

the white man because of the fighting, it would be good to see whether the pistol-barrel could have got it? Then, sir, you must inquire elsewhere touching that matter. I have found the old practice good enough for me, and have made no experiments in the way you allude to.

THE SPEECHES TO THE JURY.

Mr. Morton addressed the Court, premising that it was his intention to be very brief, and to confine himself entirely to the positive testimony and the inferences of law which it furnished, and leave to the counsel associated with him the various topics of curiosity which had been introduced.

Although this case was not of so grave an import, nor so serious in its consequences as a trial for a rape, yet still it was one in which the nature of the proof should be equally certain, as it went to inflict what, to a poor man, was a very heavy penalty, and which, if he was innocent of the charge, would be an insupportable oppression. The conviction here, as in a case of rape, would be founded upon the evidence of a woman, who, by the fact itself might become mother to a bastard child, whose character for virtue and good morals makes a principal part of the consideration. Necessity made this woman a witness, for it is her own cause in which she is swearing. But wherever from policy such testimony is admitted against the great ruling principle of law, that "none shall be witness in their own cause, nor to swear to their own criminality," it is always admitted with extreme caution, and qualified with well-placed jealousy. For it is better even that the community should suffer an inconvenience than an example of injustice be set, and a door opened to oppression.

This woman's evidence, without the irresistible proof which the child's appearance furnishes, and which the opinion of so many skillful men of profession confirms, carries with it its own refutation. [*Mr. Morton* here recapitulated the dates and epoch fixed by the woman from the time she first became acquainted with Whistelo in August, 1806—his going to sea on the first of May, and returning on the first of August—that she felt life two months before his return, which was