The law has not always been so favorably applied where the man was the injured party.

In *Jackson* v. *Winns*, 7 Wendell, 47, Enoch Copley had been arrested under the Bastardy Act. He was taken to the house of the father of the prosecutrix, and from thence he went in company with her, her parents and the constable, to the office of the Justice, who performed the marriage ceremony, although the *groom refused to take the hand of the bride and said nothing.* It was insisted that there was no consent, and that there was duress, but the Supreme Court of New York sustained the legality of the marriage, declaring, that they could "not say that the mere circumstances that Copley had involved himself in difficulty with the Overseers of the Poor, and that he took the step he did with some reluctance, were enough to show that he did not yield his full and free assent to the marriage solemnized before the Justice."

Mr. Bishop, commenting on this and other cases, says (s. 212), "Perhaps the result would be otherwise if the arrest were under a void process; and a doubt may be entertained, whether it would not be, if shown to be both malicious and without probable cause."

This doctrine is fully sustained by the case of *James* v. *Smith*, where Judge Dewey, of the Supreme Court of Massachusetts, declared a marriage null and void which had been solemnized whilst the libellant was in custody upon a charge similar to that preferred in this case. Bishop, s. 213, note. It is true, the arrest of James was without warrant, and that there can be no duress in lawful imprisonment. *Stauffer* v. *Latshaw*, 2 W. 167; and *Winder* v. *Smith*, 6 W. & S. 429; but no court could pronounce the duress lawful which was the result of a warrant obtained by a false information.

In *Scott* v. *Shufeldt*, 5 Paige, 43, Chancellor Walworth said, that the statute authorizing the court to annul a marriage when the consent was obtained by force, was never intended to apply to a case where the putative father of a bastard elects to marry the mother instead of contesting the fact. But he yet decreed that the marriage was null, because, the parties being both white, and the child being a mulatto, it was evident that the complainant had been made the subject of a gross fraud.

It will be seen, that in *Jackson* v. *Winns*, and *Scott* v. *Shufeldt*, there was no solicitation of marriage on the part of the prosecutrix, nor was there any threat of imprisonment. In the first case, there was no proof of the falsity of the charge. The same remarks apply to *Hoffman* v. *Hoffman*, 6 Casey, 417, where there was not even an arrest. Mr. Justice Thompson, in his able and learned opinion, says: "Nor was there even a threatened prosecution by the respondent for the alleged wrong. The case was clear of actual or constructive force." Nor has there been, in this case, "a child born during wedlock, of which the mother was visibly pregnant at the time of marriage," as in *Page* v. *Dennison*, 5 Casey, 420, 1 Grant, 377.

Here we find:—

1. An arrest upon a false charge.
2. The assertion of innocence by the libellant.
3. The threat to imprison him upon "process sued out maliciously and without probable cause" 2 Greenleaf on Evi., s. 302.
4. The assent of the lips but not of the mind or heart to the performance of a ceremony whilst under this illegal duress.
5. The repudiation of the alleged contract by both parties from that time forth.
6. The refusal of the respondent to deny any of these matters by filing an answer, and, on the contrary, her admission under oath, as already noted.

No case can be found, in which any contract thus extorted was enforced, and every instinct of humanity clamors for its abrogation.

The language of Mr. Justice Agnew, in his clear and convincing opinion in *Cronise* v. *Cronise*, 4 P. F. Smith, 264, has peculiar application to these facts. He says: "The three procuring causes, to wit, fraud, force and coercion, are linked together in the same clause, equally qualify the same thing, to wit, an alleged marriage, and have a like operation as causes of dissolution. Force and coercion procure not a lawful marriage, but one only alleged, where the mental assent of the injured party is wanting. Fraud has a like effect; it procures, not a marriage fully assented to by both of the parties and duly solemnized, but one where the unqualified assent of the injured party is wanting, and where the very act of marriage itself is tainted by the fraud."

Decree for libellant.

GENERAL CORRESPONDENCE.

Remarks on the new Division Court Rules.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—Allow me to offer, through your columns, a few remarks on the "new rules" just come in force from the "Board of County Judges." I find upon examining them many valuable and much needed amendments and additions to the old rules, and doubts as to the construction and meaning of many of the sections of the Division Court Act heretofore left in uncertainty, or decided in different ways by different judges in Division Courts, are cleared up. The new forms by these rules are, although altered from the old ones (thus, of course, giving clerks considerable extra trouble), much better, more *court like*, and simpler than the old ones. The Division Courts, by the rules and forms (although these are so voluminous) as to practice and efficiency are more respectable and responsible to the public. It is evident that much thought, skill and learning have been brought to bear in the compilation of the new rules. The rules from 93 to 100 inclusive, were loudly called for by the public, and "the Board of Judges" deserve the thanks of suitors everywhere for them.

The rules allowing the renewal of *warrants of commitment* are very judicious, but it is a pity that they had not allowed (as indeed is the case in England in County Courts war-