THE "RAGGED EDGE" TRIAL

Twenty-fourth Day in the Great Scandal Case.

TILTON'S CROSS-EXAMINATION.

Mr. Evarts Keeping the Witness Within Bounds.

POETRY AND PROSE.

The "Golden Age" of Literature and Ethics.

AN EDITOR'S RESPONSIBILITIES.

The Law of Libel vs. The Law on Evidence.

There is seen every morning on each ferryboat, as the hour of eleven approaches, at least one person of a guileless exterior. He has taken unusual pains to disguise himself with an affectation of worldliness. His white stock has become a glaring tie, fit for a jockey. His long and clerical apparel is reduced to a sack coat, and he carries, perhaps, a cane. As he stands on the forward deck and contemplates the city of Brooklyn a nervous depression of expectancy rises to his face like that he might show if from the hump of a camel he saw the walls and pronounced in the truly clerical novitiate way the name of Je-ru-sa-lem.

This, we need not add, is the American theologian, on his way to the Brooklyn trial. He is there daily, to the number of a score or more. Sometimes he passes in as a member of the rural bar; again, by courtesy, as the editor of a missionary journal, or more often by a pass procured by some Brooklyn pastor on his behalf. He draws a long breath as he ventures to look around him. Perhaps at his elbow is another preacher whom he mistakes for a Brooklyn Alderman or some other man of sin. Before him are a number of newspaper reporters, who bear in his mind a singular resemblance to those irreverent boys who covered the prophet Elisha with the head line of "Go up, thou bald-head!" He often mistakes the dignified Clerk Mallison for the Judge and is astonished to hear that solemn functionary crack a joke with the reporters.

When our clerical friend sees the real Judge appear he falls into a sense of rapture. That dignity, that simplicity, the bearing of the host and the magistrate together, his sententiousness never curt, his lucidity always deferential, his decision often procrastinating, as if he did not mean to change it, but to postpone the argument about it. All these things impress our clerical friend as something in the line of Sir Matthew Hale and the prophet Nathan.

He sees the jury drop in one by one, each man having consulted with his wife during the night, who has no opinion of course. Our clergyman polls them steadily in the light of what kind of vestrymen they might make. He is sure that there are four or five men there who will make the verdict a subject of prayer. This gives him a deep satisfaction and assures him that everything will be well, although the country has been in great danger. There are two or three young men in the jury about whose habits of piety he would like more information, but he perceives that there are as many grave and considerate men around them who cannot be carried away. Next he sees one singular spectator sitting in court with a glove on the top of his bald sconce. This somewhat troubles him, and he thinks the man may be a spiritualist, as he has heard that in Brooklyn current theology is mixed up with a great many isms. Perhaps the man expects an unseen spirit which must presently show its hand to be hovering about that glove in order to preserve its *incognito*. Or the man may be a great Brooklyn philanthropist, who does not want his right hand to know what his bald head doeth.

Looking further the clergyman from a distance sees Plymouth church enter the court room. There they come, old and young, diligent, individual, bright-eyed people, and take their seats in the rear of two tall chairs yet empty, which he knows to be intended for their pastor and his venerable wife. He looks them over, those radical liberal Christians, to see if they differ in any respect from pew-holders in general, and, although he is himself a strict constructionist, he thinks there can be no self-respecting Tophet without a good warm fire kindled beneath it, yet reviewing their consistent earnestness and charity, doing the right as God gives them to see the right, he invariably remarks that on the whole, with all their eccentricities, they have perhaps a little more good in their natures than the same number of people collected together anywhere in the world—of course, since the times of the early Christians, to whose graces we must all defer. When he remarks Brother Caldwell pointing them all to their seats he is seized with the similitude of modern justice to any well ordered parish church. Nothing seems requisite to the performance but two plates to take up the collection and a little more formality about the vestments. The more secular audience in nothing resembles what he had read about the Old Bailey and the trial of Richard Bunyan. In short, he will make it his purpose, when he returns to his congregation, to state that all these stories about the depravity of justice and the corruption of courts are unconservative and unjust; that, although it is a dreadful thing to get before a jury and a judge, it is at least comfortable for a spectator. A sense of human love irradiates our friend that he has got a seat with such ease, and he thinks it must be due to something inherently respectable in his appearance.

And, at last, when all the court is full and the presence of the Judge has somewhat discouraged whispering and hat wearing, behold! a file of ladies modestly enter and take their seats. The tears would rush to his eyes, if he had more than one handkerchief and did not desire to attract attention, to be told that the smaller and more childlike of these is the apple of contention between two dreadfully intellectual contestants. He is insensibly reminded of a scene in profane history when two great chieftains—Agamemnon and Hector—made an immense war over one small Helen. For the first time it occurs to him that there really were a siege of Troy, a wooden horse and the Laocoon. He makes a mental note of this for the home congregation.

And then the lawyers file in, and they are pointed out to him. The imposing Beach, seeing nothing but the invisible law which floats in the air; the small and corrugated Evarts, the little giant of secular polemics; the towering Tracy, like an enraged Achilles; the natty Shearman, as full of books and tin boxes as a colporteur; the ambrosial Morris, to whom everything in nature is a constituent or a client, or both; Pryor, who has the look of decision of one who had just waded the East River, bearing an important authority; Hill, with his measuring eye, like a surveyor's tripod fattened up and moving onward, and Fullerton, coming along on tiptoe, with an eyeglass balanced from his thumb and forefinger and ingenuity in every wink. Seeing all these, our clerical friend feels at last that the law is awful, numerous and costly.

"Strange, strange," he says, "that it takes so many lawyers to fix the status of one small lady, whose husband does not want to give her up, while his opponent has put in no claim to her!"

Then as the court is drummed to order, and the jury polled, our clerical friend sees entering his great associate and superior in the clergy—him whose unintermittent and winged fancies, flashing introspection into human nature and sonorous challenges of its injurers and many sided reflection of divinity and its mercy have penetrated even to his parsonage, and sometimes touched a little of his own envy when his powers of illustration were so superior. He watches the great tribune of the pulpit throw off his cloak, assume his throne and steadily look upon his accuser.

And now, while our clergyman from a distance is satisfied that there is no illusion about it, and that he is really present in the body at a memorable trial to the Church and the world, we will let yesterday's performance begin.

It was a literary day. The proceedings in Court were uproarious and little became a trial of private sufferings and personal passions. The cross-examination of Mr. Tilton by the defence involved an inquiry into his heterodoxy on love, marriage and divorce by quoting from his poems, editorials and correspondence. This brought out two kinds of results. Tilton's ideal morals were delineated as well as his literary style and the symmetry of his mind. Probably no literary man of our time has ever had such an audience, for although the lawyers (his opponents) might read his pieces badly they could not prevent them from going to the country just as they were written. Indeed the reading made the pieces all the more effective, and the effect insensibly was to lift up the mental stature of the unfortunate man, who sat all the while in the witness chair recalling his familiar compositions. If there could have been any doubt that he was the author of these varied and often pretty pieces it was dispelled when they proceeded to extract from him an oral and extemporaneous description of the defendant, as Tilton conceived him in the light of early fondness and of comparison with his later great acquaintances. All admitted—his worst adversary—that he spoke the mixture of modesty and freedom, a lucid opinionatedness, and with a memory and scholarship which made it the more pitiable that his rostrum should now be the witness box and his cause a personal matter.

Mr. Evarts' cross-examination is regarded by wise critics as very good, and apparently laying the foundation for a theory of the defence. It is also quite courteous, comparing very remarkably in this respect with the conflict between Tracy and Moulton, two weeks ago. He is occasionally aggressive upon Tilton, but rather in the way of professional than of personal banter, and instead of taking the small spirit of occasion to retort personally upon Tilton for old grudges in the time of Andrew Johnson's impeachment, Evarts has been respectful to him whenever out of the chair, and yesterday, in the chair, Tilton showed his consideration for Evarts by asking him to relieve Mr. Shearman of the duty of reading one of Tilton's pieces.

"Will you do me a favor," he said. Evarts said he would, and when informed what it was did read the sensitive author's article. This struck the audience as very fine play. At one blow Tilton cut Shearman, complimented Evarts and showed a little of the artist still in his breast, the love of his muse surviving the existence of his family. His counsel caught the spirit of this and compelled Shearman to read as a part of a certain article a ridiculously good baby rhyme. This crowded Shearman into a position so opposite to the intellectual view Tilton desired to convey of him that the spectacle of the great barrister reciting lullaby's brought the house to roars of laughter.

But the velvet touch of Evarts, his plastic questions, so complimentary to the witness and so attentively heard by him, as if the lawyer felt interested in his respondent, seemed to many auditors to betoken ultimate harm to the witness.

"Get Tilton off into didactic talk like that," said one, "and he'll expose himself perfectly. Evarts is laying the foundation for a theory that this charge against Beecher began and grew in jealousy of his superior fame, and that selfishness and conceit are at the bottom of it all."

All the lawyers for the plaintiff, Pryor particularly, who is the literary and character critic of his side, watched this line of cross-examination keenly, if not nervously, particularly as Evarts approached the topic of what Tilton thought of Mr. Beecher's talents and generosity at a previous day.

THE CROSS-EXAMINATION.

Mr. Evarts—Mr. Tilton, this (handing witness a paper) seems to be rather an important document. Please look at it and see if it sets forth the political situation and formed the groundwork of the Cleveland letter.

Witness—I have not read that letter since the time of the Convention; there were three sheets with over one hundred corrections; if this was my letter I should pronounce upon it, but as it is another man's I should not; it appears to be a letter addressed by Mr. Beecher to the Cleveland Convention; the subject of dissent between me and Mr. Beecher grew out of the political situation at that time; Mr. Beecher and yourself—

Mr. Evarts—I beg you will not introduce me in your conversation.

Witness—I am not here under your action.

Mr. Evarts—I do not wish any answers that do not pertain to the question.

The Court cautioned Mr. Tilton to avoid personality.

Mr. Beach—As Mr. Evarts was a part of that situation, it was not improper.

Mr. Evarts—I did not have anything to do with it.

The Judge—He is forgiven, if he did have anything to do with it. (Laughter.)

Q. Do you think that by reading what purported to be a letter of Mr. Beecher, as sent to that convention, you could determine whether or no it was the one you considered and replied to or discussed in your difference with him? A. I do not need to hear any letter, because it was a difference known and read of all men, that I don't remember; it excited discussion in the councils of the party I made a protest against Mr. Beecher's action; I did it in a very direct manner; Mr. Beecher was a supporter of Mr. Johnson; I differed with Mr. Beecher about the Missionary Society; these were the only occasions on which we differed; I think the time of my espousal of

THE WOMEN'S RIGHTS MOVEMENT

was about fifteen years ago; I was in favor of woman suffrage; I acted with Henry W. Beecher and Elizabeth Cady Stanton; among others who sympathized with the cause General Butler was one, Chief Justice Chase was another, Isabella Beecher Hooker was another, Lucretia Mott was another, Wendell Phillips was another, William Lloyd Garrison was another, Anna Dickinson was another; if I should recite the whole catalogue it would take me a long time; I think the denunciations which I made against abuses in the marriage relations have been published since Mr. Beecher invaded my house in 1870; my attention had not been called to the subject before that; I defended Mr. Beecher on his performance of the Richardson marriage.

Mr. Shearman—The article in question is from the *Independent*, dated December 1, 1870. (Reads.)

LOVE, MARRIAGE AND DIVORCE.

"To love—to love—this is to live." So sang a poet of France. If this is French sentiment, it is also apostolic philosophy. "He that hath loved another," said St. Paul, "hath fulfilled the law." And, as if to give to this truth a stamp of universal currency, he recoined it into the golden text, "Love is the fulfilling of the law." This is another way of saying that love is the supreme function of life.

But what is love? Who has analyzed it? Of what gossamer is it woven, or out of what adamant is it hewn? What are its quintessential elements? And, especially, does it outlive life, or must it die with death?

The poets sing a various song on this wondrous theme—jarring their harps to a strife of clashing sounds. Here, for instance, is William Morris, making Andromeda, in "The Earthly Paradise," say to Perseus:—

> "Oh, love, to think that love can pass away!
> That soon or late shall come to us a day
> When this shall be forgotten! e'en this kiss
> That makes us now forget the high God's bliss,
> And sons of men with all their misery."

And furthermore in the same poem:—

> "Love while ye may; if twain grow into one,
> 'Tis for a little while—the time goes by—
> No hatred twixt the pair of friends doth lie;
> No troubles break their hearts; and yet, and yet
> How could it be? we strove not to forget.
> Rather in vain to that old time we clung;
> Its hopes and wishes round our hearts we hung;
> We played old parts; we used old names. In vain.
> We go our ways, and twain once more are twain."

But as if to give a sweet lie to all this doleful prophecy, Mrs. Browning, the St. Cecilia of her sex, exclaims:—

> "Say never ye loved once;
> God is too near, above, the grave below,
> And all our moments go
> Too quickly past our souls for saying so.
> * * * * *
> Love strikes one hour—Love!
> Those never loved who dreamed that they loved once."

To which letters add the following snatch from a German song:—

> "Child tell me how love cometh?"
> "It comes unsought, unsent."
> "And tell me how it goeth?"
> "That was not love that went."

Now, if it could be settled that human love is, in its essence, immortal; that death doth not cut, nor the grave rot, the silken cord of marriage we could definitely say—there is but one bond and that knows no breaking. It binds two souls for time and eternity, so that nothing in either this world or the next can divide them from each other, any more than either can be divided against itself. It creates and justifies the instinctive exclusiveness—the unselfish selfishness—whereby love claims its own and not another's; yearning only for its only mate. It gives a reason for one of the prejudices which many hold without reason, we mean the building of a second marriage like a monument on the first.

But the common voice of mankind replies, marriage is dissolved by death. Now, of the soul's dearest possession this may be a right or wrong philosophy. But accepting this universal opinion as correctly interpreting our inherent nature, the question arises, since marriage is dissolved by death, is it dissoluble by anything else? If so, by what?

To answer what breaks, we must inquire what makes the marriage bond.

The Divine moralist who preached the Sermon on the Mount, when He said "Be ye perfect," held up an ideal human character impossible of moral attainment—the despair of flesh-clogged souls. In like manner, in the few and fragmentary notes which His biographers have saved of His utterances on marriage, He holds up an ideal the highest ever conceived—beautiful to struggle after, but impossible to attain. He did not rest marriage on the mere legal union of two persons whom the law, inviting, uniting, enacts to be one flesh; but transcending this tie and hallowing it, He taught a spiritual union which should be so subtle in its willing bond, so exclusive in its mutual allegiance and so reverent of its married mate that "the brief indulgence of a single vagrant fancy" was an infidelity to such wedlock. Who can abide this test? Judged by so immaculate a morality, "There is none good, no, not one."

Nevertheless, as the only just ideal of human character is, after all, the Divine and nothing short of it, so the only right idea of a true marriage is the impossible—the perfect picture which Christ sketched. But as there is an approximate realization of this character, notwithstanding the weaknesses of human nature, so also there is a reasonable approach to this marriage, notwithstanding the vicissitudes of human love. Thus a husband and wife, if they have rich hearts and generous minds—if their sympathies overflow like confluent streams—may love each other with such devotion, with such exultation, with such coronation, as to attain to the royal estate which Shakespeare called "a measureless content," realizing in each a faithfulness of love that could not possibly betray or deceive its other self; a love so infinite that it could contain only its own fulness; a love which, like the sea, could never depart out of its own bosom.

Now this is the love and the only love that spiritually constitutes marriage; and marriage, however legally enacted, "yet" without this spirit of unity to create its "bond of peace," can be under Christ's theory, nothing but divorce.

The greatest question which has been propounded to modern society is, "What is to be the legal status and what the social fate of persons who find themselves married but not mated; the common and pusillanimous answer is, to remain in a bondage which it is ostracism to break. But a just moral sense, piercing a sham morality which is only another name for custom, asks, what excuse can be given to God and to virtue for keeping two human beings in an enforced union which each knows to be degrading to both their souls?

A public opinion which compels the juxtaposition or which forbids the disconnection of an unmated pair—who are tied, not knit—chained, not wedded—violates the ethics of Him who, preaching from the mountain top of morals, taught so terrible a distinction between love and lust. Marriage without love is a sin against God—a sin which, like other sins, is to be repented of, ceased from and put away. No matter with what solemn ceremony the twain may have been made one, yet, when love departs, then marriage ceases, and divorce begins. This is the essence of Christ's idea. To say that He granted divorce only for a gross and fleshly crime is to forget that He called the eye a paramour and the heart a wanton's bed. Even granting that one of His speeches seems to call adultery the only divorce, yet in His other maxims, in illustrating what He meant by adultery, He set forth an ideal of so faithful a fidelity that most marriages, estimated by this standard, would be proved adulterous, and be pronounced by his withering judgment null and void. How shallow, then, it is to say with the Roman Church that there shall be no divorce, not even for fleshly lust; or with the Episcopal, no divorce, except for this and this only; or with the Presbyterian, no divorce, except for this and for desertion; or with the Methodist Missionary Boards, no divorce, except for these and for heathenism; or with the civil laws of some of our States, no divorce except for a few of the more common and hideous offences which daily report themselves to our courts.

John Milton was right in declaring (we do not quote his words, but only his meaning) that what nullifies marriage justifies divorce. With faint echo we repeat the same truth, which to our mind seems so true as to be fundamental. Nor, in following Milton, do we wander in a dangerous path. This man was no loose philosopher—no *blasé* gallant—no free lover. For, though his voice thundered for freedom of divorce, it pleaded with sweet eloquence for strictness in marriage. Learn as well as we may from so illustrious a teacher, this journal, with its liberal views on divorce, remains one more moralist on marriage. It utterly spurns, rejects and repudiates the doctrine of free love. It stands at the antipodes of philosophy. It holds that a man and woman whose mutual love is not sufficient to inspire mutual fidelity, proved thereby that they have never known the fulness, purity and all sufficiency of the one love which makes marriage sacred and which keeps it so. The only marriage worthy to be called by the name of that great sacrament is the exclusive union of one with one, not the patriarchal union of one with many, and not modern *sub rosa*, union of many with each other. Marriage, if it be marriage at all, is the unswerving faithfulness of husband and wife, admitting no intervening mistress for the one, no supplemental paramour for the other.

But this idea (and this idea cannot be true) carries with it as its logical sequence (and this, too, cannot be true) the irresistible conclusion that marriage, if broken, and whether broken by the body or the soul, is divorce. The infidelity of the body is not so great a sin against marriage as the infidelity of the soul. If there is divorce for the one there should all the more be divorce for the other. Human society needs for its purification a more chivalrous fidelity to marriage, a more honorable respect for divorce. A nation without marriage would be without civilization; a nation without divorce must be without virtue. In France the law tolerates no divorce; and so the people practice a universal license. In Prussia the law opens seven gates of exit from marriage, and so the fashionable standard of morality is almost Puritanic.

Now, the proverb warns us that "history is philosophy teaching by example." Apply this philosophic warning to our own land. Our American society is covering itself with a growing mildew of free love. This corroding fungus is everywhere so plain that all eyes are beginning to see it. What is the cause, and what the cure?

The cause is twofold—first, in the injudicious and lamentable haste with which the law is invoked to tie a knot between two persons who only fancy, but have not proved, their fitness for each other; and, second, in a public opinion, which, forbidding the dissolution of such ill-made contracts, forces imprisoned spirits fretting at a captivity, from which they can not openly break, to take covert refuge in secret sin.

The case is likewise twofold—first, in a higher and holier idea of marriage, including the chastity which should accompany it, the devotion which should foster it and the love which should hallow it; and, next, in public opinion, expressed authoritatively in our civil statutes, enacting that whatever in point of morals nullifies marriages should in point of law authorize divorce.

God grant that there may come a time in the legislation of our country when the laws of the land shall be formed on the facts of the soul.

Mr. Evarts (handing paper to witness)—Look at that and say whether you recognize that as a production of yours? A. Well, sir, I have not the paper; that is not the original; it strikes me at the first glance that it is a garbled copy, but I have not read the original since it was first printed; I can produce it; the first article was taken from a newspaper, and I wrote underneath the reply to it.

Mr. Evarts then read the following:—

FRENCH WITH A MASTER—A NEW POEM BY THEODORE TILTON.

> *Aimer, aimer, c'est à vivre.*
> [To love, to love, is to live.]
>
> Teach you French? I will, my dear!
> Sit down and con your lesson here.
> What did Adam say to Eve?
> *Aimer, aimer, c'est à vivre.*
>
> Don't pronounce the last word long;
> Make it short to suit the song;
> Rhyme it to your flowing sleeve.
> *Aimer, aimer, c'est à vivre.*
>
> Sleeve, I said, but what's the harm
> If I really meant your arm?
> Mine shall twine it (by your leave).
> *Aimer, aimer, c'est à vivre.*
>
> Learning French is full of slips;
> Do as I do with the lips;
> Here's the right way, you perceive.
> *Aimer, aimer, c'est à vivre.*
>
> French is always spoken best
> Breathing deeply from the chest.
> Darling does your bosom heave?
> *Aimer, aimer, c'est à vivre.*
>
> Now, my dainty little sprite,
> Have I taught your lesson right?
> Then what pay shall I receive?
> *Aimer, aimer, c'est à vivre.*
>
> Will you think me over bold
> If I linger to be told
> Whether you yourself believe
> *Aimer, aimer, c'est à vivre?*
>
> Pretty pupil, when you say
> All this French to me to-day,
> Do you mean it or deceive?
> *Aimer, aimer, c'est à vivre.*
>
> Tell me, may I understand
> When I press your little hand,
> That our hearts together cleave?
> *Aimer, aimer, c'est à vivre.*
>
> Have you, in your tresses, room
> For some orange buds to bloom?
> May I such a garland weave?
> *Aimer, aimer, c'est à vivre.*
>
> Or, if I presume too much,
> Teaching French by sense of touch,
> Grant me pardon and reprieve!
> *Aimer, aimer, c'est à vivre.*
>
> Sweetheart, no! you cannot go!
> Let me sit and hold you so.
> Adam did the same to Eve!
> *Aimer, aimer, c'est à vivre.*

The reading of this poem, which was attended with a kind of pretty, tender interest, was followed by roars of laughter, in which Mrs. Tilton joined as heartily as any and continued her laughter after Mr. Beecher, the lawyers and the bulk of the spectators had ceased. The utter irrelevancy of the poem to such an intense affair, the opportunity it gave to relieve the tension of the nerves and prejudices, and, perhaps, also the innocent and gentle picture it gave of love before its annoyances and surfeit had chilled or deadened it, gave the touch of nature which made even all Brooklyn kin. Plymouth deacons, aldermen, mutual friends, the principals themselves, laughed, and without a tone of satire. Tilton himself smiled at the ghosts of his literary fame, which could still stalk the world and make comedy for all but him. But he smiled only a moment. His is the troubled face of the picture.

The poem in question is said to have been written to his wife while they were teaching each other French.

Mr. Shearman then read the following from *Hearth and Home*:—

IN MEMORIAM THEODORE TILTON.

It is with peculiar sadness that we write these words. They recall the vision of the young man who sprang all at once into public favor, giving such evidence of genius as few men have furnished. Writing double leaded leaders full of force and fire, singing songs full of sweetness, uttering orations full of wit and eloquence, his sunny locks wore at once the "triple crown of editor, orator and poet." Succeeding to the vacant chair of Beecher he more than filled it. He introduced a new era in religious journalism. In those golden days he made his paper all that the name *Independent* could mean. It bowed neither to sect nor party, and its words scorched a villain in the ranks of its own friends as fearlessly as they did an opponent. The paper under his editorship scorned to follow its party. It led. Like a new knight, the gallant young journalist uttered his battle cry and rode bravely to victory. Men laughed at him, but they followed him. He had a noble ideal of journalism. He wrote witty things against an opponent, but did not use his columns to gratify personal spleen. And when the worst attacks were made upon him he said to a friend, "I must not let these things sour me. I cannot afford to let my own temper become spoiled. And I want to leave journalism better than I found it." His enemies said that he greatly overestimated his own position. Perhaps he did. But there was no wronged or downtrodden person who appealed to him in vain.

He was a singer of sweet songs—songs full of brave catholicity of spirit, full of deep religious feeling, full of high moral sentiments—songs full of lofty patriotism. Nothing shows a man's freshness of heart more than his ability to please children. And, from cabin to the other, little children sang with him that most perfect nursery rhyme which begins:—

> "Baby Bye,
> Here's a fly;
> Let us watch him, you and I.
> How he crawls
> Up the walls,
> Yet he never falls!
> I believe with those six legs,
> You and I could walk on eggs!
> There he goes
> On his toes,
> Tickling baby's nose!"

In times of patriotic fervor his great "Bell Roland" rang out with no doubtful peal. The religious heart was touched with the sad minor key of such poems as "The Crown of Thorns," in which there is devoutness, enough of feeling and wittiness, enough of conceit to make it worthy of Jeremy Taylor. There is a solemn, genuine faith in his words:—

> "So in my heart of stone
> I sepulchre thy death,
> While thoughts of thee, like roses blown,
> Bring sweetness in their breath.
> Arise not. Oh! my dead,
> As He whom Mary sought,
> And found an empty tomb instead,
> Her spices all for naught.
> Oh! Lord, not so depart
> From my enshrining breast,
> But lie anointed in a heart
> That by Thy death is blest.
> Or if Thou shalt arise,
> Abandon not Thy grave,
> But bear it with thee to the skies—
> A heart that Thou shalt save."

And then he wrote "A Layman's Confession of Faith," every line of which is worthy of quotation in an obituary such as this. There is one passage in it, which in this day of Woodhulls and free love advocacy we cannot forbear quoting:—

> "I love one woman with a holy fire,
> Whom I revere as priestess of my house;
> I stand with wondering awe before my babes,
> Till they rebuke me to a nobler life."

Never did this young Apollo write more fervently and gracefully than when he spoke of his wife and his home, and it is gratifying to know that his gallant devotion, so often expressed, so gracefully wreathed in his dedication of his poems to the sweetness and sanctity of home life, was an inspiration in the same direction to his crowd of admirers.

It is with inexpressible sadness, for we admired and loved him, that we bring this memorial article to a close. Can it be possible that we shall no more hear that brave voice pleading the cause of right and duty—that we shall no more hear that poetic gift breathing out sweetness, devoutness and purity of feeling? Can it be that he who struck down with remorse his best friend when he thought that friend recreant, shall not live to speak now against those who would defile the sanctuary of the home to which he was so devoted, teaching their doctrines of devils as a cloak to their lust? What would we not give for one stroke of that old scimitar at those who put darkness in the place of light. But we must bear our sorrow, mournfully reflecting on the light so brilliant that has gone out in darkness so utter.

We know there is a pseudo-Tilton who uses the graces of rhetoric to gild the character of a woman about whom it is enough to say that she edits a paper abominable in morals and coarse in its utterances. There is a Tilton who writes insane things about spirits of ancient Greek orators inspiring the meretricious rhetoric of a woman who advocates free love! There is a Tilton who sees a Golden Age in French Communism. But that is quite another affair. We have hastened to pay our tribute to the memory of Theodore Tilton ere this later and counterfeit Tilton should cause the world utterly to forget the brave deeds of Theodore Tilton the lamented.

TILTON'S REPLY TO THE FOREGOING.

TO THE EDITOR OF THE HEARTH AND HOME:—

MY DEAR SIR—I am fond of wit, even at my own expense. Your clever satire of last week, speaking of me as one dead, and giving me (as Captain Luce of the Arctic had) an opportunity to read, before I die, the estimate which my fellow countrymen will put upon me after my death, has almost tempted me into sending you a retort in kind—jest for jest.

But I remember a story told of Dr. Williams and Dr. Emmons—two old Congregational clergymen whom you and I reverence more for their characters than their creeds.

They agreed with each other that as soon as either should die the other should preach the funeral sermon. Dr. Williams shortly afterward retired from the ministry, and, having nothing to do, composed with ornate pen a flowery and funereal tribute to his friend—under some such heading, I suppose, as "In Memoriam—Dr. Emmons." When the brilliant panegyric was finished its author carried it to Dr. Emmons (just as you sent me last week's *Hearth and Home* and treated him (as you treated me) to an ante mortem monument to undeparted worth. The strain of compliment being high, Dr. Emmons, who thought he was getting more praise than he deserved, interrupted the reading by saying, "Is there not too much encomium?"—to which the reader suddenly replied, "Hush, Dr. Emmons, you are dead!"

But Dr. Emmons was not dead to the fine flattery of his friend, nor am I to yours. Furthermore, as in my case, the praise is tempered with blame, the latter, perhaps, being better deserved than the former, I will substitute for my first thought, which was fun, a sober second thought, full of serious intent.

If, therefore, amid the roses which you have heaped upon me I can detect the real thorns or exact points of your criticism they seem to be—first, that I am an advocate of "free love." No, my friend, you are wrong in this supposition. When and where have I ever advocated "free love?" In what writings or speeches of mine have you ever seen any vindication or anything but condemnation of the idea popularly known as "free love?" I have characterized this phrase as a "beautiful term designating a revolting thing." The original coiners of the word flung it as a reproach at certain socialists, and they meant by it the promiscuous intermingling or commerce of the sexes—an idea which, to me, is an affront to our higher human nature—a degrading of men and women to a level with a lower world. "Free love," thus defined and practised, is treason to good morals, and I am, therefore, opposed to it or to any other baseness.

But, in

JUSTICE TO A NUMBER

of noble reformers (to whom more honor will be rendered in the next generation than they can look for in this), I ought to say that this term is used by them in a technical sense, as meaning "love, free from the civil law," or, in other words, that marriage and divorce should be (at least to a great extent) removed from the realm of legislation and left (as religion is left in free countries) to be governed by its own higher law. If this definition shall be popularly and permanently attached to the term "free love"—then, as I thoroughly believe in this idea, I shall cheerfully accept this designation. My opinions on marriage and divorce are the same now as when I first formed them, which was during my college days, by reading the writings of John Milton. I teach no different doctrines now from those which I first faintly sounded on entering (somewhat premature) into public life. Milton's "Essay on Divorce"—which I studied for style and logic, and with a boy's natural repugnance for the whole subject—became, by that study, as much a part of my intellectual constitution as Blackstone's lectures are to a lawyer. If that great essay, by one of the first minds of the world, has ever been answered, I have not seen the answer. True, my friend, Mr. Greeley, sometimes overthrows it with a hasty paragraph or two, but it will live after the *Tribune* is forgotten.

Secondly, you chide me for vindicating a lady who has suffered more private sorrow and more public obloquy than fall to the lot of ordinary mortals. This criticism I accept with pride. When I know a woman well and believe her to be honorable and pure, and she is attacked by "the mob of gentlemen who write with ease," and is reviled by slanderers who strike at her from the safe shelter of an anonymous press, I hope I shall never be coward enough to withhold my own poor pen from her defence. I have an extensive acquaintance among public men and women of our time, including many whom I believe to be uncommonly pure and white in their moral and social character: for instance, Lucretia Mott, Horace Greeley, Elizabeth Cady Stanton, Charles Sumner, Harriet Beecher Stowe, Wendell Phillips, Laura Curtis Bullard and others; and among these—the peer of any in all that constitutes personal purity of life—I place Victoria C. Woodhull. I speak from knowledge; I weigh my words; I mean what I say, and I stand by it. But I am ashamed of my many brethren of the press who, without evidence, without provocation, and without inquiry have made haste to strike a woman whose private life is a white lily of blamelessness, and who, if altogether a fanatic, is also altogether a Christian. Thirdly, you call me a Spiritualist. Well, so was President Lincoln. Why should you assassinate me on this account? There are more spiritualists than Methodists; and the one sect has just as much right to its opinions as the other—at least in a country which professes to tolerate all religions. But the truth is that, although I have seen many marvels of so-called spirit manifestations, I have no satisfactory theory on the subject; and I know too little of Spiritualism to write with authority concerning it, or even to bear the honorable name of membership in its fraternity. But I think I have enough fairness of mind to write a biography of Bishop Simpson from a Methodist point of view, or of Elder Evans from a Shaker point of view, or of Mrs. Woodhull from a Spiritualistic point of view, even though I am not a Methodist or Shaker or Spiritualist. Fourthly, speaking like a Paris prefect of police, you denounce me as a Communist. Yes, I am. I accept your indictment as I would a rosette and wear it in my button hole. I never saw Henri Delescluze, but he was a man after my own heart, and I mourn him as I would any other hero or martyr. Communism is not agrarianism, as many people ignorantly imagine; it is republicanism, and Americans ought everywhere to honor it. The Commune offered to France what the Republic refused it—namely, local self-government. Among all the semi-successful frauds of our time the greatest is the pretended Republic of which Thiers is at the head to day and of which I trust he will be at the foot to morrow. The atrocities in Paris did not come from the Commune, but from Versailles. It was the Commune, not the Republic, that should have triumphed. A few writers and speakers among us have had the courage to applaud the Commune; such as Wendell Phillips, Charles A. Dana, George Wilkes and John Russell Young; and I rejoice to remember that not one of these clear headed men was ahead of myself, either with voice or pen, in vindicating the noblest attempt at political liberty which Europe ever saw or crushed. But the Commune will yet arise and reign! God speed it!

In conclusion, let me add that I have never been a contributor to *Hearth and Home*, nor do I know that any of my writings (except your last week's quotations from the poems of my "green and salad days") have ever been reprinted in your columns; but if you will give me a brotherly hint that I shall be welcome to the space of a second letter, for the purpose of stating my views on the social questions now stirring the public pulse, I will gladly enable your readers to judge for themselves whether these views are right or wrong.

Meanwhile, for my own "hearth and home" (to which you so kindly allude) I send to yours (at which all the public find a weekly welcome) the fraternal greetings of yours forgivingly,

THEODORE TILTON.

In regard to another article, "Mr. Tilton's rejoinder to Mr. Greeley," Mr. Evarts observed that he could not understand why they should be obliged to read the whole article to get at the only point that was important to them.

The Judge thought the whole was subject to review, but it might be a burden to read it.

FULLERTON'S INFATUATION.

Mr. Fullerton—It will never be a burden for me to read anything that Mr. Tilton has written. (Sensation.)

Mr. Shearman—If Your Honor please, the article relates to a discussion between Mr. Greeley and Mr. Tilton, which was somewhat elaborate and comprehends other subjects than this one, and we have found the paragraph of Mr. Greeley's that seems to relate to this topic.

Mr. Beach—This relates to statements made by Mr. Tilton. The rule is that a person making an admission to his own interest, the contents of the paper ought to be shown before a statement can be used as evidence against the party.

Mr. Evarts—That was a rule of evidence that Your Honor has passed upon. There is no rule by which we can be obliged to read everything that we have a right to read.

Judge Neilson—We will apply that rule now; read any portion of it.

Mr. Shearman—I read an extract from Mr. Greeley's letter, including the whole of one separate paragraph. The paragraphs are numbered one, two and three.

Mr. Tilton—Mr. Evarts, will you do me a personal favor—will you read this article yourself?

Mr. Shearman—I read from the paper of September 9, 1871, the first paragraph of Mr. Greeley's letter:—"You ask me what I mean by free love——"

The Judge—What is the number of that paragraph? I must know the number of that.

Mr. Shearman—I read the first:—

You ask me what I mean by "free love?" Let me illustrate: Here are a husband and wife, each sixty years old, who have lived in wedlock a quarter of a century, and have had six or eight children, of whom half survive.

THE PAINS AND CARES OF MATERNITY

have nearly worn out the wife, while the husband is still in the prime of manly vigor and strength. He has filled a wider sphere and enjoyed better opportunities for mental culture than she has, and feels himself her intellectual superior. Among his acquaintance is a younger, fairer, fresher woman, not so richly dowered with worldly wealth, who admires and is admired by him, who in fact is willing, if invited, to become his "affinity," and he is more than willing that she should. If they "take up" with each other, their arrangement or whatever you please to call it, is just what I execrate as "free love." You know that such alliances exist. I feel that they are abhorred of God, and a chief cause of human degradation, family disruption and general wretchedness. In short, I hate the man who has sworn to love and cherish one woman till death, not free to love another while that woman lives and strives to fulfil toward him the duties of a loving wife. Hence I intensely hate "free love," and I hate all inculcation that a marriage may be rightfully dissolved, except for a flagrant, deliberate adultery, while husband and wife both live.

Mr. Shearman—I now read the third paragraph of Mr. Tilton's reply:—

A just reference from your letter is that I advocate free love. On the contrary,

I STIFFLY OPPOSE IT.

The latest bulletin of Mr. Stephen Pearl Andrews castigates me because I hold that the heart's ideal is monogamanic marriage—the supreme love of one man for one woman through life and (I hope) beyond death. But this is only my own view; I do not judge for others. Furthermore, I hold that love, and love only, constitutes marriage; that marriage makes the bond, not the bond the marriage, and that as the contract is to "love and honor," so when the love and honor and the contract dissolves and the marriage ceases. I cheerfully relieve Mr. Henry M. Blackwell and other martinets in Boston by frankly acknowledging that I differ in these views from most other women suffragists, but I am willing to take all the obloquy which this difference involves on the few who are right from the many who are wrong. I would no more permit the same law to handcuff me as a slave to a master on a plantation; there are higher laws than civil statutes, and I am a rebel against the State's too impertinent interference between man and wife. Love should be, like religion, free from mandate by the civil law. Now, you may strike me for saying this; but the next generation will gild this sentiment with fine gold. As Kossuth said, "I can wait."

Mr. Shearman—I now read the fourth and fifth paragraphs:—

You say "I hate all inculcation that a marriage may be rightfully dissolved except for flagrant, deliberate adultery while husband and wife both live." I am ashamed of such a sentiment from your pen. Thousands of good women like Mrs. McFarland have obtained divorces from

DRUNKEN AND BEASTLY HUSBANDS,

not on account of adultery, but of sottishness and cruelty. But what right, divine or human, shall you remand these emancipated women to the loathsome embraces of men from whom they have fled in fear of their lives? Thousands of women, appealing to merciful and humane courts, have obtained divorces because husbands have deserted them, or strangled them, or starved them, or otherwise wrongly treated them. Why will you cruelly affront all womankind by saying to each one of these suffering women, "Your divorce is stripped of all moral sanction, and I point at you the finger of obloquy because you have asked the laws to declare you out of the jaws of death and out of the gates of hell."

PAR. 5. You have instanced a married pair who, after a quarter of a century of wedlock, exhibit the husband in his prime and the wife in her decay. You say, "He has filled a wide sphere and enjoyed better opportunities for mental culture than she has and feels himself her intellectual superior." What an innocent confession you here make of your own damning theory of marriage. Damn a woman to be man's inferior from the very beginning of married life and what can you expect her to be at the end of it? Why does a woman after twenty years of wedlock show more physical and mental dilapidation than a man? It is because during these years you and your fellow thinkers sentence her to be

MAN'S SUBORDINATE, NOT HIS EQUAL;

his servant, not his mate. Why should "the pains and cares of maternity wear her out," except that you have enacted a common law of marriage which either tyrannously forces or tacitly expects a woman to bear more children than she wants? Why should she be intellectually stupid and empty, except that all her life long you and the *Tribune* have shut her out from her husband's opportunities? Why should her husband have "a wider sphere" than hers, except that you and he have conspired to crowd her into a narrower one? Why should he enjoy better opportunities for mental culture than she, except that you have written and published your threats that even if your daughters should attempt to fit themselves for something higher than household employment, or, in other words, should try to rise to the level of their father's genius, you would step down like Jacob sorrowfully into the grave? I frankly assert, because I solemnly believe, that the young men and women who marry to-day, and who derive their notion of the marriage relation from such teachers as you, will inevitably grow apart, until at the end of a "quarter of a century of wedlock" they will find themselves in the very antitheses which you have described. Beware lest they curse you roundly for bringing them to it.

MORE PAPERS.

Mr. Evarts—There's another paper. It is an extract from the Troy *Times*, published in the *Golden Age*. The purpose is, if Your Honor please, we put in evidence this copy of this paper, Mr. Tilton thereby printing this to his people, his public. Now, if we present an article, having other articles already written in the same tenor, by the oral evidence of this witness, expressing his relation to the views of Mrs. Woodhull, I think we have a right to present to the Court the publication of such an expression of views, without design or reproach, as the position of his paper on that subject, thereby showing——

The Judge—You can't read it unless it appears it was published with his knowledge. My friend, the District Attorney, settled that question the other day, on an indictment of the proprietor of a paper, because the article appeared in the paper without his knowledge.

TILTON SHOWS TEMPER.

Q. Did you approve of its insertion? A. I neither approved nor disapproved of its insertion. The *Golden Age*, like any fair minded or liberal newspaper, prints the news. That is an extract from a speech of Mrs. Woodhull, printed without comment, exactly as it would, in the same column, print an extract from the speech of Mr. Evarts. (Mr. Evarts makes a wry face and shivers, producing laughter.)

The Judge—I think you cannot read it.

Mr. Evarts—It would be rather an empty compliment, as nothing of that kind has ever been done by me.

Mr. Beach—It proves how you cannot save yourself from distinction, no matter how you try. (Laughter.)

AN EDITOR'S RESPONSIBILITIES.

Mr. Evarts—We can hold the editor responsible for articles published in his paper, whether he is the personal writer of them or not, if they appear in another source as original matters.

The Judge—That is a different question.

Mr. Fullerton—It does not appear that is original matter.

Mr. Evarts—My proposition is that the editor or publisher of a public newspaper is responsible to public opinion for all original articles put forth in his newspaper, whether he personally writes them or not. The very essence and independence of journalism, as now claimed, and it is not for me to say not rightly claimed, is that there shall be impersonality as to what a newspaper proposes to set forth or to publish. The other question, as to an extract from a newspaper, is very different.

Mr. Fullerton—The proposition, then, is that Mr. Tilton shall be judged by everything that appears in the *Golden Age* except that which is an extract from another newspaper. That is the proposition from the other side, and it is an extraordinary proposition. How can we hold an editor responsible for what appears in that paper without his authority, without his knowledge or sanction in any way? Sure it can be that Your Honor will perceive that correspondents claim to write and to be heard in the public press, and they are given an opportunity to be heard, not because their sentiments are in harmony with that of the editor or proprietor of the paper, but they may be admitted for the purpose of combatting them.

THE ARGUMENTATIVE EVARTS.

Mr. Evarts—Now Your Honor will observe the attitude in which Mr. Tilton and his newspaper occupied to the subject under discussion, and in reference to which the testimony is pertinent, if it be pertinent at all. Having shown that Mr. Tilton is the editor and proprietor of this newspaper, whatever is the character of his newspaper is put forth in its issues to the public, upon which the public pass in denouncing his publications, and his position as a publisher of opinions in this community, falls upon him, not on the question of his individual responsibility as author of this or that paragraph, but upon his editorial, his proprietorial responsibility, for diffusing these sentiments through the community.

The Judge decided that the mere publication of an article from another paper rests upon the principle that a third person in the case must be protected.

Witness—In regard to the articles I expressed a good deal of dissent; I expressed my regret at their being published; I found they had been written by a favorite orthodox contributor to the press, a writer for the *Christian Union* and a member of Mr. Beecher's church. (Laughter.)

Q. We might as well have the name. A. I ask for Your Honor's permission to shut out the name of the writer, in honorable propriety, it being a lady.

Q. Well, I don't know who the lady is, nor do I care; but it seems to be something disreputable on the face of it.

Witness—Your Honor, I called Mr. Evarts' attention to it, and gave him a hint in private. I told him that it was written by one of Mr. Beecher's personal friends.

Mr. Evarts—I did not make it public. You gave it to me in confidence and I did not divulge it.

Witness—Your question compelled me to.

Mr. Evarts—I did not ask any such question.

Mr. Fullerton—I don't see why it should not be made public.

Mr. Beach—I think Mr. Evarts and the witness should continue this discussion during recess.

Mr. Evarts—We should lose our audience, sir, which is the only occasion for this. (To witness.) Now, in this issue, or any subsequent one, did you discountenance this article? A. No; I spoke personally about it.

Q. You mean you spoke to the writer of it? A. Yes.

Mr. Evarts—Now, I apprehend, if Your Honor, please, I can read this article.

The Judge—The same ruling is made in this case as in the other.

The Court here took a recess for one hour.

AFTER RECESS.

At ten minutes after two the lawyers, all well fed after the hearty laughter of the morning, came late into court. Mr. Beecher was not an attendant.

Mr. Evarts alone looked somewhat thin and pale, and his square nose, large mouth, long thin flap of chin and small grayish blue eyes, under a corrugated forehead, were rather sardonic as he walked straight up to the witness and put the life of Woodhull in his face.

Tilton looked into the little dirty-looking pamphlet with evasion and waved it off. Evarts, with his eyeglass still further wrinkling his compact and knotty face, waved the book and looked sharply up into the witness' blanched and hollow face.

At once the argument began, Mr. Beach, in his grave, persuasive way, looking straight at the Judge and waving his forearm, the tuft of fleece upon his chin being the only feature moving, though the head swayed responsive to his inflections.

Mr. Evarts followed with his palms folded over his chest, his head bent down, reasoning to the floor, until, after a time, his long forefinger came forward, after the style of his ancestor, Roger Sherman, as Mr. Ives represents him in his statue. Very soon we heard his rolling words, "Sympathy, community, confederacy," and so forth. His style of talk, alternately clear as the lark, and then hoarse and clutching in the throat, seldom fails to interest. His language is sometimes too fine, as when he referred to Mr. Tilton's "nebulous views." The debate was as follows:—

Theodore Tilton recalled, said:—The pamphlet now handed to me was issued from my press, except B. F. Tracy and January 22, 1874; that is not printed; all but the particular name upon it and the date was issued from my press; the pamphlet is a narrative of the life of Mrs. Victoria Woodhull, about the manner of the composition of which I testified on my direct examination; it is a biographical sketch.

Mr. Evarts—I offer this pamphlet in evidence. With regard to its composition Your Honor will remember the statements the witness has made. I presume I am entitled to have it placed in evidence.

THE BIOGRAPHY OF MRS. WOODHULL RULED OUT.

Mr. Beach—If Your Honor please, we do not deem the publication admissible. It has been once ruled out by Your Honor and the situation is not changed wherein it is now offered. But it appears that that sketch of Mrs. Woodhull was corrected—after preparation by her husband—by Mr. Tilton. Certain parts of it which were not his authorship, as they were prepared by the husband of Mrs. Woodhull, were omitted in the sketch which was written and prepared by Mr. Tilton, with which he was not in harmony; and it was, so far as he had connection with it, prepared and issued in pursuance of the arrangement between himself and Mr. Beecher and Mr. Moulton for the purpose of suppressing the scandal which is now under examination. It is offered for the purpose of including Mr. Tilton and identifying him, at least, with the opinions of that lady which she expresses. And when it appears as it does on the evidence as it now stands, without contradiction, that they are not his own opinions in regard to that person; when it is clear that it was prepared for a common purpose between this plaintiff and Mr. Beecher, it seems to me that it is immaterial. The object of its production, as I said, was to identify Mr. Tilton with certain opinions and sentiments, and to prove his expressions of approbation in regard to the published history of this lady and her opinions. When it is perfectly apparent that it is not a real expression of his views, when it was a device or stratagem arranged between these parties for a specific purpose, acknowledged and known to be a mere device and not a candid and sincere expression of the opinion on the part of the writer, it seems to me that the introduction of such a paper is wide from the purpose for which it is offered, and is in itself immaterial, and I therefore submit to Your Honor that the general opinions which may be given by Mr. Tilton in regard to the opinions of a public personage, even if they were the expression of his own real sentiments in regard to that person and the doctrines which she might advance, I submit that they are immaterial in the issue in this case. But Your Honor will further perceive, so far as I have observed the nature of the evidence now offered, that it is not by any means in itself an adoption of the opinions which are imputed to that lady. It is a sketch or history of a public person, in connection with the particular subject out of which—or in connection with which—she has grown notorious. Now, how does that become material in this action? It is only upon the argument and theory that such a sketch or history of a public personage is an approval of the doctrines of opinions which that person may be supposed to hold. I submit to Your Honor that a history either of a nation or an individual is not in its whole matter of evidence as against its author in regard to the facts or the events which it may detail, and that the approbation of an historic personage by an historian is by no means an adoption of all the opinions or an approval of all the acts which may be attached to that person. The effort is by the production of this sketch of the life of Mrs. Woodhull to connect and identify Mr. Tilton with all the opprobrium, just or unjust, which the public may have attached to her supposed notions or doctrines. Now, Your Honor must see in the production which is offered some direct approval or adoption of those supposed sentiments, than an historian cannot be charged, as I have said to Your Honor, with the character of the nation or individual which may be the subject of his writing. And in that view, if Your Honor pleases, you have heretofore excluded this article as a whole, and have permitted only, I believe, a certain extract or certain extracts to be read from it, for the purpose of applying or characterizing other testimony.

The Court—It was from the other article.

Mr. Beach—Now I submit to Your Honor that before this paper should be received as a whole it should be submitted to Your Honor in some form, either by reading or by personal examination, so that you may understand the nature of its contents and see how far it may be material and proper to the issue we are trying, because Your Honor will perceive the cross-examination thus far has raised the necessity, and this will increase the necessity of examining in regard to the real sentiments which Mr. Tilton may at the time have entertained in regard to the opinions and tenets which were publicly imputed to her at the time. It seems to me we are wandering far off into ranges of collateral inquiry, which will unnecessarily occupy the time of the Court and will not tend to any elucidation of the particular interests which are to be passed upon by Your Honor and the jury. We therefore object to this article as it is offered in bulk.

Mr. Evarts—This seems to be the simplest matter in the world, if Your Honor please. Evidence has been introduced in the direct examination of this witness concerning his composition of this book; how at one stage of its progress it had dissatisfied the subject of the sketch, and how he subsequently completed it that night, or the greater part of the night, and read it to the family of that household the next morning, and it was pronounced a perfect success, or something of that kind; some very high encomium was passed upon it by that lady and her family. Now, when we undertake to show the thing he did they say we cannot show the thing that he did—the manner of its being done is the only thing that is suitable in evidence. Now, this seems a monstrous proposition. They can introduce in direct evidence from this witness (the author of this book) the way he wrote that book, and that is pertinent evidence, and then when we undertake to prove the thing that he did, that is not. Now, in regard to some general views they will not, it seems to me, bear examination under this particular objection. My learned friend speaks of the state of the evidence as uncontradicted in regard to the degree of harmony that existed between the opinions of this witness and author and the lady, the subject of the memoir. Well it does not follow that because testimony is not contradicted that it is accepted, and in the same sense in which my learned friend may wish it to be the trial of questions of fact. But it certainly is a question for this jury to determine if it be a subject to be discussed as an element of fact in this case what the degree of sympathy, of unity, of confederacy between this lady and this witness and author in respect to the dissemination of these doctrines and the glorification of the chief champion of them in this country creates, and I know no better or safer way for the witness than to take his own eulogy upon the woman, coupled with his own explanation of how he happened to give the eulogy. No injustice done in that. In regard to a supposed concurrence on Mr. Beecher's part in this production, well that seems rather fanciful, because all that has been said about Mr. Beecher in the connection was that he approved of stopping the dissemination of these slanders by kindness and influence with this lady. He never has been heard to approve of this life, or these sentiments or this applause, but if he had, it would not make it any less important; if instead of the vague, uncertain and nebulous views of the lady to offer in connection with the work, the work itself should be the subject to which attention is to be directed, whether Mr. Beecher on the one hand or Mr. Tilton on the other is to become responsible for it. Now the connection of this subject with the issues in this cause is twofold. First, in its primary relation as evidence of sentiments, of associations, of involvement in these doctrines and with their representative, as bearing upon his position heretofore maintained with reference to the more accepted views of religion and of morals and the more acceptable organs of public influence through which Mr. Tilton had been acting. It bears more directly, as Your Honor will see, upon the question of the swift destruction, upon the interests of the *Golden Age* and its proprietor, of his position and repute before the public which followed this publication, and to meet any ideas that are to be introduced that any harm has come to its proprietor or his fortunes in consequence of the complaint he now makes of the injury he has suffered from this defendant, and which forms the principal cause of action here.

MR. FULLERTON TALKS ABOUT A LIONESS AND JUDAS ISCARIOT.

Mr. Fullerton—I think it would be well, if the Court please, to understand the exact attitude of the persons interested in suppressing this scandal in 1871, when this so-called biography was published. Your Honor will recollect that at the time of this publication this card of Victoria Woodhull appeared in one or more of the New York papers, in which she foreshadowed an intent on her part to publish the scandal to the world. As a matter of course this was a cause of great alarm and apprehension. As a matter of fact this was a cause of great alarm and apprehension, an alarm which reached Mr. Beecher as well as Mr. Tilton, and if it lay within the range of human effort it was to be suppressed, and they came to the conclusion to leave nothing undone which could be done, and for the purpose of silencing this threatened exposure they met together and they consulted what should be done for the purpose of accomplishing that common end. They supposed the scandal was effectually suppressed at that time, but there was a new feature, a lion in the way, on considering the person who threatened the exposure, I may say a lioness—(laughter)—and not the less dangerous. It was to meet that danger that Mr. Tilton was directed to go forward and do what he could to substitute the kindly purr for the wicked and threatening growl—(laughter)—and he went forward and accomplished that purpose not only on his own be-