THE GREAT TRIAL.

Third Day of General Tracy's Address.

"SOMBRE RICHNESS AND FULNESS."

The Question of Oral Confessions Reviewed.

BESSIE TURNER'S LETTERS.

How Tilton Worked Upon His Scheme.

THAT $7,000 ONCE MORE.

Yesterday was the driest of all days in court. Mrs. Beecher went to sleep. Mrs. Tilton and her party did not come at all. Mr. Beecher listened with his sensitive face. Mr. Tracy was very much out of sorts, and apparently unacquainted with his manuscript. He read his chirography with a doubtful countenance and accent, and very soon emptied a large part of the court room by not arousing anything.

It is said on Brooklyn authority that Mr. Tracy had anticipated the kind and quality of evidence to be introduced by the plaintiff, and had prepared a speech to annihilate each and every one of the plaintiff's adherents.

Judge Fullerton, with his fine anticipations of what his opponents might do, stopped the case prematurely, and threw Mr. Tracy into a condition which compelled him to alter his statement and incidentally abuse some persons who had never been summoned.

Tracy denounced Bowen and Carpenter, both of them unhappy accidents of this assize. Bowen responded yesterday in a strong card, antagonizing Tracy and showing Bowen's own hand. Frank Carpenter has not opened his mouth, but will probably be used for the rebuttal, as Tracy has denounced him in advance.

Mr. Bowen awoke from his stupor yesterday and discharged a public card at General Tracy, the confidential friend and chief counsel for Mr. Beecher. Bowen says he was never in better spirits in his life, that he was one of the founders of Plymouth church, that Beecher is an interloper and not himself, that he is tired of the age of lying and will speak if the law compels or commands him, but will not be interviewed nor put into an absurd position for the advantage of either Tilton or Beecher. He regards both those persons as irresponsible Bohemians, who are now embroiled with each other, seeking to bluff him from testifying. The general tone of his conversation is that neither principal will get much advantage from what he testifies to; but that, as an old pioneer and founder of Plymouth church, he is ready to blow them both up for their arrogance, egotism and selfishness. Every day this trial goes on

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is more and more seggregated. The apparent attempt of the wealthy men of Brooklyn to father Mr. Beecher, whether guilty or innocent, commits the whole city to the personal fame of its great orator. But many changes in opinion have come about since this trial was instituted. The social despotism on the side of Plymouth church has been abated. Mr. Beecher's friends now welcome allies from neutrals and enemies.

GENERAL TRACY'S SPEECH

on behalf of his client is defective, as we have said before, in making too much of the plaintiff. Tracy began by accusing Theodore Tilton of being an egotist. When he makes mankind enter into a conspiracy to pull down his client and that client listens with a delighted countenance, it appears that the egotist is in the defence as well as in the prosecution. It will take a high degree of character in each juryman to sum up this case. Neither defendant nor plaintiff have employed that class of lawyers who can put a vein of comedy through the case and laugh away the insinuations of the other side. Indeed, the utter egotism of principal and defendant is very liable to be exhibited. The cause of religion will not suffer one particular in the humiliation of either principal. The cause of egotism will suffer extremely in the non-suiting of the one or the conviction of the other.

The sound, strong lawyers on either side are insensibly reduced in public estimation by their connection with such clients. Mr. Beach, Mr. Fullerton and Mr. Pryor rather like their retainer, Tilton, and yet are unable to give any philosophic account of him to the vast public, which searches for a reasonable interpretation of his many meanderings. Judge Porter, Mr. Abbott, and, perhaps, others, would like to construct for Mr. Beecher a thoughtless, careless, effervescent, irresponsible genius, for whom they might make a plea. But the course of this trial rubs out all the good-natured interpretations and compels plaintiff and defendant to approach each other like murderers rather than like litigants.

It is supposed that General Tracy will get through in time to summon several minor witnesses before he puts Mr. Beecher on the stand. Mr. Bowen must now testify for one side or the other, or the public will continue to despise one or the other of the litigants.

It is expected that witnesses will be called on the stand on Monday afternoon or Tuesday morning.

THE DEFENCE.

As soon as the jury had answered to their names and the counsel were comfortably ensconced in their seats General Tracy continued:—

SOMBRE RICHNESS AND FULNESS.

How embarrassed by the very copiousness of the resources thus gushing forth before him must have been this cool hand who, there with hard, cold eyes, sat watching this curious development. "Something to commit Beecher" had been his quest, and here was Beecher himself furnishing terms in torrents intense enough, comprehensive enough to cover all sins forbidden in the Decalogue! Oh, to get a thousandth part of this rich material on paper, for here it is running all to waste, and every sentence is gold, and "there's millions in it." But the copious talker is in no mood for writing, and our shrewd operator in vivisection, watching then his opportunity, sees the supreme moment arrive for dropping the scalpel and taking up the pen. And now, gentlemen, having brought you up to the situation as it exists in our conception, let us leave it thus for a moment—Mr. Beecher pouring forth an unceasing torrent of morbid self-accusation and sorrow, and Moulton, with unpracticed pen, in the gathering darkness, at his wit's end, to make rapid selection and arrangement from the multitude of significant expressions such as should best answer the end in view—namely, to get Mr. Beecher on paper in the attitude of a penitent criminal. Let us, I say, turn from this interesting situation and institute a somewhat careful inquiry into the genesis and the nature of the remarkable paper which was the product of that rapid incubation.

Here Mr. Tracy adverted to the interview of January 1, and quoted the evidence given on the direct examination. He also dwelt on the letter of contrition, and ridiculed the idea of Mr. Beecher having dictated any such absurd document.

THE ORAL CONFESSIONS.

Now, gentlemen of the jury, I come to another branch of this case, and that is the branch which is now mainly relied upon, to wit—the pretended oral confessions which this defendant is alleged to have made to Francis D. Moulton and to his wife and to the plaintiff, Theodore Tilton. In the beginning, gentlemen, we shall show you that these parties relied expressly upon the writing that they had and nothing else. As late as July 10, 1874, after the appointment of the church committee from Mr. Tilton's first appearing before that committee, we shall show you, I apprehend, by evidence which you will not doubt, that Mr. Tilton there said—this case against Henry Ward Beecher was in writing—he said that he knew that his reputation was impaired in this community, and that the guilt or innocence of the Rev. Henry Ward Beecher did not at all depend upon his word. He had it in writing. I think the evidence will show you that after Mr. Tilton had repeated that once or twice over he was interrupted by one who thought, at least at that time, that he had seen the writings against Henry Ward Beecher, who said to him, "Mr. Tilton, if your case against Henry Ward Beecher is in writing, then it is only a question of what those writings prove. That is a matter which other people can judge of as well as you can; it is a construction of the paper;" and it was then and there, I think, said by one who supposed he had seen these papers and studied them carefully, that they did not warrant the insinuations that Theodore Tilton was then making, and they would not prove the case that he was insinuating. I think it will transpire to you, gentlemen, that up to that time neither Moulton nor Tilton had ever talked about the oral confessions of Henry Ward Beecher. I think it will transpire that this part of their case has arisen since that date. At least I have no doubt that it will appear to you that on that occasion Mr. Tilton did not pretend that he had any oral confessions of Mr. Beecher tending to establish his guilt, but said distinctly his case against him was a case in writing, locked up in his safe or in Moulton's safe. In Moulton's statement, published August 21, some time after this conversation had gone on, Moulton alleges then, in general language, that Mr. Beecher had confessed orally to him. But his language was entirely general; he gave no specific words, he made no statement which was legal evidence of that fact. His papers were challenged on that account, and it was said to him, "If Henry Ward Beecher ever confessed to you, why haven't you stated the confession so other people can see whether his language amounts to a confession of guilt or not, and it was not until he made his second statement that he descends at all or undertakes to give the words in which Mr. Beecher confessed. But on the trial here he clothes Mr. Beecher's confession in entirely different language from what he did in his second statement, and you will not forget the remarkable language which he so continuously put in the mouth of Henry Ward Beecher. "Sexual relations;" "sexual intercourse;" "sexual expression;" "adultery." Not once, not once, gentlemen, I beg you to observe, but continuously, at every interview, and he never puts it as Mr. Beecher referred to their relations, but he always precedes it with the word "sexual." Do you believe that, gentlemen? Upon the basis of the theory that Henry Ward Beecher had intended to convey to Francis D. Moulton the idea that he had had criminal relations with the wife of the plaintiff—dare you believe that in every interview that occurred between them afterward Mr. Beecher expressly referred to the confession, but it was in the precise language that he used on the first occasion. Having used it once, would not the mere reference to it afterward have been sufficient? Was it necessary for him to repeat always the words "sexual relations," as Mr. Moulton on the stand states? Why, it is most improbable, I say. If Mr. Beecher had been confessing he never could have been guilty of such weakness and display such love of nasty expressions as to be continually rolling these phrases over his lips, as Moulton says he did. It is impossible to believe it. It is incredible. They are words that are manufactured and put into the mouth of Henry Ward Beecher on the occasion. He never made any such expression; he never made any such confession, and you will remember, gentlemen, if you have read his statement——

Mr. Beach (interrupting)—Whose?

Mr. Tracy—Moulton's.

Mr. Tracy (resuming)—Or if you recall his expression upon the witness stand, when he first attempted to repeat this phraseology, the remarkable slip he made, not once, but twice, when he undertook to say that Mr. Beecher said his relations, his "sexual relations," not once, but twice, he did in repeating, and that is in the precise manner he reports it in his statement.

BESSIE TURNER REVIEWED.

They got Bessie Turner to retract the stories which she had told to Mr. Beecher concerning Mr. Tilton; and now, gentlemen, there is more significance to the retraction of Bessie Turner than to most of the retractions in this case, because there is another fact connected with it. Bessie Turner had circulated the story; had told Mr. Beecher and had told other people that Mr. Tilton had twice attempted her virtue, once by taking her from her own bed to his, and on the other occasion, I believe, came to her bedroom and attempted to lay in bed with her, and these stories were told, and the evidence of Moulton and Tilton shows you that they knew she had circulated these stories, and taken with the flood tide that was coming against Mr. Tilton, they were extremely damaging; very damaging; but they say she was a girl given to talk, and she was somewhat under the influence of the mother-in-law, and that, if we believe Mr. Tilton, the mother-in-law was sometimes given to talk; and it was important not only, therefore, to get Bessie Turner to retract this statement but to get her out of the way, to get her out of Brooklyn, where she would not talk, to get her in a distant country, where no Brooklyn people would hear her, and where she would not attempt to retail these scandals concerning Mr. Tilton. Now, gentlemen, they tell you Bessie Turner was sent West because she had heard a quarrel between Mr. Tilton and his wife in which Mr. Beecher's name had been mentioned, and that was the reason why she was sent away, and not because of these stories, and they attempted to put the responsibility of her absence upon Mr. Beecher, and upon the rumors concerning Mr. Beecher and Mrs. Tilton; but they were careful to get from Bessie Turner her written retraction of these stories against Tilton, and they treasured them up. What for? For the very use that they are putting them to now. They bring them in court to confront this young girl and to say, "Here are statements that your stories against Mr. Tilton are false." They were got for that purpose, and they were put into the general archives of Moulton, with papers relating to this scandal, and have been carefully preserved ever since.

BESSIE'S LETTERS.

Here Mr. Tracy read several letters of Bessie Turner's, wherein she disclaims having had any dishonorable proposals made to her by Mr. Tilton. These letters, Mr. Tracy insisted, were obtained by Mr. Tilton from this girl, ready to be produced in court if she should ever appear and give evidence against him. He continued:—

We have the fact that these two letters were obtained, and she was sent away, and we shall show you, gentlemen, that she was sent away as an inducement to her to give these retractions. But more! We have the testimony of Francis D. Moulton himself when he says that he told Beecher—mind, he (F. D. Moulton) told, he made the suggestion, to send her (Miss Turner) away; yet he makes the suggestion to Henry Ward Beecher to send her away, but says that Tilton cannot afford to pay the expenses! Ah! Indeed! If it was Beecher's business to send her away why should Tilton be called in to pay Mr. Beecher's bills? Do you say "you are not able to pay your neighbor's back bill?" Does any expense ever occur to you? Did you ever use any such language as that about paying your neighbor's back bill? If this was Beecher's bill; if she was to go away under his protection, why was the remark made by Moulton "that she should be got out of the way, but Tilton couldn't afford to pay the expenses." You can have the more explicit knowledge that it was understood by all the parties that it was a bill Tilton was to pay but an expense that he couldn't afford to incur, because of his reduced condition financially. Therefore, Beecher says, "it will be an aid or a favor to Tilton I will pay the expenses." Tilton was in reduced circumstances, his income had been cut off, and if it was necessary that this girl should be got where she could not talk, why, send her to school and I will pay the expenses.

THE BEECHER LETTER OF INVITATION.

Then there are other correspondence passing along from that 7th of February, during that winter, to which I shall not call your attention, except one, gentlemen. They have introduced a letter here from Mr. Beecher, which they say was an invitation to Mrs. Tilton to visit him at his house during the absence of his wife and while his sister kept house for him. Now, we shall end all that, gentlemen, by showing that there never was such an invitation, or what was understood to be such an invitation, and that Mrs. Tilton never, as a matter of fact, did visit Henry Ward Beecher at his house. I shall not stop to discuss that; it is not my place to discuss the effect of the construction to be put upon that letter; but I simply announce to you the fact that no such visit ever did take place. She did not call upon Henry Ward Beecher at his house during that winter his sister was keeping house for him, and the sister will be introduced upon the stand and will tell you so. So with all the other letters upon which I cannot dwell at present; I mean the little letters that passed that winter. Nor will I stop to consider the monstrous story which the plaintiff has told you concerning the remarkable interview which he says occurred between him and Mr. Beecher when they held an inquest over the paternity of the last child of Mr. Tilton. The monstrosity of such a story is sufficient to shock the moral sense of any man who is compelled to listen to it. You will not believe, gentlemen, that any such story—any such interview ever occurred. We shall show you what did occur there by a witness who was present and who took part in it. That was a friendly interview and it was one in which Mr. Tilton expressed a wish that the past be buried and that the old relations of Mr. Beecher to that family be restored and he resume his visits—a fact which is quite inconsistent with the story; but for reasons which are obvious, while Mr. Beecher had the deepest sympathy for this man, and while he had the highest regard for her, he, of course under the circumstances, would not renew his visits to that family and never did. The next important fact in this history to which I desire to call your attention now is the acquaintance of this plaintiff and his relations with Mrs. Woodhull. I see, your Honor, that it is five minutes to one o'clock, and before I enter upon that subject, which will take some time, we will take a recess.

Here the court took the usual recess till two o'clock.

AFTER RECESS.

Shortly after two o'clock Mr. Tracy resumed his address to the jury on behalf of the defendant. He referred to the publication of the Woodhull biography, written by Tilton, as showing the relations between Tilton and Mrs. Woodhull. The plaintiff wanted to make out that his acquaintance with Mrs. Woodhull was for the benefit of the defendant, and to prevent her from publishing the threatened scandal. Tilton said he believed Mrs. Woodhull was a pure woman, and that he had simply made her acquaintance on account of the scandal. If he (Mr. Tracy) could show that that statement was untrue, Tilton's evidence on the stand could not be credited by any person in the community. He would not dwell on the details of this branch of the matter at present. Tilton went to Coney Island with Mrs. Woodhull and bathed there with her, though he denied that fact on the stand. He would show them that they deposited their watches with the coachman; that Mr. Tilton came from the sea shore with his golden locks wet, perhaps with the dews of the ocean, or, it might be, from the agony he felt in regard to Henry Ward Beecher. (Suppressed laughter.) He would show them that Tilton and Mrs. Woodhull returned to New York; that they were left by the coachman at Mrs. Woodhull's house, where he presumed he spent the whole night, all, he supposed, for the benefit of Mrs. Tilton or Henry Ward Beecher. (Laughter.) He would show that in place of getting Mrs. Woodhull to suppress the scandal he did all he could to get her to publish it; that he brought Mrs. Woodhull on three or four occasions to Mr. Moulton's house, and that when he found what a storm had been raised against him for publishing that Woodhull biography he and Mr. Moulton entered into the desperate scheme of getting Mr. Beecher to preside at the Woodhull lecture in Steinway Hall, which Mr. Beecher declined to do. Tilton himself presided at that meeting and introduced Mrs. Woodhull to the meeting. But if he had been able to get Mr. Beecher to preside he could have said:—See, Mr. Beecher, the great preacher of the country, indorses this woman. But Mr. Beecher did nothing of the kind. It was only when troubles of various kinds came on Tilton that he came to think of uttering this scandal at all. And Mr. Beecher told him that if he wished to reinstate himself in his good wishes and opinions he must utterly give up and repudiate all his associations with Victoria Woodhull. Counsel referred to the poem, "Sir Marmaduke's Musings." But Mr. Beecher not moving, Mr. Tilton must give him a menace, must come and find something to alarm him, to make him come forward and aid him out of the difficulty he had fallen into; so, on the 1st of November he published "Sir Marmaduke's Musings," the first verse of which is,

I won a noble fame,
But, with a sudden frown,
The people snatched my crown,
And in the mire trod down
My lofty name.

What had happened to have the people with "a sudden frown" snatch the crown of Theodore Tilton on the 1st of November, 1871? What but his relations with Victoria Woodhull and his doctrines of free love which he had before published in the *Independent* and the *Golden Age*? There was nothing with the public that could have satisfied that first verse in this poem, except his known relations with that woman. It was that and that only to which he alluded. But the poem was an excuse merely to publish the following verse:—

I clasped a woman's breast,
As if her heart I knew,
Or fancied would be true,
Who proved—alas, she too!—
False like the rest.

**And he tells you, gentlemen, that although the story of the scandal had been circulated among a large number of people, although it was known to the Woodhulls, as he says, the May previous, who had threatened to publish it and who had published a card which called attention to the fact that some prominent minister in Brooklyn was living a life of adultery with the wife of another prominent teacher in Brooklyn; although he had circulated it among his handful of friends, and how far it had gone he did not show, yet he tells you that when he published that verse he had no idea that anybody would believe it. According to his own showing the stories had been in circulation for nearly a year. How extensive it was he could not know, but he did know that rumors of a domestic infelicity in his own family had been given a considerable circulation in this community. Could he be so dull as not to understand that the publication of that poem, over his own signature, would be a confirmation to every person who had heard of the rumor that the rumor was true, in whatever form they may have heard it—whether it was of adultery, or of improper proposals, or as undue affection—no matter, I repeat, in what form they had heard the rumors, every person who had heard the rumor of domestic difficulty in the family of Theodore Tilton would have taken that poem as a confirmation of its truth. Did not he know it would be so received? Can it be possible that he did not know it? And yet he tells you from the witness stand that if he supposed any person could have imagined that that referred to his own domestic troubles he would have suffered his right hand to have been cut off before he would have published it. I say that that was a menace. It was to send alarm to Mr. Beecher. It was to say to him, "Sir, you must come up to my rescue and my relief or you will be scandalized by this report." Tilton wanted, by threats, to get Mr. Beecher to preside at the Steinway Hall meeting. He, at that time, was out of money, and the importance of that point would be made apparent at another stage of the case. Mr. Tilton's attempt to get Mr. Beecher to preside at the meeting in question was an effort to relieve Tilton from the load of obloquy under which he labored, and Beecher's refusal to do so brought down on him from that time forward all the bitterness and hostility of Tilton and Moulton, which had never since ceased. Mr. Beecher had declared that he could not, for the sake of saving Tilton, indorse the principles of Victoria Woodhull. Tilton went West on a lecturing tour; the *Golden Age* was not prospering; Tilton was out of money. Something must be done, and Tilton wrote that letter to Mr. Beecher, stating the accusations that Bowen had made against Beecher. This intimation was made to Beecher that if he took sides with Bowen he must make up his mind to encounter the hostility of Theodore Tilton, who hoped that Bowen would patch up a peace and take back Tilton into his employment. Moulton told them that letter was to be used in a negotiation with Bowen. Tilton always had an eye to business; no matter whether the question involved his wife's honor or his own relations with Bowen, he subjected them to a certain standard of value. He took a press copy of the letter he intended to publish against Beecher and showed it to Samuel Wilkeson, a member of the firm of Ford & Co., Mr. Beecher's publishers, and Tilton said he would publish that letter if Henry Ward Beecher did not do him justice. Mr. Wilkeson saw at a glance that if the scandal was published it would astound Christendom and ruin the work, the "Life of Christ," on which Mr. Beecher was then engaged. Tilton did not go to Mr. Bowen to show him the letter. He said to Mr. Wilkeson that when Bowen did him injustice Beecher did not take his part; that he passed over on the other side. But why did he show that letter to Mr. Wilkeson, a friend of Mr. Beecher's? Counsel contended that this was done for the purpose of blackmail, especially as Tilton only got a few copies of the letter struck off and then had the type distributed. He showed the letter in type to some friends; but Tilton never intended to publish the letter—he went about saying he would publish it. The $7,000 which Bowen owed Tilton had not been paid for fifteen months; but he (counsel) knew that in a few days after Tilton had been showing the threatened letter to Bowen's and Beecher's friends that $7,000 came into Tilton's hands. Then, adverting to the tripartite agreement, counsel said that there was a breach of faith in this case, and that was that all the papers relating to this scandal should be destroyed. But they never were destroyed. The question was, did the plaintiff in this case act in good faith? He (Mr. Tracy) said he had not, but that Tilton and Moulton were acting as conspirators to use Henry Ward Beecher, and, when they no longer could do that, to destroy him if they could. The first step in the negotiation was the tripartite agreement, and then came the award. After the tripartite agreement had been fixed upon, Bowen, Tilton and Moulton withdrew to a room, where the award was agreed to. Mr. Tilton got his $7,000, and after this those who had agreed to give subscriptions to the *Golden Age* managed to get out of the whole business. Tilton went into the campaign in favor of Mr. Greeley, and, therefore, he had no inducement to indulge in scandal then, as it might not be favorable to his political prospects. Tilton then, for once, gave up his love of women to his political ambition. He says that about this time he gave up the Woodhulls. Having adverted to the alleged sources from which the Woodhull scandal originated, counsel said that Mrs. Stanton denied all knowledge of it. If Tilton had denied it there would have been an end of the scandal.

MR. TRACY EXPLAINS HIS CONNECTION WITH THE CASE.

Mr. Tracy continued, saying:—Now, gentlemen of the jury, we have reached the stage of this case where my name has been dragged into it in such a way that leads me to make to you a personal statement of my relations to it. I will explain what transpired, as far as I am connected with this scandal, from beginning to end.

Mr. Beach, addressing the Court, said that he should question the right of the counsel to make a personal explanation. He didn't understand that the counsel was going to prove what he would set forth in this explanation, and it was not material to the case unless proofs are to be offered.

Judge Neilson said that it would not be admissible unless they entertained the expectation of giving proof of it of some sort.

Mr. Beach said that he was unwilling to deprive any professional gentleman of the privilege to make a personal explanation when his character had been assailed, but he did not think that it was within the province of an opening counsel in a case to enter upon a personal explanation of anything that may have been brought out in the course of the examination on the other side.

Judge Neilson said it would only be proper in the understanding that he introduced proof in some form of what he states in his explanation.

Mr. Beach said that he understood the counsel to make the announcement that he does not intend to prove it. If he merely mentioned his facts, without qualifying and characterizing in the manner he did, he (Mr. Beach) would not have objected. His protest is, because his name has been brought into this case he had a right to make a personal explanation.

Judge Neilson said that a personal explanation does not seem to be called for, but any statements which the counsel expects to prove it is proper to hear from him on.

Ex-Judge Porter, in a weak and tremulous tone of voice, said that they claimed that as the counsel had been personally arraigned he should be heard by the Court in his own defence. They proposed to prove whatever they will produce on the trial. What that evidence may be precisely will depend chiefly upon subsequent developments. General Tracy had been arraigned for his personal connection with this case by the opposing counsel, and they propose to elect in what manner they shall refute it. They did not propose that counsel Henry Ward Beecher shall defend himself with on this trial. There could have been no question but that he may state how the arraignment had been made against him, in order that the jury may judge between the parties concerned in so making the charge. This right of the counsel was unalienable and unquestionable and could not be restricted even by his Honor.

Mr. Beach replied that they had not presumed to dictate to Henry Ward Beecher what counsel he should engage to defend him, but he insisted that whatever counsel was called he should be restricted by the rules in the case. The counsel here has grievously and grossly exceeded the limits of the counsel in opening this case. When this gentleman departed from the ordinary course he had no right to a personal explanation to the jury. It was an assumption of a right separated from the character of the counsel. "If they avow that he will prove what they state then my voice is silent."

Judge Neilson said it was the duty of the counsel, in stating the opening, to limit himself to the facts and circumstances which he intended to prove; but if the personal explanation is not susceptible of proof the rule is plain.

Ex-Judge Porter then arose and explained that he misunderstood what Mr. Beach had said, and thought that he had denied the right to make an explanation. He would affirm now that the facts which General Tracy would specify they would prove.

General Tracy then said to the jury that he would endeavor to state no facts which will not be made plain to them by evidence which they will present. As to the facts to which he was about to refer, or any subject that was material to this case, they would prove them all by witnesses. If the plaintiff has dragged in matter which is not material to this case, he took it as a right to make explanation where he was concerned. He would speak first to what transpired between the wife of the plaintiff and himself. What transpired between himself and Mrs. Tilton before she went before the Committee of Investigation is a matter not material to this case, and yet this is brought up as if to show that the counsel had controlled Mrs. Tilton's action before the committee. If I understand the plaintiff's evidence, he says that I told him that I proposed every question and answer for his wife. I saw her to speak to her for the first time in my life about thirty or forty minutes before she appeared before the committee. We never spoke a word about what she should say, and I never so told plaintiff. I was introduced to Mrs. Tilton by her stepfather, ex-Judge Morse, who is one of the most respected citizens of Brooklyn. Knowledge came to me on that day in July that the plaintiff's wife was in the house of a friend in Henry street, and that she expressed a desire to communicate with some of the authorities of Plymouth church. I called at the house and found that she had gone out. When she did return with her stepfather I asked her if she wanted to go before the committee. She said yes, and I got the committee together to hear her. My only words were to tell her that if she was asked questions which might at other times seem indelicate, she must not feel annoyed. She replied that she would not and then went before the committee. I was not absent from the parlor two minutes altogether. I never told Mr. Tilton that I had prepared the answers to the questions for this committee. It was another unnecessary reflection that he cast upon his wife. About the time of the Victoria Woodhull publication Mr. Franklyn Woodruff asked me to call and see what answer could be made to that publication. I had been very outspoken in my opinions in regard to that publication. It was distinctly understood that the matter between Mr. Woodruff and myself was not a professional one. I was to receive no compensation. He told me that,

MR. MOULTON HAD SOME PAPERS

which it would be necessary to see before any answer could be made. The object of that interview was to introduce Moulton to myself, that I might see those papers. The interview was appointed and it took place between Moulton, Tilton and myself. Two interviews have been spoken of, but I remember but one. I do not remember that Tilton was with us when it commenced. The first letter shown me by Moulton was the letter of apology, as it was then called, now known as the letter of contrition. The Woodhull publication was there, of which I had only a general knowledge. The retraction was also shown me and another letter of very little importance. The object of this interview was an answer to this scandalous publication of Woodhull. We took it up and discussed it, paragraph by paragraph. The first thing I asked him about was in regard to the pistol scene spoken of. I asked him if he did that, and he replied that there was no truth in it. I then asked him in regard to Mr. Tilton's urging Mr. Beecher to preside at the Steinway Hall meeting. He said that was not true. He said he had not given Mrs. Woodhull the information or any part of it. I then asked him what Tilton said of it, and as to whether there was any foundation for the story. He said he wanted me to find that out from Tilton himself. Tilton came into the room after this. He might have been there before. I did not know he was coming, and I was surprised to see him. He brought with him a manuscript, and, sitting down, he turned to me and said, "I don't know what the etiquette of your profession is. Would it in the event of a contest permit you to be Beecher's counsel?" He read a draft which was greatly interpolated and underlined and showed much labor. The only fact I had not previously learned from Moulton was what now turned out to be the letter to Dr. Storrs, though then it did not purport to be such. It contained also the letter of apology. It is true that I did examine this letter carefully with reference to the Woodhull scandal. When Tilton made the charge of improper proposals I did again take up the letter to examine its bearing in that view of the case after Tilton entered the room. I am very confident that that paper, as shown here, I have never seen in the world. I mean the letters of Mrs. Tilton and Mr. Beecher, of January 29, 1872. So I know that the "True Story," as a paper, was never shown to me at all. I say that to the best of my recollection there was but one conversation between us. I am certain that the first time I saw Tilton on this subject was as I have stated. Tilton denied the truth of the Woodhull statement in every particular, and denied being the author of any of the stories. Moulton said he could deny it. Why could not Tilton also deny it? Tilton said he could not deny it, because while that story was false there was a true one, and he said he could not deny the false story without telling the true one. I argued against that view. The question of lying came up by our arguing whether a man could deny a story which was substantially untrue, though there might be a true story connected with it. I held that it could and ought. I advised silence, because Tilton refused to deny the Woodhull story without telling the other story, and I undoubtedly did say that, as between that course, and silence, silence was the course to pursue. As far as Moulton was concerned, I argued to omit to deny it was a lie. We had a warm discussion on the subject. I stepped down and out of the case after December, 1872. I saw Mr. Beecher once on the subject, and had a casual conversation with him on this subject once in January, 1872. I was not of the case until after the publication of the Bacon letter, when Moulton brought me to his house, where I found Tilton and Frank Carpenter. Moulton read that letter and said he wanted me to come back again in the case. He was very much excited and outraged at the publication of the Bacon letter. He said that the difficulty was not yet beyond settlement. He (Mr. Tracy) came into the case in June, 1874, at the solicitude of Mr. Moulton, believing him to be Mr. Beecher's friend. That was his history of his connection with this case. He had stated in an interview in the Brooklyn *Union* as to his understanding of the case. As soon as he saw that Mr. Tilton changed his charge from one of improper proposal to one of an entirely different character he gave Mr. Tilton notice that he could not be held to the promise he had made him. There was no difference between himself and Mr. Tilton except in so far as he told him that he could not be his counsel if he brought a different charge from the one he had originally stated. Before he had appeared in this case he had submitted the question to eminent counsel in New York and also to his associates in this case, Mr. Evarts and Mr. Porter, and they had expressed the opinion that there was nothing in the matter to prevent him from appearing in this case as the counsel for Mr. Beecher. He thought he was entirely free, according to the opinions of eminent lawyers, to appear as Mr. Beecher's counsel in this suit.

Mr. Tracy stopped talking at seventeen minutes past four o'clock.

The Judge—Have you concluded your opening, Mr. Tracy?

Mr. Tracy—I have not, sir.

The Judge, addressing the jury, said:—Gentlemen, you will be good enough to call at the Comptroller's office on Monday morning, before you come into court, and you will receive your compensation for your services, so far as they have been rendered. With regard to extra compensation for the onerous duties that have been thrown upon you, that question can be better determined when we know the extent to which your labors in this case may be prolonged. You will please attend here on Monday morning, at eleven o'clock.

The Court was accordingly adjourned to that hour on Monday morning.

A CARD FROM MR. BOWEN.

The following card has been published by Mr. Henry C. Bowen in relation to General Tracy's address:—

The statements made by Mr. B. F. Tracy in his opening address to the Court and jury in the Brooklyn scandal case, so far as said statements refer to me as having been engaged in any "conspiracy" whatever, are malignant fabrications from beginning to end—destitute of even one particle of truth, as said Tracy can learn if he will call me to the witness stand; in which event he will find out that I do not believe in the doctrine, said to be taught by him, that "lying is justifiable under certain circumstances."

HENRY C. BOWEN.

NEW YORK, Feb. 26, 1875.

ANOTHER ANSWER TO GENERAL TRACY.

TO THE EDITOR OF THE HERALD:—

Some remarks of General Tracy in the Tilton-Beecher controversy, made yesterday, render it proper that we should say that Mr. Moulton has been a partner of the firm of Woodruff & Robinson for more than ten years; that at no time has he had any duties to perform which involved any need of secrecy or which were, in fact, kept secret from his partners, nor any which differed from those of other members of the firm; that his conduct as a partner has always been frank and just, and that the dissolution of the firm has not been influenced by the above controversy, but was resolved on a year ago.

JEREMIAH P. ROBINSON.
FRANKLIN WOODRUFF.
GEO. C. ROBINSON.

NEW YORK, Feb. 26, 1875.

THE BEECHER CASE.

TO THE EDITOR OF THE HERALD:—

A *laudator temporis acti*, a eulogist of old-time things and processes, has a poor chance of a fair hearing nowadays. Yet I am tempted by your admirable article in Thursday's HERALD, on the cruelty of excluding Mrs. Tilton as a witness, to say a few words in the direction of the past and the modes of judicial procedure which once were in vogue but which the besom of, in my opinion, pseudo reform has swept away.

I am by no means sure that the reason you give for the exclusion of Mrs. Tilton is the true one—to prevent, in such suits, collusion between husband and wife. That would be a good reason were she to be examined for her husband. No reason at all if to be examined, as here, against him. Mrs. Moulton was examined for her husband, and he is in a certain sense as much a party as Tilton. And here let me remark that it seems to me that Mrs. Moulton's testimony adds not a feather's weight to the anti-Beecher case. If Beecher is innocent, and that is the issue to be tried, then is Moulton co-conspirator in perjury with Tilton; and if Mrs. Tilton be excluded on the technical ground that she is one with her husband, then are Moulton and his wife one, and her testimony is not even cumulative.

The root of the whole difficulty in this case—and this is the point of what I have to say—is:—First, that parties are examined as witnesses at all, and, second, as you have suggested, that, if any, all should have a chance. I shall not dwell on this last consideration further. At common law and in most of the States of the Union parties could not be examined. They, if they brought suits, had to maintain them by witnesses, and if they were sued, to defend themselves in the same way. The dead Jeremy Bentham, and, if I mistake not, the living David Dudley Field, thought differently, and now parties—not their wives, however—have full swing at each other, with what fruit let Tilton vs. Beecher show. How would this case, scandalous in all its aspects, and getting more and more so every day, as it drags its slow and fetid course along—how would it have stood if the old rule had prevailed? In the first place, it seems to me it would never have been brought, and no one doubts this would have been a public benefit. If Tilton had had nothing to support him but the Moulton testimony, husband and wife, and the other scraps he had produced and the letters—not his and his wife's, but Beecher's—he never would have ventured into court, reckless as he may be. But he knew the new rule of law perfectly well, and that he, the plaintiff, would have ample room for rhetoric and declamation and vituperation and misrepresentation, dignified as evidence, and his vanity told him that though Beecher would be examined too, he (Tilton) would be more than a match for him. Whether he will be is another question. But be this as it may, can any sane man pretend to say that the antagonistic rhetoric of two such adversaries will conduce to the evolution of truth? It seems to me it will depend on who talks the best or spouts the most. Yet this is the logical result of the system—as shown in a case which I admit to be extreme, but still is illustrative. Even cross-examination, that alleged sure test, is a failure when applied to parties or to those who stand in the place of parties. This has been abundantly proven here. The comment is not how truthful these folks are, but how well they stood cross-examination. But there is a graver consideration still. How about perjury and the inducement to it? Take this very case. There can be no question that either Tilton has perjured himself, or that Beecher, if he contradicts him, as he must or perish, will have done so. There is no room for any alternative. Can any system be good which permits—nay, encourages this? Witnesses, I admit, may be bribed to foresware themselves. That is subornation, and bad enough; but it is not as bad as perjury; and here we have a case in which, in one event or the other, we have both perjury and subornation. If Tilton lies, then he has got Moulton and his wife to lie for him. If Beecher means to lie, he will suborn his friends too. As to Mr. Beecher's examination, voluntary though it may be and conclusive of his innocence, as I sincerely trust it will prove, the view is equally clear. It is inevitable, I admit. The inquisitors of old had a plausible sort of logic in favor of the rack, and I am by no means certain that something like it has not now come to life in the present system. Mr. Beecher may be a voluntary witness, but he is not a voluntary party to the litigation. The law says he must be stretched on the rack, and, knowing it to be inevitable, he submits. All this could be obviated by going back to the old testimony, and let parties prove their cases, not make them. AN OLD LAWYER.

NEW YORK, Feb. 25.

"GIVE THE WOMAN A CHANCE."

TO THE EDITOR OF THE HERALD:—

Your excellent editorial under the above head in your columns of this morning is apt and well-timed, expressing as it undoubtedly does the views of all truth-loving people. While few if any of our laws are faultless, there is none more defective than that which allows a man to swear away his wife's honor and at the same time leaves her powerless to utter a word in her own vindication. During the progress of the great "social strife" which is now engrossing to a large degree the attention of all mankind, but little has been heard by "statement" or otherwise from one to whom the result brings weal or woe, happiness or misery, honor or dishonor. Not only has she maintained her silence thus far, but now, when her testimony would be of so much import in determining the truth or falsity of the terrible charges with which her fair name has been assailed, her lips are sealed, and from necessity she must await the issue unheard. Is there no remedy for this misfortune? for certainly such it must be considered.

Special legislation has already been invoked, successfully, too, in this memorable case, and is it not possible to secure an amendment to our laws so as not only to give "this woman a chance" to testify in her own behalf (a right accorded to the vilest of criminals), but for the benefit of all posterity in similar causes?

Justice and reason alike demand that this woman should have a hearing; the interests of a Christian public demand it. Shall she not be heard? NEUTRAL.

PLYMOUTH PRAYER MEETING.

LET YOUR LIGHT SHINE—MR. BEECHER'S SOLE DESIRE WITH REFERENCE TO HIMSELF.

Every succeeding Friday evening finds Plymouth lecture room more crowded, if that were possible. Last evening the room was filled a full half hour before time for the meeting to begin, and camp chairs were called into requisition, and the crowd only ceased pouring in when the room could contain no more. Mr. Beecher entered just at half-past seven and took his seat, looking calm and untroubled as usual. He was very earnest in his remarks, and at the last, when he spoke of his present trial, the congregation—attentive before—were suddenly hushed, and in all that vast assemblage there was not a sound or a movement.

Brother Edward Beecher opened the services by prayer. He prayed that the pastor might be vindicated, and all that is taking place might be for the furtherance of the glory of God. After the customary exercises Mr. Beecher said:—Paul says it is God which worketh in you, both to will and to do, &c. You read in the Sermon on the Mount the command of our Saviour to shine. It is not a command of exhibi