THE TRIAL OF REPUTATION.

One Hundred and Fourth Day of the Scandal Suit.

MR. BEACH'S VIGOROUS ADDRESS.

The Characteristics and Idiosyncrasies of the Defendant.

HIS CURIOUS FIGURES OF SPEECH.

A Sermon by Counsel on the Christian View of Christ.

THE SEDUCER DENOUNCED.

Another great throng of men and women—greater than ever before—filled the Brooklyn court room yesterday morning. At ten o'clock every seat appeared to be occupied, but hundreds more managed to squeeze in before the hour for opening the proceedings was reached. At that time there was a perfect jam all around the room. Mr. and Mrs. Beecher and half a dozen ladies, who appeared to be their friends, sat in the recognized Plymouth church section of the court room. Mr. Beach, who entered alone, was greeted with applause as on the previous day. "That was well done," observed a Beecher adherent to Judge Morris. "Yes," replied Morris, in a jocular tone, "we know how to do it." While the audience was evidently largely leavened with a strange element, it did not seem that the reception extended to Beach was other than spontaneous. When he left the court room at four o'clock he was loudly cheered on appearing on the street.

THE SPEECH

of Mr. Beach yesterday was exceedingly fine and effective, and must take rank as the greatest forensic effort that has been heard in a court of justice in this country for many years. From beginning to end it held the ear of the large audience captive. At times the speaker reached almost the highest plane of impassioned eloquence. There was but little gesticulation, though whenever that aid to oratory was brought into play it was done judiciously.

When Beach ceased speaking at lunch time the collar and lappels of his coat, his scarf and shirt front, appeared to have been sprinkled over with a watering pot. The perspiration ran down from the crown of his head, and was distributed by the dishevelled and scattered hair all over him. His face was highly flushed; his eyes were moist and stood out with a dazzling though unnatural lustre. He was greeted by a number of people in the audience. "What a fine pulpit preacher he would make," remarked one, referring to Beach's splendid presentation of the orthodox view of Christ as contrasted with that of Beecher's. Tilton, Fullerton and Moulton were more than pleased with the effort of the speaker.

AN INTERPOLATION.

Before the proceedings began Mr. Porter stood up and said Mr. Evarts would be unavoidably absent and unable to enjoy the continuation of Mr. Beach's speech. Mr. Porter then spoke of the insinuation made the day before by his learned adversary in regard to the jury being influenced through any corrupt means on the part of the defendant. He disclaimed any literal application to Tilton of the Shakespearian quotation he used in his address—"Down, down, to hell and say I sent thee thither." Mr. Porter, it was feared, was about to launch out into a speech, and his friend Beach looked up at him with an inquiring look, expressive of a wish to know how long the learned brother intended to hold out. Mr. Porter took up about ten minutes and then Mr. Beach rose and said he was sure His Honor would give him credit for not meaning to impute to the other side the use of any corrupt influence in regard to the jury. As to the Shakespearian expression made use of by Mr. Porter he was still compelled to hold that the manner of the counsel impressed him and others so deeply at the time that he could not help repeating his conviction that Mr. Porter meant to send his client "down, down to hell" and leave him there. There was a laugh at this, and then Mr. Beach turned around to begin his day's work.

POINTS OF THE SPEECH.

Mr. Beach resumed his address by referring to the use and potency of words, and dwelt for some time on the expression of Beecher, "I stand on the brink of a moral Niagara," showing that this form of expression and that of "paroxysmal kiss" were perfectly characteristic of Henry Ward Beecher. Counsel referred to a sermon of Mr. Beecher's in the Water street Mission, in which he described it as "a paroxysmal movement" of religion. He quoted singular expressions, such as "paroxysmal love," "paroxysmal hate," "the paroxysm of love in a mother for her child," and the like. After reading a long list of these Mr. Beach contended that the author of such terms would be eminently apt to make use of "paroxysmal kiss," and "I am standing on the brink of a moral Niagara," though Mr. Porter insisted that both were meaningless and incapable of being used by a man of Mr. Beecher's attainments. Counsel read at length from the writings and sermons of Beecher, quoting such *outré* figure of speech as supported the position. He took up the letter of Tilton to his wife, in which he speaks of what Christ might be if he had been married, and passed on to contrast the expressions of Christ made by Beecher in his sermons.

Reference was made to Moulton's epithets of "liar and libertine" as applied to Beecher, which counsel censured; but insisted they were only used when Moulton had evidence to support them. Moulton's carrying a pistol was explained as a necessity he was under by reason of the peculiar business in which he was engaged and the hours at night at which he was compelled to be out. He then passed on to pay a trifle of personal attention to Judge Porter, saying that though they were friends for thirty years he was impelled, despite that friendship, and in the discharge of his duty, to characterize his course in this case as indefensible. Turning to the Court, counsel stigmatized the remarks of the senior counsel on the other side, that his client is a degraded seeker for pelf and a mercenary litigant for gold because he seeks to vindicate himself in a court of justice.

HUMAN INFIRMITY.

Counsel continued after recess and read a long article from the *Sun*, showing that no man could claim to be infallible or immaculate. He then made lengthy references to a score of cases of ministers of the Gospel falling from grace. He particularly instanced the case of Rev. Mr. Fay, of Boston, who was for twenty-five years pastor of a church, and bore as high and stainless a reputation as Henry Ward Beecher. He fell through adultery and was disgraced and banished. Counsel related other instances; of Rev. Dr. Sunderland's predecessor at Washington, accused of gross immorality and became a fugitive; of Rev. Mr. Thompson, of the Arch street Presbyterian church, Philadelphia, charged with adultery; Rev. Mr. Pomeroy, twenty-five years pastor of Bangor, Me., accused of visiting houses of ill fame, and a host of other preachers, who practised seduction, and demonstrated that the pulpit was no more free from the lusts of the flesh than any other position in life. He read copious extracts from Beecher's sermons, all clearly showing that the author was a man of earthly passions like other men. Some of the extracts should have made the ladies blush, but blushes have not been brought to the Brooklyn court room in any great quantity. "Now you have the nature of this man. You have his habits, his tone of rhetoric and his views of love," said Beach, after his long effort to prove that Beecher was not exalted above common clay and was subject to passion and even vice like other men. Counsel then proceeded to deal with the collateral testimony produced by the defence to blacken and make odious the name of Tilton.

A SENSATIONAL REFERENCE.

Beach in the course of his address made a sensation by declaring, in answer to the taunt of the opposite counsel that they brought no practical witnesses forward to prove the intrigue and the crime, that when they went to Jersey City to get at witnesses who lived in the Tilton household, and who could prove all that was needed, they found the lady zealots of Plymouth church were ahead of them and the witnesses spirited away.

ON THE BENCH.

surrounding Judge Neilson, were Joseph William Clift, ex-member of Congress, Georgia; M. Lapoer, French Secretary of the British Legation; Captain W. Gore Jones, R. N.; W. E. Osborne, Judge Gale, L. V. D. Hardenburg, of Brooklyn; Mr. Watson, of Washington, D. C.; Judge Dikeman, of Brooklyn; J. M. Cavanagh, of Montana, and B. W. Dickinson, of the Champaign *Union*, Illinois.

Mr. Beach will not finish until Saturday.

THE ADDRESS.

Mr. Beach resumed his speech as follows:—Some high authority has said that words are things, and undoubtedly they exercise a great and most important influence upon the world. They stir the passions which upheave the elements of society. They suggest ideas which revolutionize the world. They are potent and powerful instruments in affecting the mind, controlling the judgment and governing the actions of the race. But words are also indicative of individuals; particularly phrases, forms of rhetoric and expression are, almost as clearly as handwriting, indicative of the person who uses them. If you should see a speech of my friend Mr. Evarts without any title page, from his singular and unequalled command of language and the peculiarities of its use, you would know at once that that was a speech of Mr. Evarts. Relying upon that principle, we have alluded in evidence and in discussion to certain phrases, words appearing in written and verbal expressions given in evidence by various witnesses, as evidence of their authorship and as imputed through these expressions to Mr. Beecher, as the production of the various scenes and conversations and writings in which they occur. With a sagacity which distinguishes my learned friend, Mr. Porter, he has endeavored to disembarrass Mr. Beecher from connection with this particular movement and to elevate him as a pure and undefiled master of the English language, as the clear and precise and simple rhetorician, speaking from the burning impulse of his own heart and mind in expressive and simple language, and he seeks to show that it is impossible that such a man can by any possibility employ the singular words which were imputed to him. Therefore Mr. Porter says, "You remember that singular word 'paroxysmal,' which word this day affords occasion to those who are opposed to Mr. Beecher to impute to him a base crime. Now it is a part of our history that that word was never heard to issue from the lips of Mr. Beecher, save by two men, Theodore Tilton and Francis D. Moulton." But, gentlemen, I did not agree with my learned friend as to the force and expression of that word. Indeed, it has been adopted into legal phraseology and has been adopted by one of the most learned of our profession, and we have learned it in our law books and in our jurisprudence this word "paroxysmal," which means a sudden fervor or passion which springs from those excited impulses, and in that sense was used as expressive in its character of the impulses I have mentioned. Therefore I have had the curiosity to examine the works of Mr. Beecher to see whether or not he indulges in words of that character, because, gentlemen, in all departments of this case it is necessary for us to show and understand all the

CHARACTERISTICS AND IDIOSYNCRASIES

of the person whose motives we examine. I find in the sermons of Mr. Beecher, in the first series, in a commentary he was making in regard to the Water street movement in the city of New York:—"The Water street movement of New York is another such movement—a paroxysmal one, some call it." The intensity of its signification is that impulsive, ardent, irrepressible movement which springs from some overwrought feeling or sentiment, either of love or indignation, or any other of the passions which stir the human heart. In one of the same sermons he says:—"Communities are sometimes possessed for short periods with a paroxysm of contrition." And again:—"The paroxysms of cruelty from men that wreak their vengeance without discrimination, the world is not unacquainted with." "One of these paroxysms; one of these revivals of personal feeling and of virtue." "I do not ask you to wake up to a paroxysm of zeal." "My children were dear to me as myself, and into what paroxysms of indignation would I have been thrown if any man had played experiments on those babes!" "I tell you a mother in the paroxysms of love looks splendidly," and if a husband and father were looking upon the mother in such a splendid paroxysm of love very likely he would bestow upon her a paroxysmal kiss. (Laughter). "I think that a man struggling against Christianity when under contrition is like a fractious child struggling against its mother when she reproves and punishes it until it rushes into her arms and kisses her in a paroxysm." That is very much like a paroxysmal kiss. It is not very foreign to the usual expressions and the habit of rhetoric which belong to Mr. Beecher, and, therefore, in these few examples, drawn promiscuously from a simple observation of his writings, we have Mr. Beecher full of paroxysms—paroxysmal repentance, paroxysmal contrition, paroxysms of personal feeling, paroxysms of virtue, paroxysms of zeal, paroxysms of indignation, paroxysms of cruelty, paroxysms of love, paroxysms of kisses, paroxysms of tears.

Beecher and Porter wore a puzzled expression of face as Beach, reading extracts from Beecher's sermons, showed the use in over twenty places of the word "paroxysm" and in two cases the word "paroxysmal." Porter stoutly maintained in his speech that the expression "paroxysmal kiss" was an invention of Tilton's and that Beecher was never in the habit of using the word.

ON THE BRINK OF A MORAL NIAGARA.

Now, this exhibition of the rhetoric of Mr. Beecher, it seems to me, hardly justifies my learned friends either in pronouncing the use of the term "paroxysmal kiss" as foolishness and absurdity, and certainly does not justify him in the exoneration of Mr. Beecher from the use of it. But there is another phrase which excites deeper indignation upon the part of my learned friend. Mr. Moulton in his testimony, from the nervous force of expression, and as descriptive of the sense of utter misery and desolation expressed by Mr. Beecher and felt by him at the time of the interview in which the expression was used, says that he distinctly remembers Mr. Beecher exclaiming—"I stand upon the brink of a moral Niagara;" and to discredit Mr. Moulton and to convince this jury and the public that his history of that interview was a simple and bold invention, my friend, upon the part of Mr. Beecher, disclaims the possible use of an expression of that character. He says, quoting the phrase "I stand upon the brink of a moral Niagara"—"Now that is Tilton, it is not Henry Ward Beecher," and attributes it to Mr. Tilton. Well, it is a phrase testified to by Mr. Moulton and not by Mr. Tilton. "Now that is Theodore Tilton, it is not Henry Ward Beecher. Do you think Henry Ward Beecher would talk about a moral Niagara any more than he would a moral haystack or a moral swamp? It is not the man. With him words have meaning, they are alive, there is thought in them, there is significance in them, there is coherence in them, but with Tilton 'the brink of a moral Niagara' brings together incongruous ideas which to him has a rhetorical charm, and this is put on the lips of Henry Ward Beecher as his language, instead of the language of Theodore Tilton." Well, Mr. Tilton never used the language in the first place. My friend fell into that error in his zeal to impute error to Mr. Tilton. I have not the same idea of that expression as is entertained by my friend. A great preacher, a man distinguished for his learning and holding, as they claim, the highest position among the pietists and the elocutionists of the age, is detected in the commission of an infamous moral offence.

Here Beach threw down the paper he held in his hand and started off on a very fine bit of declamation. His text was from Beecher—"I stand on the brink of a moral Niagara." Beecher laid his cheek on his hand, averted his looks from the speaker and directed them toward the open window, through which the pure bright sunlight was streaming.

Mr. Beach, after dwelling a good deal on the expression "I stand on the brink of a moral Niagara," which Mr. Porter contended was an impossible figure and incapable of being used by Mr. Beecher, took up extracts from Mr. Beecher's writings and quoted such expressions as "the apotheosis of a pumpkin," "the ghastly corpse of an apple pie" and other Beecherian illustrations, to the great amusement of the audience.

CURIOUS FIGURES OF SPEECH.

Well, in looking at the "Life Thoughts" of Mr. Beecher, I find that he uses the term "philosophic anguish." And he speaks of a man to whom "pumpkins were apotheosized." A man who will use that phrase as applicable to pumpkins ought not to be above using the term "Moral Niagara," and "Moral Eyesight," and "Moral Astronomy," and "Moral Anatomist," and then "Moral Cripples," all found in the works of Henry Ward Beecher. But in his "Life Thoughts" he uses this expression:—"No doctrine is good enough for anything that does not leave behind it an ethical furrow for the planting of seeds which shall spring up and bear abundant harvest." Now, we all understand what "an ethical furrow" is, and the seizure of that illustration by Mr. Beecher does not seem to me either unapproved or unrhetorical, it is expressive of an ethical furrow into which the seeds of truth and of piety are to be planted. An "ethical furrow," it seems to me, would justify even the use of the term of my friend, "a moral haystack." Well, with that humor, which is the distinguishing and the happy faculty of Mr. Beecher, and which is one of his chief attractions among his other great recommendations, he uses, in his work entitled "Eyes and Ears," this phrase, "The ghastly corpse of an apple pie." And yet my friend thinks a gentleman who can use this illustrative language and extravagant phrases of this kind never could have been guilty of using the words, "I stand on the brink of a moral Niagara." Well, it happened, unfortunately, to Mr. Beecher on one occasion that the plumbing arrangements of his house were out of order. One of his chambers became "a little diluted;" "one of the pipes was stopped up and the chamber," &c.; "a plumber was sent for; we had a pocket ocean up stairs." Well, now, that is not to be discredited, nor is it to be condemned. It is the style of Henry Ward Beecher, and read his sermons and works where you may, you will find these original, these coined, these expressive phrases standing out all through his works. I have many more quotations; I will not trouble you with them, but I have deemed this question of sufficient importance because, although it may not seem so to you, yet it has been used by my learned friends constantly throughout their addresses to this jury and the public, to impress upon all minds the idea that in the relation by Mr. Tilton and Mr. Moulton of interviews with Mr. Beecher, and in the documents, the instruments which were imputed to him, there was an extravagance and impropriety of expression, as compared with the cultivation of the ordinary habits of expression of Mr. Beecher, producing the conviction that Mr. Beecher was misrepresented in this evidence.

IN "ROYAL TRUTHS,"

a work published by Mr. Beecher, I find this expression:—"I may be broken up, disintegrated, comminuted and rendered pulverulent." Well, when my friends impute to Theodore Tilton straining after rhetorical effect, the coining of vain and superficial phrases, I commend them to the study of the works of their client. Without imputing to Mr. Beecher any impropriety, any awkwardness, any rudeness of expression, yet there is not another in this land who assumes more liberties with the English language and coins more extravagant, notwithstanding the illustrations of Mr. Evarts, I may say, transcendental expressions than Henry Ward Beecher. "In my own experience, the cases that I have most despaired of among those who come to me for spiritual health, have been persons who were nervously sick." They must come to him under the cover of some apology or "beneath some umbrellaed excuse lest the clouds should break," &c. The idea of an excuse being protected by an umbrella! "An umbrellaed excuse." Well, this is an awkward phrase, "A wrinkled foreheaded man;" "business vaticination," and "What is the average impression of the community in regard to religion?" I don't exactly understand. "Factile skill," "typhoid conscience," "flux industry" and "hailstone teaching," are not quite as simple as "a moral Niagara;" "you might as well attempt to cure volcanoes with pills." (Laughter.) In "Eyes and Ears" he speaks of "a horse raptured." Well, that is a kind of a rapture he may have felt, but which I never have felt. (Laughter.) "Well, for her friends, she is a continuous garden; for her not friends, a precipice." "Ill smelling flowers of hatred." "A hilltop of cheerfulness"—a beautiful expression, I think, and descriptive of that frame of mind which Mr. Beecher usually possesses and indulges. "Roots and branches and leaves of morality," and the beautiful idea and expression, "The bird loves a kind of shy familiarity, nesting in the dry hay, among locusts." Speaking of the apple tree, he says:—"In the month of May apple trees go courting. It is a homely, sober, matter of fact tree; May seems to stir up a love heat in its veins." It does not condemn a "moral Niagara," I submit, gentlemen, to use expressions of that character. Now these are expressions, not only of habit of thought, but of mode of expression, of this gentleman; and I do not quote them or use them for the purpose of imputing any rhetorical impropriety or any impurity of thought to Mr. Beecher. He uses figurative language and expressions to illustrate with great beauty and force the ideas and sentiments, and it is the great attraction of his preaching, it is that which every day in the week stirs the hearts and emotions of his audience, and in the holy temple of God leads them to break out in rapturous and noisy applause.

The defendant began to smile at last as Beach continued reading the series of odd and extraordinary forms of expression characteristic of Beecher and taken from his sermons and readings. From what he quoted he asked if it were not quite likely that Mr. Beecher might be the author of such expressions as "I stand on the brink of a moral Niagara," and, addressing Mrs. Moulton, "You seem to me like a section of the day of judgment."

ABOUT MRS. MOULTON.

They are indicative of the individuality of the man; and when you find in the records of conversations and declarations, as given by witnesses in the documents presented in this case, these unusual and extravagant expressions, they lead to the identity of the authority. I take the phrase "section of the day of judgment," in the conversation had with Mrs. Moulton. Why, my friend, Mr. Porter, says, "Mr. Beecher never could have used that expression. He does not divide the day of judgment into sections." Well; he and I will find when we come to that time that there are at least two sections to the day of judgment. (Laughter.) And that lady, Mrs. Moulton, was continually impressing upon him the idea of confession, to submit to the discipline of the Scriptures. "Confess your sin, stand no more in this attitude of concealment and secrecy and duplicity; be the man you profess to be—the exalted teacher of morality, the ambassador of Christ. Live up to your weekly teaching in the pulpit, let there be no more of this depraved inconsistency between your conduct and your teachings;" and is it surprising that with his ardent temperament, with his habit of rhetoric, would it have been surprising under these circumstances that Mr. Beecher should say to Mrs. Moulton, "Why, I came to you for encouragement and for rest, for cheer in my sorrow, for the solace which can only come from a woman's sympathy and a woman's hand, and you are forever holding up to me the terrors of this offence and pressing upon me the attitude of confession and exposure; why, you seem to me like a section of the day of judgment!"

TILTON AND BEECHER ON CHRIST.

You will remember that Mr. Tilton wrote to his wife a letter in which he speculated upon certain circumstances and possible conditions in the life of Christ. My friend with severe condemnation pronounces it to be a gross, repulsive sacrilege. Mr. Tilton indulges a vein of thought and speculation upon the question, What would have been the effect upon the world and upon the reception and the character of the teachings and influence of Christ if he had been married, if he had lived and been the husband of an idolized wife and the parent of a happy household? And this is pronounced as blasphemous; it is presented to you as a revelation of the irreligious sentiments of Mr. Tilton. No character on earth, no historic personage has ever drawn from the lips of the learned and the pious more speculation, more inquiry than that of Christ. The revelations of His customary and ordinary life are not very full or complete in the Scriptures. There is room enough for speculative thought, there is room enough for philosophical conjecture. Mr. Beecher so regards it, and says:—"There is no other historic name that has shewn and is showing such a power. Christ's name is at one and the same time not only the name of a historic personage who had His wonderful peculiarities, but a name," &c. In his sermon on "Soul Building," he speaks of Christ as He has been historically developed and philosophically concerned. He says of Him:—"He represented historic Judaism." "You may deal with Christ," he says, "first as if you are merely an historic critic. You may sit in judgment upon Him, upon His life, His disposition, His deeds, His faith, &c." "You are not forbidden to go into historic investigations of it." What more does this letter of Theodore Tilton import? "You may deal with Christ," says Mr. Beecher, "as a historical critic. You may sit in judgment upon Him, upon His life, His disposition, His deeds, His faith. You are not forbidden to go into historic investigations of it."

ORTHODOX VIEWS OF CHRIST.

You who have accepted Him as your faith and your salvation enter into no doubt or speculation in regard to His relation to the Godhead or to man. You build upon Him, trust in Him and hold to Him as the revealed Saviour and as the Son of the Almighty Father, as the sufferer upon Calvary and as your Redeemer. But we know men of philosophic minds, of speculative learning; men who investigate these subjects—not alone Theodore Tilton, but Henry Ward Beecher, and all the great luminaries, not only in the pulpit, but in science. What harm is there in it? If we may be governed by the teachings and the authority of Henry Ward Beecher it is commendable, and it indicates a depth of insight of thought which does not belong to the common understanding. In that letter Mr. Tilton expressed, with the finest delicacy of language, with no reflection upon the character of his Lord—suggested simply the effect which would have been produced upon the world and upon the influence of Christ upon the hearts of men. He writes it with no indelicacy of speech, with no rudeness of phrase, with no reflection upon the holiness, the sanctity and the character of Christ.

Beach's sermon on the common Christian view of Christ in contradistinction to the philosophic familiar hail-fellow-well-met style of reference to Him that Beecher generally adopts was as fine as any that has been heard from a New York or Brooklyn pulpit in years. "Mr. Beecher," cried the counsel, "tells us that Christ was a plagiarist, and yet he holds Him up as the Master of the Universe, gifted with omniscience, but incapable of composing the Sermon on the Mount." The people in the audience looked about at each other and thought Beach had scored a point or two that time.

TILTON NOT SO BAD AS HE SEEMED.

Well, he says, "If you measure Christ's influence upon the mass of his countrymen, it was nul and void." Indeed! "Neither did he found a family. Men are born to love, marry, &c., but Christ was never carried to any such destiny; he never knew the sweet relationships of husband and father in the household." Well, if Mr. Beecher can deal thus with the character and the condition surrounding the life of the Redeemer, what is there in this letter of Mr. Tilton that should excite such a stream of disapprobation from my learned friend? Mr. Beecher says further, "When it is said when Christ was 'tempted in all points like as we are,' we are not to understand that He stood in every relation in which we stand. He was not a husband or a father, He did not trade or traffic, so that the special varieties of external histories which befall men did not come to Christ." Is this not a somewhat familiar treatment of the character and history of the Saviour? "I believe that a man may go along a great way in his intellectual views of his Saviour? I believe he may err in reasoning upon Christ; I believe he may fall into numerous mistakes in fashioning religious faiths, and yet be saved." A sound doctrine, all of it, I think you will conclude; but the speculation of Theodore Tilton, written, gentlemen, to his wife; not uttered upon the housetops in public as a theory which might excite not ridicule of the Master; nothing which would draw out unfavorable or conflicting comment, but written in the fulness and confidence of a marital correspondence to his wife; this letter is seized upon by my learned friends as evidence of religious obliquity and the scoffing religious indifference of Mr. Tilton. It deserves no such comment. Mr. Beecher in his sermon says so. Now I pass from this subject, gentlemen.

"He has got 'em there," was the expression of every eye as the counsel exclaimed, with an air of triumph, after showing the style of flippant freedom with which Beecher treated the character of Christ, and this is the man who would cast reproach upon a scholarly speculative philosopher who simply indulges a fancy in a private letter as to what might have been the result if Christ had been married.

MOULTON'S PROVOCATION.

Moulton had been a faithful and devoted friend of Mr. Beecher, sacrificing time and effort and character and morality, if you please, to save him from the consequences of his offence, and Mr. Beecher, under the condition and with the fact, as he swears to it upon this stand, made against him these false and calumnious charges that he was a blackmailer. Some extravagance of expression will be indulged on the part of Mr. Moulton. Mr. Beecher is a great man; he is revered and trusted by many souls; he has occupied a grand position in the eye of the world, and no young man like Mr. Moulton. No; no gray-haired man has a right, whatever they may think of his purity and morality—no man has a right to say in his presence and to his face that he is a liar and a libertine. It is a sacrifice of that respect which belongs to age, culture, dignity and position. Aye, it is a disrespect which no feeling and upright man will offer even to fallen greatness. I don't justify that, I don't approve it; but this man, Mr. Moulton, is of an ardent and impulsive nature and he has exhibited it throughout all this complication of circumstances. He made a rash and intemperate expression, I grant; but does that prove him dishonest or unfaithful? Does that justify my friend in saying that he entertained these sentiments in regard to Mr. Beecher during the period in which friendly relations and the most intimate intercourse existed between them? By no means. Never did Mr. Moulton utter a disrespectful or irreverent expression of Henry Ward Beecher until after the incident to which I have directed your attention. If he sinned he sinned under great provocation. If he was a true friend the ingratitude of Mr. Beecher is inexpressible. If he was an honest and trusty friend I must say it was base and horrid in Mr. Beecher to impute to him a character and a practice which rendered Moulton, if it was true, infamous in the eyes of the world.

"If he were a true friend the ingratitude of Mr. Beecher was inexpressible." There was deep attention in the faces of two men—Moulton and Beecher—at this moment. Beach censured Moulton severely for using the terms "liar and libertine" to an old gray-headed man like Beecher, "but he never used them," said the counsel, "until he had evidence to justify them." Beecher held a paper over his mouth and Moulton had a handkerchief to his nose.

PORTER REBUKED.

Now, then, gentlemen, so far as the examination of the particular propositions of the specific representations made by my friend, Mr. Porter, I am done. In nothing that I have said in regard to the gentleman will any one suppose that my respect and affection for that gentleman, originating and grown through thirty years of the most intimate professional and personal relations of friendship, has at all abated. I do not say it in the vein of compliment, but I have always regarded him as one of the proudest exemplars of our profession, and in all the intercourse between us, what is somewhat remarkable, I think, for we have been engaged in opposition upon exciting questions, which have moved the sternest and the most irritable feelings of the community, and never, in the ardor of professional debate and contest, has there passed between us a ruffle or a word of unkindness. I have none for him now, and I must be permitted to say, although I am not in the habit of indulging very much in compliments, there is no gentleman in professional or in social life to whom my judgment, my intellect and my heart tends and bounds with a more affectionate respect than for him. I have been compelled in the discharge of my duty in this case to speak of him in terms I trust of moderate reprehension. I believe he has made an unworthy assault upon the character of my client, the characters of witnesses whom I am bound to maintain and protect. I have done it in kindness, but I have done it as I am accustomed to do, in plainness, and if my learned friend can reconcile to his own sense of professional duty, to that sense of decorum which is due both to parties, witnesses and adversaries in a court of justice, a violent assault he has made upon parties and witnesses, why I certainly shall be rejoiced at his self-complacency.

It would seem at this moment, when the court room was profoundly still and Beach entered on a personal explanation of his prior relations for a period of thirty years with Judge Porter, as if the cords that bound them in friendship together were to be severed in the face of the public.

THE SEDUCER DENOUNCED.

I, of course, gentlemen, cannot pass the elaborate learned moralizing and extended address of my friend, Mr. Evarts. In the cast of characters in this social tragedy to him has been assigned what, I believe, is called the "heavy" part of the performance. He has endeavored to change the attitudes of the parties in this case—to turn Mr. Tilton into the defendant, to change the wrong and accusation—a defence sometimes a skilful mode in actual as well as in argumentative warfare; to put Mr. Tilton upon his defence, to put Mr. Moulton and Mrs. Moulton upon their defence, and to call upon us to exculpate ourselves from the indictment which he presents against us, instead of the defendant, Mr. Beecher, producing such a case in a court of justice. If it be true that, under exacerbating and aggravated circumstances, Mr. Beecher did invade the home of Theodore Tilton and assail the chastity and purity of his wife, if all the deplorable circumstances that have followed are traceable to Henry Ward Beecher, in the name of that law and justice which you revere and which you are bound to administer, what shall be done to him? Does he deserve any punishment? Is there no redress for personal dishonor and for personal and long-lived sorrow in the scheme of our jurisprudence? Is there no punishment for the seducer? None, say the gentlemen. You are disreputable if you come into a court of justice asserting either your own wrongs and rights or indulge any vindictive spirit of revenge toward the seducer. Why, gentlemen, the wisdom of our lawgivers, the policy of our social relations gives no criminal punishment for seduction. The libertine may roam through your homes and families; the virtue of the wife and daughter may fall before his arts, specious, plausible, effective; the policy of family and its protection may be subverted; the rest, the peace, the tranquility, the virtue of the family and home may be dissevered, broken and depraved, and yet our law affords no punishment to the wrongdoer. There is no way of vindication or of punishment. This institution of family and home is upheld by none of the criminal justice of the law, and what is the consequence? Why, it has followed as a necessary consequence of this omission, as I think, of the law—it has followed as a necessary consequence that the common sense of mankind and the common justice of the jury box have protected and shielded husband or parent who has taken vengeance in his own hand and has disregarded this injunction of the great Law Giver, "Vengeance is mine: I will repay, saith the Lord." Where has there been a conviction of husband or parent who has taken into his own hand the awful sense and act of judgment and has sent the seducer to his last and long account?

"Is there no punishment for the seducer?" cried the speaker in the most impassioned part of his address, while his voice rang loud and clear and stirred the pulses of his hearers. He was on the popular track and every heart was with him. He was picturing a dishonored home, a family broken up, and the blight of ruin and disgrace resting on them forever. Beecher showed visible uneasiness under the terrible presentation the eloquent lawyer made.

THE HOARY-HEADED SEDUCER.

And you are told, when a husband, outraged; when a family, broken and disturbed; when children, blighted and dishonored; when the family institution is tainted and degraded, and the husband, the head and representative of all, comes into a court of law by the only path opened to him by the law and asks his fellow man to strengthen his morality, his religion, his sense of justice and to stay his arm from a vindictive punishment—you are told he is a degraded seeker for pelf, and a mercenary litigant for gold; that he is an anomaly in a court of justice; that he is disreputable before the world. You may adopt this reasoning. You may approve of that sense of justice which applauds the man who slays the invader of his honor and his home, but it is not the spirit of the law and of a government of laws. It is your duty to teach obedience to the law; it is the duty of this jury upon this occasion to inculcate the sentiment which shall uphold our system of laws, however defective or faulty they may be. You may, in the impulses of your own nature, in these deep and irrepressible emotions which stir the human frame when its holiest and dearest affections and hopes are assailed—you may say that this Christian forbearance, that this steeling of the heart to endurance, that this acceptance of contrition and remorse in the indulgence of the highest love, of the holiest pity—you may say it is contemptible. And such are the ways of the world. In the habits of society, where the wayward passions of men play loose and revel in crime and blood, this will be said, has been said; and my client sits to-day under popular condemnation because he was bold and brave, aye, and I say Christian enough to forgive. I will try and find by and by the motives which led to that act; I will try and see by and by whether there is anything in the character of these offenders which justified this indulgence toward an erring wife and a hoary-headed seducer.

Tilton and Moulton, sitting close together, drank in every word with a glowing satisfaction. Frequent attempts at applause were checked. Beecher averted his head, and his face flushed more deeply than ever as the counsel, rolling forth a perfect torrent of fiery eloquence, glowing like a molten stream of lava, cried out, till the Court House shook, against indulgence to the hoary-headed seducer.

TOTAL DEPRAVITY NOTICED.

But what becomes, under this doctrine of Mr. Evarts, of the teaching of the Scriptures, that we are utterly depraved; that none of us are good; no, not one; that the heart is deceitful above all things and desperately wicked? What becomes of this theory of the depravity of human nature? Was there a fall? And in the sin of Adam did all men sin? Is it the teaching of inspiration that human nature is depraved, deceitful and desperate? What becomes of the agony of Gethsemane and of Calvary? Where was the necessity that a Governor should descend and die to redeem the sins of humanity? And this is to be rewritten?

Mr. Beach then proceeded to consider the value of character and denied the proposition advanced by the defence, that Beecher was too pure, saintly and godlike to commit the sin of adultery. "Great and good as Mr. Beecher may have been," said the speaker, "he is yet in the eye of God and in the eye of man a fallible sinner." Counsel then went on to say that if the case depended alone on oral evidence he would hesitate before he would believe the charge against Beecher's oath and character. He gave value to character, especially if animated by sincere piety, and would not assail it lightly, nor would he be the organ of light assault upon such a character. "But," said counsel, "when it forces me into court, challenges investigation, claims entire purity and excellence; when it seeks to overthrow the reputations of men, if not as holy, yet as exemplary as himself, reputations as dear to them as is his to himself, then I examine that character fearlessly, and I shall talk of it as in my judgment this evidence shall justify."

Here the Court took a recess until two o'clock.

DURING RECESS

a man made his appearance in court, and began selling a paper headed the *Sun*, which contained a scurrilous attack upon Mr. Beecher and also on Judge Neilson. Ex-Judge Dailey expostulated with the fellow; who exclaimed, "Your side have had their show, and now we'll have ours!" When Judge Neilson learned the fact he ordered the man to be arrested, and then reprimanded him severely for his unwarrantable conduct. He also told the vender that if he was found in the court room again, or even in the building, he would be sent to prison. Over 1,000 copies of the sheet were seized.

AFTER THE RECESS.

Again a densely crowded court room and standing room at a high premium. Outside in the corridor an audience nearly as large as the one inside clamored for admission, but in vain. Nearly a score of ladies are standing up in the passages. The heat is relieved by a heavenly breeze that blows through the eastern window. The bench is crowded, and Judge Neilson is allowed barely enough room to swing his mallet. Moulton is in excellent spirits, and cherishes such a universal benevolence that he stops to pass a joke with Tracy. Beecher will not return. His wife, however, is in her customary place. Beecher's absence excites comment. All the plaintiff's counsel save Pryor are in their places, Fullerton again in a white vest and tie, and Morris in a light striped summer suit, both exceedingly well pleased with the business of the day so far.

Mr. Beach, resuming, referred to a passage in Mr. Porter's address in which he quoted the opinion expressed by a writer in the *Sun* that this was a case of blackmailing. Mr. Beach said that of whatever value the opinion of the writer might be in the early stage of this controversy, and however clearly he might have formed and expressed the opinion that this was an arrant case of blackmailing, it would be difficult for him to maintain that conclusion in the face of the very clear and decided evidence given upon that subject by Mr. Beecher himself. And speaking upon this subject of presumption of innocence arising from a previous good superficial character, that in power, we cannot see their art, we cannot search the secret recesses of the human nature, we cannot explore all the mysteries of personal life. We see the superficial character in the public acts of men, and from the developments we may, with reasonable safety, form a conclusion in regard to their essential merits. But yet these statements are deceptive. They give us no real and satisfactory clew to the "true inwardness" of the man. We don't get at the "bottom facts." We have to judge as well as we can from the ordinary manifestations of a man's life. Unable to trace his acts and his motives, which may be exculpatory or condemnatory, we cannot judge with that unerring infallibility with which we are to judge hereafter. We can't well say of any man, even of one with whom we are personally well acquainted, however estimable may be all his characteristics, associations and apparent acts, we can't, after all, say to him or of him that he is a guiltless human being, and the error of this argument founded upon the mischievous moral proposition of Mr. Evarts is, that it is contradicted not only by the teachings of inspiration but by the revelations of our daily lives, and it is well expressed and exposed in a paragraph or two which I adopt and which I suppose, if Mr. Bartlett, as my learned friend said, had had the happiness of association with the defence, would have very likely used. It is, that the principal argument in behalf of Mr. Beecher's innocence is his alleged "incapableness" of the crime charged upon him. Incapableness! If I had not seen that expression, as used by Mr. Bartlett, I should have thought it was a Beecherism. Yet men are never weary of saying that he never did commit the crime against Mr. Tilton, and quote his services to the Church, to humanity and to the general welfare of the human race for the purpose of showing that the allegation is false. In a word, we are to take him out of the common category of human nature and hold him as being absolved from the general weakness of mankind.

THE SINFULNESS OF MANKIND.

If there is anything at all plain it is that men are all, more or less, prone to crime: from the first born man and first born woman introduced to our acquaintance down to the present time. Their first born son murdered his brother and their posterity became so corrupt that they were almost exterminated. The survivors and their descendants kept on the same career, and their history down to the very latest period is one long tale of depravity, drunkenness, treachery, cruelty, murder, theft, adultery, incest and every kind of wickedness that can be imagined and charged with pitiless precision and detail. Abraham repeatedly showed himself capable of cowardice and lying. Jacob robbed his brother of his birthright. Joseph's brethren only refrained from murdering him that they might sell him into slavery. The Hebrews who came out of Egypt were so rebellious and ungrateful that they were denied entrance into the land of Canaan. Their children were continually engaged in quarrels and civil wars among themselves. David committed adultery first and murder afterward. Solomon was of a voluptuous nature and an idolater. The records of the Kings, both of Judah and Israel, show them to have been, almost without exception, cruel, revengeful and brutal in their passions. Nor are the early Christians represented in a better light. The converts from among both Jews and heathens are charged with all kinds of vices, and the annals of the Church itself have ever since been stained with lust, bloodshed and violence on the part of her most conspicuous servants. It is no wonder classes of theologians agree in substance in the Westminster Confession of Faith that we all inherit a corrupt nature, whereby we are opposed to all good and wholly inclined to evil. And in the face of all this testimony Plymouth church and its allies ask us to declare on the merely superficial character of Henry Ward Beecher that he is intrinsically incapable of adultery and perjury. What makes this demand more absurd is that Mr. Beecher's career hitherto is very far from raising the presumption that he is so different from all other men as to be unlike them and to be incapable of committing a sin. Now, on the contrary, he has never been conspicuous for self-denial and asceticism, and he has constantly practised, as he has preached, the enjoyment and pleasures of the senses. He is a good eater and drinker, a keen admirer of horseflesh and of Alexander Dumas; and last, but not least, an epicure in kisses. Not one word in his sermons or writings reveals anything in his character opposed to the full and free gratification of the appetites of the flesh, and every lineament of his features declares him to possess those appetites in a marked degree. To try to exalt such a man with a saint who has trampled under foot the evils of human nature, and to particularly claim for him an exemption from human infirmity according to the peculiar course of mankind is an insult alike to religion and common sense. But let us come to a more definite and exclusive instance of this fallibility of human nature as it exists in the pulpit and among religions.

FALLEN CLERGYMEN.

The Rev. Joy H. Fairchild, a leading Congregational pastor in Boston, after an honorable service in the pulpit for many years, became involved in some difficulties with his congregation in consequence of his intercourse with his female communicants. He left Boston and was settled at Exeter, probably in consequence of these rumors, which followed him to that place. He was accused of seduction, and in a trial before a council a letter was read to the council, in which Mr. Fairchild admitted that he had bound the girl by some oath to deny she ever knew him. The council were inclined to give Mr. Fairchild the benefit of the doubts, and he was not convicted. He afterward attempted to preach, but met with no success, was there openly charged by a paper with the crime, the offence of adultery, and he brought an action of libel against the publisher and was defeated on a full trial of all the circumstances upon the justification of the alleged libel and upon the proofs, but with some additions. Counsel then cited the case of Dr. Fay, pastor, in Charlestown, Mass., who was accused of adultery and tried on that charge. The trial was protracted, but no proof of the direct act was adduced, no proof of any confession. The evidence depended entirely upon rumors and slight circumstances, which were thought insufficient to justify a verdict of guilty, and a committee was appointed to bring in the result of the determination of the church judicatory, and this committee, through their clerk, who was a friend of Mr. Tracy, as he was waiting the result of the deliberation of his judges, sent that clerk to Mr. Tracy with the welcome information that the judgment was favorable to him. The committee determined to recommend a verdict of acquittal, and they did; but in their report and in the judgment which they recommended for their adoption it was stated that the Court had examined all the rumors and charges against him. Well, there were conscientious men upon that tribunal, and one of them says, "I cannot sign that report; all the rumors and charges made against the accused have not been examined." He named one, and he said, "Let us not adjourn until this thing is looked to and then we can conscientiously render our verdict." The trial was prolonged. There was no proof of the direct act, and the committee appointed to investigate recommended a verdict of acquittal. But one member of the committee said he could not conscientiously sign that verdict. The clergyman was informed that one of the committee determined to investigate one remaining scandal, and thereupon the clergyman resigned and admitted that he had been guilty of adultery.

LUCIFER, THE GREAT ARCHANGEL,

fell. And so it is through the long list of examples, all proving the doctrine of man's depravity and his proneness to sin. All the examples of life tend to prove that the most exalted and honored are not only subject to temptation, but are too weak to resist the passions. All the lessons of our own experience from which we can derive proof are opposed to these unsound and corrupting theories.

You remember the case of the learned and eminent Dr. Webster, of Boston. Dr. Webster, who was connected with the faculty of an institution which is a brilliant rival of any in the Old or the New World. He was exalted in the estimation of society and of the community of Boston; yet he was, in an evil moment, tempted by mercenary motives, and he murdered Dr. Parkman. He was arrested, he denied his guilt. He was put on trial, and with all the influence of his great character and despite the host of influential friends that gathered about him the evidence sustained the charge of his guilt and he was convicted and executed. And the argument in his behalf was then, as it is now, that this man's power, and his life and character, which were imbedded in the affections of the community, were sufficient guarantee that he could not have been guilty. No eye saw that deed committed. No ear had heard the cry of the victim, and it was on circumstantial evidence alone that this high and distinguished character yielded to the strong judgment of the law.

You, gentlemen, have noticed the recent case of Palmer, who stood high in the estimation of the society in which he moved, but who, in a moment of temptation, absconded with the funds of the widows and orphans which had been intrusted to his care. But a day or two ago he was brought back to the country by the police. How long ago is it since one of the most prominent lawyers, an acquaintance of my learned friend and of mine, said he was found to be a defaulter, and so he has his head hidden in shame and disgrace! And yet we are to be told that because Henry Ward Beecher is great and powerful, because he did noble services to religion and to humanity, and because he has been shielded by the affections of the world, that he is incapable of sin; and as against the proof he can stand on this miserable document of incapability for offence.

After rolling off his long series of cases illustrative of the infirmities of preachers, of the seductions and immoralities with which they have been charged and of which so many have been found guilty and disgraced, the counsel cried out, "And now are we to be told that this man, Henry Ward Beecher, is incapable of the weaknesses that adhere to human nature?"

Mr. Beach said that Mr. Evarts, in order to give you the clearest idea of the immaculateness of this judgment, said, "You must judge and try him as you would judge and try any other man so indicated." If the power of Henry Ward Beecher is to be placed against the preponderance of truth why is there any hesitation among men as to the unavoidable result upon the evidence in this case? If my friends will relieve themselves from this theory of incapacity from sin; if they confess that Mr. Beecher is mortal and subject to feel all that other mortals may, they will abandon the pretence that there is not the slightest evidence of guilt against Mr. Beecher.

Mr. Beach then proceeded to discuss that point of Mr. Evarts' argument wherein he dwells upon the charge that Mr. Beecher's physical strength was an indication of his liability to fall. Mr. Beach asserted that it was absurd to pretend that all men have the same degrees of passional emotion.

The whole scope of the argument now is to prove that Beecher is not above temptation nor above human infirmities. The audience are profoundly attentive, for evidently the counsel has condensed a vast quantity of suggestive facts into this part of his speech. He reads from Beecher's sermons language of strange significance regarding the passions and frailties of men.

In medicine and in experience there are persons who, without any motive, without any sort of temptation, ladies of high degree, in everything else exhibiting all the graces of a true womanhood, wealthy, reputable, distinguished matrons of society, and yet who cannot resist the tendency, when they come under particular circumstances, in the presence of a single temptation.

CANNOT HELP STEALING.

They do steal. The instances are numerous, and they exist now in the city of New York, and the works of our medical authors and the acknowledged opinion of medical science declare that such examples of human infirmity do exist. And then in the tendency to arson, to burn, in the tendency to kill—all these are maintained not only philosophically, scientifically, by the most learned men of the community, but they are sustained by the clearest examples. Now, the law rejects this, of course, when it is interposed as a shield for criminal offence, and I do not dispute by any means the policy of the law. That is not a subject for our discussion. I only illustrate by that determination of science, and by that evidence of examples, in addition to the others which I have given you, that all this theory of Mr. Evarts in regard to the common claim of humanity, to the rule of passional excitement, to the level of controlling will and judgment—it is all illusory and vain. But what does Mr. Beecher say? He is a better judge. Mr. Beecher says:—"I care not to have men come to me and state their secret courses. I can read it in the skin and in the eye. There is not one single appetite or passion that has not its natural language, and every undue indulgence of that appetite or passion shows that natural language more or less stamped upon the skin, upon the expression of the face and upon the carriage of the body. Pride has its natural language. Mirthfulness has. Goodness has. Nobody doubts this. So have the passions their natural language. Men think that they commit their wickedness in secret places or in the night and that it is not known. It is known, although no man ever says to him 'thou art guilty.' And again, there are very many men so organized that their appetites and their passions predominate with terrific force."

Ah! Mr. Evarts, if we say to you that there is a certain form of constitution, that there is the possession of certain passions and certain appetites as manifested by the exterior development of the man, which are strong and terrific in their impulses toward sin and indulgence, do we say—do we say that the charge of incontinence can only be met by proof of impotence? Mr. Beecher says no. "After you have been living a Christian life for twenty-five years or for thirty years, if you had the strong tendencies organized in you at the beginning they will be there still. No power will eradicate them where they once existed. They are ineradicable." And it is true philosophy, founded upon the known constitution of man, upon the inherited tendencies of human nature, upon the experience of the world. Well, sir, that is from the "Plymouth Church Pulpit, Seventh Series of Sermons," page 145; the first one was from the 11th volume, at page 330. Again, Mr. Beecher says:—"The intellectual and the moral faculties are certainly stronger to-day than ever they were before; but the animal passions of the race do not seem to have lost any force, nor do they seem to be under any greater control than they were a thousand or two thousand years ago." Oh, yes, gentlemen, Mr. Beecher recognizes the truth of the existence of those animal passions developed in the external form which existed in all their original and terrific power neither abated in force nor better governed to-day than when man was more an animal than now. It is the sixth series, page 165. Again, "Men utter a vast amount of slander against their physical nature and attempt to repair deficient virtue by maiming their animal passions. These are to be trained, guided, restrained, but never crucified or exterminated." I do not exactly agree in the application of that term "crucified." They should be crucified, perhaps; never exterminated. "The lecherous imagination goes through and through, a robber of purity throughout the universe," and then he speaks of these

GREAT, SWOLLEN, BULL-NECKED MEN.

(Suppressed laughter.) "Find me prelates and bishops that have made the world richer than we have found it, and I will also find within a mixture of dross. The malignant passions arise and dominate over the highest faculties. There is nothing else that begins to compare in cruelty with the human race. Sharks are merciful, and lions and serpents are angelic compared with men. Man is the chief monster that the earth ever bred." And he says of himself, with great candor and propriety, "I am a man of passions like your own. I know my own estate and my own weaknesses. I shall labor among you with these weaknesses in the time to come." Now, gentlemen, I should not have alluded to this subject but for this discussion of Mr. Evarts. I am not going to argue or urge against this defendant one single proposition or idea that I don't believe to be just and sound. Whatever may be the constitution of this defendant, whatever others may say about his physical development and the indications his external form gives of the profession of high and intense passion, or of particular appetite, I do not urge it as an argument in this court of justice. I believe it would be a disgrace to the administration of the law to charge a man with the idea for an instant of incontinence or adultery upon the theory of his physical constitution. No matter how harsh