel, about three hours the first time, and about an hour and a half on the second occasion. Q.—Before this night that Captain Howard stayed, when Mr. Godwin was there, where had you slept? A.—I slept up stairs on the garret floor; I never slept with Mrs. Forrest before. Q.—How did you happen to sleep with her that night? A.—Mr. Forrest and her two sisters were away, I don't know of any other reason; I supposed that was the reason, because she was alone; she asked me to sleep with her; I can't tell what time; Mrs. Forrest had always treated me with very great kindness. Q.—You say she told you she had not treated you as a servant—is that true, that she had not treated you as a servant? A.—Yes, sir; I was then fifteen years of age, I am now twenty-three; I had lived with Mrs. Moore before that; I was with her four months; her husband is a dry-goods merchant; before that I lived at home with mother, and was sick a long time; I lived before that with a Mrs. Russell; her husband lived at New Orleans, and she and I boarded at an hotel in New York; I don't know where it was; I think I was a year and a half with her; there was about a year between my service with Mrs. Moore and Mrs. Russell; I was at home with mother, and went to school for a long time; I was at service with Mrs. Hart before I went to Mrs. Russell; I think it was in Waverly place; I can't say how long I was there; I was quite small; it was the first service I was at; I was not at service with any one after Mrs. Hart before I went to Mrs. Russell. Q.—Did you ever live with Dr. Lee, in Hudson street? A.—I lived with a doctor, but I can't tell where it was; after I left the doctor's I went to the House of Refuge; I was there a year. Q.—Who made complaint against you and had you put in? A.—My mother; I was not sent from the House of Refuge to the service of Mr. Richardson, New Canaan, in Connecticut; I was sent to Mrs. Russell; I went by the name of Ann Dempsey in the House of Refuge; I left Mrs. Russell because she was going to New Orleans; I do not remember Mr. Terry, the principal of the House of Refuge, but I remember Miss Taylor; I do not remember being examined there; I heard my mother say I was nine years old when I went to the House of Refuge.

Q.—Shortly before going to the House of Refuge, did you steal anything?

Mr. Van Buren.—Will the court be good enough to inform the witness of her rights with regard to answering this question?

Chief Justice.—What are those rights?

Mr. O'Conor contended that the witness had no privilege or rights, unless the answer would subject her to a criminal prosecution. The question is, whether a witness may be shown to be infamous without subjecting her to a criminal prosecution?

Chief Justice.—Mr. Van Buren asks me to instruct the witness as to her rights.

Mr. Van Buren —That's what I simply ask.

Mr. O'Conor contended that the question was admissible. They meant to show that the witness was not 15 years of age, as she states, when she went to live at Mrs. Forrest's, but was then 18, and that she began a career of vice and crime at a very early age.

Mr. Van Buren proposed to submit to any rule of law, or any rule of decency; but he considered he would be unworthy the sex to which he belongs, and the position he occupies, if he did not protect the witness, and ask the court to inform her of her rights. Here is a woman away from her home, the mother of three children, and the wife of a respectable husband, and it could not be denied that she is not obliged to answer a question if it will subject her to infamy or degradation. She has a right, if she chooses, to decline answering. He therefore asked the court to instruct the witness that she may decline to answer it, or, if she does answer it, she has a right to make any explanation she pleases.

Mr. O'Conor said that he would pass over the question of the gentleman's claims to gallantry, over his (Mr. O'Conor's) pretensions, and he would simply say that there never was a doubt in the mind of any judge, that a witness was bound to answer any question that would make himself infamous, if it was relevant to the main issue. It is only when the question is not relevant that the witness is not bound to answer. The weight of reason and authority seems to be in favor of the right of the witness to answer. He had no objection to the witness making any explanation after she had given the answer.

The Chief Justice said that he considered it very well settled as a rule of evidence, that the witness is not privileged to exempt herself from any relevant question that tends to degrade her, if it did not tend to subject her to criminal prosecution. It has undoubtedly been a matter of dispute. Questions of that kind may be divided into two classes—first, the commission of a felony, and secondly, a degraded class of life, if it did not tend to subject her to a criminal prosecution.

Mr. O'Conor.—The whole subject is examined in an opinion of over thirty pages by Governor Marcy, when he was Judge, on matters which are relevant to the issue and in relation to those which are criminal. He (Mr. O'C.) read a case from Wendell, which states that "when the answer will subject a witness to a charge of infamy, he is not bound to answer;" but that, continued Mr. O'Conor, is not—

Mr. Van Buren.—Is not what you meant to read. (Laughter.)

Mr. O'Conor.—It is not in accordance with the text. He then cited the case of the abduction of Morgan, in which the court said that the witness (Daniels) was bound to anwer the question unless it would have criminated himself; but the court also said that the abduction of Morgan might turn out to be a crime of murder, and that the witness was privileged in refusing

to answer. He referred to other cases in Wendell, and also to Starkie and Phillips.

Mr. Van Buren, in reply, said that counsel feeling somewhat at the imputation on his gallantry, seemed to cite cases quite in favor of the objection of the defendant's counsel. It was material to them that the question should be settled some way by the court now, as he (Mr. Van Buren) may have occasion, in the course of this week, to ask some of the witnesses who may be brought forward by the other side, questions which they may claim the privilege of not answering. He would ask the court to say to this witness that she can give a full account of the transaction, or that if she choose she may decline answering it altogether.

Mr. O'Conor said he would take up another branch of the examination, in order to give the court an opportunity of turning the question in his mind, and deciding it to-morrow.

Mr. Van Buren referred the court to the People against Herrick, 13 Johnson, page 82.

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; I don't know whether it was my practice to go to the door and answer it when the waiter was there, and not engaged; Capt. Howard was in the practice of sleeping at Mr. Forrest's; I have known him to sleep there when Mr. Forrest was not at home, on other occasions besides that night; I can't say how often; I knew him to sleep there very often when Mr. Forrest was at home; I do not remember his sleeping there two or three nights immediately before Mr. and Mrs. Forrest went to Europe, but I remember him sleeping there; I don't know of Mr. Parke Godwin sleeping there on any other occasion; I did not see him at breakfast next morning; it was last part of August or first of September, '44; I went to bed about 11 o'clock; I have not any idea how long I was in bed before the voices awoke me; I could not tell how many voices I heard; I did not hear Captain Howard go to bed; when Mrs. Forrest 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; it was a brass lamp; 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 lying half-open while she was undressing; it took her about 20 minutes to undress; when she went out from my room she did not close the door after her; I 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 gate of the railings (assumed to be eight feet); if she had opened the door I should have heard it; I can't say how long it was before I went into Howard's room; it was about twenty minutes when I heard whispering and a noise of the bedstead; their door was partly lying open when I went there, and I had to open it more; I 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, but 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; 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; I did not speak to her after that day, and before she went to England, on the subject; it was about a month before she went to England I spoke to her; I have told all I said to her on that occasion.

Q.—Did you ever mention this occurrence between Captain Howard and Mrs. Forrest to your mother? A.—I did, next morning; I never told it to her any other time; I told it to my sister Mary.

The Chief Justice said he had got it down in his notes that the witness said, in her direct examination, that Mrs. Forrest undressed and got into bed; now she says Mrs. Forrest did not get into bed.

Mr. Van Buren said the Judge was mistaken.

Mr. O'Conor said the Court was right; he (Mr. O'C.) had it so in his notes

The Chief Justice said he did not know that it was any material consequence; he merely called the witness's attention to the discrepancy.

Witness 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'Conor remarked that they had it on her direct examination, that she said Mrs. Forrest was her ruin, and we are entitled to some explanation.

Chief Justice.—There was something about the child being destitute, and her wanting Mr. Forrest to apply to Captain Howard about it.

Mr. O'Conor said this witness stated that on seeing this lady and gentleman in the position she described she cried, and he wanted to show that the affair was no crying matter with her.

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

The Chief Justice understood the witness to speak of a child before her marriage, and this question is 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 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. This question was not properly a matter of cross-examination. If, however, the court decides upon it, the ruling, he supposed, will be understood to apply to witnesses of either sex. He, however, submitted that anything tending to degrade the witness she was not bound to answer.

The Chief Justice did not wish to take any step in the case that would be likely to embarrass it. It is not reasonable to confine the question to general character, when a witness may have no character at all. He (the Chief Justice) had often, in his experience, found cases where testimony was improperly procured. He said so without meaning to cast any reflection on this witness. 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 has admitted that she had a child before her marriage—there is no further degradation about it.

Witness continued.—That child was born in May, 1846; Captain Howard was the father of that child; it was in Mr. Forrest'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.—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 Catharine in the house at that time. Q.—Were you or not charged with having had 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 Captain 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. Forrest's. Q.—Did you not, after you made the affidavit against Captain 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 was—(Laughter.)

The Chief Justice inquired if Mr. O'Conor had any more questions to ask the witness, as it was now four o'clock, the hour for adjourning.

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

The Court was then adjourned.

December 23d.

ANNA FLOWERS'S CROSS-EXAMINATION.

Anna Flowers deposed—Before going to Mr. Forrest I did not live with a Mr. Earle; I never lived in Beekman street; I never lived in Grand street; I never told my brother John that I lived in Grand street after I came out of the House of Refuge; I told you where I lived, and I think that is sufficient.

Mr. O'Conor.—I do not propose, sir, to pursue this cross-examination further than to put those questions that were debated yesterday.

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

Mr. Van Buren would merely repeat the desire that he expressed yesterday, that this witness be instructed that she may or may not answer the question, and if she does not answer it she is entitled to make explanation of the circumstances.

Chief Justice asked the counsel if they had anything further to say on the question.

Mr. Van Buren had referred the Court to several authorities yesterday, and he had some of them in court now. He again contended that the witness was not bound to answer the question, except it was accompanied by an explanat on.

Mr. O'Conor briefly explained his views, and said that he was not desirous of pressing any question that he did not deem according to law, lest they might have some difficulty hereafter. It was a matter for the high consideration of the Judge; for, in fact, a strict question of law does not present itself in the matter.

Mr. Van Buren said that the instructions which he had asked the Court to give witnesses were in conformity with his idea of the uniform practice of courts of justice. He again referred to the opinion of Judge Marcy, which states that a witness is not bound to answer when it tends to degrade.

The Chief Justice gave his decision, and told the witness as counsel for the defendant asked.

The Chief Justice said that the propriety of the Court making the suggestion to the witness which the counsel requires, depends essentially upon the fact whether the witness would be bound to answer the question when put. He did not find it anywhere stated that a Court is bound to make any such suggestions. As respects this whole question, he had bestowed some reflection on it. The rule laid down in the marginal notes 4th Wendell, he understood to be, that a witness is not bound to answer any question that tends to degrade him. That certainly is not law. It however sometimes happens that through carelessness or inattention on the part of reporters, a mistake of that kind might be made. He found that there was no privilege on the part of a witness; at all events, the privilege is of a very narrow kind. Here a question is proposed as to character; and no matter what her answer, it would not render her incompetent as a witness, though it might affect her credit with the jury. If the witness confess the fact, she could not be convicted if she chose to avail herself of the statute of limitation. But she would be subject to the inconvenience of a prosecution. Where the

question arises collateral, she cannot be bound to answer. He was therefore of opinion that this was a question the witness could not be coerced to answer. She therefore may or may not do so; and he would say so to her. The Chief Justice then said to the witness:—"Mrs. Flowers, you have been asked the question whether you stole some money and a watch. You are at liberty to answer that question or not just as you think proper; and if you do answer it, you can accompany it with any explanation you may wish to give. Do you understand me?"

Witness.—Yes, sir.

The question was repeated. A.—Yes. Q.—From whom did you steal the money? A.—I did not steal it; it was handed to me by a servant in the house; I do not know whose it was; I believe it was at the Doctor's; I don't know how much it was; it was all handed to me in one bundle by the cook.

To the Chief Justice.—Money and watch were all together.

To Mr. O'Conor.—I don't know the cook's name; I think she was a white woman; it was early in the morning; I can't say it was found on me; I had it about fifteen minutes; I could not say who took it out of my hands; my mother came in and I told her about it, and at the same time the Doctor came down stairs looking for those things; I told him the girl handed them to me; I don't know whether he took them away, or laid them down; the cook was there at the time; she was put in the House of Refuge the next week after me; she was about 16 or 18 years of age; I went home to my mother's that same morning; I was taken right off to the "Boarding-school," by which I mean the House of Refuge, my mother took me there herself. Q. Did you, or not, go out on the roof of the Doctor's house, and pass to a neighbor's house? A.—I did not; I am not such a good climber; I was handed the watch and money together, I believe; I didn't open the bundle; my mother opened it; I never laid my eyes on its contents. Q.—Do you mean to say you were only nine years of age when you went there? A.—My mother said that was my age, but I put two or three years on to it when I went there, as I was afraid I would not get out soon enough; I was so small that I could not wash and dress myself, and was obliged to get a large girl to do it for me; I was born in 1827; I don't know at what period of the year; the person to whom I told my age at the House of Refuge wrote it down. Q.—Did he ask you any other questions? A.—I don't remember; if he did, he got an answer; I don't know who the gentleman was: I think he wrote on a loose sheet of paper. Q.—Did you not tell some one in the House of Refuge, that you went out on the roof of the Doctor's house, and into a neighbor's? A.—Never; I recollect being in an empty house with some children, and falling through and hurting myself.

Mr. O'Conor.—That is all.

Mr. Van Buren.—Have you anything else to say? A.—He has no charges against me; I have been abused all my life, and never had justice done me; when the girl handed me the money, she told me to hold it for her, as she was preparing to go from the house; my mother came in, and I told her, but I don't know whether I showed her the bundle; I said to my mother, "here is something that Martha has given me;" I was talking to my mother when the Doctor came in; I did not say yesterday that when Mrs. Forrest first came into my room she undressed and came into bed; I was misunderstood; my connection with Captain Howard was three days after the circumstance I described between Mrs. Forrest and Capt. Howard; Mrs Forrest went to Philadelphia to Mr. Forrest; the boy and the other girl were left in the house also, but they were not in when it occurred, Mrs. Forrest told me I was to stay at home that night and mind the house, and that Barney and Catharine were to have the evening to themselves, and I was to have the next day; Captain Howard came that evening; I let him in; he asked who was in, and I said "no one but myself;" when the door was shut he caught hold of me; when the bell was rung, I opened the door; the chain was on it; I told him there was no one in the house but me, and he needn't want to come in; he said, "you know that Mrs. Forrest's house is always open to me, and I want a little brandy and water;" I let him in and gave it to him; he caught hold of me, and I told him to let me alone, that Mrs. Forrest would be very angry with him; he said no, that Mrs. Forrest thought a great deal of him; I said, I dare say she did, but that if Mr. Forrest knew what was going on, he would not think a great deal of him; he said he would never know it, unless I was to tell him; [witness then described the assault committed on her by Capt. Howard, and her resistance.] He visited the house the next evening also, and the same thing occurred; I did not resist him the second night, because he made me a great many promises the first night; I told this circumstance to Mrs. Forrest, about a month before she went to Europe, (1844.) Q.—Do you know if, when Mrs. Forrest returned from Philadelphia, she knew you had seen Capt. Howard? A.—Yes, sir, I went up with her, and when she was taking off her things, she said, "Ah, Miss Anna, you have had Captain Howard here;" I said "yes;" I do not know that there was anything in my appearance to show that I was in the family way, before Mrs. Forrest went to Europe.

To the Chief Justice.—The transaction between me and Captain Howard was on the 1st of September.

To Mr. Van Buren.—I told Mrs. Forrest what had occurred, and she answered, "Oh, Anna, it's too bad, a young girl like you, I will give him a good scolding;" after this I did not sleep with Mrs. Forrest; Mr. Forrest was at home after this was made known to Mrs. Forrest by me; Captain Howard was there that night; I am not able to say that Capt. Howard visited Mrs. For-

rest, except in the presence of Mr. Forrest, after I told her; he visited the house frequently after Mrs. Forrest left for Europe; I did nothing at all while they were away; I did not make Mr. Forrest acquainted with the fact about Captain Howard and myself; Mrs. Forrest told me not to, that he would shoot me; I am able to say that Mr. Forrest did not know I was in the family way; I had no correspondence with Mrs. Forrest while she was away; I never wrote to her; I corresponded with her sister Margaret.

Q.—Did you hear from Mrs. Forrest through her? [Question not admitted.]

Witness continued.—I was confined in Connecticut (Norwood) on the 5th of May.

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

Mr. O'Conor objected.

Mr. Van Buren wished to show that Mrs. Forrest and her sister paid all the expenses of the witness's confinement.

Chief Justice ruled that if he could show Mrs. Forrest connected with it, he might do so.

Witness continued.—Mrs. Forrest told me that during her absence Miss Margaret would take care of the house, and that I was to remain there until within a month of my confinement, and that Miss Margaret was to get money for me after I left from Capt. Howard; Miss Margaret gave me money and baby-clothes; Capt. Howard gave me money; Mrs. Forrest gave me some baby-clothes before she went; Miss Margaret sent me money every week during my confinement; I came afterwards from Connecticut to New York, and stopped at the corner of Barclay street and Church; the name of my nurse was Mrs. Butler; I remained with her five months before I went to New Orleans; Miss Margaret paid my nurse; she came to see it (the child,) and brought some presents; I went to New Orleans with Mrs. Hinsdale, my married sister; I returned here in 1846, and made a complaint against Capt. Howard. Q.—Why did you do so? A.—The nurse told me that Miss Margaret did not pay the money, or pay much attention to it; Capt. Howard was arrested; I went to Mr. Forrest's house; to Miss Margaret; Mr. Raymond was there; he took the paper out of my hand, and threw it into the fire; he said I must settle it some other way, and not have such a fuss about it; that he would provide me with money; Mr. Raymond gave me money, and paid the nurse's bill; my home at that time was at my mother's; my child was at the nurse's, but I took it to my mother's to wean it; I remained here about eighteen days, and went back to New Orleans to my sister; she did not come on here with me; I came on to see my child; I was not here again until the summer of 1850; the reason I did not then go to see my child was, because my brother John threatened to kill me if I came near the family.

[Letter No. 1, read yesterday, produced.]

To Mr. Van Buren.—In this letter I state that I had seen no one; that is not true; I stated it on purpose to deceive Mrs. Forrest, because I knew if she knew I had seen any of them, she would not come to me, and as she had always treated me well, I wished to tell her all I had said and done.

[Letter No. 2 produced.]

I think this letter is mine; I meant by it if she didn't want to come, to let me know, that I needn't wait there any longer; I came on here six weeks ago; I was told I wouldn't be delayed more than a day or so; when I came on in June, 1850, I said I went before Commissioners; I mean the gentlemen who took down what I said; Mr. Sedgwick is the person I speak of as a Commissioner; after I returned that time in June, 1850, I came on here again with all my family—my children and my husband; we stayed at Brooklyn with my mother-in-law; her name is Mrs. Flowers; she lives in Lawrence street; I was confined there of my last child; the one I have in town now; I have seen my mother-in-law and her family since I came on here; they called on me at the Mansion House, the first house I stopped at.

To Mr. O'Conor.—I do not know where my fellow-servant, Catherine, had gone the night Captain Howard came; she was back by nine o'clock; she went out about five; that was the very night of the day Mrs. Forrest went to Philadelphia; Captain Howard said he was not a married man, and that he would marry me; I told him Mrs. Forrest had said he was a married man, or hinted something like it: he replied it was all a joke. The transaction occurred in the drawing-room; it was before he knocked me down that he made the promises; I did not consent when he made the promises; I did not think a servant girl and a gentleman ought to go together. Before he effected his object he used force, and I had not consented to him or yielded in any way; he caught hold of my arm. I think you ought not to ask me any further questions.

To the Chief Justice.—I don't mean when I say he knocked me down that he struck me.

To Mr. O'Conor.—Captain Howard remained three or four hours after that; he was there when the other servants came home; they were both on the head of the kitchen stairs when I heard him unlock the door; I did not tell them, or either of them, what had happened that night; they had been home about five minutes. Q.—Did they ask anything about him? A.—Catherine said, "You are a lucky one, you have always some one on hand, I thought you were alone;" I told her that Captain Howard had come there to see Mrs. Forrest, and had just come in.

Q.—On that first evening did you agree with him that he was to come the second night?

A.—I did; he came about seven o'clock in the evening; he remained there till half-past 10 I think; I let him in the second time; I let him out also; we were in the drawing-room together during that time; this was the very next night.

Q.—On the second night, did he appoint to come any other time?

A.—He said, as he was sleeping there, he would come to my room; on the second night Catherine was in the kitchen; we had company; they were Catherine's relations; I don't know who they were; they came in the evening before Captain Howard came; I met them in the kitchen, and staid with them before Captain Howard came; during the time Capt. Howard was there I returned to the kitchen three or four times, and left Capt. Howard in the drawing-room; on these occasions I remained in the kitchen with the company about fifteen or twenty minutes, and the rest of the time I spent with Capt. Howard; I don't know where Barney was; I don't remember very distinctly whether he was in the kitchen or not.

Q.—What was your motive in going back to the kitchen three or four times while Captain Howard was there? A.—That I should not be suspected, I suppose; he told me to do it; when Capt Howard came on the second evening, he rang the bell; I did not explain to Catherine who it was; she didn't ask; there was no light in the dining or drawing-room; there was a light in the hall; I don't remember that I kept the door of the drawing-room locked while we were there; on the first evening when Captain Howard came, there was no light in the drawing-room.

[Mr. Van Buren here applied for an attachment against Elias L. Magoon, a witness who, being called, did not answer. Attachment issued by the order of the court. He also applied for an attachment against C. Edwards Lester, a witness who did not attend. Attachment issued.]

Examination continued.—I halloed out, but not loud, on the first night that Captain Howard came; it was when he knocked me down I halloed; I made no noise before that, only loud talking. Q.—What is the reason you did not halloo as loud as you could? A.—I did not think of any reason then; I was frightened; I am nearly tired out; I have answered all I could and told you nothing but the truth. Q.—Can you state any reason why you did not halloo as loud as you could? A.—Captain Howard told me not to; that is the reason; at the time he told me not to halloo, I was still resisting him as much as was in my power. Q.—At the time Mrs. Forrest went to Europe, did you suspect yourself to be pregnant? A.—I did then; that was the first time I spoke to Mrs. Forrest about it; Captain Howard frequently slept in the house after this transaction; Mr. Forrest was at home on these occasions; I don't think Captain Howard was there very often just before they went to Europe; I know he was there, for I made up his bed; I recollect making up Captain Howard's bed three or four times after I told Mrs. Forrest about it; I am pretty sure that he slept there once within a week before Mr. and Mrs. Forrest went to Europe; at the time they went away, and for some time before, the only servants were Catherine and myself; Barney had gone a couple of months before Mr. Forrest went away, and from that time there were but two servants; Catherine was cook during the two months before they left; during that two months I attended table sometimes; and other times Catherine attended; I knew she attended once; I recollect Mrs. Forrest making her wait on table once.

Q.—During the rest of the two months, from the time Barney went away, did you attend table? A.—I can't say; I didn't attend all the time, because Captain Howard was dining there, and I told Mrs. Forrest I didn't want to be in the room where he was; when he dined there he didn't always sleep there; I remember Mr. Forrest being home very much before he went to Europe; I can't say he dined at home every day; as far as I recollect he did; I guess they did not have dinner without a waiter to attend them; I believe there was one day, the day before they left, that I could not attend; Catherine took the things to the door; and Mrs. Forrest took them in; she said she would tell Mr. Forrest that I was sick; the company that day was Captain Howard, Mr. Wykoff, Mr. and Mrs. Forrest, and Miss Margaret; I set the table, but told Mrs. Forrest as Captain Howard was to be there I would not wait upon the table, and she said that she would tell Mr. Forrest that I was sick; I don't think I waited on table every other day before they left for Europe; I did the chamberwork during that period; the nurse I have spoken of is Nancy Butler; the paper Mr. Raymond took out of my hand was a writ to arrest Captain Howard, which I had got at one of the offices in the Park; Captain Howard gave me $25 before I went to New Orleans, to pay the nurse; and he afterwards paid the nurse; he didn't give me a cent more; no one paid for my passage that time to New Orleans; the captain of the vessel was a friend of my sister's, and he gave the passage free; I saw that child last in New Orleans after my marriage; my brother Frederick took it back to New York; my brother John's threat to kill me, was in the letter which I have before spoken of as written to me in 1850; in the summer of 1850, when I was here with my husband, I went to my mother's house, and she refused to see me; I saw my sister (Mrs. Anna Hart,) at the door; I don't know if my mother was at home at the time, but I heard talking; I did not call more than that once, because my brother threatened to kill me; Mr. Forrest told me that he didn't think Mrs. Forrest would come to the Irving House if I wanted to see her; the suggestion in the letter that I had not seen any of them, was my own; my object was friendship to Mrs. Forrest, for she had always treated me well; I was at that time, and always had been, friendly to her.

To Mr. Van Buren—The child was not taken from New Orleans by my consent. Q.—What became of the letters you received from Mrs. Voorhies? A.—Mr. Raymond took four of them from me, and Mr. Voorhies came down on board the boat when I was going to New Orleans, and said he wanted to see some of the letters; he said he had $50 for me; I opened my

trunk and took out eight letters; Mr. Voorhies put them in his pocket and walked away, and never gave me a cent. (Laughter.)

To the Chief Justice.—I did not mean to say that I told Catherine that Capt. Howard had come to see Mrs. Forrest on the evening I speak of; Mrs. Forrest had gone to Philadelphia, and I said he had come to see if she had come home.

To Mr. O'Conor.—Mrs. Forrest told me Mr. Forrest was very angry with me; that was the very morning I met Mr. Forrest in the street in New Orleans; my conversation with Mrs. Forrest was before I met Mr. Forrest in the street.

The witness's examination was here closed.

C. Edwards Lester was then sworn. and deposed—I reside at the Globe Hotel in Brooklyn. Q.—What is your occupation? A.—It would be difficult to say.

Mr. Van Buren.—It would be more difficult for me than for you

Witness.—Editor; I represented the United States government for some five or six years at the court of Genoa, Italy; I know Mr. and Mrs. Forrest; the first time I saw Mrs. Forrest was in her house, Twenty-second street, about Christmas—on Christmas morning; but I am not sure—it was the year 1848.

Q.—What took you there? A.—I had written a play, and addressed a note to Mr. Forrest, whom I then had not the pleasure of knowing, with a view to his representing it, and I called in pursuance of an appointment of his, I think; I called at a very early hour in the morning; early, considering the distance I had to walk; it was about ten o'clock; I did not see Mr. Forrest; I was told he went to Philadelphia; I saw Mrs. Forrest; I never had seen her before; ascertaining from the servant that Mr. Forrest was not at home, I left my card for Mr. Forrest, with a request that it should be handed to him when he returned; before I left the steps the servant opened the door again and said Mrs. Forrest would see me, or desired to see me, or something to that effect, which, from the courtesy of it, induced me to return; I believe I saw her coming down the stair-way as I entered the hall.

Mr. O'Conor.—I call upon the counsel to state what he proposes to show by this witness.

Mr. Van Buren.—I propose to show the feelings that were manifested by Mrs. Forrest towards Mr. Forrest, and to this witness, a stranger.

Mr. O'Conor.—This individual is not one of the alleged adulterers, and the counsel could adduce no authority to entitle him to show, when a party is charged with improprieties with particular persons, that he could introduce evidence of other misdemeanors by way of heightening the alleged misdemeanors with the parties named. I can form no idea what the witness means to prove; but I have an idea that I have a right to interfere and object to this kind of testimony.

Mr. Van Buren could not suppose that the evidence should be confined to proof of the specific acts charged, and that he had a right to show the state of mind of the party. The defendant had been charged with producing kitchen evidence; they now ascended to the parlor. He (Mr. V. B.) would not think of placing upon the stand a witness to prove by his own evidence an act of adultery. He hoped at least he should not show it by this witness. He wanted to show the manner in which he was received and treated, the state of the house, and Mrs. Forrest's feelings towards her husband.

The Chief Justice did not think that counsel could show the private state of feeling between husband and wife. They could show any act in violation of the marriage vow; but the feeling might be justified by the conduct of the other party.

Mr. Van Buren.—Would it justify an act of adultery?

Chief Justice.—No, sir, nor would it prove one.

Mr. Van Buren continued to contend that his offer was legal.

Mr. O'Conor said he wished to give the fullest possible fling to the other side, and let them tell all about the daily life of Mrs. Forrest. When Mr. Forrest is able to bring on a dear friend of Mrs. Forrest all the way from New Orleans, to testify against her, for the mere love of justice, he did not exclude one particle of it; but when he saw this witness introduced with a flourish, he had a right to object. He (Mr. O'Conor) knew much that he had not yet disclosed in this case, and he hoped before he had concluded to be able to satisfy the court and jury whether he was right or not. The question now is, whether this witness, with whom no adultery is charged, should be permitted to come to the stand, and testify, if they pleased, to some act of adultery with him? The plaintiff should have had some time to prepare for Mr. Lester. If it is to prove that she stated that some misunderstanding existed between her and her husband, it would be immaterial; but then it is suggested that some lascivious demeanor on her part will be shown by the witness. Now, he would ask, in what? Was it in making advances to him, and offering herself to his embraces? He submitted that the evidence was not admissible. It is impossible to repel a charge without notice; and were they now, at the end of two years, to be told that Mrs. Forrest would have committed adultery with Mr. Lester, only he was too pure to yield to her advances? If Mr. C. Edwards Lester is going to prove that he saw one of those five or six persons with whom Mrs. Forrest is charged, in the house, or that she made an admission to him, it might be admissible.

[Here there was some disturbance in the court in consequence of a gentleman refusing to sit down when requested by one of the officers. He was removed by the orders of the Judge; but it was afterwards ascertained that he was one of the sheriff's deputies, who came with a return

of one of the processes issued by the court, and he was of course, permitted to re-enter.]

Mr. O'Conor continued—He claimed that the learned counsel should produce some authority which supports the admissibility of evidence of general delinquency. If it is admissible to prove lascivious conduct with C. Edwards Lester, why would it not be competent to prove adultery with him, if he is prepared to swear it? And if he did, the jury would be told by the court that in this case they could not convict her of that particular offence.

Mr. Van Buren said he would state that he never would call a man to the stand to prove an act of adultery committed by himself, and he had no idea of doing it in this case. They object to the conduct and frame of mind of Mrs. Forrest, as deposed to by the other witnesses, and his desire was to prove by this witness her conduct—lascivious conduct, if the Court chooses—towards him. It is as to those habits and indulgences that Mr. Lester is produced, and if he (Mr. Van B.) did not suppose that this testimony would establish those facts, he would not allow the witness to be introduced for the purpose of administering to scandal. The counsel for the plaintiff cannot now recollect the declaration that he made before a witness was examined for the defendant, that he would object to no testimony. Counsel suggested that if the Court would reserve the decision on the question till morning, and adjourn at three o'clock, he would look into authorities before the law library closed.

The Chief Justice remarked that whatever was said in the opening by counsel had no kind of influence upon him. A great many things have occurred which he would have excluded, if he had been asked; and he almost regretted that he did not do so, as a great deal of irrelevant matter had been introduced—matter which was injurious to other parties—parties not before the Court. He shall be obliged to say to the jury, in the end, that it will be their duty to disregard such evidence as has been given as to the delinquencies of other parties. It seemed to him, with reference to the present question, that it is not competent to show a feeling of enmity, on the part of Mrs. Forrest, towards her husband, as there may have been grounds for it. As to the question, as to the specific charge of adultery, whether any act going to show a lascivious disposition is admissible, he would adopt the suggestion of counsel, and look into the matter. His first impression was, that it could be done, but he confessed his opinion was somewhat changed.

Mr. Lester then left the stand, and was desired to attend in the morning.

The process was here returned that Mr. Magoon was present. Mr Van Buren said the gentleman was outside the court room, but unless he used physical force he could not get in. He was a clergyman, and counsel did not wish to do so (laughter). He would, therefore, pass by him for the present, and call Mr. Blake.

W. R. Blake deposed.—I reside at 80 Leonard street; I am an actor; I know Geo. W. Jamieson; I am acquainted with his handwriting. (The Consuelo letter produced.)

Mr. O'Conor—What's the object of this?

Mr. Van Buren—To prove the execution of the paper by Jamieson.

Mr. O'Conor—I object.

Chief Justice—On what grounds?

Mr. O'Conor—On the ground that we are not responsible for Mr. Jamieson's acts.

Chief Justice—That remains to be proved.

Witness continued—To the best of my belief, this is the handwriting of Mr. Jamieson; it was first shown to me by Mr. Forrest some two seasons ago, and I put my initials on it; I can't recollect the precise time, but it was when I was manager of the Broadway Theatre, two seasons ago; the time I put my initials to it was at the examination at Mr. Sedgwick's office; it was some weeks before the examination that I saw the paper with Mr. Forrest.

To Mr O'Conor—Within a month or two.

To Mr. Van Buren—I saw Mr. Forrest in the winter before he separated from his wife; I think it was December, '48, or January, '49; I saw him repeatedly, but I don't know any particular time.

Q. What was his condition?

Mr. O'Conor—What do you mean by his condition?

Mr. Van Buren—It becomes necessary to show the dates, and to show his state of mind on finding the paper now produced, as it is alleged that he did not take any notice of it when he found it.

Mr. O'Conor objected to the manner or acting of Mr. Forrest, which may have been fabricated, being given in evidence. His declarations could not be received, and of course his gestures were inadmissible.

Mr. Van Buren said the Court would find that however distinguished Mr. Forrest was as an actor, there was no acting in this particular instance—it was real. If it was supposed that Mr. Forrest separated from his wife because Mr. Stevens was not asked to tea, or because Mrs. Forrest said to him, "It is a lie," the evidence would not be material; but if it leads to the wife's guilt, and shows the effect produced on him, he (counsel) thought it would be important. It would be important, also, as to the time the letter came into his possession, and the effect it had upon him, and how it corresponds in point of time with respect to Jamieson's visits to Mrs. Forrest. He desired to prove by this witness that Mr. Forrest was in a state of the deepest affliction, and that he declined an engagement in consequence of his state of mind.

The Chief Justice said it was quite clear that if they could not prove Mr. Forrest's declarations they could not give in evidence his manner.

Q. What was the general character of Jamieson with regard to women?

Mr. O'Conor objected to that. He supposed that evidence of Jamieson's character would not be evidence against Mrs. Forrest.

Mr. Blake—I do not wish it to be inferred that I know anything against Mr. Jamieson's character with reference to ladies.

Chief Justice.—It is not necessary for you, sir, to make any explanation.

Mr. Van Buren said that he would prove that this letter was taken from the possession of Mrs. Forrest, and that even at the last extremity. The character of the letter and the character of the writer are necessary.

The Chief Justice said there was no ground for the question at present.

Mr. O'Conor suggested that as the letter had not been proved, it should not be published by the reporters till it was given in evidence.

John Livingston, Commissioner of Deeds for Pennsylvania, deposed--that he resides at the Astor House; there were some depositions made before me in reference to the proceedings of Mr. Forrest for a divorce in the State of Pennsylvania; it was the 28th Feb., 1850; some two or three days and nights were occupied.

Q.—Was notice given to Mrs. Forrest to appear and attend to the examination?

Mr. O'Conor objected.

Mr. Van Buren.—I suppose you will (laughter).

Mr. O'Conor said that the State of Pennsylvania had no right to sit in judgment in this State in matters between Mr. and Mrs. Forrest.

The Chief Justice.—The witness intimates that he knows nothing about the notice, and that may put an end to any discussion on the point.

Mr. O'Conor.—It may arise by another witness. and we may as well dispose of it now.

The court said that there was no pretence for the admission.

The Consuelo letter was handed to the witness. He identifies it as one of the papers produced before him; it is marked exhibit A. Mr. Forrest produced it.

Mr. Van Buren said it was now three o'clock, and he wished to know if the court was inclined to adjourn, to give him time to look up authorities.

Chief Justice.—I must go on with my job and work out my six hours a day. (Laughter.)

Mr. Van Buren.—Then I propose to read the depositions of Mr. Smith.

Chief Justice—What's the name?

Mr. Van Buren.—Mr. Smith.

Chief Justice.—Smith isn't much of a name; what's his other name? (Laughter.)

Mr. Van Buren.—We will find out his other name presently. It is Samuel S. Smith.

Mr. O'Conor said that before Mr. Van Buren commenced reading the depositions, he wished to state that there were two interrogatories he would object to. He pointed them out to the court.

The Chief Justice said they seemed immaterial.

Mr. Van Buren then read the depositions of Samuel S. Smith:

I know and am well acquainted with Mr. Edwin Forrest and his wife; am also acquainted with George Jamieson; previous to the month of May or June, 1848, I had reason to believe that Mr. Jamieson received many favors from Mr. Forrest From the statements of Mr. Jamieson and Mrs. Forrest, I learned that Mr. Jamieson had, through the agency of Mr. Forrest, received an engagement at the National Theatre, in Cincinnati, and from statements made by Mr. Forrest and Mr. Jamieson, that Mr. Jamieson received considerable pecuniary aid from Mr. Forrest. The relations of Mr. Forrest and Mr. Jamieson at and before the period stated, were cordial and friendly; but after the occurrence hereafter mentioned, when Mr. Forrest found Mr. Jamieson in his private parlor alone with Mrs. Forrest, Mr. Jamieson manifested a decided indisposition to meet Mr. Forrest or have any intercourse with him. Mr. Jamieson did not board at the City Hotel, in Cincinnati, until Mr. Forrest arrived there, when he took a room immediately adjoining the one occupied by Mr. Forrest and his family. On the day referred to above, in the month of April or May, at Cincinnati, I was present when Mr. and Mrs. Forrest and Mr. Jamieson agreed to attend an interview with a phrenologist, at three o'clock in the afternoon; at two o'clock of the same day I went with Mr. Forrest to the studio of an artist, with whom it was understood he was to sit an hour for his portrait. The painter not being at home, Mr. Forrest and I immediately and unexpectedly returned to the City Hotel. In entering the hotel, Mr Forrest preceded me about ten yards, and entered his private parlor a short time before me. Upon my entrance, I found Mr. Jamieson and Mr. and Mrs Forrest there. Mr. Jamieson immediately afterwards, notwithstanding his previous engagement to attend the phrenological examination, precipitately and without notice left the room, and when I searched for him he was not to be found in the house or its vicinity. I have known Mr. Forrest well for many years, and after the interview above mentioned, I observed a high and unusual degree of excitement on the part of Mr. Forrest in relation to his wife—a feeling which, intimate as I was with him and his wife, I had never witnessed before. I firmly believe that something must have been observed by Mr. Forrest upon his entrance into the room, in the position or deportment of Mr. Jamieson and Mrs. Forrest, which produced this change in Mr. Forrest. Mr. Forrest walks more rapidly than myself, and he entered the room so far before me, that I had no opportunity of seeing or knowing what it was that produced the change in him. I had always known Mr. Forrest previously as a most affectionate and confiding husband, but from that time there was a manifest change in his demeanor towards his wife

Chief Justice.—Does it fix the date of the visit to the artist and phrenologist?

Mr. Van Buren.—Yes; in April and May, 1848. I now offer this letter.

Chief Justice.—What does it purport to be?

Mr. Van Buren—The letter of Jamieson, or the Consuelo letter.

Chief Justice.—Is that the letter that you have proved to be in his handwriting?

Mr. Van Buren.—Yes, sir.

Mr. O'Conor objected to its being read.

Mr. Van Buren was heard in support of its admissibility. The fact that it was in the handwriting of Mr. Jamieson has been testified to by Mr. Blake, and there has been evidence to prove it in the possession of Mr. Forrest. Its contents will prove that it is not such a letter as Mr. Jamieson would write to Mr. Forrest, or one man write to another. The testimony of Mrs. Underwood shows that Mrs. Forrest, on going to a drawer, exclaimed, "My God! he has got that Jamieson's letter!" He considered that it was sufficiently proved to be placed before the jury.

Mr. O'Conor would suppose the case of a husband anxious to get rid of his wife, and who had possessed himself of a letter. Suppose it was written by a man of degraded character, and suppose the man to be very poor, and the husband to be very rich, and who had declared himself willing to give half his wealth for proof against his wife; suppose that poor degraded man to have been made drunk, and he, being vain, had boasted of having seduced the wife of a distinguished man. He was merely supposing a case. Mr. Forrest claims that his wife committed adultery, not with Geo. W. Jamieson, but with every individual, black and white, young and old, who came within her reach, and he is desirous of giving in evidence a letter which he states came from Jamieson, and which he states was the cause of the separation. Mr. O'Conor continued to argue against the admissibility of the letter, as it was not identified as the particular letter which was alluded to by Mrs. Forrest in her exclamation to Mrs. Underwood, that Mr. Forrest had got that Jamieson letter.

Mr. Van Buren replied at considerable length, and the Chief Justice ruled that, as the case now stands, he should exclude the letter, as it was not proved that it was the one spoken of by Mrs. Forrest.

Adjourned.

December 24th.

The court presented the same thronged appearance this morning, every seat and standing place being occupied long before 10 o'clock.

The Rev. Elias Magoon, for whose attendance a bench warrant had been issued, was called, and being examined by Mr. Van Buren, deposed—I am a clergyman; pastor of the Christian church; of the Oliver street Baptist Church, in this city; I know Mr. and Mrs. Forrest; I have been acquainted with them twelve years; I think it is twelve.

Q.—In the spring of 1849 did you have some conversation with Mrs. Forrest?

A.—I would feel it due to the cause of justice and myself to state all I know of the matter; twelve years ago I was a pastor of a church in Richmond, Va.; I resided with a very worthy friend of mine, who was, when a boy, the school companion and associate of Mr. Edwin Forrest.

Chief Justice said it was not necessary to enter into particulars.

Mr. Magoon then proceeded to say that being compelled to come here——

The Chief Justice said—I must treat you, sir, as any other witness. We do not know you here as a clergyman. You are here as a witness in obedience to the laws.

Q.—Did you learn from Mrs. Forrest any circumstance on the occasion of their separation?

A.—Yes; she stated to me that for several months previous to the outbreak being made public, they had lived together as brother and sister—I mean by the outbreak the notoriety that had taken place with reference to their domestic affairs, their separation.

There was some slight pause here, and Mr. Magoon said he had a great deal of business which was more congenial to him than this, and he would be glad if gentlemen would use him as rapidly, and to the extent they wished.

Cross-examined—It was at the residence of Mrs. Forrest, in Sixteenth street, I had this conversation; I had seen her during that year at my church, at her house, and at the house of Mr. Willis one evening; it was immediately after I delivered the oration in midsummer; I called there on invitation; I think I had the honor to receive the invitation from Mrs. Willis; definitely, I received the invitation to meet some literary friends; I do not recollect seeing Mrs. Forrest at any other place than in my church, at her own house, and at Mrs. Willis'; it was in autumn I had the conversation with her I knew at the time that Mr Forrest had commenced proceedings for a divorce; I knew it by communication and by report; I had called on Mrs. Forrest previously that year in Sixteenth street; I don't recollect that my lady was with me; she was prepared to go with me, but I can't recollect if she came; I was there half an hour that time.

Q.—Where did you sit? A.—I sat on a chair, on the floor in the parlor (laughter); I cannot tell who commenced the conversation; it was generally a matter of conversation with us when we met; I do not recollect that I asked what was Mr. Forrest's demeanor to her during the last few months; I did not ask whether Mr. Forrest occupied the same bed and chamber; she did not tell me that they did not occupy the same bed and chamber; such conversation could not originate with me, and I am sure it did not with her; she usually spoke of his kindness, and spoke of his kindness then, and of his uncommon demeanor.

Q.—Whether Mrs. Forrest did not say to you that Mr. Forrest was variable in his demeanor towards her, sometimes treating her with kindness, and sometimes with moroseness, and that he treated her more like a sister, than a wife? A.—I believe she used language of that kind; she spoke of his treatment and said that it was variable; she told me she often pointed to a portrait of Mr. Forrest, and said to him, "that is the portrait of my husband, but you are not my husband;" I mean to say she used this language: "for several months we have lived together as brother and sister;" these are the words to the best of my recollection. Q.—What is your best recollection as to that he sometimes treated her with kindness and affection, and that she was sometimes treated more as a sister than a wife? A.—I have twice answered that question; I don't recollect her saying it in that form; she said a divorce was inevitable, and that my friendly intervention would be unavailing; I had no knowledge nor thought on the subject, whether she occupied the same bed or not; my mind was not upon that subject; there was nothing said by her whether they had habitual intercourse or not; the only allusion that was ever made was on that occasion, and in the manner I have stated; I communicated the fact to some person; I cannot say when, or that it was not within a week; I communicated it to Mr. Forrest in my library; there was no one else present; I think there was no one else present at my interview with Mrs. Forrest; members of the family were coming in and out. Q.—Was Mrs. Forrest a regular attendant at your church? A.—No, sir; she came when she was near me, in Richmond Q.—Did she attend regularly at your church, in this city? A.—I was not long pastor of the church in this city when this disturbance took place; I called again but once since that conversation; I did not then see her.

Q.—Are you prepared to say whether this interview occurred before or after the 1st of January? A.—I cannot exactly say, but I remember afterwards being at Fonthill, and partaking of the fruit with Mr. Forrest, and I recollect writing a note to Mrs. Forrest, and mentioning the unhappiness I had witnessed in Mr. Forrest; I was there more than once; I dined in the farm house with my wife and Mr. Forrest; we looked over the edifice, partook of a simple dinner, and returned; Mr. Forrest did not come back with us; I do not know what number the family of the care-taker of the farm house consists; I saw no one but the attendant at table; Mr. Forrest made up the fire in his own room; he had a room there; there were books in the room; there seemed to be very little arrangement about it; the house is a stone building in the Elizabethan style, which we have here, and which is a disgrace to the country (laughter); the castle is a very beautiful building, and of great worth, and one in which to indulge in the splendid misery of fashionable life, it would cost a good deal.

Mr. O'Conor here looked at the note referred to by the witness, but said it would not help them as to dates.

Mr. Magoon.—The note may be without date, but I have no doubt it was couched in the language of regard that I honestly felt for her.

Mr. O'Conor then read the following note:—

E. L. M.

Dear "Kate."—Your kind invitation to "eatin," at three P.M., came to hand at eleven this morning. I forthwith posted to your tabernacle, and now here *I* is, to say that it is *un*possible 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 great congregations in Providence, Boston, and Salem, next week—but no matter. Wife sends lots of love. Your, pertinaciously, MAGOON.

Mr. O'Conor said that it was right to mention that the ungrammatical parts were intentional, and were so marked by Mr. Magoon.

To Mr. Van Buren—The mansion was not finished; I have frequently seen the parties for twelve years; Mr. Forrest came to my library in the church, and spoke to me on the subject of his separation; I know the matter became notorious by extracts in the paper, before I had any conversation with him on the subject; I felt oppressed with the air of desolation that was in the house at the time we dined there, and so did my wife; there were shavings about the room, and little appearance of housewifery; I do not know what the care-taker's family consisted of; there were some books there; I recollect seeing with them a book presented to them both by myself, and entitled "Republican Christianity;" but whether it was there or not I can't say; I invariably called Mr. Forrest Ned, and when I enquired for Mrs. Forrest it was as Kate.

To Mr. O'Conor.—Never had called her Kate to herself.

At the conclusion of Mr. Magoon's cross-examination, he good-humoredly said—If you do not require me any more I should like to go.

Counsel replied—You can go, sir.

Mr. Magoon.—Please don't send three policemen after me again. (Laughter.)

John Kent, being sworn, deposed—I live at No. 30 Avenue B.

Mr. Van Buren to Mr O'Conor.—Will you allow me to examine Mr. Burr first?

Mr. O'Conor.—Is it Burr of the firm of Burr and Stevens? Mr. Van Buren.—Yes.

Mr. O'Conor.—I am not disposed to grant them any accommodation.

Witness.—I am about three years next February in this country; I am from Europe; I am from the county Tipperary (laughter); I first went to live at Mr. Moses Grinnell's; I was attending horses; I went from there to Mr. N. P. Willis; he then lived at No. 19 Ludlow Place, Houston Street; I came to him in February, 1849, and we remained till May of the same year in that house; I know Mrs. Forrest; in May Mr. Willis moved to Fourth street; I lived with him till about the 17th of July, 1850; I have seen Mrs. Forrest at Mr. Willis's house often; I was often sent for her by Mrs. Willis and Mr. Willis; Mr Willis gave me a note to take to Mrs. Forrest in Sixteenth street, between eleven and twelve o'clock one night; I think it was about April or May, 1850; I gave it to Mrs. Forrest or the servant, I can't say which; I waited for the answer; Mrs Forrest came out to the door, and told me she would be there; Mr. Willis, when he handed me the note, told me to wait on Mrs Forrest down; Mrs. Forrest told me she would be there; I did not wait; I saw her at Mr. N. P Willis's that night; I saw her going up stairs.

To the Chief Justice —The same evening that I took the note.

To Mr. Van Buren —I do not know who let her in; it was my business to open the door if I was there; I could not say how long she had been in the house; she was dressed as she would be in the streets; I can't say if she had her bonnet on; she went up on the third floor; there was a room always for her when she came. on the third floor, front; I do not know who she saw; I saw her next morning going out of the front door.

Q.—Who let her out? A.—I think herself was able to open the door (laughter); I did not let her out; I had not breakfast at the time; I waited on the family at breakfast a long time after she went away; I saw her there often; I can't say how often; I saw her nine or ten times, at any rate; she would always take her meals with Mrs. Willis and Mr. Willis.

Q.—Was Mrs. Willis always present?

A.—Mrs. Willis was ill at that time; Mrs. Willis was ill the night Mrs. Forrest came down; I have known Mrs. Forrest to dine there when Mrs. Willis was not present; she dined there twice with Mr. Willis; one day when Mrs. Forrest was dining there, visiters called; I opened the door and showed them into the front parlor; there was a door leading from the dining room into the parlor; that was not open; you could see from one room in o the other except when the curtains were drawn; there was glass in the door; the curtains were drawn on this occasion; there was another glass door from the dining room to the entry, and Mr. Willis, when there was company shown into the front parlor, would pass out through it; I have never seen them together on any occasion, but I have seen Mr. Willis come out of Mrs. Forrest's room, on the third floor, between 11 and 12 o'clock at night; I was going up to bed with a light in my hand, and Mr Willis was coming out from Mrs Forrest's room; when he saw me, he thought to draw back, but he came too far and come ahead. (Loud laughter.) Q.—How was he dressed? A.—He had his pantaloons on; he had no shoes, excepting he might have slippers; but I think he had none; he had his stockings on; he had no coat nor hat; he had the rest of his clothes on; his shirt, but no waistcoat; he said, "good night, dear" Q.—To whom? A.—To Mrs. Forrest; he was expressing the words as I came up; I left Mr. Willis in July, 1850, and have been at the Astor House seven or eight months; at the dinners Mr. Willis would drink brandy, and Mrs. Forrest wine or champagne; I can't say as to the quantity; I came from Washington to New York, I got a letter from Mr. Forrest; it was handed to me by Mr Blankman; Mr. Blankman paid my expenses.

Cross-examined.—Mr. Blankman's name I think is Edmond; he is an attorney and counsellor at law; his office is at 111 Chambers street; he called on me last Friday evening at Washington; I had no other call while I was at Washington from any other agent of Mr. Forrest; I was not quite a fortnight in Washington; I was looking for employment, and was stopping at Pennsylvania Avenue with a Mr Gardner; he is working at the National Hotel, Washington; Mr. Andrew Stevens, a jeweller here in Broadway, has spoken to me once or twice about this business; I can't tell how often; it was in New York; I can't say whether it was once or twice, I can't say that he didn't speak to me more than twice or more than six times, or a dozen times; I do know he spoke to me once; I can't tell when it was. it was some time about last summer, at his own office in Broadway; I knew he was a friend of Mr. Forrest; I went there to say that I would like to see Mr. Forrest, to testify to what I had seen between Mrs. Forrest and Mr. Willis; he didn't take my story; he told me to come down to his office at another time; I did so in two or three days after; I then saw him; there was no one else present unless it was Mr. Burr (his partner) and some of the workmen; he then took me down to Wall street, where I think Mr. Van Buren was; I told Mr. Van Buren my statement; I think Mr. Forrest was there; I was there about three quarters of an hour, or an hour; I don't recollect that I signed my name to the statement there; I didn't first go to Mr. Stevens by the advice of anybody; I went of my own accord; Mr. Stevens was the first man I saw on it; I was living in Avenue B then; I was out of employ at the time for about a week; I was before that employed in Brewer's livery stable, 650 Broadway; I left him on my own account because he would not pay me half what I earned; he did not discharge me; he wished me to stay; I was looking for employment when I went to Stevens; I did not look for employment for a long time after I left Brewers; I can't tell how long; I can't tell if it was one, two, three four, five, or six months; it was within seven months; I worked after that in a store, three miles from Troy, at Lansingburg; I worked with a Mr. Garvin for four days; it was a grocery store. Q.—How came you to leave so quick? A.—They did not want me; we were packing sugar.

Mr. O'Conor.—And as soon as the sugar was packed, you were packed off (Laughter.)

Witness —I looked for employment; I looked for employment at Mr. Jones's, a druggist, corner of Houston street; I left New York for Troy; my reason was to look for a situation in Albany; I boarded pretty near three weeks at the house of a man named Reilly, in Lansingburg; it is a country place; I was looking for employment; I looked all over the country, and then returned to New York; at the time I left Brewer's I had money; I can't tell how much; something less than ten dollars Q.—Had you ten dollars? A.—I can't tell. Q.—Had you five dollars? A.—I can't tell. Q.—Had you one dollar? A.—I can't tell.

Chief Justice.—Can't tell whether you had $1.

A.—I had more than $1; I can't say I had $2; I came to this country alone; a brother of mine, Patrick Kent, has come out since, about two months ago; he has not been employed since he came; there are no other members of my family here; I board at a Mr. Malcahy's: I pay him twenty shillings a week for board; I boarded with him before I went to Troy; I did not pay him all I owed him before I went; I don't know how much I owed him. I don't know whether I owed him one wee 's board, or more; I don't recollect seeing any other agents of Mr. Forrest, except those named, until I saw Mr. Blankman; I saw another gentleman up town, named Mr. Graham; that was after I saw Mr. Stevens, I saw him at his house in Broadway: I don't know the number of his house; it is not a store: I don't know that it is a private house; I think it is on the left as you go up, but I am not sure, I think he is a counsellor-at-law; I cannot say how often I saw him; it is a large brick house somewhere near Tenth street, and his name is on the door; I do not know whether it is a brass or a silver plate. Mr. Stevens gave me word to be there such an evening; that was after I had been at Mr. Van

Buren's; my statement was made before that; they asked me a few questions; I do not know whether it was Graham or Stevens asked me; I do not recollect any other agent of Mr. Forrest calling on me. Q.—Have you received any money from Mr. Stevens? A.—Yes, sir. Q.—How much? A.—Mr. Stevens lent me $5, and I paid him back again; it was when I was working at the Astor House; I was seven or eight months there; I went there in April 1851; I can't tell how long I had been at work there when he lent me the $5; when I left Mr. Brewer's it was the summer of 1850; I got either $3 or $5 afterwards from Mr. Stevens, and I have not paid it. Q.—Did you get any more money from him? A.—I ran pretty much Mr. Stevens' errands while I was idle, and he paid me for it; he didn't pay me for it altogether; sometimes he would give me a dollar, and sometimes two; I don't know how much he gave me altogether; I don't know how often he paid me; I had no bargain with him; I gave him no receipt; I used sometimes go down to his office, and sometimes he would send for me; Mr. Stevens came for me once, and I went down town with him; that's the time I went to Mr. Van Buren's.

Chief Justice.—Do you mean to say that Stevens went for you on that occasion?

Witness.—No, sir; he took me before a commissioner in Chambers street, that time, and I signed a statement; it was after I had been at Mr. Van Buren's; Mr. Stevens never went or sent to my boarding house for me to go of errands for him; he never came more than that once; I came to his office when running of errands for him, about ten or eleven o'clock; that's the hour he appointed; the errands I was running for him were pretty much all about Mr. Forrest's case; I cannot tell how often; I have not told all the errands; I do not know how often I was at Mr. Van Buren's; I cannot say I was more than once at Mr. Graham's, and once to a Commissioners's; that is three places, and I cannot recollect any more Q.—Did Stevens ever give you any more than two dollars at a time? A.—Yes, sir; he gave me ten dollars one time; I think it was in the beginning of this year; he gave me, besides the two loans of two $5, in money; he used to give two and a half and two and a quarter dollars; I cannot tell how often he gave me money; he did not give me money twenty times; I cannot say that he gave me money ten times; I had no other money to pay my board from the time I left Brewer's unt I went to Troy, except what I got from Stevens; the summer I came to Mr. Stevens was 1851; I left Mr. Willis in July, 1850; it was not that summer I went to Mr. Stevens; I called on Stevens before I went to the Astor House; I went to the Astor House in April or May, 1851; I think it was in winter I called there; it was not the same year I worked with Brewer that I called on Mr. Stevens; I was not in any employment; before I called on him the last employment I had was the four days in Lansingburg; I can't tell how long after that I called on Stevens; I can't say if it was within a month, or within two months; I next got into employment in the Astor House; during the interval, I boarded part of the time in Tenth street, and in Avenue B; I got some of the money I paid for my board during the interval from Mr. Stevens, and some of it I earned myself; I can't tell where I earned it or from whom; I earned some of it along shore; I did not see, nor have any communication with Mr. Blankman before he called on me in Washington; I have not received any money or any thing else from Mr. Forrest, or from any other agent of his, except Stevens; I know General Lyman; I knew him at Mr. Willis's; I knew him at the Astor House, where he boarded; he came to me on a Sunday morning, and he asked me about it; I told him I knew nothing against Mrs. Forrest or Mr. Willis; I had seen Stevens before that; I had made my statement before the Commissioner before that. Q.—Why did you give him that answer? A.—Mr. Stevens told me, if any one should ask me any questions, to tell them I knew nothing of it; what I said to General Lyman was untrue; I had no other reason for saying so to him, except from what Stevens told me.

Q. Do you always say what Stevens bids you, whether it is true or false? A.—Not in many accounts. Q.—Do you in any accounts? A.—I told it on that account; I can't say how often I have seen Mrs. Forrest at Mr. Willis's; I think I have seen her more than ten times. Q.—How long have you known her to remain there? A.—She remained there for weeks at one time; that was not the first time I saw her; there was a time she lived there for several weeks; I think it was in Fourth street; in the summer time; Mrs. Willis was at home at that time. Q.—During this time, who formed the company? A.—Well, I did. (Laughter.) Q.—Didn't Mr. Willis and Mrs. Willis and Mrs. Forrest form the company? A.—I can't tell whether Mr. Willis was always at home; while she was there, she had the bedroom in the third story; the time that I saw Willis come out of her room was not during that spell that she was living there; the evening I went to Mrs. Forrest with a note, Mrs. Willis was unwell; I do not know the cause of her illness. Q.—Do you know that a child had been born in the house just before? A.—No, sir, not before, after; I don't know how long after. Q.—Was it within a week? A.—I don't know; I don't know if it was within a month; I don't know if it was within two months; Mrs. Willis had been confined to bed sick for several days before I went for Mrs. Forrest; I don't know how long her sickness continued after Mrs. Forrest came; I don't know of any other ladies or women except the servants of the house being there; I can't say how long Mrs. Willis had been sick; I cannot say it was more or less than three weeks; I often brought Mrs. Forrest a note, but cannot say whether it was while Mrs. Willis was sick or not; I do not recollect that I carried any other note to Mrs. Forrest, while Mrs. Willis was sick, except that one; I think Mrs. Benson has sat up with Mrs. Willis; not during this spell of sickness; I do not believe she was there at the time I brought the note to Mrs. Forrest; I was not in the room, and I do not know whether Mrs. Benson sat up or lay down; I was coming up the flight of stairs; she went up to the second story, and went up to the third, until she went up to her own room, and went into it; I didn't follow her up; I went up half the second flight of stairs, but not following her; she had no light with her; there was no light in the hall; she passed up in the dark to her room; I went up to close the blinds on the floor where Mrs. Willis slept; I saw Mrs. Forrest go up, but I could not say whether she went into her room or not; I didn't hear her door open or close; I didn't see any thing again of her that night; I did not mention it to any one until I told Mr. Stevens; I think it was Mr. N. P. Willis handed me the note; I think it was in Mrs. Willis's room he handed it to me; he told me to wait for the answer, and wait on Mrs. Forrest to his house; I think it was in Mrs. Willis's room, I can't say; I don't suppose there was any one else present; Mrs. Willis was sick at this time; I don't recollect that Mrs. Willis said any thing to me about it at the time; I don't know that any thing was said between Mr. and Mrs. Willis before I started with the note; I did not see who wrote it; as far as my opinion is, I don't think Mrs. Benson was in the room at that time; I can't say if there was any one else in the room; I think there was a light in the room; I am not sure; I don't suppose Mr. Willis was dressed entirely; I can't tell if he had been in bed; I don't suppose he had his coat on; he had his pantaloons on; I can't say if he had a vest; I don't know where I came from to get that note; I don't know whether I was in the kitchen, or up stairs; I don't know whether Mr. Willis came to me, or sent after me; when Mrs. Willis was sick Mr. Willis did not occupy the same room with her; I have no recollection of being in Mrs. Willis's room when she was sick, without a light; it was the same night on which I brought the note to Mrs. Forrest that I saw Mr. Willis come out of Mrs. Forrest's room; it was about ten or fifteen minutes after I saw her go up to the room; I had a lamp in my hand; I came from the kitchen, and stopped in the parlor to close up, and I then went up right straight; I went up as I usually did; I didn't run, I walked; I don't suppose I made any noise, for I didn't wear heavy shoes—I wore slippers; from the head of the stairs to the room I call Mrs. Forrest's room is about fifteen or twenty feet; I was walking; I hadn't got quite to the top of the stairs when I caught a view of Mr. Willis; he was just coming out from Mrs. Forrest's door.

Q.—Had he his hand on the handle of the door? A.—I couldn't see him if he had his hand on the door, because there was a small bit of an entry at the door; the end of Mr. Willis's room came out a small bit further than the room which Mrs. Forrest occupied;

I don't know if he was quite the length of his arm from the door; there was one door from his room which led into Mrs. Forrest's room; there was another door led into the entry.

Mr. O'Conor—That is just so.

Chief Justice—There is an interior communication?

Mr. O'Conor—Yes, sir, by which they could have communicated, if they wished.

Witness—Mr. Willis went into his own room, and I went up to bed.

Q. Was there a door directly communicating between the room you call Mrs. Forrest's room and Mr. Willis's room? A.—There was. Q.—Did Mr. Willis ever speak to you about that meeting? A.—No, I did not speak to any one about it until I spoke to Mr. Stevens; I don't recollect that Mrs. Forrest slept there any other night, except the spell she lived there and this one night. Q.—Did you ever see Mrs. Forrest go into that room, except during the spell that she lived there, and this one night? A.—I don't recollect that I have; I don't recollect that she has spent the night there at any time but those occasions; I don't recollect carrying any other note in the evening to Mrs. Forrest; I heard Mrs. Willis say, "Good night, dear;" he was just saying it as I was coming up stairs; I supposed he commenced it before he saw me, and finished it as I came in sight; I heard that very distinctly; it was in a clear, loud, distinct tone. Q.—Was there any other female who slept in that story, at that time? A.—Yes, sir, Mr. Willis's daughter; I think her name is Imogene. Q.—Is it his daughter by his first wife, or by this lady? (pointing to Mrs. Willis, who was seated with Mrs. Forrest.) A.—His daughter by his first wife; the door of her room was very near the door of Mrs. Forrest's room; after I caught sight of Mr. Willis I heard the door close; I couldn't tell how old Miss Imogene is; I think about seven or eight; I think she is the only child of the first Mrs. Willis; I don't know exactly; I think I often heard him say, "Good night, dear," to Mrs. Willis and to Miss Imogene, before that; I don't recollect hearing him say it in the third story to any one before that; I may have heard him say it in the parlor to Miss Imogene, when she would be going to bed pretty early; I think I lived with Mr. Grinnell ten or eleven days; I worked at his place in South street, working a team of horses, and loading the steamer New World; I left the Astor House last Monday was a fortnight; I left of my own accord, and went to Washington, to look for similar employment in some other hotel; on the morning after this night Mrs. Forrest was there, I gave the family their breakfast; I don't know whether I gave Mrs. Willis her breakfast or not; I gave Mr. Willis and Miss Imogene breakfast.

To Mr. Van Buren.—Q.—How did you first become acquainted with Mr. Willis? A.—I got a letter to Mr. Willis from an English lady; I don't know her name; she was stopping at a gentleman's house in Ireland, and took a liking to me (laughter), and sent me off to America, paid my passage, and gave me a letter of recommendation to Mr. Willis; I know there is a connexion between Mr. Grinnell's family and Mrs. Willis; I had got very near the top of the stairs when I saw Mr. Willis; during Mrs. Willis's illness, Mr. Willis occupied a back room on the third floor, and the room I speak of as Mrs. Forrest's was on the front; I have never seen the door communicating between Mr. Willis's room and Mrs. Forrest's opened.

The Court enquired as to the position of the rooms. A.—The door of Mrs. Forrest's room and the door of Mr. Willis's is about as far as from me to Mr. O'Conor (seven or nine feet); Miss Imogene's room was in front, over the hall.

To Mr. Van Buren—There is a closet in the intercommunication between the two rooms; Mrs. Benson is a monthly nurse; I don't suppose she was there at this time, but I can't say; I can't say whether Mrs. Willis knew of Mrs. Forrest being there; I know where Grace Church is; Mr. Graham's house is near that.

Mr. O'Conor—There is no difficulty about that; we admit he is your associate counsel, Mr. David Graham.

Q. by Mr. Van Buren.—What did General Lyman say to you? A.—He told me that he had met Mr. Willis in Broadway, and he had told him that I was going to give evidence against him for Mr. Forrest; he afterwards brought Mr. Willis in one evening to the Astor House to tea; Mr. Willis asked me to go up to his house in Fourth street, and I did; Mrs. Willis was in the country, and Mr. Willis told me ——

Mr. O'Conor objected to the conversation with Mr. Willis.

Witness—I was there about half an hour. Q.—Was any suggestion made by Mr. Willis about your going to Washington? [Objected to.]

Mr. Van Buren said, the witness had been asked about his going to Washington, and he proposed to show what facilities were offered him for going, and as Mr. Willis is one of the parties charged, he thought the question quite competent. He wanted to show why the witness left a situation here to look for one in Washington; and he submitted that it was entirely competent on his part to show what part Mr. Willis had taken in it. They had fifty questions put about what Mr. Stevens had done.

Chief Justice.—As your agent.

Mr. Van Buren.—I propose to show that Mr. Willis suggested to this witness to go to Washington, and offered him facilities to go. [Not admitted.]

Witness continued.—General Lyman gave me a dollar, but not at that time; it was the Sunday before Mr. Willis was with him; Miss Imogene generally went to bed at eight or nine o'clock; I have never known her to go to bed as late as half past eleven o'clock; her door was closed that night as I came up.

To Mr. O'Conor—Mr. Willis was not present at the time I told General Lyman that I knew nothing about it; Mrs. Willis was not at home at the time I was at Mr. Willis's, and remained there half an hour; I didn't see her; I generally gave General Lyman his breakfast; it is usual when waiters attend on gentlemen at the Astor House, or other hotels, for the gentlemen to give them a dollar or half a dollar gratuity; I generally closed the rear window between the second and third story when Mrs. Willis was sick; I think it was generally closed in winter time; the time I saw Mrs. Forrest there was not winter; it was April or May; it was warm weather.

Parke Godwin was then called, and being examined by Mr. Van Buren, deposed—I live at 53 Lexington avenue, in this city; I am husband of the lady who was examined the other day; I have known Mr. and Mrs. Forrest ten or twelve years; I loaned a book to Mr. Forrest some time in January, 1849; it was a translation of the French novel Consuelo; it is written by George Sand; that is the name under which a woman writes; I presume Mrs. Forrest knew I had lent that book, from a question she asked me afterwards; she asked me why Mr. Forrest borrowed them; they were three volumes; I said I supposed he wanted them to read; she said it was not for that; that it was about a foolish and ridiculous letter that Jamieson had written; she did not say written to her; she said had written; I learned since that the Consuelo letter, or what is called the Consuelo letter, was in Mr. Forrest's possession.

Cross-examined by Mr O'Conor, who produced three books. Q.—Is this the book you speak of? A.—It is not the same book; it is a copy of the same work; I have read it as I do other novels—to pass the time; Consuelo, the heroine of the book, is a woman.

Q.—Is Consuelo a book of a loose or lascivious character?

Mr. Van Buren thought that the course would be to give the book to the jury, in order that they might judge for themselves, and not take the opinion of the witness on its character. He objected to the question. The letter—called the Consuelo letter—which he proposed to put in evidence, was not an extract from that book.

Mr. O'Conor argued that parol evidence of the contents was relevant. The book was too voluminous to read to a jury, and he proposed to take the opinion of an expert, who had read the book. He therefore submitted that the question ought to be permitted.

Mr. Van Buren, in reply, said that, in morality, there are no such things as experts; if there were, he would be quite willing to take the witness's opinion. He did not propose to prove that this was a moral or immoral book. The question is entirely irrelevant. There is nothing in the book that is in the letter he (Mr. Van Buren) intends to produce.

The Chief Justice said the question seemed to him unimportant. If the letter is produced, the inquiry would be proper. As to reading a book of three volumes to a jury, it is entirely out of the question.

Witness continued.—I am one of the editors of the Evening Post, a paper published in this city; my lady is daughter of Mr. William C. Bryant, one of the sever

editors of that paper; I was introduced to Mr. and Mrs. Forrest by Mr. Bryant's family; it was before I was married, about twelve years ago, I should think; and from that time I have been more or less intimate with both parties; Mr. Forrest was quite as much intimate with Mr. Bryant as he was with other families; that is, I think he visited him as much as he did any one else; up to the separation he bore friendly relations to the family of Mr. Bryant and my family, so far as I know; between January and the first of May, 1849, I visited the house of Mr. Forrest once or twice; I was only once there with my wife; one evening we took supper there; Mr. and Mrs. Forrest and ourselves, and perhaps Virginia; we left shortly after supper; I do not know if it was a special invitation; my wife wrote to me in the course of the day, to say she was going up to Mrs. Forrest's, and for me not to come home to dinner, but to take my dinner down town, and come to Mrs. Forrest's in the evening; I rode up to Mrs. Forrest's; I think I went up with Mr. Forrest, who was, I think, then playing an engagement in New York; I visited Fonthill with Mr. Forrest; we returned to my house; I wanted Mr. Forrest to stay and take supper with me, and he said, no, he had supper already prepared at home, and we had better go up with him, so Mrs. Godwin and I walked up with him; I only recollect one visit to Fonthill; I went with Mr. Forrest, and returned with him; I was present at my house when Mrs. Forrest was brought there by Mr. Forrest, at the time of the separation; I do not know that I saw him more than once while she was there; my family then consisted of my wife, my wife's sister, Miss Julia Bryant, a young lady about 17 years of age, and my children, who are small.

Q.—Were you at Mr. Voorhies' farewell party, previous to his going to California? A.—I was; it was at 40 Great Jones street, the house of Mr. Ingham, where they were boarding; I do not remember his first name; he is brother of Charles Ingham, the artist; Mrs. Forrest was there; when she left, if I mistake not, Mr. and Mrs. Lawson and myself and my wife left with her in the same carriage; she first left Mr. and Mrs. Lawson at their house, and then left us at our house, and proceeded home, as far as I know; it was about twelve or one o'clock, pretty late: I cannot come any nearer the date; it was late in the winter; Mr. and Mrs. Voorhies were present; the sisters of Mr. Voorhies were present; Mr. and Mrs. Wm. C. Bryant were there; I do not know Mr. and Mrs. Hall, and cannot say if they were there; the Rev. Mr. Bellows was there. I have no remembrance of Mr. and Mrs. Swift. Mr. and Mrs. Watson were there; Captain Britton's daughter was there, I think; Mr. and Mrs. Ingham were there; I do not know that Charles Ingham, the artist, was there; the Rev. J. T. Headley was there, and others whom I cannot recall; it was a large company; I do not know if Mr. Andrew Stevens was present; previously to January, 1849, I visited a great deal at the house in Twenty-second street; my lady was there considerably; not so much as myself; I visited in the day sometimes, but most commonly in the evening; sometimes I went to dinner at three or four o'clock; if there was no invited company we generally sat in the library, which is up stairs; this was the case almost always when Mr. Forrest was at home, and generally so when he was not at home; I have sometimes taken supper there when we stayed late; supper was always taken in the dining room; when Mr. Forrest was at home, we would break up sometimes early and sometimes later; I don't suppose there was any uniform rule about it; we have stayed as late as twelve or one o'clock with Mr. and Mrs. Forrest; when thus staying up, the lady of the house also stayed up; I have seen and known Capt. Howard; I don't recall any special evening I was there when Captain Howard was present, during Mr. Forrest's absence, though I think I was there on two occasions when he was there; I have no recollection of remaining there all night. Q.—Were you present on any occasion when Mr. and Mrs. Forrest, and Mr. and Mrs. Voorhies dined together? A.—I was; I can't say if it was on a Sunday or a week day; we were invited by Mr. and Mrs. Forrest; I can't say whether the invitation was addressed to me or my lady; I think my lady dined there, though I am not certain; I dined there so often I can't be certain: I can't recall about what year it was: Mrs. Forrest, previous to the separation, and after, came a great deal to visit my family and Mr. Bryant's; when we gave little entertainments, Mr. Forrest generally was invited; I have seen him at Mr. Bryant's, but not at my house, since I was married; he visited Mr. Bryant's rarely, perhaps not more than once; I visited Mrs. Forrest frequently in Sixteenth street; I don't think I was there more than once, except on New Year's in the day time; my visits were generally in the evening; when my lady visited she generally called in the day time; though she was there perhaps twice in the evening with me; certainly once; that was at a dinner, a Thanksgiving dinner, or a Christmas dinner; myself and wife, Mrs. Forrest, Mr. and Mrs. N. P. Willis, Mrs. Voorhies, a young lady from Boston, a niece of Mr. Willis, Mrs. Carnes (now Mrs. Richard Willis) were there also.

Mr. Van Buren.—Did Mrs. Forrest speak to you at any time of having received the Consuelo letter? A.—No, she did not; she did not at any time speak of having received a letter from Jamieson, or any written communication, except what I have mentioned; I don't think she spoke of Mr. Forrest having found any letter of Jamieson's; she spoke of his having rummaged her drawers, and found some letters, I understood them to be letters of her sisters; it was since the talk of the separation; she said she met Jamieson at Cincinnati; I don't know what time it was, but it was the time mentioned in Mr. Forrest's affidavit which has been published in these proceedings; she mentioned the incident referred to in Mr. Forrest's affidavit, of Mr. Forrest having come into the room and found Mr. Jamieson there; at the dinner I had known that Mr and Mrs. Voorhies were married at that time.

Q.—How long before that had you known it?

Mr. O'Conor said he did not know what that had to do with the case.

Chief Justice.—I confess I don't know.

Witness.—I must have known it a month; I spoke with Mrs. Forrest frequently on the evening of Mr. Voorhies' party; I did not see her smoke that evening, it was too cold. Q.—Have you ever seen her smoke? A.—I have seen her put a segar in her mouth and take a puff or two; I don't remember whether Captain Howard was there or not that evening.

To Mr. O'Conor.—I and my wife boarded at the same house with Mr. and Mrs. Voorhies when her child was born.

Mr. O'Conor would ask the court, in the name of decency and propriety, if it was a part of this inquiry to cast a stigma on that lady, and on her child; or whether the marriage ceremony was performed nine months previous to its birth?

Mr. Van Buren, in the name of decency, said the question was quite proper, and the counsel ought to know that it did not bastardize the child.

The Chief Justice said that a great deal of irrelevant testimony had been admitted, and if they were to believe one of the witnesses, her character was already blasted.

Witness continued.—I saw Captain Howard only once at the house where Mr. and Mrs. Voorhies boarded, in Great Jones street; I can't say that Mrs. Forrest boarded there at that time; I did not know that she went to board there after she left my house; I thought she went to Mr. Bryant's from my house.

Adjourned.

December 26th.

As early as a little after nine o'clock this morning, the court was besieged by the curious public, who were anxious to secure seats to listen to the testimony in this case, though the room was not so densely crowded as it was on the previous days. Mrs. N. P. Willis accompanied Mrs. Forrest, and Mr. Forrest was seated by his counsel. At a quarter past ten o'clock the Chief Justice took his seat on the bench. The jury being called, answered to their names.

Egbert Deming was the first witness called by Mr. Van Buren, but not appearing, counsel applied for and obtained an attachment against him.

Mr. Van Buren.—I will call another witness, whom, I understand, I shall have to attach also. William H. Smith was then called, and not answering to his name, an attachment was issued against him.

Mr. Van Buren then suggested that this would be a convenient time to discuss the question as to the admissibility of the testimony of Mr. Lester, and similar evidence which he would offer by other witnesses.

Chief Justice.—What is the evidence you offer?

Mr. Van Buren.—Evidence of improper and lewd conduct on the part of Mrs. Forrest, with men not charged with adultery in this case.

Mr. O'Conor said he had always been accustomed to try causes according to law, as he had been brought up a lawyer and had been in the habit of protecting his client, man or woman, from illegal testimony. This case presented a striking departure from his usual course. He permitted the first witness to go on and tell her whole story, as he knew that ample testimony would come to refute it. But when C. E. Lester was called to the stand he had no knowledge of what he was going to testify to, and he objected to it. But it is absolutely wise and proper for him (Mr. O'Conor) to throw away the shield, and counsel may call Mr. Chas. Edwards Lester, and as many witnesses of the same kind as he wished.

The Chief Justice said that Mr. Lester's testimony was not objected to, but he did not wish it to be understood that if any similar testimony was offered that the Court would admit it if it was objected to.

Mr. O'Conor by no means wished it to be understood that he would admit such testimony from persons whom his client knew nothing about, and when he would be unable to show the jury who they were.

Mr. Lester was then sent for, and Mr. Van Buren proceeded to read the depositions of John Green.

Mr. Van Buren then read Mr. John Green's depositions. Portions of them were objected to. The principal parts were to the following effect:—

Q.—Where do you reside, what is your occupation, and do you know the parties to this suit? and if so, how long have you known them?

A.—I reside in Nashville, Tennessee; I am a player by profession, but am at present the manager of a theatre at Nashville; I know the parties to this suit; I have known Mr. Forrest for thirty-four years or more, and Mrs. Forrest since the first summer of her arrival in this country as Mrs. Forrest.

Q.—What, if anything, has she said to you in reference to her separation from Mr. Forrest, and the cause of it?

A.—One or two days before the separation I dined with Mr. and Mrs. Forrest at their house; some articles of furniture were being removed at the time from the house; a bust of Mr. Forrest was being removed, when he rose from the table, and I think assisted in carrying it to the cart; Mrs. Forrest and I went from the table to the front window; Mrs. Forrest remarked, I am afraid this is the last time I shall ever look upon that bust; I exclaimed—Oh, God! is what I see in the newspapers about a separation true? she said it was too true; Mrs. Forrest was in tears; I walked back with her to the back porch, alcove, or grapery, and requested her to let me know the cause, for I thought I could aid in a reconciliation; Mrs. Forrest said it was impossible, that she was the cause, that she was to blame, that she knew she had a high temper, and was very passionate; I remarked to her that if there was nothing more than that it could be settled; Mrs. Forrest said, if any one could do it, I believe you could do it, but it is impossible for you; Mr. Forrest came up the steps, and our conversation ceased.

Q.—What has been Mr. Forrest's treatment of his wife uniformly as to kindness or the reverse?

A.—Uniform kindness, as far as I could observe.

Q.—What have been your opportunities for observing?

A.—Constant intercourse with the family, whenever we met in the same place. Sometimes we did not meet for two or three years; sometimes several times during the year. I always dined with Mr. Forrest when I came to town. Mr. and Mrs. Forrest never invited myself and Mrs. Green but once.

The Chief Justice said, the evidence which the jury were sworn to try in this case is legal evidence only, and what is legal evidence it would be his duty to inform them, no matter whether it is objected to or not. He should not consider any inference from testimony admitted unless strictly legal, even though taken without objection.

Edward W. Burr was then called, and examined by Mr. Van Buren. Deposed:—I reside at 122 Allen street; I am a manufacturing jeweller; Burr & Stevens is the name of the firm; Andrew Stevens is Mr. Stevens' name; I am acquainted with Mr. and Mrs. Forrest; my acquaintance with Mrs. Forrest, I think, commenced shortly after New Year's day, 1849; she used to come to our place of business frequently, then, at 189 Broadway; she used to come once or twice a week from January to May, and after that, more frequently; I should suppose if I were to say three or four times a week during the summer, it would probably not come up to it; but I should think it would average three or four times, with the exception of when she was absent from the city; we have a manufacturing shop which is divided by a partition from our office; we have several workmen; we had no employment from her; I don't know that I had any business or commission for her, except in the last of September or fore part of October; she asked me to look for a house for her; the subject of conversation was very apt to be about Mr. Forrest, and theun happy state in which they were then living; I have known Mr. Forrest since '47; Mrs. Forrest often spoke of their separation, and said the cause of it was a difference of opinion; this was in the fore part of the summer of '49; she did not name the subject at that time, but did after she returned from Massachusetts; she made use of this remark; she said "she had never known any lady have a more kind or indulgent husband, up to the time of the Macready difficulty." Q.—What did she say further as to the state of affection? A.—At that time, I don't know that she continued the conversation any further.

Q.—Previous to this, had you heard any suggestion of the Macready difficulty being the cause of their separation?

A.—I had read it in the public prints, and heard it in the streets, but from no source that I could rely upon; I never heard any cause assigned by Mr. Forrest for their separation before that; I never heard him refer to it in the most remote manner, until near Christmas, 1849; the communication made to me by Mrs. Forrest, never came to Mr. Forrest, through me, till last year.

Q.—State how far there is any agency between you and Mr. Stevens and Mr. Forrest?

Mr. O'Conor objected to this witness testifying by a negative, or that he is ignorant of an agency on the part of Mr. Stevens.

Mr. Van Buren.—I propose to prove the truth by this gentleman.

Chief Justice said, as far as this gentleman is concerned his agency is irrelevant, as it has not been stated to exist by any witness.

Q.—How far are you or Mr. Stevens agent of Mr. Forrest? A.—I know of no agency further than any act of kindness I could render Mr. Forrest I would do it cheerfully; I have no business connection, but that I have sold him articles as I would any one else; I have paid out money for Mr. Forrest; there is an open account that we have; he has loaned me money; he has loaned the firm as high as $500; I don't know the state of the account at the present time; there may be a balance due to him; I have not looked over the account; Mrs. Forrest often spoke to me of the custom of society compelling people to live together where there was no affection between them; in one conversation she said it would be better if people were allowed to separate, as they had done; otherwise it was nothing better than a legalized prostitution, and I thought so myself; that was her expression "legalized prostitution;" she said

It would be a great deal better for them to do as they had done, for when man and wife were compelled to live together it was nothing better than a legalized prostitution, to which I agreed; this was in the fore part of the summer of 1849; I know the date of the Macready riots—the massacre; it was on the 10th of May, 1849.

Cross-examined by Mr. O'Conor.—I have been in partnership with Mr. Andrew Stevens since the first of May, 1847; our present place of business is 315 Broadway; we do not make watches; we do not deal in them; we do not take watches in for repair, unless for a particular friend; I don't think there is any objection to produce the book containing Mr. Forrest's account; it is not kept in the ledger; it is merely kept in the cash book; we don't enter an account in the ledger unless it is a business transaction. Q.—Will you produce that cash book? A.—I don't choose to do it unless I am compelled. Mr. O'Conor.—Very well, I can take out a subpœna for you to do so. A.—I saw Mr. Stevens this morning at our store; I first saw Mr. Forrest coming to see Mr. Stevens; he is very intimate with Mr. Stevens; I don't know that he is as intimate with me: I often dined with him, as many as fifty times; I never dined with him in Twenty-second st.; I first dined with him after their separation; I think it was at Florence's or Shelley's in Broadway; we frequently go there; Mr. Stevens has been more active than I have in Mr. Forrest's business; I think I have not done anything towards obtaining witnesses for Mr. Forrest: Mr. Stevens has spoken to persons who were going to be witnesses for Mr. Forrest, but I don't know that he got any witnesses; I have seen Robert Garvin and John Kent at our place of business; I have never seen Mrs. Underwood there; I have never seen Mr. Blankman there; we have met him in the streets, and in the evenings; if length of time be the best, I should say Mrs. Forrest was better acquainted with Mr. Stevens; I do not know that she conversed with me of her affairs when Stevens was present; I do not remember any person being present at the time; I know of Mr. and Mrs. Forrest meeting at our office after their separation, but I don't know it to be by appointment; I judge it to be accidental; it was mid-day in summer, 1849; Mr. Forrest was there first; when Mrs. Forrest came I told her Mr. Forrest was in the shop, and invited her in; he was speaking to some one in the shop; when he was done I told him Mrs. Forrest was in the office, and he said he knew it; he knew it from the fact of seeing her pass by the window; he did not say so, that is my own idea; I have not been subpœnaed; I have been requested to attend since the first of the trial; I don't know that Mr. Stevens has been here since the first day; I know a man named George T. Carter; I have not seen him since last August; he never received any money from our firm; I can't say positively, but it is in my mind that he once received money from Mr. Stevens; it was three or four weeks ago; I don't know how much, or for what purpose he gave it him; I think Carter has gone to sea; I was not at the massacre on the 10th of May; I was at Christy's Minstrels on that evening; the massacre, I believe, took place in front of the Astor Place Opera House; that was not the first of the Macready difficulty; I believe it commenced in Philadelphia; in speaking of the Macready difficulty I refer only to the occurrences in Astor Place and Philadelphia; I don't know anything about any difficulty occurring first in Europe; the massacre I speak of occurred on the occasion of Macready, an English actor, performing there; in the difficulty at Philadelphia I refer to a card published by Mr. Forrest, in answer to Mr. Macready's speech.

To Mr. Van Buren.—I don't know of Mrs. Forrest's writing to Mr. Stevens, except what he told me, and my seeing a letter from her when she and Mr. Forrest were in the country; I know nothing of its contents, but I saw it was in the handwriting of a lady.

To Mr. O'Conor.—I never saw Mrs. Forrest write.

Some letters were here handed the witness, who commenced examining them.

A Juror said the witness had stated that he knew nothing of the contents of the letter.

Mr. Burr.—I said I saw the contents, but did not read them; I am not able to say that either of these letters is the one.

Mr. O'Conor said as the witness had looked over the letters, he thought that he might be permitted to see them.

Chief Justice.—I don't think you have any right to read them, unless they are offered in evidence.

Witness to the Chief Justice.—When I told Mr. Forrest that Mrs. Forrest was in our office, he went to her.

To Mr. Van Buren.—When I told him, he seemed to hesitate, and then turned suddenly and went into the office; they were but a few moments together; Mr. Forrest went out first, and Mrs. Forrest followed soon after.

To Mr. O'Conor.—When Mr. Forrest is in the city, I hardly know of a day during the last year that he has not been in our store, except during the trial; I don't refer to Sundays; I can't say how often he has been there during the last year; I would say 100 days—he may have been 200 days, but I never kept account; I remember Mrs. Forrest being in Harrisburg in February or March, 1850, about the divorce proceedings; after that, up to the close of the year 1850, he visited our place in about the same proportion as the last year; he was out of town a great deal; I visited Fonthill with him; I dined there, I can't say how often; I suppose I have been there twenty Sundays altogether. Mr. Stevens and I and others would go with Mr. Forrest, Mr. Dougherty, and sometimes Mr. Lawson and Mr. Logan. I was not there on the 4th of July; we dined in the farm-house, not in the castle. From the time of the massacre, Mr. Forrest was a good deal in Philadelphia; he left the city almost immediately, and played an engagement there; he returned to the city some time afterwards: when he was here he was very much in our store from the time he returned from Harrisburg; he was in our store about one quarter of the time.

To Mr. Van Buren.—I can give no other explanation than when he was in town he was in our store daily; he was absent from the city a good deal. Q.—During the summer and fall of 1849, did you hear Mr. Forrest speak of his home? A.—Nothing further than when he would be going to Philadelphia, he would say he was going home: the castle, at Fonthill, was not finished when I was there last: I was there last September or October; I mean this last fall.

Anna Flowers was recalled, and examined by Mr. Van Buren.—I was known to my nurse, at the time of my confinement, by the name of Mrs. Elmendorff; I took that name at the suggestion of Miss Margaret (Mrs. Forrest's sister, now Mrs. Voorhies).

To Mr. O'Conor.—I did not go by any other name.

Q.—Did you not go by the name of Mrs. Raymond?

Witness (indignantly).—Is it Raymond's name? No, I would not take his name; I had enough to do with Mr. Raymond.

Mr. O'Conor.—Do you mean by that that you had improper intercourse with him? A.—No; but his trying to lay his plans.

C. Edwards Lester was then recalled, and said:—The servant that called me back, at Mr. Forrest's door, showed me into the parlor, and immediately after Mrs. Forrest entered; it was about Christmas, 1848. Q. State what occurred? A.—Mrs. Forrest introduced herself, or I knew it was her because the servant said so, I don't precisely recollect which; I had no business at all with her; I think I stated that I called to see Mr. Forrest in pursuance of an appointment. Q.—Did she know your name? A.—The servant handed her my card, and she had it in her hand; I left it for Mr. Forrest; I either wrote his name on it, or requested the servant to give it to him; I have not a distinct recollection of all that was said, as I did not charge my mind; I can state some specific circumstances; I know we had some conversation about Mr. Forrest and Mr. Macready, and I am equally sure that she introduced that subject herself; she remarked that Mr.

Forrest was acting very strangely about Mr. Macready, or towards Mr. Macready, and another expression, I recollect it distinctly, she said he was acting like a fool, and I thought—

Mr. O'Conor.—Keep your thoughts to yourself.

Mr. Lester.—You should confine your thoughts to the rules of law.

Witness continued.—She said he was acting in a very strange way; and as she knew I had called about the play I had written, she said the less I had to do with him about the play or any thing else, the better; I think she said she knew I had written to him about the play, but I may have told her the purport of my visit; I cannot recollect any thing else specific, although there was considerable conversation about it; the interview lasted about 20 or 25 minutes; I rose to go, not because I knew of no reason why I should not stay, but I sat down again at Mrs. Forrest's instance; I believe she asked me to stay a little longer; it struck me she was very polite; that was all.

Q.—What entertainment had you in the way of spirits or wine?

A.—It was a very cold day and Mrs. Forrest asked me to have something to drink; I remarked that it was rather earlier than I usually commenced, but then I had walked from the Globe Hotel in Brooklyn, in the snow, and in the mean time the servant, by Mrs. Forrest's orders, brought in a decanter of brandy and some water, and I drank some; it was very excellent; I never drank better in my life; previous to that, Mrs. Forrest asked me if I would take some champagne, but I said I never drank champagne before dinner; I think it was brought in; Mrs. Forrest, in compliment to me, drank, or began to drink, a glass of brandy and water; I suppose it was; it came out of the same bottle.

The Chief Justice.—Explain what you mean by she began to drink. A.—She raised the glass to drink, as any two persons would, when they drink together.

To Mr. Van Buren.—I did not observe the glass to see that she drank it all; she drank or sipped from it frequently; I don't think I stayed long enough to observe what effect it had on Mrs. Forrest.

Q.—While you were there what effects had it?

A.—Well, I don't think I observed any effects.

Mr. Van Buren.—Do you mean to say?

Witness.—If I didn't I shouldn't say so.

Q.—What appearance of her previously drinking?

A.—Mrs. Forrest was in a plain morning dress, such as ladies wear before the hour of receiving visitors; and I thought—

Mr. O'Conor.—Don't give us your thoughts.

Mr. Lester.—Well I know. (Laughter.) At least, I know I thought. (Laughter.)

Q.—What did you observe?

A.—I observed that Mrs. Forrest seemed to me, in her manner, very much like ladies that I have known after drinking more or less wine, or something else that excites the blood or the pulses.

Q.—Was there anything else in Mrs. Forrest's manner? A.—Nothing that would have any influence on the jury; I will say, that for a well-bred lady—

Mr. O'Conor.—We don't want this gentleman's opinion of breeding.

Witness continued.—Mrs. Forrest accompanied me to the hall door; the conversation continued through the hall; I opened the door myself, and she remained there till I shut it; ordinary compliments passed, and Mrs. Forrest invited me to call again; I think this was before ten o'clock in the morning; I never called again at that house; I never again went into it; subsequently to that I have been to Mrs. Forrest's house in Sixteenth street; I was there three times—twice in the evening and once in the daytime, about one o'clock; I saw Mrs. Forrest, Mrs. Voorhies, Madame de Marguerite (if I pronounce the name correctly), she is a lady who was at that time living with Mrs. Forrest—Mr. Brougham the actor, and Mr. George G. Foster; I went there in a carriage with Mr. Brougham and Mr. Foster to consult about a play; I suppose Madame Marguerite is married—I don't know; I saw her children at Mrs. Forrest's—one or two; the first time I went there was about 8 or 9 o'clock one evening, at the request of Mr Foster, to be introduced to Madame Marguerite as a literary woman; I found Madame Marguerite and Mrs. Voorhies there.

Mr. O'Conor said he didn't think it necessary to go into these details; they were a waste of time.

The Chief Justice said, if it was to prove that Mrs. Forrest was in the habit of receiving company, he did not think it necessary, as it had been amply proved.

Mr. O'Conor said, if there was any unchaste deportment or lasciviousness in these interviews, we may have it, but if not it ought to be ruled out as irrelevant.

Chief Justice.—What do you expect to prove?

Mr. Van Buren.—I expect to prove the manner in which gentlemen were received in this house, the manner in which they were treated and entertained by Mrs. Forrest.

The Chief Justice said, that unless these were the parties charged in the complaint, it was clearly irrelevant.

Mr. Van Buren.—We expect to prove the entertainments of Mr. Willis and Mr. Granby Calcraft.

Mr. O'Conor.—Not Calcraft, I believe.

[The court here took a recess for a few minutes.]

Mr. Lester was again called to the stand, and

Mr. Van Buren said he had committed to paper his offer, which was to show that, at the time Mrs. Forrest was residing in Sixteenth street, her house was visited by gentlemen without their wives; that they were furnished entertainment, and that there was drinking and disorder; that most unseasonable hours were kept, and that gentlemen, under those circumstances, were received separately, and invited to the separate rooms of the ladies living at the house.

Mr. O'Conor objected.

Mr. Van Buren said, that evidence of a general character could not be given, but there were a great many who would regard this conduct on the part of a female separated from her husband, as more licentious than any act of lewdness, though there are, also, many who would consider it a privileged act of fashionable life. He referred to Paige on Divorces, p. 112, and to the case of Mulock and Mulock, in 1st Edwards.

Mr. O'Conor said he would not object to evidence of general character, mode of life, and general carriage of the lady, because that evidence he would be ready to meet; but did not think that they were to admit the irrelevant testimony that already involves two others, and may some more. He then referred to the efforts to scandalize Mrs. Voorhies, in her absence, without there being in the evidence any bearing on Mrs. Forrest, and when that lady (Mrs. Voorhies) cannot be produced to contradict those statements, as she is now across the ocean; but we should not extend the circle of vituperation by allowing any evidence about Madame Marguerite, who, as a literary lady, may have had a literary squabble with a literary gentleman. Mr. O'Conor, in concluding his objection, said he did not object to charges of lewdness, because he would meet that kind of evidence. He did not interpose any objection which would make it appear that his client, in the event of an acquittal, had escaped by the ingenuity of her counsel; he did not wish to send his client forth as an escaped she-felon, escaped by the artifices of counsel; but the present testimony offered he should object to.

Mr. Van Buren said, he was entirely at a loss to understand this mode of trying a case—this objecting and withdrawing objections; this general defiance, and than the present mode of proceeding. The defendant is charged with scandalizing females, but the greatest charges of scandalizing females in this case, are on the records made by Mrs. Forrest against Mr. Forrest, charging him with acts of adultery committed with females that are dead and females that are living, some of them the most respectable, and some the inmates of the most disrespectable houses in this city. That might be called wholesale scandalizing of females. Again, a married female, the mother of four children, has been cross-examined for a day and a half, with regard to her having had a child before she was married. If a female have a child shortly after her marriage; if

't is born in wedlock, the child is not illegitimatized; and if that female is away now, it does seem strange that she, the plaintiff's own sister, whose testimony is all important to her, should have been permitted to go away. The defendant certainly did not know that she was absent.

The Chief Justice said that in the progress of this trial an offer was made in general terms, to show some unchaste disposition—confirmed acts of lewdness on the part of the plaintiff. At the first blush it struck him as admissible, though he, perhaps, ought not to have expressed an opinion on it till it was fully discussed. Since that, he had turned his attention to it. The point now to be decided is, whether the offer is to be admitted to prove that gentlemen were entertained at the house of Mrs. Forrest, and that there was disorder there; and what is more material, that gentlemen were invited by the ladies to separate rooms. In England, where these trials are held in an ecclesiastical court without a jury, the court disposes of the case according to his views. A trial comes on in this court before a judge and jury, and if the judge admits testimony which seems immaterial, it comes before the full court, and they find that it was not competent, and they set aside the verdict on the ground of immateriality of evidence admitted. It seemed to him, that they must try this case according to the ordinary trials of law. Here is a case in which three distinct issues are to be tried. Apart from Mrs. Forrest's case against Mr. Forrest, he brings charges against her of adulterous intercourse with six individuals. The question is, what kind of evidence is admissible. If it is proposed that evidence is to be produced to show adulterous intercourse with men not on the record; it cannot be given in evidence without an amendment of the pleadings. If evidence of adultery with others, not in the pleadings, is not admissible, these acts, on the part of the men, cannot be received; it would only prove adultery against them. Suppose that Madame Marguerite invited gentlemen into another room, how would that go to prove that Mrs. Forrest had committed adultery with Captain Howard, a man who, perhaps, was never in that house? On the whole, the Court thought it safer to adhere to the sound strictness of the rule of evidence. The offer implicates ladies who are not on the record. As to the evidence against Mrs. Voorhies with Mr. Raymond, he felt the injustice of it coming out at the time, and also as against the other ladies. To admit this evidence would be opening a door too wide. Taking this whole proposition, he did not deem it competent evidence.

The witness was then cross-examined.—I am at present the editor of the *Herald of the Union;* one number has been printed, and the next will be published as soon as I can get away from the court; it is a monthly paper; a folio of a double sheet, the size of the London *Times:* my previous pursuit was that of a literary man—history, &c.; I was connected with the production of a work called the "Gallery of Illustrious Americans;" I was something more than a year connected with it; I was consul at Genoa; I was recalled, and since then I have lived in this country. Q.—Are you a clergyman? A.—No, sir. Q.—Have you ever been? A.—If you define what you mean by the term clergyman, I will answer you. Q.—Do you preach the gospel? A.—I do when I speak of it; I last preached before a body in a Methodist church in Columbia county; there were several clergymen present; I have never been a clergyman, as I define the term; I have preached in a Christian church, having charge of a congregation; I was in that capacity for a few months. Q.—What persuasion? A.—Congregationalists; I quitted the occupation of a preacher in the main, before I left Columbia; I had a bleeding in the lungs, and I resigned; there was no power of removing me; I was entirely "on my own hook;" I was called the Rev. Mr. Lester then, and before that, and have been called so since by the Sunday papers; I never assumed that title myself; it was the bleeding in the lungs compelled me to resign; it was not at the request of my congregation, on the contrary they wished me to remain; I go up there every summer since. Q.—Do you preach there when you go up? A.—That all depends upon what you mean by preaching; like Shakspeare, I find "sermons in stones and running brooks" (laughter); I met Mr. Forrest about five weeks ago in Brady's daguerreotype rooms; I did not expect to be examined here as a witness till the first day of this trial; I communicated the interview I had with Mrs. Forrest to my wife, as I generally do communicate everything to her (laughter); I believe I spoke to Mr. Forrest about the interview with Mrs. Forrest when I met him at Brady's; I don't remember that I ever spoke to him on the subject but at that time; I have never borrowed any money from Mr. Forrest; I have never received any from him; I never saw Mrs. Forrest before that morning I have spoken of; I cannot say that it was Christmas day; there was no one in the room but a servant who came in and went out occasionally. Q.—What lady have you ever seen affected in the way you have described Mrs. Forrest to be? A.—I can give you a catalogue, if the Court deem it fit.

Mr. Van Buren objected to scandalizing other ladies.

Chief Justice.—We must confine ourselves here to the trial of one lady.

Mr. Lester.—I have seen ladies drunk, and heard it proved so in courts of justice, too; I can't say how near to Christmas that interview was.

To Mr. Van Buren.—The servant told me Mr. Forrest was not at home—that he was in Philadelphia—and I think Mrs. Forrest told me so.

Wm. H. Smith, examined by Mr. Van Buren, deposed.—I reside at 225 West Thirty-first st.; I was at Mr. Forrest's house, in Twenty-second st., once; I went there to present a bill: I saw a servant; she asked me to the drawing room; I opened the door and saw Mrs. Forrest; I did not enter the room; there was a gentleman in the room; I do not know who it was; they were engaged in conversation; they were seated, and Mrs. Forrest rose at my first entry; I asked was Mr. Forrest at home, and the servant said no, but Mrs. Forrest was; Mrs. Forrest, I think, told me that Mr. Forrest was out of town; Mrs. Forrest was sitting on an ottoman, and the gentleman on a chair. Q.—What, if anything, did you see that was peculiar? A.—Nothing; I did not see anything said or done between them, but that they were in conversation; it was about the middle of the day; I can't tell what hour.

This witness was not cross-examined.

James Lawson was then called, and examined by Mr. Van Buren, and deposed—I reside at 136 West Twelfth st.; I know Mr. and Mrs. Forrest; I have known Mr. Forrest for upwards of twenty-five years, the first night he appeared at the Bowery theatre, and Mrs. Forrest since her arrival in this country; I was made acquainted with the pecuniary terms of their separation; Mrs. Forrest was to receive [through me, at her request] $1,500 a year, paid quarterly, in advance; I paid it to her up to 1st November last; the next was due 1st February, and I refused to pay it; I do not know how it has been paid since. Q.—Why did you refuse to pay it? A.—I had read a published pamphlet of proceedings in this case, and, after that, I refused to pay it; I wrote down, and gave Mr. Howland a paper, stating that I declined, from this time, to make Mrs. Forrest's payments, and I referred him to Mr. Forrest. Q.—What was the treatment of Mr. Forrest to his wife? A.—Up to January, always kind. Q.—What opportunity had you and your wife of witnessing? A.—Myself very, very frequently; my wife much less. I am a Scotchman born, and an American citizen; I believe Mrs. Forrest was born in London; we claim her as Scotch; my relations with her were very intimate and very kind towards her; the fact of their separation was communicated to Mrs. Forrest's father by me, at the request of Mrs. Forrest; it was by letter. [Letter produced by Mr. O'Conor.] Witness continued.—That is the original; I never saw it since until now; I gave Mrs. Forrest a copy of it; up to that time Mr. Forrest had never spoken to me of the cause of their separation; it was in the December following he told me the cause. Q.—Did you ever learn from Mrs. Forrest what their understanding was as to not

communicating the cause? A.—Mrs. Forrest told me that the cause never could be communicated to any living creature; that she had asked Mr. Forrest not to communicate it, and he promised; the precise time I can't mention; this letter, to Mr. Sinclair, was written in the evening of the 1st of May, 1849, by Mrs. Forrest's written request to me; it went next morning to the Post Office, to go by the steam-packet Europa, which sailed from here on the 2d of May; that I might be sure of that, I refreshed my mind at Mr. Cunard's office; the letter was in the Post Office before half-past ten o'clock, and the steamer sailed at fifteen minutes past twelve o'clock; Mr. Forrest called during the course of that morning; I showed him the copy of that letter which I had kept; Mr. Godwin called in the course of an hour after, and I also showed him the copy; I showed Mr. Forrest Mrs. Forrest's note asking me to write the letter; his precise words, when I showed him the copy of the letter I had written, I won't undertake to say, but I think they were, "It will do." I said to him it was a difficult and a delicate task I had performed, to which he replied to the effect, "It's a good letter." From January '49 to December '49, I endeavored to learn from Mr. Forrest the cause of their separation; I went up to his library, one day, with the knowledge of Mrs. Forrest, and had an interview with him, after an article appeared in the *Mirror;* with her knowledge and consent, I spoke to Mr. Forrest; I saw Mrs. Forrest within a few days, and told her what Mr. Forrest said at that interview; I asked Mr. Forrest if the report of their intended separation which appeared in the Mirror was true: his reply was, that he would not speak on that subject even to me; I said, in reply, that I must speak, for my heart was full, and I must and would speak: I spoke in terms of great commendation of Mrs. Forrest; he said, "No third party ever yet interfered betwixt man and wife with advantage, and he would allow no man to interfere with him;" that was the purport, and, I believe, the very words; I was to have communicated the interview to Mrs. Forrest that evening, but Mr. Forrest showed me to the door, and I had not an opportunity of doing so.

To the Chief Justice.—This was while they were living in the same house, and before the actual separation took place.

To Mr. Van Buren.—I tried every way in my power that I thought reasonable, to bring about a reconciliation, up to the last of November, 1849; Mrs. Forrest told me that it was impossible to bring about a reconciliation; I do not know what I said to her, but I always thought it was possible.

The Chief Justice.—When did she say that? A.—There was so much said that I cannot recollect the precise time.

To Mr. Van Buren.—Mrs. Forrest never spoke to me about a third person being acquainted with the cause of their separation until one evening in Sixteenth street, when, having obtained her consent that Mrs. Doorhies should leave the house, which I thought necessary to a reconciliation, I asked her who was wrong in this unknown cause that separated them; I said what can be said by a husband to a wife, or a wife to a husband, that cannot be atoned for? She answered and said, The difficulty in our case is, a third party knows it.

Mr. Van Buren then read Mr. Lawson's letter to Mr. Sinclair, Mrs. Forrest's father:—

"New York, May 1, 1849.

"John Sinclair, Esq., London:

"Dear Sir,—This afternoon Mrs. Forrest addressed me a note, requesting me to write to you by this steamer, from which I infer that you are unadvised of some unpleasant circumstances that have happened in Twenty-second street. It is an irksome task; but rather than any intimation should first reach you through the newspapers, and in obedience to her wish, I write. In her note to me, Mrs. Forrest says:—'You are the only person, except myself, who could, with propriety, write to my father on the subject; a very few lines will suffice; I will write by next steamer.'

"On Saturday last (28th April), Mr. Forrest took your daughter to the house of Mrs. Godwin (Mr. Bryant's daughter), and there left her, with the intention of a formal separation. The cause of this separation I do not know, and neither party may ever disclose. It is now about three months since the first intimation of a difference came to my knowledge, yet with the exception of a week or two at most, during which I remarked an extravagance of feeling, nothing was apparent in the conduct of either to warrant these events; it seemed impossible, but it has happened. Those who constantly visited them could not perceive any thing in the conduct of either to make such an event necessary, or even probable.

"From the time this unhappy affair was concluded on between them, Mrs. Forrest has conducted herself, as she always does, with admirable discretion; not a murmur has escaped her lips. Mr. Forrest has always been kind and considerate, and nothing in his conduct gives warrant for angry feeling or unkind treatment. He thinks he has made a self-sacrifice for some high principle; what, I know not.

"I am persuaded that both parties are still warmly attached to one another; he, judging by his looks, has suffered deeply, and has grown ten years older during the last few months; she is not less afflicted. These things all considered, makes this separation appear a mystery, which I cannot fathom. Time may do much for both.

"Of one thing I can assure you, your daughter's honor is unsullied. No breath of suspicion can touch it, and all who know her will bear testimony in her favor. The mutual friends of both parties remain the friends of each, which I am sure is pleasing to Mr. Forrest and to her, as it must be gratifying to you to know. No effort shall be left untried to bring about a reconciliation; but I dare not hold out the hope of a successful issue.

"Virginia is with Mrs. Forrest; Margaret remains at her former lodgings; her baby is a fine child. All are well in health.

"Mrs. Lawson joins me in kindest regards to Mrs. Sinclair. With best wishes for your health and happiness, and that you may hear these things with a firm nerve, is the present hope of, dear sir, yours very truly, James Lawson."

Witness continued—I sent Mrs. Forrest a copy of that letter; I called on her soon afterwards to get the copy, and asked her if she approved of it; she approved of all of it except that part which spoke of her honor being unsullied; she said, "Why speak of that which nobody has ever doubted?" and I answered, were I in her father's place and he in mine, the first thing I would wish to know would be that; Mrs. Forrest, in reference to my efforts to bring about a reconciliation, always said "I was working in the dark, and did not know what I did;" I was present when Robert Garvin made his statement before Mr. Sedgwick.

Q.—Are you able to say, from anything that occurred, whether he testified willingly or reluctantly?

Mr. O'Conor objected.

Chief Justice.—Anything that was said or done would be competent, but I don't like evidence of manner.

Q.—What was said by Garvin? A.—I said to him that he had not told all; I thought so from the expression of his face, and by his referring to other persons than himself.

The Chief Justice.—That is not evidence. Q.—What reference did he give? A.—He referred us to Ann and Mrs. Underwood, and to a Swiss boy; I do not recollect a Swiss servant being in the house; I am acquainted with Mrs. Forrest's handwriting.

[Four notes produced.] I have no doubt these are in Mrs. Forrest's handwriting.

Q.—What was Mr. Forrest's feeling uniformly towards his wife?

Mr. O'Conor.—This witness cannot testify as to Mr. Forrest's feelings. He has already testified that his treatment was kind. It is not for this witness to answer a question which goes into Mr. Forrest's heart and mind.

Mr. Van Buren said, he supposed it was competent to show the state of his feelings up to January '49.

Chief Justice.—Show anything that he did.

Q.—What was Mr. Forrest's feelings towards his wife up to January '49?

Chief Justice.—You cannot put it in that form. That would be making the witness to enter into Mr. Forrest's feelings.

Q.—What were his acts up to January '49?

Witness.—With scarcely an interval, always kind—always considerate.

Q.—What was his love for her?

Mr. O'Conor objected.

Q.—What were his acts of love towards her?

A.—He always spoke of her with great kindness; he would often say, "I wonder what Kate would say of this?" I remember when the dinner was given to Mr. Forrest, after his return from Europe, he came to my house and spoke of an incorrect report of his speech, which appeared in one of the papers; he was very much excited, and said, "I wonder what Kate would say to this!"

Q.—Did he not love his wife devotedly previous to that period?

Mr. O'Conor objected, and said—I don't believe it myself; and I don't want Mr. Lawson's evidence on it.

Chief Justice.—Speak of his acts.

Witness.—I have seen him hang over at the piano when she was singing; and heard him praise her handiwork; I was at Mr. Voorhies' farewell party; I have seen Mrs. Forrest smoke; when some of the guests were gone from that party, we went up to a tea room, and Mrs. Forrest gave me a segar of tobacco; she said they had been given her by some person; she also smoked part of a segar that evening; I don't remember that she said who the segars came from; the box was one-third full; she said it was a present.

Mr. Van Buren then read the following letters of Mrs. Forrest to Mr. 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 could 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 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 that I am in the habit of indulging in "universal confidence." My friends are few. What you say of your 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 all 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 will come and see me soon—any evening after to-morrow.

With kind regard to all yours, always truly,

C. N. F.

Addressed, 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 sort of 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 first and fourth were not addressed to Stevens, and were without envelopes.

It being now past four o'clock, the Chief Justice announced that as his attendance would be required in another part of this Court (general term) on Saturday, he would adjourn the trial of this cause to Monday morning.

Mr. Van Buren moved for, and obtained an attachment against Thomas N. Carr, a witness who did not attend.

Adjourned.

December 29th.

The court room was, as on the previous nine days of this case, well filled long before the hour for proceeding with the business. Mr. Forrest was early in attendance, and Mrs. Forrest entered the court shortly afterwards, accompanied by Mrs. N. P. Willis.

At 10 o'clock, the Chief Justice took his seat on the bench, the jury were called over, and, all being present, the court directed counsel to proceed.

Mr. Lawson was again called to the stand and cross-examined by Mr. O'Conor. Q.—Are you Mr. Forrest's agent in pecuniary matters? A.—If agent means one who receives compensation, I will answer you. Q.—Do you attend to his money matters? A.—I have partly since '47. Q.—Has he any other agent but yourself? A.—He has one who resides in the Ninth avenue, and collects the rent of a house for him in Twenty-second street; I know of no other; I have an account current with Mr. Forrest; I cannot say I owe him anything, for his money is always ready for him when he calls for it; I am not a mortgage debtor of his; my relations with Mr. Forrest have been very intimate; they have not been so intimate with Mrs. Forrest; my last visit to Mrs. Forrest was November, 1849; she said by the person who opened the door, she was not at home; but she was.

Q.—How do you know?

A'—I have seen it under her own hand, this morning, in court, and Mr. Forrest told me so.

Mr. O'Conor said that that was not evidence; if there was a letter, it could be produced; if any one else told you, he can be put upon the stand.

To the Chief Justice.—I have no personal knowledge of her being at home.

To Mr. O'Conor.—It was Mrs. Bedford (Underwood) who opened the door; I was asked if I had any message, and I said no; when Mr. Forrest was at home I visited him frequently; on an average, once a week; very likely several times a week, when they lived in Twenty-second street; my visits were sometimes long, and sometimes such as friends interchange; I called frequently in the evenings; very seldom in the daytime, except Sundays or holidays; I have called frequently when Mr. Forrest was not at home, as well as when he was. Q.—Were your conversations free, cordial, and intimate with Mrs. Forrest, as well as with Mr. Forrest? A.—They were; I dined frequently with Mr. Forrest at Twenty-second street; usually dined there any day but Sunday, for I never dine from home on Sunday; I have seen Mr. Bryant, Mr. Godwin, Mr. Wykoff, Captain Howard, Mr. N. P. Willis, at dinner there; I have not seen Mr. Carr; I can't say if Mr. Stevens was there; I have seen Mr. Montgomery there; I have seen ladies there at two large dinner parties; one dinner party was given to Mr. Macready, and the other on the anniversary of their wedding day.

Q.—Except on these two occasions, have you seen ladies there to dinner?

A.—Yes; I have seen Mrs. Godwin there; and Miss Noah, of Albany; I rather think it was a rare thing to see ladies at dinner, except those of the family.

Q.—Was it the habit of Mr. Forrest to go out to evening parties, where ladies and gentlemen were assembled?

Mr. Van Buren objected; and the Chief Justice asked Mr. O'Conor the bearing of his question.

Mr. O'Conor said that Mr. Forrest, though somewhat distinguished as an actor, was not, in other respects, an educated man: that Mrs. Forrest was an educated lady, and was obliged to mix in that society to maintain her husband's high position, while he avoided these associations, even in his own house.

Mr. Van Buren considered the question irrelevant, and whatever the difference of character between Mr. and Mrs. Forrest, he supposed the same existed when they were married, and it was the duty of the wife to conform to the habits of her husband, when they were domestic and proper. He did not think that they could show Mr. Forrest gave her permission to entertain gentlemen in order to maintain his high position.

Mr. O'Conor said Mrs. Forrest was not to conform to that position which her husband was in when she married him, for it was not the same; he was rising every day in the world—rising in wealth and distinction, becoming, as it were, a lord, and desirous of cutting a great figure in life, as well as on the stage.

Mr. Van Buren said the testimony could not be introduced except in reply to the defendant, and it was irrelevant.

The Chief Justice said that though a great deal of irrelevant matter had crept into the case, there was no reason that more should be admitted. As respects the gentlemen visiting Mrs. Forrest, it was proper to show that they were the gentlemen entertained by Mr. Forrest; but it seemed to him that it would be travelling very far, to admit the evidence of Mr. Forrest's habits, except so far as to account for Mrs. Forrest's going to parties without him.

The question was repeated. A.—So far as I know, I think he confined himself to a few intimate friends; he visited my house, Mr. Bryant's, Mr. Phelan's, and Mr. Godwin's, though I am not sure I ever saw him there; I cannot at present recall any others. Q.—How often have you seen him in mixed company at Mr. Bryant's? A.—I have seen him several times meet a few friends, but no parties; he has been at my house several times, but I don't give parties; he would sometimes spend five minutes, and sometimes five hours with me; I suppose all my family would be present; I have seen him at dinner once at Mr. Phelan's; my impression is that I have seen him there on other occasions; I was at one party there; Mr. Forrest was out of town, but Mrs. Forrest and Mrs. Voorhies were there; I bought Fonthill for him after his return from England; it was on the 6th of February, but I can't recollect whether it was 1845 or 1846; he was in Savannah at the time. They went to England in 1844 or Jan. 1845. My impression is that they returned in the autumn of the following year. If they went in January, 1845, then I think they returned in October, 1846. My impression is that they were away more than one year, but I have the dates, and can get them for you. I think it was the fall of the second year they returned. Q.—I assume they returned in the fall of 1846; now, was it within a year after their return you purchased Fonthill? A.—I can't speak positively, but my impression is it was in 1847. In January, 1849, my impression is that the work at Fonthill was going on.

Q.—You can tell us up to that time how much that building had cost?

Mr. Van Buren objected. The defendant was not on trial for extravagance.

Mr. O'Conor.—Well, we are.

The Court ruled the question inadmissible.

Mr. Van Buren said that if he would be permitted to show for what purposes this building was constructed, he would not object to the evidence of its cost.

Mr. O'Conor was not willing to admit evidence of deferred good intentions.

Witness continued—it was in '49 about the same state it is now; about seven-eighths of it was painted; it was fresco painting, which could not be discontinued, and that was finished; he intended it as a residence for his family.

Q.—How much per annum would be necessary to maintain that residence?

Mr. Van Buren objected.

The court would not rule one way or the other till he heard the argument.

Mr. O'Conor had no objection to its being ruled out, as he was sure no gentleman on the jury but would understand it.

Mr. Van Buren.—Suppose you don't sum up yet until it is all over. [Laughter.]

Mr. O'Conor.—And I think you will then find that I will sum it up. (Laughter.)

Witness continued.—I have visited Fonthill frequently with Mr. Forrest; perhaps I was there half a dozen times between May and the fall of '49; I never rode out with him there but once in '49; I dined there with him sometimes in the farmhouse, and sometimes in the village; I slept there once; a temporary bed was got up for me; I never was there on a 4th of July. Q.—Between 1st May, '49, and 1st Dec., '49, where did Mr. Forrest live? A.—He had no home; he stopped a part of the time with me, part at Fonthill, and part in Philadelphia, at his sister's; in June, '49, he came to my house very sick, and was there about a week; during that time Mrs. Forrest's allowance was stopped; Mrs. Forrest called at my house to see Mr. Forrest, when he was better; I don't know that she came by appointment; I was not present at the interview between them; Mrs. Forrest was stopping with Mrs. Voorhies in Great Jones street; I may have written to her to come; I invited Mr Forrest to make my house his home; he was with me till June, 1850, and he then came down town to board; he boarded at Florence's; he slept in my house every night while in town, about three months altogether. Q.—From November, 1849, the last time you visited Mrs. Forrest's house, till February, 1850, did not Mr. Forrest sleep at your house almost every night? A.—No, sir; I remember him being in Philadelphia for a considerable time; Mr. Forrest made his wife an allowance which was arranged in May or June, '49; Mr. Forrest promised, and by his order I paid, $1,500 a year to Mrs. Forrest; he promised it at the interview in my house; he did not want to give more than $500, with a house in Twenty-second street; she would not take it, as she said it was too near where she was accustomed to live; it was a handsome three-story brick house, that rents for $350; very likely Mrs. Forrest said it was impossible for her to support that house on $500 a year; Mr. Forrest said if she could not, she could go board, and I advertised for board; answers were received, but no price named, and Mr. Forrest did not reply; I think the first instalment was paid on the first of August, 1849; she left $100 in my hands to pay Mr. Ingham, with whom she boarded. (Letter produced, and marked No 12.) Q.—Is this the letter you wrote announcing your readiness to pay?

A.—Very likely; I know it is my letter. Q.—To whom did you pay the November quarter? A.—I paid till November, 1850; I never paid it after; my impression is that in November, 1850, I paid it to your (Mr. O'Conor's) associate, Mr. Boardman. Q.—How often did Mr. Boardman call for it? A.—I think he called, and I said I would not pay it on the order as it was written; he wrote next day, saying he was going out of town, and could not call; when he next called, he got it; no man ever called on me with a proper receipt, and did not get the money, except Mr. Howland, and then I refused to pay him at all, because I had read the testimony in the case; I did not say to Mr. Howland that I would not pay it because Mrs. Forrest had contradicted my testimony, and had injured my credit in Wall street; I said to many that I had read the testimony and that I read in it so much that was not true, that my heart was filled, and I said God forgive her as I do; during their absence in England, Mr. Forrest told me to give Miss Margaret (Mrs. Voorhies now) all that she wanted, and all the money she demanded I gave her. I never supplied the money for 22d street, except when they were in England; I never paid money for it except on express orders, but when Mrs. Forrest wrote to me for money, during his absence, I gave it to her; I had an interview with Mrs. Underwood, February, 1850, at my office; I did not expect that interview.

Q.—Was it then she made her first communication respecting Mrs. Forrest?

Mr. Van Buren objected. It did not properly come out on this cross-examination.

The Chief Justice said the question might be put in more proper form.

Q.—What communication did she make to the prejudice of Mr. Forrest? [Objected to.]

Chief Justice said it seemed to him this was not technically a cross-examination, and he thought the question might be put.

Witness continued—She at that time made a communication; in the spring before that (1848) she made a remark when Mr. and Mrs. Forrest were away; she called for money, and I told her I had no instructions and could not pay her; she said Mrs. Forrest told her to call on me; she made some remark saying, if people were more correct or upright there would be less trouble; I made no reply; on the 1st of February, 1850, she came to me and said Mrs. Forrest hadn't a cent in the world; I said I would not give any, but I would give it to Mr. Bryant or Godwin; she spoke of her own private affairs, and how the conversation about Mr. and Mrs. Forrest began, I cannot now remember; I did not at that time take any written statement from her; Mr. Forrest was in Philadelphia, and I wrote him a letter, not informing him what she said, but stating that Mrs. Bedford knew much more than he suspected; I saw him in about a week afterwards, and he asked me to put down what she had said; he did not perform any remarkable action on that occasion; I told him what Mrs. Bedford had said; he did not fall; he never fell in my presence; I have not stated that, when I made this communication to him he started and fell upon the floor; I did on another occasion, but not as to that occurrence; I did not say to Mr. Darley or Mr. Penton, or to living mortal, that when I made that communication to Mr. Forrest he started and fell upon the floor; all the information as to Garvin came from Mrs. Underwood; she said that her information could be confirmed by some of the servants, and she named Garvin; I never found a single witness for this case; the same evening that Mrs. Forrest and I called on Mrs. Underwood, she was examined at Mr. Sedgwick's; in about a week after that, Robert Garvin was examined; I expressed surprise to Mrs. Underwood when she told me; I forget my precise language, but I read Mrs. Underwood's testimony, and I suppose that it is like it.

Q.—Did you use language to this effect—"I would as soon believe it of an angel from heaven as of Mrs. Forrest?" A.—It is very like my language: from the hour I first knew Mrs. Forrest to the present, I never knew anything personally to the prejudice of Mrs. Forrest; I had no instructions except Mrs. Forrest's note for writing to Mr. Sinclair, I wrote it from receiving information and belief. [Mrs. Forrest's note to witness produced, and marked No. 13.] That is it. Q.—In that letter to her father did you speak sincerely? A.—I always speak sincerely.

Mr. O'Conor.—I take it for granted that you do.

Witness continued.—I am not able to fix the pay of Mr. Voorhies's party, except what I have seen in print; my impression is, from that, it was about the 15th of January; I said Mrs. Forrest handed me a very beautiful segar; she handed me the box about three-quarters full, and I took it; she took the box from a shelf; I smoked it; they were small segars; she smoked part of one. My impression is that Mr. Godwin was there; I dined with Mr. Forrest the day after the party, and I then understood from Mrs. Forrest that there was to be a separation, and I said it was impossible. Mr. Wykoff was there; as Mrs. Forrest told me, without invitation; I was invited the day before; it was before dinner she told me.

Q.—Did you not say you got your information first from the *Mirror*?

A.—I will explain what I said on Friday last; it was, that I was to speak to Mr. Forrest about it, and was to say that I got my information from the *Mirror*; the article appeared in the *Mirror* about six weeks after the party; it was my impression that I was to speak about the separation.

Q.—What was it agreed between you and Mrs. Forrest that you should say? A.—The precise words I can't recollect; she said that Mr. Stevens had tried to speak to Mr. Forrest, but he could get no answer, she thought I would have more weight with Mr. Forrest; I was to see if Mr. Forrest's mind was definitively fixed, or if, by any influence of mine, his determination could be reversed; I was not to ask the cause of the separation, because that was never to be told; these are Mrs. Forrest's words. Q.—Did Mr. Forrest, before 1st January, 1849, say to you in substance that there was no guilt on the part of Mrs. Forrest, and he wished to God there was? A.—He never used such words; Mrs. Forrest has used similar words to me; I have not so stated to Mr. Darley, Mr. Penton, or Mr. Godwin; I have stated that Mrs. Forrest made use of those words; I told them I was misapprehended. After Mrs. Forrest went to Sixteenth street, and from the beginning, I took some pains to bring about a reconciliation; while she was in Sixteenth street I made special efforts to bring about a reconciliation, but I told her my hopes were much less, because she refused, in the early part of the summer, to agree to a separation between herself and Mrs. Voorhies, but still I tried my best. Q.—Did she, after this, agree to separate from Mrs. Voorhies for a time? A.—Mrs. Forrest said that she agreed that Margaret should leave the house for a time.

To Mr. Van Buren.—It was not at Mr. Forrest's suggestion, I felt it necessary myself; I never consented to a temporary separation, because Mr. Forrest was a man so much above all disguise that that would not content him.

To Mr. O'Conor.—[Letter produced and marked 14.] After she agreed to the separation between her and her sister, she wrote me this letter; I suggested, as a necessary preliminary, that her sister should leave the house; I suggested it from May, when Mr. Godwin first told me of her derelictions.

Mr. O'Conor told him that such testimony was very improper.

Chief Justice said it was, undoubtedly.

[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 anything 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 continued.—I urged the separation of her sister from her from May till November; I obtained Mrs. Forrest's consent shortly before this letter was written; I think I enclosed this letter (No. 14) to Mr. Forrest that afternoon, and I saw him, I think, next morning at Fonthill; I then got the letter back from him.

Mr. Van Buren submitted that this letter should not be given in evidence; the simple fact of sending it to Mr. Forrest does not make it evidence.

(Letter admitted and read by Mr. O'Conor.) Exception taken.

[No. 14.]

Saturday Morning, 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 at once proposed to leave the house on Monday, and I consented that she should do so, feeling sure that 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 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 most 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 on Monday morning.

Mr. O'Conor.—The seal, I suppose, may be considered as part of the letter. It is, "My stars shine darkly over me."

Witness continued.—I went down by the 8 o'clock train that Sunday to Fonthill, and returned, I should think, by the 6 o'clock in the evening; Mr. Stevens was there; he had brought out the letter the evening before; I saw Mrs. Forrest the week after; I received some letters from Mrs. Forrest in November.

Mr. O'Conor.—I hold in my hand a letter of yours of the 14th Nov. Did you write any before that in the month of Nov.?

Witness.—I can't say; I never kept copies of any of my letters to Mrs. Forrest but two.

Letter produced and marked 15.

Q.—Was that written by you to Mrs. Forrest on the 14th Nov.? A.—This is my letter. Q.—Was this letter with the knowledge of Mr. Forrest? A.—I never wrote any letter with his knowledge except he happened to be present, and I would show it to him; I don't know that he was present when I wrote this.

Mr. Van Buren objected to the production of Mr. Lawson's letters to Mrs. Forrest.

The Chief Justice said that he thought sufficient had been shown to prove that Mr. Lawson was negotiating between the parties with Mr. Forrest's knowledge. Exception taken by Mr. Forrest's counsel.

Mr. O'Conor then read letter No. 15.

[No. 15.]

New York 14th Nov., 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 in 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.

A letter of Mrs. Forrest's produced, and marked 16.

Witness continued.—That, I have no doubt, is Mrs. Forrest's reply to my letter marked 15.

Mr. O'Conor read the reply.

[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, "Forrest was cross to-day, and 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,

Wednesday, 3 p.m. C. N. Forrest.

Mr. O'Conor then read letter No. 17, Mr. Lawson's answer to No. 16.

[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 anybody 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 are more prized than those who speak truly, or act wisely. Yours, ever, J. L.

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

[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 after I had 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 nearly. 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 you 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 time 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.

Mr. Lawson wished to explain with regard to his own feelings, that he had a private grief which occurred in his own family in Scotland.

A copy of Mr. Lawson's letter to Mr. Sinclair was produced, and marked 7 B, but not read.

Mr. O'Conor then read letter No. 19, Mr. Lawson's letter to Mrs. Forrest, enclosing the copy of his letter to her father.

[No. 19.]

May 2, 1849.

My Dear Mrs. Forrest:—Your note came to m 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 home 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; he 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.

Q.—Can you tell us what that article was that appeared in the *Atlas*? A.—I cannot; I never read the Sunday papers; I seldom see them. Q.—You say it was published afterwards in the HERALD? A.—I don't recollect seeing it; I think it stated something about Mrs. Forrest having lived so long with Mr. Forrest, and having had a number of children.

Q.—Did Mr. Forrest speak to you about that article which referred to his domestic affairs? A.—I suppose he must, when I referred to it in my letter.

Mr. O'Conor proposed to read it.

Mr. Van Buren objected to it. He had run his eye over it, and it seems to be a total perversion of the circumstances that occurred between Mr. Forrest and his wife.

Chief Justice asked Mr. O'Conor what he had to say.

Mr. O'Conor remarked that Mr. Burr, in his evidence stated that Mrs. Forrest said no woman ever had a kinder husband than Mr. Forrest was until the Maroready difficulty, and the moodiness and dissatisfaction manifested by Mr. Forrest had been spoken of. It is to put down the pretence advanced by Mr. Forrest, that it was done through jealousy, that he offered this evidence.

Mr. Van Buren could not see any pretence for the admission of the article. This is not a complaint made by Mrs. Forrest; it is a mere anonymous statement which Mr. Forrest saw.

The Chief Justice considered it too remote testimony to admit.

Mr. O'Conor said he would withdraw it for the present, but it was very probable that in the progress of the cause the court would consider it relevant.

Witness continued.—Q.—You have said that Mrs. Forrest stated to you that the cause of the separation would never be mentioned by any living person; that she requested Mr. Forrest not to mention it; can you say when that conversation took place? A.—I think between 19th January and 1st May; no one was present except ourselves; it was not the first time she spoke of the separation; I think it was in a conversation in which she had told me that she had asked Edwin if he had anything against her as a wife; she told me he replied, when she asked him that question, "No, Catharine, no: I wished to God I could, for then I should not suffer the agony I do;" it is my impression she said that in the same conversation in which she said she had requested Mr. Forrest not to disclose the cause; I would not say so positively, but that is my impression; I feel as sure as almost anything I know, that she said it was her request to him. Q.—Did she not say that Mr. Forrest exacted a pledge from her to that effect? A.—I never heard it. Q.—When speaking of the cause of separation, did she not say it was an insult that Mr. Forrest could not get over. A.—She did not; she told me that she and her husband had a quarrel on the night before; this was when I came to dine, on January 19; that he was very angry; and that she, in the course of that discussion, told him that "it was a lie," or that "he told a lie."

To the Chief Justice.—She said to me that she had told him so.

Witness continued.—I said that was a great offence against a man so full of truth as Mr. Forrest, and I asked her to make every atonement that she could do, and she promised that she would do so she said that Mr. Forrest had said to her, "that no man could use these words to him and live, and no woman using these words should live with him;" I think that 19th January was on Friday; I have no remembrance of Mrs. Forrest's going up to Fonthill on the following day. Q.—Have you aided Mr. Forrest in obtaining testimony? A.—I simply aided Mr. Forrest by taking down what Mrs. Underwood had said at Mr. Sedgwick's; I have been instrumental in bringing no witnesses to the trial.

Q.—You there state that you never were made acquainted by Mr. Forrest with the cause of separation till the middle of December, '49? A.—I am quite sure it was after the middle of December, '49.

Mr. O'Conor.—I propose to give in evidence the prayer of the petition of Mr. Forrest to the Legislature of Pennsylvania, for a divorce, commenced in September, 1850, and the injunction from proceeding, and the affidavit of Mr. Lawson in that cause.

Mr. Van Buren objected. He did not see how that complaint could be relevant.

The Chief Justice said it was merely offered to prove an affidavit made in that cause.

Mr. Van Buren.—In that light, we do not object to it.

Mr. O'Conor then gave the proceedings in evidence, but did not read any of them except Mr. Lawson's affidavit (already published), and his letter to Mrs. Forrest, dated 1st December, 1849.

SATURDAY MORNING, 1st December, 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 phrase I could command, and asked him to think calmly, and let me kuow 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 that 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 on earth 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 on 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. * * * * * *

Mr. O'Conor then read Mr. Lawson's depositions taken in this case on the 28th of February, 1850, (already published.)

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 day of her first 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 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, 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.

Mr. Van Buren said he had a witness, a poor woman, with half a dozen children, whom he proposed to examine before the re-examination of Mr. Lawson.

Mr. O'Conor could not consent. The Chief Justice said it was unusual.

The re-examination of Mr. Lawson was then commenced. The expression that Mr. Forrest said, "She was the only woman he ever loved, or ever could love," is a paraphrase of part of his own words; it was on the evening of the 30th November, when I had a very long conversation with him on the subject of the separation that he made use of it; this expression of love for Mrs. Forrest is a part of his words; he said he had begun life a very poor boy; that he had struggled hard to reach a pinnacle, and when he attained it, he was stricken down, and what a hard fate it was that our happiness should be at the mercy of one individual; the conversation was on the subject of the separation, but not the cause; I said it might be different if children had been living to him, and he thanked God he had no children living; I praised Mrs. Forrest's physical and intellectual beauty to him, and he said, She now looked ugly to him, for her face was black and hideous." Q.—Did he give you reason to suppose the possibility of a reconciliation? A.—The whole bent of the conversation was the impossibility of his being reconciled to her; this was in my house; A word was said of the cause. Q.—On these occasions when you were speaking to him of Mrs. Forrest, did he say anything as to the time and manner in which he would disclose the cause, or it being known after his death? [Objected to.] A.—Mrs. Forrest and I were corresponding about this matter; Mr. Forrest was in my house sick in bed; he first proposed to allow her $500 and a house, and then talked of boarding; he then raised his views to $1,000.

Q.—What did he say?

Mr. O'Conor objected to the conversations between Mr. Forrest and his agent in the absence of Mrs. Forrest.

Mr. Van Buren contended that it was strictly proper, and brought out by the cross-examination.

The Chief Justice said if the plaintiff had given evidence of a conversation, and the defendant wished to elicit other parts of it, he had a right to do so. A great many things that had been asked he took no note of at all, for he hardly recollected a case in which so many immaterial questions had been asked.

Mr. O'Conor said he deemed it right to protect his client from what occurred in these midnight interviews between Mr. Forrest and his agent being given in evidence against Mrs. Forrest.

Mr. Van Buren said that they differed in their recollection of the testimony, and of Mr. Lawson's position. He [Mr. Lawson] appears here as an old friend, pointed out by Mrs. Forrest to negotiate between her and Mr. Forrest for a settlement, and the court ruled that he was acting as a mutual agent between them.

Chief Justice.—On the ground that Mr. Forrest knew of the communications of Mr. Lawson.

Mr. Van Buren said when they got out the declarations of Mr. Forrest on the cross-examination, and his advertising for board for Mrs. Forrest, he [Mr. Van Buren] was entitled to get out the whole of those declarations and correspondence.

Chief Justice.—It is undoubtedly a general rule that when part of a conversation is given in evidence, the whole has a right to be brought out, though it seems to me that when an immaterial statement was made by the witness which cannot operate on the case, the door should not be widely opened for such testimony.

Mr. Van Buren would reduce the question to writing. When Mr. Forrest spoke of an allowance of $500, what reason did he assign?

Chief Justice.—That is different from your question about the cause being made known after his death.

Mr. O'Conor objected to the question

Chief Justice.—My impression is that the door is not sufficiently opened to admit all the conversations between Mr. Forrest and the witness.

Q.—After the proposition of $500 was made, what other conversation took place between you and Mrs. Forrest? A.—She said she could not live in that house on $500 a year, near the house where she had lived in such style.

Q.—What did Mr. Forrest say when you informed him of that? (Objected to.)

Q.—Did Mrs. Forrest request you to tell Mr. Forrest her answer to his offer?

A.—I communicated Mrs. Forrest's answer to Mr. Forrest at her request, and I asked him to allow her more money; he made no reply to that directly; I said if he did not give her a much larger sum, it might lead to a suit for alimony, and if he wished it to be kept from the public it would then be made public; his answer was that he wished it to come to a public court, for his lips were now sealed, and what a court compelled him to say he would be bound to say; I persuaded him to raise his offer to $1,000; he consented; I communicated the offer of $1,000, but not his declaration to Mrs. Forrest; she said she could not live on a thousand dollars.

Q.—Did she make any communication to Mr. Forrest through you?

Objected to as leading.

The Chief Justice said not consider it leading.

Witness replied to the question—I think she wanted

$2,000; I communicated that to Mr. Forrest, and he said he would not raise it one cent; at a subsequent interview between Mr. and Mrs. Forrest at my house—

Mr. O'Conor.—That's right; tell us all that occurred when you were not present. (Laughter.)

Mr. Van Buren.—State what Mrs. Forrest told you.

Witness.—Mrs. and Mr. Forrest both told me that he consented to give her $1,500 a year. I think it was my intercession that induced him to do so; he said he would make his will. [Objected to, and ruled out.] I understood that Fonthill was built for a residence for Mr. Forrest and his family, and that it was built according to Mrs. Forrest's plans; I always considered that she was the architect who planned it. I understood from them both that after Mr. Forrest's death it was his intention to leave it for the benefit of decayed actors; it was spoken of by both parties.

Q.—Do you know that a declaration of that kind was made at its erection? [Objected to.]

The Chief Justice said that this was unnecessary. The object of the examination about it was to show that it was his residence, and that he was a resident of this State. Ruled out.

Mr. Van Buren.—They spoke of the cost of this building on the other side?

Mr. O'Conor objected, and it was ruled out.

Witness continued.—When Mr. Forrest was in town, he made my house his home; he occupied three small rooms in the farm house at Fonthill, when he was there; his gardener [Mr. Hobbs] and his wife and four children lived in the house.

Q.—You were asked if you ever said Mr. Forrest fell on the floor when you told him what Mrs. Underwood said. A.—I said that I made use of such an expression, but it was at quite a different time; Mr. Forrest told me when he discovered——

Mr. O'Conor objected to what Mr. Forrest told him about it.

Q.—You have been asked if you stated that Mr. Forrest fell upon the floor, when you communicated what Mrs. Underwood said, and you have answered, no, not on that occasion, but that you will tell on what occasion you spoke of his falling on the floor.

Mr. O'Conor again objected.

The Chief Justice said, if he confined himself to that particular case, he might show what he did say, but not with reference to any other.

To the Jury.—I never did see Mr. Forrest fall upon the floor.

To Mr. Van Buren.—I don't think I was requested: I volunteered to Mrs. Forrest to interfere for a reconciliation; she always assented to my doing so.

Letter No. 12, produced but not read, was now handed to the witness, who said, my impression is, that Mr. Forrest was absent from the city when I wrote this. I say in it, that "Mr. Forrest says," but I think I wrote from a letter of his; I don't think he saw this letter; he never saw the letters I wrote to Mrs. Forrest, unless he came in, or was present when I was writing them; I showed Mr. and Mrs. Forrest the copy of my letter to Mr. Sinclair; Mr. Forrest never requested me to write to Mr. Sinclair about the separation; letter No. 14 was received by me in November; it was early in the summer I asked her to send away her sister; I asked her repeatedly, and prior to that she never complied; it was my suggestion to send her away; I knew Forrest was hostile to her; he did not desire me to make the suggestion of sending Mrs. Voorhies away; it was made at my own volition; Mr. Forrest did not speak of this letter for some days after, but my impression is that he was happy Mrs. Voorhies was gone; letter No. 16—Mrs. Forrest's letter to me—states, "I have not asked you for an intercessor." Q.—Is that true? A.—I think not; I was very much surprised at it. Q.—Was there any other statement in that letter that surprised you? A.—The tenor of it, I remember, as you will see by my answer, much surprised me; when I first proposed to Mrs. Forrest that I would intercede, she wished me to be an intercessor; she asked me to arrange about the settlements, but this letter refers only to an intercession a reconciliation; my answer to No. 17 expresses my ; I was very much surprised; Mr. Forrest never asked me to negotiate for a reconciliation. Q.—When you wrote those letters to Mrs. Forrest about being full of hope, did Mr. Forrest give you any hope of a reconciliation? A.—I thought from his manner, and as his love was still the same, that there was some hope.

Q.—Has Mr. Forrest ever said anything to you which induced you to hope that a reconciliation might be effected?

Mr. O'Conor objected.

Q.—Did he, on any of these occasions, from what he said, lead you to suppose that a reconciliation could be effected?

The Chief Justice said that the witness already answered that Mr. Forrest never asked him to interfere for a reconciliation.

Adjourned.

December 30th.

The respective parties were in attendance early this morning. Mrs. N. P. Willis, who has accompanied Mrs. Forrest almost every day, was again in court with her to-day. The spectators were not so numerous as heretofore, though the interest by no means seems to flag.

Mr. Lawson was again called to the stand, and his re-examination by Mr. Van Buren continued. Q.—You spoke of Mrs. Forrest mentioning to you on one occasion, a difference she had with her husband the night before? A.—I did; at that time, I do not remember she said anything about mentioning it to Mr. Forrest; it was but a very few minutes' conversation; Mr. Forrest was up stairs, and we were in the dining-room; after January 19, she asked me not to speak as if from her; I went up to speak to Mr. Forrest from the article in the *Mirror*, not from her; I kept her counsel; I don't remember she said anything about the manner in which I was to open the subject to him; when the *Mirror* article appeared, I claimed to speak from that, and she consented. [A note produced and marked 20.] Witness continued—This is Mrs Forrest's handwriting.

Mr. Van Buren said it was addressed to Mr. Stevens, and he then read it.

[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 he 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 continued.—I understand that to refer to the time I called and was told, Mrs. Forrest was out.

Letter No. 18, read yesterday, was again produced and read.

Mr. O'Conor said he would read it, as it was his evidence, and he understood it was produced with a view to show that Mrs. Forrest told a lie.

Mr. Van Buren called on the court to say whether it was proper for counsel to sum up the cause on each point as they went along.

Chief Justice said that observations should not be made by counsel to the jury. If they had anything to say, they should address the court.

Q.—To what extent were you Mr. Forrest's agent or settling this allowance for Mrs. Forrest?

Mr. O'Conor objected.

The Chief Justice said there has been no pretence Mr. Forrest made any suggestion to him, and the question was unnecessary.

Witness continued.—I know of no agency for Mr. Forrest in effecting a reconciliation; I was asked by Mr. O'Conor if I was his agent, and I asked him what he meant by agent.

Mr. O'Conor.—Mr. Lester asked me what I meant by a minister of the Gospel; but I am here to ask questions, and not to answer them. [Laughter.]

Witness continued.—From 1837 to 1844 while he was in Europe, I acted for him in buying and selling stock, and buying property, for which I never received one cent compensation; I also attended to the building of three houses for him, and I wanted to give it up, but Mr. Forrest asked me to continue it, as he could not get any one else; he then offered me a commission on the rents of the houses in Twenty-second street and a cottage in New Rochelle, which yields me about $225 or $230 a year; not at all equivalent to what I have done for him through my affection and esteem for him. Q.—In your conversation with Mrs. Bedford, was anything said about pawnbrokers? A.—Yes: she told me she was obliged to pawn some of her things to live in the house in Twenty-second street, of which she had care.

[Letter produced and marked 21.] Witness—This is my letter.

Mr. Van Buren.—Part of your letter in your affidavit was read yesterday, and then these asterisks follow; will you read the remainder of it?

Mr. Lawson then read the conclusion of his letter, which was as follows:—

I received your note of Tuesday evening; you still labor under a misapprehension. You write 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 understand you rightly, people have convinced you that I am your enemy. Who 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 continued.—From the 1st day of January, 1848, I never saw Mrs. Voorhies in the house when Mr. Forrest was there: when he was absent I have seen her there very frequently; she stayed there with her nurse and child; I am not able to say whether Mr. Forrest was aware of her being there; Mrs. Forrest was not habitually given to smoking; I have seen her smoke more than once; one Sunday I called there, and Mr. Forrest had not gone to dinner; I sat at table with them, and I remember her giving my little boy, about ten years of age, a little cigarette, a paper cigar; there was tobacco in it; I do not recollect any tobacco cigar, but the one I spoke of; I received a letter from Mrs. Forrest from Chicago; I think it was written in 1848. [Letter produced and marked 22.] Witness continued.—She says in that, that she showed it to Mr. Forrest; I showed it him, and he said he had not seen it before.

Mr. O'Conor said the witness was told repeatedly not to say what Mr. Forrest told him.

Witness continued.—When Mr. Forrest did not go out, he occupied himself in reading and in conversing with intimate and intelligent friends; I never saw a library of more value; I do not know of his being a member of the Century Club; I am not a member, and I do not know; I was once at Mr. Bryant's house, in Spring Bank, Long Island, with Mr. Forrest; I know Mr. Jamieson by sight; I have never seen him, that I remember, at Mr. Forrest's when he was at home; I have seen Mr. Richard S. Willis at Mr. Forrest's house and elsewhere, once or twice; it was in the absence of Mr. Forrest; it was through Mr. Forrest that Mrs. Forrest became acquainted with the Bryants.

Mr. Van Buren asked the court if the witness might explain what he did say to Mr. Darley and Mr. Penton about Mr. Forrest falling on the floor.

The Chief Justice said that unless it related to that particular circumstance he could not do so.

The witness asked permission to make another explanation on another point, I said when I was asked if I had said to Mr. Penton that Mr. Forrest said to me there was no crime on the part of his wife, and that he wished to God there was, I answered, no. I would wish to state—

Mr. O'Conor objected.

The Chief Justice said an explanation would not be necessary until he was contradicted.

Mr. Van Buren was proceeding to read the letter No. 22.

Mr. O'Conor said he had some questions to ask the witness first. My object is to get him off the stand.

Mr. Van Buren.—I can well imagine that. [Great laughter].

The Ceief Justice said it had better be read in this connection.

Mr. Van Buren then read it.

[Letter 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 Pittsburg, 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 other of those 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 Pittsburg 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., &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 attach to them as well as to all other reformers, and which it 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 doctrines of a man who 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 prejudices 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 hers, 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 used to 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 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 not to apply 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 both 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 natures. 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 chained friend, perhaps a jealous foe,
The dreariest and the longest journey go."

That there is any necessity to ensure, by any means, a women'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.

The reading of the letter was listened to with great attention.

Mr. Van Buren.—I propose now to ask the witness if he showed this letter to Mr. Forrest; and if he said he had not seen it before.

Chief Justice.—I don't think that can be done.

Witness was then again cross-examined by Mr. O'Conor.—I first saw Jamieson when he was a maker of likenesses from shells; I never saw Mr. Jamieson at Mr. Forrest's house; he was not in the habit of entertaining actors at his house; I have stayed at Mr. Forrest's house one night when my family were up the river; I understood from Mr. and Mrs. Forrest that what is called the Macready difficulty commenced in England; Mr. Forrest attributed the disrespect he received there to Mr. Macready; he said his success was not as it had been previously in London and Glasgow; he said that Mr. Macready and Macready's friends in the newspapers did him injustice; Mrs. Forrest told me that Mr. Forrest had hissed Macready, and in speaking of it in Mr. Forrest's presence, he did not deny it.

Mr. Van Buren said there was no necessity in going into this matter.

Witness continued.—Q.—What relatives of Mrs. Forrest's were in this country? A.—Her father, mother, her sisters Margaret and Virginia.

To the Chief Justice.—Virginia is now in her sixteenth year.

Q.—Did Mr. and Mrs. Sinclair leave this country before any difficulty between Mr. and Mrs. Forrest?—A.—I forget the date, though I took the passage for them; I got them off by the aid of Mrs Voorhies.

Mr. O'Conor objected to the witness stating any thing but an answer to the question.

Mr. Lawson continued.—I don't think I have Mrs Forrest's answer to my letter of the 29th December. [Letter produced and marked 28.] This letter is one

I wrote to Mrs. Forrest; it was manifestly written when Mr. Forrest was sick in my house, in the latter part of May or June '49.

Mr. O'Conor then read the letter.

[No. 23.]

SUNDAY MORNING.

MY DEAR MRS. FORREST:—Forrest was too tired last evening to call; in not a great time over an hour after he came to town, he took a bath and went to bed. I sat with him from eight to ten; then he was comfortable. We talked of various matters. This morning, going to the 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 not 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.

Mr. Lawson to Mr. Van Buren.—I have not among those letters, any answer to Mrs. Forrest's letter of the 1st of December; my impression is, that the next letter I received from Mrs. Forrest, was on the 20th December; prior to May, 1849, she had asked me to speak to Mr. Forrest with reference to an allowance; Mrs. Forrest addressed me a long note, which I handed to Mr. Forrest; I think this is it. [Produces it, and marked No. 24.]

Witness continued.—Mr. Forrest played here after his return from Europe; my impression is, with not less, but greater success than before, and a public dinner was given to him in New York; at the instance of myself and Miss Margaret, Mr. and Mrs. Sinclair left this country when Mr. and Mrs. Forrest were away in the south; when Mrs. Forrest returned, she said "she was very much obliged to me for getting them away," and said "that I had managed it very adroitly;" I have lent Mr. Sinclair money, and he returned it; I borrowed $200 from Mr. Forrest to lend Mr. Sinclair, as Mr. Forrest did not wish to lend it to him directly; I cannot answer the question, of my own personal knowledge, as to how they now stand in relation to money matters.

The witness's examination then concluded.

Mr. Van Buren—I will want you to be here again.

Mr. O'Conor—I wish you would go out of town; if they get you here again, we'll never get through this case. [Laughter.]

Ann Butler deposed—I live in Twenty-first street; I am from Ireland; I am nineteen years in this country; I am married; my husband's name is Thomas Butler; he is a laboring man; I know Mrs. Flowers; I know of her child; I wet-nursed it; six years ago the 9th of last July, it was given to me first; I remember the date, by the birth of my own child; I nursed the child till the 23d of August of the next year; I know Mrs. Margaret Sinclair; she used to come to my place while I had the child; she used to come to see the child; the child's name was William Henry; the mother went by the name of Elmendorf; Miss Margaret never called her anything else but Elmendorf; Miss Margaret gave it a present of a nice cap; she appeared to be very interested in the child; Mrs. Dempsey (Ann Flowers's mother) and Mr. Raymond took the child from me; it was not taken on the first application; the child was taken on the 22d August, and I saw Mr. Raymond before that on the 7th May; he came alone; I would not give the child, as I didn't know who he was, and the mother of the child told me not to part with it until she sent for it, or came for it herself; I again saw Mr. Raymond on the 8th of May; I then lived in Ferry street; he came with Mrs. Dempsey, and I wouldn't give the child; he threatened to bring an officer, and yet I wouldn't give it up; no officer was brought; I told him I didn't care if he brought an officer, that I wasn't afraid of him; they stopped a considerable time with me; he thought to come round me softly to give up the child.

Q.—Was this softly before or after he threatened the officer on you? A.—He was both rough and smooth [laughter]; he spoke roughly; he cursed, if that would do any good; he took me round to Mrs. Dempsey's, but I wouldn't give up the child, until I wrote to its mother to see if I was to give it up; Mr. Raymond said if I kept the child, I wouldn't be paid for it; I said I didn't care for that; the child was worth the money, and more too [loud laughter]; I didn't see him again until 23d of August; I went to Mrs. Dempsey and told her I was willing to give it up; my friends advised me, for fear there would be trouble about it, and as they were so "brief" for having it (so anxious to get it), I had better give it up; I went to Mrs. Dempsey, and found Mr. Raymond's address in the Directory, and left word for him to come and meet me and Mrs. Dempsey; he came, and asked me if I was willing to give up the child, and I said I was; Mrs. Dempsey was with him; my bill was eighteen dollars and a half from the seventh of the previous May: I had been paid up to that time; Mr. Raymond paid me seventeen dollars; he was very cross, and cursed and d—d the child, and me, and all belonging to it [laughter]; he was the roughest gentleman I ever saw; he came in a carriage; when the child was taken away, I followed it out, and saw another gentleman in the carriage; he was a stout, noble-looking man; I don't know who it was; I don't remember whether that gentleman had a hat or cap on; I can't write; I did not communicate with New Orleans, to know Mrs. Flower's opinion about the child.

To the Chief Justice.—The child did not go in the carriage; Mrs. Dempsey took the child with her.

The witness was not cross-examined.

Egbert Deming deposed.—I reside at 227 Twenty-first street; I am not acquainted with Mr. and Mrs. Forrest; I know them by sight; Mr. Forrest owns the house in which I live; my house is in the rear of the one occupied by Mr. Forrest; it joins on the line of his lot; I never tried to see into his drawing room from my back piazza; and I cannot say I could. Q.—Did you ever, from the back part of the piazza, see Mrs. Forrest? A.—Yes, I have; I have seen her walking in the garden; I have seen her in the house; the only place I saw her in, from the back piazza, was what I supposed to be Mr. Forrest's study; I know Mr. N. P. Willis; I saw him at Mr. Forrest's house on one occasion; it was in the evening, in the fall of the year; I think Mrs. Forrest was with him; I did not see any one else; they were standing at the window in what I take to be Mr. Forrest's study; they were standing side by side; one of his arms was around Mrs. Forrest's waist. Q.—Was there any other mark of affection between them? A.—I did not see any; I think his other arm was by his side; I do not recollect particularly; I do not know that I could say where her arms were; I should think by her side. Q.—Did anything pass between her and him? A.—I saw nothing; they stood there about a minute, their heads slightly bent forward, and they seemed to be in conversation; they then walked away, and went to a table; I saw them by the gas light which was in the centre of the room; I saw this from the second story; Mrs. Forrest left first, and walked round the table, and Mr. Willis followed; I did not see them afterwards: they did not walk out of my sight; they walked to the table under the gas light, and I left: I am a man of family; I have not seen Mrs. Forrest with any other gentleman, except with her husband, in the garden, and there may have been others with them: I think Mr. Forrest was not at home the night I saw Mr Willis there; I saw by the papers he was away.

Cross-examined.—It was in the fall of '48; I never communicated this fact to Mr. Forrest or Mr. Van Buren until now, and I do not know how they heard of it; I know Mr. Lawson; I never communicated it to him, nor to Mr. Stevens; I am a tenant of Mr. Forrest's yet; I had a lamp in my room at the time; I was called into the room by Mrs. Germain, my wife's sister, to look at them; it was cool, very pleasant weather; there are two piazzas to Mr. Forrest's house, with green blinds generally open. Q.—Could you generally see into Mr. Forrest's study? A.—I am not in the habit of trying, but, when shutting the window, I would sometimes see Mr. Forrest studying, and sometimes see Mrs. Forrest; this gas light lighted the room very well; it is not more than 100 feet from my window to Mr. Forrest's house; the lots are 200 feet deep, and my house 42 feet deep; Mr. Forrest's house is deeper; I have seen other persons there besides Mr. and Mrs. Forrest on one or two occasions; I had no acquaintance with Mr. N. P. Willis, but have known him by sight for six years, perhaps longer—ten years; these two persons were standing close to the window; it was Mr. Willis's left arm I saw around Mrs. Forrest's waist; Mrs. Forrest walked away first; they did not walk away with his arm still around her; she left him; I don't recollect that there was any other person in the room; I don't recollect that I tried to see if there was any other person in the room; I could not see the whole room, the space between the windows would prevent it; I could see about half the room; I don't think I tried to ascertain whether there were any other persons in the room or not; my present business is dealing in stock; I am not a stock-broker; I dealt in stock on my own account for three or four years; I have been in the chemical manufacturing business at Yorkville, manufacturing animal carbon; I was at it about two years, under the firm of Deming & Colt; George Colt is his name.

Q.—What business have you been following since?

Mr. Van Buren objected to going into this testimony.

The witness said he had no objection to state it, but the Chief Justice did not see the relevancy; but perhaps the jury would wish to know who the witness is.

Witness continued.—Since then I have been engaged with Mr. Griffin, 192 Broadway, selling steam boilers and engines for manufacturing purposes; I am in partnership with him; the firm is D. Griffin & Co.; I was never in the dry goods business; a week ago last Friday I was subpœnaed; I never was subpœnaed before.

Mr. Van Buren.—When were you served with an attachment? A.—Last Monday.

Mr. O'Conor.—Mr. Lester was served with an attachment too.

Mr. Van Buren objected to these observations.

The Chief Justice said that he had noticed a great many of those side observations from both counsel, during the progress of the trial, and they were very improper.

Mr. Van Buren.—The counsel never has complained of any side remarks from me.

Mr. O'Conor.—That's a fact, sir.

Mr. Van Buren.—Then there is some mistake in the Court attributing to me side observations.

Chief Justice.—It's improper. I find gentlemen of the bar very much inclined to it. I endeavor always to check it, but without effect.

Witness continued.—I have been in custody of an officer, on attachment, since Monday; I have never told Mr. Lawson, Mr. Forrest, Mr. Stevens, yourself, or anybody else, what I know; I have never spoken to Mr. Forrest at all, until yesterday.

Question by Mr. Van Buren.—Have you any idea how I knew of this? A.—I have not.

To the Chief Justice.—I believe I spoke of it to a next door neighbor.

To Mr. Van Buren.—There is a grape vine which covers the lower part of Mr. Forrest's house; when Mrs. Germain called me in, she called my attention to the position of the two, and asked me if I knew who they were; I told her who I supposed them to be; Mrs. Germain is a widow; I suppose she is now in Albany o Troy; she has a son in this city.

To the Chief Justice.—Their backs were towards the window when I told Mrs. Germain who I thought they were.

Henry T. Sedgwick, examined by Mr. Van Buren, deposed.—I am attorney and counsellor at law; Mr. Theodore Sedgwick is attorney on the record of a suit between Mr. Willis and Mr. Forrest; I took charge of the case, Mr. Theodore Sedgwick being in Europe; I know John Kent; he was subpœnaed as a witness in that cause; it was first noticed for trial in October, 1850; and was at issue I presume in September; it was noticed for October and November, 1850, and January, February, March, April, May, June, and October, in 1851.

Mr. O'Conor did not think it necessary to go into the trial of the Willis and Forrest case.

Mr. Van Buren said that he was going to prove that John Kent was a witness in that case to account for keeping him here, as in his cross-examination they had brought out about his getting money.

The Chief Justice said the inquiry was right as to Kent.

Mr. Van Buren.—What became of the cause when it came on?

Mr. O'Conor objected. The Chief Justice excluded the question.

Witness continued.—Kent attended from day to day that trial; he was subpœnaed as a material witness; Mr. Forrest was in attendance on these different occasions; I considered his presence very material, and recollect his being out of town on one occasion; I don't recollect writing a note to him; I may have sent a note to Mr. Stevens for him, but I don't recollect where I addressed it to.

Mr. O'Conor 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. [Mr. O'Conor remarked that the writer had written "man" first and placed "mice" over it as if in doubt whether mice should go before men. Laughter.] 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 $400; 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 loth 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 truly yours, J. L.

Hiram Johnson, a witness, not answering, was attached on the application of Mr. Van Buren.

Mr. Van Buren then said he proposed to read the Consuelo letter.

Mr. O'Conor.—There is no such document in evidence to which such a designation can be given.

Mr. Van Buren.—Then the letter we call the Consuelo letter; and if there is any objection, I propose to show the position in which it is now before the Court.

Mr. O'Conor objected, as he had already done. On the reproduction of the letter, he supposed he might refer to what had been before said, without the necessity of reiterating the argument. Since then there has

been nothing said about this paper, except in the examination of Mr. Godwin, and his answers were all in the negative.

Mr. Van Buren replied, and contended that the letter was in a position before the Court to be read; and to state that it was not a letter, he respectfully submitted was an error. That it bears evidence of being written by a man to one of the opposite sex, cannot be doubted. In form, in folding, in superscription, the Court may technically say it is not a letter. He need not remind the Court the difficulty of proving a communication, when the person who receives it is a party to the suit, and the person in whose possession it is, is the other party to the suit. He then adverted to the position of the writer, and to the fact that they could not call him to admit that he was an adulterer. Counsel then referred to Mr. Godwin's testimony, in which he stated that Mrs. Forrest said to him, that Mr. Forrest had borrowed the book Consuelo, "because of the foolish letter Jamieson had written;" but she did not add written "to me," but Mrs. Underwood testified that Mrs. Forrest had exclaimed that Mr. Forrest had got "a foolish letter that Jamieson has written to me."

Mr. O'Conor was again heard at considerable length against the admission of the paper. With respect to the effort to suggest, that though Mr. Forrest lay with his wife four long winter nights, when plenty of spare beds were in the house, and yet had no marital intercourse, was somewhat like the marriage by proxy in high life, when the proxy and the contracting party lay with a drawn sword between them. If the counsel succeeds in convincing the jury on that point, they will be possessed of more credulity than he (Mr. O'Conor) supposed, or than he believed to exist among men. Mr. O'Conor then submitted that the paper was not proved. It would be a serious task on Mrs. Forrest to prove that there was some other foolish letter of Jamieson's taken by Mr. Forrest from her drawer. Then, with regard to Consuelo, he submitted that the heroine was a female of the highest degree of moral chastity, even ministering consolation to those around her, and therefore designated Consuelo, which means "consolation" in the language from which it is translated. He referred to Mr. Forrest's leaving his wife at the house of his friend, to be the inmate of his virtuous home, to sit at his board; and asked, would he, as a man of honor, have done so if he believed her to be an abandoned woman. She carries with her there a present from Mr. Forrest—he might call it Mr. Forrest's Bible—a copy of Shakspeare, and she also carries with her the family portrait of her husband, to decorate whatever room might be allotted her in Mr. Godwin's house, and which was to be taken with her when she went to keep house. We hear from Mrs. Underwood (and we may get some good thing out of Nazareth), that Mrs. Forrest's portrait was taken to Fonthill. Counsel then referred to Mr. Lawson's letter to Mrs. Forrest's father, and the declaration in it that "her honor is unsullied." If so, where, he [Mr. O'Conor] would ask, is the honor of Mr. Forrest in the estimation of the public? At the commencement of these proceedings, the only capital Mr. Forrest had was this letter, and then, at a late period, he obtained the evidence of Mrs. Underwood, Garvin, and John Kent.

The Chief Justice said that when this question was before the court, in an earlier stage of the trial, the only evidence in relation to it was that of Mrs. Underwood, who deposed that Mrs. Forrest, on opening some drawer, made an exclamation that Mr. Forrest had obtained her letters. On being asked by Mrs. Underwood, what letters, she said her sister's letters. To this Mrs. Underwood replied they were of no consequence. Mrs. Forrest then remarked, "but there is a foolish letter of Jamieson's among them which I did not wish him to see." He [the Chief Justice] remarked that it had not the ordinary appearance of a letter; it had no date, no superscription; there was nothing to identify it as a letter to Mrs. Forrest, or that it was written by Jamieson to her. It appeared to the court then, as it appears now, that there is not the slightest evidence of identity. Mr. Forrest is bound to prove that it is the identical letter; and the reason is this—not that he would mean to convey an imputation on Mr. Forrest, or that he would have a right to, or be justified in doing so; but Jamieson might fabricate a piece of evidence against Mrs. Forrest's honor, without there being any facility for disproving it. It is said that it is *prima facie* evidence that this is the letter alluded to by Mrs. Forrest, unless she proves that there is some other letter of Jamieson's that Mr. Forrest got possession of. That is impossible. They must guard against the door being opened to fabricated evidence. What Jamieson chose to say could not be given in evidence against Mrs. Forrest. A woman's reputation would not be safe if it were to be destroyed by the imprudent act of every libertine. The imprudence, however, of a woman in keeping a letter of that kind about her, may be censured. A letter of that kind might, perhaps, be kept without any impropriety of conduct, though it showed great imprudence. A virtuous wife might receive such a letter. One wife might throw it in the fire, taking care to avoid all intercourse for the future, with the writer. Another woman might feel it her duty to show it to her husband, even at the risk of causing a personal quarrel.

The motion to give it in evidence is now renewed. The paper has been submitted to the inspection of the court. The object for which it is produced is to show that Jamieson had illicit intercourse with Mrs. Forrest. The paper, by its face, may have been addressed to any woman as well as Mrs. Forrest. The only additional circumstance now in the case with regard to it, is in the evidence of Mr. Godwin, who states that he loaned a book to Mr. Forrest, called "Consuelo,"—that Mrs. Forrest asked him why Mr. Forrest had borrowed it, and he answered that he supposed it was to read it; upon which Mrs. Forrest replied that she supposed it was about that foolish letter which Jamieson had written. It is, then, inferred that this is the letter. But the difficulty still remains. Every one sees that it would be the easiest thing in the world for Jamieson to write such a letter, and for Mr. Forrest to get possession of it. The fact that such a thing could be done, makes it necessary for the court to be cautious.

As at present advised, the court could not permit the paper to be received in evidence.

Mr. Van Buren excepted to the ruling of the court.

Mr. Van Buren.—The next piece of evidence we propose to give is an affidavit of Mr. Forrest, and his letter to Mrs. Forrest, charging his wife with receiving the Consuelo letter, her intimacy with Jamieson, and the place in which the letter was found among her sister's letters; and he proposed to put in evidence Mrs. Forrest's affidavit admitting those charges. He proposed to read only portions of her affidavit admitting these facts, and the other side may read the whole of it, if they see fit.

Mr. O'Conor objected, unless the whole was read, and he did so principally for the purpose of forcing them to put Mr. Stevens on the stand. He was much obliged to them for placing Mr. Lawson on the stand, but he wanted Stevens.

Mr. Van Buren.—And Jamieson.

Mr. O'Conor didn't want him, for he believed he was a worthless fellow, and recent facts that had come to his knowledge confirms that opinion, and prove him to be a person not likely to be permitted to approach a lady of Mrs. Forrest's feelings.

Mr. Van Buren argued for the admissibility of Mr. Forrest's statements, and Mrs. Forrest's admission of the charges contained in those statements, and the omission, on her part, to deny other portions of his affidavit.

Mr. O'Conor was heard in reply.

The Chief Justice reserved the matter for consideration, as it was so near the hour of adjournment. He asked the counsel for a copy of the affidavit and answer.

Mr. Van Buren remarked that the whole proceedings and the injunction were in the printed book.

The Chief Justice inquired what the injunction was for?

Mr. Van Buren.—Restraining us from proving in Philadelphia the facts that we are now proving here.

Mr. O'Conor.—That you are trying to prove.
Adjourned.

December 31st.

Mr. Forrest was in court, and Mrs. N. P. Willis accompanied Mrs. Forrest. The room was crowded to excess. The Chief Justice said that, before proceeding with the trial, he felt it proper to mention a circumstance which had occurred. On coming into court, he found a note on his table, an anonymous communication, which contains suggestions, from some unknown quarter, as to where proof of facts in this case might be obtained. It is evidently from a very illiterate person, and purporting to be written by a woman. He wished to condemn it as most reprehensible for any person to address the court on such a subject. He thought, at first, of passing it over in silence; but, for fear of a repetition, he wished to express his feelings on the matter. He would not intimate that the note came from a friend or well-wisher of either party. He would suggest, however, that if the counsel of the respective parties wished to see it, they could do so; if they do not it will be destroyed, and no further notice taken of it. He repeated that it is a practice which he severely reprehended, and that the court would punish the author of it if he had the power to do so.

The counsel did not make any observation, or manifest any desire to see the condemned communication.

Mr. Van Buren and Mr. O'Conor urged some further argument on the subject of the admissibility of Mr. Forrest's affidavit and Mrs. Forrest's reply.

The Chief Justice decided against the admissibility, and Mr. Van Buren excepted.

Mr. Van Buren proposed to read Mr. Forrest's affidavit, containing a statement of the manner in which the bundle of letters was discovered by him, and the letters which were in it, and showing the subsequent intimacy between Mrs. Forrest and the writer of the Consuelo letter, and in connection with that, he proposed to offer in evidence, the admission in Mrs. Forrest's affidavit, of the genuineness of that letter, and of the intercourse—by intercourse, he mean association—between Mr. Jamieson and Mrs. Forrest, subsequent to that time. He proposed, also, to give the conversation, as detailed in the affidavit, between Mr. and Mrs. Forrest, and Mrs. Forrest's statement in her affidavit, denying and explaining that conversation.

Mr. O'Conor was heard in opposition to, and Mr. Van Buren in support of, the offer.

The Chief Justice, in giving his decision, said he saw no reason why the affidavit of Mr. Forrest should be read in his favor in the outset. If Mrs. Forrest's affidavit is read in full, and any parts of it require explanation, it may then be proper to read Mr. Forrest's. The court did not see that the present proposition differed from the other. It may be a little narrower, and more confined to specific offers, but the principle remains the same. If counsel wished to pursue that line of proof, he must begin by presenting Mrs. Forrest's affidavit. [Exception taken to the ruling of the court.]

Mr. Van Buren was then proceeding to read Mrs. Forrest's affidavit, and said he would read portions of it.

The Chief Justice said that he might read such portions of it as he wished, and the other party could read the parts he omitted.

Mr. Van Buren then read certain extracts from Mrs. Forrest's affidavit.

Mr. Van Buren then proposed to read the statement in Mr. Forrest's affidavit as to the manner in which he discovered the letter.

Mr. O'Conor claimed that before that was done, the whole of Mrs. Forrest's affidavit should be read. The counsel had only read portions of it, which might be injurious to Mrs. Forrest, unless the whole were read.

Mr. Van Buren contended that it was proper for him to give Mr. Forrest's statement in this connection. He referred to the case of Gerry and Nichols, 24 Wen del.

The Chief Justice had never known an instance where a party was permitted to read a portion of document, and then proceed to another part of evi dence. He had no doubt that having read a portion o the affidavit, the plaintiff has a right to place the whol of it before the jury. It is immaterial whether it is rea by the defendant's counsel, or Mr. O'Conor, or by th clerk of the court. It is a mere matter of form, as t the manner in which it is done; the spirit of the thin is that the whole should be placed before the jury, an that must be done before the parts of it which hav been read can be considered in evidence.

Mr. Van Buren.—Do I understand your honor tha the parts I have read are not in evidence unless th whole is read?

Chief Justice.—I mean, sir, that I will exclude it fro the evidence unless the whole is read to the jury.

Mr. Van Buren excepted.

Chief Justice.—Do I understand counsel on the othe side to call for the reading of the whole of it.

Mr. O'Conor.—With the exception of certain portion which I will mark.

Mr. Van Buren.—We deny the right of the othe side to read the whole of this, and submit that they have only a right to read such parts as explain the por tions that we have read. I object on the ground tha the parts do not qualify or explain the parts we hav proved, and on the ground that they are irrelevant t the issue, and we except to the ruling of the court i admitting it.

After some few minutes' delay, occasioned by Mr. O'Conor's marking portions of the affidavit which he wished omitted,

The Chief Justice suggested that, as the affidavits were very voluminous, counsel might be relieved by some other gentleman reading them.

Mr. O'Conor said that when Mr. Van Buren felt tired, he would have no objection to take up the read ing of them.

Mr. Van Buren said he would feel no difficulty, and then commenced reading the affidavits of Mrs. Forrest, of which the following are the most important points:—

Catharine Forrest against Edwin Forrest.—City and County of New York, ss.—Catharine N. Forrest, the plaintiff in this action, being duly sworn, deposes as follows, that is to say:—

I have not, in this action, charged Mr. Forrest with infidelity, and was advised that it would be irrelevant to the present case to make such charge or refer to such offence by him. But, as he, or his counsel think otherwise, it may be proper for me to state the facts. The annexed schedule, marked "Copy, Charge and Answer," contains the charge on that subject made by me in another action, (omitting the numbers of houses and names of female participators,) and also contains Mr. Forrest's answer in that action. I am advised and believe that such answer is a virtual admission of the infidelity charged. He denies the fact, at the particular times or places charged, but has not ventured to deny the fact itself. I may have been misinformed as to those particulars, but the principal fact remains undenied by him. My affidavit made in this action on the second day of September last (1850) was prepared by one of my counsel, under my instructions. I was in his office during nearly all the time he was writing it, and I prepared three copies of it with my own hands, at my own residence before depositing to it. I was under no earthly influence in the preparing or the signing of said affidavit, save my own judgment and reason; though, of course, from time to time, I received the advice of counsel, and I do now re-affirm the truth of said affidavit, in all respects. I deferred this action against Mr. Forrest to the latest practicable moment, and thereby afforded him time and opportunity to recede from his pursuit of extreme measures against me. Both in my protest to the Legislature of Pennsylvania and my said former affidavit, I studiously avoided reference to irrelevant topics and

censures of third persons; also abstained from any imputation against Mr. Forrest, except to the extent which was absolutely necessary to the maintenance of my action, and seemed necessary to the vindication of my own innocence * * * * *

Mr. Van Buren.—The part I am asked by counsel on the other side to omit, is the next sentence, down to "upon me or mine," but which I will not omit. Mr. Van Buren then continued to read—

When I perused Mr. Forrest's affidavit, evidently framed by himself for publication, imputing to me every grossness and criminality that fancy could suggest, and involving my aged father, my sisters, all that are near and dear to me, I became convinced that further forbearance was not my duty, and that thenceforward, as far as truth would warrant, honor and duty required me to repel all Mr. Forrest's imputations; to present his proceedings against me in their true colors, and to deny his self-praise whenever it was unfounded in fact and reflected, even indirectly, upon me or mine. True it is, I am a woman and a wife, and it may be thought that I defend too firmly. True it is, that Mr. Forrest is yet my husband, and submission to him may be thought obligatory upon me; but none can deny that in him I must also now recognise a bitter and relentless enemy; one who took me from my father's hearth, promising to cherish and protect me, and now after wearing out in his service all the bright years of my youth, seeks to cast me forth, covered with infamy, and to insure my utter destruction is persecuting all, even of my nearest kindred, who venture to afford me the slightest countenance.

Mr. Van Buren.—Then comes the part I have read before.

Chief Justice.—It is proper it should be all read in connection.

Mr. Van Buren then continued to read.—In reference to what happened after his alleged discovery of my unworthiness, he quoted me as saying that he treated me "with compassionate kindness." He also asserts that he treated me with "the consideration and gentleness due to a woman;" that he is of an unsuspicious disposition; that he had "always, in his relations with me, been affectionate and happy;" that he has "fully complied with his obligations; been, until the separation, my constant and affectionate companion; uniformly attentive, tender, and indulgent; that we lived harmoniously, in a spirit of kindness and confidence, until such discovery; and that his conduct has been generous and kindly." My affidavit contains no such idea as that quoted, nor did I ever say any thing of the kind; and the rest of Mr. Forrest's assertions above referred to, are essentially untrue in all respects. The extravagant character and manner of Mr. Forrest's charges against me, lead many to suppose that he is insane; and others, perhaps, believe, that he is the victim of misrepresentation. I think I know that he is not insane; and I have good reason to be confident that he is not in the least misled. I am quite sure that he is himself the immediate originator and instigator of all the charges he advances, and that the agency of others, is in mere obedience to his will.

Mr. Van Buren.—I now read another sentence which they wished me to omit. He then continued:—More deeply still do I lament, that in his rage against me, he should be privileged to publish his rude invectives against my sister, for having affectionately stood by me, throughout my trials. * * * *

Mr. Forrest never found me standing between the knees of Mr. Jamieson, or with his hands upon my person, or in any immodest position whatever, nor did he ever ask what any such transaction meant, nor did I on any such occasion, change my position or reply with perturbation, or otherwise, that Mr. Jamieson had been examining my phrenological developments. I never wrote to Mr. Jamieson after Mr. Forrest found the Consuelo letter. Mr. Forrest never said a word to me at any time in his life, about the peculiar position in which he had found me, or in which I had been with Mr. Jamieson, at Cincinnati, or anywhere else. Mr. Forrest never asked me if I had written to Mr. Jamieson, nor did I ever call God to witness, or say that I had not so written. And my first knowledge of any such facts existing, even in imagination, was obtained from Mr. Forrest's pretended evidence before the Pennsylvania Legislature, subsequently to the first of February last (1850.) **The allegation that I received visits or attentions from Mr. Jamieson, after the Consuelo letter, has this much truth in it:—Mr. Forrest and myself returned to Cincinnati, where we remained for three days, at the same hotel in which Mr. Jamieson also boarded. He conducted himself with ordinary courtesy to me when we met during these days. Mr. Jamieson promised, in the presence of Mr. Forrest, at Cincinnati, to bring me, when he next came to New York, some music which I had, from haste and inadvertence, omitted to pack up. In August he called upon me at the house in Twenty-second street, delivered me the music, and spent some half hour paying an ordinary morning visit. It was one o'clock in the day, and I received him with what he seems to have considered coolness. I had once expressed a sufficient censure of the Consuelo letter, and I did not intend in any form, favorably or unfavorably, to notice it further. I therefore cannot say that I intended to exhibit any feeling in my manner on that occasion.

Mr. Jamieson never called upon me after our final departure from Cincinnati, except this once. Further than this, it is not true that I ever received any visits or attentions of said Jamieson, after the receipt of said Consuelo letter.

The first conversation between Mr. Forrest and myself about the Consuelo letter, was later than January 20, 1849. The conversation between Mr. Forrest and myself about that letter was as stated in my said former affidavit, and none of the additional matters, stated in Mr. Forrest's affidavit, took place; he did not, in speaking of such letter, refer to the subject of virtue; he did not say that said letter involved my character fatally or at all; he did not charge me with retaining it secretly, except by asking me why I did not show it to him; he did not say that a really virtuous woman would have spurned it, or torn it to pieces, or "flung them into her insulter's face," or never seen him afterwards; I never, verbally or otherwise, "admitted an imprudence in receiving or concealing such letter."

I did not then, or even before December 24, 1849, protest that I was not guilty of crime; I never said that I was afraid, in reference to such letter; I never exclaimed, "Oh, God, why did I not destroy it?" or said anything of the kind; nor did Mr. Forrest ever remark, "that it was reserved by heaven as the instrument of my exposure."

Mr. Van Buren.—Here is a sentence which I am asked not to read, but which I do read:—I declare that each and every of the allegations of Mr. Forrest, in his said affidavit, touching his conversation or conversations with me and herein above denied, is wholly, and in every respect, untrue.

During the interval between Mr. Forrest's first announcement of his intention to separate from me, and the actual separation, I spoke with him about the event, and its painful consequences to me. I said that but one cause could justify him in it, that was a departure from virtue by me. I said that the public would assume that cause to exist, and condemn me accordingly. Mr. Forrest replied that there was an eminent example to the contrary; that a distinguished citizen, high in office, whom he named, had separated from his wife, and had never tolerated inquiry as to its cause, and he desired me, if any one ever dared to insult me, or question my purity on account of the separation, to call upon him, and he would defend and right me. The apparent kindness of this offer led to a somewhat free, but, on my part, a very sad conversation between us, as to my future course of life. Mr. Forrest said that, perhaps, my vanity would lead me to go upon the stage. I answered that perhaps it might. He rejoined, substantially, then I was lost—that I would descend, step by step, from bad to worse, and would, at length, become criminal. I replied that there was nothing in my past

life to warrant his saying so, and, whatever evil might thereafter befall me, I wished to give him, at that present time, whilst I yet had his confidence, for his satisfaction in such evil hour—should it ever come—the strongest proof in my power, that, whilst living with him, I had never deviated from rectitude. Accordingly, I requested him to write for me the most solemn paper to that effect which he could devise, and offered to pledge myself to its truth. Mr. Forrest at once scouted at this idea, and declared that he never would have lived with me an instant, after entertaining the slightest suspicion of me; but, on being pressed, he wrote a paper, which I signed. I read that paper but once, and then rather rapidly. I have no copy of it, nor any precise recollection of its contents. * * * At a time when the day of separation, for the time being, stood fixed for the twenty-third of April, Mr. Forrest being, as he informed me, under an engagement to perform at the Broadway Theatre, New York, for some weeks, commenced upon the last-named day, I suggested to him that, if a separation should then take place, it would probably be imputed to his controversy with Mr. Macready; and advised him to permit me to remain with him until the close of such engagement; to which he immediately returned his dissent, and stated that the said separation should commence when our then present residence was broken up. * * * *

Mr. Van Buren.—I am requested to omit, and do omit a passage here.

He then continued to read:—I never secreted the alleged Consuelo letter, or kept it concealed; nor did the said Edwin Forrest ever discover that it contained any avowal of any illicit or criminal intercourse. I verily believe that at the time the said Edwin Forrest first came into possession of said Consuelo letter, he was seeking for grounds upon which to frame some excuse for repudiating me; although I can scarcely believe that he had as yet conceived the design of imputing unchaste conduct.

"Consuelo," the heroine of a modern French novel, is therein represented as a woman characterized by the highest degree of amiability, chastity, and purity, that the mind could conceive or language portray. The word signifies "Consolation," when rendered into English. No reason could exist for the adoption of that address in said letter, except some fancied resemblance between the character of the person addressed and the heroine.

The deposition of Mr. Parke Godwin, obtained by Mr. Forrest, and presented by him to the Pennsylvania Legislature, states that about January, 1849, he lent Mr. Forrest this very novel. I am quite confident that Mr. Forrest so borrowed it in order to satisfy himself as to the character of the imaginary heroine, Consuelo, and thence to determine the practicability of founding upon the letter some charge against me.

* * * * * * *

There are circumstances connected with Mr. Forrest's present story, conclusively establishing that the Consuelo letter had nothing to do with our separation, and that he sentenced me to that separation on the eighteenth of January, 1849, without the slightest suspicion on his part of any impurity or impropriety in my demeanor as a wife. In a word, he expressly admits that he pronounced that sentence because I uttered to him an offensive speech, and for no other cause whatever. * * * * *

The statements contained in Mr. Forrest's affidavit, about my going to a drawer, starting back, uttering an exclamation, being asked a question by Mrs. Bedford (now Mrs. Underwood), making a reply thereto, expressing gladness, and wishes, about drawers and letter, and burning any letters, are, and each and every of them is, wholly untrue, in every respect. Nothing of the kind ever occurred. * * * *

It is not true that carefully, or in any other way, at Cincinnati, or anywhere else, I preserved about my person a bundle of letters; nor do I believe that Mr. Forrest ever thought he had observed any such act. I never entreated or requested Mr. Forrest's silence in relation to any act or conduct of mine, nor did he ever agree to be silent to shield me from shame or suffer in silence. * * * * * *

The affidavit of Mr. Jamieson to which Mr Forrest refers, was made without any solicitation or interference on my part, and a copy of it sent, as I believe, to a New York newspaper for publication. The person to whom it was sent by Mr. Jamieson, handed it to my counsel, and I intend that it shall be presented to the court in this case. It was not prepared for, or even placed before the Pennsylvania Legislature to my knowledge or belief. * * * * * *

It is not true that when Mr. Forrest was at home, the house was closed and the family retired at ten or eleven o'clock. Ever since our marriage we were in the habit of keeping very late hours, as all our friends know: and this habit was continued even until the week of our separation. On the Sunday prior to the separation, some of Mr. Forrest's friends who dined with us did not leave our house until after four o'clock the next morning. It is not true that our house was a scene of revelry and intemperance during Mr. Forrest's absence. Mr. Forrest had always, since the time we first went to live in Twenty-second street, expressed a desire that if I wished to invite ladies, I should do so in his absence; and it had been my custom to do so for years, as I found it almost impossible to induce him to go into society, and his absence on professional duties was the only excuse I could make for his refusing to visit his friends. * * *

Mr. Van Buren—There is another passage which I am requested not to read, and I omit it. He then continued—

There is not the slightest truth in the charge of intemperance made against me by Mr. Forrest in his said affidavit. I never was intoxicated, in any degree, in my life: I never heard of such a charge, from any quarter, until Mr. Forrest's affidavits, printed in February or March, 1850.

It is true that Captain Calcraft, an old friend of my father, visited me and my sister occasionally; that he once dined with us, and once helped to carry a tray, as mentioned in his affidavit; it is true that Mr. Samuel Marsden Raymond spent one night at our house; it is true that Mr. Richard Willis, his sister-in-law, Mrs. N. P. Willis, Mrs. Voorhies, and myself, on one occasion, under circumstances perfectly justifying the act, did stay up a whole night until daylight. It is true that Mr. and Mrs. N. P. Willis, together and alone have visited me; it may be that on some occasion Mr. Henry Wikoff came home with me in a carriage on an evening. Dr. Rich, on some few occasions, I am not sure of more than twice, visited me, professionally, in my sick chamber, after ten o'clock at night, during a period of six weeks that I was confined with a severe attack of inflammation of the lungs.

Professor Hackley, during my said illness, brought my sister Margaret home from a party at his house, at about eleven o'clock at night, in winter; Mrs. Hackley, as I am informed and believe, had desired Mr. Hackley to inquire how I was; there was no fire except in my sick chamber, and, for the purpose of introducing him into a warm room, and facilitating the polite message or inquiry of Mrs. Hackley, he was asked into my chamber, where, in presence of my sister, he remained a few minutes. Mr. Hackley did pass through the basement, as hereinafter explained.

[Mr. Van Buren.—From this point down to "as I am well assured," I am asked not to read, but I will read it—Laughter.]

And with these exceptions, I aver that none of the facts stated in Mr. Forrest's affidavit, on information derived from Mrs. Underwood and Robert Garvin, or from the affidavits or depositions of either of those persons, or as appearing in their testimony or evidence, or stated in Mr. Forrest's affidavit to have been known, seen, or heard, by either of those two persons, or as having attracted the attention or excited the suspicions of domestics—ever occurred or happened. To the best of my knowledge and belief, none of the matters alleged by Mr. Forrest, upon information from the persons named, Underwood and Garvin, or as having been testified to, or known by them, or either of them, have

been sworn to by them, or either of them, in such a manner as to render them responsible to the laws of this, or any other State. Whenever they venture so to testify, I can effectually contradict and impeach them, as I am well assured. When I first came to my house in Sixteenth street, it was in a very unfinished state, and a whole month elapsed before we used any door for entrance or exit but the basement. We used the basement room also for our meals, and, indeed, for all purposes during the day, because the parlors were unfinished. Dr. Hackley called once or twice during this period, and one evening he came just as we were going to tea; he joined us, and shortly after Mr. Stevens called, and rang the bell (which had only that day been put up). The servant, as I am informed and believe, on admitting him, asked him to come down to tea, but he declined, and went into the parlor, which was not completely furnished. When we had finished tea, Dr. Hackley said, "I have an engagement, so I will not go up stairs, or I shall stay too long," and he left by the same door which he had entered, and which we had all been in the habit of using until that day. I believe Mr. Stevens was the first person who had been admitted by the hall door.

Andrew Stevens, named in the affidavit of Mr. Forrest, is the same person who aided Mr. Forrest in the transmission of his letter to me in December, 1849, he has been Mr. Forrest's instrument throughout this affair; he has reviled myself and my sister shamefully in the newspapers; and, as I am advised and verily believe, he can be effectually impeached whenever he shall appear in a court of justice, and depose to any of the matters which Mr. Forrest asserts on his authority. There is not any truth whatever in the statements alleged in Mr. Forrest's affidavit to have been made by him, said Stevens. * * * * *

In relation to the testimony of the Rev. E. L. Magoon, spoken of in Mr. Forrest's affidavit, the facts are as follows:—I was on terms of the greatest friendship with him; I conceived him to be an honorable gentleman, and a true, pure-minded Christian. His letters, in my possession, and ready to be produced, manifest a regard for me of the kindest description. If the Consuelo letter had not been found, these are so kindly, affectionate, and familiar, they would have answered Mr. Forrest's purpose about as well, though they are certainly pure and innocent. I remember saying to Mr. Magoon that Mr. Forrest was variable in his demeanor towards me; that sometimes he was morose; sometimes he was affectionate, and frequently treated me more like a sister than a wife. I understand that he has testified to my having told him "that for several months previous to her late separation, she and her husband had known each other only as brother and sister." I have no doubt my figurative use of the word sister was misunderstood by him. I presume that he really thinks that I made him the very immodest and unbecoming communication which he has reported. I did not make it. I did not suppose Mr. Magoon deemed me capable of making it. * *

I did not leave Mr. Forrest, or his residence, voluntarily, or consent to a separation; I did not resist—men at the place of execution never resist, yet I suppose they are not willing to die; I was quiescent as they usually are, and consented no more than they do. * *

My present course of life is not prodigal, nor reckless, nor do I give expensive entertainments to any persons, or receive or entertain any person or persons of loose and degraded character as Mr. Forrest untruly alleges.

We have little time to receive visitors during the day, but we are always at home to any friends who may call in the evening. * * * *

The charge of keeping unworthy company, and of evil habits and character, made against my sister Margaret by Mr. Forrest, is wholly untrue. He never made such charges until the present year, to my knowledge or belief. It is also untrue that I ever made parties for the purpose of bringing Mrs. Voorhies into society. I used to meet all or nearly all, the ladies of my acquaintance at her rooms in Great Jones street, where she boarded with Mrs. Ingham for two years prior to our taking the house in Sixteenth street. The character of her associations may be judged from the fact that I hold the letters of Judge Conrad and Mr. Magoon, the witnesses of Mr. Forrest, written since our separation, and speaking of her in the kindest terms. She has been a chorister in one of the Episcopal churches for seven years. It would not become me to give a list of her respectable friends, but I may be permitted to name those I can at the moment remember at her party on the 18th January, 1849, on my return from which I was sentenced to separation. They are Mr. George Hall, formerly Mayor of Brooklyn, and lady, Miss Hall, Mr. Hall; Mr. Valentine G. Hall, Mrs. Hall, Miss Hall; Mr. Voorhies, Mrs. Voorhies, the Misses Voorhies; Mr. and Mrs. Wm. C. Bryant; Mr. and Mrs. Parke Godwin; Rev. Mr. Bellows, Mrs. Bellows; the Rev. S. Parker; Mrs. C. M. Kirkland, Miss Kirkland; Mr. and Mrs. N. P. Willis; Miss Anne C. Lynch; Mr. and Mrs. Henry Swift of Brooklyn, Mr. and Mrs. Robert Watson; Miss Kate Sedgwick; Mrs. Captain Britton, Miss Britton; Mr. and Mrs. Thomas Ingham, the Misses Ingham; Monsieur and Madame Troy; Mr. and Mrs. Lehman; Madame Oppenheim; the Rev. J. T. Headley; Mr. Tweedle. I have already stated that Mr. James Lawson, and his lady were there, also.

Mr. Forrest states that, on the evening of my return from this party, he spoke of "the dangerous character and associations" of my sister, and that in the course of a heated argument he so characterized them, and imputes my offensive response to these remarks on his part. The fact is otherwise. Immediately on my return, he inquired who had been at the party. I told him, and he seemed quite satisfied. He could not have been otherwise. It is true, he asked if Mr. Stevens was there. I said "No;" and to this he made no response. He then began complaining that I was more attached to my sister than to him. He said nothing against her purity or morals, but charged her in strong and harsh terms with influencing and prejudicing me against him, and being opposed to him. This was the whole tenor of his remarks, but the manner and terms used were very severe.

Mr. Van Buren.—Here are two passages which I am asked not to read, but which I intend to read:

The letters which Mr. Forrest found, from my sister to me, he saw and examined without telling me he had done so. I knew he had, from extracts which I saw he had made from them, and which were in his portfolio. I said he was most welcome to see them, and he then read them with me, and seemed quite satisfied with my explanation of the several parts of them. Prior to the autumn of 1849, Mr. Forrest never forbade my sister to enter his house, or forbade me her society, or objected to my association with her as demoralizing, discreditable, or improper in any way He had, indeed, previously to that time, and beginning about November, 1848, shown ill will to her, and in January, 1849, charged her with influencing me to differ with him in opinion.

Mr. Van Buren.—I am asked to omit the next passage, and I do omit it.

Counsel then continued to read.—Mr. and Mrs. Willis dined with Mr. Forrest and myself at our house, in 1846. Mr. Forrest, Mr. Willis, and myself visited Fonthill together in 1848, and the most friendly relations appeared always to subsist between Mr. Forrest and Mr. Willis. I never heard a murmur against Mr. Willis from Mr. Forrest until the summer of 1849, after our separation, when Mr. Forrest expressed to me his dissatisfaction with some article published by Mr. Willis in his paper about the Astor riots, and about Mr. Forrest's dispute with Mr. Macready. I do not feel bound to enter into the controversy between Mr. Forrest and Mr. Willis, except where it directly touches myself. I never heard that Mr. Forrest suspected or charged any impropriety between Mr. Willis and myself until February, 1850. * * * *

At the time of Mr. Forrest's separation from me, he was engaged in a furious controversy with Mr. Macready, which ultimately led to shocking violence and

bloodshed, and the loss of many lives; and during the whole progress of that controversy, Mr. Forrest did his utmost to attract public attention to it.

Mr. Forrest asserts, on information and belief, that previously to December, 1849, I had, on frequent occasions and to divers persons, misrepresented the cause of our separation, and had ascribed it to the conduct of Mr. Forrest, and had alleged that it arose from my opposition to his course in a controversy with Mr. Macready. He states further, that this misrepresentation, in his judgment, reflected so deeply on his character that he felt compelled to vindicate himself by a resort to the tribunals of his country. From circumstances, I verily believe every part of this statement of Mr. Forrest to be absolutely untrue. * * *

When Mr. Forrest called at Mr. Godwin's house on the 31st of May, 1849, to see me, he said that he should in all probability remove his sisters from Philadelphia to Fonthill, some time during the summer, and that they were to keep house for him there. I am informed and believe, that he continued the building or finishing of the large house, and some time during the month of November, 1849, purchased additional furniture for his library therein.

As Mr. Forrest chooses to make public our intercourse in relation to his controversy with Mr. Macready, I will state the facts. We certainty had serious differences about Mr. Forrest's conduct towards Mr. Macready. I strongly disapproved of his hissing Mr. Macready in Edinburgh, in 1846, and remonstrated with him for the manner in which he spoke of Mr. Macready, prior to his (Macready's) arrival in this country in 1848. I objected to Mr. Forrest's habit of stating on all occasions, in promiscuous companies, his determination to have Mr. Macready driven from the stage, and to Mr. Forrest's leaving money at Boston and sending some to New Orleans in 1848, for the furtherance of the above object, as Mr. Forrest informed me he had done.

Mr. Forrest frequently became very angry with me about this, as he attributed the part I took in the matter to my English feeling, I repeatedly assured him that it was not so, but that I thought he compromised his dignity by the violence of his opposition. When, however, Mr. Macready made a speech which conveyed to my mind an insult to my husband, I felt as a wife most anxious that he should resent it. When I wrote to Mr. Forrest, well knowing the state of excitement under which he was laboring, I said everything I could to encourage, and nothing to oppose him. On my joining him in Philadelphia in the autumn of 1848, he asked me again to tell him more particularly how I approved of his "card." I then said I regretted he had inserted any epithets, upon which he became very angry, and blamed me for want of sincerity in my letter to him, and I told him what was true, that I preferred speaking anything which might not be agreeable to writing it; especially under the circumstances, when surely it was not the part of a wife to add to his vexations,—that when many joined in blaming him, even if I had thought him more in the wrong than I did, I could not say so. The terms "Mac," "superannuated old woman," etc., are quoted from Mr. Forrest's own words and letters. His said letters are in my possession.

Mr. Forrest was wrought up to such a state of excitement about Macready, that his friends feared lest he should utterly lose his reason, and I could not have attempted to control or oppose him.

I never urged him to violent measures against Mr. Macready. * * * I had not approved his course against Macready unqualifiedly, and in all things, and I might well have attributed the separation to this cause. But there were other causes, and I could not be sure what was the leading one, or whether it was not a result of many causes. I had ample reason to believe that Mr. Forrest was in correspondence with a woman of respectable connections, but of bad reputation.

To this cause, in fact, in my own mind, I mainly attribute his desertion, and my hope of reclaiming him hung upon the slender expectation that he might become tired of that attachment. * * * *

I never said to James Lawson that I had asked Mr. Forrest whether he had a word to say against me as a wife, nor did I ever tell Mr. Lawson that Mr. Forrest said. "No, Catharine, no, and would to God I could, for then I should not suffer the agony I now feel." All that Mr. Lawson has testified to on that subject in his affidavit in this action, taken before Joseph Strong on the 15th November, 1850, is utterly untrue. No conversation of the kind, nor anything bearing the least resemblance to it, ever took place between me and Mr. Lawson. The relation which Mr. Lawson holds to Mr. Forrest, the total absence of any foundation for this statement, the course Mr. Lawson has pursued in this business, and the unquestionable untruth of his said affidavit in another respect, warrant me in saying that this statement is not a mere mistake on his part. * * * * * * * * *

Mr. Lawson has misrepresented the matter of his letter in my behalf to my father. Mr. Lawson is a countryman of my father. I thought he was my father's friend and mine, and I now think he was, but it has become his interest to act in hostility to us. I wrote him a note requesting him to write to my father for me, breaking to him the ill news of our separation. He wrote accordingly as I know; for my father returned me the original letter. * * * *

[Here follows Mr. Lawson's letter to Mrs. Forrest, dated 2d of May, 1849, already published and marked No. 19, in Monday's proceedings. Mr. Van Buren read it again, and also Mr. Lawson's letter to Mr. Sinclair, dated May 1, 1849, and which has already appeared.]

Mr. Van Buren continued to read from the affidavit:

It will be seen that Mr. Lawson, under his own hand, written at the very time, declared that Mr. Forrest read and approved his letter to my father, containing the assertion of my innocence; yet now, it seeming to be necessary for his employer's purpose, he testifies that said letter was sent without Mr. Forrest's knowing its contents. He told me about the time, that Mr. Forrest had read and approved it. I understand and believe that he so stated to others. * * *

Mr. Lawson then suggested that Mrs. Voorhies should leave the house in order to conciliate Mr. Forrest. Some few evenings after this conversation, Mr. Lawson called again and said that Mr. Forrest was most anxious to know whether I had consented to send my sister away, and further, that Mr. Forrest had remarked, "By this I will test her affection for me, if she has any." I told Mr. Lawson that we had taken the house in Sixteenth street together, and made all our arrangements to stay there during the winter; it would be most inconvenient for my sister to leave, and that his suggestions should have been made prior to the taking of the house; Mr. Lawson said, "I'm sure, for the furtherance of such an object, she would consent to go for a week or two." I replied that I could not ask her to do so, but would tell her the substance of our conversation, and would let him know her determination the following day, when I should call on him for my quarterly allowance. * * *

[Here follows Mrs. Forrest's letter from Mr. Lawson, read on Monday, and marked No. 14.]

Mr. Van Buren continued to read from this affidavit:—

* * * Mr. Lawson called on me one or two evenings prior to this correspondence; but I declined seeing him; in the first place, because I felt hurt at being trifled with on a matter of such importance, and in the second place, because I wished to receive any communications he might have for me in writing; he wrote me, as he states, Dec. 1, 1849; his letter contained additional matters which he has omitted; I give the balance of it, and my answer to it: "I received your note of Tuesday evening; you still labor under a misapprehension. You write 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 understand you rightly, people have convinced you that I am your enemy. Who 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."

To this I replied :—

DEAR SIR: About a fortnight ago I received a note from you, which wounded me so deeply, that I could not resolve to reply to you, my mind had been wrought up to such an intense state of excitement and anxiety, and I was so much weakened by illness, that I feared I should be again misunderstood if I should express myself as I felt. Though I have suffered deeply during the whole time that these negotiations were pending, I never impugned your motives for acting as you did. I only blamed you for deceiving me as to the state of Mr. Forrest's feelings, and for giving me hopes which had no grounds but in your own imagination; but in conveying to me the failure of your attempts, you broached topics which are understood by none save Mr. Forrest and myself; and express opinions which I am certain Mr. Forrest never sanctioned; we discussed our own affairs long enough to preclude the necessity of our having any one to interpret them for us. When I saw Mr. Forrest subsequent to our separation, he gave me every assurance of his belief in my sincerity, and that faith I have done nothing since to forfeit. Prior to these last few weeks I had always entertained a hope and belief that time alone could heal the existing breach, and that when the reflection of years had soothed some present asperities, we might both be again comparatively happy; for this reason I have discouraged all interference into the matter, and have permitted no one to question or discuss Mr. Forrest's motives or conduct in my presence. I conceived the second note which I wrote to you, and to which you refer, to be an explanation of my first, and called at your house the day I sent it [when I was extremely unwell], in order to show that I had no unfriendly feeling to you. I have always welcomed you as a friend, for, till now, I have thought you one; those who knew better than I did, say you could not be so to both parties; but I, conceiving our interests (Mr. Forrest's and mine)to be inseparable,acted accordingly. Mr. Forrest and I parted friends. I learn with sadness that his feelings have changed, and to you alone can I ascribe the blame. That this should be a matter of little importance to you I can understand; I am not in a position to make it of consequence—but your Christmas will gain nothing in mirth or content by the reflection that you have wounded one already suffering deeply, and without kindred or friends in the whole country on whom she has a right to rely. With much respect and some sorrow thus to close a friendship of twelve years' standing, I remain, &c.,

CATHARINE N. FORREST.

Mr. Van Buren.—I am asked to omit the following sentences, down to "impurity," but I shall read them: —I cannot procure voluntary affidavits, but I am informed and verily believe, that I can prove on any trial where it may be relevant, the representation repeatedly made by said Lawson to his intimates that the instant Mr. Lawson communicated this "result" to him, Mr. Forrest dropped upon the floor, with such suddenness and violence that he hurt himself considerably. This was five weeks after his letter of 24th December, charging me with impurity. It was quite true that Mr. Lawson asked me who was wrong in the unknown cause of our separation, and that I answered that "I was." My protest to the Pennsylvania Legislature, my former affidavit, my omission here to deny the unbecoming word imputed to me, are all equal admissions of that fact. I did not say to Mr. Lawson, "Ah, sir, the difficulty in our case is that a third party knows it," nor anything to that effect, or say anything nearer to it than is hereinafter stated.

He says these were my very words. I deny it absolutely. I believe these words and the words last quoted in his affidavit, were written for Mr. Lawson by one whom he cannot disobey.

I am quite sure Mr. Lawson said nothing to me about repentance or atonement. I gave him the idea that the cause was an insult Mr. Forrest could not get over; I think he said something about no one else knowing it, and that I said one other person did know it; I meant my sister Margaret, but did not name her. Mr. Forrest's expressed wish for its concealment bound me to conceal it from all except my sister.

Mr. Van Buren.—From this to the end of the affidavit, I am asked not to read, but I will read part of it. He then continued to read :—

Mr. Forrest speaks of another affidavit in his possession, containing a charge against me. The fact alleged never occurred, and as he has not ventured to name his witness, or even the alleged participator, I can give no further answer to that imputation.

I did not furnish for the press a copy of my complaint in the action for an absolute divorce, as alleged by Mr. Forrest. My counsel, as I believe, used his best exertions to keep it concealed, and for that purpose prevented it from being filed. I believe that a copy was obtained from my attorney's office, and sent to the press by a person friendly to me.

* * * * * *

Mr. Van Buren.—I am asked to omit, and do omit the remainder of it. The affidavit is dated Dec. 20, 1850.

Mr. Van Buren then read the copy of charge and answer.

Mr. Van Buren then read Mr. Forrest's petition to the Legislature of Pennsylvania.

Mr. O'Conor said that the complaint of Mrs. Forrest against Mr. Forrest in her first action was next in order, but he would only require counsel to read the seventh allegation.

Mr. Van Buren then read the seventh allegation, as follows: She, the said plaintiff, has at all times, since her said marriage, lived and conducted herself in a chaste and virtuous manner as the wife of him, the said Edwin Forrest, and has never committed adultery, or been guilty of any unchaste, impure, or immodest conduct whatever. * * * *

Mr. O'Conor then said, that the affidavit of Mr. Parke Godwin was referred to, and he would wish to have it read in the event of Mr. Godwin having gone to Europe, as he expected to go this morning. He also thought the statement of Jamieson should be read, as he conceived it to be adopted by Mrs. Forrest's affidavit; but he would not press to have it read now.

Mr. Van Buren.—I decline reading it as a part of the affidavit; it is not adopted by Mrs. Forrest—it is only referred to by her. If it had been presented to the court, it would be clearly inadmissible, and of course cannot be produced in evidence now.

The Chief Justice said it did not strike him as coming within the rule, and that the defendant was not compelled to read it; affidavits should not be permitted when the party could be called to the stand. Are you done with the reading?

Mr. Van Buren.—No, sir; I am only about beginning now. (Laughter.)

Chief Justice.—Well, sir, we will postpone it until next year. (Continued laughter.)

Mr. Van Buren.—Before the adjournment of the court, I would wish to read that part of Mr. Forrest's affidavit which refers to the Consuelo letter.

Mr. O'Conor objected to any portion of Mr. Forrest's affidavit.

Mr. Van Buren.—Then I submit that we are entitled to read the whole of it, as it is referred to several times by Mrs. Forrest in her affidavit.

Mr. O'Conor submitted that the counsel had no right to produce any paper before this jury which would be a sworn affidavit of Mr. Forrest in his own favor. Mrs. Forrest's repeated denials, and her impeachment of Mr. Forrest's affidavit, can't make it evidence.

Mr. Van Buren hoped that the court would not understand that he offered the affidavit because it was sworn to, though it would appear on the reading that

it was made under oath. He proposed to read it as a statement explanatory of the circumstances detailed in Mrs. Forrest's affidavit. He was at a loss to see, after the full reading of the affidavit on the other side, why this extreme uneasiness should appear, and why he should not be permitted to read it as a statement to the jury.

Chief Justice said he would stop the proceedings for to-day. If the party is entitled to read the whole affidavit, that will, of course, dispose of the objection. I will decide on Friday morning.

Adjourned.

January 2d.

The court room was not so densely crowded this morning as on the former days of the trial, though it was pretty well filled. Mr. Forrest was early in attendance. Mrs. Forrest and Mrs. N. P. Willis were not in court to-day, but were in the law library, down stairs. Three other ladies, witnesses, were in attendance.

At half past ten o'clock the jury were called. One of them (Mr. Earle) not answering to his name, the proceedings were suspended for awhile. Mr. Earle shortly afterwards made his appearance.

The Chief Justice said that, at the adjournment of the court on Wednesday, the motion was pending as to the admissibility of Mr. Forrest's affidavit. If there was nothing more to be said on it, he would dispose of it at once.

Counsel did not offer any further remarks.

The Chief Justice then said that he did not consider the door open for all of Mr. Forrest's affidavit. If there are any parts of it necessary, he would dispose of that offer when raised.

Mr. Van Buren then said, I propose to read from Mr. Forrest's affidavit, folio 370, ending at 391. It gives a copy of the Consuelo letter, and describes the manner in which the defendant found Mrs. Forrest with Jamieson. Counsel then pointed out the several portions of Mrs. Forrest's affidavit, in which she referred to the Consuelo letter. In one part of it, she says, in reference to the allusion to that letter in Mr. Forrest's affidavit: "About the Consuelo letter, there is much truth in it," and so on. He also proposed to read that part with reference to her keeping the letter concealed.

Mr. O'Conor said, that after the sworn acts of adultery testified to by three witnesses—after such a mass of sworn acts of adultery testified to by Ann Flowers, from the commission of the crime to the music of the bedstead, and by Robert Garvin and John Kent—after all this, it seemed to him extraordinary that the counsel should go to such lengths to get in the letter of Jamieson with some romantic lines in it. This certainly shows the utter impotency of their sworn evidence. I offered to the other side a stipulation to send a commission to St. Louis, by telegraph, to examine Jamieson, and get his deposition transmitted by telegraph, and, by consent, use it in court as evidence. I have received no answer to that stipulation, except having it returned to me unsigned. Mr. O'Conor then continued to contend that it would be unjust and iniquitous to admit any portions of Mr. Forrest's affidavit. She had not answered all the charges, and she begged the court, in her affidavit, to excuse her from entering upon full refutation of all the scandalous charges made by Mr. Forrest against herself, her sister, and her father, deeming it more expedient to do so on this trial. He admitted that there was no denial in her affidavit of the contents of that letter; but he submitted that Mrs. Forrest was not bound to deny his statement of the contents.

Mr. Van Buren replied:—It was true there had been a good deal of testimony admitted on the other side, tending to show adultery of the plaintiff—the motion of the bedstead, and the music it made, and so forth—and if it pleased them, he regretted that the gentleman had not postponed his motion till his client had come into court. He had not attached much importance as to whether they had in evidence this letter or not. Nor did it appear that the suggestion of examining Mr. Jamieson by telegraph was very relevant. Mr. Jamieson was an important witness, as they had known for eighteen months past, at the least—had been through this State time and time, and his whereabouts were known to the counsel, and no effort had been made to secure his attendance. And it was, as an answer to their proposition, proposed to examine him by telegraph at St. Louis. What that had to do with the question whether this evidence should be excluded, he did not understand. The precise connection he did not exactly see. It would, he had no doubt, be more agreeable and more advantageous to examine him by telegraph than to produce him here; but the rules of law upon the subject were entirely settled, and there was no doubt upon them—and he could not see that their neglect to assent to this should cause this testimony to be excluded. Nor did he see anything in the affidavits in answer; and they would all recollect the patience and assiduity with which he had read them; and not only read, but, in imitation of a distinguished character, he had asked for more. He had read her (Mrs. Forrest's) affidavit, and her protest against the application to the Legislature of Pennsylvania; and he had proposed to read more, until plaintiff's counsel said there was nothing but a letter or affidavit of Jamieson's. There was no suggestion that Mrs. Voorhies's letters were important—that was reserved for this morning—there was not the remotest allusion that Mrs. Voorhies had ever made an affidavit. He thought the rule of law was thoroughly established that the admission of the parties was at all times and anywhere admissible. She (the plaintiff) of course denied all acts of adultery—that she had done under oath, in her complaint in this action—and if the Jury believed that, they would not believe the defendant's testimony. They had been asked why they did not call the plaintiff on the stand. They had, he supposed, a right to do so, and to examine the defendant (under the code), so far as the court had ruled, they had a right: and when they had such confidence in the plaintiff's truth as they (the plaintiff's counsel) had in the defendant's, they would certainly place her on the stand. [Suppressed laughter.] The learned counsel then read several extracts from Mrs. Forrest's protest, where she spoke of "the said Consuelo letter," contending that this was not otherwise explicable than by referring to Mr. Forrest's affidavit, in which the "said" letter was set forth—for, accidentally, that letter was nowhere set forth by her in words, and, however innocent and pure it was, the court would see the extraordinary efforts that had been made to keep it out from the Jury. The learned gentleman (Mr. O'Conor), he could not but feel, had departed from the original rule laid down by the court for the disposal of any question which might arise—which was, that the party opposing should have the reply. He had dwelt very faintly in the opening, and had gone very fully into the summing up of the whole case. In conclusion, he submitted they were clearly entitled to read the portions of the affidavit he sought to read; and in regard to those parts of it which were denied [as suggested by his associate,] they were entitled to prove what particular parts were denied, and that they were entitled to falsify those denials by showing that the statements were true in fact.

Mr. O'Conor replied, Mrs. F. denies the Consuelo letter to have shown proof of impropriety, and the effort is to show the letter which is set forth in Mr. F.'s affidavit, is the same. There cannot be implied evidence from silence. Mr. O'C. contended the affidavit of Mr. F. could not be read.

The Court said that the proposition was to show statements as to Cincinnati—the contents of some letters from Mrs. Voorhies—the Consuelo letter—the difficulty between Mr. and Mrs. Forrest, in which she stated to him that he lied, and her assertions when he accused her of the letter. Where a party wishes to give the declarations of his adversary, the whole of the declarations must go to the Jury, and they will weigh them with other testimony. Where declarations which belong to the case are in demand which are important, it is proper to show the other side. The question is, if it can be understood what Mrs. F. intended to say. A party can call for the declarations of his adversary, but not his own, unless to explain

where the other is unintelligible. The Court is of opinion that the proposition as to reading Mrs. F.'s affidavit, or the parts referred to, are not admissible, and must be excluded.

Mr. Van B. entered exceptions.

A short recess was then taken.

After the recess, Mr. Van Buren wished to read a part of the affidavit, stating that at Cincinnati he observed that Mrs. Forrest secreted about her person a bundle of letters. On his return to New York, he was desirous to examine the bundle of letters, which he did not doubt were from her sister. He opened a drawer in which they were, and found them to be letters from Mrs. Voorhies and the letter from Mr. Jamieson. Wished to show Mrs. F. attended a party at Mrs. Voorhies'; speaks of character of Mrs. V., also the Consuelo letter. The Court thought the whole object of the whole matter was to get in the letter, but not heretofore properly brought up. Mrs. F. speaks of a letter without signature, then speaks of it as the letter under consideration, and the fair inference is, that the letter Mr. F. took from the drawer was that of Mr. Jamieson, and its indentification has been sufficient. He will allow the Consuelo letter, therefore, proved to be Jamieson's handwriting, to be given in evidence as set forth in the affidavit.

Mr. Van Buren then read the Consuelo letter, as follows:

And now, sweetest Consuelo, our brief dream is over, and such a dream! have we not known real bliss? have we not realized what poets love to set up as an ideal state, giving full license to their imagination, scarce believing in its reality! have we not experienced the truth that ecstasy 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—no, to know, that I have made some hours happy to you. Yes, and that remembrance of it 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 trump et summon us to a parley with ourselves, where to doubt each other we should hold a counsel? No! no! a doubt of thee can no more find harbor in my brain, than the opened rose could cease to be the hum-bird's harbor. And as my heart and soul are in your possession, examine them and you will find no text from which to discourse 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, 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; write to me and tell me you are happy. Think of the time when we shall meet again. Believe that I shall do the 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. Oh! 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 arms
Claspe'd Consuelo!

Adieu! adieu! be thine each joy
That earth can yield without alloy,
Shall be the earnest, constant prayer
Of him who in his heart shall wear
Sweet 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?

Mr. Van Buren then, after some little opposition, read letters which passed between Mr. and Mrs. Forrest. The first from Mr. F. to Mrs. F., Dec. 24, 1849, in which he says that she, before parting, obtained a pledge from him that he would "say nothing of the guilty cause, the guilt alone on your part—not on mine—which led to our separation:" also says that Mrs. F. had pledged herself to a like silence. He says he has understood she has disregarded the promise, and constantly assigning false reasons for the separation, calculated to exonerate herself and throw the whole blame upon him, and asking for explanations, &c.

Signed "Once yours, EDWIN FORREST."

The reply of Mrs F. was also read, in which she says that what has been told him is utterly untrue. "I have," her letter says, "when asked the cause of our sad differences, invariably replied, that was a matter only known 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 on this affair." She complains that some persons, for their own motives, have poisoned his mind against her.

The letter concludes:

"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

Yours, now and ever, CATHARINE FORREST."

Another letter, written by Mrs. F. four or five days afterward, and further referring to his note. She says:—

"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 find some grounds on this for divorce; if this be your object, it could be more easily, not to say more generously, obtained."

She states that she had repeatedly told him, that if a divorce would make him more happy, she was willing to go out of the State with him to obtain it, and that he answered: "It needed no court of law to decide our future position for us;" spoke of the unhappiness she experienced, and again charges that others, under the garb of friendship, are influencing him against her, and concludes:

"I 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.

CATHARINE FORREST."

Mr. F. two or three days afterwards (Jan. 2, 1850) replied; said he understood from Mr. Godwin that the tardy reply to the most material parts of his of Dec. 24,

was by his advice. He does not desire to use harsh epithets or severe language to her; it can do no good; says the material parts of her letter are untrue. The letter closes thus:

"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 call '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."

Several letters from Mrs. F. to Mr. F., in relation to the Macready difficulty (when Mr. F. was in Philadelphia or Baltimore, and one or two in reply), in which Mrs. F. expresses herself in opposition to Mr. Macready, and one or two other notes, in all of which Mrs. F. exhibits an appearance of affection for Mr. F., closing with "God bless you," "my own Edwin," &c., were read.

[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, he 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 he horse wanted driving; and urged me to go out, but I have not been. To-day my head is very bad *(comme à 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.

[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 excitement of acting, will not fatigue you too much. Peabody has this moment called to say he is off for 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 got a sort of muggy imitation of Indian summer weather, and I have let 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 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's 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 regards to the Conrads. God bless you, my own Edwin.

Your own KATE.

[No. 32.]

WEDNESDAY EVENING.

MY DEAREST EDWIN—I send you a biography of "The Eminent," which I think *gives it 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 everything 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 the Sunday I can make her promise not to leave the house till I return.

As to the attacks on you by the penny-a-liners, they are beneath notice, and I only send them because, having seen them myself, I feared you would be angry if I withheld the vile trash from you.

Thank you for the 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 small 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 so long that Mrs. Willis thought he was dead. Dr. Gray has forbidden him to write or *think* about anything. 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 that "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 inclosed scraps from the Sunday papers—not because they are worth sending, but because I think you would wish to see everything 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 anything else.

"I thing 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 Fonthill. 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 me 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 anything 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 the 15th, and so happy that you write in better spirits, and still more so in better health. When shall I see you home my own pre- childie? By the papers you will learn the destru of your "*favorite establishment*," the Park The Well, peace to its ashes. It is to a certain exten lowed as being the first place where justice was dered to you.

Yesterday I sent your chains to Driesbach—h did not call for them—and he told Robert he wa exceedingly obliged for the trouble I had taken, but ing some others which answered his purpose he w not keep them.

I am glad you have driven Mac. out of the field curtailing his engagement was certainly an ack ledgment of defeat. I shall assuredly not die h unless he gets punished in some way for the an ance he has caused you.

I rather like Mr. Nules' reply to your letter whole correspondence reads well, and will be re lished here.

The Sunday papers have no news—you wil they never have much. Write me a line, my own win, and tell me when I shall see you. Oh how l for your engagements to be over. Kind regar Wagner, and all the love of which your *own K* capable to you, my blessed Edwin.

Receipts from Mrs. Forrest to Mr. Robinson, M agent, showing that $375 a quarter [$1,500 a year] been paid to Mrs. F., the last receipt in Novembe were read.

Mr. Van B. then desired to read extracts the letters of Mrs. Voorhies [those in the bu to Mrs. F., but objected to, and for the pr waived.

He also offered to read a complaint of Mrs. F. ag Mr. F. in the Supreme Court for divorce, and an denying charges and recriminating as here—and Mrs. F. discontinued that suit and paid the costs. He said there were two suits entered by Mrs. F., on divorce for adultery, and the other for limited div Mr. Van B. spoke of harrassing suits having been brought.

Mr. O'C. said the suit was discontinued in Sup Court and entered in this Court. The suit for lim divorce is still pending, not having been pursue either party. He objected to the reading.

The Court said it would permit the complaint of F. to be read, but not the answer, and might rea discontinuance.

Mr. Van B. read the letter.

James Lawson recalled by Mr. Van B.—Have an affidavit of Mrs. F., made in Feb., 1850. [M had a copy of a book containing the proceeding which the affidavit was given. Mr. O'C. objecte to his retaining it.] Mrs. Forrest, on no occasion, alleged to me the difference as to Macready being cause of separation; when Mr. F's speech came from Philadelphia, in which there were epithets Mr. Macready, I called on Mrs. F.; Mr. Godwin present; Mrs. F., when I entered the room, "Who wrote that article in the Post?"—because, said, it was the best article which had appeared o subject, and she asked me to get it published Sunday paper; the Sunday paper wanted a shilli line for publishing it, and I would not pay it, an my mentioning it to Mrs. F., she said if I had her advice she would have paid it; it was the spring 1849, between the time the separation was resolve and its taking place; having nothing to fix the except as to its being the time when Mr. F. playe Philadelphia. [Mr. Van B. said it was in Dec., 1 I conversed with Mrs. F. as to Mr. F. hissing Macre it was after they returned from England; she did approve of it; cannot remember any other parti conversation. [In answer to the Judge, it was that the Astor Place riot was 10th May, 1849.] Forrest never stated to me the cause of the separa always went to the front door, and always rang bell in 16th street when I went there. [Mrs. F. in affidavit, stated that the front door was not fini and that Mr. Stevens was the first who came in

It must have been a very few days after she went there.

Adjourned.

January 3rd.

Mr. Forrest was in court, and Mrs. Forrest and Mrs. N. P. Willis were also present.

Mr. Lawson was called to the stand. Mr. Van Buren read from Mrs. Forrest's affidavit that part where she said she objected to Mr. Forrest's habit of declaring in companies that he was determined to drive Macready from the stage, &c., and was proceeding to ask Mr. Lawson if he ever heard—

Mr. O'Conor objected to the question as highly leading.

The Chief Justice admitted the evidence.

Mr. Lawson was then asked as to the conversation worn to by Mrs. Forrest, between her and himself, about her sending her sister away, and he said he had no recollection of those words. [Paper produced and marked 38.] The signature to this paper is in the handwriting of Mrs. Forrest; the handwriting of the body is undoubtedly Mrs. Forrest's.

Mr. Van Buren.—I now propose to offer the letter of Mrs. Voorhies to Mrs. Forrest, and to prove the handwriting by this witness. He [Mr. Van Buren] had offered it yesterday, and Mr. O'Conor took it to read, in order that he might see if he would object to it.

Mr. O'Conor said he objected to it as wholly irrelevant. He believed there was one witness in this country who can interpret one word in it; but, until he ascertains the fact of where that witness is, he could not consent to its being read.

The Chief Justice said the letter was irrelevant and not admissible.

Mr. Van Buren offered a letter of Mr. Voorhies.

Mr. O'Conor did not object, only he would much rather Mr. Van Buren would omit that part in relation to Betsey Kinney and her husband.

[The Chief Justice said a thought occurred to him, on which he would like to speak to the counsel on both sides. After consulting with them, the Judge directed the clerk to enter an order for the continuation of the present term over to Saturday next.]

Mr. Van Buren offered in evidence two letters of Mr. Voorhies to Mrs. Forrest, as showing the character of her correspondents, and to show the utter disregard of truth by both parties; and that plans were laid by the plaintiff and Mrs. Voorhies, by which they were to operate and effect certain objects, regardless of truth.

The Chief Justice ruled it inadmissible.

Mr. O'Conor to Mr. Lawson.—You are a very good clerk, I believe?

Mr. Van Buren objected to that mode of examining this witness.

The Chief Justice said that counsel should ask the question, but not assume the fact.

Witness continued.—It is my opinion that the date of the paper produced was written at the same time as the body of the writing. Q.—Look at that date, January 28, and see if you can discover any traces of what writers call painting? A.—I see nothing of painting; the January seems to be written in a firmer hand than the body.

Q.—Has it not the appearance of being written much more carefully than the body? A.—I would guess that it was written slower than the body, but not to my eye with more care. Q.—Do you know anything of Mr. Forrest's general habit of writing? A.—I have seen him write? Q.—Is it his habit to write so closely to the top of the sheet as this is written? A.—I know of no habit he has on the subject.

Mr. Lawson wished to say that he found on reference that the date of the card to which he alluded yesterday was 21st November, 1848.

Mr. O'Conor objected to the date being given, unless the card was produced in evidence.

The file of the New York Herald of 15th of June, 1848, in which the advertisement appeared for information wanted of Anna Flowers, as already mentioned, was produced.

Mr. O'Conor to witness.—Did you cause that advertisement to be inserted? A.—I did not. I never saw it until I saw it in the Herald; I was not at the examination of Anna Flowers; I saw her before she was examined; I saw her at the Irving House, in her own bedroom; I had communicated the fact that she was here to Mr. Forrest, by telegraph, to Philadelphia, before I had seen her; I communicated it three or four times by telegraph to him before he came on; I won't be positive that it was as much as four times.

The Chief Justice to Mr. O'Conor.—Do you offer the Herald, with the advertisement, as evidence?

Mr. Van Buren objected to it as irrelevant.

Mr. O'Conor.—Yes, sir; it appears in the morning and evening editions of that date, and does not appear, I believe, in any other number; and we agreed to admit the papers, in order to save the editors the necessity of attending.

Witness continued.—I was at Mr. Voorhies' farewell party; he was going to California; I have no personal knowledge of Mr. Voorhies' return from California until last summer; I have not sought for witnesses for this case since I was last on the stand; I know Mr. Wendell; I have not called on him about this case.

To Mr. Van Buren.—My conversation with Mrs. Forrest about Mr. Forrest, and the article which appeared in the Post, was a few days after the 1st November, 1848.

Mr. Van Buren here read letter No. 24, before produced, but not read at that time:—

[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 toward 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 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 engagement, for an increased number of pupils. Again, you said that Mr. Forrest said his sisters 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 practise habits of more strict economy than I ever knew anything 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 three of them, adds by no means to the expense of living, for they all assist in housekeeping, and thereby save more 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 nineteen hundred, and surely one hundred 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 anything 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 first 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 everywhere except at Roslyn, where I shall pass some ten days with Mrs. Bryant) until the 1st of August. And 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 find 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 upon 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 to 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 present 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. Forest 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'Conor then read what is supposed to be Mr Lawson's answer to that letter:—

[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 the 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.

Thaddeus Meighan being examined by Mr. Van Buren, deposed.—I reside in Twenty-sixth street; in the summer of 1850 I resided in Sixteenth street, directly opposite to the house Mrs. Forrest occupied.

Q.—State what you saw at that house.

Mr. O'Conor objected to that kind of evidence, and asked what counsel proposed to prove?

Mr. Van Buren.—I propose to show by this gentleman, who was a neighbor of Mrs. Forrest's, that he was woke up on several occasions in the summer of 1850, by disturbances in that house; that he saw numbers of men coming out after midnight, and that several of them were in a state of intoxication.

Mr. O'Conor considered the evidence offered as irrelevant. Mrs. Forrest is charged with illicit intercourse with several parties, and it was wholly irrelevant to the charge at issue to attempt to show that gentlemen were seen coming out of her house.

Mr. Van Buren thought it was competent to prove the manner in which this lady was living, when separated from her husband, and without any male protector. She says in her affidavit that her mode of life is not extravagant, nor is she in the habit of giving expensive entertainments, or of receiving gentlemen at unseasonable hours, &c., &c. That affidavit having been read, it was competent for the defendant to falsify her declaration.

Mr. O'Conor did not intend to bring any witnesses to the general good conduct of Mrs. Forrest. He was determined that from the evidence adduced, the jury should judge of her general good conduct without the necessity of bringing any witnesses to that point. He contended that the admission of this testimony would lead to endless irrelevancy.

The Chief Justice said he did not see that the testimony was admissible. He did not see how any just connection could be made between the fact of there being disorder in that house, and the fact that Mrs. Forrest committed adultery with the parties charged. Any disorderly conduct, or visiting at the house by any of the men charged, would be pertinent; but otherwise he must exclude this testimony.

Mr. Van Buren.—We offer in evidence the *ne exeat* issued by Mrs. Forrest restraining Mr. Forrest from proceedings for a divorce in Philadelphia; his arrest, and his being held to bail in the sum of $10,000; the setting aside of the *ne exeat*, on the condition that Mr

Forrest would not sue for false arrest; also the opinion of Judge Edwards, at Special Term, in setting it aside; and the opinion of Judge Edmonds, at General Term, in confirming the decision of Special Term. He also offered the injunction issued against Mr. Forrest, restraining him from disposing of his property, or visiting his wife, or removing her to Philadelphia.

Mr. O'Conor objected to the offer altogether, and asked counsel if he intended to give the opinion of the Judge when granting the injunction?

Mr. Van Buren offered the testimony principally to show Mr. Forrest's residence, and to explain why it was he was back and forward so much at that time.

Mr. O'Conor did not object to anything but the opinions of the Judges; and he only objected to them if the other opinion was not to be read.

The Chief Justice said that one of the issues is, whether at the commencement of this cause Mr. Forrest was a resident of this State. Anything in reference to that in the *ne exeat* would be pertinent; but the opinion of the Judges could not lead them to any possible conclusion as to whether Mrs. Forrest had committed adultery or not.

Mr. Van Buren then read the writ of *ne exeat*, and referred the Court to the order setting it aside; to Mr. Forrest's affidavit stating that in order to procure his liberation, he gave a bond for $10,000; also, the appeal from the order setting aside the *ne exeat*, and to the order of a general term of the Supreme Court, on motion to discharge the defendant from arrest on *ne exeat*. He then offered the injunction restraining Mr. Forrest from prosecuting his suit in Philadelphia, and from visiting Mrs. Forrest or removing her from this State, dated 2d September, 1850; he then offered an order granted to amend the complaint, and dissolving residue of injunction; and continued to say:—I would now like to give some evidence as to the number of motions that have been made in this case since 2d September, 1850, to this day. I should think there has been one a day, at least.

Mr. O'Conor.—I think some five hundred every day, if you count all you did yourself and all your client did. [Laughter.]

Mr. Van Buren.—How many will you agree upon?

Mr. O'Conor.—Five hundred a day from Sept., 1850, up to July last. [Laughter.]

Mr. Van Buren.—We'll take that admission. We also wish to prove that a commission was issued to examine Anna Flowers, in June last, the affidavit of Mr. Forrest of 21st May, 1851, and the order to show cause, all of which he put in evidence. He then said:—I don't know that I am called on to give any evidence as to the character of the house in Mercer street from which Anna Flowers is said to have written those notes to Mrs. Forrest. It is a street that gives rise to occasional remarks; and as I happen to live in that street, I am a little sensitive on that subject. [Loud laughter.]

Mr. O'Conor said he meant to show that in that proceeding was contemplated a worse deed than they had charged his client with.

Chief Justice.—Let us proceed in order. That testimony will be time enough when anything is said on the other side as to the character of the house.

Mr. Van Buren then referred to certain portions of Mrs. Forrest's original affidavit, which he had already read at the request of the counsel on the other side, and also to Mrs. Forrest's subsequent affidavit of Dec. 20, 1850. He then proposed to read from Mr. Forrest's affidavit certain parts, as giving explanation of portions of Mrs. Forrest's statement.

Mr. O'Conor objected. He had argued the point before, and the Judge had decided on it.

Mr. Van Buren.—Mrs. Forrest states, in her affidavit, that Mr. Forrest never suspected her purity until the 24th of December, 1849, and we propose to show that Mr. Forrest had suspected her, and charged her, eleven months previously.

Mr. O'Conor replied, and relied upon the ruling made before by the court on the same point.

The Chief Justice said that the reason he before gave for excluding the affidavit, still applies to the present offer. He had admitted the "Consuelo" letter, which was set forth in Mr. Forrest's affidavit, because it was largely referred to by Mrs. Forrest in her affidavit. It is quite apparent that Mr. and Mrs. Forrest contradict each other in their affidavits; but if the defendant thought proper to give Mrs. Forrest's affidavit in evidence, he cannot give his own, unless, as I before remarked, that it is necessary to make any portions of Mrs. Forrest's affidavit intelligible. The court, therefore, did not consider the present offer admissible.

Mr. Van Buren then read the paper marked No. 38, and identified 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 anything 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 for ever in the life to come. CATHARINE N. FORREST.

January, 1849.

Chief Justice.—That is not a sworn paper, but a declaration on the part of Mrs. Forrest.

Mr. Van Buren.—Yes, sir.

The paper was exhibited to the jury, as Mr. O'Conor said he wished them to see the manner in which the date was written.

The case for Mr. Forrest here rested.

Mr. O'Conor then called Dr. Charles A. Lee, and said he wished to give in evidence the commitment of Anna Dempsey [Flowers] to the House of Refuge, merely to fix a date; he did not propose to read it, but only to give the date.

Mr. Van Buren objected to any evidence on the point as independent of evidence.

Mr. O'Conor did not offer it for any contradiction or impeachment of Anna Dempsey, but it fixes a date in reference to another matter, which they will have to go into. She admits herself, that she was sent to the House of Refuge; but Mr. O'Conor thought it proper to show that she was not that pure-minded, innocent, and youthful person, when she witnessed the scene in Mrs. Forrest's house, which, according to her own statement so much affected her; she charges her destruction on Captain Howard, and that Mrs. Forrest connived at or was the cause of her ruin. Such a charge must be injurious to Mrs. Forrest, and it is necessary to prove the date of this paper for a purpose which will hereafter appear pertinent and relevant to the issue.

Chief Justice.—What do you propose to prove?

Mr. O'Conor.—I am going to assail her general character, and ask some questions as to her age.

Chief Justice.—There was no objection to testimony as to her age; but as to general character he would prefer hearing more discussion on that point.

Mr. Van Buren would not object to evidence as to general character, but he did object to this witness testifying as to her age. Her mother would be the best person to prove that.

Mr. Van Buren said Anna Flowers was asked a question about her commitment, which she could answer or not as she chose; she did answer it, and the other side were bound by her answer.

The Chief Justice admitted the date being given in evidence, and Mr. Van Buren excepted.

Mr. O'Conor read the date as 2d October, 1838.

Chief Justice.—How do you prove the genuineness of the paper?

Mr. O'Conor said, he supposed it was admitted; but Mr. Van Buren would not admit it, and Mr. O'Conor said he would be obliged to get the clerk here to prove it.

Witness continued.—I am a physician; my family reside in Peekskill; I am a teacher of medicine, and my business calls me to other places; I resided in Hudson street, in this city, in 1838; I had a servant named Anna Dempsey; I knew her mother, Mrs. Dempsey. Q.—Did you become at that time acquainted with the general character of Anna?

Mr. Van Buren supposed that this inquiry was not relevant. They have no right to show the general character of a child of thirteen or fourteen years of age for the purpose of impeaching her testimony when a woman some thirteen or fourteen years afterwards.

Mr. O'Conor contended that it was not possible to always to bring down the evidence of character to the time of testifying, and that they might give in evidence generally what the character had been before.

The Chief Justice said the examination went to the general character. The witness spoke of 1838. He did not remember that the evidence of general character was to be confined to any particular period, though the remoteness of the time might render it of little importance, and cause it to have little weight with the jury, as a young person might have done something to prejudice her in the opinion of her fellow-servants and others, and it might and might not be of much importance; but he did not know that it was incompetent.

Mr. Van Buren excepted to this ruling. Exception noted.

Witness continued.—Q.—Did you at that time become acquainted with the general character of Anne Dempsey? A.—She was in my family only about ten days: of course I didn't know anything about her general character, or I would not have employed her; she stated her age to be fourteen or fifteen at that time; her character was bad. Q.—From the degree and extent to which you found her character to be bad, would you believe her oath?

Mr. Van Buren objected. The court admitted, and counsel excepted. Question repeated. A.—Unless her character has changed materially, I would not believe her under oath; I have not seen her since then; I think I took her to the upper Police.

Mr. Van Buren objected.

To the Chief Justice.—As at present advised, I do not think it is competent to offer any evidence to show that Anna Flowers made an incorrect statement as to that transaction.

Q.—How many servants had you at that time?

Mr. Van Buren objected. The object of the question is again to contradict her.

Mr. O'Conor.—I propose to show that Anna Flowers stole money from Dr. Lee several times; that she stole a watch, by going out on the roof of the house and into Miss Forbes', who resided next door; and that Dr. Lee had no little girl at that time named Margaret as a servant; that the only servant was a woman named Bridget; and that Anna Flowers' whole story of her being the innocent receiver of the watch from the other servant, was untrue.

Mr. Van Buren suggested that a couple of murders might be added to the list. [Laughter.]

The Chief Justice did not consider the offer competent, and Mr. O'Conor excepted to the ruling.

The witness was not cross-examined.

William C. Foster was next examined and deposed.—I reside in Rochester; I am now engaged in the forwarding business; I have seen Mr. Edwin Forrest; I knew Miss Josephine Clifton by sight. Q.—Did you at any time see Mr. Forrest in company with Miss Josephine Clifton?

Mr. Van Buren wanted to know what they intended to prove.

Mr. O'Conor.—An undue familiarity between Mr. Forrest and Miss Clifton, and to establish the case and charge in our opening.

Mr. Van Buren.—What is the reason that it was not introduced before?

Mr. O'Conor.—That will be explained.

Mr. Van Buren objected to their re-opening the plaintiff's case. He supposed there would be very little difference between them as to the rule of law, and the exceptions were very limited. In this case there were two or three reasons why there should not be any. The court would remember the manner in which the plaintiff had rested the case. He (Mr. Van Buren) had then asked the court to require her to exhaust the testimony, and not to introduce any further, and though they would not say that, he thought he did get them to say it was desirable they should notify them as to the nature of the evidence they wished to get in. There was no unvarying rule of law; it was a matter in the discretion of the court. One point was, that this was in fact, very similar to a criminal case, in which the prosecutor was compelled to exhaust his testimony; and he thought this similarity ought to prevent the admission of further testimony by the court, in the exercise of a sound discretion. The defendant, too, having in view the vast number of charges in this case, satisfied himself that the case was closed, and had turned his attention to the recriminating charges, in support of which it was necessary for him to call testimony. Again, nearly all these charges had been the subject of another suit in the Supreme Court, in which they were all denied, and the suit abandoned. The case presented itself in two aspects—first, the effect that the course adopted had upon them. They did not suppose, they had no right to suppose, that they were going now to make out another case, on facts which had been subjected to another investigation. Another conclusive reason in his mind why they should not re-open the case, was that the defence had not introduced any testimony to meet the charges, or any part of them, but had confined themselves entirely to those charges inculpating the plaintiff. The plaintiff's case should be exhausted, and where it requires any explanation, or that set up by the defendant requires rebutting, then, in such cases, they would be allowed to re-open; but here they had allowed it to go to the jury without such answer. They must all conceive that if this was to be allowed, there was no such thing as seeing where it was to end, for they would be confined to neither person, time, nor place, in re-opening this vast number of charges. Now, no one had anticipated that this would be a brief inquiry; but jurors, witnesses, court, and all interested, considered there was a probability of a termination some day; but if they were to begin again, there could be no hope of the case terminating at any time within the lifetime of any of them. Neither necessity, expediency, nor justice required, he submitted, any departure from the ordinary course.

Mr. O'Conor admitted there was no rule of law on the subject. It was discretionary with the presiding Judge, who had a right to direct the order in which the testimony should be taken. In this case, the court did not point out or direct that there should be no further testimony offered, yet their authority was equally great to exclude it now. At the time that the plaintiff's case had rested, there was something occurred, but as to what it was, it was his misfortune to differ from the learned gentleman. The learned Judge had excluded certain admissions to be proved by Mr. Allen at that stage of the proceedings, unless there were some proved first, of which those admissions might be

borative. They (the plaintiff) had offered this evidence as promptly as possible, and at the earliest possible moment that it came into their power. He thought his opponent was drawing a totally wrong conclusion, in saying that because they had not given any evidence in defence, that the plaintiff was, therefore, not to re-open; the principle, as he understood it, was the reverse—that where they had given evidence, that then the plaintiff should not come in with his proofs fitted to the responsive testimony. They had not here at all shown their hands; and there could be no objection of the least conceivable nature. The defendant's counsel contended this was in the nature of a criminal case, but he could not see the ground of the resemblance. It was a suit to annul a civil contract, on the ground of an alledged breach by one or the other; and it was certainly his interest to have it decided; for even if he established the charges against his wife in this suit, he could not get a divorce, and the result would be that he would still retain that woman as his wife, after he had proved her infamous and unworthy. This was what he was struggling for; and he thought that for his own sake, and the sake of justice, it would be more desirous to have the other issue tried. When they found he had not acted in perfect candor and good faith, he would consent that it should be excluded; but he humbly submitted, appealing to the discretion of the court, that he should now be permitted, for the sake of public morality, public justice, and private right.

Mr. Van Buren replied, reading the law, as laid down in Ford vs. Niles, 1st Hill, p. 300. Mrs. Forrest had stated, in her complaint, certain and numerous acts of adultery in the years 1840 to 1844, inclusive—in all some fifty or a hundred instances. Therefore, she should have been certain what she could prove and had not been called upon suddenly or unprepared. She had not asked for leave to offer further tertimony at the time she rested her case; on the contrary, the counsel had just stated that he had not then any more to offer. It was an experiment to see whether the defendant would not rest satisfied with an acquital of the charges against him. It was contended that if they established the defendant's innocence, and plaintiff's guilt, there could be no divorce; but if he did establish the charges against the plaintiff, he could either obtain a judgment of divorce in this suit, or use the record as conclusive evidence for that purpose in another.

The Chief Justice said—It seemed to be conceded on all hands, that whether any party should be permitted to re-open was in the discretion of the court, and it was not possible to prescribe any precise rule. Now, he was well aware that judges had viewed this in a different light; but he had seldom tried cases where he was not inclined to allow them to be re-opened, where he saw it would tend to terminate litigation and elicit truth. He was mainly guided by this. One question was, whether the defendant would be as well prepared to meet it now, as if produced originally. Now, in this particular case, Allen altogether failing, the defendant had applied to have all further evidence shut out. The application was denied, and this was a clear indication that it might, under circumstances, be opened again; and he had no reason to believe here that Mr. Forrest was not as well prepared to meet it now as at first; and he saw no good reason why the truth should be shut out, and he never found justice promoted by too strict an application of technical rules. There was no formal application, that he remembered, to be at liberty to open again; but the contrary application was distinctly denied, and the question reserved to the broad discretion of the court. Now, in ordinary cases, where a plaintiff failed to make out his case, he had a remedy by other means. He might submit to a non-suit, and come again into court with his case unprejudiced, as he remembered having frequently elected to do when at the bar. Mrs. Forrest had failed in her evidence as to an issue involving many facts and circumstances. Mrs. Forrest stated certain allegations on her side which he denied, and, in reply, charged her with certain acts of adultery. If she had proved him guilty, it was quite competent to go on; and if she were also proven guilty, to obtain judgment against a divorce. If she only was shown guilty, he was of opinion the defendant might obtain a divorce in this suit, or, by presenting the record, obtain one in another. The whole controversy was, therefore pending in that court, and the consequences of the result were most serious to both parties, and if both were found guilty, or both innocent, the law would not interfere to disturb their relation; and it struck him that, in this case, before all others, a full, strict, technical rule, such as was sought to be applied, could serve no other purpose but to shut out truth. And in the exercise of his sound discretion, he thought himself justified in letting this go on.

Q.—To witness.—Did you see Mr. Forrest and Josephine Clifton together at any time in the year 1842? A.—Yes, sir, at Albany; I saw them together in two places; one was the theatre, the other was at the Eagle tavern; I was stopping there at the time; sometime in the latter part of November, or forepart of December; I was stopping at the Eagle tavern; in the morning, before breakfast, I saw Mr. Forrest coming out of a room on the opposite side of the hall from the room in which I was; he stepped forwards a step or two towards the room on the north side of the one he came out of; it was an adjoining room; there was a person stepped to the inside of the door of the room he came out of, and gave some signal that stopped his course, and he stepped back to the door; he stood and talked with the person in the room; 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, it brought them in front of me; the door was then closed, and Mr. Forrest was then going to the other room. That's all I saw (Laughter.)

Mr. O'Conor.—That applause is a little too soon. Witness continued.—I got sight of the face of the person within the room; I supposed it to be Miss Clifton's face; I believe it to be the face of Miss Clifton.

Q.—In what condition was Mr. Forrest as to dress, all that time you saw him? A.—He was in an undress, and a cloak around him; he had nothing on but his linen, except the cloak! (Laughter.)

Cross-examined.—This was between seven and eight o'clock in the morning; I cannot give you the day of the month or the week, but it was November or December, '42; I can't tell what the signal was; it was a call of the voice, or a sound; I did not go back to my room from the time I came out; I stood in the door; I saw Mr. Forrest and Miss Clifton play the night before; I was not in that room, and I am not able to say whether it was a sitting room or bed room; I came to town the first of this month as a witness in this case; I left Albany on the first; a young man named Strong, in Albany, subpœnaed me; nothing passed between me and them (the plaintiff and her counsel); I mentioned what I knew in Rochester, on reading the report of this trial, and they "headed" me in Albany with a subpœna, and brought me on. (Laughter.)

Mr. Van Buren.—And you are somewhat surprised that you have been brought on here?

Witness.—I am.

Mr. Van Buren.—So am I. (Loud laughter.) That's all.

Adjourned.

Jan. 5.

The Judges of the Supreme Court having informed Chief Justice Oakley that they could not grant him the use of their Circuit Court any longer, the proceedings of this case were continued in the Superior Court General Term room, which is much smaller, and consequently incapable of accommodating as many spectators as the other. The Court was filled to its utmost capacity, and some fears were entertained of the security of the floor.

Mr. Van Buren said, if Wm. C. Foster was in court, he would wish to ask him a few questions.

The Chief Justice remarked that Mr. Foster said, on Saturday, he was anxious to get home.

Mr. O'Conor said he had no doubt Mr. Foster had gone home; but if the defendant would give a memorandum that he would pay the expenses of the witness and a reasonable compensation, if he required it, he, Mr. O'Conor, would promise to have Mr. Foster on here again.

Mr. O'Conor then offered the depositions of Doctor John Hawkes and Laura his wife.

Mr. Van Buren objected to the reading of the depositions, on the ground of technical irregularity in the proceedings, and that sufficient reason was not shown for examining the parties out of court. He then referred to 2d Revised Stat., and 20 Johnson, p. 361.

Mr. O'Conor said that Dr. Hawkes and his wife were both ill and unable to be present, and that their person-

al attendance would be difficult to obtain, if not dangerous to the parties themselves The deposition of Dr. Hawkes was taken at the house of his father, in this city, on the 31st of December, and that of Mrs. Hawkes on New Year's day.

The Chief Justice said he would require some evidence of the present inability of the parties to attend, or their state of health at the time the depositions were taken.

Mr. O'Conor said he would call Judge Paine, before whom the depositions were taken.

The Chief Justice gave his opinion, and said it seemed to him that there was an irregularity in the proceedings, and Judge Paine could issue another order in the event of the parties not being able to attend.

Caroline Ingersoll, otherwise Irving, was called by Mr. O'Conor, and not answering to her name, an attachment was issued against her.

James A. Satterly deposed that he is engaged as bookkeeper at the Irving House, and was so in June last; I have the books in court; Anna Flowers came to the Irving house on the 10th of June, 1850, and left in the afternoon of the 15th.

Cross-examined—I think it was after dinner on the 15th when she left; Mrs. Forrest is now staying at the Irving; I don't know when she came. Q.—Who is staying there with her? A.—I don't know the lady's name; if I had the books for the last year I could tell.

Mr. Van Buren to Mr. O'Conor.—Will you admit the fact of a lady staying with her?

Mr. O'Conor.—I am afraid to admit anything, lest you might possibly establish a charge of *crim. con.* between that lady and Mrs. Forrest. (Laughter.)

The witness was then requested to refer to his books for the name of the lady.

Robert Freeman deposed.—I reside in New York; I am a tailor; I do business at 237 Broadway; I know Mr. Wendell, who is now in court; I think I was a passenger on board a boat going to Albany, some years ago, when Mr. Wendell was a passenger; it runs in my mind he was a passenger at that time; it is from six to ten years ago; it was a night boat; my attention was called to a gentleman and a lady on board that boat; I did not know them personally myself. Q.—Were you informed by any one who they were?

Mr. Van Buren objected to what this witness was informed, and would ask what counsel expected to prove.

Mr. O'Conor.—I expect to prove that Mr. Forrest and Miss Clifton went up the North river in a night boat, some years ago, and occupied the same state room. This witness cannot prove that the parties were Mr. Forrest and Miss Clifton; but he can testify to the parties occupying the same room, so as to give the appearance of their being man and wife to those who did not know them. There was another witness who can prove that the parties were Mr. Forrest and Miss Clifton.

Mr. Van Buren objected. It was well known that Mr. Forrest and Miss Clifton frequently travelled together to fulfil engagements; and it would be hard if the defendant was to account for every time they were seen travelling, or to defend charges that were now made, extending over a period of four years, as the witness says it is from six to ten years. Independent of their invading the grave, Miss Clifton being now dead, there was something in the fact that the only person who could explain the transaction being dead, which ought to induce the Court not to admit the question.

The Chief Justice remarked that the question, in itself, was not objectionable. With respect to Mr. Forrest being placed in an unpleasant position, he is only like every other person who suffers from the absence or death of a witness.

Q.—Were you informed by any person then present who those parties were? A.—Yes, I think I was; it is impressed on my mind that it was Mr. Wendell who told me who they were; I noticed nothing very particular; my attention was called to a lady being shown into a state room; she had luggage, with her; in a few minutes afterwards I saw the gentleman who was pointed out to me as Mr. Forrest go into the same room. Q.—Did he shut the door? Objected to. Q.—What was the condition of the door after he went in? A.—It was closed; the state room was on the side on the upper deck; it is impressed on my mind that it was the steamboat Swallow; those state rooms are occupied as sleeping anartments, and for sitting rooms too; I believe they have all beds in them; I have seen Mr. Forrest often since. Q.—Was the person you saw go into that state room Mr. Forrest? A.—I can't swear that it was; I have seen Mr. Forrest on the stage since, and a number of years ago.

The witness's cross-examination was suspended for the present.

Cornelius Wendell deposed—I reside in Williamsburgh; I am a printer; I formerly resided in Albany; I am acquainted with Mr. Freeman, who has just been on the stand; I have known him ten or twelve years; I have known Mr. Edwin Forrest by sight for twenty-five or thirty years, since my boyhood; I knew Miss Josephine Clifton by sight, in her lifetime; I have a recollection of seeing Mr. Forrest and Miss Clifton on board a steamboat about seven or eight years ago, in a night boat, making a passage, I think, from New York to Albany, but I am not positive as to that; I cannot recall what boat it was; I saw Mr. Forrest and Miss Clifton walking in the saloon, side by side; I saw them first on the lower deck, and then on the upper deck.

Q.—Did you see them near, or going into any state room? A.—I saw them promenading by state room doors; I did not see them going into any state room; I do not remember the fact of mentioning to any one who those persons were. Q.—If you did state to any one that that lady and gentleman were Miss Clifton and Mr. Forrest, would it be true?

Mr. Van Buren objected.

Witness.—I do not remember Mr. Freeman being on board that boat.

Mr. O'Conor then repeated his question, whether if he had told any one that that lady and gentleman were Miss Clifton and Mr. Forrest, was it true? The question being objected to, Mr. O'Conor contended for its admissibility.

The Chief Justice said he was not satisfied with the vagueness of the testimony. It is extremely unsatisfactors to identify a party in this way. He ruled against the question.

Mr. O'Conor then proposed the question in this form: Whether he did at any time, within ten years, state to any person that the two individuals then present were Mr. Forrest and Mr. Clifton, when it was not the fact? Objected to and not admitted.

Cross-examined.—I stated to other parties since I was supœnaed what I have told here; I mentioned it to Mr. Andrew Stevens, Mr. Thomas Seaman, Mr. Cornelius Bogardus, and one or two others; I was at Mr. O'Conor's office on Friday or Saturday last, and told him; I was supœnæd by Mr. Martin; I believe he is a lawyer.

Caroline Ingersoll, examined by Mr. O'Conor, deposed—I reside at No. 4 Murray street, in this city; I have resided in this city some four years: when I first came to New York, from Philidelphia, I went to reside at 355 Greenwich street, I think; I lived there about a year and a half; I moved on here in the fall; I left it on the first of May; the second first of May after I went there.

Chief Justice.—Can't you fix that date, madam?

Mr. O'Conor.—I will try and fix it.

Witness continued.—I moved from that house to 628 Houston street; and lived there about two years and a half; I left that house on the first of May last; it cannot be two years and a half, as I went there on the first of May, and left it on a first of May; it was about two years; I can fix the date by my papers, which are in Murray street; I know Mr. Edwin Forrest, the defendant in this suit; I have known him since I lived in Greenwich street.

Mr. Van Buren wished to know how far the court intended to permit this case to be re-opened.

Chief Justice.—I mean to open the case broadly and unlimitedly.

Witness continued.—Mr. Forrest was at my house in Greenwich street; he was there more than once; I cannot remember when he first called; I could not state the number of times he has been at my house; he came alone; he came and engaged a room. Q.—For what time? A.—He did not specify the time when he asked for the room; I don't remember how long he kept the room; probably three or four hours at a time; I never saw him go into it, or leave it, to my recollection; but I judge it was that length of time. Q.—Did he engage it more than once? A.—He did. Q.—How often? A.—I do not remember. Q.—was it frequent or rare? A.—It was not frequent. Q.—Could you give any idea of the number of times while you were

in Greenwich street? A.—I should judge three or four times, but I cannot remember; it was a front room, second story; it was furnished as a sleeping apartment with a bed in it; he did not any time state to me what he wanted the room for. Q.—Did you ever see him in the room? A.—I think I told you I did not; I did not see any other person go into or come out of that room whilst he was in it; those occasions that he engaged the room were in the day-time.

To the Chief Justice.—I never saw him in the room or go into it; I never saw him in any place in my house except in my parlor, which is the front room on the first story; I received him in the parlor and left him there; I retired sometimes through the folding doors and sometimes through the parlor door into the hall; when I thus left him I left him alone; I do not remember whether when the contract for the room was made, it was for an immediate engagement or that he was to come to it at another time; I never sent anybody to meet him in the parlor; I left no one with him when I left him. Q.—What was the reason for your retiring? A.—It was generally in the morning, and I begged him to excuse me, as I was going about my household duties; I cannot recollect the charge for the room; when he asked for a room, he simply asked for a room; there was a parlor adjoining it; I don't know whether he occupied it or not; he came and asked for a room, and said a gentleman in Philadelphia recommended him there; I disremember the name of the gentleman; I think I have heard Mr. Forrest go up stairs; I have heard him come down. Q.—On those occasions, after he engaged the room, did you hear anybody else go up? A.—No: I did not. Q.—Was Mr. Forrest acquainted with any person that lived in your house at that time? A.—He was not; I don't remember that I ever went into the room on the same day after he had left it; I had four rooms to let besides this one; four chambers; I don't count the parlors that adjoin the chambers; they are so small. Q.—Was each chamber provided with a bed? A.—Yes, or they would not be chambers; they are let out by the quarter, the week, or the day, or as long as a person wished to engage them. Q.—Did you often let them in the evening for an hour? A.—Yes; not for any specified time. Q.—Do you let them always to gentlemen or always 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 those rooms for part of a day or part of an evening? Question objected to.

Witness.—When you are ready to hear me say so.

Mr. O'Conor.—Don't answer until the judge tells you.

Mr. Van Buren objected to the evidence of other persons' acts as against his client.

The Chief Justice supposed the object of the investigation is to prove that this house was a house of assignation, and he permitted the question.

Q.—Was it usual for a lady and gentleman to come to yoer house and occupy one of those rooms for part of a day or part of an evening?

Witness.—I decline to answer that question.

Mr. O'Conor.—I want to ask you a question which I think you can answer.

Witness.—My memory is very treacherous.

Q.—Did you or not move into the house in Houston-street on the 1st of May, '48? A.—I can't remember until I refer to my books; I can't say, but I may have been in the house three years.

Mr. O'Conor then said to the Court that he should like a response to that question which the witness declines to answer.

Chief Justice, to witness.—Why do you decline answering? A.—I have important reasons.

Chief Justice.—I cannot permit a witness to decline answering on their own judgment of reasons being important.

The question was repeated, and witness answered—They did occasionally.

Q.—Were not those rooms generally used for ladies and gentlemen meeting therein? A.—No, sir, they were not; tney were used generally for boarders; my boarders are both gentlemen and ladies.

Q.—What gentlemen generally boarded with you. A.—I don't remember their names; they were transient boarders; gentlemen from other cities; sometimes staying a week, sometimes a day, and sometimes longer; I can't tell the names of any of them; my lady boarders were permanent for two or three months at a time, and one or two longer; I have had on an average three lady boarders; there have been times when I had but one.

Q.—Were they living alone or living with husbands? A.—I decline answering that question; it would be very difficult for me to say whether they were husbands or not. (Laughter.)

Q.—Was it usual for your lady boarders of the permanent description to occupy the same chamber at night with one of your transient gentlemen boarders? A.—No, sir.

Q.—Did it occasionally happen? A.—I should like to know if these questions are necessary to this case? (Laughter.)

Mr. O'Conor said he did not intend to ask the names of any of these ladies or gentlemen.

Mr. Van Buren objected to any inducements being held out to the witness.

Witness continued—I have had ladies of this city with me, who kept company with gentlemen, but I could not tell whether they were their husbands or not.

Q.—Did some of these ladies occupy the same chamber in the same quarter with different gentlemen?

Witness.—I decline answering.

Mr. O'Conor called upon the Judge to decide whether it was proper.

Chief Justice.—I have no doubt the witness is bound to answer. Then, turning to the witness, he said—Mrs. Ingersoll, you are no doubt placed in an unpleasant situation, but, unless the answer would subject you to a criminal prosecution, the party is entitled, in law, to your reply, and I am bound to enforce the law.

Mrs. Ingersoll.—I am alone here, and unable to say how far the question will injure me, and I therefore appeal to the court.

The Chief Justice ruled that the question should be answered.

The question was repeated, and witness answered:—I cannot remember when Mr. Forrest came; he came alone, and did not see any one in the house but myself; he didn't tell me his name; he came two or three times before I knew who he was; he supposed I knew it, as everybody knows him—(laughter); there was a person in my house who attended to letting parties in at the door, but it was not always the same person; I went to the door very often myself; sometimes an Irish girl, a chambermaid, attended to it; her name was Ellen; I don't know her other name; she is not now in the city; I don't know where she is; servants are here to-day and gone to-morrow; after the first time Mr. Forrest came, no one attended on him; he walked into the parlor, and sat down; there was a lady living with me who was a relative of mine; her name was Calista Russell; she was sometimes called Sarah, and sometimes Josephine; she is now living in Laurens-street; she is in trouble at present; her husband is lying a corpse; I have a cook now living with me, who was with me then; her name is Rachael Kinseller; she knows nothing about the house; when I went to live in Houston street, Mr. Forrest called there in the same way as before named; he did not continue to call all the time I was there; I lived in the same way as I did in Greenwich street; to the best of my knowledge, Mr. Forrest always occupied the same room; he went in and out as if it was his own; I mean by that no one waited on him; in Greenwich street there were four large chambers, and I should have said only two small rooms; in Houston street there were four chambers and three small rooms, with a bath room; the chambermaid used to open the door for Mr. Forrest in Houston street; no servant in my house knew Mr. Forrest; I have never known him to stay there a whole night; he came very seldom in Houston street. Q.—How often? A.—When he was in the city, probably once or twice a week, but I cannot remember; he usually came in the day time; I never saw him bring any one with him; I never heard any one with him; it may appear very strange to you, but nevertheless it is a truth.

Q.—Is it usual for you to take care to know as little as possible of what is going on? Objected to.

The Chief Justice said the question was not competent.

Q.—Did you usually endeavor to hear and understand all that you could? A.—No, sir, it is not my character. Q.—Did you see or know for what purpose Mr. Forrest engaged the room? A.—I could not say when I did not see; I told you I never saw any one

with him. never heard any one with him, and I could not know what business he had in the room. Q.—Did Mr. Forrest ever pay you any money for the use of your rooms? A.—He has; I do not know how often. Q.—Did he pay you each time he occupied it? A.—I think not; I did not keep an account against him; I left it to his own memory. Q.—Did you follow any other occupation in this house? A.—I kept a boarding house, sir, and that is all.

Cross-examined.—I have not been spoken to by Mrs. Forrest, or any one in her behalf; I never saw Mrs. Forrest; I do not know Mr. Willis; I do not know either Mr. Wikoff or Capt. Calcraft. Q.—No representations have been made to you by those parties with regard to this? A.—There have not, sir, or I should not be sitting here.

The Court here took a recess for five minutes.

[The Chief Justice remarked that some well founded apprehension is entertained with regard to the safety of the floor of this room. He understood that there are but two small pillars supporting the floor, and he therefore would direct that no more persons be admitted to the court, unless those whose attendance was actually necessary. He would not endanger the lives of those who were compelled to be there, by admitting spectators who came from mere idle curiosity.]

Thomas S. Hamblin was called by Mr. O'Conor, but not appearing, an attachment was issued against him. The *subpœna* was served on him this morning, at ten o'clock, at Florence's.

An attachment was also granted against Dr. Hawkes and his wife, Mr. O'Conor intimating that no harshness would be used towards them.

Theodore Sedgwick recalled, and examined by Mr. O'Conor, deposed—I was, in 1849, counsel for Mr. Forrest, and had been for some time before that, in relation to various other matters. Q.—Had you an interview with the counsel of Mrs. Forrest, in reference to a contemplated application for a divorce by Mr. Forrest in another State?

Mr. Van Buren wished to know the object of this.

Mr. O'Conor.—I wish to verify that part of Mrs. Forrest's affidavit. He was then proceeding to contend for the pertinency of the question, when

Mr. Van Buren said—I am inclined to admit the question, rather than have the counsel sum up the evidence at this stage of the proceedings.

Mr. Sedgwick then said—I was anxious to have the matter amicably adjusted; in the meantime, Mr. O'Conor was engaged as Mrs. Forrest's counsel; but I do not wish to answer any question respecting my business as counsel, unless compelled.

Mr. O'Conor.—You have no right to object, but your client has, and he has agreed.

Mr. Sedgwick.—Then I have no objection. Witness continued—I had an interview with Mrs. Forrest's counsel—I think it was at my house, as I was confined by an accident—yourself (Mr. O'Conor), on behalf of Mrs. Forrest, and myself and Mr. Randall, of Philadelphia, who is also a lawyer, on behalf of Mr. Forrest; I can't state when the interview took place, except that it was in the winter of '49–'50; Mr. Randall came on here for a short time, and solely for this business.

Mr. O'Conor here read from Mrs. Forrest's affidavit.

Witness continued—I recollect distinctly that you (Mr. O'Conor) took that ground; I don't recollect exactly the words employed.

Q.—Did I not state to you that allowing no impeachment of Mrs. Forrest's chastity was an ultimatum?

A.—I cannot recollect the words; but you took that ground from the commencement, and adhered to it throughout.

Q.—Did you or Mr. Randall propose that the charges for a divorce against Mrs. Forrest should be gently made?

A.—I don't remember.

The further examination of Mr. Sedgwick was suspended, pending the arrival of papers from Mr. O'Conor's office.

Robert Loochead, being sworn, deposed—I am a policeman, at present, stationed in the Fifth ward; I know Mr. Forrest by sight; I know the house they say Mrs. Ingersoll kept, at 355 Greenwich street; I have never been in the house; while it was in her occupation, I saw Mr. Forrest go in once, and, on another occasion, I saw him go up the stoop; I don't know whether he went in on that occasion; I don't recollect seeing him there more than those two occasions; don't recollect seeing him come out, or seeing any one with him; I was not a policeman then.

Q.—What was that house commonly known and reported to be, at that time?

Mr. Van Buren objected to the inquiry on common reputation.

Mr. O'Conor would not press the question, as he might be able to prove it more directly.

Mr. Sedgwick recalled—[Letters produced]—This is my handwriting; it is my letter to you proposing the manner of the interview; the note enclosed in it is a private one from me to you; the other is my professional one.

Mr. O'Conor then read the letters.

NEW YORK, Jan. 27, 1850.

DEAR SIR—I address you as the adviser of Mrs. Forrest, who, I understand, has consulted with you in regard to the difficulties existing between her and Mr. Forrest.

Mr. Forrest intends to take steps to obtain a divorce, and Mr. Randall, of Philadelphia, one of his legal advisers, is now here, for the purpose of consultation upon the subject.

We are desirious that Mrs. Forrest should be fully apprised of the course intended to be taken, and for that purpose, supposing it will be more agreeable both to her and to you that our communications should pass through you, I write this letter. Mr. Randall and myself request you to be good enough to name the earliest hour that it will be agreeable to you to receive us; and in the course of to-morrow (Monday) if possible. Mr. Randall is anxious to return to Philadelphia as soon as he can do so. I am, dear sir, very truly and resp'y yours, THEODORE SEDGWICK.

C. O'Conor, Esq.

37 IRVING PLACE, Jan. 27, 1850.

MY DEAR MR. O'CONOR:—I send you a business letter with this. I have been shut up at my house almost all the winter; and if you can *as conveniently* make our rendezvous in my library, I shall be very glad. As to the *time*, I leave it entirely to you.

Yours very truly, THEODORE SEDGWICK.

I have no doubt the interview took place on Monday Q.—Do you remember that one of the terms insisted on by me was that Mr. Forrest should pay an agent to attend in Philadelphia, in order to watch that that stipulation respecting charges against Mrs. Forrest's chastity should not be deviated from? A.—Yes, sir; I do not recollect sending you a copy of the petition to the Pennsylvania Legislature without the word "criminal" being used in it; my impression is otherwise; I have no recollection of sending you the paper, though I do not mean to say I did not; I know we had communications on the subject afterwards, but whether written or oral I cannot recollect.

Three letters produced, and identified by the witness as communications which passed between himself and Mr. O'Conor.

Mr. O'Conor then read the following letters:

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 am desired by Mr. B. and Mrs. F. to require you to meet us at that time and place. Yours truly,

THEODORE SEDGWICK.

NEW YORK, Feb. 16, 1850.

THEODORE SEDGWICK, ESQ.—

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 alledged. 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 respect to that petition, or any other involving 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'CONOR.

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 great respect and regard, yours truly, THEODORE SEDGWICK.

CH. O'CONOR, Esq.

Witness continued.—It is apparent you (Mr. O'Conor) had seen the petition to the Legislature when you wrote that letter of the 16th February.

Q.—Did you and Mr. Randall endeavor to assure me that the proof could be concealed from public notice? A.—What we said was, that the matter would be known only to the members of the Legislature, and that the proofs should be kept out of the newspapers. Q.—Were not further assurances given by Mr. Randall, that by arrangements with the committee the proofs given should be actually concealed? A.—So far as it was possible; the understanding was that it might be kept within the committee and such members of the Legislature as wished to know it, and that it should not be placed on the files of the Legislature; Mr. Randall said it could be done; he was more acquainted with the business of the Legislature than I was.

Cross-examined by Mr. Van Buren.—I had a general authority from Mr. Forrest to act as counsel in this matter for him; my efforts for several months were to bring about an amicable settlement; I saw Mr. Bryant, of this city, and Mr. Ogden, of Chicago, as the friends of Mrs. Forrest. I think I first applied to Mr. Bryant as an intimate friend of Mr. and Mrs. Forrest, who I thought would aid me in bringing about an amicable adjustment.

Q.—How far had the negociations progressed at that time when Mr. O'Conor became Mrs Forrest's counsel?

Mr. O'Connor objected to any evidence of what either Mr. Bryant or Mr. Ogden said on behalf of Mrs. Forrest, unless it was shown that they acted as her authorized agents.

Mr. Van Buren replied.

The Chief Justice, in giving his decision on the point, said that no person, however respectable, has a right to represent himself as acting for another party, unless his authority to do so is proved. It is attempted to give in evidence a conversation respecting a divorce which was sought to be obtained by collusion between husband and wife which no Court or Legislature could have listened to, and which was a corruption, and against the policy of the law.

Witness continued.—I had the athority of Mr. Forrest, as his counsel, to negotiate in the matter. Q.—What were the instructions from Mr. Forrest under which you were acting at the time of the interviews with Mr. O'Conor?

Mr. O'Conor objected. The Court admitted the substance of Mr. Forrest's instructions, but not any statement made by him against his wife.

Witness continued.—There were no specific instructions from Mr. Forrest, and that was the difficulty under which I acted; but I had general power as his counsel, to act in the matter.

Q.—I want to know what directions Mr. Forrest gave you in respect to the matter? A.—Mr. Randall and I were anxious to settle it amicably; Mr. Forrest was not satisfied to do so, and his desire was that I should obtain an affirmative divorce in one of our courts of law.

Mr. O'Conor objected to the testimony.

Mr. Van Buren.—I offer to prove that this witness's instructions were to proceed for an affirmative divorce.

Witness continued.—I think our object in the interview with Mr. O'Conor was whether if, while Mr. Forrest instituted the proceedings for a divorce, Mrs. Forrest would remain silent. Q.—Were any instructions given to you by Mr. Forrest about the harshness or softness of the terms? A.—I don't think he gave me any specific instructions as to harshness or softness.

Q.—What wishes were expressed to you by Mr. Forrest with regard to your negotiation with Mr. O'Conor? Objected to and ruled out.

The examination of Mr. Sedgwick was not concluded at the rising of the Court.

Mrs. Ingersoll was here recalled, and produced the date of her going into the Greenwich street house; she took it from her papers; I took possession of the house in Greenwich street 5th November, 1846. I left it May, 1848; I then went to 628 Houston street, where I remained till the 1st of May last, and am now residing at 4 Murray street.

Adjourned.

January 6th.

Mr. Forrest was in attendance, and Mrs. N. P. Willis accompanied Mrs. Forrest. There were very few persons in court, it being found necessary for safety to prevent the room from being crowded.

Mr. Theodore Sedgwick was again called to the stand, and explained that he had searched up some letters on the subject, and that he had no recollection of having had any negotiation with any other party previous to the interview with Mr. O'Conor: the interview with Mr. O'Conor was on Tuesday the 28th January, 1850, and the interview with Mr. Bryant was after that. I stated to Mr. O'Conor that our desire and intention was to apply to the Legislature of Pennsylvania for a divorce; Mr. Randall, who understood those things, came on to explain; we supposed it would be necessary for us to make some charge against Mrs. Forrest, and that it would be done in the least painful way, and without any unnecessary publicity; Mr. O'Connor took the gronnd I have already stated, and which he has taken in his final letter. Q.—How did Mr. Bryant become introduced? A.—I don't exactly know, but I suppose it was because we thought the ground taken by Mr. O'Conor incompatible with our obtaining a divorce, and perhaps I saw him on the matter, knowing him to be a particular friend of Mr and Mrs. Forrest, and I thought he would enable us to carry out our views [note produced]; this was written by me to Mr. Bryant; I had communicated our views to him.

Mr. Van Buren.—We now offer the note of Mr. Bryant, in which he says Mrs. Forrest agrees to the terms of the negotiation proposed by Mr. Sedgwick, her only stipulation being as to securing her allowance.

Mr. O'Conor objected. If Mr. Bryant can prove so call him to the stand.

Mr. Van Buren urged its admissibility.

Chief Justice inquired the date of the note.

Mr. Van Buren.—The 9th February, 1850.

Mr. O'Conor having looked at the note, said he could not consent to its admission; he had other notes from Mr. Bryant which he would be obliged to read, and he thought the better way would be to call Mr. Bryant to the stand. Mr. Bryant was anxious to have the parties separated quietly, in order that his own family might be spared the annoyance of being dragged before a court as they now are.

The Chief Justice ruled as he had yesterday, that there must be some proof of the authorized agency of Mr. Bryant before his acts can be put in evidence. The letter was therefore ruled out, and Mr. Van Buren took an exception.

Mr. Van Buren called for the reading of Mr. Sedgwick's note of the 15th Februrary, 1850, to Mr. O'Conor, put in evidence yesterday, and then proposed to read Mr. Bryant's letter to Mr. Sedgwick, which caused him to write to Mr. O'Conor.

Mr. O'Conor objected, and the Chief Justice said it comes precisely within the rule laid down. If Mr. Bryant was an agent, prove it. There is nothing in this case to show that he was anything but the mutual friend of Mr. and Mrs. Forrest.

Witness continued.—The interview did not take place; the parties did not come to my office; [the petition of Mr. Forrest produced] the word "criminal" interlined in it was introduced by me; it was done the same day of the jurat

Q.—Was that petition drawn up in accordance with the negotiations made on the subject? Objected to, and ruled out.

Q.—What reply did Mr. Forrest make either in approval or disapproval, when you told him the result of your interview with Mr. O'Conor? A.—I think Mr

Forrest was more satisfied with the interview than I was; he so far approved of it as to ratify what I did, though he was not satisfied with the direction I wished to give it. Q.—Subsequent to that did you communicate with him what had been done as to a settlement. A.—Undoubtedly. There was no objection to our proceedings in Pennsylvania made by Mr. O'Conor at that time, nor do I see it in any of the correspondence.

Paper dated Jan., 1849, already read and numbered 38, produced again. Witness.—I recollect reading this paper very well; Mr. Forrest commenced proceedings for a divorce in the State of Pennsylvania. Q.—Who advised him to proceed there?

Mr. O'Conor objected. Mr. Van Buren said he wished to show that Mr. Sedgwick and himself advised Mr. Forrest to proceed in Pennsylvania.

Mr. O'Connor said if he was as anxious to try parties out of this cause as Mr. Forrest was, he would admit the testimony; but as he had no desire to try the counsel who gave the advice, he would object to it. (laughter). It was also well known that counsel often receive misstatements, and their advice on those misstatements could not be admitted.

Mr. Van Buren said that his advice to Mr. Forrest was founded on the facts as they have turned out.

The Chief Justice said that it was not all material who advised him; it is sufficient to prove that he proceeded with advice of counsel.

Witness.—Mr. Forrest always proceeded by advice of counsel in Pennsylvania and here.

Mr. O'Conor.—You will understand the ruling of the court; you are not to give the names of counsel who gave the advice.

Witness.—Including my own?

Chief Justice.—It is of precious little importance who gave the advice. (Laughter.)

[Letter of Mr. Sedgwick to Mr. O'Conor, dated 18th February, read yesterday, produced.] Witness continued.—On reading the letters now, I can easily see how we misunderstood each other.

[Memorandum produced but not read.] Witness.—I do not know in whose handwriting it was.

John Hawkes, who appeared to be laboring under debility, was assisted to the stand, and deposed—I am a physician; I am 43 years of age; I am now on my way from Boston to Rochester, and am staying at Mr. Ransom's, Henry street, New York; I do not know Mrs. Forrest; I know Mr. Forrest by sight; I knew Miss Josephine Clifton by sight; some seven or eight years ago, I was travelling from New York to Rochester, and stayed over a night at Utica; in the morning when we took the railroad cars, Mrs. Hawkes being unwell, I obtained for her the part of the car called the saloon; it is the latter part of the car partitioned off, with a door entering it from the main car, and with a sofa or settee at each side of it; the sofas were about six feet long; on entering that saloon we found one sofa was occupied by a lady; my wife took possession of the other side; at the first or second stopping place, very soon after we started, we stopped at an eating place; Mr. Forrest came to the window of the saloon, and spoke to the lady, which drew my attention to her, and then I discovered who it was; Mr. Forrest then got what I supposed was a glass of brandy and water, and gave it to her through the window; I sat most of the time in the main part of the cars, but was frequently in and out to see my wife; there was a mulatto servant in attendance on Miss Clifton.

To the Chief Justice.—She was Miss Clifton's servant.

To Mr. O'Conor.—On the occasions I went into the saloon, Miss Clifton was not well; she seemed in considerable pain at times—groaning, twisting of the body, contortions of the face; I think this condition changed before we left the cars; we left the cars at Rochester; Miss Clifton and her servant were then in the saloon. Q.—Did your wife remain in the saloon all the time? A.—Nearly all the time; one short time she was not in; as nearly as I can recollect it was for about half an hour she was out of the saloon; she came to me and made a statement, and she afterwards returned to the saloon; Mr. Forrest came to her and stated to her that she might return to the saloon, and she did; it was after the absence of my wife from the saloon that I discovered the change in her for the better; I saw him in the saloon, with Miss Clifton, several times during the day. Q.—After you discovered the change, what was the appearance of Miss Clifton? A.—She was more quiet; did not complain of pain. Q.—Did you observe Mr. Forrest at any time do anything for Miss Clifton besides giving her the glass? A.—I observed her during the day, once at least, taking a pill or pills, Mr. Forrest being present; I am not certain whether he gave it to her, or she took it from her servant. Q.—From all that you saw of Miss Clifton's illness before your wife left the car, and what you saw afterwards, did you form any opinion as to what had been the cause of her illness and the relief thereof? A.—I formed an opinion.

Q.—What was that opinion?

Mr. Van Buren objected to the expression of his opinion.

Question withdrawn for the present, and cross-examination was suspended until the direct is entirely finished.

Laura L. Hawkes, being sworn, deposed:—I am wife of Doctor Hawkes, who has just been examined; I was in company with Doctor Hawkes on a journey from New York some years ago; we went from Utica to Rochester by railroad; I was not in good health at the time; I occupied the saloon; Miss Clifton and a colored servant girl also occupied it; I did not notice anything particular about Miss Clifton when we first met; she soon after began to complain of being sick. Q.—What was the character of her illness, as far as you could judge from her manner? A.—She seemed to suffer a great deal of pain. Q.—What complaints did she make? A.—She said she suffered as she did every month; she grew worse, and seemed to grow worse all the time, and complained more; I did not see any one do anything for her; her maid turned her and unloosed her dress; saw her take a glass of something through the window from Mr. Forrest, or the gentleman that was with her; I don't know what it was; I saw her take medicine several times during the day; I don't recollect who administered it; it was in the shape of pills; she said it was opium; I saw her take them several times, but whether she took them from the maid or the gentleman, I don't recollect; I left the saloon; I left it at the request of Mr. Forrest; Mr. Forrest spoke to Miss Clifton, and they spoke together, and he then asked me to be kind enough to withdraw; I did; I went into the main body of the car; my husband was sitting with me part of the time I was there, but I don't recollect if he was there when I went in; I stated to him the reason I left the saloon; when I left the saloon, I left Mr. Forrest and Miss Clifton and her servant in it; I was out of it about half an hour on that occasion; I then returned; Mr Forrest came to the door and told me I could go back if I wished. Q.—Up to the time you left the saloon, had Miss Clifton's condition improved? A.—No. Q.—After you returned to the saloon, how was it? A.—I heard no more complaint; I saw no more writhings or contortions in pain; she reclined upon the sofa, and seemed quiet; I had been a mother previous to that time; we left the cars finally at Rochester; when I left the saloon Miss Clifton was still in the saloon. Q.—Before you left did she say anything to you? A.—She requested me to stay with her while her maid got her dressing gown she said she could not be removed until she was wrapped in a dressing gown, and was going to be removed to a public house; she said she flowed so much she could not be removed until she was wrapped up; my husband told me at the time that that was Mr. Forrest and Miss Clifton.

Cross-examined.—I don't recollect whether this saloon was part of the car in which my husband usually sat, or whether there was a passage between; the saloon was at the rear end; I think there were no cars in the rear of the saloon; there was a back door; when I went into the other car, I suppose I rode forward, as I always do if I can; I did not see Mr. Forrest from the time I went out of the saloon until he called me; I can't recollect particularly where I did sit; Mr. Forrest opened the door of the car where I was, and told me I could return if I wished; I think I asked Miss Clifton what was the matter with her; that was the commencement of the conversation that I recollect; she had no hesitation in telling me what was the matter; she spoke a good deal of being so every month, and had travelled a good deal on that account, and taken medicine; I don't recollect suggesting any remedies. Q.—Did you ask her was she accustomed to these attacks? A.—Yes I asked, couldn't she do anything for them, and she said she had travelled, and taken medicine; she said

she was not married. Q.—How came she to tell you that? A.—I told her to send for her husband, and she said he was not her husband, that he was a married gentleman, a friend of hers; she said she was single; I had no means of telling the length of time I was out of the saloon; we had passed Syracuse; I don't think we had passed Canandaigua; I can't tell what year it was; I think it was in the summer; it was warm weather; it was towards night when we left the cars at Rochester; I think it was near noon when I went out of the saloon; I think this must be seven or eight years ago, as near as I can guess.

Mr. O'Conor.—You thought the lady was married; what made you think so? A.—The gentleman who was with her was very attentive, and I supposed he was her husband.

Dr. Hawkes recalled, and to a question from Mr. O'Conor said he was a physician before the occurrence he spoke of. Q.—The symptoms you saw before your wife left the saloon, and what you saw afterwards, and taking into account the fact that this lady at the time she reached Rochester was in the situation she stated to your wife, that she could not be removed without being wrapped up, did you, at the time, form an opinion as to the cause? A.—Yes, I did. Q.—What was that opinion?

Mr. Van Buren objected.

Mr. O'Conor contended for its admissibility.

Mr. Van Buren's objection was on three grounds:—First, that it was quite obvious what the lady's sickness was, and how she was relieved; next, on the ground of the opinion of the witness; and next, because it would lead to endless evidence in the field of science.

The Chief Justice said he did not know that there was any reason, in point of law, why the Doctor's opinion should not be received. The court cannot, certainly come to any opinion on the symptoms described, but when that opinion is called for from a medical man he thought it proper to admit it.

The question was then repeated. A.—From all that I saw, and heard from my wife, I did form an opinion at that time, and I hold the same opinion now. Q.—State what that was, and is? A.—I thought that an abortion took place; I think I mentioned to my wife, at the time, who those parties were.

Cross-examined.—I graduated at Fairville Western College of New York, in the winter of 1826 or 1827; I stayed for a year and a half in Cherry Valley, practising, and went from there to Newark, in Wayne county. Q.—What made you leave Cherry Valley? A.—From the time I graduated, I was on the look out for a place to settle in; an opportunity offered, and I went; I stayed at Newark nearly five years, and then went to Rochester; I went in the drug business, and quit the profession. Q.—What was your reason? A.—I preferred the drug business to professional life, I remained in it for twelve years; I remained there until I came on here; I came down to New-York to settle up my affairs at Rochester; I was unsuccessful in my business at Rochester; I remained here between two and three years, until I went on to Boston; I was engaged, while here, in settling my affairs, and, after six months, I went up to the part of this city called Chelsea, and commenced practising; I boarded at Mr. Ransom's, in Nineteenth street; I kept an office in the Ninth avenue. Q.—What was your object in going to Boston? A.—There was a better prospect of business there; I practised there for two and a half years, at the part of the city called East Boston; ill health compelled me to leave.

Q.—Can you judge as well of the diseases of yourself and of your own condition as you can of other persons? A.—Yes, sir, I do not know but I can. Q.—Were you asked on New Year's eve as to your state of health?

Mr. O'Conor said the statement had better be placed in the witness's hand.

Statement produced. Q.—Did you state on New Year's eve that you were not able to attend here in consequence of your state of health?

Mr. O'Conor objected. The question was admitted, and repeated to the witness.

A.—I think I did, sir; I had shortly before that arrived from Boston. Q.—And were you then intending to go next day to Rochester? A.—Yes; I cannot tell where Mr. Forrest usually sat in the cars; I do not recollect omitting to state anything I observed that day; I did not speak to Miss Clifton about her illness; some women suffer intense pain on these monthly occurrences; the flowing of blood is not always a consequence; it frequently and generally does give relief; I had seen Miss Clifton before on the stage, and may have seen her in the street.

Mr. O'Conor was about to read the deposition of the witness taken on New Year's eve.

Mr. Van Buren objected.

The Chief Justice said the counsel could not read it but might ask him the same questions now.

Q.—When you were asked on New Year's eve about your intention of going to Rochester next day, what did you say? A.—This is correct. I said I would as soon as my health permits; I stated that the probability was, I should not be able to go.

Catherine Western, a rather good looking and good-humored young woman being examined by Mr. O'Conor, deposed.—I know Mr. Edwin Forrest by sight. Q.—Where did you first know him? I was pointed out to him in Broadway, (Laughter.) I never was in any house with him. Q.—Did you ever see him in any place but the public streets? A.—No. Q.—Did you ever know him to be anywhere but in the public street? A.—No.

Mr. O'Conor.—That's all.

The witness was not cross-examined.

Mary Suydam, an elderly-looking woman examined. Q.—Do you know Mr. Edwin Forrest? A.—No, sir, (Laughter.) Q.—Have you ever seen him? A.—I have seen him on the stage; I have never seen him anywhere else.

To Mr. Van Buren.—I was subpœnaed this morning. Q.—By whom? A.—A man. I don't know who he was; I wondered why I was subpœnaed.

Luther Horton being examined, deposed.—I live at No. 47 Leonard-street; I am an agent; I have been in the police on two different times; five years ago in the Fifth ward, and two years ago in the Second ward; I was over two years in the police in the Fifth ward; while in the police, I knew there was such a house as Caroline Ingersoll's; it is occupied by that lady; her name was on the door; I don't know what kind of business was carried on in that house; I was in it once; the Croton "bursted" when I was on duty, and I went in; I may say I was in twice; I do not know any of the other persons who lived in the house beside Miss Ingersoll; I never saw Mr. Forrest go into that house to know him; I have seen other persons go in and out frequently in the evenings; I don't know who they were; they were males.

Q.—Had you, when on the police, such observation as to enable you to say what class of house it was when occupied by Mrs. Ingersoll?

Mr. Van Buren objected. Question admitted, excepted to, and repeated. A.—At that time, from my own observation, and from what I have seen and heard, I reported it to be a house of that kind; a house of ill repute; a house of assignation.

Mr. O'Conor here remarked that there were frequent remarks made by parties at the table of the defendant's counsel which, though they might not reach the Court, were said in hearing of the jury He did not apprehend any effect from them, but thought it would be more regular if they were avoided.

Mr. Van Buren said this was just like many of the other opportunities the counsel took to make part of his summing up.

The Chief Justice said there had been a great deal of side talk on both sides; it was highly improper, and he desired that it should be avoided.

The witness was not cross-examined.

Daniel Carpenter, deposed.—I am and have been captain of police of the Fifth ward since February, 1848.

Mr. O'Conor here read from the book of regulations of the police, which states that one of the duties of the Captains is specified to be to report bawdy houses, &c., to the Chief of police.

Mr. Van Buren objected. The Chief Justice said the captain's report could not be received.

William H. Appleyard was called, and deposed.—I am a carman; I was formerly a policeman attached to the Fifth ward; I was in the forepart of 1848 and in 1847; I left off on the 7th of July, 1848, I think; I was in the police three years previous to that. Q.—During that time did you become acquainted with the house 485 Greenwich street, occupied by Caroline

Ingersoll? A.—Well, if there are any reports made by me, I might be able to answer; I am not posted up about it now; if there is any report of mine it is correct. Q.—Don't you recollect anything about this house? A.—I recollect about a great many houses. (Laughter.)

To the Chief Justice.—I have some slight recollection of it.

Q.—Were you in that house? A.—Yes; I don't know who occupied it; I believe I was in the house once or twice while I was a policeman, but never before or since; I had two captains that year, Capt. Perry and Capt. Carpenter; Capt. Perry died, and Capt. Carpenter succeeded him; this book (the report book of police station produced) is kept in the station house for the reports made by the police; there are some names in this book.

Q.—What brought you into the house? A.—"To sight around." (Laughter.)

Q.—What did you see? A.—Well, I didn't see anything very bad. Q.—What do you mean by "sighting around?" A.—The house had the reputation of being an "upper ten" (laughter), and I went in to see how they did things up (loud laughter); I went in to see how many persons were in the house; I made a great many reports to the captain of police, and I can't remember any in particular; if I reported the house, it is on this book; I don't recollect what the report was.

The Chief Justice said this witness either knew nothing, or he was unwilling to tell what he did know.

Q.—Was it not your duty to report houses of ill fame? A.—No, sir; I was in the habit of going into houses and asking the landlady "how many boarders?" and then stepped out. (Laughter.)

Q.—From your observation of the house, when you "sighted around," what description of house would you say Mrs. Ingersoll's was?

Mr. Van Buren objected. They were not going to prove this witness as an expert in houses of ill fame. (Laughter.)

Mr. O'Conor said that he desired to give this witness's testimony to explain the testimony of Mrs. Ingersoll, as he could not put the question to her directly.

Chief Justice.—I have heard nothing from Mrs. Ingersoll herself as to this being a house of that description. She said it was a house with four beds in it, but it would not be right to say that that was sufficient to say that it was a house of ill fame.

Q.—Did you see anything indicating the purposes for which the house was applied? A.—I think not; if I have, it has entirely slipped my memory. Q.—Did you see any woman there whom you knew? A.—I guess not. Q.—Did you see any woman whom you had seen before? A.—I have no recollection.

The witness was not cross-examined:

Mr. O'Conor.—Is the Rev. David Terry in court?

Mr. Van Beuren.—Is it on this same point? (Laughter.)

Ellen Lawless was called, and not appearing, Mr. O'Conor read the affidavit of the service of the supœna and the tendering of fifty cents to the witness, and the fact that she refused to accept the fifty cents, and that she would not attend as a witness. An attachment was issued against her.

Saml. M. Raymond examined by Mr. O'Conor, deposed.—I now reside in Lexington avenue; I am a clerk in the house of Raymond and Fullerton, 45 Cliff street; my brother is the senior partner of the house; I am in my fiftieth year; I know Mr. Edwin Forrest; I first became acquainted with him in December, '46 some time near Christmas; it was at his own house in Twenty-second street; I think Mrs. Forrest introduced me, or I introduced myself; I called, and sent up my name, and was received in the library; it was half-past ten in the evening when I called—perhaps a little later; I remained till half past one; Mr. and Mrs. Forrest were there; I don't recollect any other person being there; I visited occasionally at Mr. Forrest's house in Twenty-second street, down to, I think, September, '48; I went to the western part of Pennsylvania, and my visits were discontinued; after Mr. and Mrs. Forrest separated, and after my return from the West, I visited Mrs. Forrest in Sixteenth street; I returned to New York in the spring of 1850.

Q.—Did Mrs. Forrest ever commit any act of impurity with you?

A.—No, sir.

Q.—Or you with her? A.—No, sir.

Q.—Did you ever take any liberty whatever with her person?

A.—No, sir; no liberty that I would not have taken with any lady in the country.

Q.—Did she ever in any way whatever do anything, or say anything, to encourage any liberty on your part?

Mr. Van Buren thought that was not competent.

The Chief Justice said it struck him as rather general.

Q.—Did you ever hook or fasten Mrs. Forrest's dress?

A.—No, sir; I never in any way or shape aided Mrs. Forrest in dressing: I never thought of doing it.

Q.—Were you, on any occasion, at the house of Mrs. Forrest in the absence of Mr. Forrest, when there was company there that stayed up late? A.—I was once. Q.—Who were the company on that occasion? A.—It was when Mr. and Mrs. Forrest was absent from the country; I was there one evening, I think, in August, 1848, when there was something of a party; it was a party given to Mr. Simms, of South Carolina; Mr. Forrest was not then at home; the company were—Mr Simms and his daughter, Mr. and Mrs. Lawson, I think Mr. and Mrs. Voorhies, Mr. Fortesque, from England, Captain Calcraft, and quite a number whom I do not remember; Mr. and Mrs. Godwin were there; the party broke up about one o'clock, I think; I was one of the last that left; I don't recollect if any one went away with me; I don't recollect who I left after me, but there were some few left; most of the company had gone; the evening was spent as usual, except that there was no dancing; it was spent in conversation and music; no dancing that I remember. On another evening I was there as late as twelve o'clock; Mr. Fortesque and Capt. Calcraft, Mrs. Forrest and Mrs. Voorhies, were the company; that evening was spent in conversation exclusively; I mean there was no piano there—no music; that party broke up before one o'clock and after twelve; I know it; Mr. Fortesque left next morning by the train to go west; he, and Capt. Calcraft, and I left the house together, and I separated from them at corner of Ninth avenue and Fourteenth street: I separated from them because they were both Englishmen, and I thought my company was superfluous; I did not go back to Mrs. Forrest's house that night; I do not remember any other occasion staying there so late; I had never seen Mrs. Forrest before Mr. Forrest's return from England in '46, nor Mr. Forrest except on the stage.

Q.—On the evening that you and Capt. Calcraft and Mr. Fortesque were there, and you three left the house together, had you any wine? A.—There was no wine in the room that evening, but just before we left we had some; there was no wine in the room, and Mrs. Voorhies went down to get some; and Capt. Calcraft volunteered his assistance, and accompanied her; Capt. Calcraft is an elderly man, in this country; they (Captain Calcraft and Mrs. Voorhies) were gone down stairs some time, and they came up merry and laughing, and Mrs. Forrest, I think, made some remark upon their being so very merry; I did not notice anything whatever about Mrs. Voorhies and Captain Calcraft at that time, except a hearty merriment which I have seen among other people a thousand times—I mean respectable people with good spirits. Mrs. Forrest did not participate in the merriment, but made some remark, in a cautionary way, as they entered the room. It was a pleasant warm evening; I have fixed the time to be before one o'clock, by the conversation about Mr. Fortesque's leaving by the train next morning.

Q.—Did you see anything unusual there that evening? A.—I think I saw some little paper segars smoked, which was rather unusual. Q.—Did you hear anything about Mr. Fortesque being a lord? A.—No; I understood he belonged to some noble, aristocratic family in England; he was a very gentlemanly man—that's all I know of him. Q.—Did you ever make use of such an expression as "a tin petticoat?" A.—It was made use of by me about some lady's dress, at a small party that met in the dining room in Mr. Forrest's house; it was a party in the evening; her dress rustled very much as she moved about the room, and I made a side remark to some one that "she must have a tin petticoat;" I think I made the remark to Mrs. Voorhies or Mrs. Forrest; I have heard that expression more than once. Q.—Did you ever make the same remark with regard to clothes that were lying on a bed. A.—

I never made the remark but once, and that was with regard to that lady; I believe she lived out near Chelsea. Q.—Did you ever spend a night in Mr Forrest's house? A.—I slept there one night. Q.—What persons were in the house? A.—Mrs. Forrest; I don't recollect anybody else; I don't know whether Mrs. Voorhies was in the house, my impression is that she was not; it was in the summer of '48, or in May; it was after Mr. Forrest's return from his farewell tour in the south; Mr. Forrest was not at home, however, at the time; I called, and while I was there it commenced raining violently; I waited some time; Mrs. Forrest expressed some half reluctant invitation to me to stay; I remember she was reluctant to ask me to stay in Mr. Forrest's absence; I said I thought it nothing extraordinary for people to stay there over night; I have heard of Howard, and Godwin, and Placide staying over night; she then gave me the invitation; I slept in a room on the second story, over the entrance door, fronting on the street. Q.—Did you go into any other bedroom in that house that night? A.—No, sir, I did not.

Adjourned

January 7th.

A limited number of persons were admitted to the court room this morning. Mr. Forrest was, as usual, seated with his counsel. Mrs. Forrest did not arrive till after two o'clock, when she entered with Mrs. N. P. Willis and another lady.

Mr. Van Buren remarked that before they proceeded with the examination of Mr. Raymond, he wished to state that Mrs. Flowers was in attendance from the first day of the trial. A vessel sails for New Orleans on Friday, and if she does not return home then, he understood she could not go for a month after.

Mr. O'Conor.—If she is in court in the morning, I will, if possible, ask her a few questions.

Mr. Van Buren said that if any evidence is to be given to impeach her, he suggested that it should be brought out while she is here.

Mr. O'Conor said that he intended to produce his witnesses as he could get them in Court. There was a fellow servant of Anna Dempsey whom he had in attendance in court for some days, but she had suddenly disappeared, and he feared that she would not be found till this trial was over. He would not consent to Anna Flowers going away; he would rather she should remain.

Mr. Van Buren.—That is just the difficulty we want to avoid.

Samuel M. Raymond was again called to the stand, and examined by Mr. O'Conor. Q.—You have stated that you saw Mrs. Forrest smoke—say in how many instances? A.—In two instances, and it made some impression on my mind; in the summer of 1848, I passed the evening there, and we were in the veranda in the back of the house; Mr. Forrest was at home; Mr. Oxley, an actor, myself, Mr. and Mrs. Forrest were there; Mr. Forrest, in the course of the evening, said, "Kate, make us some mint juleps;" after this, Mr. Forrest and Mr. Oxley smoked; I think Mrs. Forrest brought them the segars; Mrs. Forrest lighted a little paper segar and smoked it herself; she offered me one, but I do not smoke; I however lighted the cigarette and smoked it; Mrs. Forrest smoked this small segar in the veranda, in the presence of her husband; I never saw a lady smoke before, though I have seen women smoke in the country—farmers' wives.

Mr. Van Buren objected to the witness volunteering his remarks that were not responsive.

Mr. O'Conor said the witness had a right to make any explanation of his reply that he deemed necessary.

The Chief Justice said it would avoid a great deal of argument, and save much time, if the witness would confine himself to a simple reply to the question put.

Witness continued.—The second time I saw her smoke was on the evening I spoke of, when Captain Calcraft and Mr. Fortesque were there; on that evening, Captain Calcraft was not at all disguised with liquor; I distinctly recollect his conversation and his manner were very gentlemanly; it is my confident impression that we had no liquor until we were leaving; that was the occasion of Mrs. Voorhies going down stairs; there was no liquor in the room then; the quantity drank by Capt. Calcraft was very inconsiderable; on any occasion I was in company with Mrs. Forrest, I never saw her in any way disguised with liquor; I never ever heard it hinted that she ever was; I as at the house one evening when she had sprained her ankle; I don't recollect whether I was in the house at the time it occurred or not; it did not happen in my presence; I saw her in the drawing room in Twenty-second street; I was there in that room when she came in limping; that was not the night that I slept there; It was some eight or ten months before the night I slept there; I went to England in the packet of 21st July, 1846, and returned in November of the same year; I stopped in this city at that time about a fortnight, during which time I became acquainted with Mrs. Forrest, but not with Mr. Forrest; I saw Mrs. Forrest two or three times, and then went to Western Pennsylvania, and returned in the latter part of October or 1st of November, 1847; I then remember I remained in the city till August, 1848; in stating about the party to Mr. Simms, I said yesterday it was August, but whether it was in August or October I do not know when I saw Mrs. Forrest's ankle sprained, it was not long after my return from the West, in the fall of '47; the night I slept there was in the summer of '48, during Mr. Forrest's absence on his farewell tour; I am certain there was that difference between the night I slept there and the time Mrs. Forrest sprained her ankle; Mrs. Forrest's ankle was sprained before I knew Mr. Forrest, and at the time I slept there I was acquainted with him. Q.—On the morning after the evening on which you slept there, did you breakfast in the house or not? A.—I think I did; my impression is that I went out before breakfast. Q.—Why and how did you go out? A.—My general habit is to take a walk before breakfast.

Mr. Van Buren objected to the witness entering into his habits.

Mr. O'Conor submitted that the question was within rule.

Mr. Van Buren said this witness should be examined as any other witness, as it was quite evident he was very anxious to volunteer statements.

The Chief Justice said it was immaterial.

Witness continued.—I have no explanation to give, but that it was my habit, and I used to breakfast some hours earlier than breakfast was had at Mr. Forrest's; I went out, as I always do, by the front door; I always went out of Mr. Forrest's door in the same way

Q.—Did any thing occur about taking clothes off your bed, or the making up of the bed? A—Nothing at all; I took a candle and went up to bed; no one went with me; I was told by Mrs. Forrest what room to take; I have no recollection of anything unusual occurring; I drove out two or three times, in company with Mrs. Forrest; I went once to Burton's theatre with Mrs. Forrest and Mrs. Voorhies; I went another time in company with her and Mrs. Underwood, and left her at a party at Miss Lynch's; another time I went with her and Mrs. Voorhies to a party at Mr. Godwin's; I have no recollection of any other occasion; I know Capt. Wm. A. Howard; his family live in Boston; he was intimate with my brother, who lived in the same house with him for six months, and my brother introduced me to him; I came in contact with Anna Dempsey (now Mrs. Flowers); I helped her off to New Orleans; it was March or April, 1846, when I first saw her; I think April; Howard was not in New York at that time; it was while Mr. Forrest was absent; I am quite certain it was '46; I first saw her at her (Anna Flowers) mother's house; I think in West Washington Place, near the Washington Parade Ground. Q.—State what occurred at that time. A.—I saw Amna at her mother's house; she alleged that Capt. Howard was the father of her child, and said she was about to get out an arrest for him, expecting his arrival at the Astor House; he usually put up there, I believe; I went to the Alms House Commissioner to see if the arrest had been taker out, I had two or three conversations with Anna to try and settle the matter for Capt. Howard; she required two or three hundred dollars; I don't rellect the precise sum; I had a conversation of two or three hours with her, and I cannot recollect the precise words, but the sum wanted was two or three hundred dollars; there was a girl named Catherine Levins in Mr. Forrest's house; I brought Anna and Catherine together at Mr. Forrest's house, in the drawing room; Catherine Levins distinctly charged Anna Dempsey with frequently sleeping with a boy in the house whom I never saw; Anna attempted at first to deny it.

Mr Van Buren said the witness should give the words used on the occasion.

Witness continued.—Catharine said to Anna, "You ought to be ashamed to deny it; you know I caught you in Barney's bed one morning and you know Capt. Howard is not the father of your child, and you ought to be ashamed." Anna made no reply whatever when Catharine turned on her so; Anna then spontaneously told me that she could get a free passage to New Orleans; I ought to say that I had told her that she could get nothing by legal proceedings with such evidence against her; I talked plainly to her; I told her she could not impose on me as Capt. Howard's agent, and that she could get nothing by going to law; I don't distinctly recollect that I said to her "as Capt. Howard's agent." Q.---Did you say anything as to the facility of imposing upon anybody else? A.---Yes, I did; I said she couldn't impose upon me, she might impose upon somebody else; when she told me she could get a passage to New Orleans, she said she only needed a little money to pay necessary expenses, among which was a doctor's bill; she also wished that something should be given for the support of her child for six or seven months, until her sister would bring it to her to New Orleans; I said if she would give a solemn declaration that Capt. Howard was not the father of her child and would agree not to charge him with it, I would consent to pay the seven dollars a month; the sum she wanted to pay her expenses was twenty-five dollars; she gave me that written declaration, and I paid her the twenty-five dollars; some little bills came in after, which amounted to twenty-seven dollars, and I gave the two dollars more out of my own pocket; I gave Capt. Howard the declaration.

Mr. Van Buren asked if the written paper or declaration was in court.

Mr. O'Conor said he was going to account for it.

The Chief Justice said the contents could not be given in evidence; it was enough to prove that a paper was given.

Witness continued.—I gave the paper to Capt. Howard; he went to the Gulf of Mexico; I gave it to him in the parlor of the boarding house, 68 Broadway; Anna Flowers went off to New Orleans; I went down to the vessel with her, to see the captain, and to ascertain if the vessel was really going off; Captain Howard repaid me. Q.--Which sum did he repay you, the $27 or the $25? A.---$25; I paid Mrs. Butler, the nurse; I think it was $17; I made efforts to get the child from Mrs. Butler, and put it with some one else; at the time Anna went away the arrangement with her, and I think with her grandmother, was that this child, after a few weeks, should go to the grandmother; the $7 a month was to be sent to Mrs. Dempsey (the grandmother); the child was to stay a month longer at Mrs. Butler's, but the money was to be sent to Mrs. Dempsey; Anna told me that she had told Mrs. Butler to give up the child to her mother; Mrs. Dempsey afterwards complained that she had not received the money; I met Captain Howard subsequently in Boston, and he assured me that he had sent the $7 to Mrs. Dempsey; I made inquiries of the postman about it, and in the meantime Mrs. Dempsey complained that Mrs. Butler would not give the child up; I went to Mrs. Butler, but she insisted on keeping the child until she got orders from Anna; I told her if she did not give up the child she would get no money; that was the last trouble I took about it for some time; in the middle of July some one came to me---Mrs. Butler or Mrs. Dempsey; I do not recollect which, and said Mrs. Butler wanted to give the child up; I had not paid anything since the time I had seen Mrs. Butler; I went to Mrs. Dempsey's in a carriage; took her to Mrs. Butler's with me in the carriage; paid Mrs. Butler the money that was due her; she commenced dressing the child, and after I had paid her the money, she wanted to keep the child, saying she could not give it up without direct orders from Anna; I suddenly snatched the child out of her arms and passed it to Mrs. Dempsey, and took it away Q.---Was there any one in the carriage with you that day, except Mrs. Dempsey? A.---Certainly not; I did not take Mrs. Dempsey and the child away in the carriage; I had nothing more to do with it; I never paid anything more for it; it was a simple nuisance to me (laughter); I have seen or heard nothing of the child since, except I should say that I heard it was not living; I was not present when Robert Garvin was examined.

Q.—Did you ever take any immodest liberties with the person of Mrs. Voorhies?

A.—No, sir; it is a sheer lie; I did not expect any such evidence about myself, or I should have been present.

Cross-examined.—I became acquainted with Mrs. Forrest through her sister, Mrs. Voorhies.

Chief Justice.—What does this contradiction refer to?

Witness.—By the report which I read in the HERALD of Garvin's testimony, stating that I was found in a certain position with Mrs. Voorhies, which the reporter said was too indelicate to mention, I should say that as Garvin had nothing that he could say against me or Mrs. Voorhies, he must have been paid for such evidence.

To Mr. Van Buren.—I first became acquainted with Mrs. Forrest in November, 1846, at Mr. Forrest's in Twenty-second street; on my return from England, in November, 1846, I was in town about a fortnight; I called two or three times at Twenty-second street; I called once before I saw Mrs. Forrest; it was in the evenings I called; I do not recollect calling in the day time; Mr. Forrest was in Boston; I recollect the first evening I saw Mrs. Forrest, she was making a dress for him in the character of Othello; I do not recollect any one else but Mrs. Voorhies being there; I think Frank Voorhies (the husband of Mrs. Voorhies) was there one evening. I visited the house before I became acquainted with Mr. and Mrs. Forrest; it was during their absence. Q.—Who did you visit? A.—I visited Miss Margaret Sinclair; she was keeping house for Mr. Forrest; I visited very frequently from January, 1846; my sister was then staying at Mr. Forrest's house with Miss Sinclair, and I used to be there then every night, and two or three times a week when she was not there; there were no gentlemen in the house at that time; Mr. Forrest did not know my sister or myself at that time; he never knew my sister; she left the city for the west, and married, and has never returned since; I never attended what could be called parties previous to Mr. Forrest's return; there would be a few friends from Chelsea in the small front room; we never were in the drawing room; I only remember two occasions when such friends met. Q.—How long after your return, did you become acquainted with Mr. Forrest? A.—I returned in November, and I became acquainted with him on Christmas, 1847. Q.—Did you state, in your direct examination, that you became acquainted with him about December, 1846? A.—I think not; if I did, I was wrong. Q.—How often after your return from the west, and before Christmas, did you call before you saw Mr. Forrest? A.—It must have been six or eight times; I used to see Mrs. Forrest and Mrs. Voorhies, and Godwin, I think Wikoff, and I think I met Mr. Andrew T. Stevens there before I became acquainted with Mr. Forrest; I don't recollect any one else; there never was any kind of a party to fix it in my mind; Captain Howard was not there; I never saw him in Mr. Forrest's house but once, and that was sometime before the Anna Dempsey affair; I'm confident I didn't see Captain Calcraft that year; I didn't meet him till 1848; the evening of the "tray" affair, there had been no party; we five passed the evening together; we did not come together; I do not recollect what time I came; I think I stayed there three or four hours; I think I found the other gentleman there when I went, but I really can't say whether I came after them; I went directly to the library, and remained there the whole time we were there; I don't know who carried the tray up; I didn't see Captain Calcraft and Mrs. Voorhies until they entered the room; I don't recollect who had the tray; I can't say what Mrs. Forrest said; it was something cautionary, a disapprobation of her sister's noisy merriment; Mrs. Forrest, I think, proposed the drink should be got; it was about a quarter of an hour before we left that the drink was brought up; we had a quarter of an hour's conversation, and then went; this was, as I have stated, after twelve and before one o'clock; I can't state the time any nearer; Mr. Fortesque said he had some things to pack up; I could hear Mrs. Voorhies and Captain Calcraft coming up; I could not hear them in the cellar; I heard them on the stairs laughing and talking; Mr. Forrest, I think, was out west at that time; Mrs. Forrest proposed the segars; they all smoked except myself; I lighted a segar, I think; Mrs. Forres. and Mrs. Voorhies smoked.

The Chief Justice said:—There is some confusion in

sometimes calling this lady Miss Margaret Sinclair and sometimes Mrs. Voorhies. It would be well to fix a date as to when she became Mrs. Voorhies.

Mr. Van Buren.—That is the difficulty we wanted to fix, but could not.

Witness continued.—Mrs. Forrest drank some wine, sherry; we all drank some; when the juleps I spoke of were brought, on another occasion, Mr. Forrest and Mr. Oxley and myself drank them; Mrs. Forrest did not drink any; I never saw her drink a julep; I have never seen her drink anything but wine, except I have seen her take a glass of London porter; I never saw her drink whiskey punch. or I would remember it as well as the segars; they were paper segars; I suppose there was tobacco in them; at the time Mrs. Forrest sprained her ankle Mrs. Underwood did something to it; I remember it was the first time I had ever seen Mrs. Underwood; I went inio another room while she was dressing it; it was quite early in the evening, just dusk; it was in 1847; there was no one there but myself; Mrs. Underwood told me she was going to do something to Mrs. Forrest's ankle, and asked me to go into another room; Mrs. Forrest told me not to go; I went out, and returned afterwards, when Mrs. Underwood told me I might come in; I think Mrs. Forrest was sitting on the sofa, when I went out; I do not recollect if she had her foot on the sofa when I returned; I did not see Mrs. Underwood again that night after she told me I might return; I did not hear Mrs Forrest tell her to go to bed; the night I remained I think I retired about eleven o'clock; there was no one there, I think, but Mrs. Forrest; I came about eight o'clock; it did not storm when I came; it commenced raining while I was there; I had been there some little time before it began, and I thought it would pass off; I was there probably an hour before it began, but can't say; I determined to leave about eleven o'clock; it might be after eleven; it was not before; I think none of the servants were up at this time, at least I did not see any.

Q.—From whom did you learn about Mr. Godwin, Mr. Placide, and Capt. Howard having staid in the house?

A.—From Mr. Godwin and Margaret Sinclair; I don't think I ever mentioned that circumstance before to Mrs Forrest, or since, except in connexion with this trial lately; I spoke of it to Godwin and Miss Sinclair; no one lighted me to bed; I bade Mrs. Forrest good night in the drawing room; I have no recollection of the condition of the bed I slept in; it was to Mrs. Forrest or her sister I mentioned something about a tin petticoat.

Q.—You say you never recollect saying anything about it but once—are you sure of that!

A.—I am not in the habit of repeating the same joke in the one house (laughter); I have heard it repeated by Mrs. Forrest and Mrs Voorhies subsequently two or three times after. but I can't state when.

Q.—Was it before or after you slept in the house you made this remark?

A.—It was about the same time; about the summer of '48; I do not recollect whether there were or were not some clothes from the wash in the room where I slept; I have an impression that I went out the next morning before breakfast; if I had to say yes or no, I should say yes, I did; I went out to take a walk, and came back to breakfast; I walked up the Tenth avenue and came back; I can't say how far I walked: I think I walked about an hour; my impression is that Mrs Forrest was not up when I went out, and I think I was gone an hour; I let myself out; some of the servants let me in; I do not know which; I am very confident that I did not see Mrs. Forrest before I went out; that I did not see her at all until breakfast;

Q.—Do you recollect this transaction better now than when you testified in December, 1850?

A.—I might. I recollect this circumstance better than I did in 1850.

Q.—Do you remember this better than in December, 1850?

A.—Yes.

Q.—Why?

A.—I can't say.

Q.—In what respect do you recollect it better?

A.—My impression was before I read the affidavit of Mrs. Underwood which was presented to the Pennsylvania Legislature, that I did not go out before breakfast; I since recollect I did; I have not read over my affidavit; I did not cram myself to testify; I have talked to Mr. O'Conor and to the plaintiff, but not as to the particulars I was to testify to; I have had conversations with Mr. O'Conor in 1850; I intended to have had a conversation with him yesterday, but had not.

Q.—How frequently have you conversed with the plaintiff on the subject?

A.—I never see her that we don't speak about the case; I have spoken to her perhaps fifty times about it; I had a lengthy conversation with Mr. O'Conor when I arrived in the city, and last spring, and frequently, about the suit, but not about my testimony; my conversations with him would average once a month.

Q.—Have you suggested any witnesses for this case?

A.—I have suggested the name of no witness but Mr. Whittley, whose testimony was not received; I have not suggested anything about the employment of counsel; I suggested a few months ago to Mrs. Forrest to employ Mr. Ogden Hoffman to sum up the case.

Q.—Was that not suggesting counsel?

Witness continued—Mr. O'Conor was employed in the case before I spoke to him I first spoke to him in 1850; I do not now recollect if I mentioned, in my former statement, that I did not go out of the house before breakfast; my impression is changed since then; I had a talk with Mrs. Forrest about it, and her impression is that I had not gone out; I stated to her, within a few days, that my impression was that I did go out.

Q.—State what Mrs. Forrest said when you say she was reluctant that you should stay in the house?

A.—Her manner was, "I ought to ask you to stay, but I cannot;" I can't recollect any words, but I distinctly recollect the manner; the night Mrs. Forrest went to Miss Lynch's party, she did not ask me to go; I was not in party dress; Mrs. Underwood was in the carriage with us; Mrs. Forrest stopped at Miss Lynch's, and Mrs. Underwood put me down at the Carlton House.

Q.—Do you recollect being alone with Mrs. Voorhies on any occasion, in Mr. Forrest's house?

A.—Oh! yes; not frequently; I think I recollect one evening being alone with Mrs. Voorhies in the drawing room, and the servant coming in and shutting the blinds.

Q.—Do you recollect any other occasion being alone with her when the servant came in?

A.—No, I don't recollect; my recollection of that is not distinct; I don't know who the servant was; I recollect the servant shutting the blinds several times when I was there with Mrs. Forrest and Mrs. Voorhies; I think I did not see Mrs. Voorhies in the house when Mr. Forrest was at home, since January, '48; when he was away, I saw her there frequently; I don't know whether she was living there or visiting.

Q.—Were her nurse and child there?

A.—It seems to me I saw them there; it was I that brought about the interview between Anna Dempsey and Catharine Levins; I brought Anna Dempsey from her mother's house; Captain Howard was not in town then.

Q.—At whose instance did you bring the interview about?

A.—At my own suggestion; Miss Margaret Sinclair first spoke to me about Catherine; I saw Captain Howard's lawyer, Mr. Sargent, about it after Margaret Sinclair spoke to me; there was no one present at that interview besides Anna, Catharine, and myself; I found Anna at her mother's: I did not tell her I was going to confront her with Catherine; I do not recollect what I told her I wanted her up there for; it was in the daytime; my impression is, that it was in the forenoon: I think she did not make any objection to going up with me; the interview lasted a short time—a quarter of an hour, perhaps when Catherine made the charge first, Anna denied it—not very strongly; she denied sleeping with the boy, but insisted that Captain Howard was the father of her child.

Q.—Independent of the writing you speak of, and this interview, did she at any other time before that admit that Captain Howard was not the father of her child?

A.—She did not; I have been in the manufacturing business; I studied law three years, and was admitted; it was the spring of 1846 I was admitted; I went into the iron business immediately; I went to England in connection with the manufacturing business

Mr Van Buren.—And you never adopted the profession?

Witness.—No; my father had the usual extensive ideas of the intrinsic value of the profession, but——

Mr. Van Buren.—Never mind that (Laughter.)

Witness continued.—I told Mrs. Butler that she was tricky; I don't recollect using any hard language to her; the seventeen dollars I paid her was my own; I never have been repaid it; I think it was at Mr. Dempsey's request I paid it; I presumed Capt. Howard would refund it me, as he ratified all I did, and he said he was much obliged to me that I had managed it so well; I do not know that Mrs. Forrest knew anything about this child; the first I learned of the intended separation of Mr. and Mrs. Forrest, was from the papers, when I was out West.

Q.—Have you spoken t

Mrs. Forrest about this child? A.—Yes, I did, soon after I became acquainted with her; I did not speak to her about it more than once; I have never spoken to Mr. Forrest about it; I went down to the vessel with Anna Dempsey; I took from her eight letters of Margaret Sinclair; she gave them to me; I think she said she would get them out of her trunk, and she brought them to me; I forget in what part of the vessel she gave them to me; the captain of the vessel was present; I forget his name, and the name of the vessel also; it was lying at the foot of Pine street; my object in going down was not to get these letters; it was part of it; I asked for the letters at my own suggestion; Miss Sinclair told me of them, and I told her they might be used to her disadvantage, and it was my own suggestion to get them from Anna; I handed them over to Miss Sinclair; Anna said she would give up the letters, if I would make this arrangement for her to go to New Orleans; it was part of the arrangement that she should give up the letters; when she saw I wanted them, she made a point to keep them (laughter); she said if I would make this arrangement with her, she would give them up; I paid her in her mother's house, a day or two before she sailed for New Orleans; I think it was a day before Q.—Why did you not demand the letters when you paid the money? A.—I trusted to her, as she said she would give them up; I think I went down with her to the vessel the time I got the letters; I didn't see her afterwards; I didn't give her any money except the $27; I did not promise her any other money except the seven dollar business (for the support of the child); I must have looked at the address of those letters; I cannot tell who they were addressed to, or what place; my general impression is that it was Connecticut; I cannot say that it was Mrs. Elmonsdorff; I cannot say that it was Anna Dempsey; I have no recollection how they were addressed, except the general impression that it was somewhere in Connecticut.

To Mr. O'Conor.—When I spoke of Mr. Forrest's farewell tour, my general impression was that he took leave of the stage then; I made my deposition in very great haste, and told you (Mr. O'Conor) if you wished for it, you should do it immediately; I was going to Mobile; it was drawn up a few minutes before I swore to it; Anna's character is bad down to the present time; from the way others speak of her, I would not believe her on oath.

To Mr. Van Buren.—I speak by her reputation for veracity, as given by her mother and her sister; I heard her mother, and her sister, and Catharine, speak about her, and heard Captain Howard speak against her, denying the paternity of the child; I have heard various people speak against her from hearsay; heard Doctor Gray and Doctor Warner, who had never seen her, but spoke from hearsay, speak against her; those I have named are the only persons I heard speak of her that knew her; heard Mrs. Forrest and Mrs. Voorhies speak of her; I never heard Doctor Gray or Doctor Warner speak against her until she was known to be an important witness in this case; I heard Mrs. Godwin say she never liked the girl's looks—(laughter); I board with Mr. and Mrs. Godwin now; he is gone to England; he went New Year's morning; I don't recollect any one else who spoke against her prior to the time that it was known Anna was to be a witness; the only persons I heard speak against her are Mr. Godwin, Captain Howard, and Mrs. Voorhies.

To Mr. O'Conor.—It was at Miss Margaret Sinclair's instance I first went into this matter; she told me she had written some letters. Q.—What did she say?

Mr. Van Buren objected to that, and the court sustained the objection.

Mr. Van Buren to witness.—You said you did not give Anna Dempsey any money but the $27; do you recollect swearing in your affidavit of the 24th May, '51, that you gave her $50? A.—If I did I meant the allowance of $7 a month, which amounted to about that.

Mr. Van Buren then read Mr. Raymond's affidavit of 24th May, 1851, which was as follows:—

Samuel M. Raymond, of the city of New York being duly sworn, says that in the year 1846, while Mrs Forrest was in Europe, and before he had ever seen her, this deponent acted as the friend of Captain William A. Howard, of Boston, in reference to a charge of bastardy then threatened to be lodged against him by Anu Dempsey, Captain Howard being absent from the city; that he, this deponent, saw said Ann at her mother's house in this city, and saw the child, apparently about a year old; that the said Ann offered to relinquish the said charge, if Captain Howard would give her twenty-five dollars, to enable her to leave for New Orleans with a sea captain who tendered her a free passage, and about fifty dollars more for the support of her child in New York, until she should be ready to receive him in New Orleans. This deponent, on behalf of Captain Howard, to avoid trouble, acceded to the offer, and the complaint was accordingly suppressed. This deponent did not believe that Captain Howard was the father of said child. The said Ann's statements were contradictory, and she was confronted, in deponent's presence, as to her charge, by a woman named Catherine, who had lived at Mr. Forrest's. Said Catherine said to Ann, "You know that I found you abed with ——," naming a person whom she described as a boy living at Mr. Forrest's, but whose name deponent cannot recollect—and said Ann hung her head, and did not attempt to deny it. SAMUEL M. RAYMOND.

Sworn to, this 24th day of May, 1851, before me.

CORNELIUS R. DISOSWAY, Com. of Deeds.

Witness—That is my affidavit. Q.—Why did you not state in that affidavit the demand of Anna for two or three hundred dollars? A.—Because I did not think it pertinent; I did not state anything in it that I did not think relevant. Q.—Do you think the interview that preceded it was relevant? A.—Yes, I did.

The court took a recess for a few minutes.

John Dickinson deposed:—I live at New Canaan, Connecticut; I am a shoemaker; a man of family; reside there for seventeen years; I came from there to-day; my wife is not able to attend from the cause of a broken knee, which occurred from an accident last July. [A book of indentures produced.] That is my signature; I don't remember seeing Anna Dempsey sign it; after I signed it Anna came into my service; I cannot tell how long after it was when she left me; she came to me from the House of Refuge in March, and finally left in November or December of the same year. Q.—What was Anna's character for truth and veracity while she lived with you?

Mr. Van Buren objected to this question, until the witness was asked if he knew her general character.

Q.—Did you, while she lived with you, become acquainted with her general character? A.—I did; it was anything but commendable. Q.—What was her general reputation for truth and veracity? A.—Well, for truth and veracity I would not place a straw on her word; I would not, from her general reputation, believe her on oath in a court of justice; on the 30th or 31st March, 1840, the indentures were signed, and I got her from the House of Refuge on the next day; after she left me, I saw her next in 1843; she came to me and wanted to stay, but I would not have her; she applied for a place. Q.—Who composed your family? A.—Besides my children, my wife, and nephew, James Curson and John Tristran composed my family; I should think Anna to have been in the neighborhood of sixteen or seventeen years of age in the year 1840.

Q.—I desire to know if, in her demeanor or carriage, she had the appearance of a modest female?

Mr. Van Buren objected, and the Court sustained the objection, and said it would be necessary to show some act or expression of the girl to prove that she was unchaste.

Q.—Did you hear or witness any speech or act of Anna Dempsey, while living with you, indicating that she was an unchaste or lewd person?

Mr. Van Buren submitted that it was not competent, and he objected to the inquiry. If it is permitted in this instance, it must, of course, be permitted as against all witnessess that may be produced before this trial is at an end.

Mr. O'Conor said:—When those witnesses come on the stand, he will be prepared to say whether he will object to questions as to their morality. He then continued to contend, at great length, for the admissibility of the evidence to impeach the character of Anna Flowers, who swore to an actual act of adultery on the part of the plaintiff. When the witness Anna was on the stand, she swore that she did not know Mr. John Dickinson, and had never lived with such a person.

Mr. Van Buren replied:—He did not know whether the evidence would more affect the interests of the plaintiff or his client. An offer is made to prove that

Anna Flowers was an impure, unchaste, and immoral character in 1840, and in 1843 we find her the inmate of Mrs. Forrest's house, and seduced there by a party whom we charge as one of the persons that committed adultery with the plaintiff; and that Mrs. Forrest was aware of her seduction, whilst Mr. Forrest was not. He submitted there was nothing special in this case to make this testimony proper. In cases of trial for rape, it is undoubtedly proper to show that the female was an unchaste or improper person previous to the act of which she complains; but such a rule does not apply to this case.

The Chief Justice in giving his opinion, said he was not prepared to go into this very broad inquiry.

Mr. O'Conor said he had looked into authorities on the subject, and his mind was quite clear on it, and he begged the court to look into those authorities before he disposed of it.

The Chief Justice.—When the girl spoke of Mrs. Forrest being her ruin, it did not strike me that she meant that she had conspired to effect her seduction; but I understood it to be referring to the force of example.

Mr. O'Conor said he thought so too, and would have been satisfied to have left it to the construction of the jury; but counsel on the other side went further, and attempted to show that she had been ravished by Capt. Howard for the purpose of sealing her lips as a witness. He referred to 19 Wendell, and continued to say, for instance, if a witness swore she was at Broadway theatre on a particular night with John Smith, would it not be competent to show that John Smith was in Europe at the time? But perhaps it would be better for him to take some other name, for John Smith might be in Europe and here at the same time. (Laughter.)

Chief Justice.—Am I right in supposing that Anna stated she never had any connection with any man before Capt. Howard?

Counsel.—She did say so.

Mr. Van Buren and Mr. O'Conor both made some further remarks.

The Chief Justice said he would reserve his decision until morning, and inquired what day the witness Anna Flowers' testimony was given. We began this trial on the 16th of the month.

Mr. O'Conor.—Of last month. (Laughter.)

A Juror.—Her testimony began about the sixth day.

Adjourned.

January 8th.

The parties to the suit were as usual in attendance, Mrs. N. P. Willis accompanied Mrs. Forrest.

John Dickinson was again called to the stand, and Chief Justice asked the counsel if they had anything further to urge upon the question pending at the adjournment of the court yesterday.

Mr. O'Conor in reference to the remark of the Court yesterday to the effect that the evidence of Anna Flowers did not charge conspiracy on the part of Mrs. Forrest to effect her ruin, would direct the attention of the Court to one of the cross interrogatories in the commission issued to examine Capt. Howard.

Mr. Van Buren submitted that it was not competent to read this.

Mr. O'Conor did not intend it for the jury, but for the Court.

The Chief Justice ruled against the right of Mr. O'Conor to read any detatched portions of the paper in the presence of the jury, and he declined to look at it himself.

Mr. Van Buren then proceeded to oppose the admissibility of the question—"Did you hear or witness any speech or act of Anna Dempsey while living with you, indicating that she was an unchaste and lewd person?" He referred to Carrington and Paine, and 17th, 18th, and 19th Wendell, from which he cited cases in support of his views. He submitted, that the only legal way to disprove the main facts deposed to by the witness Anna, was to place Captain Howard on the stand.

Mr. O'Conor again said that the inference deducible from Anna Flower's testimony was, that Mrs. Forrest and Capt. Howard deflowered her of her virtue, for the purpose of damning her as a witness against them; this, however, was sufficiently dramatic for some student of the drama to have contrived it, and not Anna Flowers herself. He continued to argue for the admissibility of the evidence, and said that he had other witnesses to prove that Anna Flowers was impure and unchaste even before she went to live at Mr. Dickinson's.

Mr. Van Buren was heard in reply, and referred to the fact of their being now informed that Mrs. Voorhies, who had been alluded to largely in the case, was not to be produced as a witness. She was the sister of Mrs. Forrest, mentioned in her affidavit as having stood beside her in all her trials: yet they were now told that she is not to be produced on this trial.

The Chief Justice decided on admitting the question.

The question was then repeated by Mr. O'Conor to the witness. A.—My own personal knowledge of what I saw was her coming out of her bed room undressed, without being called for; I was the only one present; she knew I always got up to light the fire.

Chief Justice.—You say undressed; how was she dressed?

Witness.—She had nothing but her chemise on. (Laughter.)

Witness continued.—I asked her to go back, and make herself decent; it was in the summer time; this letter produced is the one I received with her from the House of Refuge. Q.—What was her character for truth and vericity in '43, when she came to your neighborhood the second time? A.—It was the same as before.

Mr. O'Conor.—I now propose to prove that this girl absconded from Mr. Dickinson, stole property, was arrested, brought back, and the property taken from her.

Question not admitted.

Cross-examined—The employment of the girl was common housework; I had no other servant; my wife attended as well as she could; she was very feeble, and I got up to assist her; before I took Anna from the House of Refuge, I made no inquiries about her. Q.—Did you make any inquiries about her at the House of Refuge? A.—No. They do not allow any choice; I did not see the girl till she came to me; I gave a description of the person I wanted and they sent her; I stated as to age, and of course, I asked for a girl of good character, and this girl was sent me; I live at Fairfield, New Canaan; my nearest neighbor was a man named Scholfield; my next nearest was a Mrs. Tristram; I returned Anna to the House of Refuge, and I think it was near two years and a half afterwards when she came back again to the neighborhood. Q.—What servant had you then? A.—A lady by the name of Newton; she, with my wife's assistance, did all the business; Anna Dempsey did not stay more than an hour in my house; she wished to know if we would take her back, and my wife said no; she wished, also, to know if my wife would give her "a recommend," if she got a place; Anna went to look for a place; she applied to Mrs. Mitchell, and she came back to my wife for a character; she did not stop at Mrs. Mitchell's; she went to Norwalk, five miles off; I heard she stopped there three days; I can't tell where she went to from there; I don't know a Mrs. Russell, at Norwalk; I can't remember who I heard first speak against Anna. Q.—Give us the name of one? A.—Abigail Seymour. Q.—Give us another? A.—A Mrs. Tristram; I can't give any particular time when she spoke against her; Abigail Seymour spoke against her a few days after she came to my house; Abigail is a single lady, about 70 years of age; Chas. Scholfield's family spoke against her: can't tell the date; another person was Mrs. Hooker (laughter); she knew her on visiting my house; my wife caught her in a number of falsehoods; I came to town yesterday; Mr. Hardenbrook, I think, subpœnaed me; my travelling expenses are paid; Mr. Hardenbrook is the gentleman who sat at that table yesterday (beside plaintiff's counsel).

C.—Where do you stop? A.—I can't remember the name of the house; I believe it is the Waverly House. Q.—Have you got any money except your expenses? A.—Not as yet. I have not been promised any money. Q.—Do you expect any? A.—I do not expect any, as none has been "induced;" if it comes well and good. (Laughter.) I am an Englishman; I came from Staffordshire; I am nineteen years in this country; I thought this case was settled; I may have spoken of it when I read it in the newspapers; I never spoke again Mr. Forrest; I never say the gentleman till I saw him here; I do not know the plaintiff; I first spoke to Mr. Hardenbrook of what I knew; I speak of her age from what I obtained from the House of Refuge; she was of short stature; they gave me her age as between fifteen and sixteen; I judged of her age

from appearances; I am not acquainted with Mrs. Forrest's father, Mr. Sinclair; I saw him once at the theatre.

To Mr. O'Conor.—I have heard my own family speak of Anna; I did not expect to be a witness in this case before I saw Mr. Hardenbrook; I do not know Mrs. Forrest. Q.—Can you tell which of the ladies in court is Mrs. Forrest? A.—I should suppose it is the lady seated behind you.

The Chief Justice said it was not necessary to pursue inquiry on that point.

The letter produced which witness received from the House of Refuge, and not admitted.

A Juror.—There is some doubt on the minds of the jury on one point, as to whether the witness, Anna Flowers, was asked if she had lived with Mr. Dickenson?

Mr. O'Conor said she was asked the question, and she answered that she did not know such a person.

Mr. Van Buren.—My impression is that she was asked if she knew a Mr. Dickinson, of Norwalk?

David Terry, Clerk of Board of Commissioners of the Methodist Episcopal Church, deposed.—I was Superintendent of the House of Refuge; the records show that Anna Flowers came there on the 2d of October, 1838; she left on 2d September, 1841. I am the subscribing witness to the indenture of her apprenticeship; it was signed by Anna in my presence.

Mr. O'Conor proposed to read the letter sent by the witness with Anna to Mr. Dickinson. Mr. Van Buren oblected, and Mr. O'Conor said he would not press it. Witness read the indenture, which was dated March 31, 1840, and bound her for two years, six months, and two days I have no recollection of her; I think I saw a female on the stand whom I recognised; I should have said she was a female I had in my custody; I have no knowledge of her character; for that I should depend wholly upon the records; these records are kept by the superintendent; we took the statement from the parties themselves after a few weeks; if we had any reliable statements from others I think we should incorporate them in the general history given by the persons themselves; in case we had any account from any other than the party herself, we would specially note it in the record. [Refers to the record.] This statement was given to me by Anna Flowers herself

Mr. O'Conor.—Will you give us the statement she made? You can refer to the period.

Witness.—I must depend wholly upon the record.

Mr. Van Buren submitted that, if it was for the purpose of contradicting Anna Flowers, it was not competent.

Chief Justice.—There are two good reasons why it should not be admitted; in the first place, the witness says he has no recollection of the record. The Court, therefore, ruled against it.

In reference to the remark made by a juror some minutes since, the Chief Justice said that he did not find in his notes that the question had been put to Anna Dempsey, as to whether she knew Mr. Dickinson; but on referring to the printed notes which had been furnished him, it does appear that she was asked if she knew Mr. John Dickinson of New Canaan, and she said not.

[The Chief Justice here alluded to the report of the HERALD law reporter, which has been, at his request, furnished him as each sheet is ready for the press.]

A juror said there had been some difference of opinion between them on that point, but they now all agreed upon it.

Witness to Mr. Van Buren.—Anna Flowers, by the records, it appears, was not bound out at any subsequent period after she was bound to Mr. Dickinson, in 1840.

Counsel both agreed that the record might be read, omitting her statement. The witness then read from the record, by which it appears that Anna had a fit of illness, and Mr. Dickinson, to whom she was bound apprentice, desired to return her, and the committee consented to receive her; she was subsequently returned, "having been disobedient, and attempted to run away;" on the 2d of September, 1841, she was returned to her parents, in consequence of her sore and long sickness, and was afterwards learning a trade with her sister.

To Mr. Van Buren.—Miss Taylor was the matron; there was a Miss King there for some time.

Mr. O'Conor said Mr. Dickinson had intimated to him that he had made a mistake with regard to the name of one of the parties he referred to. Mr. D. then came forward, and said the name of the Mr. Scholfield to whom he alluded was Charles W., and not William Henry.

To Mr. Van Buren.—There was no other female in my house but my wife, except it might be a visitor.

Wm. B. Coleman, clerk in the employ of Coleman & Stetson, of Astor House, deposed that Mr. Randall came to the Astor House on the 27th January, and left on the 29th.

Mr. O'Conor said it was merely to explain a date, as there seemed to be some want of clearness as to the precise time he and Mr. Sedgwick had met in reference to this subject.

John Tristram deposed.—I live at New Canaan, Conn; I have resided there for sixteen years; I am foreman of the shoe factory of Benedict & Madley; I am twenty-nine years of age; I resided in New Canaan in 1840, and then became acquainted with Anna Dempsey; I knew her from the time Mr. Dickinson had her until he returned her, about nine months; I never saw her after she left; I heard of her being at my house afterwards, in the summer of '43, either June or July; I became acquainted with her general character for truth; it was very bad; from her general character for truth, I would not believe her in a court of justice.

Cross-examined.—I am married; I was not married at that time; I lived in the second house below Mr. Dickinson's, with my mother; my mother kept house, and myself and my sisters boarded with her; Anna Dempsey did not visit at our house: she came there frequently on errands, but did not visit there? I do not know any house in the neighborhood where she did visit; my opinion is that she was about sixteen years.

A Juror.—Do you mean when she came or when she left?

Witness.—I should judge that she was nearer sixteen than fifteen when she came; she was middling size: I have heard Abigail Seymour speak of her.

Mr. Van Buren.—That is the young lady of seventy. (Laughter.)

Witness.—I don't recollect any one else except my own family.

Mr. O'Conor then called Mr. Calcraft; at the same time he remarked to Mr. Van Buren that if Anna Flowers was in Court, he would put a few questions to her, if counsel wished that she should leave town.

Mr. Van Buren answered that Mrs. Flowers was ill to-day, and not able to attend. He would not ask the counsel to call her until he required her, as she had now determined not to leave town till the termination of the trial—her character had been so assailed that she felt it necessary to remain to defend herself.

Captain Granby Calcraft was then called, and being examined by Mr. O'Conor, deposed.—I reside in this city in Chambers street; I know Mr. Edwin Forrest; I became acquainted with him in the autumn of 1848, in his own house, in Twenty-second street; his wife introduced me to him; I saw him at his house after that repeatedly; I think I was introduced to Mrs. Forrest some three weeks or a month before I was presented to Mr. Forrest; it may have been a little longer, I am not positive; my first visit to Mrs. Forrest was occasioned by having received an invitation to go to a party, given at her house, in honor of Mrs. Laverte; Colonel Walton is her (Mrs. Laverte's) father; I believe Mr. Forrest was absent from this city at the time; I met a number of ladies and gentlemen there; Mr. and Mrs. Godwin, and, it runs in my mind, Mr. and Mrs. Bryant were there; I was a stranger here then, but I think Mr. Bryant was introduced to me as one of the celebrities. Q.—Subsequently to that, were you at any other party at Mrs. Forrest's, when ladies and gentlemen were present, while Mr. Forrest was not home? A.—Yes, sir, I was; it was an evening party, in the autumn; I cannot recall the names of those present; I can't say that I remember Mr. Simms and his daughter; I think Mrs. Willis was present, I am not quite certain; and I think Mr. and Mrs. Godwin and Mr. Fortesque were there: I was there with him on two occasions; on the first occasion there was a numerous party of ladies and gentlemen; I think Fortesque was there; I don't remember if I brought any lady with me.

Q.—Do you know a Miss Lynch? A.—Oh! I beg your pardon; Miss Lynch came with me and Mr. For-

fescue; the party broke up, I think, about one o'clock; I should infer that Miss Lynch came away with us from the party, as we took her there in our carriage; we left at the time of the breaking up of the party. Q.—During that evening can you state any impropriety, or conduct different from that which takes place in any respectable society? A.—Certainly not. Q.—We have heard a good deal of Mr. Fortesque being a lord; can you tell us who he is? A.—Second or third son of the Earl Fortescue, and Member of Parliament for the borough of Barnstable; I visited Mrs. Forrest once after this party, in company with Mr. Fortescue; in a few days after, I can't precisely say, two, three, or four; on that occasion Mrs. Forrest, Mrs. Voorhies, Mr. Raymond, Fortescue, and myself, formed that party; we called in the evening; we left between twelve and one o'clock, certainly not later than one; Fortescue had to leave town very early in the morning; I know Mr. Raymond; I had no acquaintance with him until we met there; Fortescue certainly could not have known him before that; we three came away together that night. Q.—Did you return again that night to Mrs. Forrest's? A.—Certainly not; Mr. Fortescue resides in London; his precise residence I cannot tell; we passed the evening wholly in conversation; just as we were going away wine was brought in; we had none until that time; I believe I only took one glass of wine; one or two; such a trivial thing is not on my memory; just as we were rising to depart Mrs. Forrest asked us if we would like a glass of wine previous to our long walk, and said, "if you do, you must go down to the dining-room for it, for I forgot to tell the servants to prepare the tray," she further added, "unless Margaret will go down to the dining room to get it for you;" she acquiesced, upon which I said, "Will you permit me to assist you?" which permission was accorded, and I assisted her in bringing up the wine and water.

Q.—Do you remember who carried the tray? A.—I believe I had that honor—(laughter); we carried the tray and water up to the library, where the other parties were in the act of going away; Mrs. Voorhies and I did not go below the first story; we went no lower than the dining room, which is on the first floor; I think it is on my mind that I waited outside while she went in; on coming up, I believe we were mutually laughing at our own awkwardness; I rather think Mrs. Forrest said something as we entered the room, in a half reproving way, that we made too much noise, or something of that sort; I had not drank anything that evening before; I cannot answer for what occurred before I went there, but, from Mrs. Voorhies, manner and appearance, I should say she had not drank anything; I was not in any way affected by drink; after we took the wine there was no laughing; we went away immediately; Mr. Fortescue left next morning at seven o'clock.

Q.—Was there on that occasion, any deviation from the usual course observed in respectable houses? A.—Distinctly not; Mr. Fortescue behaved himself on that occasion; on one occasion I dined with Mrs. Forrest during Mr. Forrest's absence; it was in the autumn of 1848; having paid a morning visit to Mrs. Forrest, and the dinner bell ringing just as I was leaving, I said to her in a half jocular manner, "I would say if I were in England, that I would presume on an acquaintance of twelve years, and say I would dine with you; I have to be up town at seven o'clock, and it would be an accommodation to me;" I think Mrs. Forrest said, "You may, provided Margaret returns, but you must expect no dinner as we are quite alone;" I presume that it meant there was no preparation; I do not pretend to give the precise words; there was plenty to eat; Mrs. Voorhies did come in; and I was allowed to remain, and I asked permission to carve, and did so; I was the only gentleman present.

To the Chief Justice.—Mrs. Voorhies was present at this dinner, also another sister of Mrs. Forrest, (Virginia) and I think Mrs. Voorhies' child and nurse; I left certainly before seven o'clock, for I had business calling me away; I certainly did not return again that evening. Q.—Were you in any way disguised by drink? A.—No, certainly not. Q.—Was either of the ladies? A.—No, certainly not; my impression is, Mrs. Forrest, Mrs. Voorhies and myself, drew round the fire after dinner; up to the time I left Mrs. Voorhies was almost constantly in the room; I think Virginia left with the nurse and child after dinner, but Mrs Voorhies remained. Q.—During that dinner, or at any other time, were you ever lying, or half lying or sitting on Mrs. Forrest, or she on you? A.—(With emphasis)—Most certainly not. Q.—Had she her arm in any way around you? A.—No. Q.—Were you ever in the room with Mrs. Forrest when the door was locked? A.—I never was in the room with Mrs. Forrest when the door was locked, unless it was locked on the outside on purpose; I never made any indelicate or amorous approaches to Mrs. Forrest. Q.—Did she towards you? A.—Still less so; I never saw her make any such towards any person; I never saw her in any way disguised with liquor.

Mr. O'Conor to the Court. -I need not, I believe, ask the witness the principal question.

Witness.—Perhaps it would not be out of place for me to say that my visit to Mrs. Forrest, with Mr. Fortescue, was not at all premeditated, but that we called as a matter of courtesy to the lady, after visiting Fonthill, where I drove out with Mr. Fortescue; I went there with the permission of Mrs. Forrest and Mr. Forrest; I visited Fonthill before that with Mr. Forrest, Mrs. Forrest, and Mrs. Laverte; I breakfasted with Mr. and Mrs. Forrest that morning, and called for Mrs. Laverte in my carriage; I frequently called at Mrs. Forrest's on Sundays in respect to him, that being the only day he received visitors; I saw him in his library there was always wine and water, and other things, for people to help themselves to if they chose; I was first introduced to Mrs. Forrest by her father, Mr. Sinclair; I think it was in Liverpool; she was then unmarried; I was, when I saw Mrs. Forrest first here, as I am now, the British Government Packet agent, resident in New York; I arrived here in the fall of 1847, and my introduction to Mr. Forrest was in the course of 1848.

Q.—We have you named in this case several times; Captain Calcraft, will you state your position? A.—I was in the British army for ten years. Q.—Were you at any time in the library with Mrs. Forrest, or any one else, in Twenty-second street, when the door was locked? A.—Not to my knowledge; I never passed a whole day in that library; the earliest hour I ever was there was the day I breakfasted with Mrs. Forrest—about nine; the latest hour I ever visited there was one o'clock. Q.—Were you ever present in that house at an immodest act? A.—No, sir, never. Since this difficulty between Mr. Forrest and his wife, I have been addressed by Mr. Forrest in the street; it was in September of last year; I was going to the Post Office on a packet morning, and passed Mr. Forrest, and seeing him look at me, I stopped to give him an opportunity to speak to me; he passed me, and returned, and came up and asked me when I was going to England, or if I was going to England; I asked him, "Pray, Mr. Forrest, did you address me?" and I also added, "if you do so in a more courteous tone, I am prepared to answer you;" he then continued in the same abrupt way, saying, "I want to know, are you going to England?" or "I advise you to go to England;" both phrases, I believe, he used; being somewhat nettled I answered, "that is my affair;" I did not say anything about whether I had any intention of going to England or not.

Cross-examined by Mr. Van Buren.—When I first came here, I resided at No. 9 Warren street; I remained there two years—that is, in 9 and 11; they belonged to the same landlady; I am wrong, I resided there till a little after 1st May last; that will be over three years; from there I went to the College Hotel, Murray street; I am not living there now. Q.—Have you any connections in this country? A.—Do you mean relations? Mr. Van Buren.—Yes. A.—No, sir, none; I was first introduced to Mrs. Forrest in this country, by Mr. and Mrs. Willis; I accompanied them and Miss Lynch to a party at Mrs. Forrest's. Q.—Whose suggestion was it that you should go to that party? A.—I believe that it was at my own request.

Q.—Are you married?

Witness (rising and turning to the Judge).—I here beg to ask the Court if circumstances of a painful nature, which occurred twenty years ago, are necessary to be brought before this Court?

Mr. O'Conor advised the witness to answer this question, and he would direct him where to stop.

Witness.—I place myself in your hands.

Q.—Are you married? A.—I was married in 1829

Q.—To whom?



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Witness.—Does the court insist on my answering that question?

Chief Justice.—I don't insist on it sir.

Witness.—Then I decline to answer.

Mr. Van Buren submitted that he was entitled to put the question.

The Chief Justice did not see the pertinency, unless the counsel could connect the lady with the circumstances of this case.

Mr. Van Buren contended that the question was perfectly reasonable. His witnesses had been asked about their business, and if they were married; and even Mrs. Underwood was asked why she didn't go home to her husband the night she was married.

Capt. Calcraft.—I decline to answer any question in reference to the subject, unless compelled by the court, and then, of course, I will bow to the decision.

The Chief Justice said he did not see the pertinency of the question. The fact that he was married is enough, but the name of the lady is not at all necessary.

Mr. Van Buren said that the latitude of cross-examination should be allowed him, which had undoubtedly been indulged in by the other side.

Mr. O'Connor would advise the witness to answer this question. His wife was divorced from him in one of the courts in England, which have no power to grant it without an act of Parliament, and therefore he is tied to a person having the name of wife.

The Chief Justice said, that in the course of this trial a most unwarrantable latitude had been given to the introduction of parties who had nothing to do with this case; no objection having been made by the counsel, the course was permitted; but he did not see the necessity of having the name of the lady brought before the court, when she was in no way connected with the issue. Courts of justice should never be the medium of slander, or attacks upon any individual; and they have no right to introduce the name of the lady whom the witness married, unless the counsel could show that it is pertinent to the case.

Mr. Van Buren submitted that the question had been permitted to witnesses produced by the defendant.

The question as to the name of this lady was not permitted.

Q.—Are you living with your wife? A.—No, sir, nor have I since the year '29 or '30; I have no means of ascertaining if she is living; for many, many years I have not heard anything of her; she has not been in this country to my knowledge; I have no means of knowing if Mr. Sinclair (Mrs. Forrest's father) is acquainted with her. Q.—Have you children? A.—No. It was a clandestine marriage, and we never lived together as man and wife avowedly.

Q.—Do you still decline to give the name of the lady?

A.—I bow to the decision of the court.

Chief Justice.—Give it or not, as you choose.

Witness.—I would rather not. Q.—How long did you live together? A.—We never lived together; she always kept her maiden name; I have not seen her



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within twenty years; I saw her last in London. Q.—What was the occasion of your leaving her? A.—I did not leave her. Q.—What was the reason of her leaving you?

Witness to the Court.—Am I bound to go into all this?

Chief Justice.—I see no objection to the question.

Witness.—She eloped with another person; I don't know how long before that I had seen her; she was in London; I was with my regiment at the time at Portsmouth, 70 miles from London; I should say I saw her within less than three or two months previous to her eloping. Q.—Which of you desired to keep the marriage secret? A.—Both desired to keep the marriage secret; I on account of my family: I do not know what her reason was. Q.—Was Mrs. Forrest acquainted with these facts? A.—It was a matter of trial in the Ecclesiastical Court, so that all the world may have known it. Q.—Are you aware that she knew it? A.—I presume not, it was so long before her time; she never inquired of me if I was married; there was an action for damages, and a divorce granted by the Ecclesiastical Court, and proceedings commenced in the House of Lords for an act of Parliament; there was a dissolution of Parliament, and the passage of the bill was consequently lost, and the expenses were too great to renew it again; on the evening of the party I can't recollect if Mr. Raymond was there when Fortescue and I arrived; I forget if I smoked that evening; Mrs. Forrest lighted a sigarette, but did not smoke it continuously; I don't recollect that I ever saw her smoke on any other occasion. Q.—Did you ever send her a box of segars? A.—Yes, I sent her a small box of sigarrettes when they first came out as a curiosity; the day I went to Fonthill with Mr. Fortescue, we took our dinner with us, and a small flask of brandy between two of us; I got it at Sherwood's that day; I usually saw Mrs. Forrest and her married sister, and sometimes her unmarried sister; possibly I may have seen Mrs. Forrest alone; my impression is that the first visit I made her she was alone. Q.—What, if any, refreshments were furnished you when you called in the mornings? A.—None whatever; I except New Year's Day; the day I dined there I called in the afternoon. Q.—Do you recollect drinking before dinner? A.—It is not my custom to drink in the morning before dinner, and more particularly in the presence of ladies, and the fair inference is that I did not; to the best of my recollection I drank nothing that day before dinner; before dinner I was sitting in the library with Mrs. Forrest and her sisters; I was not at that time acquainted with Mr. Forrest; I believe he was on a professional tour; I don't think I had had the pleasure of being presented to him; Mr. Forrest was not acquainted with Mr. Fortescue at any time; my impression is that the nurse and child were present the day I dined there; I have no distinct recollection whether the gas was lighted; there was a boy in Mr. Forrest's house, whose name I have since learned was Robert Garvin; he was backward and forward; he came and went to fetch things in and out.

Q.—Did he come in at any time while Mrs. Voorhies

was out of the room? A.—Not to my recollection; Mrs. Voorhies was in the room nearly the whole time; I do not recollect anything having been said to Robert about lighting the gas; I don't recollect his coming to the door, and being spoken to out in the hall—not to my knowledge. Q.—Did you go to the library after dinner? A.—My impression is I went up there to get my hat, but I did not remain longer than was necessary to get it; I have no recollection that Mrs. Forrest went up with me; I went away immediately. Q.—Where were you going that evening? A.—I was going to visit a friend in the upper part of the city, but the name of the person I do not think it necessary to mention; I decline to answer it.

Mr. Van Buren said there was a contradiction between the witness and Garvin as to time, and he insisted on his right to a reply.

Chief Justice to Captain Calcraft.—Why do you decline to answer?

Witness.—It involves my private business, and I don't wish to mention it in a court of justice.

Chief Justice.—Business of what character? All witnesses are bound to answer, unless it would tend to degrade them.

Witness said he had no distinct recollection of where it was.

Mr. O'Conor said that if the visit was one which would tend to affect him, he is not bound to answer, when the answer is not relevant to the issue.

Mr. Van Buren said that he felt all along the embarrassments that would arise from those inquiries; but he submitted that, as similar questions were permitted to be put to the defendant's witnesses, he was entitled to pursue this inquiry.

The Chief Justice ruled that the witness was not privileged to decline answering, unless the visit would subject him to any disgrace.

Q.—What was the name of the person you had to see? A.—I really, at this period of time, don't recollect. Q.—Was it a man or a woman? A.—It was a woman. (Laughter.) Q.—Was it a woman whom you had seen before?

Witness to the Court.—Am I obliged to answer? (Laughter.)

Chief Justice.—You must understand, sir, that you may decline answering if you can say, on your oath, that the answer would tend to disgrace you.

Witness.—Then, on those grounds, I decline to answer.

Mr. Van Buren said he understood the rule was that the witness was bound to answer, unless it subjected him to a criminal prosecution, and it certainly would be to the defendant's advantage, if, at this period of the trial, any other rule was made.

The Chief Justice said Mr. Van Buren was mistaken; he did not then recollect any witness who had declined to answer on those grounds.

Mr. Van Buren.—Anna Flowers was asked as to her stealing, and as to her having had a child.

Chief Justice.—And she was told she might answer or not, as she pleased, and she answered. As to the circumstance of her having a child, she had voluntarily told that, and therefore there was no question of degradation about it.

Mr. O'Conor said the rule was substantially laid down in the outset of the trial, in regard to Mr. Forrest. A very little reflection on the state of society would show, that inquiries of this description would not tend to the ends of justice. He submitted that that question, nor anything tantamount to it, cannot be put. The witness has declined to answer, on the ground that the answer would degrade him; and the counsel has the benefit of his refusal.

The Chief Justice said that he did not see the necessity of going into the particulars of this visit: he did not see the relevancy of it. The Court would, however, postpone its final decision on it till morning. They would bear in mind that Captain Calcraft does not remember the name of the person he went to see, and therefore the further inquiry on that point would be unnecessary.

Mr. Van Buren.—But I intend, please your honor, to bring the name of the lady distinctly to his recollection.

Adjourned.

January 9th.

Captain Calcraft was again called to the stand, and he was asked what was the name of the person?

The Chief Justice decided that he was bound to answer the question.

Q.—What was the name of the person? A.—As I before said, I do not remember: and I would here make an explanation. I was so pained yesterday at the course pursued by the cross-examination, in alluding to the most painful circumstances of my life, which occurred twenty years ago, that I said more than I intended.

Q.—Where was this engagement? A.—I have no distinct recollection.

Q.—Do you know Mrs. Robinson, of Watts-street? A.—I decline answering,

Mr. Van Buren called on the Court to direct an answer.

The Chief Justice told him to answer.

Q. repeated. Witness.—I do; she resided some months ago in Watts-street; I believe No. 21. Q.—What is her occupation? A.—I should call her an ex-actress; I have not seen her for some months; I have visited her. Q.—For what purpose?

Mr. O'Conor objected to the witness answering, even if he was inclined.

Chief Justice asked the counsel the purpose of the question.

The Chief Justice decided that the question was not necessary, and would only administer to the appetite for scandal.

Q.—Was it Mrs. Robinson you went to see the evening you dined with Mrs. Forrest? A.—I should think not, for my engagement was up-town; but what the precise nature was I cannot recollect; I have not consulted counsel since I was on the stand yesterday; I have spoken to Mr. O'Conor, as, from the nature of your cross-examination, I found it necessary to protect myself.

Q.—If you are not able to say the name of the person, or the nature of your engagement, how could you say the answer would tend to degrade you? A.—As I before said, I own you confused me, and you obtained your object; and when I said possibly it was a woman, I did not say that answering about the name would degrade me; I said I did not recollect the name.

Q.—When did you first recollect that Mr. Raymond was there? A.—From the time of the occurrence, as I recollect; I have spoken to Mr. Raymond generally on the matter, but not on that particular point; I fix the hour of carrying up the tray from calculating the time when we arrived: we arrived about nine o'clock, and left it before one; I was not with Fortescue at Mrs. Forrest's more than on two occasions; at the first party there was a supper laid out—wine, and usual refreshments; I can't say that there were spirits. Q.—Did you know, when you came to the stand, that Mr. Raymond had testified to the hour of carrying up the tray? A.—Yes, I read it in the newspapers; or not the carrying up of the tray, but the time of breaking up the party. Q.—Why did you not answer Mr. Forrest when he asked you if you were going to England? A.—I thought it was no affair of his; I gave him no direct answer; I gave him no other answer bearing upon going to England; [affidavit produced;] this is my affidavit.

Mr. Van Buren read the following part of it:—

I was walking to the post-office, September 25, 1850, at about 10 o'clock, A.M., when, (I think,) just below Fulton-street, in Broadway, I passed Mr. Forrest. I stopped opposite a post, in a position to peruse the steamer announcements fixed upon it. The first intimation I had of his increased proximity to me, (as I did not notice his turning back,) was his exclaiming, in an abrupt and excited manner, "When are you going to England?" or "Are you going to England?" repeated in the same abrupt way several times. I was somewhat surprised by this singular greeting, and my first impulse was to pass on, without replying; but, to avoid being misconstrued, I first (I believe) said, "Are you addressing me, Mr. Forrest?" And afterwards, on his repeating his query, I added, "If you will address me in a more courteous tone, I shall be happy to answer you." Upon which he repeated—the amount of it (or a phrase to that effect) is—"I want to know if you are going to England, or not?" And he added, several times, without giving me time to reply, in the same hurried and excited manner, "You had better go to England!" or, "I advise you to go to England!" one or other phrase several times repeated. I replied, warmly but not discourteously, "I have no idea, at present, of going to England: that is my own affair."

Q.—Do you recollect that? A.—Yes, that must be a lapse of memory.

Mr. Van Buren then read another extract of the witness's affidavit:—

"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 Font Hill 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 Font Hill. We accordingly called, and found Mrs. Forrest and Mrs. Voorhies 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. Voorhies in bringing it up, and did so. We left said house by about half past eleven o'clock that evening; Mrs. Forrest, Mrs. Voorhies, my friend, and myself, all remained in the room together, with the exception of when Mrs. Voorhies and myself left to bring the refreshments, which did not occupy more than a very few minutes.

Witness.—Raymond's name, I see, is not on that; it must be an omission on the part of the person who drew it; the occurrences are not so fresh in my memory as when I made the affidavit, but I have a general recollection of them; we either found Raymond at the house, or he came in when we were there. Q.—May you not have been at the house with Mr. Fortescue another night, when Mr. Raymond was not there? A.—No; to the best of my recollection, Fortescue was there but twice; I was introduced to Mr. Forrest at my own request: I requested Mr. Willis to introduce me; as I had been at his house, I wished to know him; I desired to be introduced to him as a man of eminence in his own country, and as an act of courtesy; I wished to be presented to him; I cannot say how long I was visiting his house before I was introduced to him; it may have been six weeks; I believe he was in the country; I have received notes from Mrs. Forrest; I have not got them; they are of a trivial character, and they are probably thrown away, with other letters in a waste paper baskct; I receive so many letters, and having received them two and a half years ago, it is impossible to recollect what I did with them; I believe Robert Garvin might have brought them, I don't recollect any one else. Q.—Have you endeavored to furnish evidence in this case against Mr. Forrest? A.—Not in this case. Let me understand the question, or I may be caught in another trap. (Laughter.) The question was repeated. A.—To answer that I must enter into a detail.

Mr. Van Buren said he should answer it in a direct manner.

Mr. O'Conor said he knew what the witness had done, and yes or no would not be an intelligible answer.

Witness.—I did not volunteer any evidence; that is all I can say, unless you permit me to go into detail.

Q.—Have you suggested to any one the necessity of testifying in this case?

A.—No; the individual suggested it to me; I told her she might do as she liked, and said she might inform Mrs. Forrest's counsel; I gave her no advice; I do not know of my own knowledge what she did; I have taken no part in the employment of counsel for myself. Q.—Or as regards Mrs. Forrest? A.—Certainly not.

Mr. O'Conor.—How long ago is it that you told that individual to tell Mrs. Forrest's counsel what she knew? A.—Over a twelvemonth ago. Q.—You sent Mrs. Forrest a box of sigarettes once, do you recollect sending her anything on any other occasion? A.—I sent her a bouquet; I do not recollect on what occasion; on the morning I breakfasted with Mr. Forrest, it was by invitation; Mrs. Forrest wrote the note; when I sent those little presents, she acknowledged them by note; I recollect Mrs. Forrest asked me for another box of sigarettes for a friend. Is it not usual to acknowledge presents?

Mr. Van Buren.—We needn't get into the common law. (Laughter.)

Mr. O'Conor.—It's not common law, but common courtesy.

Chief Justice.—Let us not get into the law of fashion.

Witness continued.—I do not recollect that a chair or any other article of furniture was broken while I was there.

Mr. Van Buren.—Did you send any other present to Mrs. Forrest? I sent to Virginia, her little sister, a copy of Burns' Works on New Year's day; I believe I sent her presents on the last New Year. Q.—Did you ever send any turtle soup? A.—No; I think I sent a present of some English game on one occasion—some Scotch grouse; my impression is that it was after I became acquainted with Mr. Forrest.

Catherine Levins examined.—I reside at 46 Avenue B; I keep house; I am a widow; I know Mr. and Mrs. Forrest; I went to live with them in 1844, before they went to Europe; I remained during the whole of their absence and some time after their return; I knew Anna Dempsey, a domestic in the house; she was chambermaid; I lived as cook, and after they went away I took care of the whole house; when Anna came there, Barney M'Cabe, another servant, was in the house; he was waiter; he left about two months before the family went to Europe; not quite two months; they went a week or so before Christmas, and Anna came the previous June; I have not seen her since she came to the house with Mr. Raymond, the summer the family were away.

Q.—Did you, during the time you knew Anna, become acquainted with her general character? A.—Yes, sir; I became acquainted with her character for truth; it was very bad; from her character, I would not believe her on oath; I would not believe anything she says.

Q.—Did you, on any occasion in that house, see Anna in any immodest position? A.—Yes, sir, I did; I saw her in bed with the waiter boy; I mean Barney M'Cabe; I can't say it was in the day, but she being locked in the room with him in the day time excited my suspicion, and I watched her at night and found her in bed with him; she ordered me out of the room, and said, if I didn't go she'd strike me, and slammed the door in my face; she sat on the edge of the bed; next morning she came to me crying and begged of me not to tell Mrs. Forrest, and she would do anything for me, and that I'd never see her doing the same act again; I remember an occasion when Mrs. Forrest went to Philadelphia to meet Mr. Forrest; it was before they went to Europe; there was no appointment or leave for me to go out the evening Mrs. Forrest left; I did go out in the afternoon; I can't tell how long I was away, but was home before dark; I went to a milliner's in Ninth avenue, near Seventeenth street; I was away about twenty minutes, twenty-five minutes was the most; I was not out again that evening; we were all there—Anna was there, and Mrs. McLean and Miss Virginia; she was then little; Mrs. McLean was shortly afterwards married; she nursed Virginia before she got married; we called her Jane; she is not living, she died about nine months after that; she lived at that time in Twenfieth street; Virginia was with Mrs. McLean, and she had brought her home; Anna went out that evening; we left the house at the same time; we did not go together; she returned about the same time I did; she was in a few minutes before me.

Q.—Did any person—any gentleman—call there that evening?

A.—Yes, when I got in from the milliner's, Jane and Virginia were seated, and Anna came down stairs laughing, and said Capt. Howard was up stairs and wanted some brandy; she asked Mrs. McLean where it was, and she answered she knew herself, that it was in the pantry between the dining-room and parlor; Mrs. McLean and Anna went up stairs and both came down together; she said Howard wanted brandy and water; she also said Howard had gone out; she and Mrs. McLean were not absent more than ten minutes.

Q.—When Anna told you Capt. Howard was gone did you hear any thing?

A.—I did not think or suspect such things as have turned up since, but I heard the front door shut; it was just dusk; there was no light lit; I did not hear of

Capt. Howard being there again that night; there was no one else there that night; when I came in from the milliner's, Anna told me she had sent Barney to the store; he came back; but as to say he was in all the evening I don't recollect; it was not late when I came home, it was hardly dusk; we had no party or friends the next evening; I think it was pretty much about the same time that Mrs. Forrest was in Philadelphia that I caught her in bed with Barney; Mrs. Forrest was in Philadelphia, Mr. Forrest away, and Miss Margaret in the country; Anna generally talked of houses of ill-fame, and all kinds of smutty talk; we were together about two weeks when she commenced to talk that way; I walked away from her when she commenced talking so; I can't say whether the door was latched when I caught her and Barney, I can't recollect; it was together (closed;) Barney was in bed; when she saw me coming up with the light, she stood on the side of the bed, and put her hand on the door; she was dressed in her night gown; each of us three had separate bedrooms; I think we all came up together to go to bed; Barney went into his bedroom; I went into mine and locked it; I had a light with me; I put it out; it was something about a half an hour before I started to go to Anna's room; I heard Barney unlock his door and go out; then I lit my light and walked to Anna's room. Q.—Did you walk quick? A.—No, I walked heavy, to let them know I was coming; I didn't want to go into her room suddenly; I supposed he'd come out.

Cross-examined.—I can't exactly tell how long I remained in Mr. Forrest's house altogether; I went to keep house for myself, in the Eighth avenue; I have not lived out since then; I am a widow now; I used to work out at house cleaning for a living; since the fall I have had a nurse baby; it belongs to a Mrs. Connor; I am spoon feeding it; Mrs. Connor is a wet nurse, and she is wetnursing for Mrs. Hart's child; I am paid $4 a month for taking care of the child; this last month she said she would give me four dollars and a half; my sister, Mrs. McMahon, assists me: I have done nothing else for a living since the fall but this nursing; when I went out to work, I got one dollar a day for white-washing; when washing for half a day, I got three shillings; worked for several persons; Mrs. Loger gave me half a dollar a month to do her cleaning every morning; I got work from Mrs. Cox, and Mrs. Hawkins; I have not worked for Mrs. Willis; I don't know the lady; I have not worked for Mrs. Forrest since they separated; I worked for her the summer before; I have seen her since; I saw her in Great Jones street; I took her washing there; I received no money from her except for work I did for her; I washed for her the summer after the separation; I have not received any money except my wages. Q.—Have you received any clothing from her? A.—Nothing that was any use to her. (Laughter.) She gave me a shawl this time twelvemonth, or a little later; she gave me a frock, a black muslin frock, the beginning of last summer; I don't recollect anything else that she has given me; Mrs. Voorhies gave me a frock three or four years ago, and clothes that didn't fit her child; it's going on a year since she gave me the last; I came from my own house this morning to the Irving House to Mrs. Forrest, and came here with her; when Mrs. Voorhies was out, I had charge of the house while Mr. and Mrs. Forrest were away; Mrs. Voorhies taught the piano and was out very much; I recollect Anna Dempsey being in the family way; she told me she was, and I could see by her appearance that she was; she remained in the house after that, till the latter end of February or the beginning of March; she went to Connecticut. Q.—Who sent her to Connecticut? A.—Herself. (Laughter.) She looked around the city and could find no place, and she said she was acquainted at there, and said she would go; I never heard Mrs. Margaret advise her or want her to go; I didn't see her again until she came to the house; I don't remember whether it was that summer or not; I have seen Barney McCabe catch hold of Anna and kiss her before I caught them in bed; he'd kiss her whenever she came into the kitchen, and in the area, and the garden, and in the yard. (Laughter.) I did not mention this to any one; I mentioned to Mrs. Forrest that I had caught Anna in bed with Barney; I didn't tell Mrs. Forrest of the "smutty" talk; I thought I would keep Anna at a distance, and wait till I'd see more; I kept her at a distance nearly three months; this mode of conversation was common with her; I did not mention it to Mrs. Forrest; I did not mention it to Mr. Forrest; I never spoke to him as long as I was in the house.

Q.—Why didn't you tell Mr. Forrest? A.—I never spoke to him, and I didn't like to tell a gentleman such a thing; I didn't expect to have to tell it here either, at that time; we all three went up to bed that night, and every one went to their own room; by the sound, I thought Barney locked his door; Anna didn't lock her room; she left her door open; she always left her door open; I was something about half an hour in my bedroom when I heard Barney's door open; I didn't want to go into Anna's room; I felt mortified, and the family out of town, and I thought to break her off that habit (laughter;) as far as I know, I can't say whether he was in her room before that; he may, and he may not. Q.—What was the habit you wanted to break her of? A.—Of kissing and "carrying on" in my presence; I went into her room to break her off the habit of kissing and carrying on; I heard him go into the room; his room is next to mine, and Anna's directly opposite to his; he had no shoes on—nothing but his shirt.

Q.—How did you hear him go into her room?

A.—I heard his door open, and heard his foot cross the landing; I knew there was no person in the house, and he ought to be in bed; I did not exactly see where he went, but seeing him in her room the day before, I got my light and followed him; I had been in bed, and put on my clothes again; when I got to the door, Anna was standing upon the side of the bed, and she started to put her hand against the door; when the door opened it struck against the side of the bed; she didn't say whether she had been asleep or not; I didn't ask her any thing about it; I made a kind of alarm, that she might know I was coming; I asked Barney what brought him there, and he made me "ne'er an answer."

Mr. O'Conor.—That's a little Irish: she means no answer.

Witness continued.—I left them together; I was afraid of her being in the house by myself, she spoke so awful wicked; I went back to my room; I don't know whether Barney remained in her room or not; I didn't hear him leave it; I didn't sleep any all night: I saw Barney next morning down stairs; I told Mrs. Forrest about this in October: it was in about a week after she returned from Philadelphia; I think it was October; it was about a week after; not knowing I'd be "testified," I never kept it in my mind; I can't say if it was as late as November; I know it was not the day before Mrs. Forrest went to England that I told her of this occurrence; I can't fix the time any nearer than October; the room they were locked in was a back bedroom, next to the bath-room; it was the same day that I saw the other matter in the evening; I did not see her go into the room; I did not see Barney go in; I saw her come out as I was coming down stairs; it was in the forenoon, about eleven o'clock; I had tried the door before that, and called her and him through the whole house, about a quarter of an hour or twenty minutes before that; I was on both landings when I called: I went into every room, and couldn't find them; I twisted the knob of that door, and then went up to my bedroom, and when I came down I met her on the landing opposite the room door: I did not look into the room to see if Barney was there; I didn't see him anywhere else, and I thought he must be there, as I didn't know what the door would be locked for; I can't tell how long Mrs. Forrest was gone to Philadelphia; I think it was more than three days, but can't tell; Mrs. McLean was no friend or acquaintance of mine; she was an English girl; I recollect that was the first night Mrs. Forrest was gone to Philadelphia, because I went to the milliners, for my hat, and Anna and I went out together; I didn't go out any other day; Mrs. Forrest did not give me permission to go out: I was in the house the night before that, and I was in the house the night after it; I recollect I didn't leave it on any occasion; I don't recollect anything I did the night before: Anna came down laughing when she said Captain Howard wanted the brandy and water; Mrs. McLean stayed about twenty minutes after; Anna was down stairs, afterwards, all that evening, with me; I know it was that evening, because I was alone, and I told Anna that she should remain down with me, as she was in the habit of going to her room to read novels; Barney went out; Anna said as we were out all day, he might go out in the evening; I was not out all day; I was out about three o'clock, and returned again, and went in the evening to the milliner's, about dusk; I told Mrs. For-

rest what took place about Anna, in presence of Mr. Raymond, and then she came after me; I never observed any difference in the house, except when Mr. Forrest had a headache, he would allow no noise; Mrs. Forrest would order the doors not to be slammed; I know Isaac B. Smith, going on eleven years; I never said to him, that when Mr. Forrest was at home the house was quiet, and that when he was away "we all had a good round;" I never said so to Mrs. Smith; I told her, that when Mr. Forrest and she (Mrs. Forrest) left the house, she generally let one of the servants go to Hoboken, as we were so confined when Mr. Forrest was at home.

I told Mrs. Smith that Mrs. Forrest was a good, charitable woman, and I didn't believe one word that was said against her; I never told Mrs. Smith that Mrs. Forrest said they had no fun when Mr. Forrest was at home; I don't know whether Anna Dempsey slept with Mrs. Forrest; I never concerned myself about it; Mrs. Forrest never told me she did; I think Anna told me she did; it was not in presence of Mrs. Forrest; she told me Mrs. Forrest thought so much about her for being a nice, clean girl, that she got her to sleep with her; that was six weeks after she came; I thought at the time, that it was because Mrs. Voorhies was not at home, that Mrs. Forrest took her to sleep with her; I don't know of her sleeping with Mrs. Voorhies; after Mr. and Mrs. Forrest went away, the family was, Miss Margaret (Mrs. Voorhies) and Miss Virginia; there was myself and Anna as servants, and my sister, who used to do the washing and ironing; Captain Howard never slept there, to my recollection.

Mr. O'Conor.—Give us your words, as near as possible, when you told Mrs. Forrest the affair about Barney?

Mr. Van Buren objected. The question was admitted, and an exception taken.

Witness.—I told Mrs. Forrest that Anna's conduct wasn't good, and I didn't wish to be in the house with her; I told her I caught Barney in bed with her.

Mr. O'Conor now intended to ask the reply of Mrs. Forrest.

Mr. Van Buren objected to the declarations of Mrs. Forrest in her own favor, if they were in her own favor.

Mr. O'Conor submitted that it was admissible. He desired to show the effect the intelligence produced on the mind of Mrs. Forrest.

The Chief Justice said that the evidence was proper; the counsel for the defendant having cross-examined on the point. [Exception taken.]

The question was repeated.—Mrs. Forrest said she would have to turn her away; the clothes Mrs. Forrest gave me were cast-off clothes; she always gave them away.

To Mr. Van Buren.—I am a widow two years; my husband died in Fifth-street; I was married in Ireland eleven years ago; my husband did not live with Mr. Forrest; he was enlisted by officer Brady, and was away in Florida from me for five years; officer Brady was shot in Mexico; my husband took me from Mr. Forrest's about four months after he came back; I had no difficulty with my husband.

To Mr. O'Conor.—I never saw Anna but once after she left for Connecticut; when I spoke to Anna about her charging Captain Howard, she told me that I had no right to interfere with her—that she was a poor girl, and she should do the best she could; I said, "You know I caught you in bed with Barney;" she said, "If you talk so to me, I'll have your life, or set the house on fire;" I said, "If you do, I'll have you arrested."

To Mr. Van Buren.—Anna was so violent when she came down with Mr. Raymond, that she threatened me, and Miss Margaret told me not to go into the room where she was; she threatened violence against me; I didn't know Anna was coming down; I didn't know Mr. Raymond was coming; when I upbraided her before Mr. Raymond, she made me no answer; Barney was about seventeen years of age. Q.—Did you ever have a quarrel with Anna? A.—Never but once, and she took a knife to stick me; the morning after I caught her with Barney she came into my room, and I said I didn't want her near me; she then begged of me not to tell Mrs. Forrest.

Harriet White, examined by Mr. O'Conor, deposed she is the wife of Isaac White; I live in Brooklyn; I resided in Norwalk, Connecticut, in 1843; I became acquainted there with a person named Anna Dempsey—she then called herself Anna Adams; she only stayed at my house one night on that occasion; I saw her in the fall after; she then called herself Anna Dempsey; she stayed with me three months then; I next saw her in 1846; her name was Mrs. Elmensdorf then; she came to get board, and stopped two weeks; she then went to live with Mrs. Raymond, on Flatshill, Norwalk; she went there in April, and stayed till about the first of June; she reported herself as a single lady in 1843; there was a letter in the post-office for Anna Dempsey, care of Mrs. White, and the young man in the post-office told me; I said I had no one of that name in my house, but there was a young woman named Anna Adams; when I went home, I told her there was a letter in the post-office for Anna Dempsey, addressed to my care; she colored up, and I asked her if that was her name, why she had not told me?—she went out to the post-office for the letter; I became acquainted with her general reputation; her reputation for truth was bad.

Q.—From her reputation for truth, would you believe her on oath?

A.—No, sir, I would not.

Cross-examined.—My husband's name is Isaac White; he follows the oyster business; I have been married twenty-one years last August. (Laughter.)

A general feeling of surprise was manifested at this answer, the witness apparently not being more than seven or eight-and-twenty years of age.

Witness (good-humoredly.)—Do you dobut my word? (Laughter.)

Mr. Van Buren.—You look so young, that I thought there was some mistake.

Witness.—I will be forty next July; I have a family; the first time I saw Anna was in July, and the next in October; she had lived with a Mrs. Russell, and took care of a child; Mrs. Russell had come from New-Orleans; Anna came to me to board; she did not do any housework for me; she was working for a man learning tailoring; she was a stranger the first time that she came, and the second time; I don't know that I ever heard any one speak against her character for truth; several of my neighbors spoke against her general character; they were Mrs. Brower, Mrs. Brower's mother, and Mrs. Hodge, and Mrs. Vernette, who lived in the house with me, and who is now dead; in 1844, she remained with me a couple of weeks; she was not recommended to me by any person; she was confined at Mrs. Raymond's, on Flatshill, where she went to board from my house; it was the first time that she came to me and stayed over night, that she told me her name was Adams; when she came the next time, I still called her Adams; she was there a couple of weeks before she got the letter; I called her Miss Adams—sometimes Anna.

Harriet White, daughter of the last witness, a genteel, interesting-looking young lady, deposed—I will be nineteen the 17th of March next; I became acquainted with Anna Dempsey; I saw her three times in Connecticut; I always called her Anna; I remember a time she was boarding there while my mother was absent. Q.—Did Anna do anything remarkable? A.—Yes; she locked herself in the room with two men, and turned me out; I told my mother when she returned.

Cross-examined.—This was about 7 o'clock in the evening; their names were Henry Hand and Andrew Reesner; they were not married men; they did not visit us; one of them was a stage-driver, and the other attended a stable; I went to bed; I was ten years of age at the time; there was no one else in the house, except a family down-stairs; we occupied the upper part; we had five rooms; I never called her anything but "Anne;" I wouldn't call her "Anna," and it used to set her mad. (Laughter.) My mother used to call her Anna sometimes, and sometimes Miss Adams; I went away on a visit the third time she came, and only saw her one day; on that occasion she went by the name of Mrs. Elmensdorf; my mother was in New-York when the occurrence took place; I don't recollect how long she remained at our house after my mother came back.

James Curzon deposed, that he lives at New-Canaan; I am a daguerreotypist; I am nephew of Mr. John Dickinson; I became acquainted with Anna Dempsey; I never saw her after she left Mr. Dickinson, though I heard she was in the house where I was; her general reputation was bad enough; her reputation as to truth was bad; I would not believe her under oath.

Q.—Do you recollect any immodest act of hers?

A.—I recollect one night, after she went to bed, she came out of bed in her night-clothes, when there was no one there but Mr. Dickinson and me; we were in the kitchen; Mr. Dickinson and his wife, I recollect, went to Norwalk, and left me to see that she didn't run away; I was cleaning my gun, and she came up to me and said, "James, if you will make me a corset-board, I will grant you any favor you ask." (Laughter.) Q.—What was her action on the occasion? A.—Nothing but her looks.

Mr. Van Buren objected to that.

Chief Justice said that that was very vague; he could not judge anything by looks.

Witness continued.—She appeared to be about sixteen or seventeen years of age; her bust was well rounded at the time.

Cross-examined.—This occurrence did not take place more than once in my presence; she came out of her bed; it was in the evening, about eight to nine o'clock; it was in the summer time, about dusk; she was there about two minutes; Mr. Dickinson spoke to her, and told her to go back to bed; I can't say how long she had been in bed; I went to bed afterwards, but what time I don't recollect; we generally retire to bed early in the country; I came to town this morning; I am an Englishman; I was subpœnaed yesterday, in Bedford; I was there on business; my expenses are paid; I got three dollars, and I suppose that will pay my expenses; I was not promised any money.

Q.—What do you expect? A.—I didn't think of it.

Mr. Van Buren.—You didn't begin to think, yet, how much you will expect?

Bernard McCabe was then called, and a general buzz and bustle of anxiety were manifested throughout the court. Presently we saw emerging from the crowd a miserable-looking, ill-clad, shirtless individual, with downcast look. He slowly approached the witness-stand, and his appearance recalled to the mind of every one in court Anna Dempsey's indignant and descriptive response, when she repelled the insinuation of her having any intimacy with the dirty little boy.

On being examined by Mr. O'Conor, the witness said—I will be 24 years of age in February; I live at 218 Ninth avenue, with Mr. Butler; I lived with Mr. Forrest about 3 years and 8 or 9 months; I was employed as waiter; it was my business to attend the door; I left Mr. Forrest's service in the fall of 1845; it was before he and his lady went to England; I then went to work in Sixth avenue, in a marble yard; Catharine Levins and Anna Dempsey were in the house when I left the service; I cannot remember how long Anna had been there when I left; it might be 4, or 5, or 6 months.

Q.—Were you at any time in the evening in Anna's bedroom? A.—I was one evening; Mrs. Levins came in; I was in bed—in Anna's bed; I had only my shirt on; Anna was in her night-clothes, I suppose.

Q.—Had you at any time sexual intercourse with Anna?

A.—I believe I had, once or twice; I believe it was in the day-time I had first intercourse with her; I believe it was in the bedroom next the bath-room; I believe it was the day before the night I was caught in her bed.

Q.—Did you solicit her, or she induce you? A.—I cannot say; I was awake when Mrs. Levins came into the room.

Cross-examined.—I can write my name; I have mentioned these facts before to Mr. O'Conor; I suppose it was over six or eight months ago; I was sent for; I can't say who sent for me; I was down town, and when I came back, "boss" told me there was a note for me; I don't know who it was from; it told me to go down to 2 Dey-street; I don't know that Mr. O'Conor called to see me; I was told he was seen in the Ninth avenue; I can't say whether I have been to Mr. O'Conor more than once; I believe my statement was taken down in writing; I believe I signed it; I believe I swore to it; I was not paid anything for going there. Q.—Have you been paid anything since? A.—No, sir; only sixpence, to pay my stage-fare here.

Q.—Have you made a statement denying your affidavit?

A.—I believe I have; I was forced to do it; I don't know that I swore to it; I believe I held up my hand, but I can't say that I swore to it; I don't know before whom I made it; it was some place in Broadway; I don't remember. Q.—Were you sober when you made the first statement in Mr. O'Conor's office? A.—I don't know. Q.—Were you drunk? A.—I don't know. Q.—Have you said you were drunk when you made it? A.—I came home drunk—(laughter)—the "boss" told me I was drunk; I don't know that I have sworn I was drunk; I don't know Mr. Sweeney's office; (paper produced and marked 39;) this is my signature.

To Mr. O'Conor.—I don't know the name of the gentleman that was present when I signed it. Q.—Were there more than one? A.—Yes, the gentleman that fetched me; I believe his name to be Burr; Townsend, a policeman, came to where I was working, and asked me to go down town; I didn't want to go; he said it was no harm—that Mr. Forrest only wanted to ask me a few questions; the "boss" said, "Why do you force the boy, when he doesn't want to go?" he asked me to be ready next morning; he called and took me down to Florence's, where Mr. Forrest stopped; Mr. Burr was there writing when Townsend and I went in; Mr. Burr gave me a newspaper to read; I think it was room No. 12; Mr. Burr asked me to go out a little ways; I did; we went round the Park; it was on Thanksgiving day; we went up Centre-street, and then up some street I don't know the name of; we went into a house in that street, and he asked me to sign the paper—that is all I remember, except his giving me a dollar bill; he gave it to me when we were leaving Florence's; I did not get anything to drink; they asked me to take a glass of brandy, but I wouldn't take it; Townsend took one.

Q.—Did you read the statement before you signed it; A.—I read part of it; I tried to read it, but I couldn't read the whole of it; it was not read over to me, that I recollect; the last time that I tried to read it was at Florence's; I tried to read it before that; it was in Broadway, near the Hospital; it was at a jeweller's shop—Mr. Stevens's I think; I tried to read it there, and couldn't make it all out; it was about a month before I was at Florence's that I was at Stevens's; I was asked to sign the paper then, and I signed it. Q.—Did you swear to it? A.—I held up my hand; I signed my name twice. Q.—Did you sign two different papers, or put your name to the same paper twice? A.—I can't say that it is the same paper; I was persuaded to sign it by Townsend; Townsend wanted me to say I was drunk when I made my first affidavit.

Mr. O'Conor said that there was part of this affidavit which the witness was not examined on, and which therefore could not be read.

The Chief Justice, having looked at it, said that that part was not pertinent, and should be omitted.

Mr. Van Buren then read the following:—

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'Conor, the counsel of Catharine 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 Catharine N. Forrest desired to see me at her residence in Sixteenth-street. Accordingly, I went to see said Catharine N. Forrest, who informed me that said O'Conor 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'Conor might request me to sign, she, the said Catharine, would pay me well for it. I declined acceding to this proposal. Shortly afterwards, I received a note from said O'Conor, 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 others, one of a certain Catharine Levins, in which it was stated that she, the said Catharine, had once seen me in bed with one Anna 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 had had sexual intercourse with said Anna 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'Conor, 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 been induced to make such a statement respecting the said Anna Dempsey. On the contrary, I have uniformly declared, and do now declare, that I never had sexual intercourse with the said Anna; and I solemnly declare that I was never seen in bed with her by said Catharine Levins, or by any other person. I have carefully avoided seeing the said Catharine N. Forrest ever since I was reminded of my having been to the office of the said O'Conor, 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 twelve years of age, went into Mr. Forrest's employ, and there remained about four years. During that time Mrs. Forrest's household affairs were quietly and regularly conducted in his presence, and frequently otherwise during his absence. * * * * * *

BERNARD MCCABE.

Sworn to before me, this 27th day of November, 1851,
JAMES M. SWEENY, Commissioner of Deeds.

Witness to Mr. Van Buren.—I have not been to see Mrs. Forrest lately; I went once to see her before I went to Mr. O'Conor's office; I believe she told me to go down to Mr. O'Conor's office: I saw her in Sixteenth street.

To Mr. O'Conor.—Mrs. Forrest never told me that she wanted me to sign any paper I might write. Q.—Did she ever say she would pay you or reward you for swearing anything? A.—She told me I would get paid for my trouble, that's all; I believe there was one or two told me that you (Mr. O'Conor) were seen walking up and down the Ninth avenue, enquiring for me; I don't recollect who they were: I believe Townsend told me he saw you walk in the Ninth avenue: I don't recollect who the other person was; Townsend didn't tell me anything about you, except that he had seen Mr. O'Conor on the Ninth avenue; I believe I got a note from you (Mr. O'Conor;) I believe it said if I was to call on Mr. O'Conor I would hear of something to my advantage. Q.—Did you hear of anything to your advantage when you came? A.—No, sir. (Laughter.) Q.—Did I ever give you any money except that sixpence to pay your stage? A.—No, sir. Q.—Did I ever promise you any, except the fifty cents you would be entitled to for attendance as a witness? A.—No, sir. Q.—Were you tipsy when you called on me? A.—I was tipsy when I got home. (Laughter.) Were you tipsy when you came to me? A.—I don't know.

Mr. O'Conor.—That will do. You are welcome, gentlemen, to your affidavit.

Mr. Van Buren.—You are welcome to your witness. Mr. Van Buren then said to the witness—Did you call on me at any time?

A.—Yes, sir. What did I say to you? A.—You didn't speak to me; you said you didn't knew who I was. Q.—Didn't I tell you to clear out? (Laughter.) A.—You did, sir. (Continued laughter.)

Adjourned.

January 10th.

Mrs. Forrest was in court, accompanied by Mrs. N. P. Willis and another lady. Mr. Forrest was also in court, as usual, with his counsel and other friends.

At the sitting of the Court, Mr. O'Conor proceeded to read the depositions of John W. Forney, of Philadelphia, which were as follows:

John W. Forney, of the city of Philadelphia, editor, aged 34 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 with him, 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 the 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 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 beforehand, 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's 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.

Mr. O'Conor then proposed to read the letter of Forney to Geo. Roberts.

Mr. Van Buren objected to the reading of the letter, as the original was not shown to the witness at the time the depositions were taken. The fact should be affirmatively proved that the suggestions were made by Mr. Forrest. In order to connect or charge a party with the acts of another, that other should be specifically shown to be his agent. Mr. Van Buren then read from the depositions, where the deponent states that Mr. Forrest was not present when the letter was written, and that he did not see it before it was sent.

Mr. O'Conor contended that they were not bound to produce to the deponent the original, and he would read the depositions of George Roberts, of the *Boston Times*, to show that he had received a letter from J. W. Forney.

Mr. O'Conor then read the depositions of Mr. Roberts, in which he admitted having received a letter from Mr. Forney, but refused to produce it.

Mr. Van Buren replied, and contended that the rule of law was, that they were compelled to produce the original to a witness on the stand, and he was not aware that that right was waived by the fact of a paper being issued under commission. That a letter was written by the deponent to George Roberts there was no doubt; but that any suggestions came from Mr. Forrest, is wholly the supposition of the counsel.

The Chief Justice said that it was not necessary that the original letter should be produced, either here or in Philadelphia; it is quite clear the original must be produced, unless its absence is properly accounted for. If it is lost or destroyed, its production must be dispensed with. Mr. Roberts refused to produce it, and there were no means to compel him, and the matter stands before the Court as a lost letter. As to the other objection, he confessed that when there is evidence that a particular letter is written by authority of a party, there is *prima facie* evidence that he wrote it as the party's agent.

Mr. O'Conor then read the following letter, which he said was written 25th January, 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:—18 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, most profoundly. They passed on to New-Orleans, and so home to New-York.

After they reached, and had been there for 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 the 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 daily 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 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 released 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 Green, 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 in the knowledge of 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,

JNO. W. FORNEY.

GEO. ROBERTS, ESQ.

Philadelphia, January 25th, 1850.

Mr. O'Conor then proposed to read the depositions of Captain Howard. Mr. Van Buren objected, on the ground that the deponent refused to answer several of the cross interrogatories. He referred to 3 Hill, 4 Wendell, 268, and Washington Reports, 324.

Mr. O'Conor remarked, that until the depositions of Anna Flowers were made, the plaintiff had no idea that such a charge as she deposed to could have been made against her, even though they have a witness who overheard the conversation of Anna Flowers in the house in Mercer street, at the time of her sending the notes to Mrs. Forrest. He, (Mr. O'Conor,) therefore, had issued the commission to California, to examine Captain Howard, although they had hopes that, as a seafaring man, he might return and be examined at this trial. In reference to the fact of Captain Howard, who was a married man, and much attached to his wife, paying $75 to stifle the charge of Anna Flowers against him, he (Mr. O'Conor) said the records of our criminal courts show that one or more members of the New-York bar are, at present, undergoing imprisonment in the State prison for aiding women of abandoned character in exacting money, under the fear of exposure arising from such charges.

Mr. Van Buren said, no doubt the counsel depended upon his ability to destroy the character of Anna Dempsey for truth, without the necessity of calling Captain Howard to the stand. The charges in the case referred to by Mr. O'Conor, with respect to the implication of some unfortunate members of the profession, he believed were partly true, and the parties submitted to the exactions rather than the charges should become matter of public notoriety. He continued to contend against the admissibility of the interrogatories, on the ground already stated. He attached more importance to the fact of Mrs. Forrest keeping Anna Flowers in the house after a knowledge of the circumstance communicated to her; so, too, as to the fact of her keeping up an intimacy with Captain Howard, and conversing with him on the subject, as well also as to Barney M'Cabe; he attached, he said, more importance to the circumstances than to any actual guilt of Mrs. Forrest, if those facts he had just detailed are not guilt.

The Chief Justice said there was very great doubt that these depositions could be admitted without violating the rule laid down by the authorities, and he considered that they could not be received.

Mr. O'Conor said he believed the decision to be in accordance with the authorities: but he would, however, take an exception.

The Chief Justice—I reject the evidence in accordance with the authorities, but against my own judgment.

Margaret Longstreet was then examined by Mr. O'Conor, and deposed—I reside at 99 Sixteenth street; my husband's name is Samuel Longstreet; he is the owner of No. 162, where Mrs. Forrest resided; I know Mrs. Underwood, formerly Mrs. Bedford; she came over to ask when the house would be ready for Mrs. Forrest to move in; it was before Mrs. Forrest moved in; I can't say how long exactly; the colored woman was cleaning the house for the incoming tenant: I had, at that time, some conversation with Mrs. Underwood about Mrs. Forrest; I inquired of her what kind of a woman Mrs. Forrest was; she said she was a very nice woman—she had known her from childhood; that was the answer she made; she said nothing against her in any way, in that conversation; I never had any other conversation with her, except one morning she came to the basement door to ask me to send my milkman; that's all that passed that time; at any time while Mrs. Underwood was there and before she was married, I never heard her say a word against Mrs. Forrest; I never spoke to her except on those two occasions. Q.—Did you ever ask this woman who were all those gentlemen with the hairy faces, that were coming to see Mrs. Forrest? A.—No, sir; I never inquired of her if one of those gentlemen with the hairy face was Mr. Forrest; I never had any other conversation with her but those two.

Cross-examined.—Mrs. Forrest had not come into the house at the time of the first conversation; she had moved in when she came to ask me to send the milkman; I did not know who she was. Q.—Did you ask her who she was? A.—No. Q.—Do you recollect asking her if she was Mrs. Forrest's mother? A.—No, sir, I never did; I never saw Mr. Forrest until he came to our house, three or four weeks ago.

Q.—Had you any curiosity to see him. A.—No, sir—never had; I have no curiosity to see gentlemen—there is plenty of them. Q.—Have you spoken to Mrs. Forrest about this matter? A.—I have sworn in it once before—before Mayor Woodhull in the City Hall; Mrs. Forrest was present, and another lady and gentleman; I never saw hairy-faced men go in there (laughter); there was a lady and gentleman boarded with Mrs. Forrest.

Q.—Did that gentleman answer this description; A.—Didn't observe much; I have other business to attend to; I have not seen men go in there more than in other houses; I have seen gentlemen go there with letters; I have never seen men with long hair on their faces going in or coming out of that house; I retire to bed about eleven o'clock.

To Mr. O'Conor.—Mr. Longstreet was present at the first interview between me and Mrs. Underwood.

Samuel Longstreet (the husband of the lady who had just left the stand (deposed—I let the house in Sixteenth street to Mrs. Forrest; she came and took the house; some gentleman was with her; before hiring it she gave me a reference to Mr. Lawson; I called on him and satisfied myself; I think it was in September she came to hire the house, and I took it from October; at the time she moved in I think the painters were not done, and some little fixing was to be done about the doors; the bell of the front door, I recollect, was not hung; it might have been three or four days before it was hung; I think my eldest brother, Archibald Craig Longstreet, was working in the house for me; he is going to California, but is not gone yet; I have seen Mrs. Underwood a good many times; I was present when she called to inquire about the house being ready; she was talking to me; I can't recollect who answered her as to when the house

would be ready; my wife asked Mrs. Underwood what sort of a woman Mrs. Forrest was, and she said she was a very nice woman; she had known her from her childhood—or something like that. Q.—Did she say anything at all disrespectful? A.—Not in the least; I never heard any such inquiry made by my wife as who were all those hairy-faced men.

Cross-examined.—I was not present at the second interview; it was about a week after Mrs Forrest got into the house that it was ready; I don't recollect whether, after Mrs. Forrest got in, they used the front door: it does occur to me now, that they used the basement door a day or two; I always went in that way, as it is impressed on my mind the front door was painted; I can't say that I ever saw Mrs. Forrest go in by the basement.

To Mr. O'Conor.—I own a number of houses, and was pretty busy at that time. Mr. O'Conor then produced and read the first receipt for the rent, paid by Mrs. Forrest to this witness, which was for $41 65, for one month's rent, from 1st Sept. to 1st Oct.

To Mr. Van Buren.—The house was not taken by the month; the first month was paid so as to commence the quarter fair.

Mrs. N. P. Willis was then called to the stand; and Mr. O'Conor said he called the lady at this time hoping the Court would take its recess for a few minutes, in order that she might have the opportunity of taking a little fresh air at one of the windows before her examination commenced.

The Court then took a recess for five minutes.

On the re-assembling of the Court, an order was made for the continuation of the present term to Saturday next.

Mr. O'Conor said that Mr. Longstreet wished to make an explanation with respect to his brother. Mr. L. then said that his brother had gone to California.

Cornelia Grinnell Willis was then sworn, and examined by Mr. O'Conor. Deposed—I am the wife of Mr. Nathaniel P. Willis; I was married on the 1st October, 1846; I did not know Mr. or Mrs. Forrest before my marriage; I first became acquainted with Mr. Forrest; he called on New-Year's day, 1847: I did not know who he was when he called; he stayed over an hour I should think; Mr. Willis was not at home when he called; my little step-daughter (Imogene) recognized Mr. Forrest; at that time I think Mr. Forrest spoke of Mr. Willis, but I cannot recollect our conversation; I first saw Mrs. Forrest in about four weeks after that; it was some time in February; she and her sister, Mrs. Voorhies, called upon me; I think I next saw Mr. Forrest in April, in the following spring; he came with Mrs. Forrest, and made a call on us at the New-York Hotel, where we were living; I think Mr. Willis was then at home; they asked us to come and dine with them within a few days, which we did.

Q.—Do you recollect the company that was there on that occasion? A.—Mr. Jas. Wallack, the actor, Mr. Stevens—I think he was there; I would not swear to that; they were all strangers to me; I think Mr. Lawson was there; I think there was no lady but myself and Mrs. Forrest; I cannot remember if Mrs. Voorhies was there; I can only be positive as to Mr. Wallack, though I think the other two persons were there; on the first of January, 1848, I also received a visit from Mr. Forrest; I remember the circumstance of Mr. and Mrs. Forrest taking a trip South; they dined with us the day or two before, which makes me remember the circumstance; Mr Willis was at home, and we had one or two other friends; after the return of Mrs. Forrest from the South, she visited us, and I visited her; I knew Mrs. Laverte; Mr. Willis and myself, and some other persons, drank tea at Mrs. Forrest's, in July, '48, and met Mrs. Laverte there; I don't remember whether Mr. Forrest was at home or not; my first child was born in the spring, during Mrs. Forrest's absence in the South; her first visit on her return was to see me after that; I was very ill, and the child was very ill also, and Mrs. Voorhies rendered us a great favor—she saved the child's life, for which I was very grateful; from that time forward, I have been on intimate and very friendly terms with Mrs Forrest—very much so; after the separation of Mr. and Mrs. Forrest I knew her to be boarding in Great Jones street; she passed a month with us in the early summer, before she went to Sixteenth street; it was in May, or the early part of June, I think; she lived and slept at our house during all that time; she had a room assigned to her; I assigned it to her myself; it was in the third story, front room; it was the only spare room we had; after Mrs. Forrest left my house, I had a long and severe illness; it was in the spring and winter of 1850.

Q.—Did Mrs. Forrest pay you any attention, or stay with you during your illness?

A.—She did; she paid me great attention; did several errands and commissions for me, and occasionally stayed all night; I was ill between four and five months; I had not a nurse all the time; part of the time I had a nurse, and part of the time I was alone, except the ordinary servants.

Q.—When Mrs. Forrest stayed all night, was it at her own suggestion, or your request?

A.—It was an agreement between ourselves, that I was to send for her whenever I wished; I was very ill at the time; she *always* slept with me; she came for that purpose; when I had a nurse it was Mrs. Benson usually; Mrs. Benson was with me six weeks from the time of my confinement; I was three months unable to leave my room; before that I remember, on one occasion, Mrs. Forrest being sent for very late; Mr. Willis had been out, and came to my room, as he always did, before going up-stairs; I told him I was too ill to be left alone all night, and asked him to go or send for Mrs. Forrest; he wrote a note to her, and sent it by John Kent, who was then a servant in our house; Mrs. Forrest came down, stayed with me in my room all night, took breakfast with me at my bedside, and went away about 10 or 11 o'clock in the morning; there was one occasion, while Mrs. Benson was with me, that Mrs. Forrest came to sit up with me; I was very ill; I heard Mrs. Forrest's voice in the entry; it was at my request that she came, but I did not see her that night: I think she came about ten o'clock; it had been the agreement that she should come about that time; she had no occasion to send John for her that night; she had been there in the morning, when the agreement was made.

Q.—Do you know where Mrs. Forrest slept? A.—The only place she could have slept was in that same room, (the one which she before occupied;) [a diagram of Mr. Willis's house produced] I think this is a fair representation of the house; the door leading from the passage into Mr. Willis's study is kept locked; the room marked Imogene's room was occupied by Mr. Willis's daughter.

Q.—Could John Kent, when going up-stairs, see the door of Mrs. Forrest's room, and the door of Imogene's room before he got on the upper landing? A.—He could not see Mrs. Forrest's door: he could see Imogene's door when he got on the landing; Imogene occupied her room all this time, and was home, and in her room the night Mrs. Forrest came; Mr. Willis has no other child of his first wife living; that evening that I was unwell, and Mrs. Forrest slept up-stairs, I remember Mrs. Forrest, as I was told, went away early next morning, before breakfast; I was very ill, and I wanted to have some friend with me; my nurse and I had a warm dispute about Mrs. Forrest's coming; she feared lest I should talk too much; she pacified me by telling me Mrs. Forrest should come, but, in the evening, when Mrs. Forrest arrived, she would not let her come into my room, because I was too ill to be left in the care of another, she being responsible for me.

Q.—When had you first any intimation that Mr. Forrest 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, which told me so; I could only guess where it came from; it was an anonymous one; there were some things in it which made me quite certain where it came from. Q.—Had you ever learned from your husband, before that day, of any jealousy on the part of Mr. Forrest? A.—Not of him, sir. Q.—In all your friendly visits and intercourse with Mrs. Forrest, did you ever see her in any degree affected with liquor? A. Never, sir. Q.—Did you ever hear any unchaste or immodest expression from her? A.—Never. Q.—Did you ever notice any immodest act on her part—that she was too free with gentlemen? A.—No, sir, certainly not.

Q.—Did you, madam, ever spend one whole night at Mrs. Forrest's house, in Twenty-second street? A.—I did, sir; it was some time about the autumn of 1848, and I believe Mr. Forrest was not at home, neither was my husband there; we were all invited, (Mr. Willis, Mr. Richard Willis, and myself,) by Mrs. Forrest, to spend the evening; we all dined at our house, and

drank tea together before we went; Mr. N. P. Willis had an engagement, and did not go; Mr. Richard Willis and I went; I do not remember what time it was; we got there about eight or nine o'clock; there were about twenty persons; there were several gentlemen and ladies there; I do not remember their names; Mrs. Voorhies was there; I think Parke Godwin was there—I remember Mrs. Godwin; Dr. Dewey was there, and I have an impression that his lady was there also; most of the party went about 11 o'clock, or so; I moved to go at that time also; we were asked to stay longer, because Mrs. Forrest or Mrs. Voorhies wished to try some music with Mr. Richard Willis, who had with him several books of original manuscript, not printed; he had been studying music in Germany for several years, and this was his own composition; Mr. Voorhies was there, and remained; and Mr. Ibbotson, who had a very fine bass voice, also remained with us; that was all the company that remained; we had some supper, and Mr. Voorhies and Mr. Ibbotson left after supper, which was very late; I suppose after two o'clock; I should have gone, only it rained very hard; Mrs. Forrest offered to call up her servant, and send for a carriage, or asked us to stay all night—and it being very late, I thought it the better plan to remain.

Q.—Do you know why Mr. Willis did not send for you?

A.—I only know from what he has since told me.

Mr. O'Conor.—That won't do. We must have that from himself.

Witness continued.—No carriage came for me; Mr. Richard Willis, Mrs. Forrest, Mrs. Voorhies, and myself, were all of the party that remained; we did not go to bed, as I said I should go home the first opportunity.

Q.—How did you pass the evening?

A.—We sang and played; it was not very difficult to pass the hours; Mrs. Voorhies sang most beautifully; she taught music; I understood she supported herself by teaching; I should think it was between six and seven o'clock in the morning when we went home; we left in a carriage; Mrs. Forrest and Mrs. Voorhies came with me; I asked them to come to breakfast, and we all went together; my husband was present; I don't know whether he had breakfasted before, but he was present while we breakfasted. Q.—I do not ask you as to the propriety of staying up all night, but I will ask you whether, during that night, there was any deviation from propriety or chastity? A.—No, sir; I knew of none, nor saw none; my brother-in-law, Mr. Richard Willis, had just returned, in the fall of 1848, from Europe, where he had been six years studying, and was staying with us; I think he was with us ten days, or a fortnight; he then went to Boston to see his friends; remained there about the same time; returned to New-York again, and remained with us till near Christmas; I was aware that he frequently visited Mrs. Voorhies at that time; he was introduced by Mr. Willis, or myself; I was aware, that on one occasion he spent the night at Mr. Forrest's house; he never stayed there three successive nights; I know he was away one night, and came home to breakfast in the morning, and told me he had stayed at Mrs. Forrest's; I can't speak, of my own knowledge, of his being there all night on any occasion, except the one I was with him; I did not ask Mrs. Forrest and Mrs. Voorhies to come home with me to apologize to my husband; I had not the least thought of it; Mr. Willis knew where I had gone; I was a frequent visitor of Mrs. Forrest's after she and Mr. Forrest had agreed to separate. Q.—Did you, between the time of the agreement on their separation and their actual separation, ever hear Mrs. Forrest say anything against Mr. Forrest? A.—Never; I was frequently in the house in Twenty-second street, and frequently in the drawing room; I remember there were two sofas in the drawing room; one was in the space between the two windows, and the other was in the same position at the opposite end of the room; the sofas were of irregular size, and hardly, as to size, larger than two chairs; there was no sofa at the side between the window and the fireplace; there was a place where a sofa could be put, only it was otherwise occupied; it was occupied by a very large picture, which extended nearly down to the floor; (diagram produced) this represents the place correctly; I never saw the picture away from that, and never saw a sofa there.

Cross-examined by Mr. Van Buren.—When I was married, I came to this city from New-Bedford, Massachusetts; I think Mr. Forrest does not know Mr. Richard Willis; the sofas could be moved, but I never saw them in any other position; I never saw a fire in that fireplace; the room was heated by a furnace, for I remember standing on the register; Mr. Richard Willis went to Boston to see his father and friends.

Q.—How do you know that he went to Boston? A.—He left our house to go there, and I received letters saying he was in Boston; I did not accompany him to the boat, or the cars; when he came back from Boston, he stayed at our house again; it was within the week before Christmas; he went from us then to New-Haven; I have no knowledge of his going, except he left the house, and we received letters from him from New-Haven; he remained there till about the spring; he went there to live; the night we were at Mrs. Forrest's house was either the latter part of November or the second week in December; I say the second week, because I know she was away the first week of December; I do not recollect how near it was to the time he left for New-Haven; I don't connect the last two facts in my mind; I do not think it was about the same time that he went to New-Haven; my impression is that it was not, but I cannot positively say; I returned to breakfast that morning, after I had been at Mrs. Forrest's all night; I suppose he dined at home that day; I am very sure that Richard Willis slept at my house several nights between the night we spent at Mrs. Forrest's and the time he went to New-Haven; we spent that night in talking, and we had some music; I can't remember whether Richard Willis took the music with him. Q.—Can you say why this music was not earlier in the evening? A.—Mr. Richard Willis was not in the habit of playing his own music to every one; it was a matter of practice between him and Mrs. Voorhies, and he wished to try some of his own composition, the result of his studies in Europe; the time that would have been occupied in calling up the servant, and sending for a carriage, would have made it very, very late, and I thought it better to remain; there was nothing but our own inclination that induced us to sit up; I was anxious to get home as early as possible, as I had a young baby, and had never been out of my house a night before; there was no smoking that evening; I do not smoke; I never remember seeing either Mrs. Forrest or Mrs. Voorhies smoke. Q.—Did you ever see any English or American ladies smoke? A.—I have seen two American ladies smoke on board a steamboat; I know who they are; with that exception, I never saw ladies smoke; my best recollection is, that one night, previous to the night we were at Mrs. Forrest's, and one night subsequent, Mr. Richard Willis was absent from our house; it was not the very night previous, nor the very night subsequent; I do not remember any more than those two occasions, except the one I was with him, and on both those nights he had said he had stopped at Mrs. Forrest's; I know Mrs. Voorhies very well; I have no positive recollection of seeing Mrs. Voorhies there after the autumn of '48, when Mr. Forrest was at home; I have seen her there, but can't recollect whether Mr. Forrest was at home or not; the night Mrs. Forrest came, when I was ill, and that I heard her in the hall, Mr. Willis (my husband) slept in the third story back room; while Mrs. Benson was there, nursing me, Mrs. Forrest was never there at night more than once; Mr. Willis was in my room that evening, speaking to me; I don't remember speaking to my nurse that night, more than to ask her for a drink, or whatever I wanted; that night I did not see Mrs. Forrest at all.

Q.—What was Mrs. Forrest to do, if she did not see you? A.—My nurse was very much fatigued, and broken for rest, and I was anxious that Mrs. Forrest would come and relieve her; I was very ill when she came, and she went to her room that night with the understanding that she was to be called if my nurse wanted her; during my illness, Mrs. Forrest called certainly, on an average, every other day; she usually called in the afternoon, and dined very constantly.

Q.—I need not ask you if you dined with her on those occasions? A.—I did not leave my room for between four and five months; I first heard of the intention of Mr. and Mrs. Forrest to separate, I think, in February, '49; I knew it before the time of separation; I heard of it directly from Mrs. Forrest, if I remember rightly; I do not remember her stating that the cause of their separation was about Mr. Macready.

Q.—Before you got this information, did you hear or

see anything to induce you to believe Mr. Forrest was jealous of his wife?

A.—I heard the night before that he had met Mr. Willis in the street.

Mr. Van Buren.—Never mind that. Question repeated.

Mrs. Willis.—I understood quite the contrary; I never before that heard that he had the slightest jealousy or suspicion of his wife; I never remember to have met Mr. Forrest after May, 1849, except in the street.

To Mr. O'Conor.—There were two other ladies who visited me as frequently as Mrs. Forrest; one was Mrs. Richards, the other Miss Lynch; they made their visits at different times of the day, so that I should always have company; Mrs. Richards is the lady in court near Mrs. Forrest.

Mrs. Willis asked if she might say one word about Mrs. Forrest dining at her house so frequently, and then said, it was at my request; and Mrs. Forrest and Mr. Willis returned immediately after dinner, and always took tea in my room; part of the time my mother was on a visit with me.

Adjourned.

January 12th.

Mrs. N. P. Willis, Mrs. Richards, and two other ladies accompanied Mrs. Forrest this morning. There were also four other ladies in court. Mr. Forrest and some friends were in attendance.

Mr. O'Conor said he had omitted one single point in the testimony of Mrs. Willis. That lady was again called to the stand. Q.—Have you ever heard in the night time, in your house, any expressions of endearment uttered aloud by Mr. Willis? A.—I have, sir; his little daughter sleeps on the third floor; he is in the habit of going to her room every night, and I have heard the expression, "Good night, dear," very often; she is quite wakeful, and sometimes calls to him; this happens ordinarily when he himself goes to bed; it may be ten or eleven, or perhaps later; it is his habit, and I suppose he goes to her room four nights in the week; the infant that I spoke of when I was out all night, I never gave it any nourishment myself.

To Mr. Van Buren.—Mr. Willis's daughter retired about seven o'clock; she always sleeps with her door open; I always sleep with my door open; I had not been able to see her in her room during those four months; I cannot speak from personal knowledge; I heard that expression during those four months; I was not suffering acute pain during three months of that time; I was suffering acute pain the night Mrs. Forrest came to watch; I did not take any opiates; I take the homœopathic medicine; none were given me to promote sleep; I think it was in February, 1849, Mrs. Forrest told me they were going to separate.

Q.—What cause did she assign for the separation? A.—I have no remembrance that she stated the cause then; I did not ask her the cause; I could not remember when she told me the cause; it is since the separation, I think. Q.—What was the cause? A.—I always understood it was because she told Mr. Forrest something he said was not true; I have always understood so from her; I think it quite possible she has mentioned that more than once; she never declined telling me the cause; I can't remember if in February, '49, she told me the cause; I think there was nothing said about it, and I asked no explanation; I can't say, but in all probability it was while she was staying with us, in May or June.

To Mr. O'Conor.—I did not see nor speak to Mrs. Forrest the night she came to watch; I heard her speak to my nurse in the passage.

To a Juror.—The room of Mr. Willis's daughter is in the front of the house; in going up the stairs you see the door; there is another stairs of about eight steps after the turn in the landing.

Clarissa Benson deposed,—I reside at 700 Broadway; I am staying there with Mrs. Bancker; my calling is that of a nurse; I know Mrs. Cornelia Willis, who has just been on the stand; I also know Mrs. Forrest; I was, in 1850, nursing Mrs. Willis; I think it was the 27th of April I went there; I was six weeks in attendance on her; she was very ill indeed; the ladies that most visited her were Mrs. Richards and Mrs. Forrest; I remember an occasion when Mrs. Forrest came there for the purpose of watching; Mrs. Willis was very ill indeed.

Mr. Van Buren said that some of this testimony detailing conversations would be objectionable.

Witness continued.—Mrs. Willis being so very ill, I was very much fatigued; it was either four or six nights that I had been up myself every night; Mrs. Willis said to me that she wished Mrs. Forrest to sit up, as I was so much fatigued; I said to Mrs. Willis I could not consent to it; I felt that they might get into conversation if Mrs. Forrest stayed with her, and I thought it much better that I should sit up with her; she then was very decided, and said that Mrs. Forrest must sit up with her that night; I consented to it, as she was decided about it; she wanted me to ask Mrs. Forrest, if she came, as she usually did, in the morning, to sit up with her that night; when Mrs. Forrest came I did so; she told me she would come with pleasure; she did come between nine and ten in the evening, as near as I can remember; in the afternoon Mrs. Willis had been delirious, and being responsible for her, I thought it better that Mrs. Forrest should not be in the room; and that I would let no one in but myself and Mr. Willis; Mrs. Forrest came up to the nursery door with the intention of coming in to sit up; the nursery room and Mrs. Willis's room communicated; I told Mrs. Forrest I would rather she would not sit up that night; that I considered Mrs. Willis too ill to be left to any one but myself; I told her to go to bed; I might want her at any moment, and I would call her if I wanted her; I expect she went to bed; I next saw her very early; she came to the nursery door; I was making a cup of tea for Mrs. Willis, and I asked her if she would have a cup of tea?—she said no, but inquired for Mrs. Willis, and then went away; she went away quite early, and did not wait for breakfast, nor take the cup of tea; I answered her question how Mrs. Willis was. Q.—Have you been in Mr. Willis's house on the third story to examine the stairs with reference to the room Mrs. Forrest occupied? A person can see Miss Imogen's room from the top of the stairs. Can you, from the top of the stairs, see the door of the other room next to Miss Imogen's? A.—No, sir.

Cross-examined.—I don't know that I can state the hour in the morning Mrs. Forrest came that day; it was about the forenoon; she came by herself; she saw me; I don't know that she saw any one else; she did not see Mrs. Willis; I did not see her again until I saw her in the evening at the nursery door; Mrs. Willis might have been delirious twice during that illness; this was after her confinement; there were no other times during her illness that I would call her flighty; she was very much troubled with wakefulness; there was no anodyne given her; she got homœopathic medicine; I can't say whether there is anodyne in them or not; Mrs. Forrest did not sit up with her any night while I was in the house; she did not stay in the house any other night to my knowledge; no one slept with Mrs. Willis while I was there; I had a couch in the room; I do not know of any lady sleeping with her only from what she told me; Mr. Willis generally retired very late; he retired that night between eleven and twelve; I did not see him again that night; I did not call Mrs. Forrest during the night; I never saw Mrs. Forrest dine there; I never knew of her dining there; she has taken tea there several times, in the bed room, after Mrs. Willis got better; the back room, on the second floor, is what I call the nursery; it was a day nursery; there was no bed in it; I am unable to say where the key of the front door was kept; I never saw it anywhere except in the door; my business was in Mrs. Willis's sick room, and I dont know anything about the place; it was after Mrs. Willis's confinement, either the fourth or the sixth night, I don't remember which, that Mrs. Forrest was sent for to watch. Q.—Did you see any familiarity between Mr. Willis and Mrs. Forrest? A.—Not in the slightest.

To a Juror.—The reason a person could not see the door of the room where Mrs. Forrest slept was, the door of the other room made a "jog" or a projection.

Mr. O'Conor.—That is true although John Kent said so.

Mr. Van Buren said that they would find that all John Kent swore to was perfectly true.

Mrs. Benson.—John Kent swore I was not in the house that night.

To Mr. O'Conor.—Each of those delirious fits lasted perhaps two or three hours; they were both in the day time.

To Mr. Van Buren.—I mean to say that with those exceptions she never was flighty.

Richard S. Willis deposed.—I am 32 years of age; I am married; I married three months since; I know Mr. Edwin Forrest; I am not acquainted with him; my present residence is Twenty-ninth street, New-York; I know Mrs. Forrest; I first became acquainted with her in October, 1848; I met her first at her own house, where I was introduced to her by Mr. and Mrs. N. P. Willis; it was in the evening; it was a call suggested by my brother (N. P. Willis;) I was then stopping at my brother's house; I had just returned after a six years' absence in Europe; I went abroad after I graduated, for the purpose of studying the art of musical composition, and was engaged in that pursuit mostly during my absence; I should think I was in New-York for about six weeks that fall; my brother's house was my home during all that time. Q.—Were you at Mrs. Forrest's house in Twenty-second street on an evening when you stayed there, and sat up all night? A.—I was; on that occasion my brother and myself and Mrs. Willis were invited to spend the evening at Mrs. Forrest's; my brother had an engagement, and did not go; Mrs. N. P. Willis and I went, and met a party of about twenty persons; the party broke up about 11 o'clock; Mrs. Willis and myself and two other gentlemen remained; they were Mr. Ibbotson and Mr. Voorhies; we had supper and some music; there was an old piano there: the two other gentlemen left, and we returned to the drawing room; we found it was a stormy night; our carriage had not come; the servants were in bed; Mrs. Forr proposed that she would call up a servant, and send a carriage, and she proposed also that we should remain; Mrs. Willis determined on remaining, as it was so late, and that we should go home by the first stage in the morning; we sat up all night chatting and singing; I think we made use of the piano; we took a cup of coffee, and sent for a carriage, and Mrs. Voorhies, Mrs. Forrest, Mrs. Willis, and myself returned to my brother's; we four breakfasted at N. P. Willis's; Mr. N. P. Willis was at the table; I did not observe whether he breakfasted or not; he ordinarily breakfasted in his own room; I visited the house of Mr. Forrest that fall; on other occasions frequently; Mrs. Voorhies, the sister of Mrs. Forrest, is a very accomplished musician, and took an interest in the studies I had been pursuing; I went there to look over, with her, a portfolio of music, which I brought with me, and which comprised most of the exercises I had been studying abroad. Q.—On any occasion did these visits of yours run into the night, so that you remained over the night? A.—They did, sir, on several occasions; I can't say how many nights besides this one I stayed all night; my impression is, three; I rem ned later than the omnibus hours; I was a stranger he city, and unacquainted with the localities of N rk, and I was offered and accepted the hospitalitie the house; I did not stay in the house three successive nights; I have an indistinct impression that that night we all remained there and one of the other nights I stayed there were consecutive: unless that is so, I do not remember staying there any two consecutive nights.

Q.—Were you ever concealed at any time, day or night, in Mr. Forrest's house?

A.—Most emphatically not; I had no occasion at any time to conceal myself from N. P. Willis, nor any thought of it; I never left my bedroom any night I slept there, undressed, or in any part undressed; I did not leave the room at any time for water; the room was perfectly appointed as to water and towels; on the occasions of my sleeping there I did not breakfast; I never took any meal in any other room but the dining room; I did not hear anything of any desire of my brother that I should leave New-York at any particular time; I never at any time gave a lesson in music to Miss Virginia; I was no teacher; I do not teach on any instrument; I do remember being one evening in the library alone with Miss Virginia; I was there that evening and was invited by Mrs. Forrest to accompany her and Mrs. Voorhies to a party, which I declined doing, and I remained and passed part of the evening in the library, with Miss Virginia; they went.

Q.—Were you ever in a bedroom in that house when N. P. Willis was in the house, as you supposed? A.—Never; we were never in that house at the same time to my knowledge, except when we were in the same room; in the matter of going home that morning I did not hear anything said about excusing Mrs. Willis to her husband.

Q.—Did you ever take any liberty with the person of any lady—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, Q.—Did you ever see any woman therein affected with liquor? A.—No, sir.

Cross-examined by Mr. Van Buren.—During the time you were visiting that house did you ever see Mr. Forrest even in the street or on the stage? A.—No, sir; I never saw him until he accosted me in the street; I have two brothers, Mr. Edwin P. Willis, and Mr. Nathaniel P. Willis; Mr. N. P. Willis is in this city. Q.—Is your other brother in this city now? A.—I am not aware where Mr. Edward P. Willis is; it was about nine o'clock when we got to Mrs. Forrest's house the night we sat up there; we passed the time till eleven in conversation; there was no refreshment that I remember; we had no dancing; there was a table of refreshment set out, and the company helped themselves; there was a small bit of cake and wine; no meat; I don't remember whether it was a fine evening when we went; I don't think it rained then; the supper, about one o'clock, was a few oysters; it was an informal supper. Q.—What do you mean by an informal supper? A.—I mean a supper that had not been prepared. Q.—Before you ate it? (Laughter.) A.—I mean a supper that had not been contemplated.

Mr. Van Buren.—Not by you.

Witness.—We had oysters, bread, no champagne: we had no brandy that I remember; I do not remember that there was any servant in attendance; I recollect helping the ladies and myself; I don't recollect rising to help myself; my best recollection is that there was no waiter in attendance; Mr. Voorhies and Mr. Ibbotson went away on foot; it was either raining or snowing at the time; I heard it storming; the omnibusses pass within one or two blocks from the house; I don't know when the last omnibus went down; I can't remember how late I have taken an omnibus from there.

Q.—How soon after you were introduced to Mrs. Forrest did you sleep in the house?

A.—I did not sleep there until my return from Boston, I had been three weeks or thereabouts in Boston; I do not remember distinctly what was the first night I slept there; I recollect it was at the invitation of the lady of the house (Mrs. Forrest) I slept there; I believe Mr. Forrest was at Philadelphia—I was told so; Mr. N. P. Willis was living at the corner of McDougal and Houston streets, about a mile and a half, I should think, from Twenty-second street; I do not know when he moved to Fourth street; I am not yet able to recall the first night I slept there; it must have been after midnight when I retired, or I should have been able to get an omnibus; it was the custom of the house to have late supper; I mean at 11 or 12 o'clock; but I don't recollect whether I had supper before I retired; it was the custom to have supper when any friends were there; I don't remember whether a servant attended or not; I slept in the front room over the hall, not to a bedroom; I don't know whether it was Mrs. Forrest's bedroom or not; I do not know, either from her statement or anything else, which was Mrs. Forrest's bedroom; I do not know which was Mrs. Voorhies' bedroom; I cannot say she slept in the house, but I presume she did; I am not able to say in what terms I was invited to stay; there was but one reason for my remaining there any night, and that was having stayed beyond the omnibus hours; no one lighted me to bed the first night; the room I was to occupy was described to me; I don't know by whom, I think Mrs. Forrest; Mrs. Forrest, Mrs. Voorhies, and Mr. Voorhies were there: I am not able to say whether Mr. Voorhies stayed there over night; I thought so at the time, though I have since learned he went to his own home; I arose a little after daylight the first morning I was there; I remained long enough to dress myself before I went away; I went out by the front door; I know of no other; I let myself out; I do not know whether the door was locked; I did not see Mrs. Forrest or Mrs. Voorhies before I went in the morning; I cannot say how soon after that night I stopped there again; I don't think it was the next night, if it was I should remember; I am not able to say how soon after that I slept there; I don't remember if it was the next night but one; I don't recollect that I supped there the next night after I slept there.

Q.—Did any one light you to bed the second night? A.—I never remember being lighted to bed by any one; I do not remember being let out by any one; on all these occasions, according to my recollection, I let myself out, and at about the same hour; I do not mean to be understood that I only slept there three nights. Q.—Did you sleep there as many as ten nights? A.—I should think not; oh, no, sir; I should not be able to say any limit to the number of nights; I was not expected on those occasions to sleep there; I did not sleep there every night I was there. Q.—Was the occasion of your staying there always the same? A.—Yes, except the night we sat up all night; I said that I could not, on any occasion, have asked for water to wash, as the room was already appointed; I know Robert Garvin as a servant; I remember seeing him there; I do not know where the water was obtained from for the room; I had no conveniences of my own for sleeping, such as clothes, brushes, &c.; that was the reason I returned so early in the morning; I know I did not go out any morning in my shirt and trowsers for water. Q.—Does Mrs. Forrest smoke? A.—Not as a habit. Mr. Van Buren.—That's not what I ask you. A.—I have seen her draw a sigarette once or twice.

Mr. Van Buren.—That's what I call smoking. (Laughter.)

Witness.—Then she does smoke (laughter;) I have seen her two or three times; I have never seen her smoke in Mrs. N. P. Willis's presence; I think Mr. Stevens was present on one occasion that I saw her smoke; I do not remember that I had a carpet-bag at Mrs. Forrest's house, unless I may have had my music in it; I went to New-Haven, I think, from my brother's house; I did not go to the cars for New-Haven from Mrs. Forrest's house; I am able to say that I did not do so; I do not recollect Robert Garvin carrying my bag to the cars from Mrs. Forrest's house; I graduated at Yale College, and went abroad immediately; I was not engaged in any occupation antecedent to that time, except in study; since my return, I have been connected with the press, more or less.

Q.—What press? A.—With the *Albion* and the *Tribune;* not as an editor, but as a regular writer, for which I have a regular salary; I pursue my profession of composing music, and have charge of an organ in one of the churches in this city; in the church in Union Square; the evening I stayed with Virginia, we passed the time conversing; we had no music; there is no instrument in the library; I don't know Mrs. Bedford; I have not seen her at the house; I have seen her here in court; I don't remember seeing any other servant in the house but Robert; Mrs. Forrest calls me Mr. Willis; Mr. Richard Willis sometimes; she calls me "Richard" occasionally.

Q.—Did you ask to be introduced to Mr. Forrest? A.—He was not in the city while I was here. Q.—Did Mrs. Forrest ever propose to introduce you to him? A.—She often regretted that he was not in the city for me to see him. Q.—Did she ever propose to introduce you? A.—No, sir; I am able to say distinctly that I did not breakfast in the room where I slept, or in either of the rooms on the second floor; I cannot fix the time when we sat up there all night; I cannot say how near it was before I went to New-Haven; there was nothing to impress it on me; it could not have been the day after; if it was, I should remember, it being the day we all breakfasted at my brother's; I do not recollect coming home in a carriage with Mrs. Forrest and Mrs. Voorhies; I do not recollect coming home with Mrs. Forrest alone; I do not recollect, on any of these occasions I slept there, that I came home with Mrs. Forrest in a carriage; I have taught music; I took the place of a gentleman who went to Europe last year, and taught at the Rutgers and Spingler Institute, as a substitute for him; the gentleman has returned.

To Mr. O'Conor.—I don't remember being at a concert at the Tabernacle when Mrs. Forrest was present; I recollect being at the Philharmonic.

Mr. O'Conor then read the following extracts from Robert Garvin's affidavit:—

"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 there was no use in trying to conceal it. Mr. Richard Willis never came when Mr. Forrest was at home."

Mr. O'Conor.—Is that correct?

Witness.—I have no recollection of anything of the kind.

To Mr. Van Buren.—I have no recollection of ever coming home in a carriage with Mrs. Forrest.

John Britton deposed.—I reside in Brooklyn; I am about 48 years of age; I am a ship-master; I have followed the business for 30 years; Mr. and Mrs. Forrest were passengers from Europe with me in August, 46; I did not know either of them before; I made the acquaintance of both of them by that means. Q.—Did you at any time ever send a present to either of them?

A.—Yes; a few dozen of London porter—perhaps four dozen; I think I sent them all at once, but can't recollect; I sent them packed in two flour barrels; I know of no reason why I sent them, except that I was in the habit of giving a present; it was on my next visit here after they came with me from Europe; Mr. Forrest came on board afterwards, and made some remark as to its quality; he approved of it; I never in my life sent any spirits to Mrs. Forrest; I am generally very busy when I am here, and I was not a frequent visitor at the house in Twenty-second street, nor in Sixteenth street; I received a note from Mrs. Forrest at one time; I have not got it now; I never keep such notes; the purport of it was to request me to go on board a London packet-ship, called the Gladiator, for a parcel, which she expected from her father; I did so; I recollect an invitation being sent to Mr. and Mrs. Forrest, to witness the launching of the ship Constitution, which I commanded; I think the invitation was written by a clerk; Mrs. Forrest and Mrs. Voorhies came, accompanied by my wife and a young gentleman—my wife's cousin; Mr. Forrest was not of the party; I understood that he was not at home.

Chief Justice.—What's the necessity for all this?

Mr. O'Conor read part of the testimony of one of the witnesses for the defendant, which this was intended to contradict. Mrs. Underwood had spoken of barrels with brands coming as presents to Mrs. Forrest.

Q.—Were you called "Uncle Johnny?" Witness.—No, sir; I was very much surprised when I read that in the newspapers; I visited the house in Twenty-second street a very few times; I visited the house in Sixteenth street once or twice; I visited it in company with my wife; I am an Englishman; I do not recollect sending porter to Mrs. Forrest on any other occasion; to the best of my recollection, on the card was written to "Mr. and Mrs. Forrest, with Mr. John Britton's compliments;" I never recollect sending Mrs. Forrest anything after she went into the house in Sixteenth street.

Q.—Any articles of clothing? A.—Certainly not; I dined in Twenty-second street by invitation from Mr. Forrest, and met there Captain John Eldridge, with whom Mr. and Mrs. Forrest went to Europe; the few times I visited Sixteenth street was in the day-time; I have never visited Mrs. Forrest anywhere else except in Great Jones street; I know Thompson & Weller's refreshment saloon; I never went there with Mrs. Forrest; I may have seen her there, but I don't recollect. Q.—During your voyage from Europe, was Mrs. Forrest ever in your state-room? A.—Never; she was sick part of the time, as passengers generally are; I do not remember her going into my state-room on any occasion that she was sick; she may have done so, as Mr. Forrest used to do; the name of the vessel was the Rochester; the passage was some seven or eight and twenty days.

Mr. O'Conor.—Did you ever witness or hear any unchaste action or word on the part of Mrs. Forrest? A.—No, sir; I never carried a couple that I was more pleased with than Mr. and Mrs. Forrest.

Mr. N. P. Willis was then called to the stand, and being sworn and examined by Mr. O'Conor, said—Q.—Do you know Mr. Edwin Forrest? A.—I have known him; I know Mrs. Forrest.

Q.—Did you ever take any liberty with the person of Mrs. Forrest? A.—No, sir. Q.—Did you ever kiss any part of her person, or of her dress? A.—No, sir.

Q.—Did you, either in the drawing-room of Mr. Forrest'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. Forrest's library o that

house, or anywhere else, place your arm around her waist, or shoulder, or any other part of her body? A.—No, sir. Q.—Did you ever hear any unchaste speech, or witness any unchaste or immodest act of Mrs. Forrest? A.—No, sir. Q.—In what way did your personal acquaintance with Mr. Forrest commence? A.—I had been in the habit of writing about Mr. Forrest for ten or fifteen years, as a critic; but I believe our first acquaintance commenced by his calling, or leaving his card for me, at my lodgings in London, in 1835 or '36; that was before his marriage; I first saw Mrs. Forrest as a bride, in this city, in 1837 or 1838; I went to call on her, as a bride, in company with my wife, (who is not now living,) at the Astor House; I did not follow up that acquaintance; I do not remember seeing her again until '44 or '45; I called at Mrs. Forrest's before their trip to England, in January, '44; I called, perhaps, on an average once a fortnight afterwards; I probably called immediately before they went to Europe, but I do not remember any circumstance in regard to it; I probably paid a farewell visit; I visited England in the autumn of '45; I was taken ill on the day of my arrival there, of a brain fever; I had not seen Mr. or Mrs. Forrest at that time; I did not see either of them during the time I was confined; I was out of my mind most of the time, and I do not recollect; my sister-in-law, the sister of my first wife, was with me; she had charge of me during my illness; I was told that Mr. and Mrs. Forrest had called during my illness, to inquire for me; it was about a fortnight after I got out, until I was well enough to leave for the continent. Q.—State how often you saw Mr. and Mrs. Forrest after your recovery? A.—Mr. Forrest's house was on the same side of the way with my lodgings, from about a quarter to half a mile, and I walked that distance every day; I was exceedingly weak during the whole of that fortnight—so much so that I was unable to travel; I believe I once dined during that fortnight with Mr. and Mrs. Forrest; I may have dined oftener, but I only remember once; they took me once to the play, not where Mr. Forrest performed, but where we made part of the audience; they called for me in a carriage; I have gone to church with them also; I did not go to any other play with them, nor did I ever go with Mrs. Forrest alone; I did not recover my health for five or six months afterwards; I was an invalid in Germany; I did not see Mrs. Forrest again after I left for the Continent, until I saw her in New-York; I came back to New-York in the autumn or summer of '46; I remember dining, in company with my wife, with Mr. and Mrs. Forrest, at his house in New-York; I don't remember the date, but it was the only time I ever received a formal invitation; that courtesy was exchanged by Mr. and Mrs. Forrest dining with us; I remember going out to Fonthill with Mr. and Mrs.-Forrest; he asked me in his own house, and drove me with his own horse.

Q.—Was there ever an occasion, when you visited Mrs. Forrest, when you were let out of the house somewhat secretly?

A.—Never, to my recollection; I do remember, now that you ask the question; I was there one evening, when a gentleman called—a friend of Mr. Forrest—whom I did not wish to see, and when the house-keeper came up to announce that there was a gentleman below, I have some recollection of her being desired to go down and close the door, so that he should not see me pass out.

Q.—Have you any objection to state the name of that gentleman? A.—It is my impression that it was Mr. Lawson; I have recollected the circumstance since I came to the stand; I have seen Mr. Henry Wykoff.

Q.—Are you able to say whether it was him, or Mr. Lawson? A.—I am not able to say that it was him; Mr. Forrest had a set of acquaintances that I was very anxious to avoid; between the time of Mr. and Mrs. Forrest's intention to separate, and the actual separation, I have no distinct recollection of visiting at their house.

Q.—Before the actual separation, did you say anything to Mrs. Forrest as to the way she should manage her husband? A.—No, sir; it is a subject on which she never conversed with me. Q.—During the balance of the year 1846, after Mr. and Mrs. Forrest's return from Europe, to the 1st of January, 1849, how frequent were your visits: A.—Probably once a week, or once a fortnight; but I think, for a month or two after their return I did not go there at all; I was confined to the house for six or ten months after Jan. 1, and was ill for a long time afterwards with a severe attack of rheumatism; when I speak of the average, it was when I did visit; Mr. and Mrs. Forrest were away part of the time. Q.—Were your visits in the evening, or usually in the day-time? A.—Usually in the day-time; Mr. Forrest's house was on the walk which I generally took after being at my business. Q.—When did you first learn that any such idea as your acting improperly with Mrs Forrest was entertained by any one? A.—From an anonymous letter, which was sent to my wife on the morning after I had an interview with Mr. Forrest, at the corner of Vesey street and Broadway, near the corner of the Astor House; Mr. Forrest was talking with one or two persons when I came up, but I do not know that they were within hearing; I do not know whether he first addressed me, or I him; I was at that time on speaking terms with Mr. Forrest; he did not, in that interview, intimate that he suspected me of any improper intimacy with his wife; this was about January, 1848; it was previous to his application to the Legislature of Pennsylvania for a divore; I do not recollect whether it was my wife or myself that opened the anonymous letter; [letter produced;] this is it.

Mr. O'Conor.—I do not know that we have a right to read it without your consent.

Mr. Van Buren.—Anonymous letters are very common nowadays.

Mr. O'Conor.—Very common of late, but they were not so common at that time.

Witness continued.—I have a daughter named Imogen; she is nine years of age; she will be ten next May; she is the only living offspring of my first wife: she sleeps in a small room at the end of the entry on the third floor—on the same floor with my study; I sleep in my study when either myself or my wife is ill; there is a room that adjoins both Imogen's and my study: there is no difficulty in passing from that room to my study; the key is in the door; I have never been in the room with Mrs. Forrest on that story without my wife being present; I usually go into my daughter's room, perhaps four or five times a week, when I am going to bed, to bid her "good night;" and she generally continues to bid me "good night" until I am out of hearing; she is a very wakeful child, and seldom a foot goes up stairs that she does not hear; I seldom pass to my room that she does not call me; I have not been well for several years; I have been in the hands of a physician all that time, even up to this moment.

Cross-examined.—I resided in Tioga county, at a place called Glenmary, before I came to New-York; I resided there from three to five years: I married my first wife at Woolwich, England, in 1836, and lost my wife in 1845; I knew Miss Josephine Clifton during her life-time; I wrote two plays for her, and knew her well; I was not in the habit of seeing her for the last three or four years of her life; I did not see her oftener than once in six months; I seldom called on her; I do not recollect calling on her for several years, though I presume I did, as there was no interruption to our friendly intercourse; she visited me at Glenmary in 1838 or 1839, after I had written my first play for her; she stayed perhaps three weeks; she was an intimate acquaintance of Mrs. Willis as well as mine; I wrote an obituary notice of her.

Q.—Was it eulogistic or not?

Mr. O'Conor objected to this kind of testimony; they should produce the notice if they wished to put it in evidence.

Chief Justice.—The article ought to be here if you intend to refer to it.

Witness.—I do not recollect the year she died; I can not tell without a reference to the *Home Journal*.

Q.—Were the statements written in that article from your own personal observations?

Mr. O'Conor objected. The Chief Justice said we are not trying Miss Clifton.

Mr. Van Buren.—Your honor means We are not trying her to-day.

Chief Justice.—Nor any other day.

Mr. Van Buren.—We have tried her during the previous days of this cause.

Mr. O'Conor.—It is not presumed to impugn Mr Willis's moral character with Miss Clifton.

Mr. Van Buren.—Quite the contrary; we wish to sustain her moral character.

Mr. O'Conor considered any reference to that article out of place.

Mr. Van Buren replied. The Chief Justice said he did not consider it had any bearing except as to the character of that female. The question was not admitted.

Witness continued.—I do not think the intimacy between my wife and Miss Clifton was kept up until my wife died; I have no recollection of my wife seeing her after she visited us at Glenmary in 1838 or 1839; I don't recollect calling on Miss Clifton here; it is very possible I may have done so; I had a servant named John Kent; I think he lived with me about a year or a little more; it would be impossible for me to say from when to when he lived with me; he brought me a letter from a connection of my wife's in Ireland, a lady, a Miss Frayne; she gave him the letter at the request of another lady; she don't know him herself; I recollect sending him for Mrs. Forrest to come down to my house; I do not recollect sending him on more than one occasion; I recollect that circumstance from the fact of my wife being very ill; I am not able to say whether I sent him for her on more than one occasion; I do not recollect his meeting me on the stairs any night in particular; I may have met him there very often; I do not remember his hearing me say, "Good night, dear;" I do not remember meeting him on the third story when Mrs. Forrest was there; I recollect Mrs. Forrest coming one evening, and going up to the third story without seeing my wife; she came to watch with Mrs. Willis; I saw her (Mrs. F.) either in the drawing room, or at Mrs. Willis's door; I did not see her on the third story, to my recollection; I probably bid her good night wherever I parted from her; I don't recollect whether it was in the drawing room, or at Mrs. Willis's door. Q.—Do you ever wake your little daughter up to bid her good night? A.—I may have done so, though it is scarcely necessary, as she generally wakes up when she hears my step; I never recollect any such instance as my waking her up for that purpose; I do not remember any other occasion of Mrs. Forrest coming to the house, and stopping through the night, without seeing my wife; Mrs. Forrest very often dined with us; from Mrs. Forrest's remarkable powers of conversation, we seldom had a friend to dine that we did not invite her; once a week, perhaps; during my wife's illness, she dined there often; she dined as often during Mrs. Benson's stay, probably oftener, as she came to see my wife, who was very ill; she would dine with me and other guests that might happen to be there; I don't recollect any instance, at this moment, of her dining with me alone, though it probably often happened; John Kent waited at table.

Q.—Have you seen him lately?

A.—He called at my house about a month ago; I had seen him at the Astor House perhaps a week before that; that is my best recollection about it; I am quite sure it was not the day before; at the visits I paid to Mr. Forrest's house, I usually saw Mrs. Forrest; sometimes alone; oftenest alone; sometimes with her sister; I don't remember seeing her sister there after January, 1848, while Mr. Forrest was at home.

Q.—Will you tell us who are those acquaintances of Mr. Forrest whom you wished to avoid?

A.—I do not remember their names. Q.—What was your objection to them? A.—Their very vulgar habits and conversation; I know that from having been asked into the library on one occasion.

P.—Who was there?

A.—Mr. Andrew Stevens was one; I have seen him at Mr. Forrest's when Mrs. Forrest was present; I should think he was not at all intimate with Mrs. Forrest; Mr. Lawson was another of Mr. Forrest's acquaintances, and Mr. Wykoff another; I only knew Mr. Wykoff in the way of my profession; I should say he is not very intimate with Mrs. Forrest; I am not aware that he has been a friend of Mrs. Forrest in this affair, between her and her husband.

Q.—Was Mr. Lawson's conversation very bad? A.—Very; I did not say that Mr. Lawson was there on the occasion I allude to; I speak of him as one of Mr. Forrest's associates; I remained in the room during that conversation, out of courtesy to the gentleman who asked me in; if I recollect right, Mrs. Bedford kept the door closed on the occasion alluded to, until I had gone out.

Q.—And that was to prevent your making his acquaintance? A.—I feared that if he saw me he would be introduced to me; I think that was Lawson.

Q.—Is it your habit to avoid a man's friends by visiting his house? A.—Yes, such a man as that.

Q.—Did Mrs. Forrest come down stairs with you? A.—I don't think any one came down with me? Q.—If Mrs. Forrest did not come down stairs, who were you afraid could have introduced you? A.—I think now that Mrs. Forrest did come down.

Q.—When, if she did come down, could she have introduced you whether you would wish it or not? A.—She might.

Q.—Then the sole reason for closing the door where Mr. Lawson was, was to prevent your being introduced to that gentleman? A.—Yes.

Q.—Are you a member of the church?

Mr. O'Conor objected.

The Chief Justice said they had had too much irrelevant matter.

Mr. Van Buren.—We may show that this gentleman objected to this society from this cause. Mr Lester had been asked if he was a member of the church.

Mr. O'Conor said he had asked him if he was a minister of the gospel.

The Chief Justice said, If such testimony was not objected to then, that is no reason why the Court would not exclude it when it was objected to.

Witness.—I have spoken to Mr. Lawson in the street; I do not usually do so now.

Q.—Have you, since the time you avoided him in Mr. Forrest's house, met him in the street? A.—I have, and have bowed to him as an acquaintance, since meeting him at Mr. Forrest's residence; I have never seen Mrs. Forrest smoke; I do not recollect that I called on Mrs. Forrest before she went to Europe, and found her packing; I did not kiss her on bidding her good bye. Q.—During the time you visited Mrs. Forrest and objected to Mr. Forrest's friends, had you any objection to meet Mr. Forrest? A.—Not particularly; I would rather not see him—(laughter)—his manner to his wife was so rude that it was disagreeable to be in his company when she was present.

Mr. Van Buren.—And your object in visiting her was to protect her from her husband's conduct? A.—No; I had a general dislike to Mr. Forrest; I had that dislike ever since I knew him, and it has increased with my knowledge of him. Q.—Did he, in January, 1850, give you any advice or caution as to interfering with his affairs? A.—He did; Mrs. Forrest had been in the habit of intimacy at our house, and he called that interfering with his affairs; I had not written a line on the matter at the time; I did not learn from Mrs. Forrest that they were going to separate; she never spoke to me on the subject till after the separation; I am inclined to think I had not heard of it until it occurred. Q.—Your wife didn't mention it to you?

A.—I think not; it was probably in May or June, after the separation, that Mrs. Forrest stopped at our house. Q.—Did she state to you the cause of the separation? A.—I have no distinct recollection that she did or did not. Q.—Did she state to you that the difference which led to their separation arose about Macready? A.—I acquired that information from her sister; I have no recollection of any conversation on the subject with Mrs. Forrest.

Q.—Have you taken any active part in this controversy between Mr. and Mrs. Forrest?

A.—I wrote and published a defence of myself, my wife, and my brother, in answer to some allusions made in reference to us in the proceedings before the Pennsylvania Legislature.

Q.—I ask, have you taken any active part in this affair? A.—I do not recollect any other part that I have taken; I do not know what you mean by an active part.

Q.—Have you written against Mr. Forrest? A.—Nothing further than defending myself, my wife, and my brother; I have never written about him except in my own paper.

Q.—Did you confine yourself in that publication to a defence of yourself, your wife, and your brother?

Mr. O'Conor objected. They should produce the article, and not give the witness' recollection of it.

Q.—You say you have never written articles except in the *Home Journal*; have you not written articles in the HERALD? A.—I have published a card in the HERALD and the *Tribune*, in reference to the controversy between Mr. Forrest and myself, but not in reference to this case. Q.—Have you taken advice of counsel?

A.—I have not advised the counsel that should be employed; I have conversed with counsel. Q.—Have

you procured witnesses? A.—I have been called on by witnesses, and I have sent them to the counsel; I don't remember calling on witnesses for this case; I have called on my brother and others that have been witnesses, but not in reference to this case; I have not taken any part in reference to the empl yment of counsel. Q.—Or spoken to no one as counsel? A.—Mr. Hoffman expressed himself very strongly to me on the subject one day in a stage; I have spoken to no one else to act as counsel, and Mr. Hoffman I merely had a conversation with in an omnibus; there are two doors and a closet between the room Mrs. Forrest occupied in my house, and my room; there is no difficulty in passing from one to the other; the door is usually kept locked, and the key turned on my side; my wife got lodgings for Mrs. Forrest in the country, some ten miles from New Bedford, at the house of a farmer; I was at New Bedford at the time, and I drove over there several times to see Mrs. Forrest with my wife's family; never alone; I have received notes from Mrs. Forrest; not frequently; I have written notes to her as frequently, probably. Q.—Have you been in correspondence with her during this trial? A.—I believe I have written one note; I think I have not received notes from her during the trial.

Q.—Has she informed you of the progress of the cause by letter? A.—She has written to my wife, and I have learned it through that means; I recollect hearing of my brother being at Mrs. Forrest's house several times; I never heard of his being there when I supposed he was out of town.

To Mr. O'Conor.—I have never seen Mrs. Forrest affected with liquor in the slightest degree; Mrs. Benson usually dined at noon with the children; I have seen her very often at dinner; I do not know that it was her practice to dine at the table with us; during part of Mrs. Willis's illness, my wife's mother and niece were on a visit with me.

Q.—The counsel asked you if you ever recollect kissing Mrs. Forrest on bidding her good bye. You answered that before, but I ask you now again. A.—I never did. Q.—Are you positive as to the time you published your first card? A.—I published a card relative to my brother, in the HERALD, but whether it was before or after the conversation with Mr. Forrest in Broadway, I cannot remember; at the interview in Broadway, Mr. Forrest met me, and took me aside, and began a gross, coarse, and indecent abuse of his wife's character; I expressed my entire disbelief in the charges he made against her; and said that I should require other proofs than his assertions, and that until we had those proofs, Mrs. Willis and I would treat her as the friend we had always known; he went on for some ten or fifteen minutes with this course and disgusting abuse, and left me, telling me he should hold me responsible for any meddling with his domestic affairs. Q.—Did he name any meddling that had taken place? A.—He did not, except our continued hospitality and kindness to Mrs. Forrest, and her being intimate at our house, expressed in his own language.

To Mr. Van Buren.—I do not recollect the precise language of that conversation, except the last phrase, of "holding me responsible;" he spoke of my hospitality as meddling with his affairs; he did not speak of my private visits to his wife. Q.—Did he speak of any liberties you had taken with her? A.—Nothing of the kind; I don't recollect any publication I had made previous to that; Mr. Forrest appeared somewhat excited Q.—Were you somewhat agitated? A.—I think not; the conversation lasted ten or fifteen minutes.

Mr Van. Buren.—I suppose you made no unnecessary delay after it was over. (Laughter.)

A.—I made no unnecessary haste; (laughter) I don't know that Mr. Forrest ever invited my brother to Fonthill, or to Twenty-second street.

Adjourned.

January 13th.

Dr. J. M. Wainwright was the first witness called by Mr. O'Conor, and deposed—I am a clergyman of the Protestant Episcopal Church.

Q.—Do you know Mr. Edwin Forrest? A.—I do not.

Q.—Do you know Mrs. Forrest?

A.—Not to my knowledge; I never spoke to her; I never spoke to either of them on any occasion, nor to anybody, on the subject of bringing about a reconciliation between Mrs. Voorhies and Mr. Forrest.

Mr. Van Buren.—Nothing to ask, sir.

Bridget Dempsey sworn, and examined by Mr. O'Conor.—I reside in Twenty-eighth street; I am the mother of Mrs. Anna Flowers; I remember my daughter living at Mrs. Forrest's.

Q.—Did your daughter ever tell you of any act of impropriety between Mrs. Forrest and Captain Howard?

A.—Not to my knowledge; during the time my daughter was there, I never heard her say anything of Mrs. Forrest but what was proper and good; Anna's child died 11th June, 1851; my daughter Mary was at home last night one was subpœnaed to come here this morning; she has left home, and I don't know where she is gone.

Cross-examined by Mr. Van Buren.—I am married; my husband's name is Michael Dempsey; he is in this city; I can't tell where my husband lives; I don't know the number of the street; it is near Bleecker street; he is a carman; it is the north side of Broadway; it is four years since I lived with him.

Mr. O'Conor said the name of Michael Dempsey, carman, 37 Cannon street, is in the Directory.

Witness.—That's not it.

To Mr. Van Buren.—I have not seen my daughter since she went to New Orleans; I saw her on the sidewalk and was told it was her, but I didn't know her; she didn't tell me anything about Capt. Howard; I was subpœnaed by Howland and Chase; the child is with me since it was 18 months old; I recollect when the child was with Mrs. Butler; I paid Mrs. Butler sometimes; I was handed the money by a servant of Mrs. Forrest; her name was Catherine. Q.—Catherine Levins? A.—I do not know her other name; I saw her since at Mr. O'Conor's office; my daughter Mary and Mrs. Forrest were there also; when I did not get the money from Catherine to pay Mrs. Butler, I did not get it anywhere else; I knew Miss Margaret. Q.—Did she give you any money? A.—I do not remember her giving me a cent to give Mrs. Butler; I do not remember ever going with Miss Margaret to see the child; I know Mr. Raymond; I recollect going there with him once, and that time I got the child. Q.—Are you sure you only went with him once? A.—I am sure I only went with him once; I never saw Captain Howard; I have ten children—they are, Mrs. Hart, Mrs. Hensden, Mary, Patrick, Anna (or Honoria is her name,) John, Michael, Thomas, William, Margaret. Q.—Have you not a son named Frederick? A.—It's Patrick went by the name of Frederick. (Laughter.) I have gone by the name of Bridget all my life; I did not sign my name Adelia to the affidavit; that must have been Mr. O'Conor's mistake; I put my mark to it; I can read and write; I used to write, but I haven't practised much lately; Anna is about 24 or 25 years of age; I cannot say exactly; my memory is very bad; I am sixteen years in this country; I was married in Ireland; Anna was not born here; I cannot recollect how long before we came here that she was born; I am 52 years of age; I lost the book in which we used to put down when they were born; I can't tell how old Frederick is; John is between twenty-two and twenty-three; I can't tell what year he was born; Mr. Forrest inquired of me, some time ago, where Anna was; I don't know what month or what day it was; it was more than a year ago; I don't know that it was two years ago; she was in New Orleans at the time Mr. Forrest inquired; I told Mr. Forrest I did not know where she lived; I did not know, for I had no correspondence with her; the only employment I have is keeping my own house; my two sons and two daughters live with me, Margaret and Mary, and John and William; I never saw Mrs. Forrest since this difficulty arose, but in Mr. O'Conor's office, and once in the street, but I didn't speak to her; I called at her house, but didn't see her; I went there voluntarily myself; Mrs. Voorhies called at my house for me to go to Mr. O'Conor's office; nothing was paid me at either of those times; I never got no money of that kind, nor never looked for it; I supported this child myself.

Q.—Has nothing been paid for its support? A.—I got one quarter's pay, it was Mr. Godwin paid me; when I took the child, the arrangement with Mr. Raymond was that I should get $7 a month for its support; I do not know how long that arrangement was to continue; Mr. Godwin paid me at my house; there was no one with him; there has been some clothes sent for it; I got money from Mr. Voorhies to buy clothes for the child and send it to its mother to New Orleans; he said he wanted me to sign a paper for it, as he was

to get it back from Captain Howard; the clothes cost fifteen dollars; my daughter, Mrs. Hensden, was on a visit with me, and she took the child to the mother at New Orleans; I can't remember how old the child was; my memory is very bad; I was present when the child died; it died last June; it was buried in Greenwood Cemetery; I went over with it, and all my family that I had in the house; there were a good many others, but I don't know who they were. Q.—Was Mr. Raymond there? A.—No; I don't suppose he knew of the death of it; Mr. Voorhies was not at it; the child was ill some time; Dr. Rogers and Dr. Forrester attended it; my son paid the doctors' bill; I don't know if Dr. Rogers' bill was sent in; he is since dead; Dr. Forrester's bill was sent in; Mrs. Forrest nor Mrs. Voorhies did not call to see the child while it was ill; I never lived in Beach street; I do not know where it is; I did live in Bank street; Mrs. Forrest never called to see me there; I never said to Mr. Forrest that Mrs. Forrest called to see me in Bank street; she never called to see me but once, and then she only came to the stoop, and the girl told her "I was not in;" I was in; I saw her come, and I did not want to see her; I consented to come here to-day to answer a few questions, and I do not think all these things ought to be asked me.

Mr. Van Buren.—Well, then, I'll ask you no more.

To Mr. O'Conor.—When Mr. Forrest called on me, I told him that Mrs. Forrest ought to have a fair trial, and I did not think my daughter ought to be a witness in this case; and that if she had any regard for her character, she would not. I told Mr. Forrest he ought not bring up all the old things that were against her, I knew she had a respectable husband and four children, and that she would disgrace them and all her family; she has done so, and the stains will never be washed off.

To Mr. Van Buren.—I am from the county of Galway, Ireland (Laughter.)

Mr. O'Conor.—John Kent said he came from Europe, Tipperary. (Laughter.)

An attachment was issued against Nancy McLaughlin.

Calista Russell deposed—I live at No. 50 Laurens street; I know Mrs. Caroline Ingersoll; she is my aunt; I lived with her while she was in the house No. 355 Greenwich street; I was there eighteen months; I was with her afterwards, about three or four months, in Houston street.

Q.—Was the house in Greenwich street what is called a house of assignation? A.—It was said it was such a house; I knew one or two of the gentlemen who used to frequent the house; I don't know their names; there were other ladies in the house; Mrs. Davy and Miss Eliza; I believe her name was Pierrepoint; I don't know that she received gentlemen visitors; Mrs. Davy did receive a gentleman; he was called Davy; I only saw him once; I was generally in the basement; I did not go to the door; I seldom went to the door in the evening; it was among the neighbors it was said to be such a house; we had no other boarders but those ladies while I was in the house, I do not know if these ladies slept alone; I never saw or knew of any husband of Miss Eliza, I don't know of any other ladies that came to the house; I took my meals in the basement; Mrs Ingersoll, Mrs. Davy, Miss Eliza, and myself, breakfasted together; no gentleman was ever at any meal with us that I recollect; no other woman was ever at any meal with us.

Q.—Did you frequently hear the door open and shut in the day time and at night? A.—Yes, sir, I didn't know anything about who they were that came in and went out; I heard nothing to lead me to suspect there was anything wrong; I am a widow.

Q.—Have you seen in court, since you came in, any gentleman whom you have seen at that house? A.—No, sir Q.—Are you sure? A.—I see but one gentleman. Q.—Who is that? A.—Dr. Follen. (Loud laughter.) Q.—Do you see any other? A.—No. Q.—Did you ever see that gentleman at the end of the table (Mr. Forrest) in that house? A.—I never did; I never saw him in the house in Houston street; I believe Mrs. Davy's husband supported her; I do not know what Miss Eliza did for a living; I have spoken to Mrs. Ingersoll about the house being called an assignation house; Miss Eliza did not go with us from Greenwich street to Houston street, but Mrs Davy did; she didn't stay long; she was backwards and forwards between there and Philadelphia for three or four months; there was a lady boarder named Mrs. Merryfield with us, in the house in Houston street; I took my meals in the basement of that house, with Mrs. Ingersoll, Mrs. Merryfield, and Mrs. Davy, when she was there; I saw several gentlemen in that house; none of them took a meal in that house, to my recollection; they used to stay sometimes two or three days, sometimes a day and sometimes less than a day.

Q.—Where did these transient gentlemen stay? A.—In the parlor, and took their room in the evening; there were two young ladies named Miss Charleses called on Mrs. Ingersoll; they never went up stairs; they sometimes came in by the basement; I don't recollect seeing gentlemen with them; I don't recollect their going up stairs; they called two or three times; I don't know what their business was; they used to stay about an hour. Q.—Do you mean to say they never went up stairs? A.—No further than the parlor; I can't say that they went up any higher; I believe they live in Franklin street; I don't know the number; I never saw other ladies on the stoop; Mrs. Ingersoll never told me what their business was; I have never seen Mrs. Merryfield's husband; I have seen her conversing with gentlemen in the parlor; the Misses Charles sometimes visited the house in the day time, and sometimes in the evening; no gentlemen came with them; no one went away with them; they sometimes left about ten o'clock in the evening; there were four sisters of the Miss Charleses; only two of them visited there: the eldest was about twenty years of age; I never saw any of their male relatives. Q.—Was there any difference between the house in Greenwich street and the one in Houston street? A.—No, sir.

The witness was not cross-examined.

William Mackeller, Clerk of the Chief of Police, sworn.—I have the records of all the suspicious places and persons made to the office of the Chief of Police; the records of 1846 were irregularly kept; the first regular record was February, 1847, and I find the house No. 355 Greenwich street mentioned in February, 1848; the report is by Appleyard; the report of the house No. 628 Houston street, in August, is by G. Fountain and Craft; in November, the report is by Chambers and Craft; in 1849, there is a report by Robins and Craft; in May, 1849, by Craft; November, 1849, by Robins and Craft; and then it comes down to May, 1850, made by Craft.

Mr. O'Conor then offered these records in evidence, as tending to show what the character of these houses was.

Mr. Van Buren objected.

Chief Justice asked Mr. O'Conor on what ground he offered them.

Mr. O'Conor replied that he thought they were admissible to show the character of the houses.

Chief Justice.—It does not strike me that the evidence is competent.

John D. Hilbert.—I am a butcher; I live at 358 Greenwich street; I resided there in November, '48; I noticed the house occupied by Caroline Ingersoll during that time.

Q.—To what purpose was that house applied?

Mr. Van Buren objected. Mrs. Ingersoll had been called by the plaintiff to testify that Mr. Forrest was at her house, and he submitted that they could not call a witness to impeach and degrade her.

Mr. O'Conor, in contending for the admissibility of the evidence, said his object was to supply the deficiency of that testimony, and not to contradict Mrs. Ingersoll and her niece, and to thus perfect the case, which is only partially made out by these two witnesses.

Mr. Van Buren replied. The Chief Justice said there was no doubt about what the rule is. A party may call a witness, and the witness may not prove the facts, and the party is not bound by the statements of that witness; as far as the objection, on the ground that it would contradict the witness, it does not hold good. As far as it may be an attack upon the witness's truth, it cannot be admitted. Parties could not impeach their witness by proving the character of the house. When that arises, it can be decided on, but the court thought the witness might be examined as to what he saw at the house. The counsel would have a right to call the attention of the jury to the testimony of Mrs. Ingersoll and her niece, who stand unimpeached.

Q.—To what purposes was that house applied? A.—Well, I cant't say; I think in my mind it was a bad house.

The Chief Justice told the witness to confine himself to what he saw.

Witness.—I saw a great many "peoples" go into the house in the day time as well as in the night to as late as I sat up; I usually sat up to between 9 and 10 o'clock in the week days, and to 11 or 12 o'clock on the Saturday; they were both "man" and women I saw go there, sexes of both sides; some with carriages and some without.

Q.—Was the concourse in large or small numbers? A.—They would go one and two at a time; I am 42 years of age.

Q.—Have you ever seen people go in that way to a house before?

A.—Only to such houses.

Mr. Van Buren.—It is quite obvious the witness does not go to church.

Witness.—I did not know any of the females except the colored servant who used to come for meat, and pay for it.

Q.—Was she a modest woman?

A.—"That's more as I can say." (Laughter.)

Q.—What used she to say about the house?

The Chief Justice said it struck him the evidence was loose.

Mr O'Conor.—And if you let the answer come, you'll find it was loose too. (Laughter.)

Witness.—I saw a female in the window put her finger to her nose to a gentleman who was passing, which made me think it was a bad house. (Laughter.)

Mr. O'Conor.—Show us the way. (Laughter.)

Witness.—I guess you can do so yourself. (Laughter.) I never did such a thing in my life; it was a respectable house until Mrs Ingersoll came there.

To Mr Van Buren.—I do not know if the ladies there used to smoke.

The witness was not cross-examined.

Francis Sharleano, a Frenchman, deposed.—I am a barber; I reside in 347 Greenwich street; in 1847 and '48 I resided opposite, at No. 342; I noticed the house Mrs Ingersoll lived in as I did any other; I was never in it whilst she was there; I did not know anybody that lived in it; I cannot judge from the exterior what went on in the interior; I have seen carriages stop at it, as I have at other private houses.

The witness was not cross-examined.

Lorenzo D. Savage.—I reside at 55 Greene street; I do not know Caroline Ingersoll; I was in the house 628 Houston street; I think it was '48 or '49; I didn't put it down (laughter); I went there with company; I met the company in Broadway; they were two persons beside myself. Q.—Were they men or women? A.—Men. Q.—What was your business or purpose in going there? A.—I had no purpose more than going with these men. I do not know what was their purpose; I was there about five minutes; I saw two ladies in the parlor; I do not know who they were; I could not recognise them; I left my two friends there; I do not recollect what passed between those ladies and gentlemen before I left; I suspect they knew the ladies before; nothing particular occurred, except passing the time of day, before I left; I suspect they knew the way, without my showing them; I do not know their object in going; they asked me to take a walk round to Houston street; I did not see those gentlemen again that night; I think it is likely I have seen the ladies since, but I don't know. Q.—Were those women what are called women of the town? A.—I could not say that they were.

Q.—Well, I'll have to get at the names of those friends. A.—They were in the same situation as myself; they were policemen, and I was a policeman at the time.

Mr. O'Conor.—Well, as they were policemen, you need not object to give their names, as I suppose they went to inspect the house.

A.—Well, I think not. (Loud laughter.) Their names were Egerton and Morrison; Walter Egerton, he lives in New Haven; I don't know the Christian name of Morrison; I don't know where he lives; he was attached to the Eighth ward police.

The witness was not cross-examined.

Henry Clough, deposed.—I am a policeman of the Eighth ward; the house No. 628 Houston street is in that ward; I have visited it officially in the month of August, 1850; I never visited it previously, I never made observations on it previously.

Mr. O'Conor.—That's all, Mr. Clough.

Dr Richard W Warrington, being examined by Mr. O'Conor, deposed.—I am a physician; I was requested to call at the house No. 628 Houston street, professionally; it must have been in the summer of 1850—June or July; I did call.

Q.—What kind of persons did you see in the house.

A.—I saw Mrs. Ingersoll, and I saw the person who requested me to call on her.

Q.—Did you see anything indicating the character of the house?

A.—Nothing beyond the lady I went to see; she had an intimacy with a friend of mine who had gone to Europe.

Mr. Van Buren objected to the testimony.

Mr. O'Conor said he intended by this witness to show that he visited the female, to treat her for one of those diseases incident to the course of life.

Mr. Van Buren objected to the testimony. Mr. O'Conor contended that it was admissible. Mr. Van Buren replied, and said it did not affect any person connected with the parties to this suit, and as the circumstance often happened to respectable persons, he thought the evidence immaterial. He objected to the evidence not alone on its indecency, but there was a statute which debars a medical witness from revealing professional secrets. [2d Rev. Statutes, sec 73, page 503.]

The witness said if he were asked to divulge the name of the person whom he attended professionally, he should appeal to the Court to be excused from answering. There was a professional etiquette which induced him to keep within his own breast those secrets which he became acquainted with in his capacity of physician.

Mr. Van Buren then read the seventy-third section of 2d Revised Statutes, which is as follows:—"No person duly authorized to practise physic or surgery, shall be allowed to disclose any information which he may have acquired in attending any patient, in a professional character, and which information was necessary to enable him to prescribe for such patient as a physician, or to do any act for him as a surgeon."

The Chief Justice sustained Mr. Van Buren's objection, and ruled against the question.

Mr. O'Conor to witness.—What was the pursuit in life of the person you were called to see? A.—I met her in Broadway, and had seen her at another place. Q.—What was her pursuit in life? A.—The knowledge I have is of her intimacy with my friend, and other circumstances; my only knowledge is going with my friend to see her at her house, and remaining with her some time.

Cross-examined by Mr. Van Buren.—I live at 872 Broadway; the house is kept by ladies named Perkins; I have kept my rooms there for a year, though I have been away part of the time; I have been surgeon aboard the Georgia.

Q.—What families do you attend here?

A.—I do not attend any particular families, though I may have attended some friends of yours (Mr. Van Buren's); I do not attend any particular families; I am an Englishman. Q.—Who is this friend of yours? A.—Well, I do not think I need answer that question; he is a friend of yours (Mr. Van Buren's) also.

Mr. Van Buren.—A friend of mine? A.—Yes; he did me the honor to introduce you to me at Congress Hall in Albany; he is a man of literary repute, and an Englishman also, at least an Irishman by birth, residing in England. Q.—Is he a married man? A.—He was then a married man; his wife is since dead; I know Capt. Calcraft; I am not intimate with him; I have not seen him for ten days; I know him to speak to him; I know Mr. Willis; I have not spoken to him for two years; I do not know Mrs. Forrest.

Officer Clough recalled.—The occasion of my going to the house of Mrs. Ingersoll was to put out two young men; I did not on that occasion make any observations that would enable me to speak of its character; these young men came to the door and inquired to see the girls; she said she had no girls; the young men were in the hall, and sat down and began to smoke, and said they would stay there until they saw the girls.

Jacob Carlock deposed.—I am attached to the police of the Fifth ward, I am on the police a little over three years; I was once in the house 330 Greenwich street; it was then occupied by Mrs. Ingersoll, I think; I visited

it to take out a man that wasn't sober; I lived about four or five doors from that house in 1848; I frequently noticed people go in and out—men and women—mostly in the first part of the evening. I have not noticed anything of the demeanor of the inmates, either at the door or the windows.

Q.—What were the purposes for which that house was occupied?

Mr. Van Buren objected. The Court ruled against the question.

Witness.—I didn't know any of the inmates except one, and she wasn't exactly square. (Loud laughter.)

Mr. Van Buren —All the rest were square?

The Chief Justice.—Explain, sir, what you mean by square. Do you mean a lewd woman? A.—Yes, sir; some of the women I saw go in there were rather under false colors. (Laughter.)

Q.—What do you mean by false colors? A.—I mean they were rather muffled up; the muffling up was not occasioned by the weather; they sometimes went alone, and sometimes with gentlemen. Q.—Had those women the appearance and carriage of respectable, virtuous women?

Mr. Van Buren objected. Question not admitted.

Nancy McLoughlin, for whom an attachment had been issued, was then called to the stand. She was a middle-aged, good-humored looking woman. She deposed—I lived in Buffalo. Q.—Where were you employed there? A.—I have been employed there by a good many; I was employed in the American Hotel. Q.—In what capacity? A.—In many capacities; I was housekeeper there at one time.

Mr. O'Conor thought it necessary for the Court to inform the witness how far she was bound, in law, to answer the questions put to her She was one of those witnesses whom they had been obliged to attach.

Mr. Van Buren was about to object to Mr. O'Conor's method of cautioning his own witness, when,

The Chief Justice said—Proceed, gentlemen, in the regular way.

Witness continued.—I have seen Mr. Edwin Forrest when he stopped at the American Hotel; I have seen Miss Josephine Clifton when she stopped at the American Hotel; they stopped there together

Q —Did you see Miss ——

A.—Yes, sir. (Laughter.)

Chief Justice said there was no necessity for this laughter at the mere peculiarity of a witness.

Mr. O'Conor to witness.—Wait to hear my question before you give a reply.

Witness.—I saw Mr. Forrest and Miss Clifton stop there together; I can't recollect how long they stayed there; they stayed there over one night. Q.—Did they stay there over two nights?. A.—I don't recollect. Q —Did you see the room in which Miss Clifton slept? A —I don't recollect. Q.—Did you see Mr. Forrest go into Miss Clifton's room? A.—No, sir. Q.—Did you ever see him in the room? A —No, sir; I saw him go into his own room. (Laughter.) I never saw him in any other room but his own.

Mr. O'Conor.—That will do.

To Mr. Van Buren —I live, at present, in Seventeenth street; I don't know the name of the person who subpœnaed me.

When the witness was leaving the court, Mr. Forrest shook hands with her

Nancy (aloud)—He's a nice gentleman. (Laughter) He's a more gentlemanly man than you (meaning Mr O'Conor). (Continued laughter.) I havn't seen him for years, and I'm glad to see him.

Edward Nicolls deposed.—I was conductor on the Hudson Railroad from 1849 to last December; I was conductor between Peekskill and New York; Mr. Forrest was a passenger with me several times during that period; he stopped at Yonkers.

Mr. Van Buren said.—If this was as to the question of residence, it was not, he submitted, competent to open it again.

The Chief Justice admitted it.

Witness —I don't recollect seeing Mr. Forrest in the fall of '49; I have seen him often from June, '50, to December, '51; I should think, on an average, twice a week.

Cross-examined.—There would be sometimes months during that period that I did not see him at all; I may have seen him twice or once a week at some time; there may have been an occasion when I did not see him for three months.

John Craft deposed.—I was a policeman, but I aint now; I was attached to the Eighth ward; my post extended so as to embrace the house 628 Houston street; I began on that post in the latter part of '48 or '49, and continued down to August, '51; I had a man named Fountain a partner for awhile; Chambers and Robbins were also my associates for awhile; I never was in that house but once; then I was only in the hall; I did not watch or make observation of that house more than of any other house; I made reports of that house to my chief; I have seen men get out of carriages, probably half a block off, and go into that house in the evening; I have seen women go into that house in the evening, some two or three times—not very late, however; I did not know any of those women, or any of those men, that I saw go into that house; the occasion of my going into the house that once was because, between 12 and 1 o'clock, I saw the door open and heard something; I went up and rang the bell or knocked at the door, I forget which—probably both; I had seen nothing more to induce me to make my reports to the chief than those men getting out of the carriages and going in; those women I speak of were alone when they went to the house; I think once I saw a man and woman go in there.

Q —How often did you report that house?

Mr. Van Buren objected.

The Chief Justice did not think it competent; the report would be adopting the opinion of the witness.

The witness was not cross-examined.

Anthony Austin deposed.—I am a policeman of the Eighth ward and Eighth district; I have been engaged there eighteen months; I have had occasion to visit the house 628 Houston street officially; I visited it twice; I went into it for the purpose of making my quarterly reports.—How did you find it to be occupied? A.—I found a man servant and a colored girl there; I did not see Mrs. Ingersoll on my first visit; I did not see anything in particular to indicate the character of the house; on the second visit I saw Mrs. Ingersoll on the stoop; I have observed men going in pretty much at all hours of the night; I did not know who they were; I observed some women go in and out in the early part of the evening; I did not observe anything particular in their manner; they were alone; I observed this course quite common and frequent.

Q.—Were the observations sufficient to enable you to make your report?

Mr Van Buren objected.—The question was not admitted.

To Mr. Van Buren.—My hours of watch varied; they would be different hours, and varied every night.

Augustus Goodriene deposed.—I am a policeman of the Eighth ward and Eighth district; I am so two years next July coming; I was called on to Mrs. Ingersoll's house, 628 Houston street, in 1850; I was called on to remove two young gentlemen from the hall; that was the only time I was there while I was a policeman; I visited that house when I was not in the police—when I was in business; Mrs Ingersoll kept it then; I was a cabinet maker, and I called round to do little jobs; it was in the day time I called; I never saw any one but Mrs. Ingersoll herself; I never observed anything about the house while I was a policeman.

The witness was not cross-examined.

To the Chief Justice.—It was the same time that the other policemen removed the young men.

Uzia Fountain deposed.—I was formerly a policeman; in August, 1850, I was engaged in the police, in company with Craft; I had been in the police three years; I know of such a house as Mrs. Ingersoll's, 628 Houston street; I noticed it; it was out of my post.

Mr O'Conor.—That will do.

John Milbourne being cross-examined, deposed —I am an interior decorator: I reside in New York; I know Mr. Edwin Forrest. Q.—Were you employed by him to do any work at Font Hill? A.—No, sir. Q. —Well, did you do any work for him there? A.—Yes, sir; in the large house at Fonthill; I was employed at it from 5th July, 1849, to 14th February, 1850; I saw Mr. Forrest there frequently during that time; in the first part of the time he was there pretty nearly daily till the month of December; I am not positive, but I don't think I saw Mr Forrest twice after that time, with the exception of once or twice.

Cross-examined.—It was Mr. Smith, the builder, who employed me; I was introduced to Mr. Forrest on the

25th June, 1849; Mr. Forrest superintended his own work, and it kept steadily progressive; I have no memoranda that will tell me when Mr Forrest was there and when he was absent; I do not wish to be understood as saying that Mr. Forrest was there every day; I have no recollection of his being away two weeks; he would be occupied about an hour with me and about the same time with others who were employed there; I have no memoranda to show that he was not away two weeks at a time.

Clement Robbins deposed.—I was a policeman for five years, until August, 1850; I was stationed in the Eighth ward.

Q.—And what district? A.—The Eighth ward is the Eighth district; I knew the house of Caroline Ingersoll by reputation; I never was in the house: I made no observation of it which distinguished it from any other house; I think I have seen men and women both pass in and out, but I did not see anything particular to call my attention to it more than any other house.

The witness was not cross-examined.

Dr. John B. Rich was then called and deposed.—I reside at 111 Tenth street; I was in the house in Sixteenth street during the time Mrs. Forrest lived there Q.—Were you ever in Mrs. Forrest's bedroom? A.—Yes, sir. Q.—How often? A.—Three or four times; the first time I went there she was suffering from neuralgia; she sent for me early in the day; I said I could not leave my business then, but if it would do I would go in the evening; I went in the evening and found her suffering from neuralgia and also congestion of the lungs; my business, which occupied me in the day, was a school for physical training, a kind of gymnasium; the second occasion of my calling was to see the effects of the prescription I had given her; I called there in the day time; I sometimes visited the house when I did not go there for medical treatment; my wife was a visitor in the house; I never was in Mrs Forrest's bedroom with her alone; her sister, Mrs Voorhies, and her sister Virginia, were usually present; my family had, previous to that, been intimate with Mrs. Voorhies; she had resided in my family; she lived at my house nearly two months, during the fall she left her sister's; she was a teacher in my family previous to that.

Q.—It is suggested that your visits to Mrs. Forrest were at late and unseasonable hours—can you explain that?

Witness.—I was engaged at my school of physical training until about nine o'clock, and as I lived some distance, I suppose it was after ten o'clock when I got to Mrs. Forrest's; as I was intimate with the family, I was not in a hurry with my visits, and remained there for some time.

Q.—Was there any laughing in the bedroom on any of those occasions that you were there?

Witness.—I think it is very likely; as I said before, I was very intimate with the family, and I think if there was anything to provoke laughter, I have laughed; I have never witnessed any immodest speech or action in that house; I never was in Mrs. Forrest's bedroom, except during her illness; I recollect on one of my visits, Mrs. Forrest said to me that one of her servants had been taken ill, and she was afraid it was the cholera; she asked me to see her, and I remained about an hour, as the medicines they had given had produced composure.

Cross-examined.—I am not a licensed physician; I was brought up to dentistry; I studied in Paris and in this city; I was in Paris from 1831 to 1838; I studied under Delebarr; I was a young man then; dentistry was not intended to be my profession. Q.—You are an Englishman? A.—No, sir; I am a New Yorker; my parents were Americans; my father was, and, I believe, my mother also.

Mr. O'Conor.—You had better find out who his grandfather and grandmother were. (Laughter.)

Mr. Van Buren.—I will be at his grandfather to-morrow or next day. (Laughter.)

Witness.—I was connected with a hotel at one time; I was a bookkeeper in a store after that, and then I completed my profession; I never kept a furniture store; I never was acquainted with Mrs. Forrest, except by sight, until after the separation; she called on me; I never spoke to her till May 19, 1849, the night of the riot; she was stopping at Mr. Godwin's house, opposite mine; I prescribed for her lungs; she had another physician, Dr. Warner, and he did not prescribe for her; Dr. Dodge attended her also; my business was such that I could call on Mrs. Forrest during the day, and I have frequently called on her and driven her out when she was convalescent; I have remained there as late as half past 12 o'clock; I don't usually take supper, but they had supper there almost every night I was there; I have not remained as late as half past twelve o'clock in Mrs. Forrest's bedroom; I think I have remained there as late as twelve; she was dressed with a dressing gown on.

Q.—Was it a night gown? A.—No, a dressing gown; the first time it may have been after twelve that I remained in her bedroom; it was shortly after I became acquainted with her that I was in her bedroom; I was in it some three or four times, and she was in bed each time: I had applied leeches, and I wanted to see the effect; she was suffering from neuralgia and congestion of the lungs, and not able to sit up; I gave orders that she should be kept in a reclining position, quiet; she might have been able to have sat up on the last night I was there; on the night the girl was taken ill, and that Mrs. Forrest asked me to stay, she was up and dressed; it was not one of the evenings I visited her in her bedroom; at those suppers there was wine; I did not see any porter or cigars there; I don't use them; I did not see Mrs. Forrest or Mrs. Voorhies smoke; Mrs. Rich was not with me on those occasions that I stayed so late; she was not with me when I drove out with Mrs. Forrest; I abandoned my school since January, 1851, and have practised at my profession exclusively; I was introduced to Mrs. Forrest by Mrs. Voorhies, on the 10th of January, 1849; she was then at Mr. Godwin's house opposite; there was general confusion in the streets; they were carrying the dead and the wounded away, and Mr. Godwin being from home, the ladies sent for me as the only neighbor they knew; I went over; I saw them in the parlor; I may have driven Mrs. Forrest out more than once; I drove her out on the Bloomingdale road perhaps twice; I have driven her and Mrs. Voorhies and another lady of the family; I wish to correct, I do recollect Mrs. Voorhies driving with me on another occasion; I drove her to Greenwood, and she walked up with me to see some ground I was selecting; I do not recollect being out as late as ten o'clock in the evening with Mrs. Forrest; I recollect stopping in front of the next house to let Mrs. Forrest out of the carriage, but that was in consequence of some difficulty in getting to her door; I do not recollect stopping at the next door when I called for Mrs. Forrest; I was not afraid to go into the house.

When the witness was retiring from the stand, he asked if counsel were done with him, and remarked that he did not know what he was required to attend for. On passing the table, at which Mr Forrest's friends were seated, some observation was made. The witness was recalled by Mr. Van Buren, who wished to ask him another question, and on ascending the stand, he said, "Some gentleman has remarked that I would soon learn why I was called."

The Chief Justice asked who made the observation.

Mr. O'Conor said it was Mr. Dougherty.

Mr. Van Buren said that Mr. Dougherty was speaking to a friend (Mr. C. W. Clarke) who was near him.

Mr. Dougherty said the observation was not intended for the witness.

Witness.—I am not afraid of you.

Mr. Dougherty shook his head.

The Chief Justice said it was not proper that observations should be made in the hearing of the jury.

Witness to Mr. Van Buren.—Mrs. Forrest never told me the cause of the separation.

Adjourned.

January 14th.

Mrs. Forrest, accompanied by Mrs. N. P. Willis, and Mr. Forrest and some friends, were, as usual, in attendance.

Mr. O'Conor called Wm. H. Canfield and John Florence as witnesses, but not answering to their names, attachments were issued.

Mr. O'Conor offered to admit certain parts of Mr. Forrest's affidavit, in which Mrs. Forrest's affidavit, already read to the jury, is referred to and answered. Copies of the affidavit with the passages marked, were handed to the defendant's counsel and to the Court for consa

deration. The offer will be renewed again Mr. O'Conor read, under the exception of Mr. Van Buren, Mrs. Forrest's certificate of naturalization, 8th March, 1850, which was issued from the Court of Common Pleas in this city.

Philologie Holly.—I am an architect and real estate agent. I was in Mr. Willis's house last night, and made this diagram (produced). The witness explained the localities.

Q.—At the time of examining the third story, did you stand on the stair, and, with the aid of a lady, try if you could see a person coming from that door?

A.—If the attention was directed to the door, you could see a person; a small person might be hid in the recess, and it should be a very small person; after a person had entered the hall from either door, you could not tell from which door he entered, unless at the moment he entered.

Cross-examined.—The length of the jog is one foot four inches, and farther on, towards the bed, it is a little less; part of a person who was more than fifteen or sixteen inches could be seen; if they had advanced a step or two from either door, you could not tell which door they came from; as you lean against the bannisters I think you can see the whole of the end bed-room door; Mr. N. P. Willis employed me

Question by a juror—If a person was at the bottom of the flight, could you tell which of the doors a person came out of? A.—I don't think you could see either.

Question by Mr. O'Conor.—How many steps must a man go up before he could see either of those rooms?

A.—A man might see the top of the bed-room after he got up two or three steps.

William H. Doty deposed—I know Mr. Edwin Forrest by sight; I knew Miss Josephine Clifton by sight, in her lifetime. Q.—Did you at any time know Mr. Forrest and Miss Clifton to go up the North River in a boat together? A.—I have seen them on the North River, going from this city to Albany; it was a night boat; they came on board together in a carriage; they were locked arms when they came on board; they occupied the same state room together, adjoining mine; Miss Clifton spoke to me on her retiring; I answered her; I was on board the vessel when they were called the following morning previous to our getting into Albany; I was yet still on board after they left their room.

Q.—Did you see in the room after they left it? A.—I took the liberty of looking in, as I was alone. (Laughter.) I understood they landed at Albany; I got up and dressed before we arrived at Troy, and was ready to go ashore; I took the liberty of looking into the room.

Q.—What did you see there?

A.—I saw a bed made up on the floor, and no mattresses in the berth.

The Chief Justice—You say they occupied the room adjoining you; I want you to state how you ascertained that fact, if you did ascertain it?

Witness.—I went to the foot of Cortlandt street in 1843; I saw Mr. Forrest and Miss Clifton; Mr Forrest had two carpet bags; he afterwards left her in the saloon by herself, and she spoke to me and asked me was I going to Saratoga; I said not, and I asked her where she was going, and she said they were only going to take a little turn in the country; I saw them both go into the same state room together, and found it was next to mine; I heard some noise in their room; they appeared to be a very loving couple; I heard him kiss her; I heard Mr. Forrest's voice in the room that night; I heard Miss Clifton's voice in the morning when they were called; she answered first; I heard Mr. Forrest's voice after.

Q.—Did you hear the lock of the door at any time that night? A.—Yes, I heard the door locked.

Mr. Van Buren objected to leading questions being put to this witness; he had told his story over twice, and never said anything about the locking of the door until the question was put to him.

Cross-examined.—I reside at 19 Grove street; I have been steward of the steamboat Troy about two years past; I am a married man; I am married twenty years; in 1843 I resided in 49 Macdougal street; before I went to Grove street I resided in 248 Bleecker street; before that I lived at the corner of Laurens and Prince streets; I was two years in Bleecker street; I was then steward on board the steamboat Columbia between here and Troy; before that I was engaged with a man named Hiram, 43 Nassau street, as steward and carver; he kept an eating house; I was with him more than a year, in part of 1846 and part of 1847; before that I was steward of the Revere House, Boston, kept by Mr. Stevens; I was there a year, and came to New York to live; I came here because it was my home; before that I was at the Croton Hotel, kept by John L. Moore, Broadway, for something less than two years. Q.—Why did you leave? A.—He hired a man for less salary; after that I attended a coffee and pie stand on the Merchants' Exchange, for Benjamin Rushton; I was attending that when I went up the river; I was with him over a year; he paid me $10 or $11 a week. I forget which; I left him because he got a man for $6; I fix the date of going up the river to 1843, because it was the first time I was home since I had been nine years of age.

Q.—How old were you when you went home? A.—I don't know; I was 38 years old on the 4th July last, and you can calculate for yourself (laughter); I don't know; my mother corrected me about my age; I think I was 29; my mother corrected me because I said I thought I was 30 years of age, and she said I was only 29; my mother lives at Burlington, Vermont; she lived in Rochester at the time I went to see her; my father lived in Rochester also at that time; he is now in California for four years; I have not seen him for five years; I have been told by people who saw him there that he keeps a hotel; the time he lived in Rochester, at a place called Gates, he was a farmer; my mother lives in Burlington; she is a dressmaker; I have three sisters and three brothers; none of them are married. Q.—When did you first mention, and to whom, about Miss Clifton and Mr. Forrest? A.—I mentioned it that evening to a man on the boat; I do not know his name; I had seen him several times; I understood him to be a merchant; I have seen him in Charleston and New Orleans; I do not remember mentioning it to any one else that evening; it was in the state room hall I mentioned it; it was not 11 o'clock, nor do I think it was so late as 10; it was about 9 o'clock; on my return I mentioned it.

Q.—What brought you to Troy? A.—I always go to Rochester by way of Troy, and will go that way tomorrow. (Laughter.)

Mr. Van Buren.—Perhaps not.

Witness.—I stopped in Rochester four or five days, and came back by way of Troy (laughter); I mentioned it since; I mentioned it to one man named Davis; I do not know his first name; I have never seen him since; he was steward in the Merchants' Exchange. Q.—Who else did you mention it to? A.—I mentioned it to a crowd (laughter) of about twenty or thirty waiters; I did not mention it to Mr. Rushton; my business was to serve my employer; I thought it would be a liberty to speak to him about it; I stopped at the Troy Hotel; I do not know who kept it; I do not remember the name of any of the crowd of waiters I told it to; I only know them by the names of John, and Joe, and Charles; I recollect being at the Chatham theatre, a little band-box of a thing down here, and met a man named Doughty there; he was attached to the theatre; we spoke of Mr. Forrest and Miss Clifton; he told me what he heard, and I told him what I saw (laughter); I do not know Doughty's first name; I never saw him since.

Q.—What business was he? A.—He was a theatre loafer; I never spoke of it since, till this morning; I spoke of it to Mr. O'Conor, at his office; I was subpœnaed; I went to his office, and asked him why I was subpœnaed on a case which I knew nothing of; Mr. Conor said, "We know better." Q.—Why did you say "you knew nothing of it?" A.—I did not wish to be mixed up in other people's quarrels; it was no interest to me one way or another; since I spoke to Doughty, I made up my mind not to speak about it; I have been spoken to by hundreds of thousands of people about it.

Q.—Was your reason for saying to Mr. O'Conor that you knew nothing about it, because you did not wish to make it public? A.—Yes. Q.—Tell us one of those hundreds of thousands of persons who have spoken to you about it? A.—I do not know who they were. Q.—Did you tell us here "you knew nothing about it?" A.—I told Mr. O'Conor "I knew nothing about it;" I do not know who subpœnaed me; he read the subpœna to me; he did not tell me what I was to testify; I told him "I did not want to attend the trial;" he laid fifty cents down on the hat stand, and went out

Q.—Did you tell him you knew nothing about it

A.—No; he walked out and didn't even say good evening; I told him I didn't want to testify, and he said Mr. O'Conor would make me; I was born in Wallingford, in Vermont; I have never told any one what I knew about this case since I was subpœnaed; I beg pardon, I may have told my wife; I am not certain that I told her before I was subpœnaed what I saw.

Q.—If you did not tell her before you were subpœnaed, have you ever told your wife? A.—I think not; I did not mention it to any one else, because I did not think it my business to circulate the story around town; the boat was advertised to start at six o'clock, and I presume it started at that time; Capt. Macey was the captain; I presume he lived on board the boat; I understood he was not married; I understand he is now purser on board the Golden Gate; I don't know who the clerk was; I don't know the names of any of the servants; there was not a single passenger on board that I knew; I had known Mr. Forrest by sight for 15 years; I never spoke to him in my life; I knew Mrs. Forrest by sight; she was pointed out to me as Mr. Forrest's wife when she landed here; I knew her by sight in 1843; I have seen her since 1843, in West Point, at Charleston, Philadelphia, Boston, and New York; I knew Miss Clifton; I knew her for a good while by sight before her death; I had known her for seven or eight years before 1843; she introduced herself to me at Saratoga Springs in 1839, I think; I was steward in Congress Hall; her brother, I think, was with her; as I was steward of the hotel she introduced herself to me, saying she would like to be comfortably attended to; I have seen her a number of times since and spoken to her; I saw her that same summer of '38-9, in the railway cars to Philadelphia; I think it was in September. Q.—Did you just say it was in summer? A.—Yes, but I think it was in September; she asked me for my cloak to put over her, as she was cold; her brother was with her; I don't know whether she had a cloak; her brother had no cloak; I first saw Mr. Forrest and Miss Clifton going to the boat when I was standing at the gang plank; it is usual for the Captain to stand there; I saw them next in a few minutes in the state room hall Q.—Did you speak to them? A.—I answered Miss Clifton when she asked me if I was going to Saratoga again; it was June, because it strikes me I got up to my mother's in Rochester before the 4th of July; I shook hands and talked to Miss Clifton probably a minute or two; she was alone at the time. Q.—When did you next see her on that boat? A.—At the time I was speaking to her, Mr. Forrest came up; she took his arm, and they went into the state room; there were probably two or three hundred.

Q.—Give us your nearest guess to the number. A.—Well, between 50 and 300, (laughter;) when they went into the state room they locked the door.

Q.—Did you say just now that you saw them on the gang plank? A.—I did; I did not say that in a few minutes after I saw them in the saloon; I said I saw them in the state room hall. Q.—How long after you saw them on the gang plank, did you see Miss Clifton? A.—I saw them on the gang plank; I next saw her in the state room hall; I saw them after that at supper, and after that in the saloon; it was about fifteen minutes after I saw her on the gang plank, that I saw her next in the state room hall. Q.—Did she speak to you when she saw you there? A.—When I saw them after supper, she saw me but did not speak; she cast her eyes on me with one of her angelic smiles and bowed. (laughter); after supper I saw them walking in the state room hall again; I left them, and went down for ten or fifteen minutes; I sat at supper, and had enough; they left the table before me; I heard them say they had enough; they were about 25 or 30 minutes there; I saw them next in the state room hall; there were two hundred and fifty or three hundred, or probably fifty persons present; Mr. Forrest and Miss Clifton were promenading; he left her there, and went down stairs; she took a seat, and he joined her again; on my return, after walking the length of the state room, she asked me if I was going to Saratoga; I said no; that was the first time she spoke to me; I asked her where she was going, and she said "she was going to take a little turn with Ned;" I walked away when I saw Mr Forrest coming up; she then stood up, and took his arm, and they walked into their state room, and locked the door; there were fifty, or seventy-five, or two hundred, or three hundred persons there (laughter); I think I mentioned two or three persons spoke to me about it that evening; it was probably between nine and ten o'clock they went to their state room; they did not take a light to their state room, that I saw; there was a servant that waited on the state room; he was there at that time; I then retired to go to bed; I can't remember the state room servant's name; I heard them talk for probably half an hour after they went into the state room; I heard them next speak in the morning, when the servant called; he said we were within a few miles of Albany, if you want to be in time you must make haste; Miss Clifton answered first.

Q.—What did she say? A.—She said, "Come, Ned, it's time to get up." (Laughter) I heard Mr. Forrest speak after; I heard other talking, but that's about the only thing I could understand; I heard Mr. Forrest speak, but I cannot remember a word he said; I heard the door of their state room unlock when they went out; they were talking when they went out; I did not hear them laugh; I cannot remember the subject they were talking on. Q.—What hour was it when they got to Albany? A.—I did not look at my watch; we got to Troy at half-past five or six o'clock, and it would be more than half an hour before that that they landed at Albany; I should say it was an hour and a quarter; I did not know that Mr. Forrest was to play in Albany; I cannot remember seeing any bills about his playing there; I got back here on a Sunday morning, the first or second Sunday after the Fourth of July; I don't think it was the fourth Sunday; it might have been the first, second, or third Sunday after the Fourth of July; Forrest was not playing at the Chatham theatre at the time I was there; I don't know what the play was; I went there to see a play, but I don't know what the play was; Miss Clifton was not playing there then.

Mr. Van Buren.—You must not leave town.

To Mr. O'Conor.—I have seen, but never spoken to Mrs. Forrest.

Mr. Doty.—I shall be at 59 Grove street, until to-morrow evening.

Mr. Van Buren said he should call upon the Court to compel his remaining.

The Chief Justice said they should take the proper measure; but he did not mean to say that they could compel a witness subpœnaed by the other party to remain at their pleasure; they could cross-examine him as long as they pleased.

Mr. Van Buren said if the witness promised to stay till to-morrow evening, it would answer.

Mr. O'Conor advised Mr. Doty to stay.

Mr. Doty said he could stay, as his intended visit was of no importance.

Mr. O'Conor then said the notes of Mrs. Forrest to Mr. Forrest, that were previously read, and without date, were written between the third week of October and the second week of December, 1848.

James Harper, (ex-Mayor of the city, and one of the firm of the well-known publishers,) was then sworn, and deposed—I know Mrs. Christiana Underwood. Q.—Did she speak to you, after the separation of Mr. and Mrs. Forrest had been in contemplation, about that matter? A.—She has spoken several times of Mr. and Mrs Forrest being her friends; if she has spoken about their separation, I do not recollect it; I think her marriage to Mr Underwood was in 1849. Q.—That year, before her marriage, did she speak to you about Mrs. Forrest? A.—I do not recollect any distinct conversation; she may have spoken to me about her; I presume she did. Q.—Have you any recollection of any conversation, by way of consultation or advice, on the subject of the separation? A.—I do not recollect any.

Q.—Before her marriage, how did she speak of Mrs. Forrest? A.—She always spoke of Mr. and Mrs. Forrest as her friends—that she had been acquainted with them for many years. Q.—What I wish to know is, if, previous to her marriage, she spoke of Mrs. Forrest? A.—I think I received the impression, perhaps from her and perhaps from other sources, that there was a difficulty between Mr. and Mrs Forrest. Q.—I want to know if previous to her marriage, she spoke of Mrs. Forrest, or her qualities, and character, and conduct?

A.—She spoke of her as a lady.

Mr. Van Buren objected to this mode. The words should be given.

Mr. O'Conor.—Go on, Mr. Harper, and do not mind these interruptions.

Mr. Van Buren.—I will interrupt whenever I see it

necessary. There seems to be an impression that this case is to be tried all on one side.

The Chief Justice asked Mr. O'Conor what part of the conversation he wished to contradict. He (the Chief Justice) then referred to the HERALD'S printed report, and read from it what Mrs. Underwood had said to Mr. Harper respecting Mrs. Forrest. She said Mrs. Forrest was a very nice lady, and that at that time she did not know anything to the contrary. She did not tell Mr. Harper, after the separation, that Mrs. Forrest was a very nice lady.

Mr. O'Conor said that he wanted to show that Mrs. Underwood had never spoken unfavorably of Mrs. Forrest to Mr. Harper, up to the time she left him.

Mr. Van Buren said that Mrs. Underwood had distinctly sworn that she had never said anything to Mr. Harper against Mrs. Forrest.

The Chief Justice was of opinion that Mrs. Underwood had said she had not said anything to Mr. Harper after the separation, and she might be impeached as to that, if this witness could prove that she had.

Q.—Can you fix any conversation with her about Mrs. Forrest after '49? A.—If she spoke of her I don't think she spoke against her; I called on Mrs. Underwood at Mrs Forrest's, in Sixteenth street; they seemed to be very happy together; I don't think the circumstance of the separation was alluded to then by her. Q.—Did she, while they were living in Sixteenth street, speak to you of Mrs. Forrest? A.—No remark about the separation. You told us that very often, but did she speak of Mrs. Forrest? A.—I don't think she did.

Mr. O'Conor.—Very well, I need not ask you another question.

Cross-examined —Mrs. Underwood was in our employ; I do not recollect how I became acquainted with her; we employ between four and five hundred hands; about one hundred and fifty ladies, as sewers; I met Mrs. Underwood after she left my employ; she was a member of the John street Methodist Church, of which I am a member; Mrs. Harper knew Mrs. Underwood, and was a member of the same church; Mrs. Harper died in March, 1847; I have seen Mrs. Underwood in Sixteenth street; I have seen Mrs Forrest. Q.—Have you made her acquaintance? A.—I do not know; I have seen her and spoken to her; I had seen her before I met her in Sixteenth street; I have not seen her in Twenty-second street; I saw her once at our church.

Q —Can you recollect if you were introduced to her by any one? A.—I think she was down at our church one evening with Mrs. Bedford (Underwood), and she introduced me to her.

To a Juror.—Mrs. Underwood was not in my employ in 1849.

The court took a recess for ten minutes. On the re-assembling, Mr. Placide was called, and not being in attendance, he was sent for

Mr. O'Conor offered to show, that just before the commencement of this trial a special messenger was sent by Mrs. Forrest to St. Louis, to the residence of Jamieson, and offered to pay his expenses on to New York, as a witness in the case, and he refused to come.

Mr. Van Buren supposed that that was irrelevant.

The Chief Justice said he did not conceive that it was competent evidence. [Not admitted.]

The Chief Justice called on counsel to proceed. Mr. O'Conor said he had sent for Mr. Placide, and if they commenced with any other witness, he (Mr. Placide) would be off again. I have but one other witness to examine to-day.

Mr. Van Buren.—Counsel says he has but one other witness to examine to-day. I understood, yesterday, that he would consume the whole of this day, and I have no witnesses in attendance. I told them that they would not be required until to-morrow.

Mr. O'Conor.—I am not sure that I will occupy the remainder of this day. I do not know how long the cross-examination of Mr. Placide will take.

Mr. Van Buren then said he would send for some witnesses

Having waited for some time, Mr. O'Conor called Mr. George Weir, and remarked that as they had waited for Mr. Placide, he should now wait for them.

George Weir being examined, deposed.—I reside in New York; I never was in the house 355 Greenwich street; I was on one occasion, about a year ago, in the house 628 Houston street. Q.—How did you happen to go there? A.—I saw Mr. Slamm, a friend of mine, enter the house with a lady whom I had known; it was towards night, and I went into the house afterwards to see the character of the house; I knew the lady for several years, and my inducement was pretty strong to find out the character of the house; a friend, a gentleman, went with me; we went in without any introduction; there was some little opposition to us at first. Q.—Explain that opposition. A —They didn't know who we were, and it was usual to have an introduction; Q.—How did you obtain admission? A.—By insisting on remaining; we drank a little wine and came away; nothing else occurred. Q —What company did you meet? A.—There were two ladies there; I never saw them before or since; we were there about an hour and a half; nothing passed between us and the ladies beyond conversation which would pass between ladies and gentlemen who were not over nice. (Laughter.) Q.—Did you understand that one of them was Mrs. Ingersoll? A —I did not know; one of them was a tall, good-looking woman, in the middle age of life; I formed an opinion, for I went there for that purpose; we were received in the parlor; I did not look out of the windows; they were closed; lights were obtained before we left; there was no bed in that room; I can't now recollect the nature of our conversation with those women; it was rather loose; I wouldn't undertake to give the precise conversation.

Q.—Was the conversation such as any modest woman would indulge in? A —I should think not.

Mr. Van Buren objected.

The Chief Justice said if the witness did not recollect what the conversation was, he could not undertake to say whether it would be such as would be indulged in by a virtuous woman or not

Witness.—No other ladies came in while we were there. Q.—Was any invitation offered you to stay? A.—I gave none. Q.—Did you receive any? A.—We left under the impression that we would call again in a few days; when we were going they asked us to call again; I drank wine; my friend drank wine; the ladies drank also; I did not touch the person of either of those girls; nor did my friend, that I saw; I did not assign any motive to them why I called; that was the only time I was in that house during my life.

Cross-examined.—I believe this Mr. Slamm was a married gentleman; I saw him go in the house twice, the first time I saw him going in there was in company with a gentleman, about three o'clock; the next time he was walking with a lady in the street; he left her and walked up to the door and knocked or rang at it; the door was kept open until the lady came up; I know the lady; she was a married lady. Q.—Who was she? A.—I cannot answer that question; by that I mean I would rather not answer it; my feelings and wishes would induce me not to answer.

Mr. Van Buren.—Well, I will not ask you.

Witness —She was a respectable married lady, whom I had known for ten or fifteen years; there was wine there the evening I was there, but no segars.

Mr. O'Conor.—After you saw that lady go in there, did you continue to consider her a respectable lady?

Mr. Van Buren objected. Mr. O'Conor said he knew the object of the counsel was to convey the impression that this lady was a respectable person, and to argue from that that she was not a disreputable one. The Court did not think the question competent. Mr. O'Conor excepted.

Mr. Van Buren to witness.—Do you know of any notes being carried from Capt. Calcraft to Mrs. Forrest? A.—A boy told me about some notes he had carried; he was a lad that is at No. 9 Thames street; he was an apprentice to a trunk maker; I don't know his name.

Henry Placide, the comedian, was then called, and examined by Mr. O'Conor.—He said: I am acquainted with Mr. Edwin Forrest, also with Mrs. Forrest; I am by profession an actor; I first became acquainted with Mr. Forrest, and I was made acquainted with Mrs. Forrest through him; I occasionally visited Mr. and Mrs. Forrest while they lived in Twenty-second street; I occasionally dined with them at that house. Q.—With some degree of frequency? A —Yes; I was what I might term intimate in the house. Q —On occasions when you dined there, how late would you stay? A.—Different hours; sometimes to one hour, sometimes to another; I sometimes slept there, and when I did not remain there at night I would go away

about 12 o'clock generally; I occasionally remained all night, and slept in the house, during their residence in Twenty-second street; it might have occurred six or eight times; when I slept there we broke up sometimes at two or three in the morning; there was one occasion we stayed up all night; there was a party of some ladies and gentlemen there, and Mr. Forrest said to Mr. Willis Jones and myself, not to eat any of those sweet things; that we would have a supper of wild duck when the general company went away; we were up all night; the company that remained was Mr. Willis Jones and myself, and Mr. and Mrs Forrest; I took a walk with Mr. Willis Jones before breakfast, and Mr. Forrest went out to swim his dog; after we returned, Mr. and Mrs. Forrest retired; before we broke up we had a mint julep; I think Mr. Forrest asked Mrs. Forrest to bring in the mint juleps; they were brought and they were drank (laughter); I have no recollection whether we had any servant waiting on us during the night; on the occasion of our staying there we usually sat in the dining-room, which is the front room below; I don't think Mrs. Forrest ever retired on the occasions I was there; as far as my recollection goes she kept us company till the end; I remember the circumstance of Mr. Forrest taking a trip to Europe; he went twice; I visited at his house several times since his return from Europe. Q.—Were your visits since then as frequent as before? A.—I can't say; I never kept any account of them.

Cross-examined.—Q.—When was this party? A.—I can't say; I have a very bad memory as to dates; it was a large party, of about thirty ladies and gentlemen; it was before he went to Europe; I should say it was as many as six or seven years ago; I am not positive in regard to time; I think there were as many ladies as gentlemen; I resided in Warren street at that time, and I think Mr. Willis Jones resided at the Battery Hotel; the regular supper was about 12 or 1 o'clock, and the second about 2 o'clock; it was about spring or fall; I think it was after daylight when we got up from the supper table; the shutters were closed, and some one of the party announced that we sat up beyond daylight; we probably remained three quarters of an hour after that, while we were taking the mint juleps; I never slept in the house when Mr. Forrest was away; I have visited Mrs. Forrest in Sixteenth street; I have not visited Mr. Forrest since the separation.

Q.—Has your acquaintance dropped? A.—I really know not how to answer that—Mr. Forrest, I believe, has dropped my acquaintance; he has not spoken to me on two or three occasions that I have met him, but I have no feeling against him; Mrs. Forrest partook of the supper; I have seen Mrs. Forrest drink champagne; I don't remember that she ever drank brandy and water.

Q.—Have you not, to-day, said that she has drank brandy and water? A.—No, sir; I don't remember; I don't recollect that I have ever seen her drink porter; she has drank champagne and sherry when I asked her to take wine; I don't remember that she has drank mint juleps.

Q.—Did you not say, to-day, that she has drank brandy and water?

A.—You asked me, and I said I saw her drink champagne and sherry wine, but I don't remember I said I saw her drink brandy and water, or mint juleps.

Q.—Have you ever seen Mrs. Forrest smoke? A.—I have seen her smoke, some half a dozen times, what are called ladies' cigars, or cigarettes; I saw her smoke in Twenty-second street, in the dining room; I have not visited her, I should say, for eight or nine weeks; I have resided out of town for five weeks; the last time I saw Mrs. Forrest was in the middle of November, and I left town about the 9th of December; it was at the Irving House I saw her; I had no supper with her.

Q.—Are you able to say whether, as a general rule, Mr. Forrest kept early or late hours? A.—As a general rule, he had the reputation of keeping early hours, except when there was company.

Q.—How was it from your own knowledge? A.—As far as my experience goes, I have felt uneasy at keeping him up after twelve o'clock; I am, or was, rather a late sitter up

To Mr. O'Conor.—If I remember rightly, I should say Mr. Forrest was present when I saw Mrs. Forrest smoke; I have seen her light his cigar with her cigarette; I don't remember that I have seen her light his cigar in any other way; I don't remember ever seeing his cigar in her mouth, for the purpose of lighting it.

Mr. Van Buren asked Mr. O'Conor if he intended to call Mr. W. C. Bryant.

Mr. O'Conor replied that Mr. Bryant was a highly respectable witness, and whoever would call him would obtain the truth from him. With the exception of Mr Whittley and Ellen Lawless, a witness whom he had issued a subpœna for, he had no further witnesses. Ellen Lawless was a witness to the conversation in the house in Mercer street. He (Mr O'Conor) would not be able to occupy the remainder of the day, as he had not yet succeeded in finding her.

The Chief Justice asked Mr Van Buren if he was ready to proceed.

Mr. Van Buren said, if the Court meant had he any witnesses present, he supposed he had; but the Court would see that on this, the last day of the plaintiff's testimony, evidence had been produced which the defendant had had no notice of, and he submitted that the plaintiff should finish before he was asked to go on.

The Chief Justice said, if Mr. Van Buren went on, he would hold the counsel for the plaintiff to the understanding that he was to call those witnesses only whom he had named, and for the purposes mentioned.

Mr. O'Conor said he proposed to examine Professor Hackley when he arrived, and he would be prepared to show that the reason he was not called before was because he had been in Boston for some time past.

Mr Van Buren would consent to the examination of Professor Hackley at any time before the summing up.

Mr. O'Conor.—Then, as far as Professor Hackley is concerned, that is settled. We then propose to examine Ellen Lawless, who has been attached, when she is found; and Mr. Whittley, who has been already before the Court, and whose testimony was at that stage of the proceedings objected to and not admitted.

The Chief Justice said he would allow, at any time during the trial, the examination of a witness who had been attached and whom it was impossible to produce before. The Court could not compel the defendant to go on with his case now, and would adjourn till next morning.

January 15th.

Mrs Forrest was accompanied by Mrs. N. P. Willis. Miss Virginia Sinclair was in an adjoining room. Mr. Forrest was in attendance, seated by his counsel. There were several ladies in court, who are to be called as witnesses.

Thos. Whittley, (already sworn,) examined by Mr. O'Conor, deposed—

Q.—Had you, at any time within two or three years back, a conversation with Mr. Forrest, in which houses of ill fame were mentioned by him? A.—Yes, sir. Q.—What was said by Mr. Forrest?

Mr. Van Buren said he did not know how far the aspect of the case was changed since this examination was offered before, when the question was rejected by the Court.

The Chief Justice considered the proper way for counsel would be to state what they intend to prove.

Mr. O'Conor, in contending for the admissibility of the question, said that he had a right to show, by this witness, a corroboration of the character of the houses where Mr. Forrest visited, by his own admissions. He had complained to this witness, that he could not visit a house of that description without being dogged at the heels.

Mr. Van Buren had very little to add to the objections he advanced when Mr. Whittley was formerly on the stand. As he understood the testimony of this witness had no reference to the house of Mrs. Ingersoll, he did not see that it was competent.

The Chief Justice thought the offer made by Mr. O'Conor was too vague and indefinite, and unless the evidence could be connected with the fact of his visits to Mrs. Ingersoll's house, it was not competent.

Mr. O'Conor excepted to the ruling of the Court, and Mr. Whittley left the stand for the third time

Michael G. Hart sworn. Q.—Do you know two young ladies named Miss Charles? A.—I do not; ladies have been pointed out to me as the Misses Charles, but I do not know them personally.

Mr. O'Conor then read the following:—

[A 1.]

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 Twenty-second street this afternoon.

I will return some time betwixt this and morning.

Half-past 2. Yours ever,

EDWIN.

Mrs. EDWIN FORREST, Twenty-second street, within three doors of Ninth avenue.

[A 2.]

MY DEAR KATE:—I shall dine in town to-day; so don't wait dinner.

I shall be at home some time between dark and day-light. Yours truly, EDWIN.

Mrs. EDWIN FORREST, Twenty-second street, near Ninth avenue.

[A 3.]

MY DEAR KATE:—Mr. Grattan, Mr. Bryant, Mr. Placide, and Mr. Lawson will probably dine with us to-day, so please make preparation. I have sent a basket of champagne home. Yours entirely,

Mrs. FORREST. EDWIN.

Mr. O'Conor said there was no date to those letters. I will now give in evidence, seven notes marked B, from 1 to 7 consecutively.

Chief Justice.—Have they any dates?

Mr O'Conor —Some of them have dates, but they are all supposed to be written in the fall of '48.

[B 1]

MY DEAR KATE:—I had so much to attend to yesterday that I could not find time even to write to you as I promised. I send you my card, published in the *Pennsylvanian*, in reply to Mac's speech, which was reported in the *Ledger*, which I also send you. R. Penn Smith is sitting by me, and is looking quite well He sends his best regards. I shall send duplicates of the published articles to Stevens. I just received a letter from him, and one from Mr. Gould Mr. Gould's letter is written in good taste, and doubtless with a kindly feeling, but it comes too late. Your own EDWIN.

Box Office, Walnut street Theatre.

[B 2]

SATURDAY, November 25, 1848.

Your letter written on Wednesday did not reach me until this morning, and was handed to me with yours of yesterday. The dresses came yesterday, and I wore that of the Gladiator last night. It looked quite well. The theatrical excitement is yet great. There are now two parties, the American and the English, and I have no doubt the former will triumph. —— packed his house on Wednesday last with police officers and English workingmen from the manufactories here, and when the doors opened the house was two thirds filled. There was some hissing, but it was put down by the superior numbers of the hirelings. On Thursday, at the Walnut, after the play, I was called out by one of the fullest houses of the season, and greeted with *nine cheers*, after which they gave *three groans* for my opponent. In the circus, on the same night, three cheers were proposed for Forrest, and heartily responded to by a full house. Macready has answered me in a card in which he threatens a suit at law, which *he will never prosecute*. He dare not.

My engagement will last here until the 9th proximo, when I shall probably go to Baltimore.

I am glad you approve my card. It is thought by many here, I am told, to be too harsh, but I do not think so. The axe, and not the pruning hook, was necessary to be used, and I used it. Englishmen must be *cuffed* into a proper conduct toward us; a milder treatment would not reach the disease.

Judge Conrad was not in town during the *emeute*, or things, perhaps, would have ended differently. I think Mac has received his death blow *professionally*, in this country. The feeling manifested against him here will spread over the whole continent. Last night he acted to a poor house, while there was a full one at the Walnut. Marshall will call to-day and get all the English *scraps*. Send them *all*, if he should not call to-day, by express; and also Mrs. Mac's letter, which is, I think, in the Russia-leather writing desk. The key is in the library drawer, which you can open, perhaps, with one of the numberless stray keys about the house. My engagement here has been a most brilliant one I hope you are well. My sisters send kindest greetings to you, and hope soon to be with you.

I send you some scraps from the *Times and Keystone*, a paper generally hostile to me.

Make a parcel of the scrap-books, and send them by express.

Yours, ever, EDWIN.

I have written this with the worst apology for a performance. Pray excuse it

[B 3.]

THURSDAY EVENING.

I am not so well, my dearest Kate, to-day as I was for a few days past I am suffering from severe headaches and these I could endure uncomplaining but for the horror of going before the public in an assumed character, in which, as in the case to-night, the blood will be sent to my brain with tenfold force. This is the *pleasure* of acting!!!

Mac had a good house the first night, but they have been falling off ever since. Last night he played to one *half full*, and I see by the underlining he closes here to-morrow instead of Saturday night, as he was originally announced. I write this in great pain, and in some haste. Wagner begs to be remembered.

Yours ever, EDWIN.

I will write you to-morrow.

[B 4]

BALTIMORE, Dec. 15, 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 Fonthill; 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 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 du mouchoir*, which he now gives with *tours des forces*.

Wagner wishes to be remembered. Tell Stevens I received his letter, but 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.

The enclosed correspondence is from the *Baltimore Patriot* of to-day.

[B 5.]

PHILADELPHIA, Tuesday morning, Nov. 23, 1848.

Thanks, my dearest Kate, for your letter of yesterday, containing the "scraps." I like very much the article from the *Evening Post*. How much I should have enjoyed the visit to Fonthill you name; and if the weather with you was as fine as it has been here for the last week, you must have wished, as I did, to be at Fonthill every day. Send me, by express, "Mac's Biography," contained in Oxberry's Lives of the Actors. There are two volumes, you know. I forgot to tell you that, on Wednesday last, at the Arch street, they raised the price of admission to the pit to *one dollar*, fearing another attack. As yet I have received no legal notice with regard to the suit, nor do I expect it; it would be a most silly action on his part. The miserable penny-a-liners, who abuse me of "coarse and brutal language" towards "*Mac*," outstrip in Billingsgate anything I have ever read; but I can live down all their vituperation. By the prints, I perceive Mac will give readings next week in New York.

My engagement will close here on Saturday, the 9th, and I shall then perhaps go to Baltimore, provided they have a sufficient company. You had better pay me a visit for a week or so, and come on about Saturday, 2d of December. Sisters send their love to you, and believe me, my dear Kate, your own EDWIN.

Have you had any return of your headache?

Remember me to Stevens.

[B 6.]

MY DEAREST KATE:—I made an effort to write to you yesterday, but a pain which I had in my chest increased to such a degree that I was forced to drop the pen and betake me to bed. My suffering continued till about the second act of Richelieu, when I found some abatement of the extreme agony. After the play, I was rubbed with alcohol, and finally was entirely relieved from pain. I cannot trace this attack to any cause; it

might, however, have arisen from cold and indigestion.

I am exceedingly comfortable in my new quarters, a large airy room, where I breakfast and dine upon excellent fare, and receive every possible attention.

I feel, my dearest Kate, somewhat concerned about your frequent attacks of the headache, and sincerely hope you have had no return of the affliction since I left you.

You remember Mr. Wood, who made our Glastonbury chair in England; he is now here, and has some beautiful specimens of carving after the antique, which I have been very much pleased with; he has also specimens of carving of the Louis Quatorze style, which is very elaborate and very beautiful. I have thought to get him to fit the drawing-room at Fonthill, instead of sending for the transpice leather which we spoke of.

The houses here have equalled those of last year, and may, I think, grow better, but the election excitement is greatly against us.

What have you been doing since I left, how have you employed your time, and how comes on the "superannuated?"

Pray write me soon, and believe me, my dearest Kate, Yours, ever and sincerely,

Thursday morning. EDWIN.

[B 7.]

MY DEAREST KATE:—I am doomed for a third week here, which I regret, as I have sent a nice little wagon to the care of Mr Smith, which I intended should carry us to Fonthill during the fine weather.

If the superannuated should not begin in Philadelphia after the New York engagement, we could yet have a week for Fonthill.

I am sorry your letter and the catalogue did not reach me until this moment, as I should like to have some of the Shakspeariana; it is now too late; but if you could send some one for to-morrow's sale, to buy Lamb's Chaucer, 361, and the old quarto plays, 369, I would pay for the first, $15, and for the plays, $10. Business here about the same as last year I have had no more returns of the pain, thank God; and am as well as I can be, under the affliction of the theatre fiend.

The Whitneys beg to be remembered to you, and they are full of gladness, caused by the receipt of letters from their son, who is now in London

From what paper did you obtain that impertinent notice of the Fairmount boys? You tell me nothing about your own health. Why don't you say something of that? God bless you, my dear Kate, and believe me wholly your EDWIN.

29th Oct., 1848.

When Mr. O'Conor came to the last part of that letter in which Mr Forrest says, "Englishmen must be cuffed—a milder treatment would not do," there was great laughter.

Mr. O'Conor.—I now call a witness whom I should not call, only something might be said by the other side if we did not produce her.

Miss Virginia Sinclair was then called, and conducted by her sister (Mrs. Forrest) to the stand She is a very mild, innocent, and interesting young lady, with a sweet cast of countenance and expressive eyes. She gave her testimony with much earnestness. She deposed.—I am a sister of Mrs. Forrest; I was fifteen years of age last May; I am the youngest of the family. Q.—Do you remember the circumstance of Mr. Forrest and his lady going to Europe? A.—I remember that they did go, but I don't remember the year; my memory is not at all distinct as to occurrences previous to that time. Q.—Since the return of Mr. Forrest from England, have you frequently spoken to him? A.—Not very often, unless he spoke to me; he did not speak to me very often. Q.—Do you remember who were the persons who most frequently kept Mr. Forrest's company when he was at home? A.—Mr. Stevens, Mr Lawson, Mr. Carr, Mr. Montgomery, a butcher, and Mr. Smith, a builder. Q.—Had he frequently ladies? A.—No, sir; Mrs. Forrest generally attended to Mr. Forrest's affairs; got his things for him, and attended to his calls; he seldom spoke to the servants; Mrs. Forrest communicated his wishes to the servants; Mrs. Forrest made all his professional wardrobe, and packed up all his things.

Q.—Did you ever know of Mr. Richard Willis ever being concealed or locked up in any part of the house in Twenty-second street? A.—No, sir; he was never concealed, and could not have been without my knowing it; we saw him very frequently, but he was never concealed; he never gave me a lesson at anything; I never told Mrs. Underwood that Richard Willis, or any gentleman, was concealed in any of my sister's rooms; I never at any time caught hold of Mrs. Underwood, or forbid her going into my sister's room, because Richard Willis or any gentleman was there; I never told Mrs. Underwood that Richard Willis 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 in that room; they were placed between the windows; the space between the fireplace and the rest of the house was occupied by a large picture; a sofa could not be put there conveniently. [Diagram produced.] I was present when this was made; it is a correct representation of the lower story, Twenty-second street; the windows of the drawing-room were always kept shut; Mr. and Mrs. Voorhies are in Italy; they went to Europe on the 26th July, 1851; I was in Court the first day of this trial during the opening speech. Q.—Were you present on any occasion within a month or six weeks, when your sister received a visit from a gentleman at her present residence? A.—Yes, sir. Q.—How was he announced? A.—He sent up his card.

Mr. Van Buren objected.

The Chief Justice asked what was proposed to be proved?

Mr. O'Conor said, that some weeks before the present trial a gentleman called on Mrs. Forrest; she did not know him, and he stated as his excuse for calling on her, that he had heard that Mrs. Forrest had called on him, and requested to see him. There was no one present but Mrs. Forrest and her sister; the name on the card was Mr. Blankeman, the gentleman who, it was proved, went to Washington, as the agent of Mr. Forrest, to procure the attendance of John Kent. Mr. Blankeman has been constantly in court during the trial, and he (Mr. O'Conor) took it, was one of Mr Forrest's agents or counsel.

Mr. Van Buren contended that it had no relevancy Mr. Blankeman having been sent to Washington for John Kent since this trial commenced, had nothing to do with Mr. Forrest.

Mr. O'Conor replied, and said that he offered it with the same view as he had offered Mr. Forney's letter.

Mr. Van Buren submitted that it was utterly immaterial until it could be shown that Mr. Blankeman was sent there by Mr. Forrest.

The Chief Justice said the only connection proved between Mr. Forrest and Mr. Blankeman was his going to Washington to look up the witness, Kent. It seemed to the Court too remote—too vague.

Cross-examined.—I first went to school in Sheffield, Massachusetts; I was there I suppose a year or two; I haven't been to school since then; I have received instruction at home since that from Mrs. Forrest; I had no other teacher; I do not know who paid my bill; I presume Mrs. Forrest. Q.—Do you say Mr. or Mrs. Forrest? A.—I think Mrs. Forrest. Q.—And for your dresses? A.—Mrs. Forrest. Q.—Was that always the case? A.—I think so, sir. Q.—Did the money for the purpose come from Mr. Forrest? A.—I don't know, sir. Q.—Don t you know from Mrs. Forrest that it did? A.—I presume it did; I don't remember Mrs. Forrest telling me it did; I don't remember Mr. Forrest sending me money for the purpose; since I have been in this country, I have always lived with Mrs. Forrest; that is my home; I came over with my father and mother, after Mr. and Mrs. Forrest came; I was three years old then, so I don't recollect.

Q.—About how old would you have been in '48? A.—About ten or eleven years old; I usually retired about eight or nine o'clock; I slept in the upper, the third story; I rose about seven or eight o'clock.

Q.—Do you think there would be any difficulty of a gentleman stopping all night, and leaving the house before you got up at seven o'clock in the morning? A.—There might. Q.—Might that not have been done every night in the week, without your knowing it? A.—I think not, sir. Q.—Why? A.—I think I would have heard somebody speak of it. Q.—And if you heard nobody speak of it you could not tell? A.—No; I don't recollect the fall of '48. Q.—Do you recollect Mr Richard Willis sleeping there? A.—I think not, sir Q.—If he had you would have heard of it? A.—Yes, sir. Q.—Who were Mr. Forrest's friends? A.—Mr.

Stevens, Mr. Lawson, Mr. Carr, Mr. Montgomery, Mr. Smith; he had others, but I do not recollect their names; Mr. Raymond never slept in the house; if he did I think I should have heard of it from the servants; Capt. Howard never slept there that I heard of; I do not know of Capt. Calcraft being there till very late; the sofas may have been moved, but they were usually there; the blinds were very nearly always closed; I mean that the green blinds outside were closed so that you could not see in; there was a piazza in the library, where all the blinds were usually shut except one; Mr. Willis occasionally visited Mrs. Forrest; I cannot say as often as once a week; perhaps as often as once a month; I don't think as often as twice a month; Mrs. Willis would be sometimes with him; Mr. Placide was one of the gentlemen who visited Mr. Forrest; Mr. Bryant and Mr. Godwin also; I was not present when Mr. Macready dined with Mr. Forrest; I was up stairs; I can't form any idea how long that was ago; I do not know Mr. Jamieson. Q.—Are you able to say if he ever visited Mrs. Forrest? A.—I didn't think he did, for I never saw him there; I usually dined with Mr. and Mrs. Forrest; we dined at three o'clock, when Mr. Forrest was acting, when he was not, the dinner was late; I always dined at the table with them.

Q.—When do you last remember seeing your sister Margaret (Mrs. Voorhies) and Mr. Forrest at the house at the same time? A.—I can't remember; I remember that Mr. and Mrs. Forrest did separate; I was with them at the time; my sister (Mrs. Forrest) never told me why they did separate; Mr. Forrest never told me; when they separated, I went to live with my sister, Mrs. Voorhies, and remained with her until Mrs. Forrest took the house in Sixteenth street, and then I went to live with her; I have always remained with Mrs. Forrest since then; I am living at the hotel with her now; I remember Mr. Richard Willis being at the house frequently in the day time; I believe he was staying with his brother. Q.—Do you recollect seeing him in a bedroom at Mrs. Forrest's? A.—Never. Q.—Did he ever spend the evening, or part of the evening, alone with you? A.—No, sir. Q.—Was he ever in the library with you alone? A.—No, sir. Q.—Or in any other room in the house? A.—No, sir; Captain Calcraft may have dined with my sister when Mr. Forrest was away, but I do not recollect being present. Q.—Have you ever heard that he did? A.—Not that I recollect; my sister made Mr. Forrest's dresses as long as I can recollect; I recollect ever since they came from Europe; I do not remember the year; I do not remember ever seeing Mr. Nathaniel P. Willis alone with Mrs. Forrest; I never saw Mrs. Bedford let him out.

To Mr. O'Conor.—I have never seen any of the affidavits or testimony in this case, except Mrs. Underwood's; I saw it about a week ago; that is the only part of the testimony I ever saw or read; I was alone when I read it out of a morning paper.

Mr. Van Buren said he did not want to know what she read in a newspaper, but what she saw in the house.

The Chief Justice said it was immaterial evidence.

Witness.—It was after the return of Mr. and Mrs. Forrest from Europe that I went to Sheffield to school.

Q.—Is your memory good in relation to incidents about the house, as to where you were or where you dined?

Mr. Van Buren objected, and the Court sustained the objection.

Witness, to Mr. Van Buren.—Madame de Marguerite, a friend of my sister, came with us to the Irving House.

Ellen Lawless deposed—I lived with Mr. Wilson, No. 142 Mercer street; I remember a woman hiring a room there for part of a day; she was brought by a man whom I presume I had seen before, but I don't know; she occupied a back room on the third floor; it had two windows in the rear, and one window from a dark bedroom which received its only light from the two back windows; it was towards evening; I went into the room with a pitcher of ice water to her; I think a gentleman was with her, but I am not sure; there was nothing done in the room to accommodate it for her; there was nothing done by me to any of the windows; there was a new piece of muslin in one of the back windows, and also in the window to the dark bedroom; I did not put up the muslin there; I can't say who did it; those pieces of muslin were not usually there; they were fastened up with pins or tacks; I may have been in the room that day twice or three times, but I don't recollect; the second time I went in was to carry her something to eat; those curtains were not up when she came; I can't say, but I believe they were not up there after she left; I do not know to whom those pieces of muslin belonged; I don't think I should know the gentleman even if I were to see him here.

Cross-examined.—I don't know what I went in for the third time; not to sit with her; there were two beds in the room; I am not a connection of Mr. Wilson; I know the Rev. Dr. Cox; he boards at Mr. Wilson's.

Mr. O'Conor then said he would give, in evidence, some letters of Mr. Forrest to his wife.

The Court took a recess for a few minutes. On re-assembling Mr. O'Conor proceeded to read the letters.

The Chief Justice asked how are those letters marked?

Mr. O'Conor replied, C 1, and so on:—

[C 1.]

THURSDAY AFTERNOON, July 20

I received, my dearest Kate, your note of Thursday evening, on Monday last, and its enclosure of the *Courrier des Etats Unis*. The attempt made by the insurgents was doubtless directed by the late king, and other royal robbers in Europe, who are now at work to bring the republic into contempt. I am now more convinced than ever that the safety of France required the death of the whole royal family.

I am happy to say that my health is entirely recovered, although my nervous system has been severely tasked.

Thank God, my probation ends on Monday next, when I go to Detroit, where, I hope—perhaps vainly—to have less work to perform.

Fonthill looked finely from the river, and I wished you were here to enjoy the sight

The fact with regard to Lacordaire having been the pupil of Talma, does not seem to be well authenticated in the paper you sent me, but it may, notwithstanding, be true.

The words in parenthesis, at the close of your note, were needless, as you know *mine* is more than yours by odds. How comes on the house? and what is of much more consequence to me, how is your health? Yours, ever and sincerely,

EDWIN.

[C 2.]

SUNDAY, 16th July.

MY DEAREST KATE—I have not written you until now, for I have not been well, having suffered much from headache, and have been overtasked in the theatre, by rehearsing ten acts a day, and acting at night. Of course they could not find time to rehearse the pieces previous to my coming. (Such infernal rehearsals, too, every one needed prompting, make the profession anything but agreeable.) There has been a great opposition to the theatre, in shape of other entertainments more suited to the taste and capacity of the people here—the circus has irresistible charms for them. I refer now to the self-styled *elite*—the distinguished nobodies. I might have stolen time to go as far as the telegraph office, to send you a message, as I promised, but since my last despatch by that conveyance I begin to think that lightning is not so fast as it is cracked up to be. I have not been well enough to read any of the MSS. yet, but hope to do so in a few days.

My head is still aching, but in a less degree.

As soon as you get through with house-cleaning, you had better accept Mrs. Godwin's invitation, and take salt bathing. Your health, I think, would be much improved.

I seem quite lonely without you, and even in this short absence have often wished you were here; but the three weeks *will* pass away, and then we shall see each other again.

Tell Lawson I received his letter and receipts, &c., &c. The weather is quite cool here. Write me soon, and tell me how you get on. Yours, ever truly,

EDWIN.

What a glorious baptism of blood was that in Paris! Did I not say they should have killed every remnant of royalty? What are the lives of such moths, compared to the life of one honest, industrious man?

[C 3.]

PHILADELPHIA, Tuesday.

I received the dresses, my dear Kate, on Saturday

morning last, and in good time for all needful purposes. That of William Tell I wore on Saturday night; it fitted me exactly. I was much pleased with it, and it was greatly admired by those of good taste among the performers. Mrs. Judge Conrad, who was in the house during the performance, said she never saw me in so becoming a costume. It is really very picturesque. I thank you sincerely for your excellent handiwork, which, indeed, gave a fresh impulse to the performance of the character.

By this time you have, I presume, made all your arrangements for the safe keeping of the house during our intended sojourn in the South. We shall have to leave New York on Wednesday of next week, to arrive in Charleston in time for the 25th of this month. My wardrobe I shall have to take with me, as the carriers do not forward luggage to Charleston. I shall need the large black trunk now in New York, which I can get when I come there, as the small trunk which is here is in a most ricketty condition

You said nothing about the launch of Captain Britton's new vessel. Did you go? If you have found the note belonging to Mr. Sutton, you had better enclose it to me.

Business here continues to be very good, considering the fine sleighing, which usually injures the theatres much. All here beg to be kindly remembered to you. Tell Lawson to have the wine and pictures sent to Twenty-second street, and pay the duties, and so forth.

Yours, EDWIN.

Have you heard of the shawls?

Judge Conrad was in New York, and never called.

[C 4]

MY DEAR KATE:—The storm of last night prevented me from reaching Boston until this morning at half-past 10 o'clock. I hurried to rehearsal without my breakfast, and what was worse, without the MS. of Metamora, which unfortunately you had packed with my dresses in the trunk sent by Harnden's Express. So that for all the good I have done, I might as well have remained in New York until this evening.

Send Margaret's account of the house affairs, that I may audit it at my leisure here.

Yours truly, but out of sorts,

Sat. half-past three. E. F.

[C 5.]

SAT., 15 Oct., 1847.

Your two last letters have been received, and I thank you, my dearest Kate, for your kind attentions in writing to me so often; indeed, your messages are always welcome. In my last note to you I forgot to say that I should have no objection to own Marat's coat, provided it would fit me, and could be made available for the stage; but I shall be in New York to-morrow week, and then I can determine about it

My benefit last night was $486 50. Since they have altered the front of the house it does not hold the amount of money it did last season by one-third. I have received, however, for the ten nights, about $2000. On Wednesday last, in playing Othello, I had an attack of my old complaint—a violent rush of blood to the head—and suffered from intense pain; and what is strange, I never acted some parts of the character better.

I shall not perform Oralloossa here, but in place of it act Rolla; you, I suppose, have sent the dress.

I am glad you did not go to Fonthill, as I do not wish you to do so until I accompany you.

Whitney is so much engaged in business, that I suppose he will not be able to visit New York with Fanny, this fall.

Sol. Smith has repented of his folly in not securing me, and now he writes, when it is too late. I told him he was no manager

The mules, I shall be pleased to hear, have taken the prize at the fair.

Before I left New York, I wrote a letter to A. J. Davis, relative to the question I wished him to solve—he has not yet answered.

I saw William Conrad yesterday. He sails to-day, in the Hebunico, for Europe; he goes to Egypt—alone.

Write me soon, and believe me ever

Yours, EDWIN.

Have you taken in the plants from the garden—the tulips and lemons, &c.?

[C 6.]

The dress of Claude, my dearest Kate, has arrived in ample time. I wore it last night, and was much pleased with the improvements made in it. Your letter informing me of the purchase of the "Illustrated Primitive History," came also to hand I am greatly pleased in being the owner of that book. Do you not think it would be well to have it bound in the old style, with clasps, &c.? I am of opinion it is worth it. Will you have it done in my absence?

Yours, ever truly and devotedly,

TUESDAY. EDWIN.

[C 7.]

TREMONT HOTEL.

MY DEAR KATE:—I received the dress for Macbeth in ample time, and am much pleased with the tasteful and appropriate manner in which it is finished—nothing of the kind could possibly look better, and it fits me perfectly. You did not, I suppose, send the shield, as it has not come to hand.

Wiley and Putnam sent me word that Mr. Merton's portrait has been *smashed* in the hold of the ship Christiana. This must have happened through sheer negligence, and no payment of money can compensate me for the loss. Of late, it seems, I encounter nothing but ill luck.

Mr. ——— with his daughter are residing in this hotel, and seemed glad to see me. They inquired in the most friendly manner about you, and would, I am sure, be glad to hear from you. They go to New York in a few days, and have promised to call in Twenty-second street.

I sent by Wikoff twenty pounds to your mother to purchase the shawls, and have advised Mr. Burton, the Consul at Cadiz, through Messrs. Sprague and Horner, that the money for the two pictures from Murillo is placed to his credit in Boston I wish you to watch attentively the progress and mode of putting up the furnace, so that you may understand the working of it thoroughly, to give the necessary instructions afterwards to the servants.

All accounts due by me I wish to be sent in *immediately*, so that on my arrival in New York I may make provision to settle them. You will, also, make up the European expenditures, and the account of all moneys expended by you since our arrival here.

Mr. and Mrs. Whitney beg to be remembered most kindly to you. I have nothing further to say, save that I am suffering from an unusual depression of spirits, which I endeavor, but in vain, to get rid of.

Yours affectionately, EDWIN.

[C 8.]

PROVIDENCE, R. I., 19th Sept.

MY DEAREST KATE:—I am better in health, and still improving. Hamlet on Tuesday, about $250. Last night, Othello, about $200. To-night, Richard; and to-morrow, Metamora; after which I shall have a rest until Monday, when I do C. Melnotte. The company here is tolerable, and I think will answer very well. Allen seems to be in his glory as manager.

I have received two letters from Mr. Thorne relative to Boston. Pelby will only divide after $100, or give me $750 for the first week, and divide the second after $100 per night—all of which I refused.

God bless you ever, EDWIN.

Write, and let me know how you are.

[C 9]

MY DEAREST CATHARINE:—I have just received your letter of 4th instant, and thank you from my heart for the affectionate expressions contained therein. I arrived here on Thursday, with the purpose of acting that night, but the play was postponed until last night, Friday, because of a large torch-light procession, in which nearly all the young men of the city were engaged. Last night I opened to about $220—poor enough; but the manager assures me that the nights of next week will be very good, and so I have consented to remain for a few nights longer. Should the houses improve, I shall probably stay here until the close of next week; but if they fall off, I shall return forthwith to New York.

I am quite tired of this wandering, and every hour I wish myself again with you. I wonder how much longer *I shall be forced to continue this hateful vagabond life.* The papers which you send I regularly receive.

God bless you, my own dearest Catharine, and believe me wholly yours, EDWIN.

Saturday afternoon.

[C 10.]

ALBANY, December 2, 1842.

MY DEAREST CATHARINE:—I this day received your letter which announced the melancholy intelligence of poor old Jones' death. Of course I expected that such must be the result very soon—yet, notwithstanding, the knowledge of the fact that he is no more has filled me with sincerest sorrow. He was an honest man, and a kind and devoted friend.

The letter from Boston—which you sent—was from Mr. Whitney; it contained the bill of lading, which I herewith send to you—pray, ask Mr. Lawson if he will see to the freight. Make my most grateful acknowledgments to Lawson for his very kind attentions during the late mournful duties.

It is very likely that I shall remain here for another week. The houses have been very good thus far, and I have reason to believe there will be no falling off during the remaining nights The great fall of snow, instead of injuring the theatre, will be of the greatest service to it, as the people come in sleighs from all the neighboring towns.

And believe me, affectionately and devotedly, your own EDWIN.

[C 11.]

ALBANY, Nov 30, 1842.

MY DEAREST CATHARINE:—I did not arrive here until half-past three o'clock on Monday; the steamboat, in consequence of the ice in the Hudson, landed us about twelve miles below, and we had to take stages from thence to Albany. The weather is intensely cold, and I have suffered a good deal. To-day it began to snow, and now (12 o'clock, P.M.) it is a foot deep upon the level. The houses have been pretty good, and to-night, much to my surprise, there must have been more than one hundred dollars in the house. In New York, under the same circumstances, I doubt if there had been twenty.

Remember me to old Jones, and, believe me, ever your own EDWIN.

[C 12.]

MY DEAREST CATHARINE:—Excuse the paper; I am writing in the box office of the Arch street theatre, and they have no other to give. Mr. Porter is satisfied that Mrs. Jones should remain until her husband is pronounced out of danger. I left Mrs. Jones's letter at the house of Mrs. Coles.

Henriette and I got here safely, and she seems quite delighted with her visit to New York, and the attentions of Margaret and yourself.

I hope, my dearest Catharine, you are hourly improving, and that Mr. Jones will be much better in a few days, so as to enable you to come on here.

God bless you. EDWIN.

Monday morning.

Rebecca is delighted with the grapes.

[C 13.]

MY DEAREST CATHARINE:—I duly received the trunk containing the dress for Richard, and played the character last night, a most arduous task, certainly, and I am heartily glad it is over. I have concluded to perform three nights next week—Monday, Tuesday, and Wednesday, and shall leave here on Thursday for New York.

Mr. Grattan called, and asked after your health, and reiterated his regrets that Mrs. G. was not well enough to return your visit while in New York. To-night is my benefit, and judging from the show at the box-office, there will be a great house. The entertainments—King Lear and Rolla.

Captain Howard is here, who told me he had the pleasure of attending you and Margaret to the Chatham Theatre. I hope your father's engagement proved successful there. Has Lawson sent you the balance of the money? The weather here has been remarkably fine. I hope it has been so with you.

I thank you for sending to me the winter vest and the package of hoarhound candy, which was very acceptable.

I very much regret that my return will be deferred for even the few nights mentioned above, but I am anxious to free myself as soon as possible from the Cincinnati debt.

Remember me to Margaret and old Jones. The latter, I hope, is now quite recovered.

Accept, my dearest Catharine, the sincere love of your own EDWIN.

Write soon. Boston, Friday morning.

[C 14.]

MY DEAREST CATHARINE:—I received your letter, together with Capt. Waring's. You cannot think how longed to be with you on your arrival in New York Here, everything is comfortable. I opened on Thursday, to about $256, Vandenhoff at the Holiday street theatre, 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 by, 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 if 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 Caril, 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.

If you see an auction notice which promises something useful for the house, pray let me know.

[C 15.]

MY DEAREST CATHARINE:—I received your kind letter of Thursday this morning, and read it with that sincere pleasure which your affectionate epistles are sure to inspire in me. I saw old Mr. Mackay to-day; he regrets exceedingly that you did not come to Boston with me. He called the day of my arrival with the purpose, he told me, of inviting us to his house as our home during our stay here He positively insists that when we visit Boston together, we must take up our abode with him. He says he can give us better rooms than we can get in the hotel, and that he will do all within the scope of his ability to make us truly comfortable. I was much pleased with the old man's frank and generous offer of hospitality; and though I could not accept his proffered kindness, yet I feel not the less grateful for his friendly and sincere attentions. He spoke of you in terms of unmitigated praise, and said you were every way worthy of my most devoted affection. Of course he made conquest of my whole heart I do love to hear you praised, and value it most highly, when, as in the present instance, it is the spontaneous offering of the candid and the good. I have promised to call on him on Sunday morning next I have just returned from the performance of the Gladiator. Allen has just stepped in, and given me the returns of the house. I have made in the first five nights the sum of one thousand and forty-seven dollars and seventy-five cents This, you will perceive, is beyond the average, and much better than I anticipated. I shall produce Richelieu on Monday for my benefit, when an overflowing house is confidently expected In all likelihood, the coming week will prove even more lucrative than the present one.

Mr. and Mrs. Whitney desire to be kindly remembered to you.

The weather to-day has been delicious, and bids fair to continue so for some time.

You can tell Lawson I will make him a remittance of money on Tuesday next. With the kindest remembrance to Mrs. Leggett and to Margaret, I remain,

Unchangeably your own,

Friday night. EDWIN.

A newspaper, to-day, speaks of the evident improvement in my performance of Macbeth, on Tuesday last, —a part I have not, as yet, appeared in. This is more of the humbug of vile newspaper scribblers.

[C 16.]

MY DEAREST CATHARINE:—I have great pleasure in acknowledging the receipt of your letters of Wednes-

day and Friday, together with the postscript of Lawson's letter and the newspapers. Do not be afraid that I can tire with the perusal of your letters; I hail each one with renewed delight. The more you write the more happy I shall be. I am glad you have received the bust, and that you think it is a good likeness. Suppose you order a pedestal for it. I am sure I shall approve your taste.

There is a great regret at the Eutaw House that I did not lodge there. They had prepared the best room in the house for our reception. You are a great favorite there. I shall dine there to-morrow with Wagner.

The houses have not been so good here, in consequence of the excitement about the election.

Last night there was a grand democratic procession, say between five and six thousand people, with illuminated banners, &c., and in passing the theatre they gave cheers for your humble servant. You will, I am sure, be gratified to hear this, in spite of your *pretended* aristocracy.

I dined yesterday with ———. It was one of those social, quiet and happy dinners which reminded me of some at *home*. What a sweet name that is! How swiftly and how sweetly will the *fifteen weeks* pass! I think of them as much as you do. I have made no engagement for the South, so you may hush your fears.

The company at this theatre is EXECRABLE, in the full meaning of that word. I have played three nights, and received four hundred and fifty-two dollars. This does not reach my expectations, but they promise next week shall be better. At the other theatre they scarcely receive enough to pay for the lights. Remember me to all at home, and particularly to Mrs. Leggett, who, I rejoice to hear, is looking better and more tranquil. She has lost a great treasure.

I hope my dearest Catharine is in good health, and that she may long continue so is the sincerest wish of your own true EDWIN.

BALTIMORE, Oct. 5, 1839.

Excuse this scrawl. I have just heard of a most destructive conflagration in Philadelphia.

After a recess of a quarter of an hour, Mr. O'Conor began to read, as follows:—

[C 17.]

BOSTON, Oct. 8th, 1840.

MY DEAREST CATHARINE:—Your kind letter of yesterday I have just received, and thank you for the kind expressions contained therein.

I am now quite recovered from my indisposition. The weather is beautiful, and so long as it continues thus I shall be well and happy—that is, as happy as I can be in the absence of *one* who forms so considerable a share of all the good which is allotted me.

The cause of my last letter not reaching you earlier was, that I entrusted it to a private hand. The mail had closed.

I receive the newspapers. Pray continue to send them.

Mr. Sigourney Barker is now in New York, and promises to call upon you. He will, I doubt not, give you every information concerning Mrs. Ward. I have not had the pleasure of seeing her.

You ask how I am doing.

1st night	. . . . .	$312 00
2d "	. . . . .	249 75
3d "	. . . . .	410 75
		$972 50

Pray write soon.

Yours ever, EDWIN.

[C 18.]

NORFOLK, Va., March 26, 1841.

MY DEAREST CATHARINE:—I received your kind letter of 22d instant yesterday.

My engagement in Norfolk closed with my benefit on Wednesday last. Last night I performed in Portsmouth, and to-night I play there again, and after the play, I shall leave in the steamboat for Baltimore. The weather fo. the last two or three days has improved, and consequently the houses have improved.

I open in Baltimore on Monday next, where I shall perform for six nights. Concerning the library, I did not "poke" a bit.

I am glad to hear you had a call from Mr. Davidge. He is a very intelligent and agreeable man. Lawson seems to have been delighted with him, at least so he writes, and acknowledges his silence. He gives you also great praise for your polite and gracious conduct on the occasion. Of course I am sure of that.

Mr. Wheatley has written to me, to say he would be glad to engage me for the National. He says Wilson is now out of the concern. The prices are to be advanced.

Pray write me to Baltimore, and believe me ever yours, affectionately, EDWIN.

I send you six newspapers.

I am quite weary of being alone.

[C 19.]

BOSTON, Sept. 26, 1842.

MY DEAREST CATHARINE:—I am happy to say to you that I arrived here yesterday morning, after a pleasant and a speedy journey, in most excellent health.

On my arrival I went to bed, to make up for the loss of sleep which was incurred by being roused at half-past one in the morning, to take the railroad cars. Mr. Whitney called on me about twelve, and found me in bed. Mrs. Whitney and her children are yet out of town, but expect to return to the city in eight or ten days.

The weather here to-day is bright and bland, and I wish you were here to enjoy it with me. A walk on the Common would be delightful.

I am told the theatre has been doing extremely well, and Mr. Niles assures me that my engagement will turn out a very profitable one. I open as Claude Melnotte.

Remember me kindly to old Jones, and say I hope he will be well enough, in a few days, to resume his duties at the theatre. But no more ginger tea. Find a school for Barnard, and let him begin his head work.

Remember me to Margaret, and accept for yourself assurances of my undivided love.

Yours, ever, EDWIN.

George Boyd was then called by Mr. O'Conor, and deposed.—I am a cabinet maker; I sold Mrs Ingersoll some furniture, and went down to get my money for it; I saw Mrs Ingersoll; I never went to see any one else; I seldom went further than the hall; my men were putting up furniture for a month; they were not permanently there for a month; part of the furniture used to come from Philadelphia, and part I manufactured myself; I have seen two or three ladies there, but never knew the name of any but one; she called herself Mrs. Clayton; she came with Mrs. Ingersoll to select the furniture; I do not know the pursuit in life of Mrs. Clayton from my own knowledge; she told me she had been married; I do not know if any of these other women I saw in the house were married; I do not know the pursuit in life of any of them; I cannot say that I saw over one at a time, but I saw three different faces; I think one of them went by the name of Mrs. Russell; she afterwards bought furniture from me, and that is the way I became acquainted with her name; I have been in the house in the evening at work; I have seen gentlemen there, but not to recognise them; I have seen gentlemen, as I should judge by their clothing; when they came they were called into the parlor; I was pushed into another room so that I should not see them; this occurred several times; it was the "yellow girl" who came from Philadelphia with Mrs. Ingersoll that directed me into the other room; I could not tell who it was, but I could distinguish it was a gentleman by the voice and clothing; this occurred two or three times; some of the times were in Greenwich street and some in Houston; these rooms we were sent out of had beds in them; our business there was putting up bedsteads at the time; I was not in a position to see anything on those occasions, and was not in the room again while the gentleman was there; I don't remember there was any other woman in the room at the time I was sent out by the black woman; I cannot mention any action which illustrates their mode of life; I never inquired of Mrs. Ingersoll as to her mode of life; she gave me reference for security, and she run short of money.

Mr. Van Buren.—Never mind; it is a common thing for people to run short of money.

Witness continued—I never watched the house from the outside; I don't remember, on any occasion, going into the room after the gentlemen had left.

The witness was not cross-examined.

Mr. O'Conor said he was not aware that he had any other testimony now; he wished to examine Mr. French, who was confined to his bed, or to other his depositions; then Professor Hackley, and any commis-

sions which may have been issued that may be returned.

The Chief Justice said that counsel would understand that the testimony must be closed, with the exceptions of those parties named. If there was any tender of new matter, after the defendant concludes, it must be shown satisfactorily why it was not produced before.

Mr. Van Buren submitted that the testimony on part of the plaintiff should be closed. If they were to be allowed to search for new testimony all over the United States, like that of Mr. Doty to a transaction which is said to have occurred nine years ago, he considered it would lead to great injustice.

The Chief Justice said he had already laid down the rule that, if a witness was brought up on attachment, he would hear him. The case now rests with the defendant.

Mr. Van Buren called Mr. Wm. C. Bryant; but that gentleman not being in court,

Henry J. Hants was then called and examined by Mr. Van Buren, and deposed—I was born in Norwalk, Connecticut; I now live in New York; I came here quite young; I drove a stage there, between Wilson's and the steamboat; I know Mrs. Harriet White.

Q.—Do you recollect a girl named Anna Dempsey that boarded with Mrs. White?

A.—I don't recollect the Dempsey part of it (laughter;) I recollect a girl named Anna that boarded there; I boarded some distance out of town; I knew Anna.

Q.—Did you ever see anything lewd or loose in her conduct? A.—No, sir.

Q.—Did you ever hear of any immodest conduct on her part? Mr. O'Conor objected.

Mr. Van Buren.—You have sworn that she was locked in a room with this man.

Mr. O'Conor.—I never swore anything of the kind. (Laughter.)

Mr. Van Buren.—Well, one of your witnesses did, and it's all the same.

Chief Justice.—I don't remember that this witness's name was introduced.

Mr. Van Buren —Oh! yes, your honor; he is one of the two men she was locked in the room with. She was so immodest as to have two of them. (Laughter)

Q.—Were you ever locked up in a room with her? A.—No, sir (with emphasis.)

Q.—How old was she at that time?

A.—She was about sixteen or seventeen years of age then; her general conduct was good so far as I know; I couldn't tell as regards her character for truth and veracity; I never heard anything against it. Q.—From what you know of her character, would you hesitate to believe her under oath? A.—No, sir; I would believe her as soon as any other lady I know

Q.—What's Mrs White's general character amongst the people of Norwalk?

A.—Well, I never heard anything against her until I came down here last Monday.

Mr. O'Conor.—That won't do.

Cross examined.—I never saw Anna there but one season; I didn't visit her occasionally; I didn't keep her company; I spoke to her as I would to any one else; it was at Mrs. White's I saw her when I went to fetch water; I don't know whether she was married; I knew nothing about her business.

Q.—Did she go by the name of Dempsey or Elmendorff?

A.—I told you before, I knew nothing about the Dempsey part. (Laughter.) I didn't hear her name as Elmendorff; it may have been ten years ago, or eight years ago. Q.—Have you said of Anna, to a Mr Mitchell, that you got what you wanted of her? A.—No, sir, I have not. (Laughter) I know a man named Mitchell. Q.—Do you know Mr. Mitchell's father? A.—I know old Mr Mitchell. (Laughter.) Whether he is the young man's father or not, I don't know. (Continued laughter.) I never said to Mr. Mitchell that I had got out of Anna what I wanted of her.

Mary Raymond, a respectable elderly looking lady, examined by Mr. Van Buren—Deposed: I live at South Norwalk; I am a widow, living there for forty years; I have a granddaughter living with me; I have four child. living; I knew Mrs Flowers; she stayed at my house te- aree months by the name of Elmendorff; it was in 1845, about seven years ago; she came there some time in April, and remained, I think, until the last of June; she was confined at my house; I can't say what time, but she remained there three or four weeks after it; I recollect some clothes coming there for the child to come to New York in. Q.—From whom did they come? A.—I don't know, except what she told me.

Mr. O'Conor.—That won't do.

Q.—What clothes did she receive? A.—She received a merino cloak and a cap for the child; she received letters about once a week; she wrote letters at my house; they were directed to Miss Margaret Sinclair.

Q.—Did you see anything lewd or immodest in her character or conduct?

A.—Nothing at all but what was becoming in any respectable lady.

Q.—What was her reputation among the neighbors? A.—I never heard the neighbors say anything about her; I never heard anything against her truth and veracity; everything appeared plain. Q.—Would you believe her under oath? A.—I shouldn't be afraid to believe her; I would believe her; I am not personally acquainted with Mrs. White; I lived a quarter of a mile from her. Q.—Did you know her general character amongst the neighbors? A.—Yes, sir. Q.—Was what they said good or bad? A.—Well, it's not much to her credit. (Laughter.)

Cross-examined.—I came on to New York on Monday last. Q.—Who came with you? A.—I don't know the gentleman's name; I don't see him in court; I don't recollect the name; I should know it if I heard it; it was not Mr. Blankeman; four or five of us came down together; Hants, the witness, came with me, and Mrs. Flowers, and two gentlemen; they were New Yorkers.

Q.—Was one of the gentlemen's name Dougherty? A.—I think it was; I don't know the other; I never saw Anna until she came to my house; her health was as good as is generally under such circumstances. (Laughter.)

To Mr. Van Buren.—The name of the Doctor who attended Anna was Gregory.

Jeremiah I. Brooks, examined by Mr. Van Buren, deposed.—I reside in Chatham street; I keep a gentleman's furnishing store at 446 Broadway; I lived in Norwalk; I was born and brought up there to the age of 25; I know Doctor Gregory; his first name is Ira; I was a tailor in Norwalk in '43; I shall be 32 years of age this coming spring; I know Mrs. Flowers; I think the first time I saw her was at Mrs. White's; I was passing, and saw her sitting at the window; I lived within hallooing distance of the house; my place of business was within a speaking distance; I was not then married; the lady to whom I am now married lived there then. Q.—What acquaintance had you with the Whites? A.—I know the Whites, at least Mrs. White, from my childhood up; the next time I saw Anna was at my tailoring establishment; she came, I think, on Mrs. Russell's recommendation to work; I gave her work; she worked for about three weeks at the side of my board, in my shop, from eight o'clock in the morning till near twilight, as long as she could see. Q.—What was the occasion of her quitting work? A.—She left me to work with my present wife, who was a vest maker; she remained with her for about a week or ten days; she left then, and went, I think, with Mrs. Russell; I told her, her work did not exactly suit; mine was of a coarser kind, and she told me afterwards she got work with Mrs. Russell; she was boarding with Mrs. White. Q.—Did you see any lewd or loose conduct in her during the time she worked with you, or as long as you knew her? A.—I did not, sir; I formed a very correct opinion of her character.

To a Juror.—I mean as to her deportment.

To Mr. Van Buren.—Her character among the neighbors was good, for anything I know; I never heard anything against her; from her character for truth and veracity, I would believe her under oath; I know Mrs. White. Q.—What is her general character amongst the neighbors? A.—I would prefer not answering that; there are associations in her family which would make it unpleasant for me to answer.

Mr. Van Buren.—I am sorry for it, sir, but I will be obliged to inquire. Q.—Was the general speech of people about her good or bad?

A.—It was not good.

Q. Do you know why Anna left Mrs. White's house?

Mr. O'Conor.—Don't state why from her statement, or anything she told you.

Witness.—My impression is ——

Mr. O'Conor.—We don't want your impression.

Witness.—If you tell me what you want, I'll answer you.

Mr. Van Buren.—It isn't what he'll take, but what he'll get. He (Mr Van B.) contended that Anna had been assailed in every point, and he wished to show that she endeavored to leave Mrs. White's house and go to board elsewhere.

The Chief Justice ruled that the question was not admissible in that form.

Q.—Do you know of Anna endeavoring to leave that house to go to board somewhere else?

Mr. O'Conor objected to this mode of sustaining the character of Anna Dempsey. The thief on the highway may pay his butcher's bill, and treat his wife and family kindly; but they were not to deny charges against him by showing that he had some good qualities.

The Chief Justice admitted the question conditionally. He said that they might prove that she left the house and got other board. To the witness.—Do you know of her applying for other board?

Witness.—I do, sir; she applied to me to get her board; I did not take her; I had no objection, but I did not know of any place to board her; she applied to me twice while she was living at Mrs. White's.

Q.—What was the reason she assigned for wishing to leave Mrs White? [Objected to by Mr. O'Conor, and not allowed.]

Q.—What was Mrs. White's general reputation for want of chastity?

Mr O'Conor objected

Q.—Was Mrs. White's reputation for chastity made known to Anna? A.—I think it was.

Chief Justice.—Can you say yes or no? A.—Yes, sir, it was; I did not make it known to her; I knew nothing of it being made known to Anna, except from what she told me

To the Chief Justice.—I communicated to Anna that I did not consider Mrs. White's reputation for chastity good, and that it would be better for her to get another boarding house; she did leave.

Q.—What was Mrs. White's general reputation for chastity? A.—I should prefer not answering the question; there are some associations in her family which I respected highly, and I would prefer not answering the question.

Mr. O'Conor.—I shall certainly not consider that this witness has proved anything against Mrs. White by implication, unless he answers the question direct.

Mr. Van Buren repeated the question.

Witness.—Well, sir, it had been considered bad.

Cross-examination.—Q.—Who, in Norwalk, spoke ill of Mrs. White? A.—It would be hard for me to enumerate or call the names to mind. Q.—I will have them, if you please, and their residences. A.—I would rather not.

Mr. O'Conor.—Let us have them. A.—If I am compelled, I will refer to Mr. Absalom Day's family; he is now dead.

Q.—Give me some of his family? A.—Mrs. Smith, now Mrs. Peck, residing in Brooklyn. Q.—Give me the names of some others that spoke ill of Mrs. White? A.—I did not understand you to ask me those I had heard speak against her; I thought it was those who could speak against her character; I have not heard Mrs. Peck speak ill of her; I can give you many names, but dead evidence, I suppose, would be no good. (Laughter.) Q.—Give us some living persons who spoke ill of Mrs. White? A.—I think I heard Mr. Seymour's family.

Q.—What are the names? A.—Uriah and Stephen Seymour; I think I have heard Mr Wheeler's family; Lorenzo Wheeler; I am not positive, but I think Mr. Wheeler's wife also spoke ill of her; they live in Norwalk; I don't recollect that I can name any other particular persons who spoke ill of her before Anna went to live there.

Q.—Try and recollect some other? A.—I think I may say I heard my sister Mary speak ill of her; her name is Mrs. Mary Van Hought; she resides in Williamsburgh. Q.—Give us the name of another? A.—Is it necessary to give the names of the whole community? (Laughter.) Mr. O'Conor.—Yes, sir. A.—Miss Julia Rogers; I can't recollect that, from 1845 down to the present time, I heard any one speak ill of Mrs. White; Miss Julia Rogers is a sister of mine. Anna went by the name of Dempsey, I think; I left Norwalk about six years ago; I did not see Anna Flowers before 1843; I do not think I saw her in 1845.

Adjourned.

January 17th.

The respective parties were in attendance early. The Chief Justice took his seat shortly after nine o'clock. At half-past ten the jurors were called over, but one of them being absent, there was some little delay. On his arrival,

Alexander T. Hosack was called, and examined by Mr Van Buren.—Deposed: I am a physician and surgeon of New York; my father was Dr. David Hosack.

Q.—How long are you in practice?

Mr O'Conor.—Dr. Hosack is a most respectable physician of long standing.

Witness.—I knew Miss Josephine Clifton; Doctor Hosack then deposed, that at the monthly illness some females suffer great pain, and that flooding tends to relieve the pain; I have not read the testimony given by Dr. Hawkes; I have not read any of the case.

Mr. Van Buren proposed to read the testimony of Dr. Hawkes; but Mr. O'Conor objected to that course, and required the counsel to adopt a regular form of questions to Dr. Hosack.

The Chief Justice remarked that the testimony of Dr. Hawkes was to the fact that the symptoms were not those that necessarily attend monthly illness.

Mr. Van Buren to Dr. Hosack.—Suppose it had been proved that a lady was observed in a railroad car in a recumbent position, suffering and complaining of great pain, writhing, and on being inquired of she states that she suffers so every month; that she has travelled, and taken medicine for it; she takes opiates; flowing follows: she afterwards complains of no pain; but says she cannot be removed until her dressing gown is put on; does this indicate that an abortion has taken place?

A.—By no means, sir. Q.—Why not? A.—From a person of gross habit it does not necessarily indicate that abortion had taken place; I would not come to the conclusion that abortion had taken place; it indicates plethora; it is quite possible that the excitement of travelling might bring it on; there would be more or less pain after abortion, but so slight that it might be concealed; I would not infer that abortion had taken place, though it may readily occur; I would not arrive at any conclusion from these appearances; it would be one of two things; that an abortion had taken place, or the monthly illness as described.

Dr. Richard Pennell was called.

Mr. O'Conor admitted that he was a respectable physician of long standing in New York.

Witness deposed.—I was attached to the New York Dispensary from 1819 to 1831; I was afterwards attached to the New York Hospital; I knew Miss Clifton over twenty years; I attended her as a physician from 1825 to the last time she was in New York; I attended her after her marriage; I don't recollect the name of the gentleman she married; he was a gentleman from New Orleans; she was a very large, athletic woman, perhaps as large a woman as I ever saw; she was rather tall, and of large size, and must have weighed over two hundred pounds; her monthly illness was always very difficult; for two or three days before her time she suffered intensely—more so than any female I ever saw.

Q.—Who attended her beside yourself? A.—I have met Dr. Cheesman and Dr. Manly, in reference to this difficulty. The remedy was blood letting, leeches, warm baths, opiates, and so on; the effects of the flowing of blood would relieve in some measure; it would sometimes bring instant relief, but would not entirely remove the pain; she suffered for two days before

Q.—Suppose you should observe a lady under the circumstances I have described to Dr. Hosack, would you draw any 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; I should have inferred nothing more than her common monthly illness.

would not infer from the sudden cessation of pain that an abortion had taken place; I would infer that a flow had just commenced, and that she had temporary relief.

Q.—How was the flow from her on those occasions—copious or the reverse?

A.—Profuse.

Isaac B. Smith deposed.—I reside at 90 Perry street, Ninth ward; I am not an alderman of the ward; I know Catherine Levins; she came to this country in 1842; she lived with me till 1844; she then went to Mr. Edwin Forrest; I can't say how long she stayed with him, some two or three years. Q.—Where was her husband? A.—She told me that they came here together, and that on the third day after they arrived he ran away (laughter); her husband was gone about five years; I saw him in 1847; I saw Catherine after he returned.

Q.—What was her appearance?

Mr. O'Conor objected.

Mr. Van Buren said he wanted to show that she had appearances of quarrelling with her husband. She had said she did not quarrel with him, and he meant to show that she had, and that the husband had the worst of it. (Laughter.)

A juror remarked that Catherine Levins had said her husband was intemperate.

The question was ruled out.

Witness continued.—I asked her how Mr. Forrest acted in his house when he was at home; she said when he was at home, the house was so still you could hear a mouse on the floor; and that when Mr. Forrest was away Mrs. Forrest could enjoy herself and have parties.

The witness was not cross-examined.

Thomas C. Smith, examined by Mr. Van Buren, deposed.—I reside in Twenty-ninth street; I am a builder; I know Mr. and Mrs. Forrest; I have known them since the opening of '47; I visited the house in Twenty-second street very frequently; I cannot say how often; sometimes twice or three times a week, and sometimes not for two weeks, as occasion might require it; I have seen Mrs. Forrest at Mr. Forrest's place in Yonkers, and at different other places; I have seen her smoke in Twenty-second-street and at Fonthill; I have seen her smoke small segars, and I have seen her smoke the ordinary size; I have seen her drink wine and punch also; when I have seen punch made in Mr. Forrest's library; I have seen her take it as well as the rest; I think it was whiskey punch; I did not see her drink brandy or mint juleps.

Q.—Have you ever seen her on the ground at Fonthill?

Mr. O'Conor objected.

Mr. Van Buren said he did not mean to prove any adulterous intercourse there; but he intended to prove that she was seen lying on the ground in an indelicate position.

Mr. O'Conor asked was it in presence of any of the persons charged?

Mr. Van Buren answered that it was not.

Mr. O'Conor.—Then I shall certainly object to it.

Mr. Van Buren stated his proposition, which was to show that Mrs. Forrest was seen lying on the ground, at Fonthill, in an indelicate position.

Mr. O'Conor's objection was on the ground of the irrelevancy of the facts charged.

The Court did not see the pertinency, and ruled out the question.

Witness.—I have seen Mrs. Willis; I do not recollect seeing her at Mr. Forrest's house; I have seen her at Fonthill.

Q.—Are you able to say whether Mrs. Forrest ever smoked in Mr. Willis's presence?

Mr. O'Conor objected; and the Chief Justice ruled it out, as it was re-opening the case.

To Mr. O'Conor.—The time Mrs. Forrest took the punch with the rest, Mr. Forrest was present; the time she smoked the ordinary sized segar, he was not present.

The Chief Justice said he wished they would drop this smoking, there was serious matter enough in the case without this trifling about smoking.

Dr. Elisha Bartlett deposed.—My principal occupation is a teacher of medicine in the College of Physicians and Surgeons in New York, and the Medical School, Vermont; I noticed the testimony of Doctor Hawkes in this case was admitted in 1826.

The question that was put to Dr. Hosack, was put to this witness.

A.—No, sir, not necessarily; it indicates that she is suffering from monthly illness ****** the cessation of pain frequently follows; to say that the flowing of blood necessarily stops the pain, would be difficult.

Alexander P. Fonda.—I am occupied now as receiver and auditor in the Hudson River Railroad Company; from 1833 to the dissolution of the company in 1843, I was Secretary of the Hudson River Steamboat Association; I think it was in 1842 the association separated, and each man took his own boat; the Troy line was a branch of that; we have kept up a distinct organization ever since; I think the Albany was sold in '42 or '43 to the Troy line; she was changed from a day to a night boat after the Troy people purchased her; she was a day boat before; I think she had no upper saloon and no state-rooms on the promenade deck; I don't know that there were any state-rooms; if there were, they were under deck.

To Mr. O'Conor.—After she was changed to a night boat, then there were state-rooms put on the promenade deck.

William C. Bryant, examined by Mr. Van Buren.—I reside in this city, and am one of the proprietors of the *Evening Post*: I have known Mrs. Forrest ever since she came to reside in this city; I have known Mr. Forrest longer; being an acquaintance of Mr. Forrest, I think I called on Mrs. Forrest when she arrived; Mrs. Bryant was an acquaintance of Mrs. Forrest; the last time I spoke with Mrs. Forrest, must have been about two years ago; the last time I have heard of Mrs. Bryant being there was, I should think, very lately; Mrs. Godwin is a daughter of mine; Mr. Forrest has visited my place in the country with his wife; I can't exactly tell when: it might have been three or four years since; I was not consulted by Mrs. Forrest, in 1850, in reference to the difficulty between Mr. and Mrs. Forrest; I think it was in 1848 (witness refers to some notes). It must have been in February, 1850; I understood from Mrs. Forrest that Mr. O'Conor was employed at the time. Prior to the month of February, 1850, Mr. Sedgwick had communicated to me the manner in which he wished to procure a divorce; I spoke to Mrs. Forrest about it, and communicated to her the nature of Mr. Sedgwick's proposition, as well as I understood it; I made the communication at Mr. Sedgwick's suggestion; I saw Mrs. Forrest at her house in Sixteenth street. Q.—What was her reply? A.—She expressed her willingness to consent to a divorce (note produced); I wrote this note to Mr. Sedgwick.

Mr. O'Conor objected to the reading of the note until he had cross-examined the witness, at all events.

The Chief Justice said the witness might look at the note, to refresh his memory.

Mr. O'Conor had learned conclusively by Mr. Sedgwick, that Mr. Bryant and Mr. Ogden had not been entrusted with the negotiation until after he (Mr. O'Conor) had been engaged as counsel for Mrs. Forrest. It would not be fair to show the declarations of a party to the plaintiff. Mr. Bryant, properly speaking, was not the agent of Mrs. Forrest, but a mutual friend, put in motion in this business, not by Mrs. Forrest, but by Mr. Sedgwick. He submitted that it was incompetent.

Mr. Van Buren replied.

The Chief Justice said the ground on which it was before excluded, was until Mr. Bryant's agency was established. If he was not her agent, he had no authority to write on her behalf. The question is now, whether the agency has been sufficiently made out. There is no evidence still of the agency.

Q.—In your interviews with Mrs. Forrest, did she authorize you to communicate the result?

Mr. O'Conor objected. The Court admitted the question. Mr. O'Conor said he considered it very unjust to his client.

The question was repeated.

Witness.—I do not remember it in detail; but the general bearing of it was that she was willing to consent to a divorce, and she spoke of the allowance; I do not recollect her telling me that I was to communicate her statement to Mr. Sedgwick.

Mr. Van Buren offered the note. The Court would not admit it.

Witness continued.—I do not remember any other difficulty suggested by her except in reference to the pecuniary arrangements; I cannot say that subsequently

to that I had a communication from Mr. Sedgwick; I had several communications from him; I had several interviews with Mrs. Forrest, but I cannot say as to the dates. I hold in my hand a note subsequent to the 14th of Feb.; an interview was appointed to take place at Mr. Sedgwick's office on the 15th of Feb., in the expectation that Mr. O'Conor would be present; I am not certain at whose suggestion it was that Mr. O'Conor should be present; I think Mr. Sedgwick and Mrs. Forrest both expressed a desire that Mr. O'Conor should be present.

Q.—Look at the note and say if it was your suggestion.

A.—I remember saying to Mr. Sedgwick that Mr. O'Conor ought to be present, but I do not recollect that it was my suggestion; possibly it was. Q.—What is your best recollection? A.—My best recollection is that the suggestion was originally made by Mrs. Forrest.

The Chief Justice said he did not understand what the use of this "best recollection" and "better recollection" meant. If a witness did not recollect a circumstance, that was an end of it. If he did recollect it, he can say so.

Mr. Van Buren.—Your Honor has heard it for thirty-five years.

The Chief Justice.—I have heard it a thousand times, and always had the same opinion of it.

Mr. Van Buren.—Your Honor has not, however, expressed the opinion for the last twenty days.

The Chief Justice.—No; but I ought to have done so twenty times a day. It is a loose kind of testimony.

Q.—What was the object of having Mr. O'Conor present?

A.—In regard to that I don't remember, except by referring to the note, any specific object or reason in having Mr. O'Conor present; as to Mrs. Forrest's object in it, my recollection is entirely at fault; I presume the note is true.

Mr. O'Conor objected to any testimony as to what is in the note.

I do not remember any authority from Mrs. Forrest to write the note; I was authorized by Mrs. Forrest to appoint the interview. Q.—Did you appoint the interview by that note? A.—I appointed it by a note, and this must be it.

Mr. Van Buren.—I now offer the note.

The Chief Justice said that the same objection held good to reading all the note.

The Court then looked at the note, and said that the first sentence of it is all that could be legitimately offered.

Mr. Van Buren would take the ruling of the Court on it, and excepted to the ruling.

Chief Justice.—I admit it so far as it refers to Mrs. Forrest's authority in appointing the interview.

Mr. Van Buren proposed to read the latter part of it.

The Chief Justice.—That would be no evidence in itself, as Mr. Bryant now says he don't remember it.

Mr. Van Buren excepted. He then offered to show what was communicated to us through Mr. Sedgwick by Mr. Bryant, in that interview, as to the result.

The Chief Justice said that was open to the same objection.

Q.—Had you any difficulty in that interviews, except in regard to the allowance? A.—I should think we had.

Q.—Up to the time of writing the note of the 14th of February, had you ever heard from Mrs. Forrest of any other difficulty of hers, in relation to the proposition for divorce, except that concerning the settlement? A.—I should think I had.

The Court took a recess for ten minutes; on reassembling, Mr. Bryant's examination was continued.

He said—I recollect Mrs. Forrest was desirous of having the allowance properly secured, but not her desiring me to see to it; I did not do anything with regard to securing the allowance; the interview appointed for the 15th did not take place; I went to Mr. Sedgwick's office; Mr. Sedgwick was there; Mr. O'Conor was not there; Mrs. Forrest was not there; I don't remember having intimation before that that interview was not to take place; I remember going frequently to Mr. Sedgwick's office; I cannot fix the date when the negociation was broken off.

Cross-examined.—I should think my wife has visited Mrs. Forrest within a week; my wife was not with me when I communicated the result to Mrs. Forrest. [Letter produced.] This letter was drawn up by me, and this is a copy of it made by my daughter; it was given to Mrs. Forrest; I should think it was given to her at or before the interview at which she made the appointment; this paper was the proposition of Mr. Sedgwick, as I understand it. [Letter marked No. 40.] Q.—Did you, at any time before the agreement to meet at Mr. Sedgwick's, get the petition or draught of the petition intended to be presented to the Legislature of Pennsylvania. A.—I saw it, but I am not quite certain that it was in Mr. Sedgwick's handwriting; it was before the interview was appointed. [Letter produced and marked 41.] I wrote this letter to you (Mr. O'Conor) in an early stage of the proceedings.

To Mr. Van Buren.—I can't say if the letter No. 40 was written before my letter of the 9th.

Mr. Van Buren said that he would consent that the whole of this correspondence should be read.

Mr. O'Conor said those two notes were the only notes he offered. [Documents produced.] Mr. O'Conor proposed to read the propositions offered by Mr. Bryant on behalf of Mrs. Forrest. He then read the proposed arrangement as follows:

[40.]

First—That the agreement between the parties which Mr. O'Conor 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 Wm. 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 the 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 them by others 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'Conor then read letter No. 41.

NEW YORK, February 6, 1850.

DEAR SIR:—I yesterday promised that I wanted to see you this morning, and I called at your office for the 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 to 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 indiscretion 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. Forrest—and some of her friends, I understand, agree with me, though without so full a knowledge of the circumstances 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. Forrest, 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'CONOR, Esq.

Witness continued.—I wrote to Mr. Sedgwick, as counsel for Mr. Forrest, on the 9th of February; I must have had an interview with Mrs. Forrest previous to that; Mr. O'Conor was not present; I presume the interview led to that letter, but I can't say.

Q.—Did she in that interview consent to the divorce? A.—She consented several times; I can't distinguish any particular interview; I don't remember her sending for me.

Q.—Did you communicate to her the result of the interview with Mr. Sedgwick? A.—I have no distinct recollection of that conversation further than I have given it.

Mr. Van Buren again offers in evidence the note of the 8th of February, of Mr. Bryant to Mr. Sedgwick.

The Court did not think the aspect was yet changed, and refused to admit it.

Witness continued.—The proposition marked 40, is what I understand Mrs. Forrest to accede to; can't fix the date when I first heard any objection from her to the proposition.

Q.—Can you recollect if you heard the objection first from her or Mr. O'Conor? A.—Not from Mr. O'Conor; I never had any conversation with him about it.

Q.—Did you hear it first from her or Mr. Sedgwick? A.—I heard the objection from her first.

Samuel H. Tupper examined by Mr. Van Buren.—I am agent to the Troy and New York Steamboat Company; I have been agent nineteen years, for different companies running to Troy; I recollect the steamboat Albany as a day boat; Captain Jenkins commanded her; she ran from New York to Albany; she did not run any further than Albany as a day boat, except for a few trips; she was afterwards changed into a night boat; she had a hurricane deck and stateroom put on; Decker and Mason did it; it was done in 1844—in the beginning of Jan., 1844—and was finished in Spring, about April; her first running as a night boat was in the spring of '44; she had no saloon as a day boat, only a small ladies' saloon; there was no state room, nor hurricane deck; I think there were no berths in the ladies' saloon; there were berths in the after part of the cabin, below the main deck; also on the main guard, where the firemen slept, and in the forecastle, where the deck hands slept; there were rooms for the pilot and officers.

To the Chief-Justice.—Captain Macey commanded her when she first ran as a night boat; he is now purser on the Golden Gate steamboat.

The witness was not cross-examined.

Charles Brown, examined by Mr. Van Buren, deposed—I reside in New York; I am a ship joiner; I did a job on the Albany to change her from a day boat to a night boat; Decker and Robert C. Bell were engaged on it with me; we began it about the 10th February, 1843; it was finished about the 13th April, '44; she was a day boat before that time.

This witness was not cross-examined.

S. V. R. Moore deposed—I reside in New York; I am a merchant; I am originally from this State; my father's name was Richard Channing Moore; in the fall of '43 and spring of '44 I resided in Nineteenth street; I had a family, consisting of my wife, and, I think, three children at that time.

Mr. O'Conor.—What is all this about?

Mr. Van Buren.—It is all about Anna Dempsey.

Q.—Did a little girl live with you named Anna Dempsey? A.—I believe she did; she was waiter and chambermaid; she was with me about six months.

Q.—While she was with you, did you observe anything lewd or unchaste in her conduct? A.—I don't think I did particularly.

Q.—Did you notice anything of the kind? A.—I did not notice anything of the kind; as far as I know her general character was good; my wife said she left because she was indisposed and not able to do her work.

Q.—Did your wife give her a recommendation?

Mr. O'Conor objected.

Mr. Van Buren said it was to save the necessity of bringing Mrs. Moore into court. [The question was not admitted.

Cross-examined.—I think she was with us three months in '43, and three months in '44.

Mr. O'Conor.—The counsel speaks of her as a little girl; do you know what age she was? A.—About 17 or 18; I should think, from size and appearance, she was just about that age, and also from her having said so; I did not hear anybody out of my family speak of her.

Mrs. Mary Sturgess, examined by Mr. Van Buren, deposed.—I reside in Brooklyn; I am a widow; I have five children; I know Mrs. Flowers; her husband is a brother of mine; I live with my mother; Mrs. Flowers and Mr. Flowers visited our house about eighteen months since; they were with us nearly three months; they went away about the last of October; she was ill at my house; she was confined there; I have seen her since she has been here; she called on me, and I called on her, at the Mansion House; it is the child she has here now that she was confined of at my house; Dr. Marvin attended her; I saw a good deal of her during the time she was with us; I was with her constantly; I never saw anything lewd, immodest, or improper in her conduct; I know nothing about her, but that she behaved well while with us; I heard nothing of her but what was good.

Q.—From the character you have heard of her, should you have any hesitation in believing her under oath? A.—No, sir.

The witness was not cross-examined.

Leonard H. Good deposed.—I am cashier for Ball, Black, & Co.; in '43 I was general clerk for Samuel E. Reeve & Co.; they were coal dealers; Mr. Forrest dealt with them; I think it is more than likely I saw Mr. Forrest in June, '43; he gave me an order for coal in June; I can't tell the date without referring to the book (book produced and referred to by witness); it was on the 27th June, '43; he paid a balance due for coal, and the next day, the 28th, he gave me an order for 24 tons of coal.

This witness was not cross-examined.

David M. Hollister, deposed.—I reside in Fortieth street, near Broadway; I keep a restaurant; I know William M. Doty; I know him about ten years.

Q.—Do you know his general character?

A.—I am not intimately acquainted with him; I think I do.

Q.—Is his general character for truth good or bad?

A.—I should think it is rather below par. (Laughter.)

Q.—From your knowledge of his general character, would you believe him under oath?

A.—Not if he was much interested in it.

Q.—What if his feelings were interested? A.—I should presume his feelings would have the same effect on him.

Cross-examined.—I had not much dealings with him; it is about a year ago last May I heard his character spoken of; I had occasion to inquire of his character; I heard it from Charles Swift; he lives at the corner of Crosby and Houston; he keeps a restaurant; I mean by that a dining saloon; I don't remember any other names; I think, but am not positive, that I heard Thomas Swift, he is a farmer, and father of Charles Swift, speak against him; since that time I never had any occasion to make inquiries about him; I think I recollect two other men who spoke against him, one Christopher Hawkins, 102 Murray street, a grocer, and his partner, Mr. Steward; another is Samuel Lockwood; he is a grocer also; another, Horatio Reed, a butcher in the Bowery, corner of Bayard street; I was about to have a dealing with Doty, and I was interested in his character; it was to rent a place to him; I didn't hire it to him; I think a place was hired to him by Hawkins and Stewart; Charles Swift is not a relative of mine, except that he and my wife are slightly related; they are cousins; I don't know whether I made the inquiries of Hawkins and Stewart before they made the bargains with him; his character was talked of after.

Edward H. Quin, deposed.—I reside in Williamsburg; I am a builder; I have resided in Williamsburg nearly eight years; I know William M. Doty four or five years. Q.—Do you know what his general character is? A.—I should endorse the last witness's opinion (laughter); I know his general character; it is bad.

Q.—From what you know of his general character, would you believe him under oath?

A.—I should not like to go so far as that; it is difficult to say; a man may be bad and yet tenacious of an oath.

The question was repeated.

The Chief Justice explained to the witness that he should speak of the general character; not from what he knew himself, but from others.

A.—In view of his general character, I should say he is not to be believed under oath.

Cross-examined.—I have had dealings with him, unfortunately; he is indebted to me about $100; I have heard his waiters and servants, at the corner of Bayard and Bowery, speak against him; they said they couldn't get their pay; he commenced there over two years ago, and as soon as he got it fitted up, he sold out and cleared off. (Laughter.) He was there about a couple of months; it was during that couple of months, and afterwards, I heard the waiters speak of him; I don't know their names; another person I heard speak of him, was the man who put up a steam boiler for him there; I don't know his name; he said he had not been paid; I can't give the name of any one; "their name is legion." (Laughter.) I did not hear any one speak against him before he went to live at the corner of Bayard street; if I did I wouldn't have done the work for him; the occasion of making enquiries about him was in reference to the bill he owed me; he is pretty well known where I visit; my store is in Nassau street. (Laughter.)

To the Chief Justice.—Those people have all spoken as to his being indebted to them.

Q.—Is that the only reason you would not believe him on oath?

A.—No, sir, but in reference to his general character; his contracting debts without any intention of paying then; I consider that dishonest, and a dishonest man wouldn't scruple at an oath; these people told me that when he contracted debts it was without the intention of paying them.

Mr. Van Buren.—How as to his speaking the truth?

A.—Well, he don't speak the truth. (Laughter.)

Hamilton E. Degraw deposed—I have lived in Brooklyn for several years; I am in the clothing trade; I know Wm. M. Doty for between three and four years; I know his general character; it is bad; I would not believe him under oath.

Cross-examined.—I have spoken to Mr. Doty; I had some slight dealing with him at No. 80 Nassau street; he is not indebted to me; he came to me to get some small quantity of clothing; a pair of pantaloons, I believe; I don't know whether he got them or not; if he did, he paid for them; I heard Mr. Quin speak ill of him; I heard a gentleman named George Crandle, who worked with him, speak ill of him, more from miiendo than anything else; I inquired if he was good, and Mr. Crandle said he didn't know how he could dress so well on the small salary he had; he said he had but $6 or $7 a week; I don't recollect any one else speaking of him, except within the last week.

Mr. Van Buren.—Who did you hear speak ill of him within a week?

Mr. O'Conor objected to that, and the question was not admitted.

John A. Watkins deposed.—I am a coachman; I drive for Stammen & Wilson, corner of Crosby and Bleecker; I have been off and on since 1835; I know Doctor Rich; I have driven him out; I have taken him to Sixteenth street. Q.—Whose house? A.—102 Sixteenth street; I think I left him there twice; I think it was on Sundays; it was betwixt ten and twelve in the morning, these times would be after leaving our church calls, and before the time we had to go for them; I left him once at the corner of Sixteenth street and Sixth Avenue; that was on a Sunday also, and about the same time; he went down Sixteenth street, towards 102; he told me to stop and let him out there; 102 was about the middle of the block.

This witness was not cross-examined.

Robert C. Bell deposed—I am a land agent; I was, in 1843 and '44, a ship and steamboat joiner. Q.—Do you recollect making some alterations in the steam boat Albany? A.—Yes.

Q.—What was the object? A.—My object was to get paid for it. (Laughter.) Q.—What was the object of the alteration? A.—It was to make a night boat of it; it was in April, 1844.

Adjourned.

January 17th.

On the assembling of the Court, Mr. Van Buren applied for and obtained an attachment against Mrs. John P. Jermaine.

Thos. W. Gale, examined by Mr. Van Buren, deposed.—I live at 11 College place; I was a merchant; I am not in business now; in 1843 I was a merchant in this city; I know Mr. Edwin Forrest; I cannot say that I saw him in July, 1843 (check produced); I believe this to be his check; it is dated New York, 5th July, 1843, for $75 17, payable to my firm and endorsed by me; it is on the Bank of America; I think it was received on that; it is entered in the handwriting of Mr. Thorne, one of my clerks.

Mr. O'Conor said they might consider that as in evidence as if Mr. Thorne swore to it.

John M. Cowperthwaite sworn.—I was bookkeeper in the Bank of America in 1842; I know Mr. Forrest; he kept an account in our bank (pass-book produced); there is a check here of July the third, 1843, New York, for $100; another of fifth July, at the same place, payable to bearer; the next is $75 17, payable to Weisner & Gale; the one on the third for $50, and the one on the fifth for $100 I have examined, and they are correct; I have not examined the other.

Mr. O'Conor said he wished to look at the pass-book, from which the witness had been examined.

Mr. Van Buren said he did not put the book in evidence, but he let Mr. O'Conor peruse it.

The Chief Justice said the examination on this point is altogether useless; it was immaterial. It is quite clear, that if Doty has spoken the truth, he has made a mistake as to the year; the boat was not running to Troy until 1844.

Mr. Van Buren.—And if they give evidence of its being in 1844, we can bring even more positive testimony against it. We can prove he was over a thousand miles away.

The witness was not cross-examined.

Hiram Williamson deposed.—I reside at 160 Barrow street; I am a merchant, and have resided here sixteen years; my place of business is 164 West street; the firm is Williamson & Vale; I know William M. Doty since 1846.

Q.—What is the general speech of people about him, good or bad?

A.—So far as I have heard his name brought in question, not very good.

Q.—From what you know of him, would you believe him under oath?

A.—I should not like to believe him in any matter in which he was much interested.

Cross-examined.—I have had dealings with him; I don't think he is now indebted to me; he was, I am acquainted with very few people who know Mr. Doty; it is about two or three years since I heard people speak ill of him; one was a Mr. Ironsides: I don't know his first name or his business; he is now in California, I believe; I think I have heard Charles Swift speak ill of him.

Q.—Who else have you heard speak ill of him?

A.—I do not know a dozen people that are acquainted with him; I heard Mrs. Brown, school teacher; I believe she lives in Varick street; she had some difficulty with him about his school bill; he hadn't paid it; I do not recollect any one else now.

John L. Moore deposed.—At present, I am an agent in the employ of Jas. G. Wilson, of Hastings. Q.—Do you know Wm. M. Doty? A.—I know a gentleman of that name; I became acquainted with him in March, '45; he applied to me for a situation as steward; I employed him; he remained with me till July, 1846.

Q.—Why did he leave?

Mr. O'Conor objected. Mr. Van Buren said that he had asked Doty why he left Mr. Moore, and he said it was because Mr. Moore got a man for less wages.

Mr. O'Conor understood that he was not allowed to contradict Anna Dempsey as to the reason she was sent to the House of Refuge.

Mr. Van Buren, in contending for the admissibility of the question, said he was going to show, by this witness, that he had discharged Doty, while it will be remembered that Doty said he parted with him because he got a man for less. He (Mr. Van B.) did not know how many witnesses they would bring up to prove that they never had heard anything against Mr. Doty; but he believed there was scarcely a man in the com-

munity who could not find a person who had not heard anything against him.

Mr. O'Conor was heard in reply.

The Chief Justice said he had no memorandum before him to show which party the question came from on the examination of Doty. It is said it was on the cross examination.

Mr. Van Buren.—That is so.

The Chief Justice was satisfied, then, that it was not proper to open the door so wide. It would be a matter of credit between Mr. Moore and Mr. Doty, and he did not think the question competent. The Chief Justice then said he should limit the examination of impeaching witnesses to some eight or ten witnesses on each side.

Mr. Van Buren to witness.—What is the general speech with regard to Doty?

Witness.—What do you mean by general speech?

The Chief Justice said he found it very difficult to make witnesses, however respectable, understand the nature of that question. It was ridiculous, because a man had not paid his debts, to say that he was not worthy of belief under oath.

Q.—Do you know the general speech of people about Doty? A.—Under the explanation of the Court, I do not think I can say. Q.—Have you heard people speak against Mr. Doty. A.—I have heard people speak against him. Q.—As far as you have heard him spoken of, is it good or bad? A.—It is unfavorable to him. Q.—How is it in respect to his truth and veracity? A.—I have heard that questioned? A.—How is it when you generally heard him spoken of? A.—Well, sir, I regret to say it was not such as I should like to have heard of any man. Q.—From what you have heard of him, would you believe him under oath? Witness (after a pause).—I should like to ask the Court whether that question is to be answered strictly.

Chief Justice.—What witness desires to be instructed in is this. Suppose you knew him to be charged with perjury, that would not be enough, because it would be a question of truth between him and the party charging him. It is his general character to which a witness is to speak; the reputation he has among his acquaintances.

Witness.—Suppose my confidence in Doty had been shaken, would that, coupled with what I have heard people say, be sufficient?

The Chief Justice.—The general reputation is the only thing you can form your answer on.

Witness.—I am in a rather delicate position here; I have no feeling in the matter, and desire only to speak the truth? What is your question?

Q.—From the general speech of people about Doty, would you believe him under oath?

A.—From what I have heard, sir, I could not.

Cross-examined.—I do not include what I have heard within the last week. Q.—Give us the names of persons you heard speak ill of him? A.—M. A. Dexter, hotel keeper, Washington city; John Thomas, of Washington, hotel keeper; I don't recollect any more; it was during the year 1850 I heard Mr. Dexter speak of him; I think it was in '47 Mr. Thomas spoke of him; I reside in Hastings; I was formerly hotel keeper in New York; I failed in business; I was in debt to a good many, and they spoke hard of me; only two of them spoke hard of me to my face; I don't know how many have spoken of me behind my back; I was not indebted to all my servants.

Q.—To how many of them?

Mr Van Buren objected.

Mr. O'Conor did not consider it any impeachment of the witness, but as Mr. Doty had been sworn to be in the same position, he (Mr. O'Conor) wished to show that he was not singular.

Thomas White deposed.—I live at 29 Myrtle avenue, Brooklyn; I am a house painter; I have lived there six years next June; I have been there with the exception of three or four months; I went South to New Orleans in September, 1848; I know Mrs. Anna Flowers; I have not seen her here since; I think her husband's name is George William Flowers; I boarded with Mrs. Flowers in Brooklyn, and when I was going to New Orleans she gave me a letter of introduction to him; I became acquainted with Mr. and Mrs. Flowers shortly after I arrived there, and remained there about two months; I boarded with Mrs. Flowers from five to six weeks; I never went out or visited with her.

Q.—Whilst you were with her, can you say that you have seen anything lewd or unchaste in Mrs. Anna Flowers' character? A.—No, sir, I cannot say that I have. Q.—Can you say that you have not? A.—No, sir, I have not; I know very little of the lady more than boarding with her; I did not hear anybody speak ill of her? Q.—From what you have heard of her would you believe her under oath? I would have no hesitation in believing her under oath.

The witness was not cross-examined.

[The Clerk of the Court, Mr. D. R. Floyd Jones, was here directed, by consent of both parties, to enter on the minutes the continuance of the present term to Saturday next.]

The Chief Justice asked if it had been agreed that Doty had deposed that the transaction took place on board the steamboat Albany. He remarked that he had it not on his minutes that that witness said so, nor did he find it in the printed reporr of the testimony, which was very elaborate, that Mr. Doty swore it was the steamboat Albany. The witness spoke of his going to Albany, but the Court did not recollect his saying that the name of the boat was the "Albany."

Counsel on both sides were of opintun that the witness stated the name of the steamboat to be the "Albany," and it was so conceded.

The Court then took a recess for ten minutes.

On the reassembling of the Court, there was some delay occasioned by the absence of one of the jurors, Mr. Thomas B. Harris.

Mr. Van Buren stated that he had sent for a witness—a lady from Albany—and he found that she was not able to attend. She was here yesterday evening, and he expected that she would be able to attend on Monday.

Chief Justice.—Have you no other witnesses to examine now?

Mr. Van Buren.—No, sir; but I now propose to read the following "card" of Mr. Forrest. It was addressed to a Philadelphia paper:—

[From the *Pennsylvanian*, Nov. 22.]

We received the following card late last evening. It is a reply to the speech of Mr. Macready, at the Arch street Theatre, on Monday evening:—

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 enabled 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 thougnt it a desecration of the scene, and the audience thought so too, for 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 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.

Philadelphia, Nov. 21, 1848. EDWIN FORREST.

Chief Justice.—Have you any further evidence to offer?

Mr. Van Buren.—I wish to examine Mr. Thomas C. Smith as to a single point, Mrs. Jermaine, and Mrs. Demming.

Chief Justice.—If you wish to stop here you had better give in those names that you wish to reserve for examination.

Mr. Van Buren then gave in the names of Thomas C. Smith, Mrs. Jermaine, and Mrs. Demming.

The Chief Justice asked Mr. O'Conor if he was ready to proceed?

Mr. O'Conor did not wish to call any other witness until the testimony on the other side was all in. He confessed that, in anticipation of the whole day being occupied by the defence, he did not have any witnesses in attendance for examination. He would propose to read the previous statement made by Mrs. Underwood.

Mr Van Buren would wish to have Mrs. Underwood present in the event of the statement being read.

Mr. O'Conor stated to the Court that he did not intend to recall Mrs. Underwood.

Chief Justice—At present we will suspend this point.

Mr. Van Buren.—I want to have this statement read, and I will call Mrs. Underwood to the stand, and you can read it to her and let her make any explanation that is necessary.

Mr. O'Conor.—Well, then, I will read it now. Mr. Van Buren assented, and Mr. O'Conor read the affidavit, remarking that there was a mistake as to the age of Mrs. Underwood. It is now put down at thirty-five, but as she has admitted it to be fifty-five, they should not do her any injustice by making it less (Laughter.)

[This document differs so little from the testimony on pages 16 *et seq.* of this pamphlet, that it is not deemed necessary to repeat it here.]

The Chief Justice would mention that he supposed that the remaining testimony would not have any general bearing on the case, as to the summing up, and he requested that the counsel would be ready for the summing up when the evidence was closed.

Mr. Van Buren enquired as to the order of the summing up?

The Chief Justice said that the plaintiff had the right to reply. The practice has been always such.

Mr. Van Buren.—I don't understand that the plaintiff has rested.

The Chief Justice.—No; he is merely called on now to fill up the remainder of this day, which you are not prepared to occupy. He is not prepared to do so. You will resume on Monday morning, and he will then conclude his evidence.

The court then adjourned before two o'clock.

January 19th.

The Court room was not so densely crowded this morning as heretofore. The severity of the weather kept many of the curious away.

Mr. Van Buren called Chauncey Smith, who, being sworn, deposed.—I reside in West Broadway; I am in the saltfish trade; I know Wm. M. Doty perhaps four or five years; I cannot say positively. Q.—Do you know the general speech of people of him? A.—I have heard people speak against him and people speak for him; the general speech of people about him is bad.

Q.—From the general speech of people about him, would you believe him under oath?

A.—Yes, sir, I would.

Mr. Van Buren.—You can cross-examine him.

Mr. O'Conor.—That will do.

Thomas C. Battim deposed.—I am a butcher in Washington Market; I have known Wm. Doty some years; I have heard considerable said about the man. Q.—In reference to his character for truth and veracity, what do you know? A.—I know very little; but as far as his out-door speech is concerned, it is bad; I am not able to speak of his general character.

Q.—As far as the general speech of people, what is his general character?

A.—As far as that is concerned, I should say it is unfavorable.

The witness was not cross-examined.

Robert Forsythe deposed.—I reside at 76 Warren street; I am an oyster dealer; I have known William M. Doty four or five years, I believe.

Q.—Do you know the general speech of people about him? A.—Not altogether; I have heard him spoken of lately in reference to this case; before that time I can't say I have ever heard anything indifferent of him.

Cross-examined.—From all that you have heard of him, would you believe him on oath?

A.—I would believe him.

To Mr. Van Buren.—What I have heard of him in reference to this case, I have heard some speak unfavorably and some favorably.

Mrs. Frances H. Jermaine deposed.—I reside in Troy; I am a widow; my late husband's name was John P.; I am a sister to Mrs. Demming; I was in this city in the fall of '48; I stayed at my sister's, Mrs. Demming's; my attention was called to something in Mr. Forrest's one evening; I saw a gentleman in the room with Mrs. Forrest, who he was I cannot say; he was tall and of light complexion; the gentleman had his arm around Mrs. Forrest's shoulders; their backs were towards the window; they were about five minutes in that position; it was between 11 and 12 o'clock at night. Q.—How did you ascertain who the lady was? A.—She had been pointed out to me several times; I had seen her in the garden with Mr. Forrest, and in the library with Mr. Forrest; Mrs. Forrest, when she left the window, went towards the table and laughed; the gentleman followed her; I could see her face by the gas light which was near her face; they left the room together; the gentleman passed his arm round Mrs. Forrest's waist as they left the room; I have seen Mr. Forrest; I never have spoken to him.

Q.—Do you know Mr. Forrest sufficiently to say whether the gentleman was he?

A.—It was not Mr. Forrest; he was not in town; he was playing an engagement; I do not know where; when they turned round I could see the gentleman's face; I called the attention of Mr. and Mrs. Demming to it; I had not been more than a moment looking when I called them; they were in an adjoining room; Mr. Demming told me who they were.

Mr. O'Conor.—You need not mention what he said.

Mr. Van Buren.—We offer to show that Mr. Demming told the witness at the house who the parties were.

The Chief Justice said Mr. Demming could prove that.

Mr. Van Buren.—He has; we merely offer this to corroborate him.

Cross-examined.—I was on a visit at Mr. Demming's for a year; it was in the fall I saw this; I but seldom go to the theatre; I had seen Mr. Forrest but once; I had seen him two or three years before this; our usual hour for retiring was about twelve o'clock, and this was a little after eleven o'clock; it was by the papers I knew Mr. Forrest had been playing an engagement; I cannot remember where; I do not think I ever saw any other lady in that library. Q.—Did you ever see any other lady of Mrs. Forrest's family except herself? A.—I do not think I have, except a younger sister. Q.—Miss Virginia? A.—Yes; that is the only member of her family, except herself, that I have seen.

Elizabeth Demming was then called to the stand. Mrs. Jermaine took a seat near her. Mr. O'Conor spoke to Mr Acker, the officer, who removed the lady to the adjoining room.

Mr. Van Buren asked if there was any objection to Mrs. Jermaine being seated near her sister.

The Chief Justice said it was not usual, but he heard no objection made.

Mr. Van Buren.—Then, I wish the lady to remain.

The Chief Justice.—It was not usual for any person to be seated near the witness.

Mr. Van Buren.—But if there is no objection?

Mr. O'Conor made no reply.

The Chief Justice.—Well, I object.

Witness was then examined by Mr. Van Buren, and deposed—My name is Elizabeth; my husband's name is Egbert Demming; I resided in Twenty-first-street in the fall of '48, where I reside now; Mrs. Forrest's house was in Twenty-second-street; the two houses are on the one lot; his garden fence joins the rear of our house; my attention was called to a circumstance in the fall of '48; it is the same as Mrs. Germain has stated; she called my attention to some persons that were standing in Mr. Forrest's room; it was the library, I suppose; the gentleman was standing with his arm on or around the lady's shoulder; their backs were towards me; they both went to the table afterwards and that brought the r faces directly towards us; there was gas light over the table; I could then see them perfectly plain; when I first saw them their backs were towards us; I could then see their backs perfectly plain, but not their faces; I could see their position.

Q. Who was the lady?

A.—Mrs. Forrest.

Q.—Who was the gentleman?

A.—It was N. P. Willis.

Cross-examined.—I had never spoken to Mrs. Forrest; I had never spoken to N. P. Willis; I have never been in the same room or in company with him; I have seen him in the street frequently. Q. Did you know any other member of Mrs. Forrest's family?

A.—I have seen her youngest sister; I have never seen any other lady that I know of, in the library; I cannot tell the month this was in; it was in the fall of the year; I never saw two ladies at once in that library. Q—Could you commonly see into that library? A.—Very distinctly when the gas was burning; there is a French window than opens to the piazza like a door; it was through that I saw; the other window was open; I have lived in that house nearly four years; it will be four years in next May; I was first subpœnaed in this case last Saturday.

To Mr. Van Buren.—I have had Mrs. Forrest pointed out to me, and have seen her in the library with her husband.

To Mr. O'Conor.—I could not say positively that it was in September or October; I could not say it was in the fall of the year; it was cold weather, and we kept our windows closed.

Thos. C. Smith (before sworn) deposed—I have made this diagram of Mrs. Forrest's house, in Twenty-second street. [Diagram produced.] When standing at the railing in the hall of the third story, you may have a full view of the kitchen stairs. Q.—Did you have a conversation with Mrs. Forrest about the difference between her husband and Mr. Macready? A.—Yes, sir; she said she entirely agreed with Mr Forrest; that there was no difference between them on that, only she did not like the tone of his (Mr. Forrest's) card; that was about the latter part of January, '49; at all events it was the January previous to their separation; she said she disliked the tone of the card, and the language was stronger than she admired; I think it was in the month of January, previous to their separation, that I learned they were about to separate; it was from Mrs. F. I heard it; I am wrong as to the month; it was later in the season; it was somewhere about the first of March; what makes me recollect it is, we were about to recommence our work at Fonthill; we were uncovering the work for that purpose; Mr. Forrest never told me anything about it.

Cross-examined.—This conversation about the card was after I had heard of the intended separation; Mr. Forrest's house is a thirty-three foot lot; the back of the house is to the south; the street runs east and west; Mr. Demming's house lies to the east; there is one fence divides their houses; you can see almost the entire of the cellar stairs from the third landing; I should think there would be fourteen steps; there is a turn; I should think there are more than four steps between the turn and the top; I did not count the steps; I say, taking the most favorable position, you can see all, unless the last four; I think there might be three or four that you could not see; there is a cellar underneath; Mr. Forrest's house occupies the whole lot; the lot is not quite the same width in the rear; when it comes to Mr. Demming's, it jogs about eight feet.

A juror.—What distance is it from Mr. Demming's house to Mr. Forrest's? A.—I should think the lot is 190 feet deep; I can't tell the distance between them without looking at the diagram (looks at the diagram); I think it is about 100 feet between the two houses.

A juror.—On what side is the hall of Mr. Demming's house?

A.—On the east side.

To Mr. Van Buren.—From the center of the rear of Mr. Forrest's house to Mr. Demming's house, I think there is a difference of 25 feet deviation from the direct line.

George Roberts was called by Mr. Van Buren but did not appear. He was then formally called by the officer of the court.

The Chief Justice.—Proceed, Mr. Van Buren.

Mr. Van Buren.—I think we are through, but I'll let your honor know in a few minutes.

Mr. Van Buren in a few minutes said—we rest here, your honor.

The Chief Justice.—We will consider this a final resting, except on the conditions already mentioned.

Mr. Van Buren.—If the physician from Connecticut, Dr. Gregory, should come, I should like to examine him.

Mr. O'Conor then, in pursuance of a stipulation, read the following affidavit, made in this case, by Chas. S. French. The witness is now ill:

Catharine N. Forrest against Edwin Forrest—City and County of New York, ss.—Charles S. French, of said city, clerk in the office of Henry H. Leeds & Co., auctioneers, being duly sworn, says as follows:—On the second day of November, 1849, the above named Edwin Forrest purchased of Henry H. Leeds & Co., at their said place of business, two covered sofas, for the price or sum of one hundred and sixteen dollars. At the time of said purchase, Mr. Forrest gave directions to have the sofas sent over to the North River, to be transported up said river, to his place, known as Fonthill, in Westchester county, which was accordingly done. C. S. FRENCH.

Sworn before me this 20th day of December, 1850.

D. HOBART, Commissioner of Deeds.

Mr. O'Conor then proposed to read the commission which was issued to Norwalk to examine Mrs. Dickinson, the wife of Mr. John Dickinson, who had been examined here.

Mr. Van Buren objected to it, and said that when this commission was issued, the defendant sent off to Norwalk, but could not get track of where the commission was. There is a difference in the name of the party signing it and the party to whom it was addressed. The commission was issued to one Horace F. Ferry, and it was signed by one Orris S. Terry; if it had been an Englishman he (Mr. Van Buren) could understand why the H. had been dropped. He had looked over the commission, and was convinced that there is everything in it irreconcilable as to time and circumstance, and which renders it inadmissible; it contradicts her husband and the other witness.

Mr. O'Conor said that would be in favor of the other side. He remarked that the gentleman in one or two places did not cross his F.

The Chief Justice said there was no difficulty about that, it was more like an F than a T.

Mr. O'Conor would show that there was but one Mr Ferry, a lawyer, in Norwalk. He would send back the commission and have the name corrected if the Court deemed it necessary. He would rather do so than have any technical objection raised.

The Chief Justice said that his present impression is that the commission could be read, and if there was any question as to its being properly executed, that could be brought up subsequently. If you wish to read it you may do so.

Mr. Van Buren said if the court admitted it, he would except. If the court thought it should be sent back, then the defendant could have an opportunity of being present at the examination.

Mr. O'Conor said he would read it in the course of the morning.

The Chief Justice.—Gentlemen speak of not being present; I don't understand any objection taken upon the ground of want of notice.

Mr. O'Conor—Oh, no, sir; there are interrogatories and cross-interrogatories. Mr. O'Conor then said he would read four short letters, He would first read B 8 and B 9 letters of Mr. Forrest to Mrs. Forrest.

[B 8.]

BOSTON, Oct. 14, 1848.

Your letter, inclosing one from Judge Conrad, came

to hand last night—it has remained all this time at the Tremont House.

Last Saturday night was indeed beautiful, and in the enjoyment of its beauty you were not forgotten.

I have made no arrangement with the manager yet to shorten my arrangement. I must first learn if I open in Philadelphia at the early time proposed.

Lawson writes to me that you have been suffering from sore throat, which I am exceedingly sorry to hear. You do not take sufficient care of yourself.

How very nicely you packed the wardrobe. Thanks, my dear Kate, and believe me,

Yours ever and truly, EDWIN.

David Whitney has gone to Europe, and his absence makes his mother very sad.

[B 9]

BOSTON, Thursday.

I shall leave for New York, my dear Kate, on Saturday afternoon next, by the Stonington line, so that you may send a cart for the luggage at daylight on Sunday morning next, and a carriage for me.

The dresses arrived to day, and all is right. Hoping to find you well on my return,

I am yours ever, EDWIN.

Mr. O'Conor.—I will now read C21, C22, and C23. C 21 we suppose to be written about the 28th August, '44.

[C 21.]

MY DEAREST CATHARINE:—I have just received your welcome letter of the 28th ult. *I am rejoiced you have determined to go to Mr. Phalen's.* for I am sure you will be pleased, *and no one* will be there whom he will be more proud to greet than yourself. I only regret I shall not have the happiness to accompany you. *I should like right well to be with you* IN SPITE OF MY DISLIKE TO SET PARTIES. How wondrously devout you have become of late—to go to church twice in one day. Instead of laughing at you, I say *amen* to your sweet prayer. Lambert has prevailed upon me to remain here until Monday, when I shall close, and proceed on Tuesday to Baltimore. Ward, I understand, has closed in Washington; if so, I shall be with you in New York on Thursday night. The theater is quite deserted. How comes on the garden? Has John put up the arbors?—and how do you like them? Remember me to Margaret, and believe me, my dear Catharine, to be your devoted EDWIN.

NORFOLK, Saturday afternoon.

[C 22.]

TREMONT HOUSE, BOSTON, Oct. 23, 1839.

MY DEAREST CATHARINE:—I this morning received your welcome and affectionate letter of Tuesday. I am just returned from the performance of "Metamora," and, of course, feel very much fatigued. I cannot, notwithstanding, resist the pleasure of communing with my beloved Catharine, by tracing a few lines to repeat how much, how very much, I love her, and to assure her how fondly I respond to all her endearing sentiments.

I am right glad you went to hear Mr. Dewey preach. He is, undoubtedly, a man of very superior endowments, and I believe him to be a pure and unaffected Christian. Such men do honor to their calling, and incline the hearts, as well as the understanding of their hearers, towards them. He is none the worse for quoting in the pulpit the Bard of all time.

Allen has promised to send you, to-morrow, some quinces for preserves, and some fine squashes, which he says can be procured here of a finer quality than anywhere else in the Union. He will probably send you, also, some game, which, he says, is here in great abundance.

There was to-night a very good house—say from seven to eight hundred dollars. This, considering the *pressure* of the money market, is quite satisfactory.

The banks here will continue to pay specie, provided those of New York hold out.

There was a report in town to-day that the St. Charles street theater, in New Orleans, was destroyed by fire. I sincerely hope that it may not prove true. It is really painful to read of the distress in Mobile, occasioned by fire and pestilence. The weather here has, for the last few days, been very cold, but bright and beautiful. How I miss you in my walks about the park. As I wandered through it alone to-day a thousand pleasant reminiscences crowded upon me, of our many pleasant walks there together. In fancy you were by my side again, and the bracing air had called up on your much loved cheek its richest hue. Well, well! In a few days more, and fancy shall give place to the luxury of reality, and then our joys shall be intenser by our distance now.

Remember me kindly to Mrs. Leggett, to Margaret, and accept, for yourself, the devotion of a heart entirely yours. EDWIN.

How do you like this paper? I bought a quarter of a ream of it for you. I regret to hear of the poor business at Baltimore.

[C 23.]

ROCHESTER, Sunday, July 17.

MY DEAREST CATHARINE:—

You will be surprised to know that I am here. Miss Clifton, who has been unwell since she started from New York, on arriving here, yesterday, was so much worse, that she could not proceed upon her journey. She is better to-day, and I think will be able to start for Buffalo to-morrow. I have written to Mr. Rice to postpone the opening until Wednesday; so you see I shall lose two days, which I very much regret, as it will lengthen the absence from you. I saw Mr. and Mrs. Phalen to-day. They seemed to be in better health than usual. They have gone to Buffalo in the canal boat.

How weary I am of this place. I would have gone to Buffalo, but that I feared to be importuned to act, which, without a proper person to assist as Pauline, would be bad enough.

Pray write to me on the receipt of this, and believe me, my dearest Catharine, to be yours, most devotedly,

EDWIN.

Joseph Staples was then called and deposed.—I am a grocer; I know Mr. Rushton, who kept under the Exchange at one time; I had it previous to him; he got it from my firm of Staples & Ford; he took possession from us about the 3d of April, 1844; he was there as superintendent for us up to 5th July, 1844, and then purchased the whole establishment; I think he left it in 1848; I speak from my books.

Cross-examined.—Mr. Rushton is now in Ohio, near Sandusky; there were some ten or twelve persons employed in the place; there was Joseph G. Dutcher, a barkeeper—he is now deceased; there was John M. Dotner; it is more than I can tell where he is; I can't recollect the name; I had a pay list.

Mr. Van Buren.—Then I wish you would get it.

Witness.—I am not sure that I could find it now, don't recollect the name of any one in town who was a waiter.

Mr. Van Buren.—Will you do me the favor to look for that pay list, and if you find any of the waiters in town to let me know?

James M. Sanderson deposed.—I keep the College Hotel; I know Wm. M. Doty for eight years, and perhaps longer.

Q.—Do you know his general character?

A.—Is it from my own knowledge, or from hearsay?

Q.—From hearsay, except within the last week or ten days. A.—I don't think I have heard him spoken of, that I can recollect, during the period I have known him, except within the last few days; I knew him a long period; I have never heard him spoken ill of during that period; I would have no hesitation to believe him on oath.

Cross-examined.—I had no more than a general acquaintance with him; he called on me in Philadelphia, as one of the same class; that was six or eight years ago; during the last summer I purchased some things from him; during those periods, six or eight years ago and this summer, I have not had much acquaintance with him; I have met him in the street, and asked him how he was getting along; Capt. Calcraft has stayed at my house; he is not there now; he was there about three weeks; I have talked about this case, but not more than any other; it has been pretty well discussed at my house; I talked to Capt. Calcraft about it on the evening of the day he was first called; I have talked with others about it.

Q.—Have you not uniformly taken Mrs. Forrest's side in those discussions?

A.—No, sir; I have been swayed by the testimony, I have taken Mr. Forrest's side until the trial; I don't recollect speaking against Mr. Forrest to you (Mr. Van Buren); I recollect your breakfasting at my house, but I don't recollect speaking against him; I don't recollect that since this trial commenced I have spoken against Mr. Forrest.

Q.—Have you spoken against his conduct in the case?

A.—Am I to give you my opinion in the case?

Mr. Van Buren.—No.

Q.—Have you spoken about his conduct in the case?

A.—I thought he had a hard case I have not spoken against Mr. Forrest.

Dexter C. Force, deposed.—I reside in Broadway; I am a maker of steam boilers; I made the steam boiler for Mr. Doty's establishment in the Bowery, about a year ago; I don't know Mr. Ed. H. Quin, a mason; I may have seen him.

Q.—If you did see him, did you ever speak to him against Mr. Doty's honesty or veracity? A.—Certainly not; I was a creditor of Mr. Doty's; I have known him since '46; I have met him occasionally since; I have never heard anything said against his moral character or integrity; I would have no hesitation in believing him on oath.

To Mr. Van Buren.—I was in partnership with Mr. William H. Melling at the time; he does not know anything about the transaction.

Mr. Van Buren.—That is not what I asked you. A.—We had men putting up the boiler; I paid them on Saturday nights, as I usually did; I have seen Doty since; I met him frequently; the particular times I do not remember; I do not regard myself as a companion of his; I never visited him.

To Mr. O'Conor.—William H. Melling had nothing to do with the business beyond the collection of debts.

Mr. Van Buren.—Have you been paid for the boiler?

Witness.—He gave me part of the money, and I had a lien on it; he afterwards came to me, and told me he did not succeed there; he did not pay because I got the boiler back.

Mr. O'Conor.—As far as you know, did he behave fairly and honestly? [Objected to.]

Question ruled out.

William H. Conklin.—I knew William M. Doty in Charleston; he came from there to New York; I received a letter from him from New York; I got acquainted with him somewhere about 1840 or 1841; he had been living in Charleston about a year. [Letter produced.] This is the letter I received from him.

Mr. O'Conor said he did not want to read the letter further than the date, which is January 21, 1844.

To the Chief Justice.—It was after he left Charleston he wrote the letter.

To Mr. O'Conor.—I knew him since 1840; he seemed to me to be an honorable and upright man, as far as I had any knowledge of him; I never heard anything against his general reputation; I would have no hesitation in believing him on oath.

Cross-examined.—He kept a hotel and eating house; there was a bar and a billiard table there.

Q.—Did he keep anything else there. A.—I don't know what you mean. Q.—Was his wife there? (Laughter.) A.—Yes, sir; I boarded with him a while; I am a bricklayer by trade; I have worked in Charleston, Boston, and Providence; my present residence is New York; I don't recollect any other places I have been in since; I have been in New York since last May; I am at work for myself; I am at work in Twenty-fifth street; I think Mrs. Doty left Charleston before he left; I don't know how long he remained after she went away; perhaps a month or two; it was not so long as six months.

Q.—Do you know of his living with any other woman after his wife left?

The Chief Justice.—Are we going to take up another case of adultery? (Loud laughter.) This is going too far.

Mr. Van Buren.—I only wanted to see how he got his good character.

Christopher Hawkins deposed.—I am a grocer residing in Murray street, of the firm of Hawkins & Stewart; I know David M. Hollister.

Q.—Did you say anything to David M. Hollister against the character of William M. Doty.

A.—Never to my knowledge; I have known Doty about two years, the first of this month.

Q.—Would you hesitate to believe him on oath?

A.—Whether interested or not?

Mr. O'Conor.—That's not the question. Would you hesitate to believe him on oath?

Witness.—I would want to answer after I had seen what he had sworn to; if it was a reasonable story, I would believe him.

Mr. Van Buren.—Suppose it was an unreasonable story, would you believe him?

A.—No, sir.

Q.—What do people generally say of his character for truth and veracity?

A.—It is against him.

Q.—You say you have never spoken to Mr. Hollister against him. Have you spoken to others against his character for truth and veracity?

A.—Yes, sir, I have.

Q.—What have you said of him?

A.—I have spoken of him as a man who does not stand A No. 1 in the community.

To Mr. O'Conor.—My speaking of his truth and veracity was not because he was indebted to me.

Q.—Do you know Mr. Hollister's character in the community?

A.—Well, if you ask me that, I should say he stands at No. 2. (Loud laughter, in which the C. Justice joined.)

Charles A. Brown deposed that he had known Doty for one or two years, and never heard anything against his general character. I would believe him on oath.

To Mr. Van Buren.—I worked on a Troy boat as a shipjoiner, and he was employed on it; I used to see him two or three times a day.

Hiram Nott deposed.—Wm. M. Doty was in my employment; he commenced with me in 1847.

Q.—Are you acquainted with his general character?

A.—Well, I suppose I ought to be; he was with me some time.

Mr. Van Buren.—That's not the question.

Mr. O'Conor.—It is the answer, however. (Laughter.)

Witness.—His character is good; I would have no hesitation to believe him under oath.

Cross-examined.—Mr. Thompson asked me about letting Doty a place; I have paid him some money since that time; I have met him since; I have met him at 25 Prince street; I have never heard his truth questioned; all I have heard against him was from people coming to my place, and saying he was indebted to them; they did not seem to be pleased with him; sometimes I joked with them, and asked them what they would take for the debt; I never bought any, however. (Laughter) I don't know that I ever heard him spoken of as a talking blowing man. (Laughter.)

George O. Tupper deposed.—I am a brother of Capt. Tupper, who has been examined on this stand; I know William M. Doty since 1845; I am not in the steamboat line at all; I know that Doty has been in the employ of the Troy line for a year or two.

Q.—Are you acquainted with his general character?

A.—Partially; yes, I am; I believe his general character to be good; I would have no hesitation in believing him on oath.

Cross-examined.—I knew him while he was steward at the Croton hotel, and I have known him off and on since that time; I have not been a companion of his; I have resided in New York for the last five years; I have heard people talk about Doty, in regard to some liabilities.

Alfred A. Phillips deposed.—I am a counsellor-at-law; I reside in this city; I know William M. Doty, between eight and ten years, as far as my memory serves me; I am acquainted with his general character; it is good; I should have no hesitation in believing him on oath.

Cross-examined.—I first knew him by his becoming a member of an association to which I belonged; it was a lodge of Odd Fellows; he was also a member of another association to which I belonged; it was a number of gentlemen who gave soirees; I have met him where he was employed; I have never heard him spoken against; I have no acquaintance with him beyond those associations to which he belonged.

Mr. Van Buren.—Do I understand you to say you are a counsellor-at-law?

Mr. Phillips.—Yes, for eleven years.

Eldridge Packard, a poulterer in Washington market, deposed he knew Mr. M. Doty for about five years; his general character is good; I would have no hesitation in believing him on oath.

Cross-examined.—I knew him first when he was in the Croton hotel; he was the steward, and purchased of me; I am 33 years in this city; he has purchased of me when steward on the steamboats Franklin and Troy; I never heard any one speak against his character, of any account. Q.—Never. A. -Yes, I have, and that was John L. Moore, of the Croton hotel, and he said he didn t like him. (Laughter.)

Mr. Van Buren.—He didn't tell you why he turned him away? A.—No.

Chas. King, President of Columbia College, examined by Mr. O'Conor, deposed that he knew Professor Hackley; he is in Philadelphia, and is detained there by the illness of his wife.

To Mr. Van Buren.—I know that fact by letter from him.

Wm. Allen deposed.—I reside in Sixty-third street; I am an attorney-at-law; I know Wm. M. Doty since the fall of 1850; I know his general character; I think it is good; I would not hesitate to believe him on oath.

Cross-examined.—My knowledge of him commenced by hiring part of my house, and living in the house with him in '50 and '51; I have no other knowledge of him; I have met him in the streets; I believe my folks have called on him; I never heard his character spoken of till this trial.

John Harris deposed.—I am a butcher in Washington market; I have known Wm. M. Doty since 1848; I have never heard anything against his general character; I would believe him on oath.

Cross-examined.—I have seen him at market to trade with me; I know nothing else of him.

Moses K. Kipp, poulterer at Washington market, knows Wm. M. Doty; heard nothing against his general character; would believe him on oath.

Cross-examined.—Did not see him anywhere else, except at the market, where he came to buy.

Jacob Brinkerhoff deposed.—I resided at 626 Houston street in '48, and live there still; that is next to the house occupied by Caroline Ingersoll.

Mr. Van Buren.—Didn't we get through that point?

The Chief Justice —I thought this testimony should not be admitted. It is a branch which has been entirely closed, and I do not think it would be proper to open it again.

The evidence was, therefore, not admitted.

Jas. W. Hale deposed.—My residence is West Thirteenth street; I am in the forwarding business; I know Wm. M. Doty some six or seven years; I never heard him spoken ill off; I never had occasion to hear him spoken of; I would have no hesitation to believe him on oath.

Cross-examined.—He is not an associate of mine; I knew the fact that he was in the Revere House, Boston; I knew he was steward in one of the European steamers, and in the Croton Hotel.

Charles Swift deposed—I reside at 555 Houston st.; I keep a restaurant; I know Wm. M. Doty; I know David Hollister; I think I was spoken to by Mr. Hollister about Mr. Doty; I did not say anything to Mr. Hollister against the character of Doty for truth and veracity; I am acquainted with Doty since the fall of 1846.

Q.—Are you acquainted with his general character? A.—I supposed I was until the testimony of this trial. Q.—Leave that out of the question. A.—Leaving that out of the question, I should say his general character is good; I would not hesitate to believe him on oath; my father, Thos. Swift, is out of the city.

Cross-examined.—Doty has worked for me; he took the dining part of my place for about one month; I took it from him then because I thought he couldn't make it go; he worked for me and Mr. Thompson after, for a short time as a carver; I said he was a pretty good talker; I don't think I have said he was a "gassy man" (laughter); if I said anything about him lately it was to that gentleman who sits beside you, (Mr. Robinson, Mr. Van Buren's partner.)

William Spratt deposed.—I am a produce dealer in the city market; I know Wm. M. Doty since he was in the Croton Hotel; I am acquainted with his general character; it is good; I would not hesitate to believe him on oath.

Cross-examined.—I have seen him coming to market and on board the boat; had no association with him more than seeing him come to market.

To Mr. O'Conor.—I have dealt with him.

Stephen A. Pearce.—My occupation is the iron safe business; I have known Wm. Doty for about twelve years; I am acquainted with his general character; I think, so far as I have had anything to do with him, his character is good; I would have no hesitation in believing him on oath.

Cross-examined.—I have met him in the street, and in his own house, and at hotels; he kept the Pavilion Hotel, at Charleston.

Q.—Did he keep the hotel or the bar? A.—The bar; I don't know whether he was a partner in the house or not; I lived in Boston; I was in the crockery-ware business; I was engaged in the auction business there for a short time; I was at one time agent for the Bavarian Ale Company, and sold wines and liquors; I don't recollect the year; I am married; my wife is now living in Bridgewater; she has been there ten years; I knew Doty in Charleston; I never heard anything against his character there; I live in 139 Chambers street, in a boarding house kept by Mrs. Shankland; I never heard anything against Doty's character here.

William M. Doty was then recalled by Mr. O'Conor, and deposed.—Q.—Are you able by a reference to your books, kept by yourself or your clerks, to fix the precise date when you came to New York from Charleston?

A.—Very nearly [refers to his books]; the last receipt I took in Charleston was 3d January, 1844.

Q.—When did you first go there? A.—I went to the Pavilion Hotel there in 1840, and commenced business on my own account in 1841; during the whole of the year '43 I was at Charleston; I commenced in April, '44, with Rushton, in the Exchange, in this city, and left him in the fall; I lived in Macdougal street; my landlord was Abraham B. Rich; I remained there till May, '45, being a little over a year in that house; Mr. Rich himself lived in the other part of it; this receipt (produced) I got from him; it was given to me at the time I made the payment; it was given to me by Mr. Rich's wife.

Mr. Van Buren objected to the receipt.

The Chief Justice remarked that it seemed to be admitted that he was not here in '43.

Mr. Van Buren said, if they wanted to prove that what he stated occurred in '44, and not '43, they should not do it by these receipts; if they wanted to change the year, then the testimony was irrelevant.

The Chief Justice remarked, that if what Mr. Doty had sworn was true, there was a mistake in the year.

Mr. O'Conor read the receipt, which was for $8, on account of $12 50 for a month's rent; it was dated 13th May, '45.

Witness continued.—On my return to New York, I brought my youngest sister here; my mother and two sisters followed; I took premises for them from Mr. Philologis Holly; this receipt [produced] is for rent I paid him for their premises; it is dated October, '44; I can safely say, according to my book, that the transactions I have described on board the boat did not take place in the year 1843; it was in the year I went to see my mother in Rochester; that was in 1844, according to my book.

Cross-examined.—My last receipt in Charleston is $2; I cannot say what it is for; it is entered, "Paid for Mrs. E. F. Doty."

Q.—Did you do business there in your wife's name?

A.—I can answer that this way.

Mr. Van Buren.—Answer my question.

Chief Justice.—Answer the question as put to you.

A.—I did, sir; my wife was not there at that time; I do not know how long before that it was that she had left; I should think it was more than a month; it was very near three months. Q.—Was there gambling at that house? A.—It was not allowed; I had two girls named Julia that worked for me there; they were both colored. Q.—Have you corresponded with one of them since? A.—I wrote to one of them for a bird; she did not send it; I think I sent by mail; I did not send her a bird; I did not send her a present of any kind; I think I should know if I did. I do not know the steward of the steamboat Northerner; I do not know such a boat as the Northerner, commanded by Captain Budd; I know a Mr. Cowes, a black man; I do not know that he is the steward of the Atlantic; I did not send a bird by him to Julia, to my recollection; Julia did not write to me, to my recollection; if I had got a letter I think I should recollect getting it.

Q.—What do you mean by your recollection? (Laughter.)

Mr. O'Conor.—There were some persons in the gallery who participated in the cross-examination.

Witness continued.—I did not write to Julia a second time to my recollection; I am not aware that she is married; she has no child that I know of.

Mr. O'Conor suggested to the Court that in the modified code, divorce cases are classed among those in which, he took it, juries were to determine everything. In slander and assault cases, they found that the slander and assault was committed, and they found the amount of damages also. In this view he thought it would be for the jury, besides passing on the guilt or innocence of the party, to fix the amount of alimony. If the jury deliver their verdict without finding the amount of alimony, it would be a material point; and unless some understanding was entered into, it would be like giving a verdict to a man on an assault and battery case, without stating the amount of damages. In reference to that, he intended to give some evidence as to the value of this gentleman's estate. The legislature had taken the power from the judges and given it to the jury. If he (Mr. O'Conor) had been a legislator, he would not have done so; but his present views are that it would be unsafe that a verdict should be given without the amount of alimony.

Mr. Van Buren said the suggestion was quite new to him, but he had no objection to it. He would prefer to have the jury to pass upon it.

The Chief Justice also said that the suggestion was altogether new to him, but if both parties agree to it he did not see why the jury, in case they find a certain verdict, could not also pass upon the question of alimony. In cases where there were children, however, the Court of Chancery or this Court would be called upon to decide. The jury could not certainly make a disposition of the children.

Mr. O'Conor.—That perhaps might be so, but the question of alimony is a mere question of damages. It might be a very doubtful verdict if it was rendered without the question of alimony.

The Chief Justice said, the better way would be to think of this till morning. It would be a very serious thing to have this trial fail in consequence of anything of the kind.

Mr. O'Conor.—Every one must admit it would be unfortunate to err so that a new trial should be necessary. He would prefer that the Judge should fill up that point on the finding of the jury.

The Chief Justice.—The inquiry as to the property might lead to a long and intricate investigation. You had better think of the question, and if there is any doubt you can remedy it.

Mr. Van Buren.—Could it not be done by a reference?

Mr. O'Conor.—We can remedy it by a stipulation.

Mr. O'Conor called Mr. Longstreet and Mr. Rich; neither, however, answered. He had one question to ask Mr. L., as to the state of Mrs. Forrest's house for a fortnight after she got possession of it; and a question to put to Mr. Rich, who was the landlord of Mr. Doty.

The Chief Justice.—With the exception of those two witnesses, are you done?

Mr. O'Conor.—Yes, sir; and each will take about a minute.

It was then agreed between counsel that Mr. Rich's lease was proved, and also the lease of the part of the premises which Doty occupied from him.

The Chief Justice.—Then you rest, except as to Longstreet?

Mr. O'Conor.—Yes, sir: I will not read the depositions of Mrs. Dickinson, as the counsel objects; I have every faith in the opinion of the Court as to its admissibility; but as verdicts have been reversed on very small points, I do not wish to risk it in this case, and will not read it.

Mr. James Lawson, recalled and examined by Mr Van Buren, deposed.—Mr. Forrest was in St. Louis in June, '44; he was not here in any part of June, '44, he was not here before the 4th of July, '44.

Mr. Van Buren wished to put these entries in evidence.

Mr. O'Conor.—We have no objection to tell you that we have memorandums in our possession which show that Mr. Forrest returned to New York from St. Louis on the 17th July, 1844, and this Mrs. Forrest knows to be a fact.

Mr. Van Buren then read from the memorandum book items to show that Mr. Forrest played in St. Louis from the 10th of June, 1844, to the 21st of June, 1844; that he was in Detroit on 1st July; and that he played in Buffalo from the 4th July to the 13th July, 1844. These are all in Mrs. Forrest's handwriting. He also read dates from the same memorandum book, to show where he was previous to the 10th of June. He was at Nashville, Tenn. on the 27th May; on 3d May, at Cincinnati; on the 23d of April, at Lexington, Kentucky

Mr. Lawson, continued.—I had occasion to write to Mr. Forrest on the 26th and 28th of June.

Mr. O'Conor.—There is no earthly doubt that Mr. Forrest arrived from that tour, in company with Mrs. Forrest, on 17th July, 1844. Mrs. Forrest had no journal of her own, but she finds it on reference to another.

Witness.—The sofas in Mr. Forrest's house were kept in more places than one; they have been placed between the windows, and at the side; I have seen them between the fire-place and the windows; but that was before the pictures came from Europe.

The Chief Justice said he would allow nothing more of this testimony, except in reference to the sofas.

To Mr. O'Conor.—I have seen a fire in the drawing room a hundred times, but I could not say that I have seen a fire there since Mr. Forrest's return from Europe in 1846; I cannot say that the furnaces were put up before Mr. Forrest returned; I cannot say whether I have seen the sofas there after the Spanish pictures were put up.

Q.—Have you any recollection of seeing the sofas at the side where the fire-place was, after the pictures were put up?

A.—I cannot recollect; I think the pictures arrived after Mr. Forrest's return; they came in the ship Rob Roy, from Cadiz; I could tell the date on reference to my books, as I think I paid the freight.

Q.—To the best of your knowledge, were not those Spanish pictures put in that place within fifteen months after Mr. Forrest came back? A.—I remember they were hanging there, but when they were put up I cannot say; most likely they were there six months before the separation was spoken of; I think the furnace was put up six months before the 1st January 1849.

To Mr. Van Buren.—There would be no difficulty in placing the sofas under the pictures

Edward Eddy was then called.

Mr. O'Conor wished to know what they were going to prove now.

Mr. Van Buren.—We are going to show what has become of Mr. Jamieson: that he has been playing in Rochester and Albany, and has been in this State several times.

Mr. O'Conor.—Will his Honor then allow me to prove Mr. Jamieson's solemn promise to come on here as a witness?

Mr. Van Buren.—Will the Court allow me to prove—

Chief Justice.—I will allow you to prove nothing at all about it.

Dr. Henry Quackenbos was called and deposed—I am a physician; I knew Miss Josephine Clifton; I was her physician from September, '42, up to the time she left this city; she was married in '45, left that fall, returned in '46, and died on the 27th November, 1847, at New Orleans; from the 26th April, '44, and all May, June, July, and August, up to 10th September, she was confined to the house, and the greater part of the time to her bed.

Cross-examined—Q—Do you speak from dates? A—I speak from an excellent recollection, and also from accounts; I had that account here on Saturday, when I was told I should be called as a witness; it is my own account book; I did not exhibit it to any one in court; I told Mr. Dougherty I had such an account of 1844. I have an entry of a charge against her for a visit on September 10th, and a daily entry of visits from that time back to the 26th day of April.

Q.—What is the reason you have not that book with you now?

A.—I left in my carriage on Saturday, and it was stolen; I came here, and was told emphatically that I should not be wanted; I am in hopes to find it; I examined my book when I was told Mr. Doty had made a mistake as to the year 1844; I was here on Saturday; I cannot tell how it was lost; other things were taken out of my gig at the same time; I frequently lose a whip, and things of that kind.

To Mr. Van Buren.—I was subpœnaed here by Howland and Chase; I do not know that they are the attorneys of the plaintiff.

To a Juror.—I was in the country that summer; I never leave the city; I am always tied fast by my patients; I always put the date of my visits, the names of my patients, and the disease; there are no banker's or merchant's book's in the city kept with greater care or regularity than mine.

To Mr. O'Conor.—I cannot say why I had that book with me when I was subpœnaed by Howland & Chase; I got no other subpœna in this case.

To a Juror.—I did not order Miss Clifton to take a tour in the country that summer; she was suffering from gout all that time, and unable to go out; it went to her stomach on the 10th of June, and she vomited for four days and four nights.

Mr. Van Buren.—We close.

Chief Justice.—Is it closed on both sides? If not, adjourn till to-morrow morning.

Mr. Van Buren.—We would prefer having it closed now.

The Chief Justice.—Then the evidence is closed except as to Mr. Longstreet.

Mr. O'Conor.—And the question as to the alimony.

Mr. Van Buren.—There will be no difficulty as to that. Adjourned.

January 20th.

Mr Forrest was early in attendance Mrs. Forrest and Mrs. N. P. Willis were also in court, but left before Mr. Van Buren commenced his summing up.

The Chief Justice asked if there was anything to offer on the subject of alimony.

Mr. O'Conor said he was confirmed in the opinion he had advanced yesterday.

Mr. Van Buren simply objected to the introduction of the testimony.

The Chief Justice said it was desirable to avoid the necessity of going over the proceedings again. This matter was formerly referred to a proper officer, and his decision was under the supervision of the Chancellor. But they were now constantly getting into difficulty growing out of this new system. As the admission of the testimony could have no effect on the verdict, he would let it in.

Mr. Whitley was then recalled for the fourth time, examined by Mr. O'Conor, and deposed—I am acquainted with Mr. Forrest; I have a general knowledge of his real estate.

Q.—What is the reasonable value of those six houses and lots in Twenty-second street? A.—I should suppose from the value of houses up town, that they were worth $6,000 or $7,000; I should suppose the lot occupied by himself to be worth from $18,000 to $20,000; the fair reasonable value of the Fonthill property, would be from $50,000 to $60,000; I occupied part of Mr. Forrest's Covington property in Ohio; that property has two kinds of value; I should suppose Mr. Forrest would make a very bad bargain if he were to sell it for $25,000; Mr. Forrest owns some lots in the Main street of Cincinnati, some six or seven lots; my recollection of it, as it is four years ago since I was there, is very imperfect; I should say it is worth from $15,000 to $20,000; I am not acquainted with his Michigan property, nor with his personal property.

Chief Justice.—I would mention that this testimony coincides with Mr. Forrest's own estimate of his property.

Cross-examined.—I know nothing about his income from Fonthill. Q.—What was the income of the Covington property while you lived there? A.—The rent I paid was my services on the estate; I brought him in debt to me; I left because Mr. Forrest failed to complete his contract; he paid me $500; the contract was cancelled by mutual agreement; Mr. Forrest commenced legal proceedings against me, and the contract was cancelled by mutual agreement; I have not been pretty active in this case; I am an Englishman.

Mr. Longstreet recalled and deposed. that as near as he could come at the time, he found that the painters were at work for nearly three weeks after Mrs. Forrest went in the house in Sixteenth-street.

Mr. Van Buren, on the part of the defendant, proceeded to sum up the evidence about 11 o'clock. He said:—If the court pleases, gentlemen of the jury, I congratulate you on the close of the evidence in this protracted trial. I am sure that the counsel on the other side will agree with me that you have manifested the most commendable patience in listening to testimony, a very large portion of which might seem to be irrelevant to the case, but you will remember, gentlemen, in respect to both sides, that we represent parties who are deeply interested in the question which you were called on to try, and who are, very naturally, sensitive not only as to what may be precisely in issue, but sensitive as to the attendant circumstances by which their character here, and hereafter, is to stand in the public judgment, and they therefore, desired that we should present not only matters strictly relevant to the case on trial, but which might even, if not properly relevant to the issue to be tried, throw some light on the case, and afford some explanation and vindication, if necessary, of circumstances which are made the subject of present remark, though being not properly subjects for your decision on the trial. I do not think you will find that this extraordinary testimony is entirely unnecessary. You will find that even from all this will appear elements in respect to which such great controversy has arisen, and that there is not very much of the testimony introduced which does not bear, in some degree, upon the issue on trial. There are certain uncontroverted facts in this case which, I think, you will be pleased to reflect upon, because, if in the progress of the case you find much contradiction, much which leads your minds to a state of uncertainty, it will be a relief to look back on these facts, in relation to which there is no dispute at all, and I, therefore, desire to call your attention, in the first instance, to them. That these parties were married in 1837 or 1838; that they came to this country; that they lived together in uninterrupted happiness for some eleven or twelve years, that they agreed to separate in January, 1849, and carried that agreement into execution in May, 1849. are facts, in respect to which there is little or no dispute. That they never had any difference, so far as the kindness of this defendant is concerned—that his entire life was one of uninterrupted kindness to the plaintiff in this suit, there is but a single particle of testimony to contradict. The concurrent testimony in the whole case, with the exception of that to which I advert, goes to establish the fact:—that (with the exception to which I advert), he did admire and love his wife; and that it was not an admiration of an ordinary character—that it was not an attention even of the usual kind—that it was an evenness of temper extraordinary in any man, I think, under all circumstances—I think you will be prepared to concede. Such being his conduct—such being the relation of the parties, he put his wife away. In respect to that there is no dispute. She assented to being put away. In respect to that

I think you will admit, from the evidence, there is no reasonable dispute. That he never had any thing with a human being, except you regard the professional contest between Mr. Macready and Mr. Forrest as such a difference—that he never had any difference with a human being except this woman, to whom he was so fond and devoted, I believe the testimony in this case most satisfactorily shows. He put her away—brought her to the house where she desired to go, to the house of Mrs. Godwin. She was invited to Mrs. Godwin's, as a gentleman swears by her. She was taken there, as the testimony shows, at her own request, by Mr. Forrest. After having done so, a few months before, he was entirely silent as to the cause which had led to the separation; and that silence is now used as an argument against him—with what propriety we shall presently consider. With a kindness and liberality which, I think, you can appreciate, when this separation took place, he allowed his wife the liberal sum of fifteen hundred dollars a year; and it is argued that this was an evidence that he had no faith in the charges made against her. Gentlemen of the jury, you will not fail to remember that, up to this moment he is doing precisely the same thing—that voluntarily, and without any obligation of law, or any specific contract, from May, 1849, to the moment I am speaking, he has been paying her at the rate of $1500 a year, quarterly in advance, that now, at all events, and if you please, is admitted. And there is no question of it, everybody will concede, if the evidence authorized you and me to come to this conclusion on the subject. And while we hold such belief that he voluntarily makes this liberal allowance to his wife, it is an uncontradicted fact in this case. Nor had this support allowed to her, as I think I shall show you, been an avowal of there being no intention on his part to apply for a divorce. He removed to Philadelphia, and after he had so removed he found that the fact of the separation between himself and his wife had been the subject of remarks, and that it was attributed to misconduct on his part. He entered into correspondence with his wife in December, 1849, to which you will please to give attention, stating to her that their separation had been made the subject of complaint in respect to him, and that that was unjust to him, as she well knew, and desiring to know whether she gave any kind of authority to these conversations and rumors which made their separation a matter of accusation against him. He received to this an unqualified denial, but shortly after came into possession of evidence which could not fail to bring conviction to him that she had done so repeatedly, as the evidence in this case discloses, by testimony which they cannot dispute, and which proves the matter most satisfactorily. This satisfied him as to the necessity for Mrs. Forrest's divorce, and a correspondence ensued between the parties in January and February, 1850, which it will be necessary for you to reflect on particularly. Mr. Forrest was then, as we see, a resident of Pennsylvania; he became satisfied that a divorce from his wife must be obtained, that it was due to himself that this divorce should be promptly obtained, and that the reason why this divorce should be obtained as far as was necessary to the object of obtaining the divorce, and without any unnecessary injury to her feelings, should be spread before the public. Mr. Forrest then employed Mr. Sedgwick, and the first we know of any interference in the matter, is an interview between Mr. Sedgwick and Mr. O'Conor. We have the testimony of Mr. Sedgwick that he wrote to Mr. O'Conor, in January, 1850, proposing an interview to talk over these subjects. Mr. O'Conor stated to Mr. Sedgwick, in his reply, at an early date (what precisely the date was, Mr. Sedgwick does not recollect), that he could not allow any divorce to be obtained on the ground of Mrs. Forrest's misconduct—he could not allow it—and after that time Mr. Bryant was called into consultation, as a mutual friend of Mr. and Mrs. Forrest—certainly a man whose standing in the community would authorize one to believe a safe adviser, estimable as he is in all the relations of life, and pre-eminently so in the domestic and private life. He was called in as an adviser of Mrs. Forrest; and evidence as early as the 9th of February was laid before him of the Consuelo letter, and of the testimony probably which could be given by Mrs. Underwood, Mr. Garvin, and others; and he and I now ask attention for some moments to a letter introduced by them, dated on the 6th February, showing what Mrs. Forrest was then willing to do—what was known by her at that time, long before the letter introduced by counsel on the other side, and while actually by her own unaided judgment, except so far as a friend like Mr. Bryant would advise her, as a husband and a father in possession of these proofs, what was best to be done in this case. This letter dates 6th February, from Mr. Bryant to Mr. O'Conor, and you will observe as I read it (since I cannot state its contents as briefly as I can read it), that it speaks of the course which Mrs. Forrest agreed to take, and you will see how remarkably that is confirmed by Mr. Bryant's testimony of the subsequent interview. (Counsel read the letter referred to, commenting on certain portions of it.) Now, that was on the 6th of February, you must bear in mind. On the 9th of February Mr. Bryant again writes to us. His letter was not allowed to be read in evidence, but by showing it to him he recollected that subsequently to this communication to Mr. O'Conor, he hadan other interview with Mrs. Forrest in regard to this subject, and that she then assented to the divorce. All he recollects in regard to the matter beyond that was, that she desired the allowance should be properly secured to her. On the 9th of February, then, with the full knowledge of all these facts, with the conviction that a divorce was to be obtained in Pennsylvania, that it was to be obtained by charging her with "with great indiscretion of conduct not amounting to criminality," she assented, under the advice of as prudent and honest a man as ever gave advice, that she would make no opposition to this course, provided an allowance for her support was properly secured to her. Again, on the 14th, Mr. Bryant writes to us, but we are not allowed to produce the letter, but up to that time there was no difficulty, till he began to remember that there was some other difficulty besides securing the amount of allowance; but what that difficulty was does not appear in this case, so far as Mr. Bryant's testimony is concerned; but on the 15th of February, when the interview took place between Mr. Sedgwick, Mr. O'Conor, and Mr. Bryant, a letter was written to us, which we got in the afternoon, and no one attended on the part of Mrs. Forrest, neither Mr. Bryant nor Mr. O'Conor. This was on the 15th. On the 16th, Mr. O'Conor writes a letter to us or to Mr. Sedgwick, highly honorable to him, beyond all doubt, saying that if there is the slighest imputation on the honor of Mrs. Forrest in the measures taken to procure a divorce, she utterly and unqualifiedly refuses to acquiesce in it, no matter how abundant might be the allowance made to her, or how amply he provided for her support. This was very natural conduct on his part. I do not venture to make any suggestion that this was not in the highest degree creditable to him; but I desire to impress on your minds that over and over, and over again, Mrs. Forrest had fully and unreservedly acquiesced in Mr. F.'s applying to the Pennsylvania Legislature praying a divorce on the ground of misconduct, provided that provision was made for her support. Now, the articles of agreement, which were embodied by the evidence, show that there never was any understanding that a divorce should be obtained on any other grounds; and you will find that it is only provided that the divorce should be obtained by making no unnecessary charges against her, and this is the document introduced by them, the number of which I do not, at this moment, recollect. Mr. Van Buren read some extracts from the document, one of which was, that Mr. Forrest should pledge himself to some mutual friend that he would give no publicity to the charges, nor permit them to be published. This was all that was required by her, though knowing very well what the charges were which were necessary for the object, and she being fully apprised of the manner in which the object was to be secured. This negotiation failed; but it is important that you should bear this in mind, because it reflects much light on portions of the testimony. Mr. F., finding that she withdrew from negotiation, and neglected the advice, which she once followed, of Mr. Bryant, and put herself on her legal rights, by her counsel, returned to his residence in Philadelphia; returned to the home of his birth and of his childhood; returned to the family of his mother and of his sisters, and proceeded before the Pennsylvania Legislature, as this case disclosed, to prosecute his application for a divorce, precisely in the way he had intended to do in the original arrangement between the parties. That application was resisted, so far as appears, and failed, and a law passed, turning

the case over to the courts, antnorizing a party who had lived a year in Pennsylvania, to prosecute in the courts of that State for a divorce, shortening the term of residence before required to prosecute a divorce. The instant that application was made, and when Mr. Forrest returned here (I ought incidentally to state, that when the proceedings were taken before the Pennsylvania Legislature, a commission issued to this place to take testimony and evidence of Mrs. Underwood, Garvin, and so on), notice was given to Mrs. F. of this application, and of the taking of this testimony, and she was desired to attend. (I here desire, in stating these facts, to call the attention of the counsel on the other side to the statement, that if I mis-recollect or mis-state anything, he may correct me, as I should also wish to do when he comes to speak in relation to the testimony. We have no opportunity to be heard in reply to him; and in a case of this magnitude, I should not feel justified in permitting any statement which I believed incorrect to go without correction, and I should therefore take it as an act of personal kindness, that if I should be wrong in stating facts to you, the counsel on the other side would correct me.) This notice was given to Mrs. Forrest of taking out testimony in this city, and she declined to attend; and the reply read to you on her part, in the Pennsylvania Legislature, shows you the ground on which she refused to attend the examination of these witnesses. She said, that whenever summoned to a court of justice, she was ready to respond to the charges, but refused to attend to the examination of witnesses before the legislative committee, or to do anything except protest against the interference of the Pennsylvania Legislature in their conjugal relations. A suit was then commenced in Pennsylvania, where Mr. Forrest had long resided, and a notice of this suit was served on Mrs. Forrest. On that being done, the whole artillery of the law was exploded on Mr. Forrest's head the instant he came to this city. Two suits were commenced against him, as a man who had, in the language of the counsel who opened the case, "attempted to transport his wife beyond the seas, to be tried for pretended offences—a suit for divorce, in the Supreme Court, on the ground of adultery, and a suit for limited divorce, in the Supreme Court, seeking alimony, while she was receiving the abundant allowance to which I have referred, and seeking to restrain the suit in Pennsylvania, charging him with an intention of making away with his property, and enjoining him from parting with it, charging him with an attempt to ravish her, and carry her away by force, and enjoining him from coming to her house, or any place where she was; also proceeding against him in the shape of a *ne exeat* to prevent him from leaving the State at all; and all those various proceedings were brought down upon him in the summer of 1850, by virtue of the authority of the Courts of this State. Now, what was the history of this case, as we have shown it to you? Why, the suit brought for divorce, on the ground of adultery, on the coming on of the answer, was abandoned by the plaintiff, as you will recollect, and the costs paid. This was the disposition of the suit in the Supreme Court. The writ of *ne exeat* against him was set aside by the Court; the injunction to restrain him from alienating his property was set aside by the Court; the injunction to restrain him from coming to any place where his wife was, was set aside by the Court. This first vexatious suit, therefore, was abandoned, and the costs paid. These proceedings to restrain his liberty, and control him in the disposition of his property and personal movements, all of which were obtained about the same time, were all set aside by the Court, and the only remaining injunction, the restraint upon his proceedings in Pennsylvania, was retained by the judge who issued it; (and, almost in every instance, these processes were set aside by the very judges who issued them.) That only was retained, and an appeal was taken to the Supreme Court, which has not yet been argued. This present suit was the third and final proceeding against Mr. Forrest growing out of the transactions to which I have adverted—a suit taking the place, to some extent, which was originally provided for a divorce—complaining of his adultery, charging him with the commission of a great number of offences of this description, to the particulars of which I shall call your attention in a few moments. To this suit we put in an answer in which we deny this charge, and in which we recriminate, as we have a right to do, upon the plaintiff, the original charge instituted against her in Pennsylvania, and also to additional matter as subsequent evidence enabled us to supply. The issue growing out of the pleadings to which I have last adverted, you are called upon to try. And, gentleman of the jury, in doing so, the material inquiry for you, the first inquiry for you, will be, what are the precise issues which are to be presented to you? And, in relation to this, I will say, that so far as the issue is in respect to alimony, I do not propose at present, and probably not at all, to trouble you with any remarks. There are other and more important issues in the case on which you must pass, and on which it will be your duty to decide. I do not think there will be any substantial difference between the counsel on the other side and myself in respect to what the issues are on which you are to pass. I propose to read them from this printed book of proceedings, at page 276, for the purpose of enabling you to see what are the questions presented to you for trial. The first inquiry is, whether the defendant in this action since his marriage with the plaintiff in this action has committed adultery, as in the complaint in this action charged. Secondly, whether the said plaintiff and the said defendant were both inhabitants of this state at the time of the commission of such adultery by the said defendant. Thirdly, whether such adultery was committed by said defendant within this state. Fourthly, whether, at the time of the commission of such adultery by the 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. I do not say that the last question becomes particularly important on the trial of this case. The plaintiff undoubtedly was an inhabitant of this state at the time of her filing her bill; she was an inhabitant of this state by an express provision of the statute, to which reference may be made. The second revised statutes, page 145, provides that whatever may be the residence of the husband, in a case of adultery, the wife has a right to file a bill in her own name, where the offence has been committed in this state, and where the injured party is actually an inhabitant of this state. I don't think there will be any difficulty or dispute between us in respect to the applicability of the statute to this case, that the courts of this state have jurisdiction in this offence, and that the plaintiff is in a condition to invoke that jurisdiction, when at the time of the commencement of this suit the defendant was resident in the State of New York. But this a question, beyond all doubt, of some materiality in this case, and of some importance to both parties, whether at the time of the commencement of this action, the defendant was resident in the State of New York. I will only mention to you what I suppose to be the question on which you are to pass, and in respect to which I propose to offer to you such suggestions on the evidence as seem to me to be applicable. In the first place, then, did the plaintiff reside in Pennsylvania at the commencement of this suit? It was commenced some time in September, 1850—on the 19th, I believe. It is an issue which we present to you, and the decision of which is regarded with so much moment by the defendant. The next inquiry (and I mention them to you in the order in which I purpose pursuing them) will be, has the defendant committed the adultery charged against him? And the third inquiry will be, has the plaintiff, Mrs. Forrest, committed the adultery charged against her? These are the three main inquiries, as it seems to me, in this case, and around them we must be prepared to collect the testimony with a view to their decision. If there are other incidental questions arising, in the progress of the trial, which it may appear material for you to pass on, and I find, when they come to be submitted to me, that I deem them material, I may make some suggestions in respect to them; but, as I view the case, there are but these three material inquiries here:—First, was the defendant, at the time of the commencement of this suit, a resident of the State of Pennsylvania? Second, has he committed the adultery as charged in the complaint? Third, has the plaintiff committed the adultery which he charges against her? And, gentlemen, in the decision of this issue, and before you do proceed to consider it, I hope you will not think that there is any impropriety on my part, in asking you to divest yourselves, as nearly as you can do, of those prejudices which belong to human nature. I stated to you in the

-set of this case, that we were engaged in controversy -ch a woman. I stated to you that the universal feel-ng, almost of all animals, certainly of all men—more certainly of all civilized men, is in favor of the female portion of creation. Anybody who has been engaged in litigation, whether in respect to matters of feeling, or matters of property—anybody who has been so unfortunate as to be placed in that position, knows that there is a prejudice on the part of courts and juries in behalf of the gentler and more dependent sex, which surely deprives a man of all favor, if not of the justice to which the case entitles him. I do not complain of this. I have stated throughout to you, that I expected and desired to find a jury who were imbued with these sentiments—it is one so universal, one in which all animals participate—that it is not highly creditable to man, because it is so natural to man, that it ceases to be even honorable to him—but it is just, it is proper that it should be so—it is the protection which belongs to the weaker and more dependent sex, and one which we expect to be extended to them in this case; but if the testimony in this case be viewed under the light of the prejudice, and leaves no doubt in your minds in respect to its justice, then we shall expect that the simple circumstance that the issue is between a man and woman, shall not deprive us of a verdict at your hands. It is gratifying, gentlemen, to us to reflect, that so far as this plaintiff is concerned, she appears here, not only with the advantage which belongs to her sex, but with all the incidental advantages which are so important in courts of justice. She has no lack of means to procure the attendance of witnesses from every part of this State, and from several of the other States of the Union, to testify in respect to the most trivial—the most insignificant circumstances. Where one, two, or three witnesses from a distant State, could shed a ray of light upon the matter; she had no difficulty in procuring the attendance of these witnesses, and producing them on the stand. So, too, in respect to counsel. She has had the good fortune to be supplied with counsel, whose acuteness and energy are exceeded by none who practise at the bar of our State, or of any other State. She has had on all occasions, and everywhere, instant, earnest, zealous assistance from him and from such auxiliaries as he might desire to enlist. She appears here, therefore, with every fortification which could be thrown about her case, and with the absence of all obstacles that her condition might otherwise raise up, had she been unable, from want of means or want of influence, to command this issue, which is necessary to establish our guilt and her innocence. She has two gentlemen connected with her in this court, and a large number of influential men in several different departments. She had men connected with the press—men connected with the public modes of transportation—men connected with public amusements, who have it in their power, by the various ramifications of society which they pervade, to enlist not only the largest influence in her behalf, but to bring to her support testimony—testimony in respect to which it will be my duty to comment most freely in the course of my remarks—showing you that where a fact could be elicited by the most diligent search, it has been done; and showing you, I fear, that where a falsehood was required, a witness could be procured to testify to it so that he could manage to escape the punishment which the law provides for such offences. I think I shall be able to satisfy you, that, in the progress of the case, testimony has been adduced to matters the utter and absolute falsity of which must be transparent to you, as it must have been at the time they were put on the stand. But I should anticipate what I have to say, if I at this moment proceeded to the consideration of this testimony. There are other suggestions connected with the case that it may not be improper to refer to. The plaintiff is not a native of our country. She was born in a foreign country, and has spent the largest portion of her life there; but she came here from her own choice, to make this her residence. Testimony has been introduced to show that she endeavored, at all events, to become a citizen of our own country, and it would be most unkind, most unjust, most illiberal, if any prejudice should be permitted to exist against her by the circumstance that she was that is commonly called a "foreigner," and the declared an American citizen. She came here from that She is entitled to the full benefit of all the privileges which our own citizens enjoy, and I should be the last person in the world to attract to her any enmity, any unkindness, or ill feeling, on the part of the jury or the public, from the circumstance that she stands in the relation I have described. Gentlemen, having thus called your attention to some of the prejudices which may be excited against the plaintiff in this case, and having desired to present to you the testimony in the case, stripped of all prepossession, so far as I have been able to do, let me ask of you whether you have entered on the consideration of this case, and are now passing to hear the summing up of the testimony in respect to it without any prejudice or prepossession against the defendant. Whether you may not have heard or believed that he is a man of violent temper; whether you may not have heard that he is a man who has conducted himself rudely towards his wife; whether you may not have read of the various affidavits made in this case, and the statements in the newspapers, of his low associations, vile habits, his ignorance, and want of cultivation; and whether there may not be jurors in that box at this moment proceeding to the consideration of this cause, and the evidence adduced on it; and remembering only some of their suspicions and prejudices. If such is the case, gentlemen—if you have these prejudices against the defendant, let me call your attention for a moment to a portion of the testimony in this case, which goes to show you—not what I say of the defendant or what any body else says of him—but which goes to show you his heart itself, just as much as if it were laid open before you, and you had nothing to do but inspect it. You will understand me of course as referring to the letters produced by the plaintiff in this case; and let me say a word to you to remind you how these letters were introduced. They were not declarations made for the public eye; they were not statements made to be hereafter produced; they were not statements made by a third person. When a man writes a letter to his wife, he in law and in fact, is writing to himself—to part of himself—and if there ever is a time when a man is entirely natural and sincere, if ever there is a time when he speaks truly and justly, and unreservedly, what he feels, it is when he sits down with unrestricted friendship, and the legally protected secrecy of the conjugal relations to write, familiarly and friendly, a kind letter to his wife. You will remember, too, gentlemen, that these letters are spread over a surface of ten or eleven years; that they began as early as 1839, and continued till December, 184-; that they spread over a period, I should say, of nine years; that they are written under the most unreserved circumstances. They are familiar notes, written sometimes on a slip of paper, to say, "I will not be home to dinner." A few of them are written at the box office of the theatre, stating reasons why he did not return, all under the most unreserved circumstances, and in the most confident relations. You will remember, too, that there are some three or four and twenty of them selected by the plaintiff. Nobody doubts the acuteness of the plaintiff; nobody doubts the acuteness of her counsel; and you will bear in mind that among the thousand letters written under all conceivable circumstances, and with all the irritation which these circumstances must excite, those which would be most unfavorable to Mr. Forrest—those which would have a good effect for the plaintiff in the minds of the jury—those which would most injure his reputation, and most benefit the plaintiff—have unquestionably been selected. From this vast mass of material which his correspondence would furnish, the letters to which I refer have been selected by the plaintiff, and her counsel, with a view to throwing light on the character and conduct of the defendant. You will remember, too, that some of these letters were written under circumstances of irritation, such as are excited, if you please, by travel, by ill-health, by the absence of the comforts of home, by disappointment in respect to what he supposed had been sent with him, by professional rivalry, by the struggles growing up between men in the same profession, by physical and intellectual excitement, by ill-health, which his labor had unfortunately brought upon him, describing the rushing of blood to his head, and the regret with which he feels himself forced to pursue a profession which leads to such physical exhaustion and illness. Under all these circumstances, you will bear in mind that these letters were written—and now, is there in the whole—in the whole, taking them from first to last—evidence of anything but the most refined and delicate, and cultivated

feelings? I speak not now of the simplicity of his natural disposition—how the minutest trifles had a power to please him. I speak not now of his love of fine scenery—his love of the fresh bracing air—his desire to be walking with his wife in their haunts at Norfolk—his longing to have her enjoy the fine day with him—passing Fort Hill on the river reminds him of her—of his love of animals, and the servants in the establishment, and the uniform result of this affection in his messages; but, I ask you, whether, in the whole of this correspondence, from first to last, there is any want of love or affection in regard to his wife? Is there anything in them except evidences of the most devoted admiration and extreme kindness? Do you find, anywhere, any impatient remark in respect to disappointment growing out of her failure to send what he had immediate need of? For instance, neglecting to send him the manuscript of Metamora—the shield, and neglecting to send some portions of his dress. Did he write to her "I regret that this should be done; you have put me to great inconvenience." Not a word of this. What is the suggestion? It is, "Why, I might have stayed another night with you, instead of leaving and coming to Boston, for all the good I did; I might have come on at the same time with my things." But again. What is there? Gentlemen, in these letters, also, there is the most pleasing admiration expressed uninterruptedly to his wife, and for all who admire his wife. So late as the fall of 1848, he writes, "Mr. So-and-so spoke to me of you, and expressed the highest admiration of you, and, of course, he won my whole heart. I do love to hear you praised by the candid and just." He does not desire the praises of the class of persons who had praised and admired his wife without his knowledge; but he says, "I do love to hear you praised by the candid and just." Again, when she speaks to him of her having attended church, and says she fears he will laugh at her for going twice to church, he says, "far from it, far from it; I say amen to your sweet prayer. I should be the last person in the world to laugh at you for doing so." Again, when he comes to speak in respect to her habit of attending church, and of the person whom she goes to hear preach, he speaks of the Rev. Dr Magoon, and says:—"Perhaps I will be excused because these letters are hastily written to you, and your letters seem to reflect fully the character of the Doctor" He speaks in respect to attending church, and hearing Mr. Dewey—"I am right glad you went to hear the Doctor preach. He is undoubtedly a man of very superior endowments." &c. This letter was read yesterday by counsel for the plaintiff, partially in the hearing of the jury; but this portion of it escaped attention. I give you mere glimpses of these letters—glimpses of the testimony which they furnish in respect to the character and conduct of the defendent, and in respect to his feelings throughout this entire time; the kindness of his heart, and the unaffected love and admiration, not only to his wife, but to every one connected with his household—animals, servants, and all; his love of the country, his love of the simplest amusements which could be immagined. I speak to you of the pleasure he expressed in hearing her admired; and I will read a single extract, giving you the name of the gentleman of whom he speaks. (Reads a portion of the letter referring to the complimentary manner in which she was spoken of by old Mr. Mackey.) Throughout the letter there is the same kind expressions—the same admiration—not only of her, but of all who admire her. (Mr. Van Buren read, and briefly commented on some other letters.) Throughout this entire correspondence, spread over the length of time to which I have adverted, you will find the same kindness of heart, the same simplicity of conduct, the same admiration of his wife, the same love of all kinds of simple amusements, the same simple taste which characterize his entire life, and not a breath, throughout the whole of this correspondence, of contrariety to any of his family—not a complaint, or querulous expression of disappointment, or of harsh feeling. Now, gentlemen, if a man's letters thus written, and thus produced, are a fair transcript of his character—as it seems to me they should be—then you have, with a single exception, as stated, a picture of a man as simple in his taste, as sincere in his feelings, as devoted and true in his attachments, as ever was presented in a court of justice. The only single contrast to this concurrent testimony, from every point and everything, stands the single declaration of Nathaniel P. Willis. Mr. Willis alone, of all human heard or saw any rudeness on the part of Mr. his wife. He said he could not bear to see gether, because of his treatment of his wife; and Mr. Forrest meet him in the street, at the corn Murray or Barclay street, he speaks in violent and measured terms of his wife. Mr. Willis is the only human being who ever heard such a thing as this, and is the only human being who ever knew and stated such a fact in contrast to this picture of life which these letters afford. He is the solitary person, of all the others produced on the stand, and they certainly can afford to bring persons on the stand to prove every remark that the defendant ever made. Neither priest, nor prostitute, nor policeman, has heard a word to give countenance or color to the testimony introduced by Mr. Willis in the conduct of Mr. Forrest to his wife. Well, gentlemen, are we not then authorized to draw the inference which I have drawn, that through the entire course of life, up to the time of separation, he has been uniformly kind—has been uniformly considerate—has been uniformly attentive? and is, therefore, standing before you as one against whom there is not and cannot be any cause of complaint on that head; and he has been, through life, the kindest of husbands, and best of men. Referring to the question of domicil, the learned counsel said that Mr. Forrest resided here before going to Europe ten years, and in another city three and five years. He did not lose his residence by that circumstance; nor does the fact of my being proved to be present here, in any way contradict the fact of my residence in the State where I claim to reside. This is emphatically true. We have what is true, the domicil and origin of birth. Mr. Forrest was born in Philadelphia. You will remember that he lived there uninterruptedly till the time of his marriage. You will recollect that his mother resided there for many years, in a house belonging to him—that the family was made up of his mother and sisters—and that after he separated from his wife, in June, 1849, he came there and said—"Here is my home—I have no other." That would make him a resident there. That was a proposition of law hardly to be disputed. I refer the counsel to 1 Kent's Com. pages 76 and 77 on this question; to the second volume of the *New-York Legal Observer* 140, 19, 20, and 13 to 15. Frost vs. Besom. Now the case from the *Legal Observer* shows that the declarations of a party are the strongest evidence of residence—the declarations of the party himself, affecting this, are the only evidence which is in his power to furnish. He states where his home is; he states where he is living: if these statements be made in good faith, and you believe them, they are, in themselves, conclusive evidence upon the question of residence. Now, let us see how the case stands in that respect: In the first place, you will bear in mind that not one syllable has been spoken by Mr. Forrest in opposition to the statement made by Mr. Forrest's sisters; you will bear in mind that nothing could be more natural than that he should, on breaking up home here, when his household was once dissolv return to Philadelphia where there was any fam which he could call his own, and with whom he co reside. Mr. Forrest has not been so fortunate as to blessed with children, or so unfortunate, in a cer respect, as the case may be; his family, therefore, sisted of his wife and himself. When they separa of course, he sought his family, and the only place could go to would be Philadelphia, where his sis resided, and his mother had previously resided, w he was born, where he owned a house, and w alone was the family he could call his own. testimony of Miss Forrest, which was unimpeac shows that in June he went there; that when he c there he said to them: "Now I have no other hor this is my home," and that it was so from that tim this. He then remained there for several weeks, lived there in a room provided and made comforta for him; but retaining a large property he had here, was always obliged to visit here, and look after it, never giving up his residence in Philadelphia. N in opposition to that they show a visiting here; is no doubt about that; this litigation as shown in progress of this trial, made it necessary for him here; he was arrested here; was announced to here lengths of time together, and he has had litig for the last eighteen months, which they Everybody knows when the first motion in rega

it was made; and this, of course, accounts for the necessity of his being here. Again, a deed—a mortgage—was introduced, which showed that in August, 1849, some scrivener drew a mortgage, and described him as "of New York," and without any evidence, or whether his attention was called to it at all which it probably never was, there is no evidence that it was when he executed the mortgage deed; he voted in November, 1849, after he had left Philadelphia; that appears in the testimony; he unquestionably had no right to vote here; and if a man could establish a residence, by a vote, it was a very easy matter to fix the residence of the party; they made a mistake, in allowing him to vote, on the ground of holding property, and without reference to residence—without being questioned, and without having his attention called to it; he, therefore, voted when he had no right to do so. That is the circumstance on which they rely. We deny that he removed from Philadelphia in June, 1849. But, gentlemen of the jury, the enquiry in this case is—had Mr. Forrest returned from Pennsylvania at the time when he so voted in this State, when he became such resident; was he a resident in Pennsylvania in November, 1850? Well, now in reference to that, I am really at a loss to see how there can be two opinions upon the testimony in this case. In February, 1850, they treat with him at such a residence, and they arrange with him that he shall proceed to the State of Pennsylvania and obtain the divorce. In February, 1850, he makes application to the Legislature of Pennsylvania for a divorce, and in that application—being then in the State of Pennsylvania—he there upon the soil, solemnly swears that he is a resident in the State, and has been so since about December, 1849. I shall read now from a printed book, page 7, of the petition of Mr. Forrest. There is a mistake in the petition in reference to the date of the change of residence. It says—

The memorial of the undersigned respectfully shows: That your memorialist was born in the city of Philadelphia on the ninth of March, in the year 1806, and resided in the said city until he established himself in the city of New York in or about the year 1837, where he has resided till on or about the first day of December, 1849, when he resumed his residence in the city of Philadelphia. And your memorialist further shows, that he is now a resident of Philadelphia, in the State of Pennsylvania; but that he has not resided one year within this State, and previous to this application. That in London, England, in the year 1837, on the 22d of June, he married Catharine Sinclair; that they have lived together in matrimony until January, 1849; that there is no living issue of the said marriage; that your memorialist has in all things fulfilled the duties of the said contract; but that the conduct of his wife has so far violated that contract as to constrain him to appeal to your honorable body for a divorce. That he makes this appeal averring an entire incompatibility of temper and feeling, and the utter impossibility of happiness to either party in the continuance of the matrimonial connexion. That his wife has committed criminal acts inconsistent with the dignity and purity of the marriage state. That the evidence which established these and other facts which sustain the application of your memorialist will be laid before your honorable bodies, due notice having been given to the opposite party. And that your memorialist, under the circumstances, respectfully appeals to the wisdom and justice of the Legislature for a divorce from the bond of matrimony. And he will ever pray, &c. EDWIN FORREST.

State of New York, City and County of New York.—On this 16th day of February, in the year 1850, before me, personally appeared Edwin Forrest, the above named petitioner, who being by me duly sworn, did depose and say, that he has read the foregoing petition subscribed by him, and knows the contents thereof, and that the same is true.

Sworn before me, 15th February, 1852. Niel Gray, Commissioner of Deeds.

To Mrs. Forrest.—Madam—You will be pleased to take notice that the within petition will be presented to the Legislature of the State of Pennsylvania, sitting at Harrisburg, on Thursday, the twenty first of February, instant.

19 February, 1850. EDWIN FORREST.

We have never been able to refer you to the correct and previous date, instead of June. But, gentlemen, this is not all the testimony. Is there any doubt upon the simple affidavit?—and you will bear in mind that there is not a particle of testimony since, that any of the deed and conduct necessarily influences this p of the case? Is there a doubt—standing on the soil Pennsylvania, in February, 1850, and solemnly swearing he was a resident of that State—remaining there, and having a house there, and applying to the Legislature—of the fact whether he remained so from then until November, 1850? Have you a right to doubt?—have you a right to hesitate? Is there a circumstance to account for the declaration? Is there anything to prove that, after February, 1850, to meet the declaration then made? I submit to you there is not. But again—this does not rest there. In August, 1850, he again testified on this subject, being in Pennsylvania. I will read from the testimony in the case, page 51, from that petition which he then presented, and which is sworn to on the 7th August, 1850:—

Wherefore, your libellant further showing, that he is a citizen of the Commonwealth of Pennsylvania, and has resided there more than one whole year previous to the filing of this his libel, prays your honors that a subpœna may issue to summon the said Catharine Forrest to appear in this honorable court at September term, to answer this complaint.

Then the fact, whether he resided there a year or not, was a fact to which his attention was likely to be drawn, because it was necessary to reside there a year before he could obtain a divorce. Now, in August he repeats this oath. The courts of justice prove that he resided there at that time. Well, taking that testimony, there was nothing arose in the case for question, whether on the November after this August he was resident in Pennsylvania. How, I say, can there be a doubt that he was such resident? And I submit that upon that issue the evidence is incontrovertible, that he was a resident in the State of Pennsylvania at the time of commencing this suit. The next inquiry is, whether the defendant is guilty of the charges made against him; and in order to find what these charges are, it is necessary to call your attention to the complaint in the case. In calling your attention to the charges, the simplest way appears to be to read to you the plaintiff's bill of complaint. It is in these words:

Sixthly.—She, the said plaintiff, is informed and believes, and therefore charges, that since the *marriage* of her, the said plaintiff, with him, the said Edwin Forrest, and since the first day of January, one thousand eight hundred and thirty-eight, he, the said Edwin Forrest, disregarding the solemnity of the marriage vow, has oftentimes committed adultery; and on information and belief she says, and expressly charges, that the said Edwin Forrest, in the year one thousand eight hundred and forty, had carnal connexion with, and carnal knowledge of, one Josephine Clifton, an actress, now deceased, at a house in the city of New York, in which said Josephine then lived; and also, that he, the said Edwin Forrest, in the same year, one thousand eight hundred and forty, at some other place or places *in* the said city of New York, had carnal connexion with, and carnal knowlege of, the said Josephine; and also that the said Edwin Forrest, in the year one thousand eight hundred and forty-one, had carnal connexion with, and carnal knowledge of, the said Josephine, at a house in the city of New York in which said Josephine then lived; and also that he, the said Edwin Forrest, in the same year, one thousand eight hundred and forty-one, at some other place or places in the said city of New York, had carnal connexion with, and carnal knowledge of, the said Josephine; and also, that *the* said Edwin Forrest, in the year one thousand eight hundred and forty-two, had carnal connexion with, and carnal knowledge of, the said Josephine, at a house in the city of New York, in which said Josephine then lived; and also that he, the said Edwin Forrest, in the same year, one thousand eight hundred and forty two, at some other place or places in the said city of New York, had carnal connexion with, and carnal knowledge of, the said Josephine; and also that the said Edwin Forrest, in the year one thousand eight hundred and forty-three, had carnal connexion with, and carnal knowledge of, the said *Josephine*, at a house in the city of New York, in which said Josephine then lived; and also, that the said Edwin Forrest, in the same year, one thousand eight hundred and forty-three, at some other place or places in the said city of New York, had carnal connexion with, and carnal knowledge of, the said Josephine; and also, that the said Edwin Forrest, in the year one thousand eight hun-

dred and forty-four, had carnal connexion with, and carnal knowledge of, the said Josephine, at a house in the city of New York, in which the said Josephine then lived; and also *that* he, the said Edwin Forrest, in the same year, one thousand eight hundred and forty-four, at some other place or places in the said city of New York, had carnal connexion with, and carnal knowledge of, the said Josephine; and also, that he, the said Edwin Forrest, had carnal connexion with, and carnal knowledge of, the said Josephine, at some time between the twenty-fifth day of March, in the year one thousand eight hundred and forty-two, and the thirty-first day of April, in the year one thousand eight hundred and forty-two, at a hotel or house in Norfolk, in the State of Virginia, in which hotel or house the *said* Edwin Forrest then lodged or boarded; and also, that he, the said Edwin Forrest had carnal connexion with, and carnal knowledge of the said Josephine, between the first day of September, one thousand eight hundred and forty four, and the 30th day of Sept., one thousand eight hundred and forty-four, at a hotel or house in Providence, in the State of Rhode Island, in which hotel or house the said Edwin Forrest then lodged or boarded; and also, that he, the said Edwin Forrest, and at some places or place, times or time, often had carnal connection with, and carnal knowledge *of* the said Josephine, between the first day of March, in the year one thousand eight hundred and forty, and the fourth day of December, one thousand eight hundred and forty-four, and also, that he, the said Edwin Forrest, had carnal connection with, and carnal knowledge of one —— —— in the city of New York, between the twenty-ninth day of March, *one* thousand eight hundred and forty seven, and the fifth day of September, one thousand eight hundred and fifty; and he, the said Edwin Forrest, had carnal connection with, and carnal knowledge of the said —— —— between the last mentioned two dates, *at* the house in which she, the said ——, then lived, in —— street, in the said city of New York; and that he, the said Edwin Forrest, between the said last mentioned two dates, had carnal connexion with, and carnal knowledge of the said —— in some other places or place in the city of New York; and also had carnal connexion with and carnal knowledge of the said —— in a certain house in Houston street, in the said city of New York, oftentimes, and habitually on Tuesdays; and that he, the said Edwin Forrest, had *carnal* connexion with and carnal knowledge of the said —— in the said house in —— street, on the thirtieth, and again on the thirty-first day of March, in the year one thousand eight hundred and forty-seven; and also that he, the said Edwin Forrest, at some times or time, in the year one thousand eight hundred and thirty eight, in a certain house in the said city of New York, known as number four hundred and seventy-four Broome street, then occupied by a woman named Martin, did commit adultery with some woman or women; and also that he, the said Edwin Forrest, between the first day of May, one thousand eight hundred and forty-seven, and the first day of May, one thousand eight hundred and forty-eight, at a certain house, known as number three hundred and fifty-five in Greenwich street, in the city of New York, in which one Caroline Ingersoll lived, did commit adultery with some woman or women; and also that he, the said Edwin Forrest, between the first day of May, one thousand eight hundred and forty-eight, and the first day of September, one thousand eight hundred and fifty, at a certain house known as number six hundred and twenty-eight, in Houston street, in the city of New York, in which one Caroline Ingersoll lived, did commit adultery with some woman or women; and also that he, the said Edwin Forrest, in the summer of the year one thousand eight hundred and thirty-eight, in a certain house, on the westerly side of Cherry street, between Market street and Pike street, in the city of New York, did commit adultery with a certain woman; and also that he, the said Edwin Forrest, between the seventeenth day of June and the fifth day of September, one thousand eight hundred and fifty, had carnal connexion with and carnal knowledge of a certain woman who had sometimes been called Anne Dempsey, and who had sometimes been called Mrs. Flowers, in the city of New York, and also in New Brunswick, in the State of New Jersey, and also in Philadelphia, in the State of Pennsylvania; and also that he, the said Edwin Forrest between the said first day of January, one thousand eight hundred and thirty eight, and fifth day of September, one thousand eight hundred and fifty, frequently committed adultery with some women or woman; and also that he, the said Edwin Forrest, between the first day of January and the first day of April, in the year one thousand eight hundred and fifty, had carnal connexion with and carnal knowledge of a woman, sometimes called Margaret Clinton, in a certain house in Mercer street, in the said city of New York, near to Canal street; and also that, he, the said Edwin Forrest, on a great number of occasions, within one year next previous to the 19th day of November, 1850, did, in the night time, enter a certain house of evil repute, in the said city of New York, kept or occupied in whole, or in part, by a certain Mrs. Lewis, and known as number six, in Thomas street, and therein had carnal connexion with and carnal knowledge of some women or woman, then residing or being in said house; and especially and particularly that on one occasion, within ten days next previous to the last mentioned date, he, the said Edwin Forrest did enter the said house, number six, in Thomas street, in the night time, and therein had carnal connection with, and carnal knowledge of some woman then being therein and the said plaintiff charges that in each instance in which he, the said Edwin Forrest, had carnal connection or carnal knowledge, as aforesaid, of any of the women in this article mentioned, he, the said Edwin Forrest therein committed adultery; and the said plaintiff is not able to state, with certainty, any other circumstances of any of the acts of adultery herein charged, either in respect to the women with whom the same was committed, or the time when, or the place where the same was committed, than she has herein above stated.

I beg you to recollect, that while it specifies certain places, certain times, and certain persons, it generally concludes with a statement—between such and such times the defendant had connexion with a person by name ——. Some complaint has been made as to the manner of the denial, which we intended to be a full denial of all the charges contained in this complaint. I will read you an extract from that denial, which is general, explicit, and complete. Now, the denial in the answer, instead of going over each of the charges, and naming the specific items, or places, or persons, is a general denial, in these words:—

"*City and County of New York, ss.*—Edwin Forrest, of the city of Philadelphia, defendant in the above action, being duly sworn, saith that the charge of adultery, as most falsely alleged against him, has been, as he has good reason to believe, fabricated under evil advisement, for the purpose of intimidating him from the prosecution of his rights as an injured husband. He utterly repudiates and denies it, as false and wrongful; and avers that his conduct as a husband, throughout the period of the coverture of this plaintiff and defendant, repels that and every charge of injury or unkindness to his wife. He has, at all times, and in all duties, fully complied with the obligations assumed as a husband. He has been, up to the period of their separation, her constant and affectionate companion, during every hour that could properly be devoted to her, and has been uniformly attentive, provident, tender, and indulgent; and that, in this spirit of kindness and confidence, they lived in harmony, until he discovery that he had been deceived and dishonored."

If the denial is not made plain enough, it is a fault of mine, and not the fault of the defendant. And now you will observe that in these charges there is no lack of disposition to charge the defendant. They have not withheld any charge, nor has there been a want of desire to make it, or inclination to bring it against him. They charge him with intercourse with a number of persons named; for instance, with one Clinton—they charge the place where he had connection with Miss Clinton. It does not appear in evidence that such a human being ever lived as Margaret Clinton; yet they say that they had information, and believe, that he committed adultery with her, and they specify the times and places; and yet, so far as the evidence already stands, there was never such a being in existence. Again: They charge him with having connection with a certain person every Tuesday (daughter) at a certain house. When this trial came on they withdrew the record, and even the name of that party. There is not a particle of testimony as to there being any person or acquaintance at the place they name

reference to this charge. And again: They charge him with going to a house in Cherry street—yes, with having been there on such and such days specified; and a general charge, including a large space of time. Whether or not there has been a house of that kind in Cherry street, we have not the means of knowing. There is not a particle of testimony produced to show the existence of such a house. There is a house in Cherry street. Again: They charge him on oath with being habitually in a house in Thomas street—with having been there within ten days of a certain period, and with having connection with persons in that house. There is not a particle of testimony, even as to the existence of such a house. Then, with reference to the charge sworn to by Anna Dempsey, whom the plaintiff's object was to present before the jury in the most unfavorable aspect; then, too, in reference to this measure, you have seen what the charges were, the space of time they cover, the particularities, the circumstances, going to indicate and sustain the charge. I shall presently call your attention to the testimony with regard to this charge. I prefer to remind you that nearly every one of these charges is contained in the bill of complaint filed in the Supreme Court; and to these your attention will be called, for every one of the charges in regard to Miss Clifton is merely one of the charges in regard to the various houses. We contend that in this complaint in the Supreme Court, which, as I have stated to you, was denied by us, as in the affidavit of Mrs. Forrest—in precisely the same language in which this denial is couched—in such a denial she abandoned the suit and paid the costs. That is a great fact in the case. I now call your attention to the only testimony introduced. I think you will agree with me that, notwithstanding the high sounding manner in which the charges against the defendant have been made, they are of the most gross, and I might also add, of the most scurrilous nature, and that the performance, in the way of testimony, has been exceedingly scanty. I think I may ask you whether they have shown any disposition to put any class of our citizens on the stand. Has there arisen any unwillingness to call even prostitutes? Certainly not. They have been placed on the stand in profusion. You recollect the names of the various witnesses, and that they all swore they knew nothing about Mr. Forrest. They were put up experimentally, to see what could be obtained from them. It has not arisen, therefore, from the disposition to give a color to these charges. It has not arisen from a desire to call any class of our fellow-citizens before you. Nor any kind of testimony which could command an elicitation of the truth, or to sustain the case which the plaintiff seeks to hold. Now, the natural inquiry would be, if she had all this information that she swears to, at the time she filed the complaint; if she had information that the defendant was in the habit of committing gross prostitution—what is become of it? I shall have an opportunity of showing the mysterious mode in which they got rid of the testimony; the mysterious mode in which the witnesses who should have been here are missing. Witnesses whom we had reason to expect would have been put on the stand have not been brought before you. What can have become of the informants? It is an inference from the fact that they did not produce such testimony, that she never had any such information as she states on oath she had—on the ground of which she made these charges against the defendant. But, gentlemen, let us present the charges in reference to which testimony has been alluded to, and see how far there is any evidence to support the charges, and I think that I shall be able to satisfy you. I cannot believe that you can be so deceived in regard to effective testimony, when it is sought to hold a party responsible for the most criminal acts. I do not believe that you will be so deceived, in regard to the testimony, as to be wrong in my conclusions. The testimony, in this case, furnishes no ground, not only to convict the defendant, but it does not resemble a ground of suspicion, when we reflect upon the entire notoriety of his person—when we reflect upon the fact that there is not a living man in the city of New York better known than is the defendant in this suit, and the facilities thus afforded for testimony in regard to his whereabouts, during the whole course of his life. I begin with the testimony of Mrs. Ingersoll; and it is in reference to her testimony that he was once, or twice, or three times, as the case may be, in that house. That, perhaps, is an inference sought to be drawn against him. And then I shall call your attention to the testimony in regard to Miss Clifton—these being the only two persons, so far as my present recollection extends, in reference to whom any testimony at all has been adduced. I asked the counsel on the other side, yesterday, to furnish me with any authority he had on the subject, upon a question of law that might arise in this case; he stated that he had no authorities, except such as were probably quite usual and known. I do not think it necessary to proceed with any remarks; but if he should hereafter cite any authorities requiring a remark, of course the Court will grant me the privilege of replying to them. I wish to say this—that there is a suggestion in one of our elementary books, that if a married woman is seen to visit a bawdy house, that fact is a strong proof of prostitution—a strong proof of adultery; and also a remark that the same inference should be drawn from a married man visiting such a house. Now, I believe the authorities will be found to sustain the proposition, that if a married woman visit what is called in England a bawdy house—a house of ill-fame—it furnishes strong grounds of adultery which must be repelled by proof; that if a married man, in company with a woman, visit such a house, under such circumstances as would authorize a suspicion that he goes there for the purpose of being there with her, that suspicion has to be explained. But, gentlemen, the suggestion which I wish to make in regard to that house is, in the first place, the testimony does not tend to show that the house of Mrs. Ingersoll was of that description of houses called, by English authorities "bawdy houses," and that, in the next place, the testimony shows that whatever impression induced Mr. Forrest to visit the house, that he never did so in company with any woman, nor was ever seen in the company of any woman, either living or since dead, when visiting the house, except Mrs. Ingersoll, in regard to whom there is no charge of adultery—about whom no suggestion has been made during the trial, and with whom, I presume, it is not pretended to impute that any criminal connexion took place. Such being my impression as to the law, I suppose the Court will charge the jury that they are not at liberty to infer any evidence in this case, at that time and place, in the house of Mrs. Ingersoll, and that, therefore, their views will be confined entirely to the testimony in regard to Miss Clifton, upon which I shall proceed to comment. But, let me ask, what is the testimony in regard to Mrs. Ingersoll's house? I do not propose to go over it in detail, but I do propose to call attention a little to it, in order to see how it stands, and the character of that house, proved by the plaintiff by the testimony introduced by her for the purpose? Now, what is established? Suppose you take the testimony of Mrs. Ingersoll alone. She tells us she kept a boarding house; men and women boarded there. She tells you that they are in the habit of staying different lengths of time—a few days, a few weeks, or a few months. She tells you that some persons visited there. She does not know whether they were married or not. Mrs. Russell explains to you that she lived in the house kept by Mrs. Ingersoll, and proves that she lived eighteen months in that house; that she saw no impropriety committed in the house, and she names to you the persons who visited there, and amongst the rest, two girls by the name of Charles; but the testimony failed, and was subsequently abandoned. She states that she heard some remarks outside of the house, but which have not transpired. Now it was also very early in the day, and attracted her attention to the place. It is entirely true that upon one occasion a person was intoxicated in the house, in the afternoon a woman came to the place, and the person was taken out. This is true also. On another occasion two young men had gone to the house, and smoked in the hall, and had been removed. It is true, as Mr. Weir testifies, that he went into the house, that he saw respectable men and women going into the house, he went there, and had some difficulty in getting inside; he talked, and drank some wine, and not a single improper remark, not an improper act, took place there, to his knowledge. That is his testimony in regard to the house. After all this testimony has been introduced—after we have spent weeks and weeks in investigating the character of this house—after calling all the persons who visited there—after calling the physician who visited there, and who

undertook to describe what his previous acquaintance with, and the character of the inmates were, and who thought that such as were supposed to have no occupation followed an illicit intercourse for a livelihood—not that he saw anything of the kind in this house, but he judged from circumstances—what was the result of the testimony affecting this house? The learned council remarked upon the evidence relating to this house at great length. There was no evidence of Mr. Forrest having entered it, except the evidence of Mrs. Ingersoll, whose testimony was in itself conflicting. He commented upon the improbability of any intercourse having taken place between Mr. Forrest and Miss Clifton, and the absence of any evidence to prove it; and alluded to the necessary habits of the stage profession, and continued:—In respect to the testimony of Doty, you will recollect, gentlemen, that this point has been clenched for some weeks. A great many witnesses had been called to prove the intimacy that had existed between Mr. Forrest and Miss Clifton, and what had they proved? Mr. Forrest and Miss Clifton were both well known, and celebrated throughout the United States. Mr. Freeman, of Albany, was called to prove that on a particular occasion he saw them on board a boat, but he could not prove the fact. You will recollect that Mr. Wendell was also called to prove the fact, but he could prove nothing. So far as Mr. Freemen and Mr. Wendell are concerned, the testimony as to Mr. Forrest and Miss Clifton being seen together has failed. All that can be said in reference to Doctor Hawkes, is, that his testimony was absurd and ridiculous. The case was therefore running to the jury without testimony to cause the jury to pause one moment as to what their verdict should be. Under all those circumstances, when Massachusetts had been ransacked—when Connecticut had been ransacked—when New York had been ransacked, to prove the slightest familiarity between Mr. Forrest and Miss Clifton, Mr. William M. Doty presented himself; and what did he say? He says that in July, 1843, the 2d or 3d, he does not know which, he was on board the boat Albany. He was going to his mother's in Rochester, and he got home on the 4th of July, and he remembers that circumstance, because he was born on the 4th of July. He got back to New York, but he does not recollect whether it was the first or second Sunday after the 4th of July, but he knows it was not the fourth. He says he was then thirty years of age, and recollects that, because a difference arose between himself and his mother on that point, he saying that he was thirty, and she that he was twenty-nine. He recollected that the boat was the Albany, and that Capt. Macey, who is now in California, commanded it. He says that Mr. Forrest and Miss Clifton walked up and down the saloon in presence of from 50 to 300 people; that Mr. Forrest left her for a while; that he (Doty) then spoke to Miss Clifton, and she told him she was going to take a turn in the country with Ned; that Mr. Forrest returned and he (Doty) then left Miss Clifton; that Mr. Forrest went into the saloon with Miss Clifton, in presence of all these people, at an hour which could not have been more than eight o'clock in the evening; that he heard Mr. Forrest kiss Miss Clifton, and that in the morning, when they were called, he heard her say, "It's time to get up Ned," and this in presence of the steward and so many people as were on the boat! This of a married man who had hitherto sustained a good character among his fellow citizens, and of a female who supported herself respectably by her own industry, and professional talents. There is a transparent perjury on the face of it. There is not a prostitute in the State of New York—there is not a man, however profligate, in the State of New York—who would go into the public state room in presence of so many people, and lie there upon mattresses upon the floor, without removing them in the morning. There is not the commonest prostitute in the State—there is not a man in the State—who was not the veriest miscreant in the world who would do so. This is the testimony which convinced me of the utter nakedness and falsehood of Doty's story—rank perjury, which he uttered, because he thought he could not be prosecuted for it. Then as to the facility which he gives us to test his truth. We call Anna Dempsey, and she tells us all the circumstances connected with herself. I asked this man who were on the boat but he does not know. I asked him to whom he had told the circumstance, and he tells us that he mentioned it to Joe, and James, and John, and so on. "Mentioned it," said he, "to Doughty, a theatre loafer; I never saw him since, from that time to this." How are you to estimate such a man, unless, being an arrant knave, you believe he is also a consummate fool? [Mr. Van Buren here cited some of Doty's testimony.] He tells us he hated to make it public, after telling us that he had mentioned it to "hundreds of thousands of people," not one of whom he can recollect. He tells us now that he did not like to make it public after giving it the greatest publicity that human ingenuity could devise. Mr. Van Buren then proceeded to comment on the veracity of this witness, and referred to the movements of Miss Clifton and Mr. Forrest, which, he contended were entirely connected with their profession, and enlarged upon the monstrosity of the acts said to be committed by them. He was sorry that an exhibition of cruelty should have been made, by invading the precincts of the grave, and commenting upon the acts of the respectable dead. He then commenced a review of the charges against Mrs. Forrest, and touched upon her relations with Captain Howard, Mr. Jamieson, Mr. Raymond, and Mr. N. P. Willis, and compared her conduct towards those gentlemen with that which should have guided the conduct of a faithful and affectionate wife, which, he contended, was wholly inconsistent. He was a believer in the power of pedigree, and he thought the parents of Mrs. Forrest had transmitted their unfortunate qualities to her, and referred to her habits of drinking and smoking, in proof of this misfortune. He admitted the worldly wisdom of Mrs. Forrest, and lamented its misdirection, and her actual imprudence. It is desirable to see with whom she usually associates, whether with her husband's companions or her own. Mr. Richard Willis was absolutely a stranger to Mr. Forrest, and is so still; and yet we have him sleeping in the house for three days, spending his nights in the house. Captain Calcraft visited at this house for weeks and weeks before he was acquainted with Mr. Forrest; he was there in the morning, there in the evening, there with others who had no acquaintance. Again, her associations were with those whom her husband desired her not to associate with. He was to be drawn up by their talent and accomplishments with a view to the position to which he was to be elevated. Take the case of Mrs. Voorhies, at the time Mr. Forrest had prohibited her visiting the house, and, doubtless, he had abundant reason for doing so—it will not be disputed that Mrs. Voorhies did visit at the house all the while from January, 1848, to May, 1849; that the very carriage which took Mr. Forrest out to his professional engagements, to earn a livelihood for their family, brought Mrs. Voorhies and her nurse and child to the house; that, when Mr. Forrest returned, she was obliged to make her escape from the house without his seeing her; but no human being, Richard Willis, Captain Calcraft, or any other ever saw Mrs. Voorhies in the house in Twenty second street after January, 1848, while Mr. Forrest was at home. Well, now, how do you explain this desire to know men whom her husband did not know—this determination to associate with them? How will you reconcile this determination to associate with men and women whom her husband had prohibited her to be on terms with, with the desire to be candid and fair in her transactions, and to accommodate herself to such proper regulations, which every person under such circumstances would deem right. Again, take Mrs. Willis's story of the manner in which they spent that night, in the absence of Mr. Forrest. I don't say there was anything improper in her conduct on the occasion; but did any one of this jury ever know in his own house a party of gentlemen and ladies meeting at seven o'clock, and going on till eleven, then diminishing in numbers to six or eight, and having hot supper at two; then diminishing in numbers still more, till Mrs. Forrest, Mrs. Willis, Mrs. Voorhies, and Richard Willis were all that were left, and they sitting up to six in the morning. This is quite going ahead of my time, and I doubt whether any of the jurors ever happened to have in their own household a frolic like that. It may take the edge off it somewhat that Mrs. Forrest admits it. Mrs. Underwood swore to it; Garvin swore to it; and really, of all the things stated by Mrs. Underwood, this was the most important. Well, now, having called attention to her habits, I wish to call attention for a moment or two to her theories, as illustrations of Mrs. Forrest's principles, and I want to read two or three extracts from the Fourier letter. There is nothing in it absolutely crimi-

nal, but only going to show the principles which Mrs. Forrest entertained. It was written on June 11th, to Mr. Lawson. Speaking of Fourierism, she says :—

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.

No one would speak thus except one who spake as the apostle of the new faith, who understood it, and who was prepared to pave the way for the coming generations of the earth. Again,

The disciples of Fourier do not desire the subversion of all social order ; this is one of the many slanders which attach to them as well as to all other reformers, and which it is not worth while to refute. All improvements, social or political, must be accomplished by degrees. Our minds must be educated to the appreciation of the doctrines 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 prejudices, 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.

Those, then, who understood this matter, were to educate the others to the proper appreciation of these doctrines. And now, let us look for a moment what was their effect on this woman. We find in another extract :—

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 used to 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 each other.

I will now read to you some views on the fidelity of men, which seem to be somewhat peculiar :—

In any case, I do not think a woman should blame a man for indulging 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 not to apply 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 both himself and her ; but she would infinitely rather that he should indulge "new fancies," (I quote you.) than lead so unhappy a 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 for ever ; 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 natures. 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 for ever—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 dearest and the longest journey go."

Now, if there is anything which a virtuous woman would not permit, it is the infidelity of the husband. She would be not more inflexible in respect to her own virtue than she would be in respect to this. She might forgive her husband any offence She might sympathise with him in any misfortune, and overlook any crime, but if there is anything which she never would forget or forgive, or allow, it is his infidelity to her ; and yet, here is an argument, in a letter addressed to Mr. Lawson, in favor of such infidelity, and that it should be allowed, and that it is despotism in society to resist it. How long do you suppose it would take a person who uses that argument in behalf of the husband, to use it also in behalf of herself. Society, then has made a compact with the devil to secure the virtue of mankind. And if you seek to get out while you are in the trap cast round you by these words - to love forever your spouse—they cast you out forever, you and your helpless children. How is this ? Suppose you seek for a divorce, does this result ensue ? Suppose you cease intercourse, does it follow ? Suppose you mutually agree to separate, does it result so ? What do you mean when you say, "seek to get out ?" If you wish to separate from your husband for good reasons, it does not produce any such result. What produces an effect on your helpless children except seeking to "get out" by adultery ; if you "get out" that way, if you book your compact with the devil so, why of course it would reflect on your helpless children ; but there is no other means of "getting out" for which society would inflict a penalty on the party who "gets out," and there is no other explanation to be given to the remarks. Mr. Van Buren proceeded to analyze the affidavit of Mrs. F., contrasting it with the contradictory testimony of Mr. Lawson and others ; and while in the course of his argument (at 4 o'clock), Chief Justice Oakley directed the adjournment of the Court till ten o'clock Wednesday morning.

January 21st.

Mr. Van Buren resumed his review of the evidence this morning. He said it was desirable that they should keep in their minds the discovery of the Consuelo letter of January, 1849, corroborative of the one proved in December, 1849. The parties, they would bear in mind, remained together from January, 1849, to May, 1849, and then to December, 1849. But Mrs. Forrest said that the letter of December of 1849, was the first intimation received by her that the said Edwin Forrest suspected her chastity. That was eleven months after the discovery of the Consuelo letter, which he would now read to them, to show that it conveyed irrefragible evidence to any superior minded man of the guilt of Mrs. Forrest. But she said that until December, she had no intimation that he suspected her in any manner on the question of her purity. The affidavit was made in December, 1850. Subsequent to that time, her attention was drawn to a solemn statement made previous to the separation—a statement repelling the imputation of guilt, and, therefore, necessarily made in consequence of that intimation being previously conveyed by the person who made the statement. She undertook to explain the circumstances under which that statement was made. He called attention to her affidavit of the 2d of December on the subject, because it was a matter of comment ; and it was said that this manufactured statement was fraudulently ante-dated, and a portion of it was inserted at the time she signed the statement. Now, they would all see how far her statement, in that respect, was sustained by the evidence in the case, and he referred to folios 595, 601. He mentioned the folios for the convenience of the counsel on the other side. Mr. Van Buren then read from Mrs. Forrest's affidavit (already published in the proceedings of 31st of Dec., page 66) the reference to her conversation with Mr. Forrest respecting their separation, and in which she gave him the strong declaration of her innocence, which, at her suggestion, Mr. Forrest drew up and she signed. Her affidavit, on this point, concludes thus :—

I intended it to be as strongly worded as possible ; yet my impression, and best present recollection and belief, are, that its language only refers to, and denies levity, or mere venial breaches of decorum, and that it does not contain any denial of criminal conduct. I am confirmed in this belief by the fact that Mr. Forrest has made allusions to this paper, with a view to my prejudice, twice since the commencement of this action, and has, on both occasions, withheld any copy thereof, or

any precise statement of its contents. The signing of that paper did not attract much attention from me, being only connected, in my views, with a future evil event, suggested by Mr. Forrest, but deemed impossible by me, and I cannot remember recurring to it, even in thought, from the time of signing it until I saw a reference to it in an answer of Mr. Forrest to my action in October last (1850). Mr. Forrest wrote said paper, and my mode of signing makes it easy to write above my signature. From the statements in his affidavit, I suspect that he has ante-dated it. I deny, absolutely, that Mr. Forrest ever proposed to me to take an oath attesting my innocence; on the contrary, it was my proposal to him, as above explained; and I declare that his statements in his said affidavit about my having sneered on the occasion of taking any oath, or signing any writing, and his statements about the conversation alleged in the said affidavit, to have taken place on the occasion of my signing such paper, are wholly untrue.

He did so for another reason—the statement was so awful in its nature that he had hesitated to produce it. She said—and he wished them to bear in mind while he read that statement—she admitted that it was made after difficulties had occurred between them, and before the separation, and therefore made in March, April, or May. The learned counsel then read a portion of the affidavit of Mrs. Forrest, which has before appeared at pages 66, et seq., and continued—Now, for a single instance: she states in her first affidavit of Sept., 1850, that never until December, 1849, did she have the slightest intimation that he suspected the question of her purity—then she said that in the month of October her attention was drawn to the statement she had made. She then started an explanation as to what had been done for his future satisfaction. He denied a breach of decorum, or that her signature to the document was tampered with. Now, he would produce the paper, and the jury would bear in mind as he read it, that he regretted to be obliged to repeat that it was made in a solemn manner, at her special request. [Mr. Van Buren then read the declaration of innocence made by Mrs. Forrest, already published in the proceedings of the 3d of January, vide page 79.] Now, they would perceive that the suspicion that she had thrown out that somebody had written over her signature was wholly unsustained. The manner in which the paper was signed showed that, because there was still room. Thus more suspicions were thrown out in an unusual manner. It would be perceived that her signature was some distance from the writing—so far from any attempt being made to write above her signature, there was an interval. Again, although Lawson said it seemed to have been written at the same time, was that immaterial, after his statement, as it was made before the separation, and made long before December, 1849, at which time she said she received the first intimation, or even had any information that Mr. Forrest suspected her purity?

Again, in reference to that date, there was no day—it was written prior to the time—it was simply January, 1849. Again: she said that this awful statement, made by her, was merely a denial of infidelity, when the very first statement is a solemn declaration that she never had been unfaithful to the marriage bed, and so interlined over her signature. It was one of the very first things in the paper, following the commencement, which obviously must have been in the original statement, commencing with solemn language. Now, all those pretences which had been made by her to explain this paper, were falsified. And how fearful was the weight, when he recurred to the falsity of her original statement that in December, 1849, she never had any intimation of a suspicion of her purity! Had it not transpired in the face of it, that eleven months before that time she made that solemn statement? Did they not believe that it was for his satisfaction when he had the *Consuelo* letter in his possession? Did they not believe that it referred to past delinquencies, and intended to prevent a separation? She had made a statement which, in his judgment, no virtuous woman would have made. No virtuous woman would have made that statement for any purpose, and, least of all, to gratify the fear of future suspicion, and to overcome the convictions of the present. If, then, they looked at the facts as the evidence showed it to them, and dismissed suspicion—if they dismissed the remarks of counsel, and bottomed themselves on proof, how would the transaction appear in reference to the case? That he took her to a house—that he gave her an edition of Shakspeare without suspicion of her guilt—that he made her an allowance of $300 a year because he knew she was an innocent woman. That statement to which he referred, could only have been made in consequence of her conviction of her guilt. He now called attention to one of the other contradictions in this statement, because it would be necessary to advert to them hereafter, for she agreed to keep silence in regard to the cause of separation, and Mr. Forrest bound himself to a similar silence. He had never been heard to open his lips on the subject—even his sister did not know of it—he did not even speak of it when he went to her residence in January, 1849, and said, "This is my home—I have none other." He never told her the reason which separated him from his wife. When Lawson pressed him night and day, he said he made no answer. When Mr. Green met him about the time of his separation, and said, "Are you going to separate from your wife?" he replied, "that is true." Then, said Green, "Pray, tell me the reasons." He replied, "No, there are some things between man and wife that are sacred and ought not to be spoken of." He was never heard to open his lips on the subject until December, 1849. That was so much evidence of an agreement to do so, and he followed that course. Now, let them see what she said about that. Mr. Van Buren referred to page 624 in the printed book, as follows:—

I never entreated or requested Mr. Forrest's silence in relation to any act or conduct of mine, nor did he ever agree to be silent to shield me from shame or suffer in silence. I deny all his allegations in these respects. It never was agreed between Mr. Forrest and myself, to occupy, as before, the same apartment, to avoid the suspicions or scandalous comments of servants, or to avoid any consequence, nor was anything ever said or understood between Mr. Forrest and myself on that subject. The intended separation of Mr. Forrest and myself was known to the servants from the first, one of them having overheard the dispute on the eighteenth of January, 1849; and immediately afterwards it was talked of throughout the neighborhood. It was not until about a week after that time that anything was said between us about our conduct in connexion with such separation. Then, for the first time, Mr. Forrest stated to me that he wished the cause of our separation to be kept a secret; that he did not wish it known that any person lived after impeaching his veracity; that it was no other person's business; that it was our own affair, and we had a right to do as we pleased. I acquiesced, but did not exactly promise obedience. I remarked that I must mention it to my sister, and might find it almost necessary to state it to some other friends. He added that he wished no one to know it, and I remained silent. This was before the Consuelo letter was spoken of by Mr. Forrest. After that subject was introduced, he made the same request for silence, and, I presume, considered me as having acquiesced, for I answered pretty much as before.

She entreated him to keep silent; her efforts to take his breakfast to him, to take in the lights, to take in anything for the purpose of having an interview with him, showed her anxiety. They would perceive that she denied any agreement to keep silent in regard to the cause of separation, and adverted to its notoriety. But in a letter which she wrote to Mr. Lawson, she said in the postscript, in May, 1849, No. 24, "You yesterday said that Mr. Forrest had made some reference to our unhappy separation; that is a matter we never discuss with any one, and we mutually agreed not to mention it." Was that the agreement between them? If so, then she stated an unqualified falsehood in her affidavit, in regard to the terms on which they separated. Mr. Forrest hearing that there were rumors afloat in regard to the cause of separation, reflecting unfavorably on himself, wrote to and reminded her of her guilt, proof of which he possessed. He also reminded her of the solemn obligation she was under to keep secret the cause of separation. Now, what did she say in answer to that note? After having told Lawson and Bird—after having talked of it without the slightest hesitation—she wrote to him in December, 1849, thus:—

"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. Whenever interrogated upon the subject, I have invariably replied that the cause would never be known. I don't allow even my most intimate friend to interrogate me on the subject."

If, then, with all these circumstances together forcing themselves on their minds, could they arrive at any other conclusion but that she was a woman devoid of truth, they would show a great element upon which their appreciation of the testimony in this case would be guided, and that she could not be believed either in common conversation, or on oath. He said this with pain, but he said it with conviction, from a careful examination of the testimony in this case. Now, we offered to show the letters of her sister, and the letters of Mrs. Voorhies to her. They were shown to her and the counsel and they were objected to. He would not comment upon that fact, except by calling attention to it. He passed to a review of the character of Mrs. Forrest, and there was direct testimony in this case, of her guilt. He would call attention to her general course of life, as proved by Mrs. Underwood. Now, Mrs. Underwood was an early companion of Mrs. Forrest. She was her early friend, and an acquaintance of her father's. She lived with her two different times, and was in the habit of closely attending upon her, and among the rest, of attending her when at divine service. Now, he (the learned counsel) was aware that the latter circumstance was not one that necessarily sustained the truth, because it might be hypocrisy. People frequently attended divine service for the purpose of gaining popular favor, and seemed to profess a sanctity which they did not possess. But, with regard to Mrs. Underwood there was no necessity for any such assumption on her part. It is proved that Mr. Willis slept in the house. Was there a doubt that the great strength exercised by Mr. Raymond in hooking Mrs. Forrest's dress, was required? Mr. Raymond was implicated in several transactions, and his testimony must be received as from one who had every desire to exculpate himself. Richard Willis himself swore that he stayed at Mrs. Forrest's house and sat up all night—that he had stayed there on six or eight other days. He did not think he stayed there three continuous nights. Mr. Van Buren then proceeded to review Mrs. Underwood's evidence at considerable length, which he contended was remarkably confirmed, more especially as to the manner in which she had let Willis out of the house.

With regard to the evidence of discharged servants, he did not attach much importance to it, and did not attach any value to the evidence of Robert Garvin. This witness, instead of proving the adultery of Mrs. Forrest, proves the adultery of Mrs. Voorhies and Mr. Raymond. Capt. Calcraft remembered dining there; he remembered Mrs. Voorhies being there; it would be singular if she were not there. Now, on cross-examination it became necessary to ascertain whether or not he was a married man, and he (Mr. V. B.) stumbled on a difficulty (a laugh); that difficulty might have been avoided. Independent of the testimony of Mr. Willis, there was another circumstance sworn to by John Kent, and he was desirous of looking rather particularly at his testimony and seeing how far he was confirmed and how far he was contradicted. Kent swore that one evening Mrs. F. went to Mrs. Willis's house, and that she passed down the stairs to her room without stopping to speak to any one; that she subsequently went to bed; that he saw Mr. Willis step outside Mrs. Forrest's room, and heard him say "Good night, my dear," and then passed up. The jury would bear in mind that instead of calling any person who knew the fact, to contradict his statement, theories had been thrown out, and diagrams of the rooms and passages had been drawn, to show that what he stated was not true. He swore he could not see the door because there was something there. He saw Willis shut the door. Now, instead of making diagrams and theories, how simple it would have been for Mr. Willis to have said so! On comparing the evidence, it was curious to see how they contradicted each other. Yet none of them had contradicted Kent. He swore that, during Mrs. Willis's confinement, Mrs. Forrest continually dined with her in the back room; then another witness swears that, during the time of Mrs. Willis's confinement, Mrs. Forrest never dined there at all, and when she said so, the counsel remarked, "Yes, I believe that to be strictly true." When Willis came, he said she dined there often while his wife was confined. How curiously they contradicted each other, and how singularly they confirmed the evidence of the witness Kent. But there was another circumstance to which he had referred, and that was the manner in which Mr. Willis visited the house in Twenty-second street, and the manner in which he was let out. Now, he said that he visited there once a week on an average; that he disliked Mr. Forrest—he did not know why, he considered his acquaintance vulgar, and desired to avoid it. He considered that Mr. Forrest's treatment of his wife was unpleasant, and disliked seeing them together. He did not know whether Mrs. Forrest was aware of his aversion to her husband—thought not; that the reason why he was let out in the way, he was, was that he did not wish to make the acquaintance of Lawson. How would he make the acquaintance of Lawson by coming out? This confirmed the testimony of Mrs. Underwood as to the manner in which he was let out of the house. It had been shown, in evidence, that in Mr. Forrest's absence—when he was out of town—Mr. Willis was seen by three persons present standing with his arm round Mrs. Forrest's waist, and round her shoulders, for some considerable time. One of those persons saw him leave the room.

The library had two doors—a door opening into the hall; and the only door he could have seen him pass through was the door which opened into the bedroom. After all, he (Mr. V. B.) could not see how the testimony of three witnesses could get over the evidence of John Kent. The actual state of facts existing at the time furnished strong evidence in proof of the testimony. He passed now from the evidence of Mr. Willis with the simple remark, that from the manner in which certain witnesses were cross-examined, as to whether they had seen any other member of Mr. Forrest's family in the library—whether they knew the sister of Mrs. Forrest—and they stated that they knew the child Virginia, a suspicion flashed across his (Mr. V. B.'s) mind, to the effect, "You will now have nothing; we have no opportunity here." He then proceeded to consider and examine the testimony of Anna Dempsey. She was submitted to a most rigorous cross-examination. The jury would recollect that the other side had full notice of her intention to be here—that they had full opportunity to interrogate her on her whole character, from childhood to the present time, and they even neglected those opportunities. Her memory had failed her, when hurriedly questioned as to her having lived at Mr. Dickinson's. She was then 13 years of age, and now she was 24. She went to the House of Refuge. She was there several years, as the records of the house show. [The learned counsel referred to the various incidents of this witness's life, which had been brought up, and to her position of respectability at the present time, and asked the jury if they could impeach her testimony.] The very objects of the House of Refuge would be destroyed if all those who had the misfortune to have been there were to have the reputation of their whole lives impugned. No direct testimony had been adduced which went to impeach her evidence. Dr. Lee had sworn that he would not believe her on her oath, unless her character had materially improved. She lived with him when she was twelve or thirteen years of age, which fact the jury would observe. It had appeared that Anna had, on one occasion, gone into the bedroom, and caught Captain Howard and Mrs. Forrest in bed together. Barney McCabe presented himself on the stand. Barney McCabe once presented himself to me. Mr. O'Conor kindly sent him down to my office for inspection. (Laughter.) My whole business was to look at him (laughter), and that having been accomplished he left. They had the testimony of Catharine Levins, who said she had been looking for Barney one day, and not finding him, she drew the inference that, the door of a room being locked, he was in the room with Anna. (Mr. Van Buren here read the declaration of Barney McCabe, denying that he had any connection with Anna Dempsey, and which has been already published in the proceedings of the 9th of January.] The latter part of the declaration was not in evidence, but he would turn it down and hand it to the jury to show them that Barney writes a good hand, and that so far as that is concerned, there is no difficulty arising out of his being illiterate. He would now call the attention of the jury to his testimony on the stand. Barney says he believes he had connection with Anna—he believes he had.

My own opinion, continued Mr. Van Buren, is that he was drunk when he was on the stand. (Laughter.) He was drunk when he was at Mr. O'Conor's office. He didn't recollect that he was drunk when he was there, but his "boss"—pretty good authority—told him when he got home that he was particularly drunk. (Laughter.) Mr. Van Buren then referred to the testimony of Barney, to show that it was utterly worthless; but to that conclusion he supposed the jury had long since come. He referred to the letters written by Anna Dempsey to Mrs. Forrest, from the house in Mercer street, and asked what would have been easier than for Mrs. Forrest to have told her counsel that she had received such letters, and for her to have taken Mr. Voorhies or Captain Calcraft, if she wished, to hear what Anna had to say? No earthly danger could have resulted from the interview. He did not know what the counsel for the plaintiff will say on the fact of the muslin curtains having been placed in the window; but he (Mr. Van D.) would beg of the jury to recollect that the simple object in asking Mrs. Forrest to come there, was to meet the witness face to face. Why did it not occur to Mrs. Forrest, "Anna wants to charge me with adultery with Captain Howard. I will go and meet her face to face, and tell her, as I before told my husband—it's a lie?" Then look to the conduct of Mrs. Forrest towards her, after she was with child by Captain Howard. He (Mr. Van Buren) confessed that that fact strengthened his confidence in the truth of her statement. Instead of discarding the girl—whose language Catharine Levins tells them, was uncnaste and smutty—instead of discharging this girl, who was then a common prostitute—for she had slept with Barney—Mrs. Forrest keeps her in the house. They didn't tell Mr. Forrest of the circumstance of her being in the family-way. This child (Anna) remained in the house after being in the family-way, and when the rest of the servants had left, she remained there until April; she remained there a lady boarder in the house; she remained there doing nothing. When the hour of her confinement came, she was sent to the country, and the testimony shows that Miss Margaret Sinclair, the sister of Mrs. Forrest, corresponded with her under the assumed name of Elmendorff. She was confined in Norwalk, at a respectable house; and what was the child called? Barney. No. (Laughter.) Who paid the expenses? Barney? No; they were paid by Mr. Raymond and Margaret Sinclair. Why, Barney, by this feat, was raised to a magnificence he could never have dreamed of. He was placed at the head of this literary circle. (Laughter.) He was the apostle of the new faith. (Laughter.) He brought around him not only the associations, but the means and wealth of the best—the most elevated—and the most literary in this philosophical coterie. Anna Dempsey remained in Norwalk until she was sufficiently recovered to be removed. She was sent some clothing for the baby—a merino cloak, an unusual dress, I should think, for Barney's child. The child was sent to nurse, and remained in the charge of Mrs. Butler for a year, or better, for which Anna Dempsey tells us she was to pay $7 a month; that she did pay it, and that she got the money from Catharine Levins, the servant of Mrs. Forrest. Mrs. Butler, the nurse, tells that she herself got money on one occasion from Catharine Levins at the house. Anna Dempsey went before a magistrate and swore that Captain Howard was the father of her child and threatened to prosecute him. What was then done? Did he deny it? No. Did he dare come to the city? No; an arrangement was made by Mr. Raymond on behalf of Captain Howard and Miss Sinclair; and a part of the arrangement was that the letters written by Miss Sinclair to Anna Dempsey should be given up, and Mr. Raymond went to the steamboat when she was going to New Orleans, and got a portion of them from her. Mr. Raymond thought it would be a disadvantage to Miss Sinclair if they were not given up. If in those letters Miss Sinclair had admonished Anna of her crime; if she, as would have become a chorister of the church, had called on her to repent in "sackcloth and ashes;" if these letters contained volumes of admonition, telling her the disgrace she had brought upon her family, telling her the disgrace she had brought upon the house where the debauching had taken place, and telling her never to transgress in this way again—if the letters contained all this, why did Raymond make the bargain to get the letters back? Why did Mr. Voorhies follow her to New Orleans and take the balance of the letters from her? It is extraordinary, and looks towards a theory to which I shall presently refer. Anna's child was subsequently sent to her to New Orleans, and fifteen dollars worth of clothing was given for it for that purpose. Who paid it? Park Godwin for Captain Howard: and thus this child was fitted out for the second time by Captain Howard, through the agency of Parke Godwin. They afterwards took the child from New Orleans and brought it to New York; it remained here till last July, when they tell us that it died. Now I would ask the explanation of all this. Is it that Barney got the child?—that's preposterous. Is it that Capt. Howard got the child?—that's preposterous. Mrs. Forrest, as a virtuous woman, would have said to Capt. Howard, "you have disgraced my house, and never enter it again." But what if, on the other hand, Anna held within her breast the knowledge of a transaction which was to disgrace Mrs. Forrest? This was a key to the awful, fearful, overwhelming efforts to blast the testimony of this child, whose history from the present time down to her remotest childhood has been examined into. Mrs. Forrest and Captain Howard had nad nine months' notice of this testimony. If it was false, Captain Howard should have said to her, "don't dare go on the stand, for if you do, and commit a wilful and corrupt perjury against Mrs. Forrest and myself, I will prosecute you, I will send you to the State prison." Why, the only witness who could contradict Anna Dempsey, is gone to the Sandwich Islands. He don't dare to come into the city. What are you to infer from this but that the strongest inferences of the law are against him?

But again, where is Mrs. Voorhies, who Mrs. Forrest states stood by her all through? Why does she start now, without any apparent object, except to go to Italy? With the present facilities for crossing the Atlantic, she could have been brought here twice while this trial has been going on. Where is Voorhies, who took the letters from Anna Dempsey? Where is Parke Godwin—a witness who was really here, but is now gone? Thus we have found her paramours, as we say, her sister, as she admits, all absent. Where are they? And why is Massachusetts ransacked for Dickinsons? Norwalk for the Whites, the Curzons? Why is Doty put upon the stand? Why the prostitutes put upon the stand? Why all these witnesses, with this immense outlay of money, while those who really knew about the case have kept away? Tell me why it is that a simple woman, as if by magic, drives them all away—Howard to the Sandwich Islands—Godwin to Europe—Voorhies to Europe. Because she holds with in her a truth which can destroy the whole of them, and they don't dare to confront her. I have dwelt upon her testimony, because I believe her whole statement bears upon it the impress of truth; and she comes here to testify when those who should have stood by her have left her. She is alone; her father is absent; the father of her natural child becomes unnatural; those who paid her for the support of her child—all abandon her; but I trust that when the counsel comes to sum up on the other side, he will not forget that she is the "Flowers" of his "Forrest," and not of mine. (Laughter.) Mr. Van Buren, in further allusion to this witness, remarked that she was the wife of a respectable man, holding a respectable situation; and, with a courage about her which approaches the sublime, she came here, with her husband's sanction, not only to vindicate her own character, but, in justice to the defendant, to detail those facts with which she had become acquainted. I pass now to the consideration of the only remaining charge to which I think it necessary to call your attention, and have to render my acknowledgments for the kindness with which you have attended to my remarks. In submitting the whole matter to you, I know that I have been thus far, as you were aware I must have been, necessarily tedious, in detailing the long and protracted examination of testimony. I appreciate the fact that you have been not only taken from your ordinary business, but have been confined to this court house for days and weeks, and I can only promise that what I have to add will not occupy much more of your time. The charge which, in my judgment, is the most serious against Mrs. Forrest, is that in respect to which the testimony, with a single exception, is entirely uncontradicted, and is that of her adultery with Mr. Jamieson, and that rests, in the

first place, on the testimony of Mr. Smith, and to the manner in which he describes the circumstances under which the parties were when Mr. Forrest came suddenly into the room, and as this is in striking contrast with the evidence of Mrs. Forrest, I may be permitted once more to call your attention to her statement and show you how distinctly she is contradicted by the testimony of Mr. Smith in respect to this matter. Mr. Van Buren here read extracts from the affidavit of Mrs. Forrest, in respect to her intimacy with Mr. Jamieson, commencing at folio 586, and contrasted her statements with those of Mr. Smith on the same subject; the substance of Mr. Smith's evidence, received through a commission, was published on 23d December. Mr. Van Buren continued—this is the testimony then, distinct enough to contradict Mrs. Forrest in respect to the attendant circumstances of Mr. Forrest's discovery of their position on this occasion. Now, I call to your recollection the testimony introduced and the suggestions made when we proposed to show the letter from Mr. Jamieson to Mrs. Forrest, written about that time. You will recollect that our attempt was resisted at every step of the proceedings, and for weeks we were endeavoring to introduce that letter in evidence, and we were continually met by suggestions on the other side—that, whether Mrs. F. had received the letter from Mr. Jamieson—whether she had received a letter at all, very likely referring to the Consuelo letter, there was no evidence—that there was no identification of the precise letter offered in evidence; on the contrary, they wanted to lead to the impression that there was a conspiracy set on foot between Mr. Forrest and Jamieson, for the purpose of inducing the latter to write another letter, differing from the original one given to Mr. F. by him, and which might convict her of guilt, whereas, the original letter might be entirely innocent. This suggestion of ours was met with statements, and evidence, and circumstances, which had come to their knowledge, authorizing the conclusion that Mr. Forrest had entered into a conspiracy to procure admissions from Jamieson of the guilt of his wife, which were not contained in the original publication; and it was in this connection, and bearing upon this subject, that the testimony of Mr. Forney was introduced. It is proper that, in this connection, I should call your attention to that letter of Mr. Jamieson's, for two purposes. In the first place, you will see how far this letter may be supposed to be authorized by Mrs. Forrest, and then how far it bears upon the question which you have to try. The only interrogations on this subject of any materiality, is with respect to the letter written by Mr. Forney to Mr. George Roberts, of the *Boston Times*. Counsel read this letter—published in the progress of the case—commenting on it, to show that, though Mr. Forrest was cognizant of its being written, and communicated facts therein mentioned, yet, from other inconsistent details, it was evident he had not seen it written. Whatever may be said in regard to the prudence of this letter, no man acquainted with Mr. Forney would hesitate to believe the precise object which he desired to attain, and the one to which he testifies; he had no earthly doubt, he says, in respect to the guilt of Mrs. Forrest, and he had no doubt that Jamieson would not hesitate to make a declaration to that effect in familiar conversation, and he states that so far from entering on any dishonest or improper object of his own motion, the object was an honorable one, and he supposed that he was attaining and accomplishing it by honorable means, and, however unwise or wise this course of obtaining proof of Mrs. F.'s guilt may have been, there is no particle of authority to prove—there will not be a suggestion on the other side—not an argument to show that a single thing was ever done in compliance with this suggestion, by Mr. Roberts, except to send a copy of the letter, or procure it to be sent directly to Mrs. Forrest and to her counsel, thinking he would show to them that in the first place there was a dishonorable proposition made to him, and that it was a matter of great glory to him to have such a dishonorable proposal made to him; and, in the next place, to show how honorable it was in him to betray the confidence reposed in him. How he expected to appear to the most advantage by his participation in the matter, I am at a loss to conceive. Mr. Forney, treating it as an honorable purpose, wrote to Mr. Roberts, who treated it as dishonorable. But it is sufficient to say that it neither procured any admission from Jamieson, nor was any attempt made to procure such from him; but long before, this letter, which has been the subject of comment in this case, was in Mr. Forrest's possession. With these remarks, I proceed to call your attention to that letter, the genuineness of which has been disputed. The fact that it was delivered to Mrs. Forrest before the time of her engagement of Jamieson to make a visit—that it was delivered to Mrs. Forrest before Mr. F.'s return from Cincinnati—delivered to her while he was on his way to Pittsburg, where he remained for two or three weeks, and the difficulty sworn to by Mr. Smith, the fact that the sudden retreat of Jamieson alluded to, was two or three weeks after the receipt of that letter, are all conceded. And let us now look for a moment to this letter to see the evidence which it contains of the declarations of love and affection, not only of Jamieson towards Mrs. Forrest, but of Mrs. Forrest to Jamieson:—

"And now, sweetest Consuelo, our brief dream is over, and such a dream! have we not known real bliss? have we not realized what poets love to set up as an ideal state, giving full license to their imagination, scarce believing in its reality? Have we not experienced the truth that ecstasy 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—no, to know, that I have made some hours happy to you. Yes, and the remembrance of it 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 opened rose could cease to be the hum-bird's harbor. And as my heart and soul are in your possession, examine them, and you will find no text from which to discourse doubt of me."

Now, gentlemen, if this letter contained a simple declaration of admiration—if it contained a declaration of the most romantic attachment—if it contained declarations of culpable love on the part of Jamieson to Mrs. Forrest, by itself it is a communication which any virtuous woman is subject to have made to her, in writing or in speech; and it is the manner—the manner only—of resenting it, which is the subject of remark; but when a party goes further, and refers to the declaration which Mrs. Forrest made to him, then he is either speaking truth or is speaking falsehood.

"But you have told me (and oh! what music did your words create upon my grateful ear), that you would not doubt me."

Had she told him so? If she had not, he was sending to her, in secret, for her own personal inspection, without design, or even fear that any other human being would see it, a wilful and gross falsehood. How absurd to imagine a secret, confident communication of a lie, to the only person who knew it to be a lie; and what would be, what should be the instant answer of a virtuous woman to this, if such an inconceivable occurrence should take place? It would be "the man is crazy, the man is mad, he forgets himself, he is misrepresenting me by improperly describing me as making avowals of love to him, and reminding me of the music which they made on 'his grateful ear,' while no such thing occurred; he might compromise me beyond measure by this act." Such would be the thoughts and answer of a virtuous woman.

"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, —Consuelo!" What was the consolation to whisper of that reflected on their past intercourse? What was this past intercourse? A declaration of love and attachment on his part reciprocated by the most undoubted expressions of confidence on hers, and by the recollection of this she was to console herself during his absence.

"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, shall remain so. I wish I could tell you my happiness. I

cannot. No words have been yet invented that would 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; write to me and tell me you are happy. Think of the time when we shall meet again. Believe that I shall do the utmost to be worthy of your love!"

Not worthy of winning her—not worthy to admire her—not worthy to be admired by her—but worthy of what he possessed, and which he was struggling to deserve:—

"Believe me that I shall do the 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. Oh! how hideous they look after thinking of you!"

He would say no more! God knows what he could say more to throw any light on this case. I do not know why Mr. Forney should write to anybody to talk to him on the subject, drunk or sober, while Mr. Forrest had this communication in his possession :—

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
Clasped Consuelo!

When we come to speak of admiration, this remark seems to reduce the admiration to the level of understandings of the meanest capacity. However refined, intellectual, and literary people may be, it seems that the mode in which they make love resembles that of ordinary mortals :—

Adieu! adieu! Be thine each joy
That earth can yield, without alloy,
Shall be the earnest, constant prayer
Of him who in his heart shall wear
Sweet 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?

What did she say to this? That letter was received by Mrs. Forrest before she went to Pittsburg. In it she was reminded of her declaration of love, in times past, to this man. She was begged of to write to him and tell him she was happy. She was inquired of, whether, when she returned, and they met again, their triumph would be sealed with a kiss. Now, when you come to declarations of love—when you come to avowals of confidence—when you come to clasping people in your arms, and sealing meetings by a kiss, you come to what, with ordinary mortals, is regarded as the evidence of adultery, and but one thing more can have been possibly proved by us, and I submit, with great respect to you, that even that letter—even that alone—unless accompanied by some explanation of it from Mrs. Forrest to her husband, is sufficient to stamp the guilt of the party. You cannot close your understanding to the inferences inevitable to this declaration; they stand out so transparently on its face that I should be guilty of an injustice to you and offering an insult to your intelligence, in commenting on it. If Mrs. Forrest had instantly handed this letter to Mr. Forrest, and had said to him, "sir, this man is crazy, writing to me of interviews which never took place, representing me as making avowals of indecent love to him, reminding me of the attachment I bear him—the man is evidently crazy, do not take any notice of him." This is what a virtuous woman would have done. But what was Mrs. Forrest's course? She concealed it from her husband; kept up the same intimacy, or even greater, with this man, afterwards, than she did before. She swears to this in her affidavit, and it does not rest on any testimony which was introduced by us.

(Mr. Van Buren then read portions of Mrs. Forrest's affidavit, with reference to her connexion with Mr. Jamieson and the Consuelo letter, the whole of which has been heretofore published.) She says she had once expressed sufficient censure of the Consuelo letter; but we are left to the power of divination to imagine what she regarded as sufficient censure of it. I suppose, as we have but one rule to judge of what we do not know—that is, by what we do know—I suppose she made the same reply to this (if the case admitted of it) as Anna Flowers said she did to her, when she told Mrs. Forrest of Captain Howard's connexion with her. "Why," said she, "Anna, it's a shame, and when I see him again I will give him a good scolding." This may have been, in her judgment, a sufficient censure for the offence. What she would have deemed a sufficient censure for the intimacy itself it is difficult to imagine. If you believe the statement to be true, she participated in this intimacy, and did not permit their friendship to be interrupted by this letter. Now, on the other hand, if you believe the statement of Mrs. Underwood, as to the manner in which this letter was discovered, and her conduct at the time of missing it, then her entire account of it, bad as it actually is, is far short of the truth in respect to this affair. Mrs. Underwood says that Mrs. Forrest went to the drawer, and found that this letter was missing. She immediately started and said, "Sister Katten, sister Katten, what a fool you have been." That she had kept the letter concealed, she admits. She kept it from May, 1848, to January, 1849, when he discovered it. Mrs. Underwood's testimony shows that when she went to the drawer and discovered that it was gone, she spoke of it being missing, and went to a drawer at the other side, at the head of the bed, and opened it, and took out letters, and said, "I am glad he didn't find these letters," and these she burned. She subsequently said to Mrs. Underwood, "Mr. Forrest is determined to separate from me; I never saw him so serious in his life;" and she then stated the discovery of this letter. Now, gentlemen, I do not know what evidence may be required, in an ordinary case, to prove the commission of adultery between two parties; but it seems to be utterly incredible that, with this letter in evidence, and these facts admitted, if Mr. Jamieson fails to appear (as other persons, who should be examined in this cause, have also failed to appear in some instances),—the only one who could explain this transaction who is shown to be or offered to be shown to be living, when he could come on this stand and deny the adulterous intercourse if it is not true; and yet, in view of all this—in view of all these facts—in view of these avowals of love—in view of her preserving and secreting the letter containing them—in view of her afterwards entertaining and receiving the man who had written it, and keeping up the same intimacy with him, writing all the while most affectionate and enthusiastic letters to her husband, regretting his absence—if, I say, the man who could explain all this fails to appear on the stand, fails to present himself as a witness to deny the truth of these statements, or explain them if the case admits of explanation—how is it possible—I put it to you with great respect—how is it possible to avoid the inference which these facts inevitably force on the mind, of the guilt of the party?

But, gentlemen, we are not left entirely to inference on this subject; and I now call your attention to the testimony furnished by some letters written to Mrs. Forrest by Mr. Forrest, and her replies; and, before doing so, it seems to be proper to read the explanation of this correspondence, because her explanation of all matters is worthy of being understood by you as you proceed with the consideration of the case. (Mr. Van Buren read that portion of Mrs. Forrest's affidavit wherein she says that Mr. Forrest tried to extort from her a confession of culpability, as well as his letter of 24th of December, 1849, hers of the same date in reply, and hers of the 29th of December—all heretofore published; and by comparing passages in these documents endeavored to show that Mrs. F.'s statement, wherein she alleges he had never charged her with infidelity till the date of that letter, 24th, was untrue.) Mr. Van Buren proceeded—I have thus, gentlemen, called your attention to the correspondence between these parties and the evidence which, in my judgment, it affords of the guilt of Mrs. Forrest—the fact that it produced the same impression on Mr. Forrest's mind as it must produce on yours—that he charged her on the 24th of December with guilt, when she omitted to deny it, and that subsequently, by way of afterthought, made this statement to which I have referred. I have thus gone through with the evidence in this case, imperfectly, as I am aware, and am now, before closing my remarks, and thanking you for the care and attention which you have bestowed on them, to call your attention to some of the general subjects connected with the case, and among the most unfortunate—amongst the most cruel features in this case, as I regard it—is the fact that the

silence of Mr. Forrest in respect to the charge, for ten or eleven months after he had come to a knowledge of her guilt in a single instance, and for a considerable time after he had reason to suspect her, is urged improperly against him as an evidence of the absence of truth in what he now charges—the manly liberality and kindness which he extended to her in shielding her from shame, while he had the evidence in his possession which you will say was most conclusive. Not a man in that jury box, if he should find such a letter written to his wife, and kept by her for that length of time, who would not say that, if not a satisfactory evidence of her guilt, it furnished, at all events, grounds of suspicion such as would require full explanation. And yet that knowledge Mr. Forrest had as early as January, 1849. With this knowledge, but without the conviction that his wife committed any other offence, he was willing that this single act of guilt—providing no attempt was made to reflect upon him after separating—should not be used to her entire disgrace. Nay, more. An abundant, liberal, generous allowance was made to her by him of $1,500 per year, which, contrasted with the proofs given as to his property, shows that it was quite one half his entire income. So far as the testimony in this case goes, he settled this annuity on his wife, and he did not wish—provided she suffered him to be unmolested and did not misrepresent his conduct, and not destroy the character he had earned by a life of industry and labor—to disclose the reasons which impelled him to this step. I state to you, as I did at the outset, that while we had that natural reluctance and hesitation in calling servants to testify as to the general conduct of Mrs. Forrest, we knew always that this could be met by her, by producing on the stand the large number of respectable ladies with whom she was in the habit of daily and nightly associating, to prove her general conduct and good behavior. I challenged them to do so, or, as it may be more proper to say, I invited them to do so, and to produce here those who knew that these statements of servants as to her habits of life, as to the hours she kept, the parties whom she entertained, the men whom she had visiting her in the absence of her husband, and as to the absence of women themselves from the house, to prove that all this was misapprehension on the part of the servants. And what is the testimony to this effect? With two single exceptions, where are the ladies whose names were used in connection with this case, (much, I imagine, to their regret,) who are named as visiting at the house on one or two different occasions? They are referred to just as an inference, that the house was visited by respectable persons, and that ladies were intimate with Mrs. Forrest. They would know these calumnies to be untrue. Mrs. Godwin explained the reason why she did not visit her—there was illness in her family. Mr. Bryant is under the impression that his wife, on one occasion, visited Mrs. Forrest. There is some testimony to show that one or two other persons used to visit her; but this is not the thing we desire. What we want is, her visiters to explain how the house was kept—to come forward and say that Mrs. Underwood did them injustice—that Garvin did them injustice. We wanted them, in point of fact, to describe the interior of the establishment, a description of which was given to us by the servants. Mrs. Underwood is contradicted by Virginia, who swears that she did not catch Mrs. Underwood by the gown to prevent her going into the room where the gentleman was. But if Virginia could not recollect the fact of her sitting in the library with Richard Willis one evening, which he himself admits, it is not at all strange that she should forget the circumstance of pulling Mrs. Underwood by the gown. Ever since this controversy first commenced, the plaintiff has represented herself as a lone and unprotected female; she never has let an opportunity pass by, in making affidavits, and rarely her counsel, in arguing the case, without referring to this. (Mr. Van Buren read portions of her affidavit.)

Now, what is the occasion that she was thus dependent? She had a father here, and she had got Mr. Lawson to send him out of the country, and returned her thanks to him for that act of kindness on his part, and for the manner in which he had accomplished it; and it is not entirely fair for her to turn then upon us, under these circumstances, and claim that the absence of these male relations has made her a dependant. She has no right to blame us for it. Again, where have been now her most intimate friends? Where have been the men with whom, as this case discloses, she had the closest and most intimate relations? Where are they now? Why, the first and most intimate friend was Andrew Stevens; letters have been produced here showing that an intimacy has been kept up between them long after the separation: not of the usual character, but of the closest and most friendly nature. (Counsel read one of the letters written by her to Mr. Stevens.) Here she requests the loan of money from Mr. Stevens. It is not usual for ladies to borrow money from gentlemen—to write to him as her dear friend, and offer to repay it. Again, there is another note introduced, in which she asks Mr. Stevens to call—but it is the social qualities of Stevens—and the satisfaction she derived from the pleasure of his company, subsequently to her separation, to which I wish to call your attention. (Reads note wherein Mrs. F. refers to the "knack" Mr. S. had of anticipating her wishes.) What has been her intimacy with Mr. Burr visiting there continually? What has been her intimacy with Mr. Lawson, when she says that Lawson is the only man in whom she could rely, as being the early friend of her father, in May, 1849, to write to her father and break to him the intelligence of the separation; his knowledge of all the parties, and his kindness made him the most suitable person to do it? Who was also the man to whom she confided to settle her allowance and the amount of it? What has become of Mr. Bryant? Mr. Bryant was the friend who advised with her. He is the father of Mrs. Godwin and the husband of Mrs. Bryant, and had advised her what to do in the matter—had acted throughout as her friend—had communicated with Mr. O'Conor. He (Mr. Bryant) has not visited her for two years, or for a year and a half. Now, how is this? Tell me, if you please, what has left her without a single male companion, when all around her are persons who were her most intimate friends, and with whom she cherished these confidential relations? Why is it, and to what cause is it owing, that no person, however intimate he may have been with her heretofore, can retain his intimacy with her? But whether it is absence, negotiation, business, other associations, whatever it may be, they are not now with her. She has caused difficulties to arise between these gentlemen, in every relation of life, in every intercourse with her; and then she represents herself as a person without any male protector or companion.

I have thus, gentlemen, adverted to these things, as it has been thought proper I should present to you the facts in the case. My own desire was that my associate should do so, and I would very much prefer that you should hear his melodious voice, his vivid fancies, his cogent reasoning, his apt language, enforced by graceful delivery; but he and my client insisted that this case should be presented by myself, in my rude and unpolished manner, and the responsibility of this error is with them. I have, however, endeavored to present the case to you in my humble way. I have endeavored to imagine what will be said on the other side; but I do not know, and am not able to imagine, what is to be said by them in respect to these charges. I have been for many years of my life engaged as a public person, and I do not recollect, on any important trial, that the defendant failed to allege conspiracy on the part of the public prosecutor. A conspiracy on the part of the complainant is the universal defence in criminal cases; and so universal is it, that I am led to imagine, that such ground may be assumed in this case; but as I have seen one link of this conspiracy after another fall to the ground—the conspiracy to get a letter from Jamieson failing through the production of the original letter—the conspiracy to get Mrs. Forrest to Mercer street, and entrap her into some admission, failing by her declining to go—the conspiracy to destroy and degrade her in this way, rebuked and overthrown by all the circumstances about which it must hang—the declaration that vast sums of money have been expended in this case to procure evidence to convict her, and a conspiracy to procure testimony which could not be relied on, overthrown by the production of testimony which we have a right to rely upon—I have doubted whether those who brought Barney McCabe upon the stand—whether those who brought Doty upon the stand—would have the courage, after the failure of all their attempts, to endeavor to show a conspiracy on our part—to charge us with these acts to conspire to do—what? To show a conspiracy by a man in the

midst of happiness, in the prime of life, in the possession of an adequate fortune, at the head of a respectable profession, doting upon his wife up to December, 1848, for nine consecutive years,—a conspiracy, it must be argued, by means of corrupt testimony, to degrade and destroy her character, to blast her fame, and his own happiness, to dissolve the relations under which he had lived so happily, to break up the home which he described with such fond affection in the letters which he wrote to his wife,—and this, too, by means of corruption and perjury! Why, I would not have supposed that, under circumstances like these, there would be courage enough on the part of the public prosecutor to continue such a case. Gentlemen, while it is not entirely proper or usual for counsel to intrude their own personal prepossessions into a case in their own personal character, I may be permitted to say, in respect to the case, that such has been my connection with it, it is impossible that such a thing could have occurred, not only without my knowledge, but without my participating in it. I should be very sorry to believe that respectable counsel could try to argue themselves into the supposition that I could have been in any way, directly or indirectly, a party to putting on the stand a witness in whose truth I had not entire confidence, and in respect to whom I was not perfectly satisfied that there was no improper efforts made to produce him. There is about this case much that ought to be remarked. It is undoubtedly true that, on going over the mass of testimony, I may have neglected much which ought to have been made the object of proper remark by me, bearing distinctly on the issue of this trial; but I have already, as I am well aware, wearied you, by the great extent to which I have protracted the remarks I have made in this case. There are reasons why I feel a peculiar interest in respect to it. I have not had the pleasure of any intimate acquaintance with the defendant in this suit until this controversy arose, and I was called to engage in it professionally: but through the whole controversy, whenever I have had occasion to speak to him on the subject, or to consult with him, I have found him so uniformly kind, so simple in all his tastes and feelings, so perfectly frank, and so religiously regardful of truth in regard to any statement he might make, that it has produced on me the strongest conviction that he has been wronged, deeply wronged, in this matter.

There is in the circumstances of this case everything to show this, and the impression made upon him by his misfortune, is the most serious impression which has been or could be made on any of those who are involved in the consequent disasters. His household was his idol; he looked forward to his return to it with the greatest anxiety. He built up for himself in his profession a reputation unequalled in this country, unquestioned and undisputed. He had a wife whose ability, whose appearance, whose accomplishments, he might well take pride in. He had a home which had been made to her fancy—which was erected to meet her views. Abstracted as I was by this familiar spirit, I feel and always have felt deeply, the remark extracted from him by Mr. Lawson. At the time Mr. L. pressed him first to speak on this subject, he said: "I was a poor boy; I have struggled till I reached property—till I reached the acme of professional fame; and when I was on the topmost round, I find my entire happiness prostrated. My God! what a thing it is that the happiness of a human being should be entirely dependent on one person!" That this family should be separated, that their happiness should be disputed that he must, in fact, be a wanderer, as he has been from that time to this; that he should be substantially without a home, who had had so much comfort and such enjoyments; that he should have to occupy a room in a hotel, or a bedroom in his mother's house, or an outhouse at Fonthill, who had been living in those comforts which he so ably earned and so well deserved, this thought has always, through the entire course of the controversy, followed me, and caused me to take the deepest interest in the controversy itself. Nay, more; I have seen the idolatry with which he regarded his wife, the fond admiration which, on all occasions, he manifested to hear, and regretted that he was forced to separate, from her. When the controversy arose which was to destroy his domestic peace, and to rive his hearthstone, he was to me always an object of the greatest interest, and I felt called upon to enlist in his behalf all the exertions I could command, to see justice done to him in respect to this controversy. He asked justice he never has asked from any jury more than that. I have endeavored, gentlemen, to caution you against that sickly sentimentality which sometimes pervades the jury box, when a female party is on one side, and have remarked on that particular fact of the prejudice which certain cliques have within their power to exert, and which may pervade the jury box, and which might induce them to look on the Willises and the De Marguerittes of the literary and fashionable world with more favor than on the honest air of him who scorns such frivolity. I warn you against such frivolity, such sentimentality; and I have always felt it my duty to caution against this feeling; and that being done, I never expected any difficulty in reference to this case.

But, gentlemen, I am to be followed by a counsel of acuteness and learning, whose suggestions to you I will be utterly unable to answer, and he is again to be followed by the Court, perhaps by an unfriendly Court, though, God knows, I do not see why I should anticipate it. Long, long before you retire to the jury box, the sounds of my voice will have died away from your ears, and, I fear, also the arguments which I have urged to you will have passed from your recollection, and you will hear, perhaps, the discourse addressed to you by another; but I simply ask you to bear in mind the evidence in this case—to bear in mind the suggestions, if they are proper, which I make to you—and if not, then attend to those wiser and better prompting of your own nature and recollection, which may enable you to decide on this case justly and righteously, and then I will be entirely content with the verdict which you shall render.

It being past three o'clock when Mr. Van Buren closed his address, Mr. O'Conor intimated to the Court that it would not be advisable for him to commence summing up at that late hour, but he should defer doing so till morning, to which the Court assented.

Judge Oakley.—You omitted to notice, Mr. Van Buren, one question which the jury have to pass upon—that of alimony. Do you wish to present it to them?

Mr. Van Buren.—No, sir, I do not purpose to say anything on that subject.

Judge Oakley.—I ought to have remarked, perhaps, on one observation which fell from counsel: but I am not in the habit of interrupting gentlemen, or of taking any personal notice of what is said by counsel; but I do not understand the observation of counsel, at his close, about the Court being unfriendly. I don't know precisely what is meant to be implied by that. It is a very unusual observation for counsel to make under any circumstances, and what occasion there could be for making it on the course of this trial, I confess myself entirely unconscious.

Mr. Van Buren.—I regret very much to hear the Court state that I said anything to attract attention on the part of the court. I did not anticipate that any argument would be made on it.

Judge Oakley.—It was a remark calculated to attract the attention not only of the court, but of all others who heard it.

Mr. Van Buren.—I very much regret it.

Judge Oakley.—I am not very particular about these things, because they do not affect me personally, nor indeed in any sense; but, at the same time, it is traveling out of the legitimate bounds of counsel to say that the court was in the slightest degree unfriendly. Certainly, I am conscious of no such feeling, as the gentleman will be satisfied hereafter.

Mr. Van Buren.—I hope the court knows me too well, and that I know the court too well—

Judge Oakley.—Enough said on the subject, sir.

The Court was then adjourned.

Thursday, January 22d.

MR. O'CONOR'S SPEECH.

May it please the Court—It was observed at an early stage of this case, in respect to certain things of which by possibility complaints might have been made, and wherein no complaint was made on our part, and in reply thereto I wish to say, if your Honor please, that the policy which it was my determination to pursue throughout this case, and my own sense of right and propriety, dictated to me throughout this case, the avoidance, as far as was practicable of any observations on any persons other than those now on trial before this court, and especially to avoid any observations in the nature of ribald jest, which might excite ribald laughter, in a cause

so deeply interesting—in a cause so deeply affecting the parties as this is, and so deeply connected with the administration of justice in its tenderest point—so interesting to the whole community, not merely of this city, nor of this State, nor of this widely extended continent, but even of all that part of the parent country which speaks the English language, or has any acquaintance with it. That same sense of right, sir, dictated to me the propriety of making no complaint, and at no stage of this case have I ever complained of anything when I or any other might deem a departure from the ordinary course of propriety, or a transgression against those rules of good order which are indispensible to the very being of society, and which, unless preserved, must absolutely render it wholly impossible to maintain the orderly, faithful, and correct administration of law in courts of justice, where alone it can be practically felt. I say, sir, my policy was not to complain; and so far, sir, as a course of irregularity may have had any tendency to develope the true character of one of the parties to this controversy, it would, indeed, have been a bad policy to complain; and in this matter, standing as I do, the sole defender of this lady, I followed out my determination to observe this policy, as well as to seek justice. Therefore, sir, I have not complained. I have considered as perhaps regular the farces that have been enacted, and the tragedy that has been attempted, by so many voluntary witnesses, brought before the jury and displayed before this community, for the purpose of developing to the Jury, to the Court, and to the community, the true character of one side of this controversy. But, sir, there has been one departure from propriety which has not that tendency. There has been one departure from propriety which may trench on a very important right of my client, and deprive her of the benefit which should result from this right. I therefore here ask leave to complain, for the first time, of the last violation of propriety which has as yet taken place in this case. I mean, sir, that violation of propriety, pursuing the game of indiscriminate havoc, not, perhaps, of person, but of reputation, far more dear than life, which has characterized this case throughout. I mean, sir, that which called forth the observations of your Honor yesterday—the remark as to the probable unfriendliness of the Court.

Now, sir, I conceive it to be altogether in character; and following out the probably commendable, and certainly very prudent course of my adversary, I deem it proper to impute that remark, not to him, but to his instructions—not as emanating from himself, but as passing through him—the mere conduit, the voice, the language, the observation of his client. Now, sir, I say this is the last impropriety as yet; I have a hope that there will be another, and I confidently hope that, as all the persons who have come within the sweep of this party's moral sabre have received a stroke, even up to your Honor—I say I have a confident hope that twelve other individuals will receive a suitable denunciation consequent upon the justice—the integrity—the righteousness of their verdict. And it is only necessary for me to add that, as to other improprieties, I fear them not. Now, sir, I observe on this for the reason I have stated. I observe on it because it has a tendency to deprive my client of a right before this jury. If your Honor please there have stood, during some five or six long weeks, two advocates, members of the legal profession, who come in each as the champion of his party, each imbued—honestly as the counsel on the other side says, and I am bound to think—honestly imbued with confidence in the righteousness of his client's cause, but each, of course, liable to the deepest prejudices; liable to be greatly misled; each liable to use a course of argument unfounded in reason, tinctured by affection, colored by passion. How is this jury to decide between us? How, if I make a statement of evidence directly contradictory to the counsel on the other side—how, if I pursue a course of argument founded on some principle of law to illustrate this case, widely different from the course of argument that I ought to adopt—how, I would ask your Honor, are these jurors to find an umpire and an arbiter between us, but in your Honor? I have expected, through this case, sir, from the very commencement, that every just, honorable and upright man in the community would be deeply imbued, I may say with violent prejudices against the case of this defendant, up to the time one or two of his own witnesses were examined. I have expected, sir, that that calm, enlightened, and intelligent judgment which for five and twenty years has presided in this court with universal satisfaction, manifested not only under the old system by the highest authority in the State, but, more recently, by the majesty of the people itself.

I have, I say, sir, expected that that enlightened judgment, which no man ever doubted—which rarely has a jury ever differed with—which we have all at the bar, uniformly known to be so impartial, so just, so enlightened, in its view of evidence and in the law, so reasonable, so marked with that plain Saxon common sense which goes straight home to the hearts of men, and carries conviction to them; so marked with that love of justice that knows no faltering, so that it has commanded universal admiration—I did expect, sir, though I pretend to no personal claims on your consideration—though my client is a total stranger to you, sir, and a total stranger to all public men—people like yourself—I have expected from the outset, that that common justice which for five and twenty years all parties litigant in this court have received at your hands, would have been meted out to us in this case, and that, if the evidence in this case made certain impressions on the mind of your Honor, that, calmly, dispassionately, freely, and fearlessly, as heretofore, you would put the case to this jury, and whenever the learned counsel on the other side and myself are in conflict—such a conflict as would be regarded material by your Honor—that the scale would be made even between us, and the right presented to this jury, not, to be sure, for their absolute governance, but for their aid among conflicting arguments. I do trust—I do hope—I do pray—nay, I demand, as a matter of justice on the part of one of the most helpless and friendless individuals—so far as the management of a case in a court of justice is concerned—who has ever appeared in this court, that your Honor will feel the impropriety of this remark as to unfriendliness, and that you will not be turned aside from the performance of that duty from which I never believe you have shrunk; and that on this occasion, disregarding that or any other observation—utterly forgetting it—you will go to this jury with the impressions which the evidence has made on your mind, uninfluenced and unswayed by this gross impropriety.

Gentlemen of the jury, this case, after having very fully—as must be confessed—taxed your patience, now draws to a close. Nothing remains for me but to present to you such arguments as strike me to be requisite to put, and to be proper in the cause. I shall endeavor to do so calmly and dispassionately. There may be some difficulty in doing that, for there are passages in the case which, according to my experience in the matter, it is much easier to listen to than to speak. You, gentlemen, occupy a position of some importance. You are surrounded by parties deeply interested in the results of your deliberations—who are not only, I may say, by your side, but some of whom are in remote and distant lands. The controversy, in its legal form, is between two individuals. It might very well have been confined—and in the ordinary course of things it should have been confined—to a simple inquiry into the acts of those two parties, and of the respective guilt or innocence of either. That course has not been adopted. By the voluntary act of one side, numberless individuals have been drawn into the contest; and by the final address to you on that side, every other human being in respect to whom the plaintiff has not exhausted your patience, by calling into court witnesses to defend them, and regularly subject them to trial—in respect to every such individual, in the summing up speech, judgment by default has been taken, and they are all pronounced guilty and utterly infamous, in respect to those matters extraneous to this case, which have been presented for the purpose of casting odium on them, I am bound to say, gentlemen, at the outset, that I once heard from the jury box, when entering into some of these irrelevant matters, the words, "have mercy upon us;" and I once heard from another voice in the jury box, "we have been here four weeks already," and I have felt, consequently, that it was not my duty to go on and defend all who had been assailed, and that I had a right to rest on the presumption of innocence, when charges were made in the absence of the parties which were irrelevant to the controversy, and when the party had no counsel or advocate present. But still, gentlemen, judgment by default is taken against all these parties, and it only needs the verdict which you

have been called on to render, to visit on every person who has in any way been referred to in the course of this controversy, as connected with Mr. Forrest—except Mr. Edwin Forrest himself—the consequences, I may say, of utter and absolute guilt. You, therefore, gentlemen, being addressed by me, after what has been said on the other side, may be treated as having in your hands, in no small measure, the destinies of many individuals. You have, gentlemen, old Mr. John Sinclair and his wife, far, far advanced in old age, and now living in retirement in their native country, and who are incapable of further appearance on the stage of life, and not otherwise interested in human transactions than in their affection for their children, and in their hope to fill at last an honorable grave. (Mrs. Forrest was deeply affected, and wept bitterly at this feeling allusion to her parents.)

You have another party. You have an interesting little society, namely, Margaret Sinclair, her husband, Mr. Benjamin F. Voorhies, and their son, a bright and beautiful little boy, two or three years of age, who while I speak is in the sunny land of Italy, probably prattling at his mother's side, while she is there in the land of music and song, studying an art and bringing it to entire perfection, to delight the ear, to cultivate the imagination, and to improve the morals of her own country people in the art of music. In respect to this couple, who are also placed before you to be blasted with infamy by your verdict, you are to declare the mother a prostitute, the father a blackguard, and the little child a bastard. Are these all? No; you have young Virginia, almost a woman in years, to be sure, but as yet a perfect child. She, also, is to be blasted and condemned by your verdict. And why all these? Why, in order, gentlemen, that by going into the pedigree, and tracing that pedigree to its collateral links with Mrs. Forrest, you may foist upon Mrs. Forrest a sort of concentrated infamy, as one who was prone to wickedness, even in her cradle—bent upon vileness, and utterly incapable, by the very constitution of the woman, of any act of virtue. I have overlooked one more—I have overlooked the party who, indeed, might have been assailed without any violation of propriety, if they believed in her guilt. I mean Mrs. Forrest herself. You have the destiny of this woman in your hands also. A woman, who, at the bright and blooming age of nineteen—and bright and blooming you can have no doubt she was—the pride of her father's house—was captivated by the fame, the personal attractions, and his great reputation as an artist, which had attached to the distinguished young American, gave him her hand, and trusted her virtue to him; and since then—at all events in the year 1849—eleven long years, nay, about twelve long years—she devoted herself to his service in, I may say, the most abject manner; so much so, that that vile woman who was brought from his kitchen to traduce her, and to whom an opportunity was furnished, stated that she was little better than an upper servant in the house of her lord.

I know not how you felt, gentlemen, when that woman uttered that remark, but I may say, for myself, it is the stage of this case—the stage in which I thought of the tendency of the human heart to fiery indignation, which, on fitting occasions turns, as it were, the milk of human kindness into gall, and makes man feel as if a rattlesnake had prepared to strike. I say, gentlemen, these are the parties who stand around you; this is the sum, in a slight degree, of their condition and claims upon your consideration. I will reserve to a future period what I have to say on the claims of the remaining party to your consideration. You will observe, gentlemen, that Mr. Edwin Forrest comes before you by the voice of his counsel, to demand of you a verdict, which should utterly blast all these people, and send him forth annealed, triumphant, clear from every stain and blemish—the victor of all those whom, with iron heel, by means of your verdict, and by the course of public judgment, he would trample deep into the slough of never-dying infamy. It certainly is of some importance when we see so many in one scale, while in the other stands a solitary individual, cheerless, as we are told—not a single endearing connexion, at least of his own—which should present him to you as a subject of commisseration—a subject of commisseration! Doubtless he is entitled to justice; but that justice, I trust, is not to be won by a man's tears—and that, too, by the tears of a hacknied actor on the public stage, accustomed to imitate and present the passions which he would excite in others, but never feels himself. I reserve what ought to be said of his position till I proceed to the examination of the testimony, and in that examination I can conceive no better mode, at least to some extent, than to pursue the line of arrangement adopted by the learned council on the other side. You have been told that there are in this case three distinct questions—first, whether Edwin Forrest, at the commencement of this suit, was a resident of the State of New York? Second, whether he is guilty of the crime of adultery? Third, whether Mrs. Forrest has been an infidel to her marriage vows? The first two were passed over by the counsel on the other side, with prudent and commendable speed, and commendable facility. I must observe on them at a much greater length, because they are materially connected with another branch of the case—the remaining question.

The first, gentlemen, is, was Edwin Forrest, on the 19th November, 1850, when this suit was commenced, a resident of the State of New York? This question is canvassed materially in various parts of the evidence, and was very properly made a distinct point by counsel; and to this it becomes necessary that I call your attention to the evidence bearing upon it. Let us see what that evidence is. It is true that Mr Edwin Forrest is a native of the city of Philadelphia, but it is also true, according to his own statement, that as early as 1837 or 1838, at the very commencement of his married life, he became a resident of the city of New York, and continued to reside here, at all events, up to the month of May or June, 1849, when, as he now states, he became a resident of the State of Pennsylvania. Gentlemen, my position to you will be this—that Mr Forrest has been advised by his counsel that a man's "domicil of origin," as it is called—that domicil which is acquired by birth—in some large degree continues to be with him, and a portion, as it were, of himself, so that an emotion of mind would enable him to resume it; and that a man has only to say to himself, now my affections and desires no longer connect themselves with this land to which I have emigrated, and henceforth "my eyes are turned backward to my native clime;" and that very emotion of his mind makes a man a resident of his native country.

I suppose this is somewhat the case of Mr. Forrest. I suppose it is probable he received legal advice as to this. I speak now without any offence to any counsel; but when I mention this supposition, I do not refer to any person, for, unlike other parties, he has numberless counsel. It seemed to them that by this legal fiction, Mr. Forrest was able to swear himself a resident of Pennsylvania at any time he pleased; for, gentlemen, we have a legal fiction described by three Latin words, "*nunc pro tunc*" (now for then)—and Mr Forrest had only to say, from the first of June last, I consider myself a resident of Philadelphia, and have a right to swear to it. [Mr. O'Conor proceeded to compare the testimony bearing upon this point of residence, reading portions of the affidavits and other legal documents solemnly subscribed to by Mr. Forrest, in connexion with this case—his having, in November, 1849, exercised the right of voting at an election held in Yonkers, in the state of New York, and described himself in a legal document in August, 1849, as Edwin Forrest, of the city of New York, tragedian. Mr. O'Conor contended that he should be bound by these acts, showing to ibm be a resident of this State, not of Pennsylvania.]

Mr. O'Connor continued—I think that it will be sufficient to show that Mr. Forrest had no idea of bringing a suit in the courts of the State of Pennsylvania; it certainly never has been pretended that he had any idea of bringing this suit in the State of New York; for from that hour to the present he has never dared to prosecute the lady in the courts of the State of New York, and proceed to this trial of his case. But she got an order that he should not proceed with that, unless he abandoned the suit in Pennsylvania; and the matter remains standing still. Now, gentlemen, I call your attention distinctly to the fact that in swearing that he had changed his residence to the State of Pennsylvania, there was no other object on the part of Mr. Forrest than to give a pretty

fancy to the judicature and legislature of the State of Pennsylvania, for them to grant an application for a divorce, and upon that subject I refer the court to the opinion pronounced by Judge Edmonds, page 251. I show what is the character of this residence—that is to say, a mere change of residence in point of law—a mere formal and nominal change, in virtue of the law, for the purpose of enabling him to prosecute the suit against his wife in the court of another State, in which she was not resident. I will now read the learned Judge's opinion, 2 Kent and other cases. [Mr. O'Conor then read the learned Judge's opinion.] Now you see the opinion of this learned Judge. It is for the purpose of giving a jurisdiction to the Legislature of the State of Pennsylvania, and, if you please, to assume a sort of residence there, and that he had slept there even, his sister supposes. It seems to have struck the counsel with surprise that it was not his home, evidently; but that still he might have slept there. The Court will instruct you that such a mere temporary change of his location and of his person, whilst his property remains in New York,—whilst his domicil was at Fonthill,—while he remains in New York, and whilst on the occasion of domicil at Mrs. Ingersoll's continues in New York —that such temporary change of residence (if it can be called a change at all) is, in point of law, no change of residence, and, therefore, that Mr. Forrest, upon every principle, is as much a resident in the State of New York, at this very hour, as he is, was, and ever was at any period of his life. It might not be amiss to state the language of the Chief Justice of Pennsylvania, speaking of of one of these divorce cases. A woman left her husband and came into that State, and sought to obtain a divorce against him. (Mr. O'Conor here read the opinion.) So much, gentlemen, for the question of residence. I have dwelt upon it probably more than is necessary. Can you or any mortal man hesitate when you have before you the records of the Court, and a solemn judgment? Can twelve men, rational and responsible citizens of this commonwealth, believe that Edwin Forrest, under this sort of residence, became a resident at Philadelphia in the month of June, 1849, and continued a resident up to the present time, and has only been in New York on occasions when compelled to remain for the purposes of business, or compelled to remain while under some restraint for a short period? I submit that the issue against the defendant is plain to the eyes of any party, and that nothing short of positive revelation from that Power that cannot err, could make the evidence plainer and more clear.

And now, as to the second issue, as presented by the counsel:—Has Edwin Forrest committed adultery? On that point, I must say that the defendant has been peculiarly fortunate, and happy—very happy. It is a melancholy thing when a man comes before a court and jury, and either swears that he is innocent or swears something monstrous, to palm off on the public as a declaration of innocence, and is taken as a legal assertion of innocence—and neither, by the admission of witnesses or counsel, has one single word of defence against the overwhelming and conclusive character of the evidence, and that, too, when the offence with which he is charged carries with it such consequences—such utter, overwhelming consequences as the conviction of Mr. Forrest of those offences, carries in this case. After we had proved enough against Edwin Forrest upon the issue of his having been guilty of infidelity, to have condemned the whole of that swearing army that unequal fortune could command, it became our lot to call, amongst the witnesses to whom your attention has been called, one William M. Doty, without knowing that there was anything that could be regarded as an absolute certainty, that he would be a better witness than Kate Western or Mary McLolan, whom you will remember was anything but an amiable witness. Well, William M. Doty was suddenly pounced upon by our subpœna, and comes to me and asks me a question which conveyed the idea that he did not know anything at all. He asks a question calculated to throw me off my guard; but I had confidence, and I determined to produce him on the stand. Mr. Doty has furnished to the defendant some materials upon which he could produce a witness, and upon which the learned counsel could address you in argument. The evidence of Doty, gentlemen, is wholly unimportant, if you look at another party in this case. If I was in this field with half the fortune belonging to the defendant, and that half fortune amounted to seventy-five thousand dollars, I would not have given seventy-five cents for all he swears to. I admit it was impossible to contradict him; for, in the name of Heaven, where is the use of attempting to pile the vessel after it is full? Still, it is not the fashion of a lawyer to throw away testimony. It has done little harm, and has done some good. Though unimportant, it has furnished the defendant and his counsel with infinite diversion. It has caused the waste of a very considerable amount of valuable time, and it will, of necessity, cause the waste of a little more. I will call your attention to the evidence of Doty—first, because I regard it as the testimony of the least moment; and secondly, because it is the only testimony which is sought to be impeached. Mr. Doty, if he testifies to the truth, proves to you a distinct act of adultery. He proves it to have been performed under circumstances of great shamelessness. The learned counsel says that the story is improbable, and can't be believed. Now that is a very fair way of admitting, so far as it goes, the assailing testimony of the witness's story, which is "improbable," and is more satisfactory on that ground than on the ground of any contradiction or impeachment of character of the witness But let me ask you gentlemen, how far is it improbable? The parties accused are Mr. Forrest and a deceased woman. Mr. Forrest has declined to say that he was innocent of committing any of the offences in question with that woman.

Mr. Van Buren.—Mr. Forrest made no declension to answer any question at all. Without consulting with him, I objected to his being sworn. It strikes me that the comment is a very improper one.

The Learned Judge.—I think it would be better that no interruption should occur. Mr. Van Buren will have an opportunity of affording an explanation after the address of Mr. O'Conor.

Mr. O'Conor continued.—With the advice of counsel, with the utmost deliberation of weeks, nay, of months, he put in his answer, when he was charged with committing adultery with that lady. Mr. Forrest answered the charge in writing, as drawn up by counsel. (The learned counsel then read portions of Mr. Forrest's denial of the charges, and continued.) That is what the lawyers call a "negative pregnant." (Laughter.) It is one of those negatives that carries in its bosom an affirmative. You assert that I committed an act on the

19th June, 1849, at half-past three o'clock in the morning, up a three pair of stairs room, in the rear part of the building. I answer that I did not commit that offence at the time and place stated. The venue, date, and location are most material, but the defence is undeniable. And when it was put in, on the 17th December, 1850—and that the learned counsel has taken the pains to put in evidence—they joined that in putting in an answer to this suit. The counsel has taken the pains to put in evidence to the fact that, previous to the commencement of this suit, we commenced an action against him in the Supreme Court of this State, which was subsequently abandoned for the purpose of commencing a suit in which she charges him with the same adulteries, and in which case he has put in the same answer—at any or either of the times or places stated in the complaint. Mrs. Forrest had in her affidavit served upon him, expressly stated that Mr. Forrest's answer in that action, she was advised and believed, was a virtual admission of infidelity. But he denies the fact of the particular times or places, but he can't venture to deny the fact itself. Now, gentlemen, you have an answer put by Mr. Forrest, in relation to the charge of adultery, which is enough to entitle us to a judgment in other cases of litigation for a sum of money. Suppose that, on the 10th June, 1850, he had borrowed a sum of money, and he had answered that he did not borrow it at the same time and place stated, we could have taken judgment because of the admission of the charge charged in this action. The defendant has never even denied this adultery; he has never denied that in the answer, nor upon any other occasion. Well, then, if the story of Doty be improbable, are not the facts notorious to all the world, and has he been "mobbed?" Well, as to the daring and boldness of the acts adverted to—the ideas of daring and boldness of people differ infinitely. There are a great many people who would not dare to run in opposition to the common sense of mankind or to their own sense of propriety—how far that may have been the case, it is not for us to say. There is no evidence furnished before us in relation to Miss Clifton, except that she is dead, and that she had a certain form of person, and was afflicted with illness at particular times; but that is all that is furnished. There is nothing else supplied for the purpose of enabling you to suppose, that she would not venture to act so boldly. I do not know that she would. I have nothing to say against her. You cannot form an opinion of her from the elements before you. With regard to Mr. Forrest, there is ample evidence, that he is not deficient in that sort of characteristic of mind that would have enabled him to be a party to the charges made against him. But let us see, for one instant, if another characteristic be proved in this case.

It has been said more than once before, can a man in New York, whose person everybody knows, commit such acts? And yet, gentlemen, during—we know not how many of—the eighteen months that Caroline Ingersoll kept a house of established reputation (a laugh) in Greenwich and Houston streets, this gentleman (pointing to Mr. Forrest,) a married man, occupying a respectable position in society, had no hesitation, in broad daylight, of constantly going into this house, and not knowing who might have seen him, and in a short time after the bill of complaint was filed against him, in November, 1850. He did, in the answer, deny the charges with which the bill of complaint charged him—with being a visiter at the house of Caroline Ingersoll, in Houston street; and after he had denied that charge, it appears by the testimony of Mrs. Ingersoll, that he had the hardihood—this suit still pending—he claiming before the community to be an injured man—he had still the hardihood to continue to visit the house Ingersoll occupied, with what motive the Lord only knows. I do not think it necessary to pursue the subject. Now, if you take the story to be improbable, because of the grossness of the offence on the part of the individual, when such facts as these are shown, such an argument is perfectly idle, and loses its effect. It would be conclusive as against any one of you, gentleman; but as to its being conclusive against Edwin Forrest is absurd. I refer not now to any general evidence in relation to his character, but I refer to evidence which is directly furnished to you in this case, and from a witness not sought to be impeached, who supplicates you, gentlemen, in the name of all that is respectable and religious, with the greatest amount of brazen audacity of man—who could go in the night time amongst travellers who may be strangers to him—only one or two, perhaps, knew him—into the state room of a steamboat with a lady—exposed to those who saw him go in—could he have acted with greater brazenness or a greater disregard to public opinion; and was that the man to "make the welkin ring" with comments against the purity and chastity of his wife, and who had encumbered the Legislature of one State, and the Courts of Justice of another State with litigation, arising out of complaints in respect to her purity. The learned counsel continued this line of comment, at some length, and proceeded:—Doty, under a rigid cross examination, has made a mistake in regard to the year in which the facts to which he had testified occurred. He stated it to be in 1843, instead of 1844. He said that it was whilst he worked with Mr. Rushton, under the Exchange, and that he was with him less than a year; and he further stated to the learned counsel that it was whilst he was living at No. 42 Macdougal street. Thus he had given tests of his veracity.

Mr. O'Conor also referred to his movements in detail, in corroboration. He then proceeded to remark on the other evidence in support of the issue. The question was, Was Edwin Forrest guilty of adultery? Now, there was one striking observation to be made in relation to the evidence independent of Doty's; and let it be considered that in all he said hereafter he excluded Doty's testimony. Mr. Forrest stood most emphatically upon his defence with reference to his frequent and habitual visits to the house of Mrs. Ingersoll, and the character of the witnesses whom he was obliged to call to prove those visits. He would remark that it was a maxim that if they wanted to know the proceedings of wolves they must admit wolves. Mr. Forrest had never denied the imputations made against him, and, as he had observed, in an ordinary case judgment would have gone against him. Mr. O'Conor reviewed the evidence of Mr. Allen, and his connexion with Mr. Forrest; and proceeded to the evidence of Dr. Hawks, in reference to his observation and knowledge of Miss Clifton, detailing at length the incidents which had occurred on board the Albany steamboat, which have been published in detail. It was immaterial to his case what the affliction was that the lady suffered—whether from abortion, or the usual illness to which ladies were subject—the conduct of Mr. Forrest

innocence? He requested a married lady who was in the saloon to retire—a lady who could, and would have afforded every assistance in her power, and whose assistance Miss Clifton, in the course of her conversation, never requested or invited. He requested her to withdraw, and he remained alone with her for some time; and when Mrs. Hawks returned to the saloon, Miss Clifton was relieved from suffering. The learned counsel proceeded to animadvert upon the conduct of Mr. Forrest, in reference to this transaction. The witness had been uncontradicted, and his conduct had been unexplained.

Mr. O'Conor then alluded to Mr. Van Buren's construction of the circumstance of Mr. Forrest being seen in the hotel with nothing but his night clothes and a cloak around him. He thought, however, that the jury could not be called upon to pronounce that at that early hour in the morning he was rehearsing "Metamora" with Miss Clifton, with only his shirt on. He believed that article was the garb of civilized life, and forms no part of Indian dress. They would see how far the evidence of Mr. Foster agrees with the other evidence; he was more fortunate in dates than Mr. Doty. He then referred to Mr. Forrest's letter, of November, to Mrs. Forrest. It was true that that letter does not state anything about Miss Clifton; but it is also true that Doctor Quackenboss, with his good memory, could have proved that Miss Clifton was anywhere else. If she was there, her name would be on the register of the Eagle Hotel; but no evidence is brought forward on the point, and the thing is treated, on the part of the defendant, as true. How much more is required with respect to Miss Clifton? In the first place, there is no denial of the charge put upon record—no attempt was made to purify her character, as they might have attempted; and, in the next place, there is the fact of his being seen with her in his night clothes. He (Mr. O'Conor) was done with Miss Clifton. It is not pleasant to speak of the dead; but if truth and justice require it, something unpleasant may be said of the dead, in order that justice may be done the living. He trusted that it could not be said that they were desecrating the grave of the dead. Miss Clifton, he believed, had been married, but left no issue. She is gone to her grave, and it is a high maxim not to speak ill of the dead, and that, too, when it is one of the softer sex. The plaintiff had endeavored to avoid it; in her first complaint the charge is there made against Mr. Forrest of his having committed adultery "with a certain actress, now deceased," and the jury would see why the plaintiff found it necessary to be more precise in her second complaint. It was because Mr. Forrest thought to evade the charge, and they then endeavored to pin his conscience to the wall. So far, then, as bursting the cerements of the grave, it was an occasion of the most dire and afflicting necessity. When he spoke of necessity he spoke of the past, for certainly as the case now stood there was no necessity for it, if they had known that they could have got the other evidence. The jury might well say the plaintiff had wantonly brought in the circumstances connected with Miss Clifton, and he would have confessed the impeachment. The evidence was now so perfectly conclusive, that it might be justly said he had wasted all his health up to this time, as what remains to be spoken is of itself overwhelming and conclusive. What remains is this: Mr. Forrest, from October, 1846, to May, 1851, the long period of four years and a half, was the habitual frequenter of a house of prostitution.

Now, he would ask, was it possible in the nineteenth century, that it becomes a man to argue with rational men that this is conclusive evidence of the very lowest kind of utter, unworthy adultery? The learned counsel, in summing up the evidence, said—it is true Mr. Forrest was once or twice in this house, and that the jury ought to be very cautious how they drew to a conclusion against him, because, said the counsel, with a charity which he (Mr. O'Conor) did not discover towards his client (Mrs. Forrest)—the defendant might go there for an innocent purpose, nay for an evil purpose, and be disappointed. But, gentlemen, said Mr. O'Conor, what do you think of a gentleman six feet high and well proportioned going into that house once a fortnight for six or eight months, and being every time disappointed? Why, what a patient and long suffering gentlemen he must be, staying there sometimes two and three hours, and being every time disappointed, and yet going to the same house—and not only that, but following the house to another place. Why, one would think he liked to be disappointed. I do not know that the learned counsel threw out the idea that this was not a house of that description. We called several witnesses to prove its character, and you observed some of them shook hands with the parties at the other table as they left the stand. These witnesses had most convenient memories, and did not recollect too much. Yet we proved that house was visited in the night and in the day time by gentlemen in carriages; but it was impossible to prove who any of those persons were, except one woman, and she was a prostitute. One witness, a butcher, proved that the women of the house used indecent gestures towards the men as they were going out. Then there is the very marked testimony of Mr. Weir, who said he saw a respectable woman of his acquaintance go into the house, and that he took a friend there with him, with a view to ascertain the character of the house. They were admitted after a little difficulty, it being the custom that parties should be introduced. They were furnished with wine, and furnished with ladies for the purpose of helping them to drink the wine. Nothing took place but taking and drinking, and the gentlemen walked away, the ladies hoping they would come again. (Laughter.) Mrs. Ingersoll testified that some of her boarders stayed a day, some a week, some longer; but she could not tell us the names of any one of them, and Clarissa Russell told us they never took one meal in the house. Boarders without eating! (Laughter.) I wonder what they fed on. They must be boarders of a peculiar description. And these gentlemen went to bed with the lady boards; but she cannot tell us whether they were married or not; but I think, gentlemen, you can decide on that. There is a difficulty always in arriving at testimony of this description. I was told that Caroline Ingersoll would tell the truth, even though she was a person of that description. Mrs. Russell tells us one of the ladies (Mrs. Cranfield) was married, but she never saw her husband; she was, I suppose, one of those ladies who played wife to some of the gentlemen boarders. Is it possible that it is necessary for me to dwell longer on this testimony to show the character of that house.

Let us see how Mr. Forrest found his way to the house. It seems he first brought an introduction there from a friend of his in Philadelphia, and yet Mrs. Ingersoll did not know who he was till he had been there three or four times. That was an odd sort of introduction: I rather think it was the same friend who introduced Mr. Forrest to most of the witnesses in this case—a friend of Philadelphia birth and creation, who issued from the mint. Now we have proved that Mr. Forrest, not suspecting the chastity of his wife, whilst she was his dearest Catharine, and whilst he was so unhappy at being absent a moment from her side, was an habitual frequenter of houses of prostitution—not in May, 1848, when his suspicions of his wife were first aroused, but commencing so far back as 1846. Now, gentlemen, I ask you how stands the first issue in this case? I refer the learned Court to the opinion of Sir William Scott, in the case of Loudon v. Loudon—4 Ecclesiastical Rep. 472. Mr. O'Conor cited part of the opinion, which was to the effect that the act of going to a house of ill fame is characterized by the old saying, that the party does not go for the purpose of saying his *Pater noster*, but is strong proof that his visit is for the purposes of adultery. The Judge in that case says, that it is possible a man may go once into a house of ill fame to collect a debt, or may be misled there in some way. All these things may happen, and consequently, a single visitation to a house of this description ought to be open to explanation; and even if a man were without the means of explaining it, a jury might, under these circumstances, acquit him. But when we come to the fact of a man who does not attempt to deny the charge o

adultery, and a man who goes there so often as to become almost a standing tenant, the case is somewhat different.

Mr. O'Conor then contended that the house No. 628 Houston was of the same description, and said you will say, gentlemen, whether Mr. Forrest went there to say his *pater noster*, and that his devotions lasted for three hours at a time. I have now done with the issues against Mr. Forrest. It would have been reasonable and just—it would have saved much time—if the learned counsel had honestly and fairly conceded the point, and said, "so far as I am concerned, the case is made out; no man can resist it; let that issue pass; let this lady have a divorce, unless I have succeeded in showing that if I am black, she is almost as dark." Gentlemen, I shall not again refer to those two issues. All I shall hereafter say, is as to the third issue—the question of Mrs. Forrest's guilt or innocence. Now, gentlemen, in relation to that issue, a very extraordinary set of circumstances present themselves to us, and I confess I do respect one sort of argument which has not been presented, because, on the assumption of Mrs. Forrest's entire innocence, the conduct of Mr. Forrest is the most extraordinary that has ever been presented to the vision of mortal man. To resort to such a theory as that Mr. Forrest labored under some delusion about this matter—if you please, that he had a monomania—we should be relieved from all difficulty; but I see no room for any such supposition, and we must regard his conduct as that of a man thoroughly aware of his proposition, thoroughly understanding his own mind, and seeking the attainment of his object with the full powers of his mind perfectly unimpaired.

Now let us look for a moment at the correspondence between these parties, and ask ourselves how we are to account for his conduct, supposing she is innocent? It is somewhat of a task I confess. The counsel has never asked what motive he could have in destroying a virtuous, innocent, and faithful wife; but I confess as this case has progressed, I have asked myself, and had no difficulty in obtaining an answer. Mrs. Forrest, as far as we can see, was everything that a worthy and honorable husband could desire. She was well educated; she was most accomplished, most attentive to all her lord's slightest wishes; she was a mere upper servant taking care of him with a steadiness and an abject fidelity more like unto the fidelity of the faithful dog, that, under all circumstances and every ill usage, is ready ever to devote himself, life and all, to the service of his master; while she was so faithful, so constant, and so desirous of pleasing him, that whatever may have been his treatment to her, down as far as the close of the year 1848, he never could commence a letter to her without beginning "dearest Kate," pronouncing himself her "ever true Edwin," and expressing in the strongest terms his thanks for her kindness—regretting that she was not with him to lighten his cares as well as his troubles, and play the servant. Our theory is, he never suspected her; and it is not now I am called upon to reconcile that theory with his conduct under these circumstances. Well, gentlemen, I do not know that I am bound to find out the true cause. Certainly, if Mr. Forrest has contracted a new attachment it would be ample reason for his conduct, and he would be very likely to keep it secret. I cannot say this as a fact; but there are other modes of accounting for it. You have read in his letters how weary he was of the stage; you have heard him speak of it as an odious profession, and as little better than utter slavery; you have in evidence that in 1848 he made his farewell visit to the South, and you have it testified before you, on his part, that at this time he is only worth about $150,000.

Now, gentlemen, unfortunately, in the beginning of the year 1847, Mr. Edwin Forrest proceeded to purchase Fonthill, and to build there a costly structure, and when that structure should be completed it would have been about the middle of 1849, and Mr. Forrest must have contemplated living in it then. Of his $150,000, the erection of the building, the furnishing and decoration of it, would go very near swamping one half of it when completed; and what sum would it require to sustain it in a style at all adequate to the lordship of such a mansion? Why, you can imagine $10,000 a year would have been a small sum for its maintenance, and that $15,000 would not be at all proportionate to live in a manner corresponding with its magnificence. When furnished, what was to be done? To own so grand a house—to live in such fine style alone, would be idle. It would be necessary, in order to live there, that he should call about him the refined, the cultivated of this and of other climes, connected with the theatrical and literary professions. It would be necessary to give parties. And yet, we find he hated these parties. I have read his letter to this effect, speaking of his repugnance to them. Who was to figure as the reigning person in this mansion, superintending the expenditure and receiving the distinguished persons calling there? Who, I ask you, but the lady, who, throughout the case, has shown the cultivation, taste, and refinement which adapted her to the eminent station? No doubt Mr. Forrest, at the time he entered into the matter, was proud of the lustre that this lady's distinguished abilities and manners reflected upon his name. But for himself he was unwilling—and incapable from his unwillingness—to take a very prominent and important part in the affair. It was the name of Edwin Forrest that would be illustrated by the sumptuous hospitality of his splendid castle—by the ladylike deportment of his very accomplished, amiable, and distinguished wife. Now, gentlemen of the jury, may it not have begun to occur to him, towards the close of the year 1848, when his mind was soured against all foreigners—particularly by his deadly quarrel with Macready, which terminated in staining the streets of our city with blood and carnage, on the ever memorable 10th of May, 1849—when his mind was thus excited against foreigners, particularly the English people, who are the most distinguished that come to this country,—may he not, after all this expense, for which he was not to receive a satisfactory equivalent—may he not have had a greater cause for displeasure than the mere smoking of a cigarette or a long nine? May not this have been, nay, probably, was it not, the secret reason that moved Mr. F. to put an end to that attempt by getting up a quarrel with his wife, having no intention at the time to charge her with any guilt, but to produce a separation as the result of his will, which would continue as long as it suited his pleasure, and which he might, at any moment he pleased, terminate. I confess this has been, according to my judgment of the matter, the most probable presumption, because I cannot believe, and I will prove, that Edwin Forrest did not believe anything to the disparagement of his wife when he doomed her to a separation. What is his story? I take it in a general way, for he did not adhere to such a story as I am going to present. He says, "In May, 1848, returning suddenly and unexpectedly to my room in Cincinnati, I found Mr. Jamieson in such an immodest proximity to the person of my wife, that I was impressed with the belief that there was something improper between them. I charged her with the evidence of her guilt, she denied it, and for some time I was satisfied." Afterwards, on the 20th of January, 1849, having been perfectly satisfied, he went to work and rummaged his wife's drawers until he found this celebrated Consuelo letter, or, as I call it, this romantic effusion addressed to Consuelo. The sight of that carried to his mind such absolute conviction that his wife had been guilty of infidelity, that he parted with her on the 1st of May, 1849, after having liberally, and in the most manly spirit, allowed her $1,500 a year—enough for her to live upon as a lady—while he intended to pass over, good, humble, kind creature that he was, the desecration of his marital bed, till, in the month of December, 1849, he understood that this wife of his, instead of being grateful for his forbearance, was circulating reports that the separation between them resulted from his misconduct; and thereupon he determined, for the vindication of his character—mind that, gentlemen—an important point in this story—for the vindication of his character—no other purpose—not with any view to degrade her, but to bring himself upon a high platform as a man of virtue and purity—to show he was justified in separating from her—he determined to prosecute her for the crime of infidelity, and to be, in her infamy, purged of the guilt which he conceived was imputed to him, for her being unjustly cast from his side. This is his story, and, of course, you will bear in mind that it is his story founded upon the Consuelo poetry alone, for he had not a single speck of evidence against his wife, save what that furnished. I say you will remember that, gentlemen, because it was not till the first day of February, 1850, that one single additional word of evidence of any description, was brought against her purity and chastity. That is positively sworn to in various forms, and insisted on by the

counsel here—Mr. Lawson proves it, and Mrs. Underwood proves it.

Now, if I don't mistake, I shall prove, to your satisfaction, the entire and absolute falsity of every single one of all these charges; and more strikingly than anything else will I stamp the greatest and most brazen falsity of the number—the most audacious of them all—that it was purely for the purpose of vindicating his character that, in December of 1849, he saw fit to apply for a divorce. I will prove the falsity of every charge in this list of circumstances; and more, manifestly more clearly than anything else, the utter falsity of the assertion that any such motive influenced him in December of 1849, as that of the vindication of his character. I will prove it to you not only that she is entirely innocent of having ever spoken one word against his character and circulated rumors to his discredit at that time; but I will show you that rumors to his discredit must necessarily exist if Mrs Forrest had been deaf and dumb, or deprived of the natural means of communicating with the exterior world; and I will also show you that, so far from desiring, in December of 1849, to vindicate his character, he wanted a divorce —an entire divorce—and nothing but it. And yet we are told he sought that for the purpose of vindicating his character. But I must take this story at the commencement—and what is the first charge? It is, that in December of 1848, when, at Cincinnati, he detected his wife in an immodest position with Mr. Jamieson. What is the evidence of this? Why, it is the evidence of Mr. Samuel S. Smith, and from the evidence of this gentleman, it is said that Mrs. Forrest's affidavit is contradicted in this particular. She denies her knowledge of the statement that Mr. Jamieson had agreed to go to a phrenologist; and she also denies her knowledge that he was sought for to accompany them there. Now, the testimony of Mr. Smith is, that there was a conversation about going to the phrenologist, Mr. and Mrs. Forrest maintaining the truth of the science, and Mr. Jamieson opposing it. At the time they were going to the phrenologist, Mr. Jamieson, although he made the appointment, did not appear. Mr. Smith looked for him in a couple of places, and, failing to find him, nothing more was said about the matter. Now, Mr. Smith supposes, in relation to the argument about the phrenologist, that Mr. and Mrs. Forrest believed in the science, and Mr. Jamieson was incredulous in regard to it. My knowledge of phrenology, and other theories of the kind, is about this—that all those who believe in phrenology, are those only who find the phrenological chart speak favorably of them; and those who find the contrary are decidedly of the belief that it is all a lie and that there is no dependence to be placed in it. Mr. Forrest and his wife, however, maintained soundly the truth of phrenology, and Mr. Jamieson as soundly maintained it was not true. Foregone conclusions were probably made by all three, and the invitation to Mr. Jamieson was for the purpose of investigating the truth of it. You can imagine that Mr. Jamieson, although not making a noise about the matter, conducted himself in that manner that may probably have shown it did not speak favorably of his craniological developments. And thus you have a solution, at once, of this imagined difficulty as to difference of opinion between Mrs. Forrest and Mr. Smith in their evidence. Mr. Smith gives this further bit of evidence:—He said he observed a little petulance and irritability on the part of Mr. Forrest, and that he had never observed anything of the kind in Mr. Forrest's demeanor before or since. But the counsel here also testifies with regard to the mild temper of Mr. Forrest.

Mr. Van Buren.—When did I testify to that? I have not testified in the matter.

Mr. O'Conor.—Well, you said as much as that, if you did not testify to it. However, we will let that pass. A little irritability. Well, let us see how this matter affected the party the following day, when Mr. Jamieson was not present. Mr. and Mrs. Forrest, on the following morning bid adieu for ever to Cincinnati, and Mr. Smith and Mr. Jamieson accompanied them. Mr. Jamieson was present at the room when they left, and had some music belonging to Mrs. Forrest; but having come too late with it, the packing being all done, and no room being left for it, he was requested to take charge of it for Mrs. Forrest until such time as he came to New York. Well, now if Mr. Forrest's petulance of manner arose from Mr. Jamieson's not going to the phrenologist's or at anything he saw in the room, I think there would have been some little petulance the next day, when he accompanied them to the cars, and when permitted to take charge of Mrs. Forrest's music. It perhaps may be said that in relation to some of this testimony of Mr. Forrest, as to what took place next day, he was not absolutely certain that it was the very next day; but it certainly was within a week, for Mrs. Forrest's affidavit says they were but three days in Cincinnati on that occasion. The fact of Mr. Jamieson being there too—his receiving the music—its being left with him is undisputed,—but he did not remember that Mr. Forrest heard about the music, he does not know, and he tells us he certainly has a poor memory; but he speaks as accurately here as he does in any other part of his testimony. Now, are you to believe that Mr. Forrest noticed something there improper? He says himself he observed a very indelicate behavior of these parties that excited his suspicion, and made him receive an apology from the lady. While Mr. Smith and he were coming from the miniature painter, Mr. Forrest walking much quicker than he did, so as to be some distance ahead of him, yet Mr. Smith, when he came into the room almost immediately after Mr. Forrest, he heard no *eclaircissement*—nothing very wrong—it must have been a most rapid trial for Mrs. Forrest, so that she was enabled, during the brief time that transpired between Mr. Forrest entering the room, and the arrival of Mr. Smith a moment after—she had time to withdraw, and not a sign of petulance was observable in the manner of Mr. Forrest. It was not, then, because he caught his wife in that indelicate position, but because Jamieson was not to be found according to promise to go to the phrenologist. Do you credit this tale? Mrs. Forrest has denied it under oath, and if contradicted by Mr. Smith at all, it would be a matter of mere impression in respect to Mrs. Forrest—a matter of mere impression; but the probabilities of the case go to show very strongly that Jamieson was careful not to go, and did not go, because he did not think it spoke very favorably of him; and certainly, if it is a true science, he has no reason to be satisfied with what it says of his developments. Now let us see, gentlemen, what is the evidence that Mr. Forrest had any suspicion upon that occasion. We have given in evidence his letters written to Mrs. Forrest, in Nos. 1, 2, 3, 4, 5, 6, 7. We have read all the letters marked B up to 9; we have given them in evidence; they are full of affection; they do not contain expressions of anger, or intimate the existence of the slightest fault or blemish on the part of Mrs. Forrest; there is not a hint that she must be wary of her steps; that she is not always prudent, always correct and proper in her deportment. They speak in language of unmeasured kindness and praise. Why, there is one I cannot help calling your attention to at this time, dated the 18th day of October 1848, in which he says: "How very nicely you packed the wardrobe," &c., and "Believe me, yours ever truly, Edwin."

Now, was this written to a suspected wife? I ask, was this written to a suspected wife? Can you believe it? Why has he not somewhere said "this compensates for all short comings on your part, and of misgivings upon mine?" Why does he

not somewhere say, "I believe in your fidelity?" Why is there not somewhere in some one of these letters an intimation that in deed, in word, in thought, in some slight thing that might have stirred the blood of her imperious master, she had failed in the last measure of human fidelity? Is such a thing to be found? Why, the counsel said something about these letters not reproaching her for some errors of hers; I may be mistaken, but I think he is mistaken. No, it is the errors of others that are referred to in some of these letters. But I think she not only manifested this entire fidelity —of devotion of soul, body, and mind to her master—but she was so happy and so fortunate as to gratify her desire, and to compel the acknowledgment of her incomparable excellence as a helpmate, companion, and friend in the dearest relations upon this earth. I say she not only was faithful, but happy—I mean in the sense of success—in all things she pleased him, and never better than in 1848. It was not a late coming fidelity, a supple compliance of a guilty woman seeking to restore herself to the graces of her lord, by the most abject and mean submission. Now, I ask you as reasonable men, can it be possible that Mrs. Forrest has been caught *flagrante delicto*—that she had been accused, tried, and by a solemn protestation of innocence secured herself quietly in May of 1849—that by a subsequent act Jamieson had excited his jealousy—that all the time subsequent to that period there is not the slightest allusion to a failure on her part in anything? It may be said that more letters have been written than we have produced. We have a right to assert that we have produced all we are in possession of. They could produce any letter she wrote to him, and if in any of these there was a failure of duty spoken of on her part would you not have it produced? And if there had been, it no doubt would have contained something which would go directly to the heart of any man. But no; Mr. Forrest shows that he has entire and unshaken confidence in her purity and fidelity, and he proves more than that. The pretence now advanced, that from May 1848, to January, 1849, he possessed the galling doubt which made him petulant in Cincinnati, is as destitute of any foundation in truth as any assertion that has been made in this cause by the worst and most reckless witness that has been produced on that stand. But we go to the next step. Mr. Forrest, in January, 1849, found the Consuelo letter. Why did he find it? Because he had his suspicions, and because those suspicions were lurking in his mind. However, he found it, and that letter, he says, caused the separation. Now, I proceed to show that that letter did not cause the separation; and I also proceed to show, gentlemen, out of Mr. Forrest's own lips, that that letter did not cause the separation. I will show, beside, that he never considered letters any evidence of guilt. I proceed to prove, out of his own lips, that the language of that paper itself admitted of a very innocent construction. I will read to you a portion of Mrs. Forrest's affidavit, as to this circumstance:—

"And she further says, that on returning in a carriage from an evening party at the house of her sister, Mrs. Margaret Voorhies, on the eighteenth day of January, one thousand eight hundred and forty-nine, she set down at their own door Mr. J. Lawson and his wife, and soon after reached home, where she met her husband, Edwin Forrest, the above-named defendant, in his library, reading a book. The said Edwin Forrest, after learning from deponent who had been guests at her said sister's, and some further unimportant conversation, remarked that this deponent was more attached to her said sister than to him, and that her said sister had endeavored to prejudice this deponent against him. He then proceeded to speak of her said sister in very reproachful terms. The terms used by said Edwin Forrest, in reference to her sister, were extremely harsh, and, as she believed, unjust. In reply to some one of them, she cannot remember precisely which one, this deponent having for a moment lost her self-command, gave to said Edwin Forrest a direct contradiction, and, in so doing, used an expression which she admits to have been improper. The said Edwin Forrest, thereupon, instantly arose from his seat and said, in a fierce and angry tone, that no man should so address him and live, and that he would not live with any woman who did so."

Now, gentlemen, this is her statement; but you have heard, in the course of this case, that Mr. Edwin Forrest made an affidavit in answer to this, in which he goes over the same ground. I desired to read certain portions of this affidavit; but as I was at that time engaged in a matter in which I was endeavoring to force them to take a certain course, I did not consent to reading that affidavit, and the court excluded it; but at a subsequent stage of the case, I gave them a written consent to read every portion of Mr. Forrest's affidavit, except certain parts which I marked, which were scandalous in respect to other persons; and, at the same time, also, I allowed them to read any part in which they might be able to show us, or satisfy the jury, it was reasonably necessary to enable you to understand perfectly Mrs. Forrest's affidavit. They did not choose to act upon that, but on Mr. Forrest's affidavit, which you cannot see, but which I was desirous you should see. There were two or three passages too full of invective, and too abusive against Mrs. Voorhies, which at the time were answered by Mrs. Voorhies in an affidavit, but not answered by Mrs. Forrest, and I did object, and do object, to read that. It would be utterly scandalous to read it in the absence of Mrs. Voorhies, and without reading Mrs. Voorhies' affidavit also. I now come, gentlemen, to Mrs. Forrest's replication in her affidavit, about this interview on the 18th of January, where she shows you, and which Mr. Forrest expressly admits, the conversation to be exactly as she states it, that the separation then announced was on account of Mrs. Forrest giving him the lie, and that, too, about her sister.

"There are circumstances connected with Mr. Forrest's present story, conclusively establishing that the Consuelo letter had nothing to do with our separation, and that he sentenced me to that separation on the eighteenth of January, 1849, without the slightest suspicion on his part of any impurity or impropriety in my demeanor as a wife. In a word, he expressly admits that he pronounced that sentence because I uttered to him an offensive speech, and for no other cause whatever."

"He declares, expressly, that his confidence in my purity was perfect until he found the letter. He admits that the immediate cause and provocation to his sentence against me, was my contradicting him on another subject. In relation to the letter which he pretends he had found he states that, on that evening, 'He questioned the handwriting, and hoped that the manuscript was merly an extract from a licentious French novel.' He determined, therefore, to take no measures on the subject, until he had fully informed himself upon these points."

This is on the same evening of that identical meeting, which I hope and believe will turn out to be nothing at all. Here we have my lord playing a part—which has

such a *traisem'lance* about it—because, if you will believe it, his wife gave him the lie, and he declares that if a person of the male sex would do so, he could not live, and he would not live with a woman who had done it; and then he sentences her to a separation. Now, I told you that I would prove from Mr. Forrest's own lips, that he cast Mrs. Forrest forth from his side, and sentenced her to separation, when he did not believe that that paper contained any evidence whatsoever against her, and when he had no imputation whatsoever to impute to it. Again, this affidavit of Mrs. Forrest goes on to say:—

"This deponent having, after some days' inquiry, ascertained that the said letter was in the hand-writing of Mr. Jamieson, and that no part of it was extracted from 'Consuelo,' was brought to the 'melancholy conclusion,' that his wife was guilty of impurity."

This, you will observe, was his "melancholy conclusion." He determined to turn her out of his house, and from his side, for no cause whatever—a very melancholy conclusion, everybody must admit, to turn his wife out of doors without any reason; and he found then a good one for doing so. He must have shed as many tears then as he did within the last forty-eight hours, on discovering that melancholy fact.

"Mr. Forrest could not now deny that the eighteenth of January (or perhaps more properly the nineteenth, as it was after midnight,) was the date of my sentence; nor could he then safely assert that he had then referred to the 'Consuelo' letter. The only thing he could do for the purpose of misleading those who might not closely scrutinize his story, was to assert that he had found the letter at that time. The necessity of the case then compelled him to explain why he did not speak of it, and his explanation is, that the letter of itself, was, in his judgment, no adequate evidence of impurity; that further inquiry was necessary, and that 'hoping' there was an innocent explanation, he 'determined to take no measures upon the subject,' until he could make the requisite inquiries; and yet, he is forced to admit that while this determination existed, and this hope animated him, he sentenced me to the separation now existing, and avowedly, at the time, for a different cause. This, surely, is enough to establish the fact which I have asserted, that Mr. Forrest banished me from his side for no cause connected with impurity on my part, or the belief or suspicion of it by him. His own words would condemn him.

"The manner in which Mr. Forrest has involved himself in this admissi n, as well as in certain inconsistencies in this part of his affidavit, I will explain. His proofs for the Pennsylvania Legislature—consisting chiefly, if not wholly, in the affidavits of Mrs Underwood and Robert Garvin—showed my return from a party on the evening of Thursday, January 18th, and that a dispute was overheard between us after midnight. Mrs. Underwood testified that on the next Saturday morning, that is, January the twentieth, I missed the Consuelo letter—expressed terror and surprise—showed a consciousness of detected guilt. I presume the intention was to connect my search for the letter on Saturday morning with the dispute on Thursday night, so as to show that that dispute arose out of my purity being then questioned."

Now, gentlemen, is not this taken from even Mr. Forrest's own lips—is not his sworn affidavit conclusive, that, without being in any way interested by this scrap of rhodomontade prose, and equally rhodomontade poetry, he sentenced Mrs Forrest to a separation, which is the separation you are now examining. Why, gentlemen, if anything can be proved this is proved beyond any possibility of a doubt. Well, now, leaving for a moment out of view this paper itself—this Consuelo affair—let me call your attention to another fact which took place. Mr. Forrest ordered a separation on the 18th of January, 1849. From the 18th of January, 1849, to the last day of April in that year, he and Mrs. Forrest occupied the same bed. Now, could it be, I ask you, that Mr. Forrest, having determined to separate from his wife, occupied the same chamber for four long months, while he intended never to occupy the same chamber with her again? Why, gentlemen, it is said that the object was to screen her from suspicion. When, I should like to know, did that purpose first arise? Was it on the night of the 18th of Janaary, when this violent quarrel took place between the parties? Why, it would be rather singular if, in a high and furious excitement against her—he believing her to be unfaithful, and she denying it stoutly as a lie—*the* whole matter had been brought to a pacific, perfect amiable agreement, so that they actually went to bed together that same night, in order to play this farce before the servants for four long months—for it does not appear that they slept apart for one single night during that whole time. Well, now, I should like to know how it could prejudice Mrs. Forrest in the estimation of the public, when it was known that they were to separate, and to separate by his will and mandate. How could it injure her, if it was known that they did not occupy the same bed during these four months? What effect could it have in screening her reputation? Certainly none at all.

Again, as to another argument, or rather, portion of the testimony offered by Rev. Mr. Magoon on the stand. He has sworn, undoubtedly with the intention of speaking the truth, that Mrs. Forrest told him that during the last three or four months they had lived together as brother and sister. Whether is it more likely that Mr. Magoon was mistaken in this, or that Mrs. Forrest made that communication. If Mrs. F. really requested Mr. Forrest to occupy the same bed with her during these four months, for the purpose of screening her reputation, would she afterwards tell Mr. Magoon, or any body else, that this was all a mere sham—a mere mockery? Would she have told to Mr. Magoon in a conversation, using figurative language, too, that they had lived together as brother and sister, without any question from him calling it forth? Is it likely she would make a communication so highly improper—so highly indecorous as this? Is it not necessary to suppose that Mr. Magoon's testimony is untrue? It is very necessary to suppose that, in the conversation which took place between him and Mrs. Forrest, she used the kind of language, which she says herself she did—that he (Mr. Forrest) was moody and sullen at times, and otherwise at other times—that he sometimes treated her most kindly—sometimes more like a sister than a wife. Now you know, gentlemen, this was true, for during the four months they thus lived together, Mr. Forrest took her a ride to Fonthill—during the four months they thus lived together, he in various ways manifested, at times, kindness. He tells you himself, in his own affidavit, that he told her, during these four months, that if any man ever attempted to impeach her chastity or reputation, to call on him and he would defend her. Surely, at the same time, so far as mere words went, at all events, he was very kind. I submit to you, gentlemen, without impeaching the credit for truth of Mr. Magoon—and Mrs. Forrest has even stated in her affidavit, that she believes Mr. Magoon speaks innocently, honestly, and as he thought truly—I submit to you, as a fair presumption in respect to her conduct that a modest woman would never have made such an unbecoming communication, as this would be, if it were true.

But now look at the other side. How far is it probable, that for the mere purpose of enabling his wife to talk about the circumstance, or for the purpose of screening her in the eyes of the servants that Mr. Forrest would submit to the monstrous degradation of lying every night for four months, by the side of one whom he had proved and found to be a shameless harlot, in dishonorable and lascivious communication with a man whom he knew, as he stated in his affidavit, to be a vile wretch, but whom, notwithstanding, he introduced to the society of his wife, and used to leave alone with her on many occasions. Certainly he did do so on one. I ask you is this credible? Why, what a patient, mild innocent, self-denying creature this must be, who, when he found his wife unchaste, and was determined to punish her on that account, still, in order to salve and save her character, and to screen her from disgrace, would lay his pure and uncontaminated person on the same bed for four long months? Do you believe it? Is it credible? I submit, gentlemen, that the fact of his thus occupying the same chamber for four months, is conclusive evidence that he did not believe anything whatsoever to the disparagement of his wife. But he says he did; and yet he admits that he intended to separate from her. He made not a single charge against her and stood ready, as her champion, to defend her honor, if anybody would assail it. That he admits, and strange enough it is. But let us see how they stood on approaching the first of May, 1849, when the separation must take place—when the separation did take place—his establishment being then broken up. What are his acts

at that time? They are very kind towards her. In April he took her out to a ride. Her own picture—the picture of a degraded harlot—whom he was about to turn from his side, is sacredly preserved among his family treasures, and transmitted to the mansion of Fonthill, to grace its walls, whenever it shall come into use. His own picture—the family picture; the picture of the man whom she had degraded and dishonored—he, with his own hand, carries to the carriage, accompanies her, and, in the face of day and of their friends, delivers her that picture, to keep as a keepsake and evidence of unbroken connection with the original. They part as lovers; not, to be sure, with a broken sixpence, each retaining half, but keeping each the picture and image of the other, to be treasured and preserved as an evidence that there was still an attachment between them, unbroken, at least by crime or shame. Does it admit of any other construction? No, gentlemen.

I need not advert to the delivering of the copy of Shakspeare. You have not forgotten it, and I know, will not, with his name, and date, and all, written in it. But last, not least, I call your attention to a subject not to be forgotten, of his conduct to Mr. Bryant, his most esteemed friend—a man against whom the breath of calumny was never uttered; a man whom all parties in this case (a wonderful thing indeed for any one to occupy that position) have united to say, is a model of all that is morally worthy in public and in private, and especially estimable in the latter. He was the dear and ancient friend of Mr. Forrest, and he had, not long previously, sent forth from his home to an establishment of her own, as the wife of a literary gentleman, to whom she was united, his eldest daughter, I believe—at all events a daughter who was tenderly beloved, and who held as fond a place, as affectionate a hold in his esteem, and in the esteem of all who know her, as a daughter ever held. He (Mr. Forrest) after these four months' contemptible disguise, covering his own shame to blind the eyes of Dame Underwood and Robert Garvin—the tell-tale Dame Underwood—wound up by taking this contaminated woman and placing her at the pure hearth of that pure, honorable, most respected, and most respectable family. I should like to know has any man a right to come into a court of justice and call his wife polluted, and demand a divorce from her, who could be guilty of such inconceivable baseness as to ask her to go to a young couple (the wife being the daughter of a dear and ancient friend,) living in peace, happiness, and honor, and plant at their hearth a vile creature, reeking with the abomination of a filthy crime—who, in all probability, would pollute whoever touches her. Why, if Mr. Edwin Forrest had done this, he would be infinitely a worse man than perhaps ever I ought to esteem him—for there is a kind of philosophy by which people think they have a right to do what they please with their own, and as this woman was his wife, why, perhaps he may have thought that he had a right to do with her what he pleased, and to cast her from him, innocent though she were. But I know no man who conceives that he has a right to plant a thorn of guilt and infamy in the garden of his neighbor—and Mr. Forrest is not guilty of this offence. I claim for him and for human nature, that he is not guilty of it; and from the fact that he is not guilty of this offence, I ask you to convict him of another, and different, and far less heinous, perhaps less inexcusable, offence against morality and justice—that of condemning unjustly his innocent wife

Now, gentlemen, we have come down to the first of May, 1849, in the history of this case. Passing by for a moment the observations due to the Consuelo composition, and to other compositions, I come to a certain declaration of innocence, in respect to which I shall be obliged to speak distinctly. You will probably note what was the condition of Mr. Forrest at that time, the first of May, 1849—he was engaged in that ferocious feud with Mr Macready, which was then gathering strength, till it rapidly approximated to the dreadful issue of the 10th of May, 1849, and which was attracting universal attention. When coupled with this deadly feud with Mr. Macready, to the wonder and astonishment of all who had ever known or heard of the couple, or of the lady, an unaccountable and unaccounted for separation from his wife took place, for no charge of any description whatever—but, of course, it was known to be his act. I call attention, gentlemen, to this state of things, for the purpose of asking you how far it can possibly be true that Mrs. Forrest was the author, at some subsequent period, as testified by Mr. Burr, in August, September, or October, of the imputations against Mr. Forrest, that he had parted with her on account of the Macready troubles? Why, gentlemen, three or four months before, an article was published in one of the newspapers, setting forth all about this separation, and stating the probable reasons for the separation. Mr. Lawson proves, by his letter, that Mr. Forrest saw that article, published in the *Atlas;* but that letter was not allowed to be given in evidence. They did not choose it should. I ask you, what must the public have said, what must any of you have said, on the first of May, 1849, when you heard that Mr. Forrest, who was making such a tremendous uproar with Mr. Macready, had actually turned on his own wife, and driven her out of his doors without assigning reasons? Why, would you not instantly say, their separation must have grown out of the Macready affair; that his passions had, perhaps, become excited, and that he did not know what he was doing? And you must have blamed him at that moment. All the world must necessarily have blamed him; and, of course, as he gave no explanation, and she was forbidden to give any explanation, this state of things continued, and might have continued for ever, and nothing else would have been imagined at the time. But I propose putting off to a later stage my remarks on the matter, when I shall advert to his proceedings in December, 1849. I still want to keep your attention to the first of May, 1849.

Now, at that time, I have stated to you his conduct, and the nature of the things he did; and we have read a correspondence between Mr. Lawson and Mrs. Forrest at that very time; thus running along to the time when Mrs Forrest was with Mrs. Godwin, and perhaps a little longer. What was the object of that correspondence? Nothing had ever been said or done in regard to the provision for Mrs. Forrest. How was she to be provided for? Why, Mr. Forrest's method of providing for her was to advertise for board in some private family or boarding house—and while he was to be the Lord of Fonthill, or some other great place, she was to go and be "a solitary sparrow on the house top"—if you please—a solitary boarder in some private family or public hotel, at some five dollars a week, perhaps, or some thing of that kind—with some little allowances for clothing, and so on. Well, Mrs. Forrest would not stand that, and remonstrated against it. She did not, to be sure, remonstrate in violent and angry terms; but strongly and decidedly, and appealed to Mr. Forrest's sense of propriety—that that course would force her into the company of strangers, with whom she would be obliged to associate in a boarding house. And yet Mr. Forrest thought that this lady, who could not avoid committing adultery whenever she was brought in contact with a man who would be likely to solicit her chastity, was very desirous of sending her to an ordinary boarding house, where, living alone, without a brother, or male protector, without any of her family, where she would be all the time in the company, perhaps, of some amiable Jamieson, who would be writing her poetry; and as she was not a cross or an unamiable sort of woman, he would not probably be knocked down whenever he did it. And yet what Mr. Forrest wanted to do was to preserve his honor and his wife's reputation, and therefore she must go and live in a boarding house. I have heard of persons being sent to a nunnery to preserve their virtue; but to send a poor woman to live in an ordinary boarding house, who was so frail as this lady is supposed to be, was certainly a very odd kind of policy to be pursued by a gentleman who was so very cautious of his honor—I mean that part of his honor which consisted in the world's knowledge of this very tender point.

The ordinary hour of adjournment having arrived, the Court was adjourned.

Friday, January 23d.

Mr. and Mrs. Forrest were in Court, accompanied by their respective friends.

Mr. O'Conor arose and continued his summing up this morning. He said:—I had arrived at the state of some of the circumstances occurring about an important period of the case—upon the day of their actual separation—the 1st May, 1849. I have there shown you that Mr. Forrest was anxious at that period of adopting a cheap mode of dispos-

ing of his lady—a mode cheap in one sense, according to his views, and very dear in another view—and I should say a very costly mode of exposing the fact of the marriage desecration to general observation. He desired to place her in a boarding house at a moderate rate of charge. I advert to this circumstance, in order to mark a fact which I shall seek to establish—that at this period Mr. Forrest had no belief of any guilt on the part of his wife, and had no doubt of her perfect prudence—had no doubt of her perfect chastity, and never intended to make any charge impeaching her. The boarding house project failed in consequence of the remonstrances of Mrs. Forrest —remonstrances which may be considered to have amounted to an absolute refusal. The next step, gentlemen, was to settle an alimony. Mr. Lawson was Mr. Forrest's agent in this matter—a sort of "go between"—to settle a proper allowance on Mrs. Forrest. Whatever feelings of liberality actuated him on the occasion, in his decision, I know not; I am unwilling to introduce an unnecessary issue in this case, or even one word upon the subject. You can't say how far I have practised forbearance. I have said nothing upon the subject, nor have I offered one word; but whatever liberality there may have been exercised, it certainly was a liberality that needed a stimulus, for Mr. Lawson admits that the treaty was going on for a considerable length of time after the separation; that Mr. Forrest offered to settle on his wife various sums, beginning at the sum of $500 and a house to live in worth $375 a year. Did it show even a reasonable spirit on the part of Mr. Forrest to desire to put his lady into a brick house of two or three stories, with her young sister, who occupied the position of a daughter to her—a woman who was in the habit of living like a lady, and having servants—to put her in such a house upon $500 a year? Why, it was something approaching to meanness—the opposite of liberality. But at all events, that was the proposition that was made, and attempted to be foisted upon Mrs. Forrest by the mild persuasiveness of Lawson. She peremptorily—if I may use so strong a term—in substance and in effect, refused the acceptance of this allowance. She claimed more, and her claim had been gradually conceded, until it reached the sum of fifteen hundred dollars a year, she having required two thousand dollars. With such an allowance she could not live in a manner at all approaching that position which was due to the character of her husband, and during her own former mode of living whilst under his protection, without spending that amount. You remember Mr. Lawson's letter, and that he denies "the soft impeachment" about the allowance of two thousand dollars; but if he did not suggest, he acquiesced with it, and recommended that the matter might be adjusted. Thus we see this fond and liberal husband making the hardest terms in his power. She insisted, until the amount came up to nearly that which was sufficient to support her during the period of their separation—which might not perhaps be very long; I call attention to that stage in the proceedings, Mrs. Forrest, a repudiated harlot, according to the statement of her husband, put away in consequence of her impurity, and then tenderly treated by her husband, and protected from shame by acts upon his part which, should they ever have reached the public ear, would have covered him with shame—to wit: the concealing of her infamy—placing her in the bosom of a respectable family, and lying in the same bed with her four months after her dishonor. This lady, who ought to have been trembling with gratitude and fear, if guilty she had been, insisted on a respectable regard being paid to her just rights as a wife. She insisted upon having such an allowance as she would be content to take; she made her own terms, and she insisted upon and received them against his will. Well, I add another circumstance, for the purpose of showing that no such idea existed at that time in the mind of either party, of any imputation on her chastity.

I call attention to a most satisfactory piece of evidence—the most satisfactory in the whole case —I mean the letter to her father, John Sinclair, written by Mr Lawson, closing with these words. (Mr. O'Conor then read the concluding portion of Mr. Lawson's letter 'which has been published.) This is the man who comes here to speak upon a mere form of speech, and says that he got his daughter to write the letter for him while he was away. This is equal to the gross slander, in broader terms, pronounced by a countrywoman of his—Mrs. Underwood. I invite attention to this letter, written by James Lawson, on the 1st of May, 1849. It is not written at the dictation of Mrs. Forrest; she merely requested him to write to her father, to break the unpleasant news to him, and to convince his judgment. But there is one important statement which has a tendency to contradict the view of the case taken by the other side, to wit, the statement that her honor was unsullied. Her chastity demanded no certificate; so proud was she of her integrity that that portion of this letter alone commanded her repudiation. When she heard of it, after it was sent, she says: "I object to that letter—to your certificate of my honor, which no one has ever impeached." Is that, I ask—said in a moment of private confidence, and spoken to a supposed friend—was that the language of a woman who was conscious of guilt, and that her husband had repudiated her for guilt, and who was hanging upon him for permission to live in honor, or to be whelmed in the pool of infamy? Would she not have been most anxious to receive from a bosom friend and associate a certificate in writing that her honor was unsullied, and particularly when it came accompanied with a note from Mr. Lawson? Was such a woman not conscious of her innocence, and desirous to shield herself against public condemnation? I ask, is it possible to believe otherwise, with these irrefragable evidences, but the position of her first explanation, "why did you say anything about that which no one has ever impeached?" But, gentlemen, I return to that letter: what does it say? It gives the direct lie to every word uttered against her. [Mr. O'Conor read the letter, which has been published, and continued.] And that letter is from her best friend, and approved of by Edwin Forrest, with the knowledge that it was to be sent across the Atlantic, to her father, and to stand as a testimony at a future time. And it does stand as a testimony against him. Gentlemen, why is this testimony not to have its effect? Have men lost their reason? Are the subjects of these questions to have no part in the administration of justice, and in the common sense of mankind? Now, let us follow up a little further the next stage in the matter. We find Mr. Lawson attempting to bring about a reconciliation between the parties. He was Mr. Forrest's man of business. On all occasions we

find him in constant communication with Mr. Forrest, engaged in an effort to bring about a reconciliation. That he acted for the benefit of Mrs. Forrest is beyond earthly doubt, and it is clear enough that an intimacy existed between Mr. Stevens and Mr. Forrest, and that he acted in co-operation with Mr. Forrest. She tells him, "I did not seek your interference, and I fear evil consequences will arise from your interference. You have produced mischief and evil." I must here call attention to times and places. Mrs. Forrest spent a short time with Mr. Godwin's family. She then went to the house of a friend—Mrs. Willis. She afterwards went to board with her sister in Great Jones street, and finally took up her residence in Sixteenth street, and then Mr. Lawson's letters of reconciliation were written. They terminate in a manner unsatisfactory. Mrs. Forrest, about the middle of December, 1849, wrote to Mr. Lawson the following letter. (Mr. O'Conor read the letter, which has been already published in the proceedings of the 31st December, and continued.)

Gentlemen, is this the language of a shameless woman? We find that this letter denounces him as insincere and treacherous, and telling him to his face that she refuses him as a friend, and was quite willing that he should become an enemy—that he should appear in his true guise. Was this the conduct of a woman who was apprehensive of her condition? Gentlemen, a little of the native characteristic stole out in Lawson's note; you see that there is a fair amount of the feature of the Scotch character, and of which even Scotchmen are not ashamed. Gentlemen, the first blow follows this with wonderful rapidity. This letter must have been written as late as the 16th of December. I think Mr. Lawson states that he received it on the 20th; by the 24th December, 1849, you find that the first blow is struck. (The learned counsel read Mr. Forrest's letter of this date, which has been already published, and continued.) It is answered at once, and the answer is confined to just where it is intended it should be—to answering the question whether she had impeached Mr. Forrest's conduct in the matter of her separation. (Mr. O'Conor read Mrs. Forrest's answer, which has been published, and continued.) I call attention to the candor which calls that answer a confession of her guilt. An emissary was sent, and directed to keep a copy of it, that he may be able to swear to it, and to call for an immediate answer, which he receives. I would ask, does not her letter give a full answer, and in precise language, when it is considered that it comes from a lady unaccustomed to trials of this description? And if it do not answer all the imputations in an accurate manner, it must be recollected that it was not drawn "under the advice of counsel," but was dictated under sentiments of a more proper kind than the dictation of counsel, and is now sought to be turned against her. (Mr. O'Conor read extracts from the letter, in support of its sincerity, and with reference to Mrs. Forrest's statement that some one had poisoned her husband's mind, and proceeded).

How can a man's mind be poisoned except by imputing that the mind was impressed by an erroneous belief in respect of the guilt of a party against whom the effort was made? Is that a confession that she was guilty of infidelity with a vile and subordinate actor, whom even to notice would have been a reproach to her? But Mr. Forrest himself brought the poor creature into her society. This would be a confession that she had stooped to the last dishonor to which it was possible a woman could stoop, and with one of the lowest of the human family. Great God! is such a construction to be put upon the language of a suffering woman? Was she to address herself in reply to such an epistle as the Consuelo note? (Counsel referred to various portions of Mrs. Forrest's letter and declaration, and asked if they could be construed as a confession of guilt, and continued)—I will now call attention, if you please, to circumstances in proof of what is detailed in her first affidavit, as to the circumstances under which that letter was sent to her, which has been read to you. Mr. Forrest has made a reply to that affidavit, and of which I was quite willing that he should read to us all those matters that are relevant, and I offered them to read any part of it that was an answer to any portion of Mrs. Forrest's affidavit. It remains unanswered. Andrew Stevens cannot now be found; he is now the Lord knows where! Now, gentlemen, what is the next step in this matter? Mr. Sedgwick was employed about that time. The next step in this affair is Mr. Forney's commission. The date of Mr. Forney's letter was the 25th January, 1850. Mr Forney gives Mr. Forrest's statements, and it is argued that because there is a certain degree of conflict, Mr. Forrest could not have approved of every word of it. I don't know that that is the right conclusion. We have produced written statements of Mr. Forrest, under oath, and they conflict with each other. Mr. Forrest denies that this man, Jamieson, whom he he knows to be a poor creature, was induced to make an admission in evidence against Mrs. Forrest, and in the evidence to be adduced before the State Legislature—for he could not hope it to stand in a court of justice, though it might pass as evidence before a Legislature. He is fond of fools, and he made his suggestions to Mr. Forrest, as I will read to you. (Mr. O'Conor then read Mr. Forney's letter, which has already appeared and continued:)

Now, next to the 25th January, 1850, came part of the admission from Mr. Forrest, relative to the "half fortune" placed in the market as an inducement to every vagabond in the community to come forward to contribute his mite for the accomplishmeut of the desired object. That we have in black and white from no less a person than the editor of a newspaper—a friend and admirer of Mr. Forrest—and who swears to you that he wrote that letter upon the authority of Mr. Forrest. That a man, nearly crazy, with seventy-five thousand dollars at his command, and with his Philadelphia friends in abundance, should have induced Catherine Ingersoll, is not to be wondered at; and which was ready to be given to those who would be instrumental in relieving him from his hateful bond—though it might not be literally true, it strikes me that the party would try to keep back some part of the seventy-five thousand dollars, and would rather hold them out, by way of temptation, to parties to induce them to come forward for his purpose—yea, even at ten per cent. of the amount, it would be enough to bring an army of Ann Flowers to deflour half the ladies of New York. (Laughter.) Well, now, gentlemen, on the 25th, or the 27th January, but two days after that, Mr. Forrest and his Philadelphia lawyers arrived in the city of New York, and took lodgings at the Astor House; they go to the house of Mr. Sedgwick, and he subsequently writes to me two letters, inviting a conference at his house, for the purpose of showing me such affidavits as he might think proper to present, and to apprise me of the course he intended to pursue, and as to obtaining the assent of Mrs. Forrest to this proceeding. I received that letter on Monday morning, and I answered it on Monday evening. I came to the meeting instructed by Mrs. Forrest to do everything to make her husband happy. If Mr. Forrest wanted a divorce, he was welcome to it, but she would not submit to be dishonored. She required me to take such measures as would preserve her honor untarnished. I acted with caution in the case, knowing that an application had been made in a court of justice. She gave us notice of a violated agreement, by making an impeachment of her honor. Whatever her lord wanted he was welcome to, except her honor, which she would not allow to be impeached. And now, what mighty and strenuous efforts were made in the case to falsify the affidavit of Mrs. Forrest, to prove this state of things—that she was willing at that time, and had been for a length of time, to allow a divorce to be obtained from her, founded upon charges upon which to impeach her fidelity. In consequence of the advice I gave her she dissented, and was induced to change her views in that respect.

The attempt was to show that for a length of time previous to this meeting, Mr. Forrest had been in treaty with Mr. Bryant and another party to have the matter adjusted; that things went along agreeably to Mrs. Forrest, and that she was ready to submit, but that unfortunately, she fell into the hands of an individual who would not allow her to slide down the slough of destruction; that it was my improper interference, if you please, which prevented the matter from being amicably adjusted. The letters have been produced, and Mr. Bryant has been produced. The learned counsel has, on several occasions, endeavored to argue that Mrs. Forrest did not follow the advice of her early friends, but was led by the advice of counsel to adopt a different course. What had I to do with Mrs. Forrest or Mr. Forrest previously? Has it ever been proved that I ever spoke to either of them? It has not been proved—and if proved by somebody, would not have been true. I did not know Mr. Forrest off the stage, and I knew Mrs. Forrest only as a client. Will it be said that I was so hardly pressed for business that I was anxious for that of a poor woman with $1,500 a year?—that I was anxious to have her lawsuit in Pennsylvania, in order that I might have the advantage of getting her business? There is no ground for supposing anything of that kind, but that I undertook the execution of her orders, and would have submitted to anything and everything but her dishonor; that she was willing to do so, and I communicated it just as it was. Now, gentlemen, what is the fact? Has Mr. Bryant interfered with the matter previously? Now, when Mr. Sedgewtck came to be examined, he tells you, that "after we found all treaty with the counsel by whom the matter had been commenced had been broken, in consequence of its being necessary to make some impeachment against the character of Mrs. Forrest, in order to obtain a divorce, we agreed that we should call in Mr. Bryant." His first interference appears to have been on the sixth of February, when he addressed a letter to me. It is very clear and pointed. (Mr. O'Conor read the letter, which has appeared).

Mrs. Forrest agreed to this letter, having seen the petition to which it refers. The learned counsel then detailed the negotiations which had been carried on, and the acts in connexion with them. He referred to the statement which had been made of his (Mr. O'Conor) having been seen pacing up and down Twenty-second street in search of Barney M'Cabe, the witness, and ridiculed the assertion. He derided the evidence of Anna Flowers, and the corrupt manner in which it was sought for and obtained. He produced a copy of a letter written by Mr. Forrest, in reference to the Astor Place riot, in which he exulted over the destruction of the people, and asked what are the lives of the mob compared with the life of a superior man? The demon of massacre! Could any individual be found on this matter, daring to advance a single step in invoking the shield of justice in favor of the victim of his diabolical malignity, without exciting a desire on his part that their blood might flow, and that their reputation might be blasted? Referring to Mr. Lawson, he considered him to be a man who had played to the very letter the character of MacSycophant to his lord, and that he had done his bidding in all things. It has been said that truth spoken with any injurious purpose of deceiving the hearers, is put in the nature and clothed in the guilt of falsehood; there is not a man living who could not coin words in such a way as to pervert the truth, in the meaning of them; and I see no escape for Mr. Lawson at all—for to put down the meaning which he endeavored to convey to the court, we have the very best evidence—that of Mr. Forrest having seen and approved of the copy of that letter, immediately after it was written. Why was this course taken? Why, Lawson did it merely for the purpose which he made in his statement, and which statement, we say, cannot be true in one particular, to which I desire to call your attention; but I am willing to have the rest taken for granted The part we object to is where Mr. Lawson states that Mrs. Forrest, at some period after their separation had taken place, told Mr. Lawson that she had obtained from Mr. Forrest a promise to keep secret the cause of their separation—that is, that she had obtained. This is all I care about in the testimony of Mr. Lawson. That, we say, is not so; his statement is not at all material, except as it helps to support the implication that it was some crime on the part of Mrs. Forrest which was the cause of the separation. Now, in the first place, this is a mere repeating of Mrs. Forrest's words, and these words might easily have been forgotten, or mistaken, or varied, without being very guilty. In that former affidavit of Mr. Lawson's there is no such statement as that to be found.

We have always asserted, and now assert, that the demand for secrecy was on the part of Mr. Forrest. It is impossible that Mrs. Forrest could have said so. Mr. Lawson also tells you that Mrs. Forrest said another thing, which she denies—that she asked Mr Forrest whether he had any fault to find with her as a wife; and that Mr Forrest answered, "No, Catharine; no. Would to God I had, for then I should not feel as badly as I do." That we deny; and the gentlemen of the jury are perfectly aware that we might admit it, without any prejudice, and, therefore, we might as well admit it if it was true; but we deny it. His honor, the Judge, put a question to Mr. Lawson, for which we thank him (in respect to what Mr. Forrest informed us—that it was the same conversation in which Mrs. Forrest said this thing about her and her husband—that he could find no fault in her), and Mr. Lawson answered that it was in the same conversation when she told him that she had requested Mr. Forrest to keep the cause of their separation secret. Now, gentlemen, if it was, why, what did Mrs. Forrest tell him at that time? She told him, in the first place, that there was no fault no her part. She told him, in the next place, that Mr. Forrest himself admitted there was no fault on her part. And she told him, in the third place, that the cause of their separation was kept secret at her request. Now, suppose it were all true, would the implication arise that she acknowledged to Lawson that the cause of the separation was culpability on her part? Certainly not—certainly not. The communication would necessarily be to the effect that even though she had desired it to be kept secret, still there was no fault on her part; but the fact is, she did not make these communications, or either of them. They are just like Mr. Edwin Forrest's affidavits as to his residence in Pennsylvania, made in February and August, 1850, which neutralize and contradict each other. It is apparent that such statements could not have been made at the same time. I am now, gentlemen, done with Mr. Lawson, and will direct your attention to December, 1849, when Mr. Forrest changed his note, and determined to seek for a divorce for the purpose of vindicating his character. It will be seen that Mr. Willis did not prove it, according to counsel's own admission, that Mrs. Forrest said nothing against the character of her husband. Nobody proves it, nor is there any testimony of it, except the miserable little bit of evidence coming from Mr. Burr, of the office of Burr & Stevens. He comes and tells you that a lady who never has been proved to have used indecent terms to anybody else than to him—a total stranger—came and told him about living in a state of prostitution, though he did not pretend to have had any intimacy with her; and also tells him that, up to the Macready affair, there never had been a kinder husband.

And this is the little bit, or scrap, of evidence on which, and on which alone, they rely to justify the assertion on their part—contained in the letter of Dec., 1849, and asserted here—that Mrs. Forrest endeavored to injure his character by imputing blame to him. And this, gentlemen, comes from a polluted source—from a man whose character may be judged by the company he keeps. And it is so slight, so evanescent, in itself, that it is impossible to attach any importance to it—particularly as Mr. Burr states he never repeated to any person the substance of this conversation. This is all the evidence that she ever had attempted to impeach the character of Mr. Forrest in relation to their separation. When Mr. Forrest commenced these proceedings, had he become satisfied that, to protect his reputation, it was necessary to obtain a divorce, and to set forth the grounds on which he obtained it? And if so, why did he offer to bind himself to keep the proceedings private? It is the testimony of Mr. Bryant that he did so—it is the testimony of Mr. Sedgwick, his own counsel, that they offered solemnly to pledge themselves that he would not give any publicity to the charges, or to the testimony on this application, and would prevent any publicity being given by any other, now or hereafter. This was his solemn promise. Now, this was rather an odd way of vindicating a man's character, to make interest with a judicial committee by the force of his personal influence. On fur-

ther reference to the evidence upon this point. Mr. O'Conor remarked upon the proposition to pass the bill through the Pennsylvania Legislature, without the charges being made public. Now, he would ask, was there any evidence of her guilt when Mr. Forrest determined to proceed against her? At the time of the interview which took place between Mr. Sedgwick and himself (Mr. O'Conor), there was existing that Consuelo letter. Now, as to that Consuelo letter, he had shown the jury that it was not the cause of the separation. As to that letter or that poetry, it was not shown that it was ever in her possession, except by her own admission. In the next place, it is addressed to a sort of divinity, and in the next place, it has no individuality; it has no name, no signature—no adopted signature by which it could be known as the homage of a particular individual. It might be copied from some book, and in all probability it was—for those gentlemen who profess to write extemporaneously generally borrow their ideas, and it would require very extensive reading to be able to detect the plagiarisms. And what is the character of Consuelo? In Mrs. Forrest's affidavit, in the printed book, page 206, she says:—

"'Consuelo,' the heroine of a modern French novel, is therein represented as a woman characterized by the highest degree of amiability, chastity and purity that the mind could conceive or language portray. The word signifies 'consolation,' when rendered into English. No reason could exist for the adoption of that address in said letter, except some fancied resemblance between the character of the person addressed and the heroine.'"

But they have been told, by way of taking off the effect of that, that the lady who wrote the work adopted a male designation in her writings. He, however, found in *Howitt's Journal*, vol. 1, page 129, the following:—

"It is a gross mistake to confound George Sand with the depraved writers of the Balzac, Janin, and 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."

Mr. O'Connor then referred to Story's life of his father, in which, in order to convey the highest conception that he could conceive of his most excellent father, he compares him to Consuelo. Somebody—George Jamieson, if they pleased—wrote this rhodomontade which the counsel read, and he said he would read it well and no doubt he did, for he had read it often enough, and if he could read nothing else well, he ought to be able to read that to perfection. (Laughter.) Well Mrs. Forrest did not burn that letter, and on its romantic terms she is to be denounced as an acknowledged base woman. If Jamieson had criminal intimacy with Mrs. Forrest, would he not have written letters of a different description!—some plain language, containing matters of fact, and naming time and place of meeting? A woman who had betrayed her husband would not certainly be addressed in this strong and warm language; a man loses all respect for a woman after her dishonor, and it is not when she is sunk, such language as that is addressed to her. If Mrs. Forrest was that guilty woman, would she have placed that letter in a drawer which it was shown could be easily opened? The fair construction is, that this man having entertained high admiration for Mrs. Forrest's character, as every one who comes within the sphere of her acquaintance, entertains for her—even Mr. James Lawson tells them he admired and respected her—that man (Jamieson) sat down, perhaps, in a drunken fit, and either wrote this rhodomontade or copied it from a book. The greater part of it appears to be the most monstrous nonsense. As to the poetry—he meant the rhyme, which is much less poetic than the prose, as is often the case—now, he thought that in speaking of Mrs. Forrest the writer might have spoken of her charms, and not confined them to one. He says:—

> "Of calling back with fancy's charm,
> Those halcyon hours when in my arm,
> Clasped Consuelo."

This he (Mr. O'Conner) supposed was a poetic license, and that the writer used but one arm in his rhapsody, to rhyme it with charm. (Laughter.) Now, he might have used the word enjoyment; but then he should have made it rhyme with—what? Employment. That would not do—fancied happiness is a bliss—and then, of course, what word is there to rhyme with it but "kiss?" (Laughter.) After a few further remarks upon the prose and poetry of the letter, he continued to say that it was vain to descant at length on this sort of poetical stuff, which gentlemen please indulge in. It was speaking "of" a lady, rather than "to" her. Mrs. Forrest is a lady whose very looks and presence—he said it with confidence—command at once the respectful distance of any man, be he ever so great a libertine, and towards whom, during twelve long years of intimacy, even Edwin Forrest himself, with all the rights and privilages of a husband, had never dared (when he did speak) to address her in any other language than that of the most differential and respectful character. They knew nothing of his speaking, except by his letters, and they all speak of her as the "Consuelo" of his life, which life could be of very little value when he banished Consuelo from his side. But how is it to be supposed that Mrs. Forrest should have received that letter, and gone into a pucker like Dame Underwood, and put it out of the way, instead of keeping it as a curiosity to show her sister Margaret? It fell into the hands of her husband: it was brought before the Pennsylvania Legislature, and was pronounced utterly inconclusive as to the guilt of Mrs. Forrest; it was apparent that Mr. Forrest was aware that that letter could be of little avail and he therefore endeavored to get out of Jamieson, when drunk through the agency of John W. Forney, a bravado admission of his intimacy with Mrs. Forrest—the evidence required to be fulfilled by an admission extorted from Jamieson in an hour of intoxication. Again, they find that Mr. Forrest, by the advice of his counsel—though in the possession of this letter, and the testimony of Garvin and Mrs Underwood—took a solemn oath that without the testimony of Anna Flowers, he could not safely go to trial. Mr. Forrest, in his affidavit of 21st May, 1851, says:—

"He has fully and fairly stated this case to Van Buren and Robinson, of the city of New York, his counsel therein, and that he has a good and substantial defence in said cause on the merits, as he is advised by his said counsel, and verily believes; that he expects to be able to prove by Anna Flowers, who is not a resident of this State, but resides in the city of New Orleans, an act of adultery committed by the plaintiff with one William A. Howard; that this deponent has fully and fairly stated to his said counsel what he expects to be able to prove by the said Anna Flowers and he is advised by his said counsel, and verily believes, that she is a necessary and material witness for deponent on the trial of this cause, and that without the benefit of her testimony, deponent cannot safely proceed to the trial of this cause."

Now, with the Consuelo letter, and all the other testimony, he swears he cannot go to trial without the evidence of Anna Flowers; and it would be for the jury to say what additional proof he has got by the testimony of that witness. He (Mr. O'Conor) submitted that the whole of Mr. Forrest's conduct, from January, 1849, to the close of that year, was most conclusive that he never could have considered the Consuelo letter but as he (Mr. O'C.) did, a piece of rhodomontade, which his lady had incautiously, but certainly not imprudently, retained. Mr. O'Conor then referred to Mrs. Forrest's declaration of innocence, which had been written by Mr. Forrest, and signed by her, and was proceeding to state what was said by Mr. Forrest in his affidavit respecting it when

Mr. Van Buren objected, as Mr. Forrest's affidavit was not permitted to be read in evidence.

The Chief Justice said that the affidavit of Mr. Forrest had not been read, and certainly could not be commented on. It could only be referred to so far as it was embraced in Mrs. Forrest's affidavit.

Mr. O'Conor said he only intended to refer to it so far as it had been noticed in Mrs. Forrest's answer. Mr. Forrest charges Mrs. Forrest with signing the declaration in a scoffing and contemptuous manner. Mr. Forrest cannot say—there is no ground for saying—that that declaration changed the character of the Consuelo letter. If he believed her guilty, why did he separate from her? Why, on account of her guilt? Mr. O'Conor again read the declaration, which has been already published in the proceedings of the 3d January, and also that part of Mrs. Forrest's affidavit in which she said she supposed it had been ante-dated by Mr. Forrest. They would recollect that this document was suddenly started on her—she had forgotten its precise language, and she

was called upon under oath to reply to it, and she says her recollection was that it was only in reference to charges of a very venial nature; and yet how perfectly true her affidavit seems to be! Mr. O'Conor here pointed out to the jury the manner in which the document was written, and said that it was commenced differently from Mr. Forrest's usual mode. The latter portion of it is in these words:—

"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 for ever in the life to come."

Now he (Mr. O'Conor) charged that this had been added after Mrs Forrest signed it. Looking at the whole paper, the internal evidence is that Mr. Forrest, when he wrote it, began in the middle, in these words:—

"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 anything 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."

Mrs. Forrest signed it, and then the first paragraph was afterwards inserted—

"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."

He submitted that it was, and that the general habit of falsification in this case fortifies this view.

The Court took a recess for a few minutes. On reassembling, Mr. O'Conor resumed, and said that he did not suppose that when the declaration was written it had any date—that it was written *currente calamo*, and the difference of the ink shows that the date and the other portion were written at different times. He left that branch of the case, asserting that it was most clearly made out that Mrs. Forrest did not ask her husband to keep the cause of their separation secret. He had not the slightest suspicion that Mrs. Forrest was guilty of any criminal act, or supposed that she had been incautious—which implies no criminality at all on her part—in not destroying this very foolish poetic effusion of Jamieson. I will now proceed to the subsequent events in this case; and it is with reluctance that I feel obliged to say a word in relation to a matter occuring earlier than the proceedings by suit in Philadelphia, for the purpose of showing that among the many bad qualities of Mrs. Forrest she has inherited that of lying; all the proofs in support of which I have answered, except one. The learned counsel says that in speaking of the Macready controversy, she says she did not encourage and sustain her husband, and that her letters show she did. Now, her statement upon that subject assuredly says that she did not disapprove of Mr. Forrest hissing Mr. Macready in England. and Mr. Lawson confirms what she said.

Mrs. Forrest says she disapproved of his saying constantly that he would drive Macready from the stage; but there is no proof that he ever said that, beyond what she admits in her own affidavit. She further says that she did disapprove of the epithets contained in his card; that she disapproved of them in conversation with him at Philadelphia, when she went to see him there; and that he then turned upon her and charged her with insincerity in the letter which she had previously written to him, and in which she, in general terms, approved the card—which letter has been read here, but which does not contradict her affidavit. She says he was under a violent excitement, and she thought whatever she had to say against his course should be said to his face, and not written to him. She still further says that, although she disapproved of these things, yet, when Mr. Macready came out against Mr. Forrest in a very offensive speech, that, as his loyal wife, and standing by him right or wrong, her feelings were excited against Macready. She felt simply against him, and with her husband, and she did in her letter apply to him, by way of encouragement to her lord, the expressions, copied from his own letter to her, such as "superannuated," "Mac," "old woman," &c. Now, that, in brief, is her statement; and how is it falsified? Is it not the most natural thing in the world for her to have acted as she did in this matter? Her statement, that she did disapprove of the language in this card, is confirmed by the last witness, Mr. Smith, the builder, who says that, in January, 1849, after he knew of the separation, he asked Mrs. Forrest what was the cause of it, when she replied it was not a difference about Macready, because she approved of his course with him.

Mr. O'Conor here proceeded to comment at some length on the Macready difficulty, and then continued as follows. We have now Mr. Forrest defeated in his suit before the Pennsylvania Legislature, his proofs set at naught, and standing upon the soil of New York with these proofs in his hand, and the privilege of commencing a suit here if he chose. It would seem he formed the determination of commencing an action in the Court of Common Pleas of the city and county of Philadelphia; but he was not quite ready after the adjournment of the Legislature. He had already in his proceedings before that body implicated nine persons, viz:—George Jamieson, N. P. Willis, Samuel Marsden Raymond, Richard Willis, Captain Granby Calcraft, William H. Howard, John B. Rich, Henry Wykoff, and poor Professor Hackley, whom the counsel insinuates by his cross-examination of Mr. President King, has been scared out of town, to save himself from the trouble of vindicating himself from the charges of Dame Underwood. That may be true, and, indeed, it is not at all improbable, for such charges would scare a great many people besides Professor Hackley. He had implicated all these persons except William H. Howard. He wanted some more testimony; so he set himself to think and inquire, under the influence of those principles that governed him in the Forney letter, for a witness who could implicate this person, or somebody else more easily reached; and it would seem that, in looking about to cull a flower to add to his boquet, he thought of Anna Flowers. He found out her reputation, and he proceeded to her mother, to inquire for her, communicating to her his object.

But what does that good old lady say? She said she would not tell him where she was to be found, and left him in entire ignorance of her whereabouts. He next furnishes another precedent for the letter they say I wrote to Barney McCabe. He puts in the New Orleans *Picayune*, an advertisement for Anna Flowers; on seeing which, she goes to the office of that paper, and is sent to New York. Well, she comes to this city, and she furnishes him with a new accusation, and makes a deposition at the Irving House, on the 10th of June 1850; and on the 9th of August, Mr. Forrest files his libel in the Court of Common Pleas of the city and county of Philadelphia, charging all these same persons over again, with the exception of Professor Hackley, whom he left

out, and whom he admits was entirely innocent—he leaves him out, and puts in William H. Howard. Well, here is a ground of complaint. It is said that, on the filing of this complaint in Philadelphia, Mrs. Forrest should have gone there, and did not; and great fault is found with what was done to defeat that suit. The complaint is, that all the enginery of the law was made use of to prevent this suit from proceeding in Philadelphia. Now the Court will tell you their action in this respect was a violation of law and justice—an attempt to make this lady go from her own country to a foreign State, where she did not reside, and where she had no friends—to submit herself to trial on the charges alleged against her. Mr. O'Conor here alluded to the course pursued by himself to restrain Mr. Forrest from continuing his suit in Philadelphia; and, proceeding to the consideration of the charges made against Mrs. Forrest, of associating and keeping late hours with persons unknown to her husband, it seems, said he, that Mr. Richard Willis, who had spent six years in Germany for the purpose of studying music, and who came home highly accomplished in that art, was at a party—certainly a respectable one—at the house of Mrs. Forrest, and that after the party was over, he and Miss Margaret Sinclair, who had a great taste for the acquisition of musical knowledge—she and this young professor thus brought together, naturally were most anxious to cultivate each other's acquaintance, that by so doing they might thus receive a mutual benefit. The night stole on in this manner; the hours passed away unobserved, and broad daylight found them yet in the enjoyment of this musical treat. Could there be anything more chaste, or refined and delicate, than the manner in which that night was spent, according to the irrefragable testimony of the pure and virtuous lady we have produced? And while Mrs. Willis was on the stand, I must say that from my very heart I pitied this defendant. It was the only stage of the case I felt pity for him, to think he should have been compelled, after bringing his kitchen witnesses on the stand, to hear the whole matter to which they testified fully described by a lady who partook of that evening's enjoyment. I felt pity for him at the contrast presented between that lady and himself before the jury—he who hated set parties, and who delighted himself in sitting and smoking and holding a certain species of conversation with such men as Messrs. Stevens and Lawson, and spending his days at his orisons in Caroline Ingersoll's.

He must have felt debased in his own estimation, and said, "My God, how I must appear before this community! Am I not like some obscene animal which has escaped from its slough, and looks out from its place of concealment at the refined and delicate society from which he shrinks, lest his presence should contaminate it?" Is Mrs. Forrest to be condemned for acting like a lady towards her guests? Why, how otherwise could she, or should she act? It has been said in this connexion that she allowed persons to come about her, who were odious. Where is the evidence of that? The only evidence is the assertion of counsel, that he had forbidden her sister, Mrs. Voorhies, to come into the house. But when this assertion was made, it was in reference, doubtless, to her supposed admission that it was gentlemen who were disagreeable to him. Was Mr. N. P. Willis disagreeable to him? He introduced that gentleman and his wife to Mrs. Forrest, and they exchanged parties, and continued on amicable terms with him down to the month of January, 1850, when he commenced his proceedings in the Pennsylvania Legislature, and down to which time he never had insinuated anything to the disparagement of Mr. Willis. Never, in a single instance, does she appear to have received any person into her house, man or woman, who was, in any respect, disagreeable to him, unless, as I have already said, it might be her sister Margaret; and, I trust, it is not adultery in a woman to keep up connexion with her own sister. True, he didn't know Mr. Richard Willis, who was only here a short period, and that during Mr. Forrest's absence. But, gentlemen of the jury, he was not disagreeable to Mr. Forrest, for he had never expressed any dissatisfaction against him; and, therefore, any attempt to show that she was guilty of bringing any of the male sex who were disagreeable to him into the house, is unsupported by a shadow of proof. Since Mr. Forrest commenced his proceedings against his wife, she has not considered herself bound to quarrel with everybody he quarrelled with. It seems to have been part of his game to charge with adultery every man standing on friendly relations with her, and thereby exclude her from all society.

You see how extensive these charges are, and that they are evidently brought in bad faith, because he brings them in one day, leaves them out the next, then brings them in on the third day, and so on. Evidently his intention was to slander and falsify this lady, and place her in such a position that no one would even offer any aid. But from the moment he commenced this suit against her, she was no longer bound to pay any attention to his charges to repudiate her friends because they did not suit him. Gentlemen of the jury, you observe that his own witness, Mrs. Underwood, whom the counsel examined himself before this trial, stated expressly, on the stand, there was nothing improper between Mr. Richard Willis and Mrs. Forrest. Robert Garvin swears, on this trial, point blank, to adultery committed between Raymond and Mrs. Voorhies. Now, do you believe that Mr. Raymond corrupted the virtue and chastity of both these women? For what purpose was this charge made but to deprive her of her friends, by degrading her before the public, and thus force them from her side? It requires a degree of firmness and moral courage surpassing that of ordinary men to stand by a friend under such circumstances; and the object of Mr. Forrest was what I have already intimated. Any human being who dared to assert her innocence, was to be considered as interfering in Mr. Forrest's matrimonial concerns; and thus she was to be left as the victim to be immolated by him, as he might in his sovereign will determine. Now, the general charge that she associated with persons even charged with crime is not sustained. Well, what other charge have we against Mrs. Forrest? That she was addicted to drinking, and smoking segars. Now, as to smoking segars, the learned counsel said that from the manner in which Mrs. Underwood was cross-examined that charge had fallen to the ground. You will bear in mind that Mrs. Underwood talked in dashing terms of the boxes of these segars that came to the house for Mrs. Forrest's use; yet we proved that she never saw her smoke a segar at all. She introduced these segars, it is true, and made a present of one small one to Mr. Lawson's little boy, and gave another, at Mr. Voorhies's farewell party, to Mr. Godwin. She smoked one herself, and it was one of those

little playful matters in which there might have been some personal indulgence; but all this was done in presence of her husband's personal friends. Well, now, as to her drinking. Can anything be more base, more infamous, than that charge made by old Mrs. Underwood, who, you will remember, was the housekeeper, and never waited at table, and, consequently, never could have seen Mrs. Forrest indulge as she swears she did; but Mrs. Underwood says she used to drink she did not know how much—wine, brandy, all sorts of strong things—and saw her frequently stumble about; that she was under the influence of strong drink half of her time—all of which testimony, I know, would, if true, make a very strong case against Mrs. Forrest.

Mr. Van Buren—She did not say, when on the stand, that Mrs. Forrest was addicted to drinking.

Mr. O'Conor—Very well. Counsel admits that she did not swear it on the stand, but that she did swear it in her affidavit before the Pennsylvania Legislature. If counsel says that it was not true, why I have only to say I thank him for this admission, which means that the old lady, when she has two chances of swearing, will swear two ways.

Mr. Van. Buren.—I only say that your statement that Mrs. Underwood swore to Mrs. Forrest's being commonly, and on all occasions, drunk, is unwarranted by any statement which she made on the stand. She did not say even that she was drunk on any occasion, as she was very careful in giving her evidence on this point.

Mr. O'Conor.—Well, we will pass Mrs. Underwood's testimony—it certainly is not of much consequence, only that it might be colored in observing on it. But what does counsel mean in summing up on this matter of drinking; who else has proved it? And has he not summed up that Mrs. Forrest was a drinking, intemperate woman? Where is the evidence on this point? I cannot find any, except the depositions of Mrs. Underwood. In her statement, and her depositions together, she certainly does testify that Mrs. Forrest drank strong drinks—that she was intemperate, and sprained her ankle by a fall, and that she appeared to be disguised with liquor on that occasion. Now, let us see what testimony there is about drinking, from other quarters. Why, we have Robert Garvin, the waiter, who did attend on the table, and did see what drinking there was, and he swore to the drinking of wine; he could not say as to anything else; he swore to no particular quantity; she drank a glass or so of wine going to bed; she drank wine at table, but not to any extent; that is Robert Garvin's testimony.

Mr. Van Buren reminded counsel that he had sworn to her drinking on certain occasions.

Mr. O'Conor.—Oh, yes; but I am speaking now of what Robert Garvin says as to her general habits—but I forgot Lester and Captain Calcraft. Well, he says he thought that on one of those occasions, she and Lester were both tipsy; this is a single occasion, and this is all the evidence on this subject. They could have brought in Lester, but I suppose they think he is drowned. A man who did not know what a minister of the gospel means, is too illustrious an American for us to comprehend. But it is said that Garvin did state on one occasion that Mrs. Forrest was disguised with liquor on the occasion when she dined with Captain Calcraft. This is the evidence of these two servants; and what is the contrary evidence against this? Has a single decent, respectable person, acquainted with this family, or who visited in this family, ever testified to the slightest appearance of Mrs. Forrest having been ever disguised with liquor? We have examined the impeached and the unimpeached, from Mr. Bryant to Captain Calcraft. We have examined Mrs. Willis, and all the persons who visited that house, and not one, under the examination of counsel on the other side, and under my own, afforded the least countenance to the assertion that Mrs. Forrest ever was, in any degeee, however slight, disguised with liquor. Mrs. Forrest swears precisely in her affidavit, that she was not, and if that was false, it would have been a very easy point to swear her down, if any respectable man or woman could be found to give any evidence in support of that charge. It is most palpable and plain that this charge is as utterly and infamously untrue as any other charge which has been advanced in evidence against Mrs. Forrest. So much, gentlemen, for these general remarks. Now, I come more closely to the particular evidence bearing directly on the supposed guilt of Mrs. Forrest; and first let me call attention to Mr. John Kent, or, more properly speaking, let me call attention, in succession, to the imputations supposed to have been made out against Mr. Jamieson, Mr. Willis Capt. Howard, &c. As to Jamieson, a word of observation is not necessary beyond this- that the evidence rests solely, singly, and entirely on the Consuelo letter, with the direct and positive denial of Mrs. Forrest, under oath. The other party has the advantage of Jamieson not being here; but, gentlemen, how were we to compel Mr. Jamieson to be here? And if Mr Forrest was willing to offer a large sum to bribe Mr. Jamieson to an admission, have we not a fair right to assert that the reason why Mr. Jamieson is not here is because that he received an adequate inducement to stay away? One of two things, in my judgment, is absolutely certain—that Mr. Jamieson's absence is either wholly procured by means of operating on his fears, or else procured by means of direct pecuniary benefits, made to operate in support of and in favor of his friends and employers, in his present residence in St. Louis, State of Missouri. There is no evidence on that point beyond the Consuelo letter; and on that I have already observed, and therefore with this I dismiss Mr. Jamieson.

I next call your attention to the evidence bearing on Mr. N. P. Willis. Well, on this subject it is important to see in what respect the Willis family and the family of Mr. Forrest stood towards each other. You have had introduced a lady who must have commanded the utmost respect—I might almost say the affectionate good will—of every honorable minded man on this jury—I mean Mrs. Caroline Grinnell Willis. She gave you an account of the manner in which these intimate relations between the families of Mr. Willis and Mr. Forrest. Mr. Forrest brought it about originally by introducing the parties together. Very soon after the introduction, and in that year, Mr. Forrest went off South, I believe, for four months, and Mrs. Voorhies so nursed and befriended Mrs. Willis in the bringing up of her first child, that Mrs. Willis tells you her family always felt that they owed the preservation of the life of her child to the kindness experienced, and the services received from Mrs. Voorhies. (Counsel alluded to the delicate and generous services rendered by Mrs. V. to Mrs. W., by the substitution of their babies in nursing, that of Mrs. W.'s being very weak and sickly, and the mother being too delicate to attend to it.) Now, gentlemen, this lady, Mrs. Willis, owing the existence of her child to Mrs. Voorhies, they stood, as it were, in the relation of foster sisters to each other, and Mrs. Willis and her husband had the *entrée* to the house of Mr. Forrest—and that by Mr. Forrest's consent and desire—and were on the most intimate terms with his lady. Mrs. Forrest, of course, whenever she could, had her sister Margaret with her, indulged in the pleasure of her society, and very charming society it appears to have been considered by all persons who had intercourse with her, in consequence particularly of her accomplishment in the art of music, and in consequence, also, of the kindness and benevolence of her heart. We find at a subsequent period, when Mrs. Willis was again on the bed of sickness, and again suffering in consequence of bearing her second child, that she received the nursing and attending, to a great extent, from Mrs. Forrest, and this produced, as a matter of course, the most kindly relations between them. Mr. N. P. Willis was in the habit of making what are called "morning calls" to the house of Mr. Forrest. This habit has been tortured into evidence of guilt. I think the Court will tell you, and your own common sense will tell you, that it cannot so construed. But there is some direct evidence going to show that Mr. Willis has been guilty of some great impropriety with Mrs. Forrest; and the first evidence given on this subject is that of Mr. Robert Garvin. Now, Robert Garvin, on his examination before the commission from the Pennsylvania Legislature, gives this account. After telling everything he could tell to the disparagement of Mrs. Forrest in respect to everybody, tells this story against Willis, and this story alone:—

"I recollect once that Mr. N. P. Willis came in the

morning, and stayed some hours with her in the back drawing-room. The window blinds on the lower piazza, which ran along the rear of the house, were shut, and the room was very dark."

This is the whole of the evidence against Mr. Willis, taken from Robert Garvin, when he was first examined before the Pennsylvania Legislature. Now, what is the evidence of Robert Garvin when being examined on this trial? Why, he tells you that, on one occasion, he went up to the piazza, in the rear of the drawing-room; that one of the blinds was open—not having been shut as usual—and on looking into that corner of the room where the Spanish pictures were placed, he saw that one of the sofas had been removed there, and Mr. Willis and Mrs. Forrest were on it together, and Mr. Willis was lying, or half lying, on the person of Mrs. Forrest. Now, if I understand the counsel, he said that Robert Garvin did not prove adultery. Well, if he did not, I should like to know how adultery is to be proved. I, for my part, should consider that quite enough; but if not enough, he has supplied the balance. He says he withdrew shortly after; that subsequently he went into the room and picked up—as camp women or camp followers, after the battle, would pick up the spoils of combat—a garter and some hair pins, which would appear to have been lost in the course of the combat, which took place on this occasion between Mr. Willis and Mrs. Forrest. I should like to know how much more was requisite to prove adultury; and that Robert Garvin put this construction upon it is pretty clear, for he called up somebody—O'Brien, from the kitchen, and exhibited to her these trophies which he had picked up—the garter and the hair pins, in order to show what kind of thing had taken place. It is remarked that this O'Brien is not here, but we could not procure her attendance. We asked Robert where she lived, but he did not know where she was to be found, and of course we have not produced her because we did not find her. This is Garvin's story now. I have read to you what this story was, when they were preparing the evidence for the Pennsylvania legislature. There are inconsistencies between these two stories which will appear to you most striking, as soon as I come to exhibit them. And Robert Garvin was unable to account for the inconsistency in any other way than by stating that he suppressed this second story about Willis, at the time he was examined before Mr. Sedgwick, out of tenderness and regard for Mrs. Forrest; that he did not wish to say anything which would injure her. One of the jury asked him a very apposite question on this occasion, and that was, "if he did not wish to injure Mrs. Forrest in respect to this transaction, how it happened that he had called up a witness and exhibited to her some evidences of the guilt of Mrs. Forrest." A very apposite question that was. Another question was asked, to show that this man evidently came here with a false and prepared story. He did did venture to say, directly and positively, that he suppressed that story out of tenderness to Mrs. Forrest, but when his attention was called to the fact, that, on the previous part of his direct examination, on this very trial, he stated that he told that story to Mr. Sedgwick, and he could not deny that he had done so, and the reason shows that he had done so, therefore, proving that this subterfuge was entirely a false one, and one to which he was driven by the necessity of the case.

But let us see, independently of what the jury asked, what evidence there is that, at the time this man Garvin was making up this affidavit, he was desirous of keeping back anything, or that he would have kept back anything which could have operated against Mr. Willis. (Mr. O'Conor cited portions of Garvin's testimony relating to Captain Calcraft, Richard Willis, Mr. Wykoff, and as to the disorderly state of the house in Mr. Forrest's absence, and the common remark, among the servants, and generally believed in, that Mr. Forrest was greatly wronged.) What does he mean by being greatly wronged? He means that great wrong, destruction to the peace and honor of a husband; but not having got his courage sufficiently screwed up to the sticking point to swear directly that any act of absolute dishonor had been perpetrated by Mr. Willis, he was obliged to put it on the "common belief." It was the "kitchen reputation." Having no other or better testimony than this witness, who was, at that time, desirous of keeping back anything which would operate to the prejudice of Mrs. Forrest, they have given us "kitchen belief" instead of kitchen business. Why, he was scarcely unwilling to give evidence of the last degree of guilt on the part of Mrs. Forrest, when he did give evidence in respect to Captain Calcraft. He says, speaking of this dinner:—

"When they (Mrs. Forrest and Captain Calcraft) came down to dinner, about four o'clock, they were both the worse for drinking. It was not quite dark—considerably so. Mrs. Forrest took her usual seat at the table, facing the street. Captain Calcraft sat opposite the fire, and at her right hand. Mrs. Forrest had a chicken before her and was so much affected by drinking, that she could scarcely carve it. Ordinarily she was a very good carver. Mrs. Forrest told me not to light the gas before dinner, as I usually did. I waited on the table, and after dinner I went down into the kitchen. Very soon, I went up to the dining-room to light the gas. The door which opened from the hall into the dining-room was locked, and Mrs. Forrest spoke to me through the door, and said she would light it herself. I lighted it in the entry, and went back into the kitchen. Pretty soon, as I suspected something, I went up and entered the dining room through a pantry that connects between the hall and the dining room. As I entered, I found Mrs. Forrest hall sitting, in Captain Calcraft's lap, with her arms on his breast and around his neck."

This is the witness who tells you that out of tenderness to Mrs. Forrest, when he was giving that testimony, he suppressed this story about seeing Mr. Willis absolutely in the act of adultery in the drawing room. Why, gentlemen, do you believe him? Is it possible to believe him? I apprehend, gentlemen, that the contradiction on this single point in the testimony of the witness is alone sufficient, without any other observations on it, to condemn him. You see that in this affidavit he devotes himself to swearing all that he can against Mrs. Willis, and he puts it very strong. What did he mean in this affidavit with respect to Mr. Willis? did he not mean to charge the commission of some gross impropriety? When he comes to testify here he says nothing about that circumstance. I mean he did not at first, till a certain observation fell from the learned counsel. He tells the story directly the reverse of the way he had before told it, but amounting to be sure to the very same thing. Instead of the window being shut, as in the first statement, it is open; instead of the room being dark, now it is light; instead of his being unable to see into the room, he was now able to see all that was going on. He went to the open window, and looked in, and, instead of Mr. Willis and Mrs. Forrest keeping the window shut in the usual way, and keeping the sofa in the usual place, they had, with extreme caution, and most commendable liberality in the way of furnishing testimony against themselves, opened the window, so that any person might look in, and transferred the sofa over to a corner, where it was very inconvenient to have it, inasmuch as there was a Spanish painting there (and, in the course of a very little motion, it must have been apt to go very hard with the painting), thus placing themselves in full view, for the purpose of being testified against. Why, they could have only done one thing more liberal, and that would be to have moved the sofa outside of the door. Why, gentlemen, the story itself is monstrous, improbable, and just the opposite of the story which he told before Mr. Sedgwick. It is hardly worth while to go over any of the circumstances which might be shown for the purpose of proving to you that his testimony is not to be credited. He is contradicted, of course, by quite a number of the other witnesses directly, but his contradiction by himself is infinitely better than contradiction by anybody else. He is guilty of the most flagrant contradictions and inconsistencies, and I deem it of no slight importance to show that these witnesses are not only false, but most evidently wilfully so; and when you consider how the witnesses have been got together, and the fact that so many of them are wilfully corrupt, you must say that these witnesses—these servants—stamp the character of the whole trial. What other evidence is there against Mr. Willis? Not satisfied with his own kitchen, Mr. Forrest has invaded the kitchen of Mr. Nathaniel P. Willis, and picked up a man there—the very counterpart of Robert Garvin—to give an account of what he knew, and in which he developed a shameful perversion of a state of things—(one which exhibited all the amenities, kindness, and tenderness of

social intercourse between families under trying circumstances, and between ladies who are in ill health)—for the purpose of raising a presumption against Mr. Willis, that he was guilty of misconduct with Mrs. Forrest on other occasions. Mr. John Kent informs us that on a particular evening, at about 10 or 11 o'clock, Mr. N. P. Willis delivered to him a letter to carry to Mrs. Forrest; that on the receipt of that letter, or shortly afterwards, she must have come down to the house of Mr. Willis—come in without being let in by anybody, crept up stairs till she reached the third story, in which she was in the habit of sleeping at the time she stayed with Mrs. Willis in the preceding summer—at a time when no suspicion existed in respect to N. P. Willis; that she retired to that room in that quiet manner, and that subsequently, when he was going up and had reached the top of the stairs, he heard Mr. Willis, in the most cavalier manner that could well be imagined of any man who had thus got his neighbor's wife into his house, where his own wife and his own family were,—in the most cavalier way, I repeat, as he stalked out of her bedroom, say, "Good night, my dear," loud enough to be heard to a very considerable distance; and this John Kent, who has been examined by the learned counsel before he came here, would have you infer that Mr. Willis visited the bed-room of Mrs. Forrest, and that he was guilty, of course, of the last degree of delinquency, in going there.

But on John Kent's cross-examination, you will remember, gentlemen, that it appeared that this note requesting Mrs. Forrest to come to the house was delivered by Mr Willis to him in the presence of Mrs. Willis in her sick room, and that Mr. Willis desired him to wait to accompany Mrs. Forrest to the house. Now, I would ask you how that agrees with the idea that it was a private appointment by which Mr. Willis was to get Mrs. Forrest to come to his house, with a night key. I suppose, steal to the door, steal up the stairs, get all the way up to that room which she formerly occupied, and then commit this last delinquency, and that yet Mr. Willis as he was coming out of the room, forgetting all the caution which he had exercised in the middle stage of the proceeding, shouting out cavalierly, "Good night, my dear." It seems that these stages do not fit well together. I believe the end is unlike the middle, and the middle unlike the beginning. Mrs. Forrest steals up stairs at night, and steals away unobserved in the morning, but yet the letter of appointment to bring her there was delivered in the presence of Mrs. Willis, and the object stated aloud by the voice of Mr. Willis, and the crime which must have been committed by Mr. Willis in the chamber, is wound up completely, as it were, when he said loudly and distinctly, "Good night, my dear;" so that anybody could hear him who had an ear, or was within the sound of the enunciation of that expression. Well, certainly, for a witness who was examined by a learned and astute counsel, I must say that John Kent, on that mere statement alone, must be considered to be a very near relation of Mr. Robert Garvin, though he is not a countryman of his, for anything we could learn. Robert Garvin told us sturdily, promptly, and directly, on the question being put to him, that he was an Irishman; but Mr. John Kent scorned the vulgar idea of allowing himself to be called an Irishman. He was too refined a person for that, so he said he came from Europe; and if anybody wished to know particularly from what part of Europe he had come, why, it was the county Tipperary; and you would not know, unless you were better geographers than most people, from what part of the world John Kent came, for everybody, perhaps, does not know that Tipperary is in the "Green Isle." John Kent, at all events, was determined you should not know from him, but find out, as the saying is, "by your learning." Well, suppose we take another view of John Kent's story of this transaction, on his own showing—I mean, without respect to the testimony of the others. I would ask you, gentlemen, was such a thing ever heard of as that a man who desires and is at liberty to enjoy sexual intercourse with a lady who was living all alone and separate from her husband, as Mrs. Forrest was at that time in her own house, having no company there except her sister, who would probably be privy to her guilt, if she was a person of that shameless character as represented; how is it possible, I say, that a man having these facilities, would go through these artifices to get the lady into a room in the third story of his own house, risking detection in so many ways, instead of quietly calling on her himself in the night time, being quietly received at the door, and as quietly let out again? Why, is there not something utterly preposterous in the very idea, taking the testimony of John Kent himself? but when we come to refer to the evidence against him—what is it? Why, Mrs. Willis tells you that for some months she was in extreme ill-health; she tells you (and the nurse confirms her statement) that Mrs. Forrest rendered very constant assistance to her in her illness; you are also informed that on that one occasion to which Kent refers, Mrs. Willis had been unwell—so very unwell for several days that the nurse was almost worn out in attending her; that she herself became feverish, uneasy and desirous as persons in her condition are apt to be, of some friend being near her; that she was anxious to have the presence of Mrs. Forrest, and arranged to have her; that the nurse consented to it reluctantly, determining at the very time, that Mrs. Forrest should not stay with her; that when Mrs. Forrest came she was extremely unwell, so that her nurse would not like to allow any other person to have charge of her, she, the nurse, being responsible for her safety; but that Mrs. Forrest spoke at the door of Mrs. Willis's room, and was heard to speak of Mrs. Willis; that they made an arrangement that Mrs. Forrest should go to bed and be ready to rise whenever she was needed, and that she accordingly retired to her room in the third story, as usual; that she was not wanted during the night, and, true enough, did not retire out of the house very early in the morning, passing out of the front door and without breakfast. Now, what a diabolical outrage on all the relations of life it is that an act of kindness of this description should, by the vile testimony of a servant evidently bought up for the occasion, be perverted in this manner? It seems to me that it is another "Garvinism" to perfect and stamp the real character of this suit, and tends to show what degree of credit is to be attached to the testimony of these witnesses. What else is there against Mr. Willis except this? Why, I overlooked a circumstance there which is explanatory of the testimony of John Kent. Mr. Willis is married to the second wife, and the sole relict of the first union—the sole pledge of that union, is a little daughter, who slept in the room next which Mrs. Forrest usually occupied. John Kent, no doubt, heard Mr. Willis say "good night, my dear," times without number.

There certainly is some propriety in the remark made by the learned counsel on one occasion, in the progress of the case, that pretty much all of John Kent's facts appear to be verified. So they do. Every single fact is true. Everything he speaks of happened. That he carried a note to Mrs. Forrest on one occasion—that she went all the way up stairs, without going into any room in her way, on one occasion—that she went away in the morning without taking breakfast—that on one, and probably on twenty occasions, John Kent, as he went up stairs, or after he got to the top, saw Mr. Willis standing at or about the place described, and that he heard him say, "good night." All these facts, undoubtedly, may very well be believed, and in all human probability are true. But what do they establish? Nothing; nothing except either the folly or gross injustice of the party who could avail himself of such facts for the purpose of raising a presumption of guilt against an innocent man and an innocent woman. But there is one little piece of testimony more against Mr. Willis, which, of course, must be observed upon. You will remember that Mr. Egbert Demming made his appearance on the trial of this case, to establish criminal conduct on the part of Mr. Willis, and you will remember the statement he gave. He says that at some period of the evening he was called into the back room of his house, and had his attention drawn to the house of Mr. Forrest, and that, looking in that direction, he was able to see into the library, and that there he saw standing, with their backs to the window (there being a light in the room beyond them), Mr. Nathaniel P. Willis and Mrs. Forrest, with Mr. Willis's arm around her waist, while the other was on her shoulder. He saw nothing of their faces; nothing but their backs. He saw them but for a moment or so, and retired, observing, however, that Mrs. Forrest was walking off, and the gentleman following her at the time. Now, gentlemen, what kind of a story is

this? At a distance, the exact length of which is not stated, but which may be somewhere between one hundred and twenty and one hundred and fifty feet—through the darkness of the night—through the glass of his own house and the glass of Mrs. Forrest's library, Mr. Egbert Demming is able to determine, and did determine, who these two people were, and is able to identify and swear to, and distinguish them from all other persons. Is this story to be credited? Why, the learned counsel says it is to be credited, because that it is established by the testimony of three witnesses. Now, gentlemen, we have furnished you no evidence directly against Mr. Demming, and have let his story stand on its own intrinsic claims to credit—its intrinsic claims to credit resting on the probability of any such occurrence having taken place, and the possibility of his being able thus to identify persons whom, he says, he did thus identify. I should like to know whether Mr. Demming's story is anything better if sworn to by three hundred, than when sworn to by three, or better when sworn to by three than if it were only by one? If it is incredible by itself, it is altogether immaterial how many have testified to it. [Mr. O'Conor commented on the sort of corroboration lent to Mr. Demming's story, by the evidence of his wife, and that of Mrs. Germain, both of whom swore to the identity of Mr. Willis—one by his face, the other by his light complexion.] Mr. Demming, knowing that his story was rather squally, and that no one would believe it—that any man could look at that distance, and be able to identify a man and woman, by seeing their backs; and so the two other witnesses not only saw their backs, but saw them walk round to the other side of the table, stand there, as if for the express purpose of enabling the auditory beyond to see their faces (for the gas was right over their heads), and having performed that very necessary ceremony, by which their identification might be absolutely made perfect—and having no further occasion to stand there, they walked out of the room, I suppose to bed.

Now, gentlemen, let us examine and dissect this story, take it as the story of the whole three—for I set aside any variance which exists in the stories of these three. What is it that they witnessed? Mr. Willis, a married man, calls on Mrs. Forrest, for the purpose of licentiousness, as it is understood; he goes into the library with her—remains there till the late hours of 11 or 12 o'clock at night; takes care when he is about to do an act evincing licentiousness, to go with her up to the window—the open window—the window which is not usually open, and certainly not usually open at that hour of the night—selects the window for the purpose, when he is going to perform an act which indicates the taking of licentious liberties, the last ceremony, as it would seem, previous to going off to bed together. Why, Mr. Willis must have said, "let us go to bed, my dear; but first let us go to the window and have a hug, so that our neighbors may see us." They go to the window and perform this embrace; by-and-by he says, "My dear, our backs have been to the window, and these people might not know us; the ceremony is not perfect, except we have performed all the requisites necessary to be well known; and so don't you remember that when something like this was done by us before, we moved the sofa into the corner and opened the window, so that when Robert Garvin or any of the servants would come there, they would have a perfect view of them. We ain't the kind of people who shut the windows and do these things in private; so we must go and perform a gyration at the windows, so that if anybody happens to be in that house and at the window, they may see us." Well, by-and-by he says, "My dear, our backs were to the window; let us turn round and show our faces. But no, they cannot see our faces, for the light is on the other side; but before retiring, we must walk round the table to the other side, where the light is shining down, taking care to be opposite this window, so that the thing may be perfectly accomplished, and that whenever legal proof may be wanted a Robert Garvin may easily be had; and when this is done, we will go to bed." Why, is there not something very, very, very surprising in this? Is it possible, that when people perpetrate acts of this description, they enter into conspiracy with the elements, and conspire with whatever may happen to be within their reach, to furnish evidence, so that the thing may be clearly and fully seen. The learned counsel says that when they went round the table they did not sit down. I thank him for reminding me of that fact, for it is an important element in the peculiarity of this ceremony. If, when they left the window and went round the table, they had sat down, we might suppose they had some particular motive for going through this operation—for bringing themselves so nicely with their faces presented to the light, and kindly furnishing an opportunity for persons to see them. But it seems they went round there for no other purpose whatever than to give a fair view. I submit to you, gentlemen, that the whole statement in respect to this matter is of a very, very udaccountable matter.

Judge Oakley here interrupted Mr. O'Conor by announcing that the usual hour of adjournment had arrived. Mr. Van Buren suggested the propriety of the jurors going to inspect the house formerly occupied by Mr. Forrest, in Twenty-second street, but the Chief Justice would not give any directions to that effect, leaving it optional with the jury. The Court was then adjourned.

Saturday, January 24th.

Mr. O'Conor this morning resumed the summing up of the evidence adduced on the part of the plaintiff. He said:—I am persuaded, gentlemen, that your patience must have been affected by the great length of time occupied in this case, and I was particularly unfortunate in occupying your attention on evidence of an insignificant character. (Mr. O'Conor referred to the conduct of Mr. Willis towards Mrs. Forrest.) But a single consideration remains to be noticed. Much might be said to account for all this taking place, on the supposition of the entire innocence and entire honor on the part of Mrs. Forrest. Now, if all that is alleged might have happened, even between the parties whom they mention, can it be anticipated that anything improper whatever took place. The apparent resting of the arm on the shoulder might have been a resting of the arm somewhere, and upon something else, not far from the person. This state of the case might be supposed, even if the witness be right as to the identity, and right in everything, and does not exclude the inference of entire innocence; for all that Mr. Willis has sworn to is, that he never did place his hand upon the person of Mrs. Forrest in any indelicate manner; he has not sworn that he never rested his arm against something. But, gentlemen, a circumstance should not be overlooked in relation to that testimony—the great facilities of observation in the family, which he appears to have had in respect to the premises of Mr. Forrest, and the great facilities in respect to the particular room—the library; yet it seems that none of them ever saw the sister of Mrs. Forrest, who, whenever Mr Forrest was absent, was there with Mrs. Forrest; and when Mr. Forrest was absent, Mrs. Forrest was generally absent with. Now, they also inform you that not only did they never see the sister of Mrs. Forrest, but that they never had any occasion to see the plaintiff; at the same time, whilst there is full testimony that these two sisters were constantly there, notwithstanding evidence has been given of their enjoying the evening in company with gentlemen. Now, Mrs. Voorhies, without adverting to the evidence bearing on the question, reputable or not, was a young and attractive lady, it will be admitted—young, and recently married to a young man; and, if the slander that is uttered against her be true, that she and her husband anticipated a public ceremony, in regard to her marriage, by an improper act between them,—if that be true, even that circumstance would conduce to confirm the evidence of a person who thus took a freedom in the library with a lady, by placing his hand upon her person. With regard to the evidence of Mr. N. P. Willis, what evidence is there? Why, in the first place, we have that evidence which the learned counsel thinks is not to be regarded because it is the testimony of a party desiring to exculpate himself, although he has not set forth the dogmas of his genteel morality. He seems to have thrown out the idea that a man of honor, who does commit a dishonorable act by invading the honor of his neighbor, by violating the chastity of his wife, has a higher principle of honor than that enjoined by any laws of heaven or earth, and which would lead him to commit a perjury, and excuse himself from shame in consequence of that act. There may be something in

that argument; but if there be, there is very little in it. We have not been able to persuade Captain Howard to abandon his business, and come upon the stand. If Mr. Forrest has been successful in keeping away Jamieson, he has not advanced his testimony to set aside an argument of this description. There is little in that argument, if there were some foundation for the dogma that morality of that kind exists among some men, as much by the words a man utters as by his whole presence. The whole tenor and scope of his evidence show the direction of his speech when on the stand. A comparison of what he sees and what he does, of his acts and movements, with the acts and movements and sayings of others, is the means by which we are enabled to ascertain the truth of his testimony; and therein, gentlemen, lies the peculiar excellence of the trial by jury, and the advantage of having the witness on the stand. Now, gentlemen, Mr. Willis has been produced before you, and against Mr. Willis there certainly was apparent, from the outset of this case, what might be called a very "dead set," and against all the friends and acquaintances of Mr. and Mrs. Willis, for no other reason but to remove them from the side of Mrs. Forrest; and they have assailed every human being who was shown to have any connection with the family whatever, unless it be Frank Voorhies, and, perhaps, two gentlemen connected with the public press; namely, Parke Godwin and Mr. Bryant, whom it would not be very convenient for a man to attack, who was anxious to have the public press on his side. Mr. Willis was the first person to whom Mr. Forrest, in January, 1850, had received any evidence of suspicion of any misconduct on her part. For, remember, that from the 1st of January, 1850, Mr. Forrest has assailed him; from that time to the present, he has made charges against Mr. Willis. You will remember, that at an early stage of this case, what tremendous anticipations we had thrown out, by the learned counsel on the other side, as to the trials our witnesses would be subjected to, if we allowed the question to be introduced into the case, whether the exact position of the witness was to be looked into for the purpose of determining the credibility of that witness. You must have heard that often. I heard it till my ear was tired. If there is anything that I despise, gentlemen, it is a threat. I thank the man, so far as I am concerned, who strikes first and opposes afterwards. But the threat we heard, and have heard often; what did the threat mean? Was it not for the purpose of attacking Mr. N. P. Willis, upon his cross-examination, as to his entire morals and character? For my own part, I can put no other construction upon it, for see what the witness was questioned on—his chastity and morals. Were any such questions put to Mr. Richard Willis, and was any such inquiry addressed to Mr. Raymond? Was any such inquiry addressed to any other witness, or to any of all the witnesses who came here to remove the imputation, as far as might be from themselves—as far as their own authorities were proofs? Was any such question put to any one previously to the examination of Mr. N. P. Willis? Why, gentlemen, were such questions addressed to any single one of the whole number? Why were such questions asked Captain Calcraft?—The learned counsel has told us, with what frankness, gentlemen, I leave you to judge, that it was purely accidental, and that he stumbled upon Captain Calcraft's difficulties in early life. We were as far concerned, as well as he, in the way and the manner of the accident.

Mr. Van Buren dissented.

Mr. O'Conor—The learned counsel said, that the allusion to Captain Calcraft's wife was accidental. That is true; and when Captain Calcraft disclosed the painful character of the inquiry, but a very small portion of the accident had happened, and the learned counsel determined that all the rest of the accident should happen on purpose—(a laugh)—after he had told you of it by accident. But, gentlemen, the learned counsel says he confined himself to the delinquencies of Mr. Calcraft's wife, and that he intended other purposes—to inquire about Mrs. Robinson. Do you believe that? Nothing can be clearer, than that the object of all these threats were made in relation to N. P. Willis. Well, he made his appearance on the stand, and he was rigidly cross-examined. How far were his private morals made a subject of inquiry? Why, the learned counsel asks a question, which he would not have considered a fair one if it had been addressed to himself, and would have found it very troublesome to answer, probably. (A laugh.) For instance—"Are you a member of a church?" "Of what church?" Now, we know what strict requisites are enjoined upon persons before they are admitted to the privileges of being a member of a church. I am afraid that but a very small proportion of individuals who have the most perfect faith in Christianity, of good morals, and very good Christians, as far as their belief and general observation are considered, fall short of the exact requisites to entitle them to be considered as a member of the Church. Mr. Willis stands before you, even as far as the confessions of the opposite party are concerned—implied confessions—he stands before you a man perfectly untainted. Now, as to his visits to Mrs. Forrest: He explained to you the manner of them—he explains to you the reason of them. Those visits were moderate, and quite reasonable, and in the manner, justifiable—owing to the kind of relation which existed between the families. And, gentlemen, when I come to these things which are the subject of so much complaint—of sitting up in the house all night; as for persons who sat up late at night, we find Mr. N. P. Willis was present, when his good lady was also present, and his brother—when they came to stay all night.—There is no pretence that Mr. Willis ever committed any acts of criminality—any acts of an indelicate or immoral nature—any acts to raise in the mind of any man, a prejudice against Mrs. Willis. It appears to be the fact, that during most of the period covered by the evidence in this case, he was in almost constant attendance at the bed side of his beloved wife, ministering to her wants in every shape in his power, and taking due means to secure her care and attention, and friends for her benefit, and at the last hour of the night, whenever wakefulness impressed his child, and he perceived that he could do so without injury to the repose of her who was the object of his tender solicitude, he indulged in expressions of kindness, and such as wholly becomes a father. Gentlemen, let us take the man as he is up to the present time, and as he appears upon the evidence. We shall judge then, not by the sneer of parties, which may be uttered in a court of justice—not by the angry comments of contemporaries, who may be rivals in any particular occupation. I say, gentlemen, I present Mr. Willis before you, and call upon you to judge him in this way. There he stood a witness in a court of justice, and I leave him in full confidence, to a jury.—Now, gentlemen, you have—the counsel said not—but I say you have the testimony of Mr. Willis most direct on all these points. I can't conceive what the counsel meant by saying that he was not sufficiently questioned. He was most perfectly questioned. I exhausted my powers of investigation in order to procure from him a direct denial of the charges imputed, and put them in every way in which they could possibly be presented; I did so, and he denied them. But gentlemen, the least was presented to you; the moral proof in this case, and the moral proof in this branch of this case, would outweigh a thousand of such witnesses as Demming, and I must say, any quantity of testimony of any nature that was not irrepressible. Why, gentlemen, during the whole of this period the most intimate relations subsisted between Mrs. Cornelia Grinnell Willis and Mrs. Forrest, the most intimate, the most constant intercourse was carried on after these charges had been made against Mr. Willis, and continues to be carried on down to this present hour, with firmness and heroism; as constant—and I may say, with truth—which does infinite honor to that rare, feeble, and delicate young woman. You have perceived her not merely on the stand; but you may have judged her by her constant and daily attendance at this place. Here is presented the entire and absolute conviction of the innocence of her husband, and of the innocence of Mrs. Forrest. Gentlemen, can it be credited that, with all the opportunities of observation bearing on her character, which have been exhibited before you; with the clear and penetrating conception which she appears to possess, I ask you, can it be credited, that after being worn by anonymous letters, after seeing the testimony of Garvin and Underwood published, and after hearing every thing which has transpired, that she comes into Court day by day, and expressed herself happy to ap-

pear in a Court of Justice, as a mutual champion of herself and Mrs. Forrest, if she believed in the imputations which, if true, would have wounded her in the tenderest point? that when she lay on a sick bed, suffering as women in such conditions suffer, her traitor lord was employed in drawing into her house the wife of a neighbor, to indulge in lasciviousness, and in the violation of her honor, and in destroying his own morality? Gentlemen, I present to you the testimony of Mrs. Willis upon that head, and the whole course of action presented to you; and I further ask if it be possible that the moral proof of the innocence of Mr. Willis and Mrs. Forrest can be surpassed by any proof in a court of justice? It establishes the absolute conviction of a negative, which is stronger than any other species of evidence. And with these observations, I pass by the imputations against Mr. Willis, trusting you will see that there is not a shadow of a ground to accuse him; and alleged evidence remains only in respect to the particular imputation of Mrs. Forrest, upon which I shall comment. And now, with regard to Captain Howard,—but before going to this part of the evidence, I think it not improper that I should say a few words in relation to one witness—the original witness in this matter—whose testimony impeaches no person in particular, but may be said to overlie this whole case—I mean the testimony of Dame Underwood. Now, gentlemen, let me call your attention for a single moment to the relations between Mrs. Forrest and Mrs. Underwood, and ask you whether there are not circumstances in the case which throw an entire discredit upon her evidence. She tells you that she never had any quarrel or difficulty with Mrs. Forrest, of any description, in her life. She tells you that she calculated upon spending the residue of her life in the household of Mr. Forrest at that time (January, 1849;) that the household was about to be given up; and that she then said to Mrs. Forrest—"What shall I do? you will be taken care of, but what shall I do?" Mrs. Forrest, not exactly knowing what her own movements might be, did not give her any answer, and she determined to go to Mr. Forrest; she went to him—a humble supplicant, and says, "I have looked upon having a home here for life; allow me to go to Fonthill, and take charge of your house for your benefit, and without charge, giving my services for a home." And what was his reply? "No," says Mr. Forrest, "get out immediately. I shall not listen to your supplication. You have been a tale bearer; you have carried tales out of the house" Mr. Forrest, gentlemen, has a religious regard for the truth, sometimes, and he gave no further answer. She then tells you that Mrs. Forrest said to her, "As long as I have a home, I will receive and sustain you; remain with me." Now, then, this is the woman who stated that she had known Mrs. Forrest from her infancy, and was acquainted with her parents; and who was under obligations to her, and behaved thus to one who was always prominent in ministering to the distresses of others. Mrs. Underwood attached herself to the fortunes of Mrs. Forrest, she remained with her, and in the absence of the husband of Mrs. Longstreet, she remained until she married out of the house. Mrs. Forrest, after Mrs. U.'s marriage, allowed her son to remain, and in some degree a charge on the bounty of Mrs. Forrest, and she remained attached to her until she fell into the hands of Mr. Lawson, who, at that time, was engaged in facilitating, as far as he could, the obtainment of a divorce, and, from that period, she became an instrument of destruction to the interests of Mrs. Forrest, and withdrew her acquaintance from her, and her son from the house. Now, gentlemen, allow me to call your attention to another fact stated by this lady. She says, that about that time, Mr. Forrest called upon her, and that he then told her, that during the last three months that Mrs. Forrest and himself had lived together in Twenty-second street, Mrs. Forrest had constantly poisoned his mind against her. If he did not say so, the statement was an inference on the part of the witness; and if he did, was the statement true? The learned counsel then proceeded to examine into the probability of this part of the evidence at some length, and then proceeded to read the following extract from Mrs. Underwood's depo-ition:

Sometime in the course of the month of November, 1849, I was in Mrs. Forrest's bedroom, and Mrs. Forrest was in bed. It was about twelve o'clock at night when all of a sudden Mrs. Voorhies came in, and with her, Profes-or Hackley, of Columbia College. Mrs. Voorhies came into the bedroom, and Mr. Hackley remained in the entry. I went up to bed, and Professor Hackley went into Mrs. Forrest's bedroom, and stayed there laughing and talking for a long time. Professor Hackley had been in the habit of coming to the house in Sixteenth street, and in the most familiar way, for a long time; but on one occasion, when Mr. Stevens, a friend of Mr. Forrest, called, and he was there, (Hackley) avoided seeing him, and was let out of the basement in a private way.

Well, now, poor Mr. Hackley dropped home to his house, with that amiable young lady, Margaret Voorhies, and he called, at the request of Mrs. Hackley, to enquire after Mrs. Forrest as a piece of politeness, and he went with Mrs. Voorhies (her sister) to her room for the purpose. He was a minister of the gospel. That is the story which that old woman makes up against her friend and benefactor, whom she had known from her infancy. (Mr. O'Conor commented.) Mrs. Forrest left Mr. Forrest in the month of May, 1849, or thereabouts, went travelling four months or thereabouts, and then she took a house No. 102 Sixteenth street, where she now resides. Good God! says the learned counsel, there is not a suggestion in the affidavit of this woman, that Mrs. Forrest had run about the country and then comes back. I am bereft of my senses if that affidavit contains any other suggestion. It is not usual for an affidavit to contain an argument—although the affidavit introduced does not contain an argument—but I ask you, what other construction could, by any possibility, be put upon it? (The learned counsel reread the extract, and commented upon its meaning and construction at some length.) He now proceeded to the last chapter in the history of this drama—the occasion of Captain Howard sleeping in the house. He alluded to circumstances, to show the intimacy which existed between him and Mrs. Forrest. There was not the slightest evidence that he slept in the house in Twenty-second street on the 1st September, 1844. There was evidence that he had seen her at the house in Great Jones street, when he was passing through the city of New York. He paid a specific visit to Mrs. Forrest, and there was no suspicion; he treated her as a lady occupying a position of the highest respectability, and he might have called a second time. He next proceeded to the testimony of Anna Flowers in relation to this part of the case; and the jury would recollect how that evidence was obtained, which was by means of an advertisement, stating, in the usual way, that upon applying at a certain place she would "hear of something to her advantage." Could the slightest reliance be placed upon her statements. She came here from New Orleans, in consequence of this advertisement; and when at Havana, in answer to an inquiry from her sister, as to the object of her visit to New York, she told her a direct lie; and, when asked for an explanation, stated that she had been strictly enjoined by her family, not to give evidence in any matter relating to Mrs Forrest. Was that the woman who was represented to have come here out of pure love of justice, for the purpose of testifying to the truth, and to destroy the reputation of a lady who had always been a friend to her? He contrasted her appearance with that of her mother, who appeared on the stand, and the jury would perceive the difference in the manner in which the evidence had been given. With reference to her statement of her having slept with Mrs. Forrest, the facts were, that Anna Flowers usually slept in an upper story of the house, over Mrs. Forrest, and the latter required, one evening, a witness to her execution of a deed, and accordingly she told Anna that she must not sleep up stairs, but must come down and sleep with her. The learned counsel described the locality of the rooms with minuteness and continued. When servants are all retired to bed, it must be confessed that there were afforded certain facilities for indulging in criminal acts; but what opportunity was afforded on this occasion, when a girl of sixteen was brought down stairs and slept in the room with Mrs. Forrest. Mr. O'Conor then referred to the alleged violation said to have been committed on Anna Flowers by Captain Howard, and detailed the re

sults of her cross-examination on the subject and exposed her prevarications in regard to this charge. He then spoke of the conduct of Barney McCabe in reference to her and her ultimate dismissal from his service. When Mr. and Mrs. Forrest went to Europe, the house was left in the possession of Mrs. Margaret Voorhies, and during that time Anna Flowers did not do that which she afterwards did, threaten Captain Howard, that the story might get into the papers, and reach the eye of the domineering Lord of Fonthill. But she afterwards makes this charge, and Mr. Samuel Marsden Raymond says, "I'll take the matter in hand; I'll see if she can impose upon me." And he shows her that if she attempts to make a complaint, there was ample evidence to put her down; she takes $25 and goes off to New Orleans, the money being paid her to put an end to the shame and scandal of the matter. Mr. Raymond then asks Miss Margaret, Had she been corresponding with this jade Anna? Why, "Yes," said she: "Then," said he, "you compromit yourself, and I'll get them back," and he does so. From the time Mrs Forrest went to Europe to the present hour, she never exchanged a letter with Anna Flowers, and never spoke to her on the subject, except in New Orleans, as Anna Flowers says; and of that there is no proof but what she swears herself. From 1847 to 1850, no single sixpence was ever paid for child or mother; no correspondence took place during that time between Mrs. Forrest and Anna; between Miss Margaret Sinclair and Anna; between Mr Raymond and Anna. Now, is it possible, that Mrs. Forrest pays for this child, in order to keep the matter quiet, and from the knowledge of Mr. Forrest while he was in Europe, and that when he comes back, and when he would be more likely to hear it, she pays not a stiver? From 1845 until the commencement of 1846, there were contributions paid through Catherine Levis until Mr. Raymond, as the friend of Capt. Howard, takes the matter in charge, and agrees to pay six months' board for the child; he paid three months to Mrs. Butler, and three months to Anna herself, and then all payments ceased. Is there not a complete end to all pretence of having that act of extreme charity on the part of Mrs. Forrest and Miss Sinclair turned into an atrocious act of criminality on the part of Mrs. Forrest. When Anna called on Mrs. Forrest in New Orleans, did she give her a single sixpence, or promise her? Did she gratify her in any way? No. She tells us, to be sure, that when she saw Mrs. Forrest, that she would tell Mrs. Forrest how Capt. Howard had treated her; Mrs. Forrest said, "Oh, don't." Now, Mrs. Forrest was the wife of a wealthy husband, and, of course had pin money, yet she gave her nothing to silence her. She, Anna, met Mr. Forrest in the street, and she didn't tell him, as she says he turned her off. Believing that the evidence of Anna Flowers does not offer a shadow of pretence for the charge of a conspiracy against her (Anna,) I leave that branch of the case. I have called your attention to the intrinsic falsehoods of her testimony. I will now call your attention to the other contradictions in it. On her cross-examination, she admitted that she had stolen some property, but then she afterward said that she was but the innocent receiver. When I put the question, she took a long time to consider, and gave me, from time to time, deadly looks; and was so long before she replied, that the court was obliged to tell her to answer, and she answered that she did, though she added she was the innocent receiver. Why did she forget the name of the doctor with whom she lived? Because she knew that if she admitted it, she could be contradicted in all she said She was not able to remember the name of Doctor Lee; she was able to remember that she was the innocent receiver of stolen goods, with which she was detected; and she had so good a memory that she was able to remember that the other servant, from whom she received the goods, was a young girl like herself. Her motives for the concealment of the name of the doctor, were perfectly apparent. She would not tell the name: she did not know the street, and how were we to find him? Fortunately he is a gentleman of distinction in his profession. He was delivering lectures, we sent a subpœna to his wife, and the Doctor came, as he was about to proceed to deliver a course of Lectures in Boston. I asked her if she remembered living with a Mr. John Dickinson, and she said she did not. She remembered that she was sent to the boarding school, as she called the House of Refuge. She remembered that she was charged with this theft, yet she did not recollect signing an indenture to Mr. Dickinson, though she lived with him some time, and afterwards returned to that part of the country, and wanted to remain with him again. She wished to conceal the fact of living with Dr. Lee; she wished to conceal the fact of living with Mr. Dickinson of New Canaan, short-sightedly conceiving that we could not track him. What were her motives, and what was her testimony but downright perjury? and when a jury find that a witness has sworn absolutely false in one particular, the maxim of the law is that he is not entitled to be credited in anything that he has sworn to in a court of justice—"Falsus in uno, falsus in omnibus" false in one thing, false in all—is a maxim of the law. I do not believe there is that man in this Court who could go to that stand and not, either from misconception or some other cause, be liable to err. But when we come to a motive for concealment, we see the utter disregard to the solemnity of our oath, and on that oath not a dollar of a man's property should be allowed to depend, much less the all that is dear to an individual. I now call your attention to the last and most important subject in my opinion, affecting the credit of this woman, Anna Flowers, because it not only affects her evidence, but the credit of the whole of the witnesses for the defendant. I mean that most villanous transaction which occurred on or about the 15th of June, 1850, and in which Mr. Forrest, Mr. Dougherty, somebody else who is unknown to us, and this Anna Flowers, were participators. Now, what was the act? According to the testimony of Anna Flowers, with the additional evidence of Ellen Lawless, a young girl who was servant in the house in Mercer street we find that this woman was brought from New Orleans, and had been examined here, and it was supposed that her testimony did not substantiate the criminal charges against Mrs. Forrest. After that testimony was given, with the privity and consent of Mr. Forrest, who told her himself not to go to Sixteenth street, and see Mrs. Forrest, an arrangement was made through Mr. Dougherty, that a place should be found where an interview might be had with Mrs. Forrest, and that a person should escort her to it. Now, what is the place which is found for the purpose? A house in Mercer street, which they say must have been respectable, because the Rev. Mr. Cox resided in it. Well, now, the name of Cox is pretty numerous; and who the Rev. Mr. Cox is we do not know; but if a Rev. Mr. Cox did reside there, it is very satisfactory evidence that it was a respectable house—or at all events, that if any thing otherwise than respectable was transacted there, it must have been privately conducted—but there are probably many who call themselves Reverend, and who, like Rev. C. E. Lester, don't know what a minister of the gospel means. You have no certain knowledge, gentlemen, of the character of this house; though I am not impugning it. I am not prepared to throw anything against it. But, gentlemen, I state to you the facts in evidence. Mrs. Flowers with the priority and consent of these parties, made arrangements to hire a bedroom in this city, in the rear part of this house. She went there and devoted one whole day, with the assistance of this man, Dougherty, who brought her there, to the purpose of seeing Mrs Forrest. There were in this room two beds, at least; there were two windows, giving light to the room—one of them Mrs Flowers, by some means prepared for herself, caused to be curtained—probably the one that was most convenient for the objects she had in view; I had some idea that probably it might be owing to the warmth of the weather that the curtains were put up—one of these windows communicated with a small, dark bedroom. These curtains were, as I said, put up by the agency of Mrs. Flowers, and she seems to be reasonably economical, because, when Mrs. Forrest did not honor her with a visit, she took them down and carried them away. Now, gentlemen, I ask what was the object of getting

Mrs. Forrest to the room? Why was there so much solicitude to get her there? This lady, (Mrs. Flowers) not only writes one, but two letters to Mrs. Forrest, and the most strenuous efforts were made to get her there, and a deep plan of operation was resorted to for the purpose of inducing her to come there. Here is a notice in the morning HERALD of that day, that if Mrs. Anna Flowers, of New Orleans, formerly Miss Dempsey, would call or send word where she might be seen, to the office of Mr. Sedgwick, (Mr. Forrest's counsel,) she would hear of something to her advantage. Now, that notice was sent to Mrs. Forrest, and this was after Anna Flowers had been at the office of Mr. Sedgwick and had heard of everything to her advantage, which he was able to communicate, and after Mr. and Mrs. Forrest had heard everything to their advantage, which Anna Flowers was able to communicate. What was the object of that advertisement? It was a portion of the elaborate preparation, which caused the hanging of the curtains. It was to be used as a mode of inducing and wheedling Mrs. Forest to visit that room. It had, of course, another and different object, a connection with something to happen after she had visited the room. You will remember, gentlemen, that Anna, on the stand, denied writing her second letter; she denied that the letter produced to her was her handwriting; but, on further consultation, she admitted it the next day. Not only did they first address to Mrs. Forrest the letter in the morning, but a second letter, with an appropriate menace of the object; and what was the real object? Why, Anna, very honestly and truly, for once, says, that the object was to deceive Mrs. Forrest; and she states it in as many words, the object of these two written, absolute falsehoods, stating that she had not seen the parties, and was anxious to see Mrs. Forrest before she saw them, was, they were written for the purpose of deceiving Mrs. Forrest, and inducing her to fall into this trap, which had been set for her by Mr. Forrest, her husband, by the agency of this woman, who had come, through her love of justice, from New Orleans (and, with the other members of that confederacy who have been, and are engaged in the work of chasing her down), whose whole object is the attainment of that verdict at your hands which should blast and destroy this lady. Her object, she tells you, was to deceive Mrs. Forrest. Now why all this elaboration? Was it that Mrs. Anna Flowers merely might have the satisfaction of telling Mrs. Forrest that she had come here, and told the truth respecting her conduct to her husband, and that it was through her love and affection for Mrs. Forrest, who had been always so kind to her, that she wished to inform her of it? Is it true? Did ever any body go through such an elaborate process of lying and deception for such a purpose, and that too, with the assistance of other people, for she did not put that advertisement in the HERALD? Did anybody go through such a process of lying and deception except for the accomplishment of some most infamous plot? And what was this plot? I ask the curtains to answer why was that curtain placed over the dark bed room, I should ask! What office was it to perform in the drama? Not to keep the sun out, certainly. But the learned counsel says it is utterly impossible for you to consider this any iniquitous scheme of deception, because, says he, it did not succeed, as Mrs. Forrest did not go, and, therefore, the matter amounted to nothing; and then he went on to recount, and did recount, that she ought to have gone; that if she had gone it would have been a great benefit to her cause. Now let us see how Mrs. Forrest was to go—the learned counsel thought and argued that she ought to have gone, and no man is more ingenious or capable of furnishing the proper mode of going—he seemed to think she ought to have gone in company with a gentleman—whom would she ask? Oh, says he, she was acquainted with Professor Hackley, but then Professor Hackley was charged with visiting her improperly. Why, if they were caught together in a back room up three pairs of stairs in Mercer street, the windows covered with curtains—Mr. Dougherty and somebody else being concealed as witnesses—two beds in the room, at two or three o'clock in the day, in an obscure street of somewhat a rather suspicious character, though my friend said he intended to vindicate its reputation, as he lived there himself—it would have been anything but agreeable on this trial. (Mr. O'Conor went on to show the objections there were to her going there with the other gentlemen enumerated by counsel. Mr. B. F. Voorhies at the time, happened to be in California—Captain Calcraft was included in the charges against her, and it would be rather dangerous to her reputation to go with him, and as to Mr. O'Conor himself, delicacy forbade him to say anything on that point.) What was the object of this interview? Could it have been anything than some unexplained and most abominable iniquity? The counsel has had six weeks to think about his speech, and all he is able to say, from all his knowledge of the circle of Mrs. Forrest's friends, that, besides these other gentlemen, she might have invited her counsel; but, very probably, her counsel would not be able to go with her. If she had gone, I think we would have had Dougherty and Flowers on the stand with far more profit to the defendant; and I submit to you, gentlemen, that the formation of this trap and the subjects of manifest fraud, lying and elaboration distinctly connected with it, the manner in which it was connected with their employer and with the accomplishment of the objects in view, not only stamps that witness as utterly unworthy of credit, as a member of a confederacy engaged in the most dishonest plot, but stamps the whole case with the character which you find impressed on it throughout. There is another matter which must be considered, of a somewhat different topic, but which is strongly illustrative of this case, and then you shall have terminated so much of your labors as consists in the investigation of this affair. The counsel has stated that the common defence for parties charged with offences is to say that a conspiracy was formed against them, and he warned you, in advance, that I should probably assert the existence of a very wicked conspiracy. Now I do not mean to assert any such thing. I have not seen any evidence of this conspiracy, or of what the law, properly speaking, calls a conspiracy. A conspiracy, is, when more than one person, two, or more persons, "breathe together," as it is expressed, for the purpose of working some unjust damage to another. Now I do not think that a conspiracy, in that sense, exists in this case, or ever existed. Undoubtedly more than one agent has been employed; but I regard, that in this case, it is most apparent there has been but one principal, and but one employer; for I recognise through the whole of this case a similarity in the getting up and the fabrication of testimony, which shows it all to be the work of one master. I detect throughout this case a forgery—a counterfeiting of truth by the same hand—as a bungling counterfeiter, in writing the names of many, will leave the impress of his own peculiar style of writing in such a manner that the many signatures, of various descriptions, may be traced home to himself. Now I invite attention to a few peculiarities about the testimony in this case, for the purpose of comparison. I invite attention first to the letter written by James Lawson to John Sinclair, in May, 1849, and your attention to the letter written by Mr. John W. Forney to Mr. Roberts, on the 28th January, 1850. Neither of these letters was written by Mr. Forrest, but, under the evidence, Mr. Forrest is responsible for both of them. They were written by his particular friends and written with his approval and consent, and both of the most deadly and pernicious influence on his case now presented to you for consideration. Immediately after the letter was written by Mr. Lawson to Mr. Sinclair, a copy of it was read to Mr. Forrest, and he fully approved of its whole contents, so that he is just as much chargeable with the approbation of the writing as if he had seen the original that went. Lawson, when he came to make his affidavit for the purpose of helping the motion of Mr Forrest in the Pennsylvania Legislature, swears that this letter was written and sent without the consent or knowledge of Mr. Forrest, and leaves you then in the dark, until, by other means, it was established as a fact, that Mr. Forrest at least had seen a copy of it.

Now, I call attention to the testimony furnished by Mr. Forney at the time this suit had been commenced; and you will remember that Mr. Forney gave such testimony, that it was with the greatest difficulty we got that letter in, as the learned counsel opposed its introduction strongly, on the grounds that Mr. Forney did not prove that it was written with the consent and approval of Mr. Forrest. How did he swear on that subject? It was true he was obliged to answer the direct question, was it written with the approval of Mr. Forrest? And he replies to it exactly in the very same manner as Mr. Lawson swore about the Sinclair letter—that it was written and sent without the previous knowledge of Mr. Forrest, and without his seeing it. Then you discover exactly the identity of the swearing of these two friends, in reference to subjects identically alike, and for the purpose of accomplishing precisely the same object—saving Mr. Forrest from having brought against him either of these letters. I call attention to the identity of these two efforts to keep rid of liability, and now I also call attention to two or three other circumstances which I want you to look at together. Mr. Forrest advertises, in the Picayune, for Mrs. Anna Flowers, and that she would hear of something to her advantage by calling at the office of that paper; and again he advertises, through his associates and co-operators, for the purpose of getting Mrs. Forrest to this most dangerous visit to the third story of the house in Mercer-street, (and you find that this advertisement cannot be traced to any body,) and uses exclusively the same formula about calling at such a place, and finding something to her advantage. In the course of these proceedings, they have endeavored to degrade and scandalize, if they possibly can, everybody who participates in this case, except to minister to his desires. You find Stevens and Burr at work with poor drunken Barney McCabe, to make out that I tried to seduce him from the path of duty, and, accordingly, they put in evidence that he received a letter from me, inviting him to come to my office, and that he would hear of something to his advantage. You can thus trace the very same handwriting through these nefarious projects, up to that of striving to induce Mrs. Forrest to a place where the deepest suspicion might be made to attach to her, by the performance of a little drama in the Mercer street house, where some witness would be concealed, who, by their testimony, would cast odium on Mrs Forrest. Now, in each and every of these transactions, you find the same handwriting. I next call attention to the testimony of Garvin, in respect to the act of palpable criminality said to have been perpetrated by Mr. Willis, in the back room; and next, to the act proximate to criminality, performed in the library, and proved by Mr. Demming and the ladies, who were called in to confirm him; and third in this group, I call attention to the evidence of Anna Flowers, in respect to another act of criminality testified to by her—that of Captain Howard with Mrs. Forrest, and I ask you to notice the similarity between each of these three circumstances. I want you now to look at them grouped together, in order that you may see that each of their stories comes from the same hand, although testified to by different persons. (Counsel then reviewed portions of the testimony of these three witnesses, which seemed to him, even by their very improbabilities, to partake of the same general character.) I submit this grouping of facts as an additional consideration, lending strength to particular consideration, to show that this whole matter, as presented against Mrs. Forrest, is not only unfounded in fact, but that the party has no confidence whatever, and had no confidence in the truth of his charges. I have thus, gentlemen, reveiewed the various facts and circumstances of this case, as far as I was justified, by necessity, probably more fully than you thought exactly agreeable, and I shall make no further observations on facts. They establish most clearly, in my view and consideration, that Mrs. Forrest has at all times conducted herself chastely, modestly, and uprightly—that she never has been guilty of any censurable impurity whatever, and that she never has committed any act to which you could attach any worse name than an act of incaution, which is the strongest evidence of a woman's innocence. She may not have been cautious to screen herself from imputation, as in the case of omitting to destroy that letter; but, gentlemen, a matron who has always enjoyed the entire confidence of her husband, and everybody else—who had never heard the breath of suspicion lisped in respect to her—is not expected to be cautious. She knows herself to be pure and chaste, and apprehends no suspicion. The bare idea that she might be suspected never approached her, and the perfect chastity and purity of her life furnish a complete defence against any such thought arising in her own mind. The effect of this entire and perfect purity of life on a lady, you all know, is to divest her of caution—not, to be sure, to bring about that want of caution which would lead to objectionable improprieties. It has been well and truly said—

"So dear to heaven is saintly chastity,
That when a soul is found sincerely so,
A thousand liveried angels lackey her,
Driving far off each thing of sin and guilt."

She has no thought, no idea, that when she speaks to a gentleman her purity is called in question. No idea that it is necessary for her to destroy the pieces of poetry addressed to her, ever enters the mind of a woman of this description, it only enters the mind of a woman of a rather ticklish sort of character, who is not so entirely sure about all impossibility of suspicion, or of the woman who is over nice about mere words and forms; but we don't pretend that Mrs. Forrest was such a woman. Gentlemen, I think I have made out to your entire satisfaction, that Mr. Forrest never had a fault to find with his wife, beyond this little matter of giving him the lie—that he turned her out of his house without the least suspicion of guilt on her part—that he commenced proceedings for a divorce without suspicion of her guilt, and not for the purpose of vindicating his character—that he commenced these proceedings without evidence—that he procured evidence after the necessity for it, or desire for it arose in his mind—that he procured it by unfair means, and sought throughout to make the most unfair use of it—scheming, on all occasions, a fair trial on the subject in his own country and her own country—seeking to try her by a foreign legislature and a foreign court. I conceive, gentlemen, that I have made quite apparent that the whole bevy of evidence, brought before you, is marked with such circumstances showing fabrication and a contrivance in getting it, and in itself showed to be so whimsically unworthy of credit, that a single minute's reflection can scarcely be required to enable you to arrive at the conclusion which will relieve from the name—from the fame of this lady, the only thing which, under present circumstances, she regrets being obliged to say she feels to be a stigma—that name, which she will be at liberty to abandon when you render the verdict which law and justice requires. Mr. O'Conor addressed some further observations with respect to the question of alimony, which he wished them to pass on. Mr. Forrest's real estate is set down by himself at $150,000, and his personal property is estimated at $4,000 a year, besides the princely revenue which he could derive from a moderate practice of his profession; and he (counsel) suggested that at least one third should be appropriated for the alimony of Mrs. Forrest. We do not ask you (he continued) to be influenced by fashion, but by the consideration of not allowing a guilty husband—as he must be pronounced should your verdict be against him—to give his wife a less provision than the law of the land secures to her, if, instead of plunging into guilt, he had been called to the grave.

The court took a recess for a few minutes. On re-assembling,

Mr. O'Conor, in relation to Mr. Van Buren's suggestion to correct some of his (Mr. O'Conor's) statements said that he understood that the counsel had a right to do so, notwithstanding his repeated interruptions, but he has no right to discuss the questions. He can merely state that the testimony was so and so.

The Chief Justice said the course was quite plain.

Mr. Van Buren said, that, no doubt the counsel could understand that after the length of time consumed by him, he (Mr. Van Buren) should be limited. He asked

the court to look to the charges and the answer; it is alleged that the defendants didn't make any denial.

The Chief Justice said it was not necessary for counsel to make any observation on that.

Mr. Van Buren—Another point is, that Mr. O'Conor stated that Mr. Forrest's visits to Mrs. Ingersoll's house were continued four years and a half. Mrs. Ingersoll stated, and he mentioned it, as some of the jurors may not have paid attention to that fact, that she was in those houses four years and a half, and when counsel undertook to state that Mr. Forrest was visiting there for four years and a half, there was no testimony approaching it. He, (Mr. Van Buren) before commencing his summing up, had asked the counsel to cite an authority that going alone to a suspicious house was evidence to authorize the conviction of the party of adultery. No authority had been given him at the outset; but he was afterwards referred to 2d Haggard's consistory Reports, 4 Ecclesiastical Rev. (reads it) What he (Mr. Van Buren) said, was that there was no case where an individual going along to a house of that description would authorize a conviction. The counsel says, that Mr. Forrest suspected his wife from May, '48, to January, '49, when he found the letter. What he (Mr. Van Buren) had said, was, that it was two weeks before Mr. Forrest found her in that position with Jamieson, in Cincinnati, that the letter was handed to her by him. Whatever it was that occurred, that disconcerted Mr. Forrest, in Cincinnati it was two weeks before that the letter was handed to Mrs Forrest.

The Chief Justice asked Mr. Van Buren to point to the evidence, for his impression was, that it was otherwise.

Mr. Van Buren here read the dispositions of Mr. S. S. Smith.

Mr. O'Conor said it was admitted by Mrs Forrest in her affidavit, that the letter was received by her before she went to Pittsburg, but that she then took no notice of it.

New York Superior Court.

CATHARINE N. FORREST } *against* EDWIN FORREST. }

Examination of Samuel S. Smith, a witness produced on the part of the defendant, and examined conditionally, in pursuance of an order of this Court, dated August 25, 1851.

Q.—In April and May, 1848, did you know Mr. and Mrs. Forrest the parties in this suit:

A.—I did.

Q.—Where were you at that time?

A.—In Cincinnati.

Q.—Did you know one Geo. W. Jamison at that time?

A.—I did.

Q.—Where was he living at that time and before?

A.—He came to Cincinnati about that time; I do not know where he came from. I am under the impression that that was the year when I saw him there.

Q.—Whom was he with and where did he stay?

A.—At the time I saw him, he was at the City Hotel. I saw him with Mr. and Mrs. Forrest, more than with any one else. I don't know that he was with any one.

Q.—Were you present at the time when Mr. and Mrs. Forrest started to make a visit to a phrenologist, and if so, state what occurred?

A.—I was present. (Mr. O'Conor objects that the witness has a printed book in his hand, and contends that he should not be permitted to peruse the same during his examination. The witness states that the book contains what he thinks is a true copy of an affidavit he has heretofore made, which he then knew to be true. And he refers to it for the mere purpose of refreshing his recollection. The Court overrules the objection and permits the witness to use the book, to which decision Mr. O'Conor objects.)

Mr. and Mrs. Forrest and Mr. Jamison and myself had an appointment to visit a phrenologist at a certain hour in the afternoon, an hour previous to which time Mr. Forrest had an engagement with me to visit an artist. We went and found the artist absent, returned immediately to the hotel, for the purpose of attending the engagement spoken of with Mrs. Forrest and Mr. Jamieson. On entering the hotel Mr. Forrest preceded me some yards, entering his room before I reached the door. I followed him—on entering myself the room, I found Mr. and Mrs. Forrest with Mr. Jamieson, and as near as I can recollect, we started shortly after to visit the phrenologist. On reaching the street door on going out Mr. Forrest inquired for Mr. Jamieson. Not seeing him, I looked around supposing him to be following, and found he was not present. I looked into the adjoining room, a bar-room or office, not finding him there, I looked into the corner, a soda shop, supposing he might be there; not finding him, I followed Mr. and Mrs. Forrest, and went out to the Phrenologist with them.

Q.—For what purpose were you going the artist?

A.—The artist had made a request that Mr. Forrest should sit to him for the purpose of taking his portrait, and we went for that purpose.

Q.—Who went?

A.—Mr. Forrest and myself.

Q.—Where did you start from?

A.—From the room of Mr. Forrest.

Q.—Who was in the room when you left, if any body?

A.—Mrs. Forrest, and I am under the impression Mr. Jamieson was also there.

Q. When was the appointment made to meet the phrenologist?

A.—I think the same day, perhaps in the forenoon.

Q.—Who were present, when it was made, and what was said in substance?

A.—I think Mr. and Mrs. Forrest and Mr. Jamieson were present. Mr. Jamieson, if I recollect rightly, opposed the truth of the science; Mr. and Mrs. Forrest advocated it, and desired him to attend this examination, and to be examined for the purpose of proving it. He agreed to accompany us.

Q.—How far did Mr. Forrest precede you in entering the room, about?

A.—I should think eight or ten yards.

Q.—How long were you absent at the artist's?

A.—As near as I can recollect, not over fifteen or twenty minutes.

Q.—What, if anything peculiar in the manner of Mr. Forrest, did you discover during the day?

(Objected to as leading.)

Admitted subject to the objection.

A.—I saw nothing unusual in his manner until after we returned from the artist's. In going to the Phrenologists, I thought I saw displeasure and petulance in Mr. Forrest towards Mrs. Forrest.

Q.—How long did this continue?

A.—I think it continued in appearance during the evening; we visited the phrenologist at his lecture during the evening.

Q.—Who were of the party?

A.—Mr. and Mrs. Forrest and myself.

Q.—How long had you known Mr. and Mr. Forrest?

A.—I had known Mr. Forrest for some thirty years, and Mrs. Forrest from a short time, the period I do not recollect, after her arrival in this country.

Q.—When, if ever previously, had you discovered this manner of Mr. Forrest to his wife?

A.—I do not know that I ever had discovered the same manner.

Q.—Had you or had you not?

A.—Certainly not the same manner.

Q.—What, if any, unkindness did you ever see him manifest to his wife?

A.—I have no recollection of any unkindness that came to my notice.

Mr. Van Buren continued to refer to the depositions of Mr. Smith, and said the argument put into my mouth is, that Mr. Forrest suspected his wife from that time till he found the letter. That is not so. I would ask the Court to instruct the jury how far they were to regard these parts of Mrs. Forrest's affidavit, which we have not read. A great deal has been said as to the character of Consuelo, and Mr. Story has been cited; and it is suggested that this letter of Jamieson's might

be an extract from a book. There is no evidence to that effect. Again, Anna Flowers has not said that she paid all her expenses here. She said she came on at the desire of her husband, and that Mr. Forrest paid her expenses. She has not said that she was afraid to sleep alone. As to Mrs. Underwood, the counsel states that her affidavit conveys the idea that Mrs. Forrest had eloped. A reference to it will show that Mr. Forrest had broke up house before, and there is no idea conveyed that Mrs. Forrest had eloped. One word as to Barney McCabe. The counsel says that I undertook to prove that I turned Barney McCabe out of my office, whilst he, (Mr. O'Conor,) received him in his, and that when I did that, I undertook to play Metamora without the dress. I have not made any observation towards Mr. O'Conor, of an offensive character, and for this I had sufficient reason, and, with a good recollection from my long habit of public speaking, I can safely say, that I have not made one word of offensive observation towards him. It was therefore entirely unjust and unfair for Mr. O'Conor to draw any parallel between him and myself. With regard to Mr. Willis, the fact that there was one present who stood in an intimate position to him, is sufficient reason why I did not press him closely.

Mr. O'Conor said, that none of this could surely be considered as a correction. The counsel says that Anna Flowers admits that Mr. Forrest paid her expenses. No doubt she did admit it, but my argument is, that she persisted in saying that she had no expectation of a reward.

A juror (Mr. Meggs D. Benjamin) said he understood Mrs. Ingersoll to say, that when Mr. Forrest was in town, he visited her house once or twice a week, and it is so in the printed report.

Mr. O'Conor did not pay particular attention to that part of the evidence, but that he thought she swore to once or twice a month, and as that was sufficient for him, he did not ask for any more.

A juror (Mr. Earle) remarked, that she said once or twice a week, when in town, and that the visits would average, altogether, once a month.

THE CHARGE OF CHIEF JUSTICE OAKLEY.

Chief Justice Oakley then said: Gentlemen of the jury, it will not take me long to submit this case to you. My duty in respect to it, lies very plainly before me. Before proceeding to it, however, I think it proper to notice circumstances which have occurred in this case, more particularly one in respect to the Court, because it gives me an opportunity of explaining fully what I understand to be the relative duties of the Court and Jury, with respect to the trail of cases of divorce. At the conclusion of his address, counsel for the defendant made use of a word which has but one construction to be put on it; the imputing to the Court an unfriendly state of feeling, or, in other words, a feeling of hostility to one of the parties in this case. I am quite satisfied that the counsel did not intend to use the words he did use in that sense; because it would be a very gross impropriety, and must have been known by the counsel to be beyond the legitimate line of his duty. I understand that the remark was intended to intimate a belief, on his part, the Court had an unfavorable impression with respect to the case of his client, and that the remark was made for the purpose of instructing the jury of their duty to guard against the influences of any such unfavorable impression, if it was laid before them. Gentlemen, a counsel, in the progress of a trial, and in a case which he thinks calls for it, has undoubtedly a right to say to the judge, in plainer terms than the counsel in this case has used, that the Court has an impression against one of the parties, and that it is the duty of the jury to disregard this impression, and to rely on their own convictions and views of the testimony of the case. It is impossible, gentlemen, for a judge in proceeding on the trial of such a case, as it is impossible for a jury, and impossible for a bystander, to hear the evidence in the case without forming an opinion upon it. Of necessity it must be so; and I presume no judge ever tried a case without having at the close of it a decided impression as to the bearing of the evidence. If, in the course of any remarks from the Judge, it appear that such impression do exist, it is the duty and perfect right of the jury to think that his opinions and directions seem to be influenced in some degree by this impression of the Court; but I can say, with great confidence, that I have never submitted a case to a jury, involving any case of interest, without distinctly apprising them of this fact; and I now say to you, gentlemen, in the most explicit manner, that whatever my own views may be in respect to the evidence on the one side or on the other, you yourselves are to determine what the effect ought to be, according to your own conviction, of the fair operation of the testimony before you, because the verdict you render is not mine, but yours, and you are responsible for it. It is very difficult to call the attention of the jury to testimony in a case without indicating, if an impression exists as to the bearing of the evidence, what that impression is—it would be impossible to do so; but I say to you, gentlemen, and wish to be understood distinctly, you are not to regard any inference I may draw of the evidence, or any inference you may draw of my opinions in this case, as influencing, in the slightest degree, your own judgment. A case frequently occurs in which it becomes a duty, on the part of the Court, to lay before the jury, *in extenso*, all the evidence in the cause. If justice requires it, he ought to do it. If the Court thinks it proper, he has always a right to do it. He has always the right to present to the jury the evidence as aiding them in the exercise of their own judgment, and leading them to a consideration when the suggestions are made in accordance with the views they themselves take of the evidence, they, of course adopt them; if they are not in accordance with these views they reject them, always relying on themselves, and not on the Judge, because they are responsible for the justice of their verdict. Now, gentlemen, let me submit this case to you, and it is your first duty, in some degree, that you shall distinctly and clearly understand the nature of the issues here formed, and what are the facts you have to try and determine. Mrs. Forrest has filed her complaint against Mr. Forrest, charging him with the act of adultery, under facts and circumstances, and at various times, as charged. The only material circumstances in her complaint, which you are to decide, are those which relate to the woman Josephine Clifton, and that which relates to his alleged resorting to a house of a particular description. There is a great variety of other charges, accompanied with descriptions of time and place, but in relation to which no testimony was produced. These two things, therefore, are the material charges against Mr. Forrest. Mr. Forrest, on his part, puts in an answer to this complaint, and, after denying her allegations, sets up against her counter charges of adultery with six men, naming them. She, in reply to this answer, denies these charges, and thus the case comes before you. A good deal of criticism has been used, as to the effect and character of Mrs. Forrest's answer; it is said that he denied the allegations made by plaintiff, but simply denied that he was guilty of the adultery charged at the time and place indicated in the complaint, leaving it thereby to be inferred that he did not mean to deny the broad fact itself. It is necessary you should understand what is the nature of pleading, under the code under which we are now proceeding. His allegation on one side, and her allegation on the other, are of no importance at all. The case stands, therefore, on these grounds—Mrs. Forrest charges him with adultery; he denies it, and charges her with adultery; she denies it, and that forms the issue in this case; and no effect is to be given to either party, on one side or the other, as to the truth or falsity of these charges. These are the issues framed by those pleading. Now, the court before whom motions in the case were made, thought proper to direct certain issues growing out of these allegations to be framed for this trial. I have arranged them, gentlemen, somewhat in a different order from what they appear on the face of the proceedings. The first question is, whether Mr. Forrest is guilty of the adultery charged against him, for the plaintiff's allegation against the defendant must first be disposed of, and certain incidental inquiries with respect to the rest. The best way for consideration will be to take up these questions in the order I have presented them. The first question is, has not Edwin Forrest, since his marriage with Catherine N. Forrest, committed adultery, as is charged in this action? Now, gentlemen, it is conceded that these parties were married in England; that they came to this country, and resided here a number of years together, in apparent harmo-

ny and peace: that difficulties arose between them, which led, practically, to a separation; out of that has grown this suit. And this question which is put to you, is the question of the plaintiff, presenting Mr. Forrest before this court for the purpose of obtaining from him a divorce. The case, gentlemen, is somewhat peculiar. In ordinary trials with respect to divorce, there is but one side of the question to be looked at—either the husband proceeds against the wife, or the wife against the husband, and there is only a single circumstance for inquiry; but here, from the very peculiar manner in which the matter is presented, each party charges the other with this offence. Now, the legal effect of this is, that if on this evidence, you shall find both parties guilty of adultery, or find both innocent of adultery, the law will leave them where it finds them. Neither party is entitled to a divorce as against the other—the law never grants divorces to guilty people. Mr. Forrest put in his allegation for the purpose of setting up the charge of adultery as a reason, that even if he has been guilty of adultery, she is not entitled to a verdict, as she failed in the same thing. If Mrs. Forrest should succeed in sustaining her allegations against her husband, she would be entitled to ask for a divorce and an allowance of alimony. Gentlemen, this case is a very peculiar one in many other respects, it in truth involves the trial of several distinct cases of action. She charges him with adultery on several different occasions with different persons—his allegation charges her with adultery with six different individuals, each of them involving the necessity of inquiry. You, gentleman, with the most perfect and most exemplary patience, have paid an attention to this case which will enable you to consider the evidence, and to come to a prudent and a safe result. It is not a case which depends upon a minute examination of the testimony, but on the credibility or non-credibility of the witnesses. If you should, for instance, believe the testimony of Doty, the proofs are undoubtedly against Mr. Forrest. If the testimony of Anna Flowers is to be relied on, the proofs are against Mrs. Forrest, as decidedly guilty of adultery. All the witnesses, therefore, who have spoken in respect to it are of such a character that if all are to be believed, no reasonable doubt would be left that these charges are mutually supported against both parties. It being, therefore, a question of credibility of the witnesses, all that the court feels called on to do is to state to you certain rules by which you are to judge (if they commend themselves to your good sense) of the credibility of the witness. So, in this case, when you come to try the charge against Mr. Forrest, you come to the affirmative of his suit, Mrs. Forrest's guilt, which is to be proved; and if the testimony leaves it in reasonable doubt, you are to say whether the facts contained in the charge are proved. In the next place, reference must be had to the general nature of the case, and to some accompanying circumstances. It is a most extraordinary case. There are two persons living together up to a certain period, in an apparent state of affection and harmony, which is suddenly interrupted by their charging each other with acts of infidelity. If their mutual allegations against each other are to be taken as proved, it appears that both of these persons, anterior to the separation, lived in a most abandoned manner—Mr Forrest frequents houses of a certain description, kept by one Caroline Ingersoll, travelling about the country with a woman, apparently not even taking the pains to conceal their intercourse; while Mrs. Forrest lived in a state of adulterous connection with various persons. And while all this was going on, it appears they were writing each other letters, in the most affectionate manner. Now, is it not therefore a most extraordinary case, when it becomes subject to observation and scrutiny. This is what you are called upon to try. We have found here, gentlemen, during this trial, that there has been created about this case, not only in this court room, but in the public atmosphere, a feeling and a prejudice which is most dangerous in its effects, upon the just and proper administration of the laws. To this, the press has in a great degree contributed by spreading all the details before the public. The consequence has been that in every tavern or bar room, barber's shop—every place, in fact, where newspapers circulate, this matter has been made a subject of constant trial. People have taken sides upon it, and freely expressed their opinion, so that it would be singular indeed, if you, who have been obliged to live in this discussion, for thirty days, were not in some degree affected by it. Well, you are called upon to decide in this case in the midst of the greatest mass of perjury on one side or the other, that I have ever before witnessed while on the bench or at the bar. Let me here say that the evil which must necessarily grow out of the publication of details of trials of this character is a very great one, and most injurious to the public morals. I do hope the Legislature of this State will regard it as their duty to pass an act prohibiting the publication of trials of this kind till they are fully tried and decided by the courts. It has always a tendency to create, and often does create an impression all over the community, favorable or unfavorable, to either of the parties involved. As a proof of this, you cannot but have seen, yourselves, gentlemen, during the progress of this trial, that a strong sensation had been felt through this whole assembly of approbation or disapprobation, when any point or caustic remark has been made by the counsel on either side. I shall now proceed, continued the learned Judge, to call your attention to some rules of evidence, in relation to the credibility of witnesses. In the first place, there is one kind of testimony which would enable you to draw certain inferences from it. It is a common saying, that circumstantial proof is often better in some cases, than positive proof. Positive proof, when given by an honest witness, is entirely satisfactory; but a dishonest witness may swear falsely in relation to some circumstances, and escape detection more easily than he could do if he tried to prove the guilt of a party by circumstantial evidence. It is an easy thing for a man to say that a party told him a certain thing at one time. Now, that is called positive evidence, and it is extremely difficult for a man to guard against. The evidence in this case, with one or two exceptions, is circumstantial. The testimony of Doty with respect to the act of adultery between Mr. Forrest and Miss Clifton, and the testimony of Anna Flowers as to the act of adultery between Mrs. Forrest and Captain Howard, if believed, would leave no doubt upon the mind of anybody in relation to the guilt of either party. There are three tests with regard to the credibility of evidence—first, the probability of the fact sworn to; second, the general character of the witness; and third, evidence containining contradictions. In relation to the probability of testimony, the Judge said, that evidence, surrounded by improbable circumstances, should always require strong proof to lead the mind to believe in its truth. The character of a witness did not, he said, depend upon the mere opinion or hearsay of others, and should not be considered affected thereby. We all know, he continued, that when a man is guilty, there grows up, in a little while, a general impression as to his conduct, and it is that which gives the jury a proper opportunity of judging his character, and seeing how far they may place reliance upon his testimony. Some men have spoken of Mr. Doty, manifestly from a mere personal knowledge they have had of him in some transactions, and state that they would not believe him on oath. It is only, therefore, when a witness comes before you, and shows that he is acquainted with a man and his general standing in the community, and says he would not believe him, that you are bound to place any credit in the evidence of that witness, as affecting the truth or credibility of the person against whom he testifies.

Thus it is, that whenever an attempt is made to impeach a witness, the counsel of the party against whom he testifies has a right to enter into the question as to the character of such witness, by producing others on the stand, and, by this means, show the jury to what extent they can place reliance upon what he swears to. Then, gentlemen, with respect to contradictions, it is always important to look at the whole evidence. When a man comes upon the stand, and says, "I saw a transaction when no person was present," there is no means of contradicting him; for the party against whom he gives this evidence cannot

reply. But if the jury be satisfied he has made a false statement, he is unworthy of credence. In this case, therefore, gentlemen, you must apply the test I have already spoken of, namely, the general character of the witness in the community: and where yoo find a train of circumstances all leaning to a certain result, you have to inquire, has that witness been contradicted in any part of his testimony by that of others? The Judge then spoke of the testimony of Mrs. Underwood, which, he said, was a long story, consisting of what Mrs Forrest told and what she had heard from others. It is your business, said he, to separate what she says from her own knowledge from that which she has obtained from Mrs. Forrest and others. The confessions of Mrs. Forrest, made at the time of the negotiations about a divorce, could not, he said, be permitted to have any effect in their decision of the case. He then proceeded to explain the nature of the case, and the points in issue between the parties; and, as the first point he took up that of the alledged criminal intercourse between Mr. Forrest and Miss Josephine Clifton, as testified to by Doty. He did not consider it necessary to attribute to Doty wilful perjury in his statement; and reviewed that portion of it in which there was a contradiction of dates in relation to alleged act of criminality on board the steamboat Albany. These contradictions were of such a nature, that no prudent jury could rely upon the testimony. The Judge next reviewed the evidence of A. J. Allen, in relation to the connection he had observed to exist between Miss Clifton and Mr. Forrest, at Norfolk, Va., when they were on a theatrical tour of the country. If a state of things stopped there (he continued) the Jury would have to consider, could they be reasonably accounted for consistent with innocence of the parties.—Most people would consider that it could; while others would hold that it could not. Passing on, then, but keeping in mind still the facts testified to, you come to a transaction which, perhaps, is not the next in order of time. Here the Judge referred to the testimony of Dr. Hawkes, describing the scene in the railroad cars, and giving the opinion of the witness upon the cause of Miss Clifton's illness on that occasion. This opinion had been contradicted by the opinion of other medical witnesses, and should have no weight with the Jury, But leaving these contradictions aside. (said the Judge) the fact remains that there was a degree of intimacy existing between them that may certainly be regarded extraordinary between a single lady and a married man. In this connection the judge also alluded to the evidence of Mr. Foster, who testified to having seen Mr. Forrest come out of Miss Clifton's room one morning, in the Eagle hotel, in Albany. In this case there was also the fact testified to, independent of the attending circumstances; and if the jury were to ask themselves, could this intimacy exist, yet be reconcilable with the innocence of Mr. Forrest. The visits of Mr. Forrest to the house of Caroline Ingersoll was next spoken of by the judge. It was also for the jury to say, in relation to this matter, of which he had offered no explanation, could he have done what he is charged with, and be perfectly innocent. We now come to the case against Mrs. Forrest, on his part Much has been said to indicate two things—first, Mrs. Forrest's principles on the subject of social relations, and moral circumstances, indicating a desire on her part to disregard the ordinary rules of society and giving rise to the presumption that she would be in danger of falling, if exposed to temptation. This rested principally on a certain letter written by her, which expounds general views of hers, that might not exactly meet the ideas of any of us, but whether it contains anything in the case as to her general disposition, and the propriety of her life, is for you to consider. It would be a very dangerous matter to imply the guilt of adultery against a woman who entertains theoretic notions about social life and relations which may not meet the appreciation of your views. Then an attack has been made upon her truth, which of course the counsel had a perfect right to do, because her affidavit has certainly some contradiction of her own declarations and acts. Now, you must not be deceived as to the effect of this, as it is not evidence against her, and cannot be used to her detriment. The Consuelo letter was next referred to by the Judge This, he said, was a paper found in her drawer, without any address or signature, but the handwriting of which was identified by Mr. W. R. Baker as that of Mr. George Jamieson. Having no direction the Judge said it might as well be considered addressed to any other woman. The identity of the letter must first be established before it could be allowed in evidence It will be remembered that a long struggle took place between the counsel on both sides about the admission of this letter, but it was finally admitted, as Mrs. Forrest acknowledged it in her deposition. In commenting upon the charges as to adultery with the parties mentioned by Mr. Forrest's witnesses, the Judge said he regarded the case as abandoned as to Richard Willis, Capt. Culcraft, and Samuel Marsden Raymond, and that it yet remains to be considered only as to N. P. Willis, Capt. Howard, and George Jamieson. The testimony of the Demmings as to their seeing Mr. Willis and Mrs Forrest on the piazza of the house in Twenty-second street, he said should be weighed against the testimony of Mr. Willis denying any such transaction and if that evidence satisfies you that he has falsified the truth you must pay no attention to what he has stated. The testimony of Garvin has been subject to much cross examination; and you will see whether it is to be relied upon, with regard to the transactions which he swears to have seen through the window. There is a discrepancy in his affidavit, when compared with his testimony on the stand, which you must observe, and say if whether what he states shall outweigh the testimony of Mr. Willis. So also, in regard to the evidence of John Kent, who deposes to having been sent by Mr. Willis and Mrs. Forrest, with a letter; to her coming to Mr. Willis's house; her going up to the room which had been assigned her; to his going up in twenty minutes after, and seeing Mr. Willis come out of her room, and hearing her say, "Good night dear." The first inquiry is, whether Mr Willis was really at the door of Mrs. Forrest's room? and here you have two occasions testified, on which is said, Mrs. Forrest was seen by the witness at the house of Mrs. Willis. But there is also a discrepancy with regard to these, and it remains for you, gentlemen, to reconcile them, and determine what credit is to attach to them. Now you have testimony on this point of a most imposing character—that of Mrs. Willis, who states that on two occasions on which Mrs. Forrest was there she came there once at her request, a note having been written and the witness sent with it. She further says that Mrs. Forrest came to her room, stayed all night, and went away next morning. On the other occasion she says she was very ill, and that Mrs. Forrest also came again. These are the only occasions that have any resemblance to that testified by the witness, and the statement, when compared with that of Mrs. Willis, exhibits a discrepancy. The Judge adverted to the testimony of Anna Flowers, in relation to Captain Howard and Mrs. Forrest, and went over briefly the facts testified to by her in relation to her being at Mr. Forrest's, Dr Lee's, Mr Dickinson's and the House of Refuge: and testimony of the other witnesses impugning her veracity. Some of the places where she did live testified, formerly of her veracity; but the facts stated by Catharine Levins, in her testimony as to her being found with Barney McCabe, still remained. The jury were accordingly to weigh her evidence by the evidence which appeared against her. Alluding to the publication of the notice in the Herald, about Anna Flowers, asking her to call at the office of Mr. Sedgwick, the Judge said, that as it is well known to Mr. Sedgwick, she was in the city. This notice he had no doubt, was a most unworthy transaction, designed to answer some evil purpose, although the counsel did not say it was written by the defendant. Yet if any attorney or counsel had written it, he would have done that which would have disgraced and rendered him unworthy of the profession. With the evidence of this woman coming before you, accompanied by such contradictions, can you rely upon it for the establishment of this fact in relation to Captain Howard and Mrs. Forrest, as an affirmative fact. The Judge again adverted to the Consuelo letter, the circumstances attending its coming into the possession, and Mrs. Forrest's conduct in preserving it—which, he said, would be different from the conduct of other women

under similar circumstances. He then submitted the case to the jury.

DELIBERATION OF THE JURY.

The jury retired at 5 minutes to 5 o'clock, and at 10 minutes to 7 o'clock they sent in word that they wanted some instructions from the Court. The Chief Justice was ready to receive them, but they did not, however, come in till ten minutes past seven o'clock, when

The Clerk of the Court called over their names, and then called the plaintiff and defendant. Mr. Forrest and his counsel were in court, and Mr. O'Connor answered for Mrs. Forrest, who, with her friends, had left at the termination of the judge's charge.

The Clerk to the jury—Gentlemen, have you agreed?

Foreman—We have not. May it please your honor, there is a difference between the jury with regard to your honor's charge as to whether frequent visits to a house of ill fame was to be taken as sufficient proof of adultery.

Chief Justice—The jury are the judges of that. If you are satisfied that the house is a house of ill fame, and that he visited there, then you are to say for what purpose he was there. It is a matter of fact, and not of law; and it is for you to draw the inference. That is all I have to say, and that is all that I can say.

The Foreman—That is the only point, your honor, in which the jury have any difficulty.

The Chief Justice—Well, gentlemen, you will please to retire.

The jury then again retired, and at a few minutes to 8 o'clock they sent in another message to the Court, and the Chief Justice told the respective counsel that the jury intimated that it was unnecessary for the Court to wait; that they would seal their verdict when they had agreed.

The Chief Justice then ordered the adjournment of the Court to Monday morning, at 10 o'clock, when the jury were directed to bring in a sealed verdict.

At half past 9 o'clock the jury agreed to their verdict, and then separated; but, of course, it remains a sealed secret until Monday morning, and nothing further can be known but what may be inferred from the interrogatory put by them to the Court when they re-entered at 8 o'clock.

Addenda to Judge Oakley's Charge.

NEW YORK, Jan. 25, 1852.

SIR—In consequence of the condensed form in which the charge of Chief Justice Oakley in the Forrest case, is published in your paper of this morning great injustice is unintentionally done to Mr. Theodore Sedgwick. As the report is to be published in a pamphlet, which will no doubt have great circulation, I request (in the absence of Mr. Sedgwick, who is not in town) that you will correct in the pamphlet, the part of the charge referred to, by inserting in its place the inclosed paragraph. I am authorized, by the Chief Justice, to say that it gives precisely his honor's remarks on the point. You will please make a further correction, by inserting after the charge the explanation, made at the time, by Mr. Van Buren, which I also enclose. You will also have the goodness to notice these corrections in the HERALD of to-morrow. I am confident that you will acquiesce in the propriety of these requests. I am, sir, respectfully, your obedient.

H. D. SEDGWICK.

JAMES GORDON BENNETT, Esq., Editor of the NEW YORK HERALD.

PASSAGES REFERRED TO IN THE LETTER.

This notice appeared in the HERALD of the 15th, and was a palpable falsehood, intended to deceive somebody. At this time she had been in town, and with them continually, for five days. It is evident, therefore, that the insertion of the advertisement was a mere sham. Although it was stated that the advertisement was signed by Mr. Sedgwick, I was most happy to find that this was not the case; for if it had been done by any attorney or counsellor of the court, he would have shown himself entirely unworthy of his profession.

Mr Van Buren remarked, among other things, that the Chief Justice had said that it had been stated by counsel that the advertisement was signed by Mr. Sedgwick; that he had not said so; he had said that the advertisement directed her to call at the office of Mr. Sedgwick.

VERDICT OF THE JURY.

Thirty-Third Day.

JAN. 26.—The excitement this morning was intense. Thousands and thousands of the anxious public thronged the Park and rendered the approach to the focus of attraction, by the ordinary thoroughfare, impracticable. The counsel, the jury, the parties to the suit, and the reporters were obliged to effect an entrance through the adjoining court, and pass into the judge's chamber, which joins the room that has been the scene of action in this trial.

At 10 o'clock, the Chief Justice took his seat upon the Bench, and the anxiety depicted on every countenance for the breaking of the sealed verdict was intense.

Mrs. Forrest was in court, as was also Mr. Forrest, at an early hour. The fortitude which never left Mrs. Forrest during the protracted investigation seemed now to have almost deserted her, and she was faint with anxiety. She was almost subdued in strength—restless watchful, and uneasy.

Mr. Forrest looked anxious, but he looked like a man resolved to meet the worst that could befall him. These few minutes seemed, as it were, an hour to all, and, indeed, the plaintiff and defendant both bore strong evidence of the sleepless hours they must have passed since Saturday evening.

The counsel on both sides, too, participated to the fullest extent in the anxiety of their respective clients. Even Mr. O'Conor's stoicism deserted him, and his usually calm spirit now became perturbed.

The Clerk of the Court called over the names of the jury, and all answered. He then said, "Gentlemen, have you agreed?"

Foreman—We have. The foreman here handed the sealed verdict to the Court. Breathless silence reigned throughout the room while the Chief Justice was perusing the verdict.

The Chief Justice retured it to the Clerk and desired him to read it aloud.

Mr. Van Buren—If the Court please, before the verdict is recorded, we wish to have the jury polled.

The Chief Justice—The usual way is to read the verdict first, and to poll the jury before it is recorded.

Clerk—Gentlemen, hearken to your verdict as it stands recorded.

Mr. Van Buren—No, not recorded, as it is read.

The Clerk then read the following:—

The jury will answer specially to the following questions:—

First—Has or has not the defendant, Edwin Forrest, since his marriage with the plaintiff, Catharine N. Forrest, committed adultery as in the complaint in this action charged?

He has.

Second—Were or were not the said plaintiff and said defendant inhabitants of this State at the time of the commission of said adlutery by the said defendant?

They were.

Third—Was or was not such adultery by the said defendant committed within this State?

It was.

Fourth—Was or was not the said defendant a resident of the State of New York, at the time of the commencement of this action?

He was.

Fifth—Has or has not the plaintiff committed adultery as alleged against her in the answer in this action?

She has not.

Sixth—Was or was not the plaintiff a resident and inhabitant of this State at the time of the commencement of this action?

She was.

Seventh—Was or was not the plaintiff an actual inhabitant of this State at the time of the commission of such adultery by the defendant within this State, and also at the time of the commencement of this action?

She was.

Eighth—What annual amount of alimony ought to be allowed the plaintiff?

Three thousand dollars.

The jury say that they find for the plaintiff on the whole issue in the pleadings, and that in answer they find in the affirmative on the first, second, third, fourth, sixth and seventh questions of fact specified in the order of December 24th, 1850, and in the negative on the fifth question of fact specified in the said order.

And they find that alimony be allowed the plaintiff to the amount of three thousand dollars per year.

(*Signed*,)

STEPHEN W. MEECH, PELATIAH P. PAGE,
WILLIAM EARLE, THOMAS B. HARRIS,
HORACE BEALS, MEIGS D. BENJAMIN,
THEODORE DE WITT, J. N. ERNENPERTSCH,
DANIEL G. EDSALL, C. S. SCHLESSENGER,
CALVIN H. MERRY, JOHN CASWELL.

The audience applauded as the responses were given to the fifth and eighth questions.

Mr. Van Buren—We desire, if the Court please, as I have already stated, that each juror should—

The Chief Justice—You wish to have the jury polled. Gentlemen, as each juror is asked if that is his verdict, he will answer in the affirmative or negative.

The Clerk then interrogated each juror thus:—"Is this your verdict as it will be recorded?" To which Messrs. Meach, Earle, Beals, De Witt, Edsall, and Merry answered audibly in the affirmative. When Mr. Page was asked, he stood up and appeared unable to respond. He then sat down, leaving the whole Court in doubt as to his reply.

Mr. Van Buren—I don't hear the gentleman's response.

Mr. Page (aloud)—it is.

All the jurors answered in the affirmative.

The Chief Justice—Gentlemen, the next thing in order is to pay the jury a shilling each. (Laughter.)

Mr. Van Buren—If the Court please, we desire to make an application for time for preparation in respect to the questions which have arisen in this case, either by application for a new trial, or by bill of exceptions.

The Chief Justice—The proper course is to apply to the Judge in Chambers.

Mr. O'Conor—In respect to the time to be allowed for such measures as your Honor suggests, it must be in the nature of an application. Of course, on this subject, every facility will be accorded. The course which I propose, however, requires a movement in the Special Term, and it is necessary to ask the Judge in Special Term to assign any day to come before your Honor, in respect to the completeness of judgment. It is a matter to be disposed of by your Honor.

The Chief Justice—As respects application for time, that follows as a matter of course; and as respects the formula to be observed, let the matter be adjourned over till to-morrow morning at ten o'clock, when the question can be gone into in detail, and at which time Mr. Van Buren may make any application.

Mr. Van Buren—I can then make both applications—an application for time, and also for stay of proceedings.

The Chief Justice—The application for time is granted as a matter of course.

Mr. Van Buren—We are to understand that the motions are to be made without any further notice to the other side. We would not be at liberty to make it here without consent of the Court, and this was the reason why I inquired of the Court whether an affidavit can be made here to-morrow morning.

The Chief Justice—Let the verdict be recorded, and the Court adjourned till to-morrow morning at ten o'clock.

Mr. O'Conor—I believe that the simple form of asking the jury had they agreed to their verdict, has not been technically gone through.

The verdict was then formally recorded.

Mr. Forrest, accompanied by some friends, immediately left the Court. As he descended to the Park, he was salute with vociferous cheers from the assembled multitude, who continued to shout and cheer him on half-way up Broadway.

Mrs. Forrest, after having been congratulated by her friends on the result, left the Court escorted by Mr. O'Conor, through the back egress, into Chambers street, where also a large concourse of people had congregated.—Deafening cheers saluted her, likewise, and the crowd continued to wave their hats and to shout until the lady and escort gained the Irving House, where she at present resides.

Thus has terminated one of the longest trials upon record, after a wearisome, yet exciting period of thirty-two days.

NOTICE.

The LAW REPORTER of the *New York Herald*, in furnishing this elaborate REPORT of this most extraordinary and very interesting trial, which has extended over thirty-two days, twenty-eight days of which are his own individual labor, feels much pleasure in expressing his acknowledgments to his able associates, Messrs. HENRY G. HAYES and ALFRED WM. HARCOMBE, as well as to MR. JOHN MULLALY, for their valuable assistance during the summing up of Counsel and the Judge's charge.

He has also much satisfaction in referring to the opinion of the CHIEF JUSTICE, expressed more than once during this trial, as to the *accuracy* of his report.

The following testimonials will speak for themselves:

TESTIMONIALS.

We have looked over the Report of the Forrest Divorce Case by the LAW REPORTER of the *New York Herald*, and so far as we have had time to examine it, have been pleased with its general accuracy.

VAN BUREN & ROBINSON,
Defendant's Attorneys.

New York, January 24, 1852.

New York, Jan. 21, 1852.

SIR—

Your report of the Divorce Case, as published in the *New York Herald*, is faithful and comprehensive; indeed it is the ONLY REPORT (and I have examined several of them) which is unprejudiced and complete.

Yours truly,

To the Law Reporter of the N. Y. Herald. EDWIN FORREST.

(Extract from a Letter of Mr. N. P. Willis.)

As yours is by far the best report and will doubtless be relied on for reference, may I trouble you with such corrections as I think material, in the hope that you will be able to rectify the report before publication in book form.

Pardon my adding to your severe labors, and believe me,

Yours, truly,

N. P. WILLIS.

To the Law Reporter of the New York Herald.

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58. **Deborah.** (Leah.) Drama. 3 Acts. By Charles Smith Cheltham. 7 Male, 6 Female Characters.

59. **The Post-Boy.** Drama. 2 Acts. By H. T. Craven. 5 Male, 3 Female Characters.

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66. **The Orange Girl.** Drama, in a Prologue and 3 Acts. By Henry Leslie. 18 Male, 4 Female Characters.

67. **The Birth-place of Podgers.** Farce. 1 Act. By John Hollingshead. 7 Male, 3 Female Characters.

68. **The Chevalier de St. George.** Drama. 3 Acts. By T. W. Robertson. 9 Male, 3 Female Characters.

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83. **Thrice Married.** Personation Piece. 1 Act. By Howard Paul. 6 Male, 1 Female Characters.

84. **Not Guilty.** Drama. 4 Acts. By Watts Phillips. 10 Male, 6 Female Characters.

85. **Locked in with a Lady.** Sketch from Life. By H. R. Addison. 1 Male, 1 Female Characters.

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87. **Locked Out.** Comic Scene. 1 Act. By Howard Paul. 1 Male, 1 Female Characters.

88. **Founded on Facts.** Farce. 1 Act. By J. P. Wooler. 4 Male, 2 Female Characters.

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89. **Aunt Charlotte's Maid.** Farce. 1 Act. By J. M. Morton. 3 Male, 3 Female Characters.

90. **Only a Halfpenny.** Farce. 1 Act. By John Oxenford. 2 Male, 3 Female Characters.

91. **Walpole.** Comedy in Rhyme. 3 Acts. By Lord Lytton. 7 Male, 2 Female Characters.

92. **My Wife's Out.** Farce. 1 Act. By G. Herbert Rodwell. 2 Male, 3 Female Characters.

93. **The Area Belle.** Farce. 1 Act. By William Brough and Andrew Halliday. 3 Male, 2 Female Characters.

94. **Our Clerks.** Farce. 1 Act. 7 Male, 5 Female Characters.

95. **The Pretty Horse Breaker.** Farce. 1 Act. By William Brough and Andrew Halliday. 3 Male, 10 Female Characters.

96. **Dearest Mamma.** Comedietta. 1 Act. By Walter Gordon. 4 Male, 3 Female Characters.

97. **Orange Blossoms.** Comedietta. 1 Act. By J. P. Wooler. 3 Male, 3 Female Characters.

98. **Who is Who?** Farce. 1 Act. By Thomas J. Williams. 3 Male, 2 Female Characters.

99. **The Fifth Wheel.** Comedy. 3 Acts. 10 Male, 2 Female Characters.

100. **Jack Long.** Drama. 2 Acts. By J. B. Johnstone. 5 Male, 1 Female Characters.

101. **Fernande.** Drama. 3 Acts. By Victorien Sardou. 11 Male, 10 Female Characters.

102. **Foiled.** Drama. 4 Acts. By O. W. Cornish. 8 Male, 3 Female Characters.

103. **Faust and Marguerite.** Drama. 3 Acts. By T. W. Robertson. 9 Male, 7 Female Characters.

104. **No Name.** Drama. 4 Acts. By Wilkie Collins. 7 Male, 5 Female Characters.

105. **Which of the Two.** Comedietta. 1 Act. By John M. Morton. 2 Male, 10 Female Characters.

106. **[illegible] for the Cattle Show.** Farce. 1 Act. By Harry Lemon. 6 Male, 2 Female Characters.

107. **Cupboard Love.** Farce. 1 Act. By Frederick Hay. 2 Male, 1 Female Characters.

108. **Mr. Scroggins.** Farce. 1 Act. By William Hancock. 3 Male, 3 Female Characters.

109. **Locked In.** Comedietta. 1 Act. By J. P. Wooler. 2 Male, 3 Female Characters.

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