

Los Angeles No.

IN THE
Supreme Court
OF THE
State of California.

KATHERINE TINGLEY,
Plaintiff and Respondent
vs.
TIMES-MIRROR COMPANY,
a corporation,
Defendant and Appellant.

*Appeal from Su-
perior Court of San
Diego County.
E. S. Torrance,
Judge.*

TRANSCRIPT ON APPEAL.

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Los Angeles, Cal.,
Attorneys for Appellant.

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Los Angeles, Cal.,
Attorneys for Respondent.

Filed this 15th day of August, 1904.

FRANK C. JORDAN,

By *Deputy Clerk.*



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IN THE
SUPERIOR COURT
OF THE
COUNTY OF SAN DIEGO
2
STATE OF CALIFORNIA

KATHERINE TINGLEY,

Plaintiff,

vs.

3
TIMES MIRROR COMPANY,

Defendant.

COMPLAINT

PLAINTIFF COMPLAINS AND ALLEGES.

I.

That plaintiff is now and for more than two years last past has been a resident of the county of San Diego, State of California, and is and during all of said time has been, the head of the institution known as "The Universal
4 Brotherhood Headquarters, Loma Homestead," on Point Loma in the said county of San Diego.

II.

That the defendant "Times-Mirror Company" is now and at all times mentioned in this complaint has been a

5 corporation duly organized and existing and acting under the laws of the State of California, and is, and at all times mentioned in this complaint has been, the owner, printer and publisher of a certain newspaper of general circulation, known as the "Los Angeles Daily Times."

III.

Plaintiff, according to her information and belief, alleges: That said "Los Angeles Daily Times" at all times mentioned in this complaint and now has an extensive circulation in the county of San Diego, and in the State of California, and throughout the United States, and had at all times mentioned in this complaint and now has a daily circulation of many thousand copies circulated and distributed in the places aforesaid, to many thousand persons.

IV.

7 That the defendant, wickedly and maliciously, and with the intent and design to injure, disgrace and defame this plaintiff, and to bring her into public discredit and obloquy, printed and published in said newspaper on the 28th day of October, 1901, of and concerning this plaintiff, the following false, libelous, malicious and defamatory article, to-wit:

"OUTRAGES AT POINT LOMA."

8 EXPOSED BY AN "ESCAPE" FROM TINGLEY.
STARTLING TALES TOLD IN THIS CITY.
WOMEN AND CHILDREN STARVED AND
TREATED LIKE CONVICTS — THRILLING
RESCUE.

Mrs. M. Leavitt of No. 418 West Fourth street, a believer in what she terms "the true school of theosophy."

9 who has recently removed to this city from San Diego, the capital city of theosophists, has some startling things to tell concerning the practices of Catherine Tingley, and her associates, who conduct the Universal Brotherhood Homestead on Point Loma. Mrs. Leavitt seems to be thoroughly informed on two of the latest outrages perpetrated at the spookery, the cases of Mrs. Neirsheimer and Mrs. Hollbrook, both well-to-do eastern women.

10 Mrs. Hollbrook, the wife of a railroad man and Freemason of the east, has been rescued from the roost on Point Loma by her husband, with the aid of an officer and a gun, and now hovers at the point of death from the abuse she says she received while confined in the "Homestead." During the day time she was worked in the field like a convict, forced to plant trees, hoe corn, and perform all sorts of hard labor, and at night she was shut up in a cell and guarded as if she were a raving maniac.

11 When her husband found what a trap she had fallen into he hurried here and took her out by force.

The other case on which Mrs. Leavitt is posted is that of Mrs. Neirsheimer, who has been forcibly separated from her husband, who is also in the Tingley clutches, and is not allowed to speak to him. She is forced to live alone in a little tent in the grounds that surround the crazy institution. Armed men guard this place of horror, and, Mrs. Leavitt says, solitary confinement, hard labor and starvation are resorted to by the Tingley managers as punishments upon those who disobey their iron rules.

12

The woman who gives out this information is a personal friend of, and has talked with, Mrs. Hollbrook, the victim whose health has been forever destroyed by the

13 ordeals she passed through while imprisoned on Point Loma.

Mrs. Leavitt claims that through a strong hypnotic power Catherine Tingley works her will on sensible people. The Universal Brotherhood, or, in other words, Catherine Tingley, is an offshoot of the theosophic society, which became disjointed some four or five years ago. Mrs. Tingley was formerly — the theosophists say — a common, dollar-taking spirit medium.

14 She couldn't agree with the theosophists, so she branched off and set up her trap on Point Loma. She distributes literature throughout the East, and even in foreign countries, saying the Universal Brotherhood Homestead, located in the most beautiful spot on earth, offers to those who wish to retire into a quiet, thoughtful life, a home in which they may live peacefully, and an atmosphere of soul study and pure thought.

15 Only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person Mrs. Tingley exerts her influence over such as are spookily inclined; and the almost incredible things which have taken place prove that once in the lair, it is almost impossible to escape.

16 Mrs. Leavitt says there is nothing taught at Point Loma but insane ceremonies; that the girls who are placed there to be educated are put to work at the most menial tasks, each one kept separate in a guarded cell, and forbidden to speak to anybody else, and that the poor little children are quartered in a miserable building, some distance from the main institution, and are continually on the verge of starvation — for Mrs. Tingley openly states that children are fed too much for their spiritual good, and must eat but little, so they will be more ethereal.

17 Mrs. Leavitt says she knows personally of a case where both parents and children are victims, and the children have been taken away to the child pen, and are never allowed to communicate in any way with mother or father. For, says Mrs. Tingley, they will grow up purer if away from bodily and affectionate influence of the parents.

The children are never allowed to speak to anybody, except when they are selling trinkets to the visitors who come to the gates. The young lady prisoners make fancy work, which they sell to the strangers. Purple robes are worn by the women, and a sort of khaki uniform by the men.

18 On certain occasions a midnight pilgrimage is made by both men and women to a spot on the peninsula, which is termed sacred ground. They go in their night robes, each holding a torch.

19 Before she had gotten well into the scheme Mrs. Hollbrook says she saw that it was a fake, but having no idea of the horror of it, she decided to go into the Homestead for a while, that she might expose the character of the crazy institution. Whether she will live to carry out the good work is doubtful. She can tell things, her friends say, more shocking than anything known yet.

Mrs. Leavitt alleges that gross immoralities are practiced at Point Loma by some of the disciples of spookism as it is there exemplified, and that such things should not be tolerated in a civilized community.

20

V.

Plaintiff, according to her information and belief, alleges: That defendant printed, published and circulated in the county of San Diego numerous copies of the

21 paper containing said article, and circulated many thousand copies of the paper containing said article in other portions of the State of California, and of the United States.

VI.

That by the foregoing false, malicious and defamatory article the defendant intended to convey the meaning, and the said article was by the persons who read the same, as
 22 published in said paper, understood and believed to convey the meaning that numerous outrages were committed by this plaintiff, and under her direction, at Point Loma; that people were falsely imprisoned and deprived of their liberty by plaintiff, and under her direction; that women and children were by plaintiff starved and treated like convicts, and that it was necessary to rescue such persons by force from plaintiff, and from the institution conducted by her; that women were so abused in said
 23 institution and under the direction of said plaintiff as to bring them to the point of death, and were by plaintiff forced to work in the fields and imprisoned in cells; that solitary imprisonment and hard labor were imposed by plaintiff upon the residents at said institution, and their health destroyed thereby; that plaintiff was a spiritualistic medium and an imposter, and that by the circulation of literature she enticed people to come to the institution conducted by her, and rendered it almost impossible for them to escape therefrom; that plaintiff caused to be
 24 carried on insane ceremonies, and kept the girls at said institution in guarded cells; that plaintiff keeps and caused to be kept at said institution little children in buildings unfit for habitation, and kept them upon the verge of starvation; that plaintiff by her influence and by

25 misrepresentation has caused parents and children to be separated, and keeps the children in confinement, thereby destroying their health and strength; that the men and women in attendance at said institution are in the habit of making midnight pilgrimages insufficiently clothed and in their night robes, and are in the habit of indulging in immoral practices under the direction and at the suggestion of plaintiff; that the institution conducted by plaintiff is a fake, and a fraud, and is carried
 26 on by plaintiff for the purpose of defrauding people who are induced to attend it; that practices are carried on under the direction of plaintiff which are more shocking than are revealed by the matters above set forth, and that gross immoralities are practiced at said institution under the direction and by the instigation of plaintiff, and that practices are carried on there which should not be tolerated in a civilized community.

VII.

27 That said publication was false, malicious and defamatory, and plaintiff was not and never has been guilty of any of the matters so charged in said publication, and all and every portion of said article charging plaintiff with improper practices, fraud and immorality are false, malicious, libelous and untrue.

VIII.

28 Plaintiff, according to her information and belief, alleges that by reason of the printing, publishing and circulating of said false and defamatory article as above set forth in said newspaper, the said plaintiff has been by the defendant injured in her good name, fame and reputation and damaged in the sum of fifty thousand dollars.

WHEREFORE, plaintiff prays judgment against

29 defendant for the sum of fifty thousand dollars, and the costs of this action.

J. W. MCKINLEY,
Attorney for Plaintiff.

(Duly verified by Katherine Tingley.)

Endorsed: Filed Dec. 12, 1901. Will H. Holcomb.
By Walter S. Buchanan, Deputy.

30 [TITLE OF COURT AND CAUSE.]

DEMURRER.

Comes now the above named defendant, and demurs to the complaint in the above entitled cause, and for grounds of demurrer shows:

I.

That said complaint does not state facts sufficient to constitute a cause of action.

31

II.

That said complaint is uncertain in that:

(a.) It cannot be ascertained therefrom whether the "institution known as 'The Universal Brotherhood Homestead' on Point Loma" is a corporation, or an unincorporated association of persons doing business under said name and style, or whether the plaintiff is doing business under said name and style.

32

It cannot be ascertained therefrom in what business said plaintiff, or said institution, is, or during the time mentioned in said complaint has been, engaged, or what character or kind of institution said "Universal Brotherhood Homestead" is; nor what is now, or has ever been, the relation of plaintiff to said institution,

33 nor what rights, duties or responsibilities pertain to her
as the alleged "head" of such institution.

III.

That said complaint is ambiguous in each of the particulars in which it is specified in paragraph II of this demurrer that the same is uncertain.

IV.

34 That said complaint is unintelligible in each of the
particulars in which it is specified in said paragraph II
that the same is uncertain.

WHEREFORE, defendant prays that it may be hence dismissed and have judgment against plaintiff for its costs herein.

W. F. FITZGERALD,
HUNSAKER & BRITT,
Attorneys for Defendant.

35 Endorsed: Filed Jan. 15, 1902. Will H. Holcomb,
Clerk.

[TITLE OF COURT AND CAUSE.]

Minutes of Court,

February 24th, 1902.

36 On this day defendant's motion to strike out all of
paragraph VI of the plaintiff's complaint therein on the
ground that the matter contained in said paragraph VI
is irrelevant and redundant, heretofore submitted, is by
the court denied.

Defendant's demurrer to plaintiff's complaint, heretofore submitted, is by the court overruled and twenty days are allowed said defendant in which to answer such complaint.

37 [TITLE OF COURT AND CAUSE.]

DEFENDANT'S BILL OF EXCEPTIONS ON ORDER REFUSING TO STRIKE OUT PORTIONS OF COMPLAINT.

BE IT REMEMBERED, that on the 24th day of January, 1902, pursuant to proper notice duly given, the defendant moved the court to make its order in said cause striking out all of paragraph VI of the plaintiff's complaint. Said motion was based on the records, pleadings and files in said cause, and was made on the grounds that the matter contained in said paragraph VI is: 1. Irrelevant. 2. Redundant.

Be it further remembered that on the 25th day of February, 1902, said court denied said motion, to which ruling defendant duly excepted.

The foregoing bill of exceptions is hereby settled and allowed and I hereby certify that the same is a true and correct bill of exceptions.

39 Dated March 21st, 1902.

E. S. TORRANCE,
Judge.

Endorsed: Filed March 21, 1902, Will H. Holcomb, Clerk.

[TITLE OF COURT AND CAUSE.]

DEFENDANT'S PROPOSED BILL OF EXCEPTIONS.

40

Be it remembered that the above entitled action was commenced by the plaintiff against the defendant on the — day of December, 1901, by the filing of her verified complaint in the office of the clerk of said court, which

41 complaint, omitting the title of the court and cause and verification, was in the words and figures following, to wit:

[TITLE OF COURT AND CAUSE.]

Plaintiff complains and alleges:

I.

42 That plaintiff is now, and for more than two years last past has been, a resident of the county of San Diego, State of California, and is and during all of said time has been, the head of the institution known as "The Universal Brotherhood Homestead" on Point Loma in the said county of San Diego.

II.

43 That the defendant "Times-Mirror Company" is now, and at all times mentioned in this complaint has been, a corporation duly organized and existing and acting under the laws of the State of California, and is and at all times mentioned in this complaint has been the owner, printer and publisher of a certain newspaper of general circulation known as the "Los Angeles Daily Times."

III.

44 Plaintiff, according to her information and belief, alleges: That said "Los Angeles Daily Times" at all times mentioned in this complaint and now has an extensive circulation in the county of San Diego and in the State of California and throughout the United States, and had at all times mentioned in this complaint and now has a daily circulation of many thous-

45 and copies circulated and distributed in the places aforesaid, to many thousand persons.

IV.

That the defendant, wickedly and maliciously and with the intent and design to injure, disgrace and defame this plaintiff, and to bring her into public discredit and obloquy, printed and published in said newspaper on the 28th day of October, 1901, of and concerning
46 this plaintiff, the following false, libelous, malicious and defamatory article, to wit:

‘OUTRAGES AT POINT LOMA.’

EXPOSED BY AN “ESCAPE” FROM TINGLEY.
STARTLING TALES TOLD IN THIS CITY.
WOMEN AND CHILDREN STARVED AND
TREATED LIKE CONVICTS. THRILLING
RESCUE.

47 Mrs. M. Leavitt of No. 418 West Fourth street, a believer in what she terms “the true school of theosophy,” who has recently removed to this city from San Diego, the capital city of theosophists, has some startling things to tell concerning the practices of Catherine Tingley and her associates who conduct the Universal Brotherhood Homestead on Point Loma. Mrs. Leavitt seems to be thoroughly informed on two of the latest outrages perpetrated at the spookery, the cases of Mrs. Neirsheimer and Mrs. Hollbrook, both well-to-do eastern women.
48 Mrs. Hollbrook, the wife of a railroad man and Freemason of the East, has been rescued from the roost on Point Loma by her husband with the aid of an officer and a gun, and now hovers at the point of death from the abuse she says she received while confined in

49 the "Homestead." During the daytime she was worked in the field like a convict, forced to plant trees, hoe corn and perform all sorts of hard labor, and at night she was shut up in a cell and guarded as if she were a raving maniac. When her husband found what a trap she had fallen into he hurried here and took her out by force.

50 The other case on which Mrs. Leavitt is posted is that of Mrs. Neirsheimer, who has been forcibly separated from her husband, who is also in the Tingley clutches, and is not allowed to speak to him. She is forced to live alone in a little tent in the grounds that surround the crazy institution. Armed men guard this place of horror, and, Mrs. Leavitt says, solitary confinement, hard labor and starvation are resorted to by the Tingley managers as punishments upon those who disobey their iron rules.

51 The woman who gives out this information is a personal friend of, and has talked with, Mrs. Hollbrook, the victim whose health has been forever destroyed by the ordeals she passed through while imprisoned on Point Loma.

52 Mrs. Leavitt claims that through a strong hypnotic power, Catherine Tingley works her will on sensible people. The Universal Brotherhood, or in other words, Catherine Tingley, is an off-shoot of the theosophic society, which became disjointed some four or five years ago. Mrs. Tingley was formerly — the theosophists say — a common, dollar-taking spirit medium.

She couldn't agree with the theosophists, so she branched off and set up her trap on Point Loma. She distributes literature throughout the East, and even in

53 foreign countries, saying the Universal Brotherhood Homestead, located in the most beautiful spot on earth, offers to those who wish to retire into a quiet, thoughtful life, a home in which they may live peacefully and an atmosphere of soul study and pure thought.

Only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person Mrs. Tingley exerts her influence over such as are spookily inclined; and
54 the almost incredible things which have taken place prove that once in the lair it is almost impossible to escape.

Mrs. Leavitt says there is nothing taught at Point Loma but insane ceremonies; that the girls who are placed there to be educated are put to work at the most menial tasks, each one kept separate in a guarded cell and forbidden to speak to anybody else, and that the poor little children are quartered in a miserable building some distance from the main institution, and are
55 continually on the verge of starvation — for Mrs. Tingley openly states that children are fed too much for their spiritual good, and must eat but little, so they will be more ethereal. Mrs. Leavitt says she knows personally of a case where both parents and children are victims, and the children have been taken away to the child pen and are never allowed to communicate in any way with mother or father. For, says Mrs. Tingley, they
56 will grow up purer if away from bodily and affectionate influence of the parents.

The children are never allowed to speak to anybody except when they are selling trinkets to the visitors who come to the gates. The young lady prisoners make

57 fancy work, which they sell to the strangers. Purple robes are worn by the women, and a sort of khaki uniform by the men.

On certain occasions a midnight pilgrimage is made by both men and women to a spot on the peninsula, which is termed sacred ground. They go in their night robes, each holding a torch.

58 Before she had gotten well into the scheme, Mrs. Hollbrook says she saw that it was a fake, but having no idea of the horror of it, she decided to go into the Homestead for a while that she might expose the character of the crazy institution. Whether she will live to carry out the good work is doubtful. She can tell things, her friends say, more shocking than anything known yet.

59 Mrs. Leavitt alleges that gross immoralities are practiced at Point Loma by some of the disciples of spookism as it is there exemplified, and that such things should not be tolerated in a civilized community.

V.

60 Plaintiff, according to her information and belief, alleges: That defendant printed, published and circulated, in the county of San Diego, numerous copies of the paper containing said article and circulated many thousand copies of the paper containing said article in other portions of the State of California, and of the United States.

VI.

That by the foregoing false, malicious and defamatory article the defendant intended to convey the meaning, and the said article was by the persons who read the

- 61 same, as published in said paper, understood and believed to convey the meaning, that numerous outrages were committed by this plaintiff and under her direction at Point Loma; that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction; that women and children were by plaintiff starved and treated like convicts and that it was necessary to rescue such persons by force from plaintiff and from the institution conducted by her; that women were
- 62 so abused in said institution and under the direction of said plaintiff as to bring them to the point of death, and were by plaintiff forced to work in the fields and imprisoned in cells; that solitary imprisonment and hard labor were imposed by plaintiff upon the residents at said institution and their health destroyed thereby; that plaintiff was a spiritualistic medium and an impostor, and that by the circulation of literature she enticed people to come to the institution conducted by her and
- 63 rendered it almost impossible for them to escape therefrom; that plaintiff caused to be carried on insane ceremonies and kept the girls at said institution in crowded cells; that plaintiff keeps and caused to be kept at said institution little children in buildings unfit for habitation and kept them upon the verge of starvation; that plaintiff by her influence and by misrepresentation has caused parents and children to be separated and keeps the children in confinement, thereby destroying their health and strength; that the men and women in attendance at said institution are in the habit of making
- 64 midnight pilgrimages insufficiently clothed and in their night robes, and are in the habit of indulging in immoral practices under the direction and at the suggestion of plaintiff; that the institution conducted by plain-

65 tiff is a fake and a fraud and is carried on by plaintiff for the purpose of defrauding people who are induced to attend it; that practices are carried on under the direction of plaintiff which are more shocking than are revealed by the matters above set forth, and that gross immoralities are practiced at said institution under the direction and by the instigation of plaintiff, and that practices are carried on there which should not be tolerated in a civilized community.

66

VII.

That said publication was false, malicious and defamatory, and plaintiff was not and never has been guilty of any of the matters so charged in said publication, and all and every portion of said article charging plaintiff with improper practices, fraud and immorality are false, malicious, libelous and untrue.

67

VIII.

Plaintiff, according to her information and belief, alleges that by reason of the printing, publishing and circulating of said false and defamatory article as above set forth in said newspaper, the said plaintiff has been by the defendant injured in her good name, fame and reputation and damaged in the sum of fifty thousand dollars.

68

WHEREFORE, plaintiff prays judgment against defendant for the sum of fifty thousand dollars and the costs of this action.

J. W. McKINLEY,
Attorney for Plaintiff."

69 That thereupon, on the same day, a summons in due form was issued by the clerk of said court and under the seal thereof, and thereafter, to wit: on the 16th day of December, 1901, service of said summons was made on said defendant at the city of Los Angeles, State of California, by then and there delivering a copy of said summons and a copy of said complaint to Harrison Gray Otis, the president of said defendant.

70 That thereafter, to wit: On the 14th day of January, 1902, said defendant, at the same time it appeared and filed its demurrer to said complaint, and before answering served on the attorney for plaintiff, and filed with the clerk of said court, its demand in writing, affidavit and notice of motion for change of place of trial; which demand, affidavit and notice of motion, omitting the title of the court and cause, were in the words and figures following, to-wit:

71

[TITLE OF COURT AND CAUSE.]

DEMAND OF CHANGE OF PLACE OF TRIAL.

"The defendant in the above entitled cause hereby demands that place of trial in this cause be changed to the proper county, namely: the county of Los Angeles. This demand is based upon the affidavits and notices herewith filed.

72

W. F. FITZGERALD, and
HUNSAKER & BRITT,
Attorneys for Defendant.

TIMES-MIRROR COMPANY, by W. F. Fitzgerald and Hunsaker & Britt, its attorneys."

73 [TITLE OF COURT AND CAUSE.]

NOTICE OF MOTION OF CHANGE OF PLACE
OF TRIAL.

" To J. W. McKinley, Attorney for Plaintiff :

Take notice that the defendant in the above entitled cause will move the court, (the Superior Court of the county of San Diego, State of California), at the court room of said court, on the 24th day of January, 1902, at 10 o'clock A.M. of said day, or as soon thereafter as
74 counsel can be heard, for an order changing the place of trial of this action to the Superior Court of the county of Los Angeles, State of California. Said motion will be made on the demand to change the place of trial, the affidavit of merits : of principal place of business and of residence, copies of which are herewith served upon you ; also the papers on file in the case upon the following ground : That the county of Los Angeles is the proper
75 county for the trial of this cause, that being the county where the corporate defendant's principal place of business and residence is situated.

W. F. FITZGERALD and
HUNSAKER & BRITT,
Attorneys for Defendant."

[TITLE OF COURT AND CAUSE.]

AFFIDAVIT OF MERITS.

76 Harrison Gray Otis, being first duly sworn, according to law, deposes and says : That he is the duly appointed president and general manager of the defendant corporation, and is personally conversant with the facts of this case, and makes this affidavit as such president and gen-

77 eral manager, and by the authority and at the request of the defendant ;

That the defendant is a corporation, organized and existing under the laws of the State of California, and doing business in this State ;

78 That its principal place of business and residence, and the chief office for the transaction of the business of the corporation is at the Times Building, northeast corner of First and Broadway streets, in the city of Los Angeles, State of California, and that at, and for a long time prior to, and continuously since the commencement of this action, the county of Los Angeles was, and is, its principal place of business and residence ;

That a copy of the complaint and summons in this action was served on the defendant and affiant at its principal place of business on the 16th day of December, 1901 ;

79 That affiant and the defendant have fully and fairly stated the case, and all the facts thereof in this action, and the facts constituting the defendant's defense therein, to W. F. Fitzgerald and Messrs. Hunsaker & Britt of the city of Los Angeles, State of California, its attorneys and counsel, and after such statement the said attorneys and counsel advised the affiant and defendant that defendant has a good and substantial defense on the merits of the action, and that the affiant and defendant verily believes it to be true.

HARRISON GRAY OTIS.

80 Sworn to and subscribed before me this the 14th day of January, 1902.

(Notarial Seal)

T. L. CHAPIN,
Notary Public in and for the County of Los Angeles,
State of California."

81 That thereafter, to-wit: On the 24th day of January, 1902, the plaintiff being present in court by her attorney, J. W. McKinley, Esq., and the defendant by its attorneys, W. F. Fitzgerald, Esq., and Hunsaker & Britt, said defendant, pursuant to said notice, and on the records, pleadings and files in said cause, including said notice of motion, demand and affidavit, and on the grounds specified in the said notice, moved said court to change the place of trial of said action from the Superior Court of the county of San Diego to the Superior Court of the county of Los Angeles. Whereupon said court, on the said last mentioned day, made and entered its order denying said motion, to which ruling defendant then and there excepted.

The foregoing bill of exceptions is hereby settled and allowed, and I hereby certify that the same is a true and correct bill of exceptions.

Dated March 21st, 1902,

E. S. TORRANCE, *Judge.*

83 (Endorsed:) Filed Mar. 21, 1902. Will H. Holcomb, Clerk.

[TITLE OF COURT AND CAUSE.]

AMENDED ANSWER.

84 Comes now the above-named defendant, and by leave of court files this its amended answer to the complaint of plaintiff in the above-entitled action:

I.

1. Defendant avers that it has no information or belief upon the subject sufficient to enable it to answer the

85 allegation contained in paragraph 1 of plaintiff's complaint to the effect that plaintiff is, and during all of the times in said paragraph mentioned has been, the head of the institution known as "The Universal Brotherhood Homestead" on Point Loma, in the county of San Diego, and placing its denial on that ground defendant denies that during all or any of the times mentioned in said paragraph plaintiff was, or has been, the head of said institution.

86 2. Defendant denies that it wickedly or maliciously, and with intent to injure, disgrace and defame plaintiff, and to bring her into public discredit and obloquy, or that it wickedly or maliciously, or with intent or design to injure or disgrace or defame plaintiff, or to bring her into public discredit or obloquy, printed and published, or printed or published, of and concerning the plaintiff, in its newspaper, the article, a copy of which is set forth in paragraph 4 of plaintiff's complaint; defendant, upon and according to its information and belief, denies that said

87 article is or was false, libelous, malicious and defamatory, or that the same was or is false or libelous, or malicious or defamatory; denies that by said article the defendant intended to convey the meaning and that the said article was by the persons who read the same as published in said newspaper, understood and believed to convey the meaning, or that the defendant intended to convey the meaning, or that the said article was by the persons who read the same as published in said newspaper understood

88 or believed to convey the meaning that practices are carried on under the direction of plaintiff which are more shocking than are revealed by the matters set forth in the article, or that gross immoralities are practiced at said institution under the direction and by the instiga-

89 tion, or under the direction, or by the instigation of plaintiff.

3. Defendant denies that by said article the defendant intended to convey the meaning, and that the said article was by the persons who read the same as published in defendant's said newspaper understood and believed to convey the meaning, or that the defendant thereby intended to convey the meaning, or that said article was by the persons who read the same as published in said newspaper understood or believed to convey the meaning, that
90 the men and women in attendance at the institution mentioned in said article are or were in the habit of making midnight pilgrimages insufficiently clothed, or are or were in the habit of indulging in immoral practices, under the direction and at the suggestion, or under the direction, or at the suggestion of plaintiff.

4. Defendant, upon and according to its information and belief, denies that said publication was false, malicious and defamatory, or that the same was false or malicious
91 or defamatory; and also upon and according to its information and belief defendant denies that plaintiff was not and never has been, or was not or never has been, guilty of any of the matters charged in said publication. And defendant, upon and according to its information and belief, denies that all and every portion, or all, or every, or any, portion of said article charging plaintiff with improper practices, fraud and immorality, or charging
92 plaintiff with improper practices or fraud or immorality are false, malicious, libelous and untrue, or false or malicious or libelous or untrue; denies, upon and according to its information and belief, that said article charges plaintiff with fraud or immorality.

5. Defendant denies that by reason of the printing,

93 publishing and circulating of said article, or by reason of the printing, publishing or circulating of the same, as alleged in plaintiff's complaint, or at all, plaintiff has been by the defendant injured in her good name, fame and reputation, or injured in her good name, or fame, or reputation, and damaged or damaged in the sum of fifty thousand dollars, or in any sum whatever, or at all.

II.

94 And defendant, for further answer to plaintiff's complaint, and in mitigation for the publication of the article complained of, alleges:

1. That at all times mentioned in plaintiff's complaint the defendant corporation was printing and publishing at the city of Los Angeles, State of California, its said daily newspaper. That before the publication in defendant's said newspaper of the article complained of herein, the city editor of the defendant was informed that Mrs. M. Leavitt had knowledge of acts, doings and transactions
 95 which had occurred and taken place at said Point Loma Homestead, and that the said Mrs. M. Leavitt desired to be interviewed by a representative of defendant's said newspaper in relation thereto; that thereupon the city editor of defendant's said newspaper detailed one of its reporters, who was a careful, competent and trustworthy employee of defendant, to interview said Mrs. M. Leavitt, and for the purpose of obtaining from her such information as she was possessed of, and was proper for publica-
 96 tion as matter of news in said newspaper. That thereupon said representative and reporter of said defendant did interview said Mrs. M. Leavitt, and the said Mrs. M. Leavitt made to said representative and reporter of defendant a statement in substance as set forth in said

97 article. That at the time she made such statements to
 said reporter, said Mrs. M. Leavitt informed said reporter
 that she knew the facts so stated by her to him to be true.
 That thereafter defendant, in good faith, and as an item
 of public news, and believing the facts stated in said
 article to be true, without malice or intent to injure
 plaintiff, and as a public journalist, and from good
 motives and justifiable ends, published and printed said
 98 publication of said article this defendant did not have,
 not had it at any time prior thereto, any malice or ill
 will against said plaintiff.

2. Defendant, upon and according to its information
 and belief, alleges:

That before the publication of said article there resided
 at said Point Loma Homestead and on the premises con-
 ducted and under the domination of the Universal Broth-
 erhood at Point Loma, one E. A. Neresheimer; that the
 99 Mrs. Neresheimer mentioned in said article so published
 by defendant in its said newspaper is, and at all times
 therein mentioned was, the wife of said E. A. Nere-
 sheimer. That the said E. A. Neresheimer was, at the
 time of the publication of said article, and for a long time
 prior thereto had been, under the influence and domina-
 tion of the plaintiff herein, and he was, during all of the
 said time, a member of said Universal Brotherhood, and
 was an officer, to-wit, the treasurer thereof, and a member
 of the "Cabinet" of said plaintiff at said Universal
 100 Brotherhood Homestead. That said Mrs. Neresheimer
 was not a believer in the doctrines taught, and the prac-
 tices indulged in by said plaintiff, and her said husband,
 and that said Mrs. Neresheimer was, through the influ-
 ence of said plaintiff, cut off from the usual and ordinary

101 association and communion with her said husband, and
 was not allowed to eat at the same table with him, and
 that such was the infatuation of the said Neresheimer
 with the teachings and practices of said plaintiff at said
 Point Loma Homestead that he informed his said wife
 that if she did not accept his beliefs and obey his orders
 that he would drive her out in the world alone. That in
 consequence of the interference and influence, of said
 plaintiff over said Neresheimer she, the said Mrs. Nere-
 102 sheimer, saw her husband only on such occasions as it
 pleased him to be seen by her; and she was falsely
 reported by plaintiff, and by said Neresheimer and his
 friends, to be crazy and dangerous to herself and friends,
 and was secretly watched and spied on and accused of
 lying and duplicity. That other members of the Uni-
 versal Brotherhood at Point Loma Homestead were by
 the plaintiff, or at her instance, warned against recogniz-
 ing, talking to, or associating with, the said Mrs. Nere-
 sheimer. That the foregoing facts, before the publication
 103 of said article by this defendant, had been communicated
 by said Mrs. Neresheimer and others to divers and sundry
 persons in the city of San Diego, and that the same had
 become, and were, matters of public notoriety in said
 city of San Diego.

3. Defendant denies that by reason of the printing,
 publishing and circulating of said article, or by reason
 of the printing, publishing or circulating of the same as
 alleged in plaintiff's complaint, or at all, plaintiff has
 104 been by the defendant injured in her good name, fame
 and reputation, or injured in her good name, or fame, or
 reputation, and damaged or damaged in the sum of fifty
 thousand dollars, or in any sum whatever, or at all; but
 on the contrary, defendant avers that if said plaintiff has

105 suffered any damage, then said loss or damage has been
 in no way due to the publication of the article complained
 of in the plaintiff's complaint herein, nor to any act of
 said defendant, but this defendant, upon and according to
 its information and belief, alleges that such loss by
 plaintiff, if any has occurred, has been and is due solely
 to the conduct, methods and actions on the part of the
 plaintiff in the conduct and carrying on of the
 106 affairs of said Universal Brotherhood, and of the institu-
 tions maintained, conducted and carried on by plaintiff in
 connection therewith, with which said defendant has no
 connection, and which conduct, methods and actions on
 the part of plaintiff are, and for years have been, of
 public notoriety.

For further defense to plaintiff's alleged cause of
 action this defendant avers that the following portions
 of said article were, at the time of publication thereof,
 true, to-wit:

107 (a.) That portion thereof which states that "armed
 men guard this place of horror."

(b.) That portion thereof which states that "Kath-
 crine Tingley is an off-shoot of the Theosophic Society
 which became disjointed some four or five years ago.
 Mrs. Tingley was formerly — the theosophists say — a
 common, dollar-taking spirit medium." (For jury.)

108 (c.) That portion thereof which stated that "she
 could not agree with the theosophists, so she branched
 off and set up her trap at Point Loma. She distributes
 literature throughout the East, and even in foreign
 countries, saying the Universal Brotherhood Homestead,
 located in the most beautiful spot on earth, affords to
 those who wish to retire into a quiet, thoughtful life, a

109 home in which they may live peacefully, and in an atmosphere of soul study and pure thought."

(d.) That portion thereof which states that "only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person, Mrs. Tingley exerts her influence over such as are spookily inclined; and the almost incredible things which have taken place, prove that once in the lair it is almost impossible to escape."

110 (e.) That portion thereof which states that "There is nothing taught at Point Loma but insane ceremonies; and the girls who are placed there to be educated are put to work at the most menial tasks."

(f.) That portion thereof which states that the children there "are continually on the verge of starvation—for Mrs. Tingley openly states that children are fed too much for their spiritual good, and must eat but little so they will be more ethereal."

111 (g.) That portion thereof which states that children "will grow up purer if away from bodily and affectionate influence of their parents."

(h.) That portion thereof which states that "The children are never allowed to speak to anybody except when they are selling trinkets to the visitors who come to the gates."

(i.) That portion thereof which states that "Purple robes are worn by the women and a sort of khaki uniform by the men."

112 (j.) That portion thereof which states that "On certain occasions a midnight pilgrimage is made by both men and women to a spot of the peninsula which is termed sacred ground. They go in their night-ropes, each holding a torch."

113

IV.

Further answering the alleged cause of action set forth in plaintiff's complaint, defendant, upon and according to its information and belief, alleges:

114 That it is true that numerous outrages were committed by plaintiff and under her direction at Point Loma; that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction; that women and children were by plaintiff starved, and that it was necessary to rescue such persons from the plaintiff and from the institution conducted by her; that women were so abused in said institution and under the direction of said plaintiff as to bring them to the point of death; that their health was threatened thereby; that plaintiff was a spiritualistic medium and impostor and that by the circulation of literature she induced people to come to the institution conducted by her; and rendered it almost impossible for them to escape therefrom:

115 plaintiff caused to be carried on insane ceremonies; that plaintiff kept little children in said institution upon the verge of starvation; that plaintiff, by her influence and misrepresentation, has caused parents and children to be separated, and kept the children in confinement, thereby destroying their health and strength; that the men and women in attendance in said institution are in the habit of making midnight pilgrimages in their night-ropes; that the institution conducted by plaintiff is a fake and

116 a fraud, and is carried on by plaintiff for the purpose of defrauding people to induce them to attend it; that practices are carried on there which should not be tolerated in a civilized community.

WHEREFORE, defendant prays that plaintiff take

- 117 nothing by this action, and that it recover of plaintiff its costs herein.

W. F. FITZGERALD,
EUGENE DANAY,
SAM'L M. SHORTRIDGE,
GRANT JACKSON,
HUNSAKER & BRITT,
Attorneys for Defendant.

(Duly verified by H. G. Otis, President.)

- 118 Endorsed: Filed Dec. 18th, 1902, Will H. Holcomb, County Clerk. By Herbert N. Neale, Deputy.

[TITLE OF COURT AND CAUSE.]

We, the Jury in the above entitled case, do find for the plaintiff, and assess the amount of her damages at seven thousand five hundred dollars.

C. C. BAILEY,

- 119 *Foreman.*

(Endorsed:) Filed Jan. 12th, 1903, Will H. Holcomb, Clerk. By Herbert N. Neale, Deputy.

[TITLE OF COURT AND CAUSE.]

JUDGMENT ON VERDICT IN OPEN COURT.

- 120 This action came on regularly for trial on the 16th day of December, 1902. The said parties appeared by their attorneys, Judge J. W. McKinley, Frederick Kellogg, Esq., A. B. Hotchkiss, W. R. Andrews, Esq., and James E. Wadham, Esq., counsel for plaintiff, and W. F. Fitzgerald, Esq., Messrs. Hunsaker & Britt, Eugene Daney, Esq., Grant Jackson, Esq., and Samuel M. Short-

121 ridge, Esq., counsel for defendant. A jury of 12 persons was regularly empaneled and sworn to try said action. Witnesses on the part of plaintiff and defendant were sworn and examined. After hearing the evidence, the arguments of counsel, and instructions of the court, the jury retired to consider of their verdict, and subsequently returned into court, with the verdict signed by the foreman, and, being called, answered to their names, and duly rendered their verdict in writing in favor of the plaintiff as follows:

In the Superior Court of the County of San Diego,
State of California.

Katherine Tingley, Plaintiff,

vs.

Times-Mirror Company, Defendant.

123 We, the Jury in the above entitled case, do find for the plaintiff, and assess the amount of her damages at seven thousand five hundred dollars.

C. C. BAILEY,

Foreman.

124 Wherefore, by virtue of the law, and by reason of the premises aforesaid, it is ordered, adjudged and decreed that said plaintiff Katherine Tingley have and recover from said defendant Times-Mirror Company the sum of seven thousand five hundred dollars and costs and disbursements incurred in this action, amounting to the sum of nine hundred four and 5/100 (\$904.05) dollars.

Judgment recorded the 13th day of January, 1903.
Book 20, page 307.

- 125 Clerk's Office of the Superior Court of the county of San Diego, State of California. — ss.

I, the undersigned, clerk of said court, do hereby certify the foregoing to be a full, true, and correct copy of the judgment entered in the above-entitled action.

Attest my hand and the seal of said Superior Court this 13th day of January, 1903.

(Seal.) WILL H. HOLCOMB, *Clerk.*

By HERBERT N. NEALE, *Deputy Clerk.*

- 126 (Endorsed:) Filed Jan. 13th, 1903, Will H. Holcomb, Clerk. By Herbert N. Neale, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

CERTIFICATE TO JUDGMENT ROLL.

- 127 I, the undersigned, County Clerk of the county of San Diego, State of California, and ex-officio clerk of the Superior Court in and for said county, do hereby certify the foregoing to be a true copy of the judgment entered in the above-entitled action, and recorded in Judgment Book 20 of said court, at page 307. And I further certify that the foregoing papers, hereto annexed, constitute the judgment roll in said action.

- 128 WITNESS my hand and the seal of said court this 2nd day of February, 1903.

(Seal.) WILL H. HOLCOMB, *Clerk,*

By HERBERT N. NEALE, *Deputy Clerk.*

- (Endorsed:) Filed Feb. 2nd, 1903, Will H. Holcomb, Clerk. By Herbert N. Neale, Deputy.

129 [TITLE OF COURT AND CAUSE.]

DEFENDANT'S BILL OF EXCEPTIONS.

Be it remembered: That on the 28th day of March, 1902, defendant served on the attorney for plaintiff, and on the 29th day of March, 1902, filed with the clerk of this court, its original answer to plaintiff's complaint herein, which answer, together with the indorsements thereon, is in the words and figures as follows, to-wit:

130

[TITLE OF COURT AND CAUSE.]

ANSWER.

Comes now the above-named defendant, and for answer to the complaint of plaintiff,

I.

131 Avers that it has no information or belief upon the subject sufficient to enable it to answer the allegation contained in paragraph I of plaintiff's complaint that plaintiff is, and during all of the time therein mentioned has been, the head of the institution known as "The Universal Brotherhood Homestead," on Point Loma, in said county of San Diego; and, placing its denial on that ground, defendant denies that plaintiff is, or during all or any of said time has been, the head of said institution.

II.

132 Defendant denies that defendant wickedly and maliciously, and with intent and design to injure, disgrace and defame plaintiff, and to bring her into public discredit and obloquy, or that it wickedly, or maliciously, or with intent or design to injure, or disgrace, or de-

133 fame, plaintiff, or to bring her into public discredit or obloquy, printed and published in its said newspaper, the article, a copy of which is set forth in paragraph IV of plaintiff's complaint; defendant, upon its information and belief, denies that said article is false, libelous, malicious and defamatory, or that the same is false, or libelous, or malicious, or defamatory.

III.

134 Defendant, upon its information and belief, denies that said publication was false, malicious and defamatory, or that the same was false, or malicious, or defamatory; defendant, upon its information and belief, denies that plaintiff was not and never had been, or was not, or never had been, guilty of any of the matters charged in said publication: defendant, upon its information and belief, denies that all and every portion, or all, or every, or any, portion of said article charging plaintiff with improper practices, fraud and immorality, or charging
 135 plaintiff with improper practices, or fraud, or immorality, are false, malicious, libelous and untrue, or false, or malicious, or libelous, or untrue.

IV.

136 Defendant denies that, by reason of the printing, publishing and circulating, or by reason of the printing, publishing or circulating, of said article, as alleged in plaintiff's complaint, or at all, the plaintiff has been by the defendant injured in her good name, fame and reputation, and damaged, or injured in her good name, or fame, or reputation, or damaged in the sum of \$50,000.00, or in any sum whatsoever.

WHEREFORE, defendant prays that plaintiff take

137 nothing by her action and that defendant have judgment against plaintiff for its costs.

W. F. FITZGERALD,
HUNSAKER & BRITT,

Attorneys for Defendant.

(Duly verified by Harrison Gray Otis, President.)

Endorsed: Filed Mar. 29, 1902, Will H. Holcomb, Clerk. By T. J. Story, Deputy.

138 That plaintiff did not at any time demur to said answer. That prior to the 15th day of December, 1902, said action had been set down for trial on the 16th day of December, 1902, at 10 o'clock a.m. That on the 15th day of December, 1902, without leave of court, defendant filed with the clerk of said court, and served on the attorneys for plaintiff in said action, its amended answer to said complaint, which answer, together with the indorsements thereon, was in the words and figures following, to wit:

139

[TITLE OF COURT AND CAUSE.]

Comes now the above-named defendant, before demurrer filed to its original answer herein, and files this its first amended answer to the complaint of plaintiff in the above-entitled action:

1. Defendant avers that it has no information or belief upon the subject sufficient to enable it to answer the allegation contained in paragraph 1 of plaintiff's complaint to the effect that plaintiff is, and during all the times in said paragraph mentioned, has been, the head of the institution known as "The Universal Brotherhood Homestead" on Point Loma, in the county of San Diego, and placing its denial on that ground defendant denies

140

141 that during all or any of the times mentioned in said paragraph plaintiff was, or has been, the head of said institution.

2. Defendant denies that it wickedly or maliciously, and with intent to injure, disgrace and defame plaintiff, and to bring her^s into public discredit and obloquy, or that it wickedly or maliciously, or with intent or design to injure or disgrace or defame plaintiff, or to bring her into public discredit or obloquy, printed and published, 142 or printed or published, of and concerning the plaintiff, in its newspaper the article, a copy of which is set forth in paragraph 4 of plaintiff's complaint; defendant, upon and according to its information and belief, denies that said article is or was false, libelous, malicious and defamatory, or that the same was or is false or libelous or malicious or defamatory.

3. Defendant denies that by said article the defendant intended to convey the meaning, and that the said article was by the persons who read the same as published in defendant's said newspaper understood and believed to convey the meaning, or that defendant thereby 143 intended to convey the meaning, or that said article was by the persons who read the same as published in said newspaper understood or believed to convey the meaning, that the men and women in attendance at the institution mentioned in said article are or were in the habit of making midnight pilgrimages insufficiently clothed, or are or were in the habit of indulging in immoral practices, under the direction, and at the sugges- 144 tion, or under the direction, or at the suggestion, of plaintiff; denies that by said article the defendant intended to convey the meaning, and that the said article was by the persons who read the same as published in

145 said newspaper understood and believed to convey the meaning, or that the defendant intended to convey the meaning, or that the said article was by the persons who read the same as published in said newspaper understood or believed to convey the meaning that practices are carried on under the direction of plaintiff which are more shocking than are revealed by the matters set forth in said article, or that gross immoralities are practiced at said institution under the direction and by the instigation, or under the direction or
 146 by the instigation of plaintiff.

4. Defendant, upon and according to its information and belief, denies that said publication was false, malicious and defamatory, or that the same was false or malicious or defamatory; and also upon and according to its information and belief defendant denies that plaintiff was not and never has been, or was not or never has been, guilty of any of the matters charged in said publication.

147 And defendant, upon and according to its information and belief, denies that all and every portion, or all, or every, or any, portion of said article charging plaintiff with improper practices, fraud and immorality, or charging plaintiff with improper practices or fraud or immorality are false, malicious, libelous and untrue, or false or malicious or libelous or untrue; denies, upon and according to its information and belief, that said article charges plaintiff with fraud or immorality.

148 5. Defendant denies that by reason of the printing, publishing and circulating of said article, or by reason of the printing, publishing or circulating of the same, as alleged in plaintiff's complaint, or at all, plaintiff has been by the defendant injured in her good name, fame and reputation, or injured in her good name, or fame, or repu-

149 tation, and damaged or damaged in the sum of fifty thousand dollars, or in any sum whatsoever, or at all.

II.

For another and further defense to the alleged cause of action set forth in plaintiff's complaint, defendant alleges, upon and according to its information and belief, that at all times mentioned in plaintiff's complaint and for many years prior to the commencement of this action, the plain-
 150 tiff was, and is yet, a married woman, and the wife of one Philo B. Tingley, who is not joined with the plaintiff as a party to this action.

III.

And for another, further and separate defense to the alleged cause of action set forth in plaintiff's complaint, defendant, upon and according to its information and belief, alleges that said plaintiff has not legal capacity to bring or maintain this action for the reason that, at all
 151 times mentioned in plaintiff's complaint and for many years prior to the commencement of this action, the plaintiff was, and is yet, a married woman, and the wife of one Philo B. Tingley.

IV.

And defendant for further answer to plaintiff's complaint and in mitigation for the publication of the article complained of, alleges:
 152 I. That at all times mentioned in plaintiff's complaint the defendant corporation was printing and publishing at the city of Los Angeles, State of California, its said daily newspaper. That before the publication in defendant's said newspaper of the article complained of herein, the city

153 editor of the defendant was informed that Mrs. M. Leavitt had knowledge of acts, doings, and transactions which had occurred and taken place at said Point Loma Homestead, and that she, the said Mrs. M. Leavitt, desired to be interviewed by a representative of defendant's said newspaper in relation thereto; that thereupon the city editor of defendant's said newspaper detailed one of its reporters, who was a careful, competent and trustworthy employee of defendant, to interview said Mrs. M. Leavitt, for the purpose

154 of obtaining from her such information as she was possessed of, and was proper for publication as matter of news in said newspaper. That thereupon said representative and reporter of said defendant did interview said Mrs. M. Leavitt and the said Mrs. M. Leavitt made to said representative and reporter of defendant a statement in substance as set forth in said article. That at the time she made such statements to said reporter, said Mrs. M. Leavitt informed said reporter that she knew the facts

155 so stated by her to him to be true. That thereafter, defendant, in good faith, and as an item of public news, and believing the facts stated in said article to be true, without malice or intent to injure plaintiff, and as a public journalist, and from good motives and justifiable ends, published and printed said article in its said newspaper. That at the time of the publication of said article this defendant did not have, nor had it at any time prior thereto, any malice or ill-will against said plaintiff.

156 2. Defendant, upon and according to its information and belief, alleges:

That before the publication of said article there resided at said Point Loma Homestead and on the premises conducted and under the domination of the Universal

- 157 Brotherhood at Point Loma, one E. A. Neresheimer; that the Mrs. Neresheimer mentioned in said article so published by defendant in its said newspaper, is, and at all times therein mentioned was, the wife of said E. A. Neresheimer. That the said E. A. Neresheimer was, at the time of the publication of said article, and for a long time prior thereto had been, under the influence and domination of the plaintiff herein, and he was, during all
- 158 and was an officer, to-wit, the treasurer thereof, and a member of the "Cabinet" of said plaintiff at said Universal Brotherhood Homestead. That said Mrs. Neresheimer was not a believer in the doctrines taught, and the practices indulged in, by said plaintiff, and her said husband, and that said Mrs. Neresheimer was, through the influence of said plaintiff, cut off from the usual and ordinary association and communion with her said husband, and was not allowed to eat at the same table with him; and
- 159 that such was the infatuation of the said Neresheimer with the teachings and practices of said plaintiff at said Point Loma Homestead, that he informed his said wife that if she did not accept his beliefs and obey his orders that he would drive her out in the world alone. That in consequence of the interference and influence of said plaintiff over said Neresheimer, she, the said Mrs. Neresheimer, saw her husband only on such occasions as it pleased him to be seen by her; and she was falsely reported by plaintiff, and by said Neresheimer and his
- 160 friends, to be crazy and dangerous to herself, and friends, and was secretly watched and spied on and accused of lying and duplicity. That other members of the Universal Brotherhood at Point Loma Homestead were by the plaintiff, or at her instance, warned against recognizing, talk-

161 ing to, or associating with, the said Mrs. Neresheimer.
That the foregoing facts, before the publication of said
article by this defendant, had been communicated by said
Mrs. Neresheimer and others, to divers and sundry per-
sons in the city of San Diego, and that the same had be-
come, and were, matters of public notoriety in said City
of San Diego.

3. Defendant denies that by reason of the printing,
publishing and circulating of said article, or by reason of
162 the printing, publishing or circulating of the same as
alleged in plaintiff's complaint, or at all, plaintiff has
been by the defendant injured in her good name, fame and
reputation, or injured in her good name or fame or repu-
tation, and damaged or damaged in the sum of fifty thou-
sand dollars, or in any sum whatever, or at all; but on
the contrary, defendant avers that if said plaintiff has
suffered any damage then said loss or damage has been
in no way due to the publication of the article com-
163 plained of in the plaintiff's complaint herein, nor to any
act of this defendant, but this defendant, upon and ac-
cording to its information and belief, alleges that such
loss by plaintiff, if any has occurred, has been and is
due solely to the conduct, methods and actions on the
part of the plaintiff in the conduct and carrying on of
the affairs of said Universal Brotherhood and of the in-
stitutions maintained, conducted and carried on by plain-
tiff in connection therewith, with which this defendant
164 has no connection and which conduct, methods and ac-
tions on the part of plaintiff are and for years have been
of public notoriety.

V.

For further defense to plaintiff's alleged cause of ac-

165 tion this defendant avers that the following portions of said article were, at the time of the publication thereof, true, to-wit:

(a.) That portion thereof which states that "Armed men guard this place of horror."

(b.) That portion thereof which states that "Katherine Tingley is an off-shoot of the Theosophic Society which became disjointed some four or five years ago. Mrs. Tingley was formerly—the Theosophists say—a common dollar-taking spirit medium."

166

(c.) That portion thereof which states "She could not agree with the Theosophists so she branched off and set up her trap at Point Loma. She distributes literature throughout the East, and even in foreign countries, saying the Universal Brotherhood Homestead, located in the most beautiful spot on earth, affords to those who wish to retire into a quiet, thoughtful life, a home in which they may live peacefully, and in an atmosphere of soul study and pure thought."

167

(d.) That portion thereof which states that "Only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person, Mrs. Tingley exerts her influence over such as are spookily inclined; and the almost incredible things which have taken place, prove that once in the lair it is almost impossible to escape."

(e.) That portion thereof which states that "There is nothing taught at Point Loma but insane ceremonies; and the girls who are placed there to be educated are put to work at the most menial tasks."

168

(f.) That portion thereof which states that the children there "are continually on the verge of starvation—

169 for Mrs. Tingley openly states that children are fed too much for their spiritual good, and must eat but little so they will be more ethereal."

(g.) That portion thereof which states that children "Will grow up purer if away from bodily and affectionate influence of their parents."

170 (h.) That portion thereof which states that "The children are never allowed to speak to anybody except when they are selling trinkets to the visitors who come to the gates."

(i.) That portion thereof which states that "Purple robes are worn by the women and a sort of khaki uniform by the men."

(j.) That portion thereof which states that "On certain occasions a midnight pilgrimage is made by both men and women to a spot of the peninsula which is termed sacred ground. They go in their night robes, each holding a torch."

171

VI.

Further answering the alleged cause of action set forth in plaintiff's complaint, defendant, upon and according to its information and belief, alleges:

172 That it is true that numerous outrages were committed by plaintiff and under her direction at Point Loma; that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction; that women and children were by plaintiff starved and that it was necessary to rescue such persons from the plaintiff and from the institution conducted by her; that women were so abused in said institution, and under the direction of said plaintiff as to bring them to the point of death; that

- 173 their health was threatened thereby; that plaintiff was a spiritualistic medium and impostor and that by the circulation of literature she induced people to come to the institution conducted by her, and rendered it almost impossible for them to escape therefrom; that plaintiff caused to be carried on insane ceremonies; that plaintiff kept little children in said institution upon the verge of starvation; that plaintiff, by her influence and misrepresentation, has caused parents and children to be separated, and kept the
- 174 children in confinement, thereby destroying their health and strength; that the men and women in attendance at said institution are in the habit of making midnight pilgrimages in their night-ropes; that the institution conducted by plaintiff is a fake and a fraud, and is carried on by plaintiff for the purpose of defrauding people to induce them to attend it; that practices are carried on there which should not be tolerated in a civilized community.
- 175 WHEREFORE, defendant prays that plaintiff take nothing by this action, and that it recover of plaintiff its costs herein.

W. F. FITZGERALD,
EUGENE DANAY,
HUNSAKER & BRITT,
Attorneys for Defendant.

- 176 Duly verified by Harrison Gray Otis, president of defendant, before Eugene Daney, Notary Public, December 15, 1902.

Endorsed: Filed Dec. 15, 1902. Will H. Holcomb, Clerk. By T. J. Story, Deputy.

Received a copy of the within amended answer this

177 15th day of December, 1902, at 5 o'clock p. m.; all rights reserved.

J. W. MCKINLEY,
 F. R. KELLOGG,
 A. B. HOTCHKISS,
 W. R. ANDREWS,
Attorneys for Plaintiff.

178 That on the 16th day of December, 1902, and before the trial of said action had commenced, the plaintiff moved the court to strike out defendant's said amended answer on the following grounds:

1. That the same had been filed without leave of court.

2. That the same had been filed without authority of law.

3. That it changed the issues made in the action, among other things, introducing a plea in abatement.

179 Said motion, after argument of counsel for the respective parties, was granted by the court, and said answer was, by the order of the court, then and there made in its minutes, stricken out, to which ruling and order defendant then and there duly excepted.

180 Be it further remembered that, on December 18th, 1902, and after a jury had been impaneled and sworn to try this action, defendant applied to the court for leave to file said answer which had been so stricken out, and that said application was by the court denied, to which ruling defendant then and there excepted. That thereupon defendant moved the court for leave to file an amended answer, omitting the two defenses contained in said answer setting up the coverture of plaintiff, which motion

181 was by consent of plaintiff granted by the court, and such amended answer was thereupon served and filed.

Inasmuch as the foregoing matters do not appear of record, defendant, within the time allowed by law and the stipulation of the parties, tenders this its bill of exceptions, and asks that the same be settled and allowed and made a part of the record in this case.

Dated February 11, 1903.

182

W. F. FITZGERALD,
EUGENE DANAY,
SAMUEL M. SHORTRIDGE,
HUNSAKER & BRITT,
Attorneys for Defendant.

The foregoing bill of exceptions having been served in due time, and no amendments thereto having been proposed, is hereby settled and allowed this 26th day of June, 1903.

E. S. TORRANCE, *Judge.*

183 (Endorsed:) Filed June 26, 1903, Will H. Holcomb, Clerk. By Herbert N. Neale, Deputy.

[TITLE OF COURT AND CAUSE.]

BILL OF EXCEPTIONS.

184 BE IT REMEMBERED that on the 16th day of December, 1902, the above entitled cause came on regularly for trial before the Honorable E. S. Torrance, Judge of said Court. The plaintiff appeared in person and by her attorneys: J. W. McKinley, A. B. Hotchkiss, Frederick R. Kellogg, W. R. Andrews and James E. Wadham, and the defendant

185 appeared by its attorneys; W. F. Fitzgerald, W. J. Hunsaker, Eugene Daney, Grant Jackson and Samuel M. Shortridge. And thereupon, the following proceedings were had in the matter of the impaneling of a jury and the trial of said cause, to-wit: That in impaneling a jury twenty-six persons were examined as to their qualifications as jurors to try said cause. The plaintiff challenged two of said persons for cause, which challenges were by the court allowed, and the plaintiff exercised four

186 peremptory challenges. The defendant interposed challenges for cause to five of said persons, four of which challenges were by the court allowed, and one of which challenges was by the court denied, and the defendant exercised four peremptory challenges. The challenge for cause which the defendant interposed and which the court denied, was the challenge for cause interposed by the defendant to the talesman, Paul Sainsevain. While the talesman, Paul Sainsevain, was being examined on his *voir*

187 *doir* as to his qualifications to sit as a juror, the nature of the controversy having been explained to the talesman, the following proceedings were had, to-wit:

BY MR. ANDREWS: Q. Mr. Sainsevain, you reside in the City of San Diego?

A. Yes, sir. I have lived here about eleven years. I am not personally acquainted with the plaintiff, Katherine Tingley, nor am I personally acquainted with General

188 Otis, the manager of the Los Angeles Times. I do not believe I have read the Los Angeles Times in the last three or four years.

Q. Have you any personal knowledge of this publication?

189 A. I have not heard anything in reference to this controversy from any persons who purported to be witnesses, nor have I had any business transactions with the Times-Mirror Company, or with General Otis, or with Mrs. Tingley.

I am not conscious at this time of any feeling of bias or prejudice in favor or against either one of the parties to this litigation. I have no prejudice against what is known as theosophy, or against what is known as the
 190 Universal Brotherhood. If it should transpire to be the fact in this case that Mrs. Tingley claims some connection with theosophy, that connection would not prejudice me against her.

I am acquainted with Eugene Daney, one of the counsel for the defendant in this case. My acquaintance with him is friendly. I am not aware that he has any influence of any consequence with me. The fact of my acquaintance with him would not influence my verdict in any respect.

191 I am acquainted with Mr. Hunsaker. I have been acquainted with him several years. The acquaintance is simply casual. My acquaintance with him would not influence my verdict in any respect.

BY MR. DANNEY: Q. Mr. Sainsevain, you have lived here how long?

A. Since 1886. I have been a resident of San Diego County continuously during all of that time. I do not
 192 read the Los Angeles Times regularly. I have not read it for over a year. Sometimes when they had the library in the Keating Block I read it there, but I have not read it any since. I never took it to my knowledge, never. In Los Angeles I used to read the "Herald." I supposed in the

- 193 beginning The Herald was a Democratic paper and I took that paper in preference, and that is the only reason; simply because The Herald at that time was a Democratic paper and would be more in consonance with my views and I prefer to read it. I did not have any prejudice against the Los Angeles Times other than that which would be political. We had the choice of the two papers and I took the Herald; for the reason that it was of the same political faith as myself and had no other reason.
- 194 I read the San Diego papers and took the "Sun" and used to take the "Tribune." I have been taking the "Sun" six or eight months, and before that I took the "San Diego Tribune." I sometimes read the "San Diego Union." I have read the "Sun" continuously during the last six months. I suppose I have read all the items of news that appeared in the "Sun," but I do not know how true they were. I do not remember that I have read any of the articles in any way commenting on this case. I may have.
- 195 I do not remember anything in the "Sun" giving an account of the proceedings of this case that have preceded the actual trial. I read some of an article about an attempt being made to take the deposition of Mrs. Tingley. I have read matter that has appeared in the "Sun" concerning the agitation regarding the Cuban children. Part of the time I have read an account of the meetings held at the "Isis Theatre" every Sunday night. I have read most of these articles.

196 Q. Then to the best of your information at this time and to the best of your belief, you have practically read everything that has appeared in the "Sun" concerning this case, the proceedings preceding the trial and also the proceedings relating to the Cuban children's case?

A. I suppose so.

197 Q. Likewise all of the accounts of meetings at the "Isis Theatre" of the Theosophical Society?

A. I guess so. Nearly all, anyway.

I have attended meetings at the "Isis Theatre," but not regularly. I have been there when I heard the children were going to sing. I have been there three or four times, maybe five times. I took some ladies with me. I was more or less interested in the matter and took a particular interest in the children's performance and music, and heard
198 the various addresses delivered there by different people. I do not know that I could give the date when I was last there. There were a great many children there. I think it must be three months ago. I have not been there since.

I did not witness any demonstration on last Sunday afternoon of the arrival of the Cuban children. I read an account in the San Diegan Sun, published the following day. I read all the Sun had to say on the subject and have not been following the case up. I had nothing to do
199 so I read the papers.

Q. Now all these different newspaper articles you have read, and these various statements that you have heard from the various speakers at the "Isis," did they in any way create any impression on your mind in regard to the merits or demerits of this case?

A. Well, no. I do not believe the papers much anyhow.

200

Q. Then I understand you to say, you placed no reliance on anything you read?

A. On some, but most on news happening around town. Of course, I know it is partly true and partly un-

201 true, so you do not know how much is true. I believe I read the San Diego Union's account of these proceedings. I happened to get the San Diego Union and read about the arrival of the children last Sunday. I do not think I read the speeches delivered there as published in the Union. I read part of it and did not read part of it.

Q. Did you remember whether you read the speech of Senator Bowers reflecting on the defendant in this case or the president of the defendant?

202

A. I believe I read a part of them.

Q. Did you read that particular part of Senator Bowers' speech in which he criticises Gen. Otis?

A. I did not. I did not see his name mentioned at all. I do not know that I saw any allusion to him in the article. I only read that the children left Colton to come this way on account of the Los Angeles people.

203

Q. I call your attention, Mr. Sainsevain, to the San Diego Union of Monday, December 15th, and ask you if this is the article you read? "Citizens Extend Welcome to Cuban Children."

A. Yes, sir, I believe that it is. That is the article.

204

Q. Do you remember whether you read that portion of it containing an account of Senator Bowers' speech, wherein this language is used: "I use the word conspirators advisedly, for it was a conspiracy on the part of the society, in connection with the slanderers and libelers of our neighboring city, who are now seeking to escape just punishment for their crimes, and will not, I opine, find it quite as easy as 'crossing the Rubicon.'"

205 A. I do not remember that part of it. I did not read the entire article.

The defendant here offered copy of the San Diego Union, dated Monday, December 15th, 1902, and being the paper to which the talesmen's attention had been called and asked that the same be marked by clerk as an exhibit for the purpose of identification. The article mentioned to in said paper was marked by the clerk and is herein set out as Defendant's Exhibit No. 1.

206

"DEFENDANT'S EXHIBIT No. 1."

The San Diego Union, Monday Morning, December 15,
1902.

207 CITIZENS EXTEND WELCOME TO THE CUBAN CHILDREN — MEETING HELD YESTERDAY AFTERNOON AT ISIS THEATRE IN THEIR HONOR — ADDRESSES BY E. W. HENDRICK AND W. W. BOWERS—D. C. REED TELLS OF THEIR TRIP ACROSS THE CONTINENT FROM ELLIS ISLAND TO SAN DIEGO.

The eleven Cuban children who arrived at Point Loma School on Saturday night, were given a welcome yesterday, such as must have made their little eyes open, for they could understand but very little of what was said to them, or about them.

208

The first of the reception took the form of a parade through the principal streets of the city, starting from the foot of D street, near the Santa Fe Depot. The procession was headed by the City Guard Band and was made up of the children in carriages and the other chil-

209 dren from the Raja Yoga school accompanied them. The parade passed up D street to Fourth, on Fourth to E, on E to Fifth, on Fifth to the stage entrance to the Isis theatre.

The theatre was filled. The stage setting was very pretty. At one side were gathered the children at the feet of Miss Dr. Van Pelt, and on the stage were those who were to take part in the reception exercise.

210 Dr. Hearne called the audience to order and stated the purpose of the meeting, telling how the movement originated and how the people spoken to seemed most willing to take part. After two songs by the children from the Raja Yoga school, Judge E. W. Hendrick was introduced to speak a welcome to the children, which he did in part as follows:

JUDGE HENDRICK'S REMARKS.

211 My dear young friends: I have been requested by my fellow citizens to bid you welcome to our beautiful city, and to express to you our very great joy at your safe arrival. I regret more than I can tell you the fact that I cannot speak to you in the beautiful language of your native land, for I know by experience how dear to one's heart are the accents of his mother tongue, when wandering on a foreign strand.

212 You are indeed too young to appreciate the full significance of the events which bring you hither, and to comprehend the unusual circumstances which have attended your journey from your birthplace in Cuba to your adopted home on the shores of the Pacific Ocean. Even we, who are older, and have seen more of life, and who have read more of history, do not understand its full scope and meaning. The kindness of Mrs. Ting-

213 ley and of the Theosophical society in establishing the
 Raja Yoga school for the benefit of poor children, and
 bringing them free of expenses from a foreign land, is
 an outgrowth of the same spirit of brotherhood and love
 which led this great country to espouse the cause of down-
 trodden Cuba, and to assist her in the establishment of
 her freedom and independence.

You are now about to enter upon a new life. You
 have every reason to expect that your life in your new
 214 home will be happy and beneficial. You have been pre-
 ceded here by a number of your compatriots and if we
 are to judge from their happy faces, whenever we see
 them, nothing is wanting to their complete contentment.
 The people of San Diego often see them at the public
 meetings which are held every Sunday evening in this
 hall for religious and artistic culture, and what we see
 there leads some of us at least to believe that they are
 not only happy and contented, but that they are receiving
 215 just that kind of instruction which will teach them to
 become useful citizens of a free and independent nation—
 whether that nation shall be this grand and illustrious
 republic, or the new republic which by the heroic bravery
 of its own sons—and by the noble and unselfish assistance
 of the United States, has risen like a new star into the
 galaxy of nations. The education which you may get here
 may easily become of great assistance to you in the
 future, when you shall have arrived at the age of manhood,
 216 and perhaps be called upon to assist in maintaining and
 defending the new-born liberty which has come to the
 Pearl of the Antilles—as your beautiful island has so
 poetically been called.

Now it is not to be expected that all of you—nor

217 even a majority of you—will always remain away from your native land. As irresistibly as the magnetic needle seeks its attractive poles, so does the human heart turn ever to its birthplace. The fond lips of her who teaches us also to love and adore and reverence the words, "Our Father" teaches us also to love and adore our Fatherland. So, as came the prodigal son—after many wanderings—back to his father's mansion, so you will go, when the time shall come, back from Loma land, over the snow-clad mountains and past the great Father of Waters, to the beautiful mountains and valleys of Cubaland, and the great question will be, Shall you go back as children only, or clad in the strong panoply of mature manhood, ready to act well your part in the great battle of life.

In order to prepare you for that battle which Cuba shall surely be called to fight, the first lesson that you ought to learn—as it seems to be—is obedience; obedience to your rightful superiors; obedience to law; obedience to the admonitions of conscience. No man can ever be truly a master until he has first learned to obey; no nation has ever achieved great national success, unless its people had first learned this great lesson of obedience—obedience to the laws of the country and to the laws of God. It is this lesson which the Latin races of modern times have found it so hard to learn—obedience to the laws of the land. It is lawlessness which makes the South and Central American states the subjects of constant revolutions; it was the spirit of lawlessness—both upon the part of rulers and the lower classes—which led to the French revolution, the bloodiest epoch in human history, and which led the great Napoleon to exclaim with a sigh that the name of Washington would be sung

221 by the bard of futurity, while his would be lost in the unfathomable vortex of French revolutions.

Next to obedience, I would say that the most desirable lesson for you to learn is patriotism—patriotism in its broadest and truest sense. I have already said that the love of country is implanted by nature in the human heart. The sentiment controls the philosopher and the statesman, as well as the peasant and the ploughman—yes, verily, even the savage and the tiger will fight for
 222 his wigwam and his lair. But the patriotism which I would recommend to you and upon which—as I understand the Theosophical Society is based—upon the brotherhood of man. One of our most distinguished patriots and statesmen announced his political platform and religious creed in one short sentence—never surpassed and only equaled by him, who spake as man never spake—“The world is my country; to do good my religion.”
 223 So, my dear children, while I think that we should each love our Fatherland and our mother tongue better than all others, we should never forget that, as pagan Seneca has well expressed it: “Of one blood hath God made all men”; and that in our love of the country which gave us birth, we must not seek our own good nor the aggrandizement of our own country at the expense of others; but that in no way can we so benefit the world—and so benefit Cuba and the United States, as by doing unto others as we would have others do unto us. ”

224 COLLECTOR BOWERS ADDRESS.

On being introduced after Judge Hendrick had finished, Collector Bowers spoke as follows:

“ I presume this is a sample of the cruelty the people of San Diego are going to inflict upon these children,

225 and from which the good and great Gerry society tried to save them:

“ After one consideration of what I intend to say here and now, and as I believe understanding the ordinary meaning of English words in common use, I say that under the conditions known to exist, the action of the “Gerry Society for the prevention of cruelty to Children,” in the matter of the detention of these Cuban children, testifies that the name of that society is a mis-

226 nomer; that its pretense of being actuated by a desire to prevent cruelty to children is fraudulent, that it is a patent humbug, that it is an institution permeated with bigotry and sectarian intolerance, if not reeking with corruption—as charged recently by leading New York papers. That its title should be amended, by striking out the word “prevention” and inserting in lieu thereof the word “infliction.” I am aware that this is very plain speaking about an institution that has been given such extraordi-

227 nary powers by the New York Legislature, but the facts show that what I have said is true.

“ The only cruelty which has been, or is likely to be inflicted upon these children, while they may remain in the United States, has been inflicted by the Gerry Society of New York, in holding them for weeks in the inclement climate of that place, and resulting in their being compelled to cross to this side during the fearful cold weather, with what injury to their health is not yet known. But for this society for the “infliction” of

228 cruelty upon children they would have long ago been safe in the genial climate of San Diego, much like the climate of Cuba when Cuba is at its best.

“ It is apparent that before these children started

229 from Cuba, arrangements were fully completed by the Society to prevent their landing, regardless of any law or justice. For it appears from the published reports that the emissaries of the Society, instead of the officers of the immigration bureau, conducted the examination of these children, going down the bay as previously arranged, and that the immigration officers appear to have acted wholly under the direction of this society, instead of the laws of the United States.

230 " And, notwithstanding the favorable reports as to the character of the school made by the collector of this port, and wired to Commissioner Williams, at Ellis Island, at his request, and which report was strongly fortified by telegrams from the mayor and ex-mayor, and leading merchants and prominent citizens of this city, who know of their own knowledge the facts, these were all contemptuously disregarded, the dictions of the Society obeyed, and the children immediately ordered deported.

231 " But it appears that while we may have in subordinate positions in government employ some who may not be properly classed as Americans, we have most fortunately in charge of the administration at the head, real Americans, imbued with the instincts of civil and religious liberty, and thereby the Gerry conspirators failed in carrying out their scheme to completion.

232 " I use the word conspirators advisedly, for it was a conspiracy on the part of the society, in connection with the slanderers and libelers of our neighboring city, who are now seeking to escape just punishment for their crimes and will not, I opine, find it quite as easy as 'crossing the Rubicon.'

" If the Gerry Society is what it purports to be it

233 need not go far afield for an opportunity to exercise its charity, and bestow its blessings. It need not reach clear across the continent to San Diego for the chance. It can find opportunities by the tens of thousands, in the neighborhood of Mulberry Bend, Five Points, and the innumerable slums of New York city, under the very shadow of their homes, under their very noses, where there is work and need of a dozen honest societies, for the rescue of thousands of children from the cruelties of their surroundings, children suffering from lack of food, exposure and neglect, or living in filth, and graduating as criminals. And the number being kept full by the landings every week of hundreds, if not thousands of children of indigent immigrants, many of whom become public charges.

234 " It is unnecessary for this Gerry outfit to concern itself about cruelty to children in San Diego, California. This city has always been able to care for its own, and it is not worrying over the liability of these children becoming 'public charges.' Should such a thing happen in the future, I think I am warranted in assuring the Gerry Society and New York city that San Diego will not call upon either for any part of the expense incident thereto.

235 " And in this connection I may also suggest to the San Francisco Sonntag Society that if it really wants to do something in the line of prevention of cruelty to children, it can find ample opportunities along the Barbary coast, and the slums of San Francisco, to occupy all its spare time, and all the time of its walking and advertising agents. Think of it for a moment! The Sonntag deputies passing by Barbary Coast, and through the

237 slums of San Francisco and coming way down to San Diego, in search of an opportunity to prevent cruelty to children. In the jargon of the day, "Don't that jar you?" As an exhibition of gall on the part of this San Francisco society, it is a daudy.

" Is there a man or woman in this audience who believes that these children would have been detained in New York and so hastily ordered deported, if under precisely similar conditions they had been destined for any
238 Protestant or Catholic school or institution in any state in this Union? You know they would not have been so detained.

" I have no personal interest in this matter other than that which every citizen should have in the general welfare and in the welfare of this city. I am not a Theosophist, neither a Protestant nor a Catholic, but just an American citizen, devoutly believing in the civil and religious liberty of mankind—the liberty to embrace and
239 believe, or practice any religion in so far as it does not interfere with the rights of others, and the liberty of the right to choose that is accorded to one, shall be accorded to all.

" Some one has said that when the Pilgrim Fathers brought the first consignment of civilization to the shores of the new world, they fell on their knees and thanked God that they had found a land where they were at liberty to worship Him according to the dictates of their
240 own conscience. This done, they arose and began killing Indians, burning witches and compelling every person to worship God after the same manner they did, and they provided and inflicted severe punishments on all who did not hold to their way as long as they had the power.

241 “ However that may be, we know they brought with them and their civilization the seeds of that religious intolerance from which they had fled, and planted both in the new world, and both grew together. The seeds of intolerance spread like Canada thistles in an eastern oat field, and became the same kind of a blight and nuisance in the new world as it was ever in the old, a blight that has caused more suffering, wars, and violent deaths, after in many instances of bodily torture, than any other
242 known cause.

“ The Congressional Record will certify that eight years ago I said on the floor of Congress that the sending of missionaries to China was substantially sending agents there to overturn the Chinese government, for its government was indissolubly connected with and founded on its religion; and to overturn one was to overturn both. The Chinese war was the work of the missionaries; not that they intended anything of the kind,
243 but was the logical and unavoidable result of their work. Does anyone believe that the Chinese people have been in any way benefited by it?

“ But the United States boasts of the religious freedom accorded to every one, and provides for this in its fundamental law. History and experience taught the founders of this nation the absolute necessity of a complete separation of church and state, in a government under which civil and religious liberty could be preserved.

244 “ History and experience taught the people of these United States the necessity of prohibiting the propagation in the public schools of any one of the religions systems of the ‘two and seventy jarring sects.’

“ But in this year, in the United States, this Com-

245 modore (?) Gerry says, in regard to the detention of these children, "The point is that the children at the Raja Yoga school receive no religious training, and so he calls upon the government to interfere in matters of religious belief, or more properly speaking, religious professions. The common hallucination of the bigot is that every person who isn't just like him in religious belief has no religion. Well, I think one better have none than have the Gerry variety.

246 " This spirit of sectarian intolerance—lifts its ugly head everywhere and while usually impotent, it is always alive, always associated with ignorance or malignity, or both.

" Only a few years ago we had a manifestation of this spirit in the organization, by sectarians, of that miserable abortion known as the A. P. A., American Protective Association, the original purpose of which was to make war upon Catholicism. But, like all organizations
247 founded upon malevolent ignorance and bigotry, in this country, it soon passed out of existence.

" We remember that not long ago some sectarians here made a concerted attack on the Point Loma society, solely on account of a difference in profession of religious beliefs. As you know, the attack feu flat. The average American likes fair play and don't like pretense, and is as much opposed to religious trusts and combinations as to any other kind of trusts.

248 " I was surprised a few days ago, while in the company of some good religious people—some of them good orthodox, and others liberals—to see this ugly spirit of sectarian intolerance and 'illiberalism' crop out. They seemed to forget that upon the liberty and equality before

249 the law, and in the respect to the privileges of all, depends the existence of each. That all history testifies that when one of the sects have in the past obtained the power, all others have been driven to the wall.

250 " After the Commissioner General of Immigration had visited and investigated the Point Loma Institution, he talked very freely in my office to all there. He said that he had very thoroughly investigated every building, tent, and every part of the institution. Every place had been opened to him. He said he had visited many institutions in his time, but had never found one so scrupulously clean, everywhere—it is said that 'cleanliness is next to Godliness.' He took his dinner with the children, without previous notice to the officers, joining them as they marched into their meal room. He was left alone with them and asked many questions, and in turn the children plied him with questions. He saw them in the school rooms and at their athletic exercises. He said

251 that these children gave positive evidence that they were receiving an education along practical lines, and training both of body and mind calculated to fit them to become useful, self-supporting citizens. That they were being well cared for in every way. He had not seen a school where children received better care and training. Such is the impression made upon a man who saw the things he was talking about, and one who certainly did not approach his investigation with any prejudice in favor of the institution. Every fair-minded man who has investigated,

252 or obtained any fair knowledge of the Point Loma School, agrees with the commissioner.

" The Point Loma school is for caring for and educating a hundred children, guiding them in the way that

253 leads to their becoming ladies and gentlemen, for their daily association is with ladies and gentlemen.

" Knowledge and education are the natural foes of, and safeguards against bigotry and superstition, and a far better outfit and capital for any young man or woman to start out on life's journey, than any narrow-chested sectarian creed.

254 " And let it be remembered that this Point Loma Society has not at any time asked the people of this city to contribute one cent toward its support, or the support of its school, while it pays large taxes for the support of the public schools.

" Is there one day in the whole year that you do not see in the windows of the stores on our main streets, placards asking you to give, give, give, for the benefit of this, that or the other society of this city?

255 " Did you ever see in any window of this city or any other place, a placard, or a begging circular, asking you to contribute anything for the Point Loma Society, or its school? You never did. On the contrary, for years past, this society has furnished the people here free entertainments, lectures and musicals, in one of the finest opera houses in the state, which have always been crowded with the best class of your citizens.

256 " This society seems to have discovered the philosopher's stone, which is "pay as you go," and it has expended hundreds of thousands of dollars in buildings and improvements and in beautifying its thousand acres of ground, most of which money has been paid to the working men of San Diego.

Now I submit that if people of large means and resources come among us and choose to take upon them-

257 selves the support, care and education of a large number of children, choose to expend their own money and means in that way, in the name of common sense, are they not entitled to the approval and encouragement of every fair-minded man and woman in San Diego? as well as to the common rights of citizens? They don't ask for your money.

258 Suppose that the Point Loma Society had located at Los Angeles instead of San Diego, and made the same extensive improvements there that they have here? would there have been, think you, a criminal libel suit now pending against a Los Angeles journal for its slanders and its lies about this society? Not any. The people of Los Angeles act together, for the upbuilding of their town, and in some respects the people of San Diego might well emulate some of their methods.

259 The proceedings of this Gerry fraud in connection with the detention of these children is only one of its many outrages and cruelties towards children and their parents. Its vile and corrupt practices were reported to the Lexow committee by Mr. Goff, and " testimony adduced before that committee touching said society has gone to show that some of its agents are as venial and corrupt as the police, whose infamy the committee mainly aims to expose." So says that New York Mail and Express in its issue of the first instant, in a four-column article exposing some of the abuses and corruption of this society.

260 Among other things it said: " This society took its first case in court under the new law, by completely changing the appearance of a former matronly-looking woman, and masquerading her before a jury in short

261 skirts, braided hair and general appearance of a young schoolgirl, "and was roundly scored by the judge for its miserable attempt to deceive the court and jury." Nice institution that, to attempt to take charge of the affairs of decent people on this coast.

262 This Gerry gang has been given extraordinary powers by the New York Legislature, which it has shamefully abused, but that Legislature could not control the general government, which compelled the rotten society to remove its filthy hands from off these children, and they are here where they will be cared for, educated, and in due time will return to their homes as young ladies and young gentlemen, able to think for themselves, and free to choose any form of religion they think best, after the fashion of a real American.

263 They will start out on the journey of life with the best equipment that can be given a young man or young woman — a practical education, useful knowledge, the habits that come from necessary and wholesome discipline, and not least, with the aspirations and ambitions that result from the environment and association with ladies and gentlemen, such as they will have at Point Loma.

264 At the close of the address by Mr. Bowers, there was more music, and ex-Mayor Reed was presented with an address and an American flag by the children of the Raja Yoga school, the presentation being made by Miss Wood, the head of the school. He thanked the children in fitting manner, and then told the audience of the trials of the children and their protectors, after the decision in their favor by the government had been made. In part he spoke as follows:

265 “ Friends and fellow-citizens: This to me, is certainly a very happy moment. I had no expectation of receiving at the hands of the head mistress of the Raja Yoga school so gratifying an endorsement. It is surely more than I am entitled to. Being a loyal Californian, although I was born in New York, but not at the time of the Gerry society — and being particularly loyal to this, my home, and to its people. I simply went on an errand by order of the society of which I am secretary, in order

266 to do my plain duty. I left here a week ago and proceeded eastward, and I was protected, not by arms, but by legal documents from our courts as secretary of the San Diego Society for the Prevention of Cruelty to Children. My mission was to bring here the eleven Cuban children who had been detained at Ellis Island, and who had left Cuba seven weeks ago today. They were, as I say, detained in company with Dr. Van Pelt for five long weeks upon this island in the Atlantic Ocean, and practically kept in a pig-pen by this Gerry society. I met

267 them, and I took possession of them as agent of the Hon. Emilio Bacardi, (the Mayor of Santiago de Cuba.) (Applause.) I was in possession of documents given to me by him as their guardian. I received my instructions and also the information that there might be trouble upon the Pacific Coast. I had been informed of this in advance, and consequently we were well prepared for any and all maneuvers, and I propose here and now to tell

268 you a little history. It has been already printed, and therefore it is public property, so I don't think it will do any harm to tell you.

After the report of Mr. Sargent, who came here to investigate at the request of the government, had been

269 made to the Secretary of the Treasury, and the children were released, the attorneys of the Gerry Society for the infliction of cruelty to children said that, although they were released, the arm of their society was long enough to reach to the Pacific Coast, and these children, they said, should never be handed to the agents of Mrs. Tingley. What do you think of that?

Now, as Mr. Bowers has said with his usual vigor, Mr. Sargent is an American citizen, an officer of the government, and practically a member of President Roosevelt's Cabinet. He says that he has made an examination of these schools; that there is also the report of the collector of the port of San Diego, and the report of Mr. North, the immigration commissioner at San Francisco, who was sent down to examine. In addition to these, there are the reports of the Mayor, the bankers, and the officials of San Diego, with regard to the Point Loma institution. Under these circumstances, Mr. Sargent advised the Gerry people to return home. "If you attempt anything," he said, "you will get beaten, as you have been already." (Laughter.)

271 Now at New York there was Mr. Albert Spalding, who is well known to you by reputation, and whose home is on the hill. It was reported that when the children were released, they would be taken, with Dr. Van Pelt, to the Albermarle Hotel in New York for a few days' recuperation. The Gerry people did not quite believe it, but that was the report. In the meantime, Mr. Spalding chartered the finest boat in the bay of New York and went down to Ellis Island with the release papers. The boat steamed up and was pointed in the direction of New York City and they were all photographed with Dr. Van Pelt.

273 They stepped on board the boat and steamed away from New York City, but when they got out into the fog, they changed the course and headed for New Jersey. (Applause.) When they reached Jersey City, there on the wharf stood twelve great powerful men, members of Mr. Spalding's athletic club, over six feet in height, every one of them. As I say, there were twelve of them, one for each child, and one for Dr. Van Pelt. (Laughter.)

274 Almost before the boat stopped, they were taken in charge, rushed into the train, and away they went to Washington, at express speed, and at Washington they were met by Mr. Sargent himself.

Now is it any wonder that the friends of these children, the friends of civilization, the friends of honesty, of truth, of right, of purity, of morality, should have made up their minds that these little ones should come here?

275 That train steamed away from New Jersey, and it never entered at all into the jurisdiction of New York State. I am informed that they had seven warrants out in that State for the arrest of Dr. Van Pelt and her charges, and had they succeeded in capturing them, by the laws of New York they could not have been rescued until they came of age.

Even after they left it was again said they should never reach the Pacific Coast. However, this San Diego society, of which I am secretary, met them and traveled two thousand miles with them.

276 Our tickets were to Los Angeles, and Los Angeles to San Diego. Within five minutes of the time that we were due to arrive at Colton I said to the conductor and to the porter that we would get out there. Dr. Van Pelt had the children all ready, and although it was repre-

277 sented to us that the train was late, and could only stay
 for a very few minutes, and that there was no connection
 with San Diego, we got off at Colton and went to the
 depot of the Santa Fe. I said, send along an engine
 and a car as quickly as you can make them move! They
 came along, and in half an hour we were in that car, I
 standing guard at one door and Mr. White, who had
 come all the way from Macon, at the other. Just as our
 friends at Point Loma stand guard all night, so we stood
 278 on guard there. In this way we never went onto the soil
 or within the jurisdiction of Los Angeles county, and
 furthermore, we got off the train at Oldtown, although
 we were supposed to get off down here, and my own
 friends were waiting for me. (Laughter.) We went to
 the Point by way of Ocean Beach, and so we arrived, and
 here we are this evening. (Loud and sustained ap-
 plause.)

279 We rejoice as Californians, as citizens of San Diego,
 and as law abiding people, that we have been able to
 assist in the protection of honesty and uprightness. We
 rejoice that we are able to help not only these, but all
 other children. (Applause.)

I and my entire family have lived at Point Loma,
 with the people there, for six weeks. I recognize their
 purity and the spiritual atmosphere in which I dwelt for
 so long. It becomes not only my pleasure, but my
 bounden duty to uphold, to maintain, and to defend the
 virtuous work which they are doing, and the humani-
 280 tarian work at Loma-land. Wherever I may be found,
 and at whatever time, it will be my pride to uphold and
 defend it. (Loud applause.)

At the close of Mr. Reed's address the audience was
 dismissed.

281 Q. You read the Union occasionally, do you?

A. Yes, sir, maybe once or twice a week. I remember reading in the San Diego Union Tuesday morning, December 2nd, 1902, an article under the caption: "Improvements Have Been Stopped." I read all of that article. I did not discuss the article with any one. It purports to be signed by F. M. Pierce, General Superintendent. I remember reading in the San Diegan Sun of Tuesday, December 2nd, 1902, an article under the caption: "Work Suspended. Point Loma Construction Will Pause While Attack Continues."

282

The defendant here offered copy of the San Diegan Sun of date Tuesday, December 2nd, 1902, containing above mentioned article, and asked that the same be marked for identification. The article mentioned to in said paper was marked by the clerk, and is herein set out as

Defendant's Exhibit No. 2.

283

"DEFENDANT'S EXHIBIT NO. 2."

(The San Diegan-Sun, Tuesday, December 2, 1902.)

PROTECTON WANTED BY THE PEOPLE AT
POINT LOMA. A SURPRISING REQUEST
PRESENTED TO THE POLICE COMMISSION-
ERS.

284 At a meeting of the board of police commissioners last evening a communication from the Point Loma Homestead people through Secretary F. M. Pierce was a very peculiar feature. The communication asks that two or more mounted policemen be detailed from the city force to patrol the outside of the grounds. During the last two weeks, it is stated, the jeopardy has greatly

285 increased, through determined efforts of suspicious characters to gain admittance. Then comes the mysterious part of the communication.

This condition of affairs will undoubtedly continue and even increase until after Mrs. Tingley's now pending libel suit is terminated. For if a child should disappear from this institution or a dead body be found upon our premises, it may be thought that such an occurrence would powerfully influence the case."

286 It was too deep for the commissioners, and besides, mounted police are too much of a rarity to spare two of them (almost the complete stock) without some consideration, so the matter was referred to the council, and from that body to the police committee. The police commissioners are inclined to the belief that the Point Loma people exaggerate the condition of affairs, and will not readily accede to a request for so large a percentage of a small police force to patrol the sage brush of Point Loma for agents of the Los Angeles Times.

287 The appointment of a new sergeant for the force did not come up last evening, as Sergeant Broadnax did not send in his resignation. The appointment will be made at the next meeting, and Clerk Moriarty will get the job.

288 WORK SUSPENDED. POINT LOMA CONSTRUCTION WILL PAUSE WHILE ATTACKS CONTINUE.

Willard & Neely, the contractors in charge of the construction work at Point Loma Homestead, have received word from the authorities, through General Superintendent F. M. Pierce, that there will be no further work at

289 the Point until the present attacks on Mrs. Tingley and the institution cease.

The "vicious attacks," the communication reads, have made the construction of a number of proposed structures impossible for time, and that the workmen will not again be required until the attacks have ceased. In conclusion, "Please convey to these good, faithful workmen Katherine Tingley's regret that she cannot for the present ward them from the effects of the hostile attacks
290 now being made upon her by the common enemies of humanity and progress."

Q. Then you read the Union's article on this subject in the forenoon, and the Sun article, which is an afternoon paper, in the afternoon or evening?

A. Well, the Union I glanced merely over it, because, as I said, I read somebody else's Union, and I had not much time to spare, so I just glanced over the paper,
291 and when I am at home at night I read the Sun, because I have plenty of time to read it. I read the Sun article in full, and I think I read the article in the Union in full.

I am a property owner in the city of San Diego, and have been such for some years.

Q. I will ask you if these articles, or either of them, made any impression on your mind whatever in reference to any possible effect on your own property?

A. Well, I was sorry to see the work stopped, of
292 course.

Q. And you assumed it had stopped, or would stop for the reasons stated in the article?

A. Well, I didn't see nothing. I don't know anything

293 about it; as I say, the paper may tell the truth, and it may not.

Q. Well, you assumed, of course, did you not, that what was stated in the paper was true; that they would stop the work?

A. I didn't assume that at all; I assumed they stopped work because they wanted to. What the reason was, I didn't know anything about it.

294 Q. After they gave the reason in the article themselves?

A. If I believed the article, of course; if I did believe the article; but did I believe the article? that is the question. I read the Sun's article in full. I know the Sun article gives the reason to Mr. Pierce's satisfaction, but I didn't know it was to my own satisfaction or not. It occurred to me that the work might be stopped for another reason than that stated in the paper. I did
295 not reason that out at all, one way or the other, because I don't know anything about it — just what the papers said. I have no reason to disbelieve what the papers said; I don't know as there is any reason to believe it, either. I was told that work had been stopped, and was sorry it should stop, because I thought it was a good thing for San Diego that the work was going on.

Q. A good thing for San Diego?

296 A. Giving people work.

Q. Of course, it would have a tendency to enhance the value of your property as well as anybody else's?

A. I don't know. My property is away off from there.

297 Q. Is that what you had in mind; the possibility of enhancing property values?

A. I didn't have it on my property, but on San Diego in general.

298 Q. Now, then, from reading these newspaper articles to which I have called your attention, and such others as you say you may have read or did read, and from hearing the various addresses in the operahouse, did you come to any conclusion, or did you form any opinion in any particular as to the character of the place that was being conducted at Point Loma by the Theosophical Society?

299 A. No; I do not know that I formed any opinion at all; the only thing I concluded was it was a good thing for San Diego, and that is the only thing. I still have that opinion, or impression. In other words, that this society was a rather desirable acquisition for San Diego; partly from the fact that they were making improvements at Point Loma, and that these people should be encouraged and favored rather than otherwise. I am of that opinion now, and that is my present feeling.

Q. Consequently, if you were accepted as a juror in this case, you would enter upon the trial of this case with a feeling favorable to one of the parties to the action, would you not?

A. I would be favoring the continuing the work; I would be in favor of encouraging them.

300 Q. And if you thought the effect of your verdict would be to discourage them—if you thought that an adverse verdict would have a tendency to discourage these people, you would take that into consideration, would you not?

301 A. No, sir; that would have nothing to do with my verdict. My verdict is a different thing from what I wish to be — my verdict is not to be influenced in any way.

Q. What I want to get at is the question whether the opinion which you have formed from these different matters to which I have called your attention would in any manner enter into consideration of this case, after it had been submitted to you; if you were accepted as a juror?

302

A. I do not think it would have any influence on my verdict.

Q. You do not think it would — but still you think it might — without intending any reflection?

A. It might, of course; anything is possible.

Q. Do you think it is more likely it would than it would not?

303

A. Well, I do not know; of course I like to see the work going on; I don't know, it would not influence my verdict in any way.

As a citizen of San Diego, I feel that the Theosophical Settlement is a desirable acquisition; that the improvements that they are making on Point Loma and the money which they are spending on this community is a desirable proposition, and should be encouraged rather than be discouraged — I have that feeling now.

304

Q. You would go into the jury with that feeling?

A. Yes, sir.

The defendant here interposed a challenge to and did challenge the juror for the existence on his part of a

305 state of mind evincing bias in favor of the plaintiff in the action under subdivision 7 of section 602 of the Code of Civil Procedure of the State of California.

BY MR. ANDREWS: Q. I understand counsel to ask you, Mr. Sainsevain, if your feeling towards the Theosophical Society was such that you thought it a good thing — do you mean to say that you looked upon it as a good thing from simply a pecuniary standpoint to the City of San Diego; or do you
306 desire to be understood as expressing an opinion as to it being a good thing from a moral standpoint. Did you desire to express an opinion upon that matter?

A. Well, I don't know; the mere moral standpoint — I take that the moral standpoint, but I — of course, as I said, I only saw the children; I liked them — performing there — I got my idea partly from that and partly from the improvement, or from both, in fact, morally and
307 pecuniarily.

The feeling or liking which I have for the institution will not affect my verdict in the action of Mrs. Tingley against the Times Publishing Company for publishing the article against her. It has nothing to do with it, and I am satisfied that any feeling that I might have in favor of the institution would not influence my verdict. It would not.

308 Before submitting the challenge to the Court, the defendant asked permission to offer testimony showing that the articles mentioned in the newspapers above referred to were furnished by the plaintiff, or by her agents, and that she and they requested their publication and hereupon the following proceedings were had:

309 WALTER T. BLAKE, SWORN AND EXAMINED
ON BEHALF OF THE DEFENDANT, TESTIFIED
AS FOLLOWS:

BY MR. DANNEY: My name is Walter T. Blake. I
am and for three years have been continuously city
editor of the San Diego Union. I saw the original
notice that appeared in the San Diego Union of Tuesday
morning, December 2nd, 1902, which article is now
shown me, and marked as defendant's Exhibit No. 2. I
310 received the original from Mr. McMullen, the managing
editor of the San Diego Union; at that time it was
brought into the Union office by one of the directors of the
Universal Brotherhood; I do not know his name; it was
not Mr. Pierce. I have seen the copy from which the
article appearing in the San Diego Union of Monday, De-
cember 15th, entitled: "Citizens Extend Welcome to
Cuban Children" was printed. The first two sticks, or
five inches, of the copy is my own composition; the re-
311 marks of Judge Hendricks were handed to me by Mr.
Heath of the Tribune, saying they were sent to me by
Judge Hendricks. The remarks of Collector Bowers
were handed to me by Mr. Bowers; the remarks of
Mr. Reed were handed to me by Mr. Griffes, who is con-
nected with the New Century, or some publication of
the Aryan Press—the publication of the Theosophical
Society in this city. He furnished the press report
of Mayor Reed's talk.

312 CROSS-EXAMINATION OF WALTER T. BLAKE.

BY MR. ANDREWS:

The publication of which I have last been testifying to
is my report in the Daily Union of Monday, December

313 15th, of the meeting that was held at the Isis Theater, and appears in that part of the paper subjected to the report of local news.

FRANK N. PIERCE.

Sworn and examined on behalf of defendant, testified as follows :

BY MR. DANEY: My name is Frank M. Pierce. I reside at Point Loma.

314 Q. Are you in any way connected with the plaintiff in this case?

A. I am a member of the Universal Brotherhood organization, and I am one of its officials, the secretary-general in the cabinet of Mrs. Tingley, who is the leader and official of the organization, and is the plaintiff in this case.

315 Q. I will ask you if this article or notice appearing in the San Diego Union of Tuesday, December 2nd, signed F. M. Pierce, or purporting to be signed by F. M. Pierce, superintendent, or general superintendent, is a notice given by you?

316 A. To Willard & Neely, our contractors: I gave this notice to them by telegram at my own instance, and by virtue of my official position as general superintendent of the contraction work going on at Point Loma, and of which I had general charge. I did not send the notice to the Union for publication; nor did I suggest to anybody to take it there. I sent it from our telegraph station at Point Loma to Mr. Neely there through the Western Union office. He resides in San Diego, and I telegraphed that notice to him from Point Loma to San Diego

317 through the Western Union Telegraph Company; I did not have it published in the Union myself. The first I knew of its publication was when I saw it. I did not make any suggestion at all to Mr. Neely that it should be published. I did not intend that it should be published.

Q. You mean to say that you intended it to be a personal matter between Mr. Neely and yourself?

A. Absolutely; notifying him just the facts mentioned
318 in there for that purpose.

Q. If it was simply a personal matter between Mr. Neely and yourself, what is the necessity of this elaborate notice?

Mr. Andrews: Your honor, I object to the cross-examination of the witness. He is theirs.

The court sustained the objection to the foregoing question; the defendant excepted thereto, and the same is numbered Exception No. 1.

319 Q. If that notice was intended for Mr. Neely alone, why such details in the notice?

The plaintiff objected to the question on the ground that it was an attempt on the behalf of defendant and cross-examine its own witness.

The objection was sustained by the court "on the ground made, and on the further ground that it is immaterial and irrelevant to any matter to be considered by
320 the court at this time." The defendant excepted, and the same is numbered Exception No. 2.

WITNESS (continuing:) Before I sent that notice to Mr. Neely I had a consultation with Mrs. Tingley on the subject: I simply carried out the work under her gen-

321 eral superintendent, under her general direction and wishes, as she expressed them to me.

Q. And this was in pursuance of her express wishes and desires?

A. Not in that way — no sir, she desired to stop the work for the reasons stated therein, and I transmitted it. The notice was intended for Mr. Neely alone.

322 Q. You have so stated; now if that is correct, if that was for Mr. Neely alone, how did you propose to have Mr. Neely convey to these good faithful workmen Katherine Tingley's regret that she could not for the present ward from them the effects of the hostile attacks now being made upon her by the common enemies of humanity and progress?

323 A. Willard & Neely were the contractors for labor, and in the natural order of things we would transmit any information that affected the workmen to them and through them; necessarily it was the desire that the workmen should know why the work stopped, because they had been faithful men.

Q. Then it was not intended for Mr. Neely alone?

A. In a sense, he was the contractor for the labor on that work and necessarily we have the sense to transmit our desires through the proper channels.

324 WILLIAM T. NEELY,

Sworn and examined on behalf of defendant, testified as follows:

BY MR. DANEY: My name is William T. Neely. I reside at 3348 G street, San Diego. I am a contractor

325 and one of the contractors for work now going on, or that was going on some time past at the Point Loma homestead. I am a member of the firm of Willard and Neely. I have seen the original notice, of which a copy was published in the San Diego Union of Tuesday morning, December 2nd, 1902, and which is defendant's Exhibit No. 2, and appeared under the heading of "Improvements Have Stopped." I received the original notice from F. M. Pierce, the secretary-general of the Universal Brotherhood. On Sunday evening about nine o'clock; it was a 326 telegram; I kept it in my pocket for a day or so.

Q. Then what did you do with it?

The plaintiff objected to the question on the ground it was immaterial, which objection was sustained; the defendant excepted and the same is numbered Exception No. 3.

At the time the court ruled on the objection to the foregoing question, there was then in the jury box twelve 327 persons, five of whom, to-wit: Morgan E. Watkins, B. E. Holcombe, Andrew B. Judson, A. R. Menneft and J. M. Grutcher, had been examined and passed for cause by the respective parties to the action and who were afterwards sworn as jurors to try the said cause and heard the evidence introduced by the respective parties; the argument of counsel, the instructions of the court and participated in the rendition of the verdict in said cause, and that on the coming in of the verdict rendered by the jury, 328 the jury was polled and the jurors above named on being polled announced that they, and each of them, concurred in and agreed to the verdict rendered by the jury in favor of the plaintiff and against the defendant; that the court after the defendant had excepted to the order of the

329 court sustaining the objection to the last and foregoing question, made the following remarks :

THE COURT: I sustain it on two grounds. First, because it is not material or relevant to any issue or question to be decided by the court at this time in reference to the qualifications of this juror who has been challenged, and secondly, I think it is improper to have these matters investigated in the presence of the jurors, and the very reason
330 you assign why this article may have effected persons who might afterwards become jurors is a good reason why it should not be accepted here in the presence of the gentlemen present in the box and who may serve as jurors in the case.

The defendant excepted to the remarks of the court above set forth and the same is numbered Exception No. 4.

331 Hereupon the defendant submitted the challenge to the proposed juror, Paul Sainsevain, and the plaintiff denied the challenge, and thereupon the court proceeded to and did examine said Paul Sainsevain.

BY THE COURT: I have seen Mrs. Tingley, but I am not personally acquainted with her; I have never been introduced to her and never spoken to her.

Q. Are you acquainted with any of the persons connected with the Theosophical Society at Point Loma?

332 A. I believe a year ago I spoke to the gentleman who answered Mr. Wilson's attack; I do not remember his name now; I have no personal acquaintance with the people there; I spoke with that gentleman once. I went to Point Loma once. I have not formed any opinion of

333 my own as to whether that institution has been properly conducted or not. I do not know anything about it.

Q. Or whether persons are properly treated who are residing at that institution?

A. I don't know anything about it. I have no opinion on that subject.

Q. What are the reasons for your desire or wish that improvements should continue at Point Loma?

334

A. Well, that some employment at San Diego—improvement to San Diego—improvement of any kind. The same reasons which would cause me to desire that any public improvement should be carried on in this city.

Q. It grows out of no interest which you have in this particular instance?

A. I have no interest, sir, whatever.

335 Q. I mean sentimental or otherwise. Have you no special interest in this institution, of other kind?

A. No, sir.

Q. Have you any opinion that the reasons stated in that card or instance which appeared in the San Diegan Sun—appeared in the Union, that appeared in both, the one your attention was called to?

336 A. Excuse me, I only had a glance at the Union; I didn't read the Union through. I read the Sun through. I have no opinion of my own as to whether the reasons stated in those articles for stopping the work are true.

Q. That the reasons given are true?

A. I do not know just the reason. I do not know if they are true or not. I have no opinion whatever as to

337 whether Mrs. Tingley, or the institution with which she is connected at Point Loma has been unjustly attacked. I do not know and have no opinion whatever upon that subject.

BY MR. DANNEY: Q. Mr. Sainsevain, you stated in reply to a question of the court, that you spoke to a gentleman that made a reply to Mr. Wilson's attack on the theosophists. Who was that gentleman?

338 A. I don't know that I can tell you that. The gentleman was challenging Mr. Wilson, that is, Mr. Wilson had made an attack on the theosophists and a gentleman, a theosophist, answered it. It was not Rev. Mr. Neil. I was not present at the time the attack was made by Mr. Wilson; I was present when a reply was made thereto at the Isis Theatre and heard the answer.

Q. And afterwards was introduced to the gentleman?

339 A. No; I took two ladies to visit, and I sat in the carriage at the time they went through, to visit the building, and when they got through I went through, and we were at the upper building there, where they keep the pictures, and that is all. It must be a year, or a year and a half ago when I visited there. I do not remember whether it was before or after the reply I heard at the Isis Theatre; the ladies asked me to take them there and I drove them.

340 Q. At the time you heard this reply of the gentleman at the Isis Theatre, you were of the opinion at that time, were you not, that his reply was a complete answer?

The plaintiff objected to the question on the ground

341 that it was irrelevant to this inquiry, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 5.

Q. Were you of the opinion after hearing the reply that the attack was unjustified?

The plaintiff objected to the question on the ground that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is
342 numbered Exception No. 6.

TALESMEN (continuing:) This reply was made at the Isis Theatre under the auspices of the Theosophical Society, of which Mrs. Katherine Tingley, the plaintiff in this case, is the leader.

Hereupon the defendant submitted the challenge for cause interposed to the proposed juror, Paul Sainsevain, which challenge was by the court overruled. The defendant excepted and the same is numbered Exception
343 No. 7.

That at the time the challenge for cause interposed by the defendant to the talesman, Paul Sainsevain, was overruled, the defendant had been compelled to and had exercised three pre-emptory challenges, and had at that time but one pre-emptory challenge remaining, and the defendant before the impaneling of the jury exercised said pre-emptory challenge upon and against the tales-
344 man, Paul Sainsevain, and which pre-emptory challenge exercised by the defendant upon the talesman, Paul Sainsevain, exhausted all the pre-emptory challenges to which the defendant was entitled.

That a jury of twelve jurors was impaneled and sworn

345 to try said cause, and thereafter the following proceedings were had:

The plaintiff read in evidence the following stipulation:

[TITLE OF COURT AND CAUSE.]

STIPULATION.

It is hereby stipulated that upon the trial of the above entitled action any slip having thereon the heading of "Allen's Clipping Bureau" in the form of the slip
 346 hereto attached, with a stamp showing the name of the Times and the date of the publication of a clipping attached thereto, shall be deemed as evidence that the clipping attached to said slip was taken from the Los Angeles Times published upon the day shown by the stamp upon the said slip, and that the matter contained in said clipping was published in the regular edition of the Los Angeles Times upon the date shown by the slip.

347 It being also agreed that the introduction of such slip and clipping in evidence shall be subject to objections as to materiality, relevancy and competency of the article contained in said clipping, except as to the sufficiency of the evidence that the said article was published upon the date shown by the stamp upon the said clipping, which matter, however, may be contradicted by evidence to the contrary upon the part of the defendant.

F. R. KELLOGG,

W. F. FITZGERALD,

A. B. HOTCHKISS,

348 HUNSAKER & BRITT,

J. W. MCKINLEY,

Attorneys for Defendant. Attorneys for Plaintiff.

Endorsed: Filed, December 18th, 1902. Will H. Holcomb, County Clerk. By Herbert N. Neale, Deputy.

The plaintiff offered in evidence an article published

349 in the Los Angeles Times of December 16, 1900, entitled "Spooks Play Freeze-out."

The defendant objected to the introduction of the article, on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution, and did not refer to the plaintiff in this action; that the action was not brought by the Universal Brotherhood, but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood and to Mr. Pierce, which objection was overruled. The defendant excepted, and the same is numbered

Exception No. 8.

351 The article was introduced, read in evidence, and marked as

PLAINTIFF'S EXHIBIT NO. 1.

"PLAINTIFF'S EXHIBIT 1."

"SPOOKS PLAY FREEZE-OUT."

A young man giving the name of P. Z. Fukin, and the place of his last residence as Milwaukee, tells a strange story of his attempt to secure a personal interview with Mr. Pierce, one of the leaders of the Universal Brotherhood institution at Point Loma. Mr. Fukin is a guest at the Helping Hand Home on Sixth street.

352 Fukin says that he has been living thousands of years. His lives, he says, are like the pages of a book, each page representing a life. He expects to continue to live

353 and move and have a being for all time. He says that he has been engaged in mercantile business, and that for a time he was employed in the Milwaukee postoffice. He has been a disciple of theosophy for a long time, and has read most of the literature bearing on the subject. In Chicago a few years ago he met Pierce, who, with six others, was on a trip around the world. Pierce received him cordially, and welcomed him to the faith. Ever since then it has been his desire to visit the headquarters of the society at Point Loma. His errand here, he says, 354 was to deliver in person certain valuable papers of great importance to Pierce.

He journeyed to Point Loma a week ago today, and was met at the outer portals of the spook's nest by the guard, who demanded his business, and then reported to the management. Strict orders came that on no account should Fukin be permitted to enter. Fukin was persistent. He had come a long way in order to do this 355 errand, and the idea of being repulsed was not agreeable to him. The San Diego police were notified, and an officer was sent for. Fukin told him he simply wished to hand some papers to Pierce, and they wouldn't allow him the audience. He produced the papers, which were placed in the hands of Iverson Harris, attorney for the ghosts' roost. Fukin was taken to the San Diego Police Station, and soon after liberated. The price of his liberty was that he keep away from Point Loma.

356 Fukin says so long as the attorney got the papers it is all right.

He intimates that he suspected that something was wrong with the inner workings of the institution, and the theosophists say that they feared Fukin meant bodily harm to Pierce.

357 Fukin is thought by many to be a little more "off" than the spooks who "froze him out."

The plaintiff offered in evidence an article published in the Los Angeles Times of December 25th, 1900, entitled "San Diego Visitor Victim of Spooks."

358 The defendant objected to the introduction of the article on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution, and did not refer to the plaintiff in this action; that the action was not brought by the Universal Brotherhood, but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood 359 and to Mr. Pierce, which objection was overruled. The defendant excepted, and the same is numbered

Exception No. 9.

The article was introduced, read in evidence, and marked as

PLAINTIFF'S EXHIBIT NO. 2.

"PLAINTIFF'S EXHIBIT 2."

SAN DIEGO VISITOR VICTIM OF SPOOKS.
 YOUNG MILWAUKEE MAN INSANE ON THE-
 360 OSOPHY. G. G. MOHR, WHO SOUGHT ADMITTANCE TO CRANKS' INSTITUTION AT POINT LOMA NOW IN PADDED CELL AND MESSENGER COMING AFTER HIM.

SAN DIEGO, Dec. 24. — Regular Correspondence.

- 361 The unfortunate young man who has been here several weeks under the name of Fukin turns out to be G. G. Mohr of Milwaukee, Wis., where he has a wife and three children, and several brothers and sisters in well-to-do circumstances. A telegram was received from the wife this evening by the matron of the Helping Hand Mission, asking that good care be taken of the man, that the home should be rewarded, and adding that a messenger had started for San Diego to accompany the wanderer
- 362 back to Milwaukee.

Mohr is the young man who was refused admission to the Theosophist Spook's nest at Point Loma a few days ago, notwithstanding he had important documents for one Pierce, who holds forth there, which he insisted he must deliver in person. His persistence in trying to get within the portals of the ghosts' roost caused the management to telephone to San Diego for the police. Mohr, who then

363 went under the name of Fukin, consented to return after his documents had been placed in the hands of the attorney for the crank outfit on the dismal joint across the bay.

Up to within a few days ago Mohr has been kindly cared for at the the Helping Hand, but he is now in a padded cell at the County Hospital. Efforts will be made to secure his return to the Helping Hand. His insanity appears to be exclusively along the line of theosophy and the doctrine of the Universal Brotherhood. He has no idea how he got here. He claims to be a firm believer in the "divine art," and has refused all advice to write to his relatives, saying that he is simply carrying out his part of the contract.

364

The plaintiff offered in evidence an article published in the Los Angeles Times of February 11th, 1901, entitled

365 'Fukin Again Scares the Theosophists.' The defendant objected to the introduction of the article on the ground it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters: which objection was overruled, the defendant excepted and the same is numbered Exception No. 10.

366 The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 3.

PLAINTIFF'S EXHIBIT 3.

FUKIN AGAIN SCARES THEOSOPHISTS. MRS TINGLEY FRIGHTENED BY CRAZY WISCONSIN. SPOOK SEANCE AT SAN DIEGO DISTURBED BY MANIAC.

367 SAN DIEGO, Feb. 10.—(Regular Correspondence.)

P. C. Fukin, alias George Moher, the Milwaukee man who is insane on theosophy and who has made several unsuccessful attempts to enter the portals of "Spooks' nest" at Point Loma, claiming to have important documents for the management which must be delivered in person "got there" tonight, if only for a short time.

368 Katherine Tingley and a number of the disciples from the Point Loma institute were giving an elaborate exposition of theosophy at the Fisher Opera House. It was a free show and there was standing room only for late-comers. One by one the orators stood forth on the platform clad in white raiment, and had long discourse on the

369 respective questions, the idea being to answer all objections to the facts and convert San Diego at one mighty swoop.

Most of the time Katherine Tingley occupied a box at the left of the platform. Fukin, who has let his beard grow since the other episodes, and for that reason was not recognized by many, was on hand early, seating himself in the gallery. Suddenly, at 9:45 o'clock, while a
370 male student was orating, Fukin left his seat and made a rush down the north aisle for the platform, disappearing behind the draperies.

That his presence among the faithful created a panic is to be supposed, but before the people had time to account for it all, a police officer hurried down the same aisle, disappearing behind the scenes.

It appears that Fukin's presence had been detected, and that an officer had been stationed in the gallery to
371 watch him. It was, therefore, race between the officer and Fukin as to who would reach Katherine Tingley first. The officer had the advantage, knowing better the construction of the play-house. By lively sprinting and cutting corners he was able to reach Fukin a moment after the insane man had reached his goal.

Katherine Tingley was a very much frightened woman when she recognized the man who for months has been trying to interview her. The officer hustled Fukin out
372 of the Fifth-street stage entrance and rushed him to the county jail. Fukin fought like a tiger, resisting arrest with all his strength. He declared that theosophy was on the eve of disruption and that he wished to tell Katherine Tingley what he knew.

373 Pierce, of the spook's management, states that he will now do what he can to have Fukin committed to an insane asylum. Fukin was for a while in a padded cell at the County Hospital, but a few weeks ago was released and has been at the Helping Hand Mission.

374 The plaintiff offered in evidence an article published in the Los Angeles Times of February 12th, 1901, entitled "The San Diego Spooks Do More Dancing." The defendant objected to the introduction of the article on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution and did not refer to the plaintiff in this action; that the action was not brought by the Universal Brotherhood, but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood and to Mr. Pierce; and on the further ground that there were no allegations in the complaint authorizing or justifying the introduction of evidence in support of a claim for exemplary damages, that being the ground on which this publication was offered; which objection was overruled, the defendant excepted, and the same is numbered Exception

375 No. 11.

The article was introduced, read in evidence, and marked as

PLAINTIFF'S EXHIBIT NO. 4.

PLAINTIFF'S EXHIBIT 4.

377

SAN DIEGO SPOOKS DO MORE DANCING. FUKIN OR MOHR FOUND GUILTY OF DISTURBING THE PEACE. MAN SENT AFTER HIM FROM MILWAUKEE. NOW LOCATED IN THE GHOSTELRY AT POINT LOMA, AND ANOTHER MAN COMING. CHUNKS OF THEOSOPHY.

378

SAN DIEGO, Feb. 11.—(Regular Correspondence.)

379

"Yes, Your Honor, I have this to say. As one of the audience, possessed of fair intelligence and of an appreciation of the artistic sense with which the lectures should be given, I felt it my sworn duty to interfere. I could stand it no longer. I resolved to communicate with the head of the performance. Knowing F. M. Pierce to be the secretary-general, I presented the case to him. He was behind the scenes directing the show. I instructed Pierce to inform Mrs. Tingley that unless the actors in Greek costumes learned better the true attitude, and harmonized their actions with the costumes, that the desired effect would be lost upon the audience. Your Honor, they were violating the artistic sense of the audience. The audience was at the mercy of the actors. I acted as the representative of the audience, which was being imposed upon. That is all I have to say."

380

This was the story of P. C. Fukin Monday morning in Justice Anderson's Court, when asked what he had to say in explanation of his conduct at the Fisher Opera House last evening, during the exposition on theosophy, by students from the Point Loma ghosts' roost.

This morning a warrant was sworn out by Pierce, charging Fukin with disturbing the peace. Fukin told

381 the court he was ready for trial at any minute, and the testimony was heard. The court found him guilty of disturbing the peace, and said that sentence would be imposed tomorrow. Fukin was remanded to the county jail.

The arrest of Fukin has developed an interesting story. It will be remembered that he made an unsuccessful attempt to enter the spooks' house in November, but he was discovered by the outsiders and made a prisoner.

382 He was turned over to the San Diego police, who placed him in the Helping Hand Home, pending an investigation. After a time it was found that the unfortunate man's name was Gebhard Mohr, and that he had a wife and three children and two brothers living in Milwaukee, Wisconsin. A wire and mail correspondence was opened, and about the middle of December two letters were received here, one by Mrs. Dodson, matron of the Helping Hand, from Mohr's wife, and one by the Chief of Police from the Milwaukee Chief of Police, both stating that

383 one Cannon was about to start for San Diego for the purpose of returning Mohr to his family.

But Cannon never reported to the San Diego police or to the management of the Helping Hand. Several letters and telegrams have passed between the latter and Mohr's family relative to Cannon's whereabouts. Cannon came to be nearly as much of a puzzle as Fukin. It transpires that Cannon is at the Point Loma Institution,

384 and the Chief of Police understands that he has been there some time, and that he is private secretary to F. M. Pierce, whom Fukin refers to as "Secretary-General." The Chief had an interview with Pierce at the Brewster tonight, but is keeping the result to himself.

The first of last week the matron of the Helping

385 Hand telegraphed Fukin's brother that unless he was taken away at once she would be obliged to turn him over to the authorities, and adding that Fukin threatened to walk across the desert en route for Chicago. The response was: "Hold him at all hazards; if he escapes notify at my expense; letter to follow." This letter was received today and states that Charles Mohr of Milwaukee, a brother of Gebhard, will leave for San Diego the 12th inst. The Chief inclines to the opinion that it will be best to hold Fukin five or six days, pending the brother's arrival. The episode at the Opera House has cleared up the mystery of Cannon's whereabouts. Fukin insists that he is going to organize a mighty army of young men to fight Katherine Tingley. He eluded the vigilance of his watcher last evening, the supposition being that he had gone to bed.

386

The Tingley woman and her followers held another theosophical circus at local music rooms this evening, while C. W. Leadbetter lectured a few blocks away on "The Unseen World." The town is getting a double dose of theosophy, and Mrs. Tingley announces that she will continue operations indefinitely.

387

The plaintiff offered in evidence an article published in the Los Angeles Times of February 13th, 1901, entitled "Tingley-Fukin Scrape." The defendant objected to the introduction of the article on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution and did not refer to the

388

389 plaintiff in this action; that the action was not brought by the Universal Brotherhood but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood and to Mr. Pierce; and on the further ground that there were no allegations in the complaint authorizing or justifying the introduction of evidence in support of a claim for exemplary damages, that being the ground on which this publication was offered; which objection was overruled, the defendant accepted and the same is numbered Exception No. 12.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 5.

" PLAINTIFF'S EXHIBIT 5."

TINGLEY-FUKIN SCRAPE.

391 SAN DIEGO, Feb. 12.—(Regular correspondence.) P. C. Fukin, the man whose mind appears to be unbalanced on the spook question, was not sentenced in the Police Court this morning for his disturbance in the Tingley circus Sunday night, but his case was continued until tomorrow morning. Meantime he was remanded to the County Jail, and late this afternoon Katherine Tingley, F. M. Pierce and H. E. Patterson, representing the Point Loma Ghosts' reservation, called there and stated that they wished an audience with him. Pierce 392 was the spokesman.

It was after visiting hours and the jailor declined to admit the delegation without the consent of the Sheriff. Pierce insisted that the Chief of Police had informed them they could see Fukin at any time, but the jailor

393 replied that Fukin was now a county prisoner and that the city police had nothing to do with it. Pierce hastened away in an effort to find the Sheriff, returning a few minutes later with the announcement that he had been unsuccessful. The jailor, however, still declined to admit the party without authority. Pierce then started away on another searching expedition, returning presently with the officer.

394 Meantime Mrs. Tingley and Patterson waited outside on the stone steps, and must now know how it seems to wait an audience with the elect, as has been the case with many of the outposts of the peculiar institution at Point Loma.

The three advocates of Point Loma Theosophy were given seats in the jail office and Fukin was ushered into their presence. The meeting was not characterized by any demonstration of affection. Fukin smiled as he entered, and would have shaken hands had any one met him less than half way. Instead, he was at once placed in the rack and closely interrogated by Mrs. Tingley. 395 Asked what he meant by seeking an interview with her, Fukin replied that he had positive information that the Roman Catholic Church, headed by the Pope, had conceived a plan to kill Mrs. Tingley and wreck the theosophical plant at Point Loma. Asked for the source of his information and details, he refused to divulge unless he could see Mrs. Tingley alone. This request was denied. 396 Efforts to obtain information from Fukin about personal matters failed. He denied he was in want of any financial aid, or anything else, his whole object being to warn her of the conspiracy which he repeatedly referred to.

397 It is said the interview was shortened by the arrival of the Sheriff, the autocratic Tingley woman and her bodyguard driving away in a covered carriage which waited her bidding at the stone steps. It is understood that steps will be taken tomorrow to have Fukin sent to the insane hospital.

The plaintiff offered in evidence an article published in the Los Angeles Times of August 12th, 1901, entitled
 398 "Point Loma Spooks Fail to Strike Back." The defendant objected to the introduction of the article on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution and did not refer to the plaintiff in this action;
 399 the action was not brought by the Universal Brotherhood but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood and to Mr. Pierce; and on the further ground that there were no allegations in the complaint authorizing or justifying the introduction of evidence in support of a claim for exemplary damages, that being the ground on which this
 400 publication was offered; which objection was overruled, the defendant excepted and the same is numbered Exception No. 13.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 6.

401 " PLAINTIFF'S EXHIBIT 6."

POINT LOMA SPOOKS FAIL TO STRIKE BACK. SUNDAY NIGHT SAN DIEGO MEETING A TAME AFFAIR. LITTLE ATTENTION PAID BY "DISCIPLES" TO THE SENSATIONAL SERMON OF DR. WILSON.—

SAN DIEGO, Aug. 17.—(From the Times' Resident Correspondent.) Several hundred people left
402 Fisher's Opera House tonight disappointed because the expected did not happen at the Point Loma Theosophical meeting. Since last Sunday night when Dr. Wilson poured the shot into the Point Loma brand of theosophy it has been generally understood, in fact announced in the local press, that Mrs. Tingley would let go a broadside in response.

The only reference to the Methodist preacher's eye
403 opener was the reading of a letter from one of the "disciples" at Point Loma demanding to know if Wilson's church, as a church, indorsed the pastor's utterances, and expressing his personal indorsement of the doctrine and its daily exemplification at the "spookery." The usual programme of essays and music was carried out, and one "student" read a "Theosophist's Impressions of San Diego" in the summing up of which he boomed the Yuma railroad project.

At the First Methodist church Dr. Wilson made no
404 talk on theosophy today.

The plaintiff offered in evidence an article published in the Los Angeles Times of September 24th, 1901, entitled "Spook Debates."

MR. HUNSAKER: We wish to note an exception to

405 the ruling of the Court overruling our objections to these exhibits.

THE COURT: The objection is overruled.

MR. HUNSAKER: The defendant excepts.

And the same is numbered Exception No. 14.

The article was introduced, read in evidence and marked as

406 PLAINTIFF'S EXHIBIT NO. 7.

PLAINTIFF'S EXHIBIT 7.

" SPOOK DEBATES. "

The menials of Mme. Tingley have publicly announced that the fake debates as to the merits of Christianity and Theosophy will be continued indefinitely. The madame states in her announcement that this is a subject easily misunderstood by the public mind, and that she will continue the exposition of theological syllogisms until she is assured that the gravity of the situation has fully impressed itself on those who are good enough to attend her Sunday evening gatherings. However, the announcement has caused no great stir locally, and the community has settled down resignedly to a steady inflection of fake theology.

407

The plaintiff offered in evidence an article published in the Los Angeles Times of October 14th, 1901, entitled " Spook Gabfest Ends." The defendant objected to the introduction of the article on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and

408

409 that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution and did not refer to the plaintiff in this action; that the action was not brought by the Universal Brotherhood but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood and to Mr. Pierce; and on the further ground that there were no allegations
 410 in the complaint authorizing or justifying the introduction of evidence in support of a claim for exemplary damages, that being the ground on which this publication was offered; which objection was overruled, the defendant excepted and the same is numbered Exception No. 15.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 8.

411

" PLAINTIFF'S EXHIBIT 8."

" SPOOK GABFEST ENDS."

412

This evening the Point Loma Spooks made positively their last appearance in the Theosophy-Christianity debate which has been holding the boards at the Fisher Operahouse for the past several Sunday evenings. Sidney Coryn, of London, who arrived here during the week, summed up the crucial points of the discussion. As he
 412 had heard no part of the debate the bearing of his remarks on the subject were not apparent. Mrs. Bohn, of Chicago, also contributed to the final summary.

The plaintiff offered and read in evidence an article published in the Los Angeles Times of October 19th,

- 413 1901, entitled "A Point Loma Pome," and the same was marked

PLAINTIFF'S EXHIBIT NO. 9.

"PLAINTIFF'S EXHIBIT 9."

A POINT LOMA "POME."

Tingle, Tingle, little star,
Oft I wonder who you are;
What you do that isn't right,
Every blessed spooky night.

414

Tingle, Tingle, little star,
What a rotten sect you are;
Better take a way back seat,
With your brassy, bold conceit.

- The plaintiff offered in evidence an article published in the Los Angeles Times of October 23rd, 1901, entitled "Center of Spookdom." The defendant objected to the introduction of the article on the ground that it was immaterial, irrelevant and incompetent; that it did not relate to or tend to support any issue made by the pleadings; that it was a publication of a date prior to the publication of the article complained of in this action; and that it related to other separate and distinct matters than those referred to in the article complained of; that the publication related to the institution and did not refer to the plaintiff in this action; that the action was not brought by the Universal Brotherhood but by Mrs. Tingley for injuries to her reputation; and that the article offered did not refer to Mrs. Tingley in any way, but referred to the Universal Brotherhood and to Mr. Pierce; and on the further ground that there were no allegations in the complaint authorizing or justifying the introduction of evidence in support of a claim for exemplary

417 damages, that being the ground on which this publication was offered; which objection was overruled, the defendant excepted, and the same is numbered Exception No. 16.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 10.

"PLAINTIFF'S EXHIBIT 10."

CENTER OF SPOOKDOM.

418 The headquarters of the Universal Brotherhood, theosophists, is now permanently located at Point Loma. All branches of the order's business have been transferred from New York City. Forty-five thousand pounds of general freight arrived here last week, including a complete printing outfit.

The plaintiff read in evidence an article published by the Los Angeles Times of October 28th, 1901, it being the article set forth in the complaint, and which article

419 was read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 11.

"PLAINTIFF'S EXHIBIT 11".

OUTRAGES AT POINT LOMA. EXPOSED BY AN
"ESCAPE" FROM TINGLEY. STARTLING
TALES TOLD IN THIS CITY. WOMEN AND
CHILDREN STARVED AND TREATED LIKE
CONVICTS. THRILLING RESCUE.

420 Mrs. M. Leavitt, of No. 418 West Fourth street, a believer in what she terms "the true school of theosophy," who has recently removed to this city from San Diego, the capital city of Theosophists, has some startling things to tell concerning the practices of Catherine Ting-

421 ley and her associates, who conduct the Universal Brotherhood Homestead on Point Loma. Mrs. Leavitt seems to be thoroughly informed on two of the latest outrages perpetrated at the spookery, the cases of Mrs. Neresheimer and Mrs. Hollbrook, both well-to-do eastern women. Mrs. Hollbrook, the wife of a railroad man and Freemason of the East, has been rescued from the roost on Point Loma by her husband with the aid of an officer and a gun, and now hovers at the point of death from the abuse she says she received while confined in the
 +22 "Homestead." During the daytime she was worked in the field like a convict, forced to plant trees, hoe corn, and perform all sorts of hard labor, and at night she was shut up in a cell and guarded as if she were a raving maniac. When her husband found what a trap she had fallen into, he hurried here and took her out by force.

The other case on which Mrs. Leavitt is posted is that of Mrs. Neresheimer, who has been forcibly separated
 +23 from her husband, who is also in the Tingley clutches and is not allowed to speak to him. She is forced to live alone in a little tent in the grounds that surround the crazy institution. Armed men guard this place of horror, and, Mrs. Leavitt says, solitary confinement, hard labor and starvation are resorted to by the Tingley managers as punishment upon those who disobey their iron rules.

The woman who gives out this information is a personal friend of, and has talked with Mrs. Holbrook, the
 +24 victim, whose health has been forever destroyed by the ordeals she passed through while imprisoned on Point Loma.

Mrs. Leavitt claims that through a strong hypnotic power, Catherine Tingley works her will on sensible peo-

425 ple. The "Universal Brotherhood," or in other words, Catherine Tingley, is an off-shoot of the theosophic society which became disjointed some four or five years ago. Mrs. Tingley was formerly — the theosophists say — a common dollar-taking spirit medium.

She couldn't agree with the Theosophists, so she branched off and set up her trap on Point Loma. She distributes literature throughout the East, and even in foreign countries, saying the Universal Brotherhood
426 Homestead, located in the most beautiful spot on earth, offers to those who wish to retire into a quiet, thoughtful life, a home in which they may live peacefully, and an atmosphere of soul-study and pure thoughts.

Only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person Mrs. Tingley exerts her influence over such as are spookily inclined; and the almost incredible things which have taken place prove that once
427 in the lair it is almost impossible to escape.

Mr. Leavitt says there is nothing taught at Point Loma but insane ceremonies; that the girls who are placed there to be educated are put to work at the most menial tasks, each one kept separate in a guarded cell and forbidden to speak to anybody else, and that the poor little children are quartered in a miserable building some distance from the main institution, and are continually on the verge of starvation — for Mrs. Tingley openly states that
428 children are fed too much for their spiritual good, and

must eat but little, so that they will be more ethereal. Mrs. Leavitt says she knows personally of a case where both parents and children are victims, and the children have been taken away to the child-pen and are never allowed to communicate in any way with mother or

429 father. For, says Mrs. Tingley, they will grow up purer if away from the bodily and affectionate influence of the parents.

The children are never allowed to speak to anybody, except when they are selling trinkets to the visitors who come to the gates. The young lady prisoners make fancy work which they sell to strangers. Purple robes are worn by the women, and a sort of khaki uniform by the men.

430 On certain occasions a midnight pilgrimage is made by both men and women to a spot on the peninsula which is termed sacred ground. They go in their night robes, each holding a torch.

Before she had gotten well into the scheme, Mrs. Hollbrook says she saw that it was a fake, but having no idea of the horror of it, she decided to go into the Homestead for a while that she might expose the character of the crazy institution. Whether she will live to carry out the
431 good work is doubtful. She can tell things, her friends say, more shocking than anything known yet.

Mrs. Leavitt alleges that gross immoralities are practiced at Point Loma by some of the disciples of spookism, as it is there exemplified, and that such things should not be tolerated in a civilized community.

The plaintiff offered in evidence an article published in the Los Angeles Times of October 31st, 1901, entitled "Points on Point Loma." The defendant objected to the
432 introduction of the article in evidence upon the ground that it was immaterial, irrelevant to any issue made by the pleadings in the case, which objection was overruled, the defendant excepted and the same is numbered Exception No. 17.

433 The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 12.

" PLAINTIFF'S EXHIBIT 12."

POINTS ON POINT LOMA. STATEMENT ON BEHALF OF MRS. LEAVITT.

(The Times prints the following statement at the request and in justice to the lady concerned. Ed.)

434 Mrs. M. Leavitt, of No. 418 West Fourth street, who was reported in an article appearing in The Times of last Monday, as having made certain statements concerning Mrs. Tingley and her Universal Brotherhood Homestead at Point Loma, takes exception to some of the assertions attributed to her. While admitting that she conversed with a reporter on the subject, she alleges that the interview was not of her choosing, and that she did not authorize the use of her name in connection with any
435 publication on the subject whatever. She avers furthermore that the interviewer evidently misinterpreted her replies to his questions in several particulars.

Mrs. Leavitt wishes particularly to have it understood that none of the statements published emanated directly from her, she alleging that she merely gave affirmative answers when asked whether she had heard reports of certain alleged facts which had been exploited by newspapers, or were the subject of common gossip at San
436 Diego. It was a mistake, she says, to represent her as being personally acquainted with Mrs. Hollbrook and Mrs. Neresheimer, and as speaking of their adventures in the Tingley institution from personal knowledge of the facts.

437 Mrs. Leavitt, in short, deprecates the mention of her name under any circumstances in connection with the mysterious doings at Point Loma, and in conclusion, "wishes to state that the ladies in question are not known by her, and that she possesses no knowledge of the Universal Brotherhood affairs other than that which is the daily gossip of the neighborhood and the statements made through the various newspapers."

438 The plaintiff offered in evidence an article published in the Los Angeles Times of March 18th, 1902, entitled "San Diego County. Spook Would Run The Town." The defendant objected to the introduction of the article in evidence on ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case; that it did not purport to be a repetition of any of the matters which were complained of in the complaint, and related to other and distinct matters; and further that there were no allegations in the complaint which under
439 the evidence as to express malice for the purpose of recovering exemplary damages was admissible, which objection was overruled, the defendant excepted and the same is numbered Exception No. 18.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 13.

"PLAINTIFF'S EXHIBIT 13."

440 SAN DIEGO COUNTY. SPOOK WOULD RUN THE TOWN. (SPECIAL CORRESPONDENCE BY THE TIMES.)

SAN DIEGO, March 17.—"Mother" Tingley, boss spook, last night outlined her policy for the conduct of her

441 Fisher Opera House. She said that it was her intention to make of San Diego a seat of the learning and art of the world. She talked for three-quarters of an hour, and said practically nothing, not venturing beyond the platitudes of spookism. She thinks that music and higher drama should be used to reach and develop the aesthetic qualities in the human life, and says she means to bring out the most ennobling qualities in that way. She played to the sympathy of her auditors by predicting a very brilliant future for San Diego, but intimated that she is to "rule the roost" as director of that future. That is a lump the San Diego populace cannot swallow, and her remarks did not strike a responsive chord. A prominent citizen who attended the meeting out of curiosity expresses regret that the Point Loma aggregation has a hold on this side of the bay, and says the freaks from there have been too cordially received by San Diego people.

443 The plaintiff offered in evidence an article published in the Los Angeles Times of March 25th, 1902. The defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case: that it did not purport to be a republication of any of the matters which were complained of in the complaint and related to other and distinct matters; and
444 further that there was no allegation in the complaint under the evidence as to express malice for the purpose of recovering exemplary damages was admissible; which objection was overruled, the defendant excepted and the same is numbered Exception No. 19.

445 The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 14.

"PLAINTIFF'S EXHIBIT 14."

A correspondent is informed that there is no resemblance between the "cabinet" of Mrs. Katherine Tingley, at Point Loma, and the vapor cabinets now so extensively advertised, except that in both cases hot air is the leading factor in achieving results.

446 The plaintiff offered in evidence an article published in the Los Angeles Times of May 19th, 1902, entitled "San Diego Out of Spookdom." The defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings in the case; that it did not purport to be a republication of any of the matters which were complained of in the complaint and related to other and distinct matters; and further that there

447 was no allegation in the complaint under which the evidence as to express malice for the purpose of recovering exemplary damages was admissible; and on the further ground that the article was too remote in point of time; which objection was overruled, the defendant excepted and the same is numbered Exception No. 20.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 15.

448 "PLAINTIFF'S EXHIBIT 15."

SAN DIEGO OUT OF SPOOKDOOM.

(Special correspondence to The Times.)

SAN DIEGO, May 18.—Ex-Mayor, D. C. Reed, whose

449 joining of the Point Loma Spookdoom was heralded with great eclat a few weeks since, and who was elected, almost immediately, to sit on the right hand of the purple she, has removed with his family from the spook headquarters and has resumed his residence in San Diego. This action has been the cause of various and sundry rumors as to the nature of his present relations with Boss Spook Tingley. Reed has been kept busy the past few days denying rumors and affirming that he is still
450 entitled to stand uncovered in the "royal" presence.

The plaintiff offered in evidence an article published in the Los Angeles Times of August 12th, 1902, entitled "San Diego County, Tingley's Latest Plan." The defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case; that it did not purport to be a repetition of any of the matters which were complained of in the complaint and related to other and distinct matters; and
451 further that there was no allegation in the complaint under which the evidence as to express malice for the purpose of recovering exemplary damages was admissible; and on the further ground that the article was too remote in point of time to throw any light on the issue as to whether or not the defendant had any actual malice or illwill against the plaintiff at the time of the publication complained of in this action, which objection was over-
452 ruled, the defendant excepted and the same is numbered Exception No. 21.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 16.

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" PLAINTIFF'S EXHIBIT 16."

SAN DIEGO COUNTY. TINGLEY'S LATEST PLAN.

454

SAN DIEGO, Aug. 11.—Katherine Tingley, the woman who bosses the Point Loma Spookery, made a peculiar proposition here last night, which is expected to be turned down. In a harangue at the Isis, she offered a "personal subscription of \$5000 to be available as soon as the citizens of San Diego raise a fund of \$10,000 for the purchase of one of the churches of the city, and its conversion into an educational institution, where music, the arts and sciences, and various branches should be taught.

455

The plan, so she said, is "to make a public institution of the church, where children might be taught to fulfill their natural destiny as saviors of humanity." She declared that the enterprise is in no way connected with the Universal Brotherhood plant at the Point, but should be conducted by the citizens of San Diego, who should select its teachers and be responsible for its management. She predicted that within ten years all of the churches will be converted into higher educational institutions, the doors being open every day in the year, instead of once a week.

456

The local pastors and many others look upon this latest announcement of the queen of the Theosophical, offshoot as an attack on the churches. There are no churches for sale, and the scheme will not go through. The woman's motives are questioned, some declaring that this would be but a step in a deep-laid plot to gobble up the whole town for the spook outfit. Others do not take the proposition seriously.

457 The plaintiff offered in evidence an article published in the Los Angeles Times of November 2nd, 1902, entitled "Cuban Children En Route to Point Loma Spookery Detained by Federal Authorities at New York." The defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case; that it did not purport to be a repetition of any of the matters which were complained of in the complaint
 458 and related to other and distinct matters; and further that there was no allegation in the complaint under which the evidence as to express malice for the purpose of recovering exemplary damages was admissible; and on the further ground that the article was too remote in point of time to throw any light on the issue as to whether or not the defendant had any actual malice or illwill against the plaintiff at the time of the publication complained of in this action; which objection
 459 overruled, the defendant excepted and the same is numbered Exception No. 22.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 17.

"PLAINTIFF'S EXHIBIT 17."

460 DISTRUST TINGLEY. CUBAN CHILDREN EN ROUTE TO POINT LOMA SPOOKERY RETAINED BY FEDERAL AUTHORITIES AT NEW YORK.

(BY THE ASSOCIATED PRESS, A.M.)

NEW YORK, Nov. 1.—Eleven children, whose average age is 10 years, arrived today from Santiago, Cuba.

461 on the steamer Oriziba, en route to Point Loma, Cal.,
 to join "The Universal Brotherhood." The immigration
 officials of this port have been asked to hold these chil-
 dren as possible objectionable aliens for inquiry. The
 children are in charge of Dr. Gertrude Van Pelt, who
 intended to accompany them to Point Loma, where Mrs.
 Katherine A. Tingley, high priestess of the Universal
 Brotherhood, and known as the "Purple Mother," is
 said to have established a temple for teaching children
 462 in Buddhist religion.

The little immigrants were all thinly clad, and felt the
 cold air keenly when they arrived. Their case has come
 under the especial care of the Society for the Preven-
 tion of Cruelty to Children, which will ascertain for what
 purpose the children were brought to the United States.

The children and Miss Van Pelt were taken to Ellis
 Island, and the children were registered. Miss Van Pelt
 insisted that the young immigrants were all to receive a
 463 thorough education at the Point Loma institution, and
 to stay there until they reach their majority. They will
 then be at liberty, she said, to practice whatever pro-
 fession or trade they have elected to follow, either in
 this country or their native land. She asserted that she
 had documentary consent from the parents or guardians
 of the children, to their being sent to Point Loma. The
 children were all held for the Board of special inquiry.

The plaintiff offered in evidence an article published
 464 in the Los Angeles Times of November 10th, 1902, en-
 titled "San Diego's Spooky Letter." The defendant ob-
 jected to the introduction of the article in evidence on
 the ground that it was irrelevant and immaterial to any
 of the issues made by the pleadings of the case; that it

465 did not purport to be a repetition of any of the matters
 which were complained of in the complaint and related
 to other and distinct matters; and further that there
 was no allegation in the complaint under which the evi-
 dence as to express malice for the purpose of recovering
 exemplary damages was admissible; and on the further
 ground that the article was too remote in point of time
 to throw any light on the issue as to whether or not
 the defendant had any actual malice or illwill against
 466 the plaintiff at the time of the publication complained of
 in this action; which objection was overruled, the de-
 fendant excepted and the same is numbered Exception
 No. 23.

The article was introduced, read in evidence and
 marked as

PLAINTIFF'S EXHIBIT NO. 18.

" PLAINTIFF'S EXHIBIT 18. "

467 SAN DIEGO SPOOKY LETTER.

(BY THE ASSOCIATED PRESS, A. M.)

SAN DIEGO, Nov. 15.—The Chamber of Commerce
 of this city has appointed a committee to draft a letter
 addressed to the Secretary of the Treasury at Washing-
 ton, and the president of the New York Society for the
 Prevention of Cruelty to Children; that in the opinion
 of the San Diego Chamber of Commerce, the school at
 Point Loma was properly conducted, and the children
 468 well cared for and looked after. The letter will be for-
 forwarded at once.

(It will be noticed that this letter has neither been
 drafted nor sent.—Editor.)

469 The plaintiff offered in evidence an article published in the Los Angeles Times of November 22nd, 1902, entitled "Sargent Sleeps in Tingley Spookery." The defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case; that it did not purport to be a repetition of any of the matters which were complained of in the complaint and related to other and distinct matters; and further that

470 there was no allegation in the complaint under which the evidence as to express malice for the purpose of recovering exemplary damages was admissible; and on the further ground that the article was too remote in point of time to throw any light on the issue as to whether or not the defendant had any actual malice or ill-will against the plaintiff at the time of the publication complained of in this action, which objection was overruled, the defendant excepted and the same is numbered

471 Exception No. 24.

The article was introduced, read in evidence and marked as

PLAINTIFF'S EXHIBIT NO. 19.

" PLAINTIFF'S EXHIBIT 19."

SARGENT SLEEPS IN TINGLEY SPOOKERY.
 COMMISSIONER OF IMMIGRATION VISITS
 POINT LOMA. INVESTIGATES TREATMENT
 472 OF CHILDREN IN RAJA YOGA SCHOOL AND
 FINANCIAL BACKING OF INSTITUTION.
 CHINESE INSPECTOR DUNN IN SAN DIEGO.

SAN DIEGO, Nov. 21.—Immigration Commissioner Frank Sargent arrived here at 12:45 o'clock today and

473 proceeded at once to Point Loma, where the Raja Yoga school is to be made the subject of inquiry. Sargent was accompanied by Congressman-elect Daniels, who went with him to Point Loma. At the depot here Sargent was met by Mayor Frary who introduced himself and spoke a few words to the commissioner. Frary stated to a reporter that he had been requested by some one at Point Loma to meet Sargent.

474 Members of the newly-organized Society for the Prevention of Cruelty to Children were at the "Homestead" awaiting Sargent's arrival. Adverse criticism is heard because of the welcome given this new society at the Homestead, after the agent of the State Society had practically been refused admittance.

475 Commissioner Sargent spent the afternoon at the Brotherhood community. A message from the Point says that he has investigated the treatment of children there and the financial backing of the institution, but that his report has not been made public. The commissioner, Representative-elect Daniels, and others of the party will spend the night on the point.

476 A copy of the articles of incorporation of the California Society for the Prevention of Cruelty to Children was filed with the County Clerk this forenoon. In view of Mrs. Tingley's displeasure at the interference of the New York society, which has asked an investigation of the Point Loma institution, the filing of the document is significant. The society was organized in 1876, and while its headquarters are in San Francisco County, it is authorized to do business in any section of the State.

The plaintiff offered in evidence an article published in the Los Angeles Times of November 25th, 1902, entitled "Spooks Back Yard Must Not Be seen." The de-

- 477 defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case; that it did not purport to be a repetition of any of the matters which were complained of in the complaint and related to other and distinct matters; and further that there was no allegation in the complaint under which the evidence as to express malice for the purpose of recovering exemplary damages was admissible; and on the further ground that the article was
- 478 too remote in point of time to throw any light on the issue as to whether or not the defendant had any actual malice or illwill against the plaintiff at the time of the publication complained of in this action; which objection was overruled, the defendant excepted and the same is numbered Exception No. 25.

The article was introduced, read in evidence and marked as

- 479 PLAINTIFF'S EXHIBIT NO. 20.

" PLAINTIFF'S EXHIBIT 20."

SPOOKS' BACK YARD MUST NOT BE SEEN.
MIGHTILY AFRAID OF MR. WHITE AT
POINT LOMA. WRIT OF INJUNCTION
SERVED TO KEEP HIM AWAY FROM
RJUMPTY KABUMPTY SCHOOL AND OTHER
" LOST MYSTERIES " OF TINGLEYISM.

- 480 (BY THE ASSOCIATED PRESS, A.M.)

SAN DIEGO, November 24.—The Point Loma Theosophical authorities have served an injunction against M. J. White of San Francisco, agent of the California Society for the Prevention of Cruelty to Children. This

481 writ was prepared during the night by Secretary Pierce and Attorney Wadham, the latter a director in the new local society alleged to have been formed to prevent cruelty to children. It was signed by Superior Judge Torrance, and served on Mr. White between 3 and 4 o'clock this morning at his hotel, where he was asleep. The writ is issued at the prayer of the "School for the Revival of the Lost Mysteries of Antiquity" of Point Loma, and is operative to restrain the New York Society for the Prevention of Cruelty to Children, the California society of similar scope, and M. J. White, from entering the "Raja Yoga" school at Point Loma.

482 When Mr. White was interviewed, he said he was amused by the proceedings, and that he had no intention of again requesting permission to inspect the school. He said that the Point Loma people claimed to have been warned that he intended to come here to do injury to their school, but that nothing was further from his intentions or instructions. He said he would have been glad to inspect the school, and report favorably if such a report would be warranted, and that the only suspicion that he could have about the place is the determined opposition to his entrance. He will file an answer to the injunction.

483 The plaintiff offered in evidence an article published in the Los Angeles Times of December 6th, 1902. The defendant objected to the introduction of the article in evidence on the ground that it was irrelevant and immaterial to any of the issues made by the pleadings of the case; that it did not purport to be a repetition of any of the matters which were complained of in the complaint and related to other and distinct matters: and fur-

484

485 ther that there was no allegation in the complaint under
 which the evidence as to express malice for the pur-
 pose of recovering exemplary damages was admissible;
 and on the further ground that the article was too re-
 mote in point of time to throw any light on the issue as
 to whether or not the defendant had any actual malice
 or illwill against the plaintiff at the time of the pub-
 lication complained of in this action; which objection
 was overruled, the defendant excepted and the same is
 486 numbered Exception No. 26.

The article was introduced, read in evidence and
 marked as

PLAINTIFF'S EXHIBIT NO. 21.

"PLAINTIFF'S EXHIBIT 21."

LOS ANGELES (CAL.) TIMES,
 DEC. 6, 1902.

487 The San Diego spookery seems to have found a friend
 in Commissioner General Sargent of the Immigration
 Bureau. And San Diego has called out the guard. The
 West is a great country, sure.

The plaintiff offered in evidence an article published
 in the Los Angeles Times of December 7th, 1902, en-
 titled "Lotus Buds Released." The defendant ob-
 jected to the introduction of the article in evidence on
 the ground that it was irrelevant and immaterial to any
 of the issues made by the pleadings of the case; that it
 488 did not purport to be a repetition of any of the matters
 which were complained of in the complaint and related
 to other and distinct matters; and further that there
 was no allegation in the complaint under which the evi-
 dence as to express malice for the purpose of recovering

489 exemplary damages was admissible; and on the further ground that the article was too remote in point of time to throw any light on the issue as to whether or not the defendant had any actual malice or illwill against the plaintiff at the time of the publication complained of in this action; and the defendant further objected to the introduction in evidence of the body of the article on the ground that it was immaterial and irrelevant to any issue made by the pleadings in this case.

490 Mr. McKINLEY: Plaintiff does not offer it for any purpose except to establish any malice and does not claim it is a proof of anything else; we think we are entitled to the entire article.

The objection was overruled, the defendant excepted and the same is numbered Exception No. 27.

The article was introduced, read in evidence and marked as

491 PLAINTIFF'S EXHIBIT NO. 22.

"PLAINTIFF'S EXHIBIT 22."

"LOTUS BUDS" RELEASED. TREASURY DEPARTMENT ALLOWS DETAINED CUBAN CHILDREN TO PROCEED TO POINT LOMA.—VICTORY FOR THE PURPLE SHE.

(BY DIRECT WIRE TO THE TIMES.)

492 NEW YORK, Dec. 6.—(Exclusive Dispatch.) A dispatch from Washington this afternoon announced that the eleven Cuban children who were held up by the immigration authorities at this port when they arrived here en route to Point Loma Universal Brotherhood School of Mrs. Katherine Tingley, had been ordered re-

493 leased by the Treasury officials at the capital. There was a hearing in the case today, at which counsel for the Children's Society of this city and for Mrs. Tingley appeared and argued the question. Facts were presented concerning the character of the school, which had been held to be objectionable, and the decision was that there was nothing about it which was likely to injure the morals of the Cuban youngsters.

494 The decision is a victory for Mrs. Tingley. When the children first came to this country from Santiago de Cuba, representations were made to the Children's Society that the Point Loma School was not fit place to bring up children, and the society made a protest against allowing the little ones to land.

Commodore Gerry interested himself personally in the matter and appeared before Immigration Commissioner Adam Williams to argue against their admission.

495 Mrs. Tingley's friends rushed to protect her name and that of the school. Among those who went on the stand in her behalf was A. G. Spalding and his wife, who are believers in the tenants laid down by Mrs. Tingley. A lot of questions were asked Mr. Spalding when he was on the stand. He was asked about a pet dog, who was alleged to be known as the "Purple Inspiration," and to have a soul. There was also something about leaves and blades of grass having feelings and getting married just like real folks when merry springtime comes.

496 Spalding and other Theosophists denied all these things and grew very indignant about them. They said the school was imminently fit and proper. They were permitted an opportunity to adduce evidence, and from this decision they appear to have made good their assertions.

497 The little Cubans can now go ahead and worship at the feet of the Point Loma goddess.

KATHERINE TINGLEY,

plaintiff, sworn and examined on her own behalf, testified as follows:

498 BY MR. KELLÖGG: I am the plaintiff in this case; I reside at the Homestead at Point Loma; I have lived at that place about two years and a half. The Homestead is the present headquarters of the Universal Brotherhood. I am the official head of the Universal Brotherhood. The Homestead was headquarters of the Universal Brotherhood on October 28th, 1901, the date when this article complained of was published.

Q. On October 28th, 1901, the date of this publication, will you state what was the extent of your personal acquaintance?

499 The defendant objected to the question on the ground that it was immaterial and irrelevant to any issue made by the pleadings. The objection was overruled, and the defendant excepted, and the same is numbered Exception No. 28.

A. Well, it was large, because it was connected with the—not only with people in America, but in Europe, Australia and India.

500 Q. Will you mention such countries of Europe as at that time contained personal acquaintances of yours?

The defendant objected to the question on the ground that it was immaterial and irrelevant to any issues made by the pleadings in this case; which objection was over-

501 ruled, the defendant excepted, and the same is numbered Exception No. 29.

A. In Ireland, England, Holland, Sweden, India and Australia, as I said before, but you said of Europe. I made a mistake.

Q. At that time, referring to the same date, were you in communication by letter with people in these various countries and in the United States?

502 The defendant objected to the question on the ground that it was immaterial and irrelevant to any issues made by the pleadings in this case; which objection was overruled, the defendant excepted, and the same is numbered Exception No. 30.

A. I was in correspondence with people in these different countries, and to a very large extent, and in America, Europe and Australia, and in most of the states in America.

503 Q. And what have you to say as to the extent of this acquaintanceship in these various states of America?

The defendant objected to the question on the ground that it was immaterial and irrelevant to any issues made by the pleadings in this case; which objection was overruled, the defendant excepted, and the same is numbered Exception No. 31.

504 A. It was very large.

Q. Do you recall, Mrs. Tingley, about what time the article complained of in this suit was first brought to your attention?

The defendant objected to the question on the ground

505 that it was immaterial and irrelevant to any issue made by the pleadings; which objection was overruled, the defendant excepted, and the same is numbered Exception No. 32.

A. I cannot give the exact date, but I know it was over a year ago.

Q. Will you state what mental effect was produced upon you when you read this article?

506 The defendant objected to the question on the ground that it was immaterial, irrelevant and not within any of the issues made by the pleadings in this case; which objection was overruled, the defendant excepted, and the same is numbered Exception No. 33.

A. I was very much shocked and suffered very much in consequence, and have ever since that time mentally.

Q. In what way?

507 The defendant objected to the question on the ground that it was immaterial, irrelevant and not within any of the issues made by the pleadings in the case, viz., that there is no allegation in the complaint of any injury, except to her name, fame and reputation, and that the evidence is not within any issues made by the pleadings; which objection was overruled, the defendant excepted, and the same is numbered Exception No. 34.

508 Q. You speak of having suffered — in what way?

A. I suffered mentally, with apprehension — — — —

The defendant objected to the question on the ground that it was immaterial, irrelevant and not within any of the issues made by the pleadings in the case, viz., that

509 there is no allegation in the complaint of any injury, except to her name, fame and reputation, and that the evidence is not within any issues made by the pleadings. The Court here stated that the witness was not through with her answer, but did not rule on said objection.

A. (Continuing.)— and loss of sleep, constant insomnia — and I was greatly incapacitated in my work, not being able to do one-half as much as I had before this
510 came.

The defendant moved to strike out the entire answer on the ground that it involved matters which were not within the issues made by the pleadings in this case, or proper subject, or elements of damage, which motion was denied, the defendant excepted, and the same is numbered Exception No. 35.

CROSS EXAMINATION.

511 BY MR. HUNSAKER: I am not sure how long I have been connected with the Universal Brotherhood movement, but I think since 1896.

Q. When was the Universal Brotherhood first organized?

The plaintiff objected to the question as not proper cross examination; which objection was sustained, the defendant excepted and the same is numbered Exception
512 No. 36.

Q. By whom was the Universal Brotherhood organized?

The plaintiff objected to the question on the ground

513 that it was not proper cross examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 37.

514 WITNESS (Continuing). I could not tell the exact date when I first became connected with the Universal Brotherhood. I would like to correct one statement I made on account of being associated with the Brotherhood so long. I said 1896. I was first connected with the Theosophical Society which merged into the Universal Brotherhood; the exact date I could not now give, but I could later, but it was later than 1896.

Q. You had been the head of the Theosophical movement up to the time of this merger, had you?

515 The plaintiff objected to the question as not proper cross examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 38.

Q. Did you hold any official position or connection with the Theosophical movement at the time you say that you have stated that the Theosophical Association, or whatever it was, was merged into the Universal Brotherhood, merged with the Universal Brotherhood?

516 The plaintiff objected to the question on the ground that it was not proper cross examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 39.

WITNESS (Continuing). I told you that I could not remember the exact date I first became the official head of the Universal Brotherhood. It was after 1896.

517 Q. In reference to its organization, at what time did you become its official head?

A. I have told you I cannot tell you, sir, the exact date. The Universal Brotherhood is not an incorporated company. The Universal Brotherhood organization is not incorporated. Its objects, purposes and powers are stated in written documents. In our publications generally. The Association has Articles of Association
 518 in writing. I think they are published throughout many—much of our literature. These writings are in the custody of the Universal Brotherhood I presume; of Theosophical Publishing Company; it could be easily gotten. The Universal Brotherhood has a Constitution and By-Laws. I think they are all published in our general literature.

Q. You have such literature in your—under your control?
 519

A. I do not have anything to do with it. It is in the Theosophical Publishing Company, and I have nothing to do with the Theosophical Publishing Company; it is quite a separate affair. It is published there and anybody can get what you desire, I presume, by applying. I think that my duties and powers and my authority as official head of the Association are set forth in these publications. The Constitution of the Universal
 520 Brotherhood is shown on pages 5 to 11 inclusive of printed book marked "Defendant's Exhibit C", which said Constitution is here introduced in evidence by the defendant, and is as follows, to-wit:

DEFENDANT'S EXHIBIT "C."

521

"DEFENDANT'S EXHIBIT C."

THE UNIVERSAL BROTHERHOOD, OR THE BROTHERHOOD OF HUMANITY, ORDAINED AND ESTABLISHED FOR THE BENEFIT OF THE PEOPLE OF THE EARTH AND ALL CREATURES.

CONSTITUTION.

ARTICLE I.

522

Sec. 1. The title of the organization shall be UNIVERSAL BROTHERHOOD, or THE BROTHERHOOD OF HUMANITY.

ARTICLE II.

Sec. 1. This organization declares that Brotherhood is a fact in nature.

Sec. 2. The principal purpose of this organization is to teach brotherhood, demonstrate that it is a fact in nature and make it a living power in the life of humanity.

523

Sec. 3. The subsidiary purpose of this organization is to study ancient and modern religion, science, philosophy and art; to investigate the laws of nature and the divine powers in man.

ARTICLE III.

Sec. 1. This BROTHERHOOD is a part of a great and universal movement which has been active in all ages.

524

Sec. 2. Organizations throughout the world adopting this constitution become integral parts of the BROTHERHOOD upon receipt of official notification of their acceptance as such. These organizations to be subject to whatever condition the authority of this BROTHERHOOD may impose.

- 525 Sec. 3. The central office of the BROTHERHOOD
is situated in America.

ARTICLE IV.

Sec. 1. There shall be one supreme office in which shall reside paramount authority regarding all matters which concern the welfare of the BROTHERHOOD.

Sec. 2. The title of the person filling this office shall be Leader and Official Head.

- 526 Sec. 3. The Leader and Official Head of this organization is Katherine A. Tingley.

Sec. 4. The person filling this office shall serve for life or until her or his resignation.

Sec. 5. The person filling this office shall appoint her or his successor.

ARTICLE V.

- 527 Sec. 1. The Leader and Official Head shall be the Executive Officer of this BROTHERHOOD.

Sec. 2. The Leader and Official Head shall have sole power to appoint all cabinet and general officers, superintendents and agents, and shall have the power of removing any or all of them at her or his discretion.

Sec. 3. The Leader and Official Head shall have the power to declare the policy and direct the affairs of this BROTHERHOOD.

- 523 Sec. 4. The Leader and Official Head shall have the right to cancel or suspend the charter of any subordinate lodge and shall also have the right to suspend or dissolve the membership of any person whenever the action of such lodge or member is, in her or his opinion, contrary to the interests of the BROTHERHOOD.

ARTICLE VI.

529

Sec. 1. There shall be a Cabinet consisting of thirteen members and the Leader and Official Head, who is ex-officio member of the Cabinet.

Sec. 2. The duty of the thirteen members of the Cabinet shall be to aid the Leader and Official Head in promulgating and establishing the measures and policies emanating from that office.

530 Sec. 3. The chairman of the Cabinet, together with four members thereof, shall constitute a quorum for the transaction of business.

ARTICLE VII.

Sec. 1. There shall be an executive Committee of five, whose duty shall be to administer the affairs of the BROTHERHOOD under the general supervision of the Leader and Official Head.

531 Sec. 2. Three members of this Committee shall constitute a quorum for the transaction of business.

Sec. 3. All official acts of this Committee are subject to the approval of the Leader and Official Head, and are void and of no effect when disapproved by that officer.

ARTICLE VIII.

532 Sec. 1. Should any vacancy occur in the office of Leader and Official Head, the Cabinet shall have power and perform the duties of that office till the successor to that office takes possession of the same.

Sec. 2. The Leader and Official Head shall be the custodian of the archives of the BROTHERHOOD.

Sec. 3. The Leader and Official Head may appoint agents for any purpose and endow them with whatever power she or he may elect to delegate.

533

ARTICLE IX.

Sec. 1. There shall be a Treasurer whose duty shall be to receive and disburse all moneys as directed by the Finance Committee.

Sec. 2. There shall be a Finance Committee of three, whose duty shall be to raise and disburse money after consulting and obtaining the approval of the Leader and Official Head.

534 Sec. 3. The official acts of this committee are void and of no effect when disapproved by the Leader and Official Head.

ARTICLE X.

535 Sec. 1. Any person endorsing the principal purpose of this BROTHERHOOD, and whose application is signed by three members in good standing, may be received as a probationer, but shall not be an accepted member until a diploma is received from the Central Office.

Sec. 2. Every member has the right to believe or disbelieve in any religious system or philosophy, each being required to show that tolerance for the opinions of others which he expects for his own.

Sec. 3. Applications for diplomas or charters shall be made to the chairman of the Executive Committee and shall not become effective until signed by that officer and countersigned by the Leader and Official Head.

536 Sec. 4. Three or more persons applying for membership or who are already members, may apply for a charter to form a subordinate lodge.

Sec. 5. No person may be a member of two lodges at the same time.

537

ARTICLE XI.

Sec. 1. Every subordinate lodge shall have the right to conduct its own affairs according to its own wishes, provided that its by-laws and acts are not contrary to the letter or the spirit of this instrument.

Sec. 2. The by-laws of subordinate lodges shall have the approval of the Leader and Official Head and are null and void if disapproved by that officer.

538

ARTICLE XII.

Sec. 1. A congress may be called by the Leader and Official Head to assemble at such place and time as that officer may designate.

Sec. 2. Each subordinate lodge shall be entitled to one delegate in the congress for its first three members and to one delegate for each succeeding thirteen members.

539

Sec. 3. It shall be the right of the Leader and Official Head, and of any general officer, and of any delegate to the congress, to bring forward any matter for consideration by the congress which in his or her judgment is for the welfare of the BROTHERHOOD.

Sec. 4. The Leader and Official Head shall have the power to prevent the discussion of, or action on, any subject which in the judgment of that officer is against the welfare of the BROTHERHOOD.

540

ARTICLE XIII.

Sec. 1. It shall be the duty of the Cabinet to provide by-laws for the BROTHERHOOD, but no by-laws shall become operative until approved by the Leader and Official Head.

541

ARTICLE XIV.

Sec. 1. There shall be a literary department connected with this BROTHERHOOD, to be known as "The Theosophical Society in America."

Sec. 2. There shall be a department of the BROTHERHOOD for the purpose of doing practical humanitarian work, to be called "The International Brotherhood League."

542

ARTICLE XV.

Sec. 1. The seal of the BROTHERHOOD shall be a circle made of a serpent swallowing its tail, enclosing the seal of Solomon, inside of which is the Crux Ansata, and at the Serpent's head a Svastica in a circle, the whole upon a seven-pointed star, hanging as a pendant from clasped hands, and surrounded by the words "UNIVERSAL BROTHERHOOD."

ARTICLE XVI.

543

Sec. 1. The constitution may be amended by a two-thirds vote of a congress regularly called, but no amendment shall be of force until approved by the Leader and Official Head.

WITNESS (Continuing), I have stated that the Theosophical Society was merged into the Universal Brotherhood.

Q. What, if any, official position did you hold in the
544 Theosophical Society at the time of the merger?

The plaintiff objected to the question on the ground that it was immaterial, and not proper cross-examination; which objection was sustained. The defendant excepted, and the same is numbered Exception No. 40.

545 Q. How was the merger of the Theosophical Society with the Universal Brotherhood effected, and by whom?

The plaintiff objected to the question, on the ground that it was immaterial, and not proper cross-examination or material; which objection was sustained. The defendant excepted, and the same is numbered Exception No. 41.

WITNESS (Continuing), I remember where I was when I first saw the article upon which this action has been brought. I was at the Point Loma homestead. I cannot tell who brought the article to my attention. I only know I read it. I was not, at that time, a subscriber to the Los Angeles Times, nor was the society a subscriber of that paper. I do not remember who called my attention to the article, because I had had so many previous to that time I had gotten accustomed to read them — I could not tell — I might afterwards, but I can't tell.

546

It is a fact that prior to the publication which I complained of there had been articles published in other papers attacking me and my work, and which articles had been brought to my attention. There were many articles written; many that I did not see, but heard of. Some that I did see.

547

Q. Isn't it true, Mrs. Tingley, that from the time of the organization of the Universal Brotherhood up to the time of the publication of this article, during all of that period of time you and your work, and your right to act or assume to act as the head of the theosophical movement was attacked and questioned by numerous publications which were brought to your attention?

548

A. I can answer that it was not my habit to read the articles that were published, if any were. I would hear

549 occasionally of articles. If they were sensational, I told my secretary and comrades not to bring them to me. If they were a direct accusation that I could act upon, I wanted them brought to me. I was not in the habit of reading the general publications, and could not tell how many there were, or what their nature was.

There had been direct accusations made against me in these publications and brought to my attention; the direct accusation of the Los Angeles Times was brought
550 to my attention.

Q. Any others?

A. I have no recollection of having them affect me to any great degree, if I had any. I must have read some, of course, in reading the papers occasionally. But I never made a practice of reading them because they were sensational, and I always told my officers and comrades that anything which I could meet in any legal way I
551 would be pleased to see, but I never found any, and if I ever heard of any at all I never realized the persistency of persecution in any way — I expect to be, in my position, attacked very much, and to be very much accused, and all that, as a public worker in a new work, but I never was affected as I was this time.

I had not seen and read numerous articles and publications asserting that I was not entitled to act as head of the Theosophical movement. I cannot say that I never saw any, but I never saw numerous numbers. I must,
552 of course, have seen some, but I cannot recollect anything that has made any marked impression on my mind. I cannot now recollect any publication that I ever read. I must have read some, but numerous, no sir, I never read them. I cannot recollect any of them.

553 For some two or three months prior to the publication
 complained of in this case I had been particularly en-
 gaged as editress of the *New Century* and also of the
Universal Brotherhood publication and general advisor
 and directress of the children's work, the work through-
 out the world, work in Cuba, and also all the general
 work pertaining to the organization at Point Loma. I
 could not define the extent to which I devoted my time
 to editing the *New Century*; it was at every possible op-
 554 portunity. I would be a few hours on one kind of work
 and a few hours on another. I gave a good deal of atten-
 tion in the latter part of every week to my publications
 in order to have them ready for the printers on Monday
 or Tuesday. My usual hours of work were whenever my
 work required my attention, anything within reason when
 I had the strength to attend to it, any time before one
 o'clock at night, early in the morning. I never had any
 regular hours. On account of overwork some nights
 and some nights not, I didn't have a regular hour of
 555 resting. I was working very hard during that time,
 much harder than I have since I had the shock of Mr.
 Otis's attack.

Q. How long had you been working so hard and
 working such long hours?

A. Oh, I had worked off and on, sometimes I didn't
 work so hard and sometimes I did, just according to the
 need of the time; but I was always able to take a certain
 556 portion of the time for physical exercise, an hour to build
 me up, but I have not been able to do so since I was in-
 jured—or since I was—prior to that time I was able
 to walk five or six miles a day—I didn't do it regu-
 larly—before I received the shock from that paper.

557 After that I never went the distance. I had at different times been in poor health, but never mentally — no mental difficulty or pressure; I have had pneumonia and I have had fever in the past when in my childhood, I believe, and I have had some heart difficulty. I was certain that I was born with heart difficulty, I had some slight trouble in breathing, but not enough to effect my head nor my nervous temperament. I have always had trouble with my heart, but it was very transitory, only
 558 for a moment; but it was not continuous at all.

Q. During the three months prior to this publication, had you any special controversy on hand?

MR. ANDREWS: We object to the question, Your Honor, as not proper cross-examination.

Q. In addition to your usual and ordinary work in connection with this movement?

MR. ANDREWS. And as immaterial.

559 The objection was sustained, the defendant excepted and the same is numbered exception No. 42.

Q. For a period of about three months prior to this publication, had you not been engaged in a heated controversy which resulted in public discussion with certain of the ministers of this city?

The plaintiff objected to the question because it was not proper cross-examination and because the answer would
 560 be incompetent and immaterial; which objection was sustained, the defendant excepted and the same is numbered Exception No. 43.

Q. Isn't it true, Mrs. Tingley, that for about — for over two months, a period of time extending over two

561 months or more prior to this publication, you had been engaged in a controversy with certain of the ministers of this city, and that in addition to the usual work which you were accustomed to do, that you had participated in that controversy and devoted a great deal of time to it?

The plaintiff objected to the question because it was not proper cross-examination, and because the answer would be incompetent, irrelevant and immaterial to any
562 of the issues; which objection was sustained, the defendant excepted, and the same is numbered exception No. 44.

Q. Isn't it true that during the period of time indicated or covered by the last question that you made, in addition to your usual and ordinary work, addresses and speeches, revised the work or addresses or speeches made by members of your society, which were used in a discussion between yourself and the ministers of this city?

563 The plaintiff objected to the question because it was not proper cross-examination, and because the answer would be immaterial and the testimony incompetent; which objection was sustained, the defendant excepted, and the same is numbered exception No. 45.

Witness (continuing): I was not engaged, during the sixty days prior to the publication of this article, in what I would call extra work in addition to my usual and ordinary work. I was not, at that time, engaged in a controversy with the ministers of this city, discussing the
564 relative merits of theosophy and christianity; the Point Loma students were engaged with the ministers in the discussion. I was interested in it, very much so, but not in any way to tax me. I could not say that I examined

565 and approved the papers that were read by the students before they were permitted to read them. I do not think I did. Indeed, I know I did not. I might have heard some of them as I would any subject or any publication, but I did not give any special time to them at all in any way that taxed me. I am not certain that I engaged in the discussion myself. I think I made some comments, but not directly in the discussion. It was carried on by the Point Loma students and the ministers, or at least it was intended to be carried on in that way. The controversy was carried on publicly between a minister, a representative of one of the churches, but not a minister of the city, and the members or some of the Point Loma students, and not by myself at all. I listened, but I did not participate in the controversy.

Q. Did you not, yourself, deliver an address at the Isis Theatre during that controversy, and on the controversy?

567 A. I have delivered very many addresses when I was well enough, and I generally touched on the subject, but not what I would call directly in connection with the controversy you referred to — indirectly.

During the time of that controversy, I was not able to appear at the Isis Theatre regularly; I do not think I have ever attended regularly there and I have done less so recently. I was not able to attend there during a part of the time covered by this controversy of which I have spoken, because I had other duties which called my attention; there was no necessity of my being there. I didn't say that I was very busy during all the time; I did my general work. Possibly at some time while the controversy was going on, I was resting as I should. I have

569 already defined what my daily duties were during the three months prior to this publication, and what period of time they covered. I cannot, at present, define them any more definitely than I already have done, unless I live back in memory and tabulate every fact — every bit of work I did.

When the article was first called to my attention or the head lines read, I was at our Musical Conservatory, but I didn't read it until I got back to the Homestead. I
570 think it was that night or next morning. I know I remember reading it, and I remember reading it at the Homestead. My attention was called to it and I was busy at the time, but was partially effected by the heading, but I didn't read it in detail. I remember having it by myself and reading it, some one brought it to me and I read it in my room and I remember the shock I had. I presume I was alone at the time I received this shock, I think I have just said I was; I could not tell
571 how long it was after the publication of the article that I saw it. I think it was very close to the time; it must have been.

Q. I will ask you to look at this issue of the Los Angeles Herald of the 16th of September, 1900, and state when you first saw that.

A. (After examining paper.) No, I never read that. I am familiar with certain parts of that, and might have seen it somewhere else. I never knew that the Herald
572 published anything; I have no recollection; I might have known.

Q. Didn't you take the matter of the publication of this article up with the Los Angeles Herald?

A. I do not remember doing so.

573 Q. Will you say that you did not, madam?

A. How can I when I told you, sir, I cannot remember; I cannot say that I did or did not. I do not remember reading the whole thing. I have no recollection of ever seeing that heading — ever seeing it.

Q. Have you any recollection of having seen any of the matter stated in here? (Tendering paper to witness.)

574 The plaintiff objected to the question on the ground that it was not proper cross-examination, and as calling for an answer which would be immaterial, irrelevant and incompetent, and upon the further ground that the paper was dated September 16, 1900, which objection was sustained. The defendant excepted, and the same is numbered Exception No. 46.

575 Hereupon the defendant offered in evidence and asked that the same be marked as Defendant's Exhibit No. 4, the article referred to in the foregoing question, and appearing in the Los Angeles Herald of September 16th, 1900. The plaintiff objected to the introduction of said article in evidence, which objection was sustained. The defendant excepted, and the same is numbered as exception No. 47.

The said article was marked for identification, and is here set out as

DEFENDANT'S EXHIBIT NO. 4.

"DEFENDANT'S EXHIBIT 4."

576 Los Angeles Herald, Sunday morning, September 16, 1900.

WEIRD AND WONDROUS. CITY OF ESOTERO.
STRANGE THINGS ARE GOING ON IN THE
HOME OF MYSTERY.

577 ON THE TIPTOP of Point Loma, near San Diego, has been founded the City of Esotero.

Truly is this a city of mystery, of weird and wondrous doings — doings which may the honest country folk on the Point Loma hillside whisper "SPOOKY," while citizens across the bay in San Diego town echo "spooky."

How spooks, in their phantom souls, must revel in their eerie power!

578 About all that the average San Diegan knows of this new city is that Point Loma has been chosen as headquarters by the Universal Brotherhood; that much building is being done; that the place is one more point of interest to the sight-seeing tourist. Invariably comes the comment, "Spooky."

The old Point Loma Hotel is now the Point Loma Homestead. It is being remodeled, taking as near the form of a castle as a rambling old frame building can, by the addition of domes, and an outside coat of plaster, to resemble stone.

579 Connected with the homestead on the Ocean side is a circular building, rising in three tiers, with a great dome above, topped by a sphere and turret. The lower part is of plaster, the dome and sphere of soft violet-colored glass.

580 Under the lee of the homestead, like the chicks of a big white hen, is a cluster of white tents, forming the "City Beautiful." This is the home of the Lotus Buds, little children who are to be nurtured in the great white light of Universal Brotherhood.

Yonder at the farther end of the City of Esotero, two stone pillars mark the entrance to the sacred ground. Here have been laid two corner stones, one for the School for the Revival of the Lost Mysteries of Antiquity, one

581 for the Isis School of Music and the Drama. From the former waves on high by day the purple and gold banner of the school, while at night a beacon burns.

If one may believe what he hears, in course of time this school will be thrown open to the world for the teaching of great regenerating truths that have for ages been known to the Brahmins, but by them held as secrets. From Point Loma, then, from the City of Esotero, will come a great wave of truth and harmony, and spiritual
582 beauty that shall purify this wicked world of ours.

Meanwhile the curious working hungers for an inkling of the secrets and thirsts for knowledge of what is going on in the City of Esotero.

The Homestead is advertised as a hotel open to the public. The public has been asked to visit the City of Esotero, and many 'bus loads of the public have accepted the invitation.

This apparent frankness with the public is misleading. Strangers are not welcome in the City of Esotero. Day
583 and night a guard patrols the driveway, and the unknown stranger is spied upon until he leaves the grounds. Perhaps parties visiting the place may leave their carriages to walk around; perhaps not. Sometimes guests are provided with accommodations; sometimes not, even when the hotel is not full.

A San Diegan tells how a party of young people once drove over to take lunch at the Homestead. They went into the office and saw no one. They wandered through
584 the halls and no one came; into the parlors, which were empty. In this room the walls are hung with strange symbolic paintings, wonderful things in colorings, but conducive to uncanny feeling in such a still, deserted house. Driven back into the halls by the stillness and the

585 fanciful pictures, they were just in time to see a company of people sweep down the stairs and into the dining-room. Real flesh and blood people, elegantly gowned and evidently at home.

Hungry and growing hungrier, the young folks waited, bent on having lunch before returning home.

Presently the company swept up the stairs again and the visitors were allowed at the second table. The meal seemed scant after the long drive and longer wait, but it was better than none.

586 Returning to the office to pay the bill, they found no one, and no one came. After waiting a few minutes they hunted up the cook, paid her and left, breathing more freely when they had left behind them the City of Esotero.

That was some time ago. Now the colony is larger, and the hotel office is presided over by a bland smiling person, who can tell the inquiring stranger that the hotel is crowded only after disappearing upstairs for ten minutes — presumably to make a round of the rooms to see if one is vacant.

587 The citizens of Esotero are gathered from out the world to form the nucleus of a new civilization, a seed that shall grow and blossom and regenerate the world. Their avowed purpose is to prove that brotherhood is not a dream, but a fact in nature. In this city of simplicity sordid care and selfishness must give place to lofty thought and altruistic purpose.

588 In exemplification of the beautiful theory of life in this great soul-center, there is the tale that is told in San Diego of the laying of the corner-stone of the Isis school.

The San Diego branch of the Universal Brotherhood expected to take part in the ceremony. They ordered their driver to be prompt and have them on the ground

589 before 9 o'clock in the morning, for at that hour the gate of the sacred ground would be closed.

The San Diegans were at the gate about 8:30. The gate was already closed. They waited, thinking it would be opened for them. Nine o'clock came, but no one to open the gate.

Presently the procession left the Homestead, with fluttering robes and flying banners. In plain view of the brothers waiting at the gate, they passed down the road
590 to the sacred ground.

Still no one came to let the brothers in.

There they sat, within sight and sound of the celebration, and were allowed to sit. By 2 o'clock they turned away from the gate to the sacred ground, the fountain head of brotherhood, and drove back to San Diego.

The ruling spirit in Point Loma's colony is the foundress-directress of the School for the Revival of Lost Mysteries, the leader and official head of the Universal
591 Brotherhood, Katherine A. Tingley — She-who-must-be-obeyed.

Unlike the creature of Haggard's fancy, this She does not dwell in a cave, though Loma has great caves in which waves of the ocean might hide to whisper secrets too dark for sunlight.

Nor do her subjects crawl into the presence on hands and knees. There is no outward show of abject servility, yet are these poor souls slaves to the will of She-who-
592 must-be-obeyed. Through the Universal Brotherhood her will is absolute. To dare to disobey is to be in peril of banishment from the "White Lodge" into the "Black Lodge," to joint the forces of "black magicians" whom all true brothers shun.

593 A Los Angeles woman who spent some time in the City of Esotero once heard a citizen declare her belief that Madam Blavatsky was a greater master than Mrs. Tingley. Rarely was there time for this to reach the ears of She-who-must-be-obeyed when one of her minions came and ordered the citizen to leave the place — cast her out of paradise.

594 What is the power of this goddess of Esotero? Awe and fear, loss of sleep and an ever-present sense of mystery keep the wills of the citizens of Esotero pliant. Those who remember that the Leader of Universal Brotherhood has served an apprenticeship as a spiritualistic medium, and that she was once declared by a hypnotist to be the most powerful and dangerous hypnotist he had ever met, may have a further clue to her power. There is something in psychic force. There is also something in knowing how to deal with people.

595 One who has lately visited the City of Esotero may have noticed that on the cap of each workman about the grounds there is a faded, soiled rosette of yellow. These workmen, somewhere near one hundred in number, are not all of the faith. About two weeks ago a woman from the Homestead went out among them and with a mysterious air and no explanation pinned the yellow rose on each hat. Only one man objected — a silver Republican — who left the work rather than wear a badge that made him feel a traitor to his party.

596 To a loyal member of the brotherhood a summons to Point Loma is not only a command, but an honor. Such summons has come to several members of the Los Angeles Lodge. Some are still there, others have come away.

597 One woman who has returned to Los Angeles tells this story: A message came to her through the president of the lodge that she was wanted at Point Loma. She had no money to go, but was told that this would be arranged. She was instructed to take her little girl, but not to tell her mother where she was going. In her first interview with Mrs. Tingley she was told frankly that the leader had been misinformed as to her financial condition; that they had no place for people who could

598 not pay. However, she was given a room and some light work to do. She was not allowed to write to her mother, nor to see her child, who was sent to the children's colony.

At first her faith was strong enough to blind her. But as the days went by, she longed to see her little girl. Finally, permission was obtained to see the child, but not to speak to her, and a spy was sent with the woman to see that she obeyed.

599 Meanwhile, the child had been unhappy in the City Beautiful. Lotus buds, even at the tender age of 7, must wash and iron, must dress themselves, and help the younger Buds. They have no dolls, no playthings, and scarce enough to eat. But to make them feel that they are children, they are spanked in the good old way, or made to go without breakfast for not getting awake at 4 o'clock to sing an ode to the sun.

At the sight of her mother, the child cried and begged to be taken away; and this was the beginning of the end.

600 Mrs. Tingley decided that a mother who clung to her child was not fit to dwell in the City of Esotero and she was allowed to depart.

While at Point Loma, this woman saw Mrs. Kratzer, who was the first to be called from Los Angeles by She-

601 who-must-be-obeyed. Mrs. Kratzer is a poor German woman, with two children. She can cook and scrub, and she was needed at the Homestead. Made to feel that it is an honor to work for the cause of humanity without pay, Mrs. Kratzer was inveigled to the City of Esotero, against the advice of friends. Rising at 4 to chant mantrums to the sun, this slave finishes her work at 9 or 10 at night. She has no liberty, no leisure. She may not sit at the table with her brothers, nor eat of the same
602 food.

To her friend she said she had never been so unhappy, nor had she shed so many tears in all her life before as during her stay at Esotero: yet she did not know what to do to get away. She had no money; and though she had friends outside who would help her, they can get no answers to their letters.

The ethics of Universal Brotherhood, in theory, is beautiful. As practiced under the direction of She-who-
603 must-be-obeyed, it is not beautiful.

It is about two and a half years since She, by a political move worthy of a ward boss rather than the exponent of a profoundly pure philosophy, seized control of the Theosophical society in America and declared Universal Brotherhood, leaving the minority high and dry with little left but their name.

The constitution, prepared and printed before the convention, shows the well-laid scheme. It declares that
604 there shall be one supreme office, in which shall reside paramount authority regarding all matters which concern the welfare of the Brotherhood, the title of the person filling this office being Leader and Official Head; that the Leader and Official Head of

605 this organization is Katherine A. Tingley; that the person filling this office shall serve for life or until her or his resignation; that the person filling this office shall appoint her or his successor.

Continuing, the Constitution provides that the Leader and Official Head shall have sole power to appoint all officers and agents, with power to remove any or all of them at her discretion; to declare the policy and direct the affairs of the Brotherhood; to cancel or suspend the
 606 charter of any subordinate lodge, and to suspend or dissolve the membership of any person; that the treasurer shall receive and disburse all moneys as directed by a finance committee, whose acts are void and of no effect when disapproved by the Leader and Official Head; that the leader and Official Head may call a congress at such time and place as she may designate, for the consideration of any matters connected with the welfare of the Brotherhood; the Leader and Official Head to have power to
 607 prevent the discussion of or action on, any subject which in her judgment is against the welfare of the Brotherhood.

The self-planned, self-executed apotheosis of Katherine A. Tingley was the signal for hundreds of men and women to withdraw from the organization. Others follow the ignis fatuus of a hope that the society might be wrested from this control. On they sped, urged by faith and devotion to the cause, sinking deeper and deeper into
 608 the mire of mystery which lies under their crust of a much-vaunted charity and brotherhood.

Of these many turned back after breaking through the crust a time or two, realizing what was beneath. A few kept on. Some are now floundering, helpless, yet hon-

609 estly believing there is a foothold somewhere, which they will reach somehow. Others are floundering on, keen enough to see that beyond the mire, where the Leader stands, is a spot which to all appearances is firm, and where, perchance a reward awaits. They have grown used to the falsehoods and the pain of others, and to satisfy vanity and ambition they crush the brother they would seem to help.

Were there not a touch of pathos in it, this pretense of Universal Brotherhood would be a roaring farce.

610 When Mrs. Tingley became the Leader and Official Head of the Universal Brotherhood, the Los Angeles Lodge numbered III. Now it numbers a dozen or so of working members, with a few other scattering ones, whose names are still on the roll but who give no support to the society.

This change has not taken place without cause. The cause is not hard to discover. In the interview with F. 611 G. Calkins who, until about a year ago, was president of the Los Angeles Lodge of the Universal Brotherhood, Mr. Calkins said:

"I withdrew entirely from the organization about one year ago, after having become satisfied that Mrs. Tingley, (who had by certain means gained complete control of the executive of the society) was diametrically opposed to the principles of theosophy, for the promulgation of which philosophy the society was organized.

612 "Her methods seem to me intensely jesuitical and correspondingly unjust. I was satisfied her methods were working a great injury to a sublime philosophy, the study of which was discouraged, with the apparent purpose of inducing members to look solely to her for the truth (?)

613 which they were obliged to accept or be branded as a 'disloyal'."

Mr. Calkins does not attack the organization. He simply preferred to be outside of a society which furnishes a woman to think for its members, and which pretends to promulgate theosophy, when in reality it does the reverse.

614 For similar reasons many others have resigned. In common honesty some could not obey the commands of the She-who-must-be-obeyed, and members of the society stand pledged to "obey the leader without cavil or delay." One woman who has resigned states that a few months ago she was requested to obtain by stealth certain books that were owned by a friend who had been dropped from the society. This act would have been in the line of her duty to the Leader of the Universal Brotherhood, but the woman's first duty was to her higher self, and she refused to get the books.

615 Among other instructions sent out from the central office is one which requires that in any meeting, at the mention of Katherine A. Tingley's name, every member of the society must rise to his feet, and with bowed head remain standing for three minutes. Perhaps in time they will be expected to cross themselves.

616 This order is strangely connected with the Leader's childhood. Back of the Brotherhood days, back of the Spiritualistic days, back of other days beyond, there were Catholic days. Mrs. Tingley's biographers tell that she was educated in a convent. Another thing that recalls this fact is the jesuitical system by which the Leader maintains her power.

The unpardonable sin in the Universal Brotherhood is

617 disloyalty to the leader. Members are instructed to report any adverse criticism that may be made. To question the infallibility, the divinity even, of She-who-must-be-obeyed is sufficient reason for expulsion from the society. A member who is expelled is cast into the "Black Lodge." He becomes a part of the "dark forces" against which the loyal are ever battling.

It is a part of the lofty idea of Brotherhood that these "black magicians be made to feel their ostracism. The faithful may no longer speak to the outcast, even though he were a lifelong friend. A letter from him may not be opened, he must be treated as one dead."

Sometimes friend is warned against friend, fair names are blackened and deceit is fostered — this in the name of theosophy and of brotherhood.

Fancy the picture of a man who, after years of faithful, zealous work in the society, was voted out in open meeting. Fancy him as he leaves the hall, tears streaming down his face, while the eyes of those who, from personal enmity, had brought about his expulsion, gleamed with triumph. It was but a few minutes later that a leader in the society was heard to say to a late comer: "You should have been here to see the fun." This is but one of the scenes that deepen the sanctity of the brotherhood bond.

Another instance is that of the expulsion of Benjamin F. Hilliker, a one-time member of the Los Angeles Lodge. In an interview Mr. Hilliker made this statement:

620 "Members have been expelled from the order of the Universal Brotherhood for no other reason than speaking their minds on the laws of theosophy, as taught and guaranteed by the by-laws of the society.

621 " I have always been a man of liberal thought and plain spoken. I don't believe in mysticism and hypnotic influences, or in worshipping any human being as a leader or master.

" One evening about three months ago, after listening to speeches made to the effect that Mrs. Tingley was a master of high order and endowed with divine wisdom, and that all the world, especially religious societies, were coming to the one universal idea of brotherhood

622 (which is contrary to theosophical teaching) I undertook to say that, according to the laws of evolution as taught in the theosophical society from the first, this could not be possible; that, as we are constantly bringing the lower orders up, into the higher, all organizations could never come to one place of thought.

" For this I was called to order by the Chairman, Dr. Beach, told to sit down and keep silent or leave the hall.

623 " I informed the chairman that I would do neither, as I had the right by the by-laws, which guarantee to every member the right to believe or disbelieve in any religious system or philosophy, each being required to show that tolerance for the opinions of others which he expects for his own.

" The chairman ordered certain members to expel me from the hall, which they refused to do.

" I reported this little altercation to Mrs. Tingley, submitting the case impartially and asking her to inform me by letter whether she considered I was right or wrong.

624 " She never condescended to answer the letter, but notified the chairman to drop my name from the rolls. Dr. Beach informed me by letter that my name had been dropped by order of Mrs. Tingley, and I have never been in the hall since.

625 "It was hinted by a certain member of the society that I had never donated any money toward building up Point Loma, and that fact probably had much to do with my being expelled.

"One peculiar feature of the society," continued Mr. Hilliker, "is that as soon as a member is expelled, other members refuse to recognize him on the street. I have met some of them face to face and they have turned up their noses and passed without speaking.

626 "Again, I have heard members in open meeting use the worst of slang phrases in defaming the character of members who have seen fit to withdraw from the society.

Universal Brotherhood meetings are said to be open for all; yet at the door of the local lodge a man is stationed of Sunday nights with orders to turn away any "black magician" who may try to enter.

627 The library is open to the public at stated hours, yet only a short time since an ex-member, a teacher in the Los Angeles schools, was told that she was not wanted there. This in the name of Brotherhood, by a hysterical woman, a dreamer of dreams, who wields an influence among the handful left in the local branch.

628 From East to West the Universal Brotherhood is dwindling. The Leader, ever vague and mystical, explains that under the strain of the end of the century many could not pass through the door, which was closed upon them retarding their development. What the "strain" is the deponent saith not.

Unwittingly she comes near the truth when she says they "got too close to the center."

There are other secrets in the City of Esotero besides those of Brahmins and Brotherhood.

629 WITNESS (Continuing): I was at Point Loma, San Diego, during the month of October, 1901. I could not tell you if I was at the Isis Theatre on the evening of Sunday, the 20th day of October, 1901. I do not know if I remember the address at that theatre at that time. I have never kept a record of my dates at all. I remember delivering a lecture at the Isis Theatre and I very often referred to Clarence True Wilson, the pastor of the First Methodist Church in San Diego, but I do not think I ever
 630 gave a direct reply to him. I made certain statements, but I did not enter into the controversy. At that time I was accustomed to, and did read, the San Diego daily papers whenever I had an opportunity to. On occasions I read the Evening Tribune — not always.

Q. I call your attention to the Evening Tribune of Monday, the 21st of October, 1901, and to the article headed "Denunciation, Defiance" and ask you whether
 631 you read that at that time?

A. I cannot be responsible for every word there, Sir, but I am familiar with that matter because the papers very often misquoted me, and I have had to call them to account for that. I cannot be responsible for every word appearing in that paper, but I did make the speech referred to. I must have been at the Isis Theatre on the evening of the 20th of October, and delivered the address there, if that is the date. I do not consider that the
 632 address related to a controversy between myself and Mr. Wilson, pastor of the First Methodist Church. It was indirectly touching upon that and other matters. As I say, the controversy was carried on by the Point Loma students. I am the head and leader of the students, but

633 I do not furnish them all their ideas. I direct their course to a proper degree.

Q. And didn't you direct their course in this controversy?

A. I did not, Sir. They made their own arrangements together for conducting the controversy.

Q. They consulted you in no way?

634 The plaintiff objected to the question as not proper cross-examination; which objection was sustained, the defendant excepted; and the same is numbered Exception No. 48.

Q. I will ask you to read this article again (tendering witness the article appearing in the Los Angeles Herald on September 16th, 1900, hereinabove set out as Defendant's Exhibit No. 4,) and state if there are any inaccuracies in it and point them out.

635

The plaintiff objected to the question on the ground that it was not proper cross examination and because the answer would be incompetent, irrelevant and immaterial, which objection was sustained, defendant excepted, and the same is numbered Exception No. 49.

Q. Isn't it true, Mrs. Tingley, that at the Isis Theatre on Sunday evening, the 20th of October, you delivered an address directed against Clarence True Wilson, of considerable length?

636

The plaintiff objected to the question as not proper cross examination, and because the answer would be irrelevant and immaterial to the issues; which objection

637 was sustained, and the defendant excepted, and the same is numbered Exception No. 50.

WITNESS (Continuing): I presume I did deliver an address at Isis Theatre in San Diego on the evening of the 20th of October, 1901. I could not tell the length of it.

Q. What was the subject of the address?

638 A. It is really most difficult for me to recollect the substance of my lectures. I have made a great many. I remember Clarence True Wilson well, and I remember his attack, and I remember the controversy, and I remember I was interested, but didn't labor over the work nor spend an evening in direct attack against Mr. Wilson. I cannot recall the full subject. If it was on different speeches — I make no preparation at all. I cannot tell you how much time the delivery of that address occupied. I never know; the time always differs according to my mood. I had not prepared the address which I
639 delivered before that one there. I never make any preparation. Possibly two or three minutes before I go in I may think upon the subject I am going to touch, but I do not spend any time outlining what I am going to say. I may have in view, possibly, some few ideas, but as to any preparation, I do not.

I do not remember if I delivered an address at the Isis Theatre on the evening of October 27th, 1901, the following Sunday, because I sometimes spoke several consecutive Sundays and then not for a long time.
640

I made my first visit to San Diego in 1897. I remained here possibly two weeks, or a week longer, not longer than that. I cannot tell the exact date, but I think it was

641 in February, 1897. I next visited San Diego when the Congress of the Universal Brotherhood was held here in the Spring of 1899.

Q. And since that time you have resided at Point Loma?

A. No-sir.

Q. When did you first permanently locate at Point Loma?

642 A. I have not located permanently at Point Loma; while I am there I consider myself a resident in a certain sense, but on account of my position in connection with the Universal Brotherhood, I do not consider myself permanently located in that sense. I may be tomorrow in India, but of course to a large degree I make it my home, because I have been working there.

Q. When did you locate at Point Loma?

643 A. I came the third visit or the third time I came to Point Loma, I think it was three years ago, about that time.

Q. What had been your business prior to the time that you became the leader of the Universal Brotherhood?

The plaintiff objected to the question because it was not proper cross examination; secondly, because the answer would be irrelevant, immaterial and incompetent to any
644 issue before the Court.

MR. SHORTRIDGE: We submit, if your Honor please, when a plaintiff comes into court suing for damages for alleged libel, that she places her character as well as her reputation in issue. We submit that it is

645 entirely competent and proper, and universally done, to inquire of and concerning the plaintiff's life, habits, standing or lack of standing in a community. We submit that plaintiff cannot maintain an action.

THE COURT: The question is whether it is cross-examination or not.

646 MR. SHORTTRIDGE: To be sure. But I submit therefore that it is cross-examination. She said she was at the head of this institution, that she lived here a certain time, that the effect of this article has been highly injurious to her feelings. We have a right to inquire who this lady is? Whether she is susceptible of being hurt in feeling by this kind of article? What is her life? Who is she? Where was she born even? What has been her checkered career" In order that the jury may determine whether or not this article in the Times has wrought this great injury to her, we submit, if the Court please, that we can furnish authorities 647 in abundance to sustain this sort of cross-examination of a plaintiff who takes the stand in a libel case, and as your Honor stated a few moments ago very pertinently, there was much law upon this subject, there are indeed a great many decisions, a great contrariety of opinion, and it needs no authority for this. If John Smith sues for damages, on the record John Smith stands as great as the President. But inquiry into John Smith, his life, his habits, may reveal the fact to Court and jury that 648 he was not a party that could be libeled. And it is upon that theory that Courts permit a jury to ascertain who the plaintiff is that seeks damages for alleged injury to reputation. It is not a matter of defense in the sense of direct proof in defense. It may be reached on cross-

649 examination when she gives her name and age and says she has lived here so long, we may inquire where else she had lived, and generally fully cross-examine her as to her life and character and reputation. If your Honor would reserve the ruling if you doubt it, we will be glad to furnish you authorities to sustain what I have said.

MR. HUNSAKER: If your Honor please, in addition to what has been suggested by Mr. Shortridge, this line of inquiry is admissible as proper cross-examination
650 upon the subject which they opened up in this case. Counsel for plaintiff did not content themselves with the relying upon the presumptions which the law furnishes. If a libel has been published and they have undertaken specially to show a special and peculiar situation, a special and peculiar effect produced on the plaintiff by the publication of this article, now we submit it is perfectly competent and proper for the purpose of showing whether it is probable that the reading of this article
651 produced any such condition as the plaintiff has testified to, or was possible of producing any such result as she claims it did, to show her past history by her examination; to show whether she was of such a character, and her sensibilities were such that the article would probably have that effect; or as was said by one of the learned gentlemen for the plaintiff in arguing the objection which your Honor did overrule, whether she was a thin skinned or a thick skinned person. They have not, as I said, contented themselves with relying on the usual
652 and ordinary rule in such cases, but they have undertaken to show that it had a peculiar effect on this plaintiff. Now it is certainly legitimate to show what the mode and manner of living, and the occupation and the

653 associations of this plaintiff have been, for the purpose of enabling the jury to understand whether the article is susceptible of having produced the results contended for, and testified to by the plaintiff.

(ARGUMENT BY COUNSEL.)

MR. SHORTRIDGE: All this revolves around the testimony as to the mental suffering which this plaintiff says she endured. Our position is that this is cross-examination on that testimony. In support of that I
654 make these further observations. It is proper to show, first, upon cross-examination, who the plaintiff is who claims to have suffered from this article. I recall the case of Canarty vs. Spreckels which was tried in Kern County. There was an alleged libel against the plaintiff; he took the stand, foolishly enough, as others have perhaps in the history of litigation, and testified that he had suffered the greatest injury from the reading of this
655 alleged libelous article in the Call. We had taken the trouble to look up the antecedents of this Mr. Canarty, and in order to show the Court and jury whether he could have suffered any mental anguish, I propounded the question to him as to whether or not he had not been in the penitentiary in New Jersey. It was similar to a bombshell dropped into that court room. Great objections were made, but after some discussion the Court ruled that it was entirely proper, not by way of defensive matter, but by way of cross-examination, for the
656 purpose of showing that the man was of such a mind and character as not reasonably to be affected by the reading of a sensational story about him. I submit to the Court that if it be so, and for the purpose of argument, I am not saying that it is, but if it be so that this

657 plaintiff here has gone through battles for years, news-
 paper controversies, public platform discussions indulg-
 ing incrimination and suffering recrimination, if she has
 lived in an atmosphere of contention and controversy
 and battles royal over theories and doctrines, and if it be
 true that she has suffered or has been visited with attacks
 innumerable, is that not proper to inquire into upon
 cross-examination in order that this jury may determine
 whether this one article in the Los Angeles Times
 658 wrought all this pain and suffering; and furthermore,
 is it not cross-examination and proper in order that you
 and the jury may determine whether in point of fact the
 article did work any mental or physical injury. It is
 conceivable, your Honor, that an article might strike
 pain and prostrate a matron of this city which was but
 a mere breath of criticism; it is conceivable that an
 article might blast the very happiness of a mother of
 this city; it is also conceivable that there are people in
 the world who would brush such articles aside with
 659 indifference, rather welcoming the notoriety, welcoming
 the advertisement. What we want to do is to find out
 who, and what this plaintiff is.

The Court, after argument of counsel, in ruling upon
 the objection, used the following language:

660 THE COURT: However interesting that might be
 to counsel to ascertain the history of this plaintiff, if
 she has one, or the contention she may have gone through
 with in this life, I will have to deny them that privilege
 on this trial. The plaintiff's character is presumed to
 be good. The law casts that protection around every
 person. It is assumed to be just as good as that of any
 other person in the Court room. Now whether on an

661 occasion of this kind the defendant may show in making out its case that the reputation of the plaintiff was not impaired, or at least for the purpose of showing that it was not in so great a degree impaired by the publication of the article complained of; that her general reputation was bad before the article was published, it is not necessary for me to pass on at this time. That is for the purpose of reducing damages on the theory that a person having a bad general reputation in the

662 by such an article as a person having a good reputation; but that question does not arise here. It is a question whether this is cross-examination or not. There has been no allusion made in the direct examination of this witness as to whether her character is good or not. By taking the stand as a witness to testify in regard to other matters, she has not forfeited the presumption which the law casts around her or has created in her favor that her character was good. In no event, in my

663 judgment, at no stage of the trial, of this trial, or any other trial of this character, may counsel inquire into the particular acts of supposed delinquency or misconduct for the purpose of affecting the question of damage. Those are purely collateral matters; you cannot examine

into the question here on this trial as to whether the particular acts or conduct of this witness, or any other witness which may appear here, have been commendable or otherwise. We would never get through with

664 the trial. The witness does not come prepared, is not presumed to come prepared to enter upon investigation as to her past conduct, or whatever acts she may have done. It would prolong the trial interminably to enter upon any such investigation as that. The only thing

665 she has testified to which it seems to me could be claimed,
upon which any claim could be made, which would give
the right to enter into any inquiry into her past position,
is the fact that she has testified she is the head of this
institution. The article complained of in this action
seems to proceed upon the theory that she is the head or
manager of that institution, and I do not believe because
she may have testified to her present occupation, or her
666 present position as official head of the Universal Broth-
erhood, that that justifies you to make inquiry as to
what her previous occupations may have been, or her
pursuits in life. The other theory that because a plain-
tiff in a libel suit goes upon the stand and says that she
has suffered mental injury from the defamatory publi-
cation, mental suffering, pain and suffering, from a de-
famatory publication, to say that you may proceed to
inquire into the life of that witness and try to develop
on cross-examination what kind of a person she is, or
667 what her education has been, what her natural or moral
instincts are, what her life has been, for the purpose of
enabling the jury to say whether she suffered or not,
I think is beyond any proper investigation in any case
which can come before a Court. The question is
whether such a publication would naturally produce
mental suffering upon a human being, a citizen of the
Commonwealth, upon any one who is entitled to the
protection of the laws, an ordinary average human being
occupying the situation which the plaintiff was at the
668 time the attack was made and one which was in con-
templation of the party making the attack — — —
known to the party making the attack. A judge cannot
guess, nor the jury cannot guess, and make this fine
discrimination and differentiation as to whether A would

669 suffer more or less than B under similar circumstances, because A was a little more moral than B, had a little better education than B, or had better blood running in his veins than B; whether his course of life had been a little different or greatly different than that of B. It is a mere metaphysical question and has nothing to do with the determination of the facts in courts of justice. It may be that a person who has past a life which might
 670 more keenly feel a defamatory imputation than one who had not. You cannot investigate the question whether a person defamed is thick-skinned or thin-skinned, black or white, belonging to this church or that church, or entertains this belief or that belief. The objection will be sustained.

The defendant excepted to the ruling of the court and sustaining the foregoing objection and the same is
 671 numbered Exception No. 51.

And the defendant also excepted to the remarks of the court in ruling on the objection to the foregoing question and the same is numbered Exception No. 52.

A recess was here taken until 2 o'clock P. M. and on the convening of the Court at 2 o'clock, Katherine Tingley resumed the stand and the Court made the following remarks:

672 In view of the fact that Mr. Hunsaker took an exception to the remarks which the court made in connection with its last ruling this forenoon, I deem it proper that I should say a word or two in the presence of the jury. I do not remember exactly what my remarks were, but I desire to say that the question of the responsibility

673 of deciding questions referring to the admission of testimony upon the trial devolve entirely upon the Court, with which the jurors have nothing to do whatever. Any remarks which the Court may make in explanation of its ruling, are addressed to the counsel in the case and not to the jury. The jury are to decide the case according to the evidence which the Court admits in view of the law which the Court may finally give the jury in its written charge; so that it may not be necessary to repeat these observations again, I desire to say

674 to the jury that any remarks which the Court may make explanatory of its rulings in the case, are not to be taken in consideration by the jurors at all as indicating any opinion on the part of the judge, or as attempting to state any matter of law or fact whatever for the consideration of the jury. The determination of the jury must be made upon the evidence which the Court sees fit to admit, and upon the law as the Court shall finally declare it to the jury in its written charge. You may

675 proceed.

WITNESS (Continuing): My full name is Katherine Augusta Tingley. My maiden name was Katherine Augusta Westcott.

Q. On the 28th day of October, 1901, were you married?

676 The plaintiff objected to the question, first, because it was not proper cross-examination, and second, because it was irrelevant, immaterial and incompetent — or any answer that may be given to it; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 53.

677 Q. Had you any family on the 28th of October, 1901?

The plaintiff objected to the question on the ground that the question itself was not proper cross examination, and on the further ground that the answer would be incompetent, irrelevant and immaterial to any issue before the Court. Which objection was sustained, the defendant excepted, and the same is numbered Exception No. 54.

678 Q. Had you any children on the 28th day of October, 1901?

The plaintiff objected to the question on the ground that the question itself was not proper cross examination, and on the further ground that the answer would be irrelevant, incompetent and immaterial to any issue before the Court; which objection was sustained, the defendant excepted and the same is numbered Exception

679 No. 55.

Q. During the month of October, 1900, prior to the 28th day of that month, you had been engaged in litigation here, had you not? In cases in which it was charged that you were detaining children at Point Loma — at the Homestead?

The plaintiff objected to the question upon the ground, first, that it was not proper cross examination. Next, that the answer would be irrelevant, immaterial and incompetent as evidence; which objection was sustained, the defendant excepted, and the same is numbered Ex-
680 ception No. 56.

Q. Isn't it a fact, Mrs. Tingley, that on the 7th day

681 of October, 1901, a petition was filed in this Court for a writ of habeas corpus by one William E. Griswold, in which it was alleged that you were unlawfully detaining one Bertha E. Griswold at the Homestead?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer would be irrelevant and immaterial and the testimony incompetent to prove any issue before the Court; which objection was sustained, the defendant excepted,
682 and the same is numbered Exception No. 57.

Q. Is it not a fact that such a petition was filed in this Court and did you not engage in a contest with Mr. Griswold on that subject during that month and prior to the publication of this article?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer would be irrelevant and immaterial, and the testimony incompetent to any issue before the Court; which
683 objection was sustained, the defendant excepted, and the same is numbered Exception No. 58.

Q. Isn't it true, Mrs. Tingley, that on the 24th day of October, 1901, there was filed in the Superior Court of this County, by John J. Bohn, an application for a writ of *habeas corpus* whereby he sought to obtain the custody of his two minor children, Donald I. Bohn and Ralph Maxwell Bohn, alleging that you detained them,
684 without his consent, in the Point Loma Homestead, and did you not know of that fact?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer would be irrelevant and immaterial, and the tes-

685 timony, if given, incompetent to any issue, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 59.

Q. Isn't it true that such petition was filed and that it was brought to your knowledge and that you had knowledge of that fact, the filing of the petition and the nature of the charges contained in the petition prior to the 28th day of October, 1901?

686 The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer would be incompetent, irrelevant and immaterial; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 60.

Q. Did you not, during the period of time elapsing between the 24th day of October, 1901, and the 28th day of October, 1901, devote considerable time and attention to a habeas corpus proceeding, instituted in this Court by
687 John J. Bohn, in which he sought the recovery and custody of his children, alleging that you unlawfully detained them?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer, if given, would be incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 61.

688 Q. I will ask you, Mrs. Tingley, whether it is not a fact that you read in the San Diego papers published between the 24th and the 28th of October, 1901, the accounts of the proceedings in the Bohn habeas corpus case?

689 The plaintiff objected to the question on the ground that it was not proper cross examination, and on the further ground that the answer would be incompetent, irrelevant and immaterial; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 62.

Q. You stated, Mrs. Tingley, that you did, or had read, the attacks on you appearing in certain publications; will you kindly state what publications you did
690 read; what particular one that you recollect to have read?

A. I could not tell you what publications I have read which goes outside of the one that — of the Los Angeles Times. I could not now recall any of them.

Q. Do you remember whether you read an article appearing in the New York Herald, May 2nd, 1889, entitled "ASK MRS. TINGLEY FOR ACCOUNT-
691 ING. THEOSOPHISTS ANXIOUS TO KNOW DISPOSITION OF SUPPLIES CONTRIBUTED TO CUBANS." Do you remember having read that article?

The plaintiff objected to the question because it was not proper cross examination, and because the answer would be irrelevant and immaterial, and further, because the article was too remote to affect the question at issue; which objection was sustained, the defendant excepted,
692 and the same is numbered Exception No. 63.

Q. I will call your attention to an article published in the Evening Tribune, Tuesday, October 24th, 1901, and ask you if you ever saw or read that article.

693 A. I have reason to think I must have read it. I think I read it. I could not swear positively, but I think I have.

The defendant offered the article from the Evening Tribune of October 24th, 1901, in evidence as part of the cross examination of the plaintiff for the purpose of showing that she had other matters to worry her at that time besides the publication complained of.

694 The plaintiff objected to the reading of the article to the jury on the ground that the article itself would be immaterial to any issue before the jury.

The Court then, and before ruling upon the objection asked the witness the following question:

Q. Have you any distinct recollection, Mrs. Tingley, of having read this article, you say you must have read it, you think you read it. Have you any distinct recollection of having read this article just shown you — the one you just examined a while ago?

695

A. I say that I know I have read it in part, but I would not vouch for all because I cannot state. The general substance of it I am familiar with. I might have got it out of the Union and not seen that. I cannot say whether it was the Tribune or the Union. I am quite sure I am familiar with a portion of it anyway.

696 The objection was sustained, the defendant excepted, and the same is numbered Exception No. 64.

The article was then marked for identification as
 "DEFENDANT'S EXHIBIT NO. 5."
 and is as follows:

697

"DEFENDANT'S EXHIBIT 5."

PARENTS DISAGREE. COURTS APPEALED TO. EDITOR JOHN J. BOHN OF CHICAGO WANTS TO SEE HIS BABY BOYS. CLAIMS THAT THEY ARE SEPARATED FROM HIM BY KATHERINE TINGLEY AND MRS. GRACE G. BOHN — HABEAS CORPUS ISSUES — STATEMENTS OF ALL THE PARTIES CONCERNED.

698

Application was made today by John J. Bohn of Chicago to the superior court of this county for a writ of habeas corpus directed to Katherine Tingley and Grace G. Bohn, who will be remembered as one of the speakers at the Theosophical meetings held at the Fisher opera house. The writ is asked for the purpose of compelling them to bring into court two little children, Ralph Maxwell Bohn aged 6, and Donald I. Bohn aged 5.

699

THE FATHER'S STORY.

These children are the little sons of Mr. and Mrs. Bohn and according to the father's statement as it appears in the language of the application for the writ and from statements made by him it appears that they have lived together in Chicago for many years where the father in connection with his brother is engaged in the publication of "The Hotel World." During the past few years Mrs. Bohn has become deeply interested in

700 Theosophical work, and has been a constant attendant at the meeting of the branch society in that city. It appears that these meetings were held at some distance from the Bohn residence and as Mrs. Bohn was in the habit of attending at least three nights in the week, there

701 came to be some little dissension between husband and wife about the matter. Mr. Bohn also states that his wife wanted to place the children in the school at Point Loma to which plan it appears he did not fully assent. Finally he thought come to California and visit the school at the Point. This was done, according to the application for the writ, and on the 15th day of the present month, while wife and children were at the Homestead, Mr. Bohn arranged to have them take a carriage drive with him, which request was refused by Mrs. 702 Bohn on which the husband and father left for the city with the understanding that he was to be kept informed as to health and general welfare of his children during his absence on a trip to Los Angeles which he contemplated.

He went to Los Angeles but did not hear from his family and on his return to this city he called again at the Homestead and asked to see his wife and children. 703 This was on last Tuesday. He was told that his children were at the branch school on B street in this city where he called and interviewed Mrs. Tingley as to the whereabouts and welfare of the children. The application states that Mrs. Tingley refused to discuss the matter with him and that he was not permitted to see his children and talk with them. It is stated that he entered the house and saw Mrs. Bohn who in return refused to allow him to see the children and at the same 704 time would not tell him where they were.

Mr. Bohn stated this morning to a Tribune reporter that he did not wish it understood that he entertained any enmity towards Mrs. Bohn, as she had been a most faithful wife to him, nor did he desire to quarrel with

705 the Universal Brotherhood, but all he wanted was to be allowed to see his children.

MRS. TINGLEY'S STATEMENT.

Before the hearing of the application and the issue of the writ, which occurred this afternoon at 2 o'clock before Judge Conklin who ordered that a writ issue returnable at 3 o'clock tomorrow afternoon, Mrs. Tingley was interviewed and made the following statement through the manager of the Homestead:

706 "If Mr. Bohn is getting a writ the children are here in care of his wife, who is boarding here and is a free agent to go where she pleases, accompanied by her children if she so desires. Mr. Bohn brought his wife and children here and arranged for them to stay some months; and paid for their entertainment in advance. After they had been here a few days he tried to steal the little children away, using this place as a battle ground in order to gain sympathy from the public. He
707 tried to leave his wife behind.

"Mrs. Tingley is of the opinion," said the manager, "that the issuance of the writ will be of great relief to Mrs. Bohn, as she has been terror stricken at the strange actions of her husband, fearing he would steal her children away."

MRS. BOHN'S STATEMENT.

708 Mrs. Bohn was afterwards seen and made the following statement:

"If the writ of habeas corpus is granted you can put the following over my signature:

"What Mr. Bohn states is a falsehood. My husband, J. J. Bohn of Chicago came here with me and my chil-

709 dren, I to remain here until I had recovered my health with my children.

“He wanted me to place the children in the Raja Yoga school but Mrs. Tingley refused to accept them as it was evident that he was up to some scheme to involve the school. He was to leave in a few days traveling on his business. This he did, bidding me goodbye, giving me to understand that he would be back in three months leaving sufficient money to pay my board for several weeks and promising to send more. To my surprise 710 he returned the same day with no explanation whatever.

“He tried to take my two children away from me, ostensibly for a drive. I have positive proof that he intended to steal them away and leave me behind. He intended to take them to Chicago. It was with the greatest difficulty that I persuaded him from taking them and since that I have been in mental torture fearing that he would get hold of my children.

711 “I have for many years had a great deal of trouble with my husband long before I heard of Katherine Tingley. I have suffered more than words can tell. Mr. Bohn is greatly indebted to Katherine Tingley for my forbearance with him for the last three years. For had it not been for her advice to try and bear with his conduct for the sake of the children I would have left him three years ago.

712 “I regret to say that my mother, who nearly ruined my young life is bent on securing from me my children. I have been a member of the Universal Brotherhood organization for some years. If I can have the protection of the Court in this matter it will save me much anxiety for I cannot take action in this matter without re-

713 turning to my own state. This I am unable to do, as I am too ill, being under the care of a physician.

“I am watching with pleasure for the serving of the writ as I can have a night's rest after it.”

Messrs. H. S. Utley and M. L. Ward are engaged as attorneys for Mr. Bohn.

714 Q. Mrs. Tingley is this, the article complained of here the only article that has ever given you any shock or caused you any shock or caused you any sleeplessness?

MR. ANDREWS: Your honor, the question is objected to because it is not proper cross-examination and the answer would be incompetent, irrelevant and immaterial; but I would not object if he asked her if it was the only article at all about that time.

715 The objection was sustained, the defendant excepted and the same is numbered as Exception No. 65.

Q. Is the article complained of the only thing that has continued to worry you or to give you a shock since about the time of the publication of the article, of that article — since that time?

716 A. That is the only article that ever gave me a permanent shock. I have been affected of course by things that I have heard and read all my life against my friends and myself, but I never, I have no recollection of being so horrified and affected as I was when I read that. It was a downright accusation of the most monstrous character.

About that time Dr. Jerome A. Anderson, a member of my cabinet, caused me some little trouble and I had

717 him suspended. It didn't affect me very much — did not affect me at all. I could not state definitely when that occurred. I know it was within the last year. It did not affect me; it was indeed a very great relief.

Q. To what extent have you suffered from insomnia?

A. I have — my recollection after reading that article, I read it three times in order to fully understand it, to see if it was what it seemed to be, and the effect
718 was a positive nervous shock to that degree that for a time I could not recover myself. I could not tell exactly the time. I know that the physician attended me at that time and from that time for a very long time; it was many months that I did not have my regular sleep as I had had before. The horror of children being starved in dungeons and all those horrible accusations were upon my mind. I could not eliminate them at all; they were false, but they were horrible. I could not
719 tell you the exact length of time for which that continued but if I think much about the article now, it affects me quite seriously; it still shocks me.

Q. To what extent did you lose sleep after reading this article?

A. Well, I know that where I theretofore had been accustomed, when I laid down, getting sleep and resting for a time and getting up, I was not able to do it; I did not do it; I could not sleep. I would get up and sit
720 on a chair or sofa; I was in constant apprehension about the institution and the children and everything; it was like a nightmare.

I think the Universal Brotherhood was established in

- 721 1897. It has a membership in different states in America, in Ireland, in England, in Sweden, in Holland, in Australasia and in India. I could not tell you what the membership was in the United States on the 1st of January, 1898. I could not tell you what it was in California. I could not tell how many members there were in the United States on the 1st of January, 1901. I never absolutely knew the exact number at any time. We do not count on the membership as much as we do
- 722 on the moral influence of our work.

Q. There has been a falling off in the membership in this state?

A. There has been a cutting off, sir, by me to quite a large extent.

Q. Take, for instance, the lodge in Los Angeles — how much of a membership did you have on the 1st of January, 1900?

- 723 The plaintiff objected to the question as not proper cross examination and as incompetent and immaterial to the issue; which objection was sustained, and the defendant excepted, and the same is numbered Exception No. 66.

Q. Hadn't the membership of the organization largely decreased during the twelve months preceding the publication which you complained of in this action?

- 724 The plaintiff objected to the question upon the ground it was not proper cross examination, and the answer, if given, would be irrelevant, incompetent and immaterial, which objection was sustained, and the defendant excepted, and the same is numbered Exception No. 67.

725 WITNESS (Continuing): I am fifty-four years of age. I had two physicians attending me for this sleeplessness or insomnia from which I was suffering; most of the time Dr. Wood, but on occasions when he was absent, I had Dr. Herbert Coryn, but Dr. Wood more than Dr. Coryn. was called.

I have never read the article complained of since the occasion on which I first read it. I read it then
 726 three times; the first time I looked it all through, that is at the Homestead but I never looked at it again. I mean that I read it three consecutive times and I never wanted to see it again. Never read it or a copy of it after that. I think when I was talking the matter over with my lawyer, he had it and he asked me some questions but I never read it through, I never wanted to. I remember making an address at the Isis Theatre in San Diego on a Sunday evening, but I do not remember the date. I have no way by which I can fix the date
 727 and I cannot tell you when I made the address. I can't tell you whether it was on the 28th day of October, 1901, or not. In that address I made statements in reply to Mr. Emerson.

It is true that about the time of this publication I recall that in one of my addresses of contradicting statements made by Mr. Emerson, but I cannot recall the date. I can never remember dates at all. At that
 728 time I read the San Diego papers and the San Diego Union, but not regularly. I did not always read the reports of my own addresses at the Isis Theatre as they appeared in the Union. I am not sure that I read the more important ones; I cannot tell. I cannot positively

- 729 state that I read the issue of the San Diego Union of Monday, October 28th, 1901, containing an article, the heading of which is "Katherine Tingley to Reverend Mr. Emerson — She Answers Pasadena Preacher's Criticisms of Point Loma." I know I delivered the address. I may have read some part of it; I do not remember reading it at all. I have no reason to doubt that I delivered that address on the evening of Sunday, October 27th, 1901. The only way I know that
- 730 I did on that date is by that paper, but not by memory. I delivered the address, but I do not remember reading the paper. Cannot say if I did or did not. I only know the date by looking at the paper.

Q. Now that was an address in reply to an attack that had been made on you and the Point Loma Homestead or Universal Brotherhood Association, was it not?

- 731 The plaintiff objected to the question because it was not proper cross examination, and further because the answer would be irrelevant, incompetent and immaterial, which objection was sustained, and the defendant excepted, and the same is numbered Exception No. 68.

Q. That address was one made by you in reply to an attack made on you and the Universal Brotherhood and the Point Loma Homestead Association charging wrong doing, was it not?

- 732 The plaintiff objected to the question, first, because the question was not proper cross examination, and because the answer would be irrelevant, and incompetent and immaterial, which objection was sustained, and the

733 defendant excepted, and the same is numbered Exception No. 69.

Q. Is it not a fact that shortly — a short time before the 22nd of October, 1901, the Reverend Mr. Emerson, of Pasadena, had made an attack on you and the Universal Brotherhood Institution or Point Loma Homestead and that that attack had been brought to your attention, and that you, on the 27th of October, 1901, replied to that attack?

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The plaintiff objected on the ground that the question was not proper cross examination, and on the ground that the answer would be irrelevant, incompetent and immaterial, which objection was sustained, and the defendant excepted, and the same is numbered Exception No. 70.

Q. Hadn't such attacks been made on you and the Point Loma Homestead Institution and the manner in
735 which it was carried on by you a short time before the publication complained of here, which had been called to your attention, and which had been so seriously considered by you as that you made a public reply in a speech delivered at the Isis Theatre on the evening of the 27th of October, 1901?

The plaintiff objected to the question on the ground that the question was not proper cross examination, and
736 on the further ground that the answer would be incompetent, irrelevant and immaterial, which objection was sustained, and the defendant excepted, and the same is numbered Exception No. 71.

The defendant here offered the article appearing in

737 the San Diego Union on Monday, October 28th, 1901, and entitled "Katherine Tingley to Reverend Mr. Emerson — She Answers Pasadena Preacher's Criticisms at Point Loma," and asked to have the same marked for identification as

DEFENDANT'S EXHIBIT 6.

"DEFENDANT'S EXHIBIT 6."

738 KATHERINE TINGLEY TO REV. MR. EMERSON. SHE ANSWERS PASADENA PREACHER'S CRITICISM OF POINT LOMA. ASSERTION IS MADE THAT THIS AND OTHER RECENT ATTACKS ARE PART OF A WELL DEFINED CONSPIRACY TO DESTROY HER ORGANIZATION.

The announcement that Mrs. Katherine Tingley would reply to a sermon by Rev. Emerson of Pasadena criticising
739 Point Loma Homestead, and that she would disclose some of the features of a conspiracy to depose her as the official head of the Universal Brotherhood, and thus bring about the downfall of the society, called out an audience last evening which filled Fisher Opera House to the doors.

Most of the evening was devoted to Mrs. Tingley's address, although there were several musical numbers of pupils of the Isis Conservatory of Music and a short
740 address by one of the young lady students at Point Loma. As announced, Mrs. Tingley answered Rev. Mr. Emerson, and she also outlined the plot of conspiracy, holding that recent local attacks upon herself and organization were in fact a part of it.

7+1

POSITION DEFINED.

For the benefit of those who had not been present the previous Sunday evening, Mrs. Tingley made a statement of her position. She first wished to say that the Universal Brotherhood was non-sectarian and non-political. It does not stop with the exposition of the philosophy, but continues by putting its teachings into practice. There are branches all over the world, all engaged in the work for humanity. They do no proselyt-
 7+2 ing. They believe that if people were prepared for the society they would stay with it, and if not, they would leave it. It would soon be ascertained whether they were rightfully there. She spoke of the work and of the enemies that sprung up against it. Thousands of people find it a menace to their purposes. They see the plow pointed for for the overturning of hypocrisy, ambition, error and fraud. To use a familiar expression, the clergymen of this and other cities had dipped their fingers
 7+3 in the mud. They had tried in every way possible to injure her and the cause which she represents. Some of them had stepped just a little too far. They had forced her to come from her retreat. Her work is a labor of love, but she had been forced to go out of the usual channels in order to meet these attacks and to expose this conspiracy.

HER EARLY LIFE.

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Mrs. Tingley referred to her early life, saying that her grandfather was a member of the church, and she had heard the Bible read and discussed, at times too much for her own good. She spoke in praise of William Q. Judge and Madame Blavatsky. As the successor of

745 these leaders, she understood fully what she had undertaken, and she knew that she had done her part in tearing away the veil and showing the difference between the evil and the good. She referred to the clergymen of her early day, and compared them with the clergymen of the present, saying that the modern preachers were in the same category. Most of them, however, were better than Mr. Wilson.

MR. EMERSON'S CASE.

746 Mrs. Tingley, after further remarks of an introductory nature, took up the case of Rev. Mr. Emerson of Pasadena, who had recently preached a sermon warning people to beware of Point Loma. She had found that he was the pastor of a small church in Pasadena, and that while he had been there some time, his church had a membership of between 125 and 150. Possibly the man was discouraged. There was a debt on the church.

747 Before sailing into the Universal Brotherhood people, he should go to Point Loma and see how they find the money to pay debts. Mrs. Tingley took up each section of the Pasadena man's sermon and commented on them. Mr. Emerson had referred to his visit to Point Loma and to the air of sacredness about the place; a guide was with him all the time. To this, Mrs. Tingley said that all classes of people visited the place — drunken men, tramps and clergymen. As for the drunker men, they were not much afraid of them, and as for the

748 tramps, they weren't particularly mindful of them, although they would not think of leaving the safe open when they were around, but when it came to clergymen, they needed watching. She was more afraid of them than either the thief or the tramp. Mrs. Tingley said

749 that Mr. Emerson's references to Madame Blavatsky were too vulgar to be repeated. She discussed Mr. Emerson's reference to "What is Theosophy?" and said that she doubted if such vulgar clergymen, of which Mr. Emerson was a specimen, would know Jesus if he should walk in their midst. She compared Wilson and Emerson to the simple Christ, who did not preach dogma and creeds, and who drove the hypocrite out of the Temple, whose life was clean and pure. Speaking along this
 750 line, Mrs. Tingley said that he had a list of preachers who had been arrested on the charge of adultery and other offenses, which list, she said, was to be published.

THE ONLY CONDITIONS.

Regarding Mr. Emerson's criticism on the kinds of religion represented at Point Loma Mrs. Tingley said that they welcome all moral people provided they do not inject false ideas into their religion. She referred with some degree of sarcasm to the "ecclesiastical atmosphere" which prevails in certain sections. She defended the intelligence of the people at Point Loma, declaring that they had not only the ability but the independence of thinking for themselves. She agreed with the Pasadena clergyman in his statement that Universal Brotherhood teachings were turning many people away from God (his God) and the Gospel.
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SUNDAY SCHOOL TEACHERS.

752 In reference to the part of Mr. Emerson's sermon in which the hope was expressed that God would spare the youth of Pasadena from Point Loma influence, Mrs. Tingley spoke of the case of two Pasadena boys who had left that city and the Sunday School of this preach-

753 er's church and come to Point Loma. The boys had become interested through the Boy's Brotherhood club, and noted its influence for good in striking contrast to the influence of this Sunday School teacher. They had been living, she declared, in the "Hades of Immorality." She said that there was a deplorable state of things at Pasadena, and that it was the boys' dread of these influences, particularly of the monster in the Pasadena Sunday School, that they came to Point Loma for

754 protection. Mrs. Tingley declared that she had the affidavits to back up her statements along that line. She further charged that the man who sent that sermon to the newspaper to be published was responsible for the demoralized condition of the boys. Mrs. Tingley called attention to the fact that she would not dare stand there and make such important statements unless she knew them to be true.

A VALUABLE DOCUMENT.

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Mrs. Tingley spoke at this point of some very valuable documentary matter which she had recently secured, after years of work and the expenditure of considerable money. It contained much of the matter which had been used by the conspirators who seek her downfall and that of her society. She declared that it had been in the hands of a so-called Episcopal clergyman, and that he belonged to the same school as the Sunday school teacher in Pasadena. The document contained 67

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pages. Mrs. Tingley referred to the case of Mr. Griswold, who had been deserted by his wife because of immoral conduct, and to the daughter who had afterward chosen to live at Point Loma, rather than with him. She

757 referred to the visit of Mr. Griswold to Coronado and of the woman who was said to be his wife. There were many closed doors which she intimated might be opened.

AN ALLEGED CONSPIRACY.

Mrs. Tingley referred at length to an alleged conspiracy on the part of the leaders of the Besant branch of the Theosophical movement and intimated that the matter which had been taken up and used in the effort to depose her and crush her society had been put out
 758 from this source, and that the people using it had been simply cats' paws; Mr. Wilson was one of them. She referred to traps which were laid to catch her by an eminent New York physician who at one time claimed to be a great friend, and who afterward proved to be a mortal enemy. It was at the time when she was talking of buying land to locate the headquarters of the society at Point Loma. His proposition was to make a stock company, she to have a large block of the stock,
 759 etc. She was knowing to his trickery, and by using nearly a hundred dollars for cable messages, she was able to block his game.

SECURING THE DOCUMENT.

She told the story of the efforts of the smartest lawyers and detectives to secure possession of the document which she held in her hand, and how her father, at the age of 75, had gone to Boston, assumed a name, mingled
 760 with the Besant Theosophists, and had finally secured the manuscript, although he died soon after being under the influence of one of their leaders. The inference from Mrs. Tingley's statement was that his death was attributable to this case. Before his death, he wrote a letter to

761 Mr. Pierce, speaking of the discovery of this document and the result of his investigation. It was shown that there was a deep-laid plot to get rid of Mrs. Tingley, the official head of the Universal Brotherhood, in the belief that the organization would then die, and that in bringing this about, this literature had been circulated under the guard of the greatest secrecy. These people had been using such as Mr. Wilson as cats' paws, placing this literature in their hands. It was matter that the vilest newspapers had refused to print, and yet it was being used in this way. It had been used in this city, and had gone to Pasadena by way of Los Angeles — these base falsehoods and reports.

Mrs. Tingley referred further to the vile conspiracy and of her efforts to expose and down it. She asserted that there was a trembling in many quarters, and she declared that there was a law, a common law, and that that law was on the side of Universal Brotherhood and on the side of Katherine Tingley.*

763 An address was also given by one of the young lady students at Point Loma.

EXAMINATION BY THE COURT: It is utterly impossible for me to remember the day of the week that I first read this publication in the Los Angeles Times which I complain of in this action. I only know I was affected by it. I do not remember the day. I never impressed myself or thought that there was any importance in the matter of the date. It was only that it affected me. One day is the same as another to me. I know it was very shortly after it was published, but I can't tell exactly when. I know it was shortly after the publication because it was spoken of at the Conser-

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765 vatory where I was. I cannot say that I remember having noticed the date of the publication. I only know that it was told to me there and when I went home after I had been to this place at the Conservatory, I was in my room and I read it—whether two days elapsed or one day, it could not have been more than two days, perhaps one, really I do not know. Whatever it was, I know that I had something to complete before I read it. What it was, I do not remember. I know at the Conservatory I said “I can’t attend to that
766 until I have finished what I am doing.” The Conservatory is located on “D” street, San Diego. I think it was my secretary who handed me the paper. They did not give it to me in my hand then, held it out and mentioned something about it, and Mr. Neresheimer came in at the time. I do not know whether he took it or Mr. Neresheimer at the time or not. I do not know whether it was taken out of my hand, but I know when I got
767 home it was in my bag and I read it. And I am almost certain I asked for it, and said I would read it later. I could not attend to it then when my attention was called to it. Mr. Joseph Fussell, my private secretary, who is within reach of the Court, called my attention to it.

BY MR. HUNSAKER: I do not recollect that numerous attacks were made upon me in the month of October, 1901. If they were, they did not affect me
768 very much. They could not have affected me very much or I should recollect them. The attack made by Mr. Emerson was directed directly against me and my institution. To a degree, it was of a serious character. I said to a degree, it was a temporary affair, it passed off

769 very quickly. It was not like this affair at all. I cannot remember numerous attacks; I cannot answer this question. I honestly do not know. If there were any other attacks made on me about that time, I probably was affected temporarily, but the only recollection I have of being absolutely hurt to the core and horrified beyond expression is the publication for which I am bringing this libel suit.

770 Any attacks on me and on my institution about the time of the publication of this article and which I may have read would certainly affect me and cause me mental distress, but I have no recollection of being affected by anything that I have ever read against myself or the institution as I was by the one I am now complaining of. The others were only temporary. There was always some reason, some excuse, something, but this was made up absolutely—I do not know as I could say that I have read many of the attacks made on myself and the institution. I had read some. I cannot
771 recollect of having, about that time, read anything charging me with fraudulent conduct in connection with my management of the Universal Brotherhood. I had never read attacks on me charging me with having assumed the leadership of the Theosophic movement of the Universal Brotherhood by reason of forged documents.

Q. Has there never been such an attack made on you?

772 A. I have never read any such an attack.

H. G. OTIS

sworn and examined on behalf of plaintiff, testified as follows:

773 BY MR. HOTCHKISS: My name is H. G. Otis. I reside in Los Angeles. I am the president and general manager of the Times-Mirror Company, and am sixty-five years of age. The sworn circulation of the Los Angeles Times for the year 1901 is 28,778. That is the average daily circulation for every day of the year 1901, and was approximately the circulation on the 28th day of October, 1901. I could not state the exact circulation, because it would be a little more or a little
774 less at different periods of the year. This figure to which I am testifying is the average for every day, the taking all the days as a basis.

Q. Do you know the value of the property the corporation owned in 1901?

The defendant objected to the question on the ground that it was immaterial and irrelevant, and not within the issues made by the pleadings, which objection was
775 overruled, and the defendant excepted, and the same is numbered Exception No. 72.

Q. Do you know the value of the property the corporation owned in 1901, on the 28th day of October, we will say?

The defendant objected to the question on the ground that it was immaterial and irrelevant and not within any issue made by the pleadings; which objection was over-
776 ruled, and the defendant excepted, and the same is numbered Exception No. 73.

A. It was approximately the amount of the capital stock.

777 Q. What was the value of the property of the corporation defendant on the 28th of October, 1901?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not within the issues, which objection was overruled, and the defendant excepted, and the same is numbered Exception No. 74.

A. Approximately \$1,000,000.

778 Plaintiff here rested.

And thereupon

HARRY E. ANDREWS

sworn on behalf of defendant testified as follows:

BY MR. HUNSAKER: My name is Harry E. Andrews. I reside at Los Angeles. I am, and have been, city editor of the Los Angeles Times for nearly three years, and was city editor of the Los Angeles Times during the month of October, 1901. My duties as city editor at that time, were, to direct the reporters, tell them what to do and pass upon the articles they had written when they had handed them in to me, I first saw the article which was published in the Times on the 28th of October, 1901, the publication of which is complained of in this action on the evening before its publication.

780 I had, before that time, detailed a reporter to interview Mrs. M. Leavitt. The matter was first brought to my attention on the Saturday before by Mr. E. W. Schmidt, who came into our office and entered into a discussion with me about the Point Loma Institution.

- 781 Mr. Schmidt told me that Mrs. Leavitt had recently been in San Diego and at Point Loma and knew a great deal about affairs in the latter place, especially about the cases of Mrs. Holbrook and Mrs. Neresheimer, and that she would like to be interviewed. That what she would say would be information and news of interest and value to the public. And in accordance with that suggestion, I made a memorandum and the next day (which was Sunday) I instructed a reporter to interview Mrs.
- 782 Leavitt and see what news or information she had with respect to these matters. He did so. The name of the reporter was Lanier Bartlett. He was a regular reporter of the Times, had been employed about a year and was a competent and trustworthy man. I gave him particular instructions as to the interview and asked him to find out what Mrs. Leavitt knew about the affairs at Point Loma, especially about the cases of those two ladies; to be very careful and make an accurate report of the interview. I afterwards saw Mr. Bart-
- 783 lett's report of the interview with Mrs. Leavitt. The manuscript was submitted to me and I revised it. I did not add anything to the matter which the reporter turned in, but I cut several things out. The article which is marked "Plaintiff's Exhibit No. 11" is the article to which I have referred. I prepared the head lines of this article. After I had prepared the manuscript, I sent it to the composing room to the printers
- 784 who set it up in the usual way for publication, and it appeared in the paper the next morning. The manuscript of the article was destroyed with the other manuscripts of the day. It was our custom to destroy the manuscript unless we have special instructions to pre-

785 serve it. There were no special instructions to preserve this manuscript. It was not preserved.

Q. What changes, or what matter, if any, did you cut out of the article or manuscript which was submitted to you by Mr. Bartlett as the result of his interview with Mrs. Leavitt?

The plaintiff objected to the testimony on the ground that the testimony would be irrelevant and immaterial, 786 which objection was sustained, and the defendant excepted, and the same is numbered Exception No. 75.

WITNESS (Continuing): My purpose in detailing Mr. Bartlett to interview Mrs. Leavitt was to procure information for the benefit of the public to be communicated to the public through the medium of the Times. I had not at that time any malice or ill will against the plaintiff in this action.

787 Q. What was your motive or purpose in publishing the article in the Times?

A. To give information to the public about the methods in vogue in this Institution which was appealing to the public for support and patronage.

The plaintiff moves to strike out from the answer of the witness as not responsive to the question all after the words "this Institution" which would be "which was appealing to the public for support and patronage," because it was immaterial and not responsive to the question. The motion was sustained, and the matter stricken out; and the defendant excepted, and the same is numbered, Exception No. 76. 788

789 WITNESS (Continuing): Prior to the time I de-
 tailed Mr. Bartlett to interview Mrs. Leavitt, there had
 been published in the San Diego papers matters relating
 to this Institution, and which had been brought to my
 attention. There had been, prior to the time Mr. Schmidt
 came to me, as I have related, a discussion in the public
 prints of San Diego of the management by the plaintiff
 of the Universal Brotherhood Institution at Point Loma.
 I had knowledge of these publications at that time. I
 790 had seen publications in the San Diego Union; the San
 Diego Tribune; the Los Angeles Herald; the New York
 Herald; the Pasadena Daily News, and other papers
 which I do not recollect at present. This was prior to the
 time Mr. Schmidt came to me and made the statement
 which I have spoken of.

At the time I received the report of the interview
 between Mr. Bartlett and Mrs. Leavitt, and had it pub-
 lished in the Times, I had no reason to doubt the accuracy
 791 of the report. I believed at that time that the facts stated
 in the article were true. My motive for having the
 article published in the Times was to give to the public
 information concerning this Institution which was before
 the public, and as I said, appealing to the public for
 patronage and support. I judged the public had a right
 to know about this Institution which was daily appealing
 for patronage and support; that was my reason for pub-
 lishing the article referred to. I wish to be understood
 792 as saying that I knew, of my own knowledge, that the
 Universal Brotherhood and the plaintiff in this action,
 was appealing to the public for support of the Institu-
 tion; representatives of the Universal Brotherhood had
 appealed to me, as city editor of the Times, to print ar-

793 ticles appealing for public patronage and support. I knew the fact in that way.

The rules or policy of the defendant at the time of this publication, as to the care and investigation to be made in reference to matters published or to be published in the paper reflecting on persons were that we must use extreme care and accuracy and caution in respect to those matters; be careful and get the truth, if possible.

794 Q. And did you in that particular transaction use that care?

The plaintiff objected to the question on the ground that it asks simply for the conclusion of the witness instead of stating the facts from which the jury can say he did exercise care; which objection was sustained, and the defendant excepted, and the same is numbered, Exception No. 77.

CROSS EXAMINATION OF H. E. ANDREWS.

795 BY MR. MCKINLEY: The person who first came to my office in regard to this matter was Mr. E. W. Schmidt. I had been acquainted with Mr. Schmidt about a year. I first met him in the Times office. I think he had come to me at other times in reference to matters referring to the Institution at Point Loma; once or twice perhaps. I had met him in the Times counting room and in the city editor's rooms and of course at other places outside of the Times office, but only incidentally as I passed him
796 on the street. I cannot remember who introduced him to me. I had met him in a business way and knew what his business was. I think at that time that he was an insurance solicitor. I cannot remember if any one ever recommended him to me, nor if any one ever gave me any

797 information in regard to him. I certainly had been introduced to him, but by whom or the circumstances I can't remember. I did not, at that time, know his place of business. He was at one time doing business on Main street, but at just what time, I do not remember. I cannot say whereabouts on Main street. I do not know who he was connected with in business, nor do I now remember the Company he was connected with.

I do not remember any special occasions on which he came to my office in reference to the homestead at Point Loma or to the plaintiff. It is not a fact that upon every occasion when he came there he sought to point out to me matters unfavorable to the plaintiff and to the Institution at Point Loma. It is not a fact that whenever he pointed out anything in reference to this Institution or to the plaintiff it was unfavorable. He was not seeking to induce me to make attacks upon the plaintiff. He always came to me as a man comes who wishes to give news and to point out where we may obtain news. He had frequently given me information in reference to things that were not connected with the plaintiff, or with the Institution of which she was the head. His most frequent visits were not in reference to matters pertaining to plaintiff and the Institution, but they were in relation to matters of insurance in which he, himself, was sometimes interested and sometimes not. He never told me anything about his relations with the Institution at Point Loma or with the plaintiff; he never stated to me that he had been there. I never made any inquiries of him in reference to that fact. I did not inquire of him in reference to his knowledge of the Institution or the plaintiff. Upon the occasion when he came to me in reference to Mrs. Leavitt,

801 he remained perhaps five minutes — perhaps longer. I did not discuss with him affairs at Point Loma at that time, or the character of the plaintiff. I discussed Mrs. Leavitt with him briefly. His visit there was brief. He told me that Mrs. Leavitt had recently been in San Diego. Was acquainted and had been at Point Loma; was acquainted with the state of affairs there. He had talked with her and knew that she had some valuable information and news in regard to the progress of its affairs, 802 and that she would like to be interviewed and that it would make a matter of interest and information to the public.

My impression is that he did not mention the name of the plaintiff in the conversation. I am quite sure he did not. As I recollect the conversation, he put it just in the way I have stated. That this lady had been there and that she had information; that she knew a great deal about the proceedings and affairs there and could give 803 some valuable information. We didn't take up the matter of whether or not the information that she could convey would be favorable to the plaintiff and Institution of which she is the head. I did not form any opinion in reference to that from his conversation, nor did I know whether I was going to get a favorable or an unfavorable article on Point Loma. I sent merely to obtain the facts, a statement of the facts from this lady. I didn't know what the reporter would get. I had no idea of 804 what he would get. I sent out to see what the lady had to say. I didn't know whether he would get anything. I didn't form any conclusion as to what he would get. I think I had never heard of Mrs. Leavitt until Mr. Schmidt called my attention to her. I called the reporter

805 and instructed him with reference to interviewing Mrs. Leavitt either on Saturday evening or on Sunday afternoon. Schmidt was there sometime during the day of Saturday, the 26th. The article appeared in the issue of Monday, the 28th. I do not remember when I called the reporter in regard to it. I did not discuss with any one, except the reporter, the subject of having that interview with Mrs. Leavitt, and I called him on that evening or on Sunday and instructed him to interview Mrs. Leavitt.

806 I saw him next in regard to it when he brought in his report Sunday evening. I do not remember the hour. No one except myself examined the report. I did not confer with any one in reference to it. Did not discuss it with any one except the reporter. I cannot say how long I talked to the reporter in reference to the article. I went over it very carefully after he had written it and pointed out to him some things which I had stricken out.

We did not have what you might call a discussion. He came as usual and reported to me that he had found her and had had a talk with her. He told me where he had found her, he had her address, he gave me an account of his call upon her and how she received him, and how freely she talked and his taking notes, etc. He said she began to talk right off and talked freely and he took out his note book and took careful notes of what she said. I do not think he mentioned anything to me other than the matters which he included in his report. I do not think he described Mrs. Leavitt to me. He told me something about her antecedents, about her having been

808 here, but he did not go into detail. He said she was a good appearing woman and seemed to be telling the truth, seemed to know what she was talking about. He

809 did not tell me anything in regard to where she had come from before she went to Point Loma. As far as he informed me, I do not know if he made any inquiry in regard to where she came from before going to Point Loma. I think he said nothing about who her friends and associates were, nor did he say anything in regard to Schmidt being acquainted with her. I made inquiries in regard to Mrs. Leavitt from Mr. Schmidt at the time I had the first talk with him. He told me that he had
810 known Mrs. Leavitt, that he and his wife knew her and described her as an estimable lady. He said she was a woman of estimable character. That he and his wife knew her, but he did not say for how long. That is about what he said in a general way. I do not remember if Mr. Schmidt told me anything about the relations of Mrs. Leavitt with the Theosophical Society, except as I say, he said that she had been in San Diego and had been at Point Loma and knew a great deal about affairs
811 there. That was the general talk that he gave me, the substance of it and is all that I recall at present.

I did not see Mr. Schmidt again before the publication of the article. The reporter did not mention to me whether any one was present when he interviewed Mrs. Leavitt. I do not know where Mr. Schmidt is now. I saw him on the street I think a few weeks ago. I cannot say just when. I saw Mrs. Leavitt a week, or it may be several weeks after the publication, but that is the
812 only time I ever saw her.

Q. You published an article in regard to this same matter some three days after the publication of this article (showing witness Plaintiff's Exhibit 12) in reference

813 to Mrs. Leavitt; was that the result of any conversation you had with Mrs. Leavitt?

The defendant objected to the question on the ground that it was not cross examination — not a matter inquired into in the examination in chief, which objection was overruled, and the defendant excepted, and the same is numbered, Exception No. 78.

814 A. It was not the result of any conversation I had with Mrs. Leavitt. Because I was away at the time that was published. I will explain. I left Los Angeles on Tuesday after this article of Monday was published.

Witness (continuing): I know nothing about the publication of this article. Mr. Von Blon was in charge of my desk as city editor when I went away.

815 Mr. Schmidt did not, on the occasion of his visit to me, when he mentioned Mrs. Leavitt and recommended me to interview her say anything about her belonging to the Besant branch of the Theosophists. He didn't enter into the matter of her being opposed to Mrs. Tingley in any way.

816 Mr. Bartlett, who interviewed Mrs. Leavitt, had been in the employ of the Times about a year as nearly as I remember. I did not add anything to the article or report which he brought in. His report was written in the form and was all ready for publication. Mrs. Leavitt's name occurred in that article he submitted to me. He informed me that Mrs. Leavitt said she didn't wish her name to appear. I told him her name must appear and instructed him to insert her name in the article. He first came in and told me of the interview and about her name, and said that she had said that she would prefer that her

817 name should not be used and he told her that was a question which must be submitted to the city editor in accordance with the rules of the paper. I told him that the statements were hers, not ours, and that her name must be used. That they were her statements and must go as her statements and not ours. He did not state to me any reason why she did not want her name to appear. He merely said that she would prefer that her name should not appear. He didn't give any reason at

818 all for that. I insisted in putting her name in for the reason I have given. They were her statements and must be published on her authority as coming from her. I personally knew nothing about the facts. They were, as I said, her statements and the only proper way was to give them as her statements. I had made no inquiry about them and did not want to have the "Times" or the reporter for the Times assumed to make statements that another person had made. I thought I could rely on

819 them. I had no reason to believe she was telling other than the truth. I believed the statements were both true and justifiable. I had no information other than I had received from her and Schmidt.

The article was published the morning after the evening when it was brought in. The Times has a regular correspondent in San Diego who is in constant daily communication with me. I had had an investigation made by him as to affairs at Point Loma. He had sent us

820 some statements in regard to affairs there, but I had not received from him any of the matters contained in this article. I had never made an investigation myself as to affairs at Point Loma or in reference to Mrs. Tingley. I cannot remember who our correspondent at San Diego

821 was at that time. Mr. Heath is our correspondent now. I cannot say if he was then. I cannot say how long our correspondent at that time had been in our employ at the time of the publication of this article.

One of the representatives of the Point Loma Institution, whom I remember distinctly and who communicated with me in regard to the publication of articles, is Mr. Paul Heffleman. I cannot give you the date when that communication occurred. I don't know that I had ever
 822 received any communication from Point Loma prior to the publication of the article complained of. Paul Heffleman is an active member, or was at that time an active member of the Universal Brotherhood in Los Angeles. I do not know what his connection with Mrs. Tingley was other than that he was a very active member of the Brotherhood. He, on several occasions, I won't say how many, brought in to me articles that he had written in reference to the Point Loma Institution and asked me
 823 to publish them. I do not believe I ever published any of them. I was present during part of the time when the slips (plaintiff's exhibits Nos. 1 to 10 inclusive) were being introduced from the Times publications prior to the 28th of October, 1901. I was city editor during the period of the publication of those articles. I cannot remember the date when Mr. Heffleman came to me in regard to the Point Loma Institution. It must have been not very far from the time of the publication complained
 824 of in this complaint. I think a little before that. I knew he was a resident of the city of Los Angeles; I did not know how familiar he was with the affairs at Point Loma. I merely knew him as an active member of the Brotherhood there in Los Angeles. I made no inquiries of him

825 in regard to this matter before I published it. He was the only person in Los Angeles I can recollect as being closely identified with the Point Loma work. I knew at the time that that article was brought in that there was a telephone communication between the Times office in Los Angeles and the Point Loma Homestead.

826 I said that the rules and policy of our paper are not to publish articles reflecting upon persons without careful investigation; to use great care and caution. I try to apply that rule. It depends upon the person who makes a charge and the other circumstances whether we publish articles reflecting on persons without investigation other than the statement of the person who makes the charge.

RE-DIRECT EXAMINATION OF H. E. ANDREWS.

827 BY MR. HUNSAKER: The matter about which Judge McKinley asked me did not refer to any of the controversies that were then going on.

Q. What was the character of the matter?

The plaintiff objected to the question on the ground that it was immaterial and not proper direct examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 79.

828 Q. I will ask you whether the matter you were requested to publish was in the nature of advertising matter?

Witness (Continuing): The matter as I recollect it, was matter I considered at the time should go as paid matter, hence I told them it should go through the business office.

LANIER BARTLETT

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sworn on behalf of defendant, testified as follows:

BY MR. HUNSAKER: My name is Lanier Bartlett. I reside in Los Angeles; my business is that of a reporter on the Los Angeles Times. I have been employed as such reporter on that paper for about two years. I know Mr. Andrews, the city editor of the Times. I remember having been detailed by Mr. Andrews to interview Mrs. Leavitt.

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The night preceding the day of the interview I was given a slip of paper by Mr. Andrews; the paper bore Mrs. Leavitt's address and the names of Mrs. Holbrook and Mrs. Neresheimer; I was told to go the following afternoon and learn from Mrs. Leavitt what she knew of the proceedings at Point Loma, as it was said she was familiar with them; and especially to question her upon the cases of Mrs. Holbrook and Mrs. Neresheimer. I did not receive any other instructions, except to be there

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about three o'clock in the afternoon. In pursuance of those instructions, I went to her house, No. 418 West Fourth street, at three o'clock Sunday afternoon following that night. I was met at the door by Mrs. Leavitt.

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I gave her my name and my business, why I had come to see her and my connection with the Times. She asked me into the parlor and asked me to be seated; she expressed no surprise at my being there, and I proceeded to question her on the subject in hand. I asked her if she knew Mrs. Holbrook; she said she had nursed her after she had come out of the Homestead — that was in San Diego — Mrs. Leavitt was then a resident of San Diego and she went on and told me what is detailed in the article as having gotten that from Mrs. Holbrook,

833 that is bearing upon Mrs. Holbrook's treatment in the
Homestead and then she described certain ceremonies at
the Homestead as having seen them herself. We dwelt
upon nothing else except what appears in the article —
that is all. I took notes of the interview, names and such
things as that. After the interview was completed, I
went home to dinner, and afterwards started down to the
office of the Times. I prepared, in the news room of the
Times the article that was subsequently published in the
834 Times. It was prepared from notes I had taken at Mrs.
Leavitt's house and from what I remembered. After
preparing the article I destroyed the notes I had taken.
After the article had been published I read it. About two
hours elapsed after my interview with Mrs. Leavitt, be-
fore I prepared the article which appeared in the Times.
The article which appeared in the Times was not a full
statement of what she told me. Some things were not
printed which she told me. What was stated in the ar-
835 ticle was a correct statement as to what she told me and
was a reproduction of her statements to me.

I can state what part of the interview as written up
by me, was eliminated and does not appear in the article
published.

Q. Now will you please state what was eliminated
from the article.

836 The plaintiff objected to the question because the testi-
mony would be incompetent and irrelevant and immat-
terial and would not tend to relieve the defendants from
the charge of malice which was the issue, which objection
was sustained, the defendants excepted, and the same is
numbered, Exception No. 80.

837 WITNESS (Continuing): The matters which were eliminated from my report of the interview before the same was published in the Times reflected on the plaintiff and this matter which was eliminated from the article was derogatory to the plaintiff. Mr. Andrews, the city editor, eliminated this matter from my report of the interview. I did not write into my report of this interview with Mrs. Leavitt anything she did not state to me.

838 Mrs. Leavitt knew the case of Mrs. Holbrook through Mrs. Holbrook; having nursed her when she was brought out. Other matters she claimed to have known from experience. She did not claim to have been a member there, but seemed to have been there — on what mission I don't know.

CROSS EXAMINATION OF LANIER BARTLETT.

839 BY MR. McKINLEY: I arrived at Mrs. Leavitt's house about 3 o'clock in the afternoon. I cannot say how long I remained. There was no one but Mrs. Leavitt and myself present during the interview. When I arrived there I stated my name and business, and calling on her in connection with the Times, and began to question her on the matter in hand. I asked her if she knew Mrs. Holbrook and Mrs. Holbrook's experience. She said she did, she was a friend of hers and had nursed her when she was brought out. She did not state how long she had known her.

840 Mrs. Leavitt said she had met Mrs. Holbrook at San Diego after she, Mrs. Leavitt, had been at Point Loma. Mrs. Leavitt made the statement to me that she was a member of the True School of Theosophy which seemed to differ from the Universal Brotherhood. She didn't go into detail at all about that. She did not state that it was

841 the Annie Besant Society. Simply that she was a member of the True School of Theosophy. She said she come here from the East — what city, I do not know. She said she had resided in San Diego, that she had been — that she had become so disgusted with the outfit at Point Loma, she left San Diego; she left the city of San Diego on account of disgust with the people at Point Loma. I don't know that she told me that the city of San Diego was the capital city of Theosophists. She said the substance of it. I cannot quote the words she used, substantially she stated that San Diego was the hot bed of Theosophy. I cannot say that she used the word "hot bed." I can tell in substance what she did say. I got the idea that San Diego was the capital city of Theosophy from her. I don't know what words she used. She didn't tell me that she had some startling things to tell; she didn't term them "startling." The phrase "startling things" is my phrase.

843 The notes I took upon that occasion were mostly memoranda of the conversation, skeleton notes of dates and names which I expected to fill out by an interesting article as far as Mrs. Leavitt made it interesting. I desired to fill it out so that it would be interesting so long as it kept to the truth — what she told me. She referred to the Homestead at Point Loma as the Homestead. She spoke of the inmates as spooks. I don't know that she did or did not refer to the Institution as a spookery, but I am sure she referred to the inmates as spooks. I did not write any
844 of the other articles in reference to Point Loma that ran through the Times during the period of a year or two preceding this. This is the first article I wrote in reference to the Point Loma Homestead. I did not consult

845 any of the preceding articles before I wrote it. I did not talk to any one in reference to the tone I was to give to the article. I had read none of the preceding articles in the Times thoroughly. I remember glancing over some articles that appeared long ago about the time the Homestead was established, but I had read none of them carefully and remember none of the contents. I remember the tone of them.

846 I had no personal knowledge of the Homestead at Point Loma at that time. I did not interview any one else except Mrs. Leavitt or make any inquiries before writing this article other than of Mrs. Leavitt. I got it entirely from her.

847 I don't remember that she referred to the Homestead as a roost. I imagine that must have been my own. She didn't state to me when she met Mrs. Holbrook for the first time. She said she met her in San Diego after Mrs. Holbrook left Point Loma. Mrs. Leavitt did not claim that she had been at Point Loma when Mrs. Holbrook left there. She pretended to know, through Mrs. Holbrook, that Mrs. Holbrook's husband had taken her away from there. She stated it to me as coming from Mrs. Holbrook. She told me the facts that Mrs. Holbrook had given her. I didn't know anything about Mrs. Holbrook at that time, and didn't know where she was. I made no inquiry as to that. I was not detailed to inquire as to where Mrs. Holbrook had gone after Mrs. Leavitt left her. I don't remember that Mrs. Leavitt told me anything about where Mrs. Holbrook was at the time of the interview. Near that time Mrs. Holbrook had been in San Diego. It was there that Mrs. Leavitt had nursed her. I didn't ask Mrs. Leavitt and she didn't tell me where Mrs. Holbrook was at the moment of the inter-

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849 view. I don't remember if she stated the exact number of days since she had seen Mrs. Holbrook, but it had been recent. The term "recent" was used. Mrs. Leavitt said to me at that time that Mrs. Holbrook was not expected to live. Mrs. Leavitt ascertained that when she left San Diego. I don't remember that Mrs. Leavitt pretended to have been at the homestead while Mrs. Holbrook was there. She told me that Mrs. Holbrook, while at the homestead, was made to do manual labor, hoe corn, 850 plant trees, etc. She said she knew that from Mrs. Holbrook's statement. She also said that Mrs. Holbrook had been maltreated by being deprived of food, and that she had learned it from Mrs. Holbrook.

Mrs. Leavitt told me that Mrs. Neresheimer was not allowed to communicate with her husband. I don't remember at this moment just how she said she knew that. She spoke of the Point Loma Homestead as a place of horror. She said it was a place where horrors existed. She described the ceremonies spoken of in the 851 article as having seen them. All the facts concerning Mrs. Holbrook she learned from Mrs. Holbrook. She described the ceremonies mentioned in the article as I have described them, as insane ceremonies. She said that girls placed there to be educated were made to do menial tasks, to work hard, to communicate with no stranger, that is, no one not an inmate. As I understand it, she said she knew that from a personal visit.

852 I don't remember the exact time that was occupied on this interview. It was late in the afternoon when I went there. I left Mrs. Leavitt to go home to a meal, and then returned to the Times office. I have no connection with any Theosophical Society. I am not married. When I went to the Times office I saw Mr. Andrews in regard to

853 this article immediately. I did not have my article written when I saw him first. I made a statement to him that I had found Mrs. Leavitt and she had talked to me. Then I wrote the article. I did not confer with any one else in regard to it. I made no inquiries of any one else in regard to it. I interviewed only Mrs. Leavitt as directed. Then I wrote the article and submitted it to Mr. Andrews. When I first saw Mr. Andrews, I made the statement that Mrs. Leavitt would rather not have her name used. She said to me that she would rather not have her name used in connection with what she had told me. She did not say why, and I did not ask her why she did not want her name used. Mr. Andrews directed me to insert the name of Mrs. Leavitt. I did not, after conferring with Mr. Andrews, add anything to the article; nothing except what I had gotten from Mrs. Leavitt. After writing the article and submitting it to Mr. Andrews, I made no addition to it. The article appeared the next morning after my interview with Mrs. Leavitt. I saw her once after that in the Times office. It was Tuesday afternoon following the day of the interview.

855 Q. Did you write the article which appeared in the Times on October 31st? This article (showing witness plaintiff's exhibit 12)?

The defendant objected to the question on the ground that it was not cross examination, which objection was overruled and the defendant excepted, and the same is numbered. Exception No. 81.

856 Q. Did you ask her questions with regard to some of the occurrences which set forth — some of the occurrences, that is ask her whether certain things occurred or did she volunteer this information, Mr. Bartlett?

857 A. I questioned her specifically upon the cases of Mrs. Holbrook and Mrs. Neresheimer, nothing else. When I say "specifically" I mean mentioning their names and asking her to tell me about their experiences. I did not ask her if any particular circumstance had occurred in reference to them, setting forth the circumstance in question. It was not by question and answer of that sort which she answered affirmatively. I was ignorant of the subject when I went there, knew practically nothing about it. I knew that the Theosophists existed and that the Homestead existed. Beyond that, I knew none of these occurrences. Mr. Andrews did not tell me anything about it. Nothing more than the directions he gave me. I didn't know in regard to what kind of an institution it was, how it was ruled or worked. The only articles I remember reading in the Times were a long time ago when the matter first came up. I remember I read that it had something to do with Theosophy. I do not recall any more.

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I did not ask Mrs. Leavitt if she had heard reports that had been exploited in the newspapers or were the subject of gossip at San Diego. I did not set anything forth to her at all in my questions to her. The information all came from her; I knew nothing on the subject.

Q. When did you first see this article (exhibiting plaintiff's exhibit 12) I have shown you?

860 The defendant objected to the question on the ground that it was immaterial and irrelevant and not cross examination, which objection was overruled, the defendant excepted, and the same is marked, Exception No. 82.

A. As I remember it, I saw it the day it appeared

861 in print. I had seen Mrs. Leavitt between that time and
 the time I had interviewed her. I saw her on Tuesday
 at the Times office in the presence of General Otis. I did
 not, at that time, admit in the presence of General Otis
 and of Mrs. Leavitt, at the Times Office that I had mis-
 interpreted a number of the replies of Mrs. Leavitt to
 my questions. I did not discuss the matter with Mrs.
 Leavitt at that time. I never discussed it with her on
 any occasion, except the occasion when I interviewed
 862 her.

BY THE COURT:

Q. Will you please state what occurred when you
 went to Mrs. Leavitt's house? I wish you would give it
 in detail and specifically how you gained an audience with
 her—that is what I want to know. Don't state your
 conclusions, state what occurred.

863 A. I first rang the door bell and Mrs. Leavitt came to
 the door and opened the door and I introduced
 myself. I said I am Mr. Bartlett, and I am
 representing the Times. We have heard you can
 give us information on certain subjects. We
 would like to question you upon them, and I was taken
 into the parlor. She said, "Walk into the parlor and
 be seated." As soon as we were seated, I presented the
 subject to her.

864 RE-DIRECT EXAMINATION OF LANIER BART-
 LETT.

BY MR. HUNSAKER: Mr. Andrews told me to be
 very careful how the article was written, to be careful not
 to make any overstatement and to confine myself entirely
 to the facts as given to me by Mrs. Leavitt. He insisted

865 that the article should show that the statements were those of Mrs. Leavitt. When Mr. Andrews detailed me to interview Mrs. Leavitt, he made no statement to me as to what information she had or was supposed to have, except that the subject dealt with the homestead and I was to find out the experience of Mrs. Holbrook and Mrs. Neresheimer in the homestead. I received a slip which had written upon it the words "Mrs. M. Leavitt, 418 West 4th Street, Mrs. Neresheimer, Mrs. Holbrook".

866 That is all that I remember there was to it.

Hereupon the defendant produced and offered in evidence the deposition of Louis S. Fitch, taken on behalf of defendant, under stipulation at Hartford, Connecticut, on the 4th day of December, 1902. Certain portions of said deposition were admitted in evidence and certain portions thereof were excluded by the Court as follows:

LOUIS S. FITCH

867 BY MR. ROBINSON: My name is Louis S. Fitch. My age is thirty years. I reside at 200 Bond street in this city; Hartford, Connecticut. My occupation is Insurance Clerk at the National Fire Insurance Company. I was born in Andover, Connecticut. I have lived in Point Loma, California. I went to the Point to live about the 1st of August, 1900, and remained there until about the 1st of March, 1901. I left here and went to California on account of health reasons. While a resident of California and before going to Point Loma, I was

868 in the employ of the United States Weather Bureau at San Diego, California, then I went to Point Loma as a bookkeeper for the Universal Brotherhood Organization.

The Universal Brotherhood Organization is a branch

869 of the Theosophical Society, split at Mr. Judge's death; Mr. Judge being the former leader and the Universal Brotherhood being a branch, having Katherine Tingley as Leader and Outer Head.

My employment as bookkeeper at the Universal Brotherhood Organization commenced in June, 1900, the third Friday. I was told by a friend that they wished a bookkeeper at the Universal Brotherhood organization. I applied by telephone to Mr. Pierce for the position and
 870 made an appointment to see him the following Sunday. This was on a Friday that I made the appointment. Keeping my appointment the next Sunday I went over to Point Loma, accompanied by my wife. We rode our bicycles and there I met Mrs. Tingley who personally engaged me. We were seated on the piazza of the Homestead while my card was sent in, and after some wait
 871 Mrs. Tingley saw me, telling me that Mr. Pierce was ill in bed and unable to keep his appointment, but that she would personally see me which she very much preferred to do. Mrs. Tingley is the leader or head of the U. B. organization.

I knew what Mr. Pierce's relation to the U.B. was at the time of my employment. He was secretary-general of the U.B. and treasurer of Point Loma Homestead corporation. It was to him as treasurer of the Homestead that I applied for employment. The Point Loma Homestead, using Mr. Pierce's words, was the mother of other
 872 branches of work to be accomplished by the U.B. at the International Headquarters at Point Loma.

I remained in the employ of this concern at Point Loma until March 15th, 1901. The nature of my duties when

873 employed there was bookkeeper and account for the Homestead.

Q. Did you receive any instructions as to your duties as bookkeeper, and if so, what?

The plaintiff objected to the question and also to the answer, upon the ground that "whatever his duties may be as bookkeeper would be immaterial to any issue before the Court"; which objection was sustained, the defend-
874 ant excepted, and the same is numbered, Exception No. 83.

The answer to the last and foregoing question as given in said deposition is as follows:—

875 "A. Mr. Pierce instructed me as to the work to be done there. He said that the work was of a peculiar nature, that primarily the purpose of the U. B. was to get back to the truth in everything, that the truth had been lost sight of for years and that we would proceed to get down to the simple truth of bookkeeping, that I must put out of my mind all knowledge I had of bookkeeping, forget the systems of double and single entry, forget that there were any such words, and follow out the suggestions that he would give me to keep just the simplest kinds of books, which was the truth of bookkeeping. So we endeavored to get along with a ledger only for quite a while. That didn't work, so they afterward gave in to my keeping the check book which was used as a running
876 cash book as well".

Q. What other duties, if any, than those of a book-keeper were placed upon you during your employment?

A. Mrs. Tingley knew that I was a photographer, and

877 acting in accordance with her orders, I procured for them a fine photographic outfit suited to their work, and while I was there I did a great deal of photographic work in buildings about the grounds, and also was frequently called on in the latter part of my stay by Mrs. Tingley herself to do errands for her, to do her telephoning to town, the principal means for communicating with the town eight miles away, and in that way I sent for her many of her telegrams and cablegrams to the Western
878 Union. Also while I was there I ran a telephone line connecting the Homestead with the children's tents, the Lotus Home, so called, the refectory and the barn and became quite one of them. I acted as guide to visitors on some occasions. I have also stood guard duty at the place, and acted a short time as leader of her morning athletic squad of men. I acted as custodian of the keys of the archery cabinet. The archery was made a little more than a game and the keys were in my charge. I
879 believe that covers it in general.

The principal building on the place at the time I was there was the Homestead, a remodeled sanitarium, a sanitarium building remodeled by members of the Organization at Mrs. Tingley's direction. It was a frame structure surrounding an open court. When I was there this building was in process of remodeling and was practically completed before I left, and a glass dome was sprung across the interior court. The building was plastered on the outside. The grounds were enclosed by a
880 fence, completely enclosed by a fence excepting on the ocean side. The grounds were divided into two parts known to the members, of which I became one, as the Homestead grounds and the School grounds. The buildings were the Homestead and a circular building called

881 the Aryan Temple, connecting with it, the school tents near by on the hill, six cottages for the children, a building about one hundred yards away from the Homestead used for cooking and eating, all cooking and eating being done there.

The different orders or schools in the Institution and their relation to each other, are the Pt. Loma Homestead, the School for the Revival of the Lost Mysteries of Antiquity and the International Children's Lotus Home, International Brotherhood League, the Woman's Exchange and Mart, the Theosophical Publishing Co., these were the principal departments of the U. B. Organization. These were parts of the U. B. Organization. The Homestead acted as the supporter and mother to all the other departments until such time as they should be self-supporting. During my stay there these departments never got upon their feet to support themselves. They were all closely related to the U. B. Organization.

883 I became a member of the U. B. Organization and afterward a probationary member of the Esoteric Society of Theosophy, which department I forgot to mention before. I was also a member of the sons of the Rising Sun, and order of the E. S. T.

884 There were oaths or pledges required to membership in the organizations which I joined. The pledge to the U. B. is very simple. I forget the wording, but the purport is simply to be willing to try to live a perfect life yourself and to help others to do the same thing. The pledge of the E. S. T. was more binding. I forget the entire pledge, but one part I remember — all members pledging themselves, "without cavil or delay to obey the leader in all things," the leader or outer head. Mrs. Katherine Tingley was the outer head at that time.

- 885 Nearly all the residents of the Homestead were members of the E. S. T. Only very few persons in the community were not members of that Society. I remember one, a girl working in the kitchen, was not a member; Mrs. Fitch who lived on the Point with me was not a member; one or two others were not members at the time I was there but were taken in later; Mrs. Hanson, wife of W. T. Hanson, a trustee of the Homestead, also a young lady boarding at the Homestead and acting as companion to her grandmother, a wealthy member. This young lady was not a member.

- 886 The different parts of the grounds and the officers of the organization were known by particular names. As to the grounds, they were divided roughly into two parts, the grounds at the Homestead, the land owned by the Homestead, and the land owned by the S. R. L. M. A., this last department was known by these letters among the members. These latter grounds were held sacred —
- 887 no one but Mrs. Tingley being allowed at will upon them, excepting in my own case, and I could go anywhere with a camera. There were other grounds located about a mile from the Homestead grounds, in the name of the International Brotherhood League (I. B. L.) These grounds were called the Colony. As to the officers, Katherine Tingley, Leader — F. M. Pierce, Sec'y General of the U. B. — J. H. Fussell, Sec'y of the E. S. T.

- 888 Mrs. Tingley was very frequently addressed as "Purple" by Mr. Pierce and others — oftentimes as "P," she was also called "Mother" by the members until she asked that it be stopped.

Mrs. Tingley exercised absolute control over the conduct of the place and over all members according to the pledge that I have given before. She was ascribed —

889 she was given by her position as leader, the power to regulate the doings, goings and comings and all habits of life of members on Pt. Loma. In short could control everything and everybody absolutely. So far as my observation went, she exercised control of the work of the respective members in the minutest detail. No one was allowed to do anything of any importance without her direct oversight, whether it was in buildings or whatsoever. So far as my observation went, she exercised supervision of the diet of the members. She regulated that herself, said just what they should eat and just when they should eat it. She lodged each individual in the place that she directed, whether in a room or tent, or the Colony or Homestead. She instructed a great many members herself in regard to whom they should have conversation with, whom they should walk or talk with and whom they must not speak to or look at.

891 The general character of the work which Mrs. Tingley required of the members was the Community idea, that each one should do that for which he was best fitted. If they had artistic talent in painting or music, they were kept at the Homestead; if they had no technical training of value or if they had no special talent, they worked in the kitchen, or if they were suited, they worked in the gardens or orchards. In short they did the work which they could best do.

892 There were many of the women members of the community placed at manual labor. By manual labor I mean work in the kitchen, that sort of work. Ten or twelve, at the time I was there to my certain knowledge, were employed in the heavier work of the kitchen and housework, and at the colony I have seen women working in the garden and fields.

893 While I was there, there was a prescribed diet. During the three weeks that I boarded there the fare consisted at breakfast of one or two slices of very hard toast, unbuttered, and a portion of a cup of coffee without the condiments (milk and sugar), a little fruit and an unmistakably cased egg. This was the student's rations. On leaving the dining room after the breakfast, each member took from a tray at a side table, four small crackers or two hard tack, and an apple or orange, as the fruit might be

894 in season, this to serve for lunch. There was no other food excepting what members might have concealed in the place, until the evening meal at from 5 to 6 o'clock. This meal was fairly substantial, meat and two kinds of vegetables. This was placed on the table, and if any students were late, as a great many had to be on account of duties, the plates were cold, and if too late, it was removed. Only one helping was allowed; sometimes some light deserts were served, but this was a rare exception.

895 Mrs. Tingley didn't believe in it. All the eating was done in absolute silence, no members being allowed to speak to each other while going to or from meals, or while at meals, it being considered by Mrs. Tingley as a religious duty. She told me, Mrs. Tingley told me that she considered it a religious duty.

There were other regulations as to the conversation of the members than those that governed their conversation at meal times. I have said before that they were allowed no connection with each other except as Mrs. Tingley directed.

896 Of course I don't mean to say that they were absolutely hampered in their conversation, but she stated to me with whom I should talk freely and with whom I had better not. There were certain persons at different times with whom all were forbidden to have any conver-

897 sation, excepting absolutely necessary business conversation.

Mrs. Tingley had a dog when I was there. Its name was Spot.

Q. What relation, if any, did this dog Spot have to the management of the Institution?

898 A. Spot was ostensibly a pet, but in reality as Mrs. Tingley herself told me, a great deal more than a pet. Mrs. Tingley told me on an occasion in her room that I must be rather amused by their solicitous care for Spot's welfare, "But, Mr. Fitch," she says, "do you, I believe, I know, that Mr. Judge's spirit entered into Spot at his death, Mr. Judge giving Spot to me at the time of his death and at the time that I assumed the leadership as his successor."

899 The members there exhibited reverence toward this dog Spot by word and manner. They regarded the dog as a very superior animal. At the time of my employment the fact that Spot came readily to me on my approach was regarded as a positive proof that the animal could tell a friend of the Brotherhood at sight.

When I had been with them about a month, during which time I resided in San Diego, I took up my residence in tents which were located in a place selected by Mrs. Tingley, being on land belonging to the School S. R. L. M. A.

900 I stated that I ate at the Homestead for a period of twenty-six days. My family did not eat there with me. I stopped eating at the Homestead table because of the exorbitant price which I found was being charged for it, \$1.00 a day. I did not consider the food sufficient. My only reason for eating with them, aside from being one

- 901 of them, as I wished to do, was the cheapness of the food served, which I supposed would be given me at a correspondingly low rate, and also the trouble of finding a convenient eating place near by. I lost twelve pounds by weight during the 26 days by reason of insufficient diet. I would like to add that my weight was reduced from 152 to 140 pounds during my stay. After I left the Homestead grounds I lodged at the same place I lodged during all my stay with them after the first month — in my tents.
- 902 I ate at a neighbors about one-half a mile from the grounds.

I have a child. My wife had no connection with the Institution during my stay there. My child was a member of the Lotus Home School for a period of from two to three months during which time he attended the school session, but did not eat or sleep with the other children.

- 903 Q. Did Mrs. Tingley's supervision of the intercourse of members extend to interference with relations between members of the same family? Can you give any instance of such an interference?

- 904 A. The case of W. T. Hanson. Mr. Hanson and his wife lived at the Homestead. Their children slept and lived in the Lotus Home tents. Although the family ate in the same room and at the same time, Mr. and Mrs. Hanson occupied one table and the children ate with the other children. They were allowed on certain occasions to speak with each other. On one occasion, under my observation, when Mr. Hanson kissed his little one; his little two (he had two) Mrs. Tingley requested that he do the same to the others, not to show any favoritism. His oldest daughter Kate was kept apart from the rest,

905 at the Colony and came to the Homestead at rare intervals.

There was a system of guards employed at the Homestead. There was a guard at the entrance gate throughout the day, others patrolling the grounds day and night. At night the male members of the organization took turns in standing watches and patrolling the grounds both of the Homestead and of the Colony. The ladies, during periods of scare, that occurred there twice during my stay there, also guarded the inside corridors of the Homestead, men guarding the outside approaches. At night some of the guards were armed to my certain knowledge. They were not all of them armed.

906 Q. What was the occasion of the scare, or scares, which you speak of, if you know.

Plaintiff objected to the question because it was irrelevant and immaterial and incompetent to any issue before the Court, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 84.

The answer to the foregoing question was as follows:

907 "A. I do not know. A man appeared at the Homestead who appeared to be crazy. Mrs. Tingley told me that he was a desperate enemy of the Organization and requested that I get my camera and take his picture as he sat in the front part of the Homestead. This I did. He was held in surveillance while they telephoned to town for an officer who came over and took the man back with him. After this occasion the guards were doubled and the grounds patrolled with the greatest care. Shortly after this I was at work at my desk, and I noticed the

909 women running around, pulling down shades, shutting doors. Mrs. Tingley called me to the window where she sat on the floor, peering through a crack in the blind, and told me to take a good look at the man outside in company with the police officer. This man, she told me, was a very desperate character indeed, who had come from the northern part of the country on purpose to assassinate her; that the officer whom he was with, while nominally acting as guide, had really the man in the
910 closest surveillance. She also sent me to find Mr. Pierce and tell him on no condition was he to go in front of the Homestead until the man had left. She also sent me to the children's tents with instructions to Dr. Van-pelt and Miss Wood, those in charge of the children, to keep the children out of sight during the stranger's presence. This I did. I found Mr. Pierce, who questioned me very particularly as to whether it was Mrs. Tingley's orders that he stay there, and I assured him that it was. He
911 took a revolver from his coat pocket and said that he wished she would let him get one shot at the fellow. He would like nothing better than to meet him and he was pretty sure he could shoot first, but as long as she had commanded him to stay he must obey. I will say, after this time every available person was placed on guard at night and everybody cautioned to watchfulness during the day; that I was given a whistle for my wife's use, our tent being located a little distant, and that Mrs. Tingley told her that if any one should approach by the path
912 from the ocean, to stop them and in some way endeavor to get word to a guard or to the Homestead, that they might be examined before approaching closer. After this time I acted as one of the guards on one occasion."

913 WITNESS (Continuing): Restrictions against entering the grounds were, to my knowledge, placed upon persons others than members. When a visiting person or party entered the gate, a bugle was sounded to give warning to the guide on duty, who met the party, took them inside to register, gave them a glimpse of the interior rotunda of the building, then following directions of Mrs. Tingley — I heard her giving directions as I acted as one of the guides — the party were conveyed by certain route which allowed them to look at the distance of 914 100 feet at the school tents, certain cites of buildings to be built were pointed out, then they were brought back to the Homestead by a different route. The guide must keep his party together; if too large to handle, he must call assistance, but on no account would they be allowed to visit the children's tents unless by Mrs. Tingley's special permission, or see other parts of the grounds without her permission.

915 To my knowledge, restrictions were placed upon members as to leaving the grounds. With other restrictions, they could not go outside the grounds without permission from Mrs. Tingley unless they had a regular duty to take them out.

We were told just after taking our residence there that we must not entertain our friends, and invite them to come to our tents. They could come to the Point to see us, but they should be stopped by the guard and word 916 would be sent to us and we could visit them on the Homestead veranda, but we must take care that our conversation was conducted so as not to disturb the students and those at work.

There were, to my knowledge, ceremonies religious and

917 otherwise performed in connection with these orders which I have named. Their costume prescribed for all meetings and gatherings, excepting the Sunday morning meeting, consisted of a cheesecloth garment without sleeves, belted with a cord at the waist and a strip of cloth thrown over the shoulders as a toga. This garment to be worn over underclothing only, no starched clothing to be worn under Mrs. Tingley's orders. I will make another exception, that at the

918 morning sun-rise gathering. At that time the members of the U. B. Organization could all attend. The members marched to a point just within the line of the grounds of the S. L. R. M. A., where the rising sun could be viewed where they stood in silent meditation until the sun topped the hill, when they welcomed its appearance with song, after which one of the members read a selection from the Bahavid Gita, or other ancient writing. Then the Company dispersed, the men

919 taking up athletics and the women to their various tasks in the kitchen or elsewhere. The evening gathering at nine o'clock also was open to all U. B. members, the members gathering on the western porch at the stroke of a triangle, and remaining from three to five minutes in silent meditation, sending thought waves throughout the world. The E. S. T. meetings did not include the other members of the U. B. at the place unless they were specially invited. I was invited guest

920 at these meetings of the ladies of the sons or daughters. Mrs. Fitch was also invited on one or two occasions.

In regard to the addresses at these meetings, they were almost entirely laudatory of the sacredness of

921 the organization and the grounds at which they were, and especially of the sacredness of their leader. I have heard her described at these meetings as the greatest in line of succession of teachers or prophets, including Confucius, Buddha, Christ and Mohammed.

Q: What costume did Mrs. Tingley wear at these ceremonies, or at other times?

The answer to the foregoing question is as follows:

922 A. At these ceremonies she wore a loose robe of white more elaborate than the students costume. On state occasions when she received visitors she was dressed in a very fine blue or purple garment, with elaborate plaiting and other work. *At other times, behind the scenes, so to speak, when she didn't expect visitors on the grounds, she dressed in a very dirty, disreputable brown wrapper, which she herself told me she usually wore over her night gown only.* She allowed herself the special privilege of wearing slippers
923 or stockings at the times of the meetings on the school grounds. The other members going bare or stocking-footed over very rough ground to the place of meeting."

Before said answer was read, the plaintiff moved to strike therefrom the following words: "At other times, behind the scenes, so to speak, when she didn't expect visitors on the grounds, she dressed in a very dirty, disreputable brown wrapper which she herself told me
924 she usually wore over her night gown only" on the ground that the same was immaterial, irrelevant and incompetent and not responsive to any issue in the case, which motion to strike out was granted, the defendant excepted, and the same is numbered Exception No. 85.

925 Defendant was then permitted to read the following
 portion of said answer to the jury, to wit: "At these
 ceremonies she wore a loose robe of white, more elab-
 orate than the students costume. On state occasions,
 when she received visitors, she was dressed in a very
 fine blue or purple garment with elaborate plaiting and
 other work. * * * * She allowed herself the special
 privilege of wearing slippers or stockings at the times
 926 of the meetings on the school grounds, the other mem-
 bers going bare or stocking-footed over very rough
 ground to the place of meeting."

WITNESS (continuing): Mrs. Tingley had several
 conversations with me with reference to my wife. At
 the time I joined the E. S. T. I stated to her that Mrs.
 Fitch and I had always gone through life together, that
 as long as lady members were allowed, I should much
 prefer that she join at the same time. She replied that
 927 this was impossible because I was further advanced than
 my wife, and Mrs. Fitch was not far enough along to
 be eligible to membership in the E. S. T. My wife
 wished to come East early in November, 1900. Before
 her departure, Mrs. Tingley strongly urged both my-
 self and Mrs. Fitch that she had better not under-
 take the trip at that time. That later on, if she became
 a member she would send her across on some errand of
 theirs, thus saving car fare and she could, at that
 time, visit her parents. That she should not take
 928 Harold, our boy, out of the school, as she wished, be-
 cause he had gotten fairly into the work and would
 learn so much. That if he left the school, he could not
 return to it again. She told me a little later, Mrs.
 Fitch not being responsive or obedient in postponing

929 her eastern trip, that she could see me in the future a very henpecked husband. That I would be a pretty good fellow if it was not for my wife. She urged me at that time to follow my apparent bent for photography, to give up my position as bookkeeper, they could get bookkeepers, but it was hard to get photographers. Of course they could not pay me for my photographic work but I need not worry about being taken care of; that she was planning trips to Cuba, the Hawaiian
 930 Islands, to Japan, in fact to every part of the world, and that she would take a photographer along, and that if I was that photographer I could go with her on these trips, but of course Mrs. Fitch could not go on these trips.

Mrs. Tingley talked with me with reference to the marriage relations. She said she believed it all false, marriage as usually known in the world, is wholly false and perverted. That if people would live the life they
 931 were trying to live on the Point for a while, they would evolve so as to reach a point where marriage as known in the world would not be necessary.

On one occasion in her room Mrs. Tingley described to me a very extraordinary occurrence that happened during her crusade around the world. Her party were in some part of India, where, I do not recollect, and word was brought to her by a peculiar means from one of the great masters, who had the power of as-
 932 suming the flesh at will in the person of a man, that he should like to meet her face to face. She gave herself unreservedly into the care of two of his messengers, whom she told me were also spirits and capable of assuming the flesh or not, as they liked, and borne on

933 the shoulders of these two men on a palanquin she journeyed for about five days, through incredibly rough rugged mountains until she was brought into the presence of the great masters who had been helping her, were now helping her. She went into an inner room and brought out a picture, a portrait of an Indian in a turban, which she showed me with the greatest air of secrecy and veneration, saying that many members of the Organization would give almost anything for the
 934 privilege of viewing this portrait. "You have frequently noticed entries on Mr. Pierce's check book of sums from a person denoted by initial," she said. I said I had. "Well," she said, "this is the man, and he never does so except when we are in the direst need, but when we are pushed to the last extreme he will send us a check, as he has power over the spirit and the flesh and including moneys."

I do not recall any other instances of spiritualistic
 935 experiences by Mrs. Tingley. I recall instances where Mr. Pierce has described occurrences.

Q. Please state Mr. Pierce's account of these experiences?

The plaintiff objected to the question on the ground that it was not material, unless it should be brought to Mrs. Tingley's attention and verified by her, and that it was hearsay, which objection was sustained, and the
 936 defendant excepted, and the same is numbered Exception No. 86.

The answer to the foregoing question was as follows:

"A. On one occasion Mr. Pierce stated that he was in her room idly patting Spot who was curled up in

937 his lap. Mrs. Tingley stood quietly nearby, when suddenly Mrs. Tingley said — "Pierce, pick up that paper," pointing to a small scrap of paper lying on the floor. Mrs. Tingley repeated the command — "Pierce, pick up that paper." Mr. Pierce remarked that he didn't see why he should pick it up, and why her maid, Carmen couldn't, and he didn't move. The third time the command was repeated with even greater vehemence, and he still didn't start, Mrs. Tingley was thrown to the floor
938 with great violence where she writhed in the greatest agony and turned black in the face. Mr. Pierce told me that he realized that he had been off his guard, that she could not warn him any other way than to get him to move; he failed to perceive the warning, and failing to move, Mrs. Tingley came very near losing her life from the hands of the black magicians who are constantly on the lookout for such chances to kill the leader. He called Dr. Wood who aided him in placing her on the couch,
939 and it was a long time before she was out of danger from the attack. She bore the imprint of finger marks upon her throat for some time after the occurrence. On another occasion when I went up to the Homestead in the evening and found extra guards at the doors in the corridors, all commanding the most extreme quiet, while from the oriental rooms the sounds of soft strained piano playing could be heard. On inquiring the reason I was told that Mrs. Tingley was very ill. In a short
940 time the spell was broken by the slam of a door, and I heard Mrs. Tingley's voice exclaiming — "Pierce, where is Pierce, somebody go and find Pierce." I had occasion to go to Mr. Pierce's room soon after this to get him to sign some important checks. He himself let

941 me in and I told him that Mrs. Tingley was looking
 for him. He said he knew it, he couldn't see her, he
 didn't care, he had a little difference with her. He
 afterwards referred to the incident and said that Mrs.
 Tingley was in reality dying, although he didn't know
 it, but at the point when life would pass away from
 an ordinary body, she was miraculously restored, not
 only to health, but to renewed youthfulness and vigor.
 She had frequently been through such experiences be-
 942 fore. Such conversations as these went to prove to me
 that Mr. Pierce is thoroughly hypnotized by Mrs. Ting-
 ley, or crazy on this subject of theosophy.

WITNESS (continuing:) In the athletic games
 the men were first formed into a running squad, then a
 squad was made up of the ladies, the captain of the
 squads acting under Mrs. Tingley's direction. She ap-
 pointed me as leader of the men. Our morning exer-
 cises were composed for a time wholly of running. I
 943 requested the privilege of Mrs. Tingley to vary it with
 arm work, the usual gymnasium work, which she de-
 clined to grant. A little later she appeared herself on
 the balconies of the Temple and asked us to line up,
 and put us through a peculiar series of dancing steps
 which she did not explain other than to say that the
 arms held in certain positions acted as conductors of,
 not electricity, but something we are all seeking for
 from the ground. The athletic grounds were a great
 944 deal of a farce, being a small space of ground roped in
 on which was placed a game of tether tennis and a
 game called clock golf. She explained to me that this
 was merely the foundation of greater things, that even-
 tually they would have a thoroughly equipped modern

945 gymnasium at this point; that one very wealthy man interested in the organization, but not at present a member, had offered to fully equip such a gymnasium at any time.

Q. Did you ever see Mr. Tingley?

The plaintiff objected to the question on the ground that it was immaterial, which objection was sustained, defendant excepted and the same is marked, Exception
946 No. 87.

The answer to the foregoing question is as follows:

A. "I did not."

Q. Did Mrs. Tingley ever say anything to you with reference to Mr. Tingley?

The plaintiff objected to the question on the ground that the testimony was immaterial to any issue pending, which objection was sustained, defendant excepted,
947 and the same is numbered, Exception No. 88.

The answer to the foregoing question is as follows:

A. "Yes."

Q. Will you state the substance of the conversation with reference to Mr. Tingley?

The plaintiff objected to the question "because the testimony in the answer was irrelevant and immaterial and incompetent," which objection was sustained, the defendant excepted, and the same is numbered, Exception
948 No. 89.

The answer to the foregoing question is as follows:

A. "She told me he was an inventor of very great

949 skill and that his inventions, patented rights of inventions, brought him in large sums, in fact, he was too busy with them to leave New York to come to Point Loma as he would like. That some of his inventions had been patented in her name, and very frequently she received a check for \$5000 or more, as the proceeds of these inventions in her name. On two occasions she informed me that he was expected to visit the Point, but he never arrived during my stay.

950 WITNESS (Continuing): I have a very good knowledge of Mrs. Tingley's personal mode of life, because she referred to me on more than one occasion as her private Secretary and sent for me at all times of the day to do her work, certain parts of her work. She was inclined to late rising. Occasionally she would appear very early, her breakfast was invariably served in her room, very generous in quantity and quality, as I know from personal observation, as on one or two occasions

951 I assisted the lady who served her, in carrying the tray. She occasionally appeared at the evening meal, but for the most part all of her meals were served in her room. She was a hard worker, supervising all the details of the work of the U. B. and all its branches, building or the work of the lodges or the newspaper work. She was especially interested in the publishing department and gave it a great deal of her time; she

952 wrote a great deal herself, she had educated people there who did her reading for her and filled her with what she was to write. She was a woman of very great executive ability and with quite a good deal of personal magnetism. She had rooms in the Homestead

953 on the second floor, she had a suite of three rooms, the best in the building as far as view, etc. is concerned.

I had access to her room. Frequently I was taken into her room or she sent for me. Anyone was privileged to go there either day or night and state their business; her cabinet was privileged at all hours of the day or night to enter her chambers singly or collectively. I don't know that I can recall the names of all the members of her cabinet: Mr. Pierce, Mr. Hanson,

954 Mr. Harris, Rev. S. J. Neal."

Mrs. Tingley made a statement to me with reference to church membership in connection with this organization.

Q. Will you state it?

The plaintiff objected to the testimony on the ground that it was immaterial, irrelevant, incompetent and outside of any issue, which objection was sustained, the defendant excepted, and the same is numbered, Excep-
955 tion No. 90.

The answer to the foregoing question is as follows:

A. "That no member of their organization could be a church member."

Q. Did she ever state to you the purpose of the organization with reference to religious institutions?

The plaintiff objected to the question on the ground
956 that the answer was irrelevant, immaterial and incompetent, and was not the best evidence, because the Constitution was already in evidence and was the best evidence as to what religious institutions there might be in connection with it, which objection was sustained.

957 the defendant excepted, and the same is numbered, Exception No. 91.

The answer to the foregoing question is as follows:

A. "Yes, she said that they were antagonistic to all Catholic institutions and that Catholics had become their bitter enemies in consequence. That all religious denominations were perverted and used by men as a means to an end, drawing fat salaries as ministers, etc. That
958 the modern system of religion was wholly wrong."

Q. In her statements with reference to marriage relations, did she make any statements to you with reference to illegitimate children?

The plaintiff objected to this question and to the one following, and to the testimony given because there was nothing in the libel charging her with any misconduct with reference to illegitimate children. There was
959 nothing charging her with any different treatment of children on account of their being legitimate or illegitimate. The testimony and the question were entirely outside of the issue.

The Court after argument by counsel upon the objection, made the following remarks which were in response and pertinent to the points made by arguments of counsel in said objection:

960 THE COURT: As Mr. Hunsaker has said, this discussion has taken a very wide range, but generally speaking it is pertinent in a certain sense to the question before the Court. I am not going to decide the matter finally this evening, but for the benefit of counsel I will state generally my views on some of the mat-

961 ters which have been discussed. I am satisfied it will
take some authority to change my mind, if it is to be
changed, that although in a libel suit the plaintiff's
character or reputation is at issue, that no evidence
can be offered on that subject except the general reputa-
tion of the plaintiff, or the general reputation in
respect to the traits of character which are involved in
the alleged libel. That particular acts of misconduct,
or any particular views as to social questions and do-
962 mestic questions, and on any subject, whether they may
be regarded as rightful or wrongful, or moral or im-
moral, cannot be inquired into whatever. You cannot
come in here because this is an action of libel and lay
bare to the world or to the court, or jury, the life of the
plaintiff, that is, the particulars of her life. The doctrine
that a person must come in with clean hands or a clean
heart, as Mr. Shortridge has said, has no application
as the question is presented here. When a party comes
963 into a court of equity asking for equitable relief, he
must come in with clean hands so far as his hands have
had anything to do with the transaction which is pre-
sented to the Court for its consideration; but not in
regard to any other matter in which they may have
been interested, or in regard to any of the other acts
or transactions which may have transpired during his
life. In regard to the necessity of pleading the general
bad reputation of the plaintiff in order to be permitted
964 to offer evidence upon that subject, I am inclined to
think it is not necessary to plead it. I know that there
are authorities to the effect that under the Code prob-
ably it is necessary if the defendant desires to show the
bad reputation of the plaintiff, that that fact must be

965 pleaded in the answer. But although my mind is not fixed in regard to the correct doctrine on that subject, I am inclined to believe that it is not necessary to plead it. Now at the common law practice there were only two defenses as I understand it. One was the general issue, which, in a general sense, is equivalent to our general denial, and there was a plea of justification. Those are the only answers that were allowed. If the plea of justification, which was merely a plea that the

966 statements in the libel were true, as a matter of fact, failed on the proof, it was taken as conclusive evidence of malice against the defendant pleading it. And he could not escape from the legal effect of that as an exhalancement of the damage. Mitigating circumstances were permitted to be shown under the general issue. That included any circumstance which would tend to disprove malice or any circumstance which would tend to reduce the amount of damages. It was not necessary to plead those things specially, and the object of the change in the practice, as affected by the Code, is to permit both a plea of justification and a plea in mitigation of damages to be made in an action by the defendant, and although he may fail to establish the truth of the charge, still he may have the benefit of any mitigating circumstances which he may show. That is the difference between the code practice, and the common law practice. Now these mitigating circumstances which

967 are necessary to be plead, and I believe there are some necessary to be pled under the code, are those circumstances which tend to disprove malice — actual malice — It is not necessary, in my judgment, that the complaint should allege that the defamatory publication was either

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969 false, or malicious. The plaintiff is only required to allege what it is necessary for him to establish. He is only required to allege affirmatively what it is necessary for him to establish. All that is necessary for him to establish in the first place is the publication of the libelous article. If it is libelous upon its face, upon proof of its publication the law presumes not only that it was false, but that it was malicious in law. Now you can prove in mitigation that it was not, and I think you
970 can prove it without any special plea. That is my impression. Now you can prove, as a matter of fact, it was not malicious. There was no actual spite or ill will. And when you come to prove—you do not prove the—you do not offer proof of a previous bad reputation as a mitigating circumstance. It is not a mitigating circumstance. You cannot attack a man because he has a bad character, in a newspaper, any more than you can attack a man with a good character. It is not
971 justification, it is not a mitigating circumstance, in my judgment, within the meaning of the statute. It is only offered for the purpose of showing that the damage is not as great as plaintiff claims it is; that is all. The plaintiff says, in an action for libel, "I have been damaged so much." The law presumes he has a good character to start with—and I have been damaged so much. The defendant says "you have not been damaged so much as you claim because you have not a
972 good reputation, and this libelous article, conceding its publication, did not damage you to the extent you claim, because you did not have a good reputation in the first place to be damaged." It is merely for the purpose of reducing the amount of damages which

- 973 otherwise might be greater if the plaintiff had a good reputation — had the reputation which the law presumes he did have. It is suggested here that the innuendo suggested matters here that it was necessary to plead in the innuendo. Now I think counsel have mistaken the character of these allegations tendered by the plaintiff. They are not innuendos; they are what is called a colloquium, or combination of statement and colloquium combined. The plaintiff places a construction on this libel in her complaint. She sets out in detail what she alleges the defendant intended to charge, and what the people reading the paper understood it to mean. That issue was tendered. If the libelous article is susceptible of such a construction as that, then it seems to me that the plaintiff is bound by the construction, which she places upon it in her complaint. The defendant does not contend that it is not the proper construction, the defendant accepts that construction of this
- 974 alleged libelous article with two exceptions — except in two particular cases. Defendant denies, in two instances, these clauses in this publication were not intended to mean, nor were understood, as charged by the plaintiff. But in respect to all the other parts of the libelous article, the defendant alleges that they were true according to the interpretation placed upon them by the plaintiff in her complaint. So I think that the action must be tried upon that theory that the issues
- 975 which the plaintiff voluntarily tendered by the complaint, and which have been accepted as the issues by the defendant, and either denied and confessed and justified by an allegation that they were true, I think those are the issues the case ought to be tried upon so far as
- 976

977 the plaintiff is concerned. The practice question is this, whether you can introduce this evidence which you offer, for the purpose of sustaining your plea that it was true, that the Institution conducted by the plaintiff is a fake and a fraud. I am not going to discuss the evidence, but it seems to me the evidence must show, to be admitted on the theory it is offered to support that allegation, it must tend to show that the institution conducted by Katherine Tingley was a fraud or a fake,

978 but not what her individual views may have been upon any subject, whether expressed to others or not, unless these individual views were a part of the teachings at this institution or attempted to be inculcated or enforced there. I do not believe you can really show she might have had some views upon social matters or other matters which were inconsistent with the general sentiment on these subjects, unless those views were a part of the teachings of that Institution, and that they

979 were of such a character that the inference might be drawn that it was a fake or fraud to teach such views or such doctrines. On this very point made by Mr. Shortridge—I do not take any stock in it—to use a common phrase for want of a better word that does not come to my mind—you cannot show that a plaintiff in a libel suit could not suffer mental injury, by inquiring into her life and views on different subjects, and to say that such a person could not suffer mental

980 pain because she was not constituted like somebody else, because she might have different views from some person else. As Judge McKinley says, it is just a psychological question. The illustration given by Mr. Shortridge with reference to a tramp, I suppose you

981 could prove what his occupation was at the time he brought the suit. That is all you could show. You might show he had no business, that he was a tramp or a vagrant, that is all you could show. You could not go any farther than that. You always have the right to show the occupation of the party at the time the libelous article was published, whatever that may be. I do not know whether I have expressed my views clearly enough to counsel or not, but the burden is upon defendant's counsel in this action to satisfy me that this evidence which they offer has a tendency to prove that the Institution carried on by Mrs. Tingley was a fraud or a fake.

MR. HUNSAKER: Then Your Honor is not passing on the matter definitely at this time?

THE COURT: No sir. If you desire to say anything further on Monday morning you may do so.

983 At this time the Court took a recess until Monday, December 22nd, 1902, at 10 A. M.; and after the opening of the Court on Monday morning, December 22nd, 1902, the jury, and the parties and their counsel all being present and ready to proceed, the following proceedings took place and were had.

984 MR. ANDREWS: Before proceeding with this case I desire to call attention to a partial report in the Los Angeles Times of the proceedings which are supposed to have occurred here on Saturday last. A table has been provided for the reporters of the various papers, and of course the 'Times' correspondent has been here with the others, and no objection whatever could be conceived of their right to report the testimony which

985 has been submitted to the jury by Your Honor; but I conceive, however, that they are transcending the bounds of propriety when they publish matter that has been excluded, or when they publish matter which has not been read to the jury, and which it is probable or possible, at least, that Your Honor would exclude when the matter should be presented. Without reading it, I call Your Honor's attention to a part of the report in yesterday's Los Angeles Times and request
986 Your Honor to take such steps in the matter as will be appropriate under the circumstances.

THE COURT: Have you seen this matter complained of?

MR. HUNSAKER: I have not seen it.

MR. JACKSON: Here it is Mr. Hunsaker.

987 MR. SHORTRIDGE: I suggest, if Your Honor please, that we proceed with the case, and that if this matter is the subject of any action by the Court, that it be taken up in the way in which the code provides. The practice in regard to such matters is uniform, and very well known to counsel.

MR. HUNSAKER: We submit this is not the time nor the place, nor the manner.

MR. SHORTRIDGE: Note an exception. Numbered as Exception No. 90.

988 MR. HUNSAKER: (Continuing)—to present this matter. There is not anything that has been done in the presence of the court, and this certainly is not the manner of reaching it, if there is any impropriety in it, nor is it the place, nor these the circumstances to object to the

989 matter; and we object to it being brought to the attention of the court in this manner.

THE COURT: If counsel for the plaintiff desires to call the attention of the court to the matter appearing or alleged to have appeared in the Los Angeles Times of yesterday, and desire to make any suggestion as to what action the court should take — if not I will give them an opportunity to present the matter at half past one o'clock this afternoon. I do not think it is proper to take it up
990 at this time in the presence of the jury.

MR. ANDREWS: I did not intend, as Your Honor will see from the way in which I presented it, to call the attention of the jury to the publication. I do request, however, Your Honor, that the jury may be interrogated as to whether or not they have read this publication. I want to know if it has had the effect upon the jury that I believe was intended by the defendant.

991 MR. HUNSAKER: We object to the remarks of counsel and except to them as misconduct of counsel, that there is nothing to sustain the insinuations or statements of counsel. The court cautioned the jury against reading any newspaper accounts, and the presumption is that the gentlemen of the jury have complied with the instructions of the court. Numbered as Exception No. 91.

THE COURT: Of course the jury are presumed
992 to be sensible enough not to take into consideration for the purpose of determining any issue in this case, any remarks which counsel make during the progress of the trial, nor any statement, nor expression of belief that counsel may make on either side of the case as to any matter which may transpire on the trial outside of the

993 court room. As I have stated before, the province of
 the jury is to determine this case when it comes to be
 finally determined by them, by the evidence which the
 court admits upon the trial for their consideration in
 view of the law which the court gives them, and not to be
 influenced in the least degree by any remarks which coun-
 sel may make in argument, or by way of suggestion, or
 in any other way. I believe that counsel for the plaintiff
 994 have a right to know, as they have suggested, if they
 desire to know, whether any member of this jury has
 read the Los Angeles Times of yesterday, have read this
 article in the Los Angeles Times. If they desire to as-
 certain that fact I will give them the privilege to do so.

MR. HUNSAKER: The defendant excepts. Num-
 bered as Exception No. 92.

MR. SHORTRIDGE: Do you wish to proceed with
 that now?

995 THE COURT: Yes sir, right now.

MR. HUNSAKER: The defendant excepts. Num-
 bered as Exception No. 93.

MR. SHORTRIDGE: If your Honor please, I am
 not familiar with this practice. If you will permit me
 — counsel here in an informal way has undertaken to
 suggest to the court some suggested impropriety, I take
 it, on the part of the defendant or party litigant, laying
 996 the basis, I suppose, of some proceedings. Now if any
 offense was committed it was not within the presence of
 this court.

THE COURT: I do not understand that you are di-
 recting your remarks to anything that is pertinent to the

1001 A JUROR: I have not.

MR. SHORTRIDGE: I simply object to this proceeding and the whole and every part of it, and I specially object to the conduct of counsel as misconduct which is calculated to be, and is prejudicial, to the defendant and known to counsel to be improper.

1002 THE COURT: (Interrupting) That is not a remark you should make Mr. Shortridge; it is improper language.

MR. SHORTRIDGE: I take an exception, if Your Honor pleases. Numbered as Exception No. 94.

THE COURT: You must not accuse opposing counsel of dishonorable conduct.

MR. SHORTRIDGE: I did not intend to accuse any one of anything dishonorable.

1003 THE COURT: You referred to the conduct of counsel as misconduct of counsel and stated that the opposing counsel knew he was guilty — I will not permit that kind of suggestion in the court room.

MR. SHORTRIDGE: I take an exception to the remarks of the court. Numbered as Exception No. 95.

THE COURT: The objection is overruled.

MR. SHORTRIDGE: Note an exception. Numbered as Exception No. 96.

1004 A JUROR: I have not.

ANOTHER JUROR: I have not.

ANOTHER JUROR: I have not.

ANOTHER JUROR: I have not.

1005 MR. ANDREWS: I do not ask a statement from all of you, but if any one of you have had occasion to see it, please say so.

A JUROR: I have not sir. I have not even read our own papers.

MR. ANDREWS: Thank you, I appreciate it very much.

1006 THE JUROR: I know my place as a jurymen.

ANOTHER JUROR: I have not, Judge, read any remarks.

MR. ANDREWS: I do not ask every one of you to arise and make a statement. I am satisfied with your answers, perfectly. The plaintiff is satisfied.

1007 THE COURT: I believe there is an objection pending here to a question? Have counsel anything further to say on this objection?

1008 MR. HUNSAKER: If the court please I wish merely to call your Honor's attention to some of the allegations of the answer in connection with this, and to a portion of the deposition that has already been permitted in connection with which this is to be read. The question which is before the court now is with regard to her statements in reference to marriage relations. "Did she make any statements to you in reference to illegitimate children." Now at the bottom of page 11 of the deposition there was this question and answer: "Q. Did Mrs. Tingley ever talk to you in reference to the marriage relations?"

1009 A. Yes, she said she believed it all false, marriage as usually known to the world as wholly false and perverted; that if people would live the life they were trying to live on the Point for a while, they would evolve so as to reach a point where marriage as known in the world would not be necessary." Now then the question which is now pending before the court is "In her statements with reference to marriage relations, did she make any statements to you with reference to illegitimate children?"

1010 The court will observe that this answer which is now before the jury goes to the manner of living at Point Loma. In the answer the defendant alleges that it is true that that portion of the article which stated that children will grow up purer if away from the bodily and affectionate influence of their parents, is true. It is also alleged in the answer that it is true that numerous outrages were committed by plaintiff and under her direction at Point Loma; also that plaintiff is an imposter.

1011 Also, and this I submit to your Honor, bears directly upon this question, that plaintiff by her influence and misrepresentations has caused parents and children to be separated and kept children in confinement thereby destroying their health and strength. What could be more pertinent on this question as to the influence which the plaintiff exerted there than the doctrines which she inculcated there as to the marriage relations and the relations between parent and child as bearing on the question as to whether or not she did, by her influence, undertake to

1012 separate parents and children, and we submit that this evidence is directly responsive to the issues thus made. It relates not only as to what she said, but as to the manner of life they were living in this institution. It is alleged in the complaint that the meaning is imputed to

1013 this article that the institution conducted by the plaintiff is a fake and a fraud. Now that is also affirmed in the answer, the truth of that is affirmed in the answer and also that practices are carried on there which should not be tolerated in a civilized community. We submit that this evidence is directly responsive to these issues made by the complaint and the answer.

THE COURT: In a libel suit the plaintiff's character is only in issue to the extent to which it is placed in issue
 1014 by the defendant by its answer in the case, or by the introduction of such evidence as the law permits to be introduced upon that subject, whether they plead it or not in the answer. When a defamatory charge is published against any one, whether the charge is true or not is not an issue unless the defendant makes it an issue by pleading the truth of the charge as a justification for the publication. In this case the defendant has pleaded the truth of the greater portion of this charge. Of course if the
 1015 defendant can establish the truth of these portions of this charge, which it is alleged were true, that is a complete justification to the publication of those portions. Now the only other way that the reputation or character of the plaintiff as shown by her reputation among her neighbors which can be drawn in issue, is her general reputation or her reputation in respect to the particular traits of character which are injuriously attacked by the alleged defamatory publication, and the evidence must be confined to her general reputation in respect to these matters.
 1016 Now that is the extent to which a plaintiff's character is put in issue in a libel suit. It may not be in issue at all unless the defendant sees fit to make an issue on that question. The law presumes every one's character to be good, every one's reputation to be good, until the con-

1017 trary is shown, and in a libel case, unless the defendant
 sees fit to raise this issue, it is not in the case
 and cannot be considered for any purpose. Now
 the defendant in this case has availed itself of its
 legal right to allege that certain portions of this publica-
 tion were, as a matter of fact, true, and it has a right to
 introduce evidence for the purpose of establishing the
 truth of those portions of the publication. It cannot in-
 troduce evidence to show that anything else which may
 1018 be claimed to be disparaging to the plaintiff's character
 is true. It can only show that these matters which are
 charged against the plaintiff were true. That is the issue
 that the jury are to pass upon, whether this publication
 was true or not, or whether those portions of it which the
 defendant alleges were true, were, as a matter of fact,
 true. The defendant cannot be allowed, in a libel suit,
 to go beyond that limit so far as the proof of specific
 acts are concerned. I do not believe that any case can be
 found, that any decision can be found, which upholds a
 1019 different doctrine. The defendant in a libel suit cannot
 secure a verdict on the ground not that the alleged pub-
 lication is true that was complained of, but on the ground
 that the plaintiff has been guilty of something else which
 was not included in the charge because for some reason
 she ought, on general principles, not to recover in the ac-
 tion because she may entertain some views which do not
 concur with the sentiments of the Judge or the sentiment
 of the jurors upon the same subject. A judicial tribunal
 1020 is a practical sort of an institution. It does not indulge
 in mere sentimentality. It does not enforce or attempt to
 enforce sentimental notions. Everybody comes into a
 court of justice on equal terms; every one is entitled to
 equal protection of the laws. It is immaterial what a

- 1021 person's views may be on religious or social, or political, or ethical subjects, unless those matters are a part of the direct issues in the case, precise issues in the case. We do not inquire whether a person is a Jew, a Greek, a Hindoo, a Mohammedan, or a Christian, or a Pagan, or what his politics are, or what his views may be upon any social subject for the purpose of measuring the injury which may have been done to his feelings, or to his mind. The human scales of justice are not sensitive enough to
- 1022 measure the sensitiveness of mental suffering by any such gauge as that, so that the question — reduced to its proper form — is this: Is this evidence relevant or material to prove the truth of any of the injurious statements contained in this publication — for it is not offered on the question of the general reputation of the plaintiff. Now it is said by counsel that it tends to prove this allegation that children will grow up purer if away from the bodily and affectionate influence of their parents. The charge on this point reads as follows: "Mrs.
- 1023 Leavitt says she knows personally of a case where both parents and children are victims, and the children have been taken away to the child-pen and are never allowed to communicate in any way with mother or father. For, says Mrs. Tingley, they will grow up purer if away from bodily and affectionate influence of the parents." That is the charge. It is said that this tends to prove the truth of that charge. There is not anything in this statement, which, in the remotest degree, in my judgment,
- 1024 bears upon that question, that tends in any sense to prove that that is true. It relates entirely to a different subject. It has no pertinency to any particular case, to the particular case referred to in this article, and therefore is not relevant, nor does it pertain to, re-

1025 late to any case of that nature. Now in interpreting
the meaning of an alleged defamatory accusation, the
words are taken in their ordinary popular sense and in
that sense which they are ordinarily understood by the
people, and the whole of the accusation in respect to
any particular matter must be considered together.
You cannot pick out a word or two and disconnect it
from the context, and justify as to the particular word
or two. You must justify by proving the truth of the
1026 substance of the charge of the particular statement,
within the meaning, or in the meaning, or with the
meaning, rather, that it was uttered or published.
Now the next statement which it is contended this evi-
dence tends to prove, is that it is true that numerous
outrages were committed by plaintiff and under her di-
rection at Point Loma. In the first place, under the
answer which alleges that it is true that numerous
outrages were committed by the plaintiff, or under her
1027 direction at Point Loma, no outrages can be proven un-
less they are specified. Where the charge is general
in the defamatory publication, if you desire to prove the
truth of it in justification, the defendant must allege the
particular instances which he claims amounted to out-
rages. The authorities are all one way on that ques-
tion, because the plaintiff is entitled to know what par-
ticular outrages the defendant expects to establish upon
the trial. But this does not tend to prove any outrage
1028 committed at Point Loma. There is nothing in this
which tends to prove anything of the kind. The next
portion of the charge that it is claimed this tends
to establish the truth of, is that the plaintiff was a
spiritualistic medium and impostor and with the circula-

- 1029 tion of literature she induced people to come to the Institution conducted by her and rendered it almost impossible for them to escape therefrom. The charge is, she was a spiritualistic medium and impostor, and by the circulation of literature she induced people to come to the Institution conducted by her and rendered it almost impossible for them to escape therefrom. There is nothing in this private conversation which she had with this witness which tends to show that she was a spiritualistic
- 1030 medium or an impostor. The question is not whether she was an impostor—that is not the charge that she was a moral impostor. A charge of that kind that she was a spiritualistic medium and impostor, and that by the circulation of literature she induced people to come to the Institution conducted by her and rendered it almost impossible for them to escape—that plaintiff by her acts and misrepresentations has caused parents and children to be separated and kept the children in confinement thereby destroying their health and strength,
- 1031 that is the statement that is alleged to be true. There is nothing in this which has the remotest suggestion of that subject, nothing in this evidence, which is offered to be introduced for the consideration of the jury. The next charge which it is claimed that this evidence will tend to establish is that the Institution conducted by the plaintiff is a fake and a fraud, and is carried on by the plaintiff for the purpose of defrauding people who
- 1032 are induced to attend it. Mr. Shortridge says there are different kinds of fraud; that is true. It is pretty hard to classify them. We have all kinds of fraud, of course, and he speaks about moral fraud, and, I believe, religious fraud, and equitable fraud, and legal fraud,

033 and I suppose he means also frauds in fact, and I suppose he might speak about frauds in sentiment, may be, — and try to make a classification as broad as possible, and he says if it be true that this plaintiff holds herself out as a great moral teacher, and as a matter of fact entertains sentiments which are not, in his view, consistent with those which should animate a great moral teacher, that those things can be shown. But she is not charged here as a moral fraud; she is not charged

034 here with immoral teachings in her institution; she is not charged with entertaining immoral sentiments or views on any subject or expressing them privately or publicly. The charge is that the institution conducted by the plaintiff is a fake and a fraud, and is carried on by plaintiff for the purpose of defrauding people who are induced to attend it. That is the character of the fraud which is alleged that this institution which is conducted by her is a fake and a fraud, and that the pur-

035 pose of carrying it on, and that it is carried on by plaintiff for the purpose of defrauding people who are induced to attend it. Now a fraud, I suppose, is used in a colloquial sense, as Mr. Shortridge says a fraud and a fake. He says opposing counsel has not mentioned the derivation of the term; that is true. The term "fraud" and "fake" must be construed in their ordinary popular sense, and they have, I suppose, a colloquial meaning in the United States. It is not often applied to

036 an institution so much as it is to a person. We say a person is a fraud and a fake, and now in that sense it remains that it is in connection with other portions of this alleged publication which speaks of this institution as a trap. It must be taken, it seems to me, to

- 1037 mean that this institution, when it says it is a fake, means that it is a snare or a trap. It is something instituted and conducted, or conducted for the purpose of deceiving others, and the ordinary meaning of a fake—the word is generally applied to a person rather than an institution—is a swindler and a trickster. Now the purport of this charge—the court must construe it—is that this institution as conducted by the plaintiff, is a fake and trap or a snare to deceive people, and that it is a swindling institution; that it is a swindling institution; that it is carried on by the plaintiff for that purpose, for the purpose of defrauding people who are induced to attend it, swindling people, deceiving them and defrauding them. That that is the object of the institution, or that that is the manner in which it is conducted, at least. There is nothing in this evidence offered which tends to show anything of the kind. It merely shows a conversation had with a person who was already there, who was a bookkeeper of that institution and a member of some of the branches of the organization, merely a private conversation with him in regard to her sentiments on certain subjects. I cannot see how, in the remotest degree, it tends to show that this institution as conducted by her was a fake and a fraud and was carried on by her for the purpose of defrauding people who may be induced to attend it. It certainly did not have anything to do with inducing this particular individual to attend it who was giving this deposition, because he had already been there. I believe that the rule is so thoroughly established by the authorities—that is one point on which the authorities agree in the law of libel, although there is a difference of opinion
- 1038
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- 1040

- 1041 on many other points that the justification must be as broad as the charge. It does not mean that the exact words of the charge must be proved, but that the substance, that the gist of the charge, shall be proved in order to make it a justification; that the charge must be proved with the meaning which it conveys. It must be established—the significance of the charge, the actual significance of the charge, as understood by ordinarily intelligent persons who would read it, must be
- 1042 proved, and not merely some portions of it, or some words of it, or something that is immaterial, and no evidence is admissible which does not tend to establish the truth of the substance of the charge. Now, as suggested by Mr. Kellogg, the plaintiff alleges that it was intended by this charge to accuse this institution, or its leader, with carrying on gross immoralities, and that is denied—the defendant denies that there was any such intention as that, that the charge was so understood as
- 1043 to convey any such meaning as that. I believe there was one other point, one other portion, of this charge which it is claimed that this testimony has a tendency to establish, that is, that practices are carried on there which should not be tolerated in a civilized community. This evidence does not tend to establish any practice whatever that was carried on there. It simply refers to a sentiment that was expressed by Mrs. Tingley privately to another person, and which could not be proven.
- 1044 You cannot prove that practices were being carried on there which should not be tolerated in a civilized community, without particularizing in your answer what those practices were so the plaintiff will know what you expect to prove. The objection will be sustained.

1045 The defendant excepted to the ruling of the court in sustaining the plaintiff's objection to said question, and the same is numbered, Exception No. 97.

And the defendant thereupon excepted to the remarks of the court in passing upon said objection, and the same is numbered, Exception No. 98.

1046 THE COURT: The exception to the remarks of the Court is pretty general, Mr. Hunsaker. If you desire to avail yourself of any exception to any particular statement of the Court, I suggest you do so. If I have made any utterance here that is prejudicial I am not conscious of it at present.

1047 MR. HUNSAKER: The remarks of the court have covered so much ground that I cannot carry in my mind the specific portions of which I desire to except to; but the ground of the exception is that the remarks trench on the functions of the jury, or some of them, but I cannot specify the particular ones now, but I will ask to except to each and every one of the remarks of the court in making the ruling which it has just made. Numbered as Exception No. 99.

1048 THE COURT: To be on the safe side I will say again what I have already, in substance, said to the jury, that the jury, in determining this case, are to determine it upon the evidence which they hear from the witness chair and such reasonable inferences as they can draw from the facts which are testified to; that in deciding this case they are to pay no attention to any remarks which are made by the counsel or by the court during the progress of the trial; that the law of the case is to be taken by the jury from the charge which

1049 the Court will give you upon the law of the case, and not from any remarks which the Court may incidentally make here in ruling on questions arising in respect to the introduction of evidence. I do not think it will be necessary for me to repeat this to the jury again. These remarks of mine to you now apply to the whole case, gentlemen. The Judge is not supposed, in ruling on questions respecting the introduction of evidence, in speaking generally of the law, he is not supposed to
 1050 be stating it accurately as he is required to do when he comes to give the law to the jury in the general charge of the court. The remarks are addressed principally to counsel as an explanation of the ruling, and not intended to be definite accurate statements of the law.

Q. What did she say?

The plaintiff objected to the question and to the testimony "because there is nothing in the libel charging her with any misconduct with reference to illegitimate
 1051 children. There is nothing charging her with any different treatment on account of their being legitimate or illegitimate. The testimony and the question are entirely outside of the issue," which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 100.

The answer to the foregoing question is as follows:

1052 "A. She said that she had rather have under her care an illegitimate child than one born of parents married in the usual way, because invariably the child of such union was born into the world from motives of love, and a love pure and holy, while the children of parents in marriage were invariably born from motives of pas-

1053 sion. The sight of beds was very abhorrent to her; no person ought to sleep in beds; married people especially ought to have separate couches. She made it a practice to have couches all over the Homestead instead of beds."

Q. Do you know whether Mrs. Tingley expressed her views with reference to marriage and the relation of men and women to the members generally?

1054 The plaintiff objected to the question and to the answer "because the testimony would be irrelevant and immaterial and would not tend to prove any issue tendered upon the pleadings or any issue raised by the pleadings, and also because it is incompetent," which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 101.

The answer to the foregoing question is as follows:

1055 A. "Yes, I know that she did because I have been in the presence of others on such occasions when she has spoken in a similar way. It was the object of their general teachings. It was understood by all of us."

Q. Did you ever hear expressed the views to which you have referred with reference to marriage to other members?

1056 The plaintiff objected to the question upon the ground that the answer was irrelevant and immaterial and did not tend to prove any issue raised by the pleadings, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 102.

The answer to the foregoing question is as follows:

1057 A. "I said that I did. I have been with others at the time she has expressed these views."

Q. Did or did not the members of this organization give implicit obedience to Mrs. Tingley's wishes?

The plaintiff objected to the question on the ground "that there seems to be a charge that she exercised a hypnotic influence over some persons. I submit that this does not tend to support that charge. That the answer is
 1058 immaterial, irrelevant and does not tend to support any issue raised by the pleadings, and further, that the witness is incompetent so far as this testimony is concerned," which objection was sustained, the defendant excepted and the same is numbered, Exception No. 103.

The answer to the foregoing question is as follows:

A. "So far as I know they did, excepting in my own case. I would like to add a word, when I took the pledge to the E.S.T. I remarked then that it was a very strong
 1059 pledge to take, but Mr. Fussell, who gave the pledge, said I would not think it was when I became acquainted with Mrs. Tingley, as she never asked anything beyond the bounds of reason; that it might be with some other leader than Mrs. Tingley. In my own case I simply found that I had sworn — In my own case I found that I had simply sworn to do the whim of a very changeable woman, and I returned my papers to Mr. Fussell, taking his receipt therefor, and thus in my own mind releasing all
 1060 connection with the E.S.T. Society, and I did not feel bound to obey her words and I didn't trouble myself very much after that."

Q. State whether or not to your knowledge Mrs.

1061 Tingley ever made claim to have superhuman or divine powers?

The plaintiff objected to the question and to the answer because it was irrelevant and immaterial and not tending to establish any issue raised by the pleadings, and that the answer was incompetent, which objection was sustained, and the defendant excepted, and the same is numbered. Exception No. 104.

1062 The answer to the foregoing question is as follows:

A. "She did say, I don't know as I can mention beyond a general way, but in several conversations she implied that she had power to remain in the spiritual world if she so wished, or as she did do, take again the form of the flesh and be reincarnated into this world to relieve the sufferings of mankind. This knowledge is formed not only on her own general statements, but her direct acceptance of such statement by her followers made in public meetings, and especially from Mr. Pierce's words in that connection that she had that power."

1063

Q. Did you ever hear her state that she could assume a spiritual condition apart from the flesh?

The plaintiff objected to the question upon the ground that the answer was immaterial and did not tend to establish any issue that was made by the pleadings, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 105.

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The answer to the foregoing question is as follows:

A. "Yes, in substance. Further I would say that in my own conversation with her regarding color photography, she told me that the secret of color photography

1065 or photography in colors lay with her, and that if I should stay with her, that when I was able to be entrusted with the secret, it should be given to me. This was in the line of my previous statement of her general miraculous powers."

Q. What other pretensions in reference to super-human power did Mrs. Tingley ever make to your knowledge?

1066 The plaintiff objected to the question on the ground that the answer was irrelevant and immaterial, and did not tend to prove any issue, and further, that the testimony was incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 106.

The answer to the foregoing question is as follows:

A. "I really cannot state any specific instance that I recall now. I am quite certain there were many such.
1067 I cannot state them specifically at this time."

Q. Can you state, as a matter of personal observation, whether or not Mrs. Tingley appeared to acquiesce in the professions of her followers, as to her personal divinity?

1068 The plaintiff objected to the question on the ground that the question itself was improper and outside of the issues and that the answer was immaterial, and did not tend to establish any of the issues and was hearsay, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 107.

The answer to the foregoing question is as follows:

A. "She most certainly did on every occasion. Mr.

1069 Pierce told me that she was the only one capable of leading a perfect life, therefore she alone was capable of forming this perfect marriage relation."

Q. Did you ever hear her followers, or any of them, make professions of her divinity in her presence?

The plaintiff objected to the question "Upon the ground that they are asking for a matter of hear-say in a case where hear-say evidence is not proper, and that
1070 the answer further is irrelevant and immaterial, and does not tend to prove any issue", which objection was sustained, the defendant excepted and the same is numbered, Exception No. 108.

The answer to the foregoing question is as follows:

"A. I have."

Q. What was her conduct when such professions were made to her?

1071 The plaintiff objected to the question "upon the ground that they are asking for a matter of hear-say in a case where hear-say evidence is not proper, and that the answer further is irrelevant and immaterial and does not tend to prove any issue," which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 109.

The answer to the foregoing question is as follows:

1072 A. "She took it as a matter of course: At the conclusion of the Esoteric lodge meeting following the usual formula of the meeting, the leader of the meeting called upon the Leader to give a few words of motherly counsel to her children. She invariably complied, and at these

1073 times I have heard her make these statements that she had all power; specifically I am not able to repeat the words, but they are firmly impressed upon my mind because they expressed the general character of the whole Institution."

Q. Will you state whether or not from your personal observation the members generally appeared to treat Mrs. Tingley with having super-human power?

1074 The plaintiff objected to the question "upon the ground that the answer is immaterial — the question is improper and the answer does not tend to establish any issue and an attempt to fasten the responsibility upon plaintiff by actions of other persons, and calling for a conclusion of the witness" which objection was sustained, the defendant excepted, and the same was numbered, Exception No. 110.

The answer to the foregoing question is as follows:

1075 A. "They certainly did, on every occasion, ascribe to her all power over life or death.

Q. Did any cases of ill treatment of the inmates there come under your observation, Mr. Fitch?

1076 The plaintiff objected to the introduction of this testimony because it did not tend to prove any act of cruelty or alleged cruelty specified in the libel, and further that the answer was irrelevant and immaterial, and did not tend to support any issue; which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 111.

The answer to the foregoing question is as follows:

1077 A. "Yes."

Q. Will you describe such case or cases?

The plaintiff objected to the introduction of this testimony because it did not tend to prove any act of cruelty, or alleged cruelty, specified in the libel, and further, that the answer was irrelevant and immaterial, and did not tend to support any issue, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 112.

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The answer to the foregoing is as follows:

A. "The case of Bertha Christadora comes at once to my mind. She came to the Homestead with her mother, a member, and her mother, after staying a short time, left Bertha to take a course in music. The poor girl was nearly frantic from homesickness for a period, and so great was her desire to be taken away, she tried every way to escape, as I learned from a telegraphic

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message which was passed through my hands in telephoning and other ways. She was very desirous of leaving the place. She was placed under a constant guard. A woman was detailed to be all the time with her in her waking hours and to lock her in while she slept, lock her in her room while she slept. On one occasion the girl was missed by her attendant. Men were sent out to find her, one man taking a team and going to town under orders from Mrs. Tingley to secure her and bring her back. After a hunt of an hour or

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two the girl was located in a closet on the third floor. All members were forbidden to speak to her, except her special attendant, and commanded not to notice her and to let her severely alone. This covered a period of

1081 several days, a week or more, and at the time of my departure, she was no more reconciled than before. She was no more reconciled to her position than before, because her guard was not relaxed and Mrs. Tingley's orders were that when she accepts the situation, she could treat her as one of them, and not till then."

Q. How old was Christadora?

The plaintiff objected to the introduction of this testimony because it did not tend to prove any act of cruelty or alleged cruelty specified in the libel, and further that 1082 the answer was irrelevant and immaterial, and did not tend to support any issue, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 113.

The answer to the foregoing question is:

A. "Miss Christadora was not far from seventeen, as near as I could judge."

1083 Q. Did all the circumstances which you have testified in connection with this case come within your personal observation?

The plaintiff objected to the question on the ground that the answer was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 114.

The answer to the foregoing question is as follows:

1084 A. "I hèy did."

Q. If you know of any other case, or cases, will you describe them?

The plaintiff objected to the question and to the answer because the answer was not responsive to any issue and

1085 did not tend to prove any issue under the pleadings and was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 115.

The answer to the foregoing question is as follows:

A. "The case of Miss Bergman, a Swedish teacher of voice and piano. Mrs. Tingley told me that Miss Bergman held the position of associate directress of the
1086 Royal Conservatory of Stockholm, Sweden, and that she had come to this country for rest, being a member, and therefore, subject to her, Mrs. Tingley's wishes, she had asked to come to Point Loma for rest and such teaching and playing as they would require of her. Miss Bergman did so, but she, herself, told me that she was being — Her words were, "poor Sweden, they sent me over here to rest and I work so hard I cannot do it;" and I can testify to the truth of her words.

1087 Q. Can you state whether or not Miss Bergman was compelled to work, and if so, to what extent?

The plaintiff objected to the question because the answer was not responsive to any issue and did not tend to prove any issue under the pleadings, and was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 116.

The answer to the foregoing question is as follows:

1088 "A. No other than under her pledge to do all commands of the leader, obey the commands of the leader.

Q. Do you know whether or not the work which she did was under the command of Mrs. Tingley?

1089 The plaintiff objected to the question because the answer was not responsive to any issue, and did not tend to prove any issue under the pleadings, and was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 117.

The answer to the foregoing question is as follows:

A. "It was".

1090 Q. Can you state whether or not she was over-worked?

The plaintiff objected to the question on the ground that the answer was not responsive to any issue, and did not tend to prove any issue under the pleadings, and was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 118.

The answer to the foregoing question is as follows:

1091 A. "She was".

Q. Do you recall any other cases of ill treatment or abuse, and if so, will you describe them?

The plaintiff objected to the question upon the ground that the testimony was irrelevant and immaterial and did not tend to establish any issue raised by the pleadings, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 119.

1092 The answer to the foregoing question is as follows:

A. "I recall the case of Miss Hecht, a very gifted pianist having to stop playing in the middle of a piece one evening, rather I should say one morning as it was past the evening hours, from sheer fatigue as she stated

1093 in the meeting, and said to me — and she stated to Mrs. Tingley that she was absolutely unable to play longer.”

Q. Does any other case of ill-treatment occur to your memory?

The plaintiff objected to the question upon the ground that the testimony was irrelevant, immaterial and incompetent, and upon the further ground that the answer was not responsive to the question, and moved to strike it out for that reason, which objection was sustained, the
1094 defendant excepted, and the same is numbered, Exception No. 120.

The answer to the foregoing question is as follows:

A. “The case of Mrs. Kratzer. It came to my knowledge in this way; one day Mrs. Tingley and Mr. Hanson came into the office and requested paper of the cashier a sum of money for the purpose of defraying Mrs. Kratzer’s and her children’s expenses to Los Angeles. She dictated either to myself or to Mr. Hanson, I couldn’t say which, but in my presence, a receipt to be
1095 signed by Mrs. Kretzer, and to cover any possible claims that Mrs. Kretzer might have on the organization for her services. I think Mrs. Tingley dictated it to me and added this explanation for my benefit. Whether I took it or Mr. Hanson, I cannot say; that Mrs. Kretzer had come there with her children to do work in the kitchen, the children to help what they could. They were to receive their board and clothing and the children
1096 to be educated in the common branches and in music, and she said our only piano is in the oriental rooms; we cannot have these children going from kitchen work to the piano in the oriental rooms for practice. We have no place for them. They were busy all the time and

1097 they think they must put their pleasure before our work. My office was located near the oriental rooms which, as she said, had the only piano at that time, and the children did no practicing while I was there."

Q. Do you know Mrs. Neresheimer?

1098 The plaintiff objected to the question upon the ground that this testimony did not tend to prove anything that had been alleged by the defendant in reference to Mrs. Neresheimer, and upon the ground that it was not responsive to the question; that it was not responsive to any issue raised by the pleadings, and also that it was incompetent because hearsay, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 121.

The answer to the foregoing question is as follows:

"A. By sight, not very well; I have spoken to her, I don't feel that I was acquainted with her."

1099 Q. Have you any personal knowledge of her case?

The plaintiff objected to the question upon the ground that this testimony did not tend to prove anything that had been alleged by the defendant in reference to Mrs. Neresheimer, and upon the ground that it was not responsive to the question; that it was not responsive to any issue raised by the pleadings and also that it was incompetent because hearsay, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 122.

1100 The answer to the foregoing question is as follows:

"A. Yes."

1101 Q. Will you state it?

The plaintiff objected to the question upon the ground that this testimony did not tend to prove anything that had been alleged by the defendant in reference to Mrs. Neresheimer, and upon the ground that it was not responsive to the question; that it was not responsive to any issue raised by the pleadings, and also that it was incompetent because hearsay, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 123.

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The answer to the foregoing question is as follows:

1103 "A. She was not a member while I was there. She was very outspoken in showing that she did not wish to be a member. She was not only unwilling to become a member, but also unwilling to stay there. To my knowledge Mr. Neresheimer, Mr. Hanson and Dr. Wood, trustee of the Homestead, went among the neighbors to caution the neighbors about receiving or harboring Mrs. Neresheimer, or furnishing her with means to get to town if she so desired."

Q. Did you ever hear any direction from Mrs. Tingley with reference to Mrs. Neresheimer?

1104 The plaintiff objected to the question—and to the answer upon the ground that the testimony was irrelevant and immaterial, and was not responsive to any issue raised under the pleadings, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 124.

The answer to the foregoing question is as follows:

"A. No, not from Mrs. Tingley. I will correct my-

1105 self in this way. Mrs. Tingley did refer to Mrs. Nere-
sheimer's condition, and said that she had reached a
period in life when she was wholly irresponsible, and that
too much notice must not be taken of her actions in con-
sequence."

Q. Mr. Fitch, if there is any other instance connected
with your stay at Point Loma and related to Mrs. Ting-
ley's conduct of the Institution which you care to testify
to, you may do so.

1106 The plaintiff objected to the question because the ques-
tion was improper and to the answer because the testi-
mony was not directed to any issue and was irrelevant
and immaterial and did not refer to any person the
plaintiff was accused of mistreating or depriving of their
liberty, or that plaintiff was charged with doing anything
charged in the libel, which objection was sustained, the
defendant excepted, and the same is numbered, Excep-
tion No. 125.

1107 The answer to the foregoing question is as follows:

"A. The case of Kate Hanson. Kate was the oldest
daughter of Mr. and Mrs. Hanson. She didn't live at the
Homestead, but instead at the Colony after the first few
weeks of her stay. The children's tents were completed
just after I went there and used as homes for the chil-
dren. Mrs. Tingley told me that she could not be placed
with the other children, that she could not be trusted;
1108 that Kate was the victim of very bad habits, and not only
practiced them herself but was teaching them to her
sisters and the other girl children, and they had to
separate her from the rest for that reason. It will not
be necessary to state any more definitely? Q. No."

1109 Q. How old were the sisters of this Kate?

The plaintiff objected to the question and answer because the testimony was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. —.

The answer to foregoing question is as follows, to-wit: "A. One about four, the other one eight or nine, I should say."

1110 WITNESS (Continuing): I left the Institution March 15th, 1901.

Q. Why did you leave?

The plaintiff objected to the question upon the ground that the answer was immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 127.

The answer to the foregoing question is as follows:

1111 "A. Simply because I wanted to get away from the place. I got sick of it. I like Mr. Pierce. I couldn't work satisfactorily. I didn't succeed in bringing the books to a balance all the time I was there, being continually interrupted by Mrs. Tingley for their work, and I felt that I would rather work anywhere else."

Q. Under what circumstances did you leave?

1112 The plaintiff objected to the question because the answer was irrelevant and immaterial, which objection was sustained, defendant excepted, and the same is numbered, Exception No. 128.

The answer to the foregoing question is as follows:

"A. Under pleasant circumstances outwardly."

1113 Q. You say — outwardly — were there other circumstances?

The plaintiff objected to the question and answer on the ground that the testimony was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 129.

The answer to the foregoing question is as follows:

1114 "A. In relation to the books, in relation to Mr. Pierce, the circumstances were pleasant; Mr. Neresheimer and Mr. Hanson mixed into my photographic affairs at this place, and I felt that outside of Mr. Pierce — I would say that I knew, that outside of Mr. Pierce I could trust no one there, and that Mr. Pierce would do just as Mrs. Tingley said in anything that might come up in the future in my case."

1115 WITNESS (Continuing): At the time of my leaving the community at Point Loma my relations with Mrs. Tingley were as an armed neutrality. Mrs. Tingley had no time to devote to me the last few weeks of my stay on account of the presence of Mr. and Mrs. Spaulding to whom she devoted all her time. I gave Mrs. Tingley warning, through Mr. Pierce, at the end of January that I wished to leave the middle of February. He persuaded me to stay until the first of March, when he again persuaded me to stay until the 15th; at this time he wanted to know if more money would be any inducement for me to stay and urged me to stay even two weeks longer.

1116 This I positively declined to do.

Q. From your experience and observation at Point Loma did you come to any conclusion in your own mind as to the honesty and sincerity of Mrs. Tingley's meth-

1117 ods and management, and if so, will you state such conclusions.

The plaintiff objected to the question and to the answer because it asked for the conclusion of the witness, and not for a fact, and further because the answer was not directed to any issue raised by the pleadings and was irrelevant, immaterial and incompetent; which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 130.

1118 The answer to the foregoing question is as follows:

A. "In a few words, I believe it to be the huge scheme of an unprincipled adventuress."

CROSS-EXAMINATION OF LOUIS S. FITCH.

1119 BY MR. KELLOGG. I am not particularly friendly toward Mrs. Tingley. I have no personal reasons against her. The circumstances which led to my being unfriendly to Mrs. Tingley were those covering my experience in nine months with them, the general circumstances embodied in my statements made today, and other experiences in general which happened during my stay there, experiences and scenes that I witnessed, things that I heard — I think I have pretty fully covered the facts and things that I saw with my testimony today. There are other circumstances than those I have mentioned — I have covered it in general. I was urged to remain there for a period of two months after I suggested leaving. It was not at Mr. Pierce's suggestion
1120 that I left. I continued to keep the books up to the time I left, the last three or four days I was there a man was there breaking in.

My photographic work was stopped a little time previous that I might give full attention to bringing the

1121 books up as far as possible. I could not be in two places at once. I was actually doing all the book-keeping on the place; the book-keeping in general was to come first, and the photographic work second unless Mrs. Tingley wished me to make a photograph at a certain time. I didn't have time enough to keep my books up simply because Mrs. Tingley would see some chance when she preferred my services as a photographer. That is not the sole reason why I could not keep the books up. Mr. Pierce thought at one time that I would be more valuable to run a telephone between the buildings, and I was frequently sent to town by Mrs. Tingley. In a general way, these are the principal reasons why my books were not kept up. I never had a correct trial balance from the time I went there. They paid me \$75.00 a month. Before that time I worked at the U. S. Weather Bureau for \$30.00 a month. After I left Point Loma I went to the Hotel Del Coronado. I worked there from March 17th until the latter part of June, 1901. From there I went to San Francisco.

1123 I had letters from Mr. Pierce at Point Loma which I presented. I left the Fire Association because the general retrenchment of Insurance Companies affairs made it necessary to curtail expenses, and being a junior special, I was forced to leave. It was suggested that I leave.

1124 Before I met Mr. Robinson in this matter, I had no conversation with any one about my testimony in this case. I had a telegram from General Otis. I cannot give its exact words. I have not the telegram. It is at my home.

The plaintiff here offered and read in evidence a letter written by the witness under date of Hartford, Con-

- 1125 necticut, November 3rd, 1902, addressed to Vernon M. Davis, president, being attached to the deposition of the witness as

EXHIBIT 1.

Hartford, Conn., Nov. 3, 1902.

Vernon M. Davis, President,

Society for the Prevention of Cruelty to Children,
194 Lenox Avenue, New York City.

Dear Sir:—

- 1126 Noticing in the newspapers that this society is interesting itself in the children connected with, or designed for Mrs. Tingley's Theosophical settlement at Pt. Loma, Cal., I venture to place my knowledge of the life and customs at that place at your disposal if you wish it.

- I was book-keeper for the Universal Brotherhood at their Point Loma headquarters for about nine months in 1900-1901, and my four year old son was in the so-called "Raja-Yoga School" for part of that time. I became an initiate in Theosophy as practiced by the
1127 "U. B.," but did not care to complete my probationary period, and withdrew myself and family from Point Loma, believing the Tingley influence harmful. I have no special grievance against this organization nor do I wish to obtain any sensational notoriety. If, however, you wish an unbiased account of what went on during my stay with them, I shall be glad to give it to you. I should much prefer to remain unknown and unadvertised in this connection both on account of family and
1128 business reasons, whether or not you care to use my services.

Yours truly,

L. S. Fitch,

Care National Fire Ins. Co.

1129 Q. Is that the only letter writing you have done in regard to this matter?

The defendant objected to the question as immaterial, irrelevant and not cross-examination, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 131.

Sometime ago when the New York papers took this matter up in June, I believe, I had some conversation or some correspondence with Mr. Otis in reference to publishing an article on this subject. I am not certain if I have that correspondence; it may be in my house and it may have been destroyed; I have no copies of portions of the correspondence with me now. My first communication, as I remember it, was in June, 1902, not before that time, nor with any one representing the Times-Mirror Company or Mr. Otis, not with attorney or agent, or anybody else that I remember. I dropped Mr. Otis a letter asking him if he could use an article on the U. B. Organization as I saw it. I don't think I have a copy of that letter. I saved it for a while but the matter was closed. I do not keep copies of all my letters. I am for positive if I have a copy of this letter. I will search for it when I reach my house, and if I can find it, I am perfectly willing to produce it to be annexed to this deposition. The article was never written. I had a good deal of correspondence with my intimate friends about my experience at Point Loma. I have a number of friends in San Diego to whom I did write. I wrote a letter to the Rev. Norton, pastor of the First Congregational Church at San Diego. That was the church I had formerly attended. I never knew if he was one of the San Diego clergymen who signed the protest against theosophy. I believe I have a rough sketch of that letter

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1133 but have not got it with me. It refers to my resignation in that church at the time of my entering the E. S. T. I wanted to find out whether or not that resignation was ever accepted. I concluded as I never heard a word from him that it might not have been accepted, and if it had not, I much preferred to withdraw it. That is all I remember.

Q. Did you in that letter to him characterize the teachings of the Brotherhood or any of the Institutions at
1134 Point Loma in any way?

The defendant objected to the question as immaterial, irrelevant and not cross examination, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 132.

A. I don't remember that I did.

Q. Are you sure you didn't?

1135 The defendant objected to the question as irrelevant, immaterial and not cross examination, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 133.

A. No, I am not sure, I did not have any interview with any of the clergymen of San Diego with regard to this matter after I left Point Loma. I am quite positive that I never did. I don't remember any clergyman with whom I ever had an interview in which I stated
1136 to the clergyman my views upon the Institution at Point Loma. I don't remember any clergyman with whom I was sufficiently intimate to talk over the case. I could not swear that I never did have such talk, but I am quite certain in my own mind that I did not.

- 1137 I came to join these Associations in the first place because I was interested in them and thought them beautiful organizations, and I like Mr. Pierce, so I pledged myself to the U.B. Organization at Mr. Pierce's suggestion, and then I applied to the E.S.T. Organization for membership. This was also at Mr. Pierce's suggestion. I knew before I went there that I would have to sign some sort of a pledge. I knew what the E.S.T. pledge was before I signed it. My recollection is that it
- 1138 was distinctly read or shown to me before I took it. The words of it were perfectly plain. My opinion is that the pledge of an organization of that kind is not binding at all. For two or three months before I left, I regarded the E.S.T. pledge as of no binding force over me because of the nature of the organization, its practices, etc. My opinions concerning these organizations were not fully formulated until after I left. While I had a vague knowledge in my own mind of all this, yet I did not desire to act hastily because I did not know but something
- 1139 might come up to prove that I was in error. It was not until some time after I left and I had thought the matter over fully that my opinion became formulated. I don't think I ever gave anybody any information that I did not consider the pledges binding other than to return the E.S.T. papers to Mr. Fussell. These papers pertain to the private workings of the organization. I have forgotten what they did cover. There was a written pledge.
- 1140 It was not in my possession but was in their possession. I didn't think it necessary to tell Mr. Fussell or anybody else in so many words that I considered the pledges no longer binding. I have, since that time, told people that I considered the pledges no longer binding. I have told

1141 people to whom I have talked with in this matter, people who were intimate enough with me to bring out my knowledge. I never told it to any of the other members of the organization. I regarded my action in returning the papers to Mr. Fussell as sufficient.

I observed something about sacred ground. I don't remember that I heard Mrs. Tingley or any of her cabinet say that they considered their entire work sacred work. When I made up my mind to go from Point
 1142 Loma nobody had a chance to exercise force to keep me from going. I moved my furniture quietly in the day time, but at the evening hour when I knew people were at dinner. I used a wagon which brought their lumber for building. I had to go through the gate where there was a guard. He had not authority to hold me back by force, nor did he attempt to do so. During all the months I was there people were going from and coming to the Homestead; some residing for one length of time and
 1143 some for another. I have seen people sent away against their wishes. I mean by that that a person whom Mrs. Tingley regarded as of no use was sent out to make room for some other person. I do not know, of my own knowledge, of adult persons being detained. I was personally present once when a lady was forced to leave against her will. She was thoroughly infatuated with the place. She told me of it with tears in her eyes. I did not say that persons were practically starved by wholly
 1144 inadequate supply of food. I won't say they were starved, but I would say that the supply of food furnished was insufficient. I do not recall any deaths from starvation during my stay there, but I do recall much sickness from starvation and exposure. I am not saying

- 1145 from starvation alone. I am saying from the combined effects of starvation and exposure, not from starvation alone. Miss Georgiana Adams was sick at the Homestead from the combined effects of starvation and exposure. It was after the New Century celebration which lasted until four o'clock in the morning on the unfinished rotunda of the Homestead. She was sick several days. I could not say how many. I haven't a very good recollection of those events in my mind — a number of days.
- 1146 I did not have anything to do with her case. There were several of the members of both sexes afflicted with hard colds resulting from exposure on the same occasion. It was a general epidemic. Their names were Mrs. Peterson, Mrs. Holbrook, Miss Sallie Adams, Mr. Fussell, Madame Peterson, Mr. Pierce. I think that is all I remember with surety. This state followed the New Year celebration directly. These cases were not all so severe as to confine the persons to their bed, but there was a severe epidemic. One
- 1147 of the persons confined to their bed was Miss Georgiana Adams, and the others, with hardly an exception, were sick enough to have been in bed if their duties allowed them. I am repeating what the majority of them said themselves. Mrs. Georgiana Adams was confined to her bed. Mrs. Holbrook was kept to her room for some time. Other than that I am not able to state. I should say they were confined a few days, perhaps a week, immediately following this celebration.
- 1148 The community at the time I was there was a busy community. I won't say that every one old enough had to work, had some definite sphere of duty which he or she performed day by day. They did with the excep-

1149 tion of some of the wealthier, who were comparatively few.

I was there twenty-six days, and I have said that I never was served with a fresh egg while I was there.

I could not give the date of the conversation with Mrs. Tingley in which she spoke about the dog having Mr. Judge's spirit in him. I can give it pretty nearly. It was in November or December of 1900. No one was present except Mrs. Tingley. She treated me in a
1150 friendly and confidential manner. She made a confident of me to quite an extent. I won't say that she was in the habit of laying bare the secrets of her heart to me. She has laid bare the secrets of others. She didn't make a habit of laying bare to me the secrets of her heart. I won't say that she did in a large number of instances, but I do think the other members considered that she did. I think that in one or two instances some of the others felt a little irritated at the preference which
1151 she seemed to have shown for my society.

I stopped eating at the table of the Homestead for two reasons: insufficiency of the food provided and the exorbitant price asked for the same. If the price had been reduced I should not have stayed; I could have stood it for a week or so longer.

The ceremonies that took place at sunrise every morning were only omitted on one or two very cloudy mornings. A good portion of the members, all the early risers, the adults, were present. The ceremonies were
1152 held in different parts of the grounds. The place of gathering was a spot in the roadway to the school grounds about 500 yards from the Homestead. The reading of the Gita was held in a large tent on the school grounds. There was no special costume for this cere-

1153 mony while I was there; they wore the ordinary every day dress. Every evening about 9 o'clock there was a ceremony of thought waves spreading held on the veranda of the Homestead. I gathered in the midst of the faithful; I cannot say I spread any thought waves. I think I did just what the rest did, stood there like a dummy. There were no motions to go through. I was not always prompt and ready to respond to the master's call. I was faithless on some occasions. There were no special costumes. I don't believe there were any other daily ceremonies, except eating three times a day. That was as much a ceremony as anything else. A matter of religious ceremony — Mrs. Tingley so stated it. The ceremonies at which these cheese cloth costumes were worn were Sunday evening meetings and on other occasions as appointed by Mrs. Tingley. They may have been omitted on occasions but were the usual thing Sunday evening. They were held sometime in the Oriental rooms of the Homestead, and later, after the completion of the buildings, they were held occasionally in the decidedly drafty Aryan Temple, and on some special occasions, in the unfinished retunda of the Homestead, notably the New Century celebration. All of these Sunday evening meetings were held in the costume which I alluded to. All of the members wearing costumes of about that sort excepting Mrs. Tingley.

1156 The Greek plays were inaugurated, I believe, just before I left. I wasn't sufficiently versed in the mysteries to know whether they were Greek or something else.

Q. Do you happen to know just as to whether these cloth garments were or were not the same as the Greek robes used in the Greek plays?

1157 A. The costume was changed, though I believe the essentials remained the same. I do not mean to give the impression that these costumes were indecent or lewd in any particular. It depended upon the woman who wore it as to high neck or low neck whether the costume concealed the neck entirely. I have seen them low-necked, as low as an average evening gown. I have seen some that were indecent, one with a toga crossed to the front and brought around in the back was indecent in the effect. The woman who wore it was Mrs. Crosby. I can't name the date. It was at one of the meetings in the Oriental rooms in late September or October. I cannot say that I noticed any other particular instance subject to that same costume. I do not wish to swear that these costumes were, as a rule, indecent costumes.

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Q. Is the same true of the men's costumes?

The following answer was given to the above question:

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"A. The same is true except as to the craftsmen's costume. I would like to say that the neighbors thought it as indecent a costume as a man could wear.

The plaintiff moved to strike out the following portion of the above answer: "I would like to say that the neighbors thought it as indecent a costume as a man could wear" on the ground that it was not responsive and was a conclusion of the witness and hearsay; which motion was granted, the defendant excepted, and the same is marked, Exception No. 134.

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The following portion of said answer was then read to the jury:

1161 A. The same is true except as to the craftsmen's costumes.

WITNESS (Continuing): The craftsmen left the entire arms and legs bare. This was worn on state occasions by an organization of men called the Craftsmen. I think there were about six of them. Their names, Mr. Pettigrew, Mr. Scott, Stowe, Leonard, and one or two others, but I can't remember the names. I saw them appear on ceremonial occasions; one instance the interment of the ashes of the wife of a Providence member, Copeland. It was a sort of funeral celebration. I remember an occasion at the tree planting, Arbor Day celebration, one of Mrs. Tingley's ceremonial events, they appeared in costume on that day. They appeared on three or four occasions, but I can't give the exact nature of the ceremonies. That is all I recall about them.

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I didn't say that at the meetings I heard nothing else talked of except the sacredness of the leader and the laudation of the organization and of the grounds; that was in general the substance of it. There were other things talked of but they were salient features of the meeting that stick permanently in my mind. There was very little said of the supposed doctrines of the U. B.

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Q. You mean they did not discuss the doctrines of the U. B. at these meetings?

A. That is what they called it.

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I remember on three or four occasions I heard Mrs. Tingley described as greater than Christ, Confucius and others, but I only remember one person who did it. His name was Cyrus Willard. The occasions on which I heard statements of that sort were the Sunday evening

1165 meetings in the Oriental rooms. I should say they were in October or November, 1900. I am sure it was about the time of those two months, that is the best I can give you about it. I do not remember any other person's name.

To the best of my recollection, I testified at the hearing at Ellis Island substantially as follows: " She told me that she didn't believe in marriage, that all marriages were made in the wrong spirit through motives of lust and passion. She stated that she believed that marriage was all wrong, and that the proper time for marriage was only when people reached a complete state of purity, and had pure thoughts and led pure lives. I cannot give the date when Mrs. Tingley had this conversation about marriage with me. It is one of the many that occurred during my stay there. No one else was present. I think it was in November, 1900. It was not all on one occasion. Mrs. Fitch was present to hear some of these but which what I don't know. No one was present at the conversation when she told of these wonderful stories about spiritualistic experiences. I believe no one else was present when she revealed to me her other spiritualistic powers. I have not the principal instances in mind.

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The plaintiff here proposed to omit the reading of the following question and answer, asked of the witness, Louis S. Fitch on cross-examination, upon the ground that it related to matter excluded by the Court, to-wit:

1168 "Q. You said something about her expressing her views on the subject of marriage to the members generally. On what occasions did you hear such expressions?

1169 A. My answer was not formulated on occasions when I heard her express these views. It was formulated on what others told me.

To the omission of which question and answer the defendant objected and insisted that the question and answer thereto be read, which objection was overruled, and which insistence was denied, the defendant excepted, and the same is numbered, Exception No. 135.

1170 The plaintiff proposed to omit the reading of the following question, asked of the witness, Louis S. Fitch on cross examination and his answer thereto, on the ground that it related to matter excluded by the court, to-wit :

“Q. So you personally never heard her say anything of that sort to other members?”

“A. I wouldn't like to say that. I have some idea it was referred to more or less.”

1171 To the omission of which question and answer the defendant objected and insisted that the question and the answer thereto be read, which objection was overruled and which insistence was denied, the defendant excepted, and the same is numbered, Exception No. 136.

The plaintiff proposed to omit the reading of the following question asked of the witness, Louis S. Fitch on cross examination, and his answer thereto upon the ground that it related to matter excluded by the court,

1172 to-wit :

“Q. Can you positively swear that you heard her say anything of the sort of any one else?”

“A. I cannot.

1173 To the omission of which question and answer defendant objected and insisted that the question and answer thereto be read, which objection was overruled, and which insistence was denied. The defendant excepted, and the same is numbered, Exception No. 137.

The plaintiff proposed to omit the reading of the following question asked of the witness, Louis S. Fitch, on cross examination, and his answer thereto, upon the ground that it related to matter excluded by the court,

1174 to-wit:

" Q. When did she claim to you that she possessed divine powers, the power to remain in the spiritual world or to take the form of the flesh?

" A. On one or more of the occasional talks I had with her."

1175 To the omission of which question and answer the defendant objected and insisted that the question and answer thereto be read, which objection was overruled, and which insistence was denied, the defendant excepted, and the same is numbered, Exception No. 138.

The plaintiff proposed to omit the reading of the following question asked of the witness Louis S. Fitch, on cross examination, and his answer thereto, upon the ground that it related to matter excluded by the court, to-wit:

1176 " Q. Was any one present?

" A. No.

To the omission of which question and answer the defendant objected, and insisted that the question and the

1177 answer thereto be read, which objection was overruled and which insistence was denied, the defendant excepted, and the same is numbered, Exception No. 139.

The plaintiff proposed to omit the reading of the following question asked of the witness, Louis S. Fitch, on cross examination and his answer thereto, upon the ground that it related to matter excluded by the court, to-wit:

1178 “ Q. Can you fix the time?

“ A. I cannot.

To the omission of which question and answer the defendant objected, and insisted that the question and answer thereto be read, which objection was overruled and which instance was denied, the defendant excepted, and the same is numbered, Exception, No. 140.

1179 RE-DIRECT EXAMINATION OF LOUIS S. FITCH.

MR. DANEY: (Reading question):—

The plaintiff here objected to the question and answer before the same were read, first following the commencement of the Re-direct examination, upon the ground that it was not proper Re-direct examination, and that the testimony was irrelevant and immaterial; that this testimony was excluded as a part of the plaintiff's cross examination;

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it related to matter that was excluded as a part of the plaintiff's cross examination. The defendant offered and asked to have read this question and answer which was propounded on cross examination, and also the question relating to the same

1181 subject on re-direct examination, and offered that part of the deposition in evidence.

The objection to the defendant's offer to the question and answer asked on re-direct examination, and also the question and answer asked on cross examination was sustained, the defendant excepted, and the same is numbered, Exception No. 141.

1182 The question asked on re-direct examination, the reading of which was asked by the defendant and denied by the court, and the answer thereto is as follows:

"Q. In your cross examination Mr. Kellogg asked you as to an answer given in the testimony taken at Ellis Island, was or was not this your answer to the question referred to: "That Theosophy itself was a pretty good sort of a life if you could live up to it, but 'Tingieyism was abominable.'" Do you know whether or not that was the answer you gave?

1183 The answer to the foregoing question is as follows:

"A. In substance it is My memory of the exact words is not clear, but I believe that is the idea I had in mind.

The question asked of the witness on cross examination, the reading of which and the answer thereto, defendant requested in connection with the reading of the foregoing question and answer, and which offer and request were on objection by the plaintiff, that the same were immaterial and irrelevant was excluded by the court, is as follows:

1184 "Q. Did you testify at the Ellis Island case as follows: Q. What were your impressions from the start?

1185 A. That Theosophy was a pretty good sort of a life if you could live up to it." Did you so testify?"

The answer to this question is as follows: "A. I did. If you were there you would have heard it."

1186 WITNESS (Continuing): I never had a personal altercation with Mrs. Tingley, but on one occasion I did have a conversation with the lady which might have been an altercation. She happened to know that I desired to live in a house and appointed me a residence outside of the grounds. I acceded to the terms of rent as mentioned by her and she told me to make every arrangement with Mr. Pierce. I saw Mr. Pierce that evening and he said to take their team the first thing in the morning before they commenced work, and if I had goods to move them over there. I did so. As the load of goods went by, I following it on my bicycle, and passed Mrs. Tingley's window, she called to me; she was with Mr. Hanson and Mr. Harris and Mr. Harris desired the
1187 place. She told me I had made a terrible mistake, that she told me merely that she would arrange with her Finance Committee; I must take my goods right back. That was the nearest I ever came to an altercation. This incident occurred early in January, 1901.

Q. You still stayed right on on good terms with Mrs. Tingley, if I am correct in quoting your earlier testimony?

1188 The plaintiff objected to the answer and moved to strike it out on the ground that it was not responsive, and that it was immaterial and irrelevant, and also as to the latter portion of it, which was a conclusion and opinion of the witness, which objection was sustained, the defend-

1189 ant excepted, and the same is numbered, Exception No. 142.

The answer to the foregoing question was as follows:

A. I have no personal reasons against Mrs. Tingley other than any good person would have against a woman of her position and character. I don't feel that I would be doing my duty as a citizen if I did not tell these occurrences.

1190 Hereupon the defendant produced and offered in evidence the deposition of Rose M. Fitch, taken on behalf of plaintiff, under stipulation at Hartford, Connecticut, on the 4th day of December, 1902. Certain portions of said deposition were admitted in evidence, certain portions thereof were excluded by the court as follows:

ROSE M. FITCH.

BY MR. ROBINSON: My full name is Rose M. Fitch; I am the wife of Louis S. Fitch. I was at Point
1191 Loma, California, in the year 1900 for about six months. During that time I was at the Point Loma Homestead, only as a visitor, not residing there. I didn't live at the Homestead. I lived in a tent on the school grounds. During my stay at Point Loma I saw Mrs. Tingley at intervals — different occasions.

Q. What can you state, if anything, with reference to Mrs. Tingley's control of the members and inmates of the Homestead from your personal observation?

1192 The plaintiff objected to the question because the question was improper, and because the answer was irrelevant and immaterial to any issue in the case, and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 143.

1193 The answer to the foregoing question is as follows:

"A. She controlled them absolutely. They did not dare to go over to San Diego unless she gave her sanction, and if she enters a room they all rise and hold up their right hand."

1194 WITNESS (Continuing): I have heard her addressed by a title. She is known as "Mother" "Purple" and "P". So far as my observation goes the inmates of this community treated Mrs. Tingley with awe and reverence. I have never been a member of the society there, but was in the community while I was living there on the grounds, I suppose.

1195 Hereupon the defendant produced and offered in evidence the deposition of Jerome A. Anderson, taken on behalf of the defendant, under stipulation at San Francisco, California, on the 5th day of November, 1902. Certain portions of said deposition were admitted in evidence and certain portions thereof were excluded by the court as follows:

JEROME A. ANDERSON.

1196 BY MR. W. H. ANDERSON: My full name is Jerome A. Anderson. I reside in San Francisco, California. I am a physician and surgeon by profession. I have resided in San Francisco nearly thirty years, and have been in the practice of my profession for some time. I am what is known as an old school doctor, a regular physician. I know the plaintiff, Katherine Tingley. I have known her since April, 1895. I was first introduced to her in Boston. She now resides at Point Loma, California.

At present she is at the head of a Colony or something

1197 of that nature. She is also at the head of an organization known as the Universal Brotherhood. There is an institution there called the International Brotherhood League. It is one of the sub institutions. All institutions are under the direction of the Universal Brotherhood. I have been an officer of them all.

I have been at Point Loma. Mrs. Tingley was in charge. When I speak of Point Loma I mean the Institution of which Mrs. Tingley is the head. I occupied
 1198 an official position with that Institution. I was a member of her cabinet. I was vice-president of the Theosophical Society in America, one of the sub institutions. I held these two positions at Point Loma. I was at Point Loma first in 1896. It might have been in 1897, the occasion of the holding of the Great Congress, as they term it, at the Point. That was the general convention. I was there fifteen days at that time. I was there again for two weeks in 1899 or 1898, I am a little uncertain of these dates, and again in 1901 for two weeks. These were the only times I spent at Point Loma. While I was
 1199 at Point Loma I had the opportunity of becoming reasonably familiar with the Institution and the manner in which it was conducted. I was a very high officer and was accorded every privilege.

Q. Please describe the Institution generally.

A. Point Loma is a tract of land owned by the Universal Brotherhood Organization, but in the name of
 1200 Mrs. Tingley so far as I am informed and believe.

The plaintiff moved to strike out the answer because it appeared that the witness was answering upon information and belief; the objection was sustained as to the following words: "But in the name of Mrs. Tingley

1201 so far as I am informed and believe," the defendant excepted, and the same is numbered, Exception No. 144.

The answer to the foregoing question then stood as follows:

A. Point Loma is a tract of land owned by the Universal Brotherhood Organization.

1202 WITNESS (Continuing): I have never seen the deeds, but I am familiar with the Constitution of the Society, which gives Mrs. Tingley absolute authority and control of everything in connection with that Organization. The Institution is all on one point of land. It is divided into different inclosures, three or four of them. There is a portion upon which the Homestead stands. It originally, I believe, was forty acres, and in possession of Dr. Woods, and then passed into the possession of the Brotherhood, and then there is the site of the school. They call it the School for the Revival of the Lost Mysteries of Antiquity, which was originally purchased by
 1203 the Association, and is to the extent of something like 150 acres. Then there is a farm, some two miles distant. It belongs to the Organization and there is one or two other tracts which have been purchased since, one of which lies directly east of the Homestead property, and another which lies to the north of the Homestead property. These are all that I know of that belong to the organization.

1204 The Homestead, in its relation to the rest of the Institution, is the building at which the principal colonists reside. It is enclosed by a fence. The whole enclosure would include about ten acres. The fence is approximately about five feet high. It is an ordinary board fence. The School for the Revival of the Lost Mysteries

1205 is one of the institutions included in the Universal Brotherhood. There are, or were, several tents upon the grounds when I was there. Upon those grounds there is nothing except the foundation stone. The colony is under the control of the Universal Brotherhood. The people of the colony do all the work in relation to the Homestead, which is the residence of a great many. They do most of the work in all the grounds, planning, gardening they do, and taking care of things generally.

1206 They do the work in the way of making and procuring food. In fact, the people of the Colony generally take the place of servants. That is the relation the colony bears to Mrs. Tingley by its relation to the institution; bears to the institution. It is not, in any sense, a co-operative movement.

The people at the Homestead, are a portion of the Colony really, this is called the Colony. The farm is off two miles to the left, but it is only called the Colony in order to give it a name. The people are members of the

1207 Homestead, also of the Colony.

There is a special purpose for which the Colony is used in connection with the general scheme there. It is to support the headquarters, to make it habitable, and to grow such things as may be produced there in order to make it profitable perhaps.

I know that there are guards maintained in and about this Institution. They are armed. They carry revolvers; at least I have seen revolvers in the possession of one

1208 or two of them. One positively.

I do not know whether or not Mrs. Tingley or the manager or managers, have any instruments of punishment at this Institution or resort to any punishments.

I know Mrs. Tingley.

1209 Q. Please describe Mrs. Tingley fully.

The plaintiff objected to the question upon the grounds that the testimony was irrelevant and immaterial, and did not tend to support any issue in this case, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 145.

The answer to the foregoing question is as follows:

1210 "A. Physically, a woman I should take to be sixty years old; quite large; quite fat; dark complexioned; untidy; very erratic in all ways; changing her opinion. Changing her directions in regard to matters concerning the government of the organization and continually changing her directions as to the conduct of affairs at the Point; one of the most unreliable persons as to maintaining any set course of action that I have ever met. She seems to be controlled by her impulse almost entirely. To have no fixed or definite plan in regard to anything; 1211 to decide everything upon the impulse of the moment, and perhaps directly contrary to a direction of a few minutes before. I look upon Mrs. Tingley as a megalomaniac."

Q. Well, we want your descriptions from what you observed; not your conclusions that you drew?

1212 The plaintiff objected to the question on the ground that the testimony was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 146.

The answer to the foregoing question is as follows:

A. She is a woman that has unbounded belief in her own greatness, ability to rule, ability to manage every-

1213 thing. In other words, she has in very highest form, self-conceit.

Q. Please describe Mrs. Tingley fully. I do not care for you to tell me what she does, just describe the woman at this time. Let it come in as general description. Now if you had any opportunity to observe her influence over people generally; state what her influence was. Just answer the question?

1214 The plaintiff objected to the answer following upon the ground that the testimony was irrelevant, incompetent and not responsive to the issues; that it was not responsive to the question, that the question called for a conclusion and opinion; that the testimony of the witness was a mere conclusion, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 147.

The answer to the foregoing question is:

1215 A. Her influence was such over them that they obey her abjectly, universally; all on the grounds will do anything in the world that she asks them to do, which is physically or mentally possible. They seem to be — her influence over them seems to be in a sense hypnotic, or certainly to such an extent that they are willing abject slaves universally”.

1216 Q. What class of people are they, the inmates of the Institution generally?

The plaintiff objected to the question and the answer because the question was improper and the answer was irrelevant and immaterial and a conclusion of the witness, and therefore, incompetent, which objection was

1217 sustained, the defendant excepted, and the same was numbered, Exception No. 148.

“A. All classes. There are men and women of ordinary intelligence and there are people there of a lower grade and people who are considered stupid. All grades of people.”

1218 WITNESS (Continuing): I know, and I had an opportunity to observe while I was there, what was taught at the Institution.

Q. Please describe as nearly as you can remember what was taught there, while you were there?

The plaintiff objected to the answer because it was irrelevant, immaterial and incompetent, and did not tend to establish any of the statements contained in the libel, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 149.

1219 The answer to the foregoing question is as follows:

A. The teaching was that which is termed “ethical”; good morals; good behavior; love to others was taught, not acted. It was taught theoretically. Practically, the teaching was that of hatred, of suspicion, of calumny, of deceit, of lies, and everything that was bad. Practically, as opposed to theoretical goodness.”

1220 Hereupon, it being time for adjournment, the court in its admonition to the jury, used the following language:

THE COURT: Now if the people will be so kind as to keep still for a moment or two, we will adjourn.

Gentlemen of the jury, I desire to call your attention

- 1221 again to the admonition which I have heretofore given you before your separation, not to converse among yourselves or with any other person or to permit any other person to speak to you or address you upon any subject connected with this trial or to form or express any opinion thereon until the case is finally submitted to you. That you refrain from reading any newspaper articles relating to the proceedings had upon this trial. That you keep aloof just as far as possible from any person or
- 1222 persons or from any situation where it is likely that you may hear anything which may tend to impress your mind as to what the decision of this case should be. Now it is evident to all of you that there is much interest being taken in this trial, and I am satisfied from a communication which I have received myself from an unknown party who was too cowardly to sign his name to it, that there are persons in this community who desire to influence the due course of justice in this case. I have no reason
- 1223 to believe nor the least suspicion whatever that either of the parties to the action or the counsel upon either side of this case had any connection whatever with such communication, and have no desire of that kind. But there are persons in this community who are sufficiently destitute of character, destitute of any proper appreciation of their civil obligations, who would not hesitate for a moment to influence either the jury or the judge if it were possible. I allude to this only to place you — only that
- 1224 you may be the better placed upon your guard and that you will omit nothing, or permit nothing which may in the least influence your judgment, your final judgment as to what the decision in this case should be. I may have peculiarly strong opinions on the subject, but it is my well

- 1225 founded conviction that there is no more sacred right that a citizen of this state has than to have a fair and impartial trial of his or her case in a court of justice to be decided solely upon the evidence in the case and the law as the court may give it. If any person is deprived of that right there is little benefit in our civil government. I am satisfied, with the personel of this jury. I believe that you are men of sufficient moral stamina to decide this case on the evidence alone and that you would scout
- 1226 the suggestion of permitting anything on the outside to influence your minds, whether it comes from anybody else or whether it may come from any supposed public sentiment in regard to any matter which may be involved or supposed to be involved in the trial of this action. Nothing that I have said—I will repeat it again—by nothing I have said do I intend any inference shall be drawn that either of the parties to this suit or their counsel would for a moment attempt to influence any member
- 1227 of this jury. I believe they are honorable persons, I believe the counsel in the case are perfectly honorable, and I repeat this again lest the jury might happen to draw some inference that in the mind of the court there was some danger that the parties might do something to influence the jury. I do not believe that. I have no reason to believe it, even the least suspicion of that kind, but I have the proof in my possession now that there are persons in this community who would desire to influence the
- 1228 determination of this case. I am only sorry that I haven't the evidence of who they were.

The defendant excepted to the remarks of the court pertaining to the receipt of any letter or communication from any source whatever and to the re-

1229 marks other than those embodied in the admonition required to be given by the statute, and the same is numbered, Exception No. 150.”

An adjournment was here taken until December 23rd, at 10 A.M.

On the convening of the court, December 23rd, the reading of the deposition of Dr. Jerome A. Anderson on behalf of the defendant, was proceeded with.

1230 WITNESS (Continuing): I observed ceremonies while I was there. The first ceremony that I took part in was at a time when we met after midnight upon the site of the School for the Revival of the Lost Mysteries of Antiquity. All sat on a canvas, and were supposed to be initiated into a very ancient order, and the ceremonies consisted of Mrs. Tingley relating some marvelous displays of intelligence, supposedly, on the part of her dog Spotts. As I say, it was after midnight. We were clothed, all of us, in the costume which is supposed to be ancient Greek. Very lightly clad in ordinary muslin. 1231 I remember it was distinctly chilly. There was some general talk by Mrs. Tingley. It did not amount to very much. The whole thing in reality consisted of these things that her dog Spotts had done. I can relate what they were if you desire. That was considered a very high initiation.

At that time as nearly as I can remember Mrs. Tingley said that we were being initiated into a very ancient 1232 order and through and by means of a very ancient ceremony. The ceremony consisted, as she stated it, of eating fruit which had some mysterious significance, which she did not explain. That was all in relation to that, practically.

1233 The order was called the Ancient Order of Scribes. It is called, in her publications, the S.O.A., or Ancient Order of Scribes reversed. Then, she went on and told how she had been very much depressed, had gotten blue in regard to the condition of the Society, or something, and her dog Spotts had gone to a pile of letters which she had thrown on the floor at a time when she did not care to examine them, and had selected a certain letter from a certain person, Dr. Allen Griffiths, and brought it to her and she had opened it, and was greatly comforted thereby. That ended the ceremony of explaining, after which Mrs. Tingley ate some of the fruit which she had brought.

We went from the Homestead to this site of the school. We walked in single or double file; we walked up there, about nine or ten in all. Very few are admitted to it. I don't think we carried any lights of any kind at that time.

1235 There were many ceremonies in which I participated. I recall several of them. In some of them we carried lights; in others of them we held lights; most of them had these uniforms; we wore the sacred costume supposed to be of this Greek order. The same costume I have described. I was made a member of the Order of the Rising Sun. I think it was called. A son of the Rising Sun. The members were seated around the room, all of them in this costume; you could not attend unless you wore it; the members of the Rising Sun, each bearing a large sun flower, proceeded to arrange themselves. I was duly declared to be a member, and set among them, but I had no sun flower. At that meeting certain papers were read as you see pub-

1237 lished in the New Century, about the teaching, particularly. Just compositions of people learning to write. That constituted about the whole of that particular ceremony.

I have attended a meeting of the Cabinet.

Q. Please describe a meeting of the Cabinet?

The plaintiff objected to this testimony as immaterial, which objection was sustained, the defendant excepted,
1238 and the same is numbered, Exception No. 151.

The answer to the foregoing question is as follows:

1239 "A. I have never attended a full meeting of the Cabinet. All the officers of the Cabinet have never been at the Point at once. It could hardly be called a Cabinet meeting. She would ask those of us who were there to come together at any time, to meet her at any time, on any occasion almost; any place. Usually in her room, and discuss matters generally. That is to say, referring to the conduct of the Society which would be discussed, suggestions offered, and things talked over generally."

1240 WITNESS (Continuing): A particular costume was worn at such meetings, but not necessarily so. The costume on the grounds was on all occasions supposed to be this Greek costume. It was nearly always worn. Mrs. Tingley did not wear any costume at these meetings of the Cabinet; the costumes were not essential to the meetings of the Cabinet.

Mrs. Tingley generally clothed herself at the Institution in flowing wrappers. When visitors come to whom she desired to present a good appearance, she throws a

1241 special, large, embroidered robe, which causes her to appear more queenly, as she supposes. I believe the robe is purple in color, but that is a question that a man is very seldom able to answer.

There is another ceremony in which I participated, and which I have not described. It was supposed to be the revival of a very ancient custom in Greece of welcoming a newly married couple. It was upon the occasion of the opening of the house of Mr. and Mrs.

1242 Spaulding, or rather their moving into it. Although so old a custom, it was gotten up so extemporaneously, the people did not know their parts, or what to do. We were scattered out on the hills surrounding this house, and had lime lights, or lights of some kind by which to enable the people to read their parts, which they did not know, or rather to enable them to read the parts they had to act, or which they had no time to memorize. That was the portion I took part in. An-

1243 other portion of the ceremony consisted of all the members marching by twos, carrying the lights, and going up to this house and standing in front of it, while we on the hills were reciting the various things we were supposed to have committed to memory. It was a very grotesque performance, because of various things about it which were unpleasant and absurd; moving backwards and forwards, firing off the lime lights or something of that kind, something they used to illuminate with. Costumes were used on that occasion; all the children participated.

1244 I know about morning ceremonies which were had at the Institution. The earliest of these ceremonies was a meeting upon this ground in which various people took

1245 part. I refer to the ground which is known as the School
 for the Revival of the Lost Mysteries of Antiquity, and
 this ceremony was not, by any means, as ridiculous as
 some others. Mrs. Tingley was not present; at least I
 have never seen her present. It was very early; it was
 not her habit to rise early. It was supposed to be a sun-
 rise meeting. The ceremonies at that meeting consisted
 in reading a chapter from the Gita; giving certain direc-
 tions and such things as that which were supposed to be
 1246 symbolical. Then, later in the day, there was another
 meeting, say at eight o'clock; this first meeting was very
 early, sunrise. There would be a lot of them meeting
 in the rotunda or central portion of this Homestead.
 The people who lived in the Homestead, or were members
 of the Organization used to be there, and they would
 strip off their shoes and stockings and go around the hall
 barefooted and sing some music that they had all learned.
 They sang and marched around the hall. I did not take
 1247 part in that, but sat up on the stairs and listened, but
 word was brought to me that it was Mrs. Tingley's
 pleasure that she did not like to have the ceremony seen
 by any one who did not take part in it.

These are not all the ceremonies that I specifically re-
 call; there are many others. I could talk here half a day
 describing ceremonies, but I have given you an idea.
 They were all variations of the ones I have described.

1248 There is a classification of the ordinary costumes worn
 at the Institution. The most sacred one is this one which
 is supposed to be ancient Greek, consisting of something
 like a skirt, rather long. The one which I wore was a
 loose wrap, tied with a cord around my waist, reaching
 below my feet; under that I wore my underclothing;
 some of them did not, as I know.

1249 So far as external appearances go, the costumes of the women and of the men were essentially the same in that class. The ladies had a loose wrap in white made rather nicely. I noticed three different patterns, the result of Mrs. Tingley changing her mind. There was a uniform something like the one used in the Southern Army. I noticed it was something like the officer's uniforms. It was known as a student's uniform, and was rather handsome. That was worn by a class who were supposed to be admitted as students.

1250

Q. What was the last class?

A. The students. They were known as students. They were simply people who lived at the colony and did work there. Others had a khaki uniform, something like that the American Army wears now. Then there was still a lower class in the school of uniforms, who had no uniforms at all, and wore their own clothing.

1251

These qualifications do not apply to both classes; I was thinking merely of the men. The ladies, some of them, wore uniforms, all wore the uniforms at these meetings. Those that worked and did menial work as cooking, sweeping and bed chamber work, and such work, as that, they wore either their ordinary clothing, or in some instances a purple robe, or purple gown, that allowed them to work. They were not graded down quite as nicely as the men.

1252

All of the various things of which I have spoken, as the International Brotherhood League, and the Isis Conservatory of Music, were all creations of Mrs. Tingley. The students was a similar creation. The person was supposed to be all right, reliable, pledged not to desert as I did. That was the student class, and these people

- 1253 were given the preference in regard to the labor performed. The highest of them did not work at menial work. For example, Mr. Patterson was employed in taking visitors over the grounds; others were employed in the same way and as guards, and the highest of all of them were the scribes, who were supposed to write. When she did not tell them to do anything else they would go up on this sacred ground, clothed in these sacred robes, and spend their time in endeavoring to write, and they did write. But I asked them why no writings were
 1254 issued to the world, except these trifling things published in the *New Century*. They explained that they would get to work on a book and get it fairly well done, and everything progressing, and be well satisfied, when she would suddenly change her plan and order them to cease that and do something that was entirely different, and that it utterly disconcerted them. That was the reason they said. There were twelve or fifteen intelligent men, capable of lecturing and capable of doing good work. It
 1255 is first hand evidence.

I know about the character of the tasks the girls were given at that place there. Some of them were put to do cooking, some to waiting on the table, some to sweeping and doing chamber maid work. I am describing the work for girls; that which was considered servants' work generally; the work that is necessary in what is really a large hotel.

- 1256 The children there are quartered in tents, constructed very good. They are various shapes and sizes, and hold a dozen children and upwards. They are made of canvas. That was what I saw there. I was there in 1901. The childrens' quarters are located about 100 yards to the south of the main institution — the Homestead.

- 1257 I know how the little ones are fed. The little tots are fed principally on bread and milk, I suppose suitable food. I know, for I have seen them eat, and they seem to have sufficient. I am referring to those from a year to a year and a half, or two years old. There was a class of new babes there. Those Mrs. Tingley told me she had great trouble with in their management, because of Dr. Woods. He would not fall into line with her ideas as to their food. She said he desired to have them fed, while she desired to have them at first starved, because they could more quickly kill out the lower nature in those children. The animal nature in those young children. She believed in giving them very, very little food. And the Doctor protested. This she told me directly and personally.
- 1258

- I know of one instance at the institution there where children were separated from their parents. It was a matter of discipline, the children of Mr. and Mrs. Hanson were separated at that time from their parents, and all children there are supposed to be and are separated from their parents most of the time. The rule, she told me, was that the parents were permitted to see their children once in two weeks. Of course, there were exceptions, but that was the rule. The reason she gave me for that rule was that parental favoritism and parental love interfered with the proper development of the child, and were things to be avoided as much as possible. I know of things concerning discipline of the children which I have not already stated.
- 1259
- 1260

Q. Just state generally all that you know other than what you have already stated concerning the discipline of them. In general management.

1261 The answer to the foregoing question is as follows:

“ A. The children are managed by teachers who are kind to the children. The unpleasant portions of the discipline emanate from Mrs. Tingley. I have seen her and heard her storm at a poor frightened child, who was just recently from Cuba, and desired to go home. I have heard her threaten him in such a way as to frighten him. I do not remember the exact punishment, but she was very angry, and had the poor child in a corner, and was storming at him. I surprised her and she ceased to storm at the child when I came upon her; and she takes away their food; that is, she orders them away from the table and orders them to cease eating if they do anything she does not want, that is contrary to the rules. I have seen that, and know that they were deprived altogether of a meal for the time being. I did not watch very closely because it was considered a matter of impertinence, almost, to question her or any of her methods; to observe things too closely. But of course, one could not help seeing.”

1262 The plaintiff moved to strike from the answer to the foregoing question the following words: “ The unpleasant portions of the discipline emanate from Mrs. Tingley. I have seen her and heard her storm at a poor frightened child, who was just recently from Cuba, and desired to go home. I have heard her threaten him in such a way as to frighten him. I do not remember the exact punishment, but she was very angry, and had the poor child in a corner and was storming at him. I surprised her and she ceased to storm at the child when I came upon her,” upon the grounds, first, that the question was irrelevant and immaterial, and not addressed to any issue arising under the pleadings; secondly, that it appeared

1264

1265 that the testimony given here was irrelevant and immaterial, and further that it is addressed to matters entirely outside of the issues, which motion was granted, the defendant excepted, and the same is numbered as Exception No. 152.

The defendant then read the following portion of the answer to the foregoing question:

1266 "The children are managed by teachers who are kind to the children. * * * And she takes away their food; that is, she orders them away from the table and orders them to cease eating if they do anything she does not want, that is contrary to the rules. I have seen that, and know that they were deprived altogether of a meal for the time being. I did not watch very closely because it was considered a matter of impertinence, almost, to question her or any of her methods; to observe things too closely. But of course, one could not help seeing."

1267 WITNESS (continuing): I am a theosophist and am quite familiar with the history of Theosophy in this country. I have studied it for fifteen or sixteen years. I am familiar with Mrs. Tingley's connection with Theosophy. She has made statements to me concerning it. I know the history of the founding of this institution at Point Loma by Mrs. Tingley and why it was founded by her and the circumstances surrounding its founding. It was founded by Mrs. Tingley to establish a central location in order to govern and control what was then a world wide movement, and was selected by agents whom she sent there, and the ground purchased, and with the purpose in view which I have stated, and with the idea, she told me herself, of having
1268 all theosophists there.

1269 The society to which she belongs is not truthfully a Theosophical Society at all. It is a seceded movement from the Theosophical Society, a branch.

I know about the distribution of literature by Mrs. Tingley with reference to this institution at Point Loma. The document or pamphlet now shown me is an advertisement of the organization or the home at Point Loma, or the Homestead, or colony, or whatever you may term it. It was issued by Mrs. Tingley.

1270 The document was attached to the deposition and marked Exhibit "A" and is the same document herein in this bill of exceptions set forth, and marked DEFENDANT'S EXHIBIT A.

The paper which is now shown me is a paper issued by Mrs. Tingley and it has a relation to the paper marked Defendant's Exhibit C; it is issued for the same purpose as Defendant's Exhibit A, for advertising literature.

1271 The document was attached to the deposition and marked Exhibit "B" and is herein in this bill of exceptions set forth as DEFENDANT'S EXHIBIT C.

I do not know what class of people this literature is sent to.

Q. Coming back now to the question of the children. Please state, if you know, what they are taught generally with reference to the institution and the head of the institution, that is with reference to Mrs. Tingley.

1272 The plaintiff objected to the question as immaterial, and objected to the answer because the testimony was irrelevant, immaterial and did not tend to prove any issue, and in addition that it was incompetent in that appeared to be nothing more than a conclusion of the witness and did not purport to be any statement of any fact,

1273 which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 153.

The answer to the foregoing question is as follows:

" A. Well they are taught to regard Mrs. Tingley as a person to whom they owe everything in life to revere her above all other beings and to look to her as the author of all good that has come to them by being brought to Point Loma.

1274 WITNESS (continuing): I attended the ceremony, or entertainment, or meeting of the children at the Institution. The meeting had evidently been prepared before hand, because we were asked to come, and attend and see. We, that is, myself and family, and some others visiting the Point, we walked in and found the children beautifully arranged and at play. After they had played a certain time at their little games, they were called out to make addresses, and the little fellows, some nine, ten, 1275 twelve or thirteen years old, did get up and say a few stumbling remarks, one after another. All they did say was explanatory of the great blessing it was to be at the Point, and the great kindness of Mrs. Tingley in having brought them there. Everything they said was in praise of Mrs. Tingley. Mrs. Tingley was present at this meeting.

Q. Had Mrs. Tingley ever made any statement to you with reference to the starvation methods you referred to 1276 a while ago?

A. Except as I have stated. Not to any specific institution; it was in relation to certain children she was showing me. I was going through the ground with her. We came to those babes and one was only a few days

1277 old. She was explaining her methods, starvation, withholding the food. She stated that she had in one case withheld the food from a child about a year old for twenty-four hours. She said in reference to the children being starved that the children's lower nature was subdued and broken. That the quickest way to bring it about was to adopt that course of withholding food until the child came to its senses. Until its soul appeared.

I know of my own knowledge, of the farm, or colony being used for a specific purpose in the way of discipline.

1278

Q. Please state what that was.

The plaintiff objected to the answer because it was irrelevant and immaterial to any issue in the case, and heresy, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 154.

The answer to the foregoing question is as follows:

" A. Certain residents of the colony, or to put it specifically, Dr. Coryn of the colony, told me, — Mrs. Tingley told me in relation to this that when people became troublesome she would separate them by sending them over to the colony. She referred particularly to the case of a Texan lady; two ladies rather, sisters; she said one of them gave her so much trouble she sent her to the colony to avoid her influence.

1279

Q. Was any one in displeasure at the institution while you were there?

1280 The plaintiff objected to the question and the answer on the ground that it was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 155.

The answer to the foregoing question is as follows:

1281 " A. Several.

Q. And how was that brought to your knowledge?

The plaintiff objected to the question and to the answer on the ground that it was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 156.

The answer to the foregoing question is as follows:

" A. By Mrs. Tingley herself.

1282

" WITNESS (continuing): I know Mr. Pierce. He is one of the members of the Colony; he hold various positions there, that is he holds more than one. He is Director General of the whole organization and he is a member of the Cabinet. He is also officially connected with the International Brotherhood League.

Q. State what, to your knowledge, Mr. Pierce does at that institution.

1283

The answer to the foregoing question is as follows:

" A. I have seen him doing ordinary labor. I have seen him over-seeing the laborers and directing their work. I have seen him acting as an armed guard. I have seen him lying at the door of her room on a pallet, as a guard of her body, I have seen him many, many times in consultation apparently with her, receiving her directions, or giving her advice, and I have seen him directing things generally. He is what might be termed her first hand man, her right hand man at the Point, generally.

1284

Before the said answer was read the plaintiff moved to strike therefrom the following portion words: " I

- 1285 have seen him acting as an armed guard. I have seen him lying at the door of her room on a pallet, as a guard of her body. I have seen him many, many times in consultation apparently with her, receiving her directions or giving her advice, and I have seen him directing things generally. He is what might be termed her first hand man, her right hand man at the Point, generally; on the ground that the same was immaterial and did not tend to prove any allegation in the complaint or any issue, which motion was granted, the defendants excepted, and
 1286 the same is numbered Exception No. 157.

The defendant was then permitted to read the following portion of the answer to the jury:

“A. I have seen him doing ordinary labor. I have seen him over-seeing the laborers and directing their work.

- Q. You referred to this dog of Mrs. Tingley's,
 1287 Spotts; please describe the dog.

The plaintiff objected to the question because it was irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 158.

The answer to the foregoing question is as follows:

- “A. He is rather old, and very cross. A King Charles Spaniel, I believe. I am not a dog fancier, but
 1288 I think that he is a spaniel. He is a black and white dog.

Q. Did Mr. Pierce have any duties while you were there with reference to this dog?

A. Not while I was at Point Loma. But I have seen him have duties when she was traveling”——

1289 MR. ANDREWS: I object to the answer as not responsive to the question. The question is "Did Mr. Pierce have any duties while you were there with reference to this dog?" and the answer is "Not while I was at Point Loma," and he goes on to say something else. I move to strike the answer out as not responsive to the question and because it is irrelevant and immaterial.

THE COURT: The objection is sustained.

1290 MR. DANEY: The defendant excepts.

The plaintiff moved to strike out the answer as not responsive to the question, and because it was irrelevant and immaterial, which motion was granted, the defendant excepted, and the same is numbered, Exception No. 159.

The answer to the foregoing question is as follows:

1291 "A. Not while I was at Point Loma. But I have seen him have duties when she was traveling, as I have known her at other places, in San Francisco, for instance.

Q. While he was associated with her, to your knowledge?

The plaintiff objected to the answer upon the ground that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 160.

1292 The answer to the foregoing question is as follows:

"A. To my knowledge, while he was associated with her.

Q. Not at Point Loma, since the institution was organized?

1293 The plaintiff objected to the question because the answer was immaterial and irrelevant, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 161.

The answer to the foregoing question is as follows:

"A. No, just as it was being organized."

Q. You observed, Doctor, did you not, what the effect was of the training and treatment of the institution
1294 upon the children there?

The plaintiff objected to the question and the answer upon the ground that it was irrelevant, immaterial and incompetent, which objection was sustained, the defendant, and the same is numbered, Exception No. 162.

The answer to the foregoing question is as follows:

"A. I considered it degrading and debasing, lowering all human ideas, training the children to worship
1295 Mrs. Tingley; to believe her a divine being. It would have a very injurious effect upon any child, in such a course of education, in that direction. In addition to all of this, there was teaching in regard to the organization; what she has done for them, entirely sinking the mind in the worship of the person.

Q. Now you state that Mrs. Tingley was not present at those early morning meetings of which you have spoken.

1296 A. No.

Q. Do you know why?

The plaintiff objected to the answer on the ground that it was irrelevant and immaterial, which objection

1297 was sustained, the defendant excepted, and the same is numbered Exception No. 163.

The answer to the foregoing question is as follows:

“ A. She was in bed.

Q. Did she ever make any statement to you why she did not attend those meetings? Answer yes or no.

The plaintiff objected to the answer upon the ground that it was not responsive to the question, which objection
1298 was sustained, the defendant excepted, and the same is numbered, Exception No. 164.

The answer to the foregoing question is as follows:

“ A. Yes, she was out of her body, and was off attending to State affairs. She explained specifically that she was with President McKinley during most of the time his life hung in the balance.

1299 WITNESS (Continuing): I stated that I was Vice-President and a Cabinet Officer, and held other offices. The titles of these various offices are, Member of the Cabinet; Vice President of the Theosophical Society in America; member of the S. O. A., or Scribe No. Eleven, I think, nine or eleven. The S. O. A. means the ancient order of scribes. I was a member of the International Brotherhood League. I was a member of the E. S., Esoteric Section. I was a Son of the Rising Sun. P. C. C. means Pacific Coast Committee. I was President
1300 of the Pacific Coast Committee long before Mrs. Tingley's time and also after. T. S. A. was the Theosophical Society in America. I was Vice President of that Society.

The duties attending upon these various officers were

1301 to carry out Mrs. Tingley's will in the matter, and if she, that is to say, if she gave you specific directions, which she seldom did.

It was the custom to give titles to these officers; almost all bore some lengthy title, which she considered a great thing and an honor; one of the means by which she held them to her.

I have many times seen people at work on the farm. They did all character of farm work. They did the proper farm work for the time in which I was there.

1302 The document which is now shown me is the Constitution of the Universal Brotherhood, the affiliated institution. Which document is herein in this bill of exceptions set forth and marked Defendant's Exhibit No. B.

I know by whom it was adopted, but I do not know by whom it was prepared. I have spoken to Mrs. Tingley concerning this document. She said that it was prepared by three or four people in New York under her supervision. They did most of it. One of these was Mr. Harris of Macon, Georgia, and another was Mr. Neresheimer of New York. He is the Treasurer of the Institution there. Mr. Harris is there also. I was present when the constitution and by-laws were adopted at the general convention.

Q. Now, with reference to Mrs. Tingley's displeasure which you testified to, people being under his displeasure. What was the result as to the people?

1304 The plaintiff objected to the question on the ground that the testimony was irrelevant and immaterial to any issue, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 165.

The answer to the foregoing question is as follows:

1305 "A. Well, they were sent off to this Colony, and separated from her to a degree, some were and others left the institution permanently. The people were coming and going, so to speak, all the while, becoming dissatisfied and leaving.

Q. How were people under her displeasure treated, while under that displeasure?

The plaintiff objected to the answer on the ground that the answer did not tend to establish any matter or issue
1306 before the jury, and was immaterial and incompetent, and that the witness was testifying to his conclusion and not to facts, which objection was sustained, defendant excepted, and the same is numbered, Exception No. 166.

The answer to the foregoing question is as follows:

"A. Abominably. The people that were understood to be under her displeasure were tabooed. If you spoke to them, had any kind of pleasant intercourse with them,
1307 why, you were in disfavor with her at once, so that a person under her displeasure was practically isolated. One instance was that of Mrs. Neresheimer. I was told not to have anything to do with her. To have nothing to do with her at all.

The defendant here offered and asked permission to read the following portion of the foregoing answer, to-wit: "One instance was that of Mrs. Neresheimer; I was told not to have anything to do with her. Have
1308 nothing to do with her at all."

The plaintiff objected upon the ground that said portion of the answer did not tend to establish any matter at issue before the jury, was immaterial and incompetent, that witness was testifying to his conclusions and not to

1309 the facts, and upon the further ground that the portion of the answer proposed to be read was not responsive to the question, which objection was sustained and defendant excepted, and the same is numbered, Exception No. 166.

Q. You said you were told. Do you mean Mrs. Tingley?

1310 The plaintiff objected to the answer as immaterial, which objection was sustained, and defendant excepted, and the same is numbered, Exception No. 167.

The answer to the foregoing question is as follows:

A. I was told by Mr. Pierce first, and afterwards by Mrs. Tingley, in corroboration, that I must not have anything to do with Mrs. Neresheimer. I was warned five minutes after I got to the Point.

1311 WITNESS (Continuing): That was the warning I received. I never knew of any one in confinement there at any time.

CROSS EXAMINATION of JEROME A. ANDERSON.

1312 By MR. HOTCHKISS: I am thoroughly familiar with the theories and teachings of the Universal Brotherhood which I have referred to in my testimony, and from my knowledge of their theories and teachings, I consider them as theoretically worthy and reputable—worthy of support, but practically, I do not so consider them. I still maintain my original doctrines of faith, the same doctrines of these works I put in evidence here. So far as the general doctrines of faith are concerned, I still maintain that faith, the doctrines of reincarnation and brotherhood. By reincarnation I mean the re-birth

1313 of the human soul, in body after body. That is one of the leading theories of the Theosophical faith. You can belong to any religion, believe anything you wish, and belong to the Theosophical Society. The Theosophical faith teaches purity of life and action as one of the cardinal tenets in its makeup. Theosophy means the wisdom of God. It means the knowledge of divine things. Ethically, it teaches right action. The relation of the human soul to God. It is a perfected system of ethics, and thoroughly scientific; in agreement with sense, 1314 with true sense. It is not at war in any of its teachings with the doctrines of Christ. We hold Christ to have been a Master, a Teacher of truth. The Golden Rule is one of its precedents. I do not know personally if they teach that Golden Rule to the children at Point Loma, but I think they do. While I was there, I never heard any Theosophical teaching given to the children. They objected to teaching it to the children.

1315 Q. Well, to the students and members of the Brotherhood? In every theory to you include the principles of the Golden Rule?

A. Yes they do, and an unselfish life, a life of purity.

The main ground of my objection to this Institution at Point Loma is, because Mrs. Tingley has become the institution. She has substituted her will for law and government. Her ideas, her teaching, and she knows very little about Theosophy. That is my objection, putting it in a nutshell.

1316 I did not furnish the defendants here with the material for my examination. I gave Mr. Anderson some of the papers. I was requested a few days ago, by Mr. Anderson, to come here. Hunsaker & Britt sent me a tele-

1317 gram. Mr. Anderson is not an acquaintance; I only met him once when consulted in regard to another legal affair. The first communication I had about being a witness was a telegram a few days ago, asking me to be here. I did not volunteer to give information or to be a witness in this case. It was a surprise to me to be called as a witness.

1318 I have published articles in regard to my relation with the Point Loma Institution. There was a New Year's greeting, which I published, or sent rather in answer to request from Mr. Neresheimer, as a member of the Cabinet, that it be published. It was published in the Brotherhood at Point Loma. I haven't a copy of it.

1319 That article was an endorsement of the Universal Brotherhood. I would like to be permitted to make an explanation of this article. I am an old theosophist, far older than Mrs. Tingley, and I have, as a theosophist, quite an international reputation as a writer. I have published four books. Two or three of these have been translated into three other languages, one or the other. When I became dissatisfied with Mrs. Tingley, and recognized that she was wrong in doing as she had done, I made up my mind that as I believed myself as the second person of importance in the Society, that I had the power to lead the entire Society back to the original Society, to the early ethics of the Association. That I endeavored to do by standing in with Mrs. Tingley and endorsing a person whom I regarded as incapable, and whom I
 1320 thought would permit me to do the work of the organization if I went to the Point. The last time I was there I found that that plan was impracticable, as no one could reason with her in any way. The only thing, then, for me to do was to go out. But it was a hard thing to do.

1321 This article was in answer to a specific request, and when I had already been doubted, so to speak, by being loyal to her, and having my influences entirely destroyed to endorse her.

That article was published in the Brotherhood, the Christmas number, 1901. It was written some two months before hand, two or three months before hand, and only consisted of a dozen lines. The substance of it was the endorsement of the Universal Brotherhood Organization, encouraging people to hold to it and do right.

1322 That was not the only article I wrote favorable to the Homestead Organization. I wrote others before. I have published nothing for perhaps two years, that is to say nothing of mine has been accepted. I wish to explain that, because I refused to get down and declare Mrs. Tingley to be a great being, a divine, as they do, my articles were rejected and refused publication, although I have an international reputation as a writer of articles, and of books. I was not disappointed because

1323 they did not take up the publication of my books. I am not in this now and care nothing what happens to me personally. I was never a teacher of school in San Diego County.

Q. You are not then, at present, on good terms with Mrs. Tingley at this time?

The answer to the foregoing question is as follows:

1324 " At present, no, I have no hatred for the woman. I hate the destruction she is bringing to the world. A woman with no feeling at all.

The plaintiff moved to strike out of the answer all of the following portion: " I hate the destruction she is

1325 bringing to the world. A woman with no feeling at all” on the ground that it was not responsive to the question, and was also the conclusion of the witness, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 168.

Q. Didn't you commence to have ill feeling because she reproved you for using slang to the children at Point Loma?

1326 The answer to the foregoing question is as follows:

“ A. No, sir, never. I never heard of that until after I had long withdrawn. It was in a letter to some one after I had withdrawn. As a matter of fact, she is a liar if she says I use slang. I know Mrs. Tingley to be an awful liar, and I am willing to go on the stand and give testimony as to those falsehoods. In further answer to that question I wish to say positively that Mrs. Tingley did not reprove me; she never said one word in reproof as to my slang.

1327 Before the said answer was read, the plaintiff moved to strike therefrom the following words: “ I never heard of that until long after I had withdrawn. It was in a letter to some one after I had withdrawn. As a matter of fact she is a liar if she says I use slang. I know Mrs. Tingley to be an awful liar and I am willing to go on the stand and give testimony as to those falsehoods,” on the ground that same was irrelevant, immaterial and not responsive, which motion to strike out was granted, the defendant excepted, and the same is numbered Exception No. 169.

The following portion of said answer was then read to the jury, to-wit: “ No sir. * * * In further

1329 answer to that question I wish to say positively that Mrs. Tingley did not reprove me. She never said one word in reproof as to my slang."

WITNESS (Continuing): I was a member of a number of orders I have mentioned; I do not retain my rank in those orders. I can withdraw at any time. A man can withdraw from anything he chooses. I sent in my final resignation.

1330 The principles of those orders are good, but they are not being carried out by Mrs. Tingley. She is the great objection I have. She is, as lawyers say, irrelevant.

RE-DIRECT EXAMINATION of JEROME A. ANDERSON.

BY MR. ANDERSON: Q. As I understand you then Doctor, your objections are not to the theoretical tenets of these various institutions, but are in the way in which they are practically carried out.

1331 The answer to the foregoing question is as follows:

1332 "A. Exactly. I want to say here that to my personal knowledge, every person who leaves her like I did, and I know many have left before me, she tries her utmost to slander them, to lie about them. She will take any method possible to make it appear that they were low and degraded; that she only bore with them for the time, to try and save them. She published that I was insane, that I was a liar and incapable of attending to my business.

Before said answer was read the plaintiff moved to strike therefrom all after the word "Exactly" on the ground that the same was not responsive, that it was irrelevant and immaterial, and that the same was a vol-

1333 untary statement on the part of the witness, that he was testifying simply to conclusions and not to facts, that the same was therefore incompetent and not re-direct examination, which motion was granted, the defendant excepted, and the same is numbered, Exception No. 170.

The defendant was then permitted to read the following portion of said answer, to-wit:

A. Exactly.

1334 Q. Do you know that she said those things personally?

The plaintiff objected to the answer as irrelevant and immaterial and not proper re-direct examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 171.

The answer to the foregoing question is as follows:

1335 " A. I do not know that she said those things personally, but she has published to the world, in her magazine, for which she is responsible, of which she is editor, this statement that I am insane, that I should be in an institution and taken care of.

Q. What magazine?

The plaintiff objected to the question as immaterial and not re-direct examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 172.

1336

The answer to the foregoing question is as follows:

" A. New Century.

Q. You read it yourself?

1337 MR. ANDREWS: We object to the question.

THE COURT: The objection is sustained.

The defendant excepted, and the same is numbered, Exception No. 173.

The answer to the foregoing question is as follows:

"A. Yes, I have. I have that number in my office. It can easily be procured.

1338 Q. What month and year was it?

"The plaintiff objected to the question on the ground that it referred to matter already stricken out, and was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 174.

The answer to the foregoing question is as follows:

1339 "A. It was — during the month of April she tried for a month, through herself and her agents to get me back, after my abandonment of her, and then afterwards she attacked me as she did all the others.

Q. You spoke in your cross examination of the fact, to put it tersely, of the methods of those of an insane person, or words to that effect. What is your idea in regard to that, Doctor?

1340 The plaintiff objected to the question because it was not proper re-direct examination, and was irrelevant, immaterial and called for the conclusion of the witness upon matter to which he was not shown to be an expert, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 175.

1341 The answer to the foregoing question is as follows:

" A. At least upon two occasions, her remarks were those that would be of an insane person.

Q. What were these?

The plaintiff objected to the question because it was not proper re-direct examination, and was irrelevant, immaterial and called for the conclusion of the witness upon matter to which he was not shown to be an expert, which
1342 objection was sustained, the defendant excepted, and the same is numbered, Exception No. 177.

The answer to the foregoing question is as follows:

" A. Upon one occasion she asserted that she had the power to manage and direct the affairs of this world, our earth, and she said she was only prevented from doing so by her duties at Point Loma; that the children bothered her.

1343 Q. Did she make any other?

The plaintiff objected to the question because it was not proper re-direct examination, and was irrelevant, immaterial and called for the conclusion of the witness upon matter to which he was not shown to be an expert, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 177.

The answer to the foregoing question is as follows:

1344 " A. She made this statement the last time I was there, when I was there the year before, 1900, an exactly parallel statement. I cannot repeat the words exactly, but they were to the effect that if she was not so occupied by trifling details she was capable of attending to planetary things.

1345 Hereupon the defendant produced and offered in evidence the deposition of Henry Hugo Reuthling, taken on behalf of defendant, under stipulation at New York, on the 9th day of December, 1902. Certain portions of said deposition were admitted in evidence and certain portions thereof were excluded by the Court, as follows:

HENRY HUGO REÜTHLING.

By MR. LORD: I know Mrs. Tingley. I first met
 1346 her in the Fall of 1893. She sent me an invitation to come, to call in her apartment and get acquainted with her husband. Her apartment was at 107 West 68th Street. I lived at 105. I called. Thereafter I saw Mrs. Tingley three or four times a week. I would see her on the street, also occasionally in her apartment. My acquaintance with her continued uninterruptedly until the time she started on the cruise around the world. I do not know what year that is. During the time I knew
 1347 her, I came in contact with the people with whom she associated. I know what Mrs. Tingley did, what her business was. She was a magnetic healer and medium.

Q. Do you know whether she claimed to have any powers as hypnotist?

The plaintiff objected to the question and the answer to it upon the ground that the matter was immaterial and not responsive to any issue in the case, which objection was sustained, the defendant excepted, and the same
 1348 is numbered, Exception No. 177.

The answer to the foregoing question is as follows:

" A. Yes sir.

Q. What do you know concerning that matter?

1349 The plaintiff objected to the question and the answer to it, upon the ground that the matter was immaterial and not responsive to any issue in the case, which objection was sustained, and the defendant excepted, and the same is numbered, Exception No. 178.

The answer to the foregoing question is as follows:

1350 " A. Mrs. Tingley herself explained to me how she had cured people, for instance, how she had cured a sick brother, Westcott, by treating him by magnetism, but he died very soon after he got in her house.

Q. Did you ever see her use this hypnotic power?

The plaintiff objected to the question and the answer as immaterial and not responsive to the issue.

THE COURT: Let me see it.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 179.

1351 The answer to the foregoing question is as follows:

" A. Yes—sir.

Q. Will you tell us what you observed in reference to her using this power?

1352 The plaintiff objected to the question and to the answer upon the ground that it was immaterial and not responsive to the issue, and also upon the further ground that it was apparent that it was not testimony in reference to the exercise of any hypnotic or pretended hypnotic power, and it was wholly irrelevant to the issues and not responsive to the question, which objection was sustained, the defendant excepted, and the same was numbered, Exception No. 180.

1353 The answer to the foregoing question is as follows:

"A. I called at her home one time on an invitation from her. I found the rest of the family absent and she seated herself very close by me and commenced to speak to me very rapidly, staring at me intently and making suggestions which I considered improper—

Hereupon the Court, after inspecting the deposition, made the following order:

1354 THE COURT: And counsel for defendant will not be permitted to propound any of the following questions appearing on page 4 of the deposition, or on page 5 of the deposition, or on page 6 of the deposition, or on page 7 of the deposition, down to the last question at the bottom of page 7.

To which ruling the defendant excepted, and the same is numbered, Exception No. 181.

1355 The questions and the answers thereto, appearing on pages 5, 6, 7 of the deposition of Henry Hugo Reuthling, and following the question last above propounded to said witness, and which questions the Court prohibited the defendant from propounding or reading and the answers thereto are as follows:

"Q. What was the nature of these insinuations?

"A. I considered —

"Q. Now you may continue your answer?

1356 "A. I have found her speech improper and rather suggestive.

"Q. What idea did her language and conduct convey to you?

1357 "A. I saw very plainly that the woman had impure intentions.

"Q. Well, by impure what do you mean? What do you mean by the use of the word impure?

"A. Well, I mean by that her suggestions were of a sexual nature, that is what I mean to say.

"Q. What did you understand from her language and conduct?

1358 "A. Nothing else could be understood but what the woman wished.

"Q. In plain language, what did you understand her to mean by her language and conduct?

"A. Well, no woman would directly ask a man to do a certain thing.

1359 "Q. I want you to state plainly, not in general language, but as distinctly as you can what you understood her language and conduct and actions toward you to indicate?

"A. I understood it very plainly to be a desire for sexual intercourse.

"Q. Now, Doctor, can you give us in words what her language and conduct was, giving us as nearly as you can her language and conduct?

1360 "A. I could not remember the language, it is too long ago. It happened in 1894, or 1893 I think.

"Q. Can you tell us in words what her conduct was, how she acted, what she did?

"A. I cannot tell you exactly."

1361 WITNESS (Continuing): I have said that her business was that of a magnetic healer.

Q. Do you know of any persons whom she treated?

The answer to the foregoing question is as follows:

"A. I was never present when she treated anybody. I don't know of anybody. I know of Doctor Torey, he lived as a patient in her house.

1362 Before the said answer was read answer was read, the plaintiff moved to strike therefrom the following words: "I know of Dr. Torey, he lived as a patient in her house" upon the ground that the testimony was incompetent, irrelevant and immaterial, which motion was granted, the defendant excepted, and the same is numbered, Exception No. 182.

The defendant was then permitted to read the following portion of the foregoing question answer:

1363 "A. I was never present when she treated anybody. I don't know of anybody.

Hereupon the plaintiff objected to the reading of the question next following the question last above, upon the ground that it was immaterial, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 183.

1364 The question which the Court, on objection from the plaintiff prohibited the defendant from reading or propounding and the answer thereto is as follows:

"Q. Do you know what the relations between Mrs. Tingley and Dr. Torey were?

1365 "A. I don't know, except as healer and patient."

Q. Do you know what Mrs. Tingley's general reputation was?

The plaintiff objected to the question on the ground that the witness was incompetent to testify as to plaintiff's general reputation because it did not appear that he was acquainted with the people in the community in which she lived — because he stated in other portions
1366 of his depositions that his testimony was based on his own experience and that the answer was incompetent, irrelevant and immaterial, and cited the following from the cross-examination of the witness.

Q. Then is your statement as to her general reputation for untruthfulness based upon the fact that you think she has deceived you?

A. Yes sir.

1367 Q. Then when you speak of her as having a bad reputation as a fraud, you are referring to what someone else told you?

A. Yes, from what I know.

Q. From what someone else told you?

A. Well from what I know from the facts in the neighborhood, that happened in the neighborhood.

1368 RE DIRECT EXAMINATION.

Q. Now is that reputation of hers based on her general reputation in the community?

A. No sir; it is based on my own experience.

- 1369 THE COURT: In my experience upon the bench I have discovered that there is no other rule regulating the introduction of evidence, concerning which there are looser views than the question which is now presented for consideration to the Court. As I have had occasion to remark before, it is utterly incompetent in an action of this kind to prove any particular instances of mis-conduct or criminality or immorality for the purpose of affecting the character or reputation of
- 1370 a party to the suit or a witness who has testified upon the trial, unless the very act or conduct is the specific subject matter of the investigation. It is not permissible for two reasons; First, because every man and woman has a right to come into a court of justice and have his or her case decided upon the merits of the case and not be menaced with the probability or the fact that his or her life may be inquired into in detail. They have a right to come into Court either as a party
- 1371 or as a witness upon the stand without laboring under the apprehension that their life is to be inquired into and that the trial of the issues are to be forgotten, are to be left out of consideration for an hour, or a day, or a week, or month for the purpose of investigating some person's life. A party or a witness has a right to appear in court without having every person whom they may desire or who may be brought into court and placed upon the witness stand, given an opportunity to
- 1372 say what he or she may think of some party or some other witness in the case; that the court room shall be converted into a place where people can come and slander others—tell what they think about them, tell how mean they were in some other transaction with

- 1373 them; if that was the case, it would require pretty strong process in many cases to induce parties to come into court and testify, and it would absolutely deter many people from ever instituting an action for the purpose of remedying some wrong or establishing some right which they claim. Another reason is, that when a party comes into a court of justice with a case to be determined, he or she is not supposed to be ready and prepared to meet any evidence which Tom, Dick or
- 1374 Harry or Susan or Jane may give as witnesses and testify in regard to some other matter which is not involved in the trial; some other transaction. Now the evidence of this witness — I have examined the deposition, both the direct examination, cross-examination and re-direct examination, and it is not at all clear to my mind upon what basis he forms his opinions in respect to the plaintiff Mrs. Tingley; at one time he says he bases that upon his intercourse with and knowledge
- 1375 of her; then again he bases it upon what he has heard in connection with that, and again he will indicate that it is the result of what he has heard from others. But it is so unsatisfactory that it is impossible for me to determine what he does base it upon. If he bases it upon his own personal knowledge or experience, of course it is utterly incompetent. Now the question asked is: "What is the general reputation of Mrs. Tingley?" I have always conceived that this question must
- 1376 have some general reference at least to some particular qualities of character, or to some general qualities of character, or to some general conduct. The witness is not to decide. You ask what is the general reputation of a person, and you leave it to the witness, and

- 1377 he may say, why yes, she does not pay her debts, or, she is a frivolous society woman that nobody has any particular respect for except some of the aristocracy, or, he may be a cold blooded man, or he may be a money lender or usurer and people do not like him—anything.—You leave it to the witness to open his mouth and utter what he sees fit to say. No doubt in a case of libel the object of proving the general reputation of a party plaintiff, is to say that he has such an unsavory
- 1378 reputation as to make it much less likely that he would have been damaged than if he possessed a good reputation, and the general reputation must pertain—in my judgment—it must involve traits of character which are included in the libelous charge, or similar traits of character; or it must be a general reputation in regard to immorality, dishonesty or some similar attribute which—or lack of general integrity, or as to any of the traits of character which are involved in this charge.
- 1379 The reputation of cruelty, or one who is known to be guilty of fraudulent conduct, fraudulent transactions, something of that nature. This question does not suggest anything of that kind, and the answers of the witness show that he hasn't anything of that kind in view.

Now as to the competency of the witness; I do not think there is anything to show he is competent to testify to the general reputation of this plaintiff or determining what her general reputation is for the purpose

1380 of minimizing the amount of damages; that general reputation must be one that is in some way pertinent to the general features of this case. Now it is charged that the libel was published in the Los Angeles Times. There is evidence tending to show that it has a large

- 1381 circulation. I have forgotten the amount now, but if I remember it is 26,000 copies or something in that neighborhood, in the year 1901. The plaintiff alleges it circulated in this county and throughout other counties in this State, and throughout different portions of the United States. Those allegations are not denied. Now the reputation — although I do not claim that it is necessary at all they should bring someone here who knows the general reputation of Mrs. Tingley, generally
- 1382 throughout the United States — you may bring them from different localities, witnesses from different localities to show what her reputation was there, her general reputation, but still the witness does not know anything about it; he does not show himself competent; he says he was acquainted with Mrs. Tingley; that he had some conversation with her and met her. The rule is sometimes stated that it should be the general reputation in the community or among the neighbors. That does not
- 1383 apply to all cases. If a party lived in some rural district, it is the reputation in that community or among the neighbors. This witness lived in New York City and Mrs. Tingley lived there in 1893. It is not necessary to prove what her reputation was in that city, to call that a community, because it is a very populous city: it has been said here there were three millions population; of course any ordinary person could not have a general reputation throughout the city, unless it
- 1384 was some public man or woman who had been before the public for a great length of time and had acquired a reputation in that way, and as has been suggested by Judge Andrews, the Court is bound to take judicial notice of some things — of those things which every-

- 1385 body knows. That in these large cities the next door neighbors do not know each other quite often. This witness does not say anything about her having any public reputation there, or being publicly known at all. He simply says he was personally acquainted with her for a time. He does not say he had any acquaintance with any of her acquaintances, or with any person with whom she associated, or with any person who knew her. You do not show he is competent to express his opinion
- 1386 as to what her general reputation was there among her personal friends or acquaintances or those who knew her. I gather from his answers that he is giving his own opinion, that probably three fourths of it is his own opinion what he thinks personally of Mrs. Tingley. If we allow that kind of evidence in, we never would get through with this trial. I will sustain the objection on the ground that the witness has not shown his competency to state what the general reputation of Mrs.
- 1387 Tingley was in 1893 in the city of New York; on the ground that it appears from his answers that what he does state is not evidence of what her general reputation was there, but very generally his own personal opinion of the character of the woman. And this applies to all the evidence contained in this deposition, touching the question of plaintiff's general reputation. I might state one other reason. It is so remote in time, I think the Court in its discretion should strike it out, especially in view of the character of the evidence of
- 1388 what this witness may have known of her in 1893 in New York City. It is so remote in time and the knowledge of the witness giving the strongest interpretation in favor of admitting this evidence is so

1389 limited that the court in its discretion would have a right to rule out this evidence, because the question of what her reputation was at the time this publication was made, what her general reputation was at that time—of course the evidence is not to be confined exactly to that time—the evidence as to what her reputation was at times previous to that time, but this is so remote in time and it appears that the witness's knowledge is so limited, that I do not think it ought to go

1390 to the jury; that his knowledge of her reputation there is so limited; he does not state how many of her friends he knew. He speaks of persons, it might be two persons, what two persons say about a person does not make his general reputation. The objection will be sustained.

Thereupon the defendant excepted to the order of the court sustaining said objection, and the same is numbered as Exception No. 184.

1391 And the defendant thereupon, and at said time, excepted to so much of the Court's remarks as referred to the witness or as bearing on the credibility of the witness, which exception is numbered, Exception No. 185.

And thereupon, the Court made the following additional remarks:

1392 THE COURT: I am not aware that I have made any remarks which can be construed to mean an expression of my views on the credibility of the witness. I had no intention to make any such remarks. The credibility of this witness is for the jury. You may proceed.

1393 The answer to the foregoing question is as follows:

“A. Her general reputation in the neighborhood where she lived was a bad one on account of contracting debts and not paying her bills.”

Q. Well, have you concluded your answer, Doctor?

The plaintiff objected to the question on the ground that it was irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 186.

1394

The answer to the foregoing question is as follows:

“A. Well, I have more to say about that, but I only know from circumstantial evidence what other people said about it.”

Q. Will you state what her general reputation was from what you have heard other people say?

1395

Q. Well, Doctor, I will ask you one more question before you answer that: When you say “What you heard from other people” what do you mean? Whether people made statements to you from which you—

The plaintiff objected to the two foregoing questions upon the ground that they were irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 187.

1396

The answer to the foregoing question is:

“A. Deducted my conclusions, yes.”

Q. Now, I will repeat the former question; will you

1397 state what her general reputation was from what you have heard other people say?

The plaintiff objected to the question upon the ground that it was irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 188.

The answer to the foregoing question is as follows:

1398 "A. Her janitress claims that she came home drunk several times."

Q. I do not ask you for the specific instances upon which your opinion is based, but of what your opinion is — what your opinion is, based upon the statements of others.

The plaintiff objected to the question upon the ground that it was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the
1399 same is numbered, Exception No. 189.

The answer to the foregoing question is as follows:

"A. Well, now what do you want me to do, mention what the statements of other people —"

Q. No, I want you to state what her general reputation was.

The plaintiff objected to the question upon the ground
1400 that it was irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 190.

The answer to the foregoing question is as follows:

1401 "A. Her general reputation was a low one, a low reputation."

Q. What was her general reputation? What sort of a low one?

The plaintiff objected to the question upon the ground that it was irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 191.

1402 The answer to the foregoing question is as follows:

"A. Why, in the first place, she was very untruthful."

Q. What was her general reputation?

The plaintiff objected to the question upon the ground that it was immaterial, irrelevant and incompetent, which objection was sustained, the defendant excepted, and the same was numbered, Exception No. 192.

1403 The answer to the foregoing question was as follows:

"A. No, sir. Well, that —"

Q. Did you say no - sir to that?

The plaintiff objected to the question upon the ground that it was irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 193.

1404 The answer to the foregoing question is as follows:

"A. I did not quite understand what you said."

Q. Did she have the general reputation for being untruthful?

1405 The plaintiff objected to the question upon the ground of its being incompetent, irrelevant and immaterial and leading, which last objection was made when the deposition was taken, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 194.

The answer to the foregoing question is as follows:

1406 "A. She had that reputation among all people that had any dealings with her."

Q. Now, I will ask you this question, Doctor. What was her reputation among the people who had dealings with her?

The plaintiff objected to the question upon the ground that it was immaterial, irrelevant and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 195.

1407 The answer to the foregoing question is as follows:

"A. Her reputation among the people she had dealings with was that of an untruthful and unreliable woman, and as a fraud."

CROSS EXAMINATION OF HENRY HUGO REUTHLING.

1408 BY MR. KELLOGG: I have personally seen Mrs. Tingley act as a medium. At her home in the Princeton Apartment in 75th Street New York of the winter of 1893 to 1894. A great many people were there. I do not remember their names any more because I was only introduced to a very few of them. They are mostly spiritualists, all of them I think. I know they were

1409 spiritualists because Mrs. Tingley told me they were. That is the only way I have of knowing it.

At that time, Mrs. Tingley did acts of mind reading, turned out the light, found out some things that seemed to be hidden to the minds of other people. She did not find them out correctly. She failed several times and she succeeded once or twice that evening. That is about all that took place there. The meetings lasted about half an hour or three quarters of an hour, but
 1410 I was to several sittings, and that is all she did at that time. At the other times I saw her it was about the same thing over again, at the same place. The next time it was the same thing. It was about the same thing each of the times. I saw her no more than three times. It was practically the same thing every time. I never saw her do anything else as a medium, except these mind readings on these three occasions. I never saw her personally give a magnetic treatment to any-
 1411 body other than Dr. Torey.

RE-DIRECT EXAMINATION OF HENRY HUGO
 REUTHLING.

BY MR. LORD: I spoke of attending several spiritualistic meetings. They were held in the Carnegie Lyceum.

Q. You have referred to several in which Mrs. Tingley —

1412 A. Oh, in her home. An admission fee of twenty-five cents was charged. Mrs. Tingley herself collected it.

Hereupon the court took a recess until Monday morn-

1413 ing, December 29th, 1902, at 10 A. M. and upon the opening of the Court, at said time, the defendant produced and offered in evidence the deposition of Mrs. Lena Morris, taken on behalf of defendant, under stipulation, at New York, December 10th, 1902. Certain portions of said deposition were admitted in evidence and certain portions thereof were excluded by the court as follows:

LENA MORRIS.

1414 BY MR. LORD: My name is Mrs. Lena Morris. I reside at 109 West 68th street. I have lived there many years. 11 years last October. I know Mrs. Katherine Tingley. She lived at 107 West 68th street. I worked at 107 West 68th Street as the janitress. I was janitress at the time Mrs. Tingley was living there. Mrs. Tingley lived at 107 West 68th Street for eighteen months.

Q. Do you know what her business was?

1415 The plaintiff objected to the question because it was improper to be answered, because it was irrelevant, incompetent, and not responsive to the question, and further, because it did not tend to prove any issue and because it appeared from other portions of the deposition that the witness's testimony on this point was not of her own knowledge but hearsay, and cited from the witness's cross-examination the following:

1416 Q. Were you ever personally present at any faith curing by Mrs. Tingley as applied to any person?

A. Well, there was a tenant in the house that saw —

Q. Were you personally present? A. No, I was not.

1417 Q. Were you ever personally present at any clairvoyant seances that she gave? A. No sir; which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 196.

The answer to the foregoing question is as follows:

“A. Faith cure, she held herself out there as a faith curer.”

1418 Q. Any other?

The plaintiff objected to the question and to the answer on the ground that the testimony was incompetent, irrelevant and immaterial, and that the witness was incompetent to testify to the point, and because it appeared from other portions of the deposition that the witness's testimony on this point was not of her own knowledge but hearsay, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 197.

1419 The answer to the foregoing question is as follows:

“A. Clairvoyant.”

Q. Was there a girl living with Mrs. Tingley?

1420 The plaintiff here objected to the testimony of the witness in reference to a girl, living with Mrs. Tingley, on the ground that it was immaterial, it did not tend to support or relate to any issue arising on the pleadings, and objected to the foregoing question and to the questions following and relating to Florence Tingley, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 198.

1421 The answer to the foregoing question is as follows:

"A. Yes-sir."

The remaining questions propounded to the witness in relation to Florence Tingley, and to which questions the plaintiff objected, upon the grounds specified in the objection to the foregoing question and the answers thereto, are as follows:

1422 "Q. What was her name?

"A. Florence Tingley.

"Q. Do you know what she did?

"A. Housework.

"Q. Where?

"A. At Mrs. Tingley's.

"Q. How old a girl was she?

1423 "A. Eleven years old.

"Q. What was the nature of the housework?

"A. Cleaning and running errands, washing dishes and washing little odds and ends about.

"Q. Did she attend school?

"A. Not while she was there."

1424 WITNESS (Continuing): I know the people with whom Mrs. Tingley came in contact in the neighborhood there.

Q. Do you know what her general reputation was in the neighborhood?

1425 The plaintiff objected to the answer upon the ground that it was not responsive to the question, was incompetent and immaterial, and the witness was not shown to be qualified, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 199.

The answer to the foregoing question is as follows:

1426 A. They considered her a fraud and not very respectable.

WITNESS (Continuing): Mr. Tingley and Mrs. Tingley and their little daughter, adopted daughter she was in fact, lived in Mrs. Tingley's apartment. So far as I know, no others ever stayed or lived with her there. Flossie Tingley was with Mrs. Tingley at the time Mrs. Tingley left.

The defendant also offered the following portions of the

1427 CROSS EXAMINATION of LENA MORRIS.

BY MR. KELLOGG: Now so far as other people are concerned, you know what they told you, do you?

Plaintiff objected to the reading of such question upon the ground that it was immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 200.

1428 The answer to the foregoing question is as follows:

"A. Yes-sir.

Q. Is that all you know about other people's affairs?

Plaintiff objected to the question as immaterial and

1429 incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 201.

The answer to the foregoing question is as follows:

"A. Yes-sir.

1430 Hereupon the plaintiff objected to the reading of the question following the question last above set out, upon the ground that it was immaterial and incompetent, and the defendant insisted upon the right to read the question and answer in evidence, which request and insistence of the defendant to read said question and answer was, by the court, overruled, and the objection of the plaintiff, the defendant excepted, and the same is numbered, Exception No. 202.

1431 The question mentioned in the foregoing objection, which the defendant offered in evidence and insisted upon its right to be read and the answer thereto, are as follows:

"Q. And that is what you mean when you say that she had the reputation of being a fraud and not very respectable?

"A. Yes-sir."

1432 Hereupon the defendant produced and offered in evidence the deposition of John M. Pryse, taken on behalf of defendants, under stipulation at New York, the 10th day of December, 1902. Certain portions of said deposition were admitted in evidence and certain portions thereof were excluded by the court as follows:

JOHN M. PRYSE.

BY MR. LORD: My name is John M. Pryse. I live at

1433 212 West 69th street, New York City. I know Mrs. Katherine Tingley. I knew her when she attended the Theosophical meetings at 144 Madison Avenue in the year 1894 or 1895. I was a member of the headquarter staff of the theosophical society at that time, headquarters at 144 Madison Avenue.

Q. What relation did Mrs. Tingley bear to that society?

1434 A. After Mr. Judge's death she claimed to be the successor of Mr. Judge in the Esoteric Society, the Eastern school of theosophy. I am not now a member of any theosophical society, though I still believe in the philosophy of theosophy.

I am not aware that Mrs. Tingley had any business or vocation during the time when I knew her. She was the wife of Mr. Tingley, living at West End Avenue and 83rd street. I think she occupied her time in the theosophical society. Previous to Mr. Judge's death, 1435 I simply saw her as a visitor, a member of the society.

Q. After Mr. Judge's death, what?

The plaintiff objected to the question as improper, not tending to develop any testimony upon any issue, and as irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 203.

1436 The answer to the foregoing question is as follows:

"A. She then obtained control of the theosophical society by that announcement which I now believe to be fraudulent.

1437 The defendant now offered the question and the following portion of the answer thereto, to-wit: "She obtained control of the theosophical society" omitting the remainder of the answer.

The plaintiff objected to the offer on the ground that the testimony was irrelevant and immaterial, which objection was sustained, and the defendant excepted, and the same is numbered, Exception No. 204.

Q. What was that announcement?

1438

The plaintiff objected to the question on the ground that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 205.

The answer to the foregoing question is as follows:

1439 "A. That Mr. Judge had left ample papers, papers in every way appointing her as his occult successor. And that such papers would be within the year produced to the satisfaction of all members; that they were asked to accept her on that statement for a year. No such papers were ever produced."

1440 Hereupon plaintiff objected to the reading of the next question next following the last above question, upon the ground that the question assumed a fact not proven, and on the ground that the answer was irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepts, and the same is numbered Exception No. 206.

The question in the foregoing objection, and which the defendant was prohibited from reading, and the answer thereto, are as follows:

1441 "Q. Upon what facts do you base your statement that you believe it was fraudulent?

"A. The statement was made that Mr. Judge had left papers appointing her as his successor, and the promise was made by her that they would be produced within a year. No such papers were ever procured, and I made diligent inquiries as to her papers.

Q. Now, you may continue.

1442 The plaintiff objected to the testimony upon the ground that it was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 207.

The answer to the foregoing question is as follows:

"A. I made diligent inquiries as to whether any such papers were left, and found no one who had ever seen them. The conclusion which I was driven to —

1443 Q. You may state.

The plaintiff objected to the question because it assumed a fact not proven, and objected to the answer because the answer was irrelevant, immaterial and incompetent and not responsive to the question, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 208.

The answer to the foregoing question is as follows:

1444 "A. So that the only ground for her claiming to be the successor of Mr. Judge was her own statements while in a state of trance, claiming to be the spokesman, while in trance of Mr. Judge and of Madam Blavatsky. I have frequently seen her in a trance.

1445 Q. Mr. Pryse, did you know and associate with the members of the theosophical society of which Mrs. Tingley was a member and afterwards leader?

A. I was intimately associated with all the leading members and saw them frequently, both in this country and in London. I am personally acquainted with all the leading theosophists in the world.

Q. Do you know her general reputation among theosophists?

1446

The plaintiff objected to the question on the ground that it was improper, and to the answer on the ground that it was irrelevant, immaterial, incompetent and not responsive to the question, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 209.

The answer to the foregoing question is as follows:

1447 "A. At the time she became Mr. Judge's successor, or claimed to be such, she was unknown to the members of the society; previous to that having been a spiritualist.

Q. You may now continue Mr. Pryse.

1448 The plaintiff objected to the question on the ground that it was improper, and to the answer on the ground that it was irrelevant, immaterial, incompetent and not responsive to the question, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 210.

The answer to the foregoing question is as follows:

"A. But of late years those who have claimed to

1449 know her intimately consider and claim her to be a fraud and in every way a bad woman.

Q. Confining yourself now to her reputation among those engaged or associated with her in New York Society, can you state her general reputation?

The plaintiff objected to the question and to the answer as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 211.

1450

The answer to the foregoing question is as follows:

"A. Do you mean the New York Theosophical Society or society in general.

Q. New York society.

The plaintiff objected to the question and to the answer as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 212.

1451

The answer to the foregoing question is as follows:

"A. Theosophical society?"

Q. Yes.

The plaintiff objected to the question and to the answer as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 213.

1452

The answer to the foregoing question is as follows:

"A. No. The members which I speak of are not limited to New York, but are in other cities and in Europe."

1453 WITNESS (Continuing): I know, of my own knowledge, that Mrs. Tingley is a spiritualist in belief, and is given to going into trances as a medium. I have seen her in a trance giving forth prophecies that never come true and in every other way. She uses, or claims to use, clairvoyance in all her dealings in the Theosophical society. I am speaking from personal conversation.

1454 Q. Have you ever seen her use hypnotic power or influence?

The plaintiff objected to the question and to the answer, on the ground that the question was immaterial and improper, and on the ground that the answer was irrelevant, immaterial and incompetent, which objection was sustained, defendant excepted, and the same is numbered, Exception No. 214.

1455 The answer to the foregoing question is as follows:

"A. I have seen her use it and frequently endeavor to use it where it did not produce any effect, as on myself.

Q. Will you give us instances of her attempt or her use of hypnotic power or influence?

1456 The plaintiff objected to the question and to the answer on the ground that they were irrelevant, immaterial and the testimony incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 215.

The answer to the foregoing question is as follows:

"A. She has, at a distance, directed her attention

1457 to me, compelling me to turn around, at least affecting me so that I knew she was directing a thought at me, and once, in her room, she made passes over me with the apparent endeavor to hypnotize me. Many others have told me she did the same thing with them.

Q. Do you know whether she had the reputation or not, of being a hypnotist?

The plaintiff objected to the question and answer on 1458 the ground that they were irrelevant and immaterial, and the testimony incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 216.

The answer to the foregoing question is as follows:

“A. Her teacher in hypnotism was a man by the name of the Rev. McCarty, having a school of hypnotism in Harlem. He told me that she was his pupil; that he 1459 developed her clairvoyance and hypnotic powers, and that he considers her now, to use his own terms, the greatest black magician on the American Continent — which I do not believe.

Q. Do you know whether she had the general reputation of being a clairvoyant?

Q. Answer yes or no.

1460 The plaintiff objected to the two questions and to the answer upon the ground that the same were immaterial and incompetent and did not tend to establish any issue arising under the pleadings, the defendant excepted, and the same is numbered, Exception No. 217.

1461 The answer to the foregoing questions is as follows:

“A. Such was her reputation.

Q. I will repeat the question. Do you know whether she had the general reputation of being a clairvoyant? Do you know whether she had that reputation?

The plaintiff objected to the question and also to the answer upon the ground that it was immaterial and incompetent, and did not tend to prove any issue arising
1462 under the pleadings, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 218.

The answer to the foregoing question is as follows:

“A. I knew that she had that reputation, having met people that attended her seances.

Q. Did you ever attend any of her seances?

The plaintiff objected to the question because it assumed a fact not testified to, and because the answer was irrelevant, immaterial and incompetent, being the witness's conclusion from facts not made apparent here, and not responsive to the question, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 219.
1463

The answer to the foregoing question is as follows:

“A. Not when she was a professional medium. But
1464 I have seen her doing the same thing—

Q. You may continue your answer.

The plaintiff objected to the question on the ground that it assumed a fact not testified to and because the

1465 answer was irrelevant, immaterial and not responsive to the question, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 220.

The answer to the foregoing question is as follows:

"A. Giving exhibition of her clairvoyant, hypnotic and trance medium powers.

?

CROSS EXAMINATION of JAMES PRYSE.

1466 BY MR. KELLOGG: I have not communicated with any one about testifying in this case. I didn't know of this meeting until I received the subpoena last night to be here today. I never made any engagement to testify concerning anything I knew about Mrs. Tingley. I had a communication with a gentleman whom I never met by the name of Van Cott, with reference to this case. He was representing the Times. I think this was Friday of last week. Before that time I had no
 1467 communications from anybody about this case. I wrote once last Spring to the Times. I haven't a copy of that letter. I never made any. I do not remember the substance of it, any more than the fact of stating that they could obtain evidence for their case. I gave them at least one name from which they could obtain evidence.

1468 The defendant here read the following portion of the cross-examination of the witness, James Pryse, in evidence:

After Mrs. Tingley obtained the leadership on Mr. Judge's death, there was a split in the society and sometime after there was litigation.

1469 RE-DIRECT EXAMINATION of JAMES PRYSE.

BY MR. LORD. Q. In speaking of trance states, or the condition in which she appeared, and abnormal state in which she appeared immediately after the trance state, you stated that she seemed to speak through some one.

A. She claimed that Madam Blavetsky and Mr. Judge spoke through her while she was in a trance.

1470 Q. On cross examination you have testified to certain things —

Thereupon, and before the reading of said question was completed, the plaintiff objected to the question and to the answer on the ground that it required into matters which had been excluded on the direct examination and omitted on the cross examination, and was not proper re-direct examination, was irrelevant, immaterial and incompetent, which objection was sustained, the defendant 1471 excepted, and the same is numbered, Exception No. 221.

And thereupon, and before the further reading of said deposition the plaintiff objected to the three questions following the last above mentioned question, and appearing on page 85 of the deposition of John H. Pryse, and to the answers, upon the ground that these questions and answers inquired into matters which had been excluded on the direct examination, and omitted on the cross examination of the witness, and were not proper re-direct 1472 examination and were irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 222.

Thereupon the following offer was made by the defendant.

1473 MR. HUNSAKER: Do we understand Your Honor to rule that we have no right to ask these questions, or to read the question which the gentlemen object to being read before we have offered them?

THE COURT: Well, in so far as I have sustained objections to reading the questions, you may understand the objection is sustained to the reading of the question in those questions where I have sustained such an objection.

1474 MR. HUNSAKER: In other words, where we have read a certain question, the defendant's counsel have read a certain question, and there has been objection made to that question which was pending, and counsel add that they object to certain other questions which follow that, we are precluded from reading those questions and taking rulings on them separately. We simply want to get the record clear.

1475 THE COURT: I think the record speaks for itself, Mr. Hunsaker. I understand that counsel for the plaintiff objected to reading these other questions as well as —

MR. HUNSAKER: Before we had offered to read them?

THE COURT: I suppose he was proceeding on the presumption that you were going to read them before you read them, of course —

1476 MR. HUNSAKER: And by reason of these facts we are not permitted to read the questions?

THE COURT: The record will have to speak for itself. We are not making it any plainer by these observations.

1477 MR. HUNSAKER: In order to make the record perfectly clear, the defendant now reads the following question:

MR. McKINLEY: We object to counsel reading questions which have a lot of assumptions in them.

MR. HUNSAKER: The defendant now asks to read the question appearing on page 85 of the deposition of John M. Pryse.

1478 MR. ANDREWS: Plaintiff objects to the question and objects also to the answer on the ground that the question is not proper re-direct examination, on the ground that the answer is irrelevant, immaterial and incompetent.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 223.

The questions referred to and mentioned in the two
1479 foregoing objections, and to the reading of which, the plaintiff objected before the same were read, and which objections were sustained, and the answers thereto are as follows, to-wit:

"Q. On cross examination you have testified to certain things done by Mrs. Tingley in an attempt to hypnotize you. Did that all occur on one occasion, or not?"

"A. No. What I spoke of was at a convention once,
1480 and the other occasion —"

"Q. Which was at the convention and which was on the other occasion?"

"A. Well, just state the first part of the question again."

1481 " Q. (Question repeated.)

" A. On two occasions. I don't state that the first in the convention was an attempt to hypnotize me; it was a display of ability to do so, as she thought."

" Q. When did you first conclude that Mrs. Tingley was a fraud?"

" A. About the time I left the headquarters."

1482 WITNESS: (continuing) I stated on cross-examination, the names of numerous people, including; Mr. Hargrove, Mr. Smythe, Mrs. Cleather and others, who are now and for some time have been opposed to Mrs. Tingley; they were not originally opposed to her assumption for leadership. They did not all leave her at one time. There has been a straggling out of some of them for some time.

1483 Hereupon the defendant produced and offered in evidence the deposition of Mrs. Irene N. Mohn, taken on behalf of defendant, under stipulation, at Los Angeles, California, on the 12th day of December, 1902. Certain portions of said deposition were admitted in evidence and certain portions thereof was excluded by the court, as follows:

IRENE N. MOHN.

1484 BY MR. JACKSON: My full name is Mrs. Irene N. Mohn. I am the wife of Dr. George F. Mohn, and am sometimes known as Mrs. George F. Mohn. I reside at 109 South Grand Avenue, Los Angeles. I have resided there a little over two years.

I know Katherine Tingley, the plaintiff in this action.

- 1485 I first made her acquaintance about four years ago at Point Loma, when we went to the Congress there. I have been at Point Loma on two occasions. The first was when the Congress was held there. By the Congress I mean when all the members of the Universal Brotherhood gathered at Point Loma from all parts of the world, and were there a week or more. I was at that time a member of the order known as the Universal Brotherhood. Mrs. Tingley was the head of the order.
- 1486 I can't remember exactly when the Congress was held. I think it was about four years ago; in 1898 or 1899. There was only one Congress held at Point Loma, and that was the occasion of my first visit there and of the gathering of a great number of the members of the Universal Brotherhood. I was there about ten days, a little over a week. I stayed in the hotel which was then Dr. Wood's hotel at Point Loma. I met Mrs. Tingley there.
- 1487 I was there next in May, 1900. I went either on the 9th or 10th of May, and remained three weeks from that time.

Q. Now what did you observe, Mrs. Mohn, on the occasion of your first visit when you was there attending the Congress?

- A. Well, it was mostly the attending of meetings. We attended meetings all times of day and night, and I was quite in sympathy with it at that time, and I didn't notice very much until about the time I came away from there.
- 1488 Once we got up at three o'clock and another time at half-past three and on two or three occasions, we got up early. The rest of the time we didn't — that was on account of the meeting that was held on what is called the school grounds on the hill, a little removed from the hotel.

1489 The first time we got up at half-past three o'clock, and along there some place another morning. Two mornings I know I got up there for those meetings which were very largely attended.

I think on both occasions the meetings were conducted by Mrs. Tingley. I don't remember exactly. Mrs. Tingley and her Cabinet were usually there, or the majority of them. Sometimes she would be there and they would hold the meeting. By her Cabinet, I mean the twelve men that constitute her Cabinet. She has twelve men to conduct the business with her, I suppose. I don't know that I know who composed the Cabinet. There is Mr. Price, Mr. Hanson, Mr. Harris, Mr. Neresheimer and I have forgotten some of the other names, most of them.

1490

At the time of the Congress we all, every one, dressed in our ordinary clothing with the exception of Mrs. Tingley. She always dressed somewhat different. She usually wore a robe. It just hung from the shoulders.

1491 A cloth robe, dark blue in color.

She is generally known at Point Loma by, and is usually called, "Purple" or "Mother", or was when I was there. I don't know who gave her those names. She signs herself by them.

I don't remember what transpired at those early morning meetings any more than we just usually would spend some time in silence, in meditation, and then there would be some remarks by one of the members. Aside from that, I don't remember.

1492

Q. What do you mean by "some time in silent meditation"?

A. Well we would be told to remain in silence, and

1493 every one would. Whoever conducted the meeting told us. Sometimes Mrs. Tingley would just bow her head and remain in silence and then everyone else would do the same. That silence continued from fifteen or twenty minutes or half an hour at those occasions. Once we were kept so much longer; about an hour. We would sit at those early morning meetings. We were out doors in the seats in what is called the amphitheatre on the hill, and just sat, and bowed our heads and remained quiet for
 1494 ten or fifteen minutes. I don't remember what followed the meditations; there were remarks but I have forgotten all about what was said at those times. I am unable to recall the tenor of the remarks. It made very little impression on me. The meeting continued about an hour, and when the meeting had adjourned, we all went back to the hotel.

Q. Did you go to bed again?

A. Well, yes, I think we did; we laid down. I did,
 1495 at least. Of course I don't remember, but I know I heard it said while I was there, that —

Q. That is alright; just tell what you observed about the members retiring.

A. Well, I don't know one thing about it, only there was some of them up all night. You could heard them through the building. And I heard it said that Mrs. Tingley —

1496 Q. Go on and repeat what you heard said.

The plaintiff objected to the question on the ground that it was incompetent, which objection was sustained, and defendant excepted, and the same is numbered, Exception No. 223.

1497 The answer to the foregoing question is as follows:

" A. — that they remained up all night frequently; attended to their business at night.

Q. Who told you of that?

The plaintiff objected to the question on the ground that it was immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 224.

1498 The answer to the foregoing question is as follows:

" A. Well, we all knew it. It was said among —

Q. Did you hear any member of her Cabinet say so?

The plaintiff objected to the question on the ground that it was immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 225.

The answer to the foregoing question is as follows:

1499 " A. I didn't myself, no; but I was told Mr. Hanson said that they did.

1500 WITNESS (Continuing): I can only recall two of these early morning meetings in the ten days I was at the Congress there. On the other mornings we arose about six o'clock. Some of them arose before the sun, but I never did. I don't know anything about morning sunrise meditations at Point Loma during the time of the convention. We only got up those two mornings I remember of, during the congress; that is, the majority of them. At that time I attended those two early morning meetings on the school ground, the people were fully dressed. There was no peculiarity whatever in the dress of the people or of the attendants at that time.

- 1501 The midnight meeting which I have spoken of, occurred during the time of this congress. I really don't remember what time we went, but I know the ceremony was at twelve o'clock there, and we spent about an hour, I think, going up the hill. The different members of the Cabinet notified us to go there, so we all knew, and we assembled on the porch and veranda of the hotel, and we marched up the hill, and I think it took us about an hour. We stopped on the way so many times. I cannot tell
- 1502 how far it is from the hotel to the hill. It may be called half a mile; not further than that. I don't know as it is that far. It is not a high hill; just a slight elevation. That is the place that has since been designated the Holy Hill. We had not retired that night. Everybody stayed up. We didn't know just what time we would go up and so we sat around all the evening in the hotel on the veranda, and finally they started. It was Mrs. Tingley's orders that we should go. The occasion of our going
- 1503 was the re-laying of the cornerstone of the School for the Revival of the Lost Mysteries of Antiquity. I think those ceremonies lasted about two hours.

Q. Was there anything peculiar about them?

- A. Well, it was mostly in silence. Mrs. Tingley and Mrs. Mayer, she was then — she is now Mrs. Spaulding — and two or three members of the Cabinet principally figured in the laying of the cornerstone, that is, the ceremony; and they sprinkled the ashes of Mr. Judge
- 1504 and Madame Blavatsky on the ground; and then they had earth, air, fire and water — at least to represent that. The earth, air, fire and water were sprinkled also on this spot. Mrs. Tingley springled these ashes. She announced what they were, but we could not hear what

1505 she said. I don't know that any of us heard. I didn't. And I know I heard the others say they didn't, and of course it was out doors and we were quite a little ways from her. We didn't hear a thing that she said. It was a cold night. They were usually pretty cold. It was foggy and damp.

1506 She sprinkled the ashes of William Q. Judge and Madame Blavatzky upon the ground. There was a place dug out and these were sprinkled there. And she also sprinkled the four elements of fire, earth, air and water. I don't remember that she actually put fire on the ground. There was no fire at all, something to represent it. She repeated the words as she did so, so we knew at the time, but I have forgotten just what it was. We could hear the words "earth, air, fire and water". I don't know exactly how long we remained there; about two hours. We marched home two by two just the same as we went up. We marched from the hotel to the Holy Hill two by two and we stopped a great many times on 1507 the way. No one spoke, hardly, at all. A little low speaking, but mostly in silence. There was no talking among the members who went up there; only just an occasional remark once in a while. We spoke to the one next to us, but no talking back and forth in the crowd at all. I don't know whether we got any orders as to our demeanor on the way or not, but I know I did just as the others did, and they were all silent, as a rule.

1508 During the ceremony of re-laying the corner stone I saw people holding their finger over their lips. Those that were sitting in silence and not taking part in this ceremony of laying the corner stone did that, placed a finger over the mouth. There were other persons on the platform there; and the rest of us in the amphitheatre,

1509 most everybody, placed a finger over the lips. I don't know that they all did; I didn't look around to see, but I know that those that I noticed did that.

Q. Did Madam Tingley have her finger to her lips?

A. Well, she frequently sits that way. That is her attitude — in meditation, and that is the reason others did it, I presume,

I know Mr. Pierce; I cannot say if I have ever seen
1510 him in that attitude with his finger on his lips. Mr. Pierce is very independent, and I don't know whether he did or not. He is somewhat inclined to be a little law unto himself.

On the return from the Holy Hill to the hotel the same order was pursued as in going up. I think at one time on the way to the Holy Hill we stood for about half an hour and then there were other shorter pauses. I should say the longest was about half an hour. On the way up,
1511 the people turned around once or twice, but I don't know what that was for at all and I don't know who started it. I was about the middle of the procession and I don't know anything about why the people turned around. The people in front did it, and then the ones behind would follow suit. They did not observe that on the return. When we went back, we went straight back to the hotel and we didn't consume as much time as we did in going. When I went back to the hotel, I retired. I don't know about the rest. This ceremony all happened
1512 at the time of the Congress.

Q. Well, Mrs. Mohn, state whether or not you saw any guards around or about the premises there or on the grounds during the time the Congress was in session?

1513 A. I don't know anything — there were guards I know during the day. There was a guard at the gate from the hotel ground into the school ground and this hill all the time there, and I don't know of any other guard. People were not allowed to go from the hotel to the school grounds. That is the reason there was a gate there and there was a guard there all the time. We only went there when there was a meeting or ceremony, and we had permission to go, and then every one went when there was a scattering of ashes to the dead; that was at night.

1514 During the time of the Congress we boarded at Dr. Woods' hotel and the fare was very good. We all paid our board and lodging there. I went to Point Loma again in May, 1900.

Q. How did you come to go ?

1515 A. Why, Dr. Beach here was at Point Loma and he came back and he sent for me to come to his office the day after he returned and he told me to — he had a letter from Mrs. Tingley or he had written it at her dictation, telling me to come and bring my little girl, prepared to stay at Point Loma. I saw what he had written, but it was his own writing you know. She had given him orders what he was to do when he got here and he had written that down at her dictation. Dr. Beach is a member of the Universal Brotherhood at Los Angeles. At that time he was president of the organization in Los Angeles.

1516 Q. Do you know if, under the rules of this order of Universal Brotherhood, the president has authority to represent, in the locality in which the order is situated, the head of the outfit?

1517 The plaintiff objected to the question and to the answer as irrelevant, immaterial and incompetent, and not the best evidence, which objection was sustained, defendant excepted, and the same is numbered, Exception No. 226.

The answer to the foregoing question is:

" A. Yes.

Q. Now say whether or not you know.

1518 " A. Why, yes.

The plaintiff objected to the question and to the answer as irrelevant, immaterial and incompetent, and not the best evidence, and moved to strike out the answer, which objection was sustained, and the said answer stricken out, the defendant excepted, and the same is numbered, Exception No. 227.

Q. You state you know. Now does it?

1519 The plaintiff objected to the question and to the answer as irrelevant, immaterial and incompetent, and not the best evidence, which objection was sustained, and the defendant excepted, and the same is numbered, Exception No. 228.

The answer to the foregoing question is as follows:

" A. Does it, which?

Q. Does it give that authority?

1520 The plaintiff objected to the question and to the answer as irrelevant, immaterial and incompetent, and not the best evidence, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 229.

1521 The answer to the foregoing question is as follows:

“ A. Yes, it gives that authority.

Q. Then proceed with this conversation with Dr. Beach.

The plaintiff objected to the question on the ground that the testimony was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 230.

1522 The answer to the foregoing question is as follows:

“ A. He said that he had orders, or at least, this word that he had, telling me to bring my little girl and come to Point Loma immediately, but I was not to tell any person where I went and I was to go the earliest possible date. He wanted me to go that very day but I could not go until the following day.

1523 Q. What reason did they give for requiring you not to tell any person where you went?

The plaintiff objected to the question on the ground that the testimony was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 231.

The answer to the foregoing question is as follows:

“ A. Well, they didn't wish anyone to know where I was, he said.

1524 WITNESS (Continuing): I left Los Angeles for Point Loma on the 10th of May, Thursday morning. I did not tell any one where I was going, but Doctor Beach. He knew of course. I told no one else where I went. At that time I was living with my mother. My

1525 name was then Mrs. Neill. That was before my marriage to Dr. Mohn.

Q. When you left Los Angeles for Point Loma, did you inform any one you were going?

Plaintiff objected to the question and to the answer as immaterial and not tending to prove any issue, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 232.

1526 The answer to the foregoing question is:

“A. I didn’t, no. I just simply told my friends I was going away. Of course my mother felt that she knew I was going — although I promised Dr. Beach I would not tell, so I didn’t tell.

1527 Hereupon the plaintiff objected to the reading of the next question in the deposition, and the answer thereto, upon the ground that the question was improper and leading, and also that the answer was irrelevant and incompetent; (the objection that the question was leading was not made when the deposition was taken); the defendant insisted on the right to read the question; the objection to the reading of the question and the answer was sustained, the defendant excepted, and the same is numbered, Exception No. 233.

1528 The question referred to in the foregoing objection and which the defendant was prohibited from reading and the answer thereto, is as follows:

“Q. Was the request that you should not tell your mother?

“A. He did. He forbade me to tell my mother.”

1529 Hereupon the plaintiff objected to the reading of the next question in the deposition, and the answer thereto, upon the ground that the question was improper, and leading, and also that the answer was irrelevant and incompetent; (the objection that the question was leading was not made when the deposition was taken); the defendant insisted on the right to read the question; the objection to the reading of the question and the answer was sustained, the defendant excepted, and the same is numbered, Exception No. 234.

1530

The question referred to in the foregoing objection and which the defendant was prohibited from reading and the answer thereto is as follows:

“Q. Forbade you to tell your mother?”

“A. Yes-sir.”

1531 WITNESS (Continuing): I got out to Point Loma about 5 o'clock in the afternoon. I met Mr, Everett B. Clark when I got there. He was driving the bus toward the Homestead and the hotel at that time. He was a former member of the lodge at Los Angeles, and had gone to Point Loma to live. The person in authority whom I met on my arrival at Point Loma was Mrs. Patterson. She met me at the door. Mr. Clark telephoned that he was bringing me out. First, he telephoned to know whether he could or not. They never took anyone out without telephoning, and of course I told him I had orders to come, and that was what brought me there, and so he took me out. But I met Mrs. Patterson and she told me that they didn't except me at all, and that Mrs. Tingley had never sent for me to come. She said she was not expecting me and that she didn't

1532

1533 know anything of Mrs. Tingley having said I should come. She said she understood though that it was a mistake. Mrs. Tingley was out at the time and I had to wait until she came in, and she came in about dinner time.

I got there about 5 o'clock in the afternoon, or half past five. They have dinner about half past five, I think. Mrs. Patterson came and took me into dinner when it was ready, and Mrs. Tingley came into the dining-room; that
 1534 was the first I saw of her, and Mrs. Patterson came to me after dinner and told me Mrs. Tingley was too tired to see me and would not see me that evening, but in the morning she sent for me. I had my dinner in the main dining-room. Mrs. Tingley had her dinner there. She and Mr. Pierce came in and took dinner at a table by themselves. The tables were arranged on each side of the room and her table was in the center. They were just small tables like any dining room of any hotel would
 1535 be. There was no general table at that time. There was also a student's dining room and after three days I commenced to dine in that room for breakfast and lunch and for dinner they all dined together.

I took my little girl with me when I went to Point Loma. I kept her that night with me. They assigned me a room in the hotel, in the Homestead it was then, and she was with me.

I saw Mrs. Tingley the next morning. She sent for
 1536 me. She said that she had told Dr. Beach to send me there, but she hadn't thought he would send me right away, but she expected it would be some time later, and I referred her to what Dr. Beach had written down. "Well," she said, "I did say that" she said "I told Dr.

1537 Beach so many things that I had just about forgotten to give any orders that you were coming." I told her what Dr. Beach had said to me and she said in reply that she told him that, admitted that she had sent for me, but she didn't expect me so soon, or at least she had forgotten about it. During the further conversation I had with her, she asked me a great many things. She inquired about different affairs that had transpired in the lodge in Los Angeles, in the Organization in Los Angeles, and

1538 several things that had happened just the day before which she asked me the particulars about. Then she asked me about my little girl and questioned her a great deal about different things that she had been connected with, and all of which was a great surprise to me, because I inferred that — There had been a meeting the night before at the lodge in Los Angeles, from which I was prevented from attending, and Dr. Beach had done some business there that he claimed he had her orders for, and he prevented me coming because I would have,

1539 probably said something contrary, which would have prevented me going to Point Loma at all, and he was very anxious for me to go down there. Mrs. Tingley told me at that time that she had made arrangements for me to remain, "But, she says, "Of course your little girl will have to go to the Colony if she is down here."

The Colony is two miles away from the Homestead, and on Saturday they took my little girl to the Colony.

1540 They do not keep all the children at the Colony. Mr. Hansen's little children were with himself and wife at the Homestead. Mrs. Tingley said at that time that she didn't at all approve of the Hansen children remaining with their parents at the Homestead, but it had to be,

- 1541 She said, "Of course for the time being, we have to. Mr. Hansen pays well for his being here at the Homestead and for his children, so I have to submit for a while". I heard her several times talking about it, trying to persuade Mrs. Hansen to give the children up and send them to the Colony, and just after I left there, they were sent to the Colony. I cannot tell all the conversation I heard between Mrs. Hanson and Mrs. Tingley about sending the children to the Colony, only Mrs.
- 1542 Tingley was trying to persuade Mrs. Hanson that it would be better. I don't remember the words. It was just a few words now and then that it would be better for the children and better for her, and she really didn't want them in the Homestead as there were no other children there.

Q. Was you willing to have your child sent to the Colony?

- 1543 A. I was, under — because I had a very different impression of it from what it proved really to be. My child was seven years old at that time.

I had a different impression of Point Loma at that time from what it proved to be. I supposed; of course that I would be able to see my child. I thought I would have the privilege of seeing her if she were there just the same as if she were with me, and that it was just a school and they had the children all there, but I found that I could not see her at all when

1544 she was there, and the only time I did see her, they didn't want me to speak to her. I did speak to her, but there were two people stood right by all the time, close to me to hear what I said. Dr. Woods and Mrs. Dr. Winkler were the two people. Neither of them were members

1545 of the Cabinet, but they were both members of the Universal Brotherhood and residents of Point Loma. Dr. Winkler had charge of the Colony and was superintendent of it. At that time when I talked to my little girl, Mrs. Dr. Winkler and Dr. Wood stood, say within three feet of me.

Q. Well, did they have any object in standing there, if you know?

1546 Plaintiff objected to the answer as incompetent, irrelevant and immaterial and hearsay and was an attempt to relate a declaration of the third party.

And thereupon, and before the Court had ruled upon said objection, the defendant suspended the reading of the deposition, of Mrs. Mohn, and called Dr. L. F. Wood to the stand, who being sworn and examined on behalf of the defendant, testified as follows:

DR. L. F. WOOD

1547 BY MR. HUNSAKER: My name is Dr. L. F. Wood. I am a physician and surgeon. During the month of May, 1900, I resided at Point Loma. I was, at that time, a member of the Universal Brotherhood. I do not know as I held any special position or office there. My employment and my duties there, at that time, was in the practice of medicine. My connection and relation to the Colony is that of physician to the Colony. There have been children kept at the Colony more or less all the

1548 time, and I was physician for the children at the Colony.

Q. Under whose appointment or employment?

A. No specific appointment or employment. I was simply called when they have been sick—asked to attend them. Mrs. Tingley asked me to attend them.

1549 Q. Your arrangement to do that work was with Mrs. Tingley?

A. I have had no special arrangement to do it. When any one has been sick at the colony, I have been asked to attend them. Sometimes directly by Mrs. Tingley, sometimes by the housekeeper.

Thereupon the court overruled the plaintiff's objection to the question asked of Mrs. Molin, and the defendant resumed the reading of the deposition of

1550

IRENE N. MOHN, — Continued.

BY MR. JACKSON: Q. Well, did they have any object in standing there, if you know?

A. Why, Dr. Wood told me afterwards that I influenced my little girl too much.

Q. In what way?

1551 "A. That she would not feel so badly. She felt very badly and cried and hung on me and wanted to go with me. She said she could not stand it there any longer, and he kept telling me to quit; "you are influencing her. You will make her feel badly" and he meant that I felt badly and it was making her feel badly, and consequently I was influencing her, but otherwise she was perfectly happy and contented there. But she was telling me that she had cried every day, and he didn't want me to hear this. He tried to keep me from listening to it. She said

1552 she cried every day and could not stand it there, and similar things of that kind. Told me why she didn't like it, and she didn't like the children and she didn't like the fare.

I don't know what capacity Dr. Wood held in the In-

1553 stitution at Point Loma. He was a physician there. The conversation between myself and my little girl was held in the presence of Dr. Wood and Dr. Winkler. They heard everything that she said.

I saw my little girl once afterwards, but was not permitted to speak to her. It was ten days from the time my little girl went to the Colony before I saw her on this occasion in the presence of Dr. Wood and Dr. Winkler which I have just detailed.

1554 Q. When she went to the Colony on your arrival there, what was her condition as to physical cleanliness and the cleanliness and condition of her clothing?

The plaintiff objected to the answer as incompetent, irrelevant and immaterial, and outside of the issues, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 234.

The answer to the foregoing question is as follows:

1555 "A. Oh, she was perfectly cleanly and all of her clothing and everything that I sent with her was perfectly clean.

Q. Did you send out an abundant supply of clothing with her?

The plaintiff objected to the question and to the answer as incompetent, irrelevant and immaterial and outside the issues, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 235.

1556

The answer to the foregoing question is as follows:

"A. I did, yes-sir.

Hereupon, the plaintiff objected to the reading of the

- 1557 next question because it applied to the same matter referred to in the foregoing question, and was within the ruling already made, and objected to the answer on the ground that it was incompetent, irrelevant and immaterial, and was outside of the issues. The defendant insisted on the right to read the question, which objection to the reading of the question and to the answer was sustained, the defendant excepted and the same is numbered, Exception No. 236.
- 1558 The question which the defendant was prohibited from reading and the answer thereto are as follows:
 "Q. What was her appearance and physical condition with reference to cleanliness, when you saw her on this occasion ten days after she went there?
 "A. Well, it was appalling. Her hair — she had on outside her best dress which was clean; but everything underneath was in a dreadful condition."
- 1559 Hereupon the plaintiff objected to the reading of all the questions and answers thereto, beginning with line 13 of page 27 of the deposition of Mrs. Irene Mohn, and ending with line 19, page 29 of said deposition, and being the fifteen questions and answers thereto next immediately following the last above mentioned question and answer, upon the ground that the questions were immaterial and the answers incompetent, irrelevant and immaterial, and that the testimony was outside of any of the issues; the defendant insisted upon its right to read
- 1560 each question separately and by itself, and in their proper and consecutive order, the objection was sustained as to each and every of the questions and answers thereto, the defendant excepted, and the same is numbered, Exception No. 237.

1561 Hereupon the defendant asked the privilege of reading and insisted on its right to read each of the questions, and to have a ruling on each separate question, which insistence was, by the Court overruled, the defendant excepted, and the same is numbered, Exception No. 238.

The aforesaid fifteen questions mentioned and referred to in the foregoing objection, and which the defendant was prohibited from reading, and the answers thereto, are as follows, to-wit:

1562 "Q. Just detail what it was.

"A. And her hair was simply awful. I could see it across the room — the state of her head and hair. They played outdoors, and her hair was thick with dirt in on the scalp. And I spoke to her about it. That was one thing. And she said she had tried to wash it, but she said, "Nobody will help me," so she could not get it clean herself.

1563 "Q. Was she large enough to keep herself clean?

"A. Well, she never had been taught so as to do it when she was alone. I had always seen to that. She was constantly with me and I had seen to that. And she said she had to wash her hair and all that.

"Q. What was the condition of her clothing and underclothing.

1564 "A. It was all very soiled. They had to stay out — they sat on the ground a great deal and played that way, and consequently everything she had was soiled, and there was no laundry there.

"Q. What was the condition of her person?

- 1565 " A. Why, she was —
 " Q. Of her body?
 " A. Why, it was unclean.
 " Q. Very?
 " A. Very unclean, and she was told that if her clothing was washed she would have to wash it herself.
 " Q. Was she able to wash her clothing?
- 1566 " A. No, she was not.
 " Q. Did she know how?
 " A. She didn't know how at all.
 " Q. Had she had any bath, if you know, during the time she had been there?
 A. Not up to that ten days, she had not, at all.
 " Q. When did you see her again?
- 1567 " A. I saw her again one week after that, but I had no chance to speak to her. No, I beg pardon. I saw her about six days afterwards.
 " Q. What was her appearance and condition at that time?
 " A. Well, it was very much worse, and I had her all night with me that night, and I took occasion to wash her and wash her hair. *
- 1568 " Q. Now, just detail her general appearance and condition at that time.
 " A. Well, I was to bring her back to Los Angeles with me, and they sent her over with her clothing, and I

1569 found one dress in the lot that was fit to put on, but there was no clothing underneath that was fit to wear at all.

“ Q. Well, what was its condition?

“ A. It was dirty; it was black and filthy — the clothing. It simply was.

“ Q. And what was the condition of her body?

“ A. The body was the same.

1570 “ Q. Filthy?

“ A. Yes, sir, it was. Her face and neck and legs and hair and all over her body was terrible. I asked her how she come to get so, and she said she didn't know — they played outdoors, they were kept out all the time; and she had no chance to wash herself. They had to go to some other room in the building; they didn't have any facilities in their own rooms for washing, and some of the ladies would try to help them some, but she said most of the time they didn't get around to it before school in the morning, so she had to go without.”

1571

WITNESS (Continuing): During the time I was at Point Loma, I stayed at the Homestead. I served most of the time that I was there. There were no children at the Homestead except Mr. Hansen's. Mrs. Tingley told me the reason she kept them there was because Mr. Hansen was rich and paid well. He had four little girls. The oldest was eight, and the others were each one about a year and a half younger.

1572

Q. Did Mrs. Tingley ever say anything to you about keeping mother and child together?

A. Yes, she told me that mother love in me was evi-

1573 dently very strong, but she said it was natural of course, but it was not good for the child, and her plan was to raise children entirely independent of that and to keep them apart from it; that the mothers held them back, and the children could only go so far as the mothers went, in their nature, that is, and they could not draw out the better qualities. She said if they were entirely independent of that she could do more with them in her line of training.

1574 Q. What was her expectation in regard to doing more with them, if you know?

A. Why, she told me that she was going to make them all workers for humanity and go out and work in the world, and that she could not do that if they had any personal ties, such as parents. Her idea, as expressed to me, was that the affection between a parent and child should be absolutely severed. She said I ought not to look on my child any different from any other child; I ought not to have any different feeling for her, she told me — she told me that — than for any other child that I met; I ought to have the same feeling and no different feeling for her, and that I ought to cultivate that. That a mother should not give sway to her maternal feelings. She said that the maternal feeling of a mother towards a child was natural, of course, but it was not along the higher lines. It was not what she called high spiritual lines. It was not the thing. We should kill out those things; otherwise we could not progress. Concerning the question of mother and child, she told me that in my case it was very strong, and it was natural of course, but she said that I would never progress very far, nor my child would not, if I kept that up; and she said it must be sev-

1577 ered. If I would put her aside, she said, and finally give
 up all claim to her, and go along and do my work in
 the world without her, it would be much better for us
 both; and she said that she could not have the child there
 unless that could be done; that unless I would relinquish
 her in every respect she could not have her there, be-
 cause she said she could not train them. And in fact
 she told me, "I don't want children as old as yours, any-
 way, because it is harder to do much with them, but I
 1578 like to start with them as infants." But she said, "In
 cases like this where you come here with a little girl, of
 course we have to try and do it. But you will have to
 do that if you stay here, have to give her up entirely.
 And we want her to forget you;" she says "wholly".
 She didn't want me to write her little notes, or send her
 anything, because that kept it fresh in her memory.

Q. How about writing to other people?

1579 The plaintiff objected to the question as irrelevant, im-
 material and as not going to prove any issue, which ob-
 jection was sustained, the defendant excepted, and the
 same is numbered, Exception No. 239.

The answer to the foregoing question is as follows:

"A. She forbade me to write to any person.

Q. She herself?

1580 The plaintiff objected to the question as irrelevant, im-
 material and as not going to prove any issue, which ob-
 jection was sustained, the defendant excepted, and the
 same is numbered, Exception No. 240.

The answer to the foregoing question is as follows:

"A. Mrs. Tingley herself did, yes.

1581 Q. Did you ever write to any one while you were there?

The plaintiff objected to the question as irrelevant and immaterial, and to the answer as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 241.

The answer to the foregoing question is as follows:

1582 "A. After I had been there two weeks, I told her that I felt that I must write to my mother, being I hadn't told her where I was going, or anything. So I told her that I felt I must write to her. "Well", she says, "all right", and she says, "You tell her — just tell her that you are here at Point Loma and that you are perfectly happy and contented and that your child is getting a good education, which she never could have gotten in Los Angeles."

1583 Hereupon the plaintiff objected to the reading of the next question in said deposition, and found on line 25, page 32 thereof, and to the answer, on the ground that the question was improper and the answer was irrelevant and immaterial; the defendant insisted that it had the right to read the question; the objection was sustained, and the insistence to the reading of the question was denied, the defendant excepted thereto, and the same is numbered, Exception No. 242.

1584 The question which the defendant was prohibited from reading and the answer thereto is as follows:

"Mrs. Tingley told you to tell your mother that you —

"A. She told me that when I would write, she said

1585 I could write to her thus and so; she told me to tell her that, and she said "You are perfectly happy and contented." I went to my room and thought it over, and thought that was not at all the way I felt, and I wrote a very different letter to my mother. I felt as if I was going to write, I was going to write my own feelings and not Mrs. Tingley's, and I wrote a very different letter, and I told my mother — "

1586 Hereupon, and before the further reading of said deposition, the plaintiff objected to the reading of the question found on line 6 of page 33 of the deposition of Mrs. Irene M. Mohn, and to the answer thereto on the ground that the question was improper, and the answer irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 243.

The question which the defendant was prohibited from reading and the answer thereto, is as follows:

1587 " Q. But you wrote your own feelings and not what Mrs. Tingley told you to?

" A. I did. Entirely different."

1588 Hereupon the plaintiff objected to the reading of the next question appearing on line 9, page 33 of said deposition, on the ground that the question was improper, and the answer irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 244.

The question which the defendant was prohibited from reading, and the answer thereto is as follows:

" Q. What did you do with that letter?

1589 "A. And I went to put it in the mail box and I was forbidden to put it in the mail box."

THE COURT: If plaintiff desires to object to this series of questions, I think she will save time by objecting to it all on one objection, all that relates to the same subject matter.

MR. JACKSON: These questions have not been offered yet.

1590 THE COURT: I sustain the objection to these questions.

MR. HUNSAKER: The defendant excepts. Numbered as Exception No. 245.

1591 MR. ANDREWS: I object if the court please to all the questions and all of the answers which your Honor has not already ruled upon, those on page 33 and to the 5th line of page 34, upon the ground that the questions are improper, and the answers irrelevant, immaterial and incompetent.

THE COURT: These several objections stated by counsel will be sustained as to each and every one of the questions indicated, and the objection includes all the balance of the questions and answers on page 33, which the court has not hitherto ruled upon, and the first question on page 34 and the answer thereto.

1592 The defendant excepted to the ruling of the court as to each question and answer, and the same is numbered as Exception No. 246.

The questions last above mentioned, and which the defendant was prohibited from reading are as follows:

1593 " Q. Who by?

" A. Well, I am not sure, but I think it was Mrs. Patterson; one of the ladies; I can't say positively whether it was Mrs. Patterson or Madame Peterson.

" Q. There was a Patterson and Peterson?

" A. Yes sir.

" What was their official titles and positions there?

1594 " A. They were both housekeepers, but Madame Peterson had different duties; but they were both housekeepers.

" Q. What became of the letter?

" A. She took it. She did not want me to put it in the mail box. She says, "I will mail it for you." I said, "I want it to go." It was about time. And she said, "Never mind. I will take it and mail it for you."

1595 " Q. Was there a mail box right there?

" A. There was a mail box right there, but she said it was closed and I must not put it in there. And she took the letter and took it upstairs. And I don't know, only I found out afterwards my mother got the letter.

" Q. How did Mrs. Tingley treat you after that letter was dispatched?

1596 " A. Well I noticed a difference in my treatment there."

And hereupon, and before the further reading of said deposition, the plaintiff objected to the next ensuing question in said deposition, and being on line 5 of page 34, and to the answer upon the ground that the question was

1597 improper, and the answer irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 247.

The question which the defendant was prohibited from reading, and the answer thereto, are as follows:

“ Q. Her demeanor?

1598 “ A. Yes. And I was watched. And I was forbidden to speak to certain persons that were there. My present mother-in-law was at the Homestead and she came out one night and forbade me to speak to her.”

And hereupon the plaintiff objected to the next ensuing question appearing on line 10 of page 34 of said deposition, and to the answer thereto upon the ground that the question was improper and the answer irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same was numbered, Exception No. 248.

1599 The question which defendant was prohibited from reading, and the answer thereto, is as follows:

“ Q. Who did?

“ A. Mrs. Tingley. She saw me talking to her. She had just arrived, and she forbade me to ever speak to her again.

1600 MR. ANDREWS: We object also to the question found on line 13, page 34 of the deposition, and following the one just ruled upon, and the answer to it, upon the ground that the question is improper, and that the answer is irrelevant, incompetent and immaterial.

MR. HUNSAKER: We have not propounded the question.

1601 THE COURT: We are taking a good deal of time. I suggest that you make objections to all these questions you desire to, that is all of the same subject matter.

MR. HUNSAKER: Simply for the purpose of having the record show the line of procedure adopted, the defendant objects to that method of interposing objections, and insists that it has the right to ask these questions, to read these several questions, and upon objection being made to the questions, having a ruling on
1602 every question.

THE COURT to Mr. Hunsaker: Your objection is overruled.

The defendant excepted, and the same is numbered, Exception No. 249.

MR. ANDREWS: Beginning with the question near the middle of page 34 of said deposition "what reason did she give" we object to all those found upon that
1603 page, that is page 34 down to the answer ending on line 11 of page 35 of said deposition, on the ground that the questions are improper and the answers irrelevant, incompetent and immaterial to each of these questions.

THE COURT: The objection to these several questions will be sustained, and to the answers.

The defendant excepted, and the same is numbered, Exception No. 250.

1604 The several questions included in the objection last above made by the plaintiff, and which questions the defendant was prohibited from reading and the answers thereto are as follows:

" Q. What reason did she give?

1605 "A. She didn't give me any reason. She asked me if I knew who she was, and I said, "Why, certainly. I knew her in Los Angeles." She said, "Well, don't you talk to her at all; don't you speak to her again." After that when I would be walking on the veranda or any place Mr. Hansen would come and talk and walk with me, and I was watched and never allowed to speak to any person.

"Q. Allowed to speak to anyone else?

1606 "A. Only those I was working with during the day; but there was no conversation, we were not allowed to speak together very much.

"Q. Was that an order?

"A. Yes.

"Q. From whom?

1607 "A. Mrs. Tingley. That is, I didn't get it from Mrs. Tingley, but Mr. Hansen told us that that was better.

"Q. Did Mr. Hansen hold any official connection with the establishment?

"A. He was a member of the cabinet. I don't know what official position.

"Q. Well, did Mrs. Tingley forbid you to speak to any other person?

"A. No, not personally, she didn't, except that.

1608 "Q. Did members of her cabinet forbid you to speak with other people?

"A. No, not to speak; but then we didn't, and they didn't speak to me, you know.

1609 WITNESS (Continuing): There was a little card hung up under the gas jet in the student's dining room, where we all ate, which stated that we were to eat our meals in silence. There was no explanation made of that order.

Q. Well, what was the association of the members around there?

1610 The plaintiff objected to the answer as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 251.

The answer to the foregoing question is as follows:

1611 "A. Well, they didn't — it was not what one would call sociable at all. They were all quiet. There was very little talk among them. They would walk around themselves, but they didn't converse; and we were forbidden to talk about anything that was said in any meeting, anything that Mrs. Tingley said we were not supposed to mention it afterwards.

1612 WITNESS (Continuing): We were not to speak to visitors, except in showing what we were doing, or anything of that kind, but we were not to have any general conversation with anybody. I do not know that the women there made trinkets or anything of that kind for sale. The custom with reference to conversing with visitors was an order emanating from Mrs. Tingley.

I asked permission from Mrs. Tingley to visit my child at the Colony and she kept putting me off. She would say, "Well, there will be a certain day I will let you go," but I never got there, and finally I told her that I thought

1613 it either must be that she would come and stay with me or I would stay with her part of the time, or else I thought I had better go back to Los Angeles. Then first, I got ready to come away a week before I did. That time Mrs. Tingley told me she thought I had better come; that there was a man and his wife and daughter wanted to come there who had a great deal of money, and that she had to send somebody away for a time in order to make room for them; because, she said, "We need them very much, because they have lots of money and we need the money, to do the work here.

1614 I didn't have any money, and she said, "I think you had better go back for a little while." She said, "I will send for you again in probably inside of a month, I think, because we will need you here. But you will get ready and go tomorrow morning," she said. And so I got ready and packed my trunk and my trunk was down to San Diego that morning about four or five o'clock, and I got ready to go, and the last thing, the bus was waiting

1615 for me to get in, but she sent word for me not to go until she came down. And she came down and told me she didn't want me to go; that she got word those people were not coming right away, and for me to stay. And she said, "I will make it a little more convenient for you," she said, "So you can see your little girl more, if you will stay." By that time I wanted to come back, but she persuaded me, and talked to the little girl and got her to say that she would be contended to stay a little

1616 longer. And she sent me in, the next day. We were on the veranda for a few minutes, and while I was in doing this little errand for her she sent my little girl to the Colony without allowing her to say goodbye to me, or anything. She went off crying. I tried to call to her,

1617 but Mrs. Tingley stopped me; told me I must not do that; we must get over that feeling for each other.

The only children at the Colony which were allowed to communicate with their mothers or fathers at the Homestead were the Hansen children. Mrs. Kratzer, the German woman in the kitchen, had two little children there. One was in the Homestead, and the other at the Colony with my little girl, and she was treated the same with regard to her little girl. No restraint whatever was
 1618 put upon the Hansen children. They came and went, and a young lady teacher looked after them when they wanted to go out. And they had all the privileges of the Homestead, the same as the grown people.

MR. ANDREWS: We object to the next question, and object to the reading of it and to the answer on the ground that the answer is improper, and not addressed to any issue, and the answer following is incompetent, irrelevant and immaterial, and all the rest on the page, if
 1619 the Court please, on the same ground — page 38.

MR. JACKSON: The defendant insists on the right to read these questions as they come, not only as a matter of reading, but for the purpose of keeping the record straight as to what questions are admitted.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 251.

1620 The questions mentioned in the foregoing objection of the plaintiff, and which questions the defendant was prohibited from reading, and the answers thereto are as follows:

“Q. What was the general appearance of the other

1621 children at the colony at the time you saw your little girl?

"A. They were all the same as my little girl, with the exception of the Hansens.

"Q. Did you notice them?

"A. I did, certainly.

"Q. How many were there?

1622 "A. There were four little Cuban children, I think, that I noticed very much.

"Q. How did those Cuban children look?

"A. Well, they were in the same condition in regard to filth and dirt that mine was. There were two others that were somewhat older who looked a little better. They were able to do more for themselves. Those were the two little Gird children from Pasadena.

1623 "Q. One of those Gird children was old enough to take care of herself and her sister?

"A. Old enough to take care of herself and her sister, and she helped my little girl a little, what time she had; but they had so very little time for anything of that kind."

1624 "WITNESS (Continuing): My labors there were not arduous. They only troubled me when the Lotus Home children came, still I didn't mind that much, because I felt that I was doing something that had to be done, anyway. There were eleven children in the Lotus Home consignment. They were badly in need of care when they arrived, but, of course, they had been coming a long journey on the train, and they were very short

1625 of clothing, and were in a very bad condition. That condition was improved after they got there. There were four of us went to work at them, and we got them fixed up somewhat, but after that, the clothing and things were short, so it was hard to keep them very neat.

I don't know whether any solicitations for subscriptions or assistance with reference to maintaining any of those children were ever made at the Homestead.

1626 Q. Do you know if it was made to others outside of the Homestead?

1627 A. Why, it was under the International Brotherhood League Society, and she had money coming in from that source all the time outside. The lodges were contributing to that. And I heard her say once that that International Brotherhood League fund was the thing that enabled her to do almost all the work she did there. The International Brotherhood League was formed by Mrs. Tingley and her cabinet, and is a part of the Theosophical Association. It was formed for the purpose of caring for this Lotus Home.

1628 The robe which Mrs. Tingley wore was a long loose gown; it is made in one piece from the shoulders. The ones I saw her wear were not ornamented in any way, only a cord around the waist. I saw her wear a blue one, a black one and a white one, made in similar fashion. I don't know that these different robes have any particular significance. The white one has, that is only worn at meetings and ceremonies. In the evening she would put that on at the meetings. She didn't wear it commonly. The purple one is worn every day, as a rule, excepting Sundays, when she wore the black one. The inmates of that Institution address her as "Mother" or

1629 "Purple". She did not tell me to address her by those names, but every one did and I was told to.

There was a guard, a watch, every night who patrolled the halls of the homestead. There were the three floors and the halls went all around the building on each floor. It was a circular floor and a guard went through the building every night. And then there was one on the front veranda outside of Mrs. Tingley's windows. His duties were to watch. He walked up and down there at night to guard her windows, and then there were outside guards at the colony and at the gates of the homestead. Those guards are numerous. There was one I know at the homestead and one at the colony every night, and they changed off. I don't know whether there was more than one or not. I don't know what their duties and their instructions were. Mrs. Tingley never discussed the subject of guards with me, nor did her members of the cabinet. The guards were all to be uniformed, but the uniforms were not finished when I was there. Mr. Hansen had a uniform. The others were not completed. He wore his. It was a brown sort of plaited Norfolk coat or something of that kind, like a hunting jacket. I don't know of what material it was made. He wore leather leggings, to the knees. I heard Mrs. Tingley say they were all to have uniforms and the ladies were to have uniforms similar to hers, and the children. One of the little Cuban girls had a light brown dress. Mrs. Tingley said all the children were to be dressed like that. They hadn't got them when I came away.

When I first joined the Theosophical Society in America, Mrs. Tingley was not the official head. I just took

1633 an ordinary pledge to help on the work, and without any distinction of race, creed or color, or anything of that kind, and then afterwards, after the Universal Brotherhood was declared, and she became the official head, we took another pledge, pledging ourselves to her, and to everything she did. Pledging ourselves was strictly to Mrs. Tingley as head of all things, of all the work and the financial condition and everything; she had the management of all those matters, and of all the money, and
 1634 everything was put in her name. All the documents and everything were given to her.

My pledge was a pledge to support her in whatever she did. We were not permitted to violate that pledge or to withdraw from it. We pledged ourselves not to do so.

Q. Well, did you ever hear Mrs. Tingley make any expression of opinion or of belief as to what would happen to any one who violated that pledge?

1635 The plaintiff objected to the question and to the answer as irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 251.

The answer to the foregoing question is as follows:

" A. Well, she said at a meeting here in Los Angeles, after that Congress, that vengeance would come to those who violated this pledge, and she said other things
 1636 that I really can't remember.

Hereupon, and before the reading of the next ensuing question in said deposition, the plaintiff objected to the question and to the second question following and to the answers, and to the reading of the questions, on the

1637 grounds that the same were irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 252.

The questions which the defendant was prohibited from reading, and the answers thereto are as follows:

“ Q. But you heard her say that vengeance would come —

1638 “ A. Yes, I heard her say that.

“ Q. — — — to those who violated that pledge?

“ A. Yes.

Hereupon, the defendant offered and asked permission to read these two questions as they were presented in the deposition, the plaintiff objected, and the court denied the defendant permission to read the questions, stating that the sustaining of an objection to a question implied that permission to read the same was denied, the defendant 1639 excepted, and the same is numbered, Exception No. 253.

Q. Well, how did you come to leave Point Loma?

A. Well, I went and told her that I thought I must 1640 come back to Los Angeles, that I could not stay there under the existing circumstances with my little girl. And she told me to re-consider it. I told her in the afternoon, I said, “I think I had better go tomorrow. My trunk is already in San Diego, and I think I had better go back in the morning.” And she wanted me to reconsider it, she said, until after dinner that night. And after dinner she sent Mrs. Mayer to me, and she talked with me quite a while and told me that I didn't realize the advantage

1641 I had in being there and if I did I would willingly give up my little girl entirely, think no more about it, and stay there.

Q. Who was Mrs. Mayer?

The answer to the foregoing question is as follows:

1642 “A. She is Mrs. Spaulding. She is a close associate of Mrs. Tingley. I don’t know in what capacity she stands. And I told her I didn’t see it that way and I could not possibly remain under those conditions. So she said, very well, I could go in the morning; “but”, she said, “you can’t have your little girl tonight.” And Mrs. Tingley sent me a note in the morning telling me — I didn’t know how I was going to get the little girl in time to take her to San Diego, because they told me I could not go to the colony. Mrs. Mayer said, “We will see that you get her some way.” But Mrs. Tingley sent me a note in the morning telling me the school teacher would meet me at the colony gate, and I took the bus with the little girl and the things, and when I saw her I was ashamed to bring her home.”

1643 The plaintiff moved to strike the following portion from the foregoing answer; “and when I saw her I was ashamed to bring her home”, on the ground that it was incompetent, irrelevant and immaterial, which motion was granted, the defendant excepted, and the same is numbered, Exception No. 254.

1644 The following portion of said answer was then read to the jury.

“A. She is Mrs. Spaulding. She is a close associate of Mrs. Tingley. I don’t know in what capacity she

1645 stands. And I told her I didn't see it that way and I could not possibly remain under those conditions. So she said, very well, I could go in the morning; "but", she said, "you can't have your little girl tonight," and Mrs. Tingley sent me a note in the morning telling me — I didn't know how I was going to get the little girl in time to take her to San Diego, because they told me I could not go to the colony. Mrs. Mayer said, "We will see that you get her some way." But Mrs. Tingley sent
 1646 me a note in the morning telling me the school teacher would meet me at the colony gate, and I took the bus with the little girl and the things."

MR. ANDREWS: We object to the reading of the next question and all of the questions and answers down to and including line 24 of page 45 of the deposition of Irene N. Mohr, on the ground that the questions are improper, and the testimony irrelevant, immaterial and incompetent.

1647 MR. JACKSON: The defendant insists on its right to read the questions.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 254.

MR. ANDREWS: The objection is to each one of the questions and to each one of the answers.

1648 THE COURT: I understand so. The objection will be sustained to the reading of any of the questions to which the objection is made, and the answers in response thereto.

The defendant excepted to the ruling on each of the questions and the answers, and the same is numbered, Exception No. 255.

1649 The questions referred to and mentioned in the above objection and appearing on page 45 of the deposition of Irene N. Mohn, and which questions the defendant was prohibited from reading, and the answers thereto, are as follows :

“ Q. What condition was she in ?

1650 “ A. Her own clothing was so soiled that they put on a dress that had been donated by some one, that didn't fit her at all, on top of all the dirty underclothing underneath ; and I had to stop in San Diego and go and try and fix her up.

“ Q. How long did it take you ?

“ A. Well, I didn't have very long, but I spent all the time I had ; about an hour or so. I went to the store and got some things.

1651 “ Q. Well, what was the condition of her clothing and her body ?

“ A. Well, it was just filthy ; that was all.

“ Q. Just filthy ?

“ A. Yes ; and I got some stockings and some things of that kind to put on her and bring her home.”

Q. Have you had any communication with Mrs. Tingley since you left Point Loma at that time ?

1652 A. No sir. I wrote to her three times after I came back, just relating to my return and different matters in connection with the lodge here that she had talked to me about and the way they treated me when I came back here ; and I wrote and finally resigned there, you know.

1653 " Q. Why did you do that?

The plaintiff objected to the question as irrelevant, immaterial and incompetent, and further that the answer was a conclusion of the witness, and not a recital of any fact, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 256.

The answer to the foregoing question is as follows:

" A. Because I was thoroughly disgusted.

•1654

Hereupon, plaintiff objected to the next question upon the ground that it was irrelevant, immaterial and incompetent, and that the answer was a conclusion of the witness and not a recital of any fact, The defendant insisted on the right to read the question.

THE COURT: It may be understood that the defendant's counsel insists upon reading in all these questions to which objection is made, without repeating it every time, and that the court denies that right; when
1655 the court sustains the objection it includes the right to read the questions and that the defendant excepts.

The objection to the reading of the foregoing question was sustained, the defendant excepted, and the same is numbered, Exception No. 257.

The question mentioned in the last and foregoing objection of the plaintiff, and which question the defendant was prohibited from reading, and the answer thereto is
1656 as follows:

" Q. Now just detail the reasons.

" Why, I felt as though the whole thing was a farce and a mistake and I had been deluded and worked into

1657. something I was wholly ashamed of. I was ashamed to have it known I had anything to do with it, and wrote a letter here saying that my visit at Point Loma had fully decided me, what I saw there had made me believe that it was not according to my ideas of Theosophy at all, and especially the treatment of my child was not according to any laws of humanitarian work that I knew anything about, and I therefore resigned every connection with the lodge and the organization.”

1658 MR. ANDREWS: The plaintiff now objects, if the court please, to the reading of the next two questions on page 46, being all the questions there, and to the answers, upon the grounds that the questions are irrelevant, immaterial and incompetent, and that the answers are conclusions of the witness, and not the recital of any fact, and also to the questions and answers on page 47 down to line 21, and we object to each of those questions — I think it embraces the same subject matter.

1659 The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 258.

The questions mentioned in the foregoing objection, and which questions the defendant was prohibited from reading, and the answers thereto are as follows:

“ Q. And that was the reason you left Point Loma?

“ A. It was.

1660 “ Q. What was your general impression, based upon your observation and upon your conversation with Mrs. Tingley and with other members of her cabinet, as to the character, conduct and general formation and object of that institution there at Point Loma?

- 1661 "A. Why, I felt as though the whole thing was a scheme that Mrs. Tingley was working up, and she just wanted people that had money, and therefore was contrary to the rules of the organization, the Theosophical Organization; and it seemed as though even the children part — she only took the children in to follow up the International Brotherhood League by-laws, but that it was only for the money that that part of the work brought in that it was done. People readily contribute for the support of children when they would not have in any other way.
- 1662

"Q. Is that institution down there at Point Loma conducted upon sane or upon an insane basis?

"A. Why, I felt as though it was insane, devoid of all common sense in every respect, the actions and the rules that we had to live by, and all that."

- 1663 Q. What were those rules, if you know?

A. Well, I mean the way we had to eat and the way we were supposed to live, in silence most of the time, not to speak. Mrs. Tingley promulgated those rules. The rule to "eat in silence" was printed. The others were not. And of course there were little things she would drop occasionally in meetings that we were told afterwards — we were told by her never to refer to or talk over those things she said in any way.

- 1664 MR. ANDREWS: We object to the next question and to the answer upon the ground that the question is improper and the answer irrelevant and immaterial, and also the next question and the answer which embraces all the matter upon page 48; and also the ques-

1665 tions and answers on page 49, and the questions and answers to and including line 20 on page 50, on the ground that the questions are improper, and that the answers are irrelevant, incompetent and immaterial.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 259.

1666 The questions mentioned in the foregoing objection, and appearing on pages 48, 49 and 50 of the deposition of Irene N. Mohn, and which the defendant was prohibited from reading, and the answers thereto are as follows:

“Q. Mrs. Mohn, when you went down to Point Loma, did you have any conversation with Mrs. Tingley with reference to Dr. George F. Mohn, who is now your present husband? The second time, I believe it was?

“A. Yes, it was the second time. I did, yes.

1667 “Q. Just detail that conversation, will you, please?

1668 “A. Why, in the morning when she called me in and had the first talk with me after I had gotten there, I told her that they had put him out of the lodge the night before. They prevented me from going to the meeting, Dr. Beach did, and then he had it all fixed, and they took action — or he did, rather — and put him out of the lodge. Said that he hypnotized people. And Mrs. Tingley, the next morning when I talked with her — I didn't know that at all until after I had got on the train, when Dr. Beach came to me and told me he had done it. And I felt very badly about it and should not have gone to Point Loma at all if I had known that. That would have put a new light on the whole thing. But I was al-

1669 ready on the train and started, and I went. And the first thing I did when I got there was to tell Mrs. Tingley. And Dr. Beach told me he had orders from her to do it. And when I told her, she said, "Why did they do it?" I said, "Why, he said he had orders from you to do it." She says, "I didn't know anything about it." And then she asked me if I knew about him, why they put him out. And I said why. And she asked me if I knew that he hypnotized people, and I said I didn't know anything of the kind, and I was perfectly sure that he didn't, and didn't know anything about that. Then she asked me if he had money, if the doctor had money. And I told her I didn't know. She said, "Do you know whether he has any money or any property in his name or not?" And I told her I didn't know, but thought he had some; but I didn't know anything about it; I thought it was very little. But the money coming to him was not in his possession. She said, "Well," she said, "we will let it go just as it is, then."

1671

"Q. You was not married to Dr. Mohn at that time?"

"A. No, I was not married to him until after that. She told me, by the way, not to marry him.

"Q. She told you that?"

"A. Yes. She said, "I would not marry anybody," she says. And she gave all the ladies, at the time of the congress, instructions not to marry unless they could marry well financially, so as to bring the money into the work here.

1672

"Q. Did she express that —

"A. She expressed that.

1673 "Q. — to bring the money into the work?

"A. Yes, so as to bring the money into the work to help that along.

"Q. She seemed to be looking after the money, then, more than anything else, did she?

The plaintiff at the time of the taking of said deposition, objected to the question as leading and suggestive, and not justified by the answer."

1674 "Q. Well, what did she seem to be looking after in particular, Mrs. Mohn?

"A. Why, I think she was looking after the money particularly, on account of her telling me that she wanted the people who had the money there in place of me.

1675 "Q. I will ask you a question, and it is a square, leading question; Did you ever hear Mrs. Tingley say in any of her conversations with you, or in her lectures from the platform, or at other occasions, that it was the duty of members of the Universal Brotherhood to induce people of money to enter the organization?

The plaintiff at the time of the taking of said deposition, objected to the question as leading.

1676 "A. Yes, I did. She said that we must do that in order to keep up the standard of the organization, and we needed the moneyed class to carry on the work. And she said we could always get the other class of people in, but we must work especially for the moneyed class.

1677 WITNESS (Continuing): I have been a Theosophist for about five years. Mrs. Tingley was not at the head of it at that time.

The plaintiff waived the reading of the
CROSS EXAMINATION
of the witness.

The cross-examination of the witness was as follows:

1678 BY MR. MCKINLEY: Dr. Mohn is a man of some means, but he had no ready money at that time. He owns property in Los Angeles valued at between fifty and one hundred thousand dollars, but it is subject to a life estate in another person.

RE-DIRECT EXAMINATION OF IRENE N.
MOHN.

1679 Plaintiff here objected to the reading of any part of the re-direct examination of the witness because it was irrelevant and immaterial, and that the questions were not proper re-direct examination, and the testimony was incompetent, irrelevant and immaterial, which objection was sustained, and the defendant excepted, and the same is numbered, Exception No. 260.

1680 The questions asked of the witness on re-direct examination and mentioned in the foregoing objection, and which the defendant was prohibited from reading, and the answers thereto, are as follows:

BY MR. JACKSON:

"Q. Did you know, at the time of this conversation with Mrs. Tingley, that Dr. Mohn had this interest in that property?"

1681 "A. Oh, yes, she knew that, too. But she asked me if he had money that he could get at that time. She had wanted him to furnish five thousand dollars, I think it was, to establish a printing society, or printing for printing the magazine in San Diego, and he was about to raise the money when they put him out, you know.

"O. Was he proposing to donate that money?"

1682 "A. Yes. But I don't know that he would have succeeded in doing it, because just at that time there were other complications came up, and Dr. Beach knew about that, but he thought that he had it."

1683 Hereupon the defendant produced and offered in evidence the deposition of Mrs. Miriam R. Egbert, taken on behalf of defendant, under stipulation at Los Angeles, on the 12th day of December, 1902, and which deposition was admitted in evidence, certain portions thereof being excluded by the court, and which said deposition is as follows:

MIRIAM R. EGBERT.

1684 BY MR. JACKSON: My full name is Miriam R. Egbert. I reside at 637½ South Broadway and my business place is 114 South Broadway, Los Angeles. I have resided in Los Angeles for nine years. I know Katherine Tingley, and am acquainted with the premises at Point Loma known as the Theosophical Headquarters of the Universal Brotherhood, as they were, about three years ago. Of course, there has been lots of building and changes there since I was there. I was there first at the laying of the corner stone, February 22nd, five

1685 years ago. I was in San Diego at that time about ten days and was one day at Point Loma. I saw the laying of the corner stone at that time and the ceremonies pertaining thereto, and met Mrs. Tingley there. The ceremonies were very similar to the laying of the corner stone of any building. Very similar to the laying of the corner stone of the Masonic Temple in Los Angeles, which I saw. There was not, on that occasion, any ceremonies at Point Loma other than those attendant upon the laying of the corner stone. There were private meetings in the lodge room at San Diego that evening when I saw some of the ceremonies, but not at Point Loma. Mrs. Tingley did not attend those meetings.

1686 I knew the members of her cabinet. I don't think that the cabinet proper had been formed at that time. I think it was after that, at the congress in Chicago, that she formed what she called her cabinet, but they were the same people and probably in the same capacity, only under different names, and some of them were at that meeting.

1687 Mr. Neresheimer was the acting president of the society at large. Mrs. Tingley was considered the Executive head of the society, but had nothing whatever to do with its finances in any manner, and any paper that was ever written or issued had that statement at the head of it—that Mrs. Tingley had no official connection in any manner with the society. This was the society as it was when Katherine Tingley came into it.

1688

Q. Well, what is it now?

The plaintiff objected to the question on the ground that the answer was not responsive to the question, that it purported to give the opinion of the witness, and

1689 not the facts from which the jury could determine the situation: was purely hearsay, and the testimony was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 261.

The answer to the foregoing question is as follows:

1690 "A. Later on, the following winter, after the laying of the corner stone in Chicago, she sprang a trick on the convention, and under the pretense or guise of — —"

Q. Were you there?

A. No, I was not.

1691 Hereupon, and before the reading of the next question, the plaintiff objected to the question and to the answer on the ground that it was irrelevant, immaterial and incompetent, that the witness did not appear to have any knowledge from which she could state facts, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 262.

The question mentioned in the foregoing objection and which the defendant was prohibited from reading, and the answer thereto, is as follows:

1692 "Q. I will just ask you if the same society, the same conditions, exist now as it did in 1890, at the time of the laying of the corner stone. Do those same conditions with reference to Mrs. Tingley now prevail in the society?"

"A. No, they do not.

WITNESS (Continuing): Mrs. Tingley controls absolutely from every standpoint and everywhere the

1693 finances of the Universal Brotherhood. I am personally acquainted with Mrs. Tingley.

Q. Have you ever had any conversation with her with reference to people who had been members of the Theosophical cult of which she professed to be the Head, better known probably as the Universal Brotherhood?

A. Any conversation personally, do you mean?

1694 Q. Yes, with reference to the results that might follow them in the event they left the Brotherhood.

The plaintiff objected "to the answer as irrelevant, incompetent and immaterial, that the same objection be addressed to all the questions and answers on page 57 of the deposition of Miriam R. Egbert: that is all that remains on that page and all upon page 58, and to and including line 7 of page 59" which objection was sustained, the defendant excepted, and the same is num-

1695 bered, Exception No. 263.

The answer to the question last above set out, and the questions and answers thereto included and mentioned in the objection to the question last above set out, as following said question and appearing on page 57, 58 and to and including line 7 of page 59 in the deposition of Miriam R. Egbert, are as follows:

1696 "A. Well, it was not personal conversation. I heard a speech that she made.

"Q. Well, what was it?

"Q. Well now, when was it?

"A. It was after the Crusaders, what was known as

1697 the Crusaders return to America, and after the laying of the corner stone, when she visited Los Angeles, in our lodge room here on Fifth street.

" Q. It occurred here in Los Angeles on Fifth Street?

" A. Yes sir.

" Q. In the Theosophical Society's lodge room?

" A. Yes.

1698 " Q. Can you give the approximate date?

" A. Well, the laying of the corner stone was February 22nd, and she was down here a few days after that. It might have been three, it might have been two; it might have been four.

" Q. Well, tell what the speech was.

1699 " A. Well, the statement was that anyone who resigned — and we should all be very careful — those who had any idea of resigning; that we were taking very great, grave chances of personal injury; that in any event we were apt to have anything happen us of a disastrous character. And she cited instances of different people who had been burned to death, and accused of murder, and killed instantly, and various things of the kind, as being a very dangerous thing to do — to resign from the society.

1700 " Q. And did she predict that that would follow those who resigned?

" A. Would follow those who resigned.

" Q. Do you know, Mrs. Egbert, if that speech was reported in any paper or papers controlled by Mrs. Tingley?

1701 "A. Yes, I read the speech. I have read it, printed, in different — I wont say different papers, but I did in one paper; but what that particular paper was, I could not say. It was a paper belonging to and issued by the society.

"Q. The Universal Brotherhood?

"A. The Universal Brotherhood.

"Q. At San Diego?

1702 "A. No, they were not at San Diego then; they were at 144 Madison Avenue, New York.

"Q. It was the "Crusader"?

"A. "Crusader," yes.

"Q. Do you remember the date?

"A. No, I do not; could not tell the date.

1703 WITNESS (Continuing): I have had once or twice ordinary personal conversation with Mrs. Tingley. When I joined the society I took several pledges. I took a pledge to Mrs. Tingley; the main part of the pledges after we joined, after she came into the movement, was to Mrs. Tingley. Of course the society on the side, but Mrs. Tingley in particular. I could not give you the exact wording of the pledges, but if I tell you as nearly as I can remember, it was that at all risks and all hazards of reputation or time or money or energy expended, life, limb, or anything else, that we would defend Katherine Tingley; and the principles underlying it were supposed, of course. The principles were supposed to be the main object, but Katherine Tingley's name always blazed out everywhere.

1704

1705 Hereupon the plaintiff objected to the question next following on the ground that the same was immaterial and the conclusion of the questioner, and not the opinion of the witness, (no objection to the form of said question having been made at the time of the taking of said deposition), the objection was sustained, the defendant excepted, and the same is numbered, Exception No. 264.

The question referred to in the foregoing objection, and which the defendant was prohibited from reading,
1706 and the answer thereto is as follows:

“ Q. Sort of old time oath of fealty?

“ A. Yes.”

WITNESS (Continuing): I was at Point Loma for about ten days during the time the congress was held there. After the time when the corner stone was laid. The Congress began on the 13th of April. I saw and heard lots of things then.

1707 Q. Well, tell us what you saw?

A. I could not tell them all that I know of, if I tried.

Q. As much as you can.

The answer to the foregoing question was as follows:

1708 “ A. To begin with, she had a play called the Eumenides, a Greek play. That was to be the main show, I believe. We didn't any of us know that the Theosophical Society was to be turned into the show business, but since it had, why we were all in it and seemed to be in for it.

Before the foregoing answer was read, the plaintiff ob-

1709 jected and moved to strike therefrom the following words:

“ We didn’t any of us know that the Theosophical Society was to be turned into the show business, but since it had, why, we were all in it and seemed to be in for it,” on the ground that the same was a conclusion of the witness, and not the recital of a fact, and was irrelevant, incompetent and immaterial, which objection was sustained, the motion granted, the defendant excepted, and the same is numbered, Exception No. 265.

The defendant was then permitted to read the following portion of said answer to the jury:

A. To begin with, she had a play called the Eumenides, a Greek play. That was to be the main show, I believe.

1711 WITNESS (Continuing): It is one of the standard Greek plays of Aeschylus. The Eumenides, it is called. And they rendered the play very nicely for amateurs. The people who took part in the play were robed in Greek costume. This Greek costume is a long, white tunic, rather low necked, Greek border, and long flowing sleeves, the regular Greek dress, you can get a copy of it most any place.

1712 Q. Now, Mrs. Egbert, did you see any of the ceremonies conducted there at night, other than this Greek play?

A. Yes, we had initiatory exercises or ceremonies at midnight; journeyed up to the holy ground, or site of the school. I could not tell you what time we started on the journey. We walked there two by two. My hus-

1713 band and myself were there. I do not know if they had any order of precedence. Mrs. Tingley was not there. She was at the hotel and would drive along to the ceremonies after the rest were there. It was a hard job, this going and standing two or three hours with your finger on your lips and the wind whistling around. It was cold and uncomfortable there that night. The order of the march was that we were to hold our fingers on our lips. The order emanated from Mrs. Tingley. 1714 Some of the people spoke, but they were not supposed to do so. I heard people speak.

Q. Tell what they said.

The plaintiff objected to the answer as irrelevant, incompetent and immaterial, and as hearsay and not coming from a person authorized to speak for the plaintiff, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 266.

1715 The answer to the foregoing question is as follows:

"A. My husband said that he wondered how long this damned performance would continue. He whispered to me. And I know he would have been instantly turned off the grounds if she had known it, and of course I nudged him and he kept quiet.

1716 WITNESS (Continuing): When we got up there Mrs. Tingley was driven up to the grounds and we were all seated on the seats that had been found for the audience at the play, and she went through various motions, incantations and ceremonies, that, as nearly as I understood anything, was a kind of necromancy. And then we marched back. Mrs. Tingley had on her robe that she usually wore. She wore a purple robe most of the

1717 time, and I am pretty certain that that was a purple robe
that evening. The majority of the participants in those
ceremonies were clothed in the ordinary every-day
clothes, business dress. The minority had on those long
white robes over their clothing, I suppose. It would
have been pretty cool without them. I think the men
only had on those long white robes that evening.

1718 The persons with the white robes on did nothing in
particular. Kind of chanted and waved their hands in
the air a few times, and so forth. Mrs. Tingley did not
make an address. About as near as I can tell you, she
did go through some motions and chants and things of
that sort, and the rest of us all stood there with our
fingers on our lips. I do not remember whether we
bowed our heads, but the order was to keep our fingers
on our lips. They did not all do it. They were sup-
posed to.

1719 When that proceeding was over, it was about mid-
night and then we marched back home. On the trip up
some of the people in the white robes carried torches.
I am not certain as to whether they held them all the
time they were up there. There was a kind of shooting,
like stars around in the dark, lights flitting here and
there occasionally, and so on. I could not be positive
about that. On the return home, we took up the same
order of march, two by two, and when we came to where
we belonged we broke file.

1720 MR. ANDREWS: Plaintiff desires to object to the
next question, if the court please, and to the answer,
and to the remainder of the questions and answers ap-
pearing on page 65 of the deposition of Miriam P. Eg-
bert, upon the ground that the questions are improper,
and the answers irrelevant, immaterial and incompetent,

1721 and is all of the remainder of the direct examination of the witness. The objection is to each one of the questions as well as to them severally.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 267.

1722 The questions mentioned and referred to in the foregoing objection as appearing upon page 65 of the deposition and being the remainder of the direct examination of the witness, and which the defendant was prohibited from reading, and the answers thereto are as follows:

“Q. Do you know Mrs. Egbert, or did you ever have any conversation with Mrs. Tingley as to the character of persons who — — — —

“A. No conversations, no.

“Q. Did you hear her make any observations from the rostrum or platform — —

1723 “A. Yes.

“Q. — as to the character of persons they should labor to get into that institution?

“A. Yes.

“Q. What was that?

“A. It was the rich people that they should cater to.

“Q. They should cater to the rich?

1724 “A. Yes sir.

“Q. What was the reason of that?

“A. Well, she said, we didn't want the poor ones.

“Q. What did they want with the rich ones?

1725 " A. Wanted powerful, rich people, with influence, and so forth, and as the society had been formulated for the purpose of benefitting humanity, the lower, poorer classes —

" Q. And they wanted the rich people to receive the benefits?

" A. Well, that seemed a little inconsistent to us, but that was her orders. She was the great mogul.

1726 CROSS EXAMINATION of MRS. EGBERT.

The plaintiff waived the cross examination of the witness and thereupon the defendant offered certain portions of the cross examination, commencing at line 19, page 66, and the plaintiff objected to the reading of the question, and to the answer because the testimony was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 268.

1727

The question mentioned in the foregoing objection, and which the defendant was prohibited from reading and the answer thereto is as follows:

" BY JUDGE McKINLEY: Q. When was this speech that you mentioned in which she said that she wanted to cater to the rich people?

1728 " A. Well, I don't remember just which one. It was one of the visits she made here. I think it was after the Crusade — of after the — yes, after the Crusade.

Hereupon the plaintiff objected to the reading of the next question and to the answer because the testimony was incompetent, irrelevant and immaterial, which ob-

1729 jection was sustained, the defendant excepted, and the same is numbered, Exception No. 269.

The question mentioned in the foregoing objection and which the defendant was prohibited from reading, and the answer thereto, are as follows:

"Q. What words did she use in regard to it?

"A. Why, she stated we were not to encourage poor people coming into our place; that we should all seek to
1730 associate with wealthy people; that we should all seek to wear fine apparel and clothing, and that we should better our conditions, and those of us, if any, who lived in poor houses should move. And I know several that did.

Q. Did she give any reason why you were to do that?

The plaintiff objected to the question and also ob-
1731 jected to the reading of each and every question or answer upon page 67 of the deposition of Miriam R. Egbert as irrelevant, immaterial and not responsive to any issue arising upon the direct examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 270.

The questions included in the foregoing objection, and which the defendant was prohibited from reading, and the answers thereto and appearing upon page 67 of
1732 the deposition of Miriam R. Egbert are as follows:

"Q. Did she give any reason why you were to do that?

"A. Yes.

1733 "Q. What reason?

"A. She wanted to cater to the rich people.

"Q. Well, did she use those words, "Cater to the rich people?"

"A. Well, I do not know that she used the word "cater."

"Q. Well, what words did she use?

1734 "A. Well, I don't know that I can just remember the words she used. She said we wanted rich people, the influence of the rich people, in the society.

"Q. Well, why did she say she wanted it?

"A. Because they had money.

"Q. Well, for what purpose did she want the money?

1735 "A. Why, of course, all the people in this society had pledged themselves to give her all the time, money and energy of their personality—practically.

"Q. Yes.

"A. — —

"Q. To do what?

"A. To build up this society.

"Q. Yes. And what was the society to do?

1736 "A. The society was supposed—the object and starting point and what it was for was to benefit humanity. When I joined the society it was to have no outer—the outer head or esoteric teacher was not to have anything whatever to do with the finances, and at

1737 this conversation that I tell you about, we were all in-
 formed by circular everything had been done, all the
 transactions of that convention came to us in printed
 matter directly from Katherine Tingley, and she had
 been chosen — rather elected — as the absolute ruler,
 outer head of the society, governing everything, with
 the power to disband his cabinet without an hour's no-
 tice, and without any explanation or reason given, and
 she was to have unlimited sway over the financial con-
 1738 cerns of the whole society. She could dismiss any one
 at pleasure without even giving any one a reason why."

Q. Well, now that you have made that address, will
 you tell me what she said she wanted to do with the
 money?

The plaintiff objected to the question, and also to
 the answer and to the reading of the questions and
 answers appearing on page 68 and to and including
 1739 lines 16 of page 69 of the deposition of Miriam R. Eg-
 bert as relating to the same matter on which the court
 had ruled in the last and foregoing objection, and upon
 the grounds that the testimony was incompetent, irrel-
 evant and immaterial, which objection was sustained, the
 defendant excepted, and the same is numbered, Excep-
 tion No. 271.

The questions included in the foregoing objection,
 and which the defendant was prohibited from reading,
 1740 and the answers thereto and appearing upon page 68
 and 69 of the deposition of Miriam R. Egbert, are as
 follows:

"Q. Well, now that you have made that address,

1741 will you tell me what she said she wanted to do with the money?

"A. She didn't say what she wanted to do with the money.

"Q. Didn't she ever say what disposition was to be made of the money which was raised?

"A. No.

1742 "Q. Don't you know what disposition was proposed to be made of it, and how that institution was proposed to be conducted?

"Q. Will you answer the question?

1743 "A. Yes. Why, of course we were all always told and taught that all the money we gave in was to be used — of course the legitimate expenses of general rent and all that sort of thing had to come out of each particular branch. We all bore our own expense, but all the money that all the lodges sent was supposed to be used for humanitarian purposes and not to give Greek plays, and to dress people fine and pay expenses at high toned hotels, and hack hire and hire private carriages and so forth.

"Q. Didn't Mrs. Tingley say that the money was to be used for the purpose of carrying on the institution for the benefit of humanity?

1744 "A. Oh, yes, before, at first, she said that.

"Q. Didn't she say then, at the time you speak of, that that is what she wanted the money for?

"A. Well, yes, she did say, in various circulars she

1745 sent out, that that is what she wanted it for, but it never was used for that, as we all saw.

"Q. How do you know that it was not used for that?

"A. Well, we don't know anything absolutely in this world, but I judge from things I see.

RE-DIRECT EXAMINATION OF MRS. EGBERT.

1746 BY MR. JACKSON: Q. Why did you leave the Theosophical society?

MR. ANDREWS: We object to the question, if the court please, as irrelevant, immaterial and incompetent; we object to all the questions and answers upon page 72 and upon page 73 of the deposition of Miriam R. Egbert, upon the ground that each of the questions and answers are irrelevant, immaterial and incompetent, and not proper re-direct examination; the objection goes to each and every question and answer.

1747 The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 272.

The answer to the last question asked of the witness on cross examination and read by defendant, is as follows:

"A. I left for lots of reasons.

1748 The questions included in the foregoing objection and which the defendant was prohibited from reading and the answers thereto, and appearing on pages 72 and 73 of the deposition of Miriam R. Egbert, are as follows:

"Q. Detail them.

"A. But the main thing was that it was not Theos-

1749 ophy. I joined the Theosophical Society and we didn't do any studying of theosophy, nor any practicing of it, nor any teaching of it; we simply catered to Tingley, and Tingleyism, and her notions and fads and peculiarities.

"Q. And that was the reason you left?

1750 "A. And that was the reason I left. It was, as I considered it, rank injustice in very many instances and cases, that when people resigned—Now, here was one thing particularly that caused me to resign. Different other people resigned for various reasons. My main reason for resigning was that she was so unkind and uncharitable and malicious, as I considered it, in attacking the character of this, that and the other one that chose to resign—as we had been taught in the society we were free agents, free moral agents, we could join a society or quit it when we pleased, and in America, you know, people can do that; and when they did decide to

1751 do that, we were told not even to speak to them. Now, fancy, for instance, this woman who sits beside me and I have been friends for years, and she resigns; I am given the order not to look in her eyes, not to speak with her—when we have been perfectly friendly for years: no reason why we could not talk and be friends just the same as ever, even though we did disagree, perhaps, on some points of technicality about Tingley's leadership.

1752 "Q. Who gives that order?

"A. Mrs. Tingley.

"Q. Mrs. Tingley?

"A. Mrs. Tingley gave that order time and again.

1753 "Q. For members of the Universal Brotherhood to refuse to recognize any person who resigned?

"A. Their old comrades, on the street, or anywhere, by word or look. I absolutely refused to obey it.

"Q. She gave it to you?

"A. She gave it, not to myself alone, to everybody, in my presence and my hearing, to the lodge in general.

1754 "Q. Did many of the members obey it?

"A. Some of them did for a while. But the most of them resigned. Most everybody has resigned. It is not Theosophy. I joined the Theosophical Society, not a society made and promulgated and read and fed and fashioned by Mrs. Tingley, with all the notions in the world that nobody ever heard of. Theosophists are crazy enough, from the standpoint of the world, without

1755 getting still crazier by mixing up with Tingleyism. In my point of view it is not Theosophy. That is why I resigned because she would attack people's character, or call them insane, when they left, although normal on everything else and they went right along and earned their bread."

1756 Hereupon the defendant produced and offered in evidence the deposition of Mrs. Emily Penning, taken on behalf of defendant, under stipulation at Los Angeles, on the 12th of December, 1902, and which deposition was admitted in evidence, certain portions thereof being excluded by the court, and which said deposition is as follows:

EMILY PENNING.

1757

By Mr. Jackson:—My name is Mrs. Emily Penning. I reside at 43 South Griffin Avenue, Los Angeles. I have lived in Los Angeles for 29 years. I know Katherine Tingley as the head of the Theosophical Society. I have been a member of that Society for nearly twenty years. I am not a member now. I ceased to be a member about two years ago.

1758

Q. For what reason?

MR. ANDREWS: We object to the answer, if the court please, on the ground that it is irrelevant and incompetent and calls for the conclusion of the witness, and the witness apparently gives her own conclusions without giving any facts, and the same objection applies also to the next question and the answer.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 273.

1759

The answer to the foregoing question, and the next following question referred to in the foregoing objection, and which the defendant was prohibited from reading and the answer thereto are as follows:

“A. Simply because of my disgust at all the actions and doings.

Q. Of what?

1760

“A. Of the doings of the society under Mrs. Tingley. I joined the Theosophical Society believing it to be one of the grandest and noblest teachings to benefit humanity, liberal and broad, charitable on all lines, and it has proven altogether different under Mrs. Tingley.”

1761 WITNESS (Continuing): I have been at Point Loma on two occasions. The first time at the laying of the corner stone and the next time at the congress, at the play of Eumenides. On the occasion of the congress I attended a ceremony held at what is known as the Holy Hill. I was one of the members who marched up the hill. I can not tell you the time we started, but I know it was before midnight and it lasted many, many hours, and it was very trying and fatiguing for the majority of the members that I saw. It took a long time to go up the hill because they made so many stoppages. No ceremonies took place on the way up. We were told to stand still with our finger on our mouth. The order was passed down the line by some of the head ones, and to stand still or to turn our faces the other way. We were supposed to turn and keep our eyes on the east, or turn around in the opposite direction from what we were then walking, and stand in that attitude until we received orders to march. We stopped three or four times on the way, as far as I know. The people in the procession were of all ages, all sizes; even children were there. There were over twenty-two children there.

Q. Old and young, and frail and strong?

A. I should say seven or eight years old. No sir, there were some very feeble. There were some that fainted on the way and felt very bad on the way. I heard the commotion several times that some one had fainted and been taken out of the ranks. But I didn't see them; the night was dark. There were a few torches at the head of the procession, but we had no other lights. I don't know who carried those torches. I saw people in the procession with white robes on. I supposed the

1765 members of the cabinet were the ones that had the robes on.

When we got up to this Holy Hill, we sat down upon the raised platform that was built for the members to witness the different speeches and ceremonies; and then there seemed to be an initiation going on on the platform. I understood it was a higher initiation, into a higher order from what we were. Of course we didn't hear all the words; we could not, we were so far off, and the wind carried the words away. And the incantations and the answers, of course we could get some of that. We kept our fingers on our lips all evening. I kept my eyes on the platform, so I didn't look around to see who had their finger on their mouth. Mrs. Tingley was there. She was the one that did the initiation. She did not march. She was driven there in a carriage. When we returned, as far as I can remember, we marched until we got out of the grounds, when we went in every direction and took the nearest cut that we could to our tents.

1767 I have frequently heard Mrs. Tingley deliver lectures.

MR. ANDREWS: We object to the question following, if the court please, and to the answer, and to the next question and answer, being all that remains on page 78 of the deposition of Mrs. Penning, upon the ground that the questions are irrelevant, incompetent and immaterial and improper, and the answers irrelevant, immaterial and incompetent, and to the first question and answer on page 79 upon the grounds just stated.

1768 The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 274.

The questions referred to and mentioned in the foregoing objection, and which the defendant was prohibited

1769 from reading, and the answers thereto are as follows:

“Q. State whether or not you ever heard her deliver a lecture in this city in which she stated that disaster and ruin and trouble would follow anyone who withdrew from the society?”

1770 “A. Yes sir, I did. And she mentioned, also, a case of a man in India who had had twenty-two boils, growing out of his leaving the society—the statement Mrs. Egbert made, with the addition that I heard of the twenty-two boils. And he died from the effects of it. And the same thing would likely happen to any of us if we withdrew; that we should not violate the pledge, not to withdraw.

“Q. Why did you withdraw?”

1771 “A. Because the actions were so different from Universal Brotherhood or Theosophy as I understood it. There was more bickering and more dissatisfaction every way from the accusations that she brought in public, in the lectures, against private individuals than I would ever believe it possible in that was to do. If she had accused things in the right way, if they had done wrong, I should think it was all right. But to accuse them in a malicious manner, which she did with everyone who withdrew, I didn't think it was right. It didn't look Theosophical to me.

“Q. Then that was the reason you withdrew?”

“A. Yes sir.”

1772 WITNESS (Continuing): I was at the colony there, but not to stay. I was at the Homestead three weeks during the congress. My tent was on the grounds, but the greater part of our time was passed in the tent or homestead, as you call it, on the grounds where the lectures

1773 were delivered. I never missed one of them. At that time, the children were not established at what is now called the colony. They became established afterwards. They turned the hotel, which we were occupying for meetings, into a colony afterwards, and into a school, after this congress.

There was no guard at the time that I was there, only I understood they had put guards to keep strangers off.

1774 Q. Don't tell what you understood. Just tell what you saw.

Plaintiff objected to the answer as being irrelevant, immaterial and incompetent and hearsay, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 275.

The answer to the foregoing question is as follows:

1775 "A. Well, we could not see all over the ground, but I understood they put guards at the different gates."

Q. Mrs. Penning, did you have any conversation with Mrs. Tingley prior to this expedition to the Holy Hill in which you asked her if there was not some way by which the frailer and weaker members could go a nearer route?

1776 A. Well, it was not prior to that; it was during the different meetings we had had. And the road was so roundabout and so very disagreeable for the dust, and so many could not walk it, that I went to her to ask if we could not take a short cut across on behalf of those that could not walk. And she said, no, her orders were to take the lower gate, and we should all have to go there. And then toward the last of the meetings, and on the night of the Crusade, we took the short cut, from the

1777 hotel across to the grounds. All the meetings and lectures of the convention were held at what is known as the Holy Hill, or the sacred ground, and to reach that, we took the long way around, but on the occasion which I have described as the midnight expedition, we took the short cut.

Q. Were any of the attendants there unable to make the journey the long way around?

1778 The plaintiff objected to the reading of any of the answer to the foregoing question, and particularly the last sentence thereof, on the ground that it was hearsay and incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 276.

The answer to the foregoing question is as follows:

“A. Well, I don’t know. I understood several were fainting but I didn’t see them.”

1779 Q. I don’t mean at the night time; I mean in the day time when they walked to the sacred ground.

A. They came back and said they could not go, they would have to stay away from the meeting; and that is why I went to see.

1780 Hereupon the plaintiff objected to the reading of the next question and answer on the ground that the answer was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 277. *

The question mentioned in the foregoing objection, and which the defendant was prohibited from reading and the answer thereto, is as follows:

1781 "Q. How did it affect you?

"A. It gave me a great many cramps, because when I am too much on my feet and have to walk too much, I am subject to cramps, and it gave me so many cramps that I had to have a doctor to give me medicine for it."

1782 WITNESS (Continuing): I never saw Mrs. Tingley walking out at all. I am an elderly lady, and Mrs. Tingley refused to allow any of them to take the short cut to the sacred ground. Her demeanor at the time I spoke to her was short and decided. She was the one that gave the order, and that had been her command, and we were supposed to obey without any cavil of any hesitancy. In the meetings in the evening that were sometimes held at the hotel, there were two parties fainted, or had spasms. We were often made to sit by the hour on the floor, without a word, without a bit of support, without a chair. They hadn't made any provision for so many people. We
 1783 got up while there at different hours in the morning. Sometimes at three o'clock; any time for a meeting. I took part in morning meditations that were held there. They were held under Mrs. Tingley's orders. These meditations consisted of remaining silent with the finger over the lips. Mrs. Tingley was at these morning sunrise meditations. At the time we were there at the congress, she got up for the three o'clock meeting and was there so far as I know. We often had to wait a long time.
 1784 When we were told to be there, she was not there, so that we got very tired waiting. The people at these morning meditations were fully dressed. After the meditations were over, they would either go home and lie down or have their breakfast and lie down. Whether some went

1785 back to bed, I don't know. Many a time I went back to bed and had a rest.

This candle stick which I have in my hand is supposed to represent the symbol of the Lotus, which represents man in his three different conditions of physical, spiritual and astral. The Lotus, supposed to be in the mud and the mire, the root, which is the animal man; the astral man, in the water; and the blossoms above the water, as the spiritual man. And we would hold the light up in the ceremonies, where they had lights. That was supposed to represent the spiritual man. These are not the candle-

1786 sticks which were carried on our pilgrimage to the Holy Hill. This was in the ceremonies in the building. They would have blown out had we carried them to the Holy Hill. Mrs. Tingley gave me this with her own hands. She made no further explanation than that I have mentioned. She had them all on the table, and told us what they represented, and we should all come forward, and as far as they would go, she would give them out, to represent the spiritual life under which we were trying to live. You can buy them in Los Angeles for twenty-five cents in any store, but it was the emblem that the lotus represents. It is only sacred to me as an emblem it represents, not that Mrs. Tingley gave it to me.

1787 The candlestick mentioned by the witness in her testimony and identified by the notary, was here introduced in evidence on behalf of the plaintiff, and marked.

1788 DEFENDANT'S EXHIBIT—

Hereupon the defendant produced and offered in evidence the deposition of B. F. Hilliker, taken on behalf of defendant, at Los Angeles, on the 13th day of December, 1902, and which deposition was admitted in evidence, cer-

1789 tain portions thereof being excluded by the court, and
which said deposition is as follows :

B. F. HILLIKER.

BY MR. JACKSON: My name is B. F. Hilliker. I
reside at 314 Fort Moore Place, Los Angeles. I have
resided in California about twenty-one years; eight years
in Los Angeles, and before that in Santa Ana. I am not
engaged in any business. I am retired. I was a member
1790 of the Los Angeles Theosophical Society for about two
years. I am not now a member. It has been about
something like two years since I ceased to be a member.

The plaintiff here objected to the next and following
question and answer, and also to all the questions and an-
swers upon pages 86 and 87, and to and including line 3
of page 88 of the deposition of B. F. Hilliker, on the
ground that each of the questions and the answers thereto
were irrelevant, immaterial and incompetent, which ob-
1791 jection was sustained, the defendant excepted, and the
same is numbered, Exception No. 278.

The question mentioned in the foregoing objection as
appearing upon pages 86, 87 and to and including line 3,
page 88 of the deposition of B. F. Hilliker, which the
defendant was prohibited from reading, and the answers
thereto, are as follows :

1792 "Q. What was the occasion of your leaving?

"A. Ordered out by Mrs. Tingley.

"Q. Any reason given?

"A. No reason.

1793 "Q. Had you, so far as you know, committed any offense against the Theosophic rules or regulations—

A. I had not.

"Q. —of the society?

"A. No charges ever made against me.

"Q. You were just arbitrarily ordered out by Mrs. Tingley?

1794 "A. Shall I state what I was told the reason was why I was ordered out?

"Q. Why by?

"A. By one of the members.

"Q. Yes.

"A. Well, this is the only reason that ever I had for being turned out.

1795 "Q. Yes.

"A. I refused to donate any money for the Point Loma Theosophic School, they call it.

"Q. Who told you the reason why you was ordered out?

"A. Dr. Mohn.

1796 "Q. He told you you had been ordered out because you had refused to donate money to the Raja Yoga School. Had you been asked to donate any money to that school?

"A. Oh yes, a number of times.

"Q. Who had asked you?

1797 "A. Well, Dr. Mohn had asked me, Abbot Clark had asked me, and several others.

"Q. Had Mrs. Tingley asked you?

"A. Not personally.

"Q. Do you know the members of her cabinet?

"A. I know the men before that were members two years ago.

1798 "Q. Did any of those who were members at that time ask you to donate?

"A. No sir.

"Q. Who was Abbot Clark?

"A. A member of our society here.

"Q. And Dr. Mohn?

"A. Dr. Mohn.

1799 "Q. How much was you asked to donate?

"A. No special amount.

"Q. Well, how long a period elapsed between the times these requests for donations were made upon you and your expulsion from the society?

"A. I could not say.

"Q. Approximately.

1800 "A. Oh, I should approximate it six months."

WITNESS (Continuing): I formed the personal acquaintance with Mrs. Tingley since she came to California.

1801 Hereupon the plaintiff objected to the next two following questions, and the answers thereto, appearing on lines 5 to 9 page 88 of the deposition of B. F. Hilliker, on the ground that the questions and answers were irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 279.

The two questions mentioned in the foregoing objection, which the defendant was prohibited from reading,
1802 and the answers thereto are as follows :

“Q. Yes. You were a man of some means ?

“A. Oh, yes.

“Q. Comfortably, moderately and comfortably fixed ?

“A. Yes.”

1803 WITNESS (Continuing) : I have attended meetings of the Theosophical Society at Point Loma and at which Mrs. Tingley was present. I have also attended meetings of the Theosophical Society in Los Angeles.

Q. Now, just describe the character of the meetings at Los Angeles at which she and you were present.

1804 MR. ANDREWS : We object now if the court please, to this question and the answer to this question and to the following questions and answers and all after line 17 on page 88 of the deposition of B. F. Hilliker as being irrelevant, immaterial and incompetent. There is no issue raised as to the manner in which any ceremony might have been carried on in Los Angeles.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 280.

1805 The answer to the question last above set out and the questions mentioned in the foregoing objection, and which questions the defendant was prohibited from reading, and the answers thereto, are as follows:

"A. In what way?

"Q. Just the general conduct of the meeting, the behavior and demeanor of Mrs. Tingley and of the members.

1806 "A. Well, the meetings were carried on in a sort of awe-inspiring secret way. For instance, we was instructed to not speak after we entered the hall at all, the ante room.

"Q. Who instructed you?

"A. Mrs. Tingley. And then sit down with absolute quiet; and then when the time came, we were supposed to enter the room, ordered to enter the main hall, with our fingers on our lips, in silence.

1807 "Q. Well, what did you do when you got in there?

A. Got in there, we gave the pass-word as we were going in."

1808 MR. ANDEWS: Plaintiff now objects to the reading of any question and to the answers thereto found after line 2 of page 89 down to and including line 19 of page 91, upon the grounds that the same are irrelevant, immaterial and incompetent, and that there is no issue raised as to the manner in which any ceremonies might have been carried on in Los Angeles. The objection is to each and every question.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 281.

1809 The questions mentioned in the foregoing objection, and which the defendant was prohibited from reading, and the answers thereto are as follows:

"Q. Oh, you had a pass-word?

"A. We had a pass-word.

"Q. What was the pass-word?

"A. Oh, I could not tell you now.

1810 "Q. Was it of any symbolical meaning?

"A. Sometimes one thing, sometimes another, you know.

"Q. Well, when you got in what did Mrs. Tingley do or say?

"Q. Well, that would take a long record, to tell what she said.

1811 "Q. Just tell as much as you can, as much as you recall.

"A. But the main import was that the school was conducted by secret masters that we would never, probably, be able to come in presence of, and if we did, we would not dare to touch them, because the shock would be so much like an electric shock that it would burn us up.

"Q. Well, what was meant by "secret masters"?

1812 "A. That is the—some inspired beings, living in some foreign lands.

"Q. That is, living upon this earth or—

"A. Oh, yes.

"Q. Or upon some foreign planet?

1813 "A. On this earth, but who had lived many hundreds of years, whose power was so great that they were supposed to live, five or six, seven or eight hundred years, and had lived that long.

"Q. And was still living?

"A. Still living.

"Q. In the flesh?

1814 "A. In the flesh, and able to communicate through Mrs. Tingley to us in a secret way.

"Q. Were they living in the appearance of human beings?

"A. Oh, yes.

"Q. Did she identify any of those secret masters?

1815 "A. She frequently furnished us with photographs of three, I think, of the masters, which were placed on stands before us every evening.

"Q. Were they supposed to reside?

"A. Well, I never got a definite idea, except they were somewhere in the Himalayan Mountains in India.

"Q. And they communicated to their subjects through Mrs. Tingley?

1816 "A. Through Mrs. Tingley.

"Q. She was able, according to her teaching, to come in direct contact with them?

"A. She was a master herself.

1817 "Q. Oh, she was a master herself. Then she didn't get burned up when she met them?

"A. Stood between the society and the great masters.

"Q. Well, was that her usual course of talking and claims?

"A. Oh yes, that was the general custom.

"Q. Did the people there believe that?

1818 "A. Cautioning us to be very secret.

"Q. Did the members of the society believe that?

"A. Some of them seemed to believe it with the most implicit confidence.

"Q. Did she claim that there were many of these great masters between whom and the people she stood?

1819 "A. I didn't get the idea that there were many. The impression left with me was that there were about three or four.

"Q. She didn't name any of them, did she?

"A. Oh, yes.

"Q. Can you recall the names?

"A. I don't believe I could now. I have not thought of it for a long time.

1820 "Q. What were they? Men or women, or both?

"A. Men. I would know the name if I heard it, but I can't think of the name now. They were ancient names, you know, sanscrit names.

1821 "Q. What was the Theosophic teachings there? A sort of a sanscrit, Buddistic doctrine?"

"A. I should say it was Buddistic.

"Q. Well, did the Greek appear in it in any respect, the Greek religion?"

"A. I don't think so."

Q. Now, about the meetings at Point Loma, did you attend any of those?"

1822

A. I attended two meetings, what they called their congress.

Q. You attended the congress there?"

1823

A. The laying of the first corner stone I was there. The corner stone of this Raja Yoga school. At that first congress, there was a great deal of formality gone through, imitating, as I suppose, some ancient rites. For instance, they chanted in a foreign language that I didn't understand, and they had a young girl to hold the platter on which was placed oil, corn and wine. And Mrs. Tingley, with some good deal of ceremony, poured the contents of these articles on the platter, corn, wine and oil, on the corner stone. I heard some of Mrs. Tingley's discussions or expressions at that time. She claimed great things for Point Loma and the Raja Yoga school. As nearly as I can recall, there was a great deal of the mystical connected with it. She claimed to have been

1824

supported by spiritual masters. I don't know that she used the words "divine spirits." I think it was commonly called the masters. These masters were appointed to mind, and sustain and guide it, and we would see results there at that school that would astound the world,

1825 and so on and so forth. There was so much nonsense occurring during the time that it would take me a good while to tell it, but among the most prominent, perhaps, was ordering us to get up at twelve or one o'clock at night and march to the site of the temple, or the Raja Yoga school, where the corner stone was and we got up with a great deal of quietude and solemnity, and fell in in two ranks and marched from our camp ground, perhaps a quarter of a mile or a little over, to where this corner stone was laid, stood there I think about an hour in
1826 line without any ceremony, and then turned around and went back. We consumed perhaps two hours and a half in making this trip that night; about half an hour in going. We did not stop on the way except to pass the gate where there was a guard. That didn't detain us long.

There were guards all around the grounds, day and night. There were perhaps a dozen of them. They were not uniformed. I don't know if they were armed.

1827 Mrs. Tingley was at this midnight meeting. I think she marched. I was in the middle of the procession, so I could not tell who was ahead but I supposed she and her cabinet was at the head of it. I don't know whether she went up in a carriage that night or not. She generally went in a carriage. There were no ceremonies that night that I heard at all. We just stood there, I should say for about an hour. I did not keep my fingers over my lips. I don't know if any one fainted during that trip or became exhausted. We returned without any ceremony and re-
1828 tired for the night.

I attended the next congress a year afterwards. I don't recall where I went the day following the midnight meeting I have just spoken of. I stayed at Point Loma perhaps a day or two after that. At the congress which I

1829 attended a year later, the principal feature was holding a sort of show. Mrs. Tingley gave the play called Eumenides, which was an ancient theatrical performance at which we paid a dollar and a half to two dollars for entrance. I don't know what became of the proceeds of that play, only in a general way that Mrs. Tingley controlled all of the funds. I always understood that she had absolute control of the funds. I don't know if there is anything in the rules and regulations of the society which makes her responsible for the disposition of the moneys.

1830 There were other midnight meetings there at the congress. We were ordered one night by Mrs. Tingley, through her general secretary, Col. Pierce, to sit up one night in the hotel until about half past two in the night. Col. Pierce is Mrs. Tingley's general secretary. A great many of the people and children also sat up that night. They passed away the time that night as best they could. Some of them laid on the floor and some on the tables.

1831 We did not entirely keep silence. At certain periods in the performance I believe they sat there that night with their fingers over their lips. Mrs. Tingley appeared at the latter part of the evening, about two o'clock as nearly as I remember, and made a very short address. It didn't amount to anything. There was so little of it that I can't recall it to memory. None of these great masters came forth that evening to counsel us. After Mrs. Tingley disappeared we went to bed. There was no dictation about the hour we were to get up the next morning. We all got

1832 up when we felt like it.

I have heard the sun-rise meditations at Point Loma talked about. I never participated in them.

This Holy Hill is understood by the members of the society at Point Loma, to signify a spot on the earth des-

1833 ignited by the masters for great educational purposes in the occult sciences. That spot was designated through the agency of Mrs. Tingley.

The plaintiff here objected to the next two questions and the answers, on the ground that the matter was irrelevant, and immaterial and that the attorney in putting the questions assumed facts that had not been testified to (no objection to the form of the questions was made at the time of the taking of the deposition); the objection

1834 was sustained, the defendant excepted, and the same is numbered, Exception No. 282.

The question mentioned in the foregoing objection and which the defendant was prohibited from reading and the answers thereto are as follows:

"Q. The masters, then, didn't appear there to point out—

"A. No.

1835 "Q. — the sacred ground, but she did?

"A. She did."

WITNESS (Continuing): Mrs Tingley claimed to be in direct and frequent communication with these great masters, and it was so understood by our society.

When I joined the Theosophical Society I took a pledge. I cannot recall the substance of it now. Mrs. Tingley was not connected with the society when I joined.

1836 Q. Did you take any pledge after she became the head of the society?

A. Why, we virtually took a pledge every meeting. I wont undertake to recall what those pledges were.

1837 Hereupon the plaintiff objected to the reading of the next three questions following on the ground that the questions were immaterial and the answers irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 283.

The question mentioned in the foregoing objection and which the defendant was prohibited from reading, and the answers thereto are as follows:

1838

"Q. I asked you a moment ago about Mr. Pierce, who you say was her general secretary. Did she, in any of her meetings, express reliance or confidence in Mr. Pierce?"

"A. I could not say that she did, personally.

"Q. Well, did her demeanor and actions toward him indicate to the members that she relied on him?"

1839 "A. Oh, sure. He was her right hand bower, so we all understood.

"Q. Did he pretend to speak for her?"

"A. Certainly."

WITNESS (Continuing): No one except a member of the society can enter those secret meetings. There were no initiatory services in becoming a member. Simply taking the pledge.

1840 Hereupon the plaintiff objected to the question following and to the answer and to each and every question and answer down to and including line 24 of page 101 of the deposition of B. F. Hilliker, on the ground that the questions were immaterial and the testimony irrelevant, in-

1841 competent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 284.

The questions mentioned in the foregoing objection and which the defendant was prohibited from reading, and the answers thereto, are as follows:

“Q. Simply taking the pledges. Did there grow up any division or dissensions in the society, and if so when and for what reason?

1842

“A. There was quite a good deal of dissention in our society. It commenced when Mrs. Tingley ordered the name changed from Theosophic Society to the Universal Brotherhood. Then, in our society, commenced what I would call a personal worship of Mrs. Tingley by some of the members.

“Q. They looked to her rather than to the teachings of the society for guidance?

1843

“A. Through her orders we changed our study class from the line of study we had been delving into, to more of a sort of an applauding or worshipping of Mrs. Tingley. That made me dissatisfied, and a great many others.

“Q. Did she participate at those meetings?

“A. No sir.

“Q. And that created a division in the society here in Los Angeles?

1844

“A. Created a split-up in our society.

“Q. What effect had it upon the society?

“A. Well, a great many of the members—I could not

1845 state how many, but perhaps thirty or forty—went out; left the society, voluntarily.

“Q. How large was the society?

“A. I think something like eighty members; somewhere along there.

“Q. Do you know how many of them are still left in that society at this time?

“A. No sir, I don't.

1846

MR. ANDREWS: The plaintiff now objects to the question beginning on line 25, page 101, to and including all of pages 102, 103 and to and including line 5 of page 104 deposition of B. F. Hilliker; the objection is to each of the questions on the ground that they are immaterial, and to each of the answers on the ground that they are immaterial, irrelevant and incompetent.

The objection was sustained, the defendant excepted,
1847 and the same is numbered, Exception No. 285.

The questions mentioned in the foregoing objection as appearing upon the pages of said deposition in said objection mentioned, and which questions defendant was prohibited from reading, and the answers thereto, are as follows:

1848 “Q. Were there ever any orders issued by Mrs. Tingley, or by any of the members of her cabinet, with reference to the destruction of books and photographs, papers—

“A. Yes sir.

“Q. — pertaining to the Theosophical Society. What was that order?

1849 "A. Why, she instructed us to destroy all connection to books or photographs—anything—with the persons who went out, and shun them just as you would some poison thing; not even look at them; not recognize them on the street, after they went out of the society.

"Q. That is, if I understand you, then, your instructions from Mrs. Tingley were to ignore and refuse to recognize people who left the society?

1850 "A. Yes sir.

"Q. Well, did the members of the society obey that order?

"A. A great portion of them did.

"Q. Did that order come direct from Mrs. Tingley to the members, or did it come through this General or Colonel Pierce?

1851 "A. It come from Mrs. Tingley direct to our leader, in our society.

"Q. And from him was passed on to the members?

"A. The members.

"Q. Who was the leader?

"A. At the time I went out it was Dr. Beach.

"Q. Well, while you was a member of the society did you obey that order?

1852 "A. No sir.

"Q. After you had been expelled from the society, what was the demeanor of those remaining members towards you?

1853 "A. Pass me by on the street and never know me.

"Q. Men who had been formerly friends and acquaintances?

"A. Oh yes.

"Q. Was that the general custom of the members of the society towards those who had left?

"A. That was the custom of a good many of the society, what they called the devout ones.

1854

Q. Yes, the devout ones?

"A. Those obeying Mrs. Tingley ignored us on the street, when we went out.

"Q. Does that still continue?

"A. I think it does.

"Q. Then you were ordered to destroy all the books and all the papers and documents and photographs of every kind that you had?

1855

"A. I was ordered personally to return all the papers that I had ever received from the society, books, papers, pamphlets, instructions and everything of that kind.

"Q. To return them to the society?

"A. Return them to the secretary of our society.

"Q. Did you obey that order?

1856

"A. I did.

"Q. And then the members were ordered to destroy books and letters and communications and everything that kept up life and friendship for those expelled members?

1857 "A. Yes sir.

"Q. Photographs of them were to be destroyed?

"A. Yes.

"Q. Letters from them were to be destroyed?

"A. As I understood it.

"Q. Of the books to be destroyed did they give you any list?

1858

"A. No sir, not me.

"Q. Did they to others, if you know?

"A. Don't know. That is, I have no personal knowledge of it. In a general way I know it, but personally I don't know it."

1859

WITNESS (Continuing): I did not see any of the members at Point Loma in white robes. I saw Mrs. Tingley in a purple robe which she always wore. She was addressed or referred to as "Mother" and was spoken of among the members as "Purple Mother"; I don't know who gave her that name. The first one that I ever heard use it was Mr. Pierce.

1860

Hereupon the plaintiff objected to the questions appearing on line 20 of page 104 to line 27 of page 105, of the deposition of B. F. Hilliker, and being to the end of the direct testimony, and to each of the questions and to each of the answers, because the questions were immaterial and the answers irrelevant, immaterial and incompetent: the objection was sustained, the defendant excepted, and the same was numbered, Exception No 286.

1861 The questions mentioned in the foregoing objection as appearing upon the pages of said deposition in said objection mentioned, and which questions defendant was prohibited from reading, and the answers thereto, are as follows:

"Q. Now, Mr. Hilliker, did you ever hear Mrs. Tingley at any of her meetings make any reference to the disaster that would follow and pursue anyone who left the society?

1862 "A. Oh yes.

"Q. What was it?

"A. She said there were dark forces and light forces. The dark forces would pursue those who left the society and they would be subject to all manner of malady, such as insanity, go crazy, generally go down, personally and mentally.

1863 "Q. What has been the appearance of a good many of the members who have left that place at Point Loma?

"A. Do you mean our society?

"Q. No, no, I mean Point Loma. If you know, Their mental and physical appearance?

"A. Well, I have not met many that left Point Loma.

"Q. Well, of those you met?

1864 "A. Of those I met it was simply a matter of disgust with the whole business down there at Point Loma, with the way things were carried on, the starving of children and grown people also.

"Q. Those were reasons which members who had left there gave you for leaving?

1865 "A. Yes sir.

"Q. Did Mrs. Tingley ever mention from the rostrum, or in discussing the matter, the fact that disaster had followed certain members who had left the society?

"A. No sir, I don't remember of hearing them—

"Q. You don't remember her specifying the burning to death of a young girl?

1866 "A. No sir, I don't recall that.

"Q. Did you ever see a reference to that in any of the publications emanating from the Universal Brotherhood?

"A. No sir. I don't think I did."

CROSS EXAMINATION of B. F. HILLIKER.

The plaintiff waived the cross examination of the witness; the same was not introduced in evidence, but is here set out, and is as follows:

1867

BY JUDGE MCKINLEY: "Q. You feel that you were very unfairly treated by Mrs. Tingley, Mr. Hilliker, don't you?

"A. Oh no, sir—

"Q. You don't?

1868

"A. I have no special kick a-coming, except I was turned out of the society without any chance for defending myself.

"Q. Well, don't you feel unfriendly to her on account of that?

1869 "A. No sir.

"Q. Not at all?

"A. Other societies would allow me a chance to explain, or state some reason why I was expelled, but from her I never got any reason whatever.

"Q. But you have no feeling on account of that?

1870 "A. Oh, I have no prejudice. Of course I consider Mrs. Tingley a humbug on general principles, and I am disgusted with the whole concern. But I have no personal feeling.

RE-DIRECT EXAMINATION of B. F. HILLIKER.

1871 The plaintiff objected to the reading of the first question of the re-direct examination, on the ground that it was not proper re-direct examination and called for the witness's conclusion, and that the answer showed simply a conclusion of the witness and was irrelevant, incompetent and immaterial; the objection was sustained, the defendant excepted, and the same is numbered Exception No. 287.

The question mentioned in the foregoing objection and which the defendant was prohibited from reading and the answer thereto, is as follows:

1872 "BY MR. JACKSON: Q. Upon what do you base your considerations and feelings that she is a humbug? Her actions?

"A. Her actions and what she says, the course she is taking there in regard to the whole proceeding. She is setting herself up before the people to be a sort of a di-

1873 vine being, and an absolute dictator. No one has a say about anything. All orders come from her. Therefore, I think she is a humbug."

The plaintiff here objected to each of the questions and answers following the question above set out, and including all the re-direct examination of the witness, B. F. Hilliker, on the grounds that the questions were not proper re-direct examination, and were immaterial, and that the answers were irrelevant, immaterial and incompetent. The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 288.

The questions mentioned in the foregoing objection, and which defendant was prohibited from reading, and the answers thereto, are as follows:

"Q. Do the people down there, if you know, accept her dictatorship?

1875 "A. All those do at Point Loma—must do it, or leave.

"Q. Must do it or leave?

"A. Sure.

"Q. She is the one power there?

"A. She is the one power.

The defendant here introduced in evidence the prospectus of the students' home, called Esotero, and being the document attached to the deposition of Dr. Jerome A. Anderson, as Exhibit "A" and same is here marked

DEFENDANT'S EXHIBIT A.

1877

DEFENDANT'S EXHIBIT "A".

PROSPECTUS OF THE STUDENTS HOME OR
COMMUNITY CALLED
"ESOTERO"

A DEPARTMENT OF THE SCHOOL FOR THE
REVIVAL OF THE LOST MYSTERIES OF AN-
TIQUITY. FOUNDED IN 1896 BY KATHERINE
A. TINGLEY.

1878 WITH VIEWS OF SAN DIEGO AND POINT
LOMA.

Issued February 13, 1900.

Copyright 1900 by
KATHERINE A. TINGLEY.

PROSPECTUS.

1879

IN CONFORMITY with the purpose of the School
for the Revival of the Lost Mysteries of Antiquity, and in
harmony with its general plan, Katherine A. Tingley,
Foundress and Directress of the School for the Revival of
the Lost Mysteries of Antiquity, established the Students
Home, or community called "Esotero," a Department of
the School for the Revival of the Lost Mysteries of An-
tiquity, during the Universal Brotherhood Congress held
at Point Loma, San Diego, California, United States of
America, in April, 1899. There the main center of the
School for the Revival of the Lost Mysteries of Antiquity

1880

is established, where "The True Raja Yoga" the laws of
Universal Nature and Equity governing physical, mental,
moral and spiritual education, is taught on the broadest
lines. Other centers will be established at the proper
time in India and other countries. In fact, the whole sys-

1881 tem was carefully outlined by Katherine A. Tingley, Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, at the time when the plan for the founding of the School for the Revival of the Lost Mysteries of Antiquity was first made public.

This prospectus is published for the purpose of giving a general outline of the main features and the purposes of the work to be immediately undertaken, and is, therefore, not intended to deal with many points which require individual consideration.

1882 PERSONS seeking Spiritual Knowledge, "The True Raja Yoga" and who are in sympathy with the aims and purposes of the School for the Revival of the Lost Mysteries of Antiquity, members of the "Eastern and Esoteric School of Theosophy" of which Katherine A. Tingley is the Outer Head, and others whom she may approve may apply for and shall be entitled to admission as students in the Department, Students Home, or Community called "Esotero," after complying with the rules, regulations and by-laws governing the Students Home and those of the School for the Revival of the Lost Mysteries of Antiquity, and after the acceptance of the applicant by Katherine A. Tingley, Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, or her successors.

The Outer Head here especially appeals to all members of the Eastern and Esoteric School of Theosophy:

1884 "UNDER NO CIRCUMSTANCES CAN THE SCHOOL, LANDS, BUILDINGS OR PROPERTY EVER BE SOLD, BUT SHALL FOREVER REMAIN INTACT AS THE PROPERTY OF THE SCHOOL FOR THE REVIVAL OF THE LOST MYSTERIES OF ANTIQUITY, AND AS SUCH

- 1885 SHALL BE HANDED DOWN TO POSTERITY.
 IN ORDER TO PROMOTE THE WORK FOR THE NEXT CENTURY, YOU MUST UNDERSTAND THAT, AS STUDENTS OF THE EASTERN AND ESOTERIC SCHOOL OF THEOSOPHY, YOU ARE TO A LARGE DEGREE HELPING AND SERVING TO BUILD THE TEMPLE OF TRUTH, LIGHT AND LIBERATION, WHICH THE WORLD SO SORELY NEEDS. VIEWED IN THIS LIGHT, EVERY ACT PERFORMED AND SACRIFICE MADE FOR THE WORK BECOMES OF INCALCULABLE VALUE IN FURTHERING THE 'SACRED CAUSE' TO WHICH YOU HAVE DEDICATED YOUR LIVES."

1886

At last the great object of realizing the blessings of the Higher Teachings of an ideal philosophy is made possible.

1887

Through these teachings the material and intellectual life of the age will be spiritualized and raised to its true dignity, thought will be liberated from the slavery of the senses; the waning energy in every heart will be re-animating in the search for truth, and the fast dying hope in the great promise of life will be renewed.

1888

In the Students Home Department of the School for the Revival of the Lost Mysteries of Antiquity will be gathered people from all lands, without regard to creed or race, all concentrating their minds on the great object of gaining and putting into practice the true spirit of Universal Brotherhood.

Teachers will be selected who will dedicate their lives to this high purpose.

Great care has been exercised in the selection of the

1889 grounds upon which buildings are to be erected, wherein individuals and families will be grouped.

In order to avoid the crowding of houses too closely to the Temple, there will ultimately be groups of students, residences at a distance, but accessible to the School for the Revival of the Lost Mysteries of Antiquity, all of which will be a part of the Students Home, or Community called "Esotero."

1890 The receipt by the Executive Board of the donations hereinafter specified, together with the acceptance of the applicant by the Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, Katherine A. Tingley, or her successors, as a student in the Students Home, entitles such accepted student to the privileges of an assignment of residency in the Department of the School for the Revival of the Lost Mysteries of Antiquity called "Students Home."

1891 The raising of the revenue for the construction of buildings, making improvements, maintenance, and the establishing and maintaining of a sinking fund will be based upon the Ground Rental system.

To facilitate the rapid development of the Students Home and the building of houses for occupancy by accepted students, an amount of money covering ground rental, hereinafter specified will be received by the Executive Board for one or more years rental charges in advance.

1892 Accepted student's privileges are classified as follows: Unmarried students have the privilege of residency in the Students Home Community Building, to which no married people will be assigned; but they will not be accepted for less than a four years course. Apartments with sustenance will be furnished them at fixed schedule

1893 rates, upon their depositing with the Executive Board an entrance maintenance guarantee fund of One Hundred Dollars (\$100.00) or more, which deposit shall remain in the hands of the Executive Board until the student's connection with the Students Home is severed.

Groups of students consisting of parents and children will not be accepted for less than a ten years course, unless otherwise specially permitted by the Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, or her successors.

1894

The household plan provides that the cooking and laundry work shall be done apart from the residences.

Students of the Eastern and Esoteric School of Theosophy, who are intelligently devoted to the work, who cannot command the full donation or pay advanced rental, but who can pay fixed sums from month to month, at the discretion of the Executive Board and with the approval of the Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, or her successors, may be assigned apartments in the "Studio," or "Colony." Others, to whose personal requirements the foregoing does not apply, may write to the person hereinafter designated, stating their desires and resources.

1895

At the time an accepted student executes a ground rental agreement, a certain sum, to be agreed upon, may be deposited with the Executive Board, as a credit on the cost of a residency privilege assigned to his or her occupancy. On the completion of a residence, the balance of its costs over and above the sum already deposited, as hereinbefore provided for, may be paid to the Executive Board. The money so advanced to cover cost of the residence will be refunded by the Executive Board by monthly credits on account, equal to fifty per cent. of the

1896

1897 fixed ground rental; the remaining fifty per cent. of the monthly ground rental charge to be paid monthly in cash by the student to the Executive Board to provide for maintenance, depreciation and sinking fund.

Applications for the privilege of assignment for residency in the Student's Home shall be accompanied with an agreed donation of Five Hundred Dollars, One Hundred Dollars of which shall be sent with the application, the remaining Four Hundred Dollars being payable within ninety days thereafter.

1898

An accepted applicant, donating the amount of Five Hundred Dollars, becomes entitled to the privilege of assignment of residency in the Students Home, or community called "Esotero" and will be charged for ground rental according to the location and privileges granted.

Heads of families, members of which are in sympathy with this work, may apply for a privilege of assignment of residency for husband, wife and minor children, and in such cases only one donation of Five Hundred Dollars will be required for the entire family.

1899

Should it become necessary at any time to sever the connection between a student and the Students Home, it will be the duty and within the power of the Executive Board, after receiving the approval of the Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, Katherine A. Tingley, or her successors, to cancel all privileges of residency, or other relations, and after due notice to require such student to vacate the ground and premises.

1900

When connection is thus severed in any instance, the student shall be paid within ninety days thereafter, any cash balance remaining to his or her credit in the hands of the Executive Board. It should be clearly understood

1901 that the residency and privileges granted to the students are of a nature not to be obtained elsewhere.

The privileges of the Students Home will for the present be restricted to selected persons and cannot be extended to the outside public until our teachers are prepared; wherefore it results that the financial maintenance must be assured by the income derived from the sources herein indicated. It is of vital importance that early applications for residency be made in order to enable the Executive Board to ascertain requirements and resources, so as to arrange for the laying out of the grounds and the securing of simultaneous and therefore more economical construction of the buildings and improvements.

Those who are not prepared to enter the Students Home, or fitted to remain permanently, will find ample accommodation at the International Brotherhood League Colony, recently founded by Katherine A. Tingley, President of that League, which works in harmony with the School for the Revival of the Lost Mysteries of Antiquity, though not officially connected therewith. This Colony is most beautifully located on a high eminence, within easy distance of the School for the Revival of the Lost Mysteries of Antiquity, and affords conditions and facilities which will give to its residents the benefits of the preparatory teachings of the School for the Revival of the Lost Mysteries of Antiquity.

Members of this Colony in good standing, upon recommendation of the Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity, will be granted certain privileges by the Executive Board of the Students Home.

Buildings are now being erected from original plans and designs by the Foundress-Directress of the School for the

- 1905 Revival of the Lost Mysteries of Antiquity, Katherine A. Tingley. In style and character they are absolutely new to modern times, reviving the beauty and chasteness of the ancient periods, anterior to those of which we still have a few remaining examples, and so different from anything now in existence that they cannot be comprehended, much less appreciated, until seen. These buildings and their appointments will be conducive to the greatest simplicity of life, and yet will be more beautiful and utilitarian than the most expensive modern dwellings? They are in themselves object lessons, at once educative and ennobling.
- 1906

The elevating influence of such habitations upon family life will reveal how the grandest principles of human life are interwoven with the simplest duties of home. In order to better serve humanity with these lofty, economic, unselfish and pure examples, they must be shown to the world as being both consonant with and in most intimate relationship with the sacred ties of family.

- 1907 To live under the refining influence of such homes, to be stimulated by such gentle and lofty surroundings while in active preparation to become a world teacher, is beyond measure inspiring. For the dominant purpose of the School for the Revival of the Lost Mysteries of Antiquity is to establish a Temple, a Beacon Light, a Home of Peace, stretching out the strong hand of Truth, Light and Liberation, inviting the world to partake of its spiritual benefits. To this end, Group Homes will be established,
- 1908 where students of different races and nations will find welcome without interference with such of their home customs and habits as are good and helpful. Here the Hindu, Christian, Maori, Brahmin, Samoan, Hebrew, African, Mohammedan, Indian, Buddhist, the Agnostic,

1909 the Religionist and the Non-Religionist, freed from the bonds of sectarianism, nation and race, will live apart yet together for a common purpose, and willingly held in harmony by the higher and stronger bond of Universal Brotherhood.

The School for the Revival of the Lost Mysteries of Antiquity has no a nucleus of a Great Library at Point Loma, San Diego, California, United States of America, which contains among other words many rare volumes collected by Katherine A. Tingley during he Crusade around the world. This Library is under the supervision of the appointed Librarian and Expert Collector, Rev. S. J. Neill.

1910 There will also be erected a Musical Auditorium and Conservatory, an Art Studio, Lecture Hall and Gymnasium; also private studies for the accommodation of visiting artists who are not members of the organization.

For the education of the children of the Students Home specially trained visiting teachers will be provided on such terms as may be prescribed. In due time a permanent school for children will be established by the Foundress-Directress.

1911 AT THIS EMPHASIZED PERIOD of the world's history, when whatever is necessary is within the easy reach of those who are working for Right, we feel sure that no earnest, honest Soul will for a moment hesitate to undertake what has heretofore appeared as impossible in forwarding the interest of our Great Work along the lines and in the manner laid down by our Great Teacher, Who, be it remembered, has NEVER FAILED in whatever she has undertaken for the work, and this in the face of obstacles which were apparently insurmountable as compared with anything that now presents itself.

1912

1913 "NOW is THE APPOINTED TIME. ACT AS THE CHOSEN PEOPLE!"

All correspondence must be addressed to and application blanks will be furnished by Frank M. Pierce, General Representative of the School for the Revival of the Lost Mysteries of Antiquity, Point Loma, San Diego, California, United States of America.

Checks and remittances are to be made payable to E. A. Neresheimer, Treasurer of the School for the Revival of the Lost Mysteries of Antiquity.

1914 Issued this 13th day of February, 1900.

Board of Directors of the School for the Revival of the Lost Mysteries of Antiquity.

KATHERINE A. TINGLEY, PRESIDENT,

E. A. NERESHEIMER, TREASURER,

F. M. PIERCE, GEN'L. REPRESENTATIVE.

Executive Board of the Students Home:

KATHERINE A. TINGLEY, PRESIDENT.

1915 E. A. NERESHEIMER, TRUSTEE.

F. M. PIERCE, TRUSTEE.

C. THURSTON, TRUSTEE.

H. T. PATTERSON, TRUSTEE.

Approved:

Katherine A. Tingley,

Foundress-Directress of the School for the Revival of the Lost Mysteries of Antiquity.

1916 EMIL A. NERESHEIMER
sworn on behalf of defendant, testified as follows:

BY MR. HUNSAKER: My name is Emil A. Neresheimer. I reside at Point Loma, and have resided there since February 26th, 1901. During all the time I have

1917 resided there, I have been a member of the Universal Brotherhood. I am chairman of the Universal Brotherhood cabinet, president of the Theosophical Society in America, treasurer of the School for the Revival of the Lost Mysteries of Antiquity, and I have some official position in the International Brotherhood League, but I do not recollect what it is.

The cabinet of the Universal Brotherhood consists of thirteen members. I do not recollect the names of all the members of the cabinet, but during the year 1901 the cabinet was composed, as far as I remember, of Clark Thurston, who was also a member of the finance committee. H. T. Patterson, a member of the cabinet, is also assistant treasurer of the Theosophical Publishing Company; I believe he holds some other position but I do not recollect what it is. Frank M. Pierce is a member of the cabinet and is general representative of the School for the Revival of the Lost Mysteries of Antiquity. He belongs

1918 also to the finance committee of the Universal Brotherhood and is also secretary general of the Universal Brotherhood. I do not know all his duties as secretary general of the Universal Brotherhood, but he exercises the function of secretary general, signs documents and circulars and the like that are being sent out, and what various other functions he has, I do not know. Mr. Pierce also belongs to the board of management of the buildings and grounds at Point Loma. That board consists of Katherine Tingley, Frank M. Pierce, Emil A. Neresheimer, and Clark Thurston.

1920 Judge E. O'Rourke of Ft. Wayne, Robert Crosby of Boston, and Dr. Jerome A. Anderson of San Francisco, are also members of the cabinet. Dr. Anderson also holds the position of vice-president of the Theosophical Society

1921 in America. Mr. Sweet of Indianapolis, Mr. Cederholm of Chicago, Mr. Harris and Mr. Walter T. Hansen are members of the cabinet. You will find the list printed somewhere in one of our publications.

The Society does not issue any publication. The New Century is not published under the auspices of the Universal Brotherhood League. It is an independent publication, issued by Katherine Tingley individually. The Crusader is published by some individuals in London. The New Century has been issued for approximately three years. It first appeared after the cessation of the publication of the Theosophical News, and was published first in New York. It has been published in San Diego since the removal of Katherine Tingley to Point Loma, which was in February, 1901.

1923 Q. Now what connection—or what duties did Mr. Pierce, during the year 1901, perform about the Universal Brotherhood grounds there, and what authority did he exercise?

A. The Universal Brotherhood has no grounds

Q. In whom is the property vested where the Universal Brotherhood carries on its work at Point Loma?

The plaintiff objected to the question as irrelevant and immaterial, and the answer as irrelevant and immaterial, and that if it should be material as to who owned the title to the lands there, the proper evidence would be the deeds; which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 280.

1924 A. There is an institution on Point Loma known as the colony and also a place there known as the homestead.

- 1925 The colony is about two miles north from the homestead, and during the year 1901 was under the direction of Walter Hansen as superintendent. He derived his authority from the officers of the organization—the International Brotherhood League. The homestead was carried on during the year 1901 under the direction and supervision of the board of directors of the Point Loma homestead. That is a corporation. During the year 1901, Mr. Hansen in conducting the colony had a lady by the name
- 1926 of Munson as assistant superintendent. I do not think Dr. Winkler had any connection with the colony during that time. Dr. Wood was the physician there. During the year 1901, Mr. F. M. Pierce was the treasurer of the Point Loma Homestead Corporation. The other officers of the corporation were Clark Thurston, president, Katherine Tingley, myself, and a man named Agner were the trustees of the corporation, and during the year 1901 the board of trustees had charge of matters at the homestead.
- 1927 Mrs. Tingley's connection with the management there was that of the trustee. She did not hold any other position. The Point Loma homestead bears no relation whatever to the Universal Brotherhood. I am treasurer of the School for the Revival of the Lost Mysteries of Antiquity, and that school bears no relation to the Point Loma Homestead. These are all separate and independent corporations.

1928 Q. What work was Mrs. Tingley engaged in there of which she was the head—what institution?

A. Universal Brotherhood. These different corporations are not organized for the purpose of aiding in carrying out the purpose of the Universal Brotherhood. Mrs. Tingley is the head of the Universal Brotherhood.

1929 That is the only institution there of which she is the head, and she has nothing to do with the management of any of the other corporations. All of the institutions or corporations except the Universal Brotherhood are independent of Mrs. Tingley's management. I never heard of the Universal Brotherhood Homestead. I never heard of Mrs. Tingley as head of that institution. There is no such institution.

CROSS EXAMINATION of EMIL A. NERESHEIMER.

1930

BY MR. KELOGG: Mrs. Tingley is president of the School for the Revival of the Lost Mysteries of Antiquity, and she is a trustee of the Homestead Corporation. She does not hold any place other than that in the Homestead Corporation at the present time, nor did she in the year 1901. As a trustee of the homestead, she takes part in the management of the Homestead Company and did during 1901, and as president of the school, she took part, and still takes part, in the management of that corporation.

1931

MATILDA KRATZER

sworn on behalf of defendant, testified as follows:

BY MR. DANEY: My name is Matilda Kratzer. I reside at 924 B. Street, San Diego. I did reside at the Point Loma homestead. I went there first on March 11th, 1900, from Los Angeles, for the purpose of receiving an education. When I first arrived there I was assigned to the kitchen to wipe the dishes. That was all I did the first evening I was there. We arrived there about four o'clock in the afternoon from Los Angeles, and the first thing I was assigned to was that of wiping dishes.

1932

1933 I was not immediately assigned to any special or specific duties, but very shortly after my arrival there I was, probably three days after. I was assigned to wait on the table and do whatever the instructor told me to do. Mrs. Patterson was the inspector at that time. I was directed to wait on the table and do the chamber work in the different rooms, and was required to work at that occupation from about six o'clock in the morning until 9 o'clock in the evening of every day. About three weeks before

1934 we left the institution, I was required to get up at half past four o'clock in the morning and work until ten or eleven at night. At that time I waited on the table, and cleaned the halls of the homestead on the first floor and the second floor and helped in the kitchen. I was required to work during all those hours.

I was at the Point about five and a half months, commencing in March, 1900, and was there during part of March, April, May, June, July and part of August. We

1935 left on the 26th of August, 1900. During all the time I was at the Point I was occupied in the performance of the duties I have described. I did not do anything else. I was not given any educational opportunities, except that I was given six music lessons in the five months I was there. Miss Julia Hecht gave me those lessons. I was instructed to have two lessons a week and then I took them all together, and then Mrs. Tingley said that on account of the buildings going up and every one being so

1936 busy, she would have to have them delayed. I do not remember whether it was five or six lessons which I got, but they were the only music lessons I got at Point Loma, and during all the rest of the times I was there, I kept at the menial labor which I have just described.

1937 Q. While at the Point, did you observe any ceremonies?

A. I only attended the meeting of the daughters of the Rising Sun and the laying of the corner stone for the Isis Conservatory of Music, I attended the meetings of the daughters of the Rising Sun whenever I was invited, and as near as I remember, about three times. At these meetings there were addresses by several of the students, and silence was observed, and we sat there on the floor
 1938 on mats and there was music, after which there was—well you could not call it a social time, but we all chatted and went to our rooms at a special time. These meetings were held on Sunday evening. When I attended those meetings, I was dressed in the Greek costume. This Greek costume is simply a loose robe of cheese cloth or anything that you have, and just a single robe with a sort of scarf thrown over the shoulders, with the arms bare and neck bare and sandals — we wore stockings but the
 1939 arms and neck were bare. This material was cheese cloth or some kind of fine crepe. We wore that costume and was required to do so. I don't remember who gave me the instruction, but the person who had charge of giving the costumes presented me with one. I saw Mrs. Tingley at these meetings. She was dressed in white, and about the same as the other people, except more elaborately. At these meetings she sat in her chair and listened, and once in a while when called upon, she would say a few
 1940 words on the harmony that was being derived from holding these meetings and she would speak on such other things as she saw fit. The students who spoke at these meetings were appointed by Mrs. Tingley to speak. Different ones were appointed by Mrs. Tingley to speak each

1941 evening. I was a member of the society of the Daughters of the Rising Sun. I was not initiated into it by any particular ceremony. I don't remember very much of the ceremony because it was about six years ago. All I can remember is that it was about one o'clock at night, after Mrs. Tingley had lectured at the pavillion in Los Angeles, and we went over to the Universal Brotherhood hall and there we were initiated and we stood with our fingers on our lips and then made a sign of the triangle with our fingers. That is all I can remember of the ceremony.

1942 I was a member of the society when I went to Point Loma. Mrs. Tingley was present in Los Angeles the night when I was initiated into it and took part in the initiation. That was before I went to Point Loma. At Point Loma Mrs. Tingley was called by some of the students "Purple" and by others "Mother" and in one instance I heard Mr. Hansen call her "P". Mr. Hansen was a resident of the Homestead and a member of the organization.

1943 I observed at Point Loma the ceremonies when they greeted the rising sun. I only saw them once, but I know they greeted it every morning. On this morning I refer to, we all marched up the hill. I do not know whether we had our Greek costumes on or not, but marched up the hill and then turned towards the east, and when the sun arose they sang the hymn "Hail! Hail! King of the day" and I believe that was all. I think the people at that time were dressed in the ordinary dress, and I do not know whether they had on shoes or whether they were bare footed. I do not recollect seeing any ceremonies in Point Loma where they were bare footed, except the craftsmen. These craftsmen wore a dark loose robe of

1944

1945 cover cloth. Coming down to the knees and beyond the knees they were bare. They had a wide girdle around the waist. I believe that was all. Their arms were protected by the sleeves but they were bare from the knee down and were bare footed. They took part in the ceremonies of the laying of the corner stone. I saw them gather around the corner stone and say something I could not hear. That took place about eleven o'clock in the forenoon. The craftsmen were only dressed in this costume on certain occasions. Those occasion were when they were laying the corner stone; and one time, when Mrs. Tingley was giving a birthday party, they stood behind the table while the guests ate.

1946

I did not see any ceremonies on the occasion of Mrs. Tingley being given a birtyday, but the craftsmen were dressed in this costume on that occasion. I saw the guests assemble at that time and saw them sit down to dinner. I waited on the table. Afterwards the guests retired to the reception room. I did not see them there. While the guests ate, the craftsmen stood behind Mrs. Tingley and after the guests left there the craftsmen were given a seat at the table and had their meal, but they stood behind Mrs. Tingley while all the guests ate. They stood there about half an hour. They did not say anything or do anything. Mrs. Tingley was seated at the head of the table and the craftsmen would stand around behind her, doing nothing. They were about a foot or two feet behind her. There were either five or six of them. Their

1947

names were Mr. Box, Mr. Stowe, Mr. Leonard, Mr. Pettigrew; I cannot think of any one else. They stood there about a foot behind Mrs. Tingley for about an hour. They were not in my way when I was waiting on the table. They just passed the different things on the plat-

1948

1949 ters. I didn't wait on the side where Mrs. Tingley sat. These craftsmen did not have anything with them except their uniform that night. They did not have any implements of warfare or implements of their calling. In the ceremony of the laying of the corner stone they carried their shovels or spades. There were five or six of them at that time.

I cannot think of any other costumes worn by people at Point Loma, except those which I have described as worn by the craftsmen and the Greek costumes worn by the daughters of the Rising Sun. I have seen Mrs. Tingley in costume. I have seen her in this white robe that she wore at the meetings and in a dark robe. I don't know whether it was purple or blue. It was one color or the other. I have seen her in a loose black silk robe and also a tan one. I don't remember the occasion when I saw her wear this blue costume, nor do I remember whether she wore that costume at the ceremonies attending her birthday party. I cannot remember the occasions when she did wear the purple or blue costume.

1951 I am seventeen years old, and I left Point Loma, August 26th, 1900. I was about fifteen years old when I was there. My mother and my sister were there. At that time my sister was twelve years old.

Q. And for what purpose did she go there?

The plaintiff objected to the question as immaterial, incompetent and irrelevant, and calling for a conclusion of the witness and not for facts, and circumstances from which that conclusion might be drawn, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 290.

1952

1953 Q. How did she happen to go there?

The plaintiff objected to the question as immaterial, incompetent and irrelevant and calling for a conclusion of the witness, and not for facts, and circumstances from which that conclusion might be drawn, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 291.

1954 WITNESS (Continuing): I was present when a request was made for me to go to Point Loma. This request was made March 10th, 1900 at my mother's house on 7th and Olive streets in Los Angeles. The party who came and requested me to go to Point Loma was Dr. Beach, who was president of the Universal Brotherhood Society in Los Angeles. That institution was, at that time, related to the Point Loma institution. It was a lodge that belonged to the head department, one of the lodges of the Universal Brotherhood. Dr. Beach was president of it at that time. I have seen Mrs. Tingley present at one or two meetings of that lodge in Los Angeles. I don't remember what she did, except that she spoke in this lodge of which Dr. Beach was president.

1955

When we arrived at Point Loma, in pursuance of the request of Dr. Beach, we were met at the Homestead by Mrs. Tingley, and the first thing she had me do was to play a piece for her on the piano, and she told us we might go out and get our supper. That is all she said.

1956 She did not tell me, at any time, what I was to do there. She did tell me after the buildings were up that I should receive music lessons and I was to be counted in as one of the students and receive an education.

I never saw Dr. Beach at Point Loma. Dr. Beach came

1957 to my mother's house in Los Angeles one afternoon, and said that he had received a telegram from Mrs. Tingley, saying that Mrs. Tingley was interested in us and she wanted us to come to Point Loma the next day and my mother said "well, I must see something that will prove she said these things" and she says, "you must either show me the telegram or show me a letter that you have received giving you these instructions," and he said, "well, you can go down and see what is going on there and make arrangements with them," and he said, "it will be a home for you forever," he said, "and the children will be educated," and he says "you will have a home," and so my mother said, "well, I can't go tomorrow." He said "you must go tomorrow, you can come back, if you are not satisfied there, pack your things up and if you are not satisfied, why, you can come back to Los Angeles" and he gave her the money to come down on.

1958

1959 My sister was twelve years old at that time, and she went to Point Loma with us. The first two or three weeks she was allowed to stay with us at the Homestead, and she helped my mother a good deal about the kitchen, and then Mrs. Tingley told mother she would have to go over to the colony where she belonged. That she was in the way at the Homestead and my mother didn't like that, but she had to consent to it, and so she let her go, and my sister stayed at the Homestead about three weeks, and after that she resided at the colony. The colony is about a mile and three-quarters from the Homestead.

1960 I do not know, of my own knowledge, what my sister did at the colony. I only saw her twice while she was there. I didn't see her oftener because I was not permitted to do so. I asked the house-keeper, Mrs. Patterson, if I could see my sister, and she went to Mrs. Tingley and asked

1961 Mrs. Tingley, who said "no". My mother was at the Homestead. I saw her every day, but I only saw my little sister twice while I was there after she went to the colony.

I know that there were guards around the institution while I was there. They were stationed along the road leading up to the homestead. I don't know the exact number of guards. Approximately there were about five or six.

1962 Q. Do you know whether these guards were armed or not?

A. They had a club in their hands, something like the policemen's club, is all I know. I saw three armed with clubs.

1963 I was at the colony once on a visit. There were two or three houses grouped together and a hedge surrounded them part of the way and part of the way a fence surrounded them, and there were guards around the house. I don't know if there were any children at the colony at that time, except my sister, and I only saw her twice. It was Sunday afternoon when I was there. I don't know who was living at the colony at that time. My sister left Point Loma at the same time my mother and I left.

Q. When you left, did Mrs. Tingley say anything to you about whether you could come back or not?

1964 The plaintiff objected to the question as irrelevant, immaterial and incompetent, which objection was sustained, and the defendant excepted, and the same is numbered, Exception No. 292.

WITNESS (Continuing): While I was at Point Loma I did not attend any school at all, nor did I have any instruction of any kind from anybody, except those

1965 five music lessons in five months, and the only schooling that I got there was those five music lessons in the five months I was there.

CROSS EXAMINATION of MATILDA KRATZER.

BY MR. KELLOGG: My full name is Matilda S. Kratzer. While I was at Point Loma I was addressed and known as Tillie Kratzer. My sister's name is Annie, and my mother's name is Mrs. M. Kratzer. At the present time I am living with my mother in San Diego, as is

1966 my younger sister.

My mother and I were members of the lodge of the Universal Brotherhood before we came to Point Loma. We were not, at that time, receiving financial assistance from the local lodge or from any persons connected with it, nor from the Universal Brotherhood at Point Loma, nor from any other source whatever.

1967 Before the time of the conversation of Dr. Beach and my mother in Los Angeles, I was attending school, but doing nothing else except helping my mother around the house. I was not old enough for any other work. I was fourteen at the time I went to Point Loma.

At the time of the conversation with Dr. Beach, myself and my mother were both present. Dr. Beach said he had a letter or telegram, I don't remember which, but he said there was nothing in it that referred to us when my mother asked him to let her see it. He did not read from it, nor did he produce it.

1968 I do not wish to be understood as saying that I thought I was not to do anything in the way of work towards helping the institution when I came to Point Loma. I did not understand it that way, but I did not understand that we were to work all the time, without any educa-

1969 tion. Nor did I understand that we were to be educated solely and not do any work at all. I understood that I was to do what I could in the way of helping people at the Point. Dr. Beach gave my mother the money with which to pay our fare from Los Angeles to Point Loma. We were driven over to Point Loma from San Diego when we arrived here. While at Point Loma neither my mother nor myself paid any money for our accommodations there. When we arrived there, repairs to the buildings were progressing and there were a number of workmen present about what is now the present homestead building. They were making changes and alterations about the homestead building, but not on the homestead itself, tearing down some parts and making alterations on other parts, working now at one place and now at another. That continued all the time I was there and until in August. When I left the workmen were still busy around the premises.

1970

1971 When I first went there, I arose at six o'clock in the morning. The people in the Homestead generally had their breakfast at seven o'clock. I do not know what time they arose, nor do I know what time the sun rose in the summer months. It was earlier than six o'clock: about 5:15 or something like that, and if people wished to attend the sunrise meetings, they had to get up earlier than six o'clock. I attended one of them.

1972 When I speak of working from six o'clock in the morning until nine at night, I mean that I worked continuously and without cessation during that whole period. There was no time at all during those hours that I had to myself. I had no time whatever to read during the day, except perhaps once in a while on Sunday afternoon.

1973 I wish to be understood as saying that on no day, during my entire stay, except a few Sunday afternoons, had I any time at all to rest, nor any time to walk about the grounds for my own pleasure, nor to chat or talk with other members. I did speak to members while I was there, but I didn't have any time for social chat or conversation with them. I was not considered as one of the students and I did not have any time during those hours while I was at Point Loma to sit upon the veranda and rest. Not an hour—not half an hour.

1974

Most of the ladies that lived there were busy.

Q. Will you state what the ladies were doing at the Point while you were there?

The defendant objected to the question on the ground that it called for the opinion of the witness and was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 293.

1975

A. I don't know what each of the members had to do—the ladies.

I don't know whether all the ladies there were busy or not. I cannot say because I did not take particular notice of any of the ladies. I didn't pay any attention to their work. I was too much occupied with my own work, but I cannot swear that they were not busy. At first, I had something to do with the kitchen and chamber work and work in connection with the halls. The halls had polished floors and they first needed sweeping and then mopping with water every day;—not with a dry brush. I did that every day.

1976

I waited on the tables until eight o'clock in the morn-

1977 ing, and then after that, I went up stairs and cleaned the halls, which kept me occupied until about eleven o'clock. I cleaned four halls on the second floor. The halls on the second floor went around the outside of the building; clear around the four sides and it took me about two hours to clean them. Then it was time to prepare to wait on the table, to get the tables ready. Then I waited on the tables about an hour. That would bring it up to about one o'clock.

1978 I said I waited on the tables until eight o'clock, then I spent two hours in cleaning the halls. That brought it to ten o'clock. After I cleaned the halls, if the housekeeper had nothing for me to do other than cleaning the halls, I had to help her in whatever she had planned. Mrs. Patterson was housekeeper at that time and then Madam Peterson succeeded her. Dr. Winkler came in as house-keeper later on in the year. I don't remember which month it was. She had charge after she came in

1979 and what I did after she came in was under her supervision. I said my time after ten o'clock was filled with whatever work the house-keeper planned for me, cleaning rooms, or doing anything that was to be done until I waited on the table at the noon meal, which took about an hour. Then I cleared away the table, and every afternoon, I had my work arranged so that I had to clean some rooms. I could not clean more than two rooms in an afternoon. Sometimes not two, according to how much work there was. It would take me from half past

1980 one until half past four to clean two rooms thoroughly. When I speak of cleaning two rooms thoroughly, I mean taking out all the furniture, sweeping the carpet, or whatever there was on the floor, and straightening around

1981 and cleaning them out generally. I did not do that on every day I was there. On certain days I had to clean rooms and other days there was other work that would come up that I had to do. I had to take care of the dining room and sweep the large dining room. It had a varnished floor and that occupied my time till about half past four, then after that I prepared the salad for all the people in the Homestead, and then it was time to get ready to wait on the table, and I waited on the table until about seven o'clock, then I went down and ate my supper and helped my mother in the kitchen until nine o'clock.

1982 During this time I only had about fifteen minutes in the morning which I could spare, and about once a week I would sit down to the piano for about fifteen minutes practice, and that was all the time I could ever practice during the whole period of my stay there.

1983 I know Dr. Wood. He was the owner of the place before Mrs. Tingley took it. I know his daughter, Miss Ethel Wood.

Q. Is it, or is it not a fact, that she waited also on the table at times?

The defendant objected to the question on the ground that it was not cross examination and was incompetent, irrelevant and immaterial, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 294.

1984 A. She never waited on the table while I was there.

Not on any occasion that I ever saw. I know Miss Hecht, who lives at Point Loma.

Q. She never waited on the table on any occasion when you were there, also?

1985 The defendant objected to the question on the ground that it was not cross examination and that it was incompetent, irrelevant and immaterial, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 295.

A. No sir.

1986 I do not wish to be understood as saying that I was the only one who waited on the table during the five months I was there. Miss Nina Smith, who was not a member, but had been in Dr. Woods' employ, and afterwards stayed at the Homestead for a while and Miss Annie Yergens, both waited on the table, but no one else did. I worked with these two ladies there. Nina Smith was not there during the whole five months.

1987 When I state I had to work, I mean that that was the order given by the house-keeper and she received her orders from Mrs. Tingley; so when I say that I was compelled to work, I mean that the house-keeper told me to do so. I did not always clean the halls alone during the whole time. Miss Annie Yergens helped me part of the time, and when Nina Smith left the Homestead about three weeks after I arrived, I had all the halls on the first and second floors in the whole building to clean myself. No one helped me at all. I did not clean all the rooms alone. A Chinaman was employed to help, but other than this Chinaman working with me and cleaning the rooms, no one else helped me. The house-keeper

1988 arranged the rooms for the different guests, but I had to do the cleaning. The Chinaman helped clean the rooms. Other than the Chinaman and myself, none of the people at the Homestead did anything in the way of cleaning the rooms.

1989 I testified that during the whole period of my stay there I received five or six piano lessons from Miss Hecht, and I can positively swear that they were the only lessons I received from her during the whole five and a half months I was there. I remember every lesson I received. But cannot remember any dates. I always thought of it since because I knew I would be called on some day to give my testimony as I have before. I knew I was going to be called on to give testimony when my mother sued for wages.

1990 Q. She was defeated in that suit, was she not?

The defendant objected to the question on the ground that it was incompetent, irrelevant and immaterial, was not cross-examination and that the record of the suit was the best evidence, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 296.

A. Yes sir.

1991 I testified in that suit.

Q. That suit was brought in May, 1901?

The defendant objected to the question on the ground that it was immaterial, irrelevant, and not cross examination, and that the record was the best evidence, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 297.

A. I do not remember the month, exactly.

1992 It was brought about that time. I left the Homestead on the 26th day of August, 1900.

Q. That would be about eight or nine months before the time when the suit of your mother was brought, was it not?

1993 The defendant objected to the question on the ground that it was not proper cross examination and was irrelevant and immaterial, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 298.

A. Yes sir.

1994 That was the first time I knew I would have to give my testimony in this suit, and then I refreshed my recollection as to the number of piano lessons I had. I knew then the number I had taken and I took down the number of music lessons I took while at the Point. I haven't the memorandum now. I did not know then I would have to give testimony in this case, but I knew I was going to give testimony in my mother's case. I destroyed the memorandum of the number of music lessons I took because it was in my mind. I was sure about it. I made the memorandum on a common slip of paper in my mother's note book. Just after the lessons ceased I don't remember just when, and kept the memorandum until about three months after I left the Homestead. The memorandum was in connection with my mother's suit which was not begun until nine months after I left the Homestead.

1995 After we had been at the Homestead for about two months, these five or six music lessons began.

1996 I only knew about two weeks ago that I was going to called on to give my testimony in this case. I did not talk with my mother about my testimony here; about anything that would refresh my mind as to what happened at Point Loma. I did talk with her about the fact that I was to testify here.

1997 Q. Well, you give us as nearly as you can just what conversation took place between your mother and yourself about testifying in this case?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not proper cross examination, and hear-say, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 299.

1998 A. I told my mother I didn't like to go into Court. That is one of the greatest things I hate, because I knew it makes bad feelings with everybody and I thought about it a great deal and kept thinking when I would be called. I told her I didn't want to go. Otherwise, I have said nothing.

That is the entire conversation with my mother.

Q. Did your mother say anything?

1999 The defendant objected to the question, on the ground that it was irrelevant and immaterial and not cross examination, and hearsay, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 300.

A. My mother said it had to be. She could not see any other way out of it.

2000 That is all she said. When I said I did not want to testify because it would create bad feeling, I did not mean bad feeling between myself and Mrs. Tingley, but bad feeling from every one that I know. I was not afraid of creating any bad feeling between Mrs. Tingley and myself.

Q. In other words, you already feel unfriendly to-

2001 ward her so you don't care whether it is any worse or not?

The defendant objected to the question as calling for a conclusion of the witness and not proper cross examination, and assumed a fact which had not been proven, which objection was overruled, the defendant accepted, and the same is numbered, Exception No. 301.

A. No sir, I had no bad feeling toward her.

2002 There is no unfriendly feeling toward Mrs. Tingley. I do not feel exactly friendly, but I do not regard her as an enemy. I am not unfriendly.

At the time I was there, there were two pianos in the Homestead building. I don't remember whether they were in the same part of the building or in the same room. It is not a fact that after I got there the workmen began work on the part of the house where the pianos were, and that the pianos were covered for a time. The

2003 pianos were not covered up during any portion of my stay there.

Q. Is it not a fact that Mr. Hansen's children were prevented from using the piano during a part of your stop because of the condition of the building and the pianos being covered up?

A. Miss Kate Hansen was the only one to my knowledge taking lessons, and the Hansen children, and she continued taking lessons after I quit. She was not interrupted until later on.

2004 Q. Mr. Hansen, as you know, was paying for her piano lessons?

The defendant objected to the question on the ground

2005 that it was irrelevant and immaterial, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 302.

A. I don't know for a fact that he paid, but that is merely hearsay.

I don't know that Miss Hecht, Miss Kate Hansen's instructor, during a part of my stay had to stop her own practice because of the condition of the building and the covering up of the pianos. I will not swear
2006 that she did. She did not practice every day, but she practiced most of the time. I don't know just what portion of time she was interrupted.

Miss Hecht told me I was to have half an hour every afternoon for practice, but the house-keeper told me just when I should practice and I never had any time in the afternoon, so I put in my fifteen minutes in the morning instead of half an hour. I didn't have any half hour's practice. The house-keeper came to me and told
2007 me if I could get fifteen minutes practice in the morning. I could do so. That is all the conversation I ever had with her about it. Mrs. Patterson was the housekeeper. I don't remember ever talking with Dr. Winkler about my practice. I never complained to Dr. Winkler about practicing during the three months that she was superintendent, nor did I ever make any complaint other than the one in this conversation with Mrs. Patterson about music lessons, to any one while I was there.

2008 Q. Let us take up the Daughters of the Rising Sun; what was the initiation?

A. In the Universal Brotherhood society. I was never initiated into the Daughters of the Rising Sun and on the two occasions that I attended their socials I

2009 was there as their guest. Those socials were held every Sunday evening. I don't know how many there were. I attended three. I had no thought of being called upon to testify upon that particular point. I attended two of the meetings of the Daughters of the Rising Sun and the other one was the meeting of the Sons of the Rising Sun; that makes the three meetings which I mentioned before, as having attended, and were the meetings at which addresses were made by the students. There was some music. Those were the only entertainments of any kind I attended during my entire stay, except one play, I don't remember the name of it. There was nothing else in the way of a social evening that I attended. At one of the socials which was held in the oriental rooms some of us sat on the floor and some of the most distinguished people sat on chairs. I don't know if all the chairs in the room were occupied, nor do I know that those who sat on the floor did so because there were not enough chairs to go around.

2011

Q. Are you prepared to say it is not so?

The defendant objected to the question on the ground that it was irrelevant and immaterial and not cross examination, which objection was overruled, the defendant excepted and the same is numbered, Exception No. 303.

A. I think that must have been it. I don't remember though.

2012

I only saw my sister once at the Homestead. She did not come to the Homestead on Sundays to see my mother. My mother only went to the colony twice to see her. I did not keep any memorandum of this, but I remember it because one afternoon there was to be a little gathering and my mother and I went, that was the first time. The

2013 second time we were driven over in the buggy and those were the only two times we went over there.

I was not with my mother every moment. We both occupied the same room and we were together all the time, and I know my mother never went over except on those two occasions, and I never saw my sister at the Homestead but once.

2014 Q. Are you prepared to say, of your own knowledge, that you know that your sister never came over there except that once to the Homestead.

A. She came over once again when there was a play going on, but I didn't see her to speak to her. That is twice that she was there. I don't know of her being there on any other occasion.

2015 The material of the Greek robes that I saw was either cheese cloth or some kind of thin material resembling cotton crepe. The one I wore was made of cheese cloth. I didn't take particular notice of all the robes there, but I know that most of them were made of cheese cloth. I didn't know as to all of them. The ladies who wore these cheese cloth robes wore nothing else except a slip underneath. I don't know if they wore any heavy undergarment of any kind. The robes were not high necked. They came to about the base of the neck, but I would not call them low necked. They came completely down to the floor. The arms were bare about half way between the elbow and the shoulder. When the men's costumes were scarce, some of the men had sheets draped about them. I don't know whether their arms were bare or not, but in general, what I said concerning the women's robes is true of the robes worn by the men.

2016

I took part in the Greek play which I spoke of at-

2017 tending. I don't know if the robes I have mentioned were the same as those worn in the Greek play. I did not come into the play until the very last and took no notice of their garments. I did not note any substantial difference between them. I don't know if the men I speak of as having had sheets wrapped around them wore their ordinary clothing underneath.

2018 I waited on the table at Mrs. Tingley's birthday party, but I was not the only one who waited on the table on that occasion. Miss Annie Yergens and Miss Nina Smith and her sister also waited on the table. Neither Miss Wood nor Miss Hecht waited on the table at that time.

I said my sister was at the colony. Miss Wood was conducting school at the colony.

2019 During the time I was at Point Loma I was not able to take a walk on the beach or along the cliff or anywhere through the grounds for my own pleasure, excepting one Sunday afternoon and once at a picnic which we attended. I don't remember when the picnic was held. It was one of the summer months. I believe all the members of the Homestead attended. It lasted from eleven o'clock in the morning till about half past four in the afternoon. It was not all recreation for me, nor was it a disagreeable duty.

2020 I did consider some of my duties disagreeable, not any one particularly, but they didn't make me feel very disagreeable, only I was so busy at night, I did not complain to anybody of having been treated in a disagreeable or unkind or harsh manner. I first learned we were going to leave the Homestead about a week before we left. I learned it from my mother. After that time I saw Mrs. Tingley, and on one occasion, my sister and myself

2021 went to her room. I think my sister and I both cried, not because we were leaving but because we didn't know what we were going to do. That is the only reason I cried. If I had been told I could stay I would have cried. I was told I could stay and I did cry and still I cried. Mrs. Tingley, on that occasion, told me I could stay and still my sister and I wept. I don't remember if any one else was present on that occasion unless, Carmen, the little girl who waited on Mrs. Tingley might have been there. The reason I cried was of the uncertainty as to what was going to happen to me. At that time I felt kindly towards Mrs. Tingley.

Q. Did you ever declare to anybody that you loved Mrs. Tingley?

The defendant objected to the question on the ground that it was immaterial, irrelevant and incompetent and not proper cross examination, which objection was overruled, the defendant excepted, and the same is numbered, 2023 Exception No. 304.

A. I cannot remember exactly.

Q. Did you ever declare at or about that time that you would ever have kind thoughts for Mrs. Tingley and the other comrades at the Point?

The defendant objected to the question on the ground that it was immaterial, irrelevant, and not proper cross examination, which objection was overruled, the defendant excepted, and the same is numbered, 2024 Exception No. 305.

A. No sir.

Q. Did you ever thank Mrs. Tingley for the kindness

2025 which she had shown you and your family?

MR. HUNSAKER: Objected to on the same grounds. The question is indefinite and it does not call the attention of the witness to the particulars of the time and place and persons present.

MR. KELLOGG: At or about the time of leaving the institution, I will add.

2026 Defendant objected to the question as irrelevant, immaterial and not cross examination, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 306.

A. No sir.

I wrote the letter now shown me, and which paper is was read in evidence and is marked as

PLAINTIFF'S EXHIBIT 23.

"Pt. Loma, San Diego, Cal., Aug. 28, 1900.

2027

My Dear Mrs. Tingley: I write these few lines before I leave Pt. Loma. Since I have been here I have always did my work with a good spirit. I shall always try to teach Brotherhood to others and I leave with a good thought for you Mrs. Tingley and the other comrades on the Point. I shall always lead a noble life, and continue to be a true Theosophist in my life. I hope that everything will continue in peace and prosperity on the Point. I also want to that you for the kindness which you
2028 have shown to us in our stay here. I (Tillie) write this for my mama, Annie and myself.

Yours ever with love,

Mrs. A. Kratzer,

Tillie and Annie."

2029 WITNESS (Continuing): I don't remember whether this paper was written before or after I left the Homestead. I delivered it to Carmen, a little Cuban girl about twelve years old, who acted as Mrs. Tingley's maid. I was at the Homestead at Point Loma when I wrote it. I was in my room but I do not think any one was present. I enclosed it in an envelope. I had talked with mother and Annie about it before I wrote. It was not written at the dictation of any one except that my mother and
 2030 I talked it over and that I wrote it for her and my sister. I had no talk with any other person about it.

Q. You used the word "maid" in reference to Carmen. I think that is a mistake, is it not? Do you know what position she really occupied or what her relation to Mrs. Tingley was?

A. I know she took care of Spotts part of the time. She was a little Cuban girl in Mrs. Tingley's care and helped as she could about various matters for Mrs.
 2031 Tingley.

RE-DIRECT EXAMINATION OF MATILDA
 KRATZER.

BY MR. DANÉY: When I wrote this letter, my mother and sister and I had no ill feeling toward Mrs. Tingley.

Q. Just state why you wrote the letter?

2032 Plaintiff objected to the question as calling for a conclusion of the witness and not a circumstance of fact attending the writing, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 307.

2033 WITNESS (Continuing): I wrote the letter so that Mrs. Tingley would not think that there was any ill feeling on our part towards her. There was no reason why I didn't want her to think there was ill feeling on our part towards her. I do not remember the time when the letter was written, but I do not think that August 28th is the correct date, because we left there on August 26th. I talked with my mother and sister before I wrote this letter and about what should go into the letter. I cannot recall the conversation.

2034 I was required to clean the halls of the Homestead.

Q. Will you please state to the jury what size building this Homestead was at that time.

The plaintiff objected to the question on the ground that it was not proper re-direct examination and that the testimony was incompetent, irrelevant, and immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 308.

2035 MR. SHORTRIDGE: Might it not be proper as a part of the examination in chief—direct examination.

THE COURT: You would have to obtain leave to interrogate the witness in chief again.

The defendant here asked leave of the court to examine the witness in chief on the point suggested and raised by the last question, which leave was denied, the defendant excepted, and the same is numbered, Exception No. 309.

2036 WITNESS (Continuing): At the meeting of the sons of the Rising Sun which I attended, the students all marched in and there were addresses by the men students, then there was music and it was the same in every detail

2037 as the meeting of the daughters of the Rising Sun, except that the men participated. The meeting was held indoors on Sunday evening. The men wore the same Greek costume on that occasion that I have described. I do not mean to testify myself that it was or was not a Greek costume. I merely heard it called a Greek costume or robe.

2038 My sister came to the Homestead on one occasion but I did not speak to her because we were ordered to keep silence. There was a room in back of the place where the play was held and we all sat around on the floor until the time came when we were to take part in the play, and Mrs. Tingley gave Madam Peterson strict orders to keep silence and my sister was in the room, although I didn't speak to her. I could not. This was in the evening. She came over in the evening. I had not seen her that day. There was some ceremony going on at the time. I do not remember when the play was. I don't know whether the play was in the English language or not. I only saw a part of it. I didn't come in till the last of the play and I had to sit in this room until my turn came, and I didn't attend any rehearsal.

2039 When myself and my sister were in Mrs. Tingley's room crying, the cause of the crying was that we were going out into the world: we were not going back to Los Angeles where we formerly were, and after being settled in the Homestead we had nothing, we had no place to go after we were to leave the Homestead, but it was
2040 not that I wanted to stay because I was offered the opportunity. It was not that at all. At that time Mrs. Tingley said that myself and my sister could go back to the Homestead at any time and stay, but that my mother had tried to lay down the law to the Universal Brother-

2041 hood Society over there and that she could not go back unless she signed an agreement with the Homestead people or Mrs. Tingley, but my sister and myself were welcome to return and she asked us to stay. We went to Mrs. Tingley's room because Carmen told us that Mrs. Tingley wanted to see us before we left the Homestead. That was early in the morning of the day we left.

I did not attend more than one picnic while I was at Point Loma, and then I had to help get the meal ready. To prepare the food and cook it.

2042

Q. When you went to Point Loma, that is the time you went there or immediately before you went there, were you advised of the character of the work that you would be required to perform there?

The plaintiff objected to the question on the ground that it was not proper re-direct examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 310.

2043

Q. Were you given any information at all on the subject.

Plaintiff objected to the question on the ground that it was not proper re-direct examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 311.

2044

Q. Did you go to Point Loma for any other purpose than that which you stated in your direct examination?

The plaintiff objected to the question on the ground that it was not proper re-direct examination, called for the conclusion of the witness, and was irrelevant, immaterial and incompetent, which objection was sustained.

2045 the defendant excepted, and the same is numbered, Exception No. 312.

GEORGE WILLIS FREEMAN,

a witness sworn on behalf of defendant, testified as follows:

BY MR. HUNSAKER: My name is George Willis Freeman. I reside at Auburn Park, Chicago, Illinois. I was an inmate of the Point Loma colony from October, 2046 1900, until April, 1901. Before I went to the colony I lived in Jamaica, Greater New York. I arrived at the colony on the 14th of October. My mother was with me. Her name was Mrs. Vespera Montalla Freeman.

Q. For what purpose did you go to Point Loma?

The plaintiff objected to the question as irrelevant and to the answer as irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, 2047 and the same is numbered, Exception No. 313.

WITNESS (Continuing): I left Jamaica for Point Loma on the 9th of October and went immediately to the Homestead, where I remained about two hours. Then I went to the colony by direction of Mr. Patterson. The first person I saw at the colony was Mrs. Adelaide Hunt. Then I saw Miss Genevera Munson, who was in charge of the colony. She was called assistant superintendent. I do not know who the superintendent of the colony was 2048 at that time. Miss Munson was there during the entire time I stayed at the colony, but was not always assistant superintendent. Miss Hecht was superintendent for about a month or perhaps a month and a half, then Miss Munson succeeded Miss Hecht.

2049 At the time I arrived at the colony the principal building was a cottage where Miss Munson and some of the other members of the colony lived. There was another one-story building that the members had built there consisting of three rooms, dining room, kitchen and sleeping room. It was about 200 yards from the other building. Then down one side of the property, about ten yards from the eating house, was a row of tents. The kitchen was in the barn. The tents were occupied by several

2050 members of the colony. I was quartered in one of the tents. My mother was an inmate of the colony while I was there. She came to the colony about a month after I did and was an inmate for about five months. She resided in the cottage I mentioned first, the same cottage in which Miss Munson resided and during that time I resided in a tent.

2051 During the time I was there I did a great many things. I stood guard; I had charge of a herd of about seven or eight cows; sometimes more, sometimes less. I mopped floors, cleaned and filled lamps, set and unset tables, picked the fruits. By setting and unsetting tables, I mean that I carried dishes to the table and put them in their places, and after the meal, cleaning the table off. I did work in regard to the Publishing Company, pasting slips of paper on certain boxes that were sent out for money. They called them "Purple Pence."

Q. What other work, if any, did you do there?

2052 The plaintiff objected to the question on the ground that the testimony was immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 314.

WITNESS (Continuing): I acted as a guard at the

2053 colony for about three and a half months. There were other guards at the colony at that time. Their names were Loring Wood Jr., Soloman Hecht, Dr. Coryn, a man named Hlasko, and Abbott Clark. Then, at one time, there were a number of men sent over from the Homestead as special guards one night.

[Q. Now state what hours the guards were kept on duty.

2054 MR. ANDREWS: Objected to, your Honor, as immaterial, irrelevant and incompetent. The charge is that armed men guard this place of horror. This is the only charge there is in reference to having guards and it seems to me it makes no sort of difference whether the hours they kept as guards were long hours or short hours. It was only with reference to this charge that this testimony as to their being guards is material at all, and therefore we object to the question on the ground that the testimony is immaterial.

2055 MR. HUNSAKER: We want to show the system of guarding there and we will follow it up by showing these men were armed. This young man was armed, this boy was armed as a guard, and that other of the guards were armed, and that they kept up this system all the time there, and we want to show that there is a continuous system of guarding there and that the guards are armed.

2056 MR. SHORTRIDGE: The charge is that armed, or armed men rather, guard this place of horror. I have ventured to suggest several times in the trial of the case that you cannot prove everything at one time, nor by one witness, nor by one answer of one witness.

2057 Whether this place is a place of horror or not, in view of
 the testimony, is a matter which this jury will ultimately
 pass on. Counsel may regard it as an ideal place in view
 of the testimony. There may be other views upon that
 subject. But whether it be a place of horror or not, is
 not the matter which is now before the court under this
 question. We are undertaking to prove here that armed
 men are there performing the functions of guards. That
 is all. That it is a part of the system. They complain of
 2058 this article; they complain of that portion, of a sentence.
 They say that the utterances of that caused a mental
 shock and a hurt. We purpose proceeding step by step,
 and proving that men guarded that place. That they
 are armed men; that that is a part of the system. Hav-
 ing done that, we proceed next to show the character of
 the place that they guard. How else can you proceed
 in the case. We have a right to introduce our evidence
 subject to the power of the court to direct it, it is true,
 2059 the right to introduce our evidence in a way which to us
 seems best.

THE COURT: Gentlemen we will have to commence
 to draw the lines in this case so as to confine the evi-
 dence within the issues presented by the pleadings. Life
 is uncertain. The Court should, especially when objec-
 tion is made by counsel, or without objection from coun-
 sel, where it becomes apparent to the Court that it is
 proper to control and direct the course of the introduction
 2060 of the evidence, the Court can do so. We have been here
 a number of days already. It is true that counsel, with
 the permission of the Court, may pursue such a course as
 they see fit in introducing their evidence. They can com-
 mence at either end of the allegation which is intended to

2061 be proven—but in a case of this kind, as has been re-
 marked by counsel for the defendant, the principal ques-
 tions to be met are the *serious* charges contained in this
 libelous article. The defendant has pleaded justification
 to nearly all of these charges which are the most serious
 and defamatory charges contained in the article. Now
 I think the Court has a right to direct the order in which
 the proof shall be introduced. And it is wholly immater-
 2062 ial and nothing is accomplished by sitting here hour after
 hour and day after day listening to testimony which,
 when it is all in, does not fairly tend to establish the proof
 of any of these libelous statements in substance—evi-
 dence which does not fairly prove that in their true
 meaning as charged they are true in fact.

It is apparent from this article, and there is only one
 reasonable inference to be drawn from it, that this
 statement that “armed men guard this place of horror”
 in so far as it suggests anything defamatory or injurious
 2063 to this plaintiff was intended to refer to the alleged fact
 that armed men were kept around this place of horror
 or at this place of horror, not for the purpose of prevent-
 ing ingress of outsiders but for preventing egress of
 those who were there by preventing them from escaping
 from this place of horror. The principal head line of
 this article is “Outrages at Point Loma”—in quotation
 marks—Outrage is defined by the Standard Dictionary
 as “An act of shocking violence or cruelty; a bold or
 wanton injury to person or property, a gross infringeme-
 2064 nt of morality or decency; also a gross insult.” Now
 the article proceeds and says: “Mrs. Leavitt seems to
 be thoroughly informed on two of the latest outrages
 perpetrated at the spookery,” and refers first, to the case
 of Mrs. Neresheimer, and then the case of Mrs. Hol-

2065 brook, the wife of a railroad man and a free mason
of the East, has been rescued from the roost on Point
Loma by her husband with the aid of an officer and a
gun, and now hovers at the point of death from the
abuse she says she received while confined to the Home-
stead. During the day time she worked in the field like
a convict, forced to plant trees, hoe corn and perform all
sorts of hard labor, and at night she was shut up in a cell
as if she were a raving maniac. When her husband
2066 found what a trap she had fallen into he hurried here
and took her out by force. The other case on which
Mrs. Leavitt is posted is that of Mrs. Neresheimer who
has been forcibly separated from her husband, who is
also in the Tingley clutches, and is not allowed to speak
to him. She is forced to live alone in a little tent in
the grounds that surround the crazy institution. Armed
men guard this place of horror, and Mrs. Leavitt says
solitary confinement, hard labor and starvation are re-
2067 sorted to by the Tingley managers as punishments upon
those who disobey their iron rules."

Now we cannot shut our eyes, we cannot blind our
understanding to the true meaning of this article so far
as it refers to armed men guarding this place of horror;
there can only be one inference drawn from it as to the
intention of the article; and as to how it must have been
understood by persons who have any sense at all, and
that is, armed men were kept there, kept for the purpose
of preventing egress by those who it is alleged, were
2068 confined there and upon whom outrages were perpetrated.
Now it is wholly immaterial whether they had guards
there or had armed guards there unless it was for the
purpose of preventing egress of the inmates of that in-
stitution. They have a perfect right to have guards

2069 there for the purpose of protecting their grounds and preventing persons from coming in, or for the purpose of protecting others who were residing there—it is wholly immaterial that they had guards there, or how they were dressed, or what were their arms. The sting of this libel, the injurious effect of it is that armed men were kept there to guard this place which has been described as a place of horror, a trap, and a roost, a place of confinement where persons were treated like convicts, and kept in solitary confinement, and kept on the verge of starvation. Now it is true that the defendant has alleged that this phrase is true: "That armed men guard this place of horror," and it will be permitted to prove that to be a fact. Of course you are not confined in your proof; the defendant can prove any one of these statements to be true although it may fail to prove them all to be true, but to prove this to be true in the sense in which it was published, in the sense in which it must have been understood by those who read it, you must prove that armed men guard this place of horror. You must prove that it was a place of horror within the meaning which you have charged it to be, fairly within the meaning that you have charged it to be.

2070

I will rule, if this evidence is offered for the purpose of proving the truth of this clause or phrase, namely, "armed men guard this place of horror," that you first introduce evidence which fairly tends to show that this was a place of horror. The objection is sustained.

2071

2072 The defendant excepted to the ruling of the court in sustaining said objection, and the same is numbered, Exception No. 315.

And the defendant also at said time excepted to each and every of the remarks of the court as argumentative,

2073 as passing upon the weight of evidence already admitted and as prejudicial to the defendant, and the same is numbered, Exception No. 316.

THE COURT: I will confess it was intended to be argumentative.

Q. State whether or not during the time you were there at the colony, guards were maintained at the colony.

2074 The plaintiff objected to the question on the ground that the answer was immaterial.

THE COURT: Just wait a moment, this question is in direct contravention of the ruling of the Court. I said I would require you first to prove that this was a place of horror, before attempting to prove that armed guards were kept there, or guards at all.

The defendant excepted to the ruling of the court, and the same is numbered, Exception No. 317.

2075 WITNESS (Continuing): While I was at the colony I witnessed ceremonies there. The first was the morning after I arrived, just before sunrise. They call it meditation. There was a triangle rung and everybody was supposed to get up. The triangle sounded again and we all went to the front porch of the dining room and were silent there while the sun rose; from the time the sun first appeared until it had entirely risen. That ceremony occurred every morning at sunrise. I know the inmates of
2076 the colony were required to observe that ceremony. I wanted to keep away but was not allowed to do so. The orders were sent that I should attend. Nothing was said or done during the ceremony. They sat still in silent thought. The nature or significance of this ceremony

2077 was never explained to me at all, except that it was to send thought waves all over the world. These morning ceremonies usually lasted about five minutes—time for the sun to rise. It was attended by everybody in the colony. I observed other ceremonies there. They had almost the same ceremony at a certain time in the evening. I think it was about six o'clock. The triangle was rung and everybody went into the dining room and they took chairs along the table facing the east when some one appointed by the superintendent would read a passage from the Bhagavad Gita and then they sat silent for five minutes. I saw that practiced every evening. The significance of that ceremony, as explained to me, was to send thought waves.

I observed other ceremonies there. We had a call at one time to go to the Homestead. Almost everybody in the colony, and when we got there we were dressed in so-called Greek robes and marched from the Homestead into the Aryan Temple, two abreast, to witness a symposium that was played. The Greek robes in which we were dressed was either one or two linen sheets wrapped around us in such a way as to form a robe. They had white stockings on and some of them wore sandals. I had these two sheets over my other clothes, but had my coat off. I had on white stockings over my other stockings. Mrs. Isabel Butler directed me to attire myself in that way. She was one of the students at the Homestead. When we got to the Homestead at that time I had to wait sometime and finally somebody brought the sheets and my mother helped me drape myself in them. Then we went out into the hall and formed in this procession two by two and marched outside and in through the door of the Aryan Temple. On the floor of the Aryan Temple

2081 there was a lot of mats and everybody lay down on the mats while the performance of the symposium was going on. After that was over, they formed and marched out again into the oriental room and they had a tea there. Everybody who attended the symposium laid down on the mats. While lying there, we were supposed to be watching the symposium, which was a philosophical discourse on the stage, carried on by some of the students. I was in Mr. Fitch's office at the Homestead when these sheets were given to me. That was the only time I ever
2082 attended a performance of that kind.

I witnessed other ceremonies at the colony and New Years evening of 1901, they had an immense bon fire and everybody was dressed in the Greek robes. I was not, as my mother was sick and I had to take care of her. I did not see anything of it, except I saw some of the persons in their robes near the bonfire all through the night time. The robes were white. I don't know the exact
2083 time that ceremony continued, but some of them were still in their robes to guard the fire when it was dawn. I don't know when it began. I did not witness any other ceremonies there.

I have, at different times, seen men who were called craftsmen. I never saw them together. They would appear in the usual khaki uniform.

Q. Now describe to the jury the fare, the food you received while you were there.

2084 The plaintiff objected to the question as irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 318.

WITNESS (Continuing): During the time I was at

2085 the colony there were children there. There was Kate Hanson and a couple of Cuban boys for a while, and some other children and some young babies. Kate Hansen ate in her own room. I should think she was about ten years old. The small children were fed in their rooms. I do not know anything about their food.

When my mother was at the colony she lived in the cottage, and as long as she could; she took her meals at the ordinary table with the rest of us.

2086 Q. What was the condition of her health?

The plaintiff objected to the question as irrelevant, incompetent and immaterial, which objection was sustained, the defendant excepted, and the same was numbered, Exception No. 319.

Q. How long did you remain at the colony?

2087 The plaintiff objected to the question as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 320.

WITNESS (Continuing): I left the colony about the 24th day of April, 1901.

Q. How did you come to go to the Point Loma institution?

2088 The plaintiff "objected as asking for the conclusion of the witness," which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 321.

Q. Were any inducements held out to you to go to Point Loma?

2089 A. An Education—

The plaintiff objected on the ground that the question was irrelevant and immaterial, and moved to strike out the answer given before she had a chance to object, which objection was sustained, and which answer was stricken out, the defendant excepted, and the same is numbered, Exception No. 322.

2090 Q. Did any representative of Mrs. Tingley or the Universal Brotherhood hold out any inducements for you to become an inmate of the institution?

2091 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial and would not tend to prove any issue, which objection was sustained on the "grounds urged and also on the ground that it merely calls for the opinion of this witness as to who may have constituted a representative of this institution", the defendant excepted, and the same is numbered, Exception No. 323.

Q. What, if anything, was said to you by any person about becoming an inmate of the institution at Point Loma?

2092 The plaintiff objected to the question on the ground that the testimony proposed would be irrelevant, immaterial and incompetent, and also on the ground that it asked for a conclusion of the witness, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 324.

WITNESS (Continuing): Before I became an inmate of the institution at Point Loma, I saw literature issued by the Universal Brotherhood. I had always been accustomed to seeing the different magazines, the publica-

2093 tions of the Theosophical Publishing Society from the time there was a theosophical society.

Q. Now, will you state why you went to Point Loma to the institution?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, and that it asked for the conclusion of the witness, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 325.

2094 WITNESS (Continuing:) My mother is dead. She died last March.

Q. Now what was your mother's condition when she left the colony?

The plaintiff objected to the question on the ground that it was irrelevant and that the answer thereto would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 326.

2095

Q. What was her condition when she went to the colony?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 327.

2096 Q. While you were at the colony were there any restrictions placed on your coming and going—any orders?

A. I had no orders concerning leaving the institution; the whole business; but I had orders about leaving the grounds.

2097 Q. What were the orders?

The plaintiff objected to the question as incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 328.

Q. From whom did you receive orders about leaving the grounds?

2098 The plaintiff objected to the question as irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 329.

Q. You have testified that you acted as a guard. Were any instructions given as to making reports—given to the guards as to making reports and if so, what instructions were given?

2099 The plaintiff objected to the question on the ground that it was incompetent, irrelevant and immaterial, and that the answer thereto would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 330.

This witness was not cross examined.

DOROTHY GIRD

sworn on behalf of defendant, testified as follows:

2100 BY MR. HUNSAKER: My name is Dorothy Gird. I live in Pasadena, California. I am thirteen years old. I was at Point Loma with my sister, Edith, in the year 1900. We were visiting there about two months. We were in the Homestead for four or five days and the rest of the time we were in the colony house. While at the

- 2101 Homestead we did nothing special. We got up just in time for breakfast. At the colony we got up at about half past four in the morning. We got up at that early hour because the people went out on the porch to meditation. We went with the rest of the people. When we got there we were silent. We went out and we sometimes sat on the benches. Sometimes on the step, and sometimes the children sat on the floor, and we just sat silent until the sun rose. Then we went back into the house. We were never told why we should go out there when the sun rose.
- 2102 We never understood that. It was never explained to us. Dr. Winkler told us to get up for the meditations. She was the superintendent at the colony house.

Q. Now, what did you have to eat?

The plaintiff objected to the question on the ground that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 331.

- 2103 WITNESS (Continuing): I did not have enough to eat while I was there. At the time I was there my mother was in Pasadena. She was not with us.

Q. Do you know whether or not your letters and your sister's letters to your mother were opened or examined before they were sent away?

- 2104 The plaintiff objected to the question on the ground that the testimony would be irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 332.

Q. Do you know whether the letters written by your mother to your sister and you were opened before they came into your hands?

2105 The plaintiff objected to the question on the ground that the testimony would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 333.

Q. Did your mother ever write you any letters, you or your sister while you were inmates of the colony or the Homestead?

2106 The plaintiff objected to the question on the ground that the testimony would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 334.

Q. Was anything said while you were there by the superintendent or any other person connected with the institution to the effect that Mrs. Tingley would know everything you thought about and everything you did?

2107 The plaintiff objected to the question on the ground that the answer would be immaterial and irrelevant, and that the question was leading, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 335.

Q. Was anything said to you while you were there by your teacher or the superintendent as to Mrs. Tingley's power to do anything she pleased?

2108 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 336.

Q. Was it stated to you by the superintendent that Mrs. Tingley was better than any one else in the world?

2109 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 337.

Q. State whether or not Miss Wood said to the pupils in your presence that if you told a lie Mrs. Tingley would know it and your tongues would rot in your mouths?

2110 The plaintiff objected to the question on the ground that the answer would be irrelevant, immaterial and incompetent.

THE COURT: The objection is sustained and any further questioning on this matter will be prohibited by the court.

The defendant excepted to the ruling of the court and the same is numbered, Exception No. 338.

2111 WITNESS (Continuing): I was present at the laying of the corner stone. We took part in it. As I remember it, there was a big cable or rather a rope, and they called that the cable of brotherly love, and as some one struck the triangle we closed our eyes and raised it up and as it was struck again we lowered it and opened our eyes. I could not tell where the laying of this corner stone was. We started from the Homestead to go to the laying of the corner stone. We were dressed in different garments; some wore cheese cloth. We walked over to the place
2112 where the ceremonies were held. We marched all together. The ceremony was held in the day time and lasted about four hours. There was a sort of a ceremony for the coming of the Lotus Home babies.

2113 Q. Were you present at any ceremonies where there was a scattering of ashes?

A. I could not swear to that; whether they scattered any ashes at any that I was at or not.

CROSS EXAMINATION of DOROTHY GIRD.

2114 BY MR. McKINLEY: I was thirteen the 21st day of June, 1902. We went to point Loma about the middle of April, 1900. We stayed until the 1st or 2nd week in June. When we were at the colony they had a table in the dining room and we ate at that table with other people. The grown-up people ate at another table and there were several of the children who ate at our table. I don't know the exact number. There was Annie Kratzer, Matilda Kratzer, two Cuban girls, Matilda and Josefa. There was a Cuban boy, Ricardo, a brother of the Cuban girls. When Isabel Neil was there she ate at our table, as did the Hansen children when they were there. There was 2115 Margaret Hansen and Kate and Carotic and Frances, the baby. I don't remember any one else who ate at that table. The children I speak of were not all there all the time I was there. They were there most of the time. The Hansen children came just a short time before we left. I couldn't say how long Isabel Neil was there. She came after we did and went home before we did. The three Cuban children were there when we went and when we left. Different ladies waited on the table. One of them 2116 was Miss Munson. I don't remember the names of the others.

The ceremony when we welcomed the Lotus Home babies took place at the Homestead. I don't know how long I was there and I could not tell the exact time that

2117 that occurred. I had been at Point Loma three or four weeks. I don't know how many babies came at that time. They came in some kind of a bus. I cannot swear whether I saw them or not. There were other children from the colony at the ceremony besides myself.

EDITH GIRD

sworn on behalf of defendant, testified as follows :

- 2118 BY MR. HUNSAKER: My name is Edith Gird. I am fifteen years old. I live in Pasadena with my mother and sister. My sister and I were at Point Loma about the middle of April, 1900. We remained there about six weeks or two months. We were at the Homestead for something less than a week when we first went there. Then we were sent to the colony house. We didn't have any work assigned to us while we were at the Homestead. We just did about as we pleased. We saw while we were at the Homestead a kind of ceremony that they had early
- 2119 in the morning on one of the hills at Point Loma. We were called early in the morning and were told not to speak at all, and a number of people, I don't know how many, marched out to the hill and Mrs. Tingley made a speech; I think some of the other people spoke. This was a little later than five o'clock in the morning. At that time they threw something down on the ground. I don't know what it was. It was earth or ashes and Mrs. Tingley said "over the ashes of H. P. B." several times.
- 2120 In this ceremony the people who attended were attired in their ordinary clothes. I don't know how long the ceremony took. We were not on the hill very long, but it took some time to march there and back. There were between forty and fifty people who attended that

2121 ceremony. Some one called us in the morning and told us to go along and my sister and I went.

At that time my sister and I were rooming on the third floor of the Homestead. No one else was with us.

2122 During the next week at the Homestead they had a play. I don't know whether it was a ceremony or not, in what they called the round house, back of the hotel. It took place in the evening. It was something that began with a little child and showed how they developed until they had grown to womanhood and died. The participants of that play were attired in what were supposed to be Grecian costumes, mostly white. I took part in the play. I do not think there were any people present besides those who participated in it. There were a number of the theosophists present. While I was at the Homestead I did not participate in, or observe, any other ceremony.

2123 While we were at the Homestead we arose at any time we wanted to, before eight o'clock, when they had breakfast. After we left the Homestead and went to the colony, we were required to get up between half past four and five for the purpose of meditation.

At this meditation ceremony the people got up early in the morning and went out on the porch of the colony and remained silent until the sun rose. I think that was all they did. Dr. Winkler at the colony told us that we should get up at that time. She was the superintendent or director of the colony house.

2124 While we were at the colony they had one ceremony for the laying of the corner stone of one of their buildings, but that didn't take place at the colony, it took place on one of the hills. I was present at the ceremony. We took

2125 part in it. We marched along with the other people. They went through different ceremonies, one of the things which I remember was that they had a rope which all of them took hold of and they all stood in a circle and they called that the cable-tow of brotherly love, and when Mrs. Tingley or some one struck the triangle they had hanging up there, they raised it above their heads and shut their eyes; and when Mrs. Tingley struck the triangle again they brought it down and opened their eyes;

2126 and they did that several times, and then there were some of the people reading papers and I believe put them inside of the corner stone and when they were getting ready to go away, there was a man stood there with a shovel and as each one went by, they took it and dug into the earth. As the people marched away from there they sang the ode to the Sun and the Eumenides march; and they marched to the hotel. This ceremony was held on one of the hills of Point Loma which is called the Sacred Hill.

2127

Q. State what you had to eat while you were there, the fare that was served to you?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 339.

2128

WITNESS (Continuing): While we were at the Homestead we did not have sufficient food to eat nor did we have as much as we wanted to eat while we were at the colony. Dr. Winkler had charge of the colony while we were there. There were three Cuban children whose sir names I do not remember. Their names were Ricardo, Matilda and Josefa, and then there was Isabel Neil and

2129 George and Bessie Post; and a short time before we came away the four Hansen children, Kate and Carotie, Margaret and Frances.

Q. Did you receive any letter from your mother while you were at Point Loma?

The plaintiff objected to the question because the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 340.

2130

Q. State, if you know, whether letters which were sent through the mail by your mother to you were opened at point Loma before they reached your hands.

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 341.

2131

WITNESS (Continuing): When we first came down, we reached the Homestead at Point Loma sometime late in the afternoon.

Q. Did you see any guards about the place when you were there?

The plaintiff objected to the question "on the ground that the court has ruled that no more testimony upon that point would be admitted under the present situation" which objection was sustained, the defendant excepted,

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and the same is numbered, Exception No. 342.

WITNESS (Continuing): I do not remember that we were met on our approach to the grounds of the Homestead by anybody.

2133 Q. Did you hear any bugle call?

The plaintiff objected to the question as irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 343.

Q. Where did you go from there?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial,
2134 which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 344.

Q. Why did you leave Point Loma?

The plaintiff objected to the question on the ground that the answer would be irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 345.

2135 Q. Why did you go to Point Loma—how did you come to go there?

The plaintiff objected to the question on the ground that the answer would be irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 346.

CROSS EXAMINATION of EDITH GIRD.

2136 BY MR. McKINLEY: I was fifteen years old on May 11th. I went to Point Loma in April and returned in June. We were there as visitors. Miss White took us home to Pasadena. While we were at the Homestead we ate in the smaller dining room. We were there less than a week. I don't remember who ate at the table with us

2137 but among them were Miss Wood and the Hansen children. Mrs. Hansen did not eat at our table. Matilda Kratzer was the waitress at our table. When we were at the colony we ate in the dining room that was used as a school room when they had school. At noon the children and their teacher ate at the table together. I was at the same table that my sister was. Annie Kratzer waited on the table at the colony. When I was at Point Loma I was not feeling well a great deal of the time but I was
 2138 not confined to my bed. Dr. Winkler was in charge of the colony when we left.

RE-DIRECT EXAMINATION OF EDITH GIRD.

BY MR. HUNSAKER: I was well when I went to the colony. The reason I didn't feel well was because we didn't have all that we wanted to eat I suppose.

RE-CROSS EXAMINATION of EDITH GIRD.

2139 BY MR. McKINLEY: I did not tell anybody at Point Loma that I was ill, but I did tell Dr. Winkler and Miss Osmond that I was hungry, and did not have enough to eat. I don't remember when I told them nor if I told anybody else, I knew Dr. Winkler was in charge. At times when we were eating, I asked Dr. Winkler if we couldn't have something more that I wanted. I don't remember how often that occurred.

RE-DIRECT EXAMINATION.

2140 BY MR. HUNSAKER: Miss Osmond was one of the ladies at the colony. She was at the Homestead part of the time while we were there. She went to the colony about the time we did. I don't remember the words I used to her, but I told her we didn't have enough to eat

- 2141 and I wished we had some more. We had breakfast about six or half past in the morning and lunch about half past eleven and dinner about six or half past in the evening. The breakfast consisted of some kind of breakfast food, a slice and a half of bread or some corn bread and a glass of milk. The lunch consisted of a slice and a half of bread and a cup of milk. The dinner consisted of two or three kinds of vegetables and the same allowance of bread or corn bread and some milk, and sometimes we had some prunes. The prunes were cooked.
- 2142 About once a week we had a piece of cake. I asked Dr. Winkler at meal time if I could not have something more than I wanted. She said, no, that I had enough. I did not have as much as I wanted or as I thought I wanted.

RE-CROSS EXAMINATION.

- BY MR. McKINLEY: Eggs were served once or twice while we were at the colony; possibly three times. Sometimes we had stewed prunes at the Homestead. We sometimes had fresh fruit, but not at the colony. The cake we had was ginger bread. I don't know how often we had it, but it was not very often.
- 2143

Q. Did you ever have gem cakes?

- A. Yes, we had ginger bread or corn bread. I don't know how often we had corn bread. It was as often as we had bread. Once or twice at noon we had soup at the colony and once or twice we had potato salad and what they called Spanish rice. I don't know how often we had that. We had most all the kinds of vegetables at some time while we were there. Lentils, carrots, turnips, potatoes and rice, cabbage and asparagus. A few times at the colony we had fish; I don't know how many. We had
- 2144

2145 beets. I don't think we ever had rice pudding. The children never had meat while we were at the colony. No sort of meat except fish which we had a few times. I don't remember how often I asked Dr. Winkler for more, it was whenever I wanted anything more. I don't remember that I ever complained to anyone that I was ill, except that I told my sister that I was not feeling well.

RE-DIRECT EXAMINATION.

2146 BY MR. HUNSAKER: The corn bread was sometimes cooked like gems and sometimes cut in little square pieces and they gave us about a piece and a half each.

IRENE DESILVA WILLIS

sworn on behalf of defendant, testified as follows:

BY MR. DANFY: My name is Irene Desilva Willis. I reside at Hannibal, Missouri. I remember coming to San Diego April 5th, 1900.

2147 Q. Be kind enough to state under what circumstances you came to San Diego.

The plaintiff objected to the question on the ground that it was immaterial, incompetent, and irrelevant, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 347.

Q. What did you come here for, Miss Willis?

2148 The plaintiff objected to the question on the ground that it was irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 348.

WITNESS (Continuing): I arrived in San Diego about six o'clock in the evening of the 5th or 6th of April.

2149 I went to Point Loma the following day in a carriage. I went to the colony. I found there my sister, Mrs. Vespara Freeman.

Q. Where did you find her, Miss Willis?

MR. ANDREWS: I object to the question as irrelevant, immaterial and incompetent, and the answer on the ground it would be irrelevant, immaterial and incompetent.

2150 MR. DANNEY: We want to prove by this witness where we found her and the condition in which we found her, as throwing light upon the proposition on which your Honor stated we must first introduce evidence before we could follow the line we were pursuing this morning. We want to show her condition and what appeared to be her condition.

THE COURT: I will permit you to show what appeared to be her condition.

2151 MR. DANNEY: If we can show that this lady's sister was practically starved to death in that institution, have we not a right to claim, and justly claim, that this is a place of horror? We do not rely on that alone, there are other instances; there is other evidence, which, when the proper time comes, we will discuss. I do not think it would be proper for us now to indulge in any discussion of the evidence even on this objection, but I suggest enough to show the purpose of our investigation here. It is not
2152 for the purpose of substantiating, necessarily, the specific instances referred to in this article, but as showing generally the character of the instances, and that it is just what we claim it is, a place of horror; because a place

2153 where a sick and infirm woman is permitted to starve to death, practically, is certainly a place of horror.

THE COURT: I have stated several times what I understood the rule of pleading to be in cases of this character, and I have given the matter some consideration since this trial commenced—that where the charge made is of the general character, the plea of justification must set up the particular facts and circumstances which it is claimed prove or show the truth of that general statement.

2154 The law requires this so as to give the plaintiff notice of the facts or circumstances which are expected to be proved, in order to justify the general libelous charge. This portion of the libel says—the charge is, that armed men guard this place of horror. Now that statement embraces two implications or inferences which are injurious in their character in connection with the other portions of the charge; that is, that armed men guard this place where people are detained against their will, where people are imprisoned, where people are abused. It contains another implication, that this place is a place of horror. Now that is the general charge—about as general a charge as could be made, and I understand the law requires, the law of pleading requires, that in such a case as that the instances, or particulars or facts which the defendant claims will prove that charge, must be particularly stated in the pleading of justification. Now I have not heard counsel upon that question in argument, they have produced no authority. I simply say, that is the conclusion I have reached from my examination of the authorities. I am perfectly willing to hear counsel on that subject, if they have any authority to produce to sustain their contention—

2156 —that a plea of justification which merely reiterates the

2157 charge contained in the libel which is of a general character, are true; that merely to reiterate them and say they are true, that that is a sufficient plea. If you can convince me on that point it removes what I now consider an insuperable obstacle to the introduction of this character of testimony.

Secondly — I do not say it by way of criticism, I do not want to criticise counsel, — I merely refer to it as a circumstance which has cropped out in this trial so far—
 2158 that counsel in attempting to prove things which they claim are justified, portions of this article, commence invariably at the wrong end, logically, looking at it logically. The fact that this woman may have found her sister there sick, does not prove anything against the institution—the mere fact that she was found there sick; because people will get sick, I suppose, even on Point Loma, or anywhere else. The mere fact that they may have gotten sick in an institution of this kind, that fact alone, of course it
 2159 is proper to be shown in connection with other facts; but the counsel in this case, as it seems to me, have always commenced at the other end, to prove things backwardly. We may examine this question, and we may find that this lady was very sick there, and we may have harrowing details of her sickness, and yet find when it is all in, that there is nothing to it except that she was sick. Now to show that this is a place of horror, and that this is a circumstance which tends to show it was a horrible place, as you suggest, if you can prove that this lady was starved
 2160 and that that was the cause of her sickness, the thing is, first to show that she was starved. Now it appears from this witness's testimony, so far as it appears now, she was never there before she came and found her sister there

2161 sick. If counsel desire to discuss this question of plead-
ing, I will hear it—if they desire to produce any authori-
ties—I have examined this question pretty carefully. Since
this trial commenced, in fact, I have not been otherwise
engaged during recess of court except in making such ex-
amination as time will permit me, on questions of law
which I anticipated would arise in this case. I am in-
clined to think the objection is well taken now, and that
under no circumstances can you show even what you
2162 desire to show, or what you intimate you can show. I
do not desire to be considered arbitrary in this matter at
all. I am not. But I think in view of the fact that a
great deal of time may be taken up in the introduction of
evidence which finally will amount to nothing, and I think
that it is my duty in the interest of saving time, to exer-
cise some control as to the order in which this testimony
is to be offered. Ordinarily of course, the Court permits
counsel to go along in their own way, but sufficient
2163 reasons appear to my mind now why I think I ought to
control the order in which—I do not desire to be under-
stood as criticising counsel, or taking any exception to the
course they pursue. I do not desire to discuss that phase
of the question any further than I have. As an illustra-
tion, this question in regard to food that was served there,
I sustained an objection as to the character of food. I re-
gard it as immaterial to this charge, but in the cross-ex-
amination of the last witness, the question seemed to have
been opened up and so it came in. But in the mere
2164 fact that the food may have been insufficient, or that
persons there may not have received as much food as they
thought they ought to have, as much as they wanted, does
not prove this charge. We might spend three days going

2165 all over the subject as to what the details were, and how they were served and everything else. It doesn't amount to anything in my judgment, in the absence of proof, that little children are kept on the verge of starvation—that is the charge—"Little children are quartered in a miserable building some distance from the main institution, and are continually on the verge of starvation, that is the charge. Now merely to show by witnesses that may come in here and say that they do not think they got enough to eat, did not get what they were accustomed to before, it

2166 does not prove that charge, if that is all you expect to show. My general experience, or observation and knowledge—I guess it is a matter people can generally take notice of—there is always more or less complaint even at Boarding schools, especially by ladies boarding schools, that they never got just what they wanted, a good many of them, and there are complaints made of the food.

The language is very plain, "on the verge of starvation." I allude to that merely as an illustration, if we are to sit here and have witness after witness come here detailing what kind of food they had there, if that is all you are going to show, that it was not in the opinion of some person sufficient, or was not what other persons might think was sufficient, I do not think it tends to establish this charge. Just because a person was sick over there, and found sick over there, does not establish anything in itself.

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2168 MR. HUNSAKER: We expect to introduce other evidence as to how Mrs. Freeman was treated in the matter.

THE COURT: That is the right end to commence on. Some evidence showing that she was out through a process of starvation, or deprived from the use of food. That

2169 is the right end to commence at, and when you get some evidence which tends to show that, and that that is the probable result of her sickness, then you can go on and show how sick she was. The chronological order would be to commence with the starvation process, that is the chronological order. Now if counsel desire to be heard on this matter, I will hear you. I will sustain this objection entirely, unless you can satisfy me that I am wrong in regard to this rule of pleading. I do not know to what extent you have examined it. I may, however, say, I have examined it pretty carefully, and I have a number of authorities upon the question. I have not had the text books to examine, but I have examined the decision, as I usually do, because I do not regard the modern text books on any subject as particularly decisive authority. I go to the fountain head.

2170

Where the charge is specific a pleading of justification which affirms that the charge is true, is good pleading.

2171 If I charge that John Smith stole my horse yesterday, and pursue such a charge, I can justify by saying that is true, because it is a specific charge. The time is stated, the ownership of the horse is stated. But if I charge that John Smith is a thief, I cannot plead in justification by merely saying it is true, John Smith is a thief. I have got to set up the fact that he did commit the crime of larceny, and state what larceny he committed. Now it is the same if we say John Smith is a thief. We have John Smith, that is definite, he is a person, and he is charged with being a thief, that is the injurious imputation. So with this case, to say this is a place of horror, means that this place is a place of horror, the place is designated, the character of the place is described no more definitely than to say that John Smith is a thief; only the imputation in that

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- 2173 sentence is made of the person, and in this instance it is made of the place or locality where an institution is carried. You do not have to plead the evidenciary facts. Of course not. You do not plead everything that you expect to prove. You do not have to detail the evidence, but you must plead the substantive facts, you must state in some intelligible way what you claim constituted this place a place of horror, and plead it so that the plaintiff will know what issue she has to meet. Take your own illustration: You say this place is a place of horror, and that there may be innumerable things which make it a place of horror. That is just the reason why the plaintiff ought to know what those innumerable things are that you expect to produce in evidence. There must be some statement of it in your plea of justification to put her on notice. Now the reformed rules of pleading under the Code, do not change this rule at all. Under the common law pleading frequently there were, in some cases at least, the party was not put on notice, but the whole purpose of our Code procedure is to state the facts, that is, the issuable facts, state the facts both in the complaint and in the answer which you expect to establish. The technical rules for pleading are done away with, and the facts are to be stated, the issuable facts, not the evidenciary facts, but the issuable facts. A plain common-sense rule of pleading, each side must set up the ultimate facts, as we call them, the substantial facts which he or she expects to establish on the trial, so that he or she may know what he or she has to meet. Now my impression is, though we have not discussed it, from reading this article, that this place of horror was not intended by the publication to mean that it was horrible in other respects, but it was a place of
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- 2177 horror as depicted by the other portions of the charge. It is a description of this place. We are referring to this place that we have described, where these outrages that we have detailed have taken place there and then—they describe what Mrs. Holbrook's experience was there, and then Mrs. Neresheimer, and then they say armed men guard this place of horror, and Mrs. Leavitt says, solitary confinement, hard labor and starvation are resorted to by the Tingley manager, as punishment upon those who disobey their iron rules. I am inclined to the opinion, that this phrase or clause, "armed men guard this place of horror", that so far as it is characterized as a place of horror, it is used in the sense indicated by the other portions of the article, that is, the horrible features of the place, the horrible character of the place, and the horrible things done in that place, are the horrible things which are mentioned in this article. The idea is not to further characterize this place as horrible, but merely to state that armed men guard this place of horror. This place which they were describing, where these horrible things took place and that the proof ought to be confined to the horrible things of that nature. That is, if counsel claim that is a specific charge, in any respect it must be construed in that way to make it specific that it is a horrible place in the sense it has been described in this article to be horrible, and if that is true, then you must confine your proof to horrible practices of that kind. I am not fully satisfied on that. The objection will be sustained.

2180

The defendant excepted to the ruling of the court in sustaining the plaintiff's objection to the foregoing question, and the same is numbered, Exception No. 349.

And the defendant also excepted to all the remarks of

2181 the Court, in which intimation was made as to the weight and effect of testimony introduced and now before the jury, and the same is numbered, Exception No. 350.

MR. DANĒY: Did I understand the Court then to rule that we cannot at this time, and in the present state of the case pursue this investigation in this way. If that is so, there is no use of loosing time in trying to get at it in some other way, if the court holds that in the present condition of the case it is not permissible.

2182 THE COURT: You mean under the present condition of the pleading, or do you mean—

MR. DANĒY: I mean the particular order of the evidence, that is in the order in which the evidence has gone in, this will not be permissible until we can introduce some other evidence. If that is what the court means, it is no use to pursue this further with this witness.

2183 THE COURT: If you are ready to submit the question to me, I am ready to decide it. I have heard no authorities—nothing which changes my views. If there are no other authorities produced and nothing further to be said, I will hold that this evidence is inadmissible under the pleadings.

The defendant excepted to the ruling of the court and the same is numbered, Exception No. 351.

2184 Q. Miss Willis, did you see your sister at any other place than at Point Loma? If so, where?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 352.

2185 Q. How long did your sister remain at Point Loma after you went there, as you have already stated?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 353.

Q. Did your sister leave Point Loma immediately, that is on the day you went there?

2186 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 354.

Q. Miss Willis, on any occasion after leaving Point Loma, did any of the officers of the Theosophical Society of the Universal Brotherhood or institution of which Mrs. Tingley is the head call on your sister in your presence, and if so, what took place?

2187

The plaintiff objected to the question on the ground that the answer would be immaterial and irrelevant, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 355.

Q. Did you at any time hear Dr. Wood and Mr. Neresheimer make any statement to your sister in your presence on the subject of your sister's leaving Point Loma, and if so, state what it was.

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The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 356.

2189 Q. After your sister left Point Loma where did she go?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 357.

2190 Q. Did your sister leave Point Loma, the Point Loma institution that we have heretofore referred to, the colony, well or sick?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 358.

2191 Q. Do you know whether your sister required medical attention immediately on leaving Point Loma, and if so, do you know what was the cause of her needing immediate medical attention?

The plaintiff objected to the question on the ground that the answer would be incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 359.

Q. Do you know whether your sister was sick or well when she went to Point Loma, and if so, state?

2192 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 360.

Q. Did you accompany your sister from Point Loma to the city of San Diego on the day she left Point Loma?

2193 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 361.

Q. State whether on the day that your sister left Point Loma, you called in a physician to attend her and if so, who was he?

2194 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 362.

Q. Did you at any time after your arrival in San Diego call in any physician to attend your sister, and if so, who was the physician?

2195 MR. ANDREWS: The question is objected to, if the Court please, on the ground that the answer would be irrelevant and immaterial, and I submit to the Court in this connection that we have had a good many of this same kind of questions after the Court has ruled on the nature of them. If they are erroneous, there is an error in the record.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 363.

2196 THE COURT: Counsel for the defendant will be denied the right to further interrogate this witness in regard to the condition of her sister, or whether any physician was called in—anything further in regard to the condition of her sister.

The defendant excepted to the ruling of the court, and the same is numbered, Exception No. 364.

2197 Hereupon, the defendant produced and read in evidence the deposition of Edward W. Parker, taken on behalf of defendant, under stipulation, at New York City, on the 11th day of December, 1902, and which deposition was admitted in evidence, certain portions thereof being excluded by the Court, and which said deposition is as follows:

EDWARD W. PARKER.

2198 BY MR. ROLLINS: I reside at Little Rock, Arkansas. I am temporarily so-journing at 78 Montgomery Street, Boston. I met Mrs. Katherine Tingley once. I have known of her for several years. She is the head of the Universal Brotherhood, at Point Loma, California.

Q. Have you ever lived in any community where Mrs. Tingley has lived and known acquaintances of hers?

2199 A. Well, I met acquaintances of hers. I stopped in Newburyport, Massachusetts between three or four days in August, 1899, to make inquiry as to her career there, and I talked with various people who knew her to the number of about twenty.

2200 MR. ANDREWS: Your Honor, I object to the next question and to the answer to it and to the following question and answers, I believe, to the end of the direct examination, upon the ground that the testimony of the witness is incompetent, irrelevant and immaterial. This objection applies to each and every question and answer on direct examination.

The objection was sustained and defendant prohibited from reading said questions; the defendant excepted, and the same is numbered, Exception No. 365.

2201 The questions referred to in the foregoing objection as constituting the remainder of the direct examination of the witness, Edward W. Parker, and which questions were, upon objection of the plaintiff, excluded by the Court, and the answers thereto, are as follows:

"Q. Do you know what her reputation there was?

"A. Very bad.

"Q. What was her reputation in the community?

2202 "A. That she had commenced a dissolute career at twelve years of age. That she had separated families. That she had lived in a home of ill fame in Boston.

BY MR. EMERY (for plaintiff): Q. Are you stating this as something regarding her general reputation in Newburyport?

"A. Yes.

2203 "Q. That her general reputation in Newburyport was that she had kept a house in Boston?

"A. No, had lived in a house in Boston.

"Q. And that that was her general reputation at Newburyport?

"A. Yes, that was the information I got from two sources in Newburyport. I also had in New York—

2204 BY MR. ROLLINS: Q. You state, then, that her reputation among her acquaintances in Newburyport was generally bad?

This question was objected to at the time of the taking of the deposition as leading.

"A. I do."

2205 And hereupon, the defendant offered in evidence the cross-examination of the witness:

CROSS EXAMINATION of EDWARD W. PARKER.

BY MR. EMERY: I am trying to be a theosophist.

Q. It is a fact, is it not, that there are two branches of theosophists in this country or of persons who claim to be theosophists?

2206 A. There was one theosophical society founded by Madam Blavatsky and Col. H. S. Olcott. Some members seceded from that.

The secessionists subsequently split up; the secessionists claim that the other body was an illegal body. There is only one theosophical society; I belong to that society. In the United States it is called the American Section of the Theosophical Society. Mrs. Tingley and those associated with her are not members of that society, nor are they in sympathy with it. There is quite a bitter enmity between the society to which I belong and Mrs. Tingley and her associates. I am not an officer of the society to which I belong, but I am an active member and was a member at the time the break occurred by which Mrs. Tingley became the head of the branch of the theosophists. I do not believe that Annie Besant is the real head of the theosophists in this country. The president is Col. Henry S. Olcott, whom I know tolerably well. Mr. Fullerton is the General Secretary in this country, I see him about twice a year and know him very well.

2208

MR. ANDREWS: To the rest of the deposition, if the Court please, and to this cross examination, the plaintiff objects as incompetent, irrelevant and immaterial.

2209 The objection was sustained as to each and every question and answer designated in the foregoing objection. The defendant excepted, and the same is numbered, Exception No. 366.

The question referred to in the foregoing objection as constituting the remainder of the cross examination of the witness, Edward W. Parker, and which questions were, upon objection of the plaintiff, excluded by the Court, and the defendant prohibited from reading, and the answers thereto are as follows :

2210

“Q. Who were the two persons in Newburyport who informed you as to matters you have testified regarding Mrs. Tingley?

“A. I said I saw twenty, but there were two, at least two, who referred to the house of ill fame in Boston.

“Q. Those are the ones I am talking about?

2211 “A. I do not remember their names at the moment.

“Q. Were they men or women?

“A. My recollection is that one was an officer of the law there and the other was a woman.

“Q. But you do not know their names?

“A. I do not remember their names now.

“Q. How long ago was that?

2212 “A. The latter part of August, 1899.

“Q. Do you remember whether they gave you the sources of their information, or whether it was simply a matter as they claimed of general reputation?

“A. I do not.

2213 "Q. Did either of them claim that they had ever been to this house?

"A. Not that I recall.

"Q. Did they either of them state where in Boston it was?

"A. No.

"Q. Didn't you ask them?

2214 "A. No.

"Q. Didn't it occur to you that that was a very excellent method of tracing a story?

"A. I did not intend to pursue the matter further after leaving Newburyport, even if they had given me the address of the house.

"Q. Why not?

2215 "A. Because I was simply endeavoring to ascertain her general reputation in the hope of opening the eyes of some good deluded men and women, friends of mine, who asked me to ascertain the facts.

"Q. Then when you obtained a statement of this kind regarding her general reputation, that was just what you wanted, was it?

"A. All I wanted was the truth.

2216 "Q. But you wanted to open the eyes of these people who believed in her?

"A. Those friends of mine who had asked me to do so.

"Q. If you wanted to know the truth why didn't you

2217 pursue your investigations in Boston with regard to this house?

"A. It didn't occur to me to ask the location of the place at all.

"Q. Now, how did you come to meet those two persons?

"A. Their names had been given me by parties in New York who had previously seen them on the same ground.

2218 "Q. Who were those parties?

"A. Dr. Alfred Walton was one.

"Q. Did he give you their names in writing?

"A. No, I made a memorandum.

"Q. You do not know where those memoranda are?

"A. I presume they are in Boston.

2219 "Q. But you did not think it of sufficient importance to refresh your memory from them before coming here to testify?

"A. I was called unexpectedly. I got a telegram and was requested to come right on.

"Q. When did you get the telegram?

"A. Thursday.

2220 "Q. Today is Thursday, isn't it?

"A. Oh, I beg pardon.

"Q. Tuesday?

"A. No, it was Wednesday forenoon.

2221 "Q. Did you go home before you came over here?

"A. Yes sir.

"Q. What train did you come on?

"A. Midnight.

"Q. How far from your place of business do you live?

"A. I am not in business in Boston.

2222 "Q. Then you got this telegram at your house?

"A. Yes.

"Q. Is not Dr. Walton the only person who gave you these names?

"A. No.

"Q. Who else?

2223 "A. Miss Phoebe Hull.

"Q. What was her last address, so far as you know?

"A. It was in New York City, about 107th Street, as well as I recollect.

"Q. How did she communicate with you—by letter?

"A. Verbally.

"Q. Were you in New York?

2224 "A. Yes.

"Q. Is she a member of your branch of the theosophists?

"A. Not that I know of.

2225 "Q. Didn't Dr. Walton introduce her to you?

"A. No.

"Q. Had you known her previously?

"A. No.

"Q. How did you come to meet her?

"A. I heard of her through Mr. John M. Pryse.

2226 "Q. Who else gave you the names of these two persons or of any other persons in Newburyport?

"A. Oh, the Rev. Charles P. McCarthy.

"Q. What is his last address?

"A. He is dead.

"Q. Was he an opponent of Mrs. Tingley's?

"A. Yes.

2227 "Q. Can you give the names of any other of those 18 or 20 persons whom you interviewed in Newburyport?

"A. I have got a lot of papers with me. I would have to look over them to see if I could find any—I remember one name, I think it was Pettingill, I think that was one of them.

"Q. Do you remember what branch of Mrs. Tingley's alleged career Pettingill told you about?

2228 "A. I do not know.

"Q. Can you remember the name of any other person in Newburyport whom you interviewed?

"A. Dr. C. W. Hiddin.

2229 "Q. Doctor of medicine?

"A. Yes sir.

"Q. Can you recall any portion of Mrs. Tingley's alleged career that he told you about? Just answer if you can?

"A. I can.

2230 "Q. Did Dr. Hiddin state that what he would tell in that matter was something that he knew about personally?

"A. He did; I recall that his wife was another—

"Q. Now just a moment. You recall that you spoke to Mrs. Hiddin, then, on the same subject?

"A. I did.

"Q. Can you recall the name of any other person?

(Witness produces paper).

2231 "Q. Just state what you are going to refer to, in order to refresh your memory.

"A. I thought there was an address of the party that I asked, in connection with this letter, but there is not.

"Q. Well, can't you recall any other names?

"A. I cannot at this moment.

"Q. You were there two or three different days?

2232 "A. Over three days.

"Q. As I understand it, you considered it and still consider it your duty to expose this woman, don't you?

"A. No.

"Q. You do not? Haven't you ever stated or written

2233 anything to the effect that you thought it was incumbent on you?

"A. I have in the past, several years ago.

"Q. You did then think that it was your duty?

"A. Yes.

"Q. And you still think you are conscientiously bound whenever you can to disclose any of these alleged facts?

2234 "A. I had prepared—

"Q. Answer the question.

"A. If to serve the ends of justice and right living, yes.

"Q. And you consider that in appearing here you will serve those ends?

"A. Yes sir.

2235 "Q. Did you come here voluntarily?

"A. I did.

EMIL A. NERESHEIMER

re-called on behalf of the defendant, testified as follows:

BY MR. SHORTRIDGE: I became a resident of Point Loma February 26th, 1901, and with the exception of a period of six weeks in June and July, 1901, visiting in New York, I have resided there continuously ever since.

2236 Prior to going to Point Loma I resided in New York. I knew Mrs. Tingley in New York. Have known her since 1894. I am a member of the Universal Brotherhood. Have been a member since its existence.

Q. And where was it organized?

2237 The plaintiff objected to the question on the ground that it was immaterial, irrelevant and incompetent to any issue in the case, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 367.

Q. Were you an officer of the Theosophical society before the organization of the Universal Brotherhood?

2238 The plaintiff objected to the question on the ground that it was irrelevant, incompetent and immaterial to any issue in the case, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 368.

WITNESS (Continuing): At the time I became a member of the Universal Brotherhood I resided in New York. I am a man of family, which consists of a wife and two children. My wife is with me. My son is in New York. My daughter is in Europe.

2239 Q. Did you receive any literature sent out by, or under the name, or bearing the name of the plaintiff in this action, before you became a member of this organization?

The plaintiff objected to the question as irrelevant, incompetent, immaterial and not bearing upon any issue, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 369.

2240 WITNESS (Continuing): Since coming to Point Loma, I have continuously been an officer of the Universal Brotherhood and have taken an active part in its affairs. I am treasurer of the School for the Revival of the Lost Mysteries of Antiquity. That is an incorporated society.

2241 Q. Where incorporated?

The plaintiff objected to the question on the ground that it was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 370.

Q. Is it under the control of the Universal Brotherhood organization?

2242 The plaintiff objected to the question on the ground that it was immaterial, also called for a conclusion of the witness, and was incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 371.

WITNESS (Continuing): Mrs. Tingley is president of the School for the Revival of the Lost Mysteries of Antiquity.

Q. Is it a stock corporation?

2243 The plaintiff objected to the question on the ground that it was immaterial, irrelevant and incompetent, which objection was sustained, defendant excepted, and the same is numbered, Exception No. 372.

Q. Mr. Neresheimer, who, or rather by whom, one or more, is the business of the various concerns at Point Loma conducted?

2244 The plaintiff objected to the question on the ground that it was immaterial and irrelevant to any issue in the case, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 373.

Q. Not to offend against the ruling, but to bring it out more clearly—the financial affairs, such as the receipt and

2245 disbursements of funds, who has control over that matter?

The plaintiff objected to the question on the ground that it was immaterial and irrelevant to any issue in the case, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 374.

Q. Is the Homestead conducted by the same society or corporation as the co-called "Colony"?

2246 The plaintiff objected to the question on the ground that it was immaterial and irrelevant to any issue in the case, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 375.

WITNESS (Continuing): I was in San Diego in the months of August, September and October, 1901, and probably attended meetings held at the Isis Theater during that period. I don't recollect whether I did or not. I have, at various times attended meetings when Mrs. 2247 Tingley made addresses or delivered lectures, but it is impossible for me to say if I attended such meetings during July, August, September and October.

Q. Do you recollect hearing her make an address or deliver a lecture on the evening of October 27th, 1901, in reply to any person,—Rev. Clarence True Wilson or some minister from Pasadena?

2248 The plaintiff objected to the question on the ground that it was immaterial, irrelevant and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 376.

Q. Do you know whether, and if so, state, the plaintiff in this action was engaged in a controversy with

2249 various people in this city and county with respect to the management of the Point Loma Homestead, or associated societies, during the month of October, 1901, up to and including the 28th day of that month?

The plaintiff objected to the question on the ground that it was immaterial and irrelevant to any issue in the case.

2250 THE COURT: There are a great many phases to this case. Evidence may be received for one purpose which would be entirely incompetent for any other purpose. The court has permitted the defendant on this trial to show that previous to the appearance of the publication complained of here in the Los Angeles Times, the defendant was aware of the fact that Mrs. Tingley—was aware of the fact that there were publications in the San Diego papers and other papers reflecting upon her and discussing the character of her management at Point Loma. For the sole purpose of showing, so far as it might so tend to show that the defendant was not actuated by express malice, that is, actual ill will in the publication of the article; that is, it was not a case where this newspaper had published these things about her without any previous discussion on the subject anywhere. This was offered for that purpose, only to the extent that it might have any bearing upon that subject if the jury thought it worthy of consideration—any serious consideration. Now, in regard to evidence which the court ruled out, which it was 2251 2252 claimed was relevant by counsel for the defendant, as affecting the question whether Mrs. Tingley was a woman whose feelings could be affected to the same extent as other women by this article. That character of evidence was not the kind that is sought to be introduced here at

2253 this time. That was evidence tending to show what her sentiments were on particular subjects or probably evidence in regard to some of her actions, or her expressions, or conduct, Mr. Shortridge claiming that you could show what this woman was, what kind of a woman she was, whether she was likely to be affected so much as other women in her feelings by such a publication. That was ruled out on the ground that you cannot inquire into any persons views or sentiments on any subject, or go into
2254 her life and show what her conduct was specifically, for the purpose of determining whether her feelings could be affected as much as the feelings of some other women, because it is too uncertain and indefinite. She is to be regarded as any other ordinary woman situated as she was, and employed as she was at the time that this publication was made. As the Court remarked, the scales of human justice are not sensitive enough to weigh matters of that kind to determine to what extent a person's feelings may
2255 be injured by reason of the views they entertain upon any subject, and the law does not permit, under any circumstances, the production of evidence which searches through a mans or womans life in detail, in no case. Now the object of this testimony which is sought to be introduced at present is this: that Mrs. Tingley had been leading a strenuous life; that she had been engaged in a series of controversies; that her management of her institution at Point Loma had been criticised by other persons, and
2256 for a long period of time she had engaged in this hard strenuous work, and therefore, her mind might have been so wrought up that she would be more liable to succumb to this attack than if she had been in a better condition of health, mentally and physically. I believe that where

- 2257 a party complaining of mental injury from the commission of a tort by another, and where he goes upon the stand and testifies that mental suffering followed; that constant, or nearly constant, insomnia followed and partial incapacity to work followed; that a very great latitude should be given in the cross examination of that witness for the purpose of ascertaining whether he is testifying the truth or not. Now, for instance, if it is claimed that the person is incapacitated to do the work which he had done well before, before the time which it was claimed to have been well done, before the time, you could examine closely into the question as to whether that be true—whether there were any lapses of ability before that time to do work, or whether there was insomnia before that time, whether these troubles to some extent at least, did not exist before the commission of the wrong complained of. On those lines the cross examination should be allowed to take a great latitude. But this is a different proposition. You might just as well claim—and the term “strenuous” has been used so frequently—you might just as well claim that if President Roosevelt had been outrageously libeled by some great daily in the East and had suffered great mental anguish from it, and shock, and was incapacitated from work, you might as well claim you could go on and show the strenuous life which he has led for these many years, and spend a week, or two weeks, or three weeks, or four weeks to show the strenuous life that he has led, for the purpose of reaching the deduction or inference that may be this partial collapse which followed the shock that followed the publication, was due to the previous strenuous life which he had led. That is not the question. When a tort is committed by any one, the one committing

- 2261 it is liable for the injury which follows by the commission of that tort, whether the injury is anticipated or not. If I attack a weakly person, if I strike a blow at a weakly person and knock him down, or knock her down, a blow which would not have affected a stronger person at all, or to any great extent at least, but which, in the particular instance does produce great damage physically and mentally, I am responsible for it to the full extent of the damage which is done. If a newspaper libels an
- 2262 invalid, libels one who is in poor health, physically or mentally, and serious consequences follow, the newspaper is liable to the full extent of it, whether it know that the person was weakly or not. The rule is laid down in Section 3333 of our Civil Code, which is but a reiteration of the common law rule: "For the breach of an obligation not arising from contract, the measure of damages, except where otherwise expressly provided by this Code, is the amount which will compensate for all the detriment ap-
- 2263 proximately caused thereby, whether it could have been anticipated or not."

Of course in recovering damages on contracts only such damages can be recovered as might have been reasonably expected, but in actions for tort the damages approximately resulting from the commission of the tort may be recovered whether the tort feisor has any reason to expect them or not. When a wrongful act is done, the wrong doer is liable to the full extent of the injury,

2264 whether he should have expected it or not. And our Supreme Court have said that it is no defense, it is no mitigation, it is no justification to show that some other newspaper has been libeling the individual and that therefore the libeler is not responsible for the injury that fol-

2265 lowed from it. The last libeler takes the person libeled
 in the condition that such person is actually in mentally
 and physically, at the time that the libel is published, and
 is responsible for the damage which results from it. As
 Mr. Shortridge says, suppose all the papers, both great
 and small, in the State should turn loose and libel a per-
 son, and one of them is sued, is he to be held responsible
 for what follows in the way of injury? If there was any
 concert of action in the matter of course each one would
 2266 be responsible for the whole damage. All joint—tort
 feasons may be sued jointly or severally, and if the act
 of all contributed to the same result each is responsible
 for all the damage. I do not think this character of evi-
 dence is admissible. Of course a plausible argument can
 be made upon almost any proposition and if we were to
 permit evidence to come in on the trial of a law suit for
 the admission of which some plausible argument could be
 made, it would take a long while to determine the issues
 2267 in the case, a long time to finish the evidence. The law
 lays down some rules. There must be rules to govern the
 action of courts, and I am satisfied that the rules of evi-
 dence are well established in respect to the present ques-
 tion. It does not make, in my judgment, or in the judg-
 ment of the law, as I understand the law, it does not make
 any difference what the mental or physical condition of
 Mrs. Tingley was at the time that she read this article
 and claimed that she was affected by it. If she was
 2268 strong mentally and physically at that time: if the result
 of her strenuous work that it is claimed she had been en-
 gaged in, was to build up her body and build up her mind,
 make her brave and strong, and earnest, and it had that
 result, if it did have that result, it shows that a strong

2269 mind or a strong body, or strong persons would be affected by such an article. If she was worn out by the strenuous work mentally and physically and the article had this effect upon her, it merely shows that it did not take so much to affect a person in that condition. It is fair to presume it would not take so much to affect a person in that condition. She would be more liable to be affected by it in that condition, that is, any one—I am speaking generally—a person in
 2270 that condition would be more liable to be affected by an article of that kind than one who was strong mentally and physically. Counsel say they are not bound by Mrs. Tingley's answer. Of course they are not bound by her answer. Counsel for the defendant is not bound by any testimony on the other side—you have the right to go to the jury and argue that question as to whether there was sufficient in this publication to produce such an effect upon the plaintiff by the reading of it.

2271 You are not bound, of course you are not bound, by anybody's testimony, and I do not expect you will consider yourself bound on this question, when you come to argue it to the jury, the question of fact whether they believe her testimony, whether they believe such an article would likely produce that effect upon her, situated as she was at that time, and engaged as she was at that time in her work at Point Loma. If you are going to prove this strenuous life you claim she has led, these controversies

2272 that she was engaged in, it means a long while and what does it amount to when you have proved it all? You do not claim to show, you do not claim to be able to show, that she was in fact weakened in body or mind by any of these controversies nor by any of these articles which you

2273 say were published with reference to her. You do not claim to show it. I will not refer to her testimony on that subject. She testified in regard to the effect these articles had upon her when she was upon the stand. I permitted you to inquire in regard to these matters on her cross-examination. But after it is all in it does not amount to anything except to consume a long time here. You cannot tell how long, and when you get through with it, it does not amount to anything. Upon your own theory
 2274 it does not amount to anything, unless you can show by some witness that she was apparently reduced in physical or mental strength by the work that she had gone through with and when you do prove that you do not help your case; you only make it worse. Because a woman that is run-down in physical and mental health, it is very natural to believe that she would be more likely affected by an article of this kind than a woman who was strong and brave, and was not affected—weakened mentally or physically, would not be so liable to be affected. The objection will be sustained.
 2275

The defendant excepted to the ruling of the court in sustaining the foregoing objection, and the same is numbered, Exception No. 377.

MR. HUNSAKER: The defendant excepts to the remarks of the court and to any intimation of the court that under the pleadings in this case the plaintiff could, in any event, be held for a diseased condition either of mind
 2276 or body that resulted or might result, from the reading of this article, as such results would not be proximately caused by the article or its reading. Numbered as Exception No. 378.

2277 THE COURT: I did not use the term "diseased condition" of body or mind.

MR. HUNSAKER: The witness's testimony was to the effect that she suffered from insomnia as a result of the reading of this article and we respectfully submit that that evidence—that is not a proper element of damage in the case nor is it a result approximately following from the reading or the publication of an alleged libelous article any more than evidence that a party had died as a result of reading the article.

2278

THE COURT: I have only referred to the insomnia in the same manner that counsel for defendant have referred to it. Mr. Shortridge in discussing this question has referred to the effect that she testified she had been suffering from insomnia, or sleeplessness, and I have referred to that in my statement in attempting to give my reasons to counsel for my rulings. I am not deciding whether she is entitled to recover for any diseased condition of mind which may have been the result of this injury. I am not charging the jury as to the law of the case. That is a question which will come up later. I am not attempting to give the law of this case to the jury at this time. My remarks are in reply to remarks made by counsel giving the reasons upon which my rulings are based, in reply to the observations of counsel.

2279

Q. If you know, please state whether plaintiff is now the editor and publisher of a certain news-paper called the "New Century".

2280

The plaintiff objected to the question on the ground that it was immaterial and irrelevant to any issue in the

2281 case, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 379.

WITNESS (Continuing): Mrs. Tingley is the leader and the official head of the Universal Brotherhood organization and she is now performing the duties of that office or position. She is trustee of the Point Loma Homestead organization, and also of the Theosophical Publishing Company, and is performing the duties of her trusteeship in respect to these companies or associations.

2282 She now occupies the same relation to the several associations I have mentioned that she occupied on October 28th, 1901, and has continually from October 28th, 1901, occupied such positions. There has been no change in the associations since that date.

Q. State, if you know, Mr. Neresheimer, whether there has been any falling off of membership.

A. Of what?

2283 Q. Whether or not there has been any falling off in the membership of the Universal Brotherhood since October 28th, 1901.

The plaintiff objected to the questions on the ground that they were irrelevant and immaterial to any issue in the case, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 380.

2284 Q. What is the present membership of the Universal Brotherhood, if you know, Mr. Neresheimer?

The plaintiff objected to the question on the ground that it was irrelevant and immaterial to any issue in the case, which objection was sustained, defendant excepted, and the same is numbered, Exception No. 381.

2285 WITNESS (Continuing): My wife resides with me at Point Loma. She came with me and has been here continuously since I came, with the exception of a short visit she made to New York.

My wife is not, and never has been, a member of the Universal Brotherhood. She is, and has been, a member of the Aryan Theosophical Society for twelve years. That is a society separate and distinct from the Universal Brotherhood.

2286 CROSS EXAMINATION of EMIL A. NERESHEIMER.

BY MR. KELLOGG: My son's name is Frederick Emil Neresheimer. He is twenty-six years of age and is married. My daughter's name is Amy Tolulu. She is twenty years of age and is married.

MINNIE NERESHEIMER

sworn on behalf of defendant, testified as follows:

2287 BY MR. SHORTRIDGE: I am the wife of Mr. E. A. Neresheimer. I reside at Point Loma, and before coming to Point Loma, we maintained a country home in Bay Side, Long Island. We formerly lived in New York city.

Q. When did you give up your home in New York city?

2288 MR. ANDREWS: Your Honor, the question is objected to.

The objection was sustained by the Court, the defendant excepted, and the same is numbered, Exception No. 382.

2289 WITNESS (Continuing): My husband is a member of the Universal Brotherhood. I am not a member.

Q. How long has your husband been a member of that organization?

The plaintiff objected to the question on the ground that the answer would be immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 383.

2290

Q. Was he a member of the Universal Brotherhood on the 28th day of October, 1901?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 384.

2291 Q. You have lived continuously at Point Loma since your arrival at that place?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 385.

Q. Have you been in harmony with your husband as to membership in the Universal Brotherhood?

2292 MR. ANDREWS: Wait please, the question is—

THE COURT: (Interrupting) The objection is sustained, and if this course of examination is continued, the witness will be excused, dismissed from the stand. It is wholly irrelevant and immaterial to any issue in this case.

2293 The defendant excepted to the ruling of the court, and the same is numbered, Exception No. 386.

Q. Is it, or is it not a fact, madam, and if so, state whether since your being at Point Loma you have been separated from the society and presence of your husband.

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 387.

2294

Q. State whether or not prior to October 28th, 1901, you were denied or cut off from the usual and ordinary association and communion with your husband?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 388.

2295 Q. State whether or not you were or were not allowed to eat at the same table with your husband at this institution prior to October 28th, 1901.

The plaintiff objected to the question on the ground that the answer would be immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 389.

2296 THE COURT: And if you have no questions to propound which relate to any of the issues in this case, Mr. Shortridge, the witness will be excused from the stand, for the purpose of saving time. I do not understand that the answer justifies or attempts to justify the truth of any of the charges contained in this article, so far as they relate to this witness.

2297 MR. SHORTTRIDGE: We submit, if your Honor please, that this is defensive matter and is properly pleaded in subdivision 2 of paragraph 11 of the amended answer.

2298 THE COURT: The fact that that allegation is placed in the answer, does not establish the proposition that it is material. It is wholly irrelevant to the issue that could be raised in this case. It has nothing whatever to do with the case. It does not in the least degree tend to establish the truth of a single statement in this libelous article. It is not plead—if it could be claimed that these facts would tend to mitigate damages, or tend to show a lack of actual malice or ill will on the part of the defendant, it is not pleaded for that purpose, because there is no intimation that the defendant had any knowledge of these things at the time this libelous article was published. The fact that it appears in the answer does not establish the proposition that it is material or relevant to the case. If 2299 a motion would have been made to have stricken this out, it would have been stricken out from the answer by the Court. You cannot inject an issue here merely by pleading it in the answer, unless it appears to be a material issue in the case.

MR. SHORTTRIDGE: I do not wish to argue against the conviction of the Court.

2300 THE COURT: No sir, I do not care to hear any argument.

MR. SHORTTRIDGE: But is it not stated here that she was forcibly separated from her husband?

THE COURT: Yes sir, but there is nothing to show

2301 she was forcibly separated from her husband. We are not here to inquire about the relations between Mr. and Mrs. Neresheimer. This is not a divorce proceeding between these parties. It is immaterial for the purposes of this case, what their domestic relations were. I assume that they were all right. I do not mean to intimate they were not all right, I assume they were, but whether they are or not, this is not the place to investigate this question. We are here Mr. Shortridge, to ascertain the fact whether
 2302 these matters charged in this libelous article are true.

The defendant excepted to the order of the Court in the foregoing ruling, and the same is numbered, Exception No. 390.

The defendant also excepted to the remarks of the Court as to what the issues were or what the facts tended to prove and what the presumptions were which the jury might indulge and the same is numbered Ex-
 2303 ception No. 391.

MR. SHORTRIDGE: I do not wish to get into a controversy with the court, but unless advised by the court not to do so, I purpose propounding appropriate questions based upon subdivision 2 of Paragraph II of the answer.

THE COURT: To the plaintiff: Do you object to it?
 2304 MR. MCKINLEY: We object to any evidence upon any of the allegations in subdivision 2 of paragraph II upon the ground that they are immaterial and irrelevant, and do not go to establish any matters as true which are charged in this libelous article, and do not appear to

2305 have been known to the defendant at the time of the publication of the article.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 392.

Hereupon, the defendant rested.

KATHERINE TINGLEY

re-called on her own behalf, testified as follows :

2306 BY MR. KELLOGG: I did not personally employ Mr. Fitch at the Homestead.

Q. Mr. Fitch stated in his deposition that you frequently called him away from his work and his book-keeping to attend to other matters which he specified, photographing, and running telephone lines and other smaller matters; will you state what the truth is as to that statement?

2307 The defendant objected to the question on the ground that it was not in rebuttal, that it called for the conclusion of the witness, and was leading and suggestive, which objection was overruled, the defendant excepted, and the same was numbered Exception No. 393.

A. It is false. I never did.

2308 Q. Is that (showing witness paper later introduced in evidence and hereinafter set forth as plaintiff's Exhibit No. 24) a pledge to any of the organizations with which you are connected?

The defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal and called for the conclusion of the witness, and that it did

2309 not seem to be an executed or signed document, which objection was overruled, defendant excepted, and the same is numbered, Exception No. 394.

A. It is a pledge connected with the organization.

Q. Was this the pledge of that society as it existed in 1901 and during the time when Mr. Fitch was at Point Loma?

2310 The defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal, and called for the conclusion or opinion of the witness, and that it did not seem to be an executed or signed document, which objection was overruled, defendant excepted, and the same is numbered, Exception No. 395.

A. It was.

Q. Were the pledges signed by all of the members of this Esoteric Society the same at that time?

2311 A. They were, yes. That is one of them.

MR. KELLOGG: I now offer in evidence the pledge in question, the Esoteric Society of Theosophy.

2312 The defendant objected to the introduction of the paper in evidence on the ground that it was irrelevant, immaterial, not in rebuttal and not within any of the issues made by the pleadings in this case, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 396.

The paper referred to in the foregoing question was here introduced and read in evidence, and was marked as

PLAINTIFF'S EXHIBIT 24.

2313

" PLAINTIFF'S EXHIBIT 24."

" No.———

PLEDGE OF MEMBERS.

IN THE —————

1. I pledge myself to make Theosophy a living power in my life.

2. I pledge myself to support before the world the Theosophical Movement, and to endeavor to make practicable a Universal Brotherhood.

2314

3. I pledge myself to support the present Outer Head, and the one she may appoint as her successor, and in particular to obey, without cavil or delay, the orders of the Outer Head of this lodge in all that concerns my relation with this work for Universal Brotherhood.

4. I pledge myself never to listen without protest to any evil thing spoken of a worthy brother, and to abstain from condemning other.

2315

5. I pledge myself to maintain a constant struggle against my lower nature, and to be charitable to the weaknesses of others.

6. I pledge myself to do all in my power by study, and active practical work for Universal Brotherhood to fit myself to help those who have fewer opportunities of learning the true philosophy of life.

7. I promise to give what support I can, in time, money and work to the cause of Universal Brotherhood.

2316

8. I pledge myself to preserve inviolable secrecy as regards all matters pertaining to this Lodge, its signs, pass-words and documents.

To all of which I pledge my most solemn and sacred word of honor.

So help my Higher Self.

Sign here —————

2317 All members should, before signing this new Pledge read and meditate upon, that part of the VOICE OF SILENCE under "The Two Paths," pp. 22-23.

Members desiring to undertake this obligation, will write out the above Pledge in full in their own handwriting, sign with their full names and return it promptly to the Outer Head, addressed as below. They will also sign this printed form and send it at the same time; and if accepted, they will receive it back signed, together with further advisement and assignment to their proper class. No member's name will be entered unless the above requirements are strictly complied with. In case of non-acceptance the printed Pledge should be returned at once without explanation, addressed as below. And in any event it should be regarded as strictly private.

Address — Mrs. Katherine A. Tingley, 144 Madison Ave., New York.

2319 Accepted _____ Outer Head.
Give full address and date.

Q. Mrs. Tingley I ask you to look at the portion of the pamphlet annexed to the deposition of Dr. Anderson's testimony and marked Defendant's Exhibit "C" which purports to be the constitution of the International Brotherhood League, and state whether that portion of this pamphlet correctly expresses the objects of that League as they have existed from its inception?

2320 MR. HUNSAKER: Objected to on the ground that it is irrelevant and immaterial and not in rebuttal, and calls for a conclusion of the witness.

THE COURT: I have remarked several times that

2321 the principles of this institution, that the general work
of this institution, the general character of this institu-
tion, is not in issue in this case. We are not trying the
issue whether this is a commendable institution, or
whether it is doing good work or bad work, or what kind
of work it is doing; what principles it teaches, what its
views are. We are only inquiring into the question as
to whether these alleged defamatory charges made
against Mrs. Tingley are true or are not. The institution
2322 is presumed to be properly conducted, is presumed to be
moral and correct in every respect, so far as it is not
shown to the contrary. And the respects in which it is
not a properly conducted institution are those respects
in which it is charged not to be properly conducted in
this libelous article, and in those respects only. We are
not here to determine whether Theosophy is a correct
philosophy, or a commendable philosophy, or a philoso-
phy which should be accepted by anybody. I
do not care what it is, so far as I am concerned,
2323 and the jurors have no interest, or ought to have none,
on that question. We are not trying to investigate that
general proposition. It is immaterial what its principles
are, or what its actual work is, so far as the trial of this
case is concerned.

MR. KELLOGG: May I ask your Honor's attention
to one portion of the justification, that is subdivision E,
that portion thereof which states that there is nothing
2324 taught at Point Loma but insane ceremonies.

THE COURT: Have they proved it.

MR. KELLOGG: No they have not.

MR. SHORTRIDGE: I submit that the remarks of

2325 counsel touching the weight of evidence in, is improper and prejudicial and we take an exception to that. Numbered as Exception No. 397.

WITNESS (Continuing): I never ordered or directed any woman at the colony to work in the garden, or in the fields, or anywhere about the premises outdoors.

2326 Q. Did you ever see any ladies working in the garden or fields about the colony?

The defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 398.

A. I have seen the ladies in their flower gardens or fields but never in other gardens or fields. They had little patches in the colony, some flower gardens.

2327 The defendant moved to strike the words "They had little patches in the colony, some flower gardens" out of the foregoing answer, on the ground that the same was not responsive to the question, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 399.

2328 Q. Mr. Fitch stated, Mrs. Tingley, that the members were allowed no communication or conversation with each other, except as Mrs. Tingley directed. Will you state the facts with reference to that?

A. That is absolutely false.

The defendant moved to strike out the answer to the foregoing question on the ground that the same was

2329 not responsive to the question, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 400.

WITNESS (Continuing): I never considered that Spot was a remarkable dog any more than any other dog would be that was treated as kindly as he was. We were all very fond of animals and he was a special pet of my family, and we regarded him very highly.

2330 Mr. Judge did not give him to me. I have owned Spot about seven or eight years. I never told Mr. Fitch that I believed Mr. Judge's spirit entered into Spot at his death or that Mr. Judge gave Spot to me at the time of his death or at the time I assumed leadership as Mr. Judge's successor. I never made any statement of any nature to that gentleman or to any other person at any time. Mr. Judge never owned the dog. I owned the dog before Mr. Judge's death.

2331 Q. Mr. Fitch stated that the members exhibited reverence towards this dog Spot. Will you state the facts as to that Mrs. Tingley?

The defendant objected to the question on the ground that it called for a conclusion of the witness, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 401.

A. I never saw any evidence of it. So absurd.

2332 Q. Mr. Fitch testified Mrs. Tingley that Mrs. Tingley's supervision of the intercourse of members extended to interferences with relations between members of the same family, and he gives as an instance of such interference the case of W. T. Hansen, stating that Mr. Han-

2333 sen and his wife lived at the Homestead and their children slept and lived at the Lotus House. Will you state the facts in reference to the relations between Mr. and Mrs. Hansen and their children. I am referring to the time Mr. Fitch was there?

A. The only knowledge that I had about the children of Mr. and Mrs. Hansen is a conversation I have had with them.

2334 Q. Did you ever direct Mr. and Mrs. Hansen to send their children away to another place than the one where they were living?

The defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal and called for a conclusion of the witness, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 402.

A. Never.

2335 Q. Will you state so far as you know the facts concerning the relations between Mr. and Mrs. Hansen and their children involving the question of what was done with the children?

The defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal and calling for a conclusion of the witness, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 403.

2336 A. When I arrived at Point Loma Mr. and Mrs. Hansen were there with their children and I had not been there very long before they importuned me to establish a Raja Yoga School, of which I had talked to mem-

2337 long before, but I had no opportunity of establishing anything like that there because we were just starting and building, but on several occasions they talked with me and urged me to do something, even to have a temporary school. I afterwards decided to have one at the colony and they immediately placed their children there and dispensed with the colored servant that they had and sent her back South.

The first school that was established at the colony was the Raja Yoga school. The school was only temporarily at the colony until the building was established at the Homestead.

Q. Mr. Fitch stated that on one occasion, under his observation, "Mr. Hansen kissed his little one, his little two, he had two, and Mrs. Tingley requested that he do the same to the others so as not to show any favoritism." Will you state the facts as to that statement?

2339 A. I do not remember any such occasion at all — it is absurd.

Q. Where is Mr. Hansen at present?

A. He is at present at Santiago de Cuba establishing Raja Yoga Schools; he and his wife.

The defendant moved to strike from the foregoing answer the following words "establishing Raja Yoga schools; he and his wife" on the ground that the same was not responsive to the question, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 404.

There were restrictions against the young ladies going out alone. Further than that I placed no restric-

2341 tions against people at the Homestead going out of the grounds.

There were sunrise meetings at Point Loma early in the morning, when Mr. Fitch was there. No one was, to my knowledge, compelled to attend such meetings. I am not aware that there were any rules which governed the attendance of such meetings. It was a sort of a habit we had, our irregular ways of doing it. I do not know that there were any rules, except that they should get back to their rooms in time for breakfast at the Homestead. At the morning meetings there was nothing regular. They would go out in the morning for exercise, and if they chose, they would go to the lodge tent and stay, and perhaps have a song or two if it was a rainy or unpleasant morning, and if they did not want to take a walk, but they generally agreed is all I know about it. I never attended many of them, but as far as I know the idea was to arise at a certain time in order to meet all the duties. Nothing was compelled, but the young ladies had their athletic exercises and the young men, and often previous to that they went to the tents and they did have their songs and sometimes did read their little morning book of services. There was nothing obligatory at all. They went as they chose. Silent meditation is a habit of theosophists; instead of praying aloud, they remain silent. That is all I know. We sometimes had meetings of from three to five minutes in silent meditation at nine o'clock on the veranda, because we didn't have room, and I know we sometimes had them evenings, but I have no recollection of sending thought-waves out specially to the world, only kind thoughts possibly, if

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2344

2345 you could say that. I think that is our disposition to
 all people outside of ourselves; to think of the world
 and of humanity. The object of the silence in the
 evening was the same as it was in the morning. They
 did whatever they liked with their thoughts, only it
 was supposed they had pure thoughts. Their idea was
 that they were working for humanity, and that medita-
 tion was silent prayer. That is all I know. I know it
 is that way with me. I never imposed a rule or order
 2346 for compulsory attendance upon any of these meet-
 ings whether morning or evening.

No costume was prescribed for any of these daily
 morning or evening meetings I have alluded to, but
 there were a number who belonged to the daughters of
 the Rising Sun, and on occasions they wore those dresses
 at the morning meetings. The costumes were made as
 closely as we could get them to the regular Greek style
 because they were classis and comfortable and economi-
 cal and they were — those who wore them were mem-
 2347 bers of the Isis — of the conservatory of music and
 drama. Some of these costumes were made of thick
 woolen. The members bought their own material, and
 some of them were made of canton flannel, thicker than
 the woolen material. Then there was another material
 not quite as heavy as the other. It is called nuns-veil-
 ing. That is a light woolen material. I never saw any
 costume made of cheese cloth.

2348 Q. Now, what other clothing was worn with these
 Greek robes that you speak of?

A. Why, they wore their usual under garments and if
 it was at all cool, they wore a sort of toga, a white scarf,
 so they would not get cold going from the Homestead

2349 to the Temple. We did not have our dressing rooms in the Temple at that time. The toga was thrown over as a protection and was not a part of the dress at all.

The costumes worn by the ladies were gathered in at the neck in the Greek fashion with a string quite tight, and quite high in order to give the proper effect. The sleeves were very long, almost as long as the dress, and were caught with a loop to hold them so the arm would not be too much exposed. The ladies robes always extended to the ground.

2350

The gentlemen's robes were made in the Greek fashion and about the same material as the ladies' robes. I do not know of any other kind that was used, except there may have been some other cotton material, but never what is suggested by cheese cloth, which, as I understand it, is a very thin and gauzy material. The gentlemen's robes extended to the ground and were high in the neck. The sleeves were not made as the ladies' sleeves were. They came about to the wrist and were rolled back—made a little longer and turned back. The idea was to raise them half way between the wrist and elbow. They were very comfortable and were perfectly straight sleeves.

2351

Q. Are the robes of both the gentlemen and the ladies in use today in your dramatic performance and other occasions when you wear such robes the same material and in style as those worn when Mr. Fitch was there?

2352

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 405.

A. They are the same—always kept the same.

2353 Q. In the case of the men's robes, over what clothing were these robes worn, if you know.

A. Why, I don't know. I suppose the same as they would wear on any occasion; their underclothing.

Q. Was there any appearance at any time, to your knowledge, of the least indelicacy in any of these robes?

2354 The defendant objected to the question as irrelevant, and immaterial, and as calling for the opinion of the witness, and not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 406.

A. Never. They were distinctly the opposite in their general make-up.

2355 I never gave any directions or prescribed any rules as to what clothing these robes should be worn over, only that they should be very careful and wear very warm clothing so as not to get cold.

2356 The craftsmen were the first workers who went to the Point, the pioneer team — we call them pioneers, so that on the occasion of laying the corner stone we honored them by calling them the craftsmen. They had a special kind of robe. It was a thick, brown material, a robe which they wore because they were digging in the dirt — that suggested that color — in foundations under the buildings. These robes did not come down to the ground. They came below the calf of the limbs. They were high in the neck like the other robes. The sleeves were not quite as long. They were short on account of working in the dirt.

Q. Has there been any change in the costumes of the

2357 craftsmen between the time Mr. Fitch was at the Point and at the present time?

Defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal, which objection was overruled, defendant excepted, and the same is numbered, Exception No. 407.

A. No.

2358 Q. Mr. Fitch made these statements in regard to the addresses of these meetings, referring to the E. S. T. meetings. "They were almost entirely laudatory of the sacredness of the organization and of the grounds on which they were, and especially of the sacredness of their leader. I have heard her described at those meeting as the greatest in the line of succession of teachers or prophets, including Confucius, Budda, Christ and Mohammed;" did you ever hear any such statement at any meeting whatever?

2359 A. I never did. Nor did I ever make any such statement or any such claim on any occasion.

Q. Are you the owner of a purple robe, Mrs. Tingley, or were you at that time?

A. I have several dresses and garments and negligee wraps and that sort of thing, and I have the different colors. There might be something that has a touch of that color. I am not conscious of having any, what you would call, purple robes. I have the lighter shades. So
2360 absurd.

I do not know anything I am in the habit of wearing that might be called in general a robe, except my Greek dress. When I lecture I wear my lecture gown — just an ordinary wrapper with a belt.

2361 Q. Are there any special designs, mystic or otherwise?

A. I have never seen any. There is only one garment which I wear in delivering lectures at the Isis and at my public lectures I wear this robe.

I had one conversation with Mr. Fitch about his wife.

Q. Will you state what that conversation was?

2362 The defendant objected to the question on the ground that it did not call for evidence in rebuttal and that it was not directed to the conversation to which Mr. Fitch had testified, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 408.

2363 A. Mr. Fitch, when he first came to Point Loma introduced his wife to me and he stated that he was glad to have her come up and get the air. That she had been helping him with his work, and she had been doing dress making in San Diego, and that after she was rested, would it not be possible for me to give her some work at the institution that it might add to their funds to pay bills which they owed and would I give it to her if there was any surplus. I said, " Mr. Fitch, in the first place our institution doesn't pay out money for work done although some individuals do. That we had volunteers to work and I feared I could not encourage Mrs. Fitch and that another thing was I hardly approved of encouraging Mrs. Fitch in that line. That he seemed to be an able bodied man and I thought he ought to support her without expecting her to aid in supporting a family, and he was very much annoyed, even at that time, or appeared to be.

2364

I had a conversation with him when he wanted to

- 2365 see if we could advance him a little money as his wife wanted to go East. I never had a conversation in which he stated to me that Mrs. Fitch and himself had always gone through life together and that as long as lady members were allowed to join the Esoteric Society of theosophy, he should prefer that his wife join the society at the same time he did, nor did I ever say to him that it was impossible for his wife to join the society because he was further advanced than his wife,
- 2366 nor did I say that Mrs. Fitch was not far enough along to be eligible to membership in the E. S. T.

Q. He then states, "My wife wished to go early in November, 1900. Before her departure Mrs. Tingley strongly urged before myself and Mrs. Fitch, that she had better not undertake the trip at this time. That later on, if she became a member, she would send her across on some errand of hers, thus saving her car fare, and she could at that visit her parents. That she should

2367 not take Harry, our little boy, out of school as she wished, because he had gotten fairly into the work and was learning so much, that if he left the school he could not return to it again." That is his version; do you recollect any such conversation?

A. I recall a conversation where he told me that his wife wanted to go east, but he said that he could not afford to send her; could not I have some money advanced to him. I told him I could not. And he wanted

2368 to know if I could get a cut ticket or something; I told him the only time we ever attempted to furnish tickets for people was when they were going out lecturing, and as Mrs. ——— this lady, did not belong to the work,

2369 and was not working for us, I could not do it. That is all I remember.

I never told Mr. Fitch that I could see him in the future a very hen-pecked husband, nor that he would be a pretty good fellow if it were not for his wife. I was not; nor did I tell him I was planning trips to Cuba, Hawaiian Islands, Japan, or to any other part of the world; nor did I urge him to follow his apparent bent for photography, or give up his position as bookkeeper; 2370 nor did I tell him that we could get bookkeepers but that it was hard to get photographers; nor did I tell him that we could not pay him for any photographic work he did for us, but that he needn't worry about being taken care of; nor did I ever tell him that I would take a photographer with me on my trips which I might take; nor did I tell him that if he was that photog- rapher he could go with me on these trips.

I never told Mr. Fitch that I believed that the marriage relation was all false, nor that marriage as usually known in the world was wholly false or perverted, not 2371 that if people would live the life that we were trying to live on the Point for awhile, they would evolve so as to reach a point where marriage as known in the world would not be necessary.

Q. I wish you would state what, if any, statement on the marriage relation you ever made at any time to Mr. Fitch.

2372 The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal and did "not refer to the conversation which he (Mr. Fitch) testified to," which objection was overruled, defendant excepted and the same is numbered, Exception No. 409.

2373 A. I remember Mr. Fitch meeting me in the hall once and apologizing to me; he said he had had some words with Mr. Pierce on account of his books, not being up to date, and that he felt sure he hadn't the energy to push the work as he wanted to, and he asked me if I would give him the secret of Mr. and Mrs. Harris and other members there getting along and accomplishing so much, and being so happy, while he could accomplish so little, and he was so unhappy in his married life — that is what he asked me.

2374

Q. Was there anything else took place?

A. My answer was, "Mr. Fitch, as far as I know these people — their happiness is based on the fact that they are endeavoring to do their duty to themselves and also to their comrades, and to their families, and if you would accept and take up the responsibility of a married man and as a father as you are, and realize your possibilities because you have them, you are a man of ability, and endeavor to lead an unselfish and pure life, you would get a broader conception of what real happiness is, and the true life." And I said that I regarded marriage a very sacred thing, so sacred I couldn't conceive how he entered into it so carelessly, not thinking — he didn't seem to realize what his responsibility was; he was constantly leaning on me or on somebody — everybody he would meet, questioning how to be helped.

2376

I do not remember having any other conversation on the subject of marriage relations with Mr. Fitch and I have given the entire conversation that did take place so far as I can recollect.

2377 Q. Mr. Fitch next states, Mrs. Tingley, as follows:
 "On one occasion in her room she described a very
 extraordinary occurrence that happened during her
 crusade around the world. Her party were in some
 part of India, where, I do not recollect, and word was
 brought to her by a peculiar means from one of the
 great masters, who had the power of assuming the flesh
 at will in the person of a man, that he should like to
 meet her face to face. She gave herself unreservedly
 2378 into the care of his messengers whom she told me were
 also spirits and capable of assuming the flesh or not,
 as they liked, and born on the shoulders of these two
 men on a palanquin she journeyed for about five days,
 through incredibly rough rugged mountains until she
 was brought into the presence of the great masters who
 had been helping her, were helping her." Did you
 ever make any such statement to Mr. Fitch at any
 time?

2379 A. Never, at any time.

Q. Or anything which in any way was similar to
 that statement?

A. No, I never did. Never!

Q. Did you then, make any such a statement as this
 to him — taking his own version; "She went into an
 inner room and brought out a picture, a portrait of an
 Indian in a turban, which she showed me with the great-
 2380 est air of secrecy and veneration, saying that many mem-
 bers of the organization would give almost anything
 for the privilege of viewing this portrait. 'You have
 frequently noticed entries in Mr. Pierce's check book
 of sums from a person denoted by initial' she said. I

2381 said I had. 'Well,' she said 'this is the man and he never does so except when we are in the direst need, but when we are pushed to the last extreme he will send us a check, as he has the power over the spirit and the flesh and including moneys.'" Did you ever make any such statement as that to Mr. Fitch at any time?

A. I never did. So absurd! Never said anything like it.

2382 I never appointed Mr. Fitch leader of the athletic squad and I never knew him to be the leader. Whenever I have seen the boys at their exercises I never saw him leading. I saw him running.

Q. Mr. Fitch made this statement, Mrs. Tingley: "Anyone was privileged to go there, referring to your rooms — day or night, and state their business, her cabinet were privileged at all hours of the day or night to enter singly or collectively. Question: To enter her chamber? Answer, yes." Will you state the facts as to that statement of Mr. Fitch?

A. Why it is false in part and in another part it may not be; it is according to the way I describe my rooms I had there. I had an apartment on the second floor; on account of the building business my office was carried up stairs, I had an office on the side, in an octagonal room, when people came, but my bedroom was on the other side, so that the rooms referred to, two of them were used by the members to come and go in reference to all business, any one of the cabinet officers or any member who chose to come with any special mes-

2385 sage always received attention; I had usually a secretary there, or a substitute always.

Q. Now using the word chamber in the sense of your own private retiring room, were any members of your cabinet permitted at all hours of the day or night to enter your room singly or collectively?

2386 A. I am certain that none of them ever were there, except once when I was very ill with pneumonia and supposed to be dying. I have a recollection seeing some of them there by my bed. At that time there was a physician present and the nurses were by. Other than that, there is no foundation for this statement. I always kept my room very sacred, wanted it for a rest room, and never thought of it being of service to any one except myself.

2387 Except the first three weeks after I went to the Homestead, I have always had some one in my room with me at night. Generally a little Cuban girl named Carmen, whom we had there in my care, or Madam Peterson, the hostess of our institution, or some other of the ladies. I never slept alone from the time I went to the Homestead. There are two couches in my room and I have always had some one with me.

2388 Q. Now, with reference to the diet, Mrs. Tingley, will you state what connection you have had with the regulation of, or providing of the food which is eaten by the members of the Homestead?

A. I have always been very much interested in the diet. I feel a certain responsibility on account of having established the work there, and the institution, that we should — that the members might be provided with

2389 the best — that we were paying for the best and consequently we ought to have the best.

Q. What directions, if any, have you given on that subject; as to the quality of the food to be procured for instance?

The defendant objected to the question on the ground that it was not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 410.

2390

A. I was interested of course in everything at Point Loma. The practical work and the domestic economy and of course the cooking was included in that, and I have always interested myself in a certain menu but never continuously, never consecutively. I recall in the early time the enthusiasm of the students was very great and they were very anxious that I should suggest a sort of an outline as to what food they should take to help
 2391 make them strong and healthy, and I did it for a very short time only, and I don't know but what it is carried out today. I have never had any complaints. I do not know about it at all now, but I did in the early time when we first went there.

The defendant moved to strike the words "I have never had any complaint" out of the foregoing answer, on the ground that it was not responsive to the question, which motion was denied, the defendant excepted, and
 2392 the same is numbered, Exception No. 411.

WITNESS (Continuing): Mrs. Kramer had charge of the procurement of the daily food for the Homestead when Mr. Fitch was there.

2393 I have had nothing to do with the directing of the food or furnishing the food at the colony. That was under the supervision of the superintendent; Mr. Hansen, the president of the League attended to that. I have always inquired to see if they had plenty and that they had the best, just as I said as to the other; we pay our bills, I wanted them to have good food and plenty of it. I never directed any meal. That applied to all the time when the Gird children were there.

2394 Dr. Winkler had charge of providing the food at the colony. Then Mrs. Holbrook was there as an assistant for a short time and the present one is Miss Munson. Mr. Hansen, the superintendent, was in charge of the colony during the time when both the Gird children and some of his own children were there. He is the president of the International League and also superintendent of the colony.

2395 Mrs. Kramer has also had charge of the procurement of the food for the children since the time the children were first placed at the colony. She is still there.

Q. Mrs. Tingley, did Mr. Fitch ever say anything to you or in your presence, as to his own weight, physical weight, I mean avoirdupois?

The defendant objected to the question as immaterial, incompetent, irrelevant and not rebuttal, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 412.

2396 A. I remember very plainly of meeting him on the walk when he was running. He was quite warm, and he told me that he had followed my suggestion and was taking exercise and was losing about half a pound a

2397 day. He was running with the rest of the boys of the athletic club. He had his athletic suit on at the time.

At that time he stated that he would like to join the athletic squad and wanted to know if any one would give him permission. I told him I had nothing to do with it; to apply to the homestead and Mr. Pierce would probably admit him. His reason for wanting to join the athletic squad was that he was confined in the office.

2398 Q. Now, we will refer, Mrs. Tingley, to certain of the facts as stated by Dr. Anderson. In the first place, I wish you would state any facts which occur to you. Dr. Anderson, Mrs. Tingley, made this statement concerning the colony: "It is under the control of the Universal Brotherhood. The people of the colony do all the work in relation to the Homestead, which is the residence of a great many. They do most of the work in all the grounds. The planning, gardening, they do, and

2399 taking care of things generally. They do the work in the way of marketing and procuring food. In fact, the people of the colony generally take the place of servants." Will you state the facts as to the colony, and state who lived there, and have lived there, at this time of which the witness speaks?

A. As it occurs to me, they were never able to provide even vegetables enough for themselves and they
2400 were a very small number, not more than twelve. The fact is they had less to do at the colony than they had at the Homestead and the people there are those who are not as strong as those at the Homestead. The people at the colony never took the place of servants

2401 about the Homestead or elsewhere. They never do any work at the Homestead at all.

Q. What is the fact as to the work, the domestic work which is done by the people residing both at the Homestead and the colony?

A. It is carried on on the Universal Brotherhood line, co-operative and all working, all doing their part. They attend to their own rooms, at least the ladies do, and they help wherever they have an opportunity, always seeking an opportunity. No distinction was drawn at any time between the people at the Homestead on the one hand and the colony on the other, any more than we would favor those at the colony because they were not as strong as those at the Homestead. As I recall, some at the colony were old people who were not fit to do the work that the younger people were doing at the Homestead, and some were not of course.

2403 Q. Dr. Anderson made this statement, Mrs. Tingley, referring to a certain ceremony which he speaks of: "The first ceremony which I took part in was at a time when we met after midnight upon the site of the School for the Revival of the Lost Mysteries of Antiquity. All sat on a canvas, and were supposed to be initiated into a very ancient order, and the ceremonies consisted of Mrs. Tingley relating some marvelous displays of intelligence, supposedly, on the part of her dog Spotts.

2404 As I say, it was after midnight. We were clothed, all of us, in the costume which is supposed to be ancient Greek. Very lightly clad in ordinary muslin. I remember it was distinctly chilly. There was some general talk to Mrs. Tingley. It did not amount to very much.

2405 The whole thing really consisted of these things that her dog Spotts had done. I can relate what they were if you desire." Will you state what the facts were as to any such initiation of Dr. Anderson into any very ancient order?

A. I know we had a dedication on some of the, on the anniversary of the laying of the corner stone of one of the buildings there, I think it was the School of Antiquity, although we had some others. And I do remember Dr. Anderson being present and I also remember Dr. Anderson speaking, we spoke of the anniversary and what the work was to be. It is absolutely false that the dog has ever been referred to at any meeting on that hill by any person whom I have known.

2406

I cannot state what night this ceremony took place. It was at a ceremony re-dedicating the corner stone, the anniversary. Mr. Pierce, Mr. Neresheimer, Mr. Thurston, and the members of the household were there.

2407 Those who were residing at the Homestead and wished to go, went. This meeting was not on the occasion of an initiation of Dr. Anderson into any ancient order.

Q. What was the object of the meeting?

A. The object of the meeting, as I said, was to give—it was on the anniversary of the laying of the corner stone and I am almost sure it was the anniversary of the laying of the corner stone of the School of Antiquity. This meeting did not have anything to do with the order which Dr. Anderson mentions and known

2408 as the Ancient order of Scribes, but some of the Scribes might have spoken at the meeting.

Q. What took place at this meeting; the one at mid-

2409 night on the site of the School for the Revival of the
Lost Mysteries of Antiquity of which Dr. Anderson
spoke?

A. I have never been there more than once with Dr.
Anderson. I do not know that it was at night. The
only midnight meeting I recall was one. I do not
think it was quite midnight. It was called that or it
was a New Year watching, watching the old year out
and the new year in. It was held on the grounds of
2410 the School for the Revival of the Lost Mysteries of An-
tiquity. There was a watch meeting on the grounds
of this school when we had no building to meet in. That
was New Year's Eve. These two meetings were the
only midnight meetings on the ground of the School
for the Revival of the Lost Mysteries of Antiquity.

Dr. Anderson was not initiated into the ancient order
of Scribes at either of these meetings. I do not remem-
ber any initiation of Dr. Anderson in connection with
2411 the order of Scribes.

Q. Wont you kindly describe what the Ancient Order
of Scribes is, what its purpose was — purpose it?

The defendant objected to the question on the ground
that it was immaterial and not rebuttal, which objection
was overruled, the defendant excepted, and the same is
numbered, Exception No. 143.

A. The order of Scribes was established for the pur-
2412 pose of giving the students an opportunity to look more
into archaeology. That was the general purpose of that
meeting — and especially into the prehistoric condition
of America and they were named Scribes, that was the
name of the society. It was just a small body.

2413 Q. In selecting that name of Scribes, what thought did you have in mind?

The defendant objected to the question on the ground that it was not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 414.

A. Why, they were writers.

2414 Q. What was the motive of that title which was given to this society?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 415.

2415 A. I did not originate the name. It was a number of themselves who first thought of it. They decided to call it Scribes, — recorders, to write down all that was discovered by them, their researches, etc., to be put in the archives and preserved.

Q. Will you kindly describe a little more in detail the subjects of their study — which these people were organized for the purpose of studying?

2416 The defendant objected to the question on the grounds that it was immaterial, irrelevant and not in rebuttal of anything that had been introduced on behalf of the defendant, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 416.

A. The subject was archaeology, to write it out and preserve it, and our Century has, every week, the result of their efforts, a page, and sometimes two pages.

2417 Q. They were studying not only from ancient history of this country — — —

The defendant objected to the question on the grounds that it was immaterial, irrelevant and not in rebuttal of anything that had been introduced on behalf of defendant, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 417.

A. But of all countries, and particularly in America,
 2418 I never said to Dr. Anderson at any midnight meeting that we were being initiated into a very ancient order or through or by means of a very ancient ceremony, nor did I ever say that any ceremony at which he was present consisted in eating fruit which had any mysterious significance.

I never told Dr. Anderson how, on an occasion, I had been very much depressed or had gotten blue in regard to the condition of the society or of anything else, and that my dog Spot had gone to a pile of letters which I had thrown on the floor at a time when I did not care to examine them and had selected a certain letter from Dr. Allen Griffiths and brought it to me, and that I had opened it and was greatly comforted by it, nor did I ever make any such a statement to any one in his presence or to any other person at any time.
 2419

Q. What is the order of the Rising Sun?

The defendant objected to the question on the ground
 2420 that it was not rebuttal and was irrelevant, and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 418.

A. It is a body of the younger students, the younger ladies and men there for literary studies and for — well

2421 for mental and moral purposes and physical and well,
because they have their morning exercises, which is a
part of their work.

I have attended these meetings. There are two or-
ganizations, which are quite separate. One is the sons
of the Rising Sun for men, and the other is the
daughters of the Rising Sun for women. For a long
time, they had their meetings regularly once a week
and on occasions twice a week. They studied Shakes-
2422 peare and took Bible texts and different subjects of
music, and had a social now and then on special occa-
sions when they wore their Greek robes. They had music
and recitations, and special articles on different sub-
jects, and then a social afterwards. Vocal and instru-
mental music was the principal feature of their work.

The term "Rising Sun" was taken in about the same
way as the daughters of the Eastern Star. We are
up there and feel benefited by the heat and feel that it
2423 agrees with us, and we were on the hill and we called it
the Order of the Rising Sun. It is quite significant
and quite appropriate.

Q. Dr. Anderson refers to the costumes which we
have already gone into and makes the statement; "The
most sacred one is this one which is supposed to be
Ancient Greek." Is there any sacredness attached to
that costume in any way?

The defendant objected to the question on the ground
2424 that it was not rebuttal and called for the opinion of
the witness, which objection was overruled, the de-
fendant excepted, and the same is numbered, Excep-
tion No. 419.

A. No, I have never heard of it at all.

2425 Q. Dr. Anderson makes the following statement referring to the students at the institution: "That was the Students class, and these people were given the preference in regard to the labor performed. The highest of them did not work at menial tasks." Will you kindly state the facts as to the division of labor among the students and the kind of work the students do and did at the time Dr. Anderson was there?

2426 A. There are such a variety of duties I could not enumerate them. I know that every one at the home-stead, those who are really considered students, were seeking opportunities, the rich and poor alike, and there never was any division, we have always taken the greatest care in all our work to avoid anything of the sort, it is part of the Brotherhood principle and scheme.

2427 The defendant moved to strike the words "we have always taken the greatest care in all our work to avoid anything of the sort, it is part of the Brotherhood principle and scheme" out of the foregoing answer, on the ground that the same was not responsive to the question and was irrelevant, immaterial and not rebuttal, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 420.

2428 Q. With regard to the people who lived at the various places upon your grounds are there any people there who are paying nothing for their sustenance and lodging and being supported by one or the other of the organizations?

The defendant objected to the question as immaterial, irrelevant and not rebuttal, which objection was over-

2429 ruled, the defendant excepted, and the same is numbered, Exception No. 421.

A. Yes, there are a number.

Q. And have been at all times since the organization was established there.

The defendant objected to the question as immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 422.

A. From the beginning of the establishment of the colony and homestead.

Q. Now, as to the children who are at the Raja Yoga school, are any of them in the same condition?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal to any testimony offered by the defendant, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 423.

A. There are a large number not paying; the greater proportion.

Q. Now, as to the little Gird girls, who testified here at a previous days hearing, do you know whether or not they paid while they were at the colony or at the homestead or anybody paid for them, any of their parents?

The defendant objected to the question on the ground that it was immaterial and irrelevant, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 424.

2433 A. I know that no money was paid for the two Gird children.

No money was paid for Miss Kratzer or her mother or her sister by any one to any one of the departments. It was the same with Willis Freeman and the same with Willis Freeman's mother.

The children were never quartered in tents about the premises when Dr. Anderson was at Point Loma, nor
2434 were the children ever kept in tents.

Q. Will you state how the children were housed, the children that were there at any time when Dr. Anderson was there?

A. Can I not say one word for fear I shall be misunderstood? When I say tents, it was the habit of the children to call them tents. The buildings, the rooms they lived in. The structures were made entirely of
2435 wood, wooden floor and wooden partitions, but we did have a canvas cover for ventilation, but we now have wood; the whole frame was wood with wooden floor and pipes and running water and everything, but the top was canvas covered. We had it for sanitary purposes; the covers rotted very quickly and were substituted with wooden roofs, but the children have the habit of sometimes calling them tents and I have seen it written in the circulars. There were five or six of these buildings
2436 at the time Dr. Anderson was there.

I had a very serious conversation with Dr. Anderson on the subject of feeding children. I cannot tell the date of it. It occurred August 1st on his first visit. We were speaking in the tent.

2437 Q. Please state the full conversation as near as you can recall it.

The defendant objected to the question on the ground that it was not rebuttal and that the question did not purport to be directed to the conversation testified to by Dr. Anderson.

THE COURT: Did you ever have any more than one conversation with him on this subject as you remember of?

2438 A. I don't remember ever having but one on that special subject.

The foregoing objection was overruled, the defendant excepted, and the same is numbered, Exception No. 425.

2439 A. I had been visiting the different tents and seeing the different children, and he asked me what was the secret of our success with children, they were so rosy and so happy — there was no evidence of any strain on the teachers, I told him I attributed it to our system, the system which we followed. That it was not only the care, but the general home surroundings we gave them, and that it was the diet, and that I had discovered a secret, which I hoped too the doctors would accept, and I had spoken with Dr. Wood and he thought it was excellent, and that it was that a child, instead of being fed when it was first born, every 2½ hours; that it
 2440 if was fed every half hour, that splendid results would follow; that I had discovered it, and that some of our attendants had carried it out. I am almost sure I said Dr. Wood had already done so. And I never had any difficulty with Dr. Wood in reference to that. I knew the doctors had a special regime, and I didn't know but

2441 they might claim indigestion would follow. I was very enthusiastic on the subject, and I expect to write a book on that subject some day.

Q. Now, referring particularly to that part of the statement which says that you had great trouble with Dr. Woods in the management of the children because he did not fall into line with your ideas, will you state the facts as to whether you made any such statement?

2442 A. No, I said the contrary; I am certain he said he approved it. I don't know as other doctors would. I was apologizing to him in a measure, as he was a doctor and I know doctors have their ideas on those matter. I never, at any time, told Dr. Anderson I believed in giving children very little food, nor did I tell him that Dr. Wood had protested against it.

2443 I never, at any time, stated to Dr. Anderson that I had withheld food from a child about a year old for twenty-four hours, nor did I ever say to him that the children's lower nature was subdued and broken and that the quickest way to bring it about was to adopt that course of withholding food until the child came to its senses or until its soul appeared, nor did I ever state to Dr. Anderson that I had caused the food to be withheld from any child for twenty-four hours, or for any considerable length of time.

2444 Q. Did you ever state that the quickest way to subdue and break this lower nature was to adopt that course of withholding food until the child came to its senses; until its soul appeared?

A. I now recall the rest of the conversation that I had with Dr. Anderson which we have just referred to, and that was that I believe while we have five hundred

2445 criminals in the reformatories, we probably would not have any if this system that I introduced was followed, because the appetite was unnatural as it grew in not being fed more than once in every two hours and a half, and I believed the child grew up with an unnatural appetite.

Q. You never told him that the quickest way to break and subdue this lower nature was to withhold the food?

2446 The defendant objected to the question on the ground that it was leading and suggestive, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 426.

A. Never.

Q. As a matter of fact, Mrs. Tingley, aside from any such statements, did you on any occasion withhold or direct the withholding of food from any child for
2447 twenty-four hours or any other substantial length of time?

The defendant objected to the question on the ground that it was not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 427.

A. Never.

Q. Will you state what the facts are as to any separation of the children of Mr. and Mrs. Hansen at any
2448 time from their parents?

A. Well the facts are these, that the Raja Yoga school is based on the home and school system and that Mr. and Mrs. Hansen and all the parents who have chil-

2449 dren there, urged, not only asked, not only applied, but
 urged to have them in there and remain there under that
 system and they visited them, had regular times when it
 was best for the children and best for them, but when-
 ever they wished to see them, all they had to do was
 to ask and they could see them if they were not at their
 studies. There is not, nor has there ever been, any
 reason why Mr. and Mrs. Hansen could not have taken
 their children away if they had not liked that system.
 2450 Parents are permitted to see their children once in two
 weeks. They had their regular days of receiving and
 meeting the children once in two weeks and once a week
 quite often. Sometimes twice.

Q. Now Mr. Anderson says that you told him that
 the reason for this separation was that parental favorit-
 ism and parental love interfered with the development
 of the child and were things to be avoided as much as
 possible. I wish you would state the facts as to any
 2451 such statement or relative to such subject.

A. I never made such a statement to Dr. Anderson,
 but I remember saying that the parents were so del-
 ighted with the success of our work when the children
 returned. Mr. and Mrs. Hansen told me, they both of
 them told me, they better understood their children,
 there was more affection, more love. I told Dr. An-
 derson my experience with Mrs. and Mr. Hansen.

2452 The defendant objected to the statement made by
 Mrs. and Mr. Hansen and moved to strike out of the
 answer the following words: 'Mrs. and Mr. Hansen
 had told me that, they both of them told me, they bet-
 ter understood their children, there was more affection,

2453 more love," which motion was denied, the defendant
 excepted, and the same is numbered, Exception No. 428.

WITNESS (Continuing): I never told Dr. Anderson that when people became troublesome I would separate them by sending them over to the colony, nor did I refer to the case of the two Texan ladies, sisters, nor did I say that one of them gave me so much trouble she was sent over to the colony to avoid her influence, nor did I ever make any similar statement to Dr. Anderson.

2454 Just before Tillie Kratzer and her sister left Point Loma I sent for them and she and her sister came to see me. I sent for them because Tillie had asked the little girl if she and her sister could see me and bid me good-bye. They came shortly afterwards. They were in tears and I asked them why they were feeling so badly. They said they didn't want to leave. They regretted very much to leave and I told them that I also regretted that they were going. I knew they had opportunities and would have more as soon as we were
 2455 settled, but that it was quite impossible for me to have their mother dictate. It was impossible for any of us, to have the dictation of the mother and the trouble she was making. Their duty was to go with their mother now and possibly sometime there might be a change and they might have an opportunity to come back. I was very much interested in them at that time. They were both very promising girls. That is all that took
 2456 place at that time.

Q. Will you state whether at any time before this last interview you had in talking with either of the little Kratzer girls about education, about their having an education, or what you were going to do for them, or anything of that sort?

2457 A. Well I never — I used to see the eldest girl occasionally sitting on the veranda and there were not many of her age there, and I occasionally talked with her and tried to cheer her up, but I did not make any promise because everything was unsettled and we were not sure we could keep the mother. She was already giving us trouble. At the time the Kratzer girls came to the Homestead the only school that existed was at the colony and the younger girl went to the colony. First, she
 2458 stayed with her mother quite a little while, and then the mother asked me if she could not go over to the colony and stated that the eldest one could stay with her and learn housework. The little girl was sent to the colony at Mrs. Kratzer's suggestion, who wanted her to go and be with the other children. Miss Wood was the instructor at the colony at that time.

Q. Did Mrs. Kratzer say anything to you about Tillie's remaining at the Homestead or anything of that
 2459 sort?

The defendant objected to the question upon the ground that it was incompetent, irrelevant, immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 429.

A. I do not remember any, no, I know now, I recall, I have no recollection of any conversation with her about it.
 2460 Tillie Kratzer was learning the housework, as she called it, in the dining room of the Homestead, under the direction of the head one there, and I have seen her in there a good deal in the morning, and afterwards I remember seeing her on the second floor where I was

- 2461 working with Dr. Winkler and others and I have seen her on the veranda a great many times and I have seen her at the socials. Saw her with the young folks going to a picnic. Went to several picnics at Ocean Side and I have seen her walking down on the beach going toward the beach with the other children or other young folks, and I have seen her playing — indeed I have often asked her to play the piano, and have seen her practicing and playing the piano. I know there were quite
- 2462 a number of picnics and every time I went she was there and there were picnics when I did not go. All the young people went and she went. I was in the dining room and I know she went. Her name was on the list. I saw her a great many times in the afternoon on the veranda with her books and sometimes sitting still — not working.

- The floors of the halls were polished floors. There is one hall on the second floor there, narrow but fairly
- 2463 long. She worked with Dr. Winkler and others and it was the regular brushing, not sweeping, but a long handled, soft brush for cleaning the dust every day. Once a week a moist cloth was put on a stick and the dust wiped off because we are very particular not to put any water on this polished floor. I never saw this young girl bending over mopping these halls. There was never any call for it. There was no scrubbing ever done in the halls or anywhere in the Homestead. The work of
- 2464 cleaning these halls did not involve any stooping over or any bending down. The cloth was on a long stick.

Q. Did you ever happen to have occasion to notice how long it would take Miss Kratzer to do what work she did in the halls on any one day?

2465 A. Well, I think I could do it in twenty minutes, but I never had occasion to personally notice the length of time she was actually at the work.

I know she practiced on the piano during this period often, because I was in and out. I have seen her practicing frequently. There was a very short time that no one practiced when we were tearing down the partitions and doing some work there. Then the pianos were covered with blankets and oil cloth to keep the dust out. During that time nobody used them. I gave an order
2466 not to have it done. Miss Hecht, the instructor, did not use the pianos during this period, but I have seen her giving piano lessons to Miss Kratzer very often, but cannot say from personal observation that Miss Kratzer was given more than five lessons during the five and a half months she was at the Homestead.

Q. Mrs. Tingley, Mr. Pryse stated that upon certain occasions when, as he claimed, you were in what he
2467 called a trance condition, you claimed that Madam Blavetsky and Mr. Judge spoke through you while in such a trance. Will you state whether any such occurrence ever took place.

A. Never took place to my knowledge.

Q. Did you ever claim upon any occasion that Madam Blavetsky or Mr. Judge or any other deceased person spoke through your mouth?

2468 The defendant objected to the question on the ground that it was incompetent, irrelevant, immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 430.

A. No.

2469 I never was a magnetic healer. I never purported to be and never claimed to be. I have no recollection of ever giving any readings that could be called mind readings. I have the character readings and recitations, but never what they call mind readings. They might be called so by others, but would not be called so by me, because I was trying to impress the idea or at least to bring out the idea to prove there was something more than the mind, trying to establish the idea of the soul of the immortal. Those are the only readings of any such nature that I ever gave.

I gave many readings, of course, without charging money, but when the money was collected it was used in my charitable work which was at that time established on the East side, but which did not sustain it and of course my own money did and this added — which was from the classes that would meet and then we would have these readings to the class of ladies called classes. I never named them seances and was very much averse to the name and should not use it under any circumstances.

2471 Q. Will you state whether you ever gave or carried on any such readings for your own personal profit?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 431.

2472 A. I never did.

Q. Mrs. Mohr testified to two alleged ceremonies upon the site of the school of antiquity. Will you state what ceremonies have been held upon that site and what

2473 the date of those ceremonies were. I do not mean the details of these ceremonies, but simply the general nature.

A. The laying of the corner stone of the school of antiquity. There were two occasions. One on my return from the crusade and then there was another. The re-dedication, that is the one she refers to. I cannot tell the dates of either one, I am dreadful on dates, nor how long after the first laying of the corner stone
 2474 this re-dedication ceremony took place. I was present on both of these occasions. The one when the corner stone was laid and the other for the re-dedication. A large number of members and many people from San Diego were there. It was not a secret ceremony, it was a public affair, held on the school of antiquity grounds. I could walk the distance between the place where this ceremony was held and the site of the Homestead in three minutes. There is no high hill between the two
 2475 locations. There is a crest but we walk along a perfectly plain pathway straight from the Homestead. There is just a little crest of about fifteen steps up.

I presided at the first ceremony, which was the ceremony of laying the corner stone of the school of antiquity; we had our music and speeches and the ancient form that we used. At first, we had music and went to the corner stone and there were passages from ancient writings, from the Bible, and quotations from some of the great sages and modern writers, and then there was
 2476 a form of the symbolism of the corn, oil and water — just a symbolism. Then flowers were placed upon the corner stone. These ceremonies lasted about an hour and a quarter or an hour and a half.

Q. Did anybody faint?

2477 A. I never heard of it — not that I know of — I think I should have known. Seats were provided for the people. There were enough seats for all our members. There were many others there I saw standing, in carriages and standing up. I cannot say there were seats for all, but I am sure that Mrs. Mohn had a seat because she was a member. That is the first ceremony held at this place.

2478 We had another corner stone of the Isis building, but this was the only one of the school. This ceremony was held somewhere between eight and nine o'clock at night, and on that occasion the people attending the ceremony started to go to the location of the ceremony from the Homestead.

Q. In other words, they traversed the same distance you have already spoken of as taking the three or four minutes to go in order to go to the place where this ceremony took place?

2479 A. You say they traversed the same distance; I must correct that. The first there was no distance to travel. We all went out in carriages and got out at the exact point. There was no walking at all then. There were no buildings there at the time of that first ceremony.

Q. I was speaking to you about the distance between the location of the Homestead and where the ceremony took place?

2480 A. Which I had referred to — yes. That is the distance just from the Homestead direct to the corner stone. There was no other way of going there without going quite out of the way. We did not make any circuitous route in order to get to this place. The people went direct.

2481 No outsiders that I know of participated in this ceremony. There may have been one or two guests at the place, but none were invited.

Q. On the way up to this place, it is testified by one witness that they stopped so frequently that it took something like an hour or two to reach the place. Will you state what the facts are as to that?

2482 A. It is an untruthful statement. I know it was not so. We went direct. We had no occasion to do otherwise. I did not order or direct any steps on any occasion of that kind.

I never gave any directions for the people to hold their fingers on their lips during the progress from the Homestead to the place where the ceremonies took place. We did put our fingers on our lips sometimes, but I did not order anybody to put their fingers on their lips on that occasion. After our arrival at the place
2483 where the ceremony was held the members were seated in what was called the amphitheatre which had been built for the Greek play Eumenides. Some one read a sort of a synopsis of what the ceremony was at the first meeting of the corner stone and there were several addresses by some of the older members. The topics of the addresses were the purposes of our work and the opportunities we had on that line on Brotherhood and the welfare of humanity. These speeches were all in English and very plain, and I presume they were heard.
2484 I remember some one had some flowers. One lady had some flowers which she placed on the corner stone. There was no instrumental music, but there was singing. I do not recollect anything else forming any part of the ceremony.

2485 After the ceremony was over, we went back to the Homestead but there was not a regular procession.

From the place of meeting to the gate it was our custom or habit to remain silent and that was about a minute's walk, but after the people went out of the gate they walked along as they pleased. They were not directed as to what they should do. I did not see anybody faint at any part of this march or ceremony, either in going to where the ceremony was held, during the ceremony or in returning to the Homestead. There were a large number of people there. I could see them all very distinctly as I addressed them. They were all near to me.

On the second occasion every one was seated and I know there was considerable room for more. The Scribes on this occasion had on their Greek dress but the people who were seated in the amphitheatre did not — didn't have any — and I think I had my lecture dress on. By the Greek dress, I mean the robes I have described. I've had it for a long time. I am sure I wore it if I spoke. This second ceremony was quite short, and did not last till midnight. No more than an hour. I do not recall that there were any other ceremonies held on the site of the School for the Revival of the Lost Mysteries of Antiquity.

The ceremony relative to the Isis Temple took place a long time after the ceremony at the grounds of the School for the Revival of the Lost Mysteries of Antiquity, and was the ceremony to which the Gird children referred. It was held in the afternoon and on the grounds of the School for the Revival of the Lost Mysteries of Antiquity; not on the exact spot as the other ceremony, but on the side of the hill where this new

2489 school was put. At this ceremony the students of the Conservatory of music took part and we had a few short addresses, song, some flowers, and then a little part which the children took. There were a few children from the colony.

Q. Please describe, if you will, just what part the children took in this ceremony — what they did.

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which
2490 objection was overruled, the defendant excepted, and the same is numbered, Exception No. 432.

A. The children brought flowers. They sang their little song of "Happy Sunbeams" and they had their cord, their little cable tow, which they used in their lotus work stretched out, and they held it out as a symbol of brotherly love, encircling the world with brotherly love.

They had their hands on the cable tow at that time,
2491 but before they took hold of it they put some flowers on the stone. They were quite separate from the older ones. I recall nothing else. That was a part of the ceremony. That was the corner stone that was being laid for the Isis building, the temple we were to erect for music and art, the larger one. We have a smaller one, but this was for the larger one.

The corner stone that was laid on the two previous occasions on the school grounds was the corner stone
2492 for the School for the Revival of the Lost Mysteries of Antiquity.

Q. What sort of a building?

A. That was to be a large structure for educational purposes. We called it the temple.

2493 The defendant objected to the question on the ground that it was irrelevant, immaterial, and not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 433.

I recall one other midnight meeting during the occasion when Mrs. Mohn was at Point Loma. It was not a ceremony or anything of the sort. It was New Year's Eve.

2494 I never, at any of these ceremonies which I have mentioned sprinkled or purported to sprinkle the ashes of Madam Blavetsky or Mr. Judge, either of them upon the corner stone or in connection therewith, or upon the earth, or anywhere.

I never had a conversation with Mrs. Hansen in which I tried to persuade her to give up her children and send them to the colony.

2495 I never told Mrs. Mohn that mother love in her was evidently very strong or that it was natural or that it was not good for the child, nor did I tell her that my plan was to raise children entirely independent of, and keep them apart from, mother love.

Q. "That the mothers held them back and the children could only go as far as the mothers went in their nature, that is, and they could not draw out the better qualities" did you ever say anything of that sort to Mrs. Mohn, and if so, what?

2496 A. I did say that she was holding the child back. Other than that, I did not say anything, nor did I say that if children were entirely independent of mother, I could do more with them in my line of training. I never said that I was going to make the children workers for humanity to go out and work in the world, and that

2497 I could not do that if children had any personal ties such as parents.

Q. Then follows this question: "Her idea then, as expressed to you, was that the affection between parent and child should be absolutely severed? A. Certainly, yes, absolutely." Did you ever say anything of that sort?

2498 A. I never made such a statement to her, or to any one else. I never said to Mrs. Mohn that she should not look upon her child any different from any other child, or that she ought not to have any different feelings for her.

Q. "She told me than for any other child that I met; I ought to have the same feeling and no different feeling, for her, and that I ought to cultivate that." Did you ever say anything like that to Mrs. Mohn on any occasion?

2499 A. I had a conversation in which I said something, but not like that, but I remember —

Q. Let us have the whole conversation.

A. My conversation was this, that I had called her, or at least Mr. Hansen had brought her, got her to come from Los Angeles to make some inquiries into her actions and her life, which was not considered for the best interests —

2500 Q. That is the conversation? Just the conversation.

A. I cannot bring it out any other way — how can I bring out the facts —

Q. Was this in your conversation?

A. It was in the conversation.

2501 The defendant objected to the answer of the witness as not being responsive to the question and that it did not relate to the conversation testified to by Mrs. Mohn, that no foundation had been laid for the introduction of an impeaching question and that it was not in rebuttal, and was immaterial, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 434.

2502 Q. Just limit yourself Mrs. Tingley to just what was said at this conversation between Mrs. Mohn and yourself on the subject of children.

A. It was in substance this: that Mrs. Mohn asked me if — she was not Mrs. Mohn then, she was a Mrs. Neill, her husband was in the east and she was there with her child and she wanted to know if she could remain, said she would like to remain, because she had been living with her mother and her mother treated her badly and forced her to pay her way and she had to pawn
 2503 all her jewels and things, and she would like to remain, and I told her that everything was very impermanent, that we were not yet settled, we were just building and besides I really wanted to question her as to certain reports I had as to her actions in the lodge which were somewhat criticised, and if she was really doing what I had heard she was doing, it would be much better to leave the lodge, and that she commenced to change her life so she could have the true motherly influence over
 2504 the child. That was a part of the conversation; of course there were many more things I do not care to recite.

Q. Was there anything else in the conversation about her relation to her child?

2505 A. It was only to take her wherever she went and to try and be self supporting and give her child some better protection than she was giving it.

Q. Other than that was there anything about the child in any conversation that you recall having had with Mrs. Mohn?

A. Yes, I told her the child could not remain in the Colony.

2506 The defendant objected to the question on the ground that no foundation had been laid for the introduction of an impeaching question, and that it was not in rebuttal and was immaterial, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 435.

2507 I never told Mrs. Mohn that the maternal feelings of a mother toward her child, while natural were not along the higher lines, the higher spiritual lines, nor that such feelings were not the thing, nor did I ever tell her that we should kill out those feelings, nor did I ever tell her that unless we did, we could not progress, nor did I tell her that in her case, mother love was very strong nor did I say that she would never progress very far, nor did I tell her that her little child would not progress if she kept that up, nor did I ever tell her that such feelings toward her child must be severed. I never said that if she would put her child aside and give up all claim to her, and go along and do her work in the world without her child, it would be better for both of them, nor did I tell her that I could not have the child at Point Loma unless she relinquished her child in every respect, nor did I say that unless she relinquished the child I could not train the child. I did tell her that I didn't want

2508

2509 children as old as hers was because it was harder to do much with them, or that I liked to start children as infants, nor did I tell her that if she stayed at Point Loma she would have to give her little girl up entirely, or that we would want the little girl to forget her mother. On the contrary, I told her that she should cultivate love and protection for the child, who was possibly six or seven years of age. I never said that I didn't want Mrs. Mohn to write her little girl notes or send her anything.

2510 Q. Will you now kindly state the facts, or the circumstances, I should say, attending Mrs. Mohn's departure from the colony, or from the Homestead I should say?

A. Well, her departure followed after a conversation I had this last one I have referred to. I did not, in any way interfere with her going or with the going of her little girl, I urged her to go.

2511 Q. I will now ask you whether during her stay at the Homestead or the colony, wherever it was, anything was paid for her accommodation or for that of her little girl.

The defendant objected to the question on the ground that it was irrelevant, immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 436.

A. Nothing was paid.

2512 Q. Mrs. Mohn also states — the following question was put to her and the following answer given — "Q. Were other children allowed to communicate with their mothers or fathers at the Homestead? A. Only the Hansen children" etc. Will you state the facts as to that statement?

2513 A. I do not know that any other children had them but the Hansens, this child and two little girls who testified and their mother was at a distance but she could have come if she wished. There may have been later two little children that were brought to us who were in need of care. I think they might have come later or might have been there before the children went away. Mrs. Kratzer had one child in the Homestead and the other in the colony with Mrs. Mohr's little girl. I never
 2514 knew that Mrs. Kratzer was not allowed to communicate with her little girl. I never saw her go there. I know she was told she could see her and did go. I never gave any order that she could not see her child.

The theme of the Greek play of Eumenides which we have had at Point Loma is very pure and elevating. It is quite symbolical. We also had a play that was in part Greek — of Hypatia, and another one called "The Conquest of Earth" and then we have symposiums, generally what we call a Greek symposium, where people
 2515 meet in their Greek dresses and take up different subjects of art, or music, or literature. These symposiums consist generally of conversations on that line.

Q. Will you state, Mrs. Tingley, whether at any time prior to the publication of this libel, October 28th, 1901, any of these plays or symposiums had been given publicly at Point Loma?

2516 The defendant objected to the question on the ground that it was immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 437.

A. They had been.

2517 Q. On one or more occasions — how many occasions?

The defendant objected to the question on the ground that it was immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 438.

A. On several occasions.

2518 Q. Had they been attended by others than the members of the society on those occasions?

The defendant objected to the question on the ground that it was immaterial and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 439.

A. Yes-sir.

2519 At these plays and symposiums, the Greek costumes, the same ones I have already described, were worn with the exception possibly of one or two, where there was a Roman character and they wore the Roman costume. I know in one play there was a costume of a Roman.

2520 At the time of the laying of the first corner stone of the School for the Revival of the Lost Mysteries of Antiquity, there were no children such as are now in my charge at Point Loma present or participating in that ceremony. Some people went from San Diego to the ceremonies and I remember that they had children. One child from San Diego, not a member, put flowers on the corner stone. At the time of the re-laying of the corner stone of that school, there were no children present at the ceremony which took place in the evening.

Q. Now, Mrs. Tingley, one of the witnesses referring to this same ceremony, states as follows: "The road

2521 was so round about and so very disagreeable for the dust and so many could not walk it, that I went to her to ask if we could not take a short cut across on behalf of those that could not walk, and she said no, her orders were to take the lower gate and we should all have to go there". Did any such conversation ever take place?

A. Never had any conversation of the kind, nor did I ever give such an order.

I cannot remember the exact words I used in reference
2522 to the candle stick, but I wished to give some of the members a little souvenir and I had my secretary purchase some of the ordinary iron candlesticks and bring them to the Point to give to the members, and I know when the members were in the Homestead one evening, we met there to talk of the congress, that they were given out, and I also remember of saying, of course the purpose was for the use of a candle, and what the candle represented, it was light, and truth, or something of
2523 that sort — extemporaneous affair, but I made no statement such as Mrs. Mohn testified to.

I never ordered children away from the table, nor did I ever order them to cease eating if they did anything I did not want them to do, nor did I ever take away any child's food.

Q. Dr. Anderson makes this statement: "I wish to explain that because I refuse to get down and declare Mrs. Tingley to be a great being and divine, as they do,
2524 my articles were rejected and refused publication." Did you ever make any such order, or any such request of Dr. Anderson as to getting down and declaring you to be a great and divine being?

A. No, I never did, but I have refused his articles.

2525 Q. Now, Mrs. Tingley, the term Raja Yoga has been used in various portions of the testimony. Will you kindly explain the meaning of that term?

The defendant objected to the question as incompetent, irrelevant and immaterial and not rebuttal, and further that that court had ruled that the objects or profession or non-beliefs of plaintiff or her institution were not a subject of inquiry here and the parties were confined to an investigation as to facts, and that the
 2526 question was contrary to the repeated rulings of the court, which objection was overruled, defendant excepted, and the same is numbered, Exception No. 440.

A. I will explain it as I teach it — not as it is generally interpreted.

MR. HUNSAKER: Objected to on the ground that it is immaterial, irrelevant and not in rebuttal and that the court has held that the teachings of the plaintiff
 2527 are not material here.

THE COURT: This raises a new question. This term is not an English term, so far as my English education goes, which is comparatively limited. I supposed the object in asking this question was to have the witness interpret the meaning of these terms?

Q. Rather from another country than Greece, wasn't it?

2528 MR. ANDREWS: The question is objected to.

The foregoing objection was sustained, the defendant excepted, and the same is numbered, Exception No. 542.

Q. Did you have any conversation at all with Dr.

2529 Anderson with respect to the object or purpose of this Order of Scribes?

A. Not at Point Loma.

Q. Where, if at all?

MR. ANDREWS: The question is objected to. The question testified to by Dr. Anderson purports to have been at Point Loma.

2530 The foregoing objection was sustained, the defendant excepted, and the same is numbered, Exception No. 543.

MR. KELLOGG: That is correct.

2531 THE COURT: What she proposes to give by way of answer goes beyond that. Now it is alleged in this article which is complained of that nothing else is taught at this institution except insane ceremonies—I am not attempting to give the exact language—there has been some evidence here as to the character of the ceremonies which have been conducted at Point Loma. Do you claim there has been any evidence offered which tends to show that there was nothing else taught there, except these ceremonies to which the witnesses for the defendant have testified.

2532 MR. SHORTRIDGE: When at the early stage of this trial we undertook to inquire of this plaintiff as to her doctrines, her ideas, her notions, as to matters which we thought and still think are of the utmost importance to her right to recover here, counsel for the plaintiff objected and claimed and maintained that her notions and her ideas and her doctrines were not material in this case. We asked her questions touching her notions as to children and as to what she had given as her ideas

2533 with respect to the goodness or superiority of children
 born in wedlock or out of wedlock, and that was shut
 out upon the theory stated by Your Honor that we were
 not concerning ourselves with the doctrines or principles
 or ideas of this institution. That we were not here to
 discuss theosophy, the re-incarnation or the transmi-
 gration of souls; that we were not here to discuss dif-
 ferent schools of philosophy, or whether this school is
 better or that worse.

2534 Again and again, upon suggestion of the attorneys for
 the plaintiff we have been confined to facts actually hav-
 ing taken place, or alleged to have taken place and things
 actually done—not of high sounding purposes, not to
 spread eagle intentions, not to declarations of ideas or
 philosophies, but that we were to be held down to the
 specific proof of specific alleged facts. I think that I am
 right when I state that that has been the nature of the
 objections of counsel and the scope of the decisions of
 2535 the court.

We submit, that in view of the court's ruling alluded to
 that this question is immaterial, irrelevant, and calls for
 an answer, or testimony, which would be altogether ir-
 relevant and incompetent, and not in rebuttal. We have
 not been permitted to show or prove any of the plaintiff's
 notions, ideas or doctrines. Furthermore, when we pro-
 pounded some questions touching her ideas upon social
 questions, the door was closed to that inquiry by objec-
 2536 tion and by that objection being sustained.

THE COURT: Before I hear from Judge McKinley,
 I desire to say something that may obviate further dis-
 cussion at least on certain lines. Of course the question
 is whether this evidence is properly admissible in re-

2537 buttal. The plaintiff's counsel are now confined to the
 introduction of rebutting evidence. The correctness of
 the previous rulings of this court are not in issue now.
 I think they were correct. I have no doubt. But the
 rulings heretofore made have no pertinency whatever to
 the question now to be decided. The fact that the court
 ruled out certain evidence which it was sought to be
 elicited from Mrs. Tingley upon cross-examination has
 2538 no relation whatever to this question. It was merely
 attempted to show what her views were upon certain
 subjects, at that time, for the purpose of elucidating the
 question of whether her feelings were susceptible of be-
 ing hurt by a publication of this kind, and I held that
 such evidence could not be introduced, that such matters
 could not be inquired into for that purpose. You might
 as well, if there is a man on the stand, ask him whether
 he was accustomed to use profane language or not, or
 whether he believed in the Christian religion or some
 2539 other religion for the purpose of showing that he was a
 hard case and did not have any feelings which could be
 hurt by a libelous article.

Now the apprehension of counsel for the plaintiff which
 has been expressed here several times that opposing coun-
 sel may go to this jury and ask them to indulge in in-
 ferences which are not supported by the evidence, or
 discuss issues of fact before this jury upon which no
 evidence has been offered, need not worry them any
 2540 longer, because I do not propose to have this case dis-
 cussed to the jury—to have anything discussed to the
 jury upon which there is no evidence to base the dis-
 cussion by counsel on either side, and I propose to give
 counsel an opportunity if they desire before the argu-

2541 ment of this case is proceeded with, to express their views
of the law to the Court as to what issues are to be sub-
mitted to the jury upon this evidence and as to what
issues tendered by the answer they have failed to offer
any evidence tending to establish at all. If there is no
evidence here which tends to establish any of these
issues of fact tendered by the answer and upon which
the law places the burden of proof upon the defendant
then the jury haven't anything to do with them if there
2542 is no evidence to support them they must be taken as
unproven for the purposes of this case.

It is always a question of law in my judgment whether
there is any evidence to support an issue of fact made by
the pleadings. If there is no evidence it becomes the duty
of the court to so tell the jury—it is merely a question
of law—and not permit counsel to discuss matters to the
jury on which there is no evidence to support the con-
tention and lead the minds of the jurors away from the
2543 real issues of the case.

I remember a case which occurred under my own ob-
servation of a judge submitting an issue of fact to the
jury, and they found upon that issue, and afterwards
discharging the jury from further attendance upon court
because of their consideration of the issues submitted
and finding contrary to the judgment of the court. The
fault was not with the jury, he had no business to sub-
mit it to them.

2544 The only question involved here is whether this is in
rebuttal or not of any evidence offered by the other side.
If they have offered any evidence that is worthy of con-
sideration by an intelligent man that there is nothing
else taught at the Point Loma Institution except the ex-

2545 hibition or the indulgence in certain ceremonies then of course it is proper to show that there were other things done of a substantial nature, but if the evidence of the defence does not legally tend to show that there was nothing else done or taught there except these ceremonies then why the necessity of opening up this subject and taking up the time of the court for a week or for a day, or perhaps more time in ascertaining what really was taught and done at that institution during the years pre-

2546 ceding or during the period preceding the time when this article was published. It opens up this whole subject and if you open it up the other side have a right to come in and disprove what you have shown if they can do so. There is one point, whether a ceremony is insane. Of course that is an unusual expression to apply to a ceremony, but whether a ceremony is ridiculous and foolish and ought to be held in contempt and ridicule I suppose to some extent depends upon what the ceremony signifies

2547 or what it is symbolic of—that question may be involved to some extent. You may be entitled to some extent to indicate by the testimony in rebuttal as to what these ceremonies pertain. There may be ceremonies conducted which to an entire stranger who understands nothing of the implied meaning of the ceremonies or to what they pertain or of what they are symbolical, would regard them as foolish or insane and ridiculous, but when they are considered with the principles, the general principles or

2548 doctrines with which they are connected, they would not appear to be absolutely ridiculous. We all, I suppose in a general way are acquainted with ceremonies that have been conducted in connection with different institutions which merely upon the face of the ceremonies

2549 themselves to one who was entirely ignorant of the mean-
ing and object of them might appear to have been
ridiculous. It may be to that extent, you can go a little
way into this matter for the purpose of showing it was not
for instance a wild incantation or an Indian dance or
something of that kind—that there was some meaning
to it. It may be that has sufficiently appeared already
that it had some connection with the teachings that were
taught there, symbolic of something which was taught,
2550 but I am satisfied of one thing, that you cannot go into
this subject generally and consume the time of the court
and jury here in proving all that was taught at that in-
stitution and what was done there unless as I intimated
before there is something in the evidence on the other
side which fairly that these ceremonies were
all that was taught at Point Loma under the
management of Mrs. Tingley of that institution. Now
you can ruminate on this question, gentlemen during the
2551 noon recess of court and formulate in your minds what
course you think ought to be pursued, and I will hear
you this afternoon if you desire to be heard; I thought
it well I should state what I thought so as to give you
my idea or what was in my mind.

The defendant excepted to the views expressed by the
court as to the weight of the evidence which had been
introduced as trenching on the functions of the jury and
as prejudicial to the defendant, and the same is num-
2552 bered, Exception No. 441.

THE COURT: I will ask you Mr. Hunsaker, if you
as counsel for the defendant claim that there is any
evidence in this case proper to be by the court submitted

2553 to this jury that there was nothing taught at Point Loma but insane ceremonies.

MR. HUNSAKER: I contend that there is evidence here which will take that issue to the jury.

THE COURT: Take that portion of the issue which claims that there was nothing taught at Point Loma except insane ceremonies?

MR. HUNSAKER: We claim here that the evidence
2554 which we have introduced tends to support that allegation and that we have a right to go to the jury on it.

THE COURT: That insane ceremonies were the only thing taught at Point Loma?

MR. HUNSAKER: Yes, sir, we contend we have the right to go to the jury on that issue on the evidence that has been introduced here.

The plaintiff hereupon withdrew the foregoing question and answer.
2555

Q. Mrs. Tingley, in October, 1901, I wish you would state what instruction or courses of instruction were being given at the institution at Point Loma?

The defendant objected to the question on the ground that it was irrelevant, immaterial, incompetent and not rebuttal and called for the opinion of the witness, which objection was overruled, the defendant excepted, and
2556 the same is numbered, Exception No. 442.

A. That the Raja Yoga school, a regular course of English, drawing, music and physical exercise, vocal and instrumental music, piano, violin, guitar and some other instrument I have forgotten, and in the—there were sev-

2557 eral classes for the older students in English, the young boys and girls—the intermediate between the Raja Yoga school and the Isis Conservatory of Music, and then of course in the Isis there was the music in all its different departments, vocal and instrumental and the drama. I believe in the higher classes the languages were taught, which I presume were included in the regular course.

Q. Of what ages were the children in the Raja Yoga school so called?

2558 The defendant objected to the question on the ground that it was not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 443.

A. The ages of the children were from two or two years and a half up to thirteen or fourteen.

Q. In what were the common branches such as writing, arithmetic and grammar taught?

2559 The defendant objected to the question on the ground that it was not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 444.

A. That is the regular course you find in the high grade schools.

Q. Was philosophy taught at that time to the more advanced students?

2560 The defendants objected to the question on the ground that it was irrelevant, immaterial, incompetent, not rebuttal and too indefinite, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 445.

2561 A. It was.

Q. Do you recall at the moment any other course of study that was being taught there to the younger or to the older students?

The defendant objected to the question on the ground that it was irrelevant, immaterial, incompetent, not rebuttal and too indefinite, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 446.

2562

A. All the old and young were taught the physical culture and the mental development, and the highest moral teachings.

Q. When you speak of teachings—of the things which were taught to the children and to the older people, is it or is it not a fact that these classes or courses prior to the time of this publication had been continuous since the establishment of the Homestead?

2563

The defendant objected to the question on the ground that it was irrelevant, immaterial, incompetent, not rebuttal and leading, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. —.

A. It is a fact, they have been continuous.

CROSS EXAMINATION OF KATHERINE
TINGLEY.

2564

By Mr. Shortridge: I did not say that Mr. Fitch was not a photographer. He said he was not. He used a camera in and about the premises at Point Loma. I do not know at whose suggestion or request, but he took some very poor pictures of the grounds and building.

- 2565 They were not for me. I could not tell if I have any which he took. But I think whatever pictures were taken that were worth looking at at all can probably be found somewhere. I do not know if they were developed at Point Loma. He sometimes brought them to San Diego. I did not say that I requested him to devote any time or attention to photography. If he did it was at his own suggestion and upon his own motion. He asked me to buy him a camera so he could learn to perfect himself in
- 2566 order to be useful to us sometimes; that he would take the time between meals and Sundays to practice. I declined to buy him a camera, but I told him we had one he could use. I don't know whether he used it or not. I never saw him taking any pictures, but he brought me some pictures into the hallways and we looked at them. I do not know whether or not he had a camera of his own to take pictures. I know there was a camera he used. He wanted me to buy one but I didn't do so. I never sug-
- 2567 gested to him that I would desire or wish him if terms could be made to accompany me on any journey abroad for the purpose of taking pictures.

Q. Did you not contemplate making a crusade around the world beginning about the time of his departure?

The plaintiff objected to the question on the ground that it was not proper cross examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 448.

- 2568 Q Did you not ask him or did you not say to him that you thought of taking such a journey and did you not wish him to accompany you for the purpose, among others, of taking pictures of your travels, places you visited?

2569 A. I never thought of taking a journey and I never told him anything of the kind, never had any conversation on that subject. I did not personally employ him. I cannot say by whom he was employed.

Q. Has any one at the institution the power to appoint anybody without your approval?

The plaintiff objected to the question as not proper cross examination; which objection was sustained, the defendant excepted, and the same is numbered Exception
2570 No. 449.

Q. If you can, inform us who did employ this gentleman.

The plaintiff objected to the question as not proper cross examination; which objection was sustained, the defendant excepted and the same is numbered Exception
No. 450.

2571 Witness (continuing): I could not tell you how long Mr. Fitch remained at Point Loma. I have no exact recollection as to the time. He was there several months.

Q. And what year was it he left you, or the institution.

A. I would like the question corrected. I refuse to answer it the way it is put.

The plaintiff objected to the question on the ground that it was not proper cross examination. The court
2572 sustained the witness' objection to the question, the defendant excepted thereto and the same is numbered Exception No. 451.

Witness (continuing): I could not tell what time Mr. Fitch left the institution at Point Loma. It was in the

2573 year 1901. At the time he left I hadn't much confidence in him but I was not unfriendly to him. He quit voluntarily, although there was a suggestion before he went that he should go, but when he went I do not think any one prevented him from going. I sought to retain him there.

Q. Did you not have one of your secretaries, a member of your cabinet, urge him to remain?

2574 A. I recall a circumstance of Mr. Pierce telling me that he was unfitted as a good bookkeeper and should go, and I told Mr. Pierce that I felt he should give him a little time that he might get a position, on account of his wife and child, so he might have some means.

The defendant moved to strike out the answer as not responsive to the question; which motion was denied, the defendant excepted and the same is numbered Exception No. 452.

2575 Witness (continuing): I did not authorize Mr. Pierce or Mr. Neresheimer, or any other member of my cabinet to urge Mr. Fitch to remain. I gave them no authority at all. I simply suggested to Mr. Pierce as a friend, one interested in the general work that I hoped he would keep Mr. Fitch a little longer until he got a position, on account of his wife and child.

Q. Had he joined the association?

2576 The plaintiff objected to the question on the ground that it was not proper cross examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 453.

Q. I will ask you, Madam, whether Mr. Fitch took

2577 a pledge binding himself to the association of which you are the Outer Head?

The plaintiff objected to the question on the ground that it was not proper cross examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 454.

2578 Q. You offered in evidence and your attention, Madam, was called to the form of the pledge of members. I ask you if this is the only pledge which is taken by members who join the association of which you are the Outer Head, and I am referring to Plaintiff's Exhibit No. 24, to which your attention was yesterday called.

2579 A. That is the only pledge and that is in use now, but I cannot tell whether Mr. Fitch did take that or not. I did not keep my—the memory of every member who joins. It may be possible, I cannot say that he did not. I do not know whether the records of the institution would show that he took the pledge. My secretary, Mr. Fussell, is here and he could state. There were no other pledges than the one to which I have referred and which is known as Plaintiff's Exhibit No. 24. There were no verbal or oral pledges.

Q. Was there any oral or written pledge given or taken by members when they joined the Esoteric Society other than the one which I have called your attention to?

2580 A. That is the only pledge that is in use at all now in connection—the only pledge that we use or used for three or four years.

Q. What was the form of the pledge used before that time?

2581 The plaintiff objected to the question as immaterial and not proper cross examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 455.

Q. I will ask you whether the pledge used prior to this one (referring to Plaintiff's Exhibit No. 24) contained language in substance corresponding to subdivision 3 of this pledge which reads as follows: "I
2582 pledge myself to support the present Outer Head and the one she may appoint as her successor and in particular to obey without cavil or delay the orders of the Outer Head of this lodge in all that concerns my relation with this work for Universal Brotherhood."

The plaintiff objected to the question on the ground that it was not proper cross-examination and that the answer would be immaterial; which objection was sustained, the defendant excepted and the same is numbered
2583 Exception No. 456.

Q. I call your attention to a paragraph in this pledge which reads as follows: "All members should, before signing this new pledge, read and meditate upon that part of the voice of silence under the two paths, pages 22-23." I ask you now to state wherein this pledge differed from the old?

The plaintiff objected to the question on the ground that it was not proper cross-examination, and the answer would be immaterial; which objection was sustained, the defendant excepted and the same is numbered
2584 Exception No. 457.

Q. Was this the pledge of the Esoteric branch of the

2585 order, if I use the correct phrase, or section—Esoteric section?

A. I do not know what section you refer to; what Esoteric section you mean. I do not know of any Esoteric branch of the Brotherhood. There is not a society which bears that name connected with the Universal Brotherhood.

2586 Q. What is this Universal Brotherhood, or to what does the word Esotero refer in the prospectus which you issue?

A. The word Esotero is a name that we found on the maps when we took Point Loma. It was attached to some old map we found, that name, so we named the place where the students were going to live Esotero. It has no other significance. We just found the name on the map and we thought it was quite significant.

2587 Q. What significance is there in the word Esotero or Esoteric as connected with your institution?

The plaintiff objected to the question on the ground that it was not proper cross-examination and that the answer would be immaterial; which objection was sustained, the defendant excepted and the same is numbered Exception No. 458.

2588 Q. What is the meaning of the word Esoteric as used in your literature?

The plaintiff objected to the question on the ground that it was not proper cross-examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 459.

2589 Q. To have it clearly understood, I understand you then, that there is no such society as the Esoteric Society or Esoteric Branch or Esoteric Section of Theosophy connected with your Brotherhood?

A. There is no Esoteric Branch, no Esoteric Society or Esoteric Section connected with our Brotherhood.

Q. I do not understand you to claim that this Universal Brotherhood is a Theosophical Society do I?

2590 The plaintiff objected to the question on the ground that it was not proper cross-examination and that the answer would be immaterial; which objection was sustained, the defendant excepted and the same is numbered Exception No. 460.

Q. I will ask you, is this Universal Brotherhood a Theosophical Society?

2591 The plaintiff objected to the question on the ground that the answer would be immaterial and that the question was not proper cross-examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 461.

Witness (continuing): I do not know that Mr. Fitch signed any pledge. If he signed any at all it would be that one (referring to Plaintiff's Exhibit 24), that is the only one I know of. If he signed it I do not know whether it is in existence or not, or anything about it.

2592 It would be somewhere in the archives if he is still in good standing. If he is not in good standing it probably has been destroyed. He was not in good standing in our opinion. I cannot state where the pledge is nor can I state that he joined the society. Nor do I know what

2593 was done with it when he surrendered it. The pledge is placed in my secretary's hands. I do not know what he does with it. I am very sure if Mr. Fitch did sign one it is now destroyed because he is not in good standing.

Q. Did he withdraw from the order or society at the time of the cessation of his employment?

The plaintiff objected to the question on the ground that it was not proper cross-examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 462.

Q. Is he now in good standing in the order?

The plaintiff objected to the question on the ground that it was not proper cross-examination and that the answer would be immaterial; which objection was sustained, the defendant excepted and the same is numbered Exception No. 463.

2595 Q. What official position, if any do you occupy with respect to that school or institution?

A. Of the Universal Brotherhood organization I am the Leader and Official Head.

Q. Do you still have and exercise the powers which are set down in the constitution of that Universal Brotherhood?

The plaintiff objected to the question on the ground that it was not proper cross-examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 464.

Q. I will ask you whether you are the Outer Head of several lodges of this Universal Brotherhood referred

2597 to in this pledge, (referring to Plaintiff's Exhibit No. 24) ?

The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, defendant excepted and the same is numbered Exception No. 465.

2598 Q. Who was, at the time of the taking of this particular pledge by Mr. Fitch, who was the Outer Head, if it be not you?

A. I do not know Mr. Fitch took the pledge.

The witness: Your Honor, I would like to correct a statement. I heard my counsel just refer to taking that pledge on becoming a member of the Universal Brotherhood. That is a mistake. It is not given to a member who joins the Universal Brotherhood. That is not for purpose of joining it or in connection with it. One may join it and never take that if he joins.

2599 Q. What is that a pledge of, this document (referring to Plaintiff's Exhibit No. 24) ?

2600 A. It is a pledge to theosophical teachings. That portion which says "I pledge myself to support the Outer Head" says exactly what it means. That pledge has absolutely nothing to do with one joining the Universal Brotherhood, but those after they join, if they wish to join that class, can do so, and I am quite willing to tell you that I am the Outer Head of the class that that pledge belongs to. But I do not wish to state that that is Mr. Fitch's pledge because I do not know that Mr. Fitch took a pledge.

During the year 1901, I was and still am the Outer

2601 Head referred to in this pledge. This pledge was never exacted of anybody. It was not given to any one unless they applied to join the class of theosophical teaching mentioned in the clauses of the pledge. I could not call this class or section a branch of the institution. It was a class of theosophical teaching.

Q. Was it or not known as the Esoteric section during the leadership of Mr. Judge.

2602 The plaintiff objected to the question as irrelevant and immaterial and not proper cross-examination, and that the answer would be irrelevant, which objection was sustained; the defendant excepted and the same is numbered Exception No. 466.

Q. Was it known as the Esoteric section whilst Madam Blavatsky was at the head of Theosophy in this country?

2603 The plaintiff objected to the question on the ground that it was not proper cross-examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 466.

Witness (continuing): I cannot bring my pledge signed by Mr. Fitch because I haven't it. I am quite sure it is not in existence. I cannot say, I never saw it. I sign a great many papers and see a great many papers but I could not truthfully state I knew that Mr. Fitch did
2604 join the Brotherhood, and I cannot state that he did not join it.

I never force any person to work at anything they do not wish to do in or about or upon the premises at Point Loma.

2605 Q. Were all orders issued by you?

A. I am not in the habit of issuing very many orders.

Q. Are any orders valid unless they are issued or approved by you?

A. You are referring to a very large field, Mr. Shortridge. If you will tell me of what department or what class you refer to, what work you refer to, I shall be very pleased to answer.

2606 Q. I am asking you if any one at the institution has any power or authority to issue any valid order without your previous approval or ratification?

A. If you will tell me what institution you mean?

Q. I am referring to an institution over here at Point Loma?

The plaintiff objected to the question on the ground that it was not proper cross-examination and that the
2607 answer was immaterial; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 467.

Q. Has anybody authority at the Point Loma institution or institutions, any officers of the Universal Brotherhood, or of the School for the Revival of Lost Mysteries of Antiquity, or the Isis conservatory of music, or any of the other related associations or societies or classes, any
2608 authority to issue any order without your signature or approval.

The plaintiff objected to the question on the ground that it was not proper cross-examination, and that the answer would be immaterial; which objection was sus-

2609 tained, the defendant excepted, and the same is numbered
Exception No. 468.

Q. Do you personally attend to orders that are issued?

A. Where?

Q. At the Colony, at the Homestead?

The plaintiff objected to the question as not proper
cross-examination, which objection was sustained, the
defendant excepted, and the same is numbered Excep-
2610 tion No. 469.

Mr. Shortridge: Now if your Honor please, if you will
pardon me only for a moment, the direct examination
went along for hours, much of which was devoted to
the question of whether or no people there had been
obliged to do this or to do that. The plaintiff will
contend naturally that she was not responsible for any-
thing, if anything was done improperly. I wish now
to ascertain what her powers are, so we may determine
2611 whether or no every order issued, and obeyed or dis-
obeyed, was her order, and that she is responsible for it,
and its consequences. Now my associate suggests the
witness has testified such things were done and such
things were not done, such orders were given and such
orders were not given, such letters were written and such
letters were not written, and so as to directions in and
about orders of this institution. Obviously my purpose
is apparent; I wish to show that whatever was done, or
2612 was not done, was done or not done under the direction
of the witness, the plaintiff in this case.

The objection was sustained, on the ground that it was
not cross-examination, the defendant excepted and the
same is numbered Exception No. 470.

2613 Q. When did you become the owner of this dog that is known as Spots, Madam?

Mr. Andrews: The question is objected to on the ground that—

The court: Well you brought it in.

Q. Who was the attendant you refer to in your preceding answer?

2614 The plaintiff objected to the question on the ground that the answer would be immaterial and that the question was not proper cross-examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 471.

Q. Do I understand you to say, Madam, you never had any conversation with Mr. Fitch in respect to this dog Spots?

2615 A. Why I don't remember of having any conversation, no I do not remember any at all. While Mr. Fitch was employed at Point Loma this dog was kept in the house as a simple pet, a family dog. He went around the Homestead building and was in the rooms and some times in the hall, and at night he was in my room.

Q. What kind of a dog is he? *

2616 The plaintiff objected to the question as irrelevant, immaterial and not proper cross-examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 472.

Witness (continuing): I do not remember ever having any talk with Dr. Jerome Anderson of San Francisco about this dog. I never knew he was interested in dogs.

- 2617 I am a very busy woman and have many things engaging my attention and have conversations with many people and have had conversations with Dr. Anderson upon many occasions. He held the position of vice president of the Universal Brotherhood, in name only, but he was not active at all. He never took any part or did any work except to put his name on the books. He was appointed to that position at the time of the Universal Brotherhood Congress. He was selected and appointed by the cabinet and approved by myself. I select the cabinet. I don't know that it serves during my pleasure. They serve as long as they do the service, the work, as long as they do right. But when they do not do right I ask them not to remain. They can leave at any time.

Q. You have the power of removing them if they do not do right according to your notion?

- 2619 A. Yes. I have the power.

The plaintiff objected to the question as not proper cross-examination, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 473.

Q. Well, if he was removed, who removed Dr. Anderson?

- 2620 The plaintiff objected to the question as not proper cross-examination, which objection was sustained; the defendant excepted and the same is numbered Exception No. 474.

Q. Did he resign?

The plaintiff objected to the question as not proper

2621 cross-examination; which objection was sustained, defendant excepted, and the same is numbered Exception No. 475.

Q. Has he ceased to be the vice president?

The plaintiff objected to the question as not proper cross-examination; which objection was sustained, defendant excepted, and the same is numbered Exception No. 476.

2622 Witness (continuing): Dr. Anderson is not at Point Loma and he never lived there. He was there on two or three occasions for a week or two, not more than that. I do not remember of any friction growing up between myself and Dr. Anderson, but I do recall that I reprimanded him for some of his folly. I will not say that I could not agree with him, but I could not agree with his actions. I never heard him say he could not agree with me. I refused to publish some of his articles and refused to consider the publication of a book for which
2623 we were to pay him \$500.00. I do not determine what should be published and what should not be published. I am often asked for advice. The publishing company is quite separate from my authority. I am only an adviser.

Q. Is anything published which meets with your disapproval?

The plaintiff objected to the question as not proper
2624 cross-examination; which objection was sustained, the defendant excepted and the same is numbered Exception No. 477.

Witness (continuing): I am the editress of the paper called the New Century. I am not the publisher.

2625 Q. Owner?

The plaintiff objected to the question as immaterial; the objection was sustained, defendant excepted and the same is numbered Exception No. 478.

2626 Witness (continuing): I never had a conversation with Dr. Anderson wherein I told him that the dog Spot had selected a letter from a bundle or a pile of letters lying on the floor and had brought one to me which upon being opened contained good news. I never at any of the evening or night meetings descanted or said anything on the extraordinary intelligence of this dog Spot. He is quite a bright dog and runs along with the average. I have never stated either to Dr. Jerome A. Anderson or to Mr. Fitch that the dog Spot was in anywise other than an ordinary common dog.

2627 Q. You mentioned the name of Mr. and Mrs. Hansen and their children. How long were they at Point Loma —well, we will say at Point Loma meaning the institution or Homestead to which we are referring.

2628 A. At the Point Loma Homestead, they were there before I went there; at least they were there when I went there and of course the Point Loma Homestead was not then established. Dr. Wood owned it. It was a small hotel and sanitarium, but they were there when I went there and it was not then the Point Loma Homestead. I could not tell you when they arrived there for I was in New York. I only know they were there when I went there. They were husband and wife and had four children. Mr. and Mrs. Hansen are now at Santiago de Cuba. The children are at the Raja Yoga school at Point Loma. When I arrived at the hotel there the

2629 parents and the children all lived together in apartments at the Homestead. I believe Mr. Hansen was a man of means and able to pay his way.

Q. Was he not regarded by you as a rich man?

The plaintiff objected to the question on the ground that it was not proper cross-examination; which objection was sustained, the defendant excepted, and the same is numbered Exception No. 479.

2630 Witness (continuing): I presume that Mr. Hansen paid for the accommodation of himself and of his family. I had nothing to do with the payment of his bills. I do not remember about his children being put at the Colony, but I know that at Mr. and Mrs. Hansen's suggestion they were at the Colony under the care of Miss Wood. That was agreeable to the mother's wishes and was urged by both Mr. and Mrs. Hansen. They were both at Santiago de Cuba when I last heard from them.

2631 Mrs. Hansen is a member of the Universal Brotherhood. I cannot tell you the date when the school at the colony was established, it was a temporary school at the Colony and it was established very shortly after I arrived at Point Loma.

Q. Can you tell us how many students or children were at the Colony or rather at the school named, in October, 1901?

2632 A. The school—I have several schools. That is, I am very particular about your naming these departments. If you will just make your question a little clearer. There were seven or eight children there, three or four years old. At the time of the libel there were five or six

2633 little children in the school. I do not know their ages. They were small children. We had one not more than four or five days old from Los Angeles. There are several tiny babies three or four weeks old that belong to married people there on the hill. We have two children from Pasadena, where the father was too poor to educate them. There were three children whose mother was dead and the father too poor. The children that are there, if there have been any babies there for any great length

2634 of time they were little tots that we took when we were in Buffalo, little homeless children. We had an establishment in Buffalo and brought them here and whenever we had among the number brought here any children that required very much out of doors and away from the wind, and playing in the dirt, that were not strong and healthy, we placed them there. There is a family there now, a man and wife and several children. Kate Hansen was there. She is Mr. Hansen's little girl. They were

2635 all at school. The others came over to the Raja Yoga school but she remained there.

Q. If there are any married people there having small babies, do they place the babies at the school or the colony apart from them?

A. No, little babies that have parents are never placed there. Little children belonging to families there generally go in the Raja Yoga school if they wish to do so, if not, they keep them with them, but at the present

2636 time there are little children belonging to families at the Point Loma Homestead in the Raja Yoga school and there are some at the Point Loma Homestead. I don't know the ages of these little children. They are babies in arms. I could not tell you if they are fed every thirty

2637 minutes because I am not with them. I hope they are because it has always been my suggestion that little ones be fed every thirty minutes in the day time. I do not remember about the night time. I suggested it as an improvement on the two and a half hour system.

Q. What are the youngest of these babies that you speak of at the Raja Yoga school, if you know, whose parents lived there at the school?

2638 A. I do not know. Small children, infants in arms some of them. The mothers of these children have their own homes, they do not sleep in the school but leave the children at the nursery there. The parents have access to the grounds all the time and may see the children almost every day. The babies are in the care of nurses. They prefer them to the ordinary hired nurses. Parents can see their little children at any time they wish and they can see the older ones at any time they are not in class.

2639 There are regular days when the children go to their homes and spend half the day or the day with their parents. These are the regular times, and afterwards, if the parents desire to see their children, they can go and almost all the parents except those who live off of the hill do go very often. They work for their children and work among them.

2640 Q. Are the children kept at any other place than the three you have mentioned: the Homestead, the Raja Yoga school, and the colony?

A. We have no children kept specially anywhere. Some live at the colony, and as I told you, some at the Point Loma Homestead. I take exception to the word

2641 "kept" for which I have my reasons. I might not possibly if some other person were asking me, but under the circumstances, I take exception to the word "kept."

Q. Do you not keep these children there?

A. No, I do not. They are kept there in one sense of the word, but in another they are not. I am recognized as the representative of these different institutions and I am quite sensitive naturally, being responsible for them morally and I am very careful of the words I use in answering many of your questions. But the word "kept" can be misconstrued because you have suggested imprisonment and held and that is not so and that is why I take exception to the word "kept." It might be inferred they were held or bound or something of that sort, but as far as being provided for, they are very well kept, but kept in the sense of held or bound or anything of that sort would be in sympathy of your suggestion of imprisonment. They are not kept either by fear of evil consequences to them if they are taken away, nor have I ever threatened their parents with dire results if they were taken away.

2643 Q. Have you not written a letter and published a letter wherein you stated the evil consequences or misfortunes and the arrest of others who went against your advice or your orders—traitors to your cause, and did you not publish it in a paper called the Crusader?

2644 The plaintiff objected to the question on the ground that it was not proper cross examination and that the attorney was asking the question without exhibiting any letter to the witness and asking her as to the contents of a letter without showing her anything, and on the further

2645 ground that the answer would be irrelevant, immaterial and incompetent, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 480.

Witness (continuing): I have seen Mr. Hansen kiss his children a good many times. I never ventured to give him any suggestion or advice in regard to kissing other little babies. I never said to him that he ought to kiss other babies and not show undue partiality for his own
2646 children.

Q. Do you employ guards at the Point Loma Institution, Madam?

The plaintiff objected to the question on the ground that it was not proper cross examination and would be irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 481.

2647 Q. Do you employ any men in and about the place dressed in uniform?

The plaintiff objected to the question on the ground that it was not proper cross examination and that the answer would be immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 482.

2648 Q. Do you have any body there at the gates who see to the coming in and going out of people from the grounds?

The plaintiff objected to the question on the ground that it was not proper cross examination and that the answer would be immaterial, which objection was sus-

2649 tained, the defendant excepted, and the same is numbered
Exception No. 483.

Witness (continuing): I do not know that there are
any rules in respect to young women going and coming
from the grounds. I have always told the young ladies
that I did not think it was safe for them to go out on
the beach, down over the roads and hills without a
companion, on account of the tramps and disreputable
people on the road and strangers. There was no set rule.
2650 Of course if they wished to go they could go, but of
course the general dignity of the institution would nat-
urally prevent them doing so and their self-respect I pre-
sume after such a suggestion. There were no written
rules in respect to the coming and going. I haven't any.
There could not have been any or I would have known
it. I am not in the habit of issuing rules.

I could not tell the time on which the sons of the
Rising Sun hold their morning ceremonies. I very rarely
2651 attended them and I do not know that there are any now
at present. There were in the early days when we first
went there, but irregularly. The society is not disbanded.
It is very prosperous and very large.

The daughters of the Rising Sun was not intended for
a growing order. It was simply for the accommodation
to the young ladies to have a literary class in their gen-
eral work. It is not an order established all over the
country. It is a home affair, a class. It was not estab-
2652 lished for the purpose of holding these morning meetings.
The ladies got together and it was arranged for general
improvement, physical and mental. Exercise was the
principle they followed and people who did not belong

2653 can go out and have their physical exercise just the same if they wished.

I have not seen the sons of the Rising Sun go out upon the hill top in the morning and greet the sun. That is not their custom. They go out for exercise. There was a time when they used to meet quite often and at the time Mr. Fitch was there I remember meeting him on the place after he had been out and he was in the physical exercises. They do not go out before sun up for
 2654 the avowed purpose of welcoming the morning sun as it comes up over the eastern hills. They took advantage of the sun rise to go out and enjoy anything that there may be in the morning air or the sunshine. I do not know but what they looked at the sun but I have no idea that there was any thought of going there for specially seeing it any more than any one would like to look at the sunrise. I had nothing to do with organizing the society called the Sons of the Rising Sun any more than
 2655 it was generally talked over. The order of the Daughters of the Rising Sun was established for the same purpose as the order of the Sons of the Rising Sun. I never knew the members of the Daughters of the Rising Sun to get up before sunrise and go out to meditate as a body. I suppose as the people went out for their morning exercise, they went out with them. The younger people were generally out very early. The members of the Sons of the Rising Sun did not get up before sunrise to take
 2656 their place upon the hill top to meditate. I never knew them to stand in silent meditation until the sun rose. I certainly would have known in some way about anything of that sort happening. They do not claim to be sun worshippers nor do they derive their ideas from the

2657 ancient mythology of the sun worshipers. They are adverse to anything of the sort. It is contrary to Theosophical teachings and anything that I am connected with.

Q. But did they not get that idea of going out and meeting from the Sun Worshipers and from the great masters referred to?

2658 A. I cannot be responsible for their ideas. I know the first that they ever heard of it was when they read it in the New York paper that there was such a thing existing. There is nothing of the kind existing. It is absolutely contrary to any theosophical teachings and all I know about it I read in the same paper. I am very sure they are not Sun Worshipers.

Q. Are you not aware that these participants in these morning ceremonies knew that there was a heathen ceremony of worshipping the sun?

2659 A. I presume if they read at all they must have heard of such a thing. I have read of it and almost any person who has attended school and read any books must know something about it. But it is so contrary to anything they believe in. It is utterly impossible they should give it a moment's attention. They were never on the hill before sunrise to my knowledge. If I had not seen them someone would have told me.

Q. You were never up at that time in order to see?

2660 A. I would know. I am morally responsible at least for whatever goes on. At least I feel that I am and I try to be and it is so contrary to anything that any sensible person would believe, not much more a Theosophist, that I simply know it was not so. I cannot have any

2661 other answer to your question. I certainly would have known anything of the kind.

Q. But you were never up?

A. Very often I have been up all night at my work. I stay up until day light sometimes and go to bed at eight o'clock, never holding meetings at midnight. There are two occasions which I have referred to. The watch night is the only time I know of. That one I referred to.

2662 Q. Do the daughters of the Rising Sun get up early and watch the sun rise, the same as the Sons of the Rising Sun do, if you know?

A. I told you, all the people at the Homestead who are well and desire to get up, get up early in the morning, and I suppose people that belong to the Daughters of the Rising Sun get up, as they are members of that homestead, and I have no question that they look at the sun; it would be perfectly natural, natural that one should, but not to go on the hill before sunrise and watch its coming. The Daughters of the Rising Sun, members here in the Homestead, or living there, do not get up in the morning and go up on the hill top for the purpose of meditation. They never went up on the hill top for the purpose of meditation. All the members of the Homestead who were well and wished to, got up in the morning early, because we have breakfast early; at times some went for walks, and sometimes they went together
 2663
 2664 and went out for exercise, and there were times in the morning, but not as early as you state, when, if they were up there, they did go into the tent which we have where we had meetings; but it was done on Sunday; there was no special form of exercise, no rule at all.

2665 Q. If you know, will you kindly advise us whether they would take their stand upon the veranda of the Homestead and remain in the attitude of silent meditation as the sun rose?

A. In the morning there were times, I have seen them go out for their exercise, and on the veranda, I have seen them on the veranda, and I think they looked at the sun. I am very sure it was natural for them; I say, they looked at it.

2666 Q. I do not mean looking at the sun. They would of course. But is it not a fact that they would take their stand upon the veranda at one of the buildings, the Homestead building, and in an attitude of meditation, of silence, looking toward the East as the sun rose, in an attitude of silent meditation—not for exercise?

A. Well it is a custom with the members of the Homestead in the morning, I cannot say they do it
 2667 regularly; there is always a suggestion as with Christians, of outward prayer. In the mornings probably they might have a morning meeting, if they went there and they were silent. I never saw them take their stand upon the veranda in the morning in an attitude of silent meditation, looking or standing with their faces towards the East as the sun rose. I never saw any pictures taken of the place showing them in that attitude. I have seen many pictures and in different positions, but I never
 2668 saw anything where they were worshipping the sun. I have not had pictures taken of these disciples in the attitude above indicated. There are many pictures of different kinds but I don't remember anything of this kind. I have never seen them kneeling down instead of

2669 standing in the attitude of silent meditation worshipping the sun. I never saw them sitting on chairs or upon the ground in an attitude of meditation welcoming the morning sun. I never have seen them welcoming the morning sun. I cannot ignore the sun as to its healthful effect as a part of the universe, but that does not mean that we worship it or that we close our eyes when it is shining, but there is no question but what in the morning if anybody was out, they would go on the sunny side of the building.

2670 I never saw any of the students kneeling; I see them most every day sitting somewhere; I have seen them on the veranda, standing and sitting, but they were never instructed by me to send out thought waves over the world. It is a common thing for Theosophists, in their speeches, and possibly I may have made some speeches to this effect, that when we consider the duties of the day, we should try and remember those who are out in the world in our thoughts and help them.

2671 Q. Did you ever instruct them and direct them to send out any thought waves to those?

A. Not in the sense you infer. I saw we are always—that is the way we always talk, to think of others, and help others, but I have never put it in the way you put it. I certainly could not say I have not told them to think kindly and well of people. If there is anything at all in the Theosophical teachings, in our work we are supposed to think of something else besides ourselves—other people besides ourselves.

2672 I know all these morning pilgrimages, or going up on the hill, or down the hill, or upon the veranda or around about, were simply for the purpose of physical exercise. If there was anything else would happen, that would be

2673 incidental. If there was any out there and standing, and it occurred to them they wanted to stand still a moment, I do not know anything to prevent it. There were no rules or regulations about these exercises, simply an idea of having regularity about the household, and those well enough got up, and those who didn't want, remained in bed.

I don't think there is any printed literature of the Rising Sun organization. There has probably been something written up about it. I suppose the same is so in respect to the Daughters of the Rising Sun. I don't know if any one had charge of the morning and evening exercises. They all got together and went out. There was no signal given for the gathering of the people or the daughters or sons of the Rising Sun. No bell was sounded or triangle struck. The triangle is to get everybody out in time for breakfast and dinner and was used instead of a bell. If there was a social it notified us of the time. I never knew of any particular or peculiar garment being worn in the mornings except the ordinary Homestead dress. There was no garment kindred to the East Indian Morning Risers' garment.

The Greek garments were not prescribed as necessary to be worn by the sons or daughters of the Rising Sun. The daughter of the Rising Sun did wear on occasions the Greek dress. So did the men on occasions. They wore them at socials and in their plays or something of that sort, but not in their general meetings or on the hills of mornings. The costume is of the classic.

In 1901, there were not over six, possibly not over four craftsmen at Point Loma. The clothes they wore were not symbolic. The object of dressing them up in that

2677 kind of garb was for the general service of working in the ground. The gowns were not sacred gowns, not any more than the Mason in wearing a regalia might have some meaning—but they were not considered sacred garments at all, simply because they were out there in the dirt and wet. They did not wear that style of garment whilst they were employed in their labors. It was only on these occasions that their gowns were possibly symbolical by their being craftsmen. They never waited upon
 2678 the table that I know of.

Q. Did they stand back of you or around about you in the dining room whilst you dined?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 484.

2679 Q. Were they ever permitted to go into the dining room or were they at all in the dining room dressed in the garb described?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 485.

2680 They did not belong to a separate or subsidiary society. It was simply a pioneer organization—an honor, because they were the first ones there, they were given that as an honor; they felt it was an honor to conduct any ceremony connected with the laying of cornerstones. I did not design their costume. It was gotten up by some of our dress makers or something of that sort. I may have had something to say about the color, which was brown,

2681 because it didn't show the dust or dirt so much. The material is a very thick cotton stuff, heavy and warm. I don't know of any secret work connected with the craftsmen, nor of any instructions being given to them.

I had many meetings at the Homestead on many different occasions at which addresses were made by students and essays read.

2682 Q. And you—to avoid any confusion of the record—you are the Outer Head of the Esoteric School of Theosophy?

A. I am not the Outer Head of the same; there is no Esoteric School of Theosophy.

Q. Were you such in 1897 and 1898?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same
2683 is numbered, Exception No. 486.

Q. I show you a publication, a pamphlet of 8 pages—first submitting it to your counsel—and I ask you whether or not this is a publication or pamphlet issued by you or your authority, and signed by you as Katherine A. Tingley, Outer Head?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the
2684 answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 487.

The paper was marked by the Clerk for the purpose of identification, and is here set out as

2685

DEFENDANT'S EXHIBIT 6a.

Strictly Private and Confidential.

ESOTERIC SCHOOL OF THEOSOPHY.

Katherine A. Tingley, 144 Madison Avenue, New York City.

Communications relative to this School should be addressed "PRIVATE," and contain no other business.

2686

My object in preparing this circular is to call the attention of all worthy members of the School to the importance of the new cycle. I am instructed that it is the time to act and bind all earnest members closer to the real heart of the Lodge. This can only be done by opening one door and closing another.

2687

In a letter from H. P. B. . . to the American Convention in 1891 she said: "The period which we have now reached in the cycle that will close between 1897-8 is, and will continue to be, one of great conflict and continued strain. . . . No opportunity will be lost of sowing dissension, of taking advantage of mistaken and false moves, of instilling doubt, of augmenting difficulties, of breathing suspicions, so that by any and every means the unity of the Society may be broken and the ranks of our Fellows thinned and thrown into disarray. . . . Believe me, that apart from such natural tendency, owing to the inherent imperfections of human nature, advantage is often taken by our ever-watchful enemies of your noblest qualities to betray and mislead you."

2688

Alas! a few who have taken the pledge and advanced to a certain point must be left behind, to learn through experience that the only way to spiritual advancement, once pledged, is by fidelity to the Master and trusting obedience to the one who represents the Lodge.

2689 The progress of the School cannot be retarded at this important time by a few who in their love of personality lose sight of the sacredness of their pledges, and the duty which such an obligation involves.

H. P. B. wrote in the letter above referred to: "On those of you who are unselfishly and sincerely devoted to the Cause, they will produce little, if any, impression. On some others, those who place their personal pride higher than their duty to the T. S., higher even than
2690 their pledge to their divine Self, the effect is generally disastrous. Self-watchfulness is never more necessary than when a personal wish to lead, and wounded vanity, dress themselves in peacock's feathers of devotion and altruistic work."

We can hold those our unfortunate brothers in our hearts with a true love, which, in its mercy, refuses to encourage any brother on the path of self-destruction.

Those who turn away from the Master lose the light
2691 of his countenance and the support of the Lodge; they become dazed and their efforts are crippled. In the Book of Rules, page 7, it is stated: "The Masters can give but little assistance to a body not thoroughly united in purpose and feeling, which breaks its first fundamental rule—universal brotherly love. . . ." and again on page 9 we read, "Let every member know, moreover, that the time for this priceless acquisition is limited (the help from the Lodge). The writer of the present (H. P. B...) is old; her life is well-nigh worn out, and she may be summoned 'home' any day and almost any hour. And if her place is ever filled up perchance by another worthier or more learned than herself, *still there remain but a few years* to the last hour of the term, namely, till

2693 December 31st, 1899. Those who will not have profited by the opportunity, . . . those who will not have reached a certain point, . . . or that point from which begins the cycle of Adeptship by that day,—those will advance no further than the knowledge already acquired.”

This refers to the time when the faithful will be able to go a step higher. Should it happen at that time, or before it, that I will step into a wider field, everything will be well provided for, so that no dangerous innovation will take place. All things will serve to bring members into closed unity and bind up the ranks. The advantages of the S. R. L. M. A. and its true purpose will be brought more clearly before the attention of all. Believe me, my comrades, the plan of this great movement is clearly defined for ten years to come and my endeavor is to bring you to a realization of its importance, while I am not allowed to define it at present.

2694

Sometimes when I act without any explanation, rest assured that it is not because I wish to assume the position of controller. My efforts are at all times directed to carry out the work of the Master.

2695

Then on page 10 of the Book of Rules occurs the following: “Inasmuch as spiritual life comes from within, members must not expect to receive any other communications than those through H. P. B.”

At the time this was written it was necessary to emphasize this point, and to-day it is equally essential that the attention of members should be directed to its importance, for there are a few that imagine that they get direct teachings from other sources. This condition of mind establishes a disintegrating force in the School, and if allowed to grow, would ultimately bring it down to

2696

- 2697 the plane of the lowest class of phenomena-hunters, which even a respectable Spiritualist would condemn. I have letters from a distance indicating that some trusting ones have received what were stated to be teachings from some reliable source, and intimating that those acting in this way were doing so with my knowledge and co-operation. For the sake of new members, particularly, I will state this is absolutely false. It should be understood that it frequently occurs, when the imagination is allowed to work along such lines, that self-hypnotization takes place.
- 2698

While members have not all had outward evidence of the new vibratory force at work throughout the School, it has nevertheless been going on, and those who have not shut themselves off by criticism, doubt and love of self, thus closing their eyes to what was right at hand, have received actual and lasting benefits and have often reached a higher plane where harmony reigns in the silence of the soul.

- 2699 Note what is said by W. Q. J. on the "Closing Cycle," in *New Century*, January 15th, 1898, with regard to those who worked for themselves and those who, having walked "a long distance on the threshold," stopped too long to hunt for the failings in others, and went back further and further, building walls behind them as they went. "They were called and almost chosen; the first faint lines of their names were beginning to develop in the book of this Century; but as they retreated, thinking indeed that they were inside the door the lines faded out and other names flashed into view. Those other names are those belonging to humble persons here and there whom these proud aristocrats of occultism thought unworthy of a moment's notice."
- 2700

2701 Those who stand in the true relation to the School find their resources develop and their character become more rounded, and find also that their ability to help on the work becomes greater, so long as there is no desire for personal advancement. Many instances could be given, but that is unnecessary, as not a few will occur to almost every member.

2702 Strange as it may seem to some, it is true that a few members at a distance from the center, like India, where, although they have only been in the School a very short time, are conscious of the power of vibration which their connection with the School has brought about, and this to a marked degree. Even in the somewhat obscure island of Samoa, the School is looked upon as a great blessing and they understand without Instructions the true purpose and meaning of the interior work going on. They demand nothing, and their trust is sublime. In our Western world the false note of independence—false
2703 when it is used to support anyone for a selfish purpose, often tends to affect the minds of well-meaning people and through them disrupt organizations like our own which are based upon interdependence and unity.

It should be borne in mind that things which seem hardly worth recognition on the exterior plane are frequently the connecting links with the larger work for the Masters now about to be entered upon. They lay a permanent foundation for the realization of universal
2704 brotherhood—a realization which is nearer at hand than even the most hopeful can foresee.

Every seven years an active sifting process takes place from the School. During this threshing the wheat becomes separated from the chaff, and in the last two years

2705 this process has been accentuated as many must have observed. It may be illustrated by the separation of the ore from the rock, during which process the true metal settles to the bottom while the refuse is thrown off. For the very reason that a few make mistakes and break their pledges there is all the more necessity for the faithful to abide more closely to the center. Those who have stood firm and *realized the importance* of their pledges will at the beginning of this new cycle, find themselves in place
 2706 for future work, for they have been tested in various ways, often unknown to themselves, and not found wanting.

I would urge members not to be misled by false notions of what constitutes brotherhood. If we stand idly by while cattle eat the harvests which should feed the hungry, are we not doing wrong? If there is a maniac in a family, should the other members be endangered by misplaced sentiment; or if one is smitten by a plague or any
 2707 contagious disease, should we run the risk of injuring the health of all by our inaction? In the midst of battle it would not surely be wise to spend time, strength and energy in carrying dead bodies?

Absurd as it may seem there are a few who have cautiously hinted that ere long some great things would happen in their midst, new teachings and possibly a new teacher. It hardly seems necessary for anyone who has the interests of the School at heart to be told to be wary
 2708 of such people, no matter what their credentials may be, as in the event of such things happening intimation will only reach members officially through the Outer Head of this School.

I have evidence from one or two places of absolute dis-

2709 loyalty to the Master and the School. Plans in embryo, indicating proposed action, which would be detrimental to the interests of the Theosophical Society, have come into my hands. If we should count those now actively participating in this work, there might not be over four, but even such a comparatively small number of disturbers can attract to themselves a certain number of satellites. I tell you there are traitors in our ranks and in this connection I cannot do better than quote what I said at a meeting in Boston a short time ago: "It is useless for us to deceive ourselves any longer. That there are traitors in our ranks is evident, and we must deal with them as such. Nor can we longer spend our time bolstering up weaklings who know better. They must fall by the wayside, to rise and fall, to rise and fall again, until they have learned their lesson." Those who are familiar with the history of this School and the Movement generally will find that the old saying is true that "History repeats itself."

2711 H. P. B. wrote before the formation of the School as follows: "The work has brought upon me contumely, ignominy of all kinds, hatred, malice and slander. Were it only from the outsiders I would mind very little. But sad to say, it is the Theosophists chiefly who tear me to pieces. Our mystic *birds* are so wise as to soil their own nest instead of leaving it to choose another." Just as at that time adulation turned the heads of a few and led them off the true path, so it is to-day. We have Judases in our midst now, just as H. P. B.—and W. Q. Judge had them. People sit as judges on the Master's work, and presume to say what is H. P. B.'s and what is not, and try to work things in accordance with their own plans.

2713 It is not the people outside that endanger our Cause, for to-day our Movement has achieved a popularity hitherto unknown, and the principles of Theosophy when placed before them in an intelligent and simple way do not provoke the opposition which they did a few years ago. It is the few in the School who still hang on, because their position would be too well defined and their folly laid bare if they left it, that we have to be on guard against. Every time a member leaves the Society or changes his position

2714 a few here and there are sure to get together and discuss the pros and cons, imagining all sorts of things, and then proceed to create some sort of excitement about getting up some defense or suggesting with bated breath that something very serious is the matter, while all the time they are in complete ignorance as to the real facts of the case.

I have lately come into possession of abusive letters written by members of the School and inspired by a strong animus and in every case, if it were proper, I could show that I have found it my duty to check such members in their efforts, directly or indirectly, for personal advancement, endangering the work which to me is a sacred trust. In checking them I have always sought not to embarrass or expose them in any way whatever, but rather to protect them, and this has been taken advantage of.

2715

There is another picture which it is important to present: sometimes on the very day on which such a letter would reach my hand, I would receive other letters of an entirely opposite character, expressing loyalty, and devotion, in a way that would convince anyone, that those who are true and faithful stand in that position where

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2717 they feel those currents of base ingratitude, and acting spontaneously from interior promptings, sit down and write to me, as if to shield me somewhat from the forces at work inimical to the interests of the Movement. A letter from Dr. Buck, one from Dr. Anderson, one from India, and Australia, one from some little orphan, one from Dr. Zander in Sweden, one from old Ireland, another from the dear hearts in Boston and Fort Wayne, one from a crippled invalid, shut up in her room, one from a

2718 prison cell; or a letter of grateful thanks from some poor inebriate or woman of the street who had received help to live a better life, and hundreds of others coming in constantly—all expressing that true feeling which is the great hope of the world in which we are engaged, and great enthusiasm about the work and its future possibilities.

As we enter the new cycle we should have cheerful and courageous hearts, filled with deep gratitude for the opportunities we have had of taking part in this great

2719 Movement, and should realize that the hand of the Master is guiding all, and his watchful eye overlooking everything with unwearying vigilance. There is a new force at work to-day and the great Movement for Universal Brotherhood will receive a new impetus, and become more all-embracing in its scope, and the larger field of work, which all are called to enter upon, will evoke the best energies of everyone who stands faithful.

2720 While the bells are ringing on the outer plane, calling men to a recognition of the birth of the New Year, the soft, silvery tones of the Great Lodge of Light are sounding forth their sweet music to the souls of men, calling them away from the paths of darkness, unrighteousness

- 2721 and despair to the ever-abiding glory of a truer and better life, and the hope and peace of a new day. And so, my fellow comrades, I call upon you, for the sake of H. P. B., W. Q. J., and all that they worked and hoped for, to take at the beginning of this new cycle this precious golden opportunity—the door which will lead you to a higher plane of thought and action. May you in this endeavor be able to render that service to your fellow-men that will help them to find the path of light that you hope to tread.
- 2722 With my heart full of deepest love for you all, I wish you many, many, happy and peaceful New Years.

Katherine A. Tingley, Outer Head.

Look for instructions which will open the door to those who wish to avail themselves of the opportunities of the new Cycle, to be mailed on February 18th, 1898, to Presidents of E. S. T. Groups for distribution to each Member.

- 2723 WITNESS (Continuing): I am not the Outer Head of any school or of any society; I am the Outer Head of classes in Theosophy, of the study of classes in Theosophy—which really means a teacher.

Q. Have you ever issued any papers and pamphlets describing yourself as the Outer Head of the Esoteric School of Theosophy?

- 2724 The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 488.

Q. What is it, so as to make it plain in that regard, of which you are the Outer Head; you may now state.

2725 A. I am the Outer Head of the—of Theosophy teachings which are taught in classes. The office intended to be described in this pledge (Plaintiff's Exhibit 24) by the words "Outer Head" is that of teacher. Not teacher of any branch, we call it class.

Q. By class you mean subdivision, or division as distinct from other classes or subdivisions?

A. This is a class by itself in Theosophical teachings.

2726 Q. You are the perpetual Outer Head of this class, are you?

The plaintiff objected to this question as not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 489.

Q. Are these meetings held under or by this class of which you are the Outer Head?

2727 A. What meetings do you refer to?

Q. Meetings at Point Loma.

The plaintiff objected to the question on the ground that it was not proper cross examination, and on the further ground that the answer would be immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 490.

2728 WITNESS (Continuing): I do, on occasions, attend some of the meetings held at Point Loma at which addresses and essays are made and read by students.

Q. Do you tell us that at those meetings none of the speakers or none of the readers of Essays referred to Confucius?

2729 The plaintiff objected to the question on the ground it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 491.

Q. Did they refer to Mahomet?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is
2730 numbered, Exception No. 492.

Q. Did they refer to Buddha?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 493.

Q. And did they, Madam, couple you with one or the other of all of the names and characters I have mentioned?

2731

A. They certainly did not. I never heard anything of the kind except from reading the papers that were attacking the Institution, any statement of that kind.

Q. Were the name of Jesus or Christ mentioned in any of the addresses or essays and were you not mentioned and coupled with him as his equal in moral teachings?

2732

A. No, never.

Q. Did you not claim and have you not stated that you were one of the great teachers and one of the Great Masters?

MR. ANDREWS: We object—

2733 A. I never have.

MR. KELLOGG: You must wait Mrs. Tingley.

THE WITNESS: I will try and wait, but it is so absurd.

The defendant moved to strike the words "It is so absurd" out of the record, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 494.

2734 Q. You teach, do you not, and have you not stated, at these instances, in the presence of many, that there are what you call Great Masters with whom you have direct communication?

The plaintiff objected to the question on the ground that it was not proper cross examination, and further, on the ground that the answer would be irrelevant and immaterial.

2735 MR. SHORTRIDGE: I propose to connect it with a conversation had by the witness as claimed with the witness Mr. Fitch, touching this very subject matter.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 495.

WITNESS (Continuing): I made a crusade around the world. I went to Athens.

2736 Q. You went to Egypt?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 496.

2737 Q. You went to India did you not?

The plaintiff objected to the question as not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 497.

Q. Did you not tell Mr. Fitch of your travels in India?

2738 The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 498.

Q. Did you not have a conversation with Mr. Fitch in regard to your travels in India?

2739 The plaintiff objected to the question on the ground that it was not proper cross examination, and because it assumed the facts, a thing which this witness had denied, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 499.

Q. Did you not in the course of the conversation with Mr. Fitch touching your travels and crusade in India, tell him that you had visited a remote spot from the seashore?

A. I never had any conversation with Mr. Fitch on that subject, and I never told him that I had been in any place in India.

2740 Q. Have you a photograph of any of the Great Masters with you in your possession?

The plaintiff objected to the question on the ground that it was not cross examination, and that the answer

2741 would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 500.

Q. Did you have a picture or photograph of any of the Great Masters at the time Mr. Fitch was working at Point Loma?

2742 The plaintiff objected to the question on the ground that it was not cross examination, and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 501.

Q. Did you ever live at, or have your office at 144 Madison Avenue, New York City?

2743 The plaintiff objected to the question on the ground that it was not cross examination, and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 502.

Q. What was your business in New, York City Madam?

The plaintiff objected to the question as not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 503.

2744 Q. You have stated on your direct examination that you did not give any seances? What was the nature of the performances that you gave?

A. I never gave any seances; I gave no performances; I gave no exhibition; I gave no sitting.

2745 Q. What sort of a meeting did you give, if any?

A. Well I have attended a great many meetings and have lectured at a great many meetings, and read at a great many meetings and recited at a great many. I never gave any mind reading exhibitions. I never claimed power to read minds, nor that I could teach mind reading. I do not believe in it. I think that one mind has no right to evade another mind. It is contrary to my teachings. I do not teach nor publish that I can
2746 send my thoughts from Point Loma to Madras, India, nor that I can set in motion vibrations which touch Samoa. I believe that the human mind is capable of doing good in this case, and in this life, and does that, but I certainly do not propose to call that mind reading. I do not know what the limit to the human mind is.

Q Is it not a fact that you have said and proclaimed to the public that you can set in motion, thought waves, or thought vibrations, which, starting at Point Loma,
2747 strike and affect the minds of people in Samoa?

The plaintiff objected to the question on the ground that it was not proper cross examination, and further that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 504.

WITNESS (Continuing): I cannot say that the students or pupils of Point Loma did not meet on the veranda in the morning and send out thought waves to their brethren and comrades throughout the world. I think
2748 we are sending out thought waves all the time. If we are a part of God's family, and we have these powers, we certainly do not know the limit of our thoughts, and if

2749 they are pure and good, and we are connected with an institution which must necessarily help—the idea is to keep up higher ideals before the human mind, but the thought that they went out there specially for the purpose of sending out thought waves to the world, no. They had the liberty to do it; we do not prevent them thinking. Every human being has the power to do a great deal of good in thought.

Q. They had the power to send those thought waves
2750 and vibrations?

A. I do not know why we couldn't have; every one should have the power to do good. I believe the human mind has power to do good through thoughts, opinions and ideals and in controlling its influence; I couldn't say that they never do, but that they went out there for that purpose. Not at all. There was nothing to prevent them if they wished to. I have not yet reached that point where
2751 I wished I could control the human mind or ever dreamed I could, except by deed and good examples and so forth.

Q. Do I understand you to say then that the influence for good may be extended by thought, and also that an evil influence can be likewise spread abroad by means of thought?

The plaintiff objected to the question because the answer would not be relevant and the question was not
2752 proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 505.

Q. Is it not true that you have said that strange as it may seem to some, it is true that you have members at

2753 a distance from the center like India where although they have only been in the school a very short time, are conscious of the power of vibration which their connection with the school has brought about, and this to a marked degree?

The plaintiff objected to the question on the ground that it was not proper cross examination and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same
2754 is numbered, Exception No. 506.

Q. And also that even in the somewhat obscure island of Samoa the school is looked upon as a great blessing and they understand without instructions the true purpose and meaning of the interior work going on. Have you not so stated and published?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer
2755 would be irrelevant, immaterial and indefinite, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 507.

Q. Have you ever given instructions to your inmates, students, scholars, whoever they may be who are under your instruction, to indulge in morning meditations as the sun rises?

A. To say no, that I have never given any instructions
2756 in reference to meditation, that would be untruthful, but to say that I have given instructions for morning meditation at Point Loma to go out at sun rise in the morning, I would say no, I have never done so. Meditation, as I told you before, is silent prayer and the members have

2757 the privilege of praying when they please. We have no law that prevents them from praying or thinking at all, at any time they please.

Q. Are there instructions issued by you that they must indulge in this meditation at stated periods during the day and for given periods of time?

A. As far as instructions go that word "must" has never been used in my vocabulary that I ever know of; if any one has ever written it as coming from me it is a
2758 mistake. The "must" which suggests force has never been suggested, and in our classes, we sometimes make up a program, and if I am present I may say "we will have meditation" and if we have a class and have no question on certain occasion, I state there will be meditation at certain times, and at times, but as you have referred to in your question, never. I have never given any directions that these meditations be indulged in at stated times. As
2759 I teach in these different classes, we have different meetings at times, and if it is right, or if it is a proper time, if I am present, we sometimes—we will close a meeting that we had in our class, and we will go out without anything, or I will stand perfectly still, which is the suggestion of meditation.

Q. Have you any written instructions giving this order or direction among others—"yet many members excuse themselves from obeying the rule concerning a daily
2760 half hour meditation entirely and without cause?"

MR. ANDREWS: The question is objected to on the ground that it is not proper cross examination, and on the ground that the testimony would be incompetent and not the best evidence, it appearing to have been in writ-

2761 ing and on the ground that the writing from which counsel purports to read has not been exhibited to the witness, and that the answer would be irrelevant and immaterial.

MR. SHORTRIDGE to witness: I will hand you this document, marked "Strictly Private and Confidential."

2762 THE COURT: The objection will be sustained, and counsel will not be permitted to offer the document to the witness, nor to propound the question.

The defendant excepted to the ruling of the Court and the same is numbered, Exception No 508.

2763 Q. In order that the record may be clear, I ask you whether or not you issued and published, on or about September 25th, 1896, a document termed "Strictly Private and Confidential" issued at 144 Madison Avenue, New York City, under the laws of the Esoteric Society of Theosophy, and signed by yourself as Mrs. K. Tingley, 144 Madison Avenue, New York, in which you issued certain orders and laid down certain rules as to daily meditation on the part of your students or members of the Esoteric School of Theosophy?

2764 The plaintiff objected to the question on the ground that it was not proper cross examination and that the answer would be irrelevant and immaterial, and further from the nature of the instances it appeared that the matters of which witness was inquired, were too far anterior to the matter under consideration to be of any merit, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 509.

Q. Were such a document and such a rule—or were

2765 such rules as were referred to in my last question with respect to the document last inquired into enforced at or about Point Loma prior to and up to October 28th, 1901?

The plaintiff objected to the question upon the ground that it was not proper cross examination, and that the answer was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 510.

2766 The document mentioned in the foregoing questions was here offered for identification by the defendant and marked, and is here set out as

DEFENDANT'S EXHIBIT No. 7

for identification.

"DEFENDANT'S EXHIBIT 7."

STRICTLY PRIVATE AND CONFIDENTIAL.

E. S. T.

144 Madison Ave., New York City.

2767 All communications relative to this School to be addressed to "Secretary E. S. T.", marked "PRIVATE" and must contain no other business.

September 25, 1896.

FROM THE OUTER HEAD OF THE E. S. T.

TO ALL MEMBERS.

2768 Just before leaving New York, in the midst of great pressure of work, verbal directions were given by me to two or three members of the Council, resident in that city, to issue as soon as possible a "Caution" to all members of the School concerning the relation of the Masonic Fraternity to the E. S. T. This paper was accordingly issued on July 12th, containing in addition to the above, various important matters connected with the immediate

2769 work of the E. S. T. which I knew should be communicated to you. I am glad that I have now, for the first time since leaving America sufficient time at my disposal to issue a personal communication to members, and it is necessary to emphasize one or two points that were referred to briefly in this communication of July 12th.

2770 The remarks there made about Masonry are not to be taken as merely the views of a few members, but are the outcome of information received concerning the future work of this body, and as such should be considered as direct instruction to each and every member of the School. The circular was not written by me, but the matter contained in it was given by me to the members of the Council spoken of at the time of my leaving New York when amid much work and greatly pushed for time. Hence, they are not to blame if they have not made it sufficiently clear that members should be careful not to permit their over-zealousness to run away with their

2771 judgment in matters that have not been clearly defined and which tend to interrupt the work by starting ideas in the Astral Light, derived entirely from the brainmind and the mentality, which rarely have relation to the spiritual forces working behind. Far better for each to place himself receptive to the great powers moving for good and to have trust that all matters, about which he or she has no individual or immediate concern, are in proper hands. All should strive to realize the truth of that which

2772 has no often before been stated, that members of the School can do a real work by fulfilling each and all his daily duties to the letter and leaving the rest alone; standing always ready for a call to a greater work. The countless speculations on the part of the many members of the

2773 School, concerning the future work, concerning Masters and their names, peculiarities, pupils, etc., tend to produce a confusion in the minds of students that can in no way lead to their enlightenment.

MEDITATION.

If each member were to faithfully carry out the directions that have been issued in regard to daily meditation. I know that a great golden glow of spiritual light would irradiate the world and would help on the evolution of
 2774 humanity as nothing else could. Yet many members excuse themselves from obeying the rule concerning a daily half hour's meditation, entirely without cause. Every member devotes at least an hour a day to his meals in order that his physical nature may not starve. Should he not devote at least half that time to a practice that alone can keep the spiritual nature alive? The great heart of nature beats throughout the universe and can be felt in any place where man can enter into the quietness of his
 2775 own soul. It is of course helpful to have some room set apart for this purpose, but those who are unable to obtain this extraneous help should not on that account abandon their certain duty. It is my desire that during their daily meditation, members should devote some minutes of thought to the children of the race who will have to carry on the work in the future. Real help can be given to the little mothers and fathers of the future in this way, and all who love mankind must realize that that
 2776 future largely depends upon the help we give them now.

VISIT OF THE CRUSADE TO EGYPT.

The Crusade will visit the Pyramids on October 13th. Owing to the special work to be done there and the connections to be made, all members of the School are ex-

- 2777 pected to spend a part of that day in meditation of the work, in order that they may share interiorly in the benefits to be derived from this visit. The half hour corresponding to 4:30 to 5 o'clock in the afternoon, in New York, is the one selected for this purpose, and the various groups all over the world are expected to meet at this time, in silence, in their various Lodges and to meditate deeply. The Lodge-room should be entered in silence, and facing the West, the members should try to unite the
- 2778 powers of ancient Egypt and modern America. From this in thought each should go to the site of the new School and there try to harmonize himself. Each can, if he chooses, picture this School on the top of a hill which can be seen for many miles, beyond which are the mighty waters of the eternal ocean and over-head the rays of the golden sun streaming over the hills.

MESSAGES.

- 2779 Some members need to be reminded of Rule 4 under "General Rules" of the Book of Rules. It is there stated that "if a member, whether falsely or truly, asserts that he has received letters or communications from Masters, UNLESS DIRECTED TO DIVULGE THE SAME, he will IPSO FACTO cease to derive any benefit from the teachings." This rule has been misconstrued in more than one instance, and whether the communication itself contains directions to publish it to the world or not, it must not be overlooked.
- 2780 A word also might here be said as to the danger of forming mental conclusions concerning the meaning of any message that may be given out in the E. S. T. The one to Brother E. A. Neresheimer, printed in the Circular of May 21st in which reference was made to his having

2781 "stepped out contrary to his own convictions" was interpreted by one student as implying that he had accepted the instructions left by W. Q. J. for the carrying on of the School on that basis, while the passage in question really referred to Brother Neresheimer's action in connection with the "split" which took place in 1895. He then acted on his intuition, after receiving the message which was printed in the Circular of April 3d and so went against his preconceived mental convictions as to the best way of saving the T. S.

2782 Intuition in its purest form should be brought into action where a message from a Master is concerned. The IMMEDIATE effect of such a message upon the recipient is no criterion of its source or of the ultimate effect to be produced. Another important message received by a prominent member of the T. S., shortly before the Boston Convention of 1895, which was made public at that time, was thought to be fraudulent by its recipient, but was ac-

2783 cepted as genuine by Mr. Judge and by all faithful members of the E. S. T. It brought about results of no little importance in Europe as well as in America. Mr. Judge had absolutely nothing to do with the sending of that message and was not aware of its existence (unless told interiorly) until communicated with by its recipient. The fact is that it was I, who in the first place received it, and in the second place travelled to Chicago in order to hand it personally to Mr. George Wright, I had been

2784 directed to leave it at Mr. Wright's office without giving my name. Accordingly I called there, asked to see him, found he was absent, and strictly following the instructions I had received, left the message on his desk.

Those who were present at the Boston Convention of

2785 1895 will be able to describe the appearance of the message, in the way in which the "Lodge odor" would come from it in sudden puffs and the way in which the letters and words would appear, and disappear.

This is brought forward now in order to show the uselessness of forming mental conclusions in regard to such matters and also as affording a good example of the way in which important work may be done.

2786 The phenomenal transmission of such a message is not indispensable to its genuineness as coming from a source higher than the ordinary human mind. In several instances both H. P. B. and W. Q. J. handed messages to persons, sometimes stating their origin and sometimes not.

NEW INSTRUCTIONS.

2787 As the time has now come to gather together the real students and to help them toward the degree of teacher, so that in their turn, and when their time arrives they may become able to aid the world knowingly, the members of the Esoteric School have now to some extent to be put in their proper places, and I have to begin within the School among a few a course of instruction in the more practical study of occultism. In this, information will be given to each group formed according to its peculiar developments and possibilities, and the pupils will be taught the laws of Harmony and Geometry in their correct application to the individual soul and to nature. These

2788 groups will be formed in order that this instruction may not be misunderstood or misapplied by those who, however willing, may not be ready, owing to their not having been students long enough to have fully prepared

2789 themselves. Those members who have the instructions issued by H. P. B. will be therefore considered for the time being as probationers and until they are otherwise informed. As stated by her, these instructions were but to give the pupils a few seeds of truth and to open up before them one side only of the vast mystic wisdom of nature. But they were only the beginning—it is now the time for more advanced study. This division of the School into grades is but the outward expression of what has always been known to exist interiorly. It would long ago have been so arranged had there been as much solidarity and the opportunities for organization that exist today among the members.

2790 Let each therefore continue to do his best to live a high and lofty life according to the instruction he has received, and if he is seemingly not immediately recognized or does not seem to have attained interiorly, let him not despair, but continue to labor unceasingly. The road to truth is a winding one and often we are nearer the end than we think, though the turnings in it hide the termination from our sight. Let each then work and wait, resting assured that when interiorly ready the teachings will be forthcoming.

2791

THE NEW FORCES.

As has before been implied the Lodge Force back of the Theosophical Movement is now being precipitated on to the physical plane and is disseminating a peculiar power, able to attract all classes of men towards the Society. The old workers and students stand now in the position of torch-bearers, in strong devotion and self-sacrifice, to attract all the world to the Divine Wisdom.

2792

2793 With continual thoughts, Dear Hearts, for your advancement into the realm of Truth.

Yours in Sincerity,
Katherine A. Tingley.

CORRESPONDENCE WITH THE OUTER HEAD.

Members may now communicate directly with the Outer Head on all matters which they believe to be of real importance. Such letters should be addressed to:

2794 Mrs. K. A. Tingley, 144 Madison Ave., New York, N. Y. and should be marked "PERSONAL", "To be Forwarded."

NOTICES.

CONTRIBUTIONS.

2795 Several enquiries have been made by new members as to the method of contributing to the support of the E. S. T. It should therefore be known that the office expenses, rent, printing and postage are met by voluntary contributions. Groups usually send monthly subscriptions, isolated members remit direct. All remittances should be made payable and sent to Secretary E. S. T. 144 Madison Ave., New York.

In countries outside U. S. and Canada members are requested to remit to the Central office of their division, indicating that such sums are to be forwarded to his office.

2796 In returning office-slips for papers and Instructions, members are requested to send stamps to cover expense.

RETURN OF PAPERS.

Trouble has arisen in obtaining return of the papers of deceased members on account of incorrect addresses on their private boxes. A slip is enclosed, to which please ap-

2707 pend your signature, and place over any other label already on your box.

E. Aug. Neresheimer

J. D. Buck.

WITNESS (Continuing): I was acquainted with Mr. Reuthling. The subject or general scope of the reading which I gave in New York consisted of recitations, of taking up any subject that was progressive, of giving my idea in relation to there being a quality in the human
2798 make-up, superior to the mind which I call the soul, to prove the immortal, and character reading. By character reading I do not mean palmistry. I never had palmistry, nor physiogomy, nor phrenology. It was what I call the signs of the soul and to prove, or at least try to prove, the immortality of the soul, that it has a superior quality to the mind. I never used the term "astral" in my life.

Q. Isn't that a part and parcel of Theosophy?

2799 A. You might ask others—if you ask me I have never used the term. I am trying to be a Theosophist, a true Theosophist is very noble and pure and good and truthful and unselfish. I belong to the Universal Brotherhood which teaches Theosophy. I do not belong to the School to which Colonel Olcott belongs.

Q. Do you belong to the school to which Madam Blavetsky was the head?

2800 A. I accept her teachings.

Q. Do you belong to the school to which William Q. Judge was the head?

A. I accept the teachings. It is not the same ideas in general. I cannot be responsible for all of Mr. Judge's

2801 ideas or Madam Blavetsky's ideas, but so far as the principle of Theosophy is upheld by me, they inculcate I believe in them.

Q. You do not believe then, in the existence of what they call Great Masters do you?

The plaintiff objected to the question on the ground that it was immaterial and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 511.

2802 WITNESS (Continuing): I engaged in character reading and in taking up the subject where I hold that there is something in man which proves his divinity, we must be conscious of it. In talking with a person who would attend a class or reading of which I was a teacher, I have described, so to speak, what my idea was of a person. I never gave exhibitions of character reading in which I charged admission or from which I earned
2803 part of my livelihood. I had my classes and I did it as a teacher and I have talked hundreds and hundreds of times without dreaming or thinking anything about money, but in my charity work on the East Side where I worked for a long time I had several classes at different times, because I was always in that work, and I know there was money collected at that time, and instead of leaving it with the people to put what they wished, I know that each one paid so much for the class. It was
2804 twenty-five cents, but I never earned my living that way.

Q. What was the source of your livelihood?

The plaintiff objected to the question as irrelevant, immaterial and not cross examination and impertinent, which objection was sustained.

2805 WITNESS (Continuing): In these character readings I discussed the subject of hypnotism, opposing it on every occasion. I spoke on the subject of spiritualism. I never opposed spiritualism. I accepted it. I believe there are truths in spiritualism. I believe their teachings, but never endorsed phenomena and many of the things that many people call Spiritualism. I did not believe in, nor had I, self-hypnotism.

2806 Q. Have you any issue of any paper in which you warned your students against self-hypnotism?

A. I do not understand.

Q. I ask that it be answered as legitimate cross examination.

THE COURT: I do not think it is. It is a mere collateral matter and you are bound by her answer. It is immaterial and collateral to the issue.

2807 The defendant excepted to the ruling of the Court, and the same is numbered, Exception No. 513.

I gave these readings in New York city during 1893, 1894 and 1895. I did not continue to give them up to coming to California. They were irregular. Sometimes it would be if I had classes two or three months in the year, but not continuously. Sometimes there would be a year or two I didn't at all but it was a long time before
2808 I came from New York that I was not giving readings, and only at my general work as the Leader and Official Head. There were two winters preceding that time during which there was a great deal of suffering on the East Side and that is the time I was working hardest.

2809 That was before I became connected with the Universal Brotherhood or with the Theosophical School.

Q. When was that; just fix the date of these readings by relation to other dates, to the time you became connected with the Theosophical School.

The plaintiff objected to the question on the ground that it was not proper cross examination, and was irrelevant, and immaterial, which objection was sustained, 2810 the defendant excepted, and the same is numbered, Exception No. 514.

Q. Where were you living at the time you gave these character readings?

A. I told you they extended for some time, some years, and I cannot remember all the places I have lived; in several places, I have no reason to say I did not live in any one place all the time.

2811 Q. Did you live at 107 West 68th Street?

The plaintiff objected to the question on the ground that it was not cross examination and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 515.

Q. Did you live at the Princeton Apartment house on 75th street?

2812 The plaintiff objected to the question on the ground that it was not cross examination, and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 516.

2813 Q. Do you recall where you did live in New York City?

The plaintiff objected to the question on the ground that it was not cross examination, and that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 517.

2814 WITNESS (Continuing): I don't recollect that I gave these character readings in any other city than New York. I never gave any readings in Boston. My work was in New York City which was the center and where I worked most actively in connection with the charity work on the East Side. I mean my general work with humanity and for charity work. It was Theosophic work. I was not then acquainted with the organization; I didn't know it was so Theosophic until I got into the organization.

2815 Q. When did you go into this organization?

MR. ANDREWS: The question is objected to because it is indefinite. It does not appear what organization he alludes to and it is objected to on the further ground that it is not proper cross examination, and further because the answer would be irrelevant and immaterial. I submit, your Honor, that there has been a constant drive on the part of counsel on the other side to get, at the time when she became connected with the
2816 Theosophical Society, and just as often as the question has been asked your Honor has sustained the objection to it.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 518.

2817 WITNESS (Continuing): Newburyport, Massachusetts was my native town. I may have given some parlor readings there, but never in the connection of taking money or anything of that sort. I never was in Newburyport in connection with giving character readings. I went home to see my people. I didn't give the readings Mr. Reuthling talks about. When I gave these readings I did not turn down the lights, nor did the tables move about. I only gave them in connection with my charity
2818 work.

Q. Do I understand you are devoting all your time to what you call charity work?

A. All the time, you say all my time; I could not say that; I had my husband, my family and my home. I was married then.

Q. What was your name at that time?

2819 The plaintiff objected to the question on the ground that it was not cross examination and was irrelevant, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 519.

Q. You talked to your family did you about these meetings?

The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 520.
2820

Q. Of what did your family consist, Madam, in 1893 and 1894, at the time you gave these readings on the East Side?

2821 A. I never said I gave readings on the East Side. I said I gave readings at my home for the benefit of my charity work done on the East Side or lower part of New York. I don't remember giving any readings in Carnegie Hall.

Q. Didn't you testify on direct examination you did, here a few days ago?

A. You should find out, Sir, before asking the question.
2822

Q. Did you not testify you gave them in a public hall?

MR. ANDREWS: I submit the question as not a fair one to the witness. I object to it.

MR. SHORTRIDGE: It goes to testing the memory of the witness here and now.

2823 THE COURT: If that is the purpose, the objection will be sustained.

The defendant excepted to the ruling of the court and the same is numbered, Exception No. 521.

Q. Did you not testify here that you did give these readings or exhibitions—you call them readings—in some public hall in New York for the benefit of charity?

A. I have no disposition to say I did not give readings and did not give them in some hall, because the society, now I recollect very plainly when you speak of the hall that the charitable society which I was connected with at the time, the ladies met in a hall, and after we got through our regular work I used to give some read-
2834

2825 ings and short lectures. I recall that now. But I have no recollection of testifying to Carnegie hall.

An admission was charged, but nothing outside of our society for our reading and lectures, and for the benefit of our charity work.

Q. Now in these readings was not a part and parcel of them your statements as to the reincarnation of the human soul?

2826 The plaintiff objected to the question on the ground that it was not proper cross examination, was immaterial, irrelevant and "goes to the matter of what she did four or five years anterior" which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 522.

Q. Answer my question, Madam. Did you not teach in these readings of yours the Esoteric Theosophy of Pythagoras?

2827 The plaintiff objected to the question on the ground that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 523.

WITNESS (Continuing): I never had any conversation with Mr. Fitch in which I suggested or stated to him that his wife was not far enough advanced spiritually to be a companion to him.

2828 Q. You had no conversation with Dr. Anderson with respect to the same subject matter, that is to say the relative advancement of wives and husbands spiritually?

A. I do remember having a conversation with him

2829 on the subject where I told him that during his wife's absence in London, there was some criticism as to his actions and I thought it was quite out of the place for him to conduct himself that way if it were true, for he was president of the Theosophical Society, and it ill became him to place himself in a position where he would be criticised. That was said on the spiritual advancement of his wife. I was criticising him and I was looking after the happiness and general advancement of his

2830 wife, quite a good woman. She was at that time in London. This conversation took place on the hill. I cannot tell the date of it. It was the time where I was questioning him with reference to his action in the lodge from which he was finally suspended.

Q. You expelled him?

A. No, I didn't. Just what we partially call suspended. It is a suggestion to either do better or resign.

2831

Q. You have the power to expel any one from membership?

The plaintiff objected to the question on the ground that it was not proper cross examination and that the answer would be irrelevant, and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 524.

2832

WITNESS (Continuing): I declined to advance any money to Mr. Fitch. He asked me if he could not have money advanced to pay his wife's expenses East, that she wanted to go East and he had not the money, and I remember in answering him I know I told him that it was

2833 not our custom. I didn't know whether he meant I should
do it or the organization. I want to be truthful about
that; but I told him it was not the custom to advance
money for people who were going for a pleasure trip,
and then he said something about he thought we furnished
tickets cheaper, or something of that sort, and I told him
that whenever we bought tickets, the organization bought
tickets, for any one it was for lecturers, and that she was
going on a pleasure trip and we could not do it under
any circumstances.

2834 I have no recollection of discussing with Mr. Fitch the
secret of getting on happily in married life. He asked
me how it was that so many of our families, our married
people there, got along and looked so happy and well and
seemed to enjoy themselves. I answered him that if I
had any explanation at all, that these people were en-
deavoring to properly—I suppose to live the right life.
They were leading the right life. I tried to call his at-
2835 tention to the health and energy and happiness of these
people because he brought that up.

Q. Let me ask you did you give him the result of
your own experience, or a reading?

The plaintiff objected to the question on the ground
that it was not proper cross examination, which ob-
jection was sustained, the defendant excepted, and the
same is numbered, Exception No. 525.

2836 WITNESS (Continuing): I do not recollect the time
that Mr. Fitch left my employment or left the employ-
ment of the Homestead.

Q. When did you first see this gentleman?

2837 MR. ANDREWS: The question is objected to if the
court please.

The objection was sustained, the defendant excepted,
and the same is numbered, Exception No. 526.

WITNESS (Continuing): The first time I saw him
was on Sunday and there were several people sitting out
on the veranda when I went out and some one came to
me and said "These people here are waiting to see Mr.
2838 Pierce. They have answered an advertisement for book-
keeping." I do not know whether I said to any one that
I wanted to look at them or that I simply thought it, but
I did look at them. I felt a moral responsibility as to
who came on the hill, I remember I looked at Mr. Fitch
and I remember that Mr. Fitch spoke to me and said "is
this Mrs. Tingley?" and I said it was and he said he had
come to see about accepting a position on the place. I
told him Mr. Pierce I believed was the one who attended
2839 to that matter, and I talked with him generally and he
said—on different subjects, he told me where he had been
working, said he was only getting thirty dollars a month
and that wife had to sew and had to work hard and that
he answered the advertisement thinking he could come.
I said that if I had anything to do with it I should give
him the preference instead of the others, if they were not
married, because one who has a home and has a family
and has a child is better placed here than a young man,
2840 unless he belongs to our organization, because we do not
discourage many of the things young men do when they
live in the city, that is, going out late nights or anything
of that sort. I did not know how these other men were.
I remember afterwards of thinking about it a good deal

2841 and I am almost sure I did tell Mr. Pierce that I said I would give the preference to one who was married.

I never made out a full diet list. I made one for breakfast. It was not generally the people who were working at that time. It was simply the boarders, students. They came, but were not actively at work. Everything was unsettled. We were purchasing the property from Dr. Wood and we were stepping out from Dr. Woods regime into our work. That diet list applied only
 2842 to the breakfast which was conducted by whoever was in charge. I made no suggestions as to the dinner. I was asked to make out the diet list for breakfast by some of the people there. It was made for the adults, not for the children. I did not have anything to do with them. Later on, I gave a suggestion as to children. I never made out a diet list but gave suggestions to members once about little babies when they were first born. It was
 2843 that they should have food every half hour instead of every two hours and a half and all the doctors agreed to that. I advised giving babies as much food as they could digest every half hour. They were giving them milk in certain quantities. The doctors gave every two hours, and that is always considered the right thing to do, as far as I know. I have been consulted by the
 2844 doctors about this matter. I suggested that if they would take and put cream in that milk, scald the cream, and give to those children every half hour as much as they could see that the child could digest, they would, in a short time, find the child would cease crying and have no colic and restlessness, and it would build up its little system in the beginning. To add more cream to whatever they were giving the children, make it richer, make it more

2845 nutritious than the doctors give. I believe they give milk ;
I do not know as all doctors do in the world, but I be-
lieve it is an acknowledged fact that the doctors are very
careful about digestion and they give milk diluted with
some water, but I said I know if they added more cream
and made it more nutritious and gave it every half hour,
that they would find in a very short time a change, and
Dr. Wood did it and it is a success. I made that discovery
a very long time ago, when I was working among the
2846 poor children among the East Side.

Q. Are you the mother of children ?

The plaintiff objected to the question on the ground
that it was not proper cross examination, which objec-
tion was sustained, the defendant excepted, and the same
is numbered, Exception No. 527.

Q. Did you advise putting in this added cream to the
mother's milk, if the baby nursed its mother ?
2847

MR. McKINLEY: We suggest that unless counsel
thinks of changing his diet, we are wasting a good deal
of time on this.

The objection was sustained, the defendant excepted,
and the same is numbered, Exception No. 528.

Q. What else did you want to feed the babies ?

A. I do not remember telling them anything more
2848 than that for children of three or four days old or five or
six. This diet list of mine applied where the children
are first born and then afterwards in a very few weeks
the doctors do as they please. I never suggested only I
was very watchful to see if they were fat and healthy and

2849 then I could tell about their diet. I never prescribed any diet. I simply suggested it to the doctors as a good thing to follow, and to do it. They were first taking that water and milk every two hours and a half. It was to give it oftener I know. I could not say whether it was 5 days or 3 or 4 weeks. It just applied to these little children when they were crying with the colic and were sleepless and had to be carried and turned over. I have studied anatomy and physiology somewhat. I have proved that
 2850 it is not a fact that infants of two or three or four or five days old must take the weakest possible food and we have fat, rosy, healthy baby children who have taken food oftener than that.

Q. Every thirty minutes after being born, is that the idea?

A. Until the child has the proper amount, and after that, whatever the doctor would think.

2851 Q. I understand you give this added strength to babies every thirty minutes after they are born, up to three or four or five or more days of age. Is that your idea?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 529.

2852 Q. When did you first become acquainted with Dr. Anderson, Madam?

The plaintiff objected to the question as not cross examination and as irrelevant and immaterial, which ob-

2853 jection was sustained, the defendant excepted, and the same is numbered, Exception No. 530.

WITNESS (Continuing) : Dr. Anderson first became connected with the Universal Brotherhood at the time it was inaugurated. I cannot tell the date.

2854 Q. You have known you were coming into court in the last week or two, and will you tell me now, can you not recall when you organized your United Brotherhood, or the Universal Brotherhood, and by that we can fix the time that Dr. Anderson became associated with you in your work.

The plaintiff objected to the question on the ground that it was not proper cross examination and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 531.

2855 Q. Can you recall when he joined the Theosophical Society of which you were the Outer Head?

The plaintiff objected to the question on the ground that it was not proper cross examination, and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 532.

Q. The Esoteric School of Theosophy I refer to?

2856 The plaintiff objected to the question on the ground that it was not proper cross examination, and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 533.

2857 Q. Do you know whether he was a member of the Esoteric School of Theosophy before he became associated with you in the work of Universal Brotherhood?

The plaintiff objected to the question on the ground that it was not proper cross examination, and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 534.

2858 WITNESS (Continuing): Dr. Anderson held an office in the cabinet of the Universal Brotherhood and was one of the cabinet officers. He was president of the lodge in San Francisco and he was an officer of the Pacific Coast Committee on the Pacific Coast. That was inaugurated before I came into the Pacific Coast Committee. It was called the Pacific Coast Committee for theosophical propoganda, with which work he was connected. He never had anything to do with the regular cabinet work
 2859 at Point Loma only on the occasion of the dedication or something of that sort he might have taken part as a representative. He was simply a cabinet officer, not on account of his ability to serve in the general official work done at Point Loma. If we had any meetings at Point Loma except business meetings he attended them. There is no ceremony of initiation into the Universal Brotherhood. There is an application you sign, and then if the credentials are satisfactory, you are taken on probation for
 2860 three years.

Q. Is there any ceremony of initiation into any of the societies of which Dr. Anderson was a member?

The plaintiff objected to the question on the ground

2861 that it was not proper cross examination, which objection was sustained.

WITNESS (Continuing): I found the name Esotero on a map that Dr. Woods sent to me when I was in New York, of an outline of the property where it was, the general plats and the land there. I did not suggest the name.

2862 Q. You did not draw a map of the place before having seen the property? You, yourself, did not design or draw a map of Point Loma and the surrounding country before you ever visited it?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 536.

2863 WITNESS (Continuing): The word Esotero did not relate to the Esoteric School of Philosophy. I do not know where the map is. It was sent to me when I was in New York before I came to live here, and before I had established my work on Point Loma. We owned the land on the hill but not the land that had that name.

Q. The name is not symbolical or suggestive of the purposes of the institution?

A. I think it would be of any spiritual idea; it is a spiritual suggestion, Esotero, higher thought.

2864 Q. Esoteric?

A. Esoteric, anything of that sort would suggest to me the higher thought. I have not looked in the dictionary for the meaning of the word. I looked at the name and chose it. That is all I know about it.

2865 Q. Esoteric does not relate to higher thought or higher life; you would not give it that meaning would you?

The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 537.

2866 Q. Is it not a fact that the name was selected by you as suggestive of the Esoteric school or the inner or secret school of philosophy?

A. I took that name just exactly as I have told you. That was the name chosen for the school. We were specially trying to think of names. We had different names for different departments, and that was chosen.

2867 Q. Your attention was directed to some statements of Mr. Fitch as to the sacred grounds, the holy grounds up there around, about or at Point Loma, which are so designated?

2868 A. I consider all our work as devoted to humanity sacred in that sense. That is the only way. I know the ground is not different than any other ground, any more than the thoughts associated with it. It is for the whole of humanity and we are building and as I suppose Christians feel towards their church, it is where we are going to have a temple built devoted to humanity, but it was never called—

The defendant moved that the answer be stricken out as not responsive to the question and the witness be directed to restrain her answers, which motion was denied,

2869 the defendant excepted, and the same is numbered, Exception No. 538.

WITNESS (Continuing): There is no given or designated part of the grounds at Point Loma known as the sacred grounds. There is a hill on the School of Antiquity grounds and the only way I know of a Holy Hill is seeing it in the Herald and Los Angeles Times; that is the only way I ever knew it was called that.

2870 The gown I wear at the public lectures I have worn at meetings given at Point Loma, but not often because we do not wear dresses of that kind except at our plays and I rarely take part in the plays.

I do not know anything about an initiation of Dr. Anderson into the Order of Scribes. He was a writer and he may have been considered a Scribe. I recall no initiatory ceremonies at Point Loma at which he was initiated as a member of the Order of Scribes. If he was a member at all, he was a member or connected with it before
2871 he came to Point Loma.

The purpose of the Order of Scribes was for archaeological purposes, to make research and compile from old writings and everything that was connected with archaeological research in all countries, particularly in America. It was not devoted to ancient occultism and mysticism or study of the Greek, Egyptian or Vedic mythology or mysticism. The Scribes wore the Greek dress the same as did the students of the Isis.

2872 The word "Isis" was taken for the conservatory of music because it was an appropriate word. The work of the Isis School is for music and drama and we have not introduced anything on the line of Egyptian dramas or plays. It is entirely devoted to the Greek. Isis is

2873 Egyptian, but that does not prevent us having a temple named that and having Greek plays in it. We used the Greek costumes for Hypatia because she was a student in Greece and she went back to Alexandria and gave the teachings. The play while it was in Alexandria, was a Greek play. She was introducing the teachings of the higher philosophy.

Q. She taught Pantheism, did she not?

2874 The plaintiff objected to the question as immaterial and not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 539.

WITNESS (Continuing): Wherever I had anything to do with the plays in introducing the art and dress for the teachings, I directed what the players should wear, but there are other directors there besides myself. We used that dress because it was classic and it was economical and it was symbolical in this sense of teachings.

2875 Q. Did they have any particular place on the hill or round about the grounds where they retired to perform their labors as Scribes?

The plaintiff objected to the question on the ground that it was not proper cross examination, and that the answer would be immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 540.

2876 WITNESS (Continuing): I did not say this order of Scribes was an ancient order. It might have been.

Q. Just a name chosen for it at haphazard, or did it have any deeper meaning?

2877 The plaintiff objected to the question because it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 541.

WITNESS (Continuing): I did not say to Dr. Anderson that he was being initiated into a very ancient order, this order of Scribes. I supposed the word Scribe was an ancient name in itself.

2878 Q. Did you have any conversation with him there with respect to the order of the Daughters of the Rising Sun?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 544.

2879 WITNESS (Continuing): I never impressed upon the wearers of these Greek robes that they were of a sacred nature. I never impressed upon any of the students that their garments were of a sacred nature, but I remember always expressing to any of the students speaking of costumes to represent any special time to endeavor to have them made as closely in the pattern as possible and to always wear them carefully and neatly.

2880 The play *Eumenides* was played on the hill top in the afternoon and in the evening, also as a public affair during the Congress. It has been played at the Isis Theatre in San Diego and in many theatres in Buffalo. The play of *Hypatia* was played in the temple and has also been played at the Isis Theatre in in San Diego. The "Triumph Over Death" was played in what is called the

2881 temple, the building near the Homestead, the conservatory of music, and also played at the Isis.

Our symposiums were held in the temple in the evening about eight o'clock. The Greek symposium is where certain members or students of our conservatory are met together and sometimes have it in dialogue; would not have a regular play but have quotations from ancient writers and occasionally they would have some very modern writers. They have often brought in to them, when they haven't anything original, some of the teachings of Jesus, and if there was anything good found in Budda, we would take it just the same as we would from anything. We take the truth wherever we find it from all agents. I do not remember if we had any of the teachings of Budda, or of Confucius or of Mahomet or of Zenda Vesta. Whatever we have taken would be what you would generally find printed and is read by broad minded people; pearls of truth from any place, any mind or organization, always beautiful and uplifting.

2882

2883 Some of the teachings of Pythagoras, many of the teachings of Madam Blavetsky and some of the teachings of William Q. Judge of Theosophy were discussed in these character symposiums. We could not take all of Judge's teachings on Theosophy. It would take all eternity to get them out. We do not recognize Colonel Olcott, so we would not take any of his teachings if he had any.

Q. He was an associate of Madam Blavetsky was he not, in her work?

2884

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 545.

2885 WITNESS (Continuing): I do not remember that we discussed in these symposiums anything of the Egyptian mythology or anything of Isis or of her husband, Osiris. There might have been something.

Q. You are familiar are you not with the Egyptian —

A. I do not think I can unroll my mind to please you at every point. I want to be truthful but I am not going to state what I am not sure of. As I told you before, we look into all teachings and all philosophies and
2886 take the pure and beautiful from all we can find.

The plaintiff moved to strike out the following words: "As I told you before, we look into all teachings and all philosophies and take the pure and beautiful from all we can find" from the answer on the ground that it was not responsive to the question, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 546.

2887 Q. Is it not a fact that in these symposiums you did discuss and enlarge upon the Egyptian mythology and give your experience and your status with respect thereto and particularly with respect to your visit to the pyramids.

A. No, never in any symposiums that I know of. I have been at the pyramids, but I do not remember ever introducing my travels into any symposium.

2888 Q. Your purpose in going there was to study this very subject was it, of Egyptian mythology, and didn't you give at symposium the result of your researches?

The plaintiff objected to the question on the ground that it was not cross examination, which objection was

2889 sustained, the defendant excepted, and the same is numbered, Exception No. 547.

WITNESS (Continuing): I did not give to the stick symbolic meaning. In giving the candle stick I said, in substance like this, that of course the candle stick was a useful thing. A candlestick with the candle there, with a Theosophist using it, should have some considerable significance. I believed in our relations that a candle when lighted meant spiritual light, something
 2890 in that order. If the candle stick had represented a lotus plant or the bud of a lotus, I probably would have referred to it. It is a very beautiful symbolism, but there are many different designs, and I could not have done so. They were picked up haphazard. The candle stick, which is in evidence here, may take on some of the shapes of the lotus plant, but it was not selected for that purpose. If I had selected them, I would have chosen that one. It is a very beautiful, symbol. I did not state
 2891 that the lower part of the candle represented the lower or animal nature of the human being, nor that the upper part represented the higher or better portion of human nature, nor that the flame or the light emitted and scattering the darkness represented the very highest part of human nature, or what is sometimes called in literature, the astral body. I do not think it would be possible for any one to say that I ever used the word "astral". I am horrified when I hear it.

2892 I did not in these symposiums speculate on or discuss the doctrines of Annie Besant; we are very much opposed to them.

Q. She is a voluminous writer on Theosophy, is she not?

2893 The plaintiff objected to the question on the ground that it is not cross examination, and was incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 548.

Q. Didn't Madam Blavetsy teach, speak and write with respect to the existence of an astral body, and wasn't that a part and parcel of her Theosophical teachings?

2894 The plaintiff objected to the question on the ground that it was not cross examination, and was incompetent and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 549.

Q. Madam, did you not in recounting your travels — your crusades into India make some reference to a journey inland where you met some extraordinary teachers of philosophy?

2895 The plaintiff objected to the question on the ground that it was not cross examination and that the answer would be immaterial, and further that the counsel assumed that the witness made a journey " which the witness has constantly denied ever since she has been on the stand ", which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 550.

2896 Q. I believe you say, Madam, that you did not teach hypnotism or self-hypnotism?

The plaintiff objected to the question on the ground that it was not proper cross-examination, and that the answer would be immaterial.

2897 THE COURT: I will sustain the objection to this question. If she said it, she said it; if she did not say it, she did not say it.

The defendant excepted to the ruling of the court and the same is numbered, Exception No. 551.

2898 WITNESS (Continuing): I did not say to Mr. Fitch that I had the power to go into a trance or a deep sleep, and that whilst in that condition, my other self or higher self or astral body could travel, or did travel, a long distance even into India. I have never had any conversation with Mr. Fitch on that subject or kindred subjects, any more than in one conversation I spoke to him about his responsibility as a man and I believed he had a soul.

Q. You gave him credit for at least having a soul?

2899 A. I thought he had; that he ought to show he had anyway. I would like to make a further explanation. I should say that the questions propounded there to me are so foreign to anything that I believe in or think that I never could have said them to any mortal in my life. I haven't any recollection of ever having thought of anything of the kind. I never could have said that. They are so absurd.

2900 The defendant moved to strike out the words "I would like to make a further explanation. I should say that the questions propounded there to me are so foreign to anything that I believe in or think of that I never could have said them to any mortal in my life. I haven't any recollection of ever having thought of anything of the kind. I never could have said that. They are so absurd", on the ground that the same were not respons-

2901 ive to the question and were immaterial, irrelevant, incompetent and stated a conclusion of the witness, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 552.

Q. Reference has been made in the examination to your crusade around the world. When was that made, Mrs. Tingley?

2902 The plaintiff objected to the question on the ground that it was not cross examination, and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 553.

Q. When did Madam Blavetsky die, Mrs. Tingley?

The plaintiff objected to the question on the ground that it was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 554.

2903

Q. Is she dead?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 555.

2904

Q. Did you, on or about the 15th day of June, at 9 o'clock P. M. 1896, receive a message from Madam Blavetsky?

The plaintiff objected to the question as not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 556.

Q. Did you, at the time mentioned, and on board ship

2905 and in mid ocean claim to receive a message from H. P. B., otherwise H. P. Blavetsky?

The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, and further that the question was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 557.

2906 Q. To show its relevancy, if your Honor please — I will ask you whether or not you claim to have received a message from H. P. Blavetsky while on board ship and in mid ocean on June 15th at 9 P. M. 1896, in words as follows —

MR. McKINLEY: If your Honor please, we object to counsel continuing this line of examination.

2907 THE COURT: The objection will be sustained and counsel prohibited from proceeding on this line any further. If there is not anything else which is material to question this witness in respect to, she will be turned over to her counsel for such further examination as they may desire.

The defendant excepted to the order of the court sustaining the objection, and precluding defendant's attorney from finishing the foregoing question, and the same is numbered, Exception No. 558.

2908 The defendant also excepted to the order of the court which directed not to pursue a similar line of questioning the witness, and the same is numbered, Exception No. 559.

Q. Recurring for a moment to your testimony with respect to sending kind thoughts out into the world as a

2909 preliminary question, I will ask you whether you attended a Congress or gathering or convention of Theosophists held in Boston in 1897 I believe.

The plaintiff objected to the question on the ground that it was not proper cross examination, (the defendant stating that the question was a material one) the objection was sustained, the defendant excepted, and the same is numbered, Exception No. 560.

2910 Q. To show the court the materiality of this question, I ask the witness whether at this meeting in Boston you received, or claimed to receive, a message from W. Q. Judge, then deceased, which you exhibited to the audience?

MR. MCKINLEY: We object to it if the court please, and I submit also it is the same line of questioning from which counsel was restrained.

2911 The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 561.

Q. Now you attended at a meeting at the opera house here shortly after the death — you held memorial services at the Isis Theatre in San Diego, of William Q. Judge, memorial services?

The plaintiff objected to the question on the ground that it was not cross examination and because the answer would be irrelevant.

2912 MR. HUNSAKER: The purpose of asking the question is to direct Mrs. Tingley's attention to certain statements which we are informed she made in that meeting in reference to the care and nurture of the children which we claim will contradict the evidence which she

2913 gives here and for the purpose of laying the foundation and introducing a statement contradictory to her testimony here as to the care and nurture and feeding of children at Point Loma.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 562.

2914 WITNESS (Continuing): Mrs. Mohr (she was then Mrs. Neill) was at Point Loma but a few weeks. I do not remember having any conversation of any great length with her.

Q. Did you discuss anything touching the duties of the mother to the child or any of the doctrines of Theosophy with her?

A. I remember having a conversation with her where she had asked me if she could remain, and she said she would like to remain because she was very unhappy.

2915 Q. I will ask you Mrs. Tingley how many times you have been married?

The plaintiff objected to the question on the ground that it was not cross examination and was impertinent, irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 563.

Q. And what, if you have one, is the name of your present husband?

2916

The plaintiff objected to the question on the ground that it was not cross examination and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 564.

2917 Q. If you have a husband, where does he reside?

The plaintiff objected to the question on the ground that it was immaterial and not cross examination.

THE COURT: The objection is sustained, and you (addressing the counsel for the defendant) will not be permitted to ask any further questions on this line.

The defendant excepted to the ruling of the court, and the same is numbered, Exception No. 565.

2918

H. H. SOMERS

sworn and examined on behalf of plaintiff in rebuttal testified as follows:

BY MR. McKINLEY: I reside in San Francisco. I have resided there more than twenty-five years. I am a bookkeeper. I am acquainted with Dr. Jerome A. Anderson. Have known him for over seven years and possibly ten.

2919

Q. State whether you know the people with whom he associates in the community and in the community in which he lives generally.

A. I have known a great many people that he is acquainted with. I know his general reputation for truth in the community in which he lives. It is very bad.

CROSS EXAMINATION OF H. H. SOMERS.

2920

BY MR. SHORTRIDGE: I work for W. P. Fuller & Co. at Pine and Front Streets, San Francisco as a bookkeeper. Know Dr. Jerome A. Anderson well. I have had a great deal of business with him. My feelings towards him are kindly.

2921 On January 3rd, 1903, I received from San Diego a telegram at San Francisco signed F. P. I presume it was from F. M. Pierce requesting me to come here as a witness. I was not subpoenaed. I have been in the habit of receiving communications from F. M. Pierce signed F. P. I am friendly towards him.

Q. Where did you meet him?

2922 The plaintiff objected to the question as incompetent, irrelevant, immaterial and not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 566.

WITNESS (Continuing): F. M. Pierce is connected with the Universal Brotherhood. I am a member of that organization. I have not taken a pledge recently. William Q. Judge submitted a pledge to me about seven years ago which I signed. He was then the leader of the Theosophical Society.

2923 Q. You regard that as still binding on you?

The plaintiff objected to the question as immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 567.

Q. Do you regard Mrs. Tingley as the successor of Mr. Judge and the present leader of the order referred to in your pledge?

2924 The plaintiff objected to the question on the ground that the answer would be irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 568.

WITNESS (Continuing): Mrs. Tingley is the leader of the society of which I am now an active member.

- 2925 I am, and have been Secretary of the Pacific Coast Committee of the Universal Brotherhood between three and four years. I was appointed Secretary by Mrs. Tingley. The announcement of my appointment was made to the Pacific Coast Committee through Dr. Anderson. I am also treasurer of the Pacific Coast Committee. The Committee appointed me treasurer with the approval of Mrs. Tingley. I have heard that she has power to remove me or dispense with my services
- 2926 at any time, but she has never told me so. It is generally understood that she has that power.

At the time I received the telegram from Mr. Pierce to come to San Diego it happened to be convenient for me to come immediately. I had not received any other notification from any one to be here concerning this case, and as it was convenient I considered it my duty to come. I had an idea of what I was wanted for, but I had no intimation from Mr. Pierce what I was coming for.

2927

Q. You thought you were coming to be of some assistance to the plaintiff?

A. I never knew Mr. Pierce to do anything that didn't have some purpose and object in it.

The defendant moved to strike out the foregoing answer on the ground that the same was not responsive to the question, which motion was denied, the defendant

2928 excepted, and the same is numbered, Exception No. 569.

WITNESS (Continuing): I received the telegram at twelve o'clock at night and I knew Mr. Pierce wanted to see me on some important business. I got out of

2929 bed at twelve o'clock and prepared to come the next morning and left the next morning on the eight o'clock train for San Diego. I had never conversed with Mr. Pierce about this case.

I have lived in San Francisco for over twenty-five years and worked for W. P. Fuller & Co., between seventeen and twenty years. When I first became acquainted with Dr. Anderson, he lived at the same place where he now lives, on 20th Street near Valencia, San
 2930 Francisco. I became acquainted with him in connection with the Theosophic work. He was a member of the Society in San Francisco when I joined and was president of one of the lodges there.

Q. Was that before the plaintiff in this action, Mrs. Tingley came to locate over in Point Loma?

The plaintiff objected to the question on the ground that it was not proper cross examination, and the answer would be irrelevant, immaterial and incompetent,
 2931 which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 570.

WITNESS (Continuing): I was not at first a member of the same lodge that Dr. Anderson was. The two lodges consolidated and he became president, and thereafter I continued to be a member of the same lodge with him. I am still a member of the lodge. He does not occupy any official position in the lodge now.
 2932 He is not a member of the lodge. His resignation was read in the early part of last year. Technically he did not resign from the lodge or resign from the organization but his resignation was sent to the head office.

2933 Q. Where is the head office?

The plaintiff objected to the question as not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 571.

2934 WITNESS (Continuing): I haven't any idea what length of time Dr. Anderson has lived in San Francisco. I have heard him state that it was over fifteen years, and I have known him between seven and ten years.

Q. Do you know whether he was one of your free holders that framed the present charter of San Francisco?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 572.

2935

WITNESS (Continuing): I have heard Dr. Anderson's general reputation for truth discussed in San Francisco by a great many people.

Q. Was his reputation for truth the subject of discussion by you with others in the year 1897 or 1898?

A. I would like to answer that entirely personally to myself and then I will answer.

2936 Q. I would like you to answer it in a proper way, by yes or no.

A. I never discussed that with any person not a member of the organization, anything detrimental to Dr. Anderson, up to the time he left.

2937 The defendant moved to strike out the answer to the foregoing question on the ground that the same was not responsive to the question, which motion was denied, the defendant excepted and the same is numbered Exception No. 573.

Q. He continued to be a member of the society down to 1901, I believe you said. Did you discuss the matter of his reputation for truth after 1897 and 1898, as in 1899 or 1900?

2938

A. Only when it became necessary to refer to it.

The defendant moved to strike out the foregoing answer on the ground that it was not responsive to the question, which motion was denied, the defendant excepted, and the same is numbered, Exception No. 574.

2939 WITNESS (Continuing): Among others with whom I discussed Dr. Jerome A. Anderson's reputation was Mrs. Robinson. The matter came up at my residence on Turk street during the past year and since Dr. Anderson resigned from the Universal Brotherhood. She was a member of the Universal Brotherhood at that time. I had read some letters by Dr. Anderson with respect to the plaintiff in this case and had read statements he published in the San Francisco Chronicle. I do not know whether Mrs. Robinson had read them or not.

2940 Q. Did you read the articles which appeared in the San Francisco Examiner about the same time?

The plaintiff objected to the question on the ground that it was not proper cross examination, which objection

2941 was sustained, the defendant excepted, and the same is numbered, Exception No. 575.

WITNESS (Continuing): I have heard about fifty people in San Francisco discuss Dr. Anderson's reputation for truth and among the people with whom I talked concerning Dr. Anderson was C. Mason Smith, an attorney who resides in Oakland and has an office in the Mills Building in San Francisco and others. Also Mr. Oehl, Dr. Guffieltes, Mr. Spinks, Mr. Robinson, Mrs. 2942 Robinson, Mr. H. B. Munges, and others. I met Mr. Smith at the Academy of Sciences in San Francisco and after some conversation he said, "I have seen several statements published by Dr. Anderson and they contradict each other and it puts the doctor in a bad light. He is establishing a bad reputation."

Q. And these statements were in respect to controversies going on as existing between the Doctor and your lodge or others, is not that so. 2943

A. I never went into detail with him. I don't know what he thought or anything about it or whereon he based his opinion.

Q. I am speaking of the word statements, to what that word "statements" referred.

The plaintiff objected to the question on the ground that it was already answered and that it called for a conclusion of the witness and was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 576. 2944

Q. Did these statements refer to statements of business matters?

2945 The plaintiff objected to the question on the ground that it was already answered and that it called for a conclusion of the witness and was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 577.

WITNESS (Continuing): Most of the people I have talked with are people with whom I am familiar and they are, practically speaking, the entire circle of Dr. Anderson's social acquaintance in San Francisco. His
2946 social acquaintance was limited to the lodge of the Universal Brotherhood, so I have endeavored in mentioning the lodge members to name only those who knew him best.

JULIA HECHT

Sworn and examined on behalf of the plaintiff in rebuttal, testified as follows:

2947 BY MR. KELLOGG:—My name is Julia Hecht. I reside at Point Loma. I have resided there about four years. My special work there has been music teaching. I know Matilda Kratzer who testified in this case.

Q. Miss Kratzer testified she was at Point Loma about five and a half months to the end of August, 1900. She stated that during the time she received five or six music lessons from you, and no more. Will you kindly state the facts as to the amount of musical
2948 instruction which you gave to Miss Kratzer during that time?

The defendant objected to the question on the ground that it was improper in form, was incompetent and called for the conclusion of the witness, which objec-

2949 tion was overruled, the defendant excepted and the same is numbered, Exception No. 578.

A. Miss Kratzer began music lessons with me a few weeks after she arrived at Point Loma, and the only time that I recollect of her having stopped music lessons the entire time she was there was some weeks during which the building was being torn down; the plastering was being torn down, and there was a great deal of dust and confusion, and the pianos were covered up, and all the practising and lessons ceased at that time.

2950 I do not remember exactly the length of time that this condition lasted, but it was longer than six weeks, and during that time the pianos were covered with canvas and no one could use them. My practicing was interfered with; I could not use them. All the lessons were stopped. The lessons of Mr. Hansen's children were stopped.

2951 Q. Was Miss Kratzer treated in any different manner than other people who were taking lessons at that time?

The defendant objected to the question on the ground that it was not rebuttal, called for the conclusion of the witness and was incompetent, which objection was overruled, the defendant excepted and the same is numbered Exception No. 579.

2952 A. Not in any way.

Miss Kratzer started with two music lessons a week, and it was my custom generally with pupils to have them begin with two and a half hours a week, and when far enough advanced to continue them with one hour

2953 lesson a week, and she probably did the same, although I do not remember definitely.

Q. Can you remember anything as to the number of lessons which she did get to enable you to state what the facts are as to whether she had more than five or six?

A. She certainly must have had more than five or six lessons, as I stated that she had lessons all the time
2954 she was there, except possibly six weeks. She was given about two hours a day in practicing on the piano during the period when the piano could be used. Very often I saw her practicing during that period. Her average was two hours per day; that extended over the whole period of her stay except when the pianos were covered up, as near as I remember it.

I am a member of the Daughters of the Rising Sun and was at the time Miss Kratzer was there. I attended the meetings of that society during that time.
2955 She was present. I was treasurer or secretary of the society. I sent out invitations and on several occasions I sent invitations to Miss Kratzer. I do not recollect the number of times I saw her at these meetings, but she was there frequently. I have seen her at picnics and meetings, general gatherings which we had. We had a number of picnics and she was always there. These picnics were held down at the beach. I do not
2956 remember the specific occasions, but I know we have social gatherings and I often saw her there. I have seen her sitting on the veranda reading and chatting and have noticed her walking about on the grounds, and on these occasions she was not at work.

2957 My principal work since I have been a resident at Point Loma has been in music.

Q. Will you state what the general nature was of the musical instruction that was being given to the older pupils, or residents, at the Homestead during the period immediately prior to October 28th, 1901?

2958 The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 580.

A. I do not know exactly what you mean by the nature of the instructions. There were instrumental and vocal lessons given and lessons in harmony I believe, and so on.

2959 We had only started the conservatory and I was the only piano teacher. Mrs. Spaulding was the vocal teacher at that time. I do not recollect any other music teachers, nor do I now recollect the number of pupils in these various branches of vocal piano music. I do not recollect how many of the older people at the Homestead were engaged in studying vocal or piano music immediately preceding the 28th day of October, 1901. There were a number of them so engaged at that time.

Q. How many teachers were there at that time?

2960 The defendant objected to the question on the ground that it was incompetent, irrelevant, immaterial and not rebuttal, which objection was overruled, defendant excepted, and the same is numbered Exception No. 581.

A. Well, I have not been accustomed to thinking of the musical work in connection with dates. I really

2961 could not accurately state without thinking carefully just the time.

I believe Miss Bergman was there. She was giving vocal instruction. I do not remember whether Mr. Neresheimer was there then, or not. His work had been more with the children than with the adults. There were chorus classes in singing for the ladies and gentlemen. I am speaking of the period immediately prior to October 28th, 1901. The musical work was com-

2962 menced there in the latter part of 1899 or in 1900. I do not think there was any one besides myself giving instructions on the piano prior to October 28th, 1901. Miss Bergman was there then and she had a large class of pupils. I was busy on the piano. I can not state the number of pupils that I had, but I know I gave about twenty lessons a week.

CROSS EXAMINATION OF JULIA HECHT,

2963 BY MR. SHORTRIDGE. I am a member of the Universal Brotherhood organization.

Q. You have taken the pledge of members, have you, signed the pledge of members?

The plaintiff objected to the question as incompetent, irrelevant and immaterial, which objection was sustained, the defendant accepted and the same is numbered Exception No. 582.

2964 Witness (Continuing), I have not signed a pledge like or similar to the pledge known as plaintiff's Exhibit No. 24.

Q. In joining the Universal Brotherhood did you sign any pledge at all?

2965 The plaintiff objected to the question on the ground that it was "not cross examination", which objection was sustained, defendant excepted and the same is numbered Exception No. 583.

Witness (Continuing), I have been a member of the Universal Brotherhood about four years. I joined the organization at Point Loma, and was not then a resident of San Diego but was here for a time for my health. My home at that time was in Chicago.

2966 Q. Did you know the plaintiff in this action at the time you joined—before you joined the Universal Brotherhood?

The plaintiff objected to the question on the ground that it was not proper cross examination and was irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 584.

2967 Witness (Continuing) I became acquainted with Mrs. Tingley about the time I joined the organization. She had just come from Point Loma. I had gone there for my health and met her at the hotel.

Q. Were you a Theosophist at that time?

The plaintiff objected to the question on the ground that it was immaterial, incompetent and irrelevant, which objection was sustained, the defendant excepted and the same is numbered Exception No. 585.

2968 Witness (Continuing) I have not discussed my testimony with any one. I was told I would be called as a witness and asked what I knew about Miss Kratzer, and

2969 so far as I know the attorneys for the plaintiff did not know what I am testifying to.

I think Miss Kratzer came to Point Loma in 1900, the spring time. She remained there six months. I started to give her two lessons a week, or one hour lesson a week. There were not many pupils in music there at that time. I do not know how many lessons I gave her, but it was one or two a week for about four months. I do not remember what her particular duties were at Point Loma. I have seen her in the dining room and about various places. I have not seen her in the kitchen. I never saw her scrubbing hallways or scrubbing or sweeping the dining room. I have seen her in the dining room but I do not remember what she was doing. The ladies took turns in waiting on the tables in the dining room. I was in there myself at one time waiting on the table. I did not scrub the floors or the hallways.

2970 She attended some social meetings at which I was present. I have seen her at meetings of the Daughters of the Rising Sun. The members of that society sometimes have Sunday morning meetings and possibly some other mornings when we had talks. I have seen Miss Kratzer at those meetings. They were sometimes held in a tent. We had one for that purpose.

2971 Q. Were there smaller tents?

The plaintiff objected to the question as immaterial, irrelevant and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 586.

2972 Witness (Continuing) The Daughters of the Rising Sun is a social organization and held meetings in the

2973 evenings about eight o'clock for the purposes of general culture and social communication. I do not know if it has a written constitution. Miss Kratzer was not a member of it.

I have seen her on the veranda reading and talking.

2974 Mr. Neresheimer teaches vocal music to the little children, not to adults. His work has been at the children's music temple at Point Loma, near the Raja Yoga school. Miss Bergman taught vocal music to the grown students, and I gave about twenty lessons a week during the month of October, 1901.

I have not talked with the plaintiff in this case in regard to what I was expected to testify here, nor has any one discussed or gone over the matter with me.

Q. You believe it is your duty, do you not, to appear on behalf of the outer or official head of the Universal Brotherhood?

2975 The plaintiff objected to the question on the ground that it was immaterial, irrelevant, not proper cross examination, and called for the conclusion of the witness, which objection was sustained, the defendant excepted and the same is numbered Exception No. 587.

RE-DIRECT CROSS EXAMINATION OF JULIA
HECHT,

2976 BY MR. KELLOGG: I have gone to the Colony to give piano lessons. I do not remember the time. I do not remember whether it was prior to October 28th, 1901.

Q. Now, speaking of Mr. Neresheimer, you have said that you were not sure, if I recollect correctly,

2977 whether he ever did any teaching to the grown-up people, or adults. Did you ever see him give any lessons to any adult at all, or did you ever see him leading any class or chorus, or in any way giving instruction to the older people before October 28th, 1901?

The ~~plaintiff~~ ^{defendant} objected to the question on the ground that it was immaterial, irrelevant, not rebuttal, was leading and was not re-direct examination.

2978 THE COURT: Well — it may not be re-direct examination but I will give counsel leave to open up the examination for their purposes if they desire. The objection is overruled.

The defendant excepted to the ruling of the court and the same is numbered Exception No. 588.

A. No, I did not.

2979 Mr. Kellogg: Upon reflection we objected to a question of our adversaries as to whether the witness considered it her duty to come here and testify. We still consider that our objection is well founded, but to avoid any possible question about it, we are entirely willing to withdraw that objection and permit our friends to ask the question now if they wish.

BY MR. SHORTRIDGE: Then we will ask you the question, Miss Hecht, do you not consider it your duty to come here and testify in behalf of the plaintiff?

2980 A. I think that — —

Q. Kindly answer yes or no.

Mr. McKinley: The witness has a right to answer —

THE COURT: She has a right to answer that ques-

2981 tion. The witness will be permitted to answer it in her own way from the nature of the question propounded.

The defendant excepted to the ruling of the Court and the same is numbered Exception No. 589.

2982 A. I consider it is my duty only in this way, that I always want to uphold any one who is in the right and I heard that Miss Kratzer made a false statement, and in that way I would like to bring out the truth of the matter.

Q. Who told you that she made a false statement?

A. I heard her make them.

Q. You were here in Court? A. Yes Sir.

2983 The defendant moved to strike out the answer as not responsive to the question, which motion was denied, the defendant excepted, and the same is numbered Exception No. 590.

Witness (Continuing): That is the only reason I have to give.

ROSE WINKLER,

sworn and examined on behalf of the plaintiff in rebuttal, testified as follows:

2984 BY MR. MCKINLEY:—My name is Rose Winkler. I reside at Point Loma Homestead and have been there somewhat over two years. I do not hold any official position there. Prior to October 28th, 1901, I was housekeeper at Point Loma Homestead, from June 1901, until the present time. I first went to Point Loma in

2985 1900. I was at the Homestead when Miss Kratzer was there. She was only under my charge or supervision for two or three hours during the day. She took turns during the rest of the time and was sometimes busy in the dining room. I have seen her there when she was not busy on the verandas. I have seen her walking, I have seen her practicing on the piano, sewing, reading. At one time I saw her reading "The Lady of the Lake." I saw her practicing several times on the piano. I have seen her several times at social gatherings and at the meetings of the Daughters of the Rising Sun. I cannot say how often I have seen her but it was quite a number of times.

2986 I was at the Colony when Dorothy and Edith Gird were there only a few weeks on a visit. When they left they were in better condition of health than when they came. I was assistant superintendent of the colony at that time and am familiar with the kind of food furnished there. During the time the Gird children were there the food was abundant, wholesome, nutritious and all of the best quality.

2987 During the time that Miss Kratzer was under my direction she never made any complaints to me of the manner in which she was treated.

Miss Kratzer's sister was admitted into the school at the colony. She had piano lessons. Miss Wood was teaching her.

2988 Miss Kratzer had charge of the second floor corridor of the Homestead. It was a hard wood floor and whenever a guest chamber had to be prepared under my supervision she assisted me. She used a soft brush on the hard wood floor, and occasionally a long-handled

2989 mop with a damp cloth to take up the dust. When she used the soft brush she could do the work in 20 to 30 minutes and with the mop it took 20 to 30 minutes also. She assisted me occasionally when we had a guest chamber to prepare.

The rooms were simply furnished and there was no need of her taking out all the furniture of the rooms to clean them. She may have taken out a chair or a table, but no more.

2990 I could not say whether she cleaned two rooms a day. We had a Chinaman who cleaned all the rooms. The students took charge of their own rooms and there was another girl who took charge of the first floor corridor, and I superintended the work and assisted. Other ladies worked with her in cleaning the rooms.

I was at the colony when Mrs. Mohn's (she was then Mrs. Neil) little girl was there. Mrs. Mohn paid her little girl a visit but I was not present.

2991 Q. Then you never stood by while she talked with her little girl?

The defendant objected to the question on the ground that it was leading and suggestive, which objection was overruled, the defendant excepted and the same is numbered Exception No. 591.

A. I remember her visiting the colony. I saw her there but I never stood present — I never was present
2992 when she was speaking to the little girl.

Q. State whether there was anything done by you to prevent her talking to the little girl.

The defendant objected to the question on the ground that it was immaterial, irrelevant, not rebuttal and called

2993 for the conclusion of the witness, which objection was overruled, the defendant excepted and the same is numbered Exception No. 592.

A. Never.

Witness (Continuing): The Gird children never complained to me of not feeling well or of not having enough to eat. They received what they asked for in the way of food.

2994 Q. Dr. Winkler, will you state whether a conversation between Mrs. Mohn and her little girl took place at the colony in the presence of Dr. Wood and yourself, or in your presence, in which the little girl cried and hung on to Mrs. Mohn, or Mrs. Neil, as she was then, and wanted to go with her.

The defendant objected to the question on the ground that it was leading, which objection was overruled, the defendant excepted and the same is numbered Exception

2995 No. 593.

A. I do not remember of seeing it.

CROSS EXAMINATION OF ROSE WINKLER.

BY MR. SHORTRIDGE. I am a member of the Universal Brotherhood organization. I have been a member of the Theosophical society and Universal Brotherhood organization since 1891. The Theosophical society merged into the Universal Brotherhood organization.

2996

Q. Is that the Esoteric school of Theosophy which you refer to of which you became a member in 1891?

The plaintiff objected to the question on the ground

2997 that it was not proper cross-examination and that the answer would be irrelevant, which objection was sustained, the defendant excepted and the same is numbered Exception No. 594.

Q. You say the society of which you first became a member merged into the Universal Brotherhood?

The plaintiff objected to the question on the ground that it was "not cross-examination and quotes the witness as saying something she did not say, and because the answer would be irrelevant," which objection was sustained, the defendant excepted and the same is numbered
2998 Exception No. 595.

Witness (Continuing): I never took a written pledge or an oral pledge when I became a member of the organization.

Q. When you were initiated or inducted into the organization did you give oath or did you give affirmants?

2999

A. I never was initiated. I did not, outside of being a member of the Universal Brotherhood organization. I became a member by application.

Q. Was the plaintiff in this action connected with the organization when you became a member?

The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered
3000 Exception No. 596.

Q. Has the plaintiff in this action been your leader and official head of the organization since you became a member of it?

3001 A. She has not been a member the entire time. She has not been the leader the entire time I have been a member.

Q. Who was the leader prior to her?

The plaintiff objected to the question on the ground that it was not proper cross-examination and that the answer would be irrelevant, which objection was sustained, the defendant excepted and the same is numbered
3002 Exception No. 597.

Witness (Continuing): The official head of the Universal Brotherhood organization is Katherine Tingley. I have not taken a pledge to support her in all matters. I have taken no written pledge to the organization.

Q. Are you a member of the Esoteric school of Theosophy of which, if I am correct, the plaintiff in this action is the Outer Head.

3003 The plaintiff objected to the question on the ground that it was not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 598.

Witness (Continuing): I am not a member of the School for the Revival of the Lost Mysteries of Antiquity. All I know is that I am a member of the Universal Brotherhood organization. I am a member of the Daughters of the Rising Sun and have since it was
3004 organized.

I have lived on the hill at Point Loma since 1899. Before that I lived in New York City.

Q. Did you come direct from New York City to San Diego county?

3005 The plaintiff objected to the question on the ground that it was not proper cross-examination and was incompetent, irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 599.

Q. Did you go to Point Loma at the suggestion of the plaintiff in this case?

3006 The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 600.

Witness (Continuing): I am not a witness here by the request of the plaintiff in this case. Mr. Kellogg notified me that I was to be a witness. I did not discuss with him the subject matter of the testimony which I was to give; just such facts as he inquired about. He made inquiry of me as to the facts and I made certain
3007 replies.

Q. Then you did not discuss with him the subject matter of your testimony?

The plaintiff objected to the question on the ground that it called for the conclusion of the witness and was irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 601.

3008 Q. Have you refreshed your recollection by reference to any written report or memorandum of the school since you were advised that you were to be a witness here?

The plaintiff objected to the question on the ground

3009 "that there is no indication of what counsel means by the school", which objection was sustained, the defendant excepted and the same is numbered Exception No. 602.

Q. Have you consulted any records at the colony or at the Homestead. I think where you are now actively engaged — records concerning the number of students and those who were present as students at the Homestead or at the colony during the year 1900?

3010 The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 603.

Q. Have you consulted such records as to the time of October 28th, 1901?

3011 The plaintiff objected to the question on the ground that it "assumes such records exist when it has not been testified to and therefore is inadmissible, immaterial, irrelevant and incompetent, which objection was sustained, the defendant excepted and the same is numbered Exception No. 604.

Q. You are a regularly licensed physician, are you?

A. I am, Sir.

Q. What school?

3012 The plaintiff objected to the question as irrelevant, immaterial and not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 605.

3013 Q. You treat the children or adults who may be sick whilst at the institution?

The plaintiff objected to the question on the ground that it was not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 606.

Q. Have you ever put into practice whilst there the theory of nourishing children, advanced by your leader?

3014 The plaintiff objected to the question on the ground that the answer would be incompetent, and "there is no proof here that she knows or has had any information as to what Mrs. Tingley's theories were, and the further objection is that it is not cross-examination." Which objection was sustained, the defendant excepted and the same is numbered Exception No. 607.

Q. Were there any patients at the Homestead when Miss Kratzer was there?

3015

The plaintiff objected to the question as not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 608.

Witness (Continuing): Tillie Kratzer was under my supervision at the Homestead from two to three hours a day during June, July and August. There were other young women at the Homestead at the time Tillie Kratzer was there. Her sister was at the colony when she was at the Homestead.

3016

Q. Do you recall what any particular one of the other young women did in the morning and at noon and at night during that period?

3017 The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 609.

A. I did not say that I knew distinctly what she did morning, noon and night. I observed many things and I know they were all very busy.

3018 Q. Did you observe what they did, morning, noon and night, any others, and if so, state who?

A. They were all busy in their particular departments and took their turns.

Q. If you do remember, please state who — what young lady?

3019 The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 610.

Witness (Continuing): Tillie Kratzer was under my supervision from sometime between 8 and 9 o'clock of each day until eleven o'clock. I never saw her scrubbing the second hall floor.

Q. Did you ever see anybody scrubbing that particular hallway.

3020 The plaintiff objected to the question on the ground that it had already been answered, which objection was sustained, the defendant excepted and the same is numbered Exception No. 611.

Witness (Continuing): I transferred my work from the colony over to the Homestead in June, 1900, and

3021 have continued from that time down to the present at the Homestead. I never labor. I enjoy my duties. We do not recognize menial labor. There is no menial labor in this world. All labor is honorable.

Q. You do not labor at all over there?

A. It is a pleasure to serve in this cause. It is simply a never-ending holiday of pleasure.

Q. No work, no weary, no labor?

3022 A. All pleasure.

Q. All pleasure? That is the place I am looking for. What do you do the livelong day?

The plaintiff objected to the question on the ground that it was not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 612.

3023 Q. So, since June 1900 you have simply had one round of delight? at the Homestead: is that it, Doctor?

The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 613.

Q. Do you prescribe for patients who may be sick?

3024 The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 614.

Witness (Continuing): I was housekeeper at the Homestead. There is work connected with housekeep-

3025 ing. I did that work cheerfully and I superintended the housekeeping work when Miss Kratzer was there. I am still housekeeper at the Homestead and the doctor when required.

Q. And sometimes there are sick people there, are there?

3026 The plaintiff objected to the question as not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 615.

Q. Did Miss Kratzer seem to regard her labors as matters of* pleasure?

3027 A. The duties that she performed under me seemed to make her very happy. They were such as cleaning the corridors, chamber work, working two or three hours a day. She was very happy and during that time she was there at the Homestead engaged in this pleasant work her little sister was over at the colony attending school and taking music lessons. I saw Miss Kratzer on several occasions at the piano. I saw one was teaching her. She was probably trying to make music.

3028 These little Gird children came the latter part of April and remained there until about the first of June. They were at the colony while I was there. They departed before I left. They had an abnormal craving for sweets. The fare at the colony was simple, nutritious and wholesome. It was a mixed diet of eggs, meat, milk, breakfast food, vegetables, such as asparagus, tomatoes, beets, squash, carrots, lettuce, potato salad, beet salad, ginger cake and ginger bread, straw-

3029 berry short-cake, stewed fruits, canned fruits, raw fruits. The adults and the children had the same food and ate in the same dining room. The children ranged probably from four years up to 13 and to the adults. The craving of these little Gird children was of such a nature as we did not supply at the colony, candies and sweets.

3030 When Mrs. Mohn (then Mrs. Neil) was at Point Loma Homestead I was at the colony. I saw her come and visit and saw her little girl. I never was present while she was with her little girl. I do not remember the hour, day or month of the visit.

Q. Do you belong to any lodge of the ^{*}Universal Brotherhood, and if so, which one?

3031 A. I do not belong to any lodge at present — unless I am a member of the Universal Brotherhood and still a member of the Arayan Theosophical — the Arayan branch of the Universal Brotherhood.

Q. Is there a lodge of the Arayan Branch?

The plaintiff objected to the question on the ground that it was not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 616.

CYRUS F. WILLARD,

3032 sworn and examined on behalf of plaintiff in rebuttal, testified as follows:

BY MR. KELLOGG: My full name is Cyrus F. Willard. I live at Point Loma. Have lived there for nearly three years. I know Mr. Fitch who formerly was at Point Loma.

3033 Q. Mr. Fitch has stated that he remembers an occasion on which you, in a speech or discussion, described Mrs. Tingley as greater than Christ, Confucius and others. Did you ever make such a statement in any speech or upon any occasion?

A. I never made such an absurd statement in my life.

The defendant moved to strike out the answer on the ground that it was not responsive to the question, which
3034 motion was denied, the defendant excepted and the same is numbered Exception No. 617.

Q. Did you ever hear anybody make any such statement on any occasion?

A. I never did. I never heard anything to that effect.

CROSS-EXAMINATION OF CYRUS F. WILLARD.

BY MR. SHORTTRIDGE: I am a rancher. I farm at Point Loma. Before coming to Point Loma I lived in
3035 the state of Washington. Prior to that, in Chicago. Prior to that, in Boston. I was born in Massachusetts in 1858.

Q. You are a member, I take it, of this Universal Brotherhood, are you?

A. I am a member and have been for fourteen years.

Q. A member of the Universal Brotherhood for fourteen years?

3036 A. I will qualify that by stating that when I joined the organization the title of it was "The Theosophical Society of the Universal Brotherhood".

Q. Where did you join it?

3037 The plaintiff objected to the question as irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 618.

Q. Who was at the head of it when you joined?

The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 619.

3038 Q. Who was the head of the order by different name called when you went to join?

The plaintiff objected to the question as not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 620.

Witness (Continuing): I recognize Katherine Tingley as the Leader and Official Head of the Universal Brotherhood.

3039

Q. You understand that she is to continue through life and has the power of appointing her successor.

The plaintiff objected to the question as immaterial and not cross-examination and as calling for the conclusion of the witness, which objection was sustained, the defendant excepted and the same is numbered Exception No. 621.

3040 Witness (Continuing): I do not understand that she has any power or authority to cause me to cease to be a farmer at Point Loma at any time. Her power and authority does not effect my personal matters. Her power and authority only relates to the organization. I

3041 am not working for Katherine Tingley. I am ranching on my own account. I own my own property. Who else would own by own property?

Q. Does it stand in your name?

The plaintiff objected to the question on the ground that it was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 622.

3042 Witness (Concluding): I never said that Katherine Tingley had any power over my membership in the order. As far as my membership in the order is concerned, that is covered by the constitution of the organization. I understand that Katherine Tingley has the power to terminate my membership in the Universal Brotherhood.

E. A. NERESHEIMER,

recalled on behalf of plaintiff in rebuttal, testified as follows:

3043

BY MR. KELLOGG: I was present on the occasion when the corner stone of the School for the Revival of the Lost Mysteries of Antiquity building was rededicated in April, 1899. At that time the Homestead building was not in existence. There was a building on the site of the Homestead. It was a hotel or sanitarium kept by Dr. Wood.

3044

Q. Mr. Neresheimer, do you know the distance approximately between the building which then existed on this place and the place where the corner stone was laid.

The defendant objected to the question as irrelevant, incompetent, immaterial and not rebuttal, which objection

3045 was overruled, the defendant excepted and the same is numbered Exception No. 623.

A. I think I know about the distance. I think it is about one thousand feet.

This ceremony was held after supper, about half past eight or nine in the evening. The path between the building and the place where this corner stone was dedicated runs along a ridge with a slight ascent, and was the path travelled by those who took part in the ceremony that evening. There were in the neighborhood of 3046 400 people present. They assembled at the hotel and marched up two by two in the shortest possible cut. I was present at the hotel before they started. I saw some of them march. It took fully half an hour to go from the hotel to the spot where the ceremony was held. When the people had reached the cornerstone site, the most of the people located at the amphitheatre which was erected prior to that time, and some officers and some ladies 3047 posted themselves around the cornerstone. There were seats for all the people present. The first thing was a song performed by some ladies and gentlemen. There were several addresses by different persons. After the speeches there was singing three times and then the people walked back to the hotel in procession. I did not see any children in that procession. I did not see or hear of any people who fainted.

3048 Q. Did you see anything which took place which purported to be, or was the sprinkling of the ashes of Madam Blavatsky, or Judge, or either of them at that place?

A. No.

3049 Q. Now Dr. Anderson has testified that there was a midnight meeting which took place at this site in which he was initiated into the order called "The Ancient Order of Scribes". Do you know whether any such meeting took place?

A. I know there was no such meeting as that. The purpose of the Ancient Order of Scribes is for research into archaeology and the philosophy of antiquity. There are no initiatory ceremonies attached to that order. I
3050 am a member of the cabinet of the Universal Brotherhood and have been such since its foundation.

Q. Mr. Fitch stated that at the time he was at Point Loma Homestead all members of the cabinet had access to Mrs. Tingley's private chamber at all hours of the day or night. Will you state the facts as to that statement?

A. There are no facts to state. The members of the cabinet have no privilege of access to Mrs. Tingley's
3051 private chambers at all hours of the night.

I have never seen any ceremony at the Homestead at which the members present marched around the room barefooted, either inside of the Homestead or outside of it. There was no barefoot ceremony. I have never heard of any ground known as the holy ground.

Q. It has been stated by one witness that women worked in the fields about the Homestead or the colony. Have you ever seen any such service, and if so, state
3052 what and the nature of it.

I have seen the ladies working in the garden picking flours and raking around among some choice flowers. Other than that I have never seen anything of that sort. I came to the Homestead on February 26th, 1901 and

3053 have been there continuously since that time with the exception of a short period, during which I visited New York.

Q. Now it has been stated that the members of the organization regarded Mrs. Tingley's pet dog, Spot, with reverence. Have you ever seen anything of that sort since you have been there?

3054 A. I never did; nor have I ever made any sign or exhibition of reverence toward that dog.

I was present at nearly all meetings at the Homestead building since I have been there, whether in the evening or at other times. I have not, at any time, heard anybody make any statement concerning Mrs. Tingley, or to the effect that she was greater than Bhudda, Confucius, Mohammed or Christ, or any statement whatever to that effect.

3055 Mrs. Tingley does not regulate the communication of members of the organization with other members. Nor does she regulate the leaving of the grounds by members. There are no regulations that I know of that restrict anybody from leaving the grounds.

Q. Are you familiar, Mr. Neresheimer, with the educational work, if there was any, which was progressing at the Homestead at the time and prior to the time of the publication of this article, October 26th, 1901?

3056 The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 624.

A. Yes sir.

3057 Q. Will you state as briefly as possible, Mr. Neresheimer, what educational work at that time was progressing so far, in the first place, as the children were concerned?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 625.

3058 A. I know that the children were taught all of the elementary subjects that were being taught in the public schools and in addition thereto, they were taught instrumental music and singing.

I had charge of the singing. The teachers in the elementary subjects were: Miss Wood, Miss Winn, Mrs. Levy, Mr. Ryan, Mr. Fussell, Mr. Edge, and besides, there were Miss Hecht, Miss Bolting and myself who were music teachers.

3059 Q. Do you remember about how many children were there at that time I am referring to, October 28th, 1901?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 626.

A. Yes, I think about sixty.

3060 Q. Will you state whether there was any instruction given the children in manual training or anything of that sort at that time, industrial training?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which

3061 objection was overruled, the defendant excepted and the same is numbered Exception No. 627.

A. Some were taught in carpentry and in farming. The children had a garden of their own where they were taught how to plant in the proper season, and how to cultivate and take care of plants, and I know they raised quite a number of vegetables and flowers.

3062 Q. Now, what teaching and what course of instruction and classes of instruction were proceeding at that time, October 28th, 1901, of those who were older than the children of the Raja Yoga School?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 628.

3063 A. For the young people ranging from say 16 to 24 there were classes in the higher subjects, such as mathematics, trigonometry and languages, Latin, Greek, Astronomy, Physics, Chemistry and History.

3064 There was medical instruction and there were music and music teachers of all grades and many instruments, violin, violin cello, piano, singing, harp, mandolin, guitar. A very decided course was being given to the children in the art department, drawing and painting. There were singing classes for the young people and for the older people. We had special classes in Bible study and classes in medicine.

Mr. Fussell had the class in history and physics. Mr. Ryan had astronomy, Botany, Zoology and a few more subjects. Mr. Edge had history and the advanced elementary subjects such as arithmetic and the

3065 languages. Mr. Rounds was teaching violin. Mr. Broboga was teaching violin and cello. Miss Hecht was teaching piano. Miss Bolting was teaching piano. I was teaching singing, guitar and mandolin.

There were about twenty young people not members of the Raja Yoga School who were studying one or more of these various subjects prior to October 28th, 1901.

3066 Q. Now in regard to the people still older than those I have last mentioned, were any classes of study then in progress for the benefit of those people?

The defendant objected to the question on the ground that it was irrelevant, immaterial and not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 629.

A. Yes.

3067 Q. Will you briefly outline what studies are being pursued by these people.

A. I believe they all attended the classes in lectures given in medicine and philosophy and theosophy and archaeology. I have given all I can recall about the various educational work that was in progress at the institution prior to October 28, 1901.

3068 Q. It was suggested, Mr. Neresheimer, that I ask you whether any of the children at this time were being instructed in silk working?

The defendant objected to the question on the ground that it was incompetent, irrelevant, immaterial and not in rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 630.

3069 A. Yes sir, they were taught the general scheme of raising silk worms and some girls were instructed in reeling, skeining and thrusting.

By Mr. Shortridge: Mrs. Tingley taught the class in theosophy. I attended those classes. They were for all classes of students. That was not the theosophy of the Esoteric School, it was the philosophy of theosophy. There is no Esoteric School of Theosophy.

3070 Q. When did it cease to exist, if there ever was one — I want to understand?

The plaintiff objected to the question on the ground that it was immaterial and not proper cross examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 631.

Q. You were not a member of the council of the school known as the Esoteric School of Theosophy?

3071 The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 632.

Q. This then, which she taught, was the philosophy of theosophy, in other words, that is the theosophy of the Universal Brotherhood, is that correct?

A. I believe so, yes.

3072

Q. Is that different from any other of the same line of thought.

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross-

3073 examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 633.

Q. As a part and parcel of this philosophy or theosophy, were you taught by the plaintiff in this case the existence of great Masters?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 3074 634.

Q. Well, then, what do you understand when you say — what would you have us understand when you say — that you taught, or no, that there was taught there the philosophy of antiquity, now what is that?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 3075 635.

Witness (continuing): I was appointed a member of the cabinet by the plaintiff in this action. I am a scribe and I am a member of the School for the Revival of the Lost Mysteries of Antiquity. As a scribe I did not wear the costume which had been agreed upon or designed for the members of that order. I never saw 3076 a ceremony where the members or any one who took part in such ceremony were barefooted. I saw one ceremony where the participants merely wore their stockings without shoes. I wore sandels as a man but I did not wear them as a scribe.

3077 Q. You wore sandals over there, did you, is that the idea, as a part of the costume of this —

The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 636.

Witness (continuing): I never saw any one engaged in these ceremonies entirely barefooted. They would
3078 have their stockings on and wear sandals.

I went to Point Loma February 26, 1901. I had been a member of the Universal Brotherhood since February 18, 1898, when it was organized. I had been associated with the plaintiff in work before then. As a member of the cabinet and an active member of the Universal Brotherhood I attended most of the meetings held at Point Loma.

3079 Katherine Tingley, the plaintiff in this case, is the Leader and Official Head of the Universal Brotherhood organization.

Q. Is she the Leader or Outer Head of the School for the Revival of the Lost Mysteries of Antiquity?

The plaintiff objected to the question on the ground that it was immaterial and not proper cross-examination, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 637.

3080 Q. Is she the Outer Head of any other organization to which you belong?

The plaintiff objected to the question on the ground that it was immaterial and not proper cross-examination,

3081 which objection was sustained, the defendant excepted, and the same is numbered Exception No. 638.

Witness (continuing): Plaintiff's Exhibit No. 24, now shown me, is a pledge of a society which is now extinct. It had different names from time to time. One of the names was the Esoteric School and another was the Eastern and Esoteric School of Theosophy. It became extinct in 1898. This pledge has not been used since that time.

3082 Q. Has it, if you know, been used by others since then?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 639.

3083 Witness (continuing): There were no regulations at all as to the going and coming of people from or to the institution at Point Loma. They could go at all hours of the day or night, but they could not come at all hours of the day and night.

Q. What prevented them from coming at all hours of the day or night. I refer of course to those associated with you? The

3084 The plaintiff objected to the question on the ground that it was irrelevant, immaterial and not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 640.

Witness (continuing): There are rules issued by the

3085 management of the Homestead that young women should not go out alone. The management consists of the trustees of the corporation, the Homestead. I said it was a corporation.

I attended the rededication of the corner stone of the building for the School for the Revival of the Lost Mysteries of Antiquity. The ceremony of laying of the corner stone which was held in 1897 was recorded in one of the publications of the Universal Brotherhood and that
 3086 was read on that occasion. Mrs. Tingley had on a white robe, a Greek robe. All the ladies who participated were dressed the same way. The men were dressed in robes also; there were no children there. The ceremonies were after supper. It was moonlight; torches were not used in going to or from the laying of the corner stone. The corner stone was about thirty feet from the front seats of the amphitheatre.

Four hundred people joined in the ceremony, the service at that time. All of them that could be accom-
 3087 modated were stopping in the hotel and the rest were quartered in tents.

Q. Where were those tents situated?

The plaintiff objected to the question as immaterial, irrelevant and not proper cross examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 64I.

3088 Witness (continuing): There were about sixty children at the Raja Yoga School in October, 1901. They were under fourteen or fifteen and running down to a few very small children. They slept in their bungalows on beds.

3089 Q. Their parents with them?

The plaintiff objected to the question on the ground that it was not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 642.

Q. Upon all subjects of theosophy the plaintiff in this case was the teacher, instructor and guide, was she not?

3090 A. No. There was another teacher in Theosophy, Mr. Fussell. He was not her secretary then.

Q. What was his position then?

A. I do not know what — he had no designated position.

Q. Did he not read merely what she had written?

3091 The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross-examination, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 633.

REDIRECT EXAMINATION of E. A. NERESH-
IMER.

By Mr. Kellogg:

3092 Q. Out of the entire four hundred people who you say went to the site where the corner stone was re-dedicated about how many wore robes of any sort?

The defendant objected to the question on the ground that it was not redirect examination, which objection was overruled, the defendant excepted and the same is numbered Exception No. 644.

3093 A. I think about ten ladies and ten gentlemen.

Q. Will you describe the nature of the buildings in which the children at that time were housed?

The defendant objected to the question on the ground that it was not redirect examination and was not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 645.

3094 A. The bungalows are round in shape and constructed of wood provided with windows and doors, and of about the diameter of from 35 to 50 feet, and inside of the outer circumference is another circle and between the two circles are the quarters for the sleeping apartments. In a cottage of 50 feet diameter there is about capacity, I think, for 20 children to sleep, 20 beds. The beds are about two feet six inches wide and about five feet long. They consist of a platform of—made by cross ropes woven and fastened to a frame which is secured fast to iron posts, or posts made of iron pipes, and on top of this are mattresses and blankets, sheets and so on. Inside of the inner circle is a spacious room which is used for play and sometimes teaching, I believe.

3095 The Court: I would like to inquire how long counsel expect it will take to introduce evidence on the part of the plaintiff in rebuttal. I feel inclined to limit counsel in the direction of its testimony. I am inclined to believe that there is a great deal of testimony going in here wholly irrelevant to any material issue in the case. There is no telling how much time it will consume. It has consumed a good deal of time already.

3096 Mr. Kellogg: Our evidence, which we have prepared, and which we intend your Honor should admit, stating

3097 it roughly, first, evidence of people who thoroughly know and are thoroughly familiar with the question of diet; it being alleged by Mr. Fitch that he lost twelve pounds in weight.

The Court: What if he did?

3098 Mr. Kellogg: Our learned friends have thought that was a consideration which ought to be presented to the consideration of this jury, it seemed to us it certainly should not be presented.

The court: I regard that as immaterial, if that is all.

Mr. Hunsaker: The defendant excepts. Numbered as Exception No. 646.

Mr. Kellogg: In the second place, we desire to offer evidence of the diet of the children at the time when it was alleged they were starved.

3099 The court: Where do you claim there was any proof in the evidence that tends to show that they were starved.

Mr. Kellogg: That certainly is not claimed by us, but our learned adversaries have introduced a statement by Dr. Anderson, which, standing alone —

The Court: What is the statement?

3100 Mr. Kellogg: The statement is that Mrs. Tingley withheld food from babies for 24 hours on one occasion; that her idea was to starve them and to break their lower nature, starve them first and that would crush the evil in them and he also says that Dr. Wood had a controversy, and he went further — of course to call it testimony —

3101 The defendant excepted to the remarks of counsel on behalf of the defendant, and to the comments of counsel upon the weight of evidence that had been admitted and was in the record and the same is numbered Exception No. 647.

3102 Mr. Kellogg: And further the statements — without comment — of the Gird children that they wanted some more, and we have evidence here showing the facts concerning the Gird children and their supply of food. So much for that. We have in the third place, suggestions made in the deposition, I cannot recall the exact pages, that the children were housed in tents. I want to show more in detail by the witness best qualified to speak just how they were housed at that time, and in the next place we ask to show the photograph of the children themselves, taken at that place which speaks louder than any amount of testimony can, as to whether they were being starved and food withheld from them or not.

3103 The defendant excepted to the remarks of counsel as prejudicial to the defendant, and the same is numbered Exception No. 648.

LOUISE ELIZABETH KRAMER,

sworn and examined on behalf of plaintiff, in rebuttal, testified as follows:

3104 By Mr. Kellogg: My full name is Louise Elizabeth Kramer. I reside at Point Loma and have resided there since October, 1900. During the time I have resided there I have had charge of the food department for children and adults continuously. I was there during the period immediately preceding October 28, 1901.

3105 Q. Now state please what the facts are as to the quantity and quality of the food which the children at Point Loma on October 28, 1901, and immediately preceding that time, were receiving.

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 649.

3106 A. I understand the question to be, you want to know the quality of the food and the quantity?

Q. That the children received at that time?

A. The quality of the food was the very best that could be obtained in San Diego and our own place, at Point Loma, vegetables that were grown on the place and the quantity was sufficient, more than sufficient.

3107 Q. I will ask you now to state what the articles of food were included in the children's breakfast, for instance?

The defendant objected to the question on the ground that it was stating the conclusion of the witness, which objection was overruled, the defendant excepted and the same is numbered Exception No. 650.

Q. I will ask you now to state what the articles of food were included in the children's breakfast, for instance?

3108 A. The breakfasts were various, not always the same; there were the finest cereals used, whole wheat bread, the finest that could be got here in San Diego; the best milk, we have our own cows and used them for that purpose, have them for that purpose, milk for the

3109 children. We have our own ranch that we get eggs for the children's use.

Q. Were they cased eggs. A. No.

Q. Proceed.

The defendant objected to the question on the ground that it was not rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 651.

3110 A. Not cased eggs. They have fruit, the best fruit that we can get and in great variety; all that is in season, apples, oranges, peaches, plums, and all that sort of thing in great abundance, fruit of all description. Then they have boiled rice some mornings, with honey or sauce, nice sauce made to make it palatable, sometimes milk with it. They have bouillon some mornings for breakfast, some mornings hot chocolate. There are several kinds of breakfast foods and we have the very best we can get for them.

3111 The lunches are bread and butter, whole wheat bread buttered, sometimes dried fruit and fresh fruit, whatever there is in season, bouillon or hot chocolate, sometimes crackers, or the whole wheat crackers, and milk.

3112 The dinners are very various. We always have two kinds of vegetables, meat, roast or made into stew, lettuce and tomatoes, whatever may be in season, and all kinds of salt fish, creamed fish of all description, all kinds of deserts, pudding, fruit, milk, chocolate, all kinds of soups, the very best we can make for them, roast, malts, buns of all kinds, all kinds of vegetables we can possibly get here in San Diego and on our own place. These dinners were varied from day to day.

3113 I am speaking of the way in which the children were treated on October 28, 1901, and at all times preceding since I was there. At that time very few of the eggs, if any, which were being supplied to the members at the Homestead were cased. The other eggs were of the very best of newly fresh laid eggs from the ranch.

Q. And as to the eggs, if any, which were cased, will you state whether they were eggs which were brought in from the immediate neighborhood of this city, or eggs
3114 transported across the continent?

The defendant objected to the question on the ground that it is incompetent, irrelevant immaterial and not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 652.

A. The eggs were brought in from the immediate surroundings of the city.

I was there during the whole time Mr. Fitch was there
3115 and during that time the diet was never restricted.

CROSS EXAMINATION of LOUISE E. KRAMER

by Mr. Shortridge: I am, and ever since it was first organized have been, a member of the Universal Brotherhood. I became a member in New York.

I am Superintendent of the kitchen department at Point Loma and was such prior to October 28, 1901. I order the food, receive it, see that it is good, take care of it, see that it is cooked properly, taken proper care of
3116 and that everything is done in a sanitary sort of a way. I don't know that any one appointed me to that place. I just went into it. The matter was not delegated or referred to me, I just assumed it and did it to the best of

3117 my ability. No complaints ever reached me. Mr. Fitch never made any remark in regard to the subject of the diet list. This diet list of food which I have named is furnished to all classes there, old and young, rich and poor.

Q. What were the ages of the children at or before October, 1901, the children there, to which this diet was given, this food was given?

3118 The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 653.

Witness (continuing): I never took a written or printed pledge binding myself to certain principles or certain persons when I became a member of the Universal Brotherhood organization. I did not take a pledge, written or printed, of which plaintiff's exhibit 24 now
3119 shown me is a copy, nor did I sign any written or printed pledge of any kind or character at any time.

Q. I will ask you if after joining the society named, you became a member of any other associated society?

The plaintiff objected to the question on the ground that it was irrelevant and not cross-examination, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 654.

3120 Q. Are you a member of the Esoteric School of Theosophy?

A. No.

Q. Have you ever been?

3121 The defendant objected to the question on the ground that it was not cross-examination.

The Court: The objection is sustained. If you have no further questions except on that subject and kindred subjects the witness may be excused.

The defendant excepted to the ruling of the court and the same is numbered Exception No. 655.

REDIRECT EXAMINATION OF LOUISE E.
3122 KRAMER.

By Mr. Kellogg: Q. Do I understand you, Mrs. Kramer, that there were no children at all at the Homestead at the time you speak of?

The defendant objected to the question on the ground that it was not redirect examination, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 656.

3123 A. No.

All of the children that I had anything to do with were living in little houses and received their food at the dining rooms called the refectory and over which I presided.

LORIN F. WOOD

recall on behalf of plaintiff in rebuttal, testified as follows:

3124

By Mr. Kellogg: My name is Lorin F. Wood. I am a licensed practicing physician, and have been for over twenty-five years, and am licensed to practice in the state of California.

- 3125 Q. Dr. Anderson said that "Mrs. Tingley told me that she had great trouble in the management of newly born babies because of Dr. Wood; that he would not fall in line with her ideas as to their food. She said he desired to have them fed, while she desired to have them at first starved because they could more quickly kill out the lower nature in those children, the lower nature, the animal nature in those children. She believed in giving them very little food, and the doctor protested.
- 3126 'This she told me directly in person.'" Will you state the facts as to any such altercation, or conversation, or communication between yourself and Mrs. Tingley on that subject?

The defendant objected to the question on the ground that it was immaterial, incompetent, irrelevant and not in rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 657.

3127

A. Such a conversation never took place.

The defendant moved to strike out the answer to the foregoing question on the ground that it was not responsive which motion was denied, the defendant excepted and the same is numbered Exception No. 658.

Q. I will ask you doctor, to state the facts as to any conversation on that topic between yourself and Mrs. Tingley.

3128

MR. HUNSAKER: Objected to as irrelevant, incompetent and not in rebuttal.

THE COURT: The objection is sustained and all these answers of this witness in respect to that matter

3129 will be stricken out and withdrawn from the consideration of the jury.

Witness (continuing) : I have been at the Homestead ever since it was established ; prior to that time I owned the property on which the Homestead is now established. I was the physician to the children on October 28, 1901, and during the period preceding that date. I had charge of their sanitary arrangements and conditions and of the houses they lived in. I regulated the food
3130 which the little children ate. I made it my business to always know what they were being fed upon both as to quality and quantity. The children were seen every day in a general way and the teachers or the care-takers were interviewed as to whether they had anything special to call my attention to. At least once a week they were personally thoroughly examined by me as to their physical condition. That applies to both the smaller and the larger children there at the time. The
3131 children occupied houses which were circular in form, not a true circle, with a diameter varying from 35 to 50 feet. Inside of this outer circle we would draw, for instance another circle about 9 or 10 feet from the outer circle, leaving between these two circles dormitories. House had two entrances, what you would term front and rear, east and west, furnishing circulation, and in what we would term the rear of the house there was a part set off for lavatory purposes, wash bowls and bath
3132 tubs and closets, and entirely shut off from the dormitories. This would be an apartment by itself which would have outside connection, both through the windows and through this entrance way and what would lead into the center room, which would be their general

- 3133 room for reading or writing or little social gatherings. On the front of the building there would be a circular section set off from these two circles as I have described in the rear which would be a veranda facing the East. Into each of these dormitories from this veranda was the outside entrance to the dormitories which would leave the dormitories to be entered from the center room and also from the outside entrance on the porch, with windows on the outside circle from three to four,
- 3134 according to the size of the house, good sized windows opening into the dormitories, and then in the inside circle there were about two windows there which had no glass in them but openings which you call windows, besides the door entrance, giving these dormitories of course circulation in all directions. The plumbing I practically daily investigated to be sure it was all right. If there was any leak of water or anything, my attention would be called to it, and it would be immediately
- 3135 fixed. In these so-called dormitories where the children slept, they had a frame work constructed on iron pipe, similar to what you see in the iron bed furniture, and made stationary against the inner circle which I have described, and as a bottom to the different beds, would be canvass, corded to the side and to the frame, giving more or less motion of a spring like nature, and over that would be a mattress and then blankets and quilts and sheets, and so forth. The floors of those
- 3136 buildings were made of pine, the walls and roofs of wood.

Q. Now will you state about how many children were accommodated in each of these that you have just described at that time?

3137 A. The 30 feet or 35 feet diameter, I do not give it as the exact dimension but it is approximately correct, probably if full would be holding about 14 or 16 at the most, part on one side, in one dormitory as I have described, and an equal number on the other side. The larger ones would be perhaps capable of holding from two to four more on the side if it was necessary. They had to have a general superintendent over there who is a physician, and then an assistant superintendent, which
 3138 is my daughter, Miss Wood. Each house has its own care taker.

Q. Will you state what the facts were as to the quantity and quality of the food which the children at this place were receiving on October 28th, 1901, and during the period preceding that date?

A. I think that the witness on the stand before me gave a very good idea of the kinds of food that were used.
 3139

The defendant moved to strike out the answer to the foregoing question on the ground that it was not competent and was not responsive to the question, which motion was denied, the defendant excepted and the same is numbered Exception No. 659.

Witness (continuing): I have never had any occasion to find any fault with the quantity and quality of the food which the children were receiving. Sometimes
 3140 I have thought they got too much. I would find them suffering from over-eating, with indigestion, and investigate and find that certain ones were getting too much. We have various ages eating at this refectory, from five to fourteen or fifteen and sometimes the smaller ones

3141 would get more than was good for them. I always tried to have the quantity graduated to the condition of the particular child. I was the one to whom these questions were submitted and by whom they were decided.

Q. Did you ever know of any instance where food was withheld from a child for any substantial length of time?

3142 The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 660.

A. I never did. The longest I ever knew of food being kept from a child from having been disobedient might have to wait until the others got through before they ate; that is the only case I ever knew of that they had to wait for their food, one that was well. When they were ill they were fed on regulated time.

3143 In the dormitories the children each had a bed of their own and slept in separate beds.

I was the physician of the colony and physician to the children at the colony as well as the older people, and I made it my business to at least once a week see all the children that were at the colony, and even see them oftener, because of occasional calls to go to the colony, and when there I always saw the children. I kept myself informed as to the quantity and quality of food which
3144 the children at the colony were receiving on and preceding October 28, 1901. The quantity and quality of food they were receiving was the same in a general way, the same they were receiving and as they have received since at the Lotus Home. I remember the two little girls

3145 named Gird, who were at the colony for a time. I saw them there.

Q. Will you state what the facts were as to the condition of health that they were in when they came and when they left?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled, the defendant excepted and the same is numbered Exception No. 661.

3146

A. They went away in a general way of speaking, improved in health; that is, they were in better condition.

I was present on an occasion when Cyrus Willard made a talk or address on the subject of life. I heard it.

Q. Did he at that time and on that occasion say anything to the effect that the plaintiff in this case was greater than Mohammed, Buddha, Confucius or Christ?

3147

The defendant objected to the question on the ground that it was immaterial, irrelevant, not in rebuttal and that it did not appear from the evidence of Mr. Willard that the address was delivered at the time referred to by Mr. Fitch and while Mr. Fitch was at the Homestead, which objection was overruled, the defendant excepted, and the same is numbered Exception No. 662.

A. He did not.

3148

I was at the building then located on the site of the present Homestead when the re-dedication ceremony of the corner stone of the school in 1899 took place and was present on the evening of the ceremony. I did not see

3149 anybody in a fainting condition or a sick condition of any sort on that occasion. I was present at the Homestead when the new century was ushered in so to speak. I did not hear of any sickness caused by any exposure on that occasion in the case of any individual there.

I do not recollect the time when Mrs. Mohn says Dr. Winkler and I stood by when she was talking to her little girl and heard what Mrs. Mohn said to her child. I have no knowledge of any such occurrence either at the Colony or at the Homestead.

3150

Q. She then says that you said that she influenced her little girl too much, that she would not feel so badly "and he kept telling me to quit, you are influencing her, you are making her feel badly, and consequently that I was influencing her, but otherwise she was perfectly happy and contented there." Did you ever make any such statements to Mrs. Mohn.

A. I never carried on any such conversation with Mrs. Mohn, her name was Neal at that time, nor anything that could be interpreted that way.

3151

Q. She then says: "She was telling me she had cried every day and he did not want me to hear this and he" — referring to yourself — "he tried to keep me from listening to it. She said she cried every day and could not stand it there and similar things of that kind; told me why she didn't like it; she didn't like the children and she didn't like the fare." Did you ever try to keep Mrs. Mohn — or Mrs. Neill — from talking to her little girl on any occasion?

3152

A. Never. I never was present on any occasion when anything of this sort took place. I never saw the child

3153 in an unhappy state. I never was present when the little girl said anything of that nature whatsoever to her mother.

CROSS EXAMINATION of LORIN F. WOOD.

By Mr. Shortridge: Q. I understand you to state you owned this property before —

The court: That part of the evidence will be stricken out and withdrawn from the consideration of the jury.
 3154 It was admitted but it will be stricken out now. Counsel said it was preliminary. Mr. Kellogg said it was a preliminary question to some other matter, but it does not seem to be material for any purpose. The answer of this witness that he was the former owner of the premises will be stricken out and withdrawn from the consideration of the jury.

The defendant excepted to the ruling of the court and the same is numbered Exception No. 663.

3155 Witness (continuing): I lived at Point Loma before the establishment of the Homestead. I am a member of the Universal Brotherhood. I did not come out here at the request of the plaintiff in this case to choose the location of the place. I was not sent to California by the plaintiff for the purpose of locating a place for the establishment of such a home or homestead. I have known the plaintiff six or seven years. I joined the Universal Brotherhood after it was organized.

3156 Q. Were you a member of any society with which the plaintiff was connected before joining the Universal Brotherhood?

The plaintiff objected to the question on the ground

3157 that it was immaterial, irrelevant and not proper cross-examination, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 664.

Witness (continuing): I am one of the physicians at Point Loma. I was not appointed or selected by any one that I am aware of.

3158 Q. Are you there by sufferance of the plaintiff in this action?

A. I seem to be allowed to remain there. I do not consider that I am allowed to remain there by the plaintiff. I do not exactly see that she has power to dispense with my services if she sees fit. I was there before she came and I don't know why I could not stay if I wanted to.

3159 Q. Has she the power and authority as the official head of the Universal Brotherhood to terminate your services as the physician that you now are there?

A. I do not consider that she has.

Q. Has she or not?

A. I think I have answered the question.

Mr. Shortridge: I submit not, Your Honor.

The court: I think he has answered the question.

3160 The defendant excepted to the ruling of the court and the same is numbered exception No. 665.

Witness (continuing): No one appointed me to that position. I was there when Mrs. Tingley came and have seen fit to remain there up to date. I am not there

3161 by virtue of her specifically issued order making or constituting me one of the physicians at the Universal Brotherhood establishment. I am not appointed or selected by anybody. I am under my own management there and am not responsible to any superior in my profession. I am not responsible to any superior as to the work I do there at the institution. The work that I do there and the children there are under the management and control of Mrs. Tingley, but that is only a small part
 3162 of my professional work. I have not been assigned to any duties there. In my profession I have been permitted to treat the children. Mrs. Tingley has the superior charge of the children and I presume she permits me to treat them, although there is no understanding and never has been. I have never been asked to treat them. In October, 1901, there were perhaps a dozen or twenty children at the Colony. There were no children at the Homestead at that time.

3163 The buildings I have described are located on the same tract of land which I originally owned as the Homestead is, in the same 40-acre lot. The colony is about a mile and a half or three quarters north from there.

Q. And did you describe the buildings in which the children slept and ate at the colony—have you? Where were the mothers of the children that slept and ate, if any, at the Colony?

3164 The plaintiff objected to the question on the ground that it was not proper cross examination and was immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 666.

I cannot give the date of the address of Mr. Cyrus Willard on the subject of life, which was given in what

3165 is called the Oriental room at the Homestead. I could not say whether the plaintiff was present. There was quite an audience or gathering. I do not remember of his paying any special compliment to the Leader of the Universal Brotherhood. I could not say whether he paid any general compliment as to the work in which she was engaged or to its utility or its purpose. I could not say that he did or did not. But a fact like that of which I was asked is such a peculiar thing it would have
 3166 impressed my mind, where his simply referring to the leader's work would not be of any special significance, because most anyone does that after they learn what her work is. Anyone refers to the greatness of her work after they know what it is, and it would be nothing strange if Mr. Willard did.

Q. It is probable Mr. Willard did refer to the greatness and goodness of the work in which she was engaged?

3167 A. I don't know as I would wish to say that it was probable. It was possible that he did.

Q. It is usual, I believe you said, in addresses and speeches, to make mention or refer to her as engaged in a great and good work.

The plaintiff objected to the question on the ground "that a fact is assumed which has not been testified to by the witness and not proper cross examination" and
 3168 was irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered Exception No. 667.

Witness (continuing): I have no recollection that Mr. Willard made any comparison as between Mrs.

3169 Tingley and others, or that he made mention of any of the names familiar to Theosophical literature, such as Buddha.

Q. If he had used them would it have made any deep impression on your mind?

3170 The plaintiff objected to the question on the ground that it was immaterial and irrelevant and was not proper cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 668.

Witness (continuing): The re-dedication ceremony took place about eight o'clock in the evening. Four hundred people marched in the procession. I did not see them march because I was proprietor of the establishment at that time, and all these people were my guests and I was pretty busy. I did not go with them, but I followed up along behind. I do not remember whether 3171 there was a moon or not. I do not remember seeing any torch bearers.

Q. Any bearers of lanterns, or —

The plaintiff objected to the question on the ground that it was not cross-examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 669.

Q. You attended the New Years celebration?

3172 A. I have not sat up one night, or got up and sat up during the few minutes preceding and following the New Year. Sometimes I did and sometimes I did not.

Q. Were there any ceremonies carried on there at the time mentioned?

- 3173 The plaintiff objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted and the same is numbered Exception No. 670.

REDIRECT EXAMINATION of LORIN F. WOOD.

- By Mr. Kellogg: Q. Will you give the briefest possible description of the accommodations provided for the children at the Colony October 28th, 1901, and during
3174 the period preceding that time?

Mr. Hunsaker: Objected to on the ground it is not re-direct examination.

The Court: It is not re-direct examination.

Mr. Kellogg: Then I will beg leave of Your Honor to open the examination for the purpose of putting that one question.

- 3175 The Court: Well you may take leave to examine the witness on the subject.

Q. (Repeated by reporter.)

- A. At the Colony there are two quite good sized buildings. (I'm speaking of October 28th, 1901.) And the children are accommodated in both of these buildings; I do not mean that they occupy the entire building. They have apartments in both of these buildings, the smaller ones in one building and the larger in the other,
3176 an apartment of a smaller class, consists of quite a good sized room, at least, I should say, fourteen feet square; with a southern and western exposure, with another small room connecting out of that, containing bath tub and toilet and washstand, and so forth, lavatory; the

3177 other part where they are kept is a very much larger room; it extends across the entire building; I should say it must be twenty by thirty feet, something like that in size, which has eastern, southern and western exposure. They then have in addition to that outside a tent in which they go during the day, if they wish to. The smaller ones are taken there after the sun is too hot, those out door accommodations.

3178 Q. Were the sleeping arrangements of those two apartments similar to the ones you have described as existing at the Lotus Home?

The defendant objected to the question on the ground that it was immaterial, not rebuttal and not re-direct examination, which objection was overruled, the defendant excepted and the same is numbered Exception No. 672.

3179 A. At the Colony they all had beds of their own; that is entirely independent; each one by itself, and has no connection with the other at all, movable beds, cots, mattresses and bed clothes, and so forth.

Q. It has been stated, doctor, that the colony was used as a place of punishment. Will you state the facts as to that averment?

3180 The defendant objected to the question on the ground that it was immaterial, irrelevant, not rebuttal and not redirect examination.

THE COURT: The plaintiff's counsel has been given leave to reopen the direct examination; the objection is overruled to which the defendant excepted and the same is numbered Exception No. 673.

3181 A. I have never known it to be used in that manner.

FRANK M. PIERCE

sworn and examined on behalf of plaintiff in rebuttal,
testified as follows:

BY MR. MCKINLEY: My name is Frank M. Pierce. I reside at Point Loma. I have resided there since February, 1900, except a period of about six weeks in the early part of 1901 when I was in New York.

3182 My duties at Point Loma included the construction and outside work as general superintendent and in the organization I am Secretary General of the Universal Brotherhood and Treasurer of the Point Loma Homestead. I have filled those positions ever since I went there.

I am, and was, on the 28th day of October, 1901, familiar with all the grounds, buildings and conditions at Point Loma and that includes the entire grounds, the Colony, the Homestead, the School of Antiquity and the
3183 Lotus Home.

I am acquainted with Mr. Fitch, whose deposition was introduced in this case. I met him first at Point Loma in connection with his employment there in the latter part of 1900 or the early part of 1901. I employed him as book-keeper at Point Loma. He was in no sense a confidential employee. He remained at Point Loma in the neighborhood of eight months. He was not captain of the athletic exercises while at Point Loma. He used
3184 to go out and run with us in the morning athletic exercises some times. He left Point Loma somewhere in the middle of 1901.

Q. What, if any, connection did you have with the circumstances of his leaving?

3185 The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 674.

A. He proved himself utterly incompetent as an accountant, and not wishing him to have the disadvantage of having to work against a discharge in seeking other employment, I told him we had no further use for him as an accountant and would suggest that he get another
3186 place.

I did not urge him to remain. He remained about two months after I suggested to him to look for another place.

Q. Under what arrangement?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not rebuttal, and the defendant further objected "to any conversation
3187 with Mr. Fitch on the subject, on the ground that his attention was not called to the conversation and no foundation has been laid for introducing any impeaching statements," which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 675.

A. That his salary should be paid him for the two months during which time he was to have whatever time for the entire period in which to secure a new place.

3188 I am, and during all the time Mr. Fitch was at Point Loma was, a member of the plaintiff's cabinet.

Q. Mr. Fitch stated that the cabinet had access to the rooms of Mrs. Tingley at all times during the period he was there. Will you state the facts in reference to that?

3189 A. During all business hours we had access to her office, but never to her private rooms.

The paper which is now shown me (Defendant's Exhibit 24) was a pledge which was in use at the Homestead at the time Mr. Fitch was there. There was no other written pledge produced during that time. This is the pledge of a class of students under Mrs. Tingley's teachings of Theosophy, and is the only class I have any knowledge of. I think I know them all. This pledge was not taken by all who were there. I never took it myself.

3190

Q. One of the witnesses has testified in a deposition, Mr. Pierce, that upon one occasion you laid upon a mat in front of Mrs. Tingley's door —

MR. HUNSAKER: Objected to on the ground that it is immaterial, irrelevant and not in rebuttal.

THE COURT: I do not wish it to be implied if I should overrule this objection that I regard it as material, because I do not. I do not regard the original evidence as material to any issues in the case on either side as to whether he lay on a mat or not.

3191

The plaintiff withdrew the question and the defendant excepted to the remarks of the court as to the materiality of the testimony that had been admitted, and the same is numbered, Exception No. 676.

3192 WITNESS (Continuing): During the period that I was there no ceremonies were carried on during which the persons taking part in them went about in their bare feet, excepting only on going to bed. I generally go to bed bare footed. The persons taking part in processions or ceremonies there did not go in their bare or

3193 stocking feet. I have worn stockings and sandals. I have never gone bare footed, no one went in their stocking feet. There are too many pebbles in the soil. I was at Point Loma on the occasion of the dedication of the corner stone in April, 1899, and had charge of the procession upon that occasion. I know that no one fainted during the course of that procession, the distance from the house from which we started to the point to which we went on that occasion is seven or eight hundred feet. I attended all the meetings held regularly during the period that Mr. Fitch was at Point Loma. I never on any occasion heard Mr. Willard or any one else at a meeting during that period refer to Mrs. Tingley as greater than Christ, Confucius, Budda, or Mohammed.

Q. Did you hear anything said to that effect during any of the meetings held during the period that Fitch was there?

3195 The defendant objected to the question on the ground that it was immaterial, not rebuttal, was general as to any of the meetings held there and called for the conclusion of the witness as to whether anything similar was said, which objection was overruled, the defendant excepted, and the same is numbered, Exception No. 677.

A. I never did.

3196 I was at Point Loma while Dr. Anderson was there at the time covered by his testimony. No initiation took place which the plaintiff described as the initiation into the ancient order of Scribes. There was no such things as initiation into the order of Scribes.

3197 Q. State whether upon the occasion of any meeting attended by Dr. Anderson while you were there anything was said by Mrs. Tingley in reference to the intelligence of her dog Spot, or whether she made any such remarks in the course of any meeting detailing instances of his intelligence or anything of that sort?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal because limited to the occasion to which the testimony
3198 of the witness for the defendant referred.

THE COURT: The objection is overruled. I do not desire it to be implied from the fact that I overrule the objection that I consider Spot as a material issue in this case or a proper matter for the consideration of the jury.

The defendant excepted to the decision of the court in overruling its objection to the foregoing question, and
3199 the same is numbered. Exception No. 678.

The defendant also excepted to the remarks of the court in ruling upon the defendant's objection to the foregoing question, and the same is numbered, Exception No. 679.

Q. State whether Spot was treated with reverence at that time, by the members.

A. He was not.

3200 Q. State whether you have ever seen women working in the fields.

A. I have seen ladies about the flower gardens. I have seen them walk over fields but never in the way of

3201 working in the fields. There is a fence three and a half feet high around the grounds. It was put there to keep out the jack rabbits and the cotton tails.

There are not now, nor during the period prior to October 28th, 1901, had there been at any time restrictions upon persons leaving the Homestead. The material of which the robes used on various occasions while I was there was heavy flannel and cotton flannel. None of them were made of cheese cloth or of any other
3202 light material. They were worn over their clothing.

CROSS EXAMINATION OF FRANK M. PIERCE.

BY MR. SHORTRIDGE: Q. Were there any guards there stationed to keep out the jack rabbits?

The plain^{tiff} objected to the question on the ground that it was not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 680.

3203 WITNESS (Continuing): I have been a member of the plaintiff's cabinet since the formation of the organization in 1896. I am not sure about the date. I can refresh my mind by looking at the documents. I am, and ever since the organization, have been the Secretary General of the Universal Brotherhood. It is an organization.

Q. It is not a corporation, I believe?

3204 A. An organization, Sir. My duties in connection with the whole work are manifold. Katherine Tingley appointed me a member of the cabinet. Nobody made me Secretary General. Katherine Tingley appointed me Secretary General. I don't know the extent of the

3205 term of my office. It has continued up to the present time.

Q. Who, if anybody, has power to terminate it or bring it to a close?

A. Myself, no one else that I know of, during good conduct. Katherine Tingley, the plaintiff in this action, has not the power to terminate my Secretaryship as long as I perform my duties properly.

3206 Q. Who is the judge whether you perform your duties properly?

A. The question has not been raised yet, so I am not able to say. If it should be raised, I am not able to say who would be the one to determine whether or not I performed my duties properly. I don't know that it would be Katherine Tingley. I don't know that there is any one else, would have power to pass on the question whether or not I perform my duties as Secretary
3207 General properly. The question has not come up yet.

Q. If it should arise tomorrow, who would be the person to determine whether or not you have performed your duties properly?

A. I am not able to look into the futurity. I know that Katherine Tingley has not power to remove me instantly. She has not power to remove me without assigning the cause for it.

3208 Q. Must she assign the cause if she removes you?

A. I don't know that she had the power to remove me. She appointed me. I did not know if at the time she appointed me she appointed me for life. I don't

3209 know that she said anything in respect to my appointment. I found my name on the list of appointments. I had not sought the appointment. There was no fixed term in the notice of my appointment and I made no inquiries about it.

Q. When you found this list naming you as one of her cabinet was you here in California?

3210 The plaintiff objected to the question on the ground that it was irrelevant, immaterial and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 681.

Q. Was it a written address to you notifying you of your appointment?

3211 The plaintiff objected to the question on the ground that it was irrelevant, immaterial and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 682.

Q. Is there any other person, any committee, board or group of persons associated with you, that has or had the power of terminating your Secretaryship or your membership of the cabinet?

3212 A. No further than I have stated that I know of and that is myself. There has been no term of service fixed that I ever heard of.

Q. If you are guilty of any misbehavior would that *ipso facto* terminate your membership, in the cabinet?

A. I do not think I would have any duties to perform in connection with my office.

3213 Q. Would it not terminate the performance of duties if you were guilty of any misconduct.

The plaintiff objected to the question on the ground that it was immaterial and did not tend to illustrate the feelings of the witness towards the plaintiff, and would be immaterial for any other purpose, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 683.

3214 WITNESS (Continuing): I am not an enthusiastic friend of the plaintiff. I am not an enthusiastic member of the Universal Brotherhood. I looked upon Katherine Tingley as the Leader and Official head of the Universal Brotherhood. That is the title she enjoys and fills.

Q. Was she made such by your voice or vote?

3215 The plaintiff objected to the question on the ground that it was irrelevant, immaterial and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 684.

3216 WITNESS (Continuing): I am not an active manager of the plaintiff's case which is on trial here. I have written one telegram to Mr. Somers, that is all I can recollect. I have not devoted any time to the preparation of this case for trial. I have not been in daily consultation of the counsel for the plaintiff during the trial of this case. I have attended every session of the court during such trial.

Q. Have you not consulted with counsel for the plaintiff every day during the trial of this case?

3217 A. I may and may not. I don't remember. I have not made any special endeavor in such direction.

I first went to Point Loma in the early part of 1900. My home is at Point Loma. I lived in New York before going there. I transferred my residence from New York to Point Loma upon my own suggestion and at my own instance. There were no inducements held out to me whatever. It was simply my own volition. I came on the same train with Katherine Tingley, the
3218 plaintiff in this action.

Q. You say you sent one telegram only with respect to the trial of this case?

A. I said that was the only one I remember of sending. I will not say that it was one or many. I won't say that it was one only. I won't say that it was more than one. I remember I sent one.

Q. Do you state positively, Mr. Pierce, that you
3219 have sent but one telegram with respect —

A. (Interrupting): I have given you all the answer I shall unless under the order of the court.

The plaintiff objected to the question on the ground that it was incompetent, irrelevant, immaterial and not cross examination, and the defendant asked the court to instruct the witness to answer the last question. The plaintiff's objection to the question was sustained, the
3220 defendant excepted, and the same is numbered, Exception No. 685.

Q. How long have you known H. H. Somers?

WITNESS (Continuing): I have known H. H.

3221 Somers for three or four years. I have never written him any letter with respect to this case.

Q. Had you ever written him any letter in respect to any controversy going on in which Dr. Anderson was a party?

The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 686.

3222

Witness (Continuing): I dictated a telegram to Mr. White and caused it to be sent to Mr. Somers, requesting him to come to San Diego as a witness on behalf of the plaintiff. Before sending this telegram I never had any communication with Mr. Somers in regard to this case or about Dr. Anderson. I presume he knew something about Dr. Anderson but I had never spoken to him about his knowledge or about his coming here.

3223

Q. Are you a married man, Mr. Pierce?

The plaintiff objected to the question on the ground that it was not cross examination and was immaterial, which objection was sustained, the defendant excepted, and the same is numbered Exception No. 686.

Q. Have you any family, Mr. Pierce, at all?

3224

The plaintiff objected to the question on the ground that it was not cross examination and was immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 687.

WITNESS (Continuing): Mr. Fitch tried to learn photography while he was at Point Loma but he did not

3225 succeed. We have some pictures which he attempted to make during the time he was trying to learn the art. They were not such as we had any use for in our work. I bought a photographic apparatus for Mr. Fitch's use. He was trying to learn photography for two or three months and devoted all the time to it he could get away from his regular duties. Some of his pictures were developed in San Diego.

3226 I never took any pledge when I joined the organization. I was never asked to. I never signed any. That pledge (Plaintiff's Exhibit 24) was in use during the period Mr. Fitch was there.

I am a member of the Ancient Order of Scribes.

Q. And their costume is a sort of Greek design, is it?

3227 A. I have been in the Greek costume and I have been in the clothes I am now in more frequently. We have no particular costume for the order. It is simply a Greek costume we used in our dramas and plays.

Q. Do the Scribes have any place where they go to perform their services, and if so, in what costume?

A. Never had any services. The only duties that have ever been assigned to the Order of Scribes or which they have ever performed is in the line of archaeological research.

3228 Q. Where did you carry on that research.

The plaintiff objected to the question on the ground that it was immaterial and not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 688.

3229 WITNESS (Continuing): I attended the laying of the corner stone re-dedication. I saw no one exhausted or fainting at or after the ceremony.

Q. Did plaintiff in this action deliver any address on that occasion?

The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 689.

3230

Q. Did you ever hear her spoken of as possessing extraordinary powers?

The plaintiff objected to the question on the ground that it was irrelevant, incompetent, immaterial and not cross examination, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 690.

3231 Q. Did you ever hear her compared with any of the great names in Theosophical literature. Madam Blavetsky —

The plaintiff objected to the question on the ground that it was irrelevant, incompetent, immaterial and not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 691.

3232 Q. Did you ever hear her compared to William Q. Judge?

The plaintiff objected to the question on the ground that it was irrelevant, immaterial, incompetent and not cross examination, which objection was sustained, the de-

3233 defendant excepted, and the same is numbered, Exception No. 692.

WITNESS (Continuing): I never heard her name mentioned as engaged in work as elevating and ennobling as the work in which Budda or Jesus Christ engaged.

Q. Did you ever hear any comparison instituted between the work outlined by her and the work outlined by Jesus?

3234 A. Well, in how wide a field? Do you mean in the organization or outside.

Q. Work in which she was engaged in.

MR. ANDREWS: The question is objected to if the court please. The witness testifies that he has not.

The objection was sustained, the defendant excepted, and the same is numbered, Exception No. 693.

3235 Q. Did you, Mr. Pierce, ever hear her claim that she possessed powers as extraordinary as those said to have been possessed by Madam Blavetsky?

The plaintiff objected to the question on the ground that it was not proper cross examination and was irrelevant and immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 694.

3236 Q. Dr. Anderson was the vice-president, second in place in the Universal Brotherhood whilst you were there, was he not?

A. He was not.

Q. What position did he occupy?

A. Cabinet officer.

3237 The plaintiff objected to the question on the ground that it was not cross examination, and was immaterial, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 695.

Q. Did you ever have any conversation with the Doctor on any subject at any time?

3238 The plaintiff objected to the question on the ground that it was not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 696.

WITNESS (Continuing): There is no service or formula to go through in entering the Order of Scribes. You become a member by going into the order the same as you go into this room. You walk in. You do not ask anybody's permission to go in.

Q. How did you go in?

3239 The plaintiff objected to the question on the ground that it was immaterial and not cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No. 697.

WITNESS (Continuing): I have seen women attending to some flower gardens at Point Loma. The only fence that surrounds the Homestead or the colony is a three and a half foot jack-rabbit fence.

Q. Are there any gates?

3240 The plaintiff objected to the question on the ground that it was not cross examination, and that it was irrelevant and immaterial, which objection was sustained, the defendant excepted and the same is numbered, Exception No. 698.

3241 WITNESS (Continuing): Mr. Fitch was never in the employ of the Universal Brotherhood. He was employed by the Point Loma Homestead. I cannot tell exactly when he left that employment. I have no memorandum of letters written by me that I know of from which I could obtain the date he left Point Loma. I sometimes keep copies of my correspondence — of my letters of recommendation. I don't know whether I gave Mr. Fitch at the time he left a letter of recommendation; I wrote 3242 one to Mr. Babcock about him, a copy of which I here produce.

The letter was read in evidence by defendant and marked as Defendant's Exhibit No. 8.

LOMA HOMESTEAD,
POINT LOMA,
CAL.

April 6, 1901.

Confidential.

3243 Mr. E. S. Babcock,
Coronado, California.

My Dear Sir:—

Replying to your confidential inquiry regarding Mr. Fitch, I say he was employed here as a bookkeeper and not as a clerk.

3244 As a bookkeeper he never succeeded in giving me a balance, although I made it almost imperative that he do so for several months, and now find that his books were in such shape as to make it necessary to go over and untangle the whole thing, in order to get a balance. His duties as bookkeeper, however, were quite seriously interfered with by other duties he was asked to perform, mainly in the line of photographing.

He has fair natural ability which, however, is seriously

3245 interfered with by his lack of continuity and persistency in carrying out any special line of duty and those faults are exaggerated by the fact that he is almost wholly ruled by the modes and whims of a headstrong wife, which exaggerates his naturally somewhat uncertain action into a danger. His somewhat indolent nature leads him to seek inside clerical employment when he is better fitted for active outdoor work, and I urged him for his own good to seek outdoor employment.

3246 His leaving was voluntary, largely on account of his wife, and the knowledge that among our own membership were bookkeepers who stood ready to perform his duties without salary; and as he was the only salaried we had, he was told that as soon as he could find other employment we desired to put unsalaried men in possession and save the money we were paying him.

I have no doubt that if Mr. Fitch was under right influence and left to carry out the promptings of his better nature, and with right guidance, he would grow into a very good and useful man.

Yours very truly,

(Signed)

F. M. PIERCE.

ETHELIND WOOD:

sworn and examined on behalf of plaintiff in rebuttal, testified as follows:

3248 BY MR. KELLOGG: My name is Ethelind Wood, I am a daughter of Dr. Wood, who testified this morning. I reside at Point Loma; have resided there about five years beginning at a time before the Homestead was established, after Mrs. Tingley came to Point Loma. I lived about two or three months at the Colony. I was a

3249 teacher of the children there. There were at that time about a dozen children between three and four months to twelve years old; the little Gird children, the younger Kratzer girl, and Mrs. Neil's (Mrs. Mohn) child were there. I had charge of and the teaching of all of these children. I gave them instructions in reading, writing, spelling, arithmetic, geography and singing to a certain extent. Those classes were attended by the Gird children, and the Kratzer girl was there. The lessons continued during the whole time of my stay at the Colony.

3250 I kept myself personally familiar with the quantity and quality of the food which those children were receiving at that time. I was eating at the same table with them during most of the time I was there. The quality of the food was the very best and the quantity was sufficient for children of their ages. When I left the Colony I went to the Homestead, where the Raja Yoga School was established. I went there at the very beginning of that school.

3251 Q. What was your occupation from that time to October 28th, 1901, in connection with the Raja Yoga School, if any?

A. One of the teachers.

The defendant objected to the question on the ground it was irregular, incompetent, immaterial and not in rebuttal, which objection was overruled. The defendant
3252 excepted and the same is numbered, Exception 699.

At the time of the commencement of the Raja Yoga School there were about thirty children in it and on October 28th, 1901, there were about one hundred.

Q. What proportion of them were homeless children.

3253 The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled. The defendant excepted and the same is numbered, Exception No. 700.

A. There were about 70 children that were educated and supported by the institution.

Without paying anything themselves.

Q. And without having anything paid for them.

3254 The defendant objected to the question on the ground that it was immaterial and not in rebuttal of anything that had been offered in evidence which objection was overruled. The defendant excepted and the Exception is numbered 701.

A. Yes sir.

Q. At the time mentioned, October 28th, 1901, and during the period preceding that date, will you state in
3255 general the course of instructions that were being given in this Raja Yoga School.

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled. The defendant excepted and the same is numbered, Exception No. 702.

A. The ordinary branches taught in public school, reading, writing, arithmetic, history, geography, botany,
3256 astronomy; a complete musical education, vocal and instrumental, harmony, drawing, the piano, violin, mandolin, and guitar and Mrs. Tingley also had a class in which she instructed the children on general information, on history and geography and music.

3257 Q. Was there any manual training or industrial training at all?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled and the defendant excepted and the same is numbered, Exception No. 703.

A. Carpentry, agriculture and horticulture.

3258 Dressmaking was taught to the older girls. At that time nothing was taught to the pupils with regard to silk culture.

Q. Will you state how many teachers there engaged in this work of the children on October 28th, 1901.

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was overruled. The defendant excepted and the same is numbered, Exception No. 704.

A. There were about fourteen.

3259 Q. The children at the Raja Yoga School at that time ran between what ages?

A. From one, three and four months to fourteen.

Q. At that time what was your relation to the other teachers — did you have general superintendence?

3260 The defendant objected to the question on the ground that it was irrelevant, immaterial and not in rebuttal, which objection was overruled. The defendant excepted and the same is numbered, Exception No. 705.

A. I was Assistant Superintendent of the Raja Yoga School.

I am personally familiar with everything I have testi-

3261 fied to on October 28th, 1901, and during the period preceding that date. I was personally familiar with the educational work which was being conducted among what I call the older young children; older than these children.

Q. Will you describe that work at that time?

The defendant objected to the question on the ground that it was irrelevant, incompetent, immaterial and not in rebuttal, which objection was over-ruled the defend-
3262 ant excepted and the same is numbered Exception No. 706.

A. The higher studies were taught: higher mathematics, geometry, trigonometry, history, geography, music, all studies in music, vocal and instrumental and domestic economy and languages; latin, Spanish and French, drawing botany, astronomy, chemistry and zoology.

3263 Q. Any lecture given at that time in any medical subjects?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 707.

A. There were, yes sir.

3264 Q. About how many of what I have called the older children were engaged in this course of study?

A. There were about twenty.

The defendant objected to the question on the ground that it was immaterial and irrelevant and not in rebuttal,

3265 which objection was over-ruled, and defendant excepted and the same is numbered, Exception No. 708.

Q. About how many teachers were engaged in the work?

The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 709.

3266 A. About half a dozen.

Q. Are you personally familiar with the point as to whether among the elder people, now referring to ages above those which I have last alluded to, educational work was in progress, October 28th, 1901 and preceeding that date?

3267 The defendant objected to the question on the grounds that it was immaterial, irrelevant and not in rebuttal, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 710.

A. I am.

Q. Please describe that as briefly as you can?

The defendant objected to the question on the grounds that it was immaterial, irrelevant and not in rebuttal, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 711.

3268 A. They were all studying music in the chorus work and individually they attended the medical lectures and lectures on music.

Q. Did they devote any attention to the drama?

3269 The defendant objected to the question on the ground that it was immaterial, irrelevant and not in rebuttal, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 712.

A. There was a Bible class and a Shakespeare class and the arts were studied.

Q. Were there any societies which were working in the line of improvement of their members, mental and spiritual improvement?

3270

The defendant objected to the question on the ground that it was irrelevant, incompetent, immaterial and leading, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 713.

A. There were classes in these different subjects, yes sir.

Q. Can you recall at present any other additional work which was being done among these older people at the time I have mentioned?

3271

The defendant objected to the question on the ground that it was irrelevant, incompetent, immaterial and leading, which objection was over-ruled. The defendant excepted and the same is numbered, Exception No. 714.

A. Domestic economy was taught.

CROSS-EXAMINATION OF ETHELIND WOOD:

3272

BY MR. SHORTRIDGE. I am and have been a member of the Universal Brotherhood Organization since it was started and I am now Assistant Superintendent of the Raja Yoga School. There were several small homeless children at the Colony in October, 1901; they were seven or eight months old. When I first went to

3273 the Colony there were children from three to four months up to the age of ten or twelve. I took note of what they were fed on. Babies three or four days old were fed every thirty minutes. It was not by order of Mrs. Tingley. It was a method which we found very desirable and it was continuously followed up to October, 1901 and has been ever since. We do not wake the babies up in the middle of the night to feed them every thirty minutes.

3274 Mrs. Tingley had a class at the Homestead, October, 1901; She taught history and general information in conversational form. She did not teach theosophy. She gave these teachings, or lessons once a week. She taught anything else that was interesting for the children to learn, to know. She did not have any set hours for classes. There were classes devoted to mental and moral spiritual improvement. Mrs. Tingley did not reveal her notions or teachings in regard to spiritual improvements.

3275 Q. What was the scope of the teachings of Mrs. Tingley as to mental and spiritual development?

MR. KELLOGG: That is objected to as being the same question, I think, that was ruled upon; The details of the teachings do not seem to us as material; therefore we object to them.

The objection was sustained. The defendant excepted and the same is numbered Exception No. 715.

3276 WITNESS (continuing): Mrs. Tingley had classes in Theosophy teaching and gave lectures and addresses on the philosophy of theosophy. I cannot say how frequently. She gave these lessons or lectures in one of the rooms of the Homestead. She has given lessons at the

3277 Colony and she has had many talks with the children. She did not give formal lessons or have a formal class at the Colony; she did not make up the curriculum of studies for the Raja Yoga school. The superintendent of the Raja Yoga school attended to that.

Q. You are a warm champion of the plaintiff, are you not?

3278 A. I admire her work. I am the warm champion of anything that is right. I think her actions have showed that she is always right.

Q. You believe that in this controversy she is right?

A. I generally follow my own conscience and my own conscience dictates what is right. It dictates that Mrs. Tingley is right in her controversy.

3279 I have not taken a solemn and binding pledge to support the plaintiff in this action, nor have I taken any oath or affirmation with respect to any of the societies at Point Loma to which I belong. I have taken no pledge at all. I am a member of the Universal Brotherhood Organization. I do not recognize that Mrs. Tingley is the Supreme Head of the Universal Brotherhood. I do not know that we have any supreme head. We have a Leader and Official Head.

Q. And that person, whatever she may be, is superior to all others?

3280 A. We recognize her as our teacher.

Q. Is she not superior to all others connected with the Organization according to your understanding of the Brotherhood?

3281 A. She is our teacher of all that is pure and true.

Q. Do you look upon your Leader and Teacher as successor in line of William Q. Judge and of Madam Blavatsky?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross examination, which objection was sustained, the defendant excepted, and the same is numbered, Exception No.

3282 716.

WITNESS (Continuing): There were teachings from the Bible. Our present teachings were not from the Gita. As a rule we did not read from the Gita. I know that book.

Q. What is it?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross examination, which objection was sustained.

3283

Q. Miss Wood, is it not a fact that in these various classes in theosophy, or at these meetings there were many readings from the Gita?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross examination, which objection was sustained. The defendant excepted and the same is numbered, Exception No. 718.

3284

Q. Weren't there teachings in what we call mysticism or occultism?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross

3285 examination, which objection was sustained. The defendant excepted, and the same is numbered, Exception No. 719.

Q. Didn't the leader, your leader and teacher, undertake to elevate you spiritually by enlarging upon the doctrines of occultism or theosophy?

The plaintiff objected to the question on the ground that it was immaterial, irrelevant and not proper cross
3286 examination, which objection was sustained. The defendant excepted and the same is numbered, Exception No. 720.

The plaintiff here rests.

KATHERINE TINGLEY:

recalled for the defendant by permission of the court for cross-examination as to one matter relating to Dr. Anderson; testified as follows:

3287

BY MR. HUNSAKER: In January, 1900, I was the Leader and Official Head of the Universal Brotherhood. At that time the Searchlight was not published under the auspices of the Universal Brotherhood. I cannot recollect by whom it was published.

3288

Q. I call your attention to the Searchlight of Volume I, No. 4 of date of January, 1900; (tendering witness paper) and ask you if you saw that paper at the time it was issued?

MR. ANDREWS: We object on the ground that the question is not proper cross examination and any answer she could give would be incompetent, irrelevant

3289 and immaterial. I have no recollection that Mrs. Ting-
ley testified as to anything about any Searchlight.

MR. HUNSAKER: I wish to direct the witness's at-
tention so that it will get the record squarely before the
Court to the article appearing in this publication, be-
ginning on page 3 and entitled, "Hints On Hinder-
ances," extending to page 7, and ask the witness whether
or not that was an article prepared by her under her di-
rection for publication in the Searchlight and then to
3290 direct her attention to this one portion of the article
which I wish to introduce and a portion marked and ap-
pearing on page 7, relating to Dr. Jerome A. Anderson.

The objection was sustained. The defendant excepted
and the same is numbered, Exception No. 721.

The article appearing in Vol. 1, No. 4 of the Search-
light mentioned in the foregoing question was here at
defendant's request marked for identification as De-
fendant's Exhibit No. 9.
3291

"DEFENDANT'S EXHIBIT 9."

HINTS ON HINDRANCES.

COMRADES:—

Let us consider together a few very important points
connected with our work so that we may see how to ex-
pedite it. Could not nearly all of us do a little more to
help by the simple process of doing less to hinder.
3292 NEARLY all of us WANT to help, and the kind of
help the following pages deal with seems to me the eas-
iest of all to render and will be fruitful in results be-
yond measure. What follows is the outcome of my ex-
perience in working with the Leader and with other of

3293 our comrades who are about her, and of what the Leader has permitted me to see of her correspondence so that I might learn my lesson. There is nothing new in it, but if the intelligence of all of us is simultaneously called to the fact that we are all more or less apt to commit the same mistake, we shall see what an immense amount of time and force we collectively waste.

The Leader is in charge of an enormous plan for the redemption of humanity from its paralysing load of evil and clearing its path to the heights. She unfolds that
3294 plan point by point as fast as her time, her strength, and her workers permit. We want to find out how much of her time and her strength, we, her workers, unwittingly waste; and then how not to do so any more.

She is, so to speak, the one who directs the growth of a mighty tree, under whose foliage at some future time all may sit; the moment the conditions permit, a new branch arises from the stem; from it come others, and
3295 so continually. But this growth might proceed much more quickly; for beside the opposition that belongs to the nature of things, and the opposition coming from the traditional enemies of progress, there is a thoughtless yet very effective opposition from those who sincerely desire to help.

Let us run over in our minds what we know of the Teacher's actual work.

(1) There is an enormous mass of private and general correspondence.
3296

(2) There is the editing of two Magazines, every detail of which she minutely superintends.

(3) Crusade traveling, with all that it involves; among other things it involves long periods of absence

3297 from her papers and from workers to whom she would otherwise be giving daily directions for work.

(4) There are meetings of all kinds at which she is constantly required: and there are innumerable interviews with callers on any and every important and unimportant errand.

3298 (5) There are the general affairs of the whole organization and of each of its expanding parts: the E. S.T.; the I. B. L.; the S. R. L. M. A.; the T.P.C. and T. S. in A.; the Isis League; the Boys' Clubs; Lotus Circles; the Womans' Exchange and Mart; the activities at Point Loma, at 19 Avenue Road, London, at Buffalo, at Toledo, and elsewhere; the planning of new work; the foundation and conduct of individual lodges; and the admission of members; the preparation of papers of instruction and suggestion; all these and many more, an ever extending list.

3299 Let us remember that this multiform work has to be conducted under the fire of enemies, which requires a constant attitude of defense and alertness, and that extensions of activity, though steadily made, are thereby much hindered and limited in scope. Knowing the relation that our Movement holds to the progress of humanity, we shall easily see that every unnecessary item of work we heap on our Leader's devoted shoulders, EVERY QUERULOUS OR CRITICISING THOUGHT WE AIM AT HER, WHETHER THROUGH THE POST OR OTHERWISE, is an actual blow to the interests of humanity. In this relation we should consider that we are not dealing with her exactly as a *person* but in our acts and thoughts are staying or helping the embodied FORCE for good that has come down into the life of humanity.

3300

- 3301 The Theosophical Movement we know is the generator of the atmosphere in which humanity shall hereafter think and breathe, and as it is sustained by its men and women, each of them should be a center of divine energy in that real world of collective feeling that inspires the general act and thought of humanity. So we must agree that whenever we permit a condition of feeling to exist in ourselves which is other than of intense loyalty to our Cause and its Leader, and of intense TRUST, our real inner work in the world of human feeling is lessened or stopped for that time. The greatest work is done by those who are sustained by the greatest faith, who do not let any little personal clouds come up between themselves and their Leader, or themselves and their comrades in the work. Feeling is that power that gives birth, and then outgoing energy, to thoughts. Our thoughts and feelings represent our real work acts only EMBODY them. Our work is a divine generation, a blessing to humanity, when our faith, trust, loyalty, do not lessen. It is felt as an inspiration by those who have never read a line that has issued from our society, but who yet, in these later days, find themselves, because of it, in possession of a new hope in life, delivered from the despair in which the collapse of creeds has involved them; who may even from pulpits or with their pens, nor for that reason find themselves a new power to help humanity. This our movement has achieved, not so much by what has been said and written, as by the trust and love that has inspired the lives and thoughts of the members. I think that when, in any of us the LEADER ceases to be also the absolutely trusted TEACHER, the lines of that member's work become faint and grey.

- 3305 A glance at some of the Leader's daily mail would help all to understand some points better and enable us to see how much her time and strength have to be used on these minor matters, it would also let us see how she is helped, HOW MUCH LOVE, DEVOTION, AND EVIDENCE OF GRAND AND UNSELFISH WORK REACHES HER THROUGH THE POST; how a letter containing some such token as a flower, with a few words of affection, may help her throughout the day;
- 3306 how the photograph of a little smiling child will hold her attention. But for the moment we are more concerning ourselves with the other side of the picture. We will ask her to select some letters from her enormous correspondence as types; premises that if she dealt with as she might if she had three voices and could keep them sounding in the ears of three stenographers all day she would not do more than justice to it.
- 3307 The first letter is brief, should not have been addressed to the Leader at all, and says "I enclose \$1.00 for a copy of the "Ocean of Theosophy." Please give the excess to the Cuban Relief fund." This means that the Leader must break that dollar, send part of it back from her private residence, with a note to the T. P. C., and the remainder to the Treasurer of the Cuban Relief Fund. She has to acknowledge its receipt, inquire what is the present price of the book asked, enclose the amount with written or signed note
- 3308 in an envelope; and direct. Then the same with the remainder. Time lost about fifteen minutes out of three available hours, and twenty-five letters waiting.
- The second is from a lady-member, is in thin crossed writing, six pages, and consists mainly of a record

3309 of her powers and how to develop them. The letter closes with an offer to conduct a correspondence class for young women "who desire to lead the inner life."

The third is from an egotist, well satisfied with himself, yet lacks the rudiments of an ordinary education. He says, "Of course I am in sympathy with the I. B. L., and all that sort of thing, but is there any objection to a class in our Lodge for the study of the Secret Doctrine? This is something I have gone very deeply into, and while I do not wish to push myself forwards, I
3310 should be very glad to conduct this class." His concluding suggestion is that "being without family attachments" and feeling he was called, he would be glad, if arrangements were made for his support, to give his "life to our glorious Cause."

The next letter, from a lady describes at great length, but vaguely, some phases in the life of her Lodge which do not please her. "At every meeting there are
3311 too many references to the Leader." There appears to be an inharmonious tendency in everyone but the writer. Names are not given, faults are obscurely hinted at, details are left to inference; and even if the Leader can make out what is the matter, no course of action is possible. The letter ends by asking that the Leader should immediately come there.

The fifth is from a member who has received a mimograph notice from Mr. and Mrs. to
3312 the effect that "having lost confidence in Mrs. Tingley's methods" they have left the Organization. The member explains that his own loyalty cannot be shaken, and is not founded on personality, but still it is a little disturbing to find two such prominent workers failing. Can the Leader throw any light upon it? And is

3313 there any truth in the rumor that the two referred to will shortly be followed by a large contingent of members in Greeland? He explains that he writes to the Leader because he has failed to get any information from a large number of his friends in other Lodges to whom he has written about it, most of whom say they neither know nor wish to know, and that isolated resignations, together with the uniform and monotonous reasons for the same, have always occurred and will always continue to occur so long as

3314 streaks of weakness exist in human nature.

The next letter contains a string of questions; some of which should have been addressed to various secretaries, some would need a volume to answer, some are unanswerable. One of them relates to the origin of Freemasonry, another to the explanation of a dream. The letter contains a lock of the writer's hair, and concludes by asking the Leader whether she approves of members of the Organization attending mass.

3315 The seventh is from a lady-member, who, being in New York a few days before with some friends (not members) and having promised to introduce them to the Leader and spend a pleasant afternoon in this call, was refused admittance by a Secretary! The young man merely asked her business, and then said the Leader was extremely busy. "Do you always treat country members in this way? I was told before that headquarters was cold."

3316 Another letter (the eighth) concludes thus: "If you cannot reply satisfactorily to this (though of course it is possible you may not be ALLOWED to), I am unable to see that a high position in Occultism confers any real insight into character."

3317 The ninth writer, after suggesting the establishment of a chess column in the *New Century*, and calling attention to some features in a long poem he encloses, proceeds to develop a scheme "which is sure to bring in a large amount of money for our great Cause, and will make Theosophy widely known and appreciated in this neighborhood." Every member in the country is to subscribe the little sum of 50 cts. The writer offers his services as Treasurer.

3318 To point out to this man that his scheme will not work, or will make Theosophy ludicrous, or will land all those who take part in it in jail. OR IS AN ANTICIPATION OF A FAR GREATER PLAN TO BE FORTHCOMING WHEN THE TIME IS RIPE, occupies about an hour. No. 4 is also appeased, placed in a more tolerant state of mind, and given a bit of work in which her irrepressible sense of self-importance will do least harm. Her inevitable future resignation is thus in her own interest deferred as long as possible.

3319 This takes also a long time. No. 8 is partly appeared, but as the Secretary's attitude is not abjectly apologized for, resignation is probably impending.

The tenth letter asked, "What about my article for the *New Century*? It was sent two weeks ago, accompanied by a communication to the Secretary of the Isis League." This letter contains a veiled threat of resignation if the article is not accepted, and remarks that the editor of the "Faith-healers' Bugle-call and Battle-cry"

3320 "is much more prompt.

The eleventh is from a man who says he is so poor that he has to "look after every cent." He would have more to look after if he did not use so many in writing to the *Leader* and many others, criticising her conduct

3321 of her magazines, and suggesting that many others (not named) "feel as he does." He really has been waiting for a long time to be asked to edit one of the papers, and when the Leader, in order to test his good faith, loyalty, and ability, offers him a DEPARTMENT of one of them, he jumps out, resigns, "not liking Mrs. Tingley's methods." He thereafter announces that she offered him the post of editor, and that he declined, but later, having evidently forgotten this, he publishes a letter contradicting his own assertion.

3322 The next letter is from a man whose letter rings true and is a cry for Light. He is not a member, and implores the Leader to write him herself, and help him, not hand his letter over to a Secretary. Her heart is touched; she would gladly do so,—but the time! How many are there who *might* have had such help, who needed it, who would now be valued comrades in our ranks, had they but had it; yet for whom it was impossible because WE wasted the Leader's time and strength in many thoughtless ways.

3323 Another letter is very brief, and reads thus: "He Who Knows tells me that on receipt of this you will at once hand me \$100 for a sacred purpose, to be revealed later.

"N. B. The details of your EARLY life are known to me.

"The bearer awaits answer."

3324 These demands being ignored, the Leader looks out of her window, and sees crossing the street, a member of the T. S.! (This is a literal fact.)

Putting aside other letters of real importance, full of the perfect spirit of self-sacrificing love, full of strength

3325 and encouragement, let us come to the last in the series of types.

This letter asks, "What books would you advise us to keep on sale at our Lodge meetings?" Hitherto the books had been promiscuously from friends and enemies of our Organization. The Leader answers "Push the books of H. P. B. and of W. Q. J.; of Jerome Anderson, and of others who, like him, have shown the quality of their professions *by their lives*. If you do this you will not need to press the books of those whose only aim in writing them was to fill their own pockets; books written by those who, now or always, hostile to our Movement, would but divert and poison the awakening interest of inquirers. The inquirer will naturally inquire further, personally, of the man whose book he admires, and will get from him his first guiding touch. Would you rather that your inquirer should write for further help to such an author, or to *Jerome Anderson*?" After this we hear from some one who has left the Movement, but retained touch of some weakling in that Lodge, that "the Leader of the U. S. dictates what the members shall read, and how they shall think."

* * * * *

We have now gone over some of the ways in which the Leader's time and energy are wasted in correspondence. Probably few of us had any idea that she had so much to put up with. It will be seen that in the quoted types, a proportion err simply from thoughtlessness, and once our attention is called to such mistakes, they will be committed no more.

3328 But apart from that, it remains true that SO much of the Leader's time has yet to be spend IN DEFENSE. Not defense of herself, or even strictly of the Move-

3329 ment; time and circumstances will do that; but in defense of the weak against their own weakness, their tendency to become disorganized when the chance resignation of some prominent member occurs. This point leads naturally to the subject of resignations as a whole, and the way they waste time needlessly.

Q. Will you state whether or not, Mrs. Tingley, on the 15th of January, 1900, you were connected with the publication of this paper called the "Searchlight?"

3330 The plaintiff objected to the question on the ground that it was not proper cross examination and any answer that the witness would give would be incompetent, irrelevant and immaterial. The objection was sustained. The defendant excepted and the same is numbered Exception No. 722.

3331 Q. Was not this paper, this publication, published by your Cabinet of which Mr. Neresheimer was then Chairman, and was not the article to which I have called your attention, prepared by you and published with your sanction in this paper?

The plaintiff objected to the question on the ground that it was not proper cross examination and that any answer that the witness would give would be incompetent, irrelevant and immaterial, which objection was sustained. The defendant excepted and the same is numbered Exception No. 723.

3332 Here defendant rests. This is all the testimony in the case.

The following are excerpts from the address made to the Jury by Samuel M. Shortridge, one of the counsel for the Defendant in said action:

3333 And what is the cause, gentlemen, that we are here to determine? This plaintiff, of uncertain past —

MR. ANDREWS: I object to the counsel discussing the plaintiff as having an unknown past. The testimony as to the past was ruled out as incompetent and immaterial. I submit counsel has no right to talk about it.

3334 MR. SHORTRIDGE: I submit, if your Honor please, with great deference to the court, that my language is entirely proper, founded on the record, and clearly within the legitimate scope of argument to a jury, and may I add, also that having the close of this case on behalf of the defendant, and counsel, quick to perceive, will have the ultimate close of the whole argument, and that whilst he may have a right to interfere, I ought not to be broken in upon by constant interruption, and if I say anything that is improper in a legal sense let it be called to the attention of the jury
3335 by counsel replying to let it work to my injury then. So far as the unknown past is concerned, I am warranted, Your Honor, in saying that the past of this plaintiff who comes here is shrouded in darkness, and I choose to say unknown past because this record does not disclose what that past is.

3336 We are dragged or brought into court even as you might be brought into court, if, returning to your fire-side tonight you should repeat to the wife of your heart the gossip and stories you hear upon the street. For I beg, and am proud to say that the right to print is as natural and as sacred a right as the right to speak. God who gave us mind to think and lips to speak made that a natural right. Constitutions do not give us that right.

3337 The Constitution of the United States does not give us the right to speak. The constitution of California does not give us the right to speak, but each of these great instruments protect and guarantee the right which came to us from Heaven, and it is even so with the right to print and to publish.

And the time will be a sad time for California and for our country when, if ever, jurors will censure and punish men or women who speak or write of and concerning public men and public institutions, even though they should err in literal truth, where their motives are good and their hearts are free from rancor and vindictiveness. What I mean to say is this, that where a man holds himself out before the people seeking public approval, seeking office, seeking public applause if you please, he stands out and puts his character, name, life before the people, and if the elector, if the citizen, if the father, if the mother, criticises him however severely —

3338 criticises him, condemns him, yet ultimately it is for the good of the state, the good of the people that there should be the widest field for criticism, and our constitution uses the words, in the section touching the freedom of the press, uses the word "sentiments"—that a man may express his sentiments upon any and all questions. Why would you, in the heated moments of a campaign, you who might speak of one man as the enemy of his country, expect to be dragged into court and used for slander. If, criticising another public

3339 character you should say that he was unworthy, would you expect to be sued for slander. These questions are propounded to you, gentlemen, to impress upon your minds this truth, which is essential to this nation which our fathers founded by their valor and blood, this prin-

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3341 ciple, that free speech and a free press are worth nothing if men are to be dragged into court and condemned when they have discussed without malice, public men or public institutions.

I doubt if there is one of us, I question if there is one of you, I doubt whether there could be found one man in this county who might not be sitting here as a defendant, if this plaintiff saw fit to pursue him. This institution yonder, this plaintiff, are, and each is, a public institution or a public character, appealing to the public for support, appealing to the public not only of San Diego, and of California, but generally — was a public personage, and the institutions referred to were public institutions.

3342

Now then what is the purpose of this action. We see who the plaintiff is if we can see through glasses darkly; if we can see through the mist and fog which lies back we see who the plaintiff is. We know who the defendant is.

3343

But notwithstanding this, and more which I shall direct your attention to, the defendant is here in court, and for what purpose? What is the purpose of this action, gentlemen of the jury? Disguise it as learned counsel may; gloss it over by fine phrases of speech as they may; conceal, and put it back into the back-ground as they may undertake to do, the object of this action is money! Money! Money! Vindication? Vindication? If she wanted vindication why not have immediately communicated with the defendant at the outset, and said "Sir, you have done me wrong." "You have misstated these things. I ask you to do me justice. I ask you to give me a hearing before the people. I ask you to publish this explanation, or make this retraction, or

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3345 publish this statement of mine. Vindicate me. Set me
 right, for you have wronged me." Is there anything in
 the evidence that anything of that kind was done? I
 repeat, and let counsel answer it — when their time
 comes — that the object of this action is money, and not
 vindication. Why if this plaintiff were possessed of
 those supreme qualities which she has assumed, she
 would not have come into this court, or she would rise
 up now and say "gentlemen, I do not seek money; I
 3346 I seek but the restoration of my broken reputation; I
 seek but vindication; I ask no more than one dollar."
 I do not know how you feel on this question, but I speak
 for myself and I think I speak for every honorable
 and high-minded man in California, and every pure-
 hearted and pure-minded woman of California, when I
 saw that in libel suits, if the plaintiff be honest, the main
 object, the main purpose, is vindication, and not money,
 and particularly where there is no proof adduced that
 3347 any misfortune has overcome the plaintiff — any injury
 come to the plaintiff — any loss of friendship or stand-
 ing or position — what they then seek under such cir-
 cumstances is merely a verdict of a jury in the nature
 of vindication, and their counsel do not work themselves
 into tears in their desire for large money verdicts. I
 say, gentlemen, that the purpose of this action is money,
 and not vindication. And ultimately it will be for you
 to determine that question. It is an action they tell us,
 for damages. Damages to what? Damages the com-
 3348 plaint says, to reputation — name, fame, and reputation.
 Why has she been damaged? I state and repeat, that
 let all the newspapers of Christendom turn loose their
 vials of wrath or detraction, or sarcasm, or irony upon
 me. Let them do it! A man who is conscious of the

3349 rectitude of his own character, who knows that his own life may be traced from the cradle to the grave without a blush, he does not fear or care for the opposition of newspapers, or the censure or the criticisms of men. I have yet to hear of a character sublime as Washington or McKinley, or others, suing newspapers for money judgments. The great man, the great woman, the pure and upright of heart and character, stand like rocks in the desert, and the words of newspapers touch and hurt them not.

3350 But gentlemen, there is malice in this case. It has appeared from the beginning. There is malice in this case in the heart of the plaintiff. There is malice in the heart of her witnesses, and—God forgive me if I do them injustice—I fear there is malice in the heart of some of her counsel.

I do not set myself up to be better or greater, but on the contrary am of the least of those at the bottom, and yet let there be a noble member of my profession
 3351 in California conscious of his rectitude, conscious of his character, knowing that he is a minister of Justice, and he is censured and abused and scoffed at and ridiculed, does he rush into a court of justice seeking a money judgment? No. Does he come into court and claim that the criticisms of men cause him insomnia? No. Wrapped up in his own honor he is impervious to the malignancy of enemy or the censure of pretended
 3352 friend. And so if this plaintiff were what she claims to be, she would—I repeat the words—she would scorn to go upon that witness stand and claim that this censure had driven her to madness, to sleeplessness, to insomnia. No, she would have brushed that by as the idle wind.

3353 Men seem to forget that there is such a thing as criticism legitimate under the constitution. When I see wrong being done am I to dally with it and gloss it over with fine soft phrases? When I see iniquity going on in high places am I to deal with it gently and compliment it?

3354 I do not know whether to say of the men that they are feeble minded or not, of the women, that they are earnest and sincere, but whether you call the men weak or feeble minded or the women sincere and earnest but misguided, the fact of the matter is that this plaintiff occupies a position which is extraordinary and which is repugnant to the spirit of American institutions. It carried us back into the dark ages; it carries us into foreign and despotic countries. It is contrary to the spirit of democracy, it is hostile to the spirit of republicanism. Think of this power. It seems that she snatched the sceptre and plucked the crown from the dead; at any rate she claims to be a successor or somebody, of Madame Blavatsky, of William Q. Judge —

3355 successor, or self-appointed, she has marched with a stride up and taken her seat upon the throne, and American citizens, men, are proud to bow before her and to do her bidding. Gentlemen, it is extraordinary, and the case is extraordinary by virtue of that feature in it.

3356 The constitution (referring to the constitution of the Universal Brotherhood) gave her that power in so many words. The power to appoint cabinet officers, the power to dismiss them; the power to cast out into utter darkness any member of the brotherhood, the power to place a taboo upon a member, the power to ostracise

3357 any member, supreme, autocratic, un-American, un-Christian power. Revolting as it is, it is a power of which her subjects seem to be proud and would perpetuate. And what is to be drawn from these thoughts?

I saw she is or was a medium, a so-called spirit medium. I saw she did fall or pretend to throw herself into trances and to commune with the great masters of antiquity. I say, and the testimony is that she was a medium, she was a mind-reader — she went
 3358 into trances — and whilst in those trances she gave forth prophecies, pretended to reveal the secrets of the unknown world. Testimony upon that point has been given by men and women who are altogether disinterested in this case, who care nothing for the defendant, who care nothing for her, witnesses entirely independent, disinterested, have given this testimony. And everyone of her witnesses that have come here have been women who seemed to be proud and are proud of being numbered among her society or subjects, or men who seem to
 3359 walk with additional pride when ministering to her pleasure or obeying her behests. What is this, gentlemen? But a species of idolatry! A species of so-called religion which can only be compared to that fanaticism which made in the person of Brigham Young a sacred person. What is this? Why I can understand how you or I could follow in the footsteps of a great patriot; I can understand how we would love to press
 3360 forward and touch the hem of the garment of an Abraham Lincoln; I can understand how a man may render such service to his country as to make the world and his country to love and reverence him. I can understand how a woman, a Florence Nightengale, a nurse

3361 in the army, if you please, might render such service as would make all good men respect and love her, but I cannot understand the sentiment which is in this institution, which seeks to make a divine creature out of a piece of mortal flesh. I cannot understand why men of apparent intelligence will surrender themselves to the dictation of a woman such as this record discloses her to be.

3362 No duke of the middle ages, no king of the worst of English times, no despot that ever sat at Constantinople, no Egyptian monarch that held his subject's lives as sands on the desert ever exercised or has claimed to exercise such power over men and women as this plaintiff does, and at their consent. What is this power? I know not. She claims to be a theosophist, and Dr. Jerome A. Anderson, a name which is written in the history of California, a pioneer of this commonwealth, a man whose name is so written and will live perhaps when all ours are forgotten — Dr. Jerome A. Anderson says she is not a theosophist at all.

3363 All through this testimony it appears uncontradicted that she was well known by that term and that name, as "Mother." Mother of children? We do not know. Wife, we do know, and counsel will find it in the record where she answered when I was questioning her as to what she was doing in New York, she said she had to devote part of her time to her husband and family.

3364 Where is he? By her side? No.

MR. ANDREWS: Your Honor, we object to any further discussion along that line.

THE COURT: The objection will be sustained.

3365 MR. SHORTTRIDGE: (Continuing:) Who came with her to California? Her Secretary General. Every American citizen will go with counsel to the uttermost in paying tribute to the mother of children, the blessed being who gave us birth, the blessed being who through the agony of death brings birth—life. The blessed being who takes her children at her knee, whose love is ineradicable, which cannot be destroyed, which follows a wayward son into the very depths of iniquity, and deserts him not when the world turns against him; 3366 which follows the wayward daughter into brothels and into sin, and yet would reclaim her and bless her with a mother's love. A mother whose love for her children is the inspiration of her life, a blessed being the very mention of whose name causes adversary and counsel—causes us all a moment of great feeling, perhaps a dimmed eye. But is there any pretence here that such an one has been libeled? Her children here, weep- 3367 ing, hurt—no. She stands upon the record and here in court alone, and I could not perceive the appropriateness unless it was to afford us an opportunity of pointing out the wicked notions and doctrines which this plaintiff sought to instill into the heart of a mother of children. Mrs. Mohn, or Mrs. Neill is not to be brushed aside by this supreme being. When Mrs. Neill testifies here to you under oath that this plaintiff undertook to separate her from her child, undertook to sever that 3368 mysterious cord which binds the heart of a mother to her child, Mrs. Mohn spoke the truth—and why not? Obviously the plaintiff denies it because she sees that no American jury would give a verdict for damages to a plaintiff holding or seeking to inculcate such mon-

- 3369 strous and such abhorrent doctrines. So she stands here on the record accusing everybody of wickedness — Doctor Anderson, Mr. Fitch, Mrs. Mohn, Mr. H. Hillaker, Mrs. Morris, Mr. Pryse, Doctor Reuthling of New York — all of these people are wicked perjurers, she and she alone, speaks the truth. Obviously she is greatly interested in the outcome of this trial, which leads me to remark that if her purpose had been vindication she could have sought it by other means than a
- 3370 suit for fifty thousand dollars. A criminal proceeding might have been instituted and carried on by the state wherein her character and life and reputation could have been investigated, or the criminality of the defendant passed upon, and the result of such an investigation would have been her vindication or her condemnation. It was not necessary to bring a civil suit for vindication, which emphasizes the thought that is in my mind, that this suit was brought and is being vigorously
- 3371 prosecuted for other purposes than a vindication.

We hear then also of the Greek plays, Greek plays upon the hill and in their so-called temples. We hear of the Eumenides of Aeschylus and the play of "Hypatia" and some other play. They speak glibly of Greek drama, and Greek costumes. And they speak of the purity of the play of Hypatia. We were not permitted — I do not recall whether we sought to, I do not remember, but it carries back to a period of Greece before

3372 Christ, when the world was in pagan darkness before the Star of Bethlehem had risen, before that divine character beamed and dawned upon the world with whose birth the world is so familiar. It carries us back to an anti-christian period, the play of Eumenides, a

3373 time when gods were numerous, when Pantheism was the doctrine, when gods and goddesses were everywhere, on land and in sea and held their court upon high Olympus. The play of Hypatia carries us still farther into the mysticism, into the pantheism, into the superstitions of the pagan Egypt where crocodiles were worshipped and beasts of the field were exalted. It carries us back and all this runs through all this mysterious literature which has been introduced. It carries us back to the
 3374 period of mysteries, of myth, of occultism, of Isis and Osiris and the numerous innumerable gods and goddesses which the pagan mind worshipped and before whose idols they prostrated themselves.

The very name of this society, the School for the Revival of the Lost Mysteries of Antiquity, the character of their names, the plays they put on, the literature they send out, the doctrines which she inculcates, all these things throw a mist of fog over this institution.

3375 Gentlemen do you know very about that institution? After we have been here for near unto a month do you today quite understand the Universal Brotherhood and this school, or that school, and this society or that society? Do you quite understand this? Is it not hidden as by a fog upon the mountain, or a cloud upon the mountain's brow? Does it not breathe of mystery and insanity? Is it religion, of what sort? Is it christianity, of what kind? Is it the doctrines of Blavatsky or of Judge, or of the plaintiff? Is it the doctrines of
 3376 those nebulous and mystical characters that float in the literature of India which the mis-guided and feeble-minded of today call the great masters of antiquity? Here is a plaintiff who traveled to India, and they always go there for mystic and mythical things; it was

3377 there somewhere, probably north of the Himalaya mountains, that the human race commenced. Apart from biblical literature it is, I believe, conceded that the human race, so far as history can trace it, commenced there, in what may be generally spoken of as Upper India beyond the Himalayas. We can today go back five, or six, or seven centuries before Christ and read the history of the human race, but it is over the gray plains of India and down the noble rivers that flow from
 3378 the Himalayas to the East, that mystery and myth and occultism have hovered for centuries, and all these claims of this plaintiff go back to the great masters.

MR. ANDREWS: Your Honor, I object to any further discussion along this line. I submit it is entirely outside of all of the case.

She claimed at one time to be a mind-reader. She gave seances or sittings to use the exact word of the record, sittings for mind-reading. She claimed to go
 3379 into trances; she claimed to prophesy; proposed to tell all the past and to lift the veil of the future, and, with a blasphemy which should have withered her tongue she claimed to be equal in divinity and in righteousness with the Son of God. She sat here in her palace halls and heard one of her subjects or devoted devotees proclaim her as equal to Buddha, as equal to Confucious, as equal to Mohamet, as equal to, or as partaking of the divine character of the Son of God. . . . You cannot defend this plaintiff's conduct under the guise that
 3380 this is a religious belief; for, along with the belief are these acts of hers which are hurtful to society and hurtful to civilization itself.

The time will come when this case will be regarded,

3381 perhaps, as a blessing if for no other reason than that
 it has caused reform and caused the abandonment of
 doctrines which were then proclaimed. I question
 whether this plaintiff will ever again send forth to the
 world a document which, by its phraseology, gives to
 her the character of the Divinity. I question much
 whether she will again claim to be in communica-
 tion with the Great Masters of Antiquity, whatever they
 may be, and I doubt whether she will ever again an-
 nounce the monstrous doctrines touching the marriage
 3382 relation or the relation between parent and child, which
 she did, according to the abundant testimony in this
 case.

Talk of charity, talk of loving kindness, talk of su-
 preme virtues, she has exhibited the vindictiveness, the
 cunning and craft which are the reverse of everything
 that is noble or divine. It is not vindication which she
 seeks, it is money for which she grasps and has grasped
 at every stage of her life so far as this record discloses.

3383 If the plaintiff in this case seeks, and seeks only, for
 vindication, through the lips of her counsel she will say
 give me one dollar. If her purpose be vindication she
 would scorn to demand here a judgment in a large
 amount. If she were inspired by the noble impulses
 which she would have attributed to her every act, she
 through her counsel would say, 'Gentlemen, we ask
 nothing but vindication at your hands.' I venture to
 predict they will make no such appeal however. They
 3384 come here with vindictiveness and with hatred and
 malice, and seek to punish the defendant, who, without
 malice or ill-will, or anger, or uncharitableness, pub-
 lished, upon the faith of a woman equally as good as she,
 the charges which that woman made.

- 3385 She sued the defendant, as I have every reason to believe, hoping that a jury drawn from San Diego County would share her malice or participate in her prejudice. She knew little of the character of the people of San Diego county if she presumed to that extent. If she wanted vindication she might have instituted criminal proceedings and speedily, almost within a month, proved her innocence and, in such a case, the defendant's guilt. No, she was out for money and has sought it and will
- 3386 seek it at your hands, and is that the plea of one who claims to be so supreme to all others?

Gentlemen, you have a duty to perform in this case, more important than you may at first have thought, have believed or considered. You have a duty which is more important in its effects than perhaps any of us here can now foresee. Certainly I lose sight for the moment of this plaintiff. I trust I shall forget her. I lose sight, if you please, of the defendant for there are issues here to

3387 be determined more important than parties litigant, and those questions are whether in this land a great public journal may in good faith publish matters of and concerning public institutions without malice and be condemned. Whether in this country the citizen may not speak and write of and concerning public men and public institutions without fear of suits for libel, or suits for slander, provided they are written and published in good faith. Is there anything in this case, gentlemen, to

3388 question or to put in doubt the good faith of the defendant? The question is whether or not in this state of California you, or you or I, or any of us, may speak our honest beliefs without malice, or not. I say the personality of the plaintiff fades into nothingness; the personality of the

3389 defendant disappears, you are deciding this case for all of the people of California, for yourselves and for your children. If, gentlemen, you believe in the Christian religion your duty is clear. If you believe in the family circle and the hearth and the fireside your duty is plain. If you believe in the institution of marriage, marriage of one man to one woman, your duty is clear.

MR. ANDREWS: If the Court please we submit that counsel—

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MR. SHORTRIDGE: I cannot be interrupted in the close of my argument—

MR. ANDREWS: I think it calls for interruption.

THE COURT: I think the interruption is proper.

MR. SHORTRIDGE: I take most respectful exception to the Court's remarks.

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THE COURT: Your exception will be regarded as respectful.

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MR. SHORTRIDGE: Yes, your Honor. I say that if you respect the home, the fireside, if you respect the institution of marriage, if you respect and revere the divine sentiment between mother and child, your duty is clear. Counsel can appeal to any sentiment of the human heart and I shall not say nay. Counsel can appeal, as I do now appeal, to the eternal throne above and demand that this pretender be rebuked by your verdict. In the name of that same family circle and of the wives and mothers of this land, in the name of society and civilization, and in the name of the Saviour of Nazareth who upon Calvary shed his blood that we might live, I ask you

3393 for justice here, an American justice, and that you by your verdict, rebuke this plaintiff whose doctrines and whose practices by this record disclosed make her an enemy of all that is good and pure and noble in our lives. Let them wince! I speak for the defendant, and furthermore I speak for myself. You are not to be led away, cajoled or driven, or coaxed, or wheedled into approving what this record shows is not good and pure and noble. Let others fawn and crawl and prostrate themselves in the dust and regard

3394 it an honor to be walked upon, but you will do no such thing. Society is involved in this matter, and Christian civilization is at stake. These institutions, such as are here criticised, are not in keeping with this country. Religion and charity and lovingkindness are not disseminated by armed guards or closed gates. No gentlemen, there is much more at stake than the personality of the plaintiff or of the defendant. I call upon you by your oaths to determine whether or not the defendant should be cen-

3395 sured and for what it did in good faith. I call upon you by that same oath to determine whether or not the defendant was justified in publishing in good faith what was given to it. I ask you and by your verdict you will determine whether or not the defendant performed a meritorious service to the city and the state.

3396 Still proud, defiant, surrounded by courtiers and treated as queen with power unlimited, perpetual tenure of office with right to name her successor, thus surrounded, thus supported she asks you not for vindication, but for money. It is for you, gentlemen, to answer that demand, it is for you to determine whether she shall be given money. I feel deeply on this question. I believe reverently in the laws and the institutions of my country. I

3397 believe that Christian civilization and the christian religion are the greatest blessings in the world. I believe in the school or code of Christian morals, and I believe that this record shows that the doctrines and the principles of this plaintiff are destructive of the code of christian morals, and if they are they should not receive your approval.

3398 Hereupon the defendant requested the court to give to the jury the following instruction number 1, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted, and the same is numbered as Exception No. 724.

The said instruction Number 1 is as follows :

I.

3399 You are instructed that by the term "actual" or "express" malice, when used in these instructions, is meant the spiteful and rancorous disposition which causes an act to be done for mischief.

(Refused, because term defined in another instruction given at request of defendant. E. S. Torrence, Judge.)

3400 Hereupon the defendant requested the court to give to the jury the following instruction Number II, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted, and the same is numbered as Exception No. 725.

The said instruction Number II is as follows :

II.

You are further instructed that if the defendant did

- 3401 not publish the article in question in this case with actual malice or illwill towards the plaintiff, as defined in these instructions and that the publication was made in defendant's newspaper in the usual course of its business as a public journalist, you will, in estimating the damages confine yourselves to the actual damages sustained by plaintiff because of the publication of the article complained of, and you will allow her only such sum as you may find will fairly compensate her for her injury actually sustained by her by reason of the publication of said article.
- 3402

(Refused because substantially given in another instruction given at request of defendant. E. S. Torrence, Judge.)

- 3403 Hereupon the defendant requested the court to give the jury the following instruction Number III, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted and the same is numbered as Exception No. 726.

The said instruction Number III is as follows:

III.

- 3404 You are instructed that if you find from the evidence that the defendant, the Times-Mirror Company, published the article in question in this case without actual malice, as defined in these instructions, and that it made said publication in the usual course of its business as a public journalist, believing the statements therein contained to be true, you will, in estimating the damages (if you find for the plaintiff) confine yourselves to the actual damages sustained by the plaintiff because of the pub-

3405 lication of the article complained of, and will allow her no exemplary or punitive damages.

(Refused because substantially given in another instruction given at request of defendant. E. S. Torrence, Judge.)

3406 Hereupon the defendant requested the court to give to the jury the following instruction Number IV, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted, and the same is numbered as Exception No. 727.

The said instruction Number IV is as follows:

IV.

3407 If you find that the defendant did not publish the said article with a spiteful and rancorous disposition, or for the purpose of working mischief, or with a wanton disregard of the plaintiff's rights and feelings, then you will find that it did not publish the article with actual malice, and in estimating the damages in this case, you will be confined to the actual loss or damage sustained by the plaintiff because of the publication, and will allow no sum as punitive or exemplary damages.

3408 (Refused because substantially given in another instruction given at request of defendant. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number V, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the de-

3409 fendant then and there duly excepted, and the same is numbered as Exception No. 728.

The said instruction Number V is as follows :

V.

If you believe from the evidence that the defendant, at the time it filed its amended answer herein, had reason to believe, and did believe, that the facts pleaded therein in justification, and that it filed such amended answer in
 3410 good faith, and not through malice against the plaintiff, and that it has attempted in good faith to sustain the allegations of such amended answer by proof, but that, by reason of technical defects in such amended answer, or for any other reason, such proof was excluded by the court, then you are instructed that the filing of such amended answer should not be considered by you for the purpose of enhancing the damages.

3411 (Refused because no evidence to justify it, and it is not the law. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number VI, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted, and the same is numbered Exception No. 729.

The said instruction Number VI is as follows :

3412

VI.

You can allow the plaintiff only such sum as actual damage as, under all the circumstances shown by the evidence, you may find her entitled to recover for such in-

3413 jury to her reputation as she has sustained by reason of said publication.

(Refused. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number VII, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted, and the same is
3414 numbered as Exception No. 730.

The said instruction Number VII is as follows:

VII.

You are further instructed that the plaintiff in this action claims damages by reason of the publication of the article complained of, only in so far as the same injured her reputation and you cannot in this action allow plaintiff any sum for injury to her health.

3415 (Refused because plaintiff is entitled to recover for injury to feelings as well as to reputation. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number VIII, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted and the same is
3416 numbered as Exception No. 731.

The said instruction Number VIII is as follows:

VIII.

Plaintiff in her complaint alleges that by said article, defendant intended to convey the meaning and the said

3417 article was by the persons who read the same, as published in defendant's newspaper understood and believed to convey the meaning that practices were carried on under the direction of the plaintiff which are more shocking than are revealed by the matters specifically set forth in said article and that gross immoralities are practiced at the Point Loma Homestead under the direction and by the instigation of plaintiff.

3418 Defendant in its answer denies that it intended to convey the meaning or that the said article was by the persons who read the same as published in said newspaper understood or believed to convey the meaning that practices are carried on under the direction of plaintiff that are more shocking than are revealed by the matters set forth in the article, or that gross immoralities are practiced at said institution under the direction and by the instigation, or under the direction or by the instigation of plaintiff.

3419 You are instructed that you are to determine from the evidence in this case whether the article complained of was intended to convey the meaning so attributed to it by plaintiff, and in determining said question you are to give to the language of said article its ordinary and usual import and are not to give to the language thereof a strained or unusual meaning for the purpose of giving to said article a libelous meaning.

(Refused because substantially given in the charge of
3420 the court. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number IX, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the de-

3421 fendant then and there excepted and the same is num-
bered Exception No. 732.

The said instruction Number IX is as follows:

IX.

Plaintiff in her complaint alleges, that by article in
question the defendant intended to convey the meaning
and the said article, was by the persons who read the
same, as published in said newspaper, understood and
3422 believed to convey the meaning, that the men and women
in attendance at the Universal Brotherhood Institution
at Point Loma are in the habit of making midnight pil-
grimages insufficiently clothed and in their night robes,
and are in the habit of indulging in immoral practices
under the direction and at the suggestion of plaintiff.

The defendant in its answer denies that said article
was intended by the defendant to convey the meaning
that men and women in attendance at said Institution
3423 are, or were in the habit of making mid-night pilgrim-
ages insufficiently clothed, or are, or were in the habit
of indulging in immoral practices under the direction
and at the suggestion, or under the direction or at the
suggestion of plaintiff.

You are instructed that it is for you to determine from
the evidence in this case, whether said article was in-
tended to convey such meaning and whether the same
was so understood and believed by persons reading said
3424 article.

And you are further instructed that in determining
said question you are to give to the language of said
article its ordinary and usual import and are not to give
to the language thereof a strained or unusual meaning

3425 for the purpose of giving to said article a libelous meaning.

(Refused because substantially given in the charge of the court. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number X, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant
3426 then and there excepted, and the same is numbered Exception No. 733.

The said instruction Number X is as follows:

X.

You are instructed that the common import of this article must be applied to test its libelous character. The publisher's intentions are to be gauged by such import, and unless you are satisfied that, giving to this article its common import, defendant intended to convey,
3427 and said article was understood by the readers thereof to convey, the meaning that practices are carried on under the direction of plaintiff which are more shocking than are revealed by the matters set forth in said article, and that gross immoralities are practiced in said institution under the direction and by the instigation of plaintiff, then you should find that the article does not so charge, and that said portion of said article is not
3428 libelous.

(Refused because substantially given in the charge of the court. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number XI, but to

3429 give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted, and the same is numbered Exception No. 734.

The said instruction No. XI is as follows:

XI.

3430 You are instructed that if you find from a preponderance of the evidence that plaintiff caused to be carried on insane ceremonies at Point Loma Homestead, then you will find that as to that portion of the article the defendant has sustained its plea of justification.

(Refused because substantially given in the charge of the court. E. S. Torrence, Judge.)

3431 Hereupon the defendant requested the court to give to the jury the following instruction Number XII, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted and the same is numbered Exception No. 735.

The said instruction Number XII is as follows:

XII.

3432 If you find from a preponderance of the evidence that it is true that Katherine Tingley is an off-shoot of the Theosophical Society which became disjoined some four or five years ago, and that she was formerly a "common dollar-taking spirit medium," then you will find that as to that part of the article the defendant has sustained its plea of justification.

(Refused because substantially given in the charge of the court. E. S. Torrence, Judge.)

3433 Hereupon the defendant requested the court to give to the jury the following instruction Number XIII, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there duly excepted, and the same is numbered Exception No. 736.

The said instruction Number XIII is as follows:

XIII.

3434 You are further instructed that if you find from a preponderance of the evidence that plaintiff by her influence and misrepresentation has caused children and parents to be separated and kept the children in confinement, thereby destroying their health and strength, then you will find as to that part of the article the defendant has sustained its plea of justification.

(Refused because no evidence in the case to justify the giving of the instruction. E. S. Torrence, Judge.)

3435

Hereupon the defendant requested the court to give to the jury the following instruction Number XIV, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted, and the same is numbered as Exception No. 737.

The said instruction Number XIV is as follows:

XIV.

3436

You are further instructed that if you find from a preponderance of the evidence that Mrs. Tingley openly stated that children are fed too much for their spiritual good, and must eat but little so they will be more ethereal,

3437 then you will find as to that portion of the article the defendant has sustained its plea of justification.

(Refused because substantially given in charge of the court. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number XV, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted, and the same is numbered Exception No. 738.

The said instruction Number XV is as follows:

XV.

You are further instructed that if no actual malice, or malice in fact, has been established by the evidence against defendant, and you believe from the evidence that the plaintiff has suffered no actual damages by reason of the publication of the article complained of, you may fix her damages at a nominal amount only.

(Refused. E. T. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number XVI, but to give the same, the court then and there refused, and to the refusal of the court to give the said instruction the defendant then and there excepted, and the same is numbered as Exception No. 739.

3440 The said instruction Number XVI is as follows:

XVI.

You are further instructed that it is for the jury, and not the court, to determine the amount of damages the plaintiff is entitled to recover in this case.

3441 (Refused. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instruction Number XVII, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted, and the same is numbered as Exception No. 740.

The said instruction Number XVII is as follows:

3442 XVII.

You are further instructed that it is for you to fix the amount of damages to be awarded to the plaintiff in this action, and that you can award her only such amount as under all the circumstances of the case may be just.

(Refused. E. S. Torrence, Judge.)

3443 Hereupon the defendant requested the court to give to the jury the following instruction Number XVIII, but to give the same, the court then and there refused, and to the refusal of the court to give said instruction the defendant then and there excepted, and the same is numbered No. 741.

The said instruction Number XVIII is as follows:

XVIII.

You are instructed that if you find for the defendant, the form of your verdict should be;

3444 In the Superior Court of the county of San Diego, State of California.

KATHERINE TINGLEY, Plaintiff, vs.

TIMES-MIRROR COMPANY, Defendant.

VERDICT.

3445

We, the jury empanelled and sworn in the above entitled case, hereby find for the defendant.

.....Foreman.

(Refused. E. S. Torrence, Judge.)

Hereupon the defendant requested the court to give to the jury the following instructions:—

XIX.

3446

You are instructed that in this action the plaintiff seeks to recover damages for injury to her good name, fame and reputation, claimed to have been sustained by her on account of the publication by the defendant of the article referred to in plaintiff's complaint, and not for any injury or damage which the "Universal Brotherhood," or the "Universal Brotherhood Homestead at Point Loma," may have sustained by reason of such

3447

publication. You are therefore instructed that you are not to consider, and you cannot allow to the plaintiff, any sum on account of any damage or loss which said "Universal Brotherhood," or said "Universal Brotherhood Homestead at Point Loma," may have sustained by reason of said publication. Recover for loss or damage by said "Universal Brotherhood," or by said "Universal Brotherhood Homestead at Point Loma," can only be had in an action brought by said institutions against the

3448

defendant, and in this case, you can allow only such damages, if any, as the plaintiff has individually sustained by reason of injury to her good name, fame and reputation.

But to give such instructions the court then and there

3449 refused, and to such refusal the defendant then and there
duly excepted, and the same is numbered Exception No.
742.

But thereupon the court modified instruction Number
XIX and gave the same to the jury as modified and
which instruction as modified reads as follows:

You are instructed that in this action the plaintiff
seeks to recover damages for injury to her good name,
fame and reputation, and for mental suffering claimed
3450 to have been sustained by her on account of the pub-
lication by the defendant of the article referred to in the
plaintiff's complaint, and not for any injury or damage
which the "Universal Brotherhood," or the "Universal
Brotherhood Homestead at Point Loma," may have sus-
tained by reason of such publication. You are therefore
instructed that you are not to consider, and you cannot
allow to the plaintiff, any sum on account of any dam-
age or loss which said "Universal Brotherhood," or said
3451 "Universal Brotherhood Homestead at Point Loma," may
have sustained by reason of said publication. Recovery
for loss or damage by said "Universal Brotherhood," or
by said "Universal Brotherhood Homestead at Point
Loma," can only be had in an action brought by said in-
stitutions against the defendant, and in this case, you
can allow only such damages as the plaintiff has individ-
ually sustained by reason of injury to her good name,
fame and reputation, and for mental suffering, resulting
3452 from the publication of the article.

And to which modification of said instruction Number
XIX and to the giving of the same as so modified as
aforesaid, the defendant then and there duly excepted, and
the same is numbered Exception No. 743.

3453 The court at the request of the defendant gave the following instructions to the jury, to-wit:

I.

You are instructed that "actual malice" as used in these instructions means personal hatred and illwill towards the plaintiff, or a wanton disregard of the civil obligations of the defendant towards the plaintiff.

II.

3454

You are instructed that if you find from the evidence that the defendant, The Times-Mirror Company, did not publish the article in question in this case with actual malice, as defined in these instructions, and if you further believe from the evidence that the defendant had no actual malice or illwill against the plaintiff at the time said publication was made, and that it made said publication in the usual course of its business as public journalists, believing it to be true, you will, in estimating the damages confine yourselves to the actual damages sustained by the plaintiff because of the publication of the article complained of, and you can allow her nothing as exemplary or punitive damages.

3455

III.

You are instructed that the defendant has a right under the law, to plead in justification of the truth of matters stated in the article in question and also any circumstances in mitigation of damages, and that if such defences are interposed in good faith, upon reasonable grounds and without malice, the fact that such facts are stated in defendant's answers cannot be considered by the jury for the purpose of enhancing damages, even

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3457 though the defendant fails in his proof to sustain the defences so pleaded; in other words, you are instructed that the setting up in its answer of such matters in justification can only be considered for the purpose of enhancing or aggravating damages if you find from the evidence that the same were pleaded maliciously and without a belief by the defendant in the truth of the matters so set forth in its answer.

IV.

3458 As to the articles published in the newspaper of the defendant prior and subsequent to the publication of the article complained of in this action, you are instructed that such prior and subsequent publications were admitted in evidence solely for the purpose of enabling you to determine the motive with which the article on which this action is founded was published, and as tending to show whether such publication was made by the defendants with actual malice as defined in these instructions,
3459 and that you allow nothing as damages, for the publication of such articles.

V.

You are further instructed that such prior and subsequent publications were not admitted in evidence for the purpose of enhancing the actual damages sustained by the plaintiff by reason of the publication of the article complained of, and that you cannot consider the same
3460 for the purpose of enhancing the actual damages which plaintiff may have sustained by reason of the said publications.

VI.

You are further instructed that you can consider the

3461 articles published in the newspaper of the defendant prior and subsequent to the publication of the article complained of, only as bearing on the question as to whether the article complained of was published by defendant with actual malice, as defined in these instructions, so as to entitle the plaintiff to recover punitive or exemplary damages, and that no damages can be allowed by you in this action for the publication of any of such prior or subsequent articles.

3462 VII.

You are further instructed that in this action you cannot allow the plaintiff any sum as damages because of insomnia or loss of sleep.

VIII.

3463 If you find that, by reason of the publication complained of, plaintiff suffered loss or damage, and that such loss or damage was caused in part by the portions of the publication, if any, shown to be true, and in part by other statements contained in said article, then you must, if you can, separate the one loss or damage from the other, and allow only for the loss or damage caused by the injurious parts of the article which are untrue.

Hereupon the Court, of its own motion, charged the jury as follows:

Gentlemen of the Jury:—

3464 This is an action at law brought by Katherine Tingley the plaintiff against the defendant, the Times-Mirror Company. The tribunal in which we sit, and of which we are the constituent parts, is a court of law, established by law for the administration of law. A lawful judgment of a court, or a lawful verdict of a jury, is the formal

3465 expression of the legal result of facts, established either by competent evidence or by some presumption of law, and not merely the reflection of the individual sentiments either of the judge or the jurors. In this forum you have been selected as the jurors for this case, and I have the honor to be the presiding judge. Each of us is acting under the solemn sanction of an oath—on your part to decide the issues submitted to you on the evidence admitted by the court—on my part to decide the law according to the best of my ability. The court is not responsible for the state of the law—it simply takes the law as it finds it, and so declares it. The jurors are not responsible for the existence of the facts—they simply take the evidence the court has permitted them to consider, and from that they say what the facts are. The province of the court and that of the jury are separate and distinct, and to each belongs exclusively the function given it by the law. The duty of the court to determine the law includes the exclusive right to decide what are questions of law arising in the case as distinguished from questions of fact.

3467 It is always important that the restraints and penalties of the law should be made effectual where legal wrongs are threatened or have been committed. The manner in which the law is enforced against wrongdoers is likely to be indicated by the moral and social condition of the community, as well as by the law-abiding, or opposite, tendencies of its citizens. The fact that one has unjustly libeled another through the public press, should furnish the legal basis for the recovery of adequate damages, instead of being urged as an illegal claim of justification for a felonious assault committed on the publisher in retaliation for the libel.

3469 I trust that I am always conscious of the obligations involved in the discharge of judicial duty, and I feel that a suggestion from the court that this sense of responsibility ought to be present in the minds of jurors should not be regarded as inappropriate. All men owe allegiance to the law of their country and should respect and obey it; but especially is this true when they sit as ministers of that law in a court of justice.

3470 It is the duty of the court to state to you such matters of law as it deems proper for your information in giving your verdict; to state to you the issues of fact raised by the pleadings in the case; and also to declare which of these issues, in view of the evidence received on the trial, still remain disputed questions for your determination, and which of them, in view of the law, cannot longer be regarded as remaining in dispute, because unproved by the defendant on whom the law imposed the burden of proving them.

3471 The pleadings in an action are the written statements by the parties, expressed in legal form, of the facts constituting their respective claims and defenses. The pleading on the part of the plaintiff is called the complaint, and it must contain a statement of sufficient facts to constitute a legal cause of action against the defendant. The pleading on the part of the defendant is called the answer, and it must contain a denial of the material allegations of the complaint controverted.

3472 The object of the law in requiring that the mutual altercations between the parties shall be reduced to writing is to bring before the court the real matter in controversy, so that the grounds for their dispute, and the questions of fact involved in it, may be known before the trial is entered upon. The law requires this in or-

3473 der, first, that it may be seen whether the plaintiff's claim is of such a nature as to entitle him or her to relief under the law, and whether the defendant has any legal defense to it; and, second, to confine the investigation to the points of actual disagreement; and, third, that each party may be apprised of the nature of the claim or defense of the other; and, fourth, that the parties afterwards may be able to know from the record what facts have been settled by the litigation.

3474 Each party, in the production of evidence to maintain the issues on his part, must be confined not only to such testimony as the law regards as competent evidence, but also to such as the law deems relevant to some material issue in the case. It is not only the privilege but it is the duty of opposing counsel to object to such evidence as they deem legally inadmissible. It is the duty of the court to determine the competency and relevancy of the evidence offered, and to decide all legal questions arising in the progress of the trial, with the decision of
3475 which the jury have no legal concern.

The jury are to decide any disputed question of fact upon the evidence actually received by the court, if there be sufficient evidence admitted which, under the law, will justify the court in submitting the question for their decision. It would be highly improper for jurors to indulge any unfavorable inference from the circumstance that counsel have objected to the introduction of evidence offered by opposing counsel, or to speculate to
3476 the slightest extent as to what may have been the nature of the evidence ruled out on the trial by the court.

It is the exclusive province of the court to declare to the jury the law which is to govern them in arriving at their verdict, and the jury, as well as counsel in the

3477 case, are bound to accept the law as the court declares it to be. If the trial court errs in expounding the law, the error may afterwards be corrected and a new trial granted by the trial court, or, if it adheres to its rulings, then by the Supreme Court of the state on an appeal of the case. If the jury, however, should decide the case on notions of the law differing from those expressed by the court, one or the other of the parties would be wrongfully deprived of a legal right, and in such a case
 3478 the law furnishes no remedy by which the wrong may be righted.

So that the legal and moral obligation resting on the jury to take the law as it is given by the court must be clearly apparent to all of you.

The Constitution of California provides that: "The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account
 3479 of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this state."

The Constitution of the United States provides that: "No State shall deny to any person within its jurisdiction the equal protection of the laws."

3480 I do not refer to these great constitutional guaranties, which are part of the fundamental structure, of both our federal and state governments, because the doctrines, beliefs, practices, or ceremonies of theosophy as taught, professed, or exemplified at Point Loma are issues in this case. None of these matters should be considered

3481 by you, except only so far as they tend to prove or dis-
 prove the issue made by the defendant's plea of justifi-
 cation to the effect, that, at the time the publication
 complained of was made, it was true that nothing was
 taught at Point Loma but insane ceremonies.

My purpose in directing your attention to these consti-
 tutional provisions is prompted by my desire to impress
 upon your conscience the conviction that in the courts
 of California all persons must stand on a common plane
 3482 of equality. To remind you that it was the expressed
 conviction of the liberal-minded and liberty-loving peo-
 ple, who adopted our constitution, that one's opinions
 or practices in matters of religion, so long as they do
 not develop into acts of licentiousness, or become a
 menace to the peace or safety of the state, ought not to
 discredit him as a witness, and ought not to effect his
 fairness or competency to sit as a juror in a court of
 justice, though his religious belief may differ from that
 entertained by a party to the action. In this respect
 3483 then: "Whatsoever ye would that men should do to
 you, do ye even so to them;" for this is the law.

Prejudice of opinion must be banished from our
 courts of justice and persons who bring their causes
 there must receive equal protection and redress. Justice
 cannot be done in any cause where Prejudice clings to
 Reason while sitting in the judgment seat.

It has often been contended by counsel for defendants
 in libel cases, that, by virtue of the constitutional guar-
 3484 anty of the liberty of the press, newspapers enjoyed
 some special privilege or immunity, from the fact that
 they were public purveyors of the news, which was not
 possessed by private persons; that it was their business
 to disseminate knowledge among the people; to publish

- 3485 such matters relating to the current events of the day as the reading public demanded; and that it was impracticable for them at all time to ascertain the truth or falsity of the items of news which was published. The provision found in our state constitution on this subject reads as follows: "Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or
- 3486 of the press." Our own Supreme Court has said: "The liberty of the press is not more under the protection of the Constitution than the liberty of speech, and the publisher can only defend an action for libel or mitigate the damages to be recovered therefor upon precisely the same grounds as any other individual could defend an action for slander in uttering the same words upon the street. A newspaper proprietor is not privileged as such in the dissemination of the news, but is liable for what he publishes in the same manner as any other
- 3487 individual."

The constitutional liberty of speech and of the press implies a right to freely utter and publish whatever the citizen may please and to be protected against any responsibility for so doing, so long as such right is not abused. But such right is abused where the publication, by reason of its defamatory character and falsity, injuriously affects the standing, reputation, or pecuniary interests of individuals."

- 3488 The argument that a newspaper, in this period of the world's progress, when people are hungry for the news, and almost every person is a newspaper reader, must be allowed more latitude and more privilege than is ordinarily given under the law of libel, stated in

3489 other words, simply amounts to the contention that, because the public curiosity or taste demands sensational items, and because a libel in a newspaper is more far-reaching and wide-spread than falsehoods spread by the mouth, or through the medium of letters or other writings, there should be given greater immunity to newspaper defamation, although the harm to the person injured is infinitely greater than it would be if otherwise published. The fact is, the greater the circulation the

3490 greater is the wrong and the more reason why greater care should be exercised in the publication of personal items. No newspaper has any right to trifle with the reputation of any citizen, or by carelessness or recklessness to injure his good name or business; and the reporter of a newspaper has no more right to collect stories on the street or to gather detrimental information from persons whom he may interview about a citizen and publish such stories or information in his newspaper, than has a tale-bearer to carry the gossip and

3491 scandal of the street. If true, the law will justify such publication or such speaking, but if false the newspaper as well as the citizen must be held responsible to any one who is wronged and damaged thereby. No sophistry of reasoning, and no claim of a public demand for news, or of the peculiar nature and magnitude of newspaper work, will excuse newspaper defamation and leave the party thereby injured without recompense for the wrong committed.

3492 Libel, so far as its definition is important in this case, is a publication by printing, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided.

To entitle one of whom a libel has been published in

- 3493 a newspaper to recover his actual damage suffered therefrom, he need not offer any evidence to show whether or not the publisher was actuated by malicious motives. If the matter published is libelous on its face, its falsity is presumed, and malice on the part of its publisher is presumed unless he prove the truth of it. The term malice has a two-fold signification. There is implied malice or malice in law; and express malice or malice in fact. In the former and legal sense it signifies a wrongful act intentionally done without justification or excuse. In the latter and popular sense it means ill-will towards another; in other words, an actual intention to injure or defame him, or at least a reckless disregard of consequences, and indifference whether injury is inflicted or not. The presence of express malice, or actual ill-will, is not essential to the maintenance of an action for the publication of a libel; for the law presumes malice in sufficient degree to enable the plaintiff
- 3494 to recover the actual damages sustained, unless the defendant proves that the defamatory matter was true. Of course in all cases of libel the plaintiff, when entitled to recover at all, should be awarded all the damages actually suffered from the publication. The plaintiff, if the matters published of him are libelous on their face, need not offer any evidence of special damages, unless he desires thereby to increase the amount of his recovery; for if he has been libeled the law will presume that
- 3495 he has been injured, and leave the amount of such injury to the determination of the jury.
- 3496

Whether malice in fact, or actual ill-will, existed or not, often becomes a material subject of inquiry in actions for libel, because its existence may justify the im-

3497 position of exemplary or punitive damages in the discretion of the jury. Malice, in fact, may appear from the face of the publication itself, or may be established by other evidence in the case.

In actions for libel the law of this state provides that where the defendant has been guilty of malice, actual or presumed, the jury, in addition to the actual damages, may give damages for the sake of example, and by way of punishing the defendant. These are called exemplary or punitive damages. Exemplary or punitive damages may be awarded by the jury in their discretion when malice on the part of the defendant is established as a fact, whether it be actual or presumed. Presumed malice is an inference of fact drawn from the libelous character of the publication. When an article libelous on its face is introduced in evidence a prima facie case of malice in fact is established; for even though it be presumed malice, it is malice in fact, and has the effect and gravity of express or actual malice otherwise proven. Presumed malice, therefore, where not rebutted by other evidence in the case, equally with actual or express malice, furnishes the basis for the recovery of exemplary or punitive damages. When a publication is false and libelous on its face malice in law is not only conclusively presumed, but such malice in fact is implied or presumed as to make the question of exemplary or punitive damages an issue to be determined by the jury in their discretion. The prima facie case of malice in fact, presumed from the libelous character of the publication itself, may either be strengthened or destroyed by the other evidence in the case, and it is a question for the jury on all the evidence to say

3501 whether or not in their discretion exemplary or punitive damages should be awarded.

When suit is brought on a libelous publication the defendant may plead and prove the truth of all or any portion of the defamatory matter; and to the extent that he establishes the truth of the matter charged it constitutes a complete justification and prevents any recovery of damages therefor. The law, however, casts upon the defendant the burden of affirmatively proving
3502 the truth of his plea of justification by a preponderance of the evidence produced at the trial.

The plaintiff alleges in the complaint that the defendant Times-Mirror Company on the 28th day of October, 1901, was a corporation duly organized, existing and acting under the laws of the State of California, and was at that time the owner, printer and publisher of a certain newspaper of general circulation known as the "Los Angeles Daily Times." That on said 28th
3503 day of October, 1901, the defendant printed and published in said newspaper, of and concerning the plaintiff, the following article, to-wit:

"OUTRAGES AT POINT LOMA"

EXPOSED BY AN "ESCAPE" FROM TINGLEY.
STARTLING TALES TOLD IN THIS CITY.
WOMEN AND CHILDREN STARVED AND
TREATED LIKE CONVICTS. THRILLING
RESCUE.

3504 Mrs. M. Leavitt of No. 418 West Fourth Street, a believer in what she terms "the true school of theosophy," who has recently removed to this city from San Diego, the capital city of theosophists, has some startling things to tell concerning the practices of Katherine

- 3505 Tingley and her associates, who conduct the Universal Brotherhood Homestead on Point Loma. Mrs. Leavitt seems to be thoroughly informed on two of the latest outrages penetrated at the spookery, the cases of Mrs. Neirsheimer and Mrs. Hollbrook, both well-to-do eastern women. Mrs. Hollbrook the wife of a railroad man and Freemason of the East, has been rescued from the roost on Point Loma by her husband with the aid of an officer and a gun, and now hovers at the point of death
- 3506 from the abuse she says she received while confined in the "Homestead." During the daytime she was worked in the field like a convict, forced to plant trees, hoe corn and perform all sorts of hard labor, and at night she was shut up in a cell and guarded as if she were a raving maniac. When her husband found what a trap she had fallen into he hurried here and took her out by force.

- The other case on which Mrs. Leavitt is posted is
- 3507 that of Mrs. Neirsheimer, who has been forcibly separated from her husband, who is also in the Tingley clutches, and it not allowed to speak to him. She is forced to live alone in a little tent in the grounds that surround the crazy institution. Armed men guard this place of horror, and Mrs. Leavitt says, solitary confinement, hard labor and starvation are resorted to by the Tingley managers as punishments upon those who disobey their iron rules.

- 3508 The woman who gives out this information is a personal friend of, and has talked with, Mrs. Hollbrook, the victim whose health has been forever destroyed by the ordeals she has passed through while imprisoned on Point Loma.

3509 Mrs. Leavitt claims that through a strong hypnotic power, Katherine Tingley works her will on sensible people. The Universal Brotherhood, or in other words, Katherine Tingley, is a off-shoot of the theosophic society, which became disjointed some four or five years ago. Mrs. Tingley was formerly—the theosophists say—a common dollar-taking spirit medium.

She couldn't agree with the theosophists, so she branched off and set up her trap on Point Loma. She
 3510 distributes literature throughout the East, and even in foreign countries, saying the Universal Brotherhood Homestead, located in the most beautiful spot on earth, offers to those who wish to retire into a quiet thoughtful life, a home in which they may live peacefully and in an atmosphere of soul study and pure thought.

Only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person Mrs. Tingley
 3511 exerts her influence over such as are spookily inclined; and the almost incredible things which have taken place prove that once in the lair it is almost impossible to escape.

Mrs. Leavitt says there is nothing taught at Point Loma but insane ceremonies; that the girls who are placed there to be educated are put to work at the most menial tasks, each one kept separate in a guarded cell and forbidden to speak to anybody else, and that the
 3512 poor little children are quartered in a miserable building some distance from the main institution, and are continually on the verge of starvation—for Mrs. Tingley openly states that children are fed too much for their spiritual good, and must eat but little, so they will be

3513 more ethereal. Mrs. Leavitt says she knows personally of a case where both parents and children are victims, and the children have been taken away to the child pen and are never allowed to communicate in any way with mother or father. For says Mrs. Tingley, they will grow up purer if away from bodily and affectionate influence of the parents!

The children are never allowed to speak to anybody except when they are selling trinkets to the visitors who come to the gates. The young lady prisoners make fancy work, which they sell to the strangers. Purple robes are worn by the women and a sort of khaki uniform by the men.

3514

On certain occasions a midnight pilgrimage is made by both men and women to a spot on the peninsula, which is termed sacred ground. They go in their night robes each holding a torch.

Before she had gotten well into the scheme, Mrs. Hollbrook says she saw that it was a fake, but having no idea of the horror of it, she decided to go into t' e Homestead for a while that she might expose the character of the crazy institution. Whether she will live to carry out the good work is doubtful. She can tell things, her friends say, more shocking than anything known yet.

3515

Mrs. Leavitt alleges that gross immoralities are practiced at Point Loma by some of the disciples of spookism, as it is there exemplified, and that such things should not be tolerated in a civilized community."

3516

The answer to the defendant does not deny the publication of the foregoing article and consequently the allegation that it published said article must, for the purposes of this action, be taken as true.

- 3517 The plaintiff alleges in the complaint that the defendant intended to convey the meaning and the said article was by the persons who read the same, as published in said paper, understood and believed to convey the meaning, that numerous outrages were committed by this plaintiff and under her direction at Point Loma; that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction, that women and children were by plaintiff starved and treated
- 3518 like convicts and that it was necessary to rescue such persons by force from plaintiff and from the institution conducted by her; that women were so abused in said institution and under direction of said plaintiff, as to bring them to the point of death and were by plaintiff forced to work in the fields and imprisoned in cells; that solitary imprisonment and hard labor was imposed by plaintiff upon the residents at said institution and their health destroyed thereby; that plaintiff was a
- 3519 spiritualistic medium and an impostor and that by the circulation of literature, she enticed people to come to the institution conducted by her and rendered it almost impossible for them to escape therefrom; that plaintiff caused to be carried on insane ceremonies and kept the girls at said institution in guarded cells; that plaintiff keeps and caused to be kept at said institution little children in building unfit for habitation and kept them upon the verge of starvation; that plaintiff by her
- 3520 influence and by misrepresentation has caused parents and children to be separated and keeps the children in confinement thereby destroying their health and strength; that the men and women in attendance at said institution are in the habit of making midnight pil-

3521 grimaces insufficiently clothed and in their night robes and are in the habit of indulging in immoral practices under the direction and at the suggestion of plaintiff; that the institution conducted by plaintiff is a fake and a fraud and is carried on by plaintiff for the purpose of defrauding people who are induced to attend it; that practices are carried on under the direction of plaintiff which are more shocking than are revealed by the matters above set forth and that gross immoralities are
 3522 practiced at said institution under the direction and by the instigation of plaintiff, and that practices are carried on there which should not be tolerated in a civilized community.

In its answer the defendant does not deny that the article was intended by the defendant and was understood by the persons who read it to convey the meanings attributed to it by the averments contained in the complaint, except in two particulars which I will here-
 3523 after mention, as to which it denies that the true meaning is ascribed; and, therefore, under the rules of pleadings these undenied allegations of the complaint as to the meaning of the article, and as to how it was understood by those who read it, must be taken to be true for the purposes of this action.

The answer of the defendant however contains a plea of justification, in which it is alleged that these defamatory charges, the alleged meanings of which are
 3524 not denied by it, are true to the sense imputed to them by the plaintiff, omitting, however, to allege the truth of some of the expressions, to which omissions I will hereafter refer. The law requires the defendant in his answer to plead the truth of a defamatory article, or

3525 such portions thereof, the publication of which he seeks to justify, and if he fails to plead the truth, or fails to establish the plea of the truth when made by evidence on the trial, to the extent of such failure the article must be regarded by the court and jury to be false.

It is the province of the court to determine the legal effect of the evidence. If there be no evidence legally tending to prove a fact in issue, it is the duty of the court to so decide, and not to submit to the jury a question which there is no evidence tending to prove. In
3526 order to justify the submission of any question of fact to the jury the proof must be sufficient to raise more than a mere conjecture or surmise that the fact is as alleged. It must be such that a rational and well constructed mind can reasonably draw from it the conclusion that the fact exists, and when the evidence is not sufficient to justify such an inference the court ought not to submit the question to the jury.

3527 The defendant alleges that it was true that numerous outrages were committed by plaintiff and under her direction at Point Loma. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.

The defendant alleges that it was true that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction. I declare to you as
3528 matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.

The defendant alleges that it was true that women and children were by plaintiff starved and that it was necessary to rescue such persons from the plaintiff and

3529 from the institution conducted by her. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false; as well as the following defamatory statement in the complaint in this connection; to which the defendant has failed to plead any justification at all, namely, "that women and children were by the plaintiff treated like convicts."

3530 The defendant alleges that it was true that women were so abused in said institution and under the direction of said plaintiff as to bring them to the point of death. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false; as well as the following defamatory statement mentioned in the complaint in this connection to which the defendant has failed to plead any justification at all, namely that "women were by plaintiff forced to work in the fields and imprisoned in cells; 3531 that solitary imprisonment and hard labor were imposed by plaintiff upon the residents of said institution and their health destroyed thereby."

The defendant alleges that it was true that plaintiff was a spiritualistic medium and an impostor; and that by the circulation of literature she induced people to come to the institution conducted by her and rendered it almost impossible for them to escape therefrom. I 3532 declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false. The defendant alleges that it was true that plaintiff kept little children in said institution upon the verge of starvation. I declare to you

3533 as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false; as well as the following defamatory statement mentioned in the complaint in this connection, to which the defendant has failed to plead any justification at all, namely, that plaintiff "kept the girls at said institution in guarded cells" and that "plaintiff keeps and caused to be kept little children in buildings unfit for habitation."

3534 The defendant alleges that it was true that plaintiff by her influence and misrepresentation has caused parents and children to be separated and kept the children in confinement thereby destroying their health and strength. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.

3535 The defendant alleges that it was true that the men and women in attendance at said institution are in the habit of making midnight pilgrimages in their night robes. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.

3536 The defendant alleges that it was true that the institution conducted by plaintiff is a fake and a fraud and is carried on by the plaintiff for the purpose of defrauding people who are induced to attend it. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.

The defendant alleges that it was true that practices were carried on at the institution conducted by plain-

3537 tiff which should not be tolerated in a civilized community. I declare to you as a matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.

I will now refer to the two particular averments of the complaint attributing meanings to the article published by the defendant, which it is alleged were intended to be conveyed by the defendant, and in which
 3538 who read it, and which the defendant in its answer denies were the meanings which were intended to be conveyed by the article, or which were understood to be conveyed by those who read it.

In its answer the defendant denies that by said article it intended to convey the meaning, or that said article was by the persons who read the same understood or believed to convey the meaning, that the men and women in attendance at the institution mentioned in
 3539 said article were in the habit of making midnight pilgrimages insufficiently clothed, or were in the habit of indulging in immoral practices, under the direction, or at the suggestion of the plaintiff.

The defendant also by its answer denies that by said article it intended to convey the meaning, or that said article was by the persons who read it understood or believed to convey the meaning, that practices were carried on under the direction of plaintiff which were more
 3540 shocking than were revealed by the matters set forth in this article, or that gross immoralities were practiced at said institution, under the direction, or by the instigation of the plaintiff.

It is for you to determine from the evidence in the case

3541 whether said article was intended to convey the meaning attributed to it by plaintiff and whether the persons who read it understood and believed the article to convey such meaning. In determining this question you should consider all the language contained in the article. You should, however, give to the language its ordinary and usual import, and ought not to give its language a strained or unusual meaning for the purpose of attributing a libelous meaning to any particular statement contained in it. The common import of the article must be applied to test its libelous character. The publishers intentions are to be gauged by such import. And unless you are satisfied that, giving to this article its common import the defendant intended to convey, the said article was understood by the readers thereof to convey the meaning that men and women in attendance at the institution mentioned in the article were in the habit of indulging in immoral practices under the direction or suggestion of plaintiff; or that practices were carried on there under the direction of plaintiff which were more shocking than were revealed by the matters set forth in this article, or that gross immoralities were practiced at said institution under the direction or by the instigation of plaintiff, then you should find that the article does not so charge and that such portions of the article are not libelous.

3543 In its plea of justification the defendant alleges that
 3544 insane ceremonies were taught at Point Loma. If you find from a preponderance of the evidence that such was the fact then you will find that as to that portion of the article the defendant has sustained its plea of justification.

3545 The defendant also alleges in its plea of justification that Katherine Tingley was an off-shoot of the Theosophic Society which became disjointed some four or five years ago, and that she was formerly a common dollar-taking spirit medium." If you find from a preponderance of the evidence that the statement was true, then you will find as to that part of the article the defendant has sustained its plea of justification.

3546 The defendant also alleges in its plea of justification that it was true that Mrs. Tingley openly stated that children are fed too much for their spiritual good and must eat but little so they will be more ethereal. If you find from a preponderance of the evidence that this statement was true, then you will find that as to that portion of the article the defendant has sustained its plea of justification.

3547 In view of the wide range taken by counsel in argument, and the many matters that have been pressed on your attention, I deem it of great importance that you should clearly apprehend the real legal issues in this case. What are the issues the court must determine in view of the law, and the actual state of the evidence? So far as they pertain to the exclusive province of the court they are these, and the court thus decides them:

3548 (1) The publication in the "Los Angeles Daily Times" complained of in this article was capable of the interpretation placed upon it in the complaint.

(2) So far as the defendant has not denied by its answer (not by the words of its counsel) the meanings attributed to this publication by the complaint the article must be regarded to have been published, and to

3549 have been understood by those who read it, in the sense imputed to it by the complaint.

(3) The publication, in all respects in which it is construed by the complaint, is in law libelous.

(4) The publication must be regarded as false as to those matters already so declared by the court, that is, as to its alleged meanings which the defendant has not attempted to justify by pleading their truth in its answer, and as to its alleged meanings the truth of which
3550 the defendant did plead, but which the court has already declared there is no legal evidence to prove.

The issues the jury are to decide are these: (1) What injury has been done to the plaintiff's reputation, and what mental distress has she suffered, as the natural and direct consequences of the publication of the libelous matters contained in the defendant's newspaper which the court, in the lawful exercise of its functions,
3551 has declared to be false, because their truth has not been pleaded, or if pleaded, has not been proved by the defendant. (2) If you should find that the other portions of the published article did bear the meaning attributed to them by averments of the complaint, and were so understood by the persons who read them, and which meaning the defendant has denied was either intended or understood to be conveyed by the article—
3552 then the jury must decide what injury has been done to the plaintiff's reputation, and what mental distress she has suffered as the natural and direct consequence of the publication of such matters. But if the jury should find that such portions of the article did not convey the meaning given them by the plaintiff, then they would

3553 not be libelous and, in contemplation of law, the plaintiff would not be injured thereby. (3) The amount of the money which in the judgment of the jury will compensate the plaintiff for the injury to her reputation and feelings directly resulting from the publication of all the libelous matter concerning her. (4) Was the publication of the libelous matter inspired by actual malice on the part of the defendant, and if so, was it of such degree and character as, under all the circumstances disclosed by the evidence, to justify the jury in awarding exemplary damages against the defendant. (5) If exemplary damages are to be given, the amount which the jury believes to be just.

3554 There are some things which are not in issue in this case. One of the elements of damage in a libel suit is the injury resulting to the plaintiff's reputation as to those presumably good traits of character which were disparaged or defamed by the libelous publication. The only way the defendant can make the plaintiff's character an issue in the case is to prove the truth of the accusation, or to prove that the plaintiff's general reputation was already bad in the respects in which it was attacked by the article complained of. There is no evidence in this case that the plaintiff's general reputation was bad as to any of the traits of character involved in the charge on which this suit was brought. Only so far, then, as the defendant has proved the truth of any of the injurious charges it in fact made against the plaintiff, can her right to recover damages be affected. Her sentiments, beliefs, opinions, or acts, which were not discussed or referred to in the article published by the defendant, are not matters proper to be considered by you.

3557 either for the purpose of increasing or decreasing the amount of damages the plaintiff should recover.

The subject of the constitutional liberty of the press, and the suggestion that the publication in the Los Angeles Daily Times was a privileged communication, because it referred to the conduct and management of a quasi public institution, were not suggested by the defendant's answer nor by any previous contention of the defendant, but were first referred to by its counsel in his

3558 argument to the jury. In the opinion of the court there are no facts or circumstances appearing in this case which give the defendant any legal right to have these questions considered by the jury. Nor is it the opinion

of the court that either the progress of Christian civilization or, the principles of the Christian religion, are involved in the issues of this case; unless it be said that God's command, "Thou shalt not bear false witness against thy neighbor", is the underlying principle which

3559 justifies the enactment and enforcement of the law of libel.

In estimating the amount of plaintiff's actual, loss or damages, the jury may take into consideration the extent of the circulation given to the article published in the defendant's newspaper; the rank and position of plaintiff in society; the injury to her fame and reputation, and the grief, anguish and mental suffering which plaintiff may have undergone, and of the mortification and humiliation which she may have suffered, from the insulting nature of the article.

3560 ~~Nine of your number may return a verdict.~~

(Here the court read the instructions given at the request of the defendant, and hereinbefore set out.)

3561 Before submitting this cause for your decision, I take
 occasion to thank you most sincerely for your exemplary
 deportment during the whole course of this trial; and to
 express my appreciation of the careful and considerate
 attention you have apparently given to the evidence pro-
 duced by the respective parties, as well as to arguments
 of counsel. Your conduct so far has impressed on my
 mind the confident belief that your coming deliberations
 in the jury room will be conducted with that dignity and
 3562 decorum that ought to characterize the actions of those
 who are the judges of the facts in the court of justice.

Believing that I have discharged my duty, my whole
 duty, and nothing but my duty, the case is now sub-
 mitted to you.

I.

3563 BE IT REMEMBERED that the defendant duly ex-
 cepted, and now excepts to the following portion of the
 charge given to the jury by the court of its own motion
 and insists that the action of the court in giving said por-
 tion of said charge was and is contrary to law, to-wit:

“ It is always important that the restraints and penal-
 ties of the law should be made effectual where legal
 wrongs are threatened or have been committed. The
 manner in which the law is enforced against wrong-
 doers is likely to be indicated by the moral and social
 condition of the community, as well as by the law-abid-
 3564 ing, or opposite, tendencies of its citizens. The fact
 that one has unjustly libeled another through the public
 press, should furnish the legal basis for the recovery of
 adequate damages, instead of being urged as an illegal

3565 claim of justification for a felonious assault committed on the publisher in retaliation for the libel."

II.

BE IT ALSO REMEMBERED that the defendant duly excepted, and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

3566 " I trust that I am always conscious of the obligations involved in the discharge of judicial duty, and I feel that a suggestion from the court that this sense of responsibility ought to be present in the minds of jurors should not be regarded as inappropriate. All men owe allegiance to the law of their country and should respect and obey it; but especially is this true when they sit as ministers of that law in a court of justice."

3567

III.

BE IT ALSO REMEMBERED that the defendant duly excepted, and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

3568 " The object of the law in requiring that the mutual altercations between the parties shall be reduced to writing is to bring before the court the real matter in controversy, so that the grounds for their dispute, and the questions of fact involved in it, may be known before the trial is entered upon. The law requires this in order, first, that it may be seen whether the plaintiff's claim is

3569 of such a nature as to entitle him or her to relief under the law, and whether the defendant has any legal defense to it; and, second, to confine the investigation to the points of actual disagreement; and, third, that each party may be apprised of the nature of the claim or defense of the other; and, fourth, that the parties afterwards may be able to know from the record what facts have been settled by the litigation."

IV.

3570

BE IT ALSO REMEMBERED that the defendant duly excepted, and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge, was and is contrary to law, to-wit:

3571 "If the trial court errs in expounding the law, the error may afterwards be corrected and a new trial granted by the trial court, or, if it adheres to its rulings, then by the Supreme Court of the State on an appeal of the case. If the jury, however, should decide the case on notions of the law differing from those expressed by the court, one or the other of the parties would be wrongfully deprived of a legal right, and in such a case the law furnishes no remedy by which the wrong may be righted."

V.

3572

BE IT ALSO REMEMBERED that the defendant duly excepted, and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving

3573 said portion of said charge was and is contrary to law,
to-wit:

“So that the legal and moral obligation resting on the jury to take the law as it is given by the court must be clearly apparent to all of you.”

VI.

3574 BE IT ALSO REMEMBERED that the defendant
duly excepted and now excepts to the following portion
of the charge given to the jury by the court of its own
motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
to-wit:

“None of these matters should be considered by you, except only so far as they tend to prove or disprove the issue made by the defendant’s plea of justification to the effect, that, at the time the publication complained of was made, it was true that nothing was taught at Point Loma but insane ceremonies.”

3575

VII.

BE IT ALSO REMEMBERED that the defendant
duly excepted, and now excepts to the following portion
of the charge given to the jury by the court of its own
motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
to-wit:

3576 “My purpose in directing your attention to these
constitutional provisions is prompted by my desire to
impress upon your conscience the conviction that in the
courts of California all persons must stand on a com-
mon plane of equality. To remind you that it was the ex-
pressed conviction of the liberal-minded and liberty-lov-

3577 ing people, who adopted our constitution, that one's
 opinions or practices in matters of religion, so long as
 they do not develop into acts of licentiousness, or be-
 come a menace to the peace or safety of the state, ought
 not to discredit him as a witness, and ought not to
 effect his fairness or competency to sit as a juror in a
 court of justice, though his religious belief may differ
 from that entertained by a party to the action. In this
 respect then: "Whatsoever ye would that men should
 3578 do to you, do you even so to them"; for this is the law."

VIII.

BE IT ALSO REMEMBERED that the defendant
 duly excepted, and now excepts to the following portion
 of the charge given to the jury by the court of its own
 motion and insists that the action of the court in giving
 said portion of said charge was and is contrary to law,
 to-wit:

3579 "Prejudice of opinion must be banished from our
 courts of justice and persons who bring their causes
 there must receive equal protection and redress. Justice
 cannot be done in any cause where Prejudice clings to
 Reason while sitting in the judgment seat."

IX.

3580 BE IT ALSO REMEMBERED that the defendant
 duly excepted and now excepts to the following portion
 of the charge given to the jury of its own motion and
 insists that the action of the court in giving said por-
 tion of said charge was and is contrary to law, to-wit:

"The argument that a newspaper, in this period of
 the world's progress, when people are hungry for the
 news, and almost every person is a newspaper reader,

3581 must be allowed more latitude and more privilege than
 is ordinarily given under the law of libel, stated in other
 words, simply amounts to the contention that, because
 the public curiosity or taste demands sensational items,
 and because a libel in a newspaper is more far-reaching
 and wide-spread than falsehoods spread by the mouth,
 or through the medium of letters or other writings,
 there should be given greater immunity to newspaper
 defamation, although the harm to the person injured is
 3582 infinitely greater than it would be if otherwise pub-
 lished. The fact is, the greater the circulation the
 greater is the wrong and the more reason why
 greater care should be exercised in the publication
 of personal items. No newspaper has the right to
 trifle with the reputation of any citizen, or by careles-
 ness or recklessness to injure his good name or busi-
 ness; and the reporter of a newspaper has no more right
 to collect stories on the street or to gather detrimental
 3583 information from persons whom he may interview about
 a citizen and publish such stories or information in his
 newspaper, than has a talebearer to carry the gossip and
 scandal of the street. If true, the law will justify such
 publication or such speaking, but if false, the newspaper
 as well as the citizen must be held responsible to any
 one who is wronged and damaged thereby. No soph-
 istry of reasoning, and no claim of a public demand
 for news, or of the peculiar nature and magnitude of
 newspaper work, will excuse newspaper defamation and
 3584 leave the party thereby injured without recompense for
 the wrong committed."

X.

BE IT ALSO REMEMBERED that the defendant

3585 duly excepted, and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

“ In actions for libel the law of this state provides that where the defendant has been guilty of malice, actual or presumed, the jury, in addition to the actual damages, may give damages for the sake of example, and by way of punishing the defendant: These are
3586 called exemplary or punitive damages. Exemplary or punitive damages may be awarded by the jury in their discretion when malice on the part of the defendant is established as a fact, whether it be actual or presumed. Presumed malice is an inference of fact drawn from the libelous character of the publication. When an article libelous on its face is introduced in evidence a prima facie case of malice in fact is established; for even
3587 though it be presumed malice it is malice in fact, and has the effect and gravity of express or actual malice otherwise proven. Presumed malice, therefore, where not rebutted by other evidence in the case, equally with actual or express malice, furnishes the basis for the recovery of exemplary or punitive damages. When a publication is false and libelous on its face malice in law is not only conclusively presumed, but such malice in fact is implied or presumed as to make the question of
3588 exemplary or punitive damages an issue to be determined by the jury in their discretion. The prima facie case of malice in fact, presumed from the libelous character of the publication itself, may be either strengthened or destroyed by the other evidence in the case, and it is a question for the jury on all the evidence to say

3589 whether or not in their discretion exemplary or punitive damages should be awarded.”

XI.

BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

3590

“The defendant alleges that it was true that numerous outrages were committed by plaintiff and under her direction at Point Loma. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.”

XII.

BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

3591

“The defendant alleges that it was true that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false.”

3592

XIII.

BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion

3593 of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

“The defendant alleges that it was true that women and children were by plaintiff starved and that it was necessary to rescue such persons from the plaintiff and from the institution conducted by her. I declare to you as matter of law that there is no legal proof of the truth
3594 of that charge, and therefore you must regard it as false; as well as the following defamatory statement mentioned in the complaint in this connection, to which the defendant had failed to plead any justification at all, namely, “that women and children were by the plaintiff treated like convicts”.

XIV.

BE IT ALSO REMEMBERED that the defendant
3595 duly excepts and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

“The defendant alleges that it was true that women were so abused in said institution and under the direction of said plaintiff as to bring them to the point of death. I declare to you as a matter of law that there is
3596 no legal proof of the truth of that charge, and therefore you must regard it as false; as well as the following defamatory statement mentioned in the complaint in this connection to which the defendant has failed to plead any justification at all, namely that “women were by

3597 Plaintiff forced to work in the fields and imprisoned in
cells; that solitary imprisonment and hard labor were
imposed by plaintiff upon the residents of said institu-
tion and their health destroyed thereby."

XV.

BE IT ALSO REMEMBERED that the defendant
duly excepts and now excepts to the following portion
of the charge given to the jury by the court of its own
3598 motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
to-wit:

"The defendant alleges that it was true that plaintiff
was a spiritualistic medium and an imposter; and that
by the circulation of literature she induced people to
come to the institution conducted by her and rendered
it almost impossible for them to escape therefrom. I
declare to you as matter of law that there is no legal
3599 proof of the truth of that charge, and therefore you
must regard it as false."

XVI.

BE IT ALSO REMEMBERED that the defendant
duly excepted and now excepts to the following portion
of the charge given to the jury by the court of its own
motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
3600 to-wit:

"The defendant alleges that it was true that plaintiff
kept little children in said institution upon the verge of
starvation. I declare to you as a matter of law that
there is no legal proof of the truth of that charge, and

3601 therefore you must regard it as false; as well as the following defamatory statement mentioned in the complaint in this connection, to which the defendant has failed to plead any justification at all, namely, that plaintiff "kept the girls at said institution in guarded cells", and that "plaintiff keeps and caused to be kept at said institution little children in buildings unfit for habitation."

XVII.

3602 BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

3603 "The defendant alleges that it was true that plaintiff by her influence and misrepresentation has caused parents and children to be separated and kept the children in confinement and thereby destroying their health and strength. I declare to you as matter of law that there is no legal proof of the truth of that charge, and therefore you must regard it as false."

XVIII.

3604 BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

"The defendant alleges that it was true that the men

3605 and women in attendance at said institution are in the
habit of making midnight pilgrimages in their night
robes. I declare to you as matter of law that there is
no legal proof of the truth of that charge, and therefore
you must regard it as false.”

XIX.

BE IT ALSO REMEMBERED that the defendant
duly excepted and now excepts to the following portion
3606 of the charge given to the jury by the court of its own
motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
to-wit :

“ The defendant alleges that it was true that the insti-
tution conducted by plaintiff is a fake and a fraud and
is carried on by the plaintiff for the purpose of defraud-
ing people who are induced to attend it. I declare to
3607 you as a matter of law that there is no legal proof of
the truth of that charge, and therefore you must regard
it as false.”

XX.

BE IT ALSO REMEMBERED that the defendant
duly excepted and now excepts to the following portion
of the charge given to the jury by the court of its own
motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
3608 to-wit :

“ The defendant alleges that it was true that practices
were carried on at the institution conducted by plaintiff
which should not be tolerated in a civilized community.
I declare to you as matter of law that there is no legal

3609 proof of the truth of that charge, and therefore you must regard it as false.”

XXI.

BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, to-wit:

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“In view of the wide range taken by counsel in argument, and the many matters that have been pressed on your attention, I deem it of great importance that you should clearly apprehend the real legal issues in this case, What are the issues the court must determine in view of the law, and the actual state of the evidence? So far as they pertain to the exclusive province of the court they are these, and the court thus decides them:

3611

(1) The publication in the “Los Angeles Daily Times” complained of in this action was capable of the interpretation placed upon it by the complaint. (2) So far as the defendant has not denied by its answer (not by the words of its counsel) the meanings attributed to this publication by the complaint, the article must be regarded to have been published, and to have been understood by those who read it, in the sense imputed to it by the complaint. (3) The publication, in all respects

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in which it is construed by the complaint, is in law libelous. (4) The publication must be regarded as false as to those matters already so declared by the court, that is, as to its alleged meanings which the defendant has not attempted to justify by pleading their

3613 truth in the answer, and as to its alleged meanings
the truth of which the defendant did plead, but which
the court has already declared there is no legal evidence
to prove."

XXII.

BE IT ALSO REMEMBERED that the defendant
duly excepted and now excepts to the following portion
of the charge given to the jury by the court of its own
3614 motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
to-wit:

"The amount of money which in the judgment of the
jury will compensate the plaintiff for the injury to her
reputation and feelings directly resulting from the pub-
lication of all the libelous matter concerning her."

XXIII.

3615 BE IT ALSO REMEMBERED that the defendant
duly excepted and now excepts to the following portion
of the charge given to the jury by the court of its own
motion and insists that the action of the court in giving
said portion of said charge was and is contrary to law,
to-wit:

3616 "There are some things which are not in issue in this
case. One of the elements of damage in a libel suit is
the injury resulting to the plaintiff's reputation as to
those presumably good traits of character which were
disparaged or defamed by the libelous publication. The
only way the defendant can make the plaintiff's charac-
ter an issue in the case is to prove the truth of the accu-
sation, or to prove that the plaintiff's general reputation

3617 was already had in the respects in which it was attacked by the article complained of. There is no evidence in this case that the plaintiff's general reputation was bad as to any of the traits of character involved in the charge on which this suit was brought. Only so far, then, as the defendant has proved the truth of any of the injurious charges it in fact made against the plaintiff, can her right to recover damages be affected. Her sentiments, beliefs, opinions, or acts, which were not discussed or 3618 referred to in the article published by the defendant, are not matters proper to be considered by you, either for the purpose of increasing or decreasing the amount of damages the plaintiff should recover.

BE IT ALSO REMEMBERED that the defendant duly excepted and now excepts to the following portion of the charge given to the jury by the court of its own motion and insists that the action of the court in giving said portion of said charge was and is contrary to law, 3619 to-wit:

“ The subject of the constitutional liberty of the press, and the suggestion that the publication in the Los Angeles Daily Times was a privileged communication, because it referred to the conduct and management of a quasi public institution, were not suggested by the defendant's answer, nor by any previous contention of the defendant, but were first referred to by its counsel in his argument to the jury. In the opinion of the court there 3620 are no facts or circumstances appearing in this case which give the defendant any legal right to have these questions considered by the jury. Nor is it the opinion of the court that either the progress of Christian civilization or the principles of the Christian religion, are in-

3621 volved in the issues in this case; unless it be said that
 God's command, "Thou shalt not bear false witness
 against thy neighbor", is the underlying principle which
 justifies the enactment and enforcement of the law of
 libel."

XXV.

BE IT ALSO REMEMBERED that the defendant
 duly excepted and now excepts to the following portion
 3622 of the charge given to the jury by the court of its own
 motion and insists that the action of the court in giving
 said portion of said charge was and is contrary to law,
 to-wit:

"Believing that I have discharged my duty, my whole
 duty, and nothing but my duty, the case is now submitted
 to you."

XXVI.

BE IT ALSO REMEMBERED that the defendant
 3623 duly excepted and now excepts to the whole and each
 and every part of the said charge of the court to the
 jury by the court of its own motion and insists that the
 action of the court in giving the same and in giving each
 and every part of the said charge was and is contrary
 to law.

Hereupon the jury retired and after deliberation re-
 turned into the court with their verdict in favor of the
 plaintiff and assessing the damages at the sum of
 3624 Seven-thousand five-hundred dollars (\$7500.)

Thereupon judgment was given and made in favor of
 the plaintiff and against the defendant for the sum
 of Seven-thousand five-hundred dollars (\$7500,) with
 costs and thereafter and within the time allowed by

3625 law the defendant filed with the clerk and served upon the adverse party to wit: upon the plaintiff, a notice of its intention to move for a new trial; and therein designated the grounds upon which the motion would be made, and that the said motion would be made upon a bill of exceptions and upon affidavits, and which said notice of intention to move for a new trial omitting the title of the court and the cause was and is and the words and figures following, to-wit:

3626

[TITLE OF COURT AND CAUSE.]

NOTICE OF INTENTION TO MOVE FOR A
NEW TRIAL.

3627 Please take notice that the defendant intends to and will move the court to set aside and vacate the verdict of the jury, heretofore rendered, in the above entitled action, and to grant defendant a new trial in this case upon the following grounds, viz:

1. Irregularity in the proceedings of the court by which the defendant was prevented from having a fair trial.

2. Abuse of discretion by the court by which the defendant was prevented from having a fair trial.

3628 3. Irregularity in the proceedings and conduct of the plaintiff by which the defendant was prevented from having a fair trial.

4. Irregularity in the proceedings of the jury by which the defendant was prevented from having a fair trial.

- 3629 5. Misconduct of the jury.
6. Newly discovered evidence material for the defendant, which it could not, with reasonable diligence, have discovered and produced at the trial.
7. Excessive damages appearing to have been given under the influence of passion or prejudice.
8. Insufficiency of the evidence to justify the verdict.
- 3630 9. Errors in law occurring at the trial and excepted to by the defendant.

The said motion as to the 1st, 2nd, 3rd, 4th, 5th and 6th grounds above stated, will be made on affidavits hereafter to be served and filed and as to the 7th, 8th and 9th grounds above stated said motion will be made on a bill of exceptions to be hereafter prepared, served and settled.

3631

W. F. FITZGERALD,
S. M. SHORTRIDGE,
EUGENE DANAY,
HUNSAKER & BRITT,
Attorneys for Defendant.

To Messrs. J. W. McKinley, A. B. Hotchkiss, W. R. Andrews, F. R. Kellogg and J. E. Wadham, Attorneys for plaintiff in said action:—

Dated Jan. 22nd, 1903.

3632 SPECIFICATIONS OF INSUFFICIENCY OF EVIDENCE.

The defendant having in such notice of intention to move for a new trial designated as one of the grounds

3633 of the motion the insufficiency of the evidence to justify the verdict, now specifies in this bill of exceptions the particulars in which said evidence is alleged to be insufficient to justify the verdict, as follows:

The evidence is insufficient to justify the verdict, in this:

I.

3634 That the evidence is insufficient to show, and it wholly fails to show, that the defendant published of or concerning the plaintiff any false and unprivileged, or false or unprivileged publication, by writing, or printing, or picture or effigy, or other fixed representation to the eye, which exposed plaintiff to hatred, contempt, ridicule or obloquy, or which caused him to be shunned or avoided, or which did, or which had a tendency to injure her in her good name, or fame, or reputation, or occupation in the sum of Fifty thousand dollars
3635 (\$50,000.) or in any sum whatever or at all.

II.

3636 That the evidence is insufficient to show and it wholly fails to show, that the publication alleged in the complaint to have been published of and concerning the plaintiff, is false and unprivileged, or false or unprivileged, or that all or any portion of said article was or is false or unprivileged or false or unprivileged, but on the contrary the evidence shows without substantial conflict that the said publication and each and every part thereof was and is to and the evidence shows without substantial conflict that the said publication and each and every part thereof was and is privileged.

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III.

That the evidence is insufficient to show and it wholly fails to show, that the said publication, or any part thereof was or is false or malicious or defamatory, but on the contrary the evidence shows without substantial conflict that the said publication and each and every part thereof was and is true.

IV.

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That the evidence is insufficient to show and it wholly fails to show that the plaintiff was not and never has been guilty of any of the matters charged in said publication, but on the contrary the evidence shows without substantial conflict that the said publication and each and every part thereof was and is true and privileged.

V.

3639

That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published, understood or believed to convey the meaning that numerous or any outrageous charge committed by this plaintiff or under her direction at Point Loma, or elsewhere.

VI.

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That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that people were falsely or

3641 at all imprisoned or deprived of their liberty by plaintiff, or under her direction.

VII.

3642 That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that women and children, or women or children, were by plaintiff starved and treated, or starved or treated like convicts and that it was or it that was necessary to rescue such persons by force from plaintiff or from the institution conducted by her.

VIII.

3643 That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that women were so abused in said institution and under or under the direction of said plaintiff as to bring them to the point of death and were, or were by plaintiff forced to work in the fields and imprisoned in cells, or were by plaintiff forced to work in the fields or imprisoned in cells.

IX.

3644 That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that solitary imprisonment and hard labor, or solitary imprisonment or hard labor

3645 were imposed by the plaintiff upon the residents at said
institution and their health destroyed thereby, or their
health destroyed thereby.

X.

3646 That the evidence is insufficient to show and wholly
fails to show that the defendant intended to convey the
meaning, or that the said publication was by the persons
who read the same as published understood or be-
lieved to convey the meaning that plaintiff rendered it
impossible, or almost impossible, for people at said in-
stitution conducted by her to escape therefrom.

X.

3647 That the evidence is insufficient to show and wholly
fails to show that the defendant intended to convey the
meaning or that the said publication was by the persons
who read the same as published understood or believed
to convey the meaning that plaintiff kept the girls, or
any girl at said institution in crowded or in any cells.

XI.

3648 That the evidence is insufficient to show and wholly
fails to show that the defendant intended to convey the
meaning, or that the said publication was by the persons
who read the same as published understood or believed
to convey the meaning that plaintiff kept and caused to
be kept at said institution little children in buildings un-
fit for habitation and kept them on the verge of star-
vation.

XII.

That the evidence is insufficient to show and wholly
fails to show that the defendant intended to convey the

3649 meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that the men and women in attendance at the institution conducted by the plaintiff are or were in the habit of making midnight pilgrimages insufficiently clothed, or in their night robes, or are or were in the habit of indulging in immoral practices under the direction or at the suggestion of the plaintiff.

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XIII.

That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that practices are carried on under the direction of plaintiff, which are more shocking than any that are revealed by the matters mentioned in said article.

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XIV.

That the evidence is insufficient to show and wholly fails to show that the defendant intended to convey the meaning, or that the said publication was by the persons who read the same as published understood or believed to convey the meaning that gross immoralities were practiced in said institution under the direction or by the instigation of plaintiff; or meaning that practices are carried on at said institution which should not be tolerated in a civilized country.

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XIV.

That in so far as the publication mentioned in the

- 3653 complaint refers to and is a statement of the facts concerning the forced separation of Mrs. Neresheimer from her husband who is in the Tingley clutches and which states that the said Mrs. Neresheimer is not allowed to speak to her husband and is forced to live alone in a little tent in the grounds that surround the crazy institution. The evidence is insufficient to show and it wholly fails to show that the same is false and unprivileged, or false or unprivileged; and the evidence does not show
- 3654 that the charge in said article concerning the separation of the said Mrs. Neresheimer from her said husband is not substantially true in all important and essential features and particulars; but on the contrary the evidence shows without substantial conflict that so much of said publication is substantially true and is privileged and the evidence shows that E. A. Neresheimer, the husband of the Mrs. Neresheimer mentioned in said article, was infatuated with the teachings of and was under the directions of the plaintiff, was a member of the Universal Brotherhood and an Official of that organization.
- 3655

XVII.

- In so far as matters contained in said publication refer to or charge that "armed men guard this place of horror;" the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.
- 3656

XVIII.

In so far as matters contained in said publication refer to or charge that "Katherine Tingley is an off-shoot

3657 of the Theosophic Society which became disjointed some four or five years ago. Mrs. Tingley was formerly — the Theosophists say — a common, dollar-taking spirit medium"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient; or that the same is untrue in any substantial particular.

XIX.

3658 In so far as matters contained in said publication refer to or charge that " She could not agree with the Theosophists so she branched off and set up her trap at Point Loma. She distributes literature throughout the East, and even in foreign countries, saying the Universal Brotherhood Homestead, located in the most beautiful spot on earth, affords to those who wish to retire into a quiet, thoughtful life, a home in which they may live peacefully, and in an atmosphere of soul study and pure thought"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

XX.

3660 In so far as matters contained in said publication refer to or charge that " only people with money happen to get these pamphlets, says Mrs. Leavitt. When people answer her enticing advertisements in person, Mrs. Tingley exerts her influence over such as are spookily inclined; and the most incredible which have taken place, prove that once in the lair it is almost impossible to escape "; the evidence is insufficient to show and wholly

3661 fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

XXI.

In so far as matters contained in said publication refer to or charge that "There is nothing taught at Point Loma but insane ceremonies; and the girls who are placed there to be educated are put to work at the most menial tasks"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

XXII.

In so far as matters contained in said publication refer to or charge that the children there "are continually on the verge of starvation — for Mrs. Tingley openly states that children are fed too much for their spiritual good, and must eat but little so they will be more ethereal"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient or that the same is untrue in any substantial particular.

XXIII.

3664 In so far as matters contained in said publication refer to or charge that "children will grow up purer if away from bodily and affectionate influence of their parents"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that re-

3665 gard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

XXIV.

In so far as matters contained in said publication refer to or charge that "The children are never allowed to speak to anybody except when they are selling trinkets to the visitors who come to the gates"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

3666

XXV.

In so far as matters contained in said publication refer to or charge that "purple robes are worn by the women and a sort of khaki uniform by the men"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

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XXVI.

In so far as matters contained in said publication refer to or charge that "On certain occasions a midnight pilgrimage is made by both men and women to a spot of the peninsula which is termed sacred ground. They go in their night robes, each holding a torch"; the evidence is insufficient to show and wholly fails to show that the statement of the article in that regard is false or unprivileged and is insufficient to show that the same is untrue in any substantial particular.

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XXVII.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that he statement that " numerous outrages were committed by plaintiff and under her direction at Point Loma is or was untrue or false or unprivileged.

3670

XXVIII.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that people were falsely imprisoned and deprived of their liberty by plaintiff and under her direction, is or was untrue or false or unprivileged.

3671

XXIX.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that women and children were by plaintiff starved and that it was necessary to rescue such persons from the plaintiff and from the institution conducted by her, is or was untrue or false or unprivileged.

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XXX.

In so far as the matters contained in said publication

3673 are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that women were so abused in said institution and under the direction of said plaintiff as to bring them to the point of death is or was untrue or false or unprivileged.

XXXII.

3674 In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that their health was threatend thereby, is or was false, untrue or unprivileged.

XXXIII.

3675 In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that plaintiff was a spiritualistic medium and an imposter and that by the circulation of literature she induced people to come to the institution conducted by her, and rendered it almost impossible for them to escape therefrom, is untrue or false or unprivileged.

3676

XXXIV.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show

3677 that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that plaintiff caused to be carried on insane ceremonies, is untrue, or false or unprivileged.

XXXV.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show
3678 that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that plaintiff kept little children in said institution upon the verge of starvation, is untrue, or false, or unprivileged.

XXXV.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show
3679 that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that plaintiff, by her influence and misrepresentation has caused parents and children to be separated, and kept the children in confinement, thereby destroying their health and strength, is untrue, or false or unprivileged.

XXXVI.

In so far as the matters contained in said publication
3680 are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement that the men and women in attendance at said institution

3681 are in the habit of making midnight pilgrimages in their night robes, is untrue, or false, or unprivileged.

XXXVII.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement
3682 that the institution conducted by plaintiff is a fake and a fraud, and is carried on by plaintiff for the purpose of defrauding people who are induced to attend it, is untrue, or false, or unprivileged.

XXXVIII.

In so far as the matters contained in said publication are alleged by plaintiff to be false and unprivileged, the evidence is insufficient to show and wholly fails to show that said matters were or are false or unprivileged and the evidence is insufficient to show that the statement
3683 that practices are carried on there which should not be tolerated in a civilized community, is untrue, or false, or unprivileged.

XL.

That the evidence is insufficient to justify the verdict and there is no evidence to justify the verdict that defendant published of or concerning the plaintiff a libel.
3684

XLI.

That the evidence is insufficient to justify the verdict in that there is no evidence to sustain the allegation

3685 that the defendant made the publication alleged in the complaint with malice either actual or implied.

XLII.

That the evidence is insufficient to justify the verdict and there is no evidence to justify the verdict that the defendant made the publication alleged in the complaint, maliciously.

XLIII.

3686 That the evidence is insufficient to justify and there is no evidence justifying the verdict assessing damages to the plaintiff in the sum of seven thousand five hundred dollars (\$7500) or in any sum whatever.

XLIV.

3687 That the evidence is insufficient to show and there is no evidence showing that the plaintiff was damaged in the sum of seven thousand five hundred dollars (\$7500.) or in any sum whatever.

XLV.

3688 That the evidence is insufficient to justify the verdict in assessing the damages is the sum of seven thousand five hundred dollars (\$7500.) in this; the evidence does not show that plaintiff has suffered damage in the sum of seventy five hundred dollars (\$7500.) or in any sum or that she was entitled to recover from the defendant the sum of seven thousand five hundred dollars (\$7500.) or any sum; that the damages are excessive and appear to have been given under the influence of passion or prejudice and are excessive.

In as much as the foregoing matters do not appear

3689 of record, the defendant within the time allowed by law and the stipulation of the parties tenders this, its bill of exceptions and asks that the same be settled and allowed and made a part of the record in this case.

Dated March 20th, 1903.

W. F. FITZGERALD,
HUNSAKER & BRITT,
EUGENE DANAY,
SAMUEL M. SHORTRIDGE,
GRANT JACKSON.

3690

Attorneys for Defendant.

It is stipulated that the foregoing bill of exceptions may be settled and allowed as correct.

J. W. MCKINLEY,
W. R. ANDREWS,
A. B. HOTCHKISE,
FREDERICK R. KELLOGG,
J. E. WADHAM,

3691

Attorneys for Plaintiff.

HUNSAKER & BRITT,
SAMUEL M. SHORTRIDGE,
GRANT JACKSON,
EUGENE DANAY.

The foregoing bill of exceptions having been pro-
served and presented for settlement in due time, the same
is hereby allowed and settled as correct, and I hereby cer-
tify that the same is a correct bill of exceptions in said
cause.

3692

Dated this 3rd of June, 1903.

E. S. TORRANCE,

Judge who tried said cause.

Due and personal service and receipt of copy of the

3693 within Bill of Exceptions is hereby admitted this 20th of March, 1903.

T. R. KELLOGG,
W. R. ANDREWS,
A. B. HOTCHKISS,
JAMES E. WADHAM,
J. W. MCKINLEY,
Attorneys for Plaintiff.

3694 Endorsed: Filed June 3, 1904. Will H. Holcomb,
County Clerk. By Herbert N. Neale, Deputy.

[TITLE OF COURT AND CAUSE.]

CERTIFICATE TO JUDGMENT ROLL.

C. C. P. Sec. 670.

3695 I, the undersigned, County Clerk of the County of San Diego, State of California, and ex-officio Clerk of the Superior Court in and for said County, do hereby certify the foregoing to be a true copy of the Judgment entered in the above entitled action, and recorded in Judgment Book 20 of said Court at Page 307. And I further certify that the foregoing papers, hereto annexed, constitute the Judgment Roll in said action.

3696 WITNESS my hand and the seal of said Court, this 6th day of July, 1904.

WILL H. HOLCOMB, Clerk,

(Seal) By HERBERT N. NEALE, Deputy Clerk.

CASE No. 11,799.

3697 NOTICE OF APPEAL FROM ORDER DENYING
MOTION FOR NEW TRIAL.

[TITLE OF COURT AND CAUSE.]

You will please take notice that the defendant in the above entitled action hereby appeals to the supreme court of the state of California from the order entered in the minutes of said superior court on the 1st day of July, 1904, denying defendant's motion for a new trial of said action and from the whole thereof.

3698

Yours, etc.,

EUGENE DANAY,

HUNSAKER & BRITT,

Attorneys for Defendant.

Dated this 6th day of July, 1904.

To Messrs. J. W. McKinley, W. R. Andrews,

F. R. Kellogg, J. E. Wadham and A. B. Hotchkiss,
Attorneys for plaintiff.

3699

Endorsed: Service of the within notice is hereby admitted this 6th day of July, 1904. W. R. Andrews, J. W. McKinley, F. R. Kellogg, A. B. Hotchkiss, J. E. Wadham, Attorneys for Plaintiff. Filed July 6, 1902. Will H. Holcomb, County Clerk. By T. J. Story, Deputy.

MINUTES OF COURT JULY 1ST, 1904.

3700 [TITLE OF COURT AND CAUSE.]

The plaintiff being present by her attorney, W. R. Andrews, Esq., and the defendant by its attorney, Eugene Daney, Esq., the defendant now moves the court on the bill of exceptions on motion for a new trial heretofore

3701 settled and now on file herein, and on the grounds stated in its notice of intention to move for a new trial, to vacate and set aside the verdict heretofore rendered in said action and to grant defendant a new trial. Whereupon said motion was submitted to the court for decision, and the court being fully advised in the premises, it is now ordered that said motion be, and the same is hereby, denied, to which ruling and order defendant duly excepted.

3702

NOTICE OF APPEAL.

[TITLE OF COURT AND CAUSE.]

You will please take notice that the defendant in the above-entitled action hereby appeals to the Supreme Court of the State of California, from the judgment therein entered, in the said Superior Court, on the 13th day of January, 1903, in favor of the plaintiff in said action, and against said defendant; and from the whole

3703 thereof.

Yours, etc.,

EUGENE DANAY,

SAMUEL M. SHORTRIDGE,

HUNSAKER & BRITT,

Attorneys for Defendant.

Dated this 10th day of July, 1903.

To Messrs. J. W. McKinley, W. R. Andrews, F. R. Kellogg, J. E. Wadham and A. B. Hotchkiss,

3704

Attorneys for Plaintiff.

Endorsed: Notice of appeal from final judgment. Service of the within notice is hereby admitted this 10th day of July, 1903. F. R. Kellogg, W. R. Andrews, J.

3705 E. Wadham, A. B. Hotchkiss, J. W. McKinley, Attorneys for plaintiff. Filed July 10, 1903. Will H. Holcomb, County Clerk. By T. J. Storey, Deputy.

[TITLE OF COURT AND CAUSE.]

STIPULATION.

It is hereby stipulated between the plaintiff and defendant in the above entitled action that the foregoing printed transcript on appeal is correct and contains true copies of the judgment roll in said action, the defendant's bill of exceptions to the order of the court refusing to strike out portions of the plaintiff's complaint, defendant's bill of exceptions to the order of the court striking out defendant's amended answer and to the order of the court refusing to permit said amended answer to be filed, defendant's bill of exceptions on motion for new trial, the order of the court denying defendant's motion for a new trial, the defendant's notice of appeal from the final judgment and the defendant's notice of appeal from the order denying defendant's motion for a new trial, together with the indorsements thereon; and that all of said documents and papers of which copies are contained in said transcripts are records and files of the Superior Court of the county of San Diego in said action.

It is further stipulated and agreed that the appeals of the defendant in said action from the final judgment and from the order denying its motion for a new trial are to be heard and determined on such transcript.

It is further stipulated that an undertaking on appeal, in due form, was made and properly filed on behalf of

3709 the defendant, on the appeal taken by the defendant from the final judgment in said action; and also that an undertaking on appeal, in due form, was made and properly filed on behalf of the defendant on the appeal taken by the defendant from the order denying its motion for a new trial in said action.

Dated August 15, 1904.

3710

J. W. MCKINLEY,
W. R. ANDREWS,
F. R. KELLOGG,
A. B. HOTCHKISS,
J. E. WADHAM,

Attorneys for Plaintiff and Respondent.

EUGENE DANAY,
HUNSAKER & BRITT,

Attorneys for Defendant and Appellant.







