lishing crime to suit the interests of their clients! After the Grand jury had been in session two days, the dance-house keepers, gamblers, and *demi-monde* fled out of the city in dismay, to escape the indictment of women Grand jurors! In short, I have never, in twenty-five years of constant experience in the courts of the country, seen a more faithful, intelligent and resolutely honest Grand and Petit jury than these.

A contemptibly lying and silly despatch went over the wires to the effect that during the trial of A. W. Howie for homicide, (in which the jury consisted of six women and six men,) the men and women were kept locked up together all night for four nights. Only two nights intervened during the trial, and on these nights, by my order, the jury were taken to the parlour of the large, commodious and well-furnished hotel of the Union Pacific Railroad, in charge of the Sheriff and a woman bailiff, where they were supplied with meals and every comfort, and at ten o'clock the women were conducted by the bailiff to a large and suitable apartment, where beds were prepared for them, and the men to another adjoining, where beds were prepared for them, and where they remained in charge of sworn officers until morning, when they were again all conducted to the parlor, and from thence in a body to breakfast, and thence to the jury-room, which was a clean and comfortable one, carpeted and heated, and furnished with all proper conveniences.

The cause was submitted to the jury for their decision about 11 o'clock in the forenoon, and they agreed upon their verdict, which was received by the court between 11 and 12 o'clock at night of the same day, when they were discharged.

Everybody commended the conduct of this jury, and were satisfied with their verdict, except the unfortunate individual who was convicted of murder in the second degree.

The presence of these ladies in court secured the most perfect decorum and propriety of conduct, and the gentlemen of the bar and others vied with each other in their courteous and respectful demeanor towards the ladies and the court. Nothing occurred to offend the most refined lady (if she was a sensible lady), and the universal judgment of every intelligent and fair-minded man present was and is, that the experiment was a success."

Of course it is a good deal a matter of taste these things, but we may be permitted to express a very profound feeling of thankfulness that our lot has not fallen in that part of the continent where there may be *females*, but nothing *feminine*. The Judge, however, seems to have done all he could to carry out with due care and propriety a law of very questionable utility.

SELECTIONS.

VERBAL EVIDENCE

TO VARY WRITTEN CONTRACTS—PRINCIPAL AND SURETY—BILL OF EXCHANGE.

Abrey v. *T. Crux*, C. P., 18 W. R. 63.

The Court of Common Pleas seem to have had some difficulty in applying in this case the well-known rule of evidence that a written contract cannot be varied or contradicted by verbal evidence of a contemporaneous or prior agreement. The action was by the holder of a bill of exchange against the drawer, the acceptor not having paid the bill at maturity. The defendant pleaded that he was a mere surety for the acceptor, and that he drew the bill upon the acceptor as such surety only, as the plaintiff knew, and that it was then agreed between the plaintiff, the defendant, and the acceptor, that the acceptor should deposit certain securities with the plaintiff, which, if the acceptor did not pay the bill, were to be sold by the plaintiff, and the proceeds applied in discharge of the bill, and that, until such sale, the defendant should not be liable upon the bill, and that the securities were duly deposited, but the plaintiff had not sold them. At the trial a verbal agreement, to the effect stated in the plea, was proved. The question was, whether such evidence was admissible, as the agreement was not in writing. It was held that evidence of the agreement was not admissible on the ground, as put by Bovill, C.J., that "the oral agreement stated to have been entered into in the plea goes to contradict the contract stated to have been entered into by the declaration. This oral condition is inadmissible in evidence to qualify the written agreement."

Keating and Brett, J.J., concurred in this view, Willes, J., expressed a doubt as to the propriety of thus deciding. It was, he says, an arrangement "how the surplus of the money owed was to be paid if it turned out that the funds in the holder's hands were not sufficient to satisfy the debt," and in that case the bill was to be enforced in order to pay that surplus. To admit such evidence would be contrary to the ordinary rules, but he thought that an exception to such rules ought in the case of bills of exchange to be made under circumstances like those of the present case.

It might at first sight appear that this case conflicts with those decisions which have established that verbal evidence is admissible to show that a writing which appears a complete contract was yet subject to a condition precedent which has not been performed. The principle, however, of *Pym* v. *Campbell* (4 W. R. 520) and *Rogers* v. *Haldey* (11 W. R. 1074), which, with other authorities, have established