

U. S. Circuit Court,

SOUTHERN DISTRICT OF NEW YORK.

GASTON L. FEUARDENT

vs.

LOUIS P. DI CESNOLA.

TESTIMONY OF THE DEFENDANT.

PRINTED FOR THE PLAINTIFF FROM THE STENOGRAPHER'S MINUTES

BY

JOHN POLHEMUS, 102 NASSAU STREET.

NEW YORK.

1884.

TESTIMONY OF L. P. DI CESNOLA.

LOUIS P. DI CESNOLA, being duly sworn in his own behalf, testifies as follows:

Direct examination by Mr. STICKNEY.

(2137) Q. What year did you reach Cyprus?
A. In the year 1865.

Q. You were American Consul then?
A. I was.

Q. Had you ever been there before?
A. Never, sir.

Q. In what part of the year did you reach Cyprus?
A. On the eve of Christmas day, in the month of December, 1865; the day before Christmas.

Q. How soon after that did you begin your excavations there?
A. During the latter part of February or the beginning of March, 1866. I think I began on the 6th of March, 1866.

Q. Where did you make your first excavations?
A. In the neighborhood of Larnaca, where the consular residence was situated at the time.

Q. On which side of the Island was that?
A. On the south side of the Island, where the ancient city of Citium was situated.

Q. How extensive were your first excavations?
A. They were on a small scale. They were merely excavations in a few tombs where a few terra-cottas were found.

Q. Where did you make your first excavations of any importance?
A. At Dali.

Q. Whereabouts on the island is that?
A. Dali is further into the interior of the island, about an hour and a half on mule-back from Larnaca.

(2138) Q. When did you begin your excavations?
A. I began as early as the summer of 1866. As I had my country residence there I could overlook it very well.

Q. How extensive were those excavations—will you tell the jury also, in a general way, the objects that you found there?
A. The diggings at Dali continued for several years. They began as I stated, in the summer of 1866, when my attention was attracted to a spot where I was building a hot-house, or something of that kind, for my house, where there was a tomb which was discovered merely by chance. On surveying the ground I found that nearly all that neighborhood was in all probability an old burying ground. After having surveyed the ground for several days, I became convinced that that was a spot that had formerly been used as a burying ground; and I secured permission from the owners of the ground to make some excavations, and after I had secured that permission I began digging. I then opened some of the tombs and continued my searches; but I had no authority from the Turkish authorities for making excavations. I merely had the permission of the local authorities, and I being American Consul there, they did not feel as though they wanted to object. After three or four months I had probably opened some six or seven hundred tombs. In some way the question came up before the Governor-General of the island by what authority I was making my excavations; and the question came up whether anybody could dig in Cyprus. I received an official letter from the Government, saying "I must request you to stop your digging, as without a firman nobody can dig." The firman is a sort of an order from the Sultan.

(2139) Q. Then did you make an application for a firman?
A. Yes, sir; I immediately applied for a firman through the then United States Minister, Mr. Morris, at Constantinople.

Q. Which you obtained?
A. Yes, sir.

Q. While you were in Cyprus did you have authority from the Turkish Government to continue your excavations?
A. From that year until June, 1876, I had a regular firman from the Sultan to dig in the Island of Cyprus wherever I chose; and it was renewed to me from year to year by the then United States Ministers, Mr. Boker, Mr. MacVeagh and Mr. Maynard.

Q. Did any other of the foreign consuls of the island have such permission?
A. No, sir. They applied for it, but they could not obtain the firman, except the French consul—he had a firman for a few months.

Q. Is that so stated in Mr. Lang's book?
A. I believe it is.

Q. You say now that you got this permission from the Turkish Government, and that it was continued every year while you were there?
A. Yes, sir.

Q. You have stated that at Dali you opened some six or seven hundred tombs; will you state what those tombs were, how they were constructed, how large they were and about how far under ground they were, and what was the labor of reaching them?
A. I said I opened some six or seven hundred tombs in 1866. I opened perhaps fifteen thousand tombs in all. The tombs at Dali were merely holes dug into the ground, in some places from four feet to six feet and seven feet deep. They excavated them in the shape of an oven, and they made them large enough for two or three bodies, according to the size they chose to have them; and after they had been dug out they mixed together some triturated straw and clay, with which they lined the inside of the tomb, forming a kind of flagging all round the walls, so that they would sustain the earth from coming down.

(2140) Q. Have you given a substantial description that would cover all these tombs that you discovered?
A. Of the shape of the tombs, yes, sir.

Q. Have you described the structures and the way they were then built?
A. Yes, sir.

Q. How long a period was covered by your excavations at Dali?
A. From 1866 to 1874, now and then.

Q. Aside from the tombs, what did you discover there—did you discover any temples or any other large buildings?
A. I did not.

Q. What different classes of antiquities did you discover at Dali?
A. Chiefly the objects found at Dali were terra-cottas, pottery, bronzes, glass things, lamps and jewelry.

(2141) Q. Were those all discovered in the tombs?
A. All, without exception, in the tombs.

Q. Then do I understand you to say that all of these objects that you found at Dali were found in tombs such as you have mentioned and described, or substantially all?
A. All of them.

Q. And can you give us a rough idea as to the numbers of these different kinds of objects that you found there?
A. That is very difficult; but certainly I found something like six or seven thousand objects; not less.

Q. Were there any stone statues among those objects that you found?
A. I found some; but not in the tombs.

Q. About how many of the stone objects did you find?
A. Between heads and bodies and small fragments, I suppose I may have found between thirty and forty.

Q. While you were there were any discoveries made of the remains of buildings by any one else at Dali?
A. Yes; there were some found by some of the peasants at two different places.

Q. Was there any temple discovered by any one?
A. There was.

Q. By whom?
A. By the British Consul.

Q. Mr. Lang?
A. Mr. Hamilton Lang.

Q. You have mentioned Mr. Lang; he was the British Consul, you say?
A. He was not the British Consul at that time; he was the banker, but he was made British Consul afterwards.

(2142) Q. In what bank was he and what was his position?
A. He was the agent and general manager of the Imperial Ottoman Bank, the only bank which existed in Cyprus at that time.

Q. Where was the next place where you made any substantial discoveries or explorations?
A. That was in 1870, at a place called Athieno to-day.

Q. With what ancient city or town had that place, Athieno, been connected, or how had it been identified?
A. In 1862 Count de Vogué, a French scholar, visited it with Mr. Waddington—

Mr. Bangs: Is the witness stating what he knows?
Q. Did you ever assert that you had discovered the site of Golgoi?
A. No, sir; I did not.

Q. Were you informed when you began your excavations there that this Athieno was the ancient city of Golgoi?
A. Yes, sir.

Q. By whom, as you were then informed, had it been identified?
(Objected to.)
A. By Mr. Waddington.

Q. From what sources did you get your information upon that point?
(Objected to.)
A. From Mr. Waddington.

Q. From any one else?
A. From Count Ceccaldi, the French Consul.

Q. And your information from them on that point was what?
(Objected to as incompetent.)

(2143) Q. When did you begin your excavations, then, at what you understood to be the site of Golgoi?
A. I commenced them in 1866 for a few days; but I gave them up again, as they were not satisfactory.

Q. Did you obtain any substantial results from your excavations in 1866?
A. None whatever.

Q. When did you begin again at that place; when did you begin to make further excavations?
A. In 1867 or 1868; I am not sure which.

Q. How long did you then continue them?
A. For perhaps two months.

Q. Were there any substantial results obtained at that time?
A. None beyond the finding of some old walls of some ancient town.

Q. Did you get any sculptures or any other objects of value or interest?
A. None whatever.

Q. When did you begin your excavations where you obtained substantial results?
A. Between heads and bodies and small fragments, I suppose I may have found between thirty and forty.

Q. While you were there were any discoveries made of the remains of buildings by any one else at Dali?
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A. By Mr. Waddington.

Q. From what sources did you get your information upon that point?
(Objected to.)
A. From Mr. Waddington.

A. At the end of February or the beginning of March, 1870.

Q. How many men did you have at work there?

A. During the first week of March I only had one or two men at work, and then I had four or five men afterwards, and two weeks afterwards I had one hundred and ten men employed.

Q. How long did you continue your work at that place at that time and at that period?

A. About two months; from the beginning of March until some time in the latter part of April, 1870.

(2144) Q. And was that the end of it?

A. That was the end of it for that year.

Q. Will you state what the results of your explorations at that period were; did you find the foundation of traces of any ancient cities.

A. Yes, sir.

Q. What were they, as you judged them?

A. In my judgment they were the foundations—

Mr. Bangs: I object.

Q. What did they seem to you to be?

(Objected to as calling for an opinion of the witness).

Q. Describe them?

A. They were the foundations of an oblong building.

Q. How extensive were they; just describe the whole of it?

A. The building measured very nearly 60 feet in length and 30 feet in width.

Q. And what was the nature of the foundations that you discovered there?

A. They were of rough stones, as most of the houses are of to-day. The houses of to-day are built of somewhat the same stone.

Q. Of the same stone and material with which the buildings in Cyprus of to-day are built?

A. The same kind of stone more or less rough.

(2145) Q. What classes of objects did you find there?

A. The most of the objects—in fact all of the objects with the exception of perhaps ten—were sculptures in stone?

A. Will you name some of the objects here in controversy which you found at that period and at that place?

A. Statue number 213, The Egyptian Warrior, is one of them. There is one called number 39, the Priest with a cow's head; and number 32.

Q. Which is that?

A. That is Aphrodite and Eros. Do you mean those attacked in this case?

Counsel: Yes.

Mr. Bangs: You mean those defended in this case.

Witness: Number 157, the little Venus, or what they call her, the little figure with the mirror or disc, or whatever it is called, was found there.

Q. Was Hercules one of those found there?

A. The big Hercules, yes.

Q. What others?

A. And statue number 23, the so-called Bearded Venus, was found there.

Q. The one with the dove?

A. Yes, sir; the one with the dove.

Q. About how many statues in all did you discover or unearth there.

A. Between March 6th, 1870, and the 24th of April, 1870—you want only statues or sculptures?

Q. Sculptures?

A. I dug out from that spot and a spot about 200 yards to the West of it over 900 pieces of sculpture, from the colossal head to a statuette a few inches high.

(2146) Q. You said between the 6th of March, 1870, and what period?

A. Between March 1870, and the 24th of April, 1870, or perhaps the 25th of April, 1870; about two months.

Q. You spoke of a spot about 200 yards away from the first one; what was that spot and what did you find there?

A. That was the first spot at which the digging at Athieno or Golgos, as it is now called,

were conducted by two of my men, who had a permit from me to do so. There they found the large head called the colossal head. There was also found the Priest with the Dove, or the Bearded Venus; there the great Hercules was found and the pedestal of Hercules with the relief.

Q. I understand you to say that the spot on which those objects were found was not the spot already mentioned?

A. Yes, sir.

Q. Now you have spoken of a place some 200 yards away; what was that place?

A. The 200 yards to the East of that place is described as 60 feet in length and 30 feet in width; and the other place that you asked me about there were no foundations at all. It was merely the ground that we dug up.

Q. Then the place without the foundation, is that what you mentioned as the first spot?

A. That was the first spot, yes.

Q. And that was where you discovered the large sculptures?

A. Some of the largest sculptures.

(2147) Q. And then the place about 200 yards to the eastward is the one where you discovered the colossal head; there was some misunderstanding as to which was the spot where you found the colossal head?

A. The colossal head was found in the place where there was no foundation at all.

Q. And that spot where the colossal head was found without any foundation was the first one discovered by you?

A. Yes, sir.

Q. Then what you call the temple was about 200 yards to the east of that?

A. Yes, sir.

Q. And in this spot 200 yards to the east, which you call the temple, what were the principal objects there discovered?

A. With the exception of thirty-two pieces which were found on this first ground all the other sculptures were found in the second ground.

Q. These sculptures that you have mentioned you discovered as early as the 24th of April, 1870?

A. Yes, sir.

Q. How much longer did you continue your explorations at Golgoi?

A. They were then finished. That was my last day of excavations, with the exception of filling up.

Q. In what condition did you leave the soil?

A. I had it replaced exactly as I found it, according to my orders from the Government, that whatever explorations I made, whatever removal of ground I made, would have to be replaced; otherwise my firman would be taken away.

(2148) Q. While those excavations at Golgoi were going on, what Europeans were there in the island who saw them from time to time; what Englishmen or Frenchmen were there who saw the expeditions while they were in progress; did Mr. Lang see them?

Witness: You mean natives—you mean residents of the island or foreigners?

Counsel: I mean what English or French gentlemen saw your excavations from time to time?

A. The French Consul, Ceccaldi. There was Mr. Lang, the British Consul and agent of the bank; there was Dr. Friederichs, the Director of the Berlin Museum, who came expressly there; there was Professor Goodyear, who came with him at that time—Mr. Goodyear of New York; but he was only there a few days. There was also Mr. Doell, from St. Petersburg.

Q. You notice my question is while your excavations were going on between the 6th of March and the 24th of April, 1870?

A. Oh! I beg your pardon. Nobody else but Mr. Lang and the French Consul, and probably all the other consuls in the island, whom I do not remember.

Q. But those two, the French and English Consuls, were there during those two months

while you were making your excavations?

A. Yes, sir.

Q. When did Dr. Friederichs and Mr. Goodyear come there?

A. Dr. Friederichs came there in 1868 or 1869.

Q. When did Ceccaldi, the French archæologist, come there?

A. Ceccaldi was living at Beyruth, and his brother was Consul there, and he came to see him.

(2149) Q. Was he there between the 6th of March and the 24th of April, 1870?

A. It was probably during that time, but I do not remember now; it was in 1870 and 1871 that he was there; there was one gentleman who came there and was in my tent during some of the time when I made my diggings; but as you asked me only for French and English gentlemen I did not mention him.

Q. Who is he?

A. Dr. Schroeder, German Consul; he was there in my tent while I was digging.

Q. How much of the time was Mr. Lang present there at the diggings; how much of your diggings did he see?

A. Mr. Lang was now and then coming to Athieno by taking a ride over in the afternoon from Larnaca; instead of going to ride in any other direction, he used to come over to Athieno to see me.

Q. About how often did he do that?

A. Twice or three times a week; twice certainly.

Q. Ceccaldi—how often did he see your excavations during those two months?

A. The French Consul was called to receive the French emperor, and he came back just at the time or immediately after my diggings to see all these diggings; and he left the island there after forever.

(2150) Q. So that you do not remember whether he was there while the diggings at Golgoi were going on or not?

A. I do not recollect.

Q. Dr. Schroeder was there all the time?

A. Certainly. He was there two weeks in my tent.

Q. Had both Dr. Schroeder and Mr. Lang written and published their statements as to your digging at Golgoi?

A. Mr. Lang did. Dr. Schroeder published all the inscriptions that I found—the Phœnician inscriptions. But as I do not read German I do not know whether he has given any details of my diggings or not.

Q. In what place and in what publications has Mr. Lang given an account of his observation of your diggings at Golgoi?

A. I believe he wrote a letter to the Revue Archeologique, or rather to Mr. Ceccaldi.

Q. Is that the one that has been produced here in evidence?

A. Yes, sir.

Q. What else has he published?

A. Then he published an article.

Q. Where was that?

A. It is in the Academy or in the Athenæum.

Q. In the publications of the Royal Society?

A. Yes, sir—in a lecture or paper that he read, I believe.

Q. And then in his book?

A. And then he published a book on Cyprus, in which he, I suppose, mentioned it.

Q. And do you remember the statements of Ceccaldi, the archæologist—his published statements—that he got there in the month of May?

A. I do not.

(2151) Q. Do you remember as a matter of fact how soon after your excavations at Golgoi were finished he did reach Cyprus?

A. I am under the impression that he came about two or three months afterwards; but I am not sure.

Q. What examination did he make of the spot?

A. He made quite a thorough examination. He went on the spot with me. We got some diggers there, and he wanted to assure himself of the spot.

Q. What did he do?
 A. He dug up the ground within this enclosure where these statues were found.
 Q. How deep did he dig down; how thorough a personal examination did he make, as you now remember it?
 A. Well, I suppose he made it as thorough as it was satisfactory to him. We got four men and dug out some of the fragments there; and he wanted to see exactly how they were and what kind of pedestals they were, as I left tons of fragments in that field there.
 Q. When he was there with you in Cyprus where were the statues and sculptures that you had dug up at Golgoi?
 A. At my house, the American Consulate.
 Q. Did he examine them there?
 A. Most thoroughly. He was living at my house there.
 Q. He was a brother of the French Consul?
 A. He was the French dragoman at Beyrouth; but he was French Consul in Cyprus.
 (2152) Q. Did he make any drawings or photographs of them?
 A. He made drawings and he helped me to make some photographs of my sculptures there.
 Q. You have seen the engraving of the priest with the dove, which has been put in evidence here published by him?
 A. Yes, sir.
 Q. Do you remember now whether he made a drawing of that priest, or whether it was a photograph that he made at that time?
 A. It was a drawing, if I remember well. He had all the pieces put together as nearly as they could possibly be put; and then he made a drawing of it, which he afterwards used.
 Q. Those pieces of that statue had been put together?
 A. They were not joined together; but they were merely brought together so that he could take in the shape of it.
 Q. Did he take drawings of any other objects? Do you remember his engraving that he published of the little Venus, number 157?
 A. I do not remember whether he published that Venus at all.
 Q. Did you give him permission so to do, and did he have an opportunity of taking drawings or photographs of any and all of the objects in the collection?
 A. Certainly. He had the fullest permission.
 Q. Do you remember that engraving that he published of that little Venus, number 157; do you remember that engraving?
 A. I don't think he had an engraving of it.
 (2153) Q. An engraving that has been produced here before the jury?
 A. I think it was a photograph.
 Q. With the name Astarte on it—do you remember that?
 A. No, sir; I do not remember it.
 Q. Then when did Mr. Doell come there?
 A. He came at the end of July or the beginning of August, 1870.
 Q. Your excavations at Golgoi had then been discontinued?
 A. They had been terminated.
 Q. Did he examine the different objects—the sculptures in the Golgoi collection?
 A. Mr. Doell was sent to Cyprus for that very object—
 Mr. Bangs: I object.
 Q. For what purpose did he come?
 A. For the purpose of making—
 Mr. Bangs: I object.
 Q. What date did he come there—in the month of August, you say?
 A. Either in the last part of July or the beginning of August, 1870.
 Q. How long was he in Cyprus?
 A. Either six or seven weeks; and he was there at my house.
 Q. How thorough an examination of the collection did he make?
 A. As thorough, I suppose, as an archaeologist can make.
 Q. Then he afterwards published a book which has been used here in evidence?

A. Yes, sir.
 Q. Did he photograph any of the objects himself?
 A. No, sir; but he helped me to do so.
 (2154) Q. Did you take photographs of all the objects in the Golgoi collection at that time, or a large number of them?
 A. I do not suppose I took one-third of them.
 Q. You did take a number of photographs, however?
 A. Yes, sir.
 Q. With your own apparatus?
 A. Yes, sir.
 Q. You say Mr. Doell was there and helped you to take portions of those photographs?
 A. He helped me to arrange the machine, and helped me to place the objects in position so that a proper light could be obtained.
 Q. Do you know what his engravings were made from—from drawings, or were they made from photographs that were taken there in Cyprus?
 A. That I don't know; I gave him a number of photographs.
 Q. Did he take away any drawings, as far as you know?
 A. I do not remember.
 Q. But you know that he took photographs?
 A. Yes, sir; I gave them to him.
 Q. Is he still living—is Doell, the St. Petersburg man, still living?
 A. No, sir; he has been dead many years ago.
 Q. Is Ceccaldi, the archaeologist, still living?
 A. He is also dead.
 Q. Did Ceccaldi make various publications as to your discoveries in Cyprus?
 A. He published certain articles in the *Revue Archéologique*.
 (2155) Q. They were the ones that have been produced here in print?
 A. In book-form; yes, sir.
 Q. Then where was the next place where you made any substantial discoveries, after Golgoi?
 A. The next place was at Ormidia.
 Q. Whereabouts is that?
 A. On the southeast coast of Cyprus.
 Q. Where did you say this place is?
 A. It is a little town called Ormidia.
 Q. How far and in what direction from Larnaca?
 A. It is to the eastward of Larnaca and on the way from Larnaca to Salamis.
 Q. How extensive were your explorations there?
 A. The explorations at Ormidia were all about tombs; they extended to a large amount, but I do not remember now.
 Q. How long were you engaged there?
 A. At different times, as I bought afterwards a country place in Ormidia, during the Summer, I would employ workmen around there and dig. That was in 1873, 1874, 1875 and 1876.
 Q. And speaking generally, what articles and what antiquities did you discover there at Ormidia?
 A. Almost exclusively pottery, glass and gold ornaments.
 Adjourned to December 11th, 1883, 10 A. M.
 NEW YORK, December 11th, 1883, 10 A. M.
 Present: All parties.
 L. P. DI CESNOLA's direct examination continued by Mr. CHOATE.
 (2156) Q. General di Cesnola, is that a correct map of Cyprus?
 A. As far as the outlines are concerned, yes, sir.
 Q. Will you please point out to the jury, so that the map may be removed, the several localities in which you made diggings, and state the distance which they are from each other, beginning with Larnaca, your consular residence?
 A. I begin with Citium, and follow all the southern coast, and the western coast and the very first place marked after Citium is Amatus, Curium, Palæo Paphos, Neo Paphos, Marium, Soloi, Lapethus, Pergamos, Aphrodisium, Cythrea, Leucolla, Tamaessus, Dali, Golgos, Ormidia, Ammochostos and Salamis. This map was

made expressly with no other towns, except the ancient towns which I had explored for the purpose of lecturing upon them.
 Q. How far apart are Salamis and Golgoi?
 A. I should say about an hour and three quarters or two hours on mule back.
 Q. Making about how many miles?
 A. The miles are measured by the camel's foot, or by the camel's way of walking. I should say it would make about seven or eight miles.
 [2157] Q. And that distance between Salamis and Golgoi, being seven or eight miles, the rest is all on the same scale?
 A. It is exactly so.
 Q. State now, if you please, over how large a distance your entire diggings extended, or what the so-called Golgos diggings embraced?
 A. About a mile,—a square mile.
 Q. And in that square mile how many different openings did you make, or how many different diggings?
 Witness: How many explorations, did you mean?
 Counsel: Out of how many places did you take objects?
 A. In this place there were four places.
 Q. One you call the temple?
 A. One is the one I call the temple.
 Q. The next considerable place to that is how far distant from it, and how separated from it?
 A. It is distant about two hundred yards, and separated by a little ridge.
 Q. Is there any visible connection between those two places?
 A. None whatever, except it was very easy to see from one ridge to the other. It was very easy to go from one ridge to the other.
 Q. One of the excavations was made on the east side of the ridge, and the other on the western slope?
 A. Yes, sir.
 Q. And the one on the eastern side is called the temple?
 A. Yes, sir, and that is where thirty two statues were buried.
 Q. Why did you call that on the east slope a temple, what were your grounds for that?
 A. Because to my satisfaction, and to the satisfaction of the scholars, it could not have been anything else but a temple.
 (2158) Q. Which is the other place that Lang and Ceccaldi, one or both of them, speak of also as a temple?
 A. Yes, sir; this little place containing the thirty-two statues two hundred yards westward of the temple.
 Q. On the western slope of the ridge?
 A. Yes, sir.
 Q. Where, and of what description, were the other two places at Golgos, out of which you took objects?
 A. The third place is the Necropolis, or ancient burial ground, and the fourth place were the ruins of a town. First come the ruins of the town, coming from Athieno; then you come to the Necropolis; next you meet the ruins of the town, and then the little westward slope—the little spot where the thirty-two statues were found, which Mr. Lang believed was the temple.
 Mr. Bangs: I object to what Mr. Lang believed, and move to strike it out.
 Mr. Choate: I consent to have it stricken out.
 Q. Is the collection of sculptures, now on exhibition in the park, derived chiefly from these four places at Golgoi?
 A. Yes, sir.
 Q. And are there objects in the collection from all four of them?
 A. Yes, sir.
 Q. And is it from that fact that you have from time to time referred to it as the Golgoi Collection?
 A. Yes, sir.
 (2159) Q. Will you state how many objects, about, you found in the second locality, which Mr. Lang and Ceccaldi called a temple; did you ever find any architectural remains there—anything indicative of a building?
 A. I found some circular ruins about five feet

in diameter—a semi-circular ruin—and that could not possibly have been a temple: it was too small in its dimensions. There was nothing showing that there was a building at any time there.

Q. Speaking of the temple—first tell me how many objects you found there about?

A. Witness: You mean in the second place—in the eastern temple?

Counsel: In what we call the temple?

A. I should say that I found there about 10,000 sculptural fragments.

Q. Describe their general condition as you found them, as to wholeness or brokenness?

A. They were, as a general rule, broken. It seems that the statues had been on pedestals, and when this temple or building fell in, or was destroyed, the walls, not being of stone, fell on these statues, and covered them up, as it were, and imbedded them in this kind of stone—sun-dried bricks. The falling of these walls on these statues must have broken them, either at the neck or at the ankles. That is the easiest and the tenderest part to break.

(2100) Q. These statues were all of the same material?

A. They were all made of this calcareous stone, and of the particular calcareous stone of that locality.

Q. Is that very brittle?

A. Yes, sir.

Q. About how many objects in that temple were of life size?

A. I should say one-third. I mean, if you ask me how many fragments of sculptures, I say 10,000; but statuary sculptures, with the head, there were about eight hundred and fifty to nine hundred objects between life size and semi-life size to a small statuette two or three inches high.

Q. My question was, how many did you find of about life size?

A. I should say about three hundred.

Q. Out of those three hundred, how many, about, did you bring away, either entire, or approximate to an entire condition?

A. I should say they are nearly all here.

Q. Not the entire body?

A. The bodies were too scattered and broken to pieces. I brought all the heads, which were the most important part of the statues.

Q. And they remain in the museum?

A. Yes, sir.

Q. And they approximate about three hundred?

A. Yes, sir.

Q. And the broken fragments of bodies were left where?

A. In the field where I found them. It would have cost me an enormous amount of money to have brought them all on here.

Q. And how soon, after you had taken out what you did take out, did you begin to fill in?

A. It was done after the Greek Eastern Sunday; it was probably on the 27th or 28th of April. It was in my order from the Government, that wherever I dug, I should replace the ground exactly as it was before.

(2101) Q. How soon did you complete that filling?

A. As soon as I completed my diggings.

Q. Can you name one or more of the principal objects that you took out of that particular temple?

A. Yes, sir; I could point them out if I had my book of photographs here. I could show them all to you. I don't know the numbers of them just now. There were numbers 39, 32—

Q. You can tell from which particular spot you took most of them?

A. Certainly.

Q. Now go over the ridge to the second place and tell me in what condition you found things here, and what you dug out in general?

A. On the western side of the ridge; that was where the first digging took place.

Q. That is the place which Lang and Cecaldi called a temple?

A. Yes, sir. That is the first place where two of my men were digging in the first days of

March. One evening an express came to my house saying that they had found an immense head, intact and perfect, and that it was one of the largest heads that had been seen. These men usually exaggerated so much that I did not pay much attention to it, but, during the afternoon, or the next morning, I had several other persons come to me saying that at that place my men had discovered several important objects.

(2102) Q. Tell me what sort of things you found there?

A. When I went up there I found that they had a very large head, which is now called the colossal head.

Q. Tell me what sort of things you found in that second hole, and what you dug out?

A. I found this large head; I found the large Hercules; I found the statue called the Bearded Venus, the Venus which I call the Priest with the Dove; the pedestal of Hercules with figures in bas relief, and several others of Egyptian type. I could not name now all the objects without seeing the photographs.

Q. Out of that place you took a large number of pieces of sculpture?

A. Only thirty-two between life-size and small.

Q. Were they of the same general character of those that you found in the temple?

A. Absolutely so.

Q. And in substantially the same condition?

A. Exactly.

Q. Tell us what you found in the Necropolis, and what you took out from that place?

A. In the Necropolis I found a quantity of pottery; I found a number of sarcophagi, simply cut into stone, but without any fine work, and very often we found elaborate ones. One of those elaborate ones which we found is now in New York. Those are chiefly the objects that are found in the tombs.

(2103) Q. Is that the sarcophagus that there has been so much discussion about in this case?

A. Yes, sir.

Q. What did you find in the fourth place?

A. In the ruins of the town I found chiefly architectural remains; there were columns, some of which I have in the museum, and some seated figures. As a general rule, the ruins of Golgos, of the town yielded but very little, except the walls, and now and then some fragments of no importance.

Q. As these things were taken out, were they all conveyed to the Consular headquarters?

A. Not immediately. Some of them were deposited in a large room which I had at Athieno, a little town which is at the place where Golgos is supposed to have been.

Q. Will you tell us when, and during what period, you made excavations at Salamis?

A. At Salamis I made attempts to explore in 1867 and 1868. I explored more particularly in 1869 and then again in 1874.

Q. What kind of things did you find there?

A. Salamis is a large place. It is not a small one, and things found there are of a different character. I found in some places tools with mortuary objects. In other places there were ruins of buildings, and I found some statuary more or less decapitated, and more or less destroyed.

(2104) Q. Did you find one object there of first-class importance?

A. I found several. But one, as to size, was important, but nothing else.

Q. What was it?

A. It was a large stone, or what we call a wall statue, representing a Priest with a Bull's head—holding it in front of his arm.

Q. Did you find both the head and the body of that?

A. I found both the head and the body.

Q. In what condition?

A. The body was pretty badly shattered; the lower part was almost entirely obliterated from the ankles down, but the head was in a good state of preservation.

Q. About what size, as compared with the natural size of man, was that statue?

A. I should say about two and a half or three

times life-size.

Q. Of what size as compared with No. 39, the Priest with the cow's head, now in the museum, was that statue?

A. I should say about two and a half times larger.

Q. Is that object, which you found at Salamis, the one which was mentioned by Mr. Hitchcock in his Harper article?

A. Yes, sir.

Q. When was Mr. Hitchcock in Cyprus?

A. Either in 1867 or 1868—between 1867 and 1868.

Q. When was it, as related to his visit—or the time of his visit—that you found that statue of the Priest with the cow's head at Salamis, before or after he left?

A. After he left, I should say.

(2105) Q. And it was about that statue that you wrote to him, as having been found at Salamis?

A. Yes, sir.

Q. How large a number of objects which you did find at Salamis are now in the museum, about?

A. About one-fifth or one-sixth.

Q. Numbering, perhaps, how many pieces of sculpture among them?

A. About nine or ten.

Q. Now, when did you make your excavations at Amatus?

A. They were made in 1874 and 1875—between 1874 and 1875.

Q. What sort of things did you find there?

A. Nothing but tombs—different kinds of tombs—rock-cut tombs, and other kinds of tombs.

Q. Describe very briefly what kind of things you found and brought away with you?

A. In the tombs, in the ground—they were all alike—the tombs in Cyprus. The tombs cut into stone had large sarcophagi in them, they were divided up into chambers, and some of them were very fine. In some of those there were one or two, and in some as much as three sarcophagi. Besides the sarcophagi there was a quantity of pottery, glasses and bronze which had been smashed up by former explorers.

Q. Tell me when you made your excavations at Curium?

A. From Salamis I followed it to Curium, in 1875; and I remained there in 1875 and 1876.

(2106) Q. What did you find there; state it very briefly?

A. I found the ruins of a town, the Hippodrome and the temple dedicated to Apollo; I also found several ruins of buildings and a quantity of rock-cut tombs, and different kinds of tombs; and in four chambers of the rock-cut tombs I found a quantity of gold, silver and bronze ornaments.

Q. All of which, or substantially all of which, are now in the museum?

A. Yes, sir; all of them are now in the museum.

Q. Let me ask you whether in Cyprus you made any repairs of objects?

A. No, sir; with the exception of the big sarcophagus, which was broken into about one hundred pieces.

Q. That is not the sarcophagus that we have been speaking about so much here?

A. No, sir.

Q. Then, as finally shipped from Cyprus, the objects that were sent to London and New York were, as near as I understand you, in the original condition in which they were taken out?

A. Yes, sir.

Q. Substantially so?

A. Substantially so.

Q. Of course there had been breakages?

A. Yes, sir.

Q. And you had placed things together for the purpose of photographing them?

A. Yes, sir; but not glued together; we only put the pieces together, as near as possible; they never had been joined together.

(2107) Q. Was there one case, No. 764, I think it is, one of those before the Committee, where there had been a head put on or fixed on in some way, in Cyprus?

A. Yes, sir.

Q. Do you remember any others; I mean where you fastened them together?

A. That was merely glued on; it was not repaired.

Q. In how many cases did you glue fragments together?

A. Whenever a case came where there was the point of a nose broken off, or a little piece of the finger, it was glued on, but when it was a large piece it was packed away with the object.

Q. When you found the fragments of what you took to be one statue, how did you place them—in close proximity? How did you find them?

A. Always so. It seems that when the walls fell and the statues fell from their pedestals, they remained on the ground, and the head had rolled a little further, but they were always within two or three feet distant.

Q. Of course, on so many objects you had to use your own judgment?

A. Yes, sir.

Q. What precautions did you take to keep together the different fragments of the bodies?

A. By merely marking on the fractured parts, for instance, the letter A on one piece, and then on the broken member also the letter A, on the other portion.

Q. You always marked them with the same letter or number?

A. Yes, sir, on each piece, and on each part of a fracture.

(2168) Q. Have you ever pretended, Mr. Di Cesnola, that the whole of the present collection was found in one place, namely, in one of the four places called the temple of Golgoi?

(Objected to as improper.)

Q. I will alter my question by saying have you ever stated that the whole of the present collection was found in one place, namely: in one of the four places called the temple of Golgoi?

(Objected to.)

Q. I will alter my question still further: Have you ever attempted or endeavored to make it appear that the whole of the present collection was found in one place, namely: in one of the four places called the temple of Golgoi?

(Objected to.)

Mr. Choate: The witness is charged on page 23 of the Cook pamphlet with having committed this fraud: "The fraud consisted in the endeavor to make it appear that the whole of the present collection of Cypriote antiquities was found in one place, namely, in the temple of Venus, at Golgoi, discovered and unearthed by Di Cesnola himself."

Mr. Bangs: I still submit that that is not a proper question to put to the witness. There is certainly no basis for scrutiny on cross-examination that he has never said or done a particular thing in the whole course of his life. Of course, it may be presumed that it has not. If we had given in evidence specific endeavors and specific efforts, let him meet those by a denial.

(2169) Mr. Choate: Your Honor will remember the course of the investigation. The Cook pamphlet being in evidence, against our protest, and your Honor coming reluctantly to the conclusion that the proof of the very assertion was opened to us, and I think your Honor's words were, that there was no escape from those assertions. It is a direct charge, capable of being directly denied, and it is the mere assertion of the facts which I have a right to prove by this witness, who knows whether they are false or true.

Mr. Bangs: If the objection is to be overruled, the question can hardly be sustained upon the grounds upon which it is now put. It is a mistake to state that we put the pamphlet in evidence. I understood the counsel in opening his case yesterday to state, also without a comma, and without a qualification, that the Cook pamphlet was put in evidence by us, but the minutes do not show it to be. If Mr. Feuardent had been examined as to the specific facts, tending to show the truth of those statements, this witness might be properly examined as to the occurrences of those facts, and as to their existence.

(2170) The Court: In respect to this point about which the plaintiff is giving evidence, tending to prove the truth of the statements contained in the Cook pamphlet, the defendant can give evidence to prove the incorrectness of those statements. The objection consists in the claim that the question is so framed that it can not be answered. I think if you can confine the witness to the statements or assertions or representations either to the public or to the Trustees of the Museum that the whole collection was found in one place, I will allow it.

Mr. Choate: I will do that.

Q. Did you ever represent to anybody that the whole of the present collection of Cypriote antiquities was found in one place, namely, in the temple of Venus at Golgoi?

A. Never.

Q. Did you ever represent that all the Golgoi statues were found in the temple at Golgoi.

A. Never.

Mr. Bangs: I object. The witness should be asked what statements or representations he made.

The Court: He can give a general answer to a general question. This is in reply to the evidence given on the part of plaintiff where it was stated that it was so represented.

(Objection overruled; exception taken.)

(2171) Q. Is it true that you bought nearly all the objects in this collection from the natives?

A. No, sir.

Q. Did you buy any of them?

A. Mortuary things from tombs, now and then.

Q. I mean sculptures?

A. No, sir, except those that had been perloined from me. I made an endeavor to get them back.

Q. Those that had been stolen from you by the natives, you got back?

A. Yes, sir, I got them back.

Q. How did you prepare your collection for shipment to London and New York; how did you pack it for shipment?

A. I packed it into boxes and baskets—whatever I could find in the island.

Q. And when packed, where did you place them prior to shipment?

A. In my house in a large store room, on the ground floor.

Q. In packing, what did you do as to putting the parts of the same objects together, as near as you could?

A. All the big fractured fragments were put within the same boxes, as far as I recollect, with the object itself, marked, as I have stated, with the same letter or the same number between the fracture. The smaller pieces were packed up into different packages and marked to which statue they belonged, and packed away in large cases in the same room.

(2172) Q. In doing that, of course, you had to use your own best judgment as to what belonged together?

A. Yes, sir.

Q. Both originally, and in packing them?

A. But it was very easy though, yes, sir.

Q. Can you tell what shipments you first made, whether to London or New York?

A. The first shipment was made to New York.

Q. Can you tell how large a shipment that was?

A. I could not tell without seeing the papers. I suppose there were 3,000 or 4,000 articles.

Q. Including some sculptures—some statuary?

A. Yes, sir.

Q. To whom did you make that shipment?

A. To a friend of mine, called Mr. Hiram Hitchcock.

Q. The proprietor of the Fifth Avenue Hotel?

A. The present proprietor of the Fifth Avenue Hotel.

Q. Have you named all the persons who knew of your excavations at Cyprus, and saw what was going on, that you now remember?

A. In Golgos, or all over the Island?

A. At Golgos chiefly; have you named them all?

A. The French Vice-Consul, M. Laffon, but he

is a native. Do you mean all the natives and consular agents?

Q. No; I mean any persons, Europeans or Americans; when did the Americans begin to come there in any number; was it before or after you made your discoveries?

A. After I made my discoveries.

(2173) Q. And after some publication of them?

A. After some publications in the papers.

Q. Where were the first notices of your discoveries published?

Witness: You mean in the newspapers?

Counsel: Yes.

A. They were at Smyrna, Beyruth and the small local papers, but chiefly in Italy, England and France.

Q. Tell us how many shipments you made in all to London, and if you can give us the dates and the routes by which they went, do so. In the first place, I understood you to say that you agreed with the plaintiff that there were one hundred and sixty packages, all told—is that so?

A. Yes, sir, that is so.

Q. Those were sent to the plaintiff's house?

A. Yes, sir, from Cyprus to the plaintiff.

Q. Tell, if you can, the date, quantities and routes of those shipments?

A. That would be impossible for me, without consulting the papers.

Q. Did you keep an original note-book of some of your transactions?

A. Yes, sir.

Q. Will that refresh your memory as to these shipments?

A. Yes, sir.

Q. What is the book you have now before you?

A. It is a note-book.

(2174) Q. What is the mark on the cover?

A. *Antiquites de Chypre*.

Q. Give us the shipment, dates and amounts, and by what route?

A. The first expedition was three large cases sent to Liverpool by the Austrian Lloyd steamer via Smyrna.

Q. Expedition is the French word for consignment?

A. Yes, sir.

Q. Just give me, by refreshing your memory from that book, the dates, amounts and routes of the six successive shipments and everything else that you can give?

By Mr. Bangs: Where those three cases a part of the 166 packages?

A. Yes, sir.

Previous question repeated:

A. Care of Major & Deaw, 13th of August, 1871, three cases. That is the first shipment. The second shipment is five large cases 14th September, 1871.

Q. By what route?

A. It is the same way. By the Austrian Lloyd steamer to Liverpool. The third expedition is sixty-three cases, packages and baskets, etc.

Q. What date?

A. The 4th of October, 1871.

Q. By what route?

A. By a Greek sailing vessel from Larnaca to Alexandria.

Q. What is the next?

A. The fourth expedition was shipped from Larnaca direct to Liverpool on the 9th of October, 1871, thirty-two packages.

Q. By what route?

A. On board an English steamer now in bay.

Q. Of Cyprus?

A. In the bay of Cyprus. The fifth expedition was twenty-seven boxes and packages on the 28th October, 1871.

(2175) Q. By what route?

A. Shipped from Larnaca direct to Liverpool.

Q. By steamer or sailing vessel?

A. It does not say. The sixth expedition was thirty-six cases and packages shipped from Larnaca direct to Liverpool on the 24th October, 1871.

Q. That is an aggregate of one hundred and sixty-six packages in all?

A. Total number of packages sent to the branch house of Rollin & Feuardent, 27th of

May, making one hundred and sixty-six.

Q. On which, if any, cases did you prepay the whole or any part of the freight from Cyprus to any point?

A. I believe I paid every expense of freight on the cases which were to be transhipped either from Alexandria or from Smyrna. But my recollection is not quite positive on that point.

Q. Prior to those shipments had you come to an understanding, either verbally or in writing, by written correspondence with the firm of Rollin & Feuardent as to the terms on which they were to receive the consignments?

(Objected to.)

Q. Had you had any oral communication with the firm of Rollin & Feuardent, or any member of that firm, or any party on their behalf, before you made these shipments?

A. Yes, sir.

Q. With which one?

A. With the father of the plaintiff in Paris.

Q. When?

A. Either in December, 1870, or January, 1871.

(2176) Q. State what you did?

(Objected to.)

Q. Was that before you made these shipments?

A. Yes, sir; before I made the consignments.

Q. No different arrangement was made then?

Mr. Bangs: I object to any inquiry in reference to oral conversations.

Mr. Bangs to Mr. Choate: Your idea is that no definite contract was expressed in any one or two letters.

The Court: I think the conversation is admissible.

Mr. Bangs: I take an exception.

Q. You say, before the shipments in Paris, you had a conversation with the elder Mr. Feuardent?

A. Yes, sir.

Q. About consigning the goods to him?

A. I should say something else that led to it. It was the failure of the French Government to secure my collection which led to the conversation between Mr. Feuardent and myself, and his saying to me, "Will you send it to Europe, and I will make to you certain advances on it." That was the conversation we had at that time, and then by correspondence from Cyprus we came to the agreement that I would send this collection to Europe, consigned to their agent in London.

Mr. Bangs: I object.

Q. How many letters did you receive from them about the business of consigning the collection to London?

A. Perhaps twenty.

(2177) Q. Are you able to produce those letters?

A. Not one, unfortunately.

Q. What has become of the letters in Cyprus—that you had in Cyprus?

A. Before I left Cyprus for America, I had an accumulated correspondence of eleven years' standing, and all the papers which I thought would never be of any use to me I made up into a large pile and burned them up; and, unfortunately, I burned up all these papers, thinking that the transaction was finished.

Q. Have you made every search for them that you possibly could?

A. Yes, sir.

Q. At that time, when you burned all those papers, how many papers did you burn? What bulk or quantity?

A. Many thousand letters—the accumulation of ten or eleven years.

Q. What was your object in burning them? What were you going to do?

A. I was going to travel. When I left Cyprus I had no home to send them to, and it would have cost me a fortune to take them with me through Europe. I suppose they would have filled six or seven trunks.

Q. You mean a very small fortune?

A. A fortune for me—a small fortune.

Q. You say you had no fixed abode when you left Cyprus?

A. No, sir, at that time I had not, although I

was still Consul in Cyprus.

(2178) Q. Had you any fixed establishment at that time in view?

A. None at that time.

Q. I think you have stated that you made every possible search that you could with a view of finding these letters?

A. I have done so.

Q. State in substance what arrangement was made by those letters?

Mr. Bangs: I think I am entitled to cross-examine this witness as to the loss or destruction of these papers.

Mr. Choate: Certainly.

By Mr. Bangs:

Q. Did you keep any copies of your own letters to anybody?

A. No, sir.

Q. None whatever?

A. None that I know of.

Q. Did you have a large correspondence?

A. I had.

Q. Was there any instance in which you kept a copy of a letter?

A. There may have been instances.

Q. Have you a copy of any letter that you wrote?

A. I may have, but I do not remember now.

Q. Is it a copy in a book?

A. No, sir.

Q. How is it copied?

A. Of any letter—it may have been copied on a sheet of paper, probably.

Q. Did you keep your letters on sheets of paper?

A. Yes, sir; that is very likely.

(2179) Q. I am not asking you what is very likely; is that your recollection?

A. Yes, sir, that is my recollection.

Q. Have you kept copies of your letters?

A. As a rule, I never kept copies of letters; I mean, while I was in Cyprus.

Q. Whereabouts in Cyprus did you keep your papers?

A. In my consular residence at Larnaca.

Q. In what part of your consular residence?

A. In my library.

Q. In pigeon-holes?

A. No, sir.

Q. In what?

A. In large book-cases with drawers.

Q. Did you keep them in the drawers?

A. Yes, sir.

Q. How many drawers had you?

A. It might have been ten or fifteen drawers.

Q. How many had you; I am not asking you what you might have had, but what is your recollection?

A. About ten.

Q. And was all your correspondence of eleven years contained in those drawers?

A. The correspondence of one or two years, perhaps; and when I had too many in the drawers, I packed them up.

Q. And what did you do with them then?

A. I put them in large cases and sent them down stairs.

Q. How many cases were there down stairs when you got through?

A. About twenty-five.

Q. Of papers?

A. Of every kind of papers, letters, correspondence and many other papers that I did not want to keep. In fact, everything that accumulated during the two years previously.

(2180) Q. In what year did you destroy those papers?

A. In June, 1876.

Q. How did you destroy them?

A. By burning them.

Q. Did you put them in the fire?

A. They were burned up in the court-yard.

Q. Are you quite sure that your letters from Feuardent were among those that were destroyed?

A. No, sir, I am not.

Q. What became of those?

A. They have been either burned or disappeared.

Q. You don't know that you burned them?

A. I do not.

Q. If you did not burn them, what has become of them?

A. I have an idea that they have been stolen from me.

Q. Then you do not mean the jury to understand that you burned them?

A. I told you that I burned all my correspondence as far as I recollect.

Q. You said they were burned or stolen; put it either way you please; put it on one foot or on the other; were those letters of Feuardent's burned or stolen?

A. I am of the opinion that the letters of Feuardent must have been burned with the rest.

Q. Then what made you say that they might have been stolen?

A. Because I found that two or three papers connected with Feuardent were found among my papers in New York.

(2181) Q. What were those papers?

A. One was a bill of Sandison which was connected with this Feuardent matter, which I had no idea that I had; that gave me the idea that those papers were in New York, and that somebody took them.

Q. Now you leave us in the uncertainty but that some of the Feuardent papers were stolen; when did you first commence to correspond with Rollin & Feuardent?

A. As early as 1866 or 1867 to 1871.

Q. And did you receive letters from them constantly?

A. Yes, sir; I received about twenty letters from them?

Q. And when you speak of having received twenty letters from them, do you mean that you received them before this arrangement was completed?

A. I mean that I received about twenty letters before this arrangement was agreed upon in 1870.

Q. You mean that you received twenty letters between that time?

A. Yes, sir.

Q. When did you say your correspondence with Feuardent began?

A. In 1867.

Q. You said you received twenty letters in 1870 or 1871; when did that correspondence which embraces the twenty letters begin; what time in 1870?

A. I said either in 1870 or 1871; it is probably in 1871.

Q. Take whichever year you please, when did your correspondence begin; what was the date of the beginning of it?

(2182) A. It must have been about the end of January or February, 1871, and it lasted about four, five or six months, or perhaps seven months.

Q. How long does it take for the mail to come from Cyprus to Paris?

A. We have two mails every fortnight.

Q. That is one a week?

A. Yes, sir; one a week, sir.

A. And was your correspondence with them weekly?

A. I cannot remember; in some cases it was, but I cannot remember positively now.

Q. Were you in Paris at all during the period covered by that correspondence?

A. No, sir.

Q. Who began the correspondence, you or they?

Mr. Choate: Your Honor will mark the line of the cross-examination. I do not wish to interfere.

Mr. Bangs: The cross-examination goes to the existence of the correspondence and the destruction of those letters. We deny both.

Q. Who wrote the first letter?

The Court: I don't think that I ought to permit you to go any further into the existence of the correspondence at any great length. I suppose the proper cross-examination should be directed to the fact of a careful search for the correspondence having been made.

(2183) Q. You say you have used every effort,

and you have made every possible search; what do you mean by that?

A. I said that I examined the papers which I have in my house in New York.

Q. Have you made any other search than that?

A. I had no other place to look for them.

Q. Then you have not made any other search?

A. No, sir.

Q. In what part of your house did you search?

A. In my library in the basement.

Q. In drawers or trunks?

A. In drawers.

Q. Did you find any papers whatever besides this Sandison bill relating to your transactions with Feuardent, or the firm of Rollin & Feuardent, and the receipt for two hundred and twelve pounds. Did you find any other papers?

A. Yes, sir; I believe I found a letter from Mr. Feuardent's father and that receipt.

Q. Where is the letter from Mr. Feuardent's father?

A. My attorney, I believe, has it.

Q. What is the date of it?

A. 1874, I believe, or 1875, addressed to me at Cyprus.

Q. Relating to the terms of an arrangement between you?

A. Not about the arrangement of this collection.

Q. Or relating to the terms on which he was to receive the collection?

A. No, sir; it was on other matters.

(2184) Q. Where did you find those three papers—the letter from Mr. Feuardent, Sr.; the receipt for £212 and the Sandison bill?

A. Among some of my papers.

Q. Were they by themselves?

A. No, sir; they were mixed up with other papers.

Q. Did you find any bill presented to you by Mr. Feuardent?

A. I did not.

Q. Was it then that you came to the conclusion that these papers had been stolen from you?

A. Yes, sir; I said that that was an idea of mine. That was certainly a point which tended to give me that suspicion.

Q. The idea was a conclusion on your part?

A. It was merely a suspicion of mine.

Q. You did not remember then that you had burned them?

A. No, sir.

Direct examination resumed:

Q. Will you please state in substance what the agreement of the consignment was?

(Objected to.)

Q. Can you state, letter by letter, what each one said?

A. It is impossible for me to state at this time, after ten years.

Q. Can you give your recollection of the arrangement that was consummated in all the letters together, before the shipments were received?

(Objected to.)

(2185) By the Court: Can you recollect the substance or contents of any one particular letter as distinguished from the rest of the letters?

A. Yes, sir, your Honor; I remember the letter which finally settled the matter between the firm of Rollin & Feuardent and myself to send the collection and consign it to them.

Q. A letter of Rollin & Feuardent?

A. It was written by Mr. Feuardent's father on paper with the name of Rollin & Feuardent.

Q. State what it was?

(Objected to; objection overruled.)

Q. State the arrangement as they proposed it in the final letter?

A. In substance the arrangement was this: That the house of Rollin & Feuardent would make certain advances to me for freight, packing, insurance, &c., if I would consign my collection of antiquities, which I then had in Cyprus, to their agent doing business in their name in London; should I agree to that, they would make me these advances, with the understanding that I would use every possible care to sell this collection to the British Museum, or to some other museums in Europe, and to exhibit it dur-

ing a year; failing to find a purchaser in Europe during that period, I would become, and would have the authority to dispose of my collection by auction, or otherwise, or they would buy it from (2186) me at a given sum, or I would have the full power to refund to the house of Rollin & Feuardent all the advances they had made to me for packing, &c., and interest on the amount of money so advanced at the rate of five per cent. per annum, and such other expenses which might have been incurred in London, and which I had not myself prepaid, such as arrangement for exhibition, &c.; this was in substance the letter which concluded the arrangement between myself and Rollin & Feuardent.

Q. Was anything said about commission?

Mr. Bangs: I object to the witness being led; it does not as yet appear that he has exhausted his memory. The usual course is to exhaust his memory first.

Q. Is that all that you now remember?

A. I remember that there was a commission specified.

Q. What was said at one time or at any time in relation to a commission?

(Objected to.)

Q. I mean in this letter?

A. There was something said about it in the last letter.

Q. What was it?

A. That the agreement should be ten per cent. on the whole value of the collection.

Q. In case they made a sale?

A. Yes, sir, in case they made a sale.

Q. Have you now stated all that you remember of the contents of that letter?

A. I believe so.

(2187) Q. What, if anything, was said as to what should happen in case you were unable to refund the money and retake possession of your collection?

A. I thought I stated that; in case I should be unable to refund the money I should have the authority to sell it at auction.

Q. To pay the debt?

A. Certainly.

Q. And you wrote the letters which have been produced here in evidence?

A. Yes, sir.

Q. How long did you remain in Cyprus after your collection had been wholly shipped to New York and to London; when did you leave Cyprus?

A. About ten months after.

Q. Leaving Cyprus at what date?

A. I believe I left Cyprus on the 2d of August.

Q. Before you left Cyprus did you receive any communications from Rollin & Feuardent as to the prospect of a purchase of the collection by the British Museum?

A. I got one, and it was the letter which forced me to go to Europe.

Mr. Bangs: I object to that statement and move to strike it out.

Q. About when was that letter received?

Mr. Bangs: I ask to have that stricken out.

The Court: Yes; that must be stricken out.

(2188) Q. General, answer the questions; when did you receive that letter, about?

A. I suppose in the month of July; some time in the month of July.

Q. Have you got the letter?

A. I don't think I have.

Q. Have you searched for it?

A. I did search for it.

Q. And do you make the same statements in regard to that as you did in reference to the other letter?

A. Yes, sir.

Q. State what was said in it about the sale to the British Museum?

A. That the British Museum, or at least the authorities of the British Museum, had examined my collection and found it fragmentary, and their unwillingness to purchase it.

Q. According to your recollection was that written by the house in Paris or by the plaintiff in London?

A. By the house in London.

Q. By the firm or by the elder Feuardent?

A. By the elder Feuardent, if I remember well; I am not positive.

Q. How soon after the receipt of that letter did you leave Cyprus?

A. As soon as I was able.

Q. About how long after?

A. Within thirty days.

Q. You were still Consul?

A. Yes, sir; I merely had to apply for leave of absence at Constantinople.

Q. You did not have to apply at Washington?

A. No, sir.

Q. You simply applied to the United States Minister at Constantinople?

A. Through Mr. Morris or through Mr. George H. Boker.

(2189) Q. And what mode of conveyance did you get from Cyprus to London?

A. I took the Austrian Lloyd steamer to go to Smyrna, and from there to Marseilles and from Marseilles to Paris and London.

Q. Making about how long a trip?

A. Seven or eight days to Marseilles; about twelve days in all.

Q. What time did you arrive in London?

A. Early in September; either the second or third of September.

Q. Before leaving Cyprus, and before the letter from the elder Feuardent stating that the British Museum would probably not buy the collection, had you yourself communicated or received a communication from any of the authorities of the British Museum on the subject?

A. Yes, sir.

Q. From whom?

A. I had written to Dr. Birch of the British Museum.

Q. Had you received a reply?

A. I had.

Q. Look and see if this is it (handing letter to witness)?

A. Yes, sir.

Q. What was the position of Dr. Birch in the British Museum?

(Mr. Bangs: I object to any inquiry about this gentleman's dealings with the British Museum. The object is, I suppose, to show some default on the part of Mr. Feuardent and his firm in not showing this collection, and this gentleman's diligence and endeavors. Objection withdrawn.)

(p. 2190 A.)

Exhibit 183.—Dec. 11, '88.

BRITISH MUSEUM, LONDON, W. C.

12 March, 1872.

My Dear General:

Your letter of the 24th February has come safely to hand. Before its arrival I had made one or two attempts to see your collection, which is to be unpacked. When I have examined it here I can form a still better opinion of its value than from the photographs. Rollin & Feuardent are at present much occupied about a great purchase of coins to the amount of £30,000, which they have recently made of the executors of the late Mr. Wigan, who had one largest if not most extensive private cabinets in Europe. It is a great undertaking for them, but it appears they had money lodged for any collection which might be sold in Paris. Strange to say, none were thrown into the market, and two days after the fall of the Commune the French Government gave £450 for a single Greek coin. The other day an American resident in Paris gave a commission to a person of my acquaintance to purchase part of the Empress' diamonds for £13,000. So judge if "la pauvre France" is so very miserable after all. Here we are in a financial fix. The Treasury will not allow us to exceed our estimates, so there is no prospect of any extensive purchase this year. The fact is the gold objects of Castellani have been purchased for £20,000 for the Greek and Roman department, and I had an up-hill fight to get a small additional sum for my department, and one important purchase of Egyptian objects has been half refused, so you

see the state of affairs. Our estimates will, I hear, go before the House of Commons, say about June, and then all will be settled as to this year's acquisitions.

I am truly sorry you have embarked so much in antiquities, as it is always, so to say, a speculation, and as you see the notions of value often differ considerably. In case of auction there is also additional risk, as when a great deal is thrown in the market at once, it is difficult to find purchasers except for coins and small objects, for which inferior dealers come in.

You have, I hope, sent your inscriptions to Europe, as I should like to see them very much. None have been published, although I have alluded to them in my paper on the Cypriote language, which I have found out to be Greek, not Semitic.

My paper is not yet published, but will appear at the end of the year. The Biblical Society has published Lang's and Smith's, papers, which have created this difficulty. There is a notice that Schroder, a German savant is coming to Cyprus to excavate. So that you will find Germany take some interest on the matter. Our researches have stirred them up into action abroad. You shall hear from me again when I can form an opinion about your collection, but I have just seen Feuardent, who says that it will not sooner than a fortnight when it will be unpacked. The choicer objects are, however, familiar to me, through your photographs and the copies of the inscription. These last I have studied. Should any more be discovered I should like to hear about them. Believe me,

Yours very truly,

S. BIRCH.

GENERAL CESNOLA,
&c. &c. &c.

(2190) Q. What was the position of Dr. Birch in the British Museum?

A. That of keeper or curator of the Oriental department—of the Oriental antiquities.

Q. Would your collection come within that department?

Mr. Choate: We offer the latter in evidence. It is marked "Exhibit 183" of this date, and read in evidence.

Q. This underscoring in this letter, was that made by Mr. Stickney or yourself, or by Mr. Feuardent?

A. By me.

Q. You reached London on the first week of September?

A. Yes, sir.

Q. What were you occupied with at first there in London?

A. In trying to find a furnished house for my family.

Q. You brought your family along with you?

A. Yes, sir.

Q. And how soon did you come to have a personal communication with the plaintiff?

A. I suppose about the 20th of September or the 22d; it was towards the end of September.

Q. Having first found an establishment for your family, you had a communication with the plaintiff?

A. Yes, sir.

Q. And that was about the 20th of September when you called at his, the plaintiff's, store, number 61 Great Russell street?

A. Yes, sir.

Q. You called at his shop in Great Russell street?

A. Yes, sir, at his shop.

(2191) Q. Will you please state what condition you found your collection in as to the display and exhibition of it?

A. With the exception of, perhaps, the large statuary, from thirty to forty pieces, which had been unpacked and were standing up against the wall, the rest of my collection was still in cases, although the covers of them had been taken off and the contents had sometime been examined. Most of the small objects, the pottery, bronzes and glasses had been left entirely unpacked. They were not ready for exhibition when I visited the shop for the first time.

Q. What steps, if any, did you take towards preparing them for exhibition?

A. The first thing I said to him is this: "This collection should be put on exhibition as soon as possible." The reason he gave me for not having put them on exhibition was that he had to change his house.

Q. Who told you that?

A. The plaintiff told me that he had to change his house from 27 Haymarket to come to Great Russell street, on account of the heavy weight of my statues there. That was one of the reasons for not unpacking them and exhibiting my collection before. And I asked him to give me all the facilities that he could to put this collection on exhibition as soon as possible, in good order, so that it might be properly exhibited. He offered to give me every facility he had, and he gave me a room upstairs. In fact, every available space in that small house was put at my disposal to exhibit this collection.

(2192) Q. On how many floors did you find your collection?

A. On the ground floor and the first floor—no. I beg your pardon. I found it all on the ground floor.

Q. You found it all on the ground floor?

A. Yes, sir.

Q. And he gave you room on the second floor to exhibit part of it?

A. Yes, sir; exactly.

Q. How much of the next floor above did you occupy with it, as you placed it?

A. I should say his private parlor, a large room in the front of the house with two or three windows.

Q. Was any person, a mechanic or cabinet-maker, employed to repair these articles for exhibition?

A. Yes, sir; there was a cabinet-maker called, by the name of Sandeson, whom the plaintiff sent for. I made an arrangement with him to unpack all that was still packed up, to put the biggest statues together so as they would show in what condition they were found; and I had the room painted and in fact I put up some shelves and tables there, on which the things were placed to be exhibited.

Q. Do you remember your letter to the plaintiff on September 26th, which has been read in evidence and marked Exhibit 113 (handing witness a paper)?

A. That is not a letter of mine.

Q. This is a copy of it; is it not?

A. I have not got the original, so I cannot say whether it is a copy or not.

(2193) Q. Take that Exhibit 113. That has proved to be a copy of your letter. You say in that letter: "I informed you confidentially that the trustees of the British museum intend to purchase all they need from my collection, in order to establish a room in the museum exclusively of Cypriote objects, and that depends principally on Mr. Newton and Dr. Birch, who will go to visit the collection at your place almost immediately; for the budget of the museum is being prepared, and it must be decided before the 15th of October. We must hurry to put in order the collection, inasmuch as the Americans desire to visit it as soon as possible." Please state what had taken place to which you there referred, between you and the authorities of the museum, on the subject, or you and Dr. Birch or Mr. Newton?

A. I have no recollection of this letter or having sent anything of that kind.

Q. Read the first paragraph of that letter and tell me what is referred to?

A. This refers to a conversation which I had with Dr. Birch on that subject.

Q. After your arrival in London?

A. Yes, sir.

Q. State what it was?

A. After I arrived in London and while I was there looking for rooms or a furnished house for my family I naturally went to see Dr. Birch, who was a particular friend of mine; and he said to me that he thought that the British Museum might buy a selection of my collection.

(2194) Mr. Bangs. I object.

The Court: I don't think the conversation with Mr. Birch can be stated.

Mr. Choate: Does your Honor remember the libellous statement in regard to the authorities of the British Museum, every one of which I propose to prove. You will find on page 7 of the pleadings: "On my arrival there, scarcely three months of the stipulated year remained. Calling at his place of business, I was surprised to find that he had never exhibited the objects as had been agreed. The entire collection was in great disorder on the floors of his rooms; he even pretended not to know what portions of the dismembered statues belonged to each other! The whole represented a comparatively valueless mass of fragments. In this condition neither the British Museum authorities nor any one else could judge of the real value of the collection, and I was not at all surprised at their declining to buy the whole as I insisted. A competent dealer or agent would have prepared the collection for proper exhibition, as agreed upon."

The Court: I do not see how the statements of Dr. Birch to this witness can be made admissible.

Q. Will you please state, then, how the condition of the exhibition as you found it enabled you and an intending purchaser or a party looking at it with a view to purchase, to judge of its value.

(Objected to as incompetent.)

(2195) The Court: Let him state the condition in which he found the collection as respects order, arrangement and an attempt to display it for an examination by any intended purchaser.

A. There was no attempt whatever.

Mr. Bangs: I object.

Q. As to its condition for the purpose of display?

A. It was unfit for examination.

Mr. Bangs: I move to strike out the answer of the witness as not responsive.

Motion granted.

Q. By the Court: Was it still in boxes, unpacked, or had it been arranged?

A. A portion was arranged and a portion was still in the boxes. The sculptures—the larger sculptures—were all unpacked and were standing around the wall in some kind of an arrangement, but without being classified. The smaller objects, the glass, pottery, bronzes, &c., were still in their boxes, although the covers had been raised and then the covers replaced and left them there. That was the condition in which I found the collection when I visited the collection for the first time in London.

(P. 2196 A.)

1872

GENL. CESNOLA

To JAMES SANDISON & SON,

Carpenter, etc, 4 Bedford St., Strand.

Oct. £ s. d.

Unpacking sculpture, glass, etc., and moving do., fitting up new shelves for do. in first store and coloring shelves, coloring walls of 2 show rooms on ground floor, fitting up new shelving in do., and coloring shelves, moving packing cases and clearing away, etc.

Repairing Sculpture with Parian cement and moving and arranging do. to order..... 31 10 0

150 f as super 1 1/2" De 310 ft. super 3/4 De 12 ft. em 3"x3" De 50 lbs. of Venetian red, 4 lbs. of blacke, 3 tumers of size, 1 gross 1 1/2 screws, 4 bags of Parian Cement.

2 of nails.

£31 10 0

Paid.

(2196.) Q. Did this man Sandison, who was

employed to unpack the collection, furnish any men?

A. Certainly; a number of men.

Q. What did they proceed to do and under whose direction?

A. They proceeded first to build some shelves around the parlor—the room upstairs on the first floor—to put large tables in the centre of the room, and when that was done the smaller objects, which were still in the cases down stairs opened but unpacked, they began to unpack the smaller objects and fill those shelves and tables with those small objects. That gave more room to them down stairs to move around in. The next thing was to take and put together as nearly as possible, without cement and without repair the pieces belonging to each other, placing the fragmentary statues side by side, and those that could be put on a base were put on. In that way I arranged them all around the room. And, in order not to go to a large expense, the very cases in which they came from Cyprus were used as pedestals.

Q. Who directed and superintended the work?

A. I did, with the assistance of the plaintiff and his clerk.

Q. How long did it occupy you?

A. About three or four weeks, at most.

Q. Does that bill of Sandison, Exhibit 134, enable you to state the time when that work was done?

(Objected to as leading and incompetent.)

(2197) Q. (By the Court) State, if you please, whether you can recollect when the work was done, by your own memory; and if not, state whether the bill which is now shown you refreshes your recollection so that you can tell?

A. I should say the work was done in October.

Q. Can you tell any date in October when it was not yet finished?

A. I should say the 10th or the 15th of October, it was not yet finished.

Q. Why do you say the 10th—look at this letter, your letter to the plaintiff of October 9th, and state whether on that date the work of Sandison was already completed?

Mr. Bangs: I object. The witness is bound to state it from memory.

The Court: The witness has stated that he cannot state it from memory. He said he thought that it was not yet finished on the 10th or 15th.

Mr. Bangs: I submit that the next question should be is there any paper which will refresh your memory? And it is not until those resources are exhausted that a man can refer to his own letters and memoranda. That is the rule, I believe. I have the most serious objections to this witness being led or prompted in that way.

Mr. Choate: I shall certainly not prompt him. But when he says that he cannot recollect I shall ask him to refer to papers or memoranda that he has. I shall certainly call his attention to this letter.

(2198) Q. Is there any letter that will enable you to say whether on the 9th or 10th of October this work of Sandison was already completed?

A. I do not remember now, except that letter which I have not yet read.

Q. Will you look at that letter and see whether it will enable you to state was it earlier than when that letter was written?

A. No, sir; it was not.

Q. How soon after the 9th of October was the work completed, according to your best recollection?

A. Perhaps a week afterwards, or two weeks at most.

Q. Was this paper, Exhibit 134, finally presented to you by the plaintiff as Sandison's bill for that work done?

(Objected to as leading.)

Q. State what you know of the history of Exhibit 134?

A. This is the bill which I paid to Mr. Sandison for the arranging, unpacking and placing of the collection on proper exhibition at Mr. Feuardent's place.

Q. At the time you have already stated?

A. Yes, sir.

Q. Mr. Di Cesnola, what is there about that small lot of articles that you brought from Cyprus, referred to in the letter Exhibit 113; what was it that you brought yourself from Cyprus?

A. A little private collection of mine.

(2199) Q. Containing any sculptures whatever?

A. No sculptures whatever.

Q. And that was added and carried into Mr. Feuardent's room?

A. Not until after it was sold to Mr. Johnson.

Q. Did you know anything about the publication of the card of invitation, Exhibit 119, when that was issued; how came it to be issued?

A. According to my recollection it was issued after the collection was purchased.

Q. By Mr. Johnson?

A. By Mr. J. S. Morgan.

Mr. Bangs: I object to the question, and ask to have the answer stricken out. The question was as to the card.

Q. Did you have anything to do with the issuing of the card?

A. Certainly.

Q. State what occurred?

A. When the collection was sold the British newspapers took it up in a very serious way; and that was published for the purpose of allowing the English people to visit the collection—to allow the London people to visit the collection.

Q. What had you to do about getting out such cards?

A. Nothing, except that Mr. Feuardent asked my permission to do so and I gave it to him.

Q. How long was the exhibition continued after the purchase of Mr. Johnson?

A. About one month, although the small packing was going on at the time.

Exh. 119, Nov. 30, '88. E. C. K. Messrs. Rollin & Feuardent having completed the arrangement at their Rooms, 61 Great Russell Street, of the unique collection of antiquities consisting of Statues, Vases, Inscriptions, Glass, &c., discovered by General di Cesnola (American Consul at Cyprus), beg leave by permission of the proprietor to invite you to inspect the same any day between 11 and 3.

Nov., 1872.

(2200) Q. While the collection was on exhibition or while you were preparing it, did you have any personal knowledge of any of the trustees of the British Museum visiting it?

A. I had not.

Q. I want to ask you whether at any time while it was on exhibition you knew of any of the trustees of the British Museum visiting it?

A. Yes, sir.

Q. Did you take any of them there yourself?

A. I did take two of them.

Q. When was that?

A. That was after the collection had been sold, in the latter part of November.

Q. But not before the sale did you see any of them there?

A. None of them.

Q. When did Mr. Blodgett, of New York, first arrive or come to see the collection in London?

A. Some time in October or the end September. It was either the end of September or the beginning of October. I do not remember now.

Q. When did he first come to see the collection?

A. Between the 10th and 15th, I believe. I suppose about the third week of October. I am not positive now.

Q. And how long did he remain in London?

A. About a week.

Q. How many times did he visit with you or were you present with him at the collection?

A. He visited the collection only once.

(2201) Q. Can you tell how early he left London?

A. I could not. Before November, but I do

not remember the date.

Q. Before the month of November?

A. I believe so.

Q. After that who represented Mr. Johnston in dealing or negotiating with you?

A. Mr. Junius S. Morgan, the banker.

Q. Mr. Junius S. Morgan, of the firm of J. S. Morgan & Co., bankers in London?

A. Yes, sir.

Q. And was it with him that you finally closed the contract?

A. I did.

Q. The written contract which has been put in evidence?

A. Yes, sir.

Q. How long, if at all, before signing that contract, were its terms substantially agreed upon?

A. They were agreed upon on the 26th of October or the 27th of October as to price.

Q. As to the price, that is, if Mr. Johnston would purchase?

(Objected to.)

Q. When was Mr. Johnston's telegram received stating that he would buy at that price?

Mr. Bangs: I object to it. I don't know that we have the fact proved that those were the words of that telegram; and I would like to see the telegram.

Q. I was the telegram from Mr. Morgan that you referred to?

A. Mr. Morgan had several telegrams, but I don't know which it was.

Q. (By Mr. Bangs.) He means the last telegram which thunderstruck Feuardent.

A. That was in November. The other telegrams were before November.

(2202) Q. When did the telegram come from Mr. Johnston saying that he would buy the collection—the last telegram?

A. I believe it was on the 27th of October, giving him full authority to treat with me.

Mr. Bangs: The question is, when was the telegram received that closed the bargain; can you produce the telegram?

Witness: There is no telegram closing the bargain. The bargain was closed between Mr. Morgan and myself.

Q. Had you learned from him that he had received a telegram?

(Objected to.)

Q. Prior to the 27th of October, or prior to the signing of the agreement—what, if any, representations in regard to the collection did you make to Mr. Blodgett or to Mr. Junius S. Morgan?

Witness: As to what?

Counsel: Anything about the collection?

A. Mr. Blodgett asked me what was the true state of the situation between the plaintiff and myself as to the ownership of the collection.

Q. I mean as to the character and quality of the collection; as to its being from Cyprus, as to its being a collection of antiquities? What did you represent it to be to Mr. Blodgett?

A. I represented it to be a collection of Cypriot antiquities discovered by me in the Island of Cyprus at different points and in different cities.

(2203) Q. Was it in fact in the condition in which you had found it in Cyprus?

A. Substantially so.

Q. Was there one exception in regard to a certain statue—a statue of a priest?

A. Yes, sir. There was a statue which had a forearm from the elbow to the wrist which had been made in London.

Q. Did you make any representations or pretenses to Mr. Blodgett, Mr. Morgan or Mr. Johnston, that were not strictly true?

(Objected to.)

Mr. Choate: I propose to meet directly the charge that this defendant made in selling this collection to Mr. Johnston false statements, and that this defendant was obtaining money by false pretenses.

Mr. Bangs: The gentleman will have to meet it directly; and he shall not meet it indirectly. And it is a very indirect way of asking this witness whether the representations which he

made were true. Let him state what he said and did.

Q. (By the Court): Tell, in substance, the representations that you in fact made, and then tell if you please whether those representations were true?

A. The only representation that I made was that I had a collection of antiquities which I discovered in Cyprus myself, which numbered about 10,000 objects; that this collection was genuine; that it was what I represented it to be, and that I was willing to have it come to this country at what it cost me to get it out. That is as far as I remember the information that I gave to Mr. Blodgett.

(2204) Q. Were those statements that you so made in all respects true?

(Objected to; objection overruled; exception taken.)

A. Absolutely true, in fact and in words.

Q. Did you at any time after your arrival in London receive information from the authorities of the British Museum as to what had passed between them and Mr. Feuardent?

A. None except by the plaintiff himself.

Q. Did you understand my question—did you receive any assurances from the authorities of the British Museum in regard to their regret or in regard to the matter of their attention being called to this collection?

Mr. Bangs: Do you refer to writings?

Mr. Choate: I refer to page 9 of the printed pleadings.

Mr. Bangs: Do you refer to written or oral assurances? I object to the inquiry.

Q. Did you receive any letters after your arrival in London—any written statements—from any of the authorities of the British Museum on the subject?

A. No, sir.

(2205) Q. Do you remember any oral statements by any of the directors or the authorities of the British Museum?

A. Yes, sir.

Q. By whom—what trustees?

(Objected to as immaterial; objection overruled.)

Q. Who were the trustees, and what did they say?

Mr. Bangs: I object to what the trustees said.

Q. Who were the trustees?

A. One was Mr. William A. Gladstone.

Q. Who was the other one, or others?

A. There was Lord Bentinck and the Duke of Argyle. Those three I remember.

Q. State what they said?

(Objected to; objection overruled.)

Q. State what they said that you recollect?

A. The Duke of Argyle said, in the store of Mr. Feuardent, or Art Gallery, that it was the first time that he had heard that that collection existed, and that he had heard it from the papers.

Q. What did Mr. Gladstone say?

A. Mr. Gladstone was not there when he made the remark: he was at breakfast with Mr. Cyrus W. Field, and in his presence he said so: "I am very sorry that this collection goes away, and I did not know of its existence."

Q. What did Lord Bentinck say?

A. I do not remember what the remark was, but something to that effect—that he was sorry that the collection was going away.

Q. When did Mr. Morgan place at your disposal any money, and what amount first, under the contract?

(2206.) A. Immediately after the signing of the contract—

Q. Without looking at the contract can you state what was the date of the actual signing of the contract?

A. Either the 14th or the 15th of November.

Q. I see it is dated the 14th; does that concur with your recollection?

A. It does.

Q. What amount was it that he put at your disposal immediately upon the signing of the contract?

Mr. Bangs: Objected to. I insist that the witness finish his answer. He began

his answer "Immediately after the signing of the contract"—

Q. What amount did he so place first at your disposal?

Mr. Bangs: I object. The witness had not completed his answer when he was required to give the date of the signing of the contract.

Q. When did Mr. Morgan first place at your disposal any money under the contract?

Mr. Choate: He said at the time of the signing of the contract he placed a certain amount of money at his disposal. My next question is what amount?

Mr. Bangs: I submit that the witness had not finished his answer when he was interrupted by the inquiry about the date of the contract.

Q. (By the Court.) What amount did he first place at your disposal?

(2207) A. Four thousand pounds sterling.

Q. Immediately upon the signing of the contract?

A. Immediately after the signing of the contract.

Q. Was anything said between you and him about the possession of the collection from that time?

(Objected to as immaterial.)

Recess taken.

(2208) NEW YORK, December 11th, 1888.

Present: Counsel as before.

AFTERNOON SESSION.

LOUIS P. DI CESNOLA, recalled and examined by Mr. CHOATE.

(The question which was objected to immediately preceding the recess is admitted, and the plaintiff excepts.)

Q. When the contract was signed and he told you that the \$20,000 was to your credit, was anything said between you and Mr. Morgan as to the possession of the collection from that time?

A. Yes, sir.

Q. State what it was?

A. It was that from the moment at which he brought the collection from me in the name of Mr. Johnston, that he had the power and he used that power in appointing me as his agent from that moment to take care of the collection, and to have it properly packed and forwarded to New York.

Q. Did you act under that instruction from that time?

A. I did.

Q. After he had told you that the \$20,000 was to your credit do you remember drawing a draft on Morgan for a certain amount of £2,800?

Mr. Bangs: I object. There is no evidence that Mr. Morgan told him that \$20,000 was to his credit. He had said that immediately after signing the contract, Mr. Morgan placed the \$20,000 at his disposal; but he has not explained the particulars of that—how he did it. I would be willing to have the process explained but I object to your assuming.

(2209) Q. After he told you that the \$20,000 was at your disposal, do you remember drawing a draft upon him?

A. I do.

Q. Will you look at Exhibit 136 and state if that is the document?

A. Yes, sir; that is it.

Q. What then did you do with this draft for £2,800?

A. I gave it to the plaintiff.

Q. Under what arrangement or agreement with him?

A. That it was—

Mr. Bangs: Can't we have the conversation?

Q. Well, what was said between you about it that led to your giving him that draft?

A. The conversation was about in this manner: I had been appointed to attend the packing of this collection, and after having done so, I had the check made to his order which would cover all the payments that he had made for me, which

I had to reimburse him, and a certain amount of money which I was then in need of for particular uses while I was in London, the amount of which I don't remember now.

Q. It was an arrangement made that he should procure an account to be opened for you?

(Objected to by Mr. Bangs as leading and incompetent.)

(2210) Q. Well, how were you to get the balance of the money?

Mr. Bangs: I object to that. The proper inquiry is what did the parties say to each other?

Q. Well, what did he say on that subject?

A. It was that he would open me an account with his banker and I could draw there.

Q. With Burt & Company?

A. Burt & Company.

Q. Previous to that time had you been informed by the plaintiff as to the approximate amount of his charges?

A. I had been.

Q. What amount was it?

A. Between \$12,000 and \$13,000.

Q. Can you fix the date or about the date when he told you what would be the probable amount of his charges?

(Mr. Bangs objects on the ground that the charge is that the defendant had presented a bill, and that that is the charge to be sustained.)

The Court: I think it is competent for the plaintiff to show, if the fact is so, that a specific amount of money was claimed by the plaintiff to be due him.

Mr. Bangs: That is not the charge. The charge is that he presented a bill.

Mr. Choate: Suppose it turns out that it was not presented?

Mr. Bangs: Then it turns out that the charge is false.

Mr. Choate: Oh, no; not necessarily.

Q. Can you fix about the date when he made that communication to you?

(2211) A. I should think about the latter part of October; but I am not quite sure.

Q. Have you anything in your possession which will enable you to fix the date more closely?

A. Yes, sir; I believe a letter from Mr. Wm. T. Blodgett to Mr. John Taylor Johnston.

Q. Have you got that?

A. I suppose Mr. Stickney has it.

Q. Mr. Blodgett was then in London, was he?

A. Was in London at that period.

Q. Look and see if that is the letter (showing witness letter)? A. Yes, sir.

Q. Now, tell me about what date, if that enables you to state, the plaintiff told you what his charges would be?

A. In the month of October.

Q. In what part of October?

A. According to this, it is dated the 10th of October, 1872.

Q. Was it before that date?

A. Before that date.

Q. Where did you get this letter?

A. I got it from Mr. John Taylor Johnston since this case has been brought.

Q. Now, after that conversation, when he came to present his account, in what form did he present it to you?

A. They were in the form of a number of bills which aggregated a certain amount, which I don't now remember, but there were perhaps ten or fifteen bills which we went through—looked at them—and I satisfied myself that they were correct and I accepted them; that is the only account—the only form of bill that I ever received from him.

(2212) Q. Was the Sanderson bill one of those?

A. I don't remember.

Q. With the exception of that are you able to produce any of those bills?

A. I am not, unfortunately.

Q. Are you able to tell what has become of them?

A. I am not, except that I suppose that either they have been burnt in Cyprus or lost in New York.

Q. Have you made diligent search for them?
 A. I did all that I possibly could do—all that possibly could be done.
 Q. Do you remember anything said by the plaintiff about cartage?
 A. I don't know whether he said anything, sir; but I had in my mind, and I have still, that I had a bill for cartage which seemed to me very large.
 Q. You had stated in your statement to the Executive Committee that there was a bill for cartage of £363—what have you to say about that?
 A. Well, I think, that after consideration that must be a mistake. It is too large an amount to be only for cartage. The cartage was one of the items, but whatever else it was on the same bill it amounted to £363. I am not able to-day to say.
 Q. Whatever bills he presented you paid, did you?
 A. I did.
 Q. Will you look at this book, and particularly at the account in your name on pages 5 and 6, and state when you first saw the book and when you first saw that account (showing witness plaintiff's ledger)—when did you first see that book or that account?

6

GENERAL L. P. DI CESNOLA

Exhibit 123.—Nov. 20, '83.—E. C. K.

17.	August	1	Bill £15, less £120 glass, etc. balance	£30
	October	2	Postage of letters	38
	November	4	Cartage of 4 baskets	11
	December	5	Telegram	11
	December	6	Bill	30
	December	11	Cartage of 4 baskets	33
	January	11	Pour boire aux 10mm	8
	January	27	Cartage of 4 cases	55
	January	27	Pour boire	7
	March	18	Cartage of 2 cases	34
	October	22	Work men gratification	2
	October	30	Envelope	12
	November	5	Card	15
	November	15	Jewels (15)	15
	October	15	Bill paid for unpacking, etc., and arrangement collection	31
	October	10	Postage of cards	1
	October	10	Sien all Plates	1
	October	10	Beer for men and cartage	2
	October	10	Photograph for Mr. Decaid	11
	October	10	Gas, etc.	1
	October	10	Part account	927
	October	9	In rest on £1330 16.9 at 6 per cent. for 8 months	58
				00
				13
				2
				£1424

CR.

November 15. Cash. £1400
 December 22. Credit by heads left in Paris (600 fr.) 12
 " 23. Credit by antiquities. 12
 " 28. Cash by cheque. 12

£1424 | 13 | 2

(2218) A. The first time I saw this book was in court.
 Q. On this trial?
 A. On this trial. I never saw it before.

Q. Did he exhibit that to you in London?
 A. No, sir.
 Q. Or any part of it?
 A. Never.
 Q. Did you ask the plaintiff prior to drawing the check on Morgan which you gave to him, or at any time, to double his bill, or to make out a statement for the double amount of his bill?
 A. Never.
 Q. Did you know of any such thing being done?
 A. Never.
 Q. Have you stated all that the Duke of Argyle said to you about the collection in connection with the British Museum?
 A. In London or in New York?
 Q. In London.
 A. He said something to the effect that the collection had not been called to his attention, and that the collection had only been called to his attention by the papers and not by any other sources; that the collection was going away from London; that he was very sorry; that he was one of the Trustees of the British Museum and never had heard of it before. He gave me his card in going out, and it was then for the first time that I found out that his name was Argyle. That is the way I made his acquaintance.
 Q. Did he afterwards, and before the publication of the plaintiff in the Art Amateur, make further statements to you on the subject?
 (2214) A. Yes, sir, he did; but he made them in New York.
 Q. State what he says?
 Mr. Bangs: in New York?
 Mr. Choate: Yes, sir; in New York.
 Mr. Bangs: I object to what the Duke of Argyle said in New York. It must be of no consequence.
 Q. Do you remember any statements made to you by Mr. Birch in London before you left?
 A. I do.
 Q. State them?
 Objected to by Mr. Bangs.
 Mr. Choate: This is for the purpose of proving the statement at the top of the 9th page of the pleadings.
 Mr. Bangs: Then it is assumed that Dr. Birch is either an authority of the British museum or a distinguished archaeologist and a trustee. Has that been testified to that he has been either?
 Mr. Choate: It has been proved that he is in charge of the entire Oriental department of the British museum.
 Mr. Bangs: Well, is he an authority?
 Mr. Choate: Their own depositions prove that he is the person to whom, or before whom, a proposition of such a collection would pass.
 The Court: I suppose he is one of the authorities of the museum; that is an authority in the sense of making bargains.
 (2215) Q. Mr. Birch is an eminent archaeologist, isn't he?
 A. Most certainly, perhaps the best Egyptologist existing to-day.
 Q. State what he said on the subject?
 A. Dr. Burch said to me this: "I see that we are getting a great deal of abuse—the British museum authorities—because your collection was not bought by us, but that collection has never been brought to my knowledge, and I never knew that it was for sale to the British museum." I said: "Well, I am astonished; my agent was authorized to do so," but he said: "I am the proper person to whom the first steps to be taken—the preliminary steps as he called them—in order to bring the matter before the trustees of the British museum should be brought to me; and as most of your collection represent Oriental art and very little Greek—pure Greek—art; and, therefore, nothing was said to me in any way whatsoever, personally or officially." That was the remark Dr. Birch made to me.
 Q. Have you stated all that you recollect that he said?
 A. That is substantially all.
 Q. Did he, in that conversation, make any reference to the statement in his letter to you of the 12th of March previous?

A. I don't remember.
 Q. Do you remember any statement made by Mr. Newton of the British museum on the subject before you left London?
 A. I do not.
 (2216) Q. Did the plaintiff in London mention to you any efforts made by him to sell to the British Museum?
 A. He told me that he had gone to Mr. Newton and tried to induce Mr. Newton to recommend the purchase of my collection; but whether he did or not, I don't know.
 Mr. Bangs: I object to the last part of the answer: "But whether he did or not I don't know."
 Mr. Choate: Strike it out.
 Q. When did you first see this check for £2,800 which has just been shown you here; when did you first see it after you drew it and delivered it to the plaintiff?
 A. Some time in the Summer of 1881, while I was in Europe.
 Q. Where and by whom was it shown to you?
 A. I don't remember now whether it was from Mr. Morgan or one of his agents.
Exhibit 136.—Nov. 27, '83.—E. C. K.
 TO MESSRS. J. S. MORGAN & Co.,
 22 Old Broad street,
 LONDON, 15 November, 1872.
 Please pay Messrs. Rollin & Feuadent or Bearer, the sum of Two thousand eight hundred pounds and charge same to my account,
 £2,800:—
 L. P. DI CESNOLA.
 Stamped on face, "London & Westminster Bank, Lothbury."
 Written in pencil on face, "L. & W. ac. F. Burt & Co., correct."
 Stamped on face "Paid."
 Two parallel lines are crossed in ink over the face, with the words "& Co." between them.
 Revenue stamp on face on which is written "15 Nov., 1872."
Exhibit 137.
 (P. 2216.)
 [No. 24587.] LONDON, 16 Nov., 1872.
 THE LONDON JOINT STOCK BANK,
 5 Princes' street, Mansion House.
 Pay to ——— 9,119, ———, or bearer,
 two thousand eight hundred pounds (£2,800 0. 0.)
 J. S. MORGAN & Co.
 Stamped on face "London and Westminster Bank, Lothbury."
 Two parallel lines drawn over face of check in ink, and between them the words "& Co."
 [Penny stamp.]
 Q. Did Mr. Morgan subsequently send it to you here?
 A. At my request; yes, sir.
 Q. Did you not state in your communication to the Trustees that the £2,800 check was given by Morgan to you?
 Mr. Bangs: One moment. The letter shows about that.
 Q. Morgan's own check for £2,800 was given to you?
 Mr. Bangs: The communication will show it.
 Mr. Choate: I have a right to call his attention to it.
 Mr. Bangs: That is not the right way to call his attention to it.
 Mr. Choate (reading from pleadings): "And when Mr. Junius Morgan gave him, the plaintiff, his check for the amount of his bill."
 Mr. Bangs: That is not the whole of it. "But I was glad to get rid of him" (Reads to the end of that sentence.)
 (2217) Q. Was that your recollection or impression at the time you made this statement?
 A. It was.
 Q. Do you remember the statement in the plaintiff's first communication in the Art Amateur, I think, that Mr. Morgan, a London banker, gave him a check for the value of the collection?
 A. No, sir.
 Q. Do you remember the statement?
 A. I remember the statement, quite so; but it is not correct.

Q. Was it in answer to that that you made your statement in regard to the check?

A. Exactly so.

Q. Now, in regard to the Priest, No. 22, did you hear the plaintiff's testimony as to a conversation between you and him and Whalen, his clerk, as to the repair of it?

A. I did.

Q. Did any such conversation as that take place?

A. Never.

Q. Will you please to state every point in regard to Priest 22, in London—in what condition you found it or first saw it—and what was said between you and the plaintiff about it?

A. When I came to London the first or second visit, in September or October, at the beginning, I don't know which, I visited the rooms of the plaintiff, and as I stated before a number of statues—the largest statues had been already unboxed and placed around the walls as if on exhibition. I do not remember having remarked No. 22. I don't know whether it was the first visit or the second—I won't be positive—but I remarked it shortly afterwards that it had a new forearm from the elbow to the wrist. As far as I can remember, I made this remark to the plaintiff: "Why did you make a new arm to that statue; where is the old arm? Where is the old arm?" "Well," he said, "I have not seen the old arm, and I made it because it is one of your most valuable statues, and that makes it complete." "Why," I said, "I have the arm, and probably we will find it in your rooms." We looked around there among the fragments, and the arm was not then in London; but I was positive I had the arm, and I had marked it; and after a fruitless search I became convinced that the arm must have been left in Cyprus. It was not certainly after the 15th of October that that happened that I made that remark and that that conversation took place.

[2218] Q. When did you next see the original forearm of that statue?

A. In Central Park in 1879, when we unboxed a number of fragments from boxes which had been stored away first in Cyprus and then in the 14th Street building. I believe it was Mr. Prime who took it out of the case; but I don't remember.

Q. How did you recognize it?

A. Oh, I recognized it at once as I said I put a number or letter on it showing where the arm went.

[2219] Q. Are you familiar with the picture in Doell which has been introduced here of that statue in Cyprus?

A. Certainly.

Q. Does that accord with your recollection of it?

A. Certainly; most thoroughly.

Q. Was the statue of Aphrodite and Eros included in your shipment to London?

A. It was not.

Q. Why not?

A. Because it was already packed up in one of the cases which had been sent to New York, care of Dr. Hitchcock.

Q. When did the exhibition of your collection in London close?

A. There was not properly speaking a regular exhibition of the collection. It was arranged that I would pack up the small objects upstairs, and while I was doing that work, we would allow the people to come and inspect the collection down stairs. As soon as the work was finished up-stairs then we came down stairs and the exhibition closed. That was probably on the 20th or the 15th of December.

Q. And then it was shipped to New York?

A. It was shipped in different consignments to New York.

Q. Did you leave London before it was all shipped?

A. No, sir.

Q. When did you leave London for New York?

A. In the second or third of January if I am not mistaken. Certainly the beginning of January or the last of December I don't know,

Q. 1873?

A. Yes sir.

[2220] Q. You arrived in New York then about the middle of January?

A. The 15th or 16th of January, yes, sir.

Q. At that time you were under no employment from the Museum?

A. None whatever.

Q. Nor from Mr. Johnston?

A. I had ceased to give my account to Mr. Morgan for the collection, and I was discharged entirely.

Q. When did you first come to the 14th Street buildings—the building occupied by the Museum?

A. I came with Mr. Johnston and Mr. Russell Sturgis one day to see it before it was taken by the Museum authorities, to see whether it would be a good building for a museum; and I was merely requested to go and give my opinion.

Q. About that time in 1873 was that?

A. It must have been in February or March.

Q. At that time did you know what the purpose of the Museum authorities was as to the ultimate placing of their collections in Central Park?

A. I do remember that Mr. Johnston told me this: "We are now looking only for a temporary building which will enable us to exhibit our collection temporarily for one or two years until the Park Commissioners have finished to build a building in Central Park which will ultimately be turned over to us and be used for a museum of art."

Q. Was that building then in process of erection?

A. I could not say because at that time I had no time to go up to Central Park; but I suppose it was.

[2221] Q. Were you familiar with the fact of the passage by the Legislature of 1871 of an act instructing the Commissioners of Parks to erect a building for the museum?

A. I may have heard it at that time, but I don't remember.

Q. When first and how did you become connected in any way with the collection as it was in the 14th st. museum?

A. I should say in March or April 1873.

Q. And how?

A. Mr. Johnston and the trustees decided to take that building on a lease for certain years—I don't remember how many years—I met Mr. Johnston and he said to me we have fixed on taking this building for two or three years, and now the most important thing for us is that you should remain in New York a long enough time to classify and arrange your collection in that building. I said to Mr. Johnston, "I cannot do it as I am Consul to Cyprus and I must go back to my place." He said, "I will obtain you a leave of absence from the State Department." A letter was sent to the State Department, and a leave of absence of six months was given to me, and when that was done a regular arrangement was made between the trustees of the museum and myself as to going there and to attend personally to the arranging and classifying of this collection which I did.

Q. Were you then a trustee?

A. I was not connected with the institution in any way whatsoever.

[2222] Q. And the museum was not then the owner of the collection?

A. The museum was not the owner; it was only a loan; it was only loaned to them.

Q. It was a loan exhibition?

A. Yes, sir; it was a loan exhibition.

Q. Do you know when the museum first purchased from Mr. Johnston the collection?

A. I should say about a year and a half or two years afterwards; but I don't know the exact date.

Q. Up to what date did you remain on that service in New York?

A. I should say until the end of August.

Q. Was your service confined to what you call the Cesnola collection, or did it embrace the other parts of the museum exhibition there?

A. It was especially to the Cesnola collection, but in the meantime for everything else,

Q. And what personally did you do about it down there?

A. I had to attend to the unpacking of the cases and to point out to Mr. Sturgis, who was then the trustee in charge, what pieces belonged to each statue, which was an easy matter as they had, as I said, a number or a letter. Then I had to classify up-stairs something like nine thousand objects, mostly in glass, terra cottas, in marble, in alabaster, and gold and silver. I had to arrange them and classify them and then prepare to place them in cases for exhibition.

(2223) Q. Who was this Mr. Sturgis of whom you speak?

A. He was one of the trustees in charge of the building arrangement in 14th St.; I suppose he was especially in charge of it, but I am not sure; as I say, I was not connected with it.

Q. Mr. Russell Sturgis?

A. He was, in fact, the man from whom I had to get my orders.

Q. That was his name, was it?

A. Russell Sturgis, yes, sir.

Q. Were any of the other trustees active in that same matter?

A. There was Mr. Prime, Mr. Johnston, Mr. Weston, Mr. Rhineland, and Mr. Hoe, Jr.

Q. Now, in regard to Mr. Gehlen's work there—what had you to do with that?

A. Mr. Gehlen was employed by the trustees; I had nothing to do with it; I did not know the man before I went there; I found him put in charge there, and Mr. Sturgis said: "This is the man I employed to make all repairs that he wants to your statuary so that it can go up stairs and be placed on exhibition;" I took it for granted that the man knew his business, and I merely pointed out the pieces and told him how they should be repaired and put together; I told him, however, that nothing should be made permanent as the collection was going to be put on exhibition temporarily only in that building.

Q. Did you understand that that was carried out—that the object was to have it a temporary exhibition only?

A. So far as I know I think it was done so.

(2224) Q. You saw the objects as they came from his hands up stairs?

A. Most of them; I could not say that I have seen them all, but I suppose most of them I must have seen.

Q. As to any particular objects, can you recall paying special attention to them?

A. Well, all the biggest statues or the most important sculptures of the collection; I remember having seen them or remember having particularly given my attention to them.

Q. Can you pick out particular specimens of the smaller to which you gave any special attention?

A. If by small objects you mean No. 40, I remember that, but I don't know now enough to specify any others.

Q. That is the one that has the ball in the left hand?

A. Yes, sir.

Q. Do you remember seeing the little Hercules or the Egyptian warrior?

A. I do not.

Q. Or the dog?

A. Oh! the dog belonged to the second collection.

Q. Now, was statue No. 39, the Priest with the cow's head, there?

A. I remember that very well.

Q. In what condition did you find it in 14th Street?

A. In the exact condition in which I shipped it from London to New York; that is to say, one piece from the neck to the ankles without the feet.

Q. And in what condition were the feet and base, and how was it held up—how was the statue held up?

A. It was not held up at all; it was never mounted, as the feet were broken at the ankles; and the ankle behind was all shattered; and of course it couldn't stand upon the fractured pieces as the fractured pieces were all in small

condition; I had it mounted without the base in 14th Street.

(2225) Q. Well, by what means was it upheld?

A. By a piece of wood behind.

Q. How was that piece of wood secured to the body of the statue, if at all?

A. It was secured by making it adhere to the back of the statue and then fixed on the pedestal sufficiently till the body of the statue where the weight would have come naturally down, holding it up.

Q. You have said that you discovered at Salamis the body or shattered body and head of a Priest bearing a cow's head in his hand?

A. Yes, sir.

Q. Is No. 39 the one?

A. No, sir; no relation whatsoever between one and the other.

Q. What became of that one which you discovered at Salamis?

A. It was shipped to New York with a number of other cases on board of a vessel called the Napried, an Austrian vessel, and that vessel went to Beyreuth to load wool, and went to the bottom in about 25 or 30 days afterwards.

Q. Did any part of your invoice that was on board ever reach New York?

A. You mean the papers?

(2226) Q. No, sir; any part of your goods?

A. No, sir; went down to the bottom entirely.

Q. Are you able to obtain the invoice of it?

A. I believe Mr. Stickney has that.

Q. So that this statue was not the one that Mr. Hitchcock wrote about in Harper's Magazine?

A. Assuredly not.

Q. This statue was not the one that you wrote to him that you found where you sat together at Salamis?

(Objected to by Mr. Bangs, that there is no evidence that the witness so wrote.

The Court says that it does not think it can be inferred from the fact that Mr. Hitchcock stated in his article that a letter was written, and from the fact that article is reproduced in the Cook pamphlet that such letter was written.

Q. Look at Exhibit 177 and say (underneath which is written: "The Greek Priest found at Salamis") if that is a picture of the one you found at Salamis about which Mr. Hitchcock wrote in his article?

A. That is the identical one.

Q. That never reached New York?

A. Never.

Q. Is it the same head represented in Mr. Hitchcock's article in Harper's Magazine already in evidence?

A. It is.

Q. Was statue No. 39 ever exhibited in New York with a head upon it at all?

A. Never.

Q. Was it ever exhibited in the condition of the one statue No. 39 in the appendix to the Cook pamphlet?

A. Never.

(2227) Q. Did it ever have a head on it after you saw it first?

A. Never.

Q. Did it at any time when you saw it first or at any time when you saw it in Cyprus or anywhere else?

A. Since I discovered that statue it has never had a head put on—stuck on—or anything of the kind; it has always been headless.

Q. Did you ever state that it had a head?

(Objected to.)

Q. Did you ever state that it had a head at all?

(Objected to on the ground that the witness must state what he said; that the proper question is: Have you ever said anything about it, and if so, what?)

The Court: I think he can be asked the question: Did you ever say anything, and if so, what in regard to the condition of the statue found at Salamis as to its head?

Mr. Choate: Well, please answer that question—as to this statue No. 39?

The witness: This is not from Salamis.

Q. No—no! Did you ever say anything about

its having a head?

A. I never did.

Q. You frequently said that it never had a head?

A. I did, sir.

Q. Where did you go in the summer of 1873, after you had finished your six months' service for the Museum?

A. Directly to Cyprus.

(2228) Q. On what business?

A. As American Consul and as Russian Consul.

Q. How long did you remain there in those capacities?

A. Until the end—the 15th or the 14th of June, 1876.

Q. During that period had you any connection whatever with the Museum?

A. While I was in Cyprus I received a letter from the Trustees informing me—

Mr. Bangs: I object. Let us have the letter.

Q. Have you got the letter?

A. I think probably not here; but I think I have it among my papers.

Q. Did you have any business connection with them during that stay in Cyprus between 1873 and 1877?

A. No, sir.

Q. During that absence did you make your further discovery, including what is called the second Cesnola collection?

A. I did.

Q. And they were sold to the museum?

A. They were.

Q. And were shipped to New York to them?

A. They were.

Q. About when?

A. Some time in 1875, or early in 1876; I don't remember.

Q. Did that collection include any statutory?

A. Not of a large size.

Q. Any of those articles that are brought in question here?

A. None, so far as I remember.

Q. Then, having closed your consulship in Cyprus, when did you next come to New York?

A. I didn't close the consulship; I got a leave of absence.

(2229) Q. You got a leave of absence to come to New York?

A. I got a leave of absence to go to Europe.

Q. And then after going to Europe did you come to New York?

A. While I was in Europe I found that Congress had abolished a number of Consulates, among which the Consulate of Cyprus was also abolished.

Q. That left you a free man?

A. And I became a free man from that time.

Q. And you came to New York?

A. Yes, sir; I came to New York.

Q. Now, did you have anything to do with anything that was done in the museum during your absence?

A. Nothing whatever.

Q. Had you anything to do with the preparation of this guide to the Cesnola collection of 1877 now shown you?

A. I had not.

Q. Do you know how it happened that the copy of Mr. Hitchcock's cut in Harper's Magazine is inserted in it on page 21 as No. 217, and how it happened that the references in the text are made to that cut?

A. I heard that they sent to Mr. [Harper] to lend the same cut.

Q. Do you know how it happened?

A. Yes, sir; I do.

Q. How do you know?

A. From some of the trustees of the museum—from Mr. Prime and from Mr. Harper.

Q. Well, you have no personal knowledge of it?

A. No, sir.

Q. When, after your return, and when first were you employed or did you become connected with the museum in any way?

A. Some time in July, 1877.

(2230) Q. What was your first connection with it then?

A. I was then a patron of the museum.

Q. That is rather an honorary office in the museum, is it not?

A. Not much, as it costs a thousand dollars to become.

Q. Honors follow?

A. Yes, sir; honors follow.

Q. Now, when did you have any business connection with the museum first?

A. In an official capacity?

Q. Any capacity, business or official?

A. In July, 1877.

Q. What was it?

A. I was elected a trustee and made secretary of the Museum of Art.

Q. When did you come into any closer connection with it in any business employment?

A. On the 15th of May, 1879.

Q. Where then were the collections of the museum?

A. In Central Park in the new building which had then been erected.

Q. The removal had already taken place?

A. It had.

Q. Had you any active part or any part in the removal?

A. I was the chairman of the committee who removed it.

Q. Chairman of the committee of the Board of Trustees?

A. Yes, sir.

Q. On removal?

A. Yes, sir.

Q. Who constituted with you that committee?

A. Mr. W. L. Andrews, and Dr. William C. Prime.

Q. What was the business connection that you at that date in 1879 came into with the museum?

A. I don't understand you.

(2231) Q. The business connection you came into, the business connection which you mentioned you came into in 1879—what was it?

A. I was offered the position of Director of the Museum, and I accepted it.

Q. Have you continued ever since to occupy that position?

A. I have done so.

Q. What duties did you undertake as Director to discharge?

A. To take care of the entire collection of the museum, to take care of the exhibition, to take care of having the catalogues made, to take care of the men; and to take the entire management and administration of the museum.

Q. Including all its collections?

A. Any collection or loan or anything belonging to the museum.

Q. At the time when it was opened in Central Park, how large a position of the whole collection of the museum there did your Cesnola collections form?

A. I should say one fourth.

Q. And of the Cesnola collections how large a portion consisted of statutory?

A. About one-twelfth.

Q. In the number of objects, and larger proportion than that I suppose in the value?

A. I am afraid I didn't understand the question.

Q. About one-twelfth, do you mean, in number or in value or what?

A. About the sculptures?

(2233) Q. In the number of objects, one-twelfth of the whole number of objects?

A. I don't understand you.

Q. Did the sculptures form one-twelfth of the whole number?

A. About one-twelfth of the whole collection then on exhibition.

Q. Who were the executive committee of the museum at that time?

A. Mr. —

Q. One moment! You mean one-twelfth of the whole Cesnola collection?

A. Yes, sir, one-twelfth of the whole Cesnola collection.

Q. Who constituted the executive committee of the museum at that time?

A. First the officers, the president, the two

vice-presidents, the secretary and treasurer-president, Mr. John Taylor Johnston; first vice-president, Mr. Prime; second vice-president, Daniel Huntington; and the treasurer at that time was Mr. F. W. Rhineland and secretary was myself. Then there are several trustees.

Q. Well, state who they were?

A. Rutherford Stuyvesant was one—at what period?

Q. When you opened the museum at the Park in 1879?

A. Robert Hoe, Jr., Henry G. Marquand, William E. Dodge, Jr., William L. Andrews; that is all I remember.

Q. What were the relations, I mean official relations as to the discharge of duties, between the Director and the executive committee?

A. The executive committee is the body who control and give orders to the Director, and the Director depends entirely upon the executive committee.

Q. Acts under their instructions?

A. Under their instructions.

Q. Was there any conference between the Director and the executive committee at that time as to what should be done in regard to putting the Cesnola collection of statuary into order for exhibition?

A. Several times—several conferences.

Q. State the substance of them?

A. The substance was that the collection should be placed, as far as the Cesnola collection is concerned, should be thoroughly repaired and placed on exhibition for permanent and durable exhibition; that the condition of the stone should be studied, the surface should be well ascertained in what condition it was—

Mr. Bangs: Were those instructions in writing?

The Witness: No, sir; verbal.

Mr. Bangs: Were they recorded on the minutes?

A. Most of them, I believe they are.

Mr. Bangs: Well, then let us have the minutes.

Mr. Choate: Go on and state them as you remember them.

Mr. Bangs: No, sir; please don't go on and state them. If the directions are in writing are we not entitled to them in that form?

Q. These conferences that you had were not in writing; were they?

The Court: Conferences could not be very well in writing. If there were any directions by the Executive Committee which are in writing, I think Mr. Bangs is entitled to them. I think it would be a fair inference that those directions embodied in brief the conferences; but at this point I think he has a right to state what the conferences were. Were these verbal directions given in conferences subsequently or previously embodied in written directions from the executive committee or written memoranda upon their minutes?

The Witness: Some of the conferences were verbal and were not in a body of the executive committee, as in a regular meeting orders were in a body. When a meeting took place those that were given to me in a meeting they must be recorded in the minutes; but those given to me verbally by the executive committee in the Central Park or elsewhere, of course they were not taken down as they were not representing at that moment the committee in meeting.

The Court: I think he can go on and state.

Q. Go on with your statement of the substance of these conferences?

Mr. Bangs: In committee?

The Court: No, no. My idea is that what he calls conferences he means were conversations between him and the executive committee.

After some further discussion the Court allowed the question to be put, stating that it understood the question to mean the substance of the verbal conferences between the Director and the members of the committee either in or out of session; stating, however, that if there were any records made in regard to this subject by the executive committee they ought to be produced.

(2236) Q. Now go on please and state the substance of the conferences about what should be done?

A. The substance of the conferences was that after talking the matter over, the condition of the statues in which they came from 14th street, as to what would be the best way to preserve the stone from utter disintegration and loss, the result arrived at was that the best and only way by which we could save the stone from disintegration was by a thorough removing of all the repairs which had been made in 14th street, by Gehlen with plaster. They found that the connection of the plaster with the two edges of the fracture had the effect of disintegrating, the two edges so that the disintegration of the stone was not only on the surface itself, but also on the edges of the fracture. After some other talk, they said that what would be the best method to do it would be to build a large tank in the basement, and there each of these biggest statues put inside—soaked—at any rate, try to detach all the work done by Gehlen; and after this work is thoroughly done, take the piece by piece out of the bath, thoroughly clean it, and then repair the pieces which belonged to each statue; and when they are so repaired mount them on a pedestal and then put them on exhibition. After receiving that information, which was to me an order, came from the executive committee whether in session or not I can't say, and I began to take the necessary disposition. I had a tank built; I had the water brought from the cellar up and the work of undoing the work done by Mr. Gehlen was begun.

(2237) Q. Did you undertake after these conferences to superintend that work?

A. I did.

Q. Did you intend that before it was placed on exhibition all the work done by Gehlen in 14th street, should be removed?

A. Most assuredly.

Q. Who was employed under you to do the work?

A. A man named Charles Balliard.

Q. Anyone else with him—an assistant?

A. And a man named Vallozio, an assistant.

Q. Now, about when did this work of removal.

of what was done or added by Gehlen in 14th street begin?

A. It began some time in the Summer of 1879.

Q. And nine months prior to the formal opening of the exhibition?

A. Yes, sir.

Q. Whereabouts in the museum building was it done so far as it was done?

A. It was done in a room, I believe to be in the northwest side of the building facing the Park.

(2238) Q. Is that the same room that has been frequently referred to by witnesses here as the repairing room?

A. Yes, sir.

Q. Now, while that was being done in that room by Balliard and Vallozio, how were you occupied and employed personally?

A. I was occupied in a hundred things. I was occupied in arranging the collection—the loan collections, the Cesnola collection, the classifying of the objects to select the duplicates out of them, and in fact a little of everything. I had the entire charge and responsibility of placing the entire building in a state of public exhibition as soon as it could be done and therefore my work was of every kind, and I had to be everywhere.

Q. Who conducted the correspondence, or did you conduct any of the correspondence on the part of the museum?

(Objected to as immaterial and incompetent; the Court overrules the objection, stating that it thinks it is competent to show that some part of his time was spent in corresponding.)

Q. Is that so?

A. Yes, sir.

Q. To what extent were you able to and did you give personal attention to the work that was going on in the repairing room?

A. Well, about one-twentieth of my day's work.

Q. As the repairing of an object was completed

in the repair room, what was done with it?

Mr. Bangs objects and states that the question should be confined to what he saw.

The Court overrules the objection and states that it is competent to show what was done with an object after it was repaired.

(2239) Q. Please answer the question?

A. The objects after being repaired were brought up stairs in the grand hall and placed on the pavement of the grand hall waiting for classification.

Q. Now, will you please state to the jury exactly what the method of repair adopted and followed was, taking in the first class, the case of an object of which the entire fragments were in your possession.

A. You mean the entire piece or only the fragments of it?

Q. The entire fragments of a statue so that you had the entire body there in fragments; now, what was your method of repair?

A. As I stated substantially, the first thing to be done was to put them in this bath and detach all the work which was done before. Then the pieces which formerly belonged to the object itself where there was not a possible doubt as to their having been formerly a portion of the same object were put together by Balliard, and when they were so connected they were sent up stairs.

Q. How were they connected—fastened together—such pieces—such fragments?

A. They were connected if they were large pieces with rods of copper; then they brought the two surfaces as near as the condition of the stone, the condition of the edge more or less separated would permit, and when they were brought as near as possibly could be, the portion which remained as to which not touching one side or the other, leaving some crack, those were filled up with a proper cement so that it would keep this stone and the edges thoroughly in connection close together as much as possible.

(2240) Q. And what was done in the way of a wash upon the point of juncture?

A. What was used?

Q. And for what purpose was it used?

A. The next consideration was when the pieces have been put together and this cement disconnected the two fractures there was still a certain dampness, which if left entirely uncovered would work, as I said before, in deteriorating or disintegrating the edges and the surface of the repairs of the stone; I then told Balliard if he was able to find some way—some means, by which the junctures so mended—so repaired, could be kept from disintegration; he said: "I think the only way that it could be experimented upon is to take some glue—some mucilage—some milk, and some of the dust of the stone; that will form a very light film all over the surface and will keep the air out;" we tried that on one or two places, and after several days I was satisfied that that would probably be the best means to preserve the surface; I then directed Mr. Balliard to go ahead, and on all the work which was repaired by him, on all the junction, the two edges, and the portion of the cement put to keep them together should be covered with this wash; there never has been any wash over the surface of the statues only on the portions so repaired.

(2241) Did the use of the dust of the stone as the base of that wash have also the effect of making the statue look entire?

A. Probably so; it had certainly the effect of getting the color; the milk by becoming old takes the old color; and the stone with the mucilage gives more or less the same color of the surface.

Q. You knew that the effect was to be produced?

A. We tried it.

Q. And that was your intention too?

A. Most certainly.

Q. Did you regard that as a proper method of repair?

(Objected to by Mr. Bangs on the ground that it is not right to ask this witness the question about what he thinks of the propriety of his doing what he has done.)

After some further discussion the Court said:

I think there is some force in what Mr. Bangs suggests as to the meaning of the word "proper;" I think you can ask him if in his opinion this repair was necessary; if so, why it was necessary; if it was for the purpose of protecting the stone from deterioration by dampness or for any other purpose; and in what other ways he regarded, if he did regard, this application as necessary or material.

(2242) Mr. Choate: Well, you heard the questions as directed by the Court?

The Witness: I consider it indispensable.

The Court: Well, why?

The Witness: In order to save the surface of the parts brought together from further disintegration, and nothing else.

Q. Did you honestly use your best judgment in adopting this method?

A. I did, sir.

Q. Did you regard it as in any manner an objection that the color of the wash used at the points of junction was the same color as the rest of the statue?

A. I would have preferred not; but, nevertheless, I had not the possibility of doing it in any other way but in that way.

Q. Why not?

A. Because in the other way I would have to have left the cement entirely uncovered and the action of the air would have acted upon it.

Q. What have you observed as to the effect by exposure to the atmosphere on the broken surfaces of this Cypriote stone, and especially what have you observed as to the effect of the plaster upon it uncovered by any such wash?

A. I found that the disintegration of the Cyprus stone in our climate was going on on all the surface, whether broken or not; but on broken pieces which had been put together with plaster the disintegration was going on much faster; then the question came, how shall we save these stone from further disintegration? Mr. Balliard said: "I think that this will do." We had six or seven objects arranged so and left them for a couple of months to see what effect it would have; and then I became convinced that a very light filu put over it would protect, keeping the air from disintegrating the stone, and I said do the others just exactly like it.

(2243) Q. How easily is this application removed from the points of junction?

A. A sponge and a little water takes it away in one second.

Q. Had you anybody else's experience in the treatment of Cypriote stone to guide you?

A. I had that of the Louvre Museum, where they had repaired several Cypriote stone and I followed exactly the same system which the Louvre had.

Q. Did you also know or do you also know of the same method being employed in London?

A. I do not.

Q. Well, haven't you a slab or a tablet?

A. I have one in my collection which was repaired by the British Museum repairer called Robert Ready while the collection was in the hands of the plaintiff.

Mr. Choate: I want to have that produced and shown to the jury.

(2244) Q. By Mr. Bangs: Will you allow me to ask whether in that answer you have stated all within your knowledge about its being repaired by the repairer of the British Museum; do you know that?

A. Mr. Ready told me himself.

Q. Who?

A. Ready.

Q. Who is Ready?

A. The repairer of the British Museum.

Q. Robert Ready?

A. Yes, sir.

Mr. Bangs. That is hearsay, I suppose, if the Court please.

Mr. Choate: It won't be hearsay when the jury see the thing, I suppose, if your Honor please. We have the right to show that it came from the hands of the repairer of the British Museum.

Mr. Bangs: Certainly; but what the repairer said you have not the right to show.

Mr. Choate. It will speak for itself.

Q. By Mr. Choate: Did Mr. Feuardent tell you anything about it?

A. Yes, sir; he did.

Q. What did he say?

A. He told me he had sent it to the British Museum to repair it.

Q. Is this the article (showing witness a slab)?

A. Yes, sir.

(2245) Q. Is that repaired in the same way?

A. Pretty nearly so.

Q. Is it in the same method of the coloration of the matter put in?

A. Yes, sir; except that the material seems to be different. That seems to be plaster.

Q. Do you also observe that the line of the original piece of sculpture or design is carried out across the fracture in this?

A. Yes, sir; the altar.

Q. Is this as it came from the hands of the repairer of the British Museum?

A. It is exactly as it came from his hands.

Q. Look at the picture now shown you in Doell and say whether that is the correct representation of it as it was found in Cyprus?

A. Yes, sir; it is exactly as it was found.

Q. Where did this thing come from?

A. From Golgos; from the temple.

Mr. Bangs: By repairer you mean Mr. Ready; do you?

Mr. Choate: I mean the repairer of the British Museum, whoever he was?

Mr. Bangs: Is that what the witness says?

Mr. Choate: I so understood him.

Q. (By Mr. Bangs.) Did Mr. Robert Ready put that thing in its present condition?

A. It has always been so to my knowledge; never been touched by anybody.

Q. Did you receive it from him?

A. I received it from the plaintiff.

(2246) Q. And he told you that Robert Ready had done that?

A. He told me that he had it done by the British Museum for the purpose of taking a cast, and then Mr. Ready told me that he did it himself.

Q. Did Mr. Ready tell you that he did it for the purpose of taking a cast?

A. No, sir; I had authorized the British Museum to get casts of these things; and I wanted to have it in order to take casts for the British Museum.

Q. (By Mr. Choate.) Now, what was the effect of the bathing besides the removal of the addition of plaster that had been applied by Gehlen?

A. Had the effect of removing also the incrustation of matter which on some of the objects had remained, and which could not be removed easily without being soaked in water.

Q. Did water in all cases remove that?

A. Not in all cases.

Q. Or the whole of it?

A. Not the whole of it.

Q. Will you please explain to the jury what that incrustation was, and if you can show them any specimens of it so that they may understand it, do so?

A. I have some. I believe there are some in court now. There is a big head and a cup which have the incrustation to-day after having been put in the bath, after having tried to remove it in every possible way, and it is still the incrustation over it, and if you try to remove it you take the surface of the stone with it.

Q. What do you understand that surface of incrustation to be besides dirt?

A. It is a composition of what I believe to be lime, but I am not sure as I am not a judge.

(2247) Q. Formed in the course of centuries on these objects?

A. It is a titulation through of water, I believe.

Q. Will you look at this illustration in Colvin and see if it is his picture of the slab just shown you after repair?

A. Yes, sir; exactly.

Q. That was taken in London; was it?

A. Yes, sir.

Offered in evidence by defendant and marked Exhibit 184, this date.

Q. What effect upon the general appearance of the statues as exhibited did this cleansing in the bath produce?

A. It makes them look a little whiter, probably, than the stone originally was; but in time they get the same color again.

Q. Does this account for the whiter appearance of the objects exhibited in Central Park than they appeared to have in Fourteenth Street?

A. I don't think there is any material difference between the color now and what it was in Fourteenth Street.

Q. But I mean the cleanliness and brightness?

A. Oh, yes, sir; that is the reason.

Q. Is it true that the exhibition as presented now is of entirely new objects?

A. New objects.

Q. That they look new?

A. That depends upon what person says so. I should say certainly not.

(2247) Q. Are there not many discolorations very frequent upon the objects still?

A. The collection has more different hues of color, more different quality, maiance, different shade of colors on the stone, than anybody has any idea of, only it requires some intelligent person and not a superficial one to see who goes there and looks at the collection. There are changes entirely black if a person will only take the trouble of seeing them.

Q. Where did this head now shown you come from (503)?

A. That is not the head that I want to show. That was also a head of Golgos, but it is not the head of the man that has the incrustation on it. It is a head of a woman that I wish to show.

Q. Have you any idea how long this incrustation is in forming?

A. I have no idea; I could not form an idea upon it; it must have been many hundreds of years.

Q. It is something entirely distinct from mere earth and what we call earth and dust?

A. Quite so.

Q. To what thickness have you seen on any of the objects this incrustation?

A. I could not state exactly, but that head will exactly show the thickness of it, (referring to 504).

Q. The lines of the design almost are destroyed?

A. That portion has been cleaned and the surface has been nearly spoiled, and this part I ordered not to be touched. All that is incrustation which cannot be got off.

(2248) Q. Well, it is at least a quarter of an inch thick there?

A. Yes, some places, and that has been through baths, and washing, and scraping, and everything else, and yet it remains there.

Q. (By Mr. Bangs.) Now, would you have any objection to taking your penknife and cutting some off?

A. No, sir.

Q. Suppose you try it?

A. Yes, sir; I will do so if somebody will give me a knife. (Witness scrapes off some incrustation with knife before jury.) You see that is the incrustation—that is the pure incrustation.

Q. (By a Juror.) Wouldn't a wire brush take it off?

A. No, sir; that has been done so, but it wouldn't take it off.

Q. (By Mr. Choate.) You may state in detail what processes this head now produced by you has been put through with a view of removing this incrustation?

A. I suppose that the head remained about over a month in a bath before they were able to remove it, and it has never been able to be removed; there is a quantity in front; Mr. Story, the sculptor, has been trying to remove it, and could not; there are other pieces on which it cannot be removed.

Q. (By a Juror.) Was it all encrusted?

A. It was all entirely covered with incrusta-

tion; the clear part you see there is where it was removed.

(2249) Q. How large a proportion of the objects of sculptures in the museum still show the discoloration or incrustation, one or the other?

A. Oh, I could not say.

Q. Well, a very considerable proportion?

A. As to discoloration, yes, sir.

Q. And a good many show incrustations still?

A. There are still some, yes, sir.

Q. When was it originally intended, or when were you instructed that it was originally intended that the formal opening of the institution should take place?

A. Immediately after the annual meeting of the corporation.

Q. When was that?

A. The annual meeting was always, I believe, on the first or second Monday of May.

Q. When was it actually opened?

A. On the 30th of March.

Q. The formal opening?

A. The formal opening—yes, sir.

Q. When did you first learn that the time had been changed for that formal opening from immediately after the annual meeting to the 30th of March—about when?

A. At some meeting of the executive committee, if I am not mistaken, in February.

Q. Well, how long before the actual opening—how many days or weeks before the actual opening did you learn it must be opened that day?

A. I should say at the beginning of March—but I am not confident.

Q. What was the occasion of the change of programme?

A. For some reason the President could not come.

Q. The President of the United States?

A. The President of the United States could not come at a later time than that, and they said: "Let us fix the opening at a little earlier period, so as to have the President of the United States present at the formal opening of the museum."

Q. And what instructions did you receive thereupon upon that change being made?

A. I was asked in what condition the museum was, and how long it would require to be ready for opening; I said, "We are very nearly at the end of it, and, of course, the work which has been done, considering that I had the time up to May for the real opening, but if you want to hurry up and open it beforehand, of course I have to hurry up." They said, "We must open it on the 30th of March."

Q. Who said this?

A. The executive committee, composed of the gentlemen I have named.

Q. What effect did that have upon your time and opportunities for the preparation of the collection?

A. It had the effect of keeping me sometimes up to 7 or 8 o'clock in the evening, and several trustees helping me there.

Q. Well, did it hurry up the preparations very much?

A. Most certainly.

Q. And in this last month, during March, can you give the jury an idea of how busy you all were there getting ready for this anticipated opening?

A. That is a pretty difficult matter; I may say that there were six or seven trustees with me working there considerably during the day—some at the loan exhibitions, some at the picture galleries, some at the glass, and some with the statuary; we had to receive the cases, and we had to classify the things.

(2251) Q. Did you transmit the instructions to Balliard to hurry up the preparation?

A. Yes, sir; most certainly.

Q. Did you in doing so intend that any of the objects to be placed in the collection should be omitted from insertion in the bath and from removal of what Gehlen had done to them?

(Objected to as irrelevant and immaterial.)

The Court: I think he can pursue the inquiry

—can show what instructions were given to Balliard.

Q. You gave Balliard instructions when you received them to hurry up?

A. I did.

Q. Now, will you please state what was done after that time and whether in the time between that and the actual opening there was any departure from the instructions; did anything happen that was not intended, and if so state what it was?

(Objected to as irrelevant and immaterial and improper.)

The Court: I think it is proper to show, if it can be shown, if a thing was done by Mr. Balliard—an object was placed on exhibition which the Director did not intend to have placed there in that form—I think that is proper.

(2252) Do you understand the question?

A. I do.

Q. You may proceed to answer it.

A. My order to the repairer was to send up everything as quick as he possibly could. My understanding—my meaning was, however—

(Objected to.)

Q. Well, had there been any modification of that previous instruction that everything should be put in the bath and all of Gehlen's additions removed?

A. No, sir.

Q. Now, what happened next?

A. Well, when the things were put on exhibition, when they were sent up stairs, the next thing was the trustees, who were helping the classifying the things and placing them on exhibition in their glass cases; we always thought that every object sent up to me had gone through the bath—

Mr. Bangs objects to the last part of the witness's answer and asks that it be stricken out.

(Objection sustained; request granted.)

Q. Proceed.

The Court: Proceed. The witness may answer.

A. Of course in the hurry of the moment the things were put inside of the cases; sometimes it was six o'clock and half-past six o'clock; the light very dim, and the things were hurried up, placed where they belonged, and the glass screwed in, and we went on to another case; I never discovered that 10 or 15 of these objects had not gone through the bath until the plaintiff made this charge; then a thorough examination of the thing was made as careful as could be done; I came to the conclusion that a certain number of these pieces—small, of no importance, however—had been overlooked; I sent to the repairer and I said: "How is it that these pieces are so?" and he said: "I couldn't help it; you hurried me up and I did the best I could, and I sent them up as they were, and mounted them on pedestals and sent them up to you."

(2253) Mr. Bangs: How much of that is Mr. Balliard's talk? I ask to strike out Mr. Balliard's statement from that answer.

The Court: I suppose what he said after he said he had sent for the repairer might be stricken out.

Q. When these objects were placed on exhibition at the time of the opening, what was your belief as to all of them having gone through the bath and all of them having had removed all the additions of Gehlen's?

A. I had the entire opinion or belief that every object which had been repaired in 14th Street had been thoroughly overhauled and properly mounted and set upstairs afterwards.

Q. Who first called to your attention that there had been any departure from that rule?

A. The first was the article in the Art Amateur; and then the repairer himself.

(2254) Q. When you made your answer to the Executive Committee—your statement to the Executive Committee—set forth in the complaint, did you know of any other than those there specified and referred in there?

A. At that time I did not know of any other except those specified in my report.

Q. In fact at the time of the opening as to the

large, principal objects of the collection, had you seen those put through the bath yourself?

A. I had. My going into the repairing room was very often, although only for a few minutes.

Q. And out of how large a number placed on actual exhibition of these subsequent discoveries did you find had not gone through the bath and had not had these additions of Gehlen removed?

A. Well, the collection of sculptures amounted to about 1,200 pieces and I suppose about fifteen or twenty out of the whole lot had been overlooked, and small pieces at that.

Q. How important are those additions that have thus been discovered; what did they consist of chiefly?

Mr. Bangs: What did what consist of?

Mr. Choate: The addition of Gehlen that have not been removed.

Mr. Bangs: I should object to his answering how important they were.

Mr. Choate: Well, I will leave out the word "important."

(2255) Q. What did they consist of; give the jury an idea; do you remember those mentioned in the statements of Mr. Savage?

A. Well, Mr. Savage didn't know anything about restorations or repairs.

Q. I didn't ask you what he knew; do you remember those?

A. Well, he spoke of pedestals.

Q. And bases?

A. Yes, sir.

Q. And several noses?

A. And noses.

Q. I think he speaks of one or two fingers?

A. May be; I am not sure of that.

Q. Now, are those fair specimens of these that were subsequently discovered?

(Objected to; withdrawn.)

Q. What, if anything, happened to you shortly after the opening of the museum on the 30th of March—to you personally?

A. I got sick.

Q. Well, confined to your house, or room or bed; what was it?

A. Well, I was confined with something like four or five weeks in my bed.

Q. What was the matter?

A. Rheumatism and erysipelas.

Q. Seriously sick?

A. So serious that the doctor thought I might be very serious.

Q. Well, you were actually confined four or five weeks here?

A. Yes, sir.

(2256) Q. When did that sickness begin—your confinement begin?

A. Perhaps three or four weeks after the opening of the museum; I am not certain.

Q. Well, then, the month would have brought you down—four or five weeks of confinement would have brought you down to near the end of May?

A. About so.

Q. Did you recover so as to resume your duties in the museum before you left for Richfield Springs?

A. No, sir; I was obliged to go to Richfield Springs in order to recuperate my health.

Q. In the interval after your sickness and before you went to Richfield Springs, how were you and what were you doing?

A. I went directly from my bed to Richfield Springs.

Q. What date was that?

A. Some time in June.

Q. How long did you continue at Richfield Springs?

A. Something like six or eight weeks; I don't remember now.

Q. You continued there until after you heard of and had seen a copy of the plaintiff's first article in the Art Amateur?

A. Yes, sir; I was then there and a copy was sent to me.

Q. Your own first answer to that—to the public—dated on the 26th of August has been put in evidence?

A. Yes, sir.

Q. Where was that prepared?
 A. It was prepared in New York.

Q. In its preparation did you confer with any of the trustees of the museum?
 A. I believe at that time there were only two trustees in New York. I met Mr. Gordon, if I am not mistaken, and Mr. Rhineland, and both of them not only authorized me but advised me to publish this general denial. The wording of the letter, however, is all mine.

(2257) Q. Was that Mr. Robert Gordon?
 A. Yes, sir.

Q. One of the trustees?
 A. Yes, sir.

Q. Did they advise you that it was your duty to make a public general denial?
 (Objected to as immaterial; objected sustained.)

Q. Did you submit the language of that answer—the letter to the public of the 26th of August—to those two gentlemen, one or the other of them, before it was sent for publication?
 A. I read it to them.

Q. And did it receive their approval as in its final shape?
 (Objected to as immaterial; objection sustained; exception taken.)

Q. What was your object, Mr. Cesnola, in making that publication?
 (Objected to as immaterial, irrelevant and improper.)

The Court: I understand the question to be what was the effect which he intended to accomplish by writing the article; with what motive, with what animating purpose did he write the article; with what animating spirit did he write it; what was his motive in writing the article—I think that question is admissible.

(Exception taken by Mr. Bangs.)

(2258) Q. What was your motive, your animating purpose in publishing your letter of the 26th of August?
 A. To defend myself and the institution I had in charge.

Q. Had you any motive or purpose to defend the plaintiff?
 A. Not the remotest one.

Q. Did you honestly believe the statements made by you in that letter to be true?
 A. I did.

Q. Now come to your second statement to the trustees, which is the second article complained of by the plaintiff; will you state how that statement came to be made by you?
 A. On the advice of the Executive Committee I brought the matter before the trustees to show the relations which existed between the plaintiff and myself before I was connected with the museum.

Q. Do you remember the date when that was made; was it not the date of October, 1880?
 A. At that time; yes, sir.

Q. At that time had the trustees returned to the city and were they holding a meeting?
 A. Only the Executive Committee, if I remember right.

Q. Was that statement made to the Executive Committee?
 A. It was read to them and then re-read at the next meeting of the trustees, if I remember rightly.

Q. Now, I will ask you as to that—what was your motive and animating purpose in making that statement to the Executive Committee?
 A. To place myself right before them and present the facts as I knew to be true.

(2259) Q. Had you any purpose in making that statement to the committee of defaming the plaintiff?
 A. I had none whatever but to defend myself.

Q. You pointed out one or two inaccuracies of statement on your part in this statement to the Executive Committee; there is a statement on page 9 in regard to a call on you and information to you by the plaintiff of his expectations in regard to the museum—do you remember that conversation?
 A. I do.

Q. Will you please state to the jury what the fact is in regard to that?
 A. During the winter of 1877 or 1878, I don't know which, the plaintiff called at my house more than once expressing his pleasure at seeing me connected with the institution and hoping that I should use my influence in having him employed at the museum as an agent and expert for the purchase of antiquities for the museum. I said that I had no influence with the board of trustees at that time and that I did not think that my influence could be used in his behalf. That was the substance of the conversation.

Q. Do you remember what occurred between you and the plaintiff when you told him that the collection had been actually sold to the New York museum—in London?
 A. I don't think I ever told him that it was sold to the New York museum, because it was sold to a private individual.

(2260) Q. Well, sold to Mr. Johnston, then; you said in your article sold to the New York museum—that is an inaccuracy, is it not?
 A. It is.

Q. When you told him that it was sold to New York, to Mr. Johnston, what happened?
 A. He did not seem to believe it.

Q. What was his manner; what did he say or express by his manner?
 A. The expression was of a man quite astonished that the collection should be sold, and expressed himself in such a way as to let me understand that he did not believe it; and that probably I had some reason to say so.

Q. Was anything said between you, and if so what was it, about a further communication to the trustees of the British Museum or any other museum?
 A. He said to me that if I would give him forty-eight hours, or twenty-four, I don't know which, he might be able to obtain for me a higher price, or a higher offer than I had just received—that I just told that I had received.

Q. What reply did you make to that?
 A. I told him that it was too late as the arrangement was already made and I considered the sale as finished.

Q. Is it a fact that after you told him that it had been sold in New York you asked him—
 Mr. Bangs: I object to the form of the question and as leading.

(2261) Q. Did you hear the plaintiff's testimony to the effect, in substance, that after you had told him of the sale to New York you asked him to go and make a further proposition to the British Museum; did you hear his testimony to that effect; did you hear his testimony on the stand to that effect?
 A. I don't remember what he said.

Q. The substance of what he said is that after you told him of the sale to New York you asked him to go and make a further proposition to the British Museum?
 Mr. Bangs objects and says that he does not agree that Mr. Choate quotes the testimony correctly, nor the substance of it.

Mr. Choate says that he will look up the testimony by the morning.

Q. What was the fact as to your personal desire in regard to the collection coming to America?
 A. It has always been my desire—I always said that I had the desire to sell it to this country, and I had written as long as over a year before I saw the plaintiff to a friend of mine in New York to that effect.

Q. How did the price which you received from Johnston compare with what you had demanded for it or been offered for it in Europe?
 (Objected to by Mr. Bangs as improper.)

(2262) Q. Well, I have no objection to you stating the details of what you asked parties in Europe, naming them?
 A. I never asked any price whatever for my collection to any museum in Europe or in America.

Q. Well, what price was talked about?
 (Objected to on the ground that the

charge is in relation, what he had demanded for it in Europe.)

Q. Well, is that an inaccuracy here: "I had, as you are aware, great desires that it should come to America, and had authorized my friends here to offer it to an American purchaser, at a price vastly less than I had demanded for it in Europe."
 A. It should have read—
 Mr. Bangs objects to the witness stating what it should have read; the question is how it does read.

Q. In that respect, the statement was an inaccuracy in stating that it was less than you had demanded for it in Europe, when you should have stated that it was less than you had been offered?
 (Objected to, as the witness is here to justify what he said.)

The Court: I will permit the question what price had he been offered for it in Europe. I don't understand that his language is declamatory.

Q. Well, what price had you been offered for the collection in Europe?
 (Objected to as immaterial and improper; overruled; exception.)

A. I don't remember whether it was 245,000 francs or 250,000 francs, but I believe I have the letter there showing how much was offered to me by the French government.

(2263) Q. Can you, by reference to any letter, state what you had been offered?
 A. I could if I had the letter. I suppose it is in Mr. Stickney's hands. (Mr. Stickney hands witness a letter). This is the letter.

Q. How much had you been offered?
 (Objected to, as if the letter contains the offer, the letter will speak for itself.)

Mr. Choate: I offer the letter.

Mr. Bangs: For the purpose of showing what the offer was?

Mr. Choate: Yes, sir.

Q. Is the letter in French?
 A. It is.

Q. Won't you read it and translate it to the jury; by whom is it signed?
 A. By the French Consul in Cyprus, Col. Ceccaldi, the brother of the archaeologist.

Q. Now, what is the date of it?
 A. The 15th of July, 1870.

Q. How long was that before the battle of Sedan?
 A. I don't remember now; August, it was, sometime.

Q. Well, read it?
 (2264) Mr. Bangs: Well, wait a moment: I have the ordinary privilege of examining him as to its genuineness, I suppose?

Q. By Mr. Bangs: What makes you think it is from Ceccaldi?
 A. Because it is from him; because I received it from him.

Q. Did you receive it in 1870?
 A. Yes, sir.

Q. Were not all the letters which you received before 1876, intentionally destroyed by you in Cyprus?
 A. I didn't say so. I said that all the unimportant papers were.

Q. Well, I ask you now?
 A. They were not destroyed—the important papers certainly not.

Q. Then you saved some out of that conflagration, did you, intentionally, did you?
 A. Yes, sir.

Q. What was the principle of selection and salvation?
 A. The principle was to save all letters from men of reputation and high standing because I would like to have them to keep for my family as a memoir.

Q. As you would keep a collection of autographs?
 A. Exactly.

Q. And those are all you preserved?
 A. Mostly of them.

Q. Was it upon that principle that you preserved Sanderson's as an autograph?

A. It was not preserved for such reason; it turned out to be among my papers.

(2265) Q. How did that escape?

A. I don't know.

Q. Was it merely for the purpose of preserving Ceccalade's autograph that you saved this letter from destruction?

A. May be.

Q. Well, it may be; I know.

Mr. Choate: He has not said it was for that purpose.

A. I saved all letters from my friends and people that I think a great deal of. I saved them all.

Q. Then you didn't preserve any business letters?

A. No; all of those that I did not care for I destroyed them all.

Q. What was the class that you did care for and preserve?

A. Certainly.

Q. I say what was the class of business letters which you cared for and preserved?

A. I never kept any business letters of any kind that I know of, because I am not a business man. I never kept ledgers or accounts or any such things.

Q. Nor drafts on J. S. Morgan & Co.?

A. No, sir; not even that; it was loaned to me and sent to me for that purpose.

Q. By Mr. Choate: You did not keep that draft on Morgan?

A. No, sir.

Q. Morgan sent that to you last year; didn't he?

A. Certainly at my request.

Mr. Choate: We offer the letter—that part that contains the offer.

Mr. Bangs: In that case you will not read any of it, because it contains no offer.

Q. Please read the letter down to and including the offer?

Mr. Bangs: What, aloud?

Mr. Choate: To the jury.

Mr. Bangs: I object. I won't accept him as a translator, and in the second place my reading of the letter convinces me that it does not contain an offer.

Mr. Choate asks Mr. Oudin to translate the letter.

Mr. Oudin declines.

Mr. Choate: Then I will call Mr. Feuardent, the plaintiff to translate it.

Mr. Feuardent takes the stand.

Mr. Choate: Please translate that to the jury, Mr. Feuardent.

Mr. Bangs objects as immaterial unless it contains an offer which he says it does not contain.

The Court takes the letter and inspects it.

The Court says it thinks that it contains evidence to go to the jury on an offer.

Mr. Choate: Please translate it, Mr. Feuardent, to the jury, in your very best style.

Mr. Bangs: From the beginning?

Mr. Choate: Yes.

Mr. Bangs: Does your Honor allow it from the beginning?

The Court: I thought you said you wanted it from the beginning.

Mr. Bangs: I beg your Honor's pardon. I asked your Honor to read it from the beginning.

After some further discussion the Court says that if there is no objection it might be well to have Mr. Stickney translate the entire letter this evening and present the translation to the Court to-morrow morning, and that the matter would then be passed upon.

All parties agreed to this arrangement.

Examination of the defendant, MR. DI CESNOLA, resumed by MR. CHOATE:

Q. When you told Mr. Feuardent that the collection was sold to New York, did you ask him to try again with the British Museum?

A. I did not.

Q. Did you say to him that you would be very much pleased to have a room in the British Museum with your own name?

A. I may have said so.

Q. Would have been very much pleased?

A. I may have.

Q. Did you instruct him to say to Mr. Newton of the British Museum, that the collection was purchased by a New York party, but that there was no answer given yet, and if he had any intention of buying the collection there was still time?

A. No, sir; the collection was sold in October.

(2268) Q. In November, you mean?

A. In October. The agreement was signed in November, but the sale took place in October.

Q. Now come down to the investigation committee. Did you have anything to do with the constituting or the making up of the investigating committee.

Adjourned till 10 o'clock to-morrow morning.

NEW YORK, Dec. 12, 1883, 10 A.M.

Present—All parties.

L. P. DI CESNOLA's direct-examination by MR. CHOATE continued as follows:

(2269) Q. General, I, perhaps, did not comprehend the question exactly that I put to you yesterday in reference to the appointment of the Investigating Committee—you said that you had nothing to do with the appointment of the committee, when it was appointed by the Executive Committee?

A. I did not.

Q. You were a member of the Executive Committee and its secretary?

A. I was.

Q. But did you suggest any of the names of the Investigating Committee?

A. None.

Q. You were simply present at the meeting when they were appointed, I suppose?

A. Yes, sir.

Q. What, if anything, had you to do with conducting the proceedings before the Investigating Committee?

A. Nothing whatever.

Q. What, if any, communication did you make to them?

A. I was directed by the Executive Committee to appear before the Committee of Investigation, should I be called. One day I was called, and I answered the questions they asked me.

Q. Were you before them as a witness, or did you make any statements more than once?

A. I was there only once, and I was only called to make my statement as to the condition of the statues as they were attacked in the Art Amateur article.

(2270) Q. Having made your written or printed statement, you were further examined by the committee?

A. I was.

Q. Did you make any statement outside of that to individual members; I mean, did you give any testimony or information to any one?

A. I did not.

Q. Now, in regard to the written statement which you made before that committee, and which is made a subject of a charge in this case, let me ask you, as I did, in regard to the others, what was your motive and animating purpose in making that statement?

A. To defend myself, and to defend the institution that I represented.

Q. Had you any purpose in appearing before that committee and making the statement you did, of defaming the plaintiff?

A. Not the slightest.

Q. In that statement you say this: "My answer is: In the entire collection I have not made a single restoration of any object, or part of any object in stone, and there exist in the whole collection of thousands of objects, so far as I know, only two instances of such restoration," is that true?

A. At that time it was, perfectly true; there were only two restorations to my knowledge.

Q. Whatever has been brought to light in the museum since that time, you had no knowledge of them?

A. No, sir.

(2271) Q. Was one of the two restorations, specified in your statement, the slab which was

produced yesterday and exhibited to the jury?

A. It was.

Mr. Bangs: I object to having the answers dictated to the witness by leading questions. That is a leading question which almost answers itself.

The Court: I think the objection is a good one; it certainly was very leading.

Q. We will come down to the 11th of March, if you please, succeeding the report of the Investigating Committee; where were you on the 11th of March, 1881?

A. I was in New York.

Q. When, where and how, were you first informed of the existence of plaintiff's card No. 1, of which I now show you a copy?

A. I saw it on the 10th of March at my house.

Q. How was it called to your attention?

A. A gentleman came to my house at about half-past six or seven o'clock, while I was still at the table, and the servant came up to me and said: "There is a gentleman who wants to see you a moment." I went down stairs to the library, and the gentleman came up to me and asked me whether the museum was open on such and such a day, or not. I answered the question, supposing that that was all he wanted to know, and I was excusing myself, saying that I wanted to finish my dinner, when he put his hand in his pocket in this way, and produced the card. That is the first thing that I knew of such a card being in existence.

(2272) Q. The next morning, on the 11th of March, you went to the museum, as usual?

A. Yes, sir.

Q. Whom did you meet there on that morning?

A. The usual employees of the museum, who came to make their report to me of their business, and then Mr. Prime came in.

Q. Were you meeting Mr. Prime by appointment or otherwise?

A. It was not by appointment. He comes to the museum regularly when he is in town three or four times a week.

Q. Will you please state, in your own way, what happened on that morning between you and Mr. Prime, and any other person or persons in or about the museum in respect to the plaintiff's card No. 1?

A. Mr. Prime came up to the museum about half past nine or ten o'clock, while I was getting the accounts from the different men of the museum, and the first thing Mr. Prime said to me was: "Have you seen this card?" I said "Yes. I saw it last night." He said: "There is an article in the Times. Have you seen that." I said "No, sir." There was a man in the museum at the time who took charge of my room, by the name of Charles Henckel, and either Mr. Prime or myself turned to Henckel and said: "Have you ever seen the hand and patera detached from this figure?" And he said "Never." Then he was asked, "Have you ever seen this figure with the hand and patera detached, as you now see it in this card," and he turned to Mr. Prime and said: "Never." Mr. Prime then said: "Have you ever seen whether this hand and patera were detached from this figure in the museum." And he said: "Never." And he then asked him: "Was it ever detached in Fourteenth Street?" And he said "Never." Then Mr. Prime asked for the album in which the photographs were kept and I said: "What album?" He said: "The album which we always used in Fourteenth Street, in which were pasted the copies of the photographs for sale at the door." He said: "If a gentleman looked at the album and said, I want to have two copies of that picture, or that picture, we would send for it to the photographer." I said: "I never saw that album. I did not know of the existence of that album until that very moment." My book-keeper came in, Mr. Forman, and I asked him to go down stairs and bring that album up to me—to bring it up-stairs. Mr. Forman went down stairs and got the album from Dixon D. Alley, who had charge of it; he being the man who sold the catalogues and photographs at the Museum. I had been previously informed that he was the man who had it.

(2273) Q. (By Mr. Bangs). Did not Henckel say that morning that it was Alley who had charge of that album?

A. Yes, sir, I think so. And Mr. Forman got the photograph album and brought it to my office and turned it over to Mr. Prime, and Mr. Prime placed it on his knees, and he began to turn it from one place to another to see whether there was any such sample photographed of the Priest without the hand and patera in the book.

(2274) Q. You mean to a picture resembling the picture in card No. 1?

A. Yes, sir, without the hand and patera. Henckel was there also, looking over the album at the same time; and Mr. Forman was there, but whether he was looking into the album or not, I cannot say positively.

Q. You and Mr. Prime looked at the album?

A. Yes, sir. And Henckel, and I don't know whether Forman, the book-keeper, also looked or not.

Q. Describe how much of an examination you made?

A. The album has photographs pasted on the back and on the front of the leaves, and so Mr. Prime first turned the leaves from the right to the left, and then vice versa.

Q. Did not you go through the book twice?

A. Yes, sir; and they did not find the photograph; and then they said to Charley: "It don't seem to exist." And Henckel said to Mr. Prime: "He never saw the photograph for sale at the door of the museum." Afterwards the photograph album was sent back to the man in charge of the door, and that was the last I have heard of it.

Q. You say that that was the first time, according to your recollections, that you had seen that album at all?

A. Yes, sir.

Q. How happened it that it had been kept at the Museum, and that those photographs had been put in that album, and you not knowing of its existence?

A. It was not an album which belonged to the museum in Central Park since I took the direction; it was an old album which they had used in Fourteenth Street, when they sold photographs there.

(2275) Q. It had not been in use then by the museum since the period of your appointment as director?

A. It might have been, but I do not think it was; not to my knowledge.

Q. Now I show you this torn leaf of that album, and I ask you when you first saw that?

A. In the Court here, if I am not mistaken; that is the first time that I ever saw it, according to my recollection.

Q. Upon this trial?

A. Yes, sir, upon this trial?

Q. You know nothing of how or when it was removed from the album?

A. Nothing whatever.

Q. Except that it was no longer in it when you first saw the album, or when you and Mr. Prime examined it?

A. It was not in the album at that time, and the first time I saw it was here in Court.

Q. Did you remove it from the album?

A. Of course not.

Q. And you had no part in, or knowledge of, such removal?

A. I do not think the album was ever in my hands at all.

Q. What did Henckel say that morning as to Alley's possession or keeping of the album in regard to the time during which he kept it?

(Objected to.)

(2276) Q. Do you remember Henckel's testimony that Alley had possession of this album for a year and a half, and was the only person that had had it; that it was kept in a box of his own to which he only had access—?

Mr. Bangs: Objected to on the ground that there is no such testimony.

Q. (By a Juror.) There are some memoranda on the stubs of the album on which you had written, as I understood it; is that correct?

Mr. Stickney: I did not so understand the tes-

timony, but we will have the book here presently, and we will ask the witness.

Q. I will ask you whether you have any personal knowledge of who had been the custodian of that book prior to that morning of March 11th?

A. Prior to that morning I did not know anything about it; I did not know of the existence of the album.

Q. Did you hear the testimony of Henckel to this effect—that this album was put in Mr. Alley's charge at the time the museum was opened in the Park; that it was put in Mr. Alley's hands by Henckel, and was in the possession and custody of Mr. Alley, and that he, Alley, kept it in his box to which no one had access except himself, and that it was regularly in his custody from the time of the opening of the museum down to the 11th of March, 1881; do you remember that testimony?

A. Yes, sir.

(2277) Q. Have you any knowledge or information in respect to the custody of that album contrary to that statement?

A. No, sir; those were substantially the questions that Mr. Prime asked him in my presence.

Mr. Choate: Now, we submit, if your Honor please, that this letter is admissible in evidence on the question of the offer made to this witness.

Mr. Bangs: What do you offer the letter for; for what purpose?

Mr. Choate: I offer it in corroboration of the statement of General di Cesnola that he had a better offer for the collection.

Mr. Bangs: Where is the statement that you wish to corroborate?

Mr. Choate: The statement to the Executive Committee; he said yesterday that it was incorrect in this respect, that the price that he got from New York was lower than he had demanded for it, and lower than he had been offered for it.

Mr. Bangs: I object to it because the letter does not prove any offer. If your Honor will look at it, you will see that it is not an offer.

Mr. Stickney: It is an offer in precise terms.

The Court: Let me read it over for a minute. The precise point is this: Is this letter a letter conveying an offer, or is it a letter of advice, advising the acceptance of the offer by him. That is a different thing entirely from an offer. I think I must exclude it. I have read the translation, and I do not understand either from the witness, or from the letter, that this gentleman, Mr. Ceccaldi, was the agent of any museum, or of the French government, conveying the offer. But I understand from the letter that it is a letter of advice from this gentleman, urging him to accept the offer, and congratulating him upon the result of having his collection come into the hands of a French museum.

Mr. Choate: Before excluding the letter, will your Honor allow me to ask the witness one or two further questions?

The Court: Certainly.

(2278) Q. In whose handwriting is that letter and the signature to it?

A. In the handwriting of the French Consul, who was then in Cyprus, Mr. Ceccaldi.

Q. How long prior to the date of this letter, written on the 15th of July, 1870, had he been, to your knowledge, the Consul of the French government in Cyprus?

A. About five years. Four years and a half. He came to Cyprus in 1866.

(2279) Q. Had you, prior to the receipt of this letter from him, had certain negotiations looking to the purchase of your collection?

Mr. Bangs: Objected to as calling for an opinion of the witness of the construction of that letter. Let him tell what was said between him and anybody, or written, if the letters are preserved.

Q. Prior to the receipt of this letter had you had conversations with any one with respect to the purchase of the collection by the French Government?

A. I had.

Q. With whom?

A. With the French Consul, and his brother,

Q. With this same man who wrote this letter?

A. Yes, sir.

Q. State what passed between you and the French Consul on that subject, of the purchase of your collection by the French Government?

(Objected to as immaterial.)

Mr. Choate: In order to get this letter admitted, I must show the attitude of the writer of this letter to this witness.

Mr. Bangs: A question to state the conversations does not show the relation of the parties. That don't show the relations existing between Ceccaldi and the French Government. It appears now that he was French Consul, and, if your Honor is prepared to say as a matter of law that that authorized him to enter into negotiations for the purchase of the Cesnola collection, then it is admissible, otherwise it is not.

(2280) Mr. Choate: That raises a very clear point which culminated in the writing of this letter and shows the relation existing between the defendant and the French Consul for the purpose of showing the good faith that he had in making this statement. Have we got to go all the way back and show also the relations existing between the French Consul and his superiors? I submit, if your Honor please, that the point of inquiry is whether the defendant himself, who is charged with writing a communication, privileged in its nature, but claimed to be libellous, had probable cause to believe what he said to be true. If he had any negotiations with the French Consul, looking to the purchase of his collection to the French Government, which culminated in the writing of this letter, had not he probable cause to believe that he had had an offer for the collection in the amount stated in that letter?

The Court: The point in my mind is this: Was this letter—the original letter—the proper and only offer made by the Government, or was this merely a recital of an offer—a re-statement by a third person of what the Government had done?

(2281) Mr. Bangs: Your Honor has already ruled that this letter is merely a recital of a third person. I understand that this was the offer the French Government made. We made no preparation to litigate the question whether he had any offers or not. He stated that he had "demanded" a certain sum and now the statement before the committee is to be changed, not that he had "demanded" a certain sum, but that he had an "offer" of a certain sum. I must insist that if an entirely new question is to be thrust into this case, it must be done in accordance with the rules of evidence. Your Honor has decided that that letter is merely a recital. That disposes of that letter.

Mr. Choate: My object is to explain the nature of that letter. I did not understand your Honor to hold that it was not an offer, but that it depended upon the relation of the parties, between the man who wrote the letter and his superiors. It was not merely a friendly letter, but it was the act of a party who was, or claimed to be authorized to make the offer on the part of the French Government.

Q. (By the Court.) Did you ever receive any other communication from the French Government making you an offer for your collection?

(2282) Mr. Bangs: I do not wish to be responsible for that question, or the answer to it.

The Court: I asked it for my own information.

A. I did. I had several letters.

Mr. Bangs: This is stated in the presence of the jury, and I do not wish to be responsible for that question or the answer to it. May I be permitted to ask the witness if he understands the question to refer to writing or to oral communications. If they were written I must insist upon their being produced.

The Court: It does not seem to me that the evidence shows that the offer was made by Ceccaldi as the agent of the Government, but that he was, in writing that letter, acting as a friendly adviser to the witness.

Mr. Choate: I propose to show that he was not.

Mr. Bangs: Upon the admission of that question which calls for the conversations with Ceccaldi, is that the way to show the authority of Ceccaldi? If he had any authority, let him produce the authority. The first step is to show that Ceccaldi had authority to do so.

Mr. Choate: Not in the least. Suppose Ceccaldi had no authority whatever. Is it not an offer from Ceccaldi by which he would be bound absolutely.

Mr. Bangs: Why don't you ask him if Ceccaldi made him an offer on his own account.

(2283) Mr. Choate: I shall stand upon my question and await the ruling of the Court. My question is this:

Q. Did you have any conversations, prior to the date of this letter, with Ceccaldi, the French Consul, looking to the purchase of your collection?

(Objected to as immaterial.)

The Court: I think the question is inadmissible.

Mr. Choate: Will your Honor note an exception.

Q. What did you understand to be Ceccaldi's authority when he wrote and presented to you that letter?

(Objected to as immaterial; question withdrawn.)

Q. Did you believe when you received this letter from Ceccaldi that he was presenting it to you as an offer for your collection?

Mr. Bangs: Objected to on the ground that there is no question about offers in this case: this witness never having averred to the committee that he received an offer.

(Objection sustained; exception taken.)

Q. When you made your statement to the Executive Committee did you believe that you had had an offer from the Louvre authorities for your collection, as it was in July, 1870, of the sum of 265,000 francs?

(Objected to as leading, and as an attempt to put an answer in the mouth of the witness, and also as immaterial. In none of his publications has he stated that he believed to have received an offer from the Louvre of 265,000 francs. The gentleman has encouraged him in stating an amount. The proper question would be: What was your belief on the subject of your having had an offer. If you can reach the point at all, you must reach it in a question free from leading. But, even in the approved form, it is subject to objection.)

(2284) Q. By the Court: At the time you made your statement to the Executive Committee, or to the trustees of the museum, what was your belief in regard to an offer having been previously made to you by any person or Government?

Mr. Bangs: I do not wish to be responsible for the question.

The Court: Do you object to it?

Mr. Bangs: Certainly, I object to it.

The Court: It is admitted.

Mr. Bangs: I except to your Honor's ruling.

Mr. Bangs: I think the counsel ought to be left to frame his own questions. I can hardly believe that the Court intends to frame the questions.

The Court: I think you are right, Mr. Bangs. I shall desist from so doing.

(2285) Q. I put that question; at the time you made your statement to the Executive Committee or to the Trustees of the museum, what was your belief in regard to an offer having been previously made to you by any person or government?

Mr. Bangs: I renew my objection.

(Objection overruled; exception taken.)

A. I understood it to be—

Mr. Bangs: I object.

Q. What was your belief on that subject?

A. My belief was that the offer was made through the French Consul by Napoleon III., or by Newerkerke, who was the Director-General of all the Museums of France; that was a personal offer from Napoleon III. When I received that offer, I demanded a larger sum.

Q. State what amount was offered for it?

Mr. Bangs: I object to the latter part of the witness's previous answer, "When I received that offer" to the end, and move to strike it out.

Q. State what you understood the limited offer was—the amount of it, and for what?

(Objected to on the same grounds.)

A. That was not the limited offer. That is the reason why I can not explain it, if I am not allowed to explain the rest.

Q. State what you understood any offer to be?

A. That was the offer made to me of 265,000 francs, and it was to be only for what was not duplicate; that is, to sell all the objects which were not alike.

(2286) Q. What did that offer embrace of the property or a part of the property, that was finally sold to Mr. Johnston; what did you believe that that offer embraced?

(Objected to.)

The Court: Did you understand the witness to say that he had a personal conversation with the Emperor?

Mr. Bangs: He has stated that it was a personal offer from Napoleon III. If that is not correct, let him correct it.

The Court: Proceed, Mr. Choate.

Q. State now what you believed that offer to embrace or to cover; did it cover the property or a part of the property that was finally sold to Mr. Johnston?

Mr. Bangs: Objected to on the ground that he should state the method of the offer, in which the offer was stated to him. Let us have the terms of the offer. I submit that that is right.

Q. What were the terms of the offer, as you believed it to be?

Mr. Bangs: Should not the question be "As they were stated to you?"

The Court: Yes, or communicated to you.

Q. What were the terms of the offer as they were stated to you as to the property embraced?

A. That it was for everything in my collection which was not a duplicate. In other words, what was of itself an object, which would have particular interest, and was different from the others.

(2287) Q. What quantities of duplicates did the collection, as finally sold to Mr. Johnston, embrace?

A. About one third of the whole collection.

Q. How was this offer conveyed to you—by what means?

A. Through the acting Consul in Cyprus, the French Consul, Mr. Laffon, who was the authority there, the representative.

Q. The price you have stated was 265,000 francs?

A. I do not remember now the amount of the letter, but it was something like that.

Q. Did you understand the letter, which has been shown you, of the 15th of July, from Ceccaldi, to contain an offer from him?

A. I did so.

Mr. Choate: Now I offer the letter in evidence received by this witness from Ceccaldi.

Mr. Bangs: I believe the court has ruled upon my objection, but I wish my objection to be noted, and the ruling of the Court and the exception.

The Court: He says the offer came from the French Government and was communicated through Mr. Laffon, the French Consul.

(2288) Q. When was he made French consul?

A. He was not the consul. He was acting as the consul. He was the first dragoman of the French consul in Cyprus, and he was acting in the absence of the French consul, who was in Paris.

Q. Who was that?

A. In August, 1870.

Q. Was this letter from Ceccaldi, dated at Paris, written after that proposition had been made to you by M. Laffon as the representative of the consul of Cyprus?

A. I suppose it came by the same steamer—by the steamer that conveyed the offer through the consul to me—I suppose they both came at the

same time. We had only one steamer coming from France every fortnight.

Q. It came from Ceccaldi, from Paris, while the offer was made by M. Laffon as acting consul in Cyprus?

A. Acting consul at Larnaca.

Q. Was there more than one proposition made by M. Laffon?

A. M. Laffon asked me whether I would accept it or not.

Mr. Bangs: The question was whether there was more than one proposition made by Mr. Laffon?

Q. State the whole negotiation with Mr. Laffon?

A. M. Laffon communicated to me that offer. He asked me whether I would accept it, and I answered: "No; if it is to go France, I want 500,000 francs, \$100,000; that was my demand. Some few weeks after the answer came that my offer was not accepted.

(2289) Q. Then you did demand 500,000 francs?

A. I did, and that is the reason why I said so in my report.

Q. How come you to say yesterday afternoon that you did not remember making any demand?

A. I wanted to explain why the offer was made and why I made the demand. I made my demand and they did not accept my demand. And then I offered to send on my entire collection to Paris, and let experts fix the the price they wanted to give, and then let Napoleon accept it.

Q. The price was named to you in the course of a conversation in response to your offer?

A. Yes, sir.

Mr. Choate: I now offer again this letter from Ceccaldi.

Mr. Bangs: I now renew my objection again.

The Court: It seems to me that there is a more material difference in the Ceccaldi letter now than the one you have stated, and it is this: That the offer from the French Government was communicated through Mr. Laffon, and this letter was not the letter received through Mr. Laffon, or was not the official letter or document which which Mr. Laffon sent. This Ceccaldi letter, taken by the same steamer, acting apparently as the agent of the French Government, seems to me to be hearsay. It is not a letter which can be admitted as showing the offer which was made to him by the Government.

Mr. Choate: Will your Honor note an exception to the exclusion of the letter?

(2290) Q. After this interview of the 11th of March did you make inquiries for the negative of the photograph which was represented on the second figure upon card No. 1, published by the plaintiff?

A. I did.

Q. What inquiries did you make?

A. I inquired where all the negatives of the museum of the photographs taken in Fourteenth Street were. The janitor informed me that they were in the hands—

Mr. Bangs: I submit that the question is answered.

Q. You made first an inquiry of the janitor?

A. Yes, sir.

Q. Did that result in its being produced?

(Objected to.)

Q. I mean in the negatives being produced?

A. No, sir.

Q. Did you make further inquiries?

A. I asked where they were.

Q. Did the janitor, or any other person, bring you a series of negatives?

A. The janitor did.

Q. Do you know where he got them?

A. I do.

Q. Where?

A. From the photographer, Mr. Pach, in Broadway.

Q. That was the janitor Henckel?

A. Charles Henckel.

Q. When and where did he bring you such a series?

A. It was either the 12th or 13th of March,

some time after the card was shown to me, that I saw the negatives in my room.

(2291) Q. How many were there in all—about how many?

A. About a hundred negatives.

Q. How long did you retain them or have them in your possession?

A. About ten minutes.

Q. During those ten minutes who was with you?

A. Charles Henckel, the janitor.

Q. Did you examine the photographs so brought to you by him—the negatives?

A. I did.

Q. Was there among them any negative of the picture represented by the second photograph in plaintiff's card No. 1?

A. There was not.

Q. Have you ever seen such a negative?

A. I never did.

Q. What did you do with those that Henckel had brought you after you had made an examination and had not found this one that you were looking for?

A. I gave them back to Charles Henckel to be carried back to the photographer.

Q. With what directions?

A. To take them back to the photographer, Mr. Pach.

Q. Then, afterwards, after that day, still later, did you make inquiries for that negative?

A. I believe I did.

Q. Did you make inquiries of Mr. Pach?

A. I did.

Q. Did you receive a report or answer from him on that subject?

A. I did.

(2292) Q. Is this it (handing witness a paper)?

A. Yes, sir.

Mr. Choate: I offer it in evidence.

Mr. Bangs: I object to it.

Mr. Choate: Upon what grounds do you object?

Mr. Bangs: I cannot think of any ground in the law of evidence that is not applicable to this paper; it is argumentative; it is second-hand; it is incompetent; it is inadmissible; it is leading; and if there are any other grounds that have escaped my memory, I reserve the right to state them hereafter.

(Objection sustained; exception taken.)

Q. What was your first step in searching for this negative, if there was one?

A. I inquired of the janitor.

Q. What was your next?

A. I inquired of Mr. Pach, the photographer.

Q. And the result of those inquiries you have already related?

A. Yes, sir.

Q. State what the next step was.

A. My next step was to report to the Executive Committee that I could not find any traces of this negative, or of this photograph having been taken.

Mr. Bangs: I object to the answer as not responsive, and move to have it stricken out.

Mr. Choate: I consent.

Q. What was your next step?

A. To get all the photographs in the Museum together, to see whether among them I could find any traces of that photograph.

(2293) Q. Did you succeed in finding any traces?

A. I did not find a single sample of a copy, or any traces of it.

Q. Do you know how or when the torn fragments of what is called the torn leaf got into the scrap basket?

A. I did not.

Q. Did you put them there?

A. I did not.

Q. What was the first knowledge or information that you have, or that it was claimed by anybody, of the fragments having been found there?

A. If my recollection is correct, it is from one of the articles in the newspapers, in the Times, or some other papers—in reading one of the articles in the newspapers one morning.

Q. One of those produced here in evidence?

A. I believe so.

Q. I want to call your attention to some of these specific objects; in the first place, I want to call your attention to the Priest with the cow's head, No. 39—is that the statue over there, standing by the window?

A. Yes, sir.

Q. Will you please tell the jury in what condition this statue was when you found it; I believe you have already stated where you found it?

A. Yes, sir; I found it at Golgos.

Q. What condition was it in when you found it?

A. Exactly as it is now, with the exception that the feet were broken and detached from the statue.

Q. What part of the feet were broken?

A. The entire heels were shattered, and the front part of the feet were just in the condition in which they are now, except that they have been moved back from their places.

(2294) Q. Will you explain to the jury exactly what was done to it in Fourteenth Street and talk slowly and clearly, so that they can understand it, and after that I shall ask you to show what was done to it in the Park; look at this photograph that I now show you, which is said to be the picture of it in the Hitchcock album, and state when and where that was taken?

A. That was taken in Cyprus by myself just in the condition in which it actually came out of the ground at Golgos.

Q. Does this photograph show the condition in which you first found it, and set it up?

A. Yes, sir.

Q. With a wooden beam behind the statue to hold it up?

A. Yes, sir.

Mr. Choate: I offer this photograph in evidence. (It is marked Exhibit 185, of this date.)

Q. I understand you to say that this shows the actual condition of the statue, including the condition of the base and feet, as found by you, and set up by you in Cyprus?

A. Yes, sir.

Q. What was the necessity of putting a beam up behind it?

A. It was for the purpose of holding it up.

Q. It would not hold up without the beam?

A. It was merely joined together then, not repaired.

(2295) Q. Why wouldn't it stand up without the beam?

A. Because the heels were gone entirely, and it was not put together except for the purpose of photographing it, and it would not have stood up.

Q. Now, explain what was done to it in Fourteenth Street?

Mr. Bangs: Objected to on the ground that this witness professed ignorance of what was done in Fourteenth Street. I think the question should be limited to the time while he was there.

Q. State what was done to your knowledge, in Fourteenth Street, to that statue?

A. It was temporarily mounted on a base without the feet; on a wooden base, without its feet.

Q. And how was it held up, through the base or otherwise, as it stood in Fourteenth Street?

A. It was held up by boards placed behind it, as the marks on its back will now show. The marks can yet be seen on the back of the figure.

Q. There is a hole in the back of it that you can put your finger in. Do you know whether that had any connection with that?

A. No, sir.

Q. Have you a photograph of it as it was on exhibition in Fourteenth Street?

A. I suppose I have; I don't know whether I have or not.

Q. State what was done to it in Central Park. In the first place, state what was taken away from it of what had been put on in Fourteenth Street, —what was removed?

A. I would like to have the statue turned so that I can explain it more easily.

(2296) Q. Describe in words, as nearly as you

can, so that the stenographer can take it down?

A. In Fourteenth street they did not put the feet together; they merely mounted it on a base; they put a piece on from there to there: they mounted it on a base of wood, and then placed pieces of board behind it, so that it would be held up on the pedestal.

Q. When you say from here to here, where the boards were placed, state about the height?

A. Where that mark is there.

Q. Now state fully what was done to it before it was put on exhibition in the Park, all that being removed?

A. When it went to the Park, it was one of the statues which was put in the bath, in order to detach everything which might have been adhering to it; cleaned it thoroughly, and then the question came up how to fix the forepart of the feet, and its forepart of its base to the body, which had no more the heels. The heels had been shattered. The question came up how can that be done in a permanent and proper manner.

Q. How much of the base was then in existence—the original base?

A. I will show you how much of the base was then in existence if it is turned round again, just as it was before. The portion of the original base, the front portion, was about seven or eight inches in width.

(2297) Q. From front to back?

A. From front to back—and the forepart of the two feet.

Q. Is it indicated there?

A. It is indicated by the line of junction to the front.

Q. What you call six or seven inches?

A. Yes, sir.

Q. That was all that remained of the old base—the front part of the feet remained attached to that part of the old base—is that so?

A. Yes, sir.

Q. On what part of the old base were the front of the feet—were the remains of the front of the feet?

A. They were placed, as can be seen very well, by the mark on the top of the stone.

Q. Did the left foot come forward upon the foot mark indicated on the base now?

A. Yes, sir.

Q. About two inches and a half in front of the foot?

A. Yes, sir.

Q. And the left foot also came a half an inch to an inch further front than it was?

A. Yes, sir.

Q. In being in that condition, what was done to it to put it into its present state?

A. The question came up then how to make that bulky piece of statuary stand up without the heels and only with the front part of the feet left.

Q. What did you do?

A. The question came up how it was to be mended. It was necessary, in order to support such a weight as that, to have it fixed upon some solid material. A piece of stone was taken also from Cyprus, but that is immaterial, and was placed under the back of the statue, where the shattered heels had previously been. It was so arranged that it would come exactly in the centre of the hole, which was made through the leg of the body up to the hip; two holes were made in both of the legs of the statue, I should say about two feet and a half in length.

(2298) Q. To receive rods to support it?

A. Large rods in copper, which were then introduced into these legs. When that was done, this new piece of stone, which was taken for the support of the statue, in fixing the statue so as to stand it up, was placed under the ankles of the feet and adjusted so that a hole could be bored right through it, and fixed the back part of it, so that the statue could be made to stand up erect. When that was done we found that the thickness of the stone put into the back as a support was thicker than the base required. The reason why it was kept thicker was because we could not have the whole weight of the statue rest on the feet. If the thickness of the support was not suf-

cient, we were afraid it would fall over. The next solution was how can we make the feet fit the support. If we left the forepart of the statue as it was, it could not be attached, the feet would have been detached from the body. The only thing that was to be done was to put the fore portion of the foot a little further back, as near as possible, to add to the support of the stone.

(2299) Q. So you moved the feet back from their original base to where they are now?

A. Yes, sir.

Q. And that enabled you to run the rods up through the legs of the statue?

A. Yes, sir; and then there were two rods run through the front of the pedestal, so as to unite the back support with the front part, which was originally there.

Q. And in doing all this was the relation of the feet to the figure in any way changed or affected?

A. Not to my eye. Not in my opinion.

Q. Nor changed, except as one was moved back two or three inches, and the other about a half an inch or an inch?

A. They were moved relative to their previous position, according to their position on the stone.

Q. Then have you stated how the base, as it is now, was completed; you have observed that the original remains of the base were only six or seven inches in front, to which the front portion of the feet were attached; where did this continuation end; is that a part of the stone inserted?

A. Yes, sir, it is all one piece above there. This is what we call the support.

Q. (By a Juror.) Was the position of the feet originally as they are now, or do they stand closer together?

A. They are now in the same relative position as they were previously. They were the same distance apart as they are now.

(2300) Q. My question is whether they were originally as wide apart as they are now?

A. Exactly now, as it can be seen by the top of the base.

Q. Then before it was exhibited, as I understand you, a solution or wash was applied to the new part?

A. It was applied to all the portion which was repaired.

Q. And the coloring which has been used, as a base, is the dust of the same stone from which the statue was made?

A. It was not a coloring matter; it was the dust of the stone.

Q. Who did the work of shaping this piece to thus support the statue?

A. Some stone cutter outside of the museum. I do not remember his name just now.

Q. Have you seen him here in Court during the trial?

A. Yes, sir.

Q. In conference with the plaintiff's counsel?

A. Yes, sir.

Q. Whom did you consult as to the method to be followed in making the repairs on this statue?

A. I consulted some of the trustees. I consulted Mr. Ward, and I used my best judgment, as well as I could.

Q. Mr. Ward, the sculptor?

A. Mr. John Q. A. Ward.

Q. According to your judgment, was this the best method of repairing this statue, and fixing it so that it would stand up permanently?

(Objected to as immaterial; objection withdrawn.)

A. It was.

(2301) Mr. Bangs: I understood the question as finally shaped to be: Did you exercise your best judgment under the circumstances in doing what was necessary for the repair and support of the statue, and to that I had no objection.

The Court: Then I suggest that the question be put in that way.

Question repeated as put by Mr. Bangs.

A. I did.

Q. Do you consider that a repair or a restoration?

A. A repair. There is no restoration about it.

Q. (By a Juror.) What is that point there—that projection?

A. That is the knee.

Q. The jurors want to know whether the left leg down to the plaster mark was found connected with the statue?

A. Yes, sir.

Q. (By a Juror.) It is not now a part of the solid stone; is not that left leg pieced on, and joined at the drapery?

A. No, sir, it is one piece of stone.

Q. And the new stone inserted behind covers the whole breadth of the base?

A. Yes, sir.

Q. (By Mr. Bangs.) Won't you trace the fracture on this statue?

A. It follows right down here, and goes across so (witness illustrating).

(2302) Q. This is a new piece in the rear of the base, running through to the front, meeting the original base with the front of the feet?

A. Yes, sir.

Q. What is this?

A. A piece of the statue.

Q. When was this fracture made—the upper fracture here?

A. Very likely that was made in coming down here; it is a fresh break.

Q. This crack here, what is that?

A. That is a piece of its own stone.

Q. When was that broken off?

A. I don't know. It must have been during the investigation of this statue. They investigated this thing at the museum.

Q. By the committee?

A. Yes, sir.

Q. When that investigation took place, was it taken apart?

A. Yes, sir, and they had it apart for three months, so that everybody could come and look at it.

Q. After the publication of the Cook pamphlet, was it put on exhibition for sculptors and others to come and cut into it?

A. Yes, sir.

Q. At that time was this mark on it, or has this been made since? (Counsel referring to the mark running lengthwise down the back.)

A. There were so many making marks upon it, and so many marks put upon it that I would not be responsible for this new mark.

(2303) Q. This mark on the back from between the shoulders down to the small of its back, if you can call that the small of its back, is new?

A. Yes, sir.

Q. Are you able to produce the head which is stated in the Cook pamphlet to have been on that statue?

A. Yes, sir.

Q. Please do so?

A. No. 510. That is the head there (witness pointing to a head on the table).

Q. What is that head, No. 510?

A. Yes, sir; that is the one represented in Cook's pamphlet?

Q. Is that the same head on page 16 of the Cook pamphlet?

A. Yes, sir.

Q. And the same head, which you understand the charge in the Cook pamphlet to refer to as belonging to this statue?

A. Yes, sir; that is according to the illustration that he gives.

Q. Does this head fit the statue?

A. No, sir.

Mr. Bangs: What are you referring to, Mr. Choate?

Mr. Choate: I refer to the picture on page 16 of Cook's pamphlet and to the article on page 15 commencing with the words "Mr. Hitchcock is mistaken in saying, &c."

Mr. Bangs: I object to any inquiry as to whether this head fits this statue or not, because that is not a matter in controversy here.

(2304) Mr. Choate: What I propose to show is that the charge contained in the Cook pamphlet, and

published to the world by the plaintiff, that this head was held up by the defendant as a part of this statue, and that that was but one step in a series of frauds, represented by the five pictures annexed to the Cook pamphlet, was absolutely without foundation. Will your Honor look at the picture No. 1 annexed to the Cook pamphlet there shown as being on that body. The pretense is that this is the head described by Mr. Hitchcock in his magazine article for July, 1872. Look at it, and at the picture contained in Harper's Magazine of July, 1872, and it is at once obvious that they are not the same. Here is the picture contained in Harper's, and here is the photograph of the present head, No. 510, represented over and over again in the Cook pamphlet to be the head which belongs to this statue, and that so it has been held up to the world, as represented in figure No. 1.

Recess taken.

(2305) NEW YORK, Dec. 12, 1883.

Afternoon session.

After the conclusion of some discussion, which had arisen before recess, the Court said that it was still of the opinion that it is proper for the defendant to show that this head depicted upon page 16 of the Cook pamphlet and which the plaintiff probably supposed was the head that belonged to the statue, did not in fact belong to it.

LOUIS P. CESNOLA, recalled and examined by Mr. CHOATE:

Q. Is there any other head in the museum of which the cut on page 16 of the Cook pamphlet and the head on "I, statue No. 39," is a representation—any other head but this one, No. 510?

A. Only that one and no other.

Q. And that is correctly represented in these two places, is it—at page 16 and in "I, statue No. 39," annexed to the Cook pamphlet?

A. Substantially so.

(2306) Q. Now, tell me whether it is the same head as represented in Doell 9-8; is that this head now in court, No. 510?

A. Yes, sir; the identical one.

Q. Now, tell me whether this which has already been introduced in evidence as Exhibit 177 of the head of the Greek Priest found at Salamis is this head?

A. No, sir.

Q. Is this the cut in Harper's monthly—the head No. 510?

A. No, sir.

Q. Are not these two the same—the cut in Harper's Magazine and Exhibit 177?

A. They are.

Q. On what ground do you say that this head, No. 510, now in court, does not fit this body of the Priest, No. 39?

A. Because the Priest, No. 39, is what we call a Wall statue—a statue only made in front and not sculptured in the back, made for the purpose of applying it to a wall; they used to call them Wall statues; while this head was made all in round, and for the purpose of the statue it was made also in front and rear—in other words, a round statue.

Q. Have you tried this head upon this body?

A. I have.

Q. With what result?

A. It is two inches, or two and one-half inches too much for that statue.

Q. I would like to have that tried—to have an attempt made to put this head on this body.

Several attendants here put head No. 510 on statue 39 and exhibit the same to the jury.

(2307) Q. (By a Juror.) Mr. Cesnola, do I understand you to swear that that is all one stone from the ankle up?

A. Yes, sir; monolithic.

Q. You give that opinion as an artist?

A. Yes, sir.

Q. Were you present when it was subjected to a bath?

A. Yes, sir.

Q. When it was subjected to a bath did it disclose that there had been any juncture anywhere?

A. None whatever.

Q. Would the bath to which it was subjected reveal it if there had been one?

A. Certainly—probably so.

Q. (By Mr. Choate.) I suppose that I should have asked you that, General, myself, as to what you say to the statement in regard to this statue No. 39; what do you say to this statement that the evident fact is that the bust is a fragment of one statue, and the lower part of the body, from the breast down, is made up of fragments from figures of various sizes and differently poised.

A. I say it is not so.

Q. When the exhibition was opened in Central Park, had there been a catalogue of the exhibition prepared? A. Not yet.

(2308) Q. And was there a copy of your work on Cyprus, and if so, how many exposed for public use in the exhibition room from the time of the opening of the exhibition?

A. There were two copies of it; one in the grand hall and one in the galleries, upstairs, where the gold and glass collection is. They were placed on a table and chained or nailed to the table.

Q. Look at page, or the picture opposite page 160 in your work on Cyprus, and state whether that is a correct representation of statue No. 39, about which we have been talking, and as it was found in Cyprus?

A. Exactly so, except the base of wood which is put all around to keep the feet in.

Q. From what was that made?

A. From a photograph.

Q. So that any body visiting the museum and seeing the statue could by reference to the book find this description of its original condition?

A. Yes, sir.

Mr. Bangs: What description?

Mr. Choate: Opposite page 160.

Mr. Bangs: Well, find the description.

Mr. Choate: That is the description.

Mr. Bangs: That is a picture.

Mr. Choate: Well, picture.

Mr. Bangs: There is no description in the book of the statue.

(2309) Q. Now, we will come to a few questions about the statue No. 32 (showing witness statue No. 32); where was this found by you?

A. In Golgus.

Q. Was it found in the temple or in one of the other places?

A. In the temple.

Q. How was it found with respect to the head; what was the connection or relation between the head and the body?

A. The head was found detached from the body near by.

Q. Was the head in its present condition when found?

A. Substantially so, except some chipping since the Investigating Committee.

Q. I observe that on the left side of what I should call the head-dress and also on the right side in close proximity to the point of juncture, that there is obvious cutting of modern date on both sides.

Mr. Bangs: You mean your left and right, Mr. Choate?

Mr. Choate: Both.

Mr. Bangs: You speak of the left and right, what do you mean?

Mr. Choate: I mean on both sides, right and left—cutting, running down to the points of fracture or juncture between the head and the body.

Q. State the history of those cuttings, if you know them?

(2310) A. My impression is that they were made while the examination took place; they tried to take the head off, and made every possible effort to do so, but it was so well put on that they could not remove it; how much was cut off there in the effort taking it out, I don't know.

Q. Now, in what respect, if at all, has the bottom of this statue been interfered with, or altered, from the time it was found by you; I observe that it rests perfectly flat and evenly on this horizontal base; was that so originally?

A. I don't think it was so; but I am perfectly confident that it was just planed so as to make it stand up, but no portion of the drapery in front has ever been removed; if I am not mistaken, it was merely made flat so as to stand on that base.

Q. You know of nothing else taken away except what was necessary to make it set flat?

A. Exactly so.

Q. When you spoke of the test made by the sculptors in which these two cuttings were made in the neck, do you mean the examination made by the sculptors after the publication of the Cook pamphlet?

A. I mean when the trustees placed the two statues in the centre of the grand hall in the museum, allowing every sculptor, or anybody who wanted to, to come and examine it.

Mr. Bangs: I object.

Q. Well, that was after the publication of the Cook pamphlet?

(2311) A. Yes, sir.

Q. Has there ever been any other head used with this body, or in connection with it, except the one on it?

A. None whatever, except that one.

Q. Are you able to produce a photograph of this statue taken in Cyprus?

A. I believe my attorney can.

Q. Is there not one in the Hitchcock album?

A. I believe so.

Q. Look on page 9 of what is called the "Old Museum Album of Negatives from Cyprus"—"Cesnola's Negatives from Cyprus;" "Cesnola's Negatives from Cyprus" seems to be written against page 9 of a figure like that.

A. That is the exact photograph.

Q. You better come around in front of it, I guess; do you observe the difference between the bottom of the statue as it stands in court here, and the bottom of the statue as it is represented in Cyprus, namely, that in Cyprus on this, the right hand side of the figure, it seems to be propped up by one or two stones, or other substances?

A. I think so.

Q. You see that?

A. Yes, sir.

Q. Does not that enable you to say distinctly about the planing or sawing of the bottom to make it stand flat; what do you say now, after looking at this, as to the manner in which this has been made to set flat?

(2312) A. Only on one side it was leveled up; the other side is still, to-day, as it was then.

Q. But the bottom has been made flat?

A. Yes, sir.

(The picture on page 9 of the "Old Museum Album" is marked Ex. 186, of this date.)

Q. Have you a photograph, taken in London, of this object?

A. I have not.

Q. What do you say as to this being composed of different pieces, or of parts of different statues—the formation of it below the head?

A. I say that that is a monolithic piece from the neck down, and nothing else.

Q. Have the same opportunities been given for the inspection and testing of this body as of No. 39—the statue with the cows' head?

A. Yes, sir.

Q. Is there in your Cyprus book a representation of this statue?

A. Yes, sir.

Q. Of this figure as it was found?

A. Yes, sir; there it is (indicates).

Q. From what was that taken?

A. From a photograph.

Q. In Cyprus?

A. In Cyprus.

Q. The duplicate of the one just shown you and put in evidence?

A. Yes, sir.

Mr. Choate: I would like to have that turned around so that the jury can see it, and I will show the Cyprus photograph to the jury.

(2313) Q. I observe on the back of this figure a cut running nearly perpendicular, up and down, and another one across on the back; how were those made?

A. They were made by some of the sculptors who came to examine that and test that.

Q. Is it not true that as once exhibited in the museum, the head—that is, the junction of the head and the body—was repaired?

A. Yes, sir.

Q. And when was that repairing removed?

A. When the statue was placed in the centre of the hall for public examination and test.

Q. Now, I wish to ask you about the statue which we call "Big Hercules," as distinguished from "Little Hercules;" where do you say that was found?

A. In the field west of the temple.

Q. Will you please state to the jury in what condition it was found?

A. When it was dug up, the upper part of the body from where the legs begin—a little over the thigh, I think, up to the head was one single piece—except—with the exception of the left forearm and the club which he holds.

Q. And how about the leg?

A. The legs were found near by, detached from the ankles, or shattered at the ankles from the base and the feet.

Q. And were the feet and the base found together and attached together?

A. The feet and the base were found together; yes, sir; and the feet were on the base.

(2314) Q. The feet fast to the base?

A. Certainly.

Q. Do you remember in how many pieces the legs, one or both of them, were broken?

A. My recollection is that the two legs except toward the ankle were one piece. When they reached towards the ankle they were split cross way—that way (indicating).

Q. Is the account given on page 155 of your "Cyprus" in connection with the plate 12, and opposite page 132, substantially a correct account of that statue as you found it?

A. It is substantially true.

Mr. Choate: I will read that account.

Mr. Bangs: I have no objection to your reading it; but it is in evidence. The text was read in connection with somebody else's examination; I think in connection with Miss Mitchell's examination, to show the information that was furnished by that book to the visitors to the museum. I don't object, however, to your reading it again.

Mr. Choate: I will read it:

"I began by opening a trench ten yards from the disturbed ground, and for two days was rewarded only by some pedestals and fragments of statuary; but on the third day a fine statue of Hercules, of colossal size, appeared, with the skin of a lion's head as head-dress. The legs from the knee downward were at first wanting, but were soon distinguished from their large proportions among a heap of fragments a little way off, and shortly after my men discovered its base with the feet attached to it. The right arm of the statue is broken off, and could not be found, further than a portion of the hand containing four arrows. The left arm is raised, and its hand had held a knotted club, which was disinterred soon afterwards. A portion of the bow near the left shoulder is also seen, ornamented with the head of an animal.

(2315) My workmen now came in contact with a quadrangular block of great weight, which had partly unearched and damaged in the previous diggings, and being unable to move it, requested permission to break it up. Instead of agreeing to this, I insisted on having it turned over for inspection, though from its being roughly hewn on the three visible sides, it did not bear much promise. Imagine, therefore, my delight in finding a spirited bas-relief slightly tinted with red, representing one of the labors of Hercules!

This relief is divided by a horizontal line into two main fields, and in this respect reminds one of the Assyrian friezes. Apparently on a third field or lain, and not on a pedestal, as M. Ceccaldi says (Rev. Arch. 1872, p. 223), is represented Hercules in colossal proportions, advancing from the left. He wears the lion's skin falling from his shoulders; the right arm is elevated to the height of the head, but the head itself, and the

upper portion of the body, is too much obliterated to be distinguished. In the distance is seen the herdman's dog, Orthrus, which has here three heads, instead of two as usually supposed; an arrow pierces its neck between the second and third head. In the lower field is the herdman Eurytion driving away the cattle and thus accomplishing one of the tasks on him by Eurystheus. This relief has been published by Ceccaldi in the *Revue Archæologique*, XXIV. (1872) pl. 21, and by Doell, *Die Sammlung Cesnola*, No. 763.

(2316) It became evident that this huge stone was the pedestal of the newly discovered statue, and this was confirmed by our finding that it exactly fitted. As it would have been both difficult and useless to remove so great a mass, I decided on having the sculptured portion sawn off. This was safely and easily performed by one of my own diggers.

(2317) Q. Will you look at Colvin, page 21, and state whether that correctly represents this statue with one leg, namely, the left leg upon it as you understand it to have been in London?

A. It does.

Mr. Choate: That page has already been marked as an exhibit.

Q. Were the two legs as found in the same condition as this is represented here—I mean from the knee down?

A. They were.

Q. Now, you say that as found the break down towards the ankle was a slanting break?

A. Yes, sir.

Q. When, where and how was that statue repaired, and what was done to the legs at the ankle to bring it to the condition in which it now is?

A. The repair was made in 14th street first. How it was made at that time I have no recollection.

Q. I mean the repair that brought it into its present condition as it was exhibited at the time of this controversy?

A. That was done in Central Park in 1879. The statue, as all the others, was put in a bath, the repairs of Mr. Gehlen detached, and the permanent repair of the statue was made by the repairer of the museum.

Q. How is the portion of the leg which, originally as you found it, was interrupted by a slanting break, supplied in each leg?

A. Was supplied by a block of stone which would fit the place which formerly was filled by plaster in 14th street.

(2318) Q. Did that block so inserted do more than occupy the space of the slanting break which had to be cut off?

(Objected to as leading.)

Q. How large a space does this inserted block in each leg occupy; perhaps you can tell in inches or half inches or whatever it is.

A. I should say between 3 or 4 inches; but I don't know whether both are exactly so.

Q. And how are the legs thus repaired secured to the body and to the base?

A. They are secured by a long copper rod. First after the legs were detached two holes were bored through the legs to the body of the statue. I should say one foot and a half or two foot in deepness; then the two legs were taken and a hole bored through each of the legs and placed on the body. The body was then overturned and the legs placed exactly where the fracture was and made it go exactly in the centre with this rod. Then the question came a piece where this leg was slanting in that way was required in order to strengthen the weight of the statue when the statue would be turned in this way. Then this piece of stone was inserted in it and then the two feet were adapted on these repairs, of the lower portion of the ankle.

Q. How were these two pieces that were inserted in the ankles fashioned or moulded as to fitting or continuing the original leg?

A. That I don't remember.

(2319) Q. Well, they were so; weren't they?

A. Yes, sir; they were arranged so as to fit the leg.

Q. In thus adjusting the statue upon the base was it necessary to saw off the foot from the base?

A. It was.

Q. Then these points of juncture and this inserted piece were covered with a solution?

A. Exactly.

Q. And the thing was placed on exhibition?

A. Yes, sir.

Q. As it is now in the Park?

A. Yes, sir.

Q. I will ask your judgment as to whether that was in your judgment the best mode of repairing that object?

A. I believe it was.

Q. Do you know of any other method in which it could have been repaired?

A. I do not.

Q. Do you call that a repair or a restoration?

A. A repair.

Q. When was the front of the base of this statue sawed off?

A. I beg your pardon?

Q. When was the front of the base of this statue sawed off?

A. That I don't know.

Q. When was it separated from the bas-relief—the pedestal; when was the front of the pedestal sawed off; was it sawed off in Cyprus?

A. It was sawed off in Cyprus, at the spot—at Golgos.

Q. And what portion of the pedestal is now on exhibition in the museum?

A. The portion only which represents these Labors of Hercules.

(2320) Q. And is that the piece which is exhibited on page 136 of your "Cyprus"—the bas-relief?

A. Yes, sir.

Q. This large Hercules, I think you said, was bathed in the bath before opening?

A. Yes, sir.

Q. And this repairing was redone there?

A. Yes, sir.

A Juror: Is that where the position of the feet was changed?

Mr. Choate: So stated by Gehlen, yes, sir.

Mr. Bangs: So stated by this witness. He said it was necessary to saw off the feet in order to meet the ankles, as I understood him.

Mr. Choate: That wasn't exactly what he said.

Q. Now, of course you never saw the statue standing in Cyprus when it was found, the legs were broken off, and it was lying on the ground; isn't that so?

A. Yes, sir.

Q. Now, how does the adjustment of the feet and legs to the body correspond, as you understand, as it was exhibited in Central Park, to their natural position?

A. I don't think there is any difference from what it was then and from what it is now.

Q. (By a Juror.) Do I understand that the position of the feet are precisely the same now as they were originally?

A. No, not originally; but in 14th street.

Q. Was there any original position of the feet?

Mr. Bangs: Is there any question about this foot having been sawed off from the base and moved backward?

(2321) Mr. Choate: He did not say that. He said they were sawed off from the base and that that was necessary in order to adjust and run the rod through the feet, the inserted piece and the leg in the body.

Mr. Bangs: Do you mean to alter the statement of facts given by Henkel and Alley and Gehlen as to the sawing off of those feet and moving one or both of them backward?

Mr. Choate: Unquestionably sawed off. I have not yet asked him about their being moved.

Mr. Bangs: Would you mind by asking him?

Mr. Choate: I will ask him myself.

Q. In answer to the juror you have said that you understand the statue as exhibited—that the legs are in their original position, meaning as they were in 14th street?

A. Yes, sir.

Q. Did you hear the evidence of Mr. Gehlen that after the sawing off of the feet from the base they were placed in a different position on the base from what they had been before—the feet?

A. By him?

Q. By him?

A. I did not.

Q. You don't remember the evidence?

A. I don't remember; no.

Q. Well, what do you say as to the present position of the feet upon the base as compared with what they were when found?

A Juror: That was my question.

(2322) Not when found; when brought from 14th street—

Q. No, no; when found—when found the feet were fast to the base?

A. My recollection is that they are in exactly the same place.

Q. No nearer together and no farther apart?

A. I believe not; I am not certain of that.

Q. Was it your intention that they should be repaired and reset—the feet upon the base as they originally were?

(Objected to as leading, immaterial and incompetent.)

Q. Well, what was your intention in that respect?

(Objected to.)

The Court: Well, were these repairs done by your instructions?

A. They were.

Q. Was it your intention that the feet should be reset upon the base as they were before they were sawn off?

(Objected to.)

Q. What were your instructions as to resetting them after the feet were sawed from the base?

A. That they should be reset properly and perpendicularly to the body, exactly as they should be.

Q. When did you first hear it claimed or said that the feet as reset upon the base in 14th street were reset in a different place upon the base from that in which they had been before they were sawed off?

A. In this Court.

(2323) Q. And I understand that according to your judgment the legs and feet as they stand to-day are in their natural position?

A. They are.

Q. And as they were upon the original base?

A. They are.

Q. Did this bath to which the statue was subjected in Central Park disclose any work or design upon this statue—the big Hercules—which had not been apparent in Cyprus or in London?

A. Yes, sir; on the drapery in front of it.

Q. What did it disclose?

A. All the ornamentation of the drapery.

Q. What had that been covered by in Cyprus or in London?

A. By that same incrustation of which I have already spoken yesterday—the same kind of incrustation.

Q. To what depth must that incrustation have been on that part of the statue to cover that design work?

A. I could hardly say. Deep enough, but I could not be able to state how deep it was.

Q. Look at Doell 7-9, and say what you think that plate to be—the central figure?

A. The exact reproduction of a photograph which I gave to Mr. Doell.

Q. Of that statue down to that point which it exhibits?

A. Yes, sir.

Q. Including the part with four arrows?

A. Yes, sir.

Q. Now we come to statue 23, the Priest with the Dove; is that in Court?

A. No, sir.

(2324.) Q. How much does this statue of Hercules that we have been talking about weigh?

A. Well, the statue of Hercules, although higher than statue No. 23, does not weigh so much. The heaviest statue I believe of my collection is No. 23, because it is a rounder statue.

Q. Now, statue 23—where was that statue found which has been called the Bearded Venus?

A. On the same ground where the big Hercules was found—on the west side of the temple.

Q. Will you find the sketch of it in "Cyprus;" is it the figure on page 132?

A. Yes, sir.

Q. Is this substantially a true description of the finding of that figure?

A. It is.

Q. It is substantially true?

A. Yes, sir.

Mr. Choate: I will read this description to the jury. It begins on page 130, and it is as follows:

(2325) "Among these thirty-two statues was one of semi-colossal dimensions, the body of which is in an admirable state of preservation; the head, arms, and feet were at first missing, but I had the good fortune to recover them from the different peasants who had carried them off. They are now united, and the whole has an imposing appearance. The head-dress is pointed and finished at the top by the representation of a calf's or bull's head. The front of the helmet is divided by six straight lines converging towards the top, and has an ornamentation in low relief somewhat resembling a lyre, repeated four times in each of the spaces. The beard, which was once painted red, is elaborately arranged in very short curls. The hair in front is also curled, and on either side of the neck fall three long tresses. The dress is a long robe falling to the feet, and worn much in the same manner as the peplos on early Greek female figures. Round the neck of the robe are two rows of stars painted in red, probably meant to represent embroidery. The treatment of the folds is not unlike that of archaic Greek drapery. The forearms with the hands are made separately, and fitted to the figure by means of plugs inserted into square holes about four inches in depth. The right hand holds a cup by its foot between the middle and fore-fingers, while in the left is a dove with wings spread."

(2326) "These attributes would seem to indicate the office of a high priest of Venus, possibly one of the Cinyradae, as we know that they were not only at the head of the priesthood of the temple at Paphos, but the recognized heads of all the sanctuaries of the island dedicated to the worship of Venus; yet the great development of the breasts and the quasi-feminine features, have led more than one archæologist to believe that the statue might represent the goddess herself, who, according to Macrobius, was at Amathus conceived as having a beard; and in fact, I discovered at a later period two terra-cotta statuettes of a bearded female figure in tombs belonging to that city."

(2327) Q. Is this a substantially correct figure of the figure? (Showing witness the picture on page 132 of "Cyprus.")

A. Yes, sir.

Q. I observe, however, that it is a picture with the head, arms and feet all on; how was this made?

A. This is taken from an engraving from the Review Archæologique which Mr. Ceccaldi published in France.

Q. Where and how did Ceccaldi make his engraving?

A. Made it in Cyprus at my house.

Q. From the object itself?

A. From the object itself.

Q. Not from a photograph?

A. Not from a photograph.

Q. Look at page 53 in Ceccaldi and say if that is the engraving that he made there and in that manner?

A. He made the sketch and that is the engraving. He made it from the sketch—he made the engraving from the sketch—and that is how I got it in my book.

Q. Then he made it—how, for the purpose of his sketching or the making of the sketch, which formed the basis of this engraving, were the head and the arms and the dove connected with the body?

A. Merely placed at their places.

Q. Placed and held in position?

A. Yes, sir; placed and held in position without glue or anything, only for a temporary time to sketch.

Q. Did they fit exactly?

A. Exactly.

Q. Now, I observe that as represented in "Cyprus," in the picture and in this page 53 in Ceccaldi, the dove appears to be entire, wings and tail?

(2328) A. So it was.

Q. Was it so found?

A. Except broken at the legs.

Q. But the part which has here been complained about—the wings and tail—were on there?

A. Yes, sir.

Q. Were on there entirely and unbroken?

A. Entirely and unbroken.

Mr. Choate offers in evidence page 53 of Ceccaldi. Marked exhibit 187, of this date.

Q. Did you hear the plaintiff's statement that before publishing his card No. 3 he had seen the Ceccaldi engraving of this bearded Venus?

A. I don't remember.

Q. Is there any other Ceccaldi engraving of this bearded Venus that you know of except that on page 53 of Ceccaldi now shown you and just put in evidence?

A. That is the only one.

Q. Is it as it there appears a correct representation of the statue as it was in Cyprus?

A. It is.

Q. Is Ceccaldi's text description which has already been read in evidence in this case substantially correct of the account of the statue as it appeared when he made his engraving?

A. Yes, sir.

Q. Do you remember the fact of its having been broken?

A. I do not.

Q. Well, assuming it to have been broken, the tail and one of the wings to have been broken off after it left Cyprus, do you know how it has been repaired, as it stands to-day in the Park?

(2329) A. I only heard it in the Park after it had been on exhibition.

Q. Well, you understand, do you not, that the tail and the wing having been broken off they have been replaced with a plaster upon a base or connection with wood?

A. I do.

Q. (By a Juror.) Did you direct that to be done?

A. I never saw it done. I did not know that they were broken at all.

Q. Is it in your judgement a proper repair, assuming that since the dove was found in Cyprus, the tail broken off and one of the wings, that it should be repaired as it is to-day?

(Objected to; question withdrawn.)

Q. Do you call that a repair or restoration?

A. I should call it a very improper restoration.

Q. When did you first know that that had been done?

A. Since the charges were made.

Q. Since the charges were made where?

A. In the Art Amateur.

Q. Did you until then suppose that the dove and particularly its tail and wings, was in the same condition as when you found it in Cyprus?

A. I did.

Q. Did it look the same?

A. It looked the same to me.

Q. Was it in that belief that down to that time you left it upon exhibition in the Park?

A. I knew it was intact; and it never came to my mind that it was broken, and I didn't examine it.

Q. Are you familiar with this card No. 3 of the plaintiff's?

A. Yes, sir.

(2330) Q. When and how did you receive this card No. 3?

A. Some days after this publication, but I could not be able to state the time correctly.

Q. What is this head No. 3; what is this head No. 3 separate from the body which is represented upon this card No. 3?

A. It is a stone head in the collection.

Q. Is that head in the collection now?

A. Yes, sir.

Q. What number is it?

A. I don't remember.

Q. Is it or has it ever been on this statue of the bearded Venus?

A. Never; it couldn't go if it placed there.

Q. Why not?

A. Because it is much smaller; and the bearded Venus is a rounder statue. Why, that head is the head of a flat or what we call "wall" statue.

Q. There being a similar difference between this head and that body as there is between—

A. Just as it is with No. 39.

Q. As in the case of 39 and the head No. 510?

A. Exactly.

Q. Except there the head 510 was too large for the body and you say that this head No. 3 is much too small for the body of that statue?

A. Yes, sir; is much too small for the body of that statue.

Q. Can you identify the head of that No. 3 on this cut as a correct representation of a head in the museum?

A. Substantially so.

(2331) Q. What is the number?

A. I don't remember the number now.

Q. When did you make that experiment of trying to fit that head of which No. 3 on card No. 3 is a correct representation to the body of the bearded Venus?

A. I never tried.

Q. Well, have you brought them in juxtaposition; do you know the relative size?

A. I brought them here together and I found the difference of the neck was so large between one and the other that I did not try it.

Q. Who were present when that was done?

A. Some of the trustees of the museum and some sculptors.

Q. (By a Juror.) Mr. Cesnola, there was a figure shown here called the Warrior where there was a great discrepancy between the color of the head and of the body. Do you recollect it?

A. I do.

Q. Well, can you give any account why there is that difference in color between the head and the body?

A. Very easily. The head lay on some of the ashes of the roof which had fallen down and it was burnt; and there are a great many evidences in the museum of heads which were burned and which can be seen at the museum.

Q. That is the way you account for the difference in the color between the head and the body?

A. I do.

Q. By Mr. Choate (showing witness statuette 157): Did you ever see that statuette before?

A. Oh, yes, sir; many times.

(2332) Q. Is that one of your discoveries in Cyprus?

A. It is.

Q. Where was it found?

A. In the temple of Golgos.

Q. You took it to be a statue of Venus?

A. I suppose it is.

Q. You took it to be such, I understand?

A. Yes, sir.

Q. So described, is it not, in "Cyprus?"

A. Not called positively so. I say it is, perhaps or probably, a statuette representing Venus.

Q. At page 157, is it not?

A. Yes, sir.

Q. That is the original representation of it as it was found; is it not?

A. Yes, sir.

Q. I observe, or there has been observed a break across the ankles; was it found on or off?

A. It was found off.

Q. And then this is a representation of it after being set up on the ankles—on the feet?

A. Yes, sir.

Mr. Choate: I will read the text:

"I must not omit to mention a statue probably of Venus, which has this peculiarity, that the base is supported on the heads of two caryatides, of which, however, only the heads remain. They are of Egyptian character. The goddess is

arrayed in a long robe, the ample folds of which she holds back with one hand and displays her sandaled feet, while in the other hand she holds a lotos flower. Three graceful tresses fall on either side of her neck, around which are a string of beads or pearls with an amulet as pendant; a long veil, surmounted by a diadem, hangs from the back of her head." And underneath the figure as represented there is: "Figure of Venus."

(2333) Q. When you wrote this description and said it was a statuette probably of Venus, and subscribed under the figure—the picture—the so-called mirror had not yet appeared or come to your knowledge, had it?

A. When I described it I hadn't the statue before me.

Q. Well, at that time—when was this book written?

A. In London in 1876 and 1877. This is merely a production in New York—a new edition.

Q. And this mirror, so-called, had not then been disclosed?

A. No, sir.

Q. And yet you called it a Venus—probably?

A. Yes, sir.

Q. Figure of Venus—probably of Venus?

A. Yes, sir.

Q. Why did you say that?

A. Because it has several characteristics of Astarte—of the Phœnician Venus; it had the position of the flower to the breast which would indicate a goddess more than anything else.

Q. Did you know at that time that Colvin had also described it as a Venus?

A. I did not.

Q. As a priestess of Aphrodite?

A. I did not.

Q. Did you know what Ceccaldi had said about it in his publication?

A. He never published anything about this statue—the archaeologist Ceccaldi—it is his brother who published it subsequently.

(2334) Q. Did you hear the plaintiff's statement that when he first saw it the corroded surface of antiquity was still upon it? A. I did.

Q. Does that conform to your recollection.

A. It does.

Q. When did you first know of the existence of the mirror upon it?

A. In the Central Park, in the repairing room, when the repairer called my attention to it—just as he had taken it out of the bath, or had it out of the bath in removing the incrustation.

Q. The repairer, Mr. Bailliard?

A. Mr. Charles Bailliard.

Q. Well, I will ask you directly: Did you cause that mirror to be carved or produced upon that statuette?

A. No, sir; in no way whatsoever.

Q. Did you give instructions to him or to anybody to produce it?

A. None whatever.

Q. Have you any knowledge or information as to its first appearance except that it became visible on the removal of the covering matter when put in the bath; any knowledge other than that?

A. No, sir; none.

Q. Now, I will ask you whether since you first saw it as it came out of the bath, with the incrustation or whatever was on it removed, and the mirror first appeared to you, whether, since then, this image, mirror, or any part of it, has undergone any change, so far as you can say.

A. The only change I can see in it is around the mirror beneath.

(2335) Q. What change has undergone there?

A. In order to remove the incrustation, and while it was still fresh from water, it went too deeply around it, and some of the stone seemed to have been damaged. That is all I can see with the microscope.

Q. Do you know what instrument he used in removing the incrustation, if any; have you any personal knowledge?

Mr. Bangs: Does it appear otherwise than inferentially that there was an incrustation?

Q. Well, were you present when the removal took place?

Mr. Bangs: I would like to have him asked whether he ever saw any incrustation.

A. Juror. He said he did.

Q. Well, General, Mr. Bangs wants you to repeat a statement that I understood you made in answer to a question; I understood you to answer that you saw the incrustation upon it?

A. About two-thirds of the incrustation on that side I saw with my own eyes when the repairer called me down stairs to see that mirror on it.

Q. And was it an incrustation thick enough to obscure the mirror as it is?

(Objected to.)

Q. Well, how thick an incrustation was it?

A. It was sufficient to cover the mirror, in my opinion.

(2336) Q. You understand the charge has been made, don't you, that you have caused that mirror to be created on that statuette?

(Objected to.)

Q. Do you understand that?

Mr. Bangs: Where is the charge? What do you refer to?

Mr. Choate reads from the pleadings page 42 beginning with the words: "During the Summer of the year 1879" down to and including the words: "Carving it in stone," also from the words: "I will say more, that any one who has any practical knowledge" down to the words "without immediate detection." Also to page 46.

Q. Do you understand the charge that has been made here by the plaintiff?

A. I do.

Q. Is there any truth in it whatever?

A. I declare it is the grossest and unmitigated falsehood that I ever heard in my life.

Q. Are there other similar figures in the museum?

A. Not exactly alike; some without a support—without the caryatides under it.

Q. Do you know of other statuettes with similar mirrors hanging at the side, or at the side?

A. I do; exactly in the same position, or very nearly so.

Q. Where have you seen those?

A. In the Louvre Museum.

Q. Are there representations of those here?

A. I believe there are in Ceccaldi's book.

(2337) Q. You say some are in this Ceccaldi (showing witness book)?

A. Yes, sir; here they are (indicating).

Mr. Choate offers in evidence from Ceccaldi plate 16, figure 2, with a disc, figure 1 with a disc, figure 2 with a disc—being representations of the same figure—and figure 5 with a disc.

The above figures are, collectively, marked Exhibit 188, this date.

Q. You made a statement about this statuette, did you, in the statement you made to the executive committee?

A. I think I did.

Q. That statement is true; is it not?

A. Substantially true.

Q. You made another statement or further statement before the Investigating Committee?

A. I did.

Q. Was that true?

A. It is true.

Mr. Bangs states that he would like to have the jury reflect upon the mirrors referred to by the witness in Ceccaldi.

Q. Have you heard the statement of a distinguished sculptor here that it has six toes on one foot? A. I did.

Mr. Bangs: Now, don't interrupt the jury in seeing those mirrors. Please let them reflect upon the mirrors as long as they like. Mr. Bangs after looking at the statuette 157, says, that the foot has six toes.

Q. Mr. Cesnola, did you hear the testimony of an eminent sculptor here the other day, and now repeated hearing of the jury by Mr. Bangs and his own assertion, that that statuette has six toes on one foot and only five on the other?

(2338) A. I heard that most extraordinary remark; yes, sir.

Mr. Bangs: Well, from the eminent sculptor, or from me?

The Witness: From the sculptor.

Q. Well, what do you say to that—is that correct?

A. No, sir; I am not a sculptor, but I say it has not.

Q. What is the number of toes on each foot?

A. There are five toes on each foot.

Q. What is the sixth mark?

A. Nothing but the strap of the sandal which passes between the big toe and the next.

Q. Are there just as much six on the left as on the right?

A. Yes, sir.

Q. Now, are you able to say whether that mode of carrying the end of the strap of the sandal over between the big toe and the next toe is usual in this Cypriote sculpture, or are there other instances of it?

A. I have some here; certainly.

Q. Will you please produce some of them that the jury can see what is the manner that that strap is carried in the sculptures?

A. Yes, sir.

The witness sends for objects referred to.

Q. Are sandals worn in Cyprus now?

A. Some of the dervishes that come around there wear them.

Q. Do you know where they carry the strap?

A. I don't particularly remember. All the monks wear them in about the same position.

(2339) Q. Will you look at the object now shown you and state whether this is one of the feet found in Cyprus by you?

A. Yes, sir.

Q. Where is the sixth toe on this?

A. There it is (indicates).

Q. That is to say, the strap of the sandal is brought down between the great toe and the next toe?

A. Yes, sir.

The jury are here shown the foot last referred to and No. 157.

Q. I call your attention to what you said about this things, or goddess, on page 19 of the pleadings: "In 1879, after a prolonged bath in water, the hard surface upon it began to come off, and my attention was called to a curved line becoming visible. I directed careful washing and removal of the dirt with a wooden point. This revealed the little mirror now visible on it;" is that your present recollection about what occurred?

(Objected to as leading.)

Mr. Choate: Well, I won't press it.

Q. What kind of wooden point did you have used?

A. Any piece of wood that came to a point. I don't know if he had particular pieces of wood.

Q. A piece of sharp stick, was it?

A. Yes, sir; a sharp stick with a point.

Q. Did you ever see that mirror, or whatever it is, upon this object of any other material than that which it now is?

(2340) A. I never did.

Q. Have you heard the evidence given here of its having been originally in paste and afterwards stone substituted?

A. I heard that most extraordinary remark.

Q. Have you ever seen it in paste or in plaster or in anything but what it now is?

A. I never saw it except as it is to-day.

Q. Do you remember an occasion before this controversy broke out and before this mirror was discovered on the statuette, some conversation with the plaintiff about it, about the statuette?

A. I have some faint recollection that I was coming out from one of my lectures at Chickering Hall and I met the plaintiff, who made some remark about this statuette. It seems to me I called it a Venus and he thought it was something else; but I have not a clear recollection whether it was at that time or not.

Q. It was called to your attention; was it, that he doubted or questioned the nomenclature which you had applied to it—calling it a Venus?

A. I think so.

Q. Now, on the day when this was discovered, or on any other day, did you exhibit it to the

plaintiff in a wet condition in the Central Park building?

A. I have not the remotest recollection of it.

Q. His statement in substance is that immediately after it had been carved and while it was still fresh and soft you pointed it out to him?

(2341) A. I don't know how I could have done it as the museum was closed.

Q. Well, did you do so?

A. I did not.

Q. Was there any occasion on which you and he examined it together when it was in a wet condition, and when this mirror had recently appeared upon it?

A. I have no recollection whatever.

Q. Of doing so?

A. No, sir.

Q. Do you remember this occurrence stated in the evidence of the plaintiff: "I had seen the statuette when I was there with two gentlemen"—that is, he describes the day before the opening—"and saw it in a wet condition, and before leaving the museum I wanted to see what Mr. Cesnola would say about that mirror. It was quite damp then—just newly made. And I went to Mr. Cesnola and told him that he said one day he would prove to me that this statuette was not one of Hope; and I asked him if he could show me how; and he said Yes, and he pretended to look for it for a long time; but as I knew towards where it was, he showed it to me with a quick movement of impatience, and he said, "See, there is the mirror." Is that correct?

A. Not a word of truth.

Q. Did it take place?

A. No, sir.

Q. Now, I come to No. 768; is that here?

A. Yes, sir.

Mr. Choate: I want that and 754 and 469 brought in.

Q. While they are bringing those there is one question that I may forget to ask you—did you ever say to the plaintiff that what you got for this collection from Mr. Johnstone was all profit?

A. No, sir.

(2342) Q. Anything to that effect?

A. No, sir.

Q. Was such the fact?

A. No, sir.

Q. Now, this No. 768—the statuette representing a male figure crouching—that was found by you where?

A. Either at or at Curium, I don't know which; probably at the last place.

Q. Can you tell now in what condition that was found?

A. Exactly as it is to day, except the insertion of this rod to hold it on that base.

Q. There are some chippings off from the left shoulder there; it looks as though a mouse had gnawed that away, or something; what is that?

A. That is the improvement that some of our sculptors made in order to test whether the head was one piece or not.

Q. It is stated in the charge of the plaintiff, to which you answered, that the head of an old man is fixed on the shoulders of this figure; is that correct?

A. I can't say whether it is an old man or a young man to me.

Q. The head that is on there now was on there when you found it; was it?

A. It is all one monolithic piece; never was broken.

Mr. Choate: I will read the charge of the plaintiff: "A statuette representing a male figure crouching. I do not know in what condition this figure was found, but if we compare it with the many others in the collection, and with the terra-cotto group from Cyprus that I have in my collection, it will be seen that figures in such a posture represent youths. The head of an old man is fixed on the shoulders of this figure." When was an examination of the head—

(2343) Mr. Oudin: Will you read the rest of that paragraph?

Mr. Choate: "And it is important to know whether this head has been put on, as if it

really belongs to the figure it upsets all the former classifications made of such objects."

Q. When was the examination of it made by sculptors?

A. It was at the time the Investigating Committee was appointed by the Trustees, as far as my recollection goes.

Q. Has this ever been photographed—this 768? Is there any picture of it in "Cyprus"?

A. No, sir; it has never been photographed before—not photographed to-day yet.

Q. Had it been on exhibition in the Park?

A. It was from the day of the opening.

Q. When it was stated by the plaintiff in his charge that the head of an old man had been fixed on the body of a youth?

A. Yes, sir.

Q. I call your attention to the cut annexed of this statuette No. 768 to the article in the Art Amateur; I observe in the cut of the statuette No. 768 in the Art Amateur article a mark across the base of the neck indicative of a head and a body once separated. Do you know how that was produced?

(Objected to.)

Q. (2344) Well, I will ask you this: Do you know any mark on the statuette at any time that would have produced that in a cut, illustration, photograph or other representation?

A. No, sir.

Q. Has there ever been any such mark upon it?

A. Never.

Q. To your knowledge?

A. Never.

Q. Now with regard to 754—is this 754 (showing witness a statuette)?

A. Yes, sir.

Q. Where was this found?

A. On the ruins of Golgos.

Q. You mean of the town—what you call the old town?

A. I believe it was.

Q. It is stated by the plaintiff in his charges in the Art Amateur article that when found this was in a poor state of preservation. What do you say to that?

A. This statuette is exactly to-day as it was when it was found, with the exception that the head broke coming from the place of discovery to my house at the consulate. Never been touched. Never nothing done to it. That is exactly in the same condition as it was when found.

Q. Do you know upon what information that statement could have been made that when found it was in a poor state of preservation?

(Objected to; question withdrawn.)

(2345) Q. Had you ever given such information or statement to the plaintiff or anybody else?

(Objected to.)

Q. Did you ever state to the plaintiff or to anybody else that this statuette when found was in a poor state of preservation?

(Objected to.)

A. I did not.

Q. Did you ever state to the plaintiff or to anybody else that the head was originally wanting?

A. Never.

Q. Now, has this statuette ever been retouched to your knowledge?

A. Never; except to replace the head by the repairer.

Q. By retouching I suppose is meant the ornamentation?

A. Nothing whatever. The surface is to-day exactly as it was when it came out of the digging, except that it has been cleaned. No touching, no retouching, no carving, no recutting of any possible kind.

Q. Do you regard that as a proper repair—putting the head on which came off originally?

A. I do, sir.

Q. And properly done?

A. And properly done too.

Q. According to your best judgment?

A. Yes, sir.

Mr. Choate: I want to show to the jury Nos.

754 and 769, that they may judge whether the one was mistaken for the other, the present numbers of the museum.

(2346) Q. Is this now shown you, 469, the one referred to in the plaintiff's amendment of his original charge?

(Objected to as improper.)

The Court: Has 469 always been the museum number of this object?

The Witness: Yes.

Q. Since the museum was opened in the Park has that always been the number of it—469?

A. Yes, sir; to my recollection.

Q. And has 754 always been the number of this?

A. Always, to my recollection.

Q. Do you know on what facts or theory the plaintiff could have mistaken the one of these for the other?

(Objected to.)

Q. Do you agree with the plaintiff that this original of Doell v. No. 2?

A. To my best recollection I think it is.

Q. Now, I place the three objects side by side. Do you know any facts, information or grounds on which the plaintiff or anybody else, after seeing those three objects, could confound one for the other?

(Objected to as immaterial; objection overruled; exception taken.)

A. No, sir.

Q. Has this—what do you call this—is there any way of identifying this?

(2347) Mr. Choate offers the object—469—in evidence. Marked exhibit 189, this date.)

Q. Has this thing, 189, ever had a head on to your knowledge?

A. Not to my knowledge.

Q. Has it been on exhibition in the Park with the head?

A. Not in the Park that I know of.

Q. Is there anything on it to indicate to you that it has had something attached to the neck?

A. Yes, sir; it seems to me it formerly had a head?

Q. Now, have you ever known it to be in the Park with a head on as exhibited in No. 64?

A. The head is so indefinite that I could not say what it represents.

Q. Have you ever known this to be in the Park with a head as exhibited in No. 64?

A. No, sir.

Q. Is it in the same condition it was brought from Cyprus as it stands now in Court?

A. From that it shows that it has been on—something or other has been on Gehlen's repairs. That is Gehlen's glue I see there (indicating).

Q. I will ask you whether there are a good many statuettes like that in the Park of a similar character?

A. A great many here and in the Park too.

Q. What method of setting upon pedestals or bases has been adopted in your present mode of exhibition; do you glue them to the base?

A. Some of them, and some of them not; but not that kind of glue.

(2348) Q. You either used a different kind of glue or you used a brass rod?

A. Yes, sir.

Q. And so you know that that glue is from 14th Street? A. Yes, sir.

Q. Now I will ask about the Egyptian warrior. We will have that brought in.

Adjourned until 10 o'clock to-morrow morning.

NEW YORK, December 18th, 1888.

Present—Counsel as before.

LOUIS P. DI CESNOLA recalled for further direct examination and examined by Mr. CHOATE: (2349) Q. General, I couldn't properly ask you yesterday, with our audience at that time, but I will now ask you whether there were, besides the Aphrodite and Eros, other indications of the worship of Venus found by you at Golgos?

A. Yes, sir.

Q. Are those now on exhibition at Central Park?

A. Yes, sir; not on exhibition.
 Q. Are they now in the collection at the Central Park?
 A. Yes, sir; but not on exhibition.
 Q. Not on exhibition?
 A. No, sir.
 Q. Not suitable for public exhibition?
 A. No, sir.
 Q. Can you produce photographs of some of them?
 A. I suppose Mr. Stickney has some of them.
 Q. (Showing witness a book of photographs). Are there some in there?
 A. Yes, sir.
 Q. At page 45?
 A. Yes, sir.
 Q. Are there some more of a similar character?
 A. Yes, sir; also at page 119.
 (2350) Q. General, this image on page 119, is that round thing the base of it as it was found?
 A. Yes, sir; flat.
 Q. What is the inscription upon the column?
 A. The description is in Cypriote characters. I could not say. It has not yet been decided.
 Q. It has not yet been decided?
 A. No, sir.
 Q. Now, General, besides these more prominent illustrations of the devotion of Venus, are there others in the collection?
 A. Oh, a great many.
 Q. Such as what?
 A. The representation of the Venus seated; what I call the mother with the child.
 Q. Maternity?
 A. Yes, sir; and there are cows with their suckling, which exactly represent the same thing—there are both animals and human beings. Then there is a group representing a mother in childbirth, where the child is just being born. Then there are a number of statuettes holding a dove in the hand, which is an attribute of the Priest of Venus. Besides that there are, according to Ceccaldi, at the second digging of the temple more or less representations of the same thing.
 Q. Ceccaldi, opposite page 45? This is what you mean (showing witness a book)?
 A. Yes, sir.
 Q. Now, General, I am going to ask you about 218, the Egyptian Warrior; that is called No. 39 in the Art Amateur article?
 (2351) A. Yes, sir.
 Q. Can you state where that was found?
 A. Yes, sir; that was found at Golgos—was found in the Temple at Golgos—was found while I was there, and I saw the exact position of the pieces when it came out from the ground.
 Q. So that you have a personal knowledge of its original condition as it was found?
 A. Yes, sir; as it was found.
 Q. Now, won't you state to the jury exactly what that was?
 A. When this piece was unburied, from the neck to the lower part—to the knees—was one single piece. The head was about three or four feet a little farther in front, showing that that head had probably rolled down. A piece of the right shoulder had been broken off when this was taken up, and I looked around and said, "There must be another piece. Look for it," and the men went back and dug up all the earth around it, and we found that small piece. Those were the only three pieces which this statue had then.
 Q. It had no feet?
 A. It had no feet or anything there except that portion there (indicating). Subsequently in this country we broke that left shoulder in several chips in trying to take off the head when they wanted to examine it in the Investigation Committee.
 Q. Now was there any other head in the neighborhood of the trunk of that statue when found; I mean any other head of that size?
 A. None of that kind—none of that character or of that period. None at all.
 (2352) Q. When you applied that head did it fit?
 A. Exactly so; and does fit to-day.
 Q. And is this piece of stone, which is now

secured by plaster to the right shoulder, the piece of stone which was picked up in the earth?
 A. The original piece picked out among the ground there in the temple.
 Q. And is the carving upon it now as it was then?
 A. As ancient as it was when it was found, except by cleaning.
 Q. It is the same carving?
 A. Yes, sir; that carving.
 Q. That carving that is there?
 A. Yes, sir.
 Q. The observation of the jury has been directed to the difference of color between the head and the body; what is that; explain that; what is your explanation about that?
 A. That is nothing else but the discoloration of the ashes on which the portion of the head and some of the bodies were lying when they were found. The roof in falling in most probably in a conflagration or what took fire, and some of these statues in falling down were burned with that. I suppose there are in the museum 50 or 60 specimens, or 100, with exactly the same discoloration, showing that they had been attacked by fire.
 Q. And is it true of those objects some parts are discolored by fire and some parts not?
 A. Yes, sir; some parts are entirely burned and some parts not at all. Of that statue the head itself in the rear is of the same color of the stone in several places.
 (2353) Q. Are you able to produce a photograph of this image taken in Cyprus?
 A. I believe I can. Mr. Stickney I suppose has that.
 Q. The statue appears to have been fractured just below the carving on the belt.
 A. Yes, sir.
 Q. And going right through?
 A. Yes, sir.
 Q. What is the history of that, if you know?
 A. To my best recollection this piece came out in the belt when the investigating committee in 1880 or 1881 had it put in a bath. I have no recollection of ever having seen it detached or in two pieces, except in that period; but I may be mistaken; but my impression is, it was only in three pieces.
 Q. Well, obviously it has been broken across the middle?
 A. Without the slightest doubt.
 Q. Are you able to say whether it had been so broken and repaired before it was discovered by you, or whether that break has been since?
 A. I don't believe that that was ever put to gether before.
 Q. In respect to some of the objects found by you, are there evidences of their having been broken and repaired before burial?
 A. Many of them; many of them.
 Q. Your recollection does not enable you to say in respect to this one?
 A. Not particularly, because my attention to this piece was called only since the investigation and the charges came.
 (2354) Q. How many of the objects you found bear marks of having been fractured and repaired before they were dug out?
 A. I don't think they were fractured; I think they were made of parts and joined together, many of them.
 Q. Well, how many bear marks of that?
 A. Well, there was the case of the Hercules. His left arm was made in another piece and put on. There is the Venus with the dove; where both hands—both the fore parts of the hands were made of parts and put together. There are now inside of this Court several feet and several hands showing the holes and how they were put together; and those are evidences of having been made so, without the slightest possible doubt. There are many others that I could name.
 Q. I produce your note book and ask you whether this photograph, the second one upon the third page of photographs, is a photograph of this image as it was photographed in Cyprus.
 A. Exactly so.

Q. The differences as I observe between the photograph and the image as it is now presented are that the right shoulder in the photograph has the piece out, and that the lower part, the bottom I should call it, where it rests now upon the base, is in the photograph jagged and uneven.
 A. Yes, sir.
 (2355) Q. Are those the only differences that you see?
 A. The only differences that exist there.
 Q. How has the rough and jagged character of the surface of the base been changed to this flatness by which it rests square upon its present pedestal?
 A. It was removed in 14th Street when they put it on the base. There was absolutely nothing but a little splint on each side coming pointedly perhaps half an inch on each side, and all the rest was as flat as it is to-day.
 Q. It has been done by sawing off or cutting that jagged protuberance?
 A. Yes, sir.
 Q. How much?
 A. I couldn't recollect. That was done in 14th Street.
 Q. A comparison of it with the photograph taken in Cyprus will show?
 A. Exactly.
 Q. I call your attention to Mr. Alley's testimony on page 474 in regard to this figure.
 Mr. Choate asks Mr. Oakley to produce the photograph, Ex. 68, which is a photograph of this Egyptian Warrior in Colvin, No. 12; which Mr. Oakley hands to Mr. Choate.
 Q. I read what he says, Mr. Cesnola:
 "Q. Did you and Cesnola look at that statue "in its condition as depicted in this photograph?"
 "A. Yes, sir.
 "Q. Did he see and talk about those projecting "legs, and did he say something about their being cut off, and if so what was it?"
 "(2356) A. He certainly spoke about it.
 "Q. What did he say?
 "A. He asked me to place it on a base, and I did "so.
 "Q. Well, what did he say about the legs?
 "A. Now, hold on, because that would fall "over; there was nothing under it, and I propped "it up on the square base with little chips of "stone, and he said that would not do, but to get "a round base, and I said it would do, and he "said never mind about it, but to do what he told "me, and I did so, and it was taken down to "Bailliard and he cut off that piece of round leg "and made it fit there." Look at this picture in Colvin and say whether the point that you speak of that was sawed off is represented here.
 A. Yes, sir; that portion (indicating).
 Q. Whatever was necessary to be sawed off to make it in its present flat surface at the bottom was done?
 A. Yes, sir.
 Q. And did you understand, or did you now, that there were ever anything to be called legs upon it?
 A. No, sir. A splint of leg—of the front part of the leg; nothing else.
 Q. Now, I show you the picture in the sample album as it was mounted in 14th Street and ask you what that picture is?
 A. That is the exact picture of that figure as it stood then and as it stands now.
 Q. Now, this being a picture of it as it was in 14th Street and as it is now, what do you say as to the truth of Mr. Alley's statement that the legs were sawed off of this image by Bailliard in Central Park?
 A. There is not a word of truth of any kind in that statement.
 (2357) Q. Oh, it may be that Mr. Alley is mistaken?
 A. Yes, sir.
 Q. Were you in London when the photographs or some of the photographs were taken which have been produced here or from which prints have been produced here?
 A. I was in London but I was not present when they took them.
 Q. I want to ask you whether you know if in

respect to the photographing of images such as this there is any preparation of the images by lines of sepia or pencil?

A. In this?

Q. I don't mean in this particular instance, but often?

A. Oh, often; very often.

Q. It is a common resort among photographers?

A. When lines are very faint they pencil the lines to make the camera take them better.

Q. A dark line on the object so exposed to the light and brought in the light to the camera makes the line more distinct?

A. Yes, sir; makes the line more distinct.

Q. So that a photograph of an image like this, for instance, with the lines in the drapery marked in pencil, those lines would be much more distinct?

A. More acute and distinct.

Q. Than they would be on the image without the sepia?

A. Yes, sir.

(2358) Q. I understand you that the first time that you recall observing this break across the centre—the middle—was when it was put in the bath and soaked under the Investigating Committee's directions?

A. Yes, sir.

Q. Now, General, so far as you know has there been any re-cutting of any of the ornamental work upon this image?

A. None whatever, as far as I know.

Q. These evident marks of fracture between the left shoulder and the neck, what do you know of them?

A. What the repairer told me—that in trying to get the head off for the Investigating Committee, chips came off and he was obliged to put them in that way again.

Q. And you understand that those are the original chips as they came out, so far as they appeared?

A. Certainly.

Q. At the time that you wrote your statement to the Investigating Committee do you remember having heard any charges made by the plaintiff against this statue, except those that are stated in the Art Amateur article, viz., an Egyptian statue very important for the dress and workmanship; after fixing the head which was broken off, the left shoulder has been entirely re-made, badly at that, and poorly decorated?

A. That was all the charge I heard.

Q. And none of the other charges contained in the article about the statue that has been put in evidence had then come to your knowledge?

A. No, sir.

(2359) Q. What do you say to this statement in the Composite Article: "The head belongs to one statue of larger dimensions than the rest of the figure?"

Mr. Bangs: Do you ask his opinion?

Mr. Choate: Well, I will take his opinion; yes, sir.

Mr. Bangs: I only want to know if that is the purport of the question?

Mr. Choate: Yes.

Q. What do you say to that?

A. I didn't understand the question.

Q. This statue in the article on the composite statue, as a matter of fact or opinion, I don't know which—the fifteen puzzle article—says that the head belongs to one statue of larger dimensions than the rest of the figure?

A. I leave that question to sculptors to decide. In my opinion it is harmonious. It may be a little larger, as evident from the rest of the body, but there are many specimens in the collection of the same character.

Mr. Bangs: Is that properly a part of the answer?

Mr. Choate: Oh, strike it out, if you don't like it.

Q. Are in the collection a large number, or any number, of statues, and if so, how many, where the drawings, if I may call it so, of the figure is rude and rough?

A. There are many in that condition. There

are bas-reliefs, and there are other statues—wall statues and round statues—some of which have a very long neck and some others scarcely half an inch neck. Some have a larger neck than the body requires, and some other cases the head is smaller.

(2360) Q. Now, what do you say as to this part between the neck and the base being made up of parts of different statues—three different statues?

A. My opinion is that there has never been anything else than one single piece. The stone itself shows that—the surface will.

Q. What you know is, that they were found together?

A. Found together.

Q. And that there was no other body or head found in proximity which would fit.

A. Exactly.

Q. On page 1204 he made—the plaintiff made—an explanation in regard to this. Can you account for the uniformity of color which you saw in London and the uniformity in color which you afterward saw here?

A. All that part here (indicates on the Colvin picture) was just like the accumulation of earth, and the alteration made it in kind of blotches looking very ancient, and it is quite different now.

Q. In London?

A. Yes, sir; and it is quite different now.

Q. Do you remember any special incrustation upon this figure at any time?

A. I have no recollection.

Q. How much has it been subjected to baths?

A. The first recollection I had is when the Investigating Committee put it in a bath. I never saw it, or never had my attention directed as to its condition.

(2361) Q. Now as to Sphinx, 350; is that here?

A. Yes, sir.

Q. And the Sphinx, 35; is that here?

A. That Sphinx is a large piece. I can send for it if you like.

Q. Well, I will ask you about that.

Mr. Choate: Do you make any claim about that Sphinx?

Mr. Bangs: Both.

Mr. Choate: Then I will examine him about both.

Q. 350—the Sphinx—you remember that, don't you?

A. Yes, sir.

Q. It is stated in the Art Amateur in regard to that Sphinx that this slab was found with all the upper part of the left Sphinx wanting; what do you say to that?

A. It is so. As far as I remember it is so; but the pieces which were wanting from the thing were there in small fragments—in three or four or five; I don't know which.

Q. Now I am talking about the slab that was here?

A. Yes, sir.

Q. Do you mean the left head, or which do you mean?

A. The right head.

Q. My question was the left; now, where did you find this article, Museum No. 350, called in the Art Amateur No. 35?

A. At Golgos.

Q. By you?

A. No; but I was there at the spot. One of my men found it.

Q. Well, you were there?

A. Yes, sir.

(2362) Q. Now, you say that when found this right head was off?

A. Yes, sir; and all the portion in the front going to the point.

Q. Well, where was the right head when the object was found?

It is agreed that the right head is the one intended in the Art Amateur article.

A. Near by; I won't state how much near by, but it was among the pieces, showing that in falling the pieces had come out.

Q. In "taking it up" and applying it did it fit?

A. I saw and was thoroughly convinced that that belonged to it.

Q. You were so at the time?

A. I always did say; when I was at the spot there was a quantity—thousands of fragments—and I searched them over and when I found that they did not belong to another piece I had them marked and packed away.

Q. The Art Amateur, in sketching the right head, which it alleges to have been originally wanting, draws it or represents it as standing higher than the left head; in that respect the drawing is inaccurate, of course, is it not?

A. Of course; that shows the ability of the person who did it.

Q. Well, whatever it shows, it shows the drawing is inaccurate in that respect?

A. Yes, sir.

Mr. Bangs: What did you show him?

Mr. Choate: The cut in the Art Amateur article.

Q. Now, in respect to this, has there been any work upon that Sphinx except to reset this head which was found near to it, that you know of?

(2363) Mr. Bangs: I should prefer you to ask him what work was done on it?

Q. Well, what work was done on that since it was found, to your knowledge?

A. They replaced the head and the fragments and they put a piece of stone behind to support them together; that is as far as I remember of what was done.

Q. That you call a proper repair?

A. Yes, sir, a proper repair.

Q. A proper ordinary repair properly done?

A. Yes, sir; and properly done.

Q. Now, I want you to describe to the jury the other Sphinx about which I think Alley testified, which is Museum No. 35; that is not a slab, is it?

A. It is not; it is the top of a mortuary stela, or a mortuary architectural column.

Q. Now, how large is it?

A. I suppose about two feet and a half, the width, and the column itself is about from the head of the Sphinx down—about again as much.

Q. Well, it is a very heavy object?

A. Not very heavy; but it is difficult to handle, that is the only trouble; it will break in doing it.

Q. Now, a good deal of evidence has been given here about the manufacture of legs for that Sphinx—one or both of the Sphinxes; will you tell in what condition that Sphinx was found, and what has been done in the way of repair upon it?

A. I think you will find that Sphinx in the Museum album.

(2364) Q. The photograph of the Sphinx in the red album—what is this red album?

A. It is a private album of mine.

Q. Then you can tell perhaps at what period this photograph was taken?

A. Taken in Cyprus as soon as it was discovered.

Q. Does that fairly represent the condition of the thing as discovered?

A. Except some of the pieces were broken behind and put up just as it came out of the ground.

Q. There are some small pieces behind not shown in the figure?

A. Yes, sir.

Photograph in red album marked 100, this date.

Q. At what stage or point does this photograph 74 show it?

A. Central Park, I suppose.

Q. About as it is now?

A. Yes, sir.

Q. Will you explain to the jury when and where, by whom and how, this Sphinx originally in the condition exhibited by the photograph 190 was brought into its present condition as exhibited in Exhibit 74?

A. The Sphinx was found with nearly all the legs broken and both heads wanting.

Q. Both heads off?

A. Both heads off when this was taken out of the ground. Then in looking around one of the heads, that on the left hand side, was unburied, and although chipped off considerable I was quite

satisfied that that head belonged to one of those Sphinxes. I had these Sphinxes—I had these Sphinxes taken up, all the pieces put together in pieces of papers, and brought them to the consulate residence in Cyprus; had them packed up with the pieces of the stone of the legs and of this head, and they remained there unpacked until it was sent to the United States.

(2365) Q. Well, before being packed that photograph 190 was made?

A. Yes, sir; I took that as I took all the other photographs of my things. I had it all packed up and it was sent to New York and remained for perhaps two years or three years in 14th street unpacked.

Q. Never exhibited?

A. Never exhibited, but unpacked. When we went to Central Park I took all these cases to Central Park and there I unpacked among others this case. I am not quite sure that I did unpack it myself. I believe it was Mr. Prime who unpacked it himself, and the pieces were found there and turned over to the repairer with orders to put them together. That is all as far as I can remember about this Sphinx.

Q. Now is it true that legs were made—new legs were made wholly of plaster?

A. It was impossible that they were all plaster. They were chips of the legs in front and rear, which of course required a support of plaster to keep the pieces together. As you can see the legs are very tender and the thing very big; but there is not a single leg there that is made of butfull plaster as I remember—the back of it; the front is stone mostly.

Q. Then I understand you that the legs of this Sphinx as now exhibited include the broken fragments of the original limbs?

A. Yes, sir.

Q. All the legs?

A. All the chips and pieces of the legs; which had been kept.

Q. And they are completed by the use of plaster?

A. Yes, sir.

(2366) Q. I will ask you whether you regard that as a proper repair?

A. Properly made repair and no restoration.

Q. Now, No. 40—will you bring in No. 40—the one with the apple in the left hand?

A. Yes, sir.

Mr. Bangs gives notice that he desires the large Sphinx last spoken of produced. Mr. Choate says he will produce it.

Q. Now, this is No. 40 (showing witness statue)?

A. Yes, sir.

Q. Where was that found?

A. At Golgos.

Q. In what condition was it found?

A. Without the head and without the left arm.

Q. Where were they found?

A. Next to the statue.

Q. And when applied they fitted?

A. Yes, sir. The left arm has a portion of the drapery attached to it.

Q. The left arm as found detached had a portion of the drapery with it?

A. Yes, sir.

Q. Now, are you able to find any photograph of this?

(2367) Mr. Choate asks the other side to produce the photographs used by them in their examination as to this object, which they do.

Q. Look at Doell 6-8 and see if that fairly represents it as found (showing witness exhibit 63)?

A. It is pretty fairly represented except the sandals, which are very faint, are not visible there. They don't appear in that photograph.

Q. In respect to all of these illustrations in Doell, how many removes do you understand them to be from the original object in artistic production?

A. They don't represent—

Q. I mean how many removes are they; I suppose first is the negative of the photograph, then there is the print of the photograph, and how is this taken from the print of the photograph?

A. I haven't the slightest idea.

Q. Exhibit 66 you understand to be a representation of this object as it now appears?

A. Not quite as to the head.

Q. In what respect?

A. The head is more looking downward.

Q. Since this Cox photograph was taken, this head has been off in investigating it; has it not?

A. Yes, sir; that was in the Investigating Committee, I detached it.

Q. I understand you to say that the head and left arm with a piece of drapery attached to it were found in immediate proximity to the body?

A. Yes, sir.

Q. And when applied they fitted?

A. Yes, sir.

(2368) Q. You believed and judged them to be the head and left arm of that statue?

A. Yes, sir.

Q. And they have always been exhibited as such?

A. Yes, sir.

Q. There seems to be some difference, perhaps not observed here before on the trial, between the left cheek and the right cheek; the left cheek is smooth and the right cheek looks as though it had been blistered; do you know how to account for that?

A. Yes, sir. The head when found was lying on the right hand side on the earth and ashes were there in the vicinity and probably the heat of the ashes heated the surface of the stone.

Q. I observe the same break in the bottom of the base in this photograph as appears in it now; is that so; isn't there a modern break?

A. I don't know. That is the same.

Q. It has been testified that this handwriting which marks this in the Halm album as "A limestone statue found in the ruins of an old temple at Dali" is in your hand writing; I ask you if that is so?

A. It is not.

Q. It was not found at Dali; was it?

A. No, sir; it was found at Golgos.

Q. It has been said, General, that this head is of too large dimensions for the size of the figure—what do you say to that?

A. It is not so in my opinion, but it may be to others.

(2369) It has also been said that it is a young head on an aged body, or an old head on a young body—an old head on a young body; what do you say to that?

A. I don't know what young body they mean; I say it is the same; I don't see how a piece can be young and another old when it is one.

Q. In character, I mean; which of the present line—?

A. That the head looks younger?

Q. That the head looks older than the body?

A. That I am unable to give any explanation about; in my opinion that head belongs to it; it is the same character—the same thing.

Q. You see no difference as to the age of the subject between the head and the body, do you?

A. No, sir.

Q. What do you suppose the subject is doing with that ball?

A. I would take it for an apple more than anything else; the representation of Paris, probably, in the Roman times, but I have no idea what it may be.

Q. You have never given any name to it whatever, have you?

A. No, sir.

Q. But statue of a man?

A. Yes, sir.

Q. Now I will come to Priest No. 22; is that here?

A. No, sir.

Q. Where was the Priest No. 22 found?

A. At Golgos, in the temple.

Q. Do you regard that as one of the best statues in the collection?

A. As to treatment of drapery I do, but it is not the best.

(2370) Q. In what condition was that statue found—I mean as to completeness?

A. That statue was found with the head and body together on the spot near by, the head

merely detached by the fall; it had not even moved from the place; it was detached, but it was there just right to it, and a portion of the right arm from the elbow to the wrist of the hand; the rest was perfectly intact.

Q. The base was not complete, was it, or was not perfect?

No response.

Q. I show you the Hitchcock album, page 20, and ask you if that is a Cyprus photograph—photograph taken in Cyprus—of the Priest No. 22?

A. Exactly so.

Q. With that right fore-arm wanting?

A. Yes, sir.

Q. How was that object prepared for shipment to London?

A. It was packed up; I don't know whether the head was put in the same box—very likely not—or kept by itself; the monolithic part of the stone was put in one case, and the other piece—the fore-arm and the head—I was under the impression that they had been packed up separately—to London separately—but I have no recollection now how they reached there.

Q. Did it turn out finally that the right fore-arm had been sent to New York?

A. It turned out that the fore-arm had not been sent to London.

(Objected to.)

(2371) Q. Well, state the history of the right arm—the original right fore-arm of this statue?

A. The right fore-arm, as I said, from the elbow to the wrist was found with the statue; I have no recollection if it was packed in the same box or not—probably it was not at the time they sent it to my house; it was prepared there and packed up by a carpenter to send to London with the rest of the collection; when I was in London, I found that the statue had arrived there, that the head had been put on, and that a false fore-arm had been put on the statue; in examining that statue, I found that that was not its fore-arm; I said, "Where is the forearm?" the plaintiff said, "I don't remember having seen it;" I went with him and looked around the shop if he could find among the fragments this forearm, and we couldn't find it; I said to myself that it must have, by some mistake or other, been packed away among the other fragments; I had two or three cases of small fragments, and I sent to London when I got—

Q. Well, you didn't find it in London?

A. I didn't find it in London.

Q. As it had been repaired there, or restored there, it was not changed in London, was it?

A. No, sir.

Q. Brought to New York as it was?

A. Yes, sir.

Q. Now, did you hear the testimony of the plaintiff about a conversation between you and Whalen, his clerk, in his presence, to the effect that the absence of this fore arm on this statue being observed, Whalen suggested that a new fore-arm should be made, and that you replied, "Why, it would take a Phidias to do that," and that he replied he could make one himself, and you said, "Go ahead and do it," and so it was done; do you remember that testimony?

A. I do.

(2372) Q. Did any such conversation take place?

A. Not the slightest, as when I went there the arm was already attached to the statue.

Q. Phidias was the most renowned Greek sculptor?

A. Yes, sir.

Q. His name represents the perfection of sculpture?

A. Yes, sir.

Q. Was it your opinion that it would require a Phidias to reproduce the arm of one of those statues?

A. No, sir; if Phidias had made the arm of that statue, it would have been much better.

Q. You don't regard the artists who produced this Cypriot statuary as on a par with Phidias?

A. No, sir.

Q. Is it much lower art?

only sixteen inches high, which had probably been used to contain water for sprinkling those with who were to enter the building, thus corresponding to the perirrhanterion at the entrance of Greek Temples. In shape it resembled an enormous bowl with four handles and was decorated with a wreath of ivy leaves, carved round the upper part near the rim; unfortunately, was broken in so many pieces as to be past restoration." Did you mean by that that it was past restoration altogether; that it could not be put together?

A. There were so many pieces that were not found that it was beyond repair, because it would have required a great deal of restoration to make it complete.

(2478) Q. It could have been restored in that sense, couldn't it, by applying new pieces?

A. I did not intend the word restored in that sense.

Q. Does it mean repair there?

A. It was not worth restoring or repairing.

Q. You said that it was past restoration; what did you mean by that?

A. It was past the value of so doing.

Q. Did you contemplate restoration?

A. No, sir.

Q. Could you not by making or carving a new piece in there have made a fac-simile of the old piece that was lost?

A. I am not a sculptor, therefore I do not know; you ask me as a sculptor, and I don't know.

Q. You expressed an opinion that it was past restoration?

A. Yes, sir; that is my opinion.

Q. Could not Balliard or Gehlen or Ward have taken the old pieces that were found and replace the new pieces by making them?

A. I don't know.

(2479) Q. Then what made you say that it was past restoration?

A. It was past restoration, in my opinion.

Q. You said in your communication that the accuser, (meaning, as I take it for granted, Mr. Feuardent) evidently does not know the meaning of the word restoration, which is familiar to archaeologists; how did you find that out?

A. Because he called some of the repairs in the museum restorations; that is my opinion.

Q. Did he call the putting together of old fragments which had originally been joined a restoration in any one instance, and if so, when, that you know of?

A. I do not understand your question.

Q. In any one instance did he describe the putting together of old fragments, which had originally constituted a part of the old sculpture, a restoration, and if he did when did he do so, that you know of?

A. He said that they were pieces that never belonged together.

Q. You said that he was ignorant of the use of the word restoration; you say he evidently does not know the meaning of the word restoration; where did he show that he did not know the meaning of the word restoration as well as you did?

A. By the fact of his stating that pieces belonging to each other had been put together.

Q. Where did he describe such a thing as putting together old fragments that had always belonged together as a restoration?

A. In the Art Amateur.

(2480) Q. Whereabouts in the Art Amateur?

A. My opinion is that he said so.

Q. Didn't he use the word restoration in the same sense that you used it in on page 144 of Cyprus, where you spoke of that broken vase as being past restoration?

A. I think so; that is my idea.

Q. In your communication to the committee you refer to case F. F., No. 16, a slab found in fragments, part wanting, repaired and missing portion restored by the repairer of the British Museum, without my knowledge while it was in London, &c.?"

Q. Is that the repaired slab which was exhibited here?

A. Yes, sir.

Q. Can we see that?

A. Yes, sir; it is here in court, and it can be produced.

Q. That is the article?

A. Yes, sir.

Q. Do you call that a restoration or a repair?

A. It is both a repair and a restoration.

Q. That is, it combines the two circumstances of old fragments joined together and new work put in?

A. Yes, sir.

Q. This picture at page 149 of Cyprus represents it?

A. Yes, sir.

Q. It was taken from that article as it now stands?

A. It was taken from a photograph.

(2481) Q. Who took the photograph?

A. Either from a photograph or a drawing made in this country. My book was published in London, and the objects were in New York when my book came out, and therefore I had to rely for my illustrations in my book upon photographs and drawings that I could get from New York.

Q. What was that picture in your book taken from?

A. I don't know. I don't know whether it was taken from a photograph or not.

Q. It was certainly taken after that was fixed?

A. Yes, sir.

Q. And this photograph here in Doell—does that show the condition in which it reached London, or rather, in which it left Cyprus?

A. I don't know.

Q. Don't you know?

A. I suppose so; yes, sir.

Q. That is the way it left Cyprus?

A. Without the pieces, yes.

Q. What was the next you saw of it?

A. In Central Park, in 1879.

Q. And did not you see it then between 1872 and 1879?

A. I was in Europe. In Fourteenth street I do not remember it. My recollection is, that I did not have my eyes fixed on that particular piece, as there were so many.

Q. How can you tell who filled up the holes in that?

A. Because Mr. Reddy told me that himself.

Q. That consisted in putting something in there; what is it that was put in there, stone or plaster?

A. Plaster, I think.

(2482) Q. What makes you think so?

A. I haven't examined it carefully, but it looks to me like plaster or cement.

Q. Which is it, plaster or cement?

A. May be both.

Q. You have been conversant with those things now ever since 1865?

A. Yes, sir.

Q. For about eighteen years?

A. Yes, sir.

Q. And you are now sitting some four or five feet away from it?

A. Yes, sir.

Q. You are familiar with articles of that description; from where you are now, can you tell whether the inserted piece there is plaster, cement or stone?

A. I would not be able to say from this place.

Q. Now, come down and give it a close examination, and tell what it is, plaster, cement or stone?

A. It is not stone.

Q. What is it?

A. Either a little plaster or cement.

Q. Which?

A. I could not say.

Q. How large is the inserted piece; how high up and down, and how broad?

A. I should say an inch and a half or two inches, and gradually it goes down.

Q. You assumed originally that that much material was there, shaped in plaster in the same way, didn't you?

A. Yes, sir.

Q. And yet you call it a restoration?

A. I call it a repair with some restoration to it.

(2483) Q. To what part of it does the word repair apply?

Q. All that part which is not sculptured.

Q. That is the smooth part?

A. Yes, sir.

Q. And that is the part that has been inserted?

A. Yes, sir.

Q. Then the inserted part you call a repair?

A. No, sir; I call this portion a repair, and that portion a restoration. (Witness illustrating).

Q. What is the restoration?

A. This drawn line across there.

Q. Have you any reason to believe that the part which you call a repair was ever there before?

A. Not that I know of.

Q. You said that the word repair was the joining together of old fragments; is the joining together of old fragments there the parts that are inserted there and not carved?

A. That is what I call repair.

Q. Although it was a new piece made?

A. There are old pieces of stone put together there which I call a repair.

Q. And there are some new pieces of stone put in, and new material inserted?

A. Yes, sir.

Q. And that you call a repair simply because there is no carving on it?

A. Yes, sir.

Q. And all that you call a restoration is the carving of a line across?

A. In that special thing, yes sir, the line forming the altar; it forms the altar.

Q. But all that you call a restoration is the carving or cutting of that curved line?

A. No, sir; I mean the formation of the altar by carving that line, makes it a restoration. It is that altar that I call the restoration.

(2484) Q. Do you call this line on the right a restoration?

A. Yes, sir.

Q. You call this line on my left side a restoration?

A. Yes, sir.

Q. And that is the only thing that you call a restoration?

A. Yes, sir, in that thing, I think so.

Q. Do you want to add anything to your answer after having looked at and examined the slab?

A. No, sir.

Q. There is some new matter there which consists either of plaster or cement, isn't there?

A. Yes, sir.

Q. And the insertion of that new matter you call a repair?

A. Yes, sir, certainly, to hold the pieces together.

Q. And it was in that sense that you used the word restoration in your communication to the committee, wasn't it?

A. Yes, sir, when that line forms an object, which you don't know that it was there before—a line in itself would be very little.

Q. I do not ask you to reason on that subject, but just give us the hard pan and matters of fact; what you call restoration there is the curved line on the left hand of the observer?

A. Yes, sir.

(2485) Q. And what you call the repair is the incorporation into that slab of new matter, plaster or cement, you cannot tell which?

A. Yes, sir, to support it.

Q. And it is in that sense that you used the word restoration in your article or communication to the committee in stating that Mr. Feuardent did not know what restoration meant?

A. I do not apply it particularly to that piece.

Q. You surely know what you meant by restoration?

A. Yes, sir.

Q. Then please answer my question as to whether it is in that sense that you, in your communication to the committee, use the word res-

toration when you said that, so far as you knew, there existed in the whole collection only two instances of restoration, and one of those was this article; do you mean to say by that that there was no new carving and no new piece used?

A. To my knowledge, no, sir.

Q. That is what you meant?

A. Yes, sir.

Q. You did not mean to deny that Hercules had a new leg; do you remember Hercules?

A. Yes, sir.

Q. You did not mean to deny that he had a new leg?

A. He never had a new leg; it is not true. It is absolutely false.

Mr. Choate: I object to the question as assuming a fact not proven, but the contrary of which has been proved in regard to the larger Hercules, that he stands on his own legs, with a piece inserted about a couple of inches about the ankle, which was necessary to be placed there because it was found to be necessary to saw off the fractured part originally.

Mr. Bangs: I withdraw the question.

(2486) Q. You did not mean to deny, then, when you denied that restorations had been made that some parts had been furnished in plaster without being carved, did you?

A. That is what I call a repair. Certainly not.

Q. You did not mean to deny that that had been done?

A. No, sir.

Q. You did not mean by denying that restorations had been made to deny that a great deal of plaster had been used in shaping and finishing incomplete parts?

A. I do deny that there has been a great deal of plaster used.

Q. Where did you deny it?

A. I am denying it now.

Q. In this article, did your denial that restorations had been made involve an assertion that plaster had not been used to make legs, noses and other parts?

A. Yes, sir.

Q. And in that denial you used the word restoration?

A. Yes, sir.

Q. And at the same time you said that the accuser did not know the meaning of the word restoration?

A. Yes, sir.

Q. Do you recognize this picture now shown to you?

A. Yes, sir.

Q. What is it a picture of?

A. Some of the slabs in my collection. One of them is that one there.

Said picture is offered in evidence and marked 197. of this date.

(2487) Q. You do not mean some of the slabs in your collection; you mean that one?

A. There are four or five there; if you had asked me for one I would have told you.

Q. Do you mean that it embraces that one with others?

A. The picture speaks for itself; there are five pieces there, and there is only one there.

Q. Where was this picture made?

A. I am not sure, but I think it was made in Cyprus.

Q. By whom?

A. By me.

Q. Before Doell took his picture?

A. Yes, sir, about that time, or before; I don't know.

Q. Mr. di Cesnola, I think you will say that that there is the portrait of this slab?

A. Yes, sir.

Mr. Bangs: The rest is to be excluded, then?

Q. Can you tell whether any wash has been applied to the inserted part of this slab?

A. Yes, sir, it looks so to me.

Q. There has been?

A. It looks so to me.

Q. If it was cement, the surface would be white, wouldn't it, just as it was around the neck of No. 40?

A. Yes, sir.

Q. I mean plaster?

A. Yes, sir.

Q. Would cement be used, or could it be used so broadly as that to fill up such a vacancy; would it be used in such quantities as would be required to fill up that hole?

A. It might be used with small pieces of stone. (2488) Q. But tell us, would you use such a quantity of cement as would be required to fill up that work?

A. Not being a sculptor, I don't know; that is a practical question.

Q. Don't anybody besides sculptors understand that?

A. They may, but I do not.

Q. Are sculptors first on such questions?

A. Probably; it is their practice.

Q. But you are not competent to tell in what quantity cement can be used?

A. No, sir.

Q. What would be the color of the cement if cement and not plaster had been used?

A. I don't know; I don't think it would have any color.

Q. What induced you to think that a wash has been put on?

A. The uniformity of color with the rest of the stone; that is my only reason.

Q. The same kind of wash that you have described as being put on by Balliard, consisting of milk and stone dust?

A. I don't know what kind of wash was applied.

Q. It is one of the composing parts of that wash—stone dust?

A. That has been washed and scrubbed several times by the Investigating Committee, and, therefore, it is not quite in its original condition.

(2489) Q. Did they take off the wash?

A. No, sir; but they applied the sponge.

Q. And that changed its appearance?

A. It brought out what looks to me like plaster.

Q. Do you wish it to be understood that that article has ever been exhibited in the British Museum?

Witness: What article do you mean?

Counsel: That slab.

A. I never said a word about it. I don't know whether it was there or not. I know it was down stairs in the basement of the British Museum, because Mr. Reddy told me so.

Q. In the basement of what?

A. In the basement of the British Museum.

Q. That is not a place for exhibition?

A. No, sir; it is the repairing room.

Q. Did you ever talk with Feuardent about it?

A. Not that I remember.

Q. When did you take up Nanuette as your place of residence—Nanuette, Rockland County, where your letter from you to Mr. Hitchcock was addressed on August 22d, 1865?

(Objected to as immaterial; objection overruled.)

A. I only went there to spend one or two or three weeks; I went there to a boarding-house in the summer; I was residing in New York before that.

Q. After your mustering out of the army until you went to Nanuette, were you residing in New York?

A. Some part of it, I believe. I am not quite sure.

Q. Do you remember any place other than New York where you resided during that period?

A. Washington and New York.

Q. How long did you reside in Washington?

A. I do not remember; it is so many years ago that I cannot remember.

Q. Do you remember your professional pursuit while you were in Washington—your profession, or calling, or avocation; what business were you in? A. None.

Q. Were you soliciting office?

A. No, sir.

Q. What business or pursuit were you in in New York after you were mustered out of the army?

A. Giving lessons in military tactics to officers.

Q. Officers of the army?

A. Officers of the volunteers and officers of the National Guards. Anybody that wanted to learn.

Q. Not after the war was over; but after you were mustered out?

A. Yes, sir.

Q. From the time that you were mustered out until you went to Nanuette; that is the period that my present question embraces; confine yourself entirely to that?

A. I do not remember when I was mustered out, but I think it was towards the end of 1864; I do not know what month.

(2491) Q. What was your rank when you were mustered out?

A. Colonel.

Q. That commission came from the State?

A. Yes, sir.

Q. Colonel of the Fourth New York Cavalry?

A. Yes, sir.

Q. What was your rank when you went into the army?

A. Colonel of the Fourth New York Cavalry.

Q. At what date was that regiment mustered in?

A. I don't remember.

Q. Was it in 1861, as early as 1861?

A. Some time in 1861; I think so.

Q. And then you served in the army of the Potomac?

A. I was not then in the Fourth New York Cavalry.

Q. What was your rank when you entered the army?

A. I was not mustered in the army from the Fourth Cavalry; I was mustered in the Eleventh New York Cavalry.

Q. You were mustered in the army in New York?

A. No, sir; that regiment never went into the field; it was filled as the Scotch Ninth, but it was afterwards made the Eleventh New York Cavalry.

Q. Were you ever mustered in the army?

A. Yes, sir.

Q. When?

A. When we reached Washington, with the Eleventh New York Cavalry.

Q. What date was that?

A. Some time early in 1862.

Q. Is it your present recollection that you were mustered out towards the end of 1864, or the beginning of 1865?

A. Yes, sir.

(2492) Q. Then you were in the army about three years?

A. Well, I was not in the field; I was in the army, but not mustered in it.

Q. You were in the army while you were a prisoner?

A. Yes, sir; but I mean before that.

Q. You were a soldier under pay for about three years?

A. Over that.

Q. Three years and a half?

A. About that.

Q. Have you ever demanded any pay, or perquisites, or rations, since the time when Mr. Lincoln told you that he was going to appoint you brevet Brigadier-General?

A. I do not quite understand your question.

Q. Have you ever demanded or received any pay, perquisites or rations, since the time Mr. Lincoln told you that he was going to appoint you brevet Brigadier-General? A. No, sir.

Q. Have you ever asked for any?

A. No, sir.

Q. Have you ever received any kind of emolument?

A. No, sir; it was merely in title; there was no pay attached; it was not an actual rank I filled; it was only the brevet rank; it was not the actual rank.

Q. Out of the three years or more, whatever the period was, when you were a soldier of the United States Army, you spent some time in Libby prison?

(p. 2468)

Exhibit 195.

LARNACA, NOV. 24, 1871.

Dear Sir: You will find enclosed herewith the bill of lading of the last shipment, the catalogue of which I sent you yesterday. It contains all the glass and the remainder of the terra-cotta objects, vases, &c.

With this shipment you have my entire collection of antiquities, with the exception of several hundred vases, which I shall not send you, as they are ordinary vases though undamaged, unless you write me to that effect.

I shall be obliged to draw on you for a further sum of 200 pounds sterling, as I have the expenses of this shipment, marine insurance, &c., &c., to pay. Telegraph me the arrival of the entire collection. Yours, &c.,

(Signed) L. P. DI CESNOLA.

It is offered in evidence and the translation of it is marked Exhibit 195, of this date.

Mr. Bangs: It is a paper dated at Larnaca, November 24th, 1871. The original is attached to the commission issued out of this Court to Mr. Feuardent, Sr., in Paris, and is produced in answer to my call.

Q. I should like to ask you how you reconcile your statement made in that letter with your statement made just now that you had a large collection left in Cyprus, or that you had a great many antiquities left in Cyprus, or whatever the expression was?

A. That statement is all right.

Q. Are both of them true?

A. Yes, sir.

Q. Is it true that you shipped your entire collection?

A. The entire collection that I had at my house in Larnaca; that is what I meant.

Q. But it does not say so here?

A. I don't care; that is what I meant.

Q. Was that statement true?

A. It is true as far as my house is concerned in Larnaca; the jury will understand, when they see the map, where the antiquities came from, they were so heavy that I was obliged to leave them where they were dug up, and I had reference to my entire collection in Larnaca.

Q. What did that consist of?

A. In some places of sculptures, in some places of glasses, and in some places of lamps.

(2164) Q. They do not all consist of several hundred vases?

A. No, sir; there were different objects.

Q. Is that all the explanation that you have to make for that statement, that with that shipment they would have your entire collection of antiquities, and your statement now that you retained quite a large collection in Cyprus?

A. They had the entire collection which I intended to dispose of at a public sale—that I intended to dispose of through their agency. I speak of it in my book as my private collection.

Q. This letter says: "With this shipment you have my entire collection of antiquities, with the exception of several hundred vases which I shall not send you, &c., &c.," and now you have testified that a large portion of your antiquities, besides those antiquities were left in Cyprus; are both of those statements true?

A. Yes, sir; it is quite true. I meant what I had at Larnaca.

Q. My question is as to what you expressed in this letter, and not what you meant; were those two expressions true that you shipped them your entire collection, and at the same time retained in Cyprus a large portion of your antiquities?

(Objected to as immaterial.)

The Court: I think he has answered what he meant. I understood him to say that both statements were true.

Q. How do you reconcile your statement that you had a large quantity of antiquities left in Cyprus with this statement in your letter of November 29th, which has been read in evidence: "Dear Sir: My entire collection has been sent to you in six different shipments." Do you observe any discrepancy between that statement and your statement made just now that you had a large

quantity of antiquities left in Cyprus; is there any discrepancy between those two statements that you now wish to explain?

A. I do not see the discrepancy; it bears out my explanation to the Court.

(2465) Q. Your book says at page 175 this: "As I thought of the heavy cargo, and the sudden squalls which frequently arise in these latitudes at the time of the year, my heart had many misgivings—all my treasures were there, and not one piece insured;" that is what the book says; I now call your attention to your letter of November 24th, which has been read in evidence this morning, wherein you say: "I shall be obliged to draw on you for a further sum of 200 pounds sterling, as I have the expenses of the shipment, marine insurance, etc., etc., to pay;" do you see any discrepancy between that statement in the book that not one piece was insured, and the other statement in that letter, and if there is any discrepancy, will you please explain it?

A. There is a discrepancy, but I can easily explain it.

Q. Please do so?

A. The cargo started from Larnaca in Cyprus, where there is no marine insurance, and I was obliged to send it without insurance until it reached Alexandria; thence from Alexandria it was insured. In Cyprus it could not be insured for that reason.

(2466) Q. Did you obtain a policy of insurance yourself?

A. I do not remember.

Q. What company did you insure in?

A. It was insured in Alexandria; I don't know in what company; I was not there.

Q. Have you any recollection as to whether you received a policy of insurance?

A. I have not.

Q. Have you any recollection of the amount for which you insured this collection?

A. I have not.

Q. Do you see any discrepancy between the statement which I have just read to you, "that all my treasures were there," and your statement that a large part of your discoveries remained in Cyprus, and if you do see any discrepancy, do you wish to explain it?

A. It is easily explained what I meant by treasures. By treasures I meant my gold objects. I put them on board with insurance. The word treasures means both the objects and my private treasures—my little collection of gold objects, &c.

Q. Was that little collection consigned to Feuardent & Rollin?

A. No, sir.

Q. Then was it for the expenses of insuring your private collection that you drew upon them?

A. It was for the expenses connected with the shipping and everything else.

(2467) Q. For your private expenses as well?

A. Yes, sir, why not?

Q. Because you were not going to put them in their custody, were you?

A. No, sir.

Q. You did not put that private collection against which you drew on them for insurance, &c., in their custody?

A. No, sir.

Q. Who acted for you in obtaining that insurance at Alexandria?

(Objected to as immaterial; objection overruled.)

Q. Do you remember now who acted for you in obtaining the insurance at Alexandria?

A. I do not.

Q. Will your note book give you any information on that subject, or give us any information?

A. No, sir, not that I know of. You may examine it.

Q. Your book says: "I decided to pack up everything, and if need be, to embark them by force"; do you see any discrepancy between that statement and the statement made this morning that you left a large part of your collection in Cyprus?

A. I have already explained that.

Q. Then you do see the discrepancy?

A. I have already explained that.

Q. Your book says: "I applied to our Secretary of the Navy for a man-of-war to convey my collection to the United States, which he very kindly promised to send, and gave orders to the commander of the American squadron in the Mediterranean to that effect"; was that promise in writing?

A. I believe so.

(2468) Q. Did you receive it?

A. Not directly from the Secretary of the Navy.

Q. Whom did you receive it from?

A. From the officer in command of the squadron at Nice.

Q. Who was that?

A. I do not remember the name just now.

Q. Has that letter survived the conflagration?

A. I do not think it did.

Q. Did you intentionally burn it up?

A. No, sir.

Q. Did you accidentally burn it up?

A. No, sir.

Q. How came it to be burned?

A. I do not say that it is burned.

Q. Was it destroyed?

A. I don't know whether it was or not.

Q. What destroyed it?

A. I don't know if it is destroyed.

Q. Where is it if it is in existence?

A. Among my papers, I believe.

Q. Will you look for it?

A. Yes, sir.

Q. Who was the Secretary of the Navy to whom you applied for a man-of-war?

A. I do not remember his name now.

Q. Was it Mr. Gideon Wells?

A. I do not know.

Q. Was it Mr. Robson?

A. I believe it was.

Q. You did not remember it until I suggested the name to you?

A. I did not.

Q. In your last correspondence with Mr. Feuardent did you specify the number of cases of which your collection would consist, when sent to him?

A. I do not think I did.

(2469) Q. Did you specify its value?

A. I may have done so, but I do not remember.

Q. Did you?

(Objected to on the ground that it calls for the contents of a written instrument.)

Q. Mr. di Cesnola, in your correspondence with Feuardent & Rollin, did you specify the number of cases of which your consignment was to consist, or its value, or any other particulars, and if so, what did you specify?

A. I have not the slightest recollection of what passed so many years ago.

Q. How do you reconcile that with your answer in which you purport to give the contents of their letter to you?

A. I gave it as far as my recollection could help me.

Q. Have you confidence in your recollection on that point?

A. As much as I possibly could have, according to my memory.

Q. Is your memory perfectly clear as to the contents of that correspondence with Feuardent & Rollin, of which you gave the contents the other day?

A. I do not know what correspondence you allude to.

Q. I referred to the correspondence in which an arrangement was made by which you were to send your consignment to them; when you gave that answer were you speaking from memory?

A. I confess I do not understand the question at all.

(2470) Q. Don't you remember that you testified the other day that you made an arrangement with Rollin & Feuardent about your collection, the terms of which you swore to; don't you remember that? A. Yes, sir.

Q. In that answer you had reference to a letter?

A. Yes, sir.

Q. Did you answer as to the contents of that letter from your memory?

A. Yes, sir.

B. Is your memory of what you wrote to them as clear as it was on the subject of what they wrote to you?

A. Pretty nearly so.

Q. Then tell us what you said in that correspondence as to the extent or nature, or value, or other particulars of the collection?

A. As far as I recollect I wrote to them that I would send whatever I had with me in Cyprus, and that meant whatever I had with me—

Q. I am not asking you what you meant, but what you said?

A. Whatever I had with me in Cyprus.

Q. That was the exact expression, was it?

A. No, sir, as far as my recollection goes I said to them that I would send the collection, or all of the collection that I had with me, for the purpose of selling it. When I spoke of the collection, it was especially the Golgos collection, which was the important one.

(2471) Q. Did you speak of the Golgos collection especially?

A. No, sir, not that I know of.

Q. What did you write to them?

A. As far as I recollect, what I said just now.

Q. Did you confine yourself to the Golgos collection?

A. Not so; that was the most important one.

Q. Then you spoke of your collections generally?

A. Yes, sir, I did.

Q. Without specifying quantity?

A. Yes, sir.

Q. Was there a sum agreed upon as a price at which they might take the collection?

A. No, sir.

Q. Was the amount of the advances made by them specified?

A. No, sir.

Q. Were the terms of sale specified—their compensation or commission?

A. Yes, sir.

Q. But not the basis as to the quantity or quality, or value upon which their advances were to be based; that was not stated?

A. They never did anything without first seeing the objects that I sent, and then they made the advances.

Q. But how was it in this correspondence that you speak of?

A. I do not recollect.

Q. You state on page 174 of your volume: "There were my boxes all ready to be shipped, and there was the vessel waiting to receive them;" does that refer to the 360 cases?

A. Yes, sir.

(2472) Q. You observe at the top of page 175 of your book the head line: "Evasion of Turkish orders;" did you evade the Turkish orders in making that shipment?

(Objected to as immaterial.)

The Court: I think I must restrict the cross-examination on that point. He states in substance and in fact that he, or his men, evaded the orders of the Turkish officers. How he evaded them, or whether it was proper to evade them, or whether there was any evasion at all, and whether he did not exceed his duty as Consul in evading the Turkish orders, I think that is going too far.

Q. There is that phrase on the top of the page: "Evasion of Turkish orders;" Do you want to give any explanation of that?

(Objected to as immaterial; objection sustained.)

Q. Is this statement in your book true: "Right, I cried, go quickly to the Custom House and tell the Director that I wish to see his two telegrams. Shortly afterwards that official arrived and very politely requested Besbes to read and to translate them for me. When he had finished I asked, 'Have you any orders to prohibit the Russian Consul from exporting antiquities?'" is that true?

(Objected to as immaterial, and as coming within your Honor's ruling.)

(2473) The Court: I have ruled upon that question, but if that was the only question, I might allow it. But, as I understand it, you propose to continue the cross-examination upon other parts of the book, and therefore, in my opinion, I cannot allow the cross-examination to be too much prolonged upon two or three pages.

Mr. Bangs: I cannot say now that I shall put more than one or two questions upon this particular subject.

The Court: From the whole book?

Mr. Bangs: No, on this particular subject of the shipment.

The Court: Go on, I will permit the question.

Q. I will just read a little back of what I have read and ask you whether this statement is true: "I understood then what he meant, though my Western civilization would never have arrived at this truly Oriental solution of the difficulty. 'Right, I cried, go quickly to the Custom House and tell the Director that I wish to see his two telegrams.' Shortly afterwards that official arrived, and very politely requested Besbes to read and to translate them for me. When he had finished I asked: 'Have you any orders to prohibit the Russian Consul from exporting antiquities?'" Is that statement true?

A. It is true.

Q. Did you get a clearance in the name of the Russian Consul?

A. Yes.

(2474) Q. Is this whole statement in your book, commencing with the words, on page 173: "I applied to our Secretary of the Navy for a man-of-war," to the end of the chapter, ending in these words: "In speaking of it he declared that the whole thing had been most cleverly managed, and it was a pity I had not been born a Turk," is the whole of that statement true?

A. It is substantially true.

Mr. Bangs: Will please let me see that newspaper slip which had a reference to the army, and may I be permitted to read the letter that was sent in connection with it?

Mr. Stickney: Certainly, I produce the paper.

Mr. Bangs: Defendant's counsel produce the letter and after inspection I read it, every word of it, and Mr. Choate says there is nothing in it. He is wrong, as the reading of it will prove. I offer it in evidence. It is marked Exhibit 196 of this date, and is read in evidence.

Exhibit 196—December 14, 1883.

NANUET, ROCKLAND COUNTY, N. Y., }
August 22, 1865. }

My Dear Friend: Yours of the 19th is at hand, and many thanks for your ever unexhausted acts of true friendship. I hope God will put me a day in such a condition as to show you my gratitude better than in words. Mr. Teodoro Manara, commission merchant, 10 Beaver street, very likely will go bondsman for me, or he may find one. You will find here two lines for him. I have also Mr. Edward Boyle, City Surveyor, and Frank S. Allen, broker, 19 Broad street, but both are out of town. I have time to file my bonds until the 1st of September, and if you have to go out of town, if you come before the end of the month would do as well.

In great haste, your friend,

L. P. DI CESNOLA.

P. S.—My wife sends you her best regards.

P. S.—I inclose you an official notice of my promotion as Brigadier-General of Volunteers by brevet.

L. P. DI C.

THE ARMY.

PROMOTION OF COLONEL L. PALMA DI CESNOLA.

Colonel L. P. Di Cesnola, the newly-appointed American Consul to Cyprus, has been brevetted Brigadier-General of Volunteers, after four years' constant service as a brigade commander.

Q. That slip of newspaper went to Mr. Hitchcock with that letter, did it not?

A. I have no recollection of it, but I suppose so. The letter states so.

Q. Can you tell who the letter was sent to?

A. Yes, sir.

Q. Was that letter sent to Mr. Hitchcock?

A. Yes, sir; I believe so.

Q. Is that the slip of paper which you describe in the letter as the official notice of your promotion?

A. The words of my letter will show.

(2475) Q. And this slip of paper comes out of the New York Herald; is that your recollection?

A. Some paper. That is all I remember.

Q. Have you any other written or printed evidence of your promotion as Brigadier-General of Volunteers by brevet than that newspaper slip?

A. I may be able to find some other. If that was published in the Herald, I may be able to find some other paper that published it. I have not looked to see. I did not know that you were going to ask me this question.

Q. Did you not understand my question—I will repeat it to you: Have you any other written or printed evidence of your promotion as Brigadier-General of Volunteers by brevet besides that newspaper slip?

A. I do not know of any other.

Q. Do you know the date of the paper from which you cut that slip?

A. I do not. It must have been some time in August or September of that year; it must have been in August.

Mr. Bangs: We will take the statement of the witness for the present, subject to correction hereafter. The witness says it must be in August.

Q. Have you been a reader of military books?

(Objected to as immaterial.)

The Court: What is the object of the question?

(2476) Mr. Bangs: I want to show that the use of the word General violated what he knew to be the rules and precedents of military, literary and social usage in the country in which he circulated his cards and his book, and I wish to infer from that a fraudulent intent—an intent to pass himself off for something that he knew he was not; that is my object, and that is my method of doing it.

The Court: My opinion is that the substantial facts in regard to his assumption of the title of General have been properly brought out, and it is unnecessary to prolong the investigation by an examination upon his authority on the subject. The facts have been substantially brought out.

(Objection sustained.)

Mr. Bangs: The file of the New York Herald under date of August 18th, 1865 is produced and it contains the little paragraph on the slip, exhibit 196.

Q. What is the difference between a repair and a restoration, according to your understanding?

A. A restoration is to make a piece new, which is a sculpture, and a repair is to attach the pieces which is not a sculpture, to another piece in order to make the repair correct. In other words, a piece is put in to support a repair.

(2477) Q. The furnishing to a dilapidated trunk of a leg in place of the one which it is pretty clear it had before, what is that, a restoration or repair?

A. It is a restoration.

Q. What would you call this: apply it to the case of the Portland vase that Dr. Barnard spoke of, made of porcelain and broken by a blow into a hundred fragments which remain there and can be picked up and fitted to each other with accuracy; is that a repair or a restoration?

A. That is a repair, and not a restoration in my opinion.

Q. Would that same opinion apply to a vase seven feet in diameter and sixteen inches high?

A. Yes, sir.

Q. Now I will read to you from your book, chapter 5, page 144, which I believe is headed Cyprus—page 141 is headed "Sculpture in the Temple of Golgoi, page 143." Page 143, "Difficulties of excavating sculptures;" and page 145 "Statues in Egyptian style." I will read to you from page 144 as follows: "In the East wall near the southeast corner, was an aperture which had probably been an entrance; near it was discovered a stone vase seven feet in diameter, and

and export antiquities from Cyprus for sale at auction?

A. Yes, sir.

Q. How many such consignments did you make?

A. Four or five in ten years.

Q. And you made four or five consignments in ten years?

A. Yes, sir.

Q. From memory can you state any of the particulars of those consignments other than those to the plaintiff; leaving out of the account the goods or antiquities that you sent to the plaintiff or his firm, can you give the particulars of the other consignments that you made for the purpose of sale?

A. I cannot now.

Q. Can you give any of them?

A. I remember one in London.

Q. To whom was that?

A. To Sotheby, Wilkinson & Dodge.

Q. In what year was that?

A. At the end of 1870 or the beginning of 1871.

Q. Can you remember any other?

A. I do not.

Q. Do you remember, or do you know the firm of Hoffman & Co., of Paris?

A. I did know a Mr. Hoffman, but I did not know the firm to which he belonged.

Q. Do you know the house of which you knew Mr. Hoffman to be a member?

A. No, sir; I knew Mr. Hoffman personally.

Q. Was he not a merchant or auctioneer, or dealer in antiquities in Paris?

A. I don't know that.

Q. Did you ever send any goods to him to be sold by him?

A. Yes, sir.

Q. Were they sold?

A. They were.

Q. Have you preserved the catalogues of those sales?

A. I don't think I ever received the catalogues of the sale.

Q. You received an account of sales and the proceeds of the sale?

A. I received the proceeds of the sale, but I do not remember having received the account of sales. If I did it may have been burned with all the papers and correspondence in Cyprus.

Q. What other correspondence?

A. As I stated the day before yesterday, the Cyprus correspondence.

Q. Are Hoffman & Co. and Sotheby, Wilkinson & Dodge the only persons to whom you made consignments of antiquities for sale?

A. As far as I know they were.

Q. You made one consignment to Sotheby, Wilkinson & Dodge? A. Yes.

Q. And one to Hoffman?

A. Yes, sir, one or two.

Q. Will your note book give you the means of discovering when those consignments were sent?

A. No, sir; there is no account on that book except the consignments made to the plaintiff.

(2453) Q. You gave from your note book the dates of the consignments to the plaintiff's firm?

A. Yes, sir.

Q. Can you not as well give us the dates of your consignments to Hoffman & Co.?

A. No, sir.

Q. Or to Sotheby, Wilkinson & Dodge?

A. No, sir.

Q. When did you visit Ormidia and explore there; in what year?

A. In 1867 or 1868, and again in 1873, 1874, 1875 and 1876.

Q. Were all your later visits, that is, those of 1873, 1874, 1875 and 1876, made after your explorations at Golgoi had ceased?

A. I do not understand your question.

Q. Had you not got through with your explorations at Golgoi before you visited Ormidia in 1873?

A. I don't know what you mean by Golgos. Golgos is a large place.

Q. Hadn't you completed all your work that you ever did at Golgos before you went to Ormidia in 1873?

A. No, sir; I continued everywhere in the Isle of Cyprus, Golgos as well as Ormidia.

Q. After 1873?

A. Yes, sir.

Q. Do you remember when you were appointed Russian consul?

A. I was never appointed Russian consul. I was requested to act as Russian consul for seven years.

Q. From whom came that request?

A. From the United States Minister at Constantinople.

(2454) Q. Who was he?

A. George H. Boker or Mr. Morris, I don't know which it was.

Q. Can you remember which?

A. Not at this moment.

Q. Can you remember the date?

A. 1868 or 1869.

Q. And how long did you act as Russian Consul?

A. Until I left the Island of Cyprus the first time.

EXTRACT FROM "CYPRUS," pp. 173-176.

"I applied to our Secretary of the Navy for a man-of-war to convey my collections to the United States, which he very kindly promised to send and gave orders to the commander of the American Squadron in the Mediterranean to that effect, but the opportunity of chartering a vessel, which is of very rare occurrence in Cyprus, happening soon after I had packed all my antiquities, I decided not to let it escape, and therefore wrote to the Governor-General, that I desired to know whether he intended to prevent the shipment of my collection by force. In reply he sent me a copy of the Grand Vizier's despatch sent to him some months before, when he had asked what action he should take in regard to my discoveries at Aghios Photios. In this despatch he was instructed to prevent their exportation. The Pasha added that he hoped I would not place him in so disagreeable a position. The schooner I had chartered was still discharging her cargo, and for some days would not be ready to receive my 360 large cases. I made sure in the meantime that the action of the Pasha would be confined to a written protest, and resolved to let him protest as much as he pleased.

Two or three days after a Turkish ship-of-war arrived unexpectedly in the bay with some political prisoners. This rather disconcerted me, particularly as it anchored almost in front of my residence. Nevertheless, I determined, *enite que coite*, to try the experiment, and sent my confidential dragoman Besbes to the Director of the Custom House to request an order from him for the exportation of my cases. He showed him a telegram from the Porte forbidding the American Consul to ship anything, and regretted his inability to oblige me, but his orders were positive, and, moreover, this was the second telegram that had been sent to him on the subject, the latter one having arrived that very morning. I confess this news lent rather a dark view to things. There were my boxes all ready to be shipped, and there was the vessel waiting to receive them. On the other hand, there were the two telegrams forbidding it, and there was the Turkish corvette lying very peacefully just then in full view, but who knew, if I persisted, whether she might remain so? Who knew what orders the Turkish commander might have received? There was the protest of the Governor-General. This last, it is true, troubled me the least.

I sat pondering moodily, Besbes looking at me through his great blue spectacles with his red-rimmed eyes and impassable aspect (he is one of the ugliest men I think I ever saw, but at the same time one of the most faithful). "Besbes," said I, "these antiquities must and shall go on board the schooner this day!" Suddenly I saw a sort of a twinkle in his eyes, and a curious expression dawned on his lips as he said, looking very meekly at me, "Effendi, those telegrams are to prevent the American Consul from shipping antiquities," and then he stopped. I replied with some heat, "You seem to take pleasure in

repeating the information to me—I should think I ought to be aware of it by this time." Besbes did not lose a particle of his equanimity, but only said still more meekly, "There was nothing in those orders about the *Russian Consul*." I understood then what he meant, though my Western civilization would never have arrived at this truly oriental solution of the difficulty. "Right," I cried; "go quickly to the Custom House, and tell the Director that I wish to see his two telegrams." Shortly afterwards that official arrived, and very politely requested Besbes to read and to translate them for me. When he had finished I asked, "Have you any orders to prohibit the Russian Consul from exporting antiquities?" He thought for a moment, read his orders over, and declared that they were clearly for the American Consul only, and admitted that he could not refuse to give me the permission should I ask for it in the usual official manner as Consul for Russia.

Fifteen minutes after this I had the order in my hand, and all the *fauchini* of Larnaca at work rapidly removing the cases to the lighters. Five hours afterwards all my cases were on board, and the schooner, now laden to the water's edge, left for Alexandria, where they were to be reshipped for London. As I thought of the heavy cargo, and the sudden squalls which frequently arise in these latitudes at that time of the year, my heart had many misgivings—all my treasures were there, and not one piece insured! My faithful Besbes accompanied the craft, with no protection against the waves or Turkish law but his own ingenuity, and the little Greek flag which floated at the mast-head.

One whole month elapsed before I knew the fate either of my cargo or of my more than devoted dragoman. At the end of this time the face of Besbes appeared one morning at the door of my *chancellerie*, elated by the entire success of his enterprise, and at that moment it seemed to me one of the most agreeable faces possible. My fears of a rough sea and stormy weather had not been groundless. Stress of weather had obliged the captain to put into Port Saïd for a week, and on his arrival at Alexandria, no steamer being in port for London, Besbes determined not to abandon his charge, but to wait until he could see everything safely transhipped.

Said Pasha said he had heard nothing of the matter until his arrival in Larnaca, shortly after, on his way to Constantinople, whither he had been recalled. In speaking of it he declared that the whole thing had been most cleverly managed, and that it was a pity I had not been born a Turk."

Q. Do you remember the shipment which is described at the end of chapter 6 of your book on Cyprus which I read to the jury in your hearing the other day, wherein Besbes had some part, and in which you stated "as I thought of the heavy cargo, and the sudden squalls which frequently arise in these latitudes at that time of the year, my heart had many misgivings—all my treasures were there, and not one piece insured." Do you remember what shipment that was?

A. Yes, sir; I think it was in October, 1871.

Q. To whom?

A. To the plaintiff's house, Itollin & Feuardent, in Paris.

Q. Was it one of the shipments which constituted a part of the collection in London which you have described and which finally came to New York?

A. Yes, sir.

Q. Did you, after making that shipment and before sending anything to the plaintiff, make further explorations? A. Yes, sir.

Q. Where did you make those further explorations?

A. Everywhere through the island.

(2455) Q. When did they end; I mean the explorations which embraced all that you sent to the plaintiff's firm?

A. Two or three days before I finished packing up the things that were sent.

Q. What date was that when you finished packing up?

Q. Some time in September or October.

Q. 1871?

A. Yes, sir.

Q. Did you ship anything to the plaintiffs after the shipment described in chapter six of Cyprus, which I have just read?

A. I think so.

Q. When did you make any subsequent shipments?

A. I could tell you by referring to my note book.

Q. Had you made any previous shipments to the plaintiff separately.

A. I think I did, one or two small consignments of a few cases.

Q. This article says "The schooner I had chartered was still discharging her cargo, and for some days would not be ready to receive my 360 large cases. I made sure in the meantime that the action of the Pasha would be confined to a written protest;" do you remember the number of cases embraced in that shipment?

A. I do not.

Q. Do you remember stating the other day that the number of cases that you shipped to the plaintiff's firm was 166.

A. Yes, sir.

Q. Can you tell me what became of the difference between the 166 and the 360 cases mentioned in the book?

A. There was probably something else which the Russian Consul shipped to Europe.

Q. Who do you mean by the Russian Consul?

A. The man who represented the Russian Government there.

Q. Who is he?

A. I.

Q. Can you give any reason for not telling me who the Russian Consul was, when you stated that it was the Russian Consul and the man who represented the Russian Government?

A. None, whatever. The Russian Consul was obliged to sign the bills of lading, and they were shipped in his name; and that is the reason why I said so. It is the duty of the Russian Consul to make and sign the bills of lading; and therefore there may have been 100 or 500 shipped by the same vessel by the Russian Consul. That was to certify simply to the quantity of cases shipped on board of that vessel.

Q. Did you certify to the whole 360 cases?

A. Yes, sir; but they may not all have been mine.

Q. But this book says that they were yours?

A. It may be so; but they were not antiquities.

Q. Do you remember what they were?

A. No, sir.

Q. Did you explore for or ship or export anything besides antiquities?

A. Yes, sir.

Q. What?

A. Furniture of my own.

Q. Anything else?

A. No, sir.

Q. Did you ship your furniture on that occasion?

A. I do not remember.

(2457) Q. If you did, did it make up the difference between 166 cases and 360 cases?

A. Very likely it did.

Q. Then your furniture made 194 cases, and your antiquities made 166 cases—was that it?

A. Probably.

Q. What was the character of the furniture that you shipped?

A. Such as a poor consul can buy.

Q. Was it house furniture?

A. Yes, sir—bedsteads, mattresses, sofas, piano, whatever formed the furniture of a house.

Q. But no correspondence?

A. No, sir.

Q. That you destroyed?

A. Yes, sir. I did not destroy it all, but I destroyed most of my bulky correspondence.

Q. But you are prepared to state to this jury now as being a matter within your memory, that those 360 cases embraced the 166 cases sent to the plaintiff's firm, and 194 cases besides?

A. I have not the slightest recollection what they represented.

Q. Did it embrace the 166 cases that you sent to the plaintiff's firm, or not?

A. Probably.

Question repeated.

A. I don't know.

Q. Assuming that those 360 cases shipped on one schooner embraced the 166 packages sent to the plaintiff's firm, how do you reconcile your statement in your book on that subject with the statement that your consignments to the plaintiff's firm consisted of 6 shipments?

A. I have not the books before me from which I can refresh my memory.

(2458) Q. Have you the books before you from which you refreshed your memory when you wrote your work on Cyprus?

A. No, sir.

Q. Do you want to leave your testimony in this unexplained condition?

A. Yes. I do not care anything about it, either one way or the other.

Q. You are perfectly well aware of the discrepancy?

A. Yes, sir, I can see it now.

Q. Is it a fact that you put on board one schooner for Alexandria in 1871 166 cases of antiquities for the plaintiff; is that the fact?

(Objected to; objection overruled.)

A. No, sir.

Q. Why did you state so in this book?

(Objected to, unless it appears that he did.)

Adjourned to December 14th, 1883, 10 A.M.

NEW YORK, December 14th, 1883, 10 A.M.

(2459) Present: All parties.

LOUIS P. DI CESNOLA'S cross-examination continued as follows:

Mr. Choate: Mr. Bangs, we have now the commission of General di Cesnola as consul to Cyprus, and produce it.

Q. Is there anything in your testimony given yesterday that you want to correct, and if so, I should like to have you make the correction now; is there any matter affected by your testimony yesterday in which you find any error, or that you wish to make any correction in, and if so, I wish you would be pleased to make the correction now?

A. Yes, sir, about the question of the 360 packages, or whatever it was.

Q. You wish to make a correction in regard to that? A. Yes, sir.

Q. What is it?

A. It is that among those packages there was not the entire collection of the packages which I sent to Rollin & Feuardent in London. I did not understand the question as to whether all the pieces had been sent there. You asked me whether it was all the collection of 166 cases included in the 360. I said I did not know. I meant to say that I do know.

Q. How came you to make that mistake?

A. Because I did not remember. My own book shows that I sent them at different times.

(2460) Q. Which book?

A. My note book.

Q. Then you go by your note book in preference to your memory?

A. Most certainly, if my memory is not very good.

Q. But you said yesterday that the shipment of 360 cases did contain the 166 cases?

A. I did not say so.

Q. From your memory, will you please state what the fact was as to whether the 360 cases mentioned in your book included, or not included, the 166 cases shipped to Feuardent & Rollin?

A. From my best recollection they did not include them.

Q. Then how was the cargo of 360 cases made up, or how was the shipment or consignment of 360 cases made up; what did it consist of?

A. Of different things.

Q. Please follow me to page 175 of Cyprus,

from which I will read the following: "Fifteen minutes after this I had the order in my hand, and all the facchini of Larnaca at work;" what are facchini?

A. They are porters.

Q. How many porters were there at Larnaca?

A. I have no recollection; I had those that could be gotten.

Q. You go on in your book and state that "five hours afterward all my cases were on board;" you recollect that, do you not?

A. Yes, sir.

Q. That is so, is it not?

A. Yes, sir.

Q. Give us your account of what was shipped, does all this reading on page 175 enlighten you as to the 360 cases shipped; what did it consist of, and what was in them?

A. As I said yesterday, there were a number of boxes containing antiquities; a number of boxes containing furniture; some of the boxes containing wine, and some other boxes contained madder root, but I cannot remember exactly how many boxes there were of each kind in that consignment on that schooner.

(2461) Q. Had you any antiquities left after that shipment?

A. Plenty.

Q. In Cyprus?

A. In Cyprus, certainly.

Q. Not shipped?

A. Not shipped.

Q. You spoke of chartering a schooner; have you the charter party—did that survive the burning?

A. No, sir, unfortunately.

Q. Are the contents of that shipment specified in your note book?

A. No, sir.

Q. Look at your note book and see what it says about that shipment.

A. I have looked at it.

Q. And it contains nothing?

A. No, sir, not on that subject.

Q. When did you write this book on Cyprus?

A. It was written in Cyprus.

Q. Was your statement made yesterday that the 194 cases contained your furniture, correct, or was that also an erroneous statement?

(Objected to.)

Q. How many cases of wine were there?

A. I do not remember.

Q. How many cases of furniture were there?

A. I do not remember.

(2462) Q. What became of the cases containing the furniture?

A. They went to my house in Italy. I sent them to Italy.

Q. Whereabout in Italy?

A. To my house.

Q. Where was your house in Italy?

A. Where it has been for a long time.

Q. Where has your house been in Italy, and how long a time had it been there?

A. For three hundred years.

Q. Then it was sent to your house in Italy?

A. Yes, sir. It is a house that has been built over three hundred years.

Q. Did you leave your furniture there?

A. That portion of the furniture that I sent there, I sent for the purpose of leaving it there.

Q. Did you leave some in Cyprus?

A. Certainly.

Q. Was it in connection with that occasion of your leaving Cyprus that you destroyed your papers?

A. I destroyed some at that time, and some later on.

Q. You burned them at that time?

A. I burned a portion of them at that time, and a portion when I was leaving Cyprus forever.

Q. Was it at that time that you burned your Feuardent correspondence?

A. I am not sure that I ever burned that.

Q. Will you look at this paper now shown you and state whether the signature is yours (handing witness a paper)?

A. Yes, sir.

and the incrustation remaining, there was nothing to prevent you to see the exact thickness of the incrustation?

A. No, sir.

Q. How thick was it?

A. Some of it had come off in the wash.

Q. But the lower half of the incrustation was still visible?

A. Yes, sir.

Q. Then there was no difficulty in your ascertaining the exact thickness of the incrustation; how thick was it?

A. I cannot say positively; it might have been a tenth of an inch thick.

(2438) Q. Was it thicker than the incrustation on this figure, where you saw the incrustation the other day?

A. It was perhaps a little more.

Q. You saw one of the jurymen pick at it with his knife, didn't you?

A. Yes, sir.

Q. Did the incrustation follow the outline of the mirror or not?

A. No, sir.

Q. Was it completely obscured?

A. Yes, sir.

Q. And who showed it to you in that condition?

A. The repairer.

Q. Did you tell him to continue his work upon it?

A. Yes, sir.

Q. Did you express any opinion as to what the uncovered part was likely to be?

A. I thought at the time that it was a disk—a tambourine or a disk.

Q. A tambourine?

A. Yes, sir.

Q. What was there about it that made you think it was a tambourine?

A. The shape of the outline.

Q. But you could not see the outline?

A. I could see it was something circular, but how far that circular portion extended I did not know.

Q. What directions did you give to Balliard in respect to that statuette?

A. To clean it up and to remove all that incrustation.

(2439) Q. Did you tell him what method of cleaning to resort to?

A. No, sir, I left that entirely to him.

Q. When did you next see it?

A. I am not positive that I have seen it again until it was upstairs with all the other things on the tables.

Q. Was it then wholly cleaned of its incrustation?

A. Yes, sir.

Q. And the mirror, or disk, or whatever it was, was distinctly visible?

A. Yes, sir.

Q. Had not it undergone a very great change in its appearance; hadn't it undergone a great change in color on that left side?

A. Certainly not; it was a little darker, because it was damp.

Q. Was the incrustation of the same color as the statuette?

A. Yes, sir, about the same color, perhaps a little darker.

Q. Had it changed on the left side?

A. No, sir, except that the repairer with his point of wood went around the thing, in order to remove the incrustation, and in doing so, he went deeper than he should have done.

Q. How did you know that?

A. Because I asked him. I called his attention to it.

Q. Won't you be kind enough to understand that I am not asking you about what other people told you. When you saw it, after you had told him to continue his endeavor to remove the incrustation from the left side, had it undergone any considerable change?

A. Yes, sir.

(2440) Q. Did you regard that cutting, or carvings, as having any archaeological or mythological significance?

A. None whatever.

Q. Did you regard it as a matter of importance at all?

A. None to the statuette.

Q. Does it mean anything now?

A. It does not add anything to the statuette.

Q. Does it mean anything to the mind of an archaeologist, except that it is there?

A. Exactly so. It does not mean anything more than what it was before.

Q. It is wholly insignificant?

A. It does not give any different character to the statuette. It is the same as it was before.

Q. Did you think that the appearance of the article, after it finally came from the hands of Balliard, was such as to excite surprise and inquiry in the mind of any person who had only seen it prior to the removal of the incrustation?

A. I should think so.

Q. You think an honest man might, in good faith, become curious as to how that thing got there?

A. Yes, sir.

Q. I observe that your counsel has addressed you upon examination as "General." Is that an honorary title, or have you a commission?

A. I had not a commission, but I had the title.

(2441) Q. How did you get it; whom did you get it from?

A. Mr. Lincoln.

Q. How?

A. Before I was sent out as consul to Cyprus.

Q. How, by mail or otherwise?

A. I received it verbally.

Q. What is the next lowest grade in the army to a general?

A. Colonel.

Q. It is Lieutenant-General, isn't it?

A. Yes, sir.

Q. And then Major-General?

A. Yes, sir.

Q. And then Brigadier-General?

A. Yes, sir.

Q. And then Colonel?

A. Yes, sir.

Q. And you go by the name of General?

A. I don't know. I am called that.

Q. Here is the title-page of your book, which says "By General Louis Palma di Cesnola?"

A. I know it is there.

Q. Did Mr. Lincoln bestow upon you the rank of general?

A. By brevet, yes, sir.

Q. Then why do you call yourself General?

A. Everybody calls himself so who is a brevet general.

Q. Have you ever read any books written by soldiers, officers, and men of rank in the army?

A. Not that I remember.

Q. Can you find any precedent for a Brigadier-General calling himself General?

A. I don't know.

Q. Do you know of any men in the United States who held the rank of General except Grant, Sherman and yourself?

A. No, sir, I never pretended to know.

(2442) Look at this card and state whether you used that abroad?

A. I did.

Said card is offered in evidence and marked Exhibit 192 of this date, and is as follows: "General and Madame di Cesnola, 107 East 57th street. At home January 1st, from 8 to 6 P.M."

Q. Where did you use that card?

A. In Europe or here; I don't know.

Q. Don't you know where you used that card?

A. No, sir.

Q. Didn't you use it in London?

A. It may be.

Q. Didn't you?

A. It may be.

Q. Didn't you use it in London?

A. I had no home in London.

Q. Didn't you use it in London?

A. I don't know.

Q. Didn't you use it in Paris?

A. No, sir.

Q. Didn't you use it in Cyprus?

A. No, sir.

Q. Did you use it in Beyreuth?

A. No, sir.

Q. Look at this card now shown you and see if you recognize it?

A. Yes, sir.

Q. Is that one of your cards?

A. Yes, sir.

Said card is offered in evidence and marked Exhibit 193 of this date, and is as follows: "General L. P. di Cesnola, Ilington Villa, Albion road, South Hamstead."

(2443) Q. Where did you use that card?

A. In London.

Q. Anywhere else?

A. Not except when I was in London.

Q. Do you know who is the author of the article in Harper's Magazine of July, 1872, imputed on the title page to Hiram Hitchcock, not imputed, but generally spoken of as the Hiram Hitchcock article; do you know who is the author of that article?

A. Yes, sir, Mr. Hitchcock.

Q. Did you see it before it was printed?

A. No, sir.

Q. Either the proof or the manuscript?

A.

Q. Did you furnish him with any of the materials for that article?

A. Not that I remember.

Q. Where was Mr. Lincoln when he bestowed upon you the title and rank of Brevet Brigadier-General?

A. At Washington.

Q. Whereabouts?

A. At the White House.

Q. When?

A. On the 3rd of March, or April 1st?

Q. What year?

A. In 1865.

Q. How did he bestow it upon you?

A. By recommendation of Mr. Harris, one of the United States Senators.

Q. What ceremony did he go through with when he constituted you General?

A. He told me that I deserved the rank for my services in the field, and as it would do nobody any harm, he would bestow upon me that title, and I thanked him very much.

Q. Did you get any written evidence of your promotion?

A. The New York papers published my promotion.

(2444) Q. Did he give you any written evidence of your elevation or promotion either for your diplomatic or military services?

A. No, sir.

Q. You rested entirely upon his word?

A. Mr. Seward, the Secretary of State, was present at the time.

Q. Did he give you the brevet as Brigadier-General?

A. No, sir, but I was made Consul to Cyprus.

Q. Is that all the warrant or authority you have for calling yourself a Brigadier-General or General—that conversation with Mr. Lincoln?

A. Yes, sir, and by the publication in the papers of my brevet as Brigadier-General and my appointment as Consul to Cyprus.

Q. What papers?

A. Either the Washington papers—my attorney has them—or the New York papers.

Mr. Bangs: Mr. Stickney, will you please produce those papers?

Q. How did the newspapers get hold of the fact?

A. I am not able to say.

Q. Had you any opinion upon the question whether or not the President of the United States, without the consent of the Senate, had power to appoint you Brigadier-General?

A. I had none.

Q. You had no opinion or information on that subject?

A. No, sir.

(2445) Q. Was the Senate in session when he

told you he would appoint you Brigadier-General?
A. He was killed three or four days afterwards.

Q. Did you ever wear the uniform of Brigadier-General?
A. Never.

Q. Did you ever have your picture taken in this costume (I show you Hitchcock's Harper's Magazine article)?
A. That is the costume of a colonel and not of a general.

Q. You had your picture taken in that costume?
A. Yes, sir; but that is the costume of a colonel and not of a general.

Mr. Stickney: I now produce and hand to the counsel the paper called for.

Mr. Bangs: I will read it. "The Army. Promotion of Colonel L. Palma di Cesnola. Colonel L. P. di Cesnola, the newly appointed American Consul to Cyprus, has been brevetted Brigadier-General of Volunteers, after four years constant service as a Brigade Commander."

Q. How did that get into the New York Herald, if that is an extract from it?
A. I don't know.

Q. Did you give any information to anybody in Washington of this conversation that you had with President Lincoln?
A. No, sir.

Q. Was there any record made of your so-called appointment that you know of?
A. I don't know.

(2446) Q. Was anybody present at the interview with President Lincoln, except yourself and Mr. Seward?
A. I do not recollect.

Q. You say that this is the uniform of a colonel?
A. Yes, sir.

Q. What is the uniform of a general?
A. Two buttons more.

Q. What is the significance of a star on the shoulder strap?
A. It is the star of the brevetted rank.

Q. Of what?
A. Of a Brigadier-General.

Q. Has not this shoulder strap a star?
A. Yes, sir.

Q. Is not the shoulder strap a part of this uniform?
A. I do not see a star there.

Q. Are you in doubt as to whether there is a star on that shoulder strap or not?
A. Yes, sir, I am.

Q. Have you any decided opinion as to what that figure or emblem on the shoulder strap is?
A. No, sir. I think I can see the eagle.

Q. Where is the eagle on a colonel's uniform?
A. On the center of the epaulet.

Q. Does a colonel have anything on the shoulder strap at all?
A. Yes, sir.

Q. An eagle?
A. Yes, sir.

Q. The buttons, you say, are colonel's buttons?
A. No, sir. The position of the button itself—the buttons have nothing to do with it.

(2447) Q. The number of buttons has nothing to do with it, you mean?
A. No, sir; the position.

Q. Is the number of buttons on a colonel's uniform the same as on a brigadier-general's?
A. No, sir; he has two buttons more.

Q. Do you know who took that picture?
A. No, sir.

Q. Do you know how Mr. Hitchcock got it?
A. No, sir.

Q. Was it taken here?
A. I do not know even that.

Q. Is it true that you have for four years served as a brigade commander?
A. No, sir; it is not so.

Q. How long had you served as brigade commander?
A. Most of the time when I was in the field, except when I was in prison.

Q. How many years does that make?

A. About two-thirds of my time in the field—I don't know.

Q. Don't you know how long you were in the field?
A. Yes, sir.

Q. How long were you in the field?
A. 1862, 1863, and a portion of 1864.

Q. When were you mustered out of the army?
A. In 1864, in the latter part of it, or the beginning of 1865.

Q. Which do you mean?
A. I do not remember the date.

Q. Do you mean either in December, 1864, or January, 1865?
A. It was towards the end of the year. I think it was 1864.

Q. Were you in the army at all at the time when you had this conversation with President Lincoln?
(2448) A. No, sir, I was mustered out.

Q. You say that you went to Cyprus as Consul, and got there in December, 1865; when did you start for there?
A. In the month of August.

Q. Had you a commission as consul?
A. No, sir, but I had the appointment.

Q. A writing, I mean?
A. Yes, sir.

Q. Have you it still?
A. I don't think I have it.

Q. Whose signature did it bear?
A. Mr. Seward's.

Q. What was its date?
A. It was dated in August, 1865, the 4th, the 5th or the 6th of August.

Q. After Mr. Lincoln's death did you have any communication with his successor, Mr. Johnson, on the subject of appointing you consul?
A. No, sir, none whatever.

Q. Did you have any with Mr. Seward?
A. No, sir.

Q. Who was the President when you received your written appointment?
A. Mr. Johnson.

Q. How long had Mr. Lincoln been dead when you received that appointment?
A. Four months.

Q. During Mr. Lincoln's lifetime, did you receive any paper relating to your appointment as consul?
A. He was killed four days after my appointment.

Q. Did you receive during those four days any paper of any kind upon the subject of your appointment?
(2449) A. No, sir.

Q. What is the meaning of this sentence in the second chapter of your book of Cyprus: "At the close of the civil war in the United States, in which I had taken part, I was appointed consul to Cyprus by President Lincoln, a few days before his tragic death." What did that refer to?
A. To his verbal appointment as consul to Cyprus, which Mr. Johnson recognized afterwards.

Q. How did he recognize it?
A. By appointing me. He would not have appointed me if he did not recognize it.

Q. I thought you said a moment ago that you did not have a conversation with Mr. Johnson on the subject of your appointment?
A. I never had any conversation with President Johnson.

Q. How did you know that President Johnson had anything to do with it?
A. He signed my commission as President. You asked me about my appointment, not about my commission.

Q. I asked you whether you had a commission, and you said you had an appointment. Is it a fact that you had a commission?
A. Yes, sir.

Q. Signed by Mr. Johnson?
A. Yes, sir.

Q. Have you it now?
A. Certainly.

Q. Will you produce it?
A. I cannot produce it to-day.

Q. Will you produce it?

A. If my counsel wants me to, I will.
(2450) Mr. Bangs: I renew my request to bring your commission.

Mr. Stickney: I produce the appointment of Mr. Di Cesnola as Consul to Cyprus.

Said paper is offered in evidence, and marked Exhibit 194 of this date, and is read in evidence.

Exhibit 194.

No. 1. DEPARTMENT OF STATE, }
WASHINGTON, August 8, 1865. }

L. P. DI CESNOLA, Esq., Appointed United States Consul, Cyprus, now at Nannet, Rockland County, New York.

Sir: The President having appointed you Consul of the United States at Cyprus, I transmit to you a printed copy of the Consular Regulations, to which your immediate and careful attention is invited; a form of the Consular bond, to be executed at once and sent to this Department, and other documents for the use of your Consulate, of which a list is subjoined.

As soon as your bond is received and approved, your passport will be transmitted to you, and your commission will be sent to the Legation of the United States at Constantinople, with instructions to apply to the Turkish Government for the usual exequatur, which, when obtained, will be forwarded to you at Cyprus, with the commission.

You will communicate to the Department the name of the State or county in which you were born, also of the State from which you have been appointed, and if you have ever resided in Turkey or any of its dependencies.

I am, sir, respectfully your obedient servant,
C. A. SEWARD,

Acting Assistant Secretary.

Documents transmitted: Consular Regulations; blank bond; list of Ministers, Consuls, and other Diplomatic and Commercial agents of the United States in foreign Countries; Ink Lines; circulars of Over

P. S.—In the event of your acceptance of this appointment, you are required to proceed to your post within thirty days from the date of your oath of office, which is to be executed and returned to this Department immediately. A failure to comply with this instruction will be regarded as a resignation of your office.

Q. Do you remember when you complied with the request of that appointment by perfecting a bond?
A. I don't know the exact date; but I know I must have performed my duty in order to perfect my appointment.

Q. Was it some time in September, do you remember?
A. No, sir.

Q. That you perfected your bond?
A. It was about that time.

Q. Was Mr. Hiram Hitchcock one of your sureties?
A. I believe he was.

Q. You did not receive your commission until after you got to Constantinople?
A. I never went there.

Q. Then after you got to Cyprus?
A. Yes, sir.

Q. Where did you receive it?
A. In Cyprus.

Q. From the time when you were appointed Consul and reached Cyprus up to the time of your going into the service of the Metropolitan Museum as director, &c., did you consider yourself a dealer in antiquities?
A. No, sir; I never did.

Q. What was your relation to archæology?
A. That of a student and explorer.

(2451) Q. Of a restorer?
A. Of an explorer.

Q. And did you complete your studies and become an archæologist?
A. Yes, sir, as far as Cyprus is concerned.

Q. When did you complete these studies?
A. I think the story of archæology, as far as Cyprus is concerned, was completed as far as it is possible to complete it.

Q. Were you not, up to that time, a dealer in antiquities, and did you not make consignments

a cut of this statue and calls it Hercules and Lion, from Amathus. In the guide, page 24, it is No. 386, and is classed among the 'Gods' from the Temple of Golgoi; do you say it is from Amathus?

A. It is placed there merely as a description of the worship of Hercules at Amathus; that piece, I think, was found at Golgos.

(2422) Q. What does it say there on the photograph?

A. Nothing.

Q. Will you look at page 250 of Cyprus and see if that enables you to state more particularly?

A. No, sir, not from this book, as this is merely in illustration of the worship of Hercules at Amathus.

Q. In the guide-book on page 22 in large letters under the heading of "Gods from the Temple of Golgoi" there are seventy-four figures, and it is stated that on page 24 this object is No. 386, and is classed among the gods from the temple of Golgoi; do you know anything about how that came to be stated there?

A. This is substantially correct. Most of these Hercules came from there.

Q. The error of this classification is that if it did not come from there, the error was brought in by mistake?

A. Yes, sir.

Q. The next is "a small bas relief representing a man in the attitude of repose. On the back, in Mr. di Cesnola's hand: 'Salamis.' Is that so? The remark is this: is No. 527 in the guide-book, and on page 37, Sec. 78 B, it is said to be from Golgoi;" do you find that?

A. Yes, sir.

(2423) Q. Where does that come from?

A. From Salamis.

Q. On page 37 of this guide book it says: Sec. 78 B, it is said to be from Golgoi; is that correct?

A. There is some mistake there.

Q. You do not find any such statement, but it is under a heading eight pages previously, "Greek sculptures in the temple of Golgoi?"

A. Yes, sir.

Q. You were unaware of any of these errors in the guide book until your attention was called to them by Cook's pamphlet?

A. Yes, sir.

Q. And in respect to all of them do you now say that you had no motive or purpose to represent them to be objects found at Salamis when they were really found at Golgoi, or vice versa?

A. None whatever.

Q. Among how large a number of figures in all, referred to in the guide book, are these twelve inaccuracies of statement included?

(Objected to as immaterial.)

Q. How many objects in the hand book described as coming from Golgoi are there?

A. I have not the slightest idea.

(2424) Q. Many hundreds?

A. Yes, sir.

Q. I ask you in respect to the next one: A bas-relief representing three figures; a man and a woman sitting, and a child standing. On the back, in Mr. di Cesnola's hand: "from Salamis"; do you find it?

A. Yes, sir.

Q. In the guide book it is stated in two places that this is classified under the head from Golgoi; what have you to say in that respect?

A. It is correct. It is from Golgos, and it is not from Salamis. It is not marked from Salamis on the back of the picture.

Q. Which is it; point it out on the glass?

A. It is that one, and there is only one mark there.

Q. That is included among the six photographs of which the first figure is marked "from Salamis"?

A. Yes, sir, but this is not from Salamis; it was never expected to be from Salamis; it is from Golgoi. This word Salamis applies only to that figure.

(Objected to.)

Q. The only object on that picture that came from Salamis is the Sphinx?

A. Yes, sir.

Q. And you do say that that indorsement: "From Salamis" is only correct as to the upper figure, the Sphinx?

A. It is so mentioned there.

(2425) Q. That is so in fact?

A. Yes, sir.

Q. The only figure that came from Salamis is the Sphinx?

A. Yes, sir.

Q. And if it is applied to the four or other five figures on the lower part of that paper it is a misapplication?

A. Yes, sir.

Q. The next one to which I will call your attention is "A broad built female figure." "On the back, in Mr. di Cesnola's own hand "Found at Salamis." Did you find any broad built female figure there?

A. Yes, sir, that one there; I suppose it is the one referred to.

Q. Where was that found?

A. That was found at Golgos. That is a mistake of mine. It was found at Golgos.

Q. Then the museum guide book properly describes it?

A. Yes, sir.

Q. As found at Golgos?

A. Yes, sir.

Q. And this is a mistake?

A. Yes, sir.

Q. I will ask you this question: I observe in the writings on the back of these photographs on this glass that where there are three figures; you write on each one; in one case where there are two figures, you write on the back of each one, the place of location of the three, which embraces the three figures, you write on only one, and on the first one, which has six figures, you write on only one; was that method of writing by you on the separate figures intentional?

Mr. Bangs: I object to the counsel's statement of his observations in putting the question to the witness.

A. Certainly.

(2426) Q. Now, in respect to No. 10, "A seated figure between two animals;" examine that and see whether on the back it is marked in your handwriting "from Salamis?"

A. No, sir.

Q. What is the only figure on that group that is marked on the back in your handwriting "from Salamis?"

A. The Sphinx.

Q. Did that seated figure between two animals come from Salamis?

A. No, sir; it came from Golgoi.

Q. Then the statement in the guide book where it is described on page 27 as "From the ruins of Golgoi, a male figure, etc., etc., perfect Greek period," is a correct statement?

A. Yes, sir.

Q. I ask you the same questions in regard to the "naked figure with wings;" are the words "From Salamis" on the back in your handwriting?

A. No, sir.

Q. But it is in the group with the Sphinx?

A. Yes, sir.

Q. And you say it came from Golgoi?

A. Yes, sir.

Q. And the statement in the guide book that it came from Golgoi is correct?

A. Yes, sir.

Q. Now I will ask you the same question in regard to No. 12, "A Sphinx;" on the back in your own handwriting appear the words "from Salamis"?

A. Yes, sir.

(2427) Q. It is stated by Mr. Savage as coming from Golgoi; that is an error is it not?

A. Yes, sir.

Q. Is that an error for which you assume the responsibility?

A. No, sir.

Q. If Mr. Savage has so marked it "From Golgoi," it is a mistake?

A. It is an error.

Q. If he understood you to say that that ob-

ject came from Golgoi, it is a mistake in comprehending what you said? A. Yes, sir.

Q. I ask you in respect to all of those twelve objects, whether you had any motive or purpose to represent them as coming from one place when in fact they came from another?

A. No, sir.

Q. What difference is there in the character of the objects as described as coming from Salamis, and those as coming from Golgoi?

A. None whatever. They are all about of the same kind of objects, all through the island.

Q. (By a Juror.) In an archaeological point of view are the statues of equal value whether they come from Golgoi or Salamis?

A. The question of locality is very important in some respects, but there is no difference here; when it is a large area there is some difference.

Q. You say it is about all the same in regard to the four places in Golgoi?

A. About what distance is there between Golgoi and Amathus; how far apart are they?

A. About eight or ten miles.

(2428) Q. The objects represented as coming from Salamis are of about the same state of civilization as those represented as coming from Golgoi and the other four places?

A. Exactly so.

Q. Give us an illustration of that; would there be any difference, for instance, between excavations made at Dobb's Ferry and Golgos?

A. The island of Cyprus is about as large as from here to Poughkeepsie, and it represents the same state of civilization all the way through, and the same character of objects are found all the way through.

Q. There is somewhere a statement in the Cook pamphlet that your whole collection is manufactured; he says, on page 11: "Knowing as he does now the fraudulent character of the whole collection of Cypriote antiquities;" is there any truth in that statement?

(Objected to as incompetent; objection sustained; exception taken.)

Q. Is it true that Aphrodite and Eros was expressly manufactured to meet the growing want of at least one representation in so large a find, of the divinity to whom the temple of Golgoi was dedicated?

A. I did not see any necessity for it; there is no such want.

Q. And it was not manufactured?

A. No, sir.

Q. It is also stated in Cook's pamphlet that the statue is a patchwork of unrelated parts; is that true?

A. Not in the slightest.

(2429) Q. On page 31 of Cook's pamphlet I read this sentence: "I may as well add to this letter, written to myself, extracts from another received by a gentleman at that time connected with the museum, which will show Mr. di Cesnola's anxiety about the condition of his made-up antiquities during his absence at the manufactory in Cyprus;" did you have any made-up antiques during your absence in Cyprus?

A. No, sir. Because there is nobody able to do that.

Q. Did you ever manufacture any objects?

A. No, sir.

Q. Now, I want to ask you another question on the testimony: one of the witnesses said at page 87 that it had been told him by Mr. di Cesnola that that statue with the cow's head was found in Cyprus without a head and feet; you have stated the fact as to how it was found with a broken base and feet?

A. I do not remember having had any such conversation.

Q. Did you tell him that it was found without the head or feet?

A. If I said so I meant that the feet were detached.

Q. At page 515 it is stated by the witness Alley that it was the time after I told Mr. Savage; he says: "If I would take back what I had told Mr. Savage that I could remain in the museum, and everything would go on as it had before;" did you tell him that?

A. No, sir.

(2430) Q. Did not you tell him that he could not take it back, if it was true that that conversation occurred?

A. Yes, sir.

Q. It is stated by one of the witnesses on page 729 that you told him that Mr. Ripley had been appointed a special journalist—secret journalist of the museum—to defend it against the attacks of Mr. Feuardent in this controversy; did you ever tell that witness of any such employment ever having been made?

A. No, sir.

Q. Did you ever so represent it to Mr. Savage?

A. No, sir.

Q. On page 731 he says: "He told me not to give reporters any information about the affairs of the museum, or the collection, with the exception of the Evening Post;" what is your recollection about that?

A. It is probably correct. I am not sure about that.

Q. One of the witnesses, I think it was Mr. Alley, stated that you told him that he would be discharged if he gave any information to anybody or any party in the museum, including yourself; what do you recollect about that?

A. I gave orders to all the employees of the museum that they should not give any information outside of the museum to anybody. If any such information was given, I should report them to the Trustees to dismiss them. I had no power to dismiss them myself.

(2231) Q. It is stated on page 1301 by the plaintiff that you told him that you were suspicious of the people you were dealing with; that you were very suspicious in dealing with them in regard to money matters; that you were suspicious in regard to the Americans, &c.; I will read to you the testimony as it is recorded; did you know who they were?

A. Mr. Morgan.

Q. Was he also suspicious of Mr. John Taylor Johnston?

A. I did not know his name at that time.

Q. He said he was very suspicious of Mr. Morgan?

A. He was very suspicious of the Americans.

Q. When did you say to him in any form that you were very suspicious of the Americans?

A. I never said that. It is just the very opposite of what I said. I had the utmost confidence in them.

Q. Did you tell him that you did not want to appear to be without money?

A. No, sir.

Q. Did you tell him that you did not want it to appear that you were without money, and did you ask him to double the amount of his bill?

A. Never.

Q. There is also one place where it is stated by the plaintiff that in London you told him to make the collection look as numerous as possible, because what the Americans wanted was quantity and not quality; is that true or false?

A. It is absolutely false.

Q. You could not make them more numerous than they were, could you?

A. Certainly not.

(2432) Q. Did you make any request to have them spread out in exhibiting them?

A. I did; to spread as many unexhibited pieces as he could, that he had not on the table.

Q. With what object did you state that, if at all?

A. Merely to have them on exhibition.

Q. So that they might see how many there were?

A. Exactly.

Q. And the Americans wanting quantity and not quality, was that your phrase?

A. No, sir.

Mr. Choate: If your Honor please, there are a few thousand pages of testimony which I have not read over, and if it should appear that in this examination I have made some slight omission, especially in regard to matters testified to, I hope that I may be allowed to call the witness's attention to it at a future time, if I should discover

that I have omitted to call his attention to it. It has been impossible for us to go through the whole of that testimony, and I ask your Honor, if anything of that sort comes to my attention, to be allowed to interrogate the witness in reference thereto.

The Court: Certainly.

Q. (By a Juror.) I want to ask you in regard to No. 157. I understood you to say that when you found it, this incrustation was upon it where the mirror now is?

A. I cannot state that I knew the incrustation was there. I found the incrustation in Central Park when the repairer called my attention to it. (2433) Q. But you had not noticed it before.

A. No, sir.

Q. Was that the same kind of incrustation that was on this large head which was shown here in court?

A. Yes, sir, perhaps not of the same thickness, and probably a little more.

Q. How was that incrustation removed from the figure No. 157?

A. It was removed by the repairer with pieces of wood or sticks, and it came off in flakes.

Q. Did the bath have anything to do with it?

A. Of course; it softened it; it softened it, so that it came off in flakes.

Q. What I want to find out is this: how is it that the action of the water had some effect on this figure No. 157, when it had no effect on the head?

A. It did have an effect on the head, but not to quite such an extent. There were two or three pieces in the collection that were an exception.

Q. (By Mr. Choate.) No. 157 is described by you in your book "Cyprus"?

A. Yes, sir.

Q. There is a picture of it there?

A. Yes, sir.

Q. Have you any special recollection of it other than it appears there?

A. When I published my book I did not have the statues before me, I had only the photographs.

(2434) Mr. Bangs: I would like to have the question answered as put, whether he had any recollection of the statue.

Q. Did you make the drawing in the book from recollection?

A. No, sir, I made it from photographs.

Q. The photographs that have already been exhibited?

A. Yes, sir.

Q. Until it was made so by this investigation, was statue No. 157 one of the important objects in the collection?

A. No, sir, it was not an important one; it is important to day with the charges attached to it.

Q. The head, I suppose, has an extreme incrustation; have any efforts been made to remove it?

A. Yes, sir, it might be removed after keeping it soaked for a month or so.

Cross-examination by MR. BANGS

Q. Statuette No. 157 was unimportant until your controversy with Mr. Feuardent arose, did you say that?

A. Yes, sir.

Q. What did you put a picture of it in your book for?

A. Because I only have photographs. I was obliged to use photographs.

Q. Then, did you put in your book only such objects as you had photographs of?

A. Yes, sir.

Q. When was the first time that you had any knowledge or suspicion or belief of that button, disk or mirror, or whatever it may be called on the side of that statuette?

(2435) A. When it came out of the bath.

Q. At what date?

A. Some time in 1879.

Q. What time in 1879?

A. Either April or May.

Q. Which was it, April or May?

A. I could not say positively—probably April.

Q. Why did you say "probably April?"

A. Because they were some of the first pieces that were put in the bath, according to my recollection.

Q. You remember that?

A. I do.

Q. Who put them in the bath?

A. The repairer.

Q. Who told him to do it?

A. He had the general direction from me to put every piece in the bath and wash it.

Q. Did you see him put them in the bath?

A. No, sir; I did not.

Q. State from memory what was the condition of the surface before it was put in the bath, before April or May, 1879?

A. I cannot remember that; I could not remember closely how it was.

Q. Remember it loosely, then, if that is the best way you can remember it?

A. My recollection is, that it was covered with an incrustation on the left hand side, and some on the right hand side too.

Q. And you had no idea that that incrustation concealed any ornament or cutting on the surface, had you?

A. No, sir, I had not; there was a slight elevation on the left side; it was not all alike, but I could not tell whether there was anything under it or not.

(2436) Q. But you did not have any ocular demonstration that there was any ornament or carving on that side, did you?

A. No, sir; I am not positive about it.

Q. What prevents you from being positive?

A. Because at that time my attention was not called to it.

Q. Were you very much astonished, or were you astonished at all, when the thing came out of the bath, to find a button on it?

A. I don't think I was, either one way or the other.

Q. You were quite composed over it, I suppose?

A. I don't think I was, one way or the other.

Q. Your expectations were gratified; didn't you think it very surprising that a person who had seen the statuette before it was put in the bath, and who saw it again after it came out, should suspect that some operation had been performed upon it?

A. That depends a good deal upon the person who saw it.

Q. But before it was put in the bath there was no trace of the disk?

A. No, sir.

Q. And after it came out the disk was visible?

A. Yes, sir.

Q. And it was in its present condition?

A. No, sir, not in its present condition.

Q. What was the difference between its present condition and the predicament it was in when it came out of the bath?

A. When it was shown to me the incrustation was still on it, and it was not yet uncovered when the repairer showed it to me.

(2437) Q. Let us have the statuette, and describe the exact difference between its present condition and its condition when you first saw it when you were told that it came out of the bath; I wish you to describe it so as to distinctly indicate what part of the disk had made its appearance to the eye, and what part of it remained covered by the incrustation?

A. This circle near the hand, on the outside—that portion.

Q. That portion had become visible?

A. Yes, sir, and this was all covered up.

Q. All this part down here was covered up?

A. Yes, sir, and this was all covered up.

Q. All this part down here was covered up?

A. Yes, sir, as far as my recollection goes, the entire surface of the disk was covered.

Q. With such a greenish incrustation as was found on this head?

A. No, sir, not greenish.

Q. Then, a part of the disk being uncovered,

state whether that is the photograph of it taken in Cyprus, as found there?

A. Yes, sir.

Q. It has been stated here by one of the witnesses, I think Mr. Hutchins, that this picture of it was taken by Colvin in London?

A. Yes, sir, with two other Geryons besides.

Q. The picture shown you is Exhibit No. 23?

A. Yes, sir.

Q. Has that been washed; and if so, did you discover whether there was any plaster on it?

A. It was washed by several sculptors and by some of the Trustees, and there is no plaster about that statue.

Q. Is it a solid thing throughout?

A. It is one solid piece of stone; it has never been touched, never repaired, never cut, except that two or three chips of one of the shields got detached.

(2407) Q. Will you come down here and look at this statue; from the shinbone down on the two right hand front legs there is a lighter appearance than above on the whole of the rest of the surface; what is that?

A. It is a discoloration of the stone. It is one piece of stone.

Q. You say that that is a solid piece of stone throughout?

A. It is solid; it has never been repaired; never cut, and never touched.

Q. On the back of it I see some white marks, looking as though somebody had been picking at it; what is that?

A. Those are some of the experiments that have been made on it to see whether it was one single piece of stone or not.

Q. You say, if there has been any evidence given here that that object is part plaster it is a mistake?

A. Yes, sir.

Q. If any plaster was put on the statue in Fourteenth street it is not there now?

A. No, sir.

Q. Hutchins has stated on page 83 that Gehlen shaped the feet and legs of this statue of plaster; what do you say to that; do you know anything about that?

A. I don't know anything about that. The piece is there, and it will speak for itself.

Q. But has it been exhibited in the Park as it is now?

A. Yes, sir.

Q. And, so far as you can tell, is it in the same condition now as it was when the picture was taken of it by Colvin, and which is in Hitchcock's album?

A. Yes, sir; exactly so.

(2408) Q. Now as to No. 2 in the collection; is that a large statue?

A. Yes, sir; it is a large statue.

Mr. Bangs: Mr. Feuardant mentioned that number, but he afterwards said it was a mistake.

Mr. Choate: Do you withdraw your charge as to No. 2 then?

Mr. Bangs: Certainly.

Q. This statuette now before you is what is called the man with the lyre?

A. Yes, sir; I believe that is the one that I mentioned.

Q. I observe that the left hand behind the lyre has been made up in part of plaster; that is so, isn't it?

A. Yes, sir.

Q. What is the history of that?

A. I can say nothing more than that that was one of the pieces which was repaired in Fourteenth street, and whatever repairs have been done there were done by Gehlen.

Q. When did you first discover that this left hand was restored?

A. Since it has been accused.

Q. Was it ever exhibited in the park?

A. Never.

Q. You discovered it here on the trial?

A. Yes, sir.

Q. What is its condition now; does it show its original fracture?

A. Yes, sir. It is a repair badly done in some way.

Q. Nothing has been repaired except the hand?

A. Nothing but the hand.

(2409) Q. That hand is part plaster and you can see the break down here where it is mended?

A. Yes, sir. The upper part of the hand is plaster, but there are some traces of the fingers beneath it.

Q. (By Mr. Bangs.) By the upper part of the hand, what do you mean?

A. From what I have been able to remark with the assistance of sculptors is that there seem to be traces of fingers right on the stone, and Mr. Gehlen filled up these fingers and made it whole. The balance is made of plaster and is not the original hand. It might be removed here in court, if you want to.

Q. (No. 86 shown witness.) What is that now shown you; what is it called?

A. It is an Egyptian figure.

Q. Is that a patchwork of unrelated parts?

A. Not that I know of.

Q. What is the history of that statue?

A. I am hardly able to say. It seems to have been in two pieces, and they were put together.

Q. That is all you know about it?

A. Yes, sir.

Q. Did it ever attract your attention until it was mentioned by one of the witnesses here?

A. Never before.

Q. Mr. Savage has stated in regard to that, as I am informed, that there was once a nose on it, which has been removed?

A. He must have mistaken that for another figure; it never had a nose on it.

Q. Did it never have a nose?

A. No, sir. There you can see the break of the nose; it had never any nose to my knowledge.

(2410) Q. You never knew of the plastered condition of the nose?

A. No, sir; and there are no traces of it there.

Q. I will ask you if you can fix approximately the date when you first learned that the hand of the priest No. 22 had really been detached, by a physical examination, that you learned that it had been once detached from the body; can you fix any date after which it was?

A. Some few months ago I was requested, I believe, either by yourself or Mr. Stickney, to examine it carefully with a knife to see whether it had been repaired.

Q. It was not by me; was it after Mr. Stickney was retained in this case?

A. I believe so.

Q. You did not know him before that time?

A. I did not.

Q. (By Mr. Bangs.) Fix the date if you can?

A. Four or five months ago, I should say.

Mr. Choate: I merely produce this figure to show that the evidence of the plaintiff was incorrect that a part of the nose had been restored. There it is. You can see it.

Q. How much of the nose has been added or restored?

A. I have no recollection.

Q. Wouldn't you look at it and give us the extent of it, whether it is an inch, half an inch or quarter of an inch, or whatever it is?

A. It looks to me as if the tip of the nose was filled in; it is about half an inch right at the tip of the nose.

(2411) Q. What means had you in Cyprus of repairing any of this work or what skilled workmen, if any, had you there?

A. None whatever.

Q. The one or two pieces which appear to have been fixed together there was done by whom?

A. By an Italian carpenter who was working there.

Q. By the use of glue or cement?

A. With glue.

Mr. Choate: There are about a half a dozen more pieces all of about the same importance and significance of this last one, and I do not care to take the time of the Court and Jury in examining him in regard thereto, but I want to reserve the right to call the witness's attention to them hereafter if I see fit.

Q. Are you able to produce any specimens which will show the jury what sort of disintegration is going on in this Cyprus stone work?

A. Yes, sir.

Q. Have you any of them here in court?

A. Yes, sir, several of them.

Q. (No. 481 is produced by the witness and shown to the jury.) Now tell the jury, if you know, how that disintegration or damaged condition arises?

A. That head was intact and perfect when it came from Cyprus here; it came intact when it came to Fourteenth street, and those cracks are recent damages which are just going on in Central Park.

(2412) Q. (By a Juror.) Has the bath anything to do with this disintegration?

A. No, sir, that is the disintegration of the stone.

Q. These four pieces that I now produce and show the jury, show the disintegration of the stone, do they not?

A. Yes, sir.

Q. You have stated that this disintegration is progressive; is it true or not that this disintegration is progressive at the point of a crack or fracture?

A. It is just so; it is progressive to-day.

Q. As to that object, with respect to that, have you applied, as you have stated on the first day of your examination, the solution of Llama milk and dust of the stone?

A. Yes, sir, it is put on in order to keep the stone away from the air.

Q. Is this disintegration brought about by atmospheric action on the stone?

A. I believe so.

Q. And to prevent or check the disintegration you make a solution of this milk or gum with the dust of the stone?

A. Yes, sir, but it is only by way of experiment even then.

Q. It is applied for that purpose?

A. Yes, sir, for nothing else.

Q. Has it been applied generally to repairs?

A. Yes, sir.

Q. To the edges where the repair is made?

A. Yes, sir, and nothing else.

Q. And its effect is also to conceal in a measure, the joint?

A. Yes, sir, it does so.

(2413) (By a Juror.) Q. Has that wash been applied to the whole of the object in any instance?

A. No, sir, only where the fracture occurs.

Q. In repairing an image, you wash over the part repaired?

A. Yes, sir.

Q. And not the whole image?

A. No, sir.

Q. The wash, of course, gave the repair the same color as the rest of the figure possessed?

A. Exactly, and nothing else.

Q. What proportion of the Cypriote sculptures exhibited in the park is wholly unrepaired, and exhibited in a fractured and broken condition?

A. I should say four-fifths of the whole collection.

Q. It is stated in the Art Amateur article that the bronzes in the park collection have been covered with a false patina; what do you understand by a false patina?

A. A kind of greenish color metal.

Q. Will you tell us exactly what has been done to the bronzes in the park collection?

A. The bronzes from Cyprus came here more or less in the same state of disintegration in which you see these stones of Cyprus, only the one is disintegration of the stone and the other oxidation, but the effect of the damage on the material is the same. I called the attention of the Trustees to it at an early date when I came to this country, how necessary and important it was to save these bronzes from entire destruction. They took the matter in hand, and after some attention had been given to it, they requested three persons who had offered to stop this oxidation, to try and see what they could do, giving one piece to each. I believe one man came from Tiffany's, I

do not remember his name; another piece was given to Mr. Feuardent, and the third piece was given to a Mr. Balliard, a Frenchman, whom I had never seen before that time.

(2414) Q. Was that before he had anything to do with the collection in the museum?

A. Yes, sir, it was before I knew him.

Q. What followed then?

A. After two weeks, or perhaps one week, or perhaps three weeks, these pieces which they had acted upon were brought back to the Trustees. I presented them to the Executive Committee as they had been treated by these parties, and they told me to put them away, and let them see what time would do on them, whether this oxidation would be stopped in reality or not. These three pieces were put away, I believe for nearly seven or eight months, probably a year, and they were not looked at at all. One day the Executive Committee asked what had been done to the bronzes, and I said nothing whatever, except these three pieces that have been treated. They said bring the three pieces and we will see the effect of time upon them. I was requested to have the pieces brought before them, and they examined the three pieces, and they found that the oxidation was still going on, in spite of what had been done to them, and in spite of the treatment they had been subject to, except the third piece, in which it seemed as though the oxidation had been stopped completely. I looked at the piece, and I agreed that in only one the oxidation seemed to be entirely stopped. We then found, upon looking to see who had treated that particular piece, that it was a man by the name of Charles Balliard. I did not know the man at the (2415) time, but I was requested by the Trustees to send for the man, and ask him whether by some means or other he could stop this oxidation in the rest of the bronzes, and the man said he thought he could by the same treatment. I referred the matter to the Trustees again, and they asked me how many pieces there were in the collection, and I told them that there were 1,580 or 1,600 pieces. Then the question came up whether all these pieces should be treated at once with this experiment which had not yet been proven to be certain. And the decision was that only a certain number should be given to this man to be treated in the same way, and I gave him, according to instructions, some thirty or forty pieces, and he treated these pieces according to the treatment that he applied to the first piece. This was only by way of experiment. Those pieces have been put on exhibition with three or four hundred more that never had been touched, and never had been treated; and they were placed in the museum side by side with the others which were disintegrating.

(2416) Q. In what respect is the color of those thirty or forty pieces, treated by Balliard, affected?

A. I should say that those not treated by him were of a greener and much brighter color than any out of the other forty.

Q. In one of the plaintiff's pamphlets his statement is that they are grass green or that a gas fixture green has been produced; which are the greenest bronzes?

A. The greenest are those not touched by Balliard.

Q. Are they still corroding?

A. Yes, sir.

Q. In your judgment, should all of them be treated as the thirty or forty pieces have been treated?

A. I do not quite go as far as that, because I am still waiting to see the effect upon the bronzes. Yet I will say that if they are not treated in the same way, I think they will all be destroyed.

Q. Do you know of bronzes in the British Museum being treated in a similar way to stop corrosion?

A. Yes, sir.

Q. What is their process?

A. Mr. Reddy, whom we asked to give us a treatment for the bronzes, refused to do so. He refused to give me the secret that he has.

Q. Then it is a secret?

A. Yes, sir, it seems to be a secret of his own.

Q. I show you two papers marked Exhibits 86 and 87, being the anonymous letter and the envelope containing it, which have been attributed to you by one or two witnesses, and ask you when and where you first saw those two pieces of writing?

A. The first time that I have had them in my hand, has been here in Court; it is a simulation to my handwriting, but it is not my handwriting.

(2417) Q. Is the writing on either exhibit your handwriting?

A. No, sir, not one line, one word or even a single sign.

Q. You had no knowledge of their production or their sending to G. C. Cox?

A. Never.

Q. I show you this French letter, which is called the Dubois letter, Exhibit 94, for identification, and ask you the same question in regard to that; when and where did you first see that?

A. I saw it here in Court. It is not my handwriting; I have never seen it before. There is not one line, or word or sign in my handwriting.

Q. Have you any knowledge of its origin or source of its production?

A. I have my ideas, but I have no proofs.

Q. Have you any knowledge whatever upon the subject?

A. No, sir.

Mr. Choate: I offer the Dubois letter in evidence for the purpose of showing the letter to the jury.

(Objected to; objection sustained; exception taken.)

(2418) Q. I call your attention now to that portion of the Cook pamphlet relating to the catalogue of objects now in the museum of which photographs were sent to Mr. Clarence Cook by Mr. di Cesnola; the first is a small head wearing a crown; on the back, in Mr. di Cesnola's own hand: "From Salamis," and the remark attached to it is: "This head is now fixed on one of the pair of sphinxes numbered 35 in the guide to the Cesnola collection, and said there to have been found at Golgoi; this object is a made-up affair;" where, in fact, was that found?

A. In Golgos.

Q. In the photograph produced in proof of this assertion, which is a photograph of six objects, on the back of which is written "From Salamis"—what is the fact about this one head—the head hat was first on the sphinx; you say it was found at Golgoi?

A. Yes, sir.

Q. What is the fact in reference to the others in that same photograph—the six pictures—about the small head wearing a crown?

A. They were all from Golgoi, except the sphinx on the top, which is from Salamis.

Q. That indorsement "from Salamis" properly applies only to that particular picture?

(Objected to.)

Q. You say they are all from Golgoi, except the sphinx on top?

A. Yes, sir.

(2419) Q. The second is a large lion couchant; on the back, in Mr. di Cesnola's own hand: "From Salamis;" this is the lion, is it not?

A. Yes, sir.

Q. Where did that come from?

A. That came from Salamis.

Q. The remark made upon it is: "This is No. 189 in the museum, and will be found in case B." According to Mr. Savage, it is "From the excavations of Golgoi." When was your attention first attracted to the fact that this was stated in the guide book to be from Golgoi?

A. Since I saw the Cook pamphlet.

Q. Do you know how that came to be recorded by Mr. Savage in the hand book as coming from Golgoi?

A. I do not. There is some mistake about it. Sometimes Mr. Savage, when he was preparing the catalogue, would come up to me and ask me to come down stairs and say where a certain object was found, and at one time I may have pointed

to one object and stated that it came from Golgoi when Mr. Savage may have had another object in his mind. It may be my mistake, or it may be Mr. Savage's mistake.

Q. Either he or you may have made a mistake?

A. Yes, sir.

Q. There is no doubt about it but that it came from Salamis?

A. No, sir.

Q. Is there any object known to you, which you could have had, in stating or representing that it came from Golgoi, when it actually came from Salamis?

(Objected to as incompetent.)

The Court: I think it is competent to show that the witness had no motive to misrepresent the thing in the guide book to the Cesnola Collection.

Mr. Bangs: I take an exception.

(2420) Q. Had you any motive or purpose to represent in the Cesnola guide-book that object, really found at Salamis, and so recorded by you on the back of the photograph, came from Golgoi?

A. None whatever.

Q. The next is "a bas relief representing a seated female figure;" on the back, in Mr. di Cesnola's own hand: "From Salamis;" the guide-book says it is "From Golgoi;" do you recognize it?

A. Yes, sir; that is from Salamis.

Q. Do you make the same statement in regard to that object that you made to the previous one, namely; that you had no motive or purpose to represent it in the Cesnola guide-book as coming from Golgoi, when in reality it was found at Salamis, and was so recorded by you on the back of the photograph?

(Objected to as incompetent; objection overruled; exception taken.)

A. Yes, sir.

Q. The next is "a head with a wreath. This has no writing on the back;" do you see it there; do you recognize that on page 350 of Cyprus?

A. Yes, sir.

(2421) Q. Which is the same head with the wreath?

A. Yes, sir.

Q. As it is on the photograph?

A. Yes, sir.

Q. With no writing on the back of the photograph?

A. Yes, sir.

Q. On the printed plate on page 350 of Cyprus, this with two other heads is printed as "Stone heads from Dali;" where did that head come from?

A. I suppose it came from Dali.

Q. When did you first know that it was stated in the guide-book to be from Golgoi?

A. When this pamphlet came out. My attention was called to several discrepancies between the guide-book and that book.

Q. If it is stated in the guide-book to be from Golgoi that is a mistake?

A. Yes, sir. I have not seen the guide-book, but if it is so stated in the guide-book, it is a mistake.

Q. Do you know how that mistake originated?

A. I do not.

Q. You do not know who made the mistake, whether it was yourself or Mr. Savage?

A. No, sir.

Q. Mr. Savage stated in the guide-book that it was found in Golgoi, when in fact it was found at Dali?

A. It must be the mistake of Mr. Savage.

Q. And if you told him so, it was a mistake on your part?

A. Yes, sir.

Q. Or if he understood you to say it come from Golgoi, it was a mistake on his part?

A. Yes, sir.

Q. The next is "a statuette representing Hercules and the lion; on the back, in Mr. di Cesnola's hand: 'Hercules with the Lion.' In your Cyprus at page 250 Mr. di Cesnola gives

Q. If it is, is it a similar re-marking to the continuation over the repair of the line of the altar in the slab prepared by Reddy and shown to the jury?

A. There would be no analogy, because in the one the entire side of the altar is made, while that would only be to join the crack with the other part. In one case it is a restoration, and in the other case it is a repair.

(2389) Q. Do you call this repair properly made?

A. Yes, sir.

Q. And made as well as you could cause it to be done?

A. As well as I believe it could be done by any one.

Q. Now, what is the fact as to the facility with which an observer seeing it in Central Park as it has been always exhibited could see these brass clamps inside and be fully informed as to the fact and extent of the fracture and the repair?

A. I believe that any ordinary observer—it does not require an intelligent one—who would go there and look at the sarcophagus inside could see exactly where the line of repair went on the outside.

Q. The opening of the lid is so wide, you mean to say, that a person looking in can see all the clamps?

A. I do.

Q. That holds the broken pieces together?

A. Yes, sir; they were put there expressly for that purpose.

Q. I will ask you to say, how many of those clamps there are on the inside and how many on the long side?

A. I never counted them.

Q. Well, you can tell the jury whether there are five or ten on the short side or end, and twenty or thirty on the other; give us some idea?

A. Well, there are four or five on the short end and about ten or fifteen or twenty on the other side—on the long side—but I never counted them.

(2390) Q. Near this sarcophagus, an independent dog was found, wasn't there, a distinct object?

A. Yes, sir.

Q. Some complaint has been made of the way in which that is exhibited; where was this animal found?

A. In the same tomb where the sarcophagus was found.

Q. In what condition?

A. Perfect, without any break or anything.

Q. I see that now it bears the mark of a break across the loins, a break of the head, two breaks in the head, a break on the right fore-leg and another on the left fore-leg. When did that injury happen to it?

A. When we unpacked it in New York, we found that he had got into seven or eight or ten pieces—entirely fractured.

Q. Was this in the second collection?

A. Yes, sir.

Q. Then it was repaired at the Park as it now appears, was it?

A. Yes, sir.

Q. Plaster being used so far as it was necessary to complete the surface of the crack on the loins and in the legs?

A. Yes, sir.

Q. And the tip of the ear was left broken as it is?

A. Yes, sir.

Q. What is the paint—the red color that is on the neck; is that original?

A. That is originally the color as it was then.

(2391) Q. And these joints were covered with the solution as in the other cases?

A. Yes, sir.

Q. Well, what do you call that—a repair or restoration?

A. It is a repair; but it might have been done better.

Q. Might have been done more neatly?

A. Yes, sir.

Q. You don't know what breed of dog this is?

A. Yes, sir; there is to-day the same race in Cyprus—shepherd dogs.

Q. Now, General, I am going to try to hurry through the rest of these as fast as I can, for it is getting very tedious; the little Hercules, you know in what condition that has been found since this controversy broke out?

A. Yes, sir.

Q. That is, the legs and feet substantially made of stone and plaster?

A. Yes, sir.

Q. Did it ever come to your knowledge or attention so far as you now recollect, that that little Hercules had been restored in that way and was so exhibited until after these charges were made?

A. By these charges do you mean the suit or what?

Q. No, I mean the newspaper charges?

A. I did not know of it, I did not know in what condition it was until after the charges appeared in the Art Amateur.

Q. Its being put into the exhibition after such restoration was unintended by you?

A. It was done in the hurry of the moment when we opened the museum in Central Park.

(2392) Q. I will ask you the same questions in regard to the several noses—I think three or four in number—and the several bases, four in number, I think—pointed out in the list given by Henkle and Alley to Savage and mentioned by Savage in his printed article in the Times?

A. As to the noses, yes; as to the bases, no—as the bases are the old ones.

Q. Now, as to bases; what do you understand as a matter of repair is proper for the purpose of setting up a statue which has lost its base, or of which the base has been shattered—setting it up for the purpose of exhibition?

A. By replacing it.

Q. To put on a base of the same or similar material?

A. Certainly.

Q. You regard that as a proper repair?

A. It is done by all the museums of Europe, and a proper repair.

Q. Is it not the most convenient method of upholding any statue, to give it a proper base?

A. Certainly; there is no other way.

Q. Is there any other recognized method that you know of?

A. None that I know of.

Q. The temporary method employed in 14th street and by you in Cyprus of holding them up by a beam only is not usual?

A. That was merely a temporary thing. That was no repair.

(2393) Q. Where was this colossal head found?

A. It was found in the site west of the Temple.

Q. Over the ridge?

A. Over the ridge; yes, sir. It was the first object found at Golgos.

Q. Is that here?

A. I suppose it is.

Big head produced.

Q. Is that the head of a priest or a warrior or what?

A. I would hardly be able to say.

Q. When was this first pictured in any way—photographed or sketched?

A. The first one was a photograph in Cyprus and reproduced in Harper's by Hitchcock.

Q. Is it in the Hitchcock album?

A. I don't know; I suppose it is. Yes, it is.

Q. Has this ever been tampered with to your knowledge?

A. Never to my knowledge. It was found in that way and there it is.

Q. Is this a correct sketch of it on the first page of the photograph in your note book.

A. Substantially so.

Q. It has been testified by Mr. Hutchins that the nose, cheek and a portion of the beard are repaired or additions; what do you say to that?

A. I say it is not true, and it can be seen easy enough.

Q. You say and leave it to the jury, I suppose, that that beard is on there as it always was?

A. It is on there and never been broken.

(2394) Q. Could any additions of plaster or anything else be made to it without defacing it?

A. Nothing whatever that I know of.

Q. This is the one that was testified about by Hutchins, and there is the page plate to which he referred, (handing witness a photograph)?

A. Yes, sir.

Q. That is the photograph of this very image, is it not?

A. Yes, sir! and no other.

Q. It is not true that the beard has been repaired?

A. There it is. You can see it, there is nothing done to it. It is intact.

Q. It is not true that the nose has been repaired or the cheeks?

A. No, sir, nothing; and it can be put in a bath, too.

Q. So far as you know this is in a condition in which it always has been?

A. No, sir.

Q. Well, what changes have been made?

A. When it was in Central Park and mounted in that way, one day they wanted to photograph it. It is a very heavy object, and there was what the sculptors called a shake or a crack.

Q. A check?

A. Yes, sir; check—something like that.

Q. Where was that check or crack?

A. It runs from there (indicating); goes all around there, goes up there, and runs in that way (indicating), and runs again under there (indicating). The men were holding it up in this way (indicating), and all at once I heard it crack and I stopped them; but all this portion (indicating), came off and was replaced back.

(2395) Q. Now how was that replaced?

A. By exactly placing that thing over in its place. I think the photograph shows the crack itself.

P. Will you state in words as nearly as you can the course and extent of this fracture?

A. It begins from the mouth—either the lower part of the lip or the over-lip—I don't know which, on both sides, and it comes up in front of the beard and terminates with the top of the head.

Q. In fact, it removed the entire mass?

A. It came out as a mass, and fitted there again exactly in its place. That was in Central Park.

Q. I read from Hutchins's testimony, page 84: "That was the largest head in the collection. It stood in the room known as the Conservatory, on the southwest side left of the stairs going into the picture gallery (in Fourteenth street). The place where it stood, like many other places in the roof, was bad and during the winter the snow-water collected and came down upon that head and showed distinctly that the nose and cheek and a portion of the beard had been mended." Now, sir, can you discover any trace of any repair of the nose or beard or cheek?

A. There is no doubt that on the top, there where it came out, something must have fallen on the top.

(2396) Q. I am not talking about that; I am talking about the nose, beard and cheek?

A. It is all stone; never has been repaired—it is one single piece of a stone.

Q. Do you know whether it had been cut into for the purpose of finding any break or repair?

A. Yes, sir; sculptors came expressly to examine it.

Q. Now, Mr. Gehlen has testified that according to his recollection there was a piece of beard off, which he replaced, made of plaster; can you find any evidence of that?

A. As I said, the beard is intact and all of stone, never repaired—never broken to my knowledge.

Q. By Juror: Has that ever been put in the bath?

A. Yes, sir.

Q. By same: After it was taken out of the bath did it exhibit that there had been any repair on it?

A. None whatever; proved to be pure stone.

Q. Mr. Cesnola, has every means that you

know of been used to find on the beard, nose and cheek evidence of repair?

A. I think so. I believe there were eight or ten sculptors, or stone-cutters, that came there that couldn't find it. At any rate, I can't.

Q. Well, for my purpose, I only wish to know this: Do you know of any such repairs having repairs been made?

A. I do not.
(2397) Q. You have never known of such being made?

A. Never known and never seen it.
Recess taken.

(2398) After recess.

NEW YORK, December 13th, 1883.

Present—All parties.

LOUIS P. DI CESNOLA's direct examination by MR. CHOATE continued as follows:

Q. I call your attention to Exhibit 72, the Priest with the branch, being a photograph of No 21 in the museum collection, and ask you to state in what respect in its present condition it differs in which you found it in Cyprus?

A. The only difference is that the right forearm was attached or rejoined to the statue, and that a new base was made for the feet.

Q. An entirely new base?

A. Only a portion in the rear in support of the new base.

Q. Isn't there a piece of stone inserted in the left foot?

A. Yes, sir, something the same like No. 39; it is a similar case.

Q. That you regard, I believe, as a proper repair?

A. Yes, sir.

Q. Is the same true with reference to No. 24?

A. Exactly.

Q. That has had the base repaired?

A. It had the base repaired and the support put behind.

Q. What is No. 24?

A. I believe that is what they call the Grinning Priest; it is the Priest of Aphrodite, but they call it the Grinning Priest.

Q. What is the fact as to that head which is now on that statue having always been on it?

A. It never was detached and broken from the body, and it is now as it was found in Cyprus.

(2399) Q. Is that an exceptional instance of the head not being broken off the statue?

A. It is not a single one.

Q. But it is an exception to the ordinary rule?

A. Yes, sir; it is an exception to the ordinary rule.

Q. Is any part of the beard in that figure in plaster?

A. None that I am aware of. There are two or three small pieces, about an inch, which have been made in Fourteenth street, in stone.

Q. How were those secured to the rest of the beard?

A. By glue or cement, I don't know which.

Q. What was the condition of that base that required the repair which was made on No. 24; was it a crumbled or broken base?

A. It was a broken base.

Q. The plaintiff has testified in regard to this No. 6 that it is made up by fixing together fragments not originally belonging together; what is the history of that piece?

A. I have not examined the statute since it has been put in the case in 1879. May I be allowed to look at it?

Q. Certainly. Come and look at it all you want to.

A. Nothing else but the head and a piece of the left forearm, which have been placed in their place.

Q. Then you say it has not been made up by fixing together fragments not originally belonging together?

A. No, sir.

(2400) Q. What do you say as to the original finding of the body; as to the head being found with the body?

A. When it was found the piece was right next

to the body; the head and the broken pieces were all together.

Q. What is No. 4—do you remember a figure No. 4, a somewhat similar figure?

A. I do; it is a large Egyptian figure.

Q. I show you plate No. 9 in Colvin, and ask you if that is a photograph of the figure?

A. Yes, sir.

Q. When and where was it taken of museum No. 4?

A. It is a copy of a photograph.

Q. Taken where?

A. I think it was taken in Cyprus; but I am not sure. No, it was taken in London.

Q. How was that figure found?

A. To my recollection only the head was detached, and nothing else.

Q. How about the right arm?

A. I am not sure about that. I remarked it in Central Park.

Q. Were they found in close juxtaposition; were the parts now forming that figure found in close juxtaposition?

A. I think only the head was broken off, and found next to the body.

Q. What do you say to the statement that this figure, No. 4, is made up of fragments not originally belonging together?

Witness: You mean the one that I was looking at now?

(2401) Counsel: The same one that I showed you a picture of now.

A. I say it is not so. The right arm came off in the bath in Central Park, but I never remarked it before.

Q. The left arm you mean?

A. Yes, sir.

Q. Your knowledge is that they were found together, fitted up and put together?

A. Yes, sir.

Q. (By Mr. Bangs.) Do you mean that the arm was found separate from the body?

A. No, sir; I say in Central Park, when they washed it, it came apart; and it was found then that the left arm, about five inches from the elbow to the shoulder was de'ached.

Q. Is not this the same thing on page 18 of the Hitchcock album?

A. It is.

Q. And does that represent it as it was in Cyprus?

A. Yes, sir.

Q. Do you remember that as having an inscription upon the left arm?

A. That inscription came out by washing it in Central Park.

Q. What obscured the inscription?

A. The various kinds of incrustations that were on the statue; a kind of incrustation which covered the surface of the arm.

Q. Does that inscription run across the break in the arm?

A. It does.

Q. So that it identifies the arm as belonging to the statue?

A. Yes, sir.

(2402) Q. Had you, before this inscription was developed by taking off the incrustation, ascribed any date or age to this object?

A. Yes, sir.

Q. Had Dr. Birch done so also?

A. Yes, sir.

Q. And at what period did Dr. Birch put it?

A. He put it to the eighteenth dynasty of the Egyptian period, about 1450 or 1500 years before the Christian era.

Q. And what did the inscription prove as to the date?

A. As far as the Cyprian inscriptions had been developed, we have not found a Cyprian inscription older than 700 before Christ, and that would reduce the age of that statute about a thousand years.

Q. That would affect in that measure its archaeological interest or value, I suppose?

A. It would not be a positive test, as it may have been put on afterwards. When I found it, I referred the matter to Dr. Birch, and he said it was not a positive test.

Mr. Bangs: I object to what Dr. Birch said.

Q. Dr. Birch saw it before the inscription was developed?

A. Yes, sir.

Q. Can you say that the oldest date known in Cyprian inscriptions is some 700 years later than the date Dr. Birch and yourself originally ascribed to the figure?

A. Yes, sir.

Q. That, I suppose, is not a matter of mathematical certainty?

(2403) A. No, sir; because the Cypriote inscriptions have not been fully developed.

Q. What is No. 14?

A. An Egyptian figure, something of this kind.

Q. Very large?

A. No, sir; not very large.

Q. Look at the Hitchcock album, at page 125, at the right hand figure, and say whether that is the present Museum No. 14, and if correctly shows it as photographed in Cyprus?

A. Yes, sir, so far as I remember, it seems to be correct.

Q. I show you what has been produced by the plaintiff as a photograph of it in its present condition, which is proved as being a photograph made by Mr. Cox; made in the Museum in Central Park; do you see any differences; I call your attention to the flat of the base which seems to have been squared?

A. Yes, sir.

Q. Do you see any other differences?

A. I see a difference in the nose.

Q. The nose has been perfected?

A. Yes, sir.

Q. Will you tell me in what condition that was found?

A. When that statue was found I believe the head was off, and a portion of the nose—the bridge of the nose was all shattered.

Q. Do you give a picture of it in Cyprus, at page 129, with the nose as it was?

A. I believe I did; yes, sir.

Q. When and how was the nose perfected?

A. The picture in the book shows the break.
(2404) Q. In the neck too?

A. Yes, sir.

Q. And this is the same book that was always on exhibition at the Park?

A. Yes, sir.

Q. When and how was that nose finished off?

A. The nose was all shattered, but the point of the nose was in stone, and, as it was shattered, in taking it in my hand the nose came off; it was wrapped in a piece of paper, and marked, but I forgot all about this, and when we unpacked the collection I found that this nose was marked as belonging to this statue; I gave it to the repairer and he placed the nose on and finished up the portion which was shattered between the tip of the nose and the roof of it.

Q. Could that statue be brought down here?

A. Certainly it could be brought, but it is very heavy; I can bring it down if you want it.

Q. Do you regard that as a proper repair?

A. Yes, sir.

Q. Properly made?

A. Yes, sir.

Q. Mr. Gehlen has stated in respect to No. 24, which you say was one of the objects which was found with the head on and broken, that the head was put on by him; that is a mistake, isn't it?

A. Yes, sir, that is a mistake; that is a mistake on his part, not on mine.

Mr. Bangs: Where did Gehlen so testify?

Mr. Choate: You will find it on page 277 of the stenographer's minutes.

(2406) Q. What do you call the statue now before you?

A. That is called Geryon.

Q. What is it?

A. It is a man with one body, six legs, three shields.

Q. What does it represent?

A. It represents one person with six legs and three shields; that is about all that I can tell you.

Q. Look at the Hitchcock album, page 38, and

A. Yes, sir, provincial (?) art.
 Q. Now when and where, and by whom, was the right fore-arm, which had been fitted in in London, removed?
 A. It was removed in Central Park.
 Q. Has it been preserved?
 A. It has been preserved.
 (2373) Q. Will you please produce it?
 A. Yes, sir. (Produces.)
 Q. By Juror: I understand you to say distinctly, that that arm was on the statue when you returned from Cyprus to London—the arm that was put on in London was already on the figure when you arrived there?
 A. Yes, sir.
 Q. Is that Mr. Whalen to whom you are said to have made that remark, still alive?
 A. Yes, sir.
 Q. It is the same Whalen whose deposition has been taken on the part of the plaintiff?
 A. Yes, sir.
 Q. Do you understand that he is at present an employee of the plaintiff in London, or of the house of Rollin & Feuardenet?
 A. He is an employee of that house in London.
 Q. Will you look at that fore-arm shown you and say whether that is the fore-arm that was put in in London and taken out after it was brought to New York?
 A. Yes, sir; that is the forearm, which was taken out in Central Park from that statue No. 22.
 Q. And on the removal of this, the original fore-arm which you had found was put in?
 A. Yes, sir.
 Q. Something is said in the report of the Investigating Committee—something about their being able to identify the fore-arm which had been put in by a photograph. It had been photographed in London, I understand?
 A. Yes, sir.
 Q. What is that false fore arm made of?
 A. Same stone of Cyprus.
 (2374) Q. Supposing the fore-arm to have been wholly gone and lost, what do you call putting in a false fore-arm like this?
 A. A restoration.
 Fore-arm last above referred to, marked Exhibit 191 of this date.
 Q. What is Exhibit No. 122 in the Colvin photograph album—is it a photograph of that in London?
 A. Yes, sir; as it stood in London.
 Q. Now, in what respect does it differ to-day, from what is there exhibited in London in No. 122?
 A. In no respect, except the original one is there instead of the false one. Maybe in roundness of the arm it is different; I don't know, now.
 Q. By a Juror: Was any one else present when that piece of arm was taken out?
 Mr. Bangs: I would rather the juror would not ask that question now.
 (Question withdrawn.)
 Q. Do you mean to say that the original fore-arm is there now instead of the false one?
 A. Yes, sir; in Central Park.
 Q. This restoration or substitution of the original fore-arm for the false fore-arm was made in Fourteenth Street; was it not?
 A. No, sir; it was made in the Central Park.
 Q. Made in Central Park?
 A. Yes, sir.
 Q. After your second and final return from Cyprus?
 A. Yes, sir.
 (2375) Q. Now, when you left Fourteenth Street, and New York after your six months sojourn there in 1873, in what condition up to that time had you seen this statue in Fourteenth Street?
 A. About the same condition as it is represented in that photograph.
 Q. In London—in Colvin?
 A. In Colvin.
 Q. Had you before the publication of the plaintiff's card No. 1, any knowledge or informa-

tion that it had been exhibited in Fourteenth Street with the right arm, the right hand and the patera off?
 A. Never.
 Q. Or, that the right hand and patera had ever been attached?
 A. Never.
 Q. You know now, that the right hand and patera were connected to the right side of the body by a wooden dowel?
 A. Yes, sir.
 Q. When did you ascertain that?
 A. After the investigation took place.
 Q. After the publication of card No. 1?
 A. After the publication of the charges; yes, sir.
 Q. After the publication of Card No. 1?
 Mr. Bangs: He didn't say so.
 Q. Well, was it after the publication of card No. 1.—Feuardenet's card No. 1.—or not?
 A. Yes, sir.
 Q. Are you able to say whether from your subsequent examination that was the way in which that right hand and patera were secured originally to the body?
 A. To hold the fragment which is detached from the body so that it keeps it solid at the place.
 (2376) Q. You don't mean the fragment; you mean the limb?
 A. Yes sir; sometimes you find that the limb has been made in one piece.
 Mr. Bangs: Sometimes you find what?
 The Witness: That the limb has been made by itself and attached to the statue.
 Q. Did you ever know of a photograph being on sale in the museum such as that obtained from the Corcoran Gallery, and published by the plaintiff in his card No. 1?
 A. I didn't know; I had never seen it.
 Q. Did you know that any such photograph had been in existence until after the publication of card No. 1? A. I never did.
 Q. Now, I wish to ask you about the sarcophagus about which testimony has been given here—the one which was broken and repaired. Is that the largest sarcophagus in the collection?
 A. No, sir; but it is the finest and most valuable—from Golgos.
 Q. Well, it is a piece of great value; is it?
 A. It is.
 Q. Where that that found?
 A. In the Necropolis of Golgos—in the cemetery of old Golgos.
 Q. In what state was it as found?
 A. That I could not state, as it was found while I was either in New York or on the way to Cyprus. It looked to me as if there had been a break of later date.
 (2377) Q. As soon as you found that this was secured to the body by a wooden dowel, did you make an examination into the others of the Cypriote statues to see whether the use of wooden dowels is common among them?
 A. I didn't make any examination of the wooden dowels inside of the statue.
 Q. No, no?
 A. I remarked that it has been broken and mended; that is all that I did.
 Q. No, no; but what I want to find out is whether you have made an examination of the Cypriote statues to find whether in the original work there was the use of wooden dowels in other statues?
 A. I have found pieces of wood—deposits of wood inside of the holes. We have a number of statues where the support is fixed to the statue; as they have been mended in 14th street, I don't know whether that was done then. We have found remains of wood inside of the square holes—fragments—which are to-day in the museum and some are here in Court, which are ancient.
 Q. Can you tell me whether there is any occasion or necessity for the use of wooden supports in this kind of statuary in some and what cases; what I want to know is whether you have found upon examination that that is quite a common mode of connection in this Cypriote statuary?

A. Yes, sir.
 Q. Now, do you know the occasion of it or the necessity of it?
 (2378) Q. In what state was it when you first saw it?
 A. I saw it in the tomb with one side broken.
 Q. What side was that?
 A. The side where the dog is.
 Q. That is the end?
 A. Yes, sir.
 Q. The other long side that has been broken and repaired was then entire?
 A. It was cracked; not detached.
 Q. Now, describe this break upon the end as you first saw it in Cyprus?
 A. It was broken diagonally from the top down towards the end—from left to right.
 Q. As you stand upon the outside of it from the left upper corner of this end down, slightly slanting to the right hand corner (showing witness photograph)?
 A. To the right, to about two inches or three inches of the base.
 Q. Into two pieces and no more?
 A. That was in one piece detached from the sarcophagus.
 Q. From what?
 A. From the rest of the coffin; it came out.
 Q. So that that end was in two pieces?
 A. The end was in two pieces.
 Q. And it was all there in those two pieces?
 A. Yes, sir.
 Q. Now, how was that boxed or prepared for shipment in Cyprus for New York?
 A. I had it taken from the tomb myself. The cover of it had already been taken out by the Governor of the Island, and taken possession of while I was here. On my arrival there he heard of my return and he at once sent me the cover and said that he had confiscated it from some of my men digging there without authority. Receiving the cover I went at once to Golgoi to examine this spot where they had found this. I found that they had left the coffin inside and as they were pulling it up with a rope the rope broke and down it went. I didn't care to go again and take the trouble to pull this up, and inasmuch as the Governor had arrested them and taken this cover out of their hands. Hearing of this I went myself to Golgos; it was in October, 1873; I had this place opened and the sarcophagus taken out. When it came out I found this entire side was broken and the longer side in two or three different places cracked by falling down. It was taken very carefully on a cart and brought to my house in Larnaca. Then I had a box made expressly for it and placed the sarcophagus inside, the piece that was detached I replaced on the spot and glued it together so that it would stand photographing. Then I got the cover to put on it and one day I had it photographed exactly as it was then.
 (2379) Q. Is that the photograph which has been produced here (showing witness photograph No. 91)? A. Yes, sir.
 Q. Does that represent all four sides of it?
 A. It does.
 Q. Now, as to this side which was so put together before it was photographed; was there anything done but placing the one part upon the other; was there any cement or glue?
 (2380) A. I don't remember; I don't think there was. The fracture was so clear from here—coming down from there.
 Q. And the other long side with the hunting scene was only cracked?
 A. It was cracked, but not detached.
 Q. So that I understand you that the whole of the original work—all the original substance of those two sides was there except such as naturally and necessarily would be lost in a clean break?
 A. Yes, sir; exactly so.
 Q. Had any covering matter or wash or solution been placed upon the crack or fracture before this photograph was taken?
 A. No, sir; except pencil marks.
 Q. And when you shipped it were all the pieces there?

A. Most certainly, as it is a very valuable piece.

Q. I want to be particular about this inquiry, because on looking at the photograph here taken in Cyprus, I am unable to discover any mark of fracture at all, especially on the dog side, the end—that was undoubtedly broken in two pieces.

A. The break passes over the collar of the dog—over the collar.

Q. Then it appears that it is possible, does it, to take a photograph of a piece of sculpture that is broken square across, which has been put together without any attempt or application that could possibly disguise the crack and a photograph be taken which does not show the line of fracture?

A. That depends how they take it. This was taken in a large courtyard without any glass roof or anything, just as I would take it down stairs in the City Hall Park.

(2381) Q. Is that your experience that photographs may be taken of fractured objects in such light and exposure that the fracture does not appear in the photograph at all?

A. If the fracture is small, may be so.

Q. This is a clean line of fracture?

A. I am not an experienced photographer; I merely photographed those for my own satisfaction.

Q. I want to find out particularly whether anything had been done to that, especially the end side—before it was photographed as here exhibited; except to put the one part upon the other; have you any knowledge of such being done but that?

A. I have no recollection of that; that may be so.

Q. Have you ever attempted in any way to conceal the fact that this sarcophagus had been broken as you state?

A. Not so. I suppose I speak of it in my book; I don't remember now; but I suppose I say it was found with the side broken.

Q. Is this a correct account of it in your Cyprus at page 110?

A. Yes, sir.

Q. And from what were these drawings which are inserted taken?

A. From the photograph which I took—of the same kind of photograph.

(2382) Q. By what kind of process or artistic work was this plate 10 taken from the photograph?

A. This is a copy of a steel engraving which appeared in the *Revue Archeologique* by Ceccaldi.

Q. And Ceccaldi, then, corresponds or ought to correspond with both of them?

A. Yes, sir. When I published my book in London, John Murray, my editor, got it and paid for it.

Q. "The sarcophagus given in the accompanying plate was extracted from one of the tombs in this field." Does that refer to the Necropolis?

A. Yes, sir.

MR. CHORATE reads to the jury, from the words: "The sarcophagus given in the accompanying plate," &c., on page 110, down to the end of page 114.

Q. Well, you boxed up this while in Cyprus, as you have stated, and shipped it to New York?

A. Yes, sir.

Q. And you didn't visit New York again until the summer of 1877? A. 1877.

Q. Where did you find it on your arrival?

A. I found it unpacked and on exhibit in one of the rooms in Fourteenth Street.

Q. Before you left, had you given any instruction to Mr. Hutchins or Mr. Gehlen or to anybody else, about working upon this sarcophagus?

A. I had not found it yet.

Q. You didn't know of its existence?

A. No, sir.

(2383) Q. Had you in any way been consulted by Mr. Hutchins or Mr. Gehlen or anybody else about what should be done to it after its arrival here and before you arrived?

A. No, sir; I never knew that it had been unpacked.

Q. And so that whatever was done to it in 14th street you had no knowledge of until your arrival and found it on exhibition?

A. Exactly so.

Q. Is it now in the same condition that it was in 14th street?

A. No, sir.

Q. I suppose it continued in the same condition as you found it until removed to Central Park?

A. No, sir; I had it at once with the permission of the president and vice-president of the museum, removed from exhibition and taken down stairs in 14th street out of the exhibition and it was not put on exhibition again until in Central Park, when repaired.

Q. Why did you ask and obtain that right?

A. Because it had been badly put together, had been washed over with some yellow, and in other respects had been greatly damaged.

Q. You were not satisfied with the work that had been done upon it?

A. Not only not satisfied, but extremely angry at the way in which it had been treated.

Q. Well, it is represented here that you spoke once or more with approval of the manner in which Gehlen had put it together in 14th street?

A. That is not so; it is just the reverse.

(2384) Q. On page 109 of the testimony Mr. Hutchins says: "I am positive that Mr. di Cesnola told Mr. Gehlen that he thought it was very well done"—meaning this sarcophagus; that you say is a mistake?

A. I say it is not true.

Q. You expressed strong dissatisfaction at what had been done with it?

A. As far as the sarcophagus is concerned?

A. Yes, sir.

Q. I mean the sarcophagus?

A. Yes, sir.

Q. Well, it was removed down stairs, and was it taken to pieces in 14th street, or did it remain in its then condition until removed to the park?

A. It was taken down stairs in 14th street in the basement and remained exactly as it was without trying to take it apart at all; and was taken up to the museum afterwards—to the Central Park.

Q. Then it was put up in this present condition in 14th street?

A. No, sir; it was put so in the Central Park.

Q. Oh, I understood you "re-made" and you said "remained"?

A. Yes, sir; *remained* in that way.

Q. Then up in Central Park have you a personal knowledge of what was done to it?

A. I have.

Q. Now, tell the jury exactly what was done to it, and by whom?

A. That sarcophagus—I had a large tank built for all the other statuary, but especially first for this sarcophagus.

Q. What is the length of it?

A. I could not say, 7½ or 8 feet. There is the length in the book.

(2385) Q. You will have to speak a little louder because your utterance is not perfectly distinct, and Mr. Bangs don't quite hear you.

MR. BANGS: When you give an extended answer I find it impossible to follow you; so if you will speak a little more slowly I will take it as a favor.

Q. Go ahead now and say what was done to that sarcophagus?

A. This sarcophagus—not speaking of the cover, only the box or the coffin—the lower part—it was taken into the basement-room, where a large tank was made—this sarcophagus as it had been mended in 14th Street, was placed inside this tank, standing with the part up, and water poured in it until it became entirely covered, so that the water in the tank covered the entire sarcophagus. How long it remained in that position—how many days—I could not be able to state with accuracy. I suppose it might have been there, four or five days, perhaps a week.

It was left there until each piece which had been put together by Mr. Gehlen came off. After that the repairer, with his assistants, cleaned off the surface, took the pieces and put them somewhere

in the repair-room to let them dry—that is to say, to let all the dampness which the stone had absorbed, disappear. After the pieces were dried in a sufficient manner to be able to be put together, the question came, and a very serious one, how these pieces should be put together, in what manner they should be put together, in what permanent manner. There had been consultations with several of the trustees when they came to the museum, as this was one of the last pieces that was put together, and each one gave his opinion as to the best way and proper manner to put it together. Mr. John Q. A. Ward, one of the sculptors, came there also—he was also one of the trustees—and I particularly asked him whether the plan of putting the pieces together would be the best and proper manner to do it. Mr. Ward said, "I think so." Then the pieces were taken and placed exactly where they went and joined together, the clamps—copper clamps—were put behind to hold the two pieces together. When these pieces were put together where the fractures were, when they were in Cyprus those fractures were sharp—joined together perfectly and almost invisible. When we detached them from the water we found that in putting them together in 14th Street, by some way or other the sharp edges at different places had been shattered. The next question came, how to fill up those lines which formerly touched each other carefully, and now wouldn't touch.

(2386) Q. Well, how was that done?

A. That was done by inserting small pieces of stone—of the same stone of Cyprus—instead of putting cement, and placed them so that they would exactly fill. When I speak of the breaking, I mean in some places one-tenth of an inch.

(2387) Q. What was the wideness of those places?

A. I don't recollect; but it might have been about one-third of an inch, but not in depth, merely on the surface.

Q. On the surface?

A. Yes, sir. When that was done, the next thing was to connect those pieces of stone with the sarcophagus. There cement was used to put them in. After that was done this preparation, which I said of this repairer, was put all over where these cracks had been filled up, and then it was sent up stairs and placed in its present position under a glass case, with the cover raised with pieces under it so that everybody can see inside how the work was done, and never since has been away from exhibition.

Q. Does the picture of it, plate 10 in Cyprus, show about the manner in which the lid is as now in Central Park?

A. It is raised higher.

Q. It is now raised higher than in this picture?

A. Yes, sir.

P. That lid is held up by blocks, I suppose?

A. By pieces of blocks so that a person can look inside of the sarcophagus.

Q. Now, somehow, between Cyprus and New York—that is to say, in its present condition—the collar of the dog has disappeared; how is that?

(2388) A. The collar of the dog was a little exaggerated in the picture taken in Cyprus by pencil marks which give it much larger. It was probably the 20th portion of an inch. The break just came on the collar of the dog, downward, and in putting it together and repairing it, the repairer left entirely the collar off. If he had made a new collar, he would have made a restoration, but I would not leave him do it, and therefore it is only a repair that he has done.

Q. As it now appears in the Park, the lines of the dog neck are continuous?

A. Yes, sir.

Q. Well, is that by bringing the edges together, or by carrying some tool over the crack, if you know?

A. I don't understand the question.

Q. Well, is the continuous line of the dog's neck on each side as it now appears the result of bringing the original parts together, or has it been re-marked on the line of the dog's neck?

A. I could not say. I do not believe there was any marking on it, but there might be.

A. Yes, sir.
 Q. How many months?
 A. Eight and a half or nine months.
 (2493) Q. You were captured at Aldi?
 A. At Middleburg.
 Q. At the end of the cavalry charge which you led?
 A. Yes, sir.
 Q. And in which battle you are said to have distinguished yourself as a cavalry officer?
 A. I think so.
 Q. You were there in prison eight or nine months?
 A. Yes, sir.
 Q. When; can you give the date of your emerging from Libby prison?
 A. March or April, 1864.
 Q. Now, perhaps after refreshing your memory by all these questions, you can tell us how long after that you remained in the service of the United States as a soldier?
 A. Until my regiment came home.
 Q. It is the date we want; give the date of that?
 A. I do not remember it now.
 Q. You cannot give it more precisely than you have already done?
 A. No, sir.
 Q. It was before the end of the war?
 A. Yes, sir; my regiment had finished its four years, and I was mustered out with my regiment?
 Q. Were you mustered out at Washington?
 A. I was mustered out at Winchester.
 Q. What business did you go into then?
 A. No, business; I gave lessons in tactics.
 Q. In what place?
 A. Somewhere in Broadway, between 18th and 20th streets.
 (2494) Q. At 907 Broadway?
 A. Yes, sir.
 Q. Had you a partner by the name of Percy Windham?
 A. Yes, sir.
 Q. During that period did you go by your own name all the while?
 A. I always did in my life. I never had any other name.
 Q. Did you advertise your business?
 A. I had very little to do with that; Colonel Windham had charge of that.
 Q. Did you advertise your business?
 A. I don't think I did.
 Q. Did you see in the papers advertisements of your business?
 A. I do not remember.
 Mr. Bangs: If anything in the form or shape of my question to him as to his having used his own name or any other name, after his discharge from the army, implied that he did so, I wish to withdraw anything that I have said; I have no information that he did so; it is a mistake on my part.
 Q. Was it a part of your business to procure commissions?
 A. No, sir.
 Q. Was it a part of your business to give fencing lessons?
 A. No, sir. I never gave fencing lessons.
 Q. Did you issue circulars containing your terms?
 A. May be.
 Q. Did you?
 A. I do not remember. I would recollect if I could see one of them. I may be able to recognize it.
 Q. How would seeing one help you?
 A. I said if I could see one, probably I would recollect it.
 (2495) Q. Mr. di Cesnola, as a matter of course, I suppose you recognize a man's obligation to tell the truth at all times,—to tell the truth when he is not under oath just as much as if he was under oath?
 A. Yes, sir.
 Q. In all that you have written, and spoken, and published, in the matters in controversy here, have you been just as scrupulous and careful in telling the facts as they were, as if you were under oath on this trial?

A. Yes, sir.
 Q. You meant to give the best of your memory just as faithfully as if you were testifying?
 A. Yes, sir.
 Q. In your book on Cyprus, near the end of it, there is an essay prefaced with the name of John Taylor Johnston, President of the museum, and there have been read to the jury the first, second, third and nearly the whole of the fourth page. It begins, if you will kindly turn to page 451, with this statement: "The written and verbal reports made from time to time to the Trustees of the Metropolitan Museum of art by General di Cesnola, and an examination of the collections now in the museum, enable us to arrive at the grand results of his eleven years work in Cyprus." Is it a fact that you gave to Mr. Johnston the information contained in that article?
 A. As it reads there very probably I did.
 Q. You did, didn't you; in fact, you have no doubt but that you gave him the information?
 A. No, sir.
 Q. Then that information contains this statement: "About 5,000 of these objects were unfortunately lost at sea near the coast of Syria in 1871, while on their way to America. A large and judiciously selected collection was transferred to the Ottoman Government by the explorer as a royalty for the firman granted him. Various specimens were also gratuitously presented by General di Cesnola to the following museums; The Imperial Ottoman Museum at Constantinople, the Royal Museum at Munich; the Egyptian museum at Turin; the Athropolical Museum at Turin; the Archaeological Society at Athens; the museum at Perugia; the Smithsonian Institute at Washington; and the British and St. Petersburg Museums were permitted to take casts and copies of the inscriptions. Sales were also made of small collections to the Berlin Museum, the Cambridge-Museum, the Kensington Museum, and the Boston Museum of Art. These losses and transfers, however, were mainly of duplicates, and in no wise detract from the completeness of the grand collection, which comprises about two-thirds of all the objects found, including the whole of the inscriptions and statues, and which are now the property of the Metropolitan Museum of Art." And at the foot of page 455 are these words: "It is but just to General di Cesnola, as a citizen of the United States, to record the fact that it was owing to his determination, not only to keep the collections in one body under his own name, but also, if possible, to secure them for his adopted country, that the Trustees of the museum were successful in their efforts to secure them. Had the General been less resolute on these points, or more mercenary, the collections would have been broken up and the articles sold separately to his great pecuniary benefit, but to the incalculable loss of science." I have read that article correctly, have I not?
 A. Yes, sir perfectly correct.
 (2497) Q. How do you account for it that article contains no statement of the fact that you had made auction sales in London and Paris?
 A. Probably I did not write it in the reports which I sent him. Besides that, he does not say that he took it from all that I wrote to him.
 Q. There are certain sales mentioned there; how do you account for the fact that it mentions none of the auction sales?
 (Objected to as immaterial; objection overruled.)
 Q. How do you account for the omission in that statement that you had sold considerable quantities at auction sales?
 A. I cannot account for it because I did not write the article myself, nor did I see it before it was written, nor was I consulted about it.
 Q. But you published it in your book?
 A. It was published by my editors.
 Q. Then how do you account for your not stating, after this enumeration of the 35,000 articles, and after stating that 5,000 of these objects had been lost at sea and that a large and judiciously selected collection was transferred to the Government, and the curious presentation of the sales of the small collection to the four museums

mentioned, and in connection with the statement that these losses and transfers in no wise detracted from the completeness of the grand collections which comprise about two-thirds of all the objects found, including the whole of the inscriptions and statues, and which are now the property of the Metropolitan Museum of Art; how do you account for the fact that you did not include in that statement the fact that you had made sales at auction?
 A. The objects sold at auction are supposed to be included in these figures.
 (2498) Q. Which figures?
 A. The grand total mentioned there.
 Q. The 35,573?
 A. Yes, sir.
 Q. Where does it say that they were sold at auction?
 A. I am not responsible for that article.
 Q. Did you tell Mr. Johnston that they were sold at auction?
 A. I did not.
 Q. Why didn't you?
 A. I did not see any necessity for it.
 Mr. Choate: I object to this line of examination as immaterial.
 Q. You are not able to assign any reason for your not mentioning that fact to Mr. Johnston, are you?
 A. No, sir.
 (2499) Q. Is it true that all the statues, after the transfers and sale mentioned in this article were left, and became the property of the Metropolitan Museum of Art?
 A. It is substantially true.
 Q. Substantially true?
 A. Yes, sir; I should think so.
 Q. Is it literally true that these losses and transfers in no wise detracted from the completeness of the grand collection which comprised about two-thirds of all the objects found, including the whole of the inscriptions and statues, and which are now the property of the Metropolitan Museum of Art; is that true that what was left after all these transfers and sales included all the statues?
 A. No, sir.
 Q. Then all of the statues that you discovered did not become the property of the Metropolitan Museum of Art?
 A. No, sir; there were many duplicates, and many of them were sold.
 Q. Were there any statues that were not duplicates, that were sold and did not become the property of the Metropolitan Museum of Art?
 A. If they were not duplicates, they were similar.
 Q. Answer this question, yes or no; were there any statues, not duplicates, which did not become the property of the Metropolitan Museum of Art?
 A. I do not remember.
 Q. Can't you say that?
 A. No, sir.
 Q. Did you sell any statues that were not duplicates; can you tell that?
 A. No, sir.
 (2500) Q. Did you sell any statues which were not duplicates?
 A. No, sir.
 Q. Did you lose at sea any statues that were not duplicates; can you tell that?
 A. Yes, sir.
 Q. What were they?
 A. The large statue of Venus, found at Salamis; the large Colossus, also found at Salamis; the statue representing the figure with the bull's head; also another head which was not a duplicate; I do not remember them all, because I have not the bill of lading.
 Q. Have you the invoice?
 A. I believe my attorney has it, but I have not seen it.
 Q. Will you produce it? A. Yes, sir.
 Recess taken.
 NEW YORK, December 14th, 1883.
 After recess.
 Present—all parties.

LOUIS P. DI CESNOLA's cross-examination continued as follows:

(2501) Q. Mr. Di Cesnola, what means have you of fixing the date of the loss of that ship?

A. The bill of lading, I believe.

Q. Won't you give us the date; can't you tell without the bill of lading?

A. I cannot.

Q. Can you state how long it was before you heard of the loss of that ship—how many months after she sailed?

A. About three or four weeks, perhaps a month.

Q. Did you communicate the information of that loss to Mr. Hitchcock?

A. I think he heard of it before I did.

Q. Then he knew of it long before his publication of his article in Harper's Magazine of July, 1872?

A. I suppose so.

Mr. Stickney: I produce the bill of lading.

Mr. Bangs: If the Court please, the defendant's counsel, in answer to my call, has produced the bill of lading. I offer it in evidence and it is marked Exhibit 198 of this date.

Q. Is that the document? A. Yes, sir.

Mr. Bangs: I will read it in evidence.

Exhibit 198—December 14, 1883, E. C. K.

Shipped in good order and condition, by Tabet freres & Co., charterers in and upon the good ship or vessel called the Austrian bark Napried, whereof N. Bodlovich is master, for the present day, now being in the port of Beyrout (Syria), and bound for a port Boston, as per charter party, a quantity of as per margin, measuring (C. C. C. Party, 21x61, sixcases, measuring eighteen baskets). Cognat antiquities from General Cesnola, U. S. Consul at Cyprus, being the full and complete cargo to be delivered in the like good order and condition at the aforesaid port of discharge, all and every the dangers and accidents of the seas, and navigation of whatsoever nature and kind excepted, unto order of Messrs Alpheus Hardy, jr., of Boston, or their assignees, he or they paying freight, demurrage and other condition for the said goods, as per charter party, signed at Alexandria, 22nd April, 1872; general average to be settled according to the custom of London. In witness whereof, the master or mate of the said ship or vessel has affirmed to four bills of lading, all of this tenor and date, one of which being accomplished, the rest to stand void. Dated in Beyrout, this 18th day of June, 1870, 2. Measure, weight and quantity unknown.

Ignaro il contento non rispondo d' alum quarto ni ralturo.

N. BAELLOWICH.

Endorsed:

B/Ls Napried from Beyrout, Napried.

Q. What is the translation of this part on that bill of lading?

A. I would prefer not to translate it.

(2502) Q. That document is dated the 18th of June, 1872? A. Yes, sir.

Q. Are not you mistaken in fixing the date of the loss of that ship as July, 1871?

A. Yes, sir, it was 1872, a year later.

Q. You were a year out of the way then?

A. Yes, sir; I think so.

Q. Was that a sale; were those goods sold when you shipped them?

A. They were stored at different parts of the Island.

Q. Excuse me; won't you answer my question; had you sold them; had you made a sale of them before you shipped them, or did they remain your goods? A. Yes, sir.

Q. Embracing a part of the Golgoi find?

A. No, sir.

Q. Where did they come from?

A. From every part of the island, except from Golgos; from the Southern and Western shore. If I had the map here I could point out to you the places.

Q. They were not here in July, 1872?

A. They were not.

Q. They never got here? A. No, sir.

Mr. Stickney: Mr. Bangs, you called for the invoice; here it is.

Mr. Bangs: The defendant's counsel produces on my call a document which I offer in evidence. It is marked Exhibit 199 of this date.

Q. This invoice is in your handwriting, is it not? A. Yes, sir.

Mr. Bangs: The title is this: "Boxes sent by the Austrian ship "Napried," shipped May 3d, and consigned to Messrs. Alpheus Hardy & Co., Boston, to be delivered to H. H. or his order. The consular certificate is this:

(2503) "Consulate of the United States at Cyprus. Larnaca, June 2d, 1872. I, the undersigned Consul of the United States for the Island of Cyprus, and dependencies do hereby certify that the boxes and baskets marked C. C. C. 21-61 and 1-18 contain nothing else but what is specified in the foregoing invoices, and that these objects are antiquities or ancient objects of art, not marketable, and belonging to me as my private effects. L. P. di Cesnola, U. S. Consul."

Q. I am sorry to have to read to you again a part of this John Taylor Johnston article; before I go at that, however, let me ask you this question: How is that shipment entered in your note book; have you looked to see?

A. I did not look at it; I do not know whether it is there or not.

Q. Won't you examine your note book and see?

A. No, sir; it is not there.

Q. It is not entered there?

A. No, sir.

R. Did that shipment of June, 1872, embrace such of your antiquities as you had left on the island after the consignment to Feuardent & Rollin in the fore part of 1871; did it embrace the whole of that collection, or were there still some left on the island?

A. They were continually digging there and my diggers were continually finding something.

(2504) Q. Did that shipment exhaust your store, or did you find some more?

A. I do not remember. I should say that it left some others there yet.

Q. I want to call your attention to the foot of page 455 of Cyprus to this statement of Mr. Johnston: "It is but just to General di Cesnola as a citizen of the United States, to record the fact that it was owing to his determination not only to keep the collections in one body under his own name, but also, if possible, to secure them for his adopted country, that the trustees of the museum were successful in their efforts to secure them. Had the General been less resolute on these points, or more mercenary, the collections would have been broken up, and the articles sold separately, to his great pecuniary benefit, but to the incalculable loss of science." did you write Mr. Hitchcock any instructions in regard to those goods?

A. I believe I did.

Q. Have you the letter?

A. I don't know whether I have it or not.

Q. Did you tell Mr. Johnston of any offer that M. Laffon had made you?

A. I was in Cyprus at that time.

Q. I mean at the time of the composing of this statement; did you tell him that you had received any offer from M. Laffon?

A. I could not tell him that. I might have written it to him, but that I don't know. I might have said so.

(2505) Q. Did you tell Mr. Johnston that you had sent the collection to Feuardent to be sold to the British Museum, or any part of it?

A. No, sir. I did not understand the question.

Q. Did you tell Mr. Johnston, at or about the time of his writing that statement, that you had sent the goods to Messrs. Feuardent & Rollin to be offered to the British Museum?

A. He ought to have known it since the collection was already there.

Q. Excuse me, did you tell Mr. Johnston so?

A. I do not recollect, but he knew of it.

Q. Are you, or are you not, responsible for that statement in Mr. Johnston's article in the back part of your book?

A. I take the responsibility for the statement, yes, sir.

Q. Do you see any discrepancy between your statement made on this trial that those goods were sent to London to be offered to the British Museum, and the statement of which you take the responsibility, and if you do, do you wish to make any explanation?

A. I will. It may appear so, but I did not see it.

Q. Did you tell Mr. Johnston that you had made any bargain with the plaintiff by which the collection was to be forfeited to them under certain contingencies?

A. I never had any bargain with the plaintiff of any kind.

Q. Rollin & Feuardent then?

A. Yes, sir.

(2506) Q. You told Mr. Johnston, at the time of the writing of this article, that you had made a bargain?

A. I do not recollect that.

Q. With a foreign citizen, by which the collection was to be forfeited to him under certain contingencies?

A. I do not recollect that I did.

Q. Do you see any discrepancy between the testimony given on this trial that you had made an arrangement with Rollin & Feuardent by which, under certain contingencies, they were to become the owners, and this article of Mr. Johnston's?

A. No, sir.

Q. You see no discrepancies?

A. No, sir.

Q. Do you see any discrepancies between the statements contained in that article, of which you take the responsibility, and your statement in the letter of September 26th, 1872, to the plaintiffs, being Exhibit 118, in which you say: "I inform you confidentially that the Trustees of the British Museum intend to purchase all that they need from my collection in order to establish a room in the museum exclusively of Cypric objects;" do you see any discrepancies in that statement in the article of Mr. Johnston and what I have just read you?

A. It was after the failure to sell it to the United States that I opened negotiations with Rollin & Feuardent.

Q. That you opened negotiations with the British Museum?

A. Yes, sir, many months after.

(2607) Q. This letter is dated the 26th of Sept. 1872; was it many months before that that you had failed to sell your collection to the United States?

A. It was offered to them in the beginning of 1871.

Q. Do you mean to some citizen of New York?

A. No, sir; to the Museum of Art of New York.

Q. Through whom and how?

A. That I would desire to see my collection come to New York.

Q. Through whom did you make your offer?

A. Through my friend, Mr. Hitchcock; he was my agent.

Q. In 1870?

A. I say at the end of 1870, or the fore part of 1871; I am not positive.

Q. At the end of 1870 wasn't there a war raging between France and Prussia, or rather Germany?

A. Yes, sir.

Q. Was not that about the time of the capture of the Emperor Napoleon?

A. Yes, sir.

Q. Were you engaged in negotiations with the Emperor Napoleon at the same time that you were authorizing Mr. Hitchcock to sell your collection at New York?

A. I was not in direct communication with Napoleon.

Q. With French people then?

A. Yes, sir.

Q. Did you not state in Exhibit 7, which has been read in evidence, being your statement to the Executive Committee of the Metropolitan Museum of Art, dated November 6th, 1880; you say: "These photographs were shown to

the Emperor Napoleon III.," (referring to these photographs) "who immediately decided to purchase the whole collection for the Louvre Museum; and the French Consul at Cyprus received an official communication from his government authorizing him to receive the objects from me, to pack them, and have them in readiness for conveyance by a man-of-war; but while they were being packed, news came of the outbreak of war between France and Germany; and soon after the surrender of Sedan put an end to the negotiations;" is that true?

A. Yes, sir, that is true.

(2508) Q. Did you mention that to Mr. Johnston?

A. I suppose I did.

Q. Why then does it not appear in your statement?

A. I cannot account for it.

Q. Was that true—that statement that I have just read to you from Exhibit 7 that Emperor Napoleon III immediately decided to purchase the whole collection for the Louvre Museum?

A. Substantially so.

Q. How did you become acquainted with his decision?

A. Through letters from Mr. Ceccaldi.

Q. Have you got any of them or were they burned?

A. There may be some there.

Q. Do you refer to any letter, except the one which has been produced here and offered in evidence, and which was ruled out?

A. I refer to that one.

(2509) Q. And to no other?

A. I had others, but I did not find them.

Q. When did you receive the others?

A. During that time.

Q. From Mr. Ceccaldi?

A. From the two brothers.

Q. Is it true that the French Consul at Cyprus received an official communication from his Government authorizing him to receive the objects from you, to pack them and have them in readiness for conveyance by a man-of-war; is it true that you received such a communication?

A. He gave it to me verbally. I don't know whether he received it or not. He told me to prepare my collection and pack it up, and that a man-of-war would come and take them away.

Q. What was the proposed offer to you?

A. 265,000 francs.

Q. Did you accept it?

A. No, sir.

Q. What happened?

A. It happened this—. When they offered me—

Q. Excuse me. You rejected their offer—

Mr. Choate: Cannot the witness complete his answer?

Mr. Bangs: I withdraw the question.

The Court: I think the witness may complete his answer.

Q. Then state what happened?

A. When this letter came to me offering me 265,000 francs for my collection, without the duplicates, I wrote back to Mr. Ceccaldi saying that my price for the collection would be 500,000 francs, or \$100,000. Then the question came up in some other communication in which they said: I don't think that Newerkerke or Napoleon would like to give anything more than I offered to send my collection for them to inspect it, without any price. I offered to let my collection go to Paris, and then have the authorities of the Government fix the price themselves, after they could see my collection there. That was the arrangement that was agreed upon, and upon that, the French man-of-war was to come and carry the collection to Paris to be examined, and have a price put upon it.

(2510) Q. What prevented it?

A. The Franco-German war prevented it.

Q. Then there was no bargain made with Emperor Napoleon; was there a sale made to Emperor Napoleon?

A. No, sir.

Q. Did they cease to be your property?

A. I still considered it my property.

Q. Did you tell those particulars to Mr. Johnston?

A. Probably I did. I do not remember.

Q. Can you account for those facts being omitted from this statement for which you say you are responsible; you are responsible for that, are you not?

A. As much as anybody can be responsible for the writings of anybody else.

Q. Was it a fact then that in 1870 it was your determination not only to keep the collections in one body, under your own name, but also, if possible, to secure them for your adopted country?

A. Yes.

(2511) Q. And was it to carry out that determination that you made a preparation to ship them by the French man-of-war to Napoleon III.?

A. It was almost impossible to interest the public here in anything—to do anything in regard to the purchase of that collection.

Q. Was it in pursuance of that determination that you made preparations to ship them to France? A. No, sir.

Q. Was it pursuance of that that you made one shipment in July, 1872, and prepared to ship the remainder to Napoleon III.?

A. You have that a little mixed.

Q. Or rather, I will reverse the order of things, was it in pursuance of that determination that you made preparations to ship a portion to Napoleon III. in 1870; shipping the other portion to Feuardent & Rollin in 1871 and 1872, and shipping another portion to Mr. Hitchcock in 1872; and sent some of your collection to be sold by Sotheby, Wilkinson & Hodge about the same time and some for sale by Hoffman about the same time?

A. I am sorry to say that you are mixing the whole thing. It was all in the same collection that was going to Paris, a large portion of it was going to Rollin & Feuardent and that was not another collection.

Q. Then it was subsequent to your breaking off negotiations with Napoleon that you formed the determination that you did form? A. Yes, sir.

(2512) Q. Then it was subsequent to your breaking up negotiations that you formed the determination to sell some to the British Museum?

A. To any of the museums of Europe, if I could.

Q. And in parts and parcels? A. No, sir.

Q. You sent some off to be sold at auction?

A. Those were duplicates; what I call a collection is a collection of objects, not duplicates; a collection is one thing, and duplicates are another; there were a great many duplicates which did not form a part of the same collection; museums don't want twenty pieces alike; they want a selection of the pieces.

Q. How many duplicates are there in the Metropolitan Museum of Art?

A. Perhaps 6,000 or 7,000 duplicates.

Q. Then your observation that museums do not want duplicates, does not apply to the Metropolitan Museum of Art?

A. They bought everything that I had—duplicates and everything; they kept the entire collection.

Q. Do you say deliberately that you consigned nothing for sale at auction but duplicates?

A. Yes, sir.

Q. Did you keep duplicates of what you sent to Feuardent & Rollin; did you have any duplicates of what you sent to Feuardent & Rollin?

A. I don't know what you mean; that was the very collection which formed my collection—that is, my collection of to-day—the Cesnola collection.

Q. Was there anything in that that was a duplicate of something else?

A. No, sir, not that I know of.

(2513) Q. You meant to have that sold separately?

A. It was my intention to keep it together.

Q. And you meant to sell to the British museum whatever they would buy?

A. No, sir; no, sir; no, sir; emphatically no, sir.

Q. You insisted on keeping the whole of the collection together?

A. That was the very reason why the British museum could not have it.

Q. Then, why did you write this: "I inform you, confidentially, that the trustees of the British museum intend to purchase all that they need from my collection, in order to establish a room in the museum exclusively of Cypriote objects;" what did you mean when you wrote that?

A. It requires two to make a bargain; it was their intention to buy what they wanted, but it was not mine; if I could have sold it to them together, I would probably have come to that conclusion, but I had no idea of acceding to their request, and I did not accede to their request.

Q. Do you see any discrepancies between your testimony that you have just given and this statement of your letter of September 26th, 1872, where you say: "I shall be ready, Monday morning, without fail, at your house, to begin to put in order the room up stairs with the small objects and heads, etc., if it is agreeable to you; I will expect you without fail Saturday, to see my little collection, which is here at my place, and which, by itself, will make your room up stairs appear a jewel of objects; when I tell you that I could have sold it for 45,000 francs, it shows you that, although small (200 to 250 pieces), it is a very choice one, but you will see it yourself on Saturday; I told your father it was my intention to sell that collection, in order to have ready funds in my hands; he prayed me to join it with the rest of the collection, and as to the money I might want, that he would arrange that matter; I need 400 pounds to meet engagements made in Cyprus, and I must have that money, half at the end of this very month, and the other half on the 10th of October; Messrs. Sotheby, Wilkinson & Co. will advance me that sum if I remit the collection to them to make a sale; they have done that with me on other occasions;" was it not your intention then to sell a portion of your collection; do you see any discrepancy between your statement that you intended to keep all the collection together, and the intimation contained in that letter that you would like to get 400 pounds on it, and would, if necessary, consign it to Sotheby, Wilkinson & Dodge for that purpose?

(Objected to; question withdrawn.)

(2514) Q. Do you see any discrepancy between this statement in Mr. Johnston's article that you "determined to keep the collections in one body under your own name, and the subsequent statement that if you had been less resolute on these points, or more mercenary, the collections would have been broken up, and the articles sold separately, to your great pecuniary benefit, but to the incalculable loss of science;" do you see any discrepancy between Mr. Johnston's article, for which you say you are responsible, and this statement in this letter of yours, referring to the willingness of Sotheby, Wilkinson & Co. to advance you 400 pounds on your collection?

A. No, sir, that don't refer to the Golgos collection at all; that means a collection of duplicates.

(2515) Q. Is that the explanation that you desire to give to that question?

A. Yes, sir.

Q. What is meant by the use of the word in this article "collections," and "his determination not only to keep the collection in one body," and the words: "The Cesnola Collection of Cypriote antiquities in the Metropolitan Museum of Art, New York," that is the heading of the article written by John Taylor Johnston, at the back of your book, for which you say you are responsible. It goes on to say: "The written and verbal reports made from time to time to the Trustees of the Metropolitan Museum of Art by General di Cesnola, and an examination of the collections now in the museum, enables us to arrive at the grand results of his eleven years' work in Cyprus, which may be summarized as follows:" And the last paragraph: "It is but just to General di Cesnola, as a citizen of the

United States, to record the fact that it was owing to his determination not only to keep the collections in one body under his own name, but also, if possible, to secure them for his adopted country, that the trustees of the museum were successful in their efforts to secure them. Had the General been less resolute on these points, or more mercenary, the collections would have been broken up and the articles sold separately, to his great pecuniary benefit, but to the incalculable loss of science." Do you see any discrepancies between the different statements; if you do, you can say so?

A. Yes, sir; I would like to explain that.
(2516) Q. You do see a discrepancy, then?
A. No, sir; none whatever. The explanation is simply this—

Mr. Bangs: If you do not see any discrepancy there is nothing to explain.

Q. Do you recognize this book now shown you?
A. No, sir; I do not recognize particularly the book.

Q. Don't you recognize that book; I do not mean this particular volume, but you know the serial publication called the transactions of the Royal Academy of Science at Turin, don't you?

A. Yes, sir.
Q. And you used to correspond with them?
A. Yes, sir; I am a member of the society.
(2517) Q. Is this a letter of yours on page 493 and 494?

A. Yes, sir.
Q. That was published in 1875 and 1876?
A. Yes, sir.
Q. I mean in the volume of 1875 and 1876?
A. Yes, sir.
Q. Would you mind translating that for us, Mr. di Cesnola; it is very short?

A. I prefer not. I might translate wrongly.
Mr. Choate: We will agree on a translation between now and Monday.

Mr. Bangs: I call for the letter from Blodgett to Johnston.

Mr. Stickney: I produce the letter called for.
Q. You were anxious to sell to the British Museum, were you not?

A. After the Metropolitan Museum of Art did not want it, yes, sir.

Q. You were anxious to sell to the British Museum after your collection reached London in 1872, were you not?

A. Yes, sir.
Q. To sell the whole thing to the British Museum?

A. Certainly, if I could.
Q. And you say, if I remember rightly, that it was on the 27th of October, when the terms were agreed upon between you and Mr. Morgan?

A. About that time, yes, sir.
Q. Before that time had you made any efforts to sell your collection to the British Museum?

A. I thought my agent had. I did not personally.

Q. You had been in London yourself for nearly two months then, hadn't you?

A. Yes, sir, about.
(2518) Q. Hadn't you made some effort to sell the collection to the British Museum?

A. No, sir.
Q. Had there not been during all that period negotiation pending between you and the Americans?

A. Yes, sir.
Q. During the whole of that period?

A. Yes, sir, and previous to that.
Q. Your agent knew that, didn't he?

A. No, sir.
Q. Didn't you tell him of it?

A. No, sir.
Q. Did you wish him, while you were conducting the negotiations with the Americans, and while those negotiations were pending, to make a sale to the British Museum? You say you were engaged in negotiations for some months before the time when you agreed upon terms of sale to make a sale to the Americans; was it your wish, expressed or otherwise, that during the same

period your agent should sell to the British Museum?

A. Yes, sir.
Q. Sincerely?
A. Yes, sir.
Q. And at the same time you wished to sell to the Americans?

A. I had no hopes then to sell to the Americans, but my hope was revived by letters which I had received.

Q. When did your hope begin to revive?
A. When I reached Paris.

Q. When was that?
A. In August, 1871—1872, I mean.
Q. What revived your hope then?

A. Letters which I received from America.
(2519) Q. Then from that time you did hope to sell to the Americans?

A. Yes, in my letter I was told that probably some of the trustees would come over to London to see my collection.

Q. And then you began your negotiations with the Americans until you came to terms, is that so?

A. Yes, sir.
Q. During that period was it your wish that your agent should also make endeavors to sell to the British Museum?

A. I had already seen that he made no efforts at all.

Q. I am not asking you that; was it your wish in August, 1872, when your hopes of an American sale revived, and when your negotiations with the Americans were resumed, was it your actual wish that Feuardent, notwithstanding the tendency of these American negotiations, should sell to the British Museum?

A. I did not care anything about it.
Q. Did you say so?
A. I did not.

Q. Did you say anything to the contrary, that you did not wish him to sell to the British Museum?

A. I had no conversations with the British Museum authorities.

Q. Did you tell Mr. Feuardent that you did not wish him to sell to the British Museum?

A. No, sir.
Q. Then, whatever your wishes were in that respect, they were not expressed at all?

A. My wishes were to sell the collection either to the Americans or to the British Museum.

Q. You did not tell Feuardent to stop his sale?
A. No, sir.
(2520) Q. You did not tell Feuardent about it?

A. I do not recollect; but he had the authority.
Q. Did you withdraw the authority?

A. No, sir.
Q. At what price had he the authority to sell to the British Museum?

A. 20,000 pounds.
Q. When did you give him authority?
A. I gave it to his father; never to him.

Q. When?
A. By letter when I was in Cyprus.
Q. It was a part of the correspondence of which the lost letters were a portion?

A. Probably.
Q. Did you keep any copy of that letter?
A. I wish I had them. I would give \$1,000 if I had them.

Q. How much?
A. \$1,000.
Q. No more?
A. If they will produce them I will give that.

Q. What I want to know is this: were you and your agent working at cross purposes, you selling to Americans and he to the British Museum?

A. I was convinced that he was doing nothing.
Q. Were you and your agent working at cross purposes, he selling to the British Museum and you to the Americans?

A. I don't know that.
Q. Were they in harmony?
A. I was convinced that he could not sell them, and so I was selling them on my own behalf.

Q. Did you consider those designs consistent, a design to sell the British Museum and a design to sell the Americans, and did you think that those designs could be carried into effect at the same time?

A. By not saying anything to my agent of what I was doing they were not cross purposes.
(2521) Q. Was he working to accomplish what you wanted him to do?

A. No, sir.
Q. That work was that you wished him to sell to the British Museum or was it work that you did not wish him to sell?

A. It was work that he was authorized to do for the year.

Q. Did you wish him to do it?
A. Yes, sir; I always had that wish.

Q. Down to October, 1872?
A. Down to the time I arrived in London, and no more.

Q. Did you tell that to Mr. Johnston?
A. Very likely.

Q. How can you account for his stating your determination to keep them together for his adopted country, if you told him that you wished to sell them to the British Museum?

A. Because he told me that he was sorry that he could not raise the money in this country.

Q. Mr. Johnston told you so?
A. Yes, sir.
Q. Did that letter survive the conflagration?

A. The gentleman survives, if the letter did not.

Q. Answer the question; did that letter survive the fire at Larnaca—the letter that you received from Mr. Johnston expressing sorrow that he could not raise the money in this country; was that letter included in the fire at Larnaca?

A. How could it be in Larnaca? I did not receive it in Larnaca.

(2522) Q. Did you take that letter with you to Cyprus?
A. No, sir.

Q. Is it consumed?
A. I don't know. It may be.

Q. Produce it?
A. I may look for it. I haven't it here.
Q. I ask you to produce it?

A. I can produce the gentleman.
Mr. Bangs: I ask you to produce all the letters that you have saved from that fire, and papers and letters relating to Mr. Johnston, and all telegrams from Mr. Johnston received by you about this collection in 1872; I would also like the letters from Mr. Blodgett to yourself or from Mr. Morgan; I would like to have you bring to Court, ready to be produced when called for, all the papers in 1872 received by you.

Q. Have you written to Junius Morgan or Morgan and Co., in London, while you were engaged in preparing for this trial, for papers?

A. I did.
Q. Did you receive an answer?
A. I did.

Q. Did you receive papers?
A. Not directly.
Q. Did you receive papers indirectly?

A. Yes, sir.
Q. From whom—through what agency?
A. I don't know whether it has been through Mr. William E. Dodge or directly to my counsel. I am not positive.

Q. Are they in your possession or under your control?
A. They are in the hands of my counsel.

(2523) Mr. Stickney: Do you wish them?
Mr. Bangs: Yes, I call for them and take the risk. By that I mean letters from Morgan, but papers connected with paying for this collection and paying the charges for it. I do not mean documents descriptive of the past transactions, but documents relating to the transactions between the plaintiff and defendant.

Mr. Stickney: Those are the ones that counsel calls for (producing several papers).

Mr. Bangs: I beg your pardon. Those are not the papers I called for.

The Court: I suppose you intend to call—whether you use the exact language or not I do

not know—upon the defendant to produce papers passing between Morgan and the witness and Mr. Morgan and his American principals at the time of the sale.

Mr. Bangs: Exactly. That is the natural construction to be put upon my call, as a matter of course. But they thrust upon me personal letters of Mr. Morgan to this gentleman.

Q. Did you receive from J. S. Morgan and Co. any papers that passed between you and them and Feuardent in 1872, or any papers that passed between you and J. S. Morgan in 1872, relating to the sale of your collection, or any letters that passed between Mr. Johnston and Mr. Blodgett in 1872 relating to the sale of the collection, or any transcript of your account with J. S. Morgan and Co.? If you did receive such papers produce them for my inspection.

(2524) Mr. Stickney: Here is the transcript of the account, which I handed counsel a moment ago; here are the two checks which I handed him, and here are the letters enclosing them, which I handed counsel.

Mr. Bangs: Whose indorsement is that?

Mr. Stickney: General di Cesnola's indorsement.

Mr. Bangs: That don't belong to it?

Mr. Stickney: Of course not; strike it out.

Mr. Bangs: I offer this copy of the account handed me in evidence:

Exhibit 200.

L. P. DI CESNOLA, ESQ., IN ACCT. CURR. WITH J. S. MORGAN & CO.		C.	
Dr.			
1872.	To cash paid Messrs. Rollin & Feuardent, 61 St. Russell St., Bloomsbury, W. C. £2,800	1872.	By amount transferred to J. S. Morgan & Co. in acct. of collection of antiquities £4,000
Nov. 15.	To draft £ x. Hitchcock, 4-8 Gold St. To Mr. Feuardent's receipt to you, due 13 Jan'y, 1873. 100	Dec. 24.	By cash from you. 60
1873.	To draft 1,000		
Jan. 31.	To draft 1,000		
			£4,000

E. & O. E. London, 31st January, 1873. (Signed) J. S. MORGAN & CO.

It is marked "Exhibit 200" of this date and read in evidence.

Q. Do you mean that you received Exhibit 200 since the commencement of this suit?

A. I must see it, if you please, before I can answer.

Q. Can you tell, or not, whether this is the paper that you received since the commencement of this suit?

A. I want to see the letter accompanying it before I answer.

(2525) Q. Did you receive a statement of account like that on the 31st of January, 1873, or any statement of account from Morgan?

A. I do not remember; I may have seen it in his book.

Mr. Bangs: The defendant's counsel also produces upon this call the paper which has already been marked Exhibit 136; also the paper which has been marked Exhibit 137. One is a check for £2,800, signed by Di Cesnola, drawn on Morgan, and the other is a check for £2,800 of Morgan on the London Joint Stock Bank.

Exhibit 136.—Nov. 27, '83.—E.C.K.

(P. 2216.)

To MESSRS. J. S. MORGAN & Co.,
22 Old Broad street,
LONDON, 15 November, 1872.

Please pay Messrs. Rollin & Feuardent or Bearer, the sum of Two thousand eight hundred pounds and charge same to my account.
£2,800.—.— L. P. DI CESNOLA.

Stamped on face, "London & Westminster Bank, Lothbury."

Written in pencil on face, "L. & W. ac F. Burt & Co., correct."

Stamped on face, "Paid."

Two parallel lines are crossed in ink over the face, with the words "& Co." between them.

Revenue stamp on face on which is written "15 Nov., 1872."

Exhibit 137.

(P. 2216.)

[No. 24537.] LONDON, 16 Nov., 1872.

THE LONDON JOINT STOCK BANK,
5 Princes street, Mansion House.

Pay to _____ 9,119, _____, or bearer, two thousand eight hundred pounds (£2,800 0. 0.)

J. S. MORGAN & Co.

Stamped on face "London & Westminster Bank," Lothbury.

Two parallel lines drawn over face of check in ink, and between them the words "& Co." [Penny stamp.]

Mr. Bangs: Do you produce anything else?

Mr. Stickney: We produce these letters.

Mr. Bangs: I don't want them.

Mr. Stickney: We ask to have them marked for identification.

Mr. Bangs: I object.

(Objection overruled.)

They are marked for identification Exhibit 201 of this date.

Q. Did you receive any other papers besides those produced?

A. I believe not.

Q. Did you receive any papers signed by Mr. Feuardent?

Witness: From Mr. Morgan?

Counsel: Yes.

A. No, sir; I asked for all the papers that he had in this case.

Q. I want to know whether he produced any papers signed by Mr. Feuardent?

A. No, sir.

(2526) Q. You say Mr. Morgan placed £4,000 at your disposal; how did he put £4,000 at your disposal?

A. I don't know; it is a banking affair; he told me that I could draw £4,000, all at once, or as I wanted them, in small portions; just as I chose.

Q. That is what you mean by saying that he placed £4,000 at your disposal?

A. Yes, sir.

Q. Is that the first thing he said to you about it?

A. I don't remember now.

Q. Hadn't you before that told him that you wanted £4,000?

A. No, sir.

Q. Had you told him that you wanted anything?

A. I can explain that if you like.

Q. There is nothing to explain. Did you tell him that you wanted anything?

A. It is very important for me to explain. I sold the collection for \$50,000—

Q. Excuse me. I simply want you to answer my question; I want to know if you asked him for anything, or whether you told him that you wanted anything?

A. Nothing; I did not ask him for a cent.

Q. You don't know how the sum of £4,000 came to be fixed upon?

A. Yes, sir; I know how the £4,000 came to be fixed upon very well.

(2527) Q. Did you receive from Mr. Morgan, along with these papers which have been produced, any paper signed by yourself in November, 1872?

A. No, sir.

Q. Did you sign any paper in November, 1872,

at Morgan's, other than the contract and aside from the draft or check?

A. No, sir; I signed the agreement or contract.

Q. Did you sign any other paper?

A. No, sir.

Q. Did they give you their signature to any other paper, to any appointment of yourself as agent to take care of the collection?

A. That was verbally done.

Q. They had no evidence against you, then; they held no written evidence against you that you held the collection as their agent?

A. No written evidence; no, sir; they had verbal evidence.

Q. What enabled you to fix the 27th of October as the date when the terms were agreed upon between you and them?

A. My letters, that I had received from them.

Q. Where are those letters?

A. I don't know; it may have been some of Blodgett's letters.

Q. What letter was it that enabled you to fix that date when you agreed upon the terms?

A. A letter from Mr. Johnston to Mr. Blodgett.

Q. Have you that letter?

A. I think I have it, either here or at my house.

(2528) Q. Can you give the date of that letter?

A. I believe October 26.

Mr. Bangs: I would like to see that.

Q. Written from here to London?

A. Yes, sir.

Q. When was it received in London?

A. I don't know.

Q. It was not received on the 27th, was it?

A. There was a telegram received at that time.

Q. Then it was not the letter that enabled you to fix the date, but it is the telegram?

A. The telegram stated—

Q. Please answer my question.

A. Yes, sir; the telegram.

Q. Was it the telegram to Morgan that enabled you to fix the date?

A. Yes, sir.

Q. Where is that telegram?

A. I don't know whether it is among my papers or not.

Q. Did you receive it from Mr. Morgan with these other papers?

A. No, sir; they are in Mr. Johnston's possession.

Q. Is the telegram to Mr. Morgan?

A. Every paper concerning the collection was sent by Mr. Morgan to Mr. Johnston.

Q. What makes you believe that; why do you believe that?

A. Because I saw them in the minute book of the museum, copied there; they must have them here.

Q. Then of all the papers are there copies?

A. No, sir.

Q. Is there a copy there of the paper which Feuardent signed?

A. I never saw any paper signed by Feuardent, that I know of.

Q. Didn't Feuardent sign any paper at Morgan's?

A. I don't think he did.

(2529) Q. You think he is mistaken on that point when he so testified?

A. I don't know whether he said so or not.

Q. Yes, he said so; and if he said so do you believe him?

A. I don't believe anything of that man.

Q. You do not remember his signing any paper at Morgan's?

A. I do not remember.

Q. And the fact that he so testified does not convince you that he did sign a paper at Morgan's?

A. No, sir, not at all.

Q. I suppose it is quite to the contrary?

A. Yes, sir.

Q. Have you seen all the original telegrams from Morgan in Mr. Johnston's possession.

A. I don't know how many may have passed between them. He showed some of them me.

Q. How long ago did he show them to you?

A. Since this trial began.

Q. Has your counsel got them?

A. I don't know whether he has got them or I had them.

Mr. Bangs: I call for them. I want to see them and inspect them.

Mr. Stickney: Do you call for them?

Mr. Bangs: I call for them.

Q. Now these photographs that were shown to you by Mr. Choate a day or two ago, I want to call your attention to them; do you consider your discoveries at Salamis of any importance?

A. No, sir.

(2530) Q. None whatever?

A. They are important enough; but not of any great importance.

Q. How about the statue three times the size of life, with the benignant face?

A. It was very much shattered in the body and in poor condition.

Q. Was it beyond restoration?

A. As to the lower part it was beyond restoration, yes, sir.

Q. Was it beyond repair? A. Yes, sir.

Q. Do you mean that the legs were gone?

A. The legs, knees, and perhaps a little more.

Q. And no head?

A. Yes, sir, there was a head, but not attached.

Q. And the trunk was three times the size of life?

A. I cannot swear to that. It was much larger than life size.

Q. It was perhaps twice or three times the size of life; you did not consider that an important or interesting subject of archæology?

A. It was as far as size was concerned. It was important as far as size was concerned, but the style of art was not important.

Q. Did you consider it an important object?

A. Yes, sir, it was important enough; but nothing extravagant.

Q. Did Mr. Hitchcock ever see it?

A. I don't know; he will be able to tell you whether he saw it or not.

Q. Was he in Cyprus when that was dug up?

A. I do not remember.

(2531) Q. Don't you remember when he was in Cyprus?

A. Yes, I remember about the time.

Q. Do you remember when that statue was dug up? A. Not very clearly.

Q. Do you remember who dug it up; were you present when it made its appearance above ground? A. Yes, sir.

Q. Did you send a likeness of that statue to Mr. Hitchcock?

A. I do not think I ever photographed it.

Q. What does he mean in his article when he says "Upon beholding a likeness of this statue and reading in the familiar lines of the discoverer found where we sat together at Salamis?"

A. I don't know what his meaning was. He may be able to give it to you.

Q. Do you remember these words: "Our first excursion was to Salamis; and as we sat upon a mound near the foundation of a Byzantine palace, and our eyes went from the plain to the great chain of mountains, and thence over the magnificent expanse of bay that widens out, by the Dinaretum of Pliny and the Clides, to embrace Seleucia across the sea, an imagination came, with its stirring, changing, thronging scenes. First appears the argosy of Teucer, the exiling son of Telamon—a hero of Troy, and the best archer of Greece—who, sadly failing to avenge the death or gain the body of Ajax, comes hither to found a new Salamis. But whiter than all others is the spotless sail that bears the greater, Christian archer, Saul of Tarsus—whose arrows find the joints of the most impenetrable harness—to establish a better and a heavenly kingdom on these gentle coasts. Some months later all the fancy of that day was revived upon beholding a likeness of this statue, and reading, in the familiar lines of the discoverer: found where we sat together at Salamis." Did you send to Mr. Hitchcock a likeness of that statue?

A. I do not think I ever photographed it. In fact I am positive that I never photographed it, except the head.

(2532) Q. If you did not photograph it did anybody?

A. There was nobody in Cyprus who could photograph it but myself.

Q. Was it in your power to send to him a likeness of that statue?

A. I don't think I did, because I do not remember that I photographed it.

Q. Did you write to him a line stating that it was found where we sat together at Salamis?

A. If he says so I believe him.

Q. My question is whether you so wrote to him?

A. I do not remember. It is eleven years ago, and I cannot remember all that transpired then.

Q. Is your memory very poor of events occurring eleven years ago?

A. Not any poorer than yours. You have given me some specimens of your own memory.

Q. Of my memory eleven years ago?

A. Yes, sir.

Q. Is that as true as any statement you have made here to-day? A. Yes, sir.

(2533) Q. Upon what authority do you say that my recollection of events eleven years ago is as defective as your own?

(Objected to.)

The Court: The witness ought not to have made the remark. I don't think you ought to examine him on that point.

Q. Here is a likeness produced in evidence and marked exhibit 177; are these words "The Greek Priest found at Salamis" in your handwriting?

A. No, sir.

Q. In whose handwriting are they?

A. Mr. Hitchcock's.

Q. Did you have that photograph taken?

A. Yes, sir.

Q. And you sent it to him?

A. Yes, sir. I don't know whether it is the very one, but I sent him one exactly like that.

Q. Do you know what that refers to in the corner—"Page 51"?

A. I do not.

Q. Was that an important or unimportant statue?

A. It was an unimportant statue as to style of art. It was important as to its size.

Q. Here are these photographs that you sent to Mr. Clarence Cook; you sent them in a letter, didn't you?

A. He says so.

Q. Who says so?

A. Clarence Cook.

Q. Where does he say so?

A. In his pamphlet.

Q. If you will answer my question we will save a great deal of time; I asked you if you sent them to Clarence Cook?

A. I don't know.

(2534) Q. That is your letter, is it not, which has been marked exhibit 163; all that is your letter is it not? A. Yes, sir.

Q. This letter says that on February 27, 1874, "I have already discovered several sculptures at Salamis, but I have only photographed a few, a copy of which I herewith enclose for you." Were these photographs enclosed in that letter?

A. I believe so.

Q. With the indorsements which have been shown you?

A. Yes, sir.

Q. You wrote on this one containing three heads "this head was found at Salamis?"

A. Yes, sir.

Q. Why didn't you write the same thing on this one which contained the representation of a number of different objects; why did you discriminate between; why did you not say that this was from Salamis also?

A. I intended to have done so.

Q. What prevented you?

A. I do not remember. It may have been a mistake.

Q. Then the mistake is yours?

A. Probably so.

Q. It was not Mr. Cook's mistake in applying that inscription to all the heads?

A. It was a mistake of Mr. Cook, because everyone there is marked; every object that came from Salamis I marked.

Q. You marked these three heads as coming from Salamis; why didn't you put that on the figure that came from Salamis and leave it off from this that did not?

A. So I did. The other two did not come from there.

(2535) Q. Why didn't you write that on the article "this came from Salamis?"

A. It does say so there.

Q. Does it say this came from Salamis?

A. Certainly.

Q. Does it not say "from Salamis?"

A. Certainly.

Q. I show you what Mr. Choate calls the North-east corner of this picture. Does it say that "this comes from Salamis;" are those words there? "This head comes from Salamis."

A. No, certainly not. It simply says "from Salamis."

Q. What I want to know is why you did not put on this north-east one, as you did on the north west one, "this comes from Salamis?"

A. It is not a mistake. It is on the figure. I don't know where is the mistake. I do not see it.

Q. You did not express your meaning other than by saying "from Salamis?"

A. Certainly not.

Q. It is your mistake in not expressing your meaning fully then?

A. I do not see where the mistake comes in.

Q. Are these objects all in the museum?

A. I don't know. If I look at it I may be able to tell you. I may find some of them. I believe they are all in the museum.

Q. Those on the other glass, are they all in the museum?

A. Yes, sir.

(2536) Q. Did those go to Mr. Clarence Cook in the same letter with the others?

A. I don't know.

Q. Was the sarcophagus found at Salamis?

A. No, sir. It was found at Golgos.

Q. Now I read to you from your Cyprus, page 102, at the top of the page: "The area of Salamis is thickly overgrown with thistles and tall weeds, which, together with the sand, render the task of inspecting it very difficult; the ground also abounds with snakes, some of which are venomous, such as the asp and others; I spent large sums of money at this place on three different occasions, but with no result in any way satisfactory; the ruins of Salamis furnish building material for some of the mosques and many dwelling houses in Adrianople;" is that true?

(Objected to as immaterial; objection withdrawn.)

A. Yes.

Q. Did you make a communication to Harper's Weekly on the 13th of January, 1877, which I now produce and show you?

A. No, sir.

Q. You disavow that?

A. It is mine. It is a report sent to the trustees by me.

Q. And by them to Harper's Weekly?

A. I suppose so. I am not sure.

Mr. Bangs: I want to read a part of it?

Q. It was in January 1874 that you discovered the statue with the cow's head at Salamis, was it not?

A. No, sir.

(2537) Q. When was it?

A. A long time before.

Mr. Bangs: I will read from this article in Harper's Weekly, as follows:

In the report I sent last year to the museum I said that probably I would undertake further explorations at Salamis; consequently early in this Spring I went there with my diggers for that purpose. According to Porphyrius, Maurisus and other authors, before the arrival of Teucer there existed a city named "Korona;" and the Greek hero, according to these authors, after the Trojan war, when banished by King Telamon, his father, from the kingdom of Salamis, came to Cyprus with his followers, took

possession of "Korona," rebaptized it "Salamis," and made himself king over it.

After some weeks of explorations I found nothing which would warrant further excavations at that place.

In my opinion it will be very difficult hereafter and extraordinary to make any discovery of importance at Salamis, for the reason that I have assured myself that there, very extensive excavations have been undertaken at different epochs and for various purposes.

The inhabitants of Cyprus took from Salamis (which had been entirely destroyed by the earthquake under the Emperor Constantine) all the material for the building of another city a few hundred yards distant, which was called "Constantia," either in honor of the emperor, or according to some ecclesiastical writers, of king Casta, father of St. Catherine. During the Byzantine rule it continued to increase in size and population; it became the residence of the archbishop of Cyprus, St. Epiphanio, and was recognized as the capital of the island.

(2538) Mr. Bangs: I skip a paragraph and continue to read:

"It was during the reign of one of these French kings (Henry, 1290 A.D.) that the unfortunate but heroic city of Famagosta was built; her ninety Christian churches, now reduced to granaries and stables by the Ottoman conqueror; her beautiful gothic cathedral of St. Nicholas transformed into a mosque; her immense bulwarks, her many fine palaces now in ruins—all these were constructed with the stones of Salamis exclusively; and when the material was wanting on the surface of the soil, it was searched for and found several feet beneath it. This is the reason why even the foundations of edifices have in some places entirely disappeared. Here and there is seen a shaft of a huge granite column, broken by stone cutters in several fragments, and to the east of Salamis the ruined walls of a square building of the mediæval period. This is all that is yet visible upon the site where once stood the royal city of Salamis. The stone foundations of those of her edifices which are still extant are buried beneath several yards of sand. Wherever I explored I convinced myself that others had visited those localities long before me, and therefore I gave up digging at Salamis.

(2539) Q. I produce to you the volume of the transactions of the Royal Academy of Sciences at Turin, at page 496, and ask you if that is a part of the article written by you?

A. Yes, sir.

Mr. Bangs: I offer in evidence a translation of that article. It is as follows: "After several months of excavations, the result did not answer to the expectations nor to the space explored, for it was not given to me to discover any object of art which possessed any especial value."

Adjourned to Dec. 17, 1883, 1 P.M.

NEW YORK, December 17th, 1883, 1.30 P. M.
Present—All parties.

LOUIS DI CESNOLA's cross-examination continued as follows:

(2540) Q. Colonel, is that your signature to that paper (handing witness a paper)?

A. Yes, sir.

Mr. Bangs: I offer this paper in evidence, and as it cannot be left here, I will read it.

DUPLICATE NO. 1.

Station or Post Office address and date.—General L. P. di Cesnola, Director M. M. of Art, New York, January 10th, 1881. Brevet Brigadier General Charles A. Carleton, Recorder of the Commandery of the State of New York, 98 Broadway, New York.

Sir: I have the honor to apply for membership of the First Class, in the military order of the Loyal Legion of the United States.

The following data are given in support of this application:

Rank: Colonel of Cavalry; brevet rank, as by Act of Congress: Army, Navy, Marine Corps, or U. S. Volunteers; Volunteers; Regiment of Arm of Service, or Staff Corps; Cavalry.

Q. Are any of these interlineations yours?

A. No, sir.

(2541) Mr. Bangs continues to read: Original entry; Lieut. Col. Scott's 900 Cavalry, Sept., 1862, Col. 4th N. Y. Cavalry.

Honorably discharged; date and rank; Mustered out with his Regt. at Harper's Ferry, September 4th, 1864.

Present occupation: Director of the Metropolitan Museum of Art.

Remarks: (Army Corps, Military Department, Campaigns, Battles, Promotions, &c.)

First, I served as Lieutenant Colonel of the Scott's 900 Cavalry Regiment, doing Provost Marshall's duty in Washington during 1861, 1862. Appointed Chief of Staff of and by General Sigel, but not confirmed by the War Dept. September, 1862, appointed by Governor Morgan Colonel of the 4th New York Cavalry, and served in that capacity and commanding Cavalry Brigade during the war; wounded and taken prisoner at the battle of Aldie, 17th June, 1863. Present and took part with the regiment at thirty-six engagements.

Very respectfully yours,

(Name in full.)

COUNT LOUIS PALMA DI CESNOLA.

This application must be signed by the applicant and bear the recommendation of three (3) companions of this commandery, who should either sign their names (see indorsement), or furnish the Recorder written authority for the use of the same.

(2542) No application will be received in which the above details are not observed, as in accordance with the Constitution of the Order, and by the By-Laws of this Commandery action thereon would otherwise be invalid.

DUPLICATE NO. 1.

Please fill this out and return it to the Recorder. (a) No. 2141, January 10, 1881.

APPLICATION AND RECORD OF

Col. Louis P. di Cesnola, 4th New York Cavalry.

For membership of the First Class in the Commandery of the State of New York, Military Order Loyal Legion U. S. Approved and recommended by three companions of this Commandery, M. T. Mahon, Bvt. Brig. Gen.; Geo. B. McClellan, Major-General U. S. A.; John Cochrane, Brigadier-General Volunteers.

Q. Is there anything in your testimony of Friday which occurs to you as needing correction or alteration?

A. I have not read the report. I don't think there is anything that I know of.

Q. I wish to call your attention to Exhibit 7, being your communication of November 6, 1880, to the Executive Committee of the Board of Trustees as follows: (2543) "I took some pains to ascertain the authorship of the various articles referred to, and traced them all to four writers, none of them Americans.

One of these writers was a person who had represented himself as a friend and associate of myself in the museum, and on such representations had obtained credit for purchases which he had made.

He was an entire stranger to me, and it is not improbable that my repudiation of all knowledge of him and the consequent treatment which he met from his creditor, may have led to his subsequent course in addressing letters to newspapers. Several of his communications, accompanied by his card, which he had sent to one New York journal, were sent me by the editor-in-chief, who had declined to publish them.

Two of the other writers were actuated by motives unknown to me.

They are friends and co-religionists of the fourth, who is Mr. Feuardent, and there may possibly be personal relations between them."

What persons did you refer to in that statement?

(Objected to as immaterial; objection overruled.)

A. I only remember one now, a man by the name of Cole.

(2544) Q. Do you remember a Mr. Marks?

A. No, sir.

Q. Do you remember Mr. Phillips?

A. I am not sure.

Q. Did you not intend by that statement to give the inference that Mr. Feuardent and the other three gentlemen to whom you referred were co-religionists, and to characterize Mr. Feuardent as a Jew? A. No, sir.

Q. What religion did you refer to?

A. To the Christian religion.

Q. How did you know he was a Christian?

A. Mr. Cole was one of those Christians who never go to church.

Q. Is that what you meant? A. Yes, sir.

Q. And then you meant that Mr. Feuardent was a Christian that never went to church?

A. I know that Cole never went.

Q. Don't you know that Mr. Feuardent is a Catholic like yourself? A. I don't know.

Q. You are a Catholic? A. Yes, sir.

Mr. Bangs: If you allow me I will take that consular commission—that commission as Consul which was signed with the personal signature of Andrew Johnson, dated some time in August or September, 1865—his commission as Consul to Cyprus.

(2545) Q. In that connection I wish to show you the slip from the New York Herald which has been put in evidence, and in which these words are used: "Promotion of Colonel L. Palma di Cesnola." Down to that time had you ever used the name of General? A. No, sir.

Q. Did you begin to use it upon the publication of that paragraph? A. No, sir.

Q. It says: "The newly appointed American Consul to Cyprus"; you understood then that you had been newly appointed by President Johnson, didn't you?

A. My original appointment came from Lincoln.

Q. Your original appointment came from Lincoln, but your commission or written appointment came from Johnson?

A. No, sir; it came from Mr. Seward.

Q. You certainly knew at that time that Andrew Johnson was President of the United States, although Seward signed that paper?

A. I don't know when he signed that paper.

Q. It is dated the 8th of August?

A. Then Mr. Johnson was President.

Q. "And he has been breveted Brigadier-General of Volunteers." You knew that to refer to its coming from President Johnson? A. No, sir.

(2546) Q. Didn't you understand that to be the plain purport of the paper?

A. I do not even remember having seen that paper; I think the first time I saw it was in court here.

Q. Do you mean to say that you never saw this paper before this case commenced?

A. I do not remember having seen it.

Q. And yet here it is annexed to your letter written in 1865 and yet you doubt whether that slip was annexed to that paper?

A. I do not remember seeing it until it was brought up here in court; I did not even remember the letter.

Q. Is your memory a perfect blank as to the writing also? A. No, sir.

Q. You remember writing the letter?

A. Certainly, I remember the letter.

Q. And your enclosing the printed slip?

A. Yes, I remember it now.

Q. It says here "after four years of constant service as a Brigadier Commander?" A. Yes, sir.

Q. Did you tell Mr. Hitchcock anything to the contrary?

A. Mr. Hitchcock knew better than I did.

Q. Did you tell Mr. Hitchcock anything to the contrary?

A. I was not in town, at that time; how could I tell him?

Q. You were in service to the end of 1864 or the beginning of 1865? A. Yes, sir.

Q. Four years deducted from that would bring

it to the end of 1860 or the beginning of 1861, before the war broke out? A. Yes, sir.

(2547) Q. Then that is not correct?
A. No, sir.

Q. Was not the first organization to which you belonged known as the Scott 900? A. Yes, sir.

Q. Was that ever mustered into the service of the United States? A. I don't now.

Q. Did it go from here to Washington?
A. Yes, sir.

Q. Did it stay there without going into the field for a number of months?
A. Yes, sir; I think about two months.

Q. Doing orderly duty? A. Yes, sir.

Q. Was it then disbanded? A. No, sir.

Q. Was it turned into some other organization?
A. Yes, sir.

Q. Did you call yourself a Major of that organization?
A. No, sir; I was Lieutenant-Colonel.

Q. Did you have a commission?
A. The regiment never had a commission.

Q. Did you have a commission?
A. I had nothing but the muster role.

Q. That is not a commission? A. No, sir.

Q. Were you in the old Capital prison?
A. Yes, sir.

Q. For how long? A. A week.

Q. For what?
A. Mutiny among the soldiers in my favor; they wanted me to be their colonel.

(2548) Q. And they put you in prison on a charge of mutiny on the part of the regiment?
A. Yes, sir.

Q. Was that the only charge?
A. Yes, sir; because I was the leader.

Q. Were the old Capital prison and Libby prison the only prisons that you have been in?
A. Yes, sir.

Q. After you came out what did you do?
A. I was appointed Colonel by Van Buren, Lieutenant-Colonel of his regiment.

Q. What regiment was that? A. The 102 New York Volunteers.

Q. Did you serve in the field in that regiment?
A. No, sir; I went there, and he introduced me to General Siegel, and he appointed me to serve on his staff.

Q. Did that regiment ever go into the field?
A. It was in the field.

Q. Did you serve in it in the field? A. No, sir.

Q. Where was you when it was in the field?
A. I was in the field with the regiment three or four days.

Q. Where did you go then?
A. Sperryville, or something of that kind, Virginia.

Q. What is the next organization that you belonged to? A. The Fourth New York Cavalry.

Q. Did you receive a commission? A. Yes, sir.

Q. As what? A. As Colonel of the Fourth New York Cavalry.

Q. Who was your Brigade Commander?
A. General Starr.

(2549) Q. Who was your Division Commander?
A. Carl Schurz.

Q. When did you go into the field with that regiment? A. In 1862.

Q. What time in 1862?
A. September or October.

Q. How long did you stay in the field?
A. Until the regiment was mustered out.

Q. Were you ever in command of that Brigade? A. Yes, sir.

Q. How long?
A. Not as a Brigade. It was incorporated in the army of the Potomac in 1863.

Q. Were you arrested while you were in command of that? A. Never.

Q. Were you arrested at the battle of Aldie, where you distinguished yourself? A. I was not.

Q. Were you under arrest afterwards?
A. No, sir.

Q. Were you relieved from arrest at the end of that battle?
A. It was not at the end, because I was taken prisoner during the battle.

Q. And you stayed in Libby prison as a prisoner? A. Yes, sir.

Q. And our Clerk here, Mr. Mason, was one of your fellow prisoners? A. Yes, sir.

Q. Were you dismissed from the army?
A. By mistake, yes, sir.

Q. By the War department? A. Yes, sir.

Q. You were dropped from the rolls of the army? A. I was dismissed, not dropped.

Q. I mean dropped from the rolls of the army?
A. Not that I know of.

(2550) Q. What were you dismissed for?
A. For a apprehension of the facts.

Q. I do not ask you what you were dismissed for, but what does dismissal mean?
A. I did not know myself what I was dismissed for. I saw it in the papers as coming from the War Department, and I went there and explained things, and I found that it was all right, and that it was a mistake.

Q. A mistake made by whom?
A. By the War Department.

Q. They had dismissed you? A. Yes, sir.

Q. And dismissed, as you use the word, means dismissed from the army? A. Yes, sir.

Q. In other words, you were requested to leave the camp?
A. No, sir, I was not.

Q. Hadn't you a copy of the order of dismissal given to you?
A. The only thing that I had was the dismissal in the papers. I never received a copy of an order.

Q. Do you recognize this little book which I now hand you? A. No, sir.

Q. It was published in Florence in 1880.
A. Yes, sir.

Q. You gave that around among your friends, didn't you? A. I gave it to Mr. Savage.

Q. If you wish to add anything to your statement as to your being dismissed from the army; I have no objection, and you may state now what you have to say?
(2551) A. I was in camp, and we had what they call a recruiting office in New York. Mayor Pruyn was down at Staten Island getting recruits, and it was at a time when the recruits received a thousand dollars bounty, and they were running away as fast as they were recruited in order to enlist in another regiment, and in that way get another thousand dollars. Mayor Pruyn wrote to me that if that was not stopped he would not be able to get many men; that they were running away as fast as he could get them, and he said in his letter that he wished the first occasion that I might have I would send him some arms and ammunition, so that he might arm some of those men whom he recruited. I instructed my Quarter-Master to make up a number of arms and revolvers and a lot of ammunition, and the first occasion he could, to send them to the North. It happened that my Quarter-Master himself was called on to Washington for something, and he took this box with him and carried it to Washington. When he arrived at Long Bridge it seems that there was at that time a particular police government there, and they took this box from him, and when they found that there were arms in it belonging to the United States army they made report upon it, and reported that it came from me. With out asking for any explanation, or anything else, I was dismissed. The first thing that I knew about it was, that Colonel L. P. di Cesnola was honorably dismissed. I was coming from the fight one day when I met General Siegel, and he said that he had seen by the Baltimore papers that I was dismissed, and he asked me what it was for. I told him that I did not know myself. He said you had better go to Washington at once and find out what it is about, and that is the way I went to Washington and found out how it was. And when the matter was brought up before Secretary Stanton, Colonel Baker came and made his report, and stated that it was all a mistake. That is the story—the long and short of it.

Q. Who were the pistols addressed to?
A. They were addressed to Mayor Pruyn, care of Madame di Cesnola.

Q. Was her address given on the box?
A. Yes, sir, I suppose so.

Q. Was her address given on the box?
A. Yes, sir.

Q. Do you know of any record of those proceedings anywhere?
A. They ought to be at the Judge Advocate-General's office of the army.

Mr. Bangs: These are the proceedings to which his attorney calls my attention: One "War Department, Adjutant-General's office, Washington, February 2d, 1863, general orders No. 27.

I. The following officers having been detected in forwarding to the North stolen property, belonging to the United States, are, by the direction of the President, dishonorably dismissed the service:

Colonel L. P. di Cesnola, Fourth New York Cavalry, by order of the Secretary of War, L. Thomas, Adjutant-General.

The next is a paper from the Judge Advocate-General's office, dated February 18th, 1863.

"The original report of Colonel Baker, in relation to the seizure of the pistols forwarded by Colonel di Cesnola, was made on the 7th January. It represented that these arms belonged to the United States, and had been recently stolen, and that they were found in a trunk sent by Colonel di Cesnola to his wife. This report was referred to this office on the 8th of January, but no action was taken on it until the 31st, when the opinion was expressed to the Secretary of War that the facts, as made known by Colonel Baker, called for the dismissal of Colonel di Cesnola, which took place a few days thereafter. In the meanwhile, however, to wit, on the 10th of January, this officer having learned that the pistols had been intercepted, addressed a letter to Colonel Baker, stating that they had been forwarded for guard duty at Staten Island, where there was a camp of recruits for his regiment. This explanation appears to have been satisfactory to Colonel Baker, since there is an indorsement on this letter, under date of 17th January, stating that an answer had been sent, saying that the box (of pistols) would be forwarded as Colonel di Cesnola had requested. The affidavit of Major Pruyn shows that the pistols had been for guard duty, and sent at his request, and that they have since been received and are now in the hands of the soldiers. All cause of complaint against Colonel di Cesnola has thus been removed. None of these facts were known at this office when the report of the 31st of January was made. If Colonel Baker, after having become satisfied with Colonel di Cesnola's explanation made any communication on the subject, it was unknown to me. I reported only on the facts before me.

J. HOLT,
Judge Advocate-General.

(2554) To the Honorable Secretary of War.
(Official copy.)

D. G. Swaim, Judge Advocate-General.

The next is a paper as follows:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
WASHINGTON, March 3d, 1863. }

General orders No. 50.

I. So much of General orders, No. 27, as dismisses Colonel L. P. di Cesnola, Fourth New York Cavalry, is, by the direction of the President, revoked, and he is reinstated in his command, provided the vacancy in his regiment has not been filled.

By order of the Secretary of War,
L. THOMAS,
Adjutant General.

(2555) Then there is attached the Muster-out roll of L. P. di Cesnola, Colonel in the Fourth Regiment of New York mounted Volunteers, commanded by Col. L. P. di Cesnola, called into the service of the United States by the President at Yonkers, New York, (the place of general rendezvous) on the 29th day of August, 1861, to serve for the term of three years from the date of enrolment, unless sooner discharged; from the 30th day of June, 1864 (when last paid) to the 4th day of September, 1864, when dis-

charged. The Company was organized by Capt. at in the month of 1861, and marched thence to where it arrived the of a distance of miles.

Names: L. P. di Cesnola; rank: Colonel. Age 31; when: September 11th, 1862; where: Albany, N. Y.; by whom: Gov. of N. Y.; period: Three years; when: September 11th, 1862; where: New York City; by whom: S. T. McGown; by Paymaster: Maj. Sawyer; to what time: June 30th, 1864; remarks: This muster to date September 4th, 1864. Discharged by Special Order, No. 20, dated Hd. Qrs. mid. Military Division, August 9th, 1864, in accordance with circular No. 36, A. G. O. 1864.

(2556) I certify, on honor, that I have at Harper's Ferry, Va., on this 4th day of September, 1864, carefully examined this roll, and, as far as practicable, caused the allowances, stoppages, and remarks to be justly and properly stated, and mustered Col. L. P. di Cesnola for discharge; and he is hereby honorably discharged from the service of the United States.

W. R. PARNELL,

Lt. Col. and A. C. of Musters,
1st Division C. C. Mustering officer.

Muster —, Date, Sept. 4th, '64.

Station, Harper's Ferry, Va.

It is certified from the War Department on the 4th day of April, 1883.

Q. In the light of all these papers and documents, will you state why you inserted in the first chapter in your book on Cyprus the statement that you were appointed Consul at Cyprus by President Lincoln a few days before his tragic death? A. I still say so.

Q. You said in answer to my question the other day that what you had published in your book was as reliable as what you testified to under oath; did you have that statement in your mind? A. Yes, sir.

(2557) Q. And that is as reliable as anything you have testified to?

A. The sense of it, yes, sir.

Q. Without your explanation, I mean?

A. But I give the explanation.

Q. But it appears in the book; is that as reliable as anything you have testified to on this trial?

A. It is still the truth. That is what I mean.

Q. Just as it appears in the book, is it still the truth? A. I think so. I understand it so.

Q. I understood you to say, and you did say, that the handwriting in what is known as the Halm Album was not yours? A. No, sir.

Q. Did you ever see that album before it was produced here?

A. Yes, sir.

Q. Who had it? A. A brother of mine.

Q. Mr. Alexander P. di Cesnola?

A. Yes, sir.

Q. Where did he have it? A. In my house.

Q. In this city? A. Yes, sir.

Q. Were the photographs taken in Cyprus?

A. Yes, sir.

Q. They were correct photographs?

A. Yes, sir; I gave them to him.

Q. In whose handwriting are the inscriptions?

A. My brother's.

Q. They very much resemble yours?

A. Yes, sir, very much.

(2558) Q. When you saw them, were they without inscriptions?

A. I saw the album without the photographs in it. Those photographs were pasted in afterwards.

Q. Was it an album when you saw it?

A. Yes, sir, it was an album.

Q. Did you see it with the photographs in it?

A. I saw them when he pasted them in.

Q. Didn't you see the inscriptions he wrote on them? A. No, sir, I did not.

Q. Did you see the book after he had written the inscriptions?

A. I don't think I have ever seen it since.

Q. Have you never seen it until it was pro-

duced on this trial with those inscriptions or descriptions in it? A. No, sir, never.

Q. He knew as much about the places where those things came from as you did?

A. No, sir; he did not.

Q. Had he been in Cyprus?

A. Not at that time.

Q. Is he living?

A. Yes, sir, in London, I believe.

Q. Where did he get the information about what you had discovered, and where you had discovered it? A. From me.

Q. Did you see this journal here, the Hearth and Home, of the 19th of April, 1873?

A. Yes, sir.

(2559) Q. Who wrote that? A. I don't know.

Q. These pictures were taken from that Halm Album, were they not?

A. Some of them. I don't know whether they were or not.

Q. Do they not correspond with the Halm Album?

A. I don't know. If I see the album, perhaps I am able to say.

Q. Look at the Halm Album, at this colossal head; that is in there, is it not? A. Yes, sir.

Q. Don't you think that a man, who knows your handwriting, not knowing your brother's, might, in good faith, believe that to be your handwriting?

A. May be. It has been taken a good many times for my handwriting.

Q. And he might, without being a villain, assume the correctness of those inscriptions, if he did not know that your brother wrote them?

A. Yes, sir, probably.

Q. Do you know James Jackson Jarvis, of Hartford? A. I do.

Q. Did you give him a copy of your book on Cyprus?

A. I do not remember. I may have done so.

Q. Didn't you give him a copy of your book on Cyprus?

A. I may have done it. I do not remember it.

Q. Let me see if I cannot bring it a little more forcibly to your recollection?

A. I do not say no, and I do not say yes.

Q. Did you not give to Mr. James Jackson Jarvis a copy of your book on Cyprus, in which you designate the objects that were lost at sea?

A. I do not remember having given a copy to Mr. Jarvis, although I may have done so.

(2560) Q. I show you page 95 of your book, where the objects are the Tombs at Alambra, and there is a picture of a terra-cotta vase from Alambra, height 2 feet 4 inches; is that in the museum?

A. Yes, sir, I believe so.

Q. Can you put it a little more flat-footedly than that?

A. There are about 10,000 vases there.

Q. Do you know whether it is there or not?

A. Yes, sir.

Q. That is your recollection?

A. Yes, sir, very nearly so.

Q. Look at the plate opposite page 93, which are on the page, at the bottom of which it says: "Vases from Alambra," are those in the museum?

A. Most of them, I believe. I am not sure.

Q. Look at the plate opposite page 84, where it says "Bronzes from Dalhi"; are those in the museum?

A. Probably; Yes, sir. Most of them are there, if not all.

Mr. Bangs: You will observe, Mr. Choate, that all of these pages containing plates or pictures are not paged, or numbered, actually in type, yet they seem to be counted in in the enumeration of the pages.

Q. Were they duplicates?

(Objected to as immaterial.)

Mr. Bangs: If the counsel desires me to state what I want to prove, I will state it. I certainly have no motive to prolong the examination of this witness, although I do not care to be compelled to state my reasons for making this inquiry.

(2561) The Court: It seems to me that this in-

quiry promises to exceed the proper limits of cross-examination.

Mr. Bangs: I will pass it for the present.

Q. Look at page 230, at the three figures underneath which it says "Terra Cottas found at Soll"; that is a statue, is it not?

A. It is a statuette.

Q. It is included in the term of statues?

A. It is a statuette about a foot high.

Q. What is Little Venus; is that a piece of statuary?

A. It is a piece of statuary, yes, sir.

Q. Is this statue on page 230 in the museum?

A. No sir, I don't think it is.

Q. Is it a duplicate?

A. Yes, sir, there is one just like it.

Q. There is one just like it in the Museum?

A. I cannot tell you positively. There are about 30,000 pieces there.

Q. Don't you know whether that is there or not?

A. No, sir, I cannot tell you.

Q. Was it lost at sea? A. No, sir.

Q. Could you tell if your invoice was produced to you?

A. Yes, sir, very probably.

Q. Do you recognize this book now shown you?

A. No, sir, I don't think I ever saw it.

(2562) Q. Is not that a catalogue of your auction sale in Paris in 1870 made by Hoffmann?

A. Hoffmann sold something for me; very likely it is his catalogue.

Q. He sold them by catalogue, didn't he?

A. Very likely.

Q. Don't you know that he sold them by catalogue? A. Very likely.

Q. Don't you know?

A. Yes, sir, I suppose so.

Q. Didn't you see any catalogue there?

A. Not that I can remember.

Q. Look and see if this photograph there in the catalogue is the same as the picture shown to you in "Cyprus?"

A. Yes, sir, that is the same picture.

Q. Have you any doubt but that this is your catalogue of your goods?

A. I have no doubt it is a catalogue.

Q. Have you any doubt but that it is a catalogue of the property belonging to you?

A. Certainly it is.

Q. And this is the same image, isn't it?

A. Yes, sir.

Q. Then it was lost at sea?

A. I did not say it was.

Q. Please say yes or no in answer to the question whether or not there was a duplicate of that statue in all your collection?

A. I don't know; it is a statuette about a foot high.

Q. Now look at page 243 where there are some heads and a broken piece of statuary marked "Terra Cottas Life Size," are those in the museum?

(Objected to as immaterial.)

(2563) Mr. Bangs: I don't want to press it. I offer this catalogue in evidence.

(Objected to on the ground that it is not proven.)

Mr. Bangs: My object is to show that he made this sale, without going into the details.

The Court: Ask him whether he can identify that as a catalogue of the articles sold.

Q. That is a catalogue of your property, isn't it?

A. The photographs on it are my property, but I don't know anything about the catalogue.

Q. The things catalogued there are your property, are they not? A. I don't know it.

Q. You have an account sales from Hoffmann, have you not? A. I may have received it.

Q. What is your memory? Did you receive it? A. I have no memory on that point.

Q. Do you remember receiving some money from Hoffmann? A. Very likely.

Q. Do you know how much it was?

A. I don't know.

Q. Was it \$10,000? A. No, sir, it was not such a large sum.

Q. Was it \$6,000? A. No, sir.
 Q. Was it \$3,000? A. It was less than that.
 Q. Was it \$2,000? A. It was less than that.
 Q. Was it \$1,000? A. Probably, but I do not remember.

(2564) Q. Those were photographs made by you, in that catalogue?

A. No, sir, not by me, but they are photographs of my things.

Q. Did you furnish the photographs to Mr. Hoffman?

A. No, sir, they were taken in Paris, from the objects themselves.

Q. Were these objects in Paris?

A. I suppose they were.

Q. Have you any doubt but what they were—these objects mentioned in this catalogue—were those articles in Paris; that is my question?

A. Very probably they were; I cannot swear positively that they were.

Q. You cannot swear that those articles were in Paris?

A. The articles represented by the photographs were.

Q. You do not recognize anything that you are at all familiar with?

A. In the photographs, yes, sir.

Q. I mean in the description and text?

A. No, sir; but I say "I suppose they were there."

Q. What became of this statue of which I have shown you the picture on page 243 of Cyprus. Was not that sold at Paris at auction?

(Objected to as immaterial.)

Q. Don't you know that that was sold there?

Mr. Choate: I understand that that has been ruled out already.

(2565) Mr. Bangs: I want to show the wholesale auction sales, not the retail sales.

The Court: I do not understand, although I may be mistaken, that anybody has stated that nothing but duplicates were sold, and that the Metropolitan Museum possessed all the original statues that were found in Cyprus.

Mr. Bangs: It says here in this book: "These losses and transfers, however, were mainly of duplicates;" and this witness has stated that the auction sales were of duplicates; this does not refer to auction sales; this refers to losses and transfers other than auction sales; the witness has stated that the sales at auction were duplicates, and that all the inscriptions and statues were in the museum, and, on the question whether or not Mr. Feuardent maliciously libeled this gentleman I think it is important to show how far he has been misled by this witness' own publication.

The Court: This witness has stated that these auction sales were entirely of duplicates.

Mr. Bangs: He said so on the stand on Friday.

The Court: To return to Mr. Choate's question when the plaintiff was misled by that, or a similar declaration, by the defendant.

Mr. Bangs: He was not misled by the statements made by the defendant on Friday, but he was misled by Mr. Johnston's statement that all the statues which this gentleman had discovered were in the museum, and a conspicuous instance of that is the Salamis Priest.

(2566) The Court: Do you want to show that the statements made by the witness on Friday were not correct?

Mr. Bangs: Yes, I intend to show that. Didn't you read that from Cyprus?

Mr. Choate: This book says that 5,000 of these objects were unfortunately lost at sea.

Mr. Bangs: If your Honor will observe there is nothing stated in this article of Mr. Johnston, which refers to auction sales at all. He does recite the discovery of 35,000 objects, and the loss of 5,000 objects at sea. He also recites that a large and judiciously selected collection was transferred to the Ottoman Government. That various specimens were also gratuitously presented to different museums; he then refers to the losses and transfers above enumerated, and he says "That these losses and transfers were mainly of duplicates, and in no wise detract from the completeness of the grand collections, which

comprise about two-thirds of all the objects found, including the whole of the inscriptions and statues." Now I do not see what can be made out of that, except that the whole of the inscriptions and statues are now the property of the Metropolitan Museum of Art. That only aggravates it.

(2567) The Court: Are these terra cottas called statues?

Mr. Bangs: Of course. He says so himself.

The Court: I will permit the inquiry in regard to those terra cottas on page 243.

Q. Have you seen this life-size terra cotta in the museum, and if not, what became of it?

A. It may be in the museum. I don't know.

Q. Is it in the museum?

A. I say I don't know. Very likely it is. If it is not there, it has either been lost or sold.

Q. Which? A. Either one or the other.

Q. If it was lost, it would be in your invoice?

A. Yes, sir.

Q. Suppose it were not in the invoice, and suppose it were not in the museum, where would it be? A. It would be sold.

Q. Where? A. At auction.

Q. In London?

A. Yes, sir, or to the Berlin Museum.

Q. You find a photograph in the catalogue of it?

A. Yes, sir. It is not a stone sculpture, it is a terra cotta statue; it is a fragment of a statue; it is not called a statue.

Q. It is embraced in the general term of statuary, is it not?

A. I think in that case it is a bust.

(2568) Q. Is a bust a piece of statuary or not?

A. It is a fragment of statuary, but not a statue.

Q. If that is in the museum, in what department in the museum is it, among the statuaries or up stairs?

A. It would be with the terra cottas, not with the statues.

Q. But it is among the terra cottas because of the material of which it is made? A. Yes, sir.

Mr. Choate: We claim, that having enumerated statues and busts separately, that when he speaks of statues he does not mean busts.

Q. Did your enumeration of 35,573 articles as having been found by you, exclude duplicates, or did it include them?

A. It included everything.

Q. I show you page 285 of Cyprus—first we will settle the question as to whether it is a bust or a statue; is that picture on page 285 a bust or statue? A. That is a statue.

Q. There is no mistake about that?

A. No, sir.

Q. Did you find that? A. I think so.

Q. Do you remember finding that in Cyprus?

A. Very likely; I do not remember it particularly.

Q. Is it in the museum? A. I think it is.

Q. Whereabouts?

A. Among the statuary, the little statuettes.

Q. Whereabouts in the museum; can you fix it so that anybody can go up there on the faith of what you say and find it?

A. It is somewhere near the middle of the room.

(2569) Q. It was found at Fasuli, was it not?

A. I don't know without looking at it.

Q. It says there "Found at Fasuli," does it not?

A. I do not remember now. I will have to look at it.

Q. Can't you remember whether it was found there or not? A. No, sir.

Q. Where was this found? A. Near Fasuli.

Q. By you? A. Yes, sir, probably so.

Q. Here is a page I produce to you, an antique paper, the New York Tribune of November 27th, 1878; this contains a lecture by you, does it not? A. Yes, sir.

Q. You used those articles in illustration of your lecture? A. Yes, sir.

Q. That is the Hercules after it was fixed up?

A. Yes, sir.

Q. Where was that lecture given?

A. There are four lectures there.

Q. Where were they delivered?

A. One at Princeton College, one at Yale College, one at the Lowell Institute—

Q. To students? A. Yes, sir, to students.

Q. That one there is the same statue which I just showed you on page 285 of your book, isn't it? A. It looks so, yes, sir.

Q. Here is Ceccaldi's book, and that is the same figure there, is it not?

A. It is similar to it.

(2570) Q. Isn't it the same figure?

A. I don't know; I don't think it is.

Q. Don't Ceccaldi say that he found that himself.

A. I don't know; I have not read Ceccaldi on that point.

Q. This book which I now show you is one of Ceccaldi's publications, is it not?

A. Yes, sir.

Q. And on the page immediately opposite that picture the finding or diggings made at Dali, Cyprus, 1867; those were not your diggings, were they? A. No, sir.

Q. And the text says: "See statue plate 5, 3; that is plate 5, and there is the figure 3, and there is a description of what Ceccaldi found?"

A. I believe so.

Q. Which is true, your statement that you found it, or Ceccaldi's statement that he found it?

A. That statue is at the museum.

Q. Is not that statue to-day in the Louvre, or wasn't it there the last time you saw it?

A. I don't know; our statue is here.

Mr. Bangs: I would like to see it. I should like to have you specify where it can be found; will you look for yourself to-night at the museum where that figure is, and give us the number referring to it in your catalogue so that we may find it?

Q. Was this book of yours, Cyprus, used in the museum as a guide for visitors?

A. Yes, sir.

(2571) Q. How many of them were appropriated for that purpose?

A. I don't know. I think four or six.

Q. Were there six used for that purpose?

A. Two at the time, and when they were all worn out, two new ones were taken to replace the old ones, until they were worn out entirely.

Q. And were visitors told that this book contained an accurate account of your discoveries?

A. It was put their for that purpose.

Mr. Bangs: May I show that that was an incorrect representation?

The Court: No, sir.

Q. Did you ever see any statuary or antiquities in Cyprus other than those you dug up yourself?

A. Yes, sir.

Q. Where did you see them?

A. At the French Consulate and at the English Consulate.

Q. Anywhere else? A. At my house.

Witness: You mean statuary.

Counsel: Antiquities.

A. I have seen antiquities in a great many places.

Q. Where? A. With the natives.

Q. In their houses? A. In their houses.

Q. Anywhere else; were they in places of worship. A. Places of worship?

(2572) Q. Yes, I mean in modern places of worship; were any antiquities ever set out there?

A. Not that I remember.

Q. Have you mentioned all the places where you saw antiquities?

A. I saw antiquities, as I said, in private houses, and I saw some in my house, and in the Consuls' houses.

Q. Can you name any other places?

A. No, sir; not that I remember.

Q. Did you see any in shops? A. No, sir.

Q. Were there any places at Larnaca or other places where antiquities were exposed for sale?

A. No, sir.

Q. Were there any places in Cyprus for the repair of antiquities? A. No, sir.

Q. Were the articles you saw in private houses ever offered for sale? A. Yes, sir.

Q. Were they very common?
 A. Very common.
 Q. Were they frequently bought and sold?
 A. Very likely.
 Q. I think so, too; but what was the fact?
 A. I don't know.
 Q. Don't you know whether they were ever bought and sold? A. No, sir.
 Q. Don't you know that they were frequently bought and sold? A. No, sir.
 Q. Do you know of any instance of the purchase and sale of any one of them?
 A. I do not remember now.
 Q. What was the name of the expressman that brought you the information that your diggers had dug up the colossal head at Golgos?
 (Objected to as immaterial.)
 A. It is difficult for me to say now; it is too many years ago—
 (2573) Mr. Choate: One moment. I objected.
 Mr. Bangs: His objection is well taken. I should take the trouble to point out to the witness what he has stated on that subject on the direct examination; but I will simply state that he said that an expressman came to him with the information that his diggers had found a colossal head at Golgos. This witness was asked those questions and gave those answers on his direct examination; now, I think it is very strange if I am not permitted to ask him about that. Can't I show and ask him about that expressman?
 The Court: Yes, you may go on.
 Question repeated: I do not remember.
 Q. Was his name Aristides?
 A. It may be, I do not remember.
 Q. Did you know any such man?
 A. In Cyprus the men have all the ancient Greek names.
 Q. Do you know a man by the name of Aristides?
 A. I think I know four or five of them.
 Q. Dealers in antiquities?
 A. No, sir; I did not know any Aristides; that name is not familiar to me as a dealer.
 Q. Was he a dealer in inscriptions?
 A. He might have been, but I do not know.
 (2574) Were there dealers in inscriptions?
 A. There were forgers of inscriptions, but I did not hear that there were dealers in inscriptions there.
 Q. Did they forge inscriptions to sell them?
 A. They forged inscriptions.
 Q. In order to sell them?
 A. Yes, sir, they sold one to the English Consul.
 Q. Do you know a man by the name of Lazare, a dealer?
 A. Lazare was one of my servants, but I did not know he was a dealer. I did not know a dealer by that name.
 Q. Was he a Cypriote or an Italian?
 A. A Cypriote.
 Q. Had he any other business than that of being in your service?
 A. No, sir, he was my servant in the house.
 Q. Didn't he keep a shop for the sale of antiquities?
 A. Not that one. As I said, there are a great many names like that all through the island, and there may be a Lazare who is a dealer, but I don't know.
 Q. Don't you know the Lazare that kept a shop for the sale of antiquities?
 A. I cannot answer that question. I never knew one by that name, a dealer.
 Q. Did you know a man by the name of Lasaze, who invented, or claimed to have invented, and did actually sell a paste to mend statues?
 A. No, sir, I never did.
 (2575) Q. Was the expressman who came to you with the information about the digging up of the colossal head a man who brought the head with him?
 A. No, sir, it was left there in the field.
 Q. Was that the first object that was found by you?
 A. Yes, sir, by my men.
 Q. I mean found in that field?

A. Yes, sir, at Golgos.
 Q. Did the expressman go with you?
 A. The expressman came from Larnaca and he went back with my men.
 Q. Did you have any bargain or dealing with him?
 A. No, sir, it was one of my men.
 Q. The expressman? A. Yes, the carriagee.
 Q. Then you know his name?
 A. That is what they are called, cartmen, or carriagees.
 Q. You made no bargain or arrangement with him concerning that head other than the wages you paid the diggers as such; you made no special bargain concerning that colossal head?
 A. There was no bargain to be made, it belonged to me.
 Q. Was the position of the Consul at Cyprus a salaried position? A. Yes, sir.
 Q. What was the salary?
 A. A thousand dollars a year.
 Q. Were there any fees? A. No, sir.
 Q. Was the position of Russian Consul a salaried position? A. No, sir.
 Q. Were there fees to that office?
 A. Yes, sir.
 (2576) Q. What was the income of that office of Russian Consul?
 (Objected to as immaterial.)
 Mr. Bangs: Can't I show that he had no income whatever? I think I have a right to show that this witness had no resources whatever.
 Mr. Choate: We don't expect to live for ever.
 Mr. Bangs: Who don't?
 Mr. Choate: I don't, and the jury don't.
 Mr. Bangs: I think if they introduced such subjects on the direct examination, I have a right to cross-examine upon it.
 Mr. Choate: I did not ask him what he earned as Russian Consul.
 The Court: You can investigate what his expenses were in the matter of his investigations at Cyprus.
 Q. Did you keep an account of your expenses?
 A. In my bank book.
 Q. Kept at Cyprus? A. Yes, sir.
 Q. Was that burned?
 A. I did not burn my bank books.
 Q. You kept that? A. Yes, sir.
 Q. Have you got it here?
 A. My attorney has it.
 Q. Does it show your expenses?
 A. Yes, sir, every cent.
 Q. What were your expenses?
 A. About \$74,000 in ten years.
 Q. Were did you get the money?
 (Objected to as immaterial; objection overruled; exception)
 (2577) A. I got \$50,000, or very nearly so, from the Museum; I got about \$18,000 from my mother when she died, and the rest I got from my salary of eleven years, \$11,000; and I got some by selling many of my antique duplicates.
 Q. When did your mother die? A. In 1867.
 Q. And you got \$18,000 then?
 A. I got about that sum.
 Q. When did you first realize any money from your excavations?
 A. Just when I came to Italy to bury my mother. That was the first time I got some money from Rollin & Feuardenet, 800 francs.
 Q. In 1867? A. I believe so, about that time.
 Q. From a sale to them of antiquities?
 A. Of little terra cotta heads.
 Q. What was the next money?
 A. I do not remember.
 Q. Did you frequently get money from the disposition of antiquities between 1867 and 1872?
 A. Yes, sir, I mainly counted on that.
 Q. Can you name any of the parties from whom you got money in that way?
 A. Hoffman, Sotheby and Rollin & Feuardenet?
 Q. From 1867 to 1872? A. Yes, sir.
 Q. Upon consignments for sale? A. Yes, sir.
 Q. Did Feuardenet sell for you, and act as your agent to sell for you, or did they buy from you out and out?
 A. I do not remember. In some cases I sup-

pose they bought out and out, and in other cases they sold at auction.
 (2578) How much had you spent up to the time when you received \$50,000 from the museum?
 A. I cannot remember without looking at my bank book.
 Q. Approximately?
 A. I could not state it; I could not even approximate it.
 Q. Does your note book contain any information on the subject? A. No, sir.
 Q. How will your bank book show what you drew out and what you spent?
 A. It is all money that I got from the bank.
 Q. Did all the money pass through the bank?
 A. There is no other banking establishment in Cyprus.
 Q. You spoke of that as the Imperial Ottoman Bank? A. Yes, sir.
 Q. Did all the money that you put into the bank come from the sale of antiques?
 A. No, sir.
 Q. The account of your deposits won't show what you got from antiques?
 A. I got the proceeds of those sales by draft, and I had to pass them through the bank.
 Q. Did all your checks that you drew on the bank and put in circulation represent expenditures in digging?
 A. Yes, sir, and my expenses at that place.
 Q. For other purposes? A. Yes, sir.
 Q. Can you separate them from what you spent for your digging? A. Very likely.
 Q. Was any part of the \$50,000 profit?
 (Objected to as immaterial.)
 (2579) The Court: I don't think it is important to know whether any part of it was profit or not; I think Mr. Feuardenet stated that the whole \$50,000 was profit, and I do not think it is important to show that a certain part of it was profit.
 Q. What was the price of labor per day in Cyprus?
 (Objected to as immaterial.)
 The Court: I don't think it is important for the jury to know how much profit he made on these articles—whether he made \$10,000 or \$5,000 or \$15,000, or more; I do not see that it is of any consequence.
 Mr. Choate: Your Honor remembers how this matter came up. Mr. Feuardenet stated that this witness told him that the whole of the \$50,000 was clear profit. We have simply denied that.
 The Court: Yes, and that it was to be a dowry for his daughter.
 Mr. Bangs: I asked him what the price of labor was in Cyprus with a view to show how much profit he made.
 The Court: I think it is utterly immaterial.
 Mr. Bangs: Will the Court strike out the direct-examination of the witness, then, in that regard.
 The Court: No, sir; I cannot strike out now what has been written. Suppose the witness had stated that it was all profit, and it turned out now that it was not all profit, I should not consider that that in itself was important enough in this case to spend an hour over it on that point before this jury. The probability is that we shall be here until the 1st of February, if we are going to investigate all these minute statements or details. I think I will have to limit your cross examination on this point. This matter seems to me to be very remote.
 (2580) Mr. Bangs: The other side examined their client on that point on the direct-examination. Have I not a right to contradict that?
 Mr. Choate: In answer to a statement made by the plaintiff.
 Mr. Bangs: It was not stated in answer to the plaintiff's testimony at all. I noticed it at the time. Now the fact stands on record and I am not allowed to cross-examine him on that point.
 (2581) Q. You stated on your direct-examination at page 2209 "I had the check made to his order, which would cover all the payments that he had made for me, which I had to reimburse him, and a certain amount of money which I

was then in need of for particular uses while I was in London, the amount of which I do not remember: where is that check?

A. I think it is in the hands of my attorneys.

Q. Is it the one that was produced here the other day? A. Yes, sir.

Q. Is it your recollection that that check was to his order; is that your recollection of it?

A. I believe so.

Q. Look at it and see if it was?

A. It is to the order of Rollin & Feuardent.

Q. Is that check to their order?

A. It is to the order of Messrs. Rollin & Feuardent, of the house of Rollin & Feuardent.

Q. Do you say it is to their order?

A. Yes, sir; Messrs. Rollin and Feuardent or bearer.

Q. Do you mean to say that that is a check to their order?

A. Yes, sir.

Q. Don't you know the difference between order and bearer?

A. No, sir; I don't know the difference.

Q. You are a business man?

A. No, sir; I confess I am not.

Q. In whose handwriting are the words Rollin & Feuardent?

A. I suppose one of the clerks of Mr. Morgan. (2582) Q. And in whose handwriting are the figures?

A. In Mr. Morgan's clerk's handwriting.

Q. And you were keeping an account in Cyprus in which you disposed of nearly \$74,000, and you don't know the difference between a check to order and a check to bearer?

A. No, sir; I do not.

Q. You said you had the "check made to his order, which would cover all the payments that he had made for me, which I had to reimburse him, and a certain amount of money which I was then in need of for particular uses while I was in London, the amount of which I do not remember;" does that check for £2,800 cover those two payments while you were in London?

A. I believe so.

Q. How much was to cover that amount of money that you were in need of for particular purposes while you were in London?

A. I haven't the slightest idea.

Q. £1,400? A. No, sir.

Q. How much?

A. I haven't the slightest idea.

Q. £1,200? A. No, sir.

Q. £1,000? A. It may be something like that.

Q. Is that your memory?

A. I have no memory on that point; I remember that I had a certain sum of money; but how much it was I have no recollection now and I would not like to say so.

(2583) Q. When you drew that check you did intend that only a part of it should go to Mr. Feuardent, and that a part of it should represent the sum which you were in need of for particular uses? A. Yes, sir.

Q. Do you mean or pretend that Mr. Feuardent got that £2,800 for his own use?

A. I do not remember, but I believe not.

Q. How much did he get for his own use?

A. Something like \$12,000 to \$13,000.

Q. Out of this check? A. Yes, sir.

Q. How did he get it?

A. From Mr. Morgan.

Q. Is your check upon Mr. Morgan to the order of Rollin & Feuardent?

A. Yes, sir; it is there, Messrs. Rollin & Feuardent.

Q. And you say you got twelve thousand or thirteen thousand dollars out of that; how did you get it?

A. By getting another check from Mr. Morgan.

Q. Did you see him get the other check?

A. No, sir.

Q. How do you know then that he got another check?

A. Because I know another check was given by Mr. Morgan.

Q. Do you mean this check on the London Joint Stock Bank; do you mean that Feuardent got that check?

A. He or his bank; I don't know which.

Q. He or his bank?

A. And my account with Mr. Morgan was charged with that amount. That is all I know. (2584) Q. You say out of this check for £2,800 Mr. Feuardent got \$12,000 or \$13,000?

A. Yes, sir.

Q. Did he get it in bank bills?

A. I don't know.

Q. Did he get it in coin? A. I don't know.

Q. You say now that you know he got it?

A. I know that he got the amount, that is all.

I do not know how he got the money.

Q. Do you know of your own knowledge what was done with this check? A. No, sir.

Q. Do you know whether it was taken to Burts & Co? A. No, sir.

Q. How did you get out of it a certain sum or amount of money for your particular uses?

A. Mr. Feuardent had that amount put to my credit with his bank.

Q. This £2,800?

A. No, sir, not the whole of it.

Q. Which amount of it? A. I don't know.

Q. Where? A. At his bank.

Q. Did you go there with him?

A. No, sir, not that I recollect.

Q. Do you recollect Mr. Brocheon's deposition; did you hear his deposition read on this trial?

A. I did.

Q. Do you mean to say that that is false?

A. I don't know the man at all.

Q. Do you mean to say that that is false?

A. I do not recollect ever having seen the man.

Q. You remember drawing checks on his firm?

A. I do not believe I ever drew one check on his firm.

(2585) Q. But you heard the account annexed to his deposition read? A. Yes, sir.

Q. Was that account false?

A. I am not able to say whether it is false or not. If I was able to see my checks I would be able to tell you.

Q. You heard Mr. Feuardent say that you and he went to Burt's and opened an account.

A. Yes, sir.

Q. Did you hear him testify to that?

A. I do not exactly understand your question.

Q. Did you hear Mr. Feuardent testify on this trial? A. Yes, sir.

(2586) Q. Did you hear him testify about his going to Burt's with you and opening an account there?

A. Yes, sir.

Q. Is that false?

A. I don't remember. It may be true. I do not say that I drew any money on Burt & Co. Brocheon is a new name to me.

Q. Can you give any other and better explanation than you have given as to how you got a certain amount of money for your own particular uses out of this £2,800?

A. No, sir, I cannot.

Q. Do you think this account which you produced the other day, between yourself and Mr. J. S. Morgan & Co., is a true account?

A. Yes, sir.

Q. You actually had these transactions that are put down in this account?

A. I had not read it since it came.

Q. You had those transactions, didn't you?

A. Yes, sir.

(2586) Q. Is not this the fact, that out of £4,000 put to your credit on the 16th of November, and after charging you with £2,800 for cash paid Rollin & Feuardent, 61 Great Russell Street, Bloomsbury, on the 16th, you left the entire remainder of that £4,000 on deposit with Morgan & Co. until the 24th of December, when you drew £100, and then you left £1,000 on deposit until the 31st of January, when you drew that £1,000?

A. Yes, sir.

Q. That is true? A. Yes, sir.

Q. When you wanted money for your own purposes in London, why didn't you draw against the balance of £1,200 which was left with Morgan & Co., between the 16th of November

and 31st of January; why didn't you draw your checks against that?

A. I may have done so.

Q. You say this account is correct, and that shows that no checks have been drawn?

A. Certainly.

Q. If it was there at your disposal why, instead of drawing money on Burt & Co., didn't you draw the rest of the £4,000 on deposit with J. S. Morgan & Co.?

A. Because I did not need it.

Q. Is that the only reason? A. Yes, sir.

Q. Then why did you get the money, if you did not need it; you said you needed money for your own personal uses?

A. I did not say personal uses.

Q. Particular uses then?

A. Oh! that is an entirely different question.

(2587) Q. Did you draw on Burt & Co. for particular uses?

A. I sent for it. I did not draw on Burt & Co.

Q. What did you send?

A. Probably Mr. Feuardent went.

Q. Then he knows more about it than you do?

A. He does.

Q. When you sent Mr. Feuardent did you send a check?

A. Even that I don't know. I don't think he ever drew his check there.

Q. When you drew money and sent Feuardent for it, what did you send—a ticket, check, or what kind of a voucher did you send?

A. Mr. Feuardent may have had some arrangement with his banker. I don't know what arrangements he had with him.

Q. When you sent Mr. Feuardent, as you say you did, to Burt & Co. for money, did you give him a check or not?

A. I do not say that I sent Mr. Feuardent. Probably Mr. Feuardent went himself. That is what I said.

Q. What did you say he wanted to get money on your account for?

A. Because he gave me the money to pay the amount.

Q. After the 15th of November? A. Yes, sir?

Q. Then from the fact that he gave you the money, you inferred that he got the money at Burt & Co.'s?

A. He opened an account for me there.

Q. When was that?

A. After the sale of the collection.

Q. In November?

A. My belief is that an account was opened on the 18th of December, when I began packing up.

(2588) Q. How do you know that he opened an account there for you?

A. He said he would do so if I wanted him to.

Q. And then you drew checks on Burt & Co.?

Q. I don't think I ever drew a check on Burt.

I don't believe I had any checks.

Q. Here is the account attached, check account 87 pounds, 19 shillings and 10 pence; on the 28th, the Ottoman Bank, 400 pounds; did you draw that money or not on Burt?

A. That shows in my bank book I suppose. My bank book with the Ottoman bank will show that.

Q. Did you have any bank book with Burt?

A. I had no account there that I know of.

Q. Here is a charge for a check book in this account, 4 shillings and 2 pence. Did you get that check book?

A. No, sir; I have never seen a check on Burt & Co. It might be that check book was kept by Mr. Feuardent.

Mr. Bangs: I move to strike out the answer as not responsive. I asked him whether he got the check book.

Mr. Choate: I object. We have no checks on the banker, and produce none.

Motion granted.

Q. Did you say that you gave this check of £2,800 to Mr. Feuardent? A. Yes, sir.

(2589) Q. You remember that distinctly?

A. Yes, sir; my first check and my only one.

Q. What was the last you saw of it?

A. It came from London here.
 Q. I mean in London, on that occasion when you parted company with this check?
 A. I have never seen it since, to my recollection.
 Q. Did you last see it in Mr. Feuardent's hands on the day it was given?
 A. Yes, sir; that is what I mean.
 Q. And was that at Morgan's or at Burt's?
 A. At Morgan's.
 Q. Did you or not get any part of this money for your particular uses, this £2,800?
 A. I don't know.
 Q. Have you any means of telling whether you did or not?
 A. I think I got some. I don't know. I may have had some of that money, but I do not remember it now. I may have had £200. I don't know.
 Q. Had you any means at all except what you had to your credit at Morgan's—the £4,000?
 A. I had the Ottoman Bank. They would give me any money there that I wanted.
 Q. My question was whether you had any money there? A. Yes, sir.
 Q. How much?
 A. My book shows. I owed them £400. I had an open account there.
 Q. Had you a balance to your credit—that is my question?
 A. I do not remember; but I know I could draw on them.
 Q. What is your recollection on that point, as to whether you had money to your credit or not?
 A. I know when I left Cyprus the Ottoman Bank told me if I wanted any money I could draw on them in London.
 (2590) Q. Did you draw on them?
 A. No, sir; not according to my recollection.
 Q. Then you did not get any money from that source, and it appears by your account with Morgan & Co. that you did not draw anything from them after the 15th of November until after the 14th of December: how did you live in the meantime; how did you get money to pay your living and other expenses?
 A. I had some money.
 Q. Where?
 A. I don't know that it is necessary for you to know where I got my money which I had.
 Mr. Bangs: I submit to your Honor that this is a proper question.
 The Court: Yes; it is a proper question. You must answer.
 Q. Where did you get it? A. I got it in London.
 Q. Where?
 A. I got £200 from Rollin & Feuardent two or three weeks after.
 Q. Was it not 600 francs? A. No, sir.
 Q. Where did you get the money to live upon for these particular uses, if you did not draw on Morgan & Co. between the 15th of November and the 31st of January?
 A. My expenses were not heavy.
 (2591) Q. That may be; but where did you get the money? A. There is the money I got.
 Q. What money? A. Rollin & Feuardent's.
 Q. This £2,800? A. No, sir; £200.
 Q. Is that all?
 A. No, sir; I had some money in my pocket too.
 Q. Where did you get it from.
 A. I brought it with me from Cyprus.
 Q. How much? A. I do not remember.
 Q. Was it five pounds?
 A. Perhaps £100.
 Q. Any more?
 A. It is difficult to remember all those little details.
 Q. When you got to London you were employed in getting a furnished house? A. Yes, sir.
 Q. Did you get one? A. Yes, sir.
 Q. At what rent?
 A. About £4 a week, furnished, everything inside.
 Q. Did you pay by the week?
 A. I did pay by the week.
 Q. Where did you get the money?
 A. From that money which I had in my pocket.

Q. And from the £200 that you got in Paris?
 A. Yes, sir.
 Q. And the £100 that you got in Cyprus?
 A. Yes, sir; probably.
 Q. Can you specify any other expenses that you went to during that period?
 A. Nothing, except my family expenses.
 (2592) Q. Do you say the 4 pounds covered that?
 A. No, sir. That was the house rent.
 Q. You had to support your family besides?
 A. Yes, sir.
 Q. What family had you, in number?
 A. Three in my family, and myself makes four.
 Q. Exclusive of servants? A. Yes, sir.
 Q. You had servants besides those four?
 A. Yes, sir.
 Q. Seven persons in all to support?
 A. Six or seven.
 Q. And all that you had then was the £200 that you borrowed from Rollin & Feuardent and £100 that you brought from Cyprus; you drew none from Morgan; is that all the money that you had?
 A. I believe so.
 Q. This account with Morgan charges you on the 24th of December with a promissory note surrendered, due on the 18th January, 1873; did you borrow £160 from them?
 A. No, sir. From that it appears that I borrowed £160. I don't know any more from memory. I have no recollection of it.
 G. Don't you know who held your promissory note? A. I believe Mr. Blodgett.
 Q. Had you borrowed money from him?
 A. Very probably.
 Q. What is your recollection?
 A. I think so.
 Q. And Mr. Morgan held that note?
 A. Yes, sir.
 Q. And charged it up to you on the 24th of December as paid? A. Yes, sir.
 (2593) Q. Although it was not due until the 18th of January?
 A. I never saw the note that I remember.
 Q. Who signed it for you?
 A. I might have signed it, but I have no recollection of it. I do not recollect having seen it.
 Q. While you were wide awake in day time, you signed the note, and you don't know that you saw it?
 A. I said I did not recollect having seen the note. I must have signed it of course.
 Q. Do you remember signing it?
 A. No, sir.
 Q. On the 14th of December you drew £100 in favor of Hitchcock; do you remember that?
 A. Yes, sir.
 Q. What was that for?
 A. Some expenses in New York. Some money which I wanted to give away, I suppose.
 Q. And it appears that you overdraw your account 60 pounds, too? A. Yes, sir.
 Q. That appears on the 24th of December?
 A. Yes, sir.
 Q. If you had £4,000 to your credit, and by the 24th of December you had only drawn £3,060, how do you explain this overdraft; how do you explain the process by which you became overdrawn to the extent of 60 pounds?
 A. When I came to New York there was a check for £1,000 in New York —
 Q. Here it appears that on the 24th of December you had overdrawn your account to the extent of £60; upon what principle is that treated as an overdraft, if you had nearly £1,000 to your credit; how did you come to make a deposit of £60 on the 24th of December, unless they found that you had made an overdraft; why, with £1,000 to your credit, did you deposit £60 in order to make good an overdraft? A. I don't know.
 Q. On that day they paid your promissory note for £160? A. Yes, sir.
 Q. And on that day didn't they render you a statement in which they brought you in their debt? A. Yes, sir.

Q. Is not that the first and only account that they ever rendered you?
 A. Yes, sir, that is the only account they ever rendered me in writing.
 Q. Can you explain why, with £1,000 to your credit in that bank, you paid £60 to them on the 24th of December, on the day on which they paid your note of 160 pounds?
 A. I don't know.
 Mr. Bangs: If the jury understood me as saying that on the whole account there was an overdraft, that is not what I intended to say. But I do observe that there was an overdraft of £60 when they paid his note for £160.
 Q. In one of your letters of the 26th of September, being exhibit 113, you refer to your little collection and say Mr. Feuardent, Sr., "prayed me to join it with the rest of the collection, and as to the money I might want he would arrange that matter. I need £400 to meet engagements made in Cyprus, and I must have that money, half at the end of this very month and the other half on the 10th of October. Messrs. Sotheby, Wilkinson & Co. will advance that sum to me, if I remit the collection to make a sale; they have done that with me on other occasions. Please write me if you are authorized or if you can on receipt of the small collection advance that sum to me;" did Mr. Feuardent advance that sum?
 A. I don't know what date that letter is.
 (2595) Q. 26th of September, 1872?
 A. No, sir.
 Q. Did you get that money? A. No, sir.
 Q. On that collection? A. No, sir.
 Q. Did you get £400 from any source in London during that period?
 A. Not that £400.
 Q. Did anybody furnish you with £400 on that collection. A. No, sir.
 Q. What became of that collection?
 A. It was included in my sale to the New York museum.
 Q. Did Mr. Morgan send you the promissory note mentioned in this account of his?
 A. No, sir, not that I know of.
 Q. Did he actually surrender it to you at the time he charged you with the amount of the promissory note?
 A. I do not remember. Very probably he did, but I do not remember.
 (2596) Q. You said in your direct examination that you paid the bill of Sandison; do you remember that?
 A. So far as I had it in my hands I suppose so.
 Q. How did you pay it. A. With money.
 Q. Where did you get the money?
 A. My money, that I had, I suppose. I do not remember.
 Q. Do you remember what you said on that subject? A. I do not.
 Q. I will read your testimony. You were asked the question "State what you know of the history of Exhibit No. 134," and you answered, "This is the bill which I paid to Mr. Sandison for the arranging, unpacking and placing of the collection for proper exhibition in Mr. Feuardent's place;" how did you make that payment?
 Mr. Choate: We never denied that you paid the bill.
 Q. How did you make that payment to Mr. Sandison?
 A. I do not know exactly, but I believe —
 Q. I don't want your belief; what do you remember about that?
 A. I do not remember.
 Q. Do you remember paying it to him?
 A. No, sir. I remember it was paid; that is all I know of it.
 Q. How do you know that?
 A. Because I have the bill in my hands. That is all I know.
 Q. Do you know the difference between your memory and your belief? A. Yes, sir.
 (2597) Then what constitutes the payment that you speak of? A. Because the bill is paid.
 Q. Did you give him bills for it? A. No, sir.
 Q. Did you give him coin? A. No, sir.

Q. What did you give him?

A. I do not remember that I gave him a cent. But I remember having a bill in my hands receipted. That is all.

Q. What do you mean by a receipted bill; there is no receipt on this?

A. That is not the bill.

Q. This is the bill. I now show it to you. Tell me whether it is receipted or not?

A. It is marked paid.

Q. In whose handwriting is that?

A. I don't know. It is not in mine.

Q. You have not got the receipted bill?

A. I consider that paid; that is all I know.

Q. You have not got a receipted bill?

A. I consider that that is paid.

Q. You have not got the receipted bill, if that is not it?

A. I have never had any other bill besides that.

Q. You stated on page 2209 of the testimony "I had the check made to his order which would cover all the payments that he had made for me which I had to reimburse him, and a certain amount of money which I was then in need of for particular uses while I was in London, the amount of which I do not remember;" then you were questioned as follows:

(2593) "Q. What was the arrangement made "that he should procure an account to be opened for you?"

"(Objected to as leading and incompetent.)

"Q. Well, how were you to get the balance of "the money?"

"(Objected to.)

"Q. Well what did he say on that subject?"

"A. It was that he would open me an account "with his banker, and I could draw there.

"Q. With Burt & Co.? A. Burt & Co.

"Q. Previous to that time had you been informed by the plaintiff as to the approximate "amount of his charges? A. I had not.

"Q. What amount was it?

"A. Between \$12,000 and \$13,000

"Q. Can you fix the date or about the date "when he told you what would be the probable "amount of his charges?"

"A. I should think about the latter part of "October; but I am not quite sure.

"Q. Have you anything in your possession "which will enable you to fix the date more "closely?"

"A. Yes, sir, I believe a letter from Mr. "William T. Blodgett to Mr. John Taylor John-"ston.

"Q. Have you got that?

"A. I suppose Mr. Stickney has it.

"Q. Mr. Blodgett was then in London, was he?

"A. Was in London at what period?

(2599) "Q. Look and see if that is the letter "showing witness a letter? A. Yes, sir.

"Q. Now tell me about what date, if that en-"ables you to state when the plaintiff told you "what his charges would be?"

"A. In the month of October.

"Q. In what part of October?

"A. According to this it is dated the 10th of "October, 1872.

"Q. Was it before that date?

"A. Before that date."—I show you the letter, and I want to ask you what there is in that letter that enables you to fix upon the 10th of October as the time when you knew the plaintiff's charges would be \$13,000; tell me in just as few words as you can use what there is in that letter that enables you to tell that the plaintiff's charges would be \$12,000 or \$13,000.

A. I had spoken to Mr. Blodgett before that date, and I could not have spoken to Mr. Blodgett how much my expenses were if I did not know that before that date.

Q. It is all argument and guess-work, is it not?

A. It is common sense. I could not know how much money I owed until I was told.

Q. That letter was handed to you to wake up your memory, and not your reasoning faculties; what is there in your memory that is waked up

or that is brought to your mind as a matter of memory in regard to the time when Feuardent told you what his charges would be?

A. Because there it is that I told him so, and I must have known it at the time.

(2600) Q. Does Blodgett say that Feuardent told him what his charges would be?

A. No, sir. He said that I did.

Q. Let me see if that is the expression that brings the matter to your mind. "He says he has expended in excavating, about, in freight, &c., and \$2,500 in other charges;" is it that which enables you to say?

Mr. Choate: I don't think that is a proper way to read a statement to the witness in this mutilated fashion. Whatever you do read you are bound to read in full, and not leave out the vital points.

Mr. Bangs: I had not mutilated it and I have not cut out the vital points.

Q. Is there a statement in that letter that you told him that you expended \$2,500 in other charges?

(Objected to on the ground that the letter will show for itself.)

Q. What is there in this letter which enables you to fix the date prior to which Feuardent had told you that his charges would be from \$12,000 to \$13,000?

A. I told Mr. Blodgett of it at that date; and that is all I can answer.

Q. Do you mean from what the letter says you told Mr. Blodgett on the subject of the charges?

A. Yes, sir.

(2601) Q. Did you tell Mr. Blodgett on the subject of the charges that besides freight your other charges would be \$2,500; did you tell him that?

A. I do not remember what I told him; I told him it would be \$11,000 and \$12,000.

Mr. Bangs: I move to strike out the answer as not responsive; I simply asked him whether he told him his other charges would be \$2,500.

Witness: No, sir; I do not remember.

Mr. Bangs: I wish to read a portion of this letter for the purpose of refreshing the witness's memory.

Mr. Choate: I insist upon your reading the whole of it, if you are going to read a portion of it.

Mr. Bangs: I think I have a right to refresh his memory by reading to the witness a portion.

Q. This letter says as it stands before me "He says he has expended \$25,000 in excavating, \$9,000 about in freight &c., and \$2,500 in other charges, and given seven years of constant labor to work;" was it that statement and is it true that you told that to Mr. Blodgett, that you had expended \$25,000 in excavating, \$9,000 about in freight, &c., and \$2,500 in other charges, and given seven years of constant labor to the work; is that what you told Mr. Blodgett?

A. It says there freight, &c.; I don't know what I meant by it now.

Question repeated.

A. I do not recollect the exact words.

(2602) Q. Does that refresh your memory?

A. So far as the amounts are concerned, yes, sir.

Q. You did tell him that?

A. No, sir; that refreshes my memory as to the amount I spent in Cyprus.

Q. Is this letter true in that respect?

A. I am not able to say as to the wording.

Q. Is not that statement true—that you told him that you had expended \$25,000 in excavating, \$9,000 about, in freight, &c., and \$2,500 in other charges, and given seven years of constant labor to the work.

(Objected to as immaterial.)

The Court: I think you have a right to ask what he told Mr. Blodgett in regard to the bill or its charges.

Q. Didn't you tell him that?

Witness: Tell him what?

Counsel: That you had expended \$25,000 in excavating, \$9,000, about in freight and \$2,500 in other charges, and given seven years constant labor to the work; didn't you say that to Mr. Blodgett?

A. I told him that an aggregate sum of \$11,000 or \$12,000.

Q. Please answer my question, yes or no. Did you tell him that you had expended \$25,000 in excavating, \$9,000, about, in freight, &c., and \$2,500 in other charges, and given seven years constant labor to the work?

The Court: Do you remember telling Mr. Blodgett that or something to that effect?

A. Substantially so.

(2603) Q. Was it a fact that you had paid \$9,000 for freight?

A. No, sir; I never dreamed of it.

The Court: The witness says that he made substantially that statement to Mr. Blodgett—the statement contained in Mr. Blodgett's letter; he don't say that \$9,000 was paid for freight, but he says \$9,000 about for freight, &c.; I think that explains itself.

Q. Had you paid \$9,000 for freight, &c., and if what did the &c. include in that \$9,000?

A. Expenses for freight, packing and other expenses; I cannot enumerate them now.

Q. Expenses where? A. In Cyprus.

Q. How much had you paid in Cyprus for freight, &c., and what was included in the, &c.?

A. I do not remember.

Q. Have you paid any freight from Alexandria to England; do you claim that?

A. No, sir; I don't think I did.

Q. How much a pound or ton for freight did you pay from Cyprus to Alexandria?

A. I don't know; the bill of lading, I think, will show.

Q. You have not the bill of lading?

A. My bank book will probably show it then.

(2604) Q. What else did you pay in Cyprus besides packing?

A. It is not only packing; it is freight from the different parts in the island where the antiquities were found.

Q. How much did you have to pay for packing?

A. I don't know.

Q. What else?

A. Freight from every part of the island to Larnaca.

Q. What else besides freight and packing?

A. That is all.

Q. Those were not payments to Feuardent?

A. They were payments of moneys which Feuardent advanced.

Q. They were not payments to Feuardent?

A. I had to reimburse him afterwards, certainly.

Q. Had you paid that money out of the drafts that you drew on him?

Witness: What drafts; the Morgan drafts?

Counsel: No, on Feuardent; his advances to you in Cyprus?

A. I got the money from Rollin & Feuardent in Paris.

Q. You got by drafts, didn't you?

A. I suppose so.

Q. And it was deposited with your banker?

A. I suppose so.

Q. What were the other charges that are referred to in the \$2,500?

A. I do not remember now; there were many other charges of different characters.

Q. Cannot you give us an idea of their general nature?

A. I cannot—for carriage hire, cart hire, mule hire, freight of small, little schooners from one part of the island to another, to gather my antiquities to get them to Larnaca; they could not come to my place in Larnaca by themselves; there are no roads in Cyprus—

(2605) Q. Did you realize on your drafts in Cyprus? A. I don't know what you mean.

Q. (By the Court.) When Rollin & Feuardent sent you checks and drafts did you get the money on them in Cyprus from your bank?

A. Yes, sir.

Adjourned to December 18, 1883, 10 A.M.

(2606) NEW YORK, December 18th, 1883, 10 A.M. Present: All parties.

LOUIS P. DI CESNOLA'S Cross-examination by Mr. Bangs, continued as follows:

Counsel for the defendant produces the commissions of Mr. Di Cesnola as Consul to Cyprus, which I offer in evidence. One is dated August 8th, 1865, which is marked Exhibit 202 of this date; and the other is dated on the 16th day of February, 1866, marked Exhibit 203 of this date.

Exhibit 202.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To all who shall see these presents, greeting:

KNOW YE: That reposing special trust and confidence in the ability and integrity of L. P. di Cesnola, of New York, I do appoint him Consul of the United States of America at Cyprus, and such other parts as shall be nearer thereto than to the residence of any other Consul or Vice-Consul of the United States, within the same allegiance; and do authorize and empower him to have and to hold the said office, and to exercise and enjoy all the rights, pre-eminences, privileges and authorities to the same of right appertaining, during the pleasure of the President of the United States, for the time being, and until the end of the next session of the Senate of the United States, and no longer; he demanding and receiving no fees or perquisites of office whatever which shall not be expressly established by some law of the United States. And I do hereby enjoin all captains, masters, and commanders of ships and other vessels, armed or unarmed, sailing under the flag of the said States, as well as all other of their citizens, to acknowledge and consider him, the said L. P. di Cesnola, accordingly. And I do hereby pray and request His Imperial Majesty the Sultan of Turkey, his governors and officers, to permit the said L. P. di Cesnola fully and peaceably to enjoy and exercise the said office, without giving, or suffering to be given, unto him any molestation or trouble, but, on the contrary, to afford him all proper countenance and assistance, I offering to do the same for all those who shall in like manner be recommended to me by His said Imperial Majesty.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, at the City of Washington, the eighth day of August, in the year of our Lord one thousand eight hundred and sixty-five, and of the independence of the United States of America the ninetyeth.

[SEAL.] ANDREW JOHNSON.

By the President.

WILLIAM H. SEWARD,
Secretary of State.

Exhibit 203.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To all who shall see these presents, greeting:

KNOW YE: That reposing special trust and confidence in the abilities and integrity of L. P. di Cesnola of New York, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Consul of the United States of America at Cyprus, and such other parts as shall be nearer thereto than to the residence of any other Consul or Vice-Consul of the United States, within the same allegiance; and do authorize and empower him to have and to hold the said office, and to exercise and enjoy all the rights, pre-eminences, privileges and authorities to the same of right appertaining during the pleasure of the President of the United States, for the time being; he demanding and receiving no fees or perquisites of office whatever which shall not be expressly established by some law of the said United States. And I do hereby enjoin all captains, masters and commanders of ships and other vessels, armed or unarmed, sailing under the flag of the said States, as well as all other of their citizens, to acknowledge and consider him, the said L. P. di Cesnola, accordingly. And I do hereby pray and request His Imperial Majesty the Sultan of Turkey, His

governors and officers, to permit the said L. P. di Cesnola fully and peaceably to enjoy and exercise the said office, without giving, or suffering to be given, unto him any molestation or trouble, but, on the contrary, to afford him all proper countenance and assistance, I offering to do the same for all those who shall in like manner be recommended to me by His said Imperial Majesty.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, at the City of Washington, the sixteenth day of February, in the year of our Lord one thousand eight hundred and sixty-six, and of the Independence of the United States of America the ninetyeth.

[SEAL.] ANDREW JOHNSON.

By the President.

WILLIAM H. SEWARD,
Secretary of State.

Q. Is there any part of your testimony given by you yesterday that you wish to correct?

A. I do not know of any correction; I have not read it.

Q. This Exhibit 148 was read in evidence on your side: "Received from General di Cesnola two hundred and twelve pounds in discharge of all accounts to this date;" did you pay that yourself? A. On December 24th, 1872.

Q. Did you pay it yourself?

A. I do not remember.

Q. Do you remember writing a letter to Mr. Feuardent, Sr., in which you said that you gave his son a thousand francs; do you remember any such letter?

A. I do not remember it now; if I can see it I will tell you.

Q. Do you remember writing a letter on the 24th of November, 1871, to Mr. Feuardent, Sr.

A. I might have written it, but I do not remember it now.

(2607) Q. Do you remember it? A. No, sir.

Q. There is the letter of March 1st, 1875, the translation of that letter which has been received in evidence; it is this—the part to which I will call your attention is this: "You were mistaken in regard to the sale I made to the New York Museum; your son has done absolutely nothing, not because he did not wish to, but because the matter was arranged entirely by myself, without his intervention and by telegraph. However, I gave him a commission of 5,000 francs, and we are satisfied with each other;" do you remember giving him the two hundred pounds?

A. That is not all the translation of the letter; that is but a very small portion of it.

Q. Can you remember that 5,000 francs business? A. Yes, sir; I think so.

Q. Is not that the same thing that is vouched for by this receipt which I just showed you; isn't it included in that two hundred and twelve pounds? A. It is probably so.

Q. You don't know of any other payment of 5,000 francs. A. No, sir.

Q. How did you pay that two hundred and twelve pounds?

A. I said I do not remember; I have not the slightest idea.

Q. Are you prepared to deny that you paid it by check on F. Burt & Co.

A. I don't think I ever gave him a check on F. Burt.

(2608) Q. You have no doubt but that you did give him that two hundred and twelve pounds?

A. It seems so.

Q. If you did not give him a check on F. Burt & Co., tell us how you got it?

A. I do not remember how I got it; you must remember that that is a transaction of twelve years ago.

Q. Can you give us any light whatever as to the source from which you got that two hundred and twelve pounds? A. No, sir.

Q. Your account with Morgan shows that on the 24th of December you deposited with Morgan sixty pounds; where did you get that money?

A. I do not know whether I deposited that either; I have not the slightest idea.

Q. Don't you know anything about the truth of this account with Morgan? A. Yes, sir.

Q. Is this transaction true or is it not between you?

A. No, doubt he had that money from me.

Q. Did you have the transactions mentioned in that account? A. Yes, sir; I suppose so.

Q. Then it appears that you deposited sixty pounds?

A. It is so, but I have no recollection of it.

Q. It is so in the account?

A. Yes, sir.

Q. Where did you get that sixty pounds?

A. I don't know absolutely; I cannot make it out.

Q. You are not able to recall having, as I understood you yesterday, more than 300 pounds at your disposal during that period; that is, you said you got 200 pounds from Rollin & Feuardent, and you had 100 pounds with you when you came from Cyprus?

(2609) A. And I had a great deal more than that.

Q. You had a great deal more than what; what more did you have?

(Objected to as immaterial.)

The Court: I thought that question had been gone into pretty fully, but go on.

Q. What besides the 300 pounds had you; what moneys did you say you had besides?

A. I had about 600 pounds from the sale of some of my glass to Mr. Anderson, of London, and I had about two hundred pounds which Mr. Blodgett gave me; and I may have had other moneys.

Q. Where did you keep that money?

A. I had it in my hands.

Q. Where? A. At my house probably.

Q. Where did you have it?

A. I do not say that I had it with me at my house; I do not remember now.

Q. Did you have it in any bank?

A. Probably so; I don't know.

Q. Probably in what bank did you have it?

A. I don't know.

Q. Probably how did you get it out of the bank in which you probably had it.

A. I would have got it back, I suppose, when I came away.

Q. How did you get it out of the probable bank? A. I have no recollection.

Q. Did you have a probable check book?

A. I have no recollection; I know I paid about \$14,000 dollars to Mr. Feuardent on the 14th or 15th of November.

(2610) Q. Is this check of 2,800 pounds?

A. Yes, sir.

Q. That is the only thing you do remember with any definiteness, isn't it?

A. No, sir, I remember something more. I remember having written on that very day a letter to a friend of mine in New York giving all the details.

Q. Who is your friend?

A. Mr. Hiram Hitchcock, my agent.

Q. How do you come to remember that letter?

A. He sent me the letter the day before yesterday.

Q. Had you forgotten it? A. Entirely.

Q. In your letter of November 24th, 1871, to Mr. Feuardent, Ex. 195, you say: "I shall be obliged to draw upon you for a further sum of two hundred pounds sterling, as I have the expenses of this shipment, marine insurance, etc., to pay. Telegraph me on the arrival of the entire collection;" did you draw that draft?

A. I have no recollection of it, but I must have done so.

Q. If you must have done so, what must you have done with the proceeds?

A. I do not recollect. I must have spent it.

Q. This letter was written from Cyprus; did you draw from Cyprus?

A. Very likely.

Q. Did you draw it very likely upon the Ottoman Bank, and get it discounted and cashed very likely? A. Very likely so.

(2611) Q. And did you draw it very likely out of the Bank? A. Yes, sir.

Q. By check? A. Yes, sir.
 Q. Then you were business man enough to know how to draw it out of the Bank?
 A. I always knew that very well.
 Q. How much had you drawn from that before that?

(Objected to on the ground that the accounts will show.)

Q. The objection was that an account will show. My question is how much had drawn on them before—on Feuardent & Rollin?

(Objected to.)

Q. How much had you drawn on them before?

A. I have no recollection.

Q. Can't you approximate it? A. No, sir.

Q. Was it 10,000 pounds? No, sir.

Q. Was it 5,000 pounds?

A. I have no recollection.

Q. Can't you tell whether it was 5,000 pounds?

A. No, sir.

Q. Can't you tell within a thousand pounds?

A. Without my bank book I cannot say anything. I may be able to say so afterwards. If I had my bank book I might refresh my memory. I have said three times that I do not recollect.

Q. When you told Mr. Blodgett that you had paid out about \$9,000 for freight, etc., did you have in your mind the payments that you had made in Cyprus, and which you have testified to yesterday, being for freight, lighterage, cartage, etc.

(2612) A. No, sir; I meant Feuardent's advances to me, and expenses connected with the collection.

Q. Did you tell him then that Feuardent's advances to you amounted to \$9,000; did you tell that to Mr. Blodgett?

A. I said in the aggregate, yes, sir.

Q. And \$2,500 of other charges?

A. About \$12,000 or \$13,000 in all.

Question repeated: A. Yes, sir.

Q. Did you tell Mr. Blodgett the truth—that Feuardent's advances to you had been \$9,000; was that the truth?

A. Certainly.

Q. How did you find out the truth of it?

A. I had it from the plaintiff?

Q. Didn't you then have your Ottoman Bank book with you?

A. No, sir.

Q. Where was it? A. In Larnaca.

Q. And had you kept any account of their advances to you in money?

A. I had it in Cyprus where I was residing at the time.

Q. Didn't you know when you were in London how much money you had borrowed from them on that collection?

A. I had it verbally from the plaintiff.

Q. Didn't you know independently from that?

A. No, sir.

Q. You depended for your information upon him? A. Yes, sir.

Q. And he told you they had advanced \$9,000?

A. About that.

(2613) Q. And \$2,500 besides; did he discriminate between the advance of the money and the other charges?

A. No, sir, very likely not.

Q. What is your memory?

A. I do not remember.

Q. How did you come to make your discrimination in your conversation with Mr. Blodgett; how did you come to tell him that they had advanced \$9,000 and \$2,500 besides for other charges?

A. I do not remember.

Q. Is that what the plaintiff told you?

A. I do not remember, that is all that I can answer.

Q. During what time previous to that had you been drawing on Rollin & Feuardent; when did your drafts begin?

A. Some time in 1871; I do not remember.

Q. What time in 1871?

A. If I had my check book here I would be able to say—my bank book rather.

Q. What time did they begin; can't you remember?

A. About June or July.

Q. Did you believe that in October, 1872, that the drafts you had made on Rollin & Feuardent for advances amounted to \$9,000?

A. No, sir, for advances and other expenses.

Q. You have specified \$2,500 besides for other charges; you say \$9,000 about for freight, etc., and \$2,500 for other charges; did you really and honestly believe when you told that to Mr. Blodgett, that you had borrowed from Rollin & Feuardent \$9,000?

A. I believe so.

(2614) Q. What is your present belief?

A. Still the same. I believe so still.

Q. You still believe that they had advanced you \$9,000?

A. I still believe that they had advanced me \$13,000—between \$12,000 and \$13,000.

Q. In your testimony at page 2211 you say this: the question was asked you: "Q. After that conversation when he" (that is Feuardent) "came to present the account, in what form did he present it to you?" and you answered they were in the form of a number of bills which aggregated a certain amount; which I do not now remember, but there were perhaps ten or fifteen bills which I went through;" can't you now remember the aggregate of the bills that he presented? A. Yes, sir.

Q. What was it?

A. It was something like \$6,000 or \$7,000, but he said he did not have his account from his father, from Paris, and he could not give me the settled account, and therefore we left the matter stand, and it was not settled until December 24th.

Q. The aggregate of the bills that he then presented were \$6,000 or \$7,000?

A. Or perhaps \$8,000.

Q. He named an amount not exceeding \$8,000?

A. That is my recollection.

Q. And not less than \$6,000?

A. May be.

(2615) Q. All that he professed to omit from that account, was his Paris account?

A. Yes, sir.

Q. What did the Paris account consist of?

A. Advances they had made me.

Q. You knew the amount of the advances?

A. No, sir.

Q. Had you no conception?

A. No, sir.

Q. You depended entirely upon his word for that? A. Yes, sir.

Q. What were these bills that he showed you?

A. I do not remember. He kept the bills himself. He only showed them to me.

Q. Was Mr. Sanderson's bills one of them?

A. I cannot remember now; it might have been so.

Q. Did he show you the bills of lading with the freight charges?

A. Probably so. I do not remember.

Q. How much did they amount to, if he probably showed them to you?

A. I do not remember.

Q. Did he show you Major Deaw's receipt?

A. I have said already that I do not remember the bills that he showed me.

Q. I am trying to help you to remember?

A. You don't help me much.

Q. When did you find out how much the amount of the Paris charges were?

A. In December.

Q. Before you closed your account with Morgan? A. Yes, sir.

Q. Up to that time he presented you with bills between six and eight thousand dollars, and the Paris account?

A. Not the Paris account.

(2616) Q. I thought you said he exhibited the account to you?

A. He said he expected the account from Paris.

Q. I asked you if he afterwards showed you the Paris account? A. And I said "No, sir."

Q. Was that exhibition of the bills to you after you had been to Morgan's and drawn your check on Morgan? A. No, sir; it was before.

Q. What did you want to know the amount for?

A. I wanted to know how much I should draw in order to pay him.

Q. And you meant to draw just enough to cover the bills he showed you? A. Yes, sir.

Q. What did you state yesterday for that you drew enough to cover his bills and certain other money that you wanted for your particular uses? A. Because I wanted it.

Q. At page 2105 of the stenographer's minutes you made this statement of the contents of the letter of your correspondence between Rollin and Feuardent: "In substance the arrangement was this: That the house of Rollin & Feuardent would make certain advances to me for freight, packing, insurance, &c., if I would consign my collection of antiquities which I then had in Cyprus to their agent doing business in their name in London. Should I agree to that, they would make me these advances with the understanding that I would use every possible care to sell (2617) this collection to the British Museum, or to some other Museum in Europe, and to exhibit it during a year. Failing to find a purchaser in Europe during that period, I would become, and would have the authority to dispose of my collection by auction or otherwise, or they would buy it from me at a given sum, or I would have the full power to refund to the house of Rollin & Feuardent all the advances they had made to me for packing, &c., and interest on the amount of money so advanced at the rate of five per cent. per annum, and such other expenses which might have been incurred in London, and which I had not myself prepaid, such as arrangement for exhibition, &c. This was in substance the letter which concluded the arrangement between myself and Rollin & Feuardent." Is that a correct statement of the arrangement?

Witness: Is that my evidence?

Counsel: It is your evidence as recorded by the stenographer.

A. It is wrongly recorded then; that is all.

Q. Make the correction then; I have asked you several times to make corrections, now I wish to know whether you have any correction to make in that statement?

The Court: Take a copy of the minutes and make what correction you desire in the stenographer's minutes. Read it over yourself.

Mr. Bangs: Does your Honor mean by writing on the minutes; is not my question a proper one?

The Court: I want him to take the minutes and read them over, and make orally what correction he chooses.

(2618) A. There is the only thing that I want to change; I want to say "he" instead of "I."

Q. Whereabouts does that come in?

A. "Should I agree to that, they would make me these advances with the understanding that he (the plaintiff) should use every possible care to sell this collection to the British Museum, or to some other Museum in Europe, and to exhibit it during a year. Failing to find a purchaser in Europe during that period, he would become, and would have the authority to dispose of my collection by auction or otherwise."

Q. He would become? A. Yes, sir.

Q. Are you satisfied with that version of the testimony? A. Yes, sir.

Mr. Bangs: I will repeat your testimony as you now want it: "Should I agree to that, they would make me these advances with the understanding that he (the plaintiff) should use every possible care to sell this collection to the British Museum, or to some other museum in Europe, and to exhibit it during a year. Failing to find a purchaser in Europe during that period, he would become, and would have the authority to dispose of my collection by auction or otherwise."

Mr. Choate: He don't want to change that second "I."

Mr. Bangs: He says he does.

(2619) Q. Now are you satisfied with the version of that correction? A. I believe so.

A. I want to ask you what was the given sum mentioned there: "Failing to find a purchaser

in Europe during that period, he would become, and would have the authority to dispose of my collection by auction or otherwise, or they would buy it from me at a given sum." A. To be fixed upon.

Q. There was no sum agreed upon then with Mr. Feuardent?

A. No, sir; he might have mentioned a sum to me, but there was no sum agreed upon.

Q. I want to read to you your letter of November 29th, 1871. "Up to the present moment I have not received any letter from you informing me of the arrival at London of the first shipments, but I trust that the *Courier* of day after to-morrow will bring me news without fail. I shall wait for a few days more before drawing another draft on you, although the insurance of the objects, the freight to Alexandria and Smyrna, and the other expenses far exceed the figure which I thought sufficient, and have thus deprived me of all ready money for the moment. We have therefore agreed as to the sale of my collection, as you wrote me in your last letter but one, that is to say, if we do not agree upon the price which you offer me for the whole collection, I shall be entirely at liberty to sell it somewhere else in a lump, or at public sale, either through you or through Messrs. Sotheby, or other persons, provided I pay you back the money which you have advanced me, with interest at six per cent. The use of your *salons* for the exhibiting of my collection is given me gratis for twelve or eighteen months." Do you see any discrepancy between that letter and your statement on this trial?

A. Substantially not.

(2620) Q. Don't you see any discrepancy?

A. No, sir.

Q. Your statement says, as corrected, that they would use every possible care to sell this collection to the British Museum, or to some other museum in Europe, and to exhibit it during a year; do you regard that as the same thing that the use of the *salon* for the exhibiting of your collection is given you gratis for twelve or eighteen months; do you regard those two statements as identical?

A. Mine is a private letter.

Q. Do you see any discrepancy between the statement that you have made on this trial that they were to exhibit your collection for a year, and your statement in this letter that they were to exhibit it for eighteen months? A. Yes, sir.

Q. Which is right.

A. The one of twelve months.

Q. Your oral testimony is correct, then?

A. Yes, sir.

Q. How came you to write this letter that does not correctly represent the arrangement?

(2621) A. There were other letters following that.

Q. Find one, then, that agrees with that statement—you may take the day in looking for it—find me a letter which you have written that states the arrangement with Feuardent and Rollin, as you have stated it on this trial?

A. Mr. Feuardent must have them; I have no letters.

Q. I will give you the letters that we have got.

A. But they are not the letters.

Q. Do you say that there is another letter?

A. I say that there are many other letters?

Q. Subsequent to the 29th of November, 1871?

A. There are other letters.

Q. You say here: "Yes, your Honor, I remember the letter which finally settled the matter between the firm of Rollin & Feuardent and myself, to send the collection, and to send it to them," and then you give the contents of that letter and say that that was the final settlement that you purported to state? A. Yes, sir.

Q. And this letter of the 29th of November was a statement of the agreement, was it not?

A. It may be so; I do not remember.

Q. Do you remember anything else that is contained in this letter of November 29th?

A. I do not remember now.

Q. Can you state anything else that is in this letter?

A. No, sir.

(2622) Why can't you state the contents of that letter just as easily as you did of those that were burned?

A. I did not say that; I said Mr. Feuardent received another letter.

Q. You said you had received letters from Feuardent which you did not produce?

A. I said that he did receive another letter from me.

Q. The other day you said you received letters from Feuardent which you did not produce, and you purported to give the contents of those letters; why can't you remember the contents of these letters which we have produced as well as the contents of the lost letters?

A. If you give them to me I will.

Q. You have not read the lost letters for months? A. No, sir.

Q. Can you tell the substance of any one of these letters which we have produced?

A. I cannot do it without seeing them.

Q. Look at this paper, Exhibit 104, and see whether it is in your handwriting? A. Yes, sir.

Q. You heard your counsel begin to read that letter on this trial, didn't you, when I interrupted him by producing the original, which was read instead of that? A. Yes, sir.

Q. Did you hand him that paper as a copy of a letter?

A. I do not know whether I handed it to him or not; I handed it to him with a mass of papers.

Q. How did he get it? A. From me.

(2623) Q. You gave it to him for the preparation of this trial? A. Yes, sir.

Q. And there is no such original?

A. It purports to be a copy of it.

Q. What you wrote to Mr. Savage—there is no such letter in existence?

A. I think it is a copy of the letter.

Q. How, then, do you account for the difference between this letter and the one that you actually wrote to Mr. Savage, and which we produced?

A. I do not remember having seen it; I don't think there is any difference between the two.

Mr. Choate: Your Honor has ruled that out very emphatically.

Mr. Bangs: The paper that was produced purported to be a copy of a letter, and the counsel read some part of it as a copy, and it turns out to be in the handwriting of the witness. It is very widely and essentially different from the original, and I think I am entitled to have him state why he handed his counsel this manufactured letter.

Mr. Stickney: There has been no statement, and no evidence given, that that letter was written by Mr. Di Cesnola, except the one which the learned counsel chooses to put in my mouth. I produced the letter, and I stated that it was a copy of a letter. I assumed that myself.

(2624) The Court: I think I must exclude that.

Mr. Bangs: I take an exception.

Q. When you said yesterday that your collection cost you \$74,000, did you mean to apply that statement only to what had been dug up, up to the time of your shipments to the plaintiff in 1871 and 1872?

A. No, sir, up to the date that I left Cyprus.

Q. In 1876?

A. Yes, sir.

Q. Can you tell how much you had expended up to the time of the consignments to Rollin & Feuardent?

(Objected to as immaterial; I understood that that whole matter of profit was excluded yesterday).

The Court: I understood him to say that his bank book showed that he had paid out \$74,000 during the time he was in Cyprus. You may put that inquiry to the witness.

Q. What date do you refer to as the date of leaving Cyprus?

A. The 18th or 14th, or 15th of June, 1876, I don't know which.

Mr. Bangs: Now I would like to ask the witness what amount he had expended up to the time of his shipments to the plaintiff in 1871?

The Court: I don't think that is material.

Q. At page 2177 of the stenographer's minutes you are recorded in this way: "Are you able to produce those letters? A. Not one, unfortunately. Q. What has become of the letters in (2625) Cyprus—that you had in Cyprus? A. Before I left Cyprus for America, I had an accumulated correspondence of eleven years standing, and all the papers which I thought would never be of any use to me, I made up into a large pile and burned them up, and, unfortunately, I burned up all these papers, thinking that the transaction was finished." Q. Have you made every search for them that you possibly could? A. Yes, sir. Q. At that time, when you burned all those papers, how many papers did you burn, what bulk or quantity? A. Many thousand letters—the accumulation of ten or eleven years. Q. What was your object in burning them? What were you going to do? A. I was going to travel. When I left Cyprus I had no home to send them to, and it would have cost me a fortune to take them through Europe." And when you were asked further on page 2180 or 2179: "How many cases were there down stairs when you got through? A. About twenty five. Q. Of papers? A. Of every kind of papers, letters, correspondence, and many other papers that I did not want to keep. In fact, everything that had accumulated during the two years previously."

A. I meant at the end of 1876. It is at the end of 1876 that I burned all that correspondence; it was not at the end of 1872.

Q. You misunderstand me. You used these words in your testimony: "In fact, everything that accumulated during the two years previously." That is what the stenographer's minutes say.

(2626) A. I do not understand it.

Q. I have read the minutes as they are to you, and I ask you if you want to stand by that testimony, or if you wish to correct it. Do you wish to correct any portion of that testimony or will you stand by it, and if you want to correct it, what is the correction?

A. I do not understand the reason of that. I said I burned all my correspondence when I left Cyprus. That is all I meant.

Q. I will read to you fragments then. At page 2177 you say this: "Q. Are you able to produce those letters? A. Not one, unfortunately. Q. What has become of the letters in Cyprus—that you had in Cyprus? A. Before I left Cyprus for America, I had an accumulated correspondence of eleven years standing, and all the papers which I thought would never be of any use to me, I made up into a large pile and burned them up, and, unfortunately, I burned up all these papers, thinking that the transaction was finished." Take that by itself. Do you stand by that testimony, or do you wish to correct it, and if you wish to correct it, what is the correction?

A. I stand by that, as nearly as possible. I meant that I destroyed all my correspondence when I left Cyprus for America.

Q. You say: "Unfortunately, I burned up all these papers, thinking that the transaction was finished." You remember thinking about it at the time?

A. No, sir.

(2627) Q. What made you say so?

A. Because I burned many other papers, and all correspondence in regard to business matters that I had.

Q. When do you remember last seeing those letters of Feuardent's that you there refer to?

A. I must have seen them in Cyprus at the time.

Q. When?

A. Probably before I left—some time before I left.

Q. And that was before this fire?

A. It was before I left Cyprus.

Q. And before this fire?

A. Yes, sir.

Q. Where did you see them?

A. I could not particularize that. I had a great many papers of that kind.

Q. Where did you see these letters?

A. I don't say that I saw them. I had an idea

that I did see them, but I am not certain that I saw them at all.

Q. You are certain that you saw them some time or another?

A. Yes, sir.

Q. What is your last memory of seeing them?

A. When I received them.

Q. You do not remember seeing them since?

A. I have no recollection of having seen them since.

Q. Where did you keep them before this fire?

A. At my house.

Q. Whereabouts is your house?

A. Down stairs, up-stairs, and everywhere.

Q. And were they put in these cases that you sent to the fire finally?

A. They were packed up when I had a quantity, and were sent down stairs; there were newspapers, pamphlets, papers, correspondence, and I packed them up in a box. I packed all my letters and correspondence away.

(2628) Q. Does that include these Feuarent letters?

A. I do not remember those letters. I said that three or four times. I cannot say any more.

Q. Have you any reason to believe, and if so, what is it, that you ever saw any of those letters in 1876?

A. No, sir, I do not believe I have seen any since that time.

Q. Have you examined lately to see what letters originated, and the papers originating before that fire, that survived the fire?

A. I do not exactly understand your question.

Q. I will call your attention to your testimony on pages 2179 and 2180:

"How many cases were there down stairs when you got through? A. About twenty-five.

Q. Of papers?

A. Of every kind of papers, letters, correspondence and many other papers that I did not keep. In fact, everything that accumulated during the two years previously."

Do you want to alter that testimony? What should you answer to-day suppose that question were put to you again?

A. I said that I destroyed my papers and everything, pamphlets, newspapers, correspondence.

Q. Do you mean to say: "Everything that accumulated during the two years previously?"

A. I meant during the entire time from 1865 down to 1876. That is what I mean.

(2629) Q. You received about how many letters from Dr. Birch, that you received before 1876, and which you kept?

A. About a hundred.

Q. How many books of account that were kept before 1876 have you preserved?

A. I never kept books of account in my life. I kept a bank book, and that is all that I kept.

Q. And the bank book is a book of account?

A. If that is one, I have one.

Q. Did you preserve the bank book that you kept before 1876?

A. It is the one in the hands of my counsel, with the Ottoman bank.

Q. Was this note book kept before 1876, which you have referred to? A. Yes, sir.

Q. How do you account for the preservation of your bank book?

A. Because the last thing I did when I left Cyprus was to settle with the bank.

Q. You drew out your balance?

A. Yes, sir.

Q. What did you keep that bank book for?

A. To get money and to pay money.

Q. I mean after 1876, why did you preserve it?

A. Because it came into my hands when I left Cyprus.

Q. Why didn't you burn it?

A. Why should I burn it? I burned those papers that were not of any use to me, and those that were of use, I kept.

(2630) Q. Why did you want to keep that bank book?

A. I had no particular reason. I found it among my papers. I did not know I had it. My

lawyer asked me to give him all the papers I had and I gave him my bank book with the rest.

Q. (By the Court) When you left Cyprus in 1876, why did you preserve that bank book and bring it on in your pocket or trunk, or whatever it was, and why didn't you burn that up when you left it behind?

A. I preserved some thousand of letters that I chose to preserve, and that book was kept. I had no reason to burn it.

Q. What made you keep Dr. Birch's letters?

A. Because Dr. Birch is a man of high respectability, and I took a great deal of care to keep them.

Q. Do you mean to say that Dr. Feuarent was not a man of high respectability?

A. Not for me.

Q. You had dealt with that house since 1867?

A. I am not confounding the house with the plaintiff; the house is very respectable.

Q. In 1876 you thought he was a charming young man?

A. Very likely. I found out afterwards I was mistaken.

Q. At that time, you found him to be a charming young man, which meant that he was a young man of high respectability; didn't you think so? (Objected to.)

2631) A. I kept those letters because they were from a scholar, and the others from a dealer. That is the difference.

Q. And is that the reason why you kept Ceccaldi's letters?

A. The same thing. Business letters I did not keep, and private and friendly letters I kept.

Q. And that is the only distinction you make?

A. It is a very broad one.

Q. Have you kept any letters besides Dr. Birch's and Ceccaldi's?

A. A great many others.

Q. Who's?

A. From Mr. Gladstone, from the Duke of Argyle, from Sir Henry Layard, from M. Renan of Paris, from Mr. Curtius and Mr. Lepsius; in fact, from nearly all of the greatest scholars in Europe.

Q. Are there any others?

A. A great many more.

Q. Any business letters?

A. I never was a business man, and I did not keep business letters.

Q. Why did you say that?

A. Because I have never been a business man in my life. Is that clear?

Q. Did you use the word dealer, when you applied it to Mr. Feuarent, in a contemptuous or derisive sense?

A. I gave you the word. You can apply the meaning.

Q. You regard him as a man who buys and sells antiquities? A. Yes, sir.

(2632) Q. Then what is the difference between you and a dealer?

A. Because I do not buy antiquities.

The Court: I think it is unnecessary consumption of time to go into that.

Q. Now at page 2171 you were asked: "Did you buy any of them?" And in order that you may understand that question, I will read to you the previous question: "Is it true that you bought nearly all the objects in this collection from the natives?"

A. No, sir.

Q. Did you buy any of them?

A. Mortuary things from tombs, now and then.

Q. Are those things that you bought in the Metropolitan Museum of Art?

A. Some may be, and some may be not.

Q. Don't you know?

A. Not now.

Q. Have you any recollection what they were?

A. Yes, sir.

Q. What were they?

A. Little terra cotta lamps, vases and sometimes some earrings.

Q. Can't you tell now that you have named and specified the object whether they are in the museum?

A. There may be some; I don't know.

Q. Is there any place in your book where you have described your purchases of those articles?

A. I think so.

Q. Whereabouts?

A. I have no idea.

Q. Do you remember what those articles cost, you?

(2633) A. A few pounds.

Q. Do you remember?

A. Yes, sir.

Q. What was it?

A. Perhaps two or three dollars at a time.

Q. What was the total amount you expended?

A. I have not the slightest conception.

Q. What quantity in all?

A. Only a very few, once or twice or three times. There were men digging with my own money. I can explain that if you want me to.

Shall I?

Q. No.

A. That settles the matter.

Mr. Oakley reads from page 117 of Cyprus, "Ten minutes' walk to the South etc," down to the last paragraph on page 127, as follows:—

"Ten minutes' walk south of this burial ground is a small place called 'Aghios Photios,' where M. de Vogue is also said to have dug and found some fine stone heads and statues; but when I visited it, the barley which covered the fields was just coming into ear, and nothing was visible of these excavations. I, however, marked the spot, and decided to revisit after the crop had been gathered; but official duties, and other excavations, prevented me at the time from doing so, and for several years I quite neglected Aghios Photios; till, in the beginning of 1870, two of my diggers came to Larnaca and begged permission to dig at Athieno. Remembering my intention of digging at Aghios Photios, I furnished them with funds to support them and their families in the meantime, and explained to them where I wished them to dig, telling them that in a few days I would ride over and inspect their work. Nearly a week passed before I heard from them, and I was beginning to doubt their success when one morning, while I was at breakfast, a muleteer was announced as having arrived from Athieno with a message from them informing me that they had discovered an enormous stone head and other sculptures, and requesting me to send a cart at once for them, as otherwise they feared the interference of the proprietor of the land upon which they had been found.

There was to be a meeting of the consular corps that afternoon, over which as the Doyen I was obliged to preside, and it was impossible for me to leave. I was much perplexed as to what course to pursue, knowing that any delay in the matter, should the sculptures prove as important as the messenger represented them, might afterwards cause me much difficulty, with a halfstarved peasantry ready to seize upon any subjects likely to afford them a ready return of money. Fortunately at that moment M. Andrea Vondiziano, one of my consular employes, now Russian consul in Cyprus, came in, and upon hearing of my dilemma, kindly volunteered to go to the diggers in my stead, and to report to me the findings. Accordingly one of my mules was at once saddled for him, and he set off without delay, being previously instructed by me in case of any trouble with the Turkish authorities or the owner of the ground, to send me an express, and that I should in that case start for Aghios Photios as soon as possible.

In the afternoon, as the consuls were assembling at the American Consulate, a messenger came from M. Vondiziano confirming the report of the muleteer, and urging me to send him two ox-carts for the transportation of the sculptures, adding that everything was quiet, and that the stone head was colossal, being larger than any he had ever seen.

I gave orders for the carts to be sent forward immediately, and requested M. Vondiziano to have them loaded without delay, and not to leave until the next morning, when I would come to relieve him. M. Vondiziano, who had frequently served me on like occasions, had one most

admirably quality, which is both rare and precious—that of carrying out to the very letter whatever instructions he might receive, instead of modifying or distorting them according to his own fancy, as is the almost invariable custom of the natives. Unfortunately, when the two carts arrived at Aghios Photios, it became apparent that the sculptures were too heavy to be raised without additional help, and to obtain this it was necessary to send to the village of Athieno. This step, though unvoidable, afterwards occasioned, as will be seen, much trouble and annoyance.

The consular meeting was protracted to an unusual hour, much time having been wasted in trivial questions by certain members, who, while suggesting nothing themselves, made a point of opposing everything brought forward by their colleagues. Wherever a consular corps resides in the Levant, its controlling power is usually neutralized by the intrigues, jealousy, and strife for personal influence which generally distinguish it, and which the wily Turk knows so well how to use to his own advantage. During the first two or three years of my residence in Cyprus, the principal consuls were so united as to command collectively that deference from the Turkish local government which they never could have obtained individually. They were gentlemen of high personal character, acquainted with the world, and not easily to be cajoled by Turkish diplomacy. On the present occasion, however, this happy unity no longer reigned, and some of my new colleagues, hoping to gain influence with the government by opposing every measure tending to suppress any of their illegal or arbitrary acts, ordinarily rendered futile the object of the meeting, as in this instance. Wearied by the length of time wasted at the meeting, I retired early in search of quiet and repose, with the intention of starting before daylight for Athieno.

At midnight, however, I was aroused by the tramp of horses' hoofs in the yard, and an excited conversation carried on between some newly arrived persons and my two cavasses. The new arrivals proved to be two mounted couriers from Athieno, who had come within ten minutes of each other, and each desired to see me at once, in order that he might be the first to inform me of what had occurred. The Cypriotes, like all untutored races, deal much in the marvellous, and their imaginations are easily fired. It was, therefore, some time before I could get at the gist of their communication, which was that those who went to get assistance in loading the carts from Athieno had spread the news of the extraordinary find, and that the peasantry had rushed in large numbers to Aghios Photios with spades and pickaxes, all eager to participate in the diggings, and that the owner of the ground and his relations were also at work upon it, that wonderful things were discovered, and that the greatest confusion prevailed. M. Vondiziano, finding himself powerless to control such a crowd, begged me to send one of my cavasses with some 'zaptiehs' from Larnaca to keep order and guard over the things found. While we were talking, a third messenger arrived, bringing back the mule I had lent to M. Vondiziano, and informing me that two of the police belonging to Athieno had arrived and claimed all the sculptures in the name of the Sultan, while many peasants had also secretly conveyed objects to their dwellings, hoping to be protected by declaring themselves in the service of this or that consul. I saw there was not a moment to be lost, and mounting at once, after a hurried preparation, gave orders to one of my cavasses to follow in the early morning with provisions, my tents, camp-bed, etc.

A short distance from Larnaca I met several men riding at a rapid pace, whom I stopped, believing they were other messengers for me, but found that some of them had been sent to the Caimakam, or Governor of Larnaca, and that others were muleteers employed occasionally by other consuls, and who had come to give them also the news of the find. I afterwards heard that two of my colleagues had risen and were actually in the saddle, when they learned that the American Consul was probably by that time already on the

spot, when the prudently disrobed again. My mule sped on, *ventre à terre*, toward Aghios Photios, where I arrived in less than an hour.

The scene which prevented itself was wild and weird. All Athieno was bivouacked on the desert-like plain of Aghios Photios, the moon was not yet risen, and large fires were lit at different points, throwing fantastic shadows as men moved about, eagerly gesticulating and conversing. The light falling upon their swarthy faces and parti-colored dress, gave them the appearance of a band of brigands, which in some measure they were. They numbered more than a hundred, and their shouts, altercations, and attempts at song made a perfect pandemonium.

I may here be allowed to state that the successful issue of my affair with the Governor of Larnaca had favorably impressed the local authorities towards me, and had become well known to the populace. This now stood me in good stead. As I approached, the news spread of the arrival of the American Consul, and the uproar and confusion instantly ceased. Having been long accustomed to the control of large bodies of men during my military life, I had not much difficulty in comprehending the situation. At a little distance two Turkish policemen were standing guard over the sculptures, and I at once rode towards them dismounted, and ordered one of them to, take my foaming animal in charge and walk it about, which he did without question. I then called the other zaptieh and motioned to him to disperse the crowd and clear a space around the sculptures. He obeyed as promptly as his companion, and these steps had due effect upon the peasants. I then saw for the first time the colossal head. As its massive stony features were revealed to me by the fitful gleams of the fire-lights, there arose a vision of a people whose master-hands had ages ago withered and fallen into dust. But this was no moment for fanciful dreaming. I now ordered the carts to be brought near, had the sculptures carefully placed upon them, and giving my mule to M. Andrea Vondiziano, requested him to escort them on the way to Larnaca until he should encounter my cavasse, to whose charge he could deliver them and return to Athieno. Thus I may say that I rather captured than discovered these stone treasures. And this was all accomplished without the dissenting voice of a single person, each one doing what he was requested to do with alacrity—without a murmur even from the owner of the ground, who, however, followed me like my shadow.

After the departure of M. Vondiziano I motioned to the zaptiehs to lead the way to the village. Thus in complete darkness, preceded by these two Turks and followed by all the peasants, I walked alone to Athieno. The tread of the now wearied and almost silent peasants as they toiled on through the darkness, sounded to my excited ear like the foot-falls of departed spirits, who, roused by the rifling of their monuments, had come to watch the disturber. As we neared the village, however, the moon appeared over the hills, and silencing the outlines of the mountains of Karpass soon put to flight all thoughts of disembodied spirits.

On reaching the village I went to the house of a muleteer, where I had stopped on former occasions, and dismissing the two policemen with a small present, bade good-night to the crowd which had escorted me thither. Without undressing I wrapped myself in one of the thick native quilts, and stretched upon a hard wooden settle, was soon profoundly asleep.

CHAPTER V.

Removal of sculptures to Larnaca.—Purchase of ground and recovery of purloined sculptures.—Systematic diggings commenced.—Discovery of more sculptures.—Survey of another field.—Discovery of a Temple.—Portions of its Foundations destroyed by French diggers.—Many hundreds of statues found in its area.—The Governor-General wants to stop the diggings.—Official correspondence with the Pasha.—Many inscriptions in Cypriote characters and with bas-reliefs.—Difficulty in removing the findings to Larnaca.

The sun had scarcely risen, when M. Von-

diziano arrived, bringing satisfactory reports, adding, however, that he had the greatest difficulty in crossing a range of hills in order to reach Larnaca. Information also reached me that the Caimakam of Larnaca, Arif Effendi, accompanied by his Mejliss, was on his way to Athieno, coming no doubt to take possession of the antiquities found on the previous day. Two important steps had now to be taken at once. One was the purchasing of the ground in which the diggings had been commenced, thus acquiring a right to all objects found therein. The other was the prohibition of all further excavations by unauthorized persons. This was accomplished in less than an hour's time, though with some little difficulty. The owner of the ground demanded £1,000, which was refused; but in the meantime, hearing of the approach of the Caimakam of Larnaca and foreseeing what would happen, he came of his own accord to offer it to me for £20, which, as may be supposed, I made no difficulty in accepting, and the sale was thus effected without delay. The Caimakam, after having rested an hour or so at a so-called coffee house, continued his route directly to Aghios Photios. He expected, from the reports he had received, to find the whole of Athieno busy in digging out most wonderful things; but to his astonishment and that of his suite, he found the place deserted, and that the antiquities also had disappeared. He sent for the owner of the ground and the chief men of Athieno, in order to be informed of what had happened. On learning that the ground had become the property of the American Consul, but above all, that the objects there discovered had safely reached the American Consulate, even before he and his Mejliss had left Larnaca, he concluded there was nothing left for him to do but to report events to the Governor-General; and having made a hearty repast and imbibed several gallons of wine and raki—as usual, at the expense of the poor villagers—he returned, accompanied by all his retinue, to Larnaca. Some of my men kept me well informed of what was passing at Aghios Photios, and in the meantime I was busy in securing all the objects which the peasants had secreted at their houses in Athieno, knowing that they would be likely to be imprisoned if found digging without a permit.

They knew that I had the power of taking those things from them by force if I chose to use it, and they were therefore very glad when they found that instead, I offered them a liberal sum for the acquisition of each object, though at first they were rather doubtful of my good faith, and it required a good deal of tact and manœuvring to find out where all the pieces that had been abstracted were, and who had them. Having been privately informed which of the peasants retained the missing objects, and having obtained a pretty accurate description of them, I sent for these men, and resorting to the following little stratagem to get the articles into my possession. I had lying upon a chair a volume of Layard's 'Nineveh,' and selecting a page upon which was an engraving as nearly resembling the object I knew the man had concealed as I could find, I told him that this book was a book of divination, and that by it I could discover whether or not he had secreted any of the antiquities. Then, boldly turning to the engraving, I pointed it out to him, and demanded its immediate restitution, but with the promise of a good backsheesh if complied with at once.

The amazed and convicted peasant would clap his hand on his head, or use some other sign of astonishment, calling out, 'Panagia mou!' (my Blessed Virgin!) 'he has a book telling him everything!' and shortly afterward the missing object would be forthcoming. I do not believe Mr. Layard ever imagined that his discoveries in Nineveh would be used in such a novel mode for discovering antiquities in Cyprus! In this way I got possession of everything that had been found, without much annoyance."

Q. Are those extracts true?

A. Yes, sir, substantially so.

Q. You had some correspondence with Mr.

Hutchins while you were in Cyprus, didn't you?

A. After 1873, yes sir.

Q. You remember that?

A. I remember having had some correspondence.

Q. Have you got Mr. Hutchins's letters?

A. No, sir.

Q. What became of those?

A. I am afraid they went with all the others. I did not consider those of any value.

Q. At page 2166 the question was put to you: "Let me ask you whether in Cyprus you made any repairs of objects" and you answered: "No, sir, with the exception of the big sarcophagus which was broken into about a hundred pieces;" do you stand by that statement?

A. Yes, sir.

(2634) Q. When was that article found, in what year?

A. Either in 1875 or in 1876.

Q. It did not take two years to find it?

A. I said either in 1875 or 1876.

Q. Do you remember writing to Mr. Hutchins to get you some glue? A. Yes, sir.

Q. Did you receive it? A. Yes, sir.

Q. Did you use it? A. Yes, sir.

Q. What did you use it for?

A. To put little terra cotta statues together.

Q. Did you use it only on terra cotta statuettes?

A. Yes, sir, it could not be used on stone.

Q. What are the ankles of the statuette of Venus connected with, glue or plaster?

A. Not with glue; they were connected with shellac.

Q. A sort of a gum? What is shellac, do you know? A. Yes, sir.

Q. What is it?

A. It is a rosin of some kind from which sealing wax is made.

Q. Do you know exactly what it is?

A. Sufficiently to know that it sticks.

Q. Do you know its origin. A. No, sir.

Q. Or its process of manufacture. A. No, sir.

Q. How much glue did you receive from him?

A. A small box.

(2635) Q. Do you mean to say that no stone object was put together while you were in Cyprus, by you, or under your directions?

A. I said that no repairs were ever made, except to that big sarcophagus.

Q. I know you said so; do you mean by that answer to say that there was no object put together under your directions, or by you, in Cyprus?

A. Certainly there were little pieces put together.

Q. Of statuary?

A. Yes, sir.

Q. Is not that a repair? A. No, sir.

Q. What did you mean then when you said that there were no repairs made. What did you mean by repair there?

A. By repair I mean the joining together of pieces permanently, not to be removed afterwards.

Q. Is there any word in sculpture or stone cutting or archaeology, that describes that business of putting pieces together?

A. I mean attaching them.

Q. Then you did a good deal of attaching?

A. No, sir, I did very little of it.

Q. You did some? A. Yes, sir, some of it.

Q. Your book speaks of the legs of Hercules being found in a heap of fragments near by the head and body; what did that heap consist of?

A. The head and body were together; that heap consisted of every kind of pieces of fragments of bodies, legs &c., as they were brought out of the ground.

(2636.) Q. How happened that pile to be gathered there?

A. For the very reason that as the men were digging, six or seven in a line, when they found a piece of stone, they piled it up in a heap until they came to the place where the statue was.

Q. How large was this pile?

A. There were several of them; each set of men made a pile of stone for themselves.

Q. Then did you pull down those piles and look through the fragments?

A. Yes, sir, I went there afterwards and selected the pieces that belonged to this or that statue.

Q. In doing that, did you consider yourself either a scholar or archaeologist?

A. I considered myself enough of a scholar to know what pieces belonged together.

Q. Did you consider yourself a scholar or an archaeologist?

A. I considered myself an explorer.

Q. Did you consider yourself a scholar?

A. Yes, sir, I did.

Q. Did you determine merely by the fitting of fragments whether they belonged to each other, or did you exercise some archaeological or scholarly learning?

A. I did exercise my best judgment as to the stone surfaces, which is clear enough for a child two years born.

Q. You say you exercised your best judgment. Did you have anything to aid your judgment in determining the question except that the pieces actually fitted to each other. Did you use any other kind of judgment besides that?

A. Most certainly.

(2637) Q. What kind of judgement?

A. The surface of the stone and the grain of the stone.

Q. Anything else?

A. That is most important.

Q. Did you take anything else into account in determining whether certain fragments belonged to each other?

A. First I examined the fractures to see whether the broken piece belonged to the statue; second, I examined the surface and the grain and the size of the object, and if everything compared, that would naturally bring the conclusion that the pieces belonged there, and it could not be put on anything else.

Q. Are you able to tell the style and period of sculptures and their age from their style?

A. Certainly.

Q. How had you learned that?

A. I had a library of archaeological books in Cyprus, and I studied and read up on the subject.

Q. You bought a library in Cyprus.

A. Yes, sir.

Q. From the Cypriotes?

A. No, sir, I bought it in Europe, but I brought it to Cyprus. Cypriotes have no libraries.

Q. What was the age of the oldest statue you found in the temple of Golgoi?

A. I will say, in my judgment, about 700 or 800 before Christ.

Q. And what was the age of the most modern sculpture or statue that you found there?

A. The time of the Grecco-Roman, probably a hundred years before Christ.

(2638) Q. Then you remember that that temple had been in existence for about six hundred years? A. Yes, sir.

Q. And did it contain objects which were the products of all the 600 years, of the various archaeological periods into which that 600 years might be divided?

A. They represented the style of the different periods, the earlier as well as the later periods.

Q. How can you tell that they had been made in a later period?

A. By the surface of the stone; that is one of the best tests; the surface of the stone does not fail to tell its own story.

Q. Of the age?

A. Yes, sir, and the condition of the stone

Q. The surface and condition of the stone tells the age of the object?

A. That depends somewhat as to whether it has been exposed to air, and how much it has been used.

Q. To a considerable extent?

A. And that depends upon how long they have been buried.

Q. Could you tell within a hundred years?

A. No, sir, I do not say that.

Q. From the surface of the stone from which

that dog is made, did you come to any conclusion, or did you draw any inference as to its age?

A. I could have done so, if it had not been buried in that way. It depends somewhat upon the size of the place where they were buried and whether it was a dry or a damp place. If it is a damp place, the dampness is apt to produce a stronger disintegration on the stone than if it were buried in a dry sand. That is what I mean.

(2639) Q. It is not exposure to air that acts upon the surface of the stone—burying acts as well?

A. It is the burial which disintegrates it.

Q. I am asking you now with reference to your statement that the exposure of the objects to this climate affects the statues?

A. Yes, sir.

Q. Does that affect the statues in the same way as burial affects it?

A. I don't think it does. This disintegration goes right into dust, and falls down, and in the other it eats it up, and it looks as if it had the smallpox.

Q. Do you consider the roughness of the surface an indication of age?

A. The roughness of the stone of Cyprus shows almost exactly the age.

Q. Does smoothness of surface indicate a modern age? A. Not evidently so.

Q. What do you attribute the smoothness of that dog to?

A. Is there any smoothness about that? I have not seen it.

Q. Don't you know whether it is smooth or not?

A. No, sir, it has the same surface exactly as the other sculptures.

Q. Do you consider that a rough surface on that dog? A. Yes, sir.

Q. As a whole, you consider that as an ancient surface? A. Yes, sir.

(2640) And is the color the same as when it was dug up? A. Exactly so.

Q. It has been washed and covered with a wash at some time?

A. It was covered with a wash where it was broken, where it was joined together. You asked me whether it was all washed, and I said no, only the broken part was washed.

Q. What age do you take that dog to be?

A. The age is fixed from the objects found—where this dog was found.

Q. What age do you infer that dog to be?

A. About 600 years before Christ.

Q. Do you judge that from the surface?

A. No, sir, with other data connected with it. The surface of the stone is one of the indications of its age, but that is not the only one.

Q. From the surface alone, can you form an opinion as to the age of that piece of work?

A. No, sir, you cannot fix it exactly.

Q. Will you look at the legs of that dog and tell us if you see any traces of color down here on the legs of this dog? A. Yes, sir.

Q. What is that?

A. That is the original color of the dog.

Q. What took it off?

A. It is not taken off.

Q. What has made it so—the bath?

A. All the surface is that way. If you wash the surface of that statuette it comes out; it is only by dampening that it comes out.

Q. How is this red color on the dog produced? (2641) In some places it is very red, and in some places it is not.

Q. Do you think that the surface of this dog is just as rough as the surface of that little statuette of Venus? Is there any difference in the roughness? A. They are about the same.

Q. Doell describes this Venus, as you remember, as having the ankles fractured; do you remember that? A. Yes, sir.

Q. Did you see it in a fractured condition?

A. Yes, sir.

Q. The fracture extended clear across this stone, didn't it? Yes, sir.

Q. Look in there and see if you can see any signs of fracture between the ankles?

A. Yes, sir, I can see it.

Q. What is it?
 A. There it is; it goes all around there.
 Q. There in front, between the ankles, do you see any signs of fracture?
 A. I do not know what you mean.
 Q. You do not know what I mean? Turn it to the jury and see if you understand me; this line of fracture here is perfectly visible in the ankles? A. Yes, sir.
 Q. And it is visible behind here, and the original fracture you say, extends all the way through the centre; now, I will ask you if you can see any fracture in that part of it, and if so, what is it?
 A. Yes, sir, I can see it very easily.
 Q. Where is it? A. There it is.
 Q. You turn it upside down to look at it?
 A. Yes, sir.
 Q. Stand it up on end; do you now see it?
 A. Yes, sir.
 (2642) Q. By a Juror: Were the ankles mended with shellac?
 A. They had been put together with shellac in Cyprus.
 Q. Is that just as good as cement?
 A. No, sir.
 Q. Is it just as good as plaster?
 A. No, sir, it does not keep the air out.
 Q. You do not see any shellac between the ankles there, do you?
 A. Yes, sir, you can see it there to-day.
 Q. I do not mean around the ankles, but between the ankles, along the line of fracture?
 A. Yes, sir, I see it there.
 Q. Have you any objection to drawing a pencil line along the place where you say there is a visible line of fracture; is there harm in it?
 A. None whatever; you must remember that this has been washed and scrubbed by at least a hundred people since this suit was commenced.
 Q. Have you any objection to a sponge and water being applied to it here?
 A. No, sir, not the slightest; put it in a bath, if you want to.
 Q. Where do you say the fracture is, just at the lower edge of the drapery, or down about the base? A. Here it is.
 Q. You see it right along the under side of the drapery? A. Yes, sir.
 Q. And you do not see any other line of fracture than that just below the line of the drapery?
 A. It is only one piece.
 Q. Is there any near the base? A. No, sir.
 (2643) Q. What is that stuff in there?
 A. Shellac.
 Q. This white stuff?
 A. I don't know; it has been washed and scrubbed so much, that I don't know.
 Q. Can't you tell what it is?
 A. Yes, sir; I suppose some wash that is put over the break.
 Q. What kind of a wash?
 A. I don't know.
 Q. Is it the wash you described?
 A. Yes, sir, that made of milk and something else.
 Q. Does that kind of a wash go as far as to conceal the fracture as it is there?
 A. It was used to conceal the edge of the break.
 Q. It answers the purpose, as it is shown there?
 A. Yes, sir, it answers the purpose of keeping the air from the break.
 Q. Were you present when this was dug up?
 A. No, sir; it is very difficult for me to say whether I was or not, when there are thousands of objects found.
 Q. Did you see this dug up?
 A. No, sir; it is difficult to remember.
 Q. Is it a wall statue or a round statue?
 A. It is a round statue.
 Q. How do you account for this flatness on the back?
 A. I don't know; it is a round statue; this is an appendage to it; it is flat there, but it is not a wall statue; any sculptor will tell you that.
 (2644) Q. How do you know what any sculptor will tell me?

A. Any sculptor that knows anything will tell you that. He might take it for a thick stone, but not a flat stone. He would not take it for a flat or wall statue. I say that is a round statue.
 Q. Have you any objection to that being put in a pail of water and allow it to be soaked?
 A. Not the slightest.
 Q. Dr. Barnard stated that you testified or stated to the committee that there had been an incrustation of lime on that statue; did you so state?
 A. I did not say "of lime;" I said an incrustation of something.
 Q. Do you not know what the report of the committee says on that subject?
 A. I think I do.
 Q. What is your recollection of what it says?
 A. They found traces of incrustation there.
 Q. Is the undercutting on that statue around that disk modern;—is it modern around the edge of that mirror, or is it not modern?
 A. It is not modern.
 Q. Down there?
 A. No, sir.
 Q. Wasn't that undercutting done by Baillard?
 A. He was cleaning it, and in cleaning it he enlarged it with a piece of wood.
 Q. When did he do that?
 A. When he cleaned it.
 (2645) Q. Four years ago? A. In 1879; yes, sir.
 Q. Then its shape and appearance has been altered in modern times; four years ago is pretty modern, is it not?
 A. I do not understand your question.
 Q. Didn't you say the other day that this undercutting was done by Mr. Baillard with a wooden stick or a soft piece of wood?
 A. I said that the traces were all there, and in taking the encrustation off with a piece of wood, he went deeper than the original was perhaps; I do not say that he made it.
 Q. Does work affect the stone?
 A. Yes, sir, to a certain extent.
 Q. Is that under the edge of the mirror?
 A. Yes, sir.
 Q. On this side? A. All around it, I think.
 Q. Then that much is modern?
 A. No, sir; it is not modern.
 Q. It is Baillard's work? A. No, sir.
 Q. Certainly the cutting that he did is his work?
 A. He did not cut it.
 Q. What do you call the process of cutting on stone?
 A. I call it a strong rubbing on the stone.
 Q. The removal of matter from that statue is modern? A. It was removed in 1879.
 Q. Then it is not as it was dug up?
 A. On that point, no, sir.
 Q. What is the period of that statue?
 A. That statue is about the same age as the other, about 600 years before Christ.
 Q. (2646) Of the same age with the dog?
 A. Yes, sir, about the same.
 Q. What style of sculpture does it belong to.
 A. What they call archaic-Greek, coming from the Egyptian style; it is pure Cyprian style.
 Q. It is pure Cyprian style of art?
 A. Yes, sir.
 Q. You remember seeing that statue with the ankles off, do you? A. Yes, sir.
 Q. Did you actually witness the process of putting it together? Yes, sir.
 Q. Where was that done? A. In Cyprus.
 Q. By whom? A. By myself.
 Q. With any assistance?
 A. No, sir, I had no assistant then.
 Q. What do you call that, a repair or a restoration?
 A. Neither one thing nor the other; it is just attaching the pieces together.
 Q. You have three different processes now, a restoration, a repair and attaching, and this is an attachment? A. Yes, sir, nothing else.
 Q. If you saw it put together then, you know exactly what has been applied there between the ankles, don't you?
 A. I do not say that I did put the thing together as it is to-day; it has been bathed and bathed by

the Investigating Committee and others; I said that I put it together in Cyprus.
 Q. When you put that together in Cyprus, and stuck that shellac in the ankle, did it appear as it is now between the ankles?
 (2647) A. I think so; I have no recollection, but it is about the same thing as it is to-day.
 Q. Then you know what stuff there has been put between the ankles?
 A. There is nothing there between the ankles.
 Q. You know what the little wash is?
 A. I said so already.
 Q. Did you see it in Cyprus?
 A. In Cyprus there was no such wash.
 Q. When was it put on? A. In Central Park.
 Q. Then its appearance has been altered since it went to the Central Park?
 A. I do not see any difference in it.
 Q. Is the point of junction apparent as it was in Cyprus? A. No, sir, certainly not.
 Q. Then this change has taken place, that the point of junction has been concealed?
 A. It is not concealed; it can be seen.
 Q. Didn't it used to be just as apparent as it was in the ankles?
 A. It was all covered up, before the Committee washed it; you could not see the joint at all.
 Q. What covered it up?
 A. This bit of cement, and then it was covered with a little wash, which I ordered to done.
 Q. What do you call that, an attachment, a repair or a restoration? A. I call it a repair.
 Q. The putting of a wash on you call a repair? A. No, sir.
 Q. You said it was concealed?
 A. I said it was covered.
 Q. Was it visible when it was covered?
 A. No, sir.
 (2648) Q. What do you call that, rendering the joint invisible by covering it up; is it a repair, a restoration or an attachment?
 A. It is a repair when the pieces are of the same kind.
 Q. And in your articles, you did not mean to deny that a good deal of that kind of work had been done?
 Witness: Where?
 Counsel: Anywhere in the collection?
 Witness: When—that is the question—just tell me when?
 Counsel: You made a communication to the Committee, didn't you?
 A. Yes, sir.
 Q. You denied something, didn't you?
 A. Yes, sir.
 Q. Did you deny that that kind of repair had been made? A. No, sir.
 Q. You admitted that repairs had been made?
 A. Yes, sir; I admitted it.
 Q. That kind of repair which consists in covering up the points of juncture? A. Yes, sir.
 Q. Is that true? A. Yes, sir.
 Q. Of how many statues in the collection is that true? A. I do not remember.
 Q. Of many thousands?
 A. No, sir; the collection don't count many thousands.
 Q. I mean many, in proportion to the total number; how many do you say that collection contains?
 A. My collection has about 20,000 pieces. If you ask me what are the proportion of the statuary, I will tell you.
 (2649) Q. The stone objects?
 A. About 1,200 or 1,300.
 Q. What proportion of those had pieces detached, which were attached again?
 A. Perhaps one-third, or perhaps one-fourth.
 Q. That one-third or one-fourth which had had pieces detached, and then stuck on again and had the points of junction covered by a wash? A. Yes, sir.
 Q. And that was concealed? A. No, sir.
 Q. What made it visible? A. It was covered.
 Q. Did the covering make it visible?
 A. It was not done for the purpose of concealing it.
 Q. It was in fact covered? A. I could see it.

Q. Was it in fact covered?
 A. It was not concealed.
 Q. Was it visible to the ordinary observer?
 A. Yes, sir.
 Q. Any more than it is there now between the ankles of Little Venus?
 A. A *connoisseur* could see it.
 Q. But a visitor who was not a *connoisseur* would not observe it?
 A. If he studied it, he would.
 Q. But if he did not study it?
 A. Then he would not see it.
 Q. Were your visitors *connoisseurs*?
 A. They were the usual persons coming to a museum who don't want information.
 Q. Have you any objections to applying a sponge to that statue? A. None whatever.
 (2650) Q. Do you think that the material there, the surface of the mirror, is of the same degree of roughness or smoothness as the surface around it?
 A. It has been rubbed so much for the last three or four months, that it don't look as rough as it was.
 Q. Who rubbed it?
 A. First the committee of investigation; then the Trustees; and then the sculptors, and I think even the plaintiff did.
 Q. What did the defendant do about it?
 A. The defendant didn't care anything about it.
 Q. He didn't regard it as important; can you tell whether or not that wash, that you speak of, has been applied to the surface of that button?
 A. Never.
 Q. You are quite certain of that?
 A. Quite positive.
 Q. Here is what you say in your communication to the Executive Committee: "When the statuette was found, parts were covered with dirt, hard as and resembling the stone itself, and a peculiar lime deposit which the committee will find immovable on several other objects. It was never washed or cleaned until in 1879, in the course of my repairs." Is that so? A. Yes, sir.
 Q. Where was the dirt that you described as an incrustation of lime? Is that what you described as being an incrustation of lime?
 A. Yes, sir.
 (2651) Q. You say, "it was never washed or cleaned until 1879 in the course of my repairs," is that so? A. Yes, sir, that is so too.
 Q. Photographs which I submit will show you the old accumulation of dirt on this and other objects; let us see the photographs.
 A. You can see it to-day if you will look at it?
 Q. What?
 A. The incrustation and accumulation of dirt.
 Q. Are there any photographs that show the accumulation of dirt?
 A. I do not recollect where they are. They were in the hands of the executive committee.
 Q. You said "photographs which I submit will show you the old accumulations of dirt on this and other objects."
 A. Yes, sir, so I did.
 Q. Where are they?
 A. In the museum, I suppose.
 Q. Who took them?
 A. I do not remember; some were taken here and some were taken in Cyprus.
 Q. Who took the photographs?
 A. I said some were taken here and some were taken in Cyprus.
 Q. Who took the photographs mentioned here which showed the old accumulation of dirt; did you exhibit any such photographs to the committee? A. Yes, sir, certainly I did.
 Q. Where did you get those photographs; can you produce the duplicates of them?
 A. I don't know.
 Q. Are they in Colvin?
 A. Probably there are some.
 Q. Please to find them; I want the photographs that show the old accumulation of dirt?
 A. Mr. Stickney, have you any?
 (2652) Q. Can't you tell without asking your counsel for information where the photographs came from?

A. They came from the museum either from my albums or they were loose.
 Q. Have you any duplicate of any such photograph? A. I may have, I will look for it.
 Q. By the Court: Do you recollect what photographs they were which you submitted to the committee upon this point of incrustation; that is the point Mr. Bangs refers to; do you recollect what those photographs were?
 A. I remember presenting photographs to the committee of objects with incrustations on them.
 Q. By the Court: Do you recollect what those photographs were? A. I do not now remember.
 Q. Where are they; were they loose or were they in album, or what?
 A. Some were loose and some were in an album.
 Q. Of this picture?
 A. I did not say anything about a picture; I said incrustation.
 Q. You say here "the photographs which I submit will show you, the old accumulation of dirt on this and other objects"; where are those photographs; I have no objection to your asking Mr. Prime from the witness stand, if you want to?
 A. I know there were such photographs, but I do not remember whether they were loose or not.
 (2653) Q. Confine yourself to this statue now; is there any photograph of that statue in existence, except in Colvin?
 A. Yes, sir, there must be.
 Q. Who made it? A. I made it in Cyprus.
 Q. Did you show that to the Committee?
 A. I suppose I did; I will look for it.
 Q. Can't you tell? A. I cannot remember.
 Q. Besides the one made in Cyprus and Colvin's, do you know of any photograph of that statue? A. I don't know of any now.
 Q. You do not now, at this present speaking, remember any? A. Yes, sir.
 The Court: It is not the incrustation upon this particular statue, that you are enquiring for, but you ask for the photograph which exhibits the fact that the incrustation had been upon it.
 Mr. Bangs: If the Court please, he don't say anything about an incrustation; he says that he submitted photographs which will show the accumulation of dirt on this and other objects.
 Q. You say in your communication to the committee that you directed careful washing and removal of the dirt with a wooden point; is that so? A. Yes, sir.
 Q. Did you see the wooden point used?
 A. Yes, sir.
 Q. Whom did you see using it?
 A. Mr. Baillard.
 (2654) Q. Outside of the bath?
 A. Yes, sir, when he showed me the statuette.
 Q. Was he then using the wooden point?
 A. Yes, sir.
 Q. Did you see him remove dirt with the wooden point? A. Yes, sir.
 Q. Was that wooden point an instrument in common use?
 A. It was nothing but a piece of wood made with the blade of a knife.
 Q. Pine wood? A. Yes, sir.
 Q. And that removed the dirt?
 A. Yes, sir, after it had been bathed.
 Q. You say the bath softened the dirt?
 A. All around the mirror; yes, sir.
 Q. What kind of dirt was it?
 A. It was this incrustation of dirt—it was dirt—it was not a clean thing.
 Q. There is not an unmixed incrustation?
 A. I think it was mixed.
 Q. There was an incrustation on the surface of the statuette?
 A. Yes, sir; probably it was dirt—it was an incrustation, you may take it as you like.
 Q. You distinguished, then, between dirt and incrustation?
 A. Not in this case; I say there was both.
 Q. Were they indiscriminate on the surface?
 A. That is my belief.
 Q. They were mixed up together?
 A. That is my belief.
 (2655) Q. What kind of dirt was that stuff

made of; was it dirt that had got on it in Cyprus?
 A. Yes, sir.
 Q. Was it clay?
 A. It was a mixture of dirt and earth.
 Q. A kind of dirt from which water evaporates freely—which becomes dry freely?
 A. I don't know.
 Q. Don't you know whether it was or not?
 A. No, sir.
 Q. As to the dirt alone, could it not have been removed with the finger?
 A. In most of the cases, yes, sir.
 Q. In that case? A. Probably so.
 Q. Did you find the statues, which were discovered by you, buried in earth, and were they sometimes surrounded with clay where they lay?
 A. Yes, sir.
 Q. And did you take any means to soften it and remove the dirt?
 A. Not in Cyprus; I had too much to do.
 Q. Is that a true statement; listen to what I will read to you: "When the profile of this statue became visible, there were over six feet of cemented earth to be removed from its back, and each blow of the pickaxe made me shiver, even in that hot climate, as I thought the reverberation of the blows alone might injure what promised to be a statue of unusual interest and value; I amused myself for several days in the interim with a wet sponge and a knife in removing the clayey earth around the head, and from time to time made some new and delightful discovery; first its hair and beard were beautifully curled, after the Assyrian fashion; then that the curls, when wet by the application of the sponge, showed traces of red color; then an almond-shaped eye became visible, with the pupil colored, also in red. But the most prominent feature, which was to give character to the whole face, and either enhance or destroy its beauty, would that be found uninjured? Alas! It was too much the ordinary fate of ancient statues to be deprived of this essential feature to hope for better fortune in that instance, but I worked on slowly and with increasing precaution, replacing the knife by a piece of soft wood and applying the sponge freely. Finally, the nose appeared in all its perfection, but the anxiety to find the rest of the head intact increased, and intensified my fears and hopes." Is it true that by this wetting you succeeded in removing the earth around the statues with the use of a sponge, knife and soft wood? A. From the outline of the head.
 (2656) Q. From the statue?
 A. No, sir, I was only working on the head.
 Q. You used a sponge, a knife, and a soft piece of wood for that purpose? A. Yes, sir.
 Q. And in that way you cleared your way to the nose? A. Yes, sir.
 Recess taken.
 (2657) NEW YORK, December 18, 1883.
 (After Recess.)
 LOUIS P. DI CESNOLA'S cross-examination by Mr. Bangs continued as follows:
 Q. Colonel, I want to read you some more lines from your book on Cyprus, and ask you if it is a correct statement. The title of the preceding page is "difficulties of excavating sculptures," and on page 144 is this "Nearly all the statues along the line were by this time unearthed, and placed upright in one of the large Turkish tents which the Pasha had lent me. This precaution against rapid evaporation after the moisture they had absorbed, was seen to be very necessary, as any fragments, which had been incautiously left under the burning sun, began to split." Was that a fact? A. Yes, sir.
 Q. That the pieces of Cypriote stone or statuary which absorb moisture, split if exposed to the burning sun?
 A. Yes, sir, as long as they were taken out of the ground.
 Q. How did they absorb the moisture?
 A. In the ground.
 Q. You mean the ordinary moisture of the earth?

A. Yes, sir. They were also throwing water on them.

Q. The moisture they had absorbed was absorbed by your pitching pails of water on them to soften the earth? A. Yes, sir.

Q. Had you found that effectual enough to soak them; you found that the body of the stone absorbed water in that way? A. Yes, sir.

Q. Was this applied to this little statue of Venus, that you know of? A. I don't know.

(2658) Q. When Baillard showed you that statuette, and told you that it had been bathed, and that the bath had removed the incrustation or dirt, were the ankles on or off?

A. They were off, I believe.

Q. I want you to be quite sure about that?

A. I am not sure. I think they were off; the two pieces were off.

Q. What two pieces?

A. The base and feet with the upper part.

Q. Were the feet attached to the base?

A. They were attached when he put it in order.

Q. When it came out of the water, were they detached from the base?

A. Yes, sir; I believe so.

Q. Then the statue in fact consisted of three pieces, the base, and the ankles, and the trunk of the body?

A. No, sir; that is not it at all.

Q. Didn't you say that the base was detached from the ankles?

A. I say the base and feet were detached from the upper part.

Q. Was the base detached from the ankles?

A. That is where the break is. I mean that it broke in two pieces; it came apart; that is what I mean—it was broken at the ankle.

Q. Did the base break away from the feet?

A. The base and feet were one solid piece. They could not break.

Q. Then it was after that that you glued or fastened them together?

A. No, sir; I did not.

Q. Who did? A. Baillard.

(2659) Q. How do you reconcile it with your statement that these things were pasted together in Cyprus?

A. I said that in Cyprus I had glued the two portions together, and when they came here they were put in a bath for the purpose of washing them and cleaning them; and every piece of my collection was, in doing so, broken up again. The objects which I had temporarily attached together with a little glue came apart then, and then it was repaired properly and put together.

Q. When I asked you when that was finally fastened and put together, you answered in Cyprus?

A. No, sir; I did not say that; if I did, I did not mean it. I said it had been once fastened in Cyprus with glue.

Q. Have you ever mentioned anywhere before, that you remember, the fact that that bath brought off the ankles?

A. Not that I know of.

Q. In this article of yours to the committee you said this: "Without troubling myself to deny in detail a series of statements, I content myself with saying that the mirror, precisely as now visible, is the work of the ancient sculptor of that statuette, that the surface of both, mirror and dress around it, are the original ancient surface, that no modern hand has touched, carved, or made it, except that the ancient dirt has been washed off with Croton water;" do you see any discrepancy between that statement and your testimony on this trial?

A. It is substantially true.

(2660) Q. Do you see any discrepancy between that and your statement on this trial?

A. Except that by taking off the dirt he has scraped a little beneath the mirror; the surface is exactly alike.

Q. It has been touched and carved?

A. No, sir.

Q. Don't you call the removal of stone carving?

A. No, sir; I merely call it the removal of dirt; he took away a little of the surface in scraping off the dirt.

Q. Don't that constitute carving?

A. No, sir; not in the slightest.

Q. What do you mean by saying that no modern hand has touched it, or carved or made it?

A. I mean exactly as I say there, that there has been no carving or touching of the surface in any way, but that in scraping it he scraped a little of the surface.

Q. Didn't you just now say that the surface had been touched?

A. I said so; the surface is touched, but it was not carved.

Q. You say that that little mirror there has no significance; that you regard these so-called mirrors on this picture of Ceccaldi as being of any consequence? A. No, sir.

Q. Do they establish the character of the figures? A. No, sir.

Q. What do you want the picture to be exhibited for?

A. The position of that mirror on that little statuette; it is just on the left hand side and on the rear. That is all I want to show.

(2661) Q. Where is the mirror?

A. I do not mean to say it is a mirror, I say it is a disc—You are right; it is the same.

Q. What do you call that back there on the corner of that figure?

A. It is the back of the hand; that is all.

Q. Did you call it the back of the figure?

A. No, sir.

Q. Is it in the same relative position as on statuette number 157? A. Yes, sir.

Q. You know what Ceccaldi says about that?

A. I do not.

Q. You never looked to see what Ceccaldi said of that?

A. Unfortunately not. I had to much to do.

Q. To do what?

A. My work as director of the museum.

Q. Doing business there?

A. No, sir; but it is doing my duty.

Q. Did you have anything to do with the dispensing of the funds? A. No, sir.

Q. Did you see any checks in the museum?

A. No, sir.

Q. Did you call your office as consul to Cyprus doing business, or what do you call it?

A. No, sir. It was representing the government.

Q. Don't you call that doing business?

A. I don't know in what sense you may call it. What I mean by doing business is to transact money matters—making money or losing money—that is what I call doing business.

Q. Do you know a firm by the name of Brunner & Moore in this City? A. Yes, sir.

(2662) Q. Who designed the cases that were put up in the museum to contain the collection?

A. Yes, sir.

Q. Who was it? A. Some of their draftsmen.

Q. Who was it?

A. Some man belonging to Brunner & Moore. I don't know his name.

Q. Brunner & Moore are furniture dealers in Fourteenth Street, are they not?

A. I believe so.

Q. Were these cases put up under your direction and supervision? A. Yes, sir.

Q. Were the bills audited by you?

A. By order of the trustees.

Q. They were audited by you?

A. No, sir; by the Treasurer.

Q. What did you do with the bills?

A. Nothing that I know of.

Q. Nothing whatever? A. Nothing.

Q. Did you say the trustees ordered something?

A. No, sir. I said they audited the bills. I never audited anything that I know of.

Q. Did you make a contract? A. No, sir.

Q. Do you know what the cost was?

A. No, sir. But I can look into the books and see.

Q. Did you make any arrangement with Brunner & Moore at all? A. No, sir.

Q. Is Henry S. Moore a member of that firm?

(Objected to as immaterial.)

The Court; I don't think that is a proper subject of inquiry.

(2663) Mr. Bangs: does the Court hold that have not a right to show that the witness is I business man?

The Court: The evidence is admissible in a certain sense only, to the extent that you have a right to contradict the direct examination of this witness. In that sense it is admissible.

Q. On page 2,175 you are recorded in this way:

"Q. Had you had any oral communication with

"the firm of Rollin & Feuadent or any member

"of that firm, or any party on their behalf, before you made these shipments? A. Yes, sir.

"Q. With which one?

"A. With the father of the plaintiff in Paris.

"Q. When? A. Either in December, 1870 or January 1871."

Q. Is that testimony true?

A. To my best recollection it is true.

Q. Do you remember how you got through the Prussian lines; was not the Prussian army then investing Paris?

A. I did not say that I met him in Paris.

Q. I read your testimony and I asked you whether it is true. You were asked "with which one? and you answered "with the father of the plaintiff in Paris. Then you were asked "When," and you answered "either in December, 1870, January, 1871,"

A. I did not mean to say, if I said so, that I saw Mr. Feuadent in Paris. I meant that I saw Mr. Feuadent of Paris. That is what I meant.

(2664) Q. I asked you if that testimony was true, and you said yes. Is it true?

A. It is not correct.

Q. There were some pictures produced here. Will you stick to this—and I don't want to examine you until you think it all over as to whether those pictures that you produced here the other morning and which were shown to the jury and the Court, were what you regarded as illustrations of the worship of Venus?

Witness: Which ones?

Counsel: I don't know how to describe them.

A. If I cannot see them I cannot say.

Q. Don't you know the album that was produced here with the improper things, that was passed around among the jury? A. Yes, sir.

Q. You testified that they were illustrations of the worship of Venus?

A. I said that they indicated the worship of Venus.

Q. You said that they were indications of the worship of Venus?

A. Yes, sir.

Q. Is that true?

A. To my belief it is true.

Q. Do you wish to correct that statement?

A. No, sir.

Q. Do you understand my question? Are you sure that you understood my question?

A. If I understand your question it is this; whether those photographs that were shown in this Court when the ladies were not present were indications of the worship of Venus, and I say yes.

(2665) Q. Are there any of them on public exhibition?

A. Some of them, yes, sir.

Q. Some of those that were shown here?

A. Yes, sir.

Q. Are they catalogued?

A. They are catalogued in a portion of my book here which is to come out shortly.

Q. Were they ever catalogued before?

A. Yes, sir.

Q. When?

A. When my catalogue was begun.

Q. When was that?

A. About four years ago.

Q. Is there a printed catalogue containing them?

A. It is going to be printed I hope.

Q. Is there any printed catalogue containing or referring to those objects, has it ever been printed? A. No, sir.

Q. Can you indicate which of them were placed on public exhibition? A. Yes, sir.

Q. Please do so in the album, will you please

just mark such of these as were on public exhibition?

A. I will point them out to you. I do not like to spoil the photograph album by marking it. Those are on public exhibition, 1, 2, 3, 4, 5.

Q. They are small objects? A. Yes, sir.

Q. About how long? A. Eight or ten inches.

Q. Are there any more indicating the same worship; I want to know whether there are any other pictures there of objects that are on exhibition of that nature?

A. There they are.

(2666) Q. Are there any more?

A. There are five of them there.

Q. Are there any others? A. Probably.

Q. Won't you please turn to them and show them to me?

A. There are some there not photographed, which are on exhibition; that is what I mean.

Q. Whereabouts in the Museum are they?

A. In one of the wall cases towards the centre of the building, down on the lower part of the building, so that they cannot be seen very well.

Q. Some pains is taken to keep them out of sight?

A. Not that exactly. But it was done so that they should not be shown too much.

Q. There was some pains taken to keep them out of sight?

A. Yes, sir, by order of the trustees.

Q. The only open visible illustration of the worship of Venus that you have in the museum is this Aphrodite and Eros? A. No, sir.

Q. What others are there?

A. There are a great many others.

Q. Name one?

A. There is the Priest with the dove in his hand, representing the worship of Venus because he is a priest of Venus: there is also the statue holding a child, and there is also the statue with the little cow—with the suckling cow—representing the worship of Venus, maternity.

Q. Are those on exhibition?

A. Yes, sir. There is nothing indecent about them. That is the reason why those are not put on exhibition, because they are indecent. That is my understanding.

(2667) Q. In your communication to the Executive Committee on the 6th of November, 1880, speaking in reference to the plaintiff presenting his bill against the collection and you regarding it as an exorbitant amount you say: "I was too glad to get rid of him and Mr. Junius Morgan gave him his check for the amount of his bill." Is that amount referred to the \$12,000 or \$13,000 that you have spoken of? A. Yes, sir.

Q. What check is that referred to there?

A. The one already in evidence.

Q. By means of that check the plaintiff was paid his entire charge of \$12,000 or \$13,000, was he? A. I don't think so.

Q. What did you say so for in this book?

A. I can explain it if you like.

Q. Why did you say that Junius Morgan gave him his check for the amount of that bill, for that check represents it; is it true that that check already introduced in evidence is the check referred to as having been given him by Junius Morgan for the amount of his bill?

A. Yes, sir, that is substantially so.

Q. Do you mean to say that you subsequently made him other payments outside of the 200 pounds? A. Yes, sir.

Q. How much in all, besides that check?

A. I have not the slightest idea.

(2668) Q. Can you tell whether it is \$10,000 or 10,000 cents surely?

A. If I could see the bills I would probably remember them.

Q. Can't you tell without them how much you paid after he received that check from Junius Morgan?

A. No, sir; if I had not seen the bill of 212 pounds I would not even remember that.

Q. Did you pay him anything for his services and charges?

A. The bill is dated the 24th of December, and the other bill was dated the 15th of November. I must have paid them.

Q. I did not ask you to reason and argue, some of us can do that quite as well as yourself; do you remember having paid him anything?

A. I do remember, after having seen that bill.

Q. The 212 pounds? A. Yes, sir.

Q. Leave that out of the account. Did you make him any other payments after Junius Morgan gave him his check for £2,800; did you pay Feuardant anything besides that?

A. Not that I remember.

Q. Look at this picture at page 93 of the Hitchcock Album that you have just produced—that little figure there; is that this same little statuette No. 157? A. Yes, sir.

Q. Where was that taken? A. In Cyprus.

Q. And these are photographs sent to Mr. Hitchcock from Cyprus, are they? A. No, sir.

Q. From where?

A. I gave them to him when I came to this country?

Q. What year was that? A. 1873.

(2669) Q. Whose handwriting is that at the bottom? A. Mine.

Mr. Bangs: I want the jury to examine the handwriting at the bottom of this page 92, and also the handwriting in the Halm Album, which is said to be in Mr. di Cesnola's brother's handwriting.

Q. (Statue No. 39 produced). What I want of you is to point out the parts of that figure which were not on it when it was found in Cyprus; I do not mean merely detached, but those parts which were broken; is there anything in this statue that never belonged to it until it was put on here in Central Park; is not there some new material there? A. Yes, sir.

Q. Which is it?

A. That portion there; that plaster and that stone.

Q. All that is modern work?

A. It is one piece of stone there.

Q. Is this stone; is this part on the right foot stone? A. Yes, sir.

Q. Where did that stone come from?

A. It is a portion of the base.

Q. It is all Cyprus stone? A. Yes, sir.

Q. Where did you get this Cyprus stone which is now in this statue.

A. Probably from some of the fragments in the museum.

Q. Can't you answer the questions without saying "probably"?

A. I know it is; it is Cyprus stone.

Q. But you do not know where it came from—from what particular fragments of a statue it came from? A. No, sir.

(2670) Q. Did you leave it to the repairer's judgment to select the stone and fit it in?

A. Yes, sir.

Q. You drew no design or plan for him to follow? A. No, sir.

Q. That is, he had no drawings for his work?

A. No, sir.

Q. How far behind does that new piece of stone extend? A. It shows there very easily.

Q. To this mark up here?

A. No, sir. That is a cut on which there was a piece of wood in 14th Street which was put there in order to keep this statue standing up, without the feet.

Q. But what is this that is there now; is that a piece of stone? A. It is all stone.

Q. Inserted in the statue?

A. No, sir, that is only the traces of the piece of wood that rested against it.

Q. Around here, around the right foot, I see little marks as of the hammer or something else; what are they? A. I don't know what they are.

Q. Are those marks of a tool?

A. They look so.

Q. What kind of a tool? A. I don't know.

Q. The same appears on the other side?

A. Yes, sir.

Q. On the base on the left side, around the toes, there seems to be the same kind of a mark. Now is it not true that the ankles and the lower part of the back of the feet of that statue consist of parts that never were related together until Mr. Baillard put them together in that statue?

A. No, sir.

(2671) Q. How were they related to each other?

A. The front of the feet and the front of the base belong to the statue, but were broken off. The rear is only a piece of stone that was put in at Central Park to support the statue.

Q. They were never pieces of the same figure until he made them so?

A. No, sir. The front part of the feet and the base were pieces of the same statue.

Q. But how about this back piece?

A. No, sir, the front piece.

Q. I am not talking about the front piece; I am talking about the back; was that on the original statue, and are those parts related to each other? A. No, sir.

Q. Then the statement that that was not related to the original is a true statement?

A. But he speaks of the body.

Q. Is it not literally true that that statue around the lower part consists of pieces unrelated to each other?

A. No, sir. The back of it does, but not the front.

Q. I am not talking about the front; I am asking you about the lower part; does that consist of pieces unrelated to each other; the lower part of the statue includes the back as well as the front; now do those pieces constitute the same statue, or are they unrelated parts to each other.

A. By no means. The front part of it belonged to the statue always.

Q. I am not talking about the front part; I am talking about the whole of it as it appears now; the front belongs to it and the rear does not; don't you call the back and the front unrelated parts? A. To each other, yes, sir.

(2672) Q. And to the statue?

A. Yes, sir, as far as the back part of it is concerned. I did not understand your question; I beg your pardon. It is quite so.

Q. After that work was done was a wash applied? A. Yes, sir.

Q. Did the plaster then appear?

A. No, sir. It was covered up.

Q. The plaster was covered up?

A. Yes, sir.

Q. Were all the other cracks covered up also?

A. Only the back part of it, and the front of the lower part.

Q. Then it looked like a monolith?

A. I don't know; to a person who did not look at it very carefully it might. When the Committee of Investigation looked at it without washing it, they found out how the thing was done.

Q. How do you know that? A. I was present.

Q. You do not mean that you went around with the Committee and showed it to them?

A. I do not.

Q. Then how do you know that they found it out?

A. I got Mr. Ward and Mr. Prime to point them out.

Q. Were not they on the Committee?

A. Yes, sir.

Q. You went and talked to them? A. I did.

Q. So far as you know they did not find it out until you pointed it out to them.

A. Of course they did. I showed them what it was. They asked me how it was done,—how I made the statue stand up on that base: and I showed it to them?

(2673) Q. They did not know that it was made up of unrelated parts until you told them?

A. They did. They questioned me to explain how I put it together. They said, how was it put together. That was what they asked.

Q. That was before it was washed?

A. Yes, sir.

Q. Why didn't you have it washed then?

A. I had nothing to do with that.

Q. Do you know why they had it washed, if they knew how it was before it was washed?

A. I don't know. That is their business.

Q. Can you say positively one way or the other, as it stands before you subject to your inspection, that the feet have not been moved on the base?

A. On the contrary, I have always said that they were moved. I always did say so.

Q. The toes were formerly nearer the front edge of this base? A. Yes, sir, on both sides.

Q. And they were put back in order that the lines of the legs might meet the new ankles?

A. Yes, sir; that was necessary to be done in that way.

Q. That was the object?

A. No, sir, that was not the object. If that statue, heavy as it is, could have been made to stand up on the small support there would not have been any necessity for removing the feet from the base. But as it is so very heavy it was necessary to put a large piece of stone on the back to support it; and that threw the feet out of the line.

(2674) Q. Does the front part of the feet contribute to the support of the statue?

A. No, sir; it is the back part that contributes to the support,—that piece put in; if the feet had not been moved back it would have made the feet about 10 inches long.

Q. The new work would have made the feet look unnatural?

A. It would have made them too long, yes, sir.

Q. Then in order to fulfil the necessity arising from the insertion of a new piece of stone under the ankle, the old feet were to be put backward; they were moved further back from the front edge of the base—is not that it?

A. I do not exactly understand your question.

Q. You thought it was necessary to support the statue?

A. It was indispensable.

Q. And to do that you put in a new piece of stone?

A. Yes, sir.

Q. And then in order to give it an artistic and natural look, you had to remove the feet from their former position and push them further back on the base?

A. Yes, sir.

Q. Then it was an artistic necessity, was it not?

A. It was, yes.

Q. And not a mechanical necessity?

A. It was.

Q. So far as the feet are concerned?

A. Together they support the statue.

(2675) Q. Do you mean to say that those feet are necessary to support the statue?

A. No, sir, not absolutely; the back supports it.

Q. Then was not the necessity for moving the feet back an artistic necessity, and not a mechanical one?

A. If you like to put it in that way you may; it was an artistic necessity.

Q. And the feet were changed then to that extent?

A. Yes, sir.

Q. You think with the feet three or four inches further back, that is no change?

A. They are almost exactly in the same position as they were before; they are relatively in the same position with the piece; they were put exactly in the same way as they were before.

Q. Are they as near to the edge of the base as they were?

A. Naturally not, on account of the support behind.

Q. Was the piece that was broken out—the place that was vacant there and filled up with stone, was it in your judgment left vacant by the sculptor, or was the whole an accident or fracture—this place which you filled up with stone?

A. Yes, sir.

Q. Was that vacancy left there by the sculptor in your judgment, or was the vacancy left there by the fracture?

A. Certainly not, it resulted from the breakage.

Q. And why didn't you put in the piece that was in there?

A. Because I could not find it.

Q. How was it that you were able to find large

fragments of statues, and you could not find the corresponding piece that came out of the back of that?

A. If you had been there yourself you could see the difficulty that there was in picking out the pieces.

(2676) Q. What had become of those missing pieces?

A. They were very likely broken into small pieces, and we could not find them; if it had been entire it would have been brought on here from Cyprus and put together. Not having it I put that piece of stone in place of it.

Q. The question is this: what had become, according to your understanding, of the big piece of stone that had been broken out of this statue?

A. I suppose it had been fractured into so many small pieces that it could not be gathered together: I did not find them, and therefore I could not put them together; I found the front piece, and I saw from the general position that it belonged to the statue.

Q. Was not that the case with many statues—that broken pieces had been crushed almost to gravel?

A. Yes, sir; in many of them.

Q. Could you see my apparent cause for their being ground down into fragments of powder or gravel?

A. Very likely because the temple seems to have been ransacked at one time or another after it had fallen down.

Q. Have you any doubt but that all of those diggings had been ransacked before you got there?

A. Yes, sir, very clearly.

(2677) Q. That is true of all the places where you dug,—that they had been ransacked?

A. No, sir.

Q. Of which of them was it apparently true?

A. In this case because the pavement had all been removed.

Q. At Golgoi?

A. Yes, sir.

Q. Wasn't it true with reference to any other places that they had been excavated and ransacked before you got there?

A. In a great many instances, yes, sir.

Q. Was there any instance in which that had not been done?

A. Yes, sir.

Q. Which instance was that?

A. The tombs, for instance; some of them had never been opened before; there were thousands of them that had not been ransacked.

Q. Scattered all around the island?

A. Yes, sir.

Q. But the depository of the statues had been ransacked before?

A. It is my opinion; I am not sure of it.

Q. There were indications of that?

A. To my satisfaction there were.

Q. Did you try to find out what had become of the things that had been taken out?

A. Perhaps if I could have lived two or three hundred years before I could have told you.

Q. What do you mean by saying that they had been ransacked?

A. Because the peasants of Cyprus were continually digging in search of stone for their houses; and wherever they found pieces of stone they did not care whether they were sculptures or not, they picked them up and carried them away for foundations for their houses; that is what I mean.

(2678) Q. And is that the only purpose to which they appropriated them?

A. Yes, sir.

Q. Don't they sometimes ornament their parlors or their potato patches with them—don't they set them up on their front doors?

A. Not that I know of. They may do it, but I don't know it.

Q. They are very common—pieces of statuary around the peasant's houses?

A. It is very rare. You may find a little head here and there, at the top of the house, for good luck.

Q. They traded in them?

A. No, sir; they would be put in prison if they did. They would be arrested by the Turkish authorities if they traded in antiquities, because they have no permit to do so.

Q. The owner could dig in the ground if he chose?

A. No, sir. You must have a permission.

Q. Was there a law also against exportation?

A. Yes, sir.

Q. But you exported them?

A. Yes, sir. But I had a proper firman from the Sultan.

Q. You exported them?

A. Yes, sir.

Q. I thought your book stated to the contrary?

A. I did. I had a full commission from the Sultan to explore wherever I chose and to export.

(2679) Q. Did you ever see a scene like that in Cyprus. Mr. di Cesnola is that a good Cyprus rural or rustic scene? (Showing photograph.)

A. No, sir. I have not the slightest idea where it comes from.

Q. Were antiquities imported into Cyprus?

A. No, sir, not that I know of.

Q. Either from Egypt or Syria?

A. Not that I know of. I have never seen any.

Q. I want to show you this Doell picture, and ask you if there is not a very perceptible change in the relation of those two feet to each other in the statue (No. 39) as it now stands before you and in that picture?

A. As to the base, yes, sir.

Q. In the relation of the feet?

A. It is different only in the base. The feet were detached from the base.

Q. Did you ever see such a fine looking leg as that in any human being, as this left leg on that statue; do you think that that is a natural leg as it is now, from here down there—did you ever see a leg like that?

A. You must ask the Cypriote sculptors for that—not me.

Q. If you dig up one I will?

A. I am glad you recognize it as an old piece of sculpture.

Q. What is your opinion about it?

A. My opinion is that it is out of proportion.

Q. A little more out of proportion now than it was originally?

(2680) A. No, sir, there are hundreds of objects in my collection that are out of proportion. That lower portion is not in the same proportion as it is to-day. We have there in the Museum hundreds of evidences of the want of proportion in sculptures.

Q. So that the value of this sculpture is not in its artistic character, but simply in its historical character?

A. Yes, sir.

Q. In the progress of sculpture?

A. Yes, sir.

Q. And this is a fine illustration of the fine sculptures to be found in the Museum at the Central Park?

A. It is one of the illustrations showing the want of proportion.

Q. Would you mind having our heads brought in now?

Witness: Which heads?

Counsel: The two which were exhibited here, one of which you tried to fit to the statue of a priest.

A. Not the slightest. Bring in 510!

Q. Is that where there is wooden brace under there (No. 39)?

A. There is no wooden brace that I know of. It is all one piece of stone.

Q. Is there a metal rod under there?

A. No, sir. It is in the leg. You see there where it is marked; that is where the rod goes up. It goes up there about two or three feet.

Q. That is a good leg?

A. For a Cypriote leg it is pretty good.

Q. That is a good specimen of a Cypriote leg?

A. It is a good specimen of Cypriote sculpture.

(2681) Q. When you said leg, did you mean sculpture or leg?

A. I meant leg.
 Q. Then confine yourself to the leg of the sculpture; that is a pretty good Cypriote leg, is it not?
 A. Yes, sir.
 Q. And a pretty bad American leg?
 A. That I am not able to say.
 Q. How do you know that that was not originally and intentionally made so to have the feet as large as that—that it was not designedly the purpose of the sculptor to place the toes close to the edge of the base and to have the foot all out of proportion in relation to the statue?
 A. I know that the feet belong to the statue, because it was found right close by the statue.
 Q. You say that part of the base that is there now was there before?
 A. Yes, sir.
 Q. And the feet were right on it?
 A. Yes, sir.
 Q. And the toes were close to the edge of the base?
 A. Yes, sir.
 Q. How do you know that the intervening space was not all filled up between the foot and the instep?
 A. Because this part was found to correspond with that.
 Q. How do you know that that now represents the design and work of the original sculptor?
 A. As nearly as intelligence and proper study can show it.
 Q. Then it is the result of study?
 A. Yes, sir.
 Q. You never saw the completed statue?
 A. No, sir.
 (2682) Q. Therefore this is the result of calculation and computation, and you don't know whether it represents the original idea of the original sculptor or not, or illustrates the stage of art?
 A. Yes, sir, for that period it does. For that period of that statue they knew more about the proportions than they knew at an earlier period.
 Q. Would not this statue prove just the contrary, if you let it alone as it was?
 A. No, sir.
 Q. Taken as it is now, you think that with your alterations in it you can tell better what skill, capacity and genius the sculptors had, than if you had left it alone in its original condition?
 A. The feet have been put exactly on the line with the ankles.
 Q. And they were taken away from the base?
 A. There was only one thing to do—either to cut the base and put the feet as they are now on the statue, or the statue would not stand up. There were two considerations before us. If we intended to make the statue stand up it required a strong support for the statue.
 Q. That controlled the lower arrangement of the statue?
 A. Yes, sir.
 Q. And that necessitated the making of a new piece to be inserted in the back?
 A. Certainly; that was the chief point, to give support to the statue.
 Q. And the preservation of the original design was subordinate to that necessity?
 A. The original design, as far as we know, was exactly left as it was. You can see the foot going on a line with the rest of the statue. You can see the front of it connected with the ankle, and the base was pushed forward and the feet pushed backward to meet the legs.
 (2683) Q. From where you are sitting, tell what that nose was made of on number 510?
 A. That is its own nose, just as it came out of the place.
 Q. How do you know that?
 A. Because I know the stone and the surface of it.
 Q. Has it ever been in the bath?
 A. It has been washed.
 Q. Has it ever been in the bath?
 A. I don't know; it was washed and cleaned.
 Q. Where was it found?

A. Found in Golgoi, in the temple with the other statues.
 Q. Did you take it up? A. Yes, sir; I was there myself in the temple.
 Q. Was it lying on its face?
 A. I do not remember; some lay on their face and some didn't; I saw that taken out in Golgoi myself.
 Q. Did you find any body that you thought belonged to it?
 A. None; I found fragments of thousands of bodies, but none that I thought belonged to it.
 Q. Is there any evidence of its having been broken off?
 A. Yes, sir; you can see that it was broken from the body.
 (2684) Q. Then it was a part of a body?
 A. Yes, sir.
 Q. This surface has been produced by the saw?
 A. That has been leveled by Mr. Gehlen, in Fourteenth street, for the purpose of putting down a base.
 Q. That does not show then the original condition of the fracture?
 A. No, sir; but you can still see the fracture there.
 Q. Could you identify any body as belonging to that head?
 A. Not in that collection.
 Q. In Golgos?
 A. I said in Golgos there were thousands of fragments. If I had found a full body I would have brought it on.
 Q. Did you find any body that you identified as belonging to that head? A. No, sir.
 Q. Yet you had no doubt that there had been a body to that head?
 A. Undoubtedly there had been.
 Q. But broken up into fragments?
 A. It must have been broken up, because I did not find it.
 Q. Is that figure number 40, alongside of it a wall picture or a round picture?
 A. A round picture.
 Q. Is there not some flattening on the back there?
 A. That is what the sculptors call a rounded picture; that is all I know. We call that one a wall statue, and that a round statue.
 Q. And Aphrodite and Eros you call what?
 A. A round statue, too.
 Q. Do you remember that statue having had any dirt or incrustation on it—I mean 510, that head?
 A. No, sir.
 (2685) Q. Did it come out as clean as that?
 A. It is impossible for me to remember so many thousand objects.
 Q. I do not ask you to remember any other but that?
 A. I say I do not remember; I wish I could.
 Q. Are there any traces upon it of there having been an incrustation of lime or dirt?
 A. Probably; but I don't know.
 Q. If there were I wish you would point them out? A. Yes, sir; there are some places here.
 Q. What is it, carbonate of lime?
 A. There are some traces of encrustation here, but I don't know what they are.
 Q. Is there anything on there which in your judgment interferes with the outline?
 A. No, sir; not important enough, because it is only the back of the head.
 Q. Did you see anything on the body of No. 157 that was thicker than what you found on this head number 510? A. Yes, sir; much thicker.
 B. Have you any objection to scrape off a little of that plaster around here on this side of number 40?
 A. Mr. Prime, the Vice-President of the museum, might do it; I have no authority to do it.
 Q. Are you able to say whether on this point on the right side of the figure at the neck, where there appears a considerable amount of plaster, there is a break or fracture in the stone corresponding in width to the space which now appears to be occupied with plaster?
 A. That was detached by the Committee of

Investigation; they examined it all; that is all I know about it.
 (2686) Q. But you must remember its condition?
 A. I was not present.
 B. You must remember its condition in Cyprus?
 A. If I remember all the pieces that I found in Cyprus I must have a good memory.
 Q. Don't you remember how that looked in Cyprus? A. No, sir.
 Q. How is it that you remember that the head was found in ashes; did you state that from memory?
 A. The head was marked with the number.
 Q. When you found it? A. I marked it.
 Q. You remember it as you found it?
 A. Yes, sir.
 Q. You do remember this one; don't you remember whether or not, where that head was broken, there were pieces out or missing?
 A. Yes, sir; many.
 Q. Then in fitting the head to the body, did there have to be some work done with tools, or did you simply depend upon plaster to fill up the places?
 A. I have not the slightest idea how it was put together; it was put together in Fourteenth street, by Gehlen.
 Q. Wasn't it put together in Cyprus?
 A. No, sir.
 Q. You have no idea as to how it was put together in Fourteenth street?
 A. I do not remember; I remember merely that I gave the pieces with the number on them.
 (2687) Q. Can you tell whether or not the use of a little shellac would have united the head to the body?
 A. They never were united in Cyprus.
 Q. Any time after they were broken apart was the fit so close that a little shellac or glue would have united them?
 A. No, sir, because there was too many pieces in the neck—three or four or five pieces.
 Q. Wasn't there one large hole where the parts failed to connect together?
 A. I have no recollection of it.
 Q. Wasn't it necessary to cut the parts to make the neck fit?
 A. I don't think so.
 Q. Can you not explain why such a large quantity of plaster should be used there?
 A. That is from the last putting together. In order to satisfy the Investigating Committee that it was its own head they ordered it chipped, and they chipped several little pieces off.
 Q. Who did?
 A. The repairer. The Committee of Investigation can tell you more about that than I can.
 Q. Were the places which had been occupied by these detached pieces filled up with plaster or not?
 A. I don't know.
 Q. Would you say that any more work was necessary to fit this head 510 on a statue that has been done to fit the head of No. 40 to the body on which it now stands?
 A. Certainly. One was in small pieces and the other was not.
 (2688) Q. Is the head number 510 and this statue with the bull's head of the same age?
 A. No, sir, they are not of the same age nor of the same style of art.
 Q. What is the difference?
 A. One is older than the other.
 Q. Which is the oldest? A. The head.
 Q. How much older?
 A. Two or three or four hundred years.
 Q. Might it not have been 500 years?
 A. No, sir; it is not as much as 500 years.
 Q. You judge this from the respective styles of sculptures in those two objects?
 A. Yes, sir.
 Q. Then you take into account something more than you heard Dr. Barnard and Judge Daly say they took into account when they made their investigation?
 A. Yes, I did hear them say so.
 Q. You applied a different means of determining questions of age from what they did?

A. I don't know what they applied.
 Q. Didn't you apply archaeological knowledge?
 A. The first application that I make is on the surface of the stone—the condition of the surface of the stone; that is the first thing. And then came the style of art which has something to do with it.
 Q. Can you come to a sound and safe conclusion as to the period to which a statue belongs, without applying archaeological knowledge?
 A. No, sir, not definitely.
 Q. Could any ordinary stonecutter, knowing nothing about archaeology or ancient styles of art, determine whether the various parts fitted to each other?
 A. Yes, sir; by the surface of the stone.
 (2689) Q. Then an intelligent jury could tell the same thing?
 A. I believe so.
 Q. And your opinion is not entitled to any more weight than that of a dealer?
 A. As a matter of fact, no, sir.
 Q. And don't you think that a man might honestly and without malice differ in opinion on this subject?
 A. Ignorant people may. Intelligent people, no, sir.
 Q. You don't think that a disagreement or difference of opinion is necessarily evidence of malice or hostility?
 A. In saying that a statue is not monolithic, when it is, yes, sir. If a person says that that statue there is not monolithic it is either ignorance or malice. That statue from the ankle to the head is one piece of stone—and that is the accusation in regard to that statue.
 Q. You think no man can doubt the monolithic character of these statues without being either ignorant or malicious?
 A. I should think any intelligent man by looking at that statue, without any particular knowledge of archaeology or sculpture, could see whether that is one piece of stone or not.
 Q. Do you remember how an experienced archaeologist, a student and explorer, who was not a dealer, looked at a repair the other day and was not able to tell whether it was fitted together by cement or plaster?
 (2690) A. Because it requires particular knowledge for that.
 Q. You were not able to tell?
 A. I was not able to say what the material was.
 Q. Why were you not able to tell?
 A. Because I did not test it.
 Q. Then it required some skill in testing?
 A. Yes, sir.
 Q. What kind of skill in testing was necessary?
 A. Simply scratching it.
 Q. Could you tell whether it was cement or plaster, by scratching it?
 A. Certainly.
 Q. You know the difference then between cement and plaster?
 A. Certainly.
 Q. Why then did you not determine it the other day?
 A. Because I did not scratch it. These statues have been already damaged enough. I don't intend to ruin this collection by scratching it any more.
 Q. Do you remember Mr. Feuudent writing a letter to the committee or to somebody in the museum, asking them to bathe one of these statues?
 A. Yes, sir.
 Q. Where is that letter?
 A. I don't know; it was not addressed to me; I have never seen it.
 Q. Who was it addressed to?
 A. Mr. Robert Hoe, Jr.
 Q. Did it go on the files of the Executive Committee?
 A. No, sir.
 (2691) Q. What became of it?
 A. I suppose it was kept.

Q. Who kept it? A. Mr. Robert Hoe, Jr.
 Q. Was it exhibited to the committee?
 A. Yes, sir.
 Q. Have you got the minutes of the Executive Committee here?
 A. I don't know whether they are here or not; there are several volumes of them.
 Q. Was it your judgment that the temple of Golgoi had been ruined about 1800 or 1900 years ago? A. I don't know.
 Q. The oldest statue, I think you said, was of the era of about 100 years before Christ?
 A. I said before or after.
 Q. And did you say that some of the statues appear to have been put together by the use of wooden plugs or dowels?
 A. I said fragments were put together in that way.
 Q. Parts had been attached to each other by the use of wood? A. Yes, sir.
 Q. Did you also come to the conclusion that the temple had been destroyed by fire?
 A. That is my opinion to-day.
 Q. And that some portion of it was constructed of wood?
 A. The roof probably was constructed of wood, like most houses in Cyprus.
 Q. And some of the supports of the roof?
 A. Yes, sir, just as they are to-day in Cyprus, probably.
 Q. Of wood? A. Yes, sir.
 Q. And all had been consumed together?
 A. That is merely an idea of mine; I have no proofs except the ashes which we found in Cyprus.
 (2692) Q. Were the ashes of such a character as to enable you to determine what kind of wood it was?
 A. I sent some to the Academy of Medicine in Turin, and they said it was wood and pine wood; I sent a large piece of wood, carbonized.
 Q. You found wood in the temple unconsumed and untouched by the fire, did you?
 A. Whatever we found was ashes and carbonized wood.
 Q. Did you find these wooden plugs in the statues in that temple?
 A. Merely little splinters inside, which were consumed.
 Q. And the parts united in that way were not united by plaster or glue?
 A. There was nothing either one way or the other; at least they did not show it at that time.
 Q. But they had been held together by means of dowels? A. Yes, sir.
 Q. How many such instances were there?
 A. Two or three, to my knowledge, which came to my observation; they came within my observation; there may have been others.
 Q. Can you identify the articles?
 A. Yes, sir; one is the large Hercules, the front arm; one is the statue with a dove with the two hands detached.
 Q. And are the hands attached by dowels in the statue with the dove; where are the dowels used?
 A. They were between the arm and the portion attached, to bring them together.
 (2693) Q. And in the Hercules, where was the dowels used? A. The hand holding the club.
 Q. Did you notice the edges of those places that were united by the dowel?
 A. They were no more united when they were found; they were found detached; only the traces of the dowel was still visible, but they were not any more with the statue; there were no dowels found.
 Q. Did you examine the edges of those pieces in which traces of dowels were left? A. I did.
 Q. Did they fit to each other smoothly—the surfaces? A. I do not remember.
 Q. How were they fitted on the Hercules?
 A. By the same kind of rods as these.
 Q. What kind of rods?
 A. Rods—copper rods.
 Q. How were they fitted in the other statue?
 A. Either iron or copper, I don't know which kind; I merely gave the order and it was done.
 Q. By whom? A. Balliard.

Q. You told him what means to use in repairing the statue? A. Yes, sir.
 Q. Not merely in general terms, to repair them? A. I told him how to do it.
 Q. I show you Ceccaldi's illustration of number 23, the Dove, being Exhibit 187, and contained in a plate forming part of Ceccaldi's book; do you know when Ceccaldi saw it?
 A. Yes, sir; he saw it in Cyprus not later than two weeks after it was brought to my house.
 (2694) Q. And is that the condition in which he saw it as shown in Ex. 187?
 A. No, sir; they put the feet next to it and the bird there temporarily, for the purpose of photographing it.
 Q. Then that is a picture of it as he saw it?
 A. Certainly. The pieces were placed together.
 Q. Is that a female form?
 A. That is conjecture. In my book I do not say it is.
 Q. What period do you regard that as belonging to, Mr. di Cesnola, the one with a dove, number 23?
 A. Archaic-Greek, just emerging from the Syrian style.
 Q. Have you ever seen any figure, statuary or sculpture resembling it?
 A. There is a large mass in my collection looking like it.
 Q. I mean in respect to the style of dress?
 A. Yes, sir. I have several statuettes not exactly like it, but of the same style.
 Q. And of the same size?
 A. Not of that size, but of about that size.
 Q. Did your collection contain them?
 A. Yes, sir.
 Q. Anywhere else do you know of any specimens? A. Not that I remember now.
 Q. Look at this and see what period that belongs to (handing witness the picture)?
 A. That is Archaic style, but of a later period in my opinion.
 (2695) Q. It has the same general style of dress, has it not? A. Yes, sir.
 Q. And the difference is that it is a female head?
 A. The hand is attached differently there. All those folds fall freer, showing a later style of art, while mine are very flat and heavy.
 Q. It relates to the same subject? A. Yes, sir.
 Q. Have you seen the original of that statue?
 A. No, sir.
 Q. Have you been in Munich?
 A. Yes, sir; I have been in Munich; about three years ago, but I was not in the museum. It was closed.
 Q. Then you never saw that at the museum?
 A. I do not remember.
 Q. Do you think, Mr. di Cesnola, that there is a correspondence between the surface of the head of No. 40 and the surface of the body?
 A. Yes, sir.
 Q. That they are of equal roughness?
 A. Both surfaces are alike.
 Q. Alike in roughness?
 A. Alike in roughness. That one surface and the other surface are exactly of the same stone, the same pieces of stone I mean.
 Q. That is the result of your conclusion?
 A. Yes, sir.
 Q. What do you observe in coming to your conclusion? Did you take into account the character and condition of the surfaces of the two?
 A. Yes, sir.
 (2696) Q. Do you mean that the surface of the head is in the same condition as the surface of the body?
 A. In some places it is less rough, but it is the same surface. It has the same grain of stone, which you don't seem to know. The grain of the stone goes in one way, horizontally or diagonally. Any sculptor knows that.
 Q. That is the peculiarity of the stone in Cyprus? A. I believe so.
 Q. The grain is all right?
 A. The grain runs according to how it is cut.
 Q. The statue that was exhibited here, if I should go up there and see it and wonder whether

those pieces all belonged to the same statue, wouldn't I find that the grain of the stone was all alike, and that the various stones that were put in there were as rough as any other?

A. I am not able to judge how much intelligence you might be able to bring to bear upon that subject.

Q. Suppose I displayed just as much intelligence there as I do here?

A. Then you wouldn't be able to judge of it.

Q. Is that as true as anything you have testified to here on this trial?

A. It seems pretty hard for you to understand it.

Q. Would you think that anybody in looking at that statue would see any difference in the grain and texture between the stone which you say has been put in in the museum and the original statue? A. Certainly,

(2697) Q. What is it?

A. Of one the surface is much rougher, because it comes from another part of the island. That would be very good proof in itself to show that the stone is not all alike.

Q. Is there any difference in the grain there?

A. Certainly.

Q. There are different grains? A. Yes, sir.

Q. And in which does it run perpendicularly, and in which does it run horizontally?

Mr. Choate: He didn't say that they run perpendicularly and horizontally.

Q. The selection of that piece of stone for the purpose of putting in the hindquarter to that statue, was that done with a view to have a different grain and a different roughness to that part? was that done for any purpose?

A. No, sir. They had no other piece to fit in there. They put in any piece that happened to fit.

Q. Statues that come from the quarry were put up in the same temple; suppose they had been broken up, as certainly there must have been some objects out of the same quarry broken up, would not those pieces look very much alike?

A. Yes, sir; but still the surface will show very easily.

Q. Out of the same quarry?

A. Yes, sir. I can point you out differences in the same quarry in Cyprus where the stone comes from, and I believe every sculptor will see the difference.

(2698) Q. Would Mr. St. Gaudens, for instance?

A. I don't know the gentleman. If he had come to me I would have been glad to see him; but I don't know him.

Q. Do you think the plaster that is used on that head is all indicated by the white color there; don't you think there is any plaster there but what is colored white?

A. I don't think there is any there.

Q. Did you see that head dug up?

A. Yes, sir.

Q. Do you remember when it was dug up?

A. No, sir.

Q. Do you remember its appearance when it was dug up?

A. I do not.

Q. Where did it come to light; where was it when it was excavated?

A. I have not the slightest idea now; somewhere in Cyprus.

Q. When did you first see the repaired nose?

A. About three weeks ago, when the sculptors were examining it—some sculptors.

Q. When did you first see the plaster on the chin?

A. Then.

Q. Was it then covered with a wash?

A. Yes, sir.

Q. What was applied to the surface of the head that brought upon it its present appearance?

A. A sponge.

Q. Nothing more?

A. Nothing more.

Q. Then its present white appearance was a revelation to you; it was something that you had not expected?

A. They said of this head that the nose is made. That is all I know of it.

(2599) Q. Please answer my question; was it a permanent object in the museum?

A. Not any more permanent than any other.

Q. Was it one that you saw as often as you saw any other?

A. Yes, sir.

Q. And in passing by you saw no appearance of its having been covered with a wash?

A. Not particularly.

Q. Did you in any way?

A. I do not remember.

Q. I think you characterized that as an improper repair?

A. No, sir I did not.

Q. How do you characterize it,—as a proper or improper repair?

A. I call that a restoration.

Q. You regard it, then, as improper?

A. No, sir. I regard it as a proper restoration.

Q. What is the difference between a proper restoration and an improper restoration?

A. To put a piece of wood, instead of a piece of stone, in a statue, is an improper restoration. One thing will deteriorate and destroy, and the other will not. Wood would be an improper restoration because it does not last, and therefore it is improper. If they put in a piece of stone or plaster that would make it a proper restoration.

Q. Then your idea is that to replace a missing part, if you replace it at all, with a permanent material makes it a proper restoration?

A. In restoration, yes, sir. When I approve of a restoration I think it should be made in a proper way. But I do not say that I do.

(2700) Q. Do you approve of that kind of restoration?

A. As a general rule I do not approve of it; but I approve of that, certainly. It is a proper restoration.

Q. How do you distinguish between a proper and an improper one?

A. Because it is made properly and of the proper material.

Q. Is it the difference in material which makes it a proper restoration and which makes it an improper restoration?

A. Not quite so. If it is a permanent material and it is carefully done it is proper; but if it is of a material that does not last and it is not properly done, then it is an improper restoration.

Q. If a missing piece is supplied permanently with stone you think that a proper restoration?

A. No, sir; it must be a sculpture. A piece of sculpture to be a proper restoration must be supplied with a new piece of sculpture—not of rough stone merely, which is used for support. That is the reason why I call that a repair in that statue, because that stone was inserted merely as a support. That is my opinion of restoration or repair.

Q. You are now making a distinction between a proper and an improper restoration?

A. I said so. The improper restoration is using material which will in a short time be destroyed.

(2701) Q. But if you use material that will last, then it is a proper restoration?

A. Not in Cypriote stone.

Q. What is a proper restoration in Cypriote stone and what is an improper restoration?

A. A proper restoration of Cypriote stone must be made of such material which will not disintegrate the stone.

Q. That is a proper restoration in Cypriote stone? A. Yes, sir; in any stone.

Q. Any restoration in stone is proper, if it won't disintegrate—is that it?

A. Yes, sir; I would not put a piece of marble to Cypriote stone. That would be an improper restoration.

Q. If that nose was off and a stone nose was put on, would you regard that as a proper or improper restoration?

A. If it was made of the same stone and the outlines of the nose were still retained there, I should say that that would be a proper restoration.

Q. Even if the point of fracture was concealed,

would you still consider it as a proper restoration?

A. If that concealment is necessary to save the statue from disintegration, I should say yes.

Q. You admit that a great many things have been put together and the points of juncture been concealed, don't you?

A. I do not say that they were put together; I say that they were joined and repaired.

(2702) Q. That is substantially what I mean; you admit that a great many things have been joined and repaired, and that a good many new noses have been made and concealed?

A. No, sir; I deny that.

Q. Have there been any new noses made?

A. None to my knowledge. I have discovered some since, but there were none to my knowledge.

Q. Since when?

A. Since this story of the Art Amateur article.

Q. Then there have been some new noses made?

A. There seem to have been some made in 14th Street.

Q. And you did not know of it?

A. I did not know of it.

Q. Do you consider those restorations?

A. I consider those restorations.

Q. Do you consider those proper restorations?

A. In most cases they were proper restorations.

Q. And in some cases they were not proper restorations?

A. I have already explained what is not proper. If they were not properly made they were not proper restorations.

Q. Try to follow my questions; you discovered that noses had been made? A. Yes, sir.

Q. And you said that some of them were proper? A. All of them.

Q. Were they made of plaster?

A. I have not examined the material.

Q. Can you say whether they were proper or improper, if you don't know the material?

A. I say as far as the shape and form are concerned.

(2703) Q. If you don't know the material how can you tell that they were proper restorations?

A. I do know the material.

Q. Of what material were they?

A. They were all of plaster, stone or cement, and not of wood.

Q. Then a restoration in plaster, cement or stone would be a proper restoration, whereas wood would not be? A. Yes, sir.

Q. How many noses in your collection are made of cement?

A. In a collection of 1300 pieces I suppose there are six or seven portions of noses.

Q. How many of plaster?

A. There are only six or seven made in that way.

Q. Including stone, cement and plaster?

A. Yes, sir; all the others have their own noses, just as they have been found.

Q. A great many of them are fractured?

A. No, sir; none. There are hundreds of them intact.

Q. They all came out with perfect noses?

A. Yes, sir.

Q. Do you regard the multiplicity of such a number of noses an indication of their antiquity?

A. Most of my statues were found with their noses.

Q. I am quoting a book to you; your book says that there is an unusually large proportion of noses in your collection.

A. I meant those that are in marble. There is an extraordinary large number of noses in my collection.

(2704) Q. Do you consider that that is an indication of antiquity in the collection?

A. Most certainly.

Q. The preservation of the noses?

A. That has nothing to do with the antiquity, only it appears how they fell and did not break.

Q. Do you consider that an indication of antiquity, or is it proof of the modern origin of the collection?

A. It does not prove either one thing or the

other. It proves that the noses were not broken; that is all.

Q. Were there no noses made in Cyprus?

A. No, sir, none.

Q. Is there anything to indicate to the observer the existence of those restored noses?

A. I believe so. Some of the sculptors found them at once.

Q. What is it?

A. An examination; an examination of the surface of the stone.

Q. Is there anything to indicate to the ordinary observer the existence of those restored noses,—not to sculptors.

A. To any intelligent observer, yes, sir.

Q. Is there anything that would indicate it to you? A. Yes, sir; the surface.

Q. What is it?

A. The condition of the surface.

Q. The present condition? A. Yes, sir.

Q. But they have all been washed?

A. Yes, sir. But the roughness of the surface—no wash will take that off.

(2705) Q. I am asking you about restored noses?

A. You asked me how I could find it out, and I told you.

Q. I asked you whether or not an ordinary observer could find them out? A. Yes, sir.

Q. What is there to indicate it?

A. The difference of surface between the portion of the nose restored and the stone itself.

Q. Were the statues within reach of the ordinary observer, or were they protected by a glass case?

A. Whenever a person wanted to study the objects I was always happy to show them to them.

Q. How many people have been made happy in that way?

A. A great many, since this question came up.

Q. But before that were the cases opened to all people to feel of the noses?

A. Before this case commenced I do not remember.

Q. Since the commencement of this trial you have opened the cases to people of your own selection?

A. I never selected a man to examine the noses.

Q. Can you name any one that has come for the purpose of examining the noses?

A. Yes, sir, Mr. Eugene Schuyler, Minister to Greece.

Q. Anybody else?

A. Yes, sir, several sculptors.

Q. Who were they?

A. Mr. Calvery and Mr. Moffatt. I do not remember the others.

Q. Is that statue No. 504 the same one of which there is a picture at page 141 of your book on Cyprus?

A. There is no statue on page 141.

(2706) Q. Is that head No. 504 the same one of which a picture is on your book at page 141?

A. Yes, sir.

Q. Where was that picture of 504 taken—that picture on page 141 where was it taken?

A. I don't know whether it was taken in New York or Cyprus.

Q. It has got a nose on it, has it not?

A. Yes, sir.

Q. And the original has not?

A. The original has not.

Q. When did that have a nose on?

A. It has had it here in New York.

Q. What was it made of?

A. I don't know.

Q. What made you take it off?

A. Probably when they washed it in Central Park it came off. I don't know.

Q. Isn't there an incrustation on the nose there as it stands now? A. Yes, sir.

Q. And yet it once had a nose? A. Yes, sir.

Q. Who put it on? A. I did not.

Q. Did Gehlen put it on?

A. In 14th street it was probably put on by Gehlen. I cannot say either.

Q. Does the removal of the incrustation leave it as white as that?

A. The removal of the incrustation there spoils the stone; and that is why we stopped it.

Q. Who was doing it?

A. Balliard. The entire surface was ruined by the attempt to remove the incrustation.

(2707) Q. Was water used? A. Water only.

Q. He was applying water to it?

A. He had soaked it for a long time.

Q. And then what did he use?

A. Wooden tools, scraping it.

Q. Just the same kind of a wooden tool as he used on statuette 157? A. Yes, sir.

Q. And you encouraged the use of it on No. 157, and stopped it on this?

A. In this case it does not come off, and the other it did come off; in the other the surface has not been spoiled at all.

Q. Why is it that the poking of this statue with the soft wood would spoil this surface and not the other?

A. It depends upon the kind of incrustation; this seems to be impossible to remove.

Q. This is not a fair example of the incrustation that was on the other, then?

A. This certainly is a very extraordinary one.

Q. It differs from what was on the statuette of Venus?

A. I do not say so; but its adherence seems to be stronger than it was in the other.

Q. But it is the same kind of an incrustation of lime that you have spoken of?

A. I believe so.

Q. There is no difference in its nature?

A. It is only thicker; it is heavier on the stone; it seems to have impregnated the surface of the stone itself.

(2708) Q. Is it thicker than it was on statuette No. 157?

A. I cannot remember; but I should think not; I should think it was thicker on statuette No. 157—a little thicker.

Q. And yet taking it off with the same thing that was used on statuette 157, it does not produce the same effect as on the surface of 157, that was produced here?

A. No, sir; it was a question of the adherence of the matter.

Q. It did not adhere to the other statuette quite as hard?

A. No, sir; it did not spoil or damage the surface; the surface is exactly as it was.

Q. Is there any chemical difference between this incrustation on 504 and the incrustation which was on statuette No. 157?

A. I am not a chemist; I don't know.

Q. It looked like this?

A. Something like that; yes, sir.

Q. You see a considerable difference in the color between that and 157; I mean between the incrustations?

A. There is no more incrustation there; the incrustation is gone there.

Q. But the incusted head is quite different in color, so far as the incrustation goes?

A. This no more its own surface; it is ruined.

Q. There is a very apparent difference between the surface incusted and the surface not incusted? A. Yes, sir.

Q. Originally was the same color produced by the incrustation; was the incusted part of the Venus of the same color as the incusted part of 504?

(2709) A. I am not able to say; it was something of that kind.

Q. But whatever the incrustation was, it was thicker on 157?

A. Yes, sir.

Q. And it was of a different color?

A. I do not remember that.

Q. And had a little dirt mixed with it?

A. I observe it; I have studied this question of incrustation, and the condition of it, and the color of it.

Q. Do you observe anything particular about 157 since this case came up?

A. Until the question of the incrustation came up—certainly, my attention was drawn to it.

Q. To 157? A. Yes, sir.

Q. Since this suit began?

A. No, sir; in 1879; you asked me whether the color was like that, and I said I did not know.

Q. Is this picture of Colvin's, No. 80, a picture of that head, No. 504—the right hand picture of Colvin there? A. No, sir.

Q. Is not that the same head? A. No, sir.

Q. Is that in the museum? A. Yes, sir.

Q. That statue, No. 213, has no nose or broken nose now? A. No, sir.

Q. Is not this Exhibit 131, which is now shown you, a picture of that statue, taken by you?

A. Yes, sir.

Q. Then it has a nose, you observe?

A. Yes, sir.

Q. When was that nose taken off?

A. I have not the slightest idea; it was broken coming here; they were greatly damaged in moving them.

(2710) Q. Do you remember the fact of its having had a nose on?

A. Not except by seeing it there.

Q. And have you any recollection what the nose consisted of when it was on there?

A. No, sir.

Q. Whether it was plaster or cement?

A. No, sir. It must have been of stone.

Q. Why do you say that?

A. Because it was in Cyprus, and there is nobody there to repair it. Therefore it was of stone, and it was broken off since.

Q. Are you speaking from memory?

A. Yes, sir.

Q. You remember that it has been broken since?

A. No, sir, I do not remember; but it must have been so.

Q. Then you are not speaking from memory?

A. I merely answer your question. If it has been broken since it must have been broken on the way.

Q. Can't you tell a new fracture on a stone when it is not burned? A. Yes, sir.

Q. This derived its color from the ashes, didn't it? A. Yes, sir.

Q. Do you mean to tell the jury that there is any difference between the color of the fracture and the rest; it has the same color, has it not?

A. It looks so.

Q. And that is a color produced by lying upon the ashes, is it?

A. Probably so. In my opinion it is so.

(2711) Q. It is the same one published in your book, page 154, is it not?

A. Yes, sir.

Q. At some time since you have had it it had a nose on it, hadn't it? A. It seems so.

Q. Is it four feet and four inches high, as described in your book?

A. I have not measured it.

Q. Can't you tell without measuring?

A. No, sir.

Q. Can you tell with a measure?

A. I think so.

Q. You deny that your book says that it is 4 feet and 4 inches?

A. It may be so; but if it is, it is a mistake—that is all. There is no such height given in this book that I have here. Probably it is a manufactured book.

Q. Is the book manufactured? A. Yes, sir.

Q. (By Mr. Choate.) How many editions have been printed of this book?

A. Three or four in England—two in England, and three or four here.

Q. Do you mean to say, Mr. di Cesnola, that the fracture which now appears in this image across here was never known to you until after this statue was bathed for the committee?

A. I never recollect having seen it broken until then.

Q. What was across there where the fracture now appears? A. I don't know.

(2712) Q. Did you never see anything there?

A. No, sir.

Q. Will you please point out what you call the disintegration of the edge on that break?

A. Yes, sir. If you will come here you will see it yourself. All the edges on both sides here—those little points that you observe there.

Q. You mean the little breaking off of the edge? A. Yes, sir.

Q. And you trace that to the use of the plaster?

A. If you put plaster there without protecting it from the air it will disintegrate.

Q. Do you put any wash upon that break before the moisture evaporates out of the plaster?

A. I have never done it in my life.

Q. Does the white stuff—the stuff that you insert there—cease to act upon the stone as soon as it gets dry; does it only disintegrate the stone while it is wet?

A. I said the air disintegrates the stone, if it is not covered with the wash. I do not say that it is the dampness; but I know that when plaster is inserted in a break and it is not covered with the wash it will disintegrate. I said that it may be cement which is used to be two pieces together; and if it is left in contact with the air it will continue to disintegrate the stone.

Q. How?

A. I don't know how. I can't tell you that; but it is a fact. That is what I know; to explain how it is I don't know.

(2713) Q. So that is the result of your observation? A. That is my experience, certainly.

Q. That is a conclusion that you have come to by observation? A. Yes, sir.

Q. And yet this statue had been united for years at the waist, and you never observed any disintegration?

A. I don't know that it was united by plaster.

Q. It was something adhesive?

A. It might have been broken without any adhesive matter between.

Q. Broken by a new fracture, do you mean?

A. By putting it in water.

Q. Name any one instance in which you can point out the disintegration as the result of uniting a statue with plaster or glue, besides that?

A. If you saw it in 1879, when I came from Cyprus here, you would have seen every statue in the Fourteenth street building disintegrating in that condition. I called the attention of the Executive Committee to the fact, and called the attention of the Trustees to it, to see it; and the question came up shall we allow this disintegration to go on?

Q. Name every statue that you recollect?

A. They have been repaired since.

Q. You have named every one to which plaster has been applied; do you by this last answer include every statue to which plaster has been applied? A. Substantially so.

(2714) Q. Universally so?

A. As a general rule.

Q. Even after the plaster had dried?

A. Yes, sir.

Q. They still continue to disintegrate?

A. The moisture in the room was enough to disintegrate any statue. In the 14th street building they had these radiators, and there was a continual dampness during the winter time in the atmosphere of the room. I went in and found that the disintegration of the stone continued.

Q. Could that effect be produced in a case where glue was used in uniting the statue?

A. I never saw any united with glue in 14th street, that I am aware of.

Q. That little Venus is glued?

A. Not now; the shellac has been removed. It has adhered so much to the stone that it cannot be properly removed.

Q. What are those ankles in Venus united with?

A. They are united in the same way as all the other repairs.

Q. Is that plaster?

A. I don't know how it is done.

Q. Have they all been united with the same thing—that is, on the Venus?

A. Yes, sir.

Q. It appears externally to be glue?

A. That is only on the edges, I will explain that if you like. That is the remaining part of the glue that I put on in Cyprus. When they were mending it here I did not allow the men to scrape it off.

Q. And plaster has been substituted for it?

A. I don't know what has been substituted.

(2715) Q. Is it plaster?

A. It is plaster behind there now.

Q. Your statement is, that if that piece of plaster is left there it will absorb dampness from the air, and that would spoil the edges of the sculpture?

A. Yes, sir, if it is not covered. That is my opinion.

Q. What quality is it in that wash that prevents the absorption of moisture—the mucilage, the milk or the stone dust?

A. All three together, I suppose. It is only a matter of experiment. I don't know which one does it.

Q. Have you ever tried the milk and mucilage without the stone dust?

A. I did not do the work; I merely allowed my repairer to do the work that I directed him to do.

Q. Has Balliard ever used the milk or mucilage without the stone dust?

A. That I don't know. He might have tried it.

Q. You observed the colossal head that was here the other day, and the line of union of the face which fell off from the rest of the head, and pointed it out to the jury? A. Yes, sir.

Q. Do you know of any cases other than that of statuary or sculptures in the museum where there has been a fracture united as that has been, affected in just the same way as in that case?

A. Yes, sir; there are several.

Q. What other cases?

A. Heads where the entire face has been in two pieces. I can point them out to you in my book.

(2716) Q. Has this wash been used on the point of union on that colossal head? A. Yes, sir.

Q. And what was used to unite the mass when it was put back on the head, plaster or glue?

A. I don't know.

Q. Is that a fair sample of the skill with which such a thing may be done—that colossal head?

A. There is no skill there. To replace a piece that came out does not require any particular skill.

Q. It requires some skill to conceal the line of union. A. Not the slightest.

Q. It is the wash that does it, is it not?

A. Probably so.

Q. But don't it require some skill to make that wash?

A. That is the repairer's business; I don't know.

Q. And to apply it in that way?

A. I think the application is very easy.

Q. How is it done?

A. I suppose with a brush.

Q. Haven't you seen it put on?

A. No, sir; I might have seen it, but I do not remember.

Q. You say that that is another example of the same kind of fracture as is shown in the colossal head? A. No, sir; I do not say so.

Q. Didn't you say No. 6? A. No, sir.

Q. Did you see any signs of fracture there?

A. I have not examined it—yes, sir; very clearly.

(2717) Q. Where?

A. There it is; that is what they call a shake in the stone.

Q. You do not mean a crack? A. No, sir.

Q. S-h-a-k-e, is that what you mean?

A. I don't know how they spell it; I heard sculptors call it a shake of the stone; it is a new word to me.

Q. That did actually split off there all around?

A. I don't know; I don't know whether the shake goes all around or not.

Q. What was it that you pointed at just now?

A. The line which the sculptor pointed out to me.

Q. The line of what—an old fracture?

A. Yes, sir. And it comes out on the body too.

Q. Down here? A. Yes, sir, I suppose so.

Q. Was that ever in the bath?

A. I suppose so.

Q. Where does it end there?

A. I don't know.

Q. Where does it go to?

A. The break is there about the neck.

Q. It does come away down here, does it not?

A. Yes, sir.

Q. And the arms and shoulders have been split off too? A. Yes, sir; it seems so.

Q. And the head?

A. It seems to split all the way down.

Q. The head has been separated from the body, hasn't it? A. Yes, sir.

Q. And do you know whether or not there is an iron bolt in it?

A. They put an iron or copper rod between the neck and the other part of the body, to keep it together.

(2718) Q. Between the neck and the body?

A. Yes, sir.

Q. The head is stuck on the rod?

A. I suppose so; the head was formerly detached, certainly.

Q. Was that at one time covered with a wash, this statue No. 6?

A. I said that all repairs were colored alike.

Q. That includes this one?

A. Not the whole surface, but only the repair.

Q. Were the points of juncture covered with a wash that you speak of?

A. I don't think there was an exception to the rule.

Q. And that was so at the time Mr. Feuardent made his examination and published his article in the Art Amateur?

A. I don't know whether he examined it or not; I never heard of it.

Q. It was so stated at the time of his publications?

A. I never saw anything published about this statue.

Q. I don't talk about his publication about this statue; at the time of the publication of the original Art Amateur articles?

A. It don't mention this statue.

Q. Were or were not the points of juncture covered with the wash? A. Yes, sir.

Q. And this has since been removed?

A. The sculptors washed it to examine it; they did so.

Q. When was this examination by the sculptors made? A. About two weeks ago.

(2719) Q. Since this trial here? A. Yes, sir.

Q. And after Mr. Feuardent had testified about this statue No. 6?

A. I don't know.

Q. Did they wash every statue in the collection, or did they pick out only a few?

A. They did so to hundreds of them.

Q. I mean these particular sculptors that made an examination two weeks ago; did they go through the entire collection? A. Yes, sir.

Q. Did they examine every one of the objects, or did they only examine a few?

A. I don't know.

Q. Did they examine those which Mr. Feuardent said something about on this trial; did they pick out for examination and examine those included in what Mr. Feuardent has spoken of particularly?

A. I don't know of my own knowledge; I suppose they did.

Q. Do you know anything that he said about this statue that the examination did not verify?

A. Not that I know of.

Q. It is pretty well patched up, is it not?

A. There is nothing patched up about that statue; it is one single piece of stone from the arm down.

Q. I do not pretend to use the plaintiff's language; but as a matter of fact there is a good deal of work upon that statue that don't appear to the ordinary observer; is there not?

A. I don't know what are the accusations against that statue.

(2720) Q. As a matter of fact, has there not been actually a good deal of work done upon that statue to put it in its present condition?

A. Nothing whatever; the easiest thing pos-

sible; there has nothing been put on that statue except the head and the arm, I believe.

Q. How much of that work were you aware of, you yourself—before the sculptors went and examined it about two weeks ago and washed it off? A. Exactly what is there now.

Q. And you knew that before? A. Yes, sir.

Q. Was it done under your direction?

A. Everything in Central Park is done by my directions, under the orders of the Trustees.

Q. By your directions do you mean that you saw everything that was done? A. No, sir.

Q. Did you actually know that this statue was so done?

A. I know myself that nothing has been done to it.

Q. Did you know at the time that this work was done on this statue—did you know it at the time? A. Not specially.

Q. When did you find it out?

A. When I looked at it.

Q. Do you mean at the time of the visit of these sculptors; was that the first time you found out what work had been done on this?

A. Very probably.

Q. Think about it and tell me whether it is not so, whether the first time that you knew about it was not two weeks ago, after the plaintiff had testified in this Court concerning it?

A. I knew exactly how it was put together before; but I never examined this statue until I heard the other day the accusation that was brought up against it. And I asked which is No. 6, and I went up and looked at it.

Q. When was that—about two weeks ago?

A. Yes, sir.

Q. Before that what did you know about the extent of the work that had been done on this statue?

A. That portion of the left arm was joined, and the head.

Q. How do you know that?

A. Because they are detached and broken in Central Park, just the same as I saw everything else.

Q. How does this Cypriote stone break, like marble or plaster?

A. It breaks almost like plaster.

Q. Ragged edges?

A. Yes, sir; pulverized edges, you might say.

Q. It does not usually break in straight cracks?

A. It sometimes does and sometimes not.

Adjourned to Dec. 19, 1883, 10 A.M.

NEW YORK, December 19, 1883.

LOUIS P. DI CESNOLA recalled for further cross-examination and examined by MR. BANGS:

(2722) Q. Colonel, is there anything in your testimony delivered thus far which you now wish to alter, or change or correct? If so, please make the correction; I mean anything besides what you have already corrected?

A. I don't think substantially anything to change.

Q. Did you not besides telling Mr. Blodgett that you had expended \$25,000 in excavating, and had paid or had to pay to the plaintiff about \$9,000 for freight, etc., and \$2,500 other charges, also informed Mr. Blodgett that you had procured an advance from the plaintiff to be repaid about the 10th of December, then next, and if not paid at that time you forfeited the collection at a given sum; did you not tell that to Mr. Blodgett?

A. I may have said that; I don't remember.

Q. Did you not tell him that?

A. I don't remember.

Q. Well, will looking at the letter refresh your memory as to whether you told him that or not?

A. Yes, sir; it will.

(2723) Q. Look at the letter (hands witness a letter); now, will you answer?

A. No, sir; that includes the \$9,000.

Q. No, no; did you tell him that?

A. No, sir.

Q. You did not tell him that? A. No, sir.

Q. And the letter don't refresh your recollection? A. No, sir.

Q. I ask you if this particular phrase in the letter refreshes your recollection: "he says he

has expended \$25,000 in excavating, \$9,000 about in freight, etc., and \$2,500 in other charges and given seven years' constant labor to the work on the collection; he has procured an advance to be repaid by the 10th of December next, and if not paid by that time he forfeits the collection at a given sum;" does that refresh your recollection? A. Yes, sir.

Q. Did you tell Mr. Blodgett that?

A. No, sir.

Q. Now, as to No. 6; I think you said yesterday you found what you called a "shake" in the head—a crack extending from top to bottom?

A. Yes, sir.

Q. Is that a fresh crack?

A. No, sir; it is an old one.

Q. How old?

A. It has always been there since it has been in New York that I know of.

Q. Did the face once separate from the rest of the head? A. Never.

Q. Entirely? A. No, sir; never.

Q. Well, has any wash or anything been applied along the course of the crack?

A. I don't know. There has been put a piece of copper in from the back to keep it from opening; that is all—a copper rod in the back.

(2724) Q. Can you point out on the back the place where the rod enters, or give any indication of it? A. Yes, sir. (Indicates.)

Q. Where does it come out on the other side?

A. I don't know; somewhere in the centre of the figure.

Q. Where?

A. I can't say from the outside, because it don't come out on the outside at all. The rod does not go through the head.

Q. How do you know that?

A. It keeps the two pieces together.

Q. Did you see the rod put in? A. Yes, sir.

Q. When? A. When it was done.

Q. Well, when was it done?

A. I did not see the thing done. I told him to keep the pieces from opening and to put something—

Q. Who? A. The repairer.

Q. Well, then you did not see it actually done?

A. No, but I gave the instructions to do it.

Q. That I understand. A. As far as I know.

Q. But when you point out here a little dent in the stone or substance, whatever it is, as being the place where the rod entered, you don't know that from personal observation, do you?

A. You can make a hole and look if you like.

(2725) Q. Well, I don't like.

A. I give you full permission to do so.

Q. I only want you to say whether when you put your finger in that little depression and said that is where the rod entered you spoke of it from actual recollection of its going in there? Did you or did you not or simply infer it from the fact of that dent being there?

A. I know its being there; that is all I know. You can see it if you like.

Q. Well, I do see it; but I want to know whether you remember that it went in there or whether it was only your inference or guess that it went in there? (No response.)

Q. Now, then, if I understood you accurately yesterday, you said the crack continued down through the statue—

A. To a certain place; it goes on to a certain place.

Q. To a certain place? A. Yes, sir.

Q. Do you call that a continuation of that crack in the head?

A. The sculptors say so and I think so.

Q. What sculptor said so?

A. The sculptor who tested it.

Q. Who was that?

A. Mr. Ward, and several others—Mr. Calverly, Mr. Lound Thompson, Mr. Moffat, and somebody else. Everybody agreed to the same thing that it was a shake.

Q. Well, now what do you say as to this crack here in the body being a continuation of that crack in the head?

A. I think that they are right.

(2726) Q. Can you tell where this crack in the body ends by inspection; will you please trace it down to its end?

A. It goes down to the head.

Q. Down to the hand?

A. Down to the end; I cannot speak as well English as you can.

Q. Don't reflect upon my English; I am a born New Yorker and of course I cannot speak English; now, is this the point where it comes out (indicating)?

A. I am not certain; it seems so.

Q. I wish you would make yourself as certain as you can where that crack ends?

A. I am not able.

Q. It disappears at a certain point, does it?

A. Yes, sir.

Q. Do you see any traces of it on the other side? (Looks.)

A. I do not.

Q. Now, Mr. Cesnola, I would like to know whether from your inspection of that statue in its present condition there at the right shoulder that does not look like two pieces of stone put together; look at the surface of the back piece that is exposed there opposite the point at which a fragment is broken from the front piece, and say whether or not that is the case of a crack or of the union of two pieces of stone?

A. Crack.

Q. Quite confident about that?

A. Yes, sir; quite so.

Q. Are you willing to place that in a bath?

A. They were all put in bath; that was my instruction.

Q. How?

A. My instruction was to put them all in a bath.

(2727) Q. Well, did you put that in a bath?

A. I don't know.

Q. You don't know, do you?

A. Well, I never did it with my own hands; my men did it.

Q. You never saw that put in a bath?

A. I did not.

Q. Don't you think, as it stands now before us and the jury there, there is some room for question as to whether or not that entire back is not a distinct piece—that is, beginning at the crack of the neck and following it down as far as you can; don't you think, as it stands now, there is some question about the character of that statue?

A. I don't see any myself; the stone speaks for itself—the surface of the stone.

Q. Well, tell us what it says if the stone speaks for itself; does it say to you that that smooth surface in the shoulder on the back piece was or was not originally attached to the same stone that now appears on the front?

A. I am thoroughly convinced that it never has been detached.

Q. Well, what has kept it together in the face of that crack?

A. Well, some sculptor will be able to explain it; I am not able.

Q. Can't you? A. No, sir.

Q. Can't you tell? A. No, sir.

Q. Is there nothing about the statue that will enable you to form a judgment as to what enabled those pieces to keep together?

A. I don't know anything about it.

(2728) Q. Well, the crack, you say, comes down here (indicates) and ends at some uncertain point—the front—and then the breast—there is a crack certainly between the breast and the back, isn't there?

A. I don't know how far it goes in.

Q. Will you look at the surface?

A. I have looked at it.

Q. Well, I want you to look again.

A. I have looked at it enough.

Q. Well, if you have looked enough, tell us whether there are any traces of glue or plaster or anything else?

A. No, sir; I cannot see any.

Q. And you cannot tell what holds that statue together, can you?

A. It never has been detached.

Question repeated.

A. That piece of rod in the rear.

A. Well, there it is, with a split running down there, and you cannot definitely state?

A. The very break, which must not be very deep, because if it was deep it would come out; that is the only explanation I can give; some sculptor may give it better.

Q. Don't you think, sir, that an honest-minded man might have a little question upon an examination of that statue as to whether it did not consist of different pieces?

A. An ignorant man may, but not an intelligent one.

(2729) Q. Like Feuardent?

A. I don't make any comparison.

Q. Well, did you mean to apply that remark to him when you said an ignorant man?

A. I don't make any comparison, sir.

Q. Well, don't you think an honest-minded man who had dealt in antiquities for 20 years might upon an inspection of that statue raise a question as to whether it did not consist of two or three pieces?

A. If he was an ignorant man, yes, sir.

Q. Well, supposing him not to be an ignorant man, do you think the appearance of the statue as it is now would furnish itself an answer to all doubts and questions?

A. No, sir; not the least.

Q. It would not furnish an answer?

A. No, sir; it could not in my opinion.

Q. Well, don't you think an intelligent man who had been a dealer in antiquities for 20 years might upon an inspection of that statue as it presents itself now honestly entertain a doubt upon the question whether it did not consist of two or three pieces?

A. There have been no dealers in Cyprus antiquities for 20 years.

Q. I don't ask you about dealers in Cyprus antiquities at all.

A. I think that stone requires a particular—

Q. I am not asking you about that; do you think it inconsistent with honesty that a dealer accustomed to the examination of antiquities for 20 years should upon an inspection of that statue as it stands here not doubt whether it don't consist of two or three pieces; now will you answer that?

A. I have no opinion to give in that respect.

(2730) Q. Is that stone to be met anywhere in Europe outside of Cyprus?

A. The what?

Q. That stone; is it found anywhere in Europe outside of Cyprus?

A. Calcareous stone of different kinds, different degrees—I suppose so.

Q. Well, have you seen any?

A. No, sir; never did.

Q. Never seen any in Paris? A. No, sir.

Q. Have you never seen any calcareous building stone in Paris? A. In Paris?

Q. Yes sir, in Paris? A. No, sir.

Q. Never saw any there?

A. I never made any particular search for it.

Q. Do you say this stone hardens or softens by exposure?

A. I state there are different kinds of stone, some soft ones, and some hard ones.

Q. Well, take this stone of which that statue and the Golgoi and Cyprus statues are made; does it harden or soften by exposure?

A. It depends upon what kind of atmosphere it is in; if it is in a room that is damp it will soften, if it is dry it will not.

(2731) Q. Well, Cyprus is surrounded by the sea, is it not?

A. Yes, sir; but a very dry place.

Q. Very dry?

A. Very; exceedingly so.

Q. You say the sea air does not dampen—it being surrounded by the sea does not moisten the atmosphere.

A. It is too far distant where they come from the sea shore.

Q. How far was Golgoi from the sea shore?

A. About an hour and a half.

Q. An hour—

A. An hour by a good horse, and an hour and a half by a mule.

Q. It is not much further from the sea than the centre of Staten Island is from the sea, is it?

A. But there is a range of mountains between.

Q. And that makes the air very dry?

A. The mountains do, I suppose.

Q. What is the effect of heat on the stone?

A. I could not say.

Q. Why can't you say?

A. I don't understand the question; what effect would be on what?

Q. What is the effect of heat on this stone?

A. I am just experimenting now, and in two or three years I will know.

(2732) Q. Don't you know what is the effect of heat on this stone? A. No, sir, not yet.

Q. Have you any idea what would become of it if you should put it in a lime kiln?

A. I don't know.

Q. Could you make lime of it?

A. I don't think they can.

Q. Do you say that the exposure of a piece of this stone to intense heat for a considerable period, such as upon wood ashes—hot wood ashes—have you any idea whether it would soften it or harden it? A. Whether what?

Q. Have you any idea whether putting a piece of this stone in a bed of hot wood ashes, or among a lot of burning wood, would harden it or soften it?

A. I don't know; I suppose it would rather harden it than anything else.

Q. Rather harden it?

A. Yes, sir; I suppose so.

Q. That is if you put it in a hot place—an oven or a lime kiln—it would harden, wouldn't it?

A. I said I don't know; I suppose so; I have never made the experiment.

Q. Don't you know that exposure of that stone to heat disintegrates it and softens it?

A. The atmosphere, yes, sir.

Q. No, no, the heat—the heat?

A. No, sir; that I don't know.

Q. Take the head of that statue which you say is discolored by lying upon ashes—isn't that harder than the body?

A. I have not tried it; I have not cut it; may be.

(2733) Q. It may be? A. Yes, sir.

Q. Is it actually within your recollection, as a matter of memory, that that head was found on a bed of ashes?

A. Well, it is not very easy to remember exactly that; it was found where a quantity of ashes were lying.

Q. Now, please don't depart from the question; is it an act of your memory that induces you to say that that head was found upon a bed of ashes? A. No, sir.

Q. Now, then, as to the piece in the shoulder; what you say in your testimony, substantially—I don't pretend to quote your words literally, but I think you say that seeing the piece missing from the shoulder, you directed your men to search for it, and they found it.

A. Very likely.

Q. Now, where did they find it?

A. In the spot where the statue was.

Q. You suppose—I want your memory?

A. I say on the spot where the statue was found; I didn't say I supposed.

Q. What did they search for, and with?

A. With their hands, I suppose.

Q. You did say, "I suppose," then?

A. Now—yes, sir.

Q. I don't want you to suppose; I want your recollection; I want you to state what you remember; do you remember what they searched for and with? A. With their hands.

(2734) Q. With their hands? A. Yes, sir.

Q. Do you call that piece of the same color as the head, or the same color as the body?

A. Of the same color as the body.

Q. How do you account for so much of that shoulder consisting of plaster?

A. There is no plaster—very little plaster that I know of, there.

Q. Well, there is some there?

A. There was some plaster that was used, but then after the investigating committee it was not the same.

Q. Then the investigations of the committee resulted in a change of its condition?

A. It became chipped—its edges; that was the trouble with these statues; every time you attack it, some of the edges goes with it; it is easy enough to see that.

Q. When this little Venus comes from the bath, do you expect the edges gone?

A. No, sir; but I expect to see it coming out with the feet and the base exactly as I said it would yesterday, and that nobody has tampered with it.

Q. Do you say that cement disintegrates by exposure to the air?

A. Yes, sir; in this country.

Mr. Choate: Cement?

Mr. Bangs: Yes, sir.

Mr. Choate: He didn't say so.

(2735) Mr. Bangs: He did say so just now I want him to put an interpretation to the testimony in relation to that, because it has a doubtful meaning to my mind.

Q. Do you say that cement disintegrates by exposure to the air in this country?

A. No, sir; I say cement—joining two pieces together disintegrates the edges of the two pieces put together.

Q. Do you say that plaster of Paris disintegrates by exposure to the air?

A. By my word cement, I meant a composition of cement, plaster and other things; I used it as a generic word.

Q. So you have been using the word cement to indicate a composition?

A. Yes, sir; it is a composition.

Q. What is the particular cement of which you have been speaking composed of?

A. I don't know; the repairer knows, but I don't.

Q. Have you never seen it made?

A. No, sir.

Q. He has never told you what it was made of? A. No, sir.

Q. And you really don't know the materials which have been used in putting together parts of statuary in the museum?

Q. I know it is a cement, but I don't know what it is composed of.

Q. It is a compound?

A. Yes, sir; but I don't know what it is, because the investigating committee asked the repairer, and he did not want to say. It is his secret.

(2736) Q. Is it his secret what the cement consisted of?

A. So he said. He makes his living out of that, I suppose.

Q. Do you claim the action of that cement on the edges is mechanical or chemical; does it arise simply from the pressure or contact?

A. I don't say that the cement disintegrates the stone. I say the atmosphere acting upon the dampness, and the cement together, it disintegrates the edges that is what I meant to say. Whether it is the cement or the dampness or the atmosphere, or all combined, I don't know.

Q. Do you mean that the damp air gets some quality from the cement which makes it disintegrate the edges?

A. That I don't know.

Q. Well, do you know what you do mean?

A. I know it is that when they were repaired in Fourteenth street, with nothing else except plaster of Paris, by Gehlen, they had disintegrated to a great extent, and that is a fact which is uncontroverted; therefore, we removed all that plaster of Paris in order to stop these disintegrations.

Q. Now, is that what you mean; that plaster of Paris disintegrates the edges?

A. I say the air, the dampness—everything together—disintegrates them.

(2737) Q. Do you mean that the air disintegrates the edges when plaster of Paris is used on them when not covered up?

A. Yes, sir; that is what I mean.

Q. Who told you that?
 A. I have seen it with my own eyes in 14th street when I came from Cyprus.

Q. Did you see the air disintegrate it?
 A. I saw the effect.

Q. Well, did any man learned in that department of science give you any information or advice on that subject?
 A. No, sir; that is my own experience; that is all that I know.

Q. What is it which is in this statue just exhibited; is it that compound cement or simply plaster of Paris?
 A. That is what I don't know.

Q. You don't know that?
 A. The cement and plaster of Paris is almost of the same color—but the proportions—I don't know how it is mixed.

Q. Do you really say that you don't know in the case of that statue just here now that those white streaks that appear there are plaster of Paris or the cement that you spoke of?
 A. What white?

Q. Around the neck and the arms—the statue that was here just now—No. 6; now, don't you know really that the parts which appear there upon inspection to be united, where there is a white ring around the neck and the arm—the left arm, I think—and where it appears to have rings of white around it—are cement or plaster?
 A. Yes, sir.

(2738) Q. Where parts have been joined?
 A. Yes, sir.

Q. Do you seriously say that you don't know whether it is plaster or cement?
 A. It is plaster; I can say that.

Q. That is plaster? A. Yes, sir.

Q. Well, what is it in the Venus around the ankles; what is that? A. Plaster too.

Q. Plaster? A. Certainly. As far as I know it is.

Q. Why didn't you use cement in the part when you were doing that work?
 A. It is cement too; it is a mixture that he has.

Q. Well, is it cement or a plaster?
 A. I think they are very nearly alike. What it is composed of I don't know.

Q. Are they the same thing or different things?
 A. They are the same things I suppose—the same compound—his plaster. What he puts to that I don't know.

Q. In this Venus, this little Venus—around the ankles—is the stuff that is there plaster of Paris or not?
 A. Plaster of Paris behind.

Q. And it is not a compound?
 A. Yes, sir; that I know.

Q. I want to know why you used that in the park when you had found that the air through it or with it acted badly on the stone?
 A. It is the outside. You put the cement outside and cover it up. That has been washed by the Investigating Committee.

(2739) Q. But it is plaster; is it not?
 A. What is to be seen now, I don't know; I think it is plaster; it looks to me so. I have not repaired that myself; I cannot answer the question as you ask me.

Q. Can you name any piece of the statuary in the park museum where the plaster or cement or whatever it is that has been used in joining parts together has been left exposed to the air—a single one? A. None of them.

Q. Are you quite certain that you now know all that have been put together by the use of plaster or cement? A. I suppose so.

Q. How? A. Not surely.

Q. You are not sure? A. No, sir.

Q. There may be others?
 A. Yes, sir. They were after the examination—

Q. No, no; there may be other statues there where the joints are so covered up that you have not yet ascertained the fact that they have been joined? A. Oh, yes; we have visited them all.

Q. Visited them all?
 A. Yes, sir.

Q. But you have not bathed them all?

A. Oh, when we put them together, but not now.

(2740) Q. You don't apparently, understand me, Mr. Cesnola; are you quite sure that you have found out all the statues that consisted of fragments put together and joined by the use of plaster or cement; are you quite certain that you found them all? A. All the statues; yes, sir.

Q. Well, did you try every statue there?
 A. Yes, sir.

Q. Every one?
 A. Yes, sir.

Q. By bathing? A. Oh, no, sir.

Q. By what means?
 A. By an examination by the eye.

Q. But, then, as I understand you this joining is always accompanied by the application of a wash?
 A. Yes, sir; but sufficient to see where it is put together.

Q. Are you quite certain that there is not some statue there that consists of parts joined together by plaster or cement and covered by a wash that has defied the examination of your eye?
 A. No, sir; it is impossible.

Q. Impossible?
 A. Yes, sir. The sponge shows that in five minutes.

Q. Well, have you tried the sponge on those statues? A. Some of them. I didn't on all.

Q. You said you tried your eye?
 A. Yes, sir; my eye was sufficient for me.

Q. Have you tried anything but your eye?
 A. No, sir.

(2741) Q. And you are quite certain you cannot be cheated?
 A. I did not try the sponge to every one.

Q. Are you quite certain that you cannot be deceived?
 A. Every one is not sure of not being deceived in this world; I am not sure; I might be; a man is not infallible.

Q. Well, you were deceived, were you not, by the Egyptian warrior; you never discovered until after the Investigating Committee that that had that crack?
 A. I was not deceived because I hadn't examined it.

Q. Well, hadn't you looked at it; hadn't you tried it with your eye?
 A. I say it had never been called to my attention before.

Q. Well, hadn't you examined it with your eye? A. No, sir.

Q. Hadn't you put the head on it? A. No, sir.

Q. Hadn't you seen the head put on?
 A. Yes, sir.

Q. Didn't you see that crack around the arm of it? A. No, sir.

Q. What deceived you in that case?
 A. I never saw it—I say I did not remark it; that is what I say.

Q. I know you never saw it?
 A. Then it is no use of asking me further.

Q. But you saw the statue without seeing the crack?
 A. Without looking at the crack. Probably it was there; but it did not present itself to me. That is what I mean.

(2742) Q. You wrote a description of it in your book, didn't you?
 A. I don't know whether I did or not.

Q. Well, don't you know whether you wrote a description of that in your book?
 A. No, sir; without my book I am not able to say?

Q. Well, I will read from page 154: "Another statue of much interest was one which represents an Egyptian warrior. The head is covered by a helmet, the top of which terminates in two large lotus flowers. Several necklaces adorn the breast, and on both arms are sculptured armlets. On front of the dress, half way down, is designed an eye, about two inches long, beneath which is a head with two snakes issuing from the mouth, under which they coil. A quiver seems to have been slung over the shoulder;" now, you wrote that, didn't you?
 A. Yes, sir; I recognize it.

Q. And you wrote it from a personal inspection of the statue?
 A. From a photograph.

Q. From a photograph? A. Yes, sir.

Q. Who made the photograph?
 A. Well, probably by me or in this country.

Q. Well, which?
 A. My book was published in London, you know, and my collection is here.

Q. Now, don't depart from the point; who made that photograph?
 A. I don't know whether it is from my photograph or from a photograph from New York.

(2743) Q. But you did make a photograph?
 A. From a photograph I made it; yes, sir.

Q. You yourself took a photograph?
 A. Certainly, I did.

Q. And you placed the thing in position for the photograph? A. Yes, sir.

Q. And at that time the shoulder piece was out? A. Yes, sir.

Q. Now, what was there about the body that induced you to say that a quiver seems to have been slung over the shoulder?
 A. Because there are traces there of a quiver, I suppose.

Q. Which shoulder—on which shoulder, the left shoulder or the right shoulder?
 A. I don't know which.

Q. Now, here is your Cyprus photograph; after all that, taking a photograph in Cyprus, and writing a description of the ornamentations and of the traces of the quiver, you never suspected that crack in the arm and across the body; did you? A. No, sir.

Q. Haven't you said that this photograph of yours shows traces of a crack?
 A. I cannot see from here.

Q. Well, haven't you said that it does?
 A. It represents the statuette that I found, certainly.

Q. Have you not said that the picture itself contained traces of a crack around the waist?
 A. I don't know whether I said it or not; I don't read in my book—

(2744) The Court: He means whether you haven't said it in this trial?
 Q. I mean whether you have not said it here upon the stand?
 A. Oh, certainly it is broken; it is easy to see it to-day.

Q. Well, now, look in that photograph and see if there are not as many traces in that of cracks as there are in the picture of the Priest with the patera; what do you make of that line around the arm there?
 A. Well, I would like to see another photograph.

Q. Are there or are there not in that picture indications of a crack around that side—around that statue?
 A. Well, that is made up—that line around the arm.

Q. Who made it up?
 A. I don't know; you can see it yourself.

Q. Well, this has been put in evidence as your Cyprus photograph?
 A. Oh, no; my Cyprus photograph will appear differently from that.

Mr. Bangs: Where did this come from; it is Exhibit 131?
 Q. Now, let us see Doell?
 A. Let us see my own photograph and then I will tell you.

Q. You don't claim the pictures in that book to be photographs, do you? A. No, sir.

(2745) Q. How many removes are they from the original?
 A. There is no such thing in my book so far as I know.

Mr. Bangs here exhibits to the jury the Doell book and the exhibit last above referred to, and also the photograph produced by the other side which they say is the Cyprus photograph.

Q. Now there is the statue; there is a crack across there, is there not (indicating)?
 A. Yes, sir.

Q. Underneath the belt in front? A. Yes, sir.

Q. Right across there (indicating)?

A. Yes, sir; beneath the belt.
 Q. Beneath the belt? A. Yes, sir.
 Q. Well, the belt rises at the ends and sides?
 A. Yes, sir.
 Q. And that is what you never saw until after the Investigating Committee?
 A. I say I don't remember ever having seen it.
 Q. Is that what you said that you did not remember ever having seen it? A. Never seen it.
 Q. Is that a wall statue or a round statue?
 A. It appears to be a wall statue.
 Q. Well, is the head a wall head?
 A. It is a wall head; certainly.
 Q. Or is it a round head?
 A. It is not a round head.
 Q. Is it flat?
 A. If the body was round the head would come this way (indicates).
 Q. I am not asking you that; I ask you whether it is a round or a flat head? A. It is a wall head.
 (2746) Q. Is that a flat or a round head?
 A. I don't know; that is for you to decide. It is a wall head.
 Q. The body was made to stand up against a wall, was it? A. Yes, sir.
 Q. Aren't they sometimes made to stand against other statues? A. Yes, sir; maybe.
 Q. And you test the fitness of the head and a body which you find separate by the consideration whether they are wall statues or not, do you?
 A. What?
 Q. You test the fitness of a head and a body which you find separate—you determine the question of their belonging to each other by reference to the fact that they are round or wall statues, do you?
 A. That is one of the points, but not exclusively that.
 Q. But it has weight, has it?
 A. If the stone is not of the same grain it would have no weight at all. It will help if it is of the same grain.
 Q. Well, if the stone is not of the same grain that settles the question; does it? A. Exactly.
 Q. A harder stone you would claim did not belong to a soft statue?
 A. A harder stone is another thing than the grain. I say the surface. That is a test infallible—the grain of it.
 Q. Then if you found a round head and a wall statue and both were of the same grain you would fit them together?
 A. If the surface was exact I would by all means, even if it was the head of a cat.
 (2747) Q. Notwithstanding that one is a wall body and the head is a round head?
 A. If I were convinced it was the same grain I would.
 Q. Now, in putting that head No. 510 on No. 32 the other day you were controlled by the consideration that the body was a wall body and the head was a round head, weren't you?
 A. No, sir; I said that was one of the considerations but not all.
 Q. But it has no weight with you in this case of the Egyptian warrior—the fact that that head is round and the body is flat?
 A. But it is not round—the head.
 Mr. Choate: He said that before.
 Mr. Bangs: He did say so, and I will leave it to the jury whether it is round or not.
 The witness: The head has something there of flatness.
 Mr. Bangs: You can't make it round or flat by saying it is flat.
 Q. Now, as to textures governing, or grain; by the word "grain" do you refer to density?
 A. I refer to the surface of the stone.
 Q. Do you mean density of surface or porosity or what? A. Density—both.
 Q. Density?
 A. Yes, sir; I mean in which the pores or grains—whatever there is over the stone goes together.
 (2748) Q. Now, do you mean that the grain or porosity or whatever it is on that head (Egyptian warrior) goes together with that body?
 A. I am thoroughly satisfied that is so.
 Q. And that they are both of the same density?

A. Oh, no; that I leave to persons who—leave for experts.
 Q. Don't you know? A. No, sir.
 Q. Don't you know whether they are of the same density?
 A. No, sir; I am satisfied they are.
 Q. Have you any means of determining the abrupt termination of the color of the head?
 A. I gave what I think it is; I can't say more; I think it is the effect of burning; that is all.
 Q. Well, can you explain why the color does not shade off at all on the shoulders?
 A. In about two years it will be again the same color as the rest of the stone; it is already getting so now?
 Q. The head? A. Yes, sir.
 Q. The head will be of the color of the statue?
 A. Yes, sir; it comes gradually again that way; I can see it coming already in the rear.
 Q. Where do you see it?
 A. If you will come here I will show it to you (indicating on statue). A portion of the head is already taking that same color of the stone. In two years hence come to the museum and you will see it. I have seen the head of the same color as the body.
 (2749) Q. Were you controlled in putting that head and body together at all by the consideration of the proportion of the neck to the rest of the body?
 A. No, sir; but by the fracture itself, which was very clear.
 Q. Well, did you consider that a suitable head and neck in the proportion of that body?
 A. I said that the proportion of the statue can not be told to-day—the proportion to-day is quite a different thing.
 Q. Do you think that the proportion of that neck—that the neck is made upon the same proportion as the body?
 A. It is made according to the law of proportion at that time; very likely according to our law of proportion of to-day it would be too big; but I am not responsible for that.
 Q. Was that entire statue once of the same color? A. It might have been.
 Q. Well, to your knowledge was it?
 A. No, sir; I never seen it.
 Q. Did you hear Dr. Barnard testify?
 A. Exactly.
 Q. Do you mean to contradict him?
 A. I don't mean to contradict him; I say it is not so; that is my opinion. I never saw it one color.
 Q. I want to call your attention to your statement that you are not a business man, Colonel; you testified on your direct-examination that you were employed to take care of the entire collection of the museum; to take care of the exhibition; to take care of having catalogues made; to take care of the men, and to take the entire management and administration of the museum; the question was put: "including all its collections?" and you answered: "Any collection or anything belonging to the museum;" didn't you consider that the business of a business man?
 A. When I said "business man" I mean business in money transactions; that is an administrator, and is not a business man.
 (2750) Q. Very well, we have your meaning now? A. Yes, sir.
 Q. You meant you never transacted business of receiving and paying money and settling accounts; is that it?
 A. My bank, yes, sir; my own private bank; yes, sir.
 Q. Well, on page 2238 you were asked who conducted the correspondence or whether you conducted any of the correspondence on the part of the museum, and you answered: "Yes, sir;" do you consider that the business of a business man?
 A. No, sir; I say I am the secretary of the Board of Trustees, and I attended to the correspondence of the Board of Trustees.
 Q. To that extent you are a business man?
 A. No, sir; no business in a secretary's work.

Q. On page 227, speaking of a morning in March, 1871, when you met Mr. Prime at the museum, you were asked: "Whom did you meet there on that morning?" And you replied: "These employees of the museum who came to make their report to me of their business, and then Mr. Prime came in;" and a little below you say: "Mr. Prime came to the museum about half-past nine or ten o'clock, while I was getting the accounts from the different men of the Museum;" don't you consider that business?
 A. No, sir.
 (2751) Q. What were their accounts?
 A. They came to tell me what they had done during the day previous—how many persons had been in the museum, and how many catalogues had been sold.
 Q. And accounted to you for the proceeds and gave you the proceeds?
 A. Accounted for the proceeds.
 Q. Did they hand over the money?
 A. Yes, sir.
 Q. Well, then, to that extent you are a business man?
 A. I don't see that it is business.
 Q. You don't consider that business?
 A. No, sir.
 Q. In the making of repairs was anything left to the judgment of Balliard?
 A. Small matters, probably.
 Q. Small matters? A. Yes, sir.
 Q. What was the largest that was left to his judgment? A. The largest?
 Q. Yes, sir; what was the most important matter that was left to his judgment?
 A. Oh, I don't remember that.
 Q. How? A. I don't remember that.
 Q. Well, was it such a thing as selecting an arm to fit a statue; was that left to his judgment?
 A. Oh, no, sir; that is a very important matter.
 (2752) Q. Well, was it left to his judgment?
 A. I say no; only small matters—small things.
 Q. Well, I don't know what you embrace in small matters; what is the largest and most important thing that was left to his judgment, can't you tell? A. No, sir.
 Q. Well, if the putting together or fitting of an arm to a statue was not left to his judgment, whose judgment was it left to?
 A. My judgment.
 Q. Yours? A. Yes, sir.
 Q. Then you are responsible for all that he did in that line; are you not?
 A. Yes, sir, as far as I know.
 Q. You were asked on page 2743: "Have you anybody else's experience in the treatment of Cypriote stone, or the fracture of Cypriote stone, to guide you?" and you said that you had that of the Louvre Museum, where they had repaired several Cypriote stone, "and I followed exactly the same system which the Louvre had?"
 A. Yes, sir.
 Q. Does the Louvre use your wash?
 A. A very similar one.
 Q. How do you know?
 A. Because I have been there and saw the statues myself.
 Q. With the wash on?
 A. Yes, sir.
 Q. Well, did you see the joints under the wash? A. No, sir.
 Q. Well, then, how do you know that the wash was put over the joints if you didn't see joints?
 A. Because the Director of the Museum called my attention to it. He showed that to me and also to other gentlemen who went after me and saw that too.
 (2753) Q. Do you say the wash here was Balliard's secret?
 A. Oh, I don't know; some peculiar preparation I don't know.
 Q. The cement is a secret? A. I don't know.
 Q. Well, would you, if the Director hadn't told you, have seen these joints under that wash?
 A. Well, in that case I knew that the things

were broken because I had seen them in Cyprus myself.

Q. Oh, they were your own things then?

A. No, sir, they belonged to Mr. Ceccaldi.

Q. That reminds me to ask you whether you found that little statuette from Pasuli that is in your book and in Ceccaldi's book; did you find that in the museum?

A. No, sir, that requires an hour and a half to get it, and I haven't had the time.

Q. Well, I renew my request.

A. I have all the photographs.

Q. I want to know what is your experience from personal examination?

A. If I am allowed to go I will go with pleasure and get it.

Q. Now, I want you to specify with some definiteness what stone you saw in the Louvre repaired in the same way, and specify them in any way that will enable us to identify them.

A. Specify what?

(2754) Q. Those cypriote stones that you say were in the Louvre and which were repaired, and in repairing you followed the same system that the Louvre had; now, what stones were they?

A. Statues.

Q. Name one of them. A. Statues.

Q. What statues?

A. There was a statue of a woman; I don't know how to describe it better than that.

Q. Is that the nearest you can come?

A. Yes, sir.

Q. Anything besides the statue of a woman?

A. The statue of a woman with necklace, probably, or bracelets.

Q. Is this another one or the same one; the necklaces or bracelets, is that the one you first spoke of? A. Yes, sir.

Q. Is it illustrated anywhere?

A. I suppose so.

Q. Whose book? A. Ceccaldi's.

Q. Well, have you seen it? A. Yes, sir.

Q. As put together or broken?

A. I saw it broken and then I saw it at the Louvre put together.

Q. Didn't you have some other means of knowing that that had been put together besides what the director told you?

A. I said that I saw it broken in Cyprus and then I saw it intact at the Louvre.

Q. Well in the Louvre itself was it mentioned in the guide book?

A. No, sir; I had no guide book at the time.

Q. Now, do you say that Mr. Feuardent took that slab to Mr. Reddy? A. No, sir.

(2755) Q. Who did take it to Mr. Reddy?

A. I don't know; I said Mr. Reddy told me that he repaired it; that is all I know.

Q. That he repaired it? A. Yes, sir.

Q. You also said this: "I had authorized the British museum to get casts of these things, and I wanted it in order to take casts for the British museum;" is that so?

A. I wanted to have what?

Q. This slab repaired in order to take casts for the British Museum?

A. I think that must have been a misunderstanding.

Q. At page 2244 you were asked, "Did Mr. Feuardent tell you anything about?"

A. Yes, sir, he did.

Q. What did he say?

A. He told me he had sent it to the British Museum to repair it.

Q. Is this the article (showing witness a slab);" now, I pass over to page 2446: "Q. Did Mr. Reddy tell you that he did it for the purpose of taking a cast? A. No, sir; I had authorized the British Museum to get casts of these things, and I wanted to have it in order to take casts for the British Museum;" now, is that true?

A. Well, it is substantially true; I allowed the British Museum to take casts of all my inscriptions.

Q. And you had it repaired for that purpose?

A. No, sir; I have no recollection of that.

Q. What do you mean by saying that you wanted to have it in order to take casts for the British Museum? A. I wanted to have the slab.

(2756) Q. But you say: "I wanted to have it in order to take casts for the British Museum?"

A. To have the slab; but not to have it repaired — to have the slab because there were two letters on it.

Q. Could casts have been taken from it while it was broken? A. Most certainly.

Q. While it was in five pieces?

A. There were only two letters that remained; it was the inscription on the slab that they wanted.

Q. What do you mean by saying that you wanted to have it in order to take casts for the British Museum?

A. Because the British Museum asked me to take casts of the inscription; there are only two letters on the slab which are letters — Cypriote inscriptions; I wanted to take a cast of the letters, not of the slab; that was the object.

Q. Who told you that; who was it that told you that they wanted to take casts of the inscriptions?

A. Mr. Gladstone.

Q. When? A. When I was in London.

Q. What time when you were in London?

A. In 1872.

Q. The month when Mr. Gladstone told you?

A. In October or November.

Q. After you had sold it to the Americans?

A. No, sir.

Q. Before then?

A. Not after it went to America; probably after it was sold.

(2757) Q. How is that?

A. I say it was in November, probably after it was sold, but before it was packed up; that is what I mean.

Q. Before or after Colvin photographed it?

A. I don't even know.

Q. You say there is a photograph of it in your book—a picture of it in your book—and a photograph by Colvin? A. Yes, sir.

Q. It was then repaired, was it not?

A. It was restored; yes, sir.

Q. Restored?

A. Yes, sir; repaired and restored.

Q. Repaired and restored? A. Yes, sir.

Q. And attached; it was attached also; wasn't it?

A. No, sir; you have not understood that quite yet, I see.

Q. Well, probably I shall.

A. By and by.

Q. By and by? A. Yes, sir.

Q. Anything more you want to say?

A. No, sir.

Q. When did Colvin take his pictures?

A. I don't know.

Q. Weren't you there?

A. No, sir.

Q. Were they taken before you came there?

A. Oh, I was in London, but I wasn't there when they took them.

Q. How many days did it take them to take them?

A. I don't know; I have not seen one taken.

Q. Weren't they taken in September?

A. No, sir; I don't know.

Q. Was it before the thing was repaired that Mr. Gladstone wanted to take a cast of it?

A. I don't know.

Q. Well, did he speak of it in its then condition as being a thing that he wanted to take a cast of—in its repaired condition or its broken condition?

A. I have not the slightest recollection of it.

(2758) Q. Why can't you remember that just as well as you can remember these other things? A. I remember that because I gave my consent to take casts of inscriptions, embracing all the negatives, to the British Museum.

Q. Did you give Mr. Gladstone permission to take a cast?

A. No, sir; he was one of the chief Trustees of the British Museum.

Q. I want to find out if I can whom it was you gave permission to to take a cast?

A. To the British Museum.

Q. What officer of the British Museum?

(Objected to by Mr. Choate as immaterial.)

The Court: He didn't say that anybody asked

him to take a cast of that particular inscription, but of inscriptions for the museum.

Mr. Bangs: Well, it makes no difference whether it is that way or the other; I understood it the other way.

Q. Now, was the request on behalf of the British Museum to take casts of that particular slab?

A. Of all the inscriptions in Cypriote character, which was a new kind of inscription nobody knew.

Q. Now, what person made that request on behalf of the British Museum?

(Objected to by Mr. Choate as immaterial; objection overruled.)

(2759) Q. What person asked you?

A. I said Mr. Gladstone himself.

Q. Very good; now, what did you do in pursuance of that request?

A. I acceded to his request.

Q. Well, did he come and pick out the articles?

A. Oh, no.

Q. Who did?

A. Somebody of the British Museum.

Q. Who was it?

A. Mr. Reddy, the repairer.

Q. Were you there? A. No, sir.

Q. Well, how do you know he did then?

A. He told me so.

Q. Oh, it comes only from his statement, does it? A. Yes, sir.

Q. Did you give Mr. Feuardent any directions as to what articles should be permitted to be taken? A. I might have done so.

Q. Well, Did you do so?

A. I don't remember; I might have done so.

Q. Well, was it the repairer, as you understood it, that selected the articles from which casts were to be taken?

A. I said the repairer came there; but probably Mr. Feuardent sent it.

Q. I want to know what you remember and what you know about?

A. I know Mr. Reddy told me that he repaired that thing.

Q. When Mr. Gladstone made the request to have articles sent for the purpose of taking casts, what did you do in order to carry his request into effect?

A. Gave permission to do it.

Q. To whom?

A. Mr. Feuardent—to the man who had my collection in his hands.

(2760) Q. You described this incrustation in one part of your testimony in reference to the woman's head that was produced as something entirely distinct from mere earth "and what we call earth and dust;" do you know anything to the contrary of that? A. No, sir.

Q. Will you say that what you call an incrustation on the head of that woman is not paint?

A. Is what?

Q. Is not paint? A. No, sir.

Q. Have you ever had it tested by anybody who knows what paint is? A. They tested it.

Q. Who did? A. In Europe.

Q. Who did?

A. Mr. Story, I believe, in London.

Q. What time? A. In 1872.

Q. What month? A. Month of November,

Q. Were you present?

Mr. Choate: Story, the sculptor?

A. Story, the sculptor; yes, sir, and Mr. Sumner.

Q. Did you give him that head to test?

A. Yes, sir; and they destroyed the entire face for doing so.

Q. Was it destroyed then?

A. A portion of it.

Q. Well, did you soak it?

A. Oh, I have no recollection; it was in the room there, with Mr. Sumner looking around.

Q. You said he tested it; what did the test consist of?

(2761) A. That is what he told me, that it was an incrustation.

Q. Mr. Cesnola, you said that he tested it. What did that test consist of?

A. He told me he tested it; I don't know what

it consisted of as he didn't test it in my presence.

Q. You don't know what the test was?

A. No, sir.

Q. Did he tell you it was not paint?

A. No, sir; he didn't say anything about paint.

Q. Have you ever had it tested upon the theory that it is paint? Have you ever had anybody try to find out whether it was paint or not?

A. Not that I know of.

Q. Well, many of those statues were painted, weren't they?

A. Only colored.

Q. Well, how were they colored?

A. Red color.

Q. I mean how was the color put on?

A. Well, I was not living at that time, and therefore I am not able to tell you.

Q. Were you not living at that time?

A. No, sir.

Q. But why can't you, notwithstanding your not being born then, speak with as much confidence on that point as on others?

A. Because there are many of my statues colored and no incrustation on them.

Q. Can't you tell how that color was put on?

A. No, sir; I cannot say at all.

Q. Is that dog's collar a specimen?

A. What, sir?

Q. That dog's collar is red, you know; is that paint?

(2762) A. No, it is color.

Q. Burnt in?

A. I don't know whether it is burnt in or not.

Q. Well, how did it get there?

A. Because it had been colored.

Q. By external application? A. Yes, sir.

Q. With a brush? A. Yes, sir.

Q. Well, that is what we call painted, is it not?

A. Well it depends upon what kind of paint you put on.

Q. Well, it is putting on paint, is it not?

Mr. Choate: I object to that as a frivolous question.

Mr. Bangs: Well, it is fitted to the frivolous answer; the Court sees the difficulty I am under in this cross-examination.

The Court: What distinction do you make between color and paint? You obviously make a distinction.

A. I would say that paint is a preparation of different material with lead and oil and other things, and a red color means simply a single color.

The Court: He says he means by paint, an application of different ingredients made of lead, or a compound made of lead, oil, and so forth; and that color is a single substance; that is his distinction between color and paint.

Q. Well, now, is that what is on the dog's collar color or paint? A. It is color.

Q. Put on in the same way as paint, with a brush, is it not?

Mr. Choate: I object, as the witness has stated that he cannot tell what took place 2500 years ago.

Mr. Bangs: Let us concede that he cannot tell what took place 2500 years ago and we will knock out two-thirds of his testimony. Surely I have a right to ask this witness his judgment as to how that was put on.

The Court: I think so.

(2763) Q. Now, in your judgment how was that color put on; with a brush, or how?

A. I don't think they had brushes at that time.

Q. Well, have you any judgment as to how it was put on?

A. No, sir, not the slightest.

Q. Have you ever seen in your collection on the statues anything that you regard as paint as distinguished from color?

A. No, sir; I always seen color but no paint.

Q. You said that you never discovered that ten or fifteen of these objects had not gone through a bath until the plaintiff made this charge; that is as I understand it, that ten or fifteen of the objects on which Gehlen had done work, and then a thorough examination of the thing was made, as careful as could be done? A. Yes, sir.

Q. Is it the fact that after the plaintiff's char-

ges were made, you ascertained that ten or fifteen articles on which Ghelen had worked, retained the work which he had done upon them?

A. Yes, sir.

Q. Then you were indebted to the plaintiff for that discovery, were you? A. Yes sir.

(2764) Q. It was an honest, true, faithful charge of his, was it not, as far as it respected those ten or fifteen statues?

A. No, sir; it did not specify one of those pieces; that is the joke of it.

Q. But he put you on the track of it first, didn't he?

A. Yes, sir; and I am very much obliged to him, too.

Q. Now, as to those ten or fifteen, has anything been done to them since?

A. No, sir; they have been washed—sponged and satisfied ourselves and the trustees, and the order of the trustees was to leave them—

Q. Now stop one moment, if you please, Mr. di Cesnola; has anything been done to those ten or fifteen statues since that discovery that you made at the instigation of the plaintiff?

A. Done what?

Q. Has anything been done in the way of removing Gehlen's work, or does it remain there yet?

A. Exactly as it was there, except by sponging them off.

Q. Did you consider Feuardent's charges serious and important, or did you consider them frivolous and insignificant?

A. I considered them if true very important.

Q. Very important?

A. Yes, sir; certainly.

Q. They excited some feeling in your mind, didn't they? A. Certainly, naturally.

Q. A feeling of regard and affection for him?

A. What?

(2765) Q. A feeling of regard and affection for him, was it?

A. No, sir, quite the contrary.

Q. Quite the opposite; wasn't it?

A. Certainly.

Q. You wanted to depreciate and disparage the force of his testimony, didn't you, when you replied? A. No, sir.

Q. You wanted to go through the process of what is called here "attacking his credibility," didn't you?

A. I wanted to prove his incredibility, and I did.

Q. By attacking his character; didn't you?

A. No, sir.

Q. Well, by talking about his dealings with you? A. No, sir.

Q. Well, how did that defend you to talk about his dealings with you?

A. I was requested to make a report and I done so.

Q. Were you requested to make a report of his dealings with you?

A. I was asked to present before the board of trustees the exact state of affairs which existed between that man and myself previous to my connection with the trustees.

Q. Then you put that responsibility on the trustees?

A. No, sir; I am responsible; I made the response as true as I can.

Q. Do you wish to disclaim the responsibility for what you said about his dealings with you?

A. No, sir.

Q. Well, you take it; do you?

A. Yes, sir.

Q. Well, how did it defend you against the charge of having put a mirror on 157 to charge Mr. Feuardent with having made exorbitant demands on you in London?

A. I don't understand the question.

(2766) Q. I understand you to say that what you said was in self defense? A. Yes, sir.

Q. Well, how did the defense against that charge require you to put down in print and writing that Mr. Feuardent had made exorbitant demands upon you and had charged you £1363 for cartage?

(Objected to; objection overruled.)

Q. I should like to know how your defense against anything that Feuardent said about that collection required you to state that he had made exorbitant demands on you in London, and had demanded £1363 for cartage and so forth and so forth; how did your defending the statues require you to say that about him?

A. I was not defending his charges made against the statues alone, I was asked to give an account of my dealings with him and what ever passed between us and I gave it to the best of my knowledge.

Q. Who asked you that?

A. The trustees of the Museum.

Q. Which trustee?

A. Some of them; I don't remember now.

Q. Which some?

A. Some of the executive committee.

Q. Won't you name any of them?

A. I believe Mr. Robert Gordon; I believe Mr. Prime.

Q. Did they ask you to give your account of your dealings?

A. They advised me to do so—to bring the matter before the trustees exactly as it was.

(2767) Q. Then what made you say that you wrote it in self-defense—this matter about the plaintiff?

A. It was my duty as Director of the Museum to say exactly how things were, to the best of my recollection.

Q. How did it become your duty as Director of the Museum to inform anybody that Feuardent had made exorbitant charges against you, including £1363 for cartage?

A. Because that was my belief at the time, and because it was my duty to report.

Q. Did anybody tell you that that was your duty?

A. No, sir; they asked me to give them the truth as much as I knew to the best of my recollection.

Q. For what object; was it to show him up?

A. No, sir; self defense—to give my own version of the story.

Q. Wasn't it stated that you ought to give an account of your dealings with him in order that less faith might be put in his statements?

A. No, sir; I don't know; the facts of his charges were proved easy enough without that.

Q. They could have been?

A. Yes, sir.

Q. The whole truth about the statues then could have been settled without saying a word about Feuardent's dealings; couldn't it?

A. Time afterwards proved so.

Q. Then it was so at the time, that the whole truth about those statues could have been arrived at without saying a word against Feuardent personally; couldn't it?

A. I don't think so.

(2768) Then why was it necessary to say a word about Feuardent personally?

A. I already told you.

Q. It was to lower him in the estimation of the trustees and the public; wasn't it?

A. I don't know anything about it. I had no idea of that consideration at that time, and I had not—not the slightest.

Q. Do you think it would adorn him—honor him to tell that story?

A. Neither one way or the other.

Q. Or disparage him?

A. Neither one way or the other.

Q. Who wrote your communication to the trustees? A. I did.

Q. Had you any help in it?

A. No, sir; not that I know of.

Q. Was it put in type so that proofs of it were ready? A. No, sir.

Q. Wasn't that so with one of your communications to the trustees?

A. No, sir.

Q. The one to the investigating committee, as you call it, was put in type?

A. Yes, sir.

Q. And read from the printed slips?

A. I gave it in manuscript; that is all I know.

Q. Whom did you give it to?

A. To the investigating committee—one of the members.

Q. Which one of them?

A. If I am not mistaken it was Mr. Prime.

Q. And the next you saw of it it was in print?

A. Yes, sir.

Q. Who put it in print?

A. The printer.

Q. Who told the printer to put it in type?

A. That I don't know; I did not.

(2769) Q. You did not?

A. I did not.

Q. Who paid for it?

A. I don't know.

Q. Was it paid for?

A. I don't know; I didn't pay myself, that is sure.

Q. You read it to the committee from proofs, I think, you said? A. Yes, sir.

Q. From slips? A. Yes, sir.

Q. And from whom did you receive the slips?

A. I found them at Mr. Prime's house.

Q. Was anything said to you as to any reason for putting it in type?

A. Not that I remember; no, sir.

Q. No reason was given you for putting it in type?

A. No, sir.

Q. You saw reporters there; didn't you?

A. I did afterwards.

Q. And you saw slips passed around to them; didn't you?

A. I don't think any were passed around.

Q. But you saw them taken?

A. Yes, sir; some reporters took them.

Q. Where did they take them from?

A. From the table in the centre of the room.

Q. Then you knew perfectly well that they were to be published?

A. I supposed it.

Q. And you prepared them for the purpose of having them published in the newspapers?

A. No, sir; for the purpose of making my report before the investigating committee.

(2770) Q. What was the necessity of putting it in type for that purpose?

A. To read it clearly for me; that I don't know.

Q. Was that gratuitous or was it necessary?

Mr. Choate: I object to that as immaterial; the plaintiff's accusations have been made in the newspapers and—

Mr. Bangs: I withdraw the question, if the Court please; there is nothing to argue.

Q. Had you been in the habit of making your communications to the executive committee in manuscript or print?

(Objected to as immaterial.)

Mr. Bangs insists that it is material on the question of malice.

The Court says it thinks it is not material.

Q. Had you ever presented that communication to the executive committee before you read it to them from printed slips on an occasion when you knew reporters were present?

(Objected to as immaterial.)

The Court: I do not see the necessity of going into that any further.

Mr. Bangs: I take your Honor's view with great pleasure.

(2771) The Court: I was going to say that it was manifest that the slips were printed in order to be published.

Mr. Bangs: I have a reason, if the Court please, for putting the question, but the force of the reason disappears in the face of your Honor's disinclination to receive the testimony, and I take it back because it does not suit your Honor's convenience to go on.

Q. In whose custody was that communication left after you had made it to the trustees?

(Objected to as immaterial; objection overruled.)

Q. In whose custody was it left?

A. You mean the printed slip or the manuscript or what?

Q. The one to the trustees.

A. My report to the trustees?

Q. Yes, sir.

A. My report to the trustees remained in my office.

Q. As secretary? A. Yes, sir.

Q. Among the files? A. Yes, sir.

Q. Did anybody—has anybody had access to it?

A. Yes, sir; Mr. Henkel, the janitor, who has already told you that he had full liberty with my papers.

Q. And who had access to that report of yours?

A. Charles Henkel, who thought the papers—I don't know whether that report—

Q. I am talking about your report?

A. I don't know; it was for my use.

(2772) Q. Did anybody but yourself have access to it?

A. The trustees, if they wanted it.

Q. Have you frequently seen it out and discussed?

A. No, sir; I don't remember having seen it out.

Q. Do you know how it got in print—in the newspapers? A. No, sir.

Q. Didn't you furnish it to a reporter?

A. No, sir.

Q. Didn't you furnish it to Mr. Hurlburt, the editor of the World?

A. No, sir; never showed it to him.

Q. Didn't you furnish it to Mr. Prime?

A. Mr. Prime is vice-president of the museum and a trustee, and he might have taken it without my furnishing it to him; he has the right.

Q. He had access to it, hadn't he?

A. Certainly; all the trustees had.

Q. Now, you spoke about Mr. Feuardent's having called upon you, and you say it was during the winter of 1877 and 1878? A. Yes, sir.

Q. Where were you then living?

A. The same place where I am living now.

Q. Where is that?

A. 107 East 57th street.

Q. Were you an officer of the museum?

A. Not an officer of the museum.

Q. Were you an employee of the museum?

A. I was an officer and not an employee.

Q. I thought you said you were not an officer?

A. Secretary, yes, sir.

(2773) Q. What office did you then hold?

A. Secretary.

Q. In '77 and '78? A. Yes, sir.

Q. Who was the director?

A. There were no directors then of any kind.

Q. Who supervised the museum?

A. Mr. Hutchins.

Q. Do you know what day in the week Mr. Feuardent called upon you?

A. I don't remember; it was in the fall or winter, that is all that I know.

Q. Was one of the occasions New Year's Day?

A. No, sir; I do not believe so, because on New Year's Day I always go out myself paying calls. That cannot be, I am positive.

Q. Quite positive? A. Yes, sir.

Q. Can you associate either one of those calls with any particular event or time of day or night?

A. No, sir; that passed from my mind; I don't remember.

Q. Did he call upon you once to ask you if he could have a copy of your book on Cyprus?

A. Yes, sir; once.

Q. Just once? A. Yes, sir.

Q. Did he call upon you once to get a letter from you to Mr. Harry Harper?

A. He may have done so; I don't remember.

Q. Don't you remember? A. No, sir.

Q. Do you remember whether you gave him a letter to Mr. Harry Harper?

A. I do not; it may be, but I don't remember.

(2774) Q. Was he there on New Year's Day?

A. I say on New Year's Day I never stay home in my house.

Q. Did your family receive on New Year's Day? A. Yes, sir; I believe so.

Q. Were your family and Mr. Feuardent's acquainted?

A. I do not believe they were, or if they were, it was very slightly.

Q. Did Mrs. Feuardent know Mrs. di Cesnola?

A. Met her once, I believe.

Q. In London?

A. I don't know. Yes, sir; I believe in London, and once in New York; yes, sir.

Q. Didn't they use to call upon and visit each other—Mrs. Feuardent and Mrs. di Cesnola in New York?

A. No, sir.

Q. Or in London?

A. No, sir.

Q. Do you remember their exchanging courtesies of any kind, particularly bouquets, on your departure to this country? A. No, sir.

Q. Was it true at that time, at the time of those calls, as you testified, that you had no influence with the Board of Trustees?

A. Well, I thought so, and I was probably right. I don't know how much influence I might have had with my friends, but I was convinced I had none. I was convinced that I had none, but I might have had some; I don't know.

Q. Who drew this contract with Mr. Morgan which has been produced; it is in your handwriting, is it not?

A. Yes, sir.

Exhibit 141—Nov 28, 1883. E. C. K.

I do hereby agree to sell to John Taylor Johnston, Esq., of New York, (it being understood that the purchase is ultimately intended for the New York Museum of Art) the whole of my entire collection of antiquities, which I have discovered and collected in the Island of Cyprus. Said collection consists of Statues and Statuettes, in marble, stone, and terra cotta, vessels of glass, heads, bas-reliefs, inscriptions, gold and silver ornaments, lamps, votive offerings, vases, bronzes, and these with whatever other objects my collection contains. The objects of my present collection number more than ten thousand pieces, and are particularly mentioned in the inventory which I am handing to Mr. J. S. Morgan, who is acting as the agent of Mr. Johnston in this transaction.

The sum which I am to receive under this contract is fifty thousand dollars in gold, payable as follows: \$20,000 immediately upon signing of the agreement and taking possession of the collection by Mr. J. S. Morgan as Mr. Johnston's agent and \$15,000 at the expiration of twelve months, from the date of this agreement, and \$15,000 in twenty-four months from the date of this document; both the last payments to draw interest at the rate of five per cent. from the date of signing.

I do agree to attend personally to the packing of my collection so far as it is in London, and to give all the packing cases that I possess which are serviceable, and there are about sixty of them.

The expense of such new cases as are required and all other expenses connected with the packing of said collection, is to be borne by Mr. J. T. Johnson. I am to make no charge whatever for my personal services. That portion of the collection which remains in Cyprus which I estimate at about 1,000 pieces, is to be packed and put on board the vessel there for shipment to New York at my expense.

The very valuable private collection now in London will also be packed and delivered to Mr. Morgan free of all charges.

The large collection of 3,230 pieces (more or less) which has been shipped by me from Cyprus, a portion of which has already arrived in New York, will be delivered by my agent, Mr. Hiram Hitchcock to Mr. J. T. Johnston.

In short, it is my agreement and intention to transfer the whole of my collection of every kind and description, and wherever placed, to Mr. J. T. Johnston for the sum of \$50,000 in gold, and I am so confident that the amount named will be found below the real value of the collection, that I voluntarily offer, and do hereby agree that if after the arrival and it has been classified and arranged either by me or another competent person, Mr. Johnston shall find it inferior in quality or quantity to what has been represented, or what he had been led to expect, that the sale shall be annulled and void, or to make such deduction in price as shall be decided upon by three parties in New York, one of which shall be chosen

by Mr. Johnson, one by myself, and the third by the two thus chosen.

LONDON, November 14th, 1872.

L. P. DI CESNOLA,

J. S. MORGAN,

As agent and on behalf of
JOHN TAYLOR JOHNSTON.

(2775) Q. Who framed that contract?

A. I did.

Q. Do you call that the business of a man of business or the efforts of an archaeologist?

A. I already explained what is a business man in my mind.

Q. I do not wish to have that repeated; I ask you whether you considered drawing that contract and agreeing upon the terms business of a business man, or something else, and of something else, what is it?

A. I do not consider that as an evidence of a business man.

Q. Well, do you consider the making of a bargain for the sale of \$50,000 worth of antiquities, and the drawing of a contract two and a half pages of foolscap long, or thereabouts, and attending to its signature, and collecting the money that came due to you under it, as transacting business by a business man, or something else, and if it is something else, what is it?

A. It is the regular transaction of any man. I do not consider that a business man particularly.

Q. Will you tell me what you consider that transaction to be; was it doing business of a business man? A. No, sir.

Q. You don't consider it so?

A. No, sir; I do not consider it such.

Q. You said at page 1262 that you never asked any price whatever for your collection to any museum in Europe or America; is that true?

A. That is quite true.

(2776) Q. Is it equally true that you told Feuardent that he should ask the British Museum £20,000 for the collection; is that also true?

A. That is not enough—

Q. Oh, is that true; I didn't ask you whether it was enough.

A. I don't understand the question.

Q. Is it also true that you told Feuardent to ask £20,000 from the British Museum for that collection? A. No, sir.

Q. You did not tell him that?

A. No, sir; I told him that I wanted that.

Q. Do you mean to say that you told him that you did not want him to tell the British Museum that you wanted that?

A. No, sir; I said that I would not sell my collection for less.

Q. Oh, that is it?

A. Yes, sir.

Q. That is what you told Feuardent?

A. Yes, sir; that is not what I told him to ask for it. I said that was my price.

Q. Well, you told him to get that from the British Museum; didn't you if he could?

A. No, sir; he ought to have done so.

Q. No, don't answer any question that I do not put.

A. I have already answered the question you asked me. That was my price. That is all.

Q. Do you mean to say that you did not tell him to name that price to the British Museum? A. No, sir.

Q. Did you tell him to make any communication whatever to the British Museum as to the sum at which you were willing to part with it?

(2779) A. No, sir.

Q. You said at page 2265 that you never kept ledgers or accounts or any such things; haven't you any such ledger?

A. No, sir.

Q. What do you call your bank book; an account book; your bank book with the Ottoman Bank—what do you call that?

A. A bank book; that is all that I know that it is called.

Q. You don't call it an account book?

A. Bank book; that is all I call it.

Q. Does it come under the general head of an account book?

A. I am not a business man enough to answer that.

Q. Now, about the Investigating Committee; you were secretary and were in attendance at all the action that was taken by the executive committee in regard to the subject of appointing an Investigating Committee; were you not?

A. Yes, sir.

Q. And recorded the proceedings?

A. Yes, sir.

Q. And you heard everything that was said; did you? A. About what?

Q. About who should sit upon the committee and what they should investigate?

A. Well, they selected three gentlemen; that is all about it.

Q. Well, was that done by dumbshow or conversation? A. Conversation.

Q. Well, you heard it, didn't you?

A. Yes, sir.

Q. Did you hear it in entire silence on your part?

A. Yes, sir; a secretary writes but does not speak.

(2778) Q. Well, I didn't ask you that. I asked if you were silent on that occasion?

A. Yes, sir; I answered that.

Q. Who suggested it?

A. That I don't know.

Q. Was it suggested by anybody there that fairness and justice to Mr. Feuardent would require that he should have a little something to say as to who should sit on it? A. No, sir.

Q. Nobody suggested such a thing?

A. No, sir.

Q. Was there any reason assigned for selecting Dr. Barnard?

A. I don't know.

Q. Don't you remember? A. No, sir.

Q. Was any reason assigned for selecting the Rev. Mr. Hitchcock? A. No, sir.

Q. Did you know him?

A. Knew him by reputation and personally; yes, sir.

Q. Had he been at your house?

A. No, sir.

Q. Had you been at his? A. No, sir.

Q. Did your families visit? A. No, sir.

Q. Had you called upon Dr. Barnard?

A. Yes, sir.

Q. And he upon you? A. Yes, sir.

Q. Did your families visit? A. Yes, sir.

Q. Hadn't the Rev. Mr. Hitchcock introduced you to the public on the occasion of one of your lectures or course of lectures?

A. I think so.

(2779) Q. Hadn't he complemented you in his speech?

A. I don't remember.

Q. Hadn't he written about you eulogistically in papers?

A. Wrote what?

Q. Written eulogies about you flattering accounts—complimentary accounts in the papers?

A. I never seen it.

Q. Had you visited Judge Daly?

A. Yes, sir.

Q. Had he visited you?

A. Yes, sir.

A. Were your families on friendly terms?

A. Yes, sir.

Q. You made no objection to either of those gentlemen—Dr. Barnard, Judge Daly or Mr. Hitchcock; did you?

A. I was not asked to make any.

Q. I do not ask you what you were asked; I ask whether you made any objection?

A. I certainly would have made none. I did not make any.

Q. Had you been intimate with Mr. Prime?

A. I have that honor.

Q. Had you been before that time?

The Court: He said he had.

Mr. Bangs: I thought he said I have that honor. I thought he spoke in the present tense.

The Witness: I had; yes, sir.

Q. I asked you whether you had been intimate with him before the time that he went on that committee?

A. I don't know what you mean by "intimate."

(2780) Q. Had you had frequent intercourse, friendly or social, with him?

A. Yes, sir; for ten years.

Q. Had you had any business intercourse with him?

A. No, sir.

Q. Had you been fishing with him?

A. No, sir; I wish I had. I was invited but I couldn't go.

Q. Had he written any articles about you?

A. I don't know; he might.

Q. Did he have anything to do with the composition of the Hitchcock article in Harper's Magazine in July, 1872?

A. I was in Cyprus; I don't know.

Q. Were you in Cyprus in July, 1872?

A. Yes, sir; I was in Cyprus.

Q. Had you visited Mr. Prime at his house; of course I suppose you had?

A. Yes, sir.

Q. And had he visited at your house?

A. I believe once or twice. He never leave his house much, Mr. Prime; he is very lazy.

Q. How?

A. He very seldom goes out of his house as he is very lazy, but he receives friends.

A. He has a special antipathy to court rooms; hasn't he?

A. Yes, sir.

Q. And generally hates to be seen in public?

A. What?

Q. Hates to be seen in public?

A. That I don't know. Mr. Prime is there and you might ask him?

(2781) Q. Had his family and yours exchanged visits; was your family in the habit of calling at his house?

A. I don't know that you call Mr. Prime's family. He is alone—except his servants; and my family does not visit servants.

Q. I knew perfectly well, Mr. Prime's situation, but I thought his sister was a part of his household; but I was mistaken. You know or believed, didn't you, at that time—I beg your pardon—I have not asked you about Mr. Ward, have I?

A. No, sir.

Q. Have you known Mr. Ward pretty well?

A. No, not much.

Q. Had you visited him at his house or studio?

A. Never been in his studio.

Q. Had you been in his house?

A. I had been to his house perhaps twice.

Q. Had he been at yours?

A. He has been at mine.

Q. Is Mr. Ward the head of a family or a single man?

A. That I don't know.

Q. Then I will put the question in this shape: have your families visited each other?

A. I don't know. My family don't visit a single man.

Q. Well, I asked you that question to guard against mistake.

A. I don't know whether he is single or not.

Q. Well, Mr. Ward had visited your house and paid compliments to your own family; had he not?

A. I think he had.

Q. Now, was there a single man on that committee that did not have absolutely confidence in your word and in everything you said?

(2782) A. That is for them to say, not for me.

Q. Well, I put it to you to say?

A. I don't know.

Q. As far as you believed at that time, did not that committee consist of gentlemen who put every confidence in you?

A. I believe they are gentlemen of high honor and that they decided by themselves and not by any particular friendship or anything else; but by the facts.

Mr. Bangs: I move to strike out that answer.

Mr. Choate: I object to the question as immaterial.

Mr. Bangs: You are too late, the question has been put and the witness had made an improper answer which I moved to strike out.

Mr. Choate: Strike out the answer.

The Court: My own idea is that the question is immaterial.

Mr. Bangs: I don't except, if your Honor please; I quite acquiesce in Your Honor's view of that question.

Q. Didn't you know that Mr. Ward was a gentleman who had superintended or directed some of the repairs or additions or whatever you choose to call them—some of the work on some of the statuary? You knew that, didn't you?

A. He explained to me how it ought to be done; but he did not direct it himself.

Q. Well, he had had something to do before he was appointed on that committee; hadn't he?

(2783) A. Yes, sir; he was one of the trustees.

Q. Well, he had advised you about Hercules, hadn't he?

A. I don't remember; it may be.

Q. Well, didn't you say he advised you about what was done to that Hercules; hadn't he?

A. I don't remember; it may be.

Q. About thirty-nine; didn't you say so? Hadn't you consulted Mr. Ward about the changes and hadn't he acquiesced in what you suggested, or suggested something himself, one or the other?

A. I don't remember. I could only ask him when he came to the museum.

Q. Well, before he was appointed on that committee, hadn't he talked with you about that statue?

A. I say I could only ask him when he visited the museum; I could not go and visit at his house. As a trustee, he came to the museum.

Q. You say on page 2300 this, which I believe to refer to number 39: "Whom did you consult as to the method to be followed in making the repairs on this statue?"

A. I consulted some of the trustees. I consulted Mr. Ward, and I used by best judgment as well as I could, Mr. Ward the sculptor, Mr. John Q. A. Ward."

Q. Is that true?

A. Very likely; I think so.

Q. You remember so; don't you?

A. I remember having consulted him several times when he came to the museum.

(2784) Q. About that statue?

A. I don't remember particularly now; may be.

Q. Well, will you say how the truth is, and please don't say probably or very likely, but give us your memory whether it was the fact that when Mr. Ward was appointed on that committee, he knew of the changes which had been made in No. 39 which you have here testified about? A. That I don't know.

Q. Did you ever see the manuscript of the report of the committee?

A. There were so many reports, I don't know which you mean.

Q. Don't you know what I mean by the report of the Investigating Committee?

A. Oh, the report of the Investigating Committee?

Q. Yes, sir? A. No, I don't think I did.

Q. Were you here when Dr. Barnard testified?

A. Yes, sir.

Q. Did you hear him say that you told the Committee this:

"The evidence before us shows that this object (that is the statuette of Venus) when found, was like a large portion of the stone objects covered more or less with a dense, stone-like incrustation of earth and lime, which in some cases it has been found impossible to remove. We find examples of this in many objects in the collection. On the left side of this statuette this accumulation yielded to a prolonged bath, and on its removal, the mirror, a small relief five-eighths of an inch in transverse diameter, was revealed." Do you agree to Dr. Barnard's statement that you told that to the Committee?

(Objected to; question withdrawn.)

(2785) Q. Did you tell the Committee that the

right hand of the statue of the priest No. 23 was and always had been a part of the solid stone; did you tell that to the Committee?

A. I don't remember. My report is there. I stand by it.

Q. Your report to the Committee?

A. My report to the Committee; yes, sir; and I stand by it.

Q. Where is your report to the Committee; do you mean your statement to the Executive Committee?

A. No, sir; the statement before the Investigating Committee.

Q. The Committee met and you read your answer? A. Yes, sir.

Q. And then they asked you some questions?

A. Yes, sir.

Q. And those are correctly reported in the newspapers at the time; are they not?

A. I don't know; I suppose so.

Q. Is that what you refer to? (Showing witness paper).

A. That is the report that I refer to, yes, sir, the one that I made before the Investigating Committee. Isn't that what you asked me?

The Court: What is contained in that is substantially contained in the complaint.

The Witness: Yes, sir; substantially contained in the complaint.

(2786) Well, independently of that, didn't you tell the Investigating Committee in a conversation, something about this statue?

A. No, sir; I was interrogated and I answered. I was asked questions and I answered them.

Q. This Exhibit 12 is a publication of the 6th of January, 1881, purporting to set forth General Cesnola's answer, which was put in before the Investigating Committee; then at the conclusion of it purports to come a report of a conversation with Mr. di Cesnola, under the heading: "Questioning General Cesnola;" now, is that what you referred to? A. Yes, sir.

Q. Did you have that conversation?

A. I answered the questions.

Q. As there reported?

A. I remember having answered the questions.

Q. This is it; that is that there. (Showing witness paper above referred to). Did you have that conversation as there reported after you made your statement to the Committee; there is the paragraph beginning: "Questioning General di Cesnola?"

A. Please show me the particular thing.

Q. The whole thing; did that conversation take place? A. Yes, sir; substantially true.

Q. You say that is substantially a statement of the conversation?

A. Yes, sir; as far as I recollect.

(2787) Q. (By Mr. Choate.) Do you recollect that these questions were asked and these answers given?

A. There were some questions asked, but whether that was the entire conversation, I don't know. That is as far as I remember.

Q. But so far as it goes, does it correctly set forth the conversation?

A. So far as it goes it is correct.

Q. Have you read all the questions and all the answers?

A. There are no questions there, but merely brought in as a continuation of it. I don't see any questions.

Q. Were those questions put there by Dr. Barnard and Dr. Hitchcock—were they really put? A. Yes, sir.

Q. Did you read them? A. Yes, sir.

Q. Well do you remember that those questions were asked? A. I think so.

Q. And in substance, did you make these answers?

A. I think in substance they were my answers.

Mr. Bangs: I will read that if you have no objection.

Mr. Choate: No objection.

Mr. Bangs: "At the conclusion of General di Cesnola's statement the members of the committee put numerous questions to the witness in regard to the statuary. The pieces of statuary over which the discussion has arisen were dis-

played on the table and a large number of photographs. In regard to General di Cesnola's statement that only two pieces in the collection have been restored, neither of which restorations he had made, and as to whether or not the fact of the restoration would be noted in the catalogue, General di Cesnola said that mention would be made of the restored pieces in the catalogue which was being prepared.

(2788) "President Barnard: Is it not a duty sometimes to make certain restorations?"

"General Di Cesnola: I am personally opposed to making restorations, although they are frequently made in Italy. A restoration made by a competent man is often valuable, but if a man does not know exactly what he is doing, he will mislead by his restorations. So, when I saw that I was accused of making restorations, I was convinced that the charge was malignant.

"Dr. Hitchcock: Some European restorations are very fine.

"General di Cesnola: When I was in Europe some of the best Archæologists of France and England said to me, "If you have the means of restoring the important pieces in the collection correctly, I would advise you to do it." I replied that I did not think I was entirely competent for such a feat.

"President Barnard: You did not make the repairs to the statuary yourself?"

"General Di Cesnola: I was responsible for them, and they were made under my supervision. We have about a ton of fragments, but we are not sure exactly how they belong together. In every case of repairs I was personally satisfied that it was correctly done, and nothing important was done in the way of repairs when I was not present. I have visited the repair shop fifty times in one day.

(2789) General Cesnola said that many fragments found at Golgos, were put together on the spot, when it could easily be seen from their characteristics that they belonged together, and were sent to the house, about six miles distant. Saddle-bags of canvas, containing hay, were the receptacles for statuary, and they were transported on the backs of camels. A large statue was placed between two camels for transportation. The work of carrying the collection to his house cost more than to unearth it. No repairs were made in Cyprus."

Recess taken.

NEW YORK, December 19th, 1883.

After recess.

Present: All parties.

(2790) Mr. Bangs: I would like to have the letter of Mr. Gladstone, in which he asked the witness that he wanted some casts of slabs, &c. (Letter is not produced.)

LOUIS P. DI CESNOLA'S cross-examination continued as follows by Mr. Bangs:

Q. Count di Cesnola, was Mr. Gladstone's request to you for permission to take casts of slabs, &c. in writing, or orally? A. It was verbal.

Q. I want to call your attention to your communication to the Executive Committee, Exhibit 7, where you say: "You are aware of the masses of fragments now in the store rooms, which have not been used, and of the numerous objects which are in the cases unrepaired." In what sense did you use the word unrepaired?

A. They have not been repaired.

Q. Can't you interpret it into some other word? Were they unrepaired parts and fragments of statues, in respect to which you had not been able to find any counterpart to fit them to?

A. Yes, sir.

Q. You go on and say: "Doubtless these fragments in many instances belong to the unrepaired objects; but the calarious stone of Cyprus has suffered vastly by time and exposure in the soil, and it has been our rule not to make a single doubtful repair. We have never restored a missing fragment; the entire collection exhibits works of original ancient art, without the touch of a modern hand, or the idea of a modern artist." Do you remember that language? A. Yes, Sir.

(2791) Q. How do you reconcile that statement

that Mr. John A. Q. Ward suggested, advised or approved the addition to No. 39 that you testified to yesterday with this statement in Exhibit 7?

A. That is a repair; I do not call that a restoration.

Q. Was not that touched by a modern hand, or the idea of a modern artist?

A. I answered the question whether it had been cut.

Q. Wasn't that (I don't know what to call it) a change that took place, an attachment, or a repair, or restoration of a modern artist or a touch of a modern hand?

A. I do not understand your question.

Q. Did not Mr. John A. Q. Ward suggest the putting in of that piece of stone?

A. I did not so; I said, to my recollection, that I spoke to him as to how the repair could be made, but I do not remember that particular piece; he told me how to do it, and after it was done, he approved of it.

Q. He approved the plan?

A. Yes, sir, when I showed it to him.

Q. Before that didn't he give you some suggestion as to what to do about it?

A. I believe that he did.

Q. Didn't he suggest just what you did do?

A. I don't know; it was something to that effect.

(2792) Q. You say it has not the touch of a modern hand or the idea of a modern artist; you have never restored the missing fragments; do you call the putting in of a missing fragment a restoration?

A. A piece put in merely as a support, is a repair; it is not a restoration in archaeology.

Q. You put in the missing fragment from that statue?

A. No, a missing fragment of another statue.

Q. In the place of one which was missing?

A. Yes, sir.

Q. And you don't call that a restoration?

A. Certainly not.

Q. You say in this exhibit: "We have never restored a missing fragment; the entire collection exhibits works of original ancient arts, without the touch of a modern hand, or the idea of a modern artist;" does that apply to statue No. 39?

A. Certainly it applies to No. 39.

Q. Because you consider the putting in of that missing fragment a repair, and not a restoration?

A. Certainly.

Q. And is that the way in which you used the word repair, and wish to have it understood, when you use it? A. Yes, sir.

Q. On the same page you say: "The museum has had no funds to devote to restorations; hence it is content to exhibit works of ancient art in their dilapidated condition, leaving it to the visitor to restore in his own imagination such portions of objects as were not discovered with them;" does that remark apply to No. 39?

A. Yes, sir, it is substantially true.

(2793) Q. Did you leave it in its dilapidated condition, or rather exhibit it in its dilapidated condition?

A. That has not been restored; to restore is to make a new piece and carve it.

Q. I am not asking you that; I want to know whether you did exhibit it in its dilapidated condition; you say: "Hence it is content to exhibit works of ancient art in their dilapidated condition;" does that apply to No. 39?

A. I applies to all the pieces repaired.

Q. Does it apply to No. 39; is it true that No. 39 was exhibited in its dilapidated condition?

A. No, sir, it was repaired.

Q. And you add: "leaving it to the visitor to restore in his own imagination such portions of objects as were not discovered with them."

A. Yes, sir.

Q. Does that apply to No. 39; is it true that you left it to the visitor to restore in his own imagination such portions of objects as were not discovered with them? A. Certainly.

Q. You left it to the imagination of the visitor, as to the heels?

A. That statue had to be mounted.

Q. Is it true that you left it to the visitor to

restore in his own imagination the heels and shins and ankles that were not discovered with the statue?

A. Certainly, the heels are not there.

Q. What did you put in those heels, shins and ankles for?

A. They were not finished; they were put in there to support the statue, but they were not shaped and finished; if it had been finished, it would be a restoration.

(2794) Q. The heels are there?

A. They are not finished; it is just a block.

Q. There are heels there?

A. No, sir, there is a block there which represents heels; that is what I mean.

Q. You make a distinction then between heels and blocks representing heels?

A. They are heels, but not made and finished.

Q. And how about the ankle and instep?

A. The ankle is entire on one, and in the other some pieces were put in.

Q. How about the big Hercules; did you leave it to the visitor to restore in his own imagination such portions of objects as were not discovered with it?

A. There were no pieces discovered with it there; there were merely pieces put in to fill up the gap.

Q. Were they discovered with it?

A. No, sir.

Q. Then you did not leave that to the imagination of the visitor?

A. Not on that statue, certainly not.

Q. About the sarcophagus, didn't you insert little pieces in that? A. No, sir.

Q. Didn't you have them inserted?

A. Not that I know of.

Q. Have you any recollection as to what you testified to on that subject on your direct examination? A. No, sir.

(2795) Q. As to what was done with the sarcophagus after Gehlen's repairs were taken out?

A. No, sir.

Q. Mr. di Cesnola, you did find out about the 10th of March, 1881, that the right hand of the Priest No. 22 was not a part of the solid stone?

A. No, sir, I did not.

Q. When did you find that out?

A. On the 10th of March, I did not know anything about it.

Q. When did you find it out?

A. I do not recollect; some time afterwards.

Q. Within a month afterwards?

A. I do not think I found it out earlier than two months ago.

Q. Since this trial was commenced?

A. Yes, sir.

Q. How did you come to find it out then?

A. My counsel requested me to do so.

Q. What means did you use?

A. By taking it out of the case, and examining the thing carefully.

Q. Did you take the forearm out in examining it?

A. I misunderstood you entirely. I thought you meant the other portion attached to it.

Q. I mean the hand of the Priest; do you claim that to be a part of the solid stone?

A. Yes, sir.

Q. The hand and patera?

A. Certainly, it is a part of the solid stone.

Q. Of No. 22? A. Yes, sir, of No. 22.

(2796) Q. In your communication to the Executive Committee you say: "The right hand has never been broken away from the statue." Do you say that that is true?

A. Yes, sir, to my understanding it is;—it is quite true.

Q. What is your understanding?

A. The accusation was—

Q. I do not want your understanding of the accusation. I want your understanding in regard to the statement that the right hand has never been broken away from the statue, and that it is part of the solid stone?

A. I say that because it belongs to the patera, and it is solid stone.

Q. Is it not disconnected from the body?

A. I did not say that. I said that the hand is

a part of the solid stone which composed the patera.

Q. It is not a part of the solid stone which composes the body? A. No, sir.

Q. Didn't you suppose at one time that the hand was of the same solid stone and composed of the same stone as the trunk or body of the statue?

A. Yes, sir.

Q. When did you find out that it was not a part of the solid stone of the trunk or body?

A. That is what I answered you a few moments ago, that my counsel requested me to go there and see whether it was so or not; that was about two months ago.

Q. What means did you adopt to find out?

A. I called in the repairer and he scratched it in my presence, and I found out whether it was united with it or not.

(2797) Q. Did you take off the forearm?

A. No, sir. We just saw that it had been put together. That is all.

Q. In your communication to the Executive Committee you say: "The right forearm, from elbow to the wrist is the original forearm of the statue? Are they a part of the solid statue, and is there no fracture between them?"

A. What I say is that the right wrist is a part of the statue.

Q. You did say that; I have the manuscript before me.

A. It was so at the time, yes, sir.

Q. Has it been broken since?

A. It seems to have been repaired since.

Q. There is a fracture between the right wrist and the right hand, and it is not a part of the solid statue? A. No, sir.

Q. It was not a part of the solid statue at the time of the writing of that statement?

A. It was, to the best of my recollection.

Q. How did it cease to be a part of the solid statue? A. That I don't know.

Q. Has it been sawn off? A. No, sir.

Q. Has it been fractured?

A. No, sir. It has never been moved from its place.

Q. When you saw card No. 1, didn't you pronounce it a forgery?

A. I said it must be a forgery, to the best of my recollection.

(2798) Q. And whom did you say that to?

A. To one of my clerks.

Q. Did you say it to a Times reporter?

A. Not that I know of.

Q. Did you have an interview with a Times reporter about it?

A. I heard it afterwards. I did not know at the time it was a Times reporter.

Q. You had an interview with a man about it? A. Yes, sir.

Q. And you saw that interview published in the Times the next morning?

A. Yes, sir, I saw it the next morning.

Q. Is that what you saw (showing witness an article contained in the blue scrap-book)?

A. Yes, sir. As far as this portion is concerned, it is correct. What comes after it is not correct. It is substantially correct, and the rest of it is not correct. I have no recollection of ever having said anything of the kind.

Q. When did you see that report?

A. I think the next day, or the day after.

Q. Did you talk to anybody about it?

A. No, sir, not that I remember of now.

Q. Did you show it to anybody?

A. No, sir, not that I remember.

Q. Did you make any reply to it?

A. I never replied to articles of any kind.

Q. I want to call your attention to one article, or one expression in that article. You say: "When discovered the right hand and patera were attached to the body." Was that true?

A. Yes, sir.

(2799) Q. Did you use the word attachment there in the same sense as you used it on this trial?

A. I meant that it was one piece.

Q. And you say, "When the statue was removed to Central Park the forearm supplied by

Mr. Feuardent was loose and hanging down, and all that I did was to remove it and substitute the original forearm." Where was it loose?

A. At the wrist.
 Q. But the other end remained attached?
 A. Yes, sir, to the best of my recollection.
 Q. It had originally been attached by plaster?
 A. Yes, sir.
 Q. How did it hang down, if the lower end was loose?
 A. It was loose. I don't know how it hung.
 Q. Was it away from the wrist?
 A. No sir; it was detached. You could see it was loose; it was out of the wrist—moving.
 Q. It did not depend on the wrist for support?
 A. No, sir; but it was loose.
 Q. It did depend on the wrist to hold it?
 A. Yes, sir, it was something like that (witness illustrating).

Q. We have in evidence a letter of yours marked Exhibit 3, October 31st, 1883, and dated March 23d, 1881, in which you say: "Since your son, Gaston L. Feuardent, began his attacks on me and my collection he has always tried to mix up with them your honorable name and the highly-respected name of your firm in Paris; but in vain. To-day an anonymous letter appeared in the Times of this city, by which it is sought to have believed that I accused your Paris house with having stolen a terra cotta vase from me, which is illustrated in my work on Cyprus. Nothing could be more false. I told the Times reporter—" When did you tell the Times reporter?

(Objected to.)

(2800) Q. Do you remember what this letter contains as to what you told the Times reporter.
 A. No, sir.

Q. Can't you remember the contents of this letter, written on March 23d, 1881, as well as your letters to Rollin & Feuardent, written in 1871?
 A. I remember having written to Rollin & Feuardent.

Q. But as to the contents of it: you remember that better than this letter, written in March 1881?
 A. If you will read it to me I will remember it. I remember having written such a letter.

Q. It has been read in evidence, and it is here; don't you know the contents of that letter as well as you remember the contents of the letter written to Rollin & Feuardent in 1871? A. No, sir.
 Q. You go on in your letter and say: "I told the Times reporter that the vase illustrated on page 402 (Figure 12) in my book formed part of the collection consigned to London in 1872 to your son, Gaston L. Feuardent, and nothing more." When did you tell that to the Times reporter?

A. It must have been some time after that card was published, but I don't remember.
 (2801) Q. Was it on the 11th day of March or the 23d of March? A. I do not remember.
 Q. When you talked to the Times reporter, as you have stated in that letter, was that article of March 11th before you, or the interview published on March 11th, 1881?
 A. I do not remember now.

Q. The letter proceeds thus: "Since 1872 I have not sold a single object out of my discoveries, either to your house or to any other; all came here to New York. The vase in question should have been in this museum among the thousand others which are here, but I have searched for it everywhere in vain. I only observed this disappearance (and several others) last year when I classified the Cyprian objects in this museum. Since your son's attack I have been shown the vase in question reproduced in the Gazette Archeologique of Paris (1877, Part IV.) (It is very easy to recognize it, as the chin is slightly broken.) It is stated in this paper that the vase came from Cyprus and was formerly in the possession of the house of Rollin & Feuardent of Paris.
 How this vase should have got to your Paris house I do not know; but of this I am certain, the said vase formed part of the collection consigned by me to Mr. Gaston L. Feuardent in

London, where it was photographed, and later on reproduced in my work on Cyprus at page 402, Figure 12. Perhaps it will be easy for you to ascertain at what time this vase came into the possession of your Paris house, and whether it came to you from London or not. The business I have had with your house was always very satisfactory, and, if Mr. Gaston L. Feuardent had been as honorable and loyal as his father, he would not have found himself reduced to-day to such a pitiful condition. I write you this letter to assure you that I always had, and that I still have to-day, the highest estimation of you personally, and of your house of Rollin & Feuardent; and I am sure that had you had any suspicion that the vase came from my excavations and belonged to this museum you would never have bought it. It is from your son, and not from you that I demand an explanation on the subject of this vase." Let me show you the article (in the blue scrap book). Is this article now shown you marked 4 for identification, October 31, 1883, in the New York Times of March 1881, the article which you speak of in your letter of that day to Mr. Feuardent, Sr., in Paris?

(2802) A. Yes, sir, this is the article that I had present at the time, and the one that I mentioned in my letter.

Mr. Bangs: This article, if the Court please, has been read in evidence, and it is marked for identification. I now offer it in evidence.

Mr. Choate: On what ground?

(2803) Mr. Bangs: As a part of the transaction between these parties, and on the question of malice.

Mr. Choate: Objected to as incompetent and irrelevant, and on the further ground that it is not in any way the act or words of the defendant. I object to all of the article before and after the words what he told your reporter.

The Court: I will admit the article as I have marked it.

Mr. Choate: What part of it does your Honor admit?

The Court: That paragraph marked by me in pencil.

Mr. Choate: Including C. C's Construction?

The Court: I have marked it there.

Mr. Bangs: I will read the part that his Honor has admitted: "In his interview with your reporter, on Thursday the 10th inst., published in the Times of the 11th, di Cesnola made a distinct charge of theft against the firm of Rollin & Feuardent of Paris, a firm known all over Europe and to many Americans for its high character. What he told your reporter was in brief this: That when he unpacked his collection in New York, many articles were missing, and that in a recent number of the Gazette Archeologique there is a description and cut of a vase which is described and figured in his book 'Cyprus', page 40, figure 12. I may remark here that by a mistake of your printer 'page 40' is put for 'Page 402' where the figure will be found. 'Now this cut', di Cesnola went on to say to your reporter, 'was described and photographed by Mr. Murray in London, so that it must have been seen there by him while the collection was in Feuardent's possession. Now, the Gazette Archeologique says that this vase is in the possession of a gentleman in Paris, and that it was obtained by him from Rollin & Feuardent as a part of the Cesnola collection of Cypriote antiquities. How did that vase pass into that gentleman's hands? I certainly never sold it to Feuardent."

(2804) Mr. Bangs: Now we offer in evidence the article in the Times of March 11th, 1881.

Mr. Choate: For what object?

Mr. Bangs: To complete the history and truth of this transaction.

Mr. Choate: Objected to as irrelevant and incompetent and on the further ground that that is one of the articles complained of in the complaint, and no attempt has been made to prove it up to the time the plaintiff rested. They have proved by Mr. di Cesnola that on a certain date he made a statement to a Times reporter, which has been proved with his correction, if you please. Now how does that prove this article of

the 11th of March. Besides, it is not admissible as affirmative matter, as the cause of action alleged in his complaint has not been proven on the plaintiff's case. It is altogether too late for that purpose.

(2805) Decision reserved.
 Q. Mr. Di Cesnola, look at this paper, Exhibit 180, which is the letter signed by Mr. Prime and Mr. Ward addressed to Dr. Barnard, Dr. Hitchcock and Chief Justice Daly informing them of their appointment; state in whose handwriting it is? A. It is mine.

Exh 180.—Dec. 6, 1883. E. C. K.

METROPOLITAN MUSEUM OF ART,
 Central Park, Fifth avenue and
 Eighty-second street.

NEW YORK, November 13, 1880.

Office of the Director.

To F. A. P. Barnard, D.D., LL.D., President of Columbia College; Roswell D. Hitchcock, D.D., President Union Theol. Seminary and President Palestine Exploration Society; Charles P. Daly, LL.D., Chief Justice Court of Common Pleas and President Am. Geographical Society:

GENTLEMEN—During the past summer extensive circulation has been given in some of the public papers to communications signed and anonymous, making charges of fraudulent repairs, restorations and alterations of ancient objects in the Cesnola Collection belonging to the Metropolitan Museum of Art.

As the value of an archaeological collection rests wholly on the verity of its representations, and its character should be perfectly trustworthy, the interests of scholarship everywhere require that even anonymous charges of fraud, when widely circulated in the journals of the day, should be investigated by the curators of such a collection.

The Trustees of the Museum of Art have appointed the undersigned two of their own number, with instructions to ask your cooperation with them as a Committee of Investigation, on these published accusations.

Without specifying the charges they submit for examination the various publications above referred to contained in periodicals as follows:

- The New York Herald, July 31, 1880.
- " " " World, Aug. 1, 1880.
- " " " Times, Aug. 5, 1880.
- " " " Times, Aug. 6, 1880.
- " " " Herald, Aug. 31, 1880.
- " Art Amateur for August, September and October, 1880.

They submit also a communication in writing from General L. P. di Cesnola, Director of the Museum, addressed to the Executive Committee of this Board, answering the various published charges and denying each of them in detail.

They request the Committee to make the investigation thorough and exhaustive, and to that end place at their disposal the articles in the Museum which are the special subject of the charges, to be submitted to any test and method of examination the committee may choose to apply.

They ask the committee to examine any and all persons in the employ of the Museum and such other witnesses as they may see fit to call in, and to bring to their aid as they may think proper the knowledge of experts in calcareous and other stones.

The Trustees are aware that they ask of you a serious sacrifice of your time and a responsible labor. But they rely on your appreciation of the truth that this request is made solely in the interest of scholarship in America and Europe, which has for two years past devoted so much attention to the Cesnola collection.

On behalf of the Trustees of the Museum of Art we are,

Very respectfully,
 J. Q. A. WARD.
 W. C. PRIME.

[ENDORSEMENT.]

Copy letter from Messrs. Ward & Prime.

Nov. 13, 1880.

To Prof. Barnard, Dr. Hitchcock, Judge Daly.
N I

informing them of their appointment as a committee of investigation on behalf of the Trustees of the Museum in regard to certain charges publicly made by Mr. Gaston L. Feuardent, a dealer of antiquities, against certain objects in the Cesnola collection.

Q. In whose handwriting is the endorsement at the back—the bottom endorsement?

A. The bottom endorsement is mine.

Q. Then you had that much to do with their appointment?

A. It is the copy of the letter which I put on the files of the Museum.

Q. The signatures to this are the original signatures, are they not? A. Yes, sir.

Q. That is, they are the signatures of Mr. Ward and Mr. Prime respectively? A. Yes, sir.

Q. Mr. Prime is a doctor of laws, isn't he?

A. Yes, sir.

Q. And so are you, are you not?

A. I believe so.

Q. And is Mr. Ward? A. I don't know.

Q. Well, Doctor, on page 2270 a question was put to you, and your answer was: "In that statement you say this: My answer is, in the entire collection I have not made a single restoration of any object, or part of any object, in stone, and there exists in the whole collection of thousands of objects, so far as I know, only two instances of such restoration:" is that true?

(2806) A. At that time it was perfectly true; there were only two restorations to my knowledge.

Q. Then whatever has been brought to light in the Museum since that time you had no knowledge of then; does that mean that other restorations have come to your knowledge.

A. Yes, sir.

Q. Some of the charges have given you information that you did not possess before?

A. Yes, sir.

Q. And true information?

A. Not the specific charges; that led to other charges.

Q. The general charges turned out to be true, and gave you information that you had not had before; was your attention brought to that by the plaintiff's publication? A. I suppose so.

Q. And in that respect he has rendered a service to you and to the public, hasn't he?

A. No, sir, I don't think he did.

Q. Don't you think that he rendered a service to you and to the public?

A. To the public, may be, but not to me.

Q. On page 2271, you speak of a gentleman coming to your house in March, 1881, about this card No. 1; who was that gentleman?

(2807) Witness: What date in March was that? Counsel: The 10th of March, 1881; this is what you said: "A gentleman came to my house; a servant came up and told me that a gentleman wanted to see me;" you went down stairs and saw the gentleman, and the gentleman produced a card; who was that gentleman?

A. I don't know to-day.

Q. Didn't you know him then?

A. I never knew his name.

Q. At what time of the day did you go to the Museum the next morning, the 11th of March?

A. At my regular hour, between nine and ten o'clock.

Q. At what time did Mr. Prime come there?

A. Probably between ten and eleven o'clock; I don't know which.

Q. How long were you there before he was there?

A. I do not remember. I might have been there a half an hour, but I do not remember.

Q. Do you know a person by the name of James Handy? A. No, sir.

Q. A messenger boy?

A. No, sir, I don't know him.

Q. Was there a messenger boy employed there?

A. There was a boy there by the name of James.

Q. Then?

A. Yes, sir, but I did not know that his name was Handy.

Q. Is he the same boy that is there now, or has he been discharged?

A. He was not discharged; he went away himself.

Q. What was his duty; was he your particular personal assistant?

A. No, sir, he was employed as a messenger boy.

(2808) Q. From one end of the building to the other?

A. Yes, sir; and outside of the building.

Q. Did he go outside of the building on that morning? A. I do not remember.

Q. What happened between the time that you got there, and the time that Mr. Prime came there, do you know? A. I do not.

Q. Did you have the card with you in your pocket?

A. I do not remember that, either; I think Mr. Prime brought the card up himself.

Q. I asked you whether you had one?

A. No, sir.

Q. The gentleman gave you one on the previous day?

A. Not that I remember; he showed me one.

Q. Had you one from any quarter on the previous day? A. No, sir.

Q. Had you got one on the morning of March 11th?

A. I probably got it there, but I do not remember.

Q. Didn't you get one by mail, addressed to you in Mr. Feuardent's handwriting, on the morning of March 11th?

A. No, sir; not that I remember.

Q. Didn't you talk to somebody about it before Mr. Prime came in?

A. No, sir; not that I remember; it is very difficult for me to remember now.

Q. Didn't you send James Handy to Mr. Prime's house on that morning?

A. I don't think so; I sent him many times to Mr. Prime's house, and to different parts of the city—

(2809) Q. Didn't you send James Handy to Mr. Prime's house on that morning?

A. I sent him sometimes—at different times.

Q. On that morning?

A. I do not remember that morning particularly.

Q. Mr. Prime knew him pretty well, didn't he?

A. I don't know whether Mr. Prime knew him or not.

Q. How positive are you as to your recollection of having sent that boy to Mr. Prime's house?

A. I have none whatever; I don't think I did send him, although I may have sent him.

Q. What did you send him for, if you did send him?

A. If I could recollect that I sent him, I would be very glad to say so, but I do not recollect that I sent him.

Q. Do you remember that you said in your testimony that the usual employees of the museum came to you to make their reports, and that then Mr. Prime came in; who were the usual employees there referred to?

A. Charles Henckle and Mr. Forman.

Q. They were there, then, before Mr. Prime came in?

A. One was there; I don't know whether the other one was there or not.

Q. Which one? A. Charles Henckle.

Q. Didn't you talk with him on that morning about that card before Mr. Prime came in?

A. I do not recollect.

Q. Didn't you talk with him about it?

A. I do not recollect.

Q. Are you prepared to say that you did not?

A. No, sir; because I do not remember.

(2810) Didn't you send some word to Mr. Prime's house by James Handy on that morning?

A. I do not recollect.

Q. Are you prepared to say that you did not?

A. I am not prepared to say that I did, either one way or the other; I may have sent it, and I may not; I don't know.

Q. You were perfectly well aware at that time, were you not, that Mr. Cox had taken photographs of objects on exhibition, or some of them?

A. Yes, sir.

Q. And did you know for what purpose those were taken, and what was done with them?

A. They were taken for a large illustrated catalogue which I was preparing for Mr. Osgood, of Boston.

Q. Did he not take some for the museum?

A. Yes, sir; he took some for the museum.

Q. What became of those—the prints he took for the museum?

A. I think I have the negatives.

Q. Were not some pictures printed of his photographs for the museum?

A. Yes, sir; I think so.

Q. How were they preserved?

A. I don't know; they may be at the museum now.

Q. You did not see them at the time they were taken? A. Yes, sir.

Q. They were taken in Fourteenth street, some of them? A. No, sir; in Central Park.

Q. They were taken, then, pretty soon after the museum went to Central Park?

A. I do not remember now when they were taken.

(2811) What year were they taken in?

A. 1879 or 1880; I do not recollect.

Q. Have you any idea what was done with those photographs?

A. I say, probably, they are at the museum now.

Q. What is your recollection of what was done with them, and your knowledge about them; do you mean to say that they were uncared for?

A. There were quite a quantity of photographs in the museum, all put together.

Q. How put together?

A. One of my clerks had the charge of them, and he takes care of them.

Q. Which clerk? A. The book-keeper.

Q. How does he take care of them?

A. I don't know.

Q. At that time how were copies of photographs taken care of for preservation?

A. In some way—in the same way they took care of all the property of the museum.

Q. Prior to the 11th of March, 1881, how were Cox's photographs preserved; in what form were they preserved?

A. I do not remember; I suppose they were on cards.

Q. Didn't you know that they were bound and preserved in albums? A. No, sir.

Q. You did know that there were albums in the museum of photographs? A. No, sir.

Q. None whatever?

A. No, sir; none whatever.

Q. Didn't you know that this red album was kept in the museum?

A. Yes, sir; that is my own album.

(2812) Q. Was it not in the library of the museum?

A. It might have been in the library, but it did not belong to the museum.

Q. Had you not presented it to the library?

A. That is a mistake; I may have lent it to the library, but it is my own property.

Q. Were there any inquiries made at the museum before March 11th for photographs?

A. Not to my knowledge; there might have been?

Q. You never heard of any?

A. It was not so reported to me by the man who sold them.

Q. Do you mean to be understood as denying that you had any conversation with Mr. Alley about that album before March 10th or 11th, 1881?

A. Most certainly; I never had any whatever.

Q. Do you remember, if the fact was so, that Mr. Alley was at one time put in charge of the photographs by you?

A. He never was put in charge by me; in a

general way I knew that he was the man who sold all the photographs, and that is all I know about it.

Q. Then you knew there were photographs?

A. Yes, sir; we have a large pile of them at the museum now.

Q. Before March, 1881?

A. Certainly we did.

Q. You knew they were for sale?

A. No, sir; I did not know they were for sale at all, but I knew we had plenty of photographs.

(2813) Q. Where were those that you know of?

A. At the museum.

Q. In what part of the museum?

A. The bookkeeper had charge of them; that is all I know of them; I had no personal charge of them.

Q. Did you never see them taken out by the bookkeeper and shown to visitors, or sold or delivered to others for sale?

A. I don't think there have been any sold, since the opening of the museum in the park.

Q. Did you ever see them after the opening in Central Park?

A. I say I saw a great many of them—a pile of them.

Q. What were they taken out for when you saw them?

A. They were taken out in the Clerk's room, and I saw the catalogues and photographs at the same time.

Q. Whereabouts in the museum was the clerk's room?

A. Down stairs in the basement.

Q. In what part of the basement was the clerk's room?

A. It is down stairs in the basement, in one of the rooms where the clerk is.

Q. Were they in a desk, trunk or shelf?

A. They were by themselves in a glass case.

Q. Exposed?

A. They were piled up in what we call a show case.

Q. Those were all the photographs that you saw?

A. That I remember; yes, sir.

Q. Did you receive the account for printing photographs, and for binding them?

A. Yes, sir.

(2814) Q. Who presented that?

A. Mr. Savage, one of my clerks.

Q. I am speaking now of the period before the 11th of March, 1881; had he presented to you before that time an account for binding or printing photographs?

A. I could not say; I do not remember; I know that an account was presented, but when, I do not remember.

Q. Is your recollection distinct and clear as to the person whom you sent, or whom Mr. Prime sent for that album—for the sample album?

A. I don't know; I think I sent for it.

Q. (By the Court.) The point is who was the boy or person who was sent for that sample album? A. Mr. Forman, the bookkeeper.

Q. Didn't you send Henckel for it first?

A. No, sir.

Q. Didn't you send the messenger boy first?

A. I did not know it existed.

Q. Why then did you send for it?

A. Because Mr. Prime called for it.

Q. Mr. Prime informed you of its existence, and you sent somebody for it? A. Yes, sir.

Q. You swear it was not the messenger boy?

A. My impression is that it was Mr. Forman.

Q. Did he take it back also?

A. No, sir; probably the boy did; I don't know.

Q. Why do you say probably the boy did?

A. Because the clerk gave me his account, and when he had finished giving me his account, he went away.

(2815) Q. You mean who brought it back to you; did he bring it back to you?

A. My recollection is that he went down stairs and got it, and after he gave it to me he went back to attend to his business.

Q. Did he or did he not bring back the album?

A. I do not recollect.

Q. Do you swear that it was not the messenger boy that brought it back?

A. It may be the boy, but I am not sure.

Q. Are you perfectly confident that it was not Henckel that you sent for it?

A. It might have been Henckel; I don't know who brought it back; I know Mr. Forman went down for it, but who took it back I am not sure.

Q. Had you before that day, ever conversed with Henckel or Alley upon the subject (I do not ask you what you said upon the subject) of not telling anybody about repairs or restorations?

A. Not in that sense; my order was specific that nothing that was done in the museum, should be talked of outside the museum.

Q. Was that order given to Mr. Henckel and Mr. Alley?

A. It was given to all of the employes of the museum generally.

Q. Is that the extreme to which you went in giving those instructions on that subject?

A. They were not to talk of anything concerning the museum outside of the museum; that was the order of the Executive Committee.

(2816) Q. Who told you that Mr. Alley had charge of the album?

A. I heard it in my room; I think Henckel, the janitor told me.

Q. Before Mr. Prime came in?

A. No, sir, after Mr. Prime was there.

Q. Didn't Mr. Prime know who had charge of it?

A. I don't know whether he did or not.

Q. Did you yourself ever look into that album; did you look over that album on that morning?

A. My recollection is that I was looking at it while Mr. Prime had it in his hands.

Q. Was any observation made on the subject that some of the pictures appeared to be detached? A. Not that I remember.

Q. Was anything said on the subject?

A. Not that I know of.

Q. Was anything said of there being a gap in the paging? A. No, sir.

Q. Was the album then paged, can you say?

A. I did not even know that; Mr. Prime may know.

Q. Do you remember anything being said on that subject?

A. No, sir; you mean about numbering the pages?

Q. About there being some gaps in the paging?

A. No, sir.

Q. (By a Juror.) Did I understand you to answer that you never knew of the existence of that album at all until that morning?

A. Until that morning I never knew that it existed; I never had seen it.

Q. Have you lately looked in this album, and at the handwriting on the margins of the pages of the album?

A. Yes, sir, since this trial begun.

(2817) Q. Have you looked at the handwriting on page 107?

A. I do not recollect particularly of looking at that page; I looked at all of it.

Q. There is some writing here on page 107, isn't there, on the margin? A. Yes, sir.

Q. Had you looked at that before you were examined here as a witness on your own behalf?

A. Yes, sir.

Q. Do you remember whether you noticed the fact, and, if so, how it was at the time of the looking over of the album on that morning, whether or not there was that gap between pages 104 and 107? A. Yes, sir.

Q. Did you then observe a gap?

A. Yes, sir; and I observed that writing on it.

Q. You observed that there was writing on it?

A. Yes, sir.

Q. Did you make any inquiry for pages 105 and 106?

A. I did not need to; I had already read about that leaf.

Q. At the time when you and Mr. Prime and the rest, or whoever it was, were looking over this sample album, on that morning when you first saw it, and when you found there was a gap

between pages 104 and 107, did you then make any inquiry for the detached leaf?

A. I do not say that at that time I found the gap; I said I found the gap some time after this trial commenced.

(2818) Q. At the time, on that morning on the 11th of March, when this album came into your room, did you observe the gap between pages 104 and 107?

A. No, sir; it was not in my hands then.

Q. About how far distant was it from you?

A. It was about the same distance as from the stenographer and myself.

Q. Did you at that time observe the handwriting that is now on this page? A. No, sir.

Q. Were you sitting so that you could not see into that book?

A. Very well, but I could not see the numbers; I was sitting at my desk, and Mr. Prime sat on a chair close by looking at the photographs, and that is all I remember.

Q. Were you alongside of each other?

A. My recollection is that I was next to him, in front of my desk.

Q. You and he were in front of the desk?

A. Yes, sir.

Q. Was it a desk about as big as that which the stenographer is using?

A. It is larger, and there was a chair next to me.

Q. You were a good deal nearer to it than the jury is to you now?

A. Yes, sir; I was as near to it as the stenographer is to me.

Q. Do you know of any place in the book which presents the appearance of a detached stub, or remnants of leaves left as it now appears between pages 104 and 107?

A. I never remarked it.

(2819) Q. Do you know of any such stubs?

A. I never made that remark—I never looked at it; that is what I mean.

Q. There is the torn edge there, and the gap is distinctly visible; have you since found out whether or not there was kept in the museum an index to these photographs, or to this album?

A. No, sir.

Q. Or a list of the pictures in it? A. No, sir.

Q. Don't you remember any conversation at all with Alley about putting Cox's photographs in an album?

A. I never used to have any conversation with the servants in the museum.

Q. Why not?

A. I never did, except on business.

Q. But I thought you were not a man of business?

A. Business connected with the administration of the museum.

Q. You do not call that business, do you?

A. No, sir; that is not what I call business; a business man is a man who makes money or loses it.

Q. And you never did either?

A. No, sir; probably I would have made some money.

Q. And you are above the desire to do so even? A. No, sir; I regret that I was not a business man; I would be very glad to be a business man, but I am not able.

Q. Mr. Di Cesnola, if you did not see any picture in that album, of this Priest, No. 22, what made you send down to Mr. Pach for a negative; were not you satisfied when you did not find any pictures there?

(2820) A. I wanted to be fully satisfied, and wanted to be certain that there was no photograph in existence.

Q. Then your examination of the album did not satisfy you?

A. I was satisfied that it was not in the album, but I was not satisfied that it might not have been photographed.

Q. You did not believe that there ever had been a photograph of that Priest in that album?

A. Even to-day I do not know that there was a photograph in that album.

Q. You do not think that this torn photograph came out of that album?

A. No, sir; I think it is all concocted; that is my opinion.

Q. The tears and all?

A. Yes, sir; that is my opinion.

Q. If you believed it to be concocted your search of the album did not leave you any reason to think that there ever was such a picture: on the 11th of March, 1881, your search in the album left no doubt in your mind that there never had been a picture of that Priest, did it?

A. No, sir; not the slightest.

Q. Then, what earthly motive had you for sending down to Mr. Pach?

A. I said that I wanted to be absolutely certain that there never was a photograph taken of it.

Q. Were you not certain already, after examining the album?

A. If I explain it you will understand it?

Q. Explain it?

A. There were photographs taken that were not put in the album; I heard that from Mr. Prime, and I said: "Very well, I will make a search for it;" if they said this or that negative is not good, we won't take any; that negative was destroyed; I wanted to be sure that Mr. Pach had no such negatives, and therefore I sent Mr. Henckel to Pach to inquire for this negative; I sent him to get the negatives and he brought them back to me, and this man was disloyal to the museum—

(2821) Q. What do you mean by disloyal, as applied to Henckel. You do not hold any higher rank than has been already disclosed on this trial, do you? A. No, sir.

Q. What occasion is there for your using the word disloyal?

A. Probably the expression is not properly used. Unfaithful is what I mean.

Q. Was he your servant?

A. He was a servant of the museum.

Q. You did not pay him?

A. No, sir; but the museum paid him.

Q. Was he under any personal obligations to you?

A. No, sir. As long as he behaved himself it was all right, and if he did not he would be discharged.

Q. You could not discharge him?

A. No, sir; but upon my recommendation the trustees would send him away.

Q. What act of neglect of duty to his employer in chief at the museum did he ever commit to your knowledge while he was there?

A. He lost about 3,000 catalogues that he was not able to account for.

(2822) Q. When; since his discharge or before?

A. Before he left.

Q. How long before he left?

A. In the first year when we opened the museum.

Q. What year was that? A. 1880.

Q. And did you tell him that you knew of it?

A. I told him, certainly.

Q. At the time?

A. Yes, sir; he was in charge of the catalogues and he should have accounted for them.

Q. And you told him that you had ascertained that he could not account for those catalogues?

A. I told him that he could not account for them, and that I would have to report the matter to the trustees. The trustees authorized me to discharge him if I wanted to, but I said that he was a good man and I did not like to do it.

Q. Is it true that he was a good man?

A. I always believed so. I did believe it at that time.

Q. In what else did he fail in neglect of duty besides losing 3,000 catalogues?

A. By not attending to his business.

Q. What else?

A. By having correspondence with parties outside of the museum.

Q. When?

A. About the time that we have spoken of.

Q. Do you call that a disloyalty to you?

A. It was unfaithfulness towards the museum, that is what I say.

Q. Do you mean to say that you regard a communication by Mr. Henckel to anybody outside

of the museum, stating that Mr. Gehlen had made repairs, and that Mr. Baillard had made repairs, and that plaster and cement was used—do you regard that as an act of infidelity to you?

A. No, sir; I do not regard it as an act of infidelity to me, but to the museum.

(2823) Q. Do you mean to say that his giving information to that effect to the people outside of the museum was an act of infidelity against the museum?

A. Yes, sir; because it was against the orders of the museum.

Q. Do you know how the museum is organized?

A. Yes, sir.

Q. Do you know that public money paid for that building? A. Yes, sir.

Q. Do you know the amount?

A. Yes, sir; about \$500,000.

Q. Do you know that the public money paid for furnishing it? A. Yes, sir.

Q. Do you know that there is an annual appropriation made of public moneys for its maintenance and use?

A. For taking care of the building, yes, sir.

Q. Do you think that it is an act of infidelity or disloyalty, or whatever you may call it, for an employee of that museum to indicate to the people of this city the fact that there was a repairing room there, and that there were men engaged there in the work of joining antique fragments together. Is that what you regard as infidelity?

A. It was infidelity, because he disobeyed the orders of the museum.

(2824) Q. Who do you think he is the most unfaithful to; to the man who gives such an order, or to the party that has a right to know what is going on inside the museum?

A. I think a man should obey the orders given him.

Q. That is your measure and standard of loyalty and fidelity?

A. Yes, sir; I think that orders should be obeyed.

Q. Did the trustees of the museum give you orders to tell Henckel and Alley not to communicate to the public what was going on in that repairing room; did the trustees so order you to restrict them?

A. The complaints came up continually from outside of the museum that repairs were made.

Question repeated: A. Yes, sir.

Q. Did the trustees so order?

A. Yes, sir; I reformed the matter to the trustees, and told them that it ought to be prohibited, and they approved my recommendation to give that order.

Q. Did you tell the trustees that you had ordered Henckel and Alley not to tell those things?

A. I told the trustees that every employe of the museum had been so ordered, and the trustees approved of my action.

Q. Did you tell them that every employe of the museum had been ordered not to tell what was going on in that repairing room?

A. No, sir; I recommended that they should attend to their business and nothing else.

(2825) Q. Your order to the employes was to attend to their own business?

A. Yes, sir.

Q. That is the only thing the trustees ordered; is not that so? A. Yes, sir.

Q. You know of the letters written in favor of Hutchins and Henckel and Alley that have been given in evidence here, when they were discharged? A. Yes, sir.

Exhibit 76.—Nov. 8, 1883.

METROPOLITAN MUSEUM OF ART, }
Central Park, Fifth Avenue }
and Eighty-Second St. }

OFFICE OF THE DIRECTOR.

NEW YORK, March 31st, 1882.

THIS IS TO CERTIFY that Mr. Charles Henckel has been in the employ of this Institution since April, 1873, as a watchman, then attendant up to 1879. After that date he has been the janitor and general custodian of this building, and leaves now the position with my regret, as in the new

reorganization of the working force of the museum the position of janitor was abolished. I have always known him active, intelligent and very honest, and I shall always be glad to give any further verbal information which may be desirable.

L. P. DI CESNOLA.

Director of the Metr. Museum of Art.

Exhibit 83.—Nov. 9, 1883.

METROPOLITAN MUSEUM OF ART, }
Central Park, Fifth Avenue }
and Eighty-Second St. }

OFFICE OF THE DIRECTOR.

NEW YORK, March 27, 1882.

THIS IS TO CERTIFY that the bearer, Dickson D. Alley, has been in the employ of this Institution for five years, and during that time has proved himself to be an honest and efficient man.

Respectfully,

L. P. DI CESNOLA.

Q. Were they true? A. No, sir.

Q. Were they false?

A. No, sir, they were neither false nor true.

Q. If they were not false nor true what were they?

A. They were given under a misapprehension. I was mistaken as to the facts.

Q. Were the facts stated in the letters true or false?

A. They were not true.

Q. Who wrote them? A. I did.

Q. What did you write falsehoods for?

A. At that time I did not know that they were false. If I had known as much as I know to day, I would not have given them those letters.

Q. If you had known that they had told what was going on in that repairing room you would not have written those letters?

A. Not only in the repairing room, but everywhere in the museum.

Q. Did they tell anything to anybody except what they told Mr. Savage about the so-called restorations? A. I don't know.

Q. You have not heard of their telling anything else?

A. I know from the evidence here—

(2826) Q. But at the time you wrote that letter?

A. No, sir.

Q. At that time you know only what they had told Savage? A. Yes, sir.

Q. And still you wrote the letters.

A. Because I did not want to take the bread out of their mouths.

Q. What have you learned since that would prevent you from writing those letters.

A. What I have learned in this court room. I heard that they had ransacked my papers, and I am satisfied that they did so, at my house. Those facts are such facts as I found out afterwards.

Q. Do you mean to insinuate that Henckel and Alley have stolen anything from you?

A. I do not insinuate anything.

Q. Do you charge them with having stolen anything from you?

A. No, sir, but I know that they ransacked my papers.

Q. What else have you found out against them that you did know when you wrote these letters.

A. I found out that they ransacked my papers in the museum; I have proofs of it in my office.

Q. What papers? A. My office papers.

Q. When? A. At different times.

Q. When did you find it out?

A. I found it out since I gave them this recommendation.

Q. How long after?

A. Perhaps two or three or ten days afterwards. Everybody in the museum came to me and complained of them after they were discharged.

Mr. Bangs. I move to strike out the last part of the answer as not responsive. (Objected to)

(2827) Q. Do you mean that everybody came to complain after they had been discharged that they ransacked your papers?

A. Some of the employes of the museum told me so; yes, sir.

Q. Who were they?
 A. There was one man by the name of Edward. I don't know his other name.
 Q. He is one of the young men engaged in lifting statues in and out of this room?
 A. There is another man by the name of McCullough.
 Q. Any one else?
 A. Yes, there was also Valosio.
 Q. Ballard's assistant?
 A. Yes, sir.
 Q. Didn't Ballard complain also?
 A. I don't remember.
 Q. Do you mean to say that on the statement of these three men you deliberately charge Henckel and Alley with having stolen, embezzled, or ransacked your papers?
 A. They went and opened one of my drawers and looked over the contents. They looked for some papers, for what purpose I don't know.
 Q. Did you hear that they took away any?
 A. I saw it published in the papers afterwards that they did.
 Q. What papers?
 A. Some papers that Mr. Feuardent got;—some paper from my office, without my sanction.
 (2828) Q. Which paper?
 A. He spoke of it in one of his articles in the Times.
 Q. Will you point it out?
 A. If I should go through the files, I would be able to find it.
 Q. What else have you got against Henckel or Alley?
 A. That is quite sufficient I think.
 Q. What else have you found out against Henckel or Alley?
 A. That is quite sufficient.
 Q. It is not quite sufficient. And it would not be sufficient until you furnish the whole of what else you have found out against them?
 A. There is nothing that I can remember now.
 Q. You have furnished the whole catalogue then?
 A. I believe so.
 Q. Have you conducted the affairs of the museum, while they were there, upon the idea that it was to you that they owed allegiance and loyalty?
 A. No, sir but they owed it to the museum. I am nobody there. I am only the representative of the Trustees.
 Q. You desire to put off the entire responsibility on somebody else?
 A. No, sir, but I am merely the representative of the Trustees.
 Q. You are nobody, but still you have all the responsibility of the Metropolitan Museum of Art?
 A. Personally, I am nobody, but as Director of the museum, I represent the trustees.
 Q. Who discharged Henckel and Alley?
 A. The trustees, on my recommendation.
 (2829) Q. And did you tell them at the time when the matter of their discharge came in question, that they had given information to Mr. Feuardent and to Mr. Savage; did the Trustees know that?
 A. Certainly; I told them so.
 Q. You knew that they were charged before the Trustees with having given that information to Mr. Savage and to Mr. Feuardant?
 A. They would not have been discharged on account of having given that information to Mr. Savage, because that was inside of the museum.
 Q. Did you inform the Trustees of the museum of the persons to whom they had given the information?
 A. I did not say Savage; I said the plaintiff.
 Q. You told them that?
 A. Yes, sir.
 Q. And it was after that that they were discharged with the letters which you gave them, wasn't it?
 A. Yes, sir.
 Q. And with a resolution of thanks from the Executive Committee? A. No, sir.
 Q. Didn't they have a resolution of thanks from the Executive Committee?

A. No, sir; there was no resolution of thanks from the Executive Committee.
 Q. Where is that photograph, which you said you had of No. 39, as it was exhibited in Fourteenth Street?
 A. It must be there somewhere; I don't know.
 Q. What makes you think that the feet which are now on that statue were originally on that statue a thousand years ago?
 (2830) A. Because it is the same stone.
 Q. There are other feet of the same stone, are there not?
 A. It has the same grain, and it always tells the same story. The surfaces of the stone are alike.
 Q. But there are a great many crushed bases of stone in the temple of Golgoi—a great many that were broken up?
 A. Yes, sir, they were broken up, but you could easily see what particular ones belonged to particular statues.
 Q. These feet did not fit to that statue without being patched and filled in?
 A. Yes, sir, they did.
 Q. Did they fit without being patched?
 A. No, sir.
 Q. You have answered both ways now; which is the true answer that you desire to make—do you wish to stick to the answer that those feet fitted—what was left of them—to the statue without filling up and patching up?
 A. They could not fit.
 Q. Then it was simply because they were made of Cypriote stone of the same grain that you considered that they belonged together?
 A. No, sir, that was not the only reason.
 Q. What was the other reason?
 A. They had the same surface of the stone.
 Q. Are they the only two stones that have that surface?
 A. The surface of the two are alike; it is the same character of stone.
 (2831) Q. That we have had in evidence for several days; were those the only two stones that presented that surface?
 A. To my eye, yes, sir.
 Q. And that is all that you relied upon?
 A. Yes, sir, and the style and the position of the feet; where they were found, and everything else connected with it.
 Q. Was there a quarry near the temple of Golgos. A. Not very far away.
 Q. About how far?
 A. Perhaps twenty minutes.
 Q. Used by the natives for digging stone?
 A. No, sir.
 Q. What was it used for?
 A. It was left there probably at the time of the Venitians.
 Q. It was an ancient quarry then?
 A. It was not ancient to me. It was used at the time of the Republic of Venetia, about 400 years ago.
 Q. About what year of the Christian era?
 A. Four hundred years ago, or something like that.
 Q. Didn't you find any statue in that quarry?
 A. No, Sir; not there.
 Q. Did you find any sculpture in that quarry?
 A. No, sir.
 Q. What quarry was it where you found a sculpture?
 A. Perhaps ten or fifteen minutes from there.
 Q. Were there two quarries?
 A. There were plenty of places where stone has been cut; I don't know whether you call that a quarry or not.
 (2832) Q. Were there any unfinished statues found there?
 A. No, sir; except in one case, where I found a little, unfinished statue.
 Q. Is that the only piece in the museum that you found in a quarry?
 A. Yes, sir; to my knowledge.
 Q. Where is that described?
 A. It is at the museum somewhere.
 Q. Is it No. 170, described as an unfinished statue, found in a quarry near the temple of Golgoi?

A. Yes, sir; that is the one.
 Q. Is there any other piece of statuary in the museum besides that one that you found in the quarry?
 A. No, sir; it is not in my book at all, that I know of.
 Q. Is it described?
 A. I don't think I described it there—I may have, however.
 Mr. Bangs: Can you give us the letter from Mr. Feuardent to Mr. Cyrus J. Lawrence, dated in April, 1882, which was sent to the Executive Committee?
 Mr. Stickney: I don't know that I have it; I know I have not got it here.
 Q. Has No. 33 ever been bathed, to your knowledge—Aphrodite and Eros?
 A. I believe so.
 Q. When? A. In Central Park.
 Q. At what time?
 A. I say I believe so; I am not certain.
 (2833) Q. What makes you believe so?
 A. Because the order was to wash everything.
 Q. When did that first make its appearance on exhibition? A. In Central Park.
 Q. When? A. When we opened the museum.
 Q. In 1879?
 A. In 1880, when we opened the museum.
 Q. Where had it been before that?
 A. In Fourteenth Street in one of the boxes there.
 Q. Where had it been before it got to Fourteenth Street?
 A. I believe it was in one of Mr. Hitchcock's boxes; Mr. Hitchcock had a number of boxes belonging to the museum.
 Q. When did it come to him from Cyprus?
 A. In 1871, I believe.
 Q. In any of the shipments that you referred to, or some other shipments?
 A. In one of the shipments, I suppose.
 Q. Which one that you have described did it come in?
 A. I do not remember.
 Q. Did you make him a separate and independent shipment besides those that have been testified to: we have in evidence a shipment by the Napried to Boston?
 A. That was lost.
 Q. And we have the shipments from London to the Metropolitan Museum of Art: did you make any other shipments to America besides those two? A. Yes, sir, to Mr. Hitchcock.
 Q. In 1871? A. I believe so.
 Q. What did it consist of?
 A. Of sculptures, vases and other things belonging to the museum, which came afterwards to the museum.
 (2834) Q. But when they came to him, what did he do with them?
 A. I think he stored them away.
 Q. How long did they remained stored?
 A. While I was in Cyprus; I don't know, perhaps six or seven months.
 Q. Do you know when they were sold to the museum? A. In 1872 or 1873.
 Q. Was it a part of your first collection?
 A. They were a part of the first collection.
 Q. And embraced in your sale to the museum?
 A. Yes, sir.
 Q. In your first sale? A. Yes, sir.
 Q. But notwithstanding that, that statue remained eight years unpacked and unexhibited, didn't it?
 A. There might have been about 300 cases—
 Q. Can't you answer that question; that statue remained about eight years unexhibited, didn't it?
 A. I don't know whether it did or not.
 Q. You say he got in in 1872?
 A. Yes, sir.
 Q. And it was first exhibited in 1880?
 A. I do not say when Mr. Hitchcock got it. I say it was sold with the first collection to the museum, and it was probably in one of the boxes sent to Mr. Hitchcock?
 Q. Is not that what you said a few moments ago.

(2835) A. That is what you said. If you will read my agreement with Mr. Morgan you will see that I was obliged to deliver everything I had to the museum, what was in Mr. Hitchcock's hands, what was in Cyprus, and what was in London.

Q. For that same price?

A. Yes, sir.

Q. Was it in London, was it in Cyprus or was it in Mr. Hitchcock's hands?

A. That I am not able to say.

Q. It was not discovered after 1872?

A. No, sir.

Q. And it was not exhibited before 1880?

A. No, sir.

Q. Was it discovered before 1870?

A. No, sir.

Q. When was it discovered?

A. Between March and April, 1870.

Q. Was it seen by Ceccaldi?

A. Very likely.

Q. Don't you know?

A. I do not remember.

Q. Was it seen by Doell?

A. Probably so.

Q. Do you know of any picture of it made by either of them.

A. I believe so. I believe they received some of them which I had made.

Q. If you can produce any picture made of that object, I should like to have you do so?

A. I made pictures of it in Cyprus.

Q. Do you know of any picture of Doell and Ceccaldi?

A. No, sir; I made the photographs of it myself.

Q. Have you any such photographs taken in Cyprus?

A. Yes, sir.

Q. And is it the one that you have exhibited here or not?

A. I don't know whether it was exhibited here or not, but I know I have one somewhere.

(2836) Q. Is that picture on page 106 a picture of that statue?

A. Yes, sir.

Q. Has that Aphrodite and Eros ever been in the bath, to your knowledge?

A. I should think by looking at it that it has been.

Q. Otherwise than from its appearance do you know?

A. From its appearance, yes, sir.

Q. What is there about its appearance that looks as though it had been in the bath?

A. Because it looks clean.

Q. Have you ever applied any other test to it, or heard of any test being applied to it besides bathing; or known of any?

A. For what?

Q. To ascertain its genuineness and unity. Do you know of any test of its genuineness or unity or its monolithic character having been applied to it? A. Yes, sir, many.

Q. What were they?

A. Everybody who visited the museum for the purpose of examining the statues tried to cut it.

Q. What is this here; how do you account for this appearance down here on the front?

A. I do not account for anything now. I know it is monolithic, that is all I can say; I cannot account for its appearance now.

Q. Does it suggest any suspicion to your mind?

A. Not the slightest.

(2837) Q. Are you willing to have that thing sponged?

A. I am ready to have it put in a bath, if you like.

Q. Will you please do so?

A. Not myself; I have my servants here for that purpose.

Q. Your servants?

A. No, sir, the servants of the museum.

Q. Have you control of them sufficiently to ask them to make a bath? A. Yes, sir.

Q. What will settle the question whether or not there is a crack in that body here in the neighborhood of the abdomen, or the neighborhood of the chest? A. There is no crack there.

Q. What will determine the question whether there is or is not a crack there?

A. I am satisfied there is none; that is all I can answer.

Q. What means is there for finding out?

A. My eyes find it out.

Q. But apart from your eyes, what means are there?

A. Nothing that I know of; you can look at it.

Q. Would a chisel do it?

A. I gave you permission to do anything you like with it.

Q. There are iron rods in that are there not?

A. No, sir, except one in the bottom of the statue to hold it up and another one in the head.

Q. You mean there is one under it to hold it on the pedestal? A. Yes, sir.

Q. And then there is one in the head?

A. Yes, sir.

(2838) Q. Do you mean to say that the drapery and the carving of all the parts of that figure are of the same style and period?

A. Yes, sir, and one single piece.

Q. Is there no room for doubt or question about that? A. Not the slightest.

Q. You are just as confident of that as you were of your statement made to the Committee about that Egyptian Warrior?

A. Ten times stronger; I am sure that that is monolithic; I am as sure that that is monolithic, as I am that you are.

Q. You do not think that any honest man can possibly differ from you? A. It is impossible.

Q. Are you as positive of that as you are that the ankles of little Venus came off during the bath last night?

A. I don't know; I have no knowledge whether it came apart or not.

Q. What do you think, do you think that the ankles came off?

A. I have not seen it to-day.

Q. What is your opinion, that they did come off or did not?

A. The bath of water ought to take them off.

Q. In that time?

A. Yes, sir, I should think so; sometimes it takes a longer time.

Q. I show you little Venus; they have not come off, have they? A. Very likely not.

Q. You see that they have not, don't you?

A. Maybe the rod holds it; I don't know; perhaps if you should try to break it, it would come off.

(2839) Mr. Bangs: Your book says that the height of this statue of Aphrodite and Eros is six feet.

Q. Do you see, externally, apart from this any signs of fracture? A. No, sir.

Q. I show you again No. 186, which is the sample album in the museum, and which has been put in evidence; you see there are two other figures in the picture? A. Yes, sir.

Q. Did that come in the second or the first collection?

A. I don't know that they are in the museum at all.

Q. This is the simplest album of the museum, is it not? A. Yes, sir.

Q. Can't you tell whether they are in the museum or not?

A. No, sir, I do not remember either one way or the other; maybe they are there.

Q. Did you ever see a statue of Cypriote stone appearing to be antique, externally dilapidated, and with other signs of age upon it, of which you were in fact satisfied that it had been made in modern times? A. Never.

Q. Did you ever see a false or fictitious manufacture of Cypriote statuary? A. Never.

Q. Would you think that you would know one, if you saw it, by its external appearance?

A. Probably.

Q. Do you think it is possible to make an imitation of an old Cypriote statue; do you think there is still experience enough among stone-cutters in Cyprus to make now out of stone an image which shall bear an ancient representation?

(2840) A. It is impossible; with that surface there it is impossible.

Q. You think there is no means of creating such a surface by artificial means?

A. To represent that surface by artificial means I say is impossible.

Q. Would it be in the cutting or in the coloring?

A. Neither one nor the other; I mean the condition of the stone cannot be reproduced; I don't know what name to give it, but I say that surface cannot be reproduced; when it is old, it has a particular surface that nothing can produce except age, to my own knowledge.

Q. And that surface, or the age of the surface, you think, would be obvious to your eye immediately? A. No, sir, I do not say that.

Q. Would that difference be obvious to your eye?

A. No, sir, it must be done by a microscopic examination; you can find out the difference very quickly by a microscopic examination.

Q. You think by a microscopic examination of the surfaces of the two statues, one being old, and one of modern manufacture, you could discover at once the age of the statue?

A. A microscopist would; I have no doubt of it.

(2841) Q. You are not a microscopist?

A. No, sir.

Q. Did you ever talk Mr. Colvin about this statue No. 32?

A. I don't think I had a conversation in my life with Colvin about that statue.

Q. Did you not have a conversation with him in 1872?

A. I do not remember; may be.

Q. Is that statue in fact a part of your Golgoi find? A. Yes, sir.

Q. The present repair up here—the present work of junction up around the neck—is not what Balliard did on it?

A. It has been hacked at and cut by everybody.

Q. Gehlen—I mean Gehlen, did he not put these two pieces together? A. No, sir.

Q. Balliard did that? A. Yes, sir, I suppose so.

Q. Where the head appears now broken, and appears not to fit exactly, where the surfaces seem to be interrupted, was there formerly plaster?

A. It may be cement was used there, a composition of different things.

Q. Was that there? A. Yes, sir.

Q. And covered up with a wash?

A. Yes, sir.

Q. So as to produce the imitation of the old surface. A. Yes, sir.

Q. And could you instantly and immediately tell the difference between so much of the surface as consisted of the composition and the other surface. A. Certainly.

(2842) Q. Could anybody tell?

A. Everybody; one is flat and the other is all caten up.

Q. But the color is the same. A. Yes, sir.

Q. This wash is composed in part of stone dust?

A. The stone dust is a part of the mixture.

Q. Do you mean to say that it don't affect the surface on that Venus? A. No, sir.

Q. Is not that surface affected by the stone dust, or wasn't it before it was put in a bath?

A. I don't know. Let me see it.

Q. Now in regard to that little Hercules; you see it there before you, do you not? A. Yes, sir.

Q. Is that part of it there made of plaster.

A. Yes, sir; that leg is made of plaster.

Q. And the foot? A. Yes, sir.

Q. And the upper part of it, the right thigh is all made of plaster? A. Yes, sir.

Q. And the right foot is made of plaster? A. Yes, sir.

Q. And what do you call that, a repair, a restoration, or an attachment?

A. That is a restoration.

Q. And is there a touch of a modern hand, and the idea of a modern artist there?

A. Certainly; it is the touch of the restorer.

Q. There is the touch of the modern hand and the idea of a modern artist? A. Yes, sir.

(2843) Q. And the original idea of the sculptor who originated the statue as to the form and proportion of the legs is not, so far as you know, any longer perceptible or visible in that image?

A. I have no opinion to give on that subject.

Q. Didn't you express the opinion that legs made in Cyprus were badly proportioned?

A. That leg was not made in Cyprus.

Q. Didn't you say yesterday that they made their legs in disproportion to the body?

A. I said that the lower portion of the Cypriote statues was not to be taken as the law of proportion of to-day; it is not according to our ideas of proportion to-day.

Q. You expressed that opinion in reference to statue No. 49; what assurance can a man or woman have, or what can they learn from those legs which show the touch of a modern hand and the ideas of a modern artist? A. I don't know.

Q. They might be entirely misled if they relied upon these Cypriote sculptures for that portion of art?

A. I don't know in what respect; I do not see that there is anything dissimilar in those legs.

Q. Can you conscientiously and honorably recommend that piece of statuary to any one of your students, so far as the legs are concerned, as a fair specimen of Cypriote statuary.

A. No, sir, the legs are pretty modern; they were made by a modern artist.

Q. Do you call Baillard a modern artist?

A. Gehlen made them. He calls himself an artist. I call him a cabinet maker.

(2844) Q. When did you have those taken off?

A. I don't know that they were taken off at all. The Trustees told me to leave them in the condition in which they were.

Q. Who called your attention to that?

A. Mr. Savage did. I would certainly have had it removed, but I was told to leave it in the condition in which it was.

Q. When was that taken away from exhibition?

A. I don't know exactly. Some time ago, by order of the Trustees.

Q. About a month ago?

A. Yes, sir, I think so.

Q. It was there publicly on exhibition until about a month ago? A. Yes, sir.

Q. And the legs were covered by this wash?

A. Not lately.

Q. Until what time?

A. Until they discovered that that was the case, and they left it in that condition until the sculptors examined and washed it.

Q. When was that done; it remained covered with Baillard's wash?

A. I did not say that Baillard put any wash on it at all. Mr. Gehlen did that. Mr. Baillard had nothing to do with that statue at all.

Q. But this work of Mr. Gehlen was covered with a wash by Mr. Baillard, was it not?

A. No, sir. Baillard had nothing to do with it, so far as I know.

(2845) Q. I now show you a picture, Exhibit 23; that is the picture of that Little Hercules, is it not? A. Yes, sir.

Q. As it was found? A. Yes, sir.

(Adjourned to December 20th, 1883, 10 A.M.)

NEW YORK, December 20th, 1883, 10 A. M.

(2846) Present: All parties.

Mr. Choate: I should like to have Mr. Mason sworn in regard to what he observed with reference to the breaking of statuette No. 157.

HENRY H. MASON, being duly sworn, testifies as follows:

Q. Mr. Mason, will you state what happened to that statuette No. 157 last evening, after the adjournment of the Court?

A. This statuette was lying in this position on this table, and Mr. di Cesnola came down from the witness stand, and he said: "Let me see this, it will be strange if it is as firm as it was before." He took up the statuette in his hands, so (witness illustrating) and it came apart.

Q. And are the pieces all preserved?

A. There are the pieces as they fell down. I took them into my hands and carried them into the other room, and put them into a paper.

There are some more besides those, some small pieces that fell out.

Q. (By Mr. Bangs.) What did you mean by his taking hold so?

A. He took it up into his hands so, and he said: Let me see, it would be strange if this was as firm as it was before.

Q. Did he make any motion with his wrist as if he was going to break it?

A. I can't say that he did. I can't say whether he used any force or not. When it broke I took it away from him and carried it into the other room.

(2847) None of the parties to this suit took hold of it after the adjournment of the Court, except Mr. di Cesnola? A. Not that I know of.

Q. Was it after the jury was gone?

A. I don't think they were all gone. Some of the jury had left the Court room. It was just as he left the witness stand. Some of the jury were here, and were standing up there, I don't know how many there were; they had not left the Court room at that time—all of them.

Q. Did it occur under the observation of the jury as far as you observed?

A. That I don't know.

Q. (By Mr. Choate.) It was immediately after the adjournment of the Court?

A. Yes, sir; just as he stepped down from the witness stand. He said: Let me see it; it will be strange if it is as firm as it was before. The statuette lay right there, and he took it up and it broke right apart. I can't say who put it there, nor can I say whether he made any motion with his hand, or used any force.

LOUIS P. DI CESNOLA'S Cross Examination continued by Mr. Bangs.

Mr. Bangs: Your Honor reserved his decision yesterday on a question of the admissibility of the Times article of March 11th, 1881. I have a number of authorities here, if your Honor likes to see them.

(2848) The Court: I do not desire to alter my views in the matter. I do not think that the article of the Times of March 11th, if that is the date, is admissible to prove the fourth count. I should not admit it for two reasons. If the plaintiff had proved the fourth count before he rested, I do not think it would be admissible for the purpose of proving the fourth count. And if it is left to the discretion of the Court I should rule it out. I do not think that the evidence of the article of March 11th is admissible to prove the fourth count. The letter to Mr. Feuardent Sr. says: "I told the Times reporter that the vase illustrated on page 402 in my book, formed part of the collection consigned to London in 1872 to your son, Gaston L. Feuardent, and nothing more. He admits that he told him that the vase was consigned to Gaston L. Feuardent, but denies that he told him anything more. It seems to me to remote to offer an article as affirmative proof of slander, if the only evidence is that it was a denial of the defendant that he said it.

Mr. Bangs: If your Honor thinks that that is the only evidence concerning it, your conclusion is no doubt irresistible. This witness says himself after having looked at the article of March 11th, 1881, that a considerable portion of that article he did say to the reporter, and that embraces a great deal more than that single sentence. Now, cannot the jury take it together, and say whether that is a republication of that article. But the necessity of arguing is, of course, out of the question when your Honor says that, though the evidence was legally admissible, and legally competent, and adapted to support the fourth cause of action, yet in your discretion, you would not let us go into it. Discretion is not a matter of review, nor a matter of argument, and therefore we can only take an exception. But now the question is whether we cannot offer that matter in proof of malice in connection with his statement that he had no malice, and in that view we do offer it.

Mr. Choate: I object to it; it is not proven at all; on the contrary, it is disproved by the letter.

The Court: The article of March 11th is inadmissible.

Mr. Bangs: I take an exception.

(2849) Q. Colonel Di Cesnola, is there anything in your testimony which you have not already altered that you now wish to alter?

A. Substantially not; I have not reviewed the thing, but I do not think I want to alter anything.

(2850) Q. Nothing now occurs to you?

A. No, sir.

Mr. Bangs: Will you let us have the letter that I called for yesterday from Mr. Feuardent to Cyrus J. Lawrence, which was presented to the Executive Committee?

Mr. Stickney: I have not found it.

Q. You remember such a letter?

Witness: What letter?

Counsel: A letter of Mr. Feuardent that was brought to the attention of the Executive Committee in relation to the subject of bathing one or more of these statues—a letter written by Mr. Feuardent to Cyrus J. Lawrence and communicated by him through Mr. Hoe?

A. I believe there was some such letter.

Q. Are the minutes of the Executive Committee here?

A. No, sir; it remained in the possession of Mr. Hoe.

Q. Are the minutes of the Executive Committee here? A. Yes, sir.

Q. The letter to which you referred to as remaining in the possession of Mr. Hoe—what was it that you meant when you said that it remained in his hands?

A. Mr. Hoe read a letter which he had in his hands, which purported to come from Mr. Feuardent, addressed to Mr. Lawrence, and he read it to the Executive Committee, and then he put it in his pocket, and that is all I remember.

(2851) Mr. Bangs: I would like to see the minutes of the Executive Committee upon the subject of that letter; it must be somewhere between April 26th and May 12th, 1882.

Q. In regard to the question of your being or not being a business man, Colonel Di Cesnola, was the shipment of madder and wine from Cyprus a transaction of business?

(Objected to as immaterial; objection overruled.)

Q. I wish to know whether you regard the exportation of wine and madder from Cyprus among the 360 cases mentioned in your book as being the doing of business by a business man, and if not, what was it?

A. It might have been in that case.

Q. Was it a speculation of yours?

A. No, sir; it was merely sending something; I had a commission to send those things; I had been asked to send them; I had been asked to send those things to different persons, and I sent them.

Q. Were they not your goods?

A. Yes, sir; they were my goods.

Q. Had you purchased the goods?

A. Yes, sir, I bought them.

Q. The wine and madder? A. Yes, sir.

Q. And you sold them?

A. Yes, sir, I sent them on.

Q. And that you regard a transaction of business by a business man, do you not?

A. In that special case I suppose it is; yes, sir.

(2852) Q. This paper which I now show you is what is called the guide book of the museum, published in 1880?

A. Yes, sir.

Mr. Bangs: I wish to offer in evidence from it one or two extracts.

Mr. Choate: I think the whole of it is in evidence.

Mr. Bangs: Then I will only call the attention of the jury to two items in it. The guide book, at page 8, at the bottom says: "157, (3) remarkable, a semetic Venus with the gestures of case 4. No. 105, the right hand seems to have held a flower. Another attribute of the Goddess is the hand-glass, in the left hand behind."

And at the bottom of page 16 is the following paragraph: "One point of capital importance in the sculptures of Golgoi is the unity and completeness given to them by their origin in a

single town, and a single building. They begin and continue to their close."

Q. You characterized little Hercules last evening, as I understood you as being a restoration—the making of those legs?

A. One seems to be of stone.

Q. Stone with plaster?

A. Yes, sir.

Q. Can you give any reason for not stating in your communication to the committee, where you said that there were only two objects restored in the entire collection, that this little Hercules was restored?

A. I said that I did not know at the time that it existed.

(2853) Q. Was that want of knowledge on your part occasioned by the fact of the concealment of the repair and restoration by the wash?

A. No, sir; I had a great many other things to do, and probably I did not go through the collection.

Q. Then, when you made that statement, that there were only two articles restored, you had not gone through the collection to see whether it was so or not? Had you prepared yourself for the making of the communication to the trustees by going through the museum, to find out what restorations there were?

A. I do not remember; I might have gone through, probably.

Q. How do you wish to put that answer finally, that you do not remember, or that you might have gone through?

A. To the best of my recollection I must have gone through.

Q. For the purpose of finding out what restorations had been made? A. Yes, sir.

A Juror: I should like to ask whether this statue of Hercules, when this statue was restored, was restored in Mr. di Cesnola's presence, or whether he knew of its being done?

Q. Were you present when it was done?

A. No, sir; it was done in Fourteenth street, in the other building.

Q. (By a Juror): Were you in this country at the time?

A. Yes, sir; I was here at that time, but I did not know of it.

(2854) Q. Was it done clandestinely?

A. Not that I know of.

Q. Was it on exhibition in Fourteenth street?

A. I do not remember now; I have been away so many years that I do not know whether it was on exhibition or not.

Q. (By a Juror.) Was it done by your orders?

A. Not at that time; I was not connected with the museum at that time. I did have instructions to see that repairs were properly made of everything, but I went away afterwards, and what was done during that time I do not know. I cannot say whether it was on exhibition in Fourteenth street or not, I don't know. The repairer was appointed by the Trustees; Mr. Sturgess appointed him, and I was merely a stranger there. They asked me to give all information to the repairer that I could give, and to bring the pieces together so that they could properly be repaired, and that is all that I could do.

Mr. Bangs: Never mind about all that.

A. Juror: I would like to have him explain that matter.

Witness continues: I was requested to arrange all this collection in the new building in Fourteenth street, containing about 10,000 pieces of glass, terra cottas and everything else. I was up stairs most of the time attending to the classifying of the objects, and now and then I was called down stairs by the repairer and he would ask me: "Will you tell me where this or that piece goes," and I would tell him.

(2855) Q. You are responsible for all repairs made, then?

A. I was responsible to a certain extent, but I was down stairs but very little, as I could not be in the basement and up stairs at the same time. I could not be in the basement to see how the work was done.

Q. Is that one of the statues that was gotten ready especially for the opening of the museum,

on the occasion when the President was to visit the museum?

A. That is what I heard.

Q. Was it put on exhibition?

A. I do not remember now.

Q. I would like to ask you a question, and I would like to have you give me a direct answer to the question. Did you, concerning that statue, and I am not inquiring about any other statue or about the general course of business—but did you, concerning that particular statue, give Mr. Gehlen any directions whatever?

A. I have not the slightest recollection.

Q. You did give him some general directions to repair, did you not? A. Yes, sir.

Q. You do not wish to be responsible for the condition of that statue, but you desire to place the responsibility upon Mr. Sturgess, do you?

A. To a certain extent, yes sir.

Q. Did he give Mr. Gehlen directions to make that repair?

A. That I don't know; as a general thing he did not.

Q. Did you hear Mr. Sturgess give any directions whatever to Mr. Gehlen about repairing statues?

A. Yes, sir, I did; Mr. Gehlen depended upon him.

Q. Then Mr. Gehlen was not responsible to you?

A. No, sir.

(2856) Q. Is it your wish and understanding—is it your wish that the jury should understand—that you do not consider yourself responsible for anything that Mr. Gehlen did?

A. Most certainly; I want to be responsible for the work done in Central Park after I was made director, but not for the work done in Fourteenth street by Gehlen. I am not responsible for that.

Q. (By Mr. Choate:) Did I understand you to say that you remember no particular instruction given by anybody about this statue?

A. None whatever.

Q. Mr. Gehlen, not being responsible to you, you never interfered or meddled with him in any way, did you?

A. I do not understand what you mean.

Q. Was he independent of you?

Witness: Meddled with what?

Counsel: Did you ever interfere or attempt to control him?

A. No, sir; certainly not; I had no power to control him.

Q. You never gave him any orders?

A. I was instructed to have the pieces put together, and tell him how they were to be put together, but that is all.

Q. What did you say to him in pursuance of those instructions?

(2857) A. I pointed out to him certain pieces, and told him how to put them together.

Q. Did you tell him how to put them together?

A. Yes, sir.

Q. By plaster? A. Yes, sir.

Q. Any particular plaster; did you designate any particular plaster?

A. I got the pieces belonging to each other together and showed him how to put them together.

Q. Was that a general direction?

A. A general direction, yes.

Q. To find those that fitted to each other, and put them together?

A. No, sir; I pointed out the pieces that were to be put together.

Q. And do you mean to say that you did not embrace this statue in that direction?

A. I do not say that; I say I do not remember anything about this particular statue especially.

Q. Have you any objection to that Little Hercules being put in a pail of water?

A. If you go on in that way, we will have the whole collection in water by and by.

Mr. Choate: Do anything you please with it.

Mr. Bangs: Then I ask to have the statue put in a pail of water, and, I suppose, there is no objection to the clerk doing so?

Mr. Choate: None whatever.

Q. (By Mr. Choate.) Do you know whether or not that little Hercules is covered with a wash—the whole thing; can you tell by its appearance?

A. I don't think it is; the lower part is, but not the upper part.

(2858) Is this a specimen of very old stone?

A. As old as all the rest of the collection.

Q. Is it one of the oldest?

A. No, sir.

Q. Is that a specimen of the condition of the surface of one of the oldest statues?

A. It is not one of the oldest.

Q. Is it a specimen of the condition of a very old stone—that is the question?

A. To a certain extent, yes, sir.

Q. Do you know whether or not the piece of stone that is in this right leg, in this little Hercules, was a part of the original statuette?

A. I have said already that I have no particular recollection of the statue.

Q. When was the wash taken off these legs so as to show the present color?

A. About two weeks ago, when the sculptors came to the museum for the purpose of making an examination.

Q. Up to that time, was it of the same color?

A. No, sir; in the year it was taken off Mr. Savage had called my attention to it some time before.

Q. But in front it was still on?

A. Yes, sir.

Mr. Bangs: I will ask Mr. Mason not to allow anyone to touch that statue, except during the sitting of the court, or in the presence of the jury.

Q. Now, in regard to the big Hercules, your picture has been shown you at page 132; was that statue ever, to your knowledge, and under your observation in that condition before you saw it in Central Park? A. Yes, sir.

(2859) Q. It was in that condition?

A. Exactly so; I cannot remember.

Q. When?

A. In Fourteenth street.

Q. You saw it that condition in Fourteenth street?

A. It was mounted in that way.

Q. With legs and all? A. Yes, sir.

Q. And was it on exhibition or in the repairing room, that you saw it in that completed condition? A. On exhibition.

Q. And you remember it very well?

A. Yes, sir.

Q. And you were aware at that time that something had been added to it, or that work had been done upon it?

A. None whatever except the putting on of the legs.

Q. You know that the work described had been done, and had been done by Gehlen?

A. Yes, sir.

Q. How did you know it was done by Gehlen?

A. I saw the statue there with the legs detached, and it was mounted on a base, and nobody else could have done it but Gehlen.

Q. You testified yesterday that it was upside down, and you described how a piece of stone was put in?

Mr. Choate: He did not testify that the statue was upside down.

Mr. Bangs: He used the word overturned, I believe.

Q. On page 2318 this question was put to you: (2860) "Q. And how are the legs thus repaired secured to the body and to the base?"

A. They are secured by a long copper rod; first, after the legs were detached, two holes were bored through the legs to the body of the statue, I should say one foot and a half or two feet in deepness; then the two legs were taken and a hole bored through each of the legs and placed on the body; the body was then overturned and the legs placed exactly where the fracture was, and made it go exactly in the center with this rod."

Mr. Choate: I did not say that the witness did not use the word overturned; I said that the statue was not upside down.

Mr. Bangs: I wish you would not interrupt me.

Mr. Bangs continues reading: "Then the question came a piece where this leg was slanting in that way was required in order to strengthen the weight of the statue when the statue would be turned in this way; then this piece of stone was inserted in it, and then the two feet were adapted on these repairs of the lower portion of the ankle." What did you mean by overturning?

A. It was placed on a large board which could be raised in an inclined way.

Q. Then its head was downward and its legs were upward?

A. I don't know how it was done, but it was placed on a board, so as to get an inclination of certain degrees.

(2861) Q. Wasn't the head put downwards and the legs upwards?

A. It was put more or less on the incline, but the head was not down or the legs up.

Q. It was put slantingly with the head downwards, wasn't it?

A. Yes, sir.

Q. Did you see plaster put into the hole?

A. The hole was bored there already.

Q. Did you see the plaster poured into the holes? A. No, sir.

Q. Do you know whether any plaster was poured in? A. Yes, sir.

Q. How was the plaster poured in?

A. I don't know; I saw the thing after it was done.

Q. How was the plaster poured into the holes if the statue was not turned almost upside down?

A. It does not require to be in a perpendicular position to pour anything in a hole; it was put on a board, and it was inclined, and the plaster was poured in in a slanting position.

Q. Will you please take this pencil here and indicate on this figure on page 132, what you call the inserted piece?

A. It can be seen there (witness marking on the figure on page 132.)

Mr. Bangs: I move to strike out the answer as to what can be seen there.

Q. There is nothing put in above here, up here?

A. No, sir, except the rod which holds it in.

(2862) Q. Those parts around the ankles there, are they new work?

A. They are all pieces from Cyprus, but new pieces in the statue.

Q. Those places that you marked there are new pieces. A. Yes, sir; newly done.

Q. They were not in the legs at all?

A. No, sir; they were chipped off diagonally and had to be fitted.

Q. And does that consist of stone—wholly of stone, or partly of stone and partly of plaster?

A. It is partly stone and plaster.

Q. How were they worked into shape, to go into the leg, were they of the right size?

A. The leg behind was in that position (witness illustrating).

Q. Did you find two pieces of stone of the exact shape? A. No, sir.

Q. How were they shaped? A. I don't know.

Q. Did you not see the work done?

A. No, sir; I did not see it.

Q. You said that the feet were sawed off, did you see that done? A. Yes, sir.

Q. By Gehlen?

A. I never saw anything done by Gehlen; I was mistaken; I am speaking of Central Park; I never saw anything of Gehlen's work.

Q. This statue was in that condition when it was in Fourteenth street?

A. As far as mounting is concerned, yes, sir.

Q. You say the legs of that statue were found in a heap of fragments a little ways off; what did that heap consist of?

(2863) A. Legs, hands, bodies, and everything else.

Q. How did you identify these as being the legs of Hercules?

A. Because I never found another statue of that size there.

Q. And you say you found the feet and base a little ways off in a pile of fragments, too?

A. When they dug up a statue, they always put everything they found in a pile.

Q. You say you found the feet and base a little ways off; were they in a pile of fragments, too?

A. No, sir; they were found lying in the ground.

Q. By themselves? A. There with the statue?

Q. How did you identify those as being the feet of this statue?

A. Because they were just the size of the feet that would fit such a statue, they were exactly of the size of the statue.

Q. Did you fit the legs to them?

A. Yes, sir.

Q. There in Cyprus.

A. At my house, yes sir.

Q. Were the feet, which you fitted to those legs, then on the base as they are represented in this picture?

A. No, sir; not quite so.

Q. What was the difference?

A. I suppose one of the feet was a little out of line, as it is shown there.

Q. Which foot stands now differently from what it did in Cyprus? A. I don't mean that—

Q. Do those feet, as represented in that picture, now occupy the same place on the base as was occupied by them in Cyprus?

(2864) A. No, sir; I heard from Gehlen that he moved one of the feet a little back.

Q. You have no doubt about that statement?

A. No, sir; not the slightest, because he said so.

Q. And you believed what he said?

A. I believe he is pretty honest in his deposition.

Q. Now I would like to ask you why, after those legs were fitted and attached to the statue, you could not stand the legs right on the feet as they stood on the base; why couldn't the legs be stood right on the feet as they stood on the base, without sawing off the feet?

A. Because the bottom of the legs was chipped off diagonally, and it required something to reinforce the support; it had to be supported in some way.

Q. But you had fitted pieces, as I understand you, into that space; the legs came down a short distance of the ankles? A. Yes, sir.

Q. After this stone had been inserted, what prevented you from setting those legs right on the feet, without sawing anything off from the base; why couldn't you take those legs and set them right down on the feet?

A. They could not do it.

Q. Why not?

A. Because they did not come down exactly in line.

Q. As they stood, could they be placed right on the feet?

A. No, sir; not quite, because the feet did not come exactly in line with the legs.

(2865) Q. Isn't it the truth and fact that the feet as they stood upon that base were not a continuation of the legs as mounted?

A. They were; I know the feet belonged to that statue on account of their size.

Question repeated: A. The way in which the legs were mounted the foot was out of line.

Q. I wanted to know why those legs could not have been fitted on the feet as they stood, and you answered they would have been out of line; is that your answer. A. Yes, sir.

Q. And for that reason it was necessary to move one of the feet backwards. A. Yes, sir.

Q. Did you try to set the legs as mounted on those feet before the feet were sawn off?

A. Yes, sir, I suppose so.

Q. Did the leg project back over the heel and ankle? A. Not that I remember.

Q. It was the failure to fit them then that induced you to saw the feet from the base?

A. The chipping of the leg would not permit the leg to come down straight on the foot; you could not make it stand up, because it was diagonally broken.

Q. I mean after the stone was inserted in the leg, and you set the legs on the feet; where was the misfit then?

A. The leg itself was out of line.

Q. Where was it out of line, behind, in front, or at the sides, or where?

A. Probably from the hip.

(2866) Q. Did they saw off the foot and place it, and then set the stone into the leg afterwards, or did they first insert the stone into the leg and afterwards saw off the foot?

A. They set the foot back first and then put the leg on, and then inserted the stone; that is my recollection.

Q. And then they turned it over and bored the holes into it?

A. No, sir; they were bored before; they had joined the legs to the body.

Q. Were the holes bored before they fitted the feet?

A. The holes were not made in Central Park.

Q. You don't know exactly which was done first in Fourteenth street; whether the holes were bored first, and the feet moved afterwards, or the feet moved first and the holes bored afterwards?

A. No, sir; that is what I was saying.

Q. How do you account for it that the legs could not be made to stand on those feet, or to connect suitably with the feet, without moving the feet?

Mr. Choate: Has not all this been testified to by Mr. Gehlen? It seems to me we are spending a great deal of time over a thing that is not in dispute at all. There is no controversy about that.

The Court: I think Mr. Bangs has a right to examine him on this point.

Q. What was it that prevented the legs, when the missing pieces were inserted from fitting on the feet as they stood on the base?

A. I believe they were prevented from the way in which the leg was formerly placed in Fourteenth street; one leg was placed on in such a way that it threw the foot probably half an inch or an inch out of the way.

(2867) Q. Do you mean to say that it was the idea of the original sculptor to so build the statue as not to have the leg fit the feet?

A. I don't know what the original idea of the sculptor was.

Q. When the statue was originally constructed by the original constructor, or contractor, or whatever you may call him, was it so constructed that the legs did not fit the feet; do you think that that was its original condition?

A. I can't tell you what the original sculptor's idea was. I don't know what sculptors did at that time.

Q. It is now so constructed that the legs do fit the feet? A. Yes, sir.

Mr. Choate: Has not that been gone all over? There is no dispute about that statue.

The Court: I understood the witness to say that if any error was committed, it was committed by Mr. Gehlen, in Fourteenth street.

Mr. Bangs: If he will say that in the construction of that statue an error was committed, I am satisfied. Let him state that the original scheme of the original sculptor was departed from, and I am satisfied.

(2868) Q. Will you say that in repairing, that is, the placing of the feet under the legs, the original design of the original sculptor was adhered to or departed from?

A. It was repaired, as near as possible, to the original design.

The Court: Suppose you have him specify what time he refers to, whether he refers to Fourteenth street or to Central Park.

Mr. Bangs: I have not regarded that as necessary, because he has already stated that the work done in Central Park was only the doing over of the work of Gehlen.

Q. In Central Park you did take it apart?

A. Yes, sir.

Q. And you put it together again in the condition in which it came from Fourteenth street?

A. It was repaired as nearly as possible to put it into proper shape.

Q. Did you adopt any new designs in Central Park? A. No, sir.

Q. Then you did follow Gehlen's work?

A. We were obliged to to a certain extent. I could not help it if the holes had been bored already.

Q. Did you adopt the design of the original sculptor? A. As nearly as possible.

Q. Did you alter the position of the feet from that in which Gehlen had placed it?

A. No, sir, I did not.

(2869) Q. You were perfectly well aware, and had ascertained, then, what Gehlen's work had been on that statue?

A. Yes, sir.

Q. Was Gehlen's work a reproduction of the design of the original sculptor's work, or was it a departure from it? A. I don't know.

Q. Why did you call it a repair, then, if you did not know? A. Because it is a repair.

Q. Did he put the old parts of the statue together just as they stood originally?

A. They were pieces which originally belonged together.

Q. Were they put together as they were originally adjusted and intended by the sculptor who made the statue? A. Certainly.

Q. Then the original sculptor intended to saw the foot off, did he?

A. That has nothing to do with the foot. When the pieces were put on, they were not put on right, but they belonged together.

Q. By a Juror: Were all these original repairs made in Fourteenth street? A. Yes, sir.

Q. By a Juror: And with those you had nothing to do, if I understand you correctly?

A. I had a certain amount to do with them. I was requested by the Trustees of the Museum to attend to the arranging of the entire collection for exhibition, but it was done in such a hurry that I could not attend to all of the details.

Q. By a Juror: Did I understand you correctly in saying that the repairs, or restorations, or whatever you may call them, that were done in Central Park, were done under your general directions?

(2870) A. Yes, sir, under my entire directions.

Q. Don't you call the alteration of that foot, or the sawing off of that foot, a change in the work, or the touch of a modern hand, or the idea of a modern artist? Yes, sir.

Q. By a Juror: I would like to know why that foot was moved?

A. Because Mr. Gehlen moved it in Fourteenth street.

Q. By a Juror: Did he move it for any reason?

A. Certainly. To make the leg come straight down on the foot.

Q. By a Juror: Do you claim that he had no right to move it? A. Certainly not.

Q. By a Juror: And your arrangement of the work in Central Park was in consequence of his work?

A. I could not replace the foot otherwise than by putting it in that way again, after him.

Q. Couldn't you have, in Central Park, put that foot back into the place where it originally was placed by the original sculptor?

A. No, sir, because the heels and legs were not any more in the right position.

Q. Couldn't you have taken out the rod and put back the foot in its original position?

A. No, sir, not without damaging the stone.

Q. You could have made a new leg?

A. Then that would have been a restoration.

(2871) Q. If you could not have put that foot back and placed it where it originally had been, why couldn't you make a new leg?

A. I don't know; it might have been done.

Q. Do you know any way in which it could have been done?

A. I am not a sculptor. I am merely an archaeologist and explorer. I don't know how it could have been done.

Q. Do you know any way in which it could have been done? A. No, sir.

Q. You had to leave it as it was? A. Yes, sir.

Q. And take the benefit of the rod?

A. Yes, sir.

Q. Do you mean to testify that the responsibility for the changes that were made in that

statue in Fourteenth Street does not belong to you? A. Yes, sir.

Q. Whom did you consider to be responsible—whom do you desire to put the responsibility upon? A. On the man who did it.

Q. On Gehlen? A. Yes, sir.

Q. By a Juror: Did you consider the restoration of that little Hercules a proper or improper restoration?

A. It is a proper restoration, but I would not approve making it.

Q. By Mr. Choate: You call it a restoration?

A. Yes, sir.

Q. By a Juror: A proper one?

A. A proper one; but I do not approve of it. I would not do it.

Q. Why would't you have done it, if it was a proper restoration?

(2872) A. Because that kind of stone suffers by being restored, by putting different matters together.

Q. But in an artistic and archæological sense do you see any objection to it?

A. In that case I do, because it was not properly done. One of the legs is not properly shaped. A restoration of that kind would be proper if it were well done. That is what I mean.

Q. Are you able to explain why that statue, No. 180, the little Hercules, was not put in the bath in the park?

A. It was never called to my attention, until Mr. Savage told us about it.

Q. Didn't you give Mr. Baillard general instructions to put everything in the bath-tub?

A. Yes, sir, but everything had to be put in in such a hurry; they wanted to open the museum, and they hurried him up.

Q. Who hurried him up?

A. The trustees.

Q. You disfavor the responsibility for hurrying him up? A. Yes, sir, certainly.

Q. You said the other day in your testimony on page 2322 this: "Q. When did you first hear it claimed or said that the feet as reset upon the base in Fourteenth Street, were reset in a different place upon the base from that in which they had been before they were sawed off? A. In this court," is that true? A. Yes, sir.

(2873) Q. Didn't you find in Central Park that every one of them had been reset?

A. No, sir, my attention was called to it afterwards.

Q. Then on the next page, the following question was put to you: "Q. And I understand that, according to your judgment, the legs and feet, as they stand to-day, are in their natural position? A. They are. Q. And as they were upon the original base? A. They are," is that true?

A. Yes, sir, as far as I can tell.

Q. You said it was true? A. Yes, sir.

Q. And there you said they were as they were upon the original base; is that what you meant when Mr. Choate spoke about the original base, —the base as it was in Fourteenth Street?

A. Yes, sir.

Q. You do not pretend to say then that in a strict sense of the word they are on the original base?

A. On the original base as it came from Fourteenth Street.

Q. Do you pretend to say that they are as they were on the original base in Cyprus?

A. No, sir.

Q. Mr. di Cesnola, do you mean to say that the base of that statue was in Cyprus sawed off under your direction by anybody?

A. The pedestal, not the base.

Q. The term sawing or the process of sawing has nothing whatever to do with that base?

A. No, sir.

Q. What you sawed off was the sculpture from another large block?

A. Yes, sir.

(2874) Q. And Mr. Ceccaddi considered that a wall piece, didn't he?

A. Yes, sir, as he saw it at my house.

Q. Now, I understood you to testify, that the work on that slab was in part a restoration,

because a line was drawn over the repaired surface; is that what you mean? A. Yes, sir.

Q. There were no lines drawn on the legs of that little Hercules, were there?

A. No, sir.

Q. And yet you call that a restoration?

A. There is an entirely new leg made, and that is more than a line.

Q. You called that a restoration?

A. Yes, sir.

(2875) Q. Then the making of an entirely new limb, or a piece of a limb, makes it a restoration?

A. Making a full limb and shaping it is a restoration.

Q. The character of the restoration don't depend upon the surface to be carved?

A. It depends upon what is represented as the ancient part.

Q. Do you mean to be responsible for the repair and restoration of that slab?

A. I put it upon Mr. Reddy.

Q. You had nothing to do with it?

A. No, sir.

Q. You did not consider it necessary in order to have casts taken, and told Mr. Reddy to repair it?

A. No, sir.

Q. You do not mean to put it on the British Museum.

A. Very likely they ordered it. I don't know who ordered it. I did not order that work to be done.

Q. I mean whether you want to be responsible or make the British Museum responsible?

A. I don't know who did it.

Q. Mr. Robert Reddy was an electrician?

A. I don't know. He is the repairer of the British Museum.

Q. Was he not an electro-typer?

A. I don't know.

Q. How do you know that he was the repairer of the British Museum?

A. Because I saw him working there.

Q. You saw Baillard working at your museum. That don't make him the repairer of the British Museum?

A. No, sir; but he is the repairer for our museum.

(2876) Q. Don't you know that Baillard made repairs for anybody that asked him to do it—I meant Reddy?

A. Certainly; so does Baillard, if anybody asks him to and pays him for it.

Q. You said that the making of the bird, I think, was a very improper restoration; what is the impropriety?

A. The wood—the placing of perishable objects in the restoration.

Q. Is wood a perishable article?

A. Yes, sir; in ten years that will all go to pieces.

Q. Ten years?

A. Probably. I don't know what kind of wood it is.

Q. The dowel that is in the priest, how old is that?

A. I don't know. I have not the slightest idea.

Q. Has a brass dowel been put in the place of it in the Park?

A. No, sir not that I know of.

Q. You think then that the putting on of whatever it was would have been a proper restoration if it all had been made of stone or plaster?

A. If they put them in properly, I would not call it a restoration.

Q. Would you call the putting on of pieces that belonged to it a restoration?

A. No, sir; that would have been a repair.

Q. Mr. di Cesnola, you said on your direct examination at page 2349—I will read to you the questions and answers: "Q. General, I couldn't properly ask you yesterday with our audience at that time, but I will now ask you whether there were, besides Aphrodite and Eros, other indications of the worship of Venus found by you at Golgoi?"

"A. Yes, sir.

(2877) Q. Are those now on exhibition at Central Park?

A. Yes, sir—not on exhibition.

Q. Are they now in the collection at the Central Park?

A. Yes, sir, but not on exhibition.

Q. Is that true?

A. It is true and it is not true. Those decent things are put on exhibition and those that are not decent are so put on exhibition, that they shall not be seen readily.

Q. This answer as I have read it wants some modification? A. Yes, sir.

Q. Where are the photographs that you submitted to the committee showing that dirt or whatever it was on little Venus?

A. I have not the slightest recollection where they are now.

Q. Have you found any more photographs of that image,—the one that has already been produced and shown you?

A. I have not looked for it.

Q. Have you looked at that statuette from Fassili of that veiled figure?

A. I have not been at the Museum. I have been kept here on the stand all this time. How can I go to the Museum?

Q. Is there not a little mistake in your testimony in this respect Mr. di Cesnola, about the trouble with Henckel and the three thousand catalogues. Didn't you discharge two men that he complained of as the persons who were responsible for the loss of those catalogues?

A. No, sir. He was responsible, and nobody else.

(2878) Q. Were not you responsible?

A. No, sir, I was not.

Q. Were not their names McDonald and Bowles?

A. No, sir. I remember such men, but I do not remember discharging them.

Q. They were discharged?

A. Yes, sir.

Q. Who discharged them?

A. The authorities of the Museum, the trustees.

Q. On your report? A. On my recommendation.

Q. About having something to do with the loss of those 3,000 catalogues? A. No, sir.

Q. They had nothing to do with the loss of these catalogues, had they?

A. No, sir, not to my recollection.

Q. How about Mr. Bowles?

A. Bowles had nothing to do with the catalogues whatever.

Q. Was he discharged?

A. He was discharged for being accused by the janitor of not attending to his duties.

Q. Discharged on the accusation made against him by Henckel. A. Yes, sir.

Q. And Henckel was retained? A. Yes, sir.

Q. What duty had he neglected?

A. To clean some of the glass cases.

(2879) Q. Yesterday you spoke about some publication made by some of the men, Alley and Henckel, which showed that they had taken papers from your desk; are you able to state today what that publication is?

A. It was in some article of the Times. I do not recollect exactly.

Q. What article in the Times?

A. I am not able to tell you. I have not had time to look for it. I asked Mr. Prime to look for it in the book. I don't know whether he has found it.

Q. Didn't that refer to the torn picture?

A. I do not know what it is.

Q. Where is the paper that you referred to?

A. I don't know. I read it at the time, and that is all I know about it. It may be found there in book.

Q. What is your recollection of what you read?

A. My recollection is that the plaintiff or the editor of the Times said that some papers were taken from my office, and that there was no thanks to the Director that they got them or obtained them. And I asked who got it there; and that is all I know about it.

Q. That is your recollection of some article in the Times?

A. Yes, sir. If I could hear the article probably I would remember it better.

Mr. Bangs: I will give you to the end of this trial or thirty days thereafter to produce it.

Witness: Thank you. I shall try and produce it.

(2880) Mr. Bangs: Now let us see No. 35, and No. 350, and the Hitchcock album and the red album; bring forth 370, produce No. 37, discover the Hitchcock album, let us have the red album and lead forth the dog.

Q. Was not the restoration of the bird of the bearded Venus first called to your attention by Mr. Savage?

Q. Which is the bearded Venus; I don't know what you mean.

A. This is the one that has got a dove; we have called it here the bearded Venus?

A. That is a priest of Venus; I never called it a bearded Venus.

Q. We call it so; we don't exactly know what to call it; was not your attention called to the putting of that bird on the statue by Mr. Savage; was he not the first one to call your attention to it?

A. I do not remember; I think it is Mr. Savage.

Q. Is the bird there yet?

A. Yes, sir; as soon as the trial is over it will be removed, but the trustees told me to leave everything as it is.

Q. (By Mr. Choate). Is that bird fastened to the statue, or is it loose in the hand?

A. The claws of the bird come through the fingers of the statue, but it is loose.

Q. (By Mr. Choate). It is not fastened to the hand?

A. It was broken; I don't know whether it is fast or not.

Q. (By Mr. Bangs). Wasn't it Mr. Savage that called your attention to the fact that the legs of the little Hercules were made?

A. Yes, sir.

(2881) Q. And you made the same promise to him that you had about the bird?

A. What promises?

Q. You said that Savage first called your attention to the little Hercules?

A. I don't know about little Hercules.

Q. Wasn't your attention called to the made legs by Mr. Savage?

A. I don't remember that.

Q. That sphinx there, No. 35, Exhibit 190, contained in the red album; where was this red album picture of that sphinx taken?

A. I don't remember; let me see it (picture shown witness); in Cyprus.

Q. Where there appear vacancies or gaps in this album picture, how have they been supplied, there appearing to be no such gaps in the image as it stands there now—by plaster and stone?

A. By plaster.

Q. Who did that work?

A. Mr. Baillard, in Central Park.

Q. Did you see it done?

A. No, sir; but I gave him the pieces to put together, and I supposed he filled up the gaps.

Q. And how do you characterize that work?

A. A proper repair.

Q. But some of the old fragments were missing, were they not?

A. Yes, sir; but you have the shape of the leg which shows how it was.

Q. But the work does not consist merely of the adjusting of old fragments and putting them together?

(2882) A. Yes, sir; that plaster was put in merely to support the leg.

Q. But that support is furnished by putting into the figure something that was not there before?

A. Very naturally.

Q. That is the fact? A. Yes, sir.

Q. And that is the work of a modern artist, or modern workman? A. Yes, sir.

Q. Was that work covered up with a wash also? A. Yes, sir; the repair was covered up.

Q. And when was that wash taken off?

A. By the sculptors when they examined it.

Q. About two weeks ago?

A. I took it off myself to ascertain myself how it was done; but the entire cleaning up of the legs in order to examine them thoroughly was done about two or three weeks ago.

Q. Is there any picture of that in the Hitchcock album?

A. I think so; yes, sir; this was found the second time—it belongs to the second collection.

Q. (By Mr. Choate.) When was that found—in what part of the island. A. Golgos.

Q. (By Mr. Bangs.) This Exhibit 102, look at the top left-hand picture; is not that head in the left lower corner of that picture the head that is now on this sphinx?

A. I believe so; it looks so.

Q. Which one?

A. Well, there is only one head on it.

(2883) Q. The one that is off now, has that been broken off on the way down here from the museum?

A. No, sir; it has never been found.

Q. Did you see it extracted from the earth?

A. I do not remember now; probably so; I do not remember.

Q. Because, if you did remember it, I was going to ask you if you recalled what kind of tools were used in getting at it?

A. There was only one kind of tools used—spades, pickaxes and baskets.

Q. They used water, too, didn't they?

Witness: On the objects found in the tombs.

Counsel: The pickaxes and spades were used to break up the walls of the tombs.

A. There were no walls in the tombs.

Q. What were they used for?

A. To excavate the earth.

Q. And did you find the tombs pretty well filled up with earth more or less loose?

A. Yes, sir; in different parts of the island.

Q. Was this surrounded by earth or was it exposed?

A. It was in a tomb, probably; that is all I know.

Q. Did you see No. 40 actually in the bath, Mr. Di Cesnola, at the time of investigation?

A. I think I saw it after they had detached all the pieces.

Q. Did you see it in the bath?

A. I don't think I did.

Q. Were you in the bath room alone with Baillard at the time the investigating committee was at work?

A. No, sir; I was sent for; there were several persons present.

(2884) Q. You were there with other persons? A. I was sent for.

Q. While he was bathing the images?

A. While they were examining them.

Q. I am speaking of the time when the images were put in the bath; were you in the bath room then?

A. No, sir; I was only called when they examined the detached pieces.

Q. You were called into the bath room?

A. Into the repairing room; the bath room is the repairing room.

Q. You administered the bath?

A. I suppose the repairer; you mean in the particular case of that statue?

Q. Who administered the bath to any of the statues?

Witness: Do you mean of all the statues?

Counsel: Yes.

A. There was the repairer and his assistant repairer, and sometimes some of the attendants.

Q. The Investigating Committee were not there?

A. I thought you referred to the repairs in 1879; I do not understand your question.

Q. While the Investigating Committee, so called, of 1881 or 1880 was at work, were you in the bath room alone with Baillard?

A. No, sir.

Q. Did you see any of the Investigating Committee in the bath room or in the repairing room while the images were in the bath?

(2885) A. As long as the Investigating Committee attended to this I was not allowed there.

Q. Can't you answer that question?

A. No, sir.

Q. You spoke of some little change in the position of the pose of the head of No. 40. I understand you to say that it is a little changed from what it was before the Investigating Committee had it?

A. No, sir; after the Investigating Committee had it detached.

Q. It is a little different now from what it was before they had it?

A. It looks so, but I am not sure at all; it seems to be a little more inclining towards the front.

Q. Do you know what that is due to?

A. By breaking it again and trying to put the pieces together.

Q. Did you see it broken?

A. Yes, sir; everything was on the table of the Investigating Committee.

Q. Do you know who Dr. Hitchcock and Mr. Ward selected to do the bathing which they were directed to do?

A. I don't know.

Q. Was it anybody outside of the museum?

A. I don't know; I had nothing to do with the Investigating Committee.

Q. What I want to know is whether anybody outside of the museum assisted in the work of bathing, or whether it was left to Baillard or his assistant?

A. I don't know.

Q. Mr. di Cesnola, give the date when that false fore-arm was taken out from the statue and when the original fore-arm was put in?

A. Some time in 1879.

(2886) Q. Before any controversy arose between you and Feuardent? A. Yes, sir.

Q. And you had that fore-arm put away with care?

A. Not the slightest; it was a mere chance that it was afterwards found when the Investigating Committee asked for it.

Q. Did you put any mark on it? A. No, sir.

Q. Did you find it when it was found for the Investigating Committee, or did somebody else find it and bring it to them?

A. The repairer found it; he was sent for it; I was called before the Investigating Committee and asked questions how it was done, and I told them; and they asked me what had become of the false fore-arm, and I told them that it must be somewhere around the museum.

Q. And then they sent Baillard for it?

A. And he brought it in right away.

Q. Was that the first time that you saw it after it was taken out of the image?

A. Yes, sir, I believe so.

Q. Were the marks that now appear on it any of them on the fore-arm then?

A. I have not seen the fore-arm since that time—since it was before the Investigating Committee; I have never seen any marks on it.

Q. Is that your writing on that fore-arm?

A. No, sir.

(2887) Q. Can you make out what the words are? A. Exhibit 191—

Q. That is not what I mean; do you know who made those pencil marks? A. I don't know.

Q. Can you make it out?

A. I cannot make it out.

Q. You can make out "original", can't you? on the other side you can make out what is there easily enough, "Old Arm to No. 39"?

A. Yes, sir.

Q. Do you know in whose handwriting it is?

A. It looks like Mr. Baillard, I believe.

Q. How much time elapsed between the period when you saw your original arm, the original arm in Cyprus, and the time when you next saw it anywhere; how much time elapsed?

A. Six or seven years.

Q. What identified it when you found it in the museum? A. It was in a box with fragments.

Q. Was that all that identified it? A. I said in my examination that every piece was marked with a pencil mark; I found that piece as belonging to that statue, No. 22.

Q. What was the mark on it?

A. I don't remember.

Q. Was the corresponding mark on the statue?

A. When they were put together it was in its proper place.

Q. Was the corresponding mark on the statue?

A. No, sir; it could not be so.

Q. The corresponding mark was not on the statue?

A. It was effaced from the statue?

(2888) Q. At that time, as I understand you, you found a mark on the fore-arm. A. Yes, sir.

Q. Didn't you find a corresponding mark on the statue?

A. No, sir, because it was effaced with the plaster, by the addition of plaster that was put on it in inserting the false fore-arm.

Q. Why was not the insertion of that fore-arm on that priest just as proper a repair as the mending of that little Hercules and the mending of that sphinx?

A. It was not a repair; it was a restoration; it was a false fore-arm.

Q. Did you say there was anything improper in it in the absence of the original fore arm?

A. If there was no arm certainly it was proper.

Q. Did you see the false fore-arm as you call it, removed from the statue; you described it as hanging down; did you see it actually and totally detached? A. I said it was loose.

Q. Did you see it actually detached from the statue?

A. Certainly, after it had been removed, yes, sir.

Q. Did you see them engaged in the work of removing it?

A. Yes, sir.

Q. Who did it? A. Baillard.

Q. Did he get it off with a sponge, or how?

A. That I don't remember; it was in water.

Q. Was it in a bath tub? A. Certainly.

(2889) Q. And at that time you saw no indication of a hand being attached to the body by a dowel?

A. The hand is attached to the patera, not to the body.

Q. It was attached somewhere by a dowel?

A. The hand holds the patera, and the patera is attached to the statue.

Q. By a dowel? A. Yes, sir.

Q. At that time did you see the existence of the dowel?

A. No, sir; my attention had not been called to it.

Q. Do you know what kind of wood that dowel was made of? A. No, sir.

Q. You say you had a conversation in London with Mr. Feuardent and Mr. Whelan about their having put in the false fore-arm, and your finding it when you came to London; is that so?

A. Yes, sir.

Q. You don't want to change that?

A. I didn't say that I had a conversation with Whelan. I said I had a conversation with the plaintiff.

Q. You had a conversation with him about the fore-arm then?

A. Yes, sir.

Q. In your communication to the committee you said that when you told him that the genuine fore-arm existed, he replied that he thought the statue had been found incomplete, and had manufactured the arm to make it more salable. I will read just as it is here: "When I reached London myself, nine months later, I found the objects unexhibited in fearful condition in the hands of the young man. Having been unable to find the genuine fore-arm of this statue, and supposing it wanting, he had manufactured a false fore-arm, and attached it to this statue. When I told him that the genuine fore-arm existed, he replied that he thought the statue had been found incomplete, and had manufactured the arm to make it more salable." Did he use that expression?

A. Probably; to the best of my recollection.

(2890) Q. Then to that extent, at least, he informed you that he had done something to make the collection salable?

A. I said so; I told you so; that all the statues had been put around—the big statues.

Q. And that fore-arm had been put in to make it more salable? A. Yes, sir.

Q. Did he tell you in whose estimation he had tried to make it more salable? A. No, sir.

Q. You have heard Mr. Feuardent testify as to the conversation between you and him as to the putting in of the new arm, in which reference was made to Phydias?

A. Yes, sir, I heard him testify; I do not remember his words.

Q. You mean positively to deny that testimony? A. Yes, sir.

Q. And you regard it as an invention?

A. Yes, sir, thoroughly so.

(2891) Q. You regard it as a gross falsehood?

A. I heard some very big ones, and that is one of them.

Q. You said two or three days ago that what he said about the statuette of Venus was a gross falsehood; and this is a little smaller than that? (Objected to.)

Q. Do you mean to say that in your opinion and belief, and according to your recollection, Mr. Feuardent has invented that story?

A. Yes, sir, I do.

Q. And do you mean to contradict Whelan in just the same way?

(Objected to on the ground that Whelan has not been examined in this case as a witness.)

Mr. Bangs: On the contrary, he has been examined, and his deposition has been read in court.

Q. On page 2373 the following question was put to you: "Is it the same Whelan whose deposition has been taken on the part of plaintiff?" and you answered "Yes, sir."

Mr. Choate: I submit to your Honor that in order to ask him that question his evidence on that subject should be produced and pointed out to the witness.

Mr. Bangs: I withdraw the question.

Q. Did you hear the deposition of Mr. Whelan read on this trial?

A. I may; I do not remember.

Q. Have you any recollection of a paper being produced here as a deposition of Mr. Whelan, and read to the jury?

A. I think so; but I do not remember the contents.

(2892) Q. You do not remember any of the contents, do you?

A. No, sir.

Q. When you contradicted whatever the testimony was, or some part of the testimony, or any part of the testimony, which had been given by the plaintiff on that subject, was it your intention to apply your denial to anything that Whelan had said?

A. No, sir; only to the plaintiff's testimony.

Q. In the minutes, at page 2373, is this question: "Something is said in the report of the Investigating Committee—something about their being able to identify the fore-arm which had been put in, by a photograph; it had been photographed in London, I understand," and you answered "Yes, sir;" where is that photograph?

A. It was before the Investigating Committee.

Q. A photograph of the original fore-arm?

A. No, sir; of the statue.

Q. Something is said here in the report of the Investigating Committee about their being able to identify the fore-arm which had been put in, by a photograph; it says here: "While thus falsely repaired it was photographed, and the process print from the photograph enables us to identify the false arm by distinct marks;" where is that process print?

A. Those are not my words.

(2893) Q. I read from the report of the committee; do you know of any such process print?

A. No, sir.

Q. Did you produce any such process print?

A. Very probably.

Q. (By the Court.) Do you recollect about this process print to which the Investigating Committee referred?

A. I do not know what they mean, whether they mean Doell or Colvin, or whether it is a photograph.

Q. Do you remember any product of photographic process, complete or incomplete, being exhibited to the jury in relation to that priest and patera or fore-arm, than the picture in Colvin or Doell?

Witness: Do you mean the jury?

Counsel: The Committee, I should say. Do you remember any photographic article being exhibited to the Investigating Committee in connection with the statue of the priest or fore-arm, except the Colvin picture and the Doell picture which have been produced here?

A. I do not remember.

Q. Do you know of any process print from the photograph which in your judgment displays or shows marks of fracture on the fore-arm or marks to identify it?

A. No, sir; not that I know of.

Recess taken.

NEW YORK, Dec. 20, 1888.

Afternoon session.

LOUIS P. DI CESNOLA, recalled for further examination, and examined by Mr. BANGS:

(2894) Q. Mr. di Cesnola, one of the jurors put this question to you, and at my desire he kindly waived it then; he asked you whether anyone else was present when that false fore-arm was taken out; will you answer that question now?

A. I think there was the repairer and the assistant repairer present, to the best of my recollection.

Q. And nobody else?

A. Nobody else that I remember now.

Q. Can you now state any more definitely the time when you found out that the hand was not a part of the solid stone on that statue of the priest; because at page 2375 you stated that you found this out after the investigation took place, and then you stated that it was after the publication of the charges and after the publication of card No. 1; and I understood you yesterday that it was about two months ago; can you now, upon comparing these statements, fix the time any better?

A. It was after Mr. Stickney was taken as counsel; it was at his request that I went there and examined the matter; I don't remember now at what period it was; it was some time after he was appointed counsel in this case.

(2895) Q. Well, I don't want to ask you particularly when he was appointed counsel in this case, but referring to that fact in your own mind can you give the date; wasn't it a year or two ago?

A. Oh, no, sir; he was appointed—it wasn't as long as that; it was at his direction that I found out; that is what I remember.

Q. Then this sarcophagus; does it now present the same appearance that it did when it was taken out of the tomb on the side, I mean externally? A. On one side not.

Q. Well, what is the difference between its appearance; I observed that you used the word "side" when you referred to the end of the sarcophagus; I don't mean the end when I say "side;" do the sides of the sarcophagus now present the same appearance that they did when it was taken out of the tomb?

A. You mean the long side.

Q. Yes, sir; the long side?

A. Except with the crack it was exactly as it is.

(2896) Q. Do you claim that the crack appears externally?

A. To an intelligent eye, it appears to-day.

Q. Well, do you refer to Mr. Feuardent as an intelligent eye?

A. I don't know whether he examined it or not.

Q. In your communication to the trustees you spoke of him as an ignorant man. Do you think that the side of the sarcophagus now, to the eye of an ignorant man, presents the same appearance which it did when it was taken out of the tomb?

A. I don't think I used the word in that connection.

(Mr. Cheate objects as immaterial and irrelevant.)

Q. Do you think a man as ignorant of museums, books and ordinary archaeological facts as you describe the plaintiff to be, could detect a crack in the side of the sarcophagus?

A. Mr. Choate: I object on the same ground. There is no description of the plaintiff; there is a criticism upon his charges, and the distinction between his criticism upon the literary productions and personal descriptions of the writer is very wide and clearly understood.

Mr. Bangs: Then I will read a little further: "The strange discussion of archæology; the blunders about Elpis and Aphrodite; the manifest display of ignorance of museums, books and even ordinary archæological facts, must surely have prepared you and all intelligent readers of these published accusations to learn, as you will learn in your present investigation, that the accuser is either thoroughly dishonest or thoroughly ignorant and reckless." There is the argument ad hominem. He describes the accuser as thoroughly ignorant and reckless.

(2897) Mr. Choate: That is "or."

Mr. Bangs: There is no "or" about it; it is ignorant and reckless.

The Court: I will permit the question.

Question repeated.

A. Perhaps not.

Q. Mr. Cesnola, did you visit the continent of Europe from time to time while you were consul at Cyprus?

A. Yes, sir.

Q. What was the general length of your absence?

A. Sometimes two months, sometimes one month and sometimes three months.

Q. Did that happen in every year while you were consul?

A. Not regularly; when I got leave of absence.

Q. Who had charge of your diggings while you was away?

A. While I was away they were stopped; nobody paid for them.

Q. Nobody what?

(2898) A. Nobody was there to pay the men for working.

Q. Well, did you find that digging had gone on during your absence in places where you were engaged in digging while you were there?

A. Yes, sir; but only on one occasion.

Q. Where was that; at Golgoi?

A. Yes, sir; at Golgos, in the cemetery.

Q. And did you find that considerable excavations had been made?

A. No; they were made by one of my men.

Q. Only one?

A. Yes, sir; Mr. Valdiziano, who was in charge.

Q. Was the cover of this sarcophagus one that was dug up while you were away?

A. Dug up by the Governor; yes, sir.

Q. While you were away? A. Yes, sir.

Q. You said that in putting the end together and repairing it, the repairer left entirely the collar off; do you mean that he took it off?

A. The entire what? I don't understand thoroughly the question.

Q. The testimony says the break just came on the collar of the dog downward? A. Yes, sir.

Q. And in putting it together and repairing it, the repairer left entirely the collar off?

A. It was off.

Q. Well, did the crack remove it?

A. Yes, sir.

Q. Well, then didn't that crack carry with it some fragments or pieces off the edges?

A. It must have carried away the very thin line which formed that collar, which was about the one fifteenth or one sixteenth of an inch.

(2899) Q. The fifth or sixth?

A. The fifteenth or sixteenth of an inch.

Q. So that line had disappeared, had it?

A. Yes, sir.

Q. Did you hear Mr. Osborn testify about the sarcophagus? A. Yes, sir.

Q. Mr. Cesnola, is not the base of a statue sometimes used as a support for weapons or something carried in the hand of the object—such as a spear or club?

A. Sometimes; but not in Cyprus did I find any.

Q. Did you never find anything resting on a base except feet?

A. I have no recollection.

Q. Did you see the colossal head put in the bath?

A. I don't remember now.

Q. Was there an image that you remember—as far as you remember—which had put in it either by Gehlen or Balliard a wooden support which was covered with plaster; and if so, what was the figure?

A. I don't remember any.

Q. A kind of a wooden support?

The Court: A prop.

Q. Yes, sir, a prop—a wooden support or prop put in the rear of the figure or image and then covered over with plaster; in your overhauling of Gehlan's work did you discover or uncover anything of that kind?

A. My attention was called to it afterwards, but I was not on the spot when they removed it.

(2900) Q. Do you know what statue that was?

A. Yes, sir.

Q. What was it?

A. If I see the album I may be able to point that out. I don't remember the number now by heart.

Q. Which album?

A. In my books here (witness shown an album) there is one on page 149 and another on page 161 in my book.

Q. Are those props there now?

A. They have all been removed. I said I only saw the props removed after they had been removed.

Q. Well, one of those is what has been called here the "Grinning Priest," is it not?

A. Yes, sir.

Q. And what was the other on page 161?

A. No. 39—the one called No. 39.

Q. Well, what was put in the Grinning Priest in place of that prop?

A. I don't know; some plaster and wood behind to hold the feet together temporarily.

Q. Well, what was put in place of that when removed? A. A stone.

Q. Was that stone originally a part of the statue? No, sir.

Q. As to this Grinning Priest, the picture of which has been put in evidence as Exhibit 72, do you say that the forearm now appearing there was originally a part of the statue?

A. To the best of my remembrance.

Q. Did you ever see the forearm on that Priest in Cyprus?

A. No that I remember; I don't remember either one way or the other.

(2901) Q. Where did you find it in the museum?

A. I saw it in the repairing room for to put this arm to it.

Q. Was it put on by Gehlen by your direction?

A. No, sir; by Balliard in Central Park.

Q. By your direction?

A. It might have been put before by Gehlen; I don't know that.

Q. Was anything used beside plaster?

A. That is what I am unable to say.

Mr. Bangs: The one I just showed him was No. 21.

Q. Now you spoke of No. 4, I think, as being one from which a forearm came off while it was in the bath, and you said that disclosed an inscription?

A. Yes, sir.

Q. Do you mean to say that there was any dirt or incrustation on that arm before it was put in the bath?

A. I can't say that, but what I know is that the inscription came out; it must have been so.

Q. Well, what do you mean by "the inscription came out"?

A. Well, that it had been cleaned and my attention was called to an inscription on the forearm.

Q. Was it a relief or what?

A. It is engraved in it.

Q. Engraved? A. Yes, sir.

Q. Well, do you mean to say that there was anything more about that engraving than this, or about that inscription, that the engraving or cutting was filled up so as to make the surface of the arm smooth? A. Probably so.

(2902) Q. Probably so? A. Yes, sir.

Q. Is it not a fact that the outline of that inscription was faintly visible before it was put in the bath?

A. I never seen it in Europe; I never seen it.

Q. I am not speaking of Europe; I am speaking about here. A. I never seen it before.

Q. Has there been any attempt to translate that—to interpret it?

A. There is an American scholar in this country who can translate it, who read it.

Q. Who is that?

A. Prof. Isaac H. Hall of Philadelphia.

Q. Has he furnished you with a translation?

A. No, sir.

Q. Have you formed any opinion of the dialect or language of that inscription?

A. Certainly; Cypriot characters.

Q. Well, can you tell the number of years ago when that inscription was engraved on the arm?

A. No, sir, but the inscriptions—the characters—are up to this date known to go about 600 years B. C.

Q. Now you say you had a communication with Dr. Birch? A. Yes, sir.

Q. Before the inscription was developed?

A. Yes, sir.

Q. What— A. It was after.

(2903) Q. Yes, but you also said that you had some communication or expression of opinion before, and that he expressed an opinion which he altered or changed when this inscription was developed. Now, where was the conversation or communication you had with him before the development of the inscription? A. In London.

(2903) Q. When? A. 1872 and 1873.

Q. Where was the statue then?

A. In the plaintiff's hands.

Q. What time of year?

A. November, 1872 or December; I don't know which.

Q. Well, did he make a written communication to you? A. No, sir; verbal communication.

Q. You remember very well what he said to you, don't you? A. Yes, sir.

Q. You remember it better than you remember most of the conversation that took place at that time?

A. I am apt to remember that; yes, sir.

Q. And what was he doing there?

A. Went to study that collection; to see it, as all the scholars of England did.

Mr. Bangs: If the Court please, I ask to have that struck out. That kind of thing only prolongs this examination.

The Court: Yes, sir; strike it out.

Q. Was it before you signed your contract with Morgan? A. I don't remember.

Q. Was anybody with him when he expressed that opinion? A. I was with him.

(2904) Q. Anybody else?

A. I have no recollection now.

Q. Was his subsequent opinion expressed in a letter?

A. No, it was expressed to me in 1881 in London.

Q. In 1881? A. Yes, sir.

Q. You haven't any letter from him on the subject?

A. I have many letters of his; I don't know whether—

Q. Then of course it was before 1881 that this inscription was developed? A. Certainly.

Q. Who was bathing it when the inscription was discovered? A. The repairer.

Q. Balliard? A. Yes, sir.

Mr. Choate: I must object to that as immaterial.

Mr. Bangs: That fact about the discovery of the inscription has been made material by the examination of this witness concerning it; and I am instructed to deny the fact that any such inscription was discovered.

Q. Whose care was the bathing in?

(Objected to as immaterial and irrelevant; objection overruled; exception taken.)

A. I suppose the repairer.

(2905) Q. Well, don't you know? A. No, sir.

Q. What dialect is that that you found on that?

A. Cypriot.

Q. You used in reference to one statue the expression that the nose has been perfected; does that mean something different from repair, restore and attach, or does it mean the same thing as some one of them.

A. Those three words mean different each one.

Q. And does "perfected" mean something still different?

A. If I know which is the statue I will remember.

Q. It is this very statue No. 4. You were asked: "Do you see any other addition?" and you answered: "I see a difference in the nose."

Q. The nose has been perfected? A. Yes, sir.

A. It is not that statue; there was nothing done to that face.

Q. I beg your pardon; it is No. 14; you say the nose has been perfected? A. Yes, sir.

Q. Is that something different from restore, repair and attach, or is it the same thing as one of them? A. It is perhaps a variation of the three.

Q. Well, what does it consist in?

A. It consists of the type of the nose—it is no original nose—and what they perfected is the portion between the tip of the nose and the bridge of the nose.

Q. Well, is there anything more than the insertion of a piece of stone or plaster, or more than that? A. Plaster.

(2906) Q. It is plaster; is it?

A. Plaster or cement.

Q. Well, then, it is a repair, is it not?

A. Yes, sir.

Q. (By a Juror.) Is it not a restoration also?

A. Not in that nose; no, sir. The under portion of that nose is there; it is only filling it up.

Q. The fact that a fragment of the nose was left distinguishes the insertion of that plaster as a repair; does it? A. Yes, sir.

Q. Well, what is the difference between doing that and restoring the legs of the Little Hercules?

A. There is none whatever; I mean the Big Hercules.

Q. No, I don't say Big Hercules; I say Little Hercules. You called that work a restoration?

A. Certainly.

Q. And this is a repair? A. Certainly.

Q. What is the difference in the work?

A. In the one you model a limb, and in the other you fill out.

Q. Don't you model the nose?

A. No, sir; you just follow the outline on the top and there (indicating), and then fill it up.

Q. You fill up the intervening space?

A. Yes, sir.

Q. Guiding yourself by the projection of the extremities? A. Yes, sir.

Q. Well, somebody certainly has to design the nose; don't he, between the extremities?

A. Not necessarily, if he follows the line on both sides, and goes up to the ridge.

(2907) Q. He does it then by a mathematical rule? A. I think so.

Q. And that makes the difference?

A. Yes, sir; it is well known in Europe that it is a repair.

Mr. Bangs: I ask to strike that out, if the Court please.

The Court: Yes, sir; strike it out.

Q. I wish you would confine yourself to the question; does that constitute the difference between repair and restoration?

A. Certainly.

Q. This is the picture, is it not, on page 129 of "Cyprus"—the right-hand figure?

A. Yes, sir; the left-hand figure—that one (indicates).

Q. Oh, it is on my right? A. Yes, sir.

Q. Now, why couldn't that nose be made into a Greek, Roman, Assyrian, Phœnician or Boston nose?

(Objected to as immaterial and frivolous.)

The Court: I think it is proper to ask, why couldn't the form of the nose be varied and made aquiline or what?

Q. I want to know if there is anything that restricts the repairer or restorer, whatever he may be, in the construction of that broken nose?

A. As I said, the nose exists—the nostrils and the portion of the nose—the bottom of it, all stone; and they merely had to fill it up.

(2908) Q. But what restricts the repairer from making any kind of nose he pleases there?

A. On there he could—on that figure he could; yes, sir.

Q. Well, that is No. 14, is it not?

A. Yes, sir; I believe so.

Q. It is at page 129 of your book?

A. Yes, sir.

Picture at page 129 of "Cyprus" is offered in evidence by Mr. Bangs, and marked Exhibit 204 of this date.

Q. Now, this figure 167 is evidently the same thing, is it not? A. Yes, sir.

Q. And that has rather a strikingly peculiar expression of face; has it not?

A. Not to my opinion.

Q. Is it youth or old age; can you tell?

(Objected to as immaterial.)

The Court: I think the witness can be asked whether this picture represents youth, or old age, or middle age, and thus to show what effect the change—a slight change or a radical change—in the nose might produce.

Mr. Bangs asks to show the pictures above referred to the jury.

Mr. Choate says he has no objection if the proper proof is in.

(2909) Mr. Bangs withdraws the offer, and reads the testimony of the witness of yesterday in relation to the nose of this statue.

Q. As to the image of the man with the lyre, you have stated that the left hand, I think—the addition of the left hand or the work done on it, constitutes a restoration? A. Yes, sir.

Q. Now, why is that any more of a restoration, there being no carving upon it than the addition of this plaster to this last mentioned nose?

A. There is carving there.

Q. What constitutes the carving?

A. The cutting of the stone.

Q. On that hand?

A. The cutting of the stone; I don't mean the hand altogether—the fingers and the hand and a portion of the lyre.

Q. The question is when did you first discover that this left hand was restored?

A. When this suit began.

Q. Now you spoke of the work done on the left hand as a restoration? A. Yes, sir.

Q. Why was that a restoration when the addition to the nose was a repair?

A. That was not the addition of a nose; only the portion of the nose.

Q. The addition of what was put on the nose?

A. That was a repair.

Q. And the making of this hand was a restoration?

A. Yes, sir; because it was the whole hand.

(2910) Q. Wasn't there a base there?

A. It was not removed; but I believe it is.

Q. Then the fingers were no more an addition than was put on the nose?

A. I don't know; I have not removed it.

Q. Do you know of any carving by instruments on that hand? A. Certainly.

Q. What instruments?

A. I don't know what instruments, but it is carved.

Q. Well, it must have been then with a sharp tool, I suppose?

A. Yes, sir; exactly.

Q. A stone-cutter's chisel? A. Certainly.

Q. Do you see marks of that?

A. Certainly.
 Q. Well, that is the touch of a modern hand?
 A. Certainly.
 Q. Was it done in 14th street or in the park?
 A. It must have been done by one of those men in 14th street.
 Q. Have you looked at this picture of the repairing-room—Exhibit 71?
 A. I only saw it in court; I have not seen it before.
 Q. Do you remember that picture being introduced in evidence?
 A. I do; one picture like this; I remember that.
 Q. Do you see that man with the lyre in there, in the repairing-room (showing the witness Exhibit 71)? A. I do not.
 Q. Let me point it out to you (indicating).
 A. Yes, sir; there it is.
 (2911) Q. Well, now don't you remember its being in there?
 A. I do not see it there now.
 Q. That is the picture of the repairing room in the park; is it not, Mr. Di Cesnola?
 A. I have not looked at it; I do not know (looks at picture); yes, sir.
 Q. You spoke of an Italian carpenter, Mr. Di Cesnola, as being the person who, in Cyprus, appears to have fixed together some pieces; can you give me his name?
 (Objected to as immaterial.)
 A. I don't know; he was an Italian, a carpenter who was living in Cyprus at that time.
 Q. Well, you have stated that, Mr. Cesnola, you produced some statues here with gaps in their surface; do you call that disintegration?
 A. Statue with a gap?
 Q. Little statues—little heads—with splits up and down and crossing them?
 A. Yes, sir.
 Q. I dare say the jury will remember that; so you call that disintegration in the surface?
 A. It is a splitting of the stone; not of the surface?
 Q. That is not the same thing as disintegration of the surface?
 A. That is the effect of disintegration.
 Q. There is none of it materially gone—only split out?
 A. Yes.
 Q. When that face of the colossal head fell you didn't call that disintegration; did you?
 A. No, sir.
 (2912) Q. Well, you did not think that the break in the colossal head was the effect of the climate; did you—the splitting off the face was the effect of the climate?
 A. No, sir; my idea is that probably it was made in two pieces or a shake.
 Q. Originally? A. Yes, sir.
 Q. When it fell off did you find any internal means adopted for connecting the two pieces?
 A. It never fell off.
 Q. Did it split off or crack off?
 A. The men were carrying it by the nose and it detached, and it was replaced.
 Q. Well, it separated itself wholly from the back of the head?
 A. Yes, sir.
 Q. And somebody caught it while it was falling? A. Yes, sir.
 Q. While it was in that condition did you see any connecting rod between the front and rear of the head?
 A. Nothing of any kind.
 Q. What made the two parts adhere when it was put back?
 A. Oh, I suppose they put some cement or rods inside. I have no idea what they did.
 Q. Don't you know?
 A. I don't know. I had it brought down stairs and they were ordered to put it together.
 Q. Well, generally when these statues are wet, after they have absorbed water—let me remind you of an extract I read from your book the other day when you said the statues were laid in lime, etc., so that they would not split; don't you find that when you put them in a bath and let them absorb water there is danger of their cracking?

A. Yes, sir; that would be so if left to the sun.
 (2913) Q. Wouldn't it be so if left in a warm atmosphere?
 A. I don't think so; I did not see any experiment of that.
 Q. If they were baked in an oven do you think that it would make them split in the way shown?
 A. I don't know; I have never tried.
 Q. Mr. Cesnola, you say that it is not—that those bronzes not treated by Balliard were of a green and much brighter color than any part of the other forty; do you mean that that color in the old ones—in those that were not treated by him—looked more modern than in those that were treated by him?
 A. No, sir; the oxidation that was on them was not removed.
 Q. We understand what it was—that it was oxidation, not removed—but do you mean that with that oxidation on those not treated by him looked older or more modern than those which he had treated; which way was it—that they looked older or more modern?
 A. They looked brighter.
 Q. The old ones looked the brighter?
 A. Yes, sir.
 Q. Didn't that give the ones which he had treated an older and more ancient appearance?
 A. No, sir; not in my opinion.
 (2914) Now as to these places in the catalogues where certain articles were discovered as coming from Golgos, which you enclosed in your letter to Clarence Cook as coming from Salamas, and which were in photographs on the back of which you wrote certain words; won't you say one way or the other whether you did or did not tell Mr. Savage to describe those things as coming from Golgoi; did you or did you not?
 A. I have no recollection of that.
 Q. Either one way or the other?
 A. I remember having had a conversation with him about the position of certain things, but I have no recollection of that object particularly.
 Q. Are you not aware that he came to you professing himself not to know—that he came to you for information?
 A. Exactly.
 Q. And are you prepared to put upon him the responsibility for mistake—if mistake was made—do you mean to put it upon him?
 A. No, sir; I never put anything on him.
 Q. How?
 A. I do not put any responsibility upon him at all.
 Q. I call your attention to this sentence on page 455 of "Cyprus," which is a part of John Taylor Johnston's article; I want to call your attention to it: "The exhibition from Golgos is the greatest find of statuary ever made in a single locality;" was that your statement to Mr. Johnston?
 A. Very likely.
 Q. Well, it was so?
 A. Yes, sir.
 Q. You had an interest in making that find, as large as possible; had you not?
 A. Not the slightest; there is no reason whatever.
 (2915) Q. Is this your handwriting; I show you a letter which has already been marked C. C. 6 F. B. Antz, Notary Public, May —, 1883?
 A. That is a private letter of mine; yes, sir.
 Q. To Mr. Clarence Cook?
 A. Yes, sir; and marked private.
 Q. Dated the 27th of May, 1879?
 A. Yes, sir.
 Mr. Bangs: I wish to offer in evidence that part of it (indicated to Mr. Choate).
 (Mr. Choate objects as immaterial; objection sustained.)
 Mr. Bangs: I wish to put in evidence from page 114 of Cyprus the fact that a figure of this dog is given as 2 feet 7 inches high?
 Q. What I wish to ask you about this dog is this: there are two red spots here on the tip of the nose; have you observed them?
 A. (Looking at statue of dog) I see them now; yes, sir.
 Q. Do you know what they are?

A. I never seen them.
 Q. They are fresh; are they not?
 A. Yes, sir; I think the sponge would take them off.
 Q. Does figure—there is a figure 5 in red on the base: is that paint or chalk?
 A. Red pencil.
 Q. Red pencil?
 A. Yes, sir; I think Mr. Savage put it there.
 Q. That on the end of the nose is not red pencil?
 A. No, sir; it looks to me like color.
 (2916) Q. Well, does it indicate to you the recent use of color or not? A. The what?
 Q. Does it indicate to you that somebody has been lately using paint around this statue?
 A. It looks so to me.
 Q. Mr. Cesnola, were all the payments called for by this contract of November 14, 1872, made at the time prescribed in the contract?
 (Objected to as immaterial.)
 The Court: When were the payments made? Just answer that question.
 Q. Were or were not the payments in that contract made at the date specified in that contract?
 A. No, sir.
 Q. When was the last payment made?
 A. 1877, 1878, 1879.
 Mr. Bangs: If the Court please, I wish to use on the cross-examination of this witness the correspondence which has been mentioned here between Mr. Morgan and Mr. Blodgett and Mr. Johnston. We had subpoenaed Mr. Johnston to bring it here, but he is not here. I shall wish to use it at some stage of the case when we can get it.
 Mr. Choate says that Mr. Johnston sent word to them that he had been served with such a subpoena, and also sent a certificate of his physician that he was too unwell to attend, and stating in his letter that all papers were in their (defendant's counsels') hands, and that anything Mr. Bangs would call for he would receive.
 (2917) Mr. Bangs: Here is a letter from Mr. John Taylor Johnston to Mr. Prime, which says: "My dear Mr. Prime: The enclosed subpoena was served on me to-day for 2 o'clock. Of course I did not go. I enclose a medical certificate which will state what was the reason. I know of no letters except the few I have found on a previous examination and sent to you. Yours, very sincerely, John Taylor Johnston."
 Mr. Choate says that Mr. Bangs can get any papers he calls for from them.
 Mr. Bangs says he wants to get those papers above stated without calling upon defendant's counsel.
 Mr. Stickney: What papers do you wish?
 Mr. Bangs: I wish the witness to produce here and now personally on the stand the telegraphic dispatches—original telegraphic dispatches between Mr. Blodgett and Mr. Morgan and Mr. Johnston, or either of them, which passed in 1872, and of which you say you saw copies on the minutes of the museum of art—on the minute book, rather.
 (2918) The witness: I think the date is not correct, Mr. Bangs.
 Mr. Bangs: In the fall of 1872. I embrace the whole fall. I have no better means of describing them than that. I wish you to produce them now.
 The witness: My counsel has them.
 Mr. Bangs: That is no excuse. His counsel is his counsel, and he is the servant of justice.
 The witness: I refer you to my counsel.
 The Court: I will instruct the witness to answer the call of the plaintiff's counsel and either produce them or decline to produce them.
 Mr. Bangs: Did you hear the instructions of his Honor, either to produce them or decline?
 The witness: I haven't seen the papers myself thus far.
 Mr. Bangs: Now, his counsel has got them, and his counsel is his servant.
 Mr. Stickney: What papers do you want.
 Mr. Bangs: I don't want anything from you. I want the witness to produce them or to decline.

(2919) The Court: What papers do you call for?

Mr. Bangs: For the telegrams and letters passing between Johnston and Blodgett and Morgan in the year 1872 at any time between the 1st of September and the 24th of December, 1872, relating to the purchase of Mr. Cesnola's collection by Mr. Johnston or Mr. Morgan or Mr. Blodgett, or the Metropolitan Museum of Art.

The Court: He calls for telegrams and letters passing between Mr. Johnston and Mr. Morgan touching the purchase of the Cesnola collection. That is the substance of it in brief.

Mr. Bangs: Substance, except that I gave a date.

The Court: From when?

Mr. Bangs: From December 1 to December 24, 1872.

Mr. Stickney: I have not a telegram, and never have seen any.

Mr. Bangs: My question was addressed to the witness.

The Court: Now, he asks you to produce them if you have them, or if your counsel has them as your agent.

(2920) The witness: I haven't any. I haven't seen them. If my counsel have them and want to produce them I am most willing.

Mr. Bangs: His counsel can easily place them in his hands, if he has got them. I should like to bring this business to an end. If his counsel don't choose to put them in his possession, I have nothing further to say on this subject.

The Court: Well, they don't seem to be anxious. (Defendant's counsel do not produce the papers called for to the witness.)

Mr. Bangs: If the Court please, I wish to put some questions to this witness touching his credibility. Does the Court consider that subject open?

The Court: Not in connection with anything that has been heretofore testified to.

Mr. Bangs: It does not relate to anything that has been heretofore testified to.

The Court: I think that examination was proceeded with far enough.

Mr. Bangs: Except to this extent, if the Court please—I don't know that I can answer the Court's question categorically. When we left that subject we were trying to find some demands here in the Herald, and there was a little delay in finding them. I have them so arranged now that I can turn to the places I want at once. In that way it would be returning to the subject of the defendant's military career when he was in the army—

(2921) The Court: Well, is the subject objected to?

Mr. Choate: Of course I object. I think we have mud enough.

The Court: I think myself that sufficient time has been spent in cross-examination as to the credibility, and therefore, I think I ought to restrict the further cross-examination in that regard.

Mr. Bangs: Not, as I understand your Honor, on the ground that the testimony is in its nature inadmissible, but on the ground that it is in the discretion of the court.

The Court: That is all. I know of no reason of reducing a cross-examination as to credit except upon the ground that sufficient time has been spent upon that subject.

(2922) Mr. Choate: Now, that it is quite apparent that we are under no obligation to do so, we tender to the counsel all the papers that we have that ever passed to our knowledge between Johnston, Blodgett and Morgan, or anybody else.

Mr. Bangs: I don't choose to receive them under the disavowal of any obligation. The witness refused a little while ago, and there the matter stands.

The Court: Is the cross-examination closed?

Mr. Bangs: Yes, sir.

Re-direct examination by Mr. CHOATE.

(2923) Q. Is the statue No. 14 now in court?

A. I don't know; maybe it is. Yes, sir; it is in court.

Q. Will you have it brought forward?

A. Yes, sir.

Statue No. 14 produced.

Q. What is that called, General?

A. They call it an Egyptian warrior like the other small one. I am not responsible for the name of it, you know.

Q. Now, will you state to the jury whether this tip of the nose below the plaster mark—whether the nose was complete with the exception of this insertion of plaster which now appears on it. (Witness examines the nose of the statue No. 14.)

Q. Won't you, with a wet sponge, if you can, show the jury exactly what there is of plaster there?

A. Yes, sir; (the witness here applies a wet sponge to the nose and face of No. 14) all this portion (indicates) is plaster, all that portion, whatever there is, from there (indicating) to there (indicating) is filling up. That is all the plaster there is on that nose.

Q. (By a juror.) How deep is that, General, below the line of the nose probably?

A. I don't know; about half an inch.

Q. Is that what you meant when you said that all it required was filling the nose with plaster?

A. Yes, sir.

Q. (By a juror.) Is that a bandage it has got on its face?

A. It is the trace of a beard.

Q. There was a matter which I omitted on the direct examination, from oversight. General, do you remember that your attention has been called during the trial to an article over your signature in the publication of the Turin Academy of Sciences in which certain dimensions of the temple of Golgoi and the plan are given?

A. Yes, sir.

Q. And do you remember the alleged discrepancy between the dimensions there given and the dimensions of the temple as stated in your book on Cyprus? A. Yes, sir.

Q. Do one of these books (showing the witness a book) contain the article from the Turin magazine referred to? A. Yes, sir.

Q. Will you please explain to the jury the alleged discrepancy?

A. May I look at the article?

Q. Yes, sir.

A. I do remember it. I perfectly remember this article now.

Q. Explain the circumstances under which it was written, and how those dimensions were given, and how they are stated there?

A. Towards the end of 1870. I was in Turin, where I was born, and the Count Sclopis, who was then the President of the Royal Academy of Sciences, called at the hotel where I was, and we had a conversation about my last discoveries in Cyprus, and I gave verbally a report of them, and he said to me: "It would be very interesting for our Academy if you would be kind enough to put it in writing so that it can be read," and he invited me to come the next morning and see the secretary of the Academy, what they call the Consul of the Academy. To that I consented, and went up to the Academy there, and repeated in general my discoveries in Cyprus about that time, and the secretary of the Academy said "How long will you be in Turin?" and I said "I suppose I will be here about four weeks; I am going to London—perhaps three weeks." He said "Could you make it convenient to write a report for the academy on your discovery?" and I said "I will." Then he asked me: "Could you give me the form of the island, and of the places where you discovered;" and I said "I have no papers here with me; they are all in Cyprus; but I can get you a map of Cyprus;" and he said, "Could you place the places?" and I said "Certainly, if you give me an outline I will." Then he asked me if I could give him also a plan of the temple, and I said, "It is a very difficult matter to give you an exact measurement, but I can trace it if you like," and they showed me a slate—a slate which they had in the room—and I just traced the temple as it was, as it appeared to me, as I could remember, and then I explained as

clearly as I could; but I told him very clearly: "I can only give you two measurements which are correct—"

(2925) Mr. Bangs: Is this conversation important, if the court please, or admissible? I submit that it is not. The discrepancy is admitted, and all he need do is to explain it.

Mr. Choate: It is not admitted, and I have a right—

Mr. Bangs: Well, I will withdraw my objection rather than hear that justification.

The Witness: I expressly stated that I could only give them the two measurements—the length and the width—

(2926) Q. Of the temple?

A. Of the temple; then I went home and a few days afterwards I wrote this article which appears under my name in it and sent it to the Academy, before I went to London; after this was sent—months afterwards, perhaps a year afterwards—I received a copy of this report which was made. I was made a member of the Royal Academy at that time; I read the article and I found that the dimensions were not correct, but I found there was a note in the book, put by the secretary himself, or by the president, saying, "I will call your attention that only the length and the width are correct; the other measures are not, as they are made at sight."

Q. Will you read that note to the jury?

A. Yes, sir.

Q. Is it contained in the book which the plaintiff's counsel had when they brought forward this matter?

A. Yes, sir; it is the foot note on page 561; it says this: "Look at the design of the temple in table second. Only the two measurements, that of the length and that of the width are correct. The other, for want of measurement of a compass, or whatever—compass means divider, I think—it is made at sight."—

Mr. Bangs: I object, if the Court please, that that has been once read to the jury.

Mr. Choate: It was withheld from the jury, and it was a gross attempt to mislead them.

Mr. Bangs: Now the Court observes the language of the counsel; I will call your Honor's attention to that again.

(2927) Q. Now, what word in Italian is given for the length in that note; what word is given as "length"? A. The Italian word?

Q. Yes, sir. A. Lunghezza.

Q. Now on the plan referred to is the word "Lunghezza"? A. Yes, sir.

Q. It is repeated there? A. Yes, sir.

Q. And what is that "Lunghezza del tempio" given?

A. There is "Lunghezza del tempio," 50½ English.

Q. In your "Cyprus" it is 60 feet English, is it?

A. It is also in the book here 60; yes, sir.

Q. And what word is used in that note for breadth? A. Larghezza.

Q. And on the side of the plan "larghezza del tempio" 30 feet English? A. Yes, sir.

Q. And is that the dimension given in your "Cyprus"?

A. No, sir.

Q. What is the dimension given in your "Cyprus"? A. In "Cyprus" it is 60—

Q. No, no, what is the breadth? A. 30.

(2928) That is the width?

A. Yes, sir, 30; that is exact.

Q. So that the discrepancy of those two dimensions—one agrees exactly with your statement in "Cyprus"—that is the 30 feet, and the other differs about a quarter of an inch?

A. I don't think it differs anything.

Q. I mean a quarter of a foot?

A. No, sir; I believe in my statement I explained it—I explain it here very clearly; there it is: "The area of the temple very well delineated from the foundation, is stone as I found was long 60 feet, English, and width 30 feet, English;" that was in my own handwriting; that is the mistake of the printer or of the man who made the plan, and in the body of the report I give the exact measurements—60 by 30.

Q. Then as I understand you, you expressly stated to the gentleman who represented the Academy, that the other dimensions you could not give?

A. No, sir; I had not my papers there.

Q. You have stated that you were made a Doctor of Laws by some institution; by what institution?

A. By Princeton College and by Columbia College—both institutions.

Q. Can you produce your diplomas or certificates?

A. I believe they are in my book there.

Q. At what place in Italy were you born?

(Objected to as immaterial.)

The Court: He has already said at Turin.

(2929) Q. What year were you born?

A. The 29th of June, 1832.

Q. To what profession were you educated?

A. As a soldier; I was first prepared for the priesthood, but the war broke out, and I was very glad to become a soldier.

Q. In what war did you first engage as a soldier? A. In 1848 and '49.

Q. In the service of what country or government?

A. My own native government—Sardinian.

Q. The Sardinian army?

A. Certainly.

Q. How long did you serve in that army?

A. From 1849 to 1854 or 1855.

Q. Did you serve in the Crimean war?

A. Yes, sir.

Q. Can you produce the commissions that you held in that army?

A. They were all in this country and were lost during the war, but there are certified copies I believe in the hands of my counsel.

Q. They are here, are they not?

A. I gave them to Mr. Stickney; they are in Mr. Stickney's hands.

Q. In what year did you come to this country?

A. Between 1858 and 1859, I don't know which; I think it is the end of 1859.

Q. Were you at a military college or school in Italy? A. Yes, sir; I was.

Q. At which military college?

A. Military College at Carasco in 1849, '50, and '51.

Q. During the period after your arrival here in 1859 and the breaking out of the war, how were you employed or occupied?

(2930) A. In giving lessons in Italian and belles-lettres and nothing else.

Q. In what place?

A. Opposite the Sisters of Mercy, if I am not mistaken, in Houston street—No 38—Sisters of Mercy, I believe, or something like that.

Q. It has been stated that at the time of the battle of Aldie, in which you were taken prisoner, you were under arrest at the beginning of that day, but not at the end of it; will you state the circumstances of that arrest and how it terminated?

A. Yes, sir; I was coming from what they called Grand Guard; my regiment was outside on guard duty; we had received order to join my command as soon as possible; I reached Centreville and was feeding my horses and seeing that they were properly shod, when an officer, an ordnance officer from General Kilpatrick, came and said: "We are engaged at this moment very seriously with the enemy; I have three regiments in line; hurry up as soon as you possibly can!" I had nothing else to do than to get my men saddled—to get them on horseback—and to put my command on the turnpike towards Middleburg at a trot; naturally enough a large number of horses make a great deal of dust. There were troops on the right and left bivouacking, and when I began with my command trotting, a great deal of dust was made; a general officer came out of his tent, if I recollect, from his bivouac, and by using some more or less profane language said to stop that trotting and to make that dust—to come to a walk with my command; I replied that I could not obey as I had a command from my immediate officer to join him at a trot or as soon as I could, and the next an-

swer was to consider myself under arrest; I had nothing else to do than to give up the command to my lieutenant-colonel and to go to the rear of the ranks; when L. reached Middleburg General Kilpatrick said: "How is it you came so late?" and I said: "I have been put under arrest just because I was trotting;" and he said: "Well, sir, form your regiment in line;" I said: "I can't take my place because I am under arrest;" the regiment was to come to order—to come in line and they refused to do so; that was repeated twice and my men refused; then I said to myself "there is only one thing to do—"

(2931) The Court: Well you took command of the regiment?

The Witness: I had to break my arrest.

The Court: Well, you did so.

The Witness: Yes, sir; and then I charged two or three or four times; and when I came back General Kilpatrick presented me with a sword in the field and said: "I release you from arrest;" the next charge which was the fifth on that day, I was badly wounded and taken prisoner.

Q. Is that circumstance described in any historical work?

A. There is a history of General Kilpatrick's and Dowall's cavalry which gives an illustration of that battle and gives more or less mention of that fact.

(2932) Q. Now, I show you certain orders or papers and ask you if they were among the orders received by you when in command of the brigade of which you have spoken?

A. Yes, sir.

Mr. Bangs: What is the question?

Mr. Choate: Whether they are orders received by him and addressed to him as commanding the cavalry brigade.

Mr. Bangs: That I object to, as they speak for themselves.

Q. Did you receive them from your superior officer?

A. Yes, sir; they are official papers.

Mr. Choate: I offer them.

Q. They are the originals I understand?

A. Yes, sir.

Mr. Choate: I want to show to the jury how they are addressed.

Mr. Bangs: I have no objection.

Mr. Choate: They are addressed to Colonel di Cesnola, commanding cavalry brigade.

Mr. Bangs: I should wish you to give us the extreme dates.

Mr. Choate: Well, all of them are in 1862 I think.

Mr. Bangs: I think they run down to December, 1863.

Mr. Choate: They appear to be addressed to Colonel di Cesnola commanding cavalry brigade.

(2933) Mr. Bangs: But the extreme dates you cannot give?

Mr. Choate: Oh, we will agree on that.

Q. On your cross examination you stated that you could recall at that time no public announcement of your having been made a general, or breveted, except the extract from the *New York Herald*; did you have in your possession, or in the possession of your counsel at that time other public announcements of that fact at that date which you are now able to produce? A. Yes, sir.

Q. Look at this copy of the *Army and Navy Journal* of August 19, 1865, and state if you had in your possession at that time, and in your scrap book, an extract from that? A. Yes, sir.

Mr. Choate: I offer that.

(Objected to as immaterial; objection sustained; exception taken.)

Q. Did you also have in your possession an announcement of the same fact in the *Washington Chronicle* which I now show you?

(Objected to as leading.)

Q. Well, did you have in your possession this extract from the *Washington Chronicle* which I now produce?

(Objected to as immaterial; objection sustained; exception taken.)

Q. Mr. di Cesnola, who was present at your interview with President Lincoln of which you testified on your cross examination?

A. Senator Harris and Mr. William H. Seward; first Senator Harris alone and myself and then Mr. Seward came in.

(2934) Q. Did Mr. Seward afterwards at any time visit you in Cyprus?

A. Yes, sir.

Q. When was that?

A. Sometime after I made my discoveries at Golgos.

Q. Was it at the time when the whole or a part of your collection was there which afterwards reached New York?

A. At the time that my collection was there in my rooms.

Q. Did he publish an account of it?

A. I believe he did.

Q. Does this publication of his travels around the world contain a description of his visit to Cyprus?

(Objected to as immaterial.)

Mr. Choate: I offer the extract from this book descriptive of his visit to the collection in Cyprus.

Mr. Bangs: I object to the extract upon the ground that it is hearsay.

The Court: I think I must exclude it.

(Exception taken by defendant.)

Q. I want to call your attention to the amount of information you had prior to discharge of Henkel and Alley of their having been in communication with outside parties. Do you remember having before that received defendant's exhibit 84?

A. Yes, sir.

Q. With what is written on the back of it signed by Mr. Alley?

(2935) A. Yes, sir.

Q. Now this, as I understand it, contains a communication from them which I will read: "November 16th, 1881. Dear sir: It has been reported to the undersigned employees of the museum that the wife of Peter Rooney who lately deserted from his duty as watchman in the museum is circulating scandalous and false reports in order to injure us in estimation of the officers of the museum, namely, that we in defiance of duty had spoken openly of the affairs of the museum in order to injure its usefulness as an educational institution. Deeming it your duty to report the above to you, we remain most respectfully yours, W. L. FORMAN, DIXON B. ALLEY, CHARLES HENKEL. Then comes your written statement: "It is desirable that in this complaint you should specify what are the things said against you either individually or collectively by the woman named herein in the communication." Then comes the response signed by Alley: "Mrs. Rooney declares that I told her husband in her presence that it was myself who gave Feuardent the information through which he was enabled to bring his charges against General di Cesnola. This I absolutely deny." Now, before their discharge, had you any further information against them?"

(2936) A. No, sir.

Q. And this charge has been denied by them both? A. Yes, sir.

Mr. Bangs: If the court please, I think I have the right to correct the statement made to the witness or the suggestion that came from the counsel to the witness at the time he handed him that book and called his attention to the note written under it, the purport of which was that the plaintiff's counsel had that note in their possession at the time of examining Mr. Feuardent and did not disclose it. I think I have the right to submit to your Honor just what the record shows on that subject, without any comment. I wish to read it to the Jury.

Mr. Choate: I wish you would.

Mr. Bangs: Well, I will.

(Mr. Bangs reads from pages—of the record.)

Q. General, you heard read by Mr. Bangs the statement contained in your letter to Mr. Feuardent of Paris about the vase?

A. Yes, sir.

Q. Were the statements contained in that letter true?

A. The letter which I wrote to the father?

Q. Yes, sir. A. Yes, sir.

Q. You have stated from recollection the substance of the letter or the correspondence with Rollin & Feuardent which culminated in the agreement as to the terms on which you were to consign your collection to them?

(2937) A. Yes, sir.

Q. Is your recollection in that respect, in respect to that agreement—was it before you testified refreshed by a written memorandum or agreement made by you at the time or about the time?

(Objected to as not redirect examination.)

The Court: I think it is competent now for him to show that he refreshed his recollection by a written memorandum made by him at the time or about the time.

Mr. Bangs: I suppose we are entitled to a negative or affirmative answer.

Q. Will you please answer whether it was so or not?

A. Yes, sir; about the time.

The Court: No, no; was your memory refreshed or enlightened or quickened?

The Witness: Yes, sir; certainly.

Q. Had you recently read that record?

A. Yes, sir.

Q. Where is it contained or was it made?

A. In a large book belonging to me called the note book.

Q. The same one you have heretofore produced?

A. Yes, sir.

Q. Will you turn to and identify it?

Witness indicates.

Q. It is contained on the page opposite to the memorandum from which you took your statement of the successive shipments to the plaintiff?

(2938) A. Yes, sir.

Mr. Choate: I offer it in evidence.

Mr. Bangs: Upon what ground?

Mr. Choate: To show the good faith of his testimony.

The Court: I don't think you can offer the written memorandum.

(Exception taken.)

Mr. Bangs asks that inasmuch as the witness pointed it out he should like to have it marked for identification.

Mr. Bangs: Will you point it out to the stenographer?

The Witness: No, sir.

Mr. Bangs: Very well; then it goes without being identified.

Q. Have you produced all the papers that you had relating to this business with Feuardent? This bill of Sanderson's (or whatever the name is) and the receipt and the Morgan account?

(Objected to as heretofore gone over.)

The Court: Yes, sir; he has said that.

Q. Have you produced all that have come to your knowledge and possession down to this time?

A. Papers that I had in my possession?

Q. Yes, sir. A. Yes, sir.

Q. Now in regard to this statuette from Fasuli. I understand you you have not had time in the course of this cross-examination to go to the Park and make a search for that?

(2939) A. Yes, sir.

(2939) Q. Are you able to state from the books or photographs that you have in your possession anything about it? A. Yes, sir; I think I can.

Q. Please state what you can?

Mr. Bangs: About its being in the museum or about its general history?

Mr. Choate: No, sir; but if it is an error how it came in his book on Cyprus?

Mr. Bangs: It does not yet appear to be an error; if it is in the museum there is nothing to examine him about; you cannot assume that it is not there and then ask him to explain its absence when he does not know whether it is there or not. By assuming that a discrepancy exists, and then asking him to make an explanation without knowing that it exists, is a waste of time.

Q. I ask you if there are in the museum collection—how many statuettes like that on page 285 of "Cyprus" are there in the museum collection?

A. There are several; one large one and several small ones.

Q. Will you produce photographs of them?

Mr. Bangs objects and says that the witness was asked to find out whether that was in the collection or not; that he has said that he has not had time to do so, and that now it is proposed to ask him about photographs which, now for the first time, are introduced into the case.

(2940) The Court says that the witness has already said that there were several statuettes in the museum like the one on page 285.

Mr. Choate: Well, I ask him to show the photographs.

Mr. Bangs objects as immaterial; objection sustained.

Q. How were the plates in this book of yours on "Cyprus"—from what source were they produced by the publisher—source or sources?

Mr. Bangs objects, and says that the only question is now, whether that statuette is in the museum or not, and that until that question is answered one way or the other, it cannot be determined what evidence is material about it; that if the gentleman will admit there was a mistake he can explain it, but that until he does admit a mistake, the explanation is out of order.

Mr. Choate: I suppose the avowed object was to show intentional inaccuracies in this book; and I suppose I have a right to show just how any such thing occurred.

Mr. Bangs: My point is that they have no right, as long as they dispute the occurrence of the inaccuracy; our proposition was that there is no such thing in the museum; now, that is very easily settled; if it is there there is no inaccuracy to explain; and if it is not there, then it is time enough for them to explain the inaccuracy.

(2941) The Court: I suppose the best way is to let him answer. I will admit the question.

Question repeated.

A. They were procured in London by two albums which I had, and by Mr. Ceccaldi's publications in the Review Archæologique. It is out of all those figures that he selected the different cuts for the book.

Q. How do you account for it that the same cut appears in your book at page 285 and in Ceccaldi at page—I will alter that question. Now, will you please explain, as far as you are able, how it happens that the same figure appears on your book at page 285 as one of your collection, and in Ceccaldi plate v—3, as one of the figures in the Louvre?

A. That was in this way: Mr. John Murray, the publisher, in selecting the cut from my two photograph albums obtained permission from the director of the Review Archæologique to get all the old plates—

Mr. Bangs: Are you saying what you know?

A. Yes, sir; what I know myself.

Mr. Bangs: Were you there?

The Witness: Yes, sir, I was there and they were sent to me to my care, and I gave them myself to Mr. John Murray. He obtained from the director of the Review Archæologique the permission to take all the plates which Mr. Ceccaldi had used in illustrating different articles of my discoveries. When they came to Mr. John Murray I was in his office, and selected the pieces which I wanted to illustrate in my book, and this is one of the pieces. Knowing that I had the same representation of Persophone in two or three different shapes representing the same object, I selected that believing that this was one of the reproductions of Mr. Ceccaldi of the articles of my own. But this particular cut we wanted; I found this and another figure which were taken by mistake. We had not the books there, but merely the plates, and it was taken one for the other. It is a similar figure of four or five that are there in the collection. That is the explanation I can give, and it is very simple.

(2942) Q. Did you know or was your attention

ever called to this identity of these two figures in these two books until it was called to your attention by the counsel for the plaintiff on your cross-examination?

A. Not until I was here on this stand.

Q. Was the insertion of this figure instead of one of the three or four of your own in this page 285 of your "Cyprus" inserted with any intent on your part to mislead anybody?

A. Not the slightest.

Q. General, how many editions of this book have been issued?

A. In England or here?

Q. Well, anywhere.

A. I don't know; they are in German—

(2943) Q. I mean in English?

A. I suppose three or four in New York.

Q. How do you account for it that in one of them the Egyptian warrior is labeled as 4 feet 2 inches high?

A. I have not the slightest idea.

Q. How do you account for it that in one copy produced here of the edition of 1878 it is labeled 4 feet 2 inches high, and in another copy no label at all as to height?

A. I have not the slightest possible conception how it is. These editions have been published without my being asked to revise them or anything. When I offered to make some changes they thought it was better not for the present; that it would be a useless expense; and so I didn't do it.

Q. Did you know of that error in the book before it was called to your attention here by Mr. Bangs?

A. No, sir; the first time I heard it was here in Court.

Q. Did that error creep into that book with any intent on your part to mislead anybody as to the height of that figure? A. No, sir.

Q. Do you know how it happened that the dog is labeled in one of the pictures in this book—that an erroneous height is given to the dog?

A. I don't know.

Q. Did you know of that before Mr. Bangs called your attention to it? A. No, sir.

Q. Did that error occur in your book with any intent on your part to mislead anybody as to the height of the dog?

(2944) A. No, sir; because the dog was itself there and could be seen.

Mr. Bangs: Because what?

The Witness: Because the dog itself was there in the exhibition and you could see what the measurement was.

(Adjourned until 10 o'clock to-morrow morning.)

(2945) NEW YORK, December 21st, 1883, 10 a. m. Present: All parties.

LOUIS P. DI CESNOLA's re-direct examination continued as follows:

Mr. Bangs: Before we proceed I should like to ask whether Mr. Choate intends to confine himself strictly to re-direct examination.

Mr. Choate: I expect to confine myself strictly to re-direct examination.

Mr. Bangs: Then I must ask to be permitted to introduce in evidence certain papers which were overlooked before, and which we intended to introduce in evidence. There are two letters signed by the defendant, which ought to be introduced before Mr. Choate's re-direct examination. There are also three other papers which have come into my hands which I would like to introduce, which Mr. Choate probably desires to re-direct examine Mr. di Cesnola upon.

Mr. Choate: I shall not object to the introduction of papers because they were overlooked; I shall only object to them on other grounds.

Mr. Bangs: I should like to have the paper, certified from the War Department, which was read in evidence, as an exhibit.

(2946) Said paper is marked Exhibit 205 of this date.

Mr. Bangs: I now offer in evidence the three letters I have spoken of.

The Court: Do you propose to read those letters now?

Mr. Bangs: I may as well, I think, if the other side do not object to them.

Mr. Choate: I object to these letters as incompetent and irrelevant.

Mr. Bangs: Mr. Choate's re-direct examination, by his consent, is suspended for the purpose of enabling me to offer some letters in evidence, and I produce a letter conceded to be in the handwriting of the witness, Mr. di Cesnola. I now offer it in evidence.

(Objected to as immaterial; objection sustained; exception taken.)

(2946) Said paper is marked Exhibit 206 of this date, for identification.

Mr. Bangs: We also offer in evidence a letter conceded to be in the handwriting of the defendant.

(Objected to as immaterial; objection sustained; exception taken.)

Said letter is marked "For identification Exhibit 207 of this date."

(2947) Mr. Bangs: We also produce a third letter, conceded to be in the handwriting of the defendant, and offer it in evidence.

(Objected to; objection sustained; exception taken.)

Said paper is marked "For identification Exhibit 208 of this date"

Mr. Bangs: I now offer in evidence a letter of Mr. L. P. di Cesnola written from Portchester, N. Y., August 30th, 1877.

(Objected to as immaterial; objection overruled; exception taken.)

Said letter is marked Exhibit 209 of this date, and is as follows:

"Portchester, N. Y., Aug. 30th. 1877.

Dear Mr. Hutchins:

When all the boxes have been opened, and their contents registered, please send for Mr. Gehlen and show him all the tables, mirrors, bureaus, in fact all objects in wood, and ask him how much he wants to put them all in order, re-varnish them etc., etc. Tell him that I know very well that such simple and tedious work is not worthy of troubling an artist like him, but as it is German work, perhaps he may have some of his assistants or apprentices who will be able to do the work. At any rate if he cannot undertake the repairing of said things, please ask him to let me know how much it would cost to have them repaired by somebody else. I do not want to spend much money in repairing that furniture, as it is of a cheap kind. I have used it for twelve years and now will be used by our servants chiefly. Mr. Gehlen may take away the pieces one by one or all at a time as you may direct. The two portraits have to be looked after by Mr. Gehlen as I am afraid some of the gilding wants attention. As to the china and glass ware, we can have them repacked loosely in some boxes for the present, or leave them as they are if they are not in the way. The five china pieces broken may be given to Mr. Gehlen to be rivetted or cemented together, which is the most solid if you think they are worth repairing.

(2948) It is probable that on Saturday I will be in N. Y. and if you hear anything to the contrary please keep all letters which may come for me at the museum on Friday. I am very much obliged to you for the trouble you are personally taking in the unpacking of my boxes.

Believe me yours truly,

L. P. DI CESNOLA."

Mr. Bangs: I now produce and offer in evidence a letter conceded to be in the handwriting of the defendant, dated November 25th, 1876 to Mr. Whelan.

(2949) (Objected to as immaterial; objection overruled; exception taken.)

Said letter is marked Exhibit 210 of this date, and is as follows:

"Ilington Villa, Albion Road,
South Hampstead, N. W.,
November 25th, 1876.

Dear Mr. Whelan:

You must not think ill of me if I have been unable yet to keep my promise and to show you the Kurium treasure. I have the work of ten persons to do, and besides the writing of

my book, I have been these last two months almost always shut up here in my house, with a bad cold, which is far from being cured. The Kurium treasure after all goes to New York with the rest of my discoveries; this has been finally settled, and the collection is now the property of the New York Museum.

If, when I go to the British Museum to pack it, you like to see it, I will be glad to do so.

The account is correct, and please let me know if you want me to pay the amount to our banker, F. Burt, or I have better to send the amount to Mr. Feuardent in Paris. I regretted very much to have been unable to see Mr. Feuardent while in Paris, but you must know that when you have children, wife, trunks, servants, &c., &c., to attend and to look after, there is little time left to the husband and father to see his friend.

Believe me, sincerely yours,

L. P. DI CESNOLA."

P. S.—The New York Museum secured all my discoveries for \$66,000 in gold."

(2950) Mr. Bangs: We also offer in evidence a translation from the transactions of the Academy of Sciences of Turin, which we omitted to offer.

Mr. Choate: You may read it, subject to correction.

Said translation is marked Exhibit 211 of this date, and is as follows:

"Island of Cyprus.

Your Excellency:—I have the honor to transmit herewith an account of the archaeological discoveries made in this Island since my return from America. Your Excellency is not ignorant that the objects of art discovered by me between 1867 and 1872 were purchased by the New York Museum, while some of the chief museums of Europe were, so to speak, disputing for its possession, and when the entire collection left London, the English press declared it an irreparable loss for science, and a European misfortune."

(2951) If I here make allusion to these facts, it is because I desire to express publicly and emphatically my gratitude for all the efforts which your Excellency has made, although without success, to bring about what I desired, namely: that the objects discovered by me should be acquired by the Museum of antiquities, and add another ornament to our Turin.

Your Excellency has well understood the great importance of this collection in relation to the history of antique art and archæology, and for what you have endeavored to accomplish, you have acquired a new title to the gratitude of the people of Turin.

In response to the desire of your Excellency so kindly expressed in your last letter, I send the following account, prepared in haste, and in the midst of many other occupations, as your Excellency is aware, which demand all the time at my disposition. I must, therefore, ask for this account all the indulgence of the members of the academy and of their illustrious president. I have the honor to renew the assurance of the profound respect of your Excellency's most humble servant.

(Signed.) L. P. DI CESNOLA."

Re-direct examination by MR. CHOATE:

(2952) Q. I see here a letter to Count Schlopis; who was he?

A. The same one who was president of the Alabama arbitration.

Q. And what was he, an Italian?

A. He was the president of the Royal Academy of Sciences of Turin.

Q. Do you remember this letter, of which an extract or copy has been read?

A. Substantially so.

Q. When was that written?

A. Some time at the end of 1875, or some time in 1876, I believe.

Q. What did it relate to; what objects had he been making to procure the purchase of, if that is what it means?

A. Count Schlopis was very anxious to secure my first collection and my second collection for the museum of antiquities at Turin—the two collections that came afterwards to the New York Museum for \$116,000; it was an offer of

his own, and when I met him after my first report, in 1871, he wrote me to Cyprus, saying:

"I am very anxious—"

Q. What were the objects that you are talking about in this letter?

A. I suppose it was my first collection; I don't know; there is a letter of his in the hands of my lawyer that gives all the details.

Q. It was a letter of acknowledgement for his efforts in your behalf? A. Yes, sir.

Q. The language here is: "Your Excellency has made all the efforts, although without success, to bring about what I desired, namely: that the objects discovered by me should be acquired by the Museum of Antiquities, and add another ornament to our Turin?"

A. I do not think it reads quite as it is, but it is substantially so.

(2953) At what period, or point of time, was it that Turin was trying to secure any of your collection?

A. After the museum in New York had given up the idea of any purchase, and there was no possibility of my selling to them, which was in 1872, or the end of 1871.

Q. This letter to Mr. Whelan, in 1876, speaks of your regret of being unable to see Mr. Feuardent while in Paris; which Mr. Feuardent does that refer to?

A. The father of the plaintiff.

Q. It also speaks or suggests that he should pay the amount, or to let you know if you want him to pay the amount to your banker, F. Burt, in 1876; what were you doing in London?

A. I had my second collection then before the British Museum.

Q. Did you have an account then with Burt & Co.?

A. Yes, sir; I had a bank book, check book, and everything else.

Q. And on that account you drew checks?

A. Yes, sir.

Q. In this letter to Mr. Hutchins, what was the occasion of your wanting to have furniture repaired in 1877?

A. It was my furniture from Cyprus which I kept, and as it came on the same ship on which I sent the antiquities belonging to the museum, I had asked Mr. Hutchins to ask Mr. Gehlen to have it properly repaired in order that it might go into my new house.

(2954) Q. I think you have already stated that that was Mr. Gehlen's business?

A. Yes, sir; he was a cabinet maker.

Q. Look at this letter, and see if it is a translation of the letter which you referred to from Count Schlopis?

A. That is substantially a translation.

Mr. Choate: I offer the translation of this letter in evidence; the original is present and can be compared with our translation.

Mr. Bangs: I object to it as immaterial; your Honor will perceive that this is one letter out of a sequence of letters, the rest of which are not produced. Your Honor will observe by reading this letter that this letter cannot be read until the others are produced; it is substantially like the Cypriote inscriptions, which cannot be read until the dirt is washed out.

The Court: When is the Turin letter dated?

Mr. Bangs: This translation is dated Island of Cyprus, but it was published in the Magazine as having been read or received, I cannot tell which, at the session of January 2d, 1876, and it begins by saying: "Your Excellency—I have the honor to transmit herewith an account of the archaeological discoveries made in this island since my return from America," which was certainly in 1873. He then goes on to state: "Your Excellency is not ignorant that the objects of art discovered by me in 1867 and 1872 were purchased by the New York Museum, while some of the chief museums of Europe were, so to speak, disputing for its possession, and when the entire collection left London the English press declared it an irreparable loss for science, and a European misfortune."

(2955) The Court: I think I will exclude that letter.

Mr. Choate: I think, your honor, that it very important for us to have this letter come in; you will see that this article shows that the statement was in reference to something that had previously been sold to the New York museum; now have I not a right to explain that it was in connection with that collection, at a prior time, when there was no action taken on the part of the New York museum.

The Court: I think you have a right to show that by this witness, but I must exclude the letter.

Mr. Choate: How can I prove it any way better than by the letter itself, of the gentlemen who conducted the transaction; it is in an immediate connection with the subject in hand, about which the gentlemen was writing.

(2956) The Court: I think I shall exclude that.

Mr. Choate: Will your honor note our exception?

Q. As to the effort and desire, referred to in this letter of December 20th, 1870, from Count Schlopis, that you had reference to in your communication to him which was put in evidence does your communication to Count Schlopis refer to the same subject treated of in this letter of December 20th, 1870?

(Objected to)

The Court: You can show what services of Count Schlopis are the subject of his thanks in the Turin letter.

Mr. Bangs: I do not object to that.

Q. What services of Count Schlopis are the subject of your thanks to him in your Turin letter, written to Count Schlopis?

A. To secure my first collection for the museum of antiquities at Turin, or the museum for Egyptian antiquities.

Q. In what years? A. In 1870 and 1871.

Q. Was this letter of December 20th, 1870, received by you at that time?

A. About ten or fifteen days after its date.

Q. While he was making that effort to secure the collection? A. Yes, sir, certainly.

Mr. Choate: I now offer this letter in evidence; my object for offering this letter is to prove that the transaction mentioned in the letter, was really a transaction which took place at a time when there was nothing on foot with the New York Museum.

(2957) Mr. Bangs: Prove it; the letter of Count Schlopis is no proof of that fact; you might as well offer a newspaper article of to-day; that is no proof of it.

The Court: I think I will admit it.

Mr. Bangs: Will your Honor note my exception?

Said letter is marked Exhibit 212 of this date, and is as follows:

"TURIN, DEC. 10th, 1870.

Most esteemed Count: I delayed answering yours of the 13th which reached me four days ago with the hope that in the interval I would have received some answer from Minister Sella, but unfortunately this did not happen. I have also asked a brother-in-law of his to urge him to answer me, but I fear it will require some time to get a definite answer. You know, most esteemed Count, how sanguine is my desire to see in Turin a collection which would be a great ornament to our museum, and a source of instruction not only to our fellow-citizens, but also to foreigners. But my influence to obtain such benefit is nothing, and as you see the Ministers don't make a scruple of prolonging their silence even after having given their most formal promise to interest themselves strongly in a thing which after all would redound to their honor.

(2958) Since you have advantageous proposals from Boston, do you not think it would be well to write yourself a letter to Minister Sella in which mentioning the silence kept towards me of which I complained, you would consider yourself free from any engagement with him, and would look after your own best interests. I suggest to you this expedient, because I would be very sorry if you, for having acceded to the desire I had shown to possess in Turin, your collection should at the end to suffer for it. I

hope you received a letter from me in which I gave you news of the good Countess' health and of your charming daughters. I propose to have the pleasure of seeing them this afternoon.

I herewith enclose you a note from Mr. Finzi and I see with special satisfaction that justice is done to the merit (by men like him who are just appreciators), of the advantages derived through archaeology through your erudite researches.

Continue, dear Count, in your noble studies, in spite of difficulties which sometimes come forth from quarters the least expected, and believe to the sincerity of the sentiments of my most special esteem towards you.

Your devoted &c.,

(Signed) FREDERIGO SCHLOPIS."

(2959) Q. At that date what official position did Count Schlopis hold?

(Objected to as immaterial.)

Q. What relation to the Government or to the Academy of Sciences in Turin, did Count Schlopis hold?

(Objected to as immaterial; objection overruled; exception taken.)

A. He was the President of the Academy of Sciences in Turin.

Q. I observe that he calls you "My dear Count," what is the origin of that title?

A. That is the title of my family.

Q. When and from whom did you derive it?

A. About 600 years ago from father to son.

Q. It goes from father to son?

A. Yes, sir.

Q. And your father bore it before?

A. My uncle had it; then it came to my father; then my brother took it, and it would have come to me if I were not an American citizen.

Q. In your war record there was a reference made to your having been confined in the Capitol prison: what was that?

A. When I was Lieutenant-Colonel, or at least I had just ceased to be Lieutenant-Colonel of the Scotts 900—

Q. Before you were in the Fourth New York Cavalry?

A. Yes, sir.

(2960) A. What was the occasion?

A. There was some personal matter existing between the then Colonel, Mr. Swain, and myself, and the men seemed to side on my side. Mr. Swain was only a reporter and did not understand military tactics, and the men in the camp made a demonstration in my favor. I had nothing to do with it.

Q. Is it the same subject that you referred to on your cross-examination?

A. Yes, sir.

Q. In your cross-examination you have stated that on the 15th day of November, 1862, immediately after closing the contract with Mr. Morgan, you wrote instructions to your agent in New York, Mr. Hiram Hitchcock.

Mr. Bangs: I object to that statement on the ground that the witness was not allowed to so testify. He was not allowed to testify to the contents of the letter.

Mr. Choate: I will modify my question.

Q. In your cross-examination you have stated that on the 15th day of November, 1872, immediately after the closing of the contract with Mr. Morgan, you wrote a letter to your agent in New York, Mr. Hiram Hitchcock?

A. Yes, sir.

Q. Will you look at the letter I now show you and say whether that was the one?

A. Yes, sir.

Q. When and how did you obtain it for the purpose of producing it here?

A. A few days ago by Mr. Hiram Hitchcock.

(2961) Mr. Choate: I offer this letter in evidence.

(Objected to as incompetent and irrelevant; objection sustained, exception taken.)

Q. Simultaneously, or immediately after the closing of the contract with Mr. Morgan, did you give instructions to your agent in New York in

respect to the delivery of any part of the collection?

A. Yes, sir.

Q. Were those in writing? A. Yes, sir.

Q. Are they contained in this letter to Mr. Hitchcock?

(Objected to as incompetent; objection sustained; exception taken.)

Q. Are you able to state, at the time of the contract with Mr. Morgan, what were the number of pieces included in the sale—about, and where they were?

(Objected to on the ground that the question calls for secondary evidence; objection sustained; exception.)

Q. Where were the 10,000 pieces, and in what proportions were they distributed, at the time of the sale?

(Objected to as immaterial; objection sustained.)

Q. How many of those pieces were in Cyprus at the time of the sale?

Mr. Bangs: What pieces?

Mr. Choate: Which he says are included in the 10,000 pieces.

(Objected to as immaterial; objection sustained.)

(2962) Q. You have stated, both on the direct and cross examination, something as to a point of time in August at which you had certain information as to what the charges of Rollin & Feuarent were, and were to be. Are you able, by any means in your possession, to fix another point, prior to the closing of the transaction at which you had similar information?

(Objected to on the ground that that is not a subject of proper re-direct examination.)

Mr. Choate: This is a matter that I had no knowledge of when I examined the witness in chief.

Mr. Bangs: I do not object, if it was an oversight? A. I believe so.

Q. How can you do it?

A. By letters which were sent me by Mr. Hitchcock, which I have read, and which have refreshed my memory.

Q. Letters written by you, which you have received from him since you were examined in chief? A. Yes, sir.

Q. Is this one of them? A. Yes, sir.

Said letter is marked for identification Exhibit 213 of this date.

Q. Was this letter written by yourself at the time of its date? A. Yes, sir.

Q. And it has been sent you within a few days by Mr. Hitchcock? A. Yes, sir.

(2963) Q. I ask you, if, without looking at this letter you can state what that information was—your information as to the charges that you have received from Rollin & Feuarent, or Mr. Feuarent, the plaintiff's father?

A. I do not understand your question.

Q. Can you, without refreshing your recollection by looking at this letter, state what this additional information was that you received from Mr. Feuarent, or Feuarent & Rollin as to what the charges would be?

A. Yes, sir, about \$14,000; \$10,000 for something and about \$4,000 for something else.

Q. You have heard the reference made to Mr. Johnston's published statement of your desire that your collection should come to New York. Will you please state, generally and very briefly, the course of all your negotiations in regard to your collection?

Mr. Bangs: With whom?

Mr. Choate: With anybody.

Mr. Bangs: That I object to.

The Court: I do not know how far "anybody" may be carried, but I think it is desirable for the witness to be able to state the transaction, for the purpose of explaining the Johnston communication.

Mr. Bangs: Is this answer to be restricted to the Johnston negotiation? I do not so understand it.

(2964) The Court: I might it was how far "anybody meant," but I thought

desirable that he should explain the negotiations, so as to explain the Johnston transaction.

Q. Explain the course of your negotiations in regard to your sale of your first and second collections, both, so as to explain the reference made by Mr. Johnston to it, as you understand it?

A. As soon as I made this discovery in 1870, I wrote to Mr. Hiram Hitchcock, in New York, who has always been my agent here and attended to my business, giving him all the details—

Q. I do not want you to state the contents of the letter, but state the course of your of your negotiations?

A. I wrote to him to see whether he could sell the collection. I saw Mr. William H. Seward in Cyprus, and he promised to do all that he could to bring my collection to New York. During that time I went on with my diggings until I had come to Italy, which was probably in August. I got a letter from Mr. Hitchcock, saying that there were no hopes for me in New York. Then I found myself, almost without funds, to carry on my diggings, on account of the failure of the movement in New York.

Q. What year was that, in 1870 and 1871?

A. It was at that time, when I saw Count Schlopis, and spoke of my desire to have my collection at Turin, if possible. I returned to Cyprus, and had other communications with Mr. Hiram Hitchcock, who had been laboring here trying to sell the collection to this country. I had also some correspondence with the French Government, or at least with Napoleon III, who had tried to get the collection. I received also letters from Rollin & Feuudent—

(2965) Mr. Bangs: I object to the witness' giving the contents of the letters.

Q. When your communications with Turin were taking place, you had no hopes of the transactions being completed in New York?

A. No, sir, there was no hope then.

Q. You sold your first collection on the 14th or 15th of November, 1872. When did you sell your second collection?

A. In 1876—November or December, 1876.

Q. You got back to Cyprus in the fall of 1873, did you not? A. Yes, sir.

Q. And on what footing were you then with New York as to the sale of any second collection that you should make?

A. An agreement was prepared to the effect that I should dig for the Museum at a certain sum. I signed the agreement, and it was left to be signed by the Trustees at the first meeting which they might hold. The crisis of 1873 came in, and the Trustees did not feel justified in signing the contract which Mr. Johnston and Mr. Blodgett had made. I then found myself exploring in Cyprus at a great expense, higher than I could afford, and I was left alone there, using the money which I had received from the Museum, and made the second collection, which was afterwards secured by the New York Museum at \$60,000 in gold. These two collections to-day form what is called the Cesnola Collection, in the Central Park Museum.

Q. What are the facts in reference to your having made sacrifices, in order to hold the two collections together in New York?

(2966) Objected to as immaterial and irrelevant.

Mr. Choate: I will refer your Honor to this statement, which was read over and over again to the jury, and I am trying to prove it: "It is but just to General di Cesnola, as a citizen of the United States, to record the fact that it was owing to his determination, not only to keep the collection in one body under his own name, but also, if possible, to secure them for his adopted country, that the Trustees of the Museum were successful in their efforts to secure them. Had the General been less resolute on these points, or more mercenary, the collections would have been broken up and the articles sold separately, to his pecuniary benefit, but to the incalculable loss of science." It is that statement which I desire to prove.

Mr. Bangs: I repeat again that I do not object to what he is going to prove, but I object to what he is not proving.

(2967) The Court: What do you object to?

Mr. Bangs: I object to his swearing to what he could have sold.

Q. Without giving your judgment as to what you could have done, state what are the facts in regard to what is recorded by Mr. Johnston in that paragraph?

A. I was offered \$50,000 for the tenth portion of the second collection alone.

Q. Was that for the gold?

A. Yes, sir; for the gold. I was offered £10,000 sterling for the tenth portion of my collection.

Q. That is the Kurium treasure? A. Yes, sir.

Q. By whom was that offer made?

A. By the British Museum.

Q. The collections there stated to have been the subject of your desire to keep them together, what collections were they?

A. The entire collection; the first and second collection of my Cyprus discoveries—all my discoveries.

Q. What was the date at which you understood from the plaintiff that his total charges would be \$10,000 and \$4,000?

A. I could not remember precisely, but it was some time in August or September.

Q. Can you tell by looking at this letter what time it was? A. Yes, sir.

Q. Was that offer from the British Museum in writing?

(2968) A. Verbal at first, and in writing afterwards, I think.

Q. Look at this letter and say whether it enables you to refresh your recollection as to the date at which you were told that the charges would be \$10,000 and \$4,000? A. Yes, sir.

Q. When? A. In August, 1872.

Q. And before what date?

A. Before the 16th or 17th of August, 1872.

Q. What was your belief at that time as to what they were to be?

(Objected to as immaterial.)

The Court: I don't think it is of any importance to know what he believed; he may state what information he had.

Q. Did you get any information in Paris, in August, 1872, and from whom, as to what the advances already made were to be, and what the other expenses connected with it, were to come to?

A. I understood it, either from Mr. Rollin or Mr. Feuudent, one of the partners in the house of Rollin & Feuudent. But I think it was the father of the plaintiff.

Q. Can you state what?

(Objected to on the ground that this is not a proper subject for re-direct examination; objection overruled; exception taken.)

Q. What did they state to you in respect to that in August, 1872, when you were in Paris?

(Objected to, until it appears who told him.)

(2969) Q. Who told you in Paris?

A. Either Mr. Rollin or Mr. Feuudent's father. I wanted to have more money advanced to me, and they did not want to advance it. And they told me that my bill amounted already to a certain amount, and last they did advance me two hundred pounds more.

Q. How much was that amount?

A. About \$14,000.

Q. Did they say what part of that amount were advances, and what part other charges?

A. Yes, sir.

Q. What did they state to be the amount already advanced? A. \$10,000.

Q. Is this the letter in which you received the offer from the British Museum for a portion of your second collection (handing witness a paper)? A. Yes, sir.

Mr. Choate: I offer this letter in evidence.

It is marked Exhibit 214 of this date, and is as follows:

"British Museum, Nov. 15th, 1876.

Dear General Cesnola: Mr. Winter Jones has this morning had the misfortune to lose his wife. I cannot, therefore, refer your letter of the 14th

to him, which I should otherwise have done. But I can at once answer your question so far as the instruction I received from the minute of the trustees allows me. The trustees in that minute authorize me to say that they are prepared to recommend the purchase of your Curium antiquities for a sum not exceeding ten thousand pounds (£10,000.) I feel quite sure, both from what passed in my interview with the trustees on Saturday, and also from the language from the minute, that they would not go beyond £10,000. If, however, you wish for an official answer to the question, you address to me in your letter, Mr. Winter Jones will in due course be able to send you one.

(2970) You will bear in mind that whatever sum the trustees feel authorized to recommend in this case, any purchase that may be made must be subject to the approval of the Government.

Yours sincerely,

C. T. NEWTON.

P.S. I enclose a letter which came to day in regard to my case. C. T. N."

Q. The Curium collection was a small part of your second collection sold to New York?

A. Yes, sir, about a tenth portion.

Mr. Bangs. I should like to have you read the letter to Mr. Hitchcock of August 18th, 1872, in evidence, or I will read it myself as part of my evidence.

(2971) A. At this date, I understood you, you had just received from New York the intelligence that nothing could be done there, when you got to Paris? A. Yes, sir, about that time.

Mr. Choate: The letter marked already "for identification, Exhibit 213," of this date is now offered in evidence, and stands as Exhibit 213 of this date, and is as follows:

"PARIS, 18 August, 1872.

MY DEAREST FRIEND:

I have just received both your letters, and the Harper's Magazine for July, with your beautiful article, both of which Mr. Stevens sent to me from London yesterday. I am never tired of reading it. Yesterday I was presented to the members of the French Institute (the highest and most scientific body of the world.) There I met Levy, Renan, Litre, Dupanloup, and other celebrities, and also Mariette Bey, the Director of the Egyptian Museum at Cairo (Boulach). The President pronounced some words of praise for my indefatigability and love for science, and thanked me for having given to the "Institute" (Department of Inscriptions) copy of all my semitic inscriptions, etc. The Louvre Directors are crazy to obtain some sixty pieces of my collection (of course, the best of them) but even now that the hope of selling my collections to America is gone, (2972) I am reluctant to see it dispersed! And if there were even a distant hope of selling it one day by subscription to America, I would not sell it at auction now! But what can I do? I have to pay to the house of Messrs. Rollin and Feuudent \$10,000, which they have advanced me upon the collections; and \$4,000 more for other expenses connected with the same. If I could dispose in a couple of months of \$15,000 I would redeem my entire collection from the hands of R. & F., and repack it in their own boxes again, and send it to New York. You would soon see the French, German and English papers very angry that the collection has escaped their grasp! Once in New York, if the Art Museum or the New York Historical Society would permit me to expose it in their rooms till it has been sold, I do not doubt that when the New Yorkers could see it, it would be easy to obtain, by subscription, the amount thought fair, for the acquisition of the collection. As I am now situated, I cannot help it—I must, within four months, sell it at auction; or in small lots at private parties and museums; the latter never treat directly, but always through an agent (Rollin and Feuudent are the agents for the Louvre, British, Vienna, and St. Petersburg, and Boston!!! Museums!) Of course, I am in the hands of the Philistines, but what can I do? I must pass (2973) through it. If the subscription for the purchase of my collection in America, could raise that

amount within two months, I could pay the Rollin & Feuardent, and take away my collection; but, as such a thing would not be possible, my best plan is to take the "bull by the horns" and go at once to work and prepare the catalogue, and then, when all is ready, sell it at auction. Still, another thing might be done, that is, to find in New York another speculator like Rollin & Feuardent who would be willing to advance \$15,000 on the collection, and keep it in his possession till sold, but the rate of interest, storage, insurance, etc., would soon eat up half the collection. There are for me, therefore, only two possible things to do—either to raise \$15,000 and disengage my collection, or within four months to sell it at public auction at London. The expense of making a first-rate catalogue, with fifty or sixty engravings in it, will cost me \$1,000; the expenses connected with the sale, that is, room hire, advertising (10 per cent. commission to auctioneers) and other expenses, will eat up more than fifteen per cent. of the value of the collection; but such a thing cannot be helped. The only thing I fear is, that at the public sale a secret understanding (as very often is the case), (2974) may exist between the auctioneers (Rollin & Feuardent) and the different purchasers, and then, of course, my loss would be very great; at the sale I made in London, when I was present, things were sold at \$50, and now I saw them in the Bibliotheque here; and my curiosity was rewarded by hearing that the Bibliotheque paid \$200 for them to their agents of course!!! The 63 boxes on board the "Napried" were not insured; and that is a sad loss to me, especially that I paid the freight in advance; but my diggers at Cyprus are continuing to work, and nearly 1000 pieces have already been replaced; Mr. Boker obtained from the Porte full liberty to ship my antiquities, whenever I want; so that I have great hope to replace in short time the number of pieces I have lost—to insure those 63 boxes would have cost me sixty Napoleons, and I could not afford it at the time; many good things, no doubt, are lost; but by no means the best; the coins and cylinders are amongst the lost things, and the Venus of Salamis also! but I am not a man to get in despair for that loss, no indeed!—to day, for instance, I got a letter from Larnaca saying that my men have brought to the Consulate over 600 pieces since my departure; and they are digging unmolested by the Turks, and hope to find many more (2975) things yet; so that you see I have no right to despair at all—the collection is already now about 11,000 strong indeed; to sell at auction a portion only, in order to redeem the best, cannot be done at all. My dear, dear friend, how much trouble you have given yourself for me, and for your countrymen!—I have several scores of cards left me, by influential New Yorkers who visited my collection in Cyprus, saying that they would be very glad to see my collection in New York, and renew their acquaintance, but said cards are in a trunk I sent to London. There was among them a Mr. H. H. Hurlburt, one of the editors of the New York World, living in Fifth Avenue, who, when here, was very anxious to use his influence, and have my collection bought to New York; I never heard of him afterwards.

My wife is delighted with Milady's letter, and will soon answer it. Ceccaldi is soon publishing the continuation of his article. I saw the engravings, and they are magnificent indeed; those of the Harper's Monthly are very poorly done! You will see the same statue of Assyrian Priest with long beard (called in the Magazine Phœnician Hercules), how differently it looks! Good by, my dearest friend in the world! Do not give you any further trouble; and do not impair your precious health for my collection—but if the \$15,000 could be raised in two months from now, then send me a telegram so that I can discontinue the preparation for the public sale.

Your aff't friend,

L. P. DI CESNOLA.

(2976) Mr. Bangs. Will you be kind enough to read also Mr. Blodgett's letter to Mr. Johnston?

Mr. Choate. We offer in evidence a letter from Mr. Blodgett to Mr. Johnston, dated October 10th, 1872.

Said letter is marked exhibit 215 of this date, and is as follows:

"BUCKINGHAM PALACE HOTEL,
LONDON, 10th October, 1872.

MY DEAR MR. JOHNSTON:

On my arrival in London, our mutual friend, Mr. J. S. Morgan, placed in my hands General Cesnola's list of his celebrated Cyprus collection, and urged my making an appointment to meet the General and see a portion of his collection. I spent the morning with him and was very much interested indeed. It certainly is a very valuable and wonderful collection, and in all the departments it represents and in very good order and preservation when one thinks it represents civilization of the ancients 700 or 800 years before the (2977) Christian Era. The General gave me a list of the whole collection which includes examples he has reserved of glass and jewelry for his own private collection—which I enclose to you. The practical points of the case are these: he says he has expended \$25,000 in excavating, \$9,000 about in freight &c., and \$2,500 in other charges, and given seven years of constant labor to the work. On the collection he has procured an advance to be repaid on the 10th, December next, and if not paid by that time, he forfeits the collection at a given sum. He feels very desirous it should go to N. Y. intact—He says he would sell it entire for \$60,000 to the museum, my impression is a direct offer from you of \$50,000 would be accepted as I think his necessities will compel him to break up the collection very soon. The British Museum are desirous to purchase the statues and statuettes, heads, bas reliefs and inscriptions from the Golgos temple to be arranged as a Cyprus Room in the museum, but he holds on to the last, he says, to have the entire collection go together. The examples in America are shipped by a sailing vessel care of Mr. Hitchcock. The portion wanted by the British museum is regarded as of the greatest value, of course. The collection of glass excels anything of the kind I (2978) ever saw; the vases endless in variety and quality. The collection impresses me of being one of great importance to any museum. The General says he would be glad to sell it to you if you desire at what any two experts may say it is worth, if you prefer. It is unquestionably an opportunity to acquire a very remarkable collection for any museum. Mr. Morgan says he will have it examined by experts and send you report if you require but will assume no responsibility in the purchase, except by your special instructions. You have given this matter special attention, and are the best judge of what action to take, and if you deem it of great importance as a commencement in this direction, I would advise you to complete the negotiations if possible, by cable, for my impressions are that the General will be forced to break the collection up by the 1st of December. Should you decide to purchase the collection and raise a special fund for the purpose, you may consider me a subscriber to that fund for \$1,000. It would be a great acquisition to our museum: The General says the museum could pay one-third cash and the balance of the purchase any time within two years anything done in the matter had better go through J. S. Morgan. I hope to remain in Europe for the winter which will be decided in a day or two. If I do, it is my (2979) intention with Mrs. Blodgett to join Mr. and Mrs. S. G. Ward and daughter for a tour up the Nile in December, and not return to New York until April next. I hope you have settled on the plans for the Museum building and will have the corner stone of the building laid before the Legislature meets. When the building is finally commenced we can get a good subscription out of the Americans in Europe, I feel convinced. Dr. Thomas W. Evans (the Dentist) of Paris, I have induced to make a subscription of \$1,000 to the Museum fund, and enclosed I hand you an order for this amount on his agent in New York, to whom the Doctor requested me to call on and who he said he would request to pay

when applied for, I ask you personally to attend to this, and as I am told Mr. Gordon was to sail for Europe the early part of this month. This subscription makes him a patron. Be kind enough to send the Doctor, when you get the money a receipt and express his right in the same. The Doctor is much interested in the Museum, and promises to present us a collection of articles of *vertu* when we get into our new building. It would be a capital idea to elect him a member of the Museum when we have a vacancy, as he will be of great service to us in Paris. If you agree with me I wish you would propose his name when there is a vacancy. He would feel complimented. I hope the Trustees (2980) will confirm the purchase of the two pictures I have sent home which closes all responsibility I have assumed in behalf of the Museum. I will order the plates of the engravings, and what remain of the etchings unsold shipped to New York, before leaving Paris. I think, you will be pleased with the reproductions of Franchi & Co., ordered by Mr. Hoppin and I hope our funds will permit us to complete the S. K. Museum list. My family are in Florence, and I hope to join them the next two days. Make my cordial remembrance to Mrs. Johnston and your daughter, and believe me yours very truly. William T. Blodgett."

I also offer in evidence two letters, dated October, 22nd, 1872, and September 21st, 1872.

Mr. Bangs: They are not complete; they are only fragments.

Mr. Choate: I presented and submitted them for the perusal of the other side, and those are all the letters that we can find between Mr. Johnston and Mr. Blodgett. Mr. Bangs objects to them and I withdraw them.

Mr. Choate: Now I offer in evidence the account between Mr. Morgan and Mr. Johnston.

RECESS TAKEN.

NEW YORK, December 21st, 1883.

Afternoon Session.

LOUIS P. DI CESNOLA recalled for further re-direct examination and examined by Mr. CHOATE:

(2981) Q. You made the general statement yesterday, as I understood you, that during your absences from Cyprus your diggings stopped?

A. Yes, sir.

Q. Because there was nobody there to pay for them? A. Yes, sir.

Q. In your letter of August 25th, 1872, you stated that you were in receipt of advices from Cyprus, that your diggings were going on and that there had already been brought to the residence 900 and some pieces? A. Yes, sir.

Q. Will you explain that?

A. They were merely finishing up the arrangement that they had—finishing up the things they had already found and bringing them to my house.

Q. You had left Cyprus when?

A. A few days before the beginning of August, and it was to go until the end of August.

Q. And the advices you referred to from Cyprus in your letter of the 25th of August were up to what date?

(2982) A. I suppose the 16th or the 17th.

Q. In reference to the little Hercules on page 2844 you say: "Mr. Balliard had nothing to do with that statue at all; Balliard had nothing to do with it so far as I know;" this is true so far as you know? A. Yes, sir.

Q. Have you received very recently some information as to something done by Balliard on that statue? A. Not from Mr. Balliard.

Q. Well, from somebody?

A. Yes, sir; from my counsel who had it examined.

Q. Which counsel; Mr. Evarts'?

A. Yes, sir; Mr. Evarts.

Q. Will you please produce the bank account on your Cyprus bank which you spoke of?

A. I think Mr. Evarts has it.

Q. It appears that this little statuette No. 157 came to pieces in your hands after the adjournment the day before yesterday? A. Yes, sir.

Q. What if any amount of force did you use upon it?

A. None whatever; I just done that way (indicating) and it came apart.

Q. By a juror: Didn't you try to break it?

A. I took it in my hand and wanted to see why it didn't come apart; that is all.

Q. What was your belief as to your having been actually breveted Brigadier General?

(Objected to as immaterial; overruled.)

(2983) Q. What was your belief as to your having been breveted?

A. That I was truly so by Mr. Lincoln, Mr. Seward and Mr. Harris being present.

Q. When did you get confirmation of that and how?

A. It was in the country, and I don't remember now how it was; I was in the country and one day I had the Herald in my hand and read it.

(Objected to by Mr. Bangs on the ground that it is of no consequence how he got confirmation; that in fact he did not get confirmed, and that the Herald could not confirm him.)

The Court: I will allow the witness to show that he saw this announcement in the Herald

Q. Did you see the announcement made?

A. I did.

Q. Did you believe it? A. I did.

Q. When was it first called in question to your knowledge?

A. In the New York Times once or twice and once in this court.

Q. I wish you to identify the page of your note book on which the agreement was written out by you.

(Objected to as improper and immaterial; overruled.)

Q. Is this the page that refreshed your memory as to the contents of that agreement? (showing witness a page in the note book last referred to.)

A. Yes, sir.

Page last above referred to marked Exhibit 216 for identification this date.

(2984) Q. In reference to the entry by Vallosio on page 105 of the Museum Album, can you tell when that entry was made by Vallosio on the leaf of the sample album?

A. It was some time after those two men had been discharged from the service of the museum.

Mr. Bangs: You mean by Vallosio?

Mr. Choate: Yes, sir; I thought it was already proved to be in Vallosio's hand-writing; I mean the words: "Page 105 and 106 detached."

Q. I understood you to say that you believed those were in Vallosio's handwriting?

A. Yes, sir.

Q. You say they were made some time after the discharge of Henkel and Alley?

A. Yes, sir.

Q. How long was that, if you know, after the 11th of March, 1881, when it was examined by you and Mr. Prime? A. After what?

Q. How long after the 11th of March, 1881, when the examination of that album was made by you and Mr. Prime, was it that Vallosio made that entry in it?

A. Some time in April I believe, after I discharged those men.

Q. Of the same year? A. Yes, sir.

Q. April 1881, or the following year, 1882?

A. No, sir; after they had been discharged; I cannot fix exactly the date now, I remember probably Mr. Prime was present when I sent for the album.

Q. You said in your statement to the committee that so far as you know there were no restorations, except the two specified: was that true?

(Objected to by Mr. Bangs on the ground that that subject has been exhausted.)

The Court: I think he has stated that before.

Q. Will you look at your note book, at page 72, and see if you find there a photograph of what is called "The Grinning Priest" taken in Cyprus?

A. Yes, sir.

Q. Does it show the arm on or not?

A. Yes, sir.

Q. Both arms?

A. Yes, sir.

Q. And that was a true photograph when it was taken in Cyprus? A. Yes, sir.

Q. In regard to the statue on which an inscription was developed by taking off the incrustation, the learned counsel for the plaintiff has stated that he is instructed to deny the fact of such an inscription; is the inscription now upon it?

Mr. Bangs: I object; I do not think I am correctly quoted.

Mr. Choate: I have got your words down; "I am instructed to deny that such was the fact."

Q. Well, is the inscription there on the arm? (Objected to as already examined about.)

The Court: I think he has already stated about that.

Q. Whelan in answer to one of the interrogatories says: "The addition of the arm in the Priest was made by me at the request of the defendant; it was approved of by the defendant."

A. That is absolutely false.

(2986) Q. That is your best recollection about it?

A. Yes, sir.

Re-cross-examination by Mr. BANGS.

Q. Do you think that is a larger or smaller falsehood than you imputed to Feuerdent?

(Objected to.)

Q. Colonel, when did you become a Count?

A. I never became a Count.

Q. Well, your application for membership to the Commandery or a branch of the Commandery of the Royal Legion is signed "The Count di Cesnola." What right had you to assume that title?

A. I was asked to give my full name I had in Italian, and I gave my full name I had in Italian.

Q. Who asked you to do that?

A. Those who made my application.

Q. Who made your application?

A. General MacMahon, General McClellan and General Cochrane.

Q. Do you mean to say that General McClellan, General MacMahon and General Cochrane personally asked you to give your full name you had in Italy?

A. They asked me to make the regular application.

Q. Answer that question?

A. They asked me to give my full name I had in Italy; yes, sir.

(2987) Q. That is what they asked you?

A. My understanding was so.

Q. Did they see your application—the inside of it? A. I suppose so.

Q. Wasn't that written upon a blank furnished to you by the officers of the Royal Legion?

A. Probably so.

Q. And at the bottom are directions what to do; are there not? A. There are what?

Q. Directions what to do—directions to the applicant how to fill up the blank?

A. I don't know; may be.

Q. Well, it says: "Please fill this up and return it to the Recorder;" and in your handwriting is the address: "General L. P. di Cesnola; Director Metropolitan Museum of Art." Is that the first time you had assumed the title of Count in this country?

A. I never assumed the title of Count in this country; I said in Italy I had it.

Q. Well, that application was written in this country? A. Yes, sir.

Q. Well, then you did use the title in this country; didn't you, in that application?

A. I did what?

Q. You wrote that in this country?

A. Certainly.

Q. When was the first time you added to your name, or preface to it, or put in connection with it, in this country, the title of Count?

A. I never did except in that application; I was to give my full name.

Q. Is that your handwriting? (showing witness a paper.) A. Yes, sir.

Mr. Bangs offers the paper just shown witness in evidence, being a letter dated: "Recruiting office, 62 White street, New York, 10th October, 1862, headquarters 4th Regiment New York State Volunteers, Cavalry, signed: "I am, with re-

spect, your obedient servant, Count L. P. di Cesnola, Colonel 4th Volunteers New York Cavalry;" and addressed to "Baron von Buckelstein."

Q. Who owned the title of Count—who possessed the title? A. The King of Italy.

Q. Who possessed the title of Count di Cesnola? A. At that time?

Q. Before you—last before you?

A. From my family.

Q. Just before you—from whom did it descend upon you? A. From my father.

Q. Directly upon you? A. Certainly.

Q. When did he die? A. Many years ago.

Q. Well, how many?

A. I don't remember now; in 1854 or 1855.

Q. What did you say?

A. I say I don't remember exactly now; many years ago.

Q. Well, how many years ago?

A. Well, 1852 or 1853; I don't know which.

Q. 1852 or '53? A. I have that recollection.

(2989) Q. You have what?

A. I have that recollection; I got it from my father.

Q. And you were then in this country?

A. No, sir.

Q. Where were you?

A. I was in Italy.

Q. And you then became Count?

A. Always been. My family—

Q. Well, were you a Count before your father's death?

A. Yes, sir; at the time he was living. The Sardinian custom is that sons have the same title as the father.

Q. They are Counts? A. Yes sir.

Q. Then you were a Count while your father was living?

A. Yes, sir; certainly.

Q. And at the same time your father was a Count? A. Yes, sir.

Q. And had the same title you had?

A. Yes, sir.

Q. And of that order of nobility of Sardinia?

A. Yes, sir.

Q. A Sardinian Countship? A. Certainly.

Q. And then you didn't inherit it?

A. Certainly I did; it goes to the family.

Q. Well, perhaps I ought not to use the word inherit. It was not your father's death that entitled you to it? A. No, sir.

Q. But you being born his son? A. Yes, sir.

Q. And each of the family was as much entitled to it as you? A. Yes, sir.

Q. Well, you had quite forgotten this letter written on the 10th of October, 1862, hadn't you?

A. What?

Q. This letter just exhibited to you, written on the 10th of October, you had quite forgotten, hadn't you; when you said that the first time that you used the title of Count was in your application for admission to the Royal Legion?

A. Since I was an American citizen; then I was an Italian when I wrote that letter, and I had that title.

(2990) Q. When did you become an American citizen?

A. When I became Consul to Cyprus.

Q. Were you naturalized? A. Certainly.

Q. Through the courts?

A. Yes, sir.

Q. And do you remember that part of that process was the renouncing of all allegiance to foreign powers, potentates and princes whatsoever?

A. Yes, sir.

Q. Now, I will show you the New York Herald of the 14th of June, 1861. See if you relied upon that announcement, and believed it?

A. Yes, sir; that is quite correct.

Mr. Bangs: I will read that. It is under the head of "Marriage:" "Palma di Cesnola—Reid.—On Tuesday, June 11th, by the Rev. Henry E. Montgomery, the Cavaliere Luigi Palma di Cesnola of Piedmont, second son of the late Count Maurice Victor Palma di Cesnola, to Isabel, daughter of the late Captain Samuel C. Reid."

What is the difference between a cavaliere and a count?

A. None whatever, that of Cavaliere is by right; that of Count is according to courtesy—according to the Sardinian law.

(2991) Q. Well, by what right did you become Cavalier?

A. By my right of being the second son.

Q. Well, what is the oldest son?

A. Count by right; Count by courtesy all of them; always called so by the Government.

Q. By whom?

A. By the Italian Government officially, in diplomas and everything else; always Count never Cavaliere.

Q. But you announced your marriage there by the name of Cavaliere? A. That is nothing.

Q. Well, so you say?

A. I don't think it can be proved as my announcement.

Q. You never saw it?

A. No, sir; I never saw it; this is the first time in my life.

Q. Whom do you put that on?

A. Probably my wife; she knew this country better than I did at that time.

Q. What was the rank you attained in the Sardinian army? A. Second Lieutenant.

Q. Did you resign? A. Yes, sir.

Q. What for?

A. For no reason of any kind, because I voluntarily left; that is the reason.

Q. Did you then come immediately to this country? A. No, sir.

Q. Where did you go? A. I remained in Italy.

Q. How long?

A. I don't remember; two or three years.

Q. Doing what? A. Life of a gentleman.

(2992) Q. Had you a fortune?

A. Italians live with very little; I had a house and farms, and I had a family who took care of me.

Q. Did you ever wear the Sardinian uniform, or any part of it in this city?

A. No, sir, I never did.

Q. Quite sure of it? A. Quite sure of it.

Q. Did you have an office at the corner of 25th street and 6th avenue soon after your arrival in this country where you taught tactics with ivory men on the table? A. At what time.

Q. Soon after your arrival in this country?

A. No, sir.

Q. Did you have a place there at the corner of 6th avenue and 21st street?

A. I don't remember; I may have had.

Q. Don't you remember? A. No, sir.

Q. Did you know Mr. Meeks, the Superintendent of the Money Order Department of the Post Office in this building? A. Mr. Meeks.

Q. Yes, sir; afterwards Adjutant of your regiment? A. Yes, sir.

Q. Didn't you teach him tactics there at the corner of 21st street and 6th avenue?

A. 1862; yes, sir, may be—three years afterward.

Q. Had you then a partner? A. No, sir.

Q. Was it before you entered the army that you taught tactics? A. Yes, sir.

Q. Did you go by your own name?

A. Certainly.

Q. Always? A. Always.

Q. Did you have a place for the transaction of business at 864 Broadway?

A. I don't remember now; may be.

(2993) Q. Well, try and remember?

A. If you call my attention to something—

Q. Well, a place called the Polyglot Institute?

A. Yes, sir.

Q. That was at 864 Broadway; wasn't it.

A. Somewhere near 17th street.

Q. Where you taught languages? A. Yes, sir.

Q. Had you any partner? A. Yes, sir.

Q. Who?

A. A Spanish gentleman called Silve.

Q. Is that the only place where you taught languages?

A. The only place—that is to say with a partner.

Q. And did you remain there until you went to the war? A. No, until I got married.

Q. Did you call yourself Count then?

Mr. Choate: I object to that as not re-cross examination. Well, go ahead; I suppose it won't be long.

Q. Look at this advertisement in the New York Herald of February 3, 1861, see if that was yours, under the instruction column?

A. Yes, sir.

Mr. Bangs: I will read that, if the Court please: "Conversation Parlors. A second course of conversational lessons in French, Spanish, Italian, German and English will be formed at the Polyglot Institute, No. 864 Broadway, near Union Square, as soon as the applications will be sufficient. Private lessons on Grammar may be had of each language by native Professors. This Institute is patronized by the highest society of this city. For circulars and particulars apply at the Institute." L. Palma di Cesnola.

(2994) Q. Now, look at this advertisement in the New York Herald of January 31st, 1861, and see if that is yours; is that yours?

A. I don't remember; but it may be.

Q. How is that signed? A. L. Palmer.

Q. Do you take the responsibility for that?

A. No, sir; not the slightest; it is Palmer, and it ought to be Palma.

Q. Do you think the Herald had as much authority for inserting this as it had for the other?

A. It is a misspelled name; nothing else.

Mr. Choate: I object to that as he says it was not authorized.

The Court: What is the point about it? One is signed L. Palmer.

Mr. Bangs: L. Palmer.

The Court: di Cesnola?

(2995) Mr. Bangs: No, sir; the advertisement is exactly the same as the other one, except that it is signed "L. Palmer."

Mr. Choate: The one is correcting the other; isn't that it?

Mr. Bangs: No, sir; the one of the 31st of January, and another of the 1st of February are just the same, both signed, L. Palmer," and the one that I put in of the 3d of February being signed: "L. Palma di Cesnola."

Mr. Choate: Oh, put them all in; they will explain themselves.

Mr. Bangs: Now, don't argue about it Mr. Choate. The one of the first of February, 1861, is as follows: "Conversation Parlors. A second course of conversational lessons in French, Spanish, Italian, German and English will be formed at the Polyglot Institute, No. 864 Broadway, near Union Square, as soon as the applications will be sufficient. Private lessons on Grammar may be had of each language by native Professors. This Institute is patronized by the highest society of this city. For circulars and particulars apply at the Institute." L. Palmer.

(2996) (A Juror.) Is the Palma spelt the same in both instances?

Mr. Bangs: Where it is connected with di Cesnola?

(A Juror.) Yes, sir.

Mr. Bangs: Where it is connected with di Cesnola it is spelled P-a-l-m-a; but where it is not connected with Cesnola it is spelled P-a-l-m-e-r.

(2996) Q. Under the head of "Military and Naval," is that your advertisement? A. Yes, sir.

Mr. Bangs: This advertisement is in the N. Y. Herald of November 22, 1864, and is as follows: "Military School, day and evening. Classes in Infantry, Cavalry, and Artillery Tactics, directed by Colonel Cesnola. Officers prepared for the army. For Circular and terms address Colonel Cesnola, Fifth Avenue Hotel."

The Court: Any more of these advertisements?

Mr. Bangs: Quite a number of them.

Mr. Choate: I object upon the ground that they are irrelevant.

(2997) Mr. Bangs: Well, it goes to the question of his good faith in believing that he was a Brigadier-General. That of itself does not, but the series does. It goes to the truth of his statement that he was in Washington; it goes to the statement that Abraham Lincoln appointed him or told him he would appoint him a Brigadier-General.

Mr. Choate: That was 1865.

Mr. Bangs: I have got them up to 1865 and afterwards.

The Court: Well, I rule them out. Have you got any after 1865?

Mr. Bangs: Yes, sir. We have an advertisement already in evidence of August, 1865, in which he is spoken of as Col. Cesnola.

The Court: Well, I do not think it is material at all.

Mr. Bangs: Well, if the Court please he has stated that he never procured commissions or taught fencing.

The Court: He didn't say about "fencing," did he?

Mr. Bangs: Yes, sir.

Mr. Choate: He said he taught—trained young officers—whatever that included. Now, what humbug this is.

Mr. Bangs: He did say that he never taught fencing. Now, can't I contradict him? He also said he never procured commissions.

(2998) The Court: Well, it is pretty late now. That was upon your cross-examination, wasn't it?

Mr. Bangs: Yes, sir; that was on my cross-examination; that is so; but I supposed that the evidence given on his re-direct as to his career was intended to invite inquiry on that subject, and I am willing to follow the lead as far as the Court will let me.

Mr. Choate: What humbug that is!

Mr. Bangs: To whom or what do you apply that?

Mr. Choate: I apply it to this in particular.

The Court: Oh, I do not think it is material.

Mr. Bangs: Then the Court thinks it is immaterial?

The Court: Yes, sir.

Q. I understood you to say that you were in Washington just before President Lincoln's death?

A. Very likely I was there for several days.

Q. Very likely?

A. About that time, yes, sir, I went to Washington.

Q. Is Senator Ira Harris living or dead?

A. He is dead, unfortunately.

Q. How? A. He is dead.

Q. Did you have to transact some business in the latter part of March, 1865, with Judge Joseph F. Daly, the gentleman who is now Judge Joseph F. Daly, of the Court of Common Pleas of this city?

(Objected to as immaterial.)

(2999) The Court: I do not see that his re-direct examination makes that point material.

Q. When did you get the degree of Doctor of Laws?

A. I don't remember. My commission shows it.

Q. Now, can't you remember within ten years when you became a Doctor of Laws?

A. Certainly.

Q. Well, how long ago was it?

A. Three or four years ago.

Q. Was it three years ago or was it four years ago?

A. I don't know. My commissions will show, if you will read them.

Q. What is a Doctor of Laws; what laws is he a doctor of?

Mr. Choate: The papers will show.

Mr. Bangs: He is a gentleman who, in good faith, thought he was a brigadier-general. I really would like to know how much he was deceived. I would like to know whether he knew the Constitution of the United States, and whether that was an indispensable qualification of being a Doctor of Laws?

Mr. Choate: My point is that the papers will show.

The Court: I don't think it is important to find out the knowledge he had. The college apparently gave him the title of Doctor of Laws. The reasons which induced them to give him the title I do not suppose are material.

(3000) Mr. Bangs: It may be important to learn whether or not it was before the passage of the Civil Service Act, because competitive exami-

nation cannot be presumed; the party himself ought to know what he thought a Doctor of Laws was.

Q. Here is your diploma from Princeton, apparently bearing date in 1880; was Mr. Prime a Trustee at that time?

(Objected to as immaterial.)

A. I don't know.

Q. Don't you know whether or not Mr. Prime was a Trustee? A. No, sir.

Q. This diploma was issued after this controversy with Feuardent broke out, wasn't it?

Mr. Choate: I object to that. The date shows.

Mr. Bangs: Well, that is true.

Q. How did you first learn of your being a Doctor of Laws?

(Objected to as immaterial; sustained.)

Q. The Columbia College diploma is dated June, 1880; was Mr. Prime a Trustee of Columbia College?

(Objected to as immaterial.)

A. I don't know.

Q. Was Dr. Barnard a Trustee of Columbia College? A. I don't know.

Q. Did you know then? A. No, sir.

Q. Was Judge Daly a Trustee of Columbia College? A. I don't know.

Q. Do you know who was the President of Columbia College when this diploma was issued?

A. Yes, sir; President Barnard—afterward President; yes, sir; President Barnard.

Q. But you don't know whether he was a Trustee or not? A. No, sir.

Q. Did you tell either of those gentlemen or any of the officers of that college that you were or that you were not a Brigadier-General or a General?

(Objected to as immaterial.)

The Court: I must exclude this class of testimony.

Q. Now, you said yesterday, in reference to No. 14, that they called it an Egyptian warrior like the other small one, and that you were not responsible for the name of it; whom do you want to put the responsibility of that upon?

(Objected to as immaterial.)

The Court: I don't think it is material by whom the Egyptian warrior was named, whether by this gentleman or some other.

Q. Who bestowed the names upon these statues?

(Objected to as immaterial; sustained.)

Q. You stated you had the classification of the objects. Did the classification include the giving of names or not? A. No, sir.

Q. In whose department was that?

A. Nobodys, but scholars; scholars will name the pieces what they are.

Q. Will you give me the name of the general officer who arrested you for trotting on the road to battle?

A. I have not the slightest recollection. I think it was Gen. Gregg; I have not the slightest idea now who it was.

(3002) Q. Have you any means of furnishing his name?

The Court: You think it was who?

A. I think it was Gen. Gregg, but I am not sure.

Q. What was he; a Corps Commander?

A. Division Commander—I suppose he was; might have been Brigade Commander.

Q. Well, you knew at the time what his rank was?

A. Well, he was a superior officer to me; he had a right to put me under arrest; that is all I know.

Q. That is all that you knew?

A. That is all that I needed to know.

Q. You said that was the whole charge against you—trotting so as to raise a dust?

A. I said to my recollection it was the case; to put an officer under arrest is absolutely nothing for a military man; they understand that thoroughly; may be put ten times under arrest in a day and released.

Q. Now, after all that, can you give any more information about that charge?

A. No, sir; unless I go through my scrap books.

Mr. Bangs: Now, have you arranged those letters so as to give the extreme dates; all that I want is a record of the dates?

Mr. Choate: Oh, we will agree on the dates.

Q. Col. Cesnola, how long ago did you begin to collect evidence for use on this trial concerning your military career and the honors and titles that have been conferred upon you?

(3003) (Objected to as immaterial and not in the nature of re-cross examination.)

The Court: I think you can examine him upon that point.

Mr. Bangs: Will the stenographer please note that Mr. Everts has examined this bundle of official documents that were introduced last night, orders, &c., addressed to Col. Di Cesnola, commanding Cavalry Brigade, and that the date of the earliest is November 28, 1862, and the date of the last is January 29, 1863.

Q. Now, will you please answer that question how long ago it was that you commenced getting together evidence and documents concerning your military career and the honors and titles that had been bestowed upon you for use in this case?

The Court: I think you should confine that question to the Brigadier-Generalship.

Mr. Choate: Should it assume that he has been busy about it at all?

Mr. Bangs: Well, I will ask him.

Q. Have you collected evidence with a view to this trial concerning your right to the title of Brigadier-General?

A. I made enquiries; but I did not collect anything.

Q. Well, didn't you find among your papers or among somebody's papers that extract from the N. Y. Herald? A. Yes, sir.

(3004) Q. When did you find that?

A. Only perhaps a week ago, or two weeks ago at the most; I never seen it—I never remembered it.

Q. Before that had you not been in search of documents or making inquiries? A. Yes, sir.

Q. Had you made inquiries at the War Department? A. Yes, sir.

Q. How long ago did you make those inquiries?

A. Since the suit, but I don't remember now; about a year or a half a year ago.

Q. Have you the answer you received?

A. Yes, sir.

Q. Will you please produce it?

A. I don't know what has become of it; the answer was negative; that is all that I know.

Q. Negative to what?

A. They could not give me official papers except through my counsel; that is what I asked them.

Q. Did they decline to give you papers?

A. They said they could not give me copies of official papers of the War Department except called for by my counsel.

Q. Did you receive a letter from the Secretary of War? A. No, sir.

Q. Robert T. Lincoln? A. No, sir.

Q. Do you know his handwriting?

A. No, sir; I never received any letters from him.

Q. You say that you believed that you were in good faith a Brigadier-General; do you still believe it? A. I still believe it.

Q. You still believe that you were?

A. Yes, sir; I deserved it and won it several times.

(3005) Mr. Bangs: I ask to have that stricken out.

The Court: Strike it out.

Q. Have you ever read the Constitution of the United States?

(Objected to as immaterial; sustained.)

Q. Do you pretend to say that you don't know which of the authorities of this country have the power to confer the rank of Brigadier-General?

(Objected to as immaterial; sustained.)

Mr. Bangs: Haven't I a right to examine him as to what basis his belief that he was appointed a Brigadier-General rested upon? He says he still believes it.

The witness: No, sir; I did not say that. I said I believed it.

The Court: You can ask him who conferred—

Mr. Bangs: I want to know what his belief was as to who had a right to confer ranks?

The Court: You can ask him that.

Q. Who do you believe had the right to confer ranks?

A. In the year 1865 I was a foreigner and did not know the laws.

The Court: Who did you believe had the right? The witness: The President of the United States.

Q. Do you believe that he alone has the right to?

A. At that time I knew only that and nothing more.

(3006) Q. At that time you believed he had a right to confer a title?

A. Certainly; that is what I knew at that time.

Q. Had you ever before that time seen the commission of a general officer? A. No, sir.

Q. What was the first thing you did under that title or with it?

(Objected to as immaterial.)

The Court: I decline to allow the cross-examination in regard to this title to be pursued any longer.

Q. You say that the letter which you wrote on the 23d of March, 1881, was true—that is the letter to Mr. Feuardent, Sr.? A. Yes, sir.

Q. Have you made sales—I think it is stated in Mr. Johnston's article that you did to the Cambridge Museum. You did make some sales to the Cambridge Museum, didn't you? A. Yes, sir.

Q. Do you know when you made them?

A. Yes, sir.

Q. When? A. 1876.

Q. Do you remember the amount? A. Yes, sir.

Q. What was it? A. \$4,000—£800.

Q. Do you remember what was the general character of the articles?

A. Exclusively glass, so far as I now know.

Q. Was there no pottery?

A. Maybe so. I don't believe there was any; might have been some pieces, but I don't think so.

Q. Is it true that you did not tell the Times reporter anything more than that the vase illustrated on page 402, figure 12, in your book, formed a part of the collection consigned to London in 1872 to Mr. Feuardent's son, Gaston?

(Objected to as not in the nature of re-cross examination.)

(3007) Mr. Bangs: He was asked yesterday whether the statements contained in that letter were true?

Mr. Choate: The only fair construction that can be put upon the question that was asked him yesterday is that it related to the statement contained in the letter about the vase, and nothing else.

The Court: Yes, sir; that is fair.

Q. Did you understand the question put to you on your direct examination where you were asked if certain statements were true, and you answered yes, to apply only to your statements about the vase?

(Objected to as immaterial and not in the nature of re-cross examination.)

The Court: I think it is obvious that the question put by Mr. Choate related only to the statement in regard to the vase.

Mr. Bangs: Then your Honor don't understand that the witness testified that the other statements in the letter were true?

The Court: No, sir; because I don't understand that any such questions were put to him.

(3008) Q. Is it true that you have not sold a single object out of your discoveries either to the house of Rollin & Feuardent or to any other, and that all came here to New York?

(Objected to as immaterial and not in the nature of re-cross.)

Mr. Bangs: That relates to the vase which he says should have been in the museum among the thousand others, etc.

The Court: I think you can ask whether that is included.

Q. Do you mean to say that that vase was sent to the house of Rollin & Feuardent or the plaintiff in 1872 among your collection?

A. To the best of my recollection; yes, sir.

Q. Do you recollect that it was so?
 A. I think so.
 Q. Have you a list of that consignment?
 A. I think it is somewhere—I think my attorney has it.
 Q. Have you looked at it?
 A. Not for a long time.
 Q. You said you searched for this vase everywhere; where did you search for it?
 A. In the museum.
 Q. Have you searched for it in Paris?
 A. In where?
 Q. In Paris? A. No, sir.
 Q. Will you say whether or not it was included in any collection sold by you at auction or to any museum? A. No, sir.
 Q. You are positive of that? A. Yes, sir.
 Q. Have you examined the catalogues of your auction sales to see?
 A. No, sir; I have no catalogues.
 (3009) Q. Isn't it true that since 1872 you had sold collections containing vases otherwise than to Rollin & Feuardent? A. In 1872?
 Q. Since 1872.

(Objected to as immaterial.)
 The Court: What is the point about sales after 1872?

Mr. Bangs: It is a part of his process that that article had improperly disappeared. He says: "Since 1872 I made no sales except that they came to your house, and therefore your son could not have bought that vase any other way."

The Court: Well, you can inquire.
 Q. Now, is it true that since 1872 you had not sold a single object out of your discoveries either to Rollin & Feuardent or to any other and they all came to New York?

A. You mean after the last December?
 Q. I mean just what I say. A. After 1872?
 Q. Yes, sir?
 A. Yes, sir; to the best of my recollection.
 Q. That was true, was it? A. Yes, sir.
 Q. Well, do you bear in mind the sale to the Cambridge museum in giving that answer?
 A. I didn't sell anything to the Cambridge museum in 1872 and 1873.
 Q. You did in 1876? A. Yes, sir.
 Q. Well, since 1872 is the question; haven't you sold objects out of your discoveries otherwise than to Rollin & Feuardent or to some others?

(Objected to as immaterial.)
 (3010) The Court: You can ask him that.
 Q. Now, then, is that true that since 1872 you had not sold a single object of your discoveries either to Rollin & Feuardent or to any other and all came here to New York; is that true?
 A. With the exception of Cambridge it is true. That glass collection I had forgotten.

Q. Well, it is stated here unqualifiedly, not excepting Cambridge; now, it is unqualifiedly true?

(Objected to.)
 The Court: I think the jury probably well understand the contradiction or alleged contradiction.

Mr. Choate: There is a qualification in that letter.

Mr. Bangs: Then I will read the letter to the jury and we will see what the qualification is.

Mr. Bangs here reads letter of the witness to Rollin & Feuardent, dated New York, March 23, 1881.

Q. Did you remember at the time you wrote that letter—did you carry in your memory all the articles which were in the museum, and which constituted the collection in the hands of Feuardent in London in 1872?
 A. I had a list of them.
 Q. You had a list of them?
 A. Yes, sir; that refreshed my memory.
 Q. Where is that list?
 A. Mr. Johnston, I suppose, has it in his hands.

Q. March 23, 1881; let us see if you recognize that list; is that the list (hands witness a book)? A. Yes, sir.

Q. When was this made? A. In London.

Q. Find that article in there if you can.

Mr. Strickney: Page 36.
 A. Yes, sir; there it is?
 Q. In whose handwriting is that blue there?
 A. Mine.
 Q. When was that put there?
 A. A long time ago.
 Q. How long ago?
 A. I suppose in 1879 when I was looking for that vase—trying to find it.
 Q. In 1879? A. Yes, sir.
 Q. Well, your letter is dated March 23, 1881, and you said: "I only observed its disappearance last year when I classified the Cypriote objects in this museum." A. Yes, sir.

Q. And here it says: "Missing from 14th street;" is that true.
 A. Because I don't know.
 Q. Is that true? A. I don't know."
 Q. Why do you say that then?
 A. Because I don't know.

Q. You say in the letter that you only observed its disappearance last year, and your letter is written in March, 1881, and the collection was removed from 14th street in 1879; and here it says: "Missing from 14th street;" who marked that? A. I marked that.

(3012) Q. Did you discover the disappearance in 14th street?

A. I never saw it in 14th street.

Q. Did the fact attract your attention that it was not there in 14th street? A. No, sir.

Q. Well, then, why did you put there "Missing in 14th street?"

A. Because, when I classified the vases in Central Park, when I found I couldn't find that vase, I put "Missing—probably missing in 14th street;" I don't know.

Q. But it says "Missing in 14th street?"

A. So I thought until I saw the Revue Archéologique.

Q. Then this memorandum "Missing in 14th street" was not put down in 14th street?

A. I say in 1879, when I classified the objects in the Park.

Q. And you wrote that then "Missing in 14th street?"

A. Yes, sir; probably at that time.

Q. (By Mr. Choate): When they came from 14th street to the Park? A. Yes, sir.

Q. And you say, "One nice colored vase in the form of a woman's head? A. Yes, sir.

Q. Where is the photograph of that?
 A. One of my books there.

Q. What?
 A. I suppose in one of my books there.

Q. Well, where; find it? A. In Doell's book.

Q. No, no. A. Oh, yes.
 Q. Is that a photograph?
 A. That is a copy of my photograph; Doell's book shows it, and it is in my book on "Cyprus."

(3013) Q. You say you had a photograph of it; you say in your letter: "This vase formed a part of the collection consigned by me to Mr. Gaston L. Feuardent in London, where it was photographed?"
 A. I had a photograph of that; it was taken in Cyprus by me.
 Q. I am not talking about Cyprus; I am talking about this expression: "It formed part of the collection consigned by me to Gaston L. Feuardent in London, where it was photographed;" who photographed it?
 A. I don't know.
 Q. Well, how do you know it was photographed?
 A. I am not sure that it was photographed.
 Q. Why did you say so in the letter?
 A. Because I photographed it in Cyprus myself.
 Q. But it says here photographed in London?
 A. Maybe an error.
 Q. Well, is it an error?
 A. Probably so; I photographed it myself in Cyprus.

Q. But you say here that it was photographed in London?

A. That may be a mistake.

Q. And you say also that it was reproduced in your work on "Cyprus" on page 402; is that true? A. Yes, sir.

Q. That is, the vase was reproduced there; was it? A. Yes, sir.

Q. That is a part of an essay by Mr. Murray; is it not? A. Yes, sir; I believe so.

(3014) Q. What were his pictures taken from?
 A. From photographs that I gave him.

Q. Your photographs? A. Yes, sir.

Q. Then you did photograph it; did you?
 A. I said I photographed it in Cyprus.

Q. Was that taken from a photograph in Cyprus? A. Certainly.

Q. Then it was not a London photograph that was reproduced there?

A. No, sir; I said I gave him the photograph.

Q. The Cyprus photograph?
 A. Yes, sir; the same one Mr. Doell used for his book.

Q. Now, how do you identify that vase mentioned on page 36 of your list as the one mentioned in the Archæological Review?

A. That one; yes, sir.

Q. But how do you identify it; it says here: "Nice colored vase in form of a woman's head?"

A. That is to the best of my recollection—that is the vase.

Q. Well, is that the vase, can you say?
 A. Yes, sir.

Q. Did you not have a great many vases in the form of a woman's head? A. No, sir.

Q. Only one? A. Only one.

Q. Only one? A. Yes, sir.

Q. Now look at the next one; is that missing—the next one on page 402 of "Cyprus?"

A. I cannot say which one; that one (indicating)?

Q. Yes, sir?
 A. I don't know, it may be there at the museum.

Q. Well, is that a woman's head on the next one?

A. No, that is quite a different shape of thing; that is a woman's head and everything else.

Q. Well, whose head is it if it is not a woman's head?

A. Well, probably it is a woman's head.

Q. Well, it is a woman's head; is it not?
 A. Yes, sir.

Q. Well, is that second figure not a woman's head?

A. Well, it is a different style.

Q. Well, it is a woman's head; is it not?
 A. I don't know.

Q. Well, what is it if it is not a woman's head?
 A. Man or woman; I don't know.

Q. Well, the first one, is that man or woman?
 A. Well, from the front it seems to be a man.

Q. As to this one in question, how can you say it is a woman's head and not a man's head?

A. Well, nothing in particular; looks like a woman's; that is all.

Q. (By Mr. Choate): That is the only one in which the subject and the whole subject is a woman's head?

A. That is the only one of that style.

(3016) Q. (By Mr. Bangs). The question was how by means of that description: "Nice colored vase in form of a woman's head," you can identify that one as being the one?

A. Because I had only that one of that shape and form and never found any other like it, and then I remembered that that was not in the museum; that is all.

Q. Do you mean to say that that whole vase is in the form of a woman's head or that a woman's head is one of its ornaments?

A. I say the shape of it.

Q. The shape of the whole vase is a woman's head?

A. The shape of it was such—it was the only one of that kind. I never seen another like it.

Q. Well, there is the article there now in this Halm Album (showing witness album)?

A. Yes, sir.

Q. That is the same vase? A. Yes, sir.

Q. And you say that that vase is in the shape of a woman's head?

A. I say that vase is a woman's head in front.

Q. I know you said that. A. Well, I only say that because that is the truth.

Q. Well, may be it is.
 Mr. Choate: Keep cool, General.
 Mr. Bangs: Yes, take your time.
 (3017) Q. Do you mean to say that that whole vase is in the shape of a woman's head?
 A. I say that the shape of the vase with that head on is the only vase I ever recollect of finding in Cyprus of that shape.
 Q. Will you now say that that whole vase is in the shape of a woman's head?
 Mr. Choate: I object to that examination as a waste of time.
 A. You make take it as you like; the vase speaks for itself.
 Q. I want to know whether you call that vase the shape of that vase, or the vase as having the shape or form of a woman's head? A. Yes, sir.
 Q. You do? A. Yes, sir.
 Mr. Bangs: Very well; now I am anxious to have the jury see it. I ask the jury to note that the article he says is missing is described here in this list as: "Nice colored vase in form of a woman's head."
 Q. Now, you meant to charge Mr. Feuarent with stealing that vase; didn't you?
 A. I never did.
 Q. By this language in this letter you meant to charge him? A. I never did.
 Q. You said you demanded an explanation?
 A. I did not demand an explanation of him.
 (3018) Q. An explanation of what?
 A. Of the disappearance of the vase.
 Q. It says so here; this is what it says: "It is from your son and not from you that I demand an explanation on the subject of this vase."
 A. I have not demanded the explanation from him. I told his father that if I asked for an explanation it would be from his son and not his father.
 Q. Where do you say that to his father?
 A. In my letter. If I demand an explanation, I demand it from your son. As the son was not in Paris I did not demand it from him.
 Q. Well, it says: "It is from your son and not from you."
 A. That is just correct; that is what I mean.
 Q. You did not consider that a demand from his son?
 A. No, sir; his son was here in New York and I could have demanded it personally from him; he was not in Paris.
 Q. What is the size of this thing which is put down in the catalogue as: "One nice colored vase in the form of a woman's head"—what was the size of it? A. I don't remember.
 Q. Well, what do you remember about it?
 A. Nothing.
 Q. Nothing at all?
 A. Except that it is missing.
 Q. Had it any hands? A. Yes, sir.
 Q. Now, beyond that, can you tell anything that it had not? A. What?
 Q. Can you tell anything else about it except that it had hands? A. No, sir.
 (3019) Q. I asked you if from your memory you remember what is its size. A. No, sir.
 Q. Does this go by the name of "Amphora"—this one in Exhibit 96? A. So it is called.
 Q. Did you ever at any time own any other Amphora than the one shown on page 402?
 (Objected to as immaterial and not in the nature of re-cross.)
 Q. Will you say whether or not you recognize this book now shown you purporting to be a catalogue of antiquities to be sold by Sotheby, Wilkinson & Hodge?
 (Objected to as already having been testified to and not touched upon in the re-direct examination.)
 Mr. Bangs: It is a question that suitably comes out of the inquiry whether that letter was true. I have a right to find out if that letter was true, and to show that it was not true in any of its implications.
 The Court: You want to prove that this vase is referred to in the Sotheby catalogue.
 Mr. Bangs: Yes, sir.
 The Court: I think you can show that this vase was in that catalogue.

(3020) Q. Now, I want to know whether you recognize that catalogue, or not?
 A. I never saw it before.
 Q. Did you know of any sale by Sotheby, Wilkinson & Hodge about that time?
 A. Yes, sir.
 Q. Were you in London in May, 1871?
 A. I believe I was; I am not sure.
 Q. Were you present at the sale by Sotheby, Wilkinson & Hodge?
 A. I am not sure of that; I believe I was.
 Q. Well, there was a catalogue; wasn't there?
 A. O, yes, sir.
 Q. And do you say, or do you not say, that that is a copy of it (showing the witness a catalogue)? A. I don't know.
 Q. You don't know anything about it?
 A. No, sir, I don't know anything about it.
 Q. Is that owing to defective memory?
 A. No, sir.
 Q. What is it owing to?
 A. Because I have not seen that. This is the first time I see that copy of it.
 Q. It is not this particular copy that I speak of; it is a catalogue of that sale. You say positively you never saw that?
 A. Not that catalogue in your hands.
 Q. I don't mean this particular copy of the book; did you see a catalogue of the sale?
 A. I said I made a sale and they made a catalogue; I don't know if that is the catalogue.
 (3021) Q. Did you keep a catalogue of that sale? A. No, sir.
 Q. Was it a book like that?
 A. Something of that kind.
 Q. Of the same number of pages?
 A. I don't know; I did not count them.
 Q. This one has 19 pages?
 A. Something of that kind.
 Q. This one has 376 articles catalogued; how many had that?
 A. I have no recollection of it; something like that I suppose.
 Q. This one embraced Phœnician bronzes; were these Phœnician bronzes embraced on that catalogue? A. May be.
 Q. Were there?
 A. I don't remember.
 Q. Were there Greek and Roman bronzes?
 The Court: May I see that catalogue?
 Mr. Bangs: Yes, sir (hands catalogue to the Court).
 The Court: Now won't you look at that catalogue and say whether that is a copy of the catalogue under which the Sotheby sale took place?
 The Witness: I believe it is.
 Mr. Bangs: Very good, that is all I want. Now if the Court please, I want to read a line above that—two lines above that from this catalogue: "One nice Amphora with two birds" that is in the list here; this has not been marked as an exhibit, but it is the same catalogue which was shown to the plaintiff on his direct examination and on which he pointed out on page 3, No. 31, as being the vase in question; I should like to have the catalogue now marked as an exhibit.
 (3022) The Court: The Sotheby catalogue?
 Mr. Bangs: The Sotheby catalogue, yes.
 Sotheby catalogue marked Exhibit 217 of this date.
 Q. Now look at this figure—statue of veiled female found at Fasuli—at page 285 of "Cyprus"?
 A. Yes, sir.
 Q. Have you looked for that image in the museum pursuant to my request?
 A. No, sir; I could not go there.
 Q. Well, you have not looked?
 A. I looked at all of my photographs.
 Q. Now, won't you answer my question?
 A. I could not go there.
 Q. I don't care whether you could or not.
 A. I did not look for it.
 Q. Say now upon your present information and knowledge, whether it is or is not true that that image constituted a part of your collection?
 A. No, sir.
 Q. It is not true? A. No, sir.
 (3023) Q. It did not constitute a part of your collection? A. No, sir.

Q. You have no hope or expectation of finding it in the museum, have you?
 A. Now from my thinking I know it is not there—from my photographs there; I had expectation of finding it, but—
 Q. That is enough. Now about this statue you say there was a mistake; who is responsible for that mistake? A. What mistake?
 Q. The mistake of putting that picture in your book on page 285 under the head of "The Neighborhood of Amathus"?
 Mr. Choate: He explained all that yesterday.
 Q. That mistake—whom do you put the responsibility for that upon?
 A. The man who had the cuts in his hands.
 Q. Who was that?
 A. The editor—the publisher.
 Q. What is his name? A. John Murray.
 Q. Well, who read the proofs?
 A. Somebody in London.
 Q. Who? A. I don't know.
 Q. Who is responsible for putting there "Statue of Veiled Female found at Fasuli"—
 A. I don't know.
 Q. Didn't you have anything to do with it?
 A. No, sir.
 Q. You mean John Murray? A. Yes, sir.
 Q. Didn't you correct the proofs? A. Who?
 Q. You.
 (3024) A. Corrected the proof but not the illustrations, I corrected the printed matter.
 Q. Do you mean to say that you had proof sheets furnished to you with spaces blank there, and figures not in?
 A. To my recollection; yes, sir.
 Q. And so you were never furnished with the proof of the figures nor with the lines under them?
 A. I would have corrected it at once.
 Q. Well, please answer my question.
 A. No, sir; I was not.
 Q. What is that printed from; what is the cut on?
 A. It is taken from furnished plates—
 Q. No, no; what does the printer use in printing this; is it stone, wood, steel, or what?
 A. I don't know.
 Q. That figure—what is it cut or drawn on?
 A. I think it is on wood-cut.
 Q. Woodcut? A. I believe so.
 Q. And the type underneath that, I understand you distinctly now—that description, "Statue of Veiled Female found at Fasuli" you never saw in proof?
 A. The book says so.
 Q. No, no; this print underneath the statue (showing witness)?
 A. No, sir.
 Q. You are not responsible for that?
 A. No, sir.
 Q. Is that your letter (showing witness a letter)?
 A. Yes, sir.
 Mr. Bangs: I will read this portion of it. It is to Clarence Cook:
 (3025) "107 EAST 57TH STREET,
 December 7th, 1877.
 My dear Mr. Cook: After an absence from New York of several months enjoying the mountain air of the Delaware Gap, we have returned to the city, purchased a house, and during the six weeks we have been here we have been exceedingly busy, as you may believe, in furnishing our house, unpacking trunks, etc., etc., and in correcting the proof sheets of my book on "Cyprus," which, thank God, is finished, and have already received a bound copy of it from London."
 The letter last above read from is marked Exhibit 218 of this date.
 Q. Now, whom do you consider responsible for the errors in describing the sizes—the dimensions—of several objects, that were found in your books?
 A. The London editions?
 Q. How? A. The London editor.
 Q. What is his name? A. John Murray.
 Q. Was your book published simultaneously in New York and London?
 A. A month or a month and a half difference

Q. Published last here?

A. Last here.

Q. Was it published here after it was published in London?

A. I believe so.

Q. From plates made in London?

A. Yes, sir.

(3026) Q. And duplicate plates sent here?

A. Yes, sir; I believe so.

Q. And those plates embraced these illustrations; did they not? A. Yes, sir.

Q. I call your attention to the same thing that has been shown you before—the extra Tribune containing your lectures—which shows that same figure. Didn't you know when this extra Tribune was published and those lectures delivered, that that was not in the museum? The title of this extra Tribune is: "Cyprus: its Ancient Arts and History; illustrated by monuments in the Metropolitan Museum of Art;" and there (indicating) is that illustration containing that figure?

A. There were four or five exactly like it.

Q. Well, was that that figure?

A. I say I don't know; there were three or four exactly like it.

Q. Is it a fact that that figure there printed in this paper under that head was, or was not, in the Metropolitan Museum?

A. I don't know; that is an electrotpe from Harper which they loaned.

Q. Then it was not taken from anything in the museum? A. Similar things there.

Q. And you put it there as being in the Metropolitan Museum on the faith of your book?

A. Yes, sir.

Q. Now I would like to call your attention to page 141 of "Cyprus," to what I suppose Mr. Choate would call the south-west corner—the lower figure on the left?

(3027) A. Yes, sir.

Q. Is that in the museum?

(Objected to by Mr. Choate as not re-cross examination.)

Mr. Bangs: I want to show that instead of that being a single instance or an accidental one the thing is systematic as far as two or three instances can prove system.

The Court: I exclude it.

Q. This is one of the documents that comes from your counsel, as I understand, with the statement that that came to them from Mr. Johnston—John Taylor Johnston—and to Johnston from Morgan—the one on blue paper. That is Reddy's bill for doing the work that he did do?

A. I don't know; I don't know his handwriting. I am not able to say.

Q. Well, didn't you pay that bill?

A. I don't think I did.

Q. Do you remember Reddy's bill?

Mr. Choate: You may put it in if you please.

Mr. Bangs: Very well, I will put it in.

Reddy's bill marked exhibit 219 of this date.

Mr. Bangs: I would also like to put in the letters passing between Mr. Lawrence and Mr. Hoe and Mr. Feuardent, so that when they come they may be considered as part of the cross-examination.

(3028) Mr. Choate: Yes, sir.

A Juror: At the suggestion of one of my colleagues I want to ask you if all the things in the museum have been unpacked up to this time?

The Witness: Yes, sir; at this time, yes, sir.

Q. (By Mr. Choate) Is this the photograph of the missing vase that you spoke of (showing witness photograph)? A. Yes, sir.

Q. Do you know who took that?

A. I believe I did myself in Cyprus.

Marked exhibit 220 of this date.

(3029) Q. Your understanding was that that was in the London collection and came over here to New York?

(Objected to as immaterial.)

Q. What is this (showing witness a large card)?

A. This is a diploma from the King of Italy, giving me an order.

Mr. Bangs: I object to any inquiries about it as immaterial. What is the object?

Mr. Choate: To show that in a diploma by the King of Italy he is described as a Count.

Mr. Bangs: I thought he was going to be described as a Duke.

Mr. Choate: I offer this.

Marked exhibit 221 of this date.

Exhibit 221, Dec. 21, 1883.

S. M. UMBERTO I per grazia di Dio e per volonta della Nazione Re d'Italia, Gran Maestro Dell' Ordine Della Corona D'Italia.

Ha firmato il seguente decreto:

"Sulla proposta del Presidente del Consiglio dei Ministri Nostr Ministro Segretario di Stato per gli affari Esteri.

"Abbiamo nominato e nominiamo il Conte Luigi

"Palma di Cesnola, Direttore del Musei artistic

"di New York a Commendatore dell' Ordine

"della Corona d'Italia con facolta di fragiarsi

"delle insegne per tale Equestre grado stabilite.

"Il Cancelliere dell' Ordine e incaricato dell'

"esecuzione del presente Decreto, che sara regis-

"trato alla Cancelleria dell' Ordine medesimo.

"Data a Monza addi 4 Ottobre, 1880.

Firmato Umberto—Controsegnao Cairoli—

Visto: C. CORRENTI.

Il Cancelliere Dell' Ordine Della Corona

D'Italia dichiara che in esecuzione delle soprascritte

venerate Regie disposizioni il predetto Signor

Conte Luigi Palma di Cesnola venne iscritto nel

Ruolo dei Commendatori (Nazionali) al No. 2707 e ne

spedisce il presente documento al Decorato.

Roma il 12 Ottobre, 1880.

Il Cancelliere dell' Ordine,

[Seal.] CESARE CORRENTI,

P Il Capo del Personale,

J. F. ARGHOENTI.

Q. What is this (showing witness a card)?

A. That is the commission of a medal given to me in 1849.

Q. By whom? A. By the Italian Government.

Q. Signed by Cavour? A. Yes, sir.

Q. And there you are described as "Palma di Cesnola, Count Luigi?"

A. Yes, sir.

Offered in evidence marked Exhibit 222 this date.

Exhibit 222.

Dec. 21, 83.—Modello G.

No. 1370 D'ORDINE D'ELENCO.

Medaglia Commemorativa Delle Guerre Combattute Per L'Indipendenza e L'Unita D'Italia

Ne 1848, 1849, 1859, 1860-1861, istituita con

R. Decreto in data 4 Marzo, 1865.

LA COMMISSIONE.

incaricata con R. Decreto in data 4 Marzo, 1865, dell' esame dei titoli pel conseguimento della Medaglia suddetta, Dichiaro che il Signor

(1) Palma di Cesnola Conte Luigi ha fatto la Campagna (-) 1848 per l'Indipendenza e l'Unita d'Italia, per cui ha diritto a pregiarsi di tale

Medaglia accompagnata da (2) Una fascetta corrispondente.

alla Campagna cui prese parte.

Torino, addi 28 Settembre, 1866.

Il Presidente della Commissione,

(4) [SEAL] DI CAVOUR.

(1) Casato, Nome e Titoli dell'individuo.

(2) Si cancelleranno le Campagne cui non prese parte.

(3) S'indichera il numero in tutte lettere.

(4) Bollo della Commissione.

Avvertenza.—La sola Medaglia d'ordinanza riconosciuta e quella comata dalla Regia Zecca di Torino.

Q. What is this (showing witness a large card)?

(Objected to.)

Mr. Choate: I have a right to show that at various dates from 1849 to 1860 he has described in various communications from the King of Italy as Count Luigi Palma di Cesnola.

(3030) Mr. Bangs: He is Count enough now.

The Court: I think they have a right to put in those things.

Question repeated: A. It is a diploma of the Royal Academy of Science of Turin.

Q. And this Frederick Sclopis is the same Sclopis we have spoken about before?

A. Yes, sir; Count Sclopis, who was the President of the Alabama Commission.

Card last above shown witness offered in evidence, and marked Exhibit 223 of this date.

Exhibit 223—Dec. 21, 1883.

[Vignette.]

REGIA TAURINENSIS ACADEMIA.

Proferendis scientiarum finibus, instituta nihil prestantius ad eorum incrementum a se fieri posse arbitrator, quam si praeclaros quosque in literis viros omni officiorum genere quam artissime sibi adiongat. Quom igitur, vir egregie, et ingenii cultu, et studio artium optimarum cum paucis euiteas jusdem academiae classis, quae philologiae, historiae et moralibus disciplinis incumbit, ie Aloysium Palma comitem Cesnola veterum monumentorum quae in Cypro supersunt investigatione de scientia archaeologica optime meritum in partem laborum vocare constituit, eoque adeo nomine in album doctorum hominum, qui secum per epistolas communicant, nissit inferri. Habes honestissimam animorum significationem; Restat, ut si quae, vel multis investigationibus quaesita, vel caso oblato, animadversione praesertim digna tibi videbuntur, ea scripto velis impertiri.

Datum et obsignatum Academiae sigillo die II. mense Januario anno MDCCCLXXXVI.

Augustae Taurinidium.

FRIDERICO SCLOPIS, Praesae.

CASPAR GONESTO, Ab Actis.

[Seal.] Mr. Choate: These are two official documents from the King of Italy, both signed by Cavour, who was Prime Minister, one in 1866 and one in 1880, describing him in that way; and the other is from the Royal Academy of Turin, signed by Sclopis, President, describing him in the same way.

(By a Juror.)

Q. Who was the King of Italy in 1866?

A. Victor Emanuel?

The Witness: Yes, sir.

Q. And in the latter one it was King Humbert? A. Yes, sir.

By Mr. Bangs: Did any conversation between you and Sclopis ever occur about your being a Count or not being a Count?

A. No, sir; never doubt about it.

(3031) Q. I didn't ask you that; but I asked you about any conversation?

A. No, sir; we never had any conversation.

Q. How did you know you were a Count?

A. Because I told you already that I knew I was.

Q. How did he know?

A. Because he is from my own town—from my own place—and because he knew me from my childhood, and because all the noble families of Turin are known to each other, and that is the way he knew it.

Q. I didn't know but there was some other way; this medalla commemoraria, etc., whose handwriting is that; Cavour's also?

A. It looks to me so; I am not sure of it.

Q. It is a military commission? A. No, sir.

Q. What is it?

A. It is a commemorative medal—a medal given to those who fought during the war of 1848 and 1849.

Q. And this one, No. 221, is that a commission? A. That is a diploma.

Q. You were accustomed, whenever you obtained an honor or title, to get some evidence of it from the authority who conferred it?

A. Always sent to me.

Q. Always, except in the case of Andrew Johnson?

A. Well, if he had been—

Q. He is the only potentatate who omitted to give you written proof of your rank?

A. Yes, sir.

Q. And it is too late to remedy it now, as he is dead? A. Yes, sir.

(3032) The Court: Anything more of this gentleman?

Mr. Bangs: No, sir; not by me.

Mr. Choate: We are through with him.