Mr. Rees. I object to it and move that it be stricken out in so far that it relates to Thibault.

The Court. I sustain that part of the objection.

Mr. Riggs. Exception.

Mr. Rees. I move to strike out the answer on the ground that it is immaterial to any issue in the case.

The Court. I have already ruled on that. I have ruled that it is not material unless other testimony can be shown that this man had liquor in his room and gave other people liquor, that is no sign that he committed this other crime and would have no tendency to show that, unless it can be shown that he himself administered the liquor, and got them in that condition and then this other offense was committed. Mr. Riggs if you have got any testimony going to show that this man committed this offense, you should bring that on first, and then the other might be shown.

Mr. Riggs. We take an exception to the statement of the court. I wish to say this, that we expect to show by this witness and other witnesses that the charge in that article was true.

Mr. Rees. What charge?

Mr. Riggs. The charge that you have sued upon, that is this crime was committed, that they did have liquor in that building, and that this man Thibault, if he did not commit the criminal act himself it was through he was responsible for it; that is he brought around that condition that led to it.

The Court. If that is all there is to the defense there is no use to spend much time. If you have anything that tends to show that this man aided or assisted these other men in committing this crime, you have a right to show it. Now we must begin to understand where we are. I say that I don't think giving liquor to a person would intend to show that they were guilty of committing this crime.

Mr. Riggs. That is very true. Ordinarily it would not but if there was drugged liquor there in the school and it was used and this witness knows of it, and from the effect of the use of it it became so notorious, as we expect to show it I think we have a right to put it in.

The Court. Now, you always stop right there. If you stop there, it hasn't anything to do with the case. It seems that is the extent of the testimony. I have

kept ruling on that right along all day long, and I am going to continue on ruling that way until I am convinced that I am wrong. The fact that drugged liquor was there unless you can show that this man gave it to those children, and in addition to that aided these other men in committing this crime I don't see how you can show that even that is material in the case. If, in a debauch this man administered the liquor, and aided these other men in committing the crime, knowing it himself. being near where it was done and knew all about it then I presume you could charge that he assisted; but the mere fact of having liquor in the house even if he gave it to the children would have no tendency to show that he committed this crime, or assisted others in doing it.

Q. Did Thibault ever give you any of that liquor? Objected to as immaterial. Objection sustained. Q. Did Mr. Thibault ever give you any drugged liquor? Objected to as immaterial. Objection sustained. Q. Do you know of your own knowledge of the horrible crime of sodomy being committed in that building? Objected to as immaterial.

The Court. By whom? By Thibault, if you put that on, I will allow the question; otherwise I will sustain the objection.

Mr. Riggs. Exception.

Q. I understand you that you had some of that drugged liquor—now, may it please the court, I wish to show by this witness that he was put in that condition, and in that condition that crime was committed upon him.

The Court. By Thibault? If it was, we can show it.

Mr. Riggs. I am not certain just now.

The Court. Ask him the question, if Mr. Thibault ever committed this crime, I will allow you to ask the direct question.

Q. Was that crime ever committed on you there by reason of your having liquor and being made drunk? Objected to.

The Court. That is not the question.

Q- Was that crime committed there upon you in the school building there? Objected to.

The Court. By Thibault. If you put that in, it is material in this case; if it was somebody else, it has nothing to do with this case.

Mr. Riggs. If I can show by this witness that he was intoxicated by the one teacher——

The Court. And then somebody else got him in that condition and committed this crime—would that be material to show that this man committed this crime.

Mr. Riggs. Yes sir.

The Court. If you can show that he got him intoxicated for the purpose of having this other man do that, that may be material, but we cannot be allowed to guess at it.

Mr. Riggs. This is a question for the jury, I should say. Well, I shall have to ask the privilege of making an offer of evidence.

The Court. All right you may offer.

Mr. Rees. I object to any offer.

The Court. You had better ask your questions and I will rule on them.

Q—At the time that you got that liquor from Mr. Thibault——

Mr. Rees. Now I object to that, because that is assuming something that has not been testified to.

The Court. No, he didn't testify to that; at least it was not allowed.

Mr. Rees. Mr. Thibault in his testimony said that he never give liquor to any of the children except when their parents were present.

The Court. I allow that testimony on cross examination with the understanding that it should be followed up by other testimony. It is not material unless there is evidence showing some connection between the giving of the liquors and this charge.

Q. During the time that you were going to school there doing janitor work did you know of any drunken debauches taking place in the school building during the time that Thibault was there? Objected to as immaterial. The Court—Unless it can be shown that the drunken debauch was for the purpose of putting somebody in a position where they could do this it would not be material. Mr. Chadbourne—Under those circumstances such evidence is not material until counsel tells the court that he intends to introduce the other link in the chain. The Court.—If your defence is this, that simply because he gave liquors to the children, that it has a tendency to show the truth of this allegation in the declaration, that is no defence.

I am perfectly sure this is correct law, and I shall hold so. So if that is the position counsel takes, we might as well understand each other now. I have already intimated what could be shown; that is if they were gotten drunk for the purpose of, he knowing that it was for the purpose of committing the horrible crime upon them; then it is material and can be shown. Mr. Riggs—Your Honor we don't claim that we are bound by that innuendo that counsel put in; we don't claim that this declaration charges that charge; they insist that it does charge——

The Court—That is another question. That we will argue as a question of law when we get there. We are now discussing the materiality of this testimony and we might as well understand each other first as last.

Mr. Riggs—The Court holds that declaration charges that one charge only; and we claim it does not. We think we have a right to go to the jury; that that charge refers only to Gignac; to prove that it refers only to Gignac: to prove that the editors when they wrote it, that it does not refer to Thibault, that the horrible work referred to in the article——

The Court We have nothing to do with that. If what you say about the declaration is true, they are not in court.

Mr. Riggs The court will not allow evidence to show the condition of affairs there, to show that it does not have that application.

Mr. Riggs I offer this whole line of evidence, and offer to repeat it on the question of damages. I offer to show the conduct of this teacher as a school teacher on the question of damages.

The Court His general reputation, you can show.

Q. Do you know of Mr. Thibault furnishing any liquors to girls there in the school. Objected to as immaterial.

The Court. If they can show that he did it for the purpose——

Mr. Riggs About outraging the boys.

The Court If you can show that he furnished for the purpose of putting these people in this condition you can show it and it is your duty to furnish that under the repeated rulings that we have had on this subject, it is your duty to show that you can furnish that testimony before we go any further.

Mr. Riggs Then I understand from the court that we have the right to put in no testimony.

The Court I have repeatedly stated what my position was and I am not going to repeat it many more

times I have told you under what circumstances proof of giving liquor might be put in there. The mere fact of giving liquor is not material.

Mr. Riggs Well, I admit the proposition in criminal law is all right, but I think the declaration counts on horrible work both to girls and boys, and it seems to me we would have the right to show the giving of liquor to girls.

The Court As I said before, if you could show it was given to the girls for the purpose of putting them into the condition where they would yield and they submitted to the outrages of these teachers, and this man knew that by doing that it would put them in that condition, it would be material but you should prove this before you can be allowed to put in any more testimony in regard to this.

Mr. Riggs I do claim we will prove that very fact? I offer to prove that the crime was committed by the other teacher.

The Court That is that liquor was given by this man and the other man committed the other crime of sodomy.

Mr. Riggs Yes, I offer to prove the fact that sodomy was committed. I can't prove that for the reason that I am not allowed to establish that this man aided and abetted in doing it. When I undertake to prove that this man aided and abetted by giving these parties intoxicating and drugged liquor, and then under those circumstances the other act was committed, then I am shut off on that.

The Court You have thus far utterly failed to connect the two.

Q. Now, is it true or not, witness, that you were outraged by Gignac, the teacher there through the means and by the effect of liquors that you got in Thibault's room? Objected to as leading, incompetent and immaterial.

The Court That certainly would not be a proper form of question to witness. Objection sustained.

Q. Do you know whether Thibault was in the school building at the time when this crime of sodomy was committed upon you? Objected to as immaterial.

The Court He can answer that by "yes" or "no."

A. Yes sir. Q. He was in the building? A. Yes sir.

Mr. Rees. We object to that, and move that it be stricken out as immaterial.

The Court Now Mr. Riggs, you have to show that this man Thibault knew about this. If he was in the building that is no proof that he knew of it.

Q. At the time that that act was committed, or at the times was it when school was in session or in the night time? A—It was during school hours and at night time. Q. How many times do you know of that offense taking place there in the building?

Mr. Rees. I object to this going any further.

The Court By whom?

Q. Well, do you know of any boisterous dancing and hollering on the part of the boys? Objected to as immaterial.

The Court Where—in Thibault's or Gignac's room?

Mr. Riggs Well, either. In the school building when there was no school. Objected to as immaterial.

The Court Would that have a tendency to show the commission of the crime of sodomy by the plaintiff?

Q—Do you know why Gignac was run out of Lake Linden? Objected to as immaterial. Objection sustained. Q—Do you know whether this man Vandestine was connected with these outrages being committed upon the boys? Objected to objection sustained, and defendant excepted. Q. Who were the teachers in the school at the time that these outrages were committed? Objected to as immaterial.

The Court The question as to who were the teachers has been gone into. I will allow the question.

Mr. Rees Exception.

A—Gignac, Thibault, Vandestine, and Mrs. Bailey and Miss Pichette. Q—That covers the period of time that these teachers were engaged in teaching the school? A—Yes sir. Q—Do you know what time of day or night the boys were in the habit of going to that room? Objected to as immaterial.

The Court Whose room?

Mr. Riggs To the school building, for the purpose of having that crime.

Mr. Rees That is assuming something of which there is no evidence, that the crime was committed there.

Mr. Riggs That is very true. We cannot prove it. we want to get enough on record so that we are safe. The objection sustained and defendants excepted.

Q—Well, at the time that the boys was going right along opposite Thibault's room and office? Objected

to as immaterial. Q—While Thibault was there in the room?

The Court—You need not answer that.

Mr. Riggs Exception.

The Court—If you can show that Thibault was there then you have a right to show it. If you can show anything that tends to show that Thibault committed this crime.

Mr. Riggs The charge in the article, where it speaks of horrible work, I understand you keep that confined to the same ruling.

The Court It all has reference to this same matter. The whole thing refers evidently to this one crime.

Q. When did you quit going to school there? A. About two years ago. Q. Now, have you seen boys drunk in Thibault's room? Objected to as immaterial.

The Court. Unless it can be followed by proof showing that he did it for the purpose of putting him in condition so that the other man might commit this crime, the objection is sustained, and under the statement of counsel, I suppose we cannot show it, and hence the objection is sustained.

Q. Do you know of any conduct, or any acts taking place between Mr. Thibault the plaintiff, and any of the girls attending the school, such as improper conduct not amounting to illicit intercourse. A. Yes sir. Objected to as immaterial.

The Court Do you claim, Mr. Riggs, that you have a right to show any kind of improper conduct, or any conduct under the pleadings? Supposing he kissed one of the girls that wouldn't be proper conduct for a school teacher, under certain circumstances. Do you claim you would have a right to prove that to the jury to show the truth of this article?

Mr. Riggs That is all with this witness. We have finished calling witnesses. I don't wish to speak before the jury. If the jury could be discharged for a short time. The court also says that what took place between teacher and the girls is immaterial matter.

The Court That depends on the form of your question—all kinds of relationship between the teacher and the girls wouldn't be material.

Rose Varrier sworn for the defendants testified as follows: Examined by Mr. Riggs.

Q. Did you ever go to St. Anne's Academy in Lake Linden? A. Yes sir. Q. To which teacher? A. I went for about a day and a half to Mr. Vandestine, and

then a couple of days or half a day to Mr. Thibault, I think it was, and the remainder of the time to Mr. Gignac. It was about 6 months to Mr. Gignac. Q. Were you ever asked to do any work around that school building? Yes sir. Q. What work was it? A. Once to make Mr. Thibault's bed. Q. Who asked you to do that? A. Mr. Gignac.

Mr. Chadbourne I move that be stricken out. I move the other be stricken out as immaterial.

The Court Let it stand for the present.

Q. Do you know of Mr. Thibault's using any filthy language there in that school? Objected to as immaterial. A. Yes sir.

The Court Unless it is followed up.

Mr. Chadbourne It seems to me that the counsel should be required to put in some evidence at this time if he has got it, to prove the connection of the plaintiff with this crime of sodomy.

Mr. Riggs We haven't got any evidence of that nature. We cannot prove the incidental act.

The Court Then I sustain the objection.

Mr. Riggs. Of course we cannot prove the direct act the same as we could against the teacher Gignac and we may as well have it on the record now, and stop here. I claim this, that where this paper spoke and used the words "This horrible work" it did not mean just that one previous charge.

Q Did you see Mr. Thibault at any time playing with an apple there in the school? Objected to as immaterial.

The Court Under the statement that the attorney has made that he cannot directly connect Mr. Thibault or that he hasn't any testimony to show that he committed this crime charged in this article, I sustain the objection.

Q Do you know as to his throwing up an apple in the school however, in the presence of the children and letting it come down and rubbing it over——

Mr. Rees I object to going any farther with that question.

Q Can you tell what was done with the apple?

Mr. Chadbourne I object to it as immaterial under the statement made by the counsel himself.

Mr. Rees We know about that transaction, from the question asked the plaintiff.

The Court I don't see what that can have to do with this crime or this statement in this paper.

H. A. Sessions sworn in behalf of the defendants testified as follows: Examined by Mr. Riggs.

Q. You are one of the defendants in this case? A. I am. Q. There is a copy of the declaration. Now you have read this article upon which suit is brought? A. I have. Q. Did you hear any reports coming up concerning the Lake Linden school? Objected to as immaterial. A. I did.

The Court I suppose that is a preliminary question. He has answered it.

Q. What was the nature of the reports that you heard? Objected to as immaterial and incompetent.

Mr. Rees With the understanding that this is offered only in mitigation of damages, I am not sure but under the rulings of this state, it is admissible.

The Court I will overrule the objection. You can have an exception.

Mr. Rees I ask if this be confined to the time previous to the publication?

Q. Yes, previous to the publication. A. It is a long story. Q—Well, go on.

Mr. Rees I think it is objectionable, to go into the details of the reports.

The Court If it is material at all you can show the whole report, as bearing upon the case.

A—The reports about the first were concerning Gignac. Q—What was the nature of the reports? A—The reports were that boys and girls were abused in the the school. Q—Make yourself a little more explicit. A—That there was illicit intercourse going on in the school between the masters of the school and girls and women, and that Mr. Gignac was charged with committing the crime of sodomy with the boys; that the school house was a resort for men and women at all hours of the night; that liquor was kept in the school and used as you might say, as a bait, and children were taught to drink liquor, and they were taught incest. Q—At that time when you first heard of this did they mention particularly which teacher, or just the teachers? A When I first heard it it was in a general way as teachers, the male teachers of course. Q. At that time there were no other teachers except those three?

Mr. Rees Yes, two women teachers.

Q. It had reference to the male teachers? A. It did Q. And to those only? A. To those only. The reports

were that these men roomed in the convent, made it their home, made it convenient for all these things to go on. Q. At that time did you know this man Thibault at all? A. I did not. Q. Did you know Gignac? A. I did not. Q. Did you know Vandestine? A. I did not. Q. Did you have any ill-will or malice towards any body the school or the teachers? A. I did not. Q. Did you take any method to learn what was going on down there? A. I did. Q. Now you have read this article. The words "Horrible work" used in that article—to what do they refer. Objected to as immaterial and incompetent. The meaning of the words must be drawn from the words themselves, not from what this man may say.

The Court. If the words are perfectly clear that is the rule. It strikes me this refers directly to the other charge, that is to the main charge, and all the charge there is in this declaration, in the first part of the publication I mean. I think with that view I will sustain the objection because I don't think there is any patent ambiguity here.

Mr Riggs. Note an exception. Then, as I understand it, the defendant has been urging me to suggest to the court that there is only one thing. This "Horrible work" simply refers back to the previous allegation which is sodomy.

The Court. We haven't had much discussion on that subject. It is going to be material I suppose in the decision of this case. If you have any authorities we might as well dispose with that question now.

Mr. Riggs. We don't claim that the article charges the plaintiff with sodomy but this "Horrible work" has reference to the general condition of horrible work in that school. That is our claim.

The Court. I will adhere to my ruling. It seems to me it is clear from the authority that the ruling is correct.

Q. Now, Mr. Sessions, you say you investigated the matter, did you? A. Personally? Q. I don't care whether you done it personally or how. Did you investigate or cause it to be investigated? A. I did. Q. In that investigation did you learn that it was true. Objected to as immaterial, if it is attempted in the case of the charge against the plaintiff Q. You have read that article? A. I have. Q. Is all the facts of that article with reference to Gignac and Vanderstine and the scholars there true. Objected to as immaterial.

Objection sustained.

Q. In your investigation did you hear it in such a way that you believed it to be true from the reports that you heard?

Objected to as immaterial.

Objection sustained.

Q. Did you learn all the facts as published in that article, did you learn them and believe them to be true before you published the article? A. I did. Q. Now, did you have any conversation with the parents concerning that school before the publication? A. In one way I did and in another I did not. Q. I understand that an editor of a paper has a great many sources of information, and of course a great many people are working for them? A. In one way he has and in another way he has not. Q. Did you have your reporter at work upon that? A. I did. Q. Is he a competent reliable person to gather up news? A. I have always considered it so. Q. In writing this up did you exercise the same care that you would in writing up any other item of news of equal importance.

Objected to as immaterial.

Objection overruled and plaintiff excepted.

A. I did. Q. How long did you hear that this work had been going on down there at that school

Objected to as immaterial. Objection overruled and plaintiff excepted.

A. I heard it was going on approaching 4 years. Q. What would you say as to the character of a teacher who would take liquors into a school.

Objected to as incompetent and immaterial. Objection sustained.

Q. This man Vandestine, mentioned in the article, brought suit against you, did he not?

Objected to as immaterial. Objection overruled.

A. Yes sir. Q. What was the result of that trial?

Objected to as immaterial. Objection sustained and and defendants excepted.

Q. Did you hear this man Vandestine's testimony on that trial?

Objected to as immaterial. Objection sustained.

Mr. Riggs. I wish to show that this man Vandestine admitted that he was aware of the conduct of Gignac in that school.

The Court. Objection sustained and defendants excepted.

Q. When that article was published with the words "Two Devils," Vandestine and Thibault—does that refer in the article to the particular crime of sodomy.

Objected to as incompetent. Objection sustained and defendant excepted.

CROSS EXAMINATION,

By Mr. Reese.

Q. From whom did you first learn about this matter at that school, the first intimation that you had of it personally? A. The first intimation was a long anonymous letter. Q. Do you know from whom it came? A. I do not. Q. From whom did you next receive any information? A. I think the next came through a reporter employed on the paper, Louisa Hargraves. Q. How long was it before this publication that you received this anonamous letter? A. I think it was 4 days. Q. About the 14th then? A. I think that it was on Tuesday that I received that letter. Q. And the publication was? A. On Saturday following. Q. Then the extent of your investigation of this matter was from Tuesday to Saturday was it? A. That was the extent of my investigation. Q. Or the extent of any investigation made in your behalf? A. No sir. Q. Did you commence to investigate before you knew any thing about it. Is that what you mean? A. I received the result of investigation and knowledge of others who had known of this for a long time. Q. How long? A. Two or three years. Q. Before or after the publication? A. Known of it for three years after the publication do you mean? Q. When did you hear that from these people before or after the publication? A. before the publication. Q. You directly or through someone? A. It came to me directly. Q. From those people to you directly? A. It did. Q. Did you go to Lake Linden and examine them? A. I did not. Q. Did they come to you? A. They did. Q. Who were they?

Mr. Riggs. To that we object. Objection overruled and defendants excepted.

A. This came from a family who lived near the convent. Q. Who were they. A. Miss Hargraves and her mother. Q. I thought Miss Hargraves was the reporter you have already mentioned. A. She was. Q. She has known of this two or three years? A. Yes sir. Q. Who were the others? A. That is all, before the publication. That is all the facts that

came to me from Lake Linden. Q. Isn't it a fact that before this publication was inserted in the paper the only one with which you talked, and from whom you personally derived any knowledge of this matter was Miss Louisa Hargraves, so-called? A. My partner. Q. I am not talking about your partner. about you. A. Mr. Phipps was at Lake Linden, spent two days there, and everything that he heard and told me corroborated all that was stated in the article. Q. Did he tell you before this publication? A. Yes sir. I couldn't tell you where he got his information. Q Is Mr. Phipps here? A. He is not to my knowledge. Q. Now, so far as you are concerned, the only knowledge you had got of this matter before it was actually published was from your partner Mr. Phipps, and from Miss Louisa Hargraves? A. And her mother. Q. Whose mother? A. Miss Hargraves. Q. What is her name? A. Mrs. Gordon. Q. This Miss Louisa Hargraves is the same person who used to be known as Cynthia Gordon? A. She has been known by that I think. I never knew her by that name. Q. You board with them? A. Not at present. Q. You were boarding with them at that time? A. I was. Q. Where were you boarding at that time, what town? A. Red Jacket. Q. That is where Mrs. Gordon and Miss Hargraves were living? A. At that time, yes sir. Q. How long previous to that publication had they lived there and you had boarded with them? A I think we boarded with them about a month, I am not sure. Q. You and Mr. Phipps both? A. Yes sir. Q. Before this publication did you talk with George Gordon about this matter? A. I don't remember. Q. Was she in the same house as her mother? A. She was. I think I did talk with George Gordon about it; I feel quite certain I did. Q You yourself did not go outside of your office for the purpose of personally investigating this, did you? A. Except through these folks. Q. I say for that purpose you yourself did not go anywhere or do anything towards investigating this record did you? A. I think not. Q. Did you insert this article solely on the strength of what Miss Louisa Hargraves told you in connection with what Mr. Phipps told you? A. The anonymous letter had certainly an influence. At that time there had been several reports in the Mining

Journal. Q. I understood you to say that the anonymous letter was the first thing you ever knew about it? A. You asked me nothing about any reports in any paper. Q. I asked you where you got your first information with reference to this matter. A. You didn't ask me where I got all my subsequent information. Q. You said the first was the anonymous letter did you not? A. that was the first. Q. Then you based this publication entirely upon this anonymous letter, the report of Miss Louisa Hargraves and what Mr. Phipps said? A. The report in the Mining Journal. Q. When was the report in the Mining Journal? A. I think it was on Friday previous --Thursday or Friday previous to the publication of the article. Q. Wasn't the report in the Mining Journal the first thing that was published in the Mining Journal something which commented on your article? A. I think not. Q. Are you positive that the first publication in any paper aside from yours was one which commented on your article after it had been published? A. I think not. Q. You are not sure of that are you? A. I feel sure in my mind that there was an article published in the Mining Journal which have these facts. I feel sure, but I may be mistaken. Q. Did the article in the Mining Journal say that Mr. Thibault was guilty of anything, even of impropriety? A. I don't know that it did. Q. So that what you have said about Mr. Thibault was not based upon anything you saw in the Mining Journal, was it? A. I don't think so. Q. Did the anonymous letter say anything about Mr. Thibault? A. It involved the teachers of the school; it didn't mention names. It fastened any impropriety which might have occurred in the school on all of them. Q. Then so far as Thibault is concerned the basis for your publication was the anonymous letter, Miss Hargraves and Mr. Phipps? A. Mrs. Gordon had a little knowledge. Q. You didn't say that you talked with her before the publication? A. Ask the reporter to read it? Q. Well, then Mrs. Gordon, Miss Louisa Hargraves and the anonymous letter and Mr. Phipps are all on which you based any charge against Mr. Thibault. Is that right now? A. I think so. Q. The articles which have appeared subsequently to the original one which are introduced in evidence, I suppose are written either by you or published through you with your knowledge? A. Published

with my knowledge, yes sir. Q. That is you do not deny the responsibility of what was in that paper.

Objected to as incompetent and immaterial.

The Court. What is the bearing of this.

Mr. Rees. Only as bearing upon the question of damages on the question of malice.

Objection overruled and defendants excepted.

A. I do not.

RE-DIRECT EXAMINATION,

By Mr. Riggs.

Q. When did you visit that school last, St. Anne's Academy? A. Last Thursday night. Q. In company with whom? A. Father Latelier. Q. Who are teachers there now?

Objected to as immaterial.

The Court. What has that got to do with this?

Q. Then did Gignac go away?

Objected to as immaterial. Objection overruled and plaintiff excepted.

A. About the middle of February; I don't remember exactly. Q. Right after the publication of this article?

Objected to as immaterial. Objection overruled.

A. I can't fix the date exactly in my mind at present; I knew at the time but I don't remember now. It was on or about the time of the publication of the article.

Q. I understand you to say that you had heard various charges of horrible work down there. In the publication had you any malice towards anybody? A. No I had no malice towards anybody. Q. I wish to call your attention to this article: "Two devils run out of Lake Linden" To whom did that refer.

Objected to as immaterial.

The Court. I have just ruled on that a moment ago. If you expect to vary the writing, the objection is sustained.

Mr. Riggs. Exception.

Q. "Two Lake Linden teachers guilty of horrible crimes." "Over 30 children outraged." Was that true?

Objected to as immaterial and incompetent.

Q. Now, down in this other part, the question of this horrible work, "The Conglomerate reporter unearthed proofs that over 25 cases, both girls and boys has been so used by these teachers,"—what have you to say about that?

Objected to as incompetent and immaterial.

Q. To what does that refer?

The Court. The same rule applies to that as applied to the other question. If you expect to vary the terms of this writing when it is clear to the court what it means, the objection will be sustained.

Mr. Riggs. We want to show by this witness that that referred to Gignac and not to this man Thibault.

The Court. There is an objection and an exception on that.

Rose Verrier, re-called for the defendants.

Examined by Mr. Riggs.

Q. Did you notice any expressions of little girls when they went out after Mr. Thibault's playing with that apple?

Mr. Chadbourne. I object to this as immaterial under the statement of counsel.

The Court. I have ruled on this class of testimony because under the statement of counsel you cannot connect it with this crime charged in the declaration.

Q. Do you know anything about Gignac advising children it was not a crime to commit incest.

Objected to as immaterial.

Objection sustained and defendants excepted.

Dennis Marchand sworn for the defendant testified as follows:

Examined by Mr. Riggs.

Q. Where do you live.

Mr. Chadbourne. I object to any further examination of the witness upon the ground that counsel has stated to the court that he had no evidence such as the court held to be admissible in the case, and it is incompetent and immaterial to go on any further.

The Court. If it is the same line of testimony I shall rule the same as I have heretofore. If you have anything you want to get on the record you can ask your question.

Q. Did you go to that school down there? A. Yes sir Q. To which teacher? A. Mr. Thibault. Q. Were you ever intoxicated when you were in Mr. Thibault's room by liquor got from Mr. Thibault.

Objected to as immaterial.

The Court. Unless you can show, unless you propose to follow this up by showing that Thibault had something to do about this crime being perpetrated on the person of this boy, it is immaterial. The mere fact that he was drunk there wouldn't be material in this case.

The defendants here rested their case, and the foregoing constitutes all the testimony given, allowed and received on the trial of said cause.

Thereupon Counsel for defendants requested the Court to charge the jury as follows.

"Second:" If the jury believe from the evidence that the use of the words "Gignac has been ably assisted in his horrible work." as they appear from all the evidence in the case, taken in connection with the way and manner they appear in the article, can and do refer to any other act or conduct on the part of plaintiff, other and different than charging plaintiff with that horrible crime, then the jury must acquit the defendants.

Third. The plaintiff has placed that meaning on the use of the words and the burden of proof to establish that meaning is upon the plaintiff.

Fourth. In this case, the plaintiff has placed his conduct as a teacher in that school, in the case, for the purpose of claiming damages by reason to such reputation; and if the jury believe from all the evidence that the plaintiff has not been injured in his reputation as a teacher, then the jury must acquit the defendants as to any injury to reputation as a teacher.

Sixth. The constitution makes juries in libel cases judges of the law and facts and if you believe from the evidence that the defendants charged plaintiff with any other wrong, and did not charge plaintiff with the commission of sodomy, as claimed, then your verdict must be for defendants.

Eighth. In this case the jury have the right to consider as true the matter contained in the article reflecting on Gignac and Vandestine.

Twelfth. If the article is substantially true it is privileged

Fourteenth. The declaration in this case is not sufficient—and the jury ought to acquit the defendants. The plaintiff on the trial claimed libel only by being charged with sodomy. The declaration in this event is not sufficient.

Fifteenth. The taking of liquors into the school and giving spirituous and intoxicating liquors to minors and scholars at that school by Thibault is a criminal act.

That the said Circuit judge refused to give the said several requests, to the refusal of which Counsel for defendants excepted to each said refusal.

During the course ofthe argument to the jury the following proceedings were had :—

Mr. Riggs. Mr. Stenographer, counsel says there is no evidence in the case as a justification, and he moves to strike out all the testimony in the case by reason of that.

The Court He doesn't make any such motion, Mr. Stenographer. The motion is to strike out all the evidence except Mr. Sessions' that was given on the part of the defendants.

Mr. Rees. Yes.

The Court. I shall not grant that motion because I haven't time to go through the testimony, but I shall charge the jury that there is no evidence of the truth of the publication ; there is no proof of justification.

Mr. Riggs. Note an exception to that.

Mr. Rees. Give us an exception to the refusal to to grant the motion to strike out the testimony.

CHARGE TO THE JURY.

Gentlemen of the jury: this is a case of libel. It has been narrowed down, so that there is very little for the court to say to you. Under the law of this state, you will have the most to say, both as to the law and the facts in this case.

The plaintiff charges that these defendants published a libelous article concerning him in a newspaper, and he claims that he was damaged thereby, and brings suit for his damages, and he claims he is entitled to some damages at your hands for that libelous article.

Now there will be two questions for you to consider. First, whether or not the article is libelous. If it is not libelous, then you need not go into the second question. If you find that it is libelous, then comes the question of damages; and those are questions for you to consider.

Now, gentlemen, I charge you if you find that the original article published in the newspaper of the defendants charges the plaintiff with having committed the crime of sodomy, or with having been assisting and accessory to that crime committed by another or both your verdict should be for the plaintiff, because there is no evidence in the case of the truth of such charges, and that such charges are libelous. I charge you, on the other hand, that if the plaintiff claims that the article means that the defendants accused the plaintiffs of of the crime of sodomy or aiding and assisting Gignac in the crime of sodomy, and if you believe from the evidence that this is not the proper meaning of that article, and that the article refers to a different crime, or the assisting and aiding in the commission of a different crime then you must acquit the defendants; you must find a verdict in favor of the defendants. If you believe from the evidence that the article refers to some other act or conduct on the part of the plaintiff, other and different than charging the plaintiff with the horrible crime of sodomy, or of aiding and assisting Gignac in its commission, then you must find a verdict in favor of the defendants. I charge you that although the article published may be libelous as to the plaintiff, if the meaning is different than that claimed by the plaintiff

then the plaintiff has failed to prove his case and you must find a verdict in favor of the defendant. Considerable has been said by the attorneys that until proof has been brought to the contrary, it is a presumption of law that the plaintiff is and was at the time alleged a man of good reputation and standing in the community, and there being no evidence in the case to the contrary, that presumption must govern you, and you are not at liberty to assume anything to the contrary. In other words, it is presumed that a man has a good character, until the contrary is shown, and there being no evidence in this case as to the want of good character or otherwise, you are not at liberty to assume anything to the contrary but that he had a good character.

Now, gentlemen, that brings us to the question as to who shall judge whether this is libelous or not. I charge you that the constitution of this state is the supreme law of the land, and the constitution makes juries in libel cases judges of law and facts. The words of the constitution are, "The jury shall have the right to determine the law and the fact," and if you believe from the evidence that the defendants charged the plaintiff with another wrong, and did not charge the plaintiff with the commission of sodomy, or aiding and assisting in its commission. as claimed, then your verdict must be for the defendants; and you are the sole judges of these questions, and I charge you, that while the court has a right to pronounce the article libelous, it is for you as a jury to say whether it is libelous in the way and manner claimed by the plaintiff.

Now, gentlemen, as I said before, both on the question of libel, and on the question of damages, you are the judges of whether it is libelous or not. If you find from the evidence that this article is libelous, and that it libels the plaintiff. then you will in that case find in favor of the plaintiff and you will consider the question of damages. Now, on that subject, if you find for the plaintiff in this case, it would be your duty to fix the damages in your verdict which he has suffered because of the libel and in considering the amount of damages which he has suffered you have the right to take into account his

tation and standing in the community, which is presumed to be good until the contrary is shown; the pain and mental distress which you think would naturally result from the libel in question, and the effect of the publication of the libel on the future of the plaintiff, and this, even if you find that defendants were not actuated by any express malice towards the plaintiff. And, you may, if you see fit take into consideration in awarding a sum for damages the fact, if you find such to be a fact, from the evidence that the defendants were actuated by express malice; but the damages cannot exceed $10,000, which is the extent of the plaintiff's claim.

Now gentlemen, if you believe from the evidence that the defendants were actuated by ill-will against the plaintiff, or by a wanton or reckless disregard of the rights of others; you would have a right to find that defendants were actuated by express malice, and you would have a right, to find this from the original publication itself; and from the subsequent publications in evidence, if you find that they were so intended, and plaintiff is entitled to actual damages as above described, whether there was express malice on the part of the defendants or not, and if you find such express malice, you have a right to consider that as an element in awarding damages, but you cannot award the plaintiff additional damages on account of the fact that the publication was malicious. If you do find it to be the fact that there was express malice damages on that account may be awarded as compensation to the plaintiff, but they cannot exceed such an amount as will entirely compensate him for the wrong he has suffered. You are the judges of what that shall be. You cannot award any damages as mere punishment under the laws of Michigan, and if you find for the plaintiff any other damages than what his actual damages are, such as he has suffered in reference to his property, business, trade or profession, or occupation, such other damages cannot exceed the sum of $5000, and in no case can the whole damages in this case exceed the sum of $10,000.

I charge you if you should find that the article published by defendants is libelous in the way and manner claimed by plaintiff, but was published without malice and for laudable purposes, you have the right to consider that in estimating any damages the plaintiff may suffer, and you may consider it in mitigation of damages.

Now gentlemen, it is a rule of law that the plaintiff must make out his case by a preponderance of evidence, that applies to the libel as well as to the damages—to all the essential elements of the case, by a fair preponderance of evidence. If he has done so it is your duty to you being the judges of the law and facts, to return a verdict in his favor. If he has not, return a verdict in favor of defendants. The rule as to the burden of proof applies both to the question of libel and as to the question of damages.

The said issue was thereupon submitted to the jury, and they then and there found a verdict in favor of the plaintiff and assessed his damages on occasion of the premises at the sum of one thousand dollars.

Motion for New Trial Ruling Them.

State of Michigan.
In the Circuit Court for the County of Houghton.
Joseph A. Thibault.
vs
Herbert A. Sessions, and
W. Arthur Phipps.

And now come said defendants by W. F. Riggs, their attorney, and move the court now here, to set aside verdict and to grant a new trial in the cause for the following reasons, viz:

1. The court erred in striking out the notice of special motion of defense contained in defendants' plea and filed therewith.
2. The court erred in refusing to receive and admit evidence offered under said notice of defense.
3. The court erred in striking out the testimony offered to show the meaning of the innuendo to be different from what plaintiff claimed.
4. The court erred in refusing to admit any evidence outside of what would tend to prove the plaintiff guilty of sodomy or of aiding and assisting Gignac in committing the crime of sodomy.
5. The court erred in refusing to charge as requested by defendants.

W. F. Riggs
Attorney for Defendants.

Dated and entered
Sept. 8, 1893.

State of Michigan.
In the Circuit Court for the County of Houghton.
Joseph A. Thibault.
vs
Herbert A. Sessions, and
W. Arthur Phipps.

In this cause motion for a new trial heretofore made therein having duly come on to be heard and after hearing argument of counsel W. F. Riggs, attorney for defendants, in support of motion, and counsels Chadbourne and Rees, attorneys for the plaintiff, in opposition thereto and due consideration being had it is ordered that said motion be and the same is hereby overruled and denied.

State of Michigan.
In the Circuit Court for the County of Houghton.
Joseph A. Thibault.
vs
Herbert A. Sessions, and
W. Arthur Phipps.

The jury by whom this issue joins in this cause was tried, having rendered a verdict therein in favor of plaintiff and against defendants and having assessed damages of said plaintiff on occasion of the premises at the sum of $1000 over and above his costs and charges by him about his suit in that the plaintiff expended. Therefore on motion of Chadbourne and Rees, attorneys for the plaintiff, it is considered that the said plaintiff do recover of said defendants, his damages by the jurors aforesaid, in form aforesaid assessed, and the interest thereon from the rendition of the said verdict together with his costs and charges aforesaid to be taxed. And the said plaintiff have execution thereof.

And because none of the exceptions so offered and made to the opinion and decisions of the said circuit judge do appear on the record of the said trial, therefore on the prayer of the said defendants by their counsel the said circuit judge hath signed this bill of exceptions according to the statute in such case made and provided; this——day of December A. D. 1893.

M. W. Haire

Circuit judge, 32 judicial Circ.

Plaintiff's Exhibit "A."

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DEVILS

Hanging Is Too Good For Them. Worse Than Brutes. Gignac Run out of Lake Linden.

Two Lake Linden School Teachers Guilty of Horrible Crimes. Over Thirty Children Outraged. Proofs and Particulars.

From several Lake Linden parties came to the CONGLOMERATE, the piti-- cry, "Come down and help us." And none of the wicked cities of history could recite a more revolting story of crime and bestiality. A CONGLOMERATE reporter set to work on the case and beside confirming many rumors and obtaining absolute proof of them, unearthed facts still more revolting, that had not been even whispered among those most deeply concerned. But a small part of the terrible story, because of its horrible filth, can be repeated in these columns, but proofs so certain and sure of the most damanble crimes, are held in this office that were they known by the general public, the perpetrators would not now be alive.

August Joyal was interviewed by a CONGLOMERATE reporter. He stated that his boy and others that he knew of were implicated. Sons of M. Marchand, M. Amie Lanctot, Mr. Golden, M. N. Gregory. Messrs. Marchand and Golden finding their boys very sick questioned them closely as to the cause of it. At first they would tell nothing and after severe threats they told how they had been used by Gignac the head teacher. He had beer guiltv of the most atrocious proceedings against their persons. Last Sunday evening he first found about his own boy by information given by Messrs. Marchand and Golden. He couldn't face his own boy to ask him the questions, but cautioned to tell nothing but the truth—he trusted the task of questioning the boy to a friend. The boy confessed that he too had been treated in the same manner. He added too that his son's health and constitution was ruined. On getting his son's confession Mr. Joyal and his friend, after demands, found that Mr. Gregory's boy had been treated the same way. A committee of five waited on Fr. Mesnard who was utterly prostrated by their statements.

The committee sent Gignac a letter which did not

reach him. Receiving no response Mr. Joyal called on Gignac and stated his business. The brute turned white at the statements. Joyal told him of the confession of the boys and the worst of the story, and then asked,

"Are you guilty or not guilty?"

Gignac responded, "I am not guilty," and abjectly added "But the boys are all against me—what can I do." Joyal said, "If you are an innocent man you will stay here and I'll help you fight it. If you are guilty we'll have justice and hang you like a dog."

Gignac showed such conclusive signs of guilt that Joyal ordered him to leave the town immediately on peril of his life. The following morning the committee found that Gignac had not gone and at half past four they again waited on Fr. Mesnard. They asked the reverend gentleman why Gignac had not gone and insisted that he must go or they would serve him as they did McDermott.

It will be remembered that McDermott was driven

Naked in the dead of winter

from Lake Linden to Dollar Bay and lashed with heavy whips. His crime was inhumanly torturing his wife on her death bed, by pouring alcohol on her setting fire to it, biting great pieces of flesh from her body with steel pinchers and showing other such proof of conjugal affection.

It is needless to add that Gignac stood not on the order of his going but took the five o'clock train for parts unknown.

The CONGLOMERATE reporter unearthed proofs that over twenty-five other cases, both

Girls and Boys

have been so used by these teachers striking some of the most respectable families of Lake Linden. These children range in age from 8 to 13 years. This work has been going on for four years according to the information received by the CONGLOMERATE. Gignac has been ably assisted in his horrible work

Two devils, Vandestine, Thibeau,

the latter is now in Canada. In addition to these atrocities Gignac has even advised the children that it was no harm to commit incest and in two cases his hellish advice has been acted upon by children under ten years of age. Van—— seems to have paid more especial attention to the girls and not only the little girls from 8 to 12 came under his baneful influence but older daughters of respectable families have been his toys. He was ordered to leave last night.

Plaintiff's Exhibit "B."

THE following communication was received at the CONGLOMERATE office yesterday:

To the Conglomerate Printing Company,
Calumet P. O., Michigan.

Gentlemen;

In your issue of February 18th, 1893, of the CALUMET CONGLOMERATE you published an article under the heading "Devils," charging certain persons with various heinous crimes, and in said article you state that the subscriber was guilty, with such persons of aiding and abetting the same and engaged with them in the criminal offenses, in words as follows: "Gignac was assisted in his horrible work Two Devils, Vandestine, Thibeau. the latter now in Canada." (meaning by this Thibeau the undersigned.) Such statement and the implications to be drawn therefrom, in connection with the remainder of said article are wholly false and malicious and libelous. This is to notify you at once to publish in the same type and in the same edition of the paper as the above original libel, and so far as practicable in the same position, a retraction of the same and make such amends as are proper.

Dated Feb. 22, 1893.

Yours etc.
J. A. THIBEAU.

Chadbourne & Rees, Attorneys.

At present writing the CONGLOMERATE has no retraction to make. The statement was published without malice and with the intent of warning parents to be careful as to the kind of men they entrusted the care of their children, and to show what horrible abuses may creep into our schools. It was directed against no class, religion or nationality. It bore no mark of prejudice and was published only for good ends. Any paper receiving the same information and the evidence, would use it in the same way if it had the requisite moral stamina. If at any our testimony should be proved false, the CONGLOMERATE would do anything lying within its power to make proper amends. But it cannot tell its informers that they are liars until they are proven such. No, gentlemen, go on with your suit; and let the testimony be proved. If it be true you will go behind the bars at Marquette, if false we shall be glad for your sakes and will cheerfully acknowledge it.

Plaintiff's Exhibit "C."

At the next term of the Circuit Court the publishers of the CONGLOMERATE expects to stand trial for exposing the modus operandi of what was at the time of the publishing of the article, the worst conducted institution of learning ever brought to notice in the state. This state of affairs existed not by consent or wish of patrons of the school but by the secret and, for the greater part, unknown actions of the instructors employed in the school. After the disclosures made at the trial of the publishers for criminal libel, instituted by one of these teachers, any further attempt to bring costs or hardships upon this paper must be considered and accepted by the general public as an effort to suppress a paper having the courage to condemn in no uncertain terms such conduct as has been proved of these instructors. With such facts demonstrated so plainly, the public realizes that the heavy costs of these trials is borne for the com mon weal. Those who essay to condemn the plain, unmistakable terms used in the class of article needed to expose such terrible crimes, will on second thought, consider the terrible warning it gives and the lesson that may be learned from it. And they will agree with us, that it is better that our feeling be wounded by the thorns from amidst which we may gather the roses of knowledge and warning, than that the innocence of youth should be tempted to encounter or entertain the serpent, concealed in the basket of flowers.

Plaintiff's Exhibit "D."

THE Vandestine libel case has been decided. The jury has said that the publishers of the CONGLOMERATE were right in exposing the vileness of these instructors. They have said that the CONGLOMERATE did a public duty in a courageous manner. If Gignac could be punished for each and every offense as the law provides, 2000 years at hard labor in the penitentiary would not fulfil the sentences against him. The crime proven is punishable with 15 years imprisonment. It is a crime of no less importance than manslaughter. If Gignac had killed two or three hundred men and some one had attempted to hide his crimes, could that man be libeled? And this Vandestine lived in the same house with this Gignac for two years where this was going on, admits that he had strong suspicions of it but made no complaint or effort to find out the terrible truth. The riotous drunken brawls of the boys doped by Gignac did not move him to an investigation. Why? Afraid of an investigation in his own case he dared not move for an investigation of Gignac's. For while the latter was on the ground, it is probable that he could have given statements that would have as certainly incriminated Vandestine. The testimony introduced by the CONGLOMERATE was but a small part of what is known to it. As few as possible of the witnesses upon whom it could justly call were brought to the stand. A flood of testimony involving many innocent people was not inflicted upon the public. And these persons may thank the publishers, who have stood trial on this case, that their names have not been mentioned or that they have not been called upon to appear in court.

Assignment of Error.

State of Michigan, Supreme Court.
Joseph A. Thibault.
Plaintiff and Appellee.
vs
Herbert A. Sessions
W. Arthur Phipps.
Defendants and Appelants.

Afterwards, to wit, on the —— day of December A. D. 1893, before the justice of the Supreme Court of Judicature of the State of Michigan, at the Supreme Court Rooms in the City of Lansing come the said defendants, Herbert A. Sessions and W. Arthur Phipps, by W. F. Riggs, their attorney, and say, that in the record and proceedings aforesaid, and also in the giving of the judgement aforesaid, there is manifest error in this, to wit:

1.–That the declaration aforesaid and the matters therein contained are not sufficient in law for the said Joseph A. Thibault to have or maintain his aforesaid action of libel against them, the said Herbert A. Sessions and W. Arthur Phipps.

2.–There is also error in this to wit; that by the record aforesaid it appears that before any evidence was offered or received the Court on motion of the plaintiff struck from the files and record paragraphs "Second", "Third", "Fourth", of the Notice under the general issue pleaded.

3.–There is also error in this, to wit: that by the record aforesaid it appears that on the trial of the issue in said cause in the said circuit court, the attorneys for the said Plaintiff offered in evidence a copy of the CALUMET CONGLOMERATE, dated Feb. 28th, 1893, containing the article alleged in the declaration. To which the attorney for said defendants objected for the reason that the declaration states no cause of action, and for the further reason that the declaration does not allege specific facts which are libelous; there is no libel pleaded and that the said circuit judge overruled said objection. and admitted the same in evidence; to which defendants excepted.

4–There is also error in this, to wit: that by the record aforesaid it appears that on the trial of said cause in said circuit court counsel for plaintiff offered in evidence a copy of the Calumet Conglomerate, dated February 25th, 1893, to which the attorney for defendants objected as incompetent. It was after the alleged libel was written. Which objection was overruled and defendants excepted.

5–There is also error in this to-wit. The court admitted in evidence a copy of the Calumet Conglomerate, dated April 29th, 1893, over the same objection and exception.

6–There is also error in this, the court admitted in evidence a copy of the CALUMET CONGLOMERATE, dated July 15th, 1893, over the same objection and exception.

7–There is also error in this, to-wit: that by the record aforesaid it appears that on the trial of the issue in said cause in the said circuit court, the attorneys for the said plaintiff propounded to the said Joseph A. Thibault, a witness in his own behalf, the question, to wit: Q. What were you doing in Chicago? Which question was objected to as incompetent and immaterial, which objection was overruled, and said question allowed and answered.

8–There is also error in this, to-wit: it appears by the record aforesaid that on the trial of said cause counsel for plaintiff propounded to said witness the following question, to-wit: Q Was there another teacher in Lake Linden by the name of Thibault? Which question was objected to as incompetent, which objection was overruled by the said circuit judge and said question answered. A. No.

9–There is also error in this, to-wit: It appears by the record aforesaid that on the cross examination of said plaintiff counsel for defendants propounded to said witness the following question, to wit: Q During the time you were teaching there you were very friendly with Mr. Vandestine, were you not? Which question was objected by counsel for plaintiff as immaterial, and said objection sustained by the court, and defendants excepted.

10.–There is also error in this, to-wit: That by the record aforesaid it appears that on the trial of said issue in said court the counsel for said defendants on the cross examination of plaintiff propounded the following question, to-wit: Q. During the time you were teaching there you were friendly with Mr. Gignac? Objected to by counsel for plaintiff, objection sustained and defendants excepted.

11.–There is manifest error in this, to wit: It appears by the record that the court of his own accord, passing on the above questions said: That question itself might not be immaterial, but it has a tendency to lead to questions which are immaterial.

12.–There is also error in this, to wit: On the trial of said issue counsel for plaintiff stated to the Court as follows: "I understand counsel not to have in his possession, or to be bound to produce any evidence tending to show that this plaintiff committed the offence alleged against him in this article, viz., the offence of sodomy."

Mr. Riggs. There is no insinuation in this article that this man was guilty of that offence. But if this offence was carried on there to this man's knowledge—

The Court. The article says he assisted in the acts.

Thus conveying to the jury the opinion of the court upon the facts.

13.–There is also error in this, to-wit: That by the record aforesaid it appears that on the cross examination of said plaintiff counsel for defendants propounded to said plaintiff the following question: Q. Were you in the habit of keeping liquors up in your school room for the purpose of giving to the boys and girls attending your school? Which question was objected to as immaterial, and the court sustained the said objection and defendant excepted.

14.–There is also error in this, to-wit: That by the record aforesaid it appears that on the further cross examination of plaintiff the attorney for defendants propounded to said witness the following question. Q. Did you have boys and girls drunk in your school? To which question council for plaintiff objected to as immaterial, and the court sustained said objection to which defendants excepted.

15.–There is error in this, to-wit: The court stated in the presence and hearing of the jury as follows:

The Court. It has no tendency to prove the crime charged in this declaration.

16.–There is also error in this, to-wit: On the trial of said issue it appears by the record the court used the following language in the presence and hearing of the jury: The Court. I have allowed all this about liquor thinking perhaps it would lead to something else. If he has admitted that he has had improper connection with these children, that is, meaning the crime charged here, sodomy.

17.–There is also error in this, to-wit: It appears by the record that on the cross examination of said plaintiff counsel for defendants propounded to said witness the following question, to-wit: Q. During the time you were teaching there didn't you go up to Gignac's room and get some of that black liquor? To which question counsel for plaintiff objected to as immaterial and the court said: What has that got to do with it? I will sustain the objection. To which ruling defendants excepted.

18.–There is also error in this, to-wit: On the cross examination of said plaintiff the following question was propounded, to wit: Q. Did you go up to Gignac's room and get a bottle of black liquid? Objected to as immaterial, and the court said: I sustain the objection unless it can be shown that it had some connection with the crime of sodomy.

19.–There is manifest error in this, to-wit: That by the record aforesaid it appears counsel for defendants propounded to their witness Joseph Joyal the following question, to-wit: Q. Do you know of Mr. Thibault's having liquors in the school? Which question was objected to as immaterial.

The Court. Unless you can show that it led up to or had something to do at the same time with this charge—

Mr. Riggs. We claim it did.

Mr. Rees. I understand the claim to be the use of liquors corrupted these boys so it was possible for Gignac to commit this crime.

The Court. It may show that this man did have something to do with this crime charged in the declaration.

Mr. Rees. The evidence may be prejudicial.

The Court. If you are not able to show that this man Thibault had anything to do with this witness I shall sustain the objection. The mere fact that he did have intoxicating liquors is no evidence tending to show that he committed the crime of sodomy.

If you can show, however, that this was all in a drunken debauch, and this man did commit this crime, or helped the two others to commit it as a part of the res gestae of this drunken debauch, I will allow it.

Mr. Riggs. That is just the ground we are putting it on. He used liquors getting these scholars and pupils drunk, and in that condition this other man ——

The Court. That is too far fetched, Mr. Riggs, I sustain the objection to which ruling defendants excepted.

20.–There is manifest error in this, to-wit: That by the record aforesaid it appears that competent evidence was struck out, to-wit: Counsel for defendants propounded the following questions to the witness Joyal. Q. Do you know anything about drugged liquors being there in the building? A. Yes sir. Q. Where was that drugged liquor? A. In Gignac's bedroom, in his office and Thibault's office.

Mr. Rees. I object to it, and move that it be stricken out so far as it relates to Thibault.

The Court. I sustain that part of the objection, to which ruling the defendants excepted.

21.–There is also error in this, to wit: The said judge in the hearing of the jury said: I have ruled it is not material, if this man had liquor, and gave other people liquor, that is no sign that he committed this other crime, unless it can be shown that he himself administered the liquor and got them in that condition; and this other offence was committed.

22.–There is also error in this, to wit: It appears by the record that the Court excluded competent evidence.

23.–There is also manifest error in this, to wit: That by the record aforesaid in appears that in the trial of the issue in said cause in said circuit court the said cir-

cuit judge usurped the Constitutional right of the jury by then and there stating in the presence and hearing of the said jury as follows: "The fact that drugged liquor was there, unless you can show that this man gave it to those children, and in addition to that, aided those other men in committing this crime, I don't see how you can show that even that is material to the case. If, in a debauch, this man administered the liquor and aided these other men in committing the crime, knowing it himself being near where it was done, and knew all about it, then I presume you could charge that he assisted; but the mere fact of having liquor in the house, even if he gave it to the children, would have no tendency to show that he committed this crime, or assisted others in doing it."

24.–There is also manifest error in this, to-wit: That by the record aforesaid it appears that on the trial of said issue counsel for defendants propounded to said witness the following question, to-wit: Q. Do you know of your own knowlege of the horrible crime of sodomy being committed in that building? Which question being objected to as immaterial; the Court said:

The Court. By whom? By Thibault? If you put that in I will allow the question, otherwise I will sustain the objection, and said witness was not allowed to answer said question.

25.–There is also error in this, to-wit: That by the record aforesaid it appears that on the trial of said cause, Counsel for defendants propounded to said witness the following question, to-wit: Q. Was that crime committed upon you in the school building,—

Objected to—

The Court. By Thibault?

Mr. Riggs. If I can show that he was intoxicated by the one teacher—

The Court. And then somebody else got him in that condition and committed this crime, would that be material.

Mr. Riggs. Yes sir.

The Court. If you can show that he got him intoxicated for the purpose of having this other man do that, that may be material. But we cannot be allowed to guess at it.

Mr. Riggs. This is a question for the jury. And the Court excluded the answer, and the offered testimony.

26.–There is also manifest error in this, to-wit: That by the record aforesaid it appears Counsel for defendants propounded to said witness. Q. During the time you were going to school there, doing janitor work, do you know of any drunken debauches taking place in the school building during the time that Thilbault was there? Objected to immaterial.

The Court. Unless it can be shown that the drunken debauch was for the purpose of putting some body in a position where they could do this, it would not be material.

27.–There is also manifest error in this, to-wit: That upon the trial of said cause counsel for defendants offered competent evidence in mitigation of damages, which was excluded by the Court, to-wit:

Mr. Riggs.–I offer this whole line of evidence, and offer to repeat it on the question of damages. I offer to show the conduct of this teacher as a school teacher on the question of damages.

The Court. His general reputation you can show.

28.–There is also error in this, to wit: That by the record aforesaid it appears counsel for defendants propounded to said witness on the trial of said cause the following question, to wit: Q. Do you know whether this man Vandestine was connected with these outrages being committed upon the boys? Which question was objected to by Counsel for plaintiff, and the answer excluded.

29.–There is also manifest error in this, to-wit: That by the record aforesaid it appears that on the trial of said cause the Court excluded competent evidence, and judged the law and the facts from the weight of the evidence as it appeared to the Court.

30.–There is also error in this, to-wit: That on the trial of said cause, Counsel for defendants propounded to the witness, Sessions, the question: Q. Now, have you read this article. The words, "Horrible work," used in that article, to what do they refer? Objected to as immaterial and incompetent.

The Court. It strikes me this refers directly to the main charge, and all the charge there is in this declaration. And the court sustained the objection.

31.–There is also error in this, to wit: It appears by the recort that on the trial of said cause Counsel for defendants propounded to the witness, Sessions, the following question: Q. Did you hear this man Vandestine's testimony on that trial? Objected to as immaterial. Objected sustained.

Mr. Riggs. I wish to show that this man Vandestine admitted he was aware of the conduct of Gignac in that school.

The Court. The objection is sustained. Defendants excepted.

32.–There is also error in the record in sustaining the objection to the following question, to-wit: Q. When the article was published with the words, "Two devils," Vandestine and Thibault, does that refer to the particular crime of sodomy.

33.–These is also error in this, to-wit: That it appears by the record that on the trial of said cause, counsel for defendants asked the witness, Rose Verrier, the following question, to-wit: Q. Do you know anything about Gignac's advising children it was not a crime to commit incest? Objected to as immaterial. And objection sustained.

34.–There is also error in this, to-wit: That it appears by the record that on the trial of said cause, Counsel for defendants as the witness, Dennis Marchand, the following question, to-wit: Q. Were you ever intoxicated when you were in Mr. Thibault's room by liquor got from Mr. Thibault. Objected to as immaterial.

The Court. Unless you propose to follow this up by showing that Thibault had something to do about this crime being perpetrated on the person of this boy, it is immaterial. The mere fact that he was drunk there wouldn't be material to this case.

35.--There is error in this, to-wit: That it appears by the record that the court refused to charge the jury as requested in defendants "Second," "Third," "Fourth," "Sixth," "Eighth," "Twelfth," "Fourteenth" "Fifteenth," requests to charge.

36.--There is error in this, to-wit: That the court said to the jury before giving his said charge, that "there is no evidence of the truth of the publication; there is no proof of justification."

37.--There is also error in this, to wit: The Court erred in refusing defendants a new trial.

38.--There is also error in this, to-wit: That by the record aforesaid it appears that the said Circuit Judge on the trial of said cause instructed the jury, among other things, that "there will be but two things for you to consider: First, whether or not the article is libelous, and damages." And among other things that "If you believe from the evidence that the defendants were actuated by ill-will against the plaintiff or by a wanton or reckless disregard of the rights of others, you would have a right to find this from the original publication."

39.--There is also error in the rule as to the measure of damages as given in said charge.

Wherefore defendants pray that the judgment aforesaid for the errors aforesaid may be revoked, annulled and altogether held for nothing, etc.

W. F. Riggs

Attorney for Defendants and Appellants.