THE WONDERFUL TRIAL.

Opening of the Twenty-fifth Week of the Great Scandal Case.

A LIVELY SCENE IN COURT.

Beach Irritates the Defendant's Counsel and a Juryman.

JUROR HALL'S APPEAL.

Mr. Beach Asserts That He Can Prove That the Jury Were Approached.

BROTHER SHEARMAN ON THE WARPATH.

Continuation of the Summing Up for the Plaintiff.

The court room at the Beecher trial presented the usual scene yesterday morning of a great throng of men and women pushing and struggling for seats and places; a gallery full of people all standing in a mass and gazing down upon the noisy, talkative multitude on the floor; a busy stir at frequent intervals on the entry of some distinguished actor in the legal drama; a rumble of applause on the appearance of Beach, and then a dead silence when Judge Neilson looked swiftly at the congregation. Mr. Beecher was away all the day. His wife, her daughter-in-law and Dr. Edward K. Beecher were present.

THE SENSATION OF THE DAY

was at the close of the day's proceedings. Beach had quietly closed his address for adjournment, when up rose Juryman George Hall and, in a nervous manner, proceeded to say, amid intense silence, that it was hard enough on them to sit there, day in and day out, deprived of engaging in their usual avocations, without being compelled to hear insinuations and reflections from counsel on their honor and integrity. He hoped the Judge would instruct counsel to indulge no more in these insinuations. The audience at this time were standing up, and an exciting scene seemed to be inevitable. Judge Neilson responded to the irate juryman, saying that counsel meant nothing and might have been led away in the heat of argument to say something harsh. Mr. Beach next rose, and after quite a pause, as if he thought he had put his foot in it and hurt his case, assumed a brave front and exclaimed that he was ready to prove the fact that the jury had been approached.

SHEARMAN FIGHTS.

Then followed a quick exchange of words between Shearman, Beach, Abbott, the juryman and the Judge. Shearman hurled back the charge on Beach, and declared all the money spent on their side came out of the pockets of himself and Mr. Beecher, and that he would take upon himself to answer the charge of tampering with the jury.

TEMPORARY RECONCILIATION.

Beach half apologized and seemed confused, and the juryman stood up and mumbled a few words as of reconciliation. Fullerton also spoke, and for a time it seemed as if the trial was about to break up in confusion. The audience applauded Beach, and two of their number were arrested. Finally the Judge decided that not until the trial was over would he entertain the proposition of investigating the charge of corrupt influences being used with the jury.

THE UNRULY APPLAUDERS.

Quite a number of people from the rural regions put in an appearance and listened to Mr. Beach with open mouths. With the progress of the warm weather the old *habitués* of the court room are thinning out. The visitors are less respectable in looks and apparel. They are of the "fierce democracie," who can bear the torrid heats and the arctic frosts with equal ease and cheerfulness. To the left of the bench a knot of unwashed and unkempt men drew suspicion toward them of being the authors of the frequent attempts at applause that marked the day. Plymouth church people were not slow in ascribing these tokens of approving sentiment on the part of the audience to the operations of a hired claque; but it is more correct to ascribe them to the ignorance and impulse of the rural folks in attendance, who are apt to forget what is due to a court of justice, and innocently applaud strong words strongly delivered.

BEACH IN GOOD TRIM.

Mr. Beach was looking uncommonly well. He had his hair trimmed, brushed, combed and oiled and his voice was in good condition. He made a forcible defence of Moulton and his wife, evidently considering these two as the main witnesses of the plaintiff. He renewed the arguments in behalf of Mrs. Moulton in the afternoon and then passed on to a defence of Theodore Tilton. Mr. Beach will hardly finish his address before Wednesday afternoon. The other side took thirteen days and he considers himself entitled to fourteen.

THE PLAINTIFF'S POINTS.

Mr. Beach continued his address by reading a letter he received, correcting a mistake he fell into on the last day by designating Paulina and Mundus as Jews in his quotation of Josephus. They were Egyptians, not Jews. Counsel then proceeded to read several letters to show that up to the time of the Plymouth church investigation Mr. Beecher expressed the greatest admiration for Moulton. Mr. Beach held it was not for the advocate of the defendant to cast censure upon Moulton, and his opinion was like that of Moulton, that this whole scandal should have been kept silent. It was a scandal of that character whose exposure affected and injured both public and domestic morals and did not call for legal investigation, and punishment like ordinary criminal offences. Moulton tacitly proclaimed himself a heathen when he said to Beecher, "Let me show you how a heathen can serve you." Beach took up Tracy's address to the jury wherein he dwells upon the meaning of the term "heathen" and upon the character of Moulton. Having ceased to read, Beach, raising his voice to a high pitch, asked if this attack was justifiable. "The worst of it is," cried Beach, "that it is not even original." At which there was a general laugh. Mr. Beecher's hand was thought to be very plainly discernible in the extract. Beach next took up

THE TREATMENT OF MRS. MOULTON

at the hands of the defendant's counsel. She is denounced by them as not alone a conspirator, but a perjurer and as one who consorted with public prostitutes. Mr. Porter charged that she exposed her only son to the influence of these associations. Mr. Porter stood up and denied that he ever referred to Mrs. Moulton in these words. Judge Neilson said he was happy to hear the disclaimer, but Beach insisted that the opposite counsel had maintained those charges. The whole scope of the defence was to blacken and hold up to public odium the character of Mr. and Mrs. Moulton. It had been said by Mr. Shearman that Mrs. Moulton could not look Mr. Evarts in the face, and Mr. Evarts said that Mrs. Moulton when on the stand had a habit of furtively glancing around her. Mr. Beach remarked in regard to this that Mrs. Moulton had never been in a court of justice before; that it was natural enough she should be embarrassed and abashed mounted up in a conspicuous witness chair and facing the gaze of a couple of hundred men for upward of two hours; that probably if she had the plastic and experienced faculties of Bessie Turner she would have given more satisfaction to the counsel on the other side, and there would have been no "furtive glancing" to disturb the equanimity of Mr. Evarts' mind. There was

A GENERAL LAUGH

at this, whereupon the Judge, who was plainly annoyed at several prior disturbances, interposed and substantially recommended Mr. Beach to perpetrate no more happy or humorous expressions. Mr. Beach said, pleasantly, that he was hardly to be held responsible, and that these interruptions were not agreeable to him. Counsel read Mrs. Moulton's account of her interview with Beecher and various parts of her evidence bearing on the relations between Beecher and Mrs. Tilton. The evidence reproduced by counsel was, he said, pronounced untrue in every essential point by Mr. Beecher when he was on the stand. Beach asked if it were at all likely that Mrs. Moulton invented the whole of that complex evidence, if it were likely that a woman of her domestic character could invent such odd expressions as "you look to me like a section of the day of judgment," "paroxysmal kiss," &c.

SHEARMAN REBUKED.

The counsel was proceeding to mention and dwell upon the incident in court at the time Mrs. Moulton was testifying, when Beecher, leaning over to his counsel, suggested asking the witness if she did not kiss the defendant, and she admitted she did. Evarts interrupted the speaker and was joined by Shearman who said Beecher never suggested that question, but that he (Shearman) did.

Beach turned round with an expression of irritation, and, addressing the Court, said that he had no objection to being interrupted to receive a correction when he was wrong, but when the counsel (Shearman) said that it was he and not Beecher who suggested making the inquiry, and yet Beecher himself admitted on oath it was he, the limit of professional propriety was overstepped. Here, in spite of previous remonstrances, the audience insisted on applauding, and were again admonished by the Judge, with instructions to Officer Rogers to arrest the first man caught in the act of interrupting the proceedings." There was

A PAINFUL SUSPENSE

of a few moments. Mr. Beach was ready for a conflict with his adversaries, but Shearman wisely enough held his peace and the speaker went on with his address, taking up the alibi evidence, by which it was made to appear that at the time (2d of June, 1873) at which Mrs. Moulton swore she had her interview with Beecher the latter was in Peekskill. Counsel contended that the defendant's lawyers might have produced Mr. Kinsella, with whom Mr. Beecher swore he had an interview the morning of June 2, 1873, and yet, though that gentleman was in town all the time, he was never called. Counsel called attention to the evidence of Dr. James, who swore that he saw Mr. Beecher in the forenoon of June 2, 1873, on Montague street, and contended that this testimony harmonized with the general fabric of the proof and demolished the alibi.

AN IMPOSSIBLE FABRICATION.

After recess the subject of Mrs. Moulton's testimony was resumed. Counsel sought to prove that it was impossible the interview related by Mrs. Moulton could be fabricated. They had the evidence of Mrs. Eddy, who, on the 2d of June, going into the house of Mrs. Moulton, met Mr. Beecher going out, his head cast down and his manner quite gloomy; and that after she entered the house Mrs. Moulton related to her the facts she gave in her evidence on the witness stand. "This evidence, gentlemen," cried counsel, "is true, and no honest juryman can ignore it." As he said this he directed his looks toward Chester Carpenter, and, in stirring tones, exclaimed, "I don't know but there may be a jury in this Christian land that will leave that only child of hers (Mrs. Moulton's) a record of infamy." Then, expressing his knowledge of the influences appealing to the jury in behalf of Mr. Beecher, he said there was little hope for justice from any juryman who put aside the claims of truth, of justice, because Mr. Beecher was a great and eminent man, or from any juryman who set aside the facts and the evidence because Henry Ward Beecher was a popular preacher, with a large and flourishing congregation who believed in him.

A POINT BY BEACH.

It was thought Beach made a point when he said Mr. Beecher and his advisers held that Tilton had no case in Court because he condoned his wife's fault. Condonation means the forgiveness of a sin. Beecher consequently admits that Mrs. Tilton sinned, and no one is so dull as not to understand what that sin was, and the logical result is the defendant confesses his adultery with the plaintiff's wife. Taking up the cudgels for his client counsel said that when Tilton stood up in Plymouth church and said he was prepared to meet the issue with Henry Ward Beecher the latter slunk away and said he had no charge to make. Mr. Beach read Mrs. Bradshaw's letter to Mr. Beecher, asking of the latter what truth there was in "Theodore Tilton's awful story?" and the reply telling her that it was no use stirring up the matter, and that silence was the only policy. Counsel then inquired what was the difficulty with him that he did not deny it to Mrs. Bradshaw if he were innocent. He knew it was not safe for him to do so to her, because he was aware she had the information from Theodore Tilton. Mr. Beach next alluded to the expressions by Beecher that if it would do any good for Tilton he was willing to step down and out, and asked what should Mr. Beecher thus sacrifice himself for. It was an humble confession of his sin, and conspired with other evidence in the case to prove the adultery charged. Several other letters, already quoted many times, were referred to, and a chain of argument constructed to show that Beecher's correspondence alone convicts him in the eyes of the whole world.

ON THE BENCH.

His Honor had for company on the bench L. P. Max Fourchon, Secrétaire d'Ambassade de France, Washington; Judge Flammer, New York; Judge Pratt, Hon. A. W. Tougee, Supreme Court, North Carolina; Judge Quackenboss, New York; Hon. Thomas J. Creamer and Charles Collins, New York.

MR. BEACH'S ADDRESS.

Shortly after eleven o'clock Mr. Beach resumed his address on behalf of the plaintiff. He read some passages in Mr. Tracy's opening address reflecting upon the position which Mr. Moulton had assumed in reference to the retention of the papers which had been deposited in his hands. Counsel then read the correspondence which passed between Mr. Moulton and Mr. Beecher on the subject, and submitted that up to the time of this demand for the papers and the answers of Mr. Moulton, that he faithfully labored for Mr. Beecher and Mr. Tilton in carrying out this policy of silence, which the several parties had agreed to, and that his refusal to furnish the papers to Mr. Beecher was made at a time when all hopes of suppressing the scandal had not been abandoned. Counsel commented at length on the remarks made by Mr. Tracy, in his opening, in regard to Mr. Moulton's action in the premises.

A SEVERE REBUKE.

It cannot, continued Mr. Beach, be approved by the decencies of a court of justice, nor by the proprieties which attach to the practice of our honorable profession. No man who can make it under the privilege of a counsel is entitled to the respect which belongs to an honorable member of that profession. He has not an honorable proper sense of honorable obligation. He has not a due regard for the reputation and the rights of his fellow men. He is governed by a loose principle and by a looser morality; he evinces it in every word of the indecorous language which he sees fit to apply under these circumstances to Francis D. Moulton; and the worst is that it is not even original with himself; that he must get aid to gratify his malice; he must get the aid of more cunning brains than his own, and must stand here recording the productions of others, in the tone of a schoolboy who has but imperfectly learned his lesson—and this, this is the man who but a few months ago pledged his word and honor to the men whom he assailed that he would hold their secrets and would never appear in opposition to their interests. And this assault upon a gentleman whose honor he should have respected at least, has been printed and circulated throughout this community, throughout this country, bearing in every quarter this reputation of a gentleman whom Henry Ward Beecher trusted for four years, against whom he has never brought an accusation, except that he did not render to him his papers and letters when demanded, and who certifies upon this stand that in his devotion to his service he gave him a new character of the word friendship—not spoken in the satirical manner in which my learned friend alluded to it, but as a brave and honest testimonial from the heart of Henry Ward Beecher to the fidelity and truth and courage of Francis D. Moulton. I pass him. There is but one other witness who testifies directly to the confessions of Henry Ward Beecher and the most important witness in this case. She has no earthly ambitions to gratify. She comes here from the quiet of her cultured and comfortable home, a lady in the truest sense of the word, a lady whom Henry Ward Beecher upon the stand and in his letters has eulogized almost as a paragon in her simple and sincere sense of duty and of truth and in those virtues of hospitality which commemorate her history in this city; and the question is whether she is to be believed, or whether she is to meet the universal condemnation which our learned friends upon the other side have extended to every character who has appeared in support of the plaintiff's case. You will see by the allusion of Mr. Tracy to the relations of that household, but if you will recall more distinctly you will see by the grievous charges which were made against this lady by Mr. Porter, how she has been exhibited to the world. She is not only a conspiratress, she is not only a perjurer, but, according to Mr. Porter, she has surrendered her house as a resort not only for the parties of the conspiracy, but for those base and infamous agents, as they say, whom it has suited the purpose of the conspirators to employ. She is charged with consorting with public prostitutes. Nay, my friend Porter could not spare that unmanly blow against the heart of a mother when he charged her with exposing her only son to the influences of such associations. It was not enough to heap upon her character for truth and personal chastity, but the instincts of maternal love and solicitude must be outraged to justify the purposes of this defence. Gentlemen, it is a very serious question which you are called upon to decide. It is no common responsibility which rests upon this jury when they are called upon not only to disbelieve and defame Tilton and Moulton, the husband and the father, but to include the mother in the infamy. It may seem a light and trivial——

Mr. Porter—My friend is entirely in error in supposing that I used the epithets which he says I did. I did not speak of her as a perjurer—a word which I never used. I never imputed her name. I cast no imputation on her chastity, nor did I use the word "perjurer."

Judge Neilson—The counsel is probably mistaken.

Mr. Beach—No, sir; I am not mistaken. (Applause.) I certainly did not say or intend to say that either of these epithets, "conspirator" or "perjurer" or "prostitute," were applied to Mrs. Moulton. I said no such thing.

Mr. Porter—That is what I understood you to say.

Judge Neilson—I want to say to the audience that we must have quiet. If there is a word said by counsel it is not at all essential that it should be commented upon. It is respect to the place, the counsel and jurors that they ought to hear, and respect should indicate and keep silence.

Mr. Beach—I am speaking, gentlemen, of the effect of the arguments or defence of this case. If Henry Ward Beecher is to be believed and to be successful in this action Mrs. Moulton is a perjurer, Mrs. Moulton is a conspirator, and if Benjamin F. Tracy is to be credited to her belong those other disgraceful appellations and associations to which I have directed your attention. Do any friends shrink from these consequences? Does not my friend Porter charge that Mrs. Moulton is a perjurer; that she is not to be believed? Does he not claim that she is a conspirator? Do they admit the truth of her testimony? Well may they shrink back from that issue. Have they not given evidence here to prove through an alibi that her testimony is all false? And is there any means by which Henry Ward Beecher can be justified but by the condemnation of Mrs. Moulton? Most clearly not, gentlemen. That issue must be met. These three single witnesses, upon the single oath of Henry Ward Beecher, must be condemned for perjury, or Henry Ward Beecher is guilty. It is irreconcilable as between these witnesses. They accord with the other evidence. They harmonize with the writings of Henry Ward Beecher. There is not a single point of opposition or inconsistency between any other portion of this evidence except Henry Ward Beecher and the testimony of these three witnesses. Counsel then proceeded to comment upon the evidence of Mrs. Moulton and her appearance on the witness stand. He said she had given her evidence with the modesty and candor of a lady and with the intelligence of one to whom the subject was clear and well known. The interview with Mr. Beecher was alluded to at great length, and the evidence as given by Mrs. Moulton was read to the jury, descriptive of the feeling of the defendant on the occasion referred to.

Now, gentlemen, said Mr. Beach, I have reproduced this evidence to you that you might see its character and judge of the propriety of the argument submitted on the part of my friend with reference to the peculiar character of the narrative which this lady gives. What I have read to you is pronounced an utter and entire fabrication by Henry Ward Beecher. He takes the stand, and in the face of all the other evidence he denies that the statement of this lady, in any of its essential particulars, is true, and you are to come to the conclusion, if Mr. Beecher is to be credited, that this lady, either spontaneously or at the prompting of somebody else, has invented the whole of this relation. Well, it requires some little ingenuity to believe such a feat. It would be difficult for as keen and shrewd a mind as Henry Ward Beecher to invent and successfully maintain under a rigid and close cross-examination without any of those evidences which show manufacture and arrangement in a story of this complex character. If this lady, on her cross-examination, had repeated in precise form the conversations as she gave them on her direct examination, one might well have had some suspicion of her truth; but she speaks impulsively; she speaks from impressions received from some source and indelibly imprinted on her mind. There is no arrangement, there is no form; she swears on both occasions to the same substantial facts; she gives all the evidence of purity and of truth, so far as we can judge by all the forms which the law has provided. Do you believe this lady invented the terms, "You are no comfort to me," "You seem to me to be a section of the day of judgment?" Did Mrs. Moulton ever use phrases of that character? And if this had been out of her own mouth would she have placed them in that narrative? But all show that it was the utterance of Mr. Beecher, and entirely consonant with his habits of rhetoric, of modes of speech, and entirely foreign to those of a woman of domestic character.

MR. BEECHER'S KISS.

You probably have not forgotten the incident which occurred in the course of her examination. While she was detailing, upon cross-examination, the interview with Mr. Beecher, Mr. Beecher leans over and suggests to the counsel the question whether Mrs. Moulton did not kiss him. She admits she did; that while he sat weeping, moaning and grieving in his chair, she, under the deep excitement of that moment, leans over his shoulder and imprints a kiss on his forehead. What was the object of the suggestion?

Mr. Evarts—The object was to show whether she kissed him whenever she met him, as he testifies.

Mr. Beach—Mr. Beecher had not then testified. No matter what the object was; we know what the question was and we know how it came in.

Mr. Evarts—The question was what?

Mr. Beach—You asked her whether she did not kiss him.

Mr. Evarts—No; not a word.

Mr. Shearman—The record speaks for itself.

Mr. Beach—Well, sir, an interruption for correction I have not the slightest objection to submit to; I rather court it, for I don't wish to reason from false premises; but when counsel take occasion to say that Mr. Beecher did not make that suggestion, when he swears he did and while Mr. Shearman says he made it himself, it is overstepping the bounds of professional endurance. (Applause, which was instantly suppressed).

Judge Neilson—Mr. Rogers, see who it is that makes this disturbance and try and arrest them. The other officers, also, will pay attention.

Mr. Morris—These are useless interruptions.

Mr. Beach—The credibility of this lady is placed upon one issue, and I have no hesitation in meeting that issue. She puts this interview on the 2d of June, 1873. Mr. Beecher swore he was not at the house of Mr. Moulton on that occasion. Counsel again alluded to Mr. Tracy's remarks in reference to the interview, and contended that Mrs. Moulton's testimony as to the date had been thoroughly borne out.

AUTHORITIES IN POINT.

I think I might, if Your Honor please, at this point, ask your attention to an authority or two upon evidence requisite to maintain an alibi. In one sense, perhaps not in its usual or ordinary one, this is a defence of alibi. Mr. Wharton says (on homicide, section 662, quoting from the Webster case), "This defence is often attempted by contrivance and subornation of perjury. The proof, therefore, offered to sustain it is to be subjected to a rigid scrutiny, because without attempting to control or rebut the evidence of facts sustaining the charge, it attempts to prove affirmatively another fact wholly inconsistent with it, and this defence is equally available, if satisfactorily established, to avoid the face of position as of circumstantial evidence." This is a quotation, sir, from the charge of Chief Justice Shaw in the Webster case.

Judge Neilson—And mainly applied to the question of identity.

Mr. Beach—Not that exactly, sir. It is for the purpose of showing where an offence is attributed to the individual the impossibility of his having committed it at that time or place. Mr. Alison, in the second volume in his treatise on the criminal law of Scotland, says:—"One of the most ordinary pleas resorted to by a panel is that of alibi, and, doubtless, when duly qualified and fully proved it is among the most effectual of any; but it requires to be carefully scrutinized, both as to the sufficiency of the evidence and the inference to be drawn from the facts if fully proved, because the plea is not conclusive unless the alibi is circumstanced and qualified in such a manner as makes it not only unlikely but impossible that the panel could have done the deed at the time and space libelled. The proof of alibi is in most cases a direct impeachment of the veracity of the prosecutor's witnesses, which is not to be admitted on light grounds, and because it is a plea of that short and simple sort, with respect to which the panel's witnesses can easily contrive a uniform and false story, such as the prosecutor can and will disprove, as he can cite no new witnesses in reply. Indeed, all the circumstances may be true, and the falsehood lie only in applying them to a different day or hour from that on which they actually occurred, and it is by that contrivance that pleas of alibi are in general rendered so difficult to disprove." If I were satisfied, said Mr. Beach, that Mrs. Moulton was wrong in fixing this conversation on the 2d of June, I should submit to you with great earnestness the principle of that discussion; but she is not wrong, sir. Mr. Beecher swears that in the morning of the 2d of June, between nine and ten o'clock, I think (and I hope to be corrected as to hours if I mistake), between nine and ten o'clock Mr. Beecher swears that he was at his home in consultation with Mr. Kinsella as to the form of the card which was published at two o'clock of that day. In the first place there was no necessity for a prolonged interview between two such ready writers as Mr. Beecher and Mr. Kinsella in regard to the form of a little card of fifteen or twenty lines, which had been substantially prepared, and which underwent but a slight degree of alteration that could have been done in a few minutes at the office of Mr. Kinsella or at the house of Mr. Beecher. And as Mr. Beecher is a notoriously early riser—doing all his laborious work upon his sermons and his publications before ten o'clock—it is quite easy to be believed that whatever intercourse was had between Mr. Kinsella and him upon that subject was prior to the hour of nine o'clock, at which time Mrs. Moulton thinks he came to her house. Then, according to his testimony, he passed over to the *Christian Union* office in New York, and from thence to railroad, taking passage to Peekskill. On such theory it is quite easy to believe that Mr. Beecher, or any other gentleman who has spoken in reference to seeing him on the 2d of June, might have been mistaken, as to suppose that the witnesses who spoke of his being present at Mrs. Moulton's on the 2d of June are mistaken. But passing that, the question is, where was Beecher from nine o'clock until the period, whatever it was, that he went over to the *Christian Union* on his way to Peekskill. I do not stop to consider at any length the question as to the time exhausted in that interview with Mrs. Moulton. She thinks he continued until about her lunch time, at twelve, or one or two o'clock, whenever it was. She fixes those hours, and is of the impression that it was two o'clock, but speaks of it with no confidence as being two o'clock. She is not certain, I say; she does not speak with any sort of confidence or attempt to be accurate. I have examined her evidence with reference to that point. I will listen to any reading that may correct me, but not to mere assertion. I attach no significance whatever to it—an interview of two hours, under such circumstances, involving such intense interest, might well have been enlarged by Mrs. Moulton to three or four hours, and she might very well have imagined Mr. Beecher got up to leave under these circumstances, that the hour of lunch had come, and asked him to stay and take lunch. There were no indications of it, she says. There was no delay in the lunch. It was a mere impression as to the continuance of an absorbing communication which left its distressing marks upon her appearance, as is proven by other witnesses.

MR. BEECHER'S WHEREABOUTS.

But the question returns, Where was Mr. Beecher between nine and eleven or between eleven and twelve o'clock? He says that one hour at least of that time was exhausted in company with Mr. Kinsella. Where is Mr. Kinsella? Mrs. Moulton and Mr. Beecher stand in direct and unqualified contradiction upon that one point as to the whereabouts of Mr. Beecher between nine and ten or eleven and twelve o'clock. Mr. Beecher says he was at home in consultation with Mr. Kinsella. Mrs. Moulton say she was in her parlor under the circumstances she described. Mr. Kinsella is in this city; the editor of a partisan journal in favor of Mr. Beecher, though conducting it with great propriety, and against him or it we have no complaint to make; but he was an accessible witness, the friend of Mr. Beecher, a competent, reliable and trusty gentleman, whose appearance upon the stand, by his oath confirming the evidence of Henry Ward Beecher, would have been destructive of the proposition that Mr. Beecher was at Mrs. Moulton's on the 2d of June, 1873. He is in this city, I repeat, accessible to his friend, Mr. Beecher. He is not produced as a witness, and do you remember the presumption of law as I read it to you the other day? The presumption is as against Mr. Beecher, when this issue is fairly made between him and Mrs. Moulton, and he has a friendly and trusty witness by whom he can prove his alibi, and fails to produce him, that if produced he would not confirm his theory. It is the judgment of common sense. If Mr. Kinsella would have supported Beecher, and contradicted Mrs. Moulton, no man supposes for a moment that the counsel of Mr. Beecher would have failed to produce him, and what, sir, does my learned and distinguished adversary Mr. Evarts do? Instead of producing Mr. Kinsella he produces his paper and ventures to read a portion of his editorial as proof that Mr. Kinsella was in Mr. Beecher's house, as my friend knows no evidence in this case; as my friend knows no proof of any statement which may be contained in it. And we have the argument against them not only that they suppress evidence, but that the learned counsel, against his duty and his right, attempts to substitute the editorial, written by Mr. Kinsella, or somebody else, we do not know by whom, for the evidence he should have presented. Counsel read the testimony of Mr. Jayne, setting forth that he had seen Mr. Beecher on the morning in question going toward Mr. Moulton's house.

The Court took a recess at the usual hour.

AFTER THE RECESS.

Two long queues of men, extending up and down the corridor, patiently waited outside the court room entrance from one o'clock till two, but so many insisted upon staying inside and abstaining from lunch, that hardly half the waiting crowd found room in the chamber. It was close and unpleasant in the afternoon on account of the windows on one side of the room being blocked up by a mass of men. The lawyers on both sides of the case, with the exception of Pryor, were all present. Ex-Judge Morris kept a sharp eye on Shearman, who was bent on interrupting and correcting Beach. The latter was more animated than in the forenoon and was listened to with close attention. Several ladies, unable to bear the heat any longer, left before adjournment. Mr. Evarts put on his hat at a quarter to four, and, "like the Arab silently stole away." The jury appear to give a more earnest ear to Beach than ever before. They kept unremitting eyes on him yesterday, and sympathetic looks in some instances answered back his arguments with a silent indorsement.

Mr. Beach, resuming, said:—Of course it is possible for any gentleman, speaking of an incident that happened two years ago, to be mistaken as to a particular date or hour. It is one of those topics upon which the memory is particularly defective and apt to be in error of statement. For instance, Mr. Cleveland, who speaks of Beecher's having been at the *Christian Union* office on the 2d of June, between eleven and twelve o'clock, having no particular circumstance, no memoranda or data to direct or fix and fasten his recollection, undoubtedly is subject to mistake, however upright and honest he may be in his statements. And so it is with Mr. Jayne. There is no doubt he is just as liable to error as other witnesses. But it would seem as if the circumstances which attract Mr. Jayne's attention could not very well mislead him. The 2d of June was the anniversary of his wedding day, to which he was accustomed to attach some significance—an occasion upon which, at any rate, his mind reverted to his marriage relations and his home. He remembered that upon that day he saw Mr. Beecher, and did so in a way of casual observation. There was

SOMETHING IN THE APPEARANCE OF MR. BEECHER

which impressed itself upon Mr. Jayne's mind, as he swears, and he connected it with the anniversary of his marriage. Being acquainted with him, and having served him in the course of his professional business, Mr. Beecher being accustomed casually to notice him, the fact of his passing near Mr. Beecher without any recognition from him, considering the relative position of the two gentlemen, would be a circumstance which would attract his attention. He might have felt a little chagrin, but he noticed upon Mr. Beecher's countenance, usually so cheerful and radiant, into whose eye to look in his moods of ease and comfort is to be at once inspired with cheerfulness and mirth—he noticed an unusual depression; he was sorrowful and moody; his head cast down; none of the stately and towering characteristics of Mr. Beecher about the man. He turns into Remsen street without noticing this gentleman. It was at the time, you remember, when the tripartite covenant was published—in fact, when Theodore Tilton was demanding from him defence and correction, and threatening if he did not receive it to publish the statement which he had prepared, containing Mr. Beecher's own letter, containing the statement that the horror of great darkness was around him. He felt that a crisis had approached, and he saw no way of escape. He feared that the revelation against which he had been denying was at last inevitable, and it was not remarkable that he should be cast down. At all events, the testimony of Mr. Jayne upon that point is not to be discredited. Mr. Beecher was not recalled after the testimony of Mr. Jayne, to modify or qualify the statement of that gentleman, and it stands therefore uncontradicted upon the record that Mr. Jayne met Mr. Beecher under the circumstances to which that gentleman testified. Mr. Evarts has passed over this testimony with a jest hardly worth the seriousness of the matter. All he says referring to this testimony is, that the gentleman "pretends to have seen Mr. Beecher through a stone wall." That is not the way in which evidence upon a point so vital and so significant as this should be met and answered.

I GRANT THE POSSIBILITY OF ERROR;

but when a gentleman of respectability fortifies himself with such circumstances sustaining the accuracy of his recollection, and when his testimony harmonizes and connects itself with the general fabric of the proof, something more must be urged against him than a witticism. It was not through a stone wall that Mr. Jayne saw Mr. Beecher. It was with a full opportunity to see him in full view, and there can be no mistake in regard to the condition of Mr. Beecher. It was entirely conformable with the condition of mind in which Beecher was, on the 2d of June, when seen by Mrs. Moulton. I repeat the question, when Mr. Beecher, who was thus overcome by the testimony of Mrs. Moulton, strengthened by the evidence of Dr. Jayne, where was Kinsella? If Mr. Beecher on that 2d of June was in Montague place, and he turned into Remsen street, but four or five doors from Mrs. Moulton's then he could not have been in company with Kinsella at his home at that period. At that particular time he was holding his memorable interview with Mrs. Moulton. Mrs. Moulton says that she related that story to George C. Robinson and Jeremiah P. Robinson on the night of the 2d of June. She says she told it to her husband, and my impression is that on the next day, or at least within a day or two subsequent, told it to George C. Robinson and Jeremiah P. Robinson; both these gentlemen—George C. Robinson, a present and wealthy member of Plymouth church, one of the lights of that institution—nay, as it is said by our adversaries, members of the firm of Woodruff & Robinson, from which Mr. Moulton, in consequence of his connection with this investigation, was excluded. Why didn't my friends produce George C. Robinson? If within a day or two, or a recent time of that period, Mrs. Moulton communicated that story to George Robinson, it must have been true. If she did not, and my friends could have proved that she did not, Mrs. Moulton would have been discredited and overthrown. There is no avoiding that issue, gentlemen. According to the law I have read to you, according to your own sentiments of justice and right and common sense, if George C. Robinson could have contradicted Mrs. Moulton upon that vital proposition of her testimony he could have been placed upon the stand, and so would Jeremiah P. Robinson have been asked, when on the stand. Again, if Mrs. Moulton had fabricated this story, with the hostility and friendliness to Beecher, in the month of August, when he made his statement before the committee, had exasperated this woman. If she saw the reputation of her husband assailed so that all his Christian principle, all her regard for truth and integrity, were lost, swallowed in the desire to support her husband, would she have testified without necessity that she made a revelation—a repetition of the interview with Mr. Beecher—to Mr. Robinson, furnishing ready means by which she could be destroyed if it was untrue, giving to Mr. Beecher means of annihilating her integrity and her testimony?

WHAT OFFENCE WAS CONDONED?

Did not Mr. Beecher say, when Mrs. Moulton told him that Tilton intended to publish the evidence he had against him, "Theodore Tilton has no case. He has condoned his wife's fault." Did not Mr. Beecher then see that there must be sin before there can be forgiveness? What was it that Beecher meant was condoned by the husband? Not wandering affections, not desired separation. No, there was some more radical offence than either of these. Condonation does not apply to any such evasion. Condonation is the forgiveness of guilt. In that sense it was understood, and in that sense it was used as between Mrs. Moulton and Mr. Beecher, as it is also used in his letters. When Tilton stood up, and, confronting Mr. Beecher, said he proposed to make an accusation, then it was, in answer to that, Beecher said, "He has no case. He has condoned." It is the confession of guilt. The woman or man who confesses condonation confesses guilt, and this is just the attitude in which these gentlemen have placed themselves and their client.

Mr. Beach then referred to the severity of the assault made by Mr. Tracy upon the exhibition of egotism and selfishness on the part of Theodore Tilton. The presence of Tilton, Mr. Beach felt assured, had not offended the jury, nor had he intruded egotism and selfishness upon the jury. Then why had his learned friend made this accusation? Why can't he have place and fair play before this jury? It is said by Mr. Tracy that "Tilton has over and over again declared that the only offence he charged against Henry Ward Beecher was that of improper solicitations to his wife." Well, I have said all I intended to say on that subject, but I call your attention to the fact that while Tilton was trying to suppress publications he denied that Mr. Beecher was guilty of adultery; yet whenever the question came to a close issue as to whether improper solicitations was the sole charge against Beecher, he said that that was not the whole of it. In the interview with Dr. Storrs, you will remember, and also in the interview with Mr. Bell and Rev. Mr. Halliday, he said that was not the whole truth of the charge. You will remember how Mr. Bell told him that it was his duty to his family, to his church, his pastor, the community and to the Christian world that he should say that it was nothing but improper solicitations that he charged, and then Mr. Bell forced him to declare that that was not the whole. So it was with Hunt and with Redpath; so that is what is called inconsistent declarations. There were secret declarations that the public declarations made did not reach the whole of them.

Mr. Beach then read from the testimony of Mr. Bell in regard to the conversation with Tilton in which Mr. Bell urged him to come out and publicly defend Mr. Beecher. Tilton replied he could not do it. He replied, "I can't make that denial, because there is something that will not let me. There is an underlying truth in this story which would make it worse for Beecher than if I let it alone." That sustains, then, what Bell said.

Mr. Shearman here corrected Mr. Beach in his interpretation of the testimony, but his remarks were not audible. Mr. Evarts coincided with what Mr. Shearman had said.

Mr. Beach resumed his reading from the evidence of Bell with regard to his having called on Tilton upon the suggestion of Moulton to suggest to him to come down to the church and see what would be proper to be done to make it unnecessary for the deacons to go into the matter of investigation.

Mr. Shearman again interposed objections to the manner in which the evidence was interpreted.

Mr. Morris submitted that such interruptions were entirely out of place.

Mr. Beach (turning to the Judge) read part of the interview between Tilton and Dr. Storrs, in which the "True Story" was read, the latter by Tilton, that narrative imputing improper solicitations. Dr. Storrs asks Tilton whether this is the plain and honest truth—what is called in a court of justice "the truth, the whole truth and nothing but the truth;" and Tilton, in reply, said, "Dr. Storrs, it is not the whole truth; it is only a part of the truth. It is an under statement, but it is the only part I am willing to give to the public. (Applause.)

Judge Neilson—Captain Rogers, I hope you and your officers will discover some of those invisible people who make all this noise. I believe it ought to be stopped.

The evidence of Mr. Harman, to whom the "True Story" was also read by Tilton, was then cited by Mr. Beach. Harman asked Tilton whether he had seen "that monstrous story of the Woodhulls, and urged him to give it a full denial." Tilton said, "Suppose I can't deny it?" And this, gentlemen, is from a witness of their own; that Tilton, when pressed, said substantially that he could not dispute the story. While this gentleman was continually putting forth letters refuting the charge, yet whenever he was forced as to these evasions and excuses he at once put himself on the excuse that he could not make a full declaration. Never, according to the evidence in this case, has Tilton uttered a single untruth in regard to the nature of this offence. I pass Mr. Tilton with this very cursory examination; there are some other questions in regard to marriage and divorce of which I say that a just examination of the belief of Mr. Tilton relative to social science, as well as to religion, show him to be a thoughtful and judicious public man. That carries the distribution of evidence as founded on the testimony of Tilton, Mr. and Mrs. Moulton, the testimony derived from Mr. Beecher's letters, and all that mass of trivial evidence which sprung out of the particular phases which we have gone through. It was a notable event when Theodore Tilton appeared in Plymouth church to answer the question whether or not

HE HAD SLANDERED HIS PASTOR,

and in the face of the congregation and of the pastor defied and challenged investigation. The West charges were at that time under investigation by the church. It was on the record of the church that Tilton had charged intimacy of a criminal nature between the pastor and Mrs. Tilton, and the question was whether he had slandered Henry Ward Beecher. He heard that it was the purpose of the committee of the church not to summon him, as he was not a member of the church, so he went down to the church and tendered himself as a member to remove that obstacle. He said:—"If you have any complaint to make against me, who have charged you with adultery with my wife, I am here to answer it. I don't deny what I have said." And there is no record, no declaration on record, wherein he did deny that he had charged adultery. One would suppose while that church was convulsed with this difficulty, when Mr. West and other Christian gentlemen had been for nearly three years pursuing investigations; it would seem that when they had Tilton before them, subject to their investigation, and when it was the interest of the church to wipe from Mr. Beecher the imputation of this scandal that they would have questioned him. Then was the time when injured innocence should have stood up in the person of Mr. Beecher and denounced his libeller, and have thereby cleared himself and his church from this slander. Would he not have done it if innocent? The only question involved there was whether Tilton had charged Mr. Beecher with adultery with his wife. Had Beecher, who is so proud and so confident to-day, when in that open court, in the temple of his God and before the world (of whom Tilton declared he told no untruth against Beecher), Beecher says, "I have no charge to make." And why not, when everything was crowding these charges to investigation; when every interest demanded it; when he had the power and the control of the tribunal which was to pronounce upon it? It must be answered. It will not do to say he feared the influence it would have upon Tilton's family; or that Mrs. Tilton had innocently bestowed on him her affections.

MRS. HOOKER'S THREATS.

It appears from the testimony of Tilton that Mr. Beecher said to him that his sister, Mrs. Hooker, had threatened to come to Brooklyn and to read from Plymouth church pulpit a confession of his relations with Mrs. Tilton to the whole congregation. He read the letter to Moulton and Tilton, and asked, "What ought to be done?" Tilton told him to give him the letter, which Beecher did, and went to New York, saw Mrs. Hooker and stopped the threatened mischief. Mr. Beecher said he was "profoundly grateful for having escaped the great danger which had threatened him through this member of his own family." This is not contradicted by Beecher, and I call the attention of the jury to this letter. There is no attempt at denial that Tilton saw Mrs. Hooker and averted the mischief. Yet that man, with that admitted, tells you on the stand that he never was guilty of the slightest impropriety with Mrs. Tilton. Mr. Beecher concedes the force of that threat, and, instead of meeting it defiantly, he allows it to be stilled by the help of Mr. Tilton. Now, in the name of all that is credible and credulous, can you believe that? If you believe that he did make improper solicitations to Mrs. Tilton then his whole evidence is worthless, and the quotation holds good, "False in one, false in all." All concede that Mrs. Bradshaw is an estimable and pious Christian lady, and her letter to Mr. Beecher commends her to our respect and confidence. The West charges were pending and Mrs. Bradshaw was a witness.

Mr. Beach then read the letter of that lady to Mr. Beecher.

Must she believe the infamous stories which Theodore Tilton has told her of her pastor? No; she asks Mr. Beecher to modify them, if ever so little.

Mr. Beach then read the reply of Mr. Beecher to Mrs. Bradshaw urging silence. Do you believe, said the counsel, that that reply under those circumstances was written by a man who could stand up before his fellow men and swear that there was not even the shadow of an offence on his conscience? Would he, if innocent, meet this estimable lady with such an answer? He knew the truth, and knew it was not safe for him to name Mr. Tilton as a liar. Instead of tendering an explanation to this woman, which would have been satisfactory, he refuses all information, and she declines to go before the church committee.

It is admitted that Mr. Beecher prepared a resignation, in which he said he was willing to sacrifice himself, and step down and out if that would save Tilton. The people whom he now dishonors by saying that about this time he suspected Tilton and Moulton of blackmail, the then was willing to step down and out if it would help them. Why, in the name of all that is wondrous, that is a proposition addressed to twelve intelligent men, that Henry Ward Beecher would do that without guilt. There was no stripping for the fight there; there was no getting out of the pulpit for the sake of being untrammelled at this stage. Why, then, should he step down and lay aside his honors at this time? Could he by any act more humbly or penitentially confess his sin? That is a fact that appeals to your sound sense and judgment and must be conscientiously disposed of logically and as truth-loving men. If you reconcile it with the innocence of Mr. Beecher, you have a power of logic inconceivable to me.

Mr. Beach then read the letter of Mr. Beecher to Mrs. Tilton of February 7, 1872, in which he recommends Frank Moulton as a true friend to her honor. What had she done by which her honor was assailed so that she needed a friend to defend her? This letter was written, too, after Beecher had been forbidden by Tilton to visit her; after he had, to his great astonishment, learned that the wife of his friend had bestowed on him her idolatry, and thus broken up the peace of her household. The point is, that Mr. Beecher, under these circumstances, should dare to send appeals to this woman, appealing to her affections, daring to do this in the face of the theory he presents, imputing to this woman the indelicacy of loving him without solicitation, should dare to send letters full of his own love and soliciting hers; nay suggesting opportunities for meetings, filling the heart of this woman with affection for himself and distaste for her home. If there was nothing else to prove that he was rotten at the heart it would be found in these letters. Instead of, as a true priest of God, admonishing her of the impropriety of those affections; instead of pointing her to the love of her children and her home, and to her Redeemer, he addresses himself to her affections, and addresses to her suggestions which are calculated to more widely separate her from her love for her husband and her soul from her God.

THE JURY RESENT AN IMPUTATION.

Mr. Beach closed his argument at four o'clock.

Mr. George Hall, one of the jurors, then arose from his chair, and, addressing the Court, said that reflection had been cast by the counsel upon the jury. He said:—"This is not the first, nor the second, nor the third, nor the fourth time during the last eight days that reflection has been cast by counsel on the jury. As if it is not enough that we should have to sit here day after day, week after week and month after month, deprived of our regular meals and of the means with which to make home comfortable; is it not enough that we have to suffer all this; to sit here for a pittance of $3 a week, without having such insinuations as have been made. I can safely say that this jury has not been approached by any improper influences, except in one instance, where, under the cover of an envelope, a slip cut from the *Sun* was sent to each member of the jury. I hope Your Honor will be kind enough to instruct the gentleman to refrain from reflections on the jury."

Judge Neilson—I think that the juror misapprehended the counsel. I don't think that the counsel meant for a moment to cast any reflection upon the jury. Very few of us can speak at all times without falling into mistakes.

Mr. Beach—It may be hard for that gentleman, and it may be that it would be just for me to accept of the excuse which Your Honor makes; but I have had occasion to say and I believe that this jury has been approached, and I have got pretty clear and satisfactory evidence on the subject, which I may enter before this case is ended. (Applause.) I don't make the accusation against any person of this jury; but I say that members of this jury have made very improper declarations, and that they have been approached by the emissaries of the defendant, and that I have the means of proving. (Applause.)

Mr. Abbott—Such remarks are entirely uncalled for, Your Honor. They are out of place and they lack that substantiation which is essential in proof.

Mr. Shearman—We demand the evidence here and now. I undertake to deny the accusation as utterly untrue. At an early stage of the case there was a charge made of this kind—that money was being used by Plymouth church. I desire now to say that I will take all the responsibility if there has been money improperly used. Not one dollar has been used that has not come out of my pocket, and no person has contributed a single dollar except Mr. Beecher and myself.

Mr. Beach—The assertions of the counsel are evidently far beyond his knowledge, because it is certain that parties without the knowledge of this counsel could use means. Though he may be ready to take all the responsibility he cannot take all the knowledge. It would have been improper to say this if I had not been arraigned by one of the jury. I have said that there were influences surrounding this court and this case without imputing them to these gentlemen, and I will sustain what I have said to Your Honor on this occasion, but I will take my own time and mode to do it. I regret if I should do anything to sacrifice the respect of this jury and to injure the case of my client, and I hope that these gentlemen will not be prejudiced by my remarks. He would ask that a time be appointed by the Court for the production of such evidence as he had in regard to the matter.

Judge Neilson said that after the trial it would be proper to investigate and punish the guilty parties. It would be out of order now.

Mr. Fullerton said if defendant's counsel were ready now to take it up they were prepared. There were many things which had happened of which Mr. Shearman was not aware.

The Court then adjourned till eleven o'clock to-day.

AN ARREST.

During the session of the Tilton-Beecher trial yesterday Sergeant Rogers detected a young man disturbing the proceedings by applauding and arrested him. He gave his name as Michael Gallagher, residing at No. 247 West Twenty-first street, New York. Gallagher was taken before Judge Neilson, and, after a severe reprimand, was allowed to depart. This is the second arrest for a similar offence since the beginning of the trial.

FATHER TISSOT'S OBSEQUIES.

The obsequies of the late Rev. Father Tissot took place yesterday in the Church of St. Francis Xavier, Sixteenth street, where a low mass was celebrated by Rev. Father Hudon, rector of the college, assisted by about twenty-five priests. The coffin was placed in front of the draped altar. At the conclusion of the services the lid of the coffin was removed, and the clergymen, scholastics, brothers and numerous lay friends passed around it, in order to view for the last time the features of their dead friend. The remains of Father Tissot were removed immediately after to Fordham for interment in the cemetery attached to St. John's College. They were accompanied by ten of the Fathers of the Order and seven seminarians. The body was conveyed into the chapel, attended by all the members of the community, and the "Libera" sung by the choir. Finally the remains were deposited in the graveyard. The procession was a most edifying sight.

SUICIDE BY OPIUM.

A young girl, who has for some time been known as Miss Belmont, committed suicide Sunday evening in a house of ill-fame in West Twenty-sixth street, where she had lived about two years. For several weeks past she had been suffering from a severe cold and neuralgia, and this led to fits of despondency. On Sunday she sent a boy to a drug store in Sixth avenue for a bottle of Munn's elixir of opium, and on its being brought to her drank the entire contents. She was in the kitchen at the time, and the servant, noticing the large dose the unhappy girl had just swallowed, went for a physician. In the course of an hour four doctors were called in, but in spite of all their efforts she died in their hands.

Coroner Woltman will hold an inquest in a few days.

THE DOG LAW.

Now that the hot weather has set in it becomes necessary for the Board of Aldermen to take action upon the dog nuisance. On the 15th of July last an ordinance was passed relative to the killing of dogs and preventing their running at large without muzzles. This law was repealed on the 10th of October following; so that it now becomes necessary to pass a similar ordinance for this year. The Board of Aldermen will probably take action upon the matter at their next meeting.

ALLEGED INCENDIARISM.

Charles Barnes was arrested early yesterday morning on suspicion of having set fire to his dwelling and grocery store, on Morris avenue, near 149th street. The building is insured in the Westchester Insurance Company for $5,000, and was damaged to the extent of $250.