

New Jersey Court of Errors and Appeals.

Between

EMILE C. BERCKMANS, complainant,

and

SARA E. BERCKMANS, defendant.

} *On bill, &c.*

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### BILL OF COMPLAINT.

[Filed February 5, 1861.]

### IN CHANCERY OF NEW JERSEY.

*To his Honor Henry W. Green, esquire, Chancellor of the  
State of New Jersey.*

Humbly complaining, sheweth unto your Honor your orator, Emile C. Berckmans, of Plainfield, in the county of Union, and state of New Jersey; that your orator was lawfully joined in the bands of matrimony to his present wife, Sara E. Berckmans, on the eighth day of February, in the year of our Lord one thousand eight hundred and fifty-eight, at Plainfield aforesaid, from which time forward until on or about the nineteenth day of September, A. D. eighteen hundred and sixty, your orator always resided with his said wife; that he resided with her from the time of his said marriage until the month of December next following at Plainfield aforesaid, and from that time until on or about the twenty-third day of April, A. D. eighteen hundred and fifty-nine, your orator resided with his said wife near Augusta, in the state of Georgia, and that then your orator returned to Plainfield aforesaid, and there resided with his said wife until the nineteenth day of September, A. D. eighteen hundred and sixty, when she left the residence of your orator at Plainfield aforesaid, and went to the city of New York, and resided there for a short time, and then returned to Plainfield aforesaid, where your orator is informed and believes she 20 now is.

And your orator further sheweth unto your Honor, that the said Sara E. Berckmans, since her said marriage with your



orator, and on different days of the months of May, June, July, August, September, and October, in the year of our Lord one thousand eight hundred and fifty-nine, and in the months of June and September, 1860, and at divers other times, wickedly disregarding the solemnity of her vows and the sanctity of the marriage state, hath committed adultery with one Randolph Titsworth, of Plainfield aforesaid, and with other persons, whose names are at present unknown to your orator, in the state of New Jersey, and also in the city and state of New York, which facts your orator did not discover or mistrust until the month of September, eighteen hundred and sixty.

And your orator further sheweth unto your Honor, that by means of the said several premises above set forth, the domestic peace and happiness of your orator has been entirely destroyed.

In tender consideration whereof, and to the end that the said Sara E. Berckmans may true, full, and perfect answer make to the matters and things herein charged and set forth, as fully as if the same were herein again repeated, and she interrogated thereto, and particularly that she may set forth and discover whether your orator and the said Sara E. Berckmans were not joined in wedlock as aforesaid, and whether, since her marriage with your orator, she has not committed adultery with any person whatever, and with whom, and at what time and place, and under what circumstances, or how otherwise, and particularly in one or more of the months of May, June, July, August, September, and October, in the years eighteen hundred and fifty-nine and sixty, in the state of New Jersey, and also in the city of New York, and that the marriage between the said Sara E. Berckmans and your orator may be dissolved according to the statute in such case made and provided, and that your orator may have such other and further relief in the premises as may be agreeable to equity and good conscience—

May it please your Honor, the premises considered, to grant unto your orator the state's most gracious writ of subpœna, issuing out of and under the seal of this honorable court, to be directed to the said Sara E. Berckmans, commanding her, on a certain day and under a certain pain, therein to be expressed, personally to be and appear before your Honor in



this honorable court, then and there to make true, full, and perfect answer to all and singular the premises, and to stand to, abide by, and perform such order, directions, and decree as to your Honor shall seem meet, and according to the statute in such case made and provided.

SCOFIELD & WILLIAMSON,

*Solicitors for the complainant.*

JAMES SCOFIELD,

*Of counsel.*

State of New Jersey, ss.—Personally before me, the sub- 10  
scriber, a master in chancery in and for said state, Emile C. Berckmans, the complainant in the foregoing bill, and who, being by me duly sworn, saith that his bill of complaint is not made by any collusion between him and the defendant in the said bill for the purpose of dissolving their marriage, but in truth and good faith for the causes set forth in the bill of complaint.

E. C. BERCKMANS.

Sworn and subscribed before me, this 4th day of February,  
A. D. 1861, at Jersey City. 20

SAMUEL W. CAREY, *M. C.*

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ANSWER.

[Filed March 9, 1861.]

*The answer of Sara E. Berckmans to the bill of complaint  
of Emile C. Berckmans, complainant.*

This defendant, now and at all times hereafter reserving to herself all manner of benefit and advantage of exception to the many imperfections, uncertainties, and defects in the complainant's said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as she is advised is 30 material and necessary for her to make answer unto, she answers and says—that it is true, as stated in said bill of complaint, that she was lawfully married to the said complainant



on the eighth day of February, in the year one thousand eight hundred and fifty-eight, at Plainfield, in the state of New Jersey, and that she lived with the said complainant from the time of their said marriage until the month of December next following, at Plainfield aforesaid, and from that time until on or about the twenty-third day of April, A. D. eighteen hundred and fifty-nine, they lived together near Augusta, in the state of Georgia, when they returned to said Plainfield, and lived together until the nineteenth day of September, A. D. 10 eighteen hundred and sixty.

And this defendant further answering admits it to be true, that at the date last mentioned, she left the residence of said complainant, and went to the city of New York; that she was compelled to leave the residence of her husband by reason of his cruel conduct towards her; that his cruel treatment of her commenced soon after their marriage, and was continued in almost every possible shade of cruelty, repeatedly and from time to time, until the said nineteenth day of September, before mentioned, he had, by his threats, put this defendant in 20 fear for her life; he had refused to eat with her, and would not allow her wholesome food; he had refused her entrance to her own bed-room, and compelled her to sleep in the same bed with her house servant; he had neglected her in sickness—had beat her and dragged her with violence and in anger—he had, in grossest terms of abuse, accused this defendant of infidelity to her marriage vows, which accusations this defendant avers to be utterly without foundation in truth and justice; and so this defendant, at last despairing of any hope of change in her treatment, and being very unhappy as an in- 30 mate with a man whose only deportment towards her was that of abuse and cruel suspicion, left his residence as aforesaid with her two small children.

And this defendant further answering saith, that she hath two children by her said husband, named Gustave and Nina Clementina, and born, respectively, the one February 18th, 1859, and the other April 3d, A. D. 1860, and that when she first left her said husband as aforesaid she went with her said two children to the city of New York, and staid at the house of a friend for a few days, through fear that her husband 40 would do greater violence to this defendant if he could imme-



diately find her, and that he would deprive her of her children; but after remaining in New York a few days, she returned with her children to her mother's house, in said Plainfield, under whose care and protection she still continues to reside.

And this defendant further answering denies that she ever did, on different days, or on any day or time in the months of May, June, July, August, September, and October, in the year one thousand eight hundred and fifty-nine, or in the months of June and September, in the year one thousand eight hundred and sixty, or in either of those months, or any other 10 month or time during her said intermarriage, commit adultery with one Randolph Titsworth or with any person or persons whatever, either in the city or state of New York, or in the state of New Jersey or elsewhere, and that the charge of adultery, made in the said complainant's bill against her, is wholly untrue, and a most unfounded and cruel imputation, and on the contrary thereof, this defendant avers the truth to be, that she always, since her intermarriage with the said complainant, faithfully regarded towards him her marriage vows, and was true and faithful to his bed and her obligations 20 as his lawful wife.

And this defendant further answering saith, that she recently, and on or about the fourteenth day of November last, filed her petition in this honorable court against her said husband for divorce, on the ground of extreme cruelty, to which petition, and the facts therein set forth, she begs leave to refer, if it becomes necessary so to do.

All which matters and things the defendant is ready to aver and maintain and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained. 30

SARA E. BERCKMANS.

C. S. TITSWORTH,

*Solicitor for and of counsel with defendant.*



## REPLICATION.

[Filed March 19, 1861.]

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith, that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without that, that any other  
 10 matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avowed, traversed or denied, is untrue; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays, as in and by his said bill he has already prayed.

SCOFIELD & WILLIAMSON,  
*Solicitors of complainant.*

JAMES SCOFIELD,  
*Of counsel.*

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## EVIDENCE.

[Filed November 14, 1862.]

Examination of witnesses in a cause depending in the Court of Chancery of New Jersey, wherein Emile C. Berckmans is complainant, and Sara E. Berckmans is defendant, taken at Plainfield, in the county of Union, on the sixth day of March, eighteen hundred and sixty-two, before John N. Tuttle, one of the masters and examiners of said court, in the presence of Benjamin Williamson, solicitor of complainant, and Caleb S. Titsworth, solicitor, &c., of defendant, due  
 30 notice of such examination being admitted.

*Sara E. Berckmans*, the defendant, being duly sworn, deposeth and saith—

1 *Quest.* How long ago did you become acquainted with your husband, the complainant?

*Ans.* About six years.



2 *Quest.* How soon did he begin to pay attention to you?

*Ans.* Immediately.

3 *Quest.* Did you know his father and mother? how soon after their son began visiting you, did they visit or pay other attentions to you—if yea, state what?

*Ans.* I knew them—became acquainted with them the same time I did their son; they sent for me about twice a week, in their carriage, for my mother and myself to visit and spend the evening with them; the father of my husband would bring his violin two or three times a week, to visit and spend the 10 evening with us, I accompanying him on the piano; his mother very often brought us fruit, vegetables, pigeons, chickens, of her own accord, as presents.

4 *Quest.* How long did the courtship of your husband continue before your marriage?

*Ans.* About two years.

5 *Quest.* Were his father and mother friendly to the connection at the time it occurred?

*Ans.* His mother was, his father was not, I believe.

6 *Quest.* Was she present at your marriage?

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*Ans.* She was not.

7 *Quest.* Where did you and your husband first go to live?

*Ans.* With my mother.

8 *Quest.* How long did you live there, and upon what terms?

*Ans.* I lived with her three months; there was no agreement made when I went there to live; I was married in church, and went right there.

9 *Quest.* Where did you next go to live, and under what arrangements?

30

*Ans.* At my husband's mother's; his father made him several propositions about taking the farm—which one he accepted I do not know.

10 *Quest.* When did you move there; where, and what occasioned your removal?

*Ans.* I left there in November of the year I went there, 1858, I believe; went to my mother's with my husband; we removed because his father wrote a letter to my husband complaining of him and me in various ways—that if I did not abide by the rules of his house I must find another home; my 40



husband said I should go to my mother's if I wished, and he would go with me ; his father sent for me to come up the next day after I left, and asked me why I left his house ; I told him it was my husband's wish, as well as my own, to leave, and asked him what he found fault with me about ; he said his wife told him she was obliged to make my bed herself, and tend to my room, and take a man from the farm to drive me out all summer ; I told him there was not a word of truth in it—my husband also contradicted it ; he said (old Mr. Berck-

10 mans) he knew his wife very well, that she was a damned hypocrite, he had found her to be so ; that he had moved south to get rid of her, and if we were willing, he would take us with him.

11 *Quest.* Was your husband present at this conversation?  
*Ans.* He was.

12 *Quest.* Did you afterwards go south—how soon after this conversation?

*Ans.* I think we went south about the eighteenth of December, a month or six weeks after the conversation.

20 13 *Quest.* Where, and upon what arrangements?

*Ans.* Augusta, Georgia ; my husband was to have the farm or plantation belonging to his father—he gave him the deed of it shortly after we went there.

14 *Quest.* Describe the house, furniture, and character of the comforts which were afforded you in your southern abode?

*Ans.* It was a miserable frame building ; it admitted the wind and weather ; it went by the name of the negro shanty by his brother and his wife ; the furniture was nearly all my mother's ; I had very little comfort there ; I lived there three

30 weeks after I first went out, without any servant or friends or acquaintances ; my husband would leave early in the morning, and be gone till late at night, hunting or gunning he would say, and I was left entirely alone ; the house was a mile and a half from any neighbor, right in the woods.

15 *Quest.* Did he ever retail to you complaints made by others against you?

*Ans.* He would read letters to me, that his father would send him, complaining of me, saying I was too proud and too affected, and he could not stand my airs ; I was unable to

40 work at the time I was there, and if I would look sick or com-



plain in any way my husband's father would call me affected; several times my husband came in to his dinner, his father with him, and asked me if I was tired, and tell me to go and lie down; his father told him he was my goose and I was trying to make a slave of him.

16 *Quest.* How soon after you got there was your first child born?

*Ans.* About four weeks to six weeks—no longer; he was born the eighteenth of February.

17 *Quest.* Were you very sick in consequence?

10

*Ans.* I was.

18 *Quest.* What was the character of your sickness?

*Ans.* I had fever, gathered breast, inflammation of the bowels.

19 *Quest.* Did you have any physician at the birth of your child?

*Ans.* Yes, sir.

20 *Quest.* Do you know whether your husband sent for him?

*Ans.* He went for him himself.

20

21 *Quest.* Of his own accord, or at whose instance?

*Ans.* I asked him to go.

22 *Quest.* Did your husband give attention to you during your sickness?

*Ans.* Very little.

23 *Quest.* How long were you sick?

*Ans.* About eight weeks.

24 *Quest.* Did your husband treat you with any harshness while you were ill,—if yea, describe the incident or incidents?

*Ans.* He did upon several occasions—one evening he came home very late, twelve o'clock, got in through the window; the noise frightened me, and I asked my mother, who was sitting up with me, if she would go and see what the noise was; she went in the little room, and my husband stood there; just as she opened the door, he said, what are you doing up, you old owl; she told him she was sitting up to let him in, and take care of me and the child; after he had put her out, and locked the door, I asked him why he spoke in that way to her; I was sitting up in bed, and he came to me and pushed me down, and said I thought a great deal more of my mother 40



than I did of him, he was going to poison himself; he went out from the room, and came back with a little vial, came to the bed, and showed me the mark, "laudanum," went into another part of the room, and drank down all that was in the bottle; I got out of bed, and went over to him, and tried to get it from him; he said I was too late, and pushed me from him on the floor; I got up, and went toward the door to call mother; he said he forbid me to call any one in the house, to go back to bed.

10 25 *Quest.* Had he before that used any personal violence toward you?

*Ans.* On several occasions he slapped me on the face when I said anything to him he did not like.

26 *Quest.* About how often?

*Ans.* Three or four times.

27 *Quest.* What was the character of his language to you?

*Ans.* Very abusive.

28 *Quest.* Can you repeat any by way of illustration?

20 *Ans.* On one occasion, he told me I was too damned proud for a beggar; when his father married his mother, he told her he would break her in or he would break her neck—he should do the same by me.

29 *Quest.* In what manner did he speak to you habitually of your mother?

*Ans.* Usually called her an old witch; that he should take me somewhere where I should never see her; that I should live with him, and do just as he said; would often blame her for things that I would say myself; he said he knew all her tricks.

30 30 *Quest.* How were you provided for during the illness succeeding your confinement, as to food, &c.?

*Ans.* He provided me with no suitable food, what I had was from neighbors and friends, one lady sent me my breakfast for three weeks, every morning—pigeons, three or four quarts of milk; we had no milk except a goat—the doctor said that milk was too heavy for me; she sent it until old Mr. Berckmans rode over to this lady, and told her that his son was no beggar, and could get these things himself; her name was Mrs. McAlpin; she sent me no more.

40 31 *Quest.* With what sort of food did he provide you?



*Ans.* Bacon, fresh meat once in a great while, very tough poor meat at that.

32 *Quest.* When did you leave the south to return here?

*Ans.* I think it was about the fifteenth of April, 1859.

33 *Quest.* Where did you go to live, and how long did you stay there?

*Ans.* We came north, here to Plainfield, and lived with his mother; we stayed there until the following March.

34 *Quest.* How long have you known Dr. Randolph Titsworth?

*Ans.* Nearly nine years.

35 *Quest.* In what capacity?

*Ans.* He has been our physician.

36 *Quest.* Whom do you mean by our?

*Ans.* My mother's and my own; he has doctored my husband.

37 *Quest.* After you returned from the south, what visits were paid by Dr. Titsworth to you, and for what purpose?

*Ans.* He came there in May to vaccinate my baby; he came in June to get the crust for vaccination.

38 *Quest.* Were you alone with him on either of these occasions?

*Ans.* I was not.

39 *Quest.* Who was there the first occasion?

*Ans.* My nurse; the second visit I did not see him at all, I was busy ironing; I knew what he came for, and told the servant to ask him to go in the nursery, and the nurse would hand him the crust.

40 *Quest.* Was he there on any other errand, or any other time than as stated by you, to your knowledge, from May till September?

*Ans.* No, sir; he was not in the house—I did not see him.

41 *Quest.* Were you, on any occasion that summer, with him alone in the parlor or upon the sofa?

*Ans.* I was not.

42 *Quest.* Were you present, and did you hear the testimony of Mrs. Berckmans the elder in relation to an interview between you and Dr. Titsworth, which she said she witnessed in the parlor?

*Ans.* I was.



43 *Quest.* Was her statement true; did any such thing ever occur anywhere?

*Ans.* It was not true—it never did occur.

44 *Quest.* Do you remember the furniture of the front parlor in Mrs. Berckmans' house during the summer subsequent to your return from the south, and the location of the several articles? if you do, describe it, and mention any changes that took place, with the time of the changes, as near as you can?

*Ans.* We came from the south in April, and Mrs. Berckmans cleaned house about the first of May; she moved a sofa that was in the front into her dining-room, and the sofa that stood in the front parlor she placed in the back parlor; under the front room mantel was a mahogany table, with gilt clock and two bronze lamps upon it; opposite the mantel she placed an old piano, which at the time was in the greenhouse—the piano stayed there until my husband hired a new one; in each window was a divan, between the windows was a small table, upon it a box with decanter and little glasses upon it, a liquor-stand it is called, a small fancy article; a rocking-chair  
20 was in the room; a marble top centre table stood between the parlors—the parlors are divided by columns, several small chairs were in the room; I believe that is all except some fancy things upon the mantel; there was a mirror between the two front windows; they all remained so until Mr. Berckmans hired a new piano—that was placed where the old one stood, opposite the mantel; I can't remember exactly where it was hired—it was hired, I think, in August, but am not sure.

45 *Quest.* Did Dr. Titsworth visit you after this summer—  
30 how often during the fall, and who, if anybody, was present?

*Ans.* He was there twice in October—I believe my husband was present each time; I don't know whether it was the last of September or in October—I think October.

46 *Quest.* At whose instance did he come?

*Ans.* Mr. Berckmans', my husband I mean.

47 *Quest.* Did you in September or October, or any time during the fall, see Dr. Titsworth alone?

*Ans.* Not once.

48 *Quest.* Did you hear Mrs. Berckmans the elder testify  
40 in relation to an interview which she said took place between you and Dr. Titsworth in a bed-room up stairs?



*Ans.* I did.

49 *Quest.* Was what she said true in any respect—did any such thing ever take place anywhere?

*Ans.* No, sir, it is not true, and it never took place.

50 *Quest.* Were you ever alone with Dr. Tittsworth in your bed-room, that you remember?

*Ans.* Not that fall; I may have been when I was sick the following spring; I never saw him alone in that house.

51 *Quest.* Did he call again while you resided at that house—if he did, mention the period of such visits as he made 10 next after those last referred to, and the occasion of them?

*Ans.* He was called to see my little boy, who had the croup in December; he visited him a week or more, I am not sure.

52 *Quest.* After that when next did he call?

*Ans.* He came in one afternoon in March, before we moved, no one was with him.

53 *Quest.* Where did you see him?

*Ans.* In the dining-room.

54 *Quest.* Were you alone together? 20

*Ans.* I believe I was in the room alone when the doctor came; my husband soon came in the back door; we were not two minutes alone.

55 *Quest.* Do you remember whether he was at your house about the first of January?

*Ans.* He came in on the second of January; I had two young ladies visiting me—he brought a message to one of them from her mother, who was sick; the ladies and my husband were in the room when he came in and when he went out. 30

56 *Quest.* Did you receive any other visits from him than those you have mentioned before you moved to the Prosper house?

*Ans.* No, sir.

57 *Quest.* What visits he did pay—with the exception mentioned, were they other than professional?

*Ans.* The one in March was not a professional visit.

58 *Quest.* What was its occasion?

*Ans.* Friendly, I suppose; he called there for no particular purpose. 40



59 *Quest.* When was your second child born?

*Ans.* The second of April, 1860.

60 *Quest.* How long after this visit in March, about?

*Ans.* Two or three weeks.

61 *Quest.* Do you remember any difficulty between you and the elder Mrs. Berckmans which occurred in the presence of your husband during the summer you resided at Mrs. Berckman's house; if you do, relate the circumstance?

*Ans.* We were sitting at the dinner table; my husband took  
10 his hand and placed it upon mine; I said to him, you must not do that Emile, you know what your father has said—he had said it was very vulgar and low for a man to profess any love before a third person; old Mrs. Berckmans had been very cross all dinner time, hardly spoken to any one; she spoke very cross to me, and asked me what I meant by insulting her husband in her house; I told her I did not intend to insult any one; she said I did, and that I should leave her table, and leave her house that night; I told her I would do so, and went up stairs.

20 62 *Quest.* Did your husband participate in this disagreement?

*Ans.* He did not say a word at the table, but followed me up stairs, and asked me what I was going to do.

63 *Quest.* Did you go?

*Ans.* No, sir; he told me, and his mother told me, I might go where I liked, but I should not take the child.

64 *Quest.* How were you treated during the period you resided at this house—what provision was made for your comfort in the matter of food, service, and generally?

30 *Ans.* From January till March, 1860, I kept the house myself; old Mrs. Berckmans went south; before that, from the time she spoke to me that way at the table, she and my husband took their meals together, and rang the bell for me after they were done; in August, old Mrs. Berckmans told my nurse she wished her to leave; she paid her her wages, and said she must leave—she was a wetnurse; the nurse told me about it, and I told her I did not wish the baby weaned till after dog days; I told her I had no money to pay her; she offered to stay with me two weeks without any pay—she told old Mrs.  
40 Berckmans the same; Mrs. Berckmans told her she must leave



that night, her trunk should be set outside, and her bed moved from her room; we had for breakfast tea and bread and butter, and one egg apiece—that was boiled in the tea-pot, on the table; for dinner we had ham or pork, never but one kind of meat, and very seldom any green vegetables in the summer—she sold it all.

65 *Quest.* You have mentioned that your husband and his mother took their meals together, was that by reason of your desire or theirs?

*Ans.* I always went to my meals when the bell rang; when- 10  
ever I went down they were gone; when I did eat with them they conversed together in German, which was not very pleasant for me.

66 *Quest.* Was your nurse sent away at the time you have alluded to?

*Ans.* She left that night.

67 *Quest.* Did your husband know of her going, and of your wishes that she should not?

*Ans.* I told him I would rather she would stay till September; he said I had nothing at all to say about what I wanted, 20  
the girl was going.

68 *Quest.* Why did you not wish her to go?

*Ans.* Because I thought it was too warm weather to wean the child; a child is never weaned in summer—there is danger of summer complaint; it could eat nothing, but once in a while could drink a little weak milk—it was only six months old.

69 *Quest.* Did any difficulty happen between you and Mrs. Berckmans in relation to some toweling; if yea, state that circumstance, and whether your husband knew of it, and what 30  
he said or did about it?

*Ans.* She allowed us but two towels a week, and I told my husband I could not get along with two towels a week for three persons; I wished he could buy me some for myself; the next time we were out together in the afternoon he went to the store, and bought me four towels; I went with him—a little girl I had hemmed them, and I marked them; some two or three weeks after, my little girl came up stairs, and said Mrs. Berckmans said I had stolen her towels, and put my name on them, that I was a thief, she had lost handkerchiefs and 40



towels since I had been there; she said she was down stairs talking with the other girl; I told her I would go down and see about it; as soon as I went down stairs she says, "you're a thief, madam, you have stolen my towels, and put your name on them." I asked her what she meant by calling me such names; I told her that they belonged to me, and then my husband came in; he told her he had bought the towels himself, and they commenced to talk together in German, and I left.

- 10 70 *Quest.* Was anything said or done afterwards by your husband or Mrs. Berckmans by way of apology for this matter?

*Ans.* She said nothing; my husband said that when she said anything it was no use to contradict her, she would always have her own way; I asked him if he thought it was right for me to live there, and be insulted and abused by her; he said he could not help it; if I did not like it there, I could go wherever I liked.

- 71 *Quest.* Under what arrangements was your husband 20 then living there?

*Ans.* He said he owned a third of the farm, and he owned a third of the produce, just as much as his mother's, he had as much right to it.

- 72 *Quest.* When did you go over to the Prosper house?

*Ans.* The last week of March, 1860, I think—I am not sure.

- 73 *Quest.* When was your child born?

*Ans.* The second of April; Dr. Titsworth attended me in my confinement; I was sick until June; I kept my bed for a 30 long while; I had chills and fever; I nursed my child myself; the doctor visited me every day, and sometimes twice a day—his visits were sometimes long sometimes short; I occupied the front parlor on the first floor; there was a back parlor, with folding doors, used as a dining-room; back of that the kitchen; one side of the folding-doors was always open, the other sometimes closed; access was open to the kitchen; there were no other rooms in the house furnished; there was a little room off the dining-room with an iron bedstead in—my servant slept there with the oldest child; I had one servant 40 and a weekly nurse; this nurse stayed with me five weeks;



after she left, in about two weeks, I had a little girl about twelve years old and the same girl in the kitchen; these arrangements were altered about the last of July; I moved my bed up stairs—I was not sick up there; I had two relapses before I got well; between the relapses I was able to walk about only in the room down stairs; during this sickness, my husband did not come inside of my door for ten days at one time, because I would not allow him to do some things the nurse ought to do, and because I asked him to get some wood; the servant complained that they wanted some wood, and his 10 mother would send over a wheelbarrow load at a time; when he did come in he used to pass through the room, and not speak for a day or two, and then he spoke of his own accord—his conduct was anything but kind; after the nurse left, he did not offer to assist me with either of the children; when I was first sick, I asked him if he would take the boy to sleep with him nights—he said “no, he would see him and me both hanged before he would sleep with the brat;” I should not have asked him, but the servant I had had a running sore on her shoulder—she was a dreadful woman to look at, the only 20 one I could get then; I was afraid, by the child sleeping with her, he would get some disease; no incident of violence occurred at that time; after we moved up stairs, I had a cot put up for him to sleep on, both children in bed with me; both children were sick, and I had been awake with them all night; in the morning, I asked him if he would give Gussy, the little boy, a drink—he told me to shut up my mouth, and let him sleep, to wait on him myself; I told him I had been nursing the baby, and felt as though I could not get up, and wanted him to do it; he used very abusive 30 language; I got up and was sitting by the side of the bed; he took hold of me, dragged me to the head of the stairs, and said he would throw me down and break my damned neck, if it were not that the servants would hear it; he left me, and went in the room and shut the door; I went back to the room, dressed myself and the children, and went down stairs; a few days after that, he was in bed still in the morning, he had been away two days and one night; he said he was going up the North river for a sail, as far as Albany and back; the night he came home he was very much intoxicated; in the morning 40



- I found in his coat pocket a letter directed to "E. C. Benton, box No. 47, Plainfield, New Jersey," his own box—it was dated two or three days before he went away; it was from a woman, by the name of Marian Johnston, inviting him to come to New York, and take a sail with her to the fishing banks—that she had taken great pleasure in reading his letters, hoped he would not disappoint her; her address was in Houston street, the number I have forgotten; as soon as I read it, I went in with it to him; he said it did not belong to him;
- 10 a day or two before he went away, he took me in a carriage to the dress makers; first we went to the post-office; he got a letter from the box, put it in his pocket; when we got to the dress makers, and when I got in her house I found I had left some muslin in the carriage; I returned immediately—he was reading a letter in a lady's handwriting, but when he saw me he hid the letter, which excited my suspicion, folding it up immediately; this letter I found in his coat pocket after he came from New York—was of the same size—note paper; the morning I showed him the letter he said it was for another
- 20 man; I asked him what business he had to break open another man's letter; he said it was all the same, it was nothing to me; I locked the letter up in a drawer; he broke the drawer open, and took it out; he said he was a little too sharp for me; the morning I showed him the letter, he tried to get it from me, pulling me, and as I went out slapped me in the face, said I should not have it long.

74 *Quest.* During the month of August, 1860, was it your habit to visit your mother in the evenings?

- Ans.* Yes, sir; the summer that I lived at the Prosper house
- 30 I did so because the weather was hot, and my mother was very busy during the day; my husband went down with me every night, and came home with me, all summer and until five or six days before I left him; he would go with me as far as my mother's, sometimes would say he would stop for me, and sometimes would say I am going to the doctor's to take a smoke—you can stop there for me when you are ready to go home; towards the latter part of the summer, in August, four or five times, the doctor went home with me; one night, it was Saturday night, my mother asked me if I would
- 40 stay there while she went down to the village—it was early in the evening; I told her I would stay till she came back;



just as she went out the door Dr. Titsworth came by, and came up on the stoop, spoke to her, and came in; I was sitting near the door, and he was standing by the door; my husband came by, and asked me if I was ready; I went to the stoop, and told him I was waiting there till my mother came back—it would only be a few moments; I asked him if he could wait; he made no answer, but turned off; I did not see which way he went—I supposed of course that he would wait; the doctor went out directly after that, before my mother came back; she came back, and I told her that Emile 10 had been there; she sat down, and we were talking; I looked at the clock, and saw it was half past nine—said to her, I wonder where Emile is; I waited a few moments and said, I suppose he must have got angry because I was not ready to go then; she said she would go up home with me; as we passed the doctor's office, he was sitting in the door smoking, and offered to go up home with us; when we got a short distance my mother was very tired, had been on her feet all day; she said she thought she would go home, and the doctor would go up with me, and he went; he went with me three 20 or four other times after that; he never went unless I went for him, and my mother always went with me after him; about this time I went over to the doctor's office one evening with my husband; my husband came for me, and as I went out he said the doctor had asked him to call over and eat some watermelon with him, and I went over with him; when we got there, the doctor was not there; there was a man in the office waiting for him; Mr. Berckmans and myself walked through to the sitting-room, the doctor came in shortly after—eat watermelon, and Mr. Berckmans and I went home; the 30 doctor's wife and daughter were away from home at the time; there was a light in the office, and a man sitting there when we went in; I do not know whether my husband knew of the doctor's walking home with me—he never asked me how I got home; we left the old house, and went to the Prosper house because it was my wish that we should keep house and be by ourselves; about the second week in April my husband commenced giving music lessons at the seminary, and so continued while we were at the Prosper house; he provided very little for my comfort or subsistence during that 40



period; he would leave in the morning, and my servant would go to old Mrs. Berckmans' and get enough potatoes for dinner, and when he came home he would go to his mother's and get three or four slices of cold boiled ham or a piece of beef, which she had cooked for our dinner; she would send over a small piece of butter, and that would have to last us for a certain length of time; twice a week she would fill for me a bread-pan with flour enough to bake two loaves of bread; sometimes the bread would be too wet, and I had no  
10 flour to thicken it; I had no flour to thicken gravy; one day, when at my mother's, she bought seven pounds of flour, and gave it to me; my husband carried it home in a basket; I lived at the Prosper house till the first day of September; while there, I was in the habit of receiving things to eat as gifts from my mother; my mother would buy steaks, which I would cook, and put on the table; my husband would eat as much of it as I, so would the servants; she sent potatoes, peas, and everything in season; my husband provided me no niceties while I was sick; I do not know why we removed to the  
20 Berckmans house in September—my husband said his brother wanted to sell his house, and he should go to his mother's; I told him that I was well, and could teach, and he could teach, and that he might hire two rooms, at Plainfield or on the mountain, or anywhere he liked; that I was willing to do without servants, and I would earn his living and mine too, if he would live by himself with me; he took an oath, and said that I might go where I pleased; that he should move and take the children and furniture, and that I might stay in the house or go where I liked; that if he moved to the other  
30 house, the part he occupied belonged to him, he could do as he liked; he said he did not want to live with his mother any more than I did, he would rather be by himself; when we went to the Berckmans house I had part of the house, three rooms in the back part of the house and the greenhouse; I had a bed-room up stairs, my bed-room and a little hall bed-room—the room down stairs we used for a kitchen; the greenhouse was my parlor; the greenhouse had no carpet on the floor—it was my dining room as well as my parlor; there was a table in the centre of the room, three chairs, wooden  
40 shelf with some books in, a map, that is all there was in the



room ; to get to that room I had to cross the back stoop ; she had a balcony built for me from the back stoop to the greenhouse ; my food had to be carried outside on this stoop to the greenhouse ; my husband told me from his mother (I did not speak to Mrs. Berckmans at all, nor she to me, after I went back) that I should not go into the front parlor, or through it, nor down the front staircase, but must use the back staircase ; I had several friends called to see me, who rang at the front door bell ; she let them in, and told them that I lived in the back part of the house, that they must go 10 round and shut the door upon them, and they went around ; the first Sunday I was there I went to church, went out the front door ; when I came home, I came up the front stoop to the front door, and rang the bell ; I stood there some time, and finally went round to the back door ; my husband was sitting on the back stoop ; I asked him why he did not open the door for me ; he said I had been told to go in and out the back door ; when I wanted to come in, I would have to come that way ; old Mrs. Berckmans provided my table just as she did when I was over the way—sent me flour for bread, and dealt 20 out to me all that I had through the servant ; the food was of the same character I had over the way ; very often when my tea was ready I would call my husband ; he would come in, and say that his mother's tea was ready, and he had taken tea with her, and I would sit and take my tea alone ; the last week I was in the house he eat with his mother altogether ; my mother came to see me at this house after church on Sundays—my husband said he did not wish her to come to his house ; the first Sunday I was there she did not come up, having company from Buffalo ; next Sunday she came up after 30 church, stayed with me at dinner and tea, and went home in the evening ; the following Sunday she came up after church ; I did not go to church in the morning ; I had but one little girl ; in the morning my husband had the carriage, went to Scotch plains, and brought two men home with him, Jacob Coles and a Dutchman named Frank Tice ; he took them into the greenhouse, my parlor, gave them watermelon, and played on the piano for them when my mother came ; she came in by the back stoop into my kitchen—I was there—I met her on the stoop ; she had been seated some little time when my hus- 40



band came in, and asked her what she was doing there; she told him she came to see her children; he told her he wanted her to get right out of the house, or he would put her out; he left the room; I told her to come up in my room for a few minutes, and I would send for the children—she could see them and go home; she went up; soon after my husband came up to my room with the two men, and ordered her out of the house; I told him she had come to see me and the children, she would do him no harm; he came towards  
10 her, and took hold of her one side, and told the Dutchman to take hold of the other; he had three men with him at that time, having called in his hired man, a Dutchman; I told him to take his hands off from her, she was my mother, he had no right to touch her; he took hold of me, and said he would put me where I would never have anything to say, pulled me across the floor out in the hall into the hall bed-room, and locked the door; there was a shed that went underneath my bed-room window and this hall bed-room window; I went out on the shed, and into my room again, through the win-  
20 dow; he took hold of me as soon as I got in, and I tried to keep as firm as I could, so that he could not pull me around the room, but he did; he dragged me around the room, and threw me with great force into a dark pantry and locked the door, and told one of the Dutchmen to stand there at the door and not let me out, he would pay him well for it; then he went to my mother, and I heard them dragging her across the room; I got up, and used all my strength and broke the door open; he told this Jacob Coles to keep hold of me; I asked  
30 Jacob Coles if he thought he was a man to stand there and see his wife and wife's mother abused in that way; then they dragged my mother out to the head of the stairs, and he told them to pitch her down if she did not walk down; I begged of him to let her alone—she would go if he would let her alone; I went down the back stairs with her; when she went out, he came down to the back kitchen where I was; they had torn the dress nearly off from her back, and I was fixing it; he came through the room, and slapped me with all his force on the back of the neck, and told me to take that for my trouble, and went out; I was injured in this matter, my wrist  
40 was cut and bleeding; I cut it with the glass of a book-case



when they pushed my mother; my mother went over the way to Mrs. Bonnell's; her daughter came over immediately; my mother sent Mrs. Bonnell's little boy for the doctor, and he came in; I remained living at the house till the following Wednesday; I made up my mind to go; that day I thought of going, but did not fully make up my mind; the young ladies at Mrs. Bonnell's moved nearly all my things from the house on Monday, Tuesday, and Wednesday; my mother sent for Mr. Titsworth the lawyer; Tuesday, I think, he came—he was sent for on Monday; I saw him at his brother's office; 10 my mother had no place suitable for me to see Mr. Titsworth in, customers going in and out of the store; Mr. Titsworth went to his brother's, and sent for me to come there; I told Mr. Titsworth it was impossible for me to live any longer with my husband—I was afraid of my life with him.

Examination adjourned to Friday, March 7th, 1862.

JOHN N. TUTTLE, *M. C.*

Friday, March 7th, 1862—Examination of Sara E. Berckmans resumed—

I said I was afraid of my life with him—my reasons were, 20 he took the key from my bed-room door to keep me from locking it, and several times in the night I would wake up and see him in my room—walking through my room; he had an arm chair, an easy chair, that he slept in, in an observatory just out of my room—that room he kept locked also—he had the key of it; about a week before that, when I was walking up home with him from my mother's house, he said he would not walk by the side of me, called me every name he could turn his tongue to, and he would raise his foot, but would not kick me, but kick at me, and said go home you 30 nasty —; he called me a very bad name, said he would kill me if he could; that was the last night I walked up with him.

75 *Quest.* Mention the name he called you, or indicate its character?

*Ans.* Bitch, was the name he called me.

76 *Quest.* You told Mr. Titsworth that you could live no longer with your husband, what was the result of your conversation with him—were you yet fully determined to leave your husband?



*Ans.* I told him I would like to get a divorce from him; he told me he did not know as I had grounds yet for a divorce; I told him it was impossible for me to live with him; I was fully determined to leave him at that time.

77 *Quest.* State what next transpired in relation to your leaving, after you returned home from this interview?

*Ans.* The next morning a friend of mine called with her carriage, and asked me take a little ride with her; I told her I would go, dressed myself and my little boy, and as I put  
 10 my little boy in the carriage, his father came to the carriage door, and took him out; said he would take care of him, he should not go riding with me; he took him in the house, and I went with the young lady; while I was down town with her, I asked her what I should do—that I knew he would never let the children go with me, and I never would go and leave them behind me; I was in a store with this young lady, buying some goods; she said to me, let us go and see Dr. Titsworth, he is a friend of yours, and will see justice Run-  
 20 yon for you; we drove up to the doctor's office; he came to the carriage door, and I asked him, as a friend, to go and see Mr. Runyon, and ask him how I should get my children from the house; he said he would do so; I went home then; in the afternoon, the young ladies, Misses Bonnell, both came over to see me; while there, a servant came for one of the young ladies to go home; she returned in a few moments, and brought me a letter—it was from Dr. Titsworth—saying he had done as I requested, had gone and seen justice Runyon; that I should try and get away with my children with as little  
 30 trouble as possible and without a third person—and that when the train came in at night, Dr. Sherman and his wife, with their carriage, would come to my house and take me away with them.

78 *Quest.* Was this the letter which has been produced by the complainant in this cause?

*Ans.* Yes, sir.

79 *Quest.* When you received it, do you remember whether it was sealed or open?

*Ans.* It was open, and I read it in the presence of the two young ladies.

40 80 *Quest.* Were its contents made known to them?



*Ans.* Yes, sir.

81 *Quest.* What then was done with the letter?

*Ans.* I tore it up, and laid it on the work-basket alongside of me.

82 *Quest.* Why did you do so?

*Ans.* I never keep any letters.

83 *Quest.* Proceed with your narration?

*Ans.* I told the young ladies it would be impossible for me to leave that afternoon; one of them went over, and told the doctor; when they were going home to tea that night, they 10 asked me to walk to the gate with them; I had my youngest child in my arms, and was standing by the gate when Dr. Sherman drove up; he told me to get in, he would take me to his house; I had on a morning wrapper and sun-bonnet, and told him I was not prepared to go then; just at that moment my little hired girl came to the gate with my little boy; all being there, I got in the carriage, and went to Mrs. Sherman's house—this was about half-past five or six o'clock in the evening; I saw Dr. Titsworth that evening—he came to see Dr. Sherman, and Mrs. Sherman brought him up to my 20 room; both my children had been sick, and were sick at the time; he prescribed for them—he had been prescribing for them before that for four or five days.

84 *Quest.* When did you first make known to Dr. Titsworth your desire to leave your husband?

*Ans.* He knew it the day that Mr. Titsworth, the lawyer, came up from Newark—I think that was the first; he had known for some time my unhappiness with my husband; he had been to my house frequently, and seen me crying—knew 30 of my husband's absence from my room for ten days.

85 *Quest.* Had you made known to him from time to time your unhappiness with your husband?

*Ans.* Yes, sir.

86 *Quest.* Why did you communicate with him on that subject?

*Ans.* Because I had known him for a number of years, and he was my physician.

87 *Quest.* Was the communication at first of your own motion, or how did it come about?

*Ans.* When I was sick with my last child he came very 40



often, and found me crying; he wanted to know the cause; I then told him.

88 *Quest.* How long did you stay at Mr. Sherman's after reaching there?

*Ans.* I left there the next morning; I went to New York, to Mrs. Sherman's house in New York; I remained there about ten days; I saw Dr. Titsworth while there; I saw him twice; I sent for him to see my children; they were both of them sick—one had summer complaint, the other had the croup; I  
10 sent a little note, by Dr. Sherman's daughter, to Dr. Sherman to bring out to Plainfield to him; from New York I came back to Plainfield to Mrs. Hindshaw's—her husband is a minister; I remained there not quite a week; from there I went to my mother's in Plainfield, and have since remained there; I aid in obtaining my livelihood by giving music lessons and embroidery for my mother.

89 *Quest.* I wish now to ask you this question—have you at any time or place, with Dr. Titsworth or any man, been unfaithful to your marriage vows?

20 *Ans.* I never have.

89½ *Quest.* Previous to the birth of your last child, did your husband express any desires in relation to it, and did he afterwards express any satisfaction about it—if you recollect any such incident, state it?

*Ans.* He told me if I would have a little girl he would give me five hundred dollars; the night of my confinement he told the doctor what he had promised me; when the child was born, and he found it was a girl, he said it was all right—I should have it.

30 90 *Quest.* I omitted to ask you whether your children were sick the summer you spent at the Prosper house?

*Ans.* They were both sick all summer—the baby had summer complaint, the little boy worm fever, threatened with spasms; Dr. Titsworth visited the children generally every other day, sometimes three or four days would elapse.

91 *Quest.* The girl named Catharine Fannan gave some testimony about coming into a room, and finding Dr. Titsworth and you there—do you remember on what visit that was?

*Ans.* It was the day he made a friendly call in March,  
40 shortly before my confinement; she came in with a scuttle of



coal soon after the doctor came; my husband came in directly behind her, took the scuttle from her hand, and put on the coal himself.

92 *Quest.* Something is said, in the answer filed in this cause, about your husband's having compelled you to sleep with one of your servants—will you relate the incident to which that refers?

*Ans.* Shortly after I came home from the south I was invited by a daughter of Judge Cary's to spend the day, with my nurse and child; I went in the morning, and late in the 10 afternoon I spoke of going home; the family insisted upon my staying in the evening, as they had invited a few friends to meet me there; I sent the nurse home with the baby—told her to tell my husband I would be home about half-past nine or ten o'clock; I rode home with Miss Bonnell and her brother—went in the house; my nurse let me in—she had not yet gone to bed; I then went up to my room to go to bed—found my room door locked; I knocked at the door—my husband asked who was there; I told him it was me; he said I should go and sleep somewhere else that night—I should not sleep in 20 that room; I then asked him for my night dress; he opened the door, threw it out in the hall down the staircase, slammed the door, and locked it; I went in, and slept with my nurse and baby.

93 *Quest.* In fixing the time of an alleged visit by Dr. Titsworth to you, Mrs. Berckmans the elder stated that you at that time gathered or brought some strawberries to Dr. Titsworth—did you ever do so?

*Ans.* I never gave him a strawberry in my life, never got or gathered any for him; that summer I picked strawberries 30 a number of times, and sold them to Mrs. Berckmans' groceryman, in order to buy myself a summer dress—I mean the summer of 1859, after I came from the south, and before I went to the Prosper house.

94 *Quest.* Canatta, in his testimony, stated that you, during the examination, whispered to Dr. Titsworth, and laughed—will you state why you whispered to him, if you did, and why you laughed?

*Ans.* I wished him to tell several things to Judge Waugh, who was cross-examining the witness; I did not laugh—I 40



merely smiled at Mr. Canatta's droll expressions, as did also the others in the room.

95 *Quest.* During your residence in Plainfield, after your return to your mother's house, did Dr. Titsworth visit you, your children, and your mother, as a physician?

*Ans.* He did; yes, sir.

96 *Quest.* Did he pay visits there other than professional—if so, how often, and was there any privacy or concealment of them; were you ever alone with him, or where other parties  
10 might not at any time be present if they liked?

*Ans.* He has frequently been in the store to purchase articles of my mother; he has been there two or three evenings, has come for his daughter, who was learning to knit with my mother—sometimes he would only come to the door, at others would come in and sit till she was ready—I do not think I ever saw him alone, at any rate not for any great length of time; I was never with him where other parties might not have been present if they liked; there was no privacy or concealment at all of any of his visits; we have also had friends  
20 in the store who wanted my mother to send over for him to come to the store, and he has done so; he never stayed till a late or unseasonable hour.

And being cross-examined, the witness says—

I did not come with my mother when she first came to live at Plainfield—I was sick at the time with my aunt in New York—I came in a week's time; my aunt's name was Mrs. Phelps, my mother's sister; she was not a widow lady, she was living with her husband at that time; my grandfather and my mother's cousin and her husband, (Mrs. Bishop) came  
30 with my mother to Plainfield; Mr. Phelps, I believe, is now living and Mrs. Phelps—their home is in Chicago—she is at present with my mother; her husband is not with her—he is in Chicago tending a lawsuit.

1 *Quest.* Do you mean to say that Mr. Phelps is in Chicago attending to a lawsuit?

*Ans.* I said her husband was in Chicago; his name is Peugnet; Mr. Phelps is not now her husband; he is himself now married, and living with his wife.

2 *Quest.* When did she marry Mr. Peugnet? [Objected to  
40 as irrelevant, and not responsive to the examination in chief.]



*Ans.* I think it was six or seven years ago—I am not positive as to the exact time.

3 *Quest.* Where did she reside when she married Mr. Peugnet? [Objected to.]

*Ans.* I believe she married him at Jersey City, but am not positive—I was not at the wedding.

4 *Quest.* Was she not living with you and your mother at Plainfield?

*Ans.* No, sir.

5 *Quest.* Where was she living at the time of her marriage?

*Ans.* I said Jersey City, I believe—I was not sure; I cannot tell whether she was visiting there or not; I do not know anything about it; I think it was in August she was married, I am not positive; in December, before that, she spent a week with my mother in Plainfield; that was the last visit she paid us; the summer before that she was at Plainfield two or three weeks; she was visiting with Mr. Phelps at that time, and her nurse and child, the summer and winter also; they were afterwards divorced, I think the next summer after their last visit to us; she married Mr. Peugnet very soon I believe after her divorce—I do not remember when she was divorced; she was married very shortly after, I cannot tell if it was within a month; it was after her divorce she married Mr. Peugnet; Mr. Peugnet had been visiting at my mother's house at Plainfield—he was visiting me; Mrs. Phelps was there at the time he was visiting me.

6 *Quest.* What do you mean by saying he was visiting me?

*Ans.* He was an acquaintance of mine, and I had invited him; he was living at that time in New York; he stayed at my mother's when he visited Plainfield; I cannot tell exactly how often he visited us—several times; I did not know at that time that he was attentive to Mrs. Phelps; they did not leave our house together, and go off and get married; they did not leave our house together; the following summer after they left, I believe they were married; they were there about the holidays; he was there three or four days—he left—she left after new years day—Mr. Phelps was there at that time; she returned to New York with her husband—he came for her; they separated some time the following summer; I can-



not tell how soon after she left her husband's house she was married—it was very soon; she went to Jersey City, and there was married; I have never heard the particulars of her divorce or marriage; I have not seen her in six years before this winter—she has been living out in Wisconsin; I had been staying with Mrs. Phelps before we came here—I do not know exactly how long I had been there—I was giving music lessons—I think five or six months, am not sure; Mr. Peugnet visited there some of the time; Mr. Phelps introduced him to  
 10 the family; he (Mr. Peugnet) was younger than Mrs. Phelps, about eight or ten years—I do not know exactly. [All the examination concerning Mr. and Mrs. Phelps and Mr. Peugnet objected to at the time, and taken subject to objection.]

I went out to Chicago with my mother after she married Mr. Marsh; I went twice, the first time I went with my mother and Mr. Marsh; I remained—I can't tell exactly how long—six weeks or two months; we resided at the Tremont house in Chicago; when I left, I left with my mother; I do not remember how long it was before I returned to Chicago  
 20 again; my mother had something to do with law papers before I left Chicago—what they were I do not know; there was a difficulty between my mother and Mr. Marsh; I returned to Chicago again with my mother; I went with my mother; I had no object in particular in returning; I believe my mother went to obtain a divorce from Mr. Marsh—I can't say what it was; I know she was in the law, trying to get a divorce from him; it was ten or eleven years ago—I cannot recollect the circumstances.

7 *Quest.* Don't you know your mother was trying to get  
 30 money out of Mr. Marsh for her support?

*Ans.* Yes; I believe she was.

8 *Quest.* Did she not allege that Mr. Marsh had promised to give her ten thousand dollars, or some large amount, before their marriage?

*Ans.* Yes, sir; during this second visit we resided in Chicago, at a hotel out of Chicago, some mile or two from the centre of the town; Mr. Marsh lived in the same hotel; he and my mother did not live together as man and wife; we stayed there, I can't remember exactly how long—I think we left  
 40 there in June; my mother got a telegram of her mother's



death. [The examination in regard to Mr. and Mrs. Marsh objected to, and taken subject to objection.]

The courtship between myself and Emile Berckmans lasted some year and a half or two years, I believe; at the time of the marriage my husband's father was very much opposed to the match—I do not know why he objected; my mother and myself both knew at the time that he objected; before my marriage, my husband was living some time, six or seven months I believe, at Rochester, New York; during that period, once he came to Plainfield; he remained, and we were married; he was here four or five weeks at Plainfield; I mean to say that I think I did not see him but once during the previous seven months while he was at Rochester; he came to New York to see his father, and he came over to see me; during the few weeks that he was at Plainfield previous to our marriage he stayed at my mother's; his parents, both of them, knew that he was at Plainfield; I do not know exactly how soon they knew it after he came; his mother came out to Plainfield—she was boarding in New York—and sent a hired man to my mother's house for him to come up and see her; 10 he had visited her in New York before that; at the time we were married his father was south; his mother was in New York boarding; his father returned from the south in March, about the first of March; old Mr. Berckmans, after the marriage, when he came on, made me presents; he gave me a very handsome lawn dress, breast-pin, ear-rings—that was all that time; when I was going south, in November, he went with my husband and myself to New York; he bought me things for my baby, baby linen, dress for myself, table cloths and towels; I don't remember anything else he gave me. 30

9 *Quest.* Did he not give you a gold watch?

*Ans.* Yes, sir; he bought a second-hand gold watch in Philadelphia, and sent it to me by express—I had forgotten that; he said it was second-hand in a note to my husband; I do not remember that he stated what he gave for it; I do not know the exact sum he spent for linen, &c., in New York; he had said before he went he would give me one hundred dollars for myself; he went with me and paid the bills—they did not amount to anything like that sum.

10 *Quest.* Have you not got the bills showing the amount 40



which old Mr. Berckmans expended for you and your husband in that visit to New York?

*Ans.* I have not.

11 *Quest.* Did you have them?

*Ans.* No, sir, I did not.

12 *Quest.* Did you see them?

*Ans.* I did not; the purchases were made at more than one place; some of the things were bought at Arnold's on Canal street, the dress I think at Merchant's on Broadway, and some  
10 at Stewart's; I cannot tell about what the bill at Arnold's amounted to; I can tell about what I got; I could tell the cost, if I sat down and made the calculation; the dress cost twenty-three dollars, brown silk—this is part of it I have on; the bill at Stewart's amounted to eight or ten dollars; Mrs. Berckmans made me presents after my marriage—she gave me a diamond ring, one gold bracelet, one French gold bracelet, an infant's cap and robe—I can't recollect anything else.

13 *Quest.* Did she give you any gold ear-rings?

*Ans.* She gave me two pair of gilt ear-rings, French gold  
20 they were, and a pin and necklace; I had forgotten those articles.

14 *Quest.* Did she give you a set of mosaic?

*Ans.* I have mentioned that—they were the pin, ear-rings, and necklace.

15 *Quest.* Did she give you a gold watch chain?

*Ans.* My husband gave it to me; it was his that he wore, a long chain; a lady's chain or gentleman's either; he wore it.

16 *Quest.* When you went south, who composed the company?

30 *Ans.* My husband, his father, and myself; when we left Mrs. Berckmans' house we were good friends, but when I came back the next day she passed through the room, and merely nodded to me; I had no words with her—after that, next day, we spoke as usual; I had no difficulty with her while I resided there at that time; when I reached my destination at the south, I was disappointed at the appearance of the house I was to live in—I expressed my dissatisfaction; the man who owned the house, I believe, lived in it before then—I am not sure; he was a minister; old Mr. Berckmans  
40 took his meals with me, lived by himself; he only eat with



me three or four weeks; he slept at his own place in another house, about a mile and a half from the one I occupied; he stopped eating with me because he said he could not stand my airs—I was too affected; my husband generally took his dinner to him then; my mother came out in, I think, four weeks after I got there, the fifteenth or twentieth of January—a servant accompanied her; my husband, I believe, paid the expenses of my mother and servant out there; he sent for her to come; he told her, before we left Plainfield, that she should always have a home with him as long as he lived; I believe 10 he sent for her in consequence of my approaching confinement—I expected to be sick; the servant was brought out as a servant for the house; the child was about six weeks old when the servant took him, as a wet-nurse; the child was very sick, and not expected to live, from eating goat's milk; I could not nurse him myself; the doctor said I must get a wet-nurse or milch cow, goat's milk was too heavy for him; my husband and mother had difficulty while south; after they had the difficulty, they did not speak—the words did not last long; they were estranged till we came north; old Mrs. Berckmans 20 came out after my mother came south—she remained south about a week, I think—I am not positive as to the exact time; she came out to take us north, she said; she and my mother had no trouble while they were south; they did not speak to each other; I do not know where nor when their difficulty occurred—they did not speak; my husband and mother have been on speaking terms since this difficulty at the south; they did not speak when they left the south; they were reconciled the night my second child was born—they spoke after that whenever they met; on the steamer coming from the south to 30 the north my mother and Mrs. Berckmans were not on speaking terms; when we arrived at New York, my mother went to Mrs. Freeman's, in Twelfth street, to live—I came out to Plainfield; she came to Plainfield, in two months I think, after that; after she came to Plainfield, she was not on good terms with Mrs. Berckmans—she has not spoken to her since, and not with my husband until the child was born; after that, my husband and mother always spoke when they met.

17 *Quest.* Were your husband and mother on friendly terms after the birth of your second child?

40



*Ans.* My mother was in the habit of coming up every Sunday, after church, to see me; Mr. Berckmans passed through the house, and said good morning to her, and she to him, whenever they met.

18 *Quest.* Was that the extent of the friendly feelings that existed between them?

*Ans.* Yes, sir; after my return from the south, my husband never visited my mother at her store or house but once to my knowledge; he called to get some work that mother was doing  
10 for me—it was during the summer some time.

19 *Quest.* Did your husband complain to you that your mother was the occasion of the difficulties that existed between you and him?

*Ans.* In a measure, he did.

20 *Quest.* Did he not frequently express the desire that she might be further removed from you, as he thought you might live more happily together if such were the case?

*Ans.* He very often said he wished she was far away; he never said we would be happier together without her; when  
20 he complained to me of my mother, I took her part if I thought she was right; I never thought otherwise; she never did anything or said anything to interfere between me and my husband, but, on the contrary, did all she could for our happiness.

21 *Quest.* You say “she did everything she could for our happiness”—was there not a difference of opinion between you and your husband as to that?

*Ans.* He knew nothing what she said, only as he surmised it himself.

22 *Quest.* Did he not make frequent complaints to you about  
30 your mother, and of her interference in your family matters?

*Ans.* He did at times, thinking she did interfere; he would blame her for things she had never said.

23 *Quest.* What did you mean by saying, on your direct examination, that your husband would often blame your mother for things you said yourself?

*Ans.* I meant just as I say now, that he would blame her for things she never had said.

24 *Quest.* Was it out south he pretended to take poison?

*Ans.* It was out south, and once in Plainfield.

40 25 *Quest.* Give us an account of the one that took place at Plainfield?



*Ans.* It happened for the same cause as that down south; he said, he had washed himself, and put his grave clothes on, I would have no more trouble with him; he took a bottle of something, drank it, and laid down on a bed-chair in the room, and laid there till morning.

26 *Quest.* Where was this?

*Ans.* At the farm, old Mrs. Berckmans' house, shortly after we came from the south; it was about ten or eleven o'clock when we went to bed; he did not undress himself in the room.

10

27 *Quest.* How was he dressed when he sat down in the chair with the vial?

*Ans.* Clean shirt, clean socks, and a pair of black pants; it was not his night shirt; when he took the poison out south, he had not undressed himself—he was just as he came in, with ordinary clothes on.

28 *Quest.* Did he frighten you much the last time?

*Ans.* It was not very pleasant to be in the same room, knowing how he had prepared himself, but I was not much afraid he had taken poison; I went to bed, did not sleep much. 20

29 *Quest.* Have you referred to these occasions, or either of them, in any affidavit heretofore made by you in this cause or in the suit instituted by you against your husband?

*Ans.* I have, both of them.

30 *Quest.* After your return from the south, what was the situation of the furniture in the big parlors at Mrs. Berckmans?

*Ans.* We came home in April from the south; in the front parlor was a large table between the two windows; on the table was a gilt clock and two lamps; under the front room 30 mantel was a sofa; in each window was a divan; in the back parlor was a sofa; opposite the mantel a stove and chairs; there was no piano in the rooms; these sofas were large mohair hair-cloth sofas—they were not the same shape—one was a *tete a tete*, the other a sofa; the *tete a tete* stood under the front room mantel; opposite, behind the door, was a small table, a large hair-cloth rocking-chair; the table was a quartette table—it had shells on the bottom shelf, a small liquor-stand on top; it was a mahogany table; I never saw the clock on that table—it could not stand there.

40



31 *Quest.* Were there any tables in the room that that clock would stand upon, except the one that then stood between the two windows and the round centre table with the marble top?

*Ans.* There was not.

32 *Quest.* Did you ever, at any time, see that clock standing upon any other table than the one it then stood upon between the two front windows?

*Ans.* No, sir.

33 *Quest.* At the time you returned from the south, were there any pianos in the house, and if so, where did they stand?

*Ans.* There was one, a very old cottage piano, stood in the greenhouse.

34 *Quest.* When was that moved out from the greenhouse?

*Ans.* In the month of May, when Mrs. Berckmans cleaned her parlors.

35 *Quest.* Where was it put?

*Ans.* In the front parlor, opposite the mantel, and behind the door.

36 *Quest.* Did you ever see a sofa stand behind that door in that position?

*Ans.* I think not.

37 *Quest.* Where was the sofa that stood under the mantel in the front room removed to?

*Ans.* In the back parlor.

38 *Quest.* How many sofas then were in the back parlor, after the one was removed out of the front parlor?

*Ans.* Only one.

39 *Quest.* What was done with the one that was in the back parlor?

30 *Ans.* It was moved into the dining-room.

40 *Quest.* Was there not a hair sofa in the dining-room before the one was removed from the back parlor?

*Ans.* No, sir.

41 *Quest.* How many large sofas were there in the house at that time?

*Ans.* Only two.

42 *Quest.* Did that piano that was removed from the greenhouse remain in the front parlor opposite the mantel until the new piano came from New York?

40 *Ans.* Yes, sir, it did; when the new piano came it was put



in the place of the old one opposite the mantel; the old one was placed a little one side in the same parlor; Mr. Berckmans and myself were accustomed to play together on two pianos.

43 *Quest.* Did the two pianos so remain until you removed to the Prosper house?

*Ans.* No, sir, they did not.

44 *Quest.* What change was made, and when?

*Ans.* I can't tell exactly the month the hired piano was sent back to New York—it was some time before Mrs. Berckmans 10 went south.

45 *Quest.* Did the old piano remain in its position until you went to the Prosper house?

*Ans.* They moved the old piano into the dining-room, between the two windows, and moved the sofa that was in the dining-room into the back parlor, and the *tete a tete* in the front parlor opposite the mantel; the parlor doors were then locked, and kept locked while I remained in the house.

46 *Quest.* Was the change made in the position of the *tete a tete*, and was the old piano removed in the dining-room, at 20 the time the other piano was taken back to New York?

*Ans.* No, sir; the piano was not moved in the dining-room until a few days before Mrs. Berckmans went south.

47 *Quest.* When was the *tete a tete* put there?

*Ans.* At the same time the piano was moved to the dining-room.

48 *Quest.* How long was this after the piano went to New York?

*Ans.* I can't tell—I don't remember when the piano went to New York.

49 *Quest.* Was it as much as two or three weeks?

*Ans.* I think it was longer than that.

50 *Quest.* How long after the piano went to New York was it that Mrs. Berckmans went south?

*Ans.* Mrs. Berckmans went south the last of December—I do not remember when the piano was moved.

51 *Quest.* Did the clock stand under the mantel from the time of house cleaning until you left for the Prosper house?

*Ans.* It did; yes, sir.

52 *Quest.* Were the parlors locked up before or at the time 40 Mrs. Berckmans left?



*Ans.* At the time she left.

53 *Quest.* During that summer, while the clock stood under the mantel, was that the parlor in which visitors to the house were received?

*Ans.* Yes, sir, that parlor and the dining-room.

54 *Quest.* Do you remember whether they had evening visitors during the summer?

*Ans.* I believe two or three evenings they had.

55 *Quest.* You stated that a part of the time while you  
10 lived in that house you did not take your meals at the regular hour with the family—was that your choice?

*Ans.* I was called to dinner when the bell rang and the others were through.

56 *Question repeated.*—You stated that a part of the time, while you lived in that house you did not take your meals at the regular hour with the family—was that your choice?

*Ans.* It was not.

57 *Quest.* Did you not tell your husband that you would not eat at the table with his mother?

20 *Ans.* I did not.

58 *Quest.* Was it not your understanding with your husband that you preferred taking your meals after his mother had finished?

*Ans.* No, sir.

59 *Quest.* Did you complain to your husband, or to anyone else, that the bell did not ring for meals at the usual hours?

*Ans.* I did to him and to my nurse.

60 *Quest.* Will you state what passed between you and your husband on that subject?

30 *Ans.* I told him I thought he might wait, and eat his dinner with me, instead of eating with his mother; he said he should eat with his mother, and I could come down as soon as she was gone, and get the same to eat that they had.

61 *Quest.* You stated that they boiled the eggs in the tea-pot—did you mean to be understood that they were boiled in the tea which you had to drink?

*Ans.* Yes, sir.

62 *Quest.* Was that from choice—what was the object?

*Ans.* I cannot say why she did it; it was a general thing;  
40 I did not complain about it only to my nurse; I complained



to my husband about the living at the house ; he spoke of the eggs himself, and wondered why it was done.

63 *Quest.* Did you make frequent complaints as to the mode of living ?

*Ans.* I did.

64 *Quest.* Were you not continually complaining, not only of the living at the table, but of their general mode of living in the household ?

*Ans.* No, sir.

65 *Quest.* When you left the Prosper house, and moved to 10 old Mrs. Berckmans, where did the clock then stand in the parlor ?

*Ans.* I can't say ; I never sat in the parlor, only passed through it to go to my greenhouse—I passed through the back parlor, was never in the front parlor after I went back.

66 *Quest.* Did your husband tell you that he was obliged to leave that house in consequence of a notice which he received from his brother Prosper ?

*Ans.* Yes, sir.

67 *Quest.* Did you tell him that you would not go to the 20 house where his mother lived ?

*Ans.* I did not tell him positively that I would not, but that I would rather not go, and I would support him by giving music lessons, if he would go anywhere else to live.

68 *Quest.* Was not all the furniture removed out of the house before you left the house ?

*Ans.* It was, and I waited for my husband to lock the doors, and went over with him to the other house.

69 *Quest.* Was it understood before you went what part of the house you were to occupy ?

*Ans.* I heard of nothing but that my bed-room would be the back room, instead of the front room that I had occupied formerly.

70 *Quest.* Was it not understood when you went there what part of the house you were to occupy ?

*Ans.* I was told that my bed-room was to be the back room instead of the front room—the parlors we were to occupy together.

71 *Quest.* Is there a front entrance from the street to the front door of the house, and another entrance from the street 40



further east, with a pathway which leads around back of the house?

*Ans.* Yes, sir.

72 *Quest.* Before you attempted to enter at the front door, as you stated in your direct examination, had not your husband told you that the arrangement was for you to enter at the back of the house?

*Ans.* He had.

73 *Quest.* Why, then, did you attempt to enter at the front 10 door?

*Ans.* Because I thought the arrangement was for servants and children, that I would be allowed to go to church out the front door.

74 *Quest.* Did you not do it to show your resentful feelings?

*Ans.* Not at all, sir; I moved there Saturday night, and this was the next morning; the kitchen in that house is underneath the house—I had not the privilege of using it; there are two kitchens, a back and front kitchen; the back kitchen she 20 gave to me—it had a brick floor, was very damp and cold—I did not use it; it was usually used by Mrs. Berckmans as a summer kitchen to wash in; I used the back room of the house for a kitchen—it was the room that was built for a kitchen; to get from that room to the greenhouse it was necessary to go the whole length of the piazza; I could have gone through the hall, out the back hall door, then across the piazza, to the stage that was built to the greenroom door; the stage was the balcony I spoke of.

75 *Quest.* Did your husband notify your mother that she 30 must not come to that house?

*Ans.* He wrote a note directed to my mother, and handed it to me, but I did not give it to her.

76 *Quest.* Did you tell her its contents?

*Ans.* I did not; it was not sealed; I read it; I did not notify my mother that my husband did not wish her to come to the house; before that Sunday the difficulty occurred my husband had not refused my going down to see my mother; he had refused to let the children go before that; he never gave his consent readily for them to go; I do not think they went 40 down to see my mother after I went back to the farm—I



don't remember though; they did before that, not very often though; my husband made no other objections after he removed to the farm than he had before; he said, after I went back to the farm, that they should not go—that it was not necessary for her to see them; nothing had happened between my husband and mother which occasioned him to give these fresh orders as to the children after their removal to the farm; I remained at the farm from the first till the nineteenth of September; during that time, I did not go down to see my mother every night; sometimes I would go two or three 10 nights at a time, then I would miss a night—I missed during the time, perhaps, four or five nights.

77 *Quest.* When the difficulty occurred on Sunday, did you slap your husband in the face?

*Ans.* No, sir, I did not.

78 *Quest.* Did you pull his hair?

*Ans.* I did not.

79 *Quest.* Did you bite him?

*Ans.* I did, on his hand, while he was pulling me around the room. 20

80 *Quest.* Did you strike your fist or hand into a pane of glass?

*Ans.* Accidentally I did—in that way I cut myself.

81 *Quest.* How was it accidentally?

*Ans.* I had my arm around my mother, and she, in pushing back from Mr. Berckmans and the Dutchman, broke the glass.

82 *Quest.* How, then, did you break it with your hand?

*Ans.* I did not break it.

83 *Quest.* Did you mean, then, to say that you did accidentally strike your hand into a pane of glass? 30

*Ans.* Yes, it was done accidentally; I did not strike my hand in the glass.

84 *Quest.* Did your hand break the glass?

*Ans.* No, sir.

Examination adjourned to Saturday, March 8th, 1862.

JOHN N. TUTTLE, M. C.



Saturday, March 8th, 1862.—Cross-examination of Sara E. Berckmans resumed.

Witness wishes to rectify a mistake she made yesterday in regard to the furniture—she says, “last evening, when I was sitting quietly, I thought of a mistake I had made in relation to the moving of the old piano from the greenhouse; instead of being placed in the front parlor, it was placed in the back parlor opposite the mantel, and the sofa that stood in the front parlor under the mantel was placed opposite the front mantel  
10 in the front parlor.”

85 *Quest.* How long did that piano remain in its position in the back parlor?

*Ans.* Until the one that was hired from New York came out; it was then moved by the side of the new piano in the front parlor, and the sofa that stood there was moved to the back parlor, opposite the mantel where the old piano stood.

86 *Quest.* When was the piano moved into the dining-room?

*Ans.* When old Mrs. Berckmans went south—the first of  
20 January.

87 *Quest.* How long did the two pianos remain beside each other in the front parlor?

*Ans.* Until the hired piano was sent away, and then the old piano was set where the new one was, until it was removed to the dining-room.

88 *Quest.* Was there a piano taken south?

*Ans.* There was—it was the best one; they have two pianos very much alike, cottage pianos; the best one was taken south when we went south; at the time it was moved to take south  
30 it was in the front parlor behind the door; it was brought back after we moved to the Prosper house; it was placed in the dining-room, my back parlor at the Prosper house, and remained till we moved, but not in the same place—it was moved in the front parlor.

89 *Quest.* How did you cut your hand on the Sunday we have spoken of?

*Ans.* I had my arm around my mother, and Mr. Berckmans and the Dutchman were pushing and pulling her, and there was a book-case in the hall with panes of glass in, and in  
40 pushing her back the glass was broken and my arm was cut; I did not break a pane of glass after that.



90 *Quest.* Why did you bite your husband?

*Ans.* Because he was dragging me around the room; he had hold of both my hands; I did it in order to make him let go—I did not bring blood.

91 *Quest.* Were either of your children sick on that Sunday?

*Ans.* They were; the day before Mr. Berckmans had been to the doctor's for medicine for them.

92 *Quest.* When you told your mother you would send for them, where were they?

*Ans.* They were by the brook back of the house—the baby 10 in the carriage, and the little boy the nurse had by the hand; they were both sick with diarrhœa; they grew worse after that, both of them; the little boy was sick till October—was very sick, indeed, both in New York and at Mrs. Hyndshaw's; they might have been out around in the yard the next day; neither of them was confined to the bed—they were both out every day until I went away—I tried to keep them out as much as I could.

93 *Quest.* Was Dr. Titsworth at the house the next day, on Monday? 20

*Ans.* He was there in the morning.

94 *Quest.* What day was it you went to Webster and Marsh's store?

*Ans.* Wednesday morning, the day I left; I had previously to that made preparation for leaving by sending my things away by two young ladies, friends of mine—they carried them away both in the day and night time.

They took some articles away on Monday, in the afternoon and evening, Tuesday and Wednesday; it was one of the ladies who assisted me in taking away my things that was with me 30 at Webster and Marsh's store on Wednesday; it was the same lady that was with me at Webster and Marsh's that drove to Dr. Titsworth's.

95 *Quest.* Were you at Dr. Titsworth's house on Monday?

*Ans.* I was not out at all on Monday till evening; in the evening, I came down to my mother's with the two Misses Bonnell; I saw the doctor that evening at his office—I wont say whether it was that evening or Tuesday evening—I think it was Monday evening; there were three ladies beside myself, the two Misses Bonnell and Mrs. Varian the elder; I was there 40



about ten or fifteen minutes; my leaving my husband was not the subject of conversation at the doctor's office.

96 *Quest.* Did you have any other conversation with Dr. Titsworth about your leaving on Monday, Tuesday, or Wednesday, except what took place at the carriage when Miss Bonnell was with you?

*Ans.* I did, on Tuesday afternoon, in his house in the presence of my lawyer, his brother; the conversation was not addressed to him—he was present however; I was sent for to meet Mr. 10 Titsworth the lawyer there—he wrote me the note himself.

97 *Quest.* Did you see Dr. Titsworth alone, on Monday, Tuesday, or Wednesday, at his house?

*Ans.* No, sir, I did not; I do not remember of any such circumstance.

98 *Quest.* Were you not in his office or parlor on one of those days, and Dr. Titsworth came in and found you there?

*Ans.* I think not; no, sir.

99 *Quest.* Were you alone with Dr. Titsworth anywhere on Monday following the Sunday spoken of?

20 *Ans.* Dr. Titsworth called Monday morning at my house; I saw him in the greenhouse in the presence of Miss Bonnell; he asked me how the baby was; I told him she had had fever all night, and was then very feverish, and was asleep up stairs; he asked me if he should go up and see her; I told him I would rather she would not be wakened, as she had not slept much all night; he said he would go up, and not disturb her; I went up in the bed-room with him myself; I was gone from the greenhouse not more than five minutes.

100 *Quest.* When you were asked, on your direct examination, 30 if you had ever been alone in this house with Dr. Titsworth, did it escape your recollection that you had been with him on Monday, as you have stated?

*Ans.* It did, sir; I was thinking of the time I lived there before.

101 *Quest.* For what purpose did you go to Webster and Marsh's store?

*Ans.* To buy some goods, necessary articles for myself and children; the lady with me went in the store with me; she knew I was preparing to leave my husband; I purchased, I 40 think, about twenty dollars worth of goods; I did not pay for



them—they were charged to my husband; he had given me the right to go there and get what I liked, provided I did not spend over ten dollars; I took the articles to my mother's house; my mother did not know I was going to purchase goods; I went there from my own house, and stopped at my mother's when I came back; I told my mother what they were—I told her I wished her to take care of them for me; I got them from my mother when I returned there from Mrs. Hyndshaw's.

102 *Quest.* When did you go to New York after leaving your husband?

10

*Ans.* Thursday morning.

103 *Quest.* By what conveyance?

*Ans.* Mr. Rozell drove us to Metuchin—there we took the cars; I started from Plainfield about half-past eight; I did not go by the Central road, because I was afraid my husband would be there and take the children—I wanted to go as quietly as possible.

104 *Quest.* What rooms did you occupy in the house in New York?

*Ans.* The first two nights I was there I slept in the third 20 story front room; Mrs. Sherman being there, she occupied her own room, which was the second story back room; on the third day, Mrs. Sherman came back to Plainfield, and told me to take her room, and gave me a mattress to make a bed on the floor for my nurse; I occupied that room, the dining room, and kitchen; Dr. Titsworth came there after Mrs. Sherman left—I do not remember the day of his first visit—I do not think it was until the next week, Monday or Tuesday—I can't say whether it was the first week I was there or the second; he was there twice—it must have been four or five 30 days between his visits, I am not sure; the first day he called, when he came, I was out; he waited till I came in; he was there to dinner, took dinner with me; it was about half-past ten or eleven in the morning when I came home and found him—it must have been eleven and after; he left the house about half-past three or four o'clock; when I went home I rang the bell—a little girl came to open the door, and he came behind her in the hall.

105 *Quest.* Were you in a bed-room in that house with Dr. Titsworth that day?

40



*Ans.* Yes, sir, I was. I was in my bed-room with him, and my children and nurse—that was my sitting-room.

106 *Quest.* Did not the nurse leave the room, and leave you and Dr. Titsworth there together?

*Ans.* She did not, sir.

107 *Quest.* Who prepared the dinner?

*Ans.* I did myself; I set the table with the servant.

108 *Quest.* While you were preparing the dinner, where was Dr. Titsworth?

10 *Ans.* He went out.

109 *Quest.* Upon reflection, are you sure that you were not in the bed-room with Dr. Titsworth that day at any time when the little servant girl was not there?

*Ans.* I was not alone in the bed-room with him a moment; he was not there himself more than twenty minutes.

110 *Quest.* Do you remember where you and Dr. Titsworth were when the bell rang for dinner, or you were called to dinner?

20 *Ans.* I called Dr. Titsworth to dinner myself; he was walking in the carriage-way; I got the dinner myself, and brought most of it up myself, cooked it all myself; he never took any meal with me but that one.

111 *Quest.* Soon after your return to Plainfield, did you write a letter to your husband asking him for alimony?

30 *Ans.* When I went to get my clothes at his house, after the last thing had gone out of the house belonging to me, and I was preparing to go myself, he came up to me, and said he was sorry for what happened; he had done it to punish a third person—that was my mother; I told him I was sorry for my children's sake more than anything else, and upon the strength of that I wrote the note that I did.

112 *Quest.* I did not ask you what took place between you and your husband at his house—my question was, “soon after your return to Plainfield, did you write a letter to your husband asking him for alimony?”

*Ans.* I did.

113 *Quest.* Did you commence suit against him for alimony?

*Ans.* I did.

40 114 *Quest.* About the same time, did your mother bring suit against him for your and his board while at her house?



*Ans.* She has brought the suit against him, but whether it was before or after I cannot say; I heard nothing of that suit before I left my husband.

115 *Quest.* About the same time, did Dr. Titsworth bring a suit against him?

*Ans.* I believe it was some time afterwards—I am not sure.

116 *Quest.* Has your husband ever molested the children in any way since your return to Plainfield? [Question objected to.]

*Ans.* No, sir; on the contrary, he would pass them in the 10 street and sitting in the doorway, and never take any notice of either of them.

117 *Quest.* Did he ever do that before you filed your bill against him in chancery, (pass the children by)?

*Ans.* It would be three weeks sometimes that he would not speak to or notice the little boy.

118 *Quest.* Where does Dr. Titsworth live now?

*Ans.* I believe he boards with Mrs. Bonnell.

119 *Quest.* Are these the Bonnells you have before spoken of?

*Ans.* They are.

120 *Quest.* How long has he lived at the Bonnells?

*Ans.* I can't say how long.

121 *Quest.* How far is that from where you live?

*Ans.* On the other side of the way, three or four doors up.

122 *Quest.* Do you think it is three weeks that he has been living there?

*Ans.* No, sir, I don't.

123 *Quest.* Is it as much as two weeks?

*Ans.* I think not.

124 *Quest.* Does his wife board there?

*Ans.* His wife and daughter are with his mother.

125 *Quest.* Where—in or near Plainfield?

*Ans.* In Plainfield, yes, sir.

126 *Quest.* How long since the doctor broke up housekeeping?

*Ans.* I believe his sale was the twenty-sixth of February.

127 *Quest.* You said that your husband, on several occasions previous to the particular Sunday spoken of, had slapped you in the face—state when and where?



*Ans.* In the Prosper house and south.

128 *Quest.* Did you slap him in the face on either of those occasions?

*Ans.* I never have slapped him.

129 *Quest.* Did you ever send Caroline Rickey to pick strawberries for Dr. Titsworth?

*Ans.* I never did; I never picked strawberries for him myself, or ordered any one to pick strawberries for him.

130 *Quest.* Where is the Rev. Mr. Hyndshaw now?

10 *Ans.* I believe he is in Illinois with his son—I am not sure—the last I heard he was.

131 *Quest.* Was he a minister of the gospel stationed here in charge of a congregation?

*Ans.* He was a Presbyterian clergyman from Morristown—he had no congregation here.

132 *Quest.* Did not you and your husband visit the family previous to your leaving your husband?

*Ans.* We did, sir.

And the direct examination being resumed, the witness  
20 says—

97 *Quest.* You stated that you knew of the disapproval of your husband's father of your marriage—from whom did you know it, and why did you nevertheless marry him?

*Ans.* I learned it from my husband; he came to see me, and told me his father would never consent to his marrying, and he was going to Rochester to work for himself, and if I would marry him I should go there to live; he did not care for his father or mother.

98 *Quest.* Did he profess at the time a strong attachment to  
30 you, and were you attached to him?

*Ans.* Yes, sir, he did, and I was.

99 *Quest.* Do you know what it was that your husband's father referred to when he said you were too affected?

*Ans.* I do not, sir.

100 *Quest.* You have spoken of a difficulty that occurred between your husband and your mother, I believe at the south, do you know what it was?

*Ans.* It was the time he came in so late, she was sitting up for him; he got very angry at her, and told her he would kick  
40 her out doors.



101 *Quest.* You have stated that Mrs. Berckmans the elder cleaned the parlors in May—were they or not cleaned long before strawberry time?

*Ans.* Yes, sir.

102 *Quest.* On the Sundays that you spent at the farm, between the first and the nineteenth of September, did you go down in the evenings to your mother's?

*Ans.* I did one Sunday night—the Sunday that my mother's cousins were visiting there.

103 *Quest.* Did you go down on the seventeenth, eighteenth, or nineteenth?

*Ans.* Monday and Tuesday I did; Wednesday evening I was at Mrs. Sherman's; Misses Bonnell went home with me those evenings.

104 *Quest.* Whereabouts on your hand or arm was the cut you speak of?

*Ans.* On my wrist, my right wrist, the upper part—the scar is there yet.

105 *Quest.* When you saw Dr. Titsworth at his office on the Sunday evening of the week you left with the three ladies you spoke of, what were you there for?

*Ans.* Mrs. Varian stopped in to get some medicine.

106 *Quest.* Do you remember whether you had then seen Mr. Titsworth of Newark?

*Ans.* I think not.

107 *Quest.* Do you remember the night of a wide-awake celebration in Plainfield, and whether Dr. Titsworth was at your house, and for how long?

*Ans.* I remember the wide-awake procession; Dr. Titsworth was not in my house at all the whole evening; I had a number of friends there; we were all on the stoop at the time the procession passed; shortly after Dr. Titsworth passed by, stopped about ten minutes, and spoke to us all on the stoop, and went away.

108 *Quest.* What goods were these that you got at Webster and Marsh's?

*Ans.* A piece of muslin, delaine dress and calico dress for myself, cloth for a coat for my little boy, flannel for two sacks



for my baby, brush and comb, pins; I don't remember of anything else—I have a book at home with the articles all in.

109 *Quest.* Did the state of your wardrobe at the time require these articles?

*Ans.* It did, sir, and much more.

110 *Quest.* You have referred this morning to a conversation with your husband, when you went to get your clothes at his house; I had forgotten if I was ever informed about that interview—will you be kind enough now to detail any 10 part of that interview which you have not already done?

*Ans.* When I left, he gave me a large bundle of chestnuts (paper bundle), put a little dog in the carriage, and told me to take it, handed the driver five or six large pears to give me; I have stated about all that passed.

111 *Quest.* Were you on that occasion in a back room with him, in which he said something to you?

*Ans.* I was in the back room occupied as a kitchen; he also said that we might live together yet after this affair was settled.

20 112 *Quest.* Use his words, as nearly as you can?

*Ans.* I don't remember of anything else.

113 *Quest.* Did he say anything to you about remaining true to him, in connection with your living together?

114 *Ans.* His words were, as near as I can remember, "Sara keep yourself true to me, and we may yet live together after this affair is settled."

114 *Quest.* When was this interview?

*Ans.* It was the second time I went for my clothes, I think in October—in October or November.

30 115 *Quest.* Who went with you, if anybody, the first day you went for your clothes?

*Ans.* Mr. Titsworth of Newark and Miss Anna Bonnell.

116 *Quest.* How long time elapsed between the two visits?

*Ans.* The last occasion was the next day after the first.

117 *Quest.* Counsel on the other side have asked you about a Mr. Peugnet—what is his occupation, and how was it that he visited you?

*Ans.* He is a commission dealer; he visited me as any other gentleman would, as a friend.



Cross examination resumed.

The witness being shown a paper which is marked *Exhibit T, No. 1*, says, that bill mentions goods that I bought on the Monday referred to (except the napkins—these I did not buy); I did not buy all the goods that day; I have a little book at home, given me by the clerk, containing those entries, with the dates opposite of the time of purchase; I think there are some things there that I bought at a different time—I am not sure, my book will show, if I can find it.

SARA E. BERCKMANS. 10

Sworn and subscribed before me, this eighth day of March, A. D. 1862.

JOHN N. TUTTLE, M. C.

Examination adjourned, to be resumed at Newark, in the county of Essex, on Thursday, March 20th, 1862.

JOHN N. TUTTLE, M. C.

Thursday, March 20th, 1862.—Examination adjourned, to be resumed by consent of parties.

JOHN N. TUTTLE, M. C.

Thursday, April 10th, 1862.—Examination resumed at 20 Newark.

*Ellis Dunn*, a witness produced on the part of the defendant, being duly sworn, on his oath saith—I reside in Newark, and am by profession a surveyor; I did, on the seventh day of March last, go to the house of Emile C. Berckmans, in Plainfield; I went with Mr. Titsworth, the solicitor in this suit; I went for the purpose of making certain measures, at Mr. Parker's request, and also to make some experiments on the possibility of seeing the inside of the parlor and bed-room from particular positions, which I understood to be mentioned 30 or named in this cause; in the front parlor I found a large sofa standing immediately under the mantel on the side of the room next the greenhouse; the sofa was 5 feet 6 inches long, that is the seat; the back is shaped after the fashion of a *tete a tete*—high back at each end, and ascending, but not



so high as at the ends in the middle; the ends are unusually high and broad, the height of the ends is 3 feet 5 inches from the floor perpendicularly; the width of the back at each end is 2 feet, the height of the back, measuring up from the seat, is two feet; that part of the back about the middle is one foot nine inches high; the back is six feet eleven inches from one extreme end to the other in a straight line; the seat is two feet and a half wide, the height of the seat from the floor is one foot six inches; the ends of the sofa run down in such a

10 manner as to make a sort of arm, at each end of the sofa, about nine inches high from the seat, and from six to nine inches long, measuring from the end of the arm to the curve of the back; its ascent then is very abrupt; the breastwork of the mantel by which it stands is five feet six inches long—there is a jog in this length of five inches, at each end, four inches deep—the front left then would be four feet eight inches; the chimney-piece is two feet one inch deep, including the four inches before spoken of; from the chimney-piece to the window opening on the greenhouse is two feet two inches; the

20 width of the window is two feet; the glass of the window is about eight inches back from the inside line of the wall; if the middle of the sofa corresponded with the middle of the chimney-piece, the nearest end of the sofa would be five feet seven inches from the glass; I saw old Mrs. Berckmans there; I made an experiment of the possibility of a person of her height standing in the greenhouse, and looking through the greenhouse window and seeing any person lying on the sofa; Mr. Titsworth laid down on the sofa with his feet lying towards the window, I stood outside and looked through the

30 window, all I could see of his person was a portion of one foot, being the toe and perhaps three inches of the sole; Mr. Titsworth said the pillow which I saw lay on that end of the sofa was under his feet; I measured Mr. Titsworth's height, it is about five feet eight and a half inches, mine is about five feet six and a half inches; I noticed and measured the height of the point at which Mrs. Berckmans, standing on the floor of the greenhouse, looks through the window—it was four feet nine inches—the point through which I looked was five inches and a quarter higher; all the light that could be ad-

40 mitted from both parlors was thrown in the room, all the win-



dows in both parlors thrown open; from the point I looked, the back of the sofa is so high as to conceal from the view at that point any person lying upon the sofa; I made a sketch of the front room with measurements, which I will give to counsel.

[It is agreed that the sketch be introduced.] It is marked *Exhibit T, No. 1* on part of defendant. I went up stairs to the front bed-room, and the little dressing-room adjoining it; the bed-room has a window, about two feet six inches wide, looking out upon the roof of the greenhouse; over the green- 10 house is constructed a small room, the wall of which extends about at right angles to the wall of the house—that small room they call the dressing-room; in the side or wall of the dressing-room is a small window, one light wide, fourteen inches the width of the light, opening in the dressing-room on hinges—it is hung as a door—it is distant two feet three inches from the side of the house in which is the window of the bed-room; I stood in the dressing-room, and looked through the window of the dressing-room into the bed-room through both windows; I saw nothing—I could not see any object in the bed-room; 20 there was an object in the room at the time—Mrs. Berckmans placed herself for the purpose in the centre of the room, or about the centre; I think Mr. Titsworth was also in the room; it was not possible to see Mrs. Berckmans—I could not see anything at all from the window—looking through both windows I speak of; I tried it first with all the light admitted that I could admit, all the windows open; I afterwards tried it by diminishing the light, closing the shutters of all but one—there was no difference in the result.

These experiments were tried down stairs and up stairs be- 30 tween half-past nine and eleven o'clock in the morning, a very clear sunshiny day; Mrs. Berckmans placed herself in the upper bed-room, where she said her daughter-in-law sat; she said it was a fine clear day that she saw her there, like that on which we were there; she said the window shutters were thrown open, on that day she saw her, to warm the room by the sun; after we tried the experiments, she said that was not the way she looked, you could not see anything that way—that she had opened the window, and put her head out of the dressing-room window; I did the same thing, I also tried 40



taking the same position as before, she had the same position also—I put my head out the window, I could see nothing distinctly—something inside was perceptible in that spot, but had I not known I could not have told what it was; she then said that she herself had on a black dress, and that her daughter-in-law had on a white one; she had a white handkerchief in her hand, which I requested her to hold before her, and take the same position, I keeping my position; I could see no difference—nothing could be seen with distinct-

10 ness; I tried it, varying the lights as before, with no difference in the results; when I tried the experiments in the parlor, she said, when she looked through the greenhouse window she stood on a chair—she got the chair, and pointed where it stood, and stood on the chair; I measured the point where she looked through—its height from the floor was five feet four inches; I tried what could be seen looking from that point—I could see no more at that point than where I looked through before; she said you could see about as much in one way as the other; when she stood on the chair she stood

20 bent, she did not stand straight on the chair; she told me where the point was through which she looked—it was the most distant in the window from the sofa; I had been there before the seventh of March; I went this second time for the purpose of making some measures that had not been made, and renewing the experiments at Mr. Parker's request, particularly to the varying of the light; on the first occasion I was there she took her place upon the sofa, and I placed myself in the position she specified, I could see no part of her person.

30 And being cross-examined, the witness says—Mr. Titsworth was with me both times; the first time we remained, I think, from half-past nine to eleven o'clock, and the same time the second occasion; the second time, I think, there was no one present besides Mrs. Berckmans, Mr. Titsworth, and myself; the first time Mr. Berckmans, the complainant, was there; I tried the experiment up stairs the first day—I think I could see more the first day than the second—nothing very distinct then; I think I did not say at that time that I could see—I do not remember saying so; Mrs. Berckmans was very communicative, and tried to give us any information we desired.

40



1 *Quest.* You said, in answer to a question on the direct examination, that when Mrs. Berckmans was upon the sofa you did not see any part of her person—did you see any part of her dress?

*Ans.* She got a light colored dress, not entirely white but something easier seen than a black one, which she said was like her daughter-in-law's that she had on; she put that over her dress when she lay on the sofa, and fixed it in the position that it was, she said, as she saw it, and I saw a portion of that dress.

10

And being re-examined, witness says—

1 *Quest.* Describe, as well as you can, the position in which she held that dress?

*Ans.* When she lay on the sofa with that dress, she had it drawn up in such a manner as to lie some higher than the line of sight over the sofa, so it could be seen over the top.

2 *Quest.* Do you remember whether she did not raise it as high as the mantel?

*Ans.* I don't remember; I think she said that her daughter-in-law wore hoops, and she was showing how it would have been over hoops, and held the dress up in her hand for that purpose—I could then see it very plainly.

20

3 *Quest.* You speak of Mrs. Berckmans as being communicative and disposed to give you information, did she not display great anxiety to make you see as much as you could, and to know whether you could see or not?

*Ans.* I think she did; the first day I was there it was a cloudy day, cloudy while we were there; I don't remember whether on that day when I looked in the upper room the door in the entry was closed.

30

I am not acquainted with either of the parties to this suit.

ELLIS DUNN.

Sworn and subscribed before me, at Newark, the tenth day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Caleb S. Titsworth*, a witness produced on the part of defendant, being duly sworn, on his oath saith—I am the solicitor of the defendant in this cause; I have at different times



visited the house of Emile C. Berckmans with a view of seeing how Mrs. Berckmans stood on the occasion referred to in her testimony at three different times; the first time was just after Mrs. Berckmans had given her testimony as to what she had seen in the parlor and bed-room; it was the same day of that examination; the first day she was examined, I think, in the afternoon of that day, two or three o'clock—her examination was resumed on a subsequent day; Mr. Parker went to the house with me; we saw Mrs. Berckmans, and told her

10 that we would be glad if she would show us where she stood in the greenhouse, and how Mrs. Berckmans lay upon the sofa, and also the position of the parties up stairs in the bed-room and dressing-room; she immediately took us to the greenhouse, and showed us how she looked through the windows; she fixed herself upon the sofa, and Mr. Parker and myself both looked through the window as she said she looked, and I could not see anything on the sofa; she came around herself then, looked through, and said she could not see, looking or standing on the floor herself; she got a chair, told us where

20 she got it from in the greenhouse—we looked through then, and I could not see anything more than before; she had opened the window shutters in the parlor as she said they were on the occasion she referred to in her testimony; I think she spoke of hoops, and procured a light colored garment, and lay upon the sofa with that afterwards; she then held it up, as she said hoops would throw up a dress, she held it up higher than the back of the sofa—then, I think, I could see part of that garment as she held it up; this was after we had looked that she spoke of a light colored

30 dress and hoops, and how much they would hold it up; we then went up stairs—the window shutters were opened as she said they were on the occasion referred to; she placed two chairs about in the middle of the room where she said the parties, young Mrs. Berckmans and the doctor, were sitting when she saw them; she showed us the dressing-room and the windows of the dressing-room and bed-room she looked through; we looked through the windows, and I could not see a thing in the bed-room; she then told us she did not look that way, that we could not see anything that way of

40 course; she said she opened that little window in the dress-



ing-room, and put her head out, and looked into the window of the bed-room; we looked so, putting our heads out looking into the same window; I could distinguish nothing whatever in the room—it was impossible to see; she had a position in the chair in which her daughter-in-law sat, as she said; I could not distinguish that there was any person there—it was the same as if it was a block of wood or anything else.

She said, after that experiment, it was a very bright morning when she saw them up stairs; she said it made a great difference when the light was coming in the front windows—that it 10 was about nine o'clock in the morning when she saw them, I mean when the sun was shining in the front windows; she said you could see a great deal better in the morning.

After she had risen from the sofa down stairs, Mr. Parker laid down upon the sofa, and she tried to see him, I think, through the greenroom window; I think it was after Mr. Parker laid upon the sofa that she got this dress, and held it up.

The second time I went up, at Mr. Parker's request, with Mr. Dunn, the last witness; we went in the house, I think, about half-past nine in the morning, and were there, I think, 20 about a couple of hours; Mr. Dunn was taking measures and memoranda, putting them in his book—and then we went through the same series of experiments as Mr. Parker and myself did when I was first there looking through the window from the greenroom to ascertain what we could see upon the sofa; Mrs. Berckmans was there, and fixed herself upon the sofa; after she got the dress, (she did not this time put herself upon the sofa till she got the dress) which she said was of the same material, off the same piece of goods as the one which 30 her daughter-in-law wore when she saw her on the sofa, then she lay upon the sofa, and held the dress up; I laid upon the sofa first, after she had showed Mr. Dunn how she looked, and Mr. Dunn looked through the window; after that she got this dress, and lay there herself, holding up the dress; we both then looked through; I could see a portion of the dress held up over the back of the sofa the same as the first time; she told us this time that she got a chair, and told us what chair it was, where she took it from—she did not take it from the same place as she did the first time; we looked through the point in the window where she said she looked—it did not assist us 40



any looking at the sofa; she said then it did not make any difference whether one stood on the chair or on the floor, you could see about as much one way as the other; the first time when Mr. Parker and I were there she told us we could not see from the floor, and got a chair to enable us to see; we then went up stairs; she placed the chairs in the middle of the room, as she did the first time; the window shutters were open, and she went around and showed us the dressing-room, where she stood and how she looked; she opened the window of the  
 10 dressing-room, and put her head out; we tried to see first with the window in the dressing-room closed; Mrs. Berckmans then became quite earnest, and said we should not look that way, that was not the way she looked; she then went in the bedroom, and took a position in the chair; Mr. Dunn looked through, and so did I, putting our heads out the window and looking in the window of the bed-room as she said she did; I could not see anything distinctly in the chair where she was sitting—I could see something there, but could not have told who it was—I think I could have told there was a person  
 20 there, but I could not distinguish any features of the face—it looked like something dark in the shape of a person; the door opening in the hall was standing open back of where she sat; I asked her if that door was open at the time she referred to in her testimony—she said it was not; we did not close the door or renew the experiment; the door was open—we did not notice it till we came around to the room; this second visit was, I think, in August or September—I am not clear as to the date, but think it was about the first of September.

Mr. Parker was not satisfied with the measurements that  
 30 Mr. Dunn had taken, they were not full enough—and because we did not try the experiments through the windows in different lights, he wanted Mr. Dunn to go again to see if he could see any better by closing the shutters, or part of the shutters; he wanted the experiments tried with all possible varieties of light in the room; then the day of the first visit of Mr. Dunn was not a bright day, to my recollection, and as Mrs. Berckmans had told us it was a very bright morning when she saw them, he wanted us to go on such a day; my third visit was with Mr. Dunn, about the same time in the morning; we were  
 40 occupied in the house about the same time; Mr. Dunn made



his measurements down stairs in the parlor first; we looked through the window of the greenroom same as before, but with no other result; I think I laid down on the sofa this time—there was a pillow on the end of it, and I put my heels on it; we then went up stairs; Mrs. Berckmans placed the chairs again in the room, opened the shutters, and said that was the way she usually had the shutters managed to warm the room, she said, with the heat of the sun; we went around into the dressing-room—she took position in the chair as before; we tried to see her looking through both windows; I could not see 10 anything at all in the bed-room, could not see into the bed-room in fact; then the window in the dressing-room was opened, we put our heads out, and tried to look into the bed-room that way—I could not see anything with any distinctness at all; there appeared where she sat, to my eye, something like a shadow, nothing more than a shade—I could see no outline of any object at all; then Mrs. Berckmans looked, and said her daughter-in-law had on a light colored dress, and that might make some difference; Mr. Dunn then requested her to go back, and hold her white handkerchief up in front of her; 20 she did so, but it made no difference to the sight—it was impossible to see or distinguish anything in the room where she sat; on the first and last occasions, the door opening in the hall back of where she sat was closed as it was, she said, when she saw the parties in the room; the last time we opened and closed the shutters in every possible way, both up and down stairs, but it seemed to make no difference—it was impossible to see anything in the room.

1 *Quest.* Do you remember, and can you describe a gesture with her feet used by Mrs. Berckmans in her examination in 30 this cause, when testifying that she saw Dr. Titsworth's foot at the end of the sofa?

*Ans.* Yes, I remember it distinctly; she was sitting near the table on which the master and I were writing; in answer to a question by Mr. Parker, as to what part of Dr. Titsworth's person she saw, she said she saw his feet, and his shoes, and at the same time placed her ankles together, and lifted them against the leg of the table, pressing her toes against the leg of the table with her heels down, and said she saw his feet in that manner; she said that was all she saw of Dr. Titsworth 40



against the end of the sofa, his feet and shoes placed in that manner.

2 *Quest.* Some evidence has been given in the cause in relation to your being sent for, in September, 1860, and going to Plainfield, and there seeing Mrs. Berckmans—please state who sent for you, upon what day, for what purpose, where you saw Mrs. Berckmans, when and how you came to see her where you did?

*Ans.* I received a note from Mrs. Marsh, by Plainfield express, in the morning of the 18th of September, 1860, requesting me to come up as soon as possible; that her daughter wished to see me about living separate from her husband with her children, referring to some difficulties that she and her daughter had had with Mr. Berckmans; I think it was the first day of our court—fall term; I thought I should have more leisure that day than for some days to come, so I went by the noon train that day to Plainfield; I went immediately to my brother's office, as it was about his dinner hour; I took dinner with him, and requested him to send word to Mrs. Marsh's, that I was there to see her daughter, if she wished to see me; I wrote a note to Mrs. Berckmans, stating that I was there at the doctor's office, and would see her if she so desired; after arriving at Plainfield, I heard of some difficulties that had occurred between her and her husband within a few days before that, so I sent the note by a cabman; Mrs. Berckmans, in the course of an hour or two, came down; I think she came from her mother's over to the doctor's, and I advised with her there in the doctor's parlor, which I obtained the use of for that purpose.

30 3 *Quest.* Have you ever lived at Plainfield?

*Ans.* I lived in Plainfield from the spring of 1853 to the fall of 1854; I knew Mrs. Marsh very well while I lived there.

4 *Quest.* Can you say anything upon the points suggested by counsel for complainant, in her examination, as to her widowhood and public knowledge of her marriage and divorce? [Question objected to, and waived.]

And being cross-examined, the witness says—The depot at Plainfield, I should think, is from three-quarters of a mile to a mile from Mrs. Berckmans—Mr. Dunn and I walked there both times; the cars reached Plainfield, at that time, about  
40 twenty minutes after nine.



1 *Quest.* Does not Mrs. Berckmans, from not being familiar with the English language, have a good deal of difficulty in expressing herself?

*Ans.* No, sir, I think not; I think she expresses herself with great fluency for a foreigner; she talked to us very glibly, while we were there, about selling her farm and about the arrangements of her farm—appeared to have no difficulty in our understanding her or in her understanding us.

2 *Quest.* Does she not use inappropriate words oftentimes to express her meaning? 10

*Ans.* I don't know that she does.

3 *Quest.* Did you never perceive this difficulty at any time?

*Ans.* I don't remember of any particular time, except in her giving her testimony—I think she did then, once or twice, use inappropriate words; I was present when Dr. Titsworth was sworn in a suit brought by him against the complainant; I suppose it to be the same suit referred to by the doctor in his examination and by Elisha Runyon.

4 *Quest.* Did not Dr. Titsworth, at that time, deny under oath that he knew prior to Mrs. Berckmans leaving her husband, of her intention to do so? [Question objected to.] 20

*Ans.* I think he said something to that effect, and I believe he said it truly.

5 *Quest.* Did he not deny having any knowledge of any arrangements that were made by her to carry out such intention?

*Ans.* No; I don't remember that that question was put to him; I think he was asked if he did not plot or plan her leaving; I think, in answer to that question, the doctor answered that he did not. 30

6 *Quest.* Did he not then deny having anything to do with making any arrangements for Mrs. Berckmans' leaving her husband?

*Ans.* No, I think he did not; on the contrary, I think he told what he did, at her request, to assist her, but said he had heard she did not intend to leave.

7 *Quest.* Did he not make such denial prior to a letter being shown him by which his memory was refreshed?

*Ans.* I don't remember that he did.

8 *Quest.* Did he not, when first questioned on the subject, 40



deny having written any letter to her previous to her leaving her husband?

*Ans.* I think not—I have no recollection of any such denial.

9 *Quest.* Did you have any conversation with Mrs. Berckmans at Plainfield, at the time you met her at Dr. Titsworth's, about her purchasing goods at any store in Plainfield?

*Ans.* No, sir; I don't remember that a word passed between us on that subject; the whole burthen of the conversation on that occasion related to her troubles with her husband, and the possibilities of her living with her children away from her husband.

10 *Quest.* Did you go to New York to see Mrs. Berckmans after she left her husband—if so, how soon after, where did you see her, and who went with you?

*Ans.* I did; I think it was about eight or ten days, perhaps longer, after she left her husband; Dr. Sherman had been to see me twice, and requested me, from her, as he said, to go over to New York, at his house, where she was staying, and see her; I think the very day I went I saw Dr. Sherman; he called at my office, and made me promise that I would go over and see her that day; about noon of that day my brother called to see me, and took dinner with me, and I told him of the promise I had made to Dr. Sherman, and if he wished to see me further upon business I was doing for him, I would be glad if he would go to Jersey City with me, as he could take the same train for home there as here; he then told me that Mrs. Berckmans' children were very sick, that he had been to see them, and ought himself to go again; he went with me to Dr. Sherman's house, in New York city, where she was staying; I saw her, I think, in the dining-room there; I don't think I saw her in any other part of the house—I saw her there, I think, about half an hour; I advised her to go home with her children, to go to her mother's or some friends in Plainfield; this was the only occasion I saw her in New York; my brother left with me.

11 *Quest.* In your examination, as to your being able to see on the sofa, do you mean to be understood as saying that if a man was in criminal conversation with a woman on that sofa, as it stood, you could not see the impropriety while looking through the window, as described by Mrs. Berckmans?



*Ans.* I think that it is impossible to see such a performance on that sofa through that window with the heads of the parties lying at the head of the sofa furthest from the window, where Mrs. Berckmans said they were—I think it an utter impossibility.

12 *Quest.* Do you mean to say you could see no part of the man?

*Ans.* You might possibly see a man's feet at the end of the sofa, but you could not tell what he was about; if he lay far enough down the sofa for his feet to extend to the end, I do not think you could see all a man's feet resting upon the seat of the sofa.

13 *Quest.* How much of a man could you see, if he were on his knees on the sofa, in the course of preparation for the act?

*Ans.* If he was on his knees in the middle of the sofa, I don't think you could see anything of him—it would depend, I suppose, upon the height of the man.

14 *Quest.* Suppose he was not in the middle, but on that part of the sofa nearest the window on his knees, how much then could you see of him?

*Ans.* You could then see all that part of the man that extended above the back of the sofa, possibly a little down the back of the sofa.

And being re-examined, the witness says—

5 *Quest.* When you left Mrs. Berckmans in Plainfield, on the Tuesday spoken of, did you suppose that her mind was made up to leave her husband?

*Ans.* No, sir; on the contrary, I thought that she would not leave him; she seemed very much excited and very undetermined as to what she could or ought to do, and I left her in that way; I was much surprised to hear a few days afterwards that she had left.

6 *Quest.* Do you mean that you were surprised that she had left her husband at all, or that she had left so soon after your interview?

*Ans.* I mean that I was surprised when I heard she had left, because of her being so undetermined in that interview.

C. S. TITSWORTH.



Sworn and subscribed before me, at Newark, the tenth day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

[Filed November 14, 1862.]

Examination adjourned, to be resumed at Plainfield April 11th, 1862.

April 11th, 1862.—Examination resumed.

*Harvey Dayton*, a witness produced on the part of complainant, being duly sworn, on his oath saith—I am a dentist  
 10 by profession; I reside at Plainfield, have resided there ten or twelve years; I visited the house of Mrs. Berckmans professionally in the year 1859, I think in about the month of May, I could not say definitely—nothing to remind me of the date except my recollection—Mrs. Berckmans had just returned from the south, was another circumstance; I was called there to extract a tooth for Mrs. Berckmans the elder—I did it; I performed the operation in the front parlor; there was a sofa there, upon which I laid my instruments—it was sitting against the fire-place in the front room; I was there again in the fall  
 20 professionally; my business then was to examine a tooth for old Mr. Berckmans; I examined it—it was in the same room; the sofa was in the same position, and I used it to lay my instruments on.

And being cross-examined, the witness says—

1 *Quest.* When was your attention called to this?

*Ans.* About a month or two ago, I do not recollect the exact time; I could not recollect definitely how often I have been to the house for the last three years, perhaps five or six times, perhaps oftener, I can't recollect distinctly—I think four  
 30 times for professional purposes, as near as I can recollect; the first time I ever visited the house professionally was, as near as I can tell, in 1859, in the winter—I can't tell the exact time—it might have been a little earlier than that; I saw then Mrs. Berckmans the elder—that was in the room on the east—early end of the house, the front room—I saw her for operations on her teeth, filling some of her teeth; I don't know that



I ever saw that sofa anywhere else than where I have described it.

2 *Quest.* What makes you think it was in 1859 you were there?

*Ans.* Well, as near as I can recollect it was in that year, and I remember Mrs. Berckmans the elder saying she had just returned from the south.

I suppose I am the same person who was convicted some years ago in Morris county of perjury.

HARVEY DAYTON. 10

Sworn and subscribed before me, at Plainfield, the eleventh day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Henry P. Bronk*, a witness produced on the part of the complainant, being duly sworn, on his oath saith—I reside in Plainfield, have lived here permanently about six years; about thirteen years since I came here, but part of the time I have been away; I am acquainted with young Mrs. Berckmans and her mother; I don't know that I am acquainted with Mrs. Peugnet—I have seen a lady called by that name; 20 I know the person that I mean by sight; I do not know where she is now; I saw her one day this week, when I went in the bank, near the bank; I do not know where she is staying at Plainfield. [Defendant's counsel objects to the relevancy of this evidence, and admits that Mrs. Peugnet is staying with her sister, Mrs. Marsh, on a temporary visit, and has been there since December last.]

1 *Quest.* Have you been to the Berckmans house for the purpose of making the experiment whether you could see from the window of the small room over the greenhouse into 30 the front bed-room?

*Ans.* Yes, sir.

2 *Quest.* How often?

*Ans.* Once, this morning.

3 *Quest.* Tell us how you made the experiment, and what you could see?



*Ans.* Two chairs sitting in the middle of that front bed-room of the main house, about the centre, in a direct line from the eye from the small window of the room over the greenhouse, that would make a diagonal line from the small room across the bed-room.

4 *Quest.* Standing at the window of the small room, could you see those chairs in the bed-room?

*Ans.* Yes, sir.

5 *Quest.* Distinctly or otherwise?

10 *Ans.* Distinctly as I ever saw anything.

6 *Quest.* Did you make the experiment standing at the window of the small room, and looking into the window of the bed-room?

*Ans.* By putting my face at the window I did, against the glass of the window of the little room.

7 *Quest.* Was the window of the little room shut?

*Ans.* I tried it both ways.

8 *Quest.* With the window shut, could you see?

20 *Ans.* Not so well; if the window in the main room were shut, then everything would depend upon the light in the main room.

9 *Quest.* With the window in the main room shut, and the window in the small room open—did you try the experiment in that way?

*Ans.* Yes, sir; and with the light this morning, about nine o'clock, everything was distinct in the main room, that is I mean of course about these chairs; I could not see all in the room—all in the line of observation.

10 *Quest.* Did any one take a seat in the chairs, or either  
30 of them?

*Ans.* Yes, sir, Mrs. Berckmans the elder.

11 *Quest.* Could you see her?

*Ans.* Oh yes, sir.

12 *Quest.* Could you distinguish who it was?

*Ans.* Yes, sir; this was with the window open in the small room, and shut in the other; but it did not make much difference this morning whether the window in the main room was shut or open.

13 *Quest.* Did you make the experiment with both sashes  
40 of glass shut?



*Ans.* I tried the experiment, but am not certain that Mrs. Berckmans was in the chair or not.

14 *Quest.* Could you see the chairs?

*Ans.* Yes, sir, I think so—I mean, gentlemen, I could see the objects there, the chairs—whether Mrs. Berckmans was in them or not I can't tell.

15 *Quest.* Would there have been any difficulty of your seeing at that time a person in the chair, and of distinguishing whether it was a man or woman?

*Ans.* With both windows down, do you mean? well, sir, 10 there might be with both windows down, the color of a person's clothes might change it.

16 *Quest.* Did you this morning look through the window of the greenhouse for the purpose of experimenting whether you could see a person on the sofa?

*Ans.* Yes, sir.

17 *Quest.* What was the position of the sofa, where did it stand?

*Ans.* Well, sir, if this settee was drawn so that the end where I sit were drawn nearly its length, if the northern end 20 were drawn to the southerly side of the window, that would be about the position of the sofa.

18 *Quest.* Was it or not against the front mantel?

*Ans.* Yes, sir.

19 *Quest.* Could you see a person on the sofa looking through that window?

*Ans.* Yes, sir.

20 *Quest.* If a male and female had been there upon that sofa in criminal conversation, would there have been the least difficulty in your detecting them looking through that win- 30 dow?

*Ans.* Well, gentlemen, that question of the least difficulty—I think it would have been very difficult to conceal it; I will explain further, because every object on that sofa can be seen from that window, every object the size of a human being—a person, except one small corner like this, sitting upon that sofa at the extreme end as I sit now, they would be distinctly seen from the window as the sofa stood this morning.

And being cross-examined, the witness says—



1 *Quest.* Did you come directly from the house here?

*Ans.* I went to my office first, walked from Mrs. Berckmans there, did a little business there, and came down here; one thing I did was entering a summons in my docket, filled up one subpoena; I heard a complaint of a poor person for one other thing; I went down to D. Lennox's news office, nearly opposite the post-office, was there a minute or two—that is all the business I done—then I came here; my office is in Cherry street, two hundred yards or more from here; it is  
10 now eleven o'clock; I was sworn immediately on my coming in the office; I don't know what time I left to go up there—Mr. Berckmans took me in his wagon; I don't know whether the cars had come or not—I think not; I think I was to be back by car time, or mail opening generally, half an hour afterwards.

2 *Quest.* What sort of a sofa was this you have spoken of?

*Ans.* Well, it is a mahogany, black hair-cloth, rather low, cut out in the corners, a little raised in the back, not taking special notice I can't say.

20 3 *Quest.* How far was the end of the sofa nearest to you brought away from the end of the mantel-piece nearest to you?

*Ans.* I don't know how far from the mantel-piece, I am more governed by the window.

4 *Quest.* Was this end in front of the window or not?

*Ans.* About even with the window.

5 *Quest.* Then was this end in front of the window through which you looked?

*Ans.* Yes, sir.

30 6 *Quest.* Did you get upon a chair?

*Ans.* No, sir.

7 *Quest.* Did anybody place the sofa when you were there?

*Ans.* No, sir, it was not moved while I was there; Mr. Berckmans and his mother were there with me.

8 *Quest.* Did anybody lie down on the sofa while you looked there?

*Ans.* No, sir; well, not what I call lying down, reclining in this way, placing his feet upon the settee on which he was sitting.



9 *Quest.* On which end of the sofa did this person sit?

*Ans.* This position which I now describe—the furthest end from me; it was not the furthest end, it was beyond the middle.

10 *Quest.* What did you see of that person?

*Ans.* I saw all his upper part, his belly, his breast, and face.

11 *Quest.* Who was that?

*Ans.* Mr. Berckmans.

12 *Quest.* Did anybody show you how and where to look through the window?

*Ans.* Yes, sir, Mr. and Mrs. Berckmans; I went down stairs first. 10

13 *Quest.* When you were up stairs, do you know whether the windows in the room were all open?

*Ans.* Do you mean the windows besides those I looked through?—Counsel says, I do. *Ans.* I do not know.

14 *Quest.* Do you know whether any or all those additional windows were raised?

*Ans.* I do not know, I did not take notice of those things.

15 *Quest.* Do you know whether, while you were looking, 20 the door of the bed-room leading from the entry was open?

*Ans.* I think Mrs. Berckmans, going up ahead of me, opened it; I cannot say whether it was shut or not while I was looking.

16 *Quest.* When you looked into the room through the opening of the dressing-room window, the main room window being shut, and the dressing-room sash thrown open, did your head continue within the dressing-room, or did you protrude it?

*Ans.* I did both. 30

17 *Quest.* Could you see objects in that room while your head was within the dressing-room?

*Ans.* I could see those chairs in the middle of the room that I have first spoken of, they were just about in line.

18 *Quest.* When you protruded your head, how near did you place it to the main room glass?

*Ans.* I don't know what the distance is.

19 *Quest.* Did you extend yourself toward the glass?

*Ans.* By putting your head out of the window of this little room the thickness of the wall from the sash—do you mean 40



what did I see?—Counsel says no. *Ans.* Then I misunderstood your question.

20 *Question repeated.*

*Ans.* I did.

21 *Quest.* How far?

*Ans.* About the thickness of the wall of the house, some six or seven inches, I should think.

22 *Quest.* How far were these chairs that were inside from the window into which you were looking?

10 *Ans.* They stood about in the middle of that room, sir, I should judge.

23 *Quest.* Was there any mirror in the large room?

*Ans.* I think not—I don't think I saw any.

24 *Quest.* How long were you at the house making these experiments?

*Ans.* I should think about a quarter of an hour—I should think I was inside the house about a quarter of an hour.

25 *Quest.* Do you know, being a resident of Plainfield, whether Mr. and Mrs. Berckmans the elder have left their  
20 house, or are about to leave it, having rented or sold it?

At this stage of the case counsel of complainant admits that Mrs. Berckmans has rented the house and garden for one year for \$400; that they are about having an auction to sell part of their furniture and their farming utensils, and remove to a house near by, and the farm is out on shares as formerly.

26 *Quest.* Do you or not know that Mrs. Berckmans and her son have offered the farm for sale, declaring it to be their intention to go to Europe?

*Ans.* No, sir; I have heard that they wanted to sell the  
30 farm; I know nothing of their wanting to go to Europe; I am not intimate with the parties; I have been with a person to look at the farm once, that is all.

27 *Quest.* Was Mr. Berckmans the first person who asked you, or suggested to you going down there to make this experiment?

*Ans.* No, sir.

28 *Quest.* Who was?

*Ans.* I don't remember exactly—it was some time ago, I should think three months or more; I think it was one of  
40 two persons, either Mr. Canatta, Dominick Canatta, or some



justice of the peace that was spoken of at the same time—they wanted to get two or three justices of the peace, and asked me if I would go if wanted; Mr. Cannata is not a particular friend of mine—I don't think he is.

And being re-examined, the witness says—

21 *Quest.* Are you a justice of the peace?

*Ans.* Yes, sir, I have been since the first of May last.

Witness wishes to answer to question No. 5, on page 66th: It was not as distinctly as I ever saw anything, but quite distinctly.

10

HENRY P. BRONK.

Sworn and subscribed before me, at Plainfield, the eleventh day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Dr. Lewis Craig*, a witness produced on the part of complainant, being duly sworn, on his oath saith—I am a practising physician—have been in practice thirty years and upwards; I live in Plainfield, have always practised in Plainfield, and no where else; have been the family physician of Mrs. Berckmans the elder; as a physician, I was called there in 1852; I 20 had some knowledge of them previous to that; my last visit there as a physician was in 1860—I think to Mrs. Berckmans the elder; I visited the house professionally in 1858 and 1859; in the winter season, they were apt to take me into the right as you enter where there was fire—in the summer season, I was generally taken into their double parlors on the left as you enter.

I have a recollection of the furniture of the front double parlor, and where it stood; there was a sofa in front of the entrance, immediately in front of the mantel of the fire-place in the 30 front parlor; I never saw that sofa occupy any other position in the room; I never saw any table or any other furniture occupy that position in front of the mantel; there was a small table, containing a clock with glass upon it or globe, between the two front windows; I never saw any other furniture occupy that position between the windows.

1 *Quest.* With the sofa where you saw it, have you ever tried the experiment of looking through the greenhouse window to satisfy yourself whether you could see a person on the sofa?



*Ans.* I have, sir.

2 *Quest.* On how many different days have you tried it?

*Ans.* I have visited there twice for that purpose, in the afternoon and morning.

3 *Quest.* Were you there this morning for that purpose?

*Ans.* Yes, sir.

4 *Quest.* What hour?

*Ans.* In the neighborhood of ten, I think it was.

5 *Quest.* Who were present with you when you made the  
10 experiment?

*Ans.* This morning—Mrs. Berckmans.

6 *Quest.* Did you look this morning through the greenhouse window?

*Ans.* Yes, sir.

7 *Quest.* Looking as you did, if a man and woman had been upon that sofa in criminal conversation, could you or not have detected them?

*Ans.* I could, sir. [Objection made to the opinion of the witness.]

20 8 *Quest.* Have you any doubt about it?

*Ans.* I have none, sir.

9 *Quest.* Did you try the experiment this morning sufficiently to satisfy you on that point?

*Ans.* Not with an individual or individuals, but I took the cushion and laid it upon the sofa, and then went into the greenhouse, and could see it distinctly.

10 *Quest.* You have said that you have been there twice, when previous to this morning?

*Ans.* It was the time of your previous examination here, I  
30 cannot say exactly, some weeks since.

11 *Quest.* At that time did you make any experiments as to your being able to see through the window upon the sofa, and if any state them?

*Ans.* At that time I placed the cushion in the same position I did this morning, and also took it away to see if I could see the edge of the sofa; I did so, and I could see the cushion, and took it away to see if I could see still further; I did so, and could then see the edge of the sofa.

12 *Quest.* What do you mean by the edge of the sofa?

40 *Ans.* The front edge of the seat.



13 *Quest.* Did you go up stairs this morning?

*Ans.* Yes, sir.

14 *Quest.* Did you look from the window of the little room over the greenhouse into the front bed-room?

*Ans.* I did.

15 *Quest.* Did you look with the sash of the little room thrown open?

*Ans.* I did.

16 *Quest.* And with the sash of the big bed-room at the same time down?

*Ans.* Yes, sir.

10

17 *Quest.* Could you see into the big bed-room?

*Ans.* I could.

18 *Quest.* Had anything been placed in the big bed-room as an object of observation, and if so what?

*Ans.* There were two chairs—I don't know whether it was a rocking-chair or stationary high-back chair.

19 *Quest.* In what part of the room were they placed?

*Ans.* They were placed near the centre.

20 *Quest.* Could you see them when you looked?

20

*Ans.* Yes, sir.

21 *Quest.* Did any one take a seat in either of the chairs?

*Ans.* Mrs. Berckmans.

22 *Quest.* Could you see her?

*Ans.* I could.

23 *Quest.* Could you distinguish who it was?

*Ans.* Yes, sir.

24 *Quest.* Did you ever make any experiments up stairs before this morning?

*Ans.* No, sir.

30

25 *Quest.* Do you know by sight the children of Mrs. Berckmans the younger?

*Ans.* I do.

26 *Quest.* What is the color of the hair and eyes of the elder child?

*Ans.* As regards the eyes, I am not sufficiently acquainted to say what color; the hair is dark.

27 *Quest.* What is the color of the hair and eyes of the younger one?



*Ans.* The hair is light, but the eyes I am not sufficiently acquainted with to say.

28 *Quest.* What is the color of Emile Berckman's hair and eyes?

*Ans.* Dark.

29 *Quest.* Has he or not quite dark hair?

*Ans.* Yes, sir.

30 *Quest.* Is Dr. Titsworth's hair light colored or dark?

*Ans.* It might be called light; as to his eyes, from the 10 knowledge I have, I could not say—on seeing them now I think they are light blue.

31 *Quest.* Does not Mrs. Berckmans the elder, from not being familiar with the English language, have a good deal of difficulty in expressing herself?

*Ans.* I have discovered it frequently.

32 *Quest.* Is she very quick or slow in her mode of conversation?

*Ans.* She talks fast.

33 *Quest.* Does she not use inappropriate words oftentimes 20 in expressing herself?

*Ans.* She does.

34 *Quest.* Have you noticed this prior to your attention being called to it in this examination?

*Ans.* I have.

35 *Quest.* How long have you been acquainted with the complainant?

*Ans.* I became acquainted with him at the same time I was introduced there as a physician.

36 *Quest.* Have you ever known or suspected him of being 30 an intemperate man?

*Ans.* I have not. [Objected to.]

And being cross-examined, the witness says—

1 *Quest.* Are you a connection of the Berckmans family?

*Ans.* No relationship.

2 *Quest.* I asked respecting connection, not relationship?

*Ans.* My niece married a step-brother of complainant, Prosper Berckmans.

3 *Quest.* When did you first visit at the house of old Mrs. Berckmans in any capacity?

40 *Ans.* I was there professionally in 1852—continued visiting



professionally up to this day—have been called quite often since—every year.

4 *Quest.* Did you visit there professionally when the younger Mrs. Berckmans was there?

*Ans.* It was in the fall of 1859, and I am not willing to say whether the younger Mrs. Berckmans was there or not, then I was called to see Mrs. Berckmans the elder.

5 *Quest.* Before that had you visited there when young Mrs. Berckmans was there?

*Ans.* Unless she was there in that fall I speak of, I think 10 not.

6 *Quest.* I understand you to say, then, that if the younger Mrs. Berckmans was there previous to the fall of 1859, you did not visit the house while she was there?

*Ans.* The whole of that summer of 1859 I don't think I was in the house.

7 *Quest.* Were you there to make your experiment this morning at the same time with Mr. Bronk?

*Ans.* No, sir; at the time I was there I think I knew nothing of it; at the time Mr. Berckmans brought me here, after 20 I had been there, he told me Mr. Bronk was on the stand testifying, and had been there this morning.

8 *Quest.* Did you notice the situation of the windows in the parlor, whether open or closed, or how far open?

*Ans.* I am not prepared to answer that question as far as the front windows are concerned.

9 *Quest.* Whereabouts on the sofa did you place the cushion?

*Ans.* A little more than half, a little above the midway towards that part of the sofa fronting the front windows; the 30 cushion was resting against the back of the sofa—it projects a little I think, is a little wider than the sofa—I am not positive about that however.

10 *Quest.* Did you notice how far the end of the sofa was from the window through which you looked?

*Ans.* There is a recess—I don't know the depth of the chimney, two or three feet I suppose in a straight line, but angularly from where I was standing it is more than that I suppose.

11 *Quest.* Describe whether, in looking at the sofa, you 40



looked through any part of the hollow in the back of the sofa?

*Ans.* I did so, saw the cushion through it.

12 *Quest.* The sofa then came out, did it not, somewhat in front of the window?

*Ans.* The position of it to-day is somewhat different from what it was before—the opening to-day is not as large as it was—it seems as if it was pushed more towards the front window than it was before.

10 13 *Quest.* Up stairs, what was the situation of those windows in the room through which you did not look, did you notice?

*Ans.* I remarked that the light, I observed I mean, that the window near the door the sun was shining in quite strongly—I presume it was open, making the room quite lighter than the room below.

14 *Quest.* Is that the only one you noticed?

*Ans.* Yes, sir; I was struck with the light shining in, showing the back ground, the paper on the wall, and the color of  
20 the door.

15 *Quest.* As to this window of which you have spoken, do I understand you to mean that the sash was up?

*Ans.* No, sir; the blind thrown open.

16 *Quest.* Did you notice whether the sash was up?

*Ans.* No, sir; I can't tell whether it was up or down.

17 *Quest.* While you were looking, was the door open or closed?

*Ans.* I could not say whether it was on the catch or not, but it was so near it that it showed me the whole back of it;  
30 I cannot say whether it was fastened—I think it was just pushed to and caught.

18 *Quest.* Did you protrude your head from the dressing-room window while you looked?

*Ans.* Yes, sir.

19 *Quest.* Did you bend forward toward the wall of the house?

*Ans.* I stood quite easy.

20 *Quest.* Is it a rare thing in families that the hair and eyes of little children of the same parents are different?

40 *Ans.* There are cases undoubtedly where the hair does not partake of the father.



21 *Quest.* Would you, as a physician, like to give me the cause of similarity or dissimilarity of children towards their parents?

*Ans.* I don't know that I can answer your question.

22 Question repeated.

*Ans.* I don't know that I could.

23 *Quest.* Do not the hair and eyes of children frequently change in afterlife, so that dark eyes and hair become light, and light hair and eyes become dark?

*Ans.* The hair, I would remark, I have noticed, but as to 10 the eyes, I don't know that I have any recollection of a similar case—I mean I have never noticed one.

24 *Quest.* You spoke of Mrs. Berckmans' mode of talking, what is her difficulty?

*Ans.* Pronunciation—I suppose she is not sufficiently acquainted with our language.

25 *Quest.* Were you subpœnaed as a witness here?

*Ans.* I had no process served on me.

26 *Quest.* You have been sworn already previously in this litigation between the parties in the shape of an affidavit in 20 the suit for alimony?

*Ans.* Yes, sir.

27 *Quest.* Have you been on good terms with Dr. Titsworth?

*Ans.* We have never exchanged many words, sir.

28 *Quest.* Have you not been on bad terms with him?

*Ans.* No, sir.

29 *Quest.* Are you on speaking terms with him—please to give me an answer in the affirmative or negative?

*Ans.* Would you suffer me to premise before answering— 30 up to within a very short time, say a year or eighteen months, I have generally nodded my head to the doctor as I passed him—since that we have not been on speaking terms.

30 *Quest.* Please let me ask you this question, whether some years ago you were not innocently charged by old Mr. Berckmans and his wife, or one of them, with unlawful intercourse with their other daughter-in-law?

*Ans.* I have never heard of it if there has been a charge of that kind against me.



And being re-examined, the witness says—

37 *Quest.* You said something in your cross-examination about looking through up stairs with both sashes shut, which the master did not take down on account of its not being in response to the question, did you make an observation with both sashes shut, and if you did, with what results?

*Ans.* I could see the chairs, and distinguish them as chairs.

LEWIS CRAIG.

Sworn and subscribed before me, at Plainfield, the eleventh 10 day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Alvah Gardner*, a witness produced on the part of the complainant, being duly sworn, on his oath saith—I reside at Plainfield, have lived there about forty years; my business is butchering; I am acquainted with the elder Mrs. Berckmans—I have known her ever since they first came here; I was not acquainted with her right away; she dealt with me, and bought meat of me in 1859, and before and after that; I went around with my wagon, used to call there once, sometimes 20 twice and three times a week; she generally bought beef at least once a week—Saturdays she generally bought beef—she generally bought the best pieces.

I have seen Mrs. Berckmans the younger there; at the time I dealt there I supposed she and her husband were living there—I saw them there in the house.

ALVAH GARDNER.

Sworn and subscribed before me, the eleventh day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

30 At this stage of the case counsel for complainant wishes to correct his admissions in relation to the sale of furniture and renting of house, &c., and the words “and outbuildings” and “stock” are stricken out.

Counsel for complainant produces an advertisement, which counsel for defendant offer as an exhibit, which I have marked T, No. 2 on part of defendant.



*Caroline Rickey*, a witness produced on the part of complainant, being duly sworn, on her oath saith—

1 *Quest.* How old are you?

*Ans.* I will be fourteen the fourth of July.

2 *Quest.* Did you ever live with young Mrs. Berckmans?

*Ans.* Yes, sir.

3 *Quest.* How long?

*Ans.* Eleven months.

4 *Quest.* When you first went to live with her, where did she live?

*Ans.* At Mr. Prosper's house.

10

5 *Quest.* Did you live with her when she left old Mrs. Berckmans with her children?

*Ans.* Yes, sir.

6 *Quest.* How long did you live with her after that?

*Ans.* Two months.

7 *Quest.* When you lived at the Prosper house, did Dr. Titsworth ever come there when Mr. Berckmans was absent?

*Ans.* Yes, sir.

8 *Quest.* In the daytime or night?

*Ans.* Both.

20

9 *Quest.* Did you ever know of his trying to get away without Mr. Berckmans knowing he was there?

*Ans.* Yes, sir.

10 *Quest.* How did he try to get out of the way?

*Ans.* He got out at the gate.

11 *Quest.* How did he go out of the house?

*Ans.* He went out the window, the front parlor window.

12 *Quest.* Did you see him?

*Ans.* Yes, sir.

30

13 *Quest.* Where were you when he went out of the window?

*Ans.* I was on the stoop.

14 *Quest.* Was this in the daytime or in the night?

*Ans.* In the evening.

15 *Quest.* Where was Mr. Berckmans then?

*Ans.* He was absent.

16 *Quest.* Who was in the house besides Dr. Titsworth?

*Ans.* Mrs. Berckmans.

17 *Quest.* Was there any one else in the house?

40



*Ans.* Me.

18 *Quest.* Any one else?

*Ans.* No, sir.

19 *Quest.* How soon after he got out of the window did Mr. Berckmans come home?

*Ans.* I don't know.

20 *Quest.* Why don't you know?

*Ans.* Because I went to bed.

21 When the doctor got out of the window, did he see you?

10 *Ans.* I don't know—I don't suppose he did.

22 *Quest.* Was Dr. Titsworth ever alone up stairs in the Prosper house with Mrs. Berckmans?

*Ans.* Yes, sir, he was once.

23 *Quest.* Was it daytime or evening?

*Ans.* In the evening he came to see the little boy.

24 *Quest.* What ailed the little boy?

*Ans.* He was sick.

25 *Quest.* How long was he up stairs?

*Ans.* I don't know.

20 26 *Quest.* Was the door of the room open or shut?

*Ans.* I don't know.

27 *Quest.* Did you live with Mrs. Berckmans after she came back from New York, and went to her mother's?

*Ans.* Yes, sir.

28 *Quest.* Did you ever see the doctor look into her bedroom?

*Ans.* Yes, sir.

29 *Quest.* In what way?

*Ans.* Through the curtain.

30 30 *Quest.* Where was Mrs. Berckmans?

*Ans.* She was in bed.

31 *Quest.* Did the doctor say anything?

*Ans.* I don't know.

32 *Quest.* Did you ever know him to go into her bedroom before she was dressed?

*Ans.* Yes, sir; he went through one day.

33 *Quest.* Where was Mrs. Berckmans?

*Ans.* At the head of the bed.

34 *Quest.* What do you mean by her being at the head of  
40 the bed?



*Ans.* I don't know.

35 *Quest.* When you say she was at the head of the bed, what do you mean?

*Ans.* I don't know.

36 *Quest.* Did you ever know Dr. Titsworth to lend Mrs. Berckmans any money?

*Ans.* Yes, sir.

37 *Quest.* How much?

*Ans.* I don't remember.

38 *Quest.* Did Dr. Titsworth ever make you any present? 10

*Ans.* Yes, sir.

39 *Quest.* What was it?

*Ans.* A dress, pair of shoes, and a hat.

40 *Quest.* When was it?

*Ans.* After Mrs. Berckmans left Mr. Berckmans.

41 *Quest.* How soon after?

*Ans.* When we went to New York.

42 *Quest.* Who gave you shoes, dress, and hat?

*Ans.* Dr. Titsworth.

43 *Quest.* Where were you when he gave them to you? 20

*Ans.* At Mr. Sherman's.

44 *Quest.* When you lived at the Prosper house, did Mrs. Berckmans ever send you to get anything for the doctor?

*Ans.* Yes, sir.

45 *Quest.* What?

*Ans.* Grapes—not grapes, strawberries and cherries.

46 *Quest.* Where did you go to get the strawberries and cherries?

*Ans.* Over to old Mrs. Berckmans.

47 *Quest.* When you lived at old Mrs. Berckmans, did you 30 get what you wanted to eat?

*Ans.* Yes, sir.

48 *Quest.* Did you have any trouble in getting what you wanted to eat?

*Ans.* No, sir.

49 *Quest.* After Mrs. Berckmans left her husband, did you go with her to New York?

*Ans.* Yes, sir.

50 *Quest.* Did Dr. Titsworth ever come there to see her?

*Ans.* Yes, sir.



51 *Quest.* How often?

*Ans.* Two or three times.

52 *Quest.* The first time he came, do you remember who was at home?

*Ans.* Yes, sir.

53 *Quest.* Who?

*Ans.* Mrs. Berckmans.

54 *Quest.* And who else?

*Ans.* And me.

10 55 *Quest.* Was Mrs. Berckmans at home when he first came?

*Ans.* Yes, sir.

56 *Quest.* Who got the dinner that day?

*Ans.* Mrs. Berckmans.

57 *Quest.* Who helped her?

*Ans.* I did.

58 *Quest.* Do you remember what rooms of the house Dr. Titsworth was in that day?

*Ans.* Yes, sir.

20 59 *Quest.* Mention them?

*Ans.* He was in the bed-room.

60 *Quest.* Who was he there with?

*Ans.* With Mrs. Berckmans.

61 *Quest.* Who else?

*Ans.* The children.

62 *Quest.* Were you in the room with them all the time?

*Ans.* No, sir.

63 *Quest.* Where were you while they were in the bed-room?

30 *Ans.* I was down stairs.

64 *Quest.* When dinner was put upon the table, who called Dr. Titsworth and Mrs. Berckmans to dinner?

*Ans.* I called them.

65 *Quest.* How did you call them?

*Ans.* I rang the bell.

66 *Quest.* Where were they when you rang the bell for dinner?

*Ans.* Up stairs.

And being cross-examined, the witness says—

40 1 *Quest.* When did you leave Mrs. Berckmans' employ?



*Ans.* I don't know.

2 *Quest.* Was it spring, fall, summer, or winter?

*Ans.* I don't know.

3 *Quest.* How long ago was it?

*Ans.* I don't know, I can't remember.

4 *Quest.* How long did you live with her altogether?

*Ans.* Eleven months.

5 *Quest.* Who did you go to live with?

*Ans.* After I left Mrs. Berckmans?

6 *Quest.* Yes?

10

*Ans.* I went home first.

7 *Quest.* Where was home?

*Ans.* Over the mountains.

8 *Quest.* When you went to your home first, did you not intend to go back to Mrs. Berckmans?

*Ans.* Yes, sir.

9 *Quest.* While you were at home, did somebody come for you to go live with them?

*Ans.* Yes, sir.

10 *Quest.* Who was that?

20

*Ans.* Mr. Canatta.

11 *Quest.* What is his first name?

*Ans.* I don't know.

12 *Quest.* Domenick Canatta?

*Ans.* Yes, sir.

13 *Quest.* Watchmaker here?

*Ans.* Yes, sir.

14 *Quest.* Whereabouts over the mountain is your home?

*Ans.* Over the second mountain.

15 *Quest.* How far away from here?

30

*Ans.* Five miles.

16 *Quest.* Was he alone when he came there for you?

*Ans.* No, sir.

17 *Quest.* Who was with him?

*Ans.* His brother and Mr. Berckmans.

18 *Quest.* Mr. Emile Berckmans?

*Ans.* Yes, sir.

19 *Quest.* What did they want of you?

*Ans.* They wanted me to come and live with Mr. Canatta.

20 *Quest.* What did you say to them?

40



*Ans.* I told them I did not like to go.

21 *Quest.* What did they say to that?

*Ans.* Then they said I had better come and learn a trade with them.

22 *Quest.* Learn what trade?

*Ans.* Milliner.

23 *Quest.* Were you to give them anything for teaching you that trade?

*Ans.* No, sir.

10 24 *Quest.* Did they give you any wages?

*Ans.* Yes, sir.

25 *Quest.* What wages?

*Ans.* Three dollars.

26 *Quest.* And taught you the trade?

*Ans.* No, sir; I told them I did not want to learn the trade.

27 *Quest.* Was that all you got from anybody?

*Ans.* Yes, sir.

28 *Quest.* Why did you go there, instead of returning to

20 Mrs. Berckmans?

*Ans.* My father would not let me go there.

29 *Quest.* Did these gentlemen talk with your father about it?

*Ans.* Yes, sir.

30 *Quest.* Did you go back with them right away?

*Ans.* No, sir.

31 *Quest.* How soon?

*Ans.* I did not go till a week afterwards.

32 *Quest.* Have you been living there ever since?

30 *Ans.* Yes, sir.

33 *Quest.* Are you living there now?

*Ans.* Yes, sir.

34 *Quest.* Have you had any subpoena or other paper given you to come here to-day?

*Ans.* Yes, sir.

35 *Quest.* Where is it?

[Witness produces a paper which counsel for defendant offers as an exhibit in the cause, which I have marked T, No. 3 on the part of defendant.]

40 36 *Quest.* Who gave that to you?



*Ans.* Mr. Berckmans.

37 *Quest.* Did he give you anything else?

*Ans.* Yes, sir.

38 *Quest.* What was that?

*Ans.* Fifty cents.

39 *Quest.* Have you from time to time seen Mr. Berckmans since you have been living at Mr. Canatta's?

*Ans.* I have seen him sometimes.

40 *Quest.* Almost every day?

*Ans.* No, sir.

41 *Quest.* Once or twice a week?

*Ans.* Sometimes I would see him only once a week.

42 *Quest.* Sometimes oftener?

*Ans.* Yes.

43 *Quest.* Whereabouts?

*Ans.* Sometimes in the street and sometimes in Mr. Canatta's store.

44 *Quest.* Has he talked to you sometimes?

*Ans.* Yes, sir.

45 *Quest.* About his wife and children?

*Ans.* No, sir.

46 *Quest.* Has he or his mother ever given you any present?

*Ans.* No, sir.

47 *Quest.* You say that Dr. Titsworth made you a present?

*Ans.* Yes, sir.

48 *Quest.* Were not they, the dress and shoes and hat, some that belonged to his daughter?

*Ans.* Yes, sir.

49 *Quest.* You were just going to New York?

*Ans.* Yes, sir.

50 *Quest.* Did you need those garments?

*Ans.* Yes, sir.

51 *Quest.* Did Dr. Titsworth hand them to you?

*Ans.* Yes, sir.

52 *Quest.* Did not Mrs. Sherman hand them to you?

*Ans.* No, sir.

53 *Quest.* When you were at the Prosper house, didn't you to go over to the old house for strawberries and cherries almost every day while they were in season?



*Ans.* Yes, sir.

54 *Quest.* What for, breakfast or tea?

*Ans.* For tea.

55 *Quest.* What time of day was it that these strawberries were got for Dr. Titsworth?

*Ans.* I got them in the morning.

56 *Quest.* How do you know they were got for him?

*Ans.* Because when I brought them over I handed a saucer of them to him.

10 57 *Quest.* Where was he then?

*Ans.* In the parlor.

58 *Quest.* Was he there when you went for them?

*Ans.* Yes, sir.

59 *Quest.* This parlor window that he went out of, did it open down to the floor?

*Ans.* Yes, sir.

60 *Quest.* Upon the porch of the house?

*Ans.* Yes, sir.

20 61 *Quest.* When was this that you saw the doctor look through the curtain you speak of?

*Ans.* In the morning.

62 *Quest.* How early?

*Ans.* I don't know what time it was.

63 *Quest.* Was it early or late?

*Ans.* I think it was early.

64 *Quest.* Who was there?

*Ans.* Mr. Marsh and Mrs. Berckmans.

65 *Quest.* Was the store open?

*Ans.* Yes, sir.

30 66 *Quest.* Customers there?

*Ans.* No, sir.

67 *Quest.* Do you know whether there were or not?

*Ans.* No, sir.

68 *Quest.* Anybody but you see the doctor look on?

*Ans.* No, sir.

69 *Quest.* How do you know?

*Ans.* Because I was in the room.

70 *Quest.* This time you say that he went through the room, who was there then?

40 *Ans.* Mrs. Berckmans was there.



71 *Quest.* Who else?

*Ans.* That was all.

72 *Quest.* Where was Mrs. Marsh?

*Ans.* She was in the kitchen.

73 *Quest.* Where did he go to?

*Ans.* He went into the kitchen.

74 *Quest.* What did he go in there for?

*Ans.* I don't know.

75 *Quest.* Was you in the room?

*Ans.* No, sir, I was in the store.

76 *Quest.* Which was her bed-room?

*Ans.* Right next the store—behind the store.

10

77 *Quest.* Tell about that time that you say Dr. Titsworth lent Mrs. Berckmans some money?

*Ans.* She was going to New York, and she sent me over to his office for me to tell him to come over, and then she asked him for some.

78 *Quest.* Now, Rickey, was not the fact that Dr. Titsworth asked Mrs. Berckmans to get a set of furs for his daughter and Mrs. Hyndshaw's daughter in New York?

20

*Ans.* Yes, sir, that was the day.

79 *Quest.* And was not the money given for that?

*Ans.* I don't know what it was given for, I saw him give her some.

80 *Quest.* Do you know Miss Josephine, the doctor's daughter?

*Ans.* Yes, sir.

81 *Quest.* Did she not go with Mrs. Berckmans to New York?

*Ans.* Yes, sir.

82 *Quest.* Did she not drink tea at Mrs. Marsh's that night, and have those furs on?

30

*Ans.* Yes, sir.

83 *Quest.* Did you not see another set in a box when they came home?

*Ans.* Yes, sir.

84 *Quest.* What is your name?

*Ans.* Rickey Redman—my name is Caroline Fredericka Redman.

And being re-examined, the witness says—

40

67 *Quest.* Was the window that Dr. Titsworth got out of



like that window (pointing to one about two and a half feet from the floor), or cut down to the floor?

*Ans.* It was cut down to the floor, and that was the one I saw the doctor walk out of.

her  
CAROLINE X RICKEY.  
mark.

Sworn and subscribed before me, at Plainfield, the eleventh day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Patrick Bligh*, a witness produced on the part of the com-  
10 plainant, being duly sworn, on his oath saith—I live in Plain-  
field, have lived here about eleven years—eleven or twelve  
years, I can't tell to the minute—I can't remember very well  
over it.

1 *Quest.* Who did you work for in the spring of 1859?

*Ans.* I worked for Mr. Berckmans, sir.

2 *Quest.* How long have you worked for him?

*Ans.* I have worked for him over ten years—have never  
worked a day for any one else since I worked for him.

3 *Quest.* Do you remember of Mary Ann Tice cleaning  
20 house for Mrs. Berckmans?

*Ans.* Yes, I do, sir.

4 *Quest.* When?

*Ans.* In 1859, sir.

5 *Quest.* Did you help her in the house at all?

*Ans.* I did, sir; I helped her to take up the carpets.

6 *Quest.* In what part of the house?

*Ans.* In the front parlor, the sitting parlor.

7 *Quest.* Did you help her any in the two big parlors?

*Ans.* I did, sir; I helped her in every room in the house.

30 8 *Quest.* Was there any sofa in the front double parlor?

*Ans.* There was, sir.

9 *Quest.* Where was it?

*Ans.* Under the mantel-piece.

10 *Quest.* Where was it after you were done cleaning house?

*Ans.* We put it back again in the same place under the  
mantel-piece?

11 *Quest.* Did you ever see that sofa stand anywhere else?

*Ans.* No, sir, I never saw it in any other part of the house  
only that spot.



12 *Quest.* Did you often go in that front parlor?

*Ans.* Well, I did, sir.

13 *Quest.* What took you in there?

*Ans.* The time Mr. Berckmans used to be living there it was me that used to make a fire for them every morning and evening in the greenhouse—I used to go with scuttle that way.

14 *Quest.* Do you know what stood between the two front windows?

*Ans.* A small table, with a looking-glass on it.

15 *Quest.* Where was this looking-glass?

10

*Ans.* It was on the table, just over the table between the two windows.

16 *Quest.* Was there anything sitting on the table?

*Ans.* I didn't see nothing sitting on the table.

17 *Quest.* Did you remove any piano?

*Ans.* I did, sir.

18 *Quest.* Where to?

*Ans.* The first piano went off to the south.

19 *Quest.* Where did that piano that went off south stand in the parlor?

20

*Ans.* Behind the door as you go into the parlor—it stood there.

20 *Quest.* When that piano was taken south, was there anything put in the same place it was moved from?

*Ans.* There was, sir.

21 *Quest.* What?

*Ans.* Another piano; Mrs. Berckmans told me to go into the greenhouse and take out the small piano, and put it there.

22 *Quest.* Who moved it from the greenhouse?

*Ans.* I and another man they call Herman—he is out at the 30 south now.

23 *Quest.* After you removed the old piano from the greenhouse to the place behind the door, did you ever remove it again?

*Ans.* I did, sir.

24 *Quest.* Where did you move it to?

*Ans.* Well, I moved it back in the back parlor, sir, the back part of the parlor.

25 *Quest.* What did you move it for?

*Ans.* For this piano that had come from New York, that 40



was on the stoop waiting for this one to be moved out of the way.

26 *Quest.* Did you keep cows on the farm then?

*Ans.* Yes, all the time there was cows on the farm.

27 *Quest.* Did you all have plenty of milk?

*Ans.* Plenty, plenty of milk all the time.

28 *Quest.* Did you have plenty to eat?

*Ans.* I had as much as I wanted, did not want any more.

29 *Quest.* Was there any scarcity of good food in the house?

10 *Ans.* I always had plenty, and if there was a slice of bread wanted I cut it myself.

And being cross-examined, the witness says—

1 *Quest.* Where were you born?

*Ans.* Born in Ireland, sir.

2 *Quest.* How many years ago?

*Ans.* That is a hard question for me to tell.

3 *Quest.* Don't you know how old you are?

*Ans.* Well, I don't to the minute, but perhaps my mother does.

20 4 *Quest.* Where is the old lady?

*Ans.* She is in the old country, in Ireland.

5 *Quest.* Do you think you will ever see seventy-five again?

*Ans.* I did not say so.

6 *Quest.* About that milk, you say they had plenty at the farm—didn't they use to sell it?

*Ans.* They used to sell part of it, not what they wanted for their own use they wouldn't.

7 *Quest.* Well, they sold a good deal, didn't they?

*Ans.* Not a good deal.

30 8 *Quest.* Didn't they carry on the business of selling milk?

*Ans.* Yes, she did these two years.

9 *Quest.* Didn't she back of that, four or five years ago?

*Ans.* I don't know what you mean talking by back.

10 *Quest.* Didn't she use to sell milk four or five years ago, and has she not been carrying on the business of selling milk up till lately?

*Ans.* Why she used to sell a little of it, but that isn't to say that she left her own house empty, that she didn't have enough left to keep milk and butter.

40 11 Question repeated.



*Ans.* I have been after telling you that after she had her own supply she would be selling milk.

12 *Quest.* Can't you answer that question yes or no, if you can do it?

*Ans.* Which?

13 *Quest.* The one that has been repeated to you twice.

*Ans.* What?

14 *Quest.* The master will please repeat the question already repeated twice, adding to it, please answer yes or no, if you can?

10

*Ans.* Well, she sold milk after herself was supplied, she used to sell it to a man here in town, who retailed it out.

15 *Quest.* You say you have been working for ten years for Mr. Berckmans, and never worked for any one else for that time, do you?

*Ans.* I did say so; you have that entered five times now.

16 *Quest.* Were you not last winter at work cutting ice for other folks?

*Ans.* That has nothing to do with that, I wast—hat has nothing to do with it because I was ten years last fall working for Mr. Berckmans—I was ten years last August.

17 *Quest.* How many times have you helped clean house there?

*Ans.* Every year—every year I help clean house, helped the girls.

18 *Quest.* Was it before or after you used to make the fire in the greenhouse that you helped Mary Ann Tice and took out the sofa?

*Ans.* No, sir; the time we used to clean house there was no fire in the greenhouse.

30

19 *Quest.* Was there a stove in the greenhouse after young Mrs. Berckmans came to live there, and did they use to make fire in it?

*Ans.* No; it was setting there for a while; when she went to the south the stove was up—it is there yet with the pipe out; there was fire in it till Mr. Berckmans went south.

20 *Quest.* When was this cleaning house you spoke of, before or after the pipes were taken from the stove?

*Ans.* Before the pipes was taken off, the house was to be cleaned, I believe.

40

21 *Quest.* This time you helped Mary Ann Tice take the



sofa out, was that before or after the pipes were taken out of the stove?

*Ans.* It was after; after we cleaned the house the pipes were taken down.

PATRICK <sup>his</sup> ~~X~~ BLIGH.  
mark.

Sworn and subscribed before me, at Plainfield, the eleventh day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Doctor John W. Craig*, being duly sworn and examined  
10 on the part of complainant, says—

I am a doctor of medicine, have been in practice forty-three years; I have practised thirty-nine years in Plainfield; I believe that my brother and myself were the only physicians Mr. and Mrs. Berckmans the elder had while they have been here; my last professional call was just previous to their going south—I think it was 1848 or 1849; have visited them professionally and otherwise since.

1 *Quest.* Do you remember any of the furniture in the front parlor?

20 *Ans.* Some of it, sir, a portion of it.

2 *Quest.* Mention what you remember of it, and where it stood?

*Ans.* The piano I recollect was standing immediately behind the door as you enter the parlor from the hall, on the right hand side as you enter; the door pushed open would come in contact with it; furthermore the marble centre table standing in the centre of the drawing-room; I also recollect the position of the clock standing between the two front windows and under a large mirror, or by a large mirror; I have no  
30 distinct recollection of anything else, the sofa, ottomans, &c.

3 *Quest.* What is a catheter?

*Ans.* It is a surgical instrument—its use is to draw urine from the bladder.

4 *Quest.* Did you ever hear of its being used for the purpose of ascertaining whether a female was pregnant?

*Ans.* Never.

And being cross-examined, the witness says—

1 *Quest.* Could not such an instrument be used to dilate the



mouth of the womb, when you cannot reach it with the finger?

*Ans.* No, I never heard of it; there is an instrument made for that purpose.

2 *Quest.* Is not that instrument to which you refer of somewhat the same form?

*Ans.* No, sir.

3 *Quest.* What is your age?

*Ans.* My age is sixty-four.

4 *Quest.* What is the name of the instrument to which you 10 refer?

*Ans.* Retractor, or you can call it dilator, if you like.

JNO. W. CRAIG.

Sworn and subscribed before me, at Plainfield, the eleventh day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

The complainant offers in evidence an advertisement of sale of Dr. Titsworth's property, which is admitted by consent, and marked *Exhibit No. 2* on the part of the complainant.

*Frank Thys*, a witness produced on the part of the com- 20 plainant, being duly sworn, on his oath saith—I live at Scotch plains; I was present on a Sunday at the Berckmans house when the difficulty occurred between Mr. Berckmans and his wife and Mrs. Marsh; there was myself and Jacob Cole, Mr. Emile Berckmans and a man that worked for Mr. Berckmans, and young Mrs. Berckmans and Mrs. Marsh present; Mr. Berckmans called on me through the week, and asked me if I was willing to come there on Sunday, and he told me what he wanted me to be there for, and then I told him I would come; so, on the next Sunday on to it I went, and then we was 30 there some time before Mrs. Marsh came, at least she was not there when I come there; it was just about noon when Mrs. Marsh came, and then Mr. Berckmans asked us to go along with him where Mrs. Marsh and Mrs. Berckmans was, in the kitchen or dining-room, whatever they call it; then Mr. Berckmans asked Mrs. Marsh if she would be so good to go away, or not to come there any more; so he asked her two or three times down stairs, and then young Mrs. Berckmans



said to Mrs. Marsh, let us go up stairs to my bed-room; then they went up stairs, and he followed them; when we came up stairs we found Mrs. Marsh setting in the bed-room in a big rocking-chair; so Mr. Berckmans asked her there, as much as three times, if she'd be willing to leave the house; she says no, and as long as my daughter is here I shall stay here; so when—well he asked her as much as three times, and she said, as long as her daughter was there she would stay there; so Mr. Berckmans told her, if she would not go  
 10 out by herself, that he would put her out, because she had no right there; so she said she wouldn't go out at all, she was bound to stay; so he said, if she wouldn't go out, that he would take her out, and then she said she had as much right to stay there as he had; so Mr. Berckmans told his man to take hold of her on one side, and he would on the other; so when they was going to take hold of her his wife wouldn't let him; when he found he couldn't get along with his wife, he took hold of her, his wife, by the waist, and waltzed her off into a little bed-room next to the room where we was in—  
 20 and when he had her in, he locked the door of this little room, and then they were going to take hold of Mrs. Marsh after his wife was in this little room; when his man was going to take hold of Mrs. Marsh, Mrs. Marsh gave this man a good knock in his breast, and told him to go away from her, and then she asked him for his name; Mrs. Marsh asked this Dutchman for his name; well, he told her "know nothing," and so they did take hold of Mrs. Marsh, and by Mrs. Marsh hallooing murder and fire, young Mrs. Berckman got out this little room on a piazza roof under the window, and came that  
 30 way into the room where we was, and she came at Mr. Berckmans—she liked to tore his eyes out or liked to got him by the hair, one of the two, and as she came for him Mr. Berckmans caught her by both hands, and then he asked his wife if she would be so good as to let him alone; all he asked of Mrs. Marsh that she would walk out of the house, and Mrs. Marsh said she shouldn't go, and then Mr. Berckmans, when he found he couldn't get along at all with his wife, he took a hold of his wife, and there was a large closet in the room, he walked her in there; after she was in there, he asked Mrs. Marsh again  
 40 if she would be so kind to walk out; Mrs. Marsh says no, as



long as my daughter is here I shall stay here; so when Mr. Berckmans found Mrs. Marsh would not walk out they took hold of her again, and dragged her up to the—at least, as they took hold of her, she took a couple of steps out of the rocking-chair, and then she let herself go right down flat on the floor; and then, while she wouldn't use her legs, they were obliged to pull her so as to get her out, and so they pulled her as far as the head of the stairs; there Mr. Berckmans asked her if she'd be willing to walk down; she said she wouldn't leave the house at all, she would stay there as long as her daughter 10 was there;—then afterwards she said if they would let her daughter out of the closet that she would walk out; and then Mr. Berckmans said he would let her out, and so he did let her out of the closet; when she was out of the closet, Mrs. Marsh said she had changed her mind, that she shouldn't go out of the house; then when she got up from the floor, kind of, she run back up against the book-case, and cracked the glass or broke the glass; Mr. Cole told her there was glass behind her; so she said she didn't care about the glass, and up Mrs. Berckmans with her hand and struck another pane of 20 glass alongside of it, where Mrs. Marsh broke hers; the first knock she didn't break it quite far enough, and the second crack she gave it she broke it in a thousand pieces, likely more; so Mr. Berckmans told her he was going to take hold of her hand, and see if there was any pieces in it; so she says, go away from me, Dutchman, or I'll kill you; and she said that she would break everything in the house, what there is in it; and then he told her to go in her room and wash her hand off; she said she wouldn't do it; she says that's just what I want—now I'll go right to Plainfield, and show it to the squire; 30 she says, that will cost you money, that's just the thing what I want to show; there she was all covered with blood all in front of her, and Mr. Berckmans told her she had better go and wash it off before she go any further; so she told him to go away from me, as she says, or she would cut his head off; and so they went down stairs on the back stairs, Mrs. Marsh and Mrs. Berckmans together; the rest of us went down on the front stairs; when we was down stairs, Mr. Berckmans called us, and said, come and see if we could see anything on the neck of Mrs. Berckmans; Mrs. Berckmans said that Mr. 40



Berckmans struck her, and her neck was black and blue, but we couldn't see nothing of it; well, that is all, I believe.

1 *Quest.* When some one said that Mr. Berckmans had struck her, did any one say what made him strike her?

*Ans.* No, not that I heard of; I saw some one's hand bit there.

2 *Quest.* Whose?

*Ans.* Mr. Berckmans' knuckle or hand was bit right up here, pretty bad bit, too.

10 3 *Quest.* Did you see any one's hair pulled there that day?

*Ans.* Yes, sir.

4 *Quest.* Whose?

*Ans.* Mr. Berckmans' hair was pulled.

5 *Quest.* By whom?

*Ans.* By Mrs. Berckmans, his wife.

6 *Quest.* How did she take hold of it, with one or both hands?

*Ans.* With both hands.

7 *Quest.* Did she hold on pretty well.

20 *Ans.* Yes, sir; she seemed to be pulling pretty hard.

8 *Quest.* Did you see Mrs. Berckmans strike or slap anybody?

*Ans.* Yes, sir.

9 *Quest.* Which, slap or strike?

*Ans.* She done both, and all what she could do.

10 *Quest.* Who did she strike?

*Ans.* She struck Mr. Berckmans.

11 *Quest.* Where did she strike him?

*Ans.* In the face, and where she could hit him first—she  
30 didn't look where.

12 *Quest.* What was the Dutchman's name that Mrs. Marsh struck?

*Ans.* His name was Neill.

13 *Quest.* Can Neill talk English?

*Ans.* Yes, sir, but not very plain.

14 *Quest.* What did she strike him with?

*Ans.* She struck him with her fist.

15 *Quest.* Then what did he do?

*Ans.* He did not do anything but try and grab hold of her  
40 hand.



Examination adjourned to Saturday, April 12th, 1862.

April 12th, 1862.—Examination of Frank Thys resumed—and being cross-examined, the witness says—

1 *Quest.* Where were you born?

*Ans.* I was born in Belgium; my age is twenty-five years; I am not a married man; I came to this country in—I don't know if it was 1851 or 1852, it was near christmas; I am a gardener by trade; when I went up to this house I was working for my father—he was fixing round the house; I worked as a laborer and mechanic at that time, carpenter; I was in 10 the house, my father's house at Scotch plains, when Mr. Berckmans called me out to go up there; my father's name is John B. Thys; his house is about two miles from Plainfield, or may be a little over; when Mr. Berckmans came to see me he came in a carriage—old Mrs. Berckmans was with him; I went as far as the gate, and then I and Mr. Berckmans stopped; the old lady was in the carriage at that time; when we stood at the gate, I and Mr. Berckmans talked together; he asked me if I would come there on some Sunday to his house; he said there was some difficulty between him and 20 Mrs. Marsh; he wanted me to come there to see what was going on, as a witness, or something like that; that if it ever should be wanted, so that is all we talked about, and he went on; I left him there; I believe the old lady did not hear what we said—she was about in the front of the house, I suppose about fifteen or twenty feet off, as near as I can tell; it was a Rockaway carriage; I just bid her good day, and she to me.

2 *Quest.* Did not Mr. Berckmans say to you that he might want you to help him put Mrs. Marsh out?

*Ans.* All he asked of me was to be there as a witness, if it 30 should be wanted.

3 Question repeated.

*Ans.* He asked me to be there as a witness, if it might be wanted; he did not want me to do anything, unless to be there as a witness, if it should be wanted.

4 *Quest.* Just say yes or no to the question I have put you?

*Ans.* Well, I can't say any more than that he asked me, and I told him I would come if it would do any good.



5 *Quest.* Didn't he tell you that he meant, or expected to put Mrs. Marsh out of his house?

*Ans.* He told me that he would ask her first if she would be so good to go out, and if not, that he would have to put her out if she wouldn't go out.

6 *Quest.* Didn't he tell you that if he had to put her out, he wanted you and some other men to help?

*Ans.* He told me he did not want my help at all, only to be there and see what was going on.

10 7 *Quest.* Did he tell you that other men would be there and help?

*Ans.* He told me that he was going to see Jacob Cole, to be there with me as another witness.

8 *Quest.* Anybody else?

*Ans.* No, sir.

9 *Quest.* Have you and Jacob Cole been associates of Mr. Berckmans?

*Ans.* I used to go there on account he was a friend of mine.

10 *Quest.* How a friend of yours?

20 *Ans.* Because when we were small boys we used to play together.

11 *Quest.* And you have been a companion of his since, have you?

*Ans.* I went to see him, as anybody should do as an old friend, to go and see one another.

12 *Quest.* How long were you and he talking together outside yesterday before you were sworn?

*Ans.* We hadn't talked together at all, only he told me—Counsel interrupts, just answer my question?

30 *Ans.* Not over five minutes, sir, if it was that.

13 *Quest.* Were you not there from half an hour to an hour yesterday afternoon before you were sworn?

*Ans.* No, sir, not with him.

14 *Quest.* What time of day did you get there on the Sunday in question?

*Ans.* I think it was about ten o'clock—I don't know exactly the time.

15 *Quest.* Who did you first see?

*Ans.* I don't recollect who I first see, because I didn't seem  
40 to remember, I couldn't tell you.



15 *Quest.* Did you see any other men there besides Emile Berckmans when you first went there?

*Ans.* I don't recollect that I seen anybody but Jacob Cole.

17 *Quest.* Did you see Mrs. Berckmans the elder soon after you got there?

*Ans.* Yes, sir.

18 *Quest.* Where?

*Ans.* I couldn't tell you exactly the place where I did see her first.

19 *Quest.* Where did you see her afterwards?

10

*Ans.* I don't recollect if it was in the hot-house or on the back stoop—it was in one of the places where I seen her.

20 *Quest.* How did you get there?

*Ans.* I don't recollect how we did get there.

21 *Quest.* You don't recollect?

*Ans.* No, sir, I don't recollect.

22 *Quest.* Don't you know that you went there in a carriage?

*Ans.* I don't recollect if we did or not, because they often came to our house with their carriage, and sometimes I walked 20 down, sometimes rode down.

23 *Quest.* Don't you remember that you went there in company with Jacob Cole?

*Ans.* I know we went together, but I can't tell whether we rode or walked.

24 *Quest.* Was Emile Berckmans with you?

*Ans.* I don't recollect anything about it, because I don't keep such a time as that in my mind, how I did get there.

25 *Quest.* Do you remember whether or not Mrs. Berckmans and her son came for you that morning?

30

*Ans.* I don't recollect if they came that morning or not.

26 *Quest.* Were you there any other Sunday?

*Ans.* Yes, sir.

27 *Quest.* As a witness?

*Ans.* No, sir.

28 *Quest.* Were you there often Sundays?

*Ans.* Yes, sir.

29 *Quest.* What for?

*Ans.* For to see the folks and take a look at the garden.

30 *Quest.* Did you use to dine with the family there some- 40 times or drink tea?



*Ans.* Yes, sir.

31 *Quest.* You did see old Mrs. Berckmans—was there any talk when she was present about what was expected to occur?

*Ans.* Well, I don't recollect if Mrs. Berckmans said anything about it, but some one said, Mr. Berckmans or Mrs. Berckmans, that they expected Mrs. Marsh, if she did come, she'd be there pretty soon, as they expected.

32 *Quest.* Did you all think it was a pleasant business to make a lady go away from the house, or put her out of doors  
10 on a Sunday morning?

*Ans.* Well, no, sir; I did not think it was very pleasant.

33 *Quest.* What did you do it for then—you?

*Ans.* Well, I didn't expect there would be anything like that going on.

34 *Quest.* Are you a catholic or protestant?

*Ans.* I am a catholic, at least I was born catholic.

35 *Quest.* What do you mean by saying that, are you not one now?

*Ans.* I am as far as I think that the religion goes right; I  
20 don't believe in paying all the money to the priest.

36 *Quest.* What church do you go to—any?

*Ans.* When I do go, I go to the German catholic church at Stony-hill or to the baptist church at Scotch plains.

37 *Quest.* Did you see Mrs. Marsh coming, any of you?

*Ans.* Well, I didn't myself—if the rest did or not I don't know.

38 *Quest.* Did you look out for her, any of you?

*Ans.* If the rest did I don't know—we were eating water-melons about the time.

30 39 *Quest.* Who was?

*Ans.* Me, and Jacob Cole, Mr. Berckmans.

40 *Quest.* And the old lady?

*Ans.* Well, the old lady, she came in there and took a piece, and went out again, did not stay very long.

41 *Quest.* Where were you?

*Ans.* I believe we was part of the time, most of the time, in the greenhouse.

42 *Quest.* When you were eating, I mean?

*Ans.* I think it was in the greenhouse or on the back stoop,  
40 I don't know which, because I didn't recollect about these



things; I didn't think it necessary to recollect about such things as that—if I had I might have taken a book and marked it down—then I would have known it.

43 *Quest.* Where is the book in which you marked down anything of this transaction?

*Ans.* Where I marked down anything! I didn't have no book.

44 *Quest.* Could not any one looking from the window of the greenhouse see Mrs. Marsh when she came?

*Ans.* They could if they looked out.

10

45 *Quest.* Who told you first she was coming or was there?

*Ans.* Mr. Berckmans told us that Mrs. Marsh was in the kitchen or dining-room when young Mrs. Berckmans was cooking.

46 *Quest.* Had young Mrs. Berckmans been fixing the table and the watermelon for you gentlemen to partake of?

*Ans.* There was no table fixed with the watermelons on.

47 *Quest.* Wasn't she setting table in the greenhouse?

*Ans.* I don't know, sir—if she did, I don't recollect of seeing it.

20

48 *Quest.* Didn't you see her in the greenhouse, out of it, walking in and out, tending to things about the house?

*Ans.* I don't recollect that I see her tending to anything in the greenhouse, because I don't take notice what women does do about the house.

49 *Quest.* Did you see her and speak to her, and she to you?

*Ans.* I think I did bid her good morning, and asked her how do you do.

50 *Quest.* Did she reply to you?

*Ans.* Yes, sir, she give me answer, good morning, Frank.

30

51 *Quest.* Did any of you tell her what you were there for, that she had better keep her mother away?

*Ans.* I didn't, because it was none of my business to do so.

52 *Quest.* Was it your business not to?

*Ans.* Well, I don't know if it was or not, because I hate to interfere with anybody else's family business.

53 *Quest.* When Mr. Berckmans first spoke to his mother-in-law, did he not say, what are you here for, I want you to go out of the house, or words to that effect?

*Ans.* I didn't hear him say anything like that at all, be-

40



cause I was up behind him a few steps, and Mr. Cole behind me, so the first words he spoke to her I couldn't hear what he said.

54 *Quest.* When you did hear, did he say to her that if she didn't go out of the house, he would put her out?

*Ans.* Not the first time.

55 *Quest.* Did he say so to her down stairs?

10 *Ans.* No, he didn't say so to her down stairs; [he asked her politely if she would be so kind to go out the house or leave the house before they go to any more trouble.] This portion in brackets objected to before given by counsel cross-examining, on the ground that his question was answered, and this a volunteer, and put down on the insistment of counsel for complainant.

56 *Quest.* Did not Mrs. Marsh reply to him that she came there to see her children—that they were not permitted to be brought to her; that her daughter wished her there, and that after she had seen them she would go, or words to that effect?

20 *Ans.* I heard her say that she came to see my daughter, as she said.

57 *Quest.* Will you swear that she did not say what I have stated?

*Ans.* Well, I couldn't tell you, because there was so much said, and so much noise in the room, that we couldn't hear all that there was said.

58 *Quest.* Didn't she say so up stairs afterwards?

*Ans.* She might have said so for all what I know, but not that I heard so as I can be sure upon.

30 59 *Quest.* When Mr. Berckmans put his wife in the little bed-room, did she resist him?

*Ans.* What do you mean by resisting him?

60 *Quest.* I mean by resist, did she try to prevent his putting her there—hold back, struggle?

*Ans.* Well, I could see that she didn't like to go into it much.

61 *Quest.* How did you see that?

*Ans.* I seen it by the way she acted and by her face.

62 *Quest.* Don't you know that she was put in by force?

40 *Ans.* I know she was put in by force, because Mr. Berckmans he wanted to have her out the room.



63 *Quest.* What do you mean when you say that he waltzed her off into the bed-room?

*Ans.* Well, Mr. Berckmans had hold of her, one arm around her waist, and the other one he had hold of her hand, and that's the way they kind of danced around the room, or waltzed into this little bed-room.

64 *Quest.* You meant that for a joke, did you?

*Ans.* No, sir, I meant that just as it was.

65 *Quest.* You are a German or a Belgian, did you ever see such a waltz before?

*Ans.* I never seen one before, but it wasn't a walk—it was, as near as I can make out, a dance or waltz around the room. 10

66 *Quest.* When he got her in the bed-room, and locked the door, didn't he tell you to stand there by the door?

*Ans.* No, sir.

67 *Quest.* Didn't he say, stand there, and I'll pay you?

*Ans.* No, sir.

68 *Quest.* Were you to have pay for this attendance on your part, or were you merely friendly in your kindness?

*Ans.* I wasn't paid, nor I didn't expect to get paid—I done 20 it on account he was a friend of mine.

69 *Quest.* These men were going to take hold of Mrs. Marsh when, as you say, she struck one, were they not?

*Ans.* Mrs. Marsh told them to go away from me, and then while the man didn't go she struck him.

70 *Quest.* Have you not already sworn that when Berckmans' man was going to take hold of Mrs. Marsh, she gave him a knock in his breast, and told him to go away from her?

*Ans.* Well, as I said before, when she told him to go away, and he didn't go, that she knocked him in his breast. 30

71 *Quest.* Why did she tell him to go away from her?

*Ans.* Well, I suppose he told him because she shouldn't take hold of her.

72 *Quest.* What was there to make her think that he was going to take hold of her?

*Ans.* Well, I don't know what made her think so, but I suppose she could see it by his actions.

73 *Quest.* What was his action?

*Ans.* Well, his action was to try and get hold of her hand.

74 *Quest.* Where were you standing when this man re- 40



ceived this knock in the breast, as you say, and what were you doing?

*Ans.* I was standing just inside of the bed-room door, looking on.

75 *Quest.* Bed-room door, where?

*Ans.* The bed-room door where Mrs. Marsh was in.

76 *Quest.* Was this man's back to you or Mrs. Marsh's?

*Ans.* No, sir, their backs were not to me, Mrs. Marsh's face was right to me, and the man stood with his face towards Mrs. Marsh, and kind of sidewise to me the man was.

77 *Quest.* Was this knock in the breast not a simple effort, on Mrs. Marsh's part, to push this Dutch fellow away from her?

*Ans.* Well, she done it as he was going to take hold of her hand—she took off her hand, and knocked her hand right into his breast, like that. [Witness here makes a gesture like pushing out with the right hand from the left shoulder.] Counsel for complainant does not agree with the master in this description he has given of the gesture of the witness.

78 *Quest.* Was she seated at the time?

20 *Ans.* Yes, sir; she was sitting in a big rocking-chair.

79 *Quest.* Did not Mrs. Berckmans say, when she came out of the bed-room, let my mother alone, you shan't hurt her, or something like that?

*Ans.* It seems to me she has said, let my mother alone, you shan't put her out of the house.

80 *Quest.* Who had hold of her mother then?

*Ans.* Well, I don't recollect if they had a hold of her at all or not at that time.

81 *Quest.* Didn't you say so when you were examined in  
30 chief?

*Ans.* That they had hold of her?

82 *Quest.* Yes.

*Ans.* Well, I don't recollect if I did or not.

83 *Quest.* Who had hold of her when Mrs. Marsh hallooed murder?

*Ans.* Mr. Berckmans and his man.

84 *Quest.* Didn't Mrs. Berckmans then come out of the room while Mrs. Marsh was hallooing?

*Ans.* I think she did.

40 85 *Quest.* Didn't she speak as soon as she came out, and say, let my mother alone?



*Ans.* I don't recollect if she spoke right away or not.

86 *Quest.* When Berckmans put his wife in the closet, did he fasten her in there?

*Ans.* Yes, sir; he turned the key on her in the lock.

87 *Quest.* Didn't he put her in by force?

*Ans.* Yes, sir; he had to use his strength.

88 *Quest.* Why?

*Ans.* Because she tried to get at his hair, or eyes, or face, wherever she could get hold of him.

89 *Quest.* Did he pull her in or push her in?

10

*Ans.* He had one arm around her, and the other hand he had hold of her hands, and walked her in.

90 *Quest.* Was he before or behind her when he put her in?

*Ans.* He had hold of her round the waist, was alongside of her, his arm behind her, and so he put her in.

91 *Quest.* Will you swear that she was not on the floor, and pulled by her husband toward the closet?

*Ans.* She let herself go right down when he got her in by the door; there was no dragging done in the room at all, not on Mrs. Berckmans.

20

92 *Quest.* On whom then?

*Ans.* They pulled Mrs. Marsh along.

93 *Quest.* Did Mrs. Berckmans break out of that closet?

*Ans.* Well, she tried her best to get out of it, and she burst the casing off the jamb.

94 Question repeated.

*Ans.* Well, she tried her best to get out of it—she bursted the casing off the jamb, as I said before.

95 *Quest.* Well, didn't she get out?

*Ans.* Well, I don't recollect if she did get out or not; when 30 we found, or at least when Mr. Berckmans seen that she was going to come out, he told Mr. Cole to stand with his back against the door; then Mr. Cole he didn't like to do it, and he told me to go stand against it, and so I done—I stood against the door when she was in the closet.

96 *Quest.* Didn't Mr. Berckmans tell you to go stand there against the door, and he'd pay you?

*Ans.* He didn't tell me so.

97 *Quest.* Did he tell Cole so just before?

*Ans.* Not that I know of.

40



98 *Quest.* Did you keep Mrs. Berckmans in?

*Ans.* Yes, sir.

99 *Quest.* You went there only as a witness—what did you do that for?

*Ans.* Well, I done it on account as I see he told me to stand there.

100 *Quest.* Did you stay there till you were told to come away?

*Ans.* Yes, sir.

101 *Quest.* Now recollect, and tell me if you can swear that Mrs. Berckmans did not break the door, and come out after you were told to stand there?

*Ans.* Well, she didn't break the door, but she bursted the casing off the jamb, and to swear about a thing I ain't certain of is a thing I don't like to do.

102 *Quest.* When Mrs. Berckmans came out, had not Berckmans and his man or men got his mother-in-law out of the room towards the head of the stairs?

103 *Ans.* When they had Mrs. Marsh as far as the head of the stairs, Mrs. Marsh said—they had her as far as the head of the stairs, and then Mrs. Marsh said, if you'll let my daughter out of the closet I'll walk out.

104 *Quest.* Was Mrs. Marsh on the floor when her daughter came out or not, will you swear?

*Ans.* I don't recollect but if she was down or not—but when she was out, she says I won't go out. [Last clause of this answer objected to, from the word "but," as irresponsible and volunteer.]

105 *Quest.* Where was this book-case?

106 *Ans.* Right at the head of the stairs.

107 *Quest.* Standing along the wall?

*Ans.* There is a passage between the stairs and the book-ease—it stands along the wall.

108 *Quest.* Where were you when Mrs. Marsh got up from the floor there at the head of the stairs?

*Ans.* Well, I don't recollect if Mrs. Marsh was up or not when they let Mrs. Berckmans out of the closet.

109 *Quest.* repeated.

110 *Ans.* I was either on the hall or else in the bed-room, but in the door, so she wasn't out of my sight.



108 *Quest.* The door of what?

*Ans.* The door of the bed-room, I was either in the door or on the stairs.

109 *Quest.* Then you had left the door of the closet?

*Ans.* I don't recollect if I had left the door when Mrs. Marsh got up or not—I can't tell you.

110 *Quest.* Don't you remember whether you saw her on the floor or not?

*Ans.* I have seen her on the floor; I don't remember I saw her on the floor while Mrs. Berckmans was in the closet; I don't remember whether I saw her on the floor after Mrs. Berckmans came out or not.

111 *Quest.* When Mrs. Marsh got up from the floor, and went toward the book-case and against it, had not these men hold of her?

*Ans.* No, sir.

112 *Quest.* Will you swear to that?

*Ans.* Yes, sir.

113 *Quest.* Did they not take hold of her while she was there?

*Ans.* Not while she was standing up. 20

114 *Quest.* Did they not take hold of her, or push against her some time while she was by that book-case?

*Ans.* No, sir, the men was all away from her; there was no one by her while she was there; we stood at a little distance off from her—the nearest to her was Mrs. Berckmans, her daughter.

115 *Quest.* Where was this closet in which she was locked?

*Ans.* The closet is on the left hand as you come in the room, right at the door as you get inside the bed-room. 30

116 *Quest.* You have talked of Mrs. Berckmans using violence to her husband, was that while she was trying to keep away from the little bed-room and the closet, and he was trying to put her in?

*Ans.* I don't understand the question.

117 *Quest.* Did you take hold of Mrs. Marsh?

*Ans.* No, sir.

118 *Quest.* Or push her?

*Ans.* I never had anything to do with Mrs. Marsh, I never touched her. 40



And being cross-examined, the witness says—

16 *Quest.* Did you or Jacob Cole, either of you during that quarrel, touch either Mrs. Marsh or Mrs. Berckmans?

*Ans.* No, sir.

FRANCIES THYS.

Sworn and subscribed before me, the twelfth day of April, A. D. 1862, at Plainfield.

JOHN N. TUTTLE, M. C.

*Horace Hotchkiss*, a witness produced on the part of the  
10 complainant, being duly sworn, on his oath saith—I reside in the township of Warren, Somerset county, near Plainfield; my place joins the Berckmans place; I have resided there seven years this next summer; I have visited the Berckmans place frequently during that period—my visits have been less frequent since Mr. Louis Berckmans was here last, that was in the fall of 1859, I think; I visited there the spring and summer preceding that fall; the summer previous, I may have confounded the times, Mr. Berckmans was away, I think, in 1859, it may be 1860; my visits were frequent there when-  
20 ever he was at home.

I first commenced visiting the house; he was among my first acquaintances in the place; when we ever visited there as a family we were usually in the parlor, but I made a good many unceremonious calls on Mr. Berckmans, and usually found him in his greenhouse; in going to the greenhouse I entered sometimes from the outside, but ordinarily through the parlor; I refer to the back parlor—there is an opening from the rear parlor into the greenhouse.

1 *Quest.* Have you any recollection of the furniture in the  
30 front parlor?

*Ans.* Pretty general recollection, I think.

2 *Quest.* Will you state the furniture you recollect, and where it stood in the front parlor?

*Ans.* In the rear parlor there was ordinarily a little variation of the furniture in the winter from what it was in the summer season; in the winter season, in the back parlor, there was a long box-stove for the purpose of warming both parlors, that took the place against the back fire-place, where the sofa stood in the summer; in the summer season, when



the sofa stood there, there was usually, according to my recollection, a piano on the opposite side of the room; in the recesses of the windows, I think in both parlors, there was, I think, divans to fit, also, I think, between the pillars between the two parlors; under the entablature between the two parlors there was a centre table, a round table; in the front parlor there was another piano that corresponded with the one in the back parlor, a better piano, it was called Emile's piano; it stood opposite on the other side of the room from the fireplace in the front parlor, on the right hand entering the front 10 door.

Between that piano and the corner of the front parlor towards the pillars was a recess, in which stood a rack with music books; looking opposite to this, against the front parlor fireplace, stood another sofa; between the front windows of the front parlor was a French clock stood before a mirror—chairs in the room and ornaments on the shelves.

3 *Quest.* What did the clock stand on?

*Ans.* It was some sort of a table, I think.

4 *Quest.* Did you ever at any time see any other furniture, 20 except the sofa, stand against the front mantel?

*Ans.* I have no recollection of seeing any.

5 *Quest.* Were you at the house this morning?

*Ans.* Yes, sir.

6 *Quest.* At what hour?

*Ans.* I should judge it was a little past eight.

7 *Quest.* Did you observe the sofa in the front parlor?

*Ans.* I did.

8 *Quest.* Did it stand in the place you have before described?

*Ans.* Yes, sir.

9 *Quest.* Did you this morning look through the window of the greenhouse to make the experiment whether you could see a person lying upon the sofa?

*Ans.* I did.

10 *Quest.* If a man and woman had been in criminal intercourse upon that sofa, could you, looking through the greenhouse window, see them?

*Ans.* To a considerable extent—not the entire person could be seen; to be guarded in my observation, I took the precaution to place the castors of the sofa where they evidently had 40



stood; Mrs. Berckmans took her position on the south end of the sofa fronting the street, sitting upon it with her hands folded in her lap; I could see her limbs from about the thighs down, with her hands.

11 *Quest.* What do you mean by placing the castors where they had evidently stood?

*Ans.* There were marks or indentations in the pile of the carpet, where it had been pressed.

12 *Quest.* Were those indentations well marked, and apparently of long standing?

*Ans.* I had no question about the cause of the indentations, although it was not confined to one particular locality; it seemed as if the sofa had been shifted within a circle of five or six inches.

13 *Quest.* Did you place the castors on the spots of the greatest indentations?

*Ans.* I endeavoured to place it about a central position, where it was evident to my mind it had more generally stood.

14 *Quest.* You say Mrs. Berckmans took her position on the sofa, where did she place her feet?

*Ans.* She sat square upon the sofa with her feet upon the carpet.

15 *Quest.* Can there be the least doubt of your being able to see one person lying upon the top of another from the greenhouse window on that sofa? [Objected to as opinion.]

*Ans.* From two other experiments that were made, I should think not.

16 *Quest.* State the experiments you refer to?

*Ans.* One was a chair cushion laid upon the centre of the sofa, stuffed with feathers or hair, which I could see from the window—the other was where Mr. Emile Berckmans lay upon the sofa with his feet over the end.

17 *Quest.* Did you this morning make the experiment whether, from the window of the small room over the greenhouse, you could see into the front bed-room of the house?

*Ans.* I did.

18 *Quest.* State what experiments you made, and their results?

*Ans.* I stood at the window, with it closed; I saw Mrs. Berckmans enter the room from the front chamber hall, walk



to the rocking-chair, which stood in about the centre of the room, and seat herself.

19 *Quest.* When you made this experiment, was the sash of the front parlor bed-room closed or open?

*Ans.* Both sashes were closed.

20 *Quest.* Could you distinguish Mrs. Berckmans?

*Ans.* Yes, sir.

21 *Quest.* When she entered, did she close the door after her, or was it left open?

*Ans.* She closed it, I think.

22 *Quest.* Did you try the experiment with the sash of the little room open?

*Ans.* Not this morning.

23 *Quest.* Have you tried any experiments on a previous occasion of like character?

*Ans.* Yes, sir.

24 *Quest.* One or more?

*Ans.* One.

25 *Quest.* How long ago?

*Ans.* From two to three weeks since.

26 *Quest.* What time of day was that?

*Ans.* It was some time after breakfast, perhaps eight o'clock.

27 *Quest.* State what experiments you made then, and its result?

*Ans.* The sash in the room over the greenhouse was open; I think the other sash was closed, am confident it was, and by standing in that room, and projecting the head a little one side the sash, I could perceive a little larger area of circuit in the centre of the room; at that time the furniture was in the room, bed, chairs, &c., stove, I think; I could not see as far as where the bed stood in the position that I then stood; the rocking-chair was about the centre of the room, about central way between the fire-place and the bed—I should think I could see; the room at that time, I should think, was darker than it was this morning—yet when Mrs. Berckmans sat in the chair I could see her rather indistinctly; she laid a white apron or cloth on her lap while I was standing there, which was more visible.

28 *Quest.* Are there any folding-doors in the big parlors?



*Ans.* I think not, have never seen any ; there could not be from the structure and entablature and the columns.

And being cross-examined, the witness says—

1 *Quest.* Did you notice Mr. Hotchkiss when you looked to-day whether the sashes of other windows in the bed-room than the one you looked into were closed ?

*Ans.* I should think they were, but I did not observe with particular reference to them ; I judge, from the fact of being in the room, that I think I should have observed them if they  
10 had been raised.

2 *Quest.* You say you think that Mrs. Berckmans closed the door after her—do you feel certain upon that point ?

*Ans.* I know that while standing there she opened the door without my expecting it, and I am very confident that she closed it after her, but as my attention was not directed to that particular point, I don't speak with absolute confidence, but I am very certain.

3 *Quest.* Did not her opening the door seem to make a difference at once in the amount you could perceive in the  
20 room ?

*Ans.* I don't think it did very much in the room ; I should think her position between the door and the door-post, as she stood upon the threshold, made some difference in that position before she crossed the threshold ; the door, as it opened, would naturally shield the light in the room from entering the hall ; it was the light in the hall from which I got the first observation of her.

4 *Quest.* The time before that you were there, you say that you could see her rather indistinctly—describe, as accurately  
30 as you can, the degree of that distinctness ?

*Ans.* I think the room was more shaded than this morning—the morning less bright ; I could see her form, but am not sure that I could have recognized her.

5 *Quest.* Did you notice, and can you tell with assurance, how the windows, other than that through which you looked, and the door were, whether any one of them admitted the air from without, or whether any one of them was fully open, so far as blinds are concerned, or whether all were ?

*Ans.* It was a dark unpleasant morning, and I am confident  
40 there were none of the windows in the bed-room open.



6 *Quest.* You say you are confident—do you mean to be understood that you noticed and recollect, or that that is your present judgment?

*Ans.* I don't think I noticed with particular reference, but such was the state of the morning; had they been open, I think I should have noticed it.

7 *Quest.* Do you recollect how the blinds were, open or not on all windows or not; I do not ask for your belief, supposition, or judgment, but for your recollection?

*Ans.* According to my best recollection, the west half of the 10 southwest front window blind was open—I recollect no other.

8 *Quest.* When you were in the parlor this morning, and say you placed the castors in a particular spot, did the operation remove the sofa?

*Ans.* Very little.

9 *Quest.* You mean that it did some?

*Ans.* I stood at the end of the sofa, and moved it a very trifle to see if it stood square, not over an inch, before I made the observation of the castor; when I placed the castor in position subsequently, I should think I moved it from an inch 20 to an inch and a half, but whether it was then different from the previous morning I can't say—I might have moved it two inches.

10 *Quest.* Did you, when experimenting as to the sofa, look through the hollow in the back, the curve, the low part of the back I mean?

*Ans.* No, sir; I observed more particularly over the end of the sofa.

11 *Quest.* How far from the upper end of the sofa was Mrs. Berckmans sitting when you saw so much of her person as 30 you have described?

*Ans.* At the extreme end, unless she moved while I was going around into the greenroom.

12 *Quest.* Can you tell us whether, when you were looking, her back was against the back of the sofa, or was she seated towards the edge?

*Ans.* She seated herself, before I went into the greenroom, as a person would naturally sit on a sofa; when I was in the greenroom, I could neither see her back nor the back of the sofa where she sat.



13 *Quest.* Then could you tell how she was seated at the instant you were looking in the respect I am speaking of?

*Ans.* Not if she moved during the interval I was going into the greenhouse.

14 *Quest.* This cushion with which you experimented, did you notice whether it was placed so as to extend out beyond the edge of the sofa?

*Ans.* I think not.

15 *Quest.* Did you notice?

10 *Ans.* Yes, sir, I noticed how I placed it, or how Mr. Berckmans placed it.

16 *Quest.* Did he accompany you into the greenhouse?

*Ans.* He did.

17 *Quest.* When Mr. Berckmans lay on the sofa, with his feet over the end, which is I suppose the end nearest you as you stood in the greenhouse, how far were his feet projected?

*Ans.* His ankles lay upon the arm of the sofa.

18 *Quest.* Are you in the habit, sir, of noticing carefully such a matter as the position of furniture in a house you casu-

20 ally visit?

*Ans.* I have not regarded my visits as casual, but formerly frequent.

19 *Quest.* Would you like to say with certainty that during a period of six months, when old Mr. Berckmans was not there, the furniture in that house stood in the particular way you have described?

*Ans.* I can't say where it stood when I was not there; all I can say is where it stood whenever I was there.

20 *Quest.* Do you distinctly remember being there when  
30 young Mrs. Berckmans was living there, and old Mr. Berckmans was not?

*Ans.* I distinctly remember going into the house when young Mrs. Berckmans was there, and old Mr. Berckmans was south, to see Mrs. Berckmans the elder—one time in particular I met young Mrs. Berckmans on the stoop, and inquired about her.

21 *Quest.* Did you then go in?

*Ans.* Yes, sir.

22 *Quest.* To what room?

40 *Ans.* I think at that time I went in the greenhouse; I wanted a certain book.



23 *Quest.* Can you tell whether that was 1858 or 1859?

*Ans.* I couldn't say positive, 1859 I think.

24 *Quest.* Can you tell us whether it is not true that old Mr. Berckmans came back from the south in the fall of 1859, and went away again in the early winter?

*Ans.* If I am not mistaken in the year, Mr. Louis Berckmans came home from the south some time in the autumn of 1859, and returned about the first of January.

And being re-examined, the witness says—

29 *Quest.* You state, in one of your answers, that you distinctly remember of going to the Berckmans' when old Mr. Berckmans was absent, and young Mrs. Berckmans was staying there; I understood you to have said going there two or three times?

*Ans.* Yes, sir, I recollect two or three times.

And being again cross-examined, the witness says—

25 *Quest.* Please state the other times than the one you have stated?

*Ans.* Than the one for the book?

26 *Quest.* Yes, sir.

20

*Ans.* With regard to the raceway—the muskrats dug in the bank, and let the water out; another was in regard to some agricultural tools.

27 *Quest.* Where did you go on those occasions?

*Ans.* Once I went into the basement, once I went into the front sitting room, another time I remember meeting old Mrs. Berckmans in the back hall; I don't remember what my particular object was.

28 *Quest.* The front sitting-room is a different room from the back parlor, is it not?

30

*Ans.* Yes, sir; the hall separates them.

H. HOTCHKISS.

Sworn and subscribed before me, the twelfth day of April, A. D. 1862, at Plainfield.

JOHN N. TUTTLE, M. C.

*E. Dean Dow*, a witness produced on part of complainant, being duly sworn, on his oath saith—I am principal of the seminary at Plainfield, have been so since five years ago next month; it is a seminary exclusively for young ladies; Emile



Berckmans has been employed in that seminary in giving lessons in instrumental music—I think two years next May since he commenced teaching there; I issued my last printed circulars in, it must have been, the month of July last.

1 *Quest.* Has Mr. Berckmans been an intemperate man during any part of that period?

*Ans.* Not to my knowledge, sir.

E. DEAN DOW.

Sworn and subscribed before me, at Plainfield, the twelfth 10 day of April, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Mrs. Ellen Bowne*, a witness produced on the part of the complainant, being duly sworn, on her oath saith—I reside in Plainfield now, have lived here three years this spring, the first year in Scotch plains and two years here; my husband's name was William J. Bowne, Judge Bowne he is known better by; he has been deceased four years this May; when he was living we resided in Monmouth county most of the time, Freehold, and after that we moved up to Lawrence; I went 20 to live at Scotch plains in March, 1859; I have called on Mrs. Berckmans the elder after she called on me when I lived on the farm down by Mr. Mayo's.

I remember my first visit to her very well indeed, it was in the month of June, strawberry time, in the same year, 1859; I was shown in the parlor; I remember pretty much the furniture in that parlor; I remember she had a very handsome time-piece set on a small table right before a looking-glass with a dark frame; I set on a sofa that set before the mantel-piece in the front part of the house; the reason I recollect the 30 sofa more particularly is that I took my seat by the window on one of the divans—it was cool, and I removed it.

I have been in that parlor since then a hundred times pretty nearly; I never saw anything else against that front mantel except the sofa—it has always been there since I visited Mrs. Berckmans.

And being cross-examined, the witness says—

I was alone the first visit; I did not see young Mrs. Berckmans at that time; I was not acquainted with her; I saw her on a subsequent visit; we had company from Philadelphia;



I had then my daughter with me and this young lady from Philadelphia; we were shown in the parlor; this young lady's name was Miss Rose Christiana.

1 *Quest.* Don't you remember, Mrs. Bowne, at that time sitting with Mrs. Berckmans the elder upon a sofa behind the door as you enter the front parlor?

*Ans.* No, sir; Mrs. Berckmans was not in the room; I was shown in a room where Emile Berckmans and his wife were, and as my call was not to her, I inquired of young Mr. Berckmans where his mother was, and he went and called her. 10

2 *Quest.* Are you intimate with old Mrs. Berckmans?

*Ans.* Oh well, casual calling one on another, she is about the only person I got well acquainted with.

3 *Quest.* Will you excuse me for asking what your age is?

*Ans.* Certainly—my age is sixty-three.

4 *Quest.* You spoke of your husband as Judge Bowne?

*Ans.* Yes, sir; he was a lawyer, and became a judge, I believe in the circuit court, I think, of this state.

5 *Quest.* Did he use to hold courts at Trenton?

*Ans.* No, sir; he was not a judge of the Supreme Court, 20 only of the county.

6 *Quest.* Did he practise law?

*Ans.* He practised law at the beginning of our married life, but when he was appointed judge he did not practice; he did not make a living by his judgeship, he had other property; he got a little property by his wife too—that was able to support him, and it wasn't a little either.

ELLEN BOWNE.

Sworn and subscribed before me, at Plainfield, the twelfth day of April, A. D. 1862.

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JOHN N. TUTTLE, M. C.

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[Filed November 14, 1862.]

Examination of witnesses taken before me, a master and examiner in chancery of the state of New Jersey, at Newark, the seventh day of October, eighteen hundred and sixty-two, in a cause now pending in the Court of Chancery, wherein Emile C. Berckmans is complainant, and Sara E.



Berckmans is defendant, in the presence of Cornelius Boice, of counsel with complainant, and Cortlandt Parker, of counsel with defendant.

*Sophia A. Hyndshaw*, a witness produced on the part of the defendant, being duly sworn, on her oath saith—I am the wife of the Rev. J. B. Hyndshaw, and I reside in Plainfield—have lived there about seven years.

I know Mrs. Berckmans, the defendant in this suit; I visited her the summer after she returned from the south, while she was living at old Mrs. Berckmans' house; I was there several times during the summer; I remember the location of the sofa in the front parlor of the house, it was opposite the mantel-piece, behind the door, as you enter the door, at your right hand; the fact that Mrs. Berckmans was sitting upon the sofa with a friend of hers, makes me recollect the fact; I took my seat in front of the sofa upon a chair, and I there conversed with these ladies; I recollect the fact of the sofa standing there from the fact of her sitting upon it at the time I called, which I think was in June; I do not recollect anything about the position of the furniture of the room at any other time; the friend who was visiting Mrs. Berckmans at that time was Miss Carey.

And being cross-examined, the witness says—The Miss Carey referred to was Eliza Carey; I presume this was the summer of 1859—it was the time her eldest son was a babe, just after her return from the south.

I do not recollect that there was anything against the mantel-piece at the time I was there—I did not notice the furniture in the room; I recollect the position of the sofa from the simple fact that these two were sitting on the sofa as I entered the room—there were no other persons there at the time; I do not know where Mr. Berckmans was at the time; I don't know that I could say what kind of a sofa it was, it was a large one; I did not notice whether there was any sofa against the mantel-piece.

I know Dr. Randolph Titsworth—I lived next door his former residence; I remember of an auction sale being had of his property—I do not remember the time; Dr. Nichols now occupies that place as a physician where Dr. Titsworth was



—Dr. Nichols' family reside in the house; I do not know where Dr. Titsworth's family lives—his wife has been staying at Dr. Nichols' house.

Admitted, by counsel of defendant, that Dr. Titsworth is absent from Plainfield, and has been since the vendue—his family residing at Plainfield.

A. S. HYNDSHAW.

Sworn and subscribed before me, at Newark, the seventh day of October, A. D. 1862.

JOHN N. TUTTLE, M. C. 10

*Charlotte Sherman*, a witness produced on the part of the defendant, being duly sworn, on her oath saith—I am the wife of Dr. Austin Sherman; I reside part of the year in Plainfield, part in New York; I know both the parties to this suit; I visited Mrs. Berckmans in the fall of 1859, in September; she was living in the house with old Mrs. Berckmans; I visited her in the front parlor; I remember the location of some of the furniture in the parlor at that time; the first thing that struck me, as I entered the door, was the clock standing under the mantel-piece—it was standing on a square table, not very large; I have no recollection of anything on it but the clock; opposite the clock stood a piano, behind the door as you go in—it was one of the ordinary pianos—it was not their high piano—I understood it was the hired piano; I saw no sofa in that room at that time—I think it was in September, from the fact that Mrs. Marsh was soliciting custom about that time, and we went down to Mrs. Cowen's; on her return, she asked me to go and see Sara; Mrs. Marsh and I went together at this time; I know it was in September that Mrs. Marsh was soliciting this custom; I remember visiting there a little later in the fall, the same year, to take Mrs. Berckmans riding; I then saw Mrs. Berckmans in the dining-room or sitting-room; there was a long oldfashioned sofa in that room, it stood behind the door to your left as you enter the room; I remember the location of this clock, because it struck my mind as a singular place for a clock to stand; I remember the location of the sofa in the sitting-room, because there was over it a picture of a cathedral.

And being cross-examined, the witness says—This clock,



as far as I can tell, was one of the French clocks—the ordinary size of those French clocks; I could not tell you the height of the clock, the inches—it made an impression on my mind standing there—there was a glass shade over it; the table stood under the mantel, and the clock was under the shelf of the mantel; I do not remember whether it was a marble or gilded clock—I think it was a gilded one.

1 *Quest.* Why do you recollect that it was in September that you went with Mrs. Marsh to solicit custom?

- 10 *Ans.* Because she had just began her business; she went where she moved to the first of September, and this was a short time afterwards; I do not know where she moved from, unless from Mrs. Varian's; I can't say where she moved from, think from Mrs. Varian's; the only knowledge I have that this was in September, was because she started business in Plainfield; I had no interest in her business matters; I noticed the furniture of the parlor when I went there in September—a divan under each window; I can't tell you what furniture was in the back parlor; I have a slight recollection  
20 of a sofa facing the mantel in the back parlor; I sat on the divan at that visit, the one next the door.

And being re-examined, the witness says—The shade of the clock went under the mantel; the divans I speak of were in the front room, one under each window; I remember a small table standing between the windows in the pier—I believe there were a few little trifling ornaments upon it.

- And being again cross-examined, the witness says—The table under the mantel on which the clock was was a small partly square table, a mahogany one I presume it was; I re-  
30 collect that the date of these matters was in the fall of the year, apart from other modes of fixing dates—the only recollection I have of its being in the fall is the fact, that I before stated, of Mrs. Marsh starting business at that time.

[Mrs. Sherman being paralyzed in one arm, her right arm, makes her mark.]

her  
CHARLOTTE X SHERMAN.  
mark.

Sworn and subscribed before me, at Newark, the seventh day of October, A. D. 1862.

JOHN N. TUTTLE, M. C.



Examination of witnesses taken before me, a master and examiner in chancery, at Newark, the twentieth day of October, A. D. 1862, in a cause therein depending, wherein Emile C. Berckmans is complainant, and Sara E. Berckmans is defendant, in the presence of C. S. Titsworth, solicitor of defendant, and C. Boice, of counsel with complainant.

*Isaac S. Dunn*, a witness produced on the part of the defendant, being duly sworn, on his oath saith—I reside in Plainfield; I was clerk of the auction sale of furniture that 10 occurred at Mrs. Berckmans' on the 16th day of April last; I was the second clerk; there was one sofa sold at that sale; I do not know where it stood at the time of sale, don't remember; I do not remember of seeing it at any time at the sale until it was struck off; it was then in a lower room, the left hand as you come in the front door, the front parlor; there was but one sofa sold at that sale—it was sold to a man—I wrote his name John Cook, a German, living at Scotch plains; I went with Messrs. Ellis Dunn, C. S. Titsworth, and Mr. Parker, since the sale, to Mr. Cook's house, and saw the sofa 20 there; I pointed it out to those persons—it was the same sofa that had been sold at that time.

And being cross-examined, the witness says—This sofa was rather a second-hand sofa, a second worn sofa; the top was not exactly straight or the back; I should say the end corners came out square; it stood, when sold, along the fire-place, under the mantel; it brought at the sale \$12, I think; at that sale the furniture sold was scattered through the rooms—I mean by that, it was not set in order.

And being re-examined, the witness says—In the parlor 30 where that sofa stood the furniture was scattered about, not in order.

ISAAC S. DUNN.

Sworn and subscribed before me, at Newark, the twentieth day of October, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Elston Marsh*, being recalled for cross-examination on a question omitted on the former occasion, alleging himself con-



scientiously scrupulous of taking an oath, and being affirmed according to law, on his affirmation saith—[Examination of Mr. Marsh objected to by counsel for complainant.]

1 *Quest.* In your former examination, you spoke of a visit made by you to the Berckmans house the day previous to that on which you were examined, and of your experimenting as to whether you could see into the upstairs room from the dressing-room window, without regard to the position of the blind; will you state what sort of a day that was, whether  
10 rainy and cloudy and dark, or the contrary?

*Ans.* It was a cloudy day, it was raining while I was there—it rained considerably when I arrived at the house and while I was there—it was a stormy day.

ELSTON MARSH.

Sworn and subscribed before me, at Newark, the twentieth day of October, A. D. 1862.

JOHN N. TUTTLE, M. C.

*C. S. Titsworth*, being recalled for examination on the part of the defendants, (by consent of counsel for complainant)  
20 saith—

1 *Quest.* Did you see a sofa at the house of John Cook, a German, at Scotch plains, at the time you were there, as stated by Mr. Isaac S. Dunn?

*Ans.* I did.

2 *Quest.* Was that the sofa which stood under the mantel in the front room of Mrs. Berckmans' house at the time you first went there to experiment, and which Mrs. Berckmans the elder stated was the sofa upon which she saw Mrs. Berckmans and Dr. Titsworth, as testified to in her examination?

30 *Ans.* It was not the sofa which stood there the first time; I never saw that sofa—the one that I saw at Scotch plains—to my knowledge until the day of the sale of Mrs. Berckmans' furniture; I saw it then, that day, standing under the front room mantel, in the same place where the other sofa stood which Mrs. Berckmans pointed out to us.

3 *Quest.* Describe its dimensions and character in comparison with the sofa which stood in the position referred to when you visited Mrs. Berckmans' house on the first and second occasions, the first with Mr. Parker, the second with Ellis  
40 Dunn?



*Ans.* The sofa sold was very different from the other one in shape and the height of the ends; it was about seven feet long, the height of the end from the floor was about two feet, and the ends, the arms I mean, were at right angles with the back—I mean to say the height of the arms was about two feet from the floor, and the arms were straight on the top; the sofa that Mrs. Berckmans pointed out to us, when we were there on several occasions making these experiments, had round ends, different style of back altogether, higher in the middle, and considerably higher at the corners; the one sold 10 was an ordinary sofa.

And being cross-examined, the witness says—I measured the dimensions of the sofa at the sale with a stick, and afterwards measured the stick—it was a rough measurement—it came within half an inch, I suppose.

C. S. TITSWORTH.

Sworn and subscribed before me, at Newark, the twentieth day of October, A. D. 1862.

JOHN N. TUTTLE, M. C.

*Ellis Dunn*, being recalled for examination on the part of 20 defendant, saith—[Examination of Mr. Dunn objected to by counsel of complainant, he having been previously examined in this cause.]

1 *Quest.* Did you go with Messrs. Isaac Dunn, Mr. Parker, and C. S. Titsworth to the house of John Cook, a few weeks since, and there see a sofa which Mr. Isaac Dunn pointed out?

*Ans.* I did.

2 *Quest.* Was that the same sofa which you saw at Mrs. Berckmans the elder on the visits spoken of in your former examination, and which she stated was the one upon which 30 she saw Mrs. Berckmans and Dr. Titsworth, as testified to by her?

*Ans.* It was not.

3 *Quest.* Describe it in comparison with the other?

*Ans.* This one that we saw at Cook's was a low sofa compared with the other; I took the measure of it—the length is very nearly the same; the height of the sofa from the floor, the back of the sofa, was two feet ten inches—I can hardly describe the difference between the two, they are so different;



the one I saw at Mrs. Berckmans was a sort of a *tele a tele*, after that fashion, though longer—the height of the end of that was three feet five inches from the floor, I mean from the floor to the top of the back, on the ends.

4 *Quest.* If you have the dimensions of this John Cook sofa, give them?

*Ans.* Six feet eleven inches long, length of seat five feet eight inches, height of back at the end two feet ten inches, length of arm two feet two inches, and height at the arm two feet two and a half inches.

5 *Quest.* Did you, on the twenty-second of September, 1862, visit the Berckmans house, and investigate whether the blind being placed at right angles with the side of the house would make any difference as to the power of seeing into the room when extending your head from the dressing-room window—I speak, of course, of the same room and dressing-room as to which you have spoken in your former examination?

*Ans.* I did.

6 *Quest.* What sort of a day was it, what hour were you 20 there, and who, if any one, was with you?

*Ans.* It was a bright, clear, sunny day, between ten and half-past ten in the forenoon, with Mr. Reuben Titsworth.

7 *Quest.* What sort of a day was it compared with the clear day upon which you were there before for the same purpose?

*Ans.* Both were very fine clear days.

8 *Quest.* On this last occasion, when you stood in the dressing-room, and looked from its window into the window of the front room, was it possible to see any person so as to distinguish them sitting in the front room in the spot designated 30 to you before by Mrs. Berckmans?

*Ans.* It was not.

9 *Quest.* Could you see that there was a person there—if so, with what distinctness?

*Ans.* I could see that somebody was there, but not plain enough to know who it was.

10 *Quest.* Did you fix the blind on the window of the front room through which you looked—that blind I mean which was nearest the front of the house—so as to be at right angles to the side of the house, and then try whether you could see 40 from the dressing-room window?



*Ans.* I did; the result was very little different from the first.

11 *Quest.* Had you tried that experiment before on a less clear day or in the afternoon?

*Ans.* I did.

12 *Quest.* State with what result?

*Ans.* My recollection about that is, I made no note of it at the time; that the result was nearly the same; that there was nothing could be distinctly seen.

And being cross-examined, the witness says—

1 *Quest.* Have you been sworn to-day in this examination? 10

*Ans.* I have not.

2 *Quest.* Do you recollect the size of the sofa that the elder Mrs. Berckmans said she saw Sara E. Berckmans and Dr. Titsworth upon?

*Ans.* I have stated it in my previous examination.

3 *Quest.* At the time of the examination of the bed-room, which you have spoken of in this examination, who sat in the chair?

*Ans.* Mr. Reuben Titsworth.

4 *Quest.* Was the window in the dressing-room open or 20 closed at the time of this experiment?

*Ans.* It was open, it had to be to see into the bed-room; I stood with my head out of the dressing-room window.

5 *Quest.* The other window leading into the bed-room, was the sash down?

*Ans.* I believe so—the sash was down.

6 *Quest.* Do you recollect whether the door leading from the hall into the bed-room was open or closed at this time?

*Ans.* It was open, and closed also—I tried it both ways.

7 *Quest.* Was there any difference in the vision, open or 30 closed?

*Ans.* I could see very little difference, if any.

This diagram which I now produce is the one mentioned in my former examination, which I promised to produce. [I have marked the diagram *Exhibit T, No. 1* on the part of defendant.]

ELLIS DUNN.

Sworn and subscribed before me, at Newark, the twentieth day of October, A. D. 1862.

JOHN N. TUTTLE, M. C. 40



*Reuben Titsworth*, a witness produced on the part of defendant, being duly sworn, on his oath saith—I live in Plainfield; I suppose I am some relation to Dr. Titsworth, his father and I are cousins.

1 *Quest.* Did you go with Ellis Dunn, on the twenty-second of September, 1862, to the house lately occupied by old Mrs. Berckmans in Plainfield, and experiment as to whether a person looking from the window of the little dressing-room could see into the front room second story, so as to distinguish  
10 objects inside?

*Ans.* I did.

2 *Quest.* Did you find that a person thus looking could distinguish another person sitting about the middle of that front room?

*Ans.* I found that it could not be done; we tried it with the blinds turned every way we could think of, both the front windows, the dressing-room window, and the window we looked through.

3 *Quest.* Did you try this experiment—opening and throw-  
20 ing back the blinds of all the windows in the front room except that into which you looked, the sashes of all the windows down, putting your head outside of the dressing-room window, and arranging the blind of the window into which you looked, so that it stood at right angles to the house?

*Ans.* I did.

4 *Quest.* With things thus arranged, could you see a person sitting in the front room—about the middle of it?

*Ans.* I could not tell who they were, in fact I don't know that you could see them at all sitting in the room.

30 And being cross-examined, the witness says—

1 *Quest.* Who occupied the house during the time you were there making this experiment?

*Ans.* Indeed I could not tell.

2 *Quest.* Who did you see there?

*Ans.* I saw two ladies.

3 *Quest.* Do you know Mrs. Berckmans the elder?

*Ans.* I do not.

4 *Quest.* How old are you?

*Ans.* I am fifty-one years old, last June.

40 5 *Quest.* Who sat in the chair when you were experimenting in this room?



*Ans.* Ellis Dunn—he was sitting in the chair before I went out of the room; after I went out, I could not tell whether he was there or not.

6 *Quest.* How long have you lived in Plainfield?

*Ans.* Since the first of April last, the last time.

And being re-examined, the witness says—

5 *Quest.* How came you to go with Mr. Dunn on this occasion?

*Ans.* Mr. Ellis Dunn came to the store, and wanted me to go up with him; he did not say what for, and I did not know 10 what for till I got there.

REUBEN TITSWORTH.

Sworn and subscribed before me, at Newark, the seventh day of October, A. D. 1862.

JOHN N. TUTTLE, M. C.

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[Filed February 3, 1863.]

Examination of witnesses in the above cause, taken before me, Abraham S. Jackson, a master and examiner in chancery of New Jersey, on the twelfth day of April, in the year eighteen hundred and sixty-one, at ten o'clock in the fore- 20 noon, at the office of Cornelius Boice, at the village of Plainfield, in the county of Union—present Benjamin Williamson and Cornelius Boice, of counsel for the complainant, and Caleb S. Titsworth, solicitor, and Charles R. Waugh, of counsel for defendant.

*Elisha Runyon*, a witness produced on the part of the complainant, being duly sworn, deposes and says—I am a justice of the peace of the county of Union; I reside in Plainfield, in Union county; Dr. Randolph Titsworth was lately examined in a suit before me, on the 18th of March last (1861); a ques- 30 tion was asked him on that trial, whether Mrs. Berckmans intended leaving her husband's house.

*Quest.* What was his answer? [Objected to by Mr. Titsworth, as being a hearsay declaration of a person not a party to this suit.]

*Ans.* I understood Mr. Titsworth to say that he did not.



*Quest.* Was the question asked him, whether he did not assist in planning her leaving?

*Ans.* That question was asked.

*Quest.* What was his answer? [Objected to on same ground.]

*Ans.* He did not.

*Quest.* After these questions were asked him, was the paper now shown to you placed in his hands?

*Ans.* Witness being shown a paper purporting to be a letter 10 from Dr. Titsworth to Mrs. Berckmans, marked *Exhibit A* on part of complainant, says—it was. [Objected to for the same reason as before.]

*Quest.* Was he asked if the paper was in his handwriting?

*Ans.* It was.

*Quest.* Did he make any hesitation about answering?

*Ans.* He made hesitation.

*Quest.* What was his final answer to the question as to its being his handwriting?

*Ans.* That it was his handwriting.

20 *Quest.* Did you ever see Dr. Titsworth write?

*Ans.* I have, not more than once or twice, not sufficient to identify his writing.

*Quest.* Did Dr. Titsworth state, on the examination referred to, whether or not he saw Mrs. Berckmans on the night of the day she left her husband's house?

*Ans.* Yes, sir, I think he did.

*Quest.* Where?

*Ans.* At Dr. Sherman's, in Plainfield, if my memory serves me.

30 *Quest.* Did he or not say whether she went to the city of New York after that?

*Ans.* He did.

*Quest.* Did he or not say whether he visited her there?

*Ans.* He did.

*Quest.* How often?

*Ans.* Twice.

[All the examination of witnesses referring to the testimony which Dr. Titsworth gave on the trial objected to, on the ground that it is the declaration of a person not a party to this 40 suit.]



Cross-examination by Mr. Titsworth.

*Quest.* What suit was this in which the doctor was examined as a witness, and who were the parties?

*Ans.* The suit instituted by Dr. Titsworth against Emile Berckmans, the complainant in this suit.

*Quest.* Had Dr. Titsworth been their family physician?

*Ans.* Not to my knowledge, until the doctor presented me a bill to collect of Mr. Berckmans.

ELISHA RUNYON.

Taken, sworn, and subscribed before me, April 12th, 1861, 10 at Plainfield.

A. S. JACKSON, M. C.

*Domenick Cannata*, a witness produced on the part of the complainant, being duly sworn, says—I am an Italian; I have been in this country eighteen years; I reside in Plainfield—I have lived here five years this 1st of April; I am a jeweller, and keep a store in Plainfield; I am a married man with two children, and keep house in Plainfield over my store; I know the complainant in this suit—I have known him since I have been here; he has been an intimate acquaintance of mine; I 20 know Dr. Titsworth—he was my family physician—he is not now; I remember the fact of hearing that Mrs. Berckmans had left her husband's house—I suppose it was in the neighborhood of the 1st of September, or last of August, 1860.

*Quest.* Do you remember the fact of the complainant's coming to your store on an evening two or three weeks prior to your hearing of Mrs. Berckmans leaving her husband's house?

*Ans.* Yes, sir.

*Quest.* What time in the evening?

*Ans.* About a few minutes before nine o'clock. 30

*Quest.* Did you go with him anywhere?

*Ans.* Yes, sir.

*Quest.* Where did you go with him, and what occurred?

*Ans.* We went up to Mrs. Marsh's store; Mr. Berckmans went inside, and requested his wife to come home; after a few minutes, he came out very angry, and proceeded to his home; he requested his wife to go home with him, and she says that she wasn't ready to go home—so he went home.



*Quest.* Who is Mrs. Marsh?

*Ans.* She keeps a store in Plainfield—she is the mother of Mrs. Berckmans—she keeps a fancy goods store and worsted; it is in the same street with Dr. Titsworth's house and office, on the opposite side of the street, I presume about one hundred yards distant; Mrs. Marsh keeps a worsted store.

*Quest.* The next night after the one you have referred to, were you in company with Mr. Berckmans in the street in Plainfield where Mrs. Marsh's store is?

10 *Ans.* Yes, sir.

*Quest.* What time in the evening?

*Ans.* It was about quarter past eight, I think.

*Quest.* Did you see Dr. Titsworth in the street?

*Ans.* Yes, sir.

*Quest.* Which way and where did he go, and what occurred there?

*Ans.* He passed on the opposite side of Mrs. Marsh's—we saw him pass, and we crossed the road; then he walked about three hundred yards, I suppose, and crossed to the other side  
20 towards Mrs. Marsh's store; then we crossed over again to the same place where we were before, on the opposite side of the store; doctor went right in to Mrs. Marsh's store; after he stayed there about few minutes in the store, he went inside the partition in the store—the partition is a curtain I believe—and he went in with Mrs. Berckmans; he remained there about an hour and a half, or two, I don't know exactly, I have no time with me; then I saw them, the doctor and Mrs. Berckmans, come out, and he went home with Mrs. Berckmans.

30 *Quest.* Did you see Dr. Titsworth go into Mrs. Marsh's the next night? [Objected to as a leading question.]

*Quest.* Did you see Dr. Titsworth the next night? [Objected to as a leading question, because it fixes the time for the witness.]

*Ans.* Yes, sir.

*Quest.* Where?

*Ans.* At Mrs. Marsh's store.

*Quest.* What o'clock?

*Ans.* About half-past eight in the evening.

40 *Quest.* Did you see him come out? [Objected to as being leading.]



*Ans.* I saw him come out.

*Quest.* What time?

*Ans.* He remained there until about a quarter past nine in Mrs. Marsh's store.

*Quest.* Where did he go when he came out?

*Ans.* He went to his office.

*Quest.* Did you see Mr. Berckmans that evening?

*Ans.* Yes, sir.

*Quest.* Before or after Dr. Titsworth came out of Mrs. Marsh's?

10

*Ans.* I saw her before and I saw her after.

*Quest.* Where did you see her after he came out?

*Ans.* I saw her come out of Mrs. Marsh's store, and she went up to the doctor's office.

*Quest.* Was any one with her?

*Ans.* No, sir.

*Quest.* How long was she there?

*Ans.* Pretty near two hours, I guess.

*Quest.* During the time she was in Dr. Titsworth's office, was there or not any light in the office?

20

*Ans.* Not in the office, but in the next room, a kind of sitting-room in the house.

*Quest.* Did you see her come out?

*Ans.* Yes, sir.

*Quest.* Which door, the house or office door?

*Ans.* The office door.

*Quest.* Who was with her?

*Ans.* Dr. Titsworth.

*Quest.* What direction did he go?

*Ans.* They went home to Mrs. Berckmans' house.

30

*Quest.* Do you know whether Mrs. Titsworth was at home at that time?

*Ans.* She was away—her daughter was also away—they were in New York state.

*Quest.* At this time, where was the complainant living?

*Ans.* At home, at his mother's.

*Quest.* How far was his mother's from Dr. Titsworth's office?

*Ans.* A little over a mile, if I don't mistake.

*Quest.* When did you next see Dr. Titsworth?

40



*Ans.* In my store, about eight o'clock in the morning a day or two after.

*Quest.* What occurred at that time?

*Ans.* He came in to my store, and said that he was a going to sue Mrs. Berckmans, the old lady, the complainant's mother. [Objected to as being the statement of a person not a party to the suit in absence of the parties.] She had been injuring his reputation and character; I asked him, doctor, what for she injured his reputation? because she has been reporting all  
10 around town that Dr. Titsworth had something to do with Mrs. Berckmans; then I told him, doctor, you know you got a wife and a daughter, and your wife, she is a very fine woman, and your duty is to take care of your wife and your children, and leave the other man's wife alone; well, he don't understand that—he say he had nothing to do with any other woman—so I requested him whether he see Mrs. Berckmans every night, and go home with her; so he told me no; I was mad then because he denied the fact I had seen any other  
20 night—so I told him, Mr. Berckmans is a young man, and aint got much experience in this world; and I told him, if I was me or any other man I should blow his brains if any man should interfere with my family; so he went away after that. [Objected to as before.]

*Quest.* Did you ever see Mrs. Berckmans go to Dr. Titsworth's office at any other times than the one you have mentioned—and if yes, when?

*Ans.* I saw her on a Monday, a few days before she left Mr. Berckmans; she was coming down with two Miss Bonnells—it was night, about eight o'clock—she was laughing;  
30 when they reached Mrs. Marsh's store they all run in together—they stay there about two hours and half, in the neighborhood of three hours, I guess; they went to the doctor's office; I think the doctor was with them, I don't remember exactly.

*Quest.* Did you or not see Mrs. Berckmans the next night?

*Ans.* Yes, sir.

*Quest.* Was she with any one, and where did she go to?

*Ans.* She was with the Bonnells, with one or two, I don't remember; they went to Mrs. Marsh's store.

*Quest.* What then?

40 *Ans.* Then they stopped some time with Mrs. Marsh—then they went to Dr. Titsworth's office; it was a very dark night.



*Quest.* Do you remember the fact of the negro minstrels performing in Plainfield last fall?

*Ans.* Yes, sir.

*Quest.* Did you see Dr. Titsworth that night?

*Ans.* Yes, sir.

*Quest.* Where?

*Ans.* I saw him come out of Mrs. Marsh's store.

*Quest.* At what o'clock?

*Ans.* At eleven o'clock at night.

*Quest.* Did any one let him out of the store?

*Ans.* Yes, sir, Mrs. Berckmans, I know—it was moonlight. 10

*Quest.* Where has Mrs. Berckmans been staying since November last?

*Ans.* With her mother, Mrs. Marsh.

*Quest.* Have you seen Dr. Titsworth, at other times than those you have mentioned, in and out of Mrs. Marsh's store late at night?

*Ans.* Yes, sir.

*Quest.* How late at night?

*Ans.* About a quarter of eleven.

*Quest.* How often? 20

*Ans.* I saw him two or three nights, two of a Sunday, I think.

*Quest.* Is Mrs. Berckmans present at this examination at this time and during the whole examination, and is Dr. Titsworth here, and has he been here all the time?

*Ans.* Yes, sir, both of them.

Cross-examined by Mr. Waugh.

*Quest.* How is your store and dwelling situated with reference to the dwelling of Mrs. Marsh? 30

*Ans.* My store is on the opposite side of the street, about three or four blocks down.

*Quest.* Do you keep your store open at night?

*Ans.* Yes, sir; I keep my store open till nine o'clock, sometimes till ten.

*Quest.* Are you an intimate friend of Mr. Berckmans?

*Ans.* Yes, sir.

*Quest.* How did you come to observe the actions of these parties, as you related?

*Ans.* It was Mr. Berckmans that had confidence in me, and 40 told me.



*Quest.* Did Mr. Berckmans request you to watch these parties, or either of them?

*Ans.* No, sir.

*Quest.* Then why did you do so?

*Ans.* Because I heard a great deal about this affair between Mrs. Berckmans and Dr. Titsworth, and Dr. Titsworth being my own physician, I wanted to see myself, with my own eye, whether it was true or not about this affair.

*Quest.* What had you heard, previous to this time you refer  
10 to, about Dr. Titsworth and Mrs. Berckmans that caused you to watch them?

*Ans.* I had heard of this intimacy between Dr. Titsworth and Mrs. Berckmans.

*Quest.* From whom had you heard this?

*Ans.* I heard it from Mr. Berckmans and I heard it from all the town.

*Quest.* Are you sure you heard this before you watched them?

*Ans.* Yes, sir.

20 *Quest.* Name some persons from whom you heard it besides Mr. Berckmans?

*Ans.* Mrs. Berckmans, the mother of the complainant, spoke to me, and the girl of the house—I don't know her name—it was a girl from the old lady's house; there were others, but I don't remember their names.

*Quest.* When and where did this girl speak to you about the matter?

*Ans.* Well, she spoke to me a few weeks before Mr. Berckmans left the other house of his brother Prosper, where he  
30 lived—I can't tell exactly—it was before I watched these parties.

*Quest.* Where did she speak to you about it?

*Ans.* In Mrs. Berckmans' (old lady) house.

*Quest.* Would you know the girl that spoke to you if you saw her again?

*Ans.* I would.

*Quest.* Do you know where she is now?

*Ans.* I do not know where she is now.

*Quest.* State, as near as you can, when the complainant  
40 moved from his brother's house back to his mother's?



*Ans.* Well, I couldn't tell exactly when it was, as I know it was a few months ago; I heard Dr. Titsworth go to Mr. Berckmans' house, that is Prosper house, too often through the week, leaving his carriage sometimes outside and sometimes inside. [The witness was stopped here.]

*Quest.* Was it summer or winter when he moved?

*Ans.* I think it was in the beginning of the fall I think—I don't know exactly when it was.

*Quest.* Do you mean last fall or year ago last fall?

*Ans.* I think it was last fall.

10

*Quest.* When you went with Mr. Berckmans to Mrs. Marsh's, as you stated in your direct examination, did you go at his request?

*Ans.* No, sir; we walked together, and I asked him where he going, and he answered me, to go after his wife, and take her home.

*Quest.* Did you go at that time in Mrs. Marsh's store with him?

*Ans.* I went to the outside of the store, and Mr. Berckmans went to the inside—I remained outside.

20

*Quest.* How far from the door did you stand while he was inside?

*Ans.* Just a few steps, passing the store to the grocery, and was walking a few steps in front.

*Quest.* Did you see Mrs. Marsh in the store at that time?

*Ans.* No, sir.

*Quest.* Did he shut the door when he went in?

*Ans.* I think the door was open, if I don't mistake.

*Quest.* Where was Mrs. Berckmans when her husband entered the store?

30

*Ans.* She was sitting in the store with Dr. Titsworth.

*Quest.* What did Berckmans say to her when he first went in?

*Ans.* I don't know anything about what he say, because I was outside.

*Quest.* How long did he remain in the store?

*Ans.* About two or three minutes, I guess, in the store.

*Quest.* Did you hear what was said by him and her in the store while you were there?

*Ans.* No, sir.

40



*Quest.* When he came out of the store, what did you do?

*Ans.* I walked with him about three blocks, and I left him, and he went home, and I went home myself to my own house.

*Quest.* When you went home at that time did you remain home for the rest of the night?

*Ans.* Yes, sir.

*Quest.* You speak about a partition in the store, will you describe that as nearly as you can?

*Ans.* Yes, sir; this is the store here—the partition runs  
10 across the store in front of the door; I don't know, I never was in the store.

*Quest.* What time in the evening was it when you saw Dr. Titsworth and Mrs. Berckmans go from the store behind the partition?

*Ans.* I think it was about nine or half a past eight—I don't know exactly.

*Quest.* Where were you standing when you saw this?

*Ans.* Opposite to the store on the other side of the street.

*Quest.* How long had you been there before you saw them?

20 *Ans.* About twenty minutes, I guess.

*Quest.* What was you doing there?

*Ans.* Smoking a segar, sir.

*Quest.* Were you seated or standing?

*Ans.* Standing, sir.

*Quest.* Was there any person with you?

*Ans.* Not to me opposite the store.

*Quest.* Could you see persons in the store from where you were standing?

*Ans.* Yes, sir.

30 *Quest.* Through the windows or door?

*Ans.* Through the doors, sir.

*Quest.* How long was Dr. Titsworth in the store before he went inside the partition?

*Ans.* Well, I don't know—it was about a quarter of an hour—I don't remember exactly.

*Quest.* Was there a door in the partition?

*Ans.* I don't see no door, when I see a curtain.

*Quest.* How long did he remain there before he returned to the store?

40 *Ans.* About two hours, I guess.

*Quest.* State the time that this occurred, as near as possible the day of the month?

*Ans.* I don't remember exactly the time—I know it was about September—I don't know exactly the day.

*Quest.* Has Mrs. Berckmans young children—if so, how many?

*Ans.* She had two—well, I know she got two children.

*Quest.* Were they with her at her mother's, Mrs. Marsh, at that time?

*Ans.* No, sir.

10

*Quest.* Where were they?

*Ans.* Up at Mrs. Berckmans', the old lady.

*Quest.* What was the age of the youngest child at that time?

*Ans.* I don't remember exactly the age it was, I presume a few months.

*Quest.* Did you see Mrs. Marsh in the store at that night?

*Ans.* Yes, sir.

*Quest.* Did she remain there the whole evening?

*Ans.* Yes, sir.

*Quest.* Did you remain in your position opposite the house till the doctor left?

20

*Ans.* No, sir.

*Quest.* How long did you remain there after he went behind the curtain?

*Ans.* I remained there about a half an hour, then I walked a few steps and back again.

*Quest.* Did you remain in the street in the sight of the house till the doctor left?

*Ans.* I remained there, walking a few steps back and forward, a regular sentinel.

30

*Quest.* What persons did you see that evening in the street, while you were watching there?

*Ans.* A good many pass I know, and I saw Mr. Berckmans.

*Quest.* Name as many of the persons you saw there as you can?

*Ans.* I couldn't name any person—I know a good many by sight—their names are hard for me to remember because they are English names.

*Quest.* Name one person besides Mr. Berckmans that you



saw pass, or describe them by their business, so as to identify them?

*Ans.* Well, I don't know their business nor nothing—I don't remember the name of any person I saw pass—I had no conversation with any person except Mr. Berckmans.

*Quest.* Did Mr. Berckmans go there with you?

*Ans.* Yes, sir.

*Quest.* Did he ask you to go there?

*Ans.* No, sir.

10 *Quest.* How, then, did you come to go there with him?

*Ans.* I went voluntarily there myself.

*Quest.* Did Mr. Berckmans remain there with you the whole time?

*Ans.* No, sir.

*Quest.* How long did he remain there with you?

*Ans.* We meet there every few minutes.

*Quest.* Where did he go when he left you?

*Ans.* Sometime he cross over the other side, sometime he come back.

20 *Quest.* Did he remain in that neighborhood the whole evening, I mean a short distance about there?

*Ans.* Yes, sir.

*Quest.* About what time did the doctor leave there that night?

*Ans.* I think it was about half-past ten—I don't remember exactly the time.

*Quest.* Where did he go when he left?

*Ans.* He went home with Mrs. Berckmans.

*Quest.* What did you do when they left Mrs. Marsh's store?

*Ans.* We went ahead, myself and Mr. Berckmans.

30 *Quest.* Where did you go to with Mr. Berckmans?

*Ans.* We went opposite the episcopal church, about five blocks this side of old Mrs. Berckmans' house.

*Quest.* What did you then do?

*Ans.* We jumped the fence there, and went behind the fence.

*Quest.* How long did you remain there?

*Ans.* We remained there till they passed.

*Quest.* What did you do next?

*Ans.* We waited there till Dr. Titsworth returned.

40 *Quest.* Did the doctor go in the house with her up there?

*Ans.* I couldn't tell, I was too far from the house, I don't know nothing about it.

*Quest.* How long was it before he returned?

*Ans.* Not very long, about ten or fifteen minutes I think—I think it was no longer than that.

*Quest.* After he returned, what did you do then?

*Ans.* We went home, sir.

*Quest.* What day of the month was it that you saw Mrs. Berckmans go to Dr. Titsworth's office at the time you mentioned there was no light in the office?

10

*Ans.* I couldn't tell exactly the time.

*Quest.* State the time as near as you can?

*Ans.* Well, it must have been a few days before she left her husband.

*Quest.* What was you doing there that evening?

*Ans.* Went on purpose to watch.

*Quest.* Who was with you?

*Ans.* Nobody, sir.

*Quest.* Where did you first see Mrs. Berckmans that evening, and at what time?

20

*Ans.* At Mrs. Marsh's store, at her mother's, about half-past eight or nine somewheres.

*Quest.* At what time did you see the doctor there?

*Ans.* A few minutes after.

*Quest.* How long did he remain there before he went to his office?

*Ans.* He remained about half an hour.

*Quest.* How long after he went to his office before she followed him?

*Ans.* About quarter of an hour or twenty minutes.

30

*Quest.* Where was you when she left the store?

*Ans.* I was just the opposite side of the street.

*Quest.* Was any one with her—if so who?

*Ans.* Nobody was with her.

*Quest.* Did you not see her mother with her at that time?

*Ans.* I guess not.

*Quest.* Where did she go after she left the store?

*Ans.* I didn't see her go anywhere except to Mr. Titsworth's office.

*Quest.* Did you follow her?

40



*Ans.* Yes, sir.

*Quest.* Where did you go after she went in the office?

*Ans.* I went behind the door of Mr. Boice's office, where we now are.

*Quest.* How long did you remain there?

*Ans.* I couldn't tell exactly, it was about two hours, don't know exactly the time.

*Quest.* Did you see either of the parties after she entered the office till she came out?

10 *Ans.* No, sir.

*Quest.* Is there a door leading from his office to the sitting-room where you saw the light?

*Ans.* Yes, sir, there is a door in the back office.

*Quest.* Do not the neighbors often go through the office to enter his house?

*Ans.* I guess not, got the door next to the office—I never saw a neighbor go through the office to the house—I have myself gone through.

*Quest.* After they came out of the office, what did you then  
20 do?

*Ans.* I followed about two blocks, and then I left there.

*Quest.* Have you ever been engaged in this kind of business before?

*Ans.* No, sir.

*Quest.* Are you on bad terms with Dr. Titsworth?

*Ans.* No, sir.

*Quest.* Have you not done all in your power to assist Mr. Berckmans in this matter?

*Ans.* No, sir.

30 *Quest.* Have you not interested yourself a good deal in Mr. Berckmans' behalf?

*Ans.* Yes, sir.

*Quest.* Have you not said and done all you could against Mrs. Berckmans in this matter?

*Ans.* I have been making remarks to Mrs. Berckmans about the way she acts against her husband.

*Quest.* Have you been in the daily habit of talking against Mrs. Berckmans and Dr. Titsworth to persons coming into your store?

40 *Ans.* Since the trial took place, the persons coming in the

store, who were acquainted with Mrs. Berckmans and Titsworth, they asked me about the letter Dr. Titsworth sent to Mrs. Berckmans, if it was so; I never spoke to any one, except the person asked me about the trial.

*Quest.* Look at *Exhibit A*, now shown you, and say if that has been in your possession, and if so, for how long a time?

*Ans.* It never was in my possession.

*Quest.* Have you a copy of that in your possession, and if so for how long a time have you had it? 10

*Ans.* I got the copy; I have ever since two days after the trial before the Esquire Runyon, on the 18th of March, 1861.

*Quest.* Have you not shown that copy every day to persons coming into your store, and talked with them about the matter?

*Ans.* No, sir, not every day.

*Quest.* Why did you get this copy of the letter?

*Ans.* I requested Mr. Berckmans I would like to have a copy of that letter—he did so.

*Quest.* For what purpose did you wish a copy of the letter? 20

*Ans.* Because I like to have a copy to show because they tried to slander Mr. Berckmans.

*Quest.* Was you not the first person to circulate these stories about these parties in the village of Plainfield?

*Ans.* No, sir; it is an old story about this affair.

*Quest.* Did you ever hear any person speak about this matter, except Mr. Berckmans, his mother, and the girl you referred to, until you yourself put it in circulation—if so, give us their names or describe them? 30

*Ans.* I don't know about the names—it was the talk through the town.

*Quest.* How long before Mrs. Berckmans left her husband did her husband's mother talk to you about this matter?

*Ans.* Oh, just since she came back from the south—a couple of months; I don't don't know exactly I heard.

*Quest.* Who first spoke to you about the matter, Mr. Berckmans or his mother?

*Ans.* Well, I heard Mr. Berckmans say he don't live very happy with his wife; this is the first I know. 40



*Quest.* How long after Mr. Berckmans mentioned the matter to you before you talked with his mother about it?

*Ans.* I don't know—it was the same day.

*Quest.* When you first talked to them about it, did they mention the name of Dr. Titsworth to you—if not, when did they first do so?

*Ans.* I never mentioned the name of Dr. Titsworth at all Mr. Berckmans lived unhappy with his wife.

*Quest.* How did you first come to watch Mrs. Berckmans 10 and Dr. Titsworth?

*Ans.* Because I heard a great deal, and I wanted to see with my own eye; I had a good deal of confidence in the doctor, and I wanted to see with my own eye.

*Quest.* When did you first hear about Mrs. Berckmans and Dr. Titsworth—when and from whom?

*Ans.* I heard, I think, a day before I went with Mr. Berckmans to Mrs. Marsh's store, from Mr. Berckmans himself.

*Quest.* Had you heard it from any other person before that time?

20 *Ans.* No, sir.

*Quest.* How long was this before she left her husband?

*Ans.* I don't know—a couple weeks—I can't tell exactly.

*Quest.* Had you talked with Mrs. Berckmans, the mother, about Dr. Titsworth and her daughter-in-law before she left her husband?

*Ans.* No, sir.

*Quest.* When you spoke of talking with Mrs. Berckmans, the mother, and the girl about the troubles between Berckmans and his wife, did you mean the difficulty between her 30 and Dr. Titsworth, or did you mean something else?

*Ans.* No, I never had any conversation of that kind.

*Quest.* When Dr. Titsworth came to your store, and had the conversation with you about bringing suit against Mrs. Berckmans, was it before or after Mrs. Berckmans left her husband, and how long?

*Ans.* It was before she left her husband, I think about two weeks—I don't know exactly.

Direct examination resumed.

*Quest.* Are the doors in Mrs. Marsh's house close doors or 40 glass doors?

*Ans.* Glass doors.

*Quest.* Has Mr. Berckmans, the complainant, been present during the whole of this examination of yours?

*Ans.* Yes, sir.

*Quest.* Have Dr. Titsworth and Mrs. Berckmans, defendant, been present during the whole of this examination?

*Ans.* Yes, sir.

*Quest.* Have they been sitting next to each other?

*Ans.* Yes, sir, during the whole time.

*Quest.* Have Dr. Titsworth and Mrs. Berckmans, the defendant, been laughing together and been whispering to each other during your examination as a witness?

*Ans.* Yes, sir.

*Quest.* Has this been constantly during the whole examination?

*Ans.* Yes, sir.

*Quest.* Are Mr. Boice's and Dr. Titsworth's offices on the same or opposite sides of the street?

*Ans.* On opposite sides, sir.

*Quest.* How nearly opposite?

*Ans.* I presume about fifteen to twenty-five yards—they are nearly opposite. 20

*Quest.* How do you know when Berckmans, the complainant, went into Mrs. Marsh's store, when his wife was there, that he asked her to go home with him?

*Ans.* When he come out I asked him where his wife—he said his wife said she was not ready to go home.

Cross-examination resumed.

*Quest.* During this examination, have Mrs. Berckmans and Dr. Titsworth been sitting next their counsel?

*Ans.* Yes, sir. 30

DOMENICO CANNATA.

Taken, sworn, and subscribed before me, April 12th, 1861, at Plainfield.

A. S. JACKSON, M. C.

*Charles W. Brown*, a witness produced on the part of the complainant, being duly sworn, deposes and says—I live in Plainfield, in the same street with Dr. Titsworth, a little back from the street.



*Quest.* During the last four or five months, do you know whether Dr. Titsworth has been a frequent visitor at Mrs. Marsh's?

*Ans.* Yes, sir.

*Quest.* Has he or not?

*Ans.* He has.

*Quest.* How frequent?

*Ans.* Well, I don't know that I ever counted it, and most of the time I have met him accidentally while going up town on my business; well, I have seen some time, I don't know more than once in a day, sometimes in the morning and sometimes in the afternoon—I don't know that I seen him but once in a day.

*Quest.* Have you seen him in and out at night?

*Ans.* Only twice.

*Quest.* How late at night have you seen him come out?

*Ans.* I didn't see him come out at all.

*Quest.* How late have you known him to go into Mrs. Marsh's store?

20 *Ans.* One night I happened into Mr. McDonald's store, I see Mr. Titsworth come from upper part of the town, and go in there.

*Quest.* How late was this?

*Ans.* I think it was between six and seven—I think it was within twenty minutes.

*Quest.* Do you know how long he remained there?

*Ans.* I don't know—I went in the store and done my business, and then went down town myself.

*Quest.* What o'clock of the other night was it when you  
30 saw him go in?

*Ans.* Well, as near as I can remember, it was between nine and ten.

*Quest.* Do you know whether that night he came out before half-past twelve o'clock? [Objected to as leading.]

*Ans.* I don't think he was out at twelve.

*Quest.* Why don't you think so?

*Ans.* Well, because I didn't see him come out.

*Quest.* Were you so situated that, had he come out, you would have seen him?

40 *Ans.* I think likely I was, unless he went out the back way.

Cross-examined by Mr. Waugh.

*Quest.* What is your business?

*Ans.* Painter.

*Quest.* What countryman are you?

*Ans.* Well, I am a Dutchman—I am a native of Prussia.

*Quest.* When was it when you saw Dr. Titsworth go in Mrs. Marsh's, and did not see him come out?

*Ans.* Well, at the last time it was the day that we had the great excitement in town—I think there was in the neighborhood of 1500 wide-awakes in town, as was reported. 10

*Quest.* Did he have a light or lantern of any kind when he went in?

*Ans.* I didn't see any light—he might have had a lantern, but I did not see any light in it.

*Quest.* Was Mrs. Berckmans' children with her there at that time?

*Ans.* Well, I do not know anything about it—I can't say whether they were there at that time.

*Quest.* Did you watch the door from the time when he went in till twelve o'clock, or about that time? 20

*Ans.* Well, I don't know if you call it watching—I don't know that I watched the door.

*Quest.* How do you know that he did not come out before twelve o'clock?

*Ans.* Well, because we was walking from there along this part of the town towards Mr. Beice's office.

*Quest.* Might not the doctor have left the house, and gone in the other direction while you were walking this way?

*Ans.* I think not, because we did not go so far.

*Quest.* How far did you walk this side of Mrs. Marsh's? 30

*Ans.* Up to George Pound's hitching-post, right opposite Peace street, fifteen paces from Mrs. Marsh's store.

*Quest.* How far did you walk the other side of Mrs. Marsh's store?

*Ans.* Well, I don't believe I went further than Alva Gardner's, about fifteen paces the other side.

*Quest.* Who was with you during this time?

*Ans.* Well, I think Mr. Berckmans and Mr. Canatta, the former witness.

*Quest.* Did you remain there at Mr. Berckmans' request? 40



*Ans.* Yes, sir.

*Quest.* Did he pay you for your services?

*Ans.* I don't know that he has.

*Quest.* Has he paid you in any way for your services, or promised to do so?

*Ans.* I told him, when he first spoke to me about it, that it was worth, if it was in such a condition, a young man like him, should be in such a position as that in the world, and that I didn't care much to do or be in such a way in such  
10 acting as that, but I should stay with him.

*Quest.* Has Mr. Berckmans paid you for your services for watching there that night with him?

*Ans.* I told you once before that I did not think he did.

*Quest.* Has he paid you anything on account for your services on that occasion—if so, how much?

*Ans.* I have got an account with him, but I haven't settled—I have done some work for him.

*Quest.* Have you charged him anything for your services on that occasion—if so, how much?

20 *Ans.* I have not, sir; I can show my books.

*Quest.* Has he promised to pay you for your services on that occasion?

*Ans.* He told me he would not have me do it for nothing—that is all.

Direct examination resumed.

*Quest.* When did he tell you he would not have you do it for nothing, before or after?

*Ans.* Before.

*Quest.* How old are you Mr. Brown?

30 *Ans.* I believe I was thirty-four years old on the 21st day of January last; I have been in this country sixteen or eighteen years, I think—I came here when I was a boy.

CHARLES W. BROWN.

Taken, sworn, and subscribed, before me at Plainfield,  
April 12th, 1861.

A. S. JACKSON, M. C.

It being four o'clock, a recess of one hour was taken until five o'clock, when

*Catharine Fannin*, a witness produced on the part of the complainant, being duly sworn, deposes and says—Can't tell how old I am exactly ; I have been fifteen years in this country ; I was upwards of twenty years old when I left Ireland ; I lived with old Mrs. Berckmans for thirteen months.

*Quest.* When did you leave there ?

*Ans.* This June coming one year ago—I left there on the 29th of the month ?

*Quest.* Did Mrs. Emile Berckmans live there then ?

*Ans.* Yes, sir ; I went there 29th of May, and the young missis was there all that time till March ; then she moved to the house opposite, her husband's brother's house ; she did not come back again while I was there.

*Quest.* Where was the old lady while young Mrs. Berckmans was there ?

*Ans.* The old lady was there until new year, when she went out south the day before new year, and came back some time in March.

*Quest.* How many children had young Mrs. Berckmans while she lived there ?

20

*Ans.* Well, sir, she had one child living there with her.

*Quest.* Was the other one born before or after she left there ?

*Ans.* After she left there, in the other house, in April I think, the other child was born.

*Quest.* While the old lady was gone south, did you ever see Dr. Titsworth in the house ?

*Ans.* Yes, sir, I see him up stairs in the dining-room on a chair, with the back turned to the stove—the young missis was standing over by the window, and when I went in he bent his head right down on his right side ; I didn't stay there long—I went out, and he asked the young missis what did I want, and I don't know what she said.

*Quest.* Did he ask her this before or after you went out of the room ?

*Ans.* When I went out and closed the door, and stood and I heard the doctor ask young missis what did I want.

*Quest.* What time of the day was this ?

*Ans.* The forenoon, sir.

*Quest.* Where was Mr. Emile Berckmans at that time ?

40



*Ans.* I cannot tell you that.

*Quest.* Do you know whether he was at home?

*Ans.* I don't know whether he was at home at that day, sir.

*Quest.* Was there any one sick in the house?

*Ans.* Not at that time; when he first came there, the doctor was called to attend the little boy—the little boy was sick.

*Quest.* How long before you saw him in the dining-room that he came to see the little boy that was sick?

*Ans.* In the fall of the year he come to see the little boy, 10 and then after the boy got well he called in sometimes.

*Quest.* When he called in and out, what part of the house did he go to?

*Ans.* I can't exactly tell; I let him in once when the baby, the little boy, was sick, and he went up stairs to her bed-room and setting room together—they were the same room.

*Quest.* When he put his head down, what did he put it down for?

*Ans.* How do I know—I know nothing about it—I didn't ask it—I didn't ask him.

20 *Quest.* Did you see his face?

*Ans.* I did when he made a side-look at me.

*Quest.* Did you ever see him go up stairs when Mr. Berckmans was at home?

*Ans.* I don't know, sir; yes, I saw him once go up stairs—Mr. Berkman went up with him.

*Quest.* What brought him there the day you saw him in the dining-room?

*Ans.* I cannot tell nothing about it.

*Quest.* Did you ever say anything to young Mrs. Berckmans about the doctor's coming there? 30

*Ans.* I said once, the doctor calls in now when nobody's sick; she said that she wants no better doctor than him when she is sick.

*Quest.* Did she say anything about its being none of your business?

*Ans.* I told that before; she said it was none of my business.

*Quest.* How were you employed there—what were you doing?

40 *Ans.* Well, sir, I used to wash and iron there, sometimes I washed and sometimes ironed.

*Quest.* Who was cook?

*Ans.* Sometimes I cooked, and sometimes the old lady.

*Quest.* Who cooked while the old lady was away?

*Ans.* I cooked sometimes, and the young missis cooked sometimes.

*Quest.* Did you have plenty to eat?

*Ans.* Yes, sir, plenty to eat.

Cross-examined by Mr. Waugh.

*Quest.* Where do you live now Catharine?

*Ans.* I don't live in no place, I have got a sore hand. 10

*Quest.* Where are you staying now?

*Ans.* Stopping at the old lady's—she brought me from Tarrytown here.

*Quest.* How long since she brought you here?

*Ans.* She took me the time the other trial came on.

*Quest.* Have you stayed with her ever since?

*Ans.* No, sir; I was living out across the brook for two weeks.

*Quest.* When you went in the dining-room, what did you go in for? 20

*Ans.* I can't exactly tell, for I had the whole housework to do.

*Quest.* Did you not go in at that time to take coal for the stove?

*Ans.* No, sir, I didn't; I went in of a sudden; the young missis was standing by the window with her back turned to the doctor.

*Quest.* What was there in the last question I put that caused you to shake yourself so with laughter?

*Ans.* I don't understand you.

*Quest.* Are you paid for your time you stay here now? 30

*Ans.* No, sir; I didn't ask any payment; she gave me a dollar to take me back to Tarrytown, but I got a place, and I stayed.

*Quest.* Has Mr. or old Mrs. Berckmans talked to you about this matter, and asked you what you could say?

*Ans.* No, sir; she never asked me any questions.

*Quest.* Have you told any one what you would swear to?

*Ans.* No, sir; that I never.

*Quest.* Have you told any one about your seeing the doctor 40



in Mrs. Berskmans' dining-room?

*Ans.* Not to my knowledge.

*Quest.* You are friendly with all these folks, are you not?

*Ans.* Not any way friendly to none; I was in and out there since my hand was hurt; I have no ill will towards young Mrs. Berckmans—I am friendly with all of them.

*Quest.* Have you told all that you know of this matter?

*Ans.* Yes, sir.

*Quest.* Have you any other name besides Catharine Fannin?

10 *Ans.* My name by my father is Igo, my husband's name is Fannin.

*Quest.* Have you been married since you lived with Mr. Berckmans?

*Ans.* I have been married eight or nine years.

*Quest.* When you first lived at Plainfield, did you not call yourself Catharine Igo?

*Ans.* When I first lived in Plainfield I called myself Catharine Igo.

*Quest.* Was you married at that time?

20 *Ans.* No, sir; I lived four years at Metuchin in one house, and there I got married—I lived with a man by the name of Martin; when I came to Plainfield, I called myself Catharine Igo because I and my husband did not live together; I don't know where my husband is.

I don't know how to write.

her  
CATHARINE X FANNIN.  
mark.

Taken, sworn, and subscribed before me, April 12th, 1861,  
at Plainfield.

A. S. JACKSON, M. C.

30 *John Thys*, a witness produced on the part of the complainant, being duly sworn, deposes and says—

*Quest.* How old are you?

*Ans.* Eighteen the 29th of last November.

*Quest.* Did you work for Mr. Emile Berckmans any time last summer?

*Ans.* Yes, sir.

*Quest.* What month, and how long?

*Ans.* Between the middle and latter part of June, four or five days.

*Quest.* Where did Mr. Berckmans live then?

*Ans.* In the house of his brother, opposite his mother.

*Quest.* Was there any part of every day when Mr. Berckmans was absent from home?

*Ans.* Yes, sir.

*Quest.* What part of the day?

*Ans.* The forenoon.

*Quest.* What time did he go away, and what time did he 10  
come back?

*Ans.* I believe about eight in the morning, and come back about half-past twelve in the forenoon.

*Quest.* Where did he go every morning?

*Ans.* To the seminary, to teach music.

*Quest.* At the time you were working for Mr. Berckmans, did Dr. Titsworth come to his house?

*Ans.* Yes, sir, he did.

*Quest.* During the time you worked there, how many days 20  
did he come there?

*Ans.* He come there every day that I was there to work.

*Quest.* What time of day did he come?

*Ans.* Somewheres around nine o'clock in the morning.

*Quest.* How long did he stay?

*Ans.* Well, about twelve o'clock, at noon, just before Mr. Berckmans come home.

*Quest.* How did he come?

*Ans.* In his sulky.

*Quest.* Did he come right from Plainfield to the house?

*Ans.* Not every time. 30

*Quest.* How then?

*Ans.* He drove up towards Scotch plains, or somewheres there, and then turned around and come back.

*Quest.* Was this house between Plainfield and the village of Scotch plains?

*Ans.* Yes, sir.

*Quest.* Do you know whether Mrs. Berckmans ever saw him pass?

*Ans.* Yes, sir.

*Quest.* How do you know? 40



*Ans.* I seen her stand at the front window one time when he went past, and she made a bow to him when he went by.

*Quest.* Did he see her?

*Ans.* Yes, sir; for he stuck his head out of his carriage.

*Quest.* Did he pass by or stop?

*Ans.* He passed by, and was back again in about a half an hour from that time.

*Quest.* Did he go in the house that time when he came back?

10 *Ans.* Yes, sir.

*Quest.* How long did he stay?

*Ans.* I believe about two hours.

*Quest.* Was any one sick at the house?

*Ans.* No, sir, not's that I know of.

*Quest.* Was Mr. Berckmans down at the seminary that morning?

*Ans.* Yes, sir, he was.

Cross-examined by Mr. Waugh.

*Quest.* Where do you live?

20 *Ans.* In the village of Scotch plains.

*Quest.* How long have you lived there?

*Ans.* Six years.

*Quest.* When was this that you worked for Mr. Berckmans?

*Ans.* Last June.

*Quest.* Did you work four or five days?

*Ans.* I didn't remember how many days I worked.

*Quest.* Did you know Mr. Berckmans before you went there to work?

30 *Ans.* Yes, sir, I've known him ever since I was big enough to walk.

*Quest.* Where did you know him before he moved here?

*Ans.* Europe.

*Quest.* Did you come to this country with him?

*Ans.* No, sir, I did not.

*Quest.* Are you related to him in any way?

*Ans.* No, sir.

*Quest.* Did you know Mrs. Berckmans the younger when you went there to work?

40 *Ans.* Yes, sir.

*Quest.* Had you ever spoken to her?

*Ans.* Yes, sir.

*Quest.* What kind of work did you do while you was there?

*Ans.* Making hay and cleaning walks.

*Quest.* Where did you work—on what part of the farm?

*Ans.* In the front yard.

*Quest.* Did you make hay in the front yard?

*Ans.* Yes, sir.

*Quest.* Did you do all your work in the front yard while you was there? 10

*Ans.* Yes, sir, in the front yard and around the house.

*Quest.* Was you in the house at all while you worked there?

*Ans.* No, sir.

*Quest.* Don't you know that Mrs. Berckmans the younger was sick while you was working there?

*Ans.* No, sir, she was not sick, for she come out of the house every day while I was there, and walked around the house.

*Quest.* Did she not have a very young child at that time? 20

*Ans.* Yes, sir, about three months old.

*Quest.* How do you know the age?

*Ans.* Cause I knew when it was born.

*Quest.* Who did you first tell about the doctor stopping, and staying there in the forenoon of each day, and when?

*Ans.* I don't know that I told anybody except it was Mr. Berckmans, and it was just before the other trial.

*Quest.* How did you come to tell him about it then?

*Ans.* I don't exactly know how I come to tell him about it.

*Quest.* Did he come to you and ask you about the matter, 30 or did you go to him, or did you tell him without asking?

*Ans.* I believe not.

*Quest.* Did he come to you, and ask you what you knew about it?

*Ans.* I believe he did.

*Quest.* Why is it that during the whole of this examination you have kept your eyes cast down, and not looked me square in the face?

*Ans.* Because I don't intend to make a fool of myself.



*Quest.* Can you tell what days of the week it was when you worked there?

*Ans.* No, sir, I do not remember, I didn't go regularly every day.

JOHN THYS.

Taken, sworn, and subscribed before me, at Plainfield, April 12th, 1861.

A. S. JACKSON, M. C.

*Elizabeth Randall*, a witness produced on the part of the  
10 complainant, being duly sworn, deposes and says—

*Quest.* What is your husband's name?

*Ans.* William.

*Quest.* Where do you live?

*Ans.* Scotch plains.

*Quest.* Were you at old Mr. Berckmans' at any time last summer?

*Ans.* Yes, sir.

*Quest.* What time?

*Ans.* It was in strawberry time, in June.

20 *Quest.* Who was with you?

*Ans.* My daughter.

*Quest.* Do you know Dr. Titsworth's horse and sulky?

*Ans.* Yes, sir.

*Quest.* What time of day was it when you went to Mrs. Berckmans'?

*Ans.* I should think it was about nine o'clock, for we started from home about eight in the morning.

*Quest.* When you went into Mrs. Berckmans', did you see the doctor's horse and sulky in the neighborhood?

30 *Ans.* Yes, sir.

*Quest.* Where?

*Ans.* In front of Emile Berckmans' house.

*Quest.* How long did you stay in at Mrs. Berckmans'?

*Ans.* I should think I was there the best part of three hours.

*Quest.* What made you remain there for so long a time?

*Ans.* I was waiting to get some strawberries.

*Quest.* Did your daughter remain with you all the time at Mrs. Berckmans'?

40 *Ans.* No, sir.

*Quest.* Did she leave you and go somewhere?

*Ans.* Yes, sir.

*Quest.* Where did she go to?

*Ans.* Plainfield.

*Quest.* Did you wait for her return?

*Ans.* I did.

*Quest.* When you came out from Mrs. Berckmans, after being there for the best part of three hours, as you have stated, did you see the doctor's sulky in the neighborhood?

*Ans.* Yes, sir.

10

*Quest.* Where was it?

*Ans.* At the same place I saw it when I went in, at Mr. Emile Berckmans' gate.

*Quest.* Did you make any observation at the time to a member of the Berckmans family which impressed the fact upon your mind of seeing the doctor's sulky there for so long a time? [Objected to as being illegal, leading, and calculated to prove in an indirect way what is incompetent.]—The question is waived on account of its being objected to.

ELIZABETH RANDALL. 20

Taken, sworn, and subscribed before me, April 12th, 1861, at Plainfield.

A. S. JACKSON, M. C.

It being eight o'clock in the evening, the examination was adjourned to some future day, to be set by the counsel of the respective parties.

The examination in the above cause was continued on Thursday, the sixteenth day of May, A. D. 1861, at the office of Cornelius Boice, in the village of Plainfield, commencing at ten o'clock A. M.—present James J. Scofield, for Benjamin 30 Williamson and Cornelius Boice, of counsel with complainant, and Caleb S. Titsworth, solicitor, and Courtlandt Parker, of counsel, for defendant.

*Jacob V. Coles*, a witness produced on the part of the complainant, being duly sworn, deposes and says—I am forty-eight years of age; I am a farmer; I resided in Scotch plains in 1860.



*Quest.* Where did you work in 1860, from April on?

*Ans.* I was part of the time working for Mr. Hotchkiss.

*Quest.* At what?

*Ans.* Putting in crops for him, ploughing and farming.

*Quest.* Do you know the parties in this suit?

*Ans.* Yes, sir.

*Quest.* Where did Mr. Berckmans reside from 1st of April, 1860, to January, 1861?

*Ans.* He resided from April in his brother's house; I don't  
10 know when he moved from his brother's house, I think it was  
in harvest time—then he moved to his mother's.

*Quest.* How far was it from Mr. Hotchkiss' place, where  
you worked, to his brother's house?

*Ans.* About 300 yards on the street—his house stands back  
about 300 yards from the street; I sometimes worked in front,  
and sometimes back of the house, on the brook.

*Quest.* Who lived in the house of Mr. Berckmans with  
him?

*Ans.* No other family; he has one, and sometimes two girls  
20 in the kitchen; his wife lived with him and his two children.

*Quest.* State all you know about Dr. Titsworth's visiting  
his house—how often, what times, and how long did he stay?

*Ans.* I couldn't say how often, but I very frequently saw  
his horse standing there; I had often been asked the question,  
was any one sick there—whether they were always sick there.  
[Objected to by defendant's counsel.] I have seen him there  
in the morning or in the forenoon when I went to work—I  
can't tell when I did see him; I have seen him there once a  
day; I should think sometimes the horse stood there an hour,  
30 I couldn't say how long.

*Quest.* What time in the morning did he usually come, as  
far as you know?

*Ans.* I should think nine or ten o'clock in the morning.

*Quest.* Was you always there in sight as late as ten o'clock  
in the morning?

*Ans.* No, sir, not all the time; a part of our work was back  
of the house by the race, I mean back of Mr. Hotchkiss'  
house.

*Quest.* What proportion of the time, when you had an op-  
40 portunity of seeing, was Dr. Titsworth's carriage there—how  
many times in a week?



*Ans.* Well, I should think four or five times a week.

*Quest.* Was Mrs. Berckmans at home when he called there?

*Ans.* I don't know, sir; I seldom had much time to visit any of the neighbors or visit them—I had my work to do.

*Quest.* Do you know how or where he was employed during these times, and what his employment was, and what time he usually left home to attend to his employment?

*Ans.* Mr. Berckmans was teaching music at Mr. Dow's seminary—I can't tell his hours there exactly—I frequently saw him going to the seminary—I think he went in the afternoon about two o'clock; in the morning, I don't remember the hour he went—I don't know whether he went twice a day or only once.

*Quest.* Did you ever see him about his house or premises when the doctor was there?

*Ans.* Yes, sir.

*Quest.* How often?

*Ans.* Well, I don't remember but one time I am certain of, that was when Mr. Berckmans moved—that was the only time I remember of seeing Mr. Berckmans there; I went to the well for a drink of water, and saw Mr. Berckmans standing on the stoop.

*Quest.* Was there any sickness in the family that required the attendance of a physician as often as that—state your knowledge?

*Ans.* Well, I could not say; perhaps I wasn't in the house for four months, though I was on the farm frequently attending to his brother's affairs there.

*Quest.* Did you know of any sickness in the family?

*Ans.* Yes, sir; no, sir, I didn't *know* of any; when I hear from the family that a person is sick I take it to be so; if a person must go into a house to see the patient in order to know, then I don't know. [The last part of the answer is put down on request of counsel of defendant, complainant's counsel having objected to it.]

*Quest.* What sickness, and about what time, was this when you heard of it?

*Ans.* I can't state the exact time; it was, I think, soon after he moved to his brother's house; his wife was confined I believe.



*Quest.* Had you any impression of an improper intimacy between Dr. Titsworth and Mrs. Berckmans—if so, state the facts on which your impression is founded? [Objected to on the ground that the witness' impressions are not ordinarily evidence.]

*Ans.* Well, I had—the grounds I had was seeing so many visits paid there and his horse there so frequently.

*Quest.* Any other?

*Ans.* No, sir.

10 *Cross-examined by Mr. Parker.*

*Quest.* About what time did you arrive at that impression?

*Ans.* I can't say, but the fore part of the summer of 1860.

*Quest.* Did you not hear that Mrs. Berckmans, in consequence of the birth of her child, was for some time quite sick?

*Ans.* I don't remember of hearing of any such thing more than the ordinary cases of the kind.

*Quest.* Did you not hear that, during some portion of that summer, one or both of the children were ill of the dysentery?

*Ans.* Yes, sir, I remember of the children being ill—I don't  
20 remember whether it was one or both.

*Quest.* You have spoken of the doctor's horse and sulky—where was it usually tied?

*Ans.* By the front gate on the street.

*Quest.* Who lived opposite?

*Ans.* No one directly opposite—there is a house 200 yards below it on the other side—Mrs. Berckmans' mother lived there.

*Quest.* You were farming at Mr. Hotchkiss'—were you working by the day or as a hired man by the month?

30 *Ans.* By the day and by the job also.

*Quest.* Did you communicate to any other person this ill impression of Mrs. Berckmans and Dr. Titsworth which you derived from seeing the doctor's horse there on the street oftener than you thought necessity could require? [Objected to as being an argument instead of a question, except the first part when he communicated.]

*Ans.* Well, I never communicated or said anything about it to my neighbors until the affair was blown over the world; whether this is a fair answer, I don't know.

40 *Quest.* Are you not the same individual who was called in



by Mr. Berckmans into his house, or was there when some difficulty and violence occurred between Mr. Berckmans and his wife and her mother, on a Sunday just before she left him? [Objected to as irrelevant and impertinent, and not a cross-examination.]

*Ans.* Yes, sir, I was there.

*Quest.* Did you or not speak of the impression you had conceived in relation to Mrs. Berckmans and the doctor before that occasion?

*Ans.* I think not.

10

*Quest.* Are you sure?

*Ans.* I don't remember of ever having spoken of it before.

*Quest.* Will you swear you didn't?

*Ans.* No, sir, I wouldn't swear I did or didn't, I don't remember.

*Quest.* How long after that did you communicate it?

*Ans.* Can't tell that either, sir.

*Quest.* When did Mr. Berckmans first hear, to your knowledge, of your impressions?

*Ans.* I can't tell that either, sir—I don't know if he ever 20 heard it—I would be the last man to tell him of it.

*Quest.* When were you called upon or spoken to about testifying in this cause?

*Ans.* Yesterday.

*Quest.* By whom?

*Ans.* Mr. Berckmans.

JACOB V. COLES.

Taken, sworn, and subscribed before me, May 16th, 1861, at Plainfield.

A. S. JACKSON, M. C. 30

*John Simpson*, a witness produced on the part of the complainant, being duly sworn, deposes and says—

*Quest.* What is your name, age, and occupation, and where do you reside?

*Ans.* John Simpson, I am 53 years of age, or about that, I am a farmer at present and for the last three years, I reside on the corner of Second and Washington streets, in Plainfield.

*Quest.* Are you acquainted with the parties in this suit and with Dr. Titsworth?



*Ans.* Yes, sir, with all.

*Quest.* How far from where Mr. Berckmans lived last summer did the doctor reside?

*Ans.* I can't tell exactly, I should think a half a mile—can't tell exactly, a little over half a mile, rather over than under.

*Quest.* Did or not Mr. Berckmans occupy his brother's house in Plainfield in the early part of 1860?

*Ans.* He did.

*Quest.* Were you in the habit of passing that house frequently during that time, and for what purpose?

*Ans.* Well, I had a wood lot about half a mile from Scotch plains depot in the woods; I had wood and rails, rails split and cord wood—I was drawing it frequently during the winter, when the roads were good, back and forth from Plainfield, past Mr. Berckmans' house, where he resided on this main street—this was in the winter or early in the spring, from the 1st of January to the 1st of April or middle of March—this was the time I was drawing in the winter when I passed the most.

20 *Quest.* Where was Mr. Berckmans residing then, during the winter, before he moved to his brother's house?

*Ans.* I don't know as I know—I don't think I do.

*Quest.* Did you see him often at his mother's house during that time?

*Ans.* No, sir, I don't think I have; I see him very frequently in the street—I am often in the street.

*Quest.* I want you to state all you know about Dr. Titsworth visiting Mrs. Berckmans' and Mr. Berckmans' house?

30 *Ans.* Well, I see his horse standing there hitched to a post during the winter quite frequent during the winter of 1860; I noticed that his horse had a good blanket—from this I know it was in the winter.

*Quest.* What time in the day were you in the habit of passing?

*Ans.* Sometimes in the forenoon and sometimes in the afternoon—couldn't be certain; sometimes after breakfast and sometimes after dinner, when I went after my loads.

*Quest.* Do you recollect of seeing his horse there both parts of the day?

40 *Ans.* Well, I rather think I have.



*Quest.* Was it at his mother's or at the other house?

*Ans.* It was where he resided—I never saw the horse at his mother's—I don't recollect—I might have seen it there.

*Quest.* Did he or not move to his brother's house before the first of April?

*Ans.* Do you mean 1860? yes, sir, he did.

*Quest.* How long before?

*Ans.* Couldn't say positively, about the first of January—couldn't say positively.

*Quest.* Do you know if Mr. Berckmans was living in that 10 house when you saw the doctor's carriage there?

*Ans.* Yes, sir; I saw him there—I knew it was occupied; I saw him once or twice there—his family was there—I was satisfied that he was there.

*Quest.* Did you pass there often after the 1st of April, 1860?

*Ans.* No, sir; I had a cornfield close by, within a hundred yards—I tended it the whole season after the ground was ploughed—I was there quite frequently, sometimes three days out of a week.

*Quest.* What proportion of the days you were there, and 20 had an opportunity of seeing, did you see the doctor or his horse and carriage at Mr. Berckmans' house?

*Ans.* I couldn't say certain, quite frequently; when I come up there I would see him pass; my cornfield comes up to the road; I see his horse, when I got out to the end, hitched there, his horse and sulky.

*Quest.* At the times you observed, was it a quarter, or a half, or a whole of the times?

*Ans.* I might see him a half of the times, I couldn't say positively; I think I've seen it stand there a dozen times. 30

*Quest.* Tell us how often after the 1st of April you saw the horse standing there?

*Ans.* I couldn't say certain how many times.

*Quest.* Did you see it more than once?

*Ans.* I did, five times, perhaps ten.

*Quest.* How long would it remain there ordinarily?

*Ans.* Well, from half an hour to an hour—I don't think he made very quick visits generally.

*Quest.* Do you know what he went there for?

*Ans.* No, sir. 40



*Quest.* Had you any impression? [Objected to.]

*Ans.* No, sir.

Cross-examined by Mr. Parker.

*Quest.* How many times after the 1st of April can you swear to?

*Ans.* Five times, if you want me to.

JOHN SIMPSON.

Taken, sworn, and subscribed, May 16th, 1861, before me,  
at Plainfield.

10

A. S. JACKSON, M. C.

*Jane Gwynn*, a witness produced on the part of the complainant, being duly sworn, deposes and says—

*Quest.* Where did you live in 1860?

*Ans.* Mr. Lee's house.

*Quest.* How near to Mr. Berckmans'?

*Ans.* Well, I am a bad measurer, I should think 100 to 200 yards, so I could call over.

*Quest.* Do you know Mr. Berckmans and his wife and Dr. Titsworth?

20 *Ans.* I know Mr. Berckmans—I don't know his wife; I have seen Dr. Titsworth frequently.

*Quest.* Was the doctor in the habit of visiting at Mr. Berckmans' house—when, what time or times, and how long would he remain, and was Mr. Berckmans home when he was there?

*Ans.* Yes, sir, he was in the habit of visiting; in the morning and in the afternoon, when he first commenced to visit, between eight and nine o'clock in the morning; I can't say particularly the hour in the afternoon.

30 *Quest.* When did he first commence those visits, and how long after did Mr. Berckmans first move into his brother's house?

*Ans.* I didn't remark the month he commenced, only I saw him there, I mean the doctor, I saw him go in several times.

*Quest.* How long was it, do you suppose, from the time when you first saw him visit there to the last time you saw him visit the house of Mr. Berckmans?

*Ans.* I should suppose it was six or seven weeks—I saw him the last time when Mr. Berckmans moved to his mother's—his horse, at least, hitched to the post.



*Quest.* For the last six or seven weeks that Mr. Berckmans resided in his brother's house, how often did the doctor visit there—every day, half of the days or quarter of the days—give us your impressions as near as you can?

*Ans.* I should think, for that time once a day, and part of that time twice—for the first three weeks I should say twice a day.

*Quest.* How long have you known him to remain there at one time?

*Ans.* Between two and three hours once—I remarked the 10 time.

*Quest.* How long at other times?

*Ans.* I should think an hour or two at the others.

*Quest.* Do you know whether Mr. Berckmans was at home when he visited there—what is your impression about that?

*Ans.* No, sir, he was at his mother's; I saw him come back from his mother's the morning that the doctor was there so long.

*Quest.* Was Mr. Berckmans ever at home, to your knowledge, while the doctor was there?

*Ans.* Yes, sir, he was—I don't know how many times. 20

*Quest.* How many times, can you tell us, when the doctor and Mr. Berckmans were there at the house at the same time?

*Ans.* I cannot, sir; I didn't remark it.

*Quest.* Was it his habit to come there when Mr. Berckmans was there or when he was absent, according to your idea?

*Ans.* Well, I don't know, sir—I didn't remark that—the only thing I remarked was, he come there very often.

*Quest.* Did or not these frequent and long visits create any impression on your mind at the time—and if so, what was it? 30  
[Objected to.]

*Ans.* Well, I thought it was very strange that he should talk to the lady so long; she was after being confined when he first commenced his visits.

*Quest.* Do you know, or not, the hours of Mr. Berckmans being employed at the seminary, and his hours going to and returning from it?

*Ans.* I didn't know that he was employed, I thought he was at his mother's—I mean the early part of the time spoken of.



*Quest.* Did you ever notice, watch, in other words, the doctor's coming there, the hour he came, and when he went away?

*Ans.* I did on one occasion—the time I stated—I was not very well, and remarked it was a long visit.

*Quest.* What was the hour at that time he came, and what the hour did he leave?

*Ans.* He came at nine o'clock in the morning, he left from a quarter to twenty minutes before twelve.

10 *Quest.* Did you see Mr. Berckmans come home then?

*Ans.* I saw him come to his dinner at twelve—I was watching my husband coming to his dinner at that time, and I saw Mr. Berckmans pass.

*Quest.* Do you know whether Mr. Berckmans had left home that morning before the doctor came?

*Ans.* I think he had.

*Quest.* Was Mrs. Berckmans sick at that time?

*Ans.* I saw her out on the stoop before that several times, on days before, perhaps on that day—I don't say anything but

20 what I know.

*Quest.* Did you see her out that day, either before or after the doctor left?

*Ans.* I don't know, sir, that I did.

*Quest.* Did you have any impression at that time whether she was unwell on that day?

*Ans.* I believe she was well, for I asked her servant if she was ill, and she told me she was well. [Objected to.]

*Quest.* Do you know whether either of the children were sick that day—what is your impression about that?

30 *Ans.* I don't know, sir—I don't think they were; I saw them out in their wagon, at least I saw their wagon with the girl—I saw the oldest in the wagon.

Cross-examined by Mr. Parker.

*Quest.* What is your husband's name?

*Ans.* John Gwynn; he is a machinist.

*Quest.* How long after you heard that Mrs. Berckmans was confined did you see her, as you think, out on the stoop?

*Ans.* It was all of a month, sir.

*Quest.* How long after you heard she was confined was this  
40 occasion that you watched the time when the doctor stayed?

*Ans.* It must have been all of seven weeks, sir.

*Quest.* Did you not hear that, after Mrs. Berckmans' nurse left her, she had a relapse, and was sick again?

*Ans.* I heard she had the fever and ague, sir.

*Quest.* Was the carriage at the door all the while of this long visit?

*Ans.* It was hitched at the road, sir, at the hitching-post.

*Quest.* Didn't you hear that Mrs. Berckmans' infant was sick, very sick?

*Ans.* No, sir; for I had asked her servant frequently, every 10 day, about her and about the children.

*Quest.* You spoke of Mr. Berckmans coming home to dinner, did he get his dinner at home, or did he bring it from his mother's, across the road, to his wife?

*Ans.* He come home at twelve o'clock; I saw the servants bring things over, not at that time.

*Quest.* How many servants, and who were they, at Mrs. Berckmans' during the long visit?

*Ans.* She had two, sir, but I don't know their names; she had one called Bridget—I asked her her name, and I understood her to say Bridget.

*Quest.* Have you not said that Mr. Berckmans got his wife's dinner from his mother's, and that you were sorry for his wife, because she had nothing to eat but what her mother-in-law would give her, or words to that effect. [Objected to as irrelevant.]

*Ans.* I did not, sir.

*Quest.* Did you watch the doctor's wagon, sulky, all the time of this long visit you have spoken of?

*Ans.* Yes, sir, I did, and more beside me, so that I am positive of it.

*Quest.* What was your business about the house at that time—the day you watched?

*Ans.* I was sewing, sir, a little—I was not doing anything inside, I was sitting outside.

*Quest.* When did you tell Mr. Berckmans about it?

*Ans.* Never said any to Mr. Berckmans about it, or to any other person, till yesterday.

*Quest.* You were sitting outside, were you, in a place that you could be seen from Mr. Berckmans' house?



*Ans.* Yes, sir, by my back-door, on a chair.

*Quest.* How many were there of you together?

*Ans.* My little children, sir; I can't fix the date of this exactly—it was about seven weeks after Mrs. Berckmans was confined.

her  
JANE X GWYNN.  
mark.

Taken, sworn, and subscribed before me, April 16th, 1861,  
at Plainfield.

A. S. JACKSON, M. C.

- 10 At two o'clock, P. M., the examination was adjourned to some future day, to be set by the counsel of the respective parties.

On Monday, July 1st, 1861, the complainant's counsel, Benjamin Williamson and Cornelius Boice, appeared, and Caleb S. Titsworth, of counsel with defendant, also appeared, pursuant to notice given by the complainant, whereupon the said Titsworth moved for an adjournment, on account of the absence of Courtlandt Parker, also of counsel for the defendant, who was detained on account of the death of John Morrison.

20 I granted an adjournment of this examination to Tuesday, July 9th, 1861, at ten o'clock A. M., at the office of Cornelius Boice, in the village of Plainfield.

Tuesday, July 9th, 1861, at ten o'clock, the parties appeared, and in presence of Benjamin Williamson, of counsel with complainant, and Courtlandt Parker, of counsel, and Caleb S. Titsworth, solicitor of the defendant, the examination was continued.

*Maria Eliza Berckmans*, a witness produced on the part of the complainant, being duly sworn, says—

- 30 *Quest.* Where do you reside?

*Ans.* At Plainfield.

*Quest.* How long have you lived there?

*Ans.* About ten years.

*Quest.* What relation are you to the complainant?

*Ans.* His mother.

*Quest.* How old is he?

*Ans.* In his 26th year—he was born in 1835.

*Quest.* Where was he born?

*Ans.* In Brussels, in Belgium.

*Quest.* When did you come to this country?

*Ans.* In May 1851.

*Quest.* Where is your husband?

*Ans.* In Augusta, Georgia.

*Quest.* Does he live there?

*Ans.* Yes, he owns a place.

10

*Quest.* Did he ever live at Plainfield?

*Ans.* Yes, sir.

*Quest.* When did he go to live in Georgia?

*Ans.* 1857.

*Quest.* Have you ever been there to visit him?

*Ans.* Yes, sir.

*Quest.* Where do you live in Plainfield?

*Ans.* On the Job Squire's farm.

*Quest.* Were you present at the marriage of your son?

*Ans.* No, I wasn't—I was on a visit to New York.

20

*Quest.* When was he married?

*Ans.* In 1858.

*Quest.* Who to?

*Ans.* To Sarah Clement.

*Quest.* Where was she living then?

*Ans.* At Plainfield, with her mother.

*Quest.* How old is she?

*Ans.* I don't know, but think the age of my son.

*Quest.* Have they any children?

*Ans.* Yes, two, a son and daughter.

30

*Quest.* Where were they born?

*Ans.* The son was born in Augusta, Georgia, and the daughter in Plainfield.

*Quest.* Can you tell in what year the son was born in?

*Ans.* I think 'tis 1859 the son was born.

*Quest.* In what year was the daughter born?

*Ans.* In 1860.

*Quest.* Where did they live after their marriage?

*Ans.* With Mrs. Berckmans' mother, Mrs. Marsh.

*Quest.* Where?

40



*Ans.* At Plainfield.

*Quest.* How long did they live with her ?

*Ans.* I think three months.

*Quest.* Where did they then go to live ?

*Ans.* At my house in Plainfield.

*Quest.* Was your husband home then ?

*Ans.* No, but he came home that same summer.

*Quest.* How long did he stay at home ?

*Ans.* I think six weeks—then he came back in the fall of  
10 that same summer.

*Quest.* How long did he stay there ?

*Ans.* About two months.

*Quest.* Where did he go then ?

*Ans.* To Georgia, back again to Augusta.

*Quest.* Did any of the family go back with him to Georgia ?

*Ans.* Yes, my son and his wife.

*Quest.* How long did they remain there ?

*Ans.* Till the following April.

*Quest.* Were you down in Georgia while they were there ?

20 *Ans.* Yes, in April.

*Quest.* When you went to Georgia, where was Mrs. Marsh,  
the mother of your son's wife ?

*Ans.* She was there.

*Quest.* When did she go there ?

*Ans.* In January.

*Quest.* Do you know what took her there ? [Objected to  
as irrelevant.]

*Ans.* Yes ; to be with her daughter, who was to be con-  
fined.

30 *Quest.* Who went for her ?

*Ans.* My son.

*Quest.* Where were you when Mrs. Marsh was sent for ?

*Ans.* At Plainfield, on the farm.

*Quest.* Who paid Mrs. Marsh's expenses to Georgia ?

*Ans.* My husband.

*Quest.* Did any one go out to Georgia with Mrs. Marsh ?

*Ans.* Yes, one servant girl.

*Quest.* Was she sent for ?

*Ans.* To do general housework of my son.

40 *Quest.* Who paid her expenses ?

*Ans.* I did.

*Quest.* You have said you went out to Georgia in April, was Mrs. Marsh there then?

*Ans.* Yes, sir.

*Quest.* When did you return to Plainfield?

*Ans.* Right away.

*Quest.* What took you out to Georgia?

*Ans.* My son wrote to me that they were unhappy, and that he wanted me to come to take her home to Plainfield. [Objected to as irrelevant, hearsay, and telling the contents of 10 the writing.]

*Quest.* Who came home with you?

*Ans.* My son, his wife, and child, Mrs. Marsh and servant.

*Quest.* How old was the child then?

*Ans.* I think about two months.

*Quest.* Where was it born?

*Ans.* In Georgia, in my son's house.

*Quest.* Was your son keeping house there?

*Ans.* Yes.

*Quest.* What kind of a house was it?

20

*Ans.* It was a good two-story house; Mr. Harrison, the owner of the house, used to live there; he is an episcopal minister of Augusta—he used to live there a part of the summer.

*Quest.* Who paid the expenses of Mrs. Marsh and the rest of the company home?

*Ans.* I did.

*Quest.* How did you come?

*Ans.* By steamer.

*Quest.* At what port did you arrive?

30

*Ans.* New York.

*Quest.* When you arrived there, where did you go?

*Ans.* Mrs. Marsh to a boarding-house, and the rest of the family to my house at Plainfield.

*Quest.* Who paid Mrs. Marsh's board in New York?

*Ans.* I did.

*Quest.* How long did Mrs. Marsh remain there?

*Ans.* I think three weeks—I think so.

*Quest.* Upon what terms were you and Mrs. Marsh during this time?

40



*Ans.* I never spoke to her at all ; I was displeased with my son's marriage.

*Quest.* When Mrs. Marsh left New York, where did she then go ?

*Ans.* To Plainfield.

*Quest.* Where did she go to live in Plainfield ?

*Ans.* I don't know, but not with us.

*Quest.* How long did your son and his wife live with you at Plainfield at this time ?

10 *Ans.* I think about a year.

*Quest.* Were you at home at the time ?

*Ans.* No.

*Quest.* When absent, where were you ?

*Ans.* I spent the winter with my husband in Georgia.

*Quest.* What month did you leave for Georgia ?

*Ans.* New year's day.

*Quest.* On what terms did your son and his wife live with you ?

*Ans.* As visitors.

20 *Quest.* Was your son in any business ?

*Ans.* No, not at that time.

*Quest.* Did he have any property ?

*Ans.* He owns one-third of the farm.

*Quest.* How did he own it ?

*Ans.* I give him a deed for it before he married, but he never paid for it.

*Quest.* Was this all the property he had ?

*Ans.* Yes.

*Quest.* Who furnished him money to live ?

30 *Ans.* My husband and me.

*Quest.* Is this house at Plainfield a large or small house ?

*Ans.* 'Tis a large house, about fifty feet square, one double room on one side of the hall, and two others on the other side.

*Quest.* What rooms are there in the second story ?

*Ans.* There are six bed-rooms.

*Quest.* How many in the third story ?

*Ans.* Two.

*Quest.* Is there any building on the north side of the house ?

*Ans.* Yes, one large greenhouse, about thirty feet long by  
40 twenty.

*Quest.* At this time, who made up your family?

*Ans.* I had one servant, my son, two workmen, and one boy.

*Quest.* Did you keep cows?

*Ans.* Yes—eight.

*Quest.* Did you keep horses and carriages?

*Ans.* Yes—three horses and three carriages.

*Quest.* Did your son and wife have the use of the horses and carriages while they lived with you?

*Ans.* Yes, sir.

10

*Quest.* What part of the house did your son's family occupy?

*Ans.* They had three rooms, and mostly the use of the whole house.

*Quest.* How many bed-rooms?

*Ans.* They had two rooms with beds in; there was another room in which they could put a bed if they would.

*Quest.* While at your house, who was your son's physician?

*Ans.* Drs. John and Lewis Craig, brothers.

*Quest.* Who was your son's wife's physician?

20

*Ans.* Dr. Titsworth.

*Quest.* Did he visit her often?

*Ans.* Yes, sir.

*Quest.* Did he visit her when she or her child was not sick?

*Ans.* Sometimes.

*Quest.* What was the length of his visits?

*Ans.* Sometimes three, two, and one hour.

*Quest.* What was he doing there three hours?

*Ans.* Sitting with her in the room.

*Quest.* Did he ever go up into her bed-room?

30

*Ans.* Yes.

*Quest.* Did you ever know him to go up into her bed-room when she or her child was not sick?

*Ans.* Yes, sir.

*Quest.* Did his visit give you any uneasiness?

*Ans.* Yes, it made me all the time miserable.

*Quest.* Did you ever speak to Dr. Titsworth when he came to the house?

*Ans.* I recollect only once, when he asked me where was Mrs. Berckmans.

40



*Quest.* Why did you not speak to him?

*Ans.* I avoid him because I was displeased with his visits to my son's wife.

*Quest.* Did you ever see anything improper in the house between Dr. Titsworth and your son's wife before your going to Georgia a second time?

*Ans.* Yes, sir.

*Quest.* What part of the house?

*Ans.* The first time, in the parlor down stairs.

10 *Quest.* Which parlor?

*Ans.* In the front room of the parlor.

*Quest.* How is this parlor situated in reference to the greenhouse?

*Ans.* Opening into the greenhouse.

*Quest.* What opening?

*Ans.* The one window in the front room of the parlor, and one door in the back.

*Quest.* Can you see from the greenhouse into the front of the big parlor?

20 *Ans.* Yes.

*Quest.* How?

*Ans.* Through the window in front room of the parlor.

*Quest.* When you saw the impropriety you refer to, what part of the day was it?

*Ans.* Between two and three o'clock in the afternoon.

*Quest.* Where were you when you saw it?

*Ans.* I was in the greenhouse.

*Quest.* Did you see Dr. Titsworth come to the house that day?

30 *Ans.* Yes, sir.

*Quest.* Who let him in?

*Ans.* Mrs. Berckmans.

*Quest.* Did he ring or knock?

*Ans.* No, the door was open.

*Quest.* What do you mean, then, by saying that Mrs. Berckmans let him in?

*Ans.* She came down stairs to meet him at the door.

*Quest.* Where were you?

*Ans.* I was in the sitting-room.

40 *Quest.* When the doctor came in, where did they go to?

*Ans.* In the parlor, in the big parlor down stairs.

*Quest.* How was she dressed?

*Ans.* In one plain muslin dress with short sleeves.

*Quest.* How did you happen in the greenhouse?

*Ans.* I went there to look through the window, that I could see them.

*Quest.* Why did you want to see them?

*Ans.* Because I suspected something wrong; they shut the door after them, and had been together mostly one hour, when he had no business there.

*Quest.* How did you get into the greenhouse?

*Ans.* By the garden door opening into the greenhouse.

*Quest.* What did you see through the window you have spoken of?

*Ans.* I saw Mrs. Berckmans lying on the sofa with Dr. Titsworth.

*Quest.* In what position?

*Ans.* Dr. Titsworth was lying on Mrs. Berckmans.

*Quest.* Where was the sofa?

*Ans.* Right against the mantel-piece.

*Quest.* When you saw them, what did you do?

*Ans.* I turned right away.

*Quest.* Did you tell what you saw to any one?

*Ans.* Not till after Mrs. Berckmans left her husband.

*Quest.* Did you say anything to any one about his being at the house?

*Ans.* Yes; I told my son, when he came home, that Dr. Titsworth had been at his house, and had been alone with his wife in the parlor, and I wished that he would take another doctor.

*Quest.* While you were in Georgia the second time, where were your son and his wife?

*Ans.* At my house in Plainfield, at the farm.

*Quest.* When did you return from Georgia the second time?

*Ans.* In March, 1860.

*Quest.* When you reached home, did you find your son and his wife there?

*Ans.* No.

*Quest.* Where had they gone?

*Ans.* In the house of my step-son.

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*Quest.* Where is that house?

*Ans.* On the other side of the road, opposite my house nearly.

*Quest.* When did they go there?

*Ans.* A few days before I came home.

*Quest.* How long did they live in that house?

*Ans.* I think about six months.

*Quest.* Where did they go then?

*Ans.* They came back at my house on the farm.

10 *Quest.* What made them come back to your house?

*Ans.* Because my step-son wanted his house back.

*Quest.* How long did Mrs. Berckmans stay at your house this time?

*Ans.* I think about three weeks—I think so.

*Quest.* What part of the house did she occupy this time?

*Ans.* She had the half of the house, only the big parlor, which we had in common.

*Quest.* Did the families (your own and your son's) have separate kitchens and separate tables at this time?

20 *Ans.* Yes, sir.

*Quest.* Did you ever, at any other time besides the one you have referred to, see anything improper between Dr. Titsworth and Mrs. Berckmans?

*Ans.* Yes.

*Quest.* When and where?

*Ans.* In the fall—up stairs in her bed-room.

*Quest.* Which was her bed-room?

*Ans.* The front room in the second story up stairs.

*Quest.* Where was your son at the time?

30 *Ans.* This last time he was gone a hunting.

*Quest.* Where was your son at the time you saw them in the parlor you have spoken of?

*Ans.* My son was gone to New York?

*Quest.* When you saw them in the bed-room, what time of day was it?

*Ans.* It was in the morning, between nine and ten o'clock.

*Quest.* Was any one sick in the house?

*Ans.* No.

*Quest.* Did you see Dr. Titsworth come there?

40 *Ans.* No.

*Quest.* How did you know that he was up stairs?

*Ans.* When I was going up stairs into my bed-room I saw hanging a hat in the entry, and I supposed it was Dr. Titsworth's hat, because he generally put it there—nobody in the house wears a hat.

*Quest.* When you went up stairs, was Mrs. Berckmans' door shut or open?

*Ans.* The door was shut.

*Quest.* Did you see anything improper in the bed-room between them at this time?

10

*Ans.* Yes, sir.

*Quest.* Well, what did you see?

*Ans.* I saw through the window of my little dressing-room, what comes on the roof of the greenhouse into the bed-room of Mrs. Berckmans.

*Quest.* What did you see?

*Ans.* I saw Mrs. Berckmans sitting in the rocking-chair, and Dr. Titsworth close by her in another chair, and one of Dr. Titsworth's arms was laying on Mrs. Berckmans' neck, and he was kissing her; his other hand of Dr. Titsworth had hold of one of Mrs. Berckmans' hand, and was laying on her lap. 20

*Quest.* How was she dressed?

*Ans.* She had on a white skirt and a loose sack, and her neck and bosom exposed.

*Quest.* How long did you stay looking at them?

*Ans.* Only one moment, till she got up, and he put both arms around her, and he kiss her, and then I went away.

*Quest.* How could you see through the window of the little dressing-room into the bed-room?

30

*Ans.* I saw through the window of the little dressing-room, through the window of Mrs. Berckmans bed-room, into the bed-room.

Cross-examined by Mr. Parker.

*Quest.* Where were you born?

*Ans.* In the province of Limburgh, in Holland.

*Quest.* What is your age?

*Ans.* I was born in 1813, in April.

*Quest.* When were you married?

*Ans.* In 1834, in January.

40



*Quest.* How many children have you?

*Ans.* Only one son.

*Quest.* Why were you not present at your son's marriage?

*Ans.* I was displeased with my son's marriage.

*Quest.* Did you refuse your consent to it?

*Ans.* I did, sir.

*Quest.* Did you refuse to be present at it?

*Ans.* Yes, sir, I did too.

*Quest.* Why did you refuse to consent and to see him married?

*Ans.* Because I didn't like her.

*Quest.* Why did you not like her?

*Ans.* Because my husband did not like her, and I had the same view as my husband.

*Quest.* I ask the question again, for what reason did you dislike this young woman?

*Ans.* Because we did not know her enough, sir.

*Quest.* Is she a protestant or a catholic?

*Ans.* I don't know, but I suppose she is protestant.

20 *Quest.* Didn't you know that she was a regular attendant upon a protestant church?

*Ans.* I didn't know—I didn't know that.

*Quest.* Did you not know that she acted as an organist at the protestant church?

*Ans.* I never have asked anybody about her; I don't know, I can't tell, I suppose she did.

*Quest.* What made you suppose so?

*Ans.* Because I hear some one say that she went to perform as an organist.

30 *Quest.* Did she not go out constantly on Sundays when she said she was going to church?

*Ans.* I don't know, I never look after her, I have too much to look after.

*Quest.* What are you, catholic or protestant?

*Ans.* I am catholic.

*Quest.* What is your husband and your son?

*Ans.* Catholic.

*Quest.* Did not you dislike that your son should marry a protestant woman?

40 *Ans.* Yes, I dislike it myself.

*Quest.* Did you like that he should marry an American woman?

*Ans.* No, I had rather he had married a woman of my country.

*Quest.* Did you like that he should marry a poor woman that brought him no dowry?

*Ans.* Yes, sir, if she would make him happy.

*Quest.* Did you not object to her as being a match beneath him?

*Ans.* Yes, I did, but not for that reason.

10

*Quest.* For what then?

*Ans.* Because we didn't know her enough; because my husband did not like her either.

*Quest.* How long had you known her?

*Ans.* I don't know, not long before that—I couldn't tell how long—it was not long.

*Quest.* About how long?

*Ans.* I don't remember.

*Quest.* A year?

*Ans.* I don't remember; I cannot tell whether it was a half 20 a year.

*Quest.* Did you know her before your son was seeking her for a wife?

*Ans.* Yes, I have seen her in a party.

*Quest.* Where was your husband when your son was married?

*Ans.* In Georgia, Augusta.

*Quest.* You say you disliked her and disliked the match—have you not always disliked her since?

*Ans.* Yes.

30

*Quest.* More or less?

*Ans.* More.

*Quest.* Do you not dislike her very much?

*Ans.* No, I don't like her at all.

*Quest.* When you lived together, did you live pleasantly?

*Ans.* No.

*Quest.* Why not?

*Ans.* Because she was not a good wife nor a good mother for her children.

*Quest.* Did you ever tell her so?

40



*Ans.* I did.

*Quest.* Did you ever tell her that she was a thief?

*Ans.* Not that she was a thief.

*Quest.* Did you never tell her that she was a liar?

*Ans.* I don't remember nothing, sir; I don't remember ever telling her she was a liar.

*Quest.* Did you ever tell her that she stole your handkerchiefs?

*Ans.* I told her sometimes she was living with me, that I  
10 lose a great many linen of towels, napkins, handkerchiefs, and such o' kinds.

*Quest.* Did you ever tell her that she stole your handkerchiefs?

*Ans.* No.

*Quest.* Did you ever charge her with taking them?

*Ans.* I told her sometimes she live with me that I lose a great many lipen—I don't remember that I told her that she did it.

*Quest.* Did you not mean that?

*Ans.* No.

20 *Quest.* Did you not tell her, in the presence of her husband, that she had taken your towels, and put her name on them—and did he not deny it, and take her part—don't you remember that?

*Ans.* I don't remember that.

*Quest.* You quarrelled with her some while she was there, didn't you?

*Ans.* Yes, because she brought disorder in the house, and make me all the time unhappy.

*Quest.* Did you not bid her go away from your house?

30 *Ans.* I told her I would not allow any person to speak against my husband in my presence; she spoke up against my husband—she slander my huscand—I would not permit her in my presence, in my house, anybody, and if persons would not stop it that they had better leave my house.

*Quest.* Did you not tell her to quit the house at once, and tell her she couldn't have her child to go with her?

*Ans.* I told her, if she was not satisfied to live in the house with me and her husband as we did, that she could go away if she liked it.

40 *Quest.* Did you not tell her to go, and forbid her taking her child with her?

*Ans.* Not me, but her own husband forbid her.

*Quest.* You have volunteered to say that it was because she slandered your husband, therefore I ask you what did she said against your husband on that occasion?

*Ans.* That my husband was a bad man.

*Quest.* When was this, before or after you went the last time to Georgia?

*Ans.* This was after that I brought Mrs. Berckmans back from the south.

*Quest.* Did you used to talk to your son about his wife, and 10 tell him what you thought about her?

*Ans.* I did.

*Quest.* Did you ever charge her, to her face or to him, with being an adulteress?

*Ans.* No.

*Quest.* Did you ever tell him that you had witnessed any impropriety between her and Dr. Titsworth?

*Ans.* After that Mrs. Berckmans had left her husband, I told my son what I had seen of the adultery of Dr. Titsworth.

*Quest.* How soon after your daughter-in-law had left did 20 you tell your son this?

*Ans.* When I hear that Mrs. Berckmans was living in New York, then I told him.

*Quest.* How soon after she left did you hear she was living in New York?

*Ans.* I think it was three or four days, I don't remember no more.

*Quest.* Then you told your son in three or four days, or thereabouts, after Mrs. Berckmans left her husband?

*Ans.* Yes.

*Quest.* When did this incident occur, which you say took 30 place in the parlor?

*Ans.* I don't remember the day, it was in June.

*Quest.* June of what year?

*Ans.* 1859.

*Quest.* When was her son born?

*Ans.* I think it was in February, 1859, in my son's house in Georgia.

*Quest.* What part of June was this incident in the parlor?

*Ans.* I don't remember the day or the date—it was in June. 40



*Quest.* What makes you sure it was in June?

*Ans.* It was in the month of the strawberries time.

*Quest.* What makes you sure of that?

*Ans.* Because I remarked that Mrs. Berckmans picked strawberries for Dr. Titsworth.

*Quest.* Did she pick some for him that day?

*Ans.* No, sir, I haven't seen that, I don't know that.

*Quest.* Why then do you associate this occasion with the strawberries?

10 *Ans.* Because I remarked that month that Mrs. Berckmans picked strawberries for Dr. Titsworth.

*Quest.* What time in 1860 was Mrs. Berckmans' daughter born?

*Ans.* I think it was the 1st or 2d of April, I think so.

*Quest.* You went to Georgia in January, 1860?

*Ans.* New years day.

*Quest.* This was after the time you had seen the doctor and Mrs. Berckmans in the parlor, was it?

*Ans.* It was in June, 1859, I saw them in the parlor, and  
20 on new years day following I left Plainfield with my husband.

*Quest.* You returned from thence, from Georgia, at what time?

*Ans.* I returned in March, 1860.

*Quest.* And they staid with you in your house how long after that?

*Ans.* They were not at my house when I came back—they had left my house.

*Quest.* Where were they?

*Ans.* At my step-son's house.

30 *Quest.* Did you ask them to come back and live with you?

*Ans.* I did not, but my son asked me to come back and live at my house.

*Quest.* But they came with your consent?

*Ans.* I think so, because they came back.

*Quest.* Did you object to their coming?

*Ans.* I did not.

*Quest.* In the fall of 1860, I think you said you witnessed the bed-room scene, how long after that did they live with you?

40 *Ans.* It was not in 1860 when I saw the bed-room scene, it was in 1859, in the fall.

*Quest.* Are you sure of that?

*Ans.* I am sure.

*Quest.* What makes you sure?

*Ans.* Because I have seen it myself.

*Quest.* But what makes you sure of the time?

*Ans.* Because we had put up a stove a few days before that time—it was put up for the baby.

*Quest.* You swear that it was in 1859, do you?

*Ans.* Yes, sir.

*Quest.* Have you not said to-day, on your oath, that it was 10 after you came home in March, 1860?

*Ans.* No, sir.

*Quest.* Have you not said that the bed-room scene was after your son came from your step-son's house to yours?

*Ans.* Yes; I told it after my son's wife had left my house.

*Quest.* How long after what you saw in the bed-room did your son and his wife live with you?

*Ans.* I must count, October, November, December, January, February, March, April, about six months—they left my house in March, 1860—I spent the winter with my husband in 20 Georgia—no, look here, sir, they live in my house two months and a few days, but did not live with me; I was in Georgia with my husband—I left on new years day.

*Quest.* When did Mrs. Berckmans finally leave your house?

*Ans.* It was in September, 1860.

*Quest.* What month was this bed-room scene in?

*Ans.* In October, in the fall.

*Quest.* Then did she live with you some time after that or not?

*Ans.* She lived with me some time after that, two months 30 and some days.

*Quest.* I understand you to say that, until you told your son, after she left, you never told anybody that you had seen either one of the incidents you have described—is that so?

*Ans.* That is so.

*Quest.* I understood you to say, that in all your difficulties with Mrs. Berckmans you never said anything to her about it—is that so?

*Ans.* Not about adultery, sir.

*Quest.* Did you ever say anything to her about these im- 40



proprieties or about her being too intimate with Dr. Titsworth?

*Ans.* I never did—I never say anything to her.

*Quest.* You have spoken of your husband, of visiting him, and he you—are you on good terms?

*Ans.* Yes, sir.

*Quest.* When he was here, did not you occupy separate rooms?

*Ans.* No, sir.

10 *Quest.* Why do you live separately?

*Ans.* Because my husband has to attend to the new place he bought in Georgia, and I have to look to the farm here.

*Quest.* When did he buy that new place?

*Ans.* I think in 1857.

*Quest.* You have stated that you gave a third of your farm to your son, how long ago?

*Ans.* Well, think we came to this country in 1851, a few months after that we bought a farm, and gave my son a deed for one-third.

20 *Quest.* Who owns the other two-thirds?

*Ans.* Me.

*Quest.* Not your husband?

*Ans.* No, sir.

*Quest.* In relation to this bed-room scene, what day in October was it?

*Ans.* I don't remember the day.

*Quest.* How do you know it was October?

*Ans.* Because my workmen had to stop off their work to put up a stove in the bed-room.

30 *Quest.* How does that prove it was in October?

*Ans.* The men were ploughing the fields for grain.

*Quest.* On what day of the week were these incidents, each of them?

*Ans.* I don't remember it, sir.

*Quest.* Since Mrs. Berckmans went away, have you not stated that her room was there ready for her, and she might come back and take it?

*Ans.* Yes, I told she might come back, the door would be open for her.

40 *Quest.* Did you send word to her to that effect?

*Ans.* No, sir; I did not send word to her.

*Quest.* Did you say that persons might tell her so?

*Ans.* I did not, sir.

*Quest.* When was it you said so?

*Ans.* A few days after she left her husband.

*Quest.* Was it after the suit was brought by her?

*Ans.* Before.

*Quest.* How long before?

*Ans.* A few days after she left her husband.

*Quest.* How many days?

*Ans.* I don't remember—a few days.

10

*Quest.* Before or after you had told him what you had seen in the parlor and bed-room?

*Ans.* It was after.

*Quest.* Was it with his consent that you said this, that her room was ready for her?

*Ans.* I said it myself.

*Quest.* Did he know of it?

*Ans.* I didn't tell him.

*Quest.* Did he hear you say it?

20

*Ans.* No; he wasn't there.

*Quest.* Who did you say it to?

*Ans.* To my servant Anna—she lives with me now.

Direct examination resumed by Mr. Williamson.

*Quest.* There is a misunderstanding between the counsel as to the time you stated you saw Dr. Titsworth and Mrs. Berckmans in the bed-room—what year and what month was it that you saw Dr. Titsworth and Mrs. Berckmans in the parlor?

*Ans.* In June, 1859.

30

*Quest.* What year and what month was it that you saw Dr. Titsworth and Mrs. Berckmans together in the bed-room?

*Ans.* In 1859, in the fall, in October.

At twenty minutes past two o'clock, in the afternoon, this examination was adjourned to Tuesday, July 16th, at ten o'clock, A. M., at the office of Cornelius Boice, in Plainfield.

With the consent of counsel of both parties, I subsequently adjourned this examination to Wednesday, July 17th, at the same place and hour, on which day the examination was continued in presence of the counsel of the respective parties.

40



Cross-examination resumed by Mr. Parker.

*Quest.* In relation to the sofa of which you have spoken, was it the same sofa that is now seated in front of and along the mantel-piece in the front parlor?

*Ans.* Yes, sir, the same sofa.

*Quest.* And was it standing as it now does?

*Ans.* Yes, sir.

*Quest.* In which direction was Mrs. Berckmans' head, towards or away from the front window, as she lay upon the  
10 sofa, as you say?

*Ans.* I couldn't see their heads, sir—I saw only one part of her skirts.

*Quest.* Did you not tell me, on the afternoon of the day we were here before, that her head lay towards the front windows of the room?

*Ans.* I couldn't see their heads.

*Quest.* Answer the question directly, yes or no?

*Ans.* I don't remember that I have said so.

*Quest.* In what part of the room and in what position were  
20 Dr. Titsworth and Mrs. Berckmans when up stairs together, as you have related, looking which way?

*Ans.* They were in the centre of the room, in the middle—they looked towards the mantel-piece.

*Quest.* What part of Mrs. Berckmans' dress did you see upon the sofa, as you have said?

*Ans.* I couldn't tell what part, I saw only a part of her dress.

I having read over this examination to the witness, she asked for an explanation of the following particulars:

30 In the direct examination, the witness wishes to correct the answer to the question, "Did you not tell her to go?"

*Ans.* Not me, but her own husband forbid her to go, and forbid her to take her child with her.

To the question in the cross-examination, "What month was this bed-room scene in?"

*Ans.* In October, in the fall of 1859.

Cross-examination resumed by Mr. Parker.

*Quest.* You say you did not see Mrs. Berckmans' head, when on the sofa, at the time you relate—did you see any  
40 part of her person?

*Ans.* I saw only her dress, but no part of her person.

*Quest.* Did you see any part of Dr. Titsworth's person—if so, what?

*Ans.* I saw Dr. Titsworth's, his feet, his boots, and the feet lying on the sofa.

*Quest.* Whereabouts on the sofa were his feet?

*Ans.* The feet were lying on the same side of the sofa where I was looking through the window.

MARIA E. BERCKMANS.

Taken, sworn, and subscribed before me, July 17th, 1861, 10 at Plainfield.

A. S. JACKSON, M. C.

*Richard Brantingham*, a witness produced on the part of the complainant, being duly sworn, says—I am a clerk in the Union County Bank, Plainfield; I was present at the marriage of Emile Berckmans with Sara Clements—it was in the evening, at the episcopal church in Plainfield, by the Rev. Philemon E. Coe—I think it was in 1858.

RICHARD BRANTINGHAM.

Taken, sworn, and subscribed before me, July 17th, 1861, 20 at Plainfield.

A. S. JACKSON, M. C.

At twelve o'clock, the examination was adjourned without day.

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[Filed February 3, 1863.]

On the morning of Monday, August 12th, 1861, I was proceeding to Plainfield, in pursuance to notice duly given by the defendant, to take the examination of witnesses on the part of the defendant, and was arrested in my progress at the city of Newark, by Mr. Parker and Mr. Titsworth, of counsel for 30 defendant, and Mr. James I. Scofield, one of the counsel of the complainant; and on their request and on account of the absence of Mr. Williamson, also of counsel with complainant, I adjourned the examination in this cause to Thursday, August 15th, instant, on the following terms, to wit: that the com-



plainant pay the fees of the defendants' witnesses that should attend to-day at Plainfield; that the complainant waive the rule to close testimony in this cause, and consent that the examination proceed after the day named in the rule until the same should be closed, and that, if Mr. Williamson should not be home on said Thursday, the examination should be further adjourned.

A. S. JACKSON, M. C.

Thursday, August 15th, 1861, at the office of Cornelius Boice, in Plainfield, I adjourned this examination to a day to be agreed upon by the respective counsel.

A. S. JACKSON, M. C.

Thursday, August 23d, 1861.—This day having been set down by the counsel of the respective parties for the examination of witnesses on the part of the defendant, accordingly the same was taken before me, Abraham S. Jackson, a master and examiner in chancery of New Jersey, at the office of Cornelius Boice, in the village of Plainfield, on said last named day, at ten o'clock in the forenoon—present Courtland Parker, esq.,  
20 and Caleb S. Titsworth, esq., of counsel for defendant, and Benjamin Williamson, esq., of counsel for complainant.

*Randolph Titsworth*, a witness produced on the part of the defendant, being duly sworn, says—

*Quest.* Where do you live, what is your profession, age, how long have you been practising your profession, and where?

*Ans.* I live at Plainfield; I am a physician—I am forty years of age; I have been practising a little over nine years; I have been practising in Philadelphia and Plainfield.

30 *Quest.* How long in Philadelphia, and how long in Plainfield?

*Ans.* About eighteen months in Philadelphia—over eight years in Plainfield.

*Quest.* Are you a man of family?

*Ans.* Yes, sir; I have a wife and one child.

*Quest.* Are you connected with any religious societies—if so, what and how?

*Ans.* I am—the seventh day baptist church in Plainfield—I am a member of that church.



*Quest.* Do you know Emile Berckmans and his wife, the complainant and defendant in this suit?

*Ans.* I do.

*Quest.* How long have known each, and how did you become acquainted with them?

*Ans.* I have been acquainted with Mrs. Berckmans between seven and eight years; I was called in as a physician to see her; I have known the complainant a little over three years, three years last winter, I think, I met him at Mrs. Marsh's, mother of defendant, for the first time. 10

*Quest.* When did you become her attending physician, and how long were you such?

*Ans.* Shortly after I became acquainted with her, and have been ever since, except while she was at the south.

*Quest.* Do you remember seeing her, as physician, soon after her marriage—if so, at whose request?

*Ans.* I do; I think at Mr. Berckmans' request.

*Quest.* How often did you visit her, in any capacity, previous to her going south?

*Ans.* I don't remember. 20

*Quest.* State whether often or not?

*Ans.* I think not very often.

*Quest.* About what time did she return from the south?

*Ans.* In April, I think, 1859.

*Quest.* How soon after her return did you visit her in any capacity?

*Ans.* In the latter part of May following, the 25th day of May, 1859, I was called to vaccinate her child.

*Quest.* When next after that?

*Ans.* About the middle of June I called to see if the vaccination was good, and to get the crust. 30

*Quest.* What other calls, of any sort, did you make upon her during that summer?

*Ans.* I made none, either professionally or friendly, till September.

*Quest.* When the child was vaccinated, whom did you see—describe the incident?

*Ans.* I saw Mrs. Berckmans and Jane Stine; Jane met me at the door, took me in the parlor, called Mrs. Berckmans; Jane then got the child, brought it in the parlor, and held it 40



while I vaccinated it ; Mrs. Berckmans left the room ; Mrs. Berckmans came in the room when I got through vaccinating ; I remained there not more than two or three minutes—requested her to be careful of the crust, as I wished it ; I then left.

*Quest.* State, in the same manner, the incidents attending upon your second visit ?

*Ans.* I called about the 15th of June ; the servant girl met me at the door ; I inquired for Mrs. Berckmans ; she went to  
10 see Mrs. Berckmans ; she excused herself, saying she was engaged—if I would go in the nursery Jane Stine would give me the crust ; I did so, looked at the arm, the scar, and I then took the crust and left ; I did not see Mrs. Berckmans at all—I was not in the house more than three or four minutes.

*Quest.* Did you, during that summer or fall, up to the fall I mean, see Mrs. Berckmans alone, either at the house or elsewhere ?

*Ans.* I did not, except I may have passed her along the street.

20 *Quest.* Were you at any time during the summer with her alone in the parlor ?

*Ans.* Only for the minute or so when I was in the parlor to vaccinate the child—that was in May.

*Quest.* You heard the testimony, I believe, of old Mrs. Berckmans—were you ever lying upon the sofa in that house, or was Mrs. Berckmans ever upon it with you—state what truth, if any, there is in the statement, as to your position or conduct, made by Mrs. Berckmans ?

*Ans.* I did hear her testimony ; I never was lying upon the  
30 sofa, neither was Mrs. Berckmans in my presence—in fact I never remember of seeing a sofa being in the room ; I remember distinctly a table standing where Mrs. Berckmans said the sofa stood, with a clock upon it ; it was the clock that attracted my attention ; there is no truth in Mrs. Berckmans' statement—it is basely false.

*Quest.* Relate, sir, now if you please, how often, for any purpose, you visited Mrs. Berckmans in the fall of 1859, give the incidents of those visits, so far as you recollect them ?

*Ans.* I visited there only when I was called ; the first was  
40 September 26th, at Mr. Berckmans' request, to see Mrs.



Berckmans; the next visit was October 3d—that was to see Mrs. Berckmans professionally; the next visit I made was on the night of December 12th—Mr. Berckmans called for me in the night to go and see his child, who was sick of the croup; I visited it up to the 17th, at first twice a day—I am not sure but it was three times the first day—afterwards as often as I thought the case required.

*Quest.* At either of these visits, were you and Mrs. Berckmans alone together?

*Ans.* No, sir, not one—Mr. Berckmans or Anna Heyl was 10 always in the room.

*Quest.* Were you there during the fall at any other time?

*Ans.* No, sir, not in the fall—not until December 27th.

*Quest.* Did you hear the testimony of old Mrs. Berckmans in relation to your being with Mrs. Berckmans the younger in her bed-room—what truth, if any, is there in the statement she made as to your conduct or her conduct, or to your being there together?

*Ans.* I did hear her testimony; I pronounce her statement in regard to the bed-room scene emphatically false. 20

*Quest.* Is there any truth in it whatever?

*Ans.* Not the first particle of truth; there is no foundation for it; I believe I was never in that room alone with her in my life.

*Quest.* Were you ever in any room with Mrs. Berckmans in the position her mother-in-law described, or any indecent or improper position?

*Ans.* No, sir, never.

*Quest.* After the 17th of December, 1859, when next did you visit Mrs. Berckmans?

*Ans.* On the 27th of December; the child was threatened with croup again, it had taken cold. 30

*Quest.* Whom then did you see, and where?

*Ans.* I saw Mrs. Berckmans and Anna Heyl, I think; I think it was in her bed-room, I am not certain.

*Quest.* How long did you stay—did you see her alone?

*Ans.* I did not stay long, can't say how long exactly, perhaps ten or fifteen minutes—I did not see her alone.

*Quest.* Give, as well as you can, the dates and occasions of any other visits, professional or otherwise, that you paid Mrs. 40



Berckmans up to the time of her confinement in the spring of 1860?

*Ans.* The next visit after December 27th was the 2d of January; I called to deliver a message from Mrs. Bonnell to her daughters, who were then staying there; I had no other business there—I merely called to deliver that message; Mr. Berckmans met me at the door; he and the young ladies remained in the room all the time I was there, which was perhaps fifteen minutes—did not see Mrs. Berckmans except in  
10 company with the ladies; when I left, Mr. Berckmans saw me at the door; I don't remember of making any other visits, professional or otherwise, till March 2d, when I called to see the child—called also on the 9th to see the child—called again on the 23d of March, to see Mrs. Berckmans, as the custom is before confinement—did not see her again till the night of her confinement.

*Quest.* Have you stated all the visits you paid her in the period named?

*Ans.* I believe I have, every one.

20 *Quest.* Did you see her on any of these occasions alone?

*Ans.* I think not; the last visit, March 23d, I did for a few moments—I remember from a little circumstance—she was crying.

*Quest.* Where was she?

*Ans.* She was in the room to the right of the hall, a reading-room or dining-room—I don't know what you call it.

*Quest.* How long were you with her?

*Ans.* I think I was there about half an hour.

*Quest.* Where next after did you see her, and give the  
30 date?

*Ans.* I saw her next in the Prosper Berckmans house, on the night of her confinement, 2d of April, 1860.

*Quest.* How often immediately after did you visit her?

*Ans.* Once a day for three days; then she was attacked with a fever, of an intermittent type, which required my attendance twice a day for some time, morning and evening.

*Quest.* How long did you visit her twice a day?

*Ans.* I think between two and three weeks.

*Quest.* How were these visits, long or otherwise?

40 *Ans.* It depended upon circumstances, upon her condition



and my business; sometimes when I found her very sick, (she was at times almost delirious from congestion of the brain), at such times she required the constant care of some one; sometimes the visits were quite lengthy, as I thought it necessary, sometimes an hour or an hour and a half, I did not time myself.

*Quest.* Was she badly sick?

*Ans.* She was, so much so that I feared she would not recover.

*Quest.* After these two weeks, did you continue to attend 10 her—if yea, how often and for what period of time?

*Ans.* I did attend her once a day, then upon alternate days, and, as she improved, lengthened the intervals between the visits; she required treatment to about the 1st of July.

*Quest.* Where was she, what part of the house I mean, from April to July?

*Ans.* She was in the front room down stairs part of the time, I think the greater part of the time, the front parlor I suppose.

*Quest.* Describe the situation of this parlor with reference 20 to any neighboring room.

*Ans.* There was a room back of it, the back parlor, with folding doors between, and also a door opening out into the hall.

*Quest.* Had Mrs. Berckmans a nurse during her sickness—if so, how long?

*Ans.* She had the forepart of her sickness, five weeks, I believe.

*Quest.* When you saw Mrs. Berckmans, while the nurse was with her, did you see Mrs. Berckmans alone? 30

*Ans.* The nurse was usually in the back parlor, in and out of the room—the folding-doors were opened except when she had this headache, for the light affected her head; we usually shut one of the doors only, I mean at such times.

*Quest.* What was the condition of Mrs. Berckmans' health at the time the nurse left?

*Ans.* She was very feeble, not able to remain up, to sit up, more than half of her time, if that.

*Quest.* Was she able to take care of her children?

*Ans.* She was not—I told Mr. Berckmans she was not, that 40



he ought to have some one to assist her to take charge of them; she had a relapse in about a week after her nurse left, in consequence of over exertion, similar to the first attack.

*Quest.* Were you then called in?

*Ans.* I was.

*Quest.* How long did you attend her on this relapse, how often a day, and were these visits long or short?

*Ans.* Much the same as the first attack, but not so frequent, as the attack did not last so long; a few days, I think, I saw  
10 her twice a day, then once a day, and then every other day, as she improved; towards the last, about once a week, once in seven days, to prevent a return; these visits were of the usual length as the time would permit of, sometimes an hour and sometimes only a minute—sometimes I would not sit down, just as her case required it.

*Quest.* What is your habit as to length of visits?

*Ans.* I sometimes make long ones—I believe I am noted for making lengthy visits.

*Quest.* During this relapse, was Mrs. Berckmans provided  
20 with a nurse?

*Ans.* Nothing but a little girl.

*Quest.* Did her situation require a nurse or not?

*Ans.* It did.

*Quest.* Did you say anything to Mr. Berckmans about it?

*Ans.* I don't remember that I did, except at the time aforesaid.

*Quest.* Of what age was the little girl that was gotten, and when did she come?

*Ans.* I think she was about twelve—I think it was a week  
30 or ten days after the nurse left.

*Quest.* How sick was Mrs. Berckmans on this relapse?

*Ans.* Very much as on the first attack—the same kind of attack as the first, but not quite so tedious, sometimes having two paroxysms a day, and sometimes only one.

*Quest.* Did you visit Mrs. Berckmans after her recovery, and while still at Prosper's house?

*Ans.* I visited the house to see the children.

*Quest.* During what period, and how often, and for what?

*Ans.* I have forgotten; I visited Mrs. Berckmans at the  
40 house to extract a tooth; the first time her courage failed, and



she concluded not to have it out at that time ; about a week after that Mr. Berckmans called at my office, and said that his wife requested me to call and extract a tooth, and that she wished me to administer ether ; he was on his way to the seminary ; I told him I liked him to be present, as I never allowed myself to administer ether to a lady unless a third person was present ; I made it in my way to call about twelve o'clock, a little after that, I think ; he was there, and assisted me in holding her hands ; I don't remember of being there after that, that was in July, until August—that was the time 10 the children were sick ; I vaccinated the youngest child in the course of the summer—I have forgotten the time, as I made no minute of it in my book on such occasions ; it is my custom not to charge for vaccination of child when you attend lady on confinement ; during dog days, through August, the children were sick of summer complaint, especially towards the last of August.

*Quest.* Were both children sick ?

*Ans.* They were in August, in the last week in August I think ; the youngest had the diarrhœa, the other had that and 20 worm fever, and was threatened with convulsions.

*Quest.* How often did you visit them ?

*Ans.* Once a day for a few days, up to the time of their moving from that house.

*Quest.* During the period that Mrs. Berckmans, was attended by you, was she able at any time to be up and about the house ?

*Ans.* Not all the time ; towards the last of her sickness she was able to sit up the greater part of the day.

*Quest.* How in the interval between the first period of 30 sickness and the relapse ?

*Ans.* She was not able to sit up near all the time—not more than a quarter of the time.

*Quest.* Were you apprised by Mrs. Berckmans of the existence of difficulties between herself and husband—if yea, when first, and how came she to speak of it ?

*Ans.* I was ; during the first run of fever, while the nurse was there, I saw her weeping ; I merely told her that it was none of my business what she was crying for, but I wanted her to stop it, as it would aggravate her disease ; a few days 40



after that I found her weeping again—I then felt it my duty to ask the cause; she told me it was the ill treatment of her husband; that she merely asked him to provide some fuel—he got offended, and didn't visit her room for a week; that I saw myself.

*Quest.* Go on with what occurred?

*Ans.* I don't remember if anything particularly at that time.

*Quest.* After that, did you hear anything more of like complaint—state what she told you about it, and what interference, if any, you made in the matter?

*Ans.* Two or three occasions after that I heard her say that she had nothing to eat fit to eat; twice I heard her say, she said to me twice, when I called in, somewheres near ten or eleven o'clock, about the time she was taking her breakfast, just sitting down to breakfast, she said she would invite me to sit down, if she had anything to eat; I made no reply to it, nor offered any interference; the next that I saw was in August, the 30th of August, 1860—it was when I called to see  
 20 the oldest child, sick of worm fever; I found her weeping bitterly, holding the child in her arms; I asked her what the trouble was, if the child was worse; she said no, about the same; that Emile had abused her shamefully that morning, (that was her own expression); she had the care, the charge of the children the whole night, the whole charge—she was completely exhausted; that in the morning, early in the morning, as she sat upon the side of the bed, she asked Mr. Berckmans, Emile she called him, if he would not get Gussie a drink of water; he told her to shut up her devilish mouth, at  
 30 the same time got up, took hold of her, dragged her out of the room across the hall, and swore he'd throw her down stairs and break her damned neck, if he was not afraid that the servants would hear him; she had hoped, when she got away from the old woman by themselves, that he would be more kind, and that they would get along well together; she was now completely discouraged; he was getting worse and worse—she could not endure it; I believe that is all of that scene.

*Quest.* What interference or reply was there on your part?

40 *Ans.* I don't remember that I made any, except I said, that I didn't think she deserved such treatment.



*Quest.* Was this at the Prosper house?

*Ans.* It was.

*Quest.* Do you remember when they moved to the old lady's house?

*Ans.* I think it was the first week in September, the first day—I think on Saturday.

*Quest.* Did you see her at his mother's house after the removal—if yea, how often up to the time of leaving her husband?

*Ans.* I believe I saw her twice there, but am not certain. 10

*Quest.* When; state who was there, and why you went?

*Ans.* Well, I think once was a Sunday, in the afternoon; the two Bonnell ladies were there; I went, at Mr. Berckmans' request, to take a smoke with him, a friendly call; we were all seated on the back porch; I don't remember the other occasion, the particulars about it, I know I went there to see the youngest child; I was there on another Sunday, the Sunday before she left—then I was called in as I was coming from the Plains.

*Quest.* Did you from time to time, during the period from 20 the last of August till she left, see her elsewhere—if yea, state where and how it came about?

*Ans.* I saw her some four or five or six times, I can't say how many, at my office, part of the time in company with her mother, part of the time with the Bonnell ladies; she called there with her mother; her mother asked me if I would see her home, saying that Emile had gone and left her, or had not come after her; I saw her also at my office along about the 1st of August, in company with her husband—the 1st of September I should say; on two occasions, I remember Mr. 30 Berckmans coming in along about eight or nine o'clock, between eight and nine in the evening, about nine or half-past she came in; the first time we sat in the office, the light upon the table—the front office; we remained there until about eleven o'clock, and the second occasion I was going down Front street, I met Mr. Berckmans on the corner of Front and Peace streets; I invited him to go up to the office and wait until I came—I would be gone but a few moments; some melon, water melon, was being prepared, and I would like him to join me; I went off down the street, and returned in 40



ten or fifteen minutes; when I got back, I found Mr. and Mrs. Berckmans in the dining-room of my house.

*Quest.* On these occasions when you were requested to see Mrs. Berckmans at home, did you go with her?

*Ans.* I did.

*Quest.* How often?

*Ans.* I can't say exactly, perhaps four or five times.

*Quest.* Where did you leave her?

*Ans.* At the gate, front of their house, street gate.

10 *Quest.* About how far is that gate from the house?

*Ans.* Perhaps fifty yards, I don't know exactly.

*Quest.* Who went home with her the night at which you had watermelon in your dining room?

*Ans.* Mr. Berckmans.

*Quest.* Which way did they go out of your house?

*Ans.* Went out the office door, through the office.

*Quest.* About what time of night?

*Ans.* I should think it was half-past ten or eleven o'clock.

*Quest.* Was there any light in the office?

20 *Ans.* There was not.

*Quest.* Were your family at home?

*Ans.* No, sir.

*Quest.* When you were in the street, and met Mr. Berckmans, on which side of the street were you, and going in what direction?

*Ans.* I was on the opposite side to my house, going down town.

*Quest.* Do you remember being at Mrs. Marsh's store one evening when Mr. Berckmans came there for his wife?

30 *Ans.* I remember being there one evening, but he didn't come in, he was on the sidewalk.

*Quest.* In what part of the store were you?

*Ans.* I was in the front part.

*Quest.* How far from the door—could you not be seen by passers by?

*Ans.* I was about two yards from the door—the doors were open, I could be seen.

*Quest.* Lights in the store?

40 *Ans.* Yes, sir; it was lighted up as usual with camphene, as usual at night.



*Quest.* Any lights outside, in the street?

*Ans.* No, sir, except that from the stores, shining from the stores?

*Quest.* Are the streets of Plainfield lighted?

*Ans.* No, sir, not generally.

*Quest.* What do you mean by not generally?

*Ans.* Lamp-posts were put up about eighteen months ago—don't remember the time exactly; they occasionally had them lighted a little while after they were put up.

*Quest.* Were the streets lighted at all during the period of 10 the summer and fall of 1860?

*Ans.* I think not.

*Quest.* On this occasion of the complainant's stopping for his wife, while you were in Mrs. Marsh's store, what happened between him and his wife?

*Ans.* As he came up in front of her store he gave some signal, I think with his cane or feet, I don't know which; the signal she recognized; she then said to him, Emile, I can't go just yet—mother has stepped out, and I can't leave the store; I then got up immediately, went out to see Mr. Berck- 20 mans to have him to come up to the office with me—he had gone, I didn't see him; I came on to the office; perhaps about half an hour after that, Mrs. Berckmans and her mother came up to the office, and wanted to know if Emile was there; Mrs. Marsh asked me to see Mrs. Berckmans home, she was afraid to go alone.

It being half past one o'clock, a recess of one hour was taken for dinner.

*Quest.* On the night when you and Mr. Berckmans and his wife had the watermelon together, do you remember whether 30 the streets were lighted or not?

*Ans.* I remember that they were not, from the fact that it was so dark that I did not recognize Mr. Berckmans when I met him—he called to me after I passed him.

*Quest.* How does Mr. Berckmans' size and your own compare?

*Ans.* I think we are about the same height and same size.

*Quest.* How wide is the main street?

*Ans.* I don't know—about forty-eight feet, I think, in front of my office.



*Quest.* On the first occasion you have spoken of, when Mr. Berckmans and his wife were at your office, and went home together, was your own family at home?

*Ans.* I believe they were not at home.

*Quest.* How far apart were these occasions of their being at your office and going home together?

*Ans.* I think they were only a few days apart—I don't remember distinctly.

*Quest.* When were they, both or either, in reference to the  
10 time of Emile's calling in the evening at Mrs. Marsh's store while you were there?

*Ans.* Not far from that time—I don't know whether it was before or after or at the time.

*Quest.* Do you remember whether Emile ever came to your office, and waited there for his wife to come and go home?

*Ans.* I do remember of that being the case a number of times.

*Quest.* Did she come alone ever?

*Ans.* I think not; I think her mother always came with  
20 her—her mother did not always come in the office.

*Quest.* Do you know whether her husband was aware at the time of your walking home with Mrs. Berckmans?

*Ans.* I do not.

*Quest.* What was your own supposition at the time, and from what source did you derive it? [Objected to.]

*Ans.* I suppose he knew that some one would walk home with her, would see her home.

*Quest.* On what terms was he with you all this time?

*Ans.* On friendly terms—frequently riding out with me,  
30 frequently came in the office and sat.

*Quest.* Up to what time did this friendliness continue?

*Ans.* Till after Mrs. Berckmans left.

*Quest.* Did Mrs. Berckmans and you ever have any private interview at your office or house?

*Ans.* Had but one, a few moments.

*Quest.* When was that?

*Ans.* It was some time during the period from the 1st to the middle of September; I came home from my morning route, and as I entered my office door I saw a lady seated upon the  
40 sofa; she had her handkerchief up to her face, had a veil over



her face also; her face was so covered with her veil and handkerchief that I did not recognize her until I walked up to her and asked her if I could do anything for her, and then I saw who it was; she was crying—she told me she did not know what to do—Emile wanted her to go back and live with the old woman—she couldn't bear the thoughts—she said she didn't want to go there; I heard her statement, and don't remember of giving her any advice; she went from my office to her mother's.

*Quest.* How long was she there at your office?

10

*Ans.* Not more than ten minutes.

*Quest.* Did you, on any evening, go with Mrs. Berckmans from her mother's to your office, and there stay for a while, and then go with her home?

*Ans.* I don't remember any such circumstance—I don't think I ever did.

*Quest.* Did you, on any occasion, go from Mrs. Marsh's to your office, afterwards receive Mrs. Berckmans at your house or office, spend some time with her there alone, and then walk home with her?

20

*Ans.* I went from Mrs. Marsh's one night, the night that Mr. Berckmans came there in front of her store; in the course of a half hour or so, Mrs. Marsh and Mrs. Berckmans came to my office, and Mrs. Marsh asked me if I would see her home; I went immediately home with her, and did not spend any time in the office.

*Quest.* The last question repeated.

*Ans.* I did upon one occasion, the one I have just mentioned, no other; she did not then come into the office; her mother came with her, and asked me if I would see her home.

30

*Quest.* You have mentioned, I believe, that you saw Mrs. Berckmans on the 16th day of September, 1860, will you relate how you came to see her that day, and what happened upon the occasion of your seeing her?

*Ans.* I was stopped as I was passing by a boy living opposite, who said to me, Mrs. Berckmans has hurt herself, and wants you to come in; I did so, turned my horse in round the house by the back porch, found Mrs. Berckmans seated on the floor of the porch, leaning against the post; she was very much prostrated, the front of her dress was covered with 40



blood—I saw a wound—she showed me a wound on her right arm near her wrist, a lacerated wound, from which the blood was flowing freely; I had no probe with me; I asked if Mr. Berckmans was about; I think his wife said he was in the house; I told her I wanted to see if there was any foreign substance in it; I wanted him to go down to my office for an instrument—the wound was deep; I went to the door, and called to him—he did not answer; I found, as I went around, Miss Anna Bonnell seated on the steps—she seemed to be  
 10 deeply affected, and was crying; just at that moment Mrs. Marsh came around the corner of the house up the steps—she was crying also, wringing her hands—she seemed to be in great anguish of soul; she commenced telling me what had happened; I told her I did not want to hear it, and in rather an abrupt way I told her to shut up, I didn't want to hear it; I saw, from the condition of her dress, that some violence had been used, the front of it was pretty well torn in strips; in the meanwhile, Miss Anna Bonnell had sent her brother down for the instruments; when he came back I examined the  
 20 wound, applied some straps to it, found no foreign substance in it, applied some adhesive straps, or plaster you might call it; I was then directed to a mark on the back of her neck—there were ridges looked as though they were the result of a blow, the impression of a hand was there; I left her some tincture of arnica to take internally and to bathe her limb; she said one of her limbs was bruised about the knee—it was done, she said, by being thrown against the bedstead and being dragged across the room; I then left.

*Quest.* Did you see her soon after?

30 *Ans.* I saw her the next morning, I think; on my way up I met Mr. Berckmans; I asked him how his wife was, and if the wounds had bled any since—he said he thought not; I then said to him, Emile what was the trouble yesterday? he said he didn't know whom I was going to side with; I told him I didn't intend to take sides with either; he then seemed as friendly as ever, and then told me what had happened—that Mrs. Marsh came there, and he, with others, put her out of the house, and his wife took her mother's part—he had to shut her up in a room; if that had not answered, he said he  
 40 should have tied her up; he also said that he expected trouble,



expected the sheriff would be after him, would have to give bail; I then went on and left him, and he came down town.

*Quest.* Did he say anything about having procured another person to hold his wife?

*Ans.* I believe he did say so; he also said she could leave at any time, but couldn't take her children.

*Quest.* Did you see her that morning?

*Ans.* I did.

*Quest.* Was anybody with her?

*Ans.* Yes, Miss Hetty Bonnell was with her in the green- 10 house.

*Quest.* What was her state of health?

*Ans.* She was very much depressed and very feeble; she said she was hardly able to hold her head up, was her expression.

*Quest.* Did you see any further bruises upon her except what you have described?

*Ans.* Those upon her knee, yes—upon her shoulders, not bruises but lacerations—they looked as if they had been torn by being dragged over some rough surface. 20

*Quest.* Was anything said to you at that time about her leaving her husband?

*Ans.* I don't remember that she said anything to me about it at that time.

*Quest.* Did she at any time?

*Ans.* She did on the 19th of September, Wednesday.

*Quest.* Were you asked by her at that time to do anything in regard to obtaining legal advice for her?

*Ans.* I think not.

*Quest.* Was your brother, Mr. Caleb S. Titsworth, in Plain- 30 field the next day?

*Ans.* He was, on Tuesday the 18th.

*Quest.* Do you know how he came to come up?

*Ans.* I believe that Mrs. Marsh sent for him.

*Quest.* Do you know whether Mrs. Berckmans saw him, and where?

*Ans.* She did, at my house, at Mrs. Marsh's request, as she had no suitable room to retire to.

*Quest.* Did you, before she left, know of her leaving or her intention to leave? 40



*Ans.* I knew only from what she said to me on Wednesday, the 19th.

*Quest.* Where did you see her then?

*Ans.* In front of my office, in a carriage with Miss Henny Bonnell; as they drove up, I went out to the carriage, she said to me, doctor, as my friend, will you see Elisha Runyon and an officer, and have them come up and help me away with my children—she could not stay in the house any longer, she was afraid of her life—Emile was getting worse and  
 10 worse (I use her language as near as I can)—he does not pay me any attention, he does not come in my room, he does not eat with me—yesterday, she said, I sent the girl, Rickey, down stairs to get some flour to make some biscuit for dinner—he sent her a piece of a loaf of bread, a part of a loaf bought on Saturday previous, sending word to her by the girl, eat that or go without; she said she had no meat except that bought on Saturday previous, and that was alive, creeping I suppose she meant; I told her I would see them at her request.

20 It being four and a half o'clock in the afternoon, the examination was adjourned to Friday, August 23d, 1861, at ten o'clock, A. M.

Friday, August 23d, 1861.—Examination continued at same place and in presence of the same counsel.

*Quest.* Did Mrs. Berckmans say anything further to you while she was in the carriage, on the 19th of September, at your door, respecting her leaving?

*Ans.* I remember, I think, Miss Bonnell saying they put the child, Gussy, in the carriage to take a ride with them; that  
 30 Mr. Berckmans came and took him out, saying that he would take care of him.

*Quest.* Was anything said as to whether she would leave without her children?

*Ans.* She said she would not leave without her children—she would sooner stay there and suffer death rather than go away and leave them with him.

*Quest.* I understood you to say, yesterday, that you received information from Mrs. Berckmans of her intention to leave first in that conversation—are you right on reflection?



*Ans.* I remember, upon reflecting, of her having said to me, on the Monday previous and on Tuesday also, in presence of her counsel, that she wanted to leave in case she could take her children.

*Quest.* After the conversation on Wednesday, when she was in the carriage, did you take any action in compliance with her request—if yea, detail it?

*Ans.* I saw Mr. Runyon, as she requested, and told him her situation and what she wished; he said her better way was to get away with as little disturbance as possible and as little 10 excitement; I then went to Dr. Sherman's, stated to Mrs. Sherman her wishes and condition; she said she would be opposite with a carriage after the arrival of the first train up from New York in the afternoon—that's all occurred at that time at Mrs. Sherman's; then I came to my office, wrote a note stating what I had done, took it to Mr. Bonnell's, called for the young ladies; they were absent at Mr. Berckmans'—the servant went for them; Miss Henny came—I told her that I wished her to deliver this note to Mrs. Berckmans, told her the contents; she took it, it was unsealed, delivered it, and 20 returned, saying to me that Mrs. Berckmans said that she could not leave that afternoon; as she came in the room the first time she struck the side of her dress with her hands and laughed—I heard something jingle as she struck herself; she then excused herself a few moments, and then went up stairs; she then came down, and went over and delivered the letter that I spoke of.

*Quest.* Had you, before writing that letter, known of these young ladies or Mrs. Berckmans having brought away anything by means of their hoops or skirts? 30

*Ans.* I had; a few days before that I saw something of the kind at Mr. Bonnell's, a short time before that.

*Quest.* Was the note you sent upon that occasion the same that has been given in evidence for the complainant, and marked *Exhibit A*?

*Ans.* I think it is, some of it I can't recognize, and some I can't read.

*Quest.* Something is said in that note about seeing Mrs. Berckmans that evening—it is the passage written along the margin that I mean—for what purpose and with what view 40 was that request?



*Ans.* My purpose was simply this: I did not know where she was going in case she left, did not know how long she would stay, and knowing her children were sick, I requested her, without fail, to let me see her, that I might give her some medicine for her children to take with her.

*Quest.* What was the matter with her children?

*Ans.* The summer complaint.

*Quest.* Had you been treating them for it?

*Ans.* I had; Mr. Berckmans called the day previous, and  
10 got a prescription for them at the office, also, on Monday previous, I prescribed for them at the house.

*Quest.* Did you know of Mrs. Berckmans' escape when it occurred?

*Ans.* No, sir, I did not.

*Quest.* When did you first know of it?

*Ans.* That evening, the 19th of September.

*Quest.* How did you learn it?

*Ans.* I went to Dr. Sherman's to see Dr. Sherman, and learned what had been done, not knowing she was there; I  
20 found her there—the doctor told me she was there shortly after I got in the house.

*Quest.* Did you see her?

*Ans.* I did.

*Quest.* Whereabouts?

*Ans.* Up stairs.

*Quest.* Alone or with others?

*Ans.* With others, Mrs. Sherman and the nurse Rickey.

*Quest.* Did you give her any prescription or medicine at that time?

30 *Ans.* I did, for her children and herself.

*Quest.* Was the prescription one for that day only, or a continuing one? [Counsel for complainant objects to putting suggestive questions.]

*Ans.* It was intended to last some days.

*Quest.* When did you next see Mrs. Berckmans?

*Ans.* I saw her the next morning at Dr. Sherman's.

*Quest.* Anybody present?

*Ans.* Dr. Sherman, his wife—the doctor requested me to  
come in.

40 *Quest.* Did you see her after she left Plainfield?

*Ans.* I saw her on the 24th of September.

*Quest.* On any other date before she returned?

*Ans.* On the 27th.

*Quest.* Where?

*Ans.* New York, at Dr. Sherman's house.

*Quest.* How came you to see her there?

*Ans.* Mrs. Marsh requested me to go there to see her, to see her child and herself.

*Quest.* How were the children, sick or well?

*Ans.* The oldest child was very sick.

10

*Quest.* How were your visits, professional or friendly?

*Ans.* Professional.

*Quest.* When did she return here?

*Ans.* I don't remember the date—I think it was about ten days after she left.

*Quest.* When did she first go, and how long did she stay there, and where next?

*Ans.* She went to the Rev. Hynshaw's, about a mile south of the village of Plainfield; she remained there about a week, and then went to her mother's.

20

*Quest.* Do you know where she has since lived?

*Ans.* At her mother's, I believe.

*Quest.* Have you visited her there since?

*Ans.* I have.

*Quest.* On what errands?

*Ans.* Professional, when any of them have been sick, any of the family.

*Quest.* It appears in the examination that her mother keeps a store, and that in the store there is a curtain—can you tell us for what that curtain is, and describe its arrangement?

30

*Ans.* Why, it is stretched across the store, about in the central part, dividing it into equal parts.

*Quest.* Have you been in the interior, behind the curtain?

*Ans.* I have.

*Quest.* For what purpose?

*Ans.* I have been there professionally—that was part of her dwelling; I have also been in there, behind there, after my daughter when she has been there.

*Quest.* A Mr. Cannata thinks, he said, that you staid behind there once with Mrs. Berckmans two hours, or there- 40



abouts—did you ever stay there so long, or any great length of time?

*Ans.* No, sir; I may have staid there half an hour.

*Quest.* Where was Mrs. Marsh when you have visited Mrs. Berckmans in her house?

*Ans.* She was present, either in the store or in the dwelling part.

*Quest.* Always?

*Ans.* Except the one occasion I have spoken of, when I sat  
10 in the store.

*Quest.* Mr. Cannata, in his testimony, relates a conversation, said to have occurred between you some time last fall—do you remember any such conversation?

*Ans.* I do remember a part of it.

*Quest.* When was it, with reference to the time of Mrs. Berckmans leaving her husband?

*Ans.* It was after she left him, while she was in New York.

*Quest.* Can you relate that conversation?

*Ans.* I will as far as I can remember; I called in his store  
20 to ask him in reference to a report I had heard Mrs. Berckmans the elder had made about me—I asked him if he had heard anything about it—he said he knew nothing about it; the conversation was then about as he stated, only he didn't give the whole of it; he alluded to my walking home with Mrs. Berckmans every night, he said; I told him it was a mistake, I did not walk home with her every night, and when I did, I could do no less as a friend—that some one went with us sometimes; he then said, I had a wife, a child, and I ought to let other women alone; I told him I didn't under-  
30 stand what he meant by such language, I had nothing to do with other ladies—it was my place to act the part of a gentleman; I told him Mrs. Marsh went with us sometimes; he said it was a lie, she didn't; I saw he was getting angry, and concluded I would say but little more to him; he then said, well, she can never be his wife again any more—Mr. Berckmans says he would give twenty thousand dollars to get rid of her; I then said to him, if I can find another witness to what she said, old Mrs. Berckmans, I will see where the twenty thousand dollars are.

40 *Quest.* Do you remember the night, last fall, when the

wide-awakes were in town, referred to by the witness Brown?

*Ans.* I do.

*Quest.* Were you at Mrs. Marsh's that night?

*Ans.* I was no nearer Mrs. Marsh's that night than the sidewalk.

*Quest.* How long there?

*Ans.* Ten or fifteen minutes.

*Quest.* Did you hear Catharine Fannin examined?

*Ans.* I did.

*Quest.* Do you remember being at Mrs. Berckmans at any 10 time when she came in the room to bring coal?

*Ans.* I do.

*Quest.* When was that?

*Ans.* I think it was the 23d of March, the last visit I made before Mrs. Berckmans was confined.

*Quest.* Is that the visit at which you said you remembered that Mrs. Berckmans was crying?

*Ans.* I believe it was that visit.

*Quest.* Describe the position of you two when this woman came in?

20

*Ans.* Mrs. Berckmans was standing by the window, the front window, with her back partly towards me; I was seated in an arm-chair, resting my elbow on the arm of the chair with my head resting on my hand; my back was partly toward the door through which the girl entered with the coal; I merely turned my head to see who was coming; just at that moment Mr. Berckmans came in, took the coal scuttle, and put some coal in the stove; I remember nothing more that passed particularly.

*Quest.* Was Mrs. Berckmans crying then?

30

*Ans.* She was.

*Quest.* Why do you know?

*Ans.* I don't know, I suppose she was dreading her confinement, her sickness; I told her to fortify herself as much as she could, nerve herself up to it.

*Quest.* Did you ask what the girl wanted, or any such thing?

*Ans.* I don't remember of asking any such question at all.

*Quest.* I wish to ask you one more question, and I believe the last—have you ever, at any time, had carnal connection, 40



or made any offer or attempt at having carnal connection with Mrs. Berckmans, the defendant in this suit?

*Ans.* I wish to answer that most emphatically, I never have, and what is more, such a thing has never entered my head; neither do I believe Mrs. Berckmans disposed or capable of committing the act charged against her.

Cross-examined by Mr. Williamson.

*Quest.* Has the direct examination been carefully read over to you by the master, and are you satisfied with it?

19 *Ans.* It has—I believe I am.

*Quest.* What is the date of your license as a physician?

*Ans.* State license you mean.

*Quest.* What is the date of your first license as a physician?

*Ans.* March, 1853.

*Quest.* How old were you then?

*Ans.* About thirty-two.

*Quest.* How long had you been studying medicine?

*Ans.* About three years and a half—I practised some time before I had my license.

20 *Quest.* What occupation did you follow previous to that?

*Ans.* I was in the clothing business before I commenced studying medicine.

*Quest.* How long were you in that business?

*Ans.* I don't remember, eight or ten years perhaps.

*Quest.* Did you go into the business prior to your coming of age?

*Ans.* No, sir.

*Quest.* How were you engaged several years immediately prior to your coming of age?

30 *Ans.* Teaching school and going to school.

*Quest.* Where did you carry on the clothing business?

*Ans.* New Brunswick, New Jersey, Syracuse, New York.

*Quest.* Where did you practise medicine before you obtained your license?

*Ans.* Some in Syracuse, mostly in Philadelphia.

*Quest.* Did you learn a trade, doctor?

*Ans.* No, sir, I didn't learn any, I worked at it some, I didn't learn it.

*Quest.* What do you mean by working at it?

40 *Ans.* I meant that I worked at it occasionally, but did not

intend to learn it, for the reason that I did not intend to follow it, my choice was the practice of medicine; I was not allowed before I became of age to do just as I pleased.

*Quest.* At what trade did you work?

*Ans.* At clothing or tailoring business.

*Quest.* Who interfered with your doing what you pleased after you became of age?

*Ans.* No one; I followed the business in order to get means to carry me through my studies.

*Quest.* What year was you married?

10

*Ans.* I forget the year—I could tell by looking at reference—I think it was in 1843.

*Quest.* How old is your child?

*Ans.* I think she is sixteen this summer.

*Quest.* When and where did you first become acquainted with Mrs. Marsh?

*Ans.* I think it was the year 1853, in Plainfield.

*Quest.* Is she a native of Plainfield?

*Ans.* I think not.

*Quest.* Do you remember the fact of her coming to Plain- 20  
field to reside?

*Ans.* No, sir, I do not.

*Quest.* What year did she come here?

*Ans.* Don't know that—I think she was here when I came.

*Quest.* When you first became acquainted with her, what family had she?

*Ans.* None that I knew of except her daughter.

*Quest.* Did she then pass as a married or widow lady?  
[Objected to.]

*Ans.* I don't remember that I heard or knew anything 30  
about it.

*Quest.* You visited her as a physician first few years of your acquaintance with her—how did you regard her? [Objected to.]

*Ans.* I supposed she was a widow—I knew nothing about it—made no inquiry.

*Quest.* Why did you suppose so?

*Ans.* From the fact there was no man living with her or about.

*Quest.* Is that the only reason?

40



*Ans.* Only reason that I know of.

*Quest.* Did you have any reason afterwards to change this opinion? [Objected to.]

*Ans.* Some time afterward I heard she had a husband.

*Quest.* When was this that you heard it?

*Ans.* I don't remember, it was nothing that interested me, and I paid no attention to it—it was some while after I become acquainted with her.

*Quest.* Don't you know that she passed, and was regarded 1) in this community for a number of years, as a widow? [Objected to as irrelevant, testimony in chief, and leading.]

*Ans.* I can honestly say, I do not.

*Quest.* Do you know whether she is a widow or not?

*Ans.* I do not.

*Quest.* How does she pass in this community? [Objected to.]

*Ans.* I don't know—I don't know whether she has a husband living or not.

*Quest.* How does she pass in your estimation, as a widow 20 or married lady?

*Ans.* If I knew whether her husband was living or dead, I should have some opinion.

*Quest.* Have you looked upon her since she has been in Plainfield as a widow or a married lady? [Objected to.]

*Ans.* A great part of the time I have looked upon her as a married lady not living with her husband—I don't know anything about her situation at all.

*Quest.* What part of the time?

*Ans.* The latter part of my acquaintance with her.

30 *Quest.* How many years of the latter part of your acquaintance with her?

*Ans.* I don't know exactly, three or four years perhaps.

*Quest.* What occasioned you to change your impression of her being a widow?

*Ans.* I accidentally heard it said that she had a husband.

*Quest.* Have you ever seen him?

*Ans.* No, sir, not that I know of.

*Quest.* How often has she been married?

*Ans.* I don't know—I have heard that she has had two 40 husbands. [Objected to by defendant's counsel as to hearsay.]

*Quest.* Are they both living?

*Ans.* I don't know that either of them are living.

*Quest.* Did you know of such a report while you were visiting her family?

*Ans.* No, sir.

*Quest.* Did you never hear such a report?

*Ans.* No, sir.

*Quest.* Did she never tell you, while you were visiting her family, that her husband was living? [Objected to as hearsay.]

*Ans.* Never, sir.

10

*Quest.* Did she ever speak of him to you at all?

*Ans.* I don't remember that she ever did.

*Quest.* You stated, in your direct examination, that the friendly feelings between you and the complainant continued up to the time of his wife's leaving him; how long after that was it that these friendly feelings were interrupted, and how?

*Ans.* I don't remember how long—I think it was somewhere near the time of my speaking to him about my bill.

*Quest.* At what time was that?

*Ans.* I don't remember what time it was—I think in October 20—I don't remember—there is nothing to fix it in my mind.

*Quest.* Did he say or do anything at that time that was offensive to you?

*Ans.* Nothing particular—he seemed little cool, that's all.

*Quest.* Did that interrupt the friendly feelings between you?

*Ans.* I don't know—that is the first that I noticed—it did not on my part.

*Quest.* Was there any act afterwards, on either side, to interrupt your friendly intercourse?

*Ans.* Not to my knowledge.

30

*Quest.* Didn't you prosecute him before a justice of the peace?

*Ans.* I did some time last spring.

*Quest.* Who was that suit before?

*Ans.* Elisha Runyon.

*Quest.* You stated that your first visit was the 25th of May, 1859, and the second, about the 15th of June following—had you seen Mrs. Berckmans anywhere in the interval?

*Ans.* Not that I remember of, except as I passed along the street.

40



*Quest.* Had you seen her anywhere previous to the 25th of May since her return from the south?

*Ans.* I saw her once with husband in the street—that is all I remember of—I remember that distinctly.

*Quest.* Were they walking or riding?

*Ans.* They were riding.

*Quest.* And were you riding or walking?

*Ans.* I was walking.

*Quest.* Did you stop to speak to them?

10 *Ans.* I did.

*Quest.* Shake hands with them?

*Ans.* I think I did—I don't remember.

*Quest.* The next visit you mentioned after the 15th of June was the 26th of September—didn't you visit the house in that interval?

*Ans.* I believe not once.

*Quest.* The next date you mention was October 3d, 1859—did you see Mrs. Berckmans anywhere between the 26th of September and the 3d of October?

20 *Ans.* I don't remember that I did—I think not.

*Quest.* The next date you mention is the 12th of December—was that in the daytime or night?

*Ans.* It was in the night; Mr. Berckmans came after me, and went with me to the house.

*Quest.* How is it that you are so accurate in these dates?

*Ans.* I have my book to refer to.

*Quest.* Did you see Mrs. Berckmans between the 3d of October, 1859, and the 12th of December, 1859?

*Ans.* I believe she, in company with her husband, came 30 into my office about the 9th of November, I won't be positive—I think it was the 9th.

*Quest.* Did you mention that fact in your direct examination?

*Ans.* I believe not.

*Quest.* Why did you omit it?

*Ans.* I didn't happen to think of it, I suppose—the question wasn't put to remind me of it.

*Quest.* What time of day did they come there?

*Ans.* It is impossible for me to tell—I don't remember,

40 *Quest.* Was it in the daytime or in the night?

*Ans.* I don't remember which it was.

*Quest.* Why do you remember the date?

*Ans.* I remember it from the charge on my book.

*Quest.* Are you sure Mr. Berckmans was with her?

*Ans.* Yes, sir, quite sure, positive of it.

*Quest.* How long did they remain?

*Ans.* I don't remember the time—not very long—fifteen minutes, perhaps.

*Quest.* Did he remain with her all the time?

*Ans.* He did.

*Quest.* Was it in the house or office?

*Ans.* In the office.

*Quest.* What was the object of her visit?

*Ans.* To get some medicine for herself.

*Quest.* Did she get it?

*Ans.* I believe she did, if I remember right.

*Quest.* Who asked for the medicine, she or her husband?

*Ans.* I think her husband did.

*Quest.* Was it medicine for herself or child?

*Ans.* For herself.

*Quest.* What was it?

*Ans.* Pulsatilla was one, *sepia succus*, I think those were the remedies—I am not positive.

*Quest.* Are they powders or liquid?

*Ans.* They were powders—I usually administer powders.

*Quest.* You speak of the date on your book, did you charge the medicines?

*Ans.* I think so.

*Quest.* What was the value of such medicines?

*Ans.* It depends upon the amount of the prescription—I sometimes charge two shillings, and sometimes more.

*Quest.* Well, the value of the amount she got at that time?

*Ans.* I don't know the amount, and I don't know what I charged for it.

*Quest.* Have you had your books or any memoranda before you since you have been on the stand as a witness?

*Ans.* No, sir.

*Quest.* When did you examine your books to refresh your memory as to dates?

*Ans.* No particular time; I have had the bill to make out



two or three times, and learned something of the dates from that—the dates were fixed by that.

*Quest.* When did you make out the last bill?

*Ans.* I think it was in the spring, in March I think, can't say certain.

*Quest.* Why did you make out the bill then?

*Ans.* In order to keep a copy.

*Quest.* Have not you examined your books or accounts within the last week, for the purpose of refreshing you and  
10 preparing for this examination?

*Ans.* I haven't had them in my hands for that purpose.

*Quest.* Have you not mentioned to any one the fact of that visit of Mrs. Berckmans to your office?

*Ans.* I don't know that I have—I may possibly—I don't remember.

*Quest.* What is the usual charge for a vaginal examination?

*Ans.* I think it is from one to five dollars—I think physicians are allowed five dollars.

20 *Quest.* What do you mean by a vaginal examination?

*Ans.* I mean just this, the examination of the vagina and the parts.

*Quest.* When you make a charge on your books for a vaginal examination, is that what you mean?

*Ans.* Yes, sir.

*Quest.* Did you ever make such a charge for the examination of Mrs. Berckmans?

*Ans.* I did, I believe.

*Quest.* When and where did you make that examination?

30 *Ans.* It was in my office, in November, don't remember the date—it may have been the same time that I gave her the medicine—I don't remember.

*Quest.* Where did it take place?

*Ans.* In my office—Mr. Berckmans was standing by her side the whole time.

*Quest.* What examination did you make?

*Ans.* My examination was at Mr. Berckmans' request, to ascertain the condition of the womb, whether she was pregnant or not.

40 *Quest.* The question repeated—what examination did you

make? [The counsel for the defendants suppose the question is answered.]

*Ans.* I can answer no different from what I have.

*Quest.* Did you feel up her clothes and examine her private parts?

*Ans.* No, sir, I did not—I did it as modestly as such examinations are generally made, as modest as I knew how.

*Quest.* How did you do it?

*Ans.* She stood up, I kneel down on my knee, one knee, carefully and gently introduce my finger into the vagina, 10 touching her nowhere else.

*Quest.* What was the result of your examination?

*Ans.* I did not come to any definite conclusion as to her, to the condition of her womb—I was not satisfied myself that she was pregnant.

*Quest.* What did she complain of?

*Ans.* Made no complaint herself that I remember of.

*Quest.* Was, then, it a mere matter of curiosity to her whether she was pregnant or not?

*Ans.* I presume not—her mother told me that there was 20 a suppression of the menses; Mr. Berckmans also told me that she hadn't had her courses for some time.

*Quest.* Who came there with Mr. and Mrs. Berckmans?

*Ans.* No one; Mrs. Marsh told me before that.

*Quest.* How long before?

*Ans.* A day or two, I don't remember exactly.

*Quest.* Where?

*Ans.* At her store.

*Quest.* Can you now tell us whether it was in the daytime or night that Mr. and Mrs. Berckmans came to your office? 30

*Ans.* I don't remember.

*Quest.* Is any partition in the office?

*Ans.* Such a partition as in this office—folding-doors.

*Quest.* Was this in the front or back office?

*Ans.* When I make such examinations as that I always do them in the back office; private examinations of either sex I always make in the back office.

*Quest.* Have you made other like examinations in the office?

*Ans.* As compelled; like other physicians, I make such ex- 40 aminations—they are not at all agreeable to me.



*Quest.* Do you think it was necessary in this case?

*Ans.* I did not know till I made the examination—I did it to comply with their wishes.

*Quest.* From the description given to you of her ailments, did you think it was necessary to make the examination?

*Ans.* I thought it was necessary to ascertain whether she was pregnant or not.

*Quest.* What did she complain of?

*Ans.* She made no complaint at all to me.

10 *Quest.* When Mr. and Mrs. Berckmans came in the office, which one of them introduced to you the object of the visit?

*Ans.* Mr. Berckmans, I believe.

*Quest.* What did he say?

*Ans.* I don't remember exactly—he said that she hadn't had her courses—this was the language he used, I believe.

*Quest.* Was the interruption of the courses all that was complained of?

*Ans.* I don't remember of anything else.

*Quest.* Who proposed the examination?

20 *Ans.* I think Mr. Berckmans did, I don't remember—it was either Mr. Berckmans or I; Mrs. Berckmans said nothing to me about it.

*Quest.* Why did he want to know whether or not she was pregnant?

*Ans.* I think he said he didn't think it was so.

*Quest.* Did she quietly submit to your manipulations?

*Ans.* Not without some hesitation.

*Quest.* Did you tell her it was necessary?

*Ans.* I don't remember that I did.

30 *Quest.* Did you tell her that it was unnecessary?

*Ans.* I don't remember that I did, or anything to that effect.

*Quest.* Was Mr. Berckmans in the back or front office while you were making the examination?

*Ans.* He was in the back office by her side, with one arm around her?

*Quest.* Folding-doors closed?

*Ans.* Yes, sir; I usually close them at such times.

*Quest.* Front door locked?

*Ans.* No sir, I believe not.

40 *Quest.* Why do you recollect the fact of the front door not being locked?

*Ans.* The closing of the folding-doors was a sufficient protection; I don't know that I ever locked the front door at such times.

*Quest.* Can't you remember now whether it was daylight or candlelight?

*Ans.* I cannot; I don't remember whether it was the day-time or not.

*Quest.* How often do you think you have made such examinations?

*Ans.* It is pretty hard to tell—sometimes two or three a 10 year, sometimes more.

*Quest.* How many more?

*Ans.* I can't say, can't tell any more about that than I can tell how many prescriptions I make.

*Quest.* Were these examinations generally of very young people?

*Ans.* Not confined to any age.

*Quest.* Were they mostly of young people, doctor?

*Ans.* No more of young than of more advanced—I think not so many.

20

*Quest.* Where the abdomen exhibits no appearance of pregnancy, do you profess to be able to tell, by such an examination as you then made, whether the woman is pregnant or not?

*Ans.* I can at majority of cases, not always.

*Quest.* How was it with her then—how far gone was she with child then?

*Ans.* I understood that she had missed her catamenia something like three months.

*Quest.* When was she delivered?

30

*Ans.* Night of 2d of April.

*Quest.* From appearances, did the child come at the proper time, full grown?

*Ans.* It did, I believe, to all appearances.

*Quest.* How far gone was she at the time of the examination—you can make a calculation?

*Ans.* I think it must have been three or four months—it must have been nearer three than four.

*Quest.* Did you ever make any other vaginal examination of Mrs. Berckmans?

40



*Ans.* Yes, sir; I think I made two others, all in the presence of Mr. Berckmans.

*Quest.* Was it at the one that you have described that you sold the medicines that you have spoken of?

*Ans.* I think so—I can't say positively.

*Quest.* Will you refresh your memory by the paper I show you, and tell me whether it was not on the 19th, and not the 9th of November, that you made the examination?

*Ans.* I said before, I believe, that I was not positive about  
10 the date. [Counsel of defendant objects to any evidence founded on that paper not shown to be in the handwriting of the witness.]

*Quest.* Has not your attention been called to this charge of a vaginal examination, and been a subject of conversation with counsel?

*Ans.* No, sir.

*Quest.* Did you furnish counsel in this cause with dates of your account, by which they might conduct the examination?

*Ans.* No, sir.

20 *Quest.* Were they furnished with such dates?

*Ans.* No, sir, not to my knowledge.

*Quest.* Has not access been had to your books for purposes of this examination?

*Ans.* No, sir, not in particular.

*Quest.* Doctor, the paper I showed you to refresh your memory by, wasn't it the state of demand filed by you in the suit before Justice Runyon?

*Ans.* I believe it is.

*Quest.* Is not the date of the vaginal examination on that  
30 paper the 19th of November? [Objected to, let the paper be put in.]

*Ans.* It is on that paper. [Paper is offered in evidence, and marked *Exhibit B.*]

*Quest.* When and where did you make the other vaginal examination of the defendant?

*Ans.* At my office—well, I don't remember, it was in a few days of each other, a week perhaps.

*Quest.* Do you mean to say you made three in a week?

*Ans.* No, sir.

It being four and a half o'clock in the afternoon, the examination was adjourned to Saturday, August 24th, 1861, at nine and three-quarters o'clock, A. M.

Saturday, August 24th, 1861.—Examination continued at same place and in presence of same counsel.

*Quest.* What effect did you intend to be produced by the prescription to Mrs. Berckmans at the office?

*Ans.* It is a prescription I usually make when there is a suppression of the menses; when the suppression is merely from a cold, or anything of that kind, it is usually efficient. 10

*Quest.* The object, then, was to remedy any malady which might exist producing the interruption of the menses, in case it was not produced by pregnancy?

*Ans.* Yes, sir, that's so.

*Quest.* How many vaginal examinations of Mrs. Berckmans did you make at your office?

*Ans.* It is impossible for me to tell how many, I think two besides the one already related.

*Quest.* Any before the one mentioned?

*Ans.* I believe not, sir. 20

*Quest.* How soon after the one mentioned were the two you recollect?

*Ans.* It is impossible for me to tell—I have no means of refreshing my memory, as I made no account of them.

*Quest.* According to the best of your recollection, then, were they within a month of the one referred to?

*Ans.* I think they were.

*Quest.* Were they, or either of them, within a fortnight of the one referred to?

*Ans.* I think the second one was a few days after the first. 30

*Quest.* Was the second one in the daytime or at night?

*Ans.* I think the second one was in the evening.

*Quest.* Mr. Berckmans present?

*Ans.* Mr. Berckmans was present each time in the position that he was the first time.

*Quest.* Was the second examination conducted in precisely the same manner as the first you have described, or if any ways different, in what respect?

*Ans.* It was somewhat different; mode of the examination



was the same, the position was the same; in connection with my using a finger, I used an instrument—that's the only difference.

*Quest.* What kind of an instrument?

*Ans.* Catheter.

*Quest.* Did you introduce the instrument into her person?

*Ans.* Yes, sir.

*Quest.* What was your object in doing so?

*Ans.* I ascertained at that examination, or rather became  
10 satisfied in my own mind, that she was pregnant; Mr. Berckmans wished me to produce miscarriage—I hesitated, as it was a thing that I never had done—it was illegal; I told him so, and that I did not wish to secure a home in the state's prison for myself; he then said to me, if I would do it I should not suffer—he would pay me any amount; he insisted upon my doing it, and to satisfy him, I went through the manipulations in part merely for the purpose of satisfying him, not intending to do it; that's all.

*Quest.* What did Mrs. Berckmans say?

20 *Ans.* She said nothing to me, at any of these examinations, about it—not anything.

*Quest.* Will you describe the third examination at your office?

*Ans.* It was precisely that of the second.

*Quest.* Was the third one in the day or in the night?

*Ans.* I think the third one was in the evening.

*Quest.* After you had introduced the instrument at the second examination, did you express any opinion whether you had been successful?

30 *Ans.* Possibly I did—I don't remember; if I did it was to satisfy him—he seemed very anxious.

*Quest.* If your object was to mislead Mr. Berckmans, why did you not when they came the third time tell him that you had been successful, and that there was no necessity for further experiments?

*Ans.* Because I had not been successful, and he knew it; if I had, he would not have come the third time, it is possible, probable.

*Quest.* Why did you wish to deceive him?

40 *Ans.* It was not expressly to deceive him, but to get rid of

doing an act which I did not wish to do—did it merely to satisfy him, to let the thing run along until a certain period, when they are more apt to become reconciled, the lady in particular; that period is generally after quickening.

*Quest.* What do you mean by the lady in particular?

*Ans.* I mean that ladies at such times, at early pregnancy, are very nervous and suffer very much from mental emotion and excitement and sick stomach; it passes off usually after quickening—then they become more reconciled.

*Quest.* Did Mrs. Berckmans manifest much solicitude at her 10 situation?

*Ans.* Manifested none to me—all I know of it was through Mr. Berckmans and Mrs. Marsh.

*Quest.* When Mrs. Marsh spoke to you about it at the store, how did you happen there at that time?

*Ans.* I think I was passing—Mrs. Marsh called me in.

*Quest.* What did she say to you?

*Ans.* She merely said she had a suppression of the menses, and feared that she was in the family way—that Mrs. Berckmans was.

*Quest.* That all that passed between you at that time? 20

*Ans.* I don't remember anything else.

*Quest.* Did her object appear to you, from anything she said, to be anything more than to announce to you that fact?

*Ans.* I don't remember that she manifested any more—the particulars I don't remember.

*Quest.* What appeared to be her object in making known the fact to you?

*Ans.* Well, it was my impression, from the manner she spoke of it, that she was sorry that she was in the family way. 30

*Quest.* Did Mrs. Marsh know anything of the examination that you made at your office?

*Ans.* Not that I know of.

*Quest.* Did she know that her daughter was advising with you with reference to her supposed situation?

*Ans.* Not that I know of—she didn't learn it through me.

Witness being shown *Exhibit B*, is asked what was the object of the prescription of September 17th?

*Ans.* I cannot tell.

*Quest.* Do you remember what medicine was furnished at 40 that time?



*Ans.* I do not; I don't know whether it was for Mrs. Berckmans or for her children.

*Quest.* You have said, in your direct examination, that you made a professional visit to Mrs. Berckmans on the 26th of September; at what house was this, and what time of the day?

*Ans.* It was at old Mrs. Berckmans', I believe, at his mother's house—I think it was in the forenoon.

*Quest.* How long were you there?

10 *Ans.* I was there, perhaps, three-quarters of an hour; Mr. Berckmans was there, met me at the door.

*Quest.* Did you see anything of Jane Stine during that visit?

*Ans.* No, sir, I did not.

*Quest.* Did you see anything of old Mrs. Berckmans?

*Ans.* No, sir.

*Quest.* In your direct examination, you did not give us the particulars of that visit, will you now do so?

20 *Ans.* Mr. Berckmans called for me at my office, wished me to go up, see his wife, and use electro magnetism; I did so; Mr. Berckmans was in the room the whole time; after putting the machine in order, and setting it going, I proposed to him to use it; he did so, or attempted to—I directed him how; the current didn't seem to be communicated through him—didn't seem to; I then took it, with his consent, and applied it myself.

*Quest.* Where was this?

*Ans.* It was in their room, over the parlor.

*Quest.* Bed-room?

30 *Ans.* I suppose it was used as a bed-room—there was a bed in it.

*Quest.* The same room referred to by old Mrs. Berckmans?

*Ans.* Yes, sir.

*Quest.* Did you apply the electric machine to Mr. or Mrs. Berckmans?

*Ans.* I applied it to Mrs. Berckmans; he tried the effects of it afterwards, I believe.

*Quest.* How did you make the application?

40 *Ans.* First she held the pole, one in each hand, then she held one only in her hand after that, and the other was applied over the abdomen, by means of a sponge intervening.

*Quest.* Was the sponge applied to the naked body?

*Ans.* Yes, sir.

*Quest.* Did Mrs. Berkmans stand up during the operation?

*Ans.* She did.

*Quest.* How was she dressed?

*Ans.* I don't remember particularly about her dress—she was dressed as ladies are usually dressed, nothing uncommon.

*Quest.* Who adjusted the sponge to the position?

*Ans.* Mr. Berckmans did first, then I did.

*Quest.* Why was your interference necessary?

10

*Ans.* Because, as I said before, the current didn't seem to pass through him; he didn't feel the shock—I suppose he didn't apply it right.

*Quest.* Where did you place your hands when the shock was given?

*Ans.* My left hand was resting on my lap, the other hand had the sponge.

*Quest.* Did you kneel, doctor?

*Ans.* I don't remember whether I kneeled or whether I was seated in a low chair—I think I was seated in a low chair; 20 my object in placing myself so low was not to expose her person—I did not see any part of her person except her face and hands.

*Quest.* You then placed your hand up her clothes, and pressed the sponge against her naked abdomen?

*Ans.* I introduced my hand under her clothes—did not raise her clothes only sufficient to allow my hand to pass, did not touch her person until I applied the sponge to the abdomen; I did it all as gently as I knew how and as modestly.

*Quest.* Did you turn your face away?

30

*Ans.* I did; it is an unpleasant duty to me always, such performances; I wished to spare her feelings all I could.

*Quest.* Did she say anything all this time?

*Ans.* I remember only she said the shock was pretty severe—I then made it lighter, as she could bear it.

*Quest.* Is that all you remember her to have said while you were in the room?

*Ans.* It is.

*Quest.* Who turned out to be the best medium, you or Mr. Berckmans?

40



*Ans.* The current passed best through me, he not knowing how to apply it, probably.

*Quest.* Didn't you stand by and give him instructions?

*Ans.* I did.

*Quest.* Could you detect the cause of his failure?

*Ans.* I could not.

*Quest.* How many shocks did you give the lady at this time?

*Ans.* Well, it was a continuous current—you can't call it a shock—it is not like an electric machine.

10 *Quest.* Was Mr. Berckmans in the room with you all the time?

*Ans.* Yes, sir; he didn't leave it until I left.

*Quest.* Can you recall anything else that transpired during that visit than what you have related?

*Ans.* I cannot.

*Quest.* What time of day was it when you left?

*Ans.* I can't say—it was some time before noon, I think.

*Quest.* Did you take your machine with you at that time?

*Ans.* I think I did—I don't remember positively.

20 *Quest.* Before this, had you made any vaginal examinations?

*Ans.* I made one in that room—don't know whether it was before that or after—I have no means of knowing.

*Quest.* What was the object of this electric experiment?

*Ans.* The usual means used by physicians, and legal means, I believe, for bringing on the menses when the suppression is from other causes than pregnancy.

*Quest.* Before making any such experiments with ladies, is it not usual for the physician to have free conversation with the lady for the purpose of seeing whether he cannot make  
30 up his opinion as to her situation without any such experiments as you have spoken of?

*Ans.* Sometimes it is, when there is not a third person to act as spokesman—usually young ladies and young married ladies, their mothers or husbands, do it; this is my experience.

*Quest.* Who did it in this case?

*Ans.* Mr. Berckmans and her mother; I believe I've stated that before.

*Quest.* What symptoms did Mr. Berckmans ever make known to you from which you, as a physician, could form any  
40 opinion as to her situation?

*Ans.* The only one I remember was the suppression of the menses.

*Quest.* Ain't that generally enough?

*Ans.* No, sir; it is frequently manifested in unmarried ladies.

*Quest.* Is it not, then, the duty of a physician to make particular inquiries whether this interruption could have been caused from a cold, or some other cause, before making such experiments as you did?

*Ans.* It is, when he intends to use anything but legitimate 10 means.

*Quest.* Do you call, then, the use you made with the electric machine legitimate means?

*Ans.* I do, and the means almost universally resorted to by all physicians, and more especially by homopathic physicians, it taking the place of tonics, the preparation of iron.

*Quest.* And do you think that a physician is justifiable in making such an experiment with a young married woman, without making the inquiries I have referred to?

*Ans.* I object to the term experiment—he is justifiable in 20 using such means for ordinary suppression of the menses.

*Quest.* When you are told by a young married woman that her menses are interrupted, what is your conclusion?

*Ans.* My conclusion is somewhat derived from her appearance, her manner, without saying anything to her.

*Quest.* What was your conclusion from Mrs. Berckmans' appearance and manners?

*Ans.* My conclusion was that she was not in the family way, from her appearance and from what Mr. Berckmans had said to me. 30

*Quest.* What had Mr. Berckmans said to you?

*Ans.* First time he spoke to me about it, when he told me there was a suppression, he didn't think it was from pregnancy; that is all I remember of.

*Quest.* What was the conduct and appearances of Mrs. Berckmans from which you formed your opinion?

*Ans.* Nothing uncommon in her appearance.

*Quest.* Had you ever made an examination of Mrs. Berckmans before the 26th of September to ascertain whether she was in the family way? 40



*Ans.* No, sir, I believe not.

*Quest.* You have alluded, in an answer to one of my questions, to some vaginal examination in the same room—when was that?

*Ans.* I think it was in October.

*Quest.* Was it in the October visit you referred to in your direct examination?

*Ans.* I think it was—I am not positive—I made no minute of the examination.

10 *Quest.* Well, do you remember whether you were at the house on professional business oftener than once in October?

*Ans.* I do not remember of being there but once in October—that's the reason I think it was then.

*Quest.* In your direct examination, you did not give us the particulars of that visit—will you give them?

*Ans.* The particulars are similar to the visit of the 26th of September, except the vaginal examination; the battery was used the same as before.

*Quest.* Was it used before or after the vaginal examination?

20 *Ans.* I don't remember.

*Quest.* You don't remember?

*Ans.* No, sir.

*Quest.* What was your conclusion as to her situation, at that time, as to her pregnancy?

*Ans.* I was not satisfied whether she was pregnant or not.

*Quest.* What was the object of the electro-magnetism on that occasion?

*Ans.* The same as the first.

*Quest.* State the particulars of the vaginal examination, her  
30 position, &c.?

*Ans.* Her position first was standing up; I could not by her standing up reach the mouth of the womb; I then proposed to her, in presence of Mr. Berckmans, (directing my discourse to no particular one) that she take a position on the bed, protected by a sheet, protected from exposure by a sheet; I turned my back, and went into another part of the room, stood with my back towards them until she was upon the bed ready for the examination; Mr. Berckmans assisted her; I then used a speculum, to enable me to see the parts, introducing it under  
40 the sheet, without exposing her in the least; to enable me to



see, I ripped a hole in the sheet an inch in length, perhaps an inch and a half; I was not able to detect anything unnatural about the mouth of the womb; I introduced a catheter also within the speculum—did not introduce it far—did not accomplish anything—did not see the mouth of the womb distinctly; I then withdrew the instrument, and retired to another part of the room; she was not in that position more than two or three minutes—Mr. Berckmans stood by the side of the bed all the time she was there.

*Quest.* What instrument was it that you introduced into the vagina?

*Ans.* I have said that I introduced a speculum.

*Quest.* What do you mean by your speculum, doctor?

*Ans.* Speculum is an instrument, with a reflector inside, used for examining the vagina or the ear.

*Quest.* What was the reason you couldn't see the mouth of the womb?

*Ans.* I couldn't tell the reason—the parts, the situation of the womb, was such that I couldn't see distinctly.

*Quest.* Did this examination aid you any in coming to the conclusion that you had formed, that she was not pregnant?

*Ans.* I was not satisfied from the examination that she was pregnant.

*Quest.* Why this great anxiety to ascertain the fact of her pregnancy?

*Ans.* The anxiety was all on his part, at his suggestion they were made—the last examination, this one just spoken of, I think he came after me, and went up with me.

*Quest.* Was any blood produced by any of these experiments that you made?

*Ans.* I believe there was, slight, once or twice, caused as I supposed by the introduction of the instruments. 30

*Quest.* At the office or at the house?

*Ans.* I think at the office once, I don't remember whether at the house or not.

*Quest.* Are you sure once at the office?

*Ans.* Quite sure.

*Quest.* Much blood at the office?

*Ans.* No, sir; very little, hardly enough to tell there was blood. 40



*Quest.* Where did you see the blood?

*Ans.* On the instrument, after I removed it; that was the reason that I thought the instrument caused it.

*Quest.* When you introduced the instrument at the office did she complain of your hurting her?

*Ans.* I don't remember that she did.

*Quest.* If your only object was, in making examinations at the office, to satisfy Mr. Berckmans, as you stated, was it necessary for you to proceed so far as to produce blood?

10 *Ans.* I did not intend to proceed so far—it was not my intention to produce blood.

*Quest.* Was your instrument a sharp cutting one?

*Ans.* No, sir.

*Quest.* How was it to operate in order to accomplish your object?

*Ans.* When abortion or miscarriage is intended, the object is to rupture the membrane.

*Quest.* Did you prescribe for her any medicine to procure miscarriage?

20 *Ans.* No, sir.

*Quest.* Have you referred to all the examinations that you made of Mrs. Berckmans?

*Ans.* To the best of my knowledge, I have given the full particulars just as they existed—took place.

*Quest.* Doctor, do you remember of a visit to Mrs. Berckmans, in her bed-room, when the little girl was sent down to get the water heated to bathe the child?

*Ans.* I remember no such circumstance at all.

30 *Quest.* Was it at the first or second visit, that you spoke of in your direct examination, that you saw the clock upon the table?

*Ans.* It was the first—I wasn't in the parlor the second visit.

*Quest.* Where was it standing?

*Ans.* Directly in front of the mantel.

*Quest.* You mean in front of the mantel, or close up to the mantel?

*Ans.* In front of it, one or two feet—I didn't notice that.

*Quest.* You are quite sure it was there?

40 *Ans.* Yes, sir.

*Quest.* In your direct examination, did you state all your visits, professional or otherwise, that you made at the Prosper house?

*Ans.* No, sir, not all.

*Quest.* Did you state all the professional visits you made?

*Ans.* Generally, I think I did—did not specify the time of each visit.

*Quest.* Will you state the visits you made at that house not professional?

*Ans.* I called there two or three Sunday evenings—one time 10 in the afternoon of the day, Sunday; Mr. Berckmans came down, and spent the afternoon with me at my office, and we took a social smoke together; when he left, he invited me to come up in the evening; I did so—sat out on the stoop, the porch, and smoked—that was the character of all my friendly visits; one, I remember, was a little company there, and I was invited up with the rest—that was not Sunday evening.

*Quest.* Did you never visit them without a particular invitation from Mr. Berckmans?

*Ans.* Very likely I did; his invitations I understood to be 20 general, to come when I felt disposed.

*Quest.* Did you ever make any evening visits there when you knew he was away from home?

*Ans.* I did not, sir, not to my recollection.

*Quest.* Did you ever make any evening visits there, and find him away from home?

*Ans.* He was not there sometimes when Mrs. Berckmans was sick—I didn't see him about; her mother was usually there when she was sick, in the evenings—I believe every 30 Sunday evening she was there when I was there.

*Quest.* Were you ever there of an evening when you tried to conceal your visit from Mr. Berckmans?

*Ans.* Never.

*Quest.* Give us a description of the first floor in the Prosper house?

*Ans.* The front of the house one room wide and the hall—the hall extends back the depth of the front room; there are two parlors, folding-doors between, and a door leading out of the front room into the hall—out of the back parlor; I think there are three doors, and I think one opens into the hall, one 40



into a little bed-room, and the other into the kitchen—kitchen to the rear of the parlor.

*Quest.* Is there a piazza around the west and north sides of the house, on the same floor with the one you have described?

*Ans.* I think so—around the large part of the house.

*Quest.* Do you know who occupied the little bed-room?

*Ans.* No, sir, I do not; I know I occupied it one night a little while when she was confined.

10 *Quest.* Do you remember ever getting in or out of the window of the little bed-room in the night?

*Ans.* No, sir; I wish you to distinctly understand that I never got in or out of it, or any other window in the house.

*Quest.* Do you remember of being at the Prosper house one night, and Mr. Berckmans coming in the front door, and your getting out of the house some other way to escape him?

*Ans.* No, sir; it never occurred.

*Quest.* Do you remember, once upon a time, taking some oysters down there for Mrs. Berckmans?

20 *Ans.* I remember a good many times taking a basket from Mrs. Marsh to her daughter, containing, as she said, nicknacks and relishes, that she needed, and was not provided with, except as she sent them; Mrs. Marsh frequently hailed me as I was passing, and asked me if I would take a basket there if she would send it to the office; I usually accommodated her.

*Quest.* Was this while Mrs. Berckmans was sick?

*Ans.* Yes, sir; during her convalescence.

*Quest.* Do you remember once of taking oysters there when she was well, of the Misses Bonnell being there at the time,  
30 and of Mrs. Berckmans taking the oysters from you, and taking them to some other part of the house, in order to conceal the fact from the Bonnells?

*Ans.* No, sir; I remember no such circumstance; I never knew what the baskets contained, I never looked in them, only as Mrs. Marsh told me, it was a little relish or dainty for Mrs. Berckmans.

*Quest.* Did you ever go of an evening down to the Prosper house with Mrs. Marsh?

*Ans.* I think I did when Mrs. Berckmans was very sick.

40 *Quest.* Did you when she was not very sick?



*Ans.* No, sir, I think not.

*Quest.* On what terms was Mrs. Marsh and Mr. Berckmans at this time?

*Ans.* I don't know particularly about it—I don't think they were very intimate.

*Quest.* During the spring of Mrs. Berckmans' confinement and the following summer, did you then know the fact, that he was engaged in the seminary at Plainfield as a professor of music?

*Ans.* I knew he was some time during the summer—I 10 didn't know when his engagement commenced.

*Quest.* Did you know what hours of the day he was occupied there?

*Ans.* I knew it was in the forenoon—I never knew anything more definite than that.

*Quest.* Were your visits at the Prosper house more frequent during these hours he was engaged at the seminary than any other part of the day?

*Ans.* I consulted my own convenience and her condition, not his absence, generally visiting her, when making two visits 20 a day, in the forenoon and evening, usually visiting her in the forenoon on my home stretch, as she was very feeble, and when able to sit up, seldom left her room until nine or ten o'clock; I usually saw her after those hours.

*Quest.* The morning you referred to in your direct examination, when she was sitting down to breakfast, how long a visit did you make that morning?

*Ans.* I don't remember how long—I waited till she got through her breakfast, took my seat in the front parlor.

*Quest.* Was it one of your long or short visits?

*Ans.* Very likely it was one of my long visits—don't re- 30 member about that—didn't time myself.

It being one o'clock, a recess of one hour was taken for dinner.

*Quest.* How long were you there before she went to breakfast?

*Ans.* I think she was just being seated as I went in.

*Quest.* Was this after her recovery from her relapse?

*Ans.* I don't know.



*Quest.* What do you mean by you don't know, you don't remember?

*Ans.* Yes.

*Quest.* How was her health at that time?

*Ans.* She was very feeble.

*Quest.* Did you charge for that visit?

*Ans.* I don't know—I presume I did; it was a professional visit.

*Quest.* Was Mr. Berckmans at home?

10 *Ans.* I don't remember of seeing him on that occasion—sometimes he was home and sometimes he was not.

*Quest.* What was the occasion of its being one of your long visits?

*Ans.* Because I waited for her to get through her breakfast.

*Quest.* What was the usual length of your long visits?

*Ans.* Perhaps an hour, hour and a half.

*Quest.* Were your visits during the months of May, June, and July of that year generally long visits?

*Ans.* No, sir; not generally long.

20 *Quest.* Were you present, and did you hear the testimony given by the witnesses examined in reference to your morning visits at the Prosper house during the spring and summer of 1860, and as to their time, time of day, their length and numbers—are they generally correct?

*Ans.* I was present, and heard their testimony; as to the length of visits, the hour, I have but to say that they are not correct; I believe I seldom, if ever, called as early as they testified to; neither do I remember at any time of having spent so much time in the house, or made my visits so long.

30 *Quest.* Have you mentioned the only particulars in which you think the witnesses are inaccurate?

*Ans.* I think that they are incorrect as to the number of visits, length of visits.

*Quest.* When was it that Mrs. Berckmans complained to you of her husband's dragging her from the bed to the stairs?

*Ans.* I think it was the morning of the 30th of August.

*Quest.* Was you then there upon a professional visit?

*Ans.* Yes, sir.

*Quest.* Who did you go to see?

40 *Ans.* Her children.

*Quest.* What time of day was it?

*Ans.* As near as I can recollect, ten or eleven o'clock.

*Quest.* Did you make one of your long or short visits?

*Ans.* I don't know whether a long one or short one.

*Quest.* What was the matter with the children?

*Ans.* The eldest had diarrhœa and worm fever, the youngest had diarrhœa, I believe.

*Quest.* Did you see any one at that visit except Mrs. Berckmans and the children?

*Ans.* I saw one of the girls, I believe one of the servants. 10

*Quest.* What time of day was it on Sunday, the 16th of September, that you were at Mrs. Berckmans', the old lady's?

*Ans.* It is my impression that it was midday—I know I was on my way home on my morning trip.

*Quest.* Before or after you had taken dinner?

*Ans.* Before I had taken my dinner.

*Quest.* Did you see the bruises on Mrs. Berckmans that day or the day following?

*Ans.* Some that day, and some the day following.

*Quest.* Were you examined as a witness in your own behalf 20 in the suit referred to before Justice Runyon?

*Ans.* I was.

*Quest.* Did you describe, on that occasion, the character of the bruises about her knee?

*Ans.* I think I did.

*Quest.* What description did you give of those bruises?

*Ans.* I think I said the soft parts about the knee were extensively echymosed, or extravasation of blood, or black and blue; I believe this is just as I gave it there.

*Quest.* How far above the knee did you describe the wounds 30 to be?

*Ans.* I didn't say that there were wounds, it was only bruised—there were lacerations about the shoulder.

*Quest.* Was there anything more about the knee except black and blue spots?

*Ans.* No, sir, not that I saw.

*Quest.* Was it on Sunday or Monday that you saw the knee?

*Ans.* On Monday.

*Quest.* Where?



*Ans.* Up stairs.

*Quest.* Where up stairs?

*Ans.* It is hard for me to describe the room—I know it was up stairs; I proposed to tell you my errand up stairs: Mrs. Berckmans said the babe did not seem well; I asked her if it had any fever—she said she did not know; I then proposed to see it—it was asleep; she said she did not want it disturbed—I told her I would not wake it, but merely wanted to take it by the hand, and examine its pulse—I did so, and went up 10 and saw it; I then asked her about her own condition; she said her knee was very sore—I noticed that she limped as she was going up stairs; I asked her if I should see it, examine the knee—she hesitated; I said it might be best to have it examined—she finally consented; I looked at the knee, did not touch it, saw that it was not much swollen, but very black and blue all over the front part of the knee; I don't think I was out of the greenhouse three minutes.

*Quest.* Was she sitting down when she showed you her knee?

20 *Ans.* No, sir; she was standing up; I might say, in this connection, this room was one that I have never visited before, never been in before, in the back part of the house.

*Quest.* She stood up—what was your position?

*Ans.* I stooped down sufficiently to see it.

*Quest.* Did you get upon your knee or knees?

*Ans.* I don't mean that I got upon my knees when I say I stooped down.

*Quest.* You did not touch it; what approach did you make to it?

30 *Ans.* None, only so far, perhaps, as it was necessary to see, perhaps within one foot of her.

*Quest.* How high did she raise her clothes?

*Ans.* Just high enough for me to see her knees, and no higher.

*Quest.* What time of day was this?

*Ans.* It was in the forenoon.

*Quest.* Who was present at the examination?

*Ans.* No one.

*Quest.* Where was Miss Bonnell?

40 *Ans.* In the greenhouse.

*Quest.* Was she there when you returned?

*Ans.* She was.

*Quest.* How long was your visit?

*Ans.* About fifteen minutes, I should think.

*Quest.* Who left first, you or Miss Bennell?

*Ans.* I think I did.

*Quest.* When you say *I think*, do you mean that there is uncertainty in your own mind?

*Quest.* I am quite certain that I left her there.

*Ans.* Did you have any conversation, at that visit, with any one about Mrs. Berckmans leaving her husband?

*Ans.* I don't remember that anything particular was said.

*Quest.* You say *particular*, do you remember anything that was said on that subject?

*Ans.* I don't remember anything.

*Quest.* Was the subject alluded to by anybody?

*Ans.* It may have been—if it was so, I don't remember it.

*Quest.* Had you heard it alluded to by any one before that?

*Ans.* I merely heard Mrs. Marsh say, the day previous, that Mr. Berckmans should not abuse his wife in that way much longer.

*Quest.* Is that all the allusion you heard by any one, before Monday, to the subject of Mrs. Berckmans leaving her husband?

*Ans.* I don't remember of any other allusion.

*Quest.* After your seeing Mrs. Marsh, at old Mrs. Berckmans on Sunday, did you see her anywhere else on that day or evening?

*Ans.* I think I saw her on the afternoon of that day at Mr. Bonnells—I am not positive of it.

*Quest.* What hour?

*Ans.* Four or five o'clock, I think.

*Quest.* What took you to the Bonnells at that time?

*Ans.* Merely went up to learn whether there had been any more trouble across the street.

*Quest.* How long did you stay there?

*Ans.* I should think fifteen or twenty minutes.

*Quest.* Did you see Mrs. Marsh anywhere else that day or evening?

*Ans.* I don't remember that I did.



*Quest.* Was anything said by any one at the Bonnells at that time about Mr. Berckmans leaving her husband?

*Ans.* I don't remember if there was—it may have been, but I don't remember.

*Quest.* Where was it that Mrs. Marsh made the remark you have spoken of?

*Ans.* At Mr. Berckmans', when I was dressing Mrs. Berckmans' arm—it was on Sunday.

*Quest.* When did you next hear the subject mentioned of  
10 Mrs. Berckmans leaving her husband?

*Ans.* On reflection, I think I heard her say something on the Tuesday following to her counsel.

*Quest.* Was that the first time that you heard this subject alluded to, except the allusion by Mrs. Marsh referred to?

*Ans.* I said before, and I say again, I don't remember if any allusion was made.

*Quest.* Where was it, on Tuesday, you heard the subject mentioned by Mrs. Berckmans?

*Ans.* In my house.

20 *Quest.* Who present?

*Ans.* Her counsel, C. S. Titsworth, myself, and no one else.

*Quest.* Mr. Titsworth, your brother?

*Ans.* I believe he is.

*Quest.* What time of day was it?

*Ans.* I think it was in the forenoon—I can't be certain about that.

*Quest.* Where does your brother live?

*Ans.* Newark.

*Quest.* Did you know he was coming up from Newark that  
30 morning?

*Ans.* I knew that Mrs. Marsh had sent for him.

*Quest.* Who told you so?

*Ans.* Mrs. Marsh.

*Quest.* When and where?

*Ans.* I think it was Tuesday morning, in her store—I don't remember the time exactly—to the best of my recollection.

*Quest.* What took you to Mrs. Marsh's store at that time?

*Ans.* I don't know—she may have called me as I was passing—I don't remember anything about it.

40 *Quest.* Did she tell for what purpose she had sent for Mr. Titsworth?

*Ans.* Merely said she wanted this difficulty settled some way.

*Quest.* That all she said?

*Ans.* I don't remember—I didn't charge my mind with everything she said—didn't want to hear it.

*Quest.* Was the place then fixed where Mr. Titsworth was to meet Mrs. Berckmans?

*Ans.* I don't know what she said in her letter to him.

*Quest.* Was there anything said between you and Mrs. Marsh as to their meeting at your house? 10

*Ans.* I think there was—I don't remember if it was then—I'm not certain it was.

*Quest.* Did you have any conversation with Mrs. Marsh anywhere else about it?

*Ans.* I remember that I had, the day that he came, while he was at my office; I went down and told Mrs. Marsh that my brother was at the office; she asked me if I would go down to Mr. Rosell's, and order a carriage for her, to bring Mrs. Berckmans down; I told her I'd rather not—asked her if she hadn't some boy that she could send, who did errands 20 for her; she said she had not—she couldn't leave her store herself; I then went down to Mr. Rosell's, and left word that Mrs. Marsh wanted Mr. Rosell to send a carriage for Mrs. Berckmans; I came back to the office right away; I left word to have him stop at my office when he went by; I came home then.

*Quest.* Did the carriage stop at the office?

*Ans.* It did.

*Quest.* Did you give directions to the driver?

*Ans.* Don't remember of giving him anything but a note 30 that my brother had prepared, and requested him to hand it to Mrs. Berckmans.

*Quest.* How far is Mrs. Marsh's store from your office?

*Ans.* I don't know how far it is—about 100 or 150 yards—I don't know.

*Quest.* Why was not your brother his own messenger to Mrs. Marsh?

*Ans.* I presume he requested me to go—I don't know.

*Quest.* Is not her store directly on the way from the depot to your office? 40



*Ans.* Nearly so—not directly.

*Quest.* How many feet out of the way is it, do you suppose?

*Ans.* Perhaps twenty or thirty yards—I don't know.

*Quest.* How many houses are there in Main street between Mrs. Marsh's store and the corner of Peace and Main streets?

*Ans.* Two houses and two alley-ways.

*Quest.* Do you pass the corner of Peace and Main streets from the depot to your office?

*Ans.* Yes, sir.

10 *Quest.* How long did Mrs. Berckmans remain at your house?

*Ans.* I think it was about a half an hour.

*Quest.* After that, that day, did you hear the subject of Mrs. Berckmans leaving her husband alluded to?

*Ans.* I did on the day following, when she was in front of my office—not that day, that I remember of.

*Quest.* The next day was Wednesday, alluded to on your direct examination?

*Ans.* Yes, sir.

*Quest.* On your examination as a witness before Justice  
20 Runyon, were you asked the question “whether you knew the fact of Mrs. Berckmans' intention of going away from her husband's house?”

*Ans.* I believe I was.

*Quest.* What was your answer?

*Ans.* I think I said I did not know that she did not intend to leave her husband's house.

*Quest.* Was the question asked you “whether you did not assist to plan her leaving?”

*Ans.* It was.

30 *Quest.* What was your answer?

*Ans.* That I did not, I think.

*Quest.* After these questions and answers, was the paper shown you which is marked *Exhibit A* on part of the complainant in this cause?

*Ans.* It was.

*Quest.* Was you asked whether that paper was in your handwriting?

*Ans.* I was.

*Quest.* Did you hesitate giving an answer to that question?

40 *Ans.* Only long enough to satisfy myself it was mine.

*Quest.* Look at those two letters at the end of the note—are they intended for the letters Y. F.?

*Ans.* I think not—I don't know what they are intended for—they don't look to me like Y. F.

*Quest.* Were you asked, on the examination before Justice Runyon, whether or not the note was in a sealed envelope or sealed?

*Ans.* I think I was.

*Quest.* Did you not reply to that question, that you did not, or could not remember? 10

*Ans.* I believe I said that it was unsealed.

*Quest.* Did you not say you could not remember?

*Ans.* I don't remember now whether I did or did not.

*Quest.* Has there anything occurred since that trial to refresh your memory as to the fact whether it was sealed or unsealed?

*Ans.* Nothing, but that Mrs. Berckmans told me it was unsealed.

*Quest.* Was it in an envelope, doctor?

*Ans.* I believe it was. 20

*Quest.* What else did Mrs. Berckmans tell you about the note at that time?

*Ans.* Nothing that I remember of.

*Quest.* Did she tell you whether she had complied with your request as to tearing it up?

*Ans.* I don't remember that she said anything more.

*Quest.* Where was it she told you it was not sealed?

*Ans.* Now, really, I can't tell anything about that.

*Quest.* How come she to tell you that?

*Ans.* The circumstance I can't call to my mind. 30

*Quest.* Did you ask her as to whether she remembered the fact?

*Ans.* I think very likely I did—I don't remember.

*Quest.* You have stated that you saw her the same evening that she left her husband at Dr. Sherman's—how did you ascertain the fact of her being there?

*Ans.* Dr. Sherman told me.

*Quest.* Where did he tell you?

*Ans.* At his house in Plainfield.

*Quest.* How did you come to go to his house? 40



*Ans.* I went there to learn what had been done—didn't expect to find her there.

*Quest.* How long did you stay there that evening?

*Ans.* I was in the house, perhaps, twenty or thirty minutes.

*Quest.* Did you see Mrs. Berckmans?

*Ans.* I did.

*Quest.* How early next morning did she leave?

*Ans.* I think about eight o'clock.

*Quest.* Did you see her at Dr. Sherman's before her leaving?

10 *Ans.* I did—I went down at Dr. Sherman's request.

*Quest.* What time of the morning did you go down?

*Ans.* A few minutes before they left.

*Quest.* To go back a little, what day was it they moved from the Prosper house to the old lady's?

*Ans.* I think it was on Saturday, the last day of August or the 1st of September.

*Quest.* How far is old Mrs. Berckmans' from your office?

*Ans.* I think it is about a mile.

*Quest.* How far back is the house set from the street?

20 *Ans.* I think about one hundred yards, as near as I can judge.

*Quest.* Are the trees and shrubbery quite thick between the house and street, so as to conceal a person, particularly at night, standing at the gate?

*Ans.* They are quite thick on either side of the walk, not to conceal a person if standing on the stoop of the house on the line of the walk.

*Quest.* Standing on the stoop, can you recognize a person at the gate?

30 *Ans.* I should think so—I never tried it.

*Quest.* How often do you think that you walked home with Mrs. Berckmans, at night, between the 1st of September and the 19th, when she left?

*Ans.* I think I walked home with her four or five, perhaps six times, in the evening.

*Quest.* That all?

*Ans.* I think so, sir.

*Quest.* As many as six times, do you think, alone with her?

40 *Ans.* No, sir; the Bonnell ladies were with us, I think, twice.

*Quest.* Any one else at any other time?

*Ans.* Mrs. Marsh walked part of the way once or twice—I don't remember which.

*Quest.* If the Bonnells accompanied you twice, Mrs. Marsh twice, then you walked home with Mrs. Berckmans twice only alone, according to your recollection?

*Ans.* I don't know whether Mrs. Marsh went once or twice, if twice, I think I only went twice alone with Mrs. Berckmans.

*Quest.* About what time was it that Mrs. Berckmans went 10 to live with her mother after her return from New York?

*Ans.* I think it was about a week after her return from New York.

*Quest.* What date was that?

*Ans.* It was near two weeks after she left Mr. Berckmans—I can't tell exactly—I can tell by calculating.

*Quest.* Did Mrs. Marsh then live at the same place in Main street that has been described?

*Ans.* She did.

*Quest.* After Mrs. Berckmans went to live with her mother, 20 did you pay any other than professional visits there?

*Ans.* I sometimes called—I had other business there; they have had friends from New York sick there, and I have been there to see them.

*Quest.* How often have you been in the habit of going there, other than professionally?

*Ans.* Very seldom.

*Quest.* How late have you staid there at night on a friendly visit?

*Ans.* Not very late; during the winter, before holidays, 30 my daughter was learning needle-work of Mrs. Marsh; I sometimes would call for her—sometimes I would go in, sometimes only to the door; that happened, perhaps, three or four times—I don't recollect—not very often.

*Quest.* How late have you been there at night on a friendly visit?

*Ans.* I think not later than half-past nine.

*Quest.* How long have you been there in the daytime on a friendly visit?

*Ans.* I can't call to mind any friendly visits.



*Quest.* Haven't you been in the habit of going there frequently in the daytime when you had no professional business there?

*Ans.* No, sir.

*Quest.* Have you taken Mrs. Marsh out riding?

*Ans.* No, sir.

*Quest.* Never?

*Ans.* I believe never.

*Quest.* Where is Mrs. Berckmans' bed-room in her mother's  
10 house?

*Ans.* Up stairs.

*Quest.* It is up stairs now, has it always been up stairs?

*Ans.* No, sir; before the first of April, her mother and Mrs. Berckmans occupied the same bed-room.

*Quest.* Where?

*Ans.* In the rear of the store.

*Quest.* How was it separated from the store?

*Ans.* By the curtain alluded to before.

*Quest.* Anything else?

20 *Ans.* By the blind on either side—the curtain in the middle.

*Quest.* Was there a hole in the curtain, so that by putting your eye close to it, you could see a person inside?

*Ans.* The only hole I knew of was a hole near the ceiling, through which the stove-pipe passed.

*Quest.* Is that occupied as a bed-room now?

*Ans.* No, sir; it is all thrown into the store.

*Quest.* Doctor, did you ever look through any hole in that curtain, and see Mrs. Berckmans there in undress, with nothing on but her drawers?

30 *Ans.* No, sir; never.

*Quest.* Do you remember of looking through a hole in the curtain, and shaking the blinds, and saying, "I have seen you?"

*Ans.* No, sir; I'll tell what I did do—I went in one morning, for, I think, a cake of soap; Mrs. Marsh told me Mrs. Berckmans was not up; I took hold of the blind, shook it, and said to Mrs. Berckmans, I think it would be for your health to get up earlier—did not look through, did not see her.

*Quest.* Do you remember of one morning going into that  
40 bed-room, that store, and finding Mrs. Berckmans there with

nothing on but her drawers, and wrapping herself in bed-clothes, getting under the bed, or hiding herself in some way from you?

*Ans.* No, sir, no such thing ever occurred.

*Quest.* Do you remember of Mrs. Berckmans borrowing twenty dollars of you to go to New York with?

*Ans.* No, sir; she never borrowed any money of me.

*Quest.* Do you remember of giving Rickey Redmond twenty dollars to hand to Mrs. Berckmans, or any other sum?

*Ans.* No, sir; I never gave her any, or any other sum, or 10 for any other purpose, not a cent.

*Quest.* Is this Rickey Redmond the girl that lived with Mrs. Berckmans at the time she left her husband, and who was in New York with her?

*Ans.* Yes, sir.

*Quest.* Is this the little girl referred to when Mrs. Berckmans told you that her husband sent up stale bread to her and spoiled meat?

*Ans.* I believe she is.

*Quest.* How long did she live with Mrs. Berckmans after 20 she went to her mother's?

*Ans.* I think until this spring or summer, either late in the spring or early in the summer.

*Quest.* How often did you go to see Mrs. Berckmans in New York after her leaving her husband?

*Ans.* Twice.

*Quest.* How soon was the first visit after she left here?

*Ans.* The first was on the 24th of September, 1860.

*Quest.* Where did you find her?

*Ans.* At Dr. Sherman's house, Ninth street.

30

*Quest.* Was Dr. Sherman's family in New York or at Plainfield at that time?

*Ans.* Part of that time they were in New York.

*Quest.* On the day referred to, that you visited her in New York, where was Dr. Sherman's family?

*Ans.* In Plainfield.

*Quest.* Who was in the house with her in New York?

*Ans.* Rickey and the children.

*Quest.* Did you stay and dine?

*Ans.* I did; I staid, perhaps, about an hour.

40



*Quest.* Who composed the family at dinner?

*Ans.* Mrs. Berckmans, Gussie, and myself.

*Quest.* Did you see the other child?

*Ans.* I did.

*Quest.* Where did you see the children?

*Ans.* I saw them in the dining-room and I saw them in the nursery.

*Quest.* Did you take any part in procuring the dinner?

*Ans.* No, sir; I got Mrs. Berckmans some peaches.

10 *Quest.* You mean you went out and purchased them, and brought them in?

*Ans.* I went out to get some for myself, and I got some for her.

*Quest.* When was your second visit to her in New York?

*Ans.* On the 27th of September.

*Quest.* Any of Dr. Sherman's family there then?

*Ans.* Dr. Sherman's adopted daughter was there.

*Quest.* What time of day did you go there that day?

*Ans.* That was in the afternoon.

20 *Quest.* What time?

*Ans.* I forget what time—I went there from Newark with my brother—I think it was about three o'clock.

*Quest.* How long did you stay there that day?

*Ans.* I should think about forty minutes.

*Quest.* The morning that Mrs. Berckmans left Dr. Sherman's to go to New York, how did she leave Plainfield—by the train or how?

*Ans.* Dr. Sherman took her in a carriage from Plainfield.

30 *Quest.* You say that Dr. Sherman took her in a carriage; did he take any one else in the carriage—if so, who?

*Ans.* Yes, sir; he took Mrs. Sherman and Rickey, and the children and Mr. Rosell—Mr. Rosell rather took them.

*Quest.* Any one else in the carriage?

*Ans.* No one that I know of, except Mrs. Berckmans.

*Quest.* Where did they go to in the carriage from Plainfield?

*Ans.* Some station on the lower road, I believe.

*Quest.* Were you at Dr. Sherman's that morning before they were up?

*Ans.* No, sir.

40 *Quest.* Did you go any part of the way with them in a carriage?

*Ans.* No, sir.

*Quest.* Where did you part with them?

*Ans.* In the street, in front of Dr. Sherman's.

*Quest.* The night that Mr. Berckmans came to Mrs. Marsh's store for his wife, you have referred to on the direct examination, how long were you there that evening?

*Ans.* I should think about ten minutes.

*Quest.* What was the object of your visit?

*Ans.* I don't remember that I had any particular object.

*Quest.* Was it professional?

*Ans.* I think not.

10

*Quest.* When Mrs. Berckmans returned from New York, did you know that she was coming at that time?

*Ans.* No, sir.

*Quest.* Did you meet her at the depot?

*Ans.* No, sir.

*Quest.* Did you see her that night?

*Ans.* I did.

*Quest.* Where?

*Ans.* Dr. Sherman and his wife took her to the Rev. Dr. 20 Hyndshaw's; Mrs. Sherman met me in a carriage along the street, and said that Gussie was sick, Mrs. Berckmans wanted me to come and see him—I did so.

*Quest.* That the first you knew of her being at Mr. Hyndshaw's?

*Ans.* Yes, sir; didn't know she had left New York till Mrs. Sherman told me.

*Quest.* The eldest child is now near three years of age—what is the color of its eyes and hair?

*Ans.* I think it has brown eyes and brown hair.

30

*Quest.* Dark brown or light brown?

*Ans.* Well, really I don't know—I should think about medium.

*Quest.* About the color of Mr. Berckmans'?

*Ans.* I think not quite so dark.

*Quest.* What would you call the color of his hair and eyes?

*Ans.* I should call his hair black, and his eyes a little brown, devilish.

*Quest.* Why do you use that expression, devilish?

*Ans.* Because I don't think he has a very pleasant eye. 40



*Quest.* The expression, devilish, was no response to my question, why did you use it?

*Ans.* Simply because it entered into my head at the time, and because, as I said before, I don't think his expression is a good one at all times.

*Quest.* What is the color of Mrs. Berckmans' eyes and hair?

*Ans.* I think they are both black.

*Quest.* Did you detect any of that peculiar expression in her eyes that you do in Mr. Berckmans'?

10 *Ans.* I have nothing particularly to offer in respect to her eyes.

*Quest.* As to the youngest child, what's the color of the eyes and hair?

*Ans.* I think the hair is light, both, I think, are light.

*Quest.* Hasn't the child got light blue eyes?

*Ans.* I think they are blue.

*Quest.* Are they light blue?

*Ans.* I believe they are—I haven't noticed them particularly.

20 *Quest.* I intended to ask you the question, not whether you had been out riding with Mrs. Marsh, but whether you had been out riding with Mrs. Berckmans—have you been<sup>1</sup> out riding with Mrs. Berckmans since she has been at her mother's?

*Ans.* No, sir.

Direct examination resumed by Mr. Parker.

*Quest.* Some difficulty occurred in your deciding whether a charge in the bill showed to you, and made *Exhibit B*, ought to have been November 19th or November 9th; have  
30 you examined the books that you kept at the time, in order to determine which date is correct?

*Ans.* I have.

*Quest.* Have you, during the period of this examination, kept a day-book, a ledger?

*Ans.* I have.

*Quest.* [A book handed witness.] Is this your day-book?

*Ans.* It is.

*Quest.* How were the entries in that book made, I mean how soon after the services recorded, and in whose hand-  
40 writing is it kept?

*Ans.* I usually do it soon after; I find, on examination, that the entry upon the 19th of November, 1859, is marked omitted, a mark I usually make when the charge had been omitted—"omit"; book is kept in my own handwriting—I don't allow anybody to write a word in it except myself.

*Quest.* From the examination you made, what was the date of the vaginal examination, charged in *Exhibit B*, on November 19th?

*Ans.* The examination of my books you mean? I think it should have been on the 9th; it was omitted on the 9th, and 10 put on the 19th.

*Quest.* Mention the page of your book upon which the charge occurs?

*Ans.* 147, the charge of the 19th.

*Quest.* You stated, if I remember, that you had not furnished counsel with a copy from your books, nor had they access to them, with a view of conducting this examination—have you or not made an examination of them subsequent to the making out the copies, of which you have spoken, with a view to furnish counsel with other facts, deducible from them, 20 than those in examination here?

*Ans.* I believe I have.

*Quest.* In giving the dates, which you have given here, of the visits you paid to Mrs. Berckmans, by what has your memory been assisted?

*Ans.* By making out my bills, copies and duplicates.

*Quest.* Did or not your subsequent examination of these books familiarize your memory with these dates?

*Ans.* It did somewhat.

*Quest.* Day-book offered in evidence, and marked *Exhibit 1* 30 on part of defendant.—Speaking of this vaginal examination, I wish to know whether you at any time made such an examination of Mrs. Berckmans, when alone?

*Ans.* No, sir; I never have.

*Quest.* Who was by?

*Ans.* Mr. Berckmans.

*Quest.* Always?

*Ans.* Yes, sir.

*Quest.* At whose request did you make them?

*Ans.* At his.



*Quest.* Always?

*Ans.* Yes, sir.

*Quest.* You were asked respecting the catheter, or some instrument used in your office—how was it to operate in order to accomplish your object; you answered, if I understood you, that when abortion or miscarriage is intended, the object is to rupture the membrane—do you mean to be understood that you had any such object as abortion or miscarriage, or such rupture?

10 *Ans.* No, sir; I thought to be understood that I did not intend any such thing.

*Quest.* Why did you use the instrument?

*Ans.* It was merely to satisfy the parties.

*Quest.* How to satisfy them?

*Ans.* To make them think that I intended to do what I did not mean to do.

*Quest.* In making these examinations, did you conduct them according to the usual practice of physicians?

*Ans.* I did, only I didn't use the instruments that some physicians use; there is an instrument expressly for that, which I  
20 don't keep.

*Quest.* If you had chosen or desired to rupture the membrane and effect miscarriage, was there anything to prevent you?

*Ans.* No, sir; I could have done so if I had chosen, wanted to.

*Quest.* You spoke of an interview between Mrs. Berckmans and yourself at your office, when you came in and found her sitting there—what was the date of that?

30 *Ans.* It was the last of August—I said, through a mistake, it was between the first and the middle of September.

*Quest.* You were understood by one of the counsel of the defendant to say that you did not see Mrs. Berckmans between the 3d of October and the 12th of December—is that your meaning?

*Ans.* I meant that I made no visits at the house.

*Quest.* You stated something in relation to the correctness of the testimony of those witnesses who mentioned your visits to the Prosper house—I think one witness said you paid visits  
40 there from January to April—was he correct?

*Ans.* No, sir; I believe they didn't live there till about the first of April; I knew that—it slipped my mind—I intended to speak of it.

*Quest.* Are the charges in your state of demand, for examination and for visits to New York, references to those services of which you have here spoken?

*Ans.* I think so—yes.

*Quest.* For what was that suit brought, and from whence the state of demand derived?

*Ans.* It was brought to recover the amount of my bill— 10' from my day-book.

*Quest.* Did you ever take any oysters or refreshments to Mrs. Berckmans, at the Prosper house, except at Mrs. Marsh's request?

*Ans.* I took no oysters that I remember; but I remember of taking two oranges and a squab, a young pigeon.

*Quest.* When was that, and was that all you ever took?

*Ans.* That was while Mrs. Berckmans was very sick, and that is all I ever took, except at the request of Mrs. Marsh.

*Quest.* Do you remember any occasion on which Mrs. 20 Berckmans received your basket when brought from Mrs. Marsh, and took it away to conceal it from the observation of the Misses Bonnell?

*Ans.* I remember no such occasion.

*Quest.* In Mrs. Marsh's house, where was the sitting-room?

*Ans.* The bed-room and the room in the rear of the bed-room were used as sitting-rooms.

*Quest.* How did you learn where Mrs. Berckmans' bedroom was since the 1st of April?

*Ans.* About three weeks ago, they had some friends visting 30 from New York with a sick child; I called to see the child, at the request of the gentleman who was staying there from New York; while there, Mrs. Marsh told me that Mrs. Berckmans was very sick; she took me up stairs—I prescribed for Mrs. Berckmans—Mrs. Marsh remained in the room all the time—I was there about five minutes; I suppose she had that room since the first of April, because I knew then Mrs. Marsh took the house adjoining the store in which that room is; this was the first that I was ever in that room, the first and only time.



*Quest.* You stated that on the trial before Justice Runyon, you said you did not know of Mrs. Berckmans' intention to leave her husband's house; why did you so say—what was your meaning?

*Ans.* I said so because I did not know that she intended; I knew that she wanted to, knew that she was very much distressed about it, in case she could take her children.

*Quest.* You stated that you said there, you did not assist to plan her leaving—what was your meaning in so saying?

10. *Ans.* I meant what I said—I did not intend to plan her leaving.

*Quest.* Did you in fact encourage her to leave before your learning from her of her strong desire and wish to do so, if she could take her children?

*Ans.* No, sir.

*Quest.* You have stated that Mrs. Berckmans told you that the envelope enclosing the note was not sealed; what is your own memory, was it sealed or not?

*Ans.* I think it was not.

20. Cross-examination resumed by Mr. Williamson.

*Quest.* From what college did you get your diploma?

*Ans.* Homeopathic college, Philadelphia.

*Quest.* You have a license?

*Ans.* I have a legal license from the county clerk. [The witness produces his legal license, marked *Exhibit 2* on part of the defendant.]

R. TITSWORTH.

Taken, sworn, and subscribed before me, at Plainfield, August 12th, 1861.

A. S. JACKSON, M. C.

30 Tuesday, September 10th, 1861.—The examination in this cause was continued on this day, pursuant to notice duly given to the complainant, beginning at ten o'clock in the morning, in the office of Cornelius Boice, in the village of Plainfield—present Courtlandt Parker, esq., and Caleb S. Titsworth, esq., of counsel with the defendant, and Benjamin Williamson, esq., of counsel with complainant.

*Susan F. Marsh*, a witness produced on the part of the defendant, being duly sworn, on her oath saith—

1 *Quest.* Where do you live ; how long have you lived here ?

*Ans.* Plainfield, New Jersey, eight years the last week in June, last.

2 *Quest.* Are you the mother of the defendant in this suit ?

*Ans.* I am, sir.

3 *Quest.* After she was married, where did she live, and for how long ?

*Ans.* She lived at my house, with me, for three months.

4 *Quest.* Where did her husband live during that time ? 10

*Ans.* With me.

5 *Quest.* Did you, during that period, know of any ill treatment towards your daughter by him, or any unhappiness of hers on his account ?

*Ans.* Yes, sir, a very great deal.

6 *Quest.* State what you noticed ?

*Ans.* First I noticed her crying constantly, a thing she never did before her marriage, and his sulkiness, surliness in not speaking to her ; I would ask her the question, what was the matter, she told me [Objected to ; and all declarations are ob- 20  
jected to, except those made in the presence of her husband.] —she told me that she was very much afraid that she would not be able to live with him, he was so different from what she supposed him to be ; other times, when I would ask her, she would say, “mother, never mind,” “don’t let him see that you notice it—he is my husband—I have married him, and I suppose I will have to live with him, but I shall never be happy again.”

7 *Quest.* You have said that you noticed his not speaking to her—for how long at a time ?

*Ans.* For two days at a time. 30

8 *Quest.* Can you mention any incident, exhibiting his feeling towards her, which happened during that time ?

*Ans.* Yes, sir ; they had been married about three weeks ; my daughter wished to return some calls upon her friends ; she told me she was going ; I heard her crying in her room out loud ; she came down stairs to me with hat and shawl on, dressed to go out, crying, and I said to her, “Sara, *what* is the matter,” she says, it is nothing mother, but I shall be crazy—that man is too ridiculous—I asked him to change his coat to 40



go with me, and he flew in such a rage, called me a beggar, that I was too proud for a (I won't use the word) beggar, and he would have to bring me down; my father had to do so with my mother, and I shall have to serve you the same way;" I replied to her, "never mind, don't go, stay at home;" he came down with the same coat on—I left the room; they finally went—the wagon was at the door.

9 *Quest.* About when did they leave your house, and where did they then go to live?

10 *Ans.* They left some time in the month of May, I can't tell exactly—they went to his mother's.

10 *Quest.* How often, if at all, did you see them while living there?

*Ans.* Every day, or nearly every day when it was pleasant; he came down to go to the post-office—my house was about half way; she usually came with him; they would both stop and come in, and take a cup of coffee, of which he was very fond.

11 *Quest.* Did they return to live at your house before going south?

20 *Ans.* Yes, sir; they came (let me see) back in October, it might have been the last of September, I can't tell exactly the time.

12 *Quest.* What was their conduct in relation to each other during that period—did you notice anything of the sort you have already spoken of?

*Ans.* The same things would occur; he would go in and out of the house without speaking or noticing her for days at a time; other times he would kiss and fondle her like a child, then he would sulk for days at a time without any cause.

30 13 *Quest.* After they left for the south, where and when did you next see them?

*Ans.* He met me at the depot at Augusta, Georgia, six weeks after their leaving for the south—then he took me to his house.

14 *Quest.* For what purpose did you visit the south at that time?

*Ans.* I did not go there to visit, I went there to live with my child; Mr. Berckmans moved all my personal property there when he went—he took it with him.

40 15 *Quest.* Where and in what sort of a house were they living?

*Ans.* A miserable shanty, that would admit the rains and the winds—a very uncomfortable place.

16 *Quest.* What was the family you found there, what were her duties, what aid, if any, had she to perform them?

*Ans.* I found her alone with three men to cook for, Mr. Berckmans, her husband, his father, Frank Tice, a Dutchman whom they had hired; she had been in this house alone all the time, with the exception of one week, I think, to cook and do the work of these men when she was in a very delicate situation, within a few weeks of confinement, not able to sit 10 up any day without lying down two or three times.

17 *Quest.* You spoke of the house admitting the rain and the wind, was anything done, by whom, to prevent this?

*Ans.* No one done anything but me to it; I took blankets, and put around the windows and around the cracks of the doors—took a knife, and pushed the blankets around the doors—they were open an inch and a half.

18 *Quest.* How as to the room in which Mrs. Berckmans lay during her confinement?

*Ans.* The door, outside door, opened in the room, and the 20 wind come in from every quarter, so much so that I thought it would not answer for her to be confined there; if she had been here I should not have let her remain in such a place, but as it was I would try and make her as comfortable as I could; I did not expect when I went there to furnish Mr. Berckmans' house entire; I took a bedstead, spring mattress, easy-chair, for my own use, for my own room, but I was obliged to give them to her; to give them to her, I gave them to him of course, as he slept with her; I was glad to do it, anything that would add to their comfort or happiness, 30 if he would only be kind to her; I studied her comfort entirely, myself was out of question.

19 *Quest.* Where was the parlor or sitting-room of this house?

*Ans.* That was the parlor, the room where she was confined in.

20 *Quest.* How was it furnished by him?

*Ans.* There was a piano in it, a drugget on the floor, four common chairs—it was all the furniture in the room belonging to him, the rest was mine; I took a lounge with me and 40 the easy chairs, three of them, and a bedstead,



21 *Quest.* How was the dining-room, if any, furnished?

*Ans.* I took straw matting with me to furnish my bedroom; he took it, and put it on the dining-room; his mother gave him an old table which we eat off—that constituted the furniture in the dining-room; I took my chairs in the parlor, my daughter's bed-room, and removed the four chairs which were there into the dining-room.

22 *Quest.* What other furnished rooms were there in the house?

10 *Ans.* There was a little room, off the bed-room where my daughter was sick, that Mr. Berckmans occupied—had his desk or his table which he used for writing—he used it for sleeping when it didn't rain so hard that he couldn't sleep there.

23 *Quest.* When was your daughter confined?

*Ans.* 18th of February, I think—I don't know whether it was the 8th or the 18th.

24 *Quest.* Whereabouts was this house situated, how far from neighbors, and what was its general appearance as to  
20 tidiness and to comfort?

*Ans.* It was in the woods, a dilapidated old shanty—well, nearly a mile from any neighbor, a mile from Prosper Berckmans, a mile and a half from the other neighbor—I don't know exactly how far; the inside of the house was filled with bed-bugs.

25 *Quest.* Any fences or garden about it?

*Ans.* No fence about the house—there was a garden out of the way from the house, a vegetable garden, it was the winter time, and we did not make use of the garden; the house stood  
30 some ways from the main road in the woods.

26 *Quest.* During your stay there, previous to her confinement, did you notice anything further in the behavior of Mr. Berckmans to his wife of the character described already—if you did, state it?

*Ans.* Yes, sir; sulkiness is his natural disposition—I found that out to be so; I made a practice (it was my daughter's wish rather) when he was coming, before he came in, to leave her room, seldom to find me there with her—it made him miserable because she was happy with me, her mother—so, to avoid  
40 all controversies, she wished me to be out of the room when he would come.

27 *Quest.* How did you learn that it made him miserable that your daughter was happy with you?

*Ans.* She told me so; I took no notice of his treatment to me—he treated all her friends as he did me; I made up my mind to bear with everything for her sake.

28 *Quest.* How did he treat you in her presence?

*Ans.* He didn't treat me at all—he didn't take any notice of me any more than if I was a nonentity.

29 *Quest.* Was your daughter long sick, and how badly sick?

10

*Ans.* She was confined to the house seven weeks—during that time was very ill, her life was despaired of; when her babe was twelve days old, she had not set up at all—we thought the twelfth day she might get up—she sat up long enough to have her bed made—we made all possible haste—she said she wanted to lie down—immediately upon her lying down she had a chill; from that she kept getting worse, until one night, she was very sick, she spoke to her husband, and said, Emile, if it wasn't so far, I should like to see the doctor—he lived in Augusta; Mr. Berckmans' brother's wife, wife's 20 sister, one servant, the nurse and myself, all thought she was dying—she couldn't see, she couldn't get her breath in any position; Mr. Berckmans' brother asked his brother why he didn't send for a doctor, and then turned to me, and asked me if I wished a physician called; I told him I did so, but had no way of sending; he said I should have the doctor in less than half an hour, if he was to be found in Augusta; he sent his man on horseback—it was then ten o'clock at night.

30 *Quest.* What reply, if any, did Mr. Berckmans make when told by his wife that she would like the doctor there? 30

*Ans.* I didn't hear him make any; he stood beside her; I was very busy preparing things to do for her all that lay in my power.

31 *Quest.* Did you ever hear from him why he did not go for one?

*Ans.* The reply he made his brother was, his father did not think it necessary, who was then in the house asleep; when all the rest in the house thought she was dying, he lay down and slept.

32 *Quest.* How long was it between the time she desired 40 the doctor and that at which Prosper sent for him?



*Ans.* Two hours, I think, about.

33 *Quest.* Do you remember whether the physician, when he came, said anything, in the presence of Mr. Berckmans, as to the necessity of his being sent for?

*Ans.* Yes, sir; we were altogether, and he says to me, Mrs. Marsh why did you not let me know sooner, before dark, that your daughter was worse; I told him I was her mother, consequently had no right to say anything in that house.

34 *Quest.* What was the conduct and demeanor of Mr. Berckmans towards his wife while she was sick and confined to her bed?

*Ans.* It was the same that it always had been, he would stay away all day out of her room and the night, the evening; she would inquire for him, ask if I knew where he was; sometimes I would tell her that he was asleep; if that didn't pacify her, she would have me send Jane, the servant, to look for him; she would sometimes find him in a nigger house adjoining ours, where the Dutchman employed by his father slept, drinking whiskey; she has found him in the woods  
29 asleep, gone with a lantern, woke him up, and brought him in the house; I sent her to do it, because my child wouldn't rest until she knew where he was; after she found he was in the house, I would sit up with her, and she would try to rest.

35 *Quest.* Do you remember any incident which occurred on the occasion of his coming in late one night?

*Ans.* I sat up to let him in—it was one o'clock—my daughter was asleep—she was awoke by a noise, which sounded like a window being raised; she said to me, mother somebody's breaking into the house—I tried to quiet her—I had  
30 the babe on my lap at the time feeding him; I told her to be quiet a moment till I could get the baby down, then I would go and see—and then the house was quiet; I finished feeding the baby—she went partly to sleep again when the noise—we heard another noise; I felt very much alarmed myself, being in the house alone, that is being no male in it, a man about it, being in the woods so far away from neighbors—I felt timid myself; however I took a lamp and started, opened the door, and went out into the next room—there he stood, Emile Berckmans; I said, Emile is that you, why didn't you come  
40 in the front door, I sat up to let you in; he says, "it's none



of your business, you old owl you; why ain't you in bed;" I sat up to let you in and to attend to your wife; "well now go to bed, and I'll kick your —— out doors;" he then slammed the door, and then locked it; my daughter jumped out of her bed, came to the door, said to him, what was it you said to my mother; he said, none of your business, go back to bed; then I went up stairs to my room; I heard her crying and him talking loud—couldn't hear anything that was said—I didn't listen; the servants' room was directly over theirs—I spoke to her, that is the servant—I was in hopes she had not 10 heard what he said to me—I spoke to her to know if she was awake; she says, yes, I have heard it all, and I hope he won't kill her this time.

36 *Quest.* When he spoke to you what you have stated, what was his tone of voice, loud or otherwise?

*Ans.* Yes, sir, loud, a very angry tone.

37 *Quest.* How far off was he from his wife, could she hear?

*Ans.* She was in a room like this, she was here and he was there, the door was opened, of course she could hear.

38 *Quest.* After this incident, what was his demeanor to his 20 wife?

*Ans.* The same as it always was when he got angry.

39 *Quest.* How do you mean—describe it?

*Ans.* Well, he would come in, pass through her room and not speak to her, the room, I told you before, where he did his writing—he would stay for a few moments, and then go out, slam the doors after him, perhaps do that half a dozen times in the course of the morning; my daughter was then alone, and was not well left in the room alone, consequently I had to be with her more than I was before her confinement. 30

40 *Quest.* Do you remember her saying anything to you, while you were living there, about her husband having made as if he would take poison?

*Ans.* Yes, sir, I heard the noise.

41 *Quest.* Did you, short time before she told you, overhear any difficulty between them—if yea, how long before she told you, and describe what you heard?

*Ans.* The night before she told me I heard him talking very loud, heard her crying very loud—it lasted for one hour.



42 *Quest.* What time of night was this, and about what period of your daughter's sickness?

*Ans.* It was between twelve and two—her babe was three weeks old—about; I was in the habit of setting up all night, and taking care of her babe after her monthly nurse left.

43 *Quest.* Did this difficulty produce any effect upon Mrs. Berckmans' health; that you noticed?

*Ans.* She was very miserable—we thought she never could get well—I was very sure that she never would get well as long as she remained in that position in that place—I was not the only one, Mary Berckmans, his sister-in-law, often said she would never recover.

44 *Quest.* What was Mrs. Berckmans' state of health next day after you heard her husband's loud voice and her crying that you have described?

*Ans.* Violent fever; had a chill, was obliged to send for the physician.

45 *Quest.* Did you, at any other times besides those you have mentioned, overhear loud talking on his part; and crying on hers, while she was there sick?

*Ans.* Yes, sir.

46 *Quest.* How often, do you think?

*Ans.* Well, I should think some five or six times.

47 *Quest.* How came you to go down to the south to live with your daughter, at whose request?

*Ans.* It was proposed by his father that I should go when she went—afterward changed his mind, preferred that I would wait until he obtained a dwelling for them, then he would send for me; he did—Emile Berckmans wrote me a letter requesting me to come and bring with me a servant, sent also fifty dollars to defray our expenses and to buy some necessary articles for my daughter before I came.

48 *Quest.* When did you return north?

*Ans.* I think it was the last of April—I am not sure however—I think it was.

49 *Quest.* How came you to leave?

*Ans.* They all came away north.

50 *Quest.* Where did you go to live?

*Ans.* In New York, 134 Twelfth street, the house of Mrs. Freeman, who kept a boarding-house.

51 *Quest.* Where did they, his mother and your daughter, go to live?

*Ans.* In Plainfield, in this place.

52 *Quest.* Where did she live when she was next confined?

*Ans.* At the house owned by Prosper Berckmans, brother of her husband.

53 *Quest.* Were you with her there during her sickness?

*Ans.* I was with her during her confinement, and saw her every day for two or three weeks after.

54 *Quest.* At what times of the day?

*Ans.* Sometimes I would close my store at four o'clock, and go and see her—stay all night, set up all night—then I would go on Sundays, immediately after my breakfast, and stay all day—sometimes staid all night. 10

55 *Quest.* Did your daughter remain in this house until she and her husband parted?

*Ans.* No, sir.

56 *Quest.* Where did they remove?

*Ans.* To his mother's.

57 *Quest.* How long before they parted?

*Ans.* I think she left that house the first of September, the Prosper house. 20

58 *Quest.* Did you visit her there?

*Ans.* I did, sir.

59 *Quest.* How often?

*Ans.* Twice.

60 *Quest.* On what days?

*Ans.* Sundays—I went to church in the morning, after church I went to see her children.

61 *Quest.* The first time, how long did you stay?

*Ans.* After morning service, till evening, dusk. 30

62 *Quest.* Where did you dine and take tea?

*Ans.* With her in the greenhouse.

63 *Quest.* The second time, what time of the day did you go there?

*Ans.* Noon, after morning service.

64 *Quest.* Relate what took place on that occasion?

*Ans.* I walked in the house, that is round the back part of the house, went in the kitchen, the room my daughter used as a kitchen, sat down; Emile Berckmans came in, asked me 40



what I was doing there—I told him I had come to see my children; he said I had better leave the house, if I didn't he would put me out; I told him I should go when I saw the children—then he went out; my daughter said to me, “mother come up stairs;” I went—I took off my bonnet and shawl—she said the children were out doors, and she would have them brought in; in the mean time he came in with three men, two Dutchmen and Jacob Coles—came up to me himself, took hold of me, and gave one of his Dutchmen orders to take  
 10 hold of the other side of me, and to pitch me down stairs, and, very vile language he used, to put me out of the house; when he took hold of me my daughter came up to him, and said, “Emile, this is my mother, she has come to see me, let her alone;” then I spoke, “Emile, what have I ever done to you that you should treat me so—I treated you well under my roof—I'm not going to stay long—I only want to see the children—you won't allow them to come to see me—if you don't wish to see me you needn't stay here; he said, it made no difference, out of the house I must go, then gave the Dutchmen or-  
 20 ders to take hold of me; he took hold of the other side of me again—my daughter pushed his hand away, or tried to do so; he then told her that he would put her where she couldn't be of any assistance, or something to that effect; he then took her and shut her up in a bed-room—she jumped out of the window, and came back; then he left me again, and took hold of her—she told him she knew what he wanted to do with her, but he shouldn't do it, consequently she resisted him with all the strength she had; he locked her in a pantry, threw her down upon the floor—she was exhausted—I was fearful that  
 30 she had fainted there—the door was locked; it was a small dark closet for hanging clothes, no chance for any air—threw her in, locked the door, placed one of his Dutchmen against it to keep her in while he put her mother out.

Then he and the Dutchman dragged me to the head of the stairs, tore my dress all off of my back, said if I didn't go down the stairs he would pitch me down; at that time my daughter burst the lock, the fastening, off the door, and came out; he left me to attend to her—I had an opportunity to get up; then he came to me, took hold of my shoulder, and I  
 40 moved back from him, not knowing what was behind, not



thinking or seeing, broke a pane of glass with my shoulder or elbow, I don't know which, my daughter standing beside me all the time; I then went down stairs—Oh, I forgot, my daughter cut her hand with a piece of the glass; I then went down stairs and went out of the house; my daughter was bleeding profusely, and I was very much alarmed; while standing on the stoop, I saw Emile Berckmans come up to her and slap her on her back, her neck, with all his force—the marks, the prints of his whole hand, were on the back of her neck; that evening, at eight o'clock, when I left her, they 10 were there still; then I went across the street to Mrs. Bonnell's, and asked if they would send one of the boys for the doctor for Mrs. Berckmans; the boy got on the horse, and when at the gate, coming to the village, the doctor passed the house; the boy told him that Mrs. Berckmans wished to see him; he drove in the gate, and I went in again myself; the doctor examined the wound, put something upon, dressed it, and left; I was sitting there talking with Sara, with Mrs. Berckmans, when Emile came up, said he would give me three minutes to get out of the yard, and if I did not go he would bring men 20 to put me out; I left one of the Miss Bonnells with her, and went over to their house.

65 *Quest.* What was the condition of your daughter's person, do you know, in consequence of the treatment she received that day?

*Ans.* Her left side, from her shoulder down to her ankle, her shoulder, her arm, her side, hip, and leg, were black and blue for four weeks—so lame she could scarcely move herself a week; I do not think she has yet or ever will recover the injuries that this man has done to her. 30

66 *Quest.* Had Mr. Berckmans told you before that day to stay away from his house?

*Ans.* Never.

67 *Quest.* Did you, after this, seek legal advice as to your daughter's ceasing to live with her husband—if so, whom did you consult, and when did you see him?

*Ans.* Several gentlemen of this place heard how I had been treated, called to see me, Justice Runyon one; Mr. Cowen and several others advised me, or told me, I should have him taken up, arrested; I said, no gentlemen, it matters not to myself. 40



[Objected to.] Well, I sent for Mr. Shepard Titsworth to come and see me with regard to the matter—I wrote a note to him; he came to see me, I think, a day or two afterwards; I sent on Monday, and Mr. Titsworth came, I think, the next day.

68 *Quest.* Had he previously acted as counsel for you?

*Ans.* He has ever since I have lived in Plainfield.

69 *Quest.* Do you know Dr. Titsworth, his brother?

*Ans.* I do.

70 *Quest.* How long have you known him?

10 *Ans.* Ever since I have lived in Plainfield.

71 *Quest.* Has he been your family physician?

*Ans.* Yes, sir.

72 *Quest.* During all that time?

*Ans.* Yes, sir.

73 *Quest.* While your son-in-law and his wife were living at his mother's, after leaving the Prosper house, did you used to see your daughter at your own house?

*Ans.* Yes, sir.

74 *Quest.* How, when, and in whose company, if any, did  
20 she used to come there, and about how often?

*Ans.* She usually came down to see me every evening when she was well enough—after getting her children asleep and fixing them for the night, she usually walked down with her husband, who would leave her at my door, tell her he would call for her, or tell her, when she got through, to walk up to the doctor's office, and she would find him there.

75 *Quest.* Find whom?

*Ans.* Her husband.

76 *Quest.* Where were you when you heard him say this?

30 *Ans.* Standing in the door.

77 *Quest.* Did you hear it more than once?

*Ans.* Some two or three times.

78 *Quest.* Do you know of Dr. Titsworth's walking home in the evenings with your daughter?

*Ans.* Yes, sir.

79 *Quest.* About how often?

*Ans.* Four or five times, may-be six.

80 *Quest.* Do you know whether she went, on those occasions, over to his office alone?

40 *Ans.* Yes, sir, I know she did not.

81 *Quest.* Who went with her?

*Ans.* I went myself.

82 *Quest.* For what purpose?

*Ans.* To accompany her.

83 *Quest.* For what purpose to the doctor's?

*Ans.* Sometimes to meet her husband.

84 *Quest.* At others, for what?

*Ans.* For exercise for myself; she went to meet her husband, if he were there, if not, to have the doctor go home with her.

10

85 *Quest.* Did you ever accompany them to her home?

*Ans.* Yes.

86 *Quest.* How far did you go?

*Ans.* I have been all the way with her—I have been half the way, as far as the episcopal church once.

87 *Quest.* When you went all the way, where did the doctor leave her?

*Ans.* At the gate.

88 *Quest.* Did she ever leave your house in the evenings, during that period, without your knowing who accompanied her home?

20

*Ans.* No, sir.

89 *Quest.* Were you at home yourself of evenings?

*Ans.* Always.

90 *Quest.* Why, what was your business?

*Ans.* I keep a fancy store—I usually keep it open eight or nine o'clock.

91 *Quest.* Did Dr. Titworth ever spend any time in your house alone with Mrs. Berckmans?

*Ans.* I never remember but of one evening, that was Saturday evening; I wished her to remain there a few moments, till I walked to the village of an errand; it was the summer time, the store doors were opened, my lights were burning—I walked as far as the post-office, did my errand, and came back—it took me about twenty minutes; I left the doctor standing near the door, my daughter sitting down in the store—when I returned the doctor had left—Saturday evenings I keep my store open later than other evenings; I sat down beside my daughter, and we were talking—I looked at the clock, and saw that it was half-past nine, called her attention to it; 40



she says yes, Emile has been after me, mother, while you was away; I went to the door, and told him that you had gone of an errand, wished me to remain till you returned; he walked off, she said, didn't make much, if any reply to her, supposed, of course, he was coming back, but she says, he does not come, may-be he won't—I didn't notice which way he went; well, I said, never mind if he doesn't come for you, I'll go with you myself—not the first time that I have walked with you home and back alone.

10 I then closed my store, and walked with her as far as the doctor's—asked the doctor if he would see her home; he said he would do so; she first asked if Emile was there—doctor told her no; I walked with them a little way—feeling very tired, I told her, if she would excuse me, I wouldn't go with her any further—she told me she knew I was tired, and that she would excuse me; I then returned home.

92 *Quest.* Will you describe the house, the interior, you then occupied?

*Ans.* The store, a room, and two rooms beyond it; when I 20 first took it, the store was too large for me, and I made a partition about midway of the store, by putting up a partition of a pair of window blinds and a curtain; then the room beyond the store was my parlor and reception room, the room beyond was my kitchen, the back part of the store I used as a bedroom, that is my bed stood there.

93 *Quest.* Was there any way of getting to the inner rooms from the street, except by passing under the curtain or through the store?

*Ans.* No, sir, in that way, unless passing through the alley 30 —no other way through the store.

94 *Quest.* What was your family at that time, I mean the summer and September of 1860?

*Ans.* Myself, none but myself; I lived entirely alone—there was a family in another part of the house.

95 *Quest.* Could any one have had any interview with your daughter in your house except you were present or within hearing?

*Ans.* No, sir.

96 *Quest.* What was your family after your daughter re- 40 turned to live with you up to the present time?

*Ans.* My daughter, her two children, her nurse, and some part of the time a servant.

97 *Quest.* Since April last, has there been any addition to your house, the house you occupy?

*Ans.* Yes, sir; the family gave up the house, and I hired the whole of the house; have bed-rooms up stairs, in consequence of which I removed the curtain.

98 *Quest.* When Dr. Titsworth came there to your house, for what purpose were his visits?

*Ans.* Professionally, called professionally—and I teach 10 worsted work and embroidery of all kinds; I have taught many of the young ladies of the village, and among the rest Dr. Titsworth's daughter; her father has called for her in the evening several occasions, nine and half-past nine, and waited for her till ten o'clock.

99 *Quest.* You know whether, while your daughter lived at her mother-in-law's, her table was provided with sufficient and proper food?

*Ans.* I know it was not.

100 *Quest.* Do you know of her procuring it elsewhere? 20

*Ans.* I have sent it to her; she has taken meals at my house in the evening and in the daytime when she has been there—I have carried them to her.

101 *Quest.* By whom was it sent to her?

*Ans.* I have sent by Dr. Titsworth; Mr. Jenkins has two little boys—I have given them six-pence many times to carry a basket of food to her; I have sent by Anne Heyl, a nurse of Gussie—by other servants of hers I have sent baskets, by Rickey.

102 *Quest.* Where was she living at the time your last answer covers? 30

*Ans.* When Anne Heyl lived with her, she lived with her mother-in-law, when I sent by the doctor, she lived in Prosper Berckmans' house.

103 *Quest.* For how long back do you say that she was not properly and sufficiently provided for?

*Ans.* Well, she never had the food provided for her that she had been accustomed to have—never since she has been his wife and lived under his roof.

104 *Quest.* You say, in the former part of your examina- 40



tion, that you saw her very frequently during the summer in which she was last confined—how long was she sick at that time, and how badly sick?

*Ans.* Her child was born the 3d of April, May, June, I think, it was July before she was able to ride out, so much sick that she ought not to have been left without a weekly nurse, but was; I think they kept her nurse but four weeks; I have been obliged to close my store at an early hour, and sit with her all night, because it was necessary that she should  
10 have her medicine every hour—every two hours.

105 *Quest.* Did she, after her first illness, suffer a relapse from fever or other cause?

*Ans.* Yes, sir; from her husband's unkindness, I suppose, more than anything else.

106 *Quest.* Explain what you mean from your last answer?

*Ans.* Well, her first baby was thirteen months when she had the second, was but a babe then; she was very desirous that his father should take the care of him-nights, because she had taken the charge of him herself; he would not do it, in  
20 consequence of which he had to be put in the charge of the Irish servant; she was unhealthy herself, broken out with sores, repulsive to look at; she was the only servant my daughter could get at the time—must have somebody—and so she took her—and it made her very unhappy at the idea of the child sleeping with this girl; if the doctor had allowed it, she would have taken him herself; she was very ill, and wasn't able to see the infant baby at night; she had chills and fever during the day; the doctor didn't wish her to have the care of her children at all; her husband would remain out of  
30 her room days at a time—so she told me herself—so the nurse told me—and all those things combined helped to make her sick, make her worse:

107 *Quest.* How long was she confined to her bed?

*Ans.* Three or four weeks; she got better, and then she got worse again, two or three times before she was able to go out of the house; the last relapse she had a gathered breast.

108 *Quest.* Describe the interior of that Prosper house, as occupied during that summer?

*Ans.* On the first floor a hall, two parlors, kitchen, small  
40 bed-room.

109 *Quest.* Anything occupied up stairs?

*Ans.* The servants occupied a bed-room.

110 *Quest.* Who occupied the parlors?

*Ans.* The front parlor was my daughter's bed-room, in the back parlor was a table and three chairs, used as a dining-room, folding-doors between, kitchen opening from the back parlor; in the little bed-room a servant slept with Gussie; the door to it leads from the back parlor; the front windows were French, opened down to the floor on the piazza; had one servant and a weekly nurse while she was there—weekly nurse 10 was there four weeks.

It being half-past two o'clock, the examination was adjourned to Wednesday, September 11th, 1861, at half-past nine o'clock, at the same place.

Wednesday, September 11th, 1861.—The examination was resumed at half-past nine o'clock, at the office of Cornelius Boice, in the village of Plainfield, in the presence of the same respective counsel.

111 *Quest.* You have stated that Mrs. Berckmans was not sufficiently and properly provided with food—what are your 20 means of knowledge on that point?

*Ans.* I have been there myself when she had not enough food in the house provided for two persons to eat, and from what her family, her servant, and her nurse have told me, and she herself.

112 *Quest.* Were you at home on the evening of the wide-awake demonstration last fall?

*Ans.* Yes, sir.

113 *Quest.* All the evening?

*Ans.* Yes, sir.

114 *Quest.* Was Dr. Titsworth at your house at that evening?

*Ans.* He was not in the house, sir.

115 *Quest.* Was he in front?

*Ans.* He stood upon the walk a few moments.

116 *Quest.* How long?

*Ans.* I should not think more than three or five minutes.

117 *Quest.* Were others there—if yea, how many?



*Ans.* They were three or four young ladies, two or three young gentlemen, and myself.

118 *Quest.* Something has been said, on a previous examination by another witness, respecting the color of the eyes and hair of your daughter's second child—I wish to ask what was the color of your daughter's eyes and hair when she was a child?

*Ans.* Flaxen hair and blue eyes.

119 *Quest.* What is the color of your own eyes and hair?

10 *Ans.* Brown hair, blue or dark gray (I suppose) eyes.

120 *Quest.* What was their color when you were a child?

*Ans.* Flaxen hair, blue eyes.

Cross-examination by Mr. Williamson.

1 *Quest.* Where did you last reside previous to your coming to Plainfield?

*Ans.* At Greenville, Green county, state of New York.

2 *Quest.* How long did you live there?

*Ans.* Eight months, with my father.

3 *Quest.* Where did you last reside previous to your re-  
20 siding at Greenville?

*Ans.* I boarded four months in 25th street, New York city, at the house of Mrs. Morse; my sister and her husband were in the house boarding.

4 *Quest.* What was your sister's husband's name?

*Ans.* Phelps.

5 *Quest.* Where did you last reside previous to your residence in 25th street?

*Ans.* Chicago, Illinois.

6 *Quest.* How long at Chicago?

30 *Ans.* Five months.

7 *Quest.* Where did you last reside previous to Chicago?

*Ans.* Buffalo, in the state of New York.

8 *Quest.* How long?

*Ans.* Three months.

9 *Quest.* Where last previous to Buffalo?

*Ans.* At my mother's house in Greenville.

10 *Quest.* Was that your native place, Greenville?

*Ans.* No, sir.

40 11 *Quest.* Where did you last reside previous to the residence mentioned with your mother at Greenville?

*Ans.* Williamsburgh, Long Island.

12 *Quest.* How long?

*Ans.* Two years.

13 *Quest.* Where last previous to your residence at Williamsburgh?

*Ans.* At the city of New York.

14 *Quest.* Where last previous to that?

*Ans.* Coxsackie, Green county, New York.

15 *Quest.* Where last previous to that?

*Ans.* New York city.

10

16 *Quest.* Where last previous to that?

*Ans.* I have no recollection previous to that—I was born in New York city.

17 *Quest.* Have you a husband now living?

*Ans.* I have not, sir.

18 *Quest.* How often have you been married?

*Ans.* Twice.

19 *Quest.* What was the name of your last husband?

*Ans.* Sylvester Marsh.

20 *Quest.* Is he living?

20

*Ans.* He was some months ago.

21 *Quest.* Have you heard of his death?

*Ans.* Have not, sir.

22 *Quest.* When did you last see him?

*Ans.* 1852, I think.

23 *Quest.* Where?

*Ans.* In Chicago, Illinois.

24 *Quest.* Did you leave him there?

*Ans.* Yes, sir.

25 *Quest.* Were you keeping house there?

30

*Ans.* No, sir.

26 *Quest.* Who did you go to live with in Buffalo?

*Ans.* The house of Mr. William Bishop, my cousin.

27 *Quest.* Who did you live with at Greenville?

*Ans.* My father.

28 *Quest.* At Williamsburgh, who with?

*Ans.* I kept house there.

29 *Quest.* At New York, who?

*Ans.* I kept a boarding-house in New York.

30 *Quest.* At Coxsackie?

40



*Ans.* Lived with my husband, Mr. Clement.

31 *Quest.* Where did you move from when you came to Plainfield?

*Ans.* From Greenville.

32 *Quest.* Who did you reside with there?

*Ans.* With my father, who came with me from that place to Plainfield.

33 *Quest.* Has your husband, Mr. Marsh, afforded you means of support since you left him at Chicago?

10 *Ans.* No, sir.

34 *Quest.* What did you mean by saying that you had no husband living?

*Ans.* Well, he has a wife and two children since I left him—I consider him no longer my husband—he has obtained a divorce from me.

35 *Quest.* How long ago?

*Ans.* In 1853, I think.

36 *Quest.* Where?

*Ans.* In the state of Iowa.

20 37 *Quest.* Where was your daughter then?

*Ans.* At Coxsackie.

38 *Quest.* Have you ever had any other children?

*Ans.* Yes, a son older than my daughter.

39 *Quest.* Where is he?

*Ans.* Died at the age of two years.

40 *Quest.* Have you had any other children?

*Ans.* No, sir.

41 *Quest.* What was your first husband's name?

*Ans.* Jonathan Clement.

30 42 *Quest.* When were you married to him?

*Ans.* 1833.

43 *Quest.* Is he alive or dead?

*Ans.* He is dead.

44 *Quest.* When did he die?

*Ans.* 1849.

45 *Quest.* Were you living with him at the time of his death?

*Ans.* I was not.

46 *Quest.* Why not?

40 *Ans.* He was in Cincinnati.

47 *Quest.* And where were you?

*Ans.* In New York city.

48 *Quest.* How long had you been separated from him?

*Ans.* Two years.

49 *Quest.* What was the cause of the separation?

*Ans.* His business was bad in New York, and he went away.

50 *Quest.* Was that the reason why you did not live together?

*Ans.* Yes, sir.

10

51 *Quest.* The only reason?

*Ans.* Yes, sir.

52 *Quest.* Did you correspond with him?

*Ans.* No, sir; I did some portion of the time.

53 *Quest.* What did you mean by saying no, and then correcting yourself by saying, some portion of the time?

*Ans.* Well, I was thinking of the latter part, and forgot that he wrote to me when he first went away.

54 *Quest.* When he left you to go to Cincinnati, where were you living with him?

20

*Ans.* At the house of my sister, Grand street, New York.

55 *Quest.* How long had you been living with him there previous to his leaving you?

*Ans.* A year—one year.

56 *Quest.* On what terms?

*Ans.* As man and wife.

57 *Quest.* Were you boarding there?

*Ans.* Yes, sir.

58 *Quest.* Did he afford you any means of support after he left?

30

*Ans.* Very little.

59 *Quest.* Did he write to you?

*Ans.* Yes, sir.

60 *Quest.* How often?

*Ans.* Not often.

61 *Quest.* More than once?

*Ans.* Yes, a half a dozen times.

62 *Quest.* Did you part in good feeling on the part of both of you?

*Ans.* Yes, sir.

40



63 *Quest.* Had you never complained of his deserting you?

*Ans.* Yes, sir.

64 *Quest.* What complaint did you make about that?

*Ans.* I obtained a divorce from him.

65 *Quest.* Where?

*Ans.* City of New York.

66 *Quest.* On what ground?

*Ans.* Desertion and adultery.

67 *Quest.* When he left you in New York, did he take another woman with him? [Objected to.]

*Ans.* Yes, sir.

68 *Quest.* What did you mean, then, by saying that you parted with good feelings on both sides?

*Ans.* I meant what I said; he told me he was going to get a living for me, and I believed him—did not know that any other person was going with him.

69 *Quest.* When you came to Plainfield to reside, who came with you to stay here?

*Ans.* My father.

70 *Quest.* Who else?

*Ans.* A servant.

71 *Quest.* Who else?

*Ans.* No one else came to stay; Mr. and Mrs. Bishop came with me to assist me—they were my cousins.

72 *Quest.* Did you have a sister living with you at Plainfield any part of the time?

*Ans.* No, sir.

73 *Quest.* Was she with you any part of the time while you were here?

74 *Ans.* She visited me.

75 *Quest.* How long a stay did she make with you?

*Ans.* A week.

76 *Quest.* Was she a married or single lady when she came to visit you? [Objected to as immaterial.]

*Ans.* She was married.

77 *Quest.* What was her name?

*Ans.* Phelps.

78 *Quest.* That her name now?

*Ans.* No, sir.

79 *Quest.* What is it?

*Ans.* Pugnet.

79 *Quest.* Was Mr. Pugnet ever at your house in Plainfield while Mrs. Phelps was there?

*Ans.* Yes, sir.

80 *Quest.* Did they leave together?

*Ans.* No, sir.

81 *Quest.* Was Mr. Phelps alive at that time?

*Ans.* Yes, sir.

82 *Quest.* Is he living now?

*Ans.* Yes, sir.

83 *Quest.* Mr. and Mrs. Phelps divorced?

*Ans.* Yes, sir.

84 *Quest.* Before her marriage with Pugnet?

*Ans.* Yes, sir.

85 *Quest.* Didn't she and Pugnet run away together before she was divorced from Mr. Phelps?

*Ans.* No, sir.

86 *Quest.* For several years after your residence at Plainfield, did you not represent yourself as a widow lady?

*Ans.* No, sir—never.

87 *Quest.* Did you never say that you were a widow?

*Ans.* I might have said so—I was a widow, I lost my first husband.

88 *Quest.* Did you not represent yourself in this community as a widow lady?

*Ans.* No, sir.

89 *Quest.* In your transactions of business in this community, did you not declare you were a widow for the purpose of enabling you to transact business?

*Ans.* No, sir; I never told a person that I was a widow; I said I had no husband—I never said I was a widow.

90 *Quest.* Witness shown paper—is that your signature?

*Ans.* Yes, sir.

91 *Quest.* Is the body of instrument your handwriting?

*Ans.* It is not, and I don't know whose it is.

[The paper offered in evidence, and marked *Exhibit C* on part of complainant.]

92 *Quest.* Did you, in the year 1856, convey some property to Capt. Andrew Bain?

*Ans.* I did, sir.



93 *Quest.* When the complainant was courting your daughter, did you not, both of you, know that it was with the disapprobation of his parents?

*Ans.* Yes, sir.

94 *Quest.* Where was the complainant living at that time, in Plainfield or Rochester, New York?

*Ans.* He lived first in Plainfield, and then in Rochester; he was paying attention to my daughter for three years.

95 *Quest.* What was his business at Rochester?

10 *Ans.* I don't know, sir.

96 *Quest.* And what was the understanding of your daughter and yourself what his business was at Rochester? [Objected to as not being cross-examination.]

*Ans.* Something about a nursery, I believe, of trees.

97 *Quest.* Did you expect him to marry your daughter at that time?

*Ans.* Yes, sir.

98 *Quest.* And did you make no inquiry as to his business?

*Ans.* No, sir.

20 99 *Quest.* Before his leaving Plainfield for Rochester, did he stay at your house any time?

*Ans.* He left Plainfield and came back—staid one day and a night at my house.

100 *Quest.* Was he secreted there?

*Ans.* Well, all the inmates of my house knew he was there—I had boarders in my house at the time—he took his meals at the public table.

101 *Quest.* Didn't you understand that his visit was to be kept a secret from his parents?

30 *Ans.* Yes, sir.

102 *Quest.* Was he there only one day and one night?

*Ans.* I think one day and two nights—I ain't sure.

103 *Quest.* What was his business or employment before he married your daughter?

*Ans.* Don't know that he had any, sir.

104 *Quest.* Were his parents present at the marriage ceremony, or either of them?

*Ans.* No, sir.

105 *Quest.* How long did they live with you after their 40 marriage?

*Ans.* I think about three months.

106 *Quest.* Upon whose invitation?

*Ans.* I don't suppose of anybody's invitation.

107 *Quest.* During that period, did he contribute anything towards the support of your family?

*Ans.* Nothing of any consequence.

108 *Quest.* Did he pay any bills about town? [Objected to.]

*Ans.* If he did, they were with my money.

[This examination objected to as irrelevant to the present issue, and as only of consequence to the legal proceedings 10 pending between the witness and the complainant.]

109 *Quest.* Did he not offer to compensate you or pay you for the board of himself and wife, and did you not refuse to accept it?

*Ans.* No, sir, never.

110 *Quest.* Don't you know that he proposed that to his wife, and that she told him not to do it, and that you would be displeased with any such offer?

*Ans.* No, sir.

111 *Quest.* Did you ever demand pay from him? 20

*Ans.* No, sir.

112 *Quest.* Haven't you brought a suit against him for the board of himself and wife?

*Ans.* Yes, sir.

113 *Quest.* When did you commence that suit?

*Ans.* Since my daughter left him.

114 *Quest.* Did you sue him about the same time that Dr. Titsworth did?

*Ans.* Oh no, some time before.

115 *Quest.* How do you recollect it was some time before? 30

*Ans.* Well, it was shortly after my daughter's leaving—I remember the circumstance.

116 *Quest.* You say it was before, did you know when Dr. Titsworth commenced his suit?

*Ans.* I did not particularly when he commenced it; I was subpoenaed as a witness—called to testify, if I was needed.

117 *Quest.* Were you present in the house where the trial took place?

*Ans.* Yes, sir.

118 *Quest.* You have said, on your direct examination, 40



something about the complainant's drinking whiskey ; did you mean to insinuate that he is, or ever has been an intemperate man ?

*Ans.* Yes, sir.

119 *Quest.* Where, in Plainfield ?

*Ans.* Yes, sir.

120 *Quest.* Do you mean to say that he is an intemperate man ?

*Ans.* I don't know what he is now.

10 121 *Quest.* Do you mean, by intemperance, to say that he was a man who was in the habit of getting intoxicated by spirituous liquor ?

*Ans.* Yes, sir.

122 *Quest.* Was that so before he was married ?

*Ans.* I had not an opportunity of judging before he was married.

123 *Quest.* How soon after he was married was it that you discovered that such was the fact ?

*Ans.* As soon as his mother gave him the key of the wine  
20 cellar.

124 *Quest.* How soon was that ?

*Ans.* Well, some two or three weeks after he was married—I can't tell exactly.

125 *Quest.* Where did he live then ?

*Ans.* At my house.

126 *Quest.* Did he bring his wine to your house to drink ?

*Ans.* Yes, sir—gin and brandy.

127 *Quest.* Was that liquor used there by your family ?

*Ans.* No, sir.

30 128 *Quest.* Where did he keep that liquor in your house ?

*Ans.* In his own room.

129 *Quest.* This all the time he was there after he got the keys ?

*Ans.* Yes, sir.

130 *Quest.* Was his mother at home during all this time ?

*Ans.* No, sir.

131 *Quest.* Did he get intoxicated on this liquor ?

*Ans.* Yes, sir.

132 *Quest.* How often have you seen him intoxicated ?

40 *Ans.* Not so often myself—I can't tell how often.

133 *Quest.* Did you not request the complainant to bring the gin to your house as a medicine for your daughter?

*Ans.* No, sir; my daughter can't drink spirituous liquors of any kind.

134 *Quest.* Were you keeping boarders at this time?

*Ans.* No, sir.

135 *Quest.* Did you keep any boarders after their marriage?

*Ans.* Yes, sir.

136 *Quest.* How long?

*Ans.* Three or four months, during the summer months— 10 that is the way I gained my livelihood.

137 *Quest.* What do you mean, then, by saying that you did not keep boarders while the complainant had the liquor at your house?

*Ans.* Because I had none to keep—it was in the spring of the year, and I took summer boarders.

138 *Quest.* Did you have any boarders in the house during the period the complainant and his wife lived with you after their marriage?

*Ans.* No, sir, not while they lived with me.

20

139 *Quest.* Did the complainant ever have the reputation, in Plainfield, of being an intemperate man?

*Ans.* No, sir; not that I ever heard.

140 *Quest.* Did you ever hear any one, out of your own family, hint at such a thing?

*Ans.* Yes, sir.

141 *Quest.* Who?

*Ans.* His own brother Prosper Berckmans, his sister-in-law, Mrs. Prosper Berckmans, a young man by the name of Coles, in Prosper's employ, whose father resides in this place; the 30 servants who live in his family found his whiskey bottle standing under the stoop, in the barn and under the stoop.

142 *Quest.* Go on and tell all you have to say against him? [Objected to—waived.]

143 *Quest.* Where is this Coles?

*Ans.* He lives in Augusta, Georgia, with Prosper Berckmans when last I heard of him.

144 *Quest.* Where is Prosper?

*Ans.* South somewhere—he has joined the army.

145 *Quest.* Mention the names of those servants who said 40



that they had found his whiskey bottle, and to whom you have referred?

*Ans.* Rickey Redmond, my daughter's nurse, Maria, I don't know what her other name is, Jane Stine.

146 *Quest.* What did you ever hear Maria say?

*Ans.* That Rickey found his bottle under the stoop, and immediately he removed it to the barn.

147 *Quest.* Was that while Rickey and Jane and Maria lived here in Plainfield with them?

10 *Ans.* While Jane lived with him south—while Rickey and Maria lived with him in Plainfield.

148 *Quest.* When was it when you heard Maria say this?

*Ans.* It was in the summer while she lived with them—I can't tell exactly the time.

149 *Quest.* Where was it?

*Ans.* She was coming home one night with me from there, from his house.

150 *Quest.* No one present but yourself?

*Ans.* No, sir.

20 151 *Quest.* Did you visit the complainant while he lived in the Prosper house?

*Ans.* Yes, sir.

152 *Quest.* Were you and he on good terms?

*Ans.* I always spoke to him when I went there when I saw him.

153 *Quest.* After he removed over to his mother's the last time, did you not have notice from him that you mustn't visit there at his mother's?

*Ans.* No, sir.

30 154 *Quest.* Did not your daughter tell you that he said that you must not come there, in consequence of the difficulty between yourself and his mother?

*Ans.* I never had any difficulty with his mother; my daughter said he objected to my coming there, but she wished me to come.

155 *Quest.* Did she not show you a letter, previous to that Sunday spoken of when the difficulty occurred, which was written by the complainant upon the subject of your coming there?

40 *Ans.* No, sir.

156 *Quest.* Did she tell you that she had written a letter?

*Ans.* Not at that time.

157 *Quest.* When did she tell you?

*Ans.* After she left.

158 *Quest.* Why didn't your daughter show you that letter?

*Ans.* She wished me to come and see her.

159 *Quest.* While the complainant and his wife lived the last time at his mother's house, did not your daughter come down every evening to spend the evening with you?

*Ans.* Every evening when it was pleasant, not to spend the 10 evening—sometimes it was eight or nine o'clock, sometimes it was dark, sometimes it was just dusk.

160 *Quest.* How late did she usually stay?

*Ans.* Half-past eight, nine, and half-past nine—waited for her husband to come for her.

161 *Quest.* Was half-past nine the latest that she staid?

*Ans.* On two evenings, I think, she waited until ten o'clock.

162 *Quest.* How many times did her husband come after her?

*Ans.* Well, he was always in the habit of stopping at the 20 door for her—I can't tell exactly.

163 *Quest.* How often did you walk with your daughter and Dr. Titsworth to her home?

*Ans.* Once or twice, I can't tell which.

164 *Quest.* And then who returned with you and the doctor?

*Ans.* No one.

165 *Quest.* You said your daughter cooked for three men at the complainant's house in Georgia—mention their names?

*Ans.* Louis Berckmans, Emile Berckmans, Frank Tice. 30

166 *Quest.* Is Louis the father?

*Ans.* Yes, sir.

167 *Quest.* Did he live with his son?

*Ans.* He did when his son first went to live there.

168 *Quest.* And how long did he live with them?

*Ans.* I don't know.

169 *Quest.* Was he living with them when you went there?

*Ans.* I think not.

170 *Quest.* How far off did his father live?

*Ans.* I think they called it a mile—I am not sure. 40



171 *Quest.* What was his employment?

*Ans.* Cultivating trees, I believe.

172 *Quest.* Did he have a large nursery there?

*Ans.* Yes, sir.

173 *Quest.* Did his son, the complainant, go out to assist him in that business?

*Ans.* Yes, sir.

174 *Quest.* Were both these houses in the neighborhood of the nursery?

10 *Ans.* Yes, sir.

175 *Quest.* Was there any other house which the complainant could get to live in than the one he occupied?

*Ans.* I do not know, sir.

176 *Quest.* Is old Mr. Berckmans a very plain man in his manners and living?

*Ans.* Well, yes he lives very plain where he is now.

177 *Quest.* Don't the Berckmans live in a style, at their table, very much inferior to what you and your daughter had been accustomed to live?

20 *Ans.* Yes, sir; not all the Berckmans—Prosper does not; yes, sir, I mean him (pointing to the complainant). [Previous to the latter branch of the answer, the examining counsel had repeated to the witness the words that she had previously used.] [This statement is put in at the suggestion of Mr. Parker.]

178 *Quest.* Has the young man you pointed to ever possessed the pecuniary ability, since his marriage, of supporting your daughter in any better style than he has?

*Ans.* Style! she didn't care for style.

30 179 *Quest.* Well, any more answer to the question?

*Ans.* She wanted enough to eat and good treatment.

180 *Quest.* Has the complainant been a man that at any time wasted his means in pleasure or otherwise?

*Ans.* Not that I know of.

181 *Quest.* Has not the fact, that the complainant has not had it in his power to give to your daughter a better support than he has, been a source of great disappointment both to yourself and daughter?

*Ans.* It has, sir; it has been a very great disappointment;  
40 how any man could find it in his heart to treat her as he has, I do not understand.

182 *Quest.* Did the complainant's father give your daughter an outfit of wearing apparel within a few weeks after their marriage?

*Ans.* No, sir.

183 *Quest.* Did he give her dresses, &c., the cost of them amounting to upwards of a hundred dollars?

*Ans.* He went with her to New York, bought her one dress, materials to make her infant's clothing, baby linen—that's the only outfit I know about.

184 *Quest.* You spoke of the furniture in the complainant's 10 houses—did he have the pecuniary ability of providing better?

*Ans.* I do not know, sir, how much he had.

185 *Quest.* Was the father a kind of a physician, or professed to be?

*Ans.* Not that I know of.

186 *Quest.* What was he doing at the complainant's house the night the physician was sent for?

*Ans.* My daughter was very ill, and he came there—I don't know what he came for—he didn't say what he came for more than any neighbor.

187 *Quest.* Didn't he come there in consequence of the sickness of your daughter? 20

*Ans.* Well, I presume he did—he was in the habit of coming there.

188 *Quest.* Had he not been there all night previous to that to wait upon your daughter in her sickness?

*Ans.* No, sir.

189 *Quest.* Did he stay all night this night?

*Ans.* Yes, sir.

190 *Quest.* Was he consulting with his son, the complain- 30 ant, about his wife?

*Ans.* I did not see him, sir.

191 *Quest.* What was Prosper doing there that night?

*Ans.* He came to inquire how my daughter was, to see if I wanted his wife to sit with me that night—she sat up all the night before with me, and if I did not want her she wouldn't come over if Sara was better.

192 *Quest.* Was Mrs. Prosper Berckmans there at the time.

*Ans.* She was not—he went for her immediately, and brought her over, and sent for a physician. 40



193 *Quest.* Where was the complainant all this time?

*Ans.* Standing by her bed-side and walking around the house.

194 *Quest.* The night he got in at the window, don't you know that at the request of his father he had been at a concert that night at Augusta?

*Ans.* No, sir.

195 *Quest.* Don't you know he had been out to a concert?

*Ans.* Did know it afterwards—he told his wife he was going on business.

196 *Quest.* What time did he leave?

*Ans.* Four o'clock, I believe, in the afternoon.

197 *Quest.* Where did he say he was going?

*Ans.* He told his wife he was going to Augusta on business for his father.

198 *Quest.* Did he say what time he would be home?

*Ans.* Not that I know of.

199 *Quest.* How come you to keep the door open so late?

*Ans.* I was not aware of the door being opened or unlocked—I was there to let him in.

200 *Quest.* Did you hear him get in?

*Ans.* I heard a noise.

201 *Quest.* You have said that your daughter jumped out of a window on the Sunday you have spoken of—did she get out of the window upon a shed?

*Ans.* Yes, sir.

202 *Quest.* How did she get back into the house?

*Ans.* That I do not know.

203 *Quest.* Could she get back except through a window?

*Ans.* I presume not—I didn't see her.

204 *Quest.* Did the window she got out of open on the back piazza shed of the house?

*Ans.* The back or side of the house I don't know; I am not well enough acquainted about the construction of the house to tell you that.

205 *Quest.* Did you see her come back into the room?

*Ans.* Yes, sir.

206 *Quest.* Did she come back through a door or through a window?

*Ans.* That I cannot tell.

Re direct examination by Mr. Parker.

1 *Quest.* You stated that during the month of September, 1860, while your daughter was residing at Mrs. Berckmans', she came down frequently in the evenings and visited you—did she bring her children, or either of them, with her?

*Ans.* Never in the evening.

2 *Quest.* For what purpose did you visit her on Sundays?

*Ans.* To see her and her children.

3 *Quest.* You have been asked whether Mr. Berckmans was able to support his wife better than he did—have you ever 10 heard from him, say at any time, whether or not he was possessed of property?

*Ans.* Yes, sir; I have heard him say a third of the farm belonged to him.

4 *Quest.* What farm?

*Ans.* Where his mother now resides.

5 *Quest.* Have you ever heard him say what they made out of that farm?

*Ans.* I have heard him say that his mother said she made two thousand a year.

20

6 *Quest.* Have you ever heard him say upon what terms he was engaged in business south?

*Ans.* He told me his father had 200 acres there, of which he had the deed, and the trees which he carried south, grape vines, all belonged to him, were all his own property.

7 *Quest.* Belonged to whom?

*Ans.* Mr. Emile Berckmans, my daughter's husband.

8 *Quest.* When did he say this?

*Ans.* Before going south.

9 *Quest.* How long before?

30

*Ans.* When we were preparing to move—a month or six weeks.

10 *Quest.* Did you hear him say—[the witness wishes to correct herself] that he told me, before we went south, that the trees belonged to him; after we got south, then he told me about the deed.

10 *Quest.* Did you hear him say anything about the revenue of the establishment south, who was to enjoy it?

*Ans.* Yes, sir.

11 *Quest.* What?

40



*Ans.* Him and his family, and that I should never want.

12 *Quest.* During the summer that he lived at the Prosper house, do you know whether he was engaged in any other employment, and have you heard him say how much it realized him?

*Ans.* I knew he was teaching music at the seminary, and did not hear him say how much he realized—never had any conversation with him about it.

13 *Quest.* What has been his health since the time of his marriage?

*Ans.* I never heard of his being sick?

14 *Quest.* You say he taught music—is he or not an accomplished musician?

*Ans.* Yes, sir.

15 *Quest.* Do you know what was his employment at Rochester?

*Ans.* I do not, sir, any further than that he was there with a gentleman who had a large nursery—something to do with trees.

20 16 *Quest.* Do you know, from what he has said, what his income was while in Rochester?

*Ans.* No, sir.

17 *Quest.* Do you mean, by any answer you have given during this examination, that you or his wife were disappointed by Mr. Berckmans not having the ability to support his wife properly?

*Ans.* No, sir.

18 *Quest.* What disappointed you?

*Ans.* His unkindness, ill treatment of her.

30 19 *Quest.* Do you mean to be understood as saying that you thought or think that he was not able to support her?

*Ans.* I do think he was able to support her—I don't think anything about it, I know it.

20 *Quest.* I forgot to ask you, on the principal examination, a question of which I am reminded—were your daughter's children, or either of them, sick at any time during the period they lived at Prosper's house here, and afterwards at Mrs. Berckmans?

*Ans.* Yes, sir; they were both sick—Gussie, one time at Prosper's house, was dangerously ill for three days.

21 *Quest.* How as to the other?

*Ans.* She was sick.

22 *Quest.* How long were each of them indisposed so as to require medical care?

*Ans.* At different times—Lena was sick from sore mouth, sprue it is called—another time from cold; Gussie was teething, was troubled very much with his bowels every two or three days—he is a child very subject to croup—he will be suddenly taken sick—within an hour.

23 *Quest.* Were they well when they were brought to your 10 house after the separation between the plaintiff and defendant?

*Ans.* No, sir; Gussie was sick for one month.

24 *Quest.* You have been shown a paper, marked *Exhibit C*, can you recall to memory the circumstances attending the drawing and signing of that paper?

*Ans.* I remember selling a piece of crockery to Andrew Bain, not Capt. Bain; I have no recollection of reading this paper; I presume I must have signed it, because this is my writing; if I had recollected it, I would not have said what I did here; I have no recollection of that word being in it; I 20 signed it, signed all the papers that were given to me at that time.

25 *Quest.* You remember whether or not you then made known to Mr. Runyon that your first husband was dead, and that there was a divorce of your second marriage?

*Ans.* No, sir, I think not.

26 *Quest.* Do you remember what statement you made to him as to your position?

*Ans.* Mr. Runyon asked me if I had a husband, and I told him “no”—that’s all was said about it. 30

27 *Quest.* You have been asked whether you did not make representation, in Plainfield, that you were a widow; what representation did you make here as to your position?

*Ans.* Well, I don’t know that I made any representations; I dressed in deep black for my father and mother; persons have asked me who I dressed in mourning for, and I told them my father and mother; I never represented myself to be anything only what I am.

28 *Quest.* Do you remember whether or not you communicated to your counsel, in another matter of business, and 40



through him to an association here, from whom you were about to take a loan, that you were divorced from your second husband, and that the first was dead?

*Ans.* Yes, sir.

29 *Quest.* Counsel upon the other side have asked you questions respecting yourself and your personal history—what was your father's name?

*Ans.* William Lyon.

30 *Quest.* From what place did he come, what was his business?

*Ans.* He came from Greenville, Greene county, state of New York, went to the city of New York when twenty years of age, was a respectable merchant of that city for thirty-five years in a store in South street, grocer and ship chandler, wholesale; he was there until he had an attack of paralysis, and he retired to his farm in Greene county, lived until my mother died, sold it, and came here with me; here he is buried.

31 *Quest.* Was there any special reason for the selection of Plainfield as his residence?

*Ans.* None, only his family physician recommended him to come further south than his home then was, hoping to prolong his days.

32 *Quest.* How came you to be now keeping a store, as you do, for a livelihood?

*Ans.* I had no other means of subsistence; my daughter taught music and other branches of English education since we have lived in Plainfield for our support—taught it six months after she was married, gave the proceeds to me, until she was not able to do so any longer.

33 *Quest.* Did you inherit nothing from your father, or is your present condition the result of misfortune subsequent to his death?

*Ans.* My father left me a house, all his personal property, and some money, a few hundred dollars; my present distress is owing more particularly to Mr. Berckmans—had he allowed me to have done as I wished I should not have been a beggar to-day, as he calls me.

34 *Quest.* How is that?

40 *Ans.* I had a very nice property in this village; my daughter

ter was going south; I had an opportunity of selling it—I could have paid off the mortgage and saved something for myself; he suggested to me it was too bad for me to sacrifice it, to hold it until I had an opportunity of getting a larger price—and if, before I had an opportunity of selling it, the person who had a claim on it wanted his money, his father would give his agent orders, Mr. Lemassena of Newark, orders to let me have a thousand dollars, when I wanted it, to take up the mortgage on the place; I lost the opportunity of selling the house, the person holding the mortgage pressed me for the 10 money—I went to Mr. Lemassena—he refused to let me have the money; he said that old Mr. Berckmans had given him orders not to let me have the money, to have nothing to do with it—consequently it was sold at sheriff's sale, and it was all lost to me; Mr. Shephard Titsworth was my legal adviser, and was knowing to the whole matter.

35 *Quest.* Was Emile Berckmans apprized of this failure on his father's part and of your necessity?

*Ans.* Yes, sir; he was living with me at the time.

36 *Quest.* About when was this sale, with reference to the 20 time of their marriage?

*Ans.* Sold while I was at the south, under a foreclosure commenced before.

37 *Quest.* When Emile Berckmans first addressed or sought the company of your daughter, were you a poor woman?

*Ans.* I owned a house, still retained the money my father left me, my daughter supported me by teaching; I did not consider myself a poor woman, but have good health and industrious, and like to work—never was known to eat the bread of idleness.

38 *Quest.* You have stated that, at the time of his marriage, 30 the father and mother of the complainant were opposed to the match; did they manifest any opposition to the early acquaintance of your daughter and their son?

*Ans.* On the contrary, they sent their carriage as often as three times a week to bring us to their house, to tea, to dine, to spend the evening—they visited us, took tea, and spent the evenings; at the time of their marriage, Emile told me his mother said, if he loved Sara, he done perfectly right to marry her, told him to do so.



39 *Quest.* At what time, if at all, did they manifest, either of them, any opposition to the marriage of these young people?

*Ans.* About six months, I think, after the acquaintance commenced, I am not sure, he used to come to our house about five times a day on an average during the week; his carriage was seen standing in front of the door; some person went to his father, told him that he had seen the carriage in front of the door that number of times that day, and said, have you  
10 heard Emile is going to be married; he said his father was going to send him south; I told him I was very glad—I had never sought his father's society—I felt my child was quite as good as him, and I was very happy to have the acquaintance cease; my daughter at that time had no idea of marrying him.

40 *Quest.* Why, with your knowledge that his father or mother did not desire the match, did you approve of it, if you did so?

*Ans.* I did not approve of it; I make any sacrifice for my  
20 child; it was her wish and pleasure to marry him, I told her she would have to live with him, not me; she said she loved him, and she was sure he loved her; she thought she would be happy with him—if so, I should be happy if she was; his father was not here at the time, he was at the south—was living there, and has been living there ever since.

41 *Quest.* When were you married to Mr. Clement?

*Ans.* 1833.

42 *Quest.* What was his business?

*Ans.* Grocer.

30 43 *Quest.* Where did you and he live?

*Ans.* When we were first married, in West street; then we moved to a farm adjoining my father's, at Greenville, Greene county.

44 *Quest.* And there lived till when?

*Ans.* A year and a half—then he bought a place at Cocksackie, on the Hudson, twelve miles distant; I was then seventeen years old when my second child was born, Sara Berckmans; I think I lived at Cocksackie for four years—then I re-  
40 moved to New York, and lived with my mother; Mr. Clement's health was very poor, inclined to consumption; his phy-

sician told him that he required air, to be more out in the open air, more exercise, so he took a schooner there at Coxsackie, made him captain of it, and he sailed from New York to Coxsackie with produce—I think he did that for two summer seasons; afterwards some friends of his got him a situation in the custom-house; there he was, I believe, some two or three or four years until a change of politics turned him out; he was a man of fine education—he wrote for several newspapers after that; had an agency offered him after that whereby he said he could make more money—he went away to Cincinnati, 10 to St. Louis, and travelling out west; he was a man twice my age.

45 *Quest.* Was this the time he left you, and went to Cincinnati with another woman?

*Ans.* Yes, this was the time—he died in Cincinnati, he went to St. Louis and travelling agent about out west—I was living then with my sister in Grand street; this was about 1846 or 1847.

46 *Quest.* When did you obtain the divorce from him?

*Ans.* Some friends of mine told me he was living with a 20 woman at St. Louis; my father gave me money—I went to see him—found it true; I returned, and in one year, I think, from that time I got the divorce from him—I think it was in 1848; shortly after that he died, about six months, I think, in Cincinnati.

47 *Quest.* State how you got your livelihood from the time he left you until you married Mr. Marsh?

*Ans.* When I found he would not give me any money, I went home to my father's in Greene county; I was anxious he should furnish me a house in New York, that I might keep 30 boarders, to enable me to support myself and educate my child, which I did, and was doing at the time Mr. Marsh visited me.

48 *Quest.* Where did Mr. Marsh reside?

*Ans.* In Chicago, Illinois—I lived there with him.

49 *Quest.* What was the cause of your separation?

*Ans.* He deceived me, and made himself very disagreeable.

50 *Quest.* Did you know of the pendency of his suit for divorce, and do you know for what cause alleged by him it was granted?



*Ans.* I did not know that he intended to get a divorce—I did not know until he wrote to my brother-in-law that he obtained one from me, nor do I yet know for what cause he obtained it.

51 *Quest.* Do you know whether or not Emile Berckmans knew, before his marriage, that you were divorced from your second husband?

*Ans.* Yes, sir, he knew all about it.

Re-cross examination by Mr. Williamson.

10 1 *Quest.* Who applied for the divorce in the Clement case, you or Mr. Clement?

*Ans.* It was me.

2 *Quest.* What lawyer was engaged for you?

*Ans.* Chancellor Ruggles.

3 *Quest.* Where is Sylvester Marsh now?

*Ans.* Chicago—his business was that of a pork-dealer.

4 *Quest.* What did you mean by saying that he made himself disagreeable to you?

20 *Ans.* He wanted me to wash my face in the water in which he had washed his.

5 *Quest.* What else?

*Ans.* Oh, very many things, too ridiculous to mention.

6 *Quest.* Mention the most important of them.

*Ans.* He was not willing that I should exercise my own will in the most trifling matters; he was constantly finding fault with me and annoying me; he was a very ignorant man, a man of no education whatever, no refinement, never been accustomed to any society, had followed butchering all his life, had made himself independent by it; he promised,  
30 before I married him, to settle upon me twenty thousand dollars, if I would marry him—I did so—he did not keep his word.

7 *Quest.* When were you married to him?

*Ans.* 1851.

8 *Quest.* What month?

*Ans.* 22d December.

9 *Quest.* And when did you leave him?

*Ans.* The following February.

10 *Quest.* You then lived with him less than three months?

40 *Ans.* Yes, sir, at that time.

11 *Quest.* Did you live with him afterwards?

*Ans.* The climate did not agree with me there, the water made me very sick, and the annoyance altogether, I suppose, made me very sick; he promised me, before I was married, I should live east, near my friends; he then told me, live or die, I should stay in Chicago if I lived with him—he had changed his mind, and was going to stay where he was; I then reasoned with him, told him we were unhappily mated, asked him to give me something, and let me return to my friends, which he agreed to do; drew up writings to that effect to give 10 me ten thousand dollars, and we mutually agreed to live separate; the writings were executed, and are now in the possession of Horatio Shumway, a lawyer of Chicago; I came to Buffalo, and remained at Mrs. Bishop's house, consulted with Mr. Green of Buffalo; he advised me to return as soon as my health would permit—said the papers were not worth a farthing unless he was honorable enough to keep his word—I think this was in February, and I returned in April to Chicago with my daughter, where I remained with him May, June, till the first of July; I received a telegraphic despatch that my 20 mother was dead; I came with my daughter to Greenville—I was anxious to see my folks; Mr. Shumway, my lawyer, gave me permission to come, if I would return in October, which I promised to do; the first week in September my daughter was in New York, had an attack of the inflammatory rheumatism—confined her to her bed four months; I could not leave her to return; during this time, this four months, Mr. Marsh went to Iowa, obtained a divorce from me, for what cause I don't know—all that I ever know of it he wrote to my brother-in-law that he obtained it.

30

12 *Quest.* Why was it necessary for you to get Mr. Shumway's permission to leave Chicago?

*Ans.* I wanted to get a bill of separation from Mr. Marsh for alimony, or, in other words, wanted him to fulfil his promise to me, which I had in writing; Mr. Green of Buffalo gave me a letter of introduction to Mr. Shumway.

13 *Quest.* Did you live in the same house with Mr. Marsh this last visit to Chicago?

*Ans.* Yes, sir; he paid my board—I lived with him at a hotel—did not live together as man and wife—I forget the 40 name of the hotel—it was not of Chicago.



14 *Quest.* You stated that in another transaction you communicated to your counsel, and through him to an association, the fact of your divorce—who was your counsel?

*Ans.* C. S. Titsworth.

15 *Quest.* Did you get that money from the association?

*Ans.* No, sir.

16 *Quest.* Did you give a mortgage, and to whom?

*Ans.* I put my property in Mr. Titsworth's hands by deed, and he raised the money.

17 *Quest.* Did you make a deed to Mr. Titsworth?

*Ans.* I did.

18 *Quest.* Did Sylvester Marsh sign it?

*Ans.* Yes, sir.

19 *Quest.* To which members of the association did Mr. Titsworth communicate the fact of the divorce?

*Ans.* I communicated myself to Judge Titsworth, father of Mr. Titsworth, who I think was president of the association.

20 *Quest.* How long was this after you had signed the paper, *Exhibit C*?

*Ans.* I can't tell—a few months I should think.

21 *Quest.* Did you see that deed that you have spoken of to the complainant at the south?

*Ans.* No, sir.

22 *Quest.* Do you believe he ever had such a deed?

*Ans.* I should think so, if he said so—I believed it at the time because he said so.

23 *Quest.* Do you believe that he owns any property at the south?

*Ans.* I don't know, sir.

24 Question repeated.

*Ans.* Yes, sir.

25 *Quest.* What property?

*Ans.* He said the trees and the fruit trees belonged to him, and I have never heard of his selling or giving them away.

26 *Quest.* Where did you understand he got the land at the south from?

*Ans.* From his father.

27 *Quest.* Did his father act and exercise authority while you were there as if himself was the owner of the land?

*Ans.* No, sir; on the contrary he told me, the first time I

went there to see him, to look at the vineyard, the nursery—"see, this is all for Emile"—"it will be a fortune when you and I are dead for them, their children's children after them."

28 *Quest.* Was there any other property there except what was covered by this deed and which the old man owned, or did you understand that it all belonged to Emile?

*Ans.* His father said all that belonged to him should be Emile's.

29 *Quest.* If you believed all this property was the complainant's, why didn't you look to him for the money you 10 wanted to raise to relieve the property, and not to his father?

*Ans.* For the very reason he told me his father would do it, I did not ask anybody for it—they offered it to me, and I didn't expect them to do it until they offered it.

30 *Quest.* Has the complainant ever received one dollar, that you know of or have heard of, from this southern property?

*Ans.* No, sir.

31 *Quest.* How much money did you have when the complainant married your daughter?

*Ans.* I can't say, perhaps five or ten dollars.

20

32 *Quest.* Did you have any other real estate except what was mortgaged at the time of your daughter's marriage?

*Ans.* No, sir.

33 *Quest.* Did you ever hear Mr. or Mrs. Berckmans making any objections to their son's marrying your daughter other than he had no means to support her?

*Ans.* They never said anything to me about it, and the reason he gave to Sara was that he was too young to marry.

34 *Quest.* You stated, on your direct examination, that the complainant slapped your daughter on the Sunday referred to 30—did not your daughter first strike him in the face?

*Ans.* I do not think she did—I did not see her.

35 *Quest.* Didn't you see her strike him?

*Ans.* No, sir.

36 *Quest.* Have you heard her say she struck him?

*Ans.* No, sir; if she had done so she would have told me.

37 *Quest.* Did you see old Mrs. Berckmans last Monday evening coming from the depot?

*Ans.* Yes, sir.

38 *Quest.* Did you follow her up?

40



*Ans.* No, sir; I was coming home, walked behind her, coming the same direction.

39 *Quest.* Did you call her any hard names?

*Ans.* I don't know what you mean by hard names.

40 *Quest.* Did you call her any names?

*Ans.* I said, madam, I wish to look at you—how dare you walk these streets after such falsehoods you have told; she was then about twenty feet ahead of me, (about as far as from here to that gate, pointing to a gate in front of C. Boice's 10 office); I stood still while she passed me—she was passing me as fast as she could—she didn't look at me, she didn't dare—I spoke to her as she was passing, “madam, I wish to look at you”—I have no recollection of saying anything else; hard words I never use.

41 *Quest.* Did you call her a devil?

*Ans.* No, sir.

42 *Quest.* Did you use that language?

*Ans.* No, sir.

43 *Quest.* Did you speak to her in a tone of voice loud enough 20 for persons who were some considerable distance off to hear what you said?

*Ans.* No, sir, I think not.

44 *Quest.* Did you see any of them near you?

*Ans.* I didn't look, sir.

45 *Quest.* Was Dr. Stillman ever your family physician?

*Ans.* Yes, he was while my father was here, but he never was my physician; my father preferred allopathic treatment; he lived one week after my coming to Plainfield.

46 *Quest.* Where did you find Mr. Clements at St. Louis, 30 when you went there?

*Ans.* I went to a hotel, asked the proprietor to send for him; he came to see me.

47 *Quest.* How long did you stay there?

*Ans.* Two days, I think.

48 *Quest.* Did you mean to be understood, from a previous question, that you married Sylvester Marsh for his money?

*Ans.* No, sir.

49 *Quest.* Would you have married him if he had not promised to settle twenty thousand dollars on you?

40 *Ans.* I cannot say, sir.

50 *Quest.* Was it before or after your marriage with him that you discovered that he was a man of no refinement or education?

*Ans.* I knew it before I was married, but still I supposed the man had a good heart in his body, and that he would be kind to me—it was all I asked.

51 *Quest.* How long was your courtship?

*Ans.* I was acquainted with him four months—in that time saw him four times.

52 *Quest.* Was he a man about your age?

10

*Ans.* He was a widower with two children, and between sixty and seventy years of age.

53 *Quest.* How did you get acquainted with him?

*Ans.* My sister's husband had an uncle living in Chicago, by the name of Henry Smith, who had stopped at my house when in New York—was well acquainted with me, spoke to me of him, and spoke to him of me—gave him a letter of introduction to my brother-in-law, Mr. Phelps—came to see me at my house in Williamsburgh.

54 *Quest.* Did he propose at the first interview?

20

*Ans.* He told me his business—if I thought well of it, to write him.

55 *Quest.* Did you write him?

*Ans.* Yes, sir.

56 *Quest.* What did you write?

*Ans.* I told him that I did not think that such things should be done so hastily—I thought such things should not be done in haste—I would think of it.

57 *Quest.* What was the next step in the negotiation?

*Ans.* I went to Buffalo to spend the winter, received a letter from him from New York city, pressing his suit.

58 *Quest.* With what success?

*Ans.* I wrote him that I was in Buffalo, and expected to remain for the winter, and if he thought proper, to come and see me.

59 *Quest.* What next?

*Ans.* He came forthwith, staid in Buffalo a few days, promised to marry me on the 22d of December, which took place then at my cousin Mr. Bishop's house, Rev. Mr. Hausman officiating.

40



60 *Quest.* Did your daughter go to Chicago with you?

*Ans.* She was always with me, except when at school.

Re-direct examination by Mr. Parker.

1 *Quest.* Did your friends advise you to marry this man?

*Ans.* Yes, sir; well, I supposed I should have a kind companion, a good home, my child properly cared for, as he promised she should be—and if he had been the man, such as I supposed he was, we could all have been very happy.

2 *Quest.* When was your daughter born?

10 *Ans.* I can't tell now—she was twenty years old the 13th day of May, as she was married in February, 1858; she was born in 1837, then—

3 *Quest.* How soon after your marriage with Mr. Clements was she born?

*Ans.* About two years, I think, I will get the bible, and tell you exactly.

Re-cross-examination by Mr. Williamson.

*Quest.* How do you know that the complainant knew before his marriage that you were divorced from your last husband?

20 *Ans.* My daughter told me that she had conversed with him about it on several occasions.

SUSAN F. MARSH.

Taken, sworn, and subscribed before me, September 11th, 1861, at Plainfield.

A. S. JACKSON, M. C.

Friday, February the 21st, 1862.—The examination in this cause was continued, on the part of the defendant, on this day, pursuant to notice duly given to the complainant, beginning  
30 at ten o'clock in the morning, in the office of Cornelius Boice, in the village of Plainfield. Present Courtlandt Parker, esq., and Caleb S. Titsworth, esq., of counsel with the defendant, and Benjamin Williamson, esq., of counsel with complainant.

*Anna Heyl*, a witness produced on the part of the defendant, being duly sworn, says—

1 *Quest.* Where do you reside?

*Ans.* In New York, 52 Franklin street.

2 *Quest.* Are you living with any person and if so with whom?

*Ans.* Mrs. Jacobi, my sister.

3 *Quest.* What is your age?

*Ans.* Sixteen.

4 *Quest.* Did you ever live with Mr. Emile Berckmans and his wife in Plainfield?

*Ans.* Yes, sir, seven months.

5 *Quest.* About what time did you go there and leave?

*Ans.* I went there in August, and left there in March.

6 *Quest.* Do you remember what year?

*Ans.* 1859, and left the following March.

10

7 *Quest.* Where did they live at that time, in what house?

*Ans.* They lived in the large house.

8 *Quest.* Did Mr. Berckmans' mother live there too?

*Ans.* Yes, sir; she left before I went away—she went off south.

9 *Quest.* What was your business in the family?

*Ans.* I took care of the child.

10 *Quest.* What was Mrs. Emile Berckmans' state of health during the period you were there?

*Ans.* She was in bad health at that time.

20

11 *Quest.* In what manner was she treated by her husband and in the family?

*Ans.* Mrs. Berckmans seldom spoke to her, and Mr. Berckmans seemed to be very indifferent to her.

12 *Quest.* What was the custom of the family in relation to meals—who ate together?

*Ans.* Mr. Berckmans always ate with his mother, and young Mrs. Berckmans was called down afterward—they rung their bell when their own meal was through.

13 *Quest.* Who was the mistress of the household?

30

*Ans.* Old Mrs. Berckmans.

14 *Quest.* You say that old Mrs. Berckmans seldom spoke to her daughter-in-law—in what manner did she speak to her in presence of her husband or in his hearing?

*Ans.* She never spoke to her but once, and then she said that young Mrs. Berckmans had stolen some handkerchiefs and towels; Mrs. Berckmans the younger bought them, and I hemmed them for her.

15 *Quest.* Did she say this to young Mrs. Berckmans?

*Ans.* She told me that.

40



16 *Quest.* I asked you in what manner she used to speak to her daughter-in-law in presence of Mr. Berckmans, whether kindly or otherwise?

*Ans.* She only spoke to her once that I know of, and that was about the handkerchiefs and towels, and then they quarreled.

17 *Quest.* What did she say to her when they quarreled thus?

*Ans.* I wasn't there at that time—they were down in the 10 kitchen, and I was up stairs.

18 *Quest.* Then how do you know it?

*Ans.* Because Mrs. Berckmans (young) came up, and told me that they had a time.

19 *Quest.* Did old Mrs. Berckmans say anything to you about it?

*Ans.* She did not.

20 *Quest.* Did old Mrs. Berckmans say anything to you about her daughter-in-law being a thief, and if so, when? [Objected to.]

*Ans.* It was at the time that she missed the handkerchiefs, one afternoon when she was ironing—I don't know what date it was.

21 *Quest.* Before or after that young Mrs. Berckmans told you that they had had a time?

*Ans.* I told her that old Mrs. Berckmans had told me about her stealing the handkerchiefs—she would not have known it if I had not told her, I suppose; she then went down stairs, and afterwards came up and told me that they had had a time.

30 22 *Quest.* What was it that old Mrs. Berckmans told you about stealing—repeat her words as near as you can?

*Ans.* She says that my son's wife is a thief, she has taken my handkerchiefs and towels, and wrote her name on them.

23 *Quest.* How was the table supplied at the time you lived there, as to quantity and quality of food?

*Ans.* It was always very little we had, hardly enough, generally bacon, with potatoes and ham—we seldom had fresh meat.

24 *Quest.* Did young Mrs. Berckmans receive food from 40 other sources?



*Ans.* I brought food from her mother very often.

25 *Quest.* Do you know whether young Mrs. Berckmans was permitted with her child to visit her mother?

*Ans.* Very seldom.

26 *Quest.* What prevented?

*Ans.* I don't know what it was for—I don't know why Mr. Berckmans would not let her take the child down to her mother's.

27 *Quest.* Did she use herself to go to her mother's?

*Ans.* Almost every day.

10

28 *Quest.* At what part of the day usually?

*Ans.* Sometimes she went in the morning, and sometimes three or four o'clock in the afternoon.

29 *Quest.* Did her mother visit her?

*Ans.* Not whilst I was there.

30 *Quest.* You know why not?

*Ans.* The only reason I know was that Mr. Berckmans did not wish her to come—that was the only reason I knew.

31 *Quest.* Did you ever notice in the behaviour of young Mrs. Berckmans anything that betokened unhappiness?

20

*Ans.* Very often, very often she come up stairs and cried.

32 *Quest.* Do you know from what cause?

*Ans.* I didn't.

33 *Quest.* When Mrs. Berckmans visited her mother, about what time did she usually return in the evening?

*Ans.* She came at different times, sometimes at seven, sometimes at eight, and sometimes at nine.

34 *Quest.* Do you know if any one accompanied her?

*Ans.* Mr. Berckmans always came home with her but once, and then her mother came up to the gate with her.

30

35 *Quest.* You were there, you say, from August to March—how often in that period did Dr. Titsworth visit the house?

*Ans.* He was there twice before the child was sick, and that was—I don't remember what the month that was—and at that time young Mr. and Mrs. Berckmans and Dr. Titsworth both went in the parlor—this was before the child was sick.

36 *Quest.* Relate what happened at the first visit before the child was sick?

*Ans.* I don't know, I was up stairs at that time—then Mr. and Mrs. Berckmans and Dr. Titsworth were in the parlor together; this was the occasion I referred to.

40



37 *Quest.* How long was the doctor there then?

*Ans.* I don't think he could have been there a quarter of an hour.

38 *Quest.* How did you know he was there at all?

*Ans.* Because I opened the door for him.

39 *Quest.* For whom did he ask?

*Ans.* For Mrs. Berckmans.

40 *Quest.* Where was Mrs. Berckmans then?

*Ans.* She was up stairs in her own room.

10 41 *Quest.* How came she to go down?

*Ans.* I don't know whether Mr. Berckmans called her down, or whether she went down when I told her.

42 *Quest.* Did you know when the doctor went away?

*Ans.* Yes, sir; I seen him drive off.

43 *Quest.* How long did Mrs. Berckmans remain down stairs?

*Ans.* She came up stairs immediately after that.

44 *Quest.* This second time that you have mentioned, whom did the doctor see?

20 *Ans.* Mrs. Berckmans was up stairs in her room, and Mr. Berckmans brought him up.

45 *Quest.* Were you in the room?

*Ans.* No, sir, I was in the back room.

46 *Quest.* How long did the three remain there, and which left first?

*Ans.* I don't remember how long, but I remember Mr. Berckmans and the doctor went down together.

47 *Quest.* Were these the only two occasions upon which the doctor visited the house before the child was sick?

30 *Ans.* Yes, sir.

48 *Quest.* What part of the year was it that the child was sick, cold weather or warm?

*Ans.* It was cold.

49 *Quest.* Was it in the winter or spring?

*Ans.* It was in winter.

50 *Quest.* Can you remember whether before or after new years day?

*Ans.* I ain't sure, but I think it was after new years—I am not sure though.

40 51 *Quest.* About how long was the child sick then, and about how often were the doctor's visits?

*Ans.* I think he was sick severely about one week, I don't know though—the doctor came every day at that time.

52 *Quest.* Whom did he see, where and who was present?

*Ans.* I was always there, and sometimes Mr. Berckmans, up stairs in her own room.

53 *Quest.* Was she there too?

*Ans.* Yes, sir.

54 *Quest.* After the child got better, how often was the doctor there up to the time of your leaving?

*Ans.* He was there but once, and then Mr. and Mrs. Berckmans wasn't home, they were at the fair at that time. 10

55 *Quest.* Do you remember, Anna, how the furniture stood in the front parlor of that house when you came there and while you were there?

*Ans.* There was a table there standing under the front mantel with a clock on, with a glass globe, a glass covering of the clock, and two iron lamps or candlesticks, I don't remember which they were—the piano stood right opposite—there was a divan standing under each front window when I was there.

56 *Quest.* Was there any sofa in the front room? 20

*Ans.* There was none in the front room—there was one in the back room, but I don't know where it stood.

57 *Quest.* How long did the furniture remain in the front room arranged as you have described it?

*Ans.* The piano was taken away before I left.

58 *Quest.* Any other change?

*Ans.* I don't remember being in the parlor after that at all.

59 *Quest.* When old Mrs. Berckmans went south, were the parlors still used?

*Ans.* No; she locked them, and they were kept locked. 30

60 *Quest.* Whereabouts did young Mrs. Berckmans see any friends that called upon her while you were there?

*Ans.* Whilst old Mrs. Berckmans was gone, in the dining-room, before that in the parlor.

Cross-examined by Mr. Williamson.

1 *Quest.* What time of day was it when Dr. Titsworth called, and found that Mr. and Mrs. Berckmans had gone to the fair?

*Ans.* I think it was in the afternoon.

2 *Quest.* What was his business? 40



*Ans.* To see the child.

3 *Quest.* Did he see the child?

*Ans.* Yes, sir.

4 *Quest.* What time did Mrs. Berckmans come home from the fair?

*Ans.* I don't remember what time it was.

5 *Quest.* Where was the fair?

*Ans.* In Plainfield, in Lane's hall, I think.

6 *Quest.* Mr. and Mrs. Berckmans go together?

10 *Ans.* Yes, sir.

7 *Quest.* What time of day did they go?

*Ans.* I think it was after dinner.

8 *Quest.* Who came home with Mrs. Berckmans?

*Ans.* Mr. Berckmans.

9 *Quest.* Any one with them?

*Ans.* I don't know whether there was or not.

10 *Quest.* Do you remember of there being a fair or rope walking in the valley?

*Ans.* No, sir, I don't.

20 11 *Quest.* What month was it that old Mrs. Berckmans left for the south?

*Ans.* I think it was in December, I am not sure though.

12 *Quest.* Was the piano taken away from where it stood in the front room before old Mrs. Berckmans went away?

*Ans.* It was taken away from there before she went away.

13 *Quest.* How long before?

*Ans.* That I can't tell.

14 *Quest.* As much as two or three weeks?

*Ans.* I think as much as that, I am not sure.

30 15 *Quest.* Didn't you ever see any sofa in the front room?

*Ans.* No, sir.

16 *Quest.* Are you quite sure there was no sofa in the front room while you were there?

*Ans.* I am not quite sure there was none there whilst I was there.

17 *Quest.* How many sofas were there in the back room?

*Ans.* I only remember one.

18 *Quest.* Are there folding-doors between the front and the back room, or is it all open?

40 *Ans.* I think there was folding-doors.

19 *Quest.* Large doors ?

*Ans.* Yes, sir.

20 *Quest.* Did you ever see them closed, and how often ?

*Ans.* I don't remember of seeing them ever closed.

21 *Quest.* What makes you think there are doors there ?

*Ans.* Because I think I have seen them pushed front little further than they ought to be.

22 *Quest.* Do they slide or shut upon hinges ?

*Ans.* I think they slide.

23 *Quest.* What do you mean, then, by saying that you 10 have seen them a little further front than they ought to be ?

*Ans.* Because they wasn't slid back as far as they might have been.

24 *Quest.* Do you mean, then, to say that you have seen the doors pulled out so as not to leave the opening as large ?

*Ans.* Yes, sir.

25 *Quest.* How many sofas were there in the house while you were there ?

*Ans.* I think there was two—I think there was one in the dining-room and one in the parlor.

20

26 *Quest.* What stood between the two front windows in the front parlor ?

*Ans.* I have the slight recollection of a little table.

27 *Quest.* Was it there all the time ?

*Ans.* All the time whilst I was there.

28 *Quest.* What was on it ?

*Ans.* I don't know what was on it.

29 *Quest.* Do you remember whether this table had a marble top on it ?

*Ans.* I think it had, but I ain't sure.

30

30 *Quest.* Don't you think there was something on it ?

*Ans.* I know it wasn't empty, but I don't know what was on it.

31 *Quest.* What other furniture was there in that room ?

*Ans.* I don't know.

32 *Quest.* Was there any other table ?

*Ans.* I think there was a table standing in the centre of the room.

33 *Quest.* A carpet on the floor ?

*Ans.* Yes, sir.

40



34 *Quest.* Anything on the wall above the mantel?

*Ans.* I don't know.

35 *Quest.* Anything on the wall between the two front windows?

*Ans.* I never looked at the wall to see if there was anything there—I don't remember.

36 *Quest.* What kind of a piano was it, an old fashioned one or a new one?

*Ans.* It was a large one, but whether it was old or new I  
10 don't know.

37 *Quest.* What kind of a sofa was it that was in the back room?

*Ans.* I don't know what kind of a sofa it was.

38 *Quest.* Where did it stand in the back room?

*Ans.* I don't know.

39 *Quest.* How do you know that there was any sofa there?

*Ans.* Because I have seen it there—I don't know where it stood, I had often sat on it.

40 *Quest.* How often had you sat on it?

20 *Ans.* Three times I remember.

41 *Quest.* That was when you first went there, or after you had been there awhile?

*Ans.* It was after I had been there awhile.

42 *Quest.* Warm or cold weather?

*Ans.* It was just in the fall.

43 *Quest.* Can you remember whether the sofa was against the back mantel or not?

*Ans.* I can't remember.

44 *Quest.* Have you no recollection as to what part of the  
30 room that sofa stood in?

*Ans.* I have no recollection of it at all—I don't remember where it stood at all.

45 *Quest.* Was it a big or little sofa?

*Ans.* I think it was a large sofa.

46 *Quest.* Covered with anything?

*Ans.* I think there was a tidy in the middle of it, but I don't remember.

47 *Quest.* Do you remember of young Mrs. Berckmans taking care of her mother's store for two or three days while  
40 her mother was away?

*Ans.* Twice, that was on different occasions though, one day I was there.

48 *Quest.* Did you have the child with you?

*Ans.* Yes, sir.

49 *Quest.* Did you ever hear young Mrs. Berckmans call old Mrs. Berckmans any hard names?

*Ans.* No, sir.

50 *Quest.* When you told her what old Mrs. Berckmans said, did she start right off down stairs?

*Ans.* Yes, sir.

10

51 *Quest.* Did you hear a pretty loud noise down stairs?

*Ans.* No, sir; I couldn't hear that because I was way up stairs.

52 *Quest.* When Mrs. Berckmans came up stairs again, was she pretty angry?

*Ans.* Yes, sir; she seemed to be very much excited.

53 *Quest.* What did she say?

*Ans.* She merely told me she told old Mrs. Berckmans whether she was a thief or not.

54 *Quest.* What did she call the old lady to you, talking to 20 you?

*Ans.* She didn't say anything else except hateful old thing—that is all she said.

55 *Quest.* What makes you think that she was excited?

*Ans.* Because I seen when she came up stairs how she trembled.

56 *Quest.* Did she used to talk to you a good deal about the old folks, Mr. and Mrs. Berckmans?

*Ans.* No, sir; she seldom mentioned them.

57 *Quest.* Do you know that she refused to eat at the table 30 with old Mrs. Berckmans?

*Ans.* No, sir, I do not.

58 *Quest.* Do you know that she was prevented, by either her husband or his mother, from taking meals with them?

*Ans.* No, sir, I don't—I never heard anything of it.

Re-direct examination by Mr. Parker.

1 *Quest.* What was the way of the house, was Mrs. Berckmans called to meals at the time the others were?

*Ans.* No, sir; the bell was always rang after they was through.

40



2 *Quest.* Are you positive in your recollection of what stood under the mantel-piece in the front parlor?

*Ans.* Yes, sir.

3 *Quest.* What was it?

*Ans.* It was the table with a clock on it and the two iron lamps or candlesticks.

4 *Quest.* What was the color of these iron articles?

*Ans.* I think they was very dark green.

5 *Quest.* Were they anything like bronze?

10 *Ans.* I don't know what that is.

Re-cross-examination by Mr. Williamson.

1 *Quest.* Are you as sure of having seen the folding-doors pulled out, as you have stated, as of seeing the table and clock under the mantel?

*Ans.* I am not sure of the doors, but I am sure of the table.

2 *Quest.* Did you not say that you saw the doors pulled out?

*Ans.* I said I thought so, but I wasn't sure.

3 *Quest.* Do you know what a divan is?

20 *Ans.* Yes, sir.

4 *Quest.* What is it?

*Ans.* One of these little short things almost like sofas.

5 *Quest.* Which, then, did you see between the front windows, a divan or a table?

*Ans.* I told you I seen a table between the front windows, and a divan under each front window.

ANNA HEYL.

Taken, sworn, and subscribed before me, February 21st, 1862, at Plainfield.

30

A. S. JACKSON, M. C.

Adjourned to March the 5th, 1862, at ten o'clock, A. M., at Plainfield.

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[Filed February 3, 1863.]

New Jersey, Essex county, ss.—*Caleb S. Titsworth*, being duly sworn according to law, on his oath saith—that he is the solicitor of the above named defendant in this cause, and that, in his opinion, Jane Stine is a material witness for the said de-

fendant. And this deponent further saith, that she was in attendance this day at Plainfield, in accordance with a subpoena served upon her for examination in this cause, but was not examined in consequence of the absence of complainant's counsel. And this deponent saith, that the said Jane Stine this day informed this deponent that she had come to Plainfield, a short time since, on a visit from New York city; that she was anxious and intended to return to New York to-morrow, but this deponent persuaded her to remain until Thursday next to give her testimony in this cause; this deponent 10 believes that the said Jane's residence is in New York; she is a servant girl, and has been living in New York, as he has been informed, for the last year or more.

C. S. TITSWORTH.

Sworn and subscribed before me, at Jersey City, this 12th day of August, A. D. 1861.

A. S. JACKSON, *M. C.*

New Jersey, Hudson county, ss.—Upon consideration of the circumstances, I do order the examination of the within named Jane Stine, on the part of the above named defendant, on 20 Thursday, the fifteenth day of August, instant, at ten o'clock in the forenoon, at the office of Cornelius Boice, esq., Plainfield, New Jersey, and order that notice be given to the complainant or his solicitors accordingly.

Dated August 12th, 1861.

A. S. JACKSON, *M. C.*

Sir,—Please take notice that the deposition of Jane Stine, a material witness for the above named defendant, which witness is about to go out of the state of New Jersey, will be taken at the office of Cornelius Boice, esq., in Plainfield, New 30 Jersey, before Abraham S. Jackson, esq., a master and examiner of the Court of Chancery, on Thursday, the fifteenth day of August, instant, at ten o'clock in the forenoon, the said master having so ordered, and caused this notice to be given.

Dated August 12th, 1861.

Yours, &c.

C. S. TITSWORTH, *Sol. of def't.*

To Scofield & Williamson, esq'rs, *Sol. of comp't.*

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Examination, *de bene esse*, of Jane Stine, a witness on the



part of the defendant, who is about to go out of the state of New Jersey, before me, Abraham S. Jackson, a master and examiner of this court, on the fifteenth day of August, eighteen hundred and sixty-one, at the office of Cornelius Boice, in the village of Plainfield, at ten o'clock A. M., pursuant to an order made by me for that purpose and to notice duly given—present Courtlandt Parker, esq., of counsel, and Caleb S. Titsworth, solicitor of defendant, and Charles E. Scofield, on part of Scofield and Williamson, solicitors of complainant.

10 *Jane Stine*, the above named witness, being duly sworn, on her oath says—

*Quest.* Where do you live?

*Ans.* City of New York.

*Quest.* How long have you been in this state now?

*Ans.* Two weeks next Saturday.

*Quest.* Were you subpœnaed to attend as a witness here Monday last?

*Ans.* I was, and I was here.

*Quest.* Where were you when you were subpœnaed?

20 *Ans.* At Scotch plains.

*Quest.* How came you to be there?

*Ans.* I came to see my baby, on a visit.

*Quest.* Are you about to go out of New Jersey?

*Ans.* Yes, sir.

*Quest.* When did you expect to go?

*Ans.* Last Saturday.

*Quest.* When do you now expect to go?

*Ans.* To-morrow.

*Quest.* Do you know Mrs. Berckmans, the defendant in  
30 this suit, her husband, and his mother?

*Ans.* Yes, sir.

*Quest.* Did you ever live with Mrs. Berckmans the younger, as her nurse?

*Ans.* Yes, sir.

*Quest.* When did you go to live with her?

*Ans.* January, while she was in the south—I do not recollect the year.

*Quest.* Were you living in the south, or did you go there?

*Ans.* I went there to live with Mrs. Berckmans.

40 *Quest.* Did you go down with anybody, if so with whom?

*Ans.* Mrs. Marsh.

*Quest.* How long did you continue to live with her?

*Ans.* Six months.

*Quest.* About what time, what month, did you leave her?

*Ans.* August.

*Quest.* In what sort of a house did she live in at the south?

[Objected to as irrelevant.]

*Ans.* Frame house.

*Quest.* How large, how far situate from other houses, was the country cultivated about it or not, what sort of a house was it in matter of comfort or otherwise? 10

*Ans.* I couldn't exactly tell how large it was—three rooms down stairs, there was four rooms and a pantry down stairs, there were two rooms up stairs; about a mile from Mr. Prosper Berckmans', on the one side, and about the same on the other, Mr. Redmond's—a part of the country about it was cultivated; it was not a very comfortable house.

*Quest.* Was Mrs. Berckmans ill while you were there?

*Ans.* Yes, sir.

*Quest.* From what reason, and how long?

*Ans.* She was sick from being confined—I guess she was 20 about two months sick together.

*Quest.* How did Mr. Berckmans treat her during this sickness, while you lived there? [Objected to as irrelevant.]

*Ans.* Well, he seemed to be pleasant enough sometimes, and at other times he was sulky.

*Quest.* Did he used to attend upon his wife during her sickness?

*Ans.* Yes, sir.

*Quest.* How?

*Ans.* Well, he used to wait upon her when she first was 30 confined—he seemed kind enough to her then.

*Quest.* How after that?

*Ans.* Well, he got rather sulky afterwards.

*Quest.* What do you mean by getting rather sulky afterwards?

*Ans.* He usedn't to speak pleasant to her.

*Quest.* How long did this sort of conduct continue?

*Ans.* Well, two or three days at a time.

*Quest.* Was it often he behaved so?

*Ans.* A good many times.

*Quest.* Where did he sleep—in the house or out of it? 40



*Ans.* He slept in the house generally.

*Quest.* Do you mean that he always slept there?

*Ans.* I never knew him out all night.

*Quest.* Did you know him out part of the night?

*Ans.* Yes, sir.

*Quest.* Often and where?

*Ans.* Yes, pretty often, out in an outhouse with a man they had working there.

*Quest.* What were his habits as to temperance? [Objected to as irrelevant.]

*Ans.* Well, I have never seen him drunk.

*Quest.* Did you ever have to go out for him in the night or evening?

*Ans.* Yes, sir.

*Quest.* State any occurrence of the kind you may recollect?

*Ans.* Mrs. Berckmans sent me to the outhouse for him once or twice; he wouldn't come with me—I come on and told Mrs. Berckmans.

*Quest.* Why did Mrs. Berckmans want him, and send for him?

*Ans.* Because it was late.

*Quest.* How late?

*Ans.* Twelve o'clock, one night I know—I don't know how late it was the other night.

*Quest.* Did you know anything of his once threatening to take laudanum while you were there? [Excepted to as irrelevant.]

*Ans.* Well, I heard Mrs. Berckmans crying one night, when he was threatening to take it.

*Quest.* Was she sick then?

*Ans.* Yes, sir.

*Quest.* Abed?

*Ans.* Yes, sir, sick abed.

*Quest.* Do you remember of her being sick and delirious one time, and of his refusing to send for the doctor?

*Ans.* Yes, sir, I remember one night so.

*Quest.* State in your own way how that was?

*Ans.* Well, his father was there waiting upon her, so she was so bad that she wanted a doctor—his father refused to get one, and I have heard Mr. Emile Berckmans say there was no occasion for one.

*Quest.* Was any doctor got, and who got him?

*Ans.* Mr. Prosper Berckmans got one.

*Quest.* When, Jane, did you come home from Georgia to Plainfield?

*Ans.* In April following—I think in 1859.

*Quest.* Where did you go to live?

*Ans.* At old Mrs. Berckmans.

*Quest.* Do you remember when they cleaned house at old Mrs. Berckmans' that year?

*Ans.* Well, it was between May and 1st of June when they 10 cleaned it.

*Quest.* Do you remember where the sofa stood, after they cleaned house, in Mrs. Berckmans' parlor?

*Ans.* It stood right opposite to the mantel-piece.

*Quest.* What stood under the mantel-piece?

*Ans.* A little table.

*Quest.* Of which of the rooms are you speaking, the front or back?

*Ans.* The front parlor.

*Quest.* Was there anything upon this table?

20

*Ans.* A clock and two chandeliers.

*Quest.* Where was the piano?

*Ans.* There was none in the front parlor, but an old one in the back parlor?

*Quest.* Did any piano come?

*Ans.* Yes, sir.

*Quest.* Where was it placed?

*Ans.* Back of the door in the front parlor, opposite to the mantel.

*Quest.* Was that where the sofa was?

30

*Ans.* Yes, sir.

*Quest.* What was done with the sofa?

*Ans.* Put in the back parlor.

*Quest.* How long did this arrangement of the furniture continue?

*Ans.* The piano came in August, about two weeks before I left, and so things remained till I left.

*Quest.* Did the table, that you described as being under the mantel-piece in the front room, remain there till you left?

*Ans.* I can't exactly say.

40

*Quest.* Do you remember any change?



*Ans.* No, sir, I don't.

*Quest.* What was your duty in the house while you lived at old Mrs. Berckmans'?

*Ans.* Wet-nurse to Mrs. Berckmans' baby.

*Quest.* Did you see much of Mrs. Berckmans?

*Ans.* Yes, sir; always, when she was in the house I saw her.

*Quest.* Where did she used to sit during the day?

*Ans.* In the nursery with me, most part.

10 *Quest.* Was she ever away from you, or without your seeing her, for as long a period as say an hour at a time?

*Ans.* No, sir, never in the house.

*Quest.* How often, Jane, was Dr. Titsworth there while you lived there?

*Ans.* Twice.

*Quest.* Why did he come the first time?

*Ans.* He came to vaccinate the baby.

*Quest.* Did you see the vaccination?

*Ans.* Yes, sir.

20 *Quest.* Tell what you know of that, Jane, in your own way?

*Ans.* Well, he came to vaccinate the baby, and I let him into the parlor, and called down Mrs. Berckmans—so he vaccinated the baby; Mrs. Berckmans went out of the room when the baby was vaccinated—she went up stairs, and came down again before he went out; he staid but about fifteen minutes altogether.

*Quest.* Did you know of his going?

*Ans.* Yes, sir; I heard him saying that he was going to

30 Scotch plains to see some person.

*Quest.* What became of Mrs. Berckmans and you when he went away?

*Ans.* She came into the nursery to me after he went away.

*Quest.* Was she gone from you any time?

*Ans.* No, sir; about five minutes after I left the parlor she came in.

*Quest.* When was this visit of vaccination?

*Ans.* In May.

*Quest.* For what purpose did Dr. Titsworth come the second  
40 time you have spoken of?

*Ans.* He came after the scab.

*Quest.* Whom did he see—relate the occurrence?

*Ans.* He seen me; he came in, asked for the scab of the baby's arm; I told him it was on the mantel-piece, and he took it; he went right away then.

*Quest.* Did he see Mrs. Berckmans?

*Ans.* No, sir.

*Quest.* Was he there again or at any other time while you were there?

*Ans.* No, sir, not in my time.

*Quest.* How do you know?

10

*Ans.* If he had been there I would have heard of it.

*Quest.* How many servants had young Mrs. Berckmans?

*Ans.* Only me.

*Quest.* What was the occasion of your leaving Mrs. Berckmans?

*Ans.* Well, old Mrs. Berckmans said that she did not want to pay such large wages—she could get a little girl for less.

*Quest.* Was young Mrs. Berckmans willing that you should leave?

*Ans.* No, sir.

20

*Quest.* Did she object?

*Ans.* Yes, sir.

*Quest.* For what reason?

*Ans.* She was afraid of weaning the baby in hot weather. Cross-examined by Mr. Scofield.

*Quest.* How old are you?

*Ans.* About thirty, I guess.

*Quest.* What is your husband's name?

*Ans.* My husband's name was James Stine—he is dead.

*Quest.* When did he die?

30

*Ans.* I couldn't exactly tell what year.

*Quest.* Where did he die?

*Ans.* In Ireland.

*Quest.* When did you come to this country?

*Ans.* Seven years ago this last June.

*Quest.* Was he ever in this country?

*Ans.* No, sir.

*Quest.* You have never married since?

*Ans.* No, sir.

*Quest.* Is your child living?

40



*Ans.* Yes, sir.

*Quest.* How old is it?

*Ans.* Three years, 25th of October coming.

*Quest.* Was your child born here, before you went south?

*Ans.* Yes sir.

*Quest.* Did you leave your child here, or take it with you?

*Ans.* I left it here.

*Quest.* What time was Mrs. Berckmans' first baby born?

*Ans.* February.

10 *Quest.* And what time did you leave here to go south?

*Ans.* January the 15th.

*Quest.* Did Mrs. Berckmans nurse that baby?

*Ans.* No, sir.

*Quest.* Was it nursed with a bottle?

*Ans.* It was at first.

*Quest.* What kind of milk was it nursed with?

*Ans.* Goat's milk.

*Quest.* Did Mr. and Mrs. Berckmans procure a goat for that purpose at the south?

20 *Ans.* They did get one—I don't know for what purpose.

*Quest.* When did they discontinue the use of the goat's milk?

*Ans.* Well, I guess the baby was six weeks old when I commenced nursing it.

*Quest.* How long after you commenced nursing was the goat's milk discontinued?

*Ans.* He got no more after I commenced nursing it.

*Quest.* How was your own child provided for as to nursing before you left and after you went south?

30 *Ans.* On a bottle.

*Quest.* What time did you return from the south?

*Ans.* In April—I don't remember the day.

*Quest.* Do you know what time in February Mrs. Berckmans' child was born?

*Ans.* I guess it was the 18th.

*Quest.* Have you ever been married since your first husband's death?

*Ans.* No, sir.

*Quest.* Do you know whether Mr. Berckmans' mother kept  
40 any cow after you returned from the south?

*Ans.* Yes, she had five or six cows after she came back.

*Quest.* Did they give milk?

*Ans.* Yes, sir, as near as I know.

*Quest.* Were they new milch cows?

*Ans.* I guess there were, some of them—I don't know much about them.

*Quest.* Was Mrs. Berckmans' baby fed any from the bottle after your arrival in Plainfield from the south?

*Ans.* Not when I was in—sometimes when I was out it was.

*Quest.* Did you ever spend a day away from Mrs. Berckmans' after your return from the south?

*Ans.* Yes, often.

*Quest.* What became of Mrs. Berckmans' baby when you were away?

*Ans.* I took it with me.

*Quest.* Did you live with Mr. Berckmans before he went south?

*Ans.* No, sir.

*Quest.* Who engaged you to go south?

*Ans.* Old Mrs. Berckmans.

20

*Quest.* What did you do in the house work while you were at the south?

*Ans.* General housework.

*Quest.* Did old Mrs. Berckmans engage you to do that?

*Ans.* Yes, sir.

*Quest.* Did she engage you as a wet-nurse?

*Ans.* No, sir.

*Quest.* Who paid you your wages while at the south and after you came back?

*Ans.* Mr. Berckmans' father did at the south, and his mother did after I got back.

Direct examination resumed.

*Quest.* Did you ever spend the day away except on Sundays?

*Ans.* Yes, sir.

*Quest.* How often do you think?

*Ans.* I couldn't exactly say—four or five, perhaps six or seven.

Cross-examination resumed.

*Quest.* Who subpoenaed you, Jane?

40



*Ans.* I was subpoenaed by Dr. Titsworth.

her  
JANE X STINE.  
mark.

Taken, sworn, and subscribed, August 15th, 1861, before me, at Plainfield.

A. S. JACKSON, M. C.

[Filed February 3, 1863.]

Sir,—Take notice that the deposition of witnesses will be taken in this cause on behalf of the complainant, Emile C. Berckmans, on the thirty-first day of May, instant, at the hour  
10 of ten in the forenoon, before Abraham S. Jackson, esq., one of the masters and examiners in the Court of Chancery of New Jersey, at his office, No. 9 Exchange place, Jersey City.

Yours, &c.,

SCOFIELD & WILLIAMSON,  
*Solicitors of complainant.*

To C. S. Titsworth, esq., *Sol'r of defendant.*

On the thirty-first day of May, in the year eighteen hundred and sixty-two, the parties appeared, pursuant to notice hereto annexed, at my office, number 9 Exchange place, in Jersey  
20 City, by their respective counsel, to wit, Benjamin Williamson, esq., of counsel for complainant, and Courtlandt Parker, esq., of counsel, and Caleb S. Titsworth, esq., solicitor of defendant.

Whereupon the examination of the defendant's witnesses was adjourned to Tuesday, the tenth day of June next, at ten o'clock in the forenoon, at the office of Cornelius Boice, in the village of Plainfield.

Tuesday, June the 10th, 1862, the examination proceeded, in the presence of the above named respective counsel, at the office of Cornelius Boice, in the village of Plainfield, at ten  
30 o'clock A. M.

*Mary Pound*, a witness produced on the part of the complainant, being duly sworn, says—

1 *Quest.* Where do you reside, Mrs. Pound?

*Ans.* Plainfield, New Jersey, on the farm, of course we call it Plainfield.

2 *Quest.* How near do you live to the Berckmans farm?

*Ans.* Our farm adjoins it.

I resided there when the Berckmans came to live at this place; the families have visited each other; the Berckmans came 1851, I think, if I am not mistaken; when I visited the house, I was generally received in the reception room, in the parlor—in the parlor on the side of the hall towards Plainfield 10—the parlor is a single room, that is, it is all in one parlor—there are no folding-doors—it extends from the front to the back of the house; I remember the furniture which stood in the front part of the house—the sofa stood in front of the fireplace, in the front part of the house—a table and a marble clock stood between the front windows—the piano always stood there opposite to the sofa previous to the family going south—after that I could not say; I do not remember of ever seeing anything else stand where I have described the sofa as standing—I remember of being there in the summer of 1859. 20

Cross-examination by Mr. Parker.

I was invited there on a Sunday afternoon to eat strawberries there in the summer of 1859; my attention was called to this fact last winter, for the first time since 1859—I think it was in 1859, because I know it was, it was the year after they came from the south—it was the first that I visited the house after they returned.

Myself, my husband, son-in-law, my daughters, were there—they were all living home with me, and were invited over to tea; the family there were old Mrs. Berckmans, Mr. Emile 30 Berckmans and wife; we took tea in the dining-room, the sitting-room east end of the house opposite the parlor; I was received in the parlor on our first coming in the house.

In the corner of the room opposite the sofa, I do not recollect what stood there, the piano I don't think had come back from the south—this is as far as my knowledge goes; it is my impression that the sofa was before the mantel-piece at that time—I don't recollect of seeing it anywhere else.

I visited there once or twice a year among the families, back and forth; when I went on a visit, I was generally received 40 in the parlor always.



Re-direct examination by Mr. Williamson.

At the time of my visit in the summer of 1859, I am sure that the sofa stood under the mantel-piece in the front parlor, as far as I have any knowledge.

Re-cross-examination by Mr. Parker.

1 *Quest.* What do you mean by "as far as you have any knowledge?"

*Ans.* I was always generally seated on the sofa, and that's the reason that I am confident it stood there, as I always seated  
10 myself upon it.

2 *Quest.* Can you mention any circumstance connected with that visit that persuades you?

*Ans.* I cannot mention any circumstances particularly; Mr. and Mrs. Cole came there while we were at tea; young Mrs. Berckmans did not sit down at the table with us, owing to the absence of her servant girl, because she had to take care of her child—young Mr. Berckmans did.

MARY POUND.

Taken, sworn, and subscribed before me, at Plainfield, June  
20 10th, 1862.

A. S. JACKSON, M. C.

*Mary Ann Thys*, a witness produced on the part of the complainant, being duly sworn, says—I am in my 23d year, mister; I live in Scotch plains with my father and mother; I have lived at Scotch plains for seven years; I did do house-work for the elder Mrs. Berckmans; the first time I worked there was in 1859—it was in the last of May or first of June, after they returned, I ain't certain, I cleaned house for them—I helped clean the big parlors at that time.

30 *Quest.* Was there any sofas in the big parlors?

*Ans.* Yes, sir.

*Quest.* How many?

*Ans.* There was one in the front parlor.

*Quest.* Where did that stand?

*Ans.* Right against the mantel-piece.

*Quest.* Where did it stand when you first went there to clean house?

*Ans.* Right against the mantel-piece.

*Quest.* After you had cleaned the parlor, where did you leave the sofa?

*Ans.* Right against the mantel-piece.

*Quest.* What stood between the two front windows?

*Ans.* A side-table with a clock on it.

*Quest.* Was there anything standing at the side of the door as you go in opposite the sofa?

*Ans.* Yes, sir.

*Quest.* What was it?

*Ans.* A piano.

*Quest.* Did it stand there when you commenced cleaning?

*Ans.* Yes, sir.

*Quest.* Where did you leave it standing after you had done cleaning the parlors?

*Ans.* Right there in the same place again.

*Quest.* Have you cleaned house there since?

*Ans.* Yes, sir.

*Quest.* How many times have you cleaned altogether?

*Ans.* I cleaned there in 1860 and 1861, and I have cleaned in the fall, but I cannot tell when that was.

*Quest.* At other times when you have cleaned house there, did you ever find the sofa at any other place except what you have mentioned?

*Ans.* No, sir.

*Quest.* Have you ever been in the parlors at any other times except when you have been cleaning?

*Ans.* Yes, sir.

*Quest.* How often?

*Ans.* I don't know how often—I used to go in there pretty often—the sofa was always in the same place there.

*Quest.* Who helped you move the furniture at the time you cleaned?

*Ans.* Mr. Bligh.

*Quest.* The first time you cleaned house, who was young Mrs. Berckmans' nurse?

*Ans.* Her name is Jane, her last name I don't recollect.

*Quest.* Any folding-doors in the parlor?

*Ans.* No, sir.

*Quest.* Anything in the middle of the front room?

*Ans.* Yes, sir, a centre table.



Cross-examination by Mr. Parker.

I was there a week or ten days the first time cleaning house; I never could clean the parlor in one day, I think it took two days; I generally commenced the parlor first; after I done that, I went to the other part of the house—that was all I knew about the parlor; the first time I was cleaning house there was in the spring after they come from the south—old Mrs. Berckmans wanted me to come and clean house.

10 Young Mr. Berckmans wanted me to come and be a witness; I think it was after they came from the south, because Mrs. Berckmans had no girl, and she wanted me until she could get a girl; my particular business in cleaning house was washing the paint and washing the windows, and when they took up the carpets I scrubbed the floor and whatever was to be done.

I spoke of a front parlor and back one, it is all one room, I cleaned them both—I mention a front and back parlor because I don't know what you call them pillars, because they mark the separation of the two rooms; when I was there in 1859,  
20 as near as I can say, there was a sofa opposite the mantelpiece in the back parlor, there was a stand between the windows with shells on it, there were chairs around, nothing else except what was on the floor, there were pictures and looking-glasses on the wall.

This sofa was not so nice as the one in the front parlor—it was like all sofas, the back was high, it wasn't a fancy sofa, it was a plain sofa.

The sofa in the front room belonged to the chairs, and was a fancy one—the back of the sofa was low in the middle and  
30 high near each end—that belonged to the set of chairs; Mr. Bligh helped me move the furniture out on the back stoop to beat out the dust—we both moved it back again; it stood on the back stoop while we cleaned the rooms.

I am a sister of Frank Thys, who was at Mrs. Berckmans on the Sunday the difficulty happened.

MARY ANNA THYS.

Taken, sworn, and subscribed, July 10th, 1862, before me,  
at Plainfield.

A. S. JACKSON, M. C.

*Cornelius Boice*, a witness produced on the part of the complainant, being duly sworn, says—I am counsel for Mr. Berckmans in this case; I have taken an active part as his counsel; I have done considerable business for old Mrs. Berckmans; I have frequently visited the farm where the family live ever since they have lived there; I remember, when I visited there, that a sofa stood against the front mantel, as far as I recollect; I recollect of the experiment being made whether the table with the clock on it would stand under the front mantel; the table with the clock on it would not do it. 10

*Quest.* Have you been at the Berckmans house to make the experiment whether from the window of the small room over the greenhouse you could see into the front bed-room?

*Ans.* I have been there for that purpose about the middle of April, somewhere about that time; I went there twice, once in the morning and once in the afternoon.

*Quest.* What was the result of your experiment in the morning?

*Ans.* Perhaps I ought to explain about that; there was a chair in the room, in the bed-room opposite the fire-place, in 20 front of the fire-place and in range of the door leading into the bed-room and the window through which I looked from the greenhouse; Mr. Berckmans sat upon the chair, I could see him very distinctly—I did not observe at that time whether the door was shut or not.

*Quest.* Was the sash of the window of the bed-room open or shut through which you looked?

*Ans.* The sash was down.

*Quest.* How was the sash of the little room window?

*Ans.* I tried it both ways, opened and closed—could see 30 distinctly both when the window was opened and closed—could see distinctly the object on the chair.

*Quest.* At this experiment in the morning, was any one present with you?

*Ans.* Samuel H. Orton, Elston Marsh, Elisha Runyon, that's all, and myself—we all, they all made the experiment—they went for that purpose.

*Quest.* Did you go up to make a second experiment?

*Ans.* I did.

*Quest.* Why?



*Ans.* Because it was said they wanted to examine and see whether we could see the chair in the bed-room when the door leading into the hall was opened or closed.

*Quest.* Who were with you?

*Ans.* The same persons spoken of as before, Orton, Marsh, and Runyon.

*Quest.* State what experiments you then made?

*Ans.* It was about three o'clock in the afternoon, I think; we examined the room, we looked through the window with  
 10 the door opened at Mr. Berckmans in the chair—we could see him very distinctly with the door opened from this window above the greenhouse; the door was then closed leading from the hall into the bed-room—we could then see him distinctly—the window through which we looked over the greenhouse—we looked through both when it was opened and when it was closed, could see Mr. Berckmans distinctly whether the window was opened or closed; then the outside window blind attached to the window of the bed-room, through which I  
 20 looked, was half way open, standing at right angles with the building, at the time these experiments were made looking through the bed-room; then the blind was fully opened, thrown against the building and fastened—then we could not see any person in the bed-room in the chair with door closed, and I think not with the door opened.

*Quest.* Have you recollection as to the position of that outside blind when you made the experiment in the morning?

*Ans.* I have not.

*Quest.* Who first called your attention to the fact that the position of that shutter made any difference?

30 *Ans.* Mr. Orton and Mr. Marsh were looking through the window, both when the blind was half open and when it was entirely opened against the house—they said they couldn't see when it was opened against the house, and I went and looked, and I couldn't see either.

*Quest.* How does the house stand in reference to the points of the compass?

*Ans.* Fronting nearly southeast.

*Quest.* Have you made any experiments, whether from the window of the greenhouse you could see a person lying on  
 40 the sofa, as it stood against the front mantel?

*Ans.* I have.

*Quest.* State what they were, and the results?

*Ans.* You could see a person on the sofa from the window in the greenhouse about as far as the shoulder, provided their head was lying towards the south on the sofa, except, perhaps, the extremities from the feet to the knee.

*Quest.* How often did you make the experiment?

*Ans.* I think twice.

*Quest.* Different days?

*Ans.* Yes, different days; Orton, Marsh, and Runyon were 10 with me when these experiments were made.

*Quest.* Was there any difficulty in seeing a person lying on the sofa?

*Ans.* None whatever, as far as I have stated; it is proper for me to state that the experiments were made with the inside shutters closed and open also, except the one through which I looked, and also one inside shutter, upon the front of the room; the south corner of the upper window couldn't close, there was some difficulty about it—it couldn't close.

*Quest.* Could you fix the light so that you couldn't see? 20

*Ans.* Could not.

It being one o'clock, an hour was taken for dinner, when the examination was resumed.

Cross-examination by Mr. Parker.

*Quest.* On what days were those experiments made of which you have spoken?

*Ans.* On the 12th and 14th of April last.

*Quest.* Who composed the party who went from Plainfield to the house for the purpose?

*Ans.* Samuel H. Orton, Elston Marsh, Elisha Runyon, and 30 myself, together with Emile Berckmans—we rode up with him.

*Quest.* He was, I suppose, aware of your object?

*Ans.* Yes.

*Quest.* You have spoken of a blind up stairs, was there one blind to the window, or only two?

*Ans.* Two, Venitian blinds with slats.

*Quest.* When you looked into the window, and saw what



was within the room, were the slats of this blind open or closed?

*Ans.* I don't recollect.

*Quest.* When your attention was attracted to the blind, did you notice whether the slats were opened or closed?

*Ans.* I don't remember.

*Quest.* Which of the two blinds was in the position you have described when you saw what was in the room?

*Ans.* The one hanging on the southeast side of the casing,  
10 on the right when looking into the window.

*Quest.* How was the other?

*Ans.* The other, I think, was fastened against the little room we looked from—it was as far opened as it could be placed.

*Quest.* Who showed you gentlemen the premises up stairs?

*Ans.* Emile Berckmans.

*Quest.* Before looking into the room, did either of you gentlemen place the blind in the position it was when you saw what was in the room?

*Ans.* I did not, nor did I see any other one do it.

20 *Quest.* Describe the sofa of which you have spoken, which was down stairs?

*Ans.* It was a sofa with round corners, a serpentine top, irregular top, high corners, each corner was elevated.

*Quest.* Were you at the house the day the sale took place there?

*Ans.* Yes, I was there.

*Quest.* Was it the same sofa that stood beside the mantel in the room at the same time?

*Ans.* Yes.

30 *Quest.* Did you notice it then?

*Ans.* I noticed it sufficiently to know it was the same one.

*Quest.* Was it sold?

*Ans.* I think it was, I don't recollect however.

*Quest.* Was it the same sofa that you had been accustomed to see in that room when you went to visit the house?

*Ans.* It was the same one.

*Quest.* You used to visit there when old Mr. Berckmans was away?

40 *Ans.* I was not accustomed of visiting there when Mr. Berckmans was away.

*Quest.* You say you have been the active counsel for Mr. Berckmans—did you put together the pieces of the letter made an exhibit in this cause?

*Ans.* I did not, nor did I ever see it till it was put together—I hadn't time to attend to it.

*Quest.* Can you tell accurately when you first saw it?

*Ans.* I cannot state distinctly when I first saw it—it was a short time previous to the trial before 'Squire Runyon, between Dr. Titworth and Mr. Berckmans—Mr. Berckmans showed it to me himself.

10

*Quest.* Was it after that suit was commenced?

*Ans.* I don't remember—can't tell.

Re-direct examination by Mr. Williamson.

Mr. Runyon to whom I referred, has removed, and taken his family to Iowa—he went about ten days ago or two weeks.

The witness wishes to explain, and says, that with reference to the shutter being in the parlor, which could not be closed, he is not certain, upon reflection, whether it was in the parlor or in the bed-room.

Re-cross-examination by Mr. Parker.

20

*Quest.* About what width and height is the table of which you have spoken in connection with the clock?

*Ans.* The table is a card-table with two leaves which fold over, one over the other, about three feet wide when opened, and the ordinary height of tables; the table is over in my house now—I bought it at the vendue; the clock was standing upon the table, and I tried to see if it would stand under the mantel, and it would not with the clock on.

CORNELIUS BOICE.

Taken, sworn, and subscribed before me, at Plainfield, June 30 10th, 1862.

A. S. JACKSON, M. C.

*Samuel H. Orton*, a witness produced on the part of the complainant, being duly sworn, says—I reside in Plainfield, am cashier of the Union County Bank.

*Quest.* Have you been at the Berckmans house to make the experiment whether from the window of the small room over the greenhouse you could see into the front bed-room?



*Ans.* I have.

*Quest.* At whose request?

*Ans.* Mr. Emile Berckmans and lawyer Boice.

*Quest.* How many times?

*Ans.* Twice.

*Quest.* Will you state your experiments the first time?

*Ans.* On being requested to go down, I at first declined; on being assured that Mr. Marsh was of the party, I consented to go; we were taken in the small room over the conservatory to see if we could see Mr. Berckmans sitting in a chair about the centre of the room, lawyer Boice being beside him—that is all that actually took place.

*Quest.* Did you look if you could see Berckmans and Boice in the middle of the room?

*Ans.* I did.

*Quest.* Where did you stand when you looked?

*Ans.* We were standing in the small room above the conservatory.

*Quest.* Were the sashes of the small room and the bed-room open or shut?

*Ans.* That of the bed-room was shut, that of the small room both shut and open.

*Quest.* What could you see?

*Ans.* Could see Mr. Berckmans' figure perfectly below the knees, and lawyer Boice's hand lying in his lap—could see all above Mr. Berckmans' knees, I mean.

*Quest.* Could you distinguish them?

*Ans.* Perfectly.

*Quest.* Did it make any difference whether the sash of the little room was open or shut?

*Ans.* It made a slight difference.

*Quest.* Did you observe at this time what the position of the outside blind of the bed-room window was?

*Ans.* I did not.

*Quest.* How long was it after this that you went there a second time?

*Ans.* It was the same day.

*Quest.* Why did you go a second time?

*Ans.* It was with reference to the bed-room door leading into hall being open or shut.

*Quest.* Did you find that it made any difference?

*Ans.* I did not.

*Quest.* This time did you notice the position of the outside blind of the bed-room window through which you looked?

*Ans.* I did not at first.

*Quest.* Did you find upon experimenting that the position of the blind had any effect upon your vision?

*Ans.* I did.

*Quest.* What?

*Ans.* Entirely to prevent seeing into the room.

10

*Quest.* What was its position when you could not see into the room?

*Ans.* Thrown back against the house.

*Quest.* Did you look through the greenhouse window to try if you could see a person lying on the sofa against the front mantel?

*Ans.* I did.

*Quest.* What was the result?

*Ans.* I could see the body and part of the shoulders.

*Quest.* Did you observe whether the feet of the sofa had 20 made any indentations in the carpet on which it stood?

*Ans.* I did.

*Quest.* Were there any indentations?

*Ans.* There were, sir.

*Quest.* What was the appearance of them as to their being recent or of long standing?

*Ans.* The carpet was well worn—I know nothing further than that.

*Quest.* What was the position of the sofa, as to those indentations, when you made the experiment of looking through 30 the window?

*Ans.* The feet of the sofa were in the indentations.

Mr. Marsh was with me in the morning and Mr. Runyon in the afternoon.

Cross-examined by Mr. Parker.

*Quest.* Did you notice any other indentations in the carpet beside those in which the rollers of the sofa were placed?

*Ans.* I did not.

*Quest.* When you first went up stairs in the afternoon, and looked through the window of the little room, could you see 40 what was in the larger room?



*Ans.* I could.

*Quest.* How was the blind of the larger room window then?

*Ans.* I don't know, sir.

*Quest.* What caused you to experiment with that blind?

*Ans.* Mr. Runyon said he couldn't see in the room.

*Quest.* Was this after your having looked first?

*Ans.* Yes, sir.

*Quest.* Did you then look again?

*Ans.* Yes, sir.

10 *Quest.* Did you notice then how the blind was?

*Ans.* Yes, sir.

*Quest.* How was it?

*Ans.* Against the house.

*Quest.* Did you then change its position?

*Ans.* It was changed by some one—I didn't change it myself.

I could see into the room before Mr. Runyon spoke to me; I did try with the sash of the little window opened as well as closed; we could see when the blind was brought at right  
20 angles to the house—whether in any other position I can't say; the other windows of the front room were all opened at one time, and then they were all closed.

When the blind was thrown against the house I could not see any object in the room—it was like a looking-glass.

SAMUEL H. ORTON.

Taken, sworn, and subscribed before me, at Plainfield, June 10th, 1862.

A. S. JACKSON, M. C.

Whereupon the examination was further adjourned to Tuesday,  
30 day, July 1st, 1862, at ten o'clock A. M., at my office in Jersey City.

Tuesday, July 1st, 1862, the examination was continued at my office, in Jersey City, at ten o'clock A. M., in presence of Benjamin Williamson, esq., of counsel with complainant, and Courtlandt Parker, esq., of counsel with defendant.

*Elston Marsh*, a witness produced on the part of the complainant, being conscientiously scrupulous of taking an oath,

and being duly affirmed, deposes and says—I live in Plainfield, have lived there thirty-seven years, born in Essex county, in that neighborhood.

1 *Quest.* Have you been at the Berckmans house to make the experiment whether from the window of the small room over the greenhouse you could see in the front bed-room of the main building?

*Ans.* Yes, sir.

2 *Quest.* At whose request?

*Ans.* At the request of Mr. Boice; Mr. Boice and Mr. 10 Berckmans both spoke to me, and asked me to go up with them.

3 *Quest.* How many times?

*Ans.* Three.

4 *Quest.* Will you state who was in company with you the first time, and the time of day?

*Ans.* Lawyer Boice, 'Squire Runyon, that's Elisha Runyon, Samuel H. Orton, and Mr. Berckmans were in company, that's what's the company, I think; the time of day was in the forenoon, the early part of the day, probably not far from 20 ten o'clock.

5 *Quest.* What experiment did you make in reference to looking into the bed-room?

*Ans.* We were in the small room over the conservatory, and looked through two windows into the bed-room; the windows were at right angles, near together, so that we could see through both and could see persons sitting in chairs near the centre of the room in front of the mantel; I think Mr. Boice and Mr. Berckmans took seats in the position I referred to, and we could see them quite distinctly. 30

6 *Quest.* Did you look with both window sashes closed?

*Ans.* Yes, sir.

7 *Quest.* Could you distinguish the persons in the bed-room?

*Ans.* I could.

8 *Quest.* At this time did you observe the position of the outside window blind to the window of the bed-room of the main building?

*Ans.* Not particularly, only I know it was in a position not to obstruct the sight.



9 *Quest.* At this time was your attention at all called to that outside blind?

*Ans.* Not to my recollection—I think it was not.

10 *Quest.* At this time did you look through the greenhouse window to try the experiment whether you could see a person lying on a sofa against the front mantel in the front parlor?

*Ans.* I did.

11 *Quest.* What was the result?

10 *Ans.* I could see a person on the sofa, not the entire person; I think I could see a person lying on the sofa, from the shoulders down, pretty well towards the extremities.

12 *Quest.* The window sash closed?

*Ans.* I think so—there was only one window I recollect distinctly.

13 *Quest.* What time of day was your second visit to the house?

*Ans.* It was in the afternoon, the same gentlemen were with me as before.

20 14 *Quest.* State what experiments you made?

*Ans.* We looked through the windows from the room above the greenhouse, and could see persons in the bed-room, same as in the morning; while making the experiment, without at first knowing the reason, we found we couldn't see into the bed-room, and upon the examination of the cause, I noticed the position of the window blind, that has been referred to, was thrown back entirely open against the building—it was opened wide; that seemed to make the window a sort of mirror, and reflected out-of-door objects, and obstructed entirely the view of things within the room; we found that when the shutter was placed at right angles to the side of the building we could see within the room, and when wide open we could not.

15 *Quest.* What was the position of the door in the front bed-room leading into the entry?

*Ans.* We tried the experiment with it open and shut, and it made no difference, no material difference, I think.

16 *Quest.* How were the windows in that bed-room?

*Ans.* The blinds were partially open.

40 17 *Quest.* When was the last time you were there?

*Ans.* Yesterday.

18 *Quest.* What time of day?

*Ans.* About eleven o'clock in the morning.

19 *Quest.* Did you make any experiment yesterday in reference to the outside blind referred to, and if so, what?

*Ans.* I tried the view with the blind in both positions, at right angles with the window, and opened wide, and in either position of the blind referred to I could see a person in a chair near the centre of the room, the same position as formerly.

20 *Quest.* From the experiments you made, did you form 10 any conclusion as to whether the position of that blind made any difference as to your seeing in the forenoon of the day?

*Ans.* I tried carefully to detect a difference, as caused by the different positions of the blind, and found it very slight—in either position, as the light was yesterday, I could see into the room.

21 *Quest.* What do you suppose made the difference in your observation in the afternoon and in the forenoon in reference to the position of the blind?

*Ans.* I suppose it was owing to the difference in the posi- 20 tion of the sun as shining upon the room.

22 *Quest.* Did you notice to see whether the feet of the sofa had made any indentations in the carpet in front of the mantel in the front parlor?

*Ans.* I did notice.

23 *Quest.* What was their appearance?

*Ans.* The appearance of the carpet would indicate that the sofa had been in that position for a considerable space of time.

24 *Quest.* Where did the sofa stand in reference to the indentations when you made the experiment? 30

*Ans.* The feet of the sofa were in the indentations—this was at my first visit to the Berckmans house.

And being cross-examined by Mr. Parker, says—

1 *Quest.* What induced you to go there yesterday?

*Ans.* I was requested by Mr. Berckmans to go for the purpose of noticing whether the different positions of the blind produced the same effect in the forenoon as the afternoon.

2 *Quest.* Had he been trying?

*Ans.* He didn't tell me so—I knew nothing of any experiment by him. 40



3 *Quest.* How do you know the hour which you were there?

*Ans.* I recollect noticing the time by my watch while I was in the house—it was very near eleven o'clock, it lacked, I think, five minutes.

4 *Quest.* Did you look through both sashes?

*Ans.* I did.

5 *Quest.* Were the objects looked at distinct?

*Ans.* Sufficiently so to enable me to recognize a person in the room.

10 6 *Quest.* Did you notice whether the windows of the room were open?

*Ans.* They were partially open, what I mean is, I think the blinds were partly closed—I am not able to say whether parts, portions of the blinds of all the windows were open, or one or two partially open.

7 *Quest.* Can you tell whether any sashes were up?

*Ans.* No; I do not know, did not notice the positions of the sashes.

ELSTON MARSH.

20 Taken, sworn, and subscribed, July 1st, 1862, before me, at Jersey City.

A. S. JACKSON, M. C.

## EXHIBITS ON PART OF COMPLAINANT.

### EXHIBIT A.

— Let no one read this and burn it immediately.

Wednesday 4 P. M.

Mrs. B.

I have seen Esq. R. and he thinks the better way for you is to go unprepared, that is, without making any disturbance  
30 or exciting alarm, and upon more mature reflection I think myself that will be best & certainly the easiest: for instance, let Ricky take Gussie riding in his wagon and when you are all ready with your hoops well laden with children's clothing etc., then tell Ricky to draw him to the front gate and Hennie

with *Nina* quietly but quickly (over) the hot house down the walk and—all at one move—get into a carriage all ready and—at Bonell—taking the f . . . . By . . . . to place of destination. N. B. don't have the children dressed different from common daily dress; if you do, it will foil you. Put on as many dresses & clothing as you can each, and attach the children's clothing to skirt, etc. Be assured this is your best and safest course. I will see Dr. Sherman or Mrs. S. and have them drive up & stop at Bonell's, after the first train arrives this P. M. and then if E. is down town as he frequently is, 10 avail yourself of the opportunity & slip & don't delay too long about your things but go with them if you can & without them if you can't.

*A friend.*

I must see you to-night, it may be the last opportunity in a long while—don't fail.

Y' fr . . . .

#### EXHIBIT B.

Plainfield, Nov. 5th, 1860.

Emile Berckmans, Dr.

To R. Titsworth, M. D.

20

To professional attendance and medicine for family from May 25, 1859 to date.

1859. Items.

|                                                    |                         |         |
|----------------------------------------------------|-------------------------|---------|
| May 25, To vaccinating child 8                     | May 26 to pre-          |         |
| scription 2                                        |                         | \$1 25  |
| Sept. 17, To prescript. 2                          | Sept. 26 applying elec. |         |
| mag. 8                                             |                         | 1 25    |
| Oct. 3, To applying elec. mag. 8                   | Nov. 9 pres. and        |         |
| vag. exam. 8                                       |                         | 2 25 30 |
| Dec. 12 & 13, To four day visits & 1 night vts. 48 |                         |         |
| Dec. 15 & 16 four vts. 20                          |                         | 8 50    |
| Dec. 16 & 17, To three vts. & med. 20              | Dec. 27, one            |         |
| visit 4                                            |                         | 3 00    |
| 1860.                                              |                         |         |
| Feb. 29, To presc. 2                               | March 2 one vts. 6      |         |
| March 5                                            | March 5                 |         |
| presc. 3                                           |                         | 1 37    |



1860.

|    |                                                        |                               |        |
|----|--------------------------------------------------------|-------------------------------|--------|
|    | March 9, To one vts. & med. 8                          | March 23 three vts.           |        |
|    | 20                                                     |                               | \$3 50 |
|    | April 3, To attendance upon wife during parturition 40 |                               | 5 00   |
|    | " 7, " one vts. & pap oil 4                            | April 8 & 9, four vts.        |        |
|    | & med. 16                                              |                               | 2 50   |
|    | April 10 & 11, To four vts. & med. 16                  | April 12 & 13,                |        |
|    | four vts. & med. 16                                    |                               | 4 00   |
|    | April 14, 15 & 16, To six vts. & med. 24               | April 17,                     |        |
| 10 | 18 & 19, six vts & med. 24                             |                               | 6 00   |
|    | April 20 & 21, To four vts. & med. 16                  | April 22, 23                  |        |
|    | & 24, six vts. & med. 24                               |                               | 5 00   |
|    | April 25 & 26, To four vts. and medicine 16            |                               | 2 00   |
|    | April 27 & 28, To three vts. & med. 14                 | April 29 &                    |        |
|    | 30, pres. & visit 6                                    |                               | 2 80   |
|    | May 12 & 13, To three vts. & med. 14                   | May 15 & 16                   |        |
|    | two vts. & med. 8                                      |                               | 2 75   |
|    | June 3 & 4, To two vts. & med. 8                       | June 5th, two vts.            |        |
|    | & med. 12                                              |                               | 2 50   |
| 20 | June 29, To one pres. 2                                | July 25, adm. ether ex. tooth |        |
|    | & pres. 12                                             |                               | 1 75   |
|    | Aug't 14, To one vts. & med. 6                         | Aug. . . one vts. &           |        |
|    | med. 4                                                 |                               | 1 25   |
|    | Aug't 30, To one vts. & med. 6                         | Aug. 31, one vts. &           |        |
|    | med. 6                                                 |                               | 1 50   |
|    | Sept. 1, To one vts. & med. 6                          | Sept. 6, one pres. 2          | 1 00   |
|    | " 16, " one vts. & med. 6                              | Sept. 17 & 19, one pres.      |        |
|    | & one vts. 8                                           |                               | 1 75   |
|    | Sept. 23, To three vials med. 4                        | Sept. 24 & 27, two            |        |
| 30 | vts. N. Y. \$5 each                                    |                               | 10 50  |
|    | " 29 & 30, To two vts. & med. 12                       | Oct. 1 & 3d,                  |        |
|    | two vts. & med. 12                                     |                               | 3 00   |
|    | Oct. 4, 5 & 6, To five vts. & pres. 22                 | Oct. 7, 8 & 9, three          |        |
|    | vts. & med. 12                                         |                               | 4 25   |
|    | Oct. 10 & 11, To two vts. & med. 8                     | Oct. 17, two vts.             |        |
|    | & med. 8                                               |                               | 2 00   |
|    | Nov. 18, 19 & 20, To three vts. & med. for children 12 |                               | 1 50   |
|    | " 22, 23, To two vts. & med. for children 8            |                               | 1 00   |
|    | Dec. 1, To one vts. & med. 4                           | Dec. 16, one vts. &           |        |
| 40 | med. 4                                                 |                               | 1 00   |

1861.

|                                                     |        |
|-----------------------------------------------------|--------|
| Jan. 4, 5 & 6, To four vts. & med. for wife         | \$2 00 |
| " 7, 9, 10, To four vts. & med. for wife & children | 2 00   |
| " 22, To two vts. & med. for wife                   | 1 00   |
| Feb. 26 & 27, To two vts. & med. for child          | 1 00   |
| " 28 & 29, To two vts. & dressing burns for child   | 1 00   |
| " 6th, To one vts. & dressing burns for child       | 50     |

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 \$91 37

Credit \$19.70.

Nov. 16, 1860.

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 EXHIBIT C.

Essex county, ss.—Susan Marsh, of the village and township of Plainfield, in the county of Essex, and state of New Jersey, being duly sworn, on her oath saith—that she is at the present time a widow, and has no husband living, and that the premises conveyed to Capt. Andrew Bain by deponent, by deed dated March 13th, 1856, are free from all encumbrance of every kind whatsoever, so far as she knows.

SUSAN MARSH.

Subscribed and sworn, March 13th, 1856, before me.

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E. W. RUNYON, M. C.

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 EXHIBIT I, No. 2.

Vendue.—Dr. R. Titsworth will sell at public sale in Plainfield, on Wednesday, Feb. 26, his entire stock of household and kitchen furniture, consisting in part of crockery, stoves, chairs, tables, bedsteads, closets, bureaus (1 marble top), mahogany and black walnut tables and wash-stands (marble tops), 2 sofas, 1 tete-a-tete, 6 mirrors, 7 carpets, oil paintings, also an excellent rose wood piano; 1 Prince Albert buggy, 1 Prince Albert top sulky, a beautiful sleigh, 2 sets single harness, 1 30 fine cow, and the favorite doll mare, the queen of the road. For a physician her equal cannot be found. Also all his office furniture and fixtures, tables, desk, secretary, book-case, library, chemicals, retort and receiver, jars, vials, etc., etc. To



gether with an articulated skeleton perfect in all its parts. A case of amputating instruments, complete. And very many articles not herein mentioned. Sale to commence at 9½ A. M. Terms cash.

N. B.—If the day should prove very stormy, the sale will be deferred to the next fair day.

ELISHA RUNYON, Esq., *Auctioneer.*

A. D. TITSWORTH, Esq.

Every person indebted to me is most respectfully invited to call at my office and cash down, without fail, before the first of March.

R. TITSWORTH.

Plainfield, Feb. 17th, 1862.

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#### FINAL DECREE.

[Filed July 8, 1863.]

This cause coming on to be heard before the Chancellor, in the presence of B. Williamson, of counsel with the complainant, and of C. S. Titsworth, of counsel with the defendant, and the pleadings, exhibits, and proofs having been read, and the arguments of counsel heard, and the court having taken time to consider the same, and the Chancellor being of the opinion that the charges of adultery in the bill of complaint contained are not sustained by the proofs in the cause—

It is thereupon, on this eighth day of July, in the year of our Lord one thousand eight hundred and sixty-three, by his Honor Henry W. Green, Chancellor of the State of New Jersey, ordered, adjudged, and decreed, that the complainant's bill of complaint do stand dismissed out of this court, with costs to be paid by the said complainant to the defendant in the cause. And it is further ordered and decreed, that the complainant do pay to the solicitor of the said defendant the amount of her taxed costs in this cause, within ten days after service upon his solicitor of a certified copy of this decree and of the taxed bill of costs of the said defendant, and that upon proof being filed in this court of the service of said copies and

of the non-payment of said taxed costs within the time limited by this decree, the said defendant do have execution therefor according to the practice of this court.

HENRY W. GREEN, C.

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NOTICE OF APPEAL.

[Filed July 15, 1863.]

The complainant hereby appeals to the Court of Errors and Appeals from the final decree made in this court in the above stated cause, and bearing date the eighth day of July, eighteen hundred and sixty-three, dismissing the complainant's bill, 10 with costs of suit to be paid by the complainant to the defendant, and also from the interlocutory decree or order made in the same cause, on the first day of July, eighteen hundred and sixty-three, by which it is ordered that the said complainant pay to the said defendant the sum of two hundred dollars for counsel fees.

B. WILLIAMSON, JUN.,  
*Solicitor for appellant.*

I conceive there is good cause for appeal in the above stated cause.

20

B. WILLIAMSON,  
*Counsel for appellant.*

July 15th, 1863.

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CHANCELLOR'S OPINION.

The bill is filed by the husband against the wife, for a divorce on the ground of adultery. The parties were married at Plainfield, in this state, where they both resided on the eighth of February, 1858. At the time of the marriage, the husband was about twenty-three, and the wife twenty-one years of age. Two children were born of the marriage, viz. 30 a son, who was born near Augusta, Georgia, where the parties temporarily resided, on the eighteenth of February, 1859,



and a daughter, born at Plainfield, on the third of April, 1860. They continued to cohabit as man and wife until September 19th, 1860, when the wife left the house of her husband, with her two children, and went to the city of New York, where she remained about ten days, when she returned with the children to Plainfield, and went to reside with her mother.

On the fourteenth of November, 1860, she filed her petition in this court, asking a divorce *a mensa et thoro* from her husband, on the ground of extreme cruelty, and charging that she  
10 was compelled to leave his house in consequence of his ill treatment, which became unendurable.

On the sixteenth of January, 1861, the wife filed her petition for alimony *pendente lite*, which was granted on the fifth of February, thereafter. On the last named day, the bill in this cause was filed by the husband, asking a divorce *a vinculo matrimonie*, on the ground of adultery. The further prosecution of the suit instituted by the wife was thereupon suspended, and the suit of the husband is now brought to final hearing upon the pleadings and proofs.

20 The adultery is charged to have been committed on different days of the months of May, June, July, August, September, and October, 1859, and in the months of June and September, 1860, with one Randolph Titsworth and with other persons unknown to the complainant. The answer fully denies the charge of adultery, re-affirms the charges of cruelty preferred against the husband, in her bill of complaint against him, and also the charge, that she was compelled by his ill treatment to leave his house.

The simple question in the case is, whether the evidence  
30 is sufficient to support the charge of adultery. The complainant offers both direct and circumstantial evidence of the charge; direct evidence I mean of facts, from which the conclusion of guilt is a necessary and unavoidable inference.

I. As to the direct evidence, Mrs. Maria E. Berckmans, the mother of the complainant, testifies that in June, 1859, she saw the defendant lying on the sofa in the parlor, and Dr. Titsworth lying on her. She further testifies that, in the fall of the same year, she saw the defendant sitting on a chair in her bed-room, dressed in a loose sack, with her neck and



bosom exposed, and Dr. Titsworth sitting close by her in another chair, with one of his arms lying on the defendant's neck, and he was kissing her. His other hand had hold of one of the defendant's hands, and was lying on her lap. The witness adds, "I stayed looking at them only one moment, till the defendant got up, and he put both arms around her and kissed her, and then I went away." If this testimony is true, it precludes the necessity of further investigation. All speculation as to the guilt or innocence of the defendant is at an end. But the defendant and the alleged *particeps criminis* have been 10 examined. They both utterly and most explicitly deny the truth of the charge. Dr. Titsworth testifies, in regard to the parlor scene, I never was lying upon the sofa, neither was Mrs. Berckmans, in my presence.

There is no truth in the statement of the witness. . . . I pronounce her statement in regard to the bed-room scene emphatically false. There is not the first particle of truth in it whatever. There is no foundation for it. I believe I never was in that room alone with her in my life. I was never in any room with Mrs. Berckmans in the position her mother-in-law described, or in any indecent or improper position. The 20 defendant is equally emphatic in her denial of the truth of the charge. Neither of these witnesses is entitled to the credit of fair and impartial witnesses. It is not an unnatural presumption, if parties are guilty of adultery, that they will not hesitate to resort to perjury to conceal their guilt. The alleged paramour being *particeps criminis*, his evidence is but weak. 2 *Greenl. Ev.* § 46.

But their evidence is not to be rejected on the assumption that they are guilty. In the absence of very clear evidence of 30 their guilt, their evidence is to be fairly weighed and considered. We have, then, the testimony of both the parties implicated against the evidence of the one witness on the part of the complainant. How far is her testimony corroborated or discredited by circumstances or by other evidence in the case?

1. The complainant's witness states that the sofa, upon which the transaction occurred in the parlor, stood on the side of the room opposite to the door, with the back of the sofa against the fire-place. The defendant alleges, and offers evidence to prove, that in June, 1859, at the time of the alleged 40



transaction, the sofa stood on the opposite side of the room behind the door. It is clearly shown that the place usually occupied by the sofa was against the mantel. It is shown, I think with equal clearness, that during a part of the summer of 1859, it stood on the opposite side of the room. But when it was removed, or where it stood in the month of June, 1859, is not ascertained by the evidence with sufficient clearness to discredit the testimony of the complainant's witness.

2. It is insisted on the part of the defence, admitting the sofa  
 10 to have stood where the witness alleged it did, that it was physically impossible for her to have seen, from the position which she says she occupied, either the transaction in the parlor or in the bed-room. These objections were the result of investigations made under the direction of counsel, and were doubtless made in good faith and with a full conviction of their truth. The high professional character of the counsel, no less than the circumstances under which they were presented, forbids the idea that they were raised or urged with any unfair purpose or otherwise than with a full conviction of their truth.
- 20 The witness stated that she saw the transaction in the bed-room through the window of her dressing-room and through the window of the bed-room. Respectable witnesses, after repeated experiments, testified that they were utterly unable to see any object in the bed-room, looking through the windows of the two rooms, or even by opening the window of the dressing-room. Other witnesses testified that objects could be distinctly seen from one room to the other, looking through both windows. The witnesses on both sides testified, with  
 30 equal confidence and manifestly with equally firm convictions of the truth of their respective statements; and in the earliest stages of the evidence there was a serious and apparently irreconcilable conflict in the testimony. But in the progress of the testimony the cause of the difficulty has been satisfactorily explained. The window of the dressing-room opened to the east, the window of the bed-room to the south, at the distance of two or three feet from the dressing room window. The line of vision was such that the external light falling upon the glass of the window of the bed-room obliquely was reflected to the eye of the observer, thus convert-  
 40 ing the window into a mirror, and leaving the room beyond



in utter darkness. By partly closing the shutter of the window on the side opposite to the observer, so as to prevent the reflection, the whole difficulty was avoided, and objects within the bed-room rendered clearly visible. This objection to the credibility of the witness is thus removed. Simple as the solution now seems, it was not discovered till much testimony on the point had been taken. The witness had testified that it was a bright day, and the windows had been thrown open, so that the room was very light. Looked at apparently under the same conditions of light, nothing could be seen, and 10 the counsel of the defendant strenuously insists that this arrangement of the shutter was an after-thought, a mere fraudulent contrivance to remove an otherwise insuperable objection to the credibility of the testimony, and that it is in the highest degree improbable that the witness should have seen this transaction under the precise conditions which alone would have enabled her to see it. This objection may be entitled to consideration in weighing the probability of her evidence. But for the purpose of discrediting the witness, the whole force of the objection consists in the position, that it was impossible for 20 her to see. Express testimony cannot be rejected on the sole ground of its improbability.

3. The witness further testified, that she saw the transaction upon the sofa in the parlor from the greenhouse through a window which opened into the greenhouse from the parlor. The sofa stood under the mantel with its back against the breast-work of the chimney, and toward the side of the room in which the window was. But a small part of the end of the sofa projected beyond the breast-work of the chimney, so that a large portion of the sofa was entirely concealed from 30 the view of a person at the window. The back of the sofa at the end was high, and was directly in the line of vision between the window and the seat of the sofa. Careful measurements have been made and furnished, with a diagram, to the court, the accuracy of which are not called in question, and which, it is insisted, render it demonstrably certain that the witness could not have seen persons lying on the sofa, as she testified. The witnesses on the part of the defendant, by whom the premises were examined, testified that the experiment was made and repeated in their presence, and that a person lying 40



on the sofa could not be seen from the position in which the witness stood.

Other witnesses, of equal respectability, by whom the premises were subsequently examined, testify not only that a person lying on the sofa may be seen, but that the seat of the sofa itself may be seen by a person looking over the back. This seems to me to be incredible, assuming that the observations in both cases were made under the same conditions, and were fairly made and stated, and physically impossible, if the measurements furnished to the court were accurate. I confess that I am totally unable to reconcile this conflict in the testimony, except upon the hypothesis, either that there was some change in the relative elevation of the floor of the greenhouse and parlor, so that the position of the observer and altitude of the point of vision was changed, or that a change was made in the sofa itself. The latter is the theory of the defendant's counsel. He insists that when the complainant's witnesses were called to examine the premises, another sofa with a lower back was fraudulently substituted, by which device the witnesses were innocently and unwittingly induced to give evidence necessarily calculated to pervert the truth and mislead the court. Evidence is offered tending to support this view of the case. But I do not choose to rest the decision of this point in any degree upon this ground, involving, as it necessarily does, the imputation of fraudulent conduct to the complainant. It seems entirely unnecessary to do so. The first examination of the premises by the defendant's witnesses was made before the cross-examination of the complainant's witness, Mrs. Maria E. Berckmans, was closed. The examination and experiments were made in her presence. She took part in making them, and when it became obvious that a person lying on the sofa could not be seen from the position in the greenhouse which she occupied, standing on the floor, she said she stood upon a chair, and showed where she procured the chair, and where she placed it. She alleged that her daughter-in-law wore hoops, which raised her dress very much above the seat of the sofa, which enabled her to see the skirt of her dress. And when recalled to the stand, and her cross-examination resumed, the witness says, the sofa of which I have spoken is the same sofa now in the room—it was standing as it now



does. I saw no part of Mrs. Berckmans' person. I saw only a part of her dress—I couldn't tell what part.

And in answer to the question, whether she saw any part of Dr. Titsworth's person, she answers, I saw Dr. Titsworth's feet, his boots, and the feet lying on the sofa, on the same side of the sofa where I was looking through the window.

Now it is admitted that next to the window of the greenhouse a part of a boot of a person lying on the sofa might be seen. There is a very abrupt descent of the back of the sofa, as it curves at the end, forming a low arm six to nine inches 10 in length from the curve of the back, and only nine inches in height. At that point the boots of a person on the sofa might be seen. This is all the witness, on her cross-examination, pretends she saw. It is needless to say it is a most serious alteration of her original testimony, that she saw these persons lying together on the sofa. Her statement of what she saw may be literally true, and yet her inference totally groundless. Nor does it relieve the difficulty to say, that she may have seen the boots and the dress in a position to justify her inference. A witness is to state facts, not inferences, and the court can 20 draw no inference which the facts, as proved, do not justify.

While this evidence, therefore, does not utterly discredit the witness, it goes far to shake the reliability of her testimony. It shows that what she originally swore she saw was a physical impossibility, and that after that fact had been ascertained, her evidence was so modified, to meet the emergency, as to render it of little or no significance; while, therefore, the evidence of the defendant is not sufficiently decisive utterly to discredit the witness, it goes far to shake the reliability of her testimony, and to require that it should be closely scrutinized. 30

I turn, therefore, to other aspects of the evidence of the witness, and of the attendant circumstances, which I deem of importance as affecting her credibility. This transaction is alleged to have occurred in June, 1859. At that time, and for months afterwards, not the least intimacy is shown to have existed between these parties. The complainant was married on the eighth of February, 1858. His wife, at the time of the marriage, was twenty-one years of age, and resided in Plainfield with her mother. Her position in life was humble. Her mother kept a small fancy store. The daughter taught music 40



in private families in Plainfield, and acted as organist of the episcopal church. So far, as appears from the evidence, she had won for herself the respect and confidence of the community. After her marriage, she remained in Plainfield with her husband until the nineteenth of September following, when they went to Georgia, where her first child was born on the eighteenth of February, 1859. Near the close of April, 1859, she returned to Plainfield, with her husband and infant, and went to reside with her mother-in-law, Mrs. Maria E. Berckmans, both families using in common a parlor adjoining the main hall of the house, upon the first or lower floor.

Dr. Titsworth, with whom the adultery is alleged to have been committed, was a physician, practising in Plainfield. He was a married man, over forty years of age, a father, and the member of a christian church. He had been the physician of Mrs. Berckmans before her marriage. He was called to attend her after her return from the south, and did so at the house of the mother-in-law. No particular intimacy is shown to have existed between them at this period, except from the evidence of Mrs. Maria E. Berckmans herself. There is not in the evidence a whisper unfavorable to the reputation of either of these parties, or to the character of their intercourse, except from the lips of the mother-in-law. Is it probable, under such circumstances, that the parties would have committed so gross an act of adultery in broad daylight, in the parlor occupied in common by two families under the very eye of the mother-in-law, exposed to observation from without, with an open window into the greenhouse liable to the prying curiosity or casual observation of servants, and in a situation where, if the parlor door was opened, escape from detection was impossible? Would the physician have thus foolishly hazarded his reputation? Would a young wife, who had been married but a few months, have thus madly hazarded reputation, character, independence, social position, and all that she had gained by her marriage?

Nor does the conduct of the mother-in-law appear to me consistent or reconcilable with her knowledge of the infidelity of her daughter-in-law. Her son was an only child, in whose welfare she must have felt the deepest interest. So long as the infidelity of his wife was a matter of doubt or suspicion,



she would naturally have remained silent, and confined her suspicions to her own breast. But when she had been herself an eyewitness of her guilt, when she knew with absolute certainty the unfaithfulness of the wife, and the dishonor of her only son, it seems but natural that she should have made some effort to reclaim or restrain the wife, or at least to assure the son of the wrong he was suffering, that he might guard against its continuance. She disliked the daughter-in-law. She was opposed to her marriage to her son. She refused to be present at the wedding. She naturally preferred that her 10 son should marry one of her own nation, of her own religious faith, and of his own sphere in life. He did neither. Regarding the daughter-in-law as an alien to her race, as a heretic in religion, and probably as a dishonor to her family, it was natural that the mother should entertain for her the most unfriendly feelings. She avows frankly that she disliked her at the time of her marriage, and that her dislike increased.

There was obviously no sympathy or kindly feeling existing between them. The daughter-in-law was tolerated under the mother's roof for the son's sake, but it does not appear 20 that she ever received from her a word of kindness or sympathy. There was no feeling of kindness to restrain the disclosure of the wife's infidelity. It is in evidence that the wife was treated by the mother-in-law with unkindness, if not with cruelty.

She threatened, as she admits, for unguarded, perhaps disrespectful language on the part of the wife, to drive her from her house. She charged her, in the hearing of her servants, with theft; and yet she admits that she never charged her with adultery, nor sought to turn her from her house on that 30 account. It appears, from the evidence, that the mother-in-law, on the first of January, 1860, with full knowledge of the guilt of her son's wife, witnessed by herself in June, confirmed by what she saw in October, went to Georgia on a visit to her husband, leaving her son in possession of the house, and the wife in charge of the establishment, without a word of remonstrance to the wife, or of caution to her husband, or even of information to her own husband. The son, having removed to another residence during the absence of the mother in Georgia, and the wife having given birth to a second child in April, returned to the mother's house, with her consent and 40



approbation, in September, where she remained until she abandoned him for alleged misconduct. Even after the wife had left her husband, the mother-in-law declared that her doors were open to the daughter-in-law, if she chose to return. Now that a mother, a woman of wealth and of respectable social position, should so have demeaned herself, seems to me in the highest degree unnatural and improbable. Her love for her son, her dislike for his wife, her regard for her own reputation and that of her family, would have prompted  
 10 her to speak and to act. But for fifteen months, not one word of friendly warning to the son, not one word of kindly remonstrance or indignant rebuke, or angry condemnation to the daughter-in-law, escapes her lips.

She quietly submits to have her house turned into a brothel, and to have a foul blot inflicted upon the honor and reputation of her family. It would be a reflection upon the witness to credit her statement that she saw what she now imagines, or says she saw, or believes what she now professes to believe. There is no evidence, at the time of this transaction or  
 20 until the following year, of any intimacy between the wife and Dr. Titsworth. He testified, and so is his account, that he visited the house twice in May, on the twenty-fifth and twenty-sixth, to vaccinate the child, and that he did not visit the house again professionally until September, and no witness has been called to show that he was there. He says that he was in the house but once in the month of June, when he called to procure a scab from the arm of the child, and that he did not then see Mrs. Berckmans, but the servant only.

Under these circumstances, I do not think the testimony of  
 30 Mrs. Berckmans, uncorroborated and unsupported as it is, sufficient to establish the charge of adultery, against the full and explicit counter testimony of the defendant herself and of Dr. Titsworth.

II. The direct evidence of guilt having failed, the complainant's case must rest upon the circumstantial evidence adduced in its support. It is clearly not necessary that the offence should be proved in time and place. The mind of the court must be satisfied that actual adultery has been committed, but if the circumstances establish the fact of general cohabitation



it is enough, although the court may be unable to decide at what time the offence was committed. *Loveden v. Loveden*, 2 Hagg. C. R. 1; *Hamerton v. Hamerton*, 2 Hagg. E. R. 8; *Grant v. Grant*, 2 Curties 16; *Bishop on M. & D.* § 422.

The first of the chain of circumstances relied upon in proof of the general cohabitation of the parties is the length and frequency of the doctor's visits to her.

This evidence covers a period of about five months from the last of March or first of April, to the first of September, 1860, during the period that the complainant lived in his brother 10 Prosper's house, on the opposite side of the road, and a short distance from his mother's. Five witnesses testify upon this point.

One of these witnesses, John Simpson, speaks of Dr. Titworth visiting the house frequently between the first of January and March. He thinks the complainant removed into the house on the first of January. In this he is clearly mistaken. The complainant did not remove into his brother's house until late in March, a few days before the return of his mother from Georgia. So she testifies, and so the evidence in the case 20 clearly shows. After the first of April, the witness knew of his making from five to ten visits of from half an hour to an hour's duration. Elizabeth Randall testifies to his making one visit of three hours' duration in June. John Thys, who was in the complainant's employ as a laborer four or five days, but not consecutively, in June, testifies that every day he was there the doctor visited at Mr. Berckmans', between nine and twelve in the morning, while Mr. Berckmans was absent from home. Jacob V. Coles and Jane Gwynn also testify to frequent visits, sometimes four or five times a week, 30 sometimes twice a day, sometimes an hour in length, and on one occasion over two hours.

The frequency and length of these visits, especially in the absence of the husband, without explanation, would certainly justify grave suspicions. But it is shown that Mrs. Berckmans was confined with her second child on the third of April, when her eldest was but little more than a year old; that after a partial recovery she suffered a relapse, and that she continued a long time in delicate health, having the care of two young children, without a professional nurse. It appears, 40



from the doctor's account book, which is produced in evidence, that he visited Mrs. Berckmans twice in March previous to her confinement; that he delivered her of a child on the third of April; that during the month of April his professional visits were very frequent, and that they continued with greater or less frequency during the summer. None of his visits were made secretly or at unusual times. The only circumstance of suspicion is, that they were long, and generally made during the husband's absence. It appears that the husband was  
 10 absent daily, at the seminary, from nine to twelve in the morning, and as some of the witnesses say, in the afternoon also. The visits were most frequently made in the morning, during a portion of the day usually devoted to professional visits. It should therefore excite no remark that it occurred during the absence of the husband from home. The professional visits of physicians to the families of men of business are probably in a great majority of cases made when the father of the family is absent.

The second ground of suspicion is, that there were repeated  
 20 interviews between the defendant and Dr. Titsworth at her mother's house in the evening; that she was once or twice at his office, and that he accompanied her home on several occasions, her husband not being present. This occurred between Saturday, the first of September, 1860, when the complainant and his wife removed from his brother's house to his mother's, and Wednesday, the nineteenth of September, when the wife left her husband. The evidence on this point is furnished by the testimony of Domenic Canatta, an intimate friend of the husband, who, as he alleges, for his own satisfaction, some-  
 30 times alone, and sometimes in company with the husband, was engaged in watching the movements of the wife. This surveillance of the wife was instituted by the witness in consequence of information derived from the husband. There is no room for doubt that all the facts within the knowledge of the witness were communicated to the husband, and yet the friendly relations of the husband and the doctor continued until after the wife had left her husband. If the conduct of the wife, in this regard, was not entirely satisfactory to the husband, and if she was not fully justified by the reasons which  
 40 she assigns for it, which I do not propose to examine in de-



tail, it is at least apparent that there was nothing in her conduct which furnished to the husband, or which can furnish to the court, any satisfactory evidence of her guilt. Every fact stated by the witness, except so far as it is contradicted or satisfactorily explained by other evidence, is quite consistent with the purity and innocence of the wife.

The third ground of suspicion is, examinations of and operations upon the person of the wife with electro magnetism and with instruments, in September, October, and November, 1859. The details of these operations have been introduced 10 into the evidence for the purpose of showing that they were unnecessarily gross, being indecent liberties with the person of the defendant, and indicative of sensual feelings and purposes on the part of the physician, and that it was in fact an attempt on the part of the defendant and the physician to procure an abortion; that the physician and the wife knew that she was pregnant; that it was probably the result of their illicit intercourse, and that they feared that the appearance of the child might furnish some evidence of its paternity. The two theories seem quite inconsistent. If the defendant was 20 pregnant by the physician; if there is the least truth in the evidence of Mrs. Berckmans, that as early as June, 1859, the defendant and her physician were in the habit of adultery, it is scarcely credible that such extraordinary expedients would have been resorted to for the mere gratification of sensual feelings or as a cover for indecent liberties.

Nor do I think the other theory at all warranted by the evidence. The facts are, that the evidence upon this point was furnished by Dr. Titsworth himself. The nature of the operation appears by the charges upon his book of account, 30 for the recovery of which a suit had been instituted, and a copy of the account filed with the justice. That account was in the hands of counsel before and at the examination of the witness. These operations were all conducted at the request of the husband, and in his presence. This fact is expressly sworn to by the physician. If untrue, it might readily and effectually have been contradicted by the husband. The account given by the physician is, that he was first desired to ascertain whether the wife was pregnant, and that fact being 40 ascertained, he was desired to produce an abortion.



For the purpose of satisfying the parties, he used an instrument for the ostensible purpose of procuring an abortion, but without any real intention of producing that result. Whatever difficulties may lie in the way of accepting this as the true version of the transaction, they appear to me to be far less than those which must be encountered by adopting the theory of the complainant's counsel. If the doctor really wished to procure abortion, why was it not effected? and if the wife consented, why was the husband's concurrence at all necessary? It may be added, that however immoral or unjustifiable the act may have been, the desire of the husband and wife, that an abortion should be procured, does not appear at all incredible. The wife had very recently given birth to a child, and had endured great suffering during her confinement.

But the most significant of all the circumstances relied on as evidence of the wife's guilt, is the participation by Dr. Titsworth in her flight from the husband's house, his visiting her in New York, and his continued intercourse with her after her return.

- 20 There is little or no dispute as to the facts in relation to this part of the case. The real question is as to the nature and motives of the flight of the wife, and the object with which the assistance was rendered. Was it the flight of an adulteress through the complicity of her paramour, or the flight of a virtuous wife from the real or fancied wrongs of the husband, and was the assistance rendered through the mere promptings of friendly sympathy? The evidence clearly shows that alienation subsisted between the husband and wife from causes unconnected entirely with the wife's relations with Dr.
- 30 Titsworth. Of the long continued existence of these difficulties, whatever may have been their origin, there is no question. Of the discordant relations between the wife and the mother-in-law we have already spoken. It is obvious that the wife was very reluctant to live under the roof of the mother-in-law. She did return on Saturday, the first of September. On Sunday, Mrs. Marsh, the mother of the wife, visited the daughter at the house of Mrs. Berckmans, the mother-in-law. She was ordered to leave the house, and on her refusal to do so, the husband, with the aid of two men who had been pro-
- 40 cured for the purpose, attempted to remove her by force. The



wife interfered for her mother's protection. A violent struggle ensued, in the course of which the wife and the mother both received injuries, and the mother was compelled to leave the house. On Monday, the wife communicated to the doctor her intention of leaving her husband, if she could take her children with her. On Tuesday, she consulted counsel, and repeated her desire to leave her husband. On Wednesday, she requested the doctor to speak to a magistrate and an officer to help her away with her children, complaining that she was unable to stay any longer in the house, and that she was 10 afraid of her life. At her request, the magistrate was spoken to, a carriage procured, and the following note written to the wife.

Wednesday, 4 P. M.

Mrs. B.

I have seen Esq. R. and he thinks the better way for you is to go unprepared, that is without making any disturbance or exciting alarm, and upon more mature reflection, I think myself that will be best, and certainly the easiest. For instance let Rickey take Gussie riding in his wagon, and when 20 you are all ready, with your hoops well laden with children's clothing, &c., then tell Rickey to draw him to the front gate, and Hennie with Nina quietly but quickly . . . the hot-house down the walk, and all at one move, get into a carriage all ready, and . . . at Bonnell, taking the first by-street to place of destination. N. B. don't have the children dressed different from common daily dress; if you do it will foil you. Put on as many dresses and clothing as you can each, and attach the children's clothing to skirts. Be assured this is your best and 30 safest course. I will see Dr. Sherman or Mrs. S. and have them drive up and stop at Bonell after the first train arrives, this P. M. and then if E. is down town as he frequently is, avail yourself of the opportunity and slip, and don't delay too long about your things, but go with them if you can, but without them if you can't. A Friend.—In the margin was written, I must see you to-night, it may be the last opportunity in a long while—don't fail. Let no one read this, and burn it immediately. In accordance with this arrangement, the wife left her husband's home on the nineteenth of September. The doctor saw her before leaving Plainfield, prescribed and gave 40 medicine for her children, who were sick. The wife went to



New York with her children, and remained there ten days, then returned to the house of a friend near Plainfield, then to her mother's house, where she continued at the commencement of this suit. The doctor visited her twice in New York, as he testifies, at the request of the mother of the defendant, to see her sick children. He saw her again after her return, and continued to visit her up to the time of bringing the suit. The question is not whether the defendant left her husband for a justifiable cause, nor whether the doctor was justified in rendering the assistance he did. The simple inquiry is, whether the facts afford any evidence that the wife was guilty of adultery, and that the doctor was her paramour.

I am clear that they furnish no evidence of adultery on the part of the wife, or any guilty complicity on the part of Dr. Titsworth.

The arrangements for her departure, the consulting of counsel, the appeal to a magistrate, her manifest anxiety respecting her children, the general tone of the letter, are all, I think, utterly repugnant to the idea of the flight of an adulteress from the house of her husband, at the procurement or with the connivance of a paramour.

The letter, the arrangements and circumstances of the transaction, afford convincing proof that the wife left the house of her husband, not as a criminal, but because she believed (whether right or wrong is immaterial) that she had justifiable cause for her departure. If it be conceded that the flight of the wife was without any justifiable cause, and the aid and counsel afforded by Dr. Titsworth an unwarrantable interference, it does not materially aid the complainant's case.

There are other facts in evidence, but they do not materially vary the aspect of the case. Evidence of a mother's errors or indiscretions can surely be no evidence of a daughter's guilt. Exposure to contagion is no proof of the existence of disease, though it may render its occurrence more probable. So exposure to moral contagion may render the existence of moral guilt more probable, but it will not justify the court in abating one jot of the evidence requisite to prove actual guilt. It is no province of an earthly tribunal to visit the iniquities of parents upon their children.

Nor is the conduct of Dr. Titsworth, as a witness, before the



magistrate competent evidence of the wife's guilt. It was competent only as it tended to affect the credibility of his testimony. Parol evidence of the declarations of a *particeps criminis*, even though he had confessed his guilt, would not have been competent evidence against the defendant.

The case, in some of its aspects, is not free from difficulty, and my mind has not been free from doubt during the progress of the investigation; but after the most anxious consideration, I feel that those doubts can only be safely resolved in favor of the defendant's innocence. 10

To establish the existence of adultery, the circumstances must be such as would lead the guarded discretion of a reasonable and just man to that conclusion. It must not be a rash and intemperate judgment, moving upon appearances that are equally capable of two interpretations. 2 *Haggard* 2, 3; 2 *Greenl.* 39; *Bishop* 423.

The facts proven must be such as cannot be reconciled with probability and the innocence of the parties. *Daily v. Daily, Wright's R.* 515.

Mere imprudence, indiscretion, or folly is not conclusive 20 evidence of guilt. The mind of the court must be satisfied that there was an intimacy between the parties entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband.

Guided by these principles, I do not feel warranted in pronouncing the defendant guilty of adultery. While there is much in her conduct to regret and censure as indiscreet and ill advised, I do not find in the evidence satisfactory proof of guilt. Where the conduct of a party admits of two interpretations, equally consistent with probability, the one involving 30 guilt, and the other consistent with innocence, the rule of evidence, as well as the dictates of justice, require that the interpretation should be favorable to innocence.

The burthen of proof is upon the complainant, and it must be clear to justify the court in condemning a young wife to a life of dishonor and her children to shame.

Every material circumstance relied on as presumptive evidence of guilt appears to me equally susceptible of an interpretation consistent with probability and with innocence.

There is force as well as justice in the suggestion of coun- 40



sel, that while each circumstance, standing alone, may admit of explanation, and fail to command our belief of the defendant's guilt, yet the case is to be decided upon a view of all the facts combined, and that, when they are grouped, and presented in one view, they lead irresistibly to the conviction of the defendant's guilt.

I have re-read and considered the evidence in that aspect with all the care which the importance of the case demands; and while it may be admitted that there are grounds for doubt  
 10 as to the innocence of the defendant, there are controlling circumstances which preclude a conviction of guilt, to which I will briefly advert.

At the very threshold of the inquiry, we meet the significant fact, that the bill filed by the complainant in this cause is virtually a defensive measure. The defendant left her husband's house with two infant children, the eldest eighteen months old, a poor and almost friendless woman, on the nineteenth of September, 1860, and found shelter under her mother's roof. Within two months she filed her petition for a  
 20 divorce, on the ground of her husband's cruelty. She applied for alimony, and exhibited proofs in support of the application. It was not until February of the following year that the husband awoke to a sense of his wife's guilt and his own wrongs, and filed his bill for relief. All the material facts of the case were within his knowledge before the wife had commenced proceedings against him. His mother had told him that she had with her own eyes witnessed the adulterous intercourse. He knew of the wife's visits to her mother, and of the company in which she returned to his house, on several  
 30 evenings previous to her flight. He had himself traced her movements, with the assistance of his Italian friend. He knew of the physician's visits, both in Plainfield and in New York, and yet he forbore to take a step for the vindication of his injured honor. In the investigation of a wife's guilt, the conduct of the husband is always regarded as a most significant circumstance, and one which cannot be lost sight of. So long as there is reasonable doubt of the guilt, or a plausible ground for a hope of her innocence, the husband's forbearance is both excusable and laudable; but when he holds in his hands what  
 40 he claims to be satisfactory proofs of her guilt, his delay to prosecute is strong evidence in the wife's favor.



But the evidence furnished by the husband's conduct is not merely negative. There is, after the abandonment and return of the wife, the strongest direct evidence of his unshaken confidence in her virtue. It is proven that after the wife's return in October, when she went to his house to take away her things, that they had an interview; that he said he was sorry for what had happened, and that, if she kept herself true to him, they might live together after the affair was settled. True, this evidence comes from the lips of the wife, but it is not contradicted by the husband. It was a fact peculiarly within the knowledge of the parties themselves, and therefore, if untrue, eminently proper that he should have been called to contradict it. Is it possible that the husband who uttered that language could have believed his wife guilty? Does it not afford the strongest incidental proof of a fact which the evidence strongly favors, that the trouble between these parties has really been occasioned by the indiscretion and unwarranted interference of others?

Some of the evidence relied on as a proof of criminal intercourse points to a period of time when the wife was in the last stage of pregnancy, other portions of it to periods when she had just given birth to a child, during the period of her confinement, or during severe illness, or the illness of her children, or when she was laboring under natural and severe mental anxiety, periods certainly when sensual indulgence would not be anticipated.

The evidence covers a period of four and a half years, extending from the marriage of the parties, in February, 1858, down to the close of the testimony, in 1862.

It covers not only their entire married life, but the period of eighteen months, during the pendency of the suit and the taking of the testimony. She has lived much of that time in the house and under the eye of a mother-in-law, who freely avows her suspicions and dislike of the defendant.

She has been surrounded by servants. She has been watched by spies, and yet exclusive of the two acts sworn to by the mother, and which have already been disposed of, there is evidence of no stolen interview, no private correspondence, no amorous or passionate utterance, no licentious expression of lip or eye, no indecent familiarity, no personal



freedom (aside from the performance of professional duties), no proximate act leading up to the commission of the crime. I think it may be affirmed, however injudicious or indiscreet her conduct may be deemed, there is no one well authenticated act on the part of the defendant inconsistent with the duty which a virtuous wife owes to herself and to her husband, no one which may not be reconciled with probability and with innocence, and yet the theory of the complainant is, that during months or years the wife and her alleged para-  
 10 mour was pursuing a course of shameless adultery.

In order to prove adultery by circumstantial evidence, two points are to be ascertained and established, the opportunity for the crime, and the will to commit it; where both are established, the court will infer the guilt. The radical difficulty with the complainant's evidence is, that while it establishes the one, it utterly fails to prove the other.

I cannot but think that the able and learned counsel of the complainant, in their conduct of the evidence and argument of the cause, felt the full pressure of this difficulty. Failing  
 20 to prove a blemish in her reputation or a stain upon her virtue, they prove that her mother had been divorced, that the visits of her physician are too frequent and too long, and that having no father, or brother, or friend to whom she could have recourse, she resorted to that physician for counsel and guidance, when she was about to fly from her husband for his alleged cruelty.

In view of the whole evidence, I feel constrained to say that I find no satisfactory evidence of the guilt of the defendant, and shall decree that the complainant's bill be dismissed.

HENRY W. GREEN, C.

## PETITION OF APPEAL.

[Filed July 8, 1863.]

Between

EMILE C. BERCKMANS, appellant,

and

SARA E. BERCKMANS, appellee.

} On bill, &amp;c.

*To the Honorable the Court of Errors and Appeals.*

The humble petition of Emile E. Berckmans, the appellant in the above cause, respectfully shows, that your petitioner finds himself aggrieved by an order, as well as final decree, 10 made in the Court of Chancery, by his Honor Henry W. Green, Chancellor, which said order bears date the first day of July, eighteen hundred and sixty-three, and which said final decree bears date the eighth day of July, eighteen hundred and sixty-three, wherein the said Emile C. Berckmans was complainant, and the said Sara E. Berckmans was defendant, in the following respects, to wit: that by the said order it is ordered that your petitioner pay to the said Sara E. Berckmans, as counsel fees in the said cause, the sum of two hundred dollars, and by the said final decree it is decreed 20 that your petitioner's bill be dismissed with costs.

And your petitioner appeals from the said order and the said final decree upon the ground that the same are erroneous. Your petitioner therefore prays that the said order and the said final decree may be reversed, set aside, and for nothing holden, and that your petitioner may have such relief in the premises as to this honorable court shall seem meet.

B. WILLIAMSON, JUN.,

*Solicitor for appellant.*



## ANSWER TO PETITION OF APPEAL.

[Filed September 10, 1863.]

## COURT OF ERRORS AND APPEALS.

Between

Emile C. Berckmans, appellant,

and

Sara E. Berckmans, respondent.

}

*The answer of the above respondent to the petition of appeal  
of the appellant.*

- 10 This respondent, not confessing or acknowledging all or any of the matters or things to be true, as in and by the said petition are contained and set forth, for answer thereunto says—that she believes it to be true that such order and decree as is complained of by the appellant were made by the Court of Chancery as in the said petition of appeal are set forth; but as to the date, substance, and contents thereof, this respondent humbly craves leave to refer thereto when the same shall be produced. And this respondent is advised and believes that the said decree is agreeable to equity and justice, and she
- 20 humbly prays that the same may be affirmed, and that the amount allowed in said order for counsel fees may be increased to a sum adequate to the labors of counsel in the cause. And that the said petition of appeal may be dismissed by this honorable court with costs to be adjudged to this respondent.

C. S. TITSWORTH,

*Solicitor for and of counsel with respondent.*

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