

Term No. 368.

Gen. No. 18835.

IN THE

Appellate Court of Illinois,

FIRST DISTRICT,

OCTOBER TERM, A. D. 1912.

ESTHER MERCY,

vs.

MARION TALBOT,

Appellee,

Appellant.

Appeal from
Circuit Court,
Cook County.

Honorable
H. Sterling Pomeroy,
Trial Judge.

ABSTRACT OF RECORD.

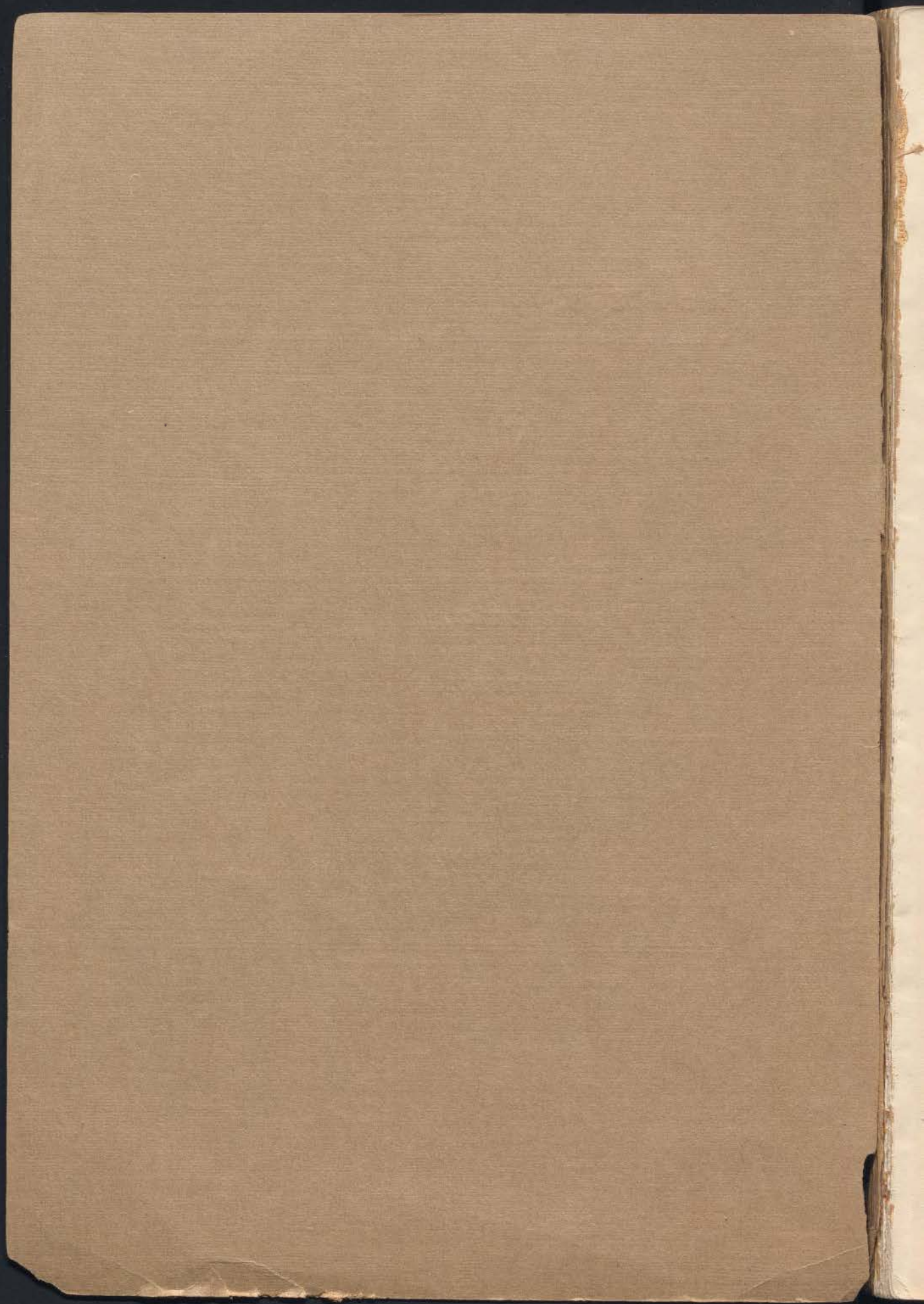
FRANCIS W. WALKER,

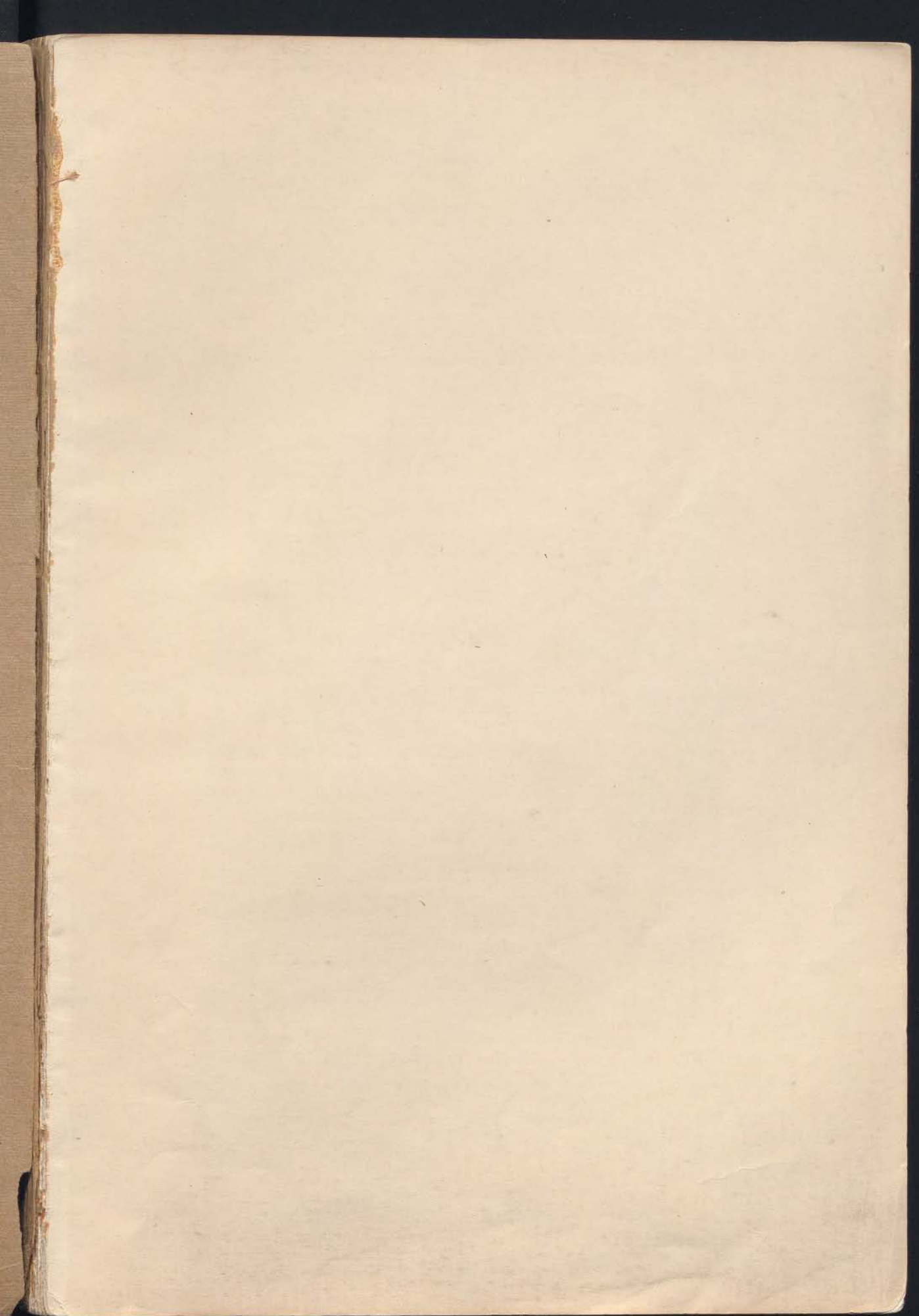
ATTORNEY FOR APPELLANT.

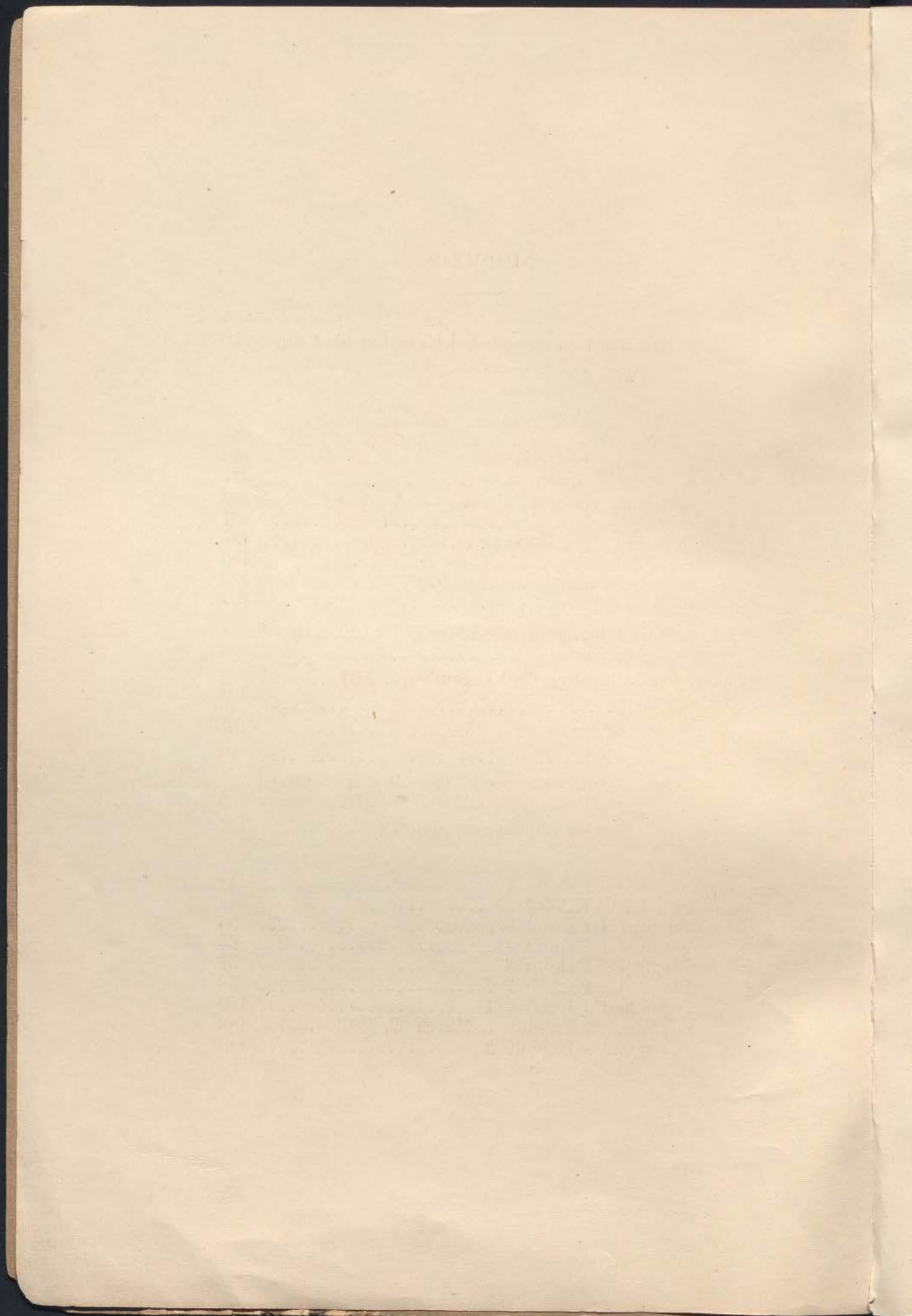
HORACE K. TENNEY,

OF COUNSEL.

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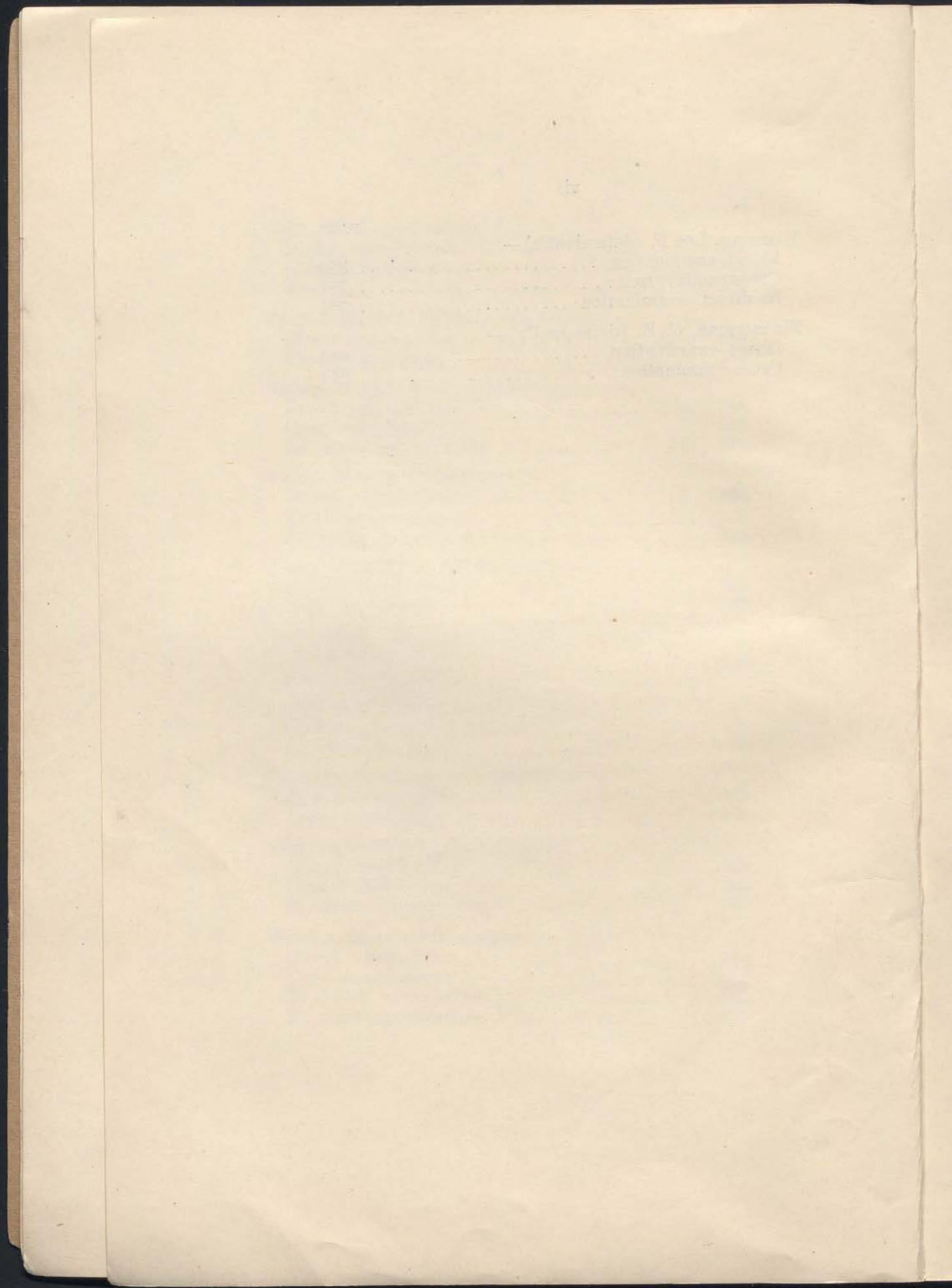
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APPELLATE COURT OF ILLINOIS,
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MARION TALBOT,		<i>Appellant.</i>	Honorable H. Sterling Pomeroy, Trial Judge.

ABSTRACT OF RECORD.

Page of
Record.

1 PLACITA.

2 **Amended Declaration**, filed December 4, 1911.

Esther Mercy, plaintiff, by Bowles & Bowles, her attorneys, complains of Marion Talbot, defendant, of a plea of trespass on the case:

For that, whereas, the plaintiff before and at the time of the committing by the defendant, of the grievances hereinafter mentioned, was a person of good name, credit and reputation, and deservedly enjoyed the good opinion of her neighbors and other worthy citizens of this and other states. Yet the defendant who was then and there Dean of Women in the University of Chicago, in said county, well

3 knowing the premises, but contriving and maliciously intending to injure the plaintiff, who was then and there a student attending said University, and to bring her into public scandal and disgrace, on, to-wit, the 11th day of January, A. D. 1911, in the county aforesaid, in a certain discourse which the defendant then and there had of and concerning the plaintiff, in the presence and hearing of divers persons, falsely and maliciously, in the presence and hearing of those persons, spoke and published to and of and concerning the plaintiff, the false, scandalous, malicious and defamatory words following, that is to say:

“We (meaning defendant among others) have a communication from the Board of Education that you (meaning the plaintiff) have been teaching in six schools in the past year.” “There is evidently something the matter with you (meaning the plaintiff) both mentally and morally.” Meaning and intending thereby to charge the plaintiff with immorality. “And we don’t care to have a woman of your (meaning the plaintiff) character in our institution” (meaning the University of Chicago). “We (meaning defendant, among others) do not care what you (meaning the plaintiff) say, we do not believe what you (meaning the plaintiff) say, we (meaning defendant among others) do not believe you (meaning the plaintiff).” Meaning and intending thereby to charge the plaintiff with lying. “We have the statement from the Board in black and white that you (meaning the plaintiff) were kicked out of the school system.” Meaning and intending thereby to charge the plaintiff with having been dismissed from

the public schools of Chicago. "We (meaning defendant among others) are continually annoyed by collectors coming around trying to find where you (meaning the plaintiff) live, complaining about you (meaning the plaintiff) and saying that you (meaning the plaintiff) owe debts." We (meaning defendant among others) do not care to have a student of that character (meaning the plaintiff) in the University; why aren't you paying your (meaning the plaintiff) debts instead of coming to the University? What do you (meaning the plaintiff) mean by coming here? We (meaning defendant among others) do not care to have a woman of your (meaning the plaintiff) character here." Meaning and thereby intending to charge the plaintiff with being a woman of bad character. "What are your (meaning the plaintiff) relations with your (meaning the plaintiff) fiance?" Meaning and intending thereby to charge the plaintiff with immoral conduct. "You (meaning the plaintiff) know you are not telling the truth." Meaning and thereby intending to charge the plaintiff with telling untruths. "What do you mean by advising students to go to doctors? Your action in telling Miss Tutwilliger to go to a physician shows you up in a very compromising light. You (meaning the plaintiff) see we (meaning defendant among others) have been looking you up pretty thoroughly." "What kind of illness did you (meaning the plaintiff) have last summer? I do not believe you when you say you have a needy family, or have been their main support of your family. Where are you getting this money from to buy expensive clothes? How is it that you (meaning plaintiff) can

buy an expensive coat when you have a needy family; no moral woman would do such a thing." Meaning and intending to charge plaintiff with being an immoral woman. "What do you mean by accepting a hat from your fiance? We (meaning defendant among others) know very well you (meaning plaintiff) are getting your (meaning plaintiff) money from men. We (meaning defendant among others) don't consider you any more than a woman of the streets, the nerve of you to dare enter this University." Meaning and intending to charge plaintiff with being an immoral woman and obtaining money to enter the University by her immoral conduct. "You (meaning plaintiff) are an immoral woman and an unfit character for this institution and we (meaning defendant among others) do not want you here. This is a private institution and we (meaning defendant among others) do not have to have anybody that we do not want." Meaning and intending to charge the plaintiff with being an immoral person. "You (meaning plaintiff) know very well you did not get your money from your uncle but from men." Meaning and intending to charge plaintiff with obtaining money by her immoral conduct.

By means of the committing of which said several grievances by the defendant, the plaintiff has been and is greatly injured in her said good name, reputation and credit and brought into public scandal and disgrace, and has been and is shunned and avoided by divers worthy persons, and by reason thereof was expelled from said University of Chicago, and deprived of her degrees at said University which she would have been entitled to and other-

wise might and would have obtained, and has been deprived of the right to enter any other University or College in the United States, and thereby deprived of an education to herself that otherwise she would have obtained, and has been and is otherwise injured: To the damage of the plaintiff in the sum of One Hundred Thousand Dollars, and therefore she brings her suit.

7 Plea of general issue, filed by defendant December 15, 1911.

9 General and special demurrer to additional count to amended declaration; filed March 18, 1912.

Special causes of demurrer:

That the said declaration is double in that it alleges several distinct and separate torts committed by said defendant.

That said declaration is in other respects uncertain, informal and insufficient.

11 Affidavit that demurrer is not interposed for delay.

12 Order of March 19, 1912, empaneling jury.

14 Order denying motion of defendant for leave to file special plea of statute of limitations. (Copy of the plea tendered—Record page 1452.)

Order permitting jury to separate.

16 Verdict of jury April 6, 1912, finding defendant guilty and assessing the plaintiff's damages at \$2,500.

17 Special finding of the jury in answer to special interrogatory.

19 Order overruling the defendant's motion for a

new trial. Order overruling defendant's motion in arrest of judgment. Thereupon the defendant, having entered her exceptions, prays an appeal from the judgment of this court to the Appellate Court for the First District of Illinois, which is allowed upon filing herein her appeal in the penal sum of \$3,500, to be approved by the clerk of this court, together with her bill of exceptions within ninety days from this date.

21 Appeal bond; filed by defendant June 12, 1912, approved by clerk of the Circuit Court.

23 Stipulation that the original bill of exceptions when signed and sealed and made a part of the record in said cause, instead of a copy thereof, may be incorporated in the transcript of the record and transmitted to the Appellate Court for the First District of Illinois, or to the Supreme Court.

25 Notice by attorney for defendant to attorneys for plaintiff that defendant will file with the clerk of the Circuit Court a præcipe for the transcript of record in the above entitled cause.

Notice, filed July 12, 1912 (service thereof accepted by plaintiff's attorneys, July 6, 1912), of defendant's præcipe to the clerk of the Circuit Court to prepare transcript of record on appeal.

29 Additional count to amended declaration, filed July 25, 1912.

Esther Mercy, plaintiff, by Everett Jennings, her attorney, complains of Marion Talbot, defendant, of a plea of trespass on the case.

For there whereas, the plaintiff before and at the time of the committing by the defendant of the griev-

ances hereinafter mentioned, was a person of good name, credit and reputation, and deservedly enjoyed the good opinion of her neighbors and other worthy citizens of this and other states; yet the defendant, who was then and there Dean of Women in the University of Chicago in said county, well knowing the premises, but contriving to and maliciously intending to injure the plaintiff, who was then and there a student attending said university, and to bring her into public scandal and disgrace, on to-wit: the 11th day of January, A. D. 1911, in the county aforesaid, in a certain discourse which the defendant then and there had of and concerning the plaintiff, in the presence and hearing of divers persons, falsely and maliciously in the presence and hearing of those persons, spoke and published to and of and concerning the plaintiff the false, scandalous, malicious and defamatory words following, that is to say: We (meaning the defendant among others) have a communication from the Board of Education that you (meaning the plaintiff) have been teaching in six schools in the past year. There is evidently something the matter with you (meaning the plaintiff), both mentally and morally, and don't
 30 care to have a woman of your character in our institution. (Meaning to charge plaintiff with having been guilty of illicit connection with men.)

We do not care what you say, we do not believe what you say (meaning to charge that plaintiff was a liar and wholly unworthy of belief). We have the statement from the Board of Education in black and white that you were kicked out of the school system (meaning and intending thereby to charge that the

school board of the City of Chicago had communicated in writing to the defendants and others that the plaintiff was dishonorably dismissed as a teacher from the public schools of Chicago).

We (meaning defendant among others) are constantly annoyed by collectors coming around trying to find where you live, complaining about you and saying that you owe debts (meaning and intending to charge plaintiff with having contracted debts which she would not pay and that she was a dead beat).

We (meaning defendant among others) do not care to have a student of that character in the University. Why aren't you paying your debts instead of coming to the University? We (meaning defendant among others) do not care to have a woman of your character here. What are your relations with your fiance? You know you are not telling the truth (meaning that plaintiff and her fiance had been guilty of fornication). What do you mean by advising students to go to doctors? Your action in telling Miss Tutwillinger to go to a physician shows you up in a very compromising light. You see we have been looking you up pretty thoroughly. What kind of illness did you (meaning the plaintiff) have last summer? I do not believe you when you say you have a needy family or have been the main support of your family. Where are you (meaning the plaintiff) getting this money to buy expensive clothes? How is it that you (meaning the plaintiff) can buy
 31 an expensive coat when you (meaning the plaintiff) have such a needy family? No moral woman would do such a thing. (Meaning and intending to charge

the plaintiff with fornication.) What do you mean by accepting a hat from your fiance? We (meaning defendant among others) know very well you (meaning the plaintiff) are getting your (meaning the plaintiff) money from men. We (defendant among others) don't consider you any more than a woman of the streets. The nerve of you to dare to enter this University. (Meaning and intending to charge plaintiff with being a common prostitute and practising fornication for money.)

You (meaning the plaintiff) are an immoral and an unfit character for this institution and we (meaning defendant among others) don't want you (meaning the plaintiff) here. This is a private institution and we (meaning defendant among others) do not have to have anybody that we (meaning defendant among others) do not want. You (meaning the plaintiff) know very well you do not get your money from your uncle, but from men. (Meaning and thereby intending to charge plaintiff with having practiced fornication for money).

By means of the committing of which said several grievances by the defendant, the plaintiff has been and is greatly injured in her said good name, reputation and credit and brought into public scandal and disgrace, and has been and is shunned and avoided by divers worthy persons and by reason thereof was expelled from said University of Chicago and deprived of her degree at said University, which she would have been entitled to and otherwise might and would have obtained, and has been deprived of the right to enter any other university or college in the United States, and thereby deprived

of an education to herself, that otherwise she would have obtained and has been and is otherwise injured; to the damage of the plaintiff in the sum of One Hundred Thousand (\$100,000) Dollars, and therefore she brings her suit.

33

BILL OF EXCEPTIONS.

Filed August 8, 1912, Joseph E. Bidwell Clerk.

Messrs. Everett Jennings and H. D. Strohm appeared as attorneys for the plaintiff, and Mr. Francis W. Walker as attorney for the defendant.

35 HENRY D. MERCY, witness on behalf of the plaintiff, testified:

At present I am residing at Los Angeles, California. The plaintiff is my sister. I have lived in
36 California two months. I formerly lived in Chicago. and was a salesman for the Corn Products Refining Company. I resided in Chicago altogether about nine years.

I heard a conversation in January, 1911, between Miss Talbot and the plaintiff. The conversation occurred at the University of Chicago at a place, I believe they called Cobb Hall. I am not familiar with the names of the different halls, but I believe that is the name. It was on January 9, and 10, 1911. There were present Dean Talbot, Mr. Reynolds, my sister and myself at the first conversation
37 I heard. I was introduced to Dean Talbot as my sister's brother; and I told her that I came there

to find out at this interview, my sister wanted me present, and I wanted to find out what it was, to see if I could not assist my sister in some way; and Dean Talbot told me that they had a communication from the Board of Education that she had taught in six schools in the past year.

- 38 My sister made a remark that she brought Mr. Reynolds and myself to hear the accusations that were being made against her; that she was afraid to go there by herself.

Dean Talbot spoke to my sister and said:

"We have investigated you and we have had a communication from the Board of Education that you have taught in six schools in the past year. We had a statement from the Board that you were kicked out of the school system."

- 39 I asked my sister if that was true. My sister said I have shown Dean Talbot that statement is not true, that I had taught in the schools—one school for a year.

Thereupon the defendant moved to strike out the evidence of the alleged statement of Dean Talbot for the reason that such statement was not slanderous; motion overruled.

The COURT: Was there anything else said there by anybody? If so, what was it, that you can recall?

- A. Dean Talbot says, "We have investigated you and we have found that you are an immoral woman and an unfit character for this institution. We have
40 found out that you are getting money from men. We don't believe that you get your money from your uncle, but from men.

We don't believe anything that you say. We don't believe you." That is as far as I can recall that those were the words that were used there.

That was in the morning as far as I can remember.

Q. Do you recollect anything else being said by anybody, about streets or men on the streets? A. Dean
41 Talbot said, "that we know that you are an immoral woman of the streets and that we believe that you are getting your money from men. We do not believe what you say. We do not believe you."

Mr. JENNINGS: Q. Just describe how she looked and acted.

The COURT: How she appeared to you.

A. Well, the only word I can describe was, as if she appeared very vindictive.

Defendant moved that the answer be stricken out; motion overruled.

Mr. JENNINGS: Q. What was said, if anything, by you to Dean Talbot at that time?

A. I said, "Dean Talbot, I think it is your duty as a Dean of Women that you should help uplift a student instead of trying to throw them down."

Objection by defendant as immaterial; objection overruled.

43 Mr. JENNINGS: What, if anything, did Dean Talbot say in regard to this statement just made by you?

A. She said, "We can choose our students, if we don't want them we can expel them or tell them to get out," not those exact words, but that was the meaning.

Motion by defendant to strike out the last answer of the witness on the grounds that the evidence is immaterial; motion overruled; exception.

- 44 Thereupon the defendant moved to strike out all the testimony of the witness on the ground of variance with the declaration; motion overruled.

Cross-Examination.

- At the present time I am connected with the Southern California Home Builders of Los Angeles,
45 California. I have been out there two months. Before that I was salesman for the Corn Products Refining Company. I was in Chicago and made small towns between Chicago, Waukegan, Aurora and Elgin and back here every evening. I sold Karo Syrup, Argo Starch and Kingsford Starch.

- I first interested myself in reference to this conversation I have spoken about on January 8, 1911, when she called me up. I believe I was living at 1902 La Salle avenue. I am not married. There
46 are others of my family besides my sister. My sister lived at that time with Mrs. VonJahn.

I had never met Miss Talbot before this date in January. I had no conversation with anybody connected with the University about my sister before that date. I didn't go down to the University on January 9th with my sister. I met her there, at Cobb Hall. I met her at the same building that Dean Talbot's office is at. I don't know the name of that building. I came up there from down town and met her there

47 by appointment. No one went with me. Mr. Reynolds was there. He is the fiance of my sister.

48 Q. Did you expect when you went out there that day to meet Mr. Reynolds there? A. I expected to meet no one but my sister.

Q. And that was at her request? A. Yes, sir. I do not know of my own knowledge how Mr. Reynolds came to go there. I was not surprised to see him there.

Q. I saw my sister first. I met Mr. Reynolds in the lobby of the building about a half hour, I presume,
49 after I got there. I had not been in to see Dean Talbot during that half hour—we were waiting for Mr. Reynolds. My sister and I didn't walk up and
50 down the hall a half hour, waiting for Reynolds. We waited three or four minutes in the hall, I guess. We waited in the class-room a half hour because I told my sister I would like to hear some instruction
51 of the University while my sister was waiting for Mr. Reynolds.

I didn't go in to see Dean Talbot alone while my sister was waiting for Mr. Reynolds. About five minutes after Reynolds got there the three of us went in to see Dean Talbot. I had no talk with Mr. Reynolds before going in to see Dean Talbot.

I didn't go down there with the design of going to see Dean Talbot with my sister. I went there because my sister asked me. I didn't have any idea what I was going down there for when my sister asked me. Simply went down there because she asked me. I had been at the University before, at
52 Cobb Hall. She didn't ask me to wait until Reynolds

came. This was quite a while ago, I cannot remember everything.

53 I have not studied the declaration any.

Q. How is it you told me some of the words you claim Miss Talbot used, and you can't tell me whether your sister told you what she wanted you there for on that day? A. Because she said things damaging to my sister's character and not exactly true. I had never heard her say anything before that day about my sister's character.

Q. When you got there what did your sister tell you you were there for? A. She was afraid to go in alone and asked me to go in with her. She didn't
54 tell me what she was going in for. She told me that Dean Talbot had assailed her character. She said she was afraid to go in alone because they would not allow her to defend herself and she wanted some protection.

Q. Against Miss Talbot? A. Against herself.

Q. Against who? A. My sister.

Q. Your sister wanted protection against herself as between herself and Miss Talbot? A. Yes, because they would not allow her any defense.

Q. There wasn't anybody in the room but Miss Talbot; I am asking you why she was afraid to go in and see Miss Talbot alone? A. I just explained to you, sir, that the Dean had the advantage of her because they could expel her without giving her a fair trial; and that she wanted some protection; and she asked me to come up. She wanted
55 protection from having her character injured. I didn't go there with this man Reynolds for purpose

making evidence against Miss Talbot if I could after the result of the trouble between my sister and the University.

Q. Will you please tell me what trouble your sister expected from anybody, by going to see this University Dean and talking it over with her alone? A. I just explained it to you.

Q. Don't you know that it was necessary in order to charge Miss Talbot with any slander to have you there, or Reynolds, her fiance, there—some third party because it would not be slander if she said it to your sister alone? A. Yes, sir.

56 Q. Didn't you go there for that purpose? A. No, sir. I had not seen anybody connected with the University about anything in relation to my sister being a student there, that had occurred between the University and my sister before that day. I don't know anything of my own knowledge that occurred between the professors of that University—Dean Vincent, Dean Small, Miss Robinson, Miss Breckenridge, Miss Thorpe, or any of them and my sister before I sent down there that morning. My sister had not told me before that time about anything she claimed they were doing to her down there. I didn't know she had any difficulty with the University at all before I went there that morning. I didn't understand when I went there that morning that there was any trouble between her and the faculty, the dean or anybody. I didn't know a thing about it.

Q. Did you know there was any trouble when you went into Dean Talbot's room, after you had been there half an hour, did you know there was any

then? A. My sister said something to me—we were discussing that in the class room. She says, “I have an appointment with Dean Talbot this morning and I want you to go with me; that she has been saying some damaging things, insulting remarks to me, and she has been very vindictive in the matter,” “and that Mrs. VonJahn”—I believe the name is—“is a sister of Dean Small’s wife, that she thinks they are going to try to put her out of the University.” I told her that I would be glad to go in and do anything I could do to assist her in staying there.

After the class she said to wait for Reynolds. I didn’t go there with any idea I would have a suit.

58 Q. But she wanted you to go in there to hear what Dean Talbot had to say, didn’t she? A. Yes, sir; but—

Q. And invited you in there for that purpose? A. And to assist her if I could.

Q. And you went in there expecting to hear what Dean Talbot had to say? A. Yes, sir.

Q. And for the purpose of hearing what Dean Talbot had to say, at your sister’s request, you began to interrogate, to question Dean Talbot yourself, didn’t you? A. There might have been one or two questions asked. The questions asked her she
59 addressed to my sister, not to me. I didn’t tell Mr. Reynolds that I was going to interrogate Dean Talbot.

Q. How did Mr. Reynolds happen to go in with you and your sister to see Dean Talbot, if you know?

A. We came down from the class room, and as we

came down from the class room, she said, "let us wait here a few minutes," and I said, "All right," as it was a little before the time we had the appointment with Dean Talbot. We waited and Mr. Reynolds came in and I met Mr. Reynolds, and my sister
 60 did too. She said to Mr. Reynolds, "you go in with me." She says, "I called Henry up and I wanted you to come here so you can both go in with me to Dean Talbot's office as I want to see if you can help me out of my trouble," and we both agreed to go. She didn't say "I want to have you hear what Dean Talbot has to say about it."

61 That is the first time I had ever met Dean Talbot. I think that was the first time I had been down to the University with Mr. Reynolds. Dean Vincent was not with Miss Talbot. I don't remember whether anybody else was there, but my sister, Mr. Reynolds, Dean Talbot and myself.

My sister introduced us and stated to Dean Talbot that she had brought her fiance here and also her brother to assist her in her trouble there at the University as she was being persecuted, I believe she said, by the University authorities and by Dean Talbot.

63 She said, "I brought my brother and my fiance to assist me with my trouble with the University; I am being persecuted by the University and by Dean Talbot."

She said, "I have brought my fiance here for the purpose of showing you who gave me the hat, and I brought my brother for the purpose of showing you that it was with his permission, and also my mother's permission that I accepted the hat."

64 Miss Talbot said, "we believe you are getting your money from men." My sister said, "I brought my brother here for the purpose also of showing you that I am getting my money from him; as he is holding a fund that my uncle gave me for the purpose of attending the University."

65 I said, "Dean Talbot, it wasn't necessary for my sister to get money from men; and if she did she certainly wouldn't attend the University."

Q. What did the Dean say about that? A. She said, "We have investigated your sister; and we believe that she—(pause) we have investigated your sister and we know she is a woman of the street." I recollect that distinctly.

Q. Do you remember now how you forgot it yesterday or why until your counsel called your attention to it, she used that language?

Objection by plaintiff as not proper cross-examination; objection sustained.

I didn't recall it yesterday because plaintiff's counsel was not through with my examination. The exact language as near as I can recall was, "We have investigated your sister and we know she is a woman of the street." My sister said, "if I am not getting fair treatment here"—and she became hysterical. I said, "Dean Talbot, if all this was necessary wouldn't she kindly arrange an interview with Dean Vincent, and we would see if we could not arrange it so she could stay at the University," as all this was not so that Dean Talbot was accusing her of. Dean Talbot said she didn't think it was any use to arrange any interview; that they did not want her

66

at the University, and that she was an unfit woman for that institution. I said, "It is due to any one to have a fair hearing," and I asked her to kindly arrange an interview; and I insisted on it; and she said she would. She went out and called on Dean Vincent; and she said Dean Vincent was going to a funeral that afternoon, but if we could come back
67 the next morning we could see him; that would be on the 10th of January.

Q. Did your sister join with you in this request to see Dean Vincent, after you had made the request; did she express her desire to see the Dean, I mean? A. Yes, she did.

Then Dean Talbot addressed a remark to Mr. Reynolds and said: "I don't approve of your relations with Miss Mercy." I said to Dean Talbot, that his relations with my sister as her fiance were with my mother's approval and also with mine; and there was certainly nothing wrong with his relations with my sister, as we knew Mr. Reynolds as a gentleman.
68 We didn't go away then. My sister repeated to her that she didn't think she was getting fair treatment at all and just on account of having mentioned that some aigrettes were stolen from her hat, that she didn't see any reason why she was to be expelled from the University. Miss Talbot said, "We don't want you here any more. You are an unfit character for this institution." I arose then. We had been seated before that time. I said to the Dean, "If you will arrange this interview, which you say you have done, I think we can straighten this out all right so that my sister may stay here. I understand
69 she has only a short time to stay until she gets her

degree, and I didn't think it any more than fair to let her stay and finish; there is certainly nothing detrimental against her; your charges against her are certainly not true." We then got up and left until the next day.

Q. Then, during this entire conversation, what there was of talking between yourself and Dean Talbot or your sister, yourself and Dean Talbot, and Reynolds remained silent all the time?

A. Not all the time. I told you that Dean Talbot directed one question to Mr. Reynolds. I mentioned that—"I don't approve of your relations." Mr. Reynolds said, "My relations with Miss Mercy are perfectly proper, and
70 that it was with the approval of both her mother and her brother." Then we three went away. We kept our appointment with Dean Vincent the next morning.

Q. Now, when Miss Talbot said, "We know your sister to be a bad woman of the street," did you believe her? A. No, sir.

Q. You knew that that was not so? A. Positively.

Q. Did it in any way injure your sister's character for morality, or for any other reason, with you?

Objection by plaintiff on ground that it is not proper cross-examination and also as immaterial.

Q. Did you believe any of the charges that you say Miss Talbot made?

71 Same objections; same ruling; exception.

Mr. WALKER: I except for the reason specified

that it is cross-examination and in mitigation of damages. I don't understand, your Honor, that in mitigation of damages, I would have to call this witness as my own witness.

The WITNESS: I came from Los Angeles, California, last Monday morning, a week ago, for the purpose of attending this trial and remained here ever since for that purpose. I have not been thinking
72 over this case and Miss Talbot's conversation ever since starting from California. I have thought of it ever since yesterday. I had not any doubt when I went on the stand of the language Miss Talbot used
73 in that interview. When that interview took place I believe I was living at 1902 La Salle avenue. I have been engaged in business in Los Angeles for two months. I am with the Southern California Home Planters Association. They have two offices; one in Los Angeles and one at San Diego.

There was no other business brought me to Chicago except this case.

On January 10, 1911, Mr. Reynolds, my sister and myself went to see Dean Vincent. My sister was still a student attending classes at the University. I first
74 learned that she could not remain a student at the University from Dean Talbot on January 9th. I never knew anything about it until I went down there that morning to see Dean Talbot. I had no conversation with my sister prior to that time in reference to any criticism or anything about herself as a student at that University and had no information from her or any source, and had not anything when I went down there that morning as to any difficulty between my sister and the University.

I remained at Chicago a little over a year after January 9th. At the time of the interview my sister
 75 was living at Mrs. Von Jahn's I believe. I don't recall the street; I believe it is near the University on Washington avenue.

My original family name is Mercer. It has been anglicised to Mercy.

I can't just recollect where I was in May, 1911. I was on the road a little bit. I didn't go to any lawyer with my sister prior to this case.

76 The next morning my sister, Mr. Reynolds and myself went to see Dean Vincent. Miss Talbot was not present when we went in. My sister introduced Mr. Reynolds and myself to Dean Vincent. She said that I was her brother and that Mr. Reynolds her fiance. Then I spoke to Dean Vincent and told him that I understood that there was some difficulty here between my sister and the University and I wanted to see if I couldn't straighten it out in some way so that my sister could remain. Dean Vincent said that Dean Talbot was taking care of that, and I told Dean Vincent that we had an interview with Dean Talbot last evening and that I wanted to see him and President Judson if I possibly could, so that if there was any possible way to straighten it out I would like to do it.

77 He said that he didn't think there was any use of going into details, but he would gladly do so and if there was any possible chance, and then he went into details. I told Dean Vincent that I didn't think my sister was given a fair trial here and that any one is entitled to a fair trial, regardless whether it is my

- 78 sister or any one else. I said "in a court of justice you are entitled to a fair trial and I should think you ought to use the same methods here." Dean Talbot came in about that time. My sister told Dean Vincent that she would undergo any investigation, that her character was perfectly clear. This was before Miss Talbot came in and afterwards she said the same thing. Up to the time Miss Talbot came in Mr. Reynolds didn't say anything, merely being introduced.
- 79 Dean Talbot came in just before my sister made that statement of wanting to be investigated and Dean Talbot says, "Miss Mercy, you are an unfit character for this institution and we don't care to have you." Miss Talbot came in just before my sister made the statement of wanting to be investigated, and then she turned and said, "You are an unfit character for this institution and we don't care to have you here any longer." I think those were the exact words. Dean Vincent said something to Dean Talbot which quieted Dean Talbot so much that she
- 80 didn't say anything more for a while. Dean Vincent said, "Let us go into details a little farther. From the information I have you have been recommended for dismissal." "Well," I says, "Dean Vincent isn't there some possible way we can have my sister remain and finish and get her degree?" He says, "No, under the circumstances, we can't let her remain."

Dean Vincent occupied a position above Dean Talbot, but what position exactly I don't know.

It was admitted by the defendant that Dean Vincent occupied the position of dean of the whole University, and was a superior generally to Dean Talbot who was dean of Women's College.

- 81 Then I said to Dean Vincent, "Can you give my sister credits, the credits that she has received at the University of Nashville and the Peabody Normal College and the credits she has received here, with a clean record?" He hesitated and said, "No, we can't give you a clear record." And Dean Talbot said, "She has not enough honor marks here in the school any way and we can't give her any credits." And
- 82 Dean Vincent said, "She is entitled to any credits that she has made while here." And Dean Vincent said, "Why, if we give your sister a clean record we could not dismiss her from the institution. She would be entitled to stay here." I said, "Surely, you don't mean to disbar her from any other institution on account of having some unpleasantness here. She is
- 83 entitled to a clean record and she is entitled to her credits that she has made here, and if you can arrange to give her a clean record I certainly will appreciate it, as she is entitled to an education that she is striving for, and she ought to have it, and I think it no more than right that you, as dean of this college, should give it to her." The dean said, "If you will call here to-morrow I will have"—I presume he called it a recommendation—"from this institution." My sister stated that she had gone over to the Northwestern University and they had said over there that if she would get a clean record of the University of Chicago that that would entitle her to come over there and go to school and finish. That is all of that conversation.
- 84 That was the last interview I had with any of the high officials of the University of Chicago about this subject. As far as interviews were concerned that

ended my connection with the affair. I do not know
85 what studies my sister was taking. I know she took
work in the dramatic department and that she passed
very highly in the dramatic department. I don't
know what department that was. That is what I un-
derstand—in the collegiate class. My sister told me
86 about it. I have not knowledge that she passed or
had a credit in any study at the University except that
she told me that she has had passed in different
studies, I don't know of my own knowledge that she
had a credit by inquiry at the University. She told
me she had passed in different studies.

87 During the conversation when Dean Vincent was
present Mr. Reynolds said that he didn't think my
sister was getting fair treatment. Dean Vincent
didn't reply. I don't remember whether Miss Talbot
was there then. I don't remember if she said any-
thing or not. Dean Vincent said that he would give
her a clean record at some other institution, but that
she could not remain at the University of Chicago.
He said, "She is entitled to any credits she may have
made."

88 Q. But did she tell you that she had made any?
A. Oh, yes.

Q. What credit did he say she had made? A. Oh,
well, I don't remember that. He said that if she had
made any she was entitled to them. He said "She is
entitled to any credits that she had made at the Uni-
versity, and if she would call for the records and
recommendations the next day, he would give her
the recommendation which would entitle her to go to
another school, but that she couldn't remain at the

University of Chicago. That ended the interview.

- 89 I had not seen anybody at Mrs. Jahn's, or Mrs. Small, or Miss Robinson, or Dean Vincent or President Judson in reference to my sister's difficulties or interviews with her prior to the 9th of January, when I first saw Miss Talbot. I had had no conversation with my sister or anybody with reference to what were the difficulties of my sister at that school until I walked into this conversation on the 9th when Miss Talbot was present. All I heard of the subject matter was what was said in that conversation and what was said in the conversation with Dean Vincent. I didn't know anything about the trouble about the hat or anything about what led up to the interview.
- 90 I didn't know anything about what my sister desired me to see Dean Talbot.

Q. Tell me why you said she had not a fair hearing if you didn't know anything about what occurred previous to that time. A. Well, I gave my conversation in Dean Talbot's office, and after I had seen the animus that Dean Talbot had shown towards my sister in that interview I concluded that there was something vitally wrong, and then if you remember I made the statement that she was not receiving fair treatment or a fair trial.

Q. Did you know until you went there at all that she was either being investigated or on trial in any shape or form? A. No, sir.

- Q. Or that anybody was looking into her as a proper pupil for that school? A. No, sir. The first
- 91 time I knew about the attitude was when Miss Talbot expressed herself.

Re-direct Examination.

The conversations I detailed occurred at Cobb hall, University of Chicago, in Dean Talbot's office, and in Dean Vincent's office, Cook County, Illinois.

- 92 Thereupon the defendant moved to strike out the testimony of the witness as being at variance with the declaration. And counsel then and there offered to point out such variance.

The COURT: The motion is denied at the present time. I will hear you later.

WARREN E. REYNOLDS, a witness on behalf of the plaintiff, testified:

- 92 I am now residing at 436 East Fortieth street. I am acquainted with the plaintiff. I know Miss Talbot. I have lived in Chicago since 1906. I have
93 known Miss Mercy about three years. I am treasurer of the Wheeler Plain Colonization Company at 29 South La Salle street. They were just incorporated last month. I was formerly engaged in the real estate business in connection with W. C. Van Gilder at 25 North Dearborn street. I heard a conversation between Miss Mercy and Miss Talbot on the 9th of January, 1911, had in Dean Talbot's office in Cobb
94 hall, just a few minutes after 10 o'clock. I am not related to the plaintiff. I am engaged to be married to her. That relation has existed since June, 1910. Miss Mercy, Mr. Mercy and myself were present at
95 this conversation on the 9th of January, 1911. There were a great many questions came up during the talk. I was more a listener than a person who had anything

to do with it. Mr. Mercy directed the questions to Miss Talbot and she would turn to Miss Mercy and answer them. One of the questions I recall, the answer brought out this: Mr. Mercy asked the ques-
 96 tion of Miss Talbot. Why his sister was being barred from the University. He asked her direct, "Why is
 97 my sister barred from the University?" Then that brought out several answers. Miss Talbot said, "We do not believe you when you say you are the main support of your family. How can you buy such expensive clothes? How can you buy an expensive coat when you have a family on your hands to support? We do not consider you more than a woman of the streets. We know you are getting your money from men, or receiving your money from men." Miss Talbot brought out three or four questions. I can remember some of them. One was, "We have a com-
 98 munication from the Board of Education that you have taught in six schools the past year. There must be something wrong with you, both mentally and morally. We have it in black and white that you were kicked out of the public schools. We do not consider you a fit character to remain in this institution. We are constantly annoyed with creditors coming around here trying to find out where you live, claiming you owe them debts. Why are you not paying these debts that are coming to this institution." Miss Talbot looked at me and said, "Mr. Reynolds, I don't approve of Miss Mercy's relations with you." The rest of the questions had been addressed to Miss Mercy. I made no reply. Miss Talbot said, "Why are you going to doctors? Why are you constantly sending pupils to doctors?" Now, there were several other

words spoken, but I do not recall them. I think this conference lasted probably forty minutes; somewhere about there.

Cross-Examination.

99 My full name is Warren E. Reynolds. I am now
treasurer of the Wheeler Plain Colonization Com-
pany. That means selling out land in Texas. We sell
100 no one under 160 acres. I have been working on the
deal for some time. It was just lately incorporated,
just now started. I was formerly with W. C. Van
Gilder, 29 North Dearborn street, the Union Bank
building. I must have been there three years, pos-
101 sibly four. I have known the plaintiff about three
years, as near as I can recollect I got acquainted with
her at her home in Chicago. She was living at 4455
Lake avenue. She was teaching school at that time.
I was not boarding at the same house with her. Miss
Mercy lived with her mother. The family lived there
with the exception of the father. I have met the
father. He lives at Mt. Pleasant, Tennessee. I be-
came engaged to Miss Mercy about June, 1910, and
still occupy that position. On the 9th of January I
met her at the Cobb hall at the University. Before
that time I had not been there or seen any of the
deans or any of the faculty of that institution. The
102 appointment that brought me there was made the
night before at the place where she lives. I called on
her the night before. I can't give you the number of
the house where she lived, but it is the second house
west of Kimbark north of Fifty-seventh street. I
think she lived with a Mrs. Griffith. I am not positive.
She had moved from Mrs. Jahn's about three weeks

- before that time. I had called on her at Mrs. Jahn's.
- 103 About the length of time she lived with Mrs. Griffiths I might not be right. I should think it was in the neighborhood of a month. I am sure that she had lived at Mrs. Jahn's more than two weeks. That would be some time in the fore part of December, 1910. I made an appointment to meet her at this Cobb hall at 10 o'clock the next morning. I had not been present with her at any previous interview between herself and Dean Vincent or Dean Talbot, or
- 104 any one else connected with the faculty of that school. This was my first acquaintance with Dean Talbot. I don't think we waited more than five minutes. Miss Mercy was not in view when I got there. They came from some part of the building. I met Miss Mercy and Mr. Mercy in the hall. We had a conversation before we went into see Dean Talbot. I was introduced to Dean Talbot by Mr. Mercy, and her brother
- 105 was introduced at the same time. Miss Talbot I think was seated at her desk. We all took seats and remained seated during the interview. When I left I directed a question after I arose from my seat. Mr.
- 106 Mercy opened the conversation after the introduction. He wanted to know of Miss Talbot why his sister was barred from the University, and if there wasn't some way to fix it up.

Nothing had been said in my presence out in the hall before we went in to see Miss Talbot relative to this affair.

- Miss Mercy was not barred from the University
- 107 at that time. It was pending. That is the way I understood it. That is, she was under some sort of

investigation. When her brother said, "Why is my sister barred from the University?"

- Miss Talbot looked direct at Miss Mercy and directed several reasons why, she said: "We do not believe that you are the main support of your family.
- 108 Why are you buying or wearing such expensive clothes? How is it that you can buy an expensive coat when you have a family upon your hands? We consider you nothing more than a woman of the streets." That is the exact language as near as I recollect it. "We consider you nothing more than a woman of the streets. We know very well you are getting your money from men."
- 109 "We have a communication from the Board of Education that you have taught in six schools during the past year. There is evidently something wrong with you both mentally and morally. We have it in black and white that you have been kicked out of the public schools. We are constantly bothered with creditors coming around here trying to find out where you live and claiming you owe them debts. Why are you not paying those debts instead of coming to this institution? We don't consider you a moral character to remain in our institution." There were some other reasons brought up, but I don't recall them. We were all seated when Miss Talbot was saying
- 110 this. When Miss Talbot said, "Why are you wearing such expensive clothes?" I do not think there was any reply by anybody. There was no answer all through. I do not recall any comment or any remark until Miss Talbot had finished.

Q. Did you believe in the truth of anything that Miss Talbot said?

Objection by plaintiff, which objection was argued by the respective counsel and sustained by the court.

112 Dean Talbot told me that Dean Vincent was the party who had decided this thing, and that he was at a funeral and she made an appointment with him. I had had no interview prior to that time with Dean Talbot. I had never been there before with Miss Mercy to see her in regard to this matter.

113 I made a present of the hat to Miss Mercy. I can't say what it cost. They claim it was worth about \$250.

There might have been something else said at that conversation, but I don't recall it. While I was there, Dean Talbot didn't leave. We went the next
114 day and had a conversation with Dean Vincent. There were present Dean Vincent, Mr. Mercy, Miss Talbot—Mr. Mercy acted as spokesman, or introduced the subject at the interview. Miss Talbot said that Miss Mercy's marks were very low, about her having a credit in the dramatic art, but I didn't hear. I do not think Miss Talbot made any statements as
115 to that credit. There might have been some other things said I don't recall just now. Nothing was said in my presence or in the presence of Dean Vincent of her getting money from men. No statement of that kind was made. Outside of Miss Talbot's questions of the low marks there was nothing said I know of by Dean Talbot or her superior bearing upon the character of plaintiff. Miss Talbot made no refer-

ence to the character of Miss Mercy except as it was made in her presence and that of her brother and myself on the 9th. I have not heard Miss Talbot make any other disparaging remarks of plaintiff's character. I have not spread these remarks that I claim were made.

I went to Bowles & Bowles, lawyers, before the suit was commenced. I was present at an interview with a lawyer. He asked me a lot of questions, as did the brother.

117 Q. Did Miss Mercy?

Objection by plaintiff; objection sustained on ground of immateriality.

118 Q. Did Miss Talbot say in that conversation on the morning of the 10th before Dean Vincent, "You haven't told us the truth," speaking to Miss Mercy and Mr. Mercy and others? A. I don't recall it.

I am not now a member of the government secret
119 service. I suppose I was at one time. I don't know as you could call it work. I had a chance to enter and didn't take it. I don't know as you could say I was absolutely a member. I had a chance but I didn't go in.

I have acted as a member of a secret society or lodge. That was in 1905, before I came to Chicago. I must have been in that work about a year. Our firm was A. O. Robinson & Co. It was a disinfectant firm. The detective business concerned the salesmen. I was hired by the institution. I think I made application for the government secret service before that.
120 I never took the position. There was no particular

reason, only my mother didn't want me to. She objected. That was the only reason.

I made no notes of either conversation. My testimony here is as I told it there. I do not recall that I have talked to anybody else about it. I have never repeated this conversation that Miss Talbot made to any third person other than the lawyer or the two people that were there to hear it. Nothing on my part has ever spread the conversation. I never talked
121 to the reporter of any newspaper about it as I recall.
122 When I went down there that morning on the 9th to see Miss Talbot I went there by appointment and at the request of Miss Mercy.

Q. And when you went in with the brother of Miss Mercy to have whatever conversation you had, you went in at her request, at Miss Mercy's request, and
123 at her desire for the purpose of meeting Miss Talbot, isn't that so? A. That is so. Could I make an explanation?

Q. Is that right? A. That is.

124 Q. Isn't it a fact that you went there that morning with a brother of Miss Mercy and Miss Mercy herself for the purpose of seeing Miss Talbot and having this interview, and that it was at the request of the plaintiff, Miss Mercy, in this case? A. Yes, sir.

I cannot give you the number of Mrs. Jahn's where Miss Mercy lived. It is on Washington avenue, between Fifty-sixth and Fifty-seventh. I first learned that she lived at that place when she moved there. I think it was just about the beginning of the school year. I suppose it was the last of September or the
125 first of October, 1910. I think it was an apartment

building where she lived. Miss Mercy occupied a room that was between the dining room and the kitchen, across from the dining room, as near as I can describe it. I cannot say how frequently I visited her there, approximately two or three times a week. I was in the habit of seeing her in her room. After she moved from Mrs. Jahn's she went to Mrs. Griffiths, I think that is the name. I visited her there about the same. I never was in her room there but once. I think it is the first room upstairs. I was in the habit of seeing her in the parlor there. I helped to put the furniture there when she moved. I had nothing whatever to do with picking out the house. She informed me that she intended to move from Mrs. Jahn's and I went up to assist her in moving. She had some household furniture independent of her trunks. She had a dresser or chiffonier, that was moved.

While she was at Mrs. Jahn's there was a dispute in reference to feathers on this hat. I didn't advise her to take burglary insurance. I didn't give her any advice about going to that department of the University for the purpose of borrowing money. I knew nothing of it.

Q. Didn't she complain to you of having lost a quarter?

Objection by plaintiff; sustained.

129 Q. Did you suggest to her at any time to look and see if her \$250 hat was all right? A. I didn't suggest to her at any time to look to see if her hat was all right. While I was there she went to the place where the hat was kept and took it out. We had an appointment to go to the Art Institute that day.

130 After she had looked at the hat I did not suggest that she take out burglary insurance.

In the conversation of January 9th, when Miss Talbot was present, I do not recall that anything was said about borrowing money for burglary insurance. I do not recollect anything else that was said in the conversation with Miss Talbot on January 9th with reference to the hat. I don't recall hearing anything that was said about the hat on the 10th in Dean Vincent's presence.

Re-direct Examination.

131 Mr. JENNINGS: Q. At the time of the conversation on the 9th in which you and Miss Mercy and her brother and Miss Talbot participated, and which was detailed by you, while Miss Talbot was talking there and making the statements which you state she made in that conversation at that time, what was her attitude and appearance?

Objection by defendant as immaterial; objection overruled.

A. Why, she addressed Miss Mercy; her voice was very stern and that of anger. I don't think there were any gestures. I don't remember.

132 Q. The answer that you made describes her appearance at that time as well as you can describe it? A. The explanation I desired to make in regard to the hat was that we had an appointment to go to the Art Institute. I desired her to wear the hat. That was all there was to it.

Re-cross Examination.

134 It did not arise from the fact that she had told that she had lost a quarter and I having informed her that I had been in the secret service, or close to it, and that she had better look at the hat to see if anything was the matter.

135 ESTHER MERCY, the plaintiff, testified:

I live at 4322 Vernon avenue, Chicago, Cook County, Illinois. I am the plaintiff in this action. I have resided in this city since April or May, 1906. I was born in Cracow, Austria-Poland. I have lived in this country almost twenty-five years. I came here just after I was a little over two years old. I am twenty-seven years old. The first time I came to Chicago I came from Shreveport, Louisiana. I had been teaching in the high school there. I had taught in other places in the South. I had a place in the high school in Jackson, Louisiana. I also taught at Scott, Louisiana, and during the summer following, I taught in Jackson. I started in September, 1903, and I think the school let out about May 17, 1904, and I received an offer by telegraph about the 19th, or either it was several days previous, I don't re-
138 call. Then I went to Scott, Louisiana, several miles from LaFayette.

I attended a number of schools. First I went to Noble Institute at Ansel, Alabama, a girls' school. I was sent to a rival school in the same town just a few months. I don't remember the name of it.
139 Then we moved to Tangipahoa, Alabama, and I went

to the Isabella College there. Then I went over to one at Morville, Louisiana.

When I came to Chicago I entered the University of Chicago, during the summer of 1905. I only went one quarter.

- 140 During the time I was teaching in the South I wrote stories and things of that kind, hoping that they would be published some day. After I left the University of Chicago I received an offer to go to Downers Grove, Illinois. I taught there one month. I next went to Woodford. I taught at a
141 ranch school there about five and one-half months. From there I went to San Francisco and stayed there until a month after the earthquake. I received an offer to teach in San Francisco. I taught and also studied. After the earthquake I volunteered
143 to go on the Red Cross Society. I came from San Francisco to Chicago.

I don't recollect when I first took the examination for the city schools. I went to work immediately at Sears, Roebuck & Company and then took some time off to take the examinations for the city schools.

- 144 I taught in the public schools of Chicago. I substituted one year and taught three years, that is, I was regularly assigned three years. During the time I was teaching in the public schools of Chicago I wrote articles for different people that wanted any article they would pay me for and I worked in a millinery store at night and assisted my uncle in his office in the afternoon. My uncle is Dr. Sigmund Krumholz. His office was on the corner of Twelfth and Halsted, right over Grasselli's drug store. I understand my uncle is now on his way from Vienna, but

I don't know. I haven't seen him since he went to
145 Europe. I can't recall that I worked in any stores
at the same time that I was teaching. I would assist
in a millinery store occasionally.

I entered the Chicago University either on the
first or second of October, 1910. I had matricu-
lated in 1905. I was at the University during Octo-
146 ber, November, December, until I was finally ex-
pelled. I think it was the 11th of January, when
I received this letter. I regard the expulsion of
that date, although I dare say it occurred on the
10th of January, 1911.

I went to the Press Building to apply for a room
in the dormitory. That is connected with the Uni-
versity in some way, I think. They told me that I
147 would have to put in my application fully a year
ahead, that they had so many applications for rooms
in the dormitories. Then they advised me to go
to see Miss Eva Robinson, head of the Housing Bu-
reau. I saw Miss Robinson. I told her that while
there I would have to do some special work in Ger-
man, that I had been out of the University for a long
time and I was very rusty, and that I wanted to go
to a place where I could hear the German language
spoken, or have somebody assist me with it. After
the conversation with Miss Robinson I went to Mrs.
Florentine von Massaen Jahn, I think it is 5609
Washington avenue. It was on Sunday when I made
my final arrangements with Mrs. Von Jahn. I be-
lieve I moved the following Saturday.

148 I was in the Senior College of the University.
To the best of my recollection they have two col-

leges any way—the Junior and the Senior. If you have a certain number of credits from any accredited institution they grade you and put you in a certain college, and then inform you as to what you have to make up in order to get your degree. I had to make up some German. When I went to Mrs. Van
 149 Jahn's I wore the hat that Mr. Reynolds gave me. He gave it to me either in March or April of that year.

There was some misunderstanding between Mrs. Von Jahn and me about this hat. It occurred I believe the first Sunday in December. I kept the hat under my study table in a special box, and Mrs. Von Jahn and I roped it together, and then she let me
 150 have a large cover for the table so that it would completely cover the box from view. I had not taken it out of the box or worn it until this misunderstanding occurred. I had not seen it between the time Mrs. Von Jahn and I placed it in the box and the time of the misunderstanding. I didn't examine the
 151 hat after it was roped up by Mrs. Von Jahn and me. The hat showed every evidence of having been tampered with. The aigrets were big pompons. A pompon has very little feathers branching out in every direction. The aigrets had been taken out of the center and portions of the pompons had been taken out and there was very little of the aigrets left. I made a complaint about the condition of the hat
 152 to Mrs. Von Jahn. I told her to come and look at it. It was in the kitchen and the door was locked and Mrs. Von Jahn spoke very broken English, and she said, what did I mean by telling her there was something the matter with the hat. I said, "Please

come in and look at it." When she opened the door I said, "Mrs. Jahn, somebody has been in here and taken most of the aigrets out." She said, "I will have you arrested for daring to say that anybody has taken aigrets out of your hat. What do you mean? I will telephone for the patrol and have you taken away." She said, "I will telephone to the Dean and Mrs. Small." I simply said, "I told you about my hat and that somebody got it. Mr. Reynolds said, Mrs. Jahn, the girl is not accusing you or anybody else, she is just telling you to come and look at her hat." Mrs. Jahn simply stalked around and threatened me with arrest and I told her I was right there. She said, "I am going to telephone Dean Small." I said, "'Phone to Dean Small, I am right here." She was very much excited, just wildly excited. Mrs. Von Jahn is a sister of Mrs. Small, the wife of Dean Small.

153 I continued to live at Mrs. Von Jahn's for a while after this. I received a communication from Miss Talbot after this time.

On the same night of my loss, after supper, there was a knock at my door and a lady clad in black entered. Mrs. Albion Small entered the room. I didn't recognize her for the time being. She said:

"Where is that wonderful hat?" I said, "It is right here." She said, "Did that thing cost \$300?"
 154 I said, "I never said any time it cost \$300, but I value it at that." She said, "Why, a man gave you that hat, didn't he?" I said, "Yes." She said, "You are a fine looking girl, to receive gifts of that kind from men. What kind of a mother have you anyhow?" I said, "Why, Mrs. Small, you leave my

mother entirely out of this question. If you want to insult me, or if you have any remarks to make, you can. You are in my house as my guest, and of course you are in your sister's home at the same time." She made a few remarks against my character from the standpoint of receiving a piece of wearing apparel, as she claimed it, from a man, and then she told me if I ever dared to make public the fact that a fuss of that kind had occurred in her sister's home, she was going to have me expelled from the University; and at the same time prefer charges against my name. She said, "You are here alone; and you know it; and you see what you can do." At that time Mr. Reynolds rang the bell. She heard that ring but she didn't get out of my room quite soon enough; and Mr. Reynolds was just knocking when Mrs. Small opened the door; and she ran out.

I think this was about the 2d or 3d of December, I am not positive. I saw Dean Talbot of the University between the time when Mrs. Small was in my
154 room and the first part of January. I received a
156 note from Miss Talbot to come to her office. I received the one shown me signed with the name of Marion Talbot. I received that a day later in an envelope that was mailed. I was in my class in the philosophy when a young woman called and said she wanted to see me and give me a note. I received the note shown me on the 8th. It didn't get to me until the night 8th of December, 1910. It was handed to me by Mrs. Von Jahn in my home. Thereupon the instrument marked "Plaintiff's Exhibit 1," in

157 the words and figures following was admitted in evidence.

158 "University of Chicago, founded by John D. Rockefeller. The Faculty of Art, Literature & Science. Office of the Dean. Official Summons.

Miss Esther Mercy:

Will you please call at my office during my office hour, 10:30 Thursday, Cobb 2 A, bringing this slip with you concerning (blank)

(Signed) MARION TALBOT, *Dean.*"

Objection by defendant on the ground that the exhibit was immaterial and irrelevant.

159 The note shown me was delivered to me by a young lady about half past eleven on December 8th. I do not know her name. I never saw her before. Thereupon the note was offered in evidence as "Plaintiff 's Exhibit 2."

Objection by defendant as immaterial; objection overruled; exception.

Said Exhibit 2 is in words and figures, following, to-wit.

160 (Title of University.)

"DEAR MISS MERCY:

Please call on me in my office to-day at 12 o'clock (Cobb 2 A 1).

Yours truly,

Thursday. (Signed.) MARION TALBOT."

I received the last note (Exhibit 2) first. Just as soon as class was over I repaired to Miss Talbot's office in Cobb Hall, Chicago, Illinois. It was just opposite Dean Angell's office. It was on Thursday.

161 I went there at 12 o'clock. Miss Robinson was in the office and Miss Talbot was seated at a desk, and Mr. Vincent came in and took a chair. Miss Talbot asked me to please tell Dr. Vincent about my loss, and I did so. I can't remember the exact language nor can I recall just how much I stated. The substance is just what I related regarding my loss of the aigrets from my hat when I told you how I discovered it. I don't know how long I was talking, but I was kept there two hours, I know that.

162 I went over the loss of the aigrets from the hat. I told Dean Vincent that I discovered my loss and that Mrs. Von Jahn threatened me with arrest, that she was wildly excited about it. Either Miss Robinson or Miss Talbot, I don't recall just now which it was, asked me if I didn't go to the president's office, and what I meant by going to the president's office. I said, "Yes, I had gone there to get his advice." Miss Talbot said, "Didn't you go there to

163 obtain money?" I said, "I had not gone there simply to get money, but I had gone there primarily to get the advice of the president; that this thing had occurred and that I was incensed over it, and didn't sleep that Sunday night. I told him that I was incensed over the way Mrs. Small had treated me and that Mrs. Von Jahn had threatened me with arrest, and not only that but that she would have me expelled from the University, and bring charges against me. I told them I went to the president's office primarily for advice and not to get a loan of money, because that was not what I wanted, but I went to the president's office to ask him to advise me what to do. Miss Talbot asked me if I had not

asked Mr. Robertson for a loan of money. Mr. Robertson is the secretary. I told Miss Talbot, "Yes, I had, but it was merely an excuse on my part to see the president as I didn't want to tell Mr. Robertson what I wanted to see the president for; and I didn't just know how to get to him, but at the same time I wanted money for some purpose; but that wasn't the real reason I wanted to see the president." Dean Talbot asked me if I hadn't taken out a burglary insurance, and what did I mean by taking out any policy of any kind? I told her at the time our effects were stored, so that I could enter the University, I had to give up our home and had stored them with a friend, and not in a storage house and the insurance had run out, I think, and my mother had written me a letter telling me to be sure and insure that stuff and at the same time get out an insurance that would protect the stuff as well as my own property in case of fire or burglary. Miss Talbot told me that I was simply getting that insurance to try to collect money. I told her it was nothing of the kind. Miss Talbot said, "We have a communication from the Board of Education that you have been teaching in six schools in the past year; and we consider you unfit both morally and mentally to remain in our institution." I told her it was not true. I had not been in six schools the last year. She told me to shut up and quit because she knew better. She said a great deal further.

Miss Robinson then switched the conversation and asked me what I meant by entering men's rooms. I

told her I didn't recall entering men's rooms. She told me to shut up lying and that I ought to know better, and she said I went to Mr. Mallette's room. When she said Mr. Mallette's room I didn't know whether it was Mr. Mellette or Dr. Mallette. I recalled later it was Dr. Mallette.

166 Mr. WALKER:

Q. That was Miss Robinson. A. Yes, sir. I can't just explain. It was all just like that (clapping her hands together rapidly).

Dr. Mallette took his meals and had a room at the home of Mrs. Von Jahn at that time. I had gone to his room on an occasion. I tried to tell her why I had gone to Dr. Mallette's room. I told her I had a breaking out on my face that worried me a great deal, and I asked Dr. Mallette at the table if he would diagnose it. He said he could not diagnose
167 it at the table, but he had a strong study light in his room and if I would step in there he would examine it and tell me what it was. I asked Mrs. Von Jahn about it and she said it was all right. The door was wide open and I doubt if I was in there over five minutes all told. Miss Talbot, Miss Robinson and Dr. Vincent were there when I told this.

Miss Talbot asked me where I got the money from to buy expensive clothing that I was buying. I told her I had a few articles from my mother and my sister and a few articles from my aunt and I bought a few. Miss Talbot asked me where I got the money
168 to buy an expensive coat. She asked me where I got

the money from to go to the University. I told her I got it from my uncle. She said, "From your uncle." I said, "Yes." She said, "You know you are telling a lie, you know that is not true." Miss Talbot also asked me what I meant by accepting a hat from a man that I didn't know, that if a woman who accepted a hat from a man was an immoral character; that the mere fact that I accepted a hat from a man showed her that I was immoral; that she didn't believe me when I said I got money from an uncle to go to school; she said I got it from men. I tried to explain to her but they wouldn't allow any explanation at all.

169 The questions were asked me in a very insulting manner. Miss Talbot asked me what did I mean by advising Miss Tutwillinger to go to a doctor. I told her I felt sorry for the girl and I advised her to go as I thought she could get cured.

169 I remember when there explaining to Dean Vincent; he asked me if I had been wearing the hat after I had gone to Mrs. Von Jahn's. I told him no, because I had been ill the previous summer and had lost my hair. I had a large picture hat and could not wear it very well when I went out and there was a strong wind. I didn't know that I just made that remark; I did make a remark something about my false hair because I was almost bald and I could not keep a big picture hat on. Miss Robinson addressed, or rather directed a question to me as to whether I didn't try to fasten suspicion in some way on Mrs. Jahn, and that it was my impression I was fastening suspicion on Mrs. Jahn for threatening

that she would have me arrested. I told her I didn't do anything of the kind and I could prove it.

Miss Talbot asked me whether I had saved up this money which I had told her about getting from my uncle. I told her I hadn't saved it up because I had to supply my family consisting of a mother and six brothers and a sister, and that I had to help keep up the home and I could save precious little on that, that I didn't do any such thing. She asked me "what did I mean anyhow by daring to come to the University?" She didn't tell me once, but
 171 she told me at least a dozen times. She told me also that a lot of collectors had been coming there trying to find me and complaining that I owed bills, etc. I told her it was true that I owed a few bills, but some were unjust bills; for instance, the bill we owed the Gas Company, and they were continually dunning me for what I considered an unjust bill, and I had gone to them and asked them to straighten it out, and told them that if they would straighten it out I would pay it. She asked me what other firms I owed. I can't recall the remarks just now that called forth the remark from Dr. Vincent as well as Miss Talbot and Miss Robinson. I remember now that Miss Talbot asked me, what did I mean anyhow by using the money my uncle gave me to go to school on if I had a needy family, why didn't I use it for them, and that a woman that would do such a thing and leave her family in need to go to
 172 school was an immoral woman. I told her that I didn't feel that the right to live should be taken away from me; that I had lived for eight years working day and night and if I had an education I

- could get a higher degree that I could get far more than I was getting. She asked me why I wasn't married. I told her I didn't want to get married until after I had graduated. She told me that that was a fool answer, that wasn't any answer at all. She also told me that she didn't believe me when I said I had to help support my family. I told her I could prove it because the rent receipts were in my name. She told me that I owed every big store in town, that they were continually sending collectors to her as well as other places in the University. I told her that I didn't owe over \$50, and I said every one of these people I would pay as soon as I could.
- 173 Miss Talbot directed the questions to me, and she told me that she didn't believe my mother had written to me at all to take out an insurance policy, and the mere fact that I had gone to the office of the President and asked the question whether I could borrow money temporarily to pay up for that policy after my loss showed her conclusively that I was simply going to try to get money out of the insurance.
- 174 Dr. Vincent told me, as the dean of the faculty of arts and sciences, I believe it is that, that he was requested to ask me to sever my connection with the university as the fact that I had taken out an insurance policy was very damaging, and also the fact that I had taught in six schools the past year showed him, as well as others, that I was unfit both mentally and morally to remain in the institution. He said he didn't think I could account as to where I got my funds from; that he didn't believe that I got my money from my uncle at all, and Miss Talbot broke in and said, "Yes, I had gotten my funds

from men." And the fact that as a student I should have such an expensive hat and expensive wearing apparel didn't cause them to think very creditably of me, and that as a result he would look for me to sever my connection with the university. I told
 175 him and Miss Talbot and Miss Robinson that I had done nothing wrong wherefore I should sever my connection with the university and I didn't propose to do so. He told me he would like to give back the tuition fee I had paid in; I told him I wouldn't accept it because he couldn't pay me for my time, and Miss Talbot broke in with something; and I asked her what I could tell my friends and my family, as to why I had left the university, and wherefore should I leave. Then he told me if I wouldn't leave that way, the other alternative was to investigate my character fully; and I told him he could investigate it fully; he turned to Miss Talbot and said, "We will give her one day, Miss Talbot, to think about it." I turned to Miss Talbot and Dr. Vincent and said, "You needn't give me one day at all, but you may take it now."

176 Dean Talbot told me several times during the course of that conversation that I had got my money from my uncle in response to questions she had put to me as to where I was getting my funds from to go to the university. She told me that I was lying; that I got my money from men, and the mere fact that I should have the clothes I had would show her that I was a woman of the streets.

177 I told her I was getting my money from my uncle, and she said she didn't believe it; that I was getting my money from men; that I was lying; that

I was simply beating around the bush and prevaricating. She also said that the mere fact that I wore expensive clothes and that hat would show her that I was getting my money from men, and she also told me right then and there that I was nothing but a woman of the streets; that she certainly wondered at my nerve at daring to enter the university; that I knew very well that I had been kicked out of the school system. She wouldn't allow me to say anything about it.

The next time I saw Dean Talbot was the next day in Lexington Hall on December 9th. When I went in I had some books with me and a letter, and
 178 she asked me if I wanted to see her in a rather surprised tone of voice, and I said "Yes." There was a number of students passing backwards and forwards, and she said, "Well, whatever I have to say to you, do you want all these students to hear it?" "Well," I said, "I don't know that I do myself," and she told them to "go out; I want the room for a few minutes." There was a young lady in the corner studying or doing clerical work. She seemed to be studying and she had an attitude, a look over her, as though she was being punished for something.

At that time Miss Talbot accused me as in previous conversations on December 8th of not coming to answer a letter that she had sent me and I told her that I had not received the letter until that night when Miss Robinson handed it to me in Mrs. Von Jahn's premises, or rather Mrs. Von Jahn handed it to me in front of Miss Robinson. She told me that I was a liar; that I had received the letter, but simply did

not want to come to her office, and I said, "Here is
179 the letter unopened." That was Exhibit 1. Miss
Talbot told me, "Don't you know that you have
made a terrible mistake trying to cause any investi-
gation regarding your property at Mrs. Von Jahn's?
Don't you know that Mrs. Von Jahn is a member of
a very prominent family?" I told her that I didn't
look at it in that light at all; that to save myself I
had taken out this burglar insurance policy. I
didn't want to lose my money, but I did want an
investigation as to where the money had gone. She
said, where are those aigrettes? I told her I didn't
know, and she said, look here, what do you mean by
telling me this? Why don't you confess up as a
woman to woman that you are getting this money
179½ from men? I said, I am willing that you stay right
here in the office until you cable my uncle in Vienna
and I will stay right here until you hear from him.
I should think that would satisfy you that I am not
getting my money from men as you have said a
number of times. She told me she didn't believe that
at all; that it was a "stall" only, just a "stall";
that the sooner I got out of the University the bet-
ter it would be for me. I told her, now, Miss Tal-
bot, and I started crying, I will tell you that I
didn't lie to you yesterday as you told me I had
lied when you told me that I was simply lying when
I said I was supporting my family largely. There
is a letter which I have just received from my
mother. I should think that would convince you
that there is a good reason for my doing something
for the family, and she read it. And I asked her to
please not read the last page, it had no reference

whatsoever to my mother. That was about my married sister, and she didn't say anything, and I put
 180 the letter up, and she told me, when you get a letter like that from your mother I can't imagine a woman who would be low enough to stay in this university. I told her, Miss Talbot, I think I am doing things for the best by staying here because it qualifies me to earn money necessary to help her as she should be helped, and if I plug along in the public schools as I have been doing, I will never amount to anything more than just a grade teacher, and in this way after marriage I can teach just one or two subjects and teach just a few hours and get the same amount of money. She said, I don't believe that at all. You know very well you are nothing but a prostitute; the mere fact that you entered that man's room shows that you are nothing but a prostitute.
 181 She asked me if I had moved. I told her no, that I had paid in advance to Mrs. Von Jahn and my brother was out of the city and I would have to wait until he came back because he was the keeper of my funds. I didn't feel that I had enough to justify moving and paying somewhere else. I told her I would move just as soon as I found a suitable place,
 182 and she told me to come back and report to her. Miss Talbot told me, why didn't I confess that I took my own aigrettes, that I was simply trying to get money. The mere fact that I had gone to Mr. Robertson and asked him for a loan to pay this burglar insurance showed her that I was simply trying to get money, and she didn't allow me to tell any of the circumstances regarding the burglar insurance. But I told her at the time that my object was not to get money

from these people through this insurance, but simply to have evidence of the loss. She asked me also what I meant by trying to see the president at all, and I told her I had gone over to his office to get his advice just as I would go to a father.

The next conversation I had with Miss Talbot, I believe, was on the 20th of December, after I had
 183 moved. I think it was some time before the 20th. She said, "Aren't you gone from the university yet?" I said "No." She said, "What do you mean by staying here?" And I said, "I didn't know I had done anything wrong not to stay and I proposed not to leave until they proved to me there was something wrong, if there is any way to do it." She said, "You know you are no good. Why don't you confess up and say you are no good, or just simply get out?" She said, "We don't want to be bothered with you here." And I told her that I had spent my time and money to go there and that I proposed to get the good out of it if there was a possibility, and I had done nothing wrong and didn't see why I should go. She brought up the question again about my coat
 184 and hat. She said that no moral woman would buy a coat like the one I was getting and the mere fact that I was getting it when I had a needy family showed her that I was nothing but a woman of the streets.

I think it was the 20th of December that I received a letter from the office of Dean Angell. I went to Dr. Vincent's office and he told me that everything was left in the hands of Miss Talbot and to go and see her. I went to Miss Talbot's office and I told
 185 her, "I have a letter here which says that my regis-

tration is considered purely tentative until I satisfy you of the advisability of my continuing my relations with the university," and I said, "I have come to see you about it." She said, "What do you want to come to see me about it for? I have already made up my mind. I don't consider you any good. You are simply unfit and a prostitute. You are nothing but a woman of the streets. You know very well that you are getting your money from men. I don't believe you are sound either mentally or morally, and I don't see why you should stick here, stay here, come to me and bother me. The best thing for you to do is to get out." And I told her that I didn't know that I had done anything to get out on; that she would have to show me that I had done something wrong. She brought up this statement again
186 that I had gone to this man's room. Then I asked her if something could not be done. I said, "Why, Miss Talbot, I am not getting any justice, I am not getting any show at all, and even a criminal is allowed some defense of some sort, some justice." She said, "Well, we are a court of equity." I said, "Well, if you are a court of equity, you are certainly not showing justice to me." And I told her I wanted to see Dean Vincent at that interview, and I think it was at that interview that she told me that Dean Vincent was leaving for New York, or that he had left, or something, or rather it would not be convenient for him to see me, and anyhow, to come back after the holidays. I went back after the holidays, on the 6th of January, 1911. I can't recall
187 just whether I did go to see Miss Talbot before this incident of bringing my brother and Mr. Reynolds

there. I went, however, to Mr. Robertson after the opening and implored him to allow me to see Dr. Judson. I told Mr. Robertson, "I can't go to see Miss Talbot because she doesn't treat me with the consideration due a human being, let alone a woman," and I said, "as a man I want you to please let me see Dr. Judson and let me thresh this thing out with him," and he promised that he would do so. Mr. Robertson told me to 'phone to the office, I think, around two or three o'clock in the afternoon, and he would arrange an interview with Dr. Judson. I 'phoned at the appointed time and he told me that Dr. Judson refused to see me, and that I should go to see Miss Talbot. I went to see Miss Talbot on
188 January 9, 1911. It was in the morning, a little after 10 o'clock. My brother and Mr. Reynolds were with me. Miss Talbot was in her office. I introduced my brother and Mr. Reynolds to her, and I told her, I said, "Miss Talbot, I have brought my brother here to tell you where I get my funds from, and I want him to tell you about it, and I have brought Mr. Reynolds here to tell you about the hat; and also my relation with him." I can't
189 recollect just how the conversation opened. She seemed to be angry that I had somebody else with me. My brother, I think, told her after I had introduced him and Mr. Reynolds, that he understood from me that I was having trouble there with the university, and that he came to see about it, and see if he couldn't straighten matters out, and he also wanted to know something about the charges against me.
190 She spoke about my school record first of all. She said, "We have a communication from the Board of

Education that you have taught in six schools in the last year, and we have it in black and white from the board, and we don't consider you fit either mentally or morally to remain in this institution. She brought up the question of my clothing; that I had worn expensive garments; that I had gotten an expensive coat, and that she didn't consider that a moral woman would wear clothing of that kind. She said no moral woman would wear clothing of that kind, or even dare to buy an expensive coat when
191 they have a needy family. She said, "You know very well you have been getting your money from men. I don't consider you any more than a woman of the streets." And my brother told Miss Talbot, "Why, Miss Talbot, my uncle gave her the funds, and I am keeper of the funds and she gets the money from me when she needs it." She said she didn't believe it. Mr. Reynolds told her that he was very much surprised. He was a listener. He didn't have very much to say at all. He asked if there could not be some way provided whereby I could remain at the institute. I got hysterical and yelled out, and said, "Yes, and she called me a prostitute. She has been calling me a woman of the streets right along." And she said, "Hush, hush, here." She said, "Now
192 you must not use that language." She went and shut the door. And she said, "No lady would use language of that sort," and she had just called me a woman of the streets a little while before, and she didn't quite like my getting hysterical about it and screaming it out. She said the fact, too, that I had not made enough honor marks would not justify my staying in the university. I told her that under her

dogging and persecution the miracle was that I was able to pass at all, not that I didn't make honor points. I had passed in my studies.

To get honor points, as I understand, you have to get a certain mark above the passing grade, and if you want your degree you have to get a certain number of honor points. I think you have to have a certain number of honor points to continue your relations with the university. I don't recall whether
 193 just the mere passing will let you continue.

Thereupon the defendant, by her attorneys, renewed her motion to strike out the evidence of witnesses Henry D. Mercy, Reynolds and the plaintiff on the ground of variance, which motion the court
 194 reserved for argument at a future time.

Thereupon plaintiff offered in evidence paper marked "Plaintiff's Exhibit 3," which was received
 195 in evidence and was and is in words and figures following, to-wit:

"UNIVERSITY OF CHICAGO,
 Founded by John D. Rockefeller.
 THE SENIOR COLLEGES,
 Offices of the Dean.

December 20, 1910.

*Miss Esther Mercy,
 1232 East 57th Street,
 Chicago.*

MY DEAR MISS MERCY:

You were permitted to re-register in my office last week and were given class cards to present at the opening of the quarter. This is to inform you that I shall consider this registration as purely ten-

tative until you have satisfied Dean Vincent and Dean Talbot of the wisdom of your continuing your work with us.

You will understand that your recent relations with these officials of the university have raised a question concerning this point.

Yours very truly,

(Signed) JAMES R. ANGELL,
Dean."

To which letter the defendant objected as being immaterial and irrelevant; overruled.

196 At this conversation Miss Talbot turned to Mr. Reynolds and said, "Why, Miss Mercy told me that she did not love you." I told her there, I did not say anything of the kind; that on December 9th,
197 when I went to see her over in the gymnasium building, when she asked me why I wasn't married, I told her that I felt it was my duty to stay at the university until I got my degree, since the opportunity had been given to me, so that I could support my family fittingly after marriage, and also that I was not absolutely positive that I could give Mr. Reynolds as great a love as he could give me and I wanted to know and be sure before I jumped into matrimony.

There were present Dr. Vincent, my brother and
198 myself on January 9th when we were in Miss Talbot's room. My brother asked Miss Talbot if she wouldn't please delay final action until he could get an interview with Dr. Vincent, since no interview could be obtained with President Judson. I stated there that I had tried to see Dr. Judson a number of times and could not see him at any time.

199 I made arrangements to meet him the next morning. We all three went in together, my brother, Mr. Reynolds and I. Dr. Vincent was present and I introduced my brother and Mr. Reynolds. While my brother was asking Dr. Vincent for the reasons of this action, and also if there could not be something done whereby I might remain at the university and not be disgraced in such a manner as that, as he stated that he did not see what I had done, or what I could possibly do that would cause me to be expelled. Miss Talbot came in and she said, "I demand that she be expelled because she dared to call me a demon. She dared to say that I persecuted her yesterday." I turned to her and said: "You did dog and persecute me." She said she has not made
 200 enough honor points. She can't stay here because she has not made enough honor points, and I said, "Well, under your dogging and your persecution the wonder is that I was able to pass at all." Dr. Vincent said he did not think it was proper that I should have tried to take out any insurance policy. Miss Talbot again brought up the hat. She said
 201 that she was the one who could pass on gifts that girls in that university could receive, not my mother or brother. She said the mere fact that I would accept a piece of wearing apparel, as she termed it, was damnable against me. I said, "I don't see what relation the hat itself, the acceptance of it, could possibly have toward my entering the university because I accepted it long before I ever thought of entering."

Miss Talbot brought up the fact that I had lied to Miss Brookings, the head assistant in the Moseley

School, to get the statement that I taught in the Moseley School over a year, and I told her that I had not lied; that in telling Miss Brookings only a part of the truth was not lying. Miss Brookings was very inquisitive and she demanded to know exactly
 202 for what I wanted it. I gave her part of the reason for what I wanted it. I told her in giving a part of the reason and not giving the whole of the reason only, could not call that lying. Dr. Vincent asked me if I ever prevaricated. I told him yes, I had, and if he told the truth he had done so, too.

Miss Talbot brought up the question of buying an expensive coat. She simply made the remark that having a needy family she could not understand a girl's buying an expensive coat. I should say here that before Dr. Vincent, on this occasion, she did not exhibit her insulting remarks quite so conspicuously.
 203 My brother asked if a clean record could not be given me whereby it would admit me to some other institution, and Dean Vincent made the remark that if that were so I could stay right there at the University of Chicago. And my brother said that he could not see yet anything that I had done wrong whereby I could not stay there. I said that I had gone to the Northwestern University and had inquired as to whether I could enter there, and they told me certainly I could if I could bring a clean record from the University of Chicago. Then I asked Dr. Vincent, "Will you not give me a letter that will admit me to the Northwestern University?" and he thought about it for a while, and then said, "Yes, I will give you a letter." And Miss Talbot was very angered. Miss Talbot said, "She shall not get

204 any of her credits because she has not enough honor points." And Dr. Vincent seemed to be ashamed when she made the remark because he said to her, "You can't keep the girl out of her credits." And Miss Talbot said, "I know better." And I turned on Dr. Vincent and said, "I have not committed adultery; I have not stolen anything; I don't know of any criminal act I have done, and I don't see why you people should treat me this way and demand me to leave this university." And I said to him, "Dr. Vincent, you have a daughter; you are going to a still higher position, I understand, by which you will be president of Minnesota, and you will have many young men and women under you, but remember there is such a thing as retribution and the day is coming when you will get retribution for doing this to me. I know that you have not another student that can show they have done more for their family as well as for humanity than I have done, and I don't see why I should have to leave."

205 Thereupon a document marked "Plaintiff's Exhibit 4 for identification," was shown to and identified as having been received by the plaintiff.

That is the writing (referring to Exhibit 4) mentioned as having been shown Miss Talbot at the conversation on the 9th of December. I showed Miss
206 Talbot that document on the morning of the 9th of December, and I showed that document to Dr. Vincent as well as my books of record on the afternoon of December 8th.

Thereupon the document was offered in evidence by the plaintiff; to which the defendant objected as

being immaterial, incompetent and irrelevant and not bearing on the issues.

Objection overruled; document admitted subject to objection.

207 Said document was and is in words and figures following, to-wit:

“CHICAGO, December 8, 1910.

Miss Esther Mercy was a teacher in this School from February 23, 1908, until June, 1910.

(Signed) M. ELLEN BROOKINGS,
Hd. Asst. Mosley School, Chicago.”

208 I went back the next day to Dean Vincent's office to get the recommendation and a woman in the office
209 told me that it would be mailed to me. When I went to the office of Miss Talbot in answer to the notices which are marked “Plaintiff's Exhibits 1 and 2,” I don't know what Miss Talbot desired to see me for.

After I went to Mrs. Von Jahn's I bought one dressing gown. I paid \$4.00 for it, and I bought a cap; as I stated yesterday, I had a terrible falling of the hair and I could not wear a hat very well, and I did have a shape made on which I had some feathers placed that could come down over my head; otherwise I can't recall I bought any other wearing apparel. I paid \$25 on a coat to hold it from a friend
210 of mine. After I was dismissed from the university I was too prostrated for several weeks to do anything. The first thing I tried to do was I wrote a letter to Dr. Judson; then I went to call on Colonel
211 James Hamilton Lewis.

Q. I am asking you now what you tried to do to get employment?

Objection by the defendant as immaterial and irrelevant. There is no charge in the declaration to justify the evidence, no special damages laid in the declaration. Nothing to indicate that the slander was ever published except to the plaintiff, her brother and fiance, that would have any bearing on her obtaining employment. Objection overruled.

215

218 Q. Now, what further did you do, Miss Mercy, towards getting employment?

Same objection; same reason by defendant; objection overruled.

A. I went to the Boston Store and went to work. I worked there, I think, ten days. My employment was terminated. The Boston Store is located at the corner of State and Madison streets in Chicago.

Q. I will ask you how your connection with the Boston Store was terminated?

Objection by defendant on the grounds that special damages are not alleged in the declaration.

Thereupon counsel for defendant argued the objection before the court, and among other things said: "If she (meaning the plaintiff) had set up in
220 this declaration that she could not obtain employment and was in such a position that she could not earn a livelihood to her great damage on account of what Miss Talbot had said, and if she could establish that fact, it would be provable, but it is not in this declaration."

Thereupon the witness said, "I can establish it, Mr. Walker."

Mr. WALKER: "I object to those remarks made by the young lady while I was talking to the court."

The COURT: I think I will let her answer. Just
222 state how your connection with the Boston Store was terminated.

Objection by defendant; overruled.

A. I don't know how to answer for I am not allowed to tell what happened that caused this peculiar thing to happen. I was discharged without a hearing of any sort.

223 The COURT: Why were you discharged?

A. A woman reported me, saying that I was impolite in not waiting on her, and I was not asked one way or another whether I was impolite or not.

Q. What other effort did you make to get employment after you were discharged? A. I went to Mandel Brothers. I worked there something like the
224 space of four months, I think. I think I went there in the latter part of April or some time in May, and I worked there until some time, I believe, September 4th.

Q. How was your connection with Mandel Brothers severed? A. I was called up to the superintendent's office by telephone. The superintendent told me I would find my money waiting for me at the
225 cashiers. I was dismissed. They gave me absolutely
226 ly no reason at that time. I know why I was dismissed. Robert Mandel told me why I was dismissed. I then went to the King Richardson Company.

The COURT: I don't believe I will allow further examination on this line.

Thereupon the plaintiff offered the instrument in writing, which was marked "Plaintiff's Exhibit No. 6 for Identification," and the same was admitted in evidence without objection and was and is in the words and figures following, to-wit:

227

"UNIVERSITY OF CHICAGO,
Founded by John D. Rockefeller.
Office of the President,
January 10, 1911.

*Registrar Northwestern University,
Evanston, Illinois.*

DEAR SIR:

This is to certify that Esther Mercy is a regularly matriculated student in the college of the University of Chicago because of a situation having no direct bearing on her scholastic standing, but in which her truthfulness has seriously been called into question.

Very truly yours,

(Signed) HARRY PRATT JUDSON."

228 Thereupon plaintiff presented another document and the same was marked "Plaintiff's Exhibit No. 7 for Identification."

The WITNESS: I received Exhibit No. 7 for identification from the Board of Education of the City of Chicago, by whom I was employed. I brought that statement and showed it to Dean Talbot on the 9th of January, 1911. I showed it to her and showed
229 her that her statement was wrong.

Thereupon the Plaintiff's Exhibit No. 7 for identification was offered and read in evidence and was and is in words and figures following, to-wit:

"BOARD OF EDUCATION,
City of Chicago,
Office of the Superintendent of Schools.
Acceptance of resignation.

CHICAGO, October 24, 1910.

*Miss Esther Mercy,
5629 Washington Avenue,
Chicago.*

Your letter of recent date, tendering your resignation as teacher of the Wadsworth School is at hand. Your resignation is hereby accepted from date of October 7, 1910.

Yours truly,
(Signed) ELLA FLAGG YOUNG,
Superintendent of Schools."

Cross-Examination.

- 230 I was born Krakow, Austria, Poland. I understand that all nationalities attend the University of Chicago, and all creeds. My ancestry is Jewish. There are students of all nationalities. I would not say there were a great many Hebrews. That was
- 231 one of the chief objections to me. Dean Talbot made that objection. She didn't say because I was a Jew; she said she didn't see why it was necessary for me to go there as there were not very many of my co-believers there, and it would seem to her if I wanted to go to school I would go where there were more Jewish people. She didn't say anything more than that. It was at the time I went to her on
- 232 December 20th, getting that letter from Dean Angell.

My first childhood recollection is in Alliston, Alabama. My first school was there. In Alabama I at-

tended the Noble Institute. I started there when I was about four years old. It is a high Episcopalian girls' school. I don't recollect the degrees of the school because I left there when I was a young girl. I was just about fourteen and I don't remember, but I think they do give degrees in academic branches.

233 I think you would call it an equivalent to a high school. From there I went to Isabel College in Alabama. It is the same kind of institute except it is run by the Methodists. I think that school prepares for college, but I am not sure. I never attended the public schools. I think I was about thirteen years old when I left the Noble Institute, and I was about fourteen years old when I left the Isabel College. Somewhere around there. I then went to the Girls Industrial School at Montevallo. I don't

234 remember the year I left the Girls Noble Institute. The Montevallo Industrial School was a state institution, but not kept up entirely by the state. I started there in January and stayed just a few months. From there I went to the College of the City of New York. That is a college which gives a

235 degree the same as Columbia, Harvard or Yale. I went there perhaps a year, perhaps a little over. I don't recollect. I am now twenty-seven years old. When I went to the New York College I was in my sixteenth year. In the New York College I think I was in the freshman class, of the college itself, so I understand.

From there I went to the University of Nashville. My mother and the children went to these various

236 places. My father didn't live in New York. My father moved to Nashville and made the home there,

I attended the University of Nashville two years, I think. I got there the L. R. degree and lacked to my best recollection two studies for making the
 237 bachelor of letters. I was eighteen years old when I got through the Nashville School. I then applied for a position to teach in the public schools at Jackson, Louisiana. I taught there one whole school year, as schools run in that section of the country. My family did not move there, I was there alone. From there I went to Scott, Louisiana, where I taught a Creole school. It was a French district just opened up.

238 They are not negroes, they are of French ancestry. I taught there one summer, that is, the vacation season, about three months. My family did not move there. From there I went to Nashville, Tennessee, and remained about two days, and went to St. Louis to attend the Exposition. I next took employment
 239 about September 12, 1904. I was assistant teacher of English in the high school in Shreveport, Louisiana. I stayed there one school year. My family did not move to Louisiana. From there I went to
 240 Chicago, and entered the University of Chicago in the summer of 1905.

I have been on the stage in Illinois, Indiana and Missouri. It was during the summer, after school vacation in Chicago. I was with the Florence Gale Stock Company. They simply played old stock pieces. I don't remember the names of the theaters
 241 we played in. I didn't play in Chicago. I don't remember the office of the Bureau that engaged me.
 242 That is the only time I was on the stage. My experience covered the length of six weeks. I did,

however, serve as a super under Mrs. Fiske when she played at the Grand Opera House in San Francisco. I think it was about the time I was studying dramatic work at night. I studied dramatic art under Donald Robertson, and under Bartley Cushing and also under Paul Gersen. I don't remember just how long I studied under Donald Robertson. It was in 1907, I think, when I started to study. I first studied dramatic art with Paul Gersen at San Francisco. I think it was three or four weeks before the earthquake in 1906. I didn't study for the stage but for self-cultivation.

Some one told me that Mrs. Fiske wanted a super and I applied for the place. That was after I studied in San Francisco. I think it was Mrs. Fiske with whom I played, I am not sure. I was not studying emotional acting when I was a supernumerary with Mrs. Fiske. I never studied dramatic art in St. Louis. Paul Gersen's studio is in San Francisco. That is where I studied with him. He was my first teacher. Donald Robertson was the second and Bartley Cushing was the third. The latter's studio is in the Auditorium building in Chicago. I don't recollect how long I studied with Bartley Cushing. I think it was over a year. I was teaching at the time I was studying.

In San Francisco Mr. Gersen and his pupils got up a little playlet for the Young Men's Christian Association at Berkley. I was one of the actors in the performance. At another time I headed an entertainment of the Young Woman's Consumptive Relief Society of Chicago. I was one of the actors. I can't recollect any other time. This was

before I went to the Chicago University this last
 250 time. The Florence Gale Company was the only
 one I was on the road with. I met the company in
 St. Louis. The first place we went, I believe, was
 Belleville, Missouri, or Collinsville in Illinois. I
 don't remember how long we played there. We
 played "Esmerelda." I took the part of an old
 251 woman. I also played the part of the "young wife."
 I played the character throughout. I didn't play
 anything emotional. I think that is an emotional
 play. Nearly all plays have some emotion. In that
 play I took the part of an old hag. I also doubled
 in that play. I played the part of a young maid
 dusting furniture. I also played in "All the Com-
 252 forts of Home,"—a character part, that of an old
 woman. I played in sixteen or seventeen bills, but I
 don't remember the others. I can not give you the
 names of the other towns I played in. The ex-
 perience was so novel that I was glad to get out of
 it. My stage aspirations were stopped right there.
 253 I didn't see why I should not enter the dramatic
 club at the University. I don't know that I had in-
 spiration particularly, but I had all of the ideals a
 young girl generally has about the stage when I
 started to study, but when I found what the real
 thing was I had a different knowledge of it entirely.
 I don't know that I expected to be like Mrs. Fiske.
 254 I had a stage career partly in mind. It has not been
 my ambition all the time and that is not why I
 brought this suit, to get my name in the paper. It
 is not now my intention to go on the stage.

I became acquainted with Mr. Reynolds while I
 was a teacher in the Chicago Public Schools. It was

about three years ago. I don't remember in just what school I was a teacher. It was in a business
255 way that I met him. He introduced himself. I found out that Mr. Reynolds was a married man shortly after I met him.

Q. Why didn't you tell Miss Talbot when you were claiming this man was giving you a \$250 hat that he was a married man with two children? A. Mr. Reynolds was having a divorce suit and I think—
256 I am not positive, but I think he was divorced. He told me that he was divorced. He also told me that he made an application for divorce and that his bill was dismissed. Mr. Reynolds was most frank with me, and it was that frankness that I admired in him.

Q. Why didn't you tell the people at the University, Miss Talbot? A. It was not any of her business. It was mine and Mr. Reynold's business and
257 not hers. I am still his fiancee. Mr. Reynolds is not married. I think you would better ask him when his wife got a divorce. I don't remember when the divorce was. I don't remember when Reynolds told me that he was divorced. His divorce didn't interest me. I took the man as he was. I don't recollect
258 when I first heard of Mr. Reynold's divorce. You bet I have heard it before this morning, more than a month. I heard it before I brought this law suit. I don't remember whether he was divorced on the 8th of December, 1910. I can't remember when Mr.
259 Reynolds was divorced. I know he was certainly divorced when I brought my suit.

The COURT: The suit was filed April 18, 1911.

I think he told me that his wife got the divorce—that he allowed her to get it. I don't remember

that he told me of any difficulty in the Municipal Court.

Q. Did he ever tell you, did you ever know that he was convicted of an offense? A. Pardon me, when you said Municipal Court. I don't know much
261 about courts at all. Let me answer right here, that I know all about Mr. Reynolds' affairs; moreover, I met his mother and she approved of my going with him. I knew that he had been convicted in the Municipal Court for adultery, and I sympathized with him. I knew this at the time I told Miss Talbot that I got the \$250 hat from my fiance, and I told her that he was my fiance. I don't remember if there was a divorce pending at that time or not. It was not any of her business anyhow. That was my affair and it was Mr. Reynolds' affair. You bet it was. It was certainly not any business of the university. I was there as a student to learn.

Q. The University of Chicago is an institution is it not where they have three thousand pupils and about twelve hundred young ladies of all nationalities and religions? A. I guess so.

Q. Many of them live away from their homes, as you did at Mrs. Von Jahn's, didn't they? And many
262 of them are in dormitories, are they not? A. Yes.

Q. And those things are not under the control of the university? A. I endeavored to secure a room in a dormitory. Failing in that, I went to Mrs.
263 Jahn's. I was sent there by Miss Robinson. She is at the head of the Housing Bureau. The Housing Bureau sends students to places to live which are under the university supervision. They find places

which they deem proper for pupils who can not find a room in the dormitory.

Q. Did you understand that they had a supervision—overlooking the conduct of the young ladies that they had placed in houses and lived in their dormitories? A. I dare say so. I don't know that the university had any particular interest with whom the young ladies associated. I think they would have a pretty hard time hunting up every one that each girl or boy associated with.

Q. Did you consider that it was none of their business that you were going with a married man who had been convicted of adultery, and called him your fiance? A. They never brought it up at any
265 time and didn't know it at the time. I know how you found it out and you will find something else out in a few minutes.

Q. Did you think, knowing this yourself, that the university authorities had any right to know it and no business to know it? A. Yes, I thought it. It was the truth when I told Miss Talbot that Reynolds was my fiance. I had an arrangement to marry Mr. Reynolds when I got good and ready to marry him, if I so felt like it. At no time did I tell Miss Talbot that I didn't intend to marry him. I told her that Mr. Reynolds loved me very much, and that I didn't want to marry him until I loved him sufficiently to marry him. Under the circumstances I
266 thought it was a proper thing to take a \$250 hat from a man who had been convicted of adultery and had a wife and two children.

267 Q. Didn't Miss Talbot in one of the conversations tell you that it was not the standard of their idea

of propriety that a young lady should take expensive presents from a man she never intended to marry, that that was not their standard? A. She did not tell me that.

- 268 The last school I taught in before I went to teach in the public schools in Chicago was in San Francisco. Just prior to going to San Francisco I went to Woodward, California. Prior to that I had lived in Downer's Grove, Illinois. Prior to that in Shreveport, Louisiana. The next place I taught after Shreveport was Downer's Grove, Illinois. I came from Louisiana to Illinois. My uncle was here in Chicago. My mother is not living in Chicago now. My father has never lived here. He is a merchant in the dry goods, millinery, shoes and general merchandise line at Mt. Pleasant, Tennessee. He has been there for years. My mother's home is Mt.
- 270 Pleasant, Tennessee. It was in the summer of 1905 that I left the high school in Shreveport, Louisiana, and came to Chicago to attend the University of Chicago school. Then in September of the same year I accepted a position to teach at Downer's Grove. I taught there one month. The school term, I think, was nine or ten months. Then I went to Woodford, California. I went alone. I went to work teaching, as soon as I got there. I had never been there before.
- 271 I taught in that school about five and one-half school months. I went from there to San Francisco to teach. I was assigned just before the earthquake. I don't remember the school. I started as a substitute. I was not assigned to a regular course. I
- 272 taught just a few days. I didn't teach school after the earthquake. After the earthquake I came right

back to Chicago. That was in 1906. I took an examination to teach in the Chicago Public Schools for the next fall. I went to teach on September 13, 1906. I was assigned as a substitute, but I don't remember the school. I was assigned on a regular teachers' list the following September. I was assigned in June to a school, but I didn't want to stay there and let that assignment go and was willing to
273 wait until September until they assigned me to some place I liked. I practically taught every day as a substitute prior to September 1907, I don't think I was a substitute when I met Mr. Reynolds. It was after I had been assigned. I think it was in 1907, I am not sure. He came to see me pure-
274 ly in a business way about a fraternal club, I don't remember the name of it. I had advertised in the Tribune. I ran a long ad for this fraternal company. I was organizing a branch of it. I think I called it "The Up-to-Date Club." It was a club
275 to be formed and I was engaged to do that work. I was not organizing a "booster" club. It was a fraternal insurance club. I don't remember what this advertisement was. It ran in the paper just as long as I had any connection with it. I guess I was at the head of the club. When I put the advertisement in the paper there were a number of members. I started the club. I merely ran the business ad in the paper. The business was simply to get members and to get their names and references and become members of the club. I don't know that it was my
276 conception. I met the agents or heads of insurance companies and this kind of club had been organized in many sections of the country and maintained, and

it was simply to try and get members and I was getting a certain percentage like any one who sells insurance. I started out to organize the "Up-to-Date Club." The clubs were called by different names. There might have been another Up-to-Date Club, I don't know. I don't think there was any central organization from which to get a charter. I can't tell very much about it. It has been some time ago and the facts have escaped my memory. I will only say this: that I thought it was lowering my standard to be connected with it and I let it drop. I don't know that I found any members that had married men for fiances. That was not the reason I abandoned it. I don't think any one could say anything about the moral aspect.

Mr. Reynolds came in response to the advertisement. He was not a member of any organization that I know of. He came alone and that was the way I got acquainted with him and I have been going with him ever since. I don't recollect when it was I started. I know it was a long time after I abandoned the Up-to-Date Club. I was teaching at the time I was organizing this Up-to-Date Club.

In September, 1907, I started to teach in the Whittier School on the southwest side. I don't remember just where it is. I taught there just a short time. I didn't ask for a transfer. They closed my room there and I was sent to the John Spry school on Marshall boulevard. I taught there about a year and half, almost two years. I asked for a transfer.

Q. Why?

Objection by plaintiff as incompetent; sustained.

Q. Did you have trouble at that school with anybody?

Objection by plaintiff; sustained.

279 Mr. Henry S. Tibbetts of Riverside was the principal. I don't remember the assistant principal.

Q. Did you have any trouble or dispute or disagreement with the principal of that school?

Objection by plaintiff; objection sustained.

Q. Did you with the assistant principal? A. No, sir.

Q. Or with any other teachers?

Same objection by plaintiff; sustained.

I have forgotten the name of the school I went to
280 from there. I think it was the Gladstone. It is near 18th and Throop streets. Miss Schroyer is the name of the principal. I remained at that school one month. I think, I applied from another school for that school.

Q. Did you have trouble with any of the teachers?

Objection by plaintiff; sustained.

Q. Did you have trouble with Miss Schroyer, the principal of that school?

Objection by plaintiff; sustained.

281 From there I went to the Moseley school. I stayed at the Moseley school about a year and a half. The principal of that school was Mr. Lane; the principal assistant is Miss Brookings.

Q. Did you have trouble with Mr. Lane, or Miss Brookings?

Objection by plaintiff; sustained.

282 I was transferred from the Mosley school. I

asked for a transfer. From the Mosley school I went to the Wadsworth School. I taught there about two school months. Miss Burke was the principal. I don't know the assistant.

Q. Did you have trouble with Miss Burke, or with the assistant or with any of the teachers in that school?

283 Objection; sustained.

During one summer I taught a summer school at the Yeamans. That was before I went to the university in 1910. I quit the Wadsworth school in 1910, about October 1st. That was about the date I registered at the Chicago University. I have not taught in any other school since. I don't know the
284 number of schools I have taught in. I never counted them. It is not fourteen, "That you can bank on, unless you consider the schools I substituted in." I substituted for a great number of teachers and went from one school to another. A substitute teacher may jump from the north side to the south side inside of an hour and a half and teach in the other school, and perhaps may go way out to Pullman for the next one.

Q. How many schools in Chicago have you requested transfers from?

Objection by plaintiff on the ground that it does not throw any light on the questions involved.

Q. Have you been in any school in the City of Chicago as a teacher, except where you were a substitute from day to day, where you have not had trouble with the teacher or some one in the school?

Objection by plaintiff; sustained.

285 I went to the Chicago University in October, 1910.
 I had been one summer semester in 1905. All I had
 to do was to re-register. It was the summer school
 I went in 1905 to get credits. I never went again
 286 until October, 1910. I first met Miss Robinson in
 1910 when I applied. I didn't meet her on my pre-
 vious attendance at the school. Miss Robinson was
 head of the housing bureau. I called and made ap-
 plication to her to find a place to live while attend-
 ing the university. I told her I would like to live in
 a place, since I could not get in the dormitory, where
 I could get assistance of some kind in German, and
 where I could hear the German language spoken as
 I hadn't heard it for some years, and having to
 make credits in certain branches, which I had total-
 ly forgotten, it would be a great assistance to me.
 She found me the room at Mrs. Von Jahn's, 5629
 Washington avenue.

My room was between the dining room and the
 kitchen, just opposite the bath room, and next to
 Mrs. Von Jahn's. I didn't have a piano in my room.
 287 I had furniture of my own; a dresser, a chiffonier
 and various little articles, of course, that went to
 adorn them.

Q. Did you have—

The WITNESS: Just a minute. There was no bed
 but a couch.

Q. What is the matter? A. Because you have
 been making innuendoes—

Q. Do you have an idea that I think it would be
 improper to have a bed in your room? A. Yes, sir,
 through your questions.

The COURT: Don't argue with counsel, just answer the questions.

Q. Do you think there is a difference between a couch and a bed in a room? A. Yes, sir.

Q. Will you please give your idea what you consider a moral difference in a room between a bed and a couch.

Objection by plaintiff; sustained.

288 I have a piano. Mr. Reynolds did not give it to me. I didn't pay \$600 for it. The piano is mine. I paid for it myself. I don't recollect now how much.

Q. How much of the money you paid for the piano you say did Mr. Reynolds give you?

Objection by plaintiff; sustained.

289 I had in the room also a study table and two chairs which used to be Mrs. Von Jahns. All my property I had in the room were just my dresser, my chiffonier, and the little toilet articles that adorned them and my clothes.

I went to Mrs. Jahn's on Monday of the first opening of the university. I wore the hat there. I was afraid it might be broken in the box and I wore it and I had to wear it over a week when I was wearing a wig. I had lost a part of my hair.

290 Q. Will you be kind enough to tell me what insurance men you ever saw, where I can find them and their addresses in reference to this Up-to-Date Club.

Objection by plaintiff as immaterial; sustained.

I noticed the difference in the hat the Sunday Mr. Reynolds came, the first Sunday in December. I had lived there since the first of October, two months.

I had not seen the hat from the time it was put in the box underneath the table up to December 1st.
 292 I had no occasion to wear it. There were living in that house besides Mrs. Von Jahn, a young lady student, her name I don't remember. She had the little alcove bed room in the front part of the house. The apartment was one of seven rooms. There was also a young man occupying the parlor bed room, or what would be called the parlor. I don't remember his name. Dr. Malette's room was next to mine. There was no one else in the flat. I took two meals a day at Mrs. Von Jahn's—my breakfast and my supper.
 293 As a rule I had a midday luncheon at the University.

The first person I saw with reference to the subject was Mr. Robertson, the secretary of President Judson.

I didn't call on him primarily for the purpose of getting money. I had not tried to see Mr. Judson before that. I didn't go to see Mr. Robertson. I went to see President Judson. He was hedged in by a lot of formality and people and I had to see Mr. Robertson before I could see President Judson. There was a boy examining tickets in the outer office or something lying out there, and I asked him, "Will you please tell me where President Judson's office is?" He said, "Step in here, lady." I stepped in the room and Mr. Robertson rose and said, "What do you want?" I said, "I would like to see President Judson." He said, "President Judson does not see students just offhand. What do you want to see him for?" I said, "I would like to see him; I am in some trouble, and want to get his advice." He said, "You could not possibly see President Judson unless you

295 told him what you wanted to see him for." I didn't want to tell Mr. Robertson about this affair. I told Mr. Robertson I wanted to know if I could borrow just for a few days a small sum of money. I told him that because he said that the only reason that students saw President Judson was if they wanted a loan of money. I then said I would go because I didn't want to tell Mr. Robertson what I wanted to see President Judson for. I said I wanted to borrow money and it was true. I didn't go there originally with the intent of borrowing money. I didn't have the fact of borrowing in mind until suggested by Mr. Robertson. I didn't have any intention at the time, as I stated, of borrowing any, but he told me that would be the only way I could see President Judson. I had previously taken out an insurance policy and the money on it was due and my brother was not in the city and I could not communicate with him, and I wanted to pay it so that nothing would happen; they had bothered me and I wanted to pay it up. I don't believe I had any thought of borrowing money at the time I went over there on that day. I don't recollect that I had. I didn't go over there for the

297 purpose of getting money at all. I went there to see President Judson and I made the request for money when I found out that was the only way I could see him, largely for the purpose of getting an interview with President Judson.

301 Q. Before I resume the interview with Miss Robinson, let me ask if you know Mr. W. J. Wooten, this gentleman here (pointing to Mr. Wooten)? A. Yes, sir. I have known him since July, 1910, the time that we moved, the first week in July, 1910. I got ac-

quainted with him in Chicago. I was acquainted with Mr. Reynolds prior to July, 1910. I knew Mr. Reynolds before I knew Mr. Wooten.

- 302 Q. Let me ask you whether along about the latter part of 1910, you told Mr. Wooten that Mr. Reynolds was your fiance, that he was a married man with children, that he had a mother who was living in Prophet, Illinois, and that his father had died, cutting him out of the will, but leaving him on an agreement—or you understood it to be an agreement—that his mother would have only a living estate, and that he would inherit the bulk of one hundred thousand dollar fortune? This is the substance, and that he proposed to get a divorce from his wife, or have her get one from him, and you would marry him? Did you have any such conversation or in substance? A. No.

Objection by plaintiff. Objection sustained.

Q. Is it not a fact that you became engaged to Mr. Reynolds on the basis that he was to get a divorce from his wife?

Objection by plaintiff. Sustained, on ground that it had been already answered.

- 303 Q. And that you wanted that subject investigated to see whether or not if that was so, and asked Mr. Wooten to investigate, or to that effect?

Objection by plaintiff. Sustained.

I have seen the document handed me, consisting of three pages, marked for identification, "Defendant's Exhibit A."

- 304 The WITNESS: I would only say this: I do not recall seeing the letter addressed to Mr. Wooten, but a copy of the will I did see; that I recall, but the

letter itself addressed to Mr. Wooten I do not recall having seen it.

The COURT: Show it to her again.

(Counsel hands witness the document.)

The COURT: Have you ever seen that instrument before?

305 (The witness hesitates.)

The COURT: You may answer.

The WITNESS: I would like to ask you if you know, Mr. Walker, if you know that Mr. Wooten is an ex-convict?

Mr. WALKER: Oh, yes. So is Reynolds.

The WITNESS: Oh, is he? Being in the penitentiary and being in the Bridewell are two different things.

The COURT: The question is, have you ever seen that letter?

The WITNESS: The whole letter I have not seen, but just a copy of the will I have seen.

Q. Did you ask Mr. Wooten to look up Mr. Reynolds? The man that you say was in the penitentiary?

Objection by plaintiff. Sustained.

306 Q. In July, 1910, before you became a student this last time at the University, did you have any one make an examination of the will or the estate of Mr. Reynolds to see whether he was worth one hundred thousand dollars or more? That you agreed to marry him when he got a divorce from his wife?

Objection by plaintiff as incompetent, irrelevant and immaterial. Sustained. Exception.

307 Q. When you told Miss Talbot in substance that his intense love or ardent love, his great love for you was such that you didn't know whether you could reciprocate that love, did you tell her anything about his having \$100,000 estate if his mother died? A. No.

308 Q. Did you tell Miss Talbot that you had been investigating the fact as to whether Mr. Reynolds would have somewhere near \$100,000 if his mother died, and if he got a divorce and got that estate that you would marry him?

Objection by plaintiff on the ground that it was incompetent, irrelevant and immaterial and does not tend to elucidate the questions involved, and, secondly, on account of the involved condition of the question, which could not be answered by the witness at all. The proper time and place should be fixed in the question.

309 Mr. WALKER (continuing): On December 8th, at Cobb Hall, when you went about the hat, the very first interview when you saw Miss Talbot?

A. I told her what she allowed me to tell to her. I told her about the hat being a gift from my fiance.

Q. You understood that Mrs. Small had said that if you accused Mrs. Von Jahn, her sister, of stealing the hat, she would have you thrown out of the University? A. No, sir. She didn't say that. Those weren't the words.

Q. What was it she said to you before that night, before you came to see Miss Talbot? A. I can't give
310 you the exact words. The substance was, "If you dare to mention that this hat has been stolen from my sister's home, then I will have you discharged

from the University. I will have you expelled, and, moreover, I will bring charges against your character."

Up to that time I had not seen Dean Talbot. I had no occasion to see her. My first conversation with Dean Talbot took place on December 8th. At that
311 conversation, I think, I told Dean Talbot that I had received this hat from my fiancé.

312 From my talk with Mr. Reynolds I learned where his home was. Mr. Reynolds showed me a copy of the will first of all.

Q. Tell the jury, if you please, what was the occasion that led up to Mr. Reynolds showing you the will in reference to his father's estate.

Objection by plaintiff as incompetent, immaterial and irrelevant; sustained.

314 I do not recall that I put the Up-to-date advertisement in any other paper besides the Tribune.

Q. Do you remember whether in that advertisement you said, "Young lady would like to meet students of the University to meet young girls to form club?"

Objection by plaintiff; sustained.

I do not recollect the year that the advertisement was inserted in the Tribune. It was not a very long time ago. I don't remember whether it was prior to the time I met Mr. Reynolds.

316 Q. Is it not a fact, Miss Mercy, that the document that I show you, marked "Defendant's Exhibit for Identification I D A," was shown you by Mr. Wooten, and you had a copy of it and read it? A. The

letter, Mr. Walker, addressed to Mr. Wooten, I have never seen that I know of. I did see just a copy of the letter alone.

- 317 Q. Will you please tell me in what penitentiary you say Mr. Wooten was, or where he was convicted? A. I think you would better ask Mr. Robertson.

Q. I am asking you. You said this information was from a felon. Where was he convicted, what
318 offense was he charged with? In what state was he convicted and for what, if you know, or if you got the information from him? A. I was told, but I don't remember; I think I heard he was convicted in Colorado.

Q. Can you tell me what crime he was convicted of? A. Poisoning his wife or a woman.

Q. Can you tell me who told you? A. A lawyer right here.

Q. What is his name?

Objection by plaintiff; sustained.

- 319 Q. Do you refuse to tell me the name of the lawyer who told you this, or do you refrain because of your lawyer's objection?

Objection by plaintiff as improper and incompetent. Sustained.

The COURT: I will sustain the objection. I will see that you get the name of the person before the trial is over.

- 320 Q. Is the lawyer in the court room that told you that the lawyer, Mr. Wooten, had been convicted in Colorado, or served for a felon?

Objection by plaintiff; sustained.

It was not my intention to marry Mr. Reynolds if he got a divorce from his wife and came into his mother's fortune?

Q. How did you come to read the will?

Objection by plaintiff as immaterial, incompetent and irrelevant. Sustained

321 Q. You would have married Mr. Reynolds if he got a divorce from his wife and came into his mother's money?

Same objection by plaintiff. Sustained.

322 To the best of my recollection I told Mr. Robertson this episode about the hat. I told him that that was the real reason I wanted to see President Judson, and not for a loan of money at all, but I asked him legal questions. I told him the whole story. I
323 told him I would like to borrow some money temporarily, and he said, "What for?" And I said, "I want to pay for a burglary insurance policy." And he said, "That is the real reason why you want to see President Judson?" I said, "No, sir, that was not the real reason. The real reason is that I had a very particular hat and my feathers were taken when stopping at Mrs. Von Jahn's under peculiar circumstances, I think, and I was threatened yesterday afternoon." That was Monday morning when I saw Mr. Robertson, and I was threatened by Mrs. Von Jahn with arrest if I dared to say anything about it, and I was threatened by Mrs. Small, and I told him that I had been threatened that Sunday night by Mrs. Small telling me that she would have me expelled from the University, and that she would bring charges against my character if I said any-

324 thing about it, and I wanted President Judson's advice. Mr. Robertson told me that he didn't blame me for being hurt and indignant, and that he would see that I got an interview with President Judson. He told me that he thought I ought to go to Miss Robinson, the head of the Housing Bureau, and report to her.

Q. In that conversation, did you tell Mr. Robertson that you had a burglary insurance policy out; that the premium had not been paid, or that you had not paid the premium, but wanted money, or in substance that, to pay the premium so as to recover the loss on the hat? A. No, sir, I didn't tell him that. I told him that I had taken out both a fire insurance policy and a burglary insurance and that at the place that issued this policy they told me that they had not issued the burglary insurance policy as they remembered my talking about it, but did not recall my giving a direct order, and that the fire insurance policy was waiting for me in their office, but
325 not the burglary insurance policy. I didn't inform him that if I could get the money to pay my premium that I could recover for the hat. I told him that I asked the people there and that I had told them that I had had a loss since; they remembered my being there in the office and talking about insurance—burglary policy as well as the fire policy, but was not positive about it, because the young man told me that he was not positive. He said, I don't remember. I told him I didn't want to get any money from them, but I wanted an investigation as to where my hat had gone to.

326 Q. So the lawyer that you claim told you that Mr. Wooten had been in any institution convicted of anything, was his name Robertson?

Objection by plaintiff. Sustained.

Q. After Mr. Robertson, the secretary of the president, had told you that you would better see Miss Robinson, what did you do? A. I hunted
327 around several days for Miss Robinson.

I found her on Wednesday afternoon, December 7th. I asked Miss Robinson if she remembered me,
328 and she said, yes, she did. And I said, "Do you know why I come here, Miss Robinson?" And she said, yes, she did. "You need not tell me anything because I won't believe it. I have known Mrs. Von Jahn for a long time, and she is a personal friend of mine, and she is not capable of doing anything wrong." And I said, "I have at no time accused her at all." And she said, she didn't care to listen to my story at all, and that her time was short. I said, "Well, there are two sides, Miss Robinson, to every story, and would you not care to hear mine? I would like for you to." "Well," she says, "if you want to just talk," and she said, "I have already formed my own conclusions," and I told her the same story. I told Miss Robinson, "You remember you sent me to board and room at Mrs. Von John's. Some valuable aigrettes have been taken from my hat, and I consider the circumstances surrounding the theft most peculiar." I told her that this prop-
329 erty of mine had been taken; that Mrs. Jahn had threatened me with arrest simply because I told her that Mrs. Small had come up that same Sunday

evening and had threatened me with exposures, and made charges against my character if I dared to make the charges, that is, if I dared to tell any one concerning the loss that happened in that room. And I told her I had been sent by Mr. Robinson to tell her about it, as the University was responsible when a student was sent to a home, and if anything was missing it should be reported to the head of the Housing Bureau. And she asked me why I considered the circumstances surrounding the theft peculiar. I told her that not only I considered it so, but also that Mr. Reynolds, who was there at the time and heard her threaten me with arrest for even mentioning my loss to her, Mrs. Von Jahn, considered it

330 that way. That Mr. Reynolds, I understood, had been in the secret service, and that I dare say he was experienced, and he said himself that he thought the loss could bear investigation. I don't think we spoke about anything else, except she told me that she wanted me to go with her to Mrs. Von Jahn's and she would thrash this matter out face to face, as she wanted to get the two of us together, and I told her that would be perfectly agreeable to me. She replied several times that she did not believe my story at all; that she didn't believe at all that the aigrettes had been taken, or anything else about it; that she had already spoken to Mrs. Von Jahn and gotten her side of the story already, and would not believe anything I had to say. I don't think Miss Robinson

331 made any definite appointment to meet Mrs. Von Jahn. I think she told me that she would inform me later. She didn't say that she wanted to hear both sides of the story. She told me she wanted to

326 Q. So the lawyer that you claim told you that Mr. Wooten had been in any institution convicted of anything, was his name Robertson?

Objection by plaintiff. Sustained.

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327 around several days for Miss Robinson.

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328 and she said, yes, she did. And I said, "Do you know why I come here, Miss Robinson?" And she said, yes, she did. "You need not tell me anything because I won't believe it. I have known Mrs. Von Jahn for a long time, and she is a personal friend of mine, and she is not capable of doing anything wrong." And I said, "I have at no time accused her at all." And she said, she didn't care to listen to my story at all, and that her time was short. I said, "Well, there are two sides, Miss Robinson, to every story, and would you not care to hear mine? I would like for you to." "Well," she says, "if you want to just talk," and she said, "I have already formed my own conclusions," and I told her the same story. I told Miss Robinson, "You remember you sent me to board and room at Mrs. Von John's. Some valuable aigrettes have been taken from my hat, and I consider the circumstances surrounding the theft most peculiar." I told her that this prop-
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evening and had threatened me with exposures, and made charges against my character if I dared to make the charges, that is, if I dared to tell any one concerning the loss that happened in that room. And I told her I had been sent by Mr. Robinson to tell her about it, as the University was responsible when a student was sent to a home, and if anything was missing it should be reported to the head of the Housing Bureau. And she asked me why I considered the circumstances surrounding the theft peculiar. I told her that not only I considered it so, but also that Mr. Reynolds, who was there at the time and heard her threaten me with arrest for even mentioning my loss to her, Mrs. Von Jahn, considered it

330 that way. That Mr. Reynolds, I understood, had been in the secret service, and that I dare say he was experienced, and he said himself that he thought the loss could bear investigation. I don't think we spoke about anything else, except she told me that she wanted me to go with her to Mrs. Von Jahn's and she would thrash this matter out face to face, as she wanted to get the two of us together, and I told her that would be perfectly agreeable to me. She replied several times that she did not believe my story at all; that she didn't believe at all that the aigrettes had been taken, or anything else about it; that she had already spoken to Mrs. Von Jahn and gotten her side of the story already, and would not believe anything I had to say. I don't think Miss Robinson

331 made any definite appointment to meet Mrs. Von Jahn. I think she told me that she would inform me later. She didn't say that she wanted to hear both sides of the story. She told me she wanted to

get us face to face, and that she wanted to thresh the matter out with the two of us together. I didn't write to Miss Robinson that it would be perfectly useless to meet Mrs. Von Jahn because it would be just bickering back and forth between two women.

332 I wrote her, to the best of my recollection, that Mrs. Von Jahn's actions after this episode were such that I could not stand them any longer, because she was

333 slamming doors in my face. I never met Mrs. Von Jahn with Miss Robinson so as to thresh the matter out about my hat. I didn't write a letter refusing to meet Mrs. Von Jahn with Miss Robinson, but I wrote Miss Robinson what I considered the futility of bringing us face to face, the uselessness of it, as

334 circumstances had occurred to cause me to write that letter.

Mrs. Von Jahn would stick dogs right in front of my room where they would keep howling all night long. She has two dogs that have been reported several times. They kept up a continuous barking. She never did bolt the front door to my recollection, but now she bolted it so that my key would not open it. I have to stay there and push that door knob until somebody would come and open that door for me, and if she would happen to open the door (and she seemed to make a point of doing it), as I would go through she would slam the doors in my face; and Dr. Mallette said, "Miss Mercy, you must be made of iron to stand what this woman has been putting you through. I have not seen Dr. Mallette since I left Mrs. Von Jahn. The barking of the dogs and the slamming and bolting of the door were not the

335 only reason that I would not meet Mrs. Von Jahn

to discuss the fact of the hat story. It was part of the reason. I was so wrought up concerning being treated this way, I didn't know what to do, and I went to see Mr. Robertson according to appointment, to see the president, why he had a different attitude entirely, and just sneered at me.

Mr. Robertson's conduct to me had something to
 336 do with my writing this letter to Miss Robinson. It was decided on Wednesday, when I saw Miss Robinson. Mr. Robertson had told me at the previous interview to return and he would see that I got an interview.

When Miss Robertson suggested that Mrs. Von Jahn and I come face to face so that we could thrash the merits of it out, I acquiesced, and she fixed the
 337 date for the meeting. Then I wrote the letter in which I substantially spoke of the uselessness of such meeting. I don't think I said I would not come to one. I went back to Mr. Robinson and asked him whether he made the interview for me or whether he had appointed the time for an interview for me that he had promised me Monday morning. His attitude was entirely different, and he told me under no circumstances could I see the president, and I thought that was most peculiar, and his whole attitude was changed and I went home, and Mrs. Von Jahn kept those actions up and started those dogs to barking and so on, and my nerves were in such a state that I was rather angered and so I went out and stopped in some business place and asked them if they could tell me where a lawyer lived in the neighborhood, as I wanted to consult him about some-

thing. Mr. Robertson didn't tell me to go and see Miss Robinson in reference to getting a loan for this
339 burglary insurance. He told me to go and tell what happened, because Miss Robinson was at the head of the Housing Bureau. I don't recall if I said anything about the loan. I think I could say that I did not. In that conversation I think she asked me what I was paying at Mrs. Von Jahn's. I told her that I was paying Mrs. Von Jahn \$7, and Mrs. Von Jahn told me that if Miss Robinson or anybody else asked me what I was paying I should say \$9, because she was not supposed to take any student in a house where they spoke German or could have any instruction in German or French at a lower figure. I don't recall telling her in that conversation that I was paying \$9.

340 Q. Do you remember that in a subsequent conversation, when Miss Talbot was present and Miss Robinson, and Miss Robinson asked you why you told her you were paying \$9 when you were only paying \$7, and that then you gave the explanation that Mrs. Von Jahn didn't want you to say that she was taking you for \$7, and she asked you why you told an untruth about it? A. That is not the fact. I told her in the first conversation that I was paying \$7, and that Mrs. Von Jahn wanted me to say \$9.

341 Miss Robinson told me that she had already seen Mrs. Von Jahn and would not believe anything I had to say. I didn't tell Miss Robinson what I wanted her to do. I didn't ask her to do anything at all that
342 I can recall. I told her that I had been sent to her by Mr. Robertson and Mr. Robertson told me to tell her about the loss, and that she would advise me well

and take care of the matter, as she was at the head of the Housing Bureau. Her advice was for me and Mrs. Von Jahn to get together and thresh the matter out so that she could get the facts on both sides, which we never did.

- 343 I now live at 4322 Vernon avenue. I did live on Berkley avenue—4154, I think. Also 4331 Berkley avenue. We lived at 4154 Berkley avenue a year. We didn't live at the last place on Berkley very long. I would imagine it was about four months. We have lived at the present place since last March, if I am not mistaken. I don't recall when I moved. When I first started to teach in the public schools in Chicago I simply roomed. I don't know how many places I have lived in since I first started to
- 344 teach in the public schools in Chicago. I don't remember in what place I lived the longest. I think I lived at 4455 Lake avenue over a year, but I am not positive. I think I have been about a year in the place where I am now. At these various places I lived with my mother all the time she was here. I
- 345 think she was here about three and one-half years altogether. During those years when I lived on Berkley avenue and Lake avenue I was living with my mother. I ceased living with my mother when she went south, I think it was the 17th of June, 1910. She went south and intended to return, but she didn't return. This is the first time I have seen her since. The lease of 4154 Berkley avenue was in
- 346 my name, and at 4455 Lake avenue, also. I do not remember whether the lease at 4341 Berkley avenue was in my name. It is at 4341 Berkley that there is a gas bill owing.

I do not recall that I saw any one else connected with the university about my hat after I had had this conversation with Miss Robinson before I again saw Miss Robinson on this same subject. I didn't have any further conversation with Miss Robinson
347 before December 8th. The first time I heard anything about my creditors inquiring at the university was when I met Miss Talbot and Miss Robinson on December 8th, except Mrs. Von Jahn, about a month after I went to her home, said a man had inquired and asked for me, saying that he was a gas collector. I had not heard at all from Mr. Robertson, or from the information bureau, before I went to see Miss Talbot that there were a number of people calling at the apartment to find out my whereabouts for the purpose of collecting a bill. The conversation you have asked about with Miss Robinson and Mr. Robertson occurred before December 8th, when I
348 first called on Miss Talbot. I was never allowed by Mr. Robertson to see President Judson. I saw a man, but whether it was Dr. Judson or not, I do not know. I went to what I presumed was Dr. Judson's office. It was in the same suite of rooms that I went before to see Mr. Robinson. I started on that occasion to go to this same suite of rooms, to the room that I understood to have been President Judson's rooms, the president of the university, and Mr. Robertson stopped me from going, and inquired what my business was.

349 Q. Now, did you go back to that office subsequently and go into the room that you supposed or was informed was President Judson's? A. I was not informed that he was President Judson. I had never

seen President Judson. I was absolutely wild and I rushed into the room where I thought I would see the president. I got into some room and saw a man, I think, was the president. I addressed him as the president, but I do not know yet whether he was
 350 President Judson. I said, "President Judson, I am Miss Mercy. Have you ever heard of me?" He said, "I am busy." And I said, "For God's sake, President Judson, look into the matter, she is calling me a prostitute." And he said, "Young lady, I cannot talk to you," and Mr. Robertson took me by the arm and hustled me out. And I don't know whether that was President Judson. I don't recall the date of this interview, but I think it was just
 351 around the examination time. I believe it was about the 20th of December. I was very hysterical. I could hardly talk. I had hoped that President Judson would give me an opportunity to explain, but he said, "I am very busy, young lady; see all these papers before me. I can't talk to you." I don't remember what time a day it was. I think it was in the afternoon.

Q. Is it not a fact what you were talking about was not that Miss Talbot called you a prostitute, but the loss of the aigrettes on the hat and you wanted President Judson to pay for them, or the university to pay for them, and that they were very valuable?
 353 At no time did I have any conversation with President Judson with reference to paying for the aigrettes on the hat. I was not even given an opportunity to speak to the man. Mr. Robertson was after me and I knew he was on my heels and I made up my mind I would tell President Judson while I

was there that I would let him know the seriousness of the matter, and that was why I wanted the president of the institution to have an interview with me and listen to me. I didn't say a word about the loss of my hat. I made no request on the president in any direction for money. I am assuming that the
 353 man I saw was the president. There was no other man that I addressed as president of the university.
 354 This is the only man that I ever saw in relation to the matter that I assumed that attitude toward as president. I have never been introduced to President Judson. That is the only time that I ever saw him. I have never seen President Judson at any time that I know of.

355 I only saw Miss Robinson on two occasions. The next time was on Thursday, December 8th, in the office of Miss Talbot, and the same Thursday in the afternoon at Mrs. Von Jahn's, after I had the interview with Miss Talbot. I saw her before on another occasion, when Mr. Robertson sent me to her.
 356 "Plaintiff's Exhibit 1," signed by Miss Talbot's clerk, is the second of the two instruments I received. I received "Plaintiff's Exhibit 2" first. I
 357 received that on December 8th, around half-past eleven in the morning in the law building, where I was in philosophy class under Dr. Mead. I went to Miss Talbot's office at 12 o'clock, perhaps several minutes before, perhaps several minutes after. There were present at that time Miss Talbot, Miss Robinson and Dean Vincent. I don't remember whether Miss Talbot used the word "prostitute" in that conversation, but she did call me "a woman of the streets." She said, "We do not consider you any

more than a woman of the streets." To the best of my recollection she said that in the presence of Miss Robinson and Dr. Vincent. She never called
358 me a "prostitute" in the presence of Dean Vincent. I don't remember that she ever called me a "prostitute" in the presence of Miss Robinson. The next morning, December 9th, I went again to see Miss Talbot, and she took that occasion to call me a prostitute. I don't remember the young lady's name who was present, but I would recognize her name any place. She was sitting in a corner of the room at a table. When I entered the room there were several students there, and it seems that when the girls
359 saw me they knew that something was up and they crowded at the door. It looked that way to me. They indicated by their conduct that I was already marked. Miss Talbot told the young ladies that were standing there to go away. She asked me whether I wanted the girls to hear the conversation between the two of us. I was not hysterical that
361 morning. I was perfectly calm. I told Miss Talbot that I brought some records with me to show that some of her statements were wrong. Then she said, "Do you want these girls around here to listen to this conversation?" I said, "I hardly think so." And she told them to go out. The room I should judge was a good sized office room. To the best of
362 my recollection her desk was towards the center of the room. Miss Talbot was seated. She told me to sit down near her desk. Her tone was just a conversational tone. The other young lady who remained in the room was on one side of the door towards the windows, I think, I am not positive. I cannot tell

363 you exactly how far she was from where Miss Talbot was sitting. From my recollection it seems to me she was sitting almost as far from me as the second juror (indicating). That is my best recollection. She might have been sitting a little farther.

The COURT: About fourteen feet?

364 I told Miss Talbot I had brought up my school record to show her that I had taught in the Moseley School more than a year. I asked her whether she would not look at them. She told me she wouldn't care to see them at all. I had also with me a paper written by Miss Brookings, the head assistant, to whom I had gone on Thursday afternoon for a statement saying I had taught there. And she asked me
365 if there was not some error in the dates, that it looked to her that it was longer than the time stated. I told her perhaps it was, but I was so excited I might have made an error. I wrote that out and Miss Brookings signed it. I showed her the document and she handed it back to me. She told me
366 didn't believe it had been written by Miss Brookings.

She said, "Where are those aigrettes?" I told her, "I don't know." She said, "Where are you
367 getting this money from to buy this expensive coat?" And I told her I had been buying it, that I simply paid down on it. She told me that she thought I was lying. I said, "I have not paid for it. I have only paid down on it." She said, "Don't you know it was wrong to have said anything about this theft occurring at Mrs. Von Jahn's, as Mrs. Von Jahn was a prominent woman?" And I told her I didn't look at it in that way.

She told me, why didn't I confess and say I was

- getting my money from men, and not from my uncle, as I stated the previous day, to go to the university; and she said, "'Fess up, woman to woman, that you did get your money from men.'" And I
- 368 told her I had not, and that I had gotten it from my uncle, and that she could cable to him if she wanted and I would pay the expenses of the cable. She said, "Where is this uncle of yours?" I said, "He is in Vienna." She said, "What is he? What position does he hold?" I said, "He is a physician, and I understand an assistant professor of the Rush Medical College, which is a branch of the Chicago University." She seemed to be very much surprised. She said, "You are lying, when you say that you have been the main support of your family;" and I
- 369 told her, "I can prove it to you. I happen to have a letter with me now that was written by my mother, and I think if you read those statements, and you know just a little of my life while I have been in Chicago, I think I can prove to you conclusively that I have been the main support of my family," and I handed the letter to her and asked her to read the last page.
- 370 She read the letter except that portion which I asked her not to read, and handed it back to me. I told her at the time that a portion of it had no reference to me, but to my sister, and I didn't think she ought to be brought into my affairs, and she considered my request in the matter. Then she said, "What do you mean by coming here to the university, Miss Mercy, when you have a needy family? The very nerve of you to do such a thing as this! Why don't you take this money that you are spending on

the university and spend it in support of the family?" She said, "No moral woman would do such a thing." And I told her I was doing what I thought was best for the family. Then she said she didn't believe that I had ever given a nickle's worth
 371 towards the support of the family; that I could not help to support them at all; that mamma's letter did not indicate it at all; that the sooner I got out of the university the better it would be for me. I said, "I don't think I have done anything wrong, and I do not propose to get out until you convince me that I have done wrong, and until she had the proofs that I had done wrong," and she wheeled towards me and said, "What do you mean by entering men's
 372 rooms?" To the best of my recollection in that conversation on the 9th of December she called me a prostitute. I recollect yesterday that I thought she said in that conversation that I was no better than a woman of the streets. I had not given it any thought since yesterday, that is the reason I stated it this morning. To the best of my recollection that was the first time she called me a prostitute.

375 Q. Miss Mercy, when you went there that morning, you were quite familiar with the term adultery and fornication, were you not?

Objection by plaintiff as incompetent, immaterial and irrelevant, sustained.

376 That morning I did not think anything about the use of the word "prostitute," as being actionable for slander in this state. I do not make Miss Talbot use the word because I became familiar with it and

its value of my knowledge in the conviction of my fiancée.

- 377 At the first meeting with Miss Talbot she said I was an immoral woman, and that I got my money from men, and as I understood her, I was no better than a street walker, or a woman of the streets. I didn't understand her to use the word "prostitute"
- 378 at the first meeting. The first meeting with Miss Talbot was where Miss Robinson and Professor Vincent were present. At that meeting she did not use the word "prostitute" to the best of my recollection. The next day when I was alone with her I showed her my mother's letter. I didn't go there for the purpose of showing her my mother's letter. She called me a prostitute at that meeting more than once. Whether it was before I gave her my mother's
- 380 letter I can't recall just now. I can't recall whether it was the following day. I know I was very hysterical and screamed when she kept telling me that I was a woman of the streets; that I got my money from men and that I was lying when I said I got my money from men, and I simply screamed, and she
- 381 said there is no use screaming, there is no use disturbing the people in the hall; there are classes going on; and I finally walked out when I could stand it no longer, and I guess I stayed in that hallway about half an hour. I can't recall and she came out and she said, "Oh, you are standing here, are you?"
- 388 Q. When you filed the original declaration in May, 1911, did you then know that Miss Talbot had said you were a prostitute? A. I most assuredly
- 389 did. Otherwise I would not say it now. When I called at the office of Bowles & Bowles who filed the

original declaration, I most assuredly knew that Miss Talbot had called me a prostitute, and also when I secured the services of Mr. Jennings. I didn't know anything about the law. I believe I knew that when I went to Mr. Jennings' office after the first declaration that the simple words "You are not better than a prostitute" was all I would have to plead in order to get an action for slander. That is not why I put in the mouth of Miss Talbot the word prostitute on the evening of December 9th.

- 390 Q. Did you have any convictions of conscience when you filed your original declaration in May, 1911, or when you took out your praecipe in April, 1911, for the first suit of setting up in the declaration that Miss Talbot had called you a prostitute?

Objection by plaintiff; sustained.

- 391 I went to see Miss Talbot on December 20th. That meeting came about on the receipt of the letter that I received from Dean Angell, Plaintiff's Exhibit 6.

Q. Was there anything in that letter? A. Well, I gave it to you almost word for word. That has been burned on my brain and should I live a thousand years I would remember it.

- When I went into the university I had not paid the tuition required in that one semester. That term would end with the Christmas holidays. In order to return to the college I would have to re-
 394 register. There had been no tuition paid by me that I can recollect for the term beginning after the
 395 Christmas holidays. I remained in the institution until January 11th. I stayed in those classes until they finally kicked me out practically. I guess I com-

pleted the full term for which I paid tuition. I registered my intention of going on after the Christmas holidays prior to receiving that letter. I think it was about a week in advance of receiving that letter, perhaps more. My first conversation was on December 8th with Miss Robinson, Dean Vincent and Miss Talbot. The second conversation at the time she called me a prostitute was on December 9th. I registered between December 9th and 20th when I got the letter from Dean Angell. I believe they called me those names for the purpose of getting me out of the Chicago University. The reason I stayed was to get my degree. I didn't want to be changing around from one school to another.

Q. If they had permitted you to go on on January 11, 1911, would you have sued Miss Talbot or anyone else? A. No, sir.

Objection by plaintiff; motion to strike out the answer; sustained; exception.

I was willing to continue in the university because I knew that on account of being Jewish, prejudice might be shown me in many places where I would apply for scholarship, and I figured out, well, if I could get my degree there, since I had such a short time to remain, I had better put up with a great deal in order to do so since so much depended upon it.

I wasn't put out of any except this one, because I was a Jew.

On the 20th, I went to Cobb Hall in response to this letter that I got from Dean Angell. I went to Miss Talbot's office in Cobb Hall. Miss Talbot was alone in the room.

My re-registration was tentative until I had satisfied Dean Talbot and Dean Vincent of the advisability of my continuing my relations with the university.

405 I met Miss Talbot in the same room where I had the other talk.

Miss Talbot and I were alone in the room. We were both standing. I was not really in her office, but was outside, just about in the doorway where the students stood in order to get into her office if anyone happens to be in the office. There was not a soul there but ourselves. I can only give you my best recollection of what she said. I don't know that I can give you the exact words, but I can give you what I think are the exact words.

406 I said: "Dean Talbot, I have come to you again. I was sent to you from Dean Vincent's office. Dean Vincent told me he had left this matter entirely in your hands. I talked with Dean Angell about it and he told me he did not want to have a thing to do with it—that he did not know anything about it, only that this letter to me was dictated in his office by you. I so understood Dean Angell to tell me, and I told her.

I went to Dean Angell's office and I said to Dean
407 Angell, "I got this letter from you." I understood Dean Angell to say that Marion Talbot dictated that letter which was sent by him. I don't think I have any doubt about it. I am as positive as can be. I told Miss Talbot that Dean Angell had said she had dictated the letter.

408 I think Miss Talbot's opening statement to me,

as soon as I entered, was, "Have not you gone from the university yet?" and I said, "No, Ma'am" and she said, "Why, not?" I said, "I don't see anything that I have done why I should leave the University. I have done nothing wrong. I don't see why I should leave and she told me that the sooner I left the better—and that it was folly." She said, "You are simply wasting time trying to stand the examination; the sooner you leave the better." It led up to a climax. I had not lost anything—I had passed.

I told her I had gone to Dean Vincent's office with the letter and Dean Vincent told me he had left the matter entirely in her own hands.

At this point the witness from the stand addressed Dean Vincent, who was in the courtroom, as follows: "I notice Dean Vincent can't even look at me; he remembers it—you can't look at me in the eye, Dr. Vincent.

410 The COURT: Just answer the question.

The WITNESS: Now, you just bet.

Mr. WALKER: Do you see anybody else whose glance in the eye does not suit you, if so, will you be kind enough to point him out?

The COURT: It will be necessary to clear the court room if there are any more outbursts, any more manifestations of approval or disapproval in any way.

The WITNESS: I wanted to know from Miss Talbot what was the matter that they had not brought me any direct proof that I was an immoral woman as she claimed me to be, and she said: "You know very well you are an immoral woman—you are

nothing more than a woman of the streets. We do not consider you any more than a woman of the
411 streets. You know very well you are receiving your money from men and you are nothing more than a 'prostitute' and the sooner you get out of this university the better it will be for you, and I don't propose to allow you to stay here."

I said, "Miss Talbot, for God's sake, treat me at least as a human being, let alone a woman," but she laughed and sneered. I said, "you are showing me no justice at all and she said, "we are a court of
412 equity here." I said, "if you are a court of equity, then you surely are not showing justice to me."

Q. Are you imitating Miss Talbot's style in speaking—and have you in these various conversations as well as you claim you are using her language?

Objection by plaintiff; sustained.

413 Q. I want to know if witness pretends to imitate her. I want to know if Marion Talbot ever in her life talked in the dramatic style, or method, that you do, that you ever saw? A. I think she would give a great deal to be able to have a little dramatic ability, but I did not say it that way for effect.

Q. What made you think of that? A. Well, that is what you are trying to impress on these people.
414 I did not bring this suit to show my dramatic ability. I told Miss Talbot I wanted to see President Jud-
415 son. I wanted to ask her if she would not get together with Dr. Vincent and she told me that Dr. Vincent was going to New York, or had left for New York, I don't recollect which and that he would not

be back until after the holidays, and that she would take up the matter with him, and to come back after the holidays and see her.

- 416 On the 8th of December, this note (Plaintiff's Exhibit 1) was delivered to me in my class room. I think Miss Robinson was sitting in one corner of the room and Miss Talbot was at her desk and I said "is this Miss Talbot?" She said, "Yes." I said, "Miss Talbot, I received this and I understand I am to call here and to see you." I said, "What do you want me for?" She said, "just take a seat and a young lady was sent out of one of the inner offices, I think, where they keep the records or something of that kind. Anyhow, Miss Talbot opened the door just opposite her desk and spoke to somebody,
- 417 or, rather I will not say they left, but just from what I gathered at that time I judged they did something. Miss Talbot shut the door again and in a minute through the other opening so as to get into Dean Talbot's office from the hallway, the regular hallway, Dr. Vincent entered, and he took a seat and Miss Talbot told me, she says: "Now, tell Dr. Vincent about this loss of yours. We hear that you have had a loss at Mrs. Von Jahn." And I said: "Yes," and I told them that some aigrettes—told of three—that some aigrettes had been taken out of my hat, and that Mrs. Jahn had threatened me with arrest when I merely mentioned the matter to her, and that afternoon—I guess I could not call it afternoon very well, but she asked me where I went—if I stayed there—if I remained at Mrs. Von Jahn after Mrs. Von Jahn had threatened me with arrest, and I told her, No, that I had gone right on to the Art Insti-

tute; and she sneered and said: "Art Institute!" I said: Yes, that I had an appointment with Mr. Reynolds to go to the Art Institute to view some pictures, and she asked me, I think, if Mr. Reynolds said anything when Mrs. Von Jahn threatened me with arrest; and I told her that Mr. Reynolds told her that he did not think that that was the proper language to use to me as I merely was telling her
 418 about my loss, and certainly wasn't accusing anyone, and I told her at the time that if she were in my home and she had lost anything that I thought I would investigate the matter, and certainly would not use any such language as she used to me. And she continued the use of this language, and I told Mr. Reynolds to take his hat and coat and to come along, that I would wear just that old crochet cap that I had, and that I would go right to the institute. And I told her that when I came back that evening Mrs. Van Jahn met her at my room there and told me that she had seen her sister, Mrs. Small, and that her sister told me—told her to tell me to search all of her effects, and I told her that I wasn't in the habit of searching people's things, and that I had thought about the matter and really preferred to drop it, that I didn't care to discuss it any further, and please never mention it to me, and I entered my room.

419 I told her that night or evening that Mrs. Small came up, it was directly after supper—I was in my room, and she knocked on the door and came in, and that she had used very ugly language, I thought, to me, concerning my hat, and told me that if I dared to report my loss that she would have me expelled

from the university, and at the same time bring charges against my character. And she asked me what did I mean by trying to see the president, and I told her that I wanted to see the president, because I wanted to ask his advice as to what to do. She said: "Isn't it a fact that you tried to get money from the president; that you want to see him to get money from him?" I said, "No, that was not my reason for wanting to see him at all primarily—that it was merely Mr. Robertson's suggestion to me, that I wanted to see the president if I desired a loan of money, and since I did not want to tell Mr. Robertson why I wanted to see the president, as I did not care to have the matter made public, and I could use the money handily at that time for the purpose for what I wanted it, that I said: "Well, I would like to get a loan of money temporarily, and
 420 I would like to see him." And then Mr. Robertson asked me what for; and I told him to pay up the premium on a burglary insurance policy that would be issued to me perhaps, that I had ordered it previous to this burglary—this theft, and had never paid any attention about it or to it, and that the people themselves—that I not only had ordered the burglarly insurance policy, but I had also ordered a fire insurance policy upon receipt of a letter from my mother telling me to insure everything fully, and since they were not insured "You have let the insurance run out," as she told me in the letter, to recall what my experiences were in the San Francisco earthquake, when I lost everything, and let that be a lesson to me and to be sure and insure these things. And that was the reason for—yes,

they asked me my reason for taking out this policy. If I remember they brought forth a leading question as to whether I did not take out a fire insurance policy and I told them yes, and I said that was the reason—I remember now—that that was the reason I
 421 took it out, upon receipt of the letter from my mother; and they also asked me if it wasn't a fact that I was taking out the burglarly insurance policy, simply trying to collect some of the money, and I told them, no, it was not, that this burglary insurance had been ordered by me at the same time that fire insurance policy had been ordered, and I had no idea that the theft would occur, never dreamed of it; it was simply a protection.

I will try to give it in sequence just as well as I can—Now, just let me think a second, please. Yes, Miss Talbot then told me, she said: "We have a communication from the Board of Education that you have taught in six schools in the past year." I said: "No, that is not so." She said: "Shut up, stop lying; you know it is so; and we don't consider you fit either mentally or morally to remain in our institution." I said: "I can show you the proofs." She said: "You don't have to show me anything. I have got it in black and white from the Board of Education."

She said: "Where are you getting your money
 422 from to come here, I said: "I am getting it from my uncle. I told her I was getting it from my uncle. She said: "Your uncle?" I said: "Yes." She said: "Who is he?" I said: "Dr. Krumholz." She says: "Where does he live," and I told her that he was at present in Vienna, and she told me then,

"You know very well you did not get your money from Dr. Krumholz, your uncle, you got your money from men." I told her I could prove it. She told me, I didn't have to prove anything and Miss Robinson broke in and said: "So you have been entering men's rooms, haven't you?"

Q. That is Miss Robinson now? A. Yes. And I said: "I did not recall entering men's rooms." And Miss Talbot told me to shut up and stop lying. And Miss Robinson said: "Didn't you enter Mr. Mallett's room," and I said: "Why no," and Miss Robinson said: "Why, you know that isn't so, Miss
423 Mercy," and Miss Talbot said: "Why, you just stop lying Miss Mercy; you can't tell the truth." And I could not at that time correlate "Mr." with "Dr." because I always called him "Dr. Mallett." And when she said "Mr. Mallett," I could not recall him. I took him to be a different person entirely; I could not hinge the two together—she meant one and the same person; I had always heard him called "Dr. Mallett", and I could not remember at that time—

Miss Talbot said: "How many children are there
424 in your family" She would not allow me to tell her why I went to Dr. Mallett's room that I can recall, not at that conversation.

The insinuation was made "you have been entering men's rooms, or rather the statement was made, "You have been entering men's rooms. I said: "I don't know what you mean and Miss Robinson said: "You were in Mr. Mallett's room" and I said: "I don't know him" and she said: "Oh, you don't know

him—you were not there—and Miss Talbot told me to shut up and stop lying that she knew better.

And Miss Talbot said: "What do you mean by sending girls to a doctor—You sent Miss Tutwilliger
425 to a doctor didn't you?" I said "Yes," and she said: "Don't you know that is wrong to tell students of this university to go to doctors." She said: "What did you send her there for?" and she would not allow me to tell her why I sent her there. She said: "What were you sick with this past summer?" and I told her that I had nervous prostration and ptomaine poisoning, and she told me to shut up and stop saying anything like that and to tell that story to the winds, but not to tell it to her, that I knew very well what was the matter with me and she told me that on the next day too, but I forgot to tell it.

Q. What do you understand that insinuation to mean? A. What would you understand it to mean?

Objection by plaintiff as incompetent, irrelevant and immaterial; sustained.

427 At this meeting, either Miss Robinson, or Miss Talbot, I don't recall which now, said: "Well, how much are you paying Mrs. Von Jahn for your board and room?" I said: "I am paying \$7 a week, although she asked me if anybody asked me the question, as a convenience to her, as she might get into trouble with the university authorities, to please tell them \$9, as she was not supposed to take anyone under \$9 where they could have the advantages of German or French. I think Miss Talbot asked the question; yes, she asked me if I had not told Miss Robinson the day before that I was paying Mrs. Von

Jahn \$9 a week. I gave her the answer that I just gave you.

428 To the question, how many children were there in my family, I said: "There are seven of us living" and she said: "Isn't it a fact that you have stated there are fifteen children in your family?" I said: "If they were all living I think there would be twelve or fifteen." She said: you are simply lying and she made the statement that she knew Mrs. Von Jahn to be of irreproachable character and veracity and I said: "Well, I don't know that she is of such irreproachable veracity because she is continually exaggerating about the price she pays for things," and
429 I gave instances. She said: "Where did you say you were getting this money from to come here," and I told her again, "from my uncle." This is the same conversation and she asked me if I wasn't engaged to be married, and I said that I dare say I would marry after I finish my degree. And she asked me why I was not married already and I told her I was not prepared to marry, that I had a needy family to support and I could not ask any man whom I might marry to support them and I desired to get my degree so that I could support them after marriage.

There was so much said that I cannot recall it all. She brought up the question of the hat and she said: "Why, a man gave you that hat, didn't he?" I
430 said "Yes." She said: "Tell us the circumstances how that hat came to you," and I said: "Well, Mr. Reynolds happened to see it and I dare say he thought I would like a thing of that kind and he had an opportunity to buy it and he

sent it up with his card," and she said: "Didn't your mother disapprove of your getting a hat of that kind?" I said: "At the time, I certainly did because she did not think it was a proper present, but under the circumstances that it was given, I accepted it because Mr. Reynolds is not a city man and has not ordinary city ideals. I think his ideals are purer."

Q. You said Reynolds was not a city man? A. No, he is not a regular city man. He has lived most of his life in the country where the ideals are purer.

Q. As his ideals were purer? A. Yes.

432 Q. Now, at the time you told Miss Talbot that Mr. Reynolds was from the country and not a city man, and had higher ideals, was that after you knew that he had served a term and had been convicted of adultery? A. I don't remember.

Q. It was after, however, wasn't it? A. I don't remember.

Q. Did this information reach you after you became acquainted with him, after his conviction of adultery—was it after you became acquainted with him? A. Long before.

433 Miss Talbot did not mention anything more, I don't believe at that time, except about the hat. She said: "I don't believe you received your money from your uncle; you received your money from men—you are getting your money from men and we consider you nothing more than a woman of the streets."

434 Why don't you take this money you say you have and let that needy family have it that you say is

needing it. I told her I felt I could do them more good by getting my degree and doing what I intended to do with that degree than by turning the money over to them and she told me to shut up and stop lying—that that was simply an excuse I was giving. Every time I said anything, she would say, shut up and stop lying. It lasted two hours or more and it is rather hard to give the conversation exactly.

- 435 At the conversation when Dean Vincent and Miss Robinson was present, Dean Vincent summed the matter up and said, "Well, Miss Mercy, the mere fact that you have taken out a burglary insurance policy is very damaging against you." He used either the word damnable, or damaging, I don't recollect. He said: "The fact that you taught in six schools in the past year shows you unfit both mentally and morally to remain in our institution, as we do not care to have a character of your mind here—your sort, and receiving men in your rooms is not what we consider correct." I had forgotten that Miss Robinson brought up that I received company in my room. I said at Miss Jahn's, she had no parlor or any sitting room, she rented out every room except the dining room and that is where they ate and her kitchen where she cooked. He said, "We don't consider you a fit character for our institution; we don't care to have you here, and we don't
- 436 consider you a fit character for our institution and as the Dean of the faculty of Arts and Sciences (I believe it was), I am requested to ask you to sever your connections with the University." He didn't say that my conduct did not meet with the approval

of the school, or in substance that, and that nothing would be said about it if I would just quietly retire from the school and I could go to some other school and they would make no comment about it and that it would be better for me to do that, and that would end the matter.

Q. Then, did he not say to you: "If you insist on remaining, we will have to make some further investigations?" A. No, sir; he did not say it in those words.

I said, "Dr. Vincent I have not done any wrong, I don't see why I should even be asked to leave." The
437 only wrong I have done is simply to report my loss and simply because it involves Mrs. Von Jahn, who happens to be a member of a prominent family and a sister to the wife of Dean Small you stir up this trouble and are trying to oust me out of the University." I said that to Dr. Vincent, Miss Talbot and Miss Robinson for the benefit of all three.

Dr. Vincent said many things. He said: "We will refund your tuition fee to you." I said: "You cannot pay me for my time." I said: "What could I say to my family or friends, why this would be simply terrible?" He said: "Then we would allow you another course—that we investigate your character fully." He said: "We will allow her until tomorrow to decide, will we not Miss Talbot?" I said: "Dr. Vincent, you need not allow me until to-
438 morrow to decide, but I will decide now." "You can investigate my character fully" and that is all the conversation as far as I recall it. I cannot recall that Miss Robinson said anything further.

On July 20, 1910, I had already seen my fiance's father's will and discussed the proposition somewhat of contesting it.

- 449 Q. Did you discuss it with him that he should not make a contest with your approval, but let the mother enjoy the life estate and then it would come to him.

Objection by plaintiff; sustained; exception.

- 441 Q. Do you consider yourself his affianced wife?

442 A. Tentatively speaking.

Q. Had you told him that you would not marry a man unless he was worth \$100,000?

Objection by plaintiff; sustained; exception.

- 444 Q. Isn't it a fact that this scheme for suing the University was a put-up game between you and Reynolds to get the amount of money necessary to get married on when he got a divorce from his wife —wasn't that the job? A. Indeed not.

Q. Isn't it a fact that you and Mr. Reynolds (your fiance that was, and as a tentative affianced's bride), that you learned that the year in which a contest under his father's will would expire in February, 1911; and that what you were going to do you would have to do before that?

Objections by plaintiff as incompetent, irrelevant and immaterial; sustained.

Q. What had you and Mr. Reynolds discussed in reference to that matter?

Objection by plaintiff; sustained.

- 466 Q. Was it after you went to the Chicago University in the fall that you talked about a proposition of contesting the will?

Objection by plaintiff; sustained.

Q. Did you talk with Mr. Reynolds about contesting the will after you had entered the Chicago University at this time this hat business arose?

Objection by plaintiff; sustained.

447 The next meeting after the 20th of December was January 9th; then on January 10th, the next day, I went to see Dean Vincent with my brother and Mr. Reynolds.

I spent the Christmas vacation in Chicago. I lived at Mrs. Griffiths. I think I moved from Mrs. Von Jahns, December 10th, but I am not positive. My mother was in Tennessee. My brother had a position here and had a room in the city. He was not living at Mrs. Griffiths. My room at Mrs. Griffiths was an upstairs front room and to the best of my recollection Mr. Reynolds called once or twice a week during the holidays. He did not visit me in my room.

Q. On January 9th you and your brother and Mr. Reynolds went to see Miss Talbot again; had you been sent for then? Had anybody sent for you to come there? A. I received a note telling me to come.

Q. From whom? A. Miss Talbot.

Q. Where is it? A. I think I received a note.

449 I think the January term started the day after New Year's. I am not positive. I had been attending classes before I went to see her.

The last day I was not attending classes; I was too late to go to a class and we stepped into the lecture room. I do not recall how many days I had

been to school before that morning when my brother and Mr. Reynolds came down to meet me there.

450 I don't remember how many days I had been at school before I had this meeting with Miss Talbot, because I do not remember just what day the school session started; I don't remember whether I went to school the Monday after New Year's day, 1911. I think school started the next Tuesday after
451 New Year's day, the 3rd. I am not positive; I know that just as soon as the session started I was in on the very first day.

Q. Then you got some notice? How did you come to go to Miss Talbot's room with Mr. Reynolds? Did Mr. Robertson send you? A. Yes, sir.

Q. Why didn't you go right along to school? What did you go to Miss Talbot? A. Mr. Robertson sent me there?

Q. How did Mr. Robertson come to send you there? A. Because I went to Mr. Robertson to try to get him to arrange an interview to see the president. I did not want to see Dean Vincent and Dean Talbot any more and whatever I had to say, I wanted to say to the president. I wanted to thresh this whole thing out with him and tell him exactly what had been done and talk the situation over with him.
452 Dean Vincent did not send for me; I don't recall whether Miss Talbot did.

I went to see Mr. Robertson half a dozen times when I came back in January before I went to see Miss Talbot. I was going to school all the time.

Q. Was anybody saying anything to you, any professor? A. Yes, sir; all of them; I recall Dr.

Thompson, he is the head of the history class. He said: "Miss Mercy, your cards have not come to me, what is the matter" and I told him "I dare say
453 they will come unless there is some error." There was another professor at the head of the department. He told me also that my card had not come. Also the teacher who had charge of the public speaking class, Mr. Gersuch.

Q. Well, he is in Europe? A. (Witness arises from chair): Well, I guess he was sent there conveniently. I understand that Mr. Robertson was also sent very conveniently there.

455 Q. Mr. Gersuch left the other day. Well, what did Mr. Gersuch, who is in Europe, say? A. (Witness arises out of chair and shakes fist): Yes, if Mr. Gersuch was here—

Mr. JENNINGS: Miss Mercy, sit down, sit down.

Mr. WALKER: What is the matter?

The COURT: Please answer the question.

I would like to have her tell me what Mr. Gersuch would say if he were here. You started to tell me that?

Objection by plaintiff; sustained; exception.

456 Q. Have you an idea that Mr. Robertson went to Europe in the interest of this case? Is that your idea?

Objection by plaintiff; sustained.

The COURT: I know she said it, but lets get on with the examination.

Mr. WALKER: I take an exception, she having volunteered that, and having put it in without any rea-

son on earth and because your Honor don't permit me to follow it up, I am making now my objection and this exception for the purposes of record.

457 Q. I ask you what Mr. Gersuch said to you when
you came into his class before you went to see Miss
Talbot? A. For some time Mr. Gersuch didn't say
458 anything. He told me that my cards had not come
to him, or something of that kind, or had been with-
drawn by the university—nothing else that I recall.
Prof. Cutting, the head of the German department,
said the same thing—that they had not my cards,
459 or something of that kind. I don't think I can recall
460 any other professors. I think I attended the classes
of these three professors from the day I came back
until the day I went to see Miss Talbot.

I received a note from Miss Talbot dated January
6th, I think. It is in the possession of Mr. Jennings.

461 Mr. WALKER: I move that the answer be stricken
out.

(Mr. Jennings hands Mr. Walker a document.)

Mr. WALKER: Well, let me show the court the
document and he will see very readily why I cannot
use it. She said she received a note from Miss Tal-
bot, and that she was the writer; that is not a note
* * * (handing the court the document) from Miss
Talbot or anybody; your Honor, I will let the court
look at it.

The COURT: How did you receive the note?

A. Through the mail; let him see the envelope
please, Mr. Jennings.

Mr. JENNINGS: That is the envelope, your Honor.

(Hands the court an envelope.) Thereupon the note was marked Plaintiff's Exhibit 8, for identification.

462 I object to counsel's motion to strike out answer on the ground that instrument is written on the stationery of the Chicago University, in print, "Office of the Dean of Women," addressed to Miss Mercy, but I will not read it here, but just quote the substance of it, to come on Monday night—

The COURT: Don't read it.

Mr. WALKER: I object to it.

Thereupon the court denied the motion to strike out the answer of the witness that she had received a note from Miss Talbot.

464 The COURT: Now counsel wants to know when you first received notification to go to Miss Talbot's office on January 9th. If you don't know, say so, and if you do know, say so.

A. I received that letter in January, either the 6th or 7th, that was the first I learned about it. Miss
465 Talbot, she did not name a specific date when I was to see her; she said after the holidays to return to her. I did not return to her until I had received a notice from some source on January 6th to go and
466 see her, but went on with the school. I received the notice either January 6th or 7th.

I don't know where my brother was on the 7th. Mr. Reynolds was in the City of Chicago.

I 'phoned my brother I wanted him to be at Cobb Hall on the morning of January 9th, I think, some-
467 where around 10 o'clock. I wanted to see him. I did not see him before that time. I did not say any-

thing else over the 'phone, except that I wanted to see him that morning.

I saw Mr. Reynolds, I think, on January 8th. I
468 didn't meet Mr. Reynolds anywhere; he came to see me on January 8th at Mrs. Griffith's. To the best of my recollection it was one of his usual calls.

469 On December 20th Miss Talbot told me to come back to see her after school opened. At first she said she did not see why I didn't quit and it would be advisable for me to quit, and so on, and then she told me to come back after the holidays and see her and she would take it up again.

Q. That is what you understand? A. (Witness arises from her seat.) That is what I know she said.

470 Q. Now, in that conversation when your brother and your married fiance were present, did she, Miss Talbot, say that you were a prostitute, or was it yourself who got up and said, "She called me a prostitute," which was it? A. I said to them, "She
471 titute," which was it? A. I said to them, "She called me a prostitute."

472 Q. Then she did not say anything about your being a prostitute, or used the word prostitute in the presence of your brother or Reynolds? A. (Witness arises from her seat.) "She did it."

Q. I am not asking you that; I am asking you did she say in the presence of Mr. Reynolds or your brother that you were a prostitute, or "no better than a prostitute" or use the word "prostitute" at all? A. I do not think, to the best of my recollection, that in that conversation she used the word "prostitute."

Q. Excepting on one occasion do you yourself ever claim she ever used the term, or the expression, or the word prostitute? A. December 20th.

473 Q. That was when she was all alone? A. Yes, sir; she used the word prostitute on the day the young lady was in the room.

474 Q. How did the question arise about seeing Dean Vincent on January 9th? A. To the best of my recollection, my brother asked Miss Talbot to please defer decision until some one higher in authority could be seen and I think he asked her if he could not see the president, or if we could not see the president, and she said "No, but that she would make an appointment for, or with, Dean Vincent for us."

475 • I could not make an appointment with the president. To the best of my recollection she suggested that she would make an appointment with Dean Vincent and the next morning my brother and my fiance and myself went to see Dean Vincent. I think, but I don't recall whether it was Miss Talbot or my brother, Miss Talbot made the suggestion.

Miss Talbot left before the interview was closed and before my brother and fiance and myself.

476 The conversation with Dean Vincent after Miss
477 Talbot left was relative to giving me a clear record that would entitle me to go to the Northwestern or any other university that I desired to enter.

It seems to me, since you recall it, that I did walk out in advance of my brother and then turn back and Dean Vincent was then speaking to my brother and my fiance.

I did not know Mr. Reynolds when he was associated in business with a "Mr. Robinson."

- 478 Q. During your association with Reynolds, did you ascertain from him that the reason his father had cut him out of the will, among other things, was that he was connected with one Robinson, and that he had signed his father's name to \$7,000 of notes, which the father had to pay; did he tell you that?

Objection by plaintiff on ground that the question is immaterial, irrelevant and incompetent; sustained.

- 482 Q. Did Mr. Reynolds inform you before you met Miss Talbot that he had deserted his wife and children and was living with a woman with two children and that his mother was the prosecutor in the case for which he was convicted for adultery and one year in the bridewell?

Objection by plaintiff; sustained.

Thereupon the defendant offered to make proof along the line of the questions mentioned above and was requested by the court to make it later on.

- 483 The WITNESS: Mr. Reynolds lives somewhere on 40th street, I think.

Q. Do you know a woman milliner upon Wabash avenue near 15th street, or in that neighborhood, Nos. 1500 or 2500, where Reynolds makes his headquarters?

Objection by plaintiff sustained.

Mr. WALKER: I would like to make an offer of evidence.

Thereupon the court directed the jury to retire.

Mr. WALKER: I offer to show that this woman I was interrogating about had an illegitimate child by a married man.

Objection by plaintiff; sustained.

Mr. WALKER: I offer to show that her uncle, Henry Krumholtz, knew that Reynolds was convicted and served in the bridewell.

Objection by plaintiff; sustained.

485 Mr. WALKER: That her aunt was a common harlot of the City of Chicago, Rose Krumholtz, and known as Hungarian Rose.

Objection by plaintiff; sustained.

Mr. WALKER: I do this, your honor, to show that her surroundings and associations were such that, under the morals of this institution, she was not a proper student in that school, without any desire to prove that she herself was guilty of adultery with anybody.

Objection by plaintiff; sustained.

Mr. WALKER: We offer to show that this woman knows that when Reynolds was released from the Bridewell on the adultery charge, he associated with one Miss Deneen, and bought her a manicure shop in the Champlain Building for \$4,000, and I offer to show that this young lady knew about it when she
486 went to the University; and I offer to show it by this woman on cross-examination.

Objection by plaintiff; sustained.

Mr. WALKER: I offer to show that Reynolds lived with a woman with two children at 35 Wabash avenue and that this woman knows it.

Objection by plaintiff; sustained.

MR. WALKER: I offer to show that Reynolds now makes his headquarters with a woman milliner on Wabash avenue, between numbers 1500 and 2500, and that Reynolds has said to her he would give her \$2,000 of what he gets from the University; and I offer to ask plaintiff in this case whether she knows that fact or not.

Objection by plaintiff; sustained.

MR. WALKER: I offer to show that two years ago last summer the plaintiff was at South Haven and I
487 offer to show by a lady that in conversation with plaintiff at South Haven at the hotel two years ago last summer she told that lady she was getting material to write a book on the sexual relations between men and women. I think the woman's name is Lefkow. I can get her name; she is a lawyer's wife.

Objection by plaintiff; sustained; to the sustaining of which above objections defendants then and there excepted.

Thereupon the trial was resumed before the jury.

Q. In answer to one of the questions in cross-examination, you said that you knew that Mr. Reynolds had been convicted of adultery and you sympathized with him. Will you please tell the jury why?

Objection by plaintiff; sustained.

489 Thereupon the defendant moved that the plaintiff's testimony be stricken out, on the ground of variance from declaration herein, which motion was argued by counsel.

Re-direct Examination by Mr. Jennings.

Q. Miss Mercy, you spoke in your testimony about organizing an up to date club. Was there any central club or organization that this club you were organizing was a part of; if so, what was it and where was it located? A. Yes, sir; I have forgotten the name, but I could easily get it for you. Mr. 490 Herbert, our lawyer of Chicago, was at the time the head of the central organization in Chicago. Mine was simply a branch of this one. Some of the branches were formed in lodges, others were simply fraternal clubs with lodge element to make it more attractive for the members. I was simply organizing small local branches of a central organization.

I can recall no additional reasons than already 492 given why I declined to meet Mrs. Von Jahn and Miss Robinson. I was advised that it would be futile to have that meeting.

HENRY MERCY, a witness on behalf of plaintiff, recalled, testified:

495 At the interview between my sister, Mr. Reynolds, Dean Vincent and myself, I think my sister went out of the door before I did and turned back.

Q. While plaintiff was out and while you were there, did Dean Vincent turn to you and Mr. Reynolds and say, "Didn't you see that she is quite dramatic and peculiar in temperament, that she exaggerates and does not tell the truth—she has admitted it here in your presence, and that she is a dramatic hysterical woman, and it is rather—or in substance

—a pathological case or mental case of temperament, or in substance, and that you ought to advise her not to continue at the university and that they could not keep a pupil there of that temperament”
 496 or words to that effect? A. No, sir.

Q. Did you know when you went down to Miss Talbot's office on the morning of January 9th and told her that your sister is going with Mr. Reynolds and that he was her fiance, and accepted the hat with your mother's and your consent, that Reynolds was a married man and had two children and had been convicted of adultery; did you know that when you told the teacher that she accepted the hat with your consent?

496 Objection by plaintiff on the ground that the question, if it has any tendency at all, tends to show specific instances and the defendant has not pleaded justification.

The COURT: I sustain the objection on the ground that it is not a proper question.

497 Q. Would you have told Miss Talbot that your sister received a \$250 hat from a man with your consent if you knew that man was a married man with two children and had been convicted of adultery?

497 Objection by plaintiff on the ground, first, that it is not proven that Mr. Reynolds has been convicted of adultery; second, that it does not tend to touch the issues involved, and does not affect the credibility of the witness; sustained.

499 Mr. JENNINGS: Now, your honor, I want to ask you that if counsel desires to ask further questions

along that direction that he pursue the rules suggested a while ago.

The COURT: Yes, make it in an offer of proof, as soon as you ask another question of the witness and indicate your intention to prove it.

Q. Do you believe that it is proper for a young
500 woman to associate with a man who is married and has two children—the man is her fiance or intended husband—who has been convicted of open and notorious adultery, and has been punished for it?

Objection by plaintiff on the ground that it assumes that the man has been convicted; second, that it tends to prove specific acts and justification; objection sustained.

Q. When you told Miss Talbot that your sister had received a \$250 hat from her fiance, Mr. Reynolds, and with your approval, did you know from him, or your sister, that he had a wife and two children and had been convicted of adultery?

501 Objection by plaintiff; sustained.

WARREN E. REYNOLDS, recalled by defendant for further cross-examination, testified:

502 Q. I want to call your attention to the conversation on January 10th when you were present in Dean Vincent's office in the Chicago University, whether you and Mr. Mercy paused at the door after the young lady went out and Mr. Vincent spoke to you and her brother in which he said, "Now, you see,
503 gentlemen, she exaggerates, she has admitted she has not told the truth in various instances," or that

in substance; "that she is very dramatic; that the question is more a pathological or a mental case than anything else, and her standard of morals is such that it does not meet with the approval of the University and you better have her quietly resign and that will end the matter." Did he or did he not tell you that in substance? A. I don't recall it.

507 Mr. WALKER: I offer to show that on the 9th day of January, 1908, in the Municipal Court of Cook County, Illinois, before Judge Frank P. Sadler, Warren E. Reynolds was convicted of living in an open and notorious state of adultery and was confined at labor for the benefit of Cook County in the house of correction in the City of Chicago, in the County of Cook and State of Illinois. The sentence was that he be confined in the house of correction at labor for the benefit of Cook County during the term of one year from and after delivery to the house of correction, and that costs of \$14 were taxed against him, and he was not to be discharged until he worked out the fine and the costs.

Objection by plaintiff; sustained.

Mr. WALKER: And there are several other questions along that line.

Same objection by plaintiff; sustained.

508 Thereupon defendant requested permission to interrogate the plaintiff as to why she desired to be transferred from the John Spry school and other
509 schools, and offered to show by the plaintiff that she resigned or was transferred because she had trouble with the principal, or teachers, or some teacher, all the time in these schools, because she would not tell the truth.

Mr. WALKER: I expect to show on this examination that whenever she goes into a school as a teacher and in these various places, and I expect ultimately to produce the witness from the various dry goods stores and millinery shops that she has outlined, that everybody was persecuting her everywhere she went; not that she so stated it, but that her conduct was such that she had quarreled with everybody and every place, at all the schools where she was a teacher, and that she has delusions that she is persecuted, and that she charges those now on the University.

Defendant offered also to prove by the witness Henry D. Mercy and Warren E. Reynolds that they did not believe the alleged slanderous statement alleged to have been uttered in their presence on January 9th.

To which offers of proof and requests the plaintiff objected; objection sustained.

WARREN E. REYNOLDS, recalled:

Cross-Examination.

525 When I first got acquainted with Miss Mercy I was a married man with two children. I got acquainted with her through an ad. in the paper. It was an ad. of some clipping. I don't remember what it was, only some insurance clipping. I don't remember the nature of it. I think I saw the ad. in the Tribune, I am not sure.

526 It must have been in the early part of 1909—some time between January and May. I can't give you

527 the language of the ad. I do not know how it was headed. I may be wrong about the time, I could not say. I would just as soon find it out as not.

The witness is shown a document marked "In the Superior Court of Cook County." State if you know that document and the signature to it. It is divorce bill signed by you against your wife in this county, is it not? A. I believe so.

Whereupon the defendant offered the document in evidence.

Objection by plaintiff as irrelevant and immaterial; sustained.

Thereupon the document was marked "Defendant's Exhibit 'B' for identification." It is marked "Filed May 2nd, 12:50 P. M., 1910." The general number is 297864; term number 8759.

Q. Look at the document I am now showing you, marked "Defendant's Exhibit C for identification," general No. 297864, term No. 8759 in the Circuit Court of Cook County and state whether or not that is your wife's answer to your bill. A. I think so.

531 Thereupon defendant offered said document in evidence.

To which the plaintiff objected; sustained.

Q. In the divorce suit filed by you in Cook County you were dismissed out of court, were you not?

Objection by plaintiff; sustained.

532 Q. Is it not a fact that subsequently to this bill filed by you, your wife got a divorce from you in your home county in Prophetstown, in April, 1911?

Objection by plaintiff; sustained.

533 Q. At what date were you and your wife separated and divorced; I just ask for the date?

Objection by plaintiff as immaterial, incompetent and irrelevant; sustained.

535 Q. Mr. Reynolds, weren't you convicted in the Municipal Court of Cook County, Illinois, for the misdemeanor of adultery and punished by confinement in the bridewell for a year?

536 Objection by plaintiff on grounds last stated; sustained.

537 Q. Mr. Reynolds, when did you desert your wife?
Objection by plaintiff; sustained.

Q. After that, did you come here to Chicago and
538 live with a woman who had two children, as her husband, or in adultery with her for a period of, say, somewhere in the neighborhood of four years ago last Christmas?

Objection by plaintiff; sustained.

Q. Do you know Polly Deneen? A. Why, I know of her.

Q. Did you set her up in a manicure shop in Champlain Building for the payment of \$4,000 or something of that effect in which there was some criticism of a paper you gave—the notes?

Objection by plaintiff; sustained.

Q. Do you know a lawyer named Katz? A. I don't recollect him. I don't know whether I know him or not.

Q. Are you making your headquarters, or are you there occasionally, with a millineress that lives on Wabash avenue, somewhere between 15th and

25th street? A. No, sir. I do not know any millineress there. I have not been on that street for five years anyhow, on foot, I might have been there on the car.

Q. Do you know one Eva James, who was a stenographer for you when you were with Fairweather & Ridley? A. I never heard of that firm.

540 Q. Did you tell Miss Mercy when you started to go with her that you were a married man with two children? A. Yes.

Q. Did you tell her that you weren't divorced?

Objection by plaintiff; sustained.

541 Q. Did you tell her when you and your wife were divorced, and that it was in April of last year—1911?

Objection by plaintiff; sustained.

Q. Did you tell Miss Mercy during the period when she was at the Chicago University, and up to the time she quit, had you told her that you were guilty of adultery, and had been convicted of it?

Objection; sustained.

ESTHER MERCY, resumed the stand, on cross-examination, continued:

Q. Miss Mercy, when the hat episode came up and between that and the date of this suit, did you take a story, or the story to any newspaper in Chicago, between this date and the other date for sale?

544 A. I did not offer it for sale.

Q. Isn't it a fact that you went to Mr. W. P. Stott

of the Tribune, the city editor or the day editor of the Tribune and offer to sell a story in reference to this hat and of your conduct with the University in reference to this hat, and went there time and time again? A. I don't even know Mr. Stott, to my recollection. You had better get him here so I will see.

Q. Did you go to the Tribune and tell your story and see Mr. Stott in reference to it whether you went there to sell it or not? A. I believe I did; I don't know how many times I have been to the Tribune office since January 11th up to the time I brought this suit to see any one in connection with this story.

I don't remember the last time. I can't give you anything about it.

547 Q. Where did you next go about this story about your hat?

Objection by plaintiff; sustained.

Q. Did you go to the Examiner with the story?

A. Yes, I did. Mr. Andrew Lawrence did not buy it. I did not get a penny for it. I don't remember where I first went to have it published.

548 Q. Did you meet any man at the Tribune to whom you went to publish your whole story, or claimed story, of troubles at the University about the hat?

A. Oh, I guess I did. I don't recall exactly. I spoke to several people about it.

549 Q. When the story about the hat was published for the first time, it was given by you, was it not, to Mr. Lawrence, of the Examiner, and they published it first, was it not?

Objection by plaintiff; sustained.

A. I did not tell Mr. Stott of the Tribune that I wanted to go on the stage.

Q. Look at the picture which I now show you, marked Defendant's Exhibit D for identification, 550 which was published in the Examiner last Friday, and tell the jury where you posed for that picture; I will ask you whether or not you did not pose for that picture outside of the court room?

551 Objection by plaintiff; overruled.

A. I believe I did; I don't remember where I posed. I don't remember whether it was in the Examiner's office.

Q. Do you mean to say that the picture which was published last Friday morning in the Examiner where they had a caricature of me underneath with the long extended arm—that you can't tell when you sat for that picture? A. I don't know anything about it.

552 Q. Did anybody ask you to pose for that picture?
A. I don't remember.

553 I now show you paper marked Plaintiff's Exhibit E for identification; is that your picture? A. Per-
554 haps it is, I don't know.

Q. Well, when did you put on that hat and pose before a camera—is that the hat? A. That is a hat (indicating on picture) and I don't remember when I posed for it.

Thereupon defendant offered the picture in evidence.

555 Q. Look at the picture I now show you, marked Defendant's Exhibit G for identification, appearing

in the American or Examiner of last week, and state whether or not you posed for that picture?

Objection by plaintiff on the ground "no proof was offered of the publication."

The COURT: Objection is good unless you make proof later on.

Mr. WALKER: I will bring proof that was published in the newspaper on the date.

A. I don't recollect. I recall seeing the picture
556 itself. I don't remember whether I posed for it.

Q. Where did you get the hat in the picture? A.
I think I told you I got it from Mr. Reynolds orig-
inally; it has been in my possession all the time. I
557 dare say that is a picture of the remains of the hat.

Q. Where was the picture of the remains of the
hat taken that appears in this picture that I now
show you marked Defendant's Exhibit G? A. I
558 don't remember. I don't remember what paper De-
fendant's Exhibit F was published in. I don't re-
member anything about it. There was so many pa-
pers using my picture, I don't know.

559 Q. Did you sit for the American or Examiner to
have your photograph, or any other paper, except
as made in the court room? A. To the best of my
recollection, I have sat for every paper in Chicago.

560 I have met Mr. Nesbit, the author, and vaudeville
sketch writer; perhaps he is a vaudeville sketch
writer, I don't know.

Q. Last month, last February, just as this case
was coming on did you go to Wilbur Nesbit's office
on Monroe street in reference to publishing a vaude-

ville sketch and writing it for you on the stage when this trial would be over?

Objection by plaintiff.

- 561 A. I will not answer that question unless you allow me to answer it fully in my own way, without throwing in objections every time I say anything. That is the only condition that I will answer the question.

MR. WALKER: What does your honor say to the ruling of the witness?

A. Not to publishing it, no, no.

I saw Mr. Nesbit at the time and place named in Chicago. After I lost job after job and did not have food to eat, and asked him if he had a sketch I could use, because I thought I at least could get my food on the stage, if I could not get it any other way. (Witness standing up during her last answer.)

- 562 Q. Did you say anything to Mr. Nesbit that you had been on the stage, or in substance that you would be in the public eye in a few days? A. I don't recall saying anything of the kind to Mr. Nesbit.

Q. And that there wouldn't be any manager that wouldn't take you on the stage, that you had great acting ability emotionalism? A. I don't recall saying such a thing.

- 563 I did not say to Mr. Nesbit that I was ambitious to go on the stage; I did not tell him that I was hungry; I merely asked him if he had a sketch ready that I could use and I only intended to use it temporarily to give me money to eat and to pay my room rent, and if necessary, to fight this trial. I did not tell him that because I was too proud.

I have met Mr. Richard Henry Little, the sketch artist and writer on the Chicago Tribune. I was recommended to him by Mr. Nesbit. I went to see him also. I don't recollect whether it was after I left Mr. Nesbit; it was not right after I left Mr. Nesbit because Mr. Little was ill, so I was told. I called on him only once at the Tribune office.

Q. Did you tell him in substance that Mr. Nesbit had told you that Mr. Little could write a play—a vaudeville sketch for you, and have it ready at once?

565 A. I don't remember.

Q. And that you wanted it written by the best person that you get hold of and that Mr. Nesbit told you that Mr. Little could write one and you had better go and see him? A. Perhaps I told him that in substance.

Q. Did he tell you that he had never written a vaudeville sketch, and then asked you, in substance, how many people there were to be in the play, and what your line of work was, in the tragedy or comedy line; did he say anything to you in substance like that? A. No, sir.

Q. And then did you say that you wanted a big play written by a big author, or in substance that?

A. I don't recall saying anything like that.

Q. Did he say to you—you need not worry, but that he would not write a sketch for any beginner?

Objection by plaintiff; overruled.

A. I don't recall saying that.

566 Q. Or if he wrote it, he would want to write it for some regular actor? A. Not to my recollection.

Q. Did you say in substance—that you knew how to act anything because of your great emotional power and great ability along these lines? A. No, I did not.

Q. Did you say, “I suppose you know who I am,” or language like that? A. No, I did not.

Mr. JENNINGS (to witness): “Be quiet.”

The COURT: Keep quiet, madam.

567 Q. When he said he would not write a sketch for a beginner, did you say in substance that you had great emotional power, and great ability along those lines? A. I did not say I had great emotional power or great ability (witness standing up). I have more sense than to express such a thing even if I thought it.

The COURT: Sit down, madam.

Q. Did he say he did not know who you were and he did not care, or in substance that? A. I don't
568 recall it.

Q. Did you say, “I am the one who has a lot of people hounding me down and watching me,” or in substance that? A. Will you allow me to say what I did say?

The COURT: Just answer the question.

A. In substance; I remember that I said that a lot of people were hounding me. I did not say “their efforts are only going to help me in my stage career” or anything to that effect.

Q. Did you say “that is the reason why I have to have a play—a big act written by some big person” or words to that effect? A. No.

Q. Did you ask him in substance, whether you had better go on the stage before or after the court proceedings, and did he say, "you had better ask the
569 lawyer about it"? A. I don't recall anything about it.

Q. Did you say this or in substance: "You see I am so well known now and will be much better known, and so much is going to be made out of this. This is why it is so necessary for me to have the biggest sketch written possible" or words to that effect? A. I don't remember anything about it.

Q. Did he say, "Well, you had better see a manager for a vaudeville agent or a vaudeville agency, and that they had "hard hearts and refused many people"? A. I don't remember anything about that.

Q. Did you say, "They will have to take me, for I can act"? A. No, I did not.

Q. Did you say, "I have been on the stage; have had stage experience and was very successful"; did you say that or in substance? A. I don't recall
570 saying it.

Q. Did you say in substance that you had great dramatic ability? A. I will repeat again, that if I thought it, I would not say it. I don't recall saying it. I don't know anything like that.

Q. Did you ask him whether the sketch had better be brought out before the trial or after and if it would prejudice your trial if you brought it out before? A. I don't remember.

Q. And did he say you had better see your law-

yer, "I am not your lawyer, and that is beyond my business" or words to that effect? A. Not to my recollection.

Q. Did you say, "I suppose you know about my
571 hat?" Then did he tell you that you had better go to some regular sketch author? A. I don't remember. No one has written a sketch for me yet and no one is writing any. I don't remember whether I consulted any other persons in reference to writing a sketch for me.

572 Q. Do you remember whether anybody has written a sketch? A. No one has written a sketch for me. (Witness rises in an excited manner.)

The COURT: Sit down, madam.

Q. Have you written your own? A. No.

Q. Let me ask you if in your conversation with Mr. Little you did not want him to write the history of your life in a sketch, or outline it in a sketch, and outline this trial you have now against the University as part of the sketch? A. To the best of my recollection there is no written sketch of anything concerning this trial. If they are doing it, I have no knowledge of it and they are doing it of their own
573 delectation. I did not ask Mr. Little to embrace in it this trial. I asked Mr. Little simply if he had a temporary sketch when I was starving, so I could use it.

Mr. WALKER: Counsel referring Defendant's Exhibit F for identification.

Q. Don't you know that the picture was taken as part of your theatrical or vaudeville engagement?

Objection by plaintiff; sustained.

574 Q. Did you see the Examiner this morning? A. I believe I did.

Q. Will you look at this picture marked Exhibit H and tell me, if you will, if this picture was in the Examiner this morning? A. I think so.

Q. Where did you sit for it? A. I don't remember.

Q. Was that taken in the court room? A. I don't know whether that was taken in the court room or not. I can't tell you where that picture was taken.

Thereupon Defendant's Exhibit H was offered in evidence.

To which the plaintiff objected; sustained.

Thereupon defendant offered in evidence Defendant's Exhibits "D," "E," "F" and "G" for identification and the same were admitted in evidence, which said exhibits appear on pages 576, 577, 578 and 579 of the record herein.

Q. Look at the document I now show you marked "Defendants Exhibit I" for identification, consisting of 13 pages and state whether that is your letter and your signature? A. I dare say it is my letter.

Mr. JENNINGS: Don't you want to introduce it?

Mr. WALKER: I will let you introduce it, if you want to. I have identified it.

Mr. JENNINGS: I offered this letter Friday afternoon. I want to renew the offer in evidence.

The COURT: Let it and the envelope be attached together and admitted.

Re-direct Examination.

583 Mr. WALKER: I want to renew the request now, your honor, in view of the questions put by counsel, to prove by this lady what the reasons were for transferring her to different public schools.

Objection by plaintiff; sustained.

Thereupon court and counsel retired to chambers.

Mr. WALKER: I ask to recall the plaintiff for further cross-examination, and on further cross-examination I offer to show that ever since last fall she has been buying meal tickets and dining with Reynolds, and she has been paying the expense account.

584 I offer at this time to show that she has delusions of persecution, and that some places where she has worked she has been thrown out and has been thrown out of schools, and that as a student at the University she is a medical type well known pathologically as an insane type; and cannot tell the truth; and I ask that so that my medical witnesses that are now in the court room may see her on the stand.

Objection by plaintiff; sustained.

Thereupon plaintiff offered and read in evidence Defendant's Exhibit I for identification:

587

1232 E. 57th St.,
CHICAGO, Ill.,
January 16, 1911.

*Dr. Harry Pratt Judson,
University of Chicago.*

DEAR SIR:

I have the honor to acknowledge the receipt of the following letter from you:

January 11, 1911.

*The Registrar,
Northwestern University,
Evanston, Ill.*

DEAR SIR:

This is to certify that Esther Mercy is a regularly matriculated student in the Colleges of the University of Chicago. She has not been permitted to re-register in the University of Chicago because of a situation having no direct bearing on her scholastic standing, but in which her truthfulness has seriously been called into question.

Very truly yours,

HARRY PRATT JUDSON.

I have taken the liberty of underlining some passages to which I later will invite your attention. Here are the facts in my case.

I was sent by Miss Robinson of the Housing Bureau, to board and room at Mrs. Von Jahn's, the sister-in-law of Dean Small. I went there because she contracted to assist me with German. A hat given to me by my fiance, with the consent of my mother and brother, was packed away by Mrs. Von Jahn and myself. Only she and I knew where it was. A month and a half ago my fiance came for me

to go to the Art Institute and asked me to wear a hat, instead of the cap I have been wearing. I have been practically unable to wear a hat on account of having been ill this summer which resulted in the loss of my hair. On opening the box I noticed the ropes had been tampered with and that most of the aigrettes on my hat had been taken out by the hand of an expert. I went to your office in an endeavor to see you and get your advice. Mr. Robertson told me you were a very busy man and to relate my story to him and he would see about arranging an interview. I told Mr. Robertson I was very angered because Mrs. Von Jahn had threatened me with arrest if I mentioned the matter of the disappearance of my property, and was later insulted by Mrs. Small threatening me if I said anything relative to the disappearance of my property. My room at Mrs. Von Jahn's home was next to hers and separated from any one's else by the dining room and two hallways. From time to time small sums of money disappeared from my room, but I said nothing about it. Mrs. Small in her talk with me made malignant insinuations against my character and that of my mother for allowing me to accept the hat as a present. I told Mr. Robertson that I had taken out insurance papers to completely recover my own personal effects and those that were stored, but on going to the firm found out that they had made out fire insurance papers only and had not made out papers for burglary, etc., owing to the fact of their having misunderstood me.

I asked Mr. Robertson the legal question if I could have the company investigate the loss of my prop-

erty, especially since the young man who waited on
589 me recalled my order. I also told him that to take out such an insurance required more money than I had to spare, and asked him if I could be loaned some money temporarily from the student's loan fund, as my brother, who held my funds, was then out of the city. He told me to go to Mr. Arnett, the auditor. He also told me to go to Miss Robinson and tell her my story as he thought since the University had sent me there it was the duty of the University to investigate a loss of that kind. I went to Miss Robinson's office three days in succession and could not find her. When I was finally able to see her she told me that she would not put any credence in anything I had to say, as she knew Mrs. Von Jahn personally and knew her to be incapable of taking anything. She told me that she wanted to bring the two of us face to face.

Your refusal to see me, conveyed on two occasions by Mr. Robertson, led me to consult my lawyer, who told me not to go with Miss Robinson to Mrs. Von Jahn's, as it would merely result in a bickering of women and lead to nowhere, and to write a letter to Miss Robinson to that effect.

I wrote that letter and asked Dr. Mallet, a boarder at Mrs. Von Jahn's, at 8:03 A. M. at the breakfast table to read it and advise me, as my lawyer was not then available. I handed the letter to him at his door. He read it and advised me to send it. This act, innocent in itself, was maliciously transformed into a charge of suggestive immorality. I was out of the building, on my way to the University, at 8:15 A. M.

I was called from the class room at 11:30 A. M. and told to go to Dean Talbot's office, where I found Miss Robinson, Dean Vincent and Miss Talbot. There I was accused of having debts, entering men's rooms, 590 entertaining gentlemen company in my bedroom sitting room, and slurs in general were passed upon my character. I was also told by Miss Talbot that my creditors were annoying the University, that I had taught in six schools in Chicago in a single year, and that evidently something was wrong with me, both mentally and morally as a result. She also stated that I was kicked out of the school system. I was not allowed to show the falsity of these statements, was informed I would not be believed under any circumstances, and was given one of two alternatives by Dean Vincent; 1st, that of withdrawing from the institution and allowing my money to be refunded to me; 2nd, that of allowing the University to investigate my character fully. I was also told that the mere fact that I had taken out an insurance policy was suspicious to them.

It was a most cowardly and outrageous proceeding to take a young girl, alone, without witnesses, and make imputations and villainous suggestions about her character and refuse her even there the right to deny their false charges.

My mind was on fire and that afternoon I went to the Mosely school, where I had taught almost a year and a half before I was transferred, to get the records and prove her statements false. The principal, Mr. Long, was ill, and Miss Brookings, the head assistant, was in her room teaching. I went to her with the records and asked her to kindly give me a

statement as to how long I had taught in that particular school. She replied that she would not do so unless she knew the exact purpose. I told her I desired it for a recommendation. She asked me for what, and I replied that I expected to teach and needed it. She asked me if I was leaving the University. I told her that I had not fully decided. She then gave me a statement showing that I had taught
591 in that school from February, 1909, to June, 1910. I returned to the University and showed Dean Vincent the statement, my school records and my honorable resignation from the Chicago schools. He told me that he had left the matter entirely in the hands of Miss Talbot. That very afternoon I went to the Dramatic Club and passed the judges. On returning to my room I found Miss Robinson conversing with Mrs. Von Jahn, and also showed her the records. The next morning I went to Dean Talbot's office and showed her my certificate of school service and honorable resignation, and also showed her a letter from my mother wherein I conclusively proved to her that I had been the main provider in my family. Miss Talbot asked me if I did not know that it was wrong to have reported the theft that involved a reflection against Mrs. Von Jahn, and asked me if I did not know that she is a prominent woman. Miss Talbot also told me that she doubted the source from which I received my funds and made many insinuating charges regarding it. She told me that she heard that I was buying a winter coat and she asked me what right I had to buy a coat to take the opportunity of going to the University when I had a family who needed my assistance.

She finally stated that she considered me an immoral character, as only an immoral character would do such a thing as get a coat and go to the University under the circumstances. She also asked me why I was not already married to my fiance and asked me my reason for prolonging the engagement. Impertinent as this inquiry was, I still replied to it and told her that I desired to better my condition by taking the opportunity afforded me by my uncle, Dr. Krumholtz, of getting my degree, as I felt it a moral duty to assist in supporting my family after marriage, and felt that a degree from so large and well known an institute as the University of Chicago would give me a prestige nothing else could give me and enable me to teach one particular subject for several hours a day, which I could find time to spare from household duties after marriage.

She dismissed me and told me when I moved to return and give her my new address. I did so about a week later and she took this occasion to renew her insults. Immediately before the examinations I received a letter from Dean Angell, of the senior college, in which I am registered, stating that my registration there would be considered purely tentative for the coming quarter, until I had satisfied Dean Talbot and Dean Vincent of the advisability of my continuing at the University. I went immediately to Dean Angell, showed him the letter and asked him what to do. He told me he knew nothing of these affairs and was very glad he had not been called into mine; that he had received his orders from Miss Talbot and for me to go to her and get a letter to the effect that there was no objection to my regis-

tering. I went to her. She renewed her insults and base insinuations and refused to give me such a letter, stating that Dean Vincent was in the east and would not return until after the holidays, and she wanted to consult with him. Outraged by these insults, and much disturbed in mind in consequence, I went to the examinations. The first week of the present January I went to Mr. Robertson again, demanding to be allowed an interview with the president, Dr. Judson. He again asked me "why." I told him what had occurred and told him that I wanted to relate my story to the president, because Miss Talbot did not extend to me the consideration due a human being, let alone a woman; that I objected to submit myself to her insinuations, sneers and insults. She reached the degree of outrage by
 592 calling me an immoral woman. Mr. Robertson, your secretary, told me you were too busy to see me, but to 'phone to your office at 3 p. m. and if he was not there the message would be left with some one in the office. I 'phoned at 3 p. m. and was told that you had left the matter entirely in the hands of Miss Talbot, and that she would deliver your message. This was Friday, January 6, 1911. I received a letter from Miss Talbot that evening, telling me that she had a message from you to deliver to me the following Monday at 10:30 A. M.

I told my brother and fiance that I refused to go alone and that they must come with me and hear what was said. She said it was the decision of the president that I could not remain at the University. My brother and fiance asked for reasons. She stated, first, that I had passed with low marks. I told her

that under her dogging and persecution that it was a wonder I was able to pass at all, and asked her who could have passed with high marks under the kind of treatment that she had accorded me. She scoffed at my statement of her ill treatment. Second, she stated that she had investigated the matter of my request for a statement of service in the schools and found that I had not told the exact reason to Miss Brookings, but had prevaricated. I asked her if she would consider my statement to Miss Brookings as a prevarication. That statement was no departure from the truth when all of the truth was stated to Miss Brookings. My brother told her that he took care of my funds, and also stated that the hat was given to me with my mother's permission and his, and he could not see why that gift could possibly become the basis of any charges of impropriety. My fiance stated that he could not see what possible charges they could prefer against me

593 to cause me to be dishonorably expelled from a university. My brother asked if the decision could not be deferred until he could see Dean Vincent and have a talk with him. Miss Talbot stated that she would do everything in her power to have me honorably reinstated in the University. I took this occasion to tell her that the statement that she made at a former interview, that my brother had cancelled my charge account at Marshall Field's was in the language of the head credit man of that firm, "utterly devoid of truth." I also told my brother and fiance before her of her charges of implied immorality regarding giving Dr. Mallett at the door of his room my letter to Miss Robinson for his perusal and ad-

vice—charges which she did not deny. Dr. Mallett was thoroughly incensed and went to Miss Robinson with Mrs. Von Jahn, and Miss Robinson repudiated to him her former utterance to me and said to him that she nor any one else had made any such charge.

We left her office and went to that of Dean Vincent. He was at a funeral and we made arrangements to interview him at 11 A. M. the following morning. At the appointed time, at Dean Vincent's offer, we three were present. My brother demanded an explanation. Dean Talbot opened the interview by stating that in the interview Monday, the day before, I had dared to state to a Dean that she had dogged me, and that she wanted him to expel me for daring to make such a charge. I there admitted it because it was true. She had dogged, persecuted and deeply insulted me. She also stated that she wanted me expelled because I had accepted a gift which she did not approve of, as she was the one to pass judgment upon gifts which I could accept and not my brother and mother. It did not seem to lessen her indignation any, nor limit her claim to supervision, when informed that the gift was accepted by me prior to my connection with the University.

My brother asked Dean Vincent for a letter of honorable dismissal, a statement of work done in University of Chicago because my marks were not high enough. Dean Vincent told her that I had successfully passed the examination and in consequence could not be denied my credits. She said she knew better. I told her that I had made inquiries at

Northwestern and was told to present my credits from the University of Chicago. She said I had not made enough honor points to warrant her in giving me more than one-half of my credits. The charge of prevaricating to Miss Brookings was brought up by Dean Vincent. In reply, I told Dean Vincent it was not a prevarication, nor could he justly so consider it when only a portion of the truth was stated to Miss Brookings. I told Dr. Vincent that I had done no wrong toward anyone—that I did not slander, steal, murder, nor commit adultery—that there were no grounds for any charges against me—that I was the victim of the loss of my property, less charitable minds would call it a theft, and because of my statement of this loss of my property from my room I was made the victim of venomous insinuations, vicious charges, and constant malignant persecution from uncharitable and unjust members of my own sex, which I regret received no restraining control from Dr. Vincent.

At this meeting my brother asked Dr. Vincent if he would not defer his decision until he had an interview with President Judson. Miss Talbot left the room. Dean Vincent told my brother he would arrange an interview and for him to return the following morning at ten o'clock. Observing this appointment, Dean Vincent, told my brother that the president refused to see him—that the matter had already been decided and that the decision was adverse—I would not be allowed to re-register. At this point in the interview I joined my brother. He asked Dean Vincent that a letter be given me to Northwestern, my credits in the University of Chi-

cago given to me, and the credits I had brought with me from the City College of New York and the University of Nashville.

I was told to return at 12 m. My credits only from the U. of C. were given me and I was told by the lady in charge of the office of the Deans of the graduate school that Miss Talbot had misplaced my other credits from the College of the City of New York and the University of Nashville. Dean Vincent's letter introducing me to Northwestern University was not ready and I left my mailing address and asked that it be sent on the earliest delivery. The promised letter from Dean Vincent I have never received, but one purporting to be from your office has reached me, and it is so material a departure from what I would expect from your character and reputation as an educator that I am disposed to doubt its authenticity. It inferentially represents you as bestowing your approval upon these malignant, yet baseless charges against me—makes my statement of the loss of my property, a justification for the venomous persecution by women who replaced the graces of sympathies of the Sex by qualities as unworthy of an educator as they are hostile to truth, and continues the persecution by accepting accusation, even baseless accusation, as conviction and while stating that these charges, slanders and insolent insinuations against me did not effect my
 597 scholastic standing, yet makes them the basis of removing me from the University and preventing me from completing my studies in any like educational institution by depriving me of my credits and extending to me in any other university the same per-

secution to which I owe my separation from that over which you preside. I view this as a misrepresentation of your character as a man and violation of your reputation as a broad and liberal educator, ever zealous for justice and opposed to wrong—and I appeal to you to do justice to yourself and your high reputation by removing this wrong done to me. I shall take no further action in my effort at vindication by further correspondence with the University of Chicago, and hope that your action will render no further effort necessary on my part.

Respectfully submitted,

(Signed) ESTHER MERCY.

Thereupon the plaintiff rested.

MR. WALKER: Now your Honor, I want to recall the plaintiff in view of the letter introduced in evidence. I have not had any chance to cross-examine her on her letter, which counsel has offered as part of her case. I have a right to cross-examine her upon it.

Objection by plaintiff; sustained.

599 Thereupon the attorney for defendant filed a demurrer to the evidence of the plaintiff; and motion to instruct the jury to find the issues for the defendant, which is in the words and figures as follows, to-wit:

600 And now comes the defendant, Marion Talbot, by her attorney, and moves the court at the close of the plaintiff's evidence to give to the jury the following instruction, to-wit:

The court instructs the jury to find the defendant,

Marion Talbot, not guilty, but the court refused to give such instruction, to which refusal the defendant then and there duly excepted.

Thereupon the defendant, by her counsel, moved the court to instruct the jury to find the defendant not guilty for the reason that there was a variance between the proof and the amended declaration and additional counts thereto in this: That the testimony of the plaintiff's witness, Henry D. Mercy, is that said defendant said:

"We have investigated you and we have found that you are an immoral woman and an unfit character for this institution."

Thereupon the defendant, by her counsel, moved from men. We don't believe that you got your money from your uncle, but from men."

"We know that you are an immoral woman of the streets, and we believe that you are getting money from men."

"We don't believe what you say. We don't believe you."

"We do not want you here any more. You are an unfit character for this institution."

"We have investigated your sister and we know she is a woman of the street."

While the testimony of the plaintiff's witness, Warren E. Reynolds, was that the defendant said:

"We do not consider you any more than a woman of the streets."

"We know you are getting your money from men, or receiving your money from men."

603 We do not consider you a fit character to remain in this institute."

"We consider you nothing more than a woman of the streets."

"We know very well you are getting your money from men."

"We do not consider you a moral character to remain in our institute."

ESTHER MERCY, the plaintiff, testified that the defendant said:

That I had "gotten my funds from men."

That I was "nothing but a woman of the streets."

"You know very well you are getting your money from men."

"I don't consider you anything more than a woman of the streets."

"You know very well you didn't get your money from Dr. Krumholz; you get your money from men."

"I don't believe you received your money from your uncle, you have received your money from men."

"You are getting your money from men; and we don't consider you any more than a woman of the streets."

But the court overruled and denied said motion and refused to instruct the jury as requested by the defendant, to which ruling and action of the court the defendant then and there excepted.

604 Mr. WALKER: I also renew my request to inter-

rogate the plaintiff as to why she resigned and asked registration from one school to another at various times.

Which offer and request was overruled and denied by the court, to which action the defendant, by the counsel, then and there excepted.

Mr. WALKER: I also renew my request to be permitted to ask the defendant Reynolds if he believed what Miss Talbot is charged to have said on January 9 and 10, 1911.

This request was denied by the court, and the defendant by her counsel, then and there excepted to the ruling of the court.

Mr. WALKER: I ask counsel now to elect under this declaration what slander he is trying us for, and what conversation, whether it is December 8th, December 9th, or the conversation after that, the 20th of December, 1910, or whether it is the conversation of January 9th, or January 10, 1911; which one he claims to have established under this declaration, so that we may ask instructions accordingly and limit it according to that occasion.

Mr. JENNINGS: I think, your Honor, we have established all of them and I do not think we are required to elect. It is my idea of the rule. We have proved all of them, except the 20th, there was no publication on the 20th; we did prove publication on all the others.

605 Mr. WALKER: You mean of December 20th.

Mr. JENNING: I mean of December 20th; as I recall it there is no publication, but as to all the others there is publication.

The COURT: I do not take your view of it, Mr. Walker.

Motion to compel plaintiff to elect, denied; to which ruling of the court the defendant, by her attorney, then and there excepted.

Mr. WALKER: Exception; I move to strike out the conversation of December 8, from the record.

The COURT: Who was present at that time?

Dean Vincent and Dean Robinson and defendant; she came and answered that card.

The COURT: Motion denied.

Mr. WALKER: I move to strike out the conversation of December 9, from the record; when Dean Talbot was alone; is that right?

606 Where she claims that the young lady was present with her in the room; and the conversation of December 20th when Dean Talbot was alone.

Mr. JENNINGS: The 20th, when she was back there and nobody present; that is the only one where there was no one present; I think any statement she made to Mr. Mercy goes to intent and good faith; it doesn't go to prove the offense, but it might throw light on her intent.

Which motion of defendant was denied by the court.

Thereupon the defendant by her counsel moved the court to instruct the jury to find the defendant not guilty, as to any supposed slanders uttered by the defendant on either of the following dates, to-wit: December 8, 1910, December 9, 1910, January 9, 1911, or January 10, 1911, which motion was over-

ruled and denied by the court, to which ruling of the court the defendant then and there excepted.

Mr. WALKER: Exception. I move to strike out the conversation of January 9, 1911, was it the first conversation when Miss Talbot, when Reynolds and her brother, Henry Mercy, were present.

Which motion was denied by the court.

Mr. WALKER: I move to strike out the subsequent conversation when they made the appointment that next day and went to Dean Vincent's office, January 10, 1911.

Which motion was denied by the court.

607 Thereupon defendant's attorney again requested of the court to procure the name of the lawyer who said that Mr. Wooten was convicted of felony.

Mr. WALKER: I renew my request made at the close of the plaintiff's case to ask plaintiff why she resigned and asked registration from one school to another. I also renew my request to ask Reynolds if he believed what Miss Talbot said at the interview of January 9th, which requests the court denied.

Thereupon the defendant requested the plaintiff to elect as to which alleged slander he will rely on, and what conversation, whether that of December 8th, 9th or 20, 1910, or that of January 9th, or January 10, 1911?

Thereupon the court overruled said motion to compel the plaintiff to elect on which of the alleged slanders she would rely.

Thereupon the defendant to maintain the issues on her part called:

634 GEORGE EDGAR VINCENT, a witness called on behalf
of the defendant, who testified:

My business or profession is education. I am
635 president of the University of Minnesota, a State
Institution. Before I accepted that position I was
engaged at the University of Chicago as a student
and member of the faculty for about eighteen years.
I have not taught in any other institution prior to
coming to Chicago. My bachelor degree was taken
at Yale and my doctor's degree at the University of
Chicago. Prior to accepting my present position, I
was Dean of the Faculties, Sciences, Literature and
the Arts at the University of Chicago. That Uni-
versity is divided into certain divisions; this division
is the largest and includes all the faculties and the
students except those in law, theology, medicine and
636 education.

In my position there I became acquainted with
Miss Marion Talbot. During the years, 1910 and
1911 she was Dean of Women. During these same
years I was Dean of the department I have spoken
of. I was superior officer to Miss Talbot. By cus-
tom at the university the Dean of the division is
ranking Dean of the group of Deans, and the chair-
man of the Dean's committee. Any complaints
would come to the Dean of the College, to which the
student was registered; then to the Dean of the
637 faculties—that would be me.

The University of Chicago is a private institution.
As far as I know it does not draw any funds from
public taxation, except indirectly and so far as uni-

versity property for educational purposes, is exempt from taxation.

I know the plaintiff in this case. I was present on an occasion in December, 1910, at which Miss Robinson, Miss Talbot and the plaintiff were present. I have no recollection of the day of the month. I remember only one conference at which Miss Robinson, 638 and the plaintiff were present. As I recall it, I first heard of the matter at a Dean's meeting. As I remember it, at a meeting of the Deans the information came from someone who had heard from Mr. 640 Robertson about the application for money. There 641 was no formal action taken. It was a meeting of the Deans held for some other purpose, and this matter first came to the attention of the Deans in the way I have described.

I am not sure whether I can recall the names of 642 the Deans at the meeting. I cannot be sure just what Deans happened to be present at that particular time. Then it was decided that the matter should be looked up. Miss Talbot was to look it up and if she found there was anything in it justifying an interview, she was to arrange for an interview. 643 Subsequently, I think Miss Talbot reported that an interview had been arranged and requested that I be present. At that interview arranged by Miss Talbot, there were present Miss Talbot, Miss Robinson, the plaintiff and myself.

644 Miss Talbot, in substance said: "Will you tell us about the hat?"

645 The plaintiff said: "I had this hat which was valued at so much. I had it put away in a box. I

had not looked at it for a long time. The box was opened one day when I needed the hat. Certain aigrettes were absent and I was naturally distressed. I raised the question with the landlady as to what
646 could have happened. I remember Miss Talbot raising the question about the source of the hat; where did you get the hat, and plaintiff replied, "it was a present from the man whom I am engaged to" and that is all I remember on the hat question.

The next question was, "How about the insurance and the dating back of the insurance?" I think Miss Talbot asked that and I asked, "Had you any intention of dating back this insurance." The plaintiff replied, "she had not." I said, "What were the circumstances under which this question of insurance came up." She said, "I was at the insurance office some time before to place an order for fire insurance, I raised the question of burglary insurance, or the agent raised the question. It is my impression
647 that I left an order for burglary insurance." I replied, "You left an order for a burglary insurance? If you ordered such a policy, even if you had not accepted it, but the insurance went into force, it would be a perfectly legitimate business transaction to pay for that premium." That is all that I remember about the insurance.

The next I remember was Miss Robinson asking this question: "Why did you tell me yesterday that you paid \$9 per week board"? To that the plaintiff replied: "I told you because I was requested by Mrs. Von Jahn to say that, because she did not
648 want it known that she had cut the price."

I cannot remember at that time any question in connection with public schools. I think, however, that this question came up, as to whether there were collectors coming to the office and asking for the plaintiff and making the statement that bills were due. As I remember it Miss Talbot made that statement and the plaintiff explained that of these bills, a few of them only were personal bills, but were family bills and that an attempt was being made to collect them from her, although she was not personally responsible and I remember she spoke also of a gas bill, which she said she was ready to pay when a proper adjustment had been made. I remember nothing further except that I summed up the situation at the end. I think the question about Mr. Mallett came up—know that the question with reference to the plaintiff entering the room of someone in the
649 boarding house. I can't be sure, but it is my impression the plaintiff denied having entered the room and said: "I went to the door of the room and knocked and asked Dr. Mallett if he could not go with me to the corner to post a letter." This conversation occurred in Miss Talbot's office in Cobb Hall at the University.

Q. While this questioning was going on, will you tell in what manner the plaintiff spoke whether she gestured and how she conducted herself? A. Her
651 manner varied from considerable calm and self-restraint to a very considerable degree of emotion and rhetorical excitement.

I said to the plaintiff, "We should prefer to have
652 you withdraw from the university, and will make no charges against you whatever, but if you will with-

draw we will be glad to refund your tuition fees, and have you voluntarily cease to be a member of the university.

Of course, if you insist on having these matters yourself come up and investigated, you must have that privilege. You yourself must decide as to what course you will pursue." The plaintiff replied without hesitation and with an imperious air, that she demanded an investigation.

653 I think the plaintiff called once or twice at my office. I am not positive—I cannot fix the date. I mean, I am not sure whether I was present or not. I think she appeared once and I referred her to Miss Talbot. The first interview began a little after twelve o'clock and I think did not exceed the usual lunch hour at one o'clock. My impression would be forty or forty-five minutes at the outside. It was at the noon hour.

655 The plaintiff, her brother and Mr. Reynolds came to my office and her brother introduced himself and after a brief conversation I asked for Miss Talbot. Miss Talbot came into the room. Her brother said, "I am here to make inquiries about this affair and to see whether it cannot be fixed up so that my sister can remain in the university." I told him I was sorry, that it would not be possible. I remember
656 certain things before and after Miss Talbot came in. The main thing which the brother raised was, "Why is my sister dismissed from the university?" My reply to that was "That her veracity had been seriously called into question—that we had not been able to place any reliance on her word, and that I

necessary for further investigation—did you make any investigation yourself? A. Only one.

Q. Where did you go?

Objection by plaintiff on ground that question is incompetent; sustained.

665 Q. I will ask you whether you visited Mr. Long of the Moseley School, at which she taught? A. I did.

Q. Did you have a conversation with him as to the plaintiff's veracity?

Objection by plaintiff; sustained.

670 There was a meeting of the faculty, I think the afternoon before the meeting, in reference to the continuance of Miss Mercy at the university, at which President Judson was present. There were
671 present Dr. Judson, Miss Talbot, Mr. Robertson, the president's secretary, and myself, and one or two others. I am not sure just who they were.

Q. What was the result of that meeting?

Objection by plaintiff; sustained.

Q. You may state whether or not in that meeting of the dean and the faculty was anything called into question except the truthfulness of the plaintiff.

Objection by plaintiff; sustained.

672 You may state whether or not it was decided by the faculty and the president at that meeting that Miss Talbot's criticisms of the plaintiff in this case was that she had not been truthful, and your criticism was that she had not been truthful, was not the reason why she was asked to quit the university, and it was so determined there?

Objection by plaintiff; sustained.

Q. Was this young lady discharged from the university upon any immoral conduct that had reference to her virtue, or any insinuation, that you know that she was no better than a woman of the streets, or any insinuation that squinted that she had been guilty either of adultery or fornication?

Objection by plaintiff; sustained.

673 Q. In the conversation when Miss Robinson was present, the first conversation with Miss Talbot, did Miss Talbot say, or any one of you three say, "We have a communication from the Board of Education that you have been teaching in six schools in the past year," or if they said any portion of it, "and we consider you unfit both mentally and morally to remain in our institution"? A. The last was not said at any time when I was present, "that she was mentally and morally unfit to stay in our institution."

Q. At the board of directors' meeting, the faculty, or at any meeting, was there anything said by Miss Talbot in any interview that she was not mentally or morally fit to be in that institution? A. No, sir, nor by anybody else that I ever heard.

Q. Was this language used, "We have a communication from the Board of Education that you have been teaching in six schools in the past year"? A. I remember that the question of teaching in schools came up, but I don't remember that specific statement; there was something said about the number of schools.

675 "There is evidently something the matter with you, both mentally and morally"; was that language

ever used? A. Not in my presence by Miss Talbot, or any one else.

Q. "We don't care to have a woman of your character in our institution"? A. Those words were not used in my presence.

Q. "We do not care what you say, we do not believe you"? A. I don't recollect those words at all.

Q. "We have a statement from the Board of Education in black and white that you were kicked out of the school system"? A. No. The only statement that I ever heard at all was that Miss Talbot had certain information from Mrs. Young of the School Board.

676 Q. "We are continually annoyed by collectors inquiring where you live, complaining about you, and saying you owe debts"? A. A statement was made that collectors were calling and inquiring.

Q. "We do not care to have students of your character in the university"? A. Those terms were not used in my presence.

Q. "Why are you not paying your debts instead of coming to the university"? Do you recollect what was said on that, if anything? A. I don't remember that subject coming up in my presence.

Q. "What do you mean by coming here"? Do you recollect that? A. No.

Q. Was this said, "What do you mean by coming here"? A. I think in the interview the question was asked as to the reconciling of coming to college when there were obvious family obligations of a pressing nature to be met.

Q. "We do not care to have a woman of your character here"? Was anything like that said?

A. No.

Q. "You know you are not telling the truth"?

A. The only interview which I reported, the last interview, I reported the statement by Miss Talbot to the plaintiff, namely, "You have lied to us." I recall it was made in the language that I am using now.

Q. "What do you mean by advising students to go to doctors"? Were those used? A. Never. The idea didn't come up.

Q. "Your action in telling Miss Tutwillinger to go to a doctor shows you up in a very compromising light"? Were those words used? A. I never heard of Miss Tutwillinger until the other day here in court. Those words were not used.

Q. "You see we have been looking you up thoroughly"? A. Never in my presence.

Q. "What kind of illness did you have last summer"? Were those words ever used? A. Not at all.

Q. "I do not believe you when you say you have a needy family, or have been their main support"? In your presence was that said? A. I have no recollection of that whatever. I think they were not said.

679 Q. "Where are you getting this money from to buy expensive clothes"? Were those words used? A. No.

Q. "How is it that you can buy an expensive coat when you have a needy family? No moral woman

would do such a thing"? A. That was not said in my presence. I remember vaguely the question of personal expenditure being introduced, but such language was not used.

680 Q. Was this language used, "What do you mean by accepting a hat from your fiance?" A. I don't remember that at all.

Q. "We know very well you are getting your money from men"? A. That statement was never made in my presence.

Q. "We don't consider you any more than a woman of the streets"? A. Those words were never used in my presence.

Q. "The nerve of you to dare to enter this university"? A. I never heard them.

Q. "You are an immoral woman and an unfit character for this institution, and we do not want you here"? A. Those words were never spoken in my presence.

Q. "This is a private institution and we do not have to have anybody that we do not want"? A. I think in the first interview when I expressed the preference that the plaintiff should withdraw, that I indicated a condition between a private, and endowed, and a public institution, where there might be a discrimination.

Q. "You know very well that you didn't get your money from your uncle, but from men"? Were
681 those words used? A. They were not used in my presence.

Q. At any time while you were at the university

did Miss Talbot ever substantially or otherwise say that Miss Mercy was not better than a woman of the streets, or a woman of the streets, or a woman of immoral character, or get her money from men, or a prostitute, or any such thing—in any conversation from the time you first investigated this subject up to the time here this day, did Miss Talbot ever use such language in your presence which hinted at or suggested that the plaintiff in this case was either guilty of fornication or adultery? A. No.

- 683 Q. Did Miss Talbot ever use language which conveyed to you in the slightest degree that the plaintiff in this case was an immoral woman, or on any such line, or a suggestion of it?

Objection by plaintiff on the ground that the question has been answered; sustained.

- 683 Q. Did you ever hear Miss Talbot in any conversation say or use the language, "a woman of the streets," in any shape or form as to anybody? A. No.

- 684 Q. Did you ever hear her use the word "prostitute"? A. No.

Q. Did Miss Talbot ever in your presence accuse the plaintiff of entering men's rooms? A. The question came up in the first conversation, as I reported. I am not sure whether it was Miss Robinson or Miss Talbot. The question of entering a specific man's room at that boarding house came up at the first conversation, and it was explained, as I reported, the plaintiff explaining it.

- 685 Q. In asking the question as to whether it was put by Miss Robinson or Miss Talbot, was there any-

thing in that as put, conveying the idea that this young lady was guilty of adultery with Dr. Mallette, or any thought of it? A. The only question that came up was the question of propriety and the violation of a standard of good form which is maintained at the University.

686 Q. Did that suggestion lead you to believe or infer that there was an attack upon the young lady's virtue? A. I didn't put that construction upon it.

Mr. WALKER (out of the hearing of the jury): I want to prove by Dean Vincent that after the plaintiff said to investigate about her schools, etc., that he went to see the principal of the Moseley school, and that the principal told him that the plaintiff was the greatest prevaricator and liar he had ever seen before she was dismissed from this college.

Objection by plaintiff; sustained.

Cross-Examination.

I am acquainted with Dean Small and I know Dean Small's wife. I met Mr. Von Jahn's wife some years ago. I have not seen her recently.

It was admitted by counsel for defendant that Mrs. Von Jahn and Dean Small's wife are sisters.

688 The conference on the 9th of December occurred between 12 and 1 o'clock. I am not sure how many conferences I had during that month with reference to students. It was early in December, and I don't know that I had any other.

Q. How many had you had during November? A. May I explain that a little more clearly? As dean

I had very few conferences with students. The other deans brought the cases to the weekly meetings of the deans' committee. In the previous months we had four meetings with the deans where cases were
 689 brought up. I don't remember another conference like this one in the last three months prior to that time. So far as I can remember I had no conference outside of these deans' meetings in which the conduct of students was involved. A number of cases are brought up at every deans' meeting.

I have no distinct recollection now of what I did the morning before this conference, or the afternoon after the conference or the day before or the day after this conference in December.

Q. Will you now tell the jury what that conference was, giving the language used by the parties?

A. I won't attempt to reproduce the dialogue. I just attempted it a little while ago, but I will give you another account of it if you desire.

690 Q. You vary it some? A. Certainly. I was notified that there was to be this conference at noon. I went in and found Dean Talbot and Miss Robinson. The subjects that came up were the hat, insurance and the bill collectors. I can't reproduce this con-
 691 versation. I can give the substance of it. The first with reference to the hat was: I have this expensive hat. It was put away in a box. It was left there for a long time because I was not wearing it. The time came when I wanted to wear it. On opening the box it disclosed the fact that the aigrets had disappeared. I was greatly distressed and I called attention to it and asked for assistance in this property.

692 The question as to insurance was: I said, "How about the insurance?" She said (this is the reply of the plaintiff), "I went to an insurance agent to take out a fire insurance policy. I left a positive order for that." The subject of burglar insurance came up and she said, "I supposed that I had also left an order for that," and I replied, "If you have given a positive order for burglar insurance at a given time the insurance would hold from that time and the subsequent payment of the premium would be a perfectly legal transaction." In regard to bill collectors, Miss Talbot raised the question that "there are collectors coming and asking for you and saying that they want to find you because of these bills," and she replied that these bills are in connection with household accounts for the payment of which others are responsible. There is one gas bill particularly which is an overcharge, and when it is readjusted I will pay it.

693 Miss Robinson raised the question, "Why did you say you were paying Mrs. Von Jahn \$9 a week when you were paying her \$7?" She said she was requested to do so by Mrs. Von Jahn.

Then, as I remember it, either Miss Talbot or Miss Robinson raised a question about going to the room of one Dr. Mallette, and she replied, "I didn't go into the room; I went merely to the door—the door was open and I asked Dr. Mallette if he would walk to the corner with me to post a letter."

Then, in summing up the matter I said, "We should prefer, Miss Mercy, if you would withdraw from the University without making any charges against you, and if you will quietly withdraw we

shall be glad to refund any fees that may be involved. If you insist, as you have a right to do, in having these matters investigated, you may ask for that investigation;" and then Miss Mercy replied clearly and emphatically and dramatically, "I insist upon an investigation." I said, "Then that closes the interview," and the interview came to an end.

That is practically the conversation as I recall it. I think nothing was said at that conversation about the number of schools she had taught in the past year, but I won't be positive on that point. It came up later, I know, but whether it was at this first interview I am not sure. No specific school was
694 mentioned. There was some mention made of schools, but not of a certain number of schools within any specific time. I think some question came up about family obligations. Just in what connection I do not now recollect, but I got from the first the impression there was a family needy, I am pretty sure.

I do not know of a rule of the University that in dormitories that girls and men were not to occupy
695 the same floor. I know it has always been the policy to segregate—that is, having lodging houses for women and lodging houses for men and not have them together where it could be avoided.

Q. I will ask you if it is not a fact that Mrs. Von Jahn permitted all on one floor, and that young men were rooming there at the time Miss Mercy was sent there, and that one toilet room was used by all of them? A. I think not; except as it was inferentially brought out in the testimony here, I have no personal knowledge of it. It was not called to my

attention as dean. I do not think that Miss Robinson mentioned it to me. Miss Talbot didn't tell me anything of the sort.

696 Q. But that was in violation, if it existed, of the policy of the University, if I understand you? A. I ought not to say that positively because the policy of the University has been to study individual cases to vary from the rule. I believe this is one of the cases approved. The policy of the University was to segregate.

Q. So far as you know, did Miss Mercy ever tell
697 you an untruth? A. So far as she told me directly, I don't know of any. All the information that I had that she failed to tell the truth was what she told me or what somebody else told me.

698 Q. How many conferences had you? A. I was present at the first conversation December 9th, I think that is the date. I think I remember her coming in once between that time and the latter conference in January, and my referring her to Dean Talbot, but I am not sure. At that time I had no conversation which could be called a conference. I think that she brought her school records from the public schools and offered to submit them to me at that time when I referred her to Miss Talbot. I remember distinctly that she brought papers that she claimed were the records of having taught in the public schools. I wouldn't say that I was not there because I didn't go into the question with her. My
699 recollection is not absolutely correct about these conferences. I gave the substance rather than the language because I am not sure of the detail, the verbatim of the conversation.

In my position I was busy. I gave instruction and I was performing my duties as dean. I had heavy duties. My mind was absorbed in those duties, and cases like this were a part of my duty. I tried to make my mind cover this case and the rest of my duties. I didn't have to neglect my duties to keep this case in mind. I don't remember the details. I should say that I remember the salient or difficult things in connection with this interview.

700 I have told these things that appear to me salient or significant—that is what I meant by my recollection.

Q. If in any of these conferences the language charged here to Miss Talbot had been used, it would have been a breach of the rules of the university?

A. That is putting it mildly. It would have been a flagrant breach of the rules of the University. The University has no rules on such a subject. It would have been a violation of the standards of the University, if that is what you mean.

I terminated my connection with the University of Chicago on the 31st of March last. Since that time I have been president of the Minnesota University.

701 In the Chicago University I had various positions. I lectured on subjects.

Q. Was there not a subject there that treats of mental diseases? A. Well, I suppose in connection with the department of neurology there would be studies in mental pathology. A certain amount of abnormal psychology would come in the department of psychology. I was indirectly professor of these studies. I never made a study of any of these things.

Q. What you say about the young lady's tempermental condition of mind is just the idea that you have formed as any other citizen who reads and thinks and moves around in the world would form about anybody else? A. Just ordinary common sense.

702 I said something about the lady being dramatic. I should distinguish between histrionic ability and dramatic tendencies.

Q. You don't think she had histrionic ability, but you thought she had dramatic ability. You mean she had an inclination to accomplish something in that line, but not the ability? A. Not at all. I should define histrionic ability, ability to act on the stage. I should define dramatic ability as producing sensations with ones arms and hands. My reference was to the subject matter about which she was talking
703 rather than the mode. The way she dealt with the subjects gave me that idea—that she was dramatic. When those questions were asked her about her own private affairs she appeared to me to be dramatic.

WALLACE HECKMAN, a witness called on behalf of defendant, testified:

My profession is attorney-at-law. I am counsel
704 and business manager for the University of Chicago. As business manager I am in charge of the investments of the University—in charge of the property—in charge of the business questions that arise in connection with it. The University is a private institution, organized under a charter of the State of Illinois.

Q. Do you know what proportion the students pay for education in that institution in proportion to the cost?

705 Objection by plaintiff; sustained; exception.

Q. Do you know anything about this student's fund, or funds, from which loans are made?

Objection by plaintiff; sustained; exception.

Are these loans made with or without interest?

Objection by plaintiff; sustained.

Q. Who are the trustees of the University?

Objection by plaintiff; overruled.

707 A. Eli B. Felsenthal, Harry Pratt Judson, Martin Ryerson, Willard A. Smith, Franklin MacVeagh, Jesse A. Baldwin, Enos M. Barton, Thomas W. Goodspeed, Thomas E. Donnelly, David G. Hamilton, Andrew MacLeish, Adolphus C. Bartlett, J. Spencer Dickerson, Howard G. Gray, Charles N. Hutchinson, Francis W. Parker, and Frederick A. Smith.

Dr. Hirsch is one of the officials of the University lecture association.

Leon Mandel was a trustee. I haven't any recollection as to the others.

711 Q. Are there students, and have there been Chinese, Japanese, Hindoos, Jews, Scandinavian, and students of various nationalities as well as Christians and Hungarians at that institution? A. Other than Hindoos, I think there are other nationalities. It was admitted by plaintiff's attorney that Chicago University is a private institution.

Cross-Examination.

I do not attend classes at the University. I have attended lectures—not regularly; in the course of my business I happened to drop in. I don't mean to say that I know what any professor or any teacher in the University does with reference to any nationality. A professor might have a prejudice against any nationality and I would not know of it.

716 Thereupon counsel for defendant requested leave to recall the witness Reynolds for further cross-examination, which motion was denied.

Thereupon the defendant offered in evidence a letter marked "Defendant's Exhibit 1, 3/27/12," for identification, which letter was and is in the words and figures following, to-wit:

717 CITY OF CHICAGO, HOUSE OF CORRECTION.

CHICAGO, April 18, 1900.

"Mr. Edmund Reynolds,
Prophetstown, Ill.

DEAR SIR: I have your letter of April 25th, making inquiry in regard to your son Warren Reynolds, and in reply will say that since the receipt of your letter, I have carefully investigated his condition and have talked with him personally, and have had our doctor make a special examination of him. While he is far from being in good physical condition, yet
718 there is no reason for you to be alarmed. He will receive every attention here that can be given.

I will enclose you a doctor's statement to me showing his exact condition. Miss Boehn has not been released by the Pardon Board.

Trusting this letter will give you the information that you desire, I am,

Yours truly,
(Signed.) JOHN L. WHITMAN,
Superintendent."

I offer to show in that connection also that Miss Boehn is the woman that was convicted with him for adultery.

To which offer plaintiff objected; sustained.

Thereupon defendant offered in evidence letter marked Defendant's Exhibit 2, of 3/27/12, for identification, which letter was and is in the words and figures following, to-wit:

"CHICAGO HOUSE OF CORRECTION.

April 29, 1908.

John L. Whitman,
Superintendent.

DEAR SIR:

In regard to Warren Reynolds serving a sentence of one year, given a history of syphilitic infection four years ago. At present he has symptoms of later syphilis, and is getting treatment for the same. He is working every day and getting along nicely.

Respectfully submitted,

(Signed.) C. E. SCHENK,
House Physician."

To which plaintiff objected; sustained.

719 Thereupon the defendant offered a letter marked "Defendant's Exhibit 3, of 3/27/12, for identification, which was and is in the words and figures following, to-wit:

"VON GILDER & STEWART, WHOLESALE LANDS,
Suite 301, 302 Dearborn St. Chicago.
Phone Central 5198.

March 7, 1910.

DEAR MOTHER: I simply must have a hundred dollars or jump in the lake. I Can't stand it to be dunned all the time, and I must have it. Now mother, don't say it is hot air. I need it, and that is all there is to it and I must have it. I am about hysterical in the way things stand. I want to get this off on this morning's train so I will close.

Yours truly,
(Signed.) W. R. R. with love."

To which letter the plaintiff objected; sustained.

Thereupon defendant offered a letter marked "Defendant's Exhibit 4 of 3/27/12 for identification,"
721 which was and is in the words and figures following, to wit:

Letterhead of O. Robinson & Company, manufacturers of Globe, Stock, Poultry Powder, etc., 1701 South Clark street, Illinois.

"CHICAGO, February 6, 1901.

MY DEAR MOTHER:

Your letter at hand last Saturday, and here is an answer. I note all you say, but I am sorry that you write me about visiting in Erie or Hillsdale, because I know that there is not one thing to it all. The reason that you write it is because you think I might come out to see you, and you don't want me to come now. You need not worry. I am not coming out there this week, nor next, nor next month, or a year later. I think you must be off a little to have this

feeling toward me after I worked as hard as I did for you. I can't see how you can be happy the way you feel. I think your conscience must bother you sometimes.

You can't sell the old place or any other. The law won't allow you to. If it would, why don't you deed this Creek farm to me. I am not afraid of that mortgage. But, ma, I know that you would not do
 722 even if you could. I know Em would get a divorce before if it had not of been for this will and I don't think that you, Em or anyone else wanted her to. I think it is pretty tough to be held by such a black bitch as that on account of a few dammed paltry dollars, and that is the reason I hope that when she dies that she is tortured like burning at a stake. That is good for her. It won't do for her to bother me much longer, but I will fix her regardless of the outcome. I know you have worked against me all along. You have not tried to have her get loose from me. You want her to stick, and I know it. This is not very pleasant for me to live as I have to. I want a home, and one that is mine, and one that I can have with one I like; I will have it even if I have to be a bigamist to have it. You are keeping me from a fine opportunity when you hold me fast to her. I should think I have had trouble enough at your hands without heaping more on.

I have no faith in that help talk. You will never help me to speak of unless you have to. But I am not in for making you trouble. I am happier in my poverty than you are with all your wealth.

Now, don't talk about visiting, but keep away from

me. I am not coming down there very soon, you can
 723 rest assured, because the way I feel I might do something towards Em that would get me into trouble. I sure hate that devil for she is the cause of all my trouble.

Now, if you want to do something for me, get that divorce started. So far it is all talk and hot air. Show me by doing something that I can believe.

Write to me but tell the truth and don't try to cover up anything.

Your son,

(Signed) W. E. REYNOLDS."

To the receiving of which letter in evidence plaintiff objected; objection sustained.

The defendant thereupon offered to prove that the name "Em" mentioned in the letters referred to the then wife of the witness Reynolds.

Thereupon the defendant offered the envelope and letter marked "Defendant's Exhibit 5 of 3/27/12 for
 724 identification," which is postmarked Chicago, March 10, 1:30 A. M., 1911, Illinois, addressed to Mrs. Edwin Reynolds, Prophetstown, Illinois, which letter enclosed was and is in the words and figures following, to wit:

MOTHER:

I have been brooding all day over my being fast to Em, and I want to know by return mail whether you are my friend or not, and if you are, I want you to help me get free immediately from Em. I mean just what I say and no fooling. I don't believe she intends to do anything. It is a bluff on the part of the damned bitch. I am going to start suit

next week against her if she doesn't do anything. She can have the children and you too. I am discouraged with all. It is a lie. She has got to do something within the next five days or I will. I will not take another promise. It is the truth and I want no more fakes.

I blame you for I know you are linked with Em to beat me and hold that son of a bitch to me. Do you hear me. I am right up in arms and I mean
725 business now and no more fooling. I have suffered enough on her account—just dying by inches. I want an answer from you by return mail. I know you are at home and so don't try to story to me. It won't got at all. Do you hear? Now, do something.
(Signed) WARREN."

To which offer the plaintiff then and there objected; objection sustained.

Thereupon the defendant offered in evidence paper marked "Defendant's Exhibit 6 of 3/27/12," which was and is in the words following, to wit:

Letterhead of William C. VanGilder, Wholesale Lands, Suite 301—115 Dearborn Street, Telephone Central 5191.

"CHICAGO, March 18, 1911.

DEAR MOTHER:

Your letter at hand and noted. I think that you could take out insurance all O. K. and it would cost heavy, but I thought you would be willing to do that to help me. How much better it would have been if I had had the benefit of that old farm rather than Pemberton.

I am so nervous on that divorce that I can't stand
726 it. I must have some action right away or I will lose

all. I am as poor as can be, and if I can marry and get some one who is very well off and all else is right, why not. You will make me lose this opportunity by delaying as you cannot expect anyone to wait.

I shall start this week to get free. She can have the children. They have got everything. The bitch ought to be satisfied with that. I am not well at all. My lungs bother me lots. I live the best I can, but when I think of consumption it makes me shudder. And this is what that offul disease puts people to if they are not cured.

I wish I could have went to Hot Springs soon as I came out of that bridewell. I would of been well then. Now, never.

Ma, I have the chance of trading a little house I have here for a 240-acre farm three miles from Madison, Wisconsin, but there is \$11,000 against it and \$6,000 is due, and it has to be paid. Don't you suppose that you could get Erie to loan that on it, as a second loan. I would even be willing to put it in your name, so he knows it is safe. It is worth \$100 per acre, or \$24,000. I have been over it and know it is all right. I think I could go out there to live if I can get it. That would be good for my health.

727 I would lots sooner have the land than the house here. It would make me a good start, and I could trade it or hold it. I think it is being so close to a city of 30,000 people, and the capitol state, thought it would be best for me to hold it. It would make a great stock farm. It is about 12 miles from the old Leslie and Furnell farm, and about 25 from the S. A. O. Fox farm at Oregon, Wisconsin.

Ma, it is the last chance of my life. Can I have it? Now, please don't tell Em anything about this.

I wish, Ma, you would read this over and see what you can do for me. It is pretty hard for one to get a start when put down as I was. Now, think this over and let me hear from you. I will now close and hope before this reaches you that Em has begun action.

Your son, WARREN, with love."

To which offer plaintiff then and there objected; sustained; exception.

Thereupon defendant offered in evidence letter 728 marked "Defendant's Exhibit 7 of 3/27/12 for identification," and enclosure in said letter marked "Defendant's Exhibit 8, 3/27/12." This letter is on the stationery of O. Robinson & Company, Manufactures of Globe Stock, Powder, Poultry Powder, Hog Powder.

"CHICAGO, Ills., April 15, 1911.

MY DEAR MOTHER:

Allow me to thank you for your efforts in obtaining my divorce. You can see, mother, how very wrong it was for you to have me arrested in the past, and have my birthright taken from me.

If a man does not love a woman he will not stay with her, and it don't matter what the consequences 729 will be, and you know, through a trick of yours you not only blighted my life, but put a signboard on me that will always leave its marks. Alone, without assistance of anyone, I have been trying to make good, and you, my mother, appreciate it least of all. Don't matter what the future may bring forth, you have put the iron upon my life, and even induced father

to sign away what should by very right have been mine, and I have had to suffer. It is I who made lots of that land, and what it is, and you know it is under the conditions that I have not even the right to eat a meal of victuals in my own home.

Will you not take out an insurance for my benefit and compensate me for the loss of what, by very natural right, is mine. If you will do this, I will arrange it, if you will answer these questions on this enclosed slip of paper.

Let me know how Eddy and Helen are, and also Helen's address. I will write her.

I hope I will never be the cause of suffering to them and the blasting of their future that you have caused me.

Another dark chapter of my life is past and I earnestly hope the future will be sweeter and brighter than the past.

730 Do you think mother, you have given me the chance to have—to prove to you that I am good? If a man makes a mistake in his life, does it mean that he will always live wrong? Don't you think you have been too hard on me, and don't you think you should help me to a purer and sweeter life? Remember, mother, I am your only child, and long for that tenderness of a mother's love. Will I ever get it? I will now close. Love to all, Your son,

(Signed) WARREN.

I have not seen my lawyer, but may today between 12 and 1."

Said enclosure being in the form of an application for an insurance policy.

731 Thereupon defendant offered letter marked "Defendant's Exhibit 9, of 3/27/12, for identification", which was and is in the words and figures following, to-wit:

"CHICAGO, September 20, 1911.

MY DEAR MOTHER: I rather expect a letter from you today. Mother, if there is any way in God's name for you to send me a hundred dollars, do it.
732 I am afraid I will get into trouble if you don't. When I go to my new place I won't need help from anywhere, but just now I am in a bad fix. I am thoroughly disgusted with this place and I want to get out just as soon as I can, but I won't be until about the 15th of next month. Try and be a little lenient with me, mother, I can't sleep nights until this is off my mind. Let me hear from you. Your son,

(Signed) W. E. R. with love."

To which offer the plaintiff objected; sustained.

Thereupon defendant offered the letter marked Defendant's Exhibit 10, of 3/27/12 for identification which was and is in words and figures following, to-wit:

"CHICAGO, September 23, 1911.

MY DEAR MOTHER:

Your letter at hand and it don't seem possible that you understand me. Ma, do you know that I am
733 facing the penitentiary if I don't replace the money that I have spent that don't belong to me. That is just it and the truth too. I have done the best I could, but I can't live on air and water, and when I asked you for money it was not because I wanted to annoy you, but I thought it the last resort to turn to you. I expect you think I am not telling the truth,

but I rather think you will believe it if you get a notice from me, or from the court that I have been sent up for appropriating money to my use that belongs to someone else.

If I could only get a hundred dollars that would help me out of this, and it seems too bad when I will have a better place when I can make something. This place has been no good to me and I long to be where I can make good. I am not afraid of work, but this work has too many slips to it here.

And now, ma, I pray you to help me. I have been disgraced enough I don't want any more; neither do I want to disgrace my children further.

I trust that you see the position I am in and will help me, and you will have this Monday and you can give it to me Tuesday, and sure not later than Wednesday. Now, my life hangs in the balance. Which way shall it go? I now close with love.

Yours son, W. E. R."

To which the plaintiff objected; sustained.

Mr. WALKER: I offer in evidence in connection with this note—on a brown piece of paper and an envelope which accompanied it, which is dated, stamped, "Chicago, Sept. 29, 9:45 A. M. 1911, Illinois," addressed to "Mrs. Edwin Reynolds Prophetstown, Sept. 11, 4 P. M. 1911." Said paper and envelope were marked "Defendant's Exhibit 11 and 12, of 3/27/12 respectively"; said letter was and is in words and figures following, to-wit:

"FRIDAY, A. M.

Have I got to go to jail for the want of one hundred dollars? I don't want to worry you, but who would I appeal to except you. I am worried half to death.

WARREN."

To which offer the plaintiff objected; sustained.

Thereupon the plaintiff's attorney suggested that the name of the lawyer referred to by the witness, Esther Mercy, who made the statement concerning Mr. Wooten was one Anderson.

- 736 Mr. JENNINGS: I will admit that that is the writing and signature of Reynolds to these letters and that they are his letters and I object to any proof or any identification of the signatures when there is no issue, when I admit it. I admit they are his letters and his signature and there is no issue about it.

Thereupon the defendant asked leave to prove by the mother of the witness Reynolds the handwriting and signature of the letters; to which plaintiff objected as being incompetent, irrelevant and immaterial, which objection was sustained by the court.

- 746 Thereupon defendant asked leave to cross-examine the witness Reynolds to prove his age.

Thereupon plaintiff admitted that Reynolds was 45 or 47 years of age.

- 749 ELLEN BROOKINGS, a witness on behalf of defendant, testified:

My profession is teaching. I have been connected with the public school system of the City of Chicago for 25 years. I am head assistant at the Moseley

School. I occupied the position of head assistant at the Moseley School and knew the plaintiff some-
750 what when she taught in that school for about one year. She left that school.

Q. Did she resign or was she put out of the school?

Objection by plaintiff; sustained.

A. I heard afterwards that she was a student of the University of Chicago, and in that connection I had a call while she was a student from Miss Talbot. I gave Miss Talbot some information about the young lady.

Q. What did you tell her?

Objection; sustained.

I heard afterwards that she was a student at the University of Chicago. Miss Talbot came and asked me a matter-of-fact question as to the day when
756 Miss Mercy was at the school for a statement. That is as I recall it, and I told her. In speaking of that fact that plaintiff was there, it came up that plaintiff had reported that she was there on a certain day, and my statement did not corroborate that; it contradicted it and I said—I don't know the exact language—but I said, "That is nothing strange. I am accustomed to hearing her state things carelessly."

757 I think there are twenty teachers at the school.

758 Q. Do you know her general reputation among the teachers and associates of that school and in the community where she was a teacher there for truth and veracity? A. Bad, from what I know of her. I would not believe her under oath.

Cross-Examination.

759 That is my signature at the bottom of Plaintiff's Exhibit 4.

Q. I will ask you if it is a fact that Miss Mercy taught in that school from February 23, 1908, until June 1, 1910? A. I think it is correct. I gave Miss
760 Mercy the statement at her request. I don't know how many teachers I have heard speak or say that Miss Mercy did not tell the truth. About everybody I met. Among those I heard Mrs. Waring at No. 3—I don't know where it was she told me—who could tell when things are happening all the time. It was
761 in the year Miss Mercy was at the school. I don't know the date—I did not keep a list of such things—somewhere in 1909 or 1910, I think.

I can't tell you all of whom I heard say she wouldn't tell the truth, because I can't remember. One was Gertrude Farrell. She made the statement some time during the years 1909 and 1910. I do not
762 know the month. Miss Farrell is at the Mosely School. I do not know where she said it. I remember also Miss Hulick. Miss Hulick was at the Moseley School. That was some time in the year, too. I don't know where she said it. I do not remember
763 the names of the others. My memory is not good for names. It is all right except for names. My
764 memory is good for most things, but not particularly for scandal. I always try to avoid it, or thinking of it at all.

There are colored people attending at that school. I don't know as I could call it a colored school. I do

not recall any occasion when Miss Mercy came to me
765 with a colored boy who had struck her and asked me
to punish the boy. These things do happen in that
school.

Q. Do you recall being offended with her because
she insisted that you ought to punish the colored boy
for striking her? A. Very likely; I was offended
with her several times. I don't know that I have
been offended with her ever since. I don't think she
has been either in the offensive or defensive.

I was educated in Maine and Massachusetts. I
766 studied in the University of Chicago. I have not
been a regular student there.

WILBUR D. NESBIT, witness called on behalf of the
defendant, testified:

I am an author and writer and once in a while
write poetry and occasionally sketches and plays for
vaudeville artists. I wrote "The Girl of My Dreams,"
played all over the country. I occasionally write
vaudeville sketches.

767 I met Miss Mercy, the plaintiff, some time this win-
ter. My impression is since Christmas. Miss Mercy
called me up at my office and asked me if she might
see me. I don't recall having met her before, al-
though she recalled herself to me. She asked if she
might see me. I told her "Yes, if she came up to the
office." My office is 76 West Monroe street, the
American Trust Building. She told me she was
Esther Mercy. She said she wanted to see me with
768 regard to getting a vaudeville sketch written, a one-

act play. I told her I was too busy to consider any work of that kind for at least six months and she said she wanted the play written right away. I am just giving you my recollection of the conversation. She asked me if I knew who could write one for her and my recollection is I told her either Richard Henry Little or Sam Kaiser.

She asked me which would be the best man to produce a play for her, or write a play for her at once. I told her Mr. Little I regarded as the most talented
 769 man for vaudeville work and that he was especially valuable because of his wide acquaintance with vaudeville people and vaudeville managers. Mr. Little is one of the writers on the Tribune. That is about all the conversation I had.

Cross-Examination.

770 I can't recall the exact words in the conversation. My whole recollection is very dim, but I do recall she said she had been hounded from position to position by those people. She said she would have to make a living.

EVA ROBERTA ROBINSON, a witness called on behalf of the defendant, testified:

771 I am forty-one years of age. My profession is educational work. I have been in that profession about twenty-one years. I attended the public schools in Rapid City, South Dakota, and then I attended the South Dakota School of Mines and graduated from there, taking the degree of B. S. From the South

Dakota School of Mines I then taught in the public schools for ten years, and then went to the Armour Institute of Technology, in Chicago, and took a course in domestic science and graduated from that. I went from there to Des Moines, Iowa, and taught in the Young Woman's Christian Association for three years. I went from there to Quincy, Illinois, and taught in the settlement for one year and was then appointed supervisor of domestic science in the public school and remained for three years.

The settlement house was a sort of charitable association. I was teaching domestic science there. I remained there three years and then came to the Chicago University to take a post graduate course in domestic science. 773 Soon after I came to Chicago University I was asked to teach a course that had been left without a teacher. I remained as a student and teacher of this one course until the spring quarter, when I was asked to organize the housing bureau and from that time on I have occupied the position as "Head of the Housing Bureau" and teacher. That was in 1907 and I have remained there since as Head of the Housing Bureau—teacher, and sometimes student. The Housing Bureau is established for the purpose of aiding students to find suitable places to 774 live, when they cannot get accommodations in the campus dormitories. The women's dormitories are buildings—houses, accommodating fifty or sixty students in each one, where they have both room and board. They are called the Women's Halls—there are Beecher Hall, Kelly Hall, Greenwood Hall. My department has to do with finding places for men students as well as women.

775 The men's dormitories are separate from the
women's. We house, I should judge, about three
hundred women; I do not know the exact number.
They are generally students who live out of town.
Students come to this university from all over the
country and from the countries besides the United
States. The average age on entering is about eight-
776 een to twenty-possibly nineteen would be the aver-
age.

By the term senior college is meant that after a
student has been in the university for two years or
equivalent and has taken eighteen majors work,
they are then entered in the senior college. The
junior and senior year are called the senior college.

The system of housing young ladies is as follows:
There is a blank which is filled out by any one who
has a room which she wishes to rent and after she
has registered I go and look the room over. The
document shown is the form used.

Thereupon the document in words and figures fol-
lowing was offered in evidence.

The system was done without supervision before I came there, but I systematized it since and put in the inspection of rooms. I look at the room and the home and the lady and judge whether it would be a proper place to live; it is founded on two points especially—the sanitary condition of the home and the
 780 moral tone of the place. If that is all right, they are put on the list and the students are given that place among a number of others they pick out, all the places being registered and inspected and after the student finds the one they want they make all the business arrangements themselves.

781 The plaintiff came to me in September, 1910, wishing a place to live. I was in my office at Cobb Hall, at the university. She first stated that she had a great deal of very fine mahogany furniture and described several pieces, which I cannot do. She wanted a suite of rooms to furnish with this furniture and live there. She explained that she had broken up housekeeping and that is why she had this furniture. I told her we did not have a request of this kind very often and I had very little to say, but I made the suggestion that she might find such and such things in different places. She came back
 782 stating that she could find nothing along that line, and decided she would try to get just a room and put her piano in it. I said this also was rather hard to find as people did not care to have pianos put into their houses as a rule. However, I gave her several more places thinking she might find such a place as that and she came back reporting failure and said she wanted a place where she could hear German talked in the home. I had one place where I knew

German was talked and one place where I thought it was. I gave her these. They were Mrs. Von Jahn's, 5729 Washington avenue, and Mrs. Comyns, on Kimbark. These two places were on a list of ten or twelve where I did not know anything about German. She came back and reported she had decided on Mrs. Von Jahn's place. I knew that a Mr. Mallette was rooming at Mrs. Von Jahn's. He had been there about a year. He was not connected with the university in any way.

On the circular it says: "The university does not favor the housing of men and women roomers in the same lodgings." You notice we use the word favor 783 there. We have not been able to establish what we hope some time to make our policy, of making that a rule. We have to have many exceptions. The only exceptions that I have made in sending men and women place is when the women are of an age of discretion, and I am sure they will know whether or not they will want to go to a place under those circumstances, and also whether the place has some certain qualifications they especially demand and I have no other place to offer; then if I feel that they are women of discretion I will send them there under that condition. I have nothing to do with the dormitories—only the off-campus places.

If there is any difficulty between the student and 784 landlady they are supposed to come directly to me with that difficulty and if possible I settle it, and bring harmony about. I house between 200 and 300 young ladies every fall, possibly 500 during the winter. There are over 1,000 young women at the university.

After I had located Miss Mercy in Mrs. Jahn's flat the next time I saw her I think was when she came to my office in the early part of December.

I think it was on Monday morning. I was called
785 on the 'phone and Mrs. Jahn told me of an occurrence there on Sunday afternoon and as usual I went to investigate what had happened. I had the
786 story from her. I don't keep office hours on Monday, so I was not at my office until Tuesday, and on my way to my office on Tuesday I met Mr. Robertson, the secretary of President Judson. I went over
787 to my office and found Miss Mercy waiting for me. I had talked with Mr. Robertson before I reached my office. I asked Miss Mercy what was the trouble and she stated that she had this very expensive hat—that she had put it away in a box—tied up, under the table; that the Sunday previous her fiance, Mr. Reynolds, had called, and wanted her to go to the
788 Art Institute. He said, "Why don't you put on that beautiful hat I gave you?" She replied, "You know I can't wear it because I have not any hair." Then she interrupted herself to tell me that she had been losing small sums of money; the previous day a quarter had been dropped and she could not find it; then she went on to say Mr. Reynolds said, "Now, you have been losing small sums of money; why don't you look at that hat and see that it is all right"? She said, "I opened the box, looked at the hat, and there were a great bunch of aigrettes that had been pulled right out of it." She said, "I called Mrs. Von Jahn and told her to come and see it." And she said that Mrs. Von Jahn flew into a temper and said she had no right to accuse her, etc., and

something about sending for the police; that she would send for the police. I did not make any remark until she finished her story. All right; she said Mrs. Small had come over and said things to her; but I can't remember what they were, but they were insulting things from her standpoint; she went on to say that Mrs. Jahn had been very unkind to her, complained of her and criticised her, and that she was not getting the German instruction that she was paying for; when she had finished, I asked her just two questions: the first one—I said, “Miss
 789 Mercy, wasn't it rather peculiar—rather strange that Mr. Reynolds should associate damage to a hat, in connection with the loss of a quarter”? She looked at me for a moment and said confidentially: “Well, I will tell you, no one knows this, but Mr. Reynolds is connected with the secret service and he will suspect where no one else will lay any suspicion at all.” I made no remark then at all, but I said, “Miss Mercy, how much are you paying for your room and board at Mrs. Von Jahn's”? She said, “Nine dollars.” Then I said, “Miss Mercy, your report and Mrs. Jahn's vary considerably; I cannot tell where the truth is until I have you both together, and have you tell your stories to me, and then find out where these points of difference. I didn't tell her what Mrs. Von Jahn had told me. I didn't say a word about Mrs. Von Jahn's story; I simply said that the stories were at variance. I said, “In all of these cases I make no decision whatever until I have heard both of the sides from the parties together, when they are together in my presence—” I said, “Are you willing to meet Mrs. Jahn and have this talked

out"? She hesitated and finally said yes, she would. I said, "Then I will make the appointment and let you know." She said, "Well, I see that you have heard the story and are prejudiced against me in Mrs. Jahn's favor." I said, "No, I am not prejudiced in any one's favor." I said, "I never permit prejudice on either side in these things, until I try to know the truth." I said, "I have absolutely no
790 prejudice for either one," and I said, "When we come together we will talk it out and find where the trouble is if we can."

She left the office then and that afternoon I met Miss Talbot. I realized that the case was rather a serious one and I reported it to Miss Talbot, because Miss Talbot is my superior officer and if there is anything that is too serious for me to handle I usually report it to her and keep her informed of cases. The next day I went to my office and found a note on my desk from Miss Mercy.

Mr. WALKER: There was a letter read in court by counsel for the other side in which the word "Bickering" was used. "That there was no use meeting Mrs. Von Jahn; it would only end in bickering." Is
792 that the letter you refer to? A. Yes. I had no meeting with Mrs. Von Jahn and the plaintiff. I did nothing further after I got that letter, because she had taken the matter out of my hands. I next received a notice from Miss Talbot. I went to Miss
793 Talbot's office the next day. Just Miss Talbot and I were there.

Q. Just state what took place and what you reported to Miss Talbot, if anything.

Objection by plaintiff; sustained.

Mr. WALKER: Your honor, I want to prove on the report she made to the defendant, to show what Miss Talbot acted on. I am trying to show that Miss Talbot had no feeling towards this woman and merely acted on information that was brought to her, it being her duty to act on that information. I am trying to prove that Miss Robinson reported to her in the capacity of the Dean of Women of the University of Chicago.

Objection sustained.

I do not know when plaintiff's exhibits one and two were sent out.

The next day after my interview with Miss Talbot I saw the plaintiff at Miss Talbot's office. There were present Dean Vincent, Miss Mercy, Miss Talbot and myself. That is the first time I had seen Dean Vincent in connection with the matter. I do not know how he came to be there. I went in first, then Miss Mercy came; Miss Talbot was already in her office and Dean Vincent came in after. Miss Talbot asked Miss Mercy to tell her the trouble. She said, "I have a very expensive hat that was given to me by my fiance, that cost or was valued at about \$300 or \$250, I don't remember. I haven't been wearing it because I haven't any hair on account of sickness last summer. I opened the box last Sunday to see it and found it was badly damaged, a number of the aigrettes being pulled out of it." She said, "I came to Miss Robinson's office and Miss Robinson said that she knew about it and I thought I would get justice from her." Then I think Miss Talbot asked her: "Why did you come to Mr. Robertson to borrow money to take out burglary insurance

after you had this robbery, this burglary"? Miss Mercy said, "I took out some fire insurance; I think I made application for burglary insurance." Dean Vincent asked her, "You didn't pay the premium, but you thought you made application for it?"

She said, "Yes, sir," and he said that would be all right, "if you had made application, it would be all right to pay the premium then when you got it."

And that was the last of the burglary insurance 798 talk. The Miss—then I turned to her and said, "Miss Mercy, why did you tell me you were paying \$9 a week for your room and board"? She said, "I told you \$9 a week because Mrs. Jahn never rents that room for less than \$9 a week, and she told me not to tell anybody that she was doing it; that she was getting it for \$7." Then I said, "Miss Mercy, what was the occasion for your going to Mr. Mallette's room"? She at first said she never went there; then she recollected and said yes, she had gone there to see—to ask Mr. Mallette something about taking a letter or going with her to the post-box, I don't remember which. It was in reference to a letter in the post-box. She told me she did not go inside the room. Nothing further was said about that, and I simply said—then Miss Talbot said, "Miss Mercy, there are a great many inquiries regarding your address by people who claim you owe them money; can you explain that"? Plaintiff said that she had a needy family, she had a sister who was unfortunate and liked pretty things, and that they were not her bills, but the bills of her family; she spoke of a gas bill; said she would be willing to

pay if they made it right, I think; then she was asked, Miss Talbot asked her if she had been teaching in the public schools; she said she had, and that she had been in one school, I can't remember, she said something about having been in one school
 799 something over one year; Miss Talbot said, "The statement I have here, it would appear that you have been in four schools this year." Miss Mercy appeared very excited and denied it. She said it was not so; that she had been in this school over a year; that she had resigned from the school and come to the university; Dean Vincent then said, "Miss Mercy, from these things that have come up we would much rather you would leave the university now. We will pay back your tuition and have you withdraw quietly without anything else said. The other alternative is an investigation into your life." She said, "I will not leave the university; I will stay here." He said, "Then you mean for us to investigate"? And she said, "Yes, my whole life is before you; you can investigate." He left then and I left the office and went to my office.

Miss Mercy was with Miss Talbot when I left. This all happened before the Christmas holidays. I had no other conversation with Miss Talbot and the plaintiff together. I have never seen plaintiff's Exhibit 6 for identification. The conversation we had was on December 8th. I attended no meeting in
 801 January at which the plaintiff was present.

802 Q. Were you present at a conference before this letter was written January 11th, when the case of Miss Mercy was taken up by Dean Judson—Dean Vincent—Miss Talbot? A. Yes.

Objection by plaintiff; sustained.

803 Q. Did Miss Talbot or anybody else say anything or act or do anything that reflected or insinuated that the plaintiff in this case had been guilty of fornication or adultery or suggested it, or was the subject ever discussed or thought of?

Objection by plaintiff; sustained on the ground of immateriality.

Q. In that conversation when President Judson acted was any such word as "prostitute" used in reference to Miss Mercy, or any suggestion of it, or that she was "no better than a woman of the streets," or that she was bad mentally or morally, or that she got her money from men"? 804

Objection by plaintiff; sustained.

Until the morning that Miss Mercy came to apply for an apartment or suite of rooms I had never met her or known her.

Q. Had you any malice or ill will against Miss Mercy?

Objection by plaintiff; sustained.

805 At the interview with Dean Vincent and Dean Talbot on the morning of December 8th Miss Mercy would be calm and then would grow very excited and dramatic in her manner. She would repeat herself occasionally. Miss Talbot conducted herself very quietly and dignified and showed no feeling whatever, one way or the other, as it appeared to me. 806 Miss Talbot did not act malicious or vindictive or appear bitter to me.

Q. Was there any expression, if so, what was it that indicated any malice towards this young woman that you now recall? A. Absolutely none.

The conversation mentioned at Miss Talbot's office when Dean Vincent, myself, Dean Talbot and Miss Mercy were present began shortly after twelve and I went to my office at 1 o'clock. It was, I would judge, about forty or forty-five minutes long.

I think Miss Mercy spoke in effect that Mrs. Von Jahn threatened her with arrest. I don't remember
809 the name of the president having been mentioned in that interview.

Q. Did she say, "I said I hadn't been there simply to get money, but that I had gone there primarily to get the advice of the president; that this thing had occurred and I was incensed over it"? A. I don't recall that. Mr. Robertson's name was used in that connection. Miss Talbot asked her if she had gone to Mr. Robertson to borrow money to pay this insurance and she said that she had. I don't recall anything further on that subject.

Nothing was said by her that she went there for
810 that purpose to get the president's advice.

I don't recall hearing her say, "I went to the president primarily for advice and not to get a loan of money because that was what I wanted, and I went to the president's office to ask him to advise me what to do."

810 Q. I told Miss Robinson what my object was to see the president; I didn't tell Miss Robinson what I wanted to see the president for. At that time I wanted the money, but that was not the real reason I wanted to see the president." Did she say anything like that? A. Nothing that I recall. Miss Talbot said, "Why do you want to borrow this

811 money, to pay this burglary insurance, was it to get money for burglary of your hat''?

Q. Did Miss Talbot or Dean Vincent or yourself or any one of you say, "We have a communication from the Board of Education that you have been teaching in six schools in the past year, and we consider you unfit, both mentally and morally, to remain in this institution''? A. No, sir, not in any part.

Q. Was it at any time while you were there that Miss Talbot, or any one of you, told this young lady that she was not mentally or morally fit to be in this institution? A. No, sir.

Q. Was anything like this said: "Miss Robinson then continued the conversation by asking me (Miss Mercy) what I meant by entering men's rooms? To which I replied. I told her I didn't enter men's rooms, and she told me to "shut up and that I was lying," and she said "I ought to know better," and then I tried to tell her why I had gone to Dr. Mallette's room. I told her I had a breaking out on my face and it worried me a great deal, and I asked Dr. Mallette at the table if he would diagnose it for me, and he said he could not diagnose it at the table, but
812 he had a strong student's light in his room and if I would step in there he would examine it and tell me what it was. I asked Mrs. Von Jahn about it and she said certainly? A. No, sir.

Q. Did she in any conversation say to you in Miss Talbot's presence or anybody's presence, about having the rash on her face and going to Dr. Mallette's room to get a lotion for it? A. No, sir.

I have a recollection that there was something said

in the interview about money for clothes, but just what the wording was I can not say. There was a
 813 question regarding that, but I don't recall what it was. I think it was asked where she got the money to buy the expensive coat. The question was brought up and it may have been asked where she got the money from to go to the university.

Q. Did she (plaintiff) say, "I told her I got it from my uncle," and then Miss Talbot said, "from your uncle," and I said "yes." And she said, "You are telling a lie, you know that is not true," did Miss Talbot say that? A. Miss Talbot never used the word "lie" in any conversation I ever heard her utter.

Q. "Miss Talbot asked me what I meant by accepting a hat from a man and if I didn't know that a woman who accepted a hat from a man was an im-
 814 moral character, and the mere fact that I had accepted a hat from a man showed me to be immoral, and she didn't believe me at all when I said I got the money from my uncle to go to school on, she said I got it from men"; was anything like that said? A. No, sir. It was not said. Miss Talbot asked her why she would accept an expensive gift like that from a man. She said she did it with her mother's consent, and I do not remember the hat being referred to after that.

Q. She said this: "I tried to explain to her, but she wouldn't allow any explanation at all." Was there any prohibition at that interview put on Miss Mercy by Dean Vincent, Miss Talbot or yourself? Did anybody stop or prevent her from making any

explanation on that subject? A. No, sir. She
815 talked freely and fully. Nothing was said.

Q. "Miss Talbot asked me what I meant by telling Miss Tutwillinger to go to a doctor? A. I never heard of it.

Q. "I told her I felt sorry for the girl and advised her to go as I thought she could be cured"?
A. I never heard of Miss Tutwillinger, or any one, mentioned on that subject. Nothing about it at that time or any time.

Q. "I had a large picture hat and could not hold it on my head when I went out when there was a strong wind. I told her that I had been wearing the hat before I went to Mrs. Von Jahn's. I told her that I had been ill during the summer and had lost
816 my hair. A. Yes, I remember that was said.

Q. "Miss Robinson (this refers to you) directed a question to me as to whether I didn't try to fasten suspicion in some way on Mrs. Von Jahn, and if I didn't try to do that, and if it was my impression I had fastened suspicion on Mrs. Von Jahn after I threatened to have her arrested. And I told her I didn't do anything of the kind and I can prove it"?
A. Nothing was said about suspicioning Mrs. Von Jahn.

Q. "Miss Talbot asked me whether I had saved up this money which I told her about getting from my uncle. I told her I hadn't saved it up because I had to support my family. I had a mother and six brothers and sisters and I had to help keep up the house and I could save precious little of that and she said she didn't believe me"? A. I remember

her saying that she had to help support her brothers and sisters, but I don't remember anything about saving money, and I didn't hear Miss Talbot say, "I don't believe you," or accuse her of falsifying.

Q. Then she said "She asked me what did I mean anyway by daring to come to the university"? A. That was not said in my presence.

Q. I remembered Miss Talbot asked me "what did I mean anyhow by using the money my uncle had given to me to go to school, and if I had a needy family why didn't I use it for them, and said a woman who would do such a thing and would leave her family in need to go to school was an immoral woman." A. I remember when the question of her debts came up and she spoke of having this money from her uncle, Miss Talbot said something to the effect would it not be better for you to pay your debts and taking care of your family than coming to the university? The word immoral or moral was
818 never used in that conversation.

Q. She said, "If I had a higher education and could get a higher degree I could get far more than if I had a lower one." She asked me why I didn't get married, and I told her I didn't wish to get married until after I was through school, and she told me that that was a fool answer. A. I don't think it was ever mentioned in that conversation, and I know Miss Talbot never used the expression "that was a fool answer."

Q. "She said she didn't believe me when I said I supported my family. I told her I could prove it by some written receipts which were in my name,"

was that language used? A. No, sir. Miss Talbot
819 didn't question her having a needy family to support.

819 Q. Did Miss Mercy say anything like this, "She told me," referring to Miss Talbot, "I owed every big store in town, and they were continually sending collectors to her (Miss Talbot) as well as other places in the university. I told her that I didn't owe fifty dollars, and I said everyone of those people I would pay as soon as I could." A. Nothing like that was said.

Q. Was anything like this said? "Dr. Vincent told me that he was requested to ask me to sever my connection with the university, as the fact that I had taken out an insurance policy was a damnable fact against me and also the fact that I had taught in six schools in the past year showed him, as well as the others, that I was unfit both mentally and morally to remain in the institution." A. Nothing like that was said by Dr. Vincent. Neither the words
820 damnable nor damaging were used.

Q. Was anything like this said, "He said (speaking of Dr. Vincent) he didn't think I could account as to where I got my funds—he didn't believe I got it from my uncle at all and then Miss Talbot broke and said, Yes, I had gotten my funds from men." A. No, sir.

821 Q. "And I told him and told Miss Robinson and told Mr. Robertson that I had done nothing wrong wherefor I should sever my connection with the university and I don't propose to do so and he told me he would like to give back the tuition fee I had

paid in, and I told him that I couldn't accept it because he couldn't pay me for my time?" A. There was something said like it. I referred to it this morning. I have given my version of it.

Q. Was anything like this said: "And I said, I wouldn't accept it because he couldn't pay me for my time." A. No, sir.

Q. Did Dean Talbot say right there several times during the conversation that she was lying—that she got her money from men and the mere fact that she should have such clothes would show her, Miss Talbot, that "I (meaning Miss Mercy) was a woman of the streets?" A. No, sir. I never heard Miss Talbot use that expression. I never heard the words "woman of the streets" used.

822 Q. Did Miss Talbot say that Miss Mercy was getting her money from men—that she was lying and that Miss Mercy was beating around the bush and prevaricating and "the mere fact that she wore expensive clothes and that hat would show her (Miss Talbot) that she was getting her money from men?" A. No, sir.

Q. And did she say right then and there "that Miss Mercy was nothing but a woman of the streets?" A. She did not.

Q. I now, Miss Robinson, call your attention to this specific language in the declaration in this case. "We have a communication from the Board of Education that you have been teaching in six schools in the past year? A. Not the words "six." Something was said about her teaching in schools.

Q. Was anything like that said in connection with schools at all? A. No, sir.

823 Q. That there was something the matter with her both mentally and morally? "We don't care to have a woman of your character in our institution; we don't care what you say; we don't believe what you say; we don't believe you; we have a statement from the Board of Education in black and white that you were kicked out of the school system." Was there anything like that said? A. No, sir.

Q. "We are continually annoyed by collectors coming around trying to find out where you live, complaining about you and your debts." Was that said? A. Yes, something like that.

Q. "We don't care to have a student like that in the university." Was that said? A. That was suggested.

Q. Was anything like this said: "What do you mean by coming here; we don't care to have a woman of your character here." A. No, sir.

824 Q. "What are your relations with your fiance; you are not telling the truth; what do you mean by advising students to go to doctors?" A. No, sir; nothing like that was said.

Q. "Your action in telling Miss Tutwilliger to go to a physician shows you in a very compromising light?" A. No, sir. Never heard of such an idea.

Q. "You see we have been looking you up pretty thoroughly?" A. No, sir.

Q. "What kind of illness did you have last summer?" A. Never heard of it.

Q. "I don't believe you, when you say you have a needy family, or have been their main support. Where are you getting this money to buy the expensive clothes?" A. No, sir; not those words.

825 Q. "How is it you can buy an expensive coat when you have a needy family? No moral woman would do such a thing?" A. No, sir.

Q. "What do you mean by accepting a hat from your fiance?" A. Not that way. Miss Talbot asked her about the propriety of accepting a hat from her fiance. She said, "Do you think it is the right thing to accept such an expensive hat as that from your fiance?"

826 Q. Was anything like this said: "That you know very well you are getting your money from men and we don't consider you any more than a woman from the streets; the nerve of you to enter this university; you are an immoral woman and not a fit character for this institution and we don't want you here." A. No, sir.

Q. And "this is a private institution and we don't have to have anybody here we don't want?" A. That thought was expressed by Dean Vincent. He said, "This is not a state university; this is a private institution and if we consider a student should not be here, we don't have to have them."

Q. Was this said: "You know very well you don't get your money from your uncle, but from men?" A. No, sir.

Q. "We don't consider you any more than a woman of the streets; the nerve of you to enter this university?" or was anything like that said? A. 827 No, sir; nothing like that was said.

Q. In the conversation when you were present with Dean Vincent, Miss Talbot, and Miss Mercy, was there any language used there by anybody as you understood the language, that insinuated that Miss Mercy had been guilty of fornication or adultery? A. No, sir.

Q. From anything said by Miss Talbot or Dr. Vincent? A. No, sir.

Q. Did you understand that she was accused of immoral conduct or that she was guilty of sexual immorality? A. No, sir.

Cross-Examination.

When Miss Mercy came to me the first conversation I had with her was as to where she could go and
 828 I recommended Mrs. Von Jahn to her on a list of others. I was familiar with the rule or policy called to my attention in regard to men and women living in the same house. I recommended this place, notwithstanding Dr. Mallette was rooming there and I knew that the men and women would have to use the same toilet. I recommended this place to Miss Mercy because she, in my opinion, had reached the age of discretion. She wanted a place where German could
 829 be spoken and this was the only place I had on my list. As far as I know, Miss Mercy continued there, using the same toilet and occupying the same floor with the men from the time she went there until she left.

There was another young lady from Wheaton, who was a student at the Chicago University, 18 years of age, occupying the same flat. I recommended the

place to her. I do not know anything about whether she was studying German or French. I think she was getting instruction in German from Mrs. Von
 830 Jahn. So far as I am concerned I directed this girl to stay there and occupy that apartment. There was a Dr. Mallette there.

The 18-year-old girl, Miss Hammill, came with her mother and father from Wheaton and asked for a boarding place and they wanted board and room. I gave them a list of places. We have very few places where board and room can be obtained and among them I gave Mrs. Von Jahn. I told the mother and father and the girl that we did not favor ladies and gentlemen rooming in the same places, but that we
 831 They visited the different places and came back and said that of all the places they visited they preferred Mrs. Von Jahn's.

This rule is not in force if the student has reached that point of discretion, or in the discretion of the parents, if the student has not reached that point. I did not like it—that an 18-year-old girl should occupy the same floor and and use the same toilet with men, whether with her parents' consent or not, but our conditions surrounding the university make it so.

The first conversation I had with Miss Mercy was in my office at 1 o'clock. That was a conversation when Dean Talbot and Dean Vincent were present. I know Dean Small slightly. I would not say that I know him more. I have simply met him as I meet the other members of the faculty. This is my fifth
 832 year teaching in the university. I was in school for

about six months before I taught. Dean Small was there when I came and since. The dean's place is superior to mine. He is officially below Dean Vincent. He was a dean, and Dean Talbot was a dean. I do not know whether he was a dean during the past five years. I think I first talked with Mrs. Von

833 Jahn about this matter over the phone on Monday morning next after this episode. She called me up and told me something had happened and I went to see her. Miss Mercy was not there and I could not wait to see her—I had to go away. Miss Mercy came to see me after I had talked with Mrs. Von Jahn. It was 1 o'clock on Tuesday and I asked her what was the matter—she said she had an expensive hat that had been put away in this box and that it had not been opened all of these weeks because she was not wearing it, and Mr. Reynolds, her fiance, had come up on Monday or Sunday to go to the Art Institute and he asked her why she did not wear her

834 beautiful hat. She said, "You know I can't wear it because I haven't enough hair." She told me she had been losing some small sums of money—she mentioned a quarter disappearing the day before. She said, "I have been losing money; don't you think it would be wise to look at that hat and see if anything has happened to it? She said she found a bunch of aigrettes pulled out of it. She called Mrs. Von Jahn in to tell her about it and she said that Mrs. Von Jahn accused her of stealing and threatened her with the police. Then she went on to say that Mrs. Von Jahn had been very unkind to her, that she had criticised her dress and her manner at the table, and so forth; and that she had not received

the instruction in German that she was paying for. I let her tell her story.

She spoke about Mrs. Dean Small having come to see her. She said Mrs. Small had come over after the episode of the hat and had said insulting things to her. She did not say that Mrs. Small had threatened to have her expelled from the university. I
835 never heard of that language until I heard it on the stand. I didn't hear anything about it until I heard it here. When she came to see me I asked her a few questions. She did not know I had heard the story at all. When she was through the story, I said, Miss Mercy, isn't it rather peculiar that Mr. Reynolds should be giving you small amounts of money? She said, I am telling you confidentially that Mr. Reynolds is a member of the secret service and has to act under suspicious circumstances that no one else could." I then said, how much are you paying for your room and board at Mrs. Von Jahn's? She said "nine dollars." Then I said: Miss Mercy, your story does not coincide with Mrs. Von Jahn." She said: "Oh, I see, you have heard this story; you have heard from her, then? I said, Yes. She said, "Then you are prejudiced in her favor; I can see that." I said, "No, not at all."

I thought it was very peculiar that anyone should connect the loss of money with the loss of aigrettes from a hat. The stealing of the feathers out of that
836 hat is so far-fetched and so impossible that I would not connect it with a person stealing money. I had not thought that a man might steal money and a woman might steal feathers—I had not thought of sex figuring in it at all. I wouldn't say that the one

would suggest the other. She said, she had lost a
 837 quarter of a dollar a day or two before. I thought
 it peculiar about the hat. I simply thought that it
 would create such a story. I agreed that as to the
 hat, she was right, but suggested certain things to
 her. It still seems as peculiar to me as it did then.
 838 I don't think I had any talk with Mrs. Small about
 this hat matter. I met Mrs. Small at a concert some-
 time later. We did not talk it over and it was sim-
 839 ply mentioned. It was at a Thomas concert.

I was present at the time when the envelope en-
 closing plaintiff's "Exhibit 1" was delivered to Miss
 Mercy. Miss Mercy says the notice was contained in
 this envelope, but I don't remember whether she
 showed it to me or not. I know she said, "There's
 that notice." I didn't know that there had been any
 question about Miss Mercy receiving the notice. The
 first interview I had with Miss Talbot, she wanted
 to know why she had not received the notice.

After this conversation with Miss Talbot and Dean
 840 Vincent Miss Talbot asked Miss Mercy to tell about
 this trouble with the hat. Miss Mercy said that she
 had this very expensive hat that her fiance had given
 her, and that it had been at Mrs. Von Jahn's and
 she had not been wearing it, that this Sunday Mr.
 Reynolds came and asked her to wear the hat, and
 she got it out to wear and then found it badly dam-
 aged; these aigrettes were taken off; that she told
 Mrs. Von Jahn to come and see it; that Mrs. Von
 Jahn came and looked at it and accused her of a
 theft and threatened her with the police. She spoke
 of Mrs. Small coming in and using this language,
 insulting language to her. Miss Talbot asked her

how she came to have the hat, and spoke to her about the impropriety of accepting such an expensive gift from her fiance. She explained that she accepted it because Mr. Reynolds told her he had got it in some transaction—I don't know what she said about it—but it didn't cost him anything, and that he gave it to her with her mother's consent. Miss Talbot asked her why she had gone to Mr. Robertson to try to borrow money to pay on a burglary insurance after the burglary had been committed. She explained that she had taken out a fire insurance about a month previous and at that time she thought she had made an application for a burglary insurance and had not paid the premium. Mr. Vincent said if she had made the application in good faith, it was all
841 right for her to pay the premium when it was ready. Then Miss Talbot asked her about this quarter—before that I think my question came in. I asked her first why she told me she was paying Mrs. Von Jahn nine dollars a week for room and board and she answered that Mrs. Von Jahn had never rented that room for less before and that she asked her not to tell anybody that she was renting it to her for seven dollars. I also asked her why she had gone to Dr. Mallett's room. She said she had gone to the door—I think she said she has just stepped to the door, whether she was on the inside or not, I don't recall—to ask him to go to the corner with her to mail a letter, or to go there and mail it for her. Then Miss Talbot told her that there were a great many people inquiring for her, saying that Miss Mercy owed them money and Miss Talbot then asked her a question about it. She said these bills

were not her own, that they were bills of her family, that she had an unfortunate sister that some of these bills were her's, and she spoke of a gas bill. She said there was a gas bill she would be willing to settle, and I have forgotten what that was, but that it
 842 was an exorbitant bill. Miss Talbot said, "Why didn't you come yesterday, Miss Mercy?" She said, I didn't receive any notice. "Miss Talbot said, I sent you that notice." She said, "I didn't get it until I got this notice in my class room this morning." After that Miss Talbot accepted her explanation and nothing more was said about that. I don't
 843 think I told Miss Talbot that I had recommended Miss Mercy to go to Mrs. Von Jahn's because she had reached the age of discretion. I think nothing was said about it. Miss Mercy explained that she got the money from her uncle. Miss Talbot said, "If you have this needy family and owe all these debts, would it not be better for you to take care of them?"

844 I think Miss Mercy said her uncle's name was Krumholz and he was in Europe. Dean Vincent said, Miss Mercy, there are so many things here that I feel it will be better for you to leave the university; that it will not be difficult to have you withdraw. Your tuition will be refunded and nothing more will be said, or the alternative is that we investigate further.

The question of Miss Mercy's teaching in the public schools came up, and Miss Talbot asked her where she had been teaching the last year. She said in the Moseley school. Miss Talbot said, "I have a communication here that would indicate that you

were in four schools in the last year." Miss Mercy became quite indignant and denied it, and said, she was in the Moseley school all the year, and she said that she resigned from the schools herself.

She mentioned her sickness the summer before in connection with having lost her hair, and no question came up regarding that at all. Coming back to Dean Vincent—he said, "If you want to remain here we will have to investigate you." She said, "I will remain here; I will not leave the university." He said, "Then you mean you wish us to investigate you?" She said, "Yes, you can investigate my whole life."

845 Q. May I ask you whether or not there was anything in that conversation you have just detailed that would deserve that a student should be dismissed from the university? A. Yes, sir.

846 I do not remember anything being said about the young lady getting money from her uncle. She simply said her uncle would provide her with money. We did not question her at all about his giving her money.

I think the number of schools she taught in was four instead of six. It was proven that the communication was misunderstood and her statement was correct that she had been in the Moseley school
847 for one year.

848 Q. Do you know of anything she said at that time that was false yourself, of your own personal knowledge? A. Yes, she told me a lie the day before. She said she was paying Mrs. Von Jahn \$9 when she was only paying \$7. That is my understanding of

an untruth. She gave the explanation that it was
 948 at the request of Mrs. Von Jahn. It was an absolute business transaction and she knew that when I asked what she was paying, it was not to the public she was telling it, but to the person most vitally
 850 concerned. She told me what was not true, then. I have no malice whatever against her—not the slightest—only pity. If this language had been used that Miss Mercy said in my presence that Miss Talbot used, I would tell it if it had been said.

Q. I ask you, if you would feel disposed to tell it. In other words, would you rather not tell it rather than tell it, unless you had to? A. If I didn't have to tell it, I probably would not for the girl's sake. If it were the truth I would think only of telling
 851 the truth. You would not volunteer to go and tell some truth that would reflect on Miss Talbot and the university, would you? In other words, you would rather not do it. A. I would not volunteer; I would rather not do it and I would think of Miss Talbot also in connection with this thing, if they were said. I can hardly put myself into the position of thinking of it in any way but simply telling the truth if that were necessary and if it were not necessary and was going to hurt anyone, I would not tell it.

853 I think I would think about the effect it would have on Miss Talbot and the university, and if it were not necessary to tell them I would not tell them, neither would I tell them about anyone if I did not have to, if it were not necessary. I would not think
 854 any more about Miss Talbot in that connection than I would about a stranger, if it were not necessary to

tell them. I have known Miss Talbot since I have been connected with the university and—I have been associated with her as a teacher, and have been friendly with her all the time—I am not unfriendly now. I want to say simply this: that if it were Miss Talbot or a rank stranger and my telling those words when it was not necessary, if it would hurt anyone, I wouldn't think any more of telling them against a
 855 rank stranger than I would against Miss Talbot or the university. Of course, I know more of the effect it would have on Miss Talbot and I might think more of it from that standpoint. If it were not necessary to tell it, I would not be any more apt to tell it about a stranger than I would about Miss Talbot. I can't quite put myself in the attitude.

856 I noticed Miss Mercy being dramatic. We have
 857 none at the university just like Miss Mercy.

I don't think I ever saw two dramatic natures alike, they differ. We have a branch there for training people to be dramatic and they go into the classes to try and learn to be dramatic professionally. I have never given any attention to that department.
 858 I do not belong to the dramatic club. I do not know many people who do. I presume the club is made up of persons who have a dramatic tendency, or think they have. I suppose some of them are mistaken. I don't think I have ever seen advertisements on the bulletin board calling for supers at the theaters downtown. I never heard of it. My department is Domestic Science and housing and I am afraid I have nothing to do with and know nothing
 860 about the dramatic club. My department is a little too practical—too much common sense.

Re-direct Examination.

I have heard of a dramatic club, or rather I have seen it in the university paper. It is a club of students, distinct from the university work of any sort. They teach public speaking at the club. I do not know that it is a part of the English course. I do not think there is a dramatic school at the university, but I do not know. This dramatic club is distinct from the university work entirely.

I know whom Dean Small is. I think he is in the sociological department. I never studied under him.

Domestic Science is the teaching of housekeeping. The chemistry of domestic cooking is part of the work; the science of housekeeping is what it is. The home in the bigger sense, taking into consideration the food and the running of the home and the scientific side of the running of the home. That applies to the family and the children.

There were some discrepancies in Miss Mercy's statements and there was this peculiar dramatic pose that was not necessary or essential that justified the comment of Dean Vincent, that she either quietly withdraw from the university or permit further investigation.

In reference to her conduct, I would make this distinction: If Mrs. Von Jahn asked Miss Mercy to tell that lie, Miss Mercy's idea of truthfulness was not what it should be to be willing to tell it. She told the lie to me when she knew I was asking for the truth and when she knew that Mrs. Von Jahn's request ought not to be taken into consideration.

Q. Would you hesitate being called to the witness stand and being sworn to tell the language, if it were used, that Miss Mercy got her money from men, or that she was no better than a woman of the streets, or wasn't a moral woman, whether it was said by Miss Talbot, President Judson or any one else? A. I would not.

Re-cross Examination.

865 If I were under oath and had to tell it, I would tell it.

I was never married. I have kept house for eight years with a friend, and kept house for my mother when she was away from home for two months at a time, and many times from the time I was fourteen until I was twenty. We do not think we are teaching theoretical housekeeping. We believe in making the practical scientific and the scientific practical. I wouldn't want any one to feel more intently about their home than I do. I have had other people in my life that I had to have, and whom I thought just as much of as if they had been my own children.

JOHN A. LONG, a witness called on behalf of the defendant, testified:

869 I am the principal of the Hammond School of Chicago. I have been principal since the first of October last. Before that I was principal of the Moseley School, for about two years and one month. I have been a principal in the public schools of Chicago since the first of September, 1909. The Moseley School was my first school. Three years ago I was

superintendent of the public schools of Joliet. Seven years previous to that I was superintendent of
 870 schools of Streeter, Illinois. I was three years in Joliet and seven years in Streeter. For two years I was superintendent of schools at Chillicothe, Ohio, and three years principal of the high school at Chillicothe, Ohio. All told I have been in the public school business about twenty-three years.

I took my bachelor degree at the Ohio Wesleyan University.

I was principal of the Moseley School when the plaintiff in this case taught there. I understood the plaintiff was at the Chicago University the last year I was in the Moseley School. In the winter of 1910, before the holidays, or just afterwards, I met Dean Vincent of the Chicago University.

871 Q. What inquiry, if any, did he make as to the character of Miss Mercy for truth and veracity?

Objection by plaintiff; sustained.

872 Will you state what you said to Dean Vincent of the Chicago University about Miss Mercy in reference to her character for truth—for telling the truth, if anything?

Objection by plaintiff; sustained.

The COURT: Now, you may make your offer here if you want to.

873 Mr. WALKER (out of the hearing of the jury): I offer to show by the witness that she told Dean Vincent that he was as big a falsifier, or that language—

Objection by plaintiff to the offer; sustained.

874 Q. Do you know what the character of Miss Mercy was for truth and veracity among the teachers where she taught in Moseley School?

Objection by plaintiff on the ground that question is not broad enough.

A. Yes. I didn't know her outside of the school—at her place of abode. What I knew about her
875 was acquired at that school. I knew the plaintiff's reputation for truth and veracity among the teachers at that time. It was bad.

Q. From what you know of that reputation,
876 would you believe her under oath? A. I think not.

Cross-Examination.

My first school when I began teaching was a country school down in Ohio; I taught there only a year, and that was not far from Zanesville. The next I taught was a country school just south of Columbus for two years; after that I taught a country school in Lucasville, Ohio, for two years; that was
877 sort of a township high school. After that I taught at the Plymouth, Ohio, high school for two years, then at the Lancaster, Ohio, high school for one year, and next the Chillicothe high school for three years, and after that I was superintendent of schools of Chillicothe for two years. That was by election of the board. The next teaching I did was in Streeter for seven years; after that at Joliet for three years. I then came to Chicago, and I have been here since that time. I failed of re-election in Joliet.

I presume you would call it dismissed, they elected

another fellow; at the regular election another fellow got the vote. It happened twice. There was nothing more to the way I terminated my connection with the Joliet schools that I know of.

- 879 I cannot give you the specific person I heard say that Miss Mercy would not tell the truth. I don't know that I ever heard it put in just that form. I cannot tell you the circumstances. There was just a general feeling of incredulity among the teachers in that school. That is what I am telling the jury.
- 880 I felt it myself. I have no anger towards Miss Mercy, or no disposition to pursue her, or devour her, or anything of that sort.

- Q. I will ask you if you did not feel unkindly towards her because Miss Mercy told Miss English, the district superintendent, about the behaviour of a negro child, and you said, "She is only a nigger child," and you objected to having her interfere because she said it reflected on your ability as a disciplinarian? A. I do not know that she asked
- 881 Miss English that question at all. I do not remember the case referred to. Of course, there are a great many of those cases of discipline brought to me. It is a very common occurrence in every school. I do not now remember whether I was offended by Miss Mercy bringing him to me. I know that I didn't get offended; teachers bring those cases to me.

Re-direct Examination.

- 882 MR. WALKER (out of the presence of the jury): I offer to prove by this witness that this young woman (the plaintiff) claims to have lost her pocket-

book with some change in it and that she disciplined the children and tried to have them bring 25 cents apiece with a view of making it up.

883 Objection by plaintiff; sustained.

ADELLA L. GARLICH, a witness for the defendant, testified:

I am a teacher in the Striss public school. I have room No. 3, seventh grade. I have met Miss Mercy, the plaintiff. Mr. Tibbett was the principal of that school at that time. He is living. I didn't know
884 Miss Mercy anywhere else except at that school. I think she taught at the Striss school over a year, but I am not positive. I do not know the occasion of
885 her leaving. I can't judge her reputation from the chit-chat of the class room. I indulge in it very little.

The COURT: The question is, do you know her general reputation among the teachers of that school for truth and veracity—yes or no?

A. We do not know anything we do not see.

MINNA P. SCHURER, a witness for the defendant, testified:

886 I am principal of the Barnard school. This is my eighth year in that position. I have been connected with the public schools of Chicago for nineteen years. I was principal of another school before that
887 for six months. During my principalship Miss Mercy was a teacher there. I am not positive how long, because I have not looked up the records. It

was from two weeks to six weeks. I think she went from that school to the Moseley school.

I did not know her at her home and didn't know her family.

There were sixteen teachers in the school at that time. I do not know her general reputation among the teachers of the public schools for telling the truth.

A. ABRAHAMS, a witness for the defendant, testified:

890 I am a furniture dealer and my place of business is 4146 Cottage Grove avenue. I have lived in Chicago fifty years next September. I have been in business at that place fifteen years next November. Before that I was in the employ of the city for several years. I know the plaintiff in this case. I have known her for the last four years.

The plaintiff lived at 4455 Lake avenue when I knew her.

891 Q. Do you know her general reputation in the neighborhood there among those people, shops, etc., for truth and veracity—her general reputation in that neighborhood? A. I do.

894 Q. Does your knowledge of her reputation have anything to do with her suit, or with what was published about her suit against the university? A. No, sir. I have known her reputation for going on three years. It is bad. I would not believe her under oath.

Cross-Examination.

I live at 4146 Cottage Grove avenue. I am a furniture dealer in new furniture and upholstering. I am not a second-hand dealer. I work over furniture, that is not the same as a second-hand dealer. I make a distinction between the two because one has a license and the other has none.

About testifying in this case, I have talked with Mr. Northcott, Mr. Tasker and Mr. Walker. I have only talked once. I volunteered to come here. I was subpoenaed after I volunteered. I didn't serve
897 the subpoena myself. This is the first time I have been in court this morning. I have not helped work up this case in any way for the defense, except my own testimony. I live about two miles, I think, from the university. I heard Mr. Tasker and Mr. Northcott say she wouldn't tell the truth. They are men in the case of the university. They told me so day before yesterday. I knew it of my own experience, if that is what you want, to my sorrow. My experience is mostly what I testify to. I did not say she
898 had a bad reputation. I said as to the truth. My testimony is based on my experience with her and not on what somebody told me. I only know what I have been told about her general reputation for
899 truth and veracity in the neighborhood. I didn't base my testimony entirely on my experience with her.

Motion by plaintiff to strike out the testimony of witness.

The COURT: I will reserve the ruling for the present.

900 I haven't any unkind feelings toward the plaintiff; in a business way I have a different feeling. My business feelings are offended, but my personal feelings are not.

C. E. ZIMMERMAN, a witness for the defendant, testified:

901 I live at 7207 Stewart avenue. I have lived in Chicago for eight years. At the present time I am in the mail order business at 1333 Michigan boulevard.

The PLAINTIFF: Look at me!

Mr. WALKER: I take an exception.

I do not know the plaintiff personally. I never met her personally. I have seen her. I have never been introduced to her. I have seen her with Mr.
902 Reynolds in a restaurant. I have not visited at the place where she lives. I am not positive that I can recall the name of the restaurant. It is a small restaurant on Wabash avenue. It was probably in January or February.

Q. Do you know of her in the neighborhood there where you met her?

The PLAINTIFF: He never saw me.

Mr. WALKER (continuing): Do you know what the plaintiff's general reputation was for truth and veracity?

903 A. I do not.

I have known Reynolds for about a year and a half, principally in a personal way, where he has

boarded, more where he called than where he boarded.

Q. Do you know what his reputation was among the people who knew him for truth and veracity?

904 A. I do. It was bad. I wouldn't believe him under oath.

Cross-Examination.

To the best of my recollection I have known Mr. Reynolds a year and a half. I had no business transaction with him that went through. I had no trouble with him.

Q. You had no misunderstanding with him A. I would like you to define what you mean by "misunderstanding," then I can answer your question.
905 We had no dealings. The word "misunderstanding" to me signifies that one of the people was mistaken about something. There was no mistake on the part of either of us. I have no personal feeling against him whatever.

Q. Your attempted deal did not come out to your satisfaction, did it? A. It wasn't a matter which would have been any particular satisfaction to me either way if it had gone.

Q. Well, were you going to be interested in the deal? A. I don't think I can express what you
906 want to know by answering your question. If you would like me to explain the situation I would be able in a very few words.

My personal feelings towards Mr. Reynolds are friendly. My feelings are only this: I would not do business with him. I have no feeling towards him.

Q. Do you know Mr. Abraham? A. I don't recall the name.

907 I have heard a number of people say this man would not tell the truth. One man's name is Mooslin. I believe his first name is Alexander.

Q. Where does he live? A. He lives somewhere
908 on Wabash avenue around 28th or 29th street, I don't know where his place of business is. I think he is an insurance investigator. I met him at this place. I knew him slightly before I met him there—two years ago I first met him; I heard him talk about Reynolds about a year ago.

909 I don't know what day of the week it was. I heard him state it on numerous occasions. I could not tell what date. I should say it was probably several months—I should say January. I am not saying January as a guess. I don't like to say who was present without being absolutely positive about
910 it. The situation was a matter of general comment. I don't remember who was present at any of these various times well enough to be positive about it.

I volunteered to come here and then I got a subpoena.

The COURT: The jury may step out a moment.

(After the jury had retired and outside of their presence the court said):

The COURT: I want to state to the parties in this case that in the future if there is any outbreak, any audible remark made by either party in the suit, they will receive some attention from the court. Now, don't let it happen again.

Mr. WALKER: Judge, now, Miss Talbot, the defendant in this case, has not made any outbreak.

The COURT: I have not heard anything.

Mr. WALKER: I want it understood that my client was not criticized by the court because she did not make any exhibition. I expected that exhibition, and it was design.

Mr. JENNINGS: If counsel was talented enough to see it—

Mr. WALKER: I say the exhibition of the dramatic talent I was trying to prove; I am obliged for the lady doing it.

Mr. JENNINGS: You have shown the same kind of talent through the case.

The COURT: I don't want to repeat this matter again during the course of the trial.

Mr. WALKER: She won't do it now. She knows the course of the game.

Mr. JENNINGS: I object to that.

Mr. WALKER: I say it in the absence of the jury.

The COURT: There was no cause for remark from either side. Bring in the jury.

912 MARGARET DONNELLEY, a witness for the defendant, testified:

My business is teaching in the public schools. I am head assistant in the John Spry School. I have
913 occupied that position nineteen years. The principal of the school was Henry S. Tibbetts. He is now dead. Miss Mercy was a teacher in that school about a year ago, I think.

Q. Do you know why she parted company from that school?

Objection by plaintiff; sustained.

At that school we had a common dining room for
914 the teachers. There were thirty teachers. We didn't all eat at the same table. Miss Mercy ate at my table. I didn't know Miss Mercy outside of the school where she lived.

915 Q. Do you know her general reputation there among the teachers for telling the truth? A. I do.

Q. What was it—good or bad? A. Well, I would not like to answer in that broad term. I am an individual and I have heard individuals express their opinions when Miss Mercy had told some stories that we could not give credence to, but I never took a consensus of the teachers individually. Her reputation for truth was bad from what I know.

916 Q. Would you yourself, from what you know of her reputation for truth, believe her under oath? A. Well, I don't know whether she has much respect for an oath as I have. I would not like to make it quite as broad as to say she would not tell the truth under oath. There are some things said about all of us at some time during our lives.

MARY GREEN, a witness called on behalf of the defendant, testified:

917 I am a school tacher in the public schools. I am principal of the Whittier School, and have been since 1883. I know the plaintiff in this case. She had her first assignment to teach in my school. She
918 was a very poor disciplinarian; had no order in

her room. I had to speak to her about that and offered to help her and to do anything I could for her, but I could not help her. She would not help herself.

Q. Do you know why she departed from that school?

Objection by plaintiff; sustained.

I didn't know Miss Mercy at any other place than the school.

Q. Do you know her general reputation there for telling the truth among the teachers of that school while she was there? A. No, I cannot say what her
919 reputation was among the teachers.

E. B. DECKE, a witness called on behalf of the defendant, testified:

I live at 4536 Oakenwald avenue. I am in the grocery and market business at 1121 East 43rd street. I have been in business at that place fifteen years. I am married. I have known the plaintiff in this case since November, 1909. She dealt in my shop. I do not know what her general reputation for truth is in the neighborhood where my shop is located.

922 WILLIAM L. TASKER, a witness for defendant, testified:

I am in the restaurant business. I used to be at 45 East 43rd street. I am not in business anywhere at the present time. I was in business seven or

eight months at the place named. I know the plaintiff in this case. I got acquainted with her at my place of business.

923 I know the store keepers in the neighborhood.

Q. Do you know what her reputation was in that neighborhood and at the restaurant? I mean among the waiters and people there, for truth and veracity?

Objection by plaintiff; overruled.

A. Yes.

Q. Was it good or bad? A. Bad for truth.

Cross-Examination.

924 I heard Mrs. Robinson, a waitress in the restaurant, say that she did not tell the truth. I heard another waiter say it, also. That is all I heard as far as waitresses are concerned. I heard Mr. Abrahams, a witness here, say she would not tell the truth, and Mr. Northcote, the real estate man. I don't know whether his name was mentioned by Mr.

926 Abrahams or not, and I think a Mr. Bowens, if I am not mistaken about it. I think he is a real estate man. He is sort of fat. His business is right east of me on 43rd street. He was one of my customers. I heard him contradict her. I don't know the date. It was this year, in January. I don't suppose her disposition to tell the truth was any worse in January than any other month. When I heard the statement in January I was in my restaurant. There was no one else present except this gentleman and myself. I was at the counter on the east side of the store—there was no one else around at that time and nobody heard it except me. We used to

928 speak about her a great many times. He would be in every day. She used to live around the corner and we both knew her—just talked, general conversation—that is all. I can't exactly place anybody else at present but myself and the experience I had with her. I am basing this on experience, too. I testified I would not believe her on account of my experience with her. It is not based on what somebody told me—it isn't what anybody says at all—I don't care what anybody says. This is what she agreed to do and did not do—some business matters I had with her—that is the reason of my testimony.

The COURT: Why did you say "you knew what her reputation was"?

A. Because they asked me.

Reputation means what people say about you—I named three besides myself.

929 The COURT: I will reserve this one also, Mr. Jennings.

MARY WARING, a witness called on behalf of defendant, testified:

930 I am a school teacher at the Moseley School. I have taught there for seven years. I think there are about 16 or 17 teachers there. The Moseley School is on 24th and Michigan avenue. I know the plaintiff in this case as a teacher at that school.
931 We had 19 or 20 teachers when she taught there. It seems to me it was about a year—it may have been more or less—a little more, I think. I did not know her outside of the school. I never saw her un-

til she came to our school. I never saw her at her residence, or in the neighborhood of her home.

Q. Do you know what her general reputation was among the teachers at the Moseley School for truth and veracity? A. I have heard so much said about what reputation is that I am not sure.

932 Q. The COURT: What is your idea about reputation?

A. Reputation is what people think of what you say or do.

Q. From your standpoint, was it good or bad?

A. It was bad.

Q. From your knowledge of it, would you believe her under oath? A. I would not like to answer that. May I explain—an oath to me is a terrible thing, and I would not like to say that I would not believe anyone under oath.

Cross-Examination.

I was in court yesterday evening. I had some hesitation about going on the stand. I did not like to do this sort of thing, as it naturally brings notoriety. Since the court adjourned, I talked to Mr.
934 Walker. I did not talk out of the court room, but standing in a group of teachers in a general way. We all talked about it. I did not like to testify because I did not like such notoriety.

Q. I will ask you, if you did not say yesterday evening, just a few minutes after court adjourned, right at the end of the table (indicating the lawyers' table in my presence and in the presence of a

dozen other people) that you didn't know a thing about this young lady's reputation? A. No, sir.

I have been teaching in public schools for over 20 years—in Chicago for seven. I have taught in
935 the Moseley School for seven years. I have never counted the percentage of any nationality in that school and the class I teach is the only one I could speak in regard to. The class I teach has been over 50 per cent. white until the last year. Just the last year I have had a predominance of colored children. I am not teaching a white class. I am teaching in Chicago, and Chicago has no separate schools. I teach anything they send. I have not made out the percentage in my class now and could not answer.

I don't remember that I talked to anyone else besides Mr. Walker, after court adjourned. My memory has generally been considered good. I have a very distinct memory of many things. I may have said something yesterday afternoon about testifying from the time I left until I came here this morning, because I can't get the thing off my mind. I have not tried to remember. I did not say anything about what I was going to testify to, or whether I knew anything. I had no idea what you would ask me.

Q. Do you know whether you said it in anybody's presence "that you did not know a thing about this young lady's reputation"? A. I could not possibly have said that I did not know a thing about this young lady's reputation—and I am sure I could not have.

Re-direct Examination.

I remember saying to Mr. Walker, "I don't have to testify and asked him not to call me, because in law the parties who subpoenaed me gave me a nickel shy.

Re-cross Examination.

If you remind me of anything I can recall it. I
939 could not have said, "I do not know a thing about this young lady's reputation." I had not heard the word reputation. I was subpoenaed on Monday to come here and testify.

The principal is a lady and does not meddle—she is as reticent on that subject as all the teachers. Miss Waring was as reticent on the subject as all
940 the others. I don't know who subpoenaed me. It was a man I had never seen before. I had no notice or intimation before that that I would testify. I did not hand my name in. I don't know if the principal handed my name in to be subpoenaed.

MARION TALBOT, the defendant, called as a witness on her own behalf, testified:

941 I am fifty-three years of age. I am by profession
942 a teacher. I am connected with the University of Chicago. I have been connected with that institution twenty years next September. I was educated in Boston, Massachusetts, in the Boston University and the Massachusetts Institute of Technology. I
943 taught in Wellesly College before I came to Chicago. That is a college for young women. I had only one

course there. I lived in Boston and went out to teach. When I came to Chicago University my first position was assistant professor of sanitary science and dean of the Junior College of Women. The students in the Junior College correspond with the freshman and Sophomores in most colleges, and the students in the Senior College correspond to the juniors and seniors in most colleges. I next occupied the office of dean of the Senior College, or dean of women's colleges. I don't remember just how it was phrased. I became associate professor shortly after which means a promotion from assistant professorship. I then held the position of professor and dean of all the women. That is the position I now hold. I have held that position for ten years, I think. The dean of women is an officer appointed to secure the best possible conditions for women students to pursue their education, the best conditions of living, and the best conditions of conduct.

944

945 The duties of the dean of women have never been officially determined. The dean of women has never received any specific instructions as to her duties. It would take a long time to tell all the duties. I inquire into the standards of scholarship among the women, and if I find in any case women are not doing their work according to the standards which

946 are expected, I see the students individually and find out what the difficulties are and whether as dean I can be of any service to them in making their work as students more satisfactory to themselves and to the university. I have an office in Cobb Hall where I transact my business as of dean of women. Occasionally I hold office hours at different times of the

year in Lexington Hall, which is a hall where women only recite. I have some times sent for students to see me there, but otherwise in Cobb Hall. The
 947 students are called by a printed summons, like Plaintiff's Exhibit 1. That is the form ordinarily used, unless I write a personal note. My regular office hours in Cobb Hall were from 12 to 1 o'clock, and at other times varying according to the special duties. I would say that I called on the average of two students a week by summons to my office. I would call one or two a quarter by other means.

948 I teach and lecture. I am professor of household administration. My class room is usually Room 11, Cobb Hall. My classes are mostly women, occasionally a man. I am busy the whole of my office hour, consulting students. The average would be
 949 of men and women five to eight an hour. Monday I see a good many more because it is a more free day for students and they come and tell me about things they wish to present to me.

950 I am dean of unclassified students as well as dean of women. I have to do with the conduct of the women as affects their propriety. I have very little to do officially. Once in a while a flagrant case of bad manners or bad appearance comes to my notice and I consult with the students. In general we have reached such a spirit of co-operation among the students and faculty as a whole that we don't have to say very much. I talk things over with groups of students.

951 Q. Do you pay any attention to the conduct of young ladies that live in the dormitories? A. Only in the hall in which I live, or in case anything comes

to my notice which seems to me not seemly I report the matter to the head of the hall in which the student lives. If she is in doubt she comes to me, as senior head of the women's halls. In any matter
 952 where I am confident that my judgment is sound I make the decision. In personal matters I refer the case to the president. In academic matters where the student must be considered as a student and not merely as a woman, the matter is referred to the student's dean to consult with. The same supervision applies to women students who do not live in the dormitories.

953 Miss Robinson does not hold an official relation with reference to me, except as she has to do with women. As housing inspector, I think she reports to the president in business matters. I am not sure. On personal matters affecting students, she would go to the student's dean. In matters affecting women particularly, she would come to me. There are
 954 about eight or nine hundred women in the college, of all ages, from sixteen to over fifty. I do not know
 955 the average age. I teach domestic science in the post graduate courses. The University of Chicago begins with kindergarten, through an elementary school, known as School of Education, then to an academic high school, known as the University High, then the College Course, then the Scientific, Classic Post-Graduate courses and Professional Schools. Rush Medical College is an affiliation, I understand. There
 956 is a law school and a divinity school. I do not know how many students there are in the university; there are about eleven or twelve hundred in the college

proper at one time, about three thousand in the course of the year.

I first learned that there was a pupil at the school by the name of Miss Mercy from my associate, Miss Breckenridge. Miss Breckenridge is assistant professor, and assists the dean of women. She is immediately next to me. She brought this to my attention.

Q. What did she tell you?

Objection by plaintiff as incompetent, calling for testimony out of the presence and hearing of the plaintiff.

Mr. WALKER: I am trying to show now that this was not malice, that this came in the course of business, that she was acting as a dean, how this young lady came to her, what report she was acting on, that there was no malice, I am not trying to prove my privilege; this is not hearsay in any sense.

Objection; sustained.

963 I also got information from Mr. Robertson, secretary of the Students' Loan Fund Committee before I saw Miss Mercy.

Q. What did Mr. Robertson say?

Objection by plaintiff; sustained.

964 This was before I had any meeting with Miss Mercy. I also obtained information from two clerks of the bureau of records, who office where the records are kept of the students of university. I can not give you the names of the clerks.

Q. What did the clerk you spoke to first in that department say?

Objection by plaintiff; sustained.

Q. Now, was anything said by Miss Breckenridge, Mr. Robertson, Miss Robinson or the two clerks in the office you named reflecting upon the virtue or purity of the plaintiff? A. No, sir. Nothing had been said to me by any one at the university, or by any one else before my interview with Miss Mercy that would reflect upon her virtue or purity. I sent out the notice for her to come and meet me because the case was reported in the conference of deans. I do not remember who was at that conference. Its attendance varies. There were Dean Vincent, Dean Salisbury and Dean Lovett. Dean Lovett is dean of the School of Sciences; Dean Small is dean of the Graduated Schools; Dean Hall is dean of the Law School. I can not recollect who were present at the
967 meeting. Dean Vincent presides. At that meeting I was asked to send for Miss Mercy. I didn't know her personally at that time. I had never seen her to my knowledge. I didn't have any conversation with Miss Jarvis before I met Miss Mercy.

968 Q. When you sent for Miss Mercy you had no personal ill will, malice or quarrel with her in any way? A. I had not. I had no feeling against her personally at all. She didn't bear different relations to me than any other student at school under like circumstances. Twenty thousand students have passed through my hands as professor and dean of that university.

969 As dean, during this period of years, I have had occasion to talk to approximately 5,000 students about their conduct.

970 Q. In all the 5,000 students that you met in your

association have you ever had one that appeared to you in conduct like Miss Mercy? A. No, sir.

Objection by plaintiff; sustained, at this time.

- 971 At the first interview I was in my office in Cobb Hall; I came from class, teaching to my office hour 12-1 and found Miss Robinson there. I think Miss Mercy had already arrived—I am not sure. If not, she came almost immediately. I sent for Dean Vincent, whose office was across the corridor. I said to Miss Mercy: "You didn't come yesterday, as I requested." (This was before the dean got there.) She said: "I did not have a message to come" and I said I sent a message to Mrs. Jahn's by mail. She said, "I left Mrs. Jahn's and am no longer there.
- 972 Dean Vincent came in and was seated, and I said in substance: We hear you have had trouble with regard to the stealing or disappearance of feathers from your hat at your boarding house; we also hear that you have tried to borrow money from a students' loan fund; and we also hear that you have creditors, inquiring where you are. We would like to hear all the circumstances from you. Miss Mercy said in substance: "I had a very valuable hat which was a present to me. On Sunday I found the feathers had been taken from it. I went to the landlady, Mrs. Von Jahn, and told her that the feathers had been taken and she threatened to arrest me."
- 973 I said, "how is it about your wish to get burglary insurance, borrowing money to pay burglary insurance, why did you go to Mr. Robertson for that? She said, "I made application at the time that I got a fire insurance policy for burglary insurance, but I hadn't paid down the money and I wanted the

money to pay that with." And I said, "To pay the burglary insurance with credit, before you paid for the policy?" and I said, "Do you think that was right?" Dean Vincent said, "Yes, that was all right; that if she made the application for the policy and she said that she had made the application for the policy"; I said, "That may be all right in business but it seems to me rather strange that anyone should attempt, or should wish to have an insurance company to pay for loss, not having received any remuneration itself on the risk"; Dean Vincent, then reiterated it was all right in business, as a matter of business.

She said she thought the order had been placed and she would pay for it when it was convenient. There was no further discussion I think on that point at any time. That never came up to my recollection except incidentally in the summing up. I 974 then said in substance: "How is it about your debts; people are coming here to find out where you live; and we are not used to having students who are in debt, and having their creditors come to find out about them." She said, "The debts are debts in part due to family matters, the adjustment for a claim for gas, the bill for which stood in my name, and partly for things charged by my sister who is young and pretty and wanted nice things; and I do not feel like paying for them." Miss Robinson said, "How is it, Miss Mercy that you told me you were paying \$9 a week for your board?" Miss Mercy said: "I told you because Mrs. Jahn asked me not to tell the price I was paying." Miss Robinson said, "Do you think it was right to tell me a

price that you were not paying as the price you were paying, when I wanted to know about the facts of the case, and was endeavoring to adjust it." She said, she had promised not to tell it and that was
 975 all that was said on that point; I said, I think I was the one that said it—How is it, Miss Mercy, that you go into the room of a man who is lodging at the same apartment; I understood there are complaints about that; objections to it? And I said, "I understand the man's name is Mallette."

Q. Either one of you said that—rather, Miss Robinson? A. I don't know which; this was one of the things we talked over.

Mr. WALKER: Well, Miss Talbot, let me prove what somebody told you?

A. In one of the conversations she said that she had not gone to the room, but had gone to the door of the room to ask Mr. Mallette to go out with her to the letter box to mail a letter; I said, "That is not the account as it came to me." Then I said, "If you are in debt or your family are in debt, how do you have the funds to be in the university?" She said, "My uncle furnishes me with the money." My uncle is Dr. Sigmund Krumholz, who is connected with the Rush Medical School" and I wrote the name down. She volunteered, I think, the statement that he was in Vienna; I supposed, studying. Then Dean Vincent said, "Miss Mercy, I think it is best for you to withdraw from the university."

976 I had not said anything on that subject, neither had Miss Robinson or Dean Vincent. I did not have anything consciously to do with it at all. I had not

made any such suggestion at that time of any kind or character. Dean Vincent said, "we will return your fees to you and we will close the matter." She stood up and said, "I will not leave the university." I could not tell you how she acted in language. Those were practically her words, "I will not leave the university." I can't reproduce it.

977 She was indignant and excited, as it appeared to me, but I can't reproduce it. Dean Vincent said, "All these facts and all these circumstances must be investigated thoroughly." She said, "I will not leave the university; you may inspect everything; my whole life is open to inspection—investigation."

Dr. Vincent said, "Very well, if that is your choice, but I think you had better wait until tomorrow to decide." She said, "I will not wait an instant; my decision is made now." Dean Vincent and Miss Robinson then left the office. Miss Robinson was due in her own office at 1 o'clock and Dean Vincent had other engagements. Miss Mercy and I remained in my office talking. I had omitted one point that came up and that was about the school—that was while we were all together. I said in effect,
 978 "You have taught in the schools of Chicago" and she said, "Yes." I said, "Where have you taught?" and she said, I had an appointment last, I think it was the Wadsworth, but I shall not be able to remember all the names of the schools, the memoranda is there; last year the Mosely School and before that the Spry." I shall name the schools—Whittier and the Spry, I think.

Defendant's Exhibit "A" of this date is a mem-

oranda used in conversation. I don't know whose handwriting it is. I don't know where I got it. I 979 had it from Ella Flagg Young, Sup't. of Schools.

I had this up the day before this, another time on the day that Miss Mercy had not come, saying that she didn't receive the notice; I sent a messenger to the office of the department of education, of the city. I had heard she was a school teacher and asked for a statement of her connection with the schools, and this memorandum was jotted down and given to the messenger whom I sent, and by her to 980 me. Miss Mercy said she was in the Moseley school the year before. I said, "I have a memorandum from the Board of Education to the effect that you taught in four schools last year." She said, "I did not. I taught only in the Mosely school." I said, "You taught in six schools in three years and I think, she assented to it, but it was not matter of special moment at the time. Nothing further was said about this.

Thereupon the defendants offered the memorandum Defendant's Exhibit A in evidence, which was and is in the words and figures following:

1907-8	The Whittier
1908-9	The Spry.
1909-10	The Jackson-Brainerd-Moseley-Wadsworth.

I can't recall which school she stated she was at last. I don't remember whether she said she taught in the Wadsworth, but she had taught in the Moseley the year before. She very quietly said that she had taught only in the Moseley school and if I had

any statement stating she had taught in four schools the year before it was wholly wrong and nothing was said on that to my recollection. I don't recall anything further that was said when Dr. Vincent and Miss Robinson were present.

The conversation could not have been over forty-five minutes. I could not exactly say how long. After Dean Vincent and Miss Robinson went away I said, "Miss Mercy perhaps you will tell me why you are in the university when you are in such distress financially."

- 982 She said, "We are having a great deal of trouble in our family. My young sister married a Christian"—this was first time that I knew she was a Jewess—my sister married a Christian—my father was very angry and cast her off"—in substance these were the words. "I have had to support my family. My sister was young and pretty and wanted pretty clothes and bought things at Field's which she had charged to my account." I think I asked her how many children there were, how large a family, but I am not sure. It came out at the same time that there was a large family—I said, "How is it that you
- 983 wear such seemingly costly clothes?" "Oh," she said, "My mother was a fashionable dressmaker—or skilled dressmaker and was able to make clothes for me which looked very costly but did not cost very much." I said, "How is it about this very expensive hat. The hat that according to your account is valued at \$250." She told me this figure of \$250 in her statement before. She said \$250 in the presence of Dean Vincent, Miss Robinson and myself. She said, "That is a present from my fiance." I said

what is his name and she gave me the name of Warren Reynolds, somewhere on Dearborn street, which I wrote down. I do not remember whether it was then or when we were altogether, when she spoke about losing her hair and having had typhoid fever, 984 and I had supposed until she testified on the stand the other day that it was typhoid fever why she lost her hair and no question was raised about the kind of illness or duration. She said that Dr. Julius Beck can tell you all about my illness. I had no special interest and did not follow that point up. She spoke about not being able to keep the hat on—about having no hair, about having to wear a wig and the difficulty in keeping the large hat on and that is the way the question arose about her illness. Nothing further was said that I recall at that interview.

I saw her the next day in Lexington Hall, where there was an office that I was using every day for 985 half an hour in the morning. I had not sent for her. After the first interview that afternoon I went to Field's and inquired at the credit department about Miss Mercy. She came to me at Lexington Hall without appointment, between 10:30 and 11. The 986 office was full of students and clerks.

In the first conversation when Dean Vincent and Miss Robinson were there she appeared very excited, emotional and tense. I was not vindictive toward her, neither was Dean Vincent nor Miss Robinson. I did not have any malice or personal ill-will towards her, or any reason to have. I had no personal feeling. I was interested—I wanted to straighten the 987 matter out.

988 I was born in Switzerland, of American parents.

My education outside of that I obtained in New England was had in Germany and Switzerland. Before I came to Chicago I was trustee of the Boston University, from which I graduated. At Boston I was secretary for four or five years of a society to help needy girls through college. Later, I became president of that society.

It is part of my duty at the Chicago University to investigate in order to help needy girls. I have written a book on the education of women—it could not be used as a text book, but as a reference book.

Miss Mercy came to my office in Lexington Hall between half past ten and eleven o'clock. There was no recitation. That was when the students are there to consult with the dean and among them was Miss Mercy. I knew she must have come to see me on this matter which was under discussion and I thought it was only fair that she should have the first chance to talk to me privately, so I sent the other students out.

There was a clerk in the room, working at a table—I thought the conversation could go on without interfering with her work and that Miss Mercy would feel at liberty to talk with me privately even if she was present. She was a clerk in the employ of the university, detailed to me for that period of time—she was not doing my work at that time, but general work in connection with the records.

There was quite a crowd of students, about eight or ten whom I sent out. The young lady clerk was Miss Garlich, she is in the court room.

The room is about 15 feet square, I measured it

the other day. My desk was near the middle, toward one side and toward one end. The young lady clerk's desk was in the first corner, diagonally across, probably ten or twelve feet away. I was seated at the middle of the desk and Miss Mercy sat close to me on a chair, where students sit when they consult with me. She was quite excited and showed me a letter and stated, "Here is a notice which you sent; I brought it to show you that I never received it. It is unopened you see." I didn't open it there.

- 993 She presented a blank book and said, "This is from Miss Brookings, about my attendance in the Moseley School, and a letter from Miss Brookings to show you I told the truth." She showed me the letter marked Plaintiff's Exhibit 4. She said, "There was a mistake made in your charge, that it was written in a great hurry and it should not have been February, 1908, but February, 1909." She said it was copied in a great hurry and that was the school in 1908 and 1909. I was there and it was put down as February, 1908, when it should have been February, 1909. She said, "I want to show you that I have a needy family." She lifted the skirt of her dress and took from her petticoat a letter which she asked me to read. After she told me about the school I said, "I misunderstood the memorandum which I had yesterday, Miss Mercy. I
- 994 should have read the dates in one column independently and the schools in the other column, and I can't understand how I was led to that misinterpretation; and I understand you were last year at the Moseley School." I then read the letter from her mother to her. I read through to the third page and

she snatched the letter from me and said, "Don't read that" and she burst into tears and I did pretty nearly myself. I did not have any malice toward Miss Mercy or ill feeling, or intention to do an injury of any kind.

Then I said, "This is a distressing tale, Miss Mercy," referring to the letter. I said, "If your family is in such condition and hungry and in want, I can't understand why you wear such expensive clothes and why you are in the university, or why you receive so expensive a gift as you have received from your fiance." She said, "I am in the university because I got tired of the slow work in the schools and want to fit myself to teach in the high schools where I shall have a better salary and more time." I am not sure whether I said, "It is impossible for you to fit yourself to be a high school teacher in German, because you are just beginning the subject." I am quite sure I said that the high school teachers did not have a great deal of time, but said, "I understand you are engaged to be married." She said, "Yes, but I don't want to marry while I have debts; I want to go on and finish my college course and teach in the schools." I said, "Is that the right way to treat your fiance and plan ahead for this number of years?" She said, "I don't intend to marry him." I said, "Not to marry him?" "It is not your intention to marry him when you are receiving gifts of this sort? Do you think that is right." She said, "It is acceptable to him; my mother approves of it." I said, "I don't understand—I don't understand how you can do it." She grew quite excited and I think that was all that was said at that

interview; the time was short. I think the interview lasted about twenty minutes. My tone of voice I think was very quiet. I knew a young girl was in the room and I wanted this to be a private conversation. I think I spoke quietly—then my voice was raised above a low tone.

997 I did not intimate that she was guilty, or had been guilty of fornication or adultery, or intend any such thing. I had no such thought. I had no malice or ill-will toward Miss Mercy. I next saw Miss Mercy later in the month—December 20th or 21st when she presented a letter from Dean Angell. I had not sent
998 for her. I can't remember that I knew she was coming. I had requested no one to send her to me. I did not know that Dean Angell had written the letter, or anything about it. I did not know whether Dean Vincent was away at that time.

Q. Do you know how Dean Vincent came to act in the matter at all? A. Yes, sir. He was in
999 charge of her studies.

At the time I had the first interview he was not then at the university and Dean Vincent was acting in his place. That is how Dean Vincent came in it in the first instance. I don't know when Dean Angell came back.

1000 I know Dean Angell's handwriting. The letter dated December 20th, stating why the registration is tentative for the next term has his signature. Miss Mercy came in with the letter. Miss Mercy was quite excited and showed me the letter and asked that
1001 justice be done. I said, "I don't know Miss Mercy what the decision will be; I am not satisfied with

conditions though as they are, and I don't see how you can be." She asked what I meant by that. This is the substance of it. I said, "For example, about your buying a \$100 coat, which I understand you have done, how you can do that after hearing from your mother in Tennessee and what she wrote you the other day." She said to that effect that that was a matter for her to decide and it wasn't any of my business. I said, "Of course, your relations with your fiance do not accord with what I believe to be the relation of women in the university and men who they announced they were engaged to be married to, receiving gifts; it does not seem to me suitable."

1002 I don't think I said anything about inquiring about the matter.

She said, "My mother knew when he gave me the hat; it was given to me in her presence; my brother, who has charge of my business affairs knew Mr. Reynolds gave it to me and he is satisfied." I said, "Miss Mercy, you are a student in the University of Chicago. It may be that your mother thinks it is right and your brother acquiesces and your fiance is satisfied, but I can't believe that it is right for you as a student in our university where we have to be extremely careful about our manners of conduct, about the things that we do, because we are all subject to criticism and I cannot think it is right for you as a student of the university to do these things and my judgment must be final in this matter." She was very angry and said, "This is a matter for me to decide, and for my mother to decide and not for the university. It has no business deal-

ing with my private affair." I said, "Miss Mercy, it is the business of the university to care for its students and it is my duty as dean of the women to see to it, as far as I can, that there shall be no act of indiscretion on the part of any member of the women's school, and it is a private institution, and we are free to set our own standards." I said, in my opinion it is not suitable that a woman should
 1003 be in debt—should be receiving money from her uncle for her education and at the same time pay \$100 for a coat and take a \$250 hat and receiving her lover in her room. If you want to take up the matter further, come back the next quarter."

That is all the conversation I remember.

The school term closed the 22nd or 23rd of December—just before Christmas. Miss Mercy had not then been dismissed.

I next saw the plaintiff early in January. I haven't the date. With her were two men, one whom she introduced as her brother and the other as Mr. Reynolds, witnesses here. I don't remember that I sent for her. I had no knowledge or information that her brother or Mr. Reynolds were to be there that morning, or that day. Miss Mercy came into
 1004 my office in Cobb Hall with the two men—passed through the ante-room of my office into the inner office where my clerk was. I saw that a private conversation was suitable and sent my clerk into the ante-room to see anyone that came in, and tell them I was engaged. I closed the door in order that the conversation might be quite free between us.

Miss Mercy said, "I have brought my brother and

Mr. Reynolds." The brother said, "I have come Miss Talbot because I see my sister is in trouble 1005 and I want to see if it can't be fixed up." I said, "I am sorry, Mr. Mercy, but I don't think it can. I think the decision has been made that it is better for your sister to leave the university and I will say that I think on her own account it will be well for her to leave because I don't think that her standing as a student is such as to make it worth while for her to stay in the institution." She said, "What do you mean?" I said, "Her grades were very low on her examination." Plaintiff said, "Of course they are low; any student would fail in work who had been under the strain I have been." I said, "I understand that, of course; it has been very hard for you." She said, "I want you to see my brother who is responsible for my business affairs. He knows about my money and he knows about the gift of that hat." Mr. Mercy said, "Yes my sister has the hat with my own knowledge and approval and her mother's and I want to tell you of it." I said: "I am sorry, Miss Mercy, that is the fact because we cannot approve of it." Then I said, "If you want to have a discussion of the matter go to Dean Vincent and talk the matter over there." Then they left the office, I think, immediately.

1006 It was found by telephone that the dean was not in his office and I said they should go to his office and make an appointment. Then they left, Miss Mercy leaving first and her brother and Mr. Reynolds following. Mr. Reynolds then spoke for the first time.

1007 He was standing on the threshold of the door leading into the ante-room. Miss Mercy was in the ante-

room, just inside the door. I said, "Mr. Reynolds, I think it is only fair to tell you that Miss Mercy tells me that she don't intend to marry you, and under the circumstances it doesn't seem to be suitable that she should be receiving costly presents from you." And they left. I saw them again the next day in Dean Vincent's office. I went into Dean Vincent's office on a summons from Dean Vincent. I found there Dean Vincent, Miss Mercy, her brother and Mr. Reynolds. They were talking about her going to the Northwestern University. I took a seat and listened to the conversation. Miss Mercy was saying that she had made inquiries about going to the Northwestern University and found that she could

1008 not be received there unless she could receive a letter of honorable dismissal from the University of Chicago. Dean Vincent said, "Of course, we cannot give you a letter of honorable dismissal." The brother said, "Why not?" Dean Vincent said, "If we gave you a letter of honorable dismissal from our institution you could stay." Then she said, "So you close the doors of every institution against me emphatically." Then Dean Vincent said, "It is our custom. There is a custom between institutions of this kind, different institutions, that when pupils pass from one institution to another there shall be an honorable statement sent with them, showing the status of the pupil in the institution from which she goes. The facts will have to be stated in this case." Then Miss Mercy said, or in words to this effect, that we were persecuting her and making charges against her. Dean Vincent said, "We make no charges against you, Miss Mercy." I said, "Miss Mercy, you

have lied to us." She stood up with her back to the partition, and exclaimed in a very loud and piercing
 1109 tone, "Of course, I have lied to you! And any one would lie who had been hounded in the way I have been. A girl who has no one to stand up for her, no one to fight her battles for her." I looked at her brother, and her fiance and Dean Vincent.

Q. Are you repeating her language now? A. Yes, but one little statement first. I said, "Miss Mercy, whatever inquiry has been made about you has been made at your request." She said, "Dean Vincent, the day of retribution will come for you; you would have lied under the same circumstances." That was all, I think.

Q. Was there anything further said in that conversation? A. Not that I remember now; I then left the office.

Q. Miss Talbot, did you ever know anything of the use of the word "stall" except as a part of a stable for a horse or a cow? A. No.

Q. Did you ever use the word "stall" as meaning that what was said was only done for the purpose of misdirecting? A. No, I never heard of it. I never heard the word used in that connection until it was used by the witness on the stand.

I have never used the word "prostitute" in my speech.

1010 Q. I direct your attention to the first conversation which took place when Dean Vincent and Miss Robinson were present. In that conversation did you say, "Didn't you go to the president's office; what do you mean by going to the president's office?" To

which she replied that she had only gone there to get his advice. And did you then say, "Didn't you go there to obtain money?" Do you remember anything like that or anything that was said like that, Miss Talbot? A. No. I don't remember saying
 1011 that. Miss Mercy said that she had been to the president's office to see Mr. Robertson to get a loan from the fund. There was nothing said about her going to the president's office to get his advice.

Q. Did she say, "I didn't go there simply to get money, but I had gone there primarily to get the advice of the president"? A. I don't remember that she did.

Q. She says in her testimony: "I told Miss Talbot that I did go to the president's office and saw Mr. Robertson with reference to the money, but I also told Miss Talbot that I did it merely as an excuse on my part to see the president, because I didn't want to tell Mr. Robertson what I wanted to see the president for." Did she say anything like that? A. No, sir. Something was said about a policy.

1012 Q. Did you ever say this to Miss Mercy: "Counsel asked her what was said, and she replied, 'Miss Talbot asked me if I had not taken out a burglary policy, and said what did I mean by taking out a policy of that kind? I told her about taking out a policy.'" A. I did not say it in those words. I have already told you what I said about it.

Q. Miss Mercy testified that you said: "We have a communication from the Board of Education in which they say that you have taught in six schools this year, and that they considered you unfit both

mentally and morally to remain in our institution."

Was anything like that said by you to Miss Mercy?

A. No, I didn't say anything whatever to her about being immoral or being unfit to be in our institution.

1013 Q. She further testified: "She told me that she (referring to Miss Talbot) that she considered me unfit both mentally and morally to remain in our institution," to which the plaintiff replied, "I told her that was not true; that I had not been in six schools in the last year. Then she (Dean Talbot) told me to shut up and be quiet, because she knew better." Did you ever tell her to shut up and be quiet because you knew better? A. I never used any such language.

Q. Miss Mercy testified: "Miss Robinson then entered into the conversation and asked me what I meant by entering men's rooms." Was that question ever asked her by Miss Robinson? A. No, not in that way.

Q. Did the plaintiff then say (speaking to Miss Robinson): "I do not recall entering any man's room," to which Miss Robinson told her "to shut up; that she was lying"? Did Miss Robinson say that? A. No, she never used language like that in my presence.

Q. The plaintiff testified: "I told her and admitted that I had entered Dr. Mallette's room." A.
1014 That is where she said she did that on the invitation of Dr. Mallette.

Q. The plaintiff testified: "I tried to tell her why I had gone to Dr. Mallette's room. I told her that I had a breaking out on my face that worried me a great deal, and I asked Dr. Mallette at the table

if he would diagnose it for me. He said he could not diagnose it for me at the table, but that he had a strong student's lamp in his room, and if I would stop in there he would examine it and tell me what it was." Was anything like that said in that conversation? A. No. Only part of it I heard, but not that part. I did not hear it from Miss Mercy, but from Miss Robinson.

Q. Was anything said about any conversation with you or between you and her as I have just read you, or with Miss Robinson? A. No.

1015 Q. At any time did you say this to her: "What disease did you have last summer?" A. Never.

Q. And looked suspiciously into her eyes and ask her about losing her hair and having spots on her face? A. No.

Q. Did you suggest by your attitude or gesticulation or looks or anything by which it could be inferred by her that it was owing to some bad disease that she had lost her hair or had spots on her face? A. Never. I never had such a thought.

Q. The plaintiff testified: "She (referring to Miss Talbot) asked me where I got the money from to buy expensive clothing that I was buying. I told her I had a few articles from my mother and sister, and I bought them. She then asked me where I got the money from to buy the coat. She asked me where I got the money from to go to the University. I said I got it from my uncle. She said, 'Your uncle!' I said yes. She said, 'Come, now, you are telling a lie; you know that is not true.'" Did you say anything like that to her. A. No, not at any time.

1016 Q. Was anything like this said: "Miss Talbot also asked me what did I mean by accepting a hat from a man and if I didn't know that a woman who would accept a hat from a man was an immoral character and that the mere fact that I accepted a hat from a man showed her that I was immoral. I do not believe you when you say you get your money from your uncle to go to school with—you get your money from a man or men"? A. No. No question was ever put to Miss Mercy in an insulting manner. I did not intentionally insult her in any of the questions I asked her.

1017 Q. "Miss Talbot asked me what did I mean by advising Miss Tutwilliger to go to a doctor and I told her I felt sorry for the girl and advised her to go and see a doctor and get cured." Did you have any such conversation as that with her in regard to that student? A. No, we never had a student of that name at the university. There was a student by the name of Terwilliger who had been to see a doctor.

Q. Did you have any such conversation with Miss Mercy in regard to Miss Terwilliger in the presence of Miss Robinson or Dean Vincent, or any one else, in which you asked, "What do you mean by advising Miss Terwilliger or Tutwilliger to go to a doctor?" A. No.

The COURT: Did you use those words?

A. I did not use those words.

Q. Did Miss Robinson direct a question to her in 1018 that interview in which she asked her if she did not try to fasten suspicion in reference to the stealing of the hat on Mrs. Von Jahn? A. No—I don't remem-

ber. There was something said in the conversation when Dean Vincent and Miss Robinson were present about Miss Mercy helping to support her mother. In that connection I did not say I did not believe it.

I did not say, "What do you mean, anyway, by coming to the university?" Of course, what else inferentially I said was in reference to the debts of the family.

1019 Q. Did you say that a woman who would do such a thing and use money to come to the university when they had a needy family and leave her family in need to go to school was an immoral woman? A. No.

Q. And did she say, "I told her I didn't want to get married until after I had graduated" and that after she had graduated she would be able to help her family better? Did you say, "I don't believe you when you say you have helped support your family?" A. No.

Q. Did you tell her that she owed every big store in town and they were continually sending collectors to her and to other persons in the university and did she then tell you she did not owe \$50? A. No; I did not say that the creditors had come to me. I don't remember the amount of bills that she owed. I did not say that she owed every big store in town.

Q. Did you tell her that you did not believe her mother had written to her at all to take out an insurance policy, and the mere fact that she had gone to the office of the president and asked the question whether she could borrow money temporarily to pay

off what bills she owed showed you conclusively that she was trying to get money out of the insurance? A. No.

Q. Did Dean Vincent concur in that statement of fact by you? A. No; nothing of the kind was said.

Q. Did Dean Vincent say in that conversation to her: "Miss Mercy, I am requested to ask you to sever your connection with the university. The fact that you have taken out an insurance policy is very damnable, or damaging against you, and also the fact that you had taught in six schools in the past year shows me, as well as others, that you are unfit mentally and morally to remain in this institution"? A. Dean Vincent did not say anything like that.

Q. The plaintiff says, "Dean Vincent said to me, 'the fact that I had a policy at that time was very damaging against me and the additional fact that
1021 I had taught in those six schools this year showed him and others that I was unfit mentally and morally to remain in that institution.' " Did Dean Vincent say anything like that? A. No.

Q. Did Dean Vincent say that he did not believe she got her money from her uncle, and did you then break in at that point of the conversation and say, "She gets her funds from men"? A. No. Nothing of that kind was said about money.

Q. Did you say to her, "The very fact that you spend large sums of money on that expensive hat and wear such expensive clothes and wearing apparel does not cause me to think creditably of you"? A. No, I don't remember Dean Vincent saying anything like that. I don't think he did.

1022 The plaintiff testified: "Dean Voncent told me several times then and during the course of the conversation that I had gotten my money from men and not from my uncle. When you say you are getting your money from your uncle, you are lying, for you get your money from men, and the mere fact that you have the clothes you have would show me" (meaning you, Miss Talbot) "that you" (meaning Miss Mercy) "are a woman of the street." Did you ever say that or use any such language? A. No. I never used that term in any connection whatever with Miss Mercy, and never thought of it.

Q. At the time Miss Mercy was at this institution and before she left, did you have any idea, or think, that she was an immoral woman sexually? A. No. I never suggested or intimated it and I never intimated it to Dean Vincent at any time or place.

1023 Q. In the conversation which occurred when you were present—when the young lady was present—was it suggested by you or thought by you, or did you say ever that she was a prostitute? A. No.

Q. Did you ever call her a prostitute? A. Never. I never used such language. I never in any conversation stated that she was no better than a woman of the streets.

Q. Have you ever in any conversation used any language from which it could be inferred or understood by anyone else that this woman (Miss Mercy) was a woman of the streets or an immoral woman, or in any sense lacking in virtue, or was a prostitute or a lewd woman? A. No. Of course, I cannot tell what inferences or conclusions other people might

draw, but I never intimated such a thing, or even thought it.

Q. Did you ever use any language from which such a thing could be inferred if people interpreted the language you used rightly? A. I never in my own mind thought such a thing.

1024 Q. Was Miss Mercy dismissed from the University of Chicago because she was mentally or morally bad, meaning by that that she was bad on the lines of virtue?

Mr. JENNINGS: That is objected to. That is the very question the jury is to try. Let her state the facts and the jury can draw its own conclusions as to why and for what she was dismissed from the University of Chicago.

Objection sustained.

Q. Why was Miss Mercy dismissed from the University of Chicago, if you know?

Same objection by plaintiff; sustained.

Q. Did you say in that conversation, or in any conversation with her, that the mere fact that she wore expensive clothes and that hat would show
1025 that she was getting her money from men, and that she was only a woman of the streets? A. No.

Q. When the letter was presented to you that was sent to Mrs. Von Jahn's to Miss Mercy, and she told you she had not received it, did you say to her, "You are a liar—you did receive a letter" and that she simply did not want to come to your office? A. No.

Q. And did she say in reply, "Here is the letter unopened"? A. No.

Q. And did you say to her in any conversation:

“Don’t you know that you have made a dreadful mistake in trying to cause an investigation in regard to your property with Mrs. Von Jahn? Don’t you know that Mrs. Von Jahn is a member of a very prominent family? A. No.

1026 Did you say, “I told her I didn’t look at it in that light”? A. No.

Q. Did you say to her, “Where are those aigrettes”? Did she say to you, “I don’t know”? and did you say, “What do you mean by telling me this—Why don’t you confess up, woman to woman, that you are getting money from men”? A. No.

Q. Did you ever in any conversation with her say, “You know you are getting money from men and did she say to you, I am willing that I shall stay right here in the office until you cable my uncle in Vienna and I will stay right here until I hear from him”? A. I don’t remember that. I think she said she was going to get a message from her uncle, but I don’t remember.

Q. Was that in reply to your suggestion to her about getting money from men? A. I never questioned her getting her money from her uncle. I
1027 never asked any questions in regard to it. That statement made by her and was not in reply to any statement by me—that I knew she was getting money from men, or to any reflection of any kind.

Q. Plaintiff testified: “She told me she did not believe me at all—that it was only a stall—just a stall and the sooner I got out of the University the better it would be for me. I told her, No, Miss Talbot and then I started to cry.” This was the occasion

when the letter from her mother was received. Was any such language as that used? A. No.

1028 Q. Did you tell her the sooner she got out of the University the better it would be for her? A. No.

Q. Did you then say to her when she started to cry, "Don't lie to me" and did you tell her the day previous that she had lied to you and was lying? A. No, I think not. She may have said that I told her she lied. I did not tell her that.

Q. Did you tell her she was lying when she told you she was supporting her family? A. No.

Q. Did she say to you, "Here is a letter which I just received from my mother and that will show you a good reason why I should do something for the family, but I ask you not to read the last page" and did you say, "When you get a letter like that from your mother I cannot imagine a woman who would be low enough to stay in this University" and did she say, "Miss Talbot, I think I am aiding things by staying here until after I graduate—it will enable me to make more money. I want to help her (referring to her mother), as she should be helped, and if I teach in the public schools as I have
1029 been doing I will never amount to anything because after you are made a teacher you can only teach one or two studies and only get a certain amount of money, whereas, after I graduate I can earn more money for my mother." Did you say to her, "I don't believe that at all—you are lying to me and are nothing better than a prostitute"? A. No, I never used any such language as that.

Q. Did you say to her in this same conversation,

“The mere fact that you entered a man’s room shows that you are nothing but a prostitute”? A. No.

The plaintiff testified: I told her that I had not moved from Mrs. Von Jahn’s because my brother was out of the city and I would have to wait until he came back because he was the keeper of my funds and therefore I didn’t feel justified in moving somewhere else until he returned, but I told her I would move just as soon as I possibly could; do you remember any such conversation as this? A. No, I do not.

Q. She told me to come back and report—was anything said like that? A. I don’t remember it,
1030 I probably said something about coming back to me and reporting. I wanted to keep track of her and know where she was living, and the only way in which I could do so would be for her to come back and let me know where she was. I think it very probable that I told her. It was on the 20th of December, that was the day we sent for her to come
1031 back. I said to her, to let me know where she moved to.

She had moved away from Mrs. Von Jahns and that was the reason she did not receive the letter. It was at the interview when she brought the letter in and said, “You see the letter is unopened,”
1032 that I asked her to let me know where she was moving to. I understood that she had left Mrs. Von Johns’ house and had gone back again there and found the letter the same night of the first interview I had with her; and that was the time the letter was

received from her mother, which she showed to me. I have a directory of students and know where they are.

Q. Did you say, "Why didn't you confess that you took your own aigrettes and that you were simply trying to get money; the mere fact that you had gone to Mr. Robertson and asked him for a loan showed me that you are simply trying to get money. I told her my object was not to get money from those people through the insurance, but simply to have evidence of the loss."

Did you ask her, "What do you mean by trying 1033 to see the president at all," to which she replied: "I went over to get his views just as I would go to a father." A. I don't remember any of that, except about the insurance, raising the question about her borrowing money for the insurance. Nothing was said about it in our conversation at Lexington Hall. Dr. Vincent settled the question at the conversation when he and Miss Robinson were present and it was not raised afterwards.

Dr. VINCENT, testified:

"Well, if you have your application in and it was all arranged, why your policy would be all right," didn't he? A. Yes.

Q. Was it ever again raised? A. No.

Q. Did you say, "Why don't you confess you took your own aigrettes simply to get money"? A. Never.

Q. When Miss Mercy came in on December 20th with Dean Angell's letter, was she alone? A. Yes.

Q. Did you say in that conversation: Aren't you gone from the University yet? A. No.

Q. Did she say: "I don't know that I have done anything and I don't propose to leave until they have proved to me that there is anything wrong, if there is any way to do it"? A. Miss Mercy said words to that effect.

She came in to bring the letter and said she did not intend to leave—did you then say, "You are no good—why don't you confess up and say you are not any good—or at least simply get out—we don't want to be bothered with you here."

1035 A. No—nothing like it.

The plaintiff testified: "I told her that I had spent my time and my money to go there and I proposed to get the good out of it, if there was a possibility of it, as I had done nothing to see why I should go." She said words to that effect?

It was just in explanation of a statement that she made that brought her to the office. I don't think I had asked any question at the conversation, I think I probably mentioned the hat specifically.

Q. Did you say, "No moral woman would buy a coat like that and the mere fact that you are getting it when you have a needy family shows me that you
1036 are nothing but a woman of the street." A. No.

Q. Did she say, "I have a letter here which shows that my registration is considered purely tentative until I can satisfy you of the advisability of my continuing my relations with the University and I have come to see you about it," to which you replied, "What do you want to come and see me about it

for; I have already made up my mind. I don't consider you anything—you are simply nothing—you are nothing but a prostitute and you are nothing but a woman of the streets—you know very well you are getting your money from men and I don't believe you—you aren't sound either mentally or morally and I don't see why you should stick here and bother me," or any such language? A. Only the first sentence or two about her case. She said "I am here with the letter."

Q. And in reply did you say, "What do you want to come and see me about it for"?

The plaintiff said, "I said, Miss Talbot, I have a letter here which shows that my registration is purely tentative and I have come to see you about it." Then you said, "What do you want to come
1037 and see me about it—I have already made up my mind."

A. I said, "I don't think there is any use in your talking to me about it"—something of that sort.

Q. Did you say, "You are nothing but a prostitute," and all the rest of that which I have read. A. No.

Q. Did the plaintiff say, "I do not know that I did anything to get out on and that she would have to show me I had done something wrong," to which you replied, after calling her a prostitute, etc. that "You have gone to men's rooms"? Did you bring up anything like that? A. In speaking of the clothes and receiving her fiance in her room in that way, I did—and these different things that I thought not seemly—that was the word I used.

Q. And she said, can't something be done—I am
 1038 not getting justice—I am not getting any show at
 all—even a criminal would be allowed some defense
 of some sort—some justice, to which you said, “Well,
 we are a court of equity,” to which she said, “Well
 if you are a court of equity, you are surely not show-
 ing justice to me.” A. No court of equity was ever
 brought in—she used the words in substance—the
 first—that she had not been treated justly—she was
 quite excited and used words in substance like that.

At the meeting of January 9th when the plaintiff's
 brother and Mr. Reynolds were there did you say,
 “We have a communication from the Board of Edu-
 1039 cation that you have taught in six schools in the last
 year. We have it in black and white from the board
 and we don't consider you fit either mentally or mor-
 ally to remain in this institution” and did you say,
 speaking of expensive clothing—I do not consider
 that a moral woman would wear things of that kind
 —no moral woman would wear clothing of that kind,
 or even consider buying expensive clothes, when they
 have a needy family? A. No.

Q. Did you say, “You know very well you are
 getting your money from men—I don't consider you
 any more than a woman of the streets”? A. No.

Q. Whereupon the brother said, in reply to the
 proposition that she was no more than a woman of
 the streets—“Why, Miss Talbot, my uncle gave her
 the funds and I am the keeper of the funds, and she
 gets her money from me as she needs it.” To which
 you replied, “I don't believe it”? A. No.

1040 As Mr. Reynolds was leaving he asked if there was

any way in which she could remain in the institution.

Q. Did she get hysterical there, in the presence of her brother and Mr. Reynolds and yell out, "Yes, she called me a prostitute, she has been calling me a woman of the streets right along," and did you say, "Hush! now, you must not use that language, no lady would say such a thing," and went and shut the door on account of her language? A. No. I had not called her a woman of the streets.

A student must complete thirty-six courses to receive the degree and receive seventy-two honor
1041 points; each course completed being given a number of honor points according to the quality of the work done. We call them grade points now. Plaintiff could not have received any honor points at that time in December. Her quarter was not over. They were given at the end. I knew what her honor points were. I had looked at the record.

1042 This memorandum, I think, is a copy of the record. The records are kept in the Bureau of Records in a large case of drawers. I have no authority to take the records from the files. The president is here and he can say. I have nothing to do with the records.

I told plaintiff when her brother and Mr. Reynolds
1043 came there, about the condition of her points in studies. I said plaintiff's work had not been satisfactory enough to make it seem worth while for her to go through the university. I think I had not mentioned honor points.

1045 The plaintiff passed in all the work that she did,

but not on a grade that would permit of her graduating if she kept on in that way. She would have had to make six honor points in order to graduate within that time and she had secured two. At the rate of securing two honor points a term it would take a long time before she could graduate. I do not think she would have been allowed to study in
1046 the university. I did not administer those rules.

Q. When they were leaving did you say, "Why, Mr. Reynolds, Miss Mercy told me that she did not love you"? A. I didn't say it.

Q. At Gymnasium Hall, at a previous meeting to this on December 20th, did you ask her, "Why aren't you married?" and did she tell you as a reason for not getting married that she felt it was her duty to stay at the university until she got her degree since the opportunity was given her, so that she could support her family fittingly after marriage, and that she was not positive that she could give Mr. Reynolds the great love he gave her, and she wanted to
1048 know and be sure before she jumped into matrimony, did she say anything like that? A. A part of it. At Lexington Hall, she said she didn't intend to marry
1049 Mr. Reynolds. I said, "You don't intend to marry Mr. Reynolds?" and she said, "Yes. I don't think I care for him the way that I should, and he is satisfied with the arrangement."

Q. In the conversation the next day, after the brother and Mr. Reynolds were at your office, and when you went to Dean Vincent's office, did you say: "I demand that she be expelled, because she dared to call me a dean," that you "persecuted and dogged

her yesterday," upon which she turned around and said, "You did dog and persecute me"? A. No.

1051 At that conversation I didn't say that she did not have enough honor points. I don't remember that the hat was brought up in that conversation.

1051 She said, "They brought up the hat question again."

Q. Who brought it up? A. Miss Talbot brought it up, and she said in that conversation when President Vincent and the brother and Reynolds were there, that you were the one to pass upon the gifts that girls should receive and not your mother and brother. The mere fact that you accepted a piece of wearing apparel, as she termed it, was damning against you? A. No—in Dean Vincent's office.

Q. Yes? A. No.

Q. "Miss Talbot brought up that, and said I had
1052 lied about going to Miss Brookings, who is the head assistant of the Moseley School, to get a statement that I taught in the Moseley School over a year, and I told her that I had not lied in going to get the statement; that telling Miss Brookings only a part of the truth was not lying?" A. I think she said that. I am not sure that she said that she didn't call a partial truth a lie. I do not recall what she did say.

I saw Miss Brookings before this interview. I have been at no other places besides Marshall Field's
1053 and to Miss Brookings. I heard Dean Vincent say whom he had seen. I do not remember the discussion in which she said that giving a part of the reason only would say was a lie. Nothing was said in that conversation about buying an expensive coat.

Her brother asked me if a clean record or letter could not be given her whereby she could be admitted to some institution. Dean Vincent said he would give her a letter, stating the facts. He didn't say he would give her a letter admitting her to the Northwestern University. He said he would give her a letter to the Northwestern University, but it would be for them to determine whether they would accept her.

1054 Q. Did you become very angry when he said he would give her a letter? A. No.

Q. Did you say that she would not get any of her credits? A. No; I have nothing to do with the credits. I do not control whether individuals would get credits.

There is no way within my power to prevent students from getting credits that they are entitled to.

Q. Did Mr. Vincent say, or seem to be ashamed of you, because you made the remark and got angry because she could not get credits, and say to you, "You can't keep the girl out of her credits"? A. No.

Q. Did you say, "I know better"? A. No.

Q. Did you say in that conversation, when the brother and Mr. Reynolds were present, "We have investigated you and we had a communication from
1055 the Board of Education that you have taught in six schools in the past year, and we have a statement from the Board of Education that you were kicked out of the school system; we have investigated and we find that you are an immoral woman and an unfit character for this institution; we have found that

you are getting your money from men; we do not believe that you get your money from your uncle, but from men; we don't believe anything you say; we don't believe you''? A. No, I didn't say it. I didn't use that language.

1056 Q. Did you say, "We know you are an immoral woman of the streets, and we believe you are getting your money from men; we don't believe what you say; we don't believe you''? A. I didn't use those words, nor any such language.

I had no intention of appearing vindictive at any time.

Q. Did Henry Mercy say, "I think it is your attitude as dean of women that you should help to uplift the students instead of trying to throw them down''? To which you replied: "We are the judges
1057 of our students. If we do not want them we can expel them, or tell them to get out." A. Not in reply to that question. Miss Mercy had said that the receiving of the hat and the attentions of Mr. Reynolds had met the approval of her mother, and I said as long as a woman was a student of the university we had to decide matters of conduct and propriety independent of the family; that this was a private institution, and that we could decide upon such matters for ourselves, and if the students did not conform to what we thought was proper they could leave, and we could ask them to leave.

Q. Did you say in that conversation, "We have investigated your sister, and we know that she is a woman of the streets''? A. I did not.

1058 Mr. Mercy directed the questions that were put to

me. Mr. Reynolds was silent. The conversation began by Mr. Mercy questioning me and my answers were in reply to his questions. I didn't say at that conversation that I didn't believe that she was the main support of the family. I think no question on that subject was put that morning. The brother wanted to know why the sister was being barred from the university.

1079 Q. In any of your conversations with Miss Mercy did you tell her in substance, "Why are you coming here anyway?" or words to that effect. "There are only a few students or people of your race at this college——" A. I did not.

1080 I do not make any distinction in my conduct against the various races or religions of students that come under my management—I have made no such distinction during the whole twenty years I have been at the university as dean, or assistant
1081 dean.

1082 There are American, French, English, Scottish, Swedish, Norwegian, Russian, German, Swiss, Italian, Japanese, Chinese students. I am not distinguishing between their religions in references to the Hebrews—Jews if German born I term German and
1083 Poles the same. We don't distinguish them by race.

There are a great many Jews attending this university.

1084 Q. In the conversation in which Mr. Reynolds was present, did you say, "We do not believe you when you say you are the main support of your family"? A. I did not.

Q. How is it you can buy expensive clothes—how

can you buy an expensive coat when you have a family on your hands to support; we do not consider you any more than a woman of the streets. A. I did not say the latter part—I do not consider you any more than a woman of the streets; I did not say, “There must be something wrong with you both mentally and morally; I have it in black and white that you were kicked out of the public schools; why are you going to doctors? Why are you continually sending pupils to doctors?”

1085 Q. Did you have any talk with Miss Robinson with reference to Miss Mercy as a student at that school, before you sent for her to come to your office on December 8th? A. I did.

Q. What was it? A. Miss Robinson came to me 1086 and said that there was a student by the name of Esther Mercy, who was boarding at Mrs. Jahns, who has had feathers taken from her hat, and she said: “She is very angry about it and wishes to be compensated. I had a conversation with her and said that I must see her and Mrs. Jahn together to talk it over.” I said, “I would let her come when I would meet them.” Then I received a letter saying that “it is useless for us to meet, as it would simply mean bickering.” I am repeating Miss Robinson’s language to me.

1087 Miss Robinson said, “Miss Mercy has been a good deal objected to at the boarding house because of various things that had happened. Her conversation at the table is objectionable to the other people; she talks about her personal effects and she wears clothes which do not seem suitable at the breakfast table; and in various ways she does not seem to be getting

on very well at Mrs. Jahn's. She is very angry about this matter and I understand has tried to get money to pay for a burglary insurance from Mr. Robertson, the secretary of the Loan Fund Committee and I said to her, of course, that is a matter that must be followed up and if she is dissatisfied we must look into it; it must be investigated and I will see what can be done."

1088 In that connection Mr. Robertson came to see me. I had a talk with him before the meeting of December 8th. I had not met the plaintiff at that time. I did not know there was a pupil of that name before the matter was brought to my attention.

Mr. Robertson said, "There is a curious case of a student who has wanted to borrow money from the Loan Fund in order to pay for insurance, and I told her that we could not loan money for that purpose, as it was an educational fund; and I found also that there had been a burglary committed, as she alleged, prior to the time when she came to see me, and she wanted to get the money to pay for an insurance policy, dating it back prior to the burglary." I said, "I have heard of Miss Mercy's trouble from Mrs. Jahn and of course there should be an inquiry made as to the circumstances."

Two clerks from the office came to see me, from the Bureau of Records, where the official records of the university are kept, I don't know their names.

Q. Will you tell me what information you got from them? what they said? A. I don't remember the names.

1091 I am quite sure Miss Minna Ott was one. She is clerk in charge of the Senior Office of Records.

I first heard of the case through the assistant dean.
 1092 I don't know the date. It was before my talk with
 Mr. Robertson. Miss Breckenridge said, "I have
 just met Mr. Robertson and he said, 'You are a mem-
 ber of the Loan Fund Committee and will be inter-
 ested in an inquiry or request for money from the
 society for the payment of an insurance policy,' and
 he said, 'Of course you would agree with me that the
 fund is not to be used for the payment of insurance
 1093 policies?'" I am using Miss Breckenridge's own
 words to me, and Miss Breckenridge said to Mr.
 Robertson, "Of course, that fund should not be
 touched for purposes of that sort." I did not re-
 ceive any other information before my first inter-
 view with Miss Mercy.

After the interview of December 8th, I made fur-
 ther investigations. I went to Marshall Field's and
 on the following day to the Moseley School, where
 I saw Miss Brookings. I did not know Miss Brook-
 ings before I talked to her in regard to Miss Mercy.

Q. What did you say? A. I said to Miss Brook-
 ings, "I have come to inquire about a young woman
 1095 named Mercy, who said she formerly taught in this
 school." Miss Brookings said, "Yes, she did." I
 said, "Can you tell me something about her?" And
 Miss Brookings said—hesitated and said, "I would
 rather not talk about her." And I said, "I don't
 care to know very much. Was she a teacher here?"
 And she said, "She was," and I said, "How long?"
 and she said, "Over a year." And I said, "I don't
 know. She is in trouble at the university about the
 loss of some feathers from a hat, and we are making
 inquiries about her, at her request." And she said,

"We don't believe her in this school." And I said, "For any special reason?" And she said, "She made a report about attendance which was not accurate." And I said, "What did she give as a reason for asking for the statement in regard to her connection with the school?" And Miss Brookings said that she wanted it as a reference in getting a position. And I said, "I don't need to know anything more. She came to get it—a statement to bring to me as an officer of the university certifying to her serving as a teacher in the school. She did not give you the reason." Miss Brookings also said, "Mr. Long is engaged at present, the principal of the school, but if you wish to wait, he will undoubtedly be glad to see you." And I said, "It is not necessary."

I did not have an interview with Dean Vincent as to the information he had obtained. At a conversation when he was present, I heard him make a statement—this was prior to Miss Mercy's leaving the college—it was in the president's office, at a conference called by the president and Mr. Vincent came in and said, "I have seen Mr. Long, the principal of the school, and he says, to quote the words exactly, there are some rather slang phrases, 'that she can tell lies faster than'—something, I don't remember what the phrase was, but that she was absolutely untruthful."

There were present, besides myself, the president, Dean Vincent, Mr. Robertson and I think Miss Robinson.

1098 At none of these meetings did I have any ill will towards Miss Mercy.

RICHARD HENRY LITTLE, witness on behalf of the defendant, testified:

I am a newspaper man on the Tribune. I have been engaged in the newspaper work fifteen years. I have seen the plaintiff in this case. She called on me, I think it was Monday, the 26th of February, as near as I can recall, of this year. Miss Mercy called
1100 on me at the office of the Chicago Tribune. It was in the local room and a great many people were there. I don't know who they were. The conversation was with myself.

Plaintiff said that Mr. William Nesbit had sent her over to see me in regard to writing a vaudeville sketch; that Mr. Nesbit had told her that I was the one that could write her a great sketch, that she wanted a great sketch and asked me if I could write it. I told her that that was all true what Mr. Nesbit had said, but I had never written any vaudeville
1101 sketches and asked her what she wanted, whether she wanted comedy or tragedy, or high-wire drama, or what it was. And she said she didn't want me to write a sketch. "I don't want you to write a sketch because I don't want any amateurs writing sketches. I want a regular writer; I want a big sketch, a big act." And I believe I told her, I know I told her that she need not worry about that; that I didn't feel like writing a sketch for an unknown person that had no stage experience and no stage ability, especially the fact of her not being known at all. And then she said: "I am known all right, and I am going to be a whole lot better known before very

long," something of that kind. Then she asked me if I knew who she was and I said I didn't have the honor. And she said: "You have seen me a great many times probably in this office." I said I thought I had seen her in the office, seen her talking with Captain Stott, I believe, in a corner, but had not taken any particular notice. And she said: "I suppose you know about my hat and I am Miss Mercy." She said: "I am Miss Esther Mercy, and I suppose you know about my hat." I said I had read about it.

Then we talked a little bit about vaudeville work and stage work, and she said that I was wrong in 1102 thinking she had no stage experience; that she had had stage experience and that she was an actress. I said I didn't doubt but that she was. And she said her lines were among the emotional lines, I believe, and that she wanted to work along that line. I told her that I thought— Oh, yes, then I think she mentioned—she asked me somewhere along the conversation if I thought that—I believe I told her she ought to go around generally and see the vaudeville people here in Chicago. They could advise her much better than I could, and she wanted to know, wondered if an announcement would prejudice— Well, she wondered; her statement was: "I wonder if it would prejudice my trial?" And I said why that she could see the lawyer, her attorney in regard to that. I could not answer for that. And then I believe she mentioned, or she wondered if the trial would hurt her vaudeville act; and I told her that I believed as to that I could not see any cause to worry about that at all, because I did not think it would hurt the act at all, but would do it a great deal

of good; that managers liked people who are in the
1103 limelight, and she seemed to be very much so.

Then she said she wanted this—she wanted such a big act—and I told her, I talked something about the field here in Chicago, what they call the small-time booking here and what they call the big-time—the big booking was done in New York by Martin Beck, and if she did not want the small-time she ought to go to New York and talk to Martin Beck. She said she could not go as she was busy. I don't recall much else that was said.

Oh, yes, one time in the conversation, I believe, I told her that it would take some little time to write a sketch and she said she wanted one immediately, she wanted one right away.

Mr. WALKER: Q. Did she give the reason?

A. No; she said she just wanted a sketch, and she wanted it very soon; and I said it took some little time, first, we had to have a big story, and a story had to be condensed and had to be put into dialogue and made into a twenty or twenty-five minute act; that it took a little time to do that and we had to have a story first; that was the trouble, getting a good theme, getting a good big hot interesting one, that is, for emotional work. She said she understood that. I said it had to be human,
1104 and she said: "Well, my life is a story by itself." That is all on that point that I can remember. I don't recollect of anything else. She was there—Miss Mercy was there probably half or three-quarters of an hour, and I don't recall all the conversation.

She said she had stage experience and had been interested in it a good many years. "I have studied in it, studied plays, and I have no doubt that I can act along almost any line," although emotional lines were the ones she thought she could do best in.

When I said she was not known, she said: "I am known and will be a great deal better known through
1105 this trial." She said something about being hounded. She said, "these people are hounding me, they are trying to hurt me, but it will only result in doing me good, that is all." There was something said about managers and that was when I said she was too unknown, too obscure and lacked experience, and all that, and in reply she had said that she was
1106 known and would be better known. She said, "Managers will not refuse to take me." She says, "They will have to take me."

Cross-Examination.

I am forty-three years of age. This conference was in the afternoon, between four and five o'clock; it lasted, I suppose, an hour or something. It was in the local room on the third floor of the Tribune. She sat down while she was talking to me. There were a great many people in the room, it is a re-
1107 porter's room and in one corner there were several reporters and people writing. I don't think any one else heard this conversation. I asked the social editor if she had heard it. She said she had not noticed; she was very busy. We were seated a short distance from the next typewriter and she sat in the next seat. The typewriters were about two or three

feet apart. We talked along as I have given it, all bearing on this sketch. I don't think she spoke about my work. I did not compliment her on her looks or appearance or anything. I do not recall saying anything to her about having dinner that evening, or anything of that sort. I am positive of it. I am positive that was Monday; pay day is on Tuesday. I wouldn't go as far as to say that was all that saved her. I have pay day every Tuesday. I saw her again after that only in the court room. I haven't seen her in the office any more. She did not tell me she was hungry and that she had been thrown out of employment and that she did not have any place else to eat, or that was the reason why she wanted this sketch written, nothing of that kind. She told me she was hounded. I volunteered this information about Miss Mercy to the defendant. I called up and
1109 told them just what occurred. I did not tell them I would make a witness. I said a Mr. Nesbit and I had been asked—and a number—a good many others had in regard to this vaudeville sketch and if it had a bearing on the case. I didn't say "I am ready," in fact, I didn't want to come. I suggested that he put Nesbit on instead as he sent the lady to me and I thought it would be a nice thing to put Mr. Nesbit on the stand. In fact, "I said I don't want to be called, that he was to be called. Before I could help it I was subpoenaed. I called up and suggested that he call Mr. Nesbit. Then I came and testified.

1110 MARION TALBOT, resumed the stand for cross-examination:

I have conferences with eight to ten students every day in my office, five days in the week. This has continued for twenty years next fall. I think I see
 1111 more people now than I used to. I have talked to a great many people about a great many things. I can't begin to tell you what I do remember. I could tell you the substance or the principles or doctrines that I tried to enforce—that is what I mean. I could give some of the conversations. I could give you a
 1112 thousand. I remember some of the conversations the first year I was at the university.

1113 I asked the authority in charge of the records if there ever was a student by the name of Tutwilliger and was told officially. That was to substantiate my memory. I think I can remember every name of
 1114 people I come personally in contact with. I might state I have a good memory for names.

1114 At the end of these conferences which I have related, in substance I said to Miss Mercy that she would have to terminate her connection with the university. I didn't say anything about it at the first conference when Dean Vincent and Miss Robinson were present, and not at the second, in Lexington Hall. There were five conferences altogether—three
 1115 in December and two in January. I did not say it at the last conference. I didn't say it in those words when her brother and Mr. Reynolds were present. In substance, when her brother and Mr. Reynolds were there, I said to withdraw.

I said something about six honor points per quarter. At the end of six quarters they would have seventy-two. There is a rule requiring a freshman to make so many per quarter. There is for the students as a rule. I do not administer those rules and I can speak only in general terms. I don't have any
 1117 dealings with those matters. A student must make so many honor points per quarter and never be more than eight or nine behind the total. If they are eight or nine points behind they are dismissed from the university. If they don't get that far they can go ahead and make them up. These eight or nine apply at any time throughout the course. I don't
 1118 know whether there was any formal record kept of this case at the meeting of the deans which I spoke about.

1119 I knew about the dramatic club at the university. I know about all of the students' organizations. I have to. Mr. Heckman's daughter was not the president of the club a year ago. She may have been secretary, but I am not sure. I do not know whether
 1120 she held an office. The Dramatic Club is a club of the students. All the students' organizations are under the direction of the faculty in some respects, but not in choice of members. The deans do not pass on the applicants for membership. Dr. Clark and
 1121 Miss Reynolds are members of the faculty. I do not know whether Dr. Clark and Miss Reynolds passed on the applicants at the time Miss Mercy was admitted. They do not represent the faculty. I don't know whether Dean Lovette had anything to do with it. He may have. The students are very apt to call for a member of the English Department to serve as judge.

If the faculty would not be willing to have the Dramatic Club continue it would probably be abandoned. It is a part of the student life, not student
1122 work. It is no more than the Glee Club, or other activities of that sort.

I do not know anything about Mrs. Von Jahn's place. I have not seen Mrs. Von Jahn for a good many years. I trusted Miss Robinson who had charge of it. I had no personal knowledge as to whether the ladies and gentlemen in that flat used the same toilet. I never investigated to see about it. That is not my business. Mrs. Von Jahn did
1123 not have the endorsement of the faculty, but of Miss Robinson, who represents the University on the business side rather than the faculty.

I never talked to Mrs. Von Jahn about Miss Mercy, or about this hat trouble. I had information that trouble had arisen at Mrs Von Jahn's. Nobody told me that Mrs. Von Jahn would not discuss the matter with Miss Mercy. Miss Robinson was the agent for the University for that. Whatever was done was done by Miss Robinson.

I know Dean Small's wife. I have known her ever since I came to the University—twenty years next
1124 fall, she does not live on the campus. She lives about one-half mile away, in that vicinity. I have known Mrs. Hayden Harris, the daughter of Mrs. Albion Small, from the time I was a young girl. At the first conversation, when Dean Vincent was present, I didn't talk with Miss Mercy about her record
1125 in the school. I talked about her having taught in the public schools. I asked her to tell me what the trouble was about the hat. After Miss Robinson

1126 and Dr. Vincent had withdrawn I asked her about the clothes which I understood were expensive. There may have been reference to clothes. I am not sure. If Miss Robinson said I discussed these matters in her presence, I would say she is correct. The hat was discussed. I am sure I discussed the coat after they had withdrawn. I am not sure how it came in the conversation. I do not think that I asked her what she got her money. I asked her how she came to the University, how her expenses were paid.

Miss Robinson asked her where she got her money from and about going to men's rooms. I do not recall anything else being said about her wearing apparel except about her hat and coat.

Q. Nothing was asked her about where she got her money, except what I then said: I asked her how her expenses were paid, and her saying she got her money from her uncle in Vienna. I said, "You are in debt and having expensive clothing, how is it that you can do that and be in that condition and receive money"? I think I spoke also of paying insurance on furniture—if she wanted to get the insurance out of the insurance company, and that was the first conversation.

I did not have substantially the same talk in the next conversation.

1130 At the second conversation the first thing was the showing of the notice unopened. She said, here is the notice that you sent me and that I did not get. I brought it to you to show you that I did not get it. It was unopened then. I did not look at it other than to see that it was the envelope. The next thing

occurred was the statement she brought from the Moseley School as to her services as teacher there. It was a record. I did not scrutinize it. I did not know whether it was a personal or a school document because I remember it was in the form of a blank copy book. She showed me—held up the letter—there
 1131 was a blank book, a copy book. She said this date is February 9, 1908. It must have been that Miss Brookings made a mistake when she copied it. It must have been February 8, 1909. She was quite excited and did not listen intently to my saying, "I made a mistake in reading the memorandum about the Board of Education—about your School—and I see that the statement could be interpreted as meaning you were at the Moseley School only; then she said, "I want to assure you about my family, I want you to know some of the facts of the case." She told me about supporting her family. I had not questioned her on that the day before. She produced the letter purporting to be from her mother
 1132 and gave it to me to read. I read it through to the third page when she snatched it away from me and told me not to read the last page. I did not make any effort to read the last page. I respected her wishes and she burst into tears and was very much affected.

I have had a great many interviews with students regarding their difficulties or home troubles.

In that conversation two things were said which I omitted yesterday, I do not know if it is material. One was, I noticed the difference in name in the letter, and she explained that she and her brother had changed their surname—she told me also quite

in detail the difficulty with the telephone company, the gist of that being that in moving the telephone from one flat to another, there was some differences of opinion in the payment, I think the family did
 1133 not get the telephone in—they had moved at the end of the month and at the time the bill was rendered. I didn't care for details and it didn't make any difference—it was one of the bills that had not been paid. After reading the mother's letter, I said, "Miss Mercy I do not see how you can be in the University and spend money on your education and on your living when your family are in such distressed circumstances—such destitution," and she said, "I have been teaching in grade schools; it is a slave's life—it is a dog's life and I want to get my college degree and teach a special subject in a high school; I shall not have to teach so many hours, the work will be lighter, I shall have higher pay and more free time." And I think I said, "It would be impossible." I asked her what subject she was planning to teach; and she said German; and I think I said, it would be quite impossible for her to fit herself for high school work in German, she knew so little about it; I think I also said, "The high school teachers do work pretty hard" and I also said to her, "I understand you are engaged to be married" and she said, "I am" and I said, "Why don't you marry," and she said, "Because I wish to teach and do something to support my family." "But," I said, "You are receiving presents from your fiance and it doesn't seem to me right." She said, "I do not intend to marry Mr. Reynolds." I said, "You don't intend to marry the man you say you are engaged

to"? And she said, "I do not think I love him well enough; and he is satisfied to wait. My mother knows the circumstances." And I said, "I can't conceive of your doing a thing of that sort, being under obligations to a man you say you are engaged to; and then telling me you don't intend to marry him." That was the thing that made the deepest impression on my mind; that and the supporting of the family; the two things. I do not recall the other conversation at the present time. Yes, she spoke
1135 about her illness and loss of hair. At that conversation she said she did not care for Mr. Reynolds enough to marry him. She said, I do not intend to marry Mr. Reynolds, I told Mr. Reynolds at the only opportunity that I had. It was part of the whole situation, as they had come as I judged, to talk the matter over. It was as they were leaving and Mr. Reynolds lingered behind. They were on the threshold and in hearing distance; Mr. Reynolds
1136 said nothing until leaving the room—the last one. He said, "Miss Talbot, I hope something can be done about this matter to arrange it"; and I said, "Mr. Reynolds, I do not think there can be anything done; I think I should say to you that Miss Mercy tells me that although she is engaged to you she does not intend to marry you, and you should know this from me as a Dean of the University of Chicago; that the women here do not approve of that kind of relation between men and women, the accepting of gifts—and the announcement of an engagement, when the other statement is made." I did not intend to impute any immoral conduct towards
1137 her—just very bad judgment and discretion and taste.

1138 Q. When the question was asked her (Miss Mercy) as to whether she went to Dr. Mallette's room do you mean to say that it was not meant to be conveyed to her then that immoral conduct was implied? A. By no means; it was bad manners.

I had not asked her where she got her money for the hat—I asked her how her expenses were paid and she said by her uncle and the question was not raised again.

1139 Q. When she was asked what she meant by accepting a hat from her fiance, do you mean to say that it was not meant to be implied something more than indiscretion? A. Nothing in my mind—except what I should call right and wrong—in meeting
1140 one's expenses and one's obligations to one's family—nothing immoral sexually.

I do not think I have ever seen the coat—I do not think I ever saw her except on these occasions. I do not know whether she had on this same suit—I am not good at noticing things of that sort. I should think she had a similar hat—she was putting a hat on.

1141 Very little of the first conversation of December 8th was repeated in the conversation at Lexington Hall on the 9th of December.

1142 Q. Do you mean to tell the jury that in repeating this same conversation about her wearing apparel and her money and where she got it—about going into doctors' rooms after the explanation, after she had explained to you how she happened to go there—that you did not mean to impute anything immoral? A. I do not think I brought up anything

about going to Mr. Mallett's room—part of it had been brought up—I did not talk about accepting the
1143 hat at the meeting following the letter from Dean Angell. I think the hat was one of the things discussed on January—of having to wear the \$250 hat when she was borrowing money to put insurance on expensive furniture. On December 9th, I don't think I spoke about her going to Dr. Mallett's room.

On January 11th in the presence of Dean Vincent, I said, "Miss Mercy, you have lied to us." I did not say it at the other conversations that she had lied. At the meeting of the 20th, I said, "You did not give Miss Brookings the right reason when asking for that statement."

Q. That was when she told Miss Brookings that she wanted to use the statement to get this position,
1144 or something of that sort? I did not say she was a liar, I said she lied. She lied twice and if she lied, she was a liar—I didn't call her a liar.

Q. If you had a daughter, and she were in school, and she were called in by a teacher, and that teacher asked her where she got her hat, and she said "my fiance gave it to me," and she (the teacher) said in substance, "I do not like that" and she asked her if she had gone into some man's room; and she asked her further where she got her money; and asked these other things that you asked in these three conversations, would you say that that person meant to impute immorality to your daughter? A. I would not be offended—if it was my daughter and she was taking the inquiry to her, I should think it was a compliment to me.

I did not go to Miss Mercy's mother because she was in Tennessee. I did not try to get into communication with her except by letter. I did not inquire personally of Mrs. Von Jahn—I did not get her statement except as I got it from Miss Robinson and Miss Mercy.

1146 That was the only basis I had to ask these questions. You understand these questions followed her statements. I have nothing to do with the conduct of a professor. I never heard of a professor having stolen a bicycle lamp from a student and put it in his trunk, of its being found in his trunk and making him give it back to the student.

1147 I never heard of the word "stall" used except where it was used in connection with keeping a horse or cow—or of a train being stalled.

Dean Vincent used some slang out there—lying
1148 faster than something could go. I do not know that the teachers and everybody associated with the students use more or less slang—more than any other people on earth. I have no means of knowing the slang from the students—it is not used at my table,
1149 or in my home. Miss Mercy wasn't in the Freshman year. She was not quite in the Senior year. I saw her credits that she brought here from the University of Nashville. A person with credits from another school is entitled to some honor points or credits as a result of these. I think Miss Mercy would be entitled to forty-eight. The record is there. I think she was given forty-eight majors, as an advance student.

Re-direct Examination.

1151 Q. Do you distinguish questions which bear on propriety and conduct and discretion from those which intimate unlawful intercourse between the sexes? A. Yes.

Q. In speaking of this young lady's conduct as you have spoken did you have any reference at all
1152 to sexual relations with men?

Objection by plaintiff; sustained.

1153 Q. If you had thought that Miss Mercy was having illicit relations with men, what would you have done in relation to her connection with that school, at once, if anything?

Objection by plaintiff; sustained.

Q. Can any young woman remain at the Chicago University if there is a belief, or an idea, that she has improper relations with men?

Objection by plaintiff on ground that it calls for a conclusion; sustained.

Q. Would there have been any necessity of a Dean of the College to have had a meeting of Dr. Vincent and Miss Robinson, or any meeting of the faculty of that Board, in reference to Miss Mercy's
1154 case, if you believed of her that she was not "better than a woman of the streets," that she got her money from men, "or would have had power to dismiss her at once."

Same objection by plaintiff; sustained.

HARRIET S. GARLICH, a witness on behalf of the defendant, testified:

I am the clerk in the Junior Office of the University of Chicago. I know Miss Talbot. I know the plaintiff in this case by sight only. I was present in the month of December when Miss Mercy called at Dean Talbot's office. I was there in the capacity of clerk. The room is not quite square. It had very little furniture in it—two desks and a table. Miss Talbot's desk was a little off to the center of the room and my desk was off from the center of the room to the left, as you enter the room. I was at
1156 a desk about nine or ten feet from her desk. There was about ten or a dozen pupils in the room when Miss Mercy came in. Miss Talbot asked them to please leave the room and let her have a private conversation. They stepped out and I closed the door. Miss Mercy sat at Miss Talbot's left, as her table and they began the conversation. I went to my desk and went to work; had no part in the conversation. I had no way of knowing the conversation as I did
1157 not pay any attention to it. I heard the conversation going on; I remember no specific words used. I may have caught words now and then but they flashed immediately from my mind.

Q. Did you hear the words "woman of the streets" or, "no better than a woman of the streets" used in that conversation.

Objection by plaintiff on the ground that the witness testified she was sitting in the room as this conversation occurred; she saw the people and she said she heard the sound of

voices, but she hasn't a word in her mind; and she said that if it did, make an impression on her mind—that if it did get in her mind it got out quickly—that it got out again—now, I submit that is not proper; objection sustained.

1158 Q. Did you hear Miss Talbot call Miss Mercy a “prostitute,” or a “woman of the streets”?

Same objection by plaintiff; sustained.

The COURT: She said she did not hear the conversation.

Cross-Examination.

1159 I have no recollection of the date. It was a year ago this last autumn quarter. It was in the winter

1160 —it was before the holidays in the autumn quarter.

I was in the capacity of dean's clerk during the office hours, doing clerical work. I do any work that the dean wants me to do at that time. The dean did not have any other clerk in that office at that hour. Other organizations used the room at different days, but they weren't in the office at that hour. From

1161 10:30 to 11 was the regular office hours. Miss Mercy was there, I should judge about twenty minutes. I didn't take any notice of her clothing. I believe she had on a cap. I could not say whether she was wearing a coat. I did not see what she did—I could not say whether she took off her coat or

1162 not my back was to them. Miss Talbot sat at the center of the table. I sat about ten feet away. In the mean time, I attended to my work at the desk. I was working all the time. I simply heard voices.

1164 That is the only time I heard a conversation between Dean Talbot and Miss Mercy.

Court and counsel then retired to chambers.

Judge, I want to make this suggestion for the record. Ever since the plaintiff has been introducing evidence in the case, there has appeared in the newspapers, the Chicago Journal, the Examiner, and the American especially, large headlines that could be seen at a great distance and large pictures of the plaintiff in this case, and comments on her evidence in large type, so that by a mere glance at the paper, it could be seen, and as we are putting in our evidence there is in large type commendatory statements as to the plaintiff's evidence. As we have been putting in our testimony there have been derogatory statements in large type, so that he who runs can read, in the various papers, so that with a mere glance at the paper, you can see the whole headline and see the whole sentence appearing in those papers. I expect to call attention to these papers and what they have been doing, if there is a verdict against me, on the motion for a new trial. I should think now we will get through with our evidence substantially by Monday noon, and I suppose by Monday afternoon or Wednesday morning the other side will be through with the rebuttal. I want your Honor to counsel the jury again if they have seen the head-lines in the papers that they should not consider those and in other words, I want them properly cautioned and I want your Honor to repeat it and I want it understood that the court may instruct them at large on that proposition. I am bringing it to
1166 the court's attention outside of the jury, as to those

spectacular headlines and speaking about me as a bull dog. What I came in for is to get Mr. Jennings' consent to have you reiterate strongly about the reporters being present and about that having nothing to do with this case. That is agreeable, isn't it?

Mr. JENNINGS: Surely.

1167 Mr. WALKER: Has your Honor any recollection as to the statements being stricken from the consideration of the jury as to her places of employment?

A. The testimony was all stricken out.

Mr. JENNINGS: The court struck it out.

1168 Miss KATHERINE HULICK, a witness for defendant, testified:

I am a school teacher in the public schools. Have been engaged teaching in Chicago public schools for about fourteen years. I am now in the Moseley School—have been since the Iroquois Fire, that is
1169 eight years. I know the plaintiff, she taught in the Moseley School. I should say for about a year and one-half. She came to see me yesterday.

Q. Tell the jury what she said.

Objection by plaintiff; sustained.

I knew Miss Mercy at the school for a year and one-half. I don't think we dined at the same table or at the same room at noon.

Q. Do you know what her general reputation was among the teachers at the school for telling the truth—for veracity? A. I do.

Q. Was it good or bad? A. It was bad.

Q. From what you know of her reputation, would
1171 you believe her under oath. A. I would not.

Cross-Examination.

I am forty-five years of age. I am not married. I have known Miss Mercy about a year and one-half. I first knew her in the Moseley School. I was teaching there. I met her twice outside of the school, probably three times. The most I knew of her is what I knew of her at the school.

Q. You don't know anything about her associates except at that school when she and you were together? A. I don't know any of her associates.

1172 I remember Miss Mercy being at my boarding house—it was at my request and I was there. I didn't know her very well then. I had known her two or three weeks as nearly as I remember. I taught in the next room to her. I saw her very often every day. I saw her two or three times a
1173 day for two or three weeks. I volunteered to come here and testify. I do not know who gave my name in as a witness—I have no idea. I don't know that there is any force or power or anybody in the public schools engaged in getting teachers to testify against Miss Mercy's reputation. I don't know how my name was given, possibly because I am a teacher in the school. I don't know, otherwise. I am friendly to Miss Mercy. I am not a special friend.

I recall meeting Miss Mercy two or three months ago on 43rd street and she telling me her trouble. I did not express sympathy for her. She discussed it with me. I listened to her. I remember I asked

her two or three questions. I don't remember what.
 1175 I simply talked with her—she told me about it. I
 did not tell her I was sorry for her on account of
 the trouble she was in. I possibly knew as much
 about her reputation then as I do now. I did not
 feel hurt by sitting on the side of her in the car and
 talking to her. I do not wish to mention any names
 1176 of persons who I heard say she would not tell the
 truth. I gathered she was not truthful and her
 reputation for truth and veracity was bad from the
 teachers of the school. Miss Brookings told me and
 Miss Waring. I think Miss Waring said that this
 morning that she would not believe her under oath.
 1178 I see Miss Waring every day—she is one of my
 friends. I should say I had not met her socially out-
 side of the school. We have discussed Miss Mercy's
 case—we have discussed the case since the trial be-
 gan. I came to the conclusion that the plaintiff
 would not tell the truth.

ALICE MEYER, a witness called on behalf of the de-
 fendant, testified:

I am a public school teacher. I have been in the
 public schools for eleven years. I am connected
 1186 with the Moseley School and have been connected
 for seven years. I know the plaintiff here. I have
 known her for about a year and one-half. My knowl-
 edge of her is confined to the Moseley School. I
 could not say what her reputation was for truth and
 1187 veracity, I have heard so many different stories.

DAVID ALLEN ROBERTSON, a witness for the defendant, testified:

I am a teacher. I entered the university in 1898. Have been there ever since in one capacity or another. I will be thirty-two in October of this year.

I landed in New York day before yesterday. I left Chicago on the 7th day of December and sailed on the 9th of December. I did not know the case of Miss Mercy against the Chicago University was anywhere near trial when I went away. I saw about it in a newspaper in Rome. I did not go to Europe for the purpose of not being here for this trial. This case had no reference to my going to Europe.

In December, 1910, I was assistant professor of English and secretary to the president. The duties of the secretary is meeting people and seeing what they want to see the president about and as far as possible settling such things as I can settle, or referring those things which can be referred to the proper authorities, to the deans of the college and other functionaries of the university.

The office of the president is on Greenwood avenue and Fifty-ninth street, a little way north. We have the south half of the floor. From the hall there is the main hall and as you enter there is a large room about twenty-five feet by, I should say, forty feet. That room is subdivided by partitions perhaps seven feet high. The main partition runs north and south; at the north end of that is a partition that runs north and south from the east side of the main doorway, and about twelve feet from the south wall of this

large room of which I speak there is another partition. The space between the partition and the east wall of the room is in use by the dean of the Divinity School. The other space, about twelve by thirty feet or twenty-eight feet, is the general anteroom to the president's office and contains a large table and chairs for a sitting room. Then there is a partition about twenty-five or thirty feet, and there is a space separating my own office from this anteroom.

My room is about twelve feet square and the door is in the north partition wall to the right of my desk as I sit at the desk. There is a space between my desk and the door with a chair there, which is usually used by people who wish to consult me on any
1190 business whatever. Behind my desk there is another desk for the president's stenographer. Against the east wall are usually two chairs, or against the south wall are usually two chairs for people waiting to see the president or myself. There is a room opening out of that to the east, and there is a space which is used by the stenographers for their work and also for storage of records, stationery, etc. The president's office is separated by a partition built in there. There is a full wall running entirely to the ceiling and plastered and I suppose it is twelve inches thick. The president's own room is a room about twenty-five feet long and I should say twelve or fourteen feet wide.

I know the plaintiff. I first saw her in the autumn quarter of 1910. I can't give the exact date. It was in my office. The plaintiff came into my office,
1191 and stood behind my desk for a moment; she was very nervous apparently about something. She said

she had come to borrow money. I was the secretary of the Students' Fund. The Students' Fund is something entirely apart from the University of Chicago. It is a fund from prominent business men of the city. The fund is for the purpose of assisting those in the university in procuring their education. It 1192 was a fund that can be used only for that purpose. Miss Mercy asked for a loan of \$50. I said the Students' Fund Society made loans to students without security on their note and without interest, and that all that was necessary was to file an application with me for that loan. I don't remember anything being said in that conversation about wanting to see the president. I explained the purpose of the society and how to make the loan. The plaintiff said she wished to secure the loan, and I asked her why she wanted it. She said she wished to secure money to pay a burglary insurance premium. I cannot state the reasons. I said it wasn't the usual thing and that the Students' Fund Society would not use the 1193 money for burglary insurance premiums, but that it was for the purpose of assisting students in a college education. She then said that she wished the \$50 to take up this burglary insurance because she had sustained the loss of a hat. She was excited.

1194 Q. When she asked for the money for the burglary insurance she was very much moved—she was emotional over it. When I said the fund was for educational purposes and not for insurance she said she wished to secure the \$50 to pay this burglary insurance premium, that she had suffered a loss; that 1195 she had been living at a boarding house, I think it was Mrs. Van Jahn; that she had in her possession a

very beautiful hat, a \$300 hat, that had been made for a prominent society woman of Chicago; that it had been refused because it had arrived late. She said that her fiance had an opportunity to secure this hat at much less than its real cost, and that he had presented it to her. She said that the hat was so large and so made that she had been obliged to have a special box constructed to contain it; and that it was in her room in this boarding house. She said that her fiance had called upon her, I think it was on Sunday afternoon, and that her fiance had said it was a beautiful afternoon and asked her why she had not worn that hat for some time; I think that was the phrase. He said if she would put it on they would go to the Art Institute. She said that she then went to this box and opened it; she mentioned ropes, I suppose the ropes about the box. She said she untied the ropes and opened the box and saw the hat had been tampered with, that a whole handful of aigrettes had been taken out of the hat; and 1196 that she was very much surprised and sent for the landlady, Mrs. Von Jahn. She said that Mrs. Von Jahn said she couldn't charge her with stealing the aigrettes and she said that they had trouble there, and she said that she wanted this burglary insurance for the purpose of insuring the hat, among other things. I said that as far as I knew it would be an unnecessary thing to take out a burglary insurance policy on goods after a theft; and I advised her about it. I told her that if I were in her position I would go to the insurance agent and request that for a consideration the burglary insurance company use its efforts in discovering the theft and re-

storing the property. She wished to know if the university would not do something for her in the matter. I said that so far as I could see it was not a university matter except in so far as the boarding house had been recommended to her by the housing inspector of the university, Miss Robinson; that in so far as Miss Robinson had sent her to this boarding house, Miss Robinson ought to know about the circumstances which had arisen in this boarding house; and if there was anything that the university could do for her Miss Robinson ought to initiate that something. I said, further, that I didn't think there was anything Miss Robinson could do; that it didn't seem to me any university matter, but a police matter; 1197 and if I were in her position I would report it to the police authorities at the Hyde Park station. I think there was no further conversation that I recollect that day, except, I think, the suggestion that if there was anything more I could do, I would see her. I stated the whole conversation as I can best recall it. I have no recollection of her asking to see the president at that time. I met Miss Robinson on the campus and explained to her the situation.

1198 I saw Miss Talbot. I discussed with Miss Robinson and Miss Talbot the subject of the plaintiff's call at my office. I am uncertain as to dates, but a day or so later the plaintiff appeared and desired to see the president. She appeared to me to be excited 1199 and to be unwilling to discuss further business with me. She stood by the side of my desk all the time stiffly and with her chin in the air. I should say she was emotional. She said, "I want to see the president." 1200 I did not have any conversation with her

outside of my office. I don't remember the date of
1201 the last conversation. It was after the conversation
with the plaintiff, Dean Vincent and Dean Robinson
and myself. It was before the holidays as I remem-
1202 ber it. I said that her business had been referred
to a committee consisting of Dean Vincent and Miss
Talbot and that there wasn't any need of seeing the
president about that business. She said she didn't
wish to see Dr. Vincent again and she would not
see Miss Talbot again. She said that Miss Talbot
had said things to her which no woman should say
to another woman. She said then, "You will not
believe, Mr. Robertson, what a woman will do for
social advantage." She said Miss Talbot's reason
for persecuting me is simply that she may further
her own social ambition, desiring to curry favor with
a certain family in Chicago, the N. W. Harris fam-
ily I understood it. She said that that family was
1203 connected with the Small family of the University of
Chicago; and she was on that account taking the
position she did in Miss Mercy's dispute with a rela-
tive of that family. I said that her business was in
the hands of a committee consisting of Dean Vincent
and Miss Talbot and that she would have to see that
committee or see Mr. Vincent or Miss Talbot. I was
1204 summoned to the deans' meeting. The matter had
been referred to Dean Vincent and Dean Talbot. A
deans' meeting followed almost immediately my first
meeting with Miss Mercy; that was a day or two
after my first meeting. There was always a deans'
1205 meeting each week. I don't remember whether Miss
Talbot was there.

1207 Q. Were you present at the meeting of the presi-

dent and Miss Talbot and the deans, when the subject of Miss Mercy was discussed at which you related the occurrence that you have spoken of to Miss Talbot, Dean Vincent and Miss Robinson about the interview with Miss Mercy when the matter was referred to Dean Talbot and Dean Vincent?

Objection by plaintiff; sustained.

Q. Do you recollect any occasion when you were in the office when Miss Mercy rushed in there and rushed by you and got into the president's office and spoke to some one in there? A. I have no recollection of any such rushing by on the part of anybody at any time in the office. I did not know that Miss Mercy had an interview with the president in connection with this matter until I heard it mentioned at this suit. I have no recollection of any such meeting. I did not prevent or stop her from getting into the president's office in January, 1911, when she pushed by me and rushed in there. I have no recollection of it.

Cross-Examination.

1209 I was appointed secretary to the president in 1906 and have held that position continuously since that time. In that position I see a great many students in each day, but not so many as in my classes. I should say I see about ten a week who come to consult me. Very few come to see the president, probably three or four a week. There are a great many
1210 members of the faculty come to see the president. I have to talk to them first. It varies as to number. A great many of the conversation with students are not important. I don't think I can remember them.

I have a great many important ones. In an institution of that sort there are a great many important matters to look after. I could not enumerate the important conversations immediately, one after another, that I have had with students during the past year, but I can remember them in substance and I would remember the diction. I should say that I would remember the important ones in the past
 1211 four years—I could go further than this.

There was a dance at the Reynold's Club and I remember that Miss Mercy was present; I had no conversation with her; she came up and spoke to Mrs. Robertson.

Q. Did you ask her why she wanted to go to Miss Talbot about the matter you have just been testifying about, and did she say that Miss Talbot had been
 1212 persecuting her? A. I am absolutely positive about that. I don't recall her coming to the office to see the president and slipping by me. There was once when she asked to see the president, but I don't remember her slipping by me. She did not get to the president's office. She came about three times to see the president. I don't remember of her seeing the president at all.

1213 The deans' meeting of which I was speaking was a regular weekly meeting of the deans. It may have been called for some special purpose, but not for this business.

Q. Do you recall Miss Mercy's being in your office one time and saying to you that Miss Talbot did not treat her with the consideration due a human being, or language like that—did not treat her

like a human being? A. No, not language like that. When I called this last meeting it was when she said that Miss Talbot had used language which no woman would use to another.

She then requested to see the president and I told her that her business had been referred to a committee of Dean Vincent and Dean Talbot; Dean Vincent, I understand, was chairman. I didn't look into the matter very much.

Q. Do you recall along about January 6th Miss Mercy coming in and talking about the day she had
1214 been there to see Miss Talbot and asking to see the president, and your saying to her she could see him later, and told her to phone you about it? A. I don't remember, I may have said something like that, but I don't think I would have reason to say that; I would want to complete the business right away.

Q. Is there a man about the office there, or was there at this time, about thirty-five or forty years of age, a blond, rather stout, with a blond mustache—I don't know whether he was connected with the office or not, but along about this time was there a man in the office of the president, or in the rooms connected with his office? A. He may be connected with the Divinity School.

1215 I have no recollection of any such person, or of any degree of fatness. There was a man at the office. He had black hair, it was turning gray. He was well built and he was not connected with the office. He was simply waiting to see the president.

1216 The COURT: Gentlemen, we will take an adjourn-

ment at this time until next Monday morning at 10 o'clock. The witnesses who have been subpoenaed here will return Monday morning at 10 o'clock. I want to say to you gentlemen that during the taking of evidence and the trial of this case you should refrain from any discussion of this case among yourselves, or with any other person, if any person should try to talk with you you should prevent it. It has been called to my attention that considerable is being printed in the newspapers in regard to this case; and there are large headlines, or display lines; you should disregard those, and if any one should display them in your presence, you should keep away from them. There is also, I understand, some comment as to counsel and other parties in connection with the case; you must keep your minds absolutely free from all this; you said when you were examined you would act fairly and impartially. I take this occasion also to say that there will be no session of the court on Tuesday; at the adjournment on Monday afternoon we will adjourn over until Wednesday; you may now be excused until 10 o'clock on Monday.

Thereupon an adjournment was taken to Monday, April 1, 1912, at 10 o'clock A. M.

MONDAY, April 1, 1912, 10 o'clock A. M.

Mr. WALKER: Q. Mr. Wooten brought me some information in reference to this man Reynolds being married. On the witness stand this young lady, out of a clear sky, as she has done in many instances, called him a convicted felon. Then on cross-examination she withdrew that remark substantially—not

knowing anything about it herself—but that some lawyer had told her. I have not gotten the first name of that lawyer yet. Mr. Jennings told me it was in some Young Men's Christian Association Building.

1218 Mr. Wooten, as a matter of right, should be allowed to take the stand in this case and tell the court that he had never been convicted of anything at any spot
1219 or place. I ask your Honor to call him at this time.

Thereupon the plaintiff objects to Mr. Wooten taking the stand on the ground that the evidence was immaterial——

Mr. WOOTEN: Will your Honor do this: Strike out that assertion, on motion of counsel, for the defense, allow that to be stricken from the record?

1220 Mr. JENNINGS: It is already stricken—I have no objection. I don't want it paraded before the jury.

The COURT: Oh, I will tell them; I don't think that is any more than fair.

Mr. WOOTEN: I am not under the Supreme Court
* * * For nothing but that is fair and square and right, and I stand fearless of any accusation that may be made against me at any time or any place of anywhere from the time I was born.

1220 Mr. WALKER: Now, I wish to call your Honor's attention to the fact that on Friday morning when we were in the court, in chambers, the newspaper reporters in this city—and I am ready to produce affidavits to that effect—not only kept photographing the court room and talking to the plaintiff, but one of them put a camera on your Honor's bench in order to take pictures of my client, and the professors of the university. I wish to call your Hon-

or's attention to the fact that the conduct of the reporters in this case, as they have stood around the plaintiff—what I saw while the jury were in the box
 1221 and we were in here; and that every day they have used the photograph lens and represented through the press untruthful statements, in large type, and that their conduct and method in the court room and around this plaintiff has absolutely prohibited the defendant in this case from having a fair and impartial trial. I wish to state, further, that on Thursday night one of the newspapers in the City of Chicago published the address in full of each one of the jurors. The Journal was the paper. I wish to state, further, that I am continually receiving anonymous letters in this case and letters of condemnation, and I understand the court has—he said the other day that he has been receiving anonymous letters. And I want an inquiry made by this court as to whether the jurors whose names and addresses
 1222 have been given have been receiving anonymous letters of any character or kind, and if they have been reading them.

Mr. JENNINGS: I object to that. I am getting the same kind of letters. I guess every one in the case is.

Mr. WOOTEN: I got one.

Mr. WALKER: Now, I don't say this now—because I haven't had any opportunity to find it out—but word has reached me that one of these jurors has been convicted of crime. I call it to your Honor's attention now. I have not got it so I can present it, because it only reached me this morning.

Mr. JENNINGS: I never heard about the thing.

1223 Mr. WALKER: I want to state this in addition, judge. I understand that when in the court room and when the jury are in the jury box, that the plaintiff in this case, sitting by her counsel's table and behind his back—is continually flirting with this jury, talking at them or making faces at them and especially have I noticed it myself directing warning smiles to the juror in the upper corner near the back of the jurors and I expect to produce affidavits, if it becomes necessary on that proposition of conduct and her conduct in the court room—— I wish to say I want to make an argument that the other day when a witness was on the stand in front of this jury, commented on in the presence of the jury, her

1224 conduct should have been forbidden in their presence or the effect, whatever it was, might have been against her, but I expect to note that and have it in the record. While we were in the court room in these chambers Friday morning, the plaintiff sat at that desk and, among other things, exposing newspapers that had her large pictures in so that they could be seen away from the jury room.

Mr. STROM: I was told by two parties that one of the jurors, Mr. McCabe, was an acquaintance of Mr. Heckman and shook hands with him as he passed
1225 out and took him arm in a friendly way in the hall.

Mr. HECKMAN: No, that is not so.

The COURT: Let the record show that the allusion in regard to the juror—Mr. Heckman, that is unqualifiedly denied by Mr. Heckman.

Mr. STROM: I was told by three parties in the court room that Miss Breckenridge and one pro-

fessor were talking over the case, they were sitting right next to the jury box. I went over and told Miss Breckenridge, I wanted to avoid appearance in that respect, and she thanked me and told me she was too much of a lawyer to permit talking over the case there. She said she had been talking social matters and would call attention and have the seats moved back. She did have the seats moved back further from the jury box. I give this as an illustration of how many reports and counter reports will come in a court room in a strongly contested case.

1226 Mr. WALKER: I feel positive that what the reporters have done in this case has been a gross outrage from start to finish—I think they should be held in contempt for the things they have done in this case.

Mr. STROM: The only picture I had taken was the bald spot on my head.

Mr. JENNINGS: I know counsel don't impute anything to us.

Mr. WALKER: I have not made any such imputation.

Mr. JENNINGS: I do think if he listens to all the reports that come to him about what our side is doing, or if he believes things he sees, and as some of my people said, he saw one of the jurors squeezing Mr. Heckman's arm and came and told me—I said, "I don't care, if you bring everybody back here if he said he didn't do it"; and I didn't even mention it to Mr. Walker or Mr. Heckman. Now, we have been getting this stuff all the time, the same sort of stuff that Mr. Walker gets, except they tell me, the

witnesses I am trying to get are being influenced by the university not to come here. I get that every day, something of that sort is coming all the time. I have not even told your Honor. I felt that would arise in the case.

Mr. WALKER: I am only talking about occurrences in the court room.

Mr. JENNINGS: These newspaper fellows are sitting near the girl. They are not where they can get to your people so well.

Mr. WALKER: I have seen them standing around here in groups in the presence of this panel.

Mr. JENNINGS: She is a young lady and they are young men. That you have to take into consideration; that has more to do with it than anything else.

The COURT: I saw only one reporter that went to the table, and he looked up at me, and I motioned him back. That is the only thing that was done in my presence.

Mr. WALKER: I know you did; this occurred when we were in chambers.

The COURT: I want to state, in the beginning of this case, the information given to me by counsel for the parties was that the probability was that the case would take two or three days, and that the case was sent in to me by another judge, and I had no idea what the case was about, or that there would be any notoriety attached to it. But the first afternoon—the first morning of the trial—I didn't even
1228 have a bailiff at the door to keep the crowd away. I didn't know anything about it; neither did I know

that there were any reporters in the room until they came and asked permission to put a table there. I want to say that I have instructed the bailiff right along, although I knew there were cameras in the front of the room, that they should be kept out of sight. They always have, as far as I know, except one day a reporter had a camera on the clerk's desk and that I ordered moved out of sight.

I also want to say at the very beginning of the trial, in the presence of the jury, counsel and parties, a young man had a newspaper in the court room and I ordered him to put it down and quit reading, and that no more newspapers were to be brought into the court room. I want to say this to make myself clear.

MR. WALKER: I want to certify that the court is absolutely right about his statement. And I say, further, that when we both came in here we said the case would take three days. That if we tried this case with no spectators and picked our jury, that the next day—and I had no suspicion that there would be any such claim as made by Reynolds and the brother at that meeting, and that the length of
1229 the trial has developed and developed, so far as I am concerned, growing out of the statements of the plaintiff and the witnesses.

THE COURT: You are both entitled to as long as you need in this trial; but I want to say if I had known there was going to be this notoriety I would have taken extra precautions to have kept the camera fiends out; and so far as it has gone as it has now, to make any peremptory order, would be the wrong thing. But I will see that there will be as

little notoriety as possible in the court room. That is the best I can do for you gentlemen.

Mr. WALKER: I understand; I just want to make my point. The court is going to tell the jury that all that evidence is stricken out—what the court said about this witness—in reference to that—it may be stricken out—orally to this jury now.

The COURT: Now, or you can put it in a written instruction, just as you like.

1230 A. W. BASSE, witness on behalf of the defendant, testified:

I am a traveling man employed at Peter Van Schaack & Son, in the drug business. I have lived in Chicago about forty years. I know the plaintiff in
1231 this case. Have known her since 1909 in connection with the Mutual Protective League. That is a fraternal organization for insurance. She is a member of that association. It has a considerable membership, probably 35,000. I first met her at our council meeting at the Illinois council in connection with the work.

Q. Do you know what her general reputation was among the members of the council of that league that you belonged to and that she belonged to, for truth
1232 and veracity? A. Yes.

Mr. WALKER: Q. Did you ever visit her at her home, or at the various places she has lived?

A. No, sir.

Q. Do you know what her general reputation was for truth and veracity? A. Yes.

Q. Was it good or bad? A. It was bad—I would not believe her under oath.

1233

Cross-Examination.

I live at 3438 North Troy street, Chicago. I was born in Chicago and lived here about forty years. I have been following the drug business, general salesman, since I have been in business.

I was a member of the Illinois Council. I did not
 1234 go where Miss Mercy lived. I first met her at our council on the evening that we gave—I think we had a dance that night and she came up there. That was at Victoria Hall, at Madison and Western avenue. There were probably fifty persons present. Mrs. Smith introduced me. I do not know where Mrs.
 1235 Smith is. I next met Miss Mercy at Chicago Council. Miss Mercy was not a member of the Illinois Council. I was a member of the Illinois Council. We had about thirty-two members in our local lodge. I could not say how many members there were in the order. I knew two or three in her council. I know most of the people in my own council. I don't know how many people in my council know Miss Mercy—
 1236 probably three or four. My opinion of her is based on my experience with her as a member of the council. I have heard Mrs. Smith and Mrs. Vogt say she would not tell the truth. The last time I saw Mrs. Smith was two or three years ago. She is not dead that I know of. I can't say where I think she lives. The last time I heard she lived on Parnell, between Twenty-seventh and Twenty-eighth street. She was living with her son-in-law or daughter-in-law. I can't

remember what her first name was. I had known her about two or three months when she introduced Miss Mercy to me. Mrs. Smith organized the Illinois Council. She did not get me to go in. Mrs. Smith is a lady about thirty-eight, I should judge. She was married. I do not know that her husband is living. I don't know anything about that.

I resigned from the council—I have not paid any more attention to it. I don't know whether it is still in existence or not. I don't know whether she is a member. Mrs. Smith has a son-in-law between Twenty-seventh and Twenty-eighth on Parnell. His name is Frank Robeck. I can't say whether he still lives at that place. Frank was in the Continental National Bank, I believe; I don't know in what capacity.

I do not know the first name of Mrs. Vogt. She had a husband. He was in the coal business on Harrison street, somewhere near Loomis street.

When I had this talk, when Mrs. Smith told me that Miss Mercy would not tell the truth, Mrs. Vogt was there and two or three more ladies, I don't remember who they were. I believe Mrs. Stacey was there—Mrs. Emma Stacey. I don't know where she lives. The conference was in the evening, just before lodge meeting and before 8 o'clock, at Victoria Hall, just before the lodge was called to order. We were not discussing members of the lodge. Miss Mercy was a member of the lodge.

1240 Q. Now, you brothers and sisters at that time were telling each other that the other sister was a liar? A. Yes, she handled the truth carelessly.

I was subpoenaed to come up here—probably

through being president or vice-president of the Illinois Council. Mr. Walker's investigator found me.

I expect as a remuneration to get what I have lost.
1241 I work on commission. I will probably lose \$10 or \$12 by being here. I think it is worth that.

I can't tell any more about Mrs. Vogt—she was a monologist and quite an entertainer or speaker—an elocutionist. The conversation came up through the organization when Miss Mercy made application to organize the Up-to-Date Council. That is the way we were discussing that.

She made some application and her name came to
1242 me. We discussed her veracity then and we decided that she was a liar. We did not try to expel her from the lodge because she was a liar. We did not make any charges to have her expelled. We don't want big liars in the lodge there to be brothers and sisters—we don't want to fraternalize with people who do not tell the truth. I did not have anything to do with her going along.

Mr. Walker got my name through an investigator,
1243 I suppose. I don't know how he got it—the investigator got me. He met me at the store. He did not ask me if I would be a good witness on truthful folks. I did not tell him I would testify if I was paid for what I lost while I came up here. I certainly do expect to be paid for my time.

J. C. OSHER, a witness on behalf of the defendant, testified:

I am a physician—an oculist. I live at 2657 North 1244 Kimball avenue. I know Miss Mercy, the plaintiff. I think I met her at the Chicago Council of the Mutual Protective League, about two and one-half years ago. I have met her at her home. I did not know any of her immediate friends outside of this body.

1245 Q. Do you know what her general reputation was for truth and veracity among the members of that association with whom she associated? A. Yes; it was bad. From what I know of her reputation I would not believe her under oath.

Cross-Examination.

My office is in the Masonic Temple. I have been there about three and one-half years. I treat ears, 1246 eyes, nose and throat and I have a general practice. I was doing special work at the time that I met Miss Mercy. Before that I had a general practice. I believe I first met Miss Mercy at the Chicago Council. I was examining physician for the council. When they would bring people to get insurance I would examine them. I presume I knew her reputation six 1247 or eight months. I can't say definitely. To be the physician of the organization one has to be a doctor. I talked about Miss Mercy to members of the order, of the Dearborn Council. I talked to Mr. Murphy, I believe. I don't recall his first name—we only had one in the order. I don't know whether he is there 1248 now. I have no idea what his first name was. I

have seen him since that conversation at the Illinois Council several times. I do not know his business. I should judge he is thirty-five years of age. He is quite a tall, erect man of medium stature. I can't say his hair was dark. I believe he was married. I don't remember what office he had, I think it was vice-president. I can't just recall who was present when he told me the plaintiff would not tell the truth. We were sitting or standing around in the lodge room 1249 during the intermission. We did not have an intermission so we could talk about the members. I did not stop the lodge to talk about members. We did have an intermission and got busy on members. It was inferred that she would not tell the truth. I don't recall what *verbatim* he used. He said that was 1250 the understanding. That is what I understood from what he said. The substance was that she would not tell the truth.

I don't recall who else heard—we were probably speaking privately—being officers. Two officers did 1251 not go off privately and state that this girl was a liar. There were quite a number present; I don't recall the other members. I did not volunteer to come here. I certainly do expect to be paid for this and for my time. I shall have to see what I am out at my office; I expect \$5 or \$10 anyway—I have lost 1252 that much time from my office.

GEORGE R. WAYNER, witness for defendant, testified:

I am solicitor for the North American Hospital As- 1253 sociation. I live at 1154 North Clark street. I was connected with the Mutual Protective League. I

knew the plaintiff in this case by the name of Edith Mercer. It is the plaintiff here. I became acquainted with her in the fall of 1909. I did not meet her at her home. I never met her there.

Q. Do you know what her general reputation was for truth and veracity among the persons in that association to which you belonged, and where you
1254 met her? A. I should say it was bad.

Q. From that reputation and from what you know of it, would you believe her under oath? A. Well, I could not—no.

I hold the position of president of the Illinois Council of Mutual Protective League—the executive officer of that particular council.

Cross-Examination.

I am connected with the North American Hospital Association. It is not exactly an insurance concern.
1255 It would not come under the insurance laws. It is a protection for health, at a regular rate for each member. It is not a fraternal organization. It is a protection for health at a regular rate per month. I have been at that business a year and one-half. I did not go with this concern as soon as I left the Mutual Protective Association. I was with Foreman Bros. at that time. I was born at Washington, Illinois. I was always in the banking business until I got into this concern. The Illinois Council met at the north-
1256 west corner of Western avenue and Madison street. I met the plaintiff in the fall of 1909. I have not seen much of her since that time—probably have seen her a dozen times in all in the last year. I could not say

how frequently I met people who knew her. They were all people connected with the Mutual Protective League.

- 1257 I heard Mrs. Smith say that the plaintiff would not tell the truth. I did not know that she ever lived on Parnell avenue, between Twenty-seventh and Twenty-eighth. I knew her when she lived on Washington boulevard. It is the only place I knew she lived. I could not say where she is now. I met her three days ago on the street and she was expecting to go out of town at that time. She was doing some organizing out of town. I don't know what business. I just met her casually on the street. I don't know
- 1258 where she was going. I did not know the lady in question was the one in this case when I saw Mrs. Smith. I can't give you any information about her location. I guess she told me a dozen times the plaintiff would not tell the truth. She told me that in the council room of the Illinois Council some time
- 1259 during the winter of 1909 and 1910. The Illinois Council gave a ball or entertainment and she was there at the time. This was some time in October. Shortly after that at one of our meetings Mrs. Smith told me that Miss Mercy was not to be believed and would not tell the truth. I was in the council room and Mrs. Rebeck was present. That is the same woman mentioned by Mr. Basse. I don't know where Mrs. Rebeck is. I think they have gone to Sterling,
- 1260 Illinois. She heard the conversation. The conversation was general and there were a number of members of council—Mrs. Holmes. I don't know where she lives, the last I heard of her was when she lived on Washington boulevard and Mrs. Smith lived

with her at the time. I do not know her first name. Her husband's name is Elmer G., I believe. I could not swear whether this was before the order took up or after we had had a session. It was probably during intermission. During the intermission we got acquainted with each other and if any new members 1261 came in we had an introduction.

I came here by subpoena. I hope I am going to be paid for my lost time. I work on commission—I may earn \$40 or \$50 a day. My time has been taken up two or three days. I wouldn't want to say what I am going to get for this one day. Nothing less than \$15 a day.

Re-direct Examination.

There has been no promise to pay me \$15 a day. 1263 There has been no promise from anybody representing the defendant.

HOWARD C. SWEEP, witness on behalf of defendant, testified:

I live at 516 Briar place. I am in the real estate 1263 business. I have been in that business approximately eight years. My place of business is 504 Title and Trust Building. I know the plaintiff in this case. She was a tenant of mine a year ago this month.

I know what the general reputation of the plaintiff for truth and veracity in the neighborhood there while she was my tenant. Her reputation was bad. From what I know of it I would not believe her un- 1264 der oath.

Cross-Examination.

I am not connected with Bartlett & Co. I was connected with them about three years ago. I know the tenant next door, 4329 Berkeley, was one who was acquainted with Miss Mercy. It was pretty hard to find any one that was acquainted with her at the time she signed the lease. I do not know many people
1265 who are acquainted with her. None of my friends are her friends. There is the cashier in the office, the collector and the people next door at 4329 Berkeley. That is all I know about her.

Re-direct Examination.

She leased in the name of Esther Mercy.

1266 W. G. SCOTT, witness for the defendant, testified:

I am a newspaper man, connected with the Daily Tribune as day city editor. I met the plaintiff in this case in the Tribune office for the first time at my desk. She came and introduced herself and told me her story of her affairs at the University; she wanted to know if the Tribune would support her in an action against the University; if they would recom-
1267 mend lawyers and pay the lawyers. I saw her probably three or four times after that. The last time was possibly six weeks or two months ago. She came in to offer a story of her experience in State street. She spoke of this suit coming up and the sensation it was going to make. It was incidental to
1268 the offering of the other story. She said she had been at work in several State street stores and she

told how the customers were robbed by one price in the window and one price to the clerk; she said people came into the stores and asked about articles and garments in the windows and that they would be offered other garments that were not alike; that they were being robbed in the selection of it. I wasn't interested in it because it was not a story I could handle at all and I referred it to the Sunday editor in reference to it. That story was for sale. She asked me if that would be a good story and she said she thought it would be an interesting article, and I said that it might be, too, but that it wouldn't be anything that the department I was connected with and that it would have to go to the Sunday editor. She spoke to me about when the case was coming up and she said it would make a big sensation when it did come and that it would make a lot of people jump around when they heard the stuff that was going to be testified to.

Cross-Examination.

I have been connected with the Tribune seventeen years. I had never met the young lady until she came in the first time. The first time she talked to me she wanted a lawyer to represent her, one of the best. The paper has no department for aiding people who are in need of assistance. I am not connected and don't know anything about it. They have a Legal Aid Society, but that is just a recent institution. I did not recommend any lawyer to her. She did not tell me at that time she had been thrown out of employment. That was the second time she told me that. The first time she talked about lawyers and

the next time she came she talked about the story and being discharged from the stores and the way the customers were treated who went there to buy—she thought that would make a good story and I told her we could not handle it. This story might be of interest to the men who handle the feature department. It is not a new story. I think the story would
 1272 appeal to newspapers. I think the newspapers are trying to protect the people all the time from being robbed. I think we sometimes get a little biased by our association. I think that sort of stories would
 1273 appeal to the papers if it were verified and substantiated—we are printing such stories as that all the time. There have been many such stories that these department stores in Chicago are cheating the people. We had a similar story this last week. I think it was Lloyd's, or some jewelry store. I would have to hunt the stories up, I don't remember the department
 1274 store. I could not remember the time, of course.

The second time Miss Mercy came to see me she told me she had been discharged from various stores where she was trying to work.

She didn't tell me that she didn't have any money. I don't remember that she said anything about the circumstances of what her financial condition was. I would not say that she did not say these things, but I don't recall that she did.

Q. Do you know Mr. Harold McCormick? A. I
 1275 know him by sight—I never spoke to him in my life; I don't know that he is connected with the Tribune.

Re-direct Examination.

It is not the policy of the Tribune, under our day management of its news columns, to refrain from publishing news against stores or individuals because they advertise in our newspaper.

LEO F. WORMSER, a witness on behalf of defendant, testified:

- 1276 I am an attorney at law. I am a Jew. I graduated at Chicago University. I attended the University from October, 1901, to September or October, 1904, and again in the year 1909. I got my degree from the University. I also got my Bachelor of Philosophy degree. To my knowledge there was no discrimination in the faculty of that university as to Jews as distinguished from other people. I received scholarships for public speaking and for debating, honorable mention for excellence in scholarship in the junior and senior colleges; the key of Phi Beta Kappa for excellence and general scholarship in university work and the honorary degree—the honors
- 1277 in connection with my degree of Doctor of Laws. The Phi Beta Kappa is a Greek letter society to which students in colleges are admitted because of their excellence in scholarship in their academic work. The nomination for membership is made by the faculty of the University and the election is made by the students on the recommendation of the faculty.

Cross-Examination.

I have been practicing law in Chicago since September, 1909. I state that to my knowledge there is no discrimination against people of the Jewish race in the Chicago University. I don't know what every member of the faculty does under all circumstances.

1278 I was in constant contact with the Jewish students at the University throughout my attendance there and I have frequently discussed with the other Jewish students there the treatment of the faculty towards them. I have never had it called to my attention by any Jewish student that there is any prejudice on the part of the faculty towards the students.

1279 I don't think there was any prejudice against me.

Re-direct Examination.

There is no prejudice among the faculty against the Jews to my knowledge. My law firm is Rosenthal & Hamill. I am a member of that firm and I have

1280 been in attendance here frequently.

EMIL GUSTAV HIRSCH, witness for the defendant, testified:

I am a Rabbi of the Chicago Sinai Congregation, and I hold an honorary professorship in the University. The professorship I hold has the title Rabinical Literature and Philosophy. I met the plaintiff once. She came to my house and I subsequently had a conversation with her over the telephone. In the faculty of the University to my knowledge there is not the least prejudice against the Jew. I know there are

quite a number of Jewish students at the University and in the departments and in the graduate schools. I think there are five or six of my race in the faculty; by profession I guess I am the only one, having association with the synagogue. To my knowledge none of them have been converted to Christianity. They don't go to the synagogue.

Cross-Examination.

- 1281 My conversation with the plaintiff must have been about the third week in December, if my memory
 1282 does not err it must have been the 16th or 17th of December; I will not try to give the exact date. She came to me and told me her story and asked me to intercede for her. If you will let me I will tell it as I recall it. The young lady came to me and told me she was in trouble; she was Jewish; she said she was persecuted in the University on account of being Jewish; I asked how so and she told me. Being a student out there she was anxious because she was deficient in German to get a place in the house of some Germans where they spoke German, being acquainted with some lady in that department whose name I don't know, they got a home for her in the house of Mrs. Herman Von Jahn. She was engaged to a man by the name of Reynolds. She told me the story of the hat. She told me she had been requested
 1283 not to register. She asked me to intercede for her. I asked her if Reynolds was a Jew and she said no.
 1284 I don't know that at that time I expressed my regret that a Jewess should be engaged to a Christian. After she called me up on the telephone I said, "You are a Jewess; there are a good many of them that are

not with us, but when you get into trouble you come to me. Now, your Jewish feelings are probably not very deep, because you are engaged to a non-Jew." I will say, however, that I, myself, officiate at such marriages. I told her I could not intercede as I knew nothing of her. I wanted to substantiate the story to find out who she was. I told her over the 'phone I could not assume responsibility for her character because I knew nothing of it. I do not remember saying to her that she should have come to me before she got her boarding house and that she should not have gone there to the boarding house until she knew
 1285 something about it. It is possible and it is not impossible. I remember from the name of the people she was boarding with that it was a German aristocratic, noble family and very likely to be prejudiced against the Jew. I don't remember that I said she should have come to me first. I couldn't find her a place then. Of course, I have no prejudice against my own race.

Re-direct Examination.

1286 I noticed that students received exactly the honors they are entitled to, that they receive the treatment they are entitled to. No Jewish person except Miss Mercy ever came to me with a complaint. During the time I was connected with my congregation. After
 1287 Miss Mercy called on me and before she called me on the 'phone I tried to find out about her. I refused to intercede because I was in no position to assume the responsibility of vouching for this young lady, as I didn't know her. The fact that she was engaged to a non-Jew had nothing to do with my con-

1288 duct in refusing to assist her. She didn't tell me at the first meeting that she was a member of the Young Woman's Jewish Consumptive Association. She told me that when the society gave a benefit in May at the Temple, and I remember they had, that she either had a part in the performance or that she acted as a teacher or coach. Which of the two I don't remember. She told me about the benefit of this society. She indicated she was moving in that circle.

ISABELL JARVIS, witness called on behalf of defendant, testified:

I am a senior of the University of Chicago. I have
1289 not graduated yet. I was in college when Miss Mercy was there. I had two conversations with the plaintiff about burglaries while I was a student. I had one conversation with her with reference to the hat. It was over to the University on the walk between the Law Building and Cobb Hall, but I don't remember about the date. I think it was in the month
1290 of December, 1910.

Q. What was it?

Objection by plaintiff.

Mr. WALKER: I want to prove by this witness that Miss Mercy said she had received a nervous shock prior to her entering the University in October; that a thief entered her apartments; that she saw him and this gave her nervous prostration. She was un-
1291 der the doctor's care and confined to her bed. That she received this hat from her aunt and not from her fiance. That a hundred a month was what she had.

She was going to spend no money except the hundred a month; that she spent a hundred a month and what she had saved from her school teaching. That after getting her degree she was going to marry a rich man and go around the world with him, but that she did not love him.

Objection sustained.

Mr. WALKER: We think this woman's mind is on trial. I consider it a pathological case. Miss Mercy said this hat was worth \$300; that the aigrettes were 1292 stolen; that if they dismissed her from the University she would sue them for a million dollars; that while this investigation was pending in 1910 she said, "The Deans are cross-examining me. They asked me how many children my mother had and I said sixteen—then some one said you told Miss ——— that she had thirteen, but nobody could make such a mistake."

Objection by plaintiff; sustained.

HARRY PRATT JUDSON, witness called on behalf of defendant, testified:

1293 My profession is education. I have been president of the University of Chicago for five years—I was Dean of Faculty prior to being made president. I occupied the position of acting president before I was elected to the full position. I have been connected with the institution twenty years. I was Professor of History for three years at the University of Min- 1294 nesota. My own college is Williams College in Massachusetts. I graduated from college about forty-two years ago. Before I went to Minnesota I was

connected with schools as teacher for fifteen years.

The Minnesota University is a co-educational institution. All of my life I have been engaged in institutions for education where both sexes are received.

The University of Chicago is divided into schools and colleges; the schools are the graduate schools of art, literature and the sciences. The graduate schools are the divinity schools and the law schools. The colleges comprise the ordinary colleges of education and there is also a college in medicine; the Rush Medical College on the West Side is affiliated with the University. There are the elementary schools, they are the schools of elementary science, and the Normal schools, where the students may observe the practice of their professions in those schools. In these schools there are elementary and manual schools and they continue through to the 1296 high school.

We have a number of residence houses, they would be called dormitories, wherein we can accommodate 600 students. The main body of the University buildings stretches along the Midway from Madison avenue west on the north side of the Midway as far as Ingleside avenue. The same on Ellis avenue stretching east for varying distances. The buildings for the housing of students continue several blocks to Woodlawn avenue and Ellis avenue. The women's houses are along Woodlawn avenue and the men's along Ellis with the exception of one 1297 house across the Midway. Mandel Hall is the building in which we have our public exercises, the men's commons adjacent to that, where the men

have their meals, and the men's club houses, and then west are the four laboratories for biological sciences. Then the law school building and then direct to the west Cobb Hall. These extend toward the south and there is the unfinished building along Fifty-ninth, the new University Library.

There are other buildings outside of this immediate quadrangle, some used for men and some for women. There are four buildings for housing women, four stories high along Fifty-ninth street, I presume a block, each given by a particular person and named after the donor. There is another building on Greenwood avenue which was originally made for apartments for housing women. That makes five buildings that house together about five hundred, I believe. Then on the other side of this . 1299 there along Ellis avenue there are three buildings running south to Cobb Hall on Fifty-ninth street and on Fifty-seventh street a large building known as Hitchcock Hall. These house from 350 to 600 altogether, men and women. The other buildings are the laboratories, which I detailed since, libraries and museum. Most of the buildings are gifts, named for the donors or the estates. Rockefeller is the largest donor. He has not the slightest connection with the University. He is not a member of the 1300 Board of Trustees. He is not represented on the Board. He has no control in any way over the policy or conduct of the faculty in that institution.

By "grade points" is meant that a student who passes through must conform to different regula- 1301 tions. First, he must secure not less than a min-

imum grade in each of his subjects. Second, he must have an average grade that will give him not less than two honor points for every subject, whatever it may be. The points may be sustained on this basis. The four grades, beginning at the highest are A, B, C and D. D being the minimum for passing in any given subject. The honor points are assigned for their value, 4 for A; 2 for B, 2 for C and I think 4 for D. To go through the colleges the requirements are thirty-six credits, which take four years, but in those credits must have seventy-two honor points, and must be greater than the grade D and not less than thirty-six altogether; that applies

1302 to any particular branch or college that requires the four year course. The document shown me is the official record sheet of the office which is filed away and gives the entire record from the time of entering the University until graduating, if ever.

1303 It is kept in the college. These records are kept by the University recorders, subject to the orders of the President. I did not have anything personally to do with it. The custodian is the official recorder

1905 —Mr. A. F. J. Gourney. When the question is one of scholarship the faculty of the various schools and colleges pass on whether the student shall remain in the University. I am not brought in. No one person, but the faculty of the college. There is no special faculty for the women. Miss Talbot is Dean of Women. She advises with students and if she finds they are not doing well; she has no jurisdiction of students—that belongs to the faculty, irrespective of whether women or men. After each

1306 quarter examination at the close of each three

months the records are put in the hands of the deans in charge of the respective schools or colleges. They go over them and see that the students conform to the regulations. The students may be far below or over, or on the border line. The deans take the cases that are doubtful and review certain portions with the student, and after that they are either dropped or put on probation. After the student has been on probation it is then recommended 1307 if he shall be dropped. No one has the power to dismiss in the institution for conduct, other than myself. The case of Esther Mercy was brought to my attention by my secretary, Mr. Robertson, in December, 1910, in the first instance. I think it was the second or third week. Afterwards it was brought to my attention by Dean Vincent. A report was made to me by the dean of the faculty in company with the dean of the women, Miss Talbot, early 1908 in January, 1911. Miss Robinson was present. The plaintiff was not present.

1309 The statement was made by the dean of the faculty, Dr. Vincent, that the case had been before the deans, being brought there by the head of the Women's Bureau. By them referred to the dean of women and on investigation had been taken up and there had been reason for their investigation. Dean Vincent co-operating with the dean of the women, that the student in question did not conform to the standard, which they thought proper and they advised her, therefore, to withdraw from the University. She preferred not to do so. As the reason for that they were satisfied that in the statement

to them by the student there were certain discrepancies of fact. Second, in those statements, there were certain things that were false. In the next place, they had investigated and learned that her reputation was not good for veracity in the school with which she was connected. This was stated by 1310 Dean Vincent and corroborated by the dean of women, Miss Talbot. Miss Talbot went over the same ground and made the same statements. Neither Miss Robinson or Miss Talbot said or suggested or hinted anything as to the character of the plaintiff in reference to sexual virtue or purity.

The plaintiff was dismissed from the University because I was convinced that her reputation for truthfulness was not such as made her a desirable student.

1312 The COURT: Gentlemen of the Jury, when the plaintiff was on the stand several days ago, as I remember it, she volunteered a statement that a certain gentleman by the name of Wooten, a lawyer, but not in active practice in Chicago, but had been in Colorado and other places, that he was convicted of felony—I can't remember just what the words were, but I want to say to you now that that statement of the witness has been stricken from the record, and should be considered by you gentlemen as never having been made. Am I making myself clear, gentlemen?

Mr. WALKER: Yes, your Honor.

Mr. JENNINGS: Yes, your Honor.

The COURT: I have been informed by counsel for 1313 both parties in this case, that anonymous letters

touching upon this case have been written. I want to ask you gentlemen if any of you have received any anonymous letters about this case.

(To this inquiry by the court the jurors responded No.)

The COURT: I wish to say that if you should receive any such letters during the progress of this trial, or before it is ended, it will not be necessary for me to tell you that you should not consider anything in those letters. I am giving this an extraordinary caution. You have already stated to me that you have not received any such communication; and I take that to be the fact.

Direct examination of HARRY PRATT JUDSON, continued:

1314 There are several members of the faculty who are Jewish. I could not tell without my records so as to give you the exact number. About half a dozen of the race. There is Dr. Hirsch, Dr. Ernst Freund, Dr. Julius Stiegetls, Prof. Wisczznski in the one department of mathematics and Prof. Michelson in the department of physics. The latter took the Scandinavian prize, as I remember it.

The university extension course has practically
1315 been done away with. The faculty made no distinction as to race. We have some colored students there. In the university proper there are upwards of 3,000 not counting the summer quarter, which we do not include in our final total. The university is divided into four quarters, of three months each.

One runs through the summer. We have a school for teachers and for students that may attend during the summer vacation. It is the summer school.
1316 It is part of the university course. A great many students and teachers who want to make a record and can't get it in the regular college course come here. We have a post-graduate school. There are students that take our college course and then take a special course in geology or something of that sort. At the end of the term at the convocation the students receive their degrees according to their merits. There are several distinctive degrees for scholarship. They are printed on the convocation program. There is a Greek letter honor also that is determined by general scholarship on the recommendation of
1318 the faculty. I can't give you a list of jews who have taken that degree in the university without examining the records. I mentioned several this morning. In that scholarship no distinction is made as to nationality or religion. Plaintiff's Exhibit 6 is not my personal signature, but it was signed with my authority by one of the secretaries. There is a distinction at the university between expulsion and dismissal.

Q. Was Esther Mercy expelled from the university?

1320 Objection by plaintiff on the ground that it is immaterial, irrelevant and immaterial; sustained.

In the dismissal of this young lady from the university did you have any personal malice, or ill-will
1321 towards her?

Objection by plaintiff; sustained.

What is the difference, if there be any, between a dismissal from the university and an expulsion?

Objection by plaintiff on ground last stated; sustained.

Was the plaintiff in this case expelled from the university of Chicago?

Objection by plaintiff; sustain on grounds last stated.

State whether or not so far as the opportunity of a student to go to another university is concerned, there is a rule or understanding between colleges as to a difference between dismissal and expulsion. If so, what is it?

1322 Same objection by plaintiff; sustained.

I met the plaintiff personally in my office in Haskell Hall. It was some time in December, 1911. I could not precisely state the date, but in my judgment it was somewhere the middle of the month. I did not see Mr. Robertson on that occasion. I received word in the usual way that someone was waiting to see me. The plaintiff came in and was seated and she started to tell her story. Of course I cannot recollect the exact language, but to the best of my knowledge the substance was this: that she had had trouble with the deans—that there was difficulty in getting them to believe about the hat from which certain aigrettes had been stolen in the boarding house and that she thought the university ought to do something to recompense her, or something of that kind. That was the substance of it as I recollect it. You understand it is greatly condensed, but that is the best I can recall. I recall that I had to

be excused from listening further to the matter, as it belonged to the deans and I didn't see a way of
 1324 taking it out of the hands of the deans; therefore I dismissed her.

Q. Will you tell me the duties of the deans and the methods of handling the discipline of the college, the conduct of scholarship—

Objection by plaintiff, as immaterial; sustained.

1325 As dean of women Miss Talbot had general charge of those matters relating to women, which concerned questions of deportment or of discipline of any kind whatever, and any question as to scholarship primarily.

1326 Miss Robinson had general charge in the first place of inspecting the lodgings and in the second place of ascertaining that these lodgings were suitable for students and if these lodgings were not, her duty was to report it, either to the dean of women, or the dean of the faculty.

Conduct of the pupil is a very general term. We
 1327 mean by conduct of a student such things as do or do not conform to the proper standard of the University of Chicago.

Q. State whether there is a distinction in the standard at the university between conduct that implies immoral actions and conduct that has a direction affecting questions of taste or propriety.

Objection by plaintiff; sustained.

Cross-Examination.

I obtained information only on one occasion that Miss Mercy tried to have an interview with me. To

the best of my recollection that was prior to the time that she did see me. She went over the episode of the hat with me. I told her the matter was in the
 1329 hands of Dean Vincent and Dean Talbot. I don't go into investigation of facts myself. It is done by the deans. That is their province and they report to me, making suggestions. Miss Mercy's conduct fell in the jurisdiction of Miss Talbot and that of Dean Vincent. Miss Talbot had jurisdiction of women particularly. Dean Talbot and Dean Vincent reported to me and I acted on their report. The plaintiff told me something about the hat and I
 1330 charged my mind with it, but not more than other instances. I simply took the report of Dean Vincent and Dean Talbot in the matter and made no investigation myself. I don't recall whether Dean Vincent went over fully the hat matter at any time, but I know it was mentioned and I never heard that Miss Mercy came to my home to see me. I could not say how many times she tried to see Dean Angell or Dean Vincent. I did not have any report showing that she had made any effort to see them in reference to the matter.

Whatever decision was made and afterwards reported to me was the final decision as far as the
 1331 faculty was concerned; and there was no appeal from the finding of facts.

I know that Mr. Wormser is an unusually bright man. Students of that quality are not barred.

I don't know what any professor does when I am not present. I believe only what they report. There is only one other circumstance and that is my per-
 1332 sonal knowledge of his personality. From my ex-

perience with him I have some idea as to what to believe, and what to expect and my statement as to the fitness of individuals is based on information and especially on knowledge of the men and women. I haven't any way of knowing further than I have stated.

To the best of my knowledge I did not receive this letter of ten or twelve pages that was introduced dated January 16, 1911. I received what purported to be a copy of it which was sent to me by a gentleman in the city enclosing a letter of his own and in lieu of sending it to me he secured a copy—I presume it is the same letter. I could not tell without comparing them. I do not know the exact date when I received it. I was in the southern part of Florida. I did not make any personal investigation 1336 in this case. To expel a student and dismiss a student are different things. A student may be expelled or dismissed for conduct prior to his or her connection with the university if the circumstances warrant. I mean if they were creditably informed after the student is registered in the university of anything in the conduct or character of that student antecedent to his entering the university, which makes him an undesirable student, such student 1337 would be dismissed, not expelled. I can't recall that that has been done at university without looking up the records. I have never made a personal investigation in this matter since receiving the plaintiff's letter. I based my action on the report of the deans.

Re-direct Examination

1338 If a student is expelled, no letter of dismissal is given and no reputable institution receives such student from the institution. If the student is dismissed for cause, a letter of dismissal is given and other institutions would have the right to accept or refuse to accept and in cases known to me, they have accepted such students. If a case is reported to the university where a dean, whether of men or women attacks and demands the discharge of a girl from the institution on the ground which suggests or intimates that she is guilty of fornication or adultery, is she dismissed or expelled?

Objection by plaintiff; sustained.

Q. Do you give letters which show a dismissal of the university as distinguished from expulsion, as defined by you, when the dismissal or the discharge, rather, from the university is caused by an attack upon the character of the individual for virtue and decency?

1340 Objection by plaintiff; sustained.

FREDERICK J. GUERNEY, witness called on behalf of the defendant, testified:

Direct Examination.

I am Assistant Recorder at the University. I have charge of the scholastic records of students. The document which I hold in my hand marked "Defendant's Exhibit One of April 1st" is a record of the student's work as reported to the recorder's

office. It is a permanent record copied in the due
1342 course of business. The red ink words are part of
the record. The sheet is made up from reports of
the instructors. The reports are sent in by the in-
structors, ordinarily through the faculty exchange.

I have the reports of the instructors here.

This document shows accurately the reports of
the professors under whom the plaintiff took instruc-
tion. Some of the entries are in my hand and others
in the hands of clerks in the office, made under my
1343 supervision. The entries of the summer quarter
1905, were made by me. The records of the term
1910 are not my handwriting. They are made by
someone of the clerks. I have the original records
here. They correspond with the memorandum on
the report sheet.

1345 Thereupon said document Defendant's Exhibit 1,
was and is the same words and figures following:

The reports come in at the end of the quarter only. They are entered upon the records just as soon as possible. Thereupon counsel agreed leave to substitute copies of original record.

1347 Miss Gibson made the entry in red ink. The one in red is made from a note received from the president.

1360

Cross-Examination.

The plaintiff is not entitled to any credits for work she has done in the other schools. The record is not my estimate—it is simply a transcript of the estimate made by the university examiner and
1361 reported to our office. There are twenty-four majors. The professor who taught philosophy number two was Mr. George H. Mead. I do not know
1362 whether the student got a record from the professor what marks she was entitled to as she went along or not. That is a matter with the individual instructor. He may return papers to his students or not. We know nothing about it officially. I have no record that Miss Mercy got "A plus" in philosophy number two, November 18, 1910. Nothing of that sort was reported to the office. Professor Mead sometimes teaches philosophy number two.

1363 I do not know whether the plaintiff got the mark. The document shown me is not part of the instructor's report to the office. There is nothing in the report about philosophy number 2. There is no "A"
1364 or "A plus", or "B" or "B plus." I do not say that if a professor gave the plaintiff statements to that effect that these statements were wrong from the record. They could be correct and still the rec-

ord be correct. I have no record here to show whether or not the plaintiff got B minus in examination in history. I cannot tell from the records.

1367 I do not recognize Plaintiff's Exhibit 9 of this date for identification. It is not a card sent out by the university. Physical culture is required for
1368 graduation but it is not a part of scholarship. It is taken into the standing as far as graduation is concerned, but not so far as scholarship is concerned.

1370 I didn't know anything about the trouble of the plaintiff; I never heard of it at the time.

Re-direct Examination.

The papers that the students write from day to day are marked by the professor if he wishes to do so and all go to make up the final standing for the term.

1372 I have professor Mead's report here for the whole quarter. I have the method of marking, and the re-
1373 port is on regular report form. I know Professor Mead—know his signature. He was one of the professors of that term. He made a report to me at the close of the term as to the standing of pupils. I have that report here before me and it shows the standing of the plaintiff in her studies of that term under Professor Mead.

Thereupon the defendant offered in evidence so much of the report as applied to plaintiff to which plaintiff objected; on the ground that the witness did not make the report; sustained.

1375 The COURT: I will let the witness explain if he

knows about the difference between the markings suggested by Mr. Jennings and those of his report.

Mr. WALKER: I will have him come back when they attempt to put this in.

For the purpose of the record I wish to offer in evidence the record of Professor Mead, handed in to this registry department to illustrate. I offer it now, and you can take it up later. I just offer it, your Honor, to pass on it.

Objection by plaintiff.

The COURT: Objection sustained for the time.

Whereupon the defendant rested her case.

Thereupon the plaintiff in rebuttal called the following witnesses.

1376 EMANUEL KARGAU, witness for the plaintiff; testified:

I live at 5419 Michigan avenue. I am a doctor of dental surgery, have been since 1888. I am a graduate of Northwestern University. I have practiced in Chicago since 1888. I am acquainted with Esther Mercy. I have known her five years. I have seen 1377 her in my office. I am acquainted with people who know her. In the last five years I have seen her twenty or twenty-five times. I did work for her. I am acquainted with her reputation in the City of Chicago for truthfulness. It is good.

Cross-Examination.

I never visited Esther Mercy at her home. Since she became acquainted with me she has lived on the

south side. She gave me her address at the time she
 1378 made the first appointment. I do not remember it.
 I treated her teeth. I did not know the nearest gro-
 cer in the neighborhood. I did not know of any per-
 son who resided in the same neighborhood with her,
 only from the west side. I never visited her at any
 public school. I never talked to any teacher in a
 public school where the plaintiff taught.

Q. Do you know a Mr. Trasker, a restaurant
 keeper on 43rd street?

Objection by plaintiff; sustained.

1379 I graduated from the Northwestern University in
 the dental department. I did not graduate from the
 academic department. I have met Esther Mercy at
 her uncle's place, Dr. Krumholz. I know her mother
 and her sister.

1380 EDWARD L. ENGLAND, witness on behalf of plaintiff;
 testified:

I am a lawyer. My office is 69 W. Washington
 street, Chicago. I have practiced in my profession
 twenty years last January, in Chicago for the last
 seven years and prior to that in Kentucky. I am a
 graduate of Georgetown University. I am acquaint-
 ed with the plaintiff in this case. I have known
 her two or three and possibly four years. I am ac-
 1381 quainted with some people who know her. I think
 I am acquainted with her general reputation for
 truthfulness among her friends and acquaintances
 in Chicago. It is good.

Cross-Examination.

I did not know Mr. Jennings in Kentucky. I became acquainted with Miss Mercy on Monroe street in the loop. She did not call at my office at that 1382 time. She lived on Lake avenue. I had not exactly visited her, but I have been at her house. I met her as a member of an organization. Some young fellows who I know asked me to come to an entertainment they were giving in Fraternity Hall on Monroe street, some kind of a social organization. They wanted me to see about organizing it. This young lady was there. That was the first time I met her, maybe four years ago. I have seen her a good many times since then, possibly ten or twelve times. I saw her at her house once and I was here in the 1383 office two or three times. I have met her casually upon the streets. She did not come to see me in reference to suing the University or Miss Talbot. I have never been consulted about this suit. I don't know any of the places she lived except on Lake avenue; that is where I called. I did know two other addresses, but I have forgotten where they were. I 1384 cannot say now that I knew she had been a teacher 1385 in the public schools. Her truth and veracity became the subject of general conversation down at that place on Monroe street. The Fraternity building—talking about who to take into the club or organization. The truth was not specially mentioned; 1386 they were talking about who were to be admitted. If you put it as to truth and veracity alone, no one discussed that alone. I did not hear any one single truth and veracity for discussion. I have never

heard any one discuss her reputation especially for truth and veracity prior to the beginning of this trial.

WILLIAM C. VAN GILDER, witness on behalf of plaintiff, testified:

1387 I am in the real estate and farm land business at
25 North Dearborn street. Have been in Chicago
1388 twenty years. I have known Warren Reynolds for
three or four years. For the past three years, up
until some time last fall, he was a real estate sales-
man in my office. I am acquainted with his general
reputation in Chicago for truthfulness. It is good.

Cross-Examination.

I lived at 5538 Magnolia avenue. I don't know
where Mr. Reynolds lived. I remember only one
place. I never visited him at that place. It was a
1389 building owned by a client of mine on Prairie ave-
nue about 49th street. I don't know with whom he
lived. I understood that he lived there for a year or
more. He was in my employ during 1908, 1907, 1910
and part of 1911.

1390 Prior to this trial I have heard Mr. Reynolds'
reputation for truth discussed outside of my office.
I heard it discussed in Dr. Mosher's office. He is
a physician, formerly from Prophetstown, Illinois.
He has an office in the Venetian Building. My office
was handling a farm for Dr. Mosher out in White-
side County, Illinois, and Mr. Reynolds was in fact
conducting the business. I went over in that connec-

tion to the doctor's office. There was some talk about
 1391 Mr. Reynolds. He and Dr. Mosher, as I understand it, were boys together out at Prophetstown.

In my office the question came up. There was a good many men in that office at the time Mr. Reynolds was there and there was always more or less something said about the men in the office. I think Mr. Whitmore and I talked of Reynolds. He is a lawyer in the office. I think we talked of Reynolds within
 1392 the last two years—that was prior to the beginning of this suit. I do not know that anyone had questioned his character for telling the truth—we were just talking generally about the men in the office. We considered him on the square and all right—any business of any kind; his word went in that office. I did not discuss him anywhere out of the office except with Dr. Mosher.

1393

Re-direct Examination.

ISAAC W. CRAMNER, witness for the plaintiff, testified:

I live at 5619 Calumet avenue; my office is 35 South Dearborn street, room 606. I am in the real estate business. I am slightly acquainted with Esther Mercy. I have known Warren Reynolds for two years. I have been a friend of his and have had business relations with him. I am acquainted with his general reputation in the City of Chicago among his friends and acquaintances for truthfulness. It is good.

1395

Cross-Examination.

I am in the real estate business. My office is in the Crilly building. I know of but one place where Reynolds lived. That is 119 E. Forty-ninth street. I do not know how long he has lived there. He left there about a year ago. I have never visited him there or at any of his places of residence. My acquaintance does not arise altogether from the real estate
1396 business. I have met him frequently at social functions in the Colonial hall, 20 Randolph street—dances and receptions given by the Knights of Pythias. I heard Mr. Van Gilder, who is a member of that order, say that Mr. Reynolds' reputation for truth was good. He is the witness who was just on the stand. I met Mr. Van Gilder at the dances. Mr. Van Gilder told me in his office frequently. I also heard Mr. Whitmore discuss his reputation for being a truth-
1397 ful man—that was in Mr. Van Gilder's office, about a year and a half ago. No one raised the question in particular. Mr. Van Gilder and Mr. Whitmore and I and others there had business transactions together and frequently there were deals on between us and we had deals together. I was in the office for a year. He always acted on the square in these dealings. I have never met him any place other than places mentioned except occasionally on the streets or in my office. Outside of the lodge meeting I have not met him at any other place. I do not know with whom
1398 he is associated except our members and business acquaintances. The question of his truthfulness came up in the lodge. His general character and reputation on the investigation when he became a

member. He was knighted on the 19th of last May. I was on the committee of recommendation. I recommended him to the lodge. I had investigated him; for a year I had business transactions with him. I have made other investigations with members who have met him. I did not make any investigation in the various places of the neighborhood where he lived.

JAMES F. DONNE, witness for plaintiff in rebuttal, testified:

1400 I live at 6749 Perry avenue. I am a salesman for Armour & Co. I know the plaintiff. I became acquainted with her at the Chicago University in the year 1910. I was a student there that year. I know people who know her outside of the university. I am acquainted with the general reputation of plaintiff among her friends and acquaintances for truthfulness. It is good.

1401 *Cross-Examination.*

I was at the Chicago University in the year 1910. I began in the previous year. I think it was during the winter term of 1909. I think it starts right after Christmas. I finished in the winter quarter 1910, as I remember it. I quit at the close of the winter term. I cannot give you the exact date. I have been around the campus frequently since. I have not been a student since 1910. I was not in any of the classes with the plaintiff. I was in the dramatic club. I could not say where plaintiff lived. I visited her once or twice, but I can't give you the exact

number. It was in the vicinity of Forty-third street and Vernon avenue. I had not met her before I met her at the Chicago University. I met her perhaps
1405 six times since I left the university. It was at her residence in every instance. I was not a member of the up-to-date club. I never heard of the Mutual Protective League. I was not a member of any society that the plaintiff belonged to outside of the dramatic club mentioned. I never met her outside of her home and this place. I never discussed her reputation for truth with anyone at her home. The ques-
1406 tion of her truthfulness came up in connection with the question as to whether she should be admitted a member of the dramatic club. It was some time the latter part of the year 1910. I rather think it was after the 8th of December, but I would not be sure as to the exact dates. I was elected at the same time that she was elected. I mentioned that one of the
1407 members of the dramatic club discussed her reputation for truth. I think the gentleman's name was Atkins among others. I cannot give you his exact words. As I remember it, he said that her truthful-
1408 ness was above reproach. I really don't know where Atkins is now. His first name is Willard. I know the vicinity where he lives, it is on the South Side, in the vicinity of Fifty-ninth street and Wentworth avenue. I don't remember of any other students that I discussed the exact element of truthfulness with. I had not discussed her truthfulness prior to April, 1911. I was not dismissed from the university. I did not
1409 have any trouble with Dean Talbot or with any of the deans. I have no prejudice against the university. It was admitted by counsel for plaintiff that

the defendant would testify that she received information about the debts of Miss Mercy from the Bureau of Records from Catherin Burnes, one of the Clerks. Plaintiff also admitted that Miss Mercy asked the university for a letter that would permit
1412 her to enter any university.

JAMES E. VAN GILDER, a witness for plaintiff in rebuttal, testified:

I reside at 217 East Indiana street. I have resided here in Chicago ten years. My business is real estate investment. Have been in business in Chicago for ten years. I am acquainted with Warren Reynolds.
1413 olds. I have had business transactions with him. I am acquainted with people who are his friends in the city. I have known Reynolds for four or five years. I am acquainted with his general reputation among his friends and acquaintances for truthfulness. It is good.

1414

Cross-Examination.

My office is 17 East Indiana street. That is on the North Side, east of State street. I became acquainted with Reynolds at 25 North Dearborn street. I did not know him at Prophetstown, Illinois. I do not know anything about his reputation for truth before five years ago. In 1908 he was at our office, 25 North Dearborn street. We did not miss him for about a year while he was with us. He was there about three years and one-half. I think he commenced in 1908. I did not know him before that
1415 time. I never visited him at his place of residence.

I had no connection with him socially outside of the real estate business. My connection with him was in the office. He was connected with that office altogether I believe three or four years. At that time my information concerning him was connected with the real estate business partly. I was connected with him in other matters outside of the real estate business. I had occasion to discuss his character for truth outside of what it had to do with business in my office. I discussed his character for truth at the 1416 office and with outside parties, for truthfulness and open fair dealing. I think I only discussed it once. That was when he made application for position. I saw my brother in reference to his truthfulness. My brother is William C. He is at 25 North Dearborn street. He was connected with me in business. I do not know whether he had known Reynolds before 1417 that time. I think Reynolds lived out near Sterling, Illinois. I did not go down to Sterling to make any investigation. My brother did not to my knowledge. My discussion was in reference to taking Mr. Reynolds into the concern as an employe. There was a discussion about Mr. Reynolds' truthfulness by my 1418 brother, and, I think, George Stewart at my office. Mr. Stewart was connected with me. He had no previous acquaintance with Reynolds to my knowledge. There was no one else there at that time that I know of. Mr. Reynolds' character for truth did not 1419 come up afterwards.

M. L. LOGAN, witness for plaintiff in rebuttal, testified:

I reside at 18 East Indiana street. I am a broker and I do a real estate business. I have been engaged in the business about five years in Chicago and was in it before I came to Chicago. I lived before that at Des Moines, Iowa. I am acquainted with Warren E. Reynolds. I met him about three years ago this month. I have had business relations with him between that time. I know people in the city who know him. I am acquainted with his general reputation among his friends and acquaintances for truthfulness. It is good.

1421

Cross-Examination.

I know the last witness on the stand. My office is at 915 Chicago Opera House building. I live on East Indiana street. I have had business connections with the office of Van Gilder. I first met Mr. Reynolds when he came to my house at 18 Illinois street, through an advertisement that I put in to advertise some lands in eastern Kansas. I was representing myself in that deal. We had a transaction together. I got a deal through on a sale of life insurance with Mr. Reynolds, which belonged to Mr. Reynolds. I represented the buyer; that is, I found the purchaser. The purchaser did not say anything about Mr. Reynolds' reputation for truth. Both of the Van Gilders told me his reputation for truth was good. I never heard anyone else say so.

Re-direct Examination.

I cannot recall the names or the statements of anybody to whom Mr. Reynolds sold anything.

1425 MRS. MARIE L. SPAGET, witness for plaintiff, testified in rebuttal:

I am married. My husband's name is Morris Spaget. I live at 1249 Millard avenue. I have known
1425 the plaintiff about six years. I met her at her uncle's place on Halsted and Twelfth streets, over the Graesali's drug store. Her uncle is Dr. Sigmund Krumholz. I have seen her up to about last year and then I seen her just off and on when I would meet her downtown for lunch or theater. The first three years I saw her very often—every other day or once a week. I have been out among her friends and acquaintances during that time and know the people who know her in Chicago up until two years ago. I am acquainted with her general reputation for truthfulness among her friends and acquaintances in the City of Chicago. It is good.

1427

Cross-Examination.

Millard avenue runs north and south. It is, I should judge, about two or three miles from Ashland avenue. Her uncle was a physician at that time. I
1429 had not known her prior to that time. I met her before I was married. There was no one in the office except my husband, the young man I afterwards married. I have no children. I next saw her at my home. She called while I lived then at 94

Edmund avenue, near Ashland boulevard. I was
 1430 single at that time. She called a week before I was
 married. She lived at that time somewhere around
 Forty-third street. I did not call to see her at her
 home. I called to see her a few months after I was
 married. It was somewhere around Forty-third
 street. She was teaching school at that time. I be-
 lieve her mother was here at the time on a visit.
 I visited her frequently at her home after that. I
 can't just say exactly when. It was frequently after
 1431 I was married. Her family was here at that time.
 It was composed of her mother, her sister. I re-
 member the children of the family but not the names.
 At first I called on her once a month and then less
 because I saw her at my home after that. I saw her
 1432 about two weeks ago last Monday. I did not see
 her again until I saw her in this court room. I came
 to the court room this morning for the first time. I
 1433 met her this morning downstairs coming up. That
 was not by appointment. I was not subpoenaed. I
 saw her five weeks ago at Carson Pirie's when I
 went downtown. I met her at Marshall Field's and
 we went to the Art Institute. During the period of
 my acquaintance I met her by appointment down-
 town. When I saw her I would say "next Satur-
 day afternoon if you have time we will take in the
 matinee together." I could not mention the times.
 1434 I could not give a correct guess it was so many
 times. We had no gentlemen escort to the matinee.
 I met no one at the matinee who told me her charac-
 ter for truth was good. I never discussed her char-
 1435 acter for truth at home. I have heard quite a num-
 ber of people discuss her reputation for telling the

truth. We never happened to discuss her character for truth; it was just the person, what we thought of her; her truthfulness was not the question. We 1436 thought she was charming.

DR. JULIAN B. BECK, witness for plaintiff in rebuttal, testified:

I live at 3257 W. 12th street. I am a practicing physician and surgeon. I am a graduate from the Illinois University and University of Vienna. I have 1437 been a practicing physician and surgeon for eight years—have practiced in Chicago during that time. I am acquainted with the plaintiff. Have known her about five years. Have seen her frequently. I am acquainted with people who know her in the City of Chicago. I know her general reputation among her friends and acquaintances in the City of Chicago for truthfulness. It is good.

Cross-Examination.

My office is 3257 E. 12th street—that is between Kedzie avenue and Fortieth avenue. I have been 1438 practicing at that point two and one-half years. I became acquainted with the plaintiff at a dance hall on the south side. I am not a married man. After that I met her at a restaurant on Halsted street near Twelfth. I knew her uncle. I have known him about eight years. I met the plaintiff at Dr. Levinson's house. His home was at that time on Win- 1439 chester avenue. That is on the West Side. That must have been about four years ago. I have seen

her between times quite often in the same restaurant. I last met her in my office about a year and one-half ago. I met her at the restaurant about a dozen times. I think I also met her at another ball on the West Side about four years ago. I did not hear anyone speak about her at the first ball. At 1440 the second a number of friends spoke of her reputation for truth. She did not do any dramatic entertaining at these times when I met her.

Q. How did the question as to whether she was truthful or not arise? A. Oh, we were discussing—she was telling us about her school work; and after she and her uncle, Dr. Krumholz, departed and a number of her friends were left, we discussed her, as to whether the story was true or not. We de- 1441 cided it was true. That was about four years ago. There was nothing in the story as she told it that brought out the discussion as to her reputation for truth or her truthfulness.

I did not hear her character for truth discussed at Dr. Krumholz's office. I heard her character discussed at the office on Winchester avenue. Her reputation for telling the truth was not discussed in my home.

Re-direct Examination.

1442 I think her uncle introduced her to me at the Jewish Consumptive Ball.

1443 ESTHER MERCY testified on rebuttal:

There was a young lady at the university whose
1446 name I understood to be Tutwilliger, but I think
it is Terwilliger, or something of that kind. That
is the woman I was talking about in my testimony.

Mr. WALKER: I offer now to cross-examine this
witness further, not on this re-direct or rebuttal, but
upon the propositions that I formerly called your
Honor's attention to, when I wanted her recalled,
at the close of the cross-examination, when the cross-
examination was closed.

Objection by plaintiff; sustained.

Thereupon the plaintiff and defendant each rested
their cases.

1448 And thereupon the defendant, by her counsel,
moved the court to withdraw a juror and continue
the case because of the improper conduct of the
plaintiff and the jurors during the trial of said
cause.

Which motion was overruled and denied by the
court; to which ruling the defendant, by her counsel,
then and there duly excepted.

And thereupon the defendant, by her attorney, at
1449 the close of all the evidence, moved the court to
instruct the jury to find the defendant not guilty and
presented said motion, together with an appropriate
instruction in writing.

Which said motion and instruction were and are
in the words and figures following, to-wit:

1450 "The jury is instructed that the evidence in this

case does not justify a verdict for the plaintiff as against the defendant, Marion Talbot, and you are, therefore, instructed to find said defendant not guilty."

Which said motion was denied by the court and the court refused to give said instruction as prayed by defendant and marked said instruction "Refused" and defendant excepted.

1451 And thereupon the defendant moved the court for leave to file a plea of the statute of limitations as to all conversations testified to have occurred prior to January 9 and 10, 1911, to which the plaintiff objected. Which objection was sustained by the court, and the motion of the plaintiff to file such plea of limitations was denied, to which the defendant then and there excepted.

And thereupon the defendant moved the court to compel the plaintiff to elect as to which of the alleged slanders the plaintiff would rely—whether that alleged to have been uttered on December 8, 1910, or December 9, 1910, or December 20, 1910, or January 9, 1911, or January 10, 1911, which motion was denied by the court; to which ruling the defendant, by her counsel, duly excepted.

And thereupon the defendant renewed her motion for leave to file a plea of the statute of limitations in the words and figures following, to-wit:

1452 Plea of statute of limitations:

And for a further plea in this behalf the defendant says that the plaintiff ought not to have her aforesaid action against her, the defendant, because she says that the several supposed causes of action

in said additional count, filed herein on March 18, 1912, did not, nor did any or either of them, accrue to the plaintiff at any time within one year next before the filing of the said additional count in the manner and form as above complained against her, the defendant; and this the defendant is ready to verify; wherefore she prays judgment if the plaintiff ought to have her aforesaid action against her, the defendant. (Signed by attorney.)

Which motion for leave to file said plea was denied by the court; to which ruling the defendant, by her attorney, then and there duly excepted.

And thereupon the respective attorneys for the said plaintiff and defendant presented the case to the jury by oral argument.

1549 To which argument by plaintiff's said attorney the defendant, by her attorney, then and there duly excepted.

And thereupon the respective attorneys for the plaintiff and defendant having concluded their respective arguments, the court at the request of the defendant gave to the jury each and all of the following written instructions, numbered from 1 to 38, except No. 3, both inclusive, to-wit:

1. The jury are instructed that the instructions given them in this case are the instructions of the court and the law of the case which must govern them.

1550 2. The court instructs the jury that the instructions given you are a series, and are to be taken and considered together.

1551 3. The court instructs the jury that the plaintiff can recover for the slanderous words as defined in these instructions, if any, on December 8, 1910, or on January 9, 1911, and for only one of these occasions, and that evidence of other occasions, if any, can be considered by the jury as bearing upon the question of malice alone.

1552 4. Preliminary to your being accepted and sworn to act as jurors in this case you were examined by both plaintiff and defendant as to your competency and qualifications to act as jurors in this case. As a part of such examination each of you answered all questions asked you by both plaintiff and defendant. Your answers showed you were competent and qualified to act as jurors, and the parties to this suit accepted you as jurors on the faith of your answers. The answers you then made to the said questions in regard to your competency, qualifications, fairness, lack of prejudice and freedom from passion and sympathy, are as binding on you now as they were then, and should so remain until you are finally discharged from further consideration of the case. It would be improper for you to disregard those answers that rendered you competent jurors.

1553 5. The court instructs the jury that the University of Chicago is a private institution and that it has the right to establish such standards of conduct for the government of the pupils registered at the university as to the faculty shall seem fit and proper, and that said university, through its faculty, has the right to impose such standards of conduct or deportment as it shall deem fit and proper upon any student registered at the university as a condition of

maintaining her connection therewith; that there was during all the time charged in said amended bill and additional count no obligation on the university or its faculty to advise the plaintiff as to what conduct or deportment, if any, would forfeit the right of the pupil to further attend the university.

You are further instructed that a disciplinary power for the enforcement of such standards of conduct or deportment as might be so required of the students in the university was during all the times set out in the amended declaration and additional count vested in the defendant, as dean of women for said university.

And you are further instructed that even though you may believe from the evidence that the defendant uttered the words charged, nevertheless, if you further believe from a preponderance of the evidence that said words were uttered by the defendant while in the discharge of her duty as dean of women for said university, and if you further believe from a preponderance of the evidence that the said words so charged were so uttered by the defendant without express malice and in good faith, then your verdict must be not guilty, even though you may believe that the said words alleged to have been uttered were slanderous as defined in these instructions.

- 1554 6. The court instructs the jury that even though you may believe from the evidence that the defendant did utter one or all of the alleged defamatory statements set out in the amended declaration and additional count, nevertheless the plaintiff can not recover unless said words in their common accepta-

tion amounted to charging the plaintiff with having been guilty of fornication or adultery, and that the hearers understood said defendant to charge said plaintiff with having been guilty of fornication or adultery, and unless you so find, your verdict must be for the defendant not guilty.

1555 7. The court instructs the jury that even though you may believe from the evidence that the defendant spoke words which are equivalent or similar to the words charged in the amended declaration and additional count, and which conveyed the same meaning, still if the jury further believe from the evidence that the words spoken were not the same words as those so charged, or a substantial part of the same words, even though the words spoken were slanderous, then the plaintiff is not entitled to recover, and your verdict should be not guilty.

1556 8. The court instructs the jury that even if you have occasion to consider the question of damages the plaintiff can not recover anything whatever for loss of wages or employment or opportunity therefor, and it is the duty of the jury not to allow anything at all for attorney's fees, or witness' fees, or costs, or for any expense connected with the trial of the case. (*Given.*)

9. The court instructs the jury that the plaintiff has proved no special damages as a result of the alleged slander in question, therefore the jury will have no occasion to consider the subject of special damages to the plaintiff and should not allow any special damage.

1558 10. The court instructs the jury that there is no

evidence in this case that the plaintiff has lost any specific wages, salary, employment or opportunity for employment, or suffered any money damages by reason of the alleged slander.

1559 11. The court instructs the jury that the communications or statements, alleged to have been made by the defendant here, were uttered on occasions qualifiedly privileged. Occasions where statements are qualifiedly privileged extend to such statements as are made in good faith and from honest motives upon any subject in which the party has an interest, or in reference to which he has a duty, to some one having a like interest or a like duty. On such occasions the statements are privileged if the speaker acts from honest motives, and for the purpose to which his privilege extends. Therefore, if you believe from a preponderance of the evidence that the words charged were spoken, but you further believe from a preponderance of the evidence that said words were uttered by the defendant in good faith and without malice and without intent to injure or defame the plaintiff, the defendant can not be held liable.

1560 12. The court instructs the jury that an action for slander or defamation of character is one for injury to reputation, and even though you may believe from the evidence that the defendant uttered the words charged, nevertheless unless you further believe from the evidence that the plaintiff was injured in her reputation, then your verdict must be for the defendant not guilty.

1561 13. The jury are instructed that the fact that counsel for defendant may have discussed the ques-

tion of the extent of defendant's damages is not to be taken as an admission by the defendant in any sense or degree that the plaintiff has suffered any damages by reason of the alleged slander, or that the defendant is liable therefor.

1562 14. The court instructs the jury that no recovery can be had herein by the plaintiff in the absence of proof by a preponderance of the evidence of express or actual malice on the part of the defendant at the time of uttering the alleged defamatory words, and unless you believe from a preponderance of the evidence that the plaintiff did utter said words in the manner and form charged in the amended declaration and in so uttering said words she was actuated by malicious motives and unworthy purposes and with intent to defame and injure the plaintiff, then you should find the defendant not guilty.

1563 15. The court further instructs the jury that even though you believe from a preponderance of the evidence that the defendant uttered the words, or a substantial part thereof, in manner and form as charged by the plaintiff, yet the plaintiff can not recover more than nominal damages unless you further believe from a preponderance of the evidence that the defendant in uttering said words was moved by malice so to do, and in no event should punitive damages or damages by way of punishment be assessed against the defendant unless you find that the defendant was actuated by malice as aforesaid in uttering the words charged, if they were so uttered.

1564 16. The court instructs the jury that unless you believe from a preponderance of the evidence that

the defendant uttered the words charged in the amended declaration and additional count, or a substantial part thereof, your verdict must be not guilty. And the court instructs the jury that the burden of proof is upon the plaintiff to show by a preponderance of the evidence that the defendant did utter said words under the circumstances charged in said declaration and that she uttered said words maliciously and with the intent to defame the defendant.

1565 17. The power to decide what evidence is admissible is vested in the court and is a question of law; and the jury are instructed that all references to evidence in these instructions mean only such evidence as the court has admitted in this case. Evidence offered but which was excluded by the court is not entitled to, and must not receive, any consideration from the jury in determining the issues. Neither must the jury give any consideration to, nor be influenced by, any evidence which they may have heard, but which was afterwards stricken out by order of the court. Evidence which was stricken out by the court must be totally ignored and treated as if it had not been heard.

1566 18. The court instructs the jury that it is the law in this case that if the evidence preponderates in favor of the defendant, or if the evidence fails to preponderate in favor of the plaintiff as against the defendant, or if the evidence is evenly balanced as between the contention of the plaintiff and the defendant, then in any such case the plaintiff cannot recover against the defendant and you should find the defendant not guilty.

1567 19. The court instructs the jury that the declaration in this case is merely the unsworn statement of what the plaintiff alleges, and it neither proves nor tends to prove any allegations contained in it. In weighing and considering the evidence and in deciding the case, the jury are not to consider the declaration or any statement in it as any evidence whatever of the truthfulness of the statement therein.

1568 20. The court instructs the jury that while you are the judges of the credibility of the witnesses, you have no right to disregard the testimony of an unimpeached witness sworn on behalf of either party to this suit, simply because such witness was called by said party, but it is the duty of the jury to consider the testimony of such witness in the light of all the evidence the same as you would the testimony of any other witness, and to determine the credibility of such witness by the same principles and tests by which you determine the credibility of any other witness.

1569 21. The court instructs the jury that no juror should consent to a verdict which does not meet with the approval of his judgment and conscience after due deliberation with his fellow-jurors, and after fairly considering all the evidence admitted by the court and the law as given in the instructions of the court.

1570 22. The court instructs the jury that it was the right and duty of the defendant, as dean of women of the University of Chicago, to investigate the character and reputation of the plaintiff, and that it was also the duty of the defendant to discuss the subject of the character, acts and reputation of the

plaintiff with the members of the faculty of the University of Chicago, or those persons connected with the University who then and there had jurisdiction and control over the deportment of the students registered at that institution, and with such other persons as had an interest in the subject-matter, if, in so doing, the defendant acted from honest motives and without malicious intent to injure or defame the plaintiff, and the court instructs the jury that the acts and statements of the defendant of and concerning the plaintiff, while the defendant was in the discharge of her duty as dean of women of said university, are qualifiedly privileged, and unless the defendant was moved by actual malice to utter the words charged in the amended declaration and additional count, if you find from a preponderance of the evidence that she did so utter them, your verdict must be not guilty.

1571 23. The court instructs the jury that no recovery in any event can be had in this case unless you believe from a preponderance of the evidence:

1st. That the defendant uttered the words (or a substantial part thereof), charged in the amended declaration and additional count, of and concerning the plaintiff in manner and form as set forth in the amended declaration and additional count.

It will not be sufficient that the defendant uttered equivalent or similar words, or words having the same meaning, but the words uttered must be a substantial part of the words charged.

2nd. That they were uttered in the presence and hearing of persons other than the plaintiff.

3rd. That the said words in their common acceptation amounted to charging the plaintiff with fornication or adultery.

4th. That the defendant in uttering said words did not utter them from honest motives and with good intent, but, on the contrary, with malicious motives and with intent to injure and defame the plaintiff.

5th. Unless the plaintiff has established all these propositions by a preponderance of the evidence, your verdict must be not guilty.

1572 24. You are further instructed that if you believe from the evidence that on or about December 8, 1910, the said plaintiff had a conversation with the defendant, and one Doctor Vincent, and that at said conversation the question of the propriety of the conduct or deportment of the plaintiff was raised, and that the said plaintiff then and there invited Vincent and said defendant to investigate her conduct and acts with a view of arriving at a decision as to the propriety of allowing said plaintiff to remain at the university, and you further believe from the evidence that such an investigation was undertaken, and that the conferences and conversations had thereafter on the 20th of December, 1910, and on January 9 and 10, 1911, were had at the invitation of the plaintiff, and that the plaintiff invited Henry D. Mercy and Warren E. Reynolds to hear and participate in such conference, then the plaintiff cannot recover herein for any words spoken at said conference with, of or concerning the plaintiff, no matter how slanderous or defamatory they may be, unless you further

believe from the evidence that the defendant was actuated by motives of malice in uttering any of the words alleged to be slanderous and so found by you; and unless you believe from a preponderance of the evidence that the defendant was so moved by malice in the premises, your verdict must be not guilty, provided you believe the words declared upon were not spoken as charged in the declaration on said 8th day of December, 1910.

1573 25. The court instructs the jury that unless the words uttered, if they were so uttered as charged, in their common acceptance amount to charge the plaintiff with having been guilty of fornication or adultery, such words are not actionable and the defendant is not guilty of slander, even though you may believe from the evidence that the said words were uttered maliciously and with intent to injure the plaintiff.

1574 26. The court instructs the jury as a matter of law that this case is to be tried by you and a verdict found upon the evidence offered in the court room and permitted by the court to go to the jury, and upon the law given the jury by the court; nothing heard outside of the court room, or read outside of the court room and not introduced in evidence must be considered by the jury. It would be the greatest impropriety and injustice and vitiate the verdict for any juror to act in any way upon anything that the court has instructed the jury not to act upon, no matter from what source it came.

1575 27. The court instructs the jury that no language, however malicious or defamatory, uttered in the presence and hearing only of the party defamed, is

actionable, and you are therefore instructed that there can be no recovery in this case for any language uttered by the defendant which was uttered at a time when the plaintiff only was present, or which was heard only by the plaintiff, and the jury are further instructed that even though you may believe from a preponderance of the evidence that the defendant uttered the alleged slanderous words set forth in the declaration, or any material part thereof, but that said words were uttered only in the presence and hearing of the plaintiff, then your verdict must be not guilty.

1576 28. The court instructs the jury that even though you may believe from the evidence that the defendant in the presence of others charged the plaintiff with being "a prostitute," or no better than a prostitute, nevertheless, no recovery can be had therefor for the reason that no such charge is made by the plaintiff in her declaration.

1577 29. The plaintiff is not entitled to recover upon proof of the speaking of words which are only similar to or have the same meaning as the words charged in the amended declaration and additional count, but are not the same words. She can only recover upon proving by a preponderance of the evidence the speaking by the defendant of some one or more of the alleged slanderous statements charged in the said amended declaration or additional count, or a substantial part thereof, in manner and form as charged, and if you do not so find your verdict must be not guilty.

1578 30. The court instructs the jury that it is not slanderous under the law of this state to say that a

person is a liar, or has lied, or to impute untruthfulness to a person, and even though you may believe from the evidence that the defendant spoke the words as charged, imputing untruthfulness to the plaintiff, nevertheless the plaintiff cannot recover in this action therefor.

1579 31. The jury are instructed that if under the instructions of the court they find from the evidence in this case that the plaintiff is not entitled to recover, they will not have occasion to at all consider the question of the plaintiff's damages.

1580 32. The jury are instructed that it is a principle of law that if you believe from the evidence that any witness or witnesses has or have wilfully and knowingly sworn falsely to any material matter or fact in the case, then the jury have the right to reject the entire testimony of such witness or witnesses except so far as the same may be corroborated, if at all, by other credible evidence, or by facts and circumstances appearing in the case.

1581 33. The jury are instructed that they are not required to believe a statement of fact to be true simply because some witness has testified it was true, if in view of all the testimony and facts and circumstances appearing in the case the jury do not consider it entitled to belief.

1582 34. The court instructs the jury that counsel in this case have the right to comment on the facts disclosed by the evidence and to discuss the law of the case; but counsel have no right to draw on their imagination for facts. And in this case, if the jury believe that statements have been made by counsel

not warranted or supported by the testimony, then the jury should disregard such statements. In considering of and arriving at a verdict herein the jury should not be moved by emotions of pity, ill will, revenge, but should consider the case coolly, calmly and indifferently as between the parties, and render their verdict in accordance with the law and evidence.

1583 35. The court instructs the jury that in a suit for slander the defendant has the right to prove that the defendant was not actuated by malice, and did not act in a reckless or careless manner; and if you believe from the evidence that the defendant had no malice against the plaintiff, and did not act with malice, or recklessly or carelessly as respects the matter complained of, then, if you have occasion at any time to consider the question of damages in this suit, you may consider such want of malice in mitigation of damages, if any are shown, and likewise, if you find from a preponderance of the evidence that the defendant acted without malice, you may consider such fact, if it be a fact in mitigation of damages, if any are shown by the evidence.

1584 36. The court instructs the jury as a matter of law that Marion Talbot is the defendant in this case and no one else. The University of Chicago, the faculty of that educational institution, the contributors to the fund by which said institution is supported, or any other person interested in the University of Chicago, other than Dean Talbot, are not on trial, and no verdict should be entered in this case against the defendant by reason of what any one else has said or done of and concerning the plaintiff, if any one

else has said or done anything, or by reason of the fact that the defendant in this case is connected with the University of Chicago, or by reason of the fact that the University of Chicago receives the funds for its support from various donors. You should try this case as a case between two individuals and not as a case against the University of Chicago.

1585 37. The court instructs the jury that the plaintiff cannot recover any damages in this action for any publication, utterance or repetition of the alleged slanderous words charged herein, which may have been made by any person other than the defendant.

1586 38. You are further instructed that no language, however insulting or abusive, even though uttered in the presence and hearing of a third person, is slanderous, unless the said words uttered in their common acceptance, shall amount to charge a person with having been guilty of fornication or adultery.

1587 To which action of the court in giving to the said jury said instructions (except No. 3), and each of them, the plaintiff by her counsel then and there duly excepted.

And the court then and there also gave to the jury, at the request of the plaintiff, each and all of the following instructions, Nos. 3 aforesaid and 39 to 45, both inclusive, to-wit:

1588 39. The court instructs the jury that all the plaintiff is bound to prove on her part to entitle her to recover in this case, is the speaking by the defendant of enough of the slanderous words charged in the declaration to amount to a charge of fornica-

tion against the plaintiff, and if the jury believe from the evidence that the defendant is guilty of the speaking of the slanderous words charged in the declaration of and concerning the plaintiff in the presence and hearing of others, and that said words impute fornication, then express malice or ill will need not be proved. Malice in its legal sense means a wrongful act, done intentionally without just cause or excuse. (*Given.*)

1589 40. The court instructs the jury that while it was necessary to entitle the plaintiff to recover in an action of slander that he should prove the slanderous words in the declaration or some set of them in some count thereof, still it is not necessary to prove all the words that are charged to have been spoken. It is sufficient to prove substantially any set of words which impute the crime of fornication, if any there are, in some one or more of the statements of the slanderous words contained in the declaration and the different counts thereof.

1590 41. The court instructs the jury that in actions for slander the law implies damages for the speaking of actionable words, and also that the defendant intended the injury the slander is calculated to affect, and the jury, in case they find a verdict of guilty, are to determine from all the facts and circumstances in the case what damages ought to be given and are not confined to mere pecuniary loss or injury.

1591 42. The court instructs the jury if they believe from the evidence that the defendant falsely and maliciously spoke of and concerning the plaintiff, in the

presence of others, any one or more of the sets of words alleged in the declaration, or some count thereof, which set of words in their common acceptation impute the crime of fornication, then the jury should find the defendant guilty and assess the plaintiff's damages, and in such case the jury may find exemplary damages.

1592 43. The court instructs the jury that if they believe from a preponderance of the evidence in this case that the defendant falsely and maliciously, in the presence of others, used or spoke to and concerning the plaintiff the following words, namely: "We know very well you are getting your money from men, or we don't consider you any more than a woman of the streets," they will find the defendant guilty, provided they believe from a preponderance of the evidence that the defendant meant by said language to charge or accuse the plaintiff of the crime of fornication, and said language was so understood by those who heard it.

1593 44. The court instructs the jury that when one person utters slanderous words concerning another, which, in their ordinary and common significance, impute the crime of fornication, it must be presumed it was in that sense they were used and understood by the bystanders who heard them, unless other words are used at the same time which limit or qualify the ordinary meaning of the slanderous words used. And a defendant, when sued, cannot excuse her guilty conduct by an explanation in her testimony that she did not use the words to impute the crime or offense thereby indicated; provided the

jury believe from a preponderance of the evidence that the defendant spoke the words as charged.

- 1594 45. The court instructs the jury that if you believe from the preponderance of the evidence that the general reputation for truth and veracity of any person who testified upon the trial of the cause has been successfully impeached, then you have a right to disregard the testimony of such witness as being unworthy of belief, but you are not bound to disregard it. It is for you to say, in the light of all the facts and circumstances in the case, whether any or all of his testimony is unworthy of belief, and you will give it such weight as you deem it is entitled to.

To which action of the court in giving to the jury said instructions above set forth, numbered 3 aforesaid, and 39, 40, 41, 42, 43, 44 and 45, the defendant by her attorney then and there duly excepted.

- 1595 All of the foregoing instructions which were given by the court to the jury were given in the order in which they are numbered, and were all the instructions which were given by the court to the jury in said cause.

And the defendant also presented and requested the court to give to the jury the following instructions, to-wit, numbered 46 to 60, both inclusive:

- 1596 46. The court instructs the jury that no conversations had by the defendant with, of or concerning the plaintiff, which were had only in the presence or hearing of the plaintiff, are actionable, no matter how malicious or false they may be.

And even though you believe from a preponderance of the evidence that on the 9th day of Decem-

ber, 1910, the defendant uttered the alleged defamatory words charged, or a substantial part thereof and that the clerk of the defendant was present in the room at the time of the utterance of the alleged defamatory words, but you further believe from the evidence that said conversation and said alleged defamatory words were not heard by any other persons than the plaintiff and the defendant, then your verdict must be not guilty.

1597 47. The court instructs the jury that no recovery can be had herein for any words, however malicious or defamatory, spoken by the defendant of and concerning the plaintiff at any other time than on the 9th and 10th of January, 1911, and if you believe from a preponderance of the evidence that none of the words, defined as slanderous by these instructions, were spoken on the 9th and 10th of January, 1911, then your verdict must be for the defendant.

1598 48. The court instructs the jury that even though you may believe from the evidence that the plaintiff uttered any one or all of the following alleged statements, and that the same were uttered maliciously, nevertheless, said alleged slanderous statements under the law of this state and the facts of this case do not amount to slander, and your verdict must be not guilty.

1599 49. You are further instructed that there is no evidence in this case that the plaintiff was refused registration at the University of Chicago or elsewhere, or refused permission to continue at said University by reason of any words uttered by the defendant.

1600 50. You are further instructed that even though you may believe from the evidence that the defendant uttered the words charged, or a substantial part thereof, and that said words were slanderous as defined by these instructions, and that the same were heard by a third person, nevertheless the plaintiff cannot recover in this action unless you further believe from the evidence that the defendant was moved to utter said words by express malice against the plaintiff.

1601 51. The court instructs the jury that if there are any words in the amended declaration and additional count charged to have been uttered by the defendant and which in their common acceptation impute untruthfulness to the plaintiff, nevertheless there can be no recovery therefor in this action under the law of this state.

1602 52. You are instructed that unless you believe from a preponderance of the evidence that the defendant uttered the words charged or a substantial part thereof, and that the defendant thereby meant to charge that the plaintiff was guilty of fornication or adultery, and that such meaning was so taken and understood by those hearing said conversation, then your verdict must be not guilty.

1603 53. The court instructs the jury that even though you may believe from the evidence that the defendant uttered the words in manner and form as charged in the amended declaration and additional count, but that the defendant in so uttering said words was not moved by malice and did not intend to impute or charge that the plaintiff was guilty of

fornication or adultery, you must find the defendant not guilty.

1606 55. The court instructs the jury that even though you find from the weight of the evidence that the defendant did not utter the alleged slanderous words in question, but spoke in a reasonably careful and prudent manner under the circumstances shown in the evidence, and as an ordinarily careful person would have spoken under like circumstances, and believing that said words were true, then the speaking thereof was not in fact malicious in the sense and meaning the defendant was actuated by any feeling of ill will against the plaintiff, or with a purpose to injure her.

1607 56. The jury are instructed that while the law permits a plaintiff in a case to testify in her own behalf, nevertheless the jury have a right in weighing her evidence and determining how much credence is to be given to it, to take into consideration the fact that she is the plaintiff, and that she is interested in the result of the suit.

1608 57. The court instructs the jury that even though you may believe from the evidence that the defendant uttered the alleged slanderous words set forth in the amended declaration and the additional count thereto, nevertheless, unless you further believe from the evidence that the defendant intended to impute or charge the plaintiff with having been guilty of fornication or adultery, such words would not be actionable, and you must find the defendant not guilty.

1609 58. The court instructs the jury that in this class

of cases strict proof of the words charged as slanderous, by a preponderance of the evidence, or a substantial portion thereof, is required, and a variance between the words charged and the words proved will defeat the plaintiff's action, and if you believe from a preponderance of the evidence that there is in this case a substantial variance between the words proved and the words charged, you should find the defendant not guilty.

1610 59. The court instructs the jury that there is no evidence in this case that the plaintiff was expelled from the University of Chicago by reason of the alleged slanders, or that by reason thereof plaintiff was deprived of her degrees at the University which otherwise she might have obtained, or that by reason of said alleged slanders she has been deprived of the right to enter any other university or college in the United States, or deprived of an education that otherwise she might or would have obtained. You are therefore instructed that no damages should be assessed against the defendant by reason of the said special causes above referred to, or that by reason of said alleged slanders she has been deprived of the opportunity or means of securing or retaining position or positions or earning a livelihood.

1611 60. The court instructs the jury that there is no evidence in this case whatever of express malice on the part of the defendant, and you are further instructed that it is the law of this case that even though you may believe from the evidence that the defendant uttered the words charged in manner and form as set out in the amended declaration and additional count, nevertheless your verdict must be

for the defendant because of the absence of evidence of express malice on her part.

- 1612 But the court refused to give said instructions as offered and requested by the defendant, numbered 46 to 60, inclusive, and marked said instructions "refused." To which action of the court in refusing to give to the jury said instructions (Nos. 46 to 60, inclusive), the defendant by her attorney then and there duly excepted.

And the plaintiff thereupon requested the court to give to the jury instructions herein numbered 61 to 65, inclusive, which were and are in words and figures following, to-wit:

- 1613 61. A person's reputation for truth is made by what his neighbors generally say of him in this regard. If they generally say he is untruthful, that makes his general reputation for truth bad. Upon the other hand, if a man's neighbors say nothing whatever about him as to his truthfulness, that fact of itself is evidence that his general reputation for truth is good. (*Refused.*)

62. The court instructs the jury that if they believe from a preponderance of all the evidence that the slanderous words set out in the declaration, or enough of them to accuse the plaintiff with fornication or adultery, were uttered in the presence of others by the defendant toward, against and concerning the plaintiff, and that the words so spoken were recklessly used, uncalled for and in excess of the occasion, then this fact is evidence of malice and the law will presume that the said language was uttered maliciously and with intent to injure the plaintiff. (*Refused.*)

1614 63. The court instructs the jury that to authorize a verdict for the plaintiff in an action of slander, it is not necessary that all the slanderous words alleged in the declaration should be proved, unless it takes them all to constitute the slander charged. And in this case, if the jury believe from the evidence that a sufficient number of words charged in the declaration to amount in their common meaning to a charge of fornication against the plaintiff have been proved by a preponderance of the evidence to have been spoken by the defendant, as charged in the declaration, then the jury should find the issues for the plaintiff. (*Refused.*)

64. The court instructs the jury that while it is necessary to entitle the plaintiff to recover in an action of slander that she should prove the slanderous words alleged in the declaration or some set thereof, in some count thereof, still it is not necessary to prove all the words that are charged to have been spoken. It is sufficient to prove substantially any set of words in some one or more of the statements of slanderous words contained in the declaration and the different counts thereof. (*Refused.*)

1615 65. The court instructs the jury that if they believe from the evidence that the defendant made the charge against the plaintiff, substantially as laid in the declaration, and thereby intended to charge the plaintiff with the crime of fornication, plaintiff is entitled to recover in this action, and the jury may, in estimating the damages, give, in their discretion, exemplary damages. (*Refused.*)

But the court refused to give said instructions as tendered and requested by the plaintiff and numbered

herein 61 to 65, inclusive, and marked said instructions "refused." To which action of the court in refusing to give said instructions to the jury (numbered 61 to 65, inclusive), the plaintiff by her counsel then and there duly excepted.

1616 And thereupon the defendant by her attorney requested the court in writing to require the jury to find specially upon the following interrogatories which had previously been submitted to the attorney for the plaintiff for examination by him before argument made to the jury, and which were afterwards submitted to the court, in words and figures as follows, to-wit:

"The jury are instructed that if you find for the plaintiff, you will answer the following interrogatories, to-wit:

Interrogatory 1. What words were used which are found by you to be slanderous, and by whom were such words uttered?

Interrogatory 2. On what date were the supposed slanderous words spoken upon which you find your verdict?

Interrogatory 3. Who was present and heard the supposed slanderous words spoken?"

Which interrogatories the court refused to give to the jury, to which action of the court the defendant by her attorney then and there duly excepted. And thereupon the court, of its own motion, and without submitting the same to counsel, gave to the jury the following interrogatory, to-wit:

1617 "Were there any persons present and heard the

supposed slanderous words spoken other than the plaintiff and the defendant?"

And required the jury to find specially thereon.

And thereon the jury retired to the jury room to consider of their verdict, taking with them to the jury room the instructions so given by the court aforesaid and the special interrogatory last aforesaid.

And thereupon the jury, having considered of their verdict, returned into court and rendered a verdict for the plaintiff in words and figures following, to-wit:

"We, the jury, find the defendant guilty and assess the plaintiff's damages at the sum of \$2500 Twenty-five hundred and no/100 Dollars,"

which verdict was signed by the jury, and thereupon, together with their said verdict, the jury rendered the following special finding upon the special interrogatory so submitted to them by the court as aforesaid, to-wit:

"Were there any persons present and heard the supposed slanderous words spoken other than the plaintiff and the defendant?"

"Yes."

Signed by the jury.

1618 And thereupon the defendant by her attorney moved the court to vacate and set aside the verdict so rendered by the jury aforesaid and to grant a new trial in said cause, and as for a ground of its said motion for a new trial on the 3d day of May, 1912, filed the following motion in writing, to-wit:

1619 Motion for new trial.

Now comes the defendant, Marion Talbot, by her attorney, and moves the court to vacate and set aside the verdict herein, and to grant a new trial in the above entitled cause, and as grounds for said motion said defendant shows to the court the following reasons, to-wit:

1. The verdict is contrary to the law.
2. The verdict is against the weight and preponderance of the evidence.
3. The court erred in admitting improper evidence over the objection of the defendant.
4. The court erred in excluding proper, relevant and material evidence offered by the defendant.
5. The court erred in refusing to exclude on the motion of the defendant improper, immaterial, incompetent and irrelevant evidence which was prejudicial to the rights, interest of the defendant.
- 1620 6. The court erred in permitting improper questions to be put to witnesses to the prejudice of the defendant.
7. The court erred in permitting the plaintiff's attorney to improperly comment upon the action and conduct of defendant's attorney in making proper objections to improper conduct and improper remarks of the attorney for the plaintiff and said plaintiff.
8. The court erred in permitting the plaintiff's attorney to make improper remarks in the presence of the jury in the course of the trial which were prejudicial to the defendant and which improperly influenced the jury to the prejudice of the defendant.

9. The plaintiff during the trial and in the presence of the jury used dramatic and extravagant language, gestures and attitudes not warranted by the occasion, which tended to and which did influence and prejudice the jury against the defendant.

10. The plaintiff made improper remarks, gestures and attitudes in the presence of the jury which were calculated to and did influence the jury to the prejudice of the defendant.

11. The court erred in permitting the plaintiff during the trial of said cause to use extravagant and spectacular language, delivered in a spectacular manner in the presence of the jury and not warranted by the occasion, which said language and conduct was calculated to and did improperly influence the jury to the prejudice of the defendant.

12. The jury were improperly influenced to the prejudice of the defendant by the conduct of the reporters of several newspapers had in the presence of the jury and in open court and during the recess thereof.

1621 13. The jury were improperly influenced by the improper, extravagant and spectacular headlines in the newspapers published during the period of said trial, whereby undue prominence was given to certain portions of the evidence and startling headlines were published by said newspapers prejudicial to the defendant, which of necessity came within the presence and hearing and sight of said jurors.

14. The court erred in permitting said plaintiff's attorneys to make improper gestures and remarks in the presence and hearing of the jury.

15. The court erred in refusing to instruct the jury to find the defendant not guilty because of the variance between the evidence and the allegations in the amended declaration and the additional count thereto. The said defendant here shows to the court the following grounds for said variance:

The testimony of plaintiff's witness, Henry D. Mercy, is that the defendant said:

"We have investigated you and we have found that you are an immoral woman and an unfit character for this institution."

"We have found out that you are getting money from men. We don't believe that you got your money from your uncle, but from men."

"We know you are an immoral woman of the streets, and we believe that you are getting money from men."

"We don't believe what you say. We do not believe you."

"We do not want you here any more. You are an unfit character for this institution."

"We have investigated your sister and we know she is a woman of the street."

While the testimony of the plaintiff's witness, Warren E. Reynolds, was that the defendant said:

1622 "We do not consider you any more than a woman of the streets."

"We know you are getting your money from men, or receiving your money from men."

"We do not consider you a fit character to remain in this institution."

"We consider you nothing more than a woman of the streets."

"We know very well you are getting your money from men."

"We do not consider you a moral character to remain in our institution."

Esther Mercy, the plaintiff, testified that the defendant said:

That I had "gotten my funds from men."

That I was "nothing but a woman of the streets."

"You know very well you are getting your money from men."

"I don't consider you anything more than a woman of the streets."

"You know very well you didn't get your money from Dr. Krumholtz; you get your money from men."

"I don't believe you received your money from your uncle; you have received your money from men."

"You are getting your money from men; and we don't consider you any more than a woman of the streets."

16. The court erred in refusing to grant defendant's motion to peremptorily instruct the jury to find the defendant not guilty at the close of the plaintiff's evidence in the case, and refused to give such instruction at the close of defendant's case, directing the jury to find the defendant not guilty.

17. The court erred in refusing to submit to the

jury the special findings tendered and requested by the defendant.

18. The court erred in refusing to grant and in denying defendant's motion, made at the close of all the evidence, to instruct the jury to find the defendant not guilty, and in refusing the instruction tendered by the defendant to find the said defendant not guilty.

1623 19. The court erred in refusing the motion of defendant to withdraw a juror at the close of the evidence and continue said case.

20. The court erred in improperly modifying the special findings tendered by the defendant and in submitting to the jury one of said special findings as so modified by the court, without submitting the same to defendant's attorney and offering him an opportunity to be heard thereon and to argue the same to the jury.

21. The court erred in refusing to allow the defendant to file a special plea of statute of limitations to the amended declaration and additional count thereto.

22. That the plaintiff's attorney made improper remarks during his argument to the jury, which remarks and comments were not warranted by the evidence in the record, and which remarks and arguments of plaintiff's said attorney were calculated to excite passion and prejudice in the minds of the jurors against the defendant.

23. The court erred in refusing proper instructions asked for on behalf of the defendant.

24. The court erred in improperly modifying cer-

tain of the instructions asked for on behalf of the defendant.

25. The court erred in giving improper instructions to the jury.

26. The verdict of the jury is excessive and not warranted by the evidence.

27. The verdict of the jury is the result of passion and prejudice of the jury against the defendant.

28. The court erred in refusing to exclude from the consideration of the jury the entire declaration herein, and each count thereof.

1624 And thereupon the defendant, in support of her said motion for a new trial, filed, exhibited and read to the court the affidavits of Frank Swan Anderson, Marion Talbot, Eva Roberta Robinson and Sophonisba Preston Breckenridge, together with the exhibits forming a part thereof, which said affidavits and exhibits were and are as follows, to-wit:

1625

AFFIDAVIT.

STATE OF ILLINOIS, }
COUNTY OF COOK. } SS.

FRANK SWAN ANDERSON, being first duly sworn, deposes and says that he is a resident of the City of Chicago, in the State of Illinois, and was such resident during all the time of the trial of the case of *Esther Mercy vs. Marion Talbot*; that during the month of March, 1912, he was in the employ of the University of Chicago; that during said period he resided at 6322 Morgan street, in said city; that during the period aforesaid he was in the City of Chi-

cago and in daily attendance in the business district of said city, in the vicinity of the court house, and elsewhere, in that portion of said city commonly termed "the loop district"; that from the 18th of March until the 5th day of April, 1912, while the case of *Mercy vs. Talbot* was on trial in the Superior Court of Cook County, he constantly observed on the news-stands in said district, and likewise in the residence districts, the newspapers published in said city; that said newspapers daily contained large
1626 display headlines, commenting on the evidence and calling attention to supposedly spectacular features in said trial, together with large pictures of the plaintiff and witnesses in said case; that said headlines, pictures and display type were easily discernible and readable for a distance, in many instances of twenty feet or more; that said trial was during the time it was in progress rendered notorious by the said newspapers by reason of the character of the display headlines and the manner in which evidence was reported, especially that for the plaintiff; that said newspaper reports were the constant subject, day and night, of the newspaper vendors' cries calling attention to the report of said newspapers; that the said public notoriety and newspaper comments on said case, and the newspaper vendors' cries concerning the same, came to the attention of this affiant in all public places; this affiant further says that during the course of said trial and while said pictures, headlines and large print so published in the newspapers, when upon the suburban trains bringing him to and from the center of the city, he not only saw the headlines across the car, but heard passengers

express opinions upon the trial of this case based on these headlines, and, especially, while the case was on trial, heard expressions of opinion based on said newspaper comments; that knowing the University did not desire any notoriety, but tried the issue upon the facts presented in court and under the idea that the jury were not permitted to see the newspapers, he was very much surprised at the publicity given the case; that the jurors might hear expressions of opinion and hear the comments at long distance, although they might not see the papers themselves; and this affiant further says that if any of said newspapers were taken into the family of any juror, or cast aside in a public place, unless
1627 said juror were without curiosity, he could not fail to observe at least some of the comments and contents of said newspapers so publicly displayed.

That attached hereto and made a part hereof, as Exhibits 1 to 26, inclusive, are portions of said newspapers so published during the period while said case was on trial, which said newspapers were purchased by affiant at the request of Mr. Wallace Heckman, business manager of the University of Chicago, during the period while said case was on trial, and are similar to the papers constantly displayed and vended by the newspaper dealers in said city during the period aforesaid. This affiant further says he secured the said newspapers with a view to being able to show the improper publicity given the case; that he is now employed by Carson, Pirie, Scott & Co. (retail store), and has no interest in the outcome of this case, and makes this affidavit to show

how the administration of justice was interfered with by the newspapers.

FRANK SWAN ANDERSON.

Subscribed and sworn to before me this 29th day of April, 1912.

GEORGE O. FAIRWEATHER,
Notary Public.

[SEAL.]

1628 STATE OF ILLINOIS, } ss.
COUNTY OF COOK.

MARION TALBOT, being first duly sworn, on oath says:

That she is Dean of Women of the University of Chicago, and the defendant in the above entitled cause.

Affiant says that she never uttered the alleged slanderous words as charged in the declaration or any count thereof.

Affiant further says that she never felt or ever had any grounds for malice towards the plaintiff, Esther Mercy.

Affiant further says that she was present throughout the entire trial of the above entitled cause, which trial began on Monday, March 18, 1912, and closed on Friday, April 5, 1912. That at times, as this affiant understands it, when certain discussions of law were heard in the court's chamber, out of the
1629 presence of the jury, when Mr. Walker and Mr. Boreman, attorneys for the defendant, together with Mr. Jennings, attorney for the plaintiff, were in chambers with the judge, various persons, whom

affiant believes were reporters from the newspapers, caused her great annoyance by attempting to take her photograph, even going so far, in the presence of the jury, as to place the camera on one occasion upon the judge's bench, and in order to avoid having her photograph taken, Mr. Wallace Heckman, attorney and business manager of the University of Chicago, stood between affiant and the camera.

This affiant further says that on a number of occasions, during the cross-examination particularly, the plaintiff would apparently burst into hysterical rage, without reference to the questions asked, and go on in her own way; and the court tried, without avail, to control her. That on one occasion, while the plaintiff was on the witness stand, as this affiant recollects it, on the 22d or 23d of March, 1912, when President Vincent of the Minnesota University, who was there as a witness for the defendant in this case, was seated in the court room, out of a clear sky and without any occasion, the plaintiff in a very hysterical and dramatic manner, yelled at him and pointed her finger at him, and said substantially: "Dean Vincent knows this is the truth, and he cannot look me in the eye and deny it."

This affiant further says that during the progress of the trial of this case, affiant sat on the west side
1630 of the table facing the jury, while the plaintiff sat on the east side of the table, and affiant was frequently looking away from the plaintiff and looking toward the jury, and while this affiant could not observe the conduct of the plaintiff, affiant did observe the conduct of the jurors, one at the south end of the rear row, whom affiant understood to be Juror

Dennis, and the other third from the south on the rear row, whom affiant believes to be Juror Brandt, with whom communication was evidently frequently had by some one sitting about where plaintiff was sitting, and that the said jurors frequently gave evidence of considerable embarrassment at the manner in which signs and attempts at communication with them were being made.

This affiant further says that during the progress of the trial of this case, from the 20th of March, 1912, when the table was placed in the court room for the use of the reporters, until the close of the case, and principally during the testimony of the plaintiff herself, affiant observed in the Chicago American, Chicago Examiner, Chicago Journal and Chicago Inter Ocean, newspapers published in the City of Chicago, large pictures of the plaintiff, either taken in the court room or for which the plaintiff posed outside of the court room, with large headlines commenting upon the case of the plaintiff, and commenting adversely to the defendant. That on the
1631 news-stands, on the street corners and in public places she has observed these pictures and headlines at considerable distance, and that she has seen the newspapers, identified by the affidavit of Frank Swan Anderson, and that among those papers this affiant has seen on the news-stands and in public places the Chicago Examiner of March 20, 1912, with picture and headlines; the Chicago Examiner of March 22, 1912, with picture and headlines; the Chicago Examiner of March 23, 1912, with picture and headlines; the Chicago Examiner of March 25, 1912, with picture and headlines; the Chicago Examiner of March 26,

1912, with picture and headlines; the Chicago Examiner of March 27, 1912, with picture and headlines; the Chicago Daily News of March 21, 1912, with headlines; the Chicago Daily News of March 22, 1912, with headlines; the Chicago Daily Journal of March 19, 1912, with picture and headlines; the Chicago Daily Journal of March 20, 1912, with picture and headlines; the Chicago Daily Journal of March 21, 1912, with picture and headlines; the Chicago Daily Journal of March 22, 1912, with picture and headlines; the Chicago Daily Journal of March 25, 1912, with picture and headlines; the Chicago Daily Journal of March 28, 1912, with picture and headlines; the Chicago Inter Ocean of March 27, 1912, with picture and headlines; the Chicago Evening American of March 20, 1912, with picture and headlines; the Chicago Evening American of March 21, 1912, with picture and headlines; the Chicago 1632 Evening American of March 22, 1912, with picture and headlines, and the Chicago Evening American of March 25, 1912, with picture and headlines.

This affiant further says that during the cross-examination of said plaintiff by Mr. Francis W. Walker, attorney for the defendant in this case, the said attorney, while interrogating the said plaintiff in reference to a letter, asked the witness to look at a document marked for identification, and to state whether or not it had been handed to the plaintiff by Mr. Wooten. The witness, without responding, and after the court had asked her whether she had ever seen the instrument before, and without any reference to the question, volunteered, in a violent, theatrical and excited manner, the remark, "I would

like to ask you if you know, Mr. Walker, that Mr. Wooten is an ex-convict?"

All of which matters and things this affiant believes were highly prejudicial to a fair and impartial trial of the issues in the case.

And further affiant saith not.

MARION TALBOT.

Subscribed and sworn to before me this 2d day of May, 1912.

TODD MASON,
Notary Public.

[SEAL.]

1633 STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

EVA ROBERTA ROBINSON, being first duly sworn, on oath says:

That she is the head of the Housing Bureau of the University of Chicago, and that she was a witness in the case of Esther Mercy against Marion Talbot, the trial of which was begun on the afternoon of Monday, the 18th of March, 1912, before his Honor, H. Sterling Pomeroy, sitting as a Circuit Judge of Cook County, Illinois. That she was present on the afternoon of the 18th day of March, and on the morning and afternoon of the 19th day of March, the jury being completed on the latter day, and opening statements being made. That on Wednes-
1634 day morning, March 20, 1912, at the opening of court, she was present, with the defendant, Marion Talbot, and she observed on that morning that there had been a table brought into the court room, and placed inside of the rail, where the lawyers and

jury sat, as distinguished from that part of the court room occupied by auditors not connected with the case; which table was occupied by reporters of the various newspapers, as she understood it, of the City of Chicago. That during that time, and through the trial, and largely during the time that the plaintiff was introducing her evidence, at the opening of court, and after the jury had been seated in the box, newspaper reporters were in consultation with the plaintiff, standing around her and chatting with her, in the presence of the panel, and at various times after the court had adjourned for the noon or evening hour, and before the jury had left the court room, reporters would gather around the plaintiff and her counsel, and talk with them within the sight of the jury, although this affiant cannot identify to what particular paper the various reporters belonged. That from the time the plaintiff herself took the stand, which, as this affiant remembers, was upon the 21st day of March, until she finished her testimony, including the cross-examination, as this affiant remembers it, on Monday, March 25, 1912, 1635 photographers representing, as this affiant understands and believes, some of the newspapers published in Chicago, principally the Chicago Examiner, Chicago Evening American, Chicago Evening Journal and the Chicago Inter Ocean, took photographs of the plaintiff and of various persons in the court room, in the open court room, and during the progress of the trial. That at times, as this affiant understands it, when certain discussions of law as to the admissibility of evidence and other legal matters were heard in the court's chamber, out of the pres

ence of the jury, when Mr. Walker and Mr. Boreman, attorneys for the defendant, together with Mr. Jennings, attorney for the plaintiff, were in chambers with the judge, the reporters would gather around the plaintiff and one of her counsel, Mr. Strohm, and photographers representing the various papers aforesaid, would photograph the plaintiff and others, in the presence of the jury, even going so far as to place the camera upon one occasion upon the judge's bench, and on some of those occasions the plaintiff would pose, for the purpose of having her photograph taken, and that on one occasion, while the counsel of the various parties were making arguments, as this affiant understands it, in the court's chambers, outside of the presence of the jury, while Mr. Wallace Heckman, attorney and
1636 business manager of the University of Chicago, was present, the camera was placed upon the judge's desk for the purpose of photographing persons connected with the University, and the plaintiff in this case; and all of this was done in the presence and sight of the jury; and that the said Wallace Heckman stood between the camera and the defendant and this witness, for the purpose of shielding them from being photographed, with his back to the camera.

This affiant further says that in going down the elevator from the court room on that day, and she believes some of the jurors were present, but is not positive, it was stated by persons in the elevator that persons connected with the University had turned their backs upon the plaintiff.

This affiant further says that with the exception

of one half day, this affiant was present during the entire trial, from the 18th of March until the close of the trial, on April 5th, and on a number of occasions, during the cross-examination particularly, the plaintiff would apparently burst into hysterical rage, without reference to the questions asked, and go on in her own way; that the court tried, without avail, to control her. That on one occasion, while the plaintiff was on the witness stand, as this affiant 1637 recollects it, on the 22d or 23d of March, when President Vincent of the Minnesota University, who was there as a witness for the defendant in this case, was seated in the court room, out of a clear sky, and without any occasion, the plaintiff, in a very hysterical and dramatic manner, yelled at him, and pointed her finger at him, and said substantially, "Dean Vincent knows this is the truth, and he cannot look me in the eye and deny it."

That on another occasion, when the defense was introducing its evidence, one Zimmerman was placed upon the stand to testify as to the bad reputation of the plaintiff's witness Reynolds for truth and veracity, when counsel for defendant asked the witness if he knew the plaintiff, and had ever seen her (referring to Esther Mercy), she jumped from her seat in the presence of the jury, and theatrically and in a violent and hysterical manner pointed to the witness in the court room and shouted, as this affiant remembers, "You look at me."

That after the testimony of said witness was concluded, the court requested the jury to step out a moment, and in the absence of the jury the court said, in substance, that if in the future there was

any outbreak, or any audible remark made by either party to the suit, they would receive some attention 1638 from the court, and said, "Now, don't let it happen again." No attention, however, was called to the plaintiff's conduct in the presence of the jury.

Affiant further says that on Thursday, April 4, 1912, when Mr. Walker had closed his argument on behalf of the defendant, and Mr. Jennings for the plaintiff had used half an hour of his time, which argument by him was resumed on the following Friday morning, this affiant, after the adjournment of court, when coming down in the elevator in which was one of the jurors that she recognized as Juror Patrick Maher, this affiant overheard the following conversation from a group of young women riding down in the same elevator, who had come from the court room after hearing the first half hour of Mr. Jennings' argument, in which an attack was made upon the University and its wealth, and about the poor little lone girl; and one said, "I hope the young fellow gets it," meaning, as this affiant understood, Mr. Jennings, plaintiff's attorney. Another one said, "Yes, he is talking for a woman." Another one spoke up and said, "No, more than that; he is talking for all humanity." And another one said, "Yes, and she is all alone; she hasn't a great, big university behind her, with a rich man like Rockefeller." On leaving the elevator, the Juror Maher 1639 stepped up to this affiant and said, "That is what we have to listen to, and take, all the time."

This affiant further says that during the progress of the trial of this case, from the plaintiff's seat behind her counsel, Mr. Jennings, which was on the

east side of the table at which the lawyers sat, the west side of the table being occupied by Mr. Walker and his client, which would bring his back most of the time to plaintiff and her attorney, the jurors sitting to the west, so that the plaintiff substantially faced them all the time at her table—that from the beginning of the introduction of the evidence to the close, the plaintiff flirted with, made eyes at and smiled at the jurors continually; and seemed, as this affiant recollects, to select, at least during the major part of the trial, the juror on the last row at the south end of the jury box, whom she understood was Juror Dennis; but after Mr. Walker's argument she directed her attention and her looks, grimaces and smiles to Juror Brandt, who sat third to the south end of the jury, on the back row.

This affiant further says that from Wednesday, the 20th of March, when the table was placed in the court room for the use of the reporters, until the close of the case, and principally during the testimony of the plaintiff herself, she observed in the 1640 Chicago American, Chicago Examiner, Chicago Journal and Chicago Inter Ocean, newspapers published in the City of Chicago, large pictures of the plaintiff, either taken in the court room or for which the plaintiff posed outside of the court room, with large headlines commenting upon the case of the plaintiff, and commenting adversely to the defendant. That on the news-stand, on the street corners and in public places she has observed these pictures and headlines at considerable distance, and that she has seen the newspapers, identified by the affidavit of Frank Swan Anderson, and that among

those papers this affiant has seen on the news-stands and in public places the Chicago Examiner of March 22, 1912, with the picture and headlines; the Chicago Examiner of March 25, 1912, together with the picture of Miss Mercy, and headlines; the Chicago Examiner of March 23, 1912, together with the picture and headlines; the Chicago Evening American of March 20, 1912, together with the picture and headlines; the Chicago Evening American of March 21, 1912, together with the picture and headlines; the Chicago Evening American of March 22, 1912, together with the picture and headlines; Chicago Daily News of March 21, 1912, together with the headlines; the Chicago Daily News of March 22, 1912, together with the headlines; Chicago Evening Journal of March 21, 1912, together with the picture and headlines; Chicago Examiner of Thursday, March 28, 1912, together with picture and headlines; Chicago Daily Evening Journal of March 28, 1912, together with picture and headlines; the Chicago Evening American of March 23, 1912, together with picture and headlines; the Chicago Daily News of Saturday, March 23, 1912, together with headlines; the Chicago Evening Journal of March 22, 1912, together with the headlines; the Chicago Evening Journal of March 25, 1912, together with picture and headlines; the Chicago Inter Ocean of Wednesday, March 27, 1910, together with picture and headlines; the Chicago Examiner of March 22, 1912, together with picture and headlines, and the Chicago Examiner of March 20, 1912, together with picture and headlines.

This affiant further says that during the cross-

examination of said plaintiff by Mr. Francis W. Walker, attorney for defendant in this case, the said attorney, while interrogating the said plaintiff in reference to a letter, asked the witness to look at a document marked for identification, and to state whether or not it had been handed to the plaintiff by Mr. Wooten. The witness, without responding and after the court had asked her whether she had ever seen the instrument before, and without any reference to the question, volunteered, in a violent, 1642 theatrical and excited manner, the remark, "I would like to ask you if you know, Mr. Walker, that Mr. Wooten is an ex-convict?"

All of which matters and things this affiant believes were highly prejudicial to a fair and impartial trial of the issues in the case.

And further affiant saith not.

EVA ROBERTA ROBINSON.

Subscribed and sworn to before me this 2d day of May, 1912.

[SEAL.]

TODD MASON,
Notary Public.

1643 STATE OF ILLINOIS, { ss.
COUNTY OF COOK.

SOPHONISBA PRESTON BRECKINRIDGE, being first duly sworn, on oath says:

That she is the Assistant Dean of Women in the University of Chicago. That she was present in the court room on the afternoon of Monday, the 18th day of March, 1912, at the opening of the trial of

the case of Esther Mercy against Marion Talbot, before His Honor H. Sterling Pomeroy, sitting as a Circuit Judge of Cook County, Illinois. The she was also present on the morning and afternoon of March 19, 1912, while the jury was being selected, and during the opening statements of the attorneys for the parties.

That on Wednesday, March 20, 1912,, at the opening of court, she was present, with the defendant, Marion Talbot, and she observed on that morning 1644 that there had been a table brought into the court room, and placed inside of the rail, where the lawyers and jury sit, as distinguished from that part of the court room occupied by auditors not connected with the case; which table was occupied by reporters of the various newspapers, as she understood it, of the City of Chicago.

That during that time, and throughout the trial, and largely during the time that the plaintiff was introducing her testimony, at the opening of court, and after the jury had been seated in the jury box, newspaper reporters were in consultation with the plaintiff, standing around her and chatting with her, in the presence of the panel, and at various times after the court had adjourned for the noon or evening hour, and before the jury had left the court room, reporters would gather around the plaintiff and her counsel, and talk with them within the sight of the jury, although this affiant cannot identify to what particular paper the various reporters belonged.

That from the time the plaintiff herself took the

stand, which, as this affiant remembers, was upon the 21st day of March, 1912, until she finished her testimony, including the cross-examination, as this affiant remembers it, on Monday, March 25, 1912, photographers representing, as this affiant understands and believes, some of the newspapers published in Chicago, principally the Chicago Examiner, Chicago Evening American, Chicago Evening Journal and the Chicago Inter-Ocean, took photographs of the plaintiff and of various persons in the court room, in the open court room, and during the progress of the trial.

That at times, as this affiant understands it, when certain discussions of law as to the admissibility of evidence and other legal matters were being heard in the Court's chambers, out of the presence of the jury, when Mr. Walker and Mr. Boreman, attorneys for the defendant, together with Mr. Jennings, attorney for the plaintiff were in chambers with the judge, the reporters would gather around the plaintiff and one of her counsel, Mr. Strohm, and photographers representing the various papers aforesaid would photograph the plaintiff and others, in the presence of the jury, even going so far as to place the camera upon one occasion upon the judge's bench, and on some of those occasions the plaintiff would pose for the purpose of having her photograph taken, and that on one occasion, while the counsel of the different parties were making arguments, as this affiant understands it, in the Court's chambers, outside of the presence of the jury, while Mr. Wallace Heckman, attorney and

business manager of the University of Chicago, was present, the camera was placed upon the judge's bench, for the purpose of photographing persons connected with the University, and the plaintiff in this case; and all of this was done in the presence 1646 and sight of the jury; and that the said Wallace Heckman stood between the camera and the defend- and for the purpose of shielding them from being photographed, with his back to the camera.

This affiant further says, that while she was not constantly present during the trial of said case, she was present during portions of every day from the 18th day of March, 1912, until the close of the trial on April 5, 1912, and on a number of occasions, this affiant being present, during the cross-examination of the plaintiff particularly, the plaintiff would apparently burst into hysterical rage, without reference to the questions asked, and go on in her own way; and the court tried, without avail, to control her. That on one occasion while the plaintiff was on the witness stand, as this affiant recollects it, on the 22d or 23d of March, 1912, when President Vincent of the Minnesota University, who was there as a witness for the defendant in this case, was seated in the court room, out of a clear sky, and without any occasion, the plaintiff, in a very hysterical and dramatic manner, yelled at him, and pointed her finger at him, and said substantially: "Dean Vincent knows this is the truth, and he cannot look me in the eye and deny it."

This affiant further says, that during the progress of the trial of this case, from the plaintiff's seat be-

hind her counsel, Mr. Jennings, which was on the east side of the table, the west side being occupied 1647 by Mr. Walker and his client, which would bring his side and back most of the time toward the plaintiff and her attorney, the jurors sitting on the west, so that the plaintiff substantially faced them all the time at her table—that from the beginning of the introduction of the evidence to the close, the plaintiff flirted with, made eyes at, and smiled at the jurors continually, and seemed, as this affiant recollects, to select, at least during the major part of the trial, the juror on the last row at the south end of the jury box, whom affiant understood was juror Dennis; but after Mr. Walker's argument she directed her attention and her looks, grimaces and smiles to Juror Brandt, who sat third to the south end of the jury on the back row.

This affiant further says, that from Wednesday, the 20th day of March, 1912, when the table was placed in the court room for the use of the reporters, until the close of the case, and principally during the testimony of the plaintiff herself, she observed in the Chicago American, Chicago Examiner, Chicago Journal and Chicago Inter-Ocean, newspapers published in the City of Chicago, large pictures of the plaintiff, either taken in the court room, or for which the plaintiff posed outside of the court room, with large headlines commenting upon the case of the plaintiff, and commenting adversely to the defendant.

1648 That on the news stands, on the street corners, and in public places, she has observed these pictures

and headlines at considerable distance, and that she has seen the newspapers identified by the affidavit of Frank Swan Anderson, and that among those papers this affiant has seen on the news stands and in public places, the Chicago Examiner of March 20, 1912, with picture and headlines; the Chicago Examiner of March 22, 1912, with picture and headlines; the Chicago Examiner of March 23, 1912, with picture and headlines; the Chicago Examiner of March 25, 1912, with picture and headlines; the Chicago Examiner of March 26, 1912, with picture and headlines; the Chicago Examiner of March 27, 1912, with picture and headlines; the Chicago Daily News of March 21, 1912, with headlines; the Chicago Daily News of March 22, 1912, with headlines; the Chicago Daily Journal of March 19, 1912, with picture and headlines; the Chicago Daily Journal of March 20, 1912 with picture and headlines; the Chicago Daily Journal of March 21, 1912, with picture and headlines; the Chicago Daily Journal of March 22, 1912, with picture and headlines; the Chicago Daily Journal of March 28, 1912, with picture and headlines; the Chicago Inter-Ocean of March 27, 1912, with headlines; the Chicago Evening American of March 20, 1912, with picture and headlines; the Chicago Evening American of March 21, 1912, with picture and headlines, and the Chicago Evening American of March 22, 1912, with picture and headlines, and the Chicago Evening American of March 25, 1912, with picture and headlines.

All of which matters and things this affiant be-

lieves were highly prejudicial to a fair and impartial trial of the issues in the case.

And further affiant saith not.

SOPHONISBA PRESTON BRECKINRIDGE.

Subscribed and sworn to before me this second day of May, 1912.

TODD MASON,
Notary Public.

[SEAL]

NOTE.—Filed with said affidavits and as a part thereof were certain exhibits referred to in the affidavit, being newspapers published during the time of trial aforesaid, which said exhibit attached to the record in an envelope at page 1650 thereof.

1651 And the defendant also read in evidence in support of her said motion for new trial the affidavits of Wallace Heckman, John J. Svec, Jr., and Joel Baker, which were and are in words and figures following, to-wit:

STATE OF ILLINOIS, } ss.
COOK COUNTY.

Wallace Heckman, being first duly sworn on oath, states that he is an attorney-at-law and is counsel and business manager of the University of Chicago; that he was present for short periods during most of the sessions of the court during the trial of the above entitled cause before his Honor, Judge Pomeroy; that early in the trial of said case, and to the best recollection and belief of affiant, before or at about the time of the commencement of the introduction of

testimony by the plaintiff, a table, approximately of the size of the lawyers' table in said court room, was brought into said court room and placed in the space within the bar of the court, commonly occupied by the members of the bar, and at a little distance from the lawyers' table to the eastward, at the side occupied by the plaintiff, and near where the plaintiff and her attorneys sat throughout the trial; that said table was occupied throughout the trial by young men and women who affiant was informed and believes were reporters for newspapers, and young men making use of cameras or kodaks in the taking of pictures of the plaintiff and witnesses and others in the court room during the trial of said case, and that while the judge was presiding and while the jury was in the box, it was a matter of frequent occurrence for cameras to be placed on the rail in front of the clerk's desk and on the top of the clerk's desk, the latter being approximately four feet in height from the floor, for the purpose of securing pictures of the plaintiff and others; that upon one occasion during said trial and on or about the 1st day of April, A. D. 1653 1912, while the court was in session and while the jury was in the box, and while his Honor, the presiding judge, was standing just within his chambers, where an offer of testimony was being made out of the hearing of the jury, a camera was being operated from the top of the clerk's desk, whereupon affiant, in order to shield the defendant and her witnesses from the embarrassment of having their pictures thus taken, contrary to their wish, and published in the newspapers, took a position with his back to the camera, and between said camera and the defendant

and her said witnesses, and that on the return of the court to the bench, it being no longer possible for affiant, with proper respect to the court, to occupy the position aforesaid, the pictures were apparently taken and continued to be taken from time to time in open court during the remainder of said trial, and publications thereof appeared in the newspapers from day to day during said trial; that upon another occasion, namely, upon about the 4th day of April, A. D. 1912, and while the court was in session and while the jury was in the box, and while his Honor was in chambers with Messrs. Jennings and Walker, the attorneys for the respective parties, attending to some matter incident to the trial, a camera was being operated almost immediately in front of the judge's desk, whereupon affiant again placed himself between the camera and the defendant and some of her witnesses to prevent said reporters from taking pictures for publication in the newspapers contrary to the wish of said parties; that shortly thereafter, his Honor having returned to the court room, affiant called his Honor's attention to the camera standing upon the top of the clerk's desk, whereupon the court directed the bailiff to order the reporters to "lower their cameras"; that thereupon the said bailiff took no notice of the camera last mentioned so standing on and being operated from the top of said clerk's desk, but went past the said camera and the person so operating the same, without appearing to notice either and without ordering the said person to lower his said camera, and went to the reporters' table, where
1654 no cameras whatever were at that time in view or being operated, and in a loud voice directed the said

reporters to lower their cameras; and that said bailiff thereupon returned to his place within the rail of the court and past the said camera then and there still being operated in front of the clerk in view from the bench.

Affiant further, in oath, states that during the trial and while the jury was in the box, and while the judge was in chambers, affiant noticed in the court room, within the space commonly occupied by members of the bar, persons not members of the bar reading, or appearing to be reading, newspapers; that said newspapers were so opened that pictures of the plaintiff and other persons connected with the suit as witnesses or otherwise, and the head lines accompanying such pictures, were in such position as to be visible from the jury box and so that the latter could be easily seen, if not read, by the jurors.

(Signed) WALLACE HECKMAN.

Subscribed and sworn to before me this 3rd day of May, A. D. 1912.

[SEAL.]

GEORGE O. FAIRWEATHER.

My commission expires February 19, 1913.

1655 STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

JOHN J. SVEC, JR., being first duly sworn, deposes and says that he is a resident of the City of Chicago, County of Cook and State of Illinois, residing at No. 3354 South Hoyne avenue, which last mentioned address is located in the southwestern portion of said city; that affiant daily attended the trial of the case

of *Esther Mercy v. Marion Talbot*, tried in this court from the 18th day of March, 1912, to the 5th day of April, 1912; that on or about the 19th day of March at 2 o'clock P. M., immediately after the jury had been impaneled in said cause, a table was placed in the court room for the accomodation of newspaper reporters who were there to write up the incidents of the trial of said case, to make sketches and photographs of the various persons interested in said trial; that said table was occupied by five or six reporters, accompanied by several messenger boys; that during the trial of said cause the said newspaper reporters, in open court and in the presence of the jury, made sketches and photographs of the plaintiff and various other persons associated in the 1656 trial of said cause; that cameras belonging to the newspaper reporters were constantly in evidence during said trial and very frequently in use; that at almost every recess of the court, and while the jury were still in the room, the said newspaper reporters took photographs and made sketches of the plaintiff in said cause, and crowded around and interviewed her, and by such means excited undue and unwarranted interest and attention which was centered upon the plaintiff and upon her case, and unduly excited public sympathy in her behalf; that on one occasion, while said cause was on trial, and in the presence of the court and the jury, a newspaper reporter placed a camera on the rail in front of the judge's desk, and then and there took a photograph of certain persons at the table immediately in front of the judge.

Affiant further says that while said case was on trial, he observed in the business district of said city and near his home, and in going to and from his home to business the various newspapers were offered for sale at the news stands and by news boys in various parts of the city; that the newspapers gave unwarranted prominence to the incidents of said trial, and expressed the various events of said trial in large and extravagant type calculated to attract the attention of passersby; that the said print was so large that it could be readily seen from one side of the street to the other; that affiant often heard the news vendors calling attention of the passersby to the headlines in the said newspapers, and that while riding in the Archer avenue cars, going to and from home, he often heard conversations and discussions in relation to the aforesaid case.

Affiant further says that during the entire time of said trial after the jury had been impaneled and until the rendition of the verdict, the court room was crowded with spectators, both inside and outside the bar, and the crowds gathered around the entrance to said court room, and great and public interest was manifested in said trial, not warranted by the issues
1657 and which wholly arose from extravagant, unwarranted and unjust newspaper reports and comments on said trial; that the attitude of the spectators in said court room was largely hostile to the defendant, and persons in the court room gave frequent expressions to their feelings on the subject of the case.

That during said trial it became necessary daily for the court to admonish the spectators not to give

expression to their feelings, either by voice or by conduct, and at numerous times was compelled to threaten with punishment persons giving expressions about the outcome of said case.

Affiant further says that all such matters and things were in the plain view and hearing of the jury and affiant believes that such acts and conduct influenced the jury in arriving at their verdict.

Further affiant sayeth not.

[SEAL.]

JOHN J. SVEC.

SUBSCRIBED and sworn to before me this 3rd day of May, 1912.

[SEAL.]

WILL H. CLARK,
Notary Public.

1658 STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

JOEL BAKER, being first duly sworn, deposes and says that he is and was during all the time hereinafter stated a resident of the City of Chicago, County of Cook and State of Illinois; that he was present at the trial of Esther Mercy *vs.* Marion Talbot, lately had in the Circuit Court of Cook County, and occupied a seat within the bar of the court room when said trial was had; that while said court was in session and hearing said case, this affiant observed Esther Mercy, plaintiff in said cause, in a number of cases smiling and nodding her head in the direction of the jurors in such manner as to attract their attention, and did so attract their attention; that very frequently during said trial while said court was in

session the plaintiff in said cause would smile at one of said jurors, and so conduct herself as to carry the impression that she was carrying on a flirtation with one of said jurors.

1659 That this conduct of said Esther Mercy in the presence of said jurors continued during the entire time of the trial of said cause.

Affiant further says that during said trial, and while a certain witness by the name of Zimmerman was testifying for the defendant, said Esther Mercy jumped to her feet and in a theatrical manner pointed her finger at said witness as he began his testimony, and shouted in a loud voice, "You look at me." Again, when the question was put to the witness as to the reputation of the plaintiff for truth and veracity in the neighborhood in which she resided, the plaintiff shouted in open court, "He never saw me."

Affiant further says that during the closing argument for the defense the said plaintiff, in a frenzied, dramatic manner, jerked off her hat and ran a pencil through her hair, intending thereby to indicate to the jury that her hair was not false.

Affiant further says that said trial was attended by one-half dozen or more newspaper reporters, who occupied a table within the bar of the court and in close proximity of the plaintiff in said suit, that there was frequent communication between the plaintiff and the said newspaper reporters, and at each recess of the court and before the jury left the room, these reporters would gather around the plaintiff and apparently interview her, and at various and sundry times, both during the trial of said cause and

at recess, photographers for said newspapers came into the court room and placed their cameras in conspicuous places and on the railings surrounding the judge's bench and took photographs of persons sitting in said court room, and particularly of the plaintiff.

Affiant further says that the trial of said cause was frequently interrupted by outbreaks and unseemly conduct on the part of spectators in sympathy with the plaintiff, and the court was called upon frequently to admonish those persons in the court
1660 room not to exhibit their feelings in the case in respect to the case by any laughter, smiles or words of disapproval.

And affiant further sayeth not.

JOEL BAKER.

SUBSCRIBED and sworn to before me this 2d day of May, 1912.

[SEAL.]

WALTER FLOYDD OLDS,
Notary Public.

1661 And thereupon the plaintiff in support of said verdict, offered, exhibited and read in evidence the affidavits of Edwin S. Bradshaw, Paul Brandt, William J. Dennis, Edward C. Hanson, Ralph E. Telfair, Theodore Wageldar, James T. Wright, Alfred Swindell, Willaid H. Child, Patrick E. Maher, George E. Voelker, John F. McKay, which said affidavits were and are respectively in words and figures following:

1662 STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

EDWIN S. BRADSHAW, being first duly sworn upon his oath, deposes and says that he was one of the regular jurors impaneled and sworn and who tried the case of *Esther Mercy vs. Marion Talbot*, Gen. No. 305134, Term No. 9438, in the Circuit Court of Cook County; that he did not read anything in any newspaper or newspapers in reference to or bearing upon the said case during said trial; that he refrained from reading headlines in the newspapers or observing any pictures therein having anything to do with or bearing upon said case because of the injunction of his Honor, Judge Pomeroy, who presided in said case, to the jury at the beginning of the trial to so govern themselves.

Affiant further states that he did not see any pictures taken in the court room by photographers for newspapers or at all either before, during or after court; that he was not influenced to any degree or in any respect in arriving at a verdict by newspaper reporters or spectators, or anything else except the law and the evidence in the case.

Affiant further states that plaintiff, Esther Mercy, 1663 did not at any time, nod to, bow to, flirt with, or attempt to flirt with affiant, nor so far as affiant knows did she ever do, or attempt to do any of these things with, toward or at any other juror in said panel, nor did this affiant or any other juror of said panel, so far as this affiant has been able to see or know, flirt with, or smile at said Esther Mercy.

Affiant further states that plaintiff, Esther Mercy,

was not located near the jury during said trial, but a table and the defendant and the defendant's counselors, advisors and friends intervened between plaintiff being in close proximity to the jury all of the time.

Affiant further states that the jury was never at any time able to hear any private remarks made, either by the plaintiff, her attorney or any of her friends.

Affiant further states that considerable merriment was caused at times during said trial by the animated tilts between the opposing counsels in the case, but that this did not influence the jury, either for or against the plaintiff or defendant, nor was this affiant able therefrom to tell whether the spectators favored the one side or the other, or what the newspaper reporters thought or desired or wished.

Affiant further states that during the argument of attorney Walker for the defendant said attorney stated in substance that, "Plaintiff's hair was false and that she was wearing a wig," and that then plaintiff took hold of her hair with her hands, and that this is the only time he observed plaintiff do anything to her hair during the trial, and this affiant 1664 states that he was not influenced one way or the other in arriving at his verdict, either by the statement of Mr. Walker that plaintiff was wearing a wig or by the action of plaintiff in taking hold of her hair.

Affiant further states that he did not hear any expression of opinion or statement from spectators or others upon the merits of the case or any phase thereof, nor did he hear any opinions or statement

on the elevators or on the trains or the street cars or elsewhere, except in this case.

Affiant further states that he did not at any time during said trial see any one reading newspapers in the court room, nor did he see any pictures thereon or any headlines therein, if there were any newspapers in the court room.

Affiant further states that the verdict in this case is the result so far as this affiant is concerned of his honest judgment, based upon the law submitted to the jury by the court and the evidence introduced upon the trial and UPON NOTHING ELSE.

EDWIN S. BRADSHAW.

1697 And thereupon the plaintiff offered to read in evidence in opposition to defendant's said motion for new trial the affidavits of Esther Mercy, plaintiff, and Ike Weil, to which the defendant, by her attorney, then and there objected, which affidavits were and are in words and figures following, to-wit:

1698 "STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

IN THE CIRCUIT COURT OF COOK COUNTY.

Esther Mercy	}	General No. 305125.
vs.		Term No. 9438.
Marion Talbot.		

ESTHER MERCY, being first duly sworn on oath, deposes and says that she is the plaintiff in the above styled cause, and that she testified in her own behalf in said cause and was on the witness stand for several days during her examination in chief and

cross-examination, and that the statements made therein by her then were and now are true. She states that she did not at any time, either during the absence of the court and counsel from the jury room or when the court was present see newspaper representatives or any one else take any photographs or make any pictures of any one in the court room. She 1698 states that she did not at any time pose for any pictures in the court room during said trial.

Affiant further states that she did not at any time during said trial bow to, nod at, flirt with or attempt to flirt with Jurors Dennis and Brandt, or either of them, or any other juror during the said trial, nor did any juror smile at, flirt with or attempt to flirt with this affiant during said trial.

1699 Affiant further states that during said trial she and her counsel were located a considerable distance from the jury and that a table and the defendant, the defendant's attorneys and advisers and friends separated this plaintiff from the jury.

Affiant further states that she did not, in consulting with her counsel or friends, ever at any time use any language that could have been heard or understood by any member of the jury, nor did she ever, by any means, action or conduct, influence or seek to influence the action of the jury, except to testify in the case as best she could and advise her counsel during the progress of the case.

Affiant further states that considerable merriment was caused at times during said trial by the animated tilts between opposing counsel in the case, but so far as this affiant was able to tell the spectators

gave no indication by their conduct as to where their sympathies were or whom they desired to have succeed in the case.

Affiant further states that during the argument of Attorney Walker he voluntarily made the statement to the jury (without any evidence to support the same) that this affiant was then "wearing a wig" and that she then either ran her pencil or her fingers through her hair. She states that there was no evidence in the room to the effect that she was wearing a wig and that it is not true that she then had on or was wearing a wig.

Affiant further states that she did not at any time communicate by word or sign or otherwise with Juror Dennis or Juror Brandt, or any other juror in said case during the progress of said trial.

Affiant further states that it is not true that during the progress of said trial newspaper reporters 1700 gathered around this affiant or attracted undue attention to this affiant.

(Signed) ESTHER MERCY.

Subscribed and sworn to before me this 11th day of May, 1912.

(Signed) WILLIAM V. BROTHERS,
Notary Public."

1701 "STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

IN THE CIRCUIT COURT OF COOK COUNTY.

Esther Mercy } Gen. No. 305,124.
vs. }
Marion Talbot. } Term No. 9,438.

IKE WEIL, being first duly sworn, upon his oath, deposes and says that he is the bailiff of the court of his Honor, Judge H. S. Pomeroy, Room 711 County Court House, and that he acted as such bailiff of said court during the entire trial of the case of Mercy *vs.* Talbot, lately tried therein.

Affiant further states that there were cameras or kodaks brought into the court room by persons representing newspapers during said trial and that this affiant from his place behind the clerk's desk did not observe a camera or kodak which was placed upon the rail in front of the clerk's desk at the beginning of the trial for a little time, but that immediately upon his attention being called to it, he had said camera or kodak removed and directed and ordered the newspaper reporters not to take photographs in the court room and to keep their cameras and kodaks out; that on one occasion, and only one, one of the newspaper reporters attempted to place a camera or kodak upon the desk of the clerk, and this affiant pushed said camera or kodak down from the desk and warned him that he would arrest him if the act
1702 was repeated and affiant states that the act was not repeated and that he never at any other time saw a camera or kodak upon either the rail or in front of the clerk's desk.

Affiant further states that the plaintiff and her counsel sat upon the opposite side of the table from the jury box; that defendant, her attorneys and friends occupied the space between the table and the jury box and around to the side of the jury box, so that defendant and her friends and attorneys were the only persons who were near enough to the jury for the jury to have seen any headlines or to have read anything in any newspaper, if there were any newspapers in the court room. All newspapers that were in the court room at all were at the reporters' table on opposite side of room from jury and were taken away by me at once. They were not close enough to jury for any juror to see or read anything in the papers.

Affiant further states that throughout the trial order prevailed and the spectators behaved themselves; that there was at times some merriment caused by the animated tilts between counsel on opposing sides, but that always quickly subsided.

1703 Affiant further states that he has never at any time felt or showed any interest in this case and has at all times been absolutely impartial and disinterested as between the parties.

(Signed) IKE WEIL.

Subscribed and sworn to before me this 10th day of May, A. D. 1912.

(Signed) DAVID JACOBSON,
Notary Public."

1704 And the court refused to allow said affidavits of Esther Mercy and Ike Weil to be read as aforesaid; to which action of the court the plaintiff, by her counsel, then and there duly excepted.

And thereupon the court having heard the argument of counsel on said motion for new trial on May 25, 1912, ordered that said motion be and the same was denied.

To which action of the court in denying said motion for new trial the defendant, by her attorney, then and there duly excepted.

And thereupon the defendant, by her attorney, moved the court in arrest of judgment, but the court denied said motion in arrest of judgment; to which action of the court in denying said motion in arrest of judgment, the defendant, by her attorneys, then and there duly excepted.

And thereupon the court then and there gave judgment upon said verdict for the sum of \$2,500 and costs.

To which action of the court in so rendering judgment on said verdict the defendant, by her attorney, then and there duly excepted.

And defendant thereupon prayed an appeal from said judgment to the Appellate Court of the First District of Illinois, which was allowed upon her filing an appeal bond to be approved and filed by the clerk of this court within thirty days from this date, and defendant was given ninety days in which to present and file a bill of exceptions or record of trial herein.

Certificate of judge to bill of exceptions, dated August 8, 1912.

Bill of exceptions filed in office of clerk of Circuit Court August 8, 1912.

1707 Stipulation by attorneys for respective parties that

original exhibits and affidavits may be incorporated in the bill of exceptions.

1708 Certificate of clerk of Circuit Court to transcript of record.

1709 ASSIGNMENT OF ERRORS.

Now comes the defendant, Marion Talbot, by her attorney, Francis W. Walker, and moves the court to vacate and set aside the verdict and judgment, and to enter judgment for defendant in the above entitled cause, and as grounds for said motion, said defendant shows to the court the following errors apparent on the face of the record herein:

1. The verdict is contrary to the law.
2. The verdict is against the weight and preponderance of the evidence.
3. The trial court erred in admitting improper evidence over the objection of the appellant.
4. The trial court erred in excluding proper, relevant and material evidence offered by the appellant.
5. The trial court erred in refusing to exclude on the motion of the appellant improper, immaterial, incompetent and irrelevant evidence which was prejudicial to the rights and interest of the appellant.
6. The trial court erred in permitting improper questions to be put to witnesses to the prejudice of the appellant.

7. The trial court erred in permitting the appellee's attorney to improperly comment upon the action and conduct of appellant's attorney in making proper objections to improper conduct and improper remarks of the attorney for the appellee and said appellee.
8. The trial court erred in permitting the appellee's attorney to make improper remarks in the presence of the jury in the course of the trial which were prejudicial to the appellant and which improperly influenced the jury to the prejudice of the appellant.
9. The appellee during the trial and in the presence of the jury used dramatic and extravagant language, gestures and attitudes not warranted by the occasion, which tended to and which did influence and prejudice the jury against the appellant.
10. The appellee made improper remarks, gestures and attitudes in the presence of the jury which were calculated to and did influence the jury to the prejudice of the appellant.
11. The trial court erred in permitting the appellee during the trial of said cause to use extravagant and spectacular language, delivered in a spectacular manner in the presence of the jury and not warranted by the occasion which said language and conduct was calculated to and did improperly influence the jury to the prejudice of the appellant.
12. The jury were improperly influenced to the prejudice of the appellant by the conduct of the reporters of several newspapers had in the presence of the jury and in open court and during the recess thereof.

13. The jury were improperly influenced by the improper, extravagant and spectacular headlines in the newspapers published during the period of said trial, whereby undue prominence was given to certain portions of the evidence and startling headlines were published by said newspapers prejudicial to the appellant, which of necessity came within the presence and hearing and sight of said jurors.
14. The trial court erred in permitting said appellee's attorneys to make improper gestures and remarks in the presence and hearing of the jury.
15. The trial court erred in refusing to instruct the jury to find the appellant not guilty because of the variance between the evidence and the allegations in the amended declaration and the additional count thereto, which said grounds of variance are specifically pointed out in appellant's motion for new trial in said cause.
16. The trial court erred in refusing to grant appellant's motion to peremptorily instruct the jury to find the appellant not guilty at the close of the appellee's evidence in the case, and refused to give such instruction at the close of appellant's case, directing the jury to find the appellant not guilty.
17. The trial court erred in refusing to submit to the jury the special findings tendered and requested by the appellant.
18. The trial court erred in refusing to grant and in denying appellant's motion made at the close of all the evidence, to instruct the jury to find the appellant not guilty and in refusing the instruction

tendered by the appellant to find the said appellant not guilty.

19. The trial court erred in refusing the motion of appellant to withdraw a juror at the close of all the evidence and continue said case.
20. The trial court erred in improperly modifying the special findings tendered by the appellant and in submitting to the jury one of said special findings as so modified by the court, without submitting the same to appellant's attorney and offering him an opportunity to be heard thereon and to argue the same to the jury.
21. The trial court erred in refusing to allow the appellant to file a special plea of statute of limitations to the amended declaration and additional count thereto.
22. The appellee's attorney made improper remarks during his argument to the jury, which remarks and comments were not warranted by the evidence in the record, and which remarks and arguments of appellee's said attorney were calculated to and did excite passion and prejudice in the minds of the jurors against the appellant.
23. The trial court erred in refusing proper instructions asked for on behalf of the appellant.
24. The trial court erred in improperly modifying certain of the instructions asked for on behalf of the defendant.
25. The trial court erred in giving improper instructions to the jury.

26. The verdict of the jury is excessive and not warranted by the evidence.
27. The verdict of the jury is the result of passion and prejudice of the jury against the defendant.
28. The trial court erred in refusing to exclude from the consideration of the jury the entire amended declaration herein, and each count thereof.
29. The trial court erred in overruling appellant's motion for a new trial and in refusing to grant a new trial.
30. The trial court erred in overruling appellant's motion in arrest of judgment and in entering judgment against the appellant.

Wherefore appellant prays that the judgment of the trial court be reversed, and that judgment may be entered herein for the appellant.

FRANCIS W. WALKER,
Attorney for Appellant.

HORACE K. TENNEY,
Of Counsel.

