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THE
TALMAGE CASE,

AND

THE COMPLAINANTS

BEFORE

THE SYNOD OF LONG ISLAND,

BY

SAMUEL T. SPEAR, D. D.

BROOKLYN:

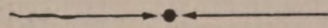
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ERRATA.

For "Secretary," the 6th line from the top, p. 56, read "Society."

For "February," the 4th and 20th lines from the top, p. 76, read "July ;"
and for "nine," the 9th and 11th lines from the top, p. 76, read "three."

For the "24th of February," the 12th line from the bottom, p. 103, and
the 2d line from the bottom, p. 107, and the 2d line from the top, p. 108,
read the "10th of March".

THE TALMAGE CASE.

INTRODUCTION.

The complainants in this case are not aggrieved parties, seeking redress for alleged injuries to them. The action complained of, while judicially relieving Dr. Talmage of a grave accusation, has not harmfully touched a hair of their heads. If not in accordance with their judgment, this is no more than always happens when the views of a majority prevail over those of a minority. To be out-voted is certainly no grievance. Dr. Talmage is the only party that could have been aggrieved by the action of the Presbytery; and, being acquitted, he has had no occasion either to complain or appeal.

The Book of Discipline, chapter VIII., section 4, contains the fundamental law of the Presbyterian Church in respect to complaints, and, among other things, declares that a complaint, the proper preliminaries having been supplied, "brings the whole proceedings in the case under the review of the superior judicatory." It further declares that "if the complaint appears to be well founded, it may have the effect, not only of drawing down censure upon those who concurred in the judgment complained of, but also of reversing that judgment and placing matters in the same situation in which they were before the judgment was pronounced." These provisions define the jurisdiction of the Synod in respect to this complaint. There is a general cognizance of "the whole proceedings in the case" of Dr. Talmage from their initial point to their final consummation. All these proceedings are before the Synod for review.

Any one of four results may ensue from this review: 1. The complaint may be dismissed as resting upon no suffi-

cient grounds. 2. Some of the proceedings of the Presbytery may not be approved, while the final verdict of acquittal may be sustained. 3. The judgment of acquittal may be reversed, which reversal, according to the Book of Discipline, would have the effect of "placing matters in the same situation in which they were before the judgment was pronounced." 4. The censure of the Synod may be inflicted "upon those who concurred in the judgment complained of." The jurisdiction reaches to and covers all these points.

Should the Synod reverse the judgment complained of, then the legal effect would not be to find Dr. Talmage guilty of "falsehood and deceit," as charged against him, but to vacate the verdict of acquittal, and, in the language of the Book of Discipline, place "matters in the same situation in which they were before the judgment was pronounced." That situation was neither an acquittal nor a conviction, but simply an arraignment and a status of trial on the charge of "falsehood and deceit." To this situation a reversal of the judgment would restore the case, remitting it back to the Presbytery for further consideration and action under the direction and authority of the Synod. The language of the Book of Discipline is clear and explicit on this point.

Dr. Talmage, though not the party complained of, and not directly on trial, is, nevertheless, deeply interested in the decision to be made in this case. He is the pastor of one of the largest churches under the care of the Synod. He has been tried and acquitted by his own Presbytery; and the church to which he ministers is in hearty accord with its verdict. The complainants have no sympathizers, and no representatives of their views in that church. The influence and usefulness of Dr. Talmage among his own people have not been impaired in the slightest degree by any disclosures made during the trial. The general judgment of the city in which he resides, concurs, by an overwhelming preponderance, with the verdict of the Presbytery. Unless I am greatly mistaken, the same fact

holds true throughout the country, both in the church and out of it. The greeting which Dr. Talmage, upon his recent visit, received in England, Scotland and Ireland, indicates very clearly that Christians there do not regard him as a liar or a deceiver. These complainants do not represent the prevalent judgment of this country, or of any other, in respect to him or the result of his trial. There is no general sentiment anywhere that has been violated or offended by his acquittal.

These are the sober facts in this case ; and I am quite clear that if the complainants could have made up their minds quietly to acquiesce in the judgment of the Presbytery, and let the whole matter rest with that verdict, no one would have censured them as unfaithful to duty, or lacking in zeal for the honor of religion. Time, with its softening hand, would have gradually soothed the irritations occasioned by the trial : and Dr. Talmage would have been left to pursue his work without any further ecclesiastical molestation or discomfort. Such, in my judgment, is the course that best expresses the highest dictates of Christian wisdom.

Two of the complainants—one of them a judge in the case, and the other a member of the prosecuting committee—proceeded, immediately after the verdict was rendered, to scatter their speeches in a pamphlet form broadcast throughout the country, especially among the ministers of the Presbyterian Church. They did not wait to obtain the judgment of the Synod in respect to the acquittal of the accused, but at once took an appeal to the tribunal of public opinion, evidently seeking to produce an impression upon that tribunal different from the one made upon the Presbytery by the evidence, thus, in effect, arraigning the Court and Dr. Talmage at the same time. I forbear to express any opinion as to the state of mind indicated by this action, preferring to leave that to the sober sense of a candid world.

Very soon after the close of the trial, letters came pouring in upon me from all directions, sometimes at the rate of a dozen a day, announcing the reception of these speeches, expressing surprise at this singular exhibit, and suggesting

that the speech for the defense ought, in the circumstances, to be published and circulated, as the means of giving to the public the other side of the question. It was with this view, and in these circumstances, that seventeen ministers of the Presbytery of Brooklyn formally requested the publication of that speech in a pamphlet form; and in accordance with this request it was so published by the Session and Trustees of the Tabernacle Church.

The *main* question involved in this complaint is, whether there is any just occasion for disturbing or reversing the action of the Presbytery in the acquittal of Dr. Talmage. The offense charged was of such a nature that its *soul* and *essence* consisted in the intentions of his mind. If, in respect to the matters alleged against him, there was no intention to utter a falsehood or perpetrate a deceit, then he was entitled to an acquittal, since the offense charged had not been committed. It is a simple dictate of justice that no such intention should be imputed to him, unless his words and conduct, in connection with the facts proved, cannot be reasonably reconciled with the hypothesis of truthfulness. If they can be thus reconciled, then his innocence is the conclusion to be adopted. It is a duty to presume and assume his innocence until his guilt is proved beyond reasonable doubt; and his guilt is not thus proved so long as the facts are capable of a rational explanation in consistency with innocence.

There is a way of dealing with human character that is simply a species of logical barbarism. The purpose is to slaughter and destroy. The passion to be gratified is an intense thirst for blood. No explanations are heard or accepted, and no constructions favorable to innocence are admissible. The entire effort of thought is to find guilt, and nothing else; and all the facts are grouped and combined solely with reference to this end. Facts are distorted, and facts omitted, in order that guilt may be made to appear. But one side of the case is looked at, and even this is not studied in a candid and impartial frame of mind. Sometimes this means a cool and deliberate purpose, which is

simple hostility, often disguised under a professed sense of duty, yet none the less malignant on account of the disguise. Sometimes this treatment of another's character results from an intense prejudice that blinds the eye of thought, except in one direction, and always perverts and misguides the understanding. In neither case is the mind in a condition to judge candidly, and in neither will it do so.

It is hardly necessary to say that no human character will stand such treatment. I am sure that my own will not, and I doubt whether any one of the complainants would relish this sort of logic if applied to himself. It is not the logic of the judge seeking for the truth, and carefully and candidly collating and weighing all the facts with a view to its discovery, but rather the logic of an enemy, or of one who has a foregone conclusion which, for some reason, he is interested to sustain, and which he will do his best to sustain, no matter what may be the injustice to the party he accuses, and, perhaps, means to destroy. No human character is so perfect that it may not be more or less blackened, at least in appearance, if ransacked and assailed in this way. It is a cold, unfeeling, ungenial and bloodthirsty way of dealing with men, and is sometimes practiced by those who would present a very sorry spectacle if their own conduct were subjected to such an ordeal.

The truth is, that human nature is not omniscient and not absolutely uniform in mental conditions; and hence it is marked with many inconsistencies, which, by a certain process of representation and argumentation, may be so arranged and arrayed as to discolor the character of even the best man. Bad motives may be imputed where good ones would be more reasonable; and intentions may be manufactured for others that have no existence. It does not by any means follow that one is consciously false, or that he means to be a deceiver, because his actions, in a dozen different positions, when compared together, are not found in exact harmony, or because they are not always discreet and wise. Every one acts with a limited view even of the past, and a vastly more limited view of the future.

One may contradict himself, and yet be perfectly honest. He may at different times state opposite opinions about the same person, and not be false in either statement. He may not agree with himself in different statements of professedly the same facts, and yet there may be no intended violation of truth. He may contradict others, or be contradicted by them, and yet be entirely honest and sincere. He may state things as they are not, and yet speak the truth *as* he sees it.

We must not, in judging of the words or conduct of men, assume their omniscience, or their absolute uniformity as to states of mind. If we do, we shall certainly misjudge them. It will not do to write down every inconsistent man as a knave and a falsifier. This rule would compel us to call all men liars, especially those who have impulsive and excitable natures, and hence are not likely to give themselves time enough for thought when they speak and act. The words of such men are often not exactly true to the facts, although they do not mean them to be false. Their failure to speak the precise truth does not necessarily prove that they are liars or deceivers.

The complainants in this case state seven reasons why they find fault with the action of the Presbytery in the acquittal of Dr. Talmage ; and to each the Presbytery has made a reply. As it respects the first five reasons and the seventh, I see no occasion for adding a word to that reply. These reasons relate to alleged circumstances connected with the procedure ; and they are either frivolous upon their face, or based upon false statements, revealing alike the inventiveness of the complainants and the poverty of their case. Being content with the answer of the Presbytery to these reasons, I submit it as follows :—

THE ACQUITTAL OF DR. TALMAGE.

Resolved, That the charge be dismissed as unproved and disproved, and the Presbytery hereby express to Dr. Talmage its heart-felt confidence in him as a minister of Christ, and its earnest desire that he and his church may share abundantly in the divine blessing, and that his ministry

may prove the source of rich spiritual blessings to his people and to the community among whom he may labor.

ANSWER OF THE PRESBYTERY.

It is against this action, either in itself or in the manner of reaching the result, that the complainants have notified the Presbytery of their intention to complain to the Synod of Long Island. The first reason assigned by them is in the following words: "Because during the process of the trial the Presbytery allowed the presence of an audience who manifested their sympathy for the accused by applause, laughter and hisses, accompanied in several instances by personal indignities towards members of the Court, whereby, as we believe, the judgment of the Court was unduly biased and its dignity and authority brought into contempt."

To this the Presbytery answer: 1. That during the taking of the testimony the sessions of the Presbytery were open to the public; that there is no law of the Book of Discipline or of established usage against open sessions in a judicial trial; that it is the province of every ecclesiastical court to settle this question according to its own discretion, and hence that no superior judicatory has the right to review its decision on this point.

2. That while there were occasional manifestations on the part of the audience, they were promptly rebuked by the Moderator and always discountenanced by the Presbytery, and that the effect was to decrease such manifestations, and finally to suppress them altogether, and that there was evidently at no time any intended contempt for "the dignity and authority" of the Court, and no desire to disturb the order of its proceedings.

3. That the statement of the complainants that "the judgment of the Court was unduly biased" by the presence of an audience and by the manifestations made, is without the slightest evidence to support it. The Presbytery most emphatically disclaim the imputation of a biased judgment, except as guided by the force of evidence, and can only express its surprise that it should have been made at all.

The second reason of the complainants is the following: "Because a mutual agreement between the accused and a witness (whose sworn testimony had been openly denounced before the Presbytery by the accused as a pack of falsehoods)—a so-called covenant that neither would defend his character at the expense of the other—a covenant resting on no basis of acknowledgment either of error or of wrong

by either party—was introduced before the Presbytery with such dramatic effect that many of the members were led to account it a sufficient ground for condoning the falsehood alleged against the accused, all of which proceeding was, in the judgment of the undersigned, out of place, improper and hurtful to the interests of justice in the case.”

To this the Presbytery reply: 1. That the witness here referred to is the Rev. I. W. Hathaway, who was a member of the Court, and in reference to whom the fourth specification charged Dr. Talmage with falsehood, in that in the winter of 1876-'77 he falsely accused Mr. Hathaway, then a theological student, of dishonest practices, and afterward denied that he had done so.

2. That this accusation against Mr. Hathaway, to which Dr. Van Dyke testified as having been made to him in the latter part of November, 1876, was the subject of a series of interviews between Dr. Talmage and Mr. Hathaway in the early part of January, 1877, which resulted in a satisfactory settlement of the whole difficulty, and the resumption of pleasant fraternal relations, and that Mr. Hathaway, having accepted this settlement as final and complete, never made any complaint to the Presbytery, and never sought any investigation or redress in respect to the matter involved in the fourth specification.

3. That the “proceeding” to which the complainants refer, and which they designate as “a mutual agreement” or “so-called covenant,” consists in the preparation of two letters addressed to the Moderator of the Presbytery—one by Dr. Talmage and the other by Mr. Hathaway—written after the latter had testified for the prosecution and been discharged as a witness, expressing the regret of each that the matter which had been settled between them two years previously should be revived in the form of specification four, and in view of this settlement declaring that, in respect to this matter, neither would undertake to vindicate his character at the expense of the other, which letters the Moderator announced to the Presbytery, and then requested each of these gentlemen to read his own letter in its hearing.

4. That the Presbytery had nothing to do with the writing of these letters, or with their introduction as above stated; that after their introduction a motion was made to strike out the fourth specification, which was not adopted, and hence that the letters did not, so far as the Presbytery

was concerned, in any way change or modify the course of procedure in the case.

5. That it is due to Dr. Talmage to say that his strong denunciation of the testimony of Mr. Hathaway, made in a moment of high excitement, was not intended to characterize that testimony in reference to any matter pertaining to their settlement in the early part of January, 1877, and to say further, a fact which the complainants omit to mention, that Dr. Talmage subsequently, and in a calmer moment, withdrew the language as openly as he had uttered it.

6. That not counting the Rev. Mr. McCullagh and the Rev. Mr. Crosby, who were not entitled to vote, and Dr. Van Dyke, who declined to vote on the fourth specification, the complainants, with two exceptions, sustained this specification, thereby conclusively showing that the "so-called covenant," to which they refer, had no "such dramatic effect" upon their minds as to lead them to condone the alleged falsehood.

7. That the ground on which the Presbytery acquitted Dr. Talmage of this specific accusation, was that the latter part of it, which sets forth an alleged denial, was actually disproved by the testimony of the prosecution, and that the former part, which declares that he had falsely accused I. W. Hathaway of "dishonest practices," was not proved, and hence that the evidence failed to sustain the accusation; and, further, that the judgment of the Presbytery in the premises was not influenced one way or the other by this "so-called covenant," but was based solely upon the evidence.

The third reason assigned by the complainants is as follows: "Because testimony for the defense, viz., the affidavit of General Howard, was introduced in open violation of the requirement of the Book of Discipline, chapter vi., section 13, and at such a stage in the trial as necessarily to preclude the prosecution from all opportunity to cross-examine the witness, and this violation of the rule is the more aggravated, because the affidavit in question had been in possession of counsel for the defense for some time before it was presented, and bore the date of March 21, while the date of its presentation was April 21."

To this the Presbytery reply: 1. That this affidavit, made at Chicago and bearing date of March 21, 1879, was introduced by the defense on the 21st of April, with the distinct statement that Dr. Talmage could not claim the

right of having it accepted as evidence, and with the expression of a wish that it might be read as a communication from General Howard to him, and with the further statement that General Howard was an invalid and could not come to Brooklyn as a witness.

2. That, after debate, the Presbytery decided to hear the paper as a communication, and that the prosecution might prepare questions to be sent to General Howard, and that the paper was accordingly read, without the reading of its attestation as an affidavit, and hence that it was received by the Presbytery not as an affidavit, but simply as a letter, and was so regarded by the Presbytery in rendering its verdict.

3. That at that stage of the trial, and in view of the uncertainty as to where General Howard then was, it was not possible to follow the rule of the Book of Discipline referred to by the complainants, and that in these circumstances the Presbytery deemed it but just and fair to the accused to hear the communication from General Howard, on the same principle that it had just heard a letter addressed by him to Dr. Talmage, to which the prosecution did not object.

4. That the Presbytery is satisfied that there was no trick, on the part of the defense, in delaying to offer this paper, as is shown by the fact that the trial did not commence until the 24th of March; that the prosecution consumed the first three weeks in presenting their evidence; that during two days of the week following, the Presbytery was not in session, and that the paper was offered when Dr. Talmage was a witness, which was the earliest point of time at which it could be properly presented, all of which facts satisfy the Presbytery that there was no studied delay in submitting the paper, or desire on the part of the defense to secure any improper advantage.

5. That the ends of justice were not in any way injured by hearing this communication from General Howard, since the points sought to be shown by it were, when all the testimony of the defense had been adduced, fully sustained without it.

The fourth reason of the complainants is the following: "Because on the other hand, the Moderator ruled out important evidence by the prosecution, which should, in the interest of truth and justice, have been admitted."

To this the Presbytery reply: 1. That the complainants do not state what this evidence is which was thus ruled out.

2. That any ruling of the Moderator upon evidence was subject to an appeal to the Court, and that if the complainants or any of them did not avail themselves of this right, then this was purely their own fault.

3. That the Book of Discipline, while prescribing rules as to the witnesses to be adduced, and as to the order to be pursued in their examination, and also providing that no question shall be put or answered except by permission of the Moderator, lays down no rule as to what is admissible evidence, and hence leaves this point to be settled by the wise discretion of the judicatory.

4. That in the absence of any such rule furnished by the Book of Discipline, the Moderator, saying in the early part of the trial that an ecclesiastical court should not in the trial of a minister make "its shield of protection a hair's breadth less than that which civil courts provide in the trial for petit offenses," announced to the Presbytery that, subject to the right of appeal in all cases, he should be guided in the admission of evidence by what he regarded as the general rules on this subject as established in this country, and as found on the whole best adapted to keep out irrelevant matter, and admit only evidence which is proper and pertinent to the issue, and further that the Moderator did, with entire impartiality and satisfaction to the Presbytery, apply these rules in the conduct of the trial, always entertaining an appeal from his decision, and following the judgment of the Court.

The fifth reason is the following: "Because the accused, when under cross-examination, was allowed to make long and irrelevant answers to direct and plain questions, and to refuse to answer questions concerning matters of importance to the issue, thus obstructing the course of justice and confusing the minds of the judges."

To this the Presbytery reply: 1. That it is not true that any allowance as to the answer of questions on cross-examination, or as to a declinature to answer questions, was extended to Dr. Talmage that was not equally extended to all the other witnesses.

2. That no such allowance was extended to any witness, either calculated or designed to obstruct the course of justice or confuse the minds of the judges.

3. That the Presbytery had no power in any case to coerce an answer to questions which a witness, for his own reasons, as was sometimes the fact, declined to answer.

4. That the conduct of the trial in respect to the examination of witnesses and their answer to questions, whether on their direct or cross-examination, was impartial alike towards the prosecution and the defense, and hence that there is no just foundation for the fifth reason assigned by the complainants.

The seventh and last reason is the following: "Because the accused and his counsel have justified his whole conduct, as set forth in the testimony, upon principles which are directly opposed to truth and righteousness, and because the acquittal of the accused upon, or in connection with, such principles, is injurious not only to religion, but to public morals."

To this the Presbytery reply that its judgment in the case was not based upon any theories or "principles" avowed by either the prosecution or the defense, whether in the course of the trial, or in the final summing up of the counsel; but was based upon the fact, and this only, that the evidence adduced during the trial did not show that Dr. Talmage had been guilty of falsehood and deceit in the matters alleged against him. The question of guilt or innocence, in the light of the evidence, is the only question upon which it passed judgment. Hence, this seventh reason, whatever may be true or not true as to the "principles" upon which "the accused and his counsel justified his whole conduct"—a point upon which the Presbytery sees no occasion to express an opinion—has no relevancy whatever to the acquittal of Dr. Talmage. That acquittal had nothing to do with anything but the evidence, and was based solely thereupon. The simple fact is, that the guilt of the accused was not, in the judgment of the Presbytery, proved by the evidence, and this is the best possible reason why he should have been acquitted.

The sixth reason assigned by the complainants is as follows:

"Because the vote of the majority of the Presbytery acquitting Dr. Talmage of falsehood and deceit is in open conflict with the recorded testimony in the case, and the grounds upon which many of the majority based their decision were irrelevant, inconsistent, and fitted to bring religion and morality into contempt. We believe the charge to be clearly proven by the facts which are admitted on both sides, and that in view of these facts the judgment of the Presbytery is injurious to the interests of religion, and cal-

culated to degrade the character of those who have pronounced it. We therefore appeal for redress to the judgment of the whole Presbyterian Church, as represented in her superior courts."

The answer given by the Presbytery is in the following words :

"To this the Presbytery reply that the judgment of the majority in this case is the judgment of the Presbytery of Brooklyn, and that the complainants, however honest in their views, or seemingly confident and assured in their statement of the same, have no just ground for assuming or saying that this judgment 'is in open conflict with the recorded testimony in the case.' The Presbytery most unqualifiedly deny the truth of this statement, and regard the complainants as entirely mistaken in their estimate of the evidence. Moreover, the remarkable allegation that 'the grounds upon which many of the majority based their decision were irrelevant, inconsistent, and fitted to bring religion and morality into contempt' is utterly foreign to the truth, and wholly unjustifiable by anything said on the part of those who voted for the acquittal of Dr. Talmage. The Presbytery cannot for a moment concede that the complainants have any monopoly of honesty, good conscience, and sound judgment in this case, or that its decision was based on anything but the evidence, and any implication to the contrary is false to the facts. The Presbytery believed, and now believes, that Dr. Talmage, in the light of the evidence, was entitled to an acquittal, and that any other judgment would have been wrong, and to him a manifest injustice. That the complainants do not so think is a matter of regret to the Presbytery; but this fact, though much regretted, furnishes the Presbytery with no ground for doubting the correctness of its own judgment, especially as the Presbytery had the opportunity of fully hearing all they saw fit to say in support of the opposite view."

The Presbytery here joins issue with the complainants, denying what they affirm, and affirming what they deny. This issue has no relation to the sixth and seventh specifications of the charge against Dr. Talmage, since here the complainants themselves voted for his acquittal, and, of course, do not complain of what they approve. The complaint refers to the action of the Presbytery in regard to

the first five specifications ; and these I now proceed to consider in their order.

SPECIFICATION FIRST.

The charge against Dr. Talmage, here made, consists in the alleged fact “that he acted deceitfully and made statements, which he knew to be false, in the matter of his withdrawal from the editorship of the *Christian at Work* in the month of October, 1876.” The vote of the Presbytery on this specification was twenty-five for acquittal and twenty for conviction.

That part of the accusation which declares that Dr. Talmage “made statements”—of course, in direct connection with his withdrawal from the *Christian at Work*—“which he knew to be false,” was sustained by no evidence whatever, and hence may at once be dismissed as not in the case. The simple question then is, whether Dr. Talmage “acted deceitfully” in the matter referred to—that is to say, whether he consciously, and of set purpose, perpetrated an act or acts of deceit. If what is either admitted or proved in this branch of the case can be reasonably reconciled with his innocence, then that is the end of the question.

And now, before taking up this question, I wish to advert for a moment to four matters which more or less made their appearance during the trial, but which were not relevant or not proved by any evidence, and which, for one or the other of these reasons, should be entirely dismissed. The first is the interview between Dr. Talmage, Mr. Hallock and Mr. Corwin, at the residence of Mr. Corwin, on the 6th of March, 1876. I shall not comment upon that interview, or upon the conflict between the testimony of Mr. Hallock and that of Dr. Talmage and Mr. Corwin in regard to it. It is enough to say that the interview was about seven months anterior to the transaction alleged in this accusation, and that it has no relation to it, either as being part of it or as proof. It simply has nothing to do, any more than an eclipse of the sun, with this charge against Dr. Talmage.

The second matter is the omission of Dr. Talmage to suggest any change in the circular of the paper that was issued on the 12th September, 1876, for the purpose of obtaining subscribers, in which he was referred to as the editor. This is one of the five deceits which Dr. Van Dyke sets down to his account, forgetting that the charge against him applies only to his withdrawal from the *Christian at Work* on the 9th of October, 1876, and has nothing whatever to do with a circular issued on the 12th of the previous September. One would think it quite sufficient to try an accused party for the offense charged, without trying and convicting him on one not charged. This circular was prepared by the business department of the paper, and, as Mr. Dickinson testified, with the knowledge that "Dr. Talmage looked to some change on his part in the Fall;" and if he was guilty of deceit when the circular was shown to him, because he suggested no change, then what about Mr. Dickinson and Mr. Remington who prepared the circular, knowing that "Dr. Talmage looked to some change on his part in the Fall;" that his contract did not extend beyond the then current year, and that his relation to the paper might be terminated at any time by a thirty days' previous notice from either party? Dr. Van Dyke's argument makes more sinners than one.

The truth is, there were no sinners at all in this matter. The circular was drawn up in the usual form. It stated the facts as they were there; and whether any change should occur was left for the future to determine. The attempt to get up an offense here on the part of Dr. Talmage, when this circular has no relation to the deceit charged in the indictment, besides being a specimen of hypercriticism, is a sort of drag-net operation that finds no favor in courts of justice.

The third matter is the imputation that Dr. Talmage was in some way concerned with furnishing the mail-list of the *Christian at Work* to the *Advance*. There is not a fragment of evidence to show this, even if it was done at all. Dr. Talmage denies the imputation. The letter of General

Howard supports that denial, and not a solitary witness contradicts it. Mr. Hallock did not pretend to any knowledge that traces such a fact to Dr. Talmage.

The fourth matter is the imputation that Dr. Talmage had something to do with procuring the insertion of the *Advance* advertisement in the issue of the *Christian at Work* that contained his valedictory. No evidence was adduced that showed such a fact; and the testimony of Dr. Talmage, Mr. Shelly and Mr. Crask, and the affidavit of General Howard read as a letter, completely stamped the imputation into the dust. General Howard is the man who, without the knowledge of Dr. Talmage, was concerned in procuring the insertion of this *Advance* advertisement.

Dismissing, then, these four items to which I have thus alluded, as not in the case, I shall take the 9th of October, 1876, which in that year was Monday, and which was the day in which Dr. Talmage committed the offense, if at all, as a standpoint for observation, not only in reference to the transactions of that day, but also in reference to any other transactions pertinent to this issue. Please to follow me in this narrative of that memorable day.

1. The first scene is one of prayer. Dr. Talmage, embarrassed with the perplexities of his connection with the *Christian at Work*, left his home in the morning to go to his office in New York, and, before he had proceeded far, retraced his steps, and went back to his study, and there sought wisdom from God. He so testified, and I take it that no one will here charge him with perjury. He certainly did not begin the day with the plans and purposes of a deceiver, or in a mood of mind favorable to such plans. But he did begin it as a Christian. I cannot think that even his most malignant enemy will construe this prayer into a hypocritical farce. He then had no idea that the fact would ever be known, or that he would ever have occasion to state it as a witness. It was then a matter between himself and his God. Dr. Talmage on his knees, in his study, there talking with God and invoking his guidance, is

a spectacle to invite commendation. The so-called deceit or lie does not come in very well here.

2. The next scene is the interview between Dr. Talmage and Mr. Hallock, at the Astor House in New York, at about twelve o'clock, no other parties being present. Mr. Hallock swears that he told Dr. Talmage that he bought the *Christian at Work* on the previous Saturday, which was the 7th of October, and that he proposed to him a written agreement by which he was to be the editor at a salary of two thousand dollars a year, which Dr. Talmage declined to sign, saying that he would give an answer the next day. Mr. Hallock further swears that at an accidental interview with Dr. Talmage on the 6th of October, which was Friday, in the City Hall Park, he told him that he was "about to purchase the *Christian at Work*," insisting strenuously upon this phraseology, although in his paper of the 19th of October, 1876, he thus described the interview: "I said that I was *seriously thinking* of purchasing the *Christian at Work*." Here are two different editions of what he said—an earlier and a later one. I have no wish to impeach the integrity of Mr. Hallock in his testimony as to these interviews. I shall assume, for all the purposes of this argument, that he testified in good faith on the witness stand.

Dr. Talmage, the other party to the Astor House interview, as well as to the preceding one in the City Hall Park, declared under oath that, in respect to the former, he did not understand from Mr. Hallock that he had actually purchased the *Christian at Work*; and that, in respect to the latter, namely, the City Hall Park interview, little or no impression was made upon his mind. Mr. Hallock had at different times talked so much about buying the paper, without doing it, that he attached no practical significance to what he said on that occasion. He did not understand from Mr. Hallock on Friday that he was about to buy the paper, and did not understand from him on Monday that he had bought it. So he swears.

There is here a conflict of understandings. One party understood himself to say what the other party did not un-

derstand him to say ; and this is no uncommon thing in the history of this world. Both may be perfectly honest, though they thus differ in their recollection as to the Astor House interview.

It may, however, be said that the memorandum of an agreement, previously prepared by Mr. Hallock and proposed to Dr. Talmage, but not signed by the latter, shows that the paper had been purchased by Mr. Hallock. To this I reply : (1.) This memorandum does not expressly state the fact of such a purchase, but simply speaks of Mr. Hallock's intention to clear the paper "from debt, and put it on a healthy, cash-paying basis." (2.) It does not necessarily imply the purchase as an accomplished fact, since it is not at all insupposable that Mr. Hallock, having the offer of the paper to him upon specified terms, might for his own reasons have chosen, before actually closing his contract with Mr. Remington, to settle the question of editorship with Dr. Talmage. (3.) The memorandum, if read to Dr. Talmage, or read by him, does not prove that he must have understood from it that the purchase of the paper by Mr. Hallock had been actually consummated. He swears positively that this was not his understanding at the time ; and there is nothing in the language of the memorandum to contradict his oath on this point.

It is to be borne in mind that there had been repeated conversations between these parties, extending over the period of months, sometimes casually, and at others in a more formal manner, about the idea of the purchase of the paper by Mr. Hallock. Both of them swear to this fact. And yet it was all talk and no action, no purchase, no result. It had become a sort of standing joke in the mind of Dr. Talmage, when he met Mr. Hallock, to ask him whether he had yet bought the paper. These antecedents in the history of Mr. Hallock, who, when on the witness stand, appeared as a very voluble, loose, and hap-hazard talker, explain why Dr. Talmage, as he swears, came to the conclusion that he probably would not buy the paper at all. He had become accustomed to Mr. Hallock's talks on this

subject, without any actual purchase ; and if he did not at the Astor House interview, either from what Mr. Hallock said, or from the memorandum, get the impression that the paper had been purchased by Mr. Hallock, the fact, in the circumstances, would not be at all surprising. It is perfectly easy to see how this might be the case.

It, moreover, so happens that Dr. Talmage wrote a letter to Mr. Hallock in the afternoon of this day, which settles this question as to what was his understanding at the time. The letter reads thus : "I have considered the offer you made me to the editorial chair of the *Christian at Work*, in case you purchase it, and have concluded it is my duty to decline it, and so I accept another position." This letter clearly implies that, whatever Mr. Hallock meant to say or did say, Dr. Talmage did not, at the Astor House interview, receive the impression that he had purchased the paper. If such had been his idea, he certainly would not have used the words, "*in case you purchase it*," as qualifying the offer made to him, when, as he knew, and as he knew that Mr. Hallock knew, that he had just been informed of the fact of purchase by Mr. Hallock himself. Human nature does not work in that way. Dr. Talmage did not ingeniously insert these words in his letter, thus anticipating their service in a future trial. Though they strongly confirm his testimony as to his own understanding, he could not foresee this use when he wrote them.

There are, moreover, some facts in evidence which throw light upon this letter. One is the fact that on the 4th of October, 1876, which was Wednesday of the previous week, Dr. Talmage had been in negotiation with General Howard, the proprietor and publisher of the *Advance*, in respect to taking an editorial position on that paper, which negotiation, as he testified, had not reached the stage of a completed agreement. Another fact is that on the 5th of October, which was Thursday, he wrote to Mr. Remington, informing him of his purpose to retire from the *Christian at Work* in one month from that date, thus on his part giving the notice which had been stipulated for in the agreement

of May 29th, 1876, with the *Christian at Work* Company. A third fact is that in the afternoon of this famous Monday he had an interview with General Howard, after receiving certain information, of which I shall speak in the sequel, and closed up his negotiations with him in the form of a written contract.

Now, when, not supposing that Mr. Hallock had actually purchased the paper, he wrote this letter to him, he wrote as he thought, and just as the facts were in his mind. He did, as he says, consider the offer made to him by Mr. Hallock, which he regarded as contingent upon a purchase yet to be made ; and he had a right to consider it, since at the time of the offer the negotiation with General Howard was not complete. He did conclude to decline the offer, and he had a right to do so ; and he did accept another position by finishing up his negotiation with General Howard, and he had a right to do that.

And yet Dr. Van Dyke, by a strange criticism upon words and a criticism based on false assumptions, in his deliverance before the Presbytery, treated this letter as "the crowning act of deceit" on the part of Dr. Talmage. His theory, without any good reason therefor, and against a fair and candid view of the facts, was that the letter implies what Dr. Talmage knew to be false when he wrote it, and hence that, in almost every word, it was at the time nothing but a piece of trickery. This is a very easy way of making out falsehood and deceit. The theory, moreover, strikes further than the letter, since it virtually makes Dr. Talmage a perjured witness. He swore positively to the fact which the letter implies, namely, that he did not at the Astor House interview understand from Mr. Hallock that he had purchased the paper. This letter, perfectly natural in the circumstances under which it was written, and just as unnatural and improbable, not to say stupid, upon the hypothesis of Dr. Van Dyke, is confirmatory of the truthfulness of Dr. Talmage in thus swearing, and of the correctness of his memory as to his own understanding of the Astor House interview. It is documentary evidence to

this effect, introduced, not by himself, but by the prosecution.

The sensible view—the one that commends itself to a fair and candid mind—is that in respect to the Astor House interview, particularly the question of the purchase of the paper by Mr. Hallock, Dr. Talmage did *not* at the time understand that the purchase was an accomplished fact, and that Mr. Hallock did think that he so understood; and unless we are determined to make one or the other a liar, we must assume this to be the case. There is nothing singular in such a misunderstanding. It is one of the most common things in the world. I prefer to adopt this view, rather than to call either of these parties a liar. I believe Dr. Talmage when he swears as to what was and what was not his thought at the time, especially when I find that his letter to Mr. Hallock, written on the same day, confirms his oath, and when I add the utter improbability that he should thus write if he did not thus think. So I believe Mr. Hallock when he swears as to what were his thoughts, and what he supposed were the thoughts of Dr. Talmage.

This saves the honesty of both parties; and this view must be taken, or we must impute perjury to one or the other, which is just the compliment that Dr. Van Dyke's argument virtually pays to Dr. Talmage.

If we assume, as we need not and should not, that one of these parties, when on the witness stand, was a falsifier, what evidence is there to show that Dr. Talmage was the falsifier? None whatever, except the oath of Mr. Hallock, swearing to what he supposed to be the understanding of Dr. Talmage. Well, is not the oath of Dr. Talmage, swearing as to what was *not* his understanding, just as good to prove Mr. Hallock to be the falsifier? There is no necessity for putting these men in the attitude of proving each other to be knaves; and if we make the attempt, we cannot tell who was the knave.

3. The third scene of this eventful day is the remarkable reticence on the part of the officers and managers of the *Christian at Work* toward Dr. Talmage. Bear in mind

that the paper was sold on the previous Saturday without his knowledge at the time, without any provision for him in the terms of the sale, and without any thirty days' notice to him as stipulated in the agreement of May 29th, 1876. All his obligations to the *Christian at Work* Company were thus terminated by the act of Mr. Remington, who was virtually the Company, and whom Dr. Talmage did not regard as friendly to him. The fact of sale was known not only to Mr. Remington, but to Mr. Dickinson, Mr. Hawley, and Mr. Bright, who were managers of the paper. Dr. Talmage came over to the office on Monday morning as ignorant of this fact as a child unborn; and not one of these gentlemen communicated the fact to him. They do not pretend to have done so, and he swears that they did not. He saw Mr. Dickinson, Mr. Hawley, and Mr. Bright, and they saw him, at different times during the day, and there was not on their lips the slightest allusion to the sale of the paper. It will not do to say that they thought that he knew all about it. If they so thought, why was not the matter of his and their common knowledge, as this assumes, the subject of at least some conversation? The sale of the paper was not so trifling a circumstance as to escape their notice by mere insignificance.

This reticence toward Dr. Talmage, who was the editor-in-chief as well as a trustee of the Company, is remarkable if everything was moving along smoothly between him and these parties, and if there were not some reason or reasons, operating alike upon them all, that led to this studied silence toward him. It is so remarkable as to be wholly unnatural. It is not the way in which men usually act in their ordinary mood of feeling. On its face it does not appear exactly honorable, to say the least. It would not be a very large stretch of fancy to conceive of it as involving "deceit." It looks as if the design was to keep the sale of the paper a secret from Dr. Talmage, for the time being. If such had not been the design, why was it sold at all without his knowledge, and why was he not, by Mr. Remington, or Mr. Dickinson, or Mr. Hawley, or Mr. Bright, informed of

the fact on the Monday following the sale ? Why this total silence in respect to a matter that deeply concerned him ?

4. The fourth scene is furnished by a casual interview, between two and four o'clock in the afternoon, on the part of Dr. Talmage with an employe of the office, who told him that the paper had been sold. The information thus received was confirmed by fragments of a conversation in an adjoining room, which he afterward heard from his editorial chair, and which implied the sale of the paper. His supposition was that the paper had been sold to a gentleman in Philadelphia, with whom Mr. Remington had been in conference. It was a supposition, and not a matter of positive knowledge, as Dr. Van Dyke, in his deliverance before the Presbytery, assumed when he said that Dr. Talmage "swears that he *knew*, and defends his whole action that night upon the *knowledge*, that the paper was already sold to a gentleman in Philadelphia." Dr. Talmage did not so swear. What he said is this : "I *supposed* the paper had been sold to a gentleman in Philadelphia, with whom Mr. Remington had been in conference." He does not assert knowledge. He got, as he swears, no such knowledge from Mr. Hallock or from the officers of the *Christian at Work*. He had an impression, and he tells what it was and how he got it.

It must, to Dr. Talmage, have seemed very strange, with this impression in mind, coming as it did, that nothing had been said to him by the officers of the Company about the sale of the paper. Such questions as these would naturally occur : Why this sale without any conference with me ? Why this silence toward me ? Why have I been kept in ignorance ? What does this mean ? The fact that he regarded Mr. Remington as hostile to him, would give these questions special force to his mind, particularly as this Mr. Remington was financially the great man in the concern.

Dr. Talmage was excited and indignant. He felt outraged by what he supposed to be a fact. He so felt then, has so felt ever since, and will continue so to feel. He condemned Mr. Remington especially, and regarded his con-

duct toward him as being "surreptitious" in the sense of being sly, secret, clandestine, not honorable. Perhaps he misjudged him, and perhaps he did not. Whether he did or not, he so judged, and sticks to that judgment to this day. The conduct was not, in view of his relation to the paper and his interest therein, fair and open dealing on the part of Mr. Remington.

It is not surprising that Dr. Talmage, in these circumstances and with these views, did not seek to ascertain from Mr. Remington or Mr. Dickinson the exact state of the facts before taking any action on his part. It is quite possible that the coolest kind of prudence might have suggested this course; yet one who thinks that another has played a sharp game with him, or means to play such a game, is not apt to take that other into his counsels. He rather avoids him than seeks him. This sufficiently explains why Dr. Talmage made no inquiries of Mr. Remington, or Mr. Dickinson, or Mr. Hawley. He did not look upon these men as friendly to him. He naturally, as the matter was then presented to his mind, regarded Mr. Remington and the office managers of the *Christian at Work* in an unfavorable light. He was the editor-in-chief, as well as a trustee and stockholder; and here was a transaction, changing the ownership of the paper, and not a word had been said to him about it by these parties. The impression upon his mind was a bad one; and such it would have been upon any mind.

5. The next scene is one in which Dr. Talmage and Mr. Bright, the managing editor of the paper, were the participants. Mr. Bright fixes the time by the fact that he wanted to leave the office sufficiently early to catch the four o'clock train for Tarrytown, and this renders it probable that the time was not later than half-past three o'clock. It would take him at least half an hour to reach the train from the office. He presented, as he swears, the plan of the next issue of the paper, saying to Dr. Talmage, "Here is the paper; it is all made up; I want to take the four o'clock train to Tarrytown." Dr. Talmage replied, "All

right, go ahead;" and Mr. Bright, as he says, "bade him good-night and went ahead." This is the whole of the scene, and, according to the statement of Mr. Bright, it was a matter of but a moment.

Dr. Van Dyke, in his deliverance before the Presbytery, here finds one of his five instances of deceit on the part of Dr. Talmage. "A fourth act of deceit," he says, "accompanied with falsehood, was his going through the formality of approving the paper, as already made up, presented to him by Mr. Bright, *when he did not intend the paper should go out in that form.*" How does Dr. Van Dyke know that he did not so intend when he said to Mr. Bright, certainly not later than half past three o'clock, "All right, go ahead?" How does he know that at that time Dr. Talmage had determined to write his valedictory and retire from the *Christian at Work*? How does he know the length of time between that period and the period when Dr. Talmage was informed of the sale of the paper by an employe of the office? How does he know that this information did not actually come *after* this short interview with Mr. Bright, especially as Dr. Talmage fixes the time of receiving it between two and four o'clock? How does he know what were the thoughts and purposes of Dr. Talmage at the moment in which he spoke as he did to Mr. Bright? His statement is a sheer assumption from beginning to end; and yet he leaps to it with the celerity of a trained athlete.

Let it be remembered, moreover, that Dr. Talmage was the editor-in-chief, and that Mr. Bright was his subordinate. As a subordinate, the latter had no claim to know the thoughts and purposes of his superior, except as the knowledge might be necessary to the performance of his duties. When Mr. Bright had made up the paper and presented it to Dr. Talmage his work was ended, and whether Dr. Talmage did or did not then intend to change it, was not a matter in respect to which Mr. Bright was entitled to knowledge. The fact that he had made up the paper and was told to "go ahead," did not affect the prerogatives of Dr. Talmage as editor-in-chief, or his right to change it

either with or without the knowledge of Mr. Bright. If, then, we concede Dr. Van Dyke's assumption, his inference does not follow at all. The premise from which he reasons is nothing but an assumption, and the logic founded upon it is no better.

6. The sixth scene of the day is one in which Dr. Talmage and Mr. Shelly were the parties directly concerned. Mr. Shelly was a member of the Tabernacle Church, and his place of business in New York was but two or three blocks from the office of the *Christian at Work*. Dr. Talmage came there about four o'clock, probably a little after; and as to his conduct and language Mr. Shelly thus testifies: "The Doctor was kind of mad that day. He was a little agitated and a little out of his usual line of conduct. He said, 'Mr. Shelly, I have had trouble with the *Christian at Work*; I am sold out, and I am not going to stand it.'"

Here we see the mental condition of Dr. Talmage, what he thought and how he felt, when the matter was fresh in his mind. Mr. Shelly was his friend, and he spoke to him just as he felt. He had no motive for going to this witness, and aping madness, and saying to him what he did, except upon the supposition that he thought himself wronged in the matter referred to. He could not then foresee that this scene would be of any future consequence to him, and that Mr. Shelly would serve him as a witness. He then had no idea that the scene would be brought out in any future trial on the charge of falsehood and deceit. He was not then preparing evidence for such an emergency. He acted as he felt, and spoke as he thought, in the presence of a friend whom he trusted. This brief interview with Mr. Shelly speaks volumes as to his state of mind, since it clearly shows that, after being informed about the sale of the paper as he testified, he supposed himself to be the victim of a sharp and dishonorable game. There is no other reasonable way of accounting for the facts of that interview. Whatever Mr. Remington thought or meant, there can be no mistake as to what Dr. Talmage thought, or as to how he felt.

7. The seventh scene, lying very near the one just described, occurs between Dr. Talmage and General Howard. Bear in mind that the former had been in negotiation with the latter for some time, and that on the 4th of October, which was Wednesday of the previous week, the negotiation, though not complete, was, nevertheless, so far advanced and so likely to end in a fixed agreement, that Dr. Talmage, on the 5th of October, which was Thursday, addressed a letter to Mr. Remington, giving him thirty days' notice of his intention to retire from the *Christian at Work* in one month from that date, expecting to go to the *Advance* at the termination of this period. The information, however, which he received on the following Monday about the sale of the paper, and the views which he had in regard to it, led him late in the afternoon of that day, probably after his interview with Mr. Shelly, to see General Howard, and at once complete his arrangement with him, and summarily retire from the *Christian at Work*. He swears that he did so; and the affidavit of General Howard, read simply as a letter, confirms the statement. The purpose of retirement from the *Christian at Work* is now settled, if it was not before; and the purpose to publish a farewell editorial to the readers of that paper is also settled. The indignation of his mind at a supposed wrong has reached this practical form. We cannot account for the action without assuming the indignation, and the indignation as a fact is clearly proved.

8. The eighth scene, occurring in the early evening, sometime between six and seven o'clock, is furnished by the testimony of Mr. Waugh. He saw Dr. Talmage go into the proof-room, and soon after the foreman went in, and in about five minutes after Dr. Talmage came out and went away, and that is the last he saw of him. Mr. Waugh was afterward ordered by the foreman to take out an editorial from the forms as already made up, and the valedictory of Dr. Talmage was set up in type and put in its place. There is no dispute about these facts.

9. The ninth and last scene of the day occurs in the house

of Dr. Talmage, and is furnished by the testimony of his wife. She swears that it was not late when he returned home in the evening; and in reference to what had taken place during the day, she particularly remembers that he walked up and down the room, and then said: "There is one passage of Scripture that is continually in my mind." Being asked what it was, he said that "it has been on my mind all the way coming home," and then said: "My soul has escaped as a bird from the snare of the fowler: the snare is broken, and I am escaped." He repeated these words several times, and asked his wife if she did not think that his escape was in answer to prayer. Such is her testimony as to the mood of his mind in reference to the events of that day.

Now, I can hardly think that any one will for a moment imagine that Dr. Talmage was then and there playing a game of false pretenses upon his wife. Who believes that he was then palming off a pure deceit, for no assignable reason, and with no prospect of any advantage therefrom? Who believes that he came home reeking with deception, and acted the hypocrite with his wife that night, and quoted Scripture to help out the hypocrisy? Who believes all this? Nobody.

To suppose that he invented that home scene without any facts in his mind corresponding therewith, would be monstrous; and to suppose that he did so for the sake of its future use, anticipating that it might be employed as an argument in his favor, attributes to him a sagacity which even the most expert rascals do not possess. No! No! This will not do. Dr. Talmage thought that he had been grossly wronged, and he came home with that thought, and his conduct there was that thought in action.

It may be said that Dr. Talmage had no reason for such a thought, and that he was a fool for having it, and this is what Mr. Remington virtually says. Yet he had the thought with reason or without it. He had it when he talked with Mr. Shelly. He had it when he went to see General Howard. He had it when he determined to pub-

lish his valedictory. He had it when he came home. The proof is absolutely conclusive that he had the thought. He has the same thought to-day. The thought explains his action, and shows that he was doing what he thought necessary and justifiable by an emergency created not by himself, but by Mr. Remington.

Let me now summarize this somewhat extended narrative of the events of October 9th, 1876. Dr. Talmage begins the day with prayer for divine guidance. At twelve o'clock he has an interview with Mr. Hallock, but did not understand from him that he had bought the *Christian at Work*. The managers of the paper maintain a profound silence toward him as to its purchase by Mr. Hallock. Between two and four o'clock in the afternoon, he gets his first intimation that the paper has been sold; and he supposes that the sale was to a gentleman in Philadelphia. At about half-past three o'clock occurs his short interview with Mr. Bright, who showed him the paper as then made up, and he said to him, "All right, go ahead." Then he sees Mr. Shelly, and expresses his indignation at the sale of the paper, and says that he "is not going to stand it." Then he sees General Howard, and closes up his contract with him, and determines to leave the *Christian at Work* at once and go to the *Advance*. Early in the evening he is in the proof-room, and hands his valedictory to the foreman, directing its insertion in the next issue of the paper. Then he goes home, and there occurs the scene to which his wife testifies. Such is the history of the day, as furnished by the evidence.

Let it now be remembered that everything, as to the guilt or innocence of Dr. Talmage, turns upon his state of mind in the transactions connected with his withdrawal from the *Christian at Work*. He was not on trial for indiscretions. He was not prosecuted for damages done to the paper by his retirement therefrom. The sole and only question was whether he had been guilty of "falsehood and deceit" on the 9th of October, 1876. This was the crime charged, and whether he was guilty or not of this crime is a

question which, by its very nature, cannot be determined without ascertaining what was his state of mind at the time.

What state of mind then does the evidence show? I do not see how there can be any doubt upon this point. Dr. Talmage is, by the evidence, presented in the afternoon of this day as an excited, indignant, angry man, who regards himself as having been badly treated, especially by Mr. Remington. His own testimony shows this. The testimony of Mr. Shelly and that of his wife clearly prove that he supposed himself to have been wrongfully and unjustly dealt with. His visit to General Howard and the immediate completion of his contract with him are thus explained. His change of purpose, as to the time when he would retire from the *Christian at Work*, has an adequate reason in the view which he took of Mr. Remington's action. This view led him not to wait a month, as he had expected to do, but to withdraw from the paper at once. His purpose was changed by a new state of facts, as he saw them, which excited and angered his mind. Even if he were mistaken as to some of these facts, still they were facts to him, and produced an impression upon him as such. They were sufficiently real in his view to furnish a basis for immediate action on his part.

Now, it was in this state of mind, clearly shown by the evidence, that Dr. Talmage determined to write and publish his valedictory, and summarily close his connection with the *Christian at Work*. The motives which actuated him in so doing, stated by himself under oath, are as follows:

"I knew from the feeling of E. Remington toward me that it was my only opportunity of getting my valedictory in the paper. I felt that if it did not go in at that time, it would not go in. I would go out of the paper, my name would be dropped, and people would never know it. My feeling in that respect was very much as if I left my church in Brooklyn to go to a church in Chicago. I felt that I must say good-by to my subscribers and patrons, and let them know where I was going. I had a very pleasant asso-

ciation with a good many people through that paper, and I wanted to say a pleasant good-by to them. I wrote the editorial on the spot."

This is the statement which Dr. Talmage gives of the operations of his mind when he wrote that now famous editorial, in connection with the circumstances then present to his thoughts. Who contradicts this statement? Nobody. Who presents any facts proving it to be false? Nobody. Who convicts Dr. Talmage of perjury in making it? Nobody. Who is the mind-reader that can put the lie upon this language? Nobody. Dr. Talmage had the eye of his mind upon Mr. Remington, and thought that he knew enough of that man, and of his feelings toward him, to know that that was his last chance for saying a final word to the readers of the paper. He was then the editor, and no change in the actual management of the paper had yet been made.

Let us then read the editorial itself, and see what it says. Here it is in the following words :

"GOOD-BY, OLD FRIENDS."

"I have accepted the position of editor-in-chief of the *Advance*, which is hereafter to be published in New York as well as Chicago, transferring to that paper my sermons and other literary work. My new headquarters will be 24 Park Place, New York. My connection with the *Christian at Work* now ceases. My hearty thanks to all the subscribers with whom I have had years of pleasant intercourse. Happy myself, by the grace of God and the influence of an ancestry who did not believe there was any religion in moping, I have tried to make all our readers happy. We leave our benediction for our old friends, and ask their prayers for success in the wider field we are about to enter. Let us all with high hope press on toward the kingdom. This world never seemed so bright, or heaven so glorious as this afternoon. Good evening."

This is what Dr. Talmage wrote for the purpose which he has set forth in his sworn statement, and in the circumstances which have been fully detailed. The statement and the circumstances, as they existed in his mind, furnish a reasonable explanation of the act, without any imputation

of intended deceit. They account for all the facts in consistency with innocence. An enemy may give a bad construction to this editorial; and this is just what an enemy may do with reference to all the acts of men.

To say, as one of the complainants did in his deliverance before the Presbytery, that Dr. Talmage meant this editorial as a business card, or to say that his idea was to invite the subscribers to the *Christian at Work* to follow him to the *Advance*, is simply another way of saying that he was a perjured villain when he testified as a witness. There is nothing on the face of the editorial, nothing in its contents, and nothing in the circumstances under which it was written, that contradicts his own explanation of it. It is natural that he should desire to say a final word through the paper to his "old friends;" and this is what and all he did, and that, too, in language perfectly consistent with the absence of any intended deceit. Had he intended more, it would have been natural for him to say more.

And now, as to the *right* of Dr. Talmage to insert this editorial in that issue of the paper, it is to be remembered that he regarded himself as the editor-in-chief, and that he was such, and that he had not been ousted from this position, and that, as such, he had absolute control over the editorial columns of the paper. Dr. Prime and Dr. Porter, both of them gentlemen of large editorial experience, testified to the fact that such control belongs to the editor-in-chief of a newspaper, unless there is some express limitation otherwise in the contract, which was not true in this case. They further testified that an editor-in-chief, in the circumstances in which Dr. Talmage thought himself to be, would be justified in seizing upon what was seemingly his last opportunity for communicating with his subscribers. Dr. Prime expressly declared that he would do so himself, and, of course, meant to say that he would not regard the act as involving deceit. If Dr. Talmage had the right, as editor-in-chief, to insert that editorial, as he certainly had, or if he honestly regarded himself as having this right, as he certainly did, then it is absurd to talk about the act as

being one of deceit. No one is open to this charge when he simply does what he has or honestly thinks he has a right to do. Mistaken he may be as to his rights, but this does not make him a deceiver.

There is no pretense that Dr. Talmage deceived the readers of the *Christian at Work* by his valedictory, since he told them the truth. He did not intend to deceive Mr. Hallock, for he did not then know that Mr. Hallock was the owner of the paper. And as to the *Christian at Work* Company, consisting mainly in Mr. Remington, it was not in a condition to be deceived by the valedictory, since the paper had passed into another ownership on the previous Saturday, without the knowledge of Dr. Talmage, and without any provision in respect to him. In his own apt language, the paper left him, and before it actually passed from his editorial control, he seized upon what he thought to be his last opportunity to say good-by to his "old friends."

A great noise was made about Dr. Talmage by the *Christian at Work* at the time. Prejudices were excited against him by a system of persistent attack on the part of this paper. An evil rumor was spread abroad, and sought to be spread abroad. The land was made to echo with this clamor. And yet, when all the facts are explored, and all the circumstances are brought to light, as was the case in the trial of Dr. Talmage, the whole bottom drops out of this famous accusation. So the Presbytery judged, and it judged rightly.

SPECIFICATION SECOND.

The accusation here made is that Dr. Talmage was guilty of falsehood and deceit, "in that at various times he published, or allowed to be published by those closely associated with him, without contradicting them, statements which he knew to be false, or calculated to give a false impression, in defense of his action and statements referred to in the first specification." Of this accusation he was acquitted by a vote of twenty-five to twenty.

I was of opinion when this specification was formulated, as I still am, that it ought not to have been adopted at all. It is so general and indefinite as not to be in conformity with that rule of the Book of Discipline which requires that "the times, places and circumstances" of alleged offenses "should, if possible, be ascertained and stated." The specification did not give Dr. Talmage the proper notice in respect to the matter to which he was called to plead; and on this ground, when acting as his counsel, I asked the Presbytery to strike it out altogether. My motion to that effect did not prevail; and hence the accusation was submitted to the test of evidence, and the result was an acquittal. The question now to be considered is whether this acquittal was a correct verdict.

The evidence, necessary to justify a conviction, must show the following things:—1. That Dr. Talmage "published, or allowed to be published by those closely associated with him, without contradicting them," certain statements "in defense of his action and statements referred to in the first specification." 2. That these statements were "false or calculated to give a false impression." 3. That Dr. Talmage "knew" them to be "false or calculated to give a false impression." All these propositions must be sustained by the evidence, or the accusation fails for the want of proof. Was this done?

The proof adduced in support of the specification, consisted entirely in the testimony of Mr. Pearsall, and in an article that appeared in the *Advance* of October 19th, 1876.

Mr. Pearsall says that he was in the Tabernacle on the 15th of October, 1876, which was the Sabbath immediately following the retirement of Dr. Talmage from the *Christian at Work*, and that he heard his announcement in regard to the same. These are the words of Mr. Pearsall: "He stated from the platform that his connection with the *Christian at Work* had ceased, I think, on the 9th of October, on account of the paper having been surreptitiously sold to a Unitarian publisher without his knowledge; that he was expected to go with the sale of paper, but that

he was a part of the goods they could not deliver." Mr. Pearsall added that "a great deal more" was said, but that is "the substance," so far as he could recollect.

The article in the *Advance* of the following Thursday, under the general head of "Topics of the Times," reads as follows :

"At the Brooklyn Tabernacle last Sabbath, Dr. Talmage made the following statement, which explains the apparent abruptness of his recent action: 'I have changed my newspaper relations, and instead of being editor of the *Christian at Work*, will hereafter be editor of the *Advance*. This is no sudden change. My final resignation was made October 6th, when I wrote I would cease relations with the *Christian at Work* one month from that day, but last Monday I found that the *Christian at Work* had been surreptitiously, and without my knowledge, sold to the publisher of a Unitarian paper, with an impression on the part of the purchaser that I would go with it. After that surreptitious act I considered my obligations to the paper had ceased at once and forever.'"

As to this announcement thus reported in the *Advance*, Dr. Talmage, when on the witness stand, said: "I remember the announcement, but what I said I don't remember; I don't dispute it. I cannot remember any announcement. As to remembering announcements made three years ago that is impossible." To the question whether he said in his pulpit that "the paper had been surreptitiously sold," he answered, "I don't remember what I said." The article in the *Advance* being read to him, he was asked whether he made that statement in his pulpit on the 15th of October, and he replied: "I don't remember; I may have; but as to the *verbiage* I am not responsible." Being asked whether the *verbiage* was true, he gave the following construction to a part of it: "When I mentioned Mr. Hallock's being a Unitarian publisher, I simply did it as I would refer to a Baptist or Presbyterian publisher." Being then asked the direct question whether in that pulpit statement he said that Mr. Hallock was a Unitarian publisher, he answered: "I don't remember making it; I won't deny it."

Being asked whether he stated from his pulpit that he

“found on Monday that the paper had been sold to the publisher of a Unitarian paper,” Dr. Talmage answered: “I don’t remember the statement I made. I make ten or fifteen notices almost every Sabbath, and none of them make any serious impression on my mind.” Being further asked how he knew that Mr. Hallock had the impression that he would go with the paper, he answered: “Well, as I have said four or five times, I don’t know whether I made that publication.” Being asked why he said that the *Christian at Work* was sold surreptitiously, he replied: “The Court will observe, Mr. Moderator, that Mr. Hallock was not the man to give me the information according to the terms of the contract. Mr. Remington was the man to give me the thirty days’ notice. The notice ought to have come from Mr. Remington, and when Mr. Remington sells the paper without giving me any information, I being at the time editor-in-chief, trustee and stockholder, that was surreptitious if there was ever anything surreptitious in this world.”

This is all the evidence in the case relating to the second specification, with the exception of Mr. Hallock’s comment on the article in the *Advance*, in which he *thought* he saw six lies told by Dr. Talmage, in respect to which opinion Dr. Talmage politely thought that Mr. Hallock was mistaken six times. And it is upon this flimsy evidence that the prosecution sought to convict the accused of “falsehood and deceit;” and upon its basis twenty members of the Presbytery voted for conviction. Let us then look at the question for a moment.

1. The testimony of Mr. Pearsall, declaring that Dr. Talmage said that he had dissolved his connection with the *Christian at Work*, “on account of the paper having been surreptitiously sold to a Unitarian publisher without his knowledge, that he was expected to go with the sale of the paper, but that he was a part of the goods they could not deliver,” has no claim to be considered an exact statement of the words used by Dr. Talmage. Whatever Dr. Talmage said was heard by Mr. Pearsall between two and three years

prior to the giving of his testimony ; and in the meantime this Mr. Pearsall has become offended with Dr. Talmage, and left the congregation, and unless common fame believes him, is personally hostile to him. There were hundreds of others who heard the statement ; and why did not the prosecution cite some of them as witnesses ? Why did they not try other memories as well as his ? Upon the face of the case there is too much uncertainty in the testimony of Mr. Pearsall, saying nothing about his feelings toward Dr. Talmage, to hold the latter responsible for the words which he puts upon his lips, especially when all he claims to do is to give "the substance" of what was said. The prosecution seemed to have attached little or no importance to his testimony on this point.

2. The article in the *Advance*, published on the Thursday following the Sabbath on which Dr. Talmage made his announcement, was not connected with him as being its author, as having anything to do with its publication, or as having any knowledge of it. There was no evidence showing who took down the words uttered in the Tabernacle, or that the words reported were the precise ones uttered, or by what channel these words went to Chicago, where the publication took place, or that Dr. Talmage, either at the time or afterward, knew anything about this article. He was in Brooklyn and the paper was published in Chicago, and the evidence of the prosecution does not trace the article to him in any sense. He recollects making an announcement on the subject, but exactly what he said he does not remember, and, moreover, expressly disclaims any responsibility for the "verbiage" of the article.

It is quite true that Dr. Talmage was, in that issue of the paper, published as its editor ; yet he was in Brooklyn, while the paper was made up and published in Chicago, and what he did was to write his first editorial for that issue, and send it to the place of publication. The article appeared under the head of "Topics of the Times," which embraced no less than six distinct subjects. General Howard, who was the publisher and manager of the paper,

in a letter addressed to me since the trial, says: "I am quite sure that I prepared the 'Topics of the Times' in the *Advance* of October 19th, 1876." He also says that he took the statement, as he thinks, from a Brooklyn paper. Dr. Talmage did not prepare the article, and not a particle of evidence connects him with its insertion in the *Advance*, or shows that he ever read it.

To say that it appeared in *his* paper and under his sanction, and that, therefore, he published it as his, is to reason very unjustly in view of the facts. No candid man, knowing the facts, will thus reason. An enemy, thirsting for blood, and more anxious to fix a lie upon Dr. Talmage than to discover the truth, might reason in this way, but an impartial court of justice will not.

3. If we assume that Dr. Talmage did in his pulpit, on the 15th of October, 1876, use the exact words reported in the *Advance*, even then there is no basis for his conviction under the second specification. Let us examine the language of the article.

(1.) One of the things said by him upon this supposition is that "this is no sudden change." This was said in reference to the fact stated in the previous sentence, namely, that he had changed his newspaper relations. It clearly means that he had for some time anticipated making such a change; and this was the fact. Mr. Dickinson testified that at the time of the agreement of May 29th, 1876, Dr. Talmage said to him that "the salary was too low, and he would make some change in the Fall." He testified himself that he wrote a valedictory in the preceding June and had it put in type, but that he was dissuaded from publishing it. He had for some time been in negotiation with General Howard, with a view of going to the *Advance*; and on the 4th of October, 1876, this negotiation was so nearly completed that on the next day he wrote a letter to Mr. Remington, notifying him of his purpose to retire from the *Christian at Work* in a month from that date. It is literally true that his retirement from the *Christian at Work* was "no sudden change," not a thing unthought of

or unexpected. The attitude of Mr. Remington toward him, as he understood it, was such that he expected to leave the paper.

(2.) Another thing assumed to be said by Dr. Talmage is that the paper was surreptitiously sold, without his knowledge. The fact is that the paper was sold on the 7th of October, 1876, and that he was not aware of the sale at the time. Neither Mr. Remington nor the managers of the *Christian at Work* gave him the information. Dr. Talmage says that the sale was surreptitious in reference to him; and Dr. Van Dyke regards this saying as "the utterance of a falsehood." That is to say, Dr. Talmage, when he characterized the act of Mr. Remington as to its *moral* quality, when he expressed an *opinion* in regard to the act, when he stated what was simply a *conclusion* of his own mind in reference to its moral nature, did not believe in the truth of his own words. I do not hesitate to say that this position of Dr. Van Dyke is monstrous. Nothing is more common than for one to express an *opinion* of another's act. He may be mistaken in that opinion, or he may not be; but whether he is or not, he plainly is not chargeable with falsehood, either because he has the opinion, or because he states it.

Dr. Van Dyke says that "stealthily *and* fraudulently are the two terms with which Worcester defines" surreptitiously. This is not true. Worcester's definition is this: "By surreption, or stealth, fraudulently." His definition of surreptitious is this: "Stealthily *or* fraudulently done, obtained, taken away, or introduced." One of his definitions of stealth reads thus: "Secret act, clandestine practice, secresy, slyness—commonly used in a bad sense." Now, if we are going to convict Dr. Talmage on the lexicon, let us have it correctly quoted. Worcester nowhere says "stealthily *and* fraudulently" when defining surreptitious or surreptitiously, as Dr. Van Dyke makes him say.

The term "stealth" in the sense of a "secret act," a "clandestine practice," a "secresy," a "slyness," is one of the definitions of surreptitious; and it may or may not

involve fraud. Dr. Talmage thought the sale of the paper was in reference to him slyly done, secretly done, done without his knowledge ; and when he characterized the act as surreptitious, he expressed an opinion which was the truth to his mind. There is no evidence that begins to show that he did not believe, and does not now believe, in the correctness of that opinion.

(3.) Another thing in the statement is that he (Dr. Talmage) found on the "*last Monday*" that the *Christian at Work* had been sold to the publisher of a Unitarian paper. I am assuming that he made such a statement in his pulpit ; and if he did, then the statement, according to his own testimony, was not correct as to the *time* when he made this discovery. He found on the previous Monday that the paper was sold ; but, as he swore on the witness stand, he did not then know that it was sold to Mr. Hallock, who is the person meant by "the publisher of a Unitarian paper." Here is plainly an inconsistency, assuming that we have the words of Dr. Talmage exactly as they fell from his lips.

How shall this discrepancy be harmonized with the truthfulness of Dr. Talmage? There is not the slightest difficulty here, unless one has made up his mind beforehand that he shall be a liar at any rate. It is to be remembered that Dr. Talmage withdrew from the *Christian at Work* on Monday, the 9th of October ; that on the following Tuesday morning he went to Boston ; and that on the next Wednesday evening Mr. Hallock went to see him at his own house, as he said, "to give him a piece of his mind," and that then and there a conversation occurred between him and Dr. Talmage, from which the latter learned that the former had bought the paper.

Now, when Dr. Talmage on the next Sabbath said in his pulpit, as in this argument I concede he did say, that on "last Monday" he found that the paper had been sold thus and so, he may have inadvertently misstated the *time* of receiving this information. He did not on the witness stand recollect what language he used. He simply remembered that he made an announcement ; and if it be a fact

that he used the words "last Monday," as defining the *date* of the information referred to, then that may be explained as a simple inadvertence of his own mind at the moment in an *ex tempore* utterance. The attempt to make him a liar on account of the use of these two words, if he did use them, and virtually charge him with perjury on the witness stand, is simply straining at a gnat and swallowing a camel.

No man thinks or talks with such absolute accuracy, with such a distinct recollection of what he has said, and with such a clear foresight of what he will say, as not to fall into numerous discrepancies and inconsistencies in the use of words; and if for this reason we are to make one a liar, then all men are liars.

(4.) Still further, Dr. Talmage, as is assumed, said that he found that the paper had been sold to "the publisher of a *Unitarian* paper," meaning Mr. Hallock. Now, it is a fact that Mr. Hallock had been the publisher of such a paper, and that Dr. Talmage, as he swears, did not know that he had ceased to be such. When he thus spoke of him, if he thus spoke at all, he spoke as the fact was in his mind, and that certainly is not the utterance of a falsehood. He called Mr. Hallock the publisher of a Unitarian paper, just as, for aught that appears, he would have called him the publisher of a Baptist or a Methodist paper, if such had been the fact in his mind. I must think that the effort to impeach Dr. Talmage on account of this phraseology, if he used it, is the very smallest kind of small business. It shows a most extraordinary genius for scenting falsehoods in others. I should not like to have such a genius put on the track of my words; and I doubt whether anybody would relish this smelling process.

(5.) Still another thing which Dr. Talmage is made to say in this *Advance* article is that the purchaser of the *Christian at Work*, namely, Mr. Hallock, had the impression that he would go with it. If we believe Mr. Hallock, this was the fact. When, then, did Dr. Talmage learn that such was the impression of Mr. Hallock at the time of the

purchase ? The words in the *Advance* article, now assumed to be his, do not answer this question. If we are going to hold him to the exact letter of these words, we must not hold him to more than they allege ; and they do not declare that, on the previous Monday, Dr. Talmage made the discovery that Mr. Hallock had the impression that he would go with the paper. What they declare is that he had such an impression ; but when the fact first became known to Dr. Talmage they do not say.

Dr. Talmage may have inferred the fact from the general talk which had been going on between him and Mr. Hallock for months about the latter's buying the paper, when he ascertained that he had actually bought it, or he may have made the discovery at the interview with Mr. Hallock on the previous Wednesday evening at his own house. The fact being in his mind in either or both of these ways, he then stated it when announcing the change of his " newspaper relations." The laws of mental association would naturally bring the fact to his thoughts and lead to its utterance. There is nothing in the utterance even to suggest the idea of deception, or to imply that Dr. Talmage did not speak exactly as he thought, if he did so speak, or to make the previous Monday the day when he first got this thought about the impression of Mr. Hallock.

I do not know, and Dr. Talmage does not remember, exactly how what he said about Mr. Hallock's impression found its way to his lips, if it did so at all. And until somebody knows more than anybody can know on this point, then nobody is sufficiently wise to say that the words formed any part of an intended deception.

The substance of my argument, in regard to this article in the *Advance*, upon which the prosecution mainly relied to sustain the second specification, is this :

1. There is no proof that traces the article to Dr. Talmage, or shows that the words there reported are the precise words that he uttered in his pulpit on the 15th of October, 1876.

2. The article itself, if we assume it to be correct,

contains no basis for saying that Dr. Talmage then and there published, or allowed others to publish, "statements which he knew to be false, or calculated to give a false impression." "Not proved," and hence entitled to an acquittal, is the proper verdict in view of this evidence, and this is the verdict that was rendered by the Presbytery.

The man who conceived of the second specification, who put the conception into words, and hunted up what he supposed would be proof of it, was undoubtedly very much in earnest in his effort to catch Dr. Talmage in a lie, if possible. That man meant business. He is no ordinary hunter for lies in other people. Even the purest person might well be alarmed, should that man happen to get on his track.

SPECIFICATION THIRD.

In this specification Dr. Talmage is charged with falsehood and deceit, "in that he repeatedly made public declaration, in various and emphatic forms of speech from his pulpit, that the church of which he was pastor was a free church, and that the pews were assigned without reference to the dollar question, although he knew such declarations to be false." The vote on this specification stood thus:—Thirty-two for acquittal; eight for sustaining the specification; and five for sustaining it in part.

A curious fact is here presented, which is that, of the sixteen gentlemen who are complainants, not counting the two who were not entitled to vote, six voted for an unqualified acquittal, and five others sustained the specification only in part. Six of these voters, therefore, approve of the action of the Presbytery in acquitting Dr. Talmage of this charge, and five others approve of it in part, leaving only five voters that entirely condemn the action.

Turning now to the specification itself, I wish, before taking up the testimony, to make three preliminary remarks. The first is that the specification does not name any *date* when the offense was committed, even by so large a period as a year. It simply says that the offense was repeatedly

committed; but in what year or years it does not say. This plainly is not according to the Book of Discipline, and Dr. Talmage was entitled to an acquittal on the legal ground of not being properly charged with crime. Indeed he ought not to have been tried at all upon such a charge. The Presbytery here violated his rights by not conforming its action to the requirements of the Book of Discipline.

A second remark is that, in order to convict Dr. Talmage under this accusation, it was necessary to show the following things: 1. That he made the declarations imputed to him. 2. That the sense in which he used the phrase "free church," and that other phrase "sittings assigned without reference to the dollar question," was contrary to and contradicted by the established practice and usage of his church when he used these phrases. 3. That he knew of this inconsistency with his own public statements, and hence knew the statements to be false. Nothing short of proof sustaining these three propositions beyond reasonable doubt, would justify conviction.

A third remark is that the charge carries upon its face the strongest probability against its truth. It supposes that Dr. Talmage stood before his congregation from time to time, and then and there repeatedly declared in their hearing what he knew to be false, and what he knew they knew to be false. This is too senseless a form of lying to be committed by any one who is not an idiot. It is without motive, since it does not and can not gain its end. It makes the liar consciously and knowingly publish himself as a liar in the very act of lying. It, moreover, makes that congregation consciously and knowingly the receivers of lies from the pulpit. The accusation is absurd. There never was any such lying among sane people, and there never will be, as is here imputed to Dr. Talmage. I doubt whether it could be found in a lunatic asylum. At any rate, one who lies in this way ought to be sent there. He is not fit to run at large.

I come now to the testimony that was adduced in support of this singular charge. The two witnesses were Mr.

Pearsall and Mr. Hathaway. Mr. Pearsall, who had left the congregation, and, as is well known, had ceased to hold friendly relations to Dr. Talmage, told his story to the following effect :

He had for eight years been a member of the Board of Trustees and of the pew committee. He had a diagram of the church, made up by the order of the trustees, and he had a fixed price on about every pew, and assigned the pews according to these prices. Dr. Talmage knew that he was assigning the pews in this way, for he told him so. When the congregation was in the old church the pews were free ; but when it removed into the First Tabernacle, it was found after a year or two that the system would not pay, and he "began fixing the prices of the pews." He often spoke to Dr. Talmage about the matter, saying to him : "Most every Sunday you announce that the pews are let without reference to the dollar question, and your own audience know that it is a humbug, and they just laugh at you now." He also said to him : "Why not rent the pews? We can get more out of them by that." The usual reply of Dr. Talmage was : "You know my idea is to run a free church." His answer to this remark was : "Yes, but you are not running a free church." To this, Dr. Talmage would reply : "When it is known that this is not run as a free church, I will leave it."

On one occasion Dr. Talmage came to his house, and invited him to join the church ; and he said to him that he was not good enough to do so, and that, if he should join the church, he could not stay in the pew committee, and assign the seats as he was then doing. Dr. Talmage laughed at the remark, and thought it funny, and said that he was better than some members of the church. He frequently heard Dr. Talmage give the notice about the pews. Sometimes he would say : "Pews in this church are assigned without reference to the dollar question ; any person wanting a pew will apply to the committee." At other times he would add to this : "Any person desiring a pew in this church will get as good a pew for a dollar as he will for a

hundred dollars." He frequently spoke to Dr. Talmage about these notices, and told him that they made it necessary for him to explain away what was thus said. Dr. Talmage, however, continued to give such notices "until the board, as a body almost, went to him, and begged him to leave that off."

This is the case as presented by Mr. Pearsall. Dr. Van Dyke, in his speech before the Presbytery, said that there was nothing to offset or rebut this testimony, except "the bald assertion of Dr. Talmage that Mr. Pearsall is mistaken," and further said that the omission to cross-examine this witness and contradict him by other witnesses is "a virtual admission that his story is true." These are very strange statements. The truth is that, while the testimony of Mr. Pearsall is very far from establishing the guilt of Dr. Talmage, many parts of it were most emphatically contradicted, not by "bald assertion," but by varied detail and by documentary evidence. And as to the idea that the omission to cross-examine a witness is "a virtual admission that his story is true," I am sure that no one will question Dr. Van Dyke's exclusive right to this logical invention. He need not take out a patent to guarantee his own interests therein.

I have a few remarks to make upon the testimony of Mr. Pearsall, taking it just as it stands. The first is that his unfriendly animus appears in a studious effort to phrase what he said and what Dr. Talmage said, so as to give the impression that there was falseness on the part of the latter. That such an animus exists no one will doubt who has read his published letter to Dr. Talmage, of April 1st, 1878. He testified under the bias of this animus; and this fact is a circumstance affecting his credibility.

My next remark is that no one, having common sense and ordinary candor, will pretend that Mr. Pearsall can, years after these conversations between him and Dr. Talmage, reproduce the language of either with anything like exactitude. His statements at the very best must be taken with a large allowance for the failure of memory as to

words. This is true of him, and would be true of any man in like circumstances.

My third remark is that Mr. Pearsall, by his own showing, did not, at the time of these conversations, regard Dr. Talmage as understanding that the pews were rented at fixed prices, or as meaning to utter a falsehood in his pulpit notices. He said to him, as he swears, "Why not *rent* the pews? We can get more out of them by that." This question and this remark clearly imply in his own mind the idea that Dr. Talmage did not suppose that the pews were being rented, if such were the fact. Both the question and the remark would be absurd upon any other hypothesis. The answer of Dr. Talmage, "You know my idea is to run a free church," corresponds exactly with this view of the case. It gives the reason, which he gave to Mr. Pearsall, why he was not willing that the pews should be rented in any sense that in his view would be inconsistent with running a free church. The further answer in the same connection, "When it is known that this is not run as a free church, I will leave it," shows that Dr. Talmage supposed that it was run as a free church. Mr. Pearsall gets in the words, "It is known," and Dr. Van Dyke underscores them as if they were a jewel. The plain meaning, as any candid man will see from the words themselves and the connection in which they were used, is that Dr. Talmage meant to say that when it became a known and settled fact that this church is not run as a free church, he would leave it. He would not give up his theory on this subject, and if the fact contradicted the theory, then he would leave the church. This is what he said to Mr. Pearsall, and the latter did not then think that he was lying in his pulpit announcements. The idea that Dr. Talmage was guilty of conscious and intended falsehood, if it ever existed in Mr. Pearsall's mind, was born at a later date, when he had changed his relations and mood of feeling toward his former pastor.

My fourth remark is that the testimony of Mr. Pearsall shows a strong tendency among the trustees to adopt the pew-rental system, and shows some facts that virtually

amount to pew rentals; but it does not show the acquiescence of Dr. Talmage therein. It shows a conflict of views between him and the trustees. They wanted pew rentals, and he was determined to have a free church, as he understood it. Here was a conflict of policies, and Dr. Talmage, by the showing of this witness, never yielded his own policy. So far from yielding it, he told Mr. Pearsall that he would leave the church if it were a known and settled fact that it was not run as a free church. The attitude of Dr. Talmage's mind, as presented by this witness, is wholly inconsistent with the idea that he did not regard his church as a free church, or that he did not mean that it should remain such, whatever might be the wish of the trustees. The testimony for the defense, when I come to it, will set this point in a clear light.

I submit this comment upon the testimony of Mr. Pearsall, taking the whole of it into the account. If it were contradicted in no particular, but left to stand just as it fell from his lips, with no abatements on the score of imperfect memory or bias of feeling, it would fall very far short of sustaining the charge of "falsehood and deceit" against Dr. Talmage. No court would be justified in convicting him upon this evidence, and that, too, without any defense.

The other witness is Mr. Hathaway, and the substance of his testimony is as follows :

He was, on the 15th of February, 1875, appointed by the trustees to take charge of "all negotiations for subscriptions or for assignments of sittings." He had a diagram of the church, with the price on every pew, and his instructions were to get the price, and more if he could. He carried out these instructions from the trustees. He heard Dr. Talmage say in the pulpit that the pews were assigned without reference to the dollar question, and sometimes spoke with him on the subject. When he met with the Board of Trustees, Dr. Talmage was occasionally present, and he knew "of the trustees pleading with him to give up his plan and adopt theirs," and also knew that "he would never

yield to the desire of the trustees to give up assigning the pews," but "always stood out against it."

On his cross-examination, Mr. Hathaway declared that he never said that Dr. Talmage publicly told lies in his announcements about the pews. He had received letters in respect to these announcements, but did not remember that he ever showed any of them to Dr. Talmage. So also he did not recollect that he ever showed the diagram of the church to Dr. Talmage, though he inferred that he was aware of its existence. He knew that the trustees wanted to adopt the rental system in regard to the pews, and that "a free church was the pet idea of Dr. Talmage," and that "he always opposed the idea of the trustees of going over to the system of pew rentals." Dr. Talmage stated from the pulpit that his church was a free church. The people, however, understood the practice, and hence understood "the difference between the practice and the profession." They were not deceived by the pulpit announcement, for "they got used to it." He did not think that Dr. Talmage was consciously lying, but did think that he "was so accustomed to deal in hyperbole and extravaganza that he didn't know what he said." He knew that the trustees wished that Dr. Talmage would stop making the announcements about "the dollar question," and thought that he "was of such a peculiar nature that he might not regard them as false." He knew also that the trustees would favor an increase of his salary if he would come over to the system of pew rentals, and that he refused "any proposition looking to a change in the system."

Here is the testimony of Mr. Hathaway. I have followed the witness from the moment he took the stand till he left it, and picked out all the facts and statements that bear upon the point whether Dr. Talmage was consciously a liar in saying that his church was a free church, and that the pews were assigned without reference to the dollar question.

What then is shown by this testimony, supposing it to be uncontradicted in any particular? Simply this—the policy of the trustees wishing to adopt the system of pew

rentals, and to some extent virtually adopting it in practice, and the policy of Dr. Talmage setting his face against that system, in the language of the witness, refusing "any proposition looking to a change in the system," namely, what he regarded as the free church system. Mr. Hathaway makes a free church the pet idea of Dr. Talmage, and if there were things in the practice of the trustees inconsistent with this idea, as he says there were, he does not fix in the mind of Dr. Talmage a knowledge of this fact. He shows a strong drifting in the trustees toward pew rentals, but he does not show that Dr. Talmage regarded pew rentals as the system established in his church, or that he stated what he knew to be false in his pulpit announcements.

Mr. Hathaway regarded the announcements as not true to all the facts in the case, yet the picture of Dr. Talmage, which his testimony, taken as a whole, presents, is that of one who is determined to run a free church, notwithstanding the desire of the trustees to adopt the pew-rental theory, and, moreover, of one who did not regard the pew-rental theory as being the one actually in practice. Dr. Talmage, as Mr. Hathaway says, firmly resisted "any change in the system," which clearly implies that the system he would maintain was the one that he thought to be in existence.

There had been no formal abandonment of the free church system by a vote of the congregation, or by any official action of the trustees. The pews had not been auctioneered to bidders, and the usual course in renting pews had never been adopted. Dr. Talmage, with his free church theory, stood directly in the way of such measures. The pews were assigned to parties, as they had always been; and Mr. Hathaway says that there were facts in connection with this assignment that in his judgment were not consistent with the public statements of Dr. Talmage. This, however, does not show that the latter spoke or meant to speak falsely. Mr. Hathaway, who was an elder of the church at the time, did not so regard the words of his pastor. Neither the session nor the trustees either said or did anything that

goes upon the supposition that they viewed him as a falsifier in his pulpit announcements; and this is a most significant fact in the case. He certainly was not publishing what they thought to be conscious and intentional falsehoods. Mr. Pearsall did not think so at the time, and Mr. Hathaway did not think so.

The form of making an application for a pew or for sittings in one was introduced in connection with the testimony of Mr. Hathaway. It reads as follows: "The undersigned wishes to secure for the year commencing February 1st, 1875, — sittings in pew —, and hereby agrees to pay for the support of the Gospel, — payable in quarterly installments." Mr. Hathaway, as he says, used such a form. Is there anything here inconsistent with a free church? Nothing whatever. The applicant himself names the amount he will give for the support of the Gospel. That is to say, he asks for accommodation in a certain pew, and subscribes what he thinks he can afford to pay toward the expenses of the church. There surely is nothing in this that is contrary to Dr. Talmage's idea of a free church.

And this is the whole of the evidence presented by the prosecution. I am at a loss to see how any member of the Court that tried the case could write down Dr. Talmage as a willful liar on such a basis. I do not see how a sensible and unprejudiced mind can come to any such conclusion. The testimony, without any defense, leaves ample room for the honesty and truthfulness of the accused. "Not proved" is the just and proper verdict. "Utterly and absolutely disproved" is the righteous verdict in view of the defense; and to this aspect of the case I now invite attention.

Dr. Talmage himself is one of the witnesses that furnishes this disproof. His testimony is as follows:

"My idea of a free church," he said, "is a church where every man pays as much as he can for the support of the Gospel, his own conscience being the dictator." In such a church he would give prominence and culture to the home feeling, having families sit together and retain their pews, whatever may be the change in their pecuniary circum-

stances. When he came to Brooklyn, he had calls to two other churches, and came there because he thought he could "build up a church on a free basis from the very foundation." When he said that the pews are assigned without reference to the dollar question, he did not mean "that no money is needed to carry on Christian institutions," but he did mean "that no man's seat in the church shall depend on the amount he can pay." That he believed "to be the Christian principle," and he meant to act upon it. He changed the form of making the announcement "at the request of the trustees, not that there was the slightest deception in the act, but because they were afraid that some people would get the idea that no money was necessary for the support of the Gospel." He never knew that pews were rented in his church at any time at fixed prices, and never had "the least idea or intimation of it." He was never told so by Mr. Pearsall. Mr. Pearsall and other members of the Board of Trustees at different times discussed with him "the advisability of going back to the pew-rental system." He never knew "of a diagram of the church with a fixed price for the pews thereon." Mr. Pearsall's testimony, implying such knowledge, is not correct. No such impression was ever made on his mind. He was solicited by the officers of the church to adopt the pew-rental system; but he always "refused with a good deal of spirit." He wrote a letter to the trustees relinquishing his salary in order to advance his free church theory. It was suggested to him that if he would adopt the pew-rental system, his salary might be raised from seven thousand to twenty thousand dollars, and he rejected the proposition. Such, in brief, is the statement that Dr. Talmage made under the solemnities of an oath.

Mr. Corwin, who had been a member of the church for about twenty years, is one of its elders, and, with the exception of a short period, had been a member of the Board of Trustees since April 25, 1870, is another witness who testified for the defense. The salient points of his testimony are as follows :

Dr. Talmage was called to the pastorate of the church in

1869, at a salary of seven thousand dollars a year, and soon after he came Mr. Corwin had a conversation with him about the free church question, expressing his opposition to the idea. In that conversation Dr. Talmage remarked to him that he was mistaken as to his idea of a free church; "that there must be a home feeling in it, with the pews regularly assigned to regular occupants, just the same as though they paid for them;" and that "if God had given him power to attract people, he did not want them first to consult their own pocket-books." He added that "if he had his ideas carried out, he would rather preach in such a church for two thousand dollars than to preach in a church where the pews are rented, for twenty thousand dollars."

And, for the purpose of carrying out the theory of Dr. Talmage, Mr. Corwin and Mr. James M. Cowan were, in March, 1870, appointed a committee to solicit subscriptions for the building of a new church on this plan. In order to aid in getting the plan into operation, Dr. Talmage, in April, 1870, addressed the following letter to the trustees: "Gentlemen—I hereby relinquish you from all obligation to pay me any more salary than the income of the church may warrant after the first day of August next, notwithstanding anything that may have been agreed upon in my call to the church."

The First Tabernacle was dedicated in September, 1870; and on that occasion Dr. Talmage preached a sermon in which he said that he "was opposed to pew rents altogether, on principle," and that "the church of God makes no difference between rich and poor." The trustees, at a meeting held October 4th, 1870, Mr. Pearsall being present, passed the following resolution: "*Resolved*, That the instructions given to the clerk at an informal meeting of this Board, in regard to reading certain papers upon the evening that the pews and sittings are assigned to pew-holders and applicants, copies of which are entered upon the records of the board, be ratified and confirmed." These papers, thus referred to and ratified, contained the following declaration: "So long as they [the occupants of pews] attend the services and

occupy the pews and comply with the rules and regulations now governing this Society, or any rules or regulations of whatever nature that may be adopted hereafter, they will be entitled to occupy the seat or seats; but if not used by them, or they do not comply with them, then they forfeit, and the seats revert back to the secretary, and will be appropriated to other applicants. *The Gospel is to be supported in this Society by subscriptions, and it is expected all will want to help.*" These regulations were sent to the occupants of pews. Mr. Pearsall was chairman of the pew committee when these regulations were adopted by the trustees.

In 1871 Mr. Wells, who was a trustee, said to Dr. Talmage, "If you will allow us to put an auctioneer on the platform, we will pay you a salary of twenty thousand dollars as easily as we now pay you seven thousand." The reply of Dr. Talmage was, "When you engage an auctioneer you must engage a new pastor." This response places upon Dr. Talmage the seal of sincerity and truthfulness in his pulpit announcements. A willingness to make a yearly sacrifice of thirteen thousand dollars, which is the difference between seven thousand and twenty thousand dollars, ought to prove, as beyond all question it does prove, the absolute sincerity of his heart when declaring his church to be a free church. There are but few ministers who would resist such a tempting inducement to abandon even a cherished idea. Dr. Talmage showed that he meant the thing, and that he could not be bought off by any appeal to his personal interests.

The First Tabernacle was destroyed by fire in 1872, and the second one was dedicated on the 22d of February, 1874. Mr. Corwin testified to the fact that the free church plan of the First Tabernacle was carried forward to the second one. In the latter part of 1874, or the early part of 1875, the trustees "felt that they would receive more money and have less work if the pew-rent system was adopted," and "they requested the pastor to allow them to adopt that plan," addressing to him a letter to this effect. He replied as follows: "That if they would continue to run the church

for six months longer on the free system, he would resign at the end of that time and go to Europe; that there would be no muss and no misunderstanding about the affair; that in the meantime the church should look around for some one who would conduct the church upon the pew-rental system, and everything should be amicably settled." His refusal to acquiesce in the proposition of the trustees was positive, and they as positively refused "to adopt his suggestion about resigning." In the language of the witness, they said, "We will put tired to tired and at it again." The witness added, "So we have ever since"

In 1876 the trustees adopted a series of regulations respecting the assignment of pews, the third of which reads as follows: "*As no pew rentals are exacted*, all the expenses necessary for the support and maintenance of the church must be defrayed by *voluntary contribution*. Each member of the congregation is expected, therefore, to contribute to the fullest extent of his or her means toward this end. In order that the trustees may have some assurance of the prospective income of the church, by which to meet its running expenses, all contributing members name an annual subscription, and pay the same either by quarterly or weekly installments."

In the early summer of 1877, Dr. Talmage requested Mr. Corwin and Mr. John F. Talmage to secure seats in the Tabernacle for the parents of the Sunday-school scholars who had no church privileges; and, they failing to attend to the work, he, after the summer vacation, enlisted the teachers of the Sunday-school in it, who were to visit the families of the children, and if they found any without church privileges, to offer to them sittings in the Tabernacle without price. This missionary work was performed to some extent, and sittings were thus assigned in consequence of it.

On his cross-examination Mr. Corwin was asked to explain the manner of assigning pews. He answered, "Oh, when an application comes, we say, 'There's a pew, there's a pew, there's a pew, which do you like best?' He will

say, 'That one,' and we will say, 'Now, sir, how much will you give for the support of the Gospel in this church?' " To another question he replied, "We [the trustees] have often told Dr. Talmage that we could get a larger revenue if he would allow us to rent the pews." In answer to another question, he declared that he knew of no instance in which the trustees had represented to Dr. Talmage that his pulpit notices were inconsistent with "the practical operation of the system." He himself expressed the opinion that they were not inconsistent, that the church was a free church, and that it provided "people with church homes who would otherwise be without them."

This is the substance of Mr. Corwin's testimony, himself an elder and a trustee, and it covers the whole period of Dr. Talmage's ministry in the Tabernacle Church. In respect to the vital points involved in the question at issue, it is confirmed by documentary evidence.

The third witness for the defense was Mr. Nicholls, who is also an elder, a trustee, and the present chairman of the pew committee. His testimony was comparatively brief, yet it confirmed that of Mr. Corwin and Dr. Talmage. He had never known of any system of pew rents in that church at fixed prices, and did not believe that it had ever been practiced. The pews, according to this witness, were assigned to applicants, and their pleasure, so far as possible, consulted as to location. After the assignment the applicants are asked to indicate the amount they will contribute for the expenses of the congregation. Some give more, and some less, and some nothing, except in the collections made on each Sabbath. If the occupants are unable to pay as much as they formerly did, by reason of a change in their circumstances, they are not disturbed. Mr. Nicholls mentioned several cases illustrating and corroborating this statement. The practice, as stated by Mr. Nicholls, is to assign pews "without reference to the dollar question," in the sense in which Dr. Talmage has explained that phrase; and Mr. Nicholls, though for many years a member of the congregation, was not aware that any other practice had ever prevailed. Such is the substance of his testimony.

Now, upon the evidence of these five witnesses—two for the prosecution and three for the defense—the Presbytery, by an overwhelming majority, came to the conclusion that the third specification was not sustained. Only five of the judges voted against an absolute acquittal of this accusation. The wonder is that there were five who could thus vote in view of the evidence.

The charge was so intrinsically improbable upon its very face, that nothing but the most conclusive testimony could establish it; and even then it would prove Dr. Talmage an idiot rather than a liar. The testimony that was adduced to sustain the charge did not prove him to be either an idiot or a liar; and this I endeavored to show when commenting on that testimony. Neither Mr. Pearsall nor Mr. Hathaway, however, correctly or incorrectly they may have testified as to facts, fix in the mind of Dr. Talmage the knowledge of a pew-rental system, in distinction from a free church system, as being established in the practice of his church, or any knowledge of facts that would necessarily make his pulpit notices the utterance of a falsehood. Mr. Hathaway had the candor to admit that he did not so regard these notices as they fell from the lips of Dr. Talmage.

The testimony for the defense, while it shows—what that for the prosecution equally shows—a tendency and wish on the part of the trustees to adopt the pew-rental system, conclusively proves that the charge against Dr. Talmage is absolutely false. His own oath as to his knowledge of facts, and as to what he meant by a free church, and meant when he spoke of the sittings as being assigned without reference to the dollar question, is amply sufficient for this purpose. The story which Mr. Corwin tells, covering his entire ministry in the Tabernacle Church, stamps the charge into the dust as a baseless, if not a base accusation. His conversation with Mr. Corwin about the free church question, soon after he came to the city; his voluntary surrender of his salary in 1870 for the purpose of giving to his idea a practical form; his sermon when the First Tabernacle was dedi-

cated; the action of the trustees on the 4th of October, 1870, regulating the assignment of pews, and declaring that the Gospel is to be supported by *subscriptions*; the emphatic words of Dr. Talmage in 1871, "when you engage an auctioneer, you must engage a new pastor," uttered in response to the proposition of Mr. Wells to pay him a salary of twenty thousand dollars, if he would consent to have the pews sold at auction; his reply to the pew-rent proposition, made by the trustees in the latter part of 1874 or the early part of 1875, suggesting that he would resign his position and that they might then procure some one who would run the church on the pew-rental system; the action of the trustees in 1876, declaring that "no pew rentals are exacted," and that the expenses of the church are "defrayed by voluntary contribution;" the efforts of Dr. Talmage in the summer of 1877 to secure sittings for families that had no church privileges; the facts as stated by Mr. Nicholls—this array of evidence shows that the charge of falsehood and deceit, in the matter referred to, whether made by saints or sinners, friends or enemies, is a cruel injustice. A more causeless accusation was never brought against the good name of any man.

It is to be remembered that the free-church system which Dr. Talmage had in mind, and which he meant to maintain, was not one in which the people were to be scattered hither and thither, with families separated, the parents sitting in one pew and the children in another, and with no regular occupancy of any pew by the same persons. This was not his idea at all when he made his pulpit announcements. His idea was that the pews should be regularly assigned to occupants; that these occupants should retain the pews during their pleasure, if conforming to the general rules of the Society; that they should by voluntary subscription indicate what they felt able to pay toward the support of the Gospel; that if they were not able to make such a subscription, they should, nevertheless, have pews or sittings assigned to them; and that no pew rentals at fixed prices should be exacted. Dr. Talmage swears that this was his

idea of a free church, and Mr. Corwin testified that he thus explained the phrase to him.

Now, the evidence for the defense shows not only that Dr. Talmage did not regard this idea as being abandoned, but that it was not abandoned. It was adopted in the old church, and, as Mr. Pearsall admits, carried forward to the First Tabernacle, and, as Mr. Corwin swears, carried forward to the Second Tabernacle, that was dedicated in the early part of 1874. What did the trustees mean when they said in 1870 that "the Gospel is to be supported in this society by *subscriptions*, and it is expected all will want to help?" What did they mean when, in the latter part of 1874, or the early part of 1875, they requested Dr. Talmage "to allow them to adopt" the pew-rental plan, and what did they understand him to mean when, in answer to their request he proposed to resign his position, in order that they might put their wish into practice? What did the trustees mean when they said in 1876 that "as no *pew rentals* are exacted, all the expenses necessary for the support of the church must be defrayed by *voluntary contribution*?" What does all this mean, if the pew-rental theory, as distinguished from the free-church theory of Dr. Talmage, were the one in acknowledged practice?

The truth is, the evidence for the defense contradicts Mr. Pearsall, as well as Mr. Hathaway, by living witnesses and by documentary proof, so far as the testimony of either was designed to show the adoption of the pew-rental theory. It completely exculpates Dr. Talmage from the imputation of falsehood and deceit in his pulpit announcements. He spoke as he thought, and as he meant.

Common fame lied when she brought this charge, and the Presbytery was wofully misguided when it listened to her voice. It made the best reparation in its power when it said that there was no just foundation for the charge. There was none, and there is none. It was an unjust accusation.

I was amazed when I heard the argument of Dr. Van Dyke, before the Presbytery, with reference to this accusa-

tion, and still more amazed when reading it in the printed form. I concluded, judging from the character of the argument, that he had unfortunately seen almost nothing, except the story told by Mr. Pearsall, and that he had not clearly seen all parts of that story. His vision of even Mr. Hathaway was exceedingly partial and one-sided. When he came to the testimony for the defense, he summarized it under three heads, mis-stating it in part, and strangely overlooking nearly the whole of it. That testimony, as I have already shown, conclusively proves that there is nothing in this charge other than a false accusation ; and yet it seems with Dr. Van Dyke to have passed for nothing, if we are to judge of his mental action by its expression in his speech.

No one, not having heard or read the evidence for the defense, would gather any idea of it from the speech. And any one who had read or heard the evidence, if hearing or reading the speech, could hardly fail to be surprised at the remarkable omissions of the latter. I do the speech no injustice, but utter the simple truth in regard to it, when I say that it almost entirely ignores the evidence for the defense.

I find also a very singular omission in Dr. Van Dyke's reference to the testimony of Mr. Pearsall, who was a witness for the prosecution, and who expressly testified that he, in a conversation, a part of which Dr. Van Dyke quotes upon his authority, said to Dr. Talmage : "*Why not rent the pews ? We can get more out of them by that.*" These were the words of Mr. Pearsall when he was talking to Dr. Talmage ; and they clearly imply that the former did not then suppose that the latter understood that the pews were being rented, especially when taken in connection with the immediate answer of Dr. Talmage to him, "You know my idea is to run a free church."

Now, Dr. Van Dyke was in direct contact with these important words of Mr. Pearsall, as shown by the fact that he quotes all round them ; and yet, by a strange mishap of mind, he fails to see them. They imply exactly the reverse

of what he was seeking by his argument to establish. How he happened not to see them I do not know; yet I do know that a full and fair presentation of the testimony of Mr. Pearsall is not made without these words which, as he says, he addressed to Dr. Talmage. They show very clearly that he did not then think that Dr. Talmage was deliberately lying in his pulpit announcements. If he thinks so now, it is not at all unlikely that his change of feeling toward Dr. Talmage may have given him some new light.

Dr. Van Dyke was one of the five judges that, without qualification, voted to sustain the third specification; and when I study his mental operations through his argument, I am not at all surprised that he did so. It is not surprising that one who, for whatever reason, whether it be lack of comprehension, or a special bias of feeling, or any other reason, sees only a part of a whole case, should come to a conclusion not at all warranted by all the facts that make up that case. It is not surprising that one who does not take what John Locke calls "a round-about view," but does take a limited, partial and one-sided view, should be led into a mis-judgment. He does not see things as he would see them if he saw more; and this is just my criticism upon the argument of Dr. Van Dyke before the Presbytery, considered as an index to the action of his mind. Of his motives it is not my province to speak. These are with himself and his God. I simply speak of what appears to me as the obvious blunder of his reasoning, and here I cannot repress my astonishment. The reasoning I cannot regard as judicial in any proper sense. Its radical fault consists in the fact that it overlooks and ignores most material evidence in the case; and this destroys its claim to be regarded as judicial.

SPECIFICATION FOURTH.

The charge made against Dr. Talmage in this specification is, that "in the winter of 1876-7, he falsely accused I. W. Hathaway of dishonest practices, and afterward denied

that he had done so." The vote of the Presbytery stood thus: Twenty-six for acquittal; seventeen for sustaining the specification; and one for sustaining it in part.

There are some things in the history of this accusation, as disclosed by the testimony, that are plain, and other things that will always seem strange, if not mysterious, to candid and impartial minds. The plain things are these:

1. That Mr. Hathaway, the party here alleged to have been falsely accused of dishonest practices, never appeared before the Presbytery as a complainant against Dr. Talmage, and that he was opposed to bringing the subject-matter involved in this accusation before the Presbytery at all.

2. That the allegation that Dr. Talmage stands charged by common fame with falsehood and deceit, "in that, in the winter of 1876-7, he falsely accused I. W. Hathaway of dishonest practices, and afterward denied that he had done so," was itself false when made, there being no such common fame until it was created by the Presbytery in formulating this accusation against him.

3. That the historical tap-note of this specification is to be found in an article published in the *Presbyterian* of November 4th, 1876, and written by Dr. Van Dyke under the signature of "Augustin," which article contained statements in regard to the Tabernacle Church that were offensive to Dr. Talmage and his people, because, as they judged, hostile in their intent and calculated to make a false impression.

4. That, soon after the publication of this article, Dr. Talmage had an interview with Dr. Van Dyke on the subject, and, deriving from him the impression that Mr. Hathaway had furnished the alleged facts about the Tabernacle Church, he spoke of Mr. Hathaway in a manner that was derogatory to his character.

5. That the fact of such speaking subsequently came to the knowledge of Mr. Hathaway, and that this led to a series of interviews between him and Dr. Talmage, which finally ended in an honorable and satisfactory settlement of the whole difficulty in the early part of January, 1877.

6. That thereafter Dr. Talmage and Mr. Hathaway resumed friendly relations to each other, both alike regarding the whole matter as permanently adjusted and settled.

These are the plain things in the case, and they are all very plain. There is no mystery about them. They were brought out into the clear light of day by the evidence. The very plainest of these plain things is that the difficulty between Dr. Talmage and Mr. Hathaway, growing out of what the former had said about the latter, was entirely settled between themselves, and had been for more than two years before the specification was formulated, and that the alleged offense was utterly unknown to common fame until the proceedings taken in the case made it known. The public had never heard of it, and not a newspaper had ever mentioned it.

Passing, then, from these plain things, we come into the region of strange things; and here mysteries and shadows darken the sky and obscure the vision. The great mystery—one that I confess I have never been able to fathom, without such an impeachment of motives as it would not become me to express, even if I thought it true—we have in the fact that, in the light of these plain things, this accusation should have ever been put to the test of judicial trial. I am confident that it never would have been, if *all* the members of the Presbytery had seasonably understood the facts in the case. The facts show that there was no occasion for touching the subject at all, especially on the ground of common fame as charging Dr. Talmage with falsehood and deceit in the matter alleged. Not only was there no such occasion; but the charge itself invaded the cemetery, where quietly slept a difficulty between two Christian men that had by themselves been honorably settled, and demanded that it should come to life again as an accusation against one of the parties. This upon its face is a very strange spectacle. It looks as if somebody was so anxious to get up matter of accusation against Dr. Talmage that even graveyards must be ransacked to find the material. Buried difficulties, honorably settled, must not be permitted to enjoy their repose.

It is to be remembered that the fourth specification, like all the others, was formulated in the first instance by the committee appointed to investigate the nature and extent of the alleged common fame against Dr. Talmage. The presumption is that the chairman of the committee drafted the specification. Now, the point which has always excited my curiosity is this: How was that committee put on the track of this Talmage-Hathaway trouble that came into existence and went out of existence more than two years previously? How did the committee get wind of it at all? How did the committee learn that Dr. Talmage, "in the winter of 1876-'7, falsely accused I. W. Hathaway of dishonest practices," and how did it learn that "afterward he denied that he had done so?" The matter itself was originally known to Dr. Van Dyke, Dr. Talmage, Mr. Hathaway, the elders of the Tabernacle Church, and possibly a few other persons. It lay within a very narrow circle of knowing ones; and how did it get beyond this circle, and pass into that of this investigating committee more than two years after it had gone into peaceful retirement? Who dug it up, and, if there were more diggers than one, who did the digging? That is the question which perhaps will not be fully answered till the day when all secrets shall be revealed.

And yet my curiosity is, and has been so intense that I have often found myself marching around the question and asking questions about the question. Did the matter come to the committee by intuition on their part? This will not do, since human nature is not gifted with such intuitions. Did it come to the committee from an exercise of memory? This will not do, since no member of the committee was one of the original knowing ones, and memory recalls only past knowledge. Did it come to the committee, or some member thereof, by information, and if so, who was the informer? Was common fame the informer? There was no common fame on the subject. Was Dr. Talmage the informer? I can hardly think that he gave the committee any information. Did the elders of the Tabernacle Church

tell the story to the committee? I presume not. Did Mr. Hathaway put the committee on the track of this matter? He swears that he did not, and that when he came into conference with its chairman, the latter was already on the track, and sought the conference in order to find out the facts from him, and that when he expressed his opposition to bringing up the subject at all, he was reminded that that was not for him to determine.

No one of these questions, and not all of them put together, elicit to my mind a satisfactory answer to the main question which has puzzled me ever since I became acquainted with the contents of this Hathaway specification. Who started this accusation? Who supplied the first hints to it? How did the facts, or any part of them, come to the knowledge of the committee, or any member thereof, either before or after its appointment? I am forbidden in so grave a matter to substitute, for positive knowledge, any random guesses in answer to these questions, and hence I content myself with simply asking them.

There is another mystery that puzzles me, and that is this: Assuming that the committee knew what they were about when they formulated this specification, and hence that they understood the essential facts intended to be covered by it, as I am sure that the Presbytery did not when it adopted the specification, I have never been able to see how the committee, with the light which they must have had, and which the Presbytery did not have, could formulate the accusation at all. I have said so to one of the members whom I honor and respect.

How could that committee say that Dr. Talmage was charged thus and so by common fame, when nothing was more palpable than that he was not so charged? How could that committee, appointed to investigate the nature and extent of an alleged common fame, declare that to be a fact which was not a fact? The chairman of the committee admitted on the witness stand that there was no common fame in respect to this subject; and if so, why did he say that there was, as a member of that committee? Why

did that committee, knowing, as I must presume it did know, that this whole difficulty between Dr. Talmage and Mr. Hathaway had been honorably settled by the parties themselves, and that Mr. Hathaway was entirely satisfied with the settlement, drag this buried difficulty out of its retirement, and blazon it before the Church and the world, no matter who pointed its attention to the place where it slept, with neither head-stone nor foot-stone to mark the spot? Why did not that committee, informed, as I must presume it was, give the Presbytery at least a little light on the subject before it acted?

These questions puzzle me when I remember that these gentlemen are Christian men, and that they were performing at least a quasi-judicial service—and they will puzzle me to my dying day. I have no capacity to see any just theory upon which that committee proceeded, and, with no disrespect to any of them as individuals, I hold that their action was most grossly wrong on its very face. Has it come to this that when one party speaks reproachfully of another in the hearing of a third party, whether justly or unjustly, and the two have in a Christian manner settled the difficulty arising therefrom, and the parties have for two years resumed pleasant relations—I say, has it come to this that, in such a case known only to a small circle of persons, the accusing party, without the complaint of the accused party, and against his wishes, shall be formally arraigned before an ecclesiastical court as charged with falsehood and deceit by a common fame that does not exist? I say, has it come to this, since this is the real case in hand? If so, then it is high time that all ecclesiastical courts were abolished. Their existence would be a nuisance to Christianity. It would be far better to do without them than to tolerate their ethics.

The perplexities of my mind on this subject are not relieved by the theory that particular offenses, not known to or charged by common fame, may, for the purposes of indictment and trial, be made matters of accusation under a general charge professedly based on common fame. I have

several objections to this theory as applied in this case, or in any case.

1. The indictment against Dr. Talmage declared that he "stands charged by common fame with falsehood and deceit" in seven enumerated particulars, of which the fourth specification is one, when, as a matter of fact, he was not thus charged in respect to this particular; and hence the indictment declared that to be true which was not true. The fact was not as it was stated.

2. The Book of Discipline, chapter iii., section 5, expressly provides that, before a judicatory shall take cognizance of an offense on the ground of common fame, the common fame "must specify some *particular* sin or sins." This cannot mean less than that it must point, with more or less accuracy, to the act or acts which constitute the offense. A common fame that calls a man a rascal or a thief, but does not state in what his rascality or thievery consists, plainly is not the common fame which the Book of Discipline means to make the basis of judicial action. It does not particularize anything. It does not specify any particular sin or particular sins. No sin, according to the Book of Discipline, not thus specified, can be prosecuted on the ground of common fame, and this is fatal to the theory I am considering.

3. The theory, if admissible in respect to one particular sin not known to common fame, would be equally admissible in respect to any number of such sins not thus known; and hence a person might be arraigned on some general charge based on common fame, and tried for a series of particular sins, when not a single one of these sins had been a matter of any common fame at all. This would be the consequence of the theory. If it may be applied to one sin, it may be to a dozen. It would only be necessary to get up some general charge under a class-term, placing that on common fame; and then the party might be tried on all the particulars embraced therein, whether there had been any common fame about them or not. This is contrary to the Book of Discipline, which requires that the *particular* sin

or sins shall be specified by common fame, as the condition precedent to any judicial cognizance thereof on this ground. A general charge under some class-term is not such a *particular* specification ; and to a general charge no one can plead.

4. The theory opens the way for monstrous abuses, of which we have a conspicuous and painful example in this fourth specification. Here was a difficulty between two Christian men that had been satisfactorily adjusted and settled for more than two years ; and common fame had never breathed the first breath in regard to it. It was dug up and brought to trial under the general charge of falsehood and deceit on the ground of common fame, which charge *falsely* declared that this specific accusation was made by common fame. If this is not an abuse of the common-fame basis of judicial procedure, then it is difficult to conceive what would be an abuse ; and yet to just such abuses, under the impulse of prejudice or animosity, the theory exposes every man in the church, provided we adopt it.

Having said thus much about my perplexities, I turn now with some relief of mind to clearer skies, where questions of law and evidence invite my thoughts. I find no difficulty here in making what I regard as a perfectly clear case for the acquittal of Dr. Talmage. Let us take our bearings, see just where we are, and whither going.

Who in this issue was the prosecutor of Dr. Talmage ? One answer to be made is that Mr. Hathaway was not the prosecutor, bringing the charge, declaring that Dr. Talmage had made certain accusations against him, proposing to prove this fact, demanding redress for the same, and imposing upon Dr. Talmage the necessity of proving the truth of the charge as a means of his own justification. Another answer, and the true one, is that the Presbytery of Brooklyn was the prosecutor, making the charge on the basis of common fame, and acting through a prosecuting committee. The Presbytery, being both prosecutor and judge, instituted the suit and determined the issue. This results from the provisions of the Book of Discipline in regard to common fame.

What then is the charge which the Presbytery, on this basis, brought against Dr. Talmage, and which it was necessary affirmatively to prove in order to justify his conviction? The accusation contained these two propositions: 1. That Dr. Talmage was guilty of falsehood and deceit "in that in the winter of 1876-7 he *falsely* accused I. W. Hathaway of dishonest practices." 2. That he was guilty of falsehood and deceit, in that "he afterward denied that he had done so," namely, denied that he had *falsely* accused I. W. Hathaway of dishonest practices, as alleged in the first proposition. Such is the charge made in the fourth specification; and upon it the accused was arraigned for trial.

The party making this charge, which in this case was the Presbytery of Brooklyn, proceeding on the basis of common fame, must affirmatively prove its truth, or the whole case fails here for the want of proof. Mr. Greenleaf, in his treatise on the "Law of Evidence," vol. i., pp. 66, 93, says: "The burden of proving a proposition or issue lies on the party holding the affirmative." "It is, therefore, generally deemed sufficient, where the allegation is affirmative, to oppose it with a bare denial, until it is established by evidence." Mr. Wharton, in his treatise on the "Law of Evidence," vol. i., p. 299, says that "whether the party claiming the judgment of the court asserts an affirmative or negative proposition, he must make good his assertion." The same doctrine is stated by Mr. Best, Mr. Starkie and Mr. Phillips, in their treatises on the law of evidence. This was the doctrine of the old Roman law, and has its basis alike in equity and common sense.

The Presbytery then, in this fourth specification, presented to Dr. Talmage two affirmative allegations of fact, in each of which it charged him with the crime of falsehood and deceit. In pleading thereto he confessed the truth of neither allegation, but denied both.

It was, therefore, for the Presbytery to prove one or both of these allegations; and if it proved neither, then the case was a total failure without any defense, unless we adopt the

absurd doctrine of conviction upon a charge not proved. The fact that the Presbytery, and not a private individual, accused Dr. Talmage on the basis of common fame, does not affect his rights under the law of evidence. He is to be presumed innocent of the alleged falsehood and deceit, and that, too, without any proof on his part, until the contrary is shown; and the affirmative proof must be furnished by the party making the accusation.

The fact, moreover, that the character of a man, in this case, of Mr. Hathaway, is involved in the offense said to have been committed, does not change the nature of the issue in the slightest degree. The issue is one of "falsehood and deceit," and nothing else. If the alleged falsehood and deceit had related to a bill of exchange or the purchase of a span of horses, and not to the conduct and character of Mr. Hathaway, the issue would have been exactly what it now is; and it now is just what it would then have been. The single question is, whether Dr. Talmage was a *liar* in the matter set forth. I say, that this is the single question, because it was the only thing charged against him. He was not charged with profanity, or stealing, or murder, but with "falsehood and deceit;" and the fourth specification was framed to set forth the things in which the falsehood consisted, and which must be shown as facts, in order to maintain the charge.

One part of this charge—the part that I shall first consider—alleges that "afterward," namely, after falsely accusing I. W. Hathaway of dishonest practices, Dr. Talmage "denied that he had done so," namely, that he had thus falsely accused Mr. Hathaway. The offense here set forth consists entirely in this alleged denial, and, of course, the denial must be proved, or the offense is not proved. Was it proved? Far otherwise. What was proved is that Dr. Talmage, in the presence of Mr. Hathaway, and afterward in the presence of Dr. Van Dyke and Mr. Hathaway, denied that he used the word "defaulter" in application to the latter, and Dr. Van Dyke himself does not swear that he did use this word, but simply says that he used words

that made such an impression on his mind. And, moreover, Dr. Van Dyke does not pretend to swear to the exact words of Dr. Talmage. He swears only to the impressions which he received. It was further proved by Mr. Hathaway that Dr. Talmage said that "Dr. Van Dyke had misinterpreted what he said." This is all that was proved as to the alleged denial.

And, in the light of this evidence, it is simply amazing that seventeen members of the Court should have voted for sustaining the fourth specification, without any qualification. I cannot well think what they were thinking of. If it had been proved that Dr. Talmage had denied that he "*falsely* accused I. W. Hathaway of dishonest practices," this would not show that he was guilty of any falsehood in making such a denial, since he might have thought that he had *justly* accused him, and hence might very properly deny that he had *falsely* accused him. He might have made the denial and yet have spoken just as he thought, and this certainly would be no lie.

The case, however, as proved, is far weaker than this, since the only denials that rest upon any proof relate to the use of the word "defaulter," and the general remark of Dr. Talmage that "Dr. Van Dyke had misinterpreted what he said." That Dr. Talmage did use the word "defaulter" Dr. Van Dyke does not swear. And nothing could be more monstrous than to convict Dr. Talmage of a denial in the sense of uttering a willful lie, because he said that "Dr. Van Dyke had misinterpreted what he said." Dr. Van Dyke is not infallible in either hearing or remembering the words of others; and Mr. Hathaway is not infallible in either of these processes. Neither of them is infallible in stating what he has heard. It is very easy to suppose that Dr. Talmage, when hearing from Mr. Hathaway the representation which Dr. Van Dyke had given him of his words, honestly thought that Dr. Van Dyke had misinterpreted these words, either by attaching a meaning to them which he did not intend, or by putting words on his lips which he did not use. There is important significance in the fact

that this remark about misinterpretation was made in direct connection with his denial to Mr. Hathaway that he had used the word "defaulter" in application to him, which word Dr. Van Dyke does not pretend that he did use. This specific denial very naturally suggested, and very properly qualifies, the application of the remark made in immediate connection therewith.

I am almost ashamed to reason thus minutely upon the denial alleged in the indictment, and I would not do so if I did not remember that seventeen members of the Presbytery *thought*, as shown by their votes, that Dr. Talmage was here guilty of falsehood as shown by the proof. My proposition is that the proof justifies no such conclusion. These seventeen men were entirely mistaken in their estimate of the evidence; and the twenty-six men that voted for a complete acquittal voted according to the evidence. "Not proved" is the verdict demanded by the facts; and any other verdict would have been grossly unjust.

This brings us to the other part of the accusation, which is that Dr. Talmage, "in the winter of 1876-'77, *falsely* accused I. W. Hathaway of dishonest practices." I wish here, before going into the evidence, to say that it was not possible to convict Dr. Talmage of *falsely* imputing dishonest practices to Mr. Hathaway, without inquiring and determining whether the latter had been guilty of such practices. Both of these men must virtually be tried, one on the question of falsehood, and the other on the question of honesty; and the latter must be found innocent in order to convict the former. The Presbytery had no right to investigate the question of Mr. Hathaway's honesty, and thus in effect put him on trial; and yet the specification was so drawn that the Presbytery could not convict Dr. Talmage of *falsely* accusing him without doing so. The simple truth is, that the specification did not present a triable issue; and on this ground the accused was entitled to an acquittal on the very face of the case.

The propositions to be proved, in order to sustain this charge, are these: 1. That Dr. Talmage, in the winter of

1876-'77, did accuse I. W. Hathaway of dishonest practices. 2. That the accusation was not true; and to prove this the character of Mr. Hathaway, as just remarked, must be inquired into. 3. That Dr. Talmage *knew* the accusation to be false when he made it. These propositions must be affirmatively shown by the prosecution, or no case is made out. Was this done?

One of the witnesses placed on the stand was Dr. Van Dyke, whose testimony shows that in the latter part of November, 1876, and not in the winter of 1876-'77, Dr. Talmage made certain general statements which impeached the truthfulness and honesty of Mr. Hathaway. This is all that the testimony shows. As to the question whether these statements were *false*, and as to the further question whether Dr. Talmage *thought* them false when he made them, Dr. Van Dyke gave no light. There could plainly be no conviction simply on his testimony, since it failed to establish two material points, namely, the untruth of the accusations and the falsity of Dr. Talmage in making them. We are to bear in mind that Mr. Hathaway is not the complainant in this case, and that the charge against Dr. Talmage is not that of slander, but simply that of falsehood, and hence that all the constituents of falsehood must be affirmatively shown, or the charge falls to the ground. Dr. Van Dyke does not show all of these constituents. Indeed, his testimony does not show any falsehood at all. It simply shows accusations as matters of fact.

Mr. Pearsall is another witness introduced by the prosecution; and being questioned as to the character of Mr. Hathaway and his management of church finances, so far as committed to him, he spoke well of him in both respects. This, however, does not prove that the accusations of Dr. Talmage were false, or that he thought them such when he made them. Dr. Talmage might have known or heard some things about Mr. Hathaway which Mr. Pearsall did not know and had not heard. This witness clearly does not fix the lie upon Dr. Talmage in what Dr. Van Dyke swears

that he said. Dr. Talmage may have had reasons for the opinions which he expressed, of which Mr. Pearsall has no knowledge.

A letter written by Dr. Talmage in the previous February, introducing Mr. Hathaway to the professors at Princeton, and speaking of him in commendatory terms, was also presented by the prosecution. This letter, however, does not show that Dr. Talmage spoke *falsely*, or meant to do so, when nine months after writing it he spoke as Dr. Van Dyke swears that he did speak. He may have heard things about Mr. Hathaway in the course of these nine months which changed his views, and gave him an unfavorable impression, especially when, as he supposed from his conversation with Dr. Van Dyke, this very man, whom he had in various ways befriended, had had something to do with the offensive statements made in the "Augustin" letter, which were a matter of discussion between Dr. Talmage and Dr. Van Dyke when he said what he did say about Mr. Hathaway. This is just the fact in the case; and hence the February letter to the Princeton professors is very far from fixing conscious falsehood upon Dr. Talmage in the accusations which he made in the latter part of the following November. What he said in the first instance may be different from what he said in the second; but this is easily explained by a simple change of views, than which nothing is more common.

So also the preamble and resolution of January 12, 1877, adopted by the Session of the Tabernacle Church, was introduced as evidence against Dr. Talmage. It is to be remembered that, after Mr. Hathaway returned from Princeton to Brooklyn in the latter part of December, 1876, and became informed of what Dr. Talmage had said to Dr. Van Dyke, there was a series of interviews between him and Dr. Talmage, and that the last interview, namely, the one at which the whole matter was settled, occurred in the presence of the Session of the Tabernacle Church, on the 12th of January, 1877, or nearly two months after the time of the accusations as sworn to by Dr. Van Dyke. This

interview resulted in the adoption, by the Session, of a preamble and resolution, the preamble reading as follows: "Mr. I. W. Hathaway having appeared before us, complaining of having been slandered by reports in circulation concerning him, and that such reports have arisen from constructions put upon inadvertent remarks made by members of this church, and the *whole matter having been inquired into and satisfactorily explained.*"

This preamble shows the following things: 1. That there were evil reports in circulation concerning Mr. Hathaway. 2. That these reports arose from constructions put upon inadvertent remarks made by members of the church. 3. That the whole matter as to these reports had been "*inquired into and satisfactorily explained.*" Dr. Talmage was aware of these reports. He had heard of them when he spoke as he did to Dr. Van Dyke.

Now, the session, in view of the facts recited in the preamble, Dr. Talmage being present and concurring with the action, passed the following resolution: "*Resolved, That we, the Session of this church, hereby express our continued confidence in Mr. Hathaway's Christian character, and declare that we are satisfied that any and all charges which may have been floating in the community affecting his moral character, are false and slanderous, this resolution being passed by the Session and accepted by Mr. Hathaway as a final and satisfactory adjustment of the whole matter.*"

We thus see, by the showing of the prosecution, that there were evil reports about Mr. Hathaway, which had undoubtedly come to the knowledge of Dr. Talmage. We further see that the matter involved in these reports was inquired into by the Session and satisfactorily explained, so as in the judgment of the Session to exculpate Mr. Hathaway. This lets in a flood of light upon the case, not against Dr. Talmage, but in his favor. When he spoke as he did to Dr. Van Dyke nearly two months prior to this satisfactory adjustment of the whole matter, having heard these evil reports, and being indignant at the supposed com-

plicity of Mr. Hathaway with Dr. Van Dyke in the "Augustin" letter, he spoke as he then thought. This same Dr. Talmage, having had interviews with Mr. Hathaway after thus speaking, and being present and part of the Session when the whole matter was inquired into and satisfactorily explained, concurred with the Session in declaring these evil reports to be false, and thus took back his own accusations made to Dr. Van Dyke, and in this way made an *amende* therefor. Mr. Hathaway on his part accepted the action as satisfactory. He could now go back to Princeton with his character endorsed by the Session, including Dr. Talmage, after an inquiry into and proper explanation of the evil reports that had been floating in the community.

Dr. Talmage ought to thank the prosecution for introducing this action of the Session as a part of their case, since, although not so intended, it completely disposes of the case. It is very difficult, even admitting all that Dr. Van Dyke says, to see where the lie comes in. Dr. Talmage, indignant and excited for what he supposed to be good reasons, spoke evil of Mr. Hathaway because he then *thought* evil. There were evil rumors about him, and this the prosecution has shown. Dr. Talmage subsequently joined with the Session in speaking well of him, after inquiry and satisfactory explanation, because he *then* thought differently, and this too the prosecution has shown by its own evidence. This sweeps away the whole case, so far as the question of lying is concerned, which is the only point in issue. No man lies who makes different statements about the same thing or the same person, provided in each he speaks as he thinks at the time. The statements may be even contradictory, yet this mere fact makes no one a liar. Falsity as to a fact, and falsity in intention, are widely different. The one is a mistake of the head, and the other is a vice of the heart.

Nothing is more common than a change of opinions about men. I have myself undergone such a change as the result of this trial. It sometimes happens that men

sharply accuse each other in certain circumstances, in certain moods of feeling, and with certain thoughts in their minds ; and then, fortunately for our race, these same men, subsequently, and under different circumstances, may, as the result of conversations and explanations, take back their own words, adjust their differences, and resume friendly relations. This, according to the showing of the prosecution, is just what Dr. Talmage did in respect to Mr. Hathaway. He accused him in what he said to Dr. Van Dyke, and then, in the settlement of the matter, after inquiry and satisfactory explanation, he took back the accusation, and Mr. Hathaway was satisfied. The attempt, in view of the facts, to make Dr. Talmage a liar in any part of this affair, is either malignant or prompted by a prejudice too blind and too intense to deserve any respect.

I have now examined all the evidence introduced by the prosecution for the support of the fourth specification, and it so happens that this is all the evidence that was before the Presbytery. The defense introduced no evidence at all. Why did not the defense place Dr. Talmage on the stand to testify as to what he said to Dr. Van Dyke? Why did it not place witnesses on the stand to impeach and assail the character of Mr. Hathaway, and prove the truth of the accusations against him?

The controlling reason why this was not done arose from the fact that Dr. Talmage and Mr. Hathaway, not originally at their own seeking, but at the suggestion of the Moderator of the Presbytery, had a conference with each other during the trial, and after all the evidence in support of the fourth specification had been presented. The result was that each agreed to address a letter to the Presbytery, in which each would express his regret that the difficulty between them that was settled in January, 1877, should have been revived in the form of Specification 4, and in which each would declare his purpose, not to attempt to vindicate himself in respect to this matter at the expense of the other. Such letters were written, and read before the Presbytery, and the defense acted accordingly in not intro-

ducing any evidence, but in leaving the case just as it was placed by the prosecution. The whole matter had once been honorably settled by these men, and in this conference they determined to abide by that settlement, and they did so.

I am of the opinion that the Moderator did a very wise thing in suggesting this conference, and that Dr. Talmage and Mr. Hathaway acted as wisely in the course which they pursued. Dr. Talmage consented to leave the case against him just as it stood, without introducing evidence to break down the character of Mr. Hathaway; and this relieved the latter from the necessity of introducing any evidence to sustain his own character. Thus the Presbytery, I regret to say, not by its own wisdom at the time, but by the interposition of the Moderator and the co-operation of these parties, was saved from what would have been a disgrace to the body itself, in the virtual trial of the question whether Mr. Hathaway was an honest or a dishonest man. The Presbytery had no right to touch this question, since Mr. Hathaway was not a party in the record, and should not have entertained an indictment against Dr. Talmage which could not be established without raising and determining this question.

These men—both of them ministers of Christ—were, by a great blunder on the part of the Presbytery, drifting into a desperate onset upon each other, each for his own vindication. Under the counsels that then prevailed there seemed to be no escape from it; and there would have been none if these parties had not been wiser than the Presbytery. The spectacle would have been shameful to the very last degree. I never in my life dreaded anything so much as I did the task of acting as counsel in an effort to assail Mr. Hathaway's character as the means of defending that of Dr. Talmage. I felt that it would be outrageous, and I feel so now; and to me it was a great relief when the men themselves on this point took their case into their own hands, and, wiser than the Presbytery, furnished an escape from this necessity.

And yet, strange to say, the complainants find in the action of these men one of the matters of which they complain. They ought rather to sing psalms of joy, and thank God for the action. Would it have been a pleasure to them to have fifteen or twenty witnesses march to the stand and testify against Mr. Hathaway, who was not a party on trial, and perhaps as many more to testify for him? This is just what would have occurred if that had not occurred of which they complain. If this had occurred, it would have been a grievous wrong to Mr. Hathaway, and a gross violation of just rules of judicial procedure. Were the complainants so anxious to fix the lie upon Dr. Talmage, that they would rush, without law, without justice, and against law, upon the trial of the question whether Mr. Hathaway was an honest or a dishonest man when he had not been indicted? I fondly hope not, and hence set down their attitude to a mistake of the judgment.

The complainants speak of the letters of these men as having been introduced before the Presbytery with "dramatic effect." It is true that the Moderator, to whom the letters were addressed, introduced them with a few appropriate remarks; and then each of these gentlemen read his own letter, declaring his purpose that, whatever the Presbytery might do, he would adhere to and abide by the satisfactory settlement of the whole difficulty made in January, 1877. It was a solemn moment. The moral exhibit was impressive; and if this be what is meant by "dramatic effect," then, while I do not think the words well chosen, I do not object to the idea. If, however, the meaning be that the scene was artfully gotten up for effect, or to evade any issue of justice, or conceal criminality that would not bear exposure, then I unhesitatingly declare the language to be utterly false. These parties were not stage-actors in that scene, but doing an eminently Christian thing, alike creditable to both.

It should be remembered that neither Dr. Talmage nor Mr. Hathaway originated the arrangement to which both agreed. They simply accepted it, after a fraternal confer-

ence with each other, at the wise suggestion of the Moderator. Each saw that this was the best thing to be done; and each felt that the difficulty between them that was settled in January, 1877, should not have been revived in 1879, as an accusation against Dr. Talmage on the ground of common fame. What both did is what all candid men, if understanding the facts as they were at the time, cannot fail to approve. That the complainants should see anything in this action to condemn, is one among the many marvels of this extraordinary case.

Having thus commented upon the fourth specification, I desire, in a word, to recall attention to what was proved, and what was not proved, in regard to it. As to the allegation that Dr. Talmage had "falsely accused I. W. Hathaway of dishonest practices," it was shown by the testimony of Dr. Van Dyke that he had spoken of Mr. Hathaway in a way that impeached his character for truth and honesty, and further shown by other testimony that the difficulty arising therefrom had been entirely settled. It was not shown by any testimony that Dr. Talmage did not believe in the truth of the accusation against Mr. Hathaway when he made it, or that he had not then reasons for believing in its truth. No falsehood of *intention* was, therefore, proved here, and hence none that would justify conviction, even if it had been positively proved, as was not the case, that the statements of Dr. Talmage in regard to Mr. Hathaway were not true, as a matter of fact.

As to the allegation that Dr. Talmage "afterward denied that he done so," namely, that he had "*falsely* accused I. W. Hathaway of dishonest practices," it was proved that he denied using the word "defaulter" in application to Mr. Hathaway, and was not proved that he did use this word. It was further proved that he declared that "Dr. Van Dyke had misinterpreted what he said;" but it was not proved that this was a false statement, or that he thought it such when he made it.

"Not proved" was the verdict of the Presbytery in regard to this particular charge; and "not proved" is clearly the verdict demanded by the evidence.

SPECIFICATION FIFTH.

Dr. Talmage is here charged with falsehood and deceit, "in that in the early part of the year 1878 he endeavored to obtain false subscriptions towards the payment of the debt of the church, to be deceitfully used for the purpose of inducing others to subscribe." The vote on this specification stood thus: Twenty-eight for not sustaining it; twelve for sustaining it; and five for sustaining it in part.

The only definite thing in this charge is the date of the offense. It was committed, as alleged, "in the early part of the year 1878." As to what is meant by "false subscriptions;" as to the act or acts which constituted the endeavor "to obtain" them; as to the particular church whose debt was to be paid; as to the method or methods by which these "false subscriptions" were "to be deceitfully used for the purpose of inducing others to subscribe;" as to the persons who were thus to be deceived—as to all these points the specification gave the accused no information.

A criminal indictment, so vaguely drawn as this, would be kicked out of court at sight. No court of justice would subject a person to trial on such an indefinite and ambiguous charge of crime. The accusation plainly does not conform to that rule of the Book of Discipline which requires that "the times, places and circumstances" of alleged offenses shall be so set forth as to give the accused the proper information in regard to the offense charged, and thereby enable him to know beforehand what he is to meet, as well as to prepare his defense. For this reason the specification ought not to have been adopted at all; and for the same reason, if for no other, Dr. Talmage was entitled to an acquittal. He had not been legally charged with crime, and ought not, on this specification, to have been tried at all.

The crime charged consists in an *endeavor* to do something; and the description of this endeavor is that it was made "to obtain false subscriptions toward the payment

of the debt of the church," and that the design of Dr. Talmage in so doing was "deceitfully" to use these said subscriptions "for the purpose of inducing others to subscribe." The endeavor is thus described; and all parts of the statement must be shown as facts in order to justify a conviction.

The evidence adduced by the prosecution consisted in two telegrams, the authorship of which, as Mr. Pearsall swore, was acknowledged by Dr. Talmage in the Gelston case tried before the City Court of Brooklyn. The first of these telegrams reads thus :

" BROOKLYN, January 30th, 1878.

" TO JOHN F. TALMAGE, *Eutaw House, Baltimore* :

" Whole community agitated about foreclosure; fever for debt-raising high. If your house will subscribe five thousand dollars, and Mr. Hobbs the same, three others will do the same, and the thing is done. If you cannot, the matter will not be undertaken. It is to-night or never. Nothing unless all debt, church and college. For the Lord's sake say yes. Telegraph immediately.

" T. DE WITT TALMAGE."

The second telegram was as follows :

" BROOKLYN, January 30th, 1878.

" TO JOHN F. TALMAGE, *Eutaw House, Baltimore* :

" Will you and Mr. Hobbs allow me to pledge you each for five thousand dollars, provided I make up to each of you privately the difference between your subscriptions and five thousand? Telegraph immediately.

" T. DE WITT TALMAGE."

This is the entire evidence offered by the prosecution to sustain the high-sounding charge that Dr. Talmage had "endeavored to obtain false subscriptions toward the payment of the debt of the church," and that his design was "deceitfully" to use these subscriptions "for the purpose of inducing others to subscribe." There is no pretense of any wrong in the first of these telegrams. The whole offense, if any, was committed in the second one. Let us then compare the offense charged with this telegram, and see whether the latter proves the former.

1. One part of the offense consists in an endeavor "to obtain false subscriptions toward the payment of the debt of the church." Does the telegram show such a fact? Not at all.

It is plain on the face of the telegram that the proposition of Dr. Talmage did not contemplate a false subscription in the sense of a forgery. He asked Mr. John F. Talmage whether he and Mr. Hobbs would "allow" him to pledge each of them for five thousand dollars. He was in Brooklyn, and they in Baltimore; and he solicited from them, in the form of a question, the authority to make such a pledge in their names.

It is equally clear that the subscriptions were not to be a *sham*, but to be made in good faith on the part of Dr. Talmage and on the part of these gentlemen, as to the question of payment. This is evident from his seeking their authority thus to pledge them, and, also, from the implication involved in his question, that, in the event of receiving such authority from them, he would be willing to "make up" privately, to each of them, "the difference" between the amount subscribed and such a part thereof as they might choose to give themselves. All this goes upon the supposition of *bona fide* subscriptions, to be paid by the parties making them. They were to be the subscribers through Dr. Talmage, and to pay the subscriptions; and, in the theory of the question, he was to "make up" to them, either before or after payment, such a part thereof as they might choose to demand. This "difference" thus made up by him, whatever it might be, whether fifty or five hundred dollars, would be directly a gift to them from Dr. Talmage, and indirectly, through them, a gift for the object in respect to which he wished each of them to subscribe and pay five thousand dollars. There is no sham in such a proposition.

It may, however, be said that if Mr. John F. Talmage, for example, had subscribed five thousand dollars, and Dr. Talmage had furnished twenty-five hundred dollars of the amount paid by the former, then the subscription would have been a false one. Would it? Let us see.

Mr. John F. Talmage would have been bound in honor to pay five thousand dollars, and, if a man of his word, he would have done so. The subscription would not have been false as to the intention of payment. Dr. Talmage, by the supposition, would donate twenty-five hundred dollars to Mr. John F. Talmage for the purpose of payment; and the donation, when a completed act, would make the money the property of Mr. John F. Talmage for the object in question. That is to say, Mr. John F. Talmage would pay his *own* money, a part of which would be a gift from Dr. Talmage. Would that be a false subscription? It is the sheerest nonsense to call it such. Calling it such assumes that the source whence the money is derived that is used in liquidating the obligation of a contract, fixes the character of that contract. This is worse than straining at a gnat and swallowing a camel. A subscription is a contract to pay money; and now, what difference does it make in respect to the contract, whether the money paid is derived by a gift from another, or from interest on bonded investments, or from the operations of legitimate trade? It is a new doctrine that the source of funds paid in the fulfillment of a subscription is to determine whether that subscription is true or false.

Suppose that a friend of mine should say to me: "I want you to subscribe a thousand dollars to build a church. If you will put down your name for that sum, or allow me to put it down for you, I will, when the obligation matures for payment, draw my check in your favor for one thousand dollars, understanding, of course, that you are to pay the subscription. This is a matter between you and myself, and I wish you to keep it as such. I have my own reasons for the wish." Suppose that I should reply: "I am not able to subscribe anything; but if you will give me the money, I will make the subscription and pay it." Suppose further, that this proposition is actually carried into effect, and the thing is done. I make the subscription and in due season pay it with the money which my friend gives me, and which he had pledged himself to give on the condition named.

By and by some hunter after "falsehood and deceit" gets on the track of this friend, and an enemy furnishes him a letter which the friend had written, and which contains his proposition to me. "Ah!" says this keen-eyed hunter, "now I have got him in a tight place. He has been guilty not only of endeavoring to obtain, but of actually obtaining a false subscription to build a church; and here is his own letter showing the fact. Give me a pen, and I'll put this offense into the form of an ecclesiastical indictment, and then I'll convict him if I can."

Now, is there any court in the land—is there any common sense in the land—if, understanding the facts as I have supposed them to be, that would for a moment say that this friend of mine had been guilty, not only of endeavoring to procure, but of actually procuring a false subscription, to build a church? Would not every candid man at once say that the term "false," as used in this connection, is worse than a humbug, by being a vile slander? Would not every sensible person say that this hunter after "falsehood and deceit" was himself the victim of an insane delusion, or afflicted with a malady of the sensibilities, best explained by referring it to the category of disordered feeling?

And yet the case supposed is worse than that proved in respect to Dr. Talmage. He simply "endeavored," and he "endeavored" by asking a question, and the thing that he thus "endeavored" to do was not done at all. He is a mild offender when compared with this friend of mine, who carried the endeavor into effect, and actually secured the false subscription, and then capped the climax of the falseness by giving me the money with which to pay it. Hang Dr. Talmage, and let that man go scot-free! No, never. Hang both or neither. Hang neither, for there is no offense which can be detected by the strongest magnifying power of a moral microscope.

The allegation that Dr. Talmage "endeavored to obtain *false* subscriptions" for any purpose, so far as the evidence of the second telegram goes, is itself a false statement. The subscriptions that appear in this telegram were not to be

false, but real, and to be paid in good faith; and to call them false is a misnomer. The man who drew this part of the indictment drew upon his fancy, and, withal, did not evince the highest order of training in the selection of appropriate words. The term "false" has no application to the thing disclosed in the telegram.

2. The other part of the offense consists in the alleged fact that Dr. Talmage, when he endeavored to obtain subscriptions, not shown to be "false" at all, intended "deceitfully" to use them "for the purpose of inducing others to subscribe." This imputed intention is material to the case as stated in the indictment; and unless it be shown as a fact, then the whole accusation is but a mass of empty words, so far as the question of guilt is concerned, though, considered relatively to Dr. Talmage, it would be a cruel slander.

Now, does the second telegram furnish any proof of the intention here imputed to the accused? One may read that telegram for a day or a century; and he will not find the first word that even remotely suggests or implies the purpose alleged. I challenge all the exegetes that ever lived or died, to point to a solitary syllable or letter in the telegram which shows such a purpose. I do not absolutely know that Dr. Talmage did not have the imputed purpose in his mind when he wrote the telegram; but I do know that he neither expressed nor implied any such purpose. It is not in the language used, any more than the five books of Moses are in that language. It is a slanderous assumption to put it there, unless there be some other reason for so doing.

The fact that Dr. Talmage, in his first telegram, said to Mr. John F. Talmage, "If your house will subscribe five thousand dollars, and Mr. Hobbs the same, three others will do the same, and the thing is done," does not justify the inference that, in the second telegram, he was laying a plan to practice deceit upon these "three others" by procuring "false subscriptions" from Mr. John F. Talmage and Mr. Hobbs. When he sent the first telegram he had

no idea of sending the second ; and, when he sent the second, it is not at all probable that he had in his mind the exact words used in the first telegram. In the first telegram he expressed the opinion—for what reasons and upon what assurances from these “three others” I do not know—that if Mr. John F. Talmage and Mr. Hobbs would subscribe five thousand dollars each, “three others” would do the same. Perhaps he stated, in respect to these “three others,” his confident hope rather than an explicit and formal pledge on their part. When, however, Mr. John F. Talmage replied in the negative, as he did, and assigned inability as the reason for the refusal, then Dr. Talmage sent his second telegram and requested permission to pledge Mr. John F. Talmage and Mr. Hobbs for *bona fide* subscriptions of five thousand dollars each, with the understanding between him and them that he would, if necessary, aid them out of his own funds in the payment, and undoubtedly with the hope that they would authorize him to make the subscriptions, and then pay them themselves, without asking anything from him. The question whether he should “make up” to them any part of their subscriptions was left for them to decide.

Now, to say that Dr. Talmage, by his effort as appearing in the second telegram to obtain subscriptions of five thousand dollars each from Mr. John F. Talmage and Mr. Hobbs, was playing a trick of deception upon these “three others,” from whom he hoped in this way to get subscriptions of five thousand dollars each, and that trickery was the theory of his mind at the time, is to show a most amazing eagerness to convict him of deceit. Who knows that he had any such theory in his mind ? Who knows that these “three others” had formally stipulated that they would subscribe five thousand dollars each, on the express condition, and no other, that Mr. John F. Talmage and Mr. Hobbs would do the same thing ?

The telegrams certainly do not so connect the action of these “three others” with that of Mr. John F. Talmage and Mr. Hobbs as to imply that Dr. Talmage was trying to de-

ceive the former when he was endeavoring to get a subscription of five thousand dollars each out of the latter, or that he would not have been entirely willing to read the second telegram to these "three others," and thus inform them of its exact nature, had they been present when it was written. There is nothing here to suggest that, so far as his own action was concerned, he had any wish or design to conceal from these "three others" the arrangement which he was willing to make with Mr. John F. Talmage and Mr. Hobbs. These telegrams, about which such a causeless rumpus has been made, and upon which the enemies of Dr. Talmage have fattened themselves, do not, unless supplemented by a series of pure assumptions, with the addition of a false statement as to what is a false subscription, fix any deceit or trickery in the mind of their author.

And yet it was upon this evidence, without a solitary word or fact in it that either proves or implies an intended deception, that the prosecution asked the Presbytery to brand Dr. Talmage as a deceiver. I have already said that any court of justice would have kicked such an indictment out of court upon its very face; and I now add that any court of justice would kick the case out of court upon the showing of such evidence. The gulf between the premise furnished by the evidence, and the conclusion sought to be drawn, is one over which no judicial logic can travel. To fly over it would task the wing of even malignant fancy. Nothing can be more unreasonable than to read these telegrams, and then proceed to say, on the basis thereof, that Dr. Talmage was guilty of endeavoring "to obtain false subscriptions toward the payment of the debt of the church," with the intent of "deceitfully" using them "for the purpose of inducing others to subscribe."

If the accusation were not to Dr. Talmage so grave a matter, it would be an amusing exercise to study the psychological structure of the mind, especially in its emotional workings, that started with the telegrams and ended with this charge. What a mind that was, and, if still extant, what a mind it is! The matter in hand is, however, so

serious to the party accused, and the accusation, in the light of the evidence adduced to support it, is so palpably unjust, that I will not turn aside to analyze this singularly constructed mind. Others may do that at their leisure. My concern is with the guilt or innocence of Dr. Talmage as a judicial problem to be determined by evidence.

It will be perceived that, thus far, I have dealt only with the evidence presented by the prosecution. Let us, then, turn over the leaf, and read the page furnished by the evidence for the defense. Mrs. Talmage, the wife of the accused, than whom a nobler woman never honored a husband, happens to be personally conversant with all the facts connected with these telegrams, and to be herself participant in all that was done by her husband. She took the stand as a witness for the defense, and told the story as follows:

“The telegram was sent at the time we were attempting to raise the church debt. Mr. John F. Talmage, who was President of the Board of Trustees, was in Baltimore at that time, and so was Mr. Hobbs. Mr. Talmage felt that if twenty-five thousand dollars could be raised by the Board of Trustees the balance could be quite freely raised among the congregation; but he felt that twenty-five thousand dollars must be raised among the Board of Trustees before he would be willing to start in the matter at all. So he telegraphed to Mr. Talmage and Mr. Hobbs, asking them if they would be willing to give five thousand dollars, provided the rest of the money was raised. The answer came back that they did not feel able to do so. We were very much disappointed, Mr. Talmage particularly so. He said: ‘I don’t know what to do; I don’t feel like undertaking this unless twenty-five thousand dollars is raised in the Board.’ Finally he said to me: ‘I will tell you what I will do if you approve of it. I will send a telegram to John Talmage and tell him that if he and Mr. Hobbs will do their best, giving everything they are able to, I will make up the balance to them.’ I replied: ‘I don’t think you are able to do that,’ because he had promised five thousand dollars already. Then he brought his fist down violently upon the table and said: ‘I would give every cent of my salary for one year to have the church debt raised, and I will do it too if you are willing.’ I thought we were not able to do it.

Mr. Talmage itemized how he could support his family during the year, provided they accepted the offer. He said it would be a matter of domestic economy. I finally consented to do so, but I made this remark: 'If you make such a sacrifice the people won't understand that you are making such a sacrifice as they are.' He said: 'I don't care anything about any credit in this matter at all; all I want is to have the church debt raised.' I was willing, and he made out a telegram and read it to me, and I said: 'I do not think it would be pleasant to them to have it known. Perhaps you had better give them to understand that this would be a matter between themselves and ourselves.' So Mr. Talmage said: 'I will put the word privately in.' I said: 'I don't think they would understand it.' He said: 'You can't put everything in a telegram.' I was the one that suggested the word privately, and these were the circumstances under which it was suggested, and the telegram was sent."

Here we have the inside view of these "false subscriptions" which Dr. Talmage "endeavored to obtain toward the payment of the debt of the church, to be deceitfully used for the purpose of inducing others to subscribe." The wife's story, confirmed by that of the husband, brands the accusation as cruelly unjust and grossly false.

Dr. Talmage wanted to have the debt of the church paid, which certainly was right; and for this purpose he had already promised to give five thousand dollars, and thought it necessary that twenty-five thousand dollars should come from the Board of Trustees. Two of these trustees, one of them his nephew, happened to be in Baltimore at the time. He telegraphs to the nephew, asking each of them to give five thousand dollars, and expressing the opinion that there were three others who would do the same. The answer that comes back is that they do not feel *able* to do so. The want of *ability* is the ground of refusal.

Dr. Talmage is disappointed, and for the moment does not know what to do. Speedily a suggestion occurs to his mind, by which he proposes to relieve this want of ability, and which he thus expresses to his wife: "I will tell you what I will do, if you approve of it. I will send a telegram to John F. Talmage, and tell him that if he and Mr.

Hobbs *will do their best*, giving everything they are *able* to, I will make up the balance to them." The only thought in his mind was to pay back to them what they were not able to give, provided they would authorize the subscriptions, and "do their best" to give the whole amount themselves. His wife hesitated on the score of his ability, especially as he had already promised to give five thousand dollars; and he then said: "I would give every cent of my salary for one year to have the church debt raised." After a moment's consultation as to the support of his family during the year, his wife expressed the opinion that the people would not understand that he was making such a sacrifice, and he answered: "I don't care anything about any credit in this matter at all. All I want is to have the church debt raised."

"These were the circumstances," says his wife, and these were the mental operations, on his part and hers, under which "the telegram was sent."

Now, where, according to this story, does the deception come in? Where is the idea expressed? Where is the evidence of any purpose of deception? Where is the endeavor to obtain "false subscriptions?" Where is the proof that Dr. Talmage intended *deceitfully* to use the subscriptions that he was seeking to obtain, "for the purpose of inducing others to subscribe?" I submit, in all candor and conscience, that the charge, as made against Dr. Talmage, does not at all fit the facts as shown by the evidence. It falsely characterizes these facts. The evidence places no idea of deception or any species of trickery in the mind of Dr. Talmage, or in that of his wife. It does not impeach the character or sincerity of these parties in the musings of thought, the comparison of views, and the sacrifice proposed, which stand connected with the sending of the second telegram. The evidence puts upon both the stamp of moral nobility, so far as feeling and purpose are concerned. The Presbytery judged righteously, according to the evidence, when it decided to acquit Dr. Talmage of this charge. The marvel is that any member of the Court, if mindful of the evidence and controlled thereby, could entertain a different opinion.

The counsel for the defense, in discussing a point of casuistry, not at all essential to an acquittal, ventured to express an opinion upon that point that filled Dr. Van Dyke "with amazement." That opinion had its basis in two very simple propositions. One was "that every man has a right to give away his own money for such purposes and objects as seem to him good." The other was "that he has the right to do so under his own name, or do it anonymously, or under the name of another." An inference from these premises was that, if one gives away his own money through the name of another, and thereby withholds from the public the knowledge of himself as the actual giver, he is not guilty of any deception. Nobody is entitled to the knowledge he withholds; and where there is no right of knowledge there can be no deception by the mere lack of knowledge. The cases are innumerable in which one has a perfect right to withhold knowledge from others, and keep in his own bosom what he thinks or does; and in all such cases there can be no deception by so doing. I stated these principles in my argument before the Presbytery, believing in them then, and believing in them now, but not for a moment dreaming that they would fill Dr. Van Dyke "with amazement." I had no idea of producing such an impression upon his mind, and I must add that I was myself amazed when I discovered that he had been amazed.

There is, however, no evidence that Dr. Talmage at the time considered any of these points, or passed judgment upon them at all. He seems rather to have assumed, without any discussion with himself or with his wife, that he had the moral right to make the use of his own money implied in the second telegram, which was nothing more or less than giving that money to the parties addressed in the telegram, to be used by them for the purpose understood between them. If he had considered this question, then, speaking not in the name of the Presbytery, but in my own name as an individual, I maintain that he had a perfect right to give his money in this way, and that, if choosing to do so, he would be under no obligation to make the fact known to

anybody, and would not be the deceiver of anybody by not making it known. There would be no deception in such a case; and any horrified amazement over it would be simply a very foolish amazement.

It is easy, by false parallels, which are simply a species of logical deceit, to mis-state and misrepresent the case of Dr. Talmage, as shown by the evidence; and this is precisely what has been done for the purpose of making him out a conscious and willful deceiver. One may through another give away another man's money. This is not the case of Dr. Talmage. So one may through another give his money for an evil purpose, which is not the case under consideration. One may resort to this method of giving as a mere trick to gain a selfish end, which is not the case in hand. One may withhold knowledge from those to whom it is due, with the intention of misleading them; and this surely is not the case presented by the evidence. These suppositions do not cover this case. They are not of the same class and not parallel with it. The attempt to befog the case of Dr. Talmage by false parallels, and lying analogies, for the sake of throwing dirt at him, is simply a trickery of logic, if not a trickery of the heart.

It may be said that Dr. Talmage designed to get up a strong popular enthusiasm, and with a stiff breeze blow away the debt of his church. Such, as I doubt not, was his *general* intention. He meant to have the debt of the church paid. And this explains his action when he pledged himself to pay five thousand dollars; when he proposed that the trustees should subscribe twenty-five thousand dollars of the amount; when he desired that Mr. John F. Talmage and Mr. Hobbs should subscribe five thousand dollars each; and when he was willing, if necessary, to supplement the ability of these two gentlemen by an increased sacrifice on his own part, giving to them from his own resources so much, not of false but of *bona fide* subscriptions to be made by them, as they might not themselves feel able to pay. He undoubtedly intended to give the debt-paying movement a good start with the Board of Trustees, as the

means of encouraging and inspiring the congregation to do what all concede to be a proper thing to be done.

Let all this be conceded, and what then? Here, according to the theory of Dr. Talmage, is a subscription of five thousand dollars, made by himself. Here also is an aggregate of twenty-five thousand dollars in *bona fide* subscriptions, made by the trustees. This provides for thirty thousand dollars of the debt; and as there is no sham in the provision, there would, of course, be no falsehood or deceit in announcing the fact to the people, and in asking them to put their shoulders to the wheel and complete the work. The money, according to this programme, would be actually pledged to this amount.

Suppose, now, that the announcement, assumed to be made in these circumstances, should not state to the people where Dr. Talmage had gotten or expected to get the five thousand dollars that he had pledged, or where Mr. John F. Talmage and Mr. Hobbs had gotten or expected to get the five thousand dollars pledged by each of them, or where any other member of the Board of Trustees had gotten or expected to get the amount pledged by him. The amount in good and *bona fide* subscriptions is stated; but as to the question where the men making these subscriptions, and expecting to pay them, have gotten or would get the money with which to do so, no statement is made. What of that? The congregation manifestly has here no right of knowledge whatever; and hence there is no deception of the people by their ignorance on this point. It is a matter of no consequence, for any purpose affecting their action, where or how these subscribing parties had gotten or expected to get the money with which to fulfill their contracts, provided the subscriptions be real, and the money be lawfully obtained. The reality of the subscriptions, as made and intended to be paid in good faith, is the only thing of any importance to the people.

But, if Dr. Talmage furnished a part of the money subscribed by Mr. John F. Talmage, would not the latter *appear* to be giving more than he actually did give? If this

be conceded, then Mr. John F. Talmage would be the direct sinner, if there were any sinner at all, and the fault of Dr. Talmage would be that of aiding him in a false appearance. The fact, however, is, that there would be no falsity or deceit in the case as thus supposed. The subscription of Mr. John F. Talmage would be genuine. It would be paid, and the money paid would be his *own* money, every dollar of it. A part of it, according to the supposition, would be a *gift* to him from Dr. Talmage for this purpose, which is certainly a lawful mode of acquisition, and another part would have been acquired in some other way.

Now, what have the people to do with the question that relates to the manner, supposing it to be lawful, in which Mr. John F. Talmage has gotten or expects to get the money with which his subscription is to be paid? Ethically, nothing whatever. They have no right of knowledge as to whether this money was a gift to him, in whole or in part, or was earned by the sweat of his brow. He is not bound to tell them how he obtained it, or expects to obtain it, any more than one is bound to tell his grocer how he got the money with which to settle his grocery bill; and whether the people give him more or less credit than he deserves for his apparent liberality, is not a matter that morally affects the acquisition of the money he subscribes and expects to pay. The subscription would not be false, and the people would not be deceived, even if some one had donated all the money to him to be used for this very purpose, and he omitted to state this fact. He would have a perfect right to keep the fact to himself, and pay the subscription with money that was to him a gift. What the people think or do not think about him as the subscriber, in no way affects this right or morally vitiates his action.

The theory that would charge Mr. John F. Talmage with deception in the case, as supposed, and Dr. Talmage with being a party to that deception, assumes that, when one makes a subscription for a given object, all other parties cognizant of the fact and asked to subscribe for the same object, have the right to know how he has obtained or is

expecting to obtain the money with which to pay his subscription. They must be let into the personal and private secrets, which really belong to no one but himself, as to the *quo modo* of his procurement of the money, or else they will be deceived. It will be some time, I imagine, before the world will be educated up to this extraordinary refinement of ethics. The phenomenon will not occur until common sense has bid farewell to human nature. No one, in his sober senses, holds any such foolish notion.

Ah ! but Dr. Talmage was at least a little tricky in this second telegram. The thing was not exactly square. He had a secret game of his own and meant to play it. He would not have been willing that the people should know that he proposed to pay a part of the subscriptions of Mr. John F. Talmage and Mr. Hobbs if the parties themselves would not pay the whole, and the reason why he would not have been thus willing is the fact that such knowledge would have exposed the intended deception. All this is very easily said. It is just as easy to say it as it is to tell a lie. Who knows that there was any trickery in the mind of Dr. Talmage, or in that of his good wife, when on the spur of the moment, and without much reflection, the thing was done that was made the basis of the fifth specification ? Who knows that he had in his mind the idea of making Mr. John F. Talmage and Mr. Hobbs stool pigeons with which to entrap other pigeons ? Who knows that he went through an elaborate process of thought as to how the thing would work ? Who knows that he thought that the subscriptions which he proposed to these men would be tainted with the element of falseness ? Who knows that it was his design to procure *false* subscriptions, “to be *deceitfully* used for the purpose of inducing others to subscribe ?” Who knows all this ? Where did the man who drew this accusation against a minister of the Gospel get all this knowledge ?

The testimony of Mrs. Talmage and that of her husband utterly and absolutely exclude these propositions, and brand them as a tissue of false statements. It gives the lie to

them, and no man can believe them without virtually charging these witnesses with perjury. No fact appears which contradicts their testimony. The attempt by mere speculation, without adequate premises in the evidence, and against the evidence, to burrow into the heart of Dr. Talmage and there logically create by pure assumption the fact of falsehood and deceit in respect to this matter, is simply shameful. Let those make the attempt who have a fancy for this kind of work, but let me have no share in their counsels. Theirs is not my way of dealing with human souls. It is too savage for that charity that "thinketh no evil."

How this telegram business was originally brought to the public ear I do not know ; but I do know that Dr. Talmage has been hunted by a newspaper clamor on this subject, alike ignorant of the essential facts of the case and unjust in its imputations, as well as largely hostile and malignant in its spirit. The disclosure of the facts made by his trial reveals not the falsifier and the deceiver, but rather the zealous and self-denying Christian. The Presbytery, after patiently hearing the whole case, concluded that the charge was not proved, and hence rendered a verdict of acquittal. Any other verdict would have been an outrage to justice.

Having thus considered the question of guilt or innocence under the first five specifications, and in respect to each shown that the verdict of acquittal was correct according to the evidence, I might here pause in this discussion. I should do so if there were not some important points in the case not embraced in the previous argument, except by an occasional reference to them. These points relate mainly to the procedure by which the trial was inaugurated, and Dr. Talmage subjected to the necessity of making a defense before the Presbytery. I am of the opinion that this procedure, in several vital particulars, violated his constitutional rights, and in this sense did him a serious injustice. And this I propose now to show.

THE INAUGURATORY PROCEDURE.

I. The first action of the Presbytery in the case was taken on the third of February, 1879, and consisted in the adoption of the following preamble and resolution :

“WHEREAS, The Rev. T. De W. Talmage is charged by common fame with falsehood and deceit, and with using improper methods in preaching which tend to bring religion into contempt, and—

WHEREAS, It is the duty of the Presbytery to protect the good name of its members when they are unjustly assailed, and to subject those who offend to proper discipline, therefore—

Resolved, That a committee, consisting of three ministers and two elders, be appointed to investigate the nature and extent of the common fame referred to in the preamble, and report to the Presbytery what, if any, further action should be taken.”

All this was done at a single meeting of the Presbytery, upon the motion of one of its members, after the discussion of but two or three hours, and without any conference with Dr. Talmage as to the matters involved. The accusation, so far as the Presbytery in its organic character was concerned, loomed up at once into astounding proportions. Whatever individual members may have privately thought, or heard, or said, the silence of death had reigned in the Presbytery until this meeting, and then common fame suddenly thundered with an imperious clamor.

The Book of Discipline, chapter iii., section 5, says that “taking up charges on this ground, of course, requires great caution, and the exercise of much Christian prudence.” I submit that here was no “great caution,” and no “exercise of much Christian prudence.” The action was precipitate and hasty. The Presbytery, without inquiry and without ever before having heard the accusation upon its floor, plunged itself at once into a formal and authoritative declaration that Dr. Talmage was charged thus and so by common fame. It passed the ecclesiastical Rubicon with a single leap, and made it necessary either to enter upon a

trial of the accused or recede from its own position. Nothing was left, if the Presbytery proceeded upon the basis of the preamble, but to formulate this alleged common fame, and test its truth by a trial.

The common fame which a judicatory is authorized to declare as the basis of action is thus described in the Book of Discipline, chapter iii., section 5: "In order to render an offense proper for the cognizance of a judicatory on this ground, the rumor must specify some particular sin or sins; it must be general or widely spread; it must not be transient, but permanent, and rather gaining strength than declining; and it must be accompanied with strong presumption of truth." No rumor that does not embody *all* of these characteristics is *the* common fame known to the Book of Discipline; and manifestly no judicatory has the right to allege against any one subject to its jurisdiction the existence of any *other* common fame. To make such a declaration is a very grave matter to the party thus accused; and if it be not made in strict conformity with the Book of Discipline, it is an abuse of power and a trespass upon his rights.

Now, did the Presbytery, when it heralded Dr. Talmage to the world as being charged by common fame with falsehood and deceit, *know* that he was so charged? If it did, why did it appoint a committee to investigate the nature and extent of this common fame, and report whether any, and, if any, then what, action should be taken in the premises? This investigation plainly should have preceded the declaration. The truth is that the Presbytery, in the preamble, assumed to know the existence of a common fame, such as the Book of Discipline defines; and then it confessed that it had not this knowledge when it adopted the resolution providing for the appointment of a committee to investigate the nature and extent of this common fame, namely, to inquire whether it charged any "particular sin or sins" against Dr. Talmage, and whether it was "general or widely spread." The very things which the committee were to investigate, the Presbytery had already affirmed as matters of fact. The

resolution and the preamble are inconsistent with each other. This inconsistency shows that the Presbytery was proceeding with haste, and without due consideration of its own action.

The very first step of the procedure was ill-advised, inexpedient, and not in conformity with the Book of Discipline. If there were occasion for doing anything, the thing that ought to have been done is not the thing that was done. It was a very unfortunate hour when the Presbytery launched off in this business as it did. A very respectable minority thought so at the time. The general voice of the church at once said so, and the sequel has abundantly proved that it was so.

II. The next action was taken on the 17th of February, 1879. The committee that had been appointed reported as follows :

“Your committee report progress, and as to the minds of some members of this committee, there is a doubt as to the extent of our powers, we would ask Presbytery to instruct us whether, in case we should be compelled to recommend a judicial trial, we should be expected to present with such recommendation a charge and specifications. And we suggest that when Presbytery adjourn it be to meet at 2 o'clock on Monday of next week, when the committee will be ready to report in full.”

In answer to this request the Presbytery adopted the following resolution :

“*Resolved*, That the committee are instructed that if they find that the common fame against Dr. Talmage fulfills all the conditions of the requirements of the Book of Discipline, chapter iii., section 5, they shall formulate such common fame into a charge with specifications, and the names of witnesses to support it, and submit the same to Presbytery.”

Two remarks will sufficiently characterize this action. First, the Presbytery here confessed that, when it declared that common fame charged Dr. Talmage with falsehood and deceit, it did not know that the common fame, thus alleged, did fulfill all the conditions prescribed in the Book

of Discipline, and hence virtually confessed that it ought not then to have made the declaration. Secondly, the Presbytery submitted to the judgment of a committee, for the purpose of making a report and formulating a charge and specifications, the decision in the first instance of the grave question whether the common fame known to the Book of Discipline really existed; and in the event that the committee should decide affirmatively and proceed to formulate and report a charge and specifications, the Presbytery took the most effective steps to create a common fame against Dr. Talmage, whether it had previously existed or not.

Several members of the Presbytery strenuously opposed this action, and sought to induce it to recede from what seemed to them an improper course, and, if anything needed to be done, to appoint a committee to confer with Dr. Talmage and his Session, and endeavor to adjust the whole matter without resorting to a judicial trial. They thought the action unjust and not properly considerate of the reputation of Dr. Talmage as a minister of the Gospel. They were right in this opinion, and profoundly is it to be regretted that their opinion did not prevail.

III. The committee, thus instructed, pursued its work, and, coming to the conclusion that such a common fame as the Book of Discipline designates did exist, formulated the same into a charge with seven specifications, and, on the 24th of February, 1879, reported the result to the Presbytery. The report was adopted, and this settled the question that a trial must be had. The indictment reads as follows :

Charge : The Rev. T. De W. Talmage stands charged by common fame with falsehood and deceit.

*Specifications—First—*In that he acted deceitfully and made statements which he knew to be false in the matter of his withdrawal from the editorship of the *Christian at Work*, in the month of October, 1876.

*Second—*In that at various times he published or allowed to be published by those closely associated with him, with-

out contradicting them, statements which he knew to be false, or calculated to give a false impression, in defense of his action and statements referred to in the first specification.

Third—In that he repeatedly made public declaration, in various and emphatic forms of speech from his pulpit, that the church of which he was pastor was a free church, and that the sittings were assigned without reference to the dollar question, although he knew such declarations to be false.

Fourth—In that, in the winter of 1876-'77, he falsely accused I. W. Hathaway of dishonest practices, and afterward denied that he had done so.

Fifth—In that, in the early part of the year 1878, he endeavored to obtain false subscriptions toward the payment of the debt of the church, to be deceitfully used for the purpose of inducing others to subscribe.

Sixth—In that, in the year 1878, he acted and spoke deceitfully in reference to the matter of the re-engagement of the organist of the Tabernacle Presbyterian Church.

Seventh—In that he publicly declared on Sunday, February 2, 1879, that all the newspapers said he was to be arraigned for heterodoxy, and used other expressions calculated to give the impression that he expected to be arraigned on that charge, although he knew that he would be arraigned, if at all, on the charge of falsehood, thereby deceiving the people.

These specifications are seven separate and distinct allegations of crime, all grouped under the general title of "falsehood and deceit," and all based on common fame. The last two specifications, the sixth and the seventh, are not involved in the case before the Synod. Dr. Talmage was unanimously acquitted of both charges. This leaves the first five specifications as setting forth the matter at issue. In regard to the second, third and fifth of these specifications, I have already called attention to the fact that they are radically defective in not stating "the times, places, and circumstances" of the offenses alleged, as required in the Book of Discipline, chapter iv., section 7. This I did when considering them in relation to the evidence. My proposition then was, and now is, that they did not, with reasonable definiteness, inform Dr. Talmage as to

“the times, places, and circumstances” of the crimes imputed to him, and that he ought not to have been put upon trial on such ambiguous charges. On this point I have nothing more to say.

What I now propose, is to show that *all* the crimes charged in the whole five specifications were excluded from trial by limitation of time. And in doing so I am not the defender but rather the critic of the Presbytery. Here I find fault with its action, condemning what, as I suppose, these complainants approve.

The first clause of chapter xi., section 5, of the Book of Discipline, reads as follows: “Process, in case of scandal, shall commence within the space of one year after the crime shall have been committed, unless it shall have recently become flagrant.” Let us pause a moment in explanation of this law.

“Process,” as here used, is a technical word. It means the proceeding taken, including the adoption of a charge of crime or crimes, and the serving of the proper notice to the accused party, for the purpose of bringing him to trial.

The phrase, “in case of scandal,” qualifies and limits the application of the rule to such cases. A “case of scandal” is made up of two elements. The first is “the crime” said to have been committed, and the second is the defamatory rumor, or what is elsewhere called “common fame,” charging “the crime,” which, being the matter of such rumor and affirmed by it, makes it “a case of scandal.” The crime being what it is, then the publicity, the common talk, creates a scandal. If the crime were unknown, there would be no scandal. The publicity, though distinguishable from the crime itself, is, nevertheless, a part of the case.

The law is that process in such a case—that is to say, process based on common fame, must commence within one year, if at all, after the crime shall have been committed, “unless it,” namely, the rumor-element of the case, the notoriety, the scandalous report, “shall have recently become flagrant.” The term “flagrant” relates not to the crime-element of the case, as marking its nature or heinous-

ness, but rather to the rumor-element which alleges the crime, and, by alleging it, makes it a "case of scandal." A slight transposition of words will show the meaning of the language: "Process shall commence within the space of one year after the crime shall have been committed, in case of scandal, unless it shall have recently become flagrant." The rumor-element that stands connected with the crime is the thing supposed to become "flagrant." The crime is what it is, and does not change by lapse of time; yet the rumor relating to it and affirming it may change.

And unless this rumor "shall have recently," namely, recently with reference to the time of commencing the process, "become flagrant," namely, active, intense, general, widely spread, attracting the attention of the people, no process shall be instituted on the ground of such rumor, if more than one year has elapsed since the commission of the crime alleged by it. This, except in the case specified, debars all jurisdiction, on the ground of common fame, after the lapse of one year from the date of the crime. A judicatory clearly has no right to create flagrancy by its own action, as the means of acquiring jurisdiction. Such a course would be a fraud against the law of limitation. The flagrancy must exist, if at all, independently of and prior to the action of the judicatory.

This provision is a very wise one, since it compels judicatories to act upon the subject, if at all, seasonably, when both the rumor and the crime are recent, and when the proper testimony can be readily procured. It says to these judicatories that, if they suffer one year to elapse after the commission of "the crime," and thus give no heed to the scandal, they shall not thereafter take up the case at all for judicial action, unless the scandal "shall have recently become flagrant." They shall not go back of one year, and rake up the antecedent history of the party thus accused, in order to find crimes for which to arraign him on the ground of common fame. Personal animosity or prejudice shall not have the privilege of thus working up accusations against any one, and at the same time skulking under com-

mon fame. The rule is designed to make judicatories prompt in the discharge of their duty, and also prevent abuses of the common-fame ground of judicial accusation.

Let it now be observed that the Presbytery of Brooklyn, when adopting the charge and specifications against Dr. Talmage, and basing them on common fame, made no pretense that this common fame had "recently become flagrant." There is not a word or syllable in the action that implies such a fact in respect to the matters set forth in the accusation. It appears in no preamble or resolution, and was not affirmed by anybody when the subject was under discussion. The action was not based upon any recent flagrancy of the alleged common fame. Had it been the purpose of the Presbytery to claim and exercise jurisdiction on this ground, it should have formally incorporated the fact, either in the indictment, or in some preamble or resolution. It did not do so, and hence there is no evidence before the Synod that any such fact existed. Indeed, the omission of the Presbytery to affirm the fact is a virtual confession of its non-existence. It is now too late to correct the record on this point. The indictment has been framed, and the trial had, with no pretense that the common fame on which it was based, had "recently become flagrant," and, therefore, that the Presbytery might take jurisdiction over the matters alleged by it, in consistency with the Book of Discipline.

If, then, I shall succeed in showing that *all* the crimes charged in these five specifications were committed, if at all, more than a year prior to the commencement of this process against Dr. Talmage, the result will be that the Presbytery had no jurisdiction in the case, and violated a fundamental law of the Presbyterian Church in putting him on trial. This is just what I propose to show.

Please, then, to observe that the first step in the case was taken by the Presbytery on the 3d of February, 1879, and that the "process" for the purpose of trial was not adopted and issued until the 24th of February, 1879. One year prior to the former of these dates would carry us back to

the 3d of February, 1878, and one year prior to the latter date would carry us back to the 24th February, 1878. Let us suppose the year within which Dr. Talmage must have committed the crimes charged, if at all, to extend from the 3d of February, 1878, to the 3d of February, 1879. Did he then commit the offenses alleged within that year? Let us see.

The first specification, declaring that Dr. Talmage "acted deceitfully and made statements which he knew to be false in the matter of his withdrawal from the editorship of the *Christian at Work*," locates the offense "in the month of October, 1876." This, upon the face of the accusation, is three years and eight months prior to the commencement of the process. The crime, if committed at all, considered as a "case of scandal," was outlawed by lapse of time. The Presbytery had no jurisdiction over it on the ground of common fame.

The second specification charges falsehood and deceit upon Dr. Talmage "in that, at various times, he published, or allowed to be published by those closely associated with him, without contradicting them, statements which he knew to be false, or calculated to give a false impression, in defense of his action and statements referred to in the first specification." There is here no date of the crime; yet the proof offered in support of the charge locates the offense in the month of October, 1876, just after the offense previously charged. Hence this crime, too, if committed at all, was excluded from trial by lapse of time.

The third specification renews the charge of falsehood and deceit against Dr. Talmage, "in that he repeatedly made public declaration, in various and emphatic forms of speech from his pulpit, that the church of which he was pastor was a free church, and that the sittings were assigned without reference to the dollar question, although he knew such declarations to be false." The two witnesses introduced to sustain this charge were Mr. Hathaway and Mr. Pearsall; and in their testimony there was not the smallest fragment of proof that located even a single act constituting the

offense charged, between the 3d of February, 1879, and the 3d of February, 1878. The facts to which they testified occurred, so far as they occurred at all, prior to the latter of these dates, or more than a year before the commencement of this process. Mr. Hathaway did not receive his appointment to assign pews until the 15th of February, 1875, and in June, 1876, he retired from the service, and went to Princeton. All the facts that he swears to occurred between these two periods.

Mr. Pearsall, the other witness, was elected as a trustee in the autumn of 1870, and resigned his office April 1st, 1878, and at once quit the congregation altogether, since which period he has had nothing to do with its affairs. His testimony does not locate a solitary fact within one year prior to the commencement of this process. It is true that he was a trustee and a member of the pew committee in that part of the year which extends from the 3d of February, 1878, to the 1st of April, 1878, making a period of less than two months; but he did not place any of the facts to which he testified within this period.

The testimony of Dr. Talmage, Mr. Corwin and Mr. Nicholls, the last of whom became chairman of the pew committee, April 26, 1878, shows conclusively that, neither during the year prior to the commencement of this process, nor at any preceding period, had the crime been committed which is charged in this specification. The result is that the offense charged was not only excluded from trial by the law of limitation, but was actually disproved altogether.

The fourth specification repeats the charge of falsehood and deceit against Dr. Talmage, "in that, in the winter of 1876-'77, he falsely accused I. W. Hathaway of dishonest practices, and afterward denied that he had done so." This was about three years prior to the commencement of the process, and, of course, goes out by limitation of time.

The fifth specification brings the following charge against Dr. Talmage: "In that, in the early part of the year 1878, he endeavored to obtain false subscriptions toward the payment of the debt of the church, to be deceitfully used for

the purpose of inducing others to subscribe." The proof offered to support this allegation consisted of two telegrams sent by Dr. Talmage to Mr. John F. Talmage, both of which were dated on the 30th of January, 1878, which was more than a year prior to the 3d of February, 1879, the date we have assumed for the commencement of this process. This accusation, then, does not come within the limit fixed by the Book of Discipline, and hence is excluded by the lapse of time.

Thus, as we see, all these specifications, every one of them, allege crimes which, if committed at all, were committed more than a year prior to the commencement of the process. For this reason the Presbytery had no jurisdiction to try them as making a "case of scandal," unless the common fame said to affirm them had "recently become flagrant;" and the record shows no pretense of any such fact, as it must do, provided this is to be taken as the ground upon which the Presbytery claimed jurisdiction. The fact of the recent flagrancy must be set forth in the record, since, upon this hypothesis, it is indispensable to the jurisdiction claimed on the basis of such a fact. The Book of Discipline, chapter iv., section 23, expressly declares that "nothing, but what is contained in the record, may be taken into consideration in reviewing the proceedings in a superior court." What the record shows in this case is the declaration by the Presbytery that Dr. Talmage was charged thus and so by common fame; but it does not show any declaration that this common fame had "recently become flagrant." No such fact is, therefore, brought to the judicial knowledge of the Synod.

It will not do to say that this is merely a technical point. If a church judicatory is going to exercise over a person the powers of law by trying him for an alleged offense, and thereby put him in peril, it must do so according to law. If he is held responsible under law, then he is entitled to all the protection that law affords. The judicatory that tries him is not the law, and not the law-maker, and is bound to follow the law in its whole procedure.

How, then, it may be inquired, did the Presbytery get itself into this strange muddle of undertaking to try a man for alleged offenses that were excluded from trial by limitation of time? The answer is that when the charge and specifications were presented to the Presbytery, this fact did not appear in respect to all of them, and hence was not at the time known to the Presbytery. The Investigating Committee, if they knew the fact, did not disclose it. The first specification, the second as being immediately connected with the first, and the fourth, upon their face, charged offenses that were excluded by lapse of time. This, however, was not the case with the other specifications, since it did not appear upon their face that the offenses therein charged were also excluded.

Why, then, did the Presbytery put Dr. Talmage on trial for those offenses whose date of alleged commission was known to be more than a year prior to the commencement of the process? The theory adopted was that if any of these offenses came within the time prescribed by the Book of Discipline, this fact would virtually revive those that had been outlawed, and hence that the Presbytery might legally put them into the indictment. The offenses, not then known to be excluded by limitation of time, were assumed to give vitality, for the purposes of trial, to those that would otherwise have been excluded. I say, this was the theory. And in respect to this theory I have two lines of argument which I wish briefly to submit.

The first is the fact that the theory breaks down in this case for the want of the requisite conditions to support it. The sixth and seventh specifications are as if they had never been adopted, since of these charges Dr. Talmage was unanimously acquitted, which is equivalent to saying that he had not, at any time, committed the offenses alleged. As to the other five specifications, which are before the Synod, I have shown that not one of them, as to the *date* of the offense alleged therein, comes within the limits prescribed by the Book of Discipline. The result is that not one of these specific charges of crime can be made

the basis for working in other similar specific charges, under the general charge of "falsehood and deceit," that would otherwise be excluded by limitation of time. The fact is, they were all outlawed by the date of the offenses alleged; and there was hence no offense, not outlawed, to revive the others, or furnish a basis for their trial.

That this was not discovered at the time of adopting the indictment does not alter the law in application to the case. It surely will not be pretended that a judicatory can, by indicting a man for offenses which are themselves excluded, create the right to try him for other offenses which are also excluded. The Book of Discipline says that process "shall commence *within* the space of one year after the *crime* shall have been committed." If the judicatory blunders, whether by mistake or design, and does *not* commence the process within one year after the alleged crime was committed, or makes a false charge of crime which, by acquittal, is shown not to have been committed at all, this will not change or suspend the law of limitation. The law stands, notwithstanding the blunder or the false charge of crime.

But—and this is my other line of argument—if it be conceded that *some* of the specific charges against Dr. Talmage that were grouped under the general charge of falsehood and deceit, were not excluded from trial by lapse of time, even then the theory upon which the Presbytery proceeded in trying him on specific charges that were thus excluded, was a false one. This theory assumed that the general charge would hold good if *any* of the specific charges were not excluded by the law of limitation; and further, that, upon this supposition, *other* specific similar charges, though dating back more than a year in the time of the alleged offenses, might be included under the general charge, and submitted to the test of judicial trial. This was an invention for the purpose of getting into the indictment accusations against Dr. Talmage that upon their face were outlawed. Upon this theory and its application in this case, I submit the following observations:

(1.) What is called "the charge," declares that "the Rev. T. De W. Talmage stands charged by common fame with falsehood and deceit." This, if taken by itself, is no charge at all in the sense of the Book of Discipline. It does not locate the alleged offense anywhere, or in anything, or at any time. The Book of Discipline, chapter iv., section 8, says that, "in exhibiting charges, times, places and circumstances should, if possible, be ascertained and stated." The bald declaration that a party is charged with an offense, designated by a class-term, but with no statement of facts setting forth the time, place and circumstances of the offense, is not such a charge as is known to the Book of Discipline. It simply gives a title to the crime or crimes that must be otherwise charged, or no case is presented that admits of trial.

(2.) Each one of the "specifications," so-called, of this indictment, is itself a distinct and separate charge of crime, and of a distinct and separate crime. Each crime is distinct from every other in the time, place and circumstances of its commission. In each specification is implied the language used in what is called "the charge." Take, for example, the fourth specification; and what is here alleged is that Dr. Talmage is charged by common fame with falsehood and deceit, "in that, in the winter of 1876-'77, he falsely accused I. W. Hathaway of dishonest practices, and afterward denied that he had done so." The charge of crime is made in stating these alleged facts as constituting the crime. The same principle is applied to every other specification. Each specification is *the* charge of the particular crime which it sets forth. The fact that all these crimes can be designated by a common title, or are so designated, does not, legally or historically, make them one crime. However similar they may be in their moral nature, they are different offenses in the time, place and circumstances of their commission. Their constituent facts are different. They present different issues of fact, and are distinctly and separately charged.

Moreover, each specification contains, in express terms,

the declaration that the acts set forth are criminal. In the first, Dr. Talmage is said to have "acted deceitfully and made statements which he knew to be false." In the second, he published, or allowed to be published, statements "which he knew to be false, or calculated to make a false impression." In the third, he made certain declarations, "although he knew such declarations to be false." In the fourth, he "falsely accused I. W. Hathaway." In the fifth, he "endeavored to obtain false subscriptions, to be deceitfully used," etc. In the sixth, "he acted and spoke deceitfully." In the seventh, he made a declaration contrary to what he thought, "thereby deceiving the people."

Thus the so-called "charge" is not only implied, but positively expressed, in each specification. Each specification, while reciting acts, characterizes those acts as coming under the moral category of falsehood and deceit. If what is called "the charge" were dropped altogether, this would not make the slightest difference with the *contents* of the indictment. These contents are given in the so-called specifications, in the facts therein set forth, and in the characterization of those facts. These specifications are in reality the several charges made against Dr. Talmage.

(3.) The Book of Discipline knows nothing about this assumed distinction between a *general* and a *specific* charge of crime. The term "specification" does not occur in the Book at all. It speaks of a person as "charged with a crime." It speaks of "a crime or crimes alleged." It says that the accused must have "a copy of each charge." It says that "in exhibiting charges, times, places," etc., must be stated. It says that the testimony of more than one witness is necessary "to establish any charge," with the qualification that if several witnesses "testify to different *similar acts*, belonging to the same general charge, the crime shall be considered as proved." This qualification relates to "similar acts" which, being taken together and proved by different witnesses, make up the crime charged.

Now, in all this, there is not a word about specifications or specific charges in distinction from a general charge. The theory of the Book of Discipline is that the party arraigned, or to be arraigned, must be accused of some definite crime or a number of such crimes, and it calls this accusation a charge or charges, accordingly as there may be one or more offenses set forth by it. It speaks of a crime or crimes as the thing or things to be charged. A charge, in the sense of the Book, is the verbal statement of a crime, with the proper exhibit of time, place and circumstances, and hence there are just as many charges as there are crimes thus stated, and that, too, whether the crimes be similar or different.

(4.) The fact that several particular crimes, distinct from each other in the time, place and circumstances of their commission, may be or are, on account of their resemblance, all grouped under and designated by a class-term that is applicable as a title to them all, in no way affects the law of limitation, with reference to these crimes, as laid down in the Book of Discipline. Each one of them holds a relation to some *time* when it was committed; and the law is that no process shall be commenced for any of these crimes on the ground of common fame, after the lapse of one year subsequent to the commission of the same, unless the common fame "shall have recently become flagrant." The Book, in stating this law, speaks of "the crime," evidently meaning some particular crime that has a time, place and circumstances, and that can be made the subject-matter of evidence, and not of a mere generic title that may embrace a dozen different crimes, with not a single one of them specified or described. The law of limitation is not to be evaded by generalizing crimes under such a title.

The crimes that were really charged against Dr. Talmage are those described in the seven specifications, each one of which is a charge of crime in the sense of the Book of Discipline. He was charged with seven separate crimes, distinct from each other in their time, place and

circumstances, and not the less so because they were in the outset grouped under the general description of "falsehood and deceit." The issues of fact were made with reference to these crimes.

(5.) This theory, if admitted at all, is essentially destructive of the law of limitation. Admit the theory, and it would require but little ingenuity so to apply it at any time as wholly to subvert and nullify the law. Suppose the so-called general charge to be put in the most general form. Let it be in the form of improper conduct, or unchristian conduct, or immorality. Under this general charge place the specific accusations of lying, stealing, forgery, embezzlement, drunkenness and adultery, setting out these particular accusations as to time, place and circumstances, and basing them all on common fame. Let the charge read thus: "Mr. John Smith stands charged by common fame with immorality." Let the so-called specifications state, with the requisite detail, these several forms of immorality as being all embraced in the general charge.

Now, suppose that the lying, the stealing and the forgery, as set forth, were committed more than a year prior to the commencement of the process, and that there had been no increase of the common fame alleging these offenses. Suppose that the embezzlement, the drunkenness and the adultery, as set forth, were committed within the year immediately preceding the commencement of the process. Would it then do to drag in the first three offenses under the general charge of immorality, and put the party on trial therefor, because this charge is not excluded in respect to the last three offenses, and because the first three, like the last three, are immoralities, and, if proved, would show an immoral or depraved habit of mind? Would it do to leap over the law of limitation and try offenses excluded by it, by blending them in a general charge with offenses not excluded, and hence triable? Would it do, through a general charge of immorality, to hang these offenses, outlawed by limitation,

to those that are not outlawed, and get them all in for trial, because *some* of them may be tried in consistency with the law?

I can hardly think that anybody, at all conversant with the Book of Discipline, or having any proper idea of what is intended by a law of limitation, will answer these questions in the affirmative. And yet this, in the principle involved, is precisely what was done in respect to three of the offenses charged against Dr. Talmage, and what may be done at any time and to any extent, if we concede the theory adopted and applied in this case. All we have to do is to make the general charge sufficiently general to cover, as a descriptive title, all sorts of crimes, and then, under this theory of construction, we can make the law of limitation entirely inoperative, and ransack the antecedent history of the party accused by common fame at our pleasure, going back five, ten, or even twenty years, if we choose, for the matters of accusation. The theory enables a judicatory to abrogate the law of limitation by the magic potency of a class-term, and thus do what the Presbytery of Brooklyn did in respect to the crimes charged in the first, second and fourth specifications.

It is no answer to this argument to say that crimes, otherwise excluded by the law of limitation, may, because similar to other crimes not thus excluded and actually charged, be made the matter of judicial accusation and trial, considered as showing the *habit* of committing such offenses. This is simply an artifice to evade the plain meaning and intent of the law. On this theory, thefts that are outlawed might be charged and tried, and, if proved, penalty might be inflicted, because they would go to show that a theft not outlawed and charged corresponds with the *stealing habit* of the party accused of the latter offense.

The question to be determined is not whether the accused has the *habit* of stealing, but whether he *did* steal in the instance or instances alleged; and nothing could be more monstrous than to try him for alleged thefts excluded from

trial by the law of limitation, and punish him therefor, if convicting him, in order to show the habit of stealing, and that, too, as the means of establishing guilt in respect to alleged acts of theft not excluded from trial. If this would not be a judicial hodge-podge of incongruities, then it is difficult to conceive what would be such. It would be a mere dodge, with hardly the appearance of candor, to get round a positive law, and get into a judicial accusation charges of crime excluded by that law.

There is no analogy, sustaining this theory, between the renewal of a debt, by the payment of a portion of it, outlawed by limitation of time, so far as collecting it by law is concerned, and the application of the theory to the case of Dr. Talmage, or to any similar case. In the first instance, the debtor, by making the partial payment, *confesses* the debt, and by his own act gives it validity as if it were contracted on the very day of this payment. Though the debt is outlawed, he himself cures this defect, and is legally presumed to acknowledge the debt by paying a part of it.

This legal principle in respect to debts has no application to crime. One who has committed two crimes, one of which, so far as trial is concerned, is outlawed by limitation of time, and the other not thus outlawed, does not, by the commission of the latter crime, commit the former crime, or confess that he has committed it, or repeal the law which excludes it from trial. Whether these two crimes be two different acts of theft, so that both may be called stealing, or one be a forgery and the other a theft, will make no difference as to the trial of the crime which the law of limitation forbids to be tried. The crime, and that only, which is not excluded from trial, can be tried.

Such, then, is my argument upon the indictment against Dr. Talmage, considered independently of the evidence. There is not a single one of the five specifications or particular charges of crime which are before the Synod, that is not exposed to a fatal objection on the ground of illegality; and some of them are exposed to more than one such objection. The inception of the procedure was in violation of law, and the indictment was equally so.

IV. The demand of Dr. Talmage that his whole life should be investigated, made on the floor of the Presbytery when the judicial process was being resistlessly pressed upon him, against his known wishes, and his vote for the charge and specifications in these circumstances, did not cure or cancel the violation of his rights by illegal proceedings. Nobody believed that he sought the arraignment and trial, or doubted that he was anxious to avoid both. What he said and did was said and done when he saw that it was a foregone conclusion that he must be arraigned and tried, and not because he thought that there was any occasion for the process, or desired to pass through the ordeal. His sayings and action, in the circumstances then existing, furnish no reason for the course pursued by the Presbytery, and to use them for such a purpose would be alike unjust to him and untrue to the facts. He did not desire the judicial investigation, and not a solitary member of the Presbytery could have supposed that he did. It was forced upon him, independently of his wishes.

It is, moreover, a well settled principle of law, applied in our civil and criminal courts, and almost as old as the law itself, that the consent of a party or of parties can never give jurisdiction, either over the subject-matter involved or over the person or persons to be affected, where jurisdiction does not exist under the authority of law. The law, and that only, confers jurisdiction, if it exists at all. It was not in the power of Dr. Talmage to add a solitary item to the jurisdiction of the Presbytery of Brooklyn, by anything that he could do or say. He could not repeal the law of limitation, or make it lawful for the Presbytery to repeal it by disregarding it. He could not make an illegal indictment a good one by voting for it. The Presbytery was bound to follow the Book of Discipline and conform its action thereto; and this it did not do, as I have endeavored to show in the foregoing argument.

The well-known fact is, that the procedure was not based upon that provision of the Book of Discipline, chapter iii., section 5, which says: "It may happen, however, that in

consequence of a report, which does not fully amount to a *general rumor*, as just described, a slandered individual may request a judicial investigation, which it may be the duty of the judicatory to institute." The procedure was under a formal indictment on the ground of common fame, and not at the instigation or by the procurement of Dr. Talmage; and hence it did not and does not rest on this provision of the Book of Discipline. The foundation for this procedure, if it has any foundation in law, is in those provisions that relate to charges and trial on the basis of common fame.

THE CONCLUSION.

The result which I have reached from this argument is the following: 1. That Dr. Talmage was entitled to an acquittal on the ground of the evidence, and hence that the Presbytery, in acquitting him, did right. 2. That the inauguration of the trial, and especially the indictment, were contrary to law, and hence that the Presbytery, in trying him under such an indictment, did wrong. Had he been convicted, he would, on both of these grounds, have had ample reason for an appeal to the higher courts of the church; and this is just the course which I should have advised him to take. His acquittal is really the only bright spot in this strange procedure. It made some *amende* to him for the injustice of putting him on trial at all. Had the views of these complainants prevailed, there would have been two wrongs instead of one, with no remedy in the Presbytery for either. Fortunately, the Presbytery, though starting wrong, ended right on the vital question of guilt or innocence.

I am entirely aware that the spectacle thus presented is that of a juridical monstrosity. I know not what else to call it. It is that of a man tried for offenses which, if committed at all, were excluded from such trial by limitation of time, and yet justly acquitted upon evidence taken under the forms of law. The Book of Discipline declares that a

complaint, when properly made, “brings the *whole* proceedings in the case under the review of the superior judicatory.” Remembering this fact, and, consequently, that not simply the verdict complained of, but also the inaugurating procedure and the indictment in the case of Dr. Talmage, are before the Synod for review, I have felt it my duty, as an act of simple justice to him who, though not technically, is really the party most deeply involved in this issue, to discuss the whole case, including the evidence bearing upon the question of guilt or innocence, and also the legal points that are in the case, and make a part of it. I have done so that I might, according to the best of my ability, give the Synod a full view of the case. The whole of it is not seen at a glance. The vision I now have has been gained only by long reflection and repeated study of the facts and the law.

What I approve of is the verdict of acquittal, considered simply in relation to the evidence, which is one of the questions before the Synod. What I condemn and am more than willing that the Synod should condemn, is the act of trying Dr. Talmage upon such an indictment. This, as I maintain, was in violation of law, and I assign this fact as one among the reasons why the Synod, in disposing of this case, should do nothing to dispossess him of the full benefit of his acquittal. If the Synod shall see fit to quash the whole proceeding, and on this ground dismiss the complaint, either with or without a censure upon the Presbytery, I have no objection. The great point that interests my mind is that Dr. Talmage shall, in respect to his good name and his rights as a minister of the Gospel, receive that protection to which he is entitled by the evidence and by the law of the church. I look upon him as a man illegally indicted and justly acquitted upon the evidence ; and for this opinion in both respects I have given my reasons at large. Hence, from a simple sense of justice, and from a strong sympathy with him in this peculiar crisis of his life, I stand by his side, and there I shall stand to my latest breath, and, touching the matters contained in this issue, do all that I can to protect him against any harm.

The horror of these complainants at the acquittal of Dr. Talmage is mainly limited to themselves. The great body of the people, in the church and out of it, have felt no such horror, and seen no occasion for it. The congregation of Dr. Talmage has not felt it. The reception accorded to him upon his return from Europe, not only by his own people, but by the people of Brooklyn, in which judges, lawyers, ministers of various denominations, the Mayor of the city, two ex-mayors—indeed, the best citizens of Brooklyn, were glad to share, shows that the moral sense of the city in which he dwells, where he preaches, and where he is best known, was not shocked by his acquittal. The repeated advice and even entreaty of the religious press, as, for example, the New York *Evangelist*, the New York *Observer*, and other religious papers, urging the complainants to suspend all further action in the case, prove that there is no general thought or feeling that was offended by the verdict of the Presbytery.

The truth is, that, at the bar of public opinion, the complainants have no case, except among the enemies of Dr. Talmage, including the editors of a few secular papers who for years have made it a business to pour their venom upon his name. There is no general judgment standing behind them which they represent and express. There is no scandal resting upon the acquittal, which the people anywhere recognize and feel, or which needs to be cured by the corrective action of this Synod. If these complainants had acquiesced in the verdict nobody would have censured them, and almost everybody would have commended the course as sensible and wise.

The verdict was not reached hastily, and not without the most strenuous efforts on the part of the prosecution to secure the conviction of the accused. I have had some experience in ecclesiastical trials, and I must say that I never before witnessed such zeal and untiring labor to make a case worthy of judicial condemnation. Dr. Talmage was searched through and through. Every nook and corner of his life were looked into. His casual words, his pulpit notices, his

correspondence, the services of hostile minds, even a difficulty with a Christian friend, which, having been honorably settled, was dead and buried, and had been for two years, were all put in requisition to fix upon him the charge of falsehood and deceit. But few men in this world could stand such an ordeal without revealing some dark spots in their history. Dr. Talmage did stand it, with more patience and self-possession than most persons would or could practice; and the result was an acquittal—a verdict which his own people approve without a dissenting voice, and to which the general community, having watched the trial and largely read the evidence, had given its sanction even before it was rendered.

Dr. Talmage is the pastor of a large congregation, with work enough to task the best energies of his head and heart. He is by conviction and preference a Presbyterian. His orthodoxy no one disputes. He has his own way of preaching, and so has every preacher. His way has given him hearers by the thousands, who like the way, and are profited by it. There is room enough for him and his peculiar talents in the Presbyterian Church. If there were not, it would be best to make the room. He naturally wishes to have this causeless and unnecessary vexation brought to a close. He does not desire, and no man would desire, to be hunted and haunted, and virtually persecuted under the forms of an ecclesiastical procedure. He has had his full share of vituperative clamor. The Presbytery, wrong in the outset and right at last, has said by its verdict that there is no just foundation for this clamor. As to the matters upon which it passed judgment, it stands between him and his assailants, and, whether they be saints or sinners, it tells them in plain words that they are false accusers.

These complainants who arraign the Presbytery, and virtually arraign Dr. Talmage, have shown great confidence and positiveness in their cause, and great zeal in pursuing it. Yet I am sure that this Synod will not take for granted that capacity to estimate evidence, purity of purpose, candor in judgment, and devotion to the honor of Christ, are,

in the Presbytery of Brooklyn, their exclusive attributes. Relentless pursuit is not to win a victory by mere intensity. The character of Dr. Talmage is not to be victimized on the altar of persistent determination. If the complainants find themselves in an unfortunate position, considered relatively to the public judgment, the Presbytery did not put them there; and it is neither the duty nor the province of the Synod to afford them, in this respect, any relief.

It is to me no pleasure that I find myself in sharp collision with some brethren whom I have reckoned as among my personal friends. I regret that I must contend against them for what I believe to be truth and righteousness. I regret to find them engaged in what seems to me a very bad business; and much as I have respected them, I will not and cannot follow them in that business. My convictions compel me to oppose them with all my might. With their cause I have no sympathy. My sympathies are with Dr. Talmage. I believe him to have been illegally accused, and to be innocent of the charges brought against him; and I have done what I could to make both facts appear to the Synod.

I have, since the acquittal of Dr. Talmage, heard him preach several times to his great congregation; and I give it, as my sober opinion, that in certain respects God has wonderfully endowed him for his work, and that he is faithfully doing the work for which God endowed him. He has the willing ears of thousands; and, if I am any judge, he brings home the Gospel of the Son of God to the heart with a simplicity, directness and power that but few preachers in this world can equal. I have felt the power in my own heart, and have seen it in the impression on others. It is there. God put it there. Let it be there; and let neither Presbytery nor Synod do anything to impair its effect, or cripple the arm that wields the power.

And now, Mr. Moderator, Fathers and Brethren, after this long, perhaps to you wearisome, discussion, I have only to add my earnest prayer that the great Spirit with whom all wisdom dwells, would guide the members of this Synod

in making up their judgment upon the questions of fact and the points of law which it is their province to determine, subject, of course, to the review of the General Assembly of the Presbyterian Church of these United States.

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