

for Mr. Tilton—the proposed card for Mr. Tilton to make to the investigating committee—a brief card. Mr. Everts—Where is it? Judge, haven't you got the 12th part. Mr. Beach—I think you will find it on page 63. Mr. Morris—I had the 12th part when I went over this. [To the witness.] The question is, whether you suggested to Mr. Beecher the writing of that card? A. I did not.

Q. In referring to an interview that Mr. Beecher had with you in January, 1871, he says that the mortgage upon Mr. Tilton's house was referred to, and— Mr. Morris here consulted with Mr. Beach. Mr. Sherman—Page 107. Mr. Beach—At the interview held at your study in the early part of November, 1872?

GEN. TRACY CONTRADICTED.

Mr. Morris—I pass over that point. Mr. Tracy says, in speaking of this letter of Contrition, that you said: "It is a memorandum, or note, or notes, of a conversation I had with Mr. Beecher." Did you say that, or anything of that import, to Mr. Tracy with reference to that letter? A. No. Q. And Mr. Tracy says that he said, in referring to that letter, that "this paper would simply seem to imply that Mr. Beecher had been attempting the virtue of Mrs. Tilton's account?" Did Mr. Tracy make use of any language of that kind? A. No. Q. To you or your presence? A. No. Q. In reference to that letter? A. No. Q. Mr. Tracy uses this language in referring to what has come to be known as the "True Story": "Thereupon Mr. Tilton unfolded, as I remember, a covering of a manuscript which he brought with him into the room, and began to read a statement."

Now, did Mr. Tilton at that interview read the "True Story," or any part of it? A. No, Sir. Q. Was it there? A. No, Sir. Q. Do you know whether it had been written at that time or not? A. It had not been written. Mr. Everts—Well, that I object to. Judge Nelson—That is not material. Mr. Morris—It is wholly immaterial whether it was written or not, it is not there.

Mr. Morris—I read this paragraph, Mr. Moulton, and ask your attention to it, in reference to this same interview. Mr. Tracy says: "I discussed with Mr. Tilton the probability of the truth of his wife's statement in regard to the charge of improper proposals. I remember saying to him, 'I understand how you may believe Mr. Beecher has been guilty of that offense, and I can understand possibly how your wife may have concluded that he had intended to make her an improper suggestion; but now isn't it more probable that this statement of your wife, that Mr. Beecher made an improper proposal to her, is the result of misunderstanding on her part?'"

Was any such language as that used by Mr. Tracy in that interview? A. No, Sir. Q. Was there any discussion whatever upon the subject of improper proposals? A. Not a word, Sir. Q. Or any allusion to it? A. Not any allusion to it, except so far as the letter of retraction alluded to the improper proposals, Sir, or improper advances. Q. Mr. Tracy says in that interview he made this proposition: "I said, to meet that, 'Mr. Tilton, how would it be if you and Mr. Beecher and your wife can agree as to what the real facts are, in this case, and will do for you and Mr. Beecher to go before one or more eminent citizens of Brooklyn and make a statement of the facts?'"

Was any such proposition as that made by Mr. Tracy—any such proposition or suggestion made by Mr. Tracy during any part of that interview? A. No, Sir. Q. Following that he puts this language in the mouth of Mr. Moulton: "Mr. Moulton asked me in substance what, in my judgment, could be done for Mr. Tilton if this matter was buried in this way—that is, by making a statement to some eminent citizens. A. What in my judgment could be done for Mr. Tilton? A. I would read the balance of this paragraph, commencing where I left off: "Eminent citizens of Brooklyn who are strangers to the controversy now, and in whom the public have confidence, and there make a mutual statement of what the truth is in this matter, and sign it, which all the parties to the case will do, and then destroy the documents; nothing like that, Sir."

Q. Was anything said, Mr. Moulton, about burning the papers and documents at the time of the arbitration between Mr. Tilton and Mr. Bowen? A. Yes. Mr. Everts—What is the question? Excuse me. Mr. Beach—Was anything said about burning the documents at the time of the arbitration? Mr. Morris—That you heard. Did you hear anything? A. There was nothing said. Q. Were you present during the proceedings before the arbitration? A. I was present all the time, Sir. Q. Did you hear before the arbitration any matter discussed or talked about other than the money claim of Mr. Tilton against Mr. Bowen growing out of the contract? A. Yes, an expression of a desire by Mr. Claffin to have Mr. Bowen sign the draft of the Tripartite Covenant, made by Sam Wilkeson.

Q. To whom was that remark made? A. To whom was that remark made? Made by Mr. Claffin to me. Mr. Everts—It is not very material, but it is not a contradiction. Mr. Beach—Yes it is, directly Sir. Mr. Everts—It is not in regard to any statement. Mr. Beach—Why yes, it is. Mr. Everts—This witness gave his account of what occurred at the arbitration; and the other gentlemen have given their account. Mr. Beach—That says that something more occurred in regard to the "Tripartite Covenant." Judge Nelson—To that extent you can interrogate him. Mr. Beach—Very well, Sir; what reply did he make to it? They say that it was agreed there that the "Tripartite Covenant" was—

Mr. Everts—That is what the arbitrators have all stated. Mr. Beach—The arbitrators did not all state that; but, nevertheless, we ask this question. Mr. Morris—What reply did you make, if any? A. What reply did I make to Mr. Claffin? I don't remember the reply that I made; it was a matter entirely within his sphere—something that he understood himself. Mr. Beach—But what was it Mr. Claffin said? He said to you, I understand? A. He said it to me, yes, Sir; he said he didn't care what there was in Bowen's son. Bowen must sign that paper; that is what he said to me; I remember that distinctly; is that the answer? Mr. Beach—Well, is that at the time of the arbitration? The Witness—No, Sir; not at the time of the arbitration. Mr. Beach—Well, you were asked at the time of the arbitration. Mr. Morris—I was asking you simply at the time of the arbitration. Mr. Beach—At the meeting of the arbitrators. Mr. Witness—The question was not put in that way, Mr. Beach.

Mr. Everts—Well, this is all to be struck out. Mr. Beach—Yes, strike it all out. Go back to the question. Mr. Morris—Now, will the stenographer read the question? The Tribune stenographer read the question as follows: "Did you hear before the arbitration any matter discussed or talked about other than the money claim of Mr. Tilton against Mr. Bowen, growing out of the contract?" Mr. Beach—We gave a different construction to it. The Witness—To the word "before." Then we are both right. Mr. Beach—Before the arbitration. Mr. Everts—Then that will stand. Mr. Beach—No, Sir; the question was misunderstood. Before the arbitration, Sir, means either a date anterior to that, or in the presence of the arbitration as it proceeded. Mr. Everts—I understood it as a date anterior. Mr. Witness—Well, that stands. Your question was not directed to the arbitration. Mr. Beach—I think it will not have to stand, as both the gentlemen and myself have agreed that it should be struck out. Judge Nelson—Now, Mr. Morris, proceed. Keep your eye on that occasion—that evening. Mr. Fullerton—Your Honor means he shall proceed at 2 o'clock, I take it. Mr. Beach—Well, was anything said before the arbitrators upon any subject except the business difficulties between Mr. Tilton and Mr. Bowen? A. No, a word, Sir. Judge Nelson—The jurors will get ready to retire. Retire at 2 o'clock, gentlemen.

The Court here took a recess until 2 p. m.

THE AFTERNOON SESSION.

The Court met at 2 p. m., pursuant to adjournment. Mr. Everts—If your Honor please, when Mrs. Moulton was upon the stand, I expressed an intention of recalling her as to two points, the conversation, related by Mr. Beecher, between himself and her, on May 31, 1873, and also the conversation between herself and Mr. Tracy as to which I cross-examined Mr. Tracy. I have determined, Sir, not to call Mrs. Moulton with reference to the last topic, as I suppose that evidence, relating to a collateral matter, would not be a proper subject of examination; and, in regard to the other matter, I have covered her personally and learned from her that she would deary, if she were called, upon oath, the allegation of Mr. Beecher in relation to that conversation, that she said to him, as he was present? A. My impression is that it was her testimony, Mr. Beecher, I don't believe the stories that they are telling about this; I believe that you are a good man." If Mrs. Moulton was produced upon the stand she would deny the utterance of that language, or equivalent language, and I have, upon my responsibility, assured my learned friends upon the other side that she would so testify. She is ill to-day, Sir, and in a very unusual condition as appearing on the witness-stand and submitting to an examination, from causes I have expressed to my learned friends, and I understand that they, relying upon that assurance, as if Mrs. Moulton had sworn to a denial of that character.

Mr. Everts—We understand Mr. Beach's statement as to what the witness if called would say, as entitling us to accept it as what would be the result of calling her, and we are willing that it should be taken in the ordinary manner, that if she were asked that question whether she said that, or its equivalent—that single passage that has been read—she would deny it under oath, and this statement is to be received as if she had done so; as I should have no occasion to cross-examine her any more than other witnesses. I believe the lady is not in a condition to appear in court. Francis D. Moulton's re-examination was then continued. Mr. Everts—Well, that I object to. Judge Nelson—That is not material. Mr. Morris—It is wholly immaterial whether it was written or not, it is not there.

MR. MOULTON'S EXAMINATION CONCLUDED.

By Mr. Morris—Just a single additional question, Mr. Moulton. Mr. Beecher was asked in reference to the payment of Bessie Turner's school bills— Mr. Everts—What page? Mr. Morris—Part 11, page 803. [To the witness.] Mr. Beecher was asked this: "Well, about when was that, or how, in reference to any other conversation with Mr. Tilton, I mean to understand how you may believe Mr. Beecher has been guilty of that offense, and I can understand possibly how your wife may have concluded that he had intended to make her an improper suggestion; but now isn't it more probable that this statement of your wife, that Mr. Beecher made an improper proposal to her, is the result of misunderstanding on her part?"

And at another place that is fixed at some time in May, I think. Now, Mr. Moulton, did you say that to Mr. Beecher, in reference to a bill of Bessie Turner's, or the equivalent of that? A. No, Sir. Q. When was your first advance of money to Mr. Tilton? A. In July. Q. Following? A. July following, yes—July following the May of which you speak. Q. 1871? A. Yes, Sir. Mr. Morris—That is all.

STEPHEN PEARL ANDREWS RECALLED.

Stephen Pearl Andrews, a witness for the plaintiff, was next recalled and further examined. By Mr. Fullerton—Mr. Andrews, do you know James H. Blood? A. I do. Q. Do you know his handwriting? A. I do, I believe. Q. You have seen him write? A. I have. Q. Look at his signature attached to that paper [paper handed to witness] and say whether it is in his proper hand. A. It seems to be so; I also know this witness. Mr. Fullerton—I offer this paper in evidence. Paper marked "Ex. 128." Mr. Everts—I assented to this being proved, if your Honor please, without calling the subscribing witness. Mr. Fullerton [reading]—This indenture, made the 23d day of May, 1872, between Thomas Brydon of the City of Brooklyn, County of Kings, and State of New-York, party of the first part, and James H. Blood of the second part, of the one part, and the said party of the first part, both of them, and by these presents doth grant, devise, and to farm to and to the said party of the second part, all that certain lot or lots of land, with the appurtenances, for the term of one year from the first day of May, 1872, at the rent or sum of \$1,200, to be paid in equal monthly advance payments.

Mr. Everts—What time does it cover? Mr. Fullerton—From May 1, 1872, to May 1, 1873. [To the witness.] Now, Mr. James H. Blood, whose signature you have proven, is the husband of Mrs. Woodhull, is he? A. So reported to be, and lives with her as such. Q. Now, then, did they occupy No. 48 Broad-st. as a broker's office after May, 1872? A. I should think, after the latter part of May. My impression is that they did not move in at all at that time. Q. From the latter part of that month in 1872 they occupied that office? A. I think so. Q. And up to the time they moved into the office, 48 Broad-st., what offices did they occupy? A. No. 41 Broad-st. Mr. Beach—What is the date of that lease? Mr. Fullerton—May 23, 1872. That is all, Mr. Andrews.

CROSS-EXAMINATION OF STEPHEN PEARL ANDREWS.

By Mr. Everts—This lady and Mr. Blood—Col. Blood conducted the same business at 44 Broad, did he not, before this? A. Yes; with the exception of the fact that their newspaper publication was suspended during that summer. Q. Well, I mean the brokerage business. A. Yes; the brokerage business was the same. Q. Now, up to what date did they remain in fact at No. 41 A. That I am unable to say with definiteness. I have only my impression with regard to that, which is not very distinct. Q. What is your impression as to what time they removed? A. My impression is that they did not move at all until the regular moving day, at the 1st of May, but perhaps they moved on the 23d of May, but I am not certain. Q. The date of this is May 23. A. I presume then that they moved immediately after the date of that. Q. Have you any recollection of your own as to the date of their moving into 48 A. Not distinctively as to the date, but as I say to you. Q. That, as far as you recollect, it would be about the latter part of May? A. Yes, Sir.

THE SUR-REBUTTAL BEGUN.

Mr. Everts—That is all. Mr. Fullerton—That is all, Mr. Andrews. Mr. Beach—We rest, if your Honor please. Mr. Everts—We will recall Mr. Freeland. DEACON FREELAND RECALLED. By Mr. Sherman—Mr. Freeland, you are well acquainted, and have been for a long time, with Mr. Henry C. Bowen, have you not? A. I have. Q. Were Mr. Beecher and Mr. Bowen at your house on the 26th day of December, 1870? No, Sir. Q. Were Mr. Beecher and Mr. Bowen ever in your house together? A. They were. Q. Yes; when was that? A. January—in January, 1870. Q. In January, 1870? A. Yes, Sir. Q. Were Mr. Beecher and Mr. Bowen ever at your house together at any other time? A. No, Sir. Mr. Beach—Well, what is the proposed evidence? Mr. Sherman—Mr. Bowen, called in rebuttal, has testified that Mr. Beecher and himself met at Mr. Freeland's house on the 26th day of December, 1870, by appointment through a note sent from Mr. Bowen to Mr. Freeland, requesting such an appointment to be made. That was in contradiction of Mr. Beecher's statement that the interview took place at Mr. Freeland's house. [To the witness.] Now, Mr. Freeland, did you receive on the 26th of December, 1870, any note from Mr. Bowen requesting you to make an appointment with Mr. Beecher of any kind? A. No, Sir. Q. Was Mr. Bowen at your house at all, either with or without Mr. Beecher, on the 26th of December, 1870? A. I think not, Sir; no remembrance of anything of the kind. Q. Have you any remembrance of Mr. Beecher being there on that day? A. No, Sir; Mr. Bowen must have been the last date, and referred probably to the first meeting.

Q. Never mind that Mr. Freeland you kept that day as a holiday, I suppose. Mr. Beach—Have that struck out. Mr. Fullerton—Yes, Sir; I move to strike that out. Judge Nelson—Yes, Sir. Mr. Sherman—Well, it was only a charitable remark. Mr. Fullerton—Well, we are not the subjects of his charity. Mr. Sherman—You may be before you get through. Mr. Fullerton—Well, we are not now. By Mr. Sherman—Have you a distinct recollection of this meeting of Mr. Bowen and Mr. Beecher at your house in January, 1870? A. Yes, Sir. Q. How long did that interview last? A. Well, from three to four hours.

Q. And what time of the day was it held? A. In the evening. Q. Well, before or after 7 o'clock? A. After 7, I should think—7:30. Mr. Beach—Well, I understood, Sir, that that sort of inquiry was rejected by your Honor! By Mr. Sherman—Mr. Freeland, you recollect the occasion when the arbitrators met at Mr. Moulton's house, yourself, Mr. Cleveland, and Mr. Stora, do you not? A. Yes. Q. Now, on that occasion did you see, or were you informed of any written submission—[To plaintiff's counsel.] Will you please give me that paper—that written submission [Paper not produced.] Well, I will read to you the submission; I haven't the original here. A paper has been produced in evidence in the following terms: [Reading:] We agree to submit to James Freeland, H. R. Claffin, and Charles Stora, in full for all claims and demands due Mr. Theodore Tilton from the Independent and Brooklyn Daily Union, on the 1st of January, 1875, or a majority of them, without fail. HENRY C. BOWEN, BROOKLYN, APRIL 3, 1872. THEODORE TILTON.

Did you ever see that paper? A. Who is that signed by? Mr. Sherman [continuing]—On the day or evening of the arbitration? A. Who is that signed by? Mr. Sherman—Henry C. Bowen and Theodore Tilton. Would you like to look at the paper? A. Yes, I would. Mr. Sherman [to Mr. Morris]—Have you sent for the paper? Mr. Morris—Yes, I have. Mr. Everts—Mr. Morris will take it here. Mr. Sherman—Well, we will suspend this examination. Mr. Everts—We want to show the witness the original paper. Judge Nelson—That is very proper. Mr. Everts—That is all that we wish to ask the witness. Mr. Fullerton—Well, you want to ask him about the paper. Mr. Everts—Yes, when the original comes in.

CROSS-EXAMINATION OF JAMES FREELAND.

By Mr. Fullerton—You think that Mr. Bowen and Mr. Beecher were at your house in January? A. I don't think, I know. Q. You don't think you know—that is what I think. A. I know; I say that. Q. What year? A. 1870. Q. What time in January, 1870? A. Sometime along in the middle, I should think; from the first to along in the middle. Q. Now, Mr. Freeland, wasn't it in January, 1871, that they were there? A. I think not. Q. What? A. No, Sir. Q. Sure—are you sure of it? A. Yes, pretty sure, quite sure. Q. How sure are you? A. I swear to it. Q. Well, that does not answer the question exactly. How do you know that it was in January, 1870, that they were at your house? A. Well, now, you would not let me explain if I should undertake it—and I only tell you that I am pretty positive of the thing—sure—you would not let me explain it. Q. Will you tell me how you know it was in January, 1870, that they were at your house? A. Our prayer-meeting was in January, the latter part of January. Mr. Beecher and Mr. Bowen met at my house to arrange their difficulties; the prayer-meeting was on—I don't recollect exactly—something the latter part of January. Mr. Bowen was there at that time, and Mr. Beecher made some observations. I mark it from that fact—very confident. Q. Well, did they have but one prayer-meeting that year? A. No, Sir; they had, I think, more. Q. How often? A. That month particularly—that week of January. Q. What? A. That week of January; the latter part of January. Q. You know it was in the latter part of January? A. I know it was in January, 1870. Q. One moment, Mr. Freeland? A. Well, I know you would stop me, if I undertook to explain it; I knew you would stop me. Q. Well, having explained it, and having got through with that explanation, I propose to put you another question? A. Mr. Fullerton, you and I will get along pretty well, I guess. Q. Well, if you won't treat a serious subject with unbecomingly levity, we will get along well enough. Did you have more than one prayer-meeting in January, 1870? A. Yes. Q. How? A. We have one a week. Q. One a week? A. A Friday evening of every week we have a prayer-meeting. Q. Of every week? A. Yes; as a— Q. Then you had four prayer-meetings in January, 1870, had you not? A. I suppose we had. Q. Well, how does the fact, then, that you had prayer-meeting the last week in January enable you to say positively that they met at your house the last week in January? A. I took a good deal of interest in this matter, Mr. Fullerton, in getting Mr. Beecher and Mr. Bowen together at my house; and, after that meeting, they separated—seemed to—with the best of feelings; Mr. Beecher—

Q. Now, will you tell me how you are enabled to fix it in January, 1870? Is there any fact or circumstance? A. That is the fact and the circumstance of that prayer-meeting; I went to it. Q. Well, there was a prayer-meeting the first week in January, 1870, was there not? Mr. Everts—Well, Mr. Fullerton, hear what he has to say about the prayer-meeting. Mr. Fullerton—I have heard what he had to say about the prayer-meeting. The Witness—I know that it is the latter part of the prayer-meeting—the latter part of January. Q. Well, how are you enabled to fix it the last week in January? A. I can only tell you I did it so. Q. I was aware of that; but I wanted to know why. A. I said it was the latter part of January the prayer-meeting; and Mr. Bowen was at that prayer-meeting; and that is the first prayer-meeting he had been to in a great many—well, a long time, very long time; and I dated it from that fact. Q. Did you make any memorandum of it? A. No, Sir; I did not; my memorandum was in my memory. Q. Are you enabled to state positively that Mr. Bowen and Mr. Beecher never met at your house at any other time than in January, 1870? A. I think they never did, Sir. Q. My question was whether you were enabled to state positively that they never met? A. Yes, I think I can state positively. Q. And you do so state positively? A. I do so state positively. Q. Yes. Did you have any interview with Mr. Bowen in December, 1870? A. Not that I remember. Q. Is that all that you could say? A. I don't remember of having any. Q. That you don't remember? A. I don't remember. Q. Well, is that as far as you can go? A. Well, yes; I think that is as far as I can go; I don't remember of any. Q. Did you receive a note from Mr. Bowen in December, 1870? A. I cannot say as to that; I received notes from Mr. Bowen, but never upon this subject. Q. Well, I didn't ask you that. A. Well, I answered it. Q. Well, you need not to answer, Sir, until I ask it. A. I supposed you wanted it. Q. Now, Mr. Freeland—A. I take it all back. Q. Well, you had better keep it there—not proffer it again, because we are going to treat this subject seriously. I move it to be struck out, Sir. Judge Nelson—Yes. By Mr. Fullerton—Can you state whether you received a note from Mr. Bowen in December, 1870? A. I don't know whether I did or not; Sir; I did not do that business. Mr. Fullerton—I move to strike that out again, Sir. Judge Nelson—Strike out that last clause. By Mr. Fullerton—You have no recollection then? Mr. Everts—If your Honor please, it seems hardly fair to the witness to strike out that clause; because it looks as if he were admitting in some sort that he did receive a note on this subject, by leaving his answer in that naked form, without he himself saying, "I did not"; now he says, "I don't know whether I received notes from Mr. Bowen in January; I know I had none on this subject. Judge Nelson—The objection is, it gives the contents of a paper without an inquiry as to the contents.

SHARP PLAY BETWEEN COUNSEL AND WITNESS. By Mr. Fullerton—You know the sons of Mr. Bowen? A. Yes, very well. Q. What is his youngest son's name? A. I don't know. Q. Do you know his son James? A. I don't know that he has a son James; I don't remember; I don't think he has, but I don't know; I can explain about that note if you will allow. Q. Now, if you please, did you receive a note from Mr. Bowen through one of his younger sons in December, 1870? A. Can't say as to that; I have received them. Q. You have no recollection of receiving a note? A. Well, I can fix it. Q. Now, one moment; you have no recollection of receiving a note from one of his younger sons in December, 1870, I understand you? A. No, Sir; not in that month particularly, I haven't. Q. Did you receive a note through one of his younger sons at any other time than December, 1870? A. Yes, I have in some other months. Q. What month? A. I can't say, Sir. Q. No recollection as to any month? A. No, I haven't; it was on the subject of business; I could explain it to you in a moment if you would let me. Q. Do you preserve your notes that you received? A. No, Sir. Q. Have you any notes now in existence that you received from Mr. Bowen? A. No, Sir. Q. Did you not receive a note from Mr. Bowen through the hands of one of his younger sons in December, 1870, and send back a message to the effect to this effect: "Yes; I will attend to it," or something of that kind? A. Yes, I can't say. Q. Why can't you say that you remember? A. In so far as it regards—as I said to you I have received business notes— Q. Now, Mr. Freeland, please answer my question? A. I will do the best I can. Mr. Fullerton, to answer your questions, but you put them in such a way that I cannot answer them very well. [Laughter.] If you will let me tell the truth I will tell it straight out in the best way possible. Q. You are going to deal with great—A. Oh! I know you are going to deal with me; I understand that perfectly well. Q. Your answer to my question, Mr. Freeland, was, "I cannot say." Now, the other question which you have not yet answered was this: "Why can't you say?" Have you no memory upon the subject. You can't misunderstand that question? A. No memory upon the subject; I have memory of receiving notes, but not in December, from—so far as regards Mr. Bowen in business notes, I have received no business, but I did not receive any note— Q. Now, Mr. Freeland, if you please— Q. Now, Mr. Freeland, my mouth is getting a little dry; I should like a little water. Mr. Fullerton—Well, I shouldn't wonder if it was worn out. The Witness—Well, I should think yours would be. [Laughter.] Q. Now, Mr. Freeland, I will put the question and repeat your answer, and see if I can get an answer to another question; I asked you whether or not you had any recollection of having received a note from Mr. Bowen through the hands of one of his younger sons in December, 1870, and that you sent back a reply in substance like this: "Yes, I will attend to it." Your answer was: "I have no recollection." Now, my question to you is this: "Your answer was: 'I cannot say,' my question to you, therefore, is this—Can't you say, because you have no recollection upon the subject? A. So far as it regards—let me answer now in my own way, will you? I will let me answer it in my own way. Mr. Fullerton—I think, your Honor, you will have to take this witness in hand. Judge Nelson—Go on and answer the question he puts the best way you can. The Witness—I will. Judge Nelson—And only that. The Witness—Judge, Mr. Bowen and myself had business relations; we used to pass notes between us, and I have received notes, but I cannot tell what, or how, at that time. Mr. Fullerton—Your Honor understands I have put no question that leads to such an answer as that. Judge Nelson—No, of course. Mr. Fullerton—Now, Mr. Freeland, I will put the question to you again. The Witness—Yes, Sir. Q. In answer to a question whether you did not receive in December, 1870, a note through the hands of one of Mr. Bowen's younger sons you did not reply in substance: "Yes; I will attend to it." Your answer was: "I cannot say." Now, my question to you is very distinct—whether you are unable to say whether that was so, or not, because you have no recollection upon the subject? A. I do not recollect of receiving any note from Mr. Bowen in December. Q. Then you have no recollection upon the subject, have you? A. Haven't answered it! Q. Well, is that so, Mr. Freeland? A. I said I had no recollection of receiving a note in December from Mr. Bowen. Q. Now, I will put the question to you again. Mr. Fullerton—Well, what? Mr. Everts—He has answered that question. Mr. Fullerton—No; he has not answered, but he is going to answer before I get through with him. [To the witness.] I am asking about a certain note received through the hands of one of Mr. Bowen's younger sons, to which you gave a certain answer, namely: "Yes, I will attend to it," or that in substance. In respect to that you say: "I do not recollect," or "I can't say." Now, are you unable to say because you have no recollection of such a circumstance? A. Well, now, how do you want I should answer that? Judge Nelson—Either that you do recollect such a circumstance, or you do not. Mr. Everts—He has said he did not. The Witness—I said I did not; I have said that several times. Mr. Everts—He said it three times. Mr. Fullerton—He has not said it, Sir; he said that he did not recollect of having received a note. The question is whether he has any recollection upon that subject. Mr. Everts—Of receiving a note and sending an answer? Judge Nelson—Yes. Mr. Fullerton—That is the question; I won't characterize it. [To the witness.] Was Mr. Bowen at your house in December, 1870? A. I think not, Sir. Q. You say you think not; can you say positively that he was not? A. So far as my knowledge extends he was not; I ain't in the house all the time. Q. Then he might have been there and you not know it? A. He might have been, certainly. Q. A little longer. A. He might have been, but I don't believe he was. Mr. Fullerton—I move to strike out the words "I don't believe he was." Judge Nelson—Yes, Sir. Will the audience keep quiet, please. Mr. Everts—Well, when the inquiry is what he knows he means something from the witness, he does not mean to prove the fact that when a man is not in the house all the while, another man might come there without his knowing it. We are not to impute any such folly to the question. The question is intended to get at the witness's impression that Mr. Bowen may, in fact, have been at that house and he not have known it. Judge Nelson—Please to observe, Mr. Everts, the witness answers as to his belief; whereas, he has not been interrogated as to his belief. Mr. Everts—Very well, then I say he should not ask him that question, because you do not want to ask this witness the question whether a man may not be at his house when he is absent, and he not know it, because we all know that. Mr. Fullerton—Well, I don't think Mr. Freeland— Mr. Everts—And the object of the inquiry is to produce an impression that the witness thought Mr. Bowen might have been at his house, as a matter of possibility, but he has not been asked, and therefore he answers, "He might have been, as a matter of possibility, but, as matter of fact, I have no idea he was there." Mr. Fullerton—Has Mr. Bowen been at your house since January, 1870? A. Since January? I may have called New Year's day. Q. Well, do you recollect whether he did or not? A. I do not; I make calls myself and am not at home; my wife— Q. Never mind that; has he called on occasions other than New Year's Day since January? A. Not— Q. Now, Mr. Freeland, you are all right, the question is put to you? I have called on you on occasions other than New Year's Day since January, 1870? A. I don't remember that he has, Sir. Q. Well, can you say that he has not? A. Do you mean called at my house? Q. I mean so, because I say so? A. I think he has not. Q. Are you enabled to swear positively that he has not called at your house since January, 1870? A. How can I swear positively when I am not at home all the time; he may have called a dozen times when I was not at home, but I have never heard of his calling at my house from my family in any form whatever. Q. Now, I don't ask you that; I will put the question in another form. Mr. Beach—Have that struck out. Judge Nelson—That last clause is struck out. By Mr. Fullerton—Can you swear positively that he has not called on you since January, 1870, at your house when you were at home? A. Since January? Q. Yes. A. To the best of my knowledge and belief he has not. Q. Now, that is not the question I asked you, Mr. Freeland; I asked you whether you could swear positively before to-day? A. Yes; the arbitration? Q. The arbitration? Look at it again, so that you will be able to say what it is [handing witness "Exhibit 122." A. I saw no such paper at the arbitration. Q. Well, I suppose it may have been there and you not see it? A. Very possible it might, but I didn't hear anything of it or know anything of it. Q. Well, you mean to say that you don't remember of having heard anything about it, don't you? A. I recollect

and he has got in a close corner, and all these observations, which I think would be unbecoming to a man of much younger years. I want an answer to my question. Mr. Beach—I don't think it is unbecoming to want to see me. [Laughter.] The Witness—Thank you, Sir. Mr. Fullerton—Well, the spirit in which he made the observation was unbecoming. Judge Nelson—I wish the audience would keep quiet, and Mr. Freeland, please attend to the question he puts, and answer it the best way you can. Mr. Sherman—Well, if your Honor please, it is a question which needs a little explanation; it is very rarely that the witness understands what we lawyers mean by answering positively. We understand, of course, but that very few witnesses do. What Mr. Fullerton means is that he should be able to swear from absolute knowledge. Mr. Fullerton—Now, one moment; I object to this Sir; there is no necessity for any explanation; the question is not objected to, Sir. Mr. Sherman—I am perfectly right— Mr. Fullerton [interrupting]—The question is not objected to, Sir, and there is no occasion for discussion. The Witness—Now, let me have the question; excuse me; if I have done any wrong I ask your pardon most sincerely. Mr. Fullerton—Oh, well, you need not ask my pardon. The Witness—I do most sincerely. By Mr. Fullerton—Very well; now we will commence anew. Now, Mr. Reporter, will you be kind enough to read that question? The Tribune stenographer [reading]: "Can you swear positively that he has not so called?" The Witness—Well, I would not be willing to swear positively. Q. Very well; that is a very fair answer, and I am satisfied. Can't you say whether Mr. Beecher was at your house in December, 1870? A. I cannot. Q. How? A. I cannot. Q. Was Mr. Beecher in the habit of frequently calling at your house at that time? A. He calls occasionally, not very frequently. Q. Now, I spoke of that time, December, 1870, was he then in the habit of calling occasionally? A. Yes, he was; I don't know that he did call in December at all; I don't remember that he did; I don't think he did. Q. Then you are not positive that he did not call in December, 1870, when you were home, are you? A. I am not positive. Q. Do you recollect of sending any message or letter to Mr. Beecher in December, 1870? A. No, Sir; I did not. Q. Can you say positively—A. Yes, Sir; positively. Judge Nelson—

LAND. By Mr. Sherman—Mr. Freeland, can you remember for what purpose Mr. Bowen and Mr. Beecher were invited by you to meet together at your house in January, 1870? Mr. Sherman—That is objected to, Sir. Mr. Fullerton—It is for the purpose of fixing the date. The counsel on the other side went into his reasons. Judge Nelson—I think we will take the general fact. Mr. Fullerton—Why, Sir, for what purpose he invited them—the purpose of his own mind? Judge Nelson—Well, it appears that he did send an invitation, as he remembers, and I think it well enough to learn what it was about. Mr. Fullerton—Well, that, if your Honor please, was a year removed from the meeting that we have talked about. What have we to do with the meeting in January, 1870. Judge Nelson—I think we will take the general subject. Mr. Sherman—That is the very point. Mr. Fullerton—Won't your Honor reflect one moment? January, 1870? Judge Nelson—Yes, your meeting was December, 1870. Mr. Fullerton—Certainly. Judge Nelson—Nearly a year. Mr. Fullerton—Certainly. What have we to do with January, 1870? Mr. Everts—The effort of the cross-examination was to make it appear that this gentleman— Judge Nelson—I don't know that that was the effort; but I think we will take it. Mr. Fullerton—It is not rebutting anything. We have not studied the other side's interview. Judge Nelson—I know, but it seems to be due to the witness. It cannot do you any harm. The Witness—Thank you, Judge; I want to explain. [Laughter.] Mr. Sherman—Give your explanation. Judge Nelson—We don't want an explanation; we want simply what was the subject matter of that interview in January, 1870. The Witness—What the object was—at my house? Judge Nelson—Yes. Mr. Fullerton—It is upon a new subject. Mr. Morris—We shall want to call witnesses upon the subject. Judge Nelson—No. Mr. Fullerton—If your Honor please, if it is of no consequence then I want to renew my objection. If they open that settlement between Mr. Bowen and Mr. Beecher in January, 1870, it is open for all purposes. Judge Nelson—Well, it won't be opened. The interview he called Mr. Beecher to he can say related to this subject or that. That is all there will be about it. Mr. Everts—We can settle this very easily if our learned friends will admit that the interview between Mr. Beecher and Mr. Bowen, in which their difficulties were settled, took place in January, 1870. Mr. Sherman—That is all. Mr. Everts—We understand the effort of the cross-examination was to endeavor to confound those two occurrences. Judge Nelson—That was the fact, I suppose. Mr. Morris—No, we cannot admit that, because it is not the fact, as the evidence is to the contrary. Mr. Everts—I don't understand it. Mr. Fullerton—Well, Mr. Moulton has given evidence and produced exhibits which show that there was a meeting between Mr. Beecher and Mr. Bowen, either in January or February, 1870. That is left as a matter of doubt. Mr. Fullerton—No, Sir; it is not a matter of doubt at all. Mr. Morris—Mr. Beecher's own handwriting—a document introduced here states when it was, and it was in February—the statement of Mr. Beecher himself. Judge Nelson—If we have got the paper we don't want anything more. The Witness—There is simply an allusion to an interview in February, 1870. Now, I want to show that that was this interview—the only one; it was a meeting in January, 1870; that it was on the same subject that was there referred to. Judge Nelson—Don't Mr. Beecher's paper show what the subject of the interview was? Mr. Morris—Certainly it does; he fixes the date. Judge Nelson—That's all we want. Mr. Sherman—The subject of reconciliation. Judge Nelson—Well, that is all he could say. Mr. Sherman—We don't think that that date in February, although it refers to it in those general terms. We want to show the fact, if in the other side don't object to a leading question. Mr. Beach—We certainly object to a leading question. Your Honor, in our rebutting evidence, has held us with great strictness to the rule. Judge Nelson—Yes. Mr. Beach—Why you should relax it now, Sir, for the purpose of inquiring into an interview or an occasion between three parties, at which Mr. Tilton was not present, a year from the period to which we directed our attention, I am unable to perceive, Sir, and I don't understand upon what principle of evidence your Honor permits it. Judge Nelson—You have a better argument than that, even. Mr. Beach—Well, perhaps I am not through yet, Sir. Judge Nelson—You did not inquire into the interview. Mr. Fullerton—That argument is before your Honor, already. Judge Nelson—The witness referred to that without inquiry, and as Mr. Beecher has referred to it in the paper, I think it to be left where it is; go on, Mr. Sherman. By Mr. Sherman—Do you remember distinctly the interview already spoken of, between Mr. Bowen and Mr. Beecher, at your house in January, 1870? Mr. Fullerton—I object to that, Sir, because he said upon his direct examination that he did remember it distinctly. Judge Nelson—Well, that ought to be sufficient. Mr. Fullerton—That ought to be sufficient. Mr. Sherman—There is no harm. Mr. Everts—If the objection is entered, we waive the question—if it is objected to on the ground that it is already answered. By Mr. Sherman—Do you recollect any incident occurring at a prayer-meeting, in the last of January, 1870, which fixes that meeting upon your memory? Mr. Fullerton—I object to that, Sir. Mr. Sherman—They brought out on cross-examination that there was a prayer-meeting, and that that helped him to remember it. Then they brought out that there were four prayer-meetings in that month, and that there were four prayer-meetings in that month, and that that particular prayer-meeting was enabled to testify that particular prayer-meeting. Now I propose to follow that, to show which of the prayer-meetings it was, and why he identifies it. Mr. Beach—That was not the question at all, Sir. The

ber—I never saw such a paper there, and I don't remember having anything about it. Q. Don't remember? A. No, Sir. Q. It may have been spoken of, and you not remember it, I suppose? A. Very possible. Q. And it may have been read there and you not remember it, I suppose? A. I should think it could not have been read there without my remembering it. Q. Well, is it not possible that it may have been read there and you not remember it? A. I should hardly think it possible. Q. Do you recollect Mr. Bowen being there? A. Yes. Q. Do you recollect Mr. Bowen said something about having it understood definitely what was to be submitted to the arbitrators? A. I do not. Q. He may have said so and you not remember it? A. Very possible. Q. Do you remember his saying in substance, "I won't proceed in this matter any further until we know what the arbitrators are to pass upon?" A. No. Q. He may have said that? A. I really don't remember what Mr. Bowen or