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IMPORTANT AND INTERESTING

# TRIAL

OF

MORTIMER J. SMITH,

AT THE SUIT OF

# DAVID GROESBECK

Adultery and Divorce.

The prominence given to the name of David Groesbeck who has lately been appointed to the onerous and responsible position of Receiver of the Erie Railway Co., will give additional interest to the graphic history of his early days as portrayed in the following pages.

UNIVERSITY OF CHICAGO

1911

DAVID GORBER

PHYSICS

IMPORTANT AND INTERESTING

TRIAL

OF

MORTIMER J. SMITH,

ON AN INDICTMENT FOR LIBEL ON

MISS EMMA WILLIAMS,

FOR HAVING CONNECTED HER NAME WITH THE SEPARATION OF

DAVID GROESBECK,

(The New York Wall Street Broker,)

FROM HIS WIFE,

IN THE ALBANY COUNTY COURT OF SESSIONS, DEC. 16, 1847.

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The evidence for the defence, and the verdict of the jury as given, is herein contained; to which is added the bill of complaint by Mary W. Groesbeck against David Groesbeck, for repeated acts of adultery, and the Decree of the Court adjudging a separation and divorce. Also, the testimony in the case before the referee appointed by the Court to hear and decide upon merits of same.

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NEW YORK.

1870.

IMPORTANT AND INTERESTING

INTERESTING

MORTIMER J. SMITH

MISS EMMA WILLIAMS

DAVID GROSSBERG

## INTRODUCTORY.

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The evidence taken on the "important and intensely interesting trial of Mortimer J. Smith, the fearless editor of that remarkably interesting sheet, the *Albany Castigator*, published in the year 1847, throws considerable light upon the early life of a gentleman who has recently undertaken the tremendous task of improving the morality of Wall Street.

In reproducing this evidence it is not for the gratification of malice, or to cater to a prurient taste, but simply in a philosophic sense to place before the public the facts developed in the trial; for we consider the principal character in this trial to be a typical one in some respects, not only in his social and monetary relations, but from his intimacy and connection with that great apostle of virtue, and shining example of christian excellence, whose name is quoted far and wide for his munificent charities and unexceptionable morality.

The child is father to the man. A quarter of a century ago, the individual whose name figures so frequently in the following pages, gave abundant evidences of that lamentable obliquity of moral vision which has ever prevented him from pursuing the paths of virtue.

When yet in his "green and salad days," with the hot blood of youth running riot in his veins, he neglected his loving wife to frolic on a barn floor with the fair object of an unlawful passion, even going so far as to take indecent liberties with the gushing Emma in the presence of his outraged wife. The sense of the community was plainly shown by the verdict of "not guilty," which was unanimously rendered by the jury before whom the editor of the *Albany Castigator* was arraigned on a charge of libel. The inference is patent to all. If the defendant was not guilty of libel, the plaintiff was guilty of a much greater crime. People who live in glass houses should refrain from throwing stones. The hero of the instructive little story of domestic infelicity hereto appended, paid no heed to the caution contained in the above proverb, however; he persisted in throwing stones, and the consequence is that the fragile structure which encompasses his somewhat ragged reputation is now in danger of demolition. The chunks of petrified envy, hatred and rage, collected along the valleys of the Albany and Susquehanna Railroad which he has so rashly hurled at the slander-proof-dwellings of some of his neighbors, have rebounded on his own roof, affording a forcible illustration of the Arab proverb, "Curses like chickens, always come home to roost."



ALBANY COUNTY COURT AND COURT OF SESSIONS,

December 16, 1847.

TRIAL OF MORTIMER J. SMITH, ON AN INDICTMENT FOR LIBEL ON  
MISS EMMA WILLIAMS, BEFORE THE HON. WILLIAM PARMELEE,  
COUNTY JUDGE, JOHNATHAN HART AND HUGH CONGER, ESQS.,  
ASSOCIATE JUDGES.

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MORTIMER J. SMITH,

*adms.*

THE PEOPLE.

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This was an indictment for libel against Mortimer J. Smith, editor and proprietor of the Albany Castigator, charging that in various numbers of that publication the character of one Emma Williams, the daughter of Henry A. Williams of the city of Albany, had been assailed in various respects, the substance of these charges being that she had suffered and permitted improper attentions and liberties to be paid to her by one David Groesbeck, of the city of New York, broker, and by encouraging those attentions and liberties, alienated the affections of said Groesbeck from his wife, from who he now lives separate and apart. The defendant, upon being arraigned, plead not guilty, and gave notice that he would justify the alleged libel. The cause came on to be tried before the Court of General Sessions of the County of Albany, the Hon. William Parmelee, County Judge, presiding, and Jonathan Hart and Hugh Conger, Esqs., Associate Judges, on the 16th day of December, 1847.

Andrew J. Colvin and Ambrose L. Jordan counsel for the prosecution  
Henry G. Wheaton and William J. Hadly counsel for defendant.

After the cause had been opened to the jury by A. J. Colvin, Esq., District Attorney, for the people,

John Baker a witness for the prosecution was called and sworn, who testified as follows—viz:

Mortimer J. Smith told me he was the editor and proprietor of the *Castigator*, in a conversation which I had with him, he told me he had published these articles and would publish them again, said he could justify what he had published and a good deal more.

*Cross-examination:*

Smith said he could prove Groesbeck was in the habit of going with Emma Williams and in the habit of whipping his wife on account of her, he also said that he was told Groesbeck wanted to hire a man to

marry his wife, so that he could marry this girl, he said it was on account of Groesbeck's wife that he published these articles, I think he said the information came from the family of Mrs. Groesbeck or one of her friends, he said his object was to publish the facts.

Barent P. Stauts witness for the prosecution being sworn, he testified: I know Emma Williams, she has a burn on one side of her face, I know David Groesbeck, he is a broker in New York, married a wife in this city, moved from here to New York, he has children by that marriage; Emma Williams has a brother by the name of Henry J. Williams, her father's name is Henry A. Williams, Abram Groesbeck of this city is David Groesbeck's brother and married a sister of Emma Williams.

*Cross-examination.*—Counsel for the defendant proposed to prove by the witness that before the first of June, it was currently reported in this city, that there was an improper intimacy existing between David Groesbeck and this Emma Williams, and in consequence of this that the witness had forbidden the said Emma to enter his house, and had forbidden his daughter to associate with her.

This evidence was objected to by the prosecution and overruled by the court, and the counsel for the defendant accepted.

The prosecution then proceeded to call Henry T. Mesick and Hugh J. Hastings as witnesses for the purpose of identifying the *Castigators* published by Mr. Smith with those in which the alleged libels were published, whereupon the case for the prosecution rested, and the defendant called as a witness:

Mary W. Groesbeck:—I am the wife of David Groesbeck, I was married November 13th, 1837, my father is James Robinson, we went to New York immediately after our marriage; I am acquainted with Emma Williams, I have known her ever since we were children; about six years ago she was a visitor at our house for six weeks in the months of July and August, she was accompanied by her sister Margaret, we were living in Sixth street, New York, it was No. 70. The first night Miss Williams ever was in my house, she and my husband slipped off unknown to the rest of the family, and as I understood, when they returned, they had been to Vauxhall Garden together, alone. It was about nine o'clock in the evening that they slipped away, and they were gone more than an hour. When they returned, I very foolishly ran into my room and locked the door; my husband came and knocked at the door, and I opened it immediately; Miss Williams went to her room immediately upon their return.

Her room was in the next story above mine but not directly over it; Miss Williams said a day or two after that she had heard the noise that then occurred in our room; she said she was frightened. I told Miss Williams in the presence of her sister all that had happened between my husband and me; the cause of the difficulty was communicated by me to her. I told her the cause of the difficulty was her going with him, alone, to Vauxhall.



The second evening after this we all went to Niblo's Garden, myself, my husband, Emma and Margaret Williams, Mr. and Mrs. Lansing Groesbeck, Miss Boardman and Mr. Foster were in company together. My husband being still angry with me went off with Miss Emma Williams; they left me to whoever would take charge of me; they went immediately in advance of us. I went with Mr. Foster. My husband paid all attention to her, she seemed 'very well pleased with his attentions, we went there about seven o'clock and remained until eleven o'clock, he paid no attention to any other of the ladies during the evening, he sat beside her all the evening, I was looking at them all the time, his attentions were only familiarites. I don't recollect whether his arm was around her, but he was talking to her closely, he seemed devoted to her, he was leaning towards her all the time during the play, with his head close to her bonnet, my husband took her home.

The next day we went to Hoboken; my husband the two Miss Williams and myself went, by that time Mr. Groesbeck and myself had made up our difficulty, he walked with Emma more than with either of us, she was with him all the time, I was with him part of the time. I observed his attentions to her all the time she was at my house. I noticed him talking apart with her very frequently alone, every evening one or more times I noticed them together.

On the 3d of July we all went down to New Jersey to spend the 4th; Emma and Margaret Williams, Miss Boardman, Mr. and Mrs. Lansing Groesbeck, and the Misses Cuylers went down in the afternoon; when we reached the place we were going to, Blazing Star, New Jersey, we had to go in a wagon to the residence of the friend whom we were about visiting, Miss Randolph, which was about half-a mile from the steamboat landing, there was then a wagon sent to the next boat to bring the gentlemen up, Miss Emma Williams volunteered to go to the boat alone with the hired boy to meet the gentlemen.

Mr. Nichols, Mr. Allen and my husband were the gentlemen, it was after dark when she started to go to the boat, I saw them when she returned, she then sat upon the same seat with my husband, my husband was particularly attentive to Miss Williams all the time we were there, he paid more particular attention to her than to any one else.

In the forenoon of the 4th, my husband, Miss Margaret and Emma Williams, Mr. and Mrs. Lansing Groesbeck and myself were in the barn, my husband and Miss Emma were frolicking together on a load of hay, they were covering one another over with hay, my husband was putting hay around her neck, she had on a low-necked dress, he filled her bosom with hay, my sister-in-law and myself then walked off disgusted, this genteel play continued a few minutes, the hay could not get into her bosom unless his hands put it there, I saw him put a handfull of hay into her bosom, there was nobody then on the load of hay at that time, she was wrestling with him and putting hay on him

at this time, they were both of them in a sitting position face to face, that was their position when he put the hay in her bosom, she showed no resentment when he put the hay in her bosom, but the play continued.

In the afternoon the gentlemen chartered an omnibus and we all went to a fair at Woodbridge, my husband sat upon the same seat with Emma Williams and myself, *and he had his head in her lap all the way*, she seemed to be very well pleased, she did not push his head out of her lap, she joined in the laugh and had hold of his hand most of the time, they were all singing, I joined in the laugh, he sat between me and this lady. I was mistaken about the time the Misses Williams came to our house, they came there in the middle of June and left there about the last of July, she did not visit my house again for three or four years, the next thing I knew of is Mr. Groesbeck making her a present of a ring, this will be three years next fall, it was in September, it was a ring with one diamond, its value was thirty-two or thirty-three dollars. I saw her wearing it the same fall he gave it to her, this was at Lansing Groesbeck's house, at New York.

I called upon her to invite her to my house, she received me at that time in an unfriendly manner, there was an unfriendliness on her part owing to reports that had reached Albany of her improper conduct at New Jersey on the 4th of July, she told me she supposed I had spread the report, she told me she supposed I had told those things that had occurred, she did not go home with me.

A year ago last October I had a conversation with Emma in my husband's presence in our private parlor at Bunker's Mansion House, in New York, my husband brought her and her sister Margaret there, they came there for the purpose of quarrelling with me, I spoke about the ring accusing her of receiving the ring, I said to her: Emma, I have never told any person of the ring you received from my husband, except my mother and sister, nor of the letter you wrote my husband. I don't remember the answer Emma made, I don't think she made any at that moment, my husband became very angry, he remarked he was angry enough to kill me, in the presence of the two girls.

With that he rose on his feet and slapped me in my face, he then gave Mrs. Davis, (Margaret) a slight tap on her cheek, it was a pretty hard slap on the left side of the face; not so hard as to knock me off the chair, his appearance at the time indicated very great anger, he was very pale and would turn, pale and red alternately. After my husband had struck me, he remarked that Mrs. Davis might tell he had struck her too. Miss Williams had very little to say during this scene, she did not deny receiving the ring, or having written the letter during this time, she remained silent; she made no answer to my accusation about receiving the ring or of writing the letter, she remained in my room not more than half an hour, after this fuss Miss Williams visited me the next summer, remaining at my house one

night, she came there with Dr. Groesbeck ; came there again to visit me a year ago last August, she remained there from Wednesday until Saturday, she came there in company with her mother and one sister ; I observed upon one or two occasions, that my husband and Emma walked up the road, alone, half a mile or so ; my husband paid the same particular attention to her that I had observed before ; on one or two occasions I observed them talking alone, once in the parlor and the second time in the back piazza ; when conversing in the parlor they were standing face to face ; when on the piazza, Mr. Groesbeck with his elbow on the railing, and Emma stood beside him ; the road which they walked upon was a public road, they walked out of sight of the house. I never had any conversation with Miss Williams concerning the visit to the theatre ; I have seen them together at Bunker's ; I do not know of my own knowledge that my husband has made any other presents than those last spoken of—except by the letter. I saw it a few days after she had left my house. I took the letter from my husband's pocket ; I was in the habit at my husband's request, of taking papers from his pocket, it was signed Emma, I knew Miss William's handwriting, the letter was in her handwriting. My husband remarked at Bunker's, in the presence of the ladies, that Emma's father had received an anonymous letter, stating that she received too much attention from Mrs. Groesbeck's husband, on the strength of that, her mother had written for her to come immediately home. She had previously told me that she was going to spend the winter in New York. My husband said to me, with an oath, that as she had been sent for to go to Albany, I should go with her, that there was a good opportunity of Miss Williams going up the next afternoon and that I must propose to go with her. They then arose on their feet and abused me, all three of them, abused me very much and my family—by my family I mean my mother and sisters. They left the house then and left me alone ; they came back then about an hour after and my husband said : Mary I have brought the girls back and I want you to take them to your room, and make up the difficulty. I took them up to my room.

On a cross-examination she testified :—My company arrived at my house about six years ago on the morning boat—it consisted of Dr. Groesbeck and wife, and Margaret (now Mrs. Davis) ; they breakfasted at my house that day. I saw them go to Vauxhall about nine o'clock that evening — my husband and Miss Emma ; the last I saw of them they were on the stoop ; while they were out, I went into Abram Groesbeck's room, I went there merely to talk with Mary (the Doctor's wife). I had always been intimate with her since the marriage ; I did not see the rest of the company ; after I went to the house and they went to the garden, I do not know that any one saw them go off. I did not quarrel with Emma the next morning — I did not speak any unkind word to her. Mrs. Abram Groesbeck and she were talking about the disturbance of the previous evening. I remarked that when

I went into my room I locked the door, at the instigation of Margaret, and that in consequence my husband flew into a great passion; my deportment at this time was kind towards Emma; nothing passed between Miss Williams and me that was unpleasant during her stay, except my remarks about what occurred on the Fourth of July; I made these remarks walking from the barn to the house. After Emma returned to the house we were up-stairs in the bed-room together Emma, Margaret, Mrs. Randolph and myself; I did not there show any anger to Emma; I remarked that I thought her conduct in the barn was very improper; Emma remarked that she was only playing. This wagon that had hay on it, stood on the barn floor; I only stood in the barn and looked on. I stood upon an elevation of hay about as high as the load; I was at a distance of four or five feet from them on the wagon. The low-necked dress was about the usual height, it came just to the tip of her shoulders, running straight across; I saw my husband put handful upon handful of hay between the dress and Emma's bosom and all around her neck; it might have been a lump as large as my two fists. While he was doing that she was trying to cover him up with hay: they were not angry either of them, they appeared to be in a frolic; the bystanders laughed; I left them upon the hay; they followed me in a few minutes. I remarked the Miss Rivers looked surprised when she came in, at her appearance; she was overheated, and her dress torn; she was very red; hair dishevelled. When we went to Woodbridge, there were four seats in the omnibus; we sat on the front seat, riding backwards; our part of the party were all laughing—the Rivers were all very indignant; they were on a back seat, they were singing by themselves; I did nothing improper for a lady; the seats were not wide enough for more than three; my husband's feet were across my feet; my husband laid his head right down into the lady's lap. I do not recollect whether he used both hands to put the hay in Miss William's bosom; I saw his hand between the dress and the skin, not his whole hand, only his fingers; saw his fingers between the dress and her skin but once; I don't remember whether I saw her naked skin or not when he put the hay in her bosom. We returned home to our friends in the omnibus; Mr. Groesbeck and Miss Williams sat upon the same seat, returning; don't remember where I sat. We went to Coney Island together, at the time of Miss William's second visit, a year after their visit to Vauxhall Garden; we stayed at Coney Island one night; I saw some things to excite my suspicions; my husband invariably waited upon her at that time; she would take his arm to go to the meals; I went to meals with the Doctor and his wife; I took the Doctor's arm; the time they took the half-mile walk, I can't say how far they walked before they were out of sight; the turn of the road was about as far as from here to State Street; when they came back, my husband said they had been as far as Madame Guyon's; I saw them each time a short distance from the house; just past our gate, one time; I saw

them a little further than that at the other time; the farthest I saw them from the house was just past our premises; don't know where they went to then. The first I knew of these publications was in June; a paper was sent me; I don't know who wrote any of these publications. The value of the ring which my husband gave Emma was over \$30; it was a diamond ring; a few days before the conversation, at Bunker's, I had on the ring; it was lying on the table in Miss William's bed-room; I took up the ring and I said, "This is that ring, is it?" And she said, "yes." There was not another word said at that time; I never wrote any letter to Albany, stating anything about the ring; at the time they came to Bunkers, my husband brought them into my room; the first I saw of them was when they came in with my husband; I don't know that any one asked them to come in; I don't recollect any particular remarks made at that time; they were talking about my family; I recollect Mrs. Davis remarking that all the trouble came from my mother and Mrs. Foster; I don't recollect anything else that was said; they accused me of knowing about the letter going to her father; I don't recollect any more now. Miss Emma did not explain anything, nor her sister; she did not acknowledge that Mr. Groesbeck gave the ring to her, but was silent when I accused her of it; I remarked, they might think I had spoken about the ring; upon that occasion my husband took a ring off his finger and placed it upon Mrs. Davis' finger. "There," he said, "Mary can tell now I gave you a ring." I saw the ring spoken of before, in Emma's possession, about a year after that, in her father's house. The morning after my husband and Emma had been to Vauxhall Garden, the Miss Williams did not say anything about going home; I don't recollect urging them to stay; did not ask them to stay within a fortnight after; I afterwards asked them to stay, and not return with the Doctor and his wife; they returned at that time. I don't know where the ring was at the time they were at Bunker's; I don't know where it is now; I have seen it since upon her finger, in her father's house, a year ago, two or three times; took tea there once; that was about a month after I left New York, in company with them, on the steamboat. I went to take tea there at the instance of Emma and Mrs. Davis; I have seen the ring since at Lansing Groesbeck's; I boarded at Lansing Groesbeck's all last winter; all last winter, in Albany, I saw this ring on her finger there; it looked like the same ring I had once had on my finger; I do not know of my husband's making a present to any one else; my husband got angry with me at Bunker's because I spoke of the ring; I don't know that I accused him of anything; as far as I know, he got angry simply because I spoke to him of the ring and the letter; I don't recollect that anything else was said at which my husband became angry; when he struck me, I don't recollect as he said anything; the occasion that Emma had been sent for from home, was one reason of my husband's slapping me; he swore that because she had been sent

for, I should go with her, because he believed I was instrumental in it; it was said upon that occasion that she had been sent for on account of receiving too much attention from my husband; I never told Miss Emma that I was displeased with her having that ring till that time, at Bunker's.

Mary Griffith, being sworn, testified:

I am a dress-maker; make dresses for the Miss Williams'; I have heard Miss Emma speak of David Groesbeck very frequently; never heard her call him her beau, or use any term of endearment towards him.

Catharine McDonald being sworn, testified:

I now reside in Mr. Williams family; I have resided there about four or five months; I have seen Mr. David Groesbeck and Miss Emma Williams alone together in a room five months ago; I was living at that time at Dr. Groesbeck's; I have seen them alone together in a room twice, in the parlor on one occasion; Mr. Groesbeck was sitting on the sofa, and Miss Williams sitting on a chair quite near him; Mr. Groesbeck was smoking; she was sewing; don't know how long they sat together. That was the 4th of July, a year ago. About that time, can't say it was that day. I don't know how Emma came there; think it was in the afternoon. I saw them sitting in that position twice that afternoon, about a quarter of an hour apart. The next time I saw them was last winter. I think Mr. Groesbeck was sitting by the window, can't say where Emma was. I did not go into the room. That was in the afternoon. I saw Mr. Groesbeck talking to Miss Emma. I have seen him make her presents of ear-rings and books. I saw him give her the ear-rings the evening before last New Year's. I saw him present her with books that evening. *I have seen Miss Emma's miniature in the possession of Mr. Groesbeck.* I never mentioned to Miss Emma that I saw the miniature in Mr. Groesbeck's possession. This was at Dr. Groesbeck's. The miniature was in his trunk; the trunk was in his bed-room. I don't recollect at the time that the ear-rings and books were given what was said. The ear-rings were large, and of the shape of hoops. There were no diamonds in the ear-rings. David Groesbeck's little girl is nine years old. I have seen David Groesbeck leave the house with her when they were going to church, I have seen them leave the house together on other occasions in the evening. I don't remember how many times. I recollect distinctly but once; that was New Year's eve—last New Year's, between ten and eleven o'clock. Miss Williams did not return again that night. Mr. Groesbeck did; he was there in the morning. What time he returned I cannot say. They were at the doctor's very frequently together. David's family were at this time at Mr. Lansing Groesbeck's. Mrs. Groesbeck's child was born the day before New Year's Day. Mr. David Groesbeck came to the doctor's about eight o'clock; he continued there all the time until he left with Emma. Emma was there next evening, and David was there.

Emma came about five or six o'clock. She remained all the evening. David was there all the evening. David arrived at his brother's about eight o'clock in the evening. He arrived there with his baggage. When David was informed that he had a child born that day, I think Emma was there. He brought his trunk there at the time. The same trunk that I saw the miniature in.

*On her cross-examination she testified:—*Dr. Groesbeck lived in Pearl street at the time. Mr. Williams' family at that time consisted of Emma, Caroline, Adelaide and Anna, and a son, Henry. These last young ladies are grown up. Dr. Groesbeck's family consisted of himself, wife and children, and one of David Groesbeck's children. I can't tell how many times David and Emma were at the doctor's; as many as six or seven times at least. It was a common occurrence; that's as near as I can come, I have seen them together at Mrs. Williams' when I did not live there. Two or three times last winter I have seen Emma at the Doctor's when David was not there. She was in the habit of coming there almost every day. She spent a good deal of her time at her sister's. I have seen David there when Emma was not there. When David gave her the books and ear-rings, his daughter, Emma and myself were in the room. I do not recollect seeing the Doctor in the room. I think the Doctor and his wife were down stairs. My recollection is that they were not in the room at the time the presents were given. I can swear positively that Mrs. Dr. Groesbeck was not in the room. I can't swear positively that he was not there. The miniature was a daguerreotype. It was in a case. I have seen one other one of Miss Williams and several other persons. I have seen three minatures of Miss Williams, all different. I saw that miniature in the trunk about 7.12. The trunk was unlocked. The little girl saw it first. The little girl took it out and showed it to me. I noticed the little girl had nothing in her hands when she came up stairs. The miniature was in the top of the trunk, under a handkerchief. The trunk was in Mr. David Groesbeck's room. This was two or three days after he arrived there. I mentioned this circumstance first to the other hired girl. In the position I have described them in the parlor, they might be seen by any one passing in the hall when the door was open. I did not see them in any other position than that which I have described. The other time they sat upon a kind of lounge. I meant a lounge before, when I said a sofa. I saw them at one time upon the sofa; afterwards they moved the sofa so that I could not see them. The sofa was the only seat that could not be seen from the door. I could see all the chairs in the room. No one could sit on the chairs without being seen. There were six chairs in the room. There were two by each window; the others on each side of the folding doors. The sofa was next to the side of the wall next the hall. I did not hear them speak. I know they were there by seeing them when I came down. Miss Williams was standing in front of the sofa laughing. She was talking. Mrs.

Dr. Groesbeck was up stairs. When I came down stairs she was sewing a glove; the same sewing as when she was on the sofa. When I saw them at the window they were both at the same window. They were both sitting. This was in the winter season. I saw no one else. The door was always open. There was a hall stove. The parlors were generally warmed by the hall stove.

*Upon her direct examination being resumed she said:—*David was at his brother's three or four days the time he was upon New Year's; the hired girl that lived at Mr. Willam's last winter, was Mary Brennan, David was not at his brother's again until spring.

*Mrs. Mary Groesbeck, recalled by defendant, said:—*I and my husband separated at Bunker's Mansion House the last day of October, 1846, I have never spent an hour with him since, it was the day before that, she (Miss W.) was in my room, I did not go up the river the same night, this quarrel took place on the next (Friday) night, she went up on the same boat with me, I first saw my husband after my child was born on New Year's Day, between twelve and one o'clock; all of Dr. Groesbeck's family knew of the birth of my child.

The counsel for the defendant here offered to show by the witness that David Groesbeck had called upon her and endeavored to persuade her not to be a witness in this case, and had told her by way of intimidation that if she did come he would employ one of the most *impudent, impertinent, cross and abusive counsel in the State*, expressly for the purpose of putting indecent and improper questions to her on the trial.

The evidence was over-ruled by the court, and the counsel for the defendant excepted.

*Cross-Examined.—*I visited at Mr. Williams' house once, and called twice. I visited there in December, the visit after the separation I stayed about three hours, went there about five o'clock, stayed there till between nine and ten, took tea there, Emma was there, she and myself were friendly and sociable. I called there in the forenoon one time, either in the month of November or December, 1846. I made an ordinary call, saw Emma, Mrs. Williams and Margaret. I called to see Emma as much as any of them. I don't recollect any particular circumstance that took place then, I was there three times, two calls and one visit, at one call I did not see Emma, I presume she was out. Emma called at Mrs. Lansing Groesbeck's, I don't think she meant it as a call on me, she called there twice, I presume she saw me, we all conversed in one room. I presume I and Emma conversed together. She dined there once in December. I left New York the 31st day of October, 1846, the day my husband and I separated. The slap on the face was on the 30th day of October, the day before, the first night Miss Emma was ever in my house there was violence, there was personal violence made use of that night, there had been difficulty before that night between me and my husband, as near as I can tell, within about two years previous to this there had been difficulty



between us. I think it was early in 1839 the first difficulty arose, it was after Christmas of that year I think. I had two children then, I recollect no personal violence toward me before the birth of the first child, there was some abusive language made use of by him towards me before the birth of the second child, that was November 14th, 1840. I recollect now I had two children, must have been mistaken as to the time, I am confident we were married two years before we had any serious difficulty. I was married November 7th, I think the difficulty I referred to in 1839 must have been in 1840. Don't recollect dates. I lived then in Allen street. I am certain the second child was born before the difficulty. I lived at No. 6 Allen street. Lansing Groesbeck lived in the house but not in the same family. In 1840, in Allen street, there was personal violence used. During that quarrel there was not personal violence made use of more than once. My sister, Margaret Foster, was present at that time. That violence took place at No. 6 Allen street, second story, front room, that was the first time he ever used personal violence towards me, the next time I think was after the New Year's Day of 1841, it was when my child was about two months old, he slapped me several times at that time. We certainly were in a quarrel, he did not do it in good nature. I do not recollect of any thing so bad as his not speaking to me until thirteen or fourteen months after we were married. I think it was longer, I think it was when our first child was several months old. I always spoke to him. It was two years before we began to quarrel as I considered it, because it takes two to quarrel. I do say under oath that my husband has always been in the habit of finding fault from the day of our marriage. He did not make use of abusive language, it was fourteen or fifteen months after marriage before he made use of such language, after that he made use of abusive language once in about three or four weeks, up to the time he first slapped me, on these occasions he was very violent in his language. He has a number of times threatened violence. I can't recollect how long ago he had threatened to use violence before the time he slapped me. From about the date of Dr. Groesbeck's marriage he threatened violence. I do not recollect his carrying me into my room and locking me up. He ordered me in to my room, locked the door and gave the key to Mrs. Croler. This was about the time of the doctor's marriage. I do not recollect of my husband bringing me back out of the street and forcing me up stairs and threatening to lock me up. He never forced me up stairs to my knowledge and sent his brother to keep me from coming down. I do not recollect that he forced me up stairs and desisted from locking the door on his brother's promising to keep me up there. I do not recollect that during any of these quarrels that I followed him anywhere. I did not follow him to Chatham Square. I recollect once of following him down off the stoop and begging him not to be angry with me. It was the first summer we lived in Allen street. I don't recollect that on this occasion he threatened to leave

me. The reason why I followed him and begged him not to be angry was that he was in the habit of going away when he got angry and staying away all day. It was in the evening, I was afraid he would stay away all night. He stayed away one night in consequence of being angry. The night I begged of him not to be angry he came back. I think he had stayed away one night before that. I recollect an occurrence that took place at my house when Miss Rowe was there at a card party. I think it was the first winter we lived in Allen street. The occurrence was very frivolous, it was a misunderstanding, no quarrel, some angry words. I did not follow him on that occasion.

At Bunker's he threatened to send me home, he threatened this twice before—the first was in December two years ago, the next at Bunkers; he told me he could not live with any woman, he has said something of the kind, that we could not live together previous to Miss Williams coming there, he has told one that he could not live so, and that we could not live together—it was within the year before, I don't recollect whether Lansing Groesbeck was present, it was in Allen street, I think, the second year we lived there.

*On her re-examination she said:—*It was in the afternoon that my husband brought the Miss Williams back the second time at Bunker's, when he returned alone between the two visits my husband told me to beg Miss Emma's pardon, and that she would probably beg mine, so that we could go up the river together, that there would be no remarks made, he said he would go and fetch Emma and Margaret back. I told him I would. He left and then returned shortly after with Emma and Margaret. He told me he had brought the girls back and he wished us to retire to my bed-room and make up the difficulty; we did so. After we had got to my bed-room, we told each other we were sorry that this difficulty was between us and that if I was going to be in Albany that winter and my husband gone to Europe that there would be remarks made if we seemed to be enemies. I have now stated the substance of what was said between us. We told each other that we would try to forget all. (The counsel for the defendant here offered to show by the witness that this conduct on the part of the witness was in consequence of the compulsion of her husband. Objected to and evidence overruled by the Court.)

At the time my husband told me we must separate he gave no reason, it was after the Doctor's marriage that my husband first spoke about not living with me—it was two or three days after, it was in our own room he told me this; this is the time I mentioned in my cross-examination. It was upon a very trivial subject that he spoke about leaving me, the substance of what he said was that he could not live so. He added that he did not think he could live with any woman. he was angry at that time. I think my husband never made use of violence more than once before Miss Williams came to my house. (The counsel for the defendant here offered to show that after Miss Williams came there, her husband committed violence as often as once

a week. Objected to by prosecution and overruled by Court.) We moved to Allen street the first of May, 1838, we lived there three years—what I mean by the word quarrel is using hard words to one another, both taking part—according to my interpretation of the word quarrel, the first one was about fourteen or fifteen months after we were married, I think it must be in 1841. I was not at the wedding, my husband was. When my husband threatened to send me home, two years before, we were alone in my room in Carmenville, he said I must go home to spend the winter. I showed him the receipt for the ring—the ring he bought for Miss Emma. He seemed angry, he said I must go home, he was not angry before I showed him the receipt for the ring. He came into our bed-room on Friday previous to sending me home and told me that Emma had received a letter from her mother ordering her home in consequence of an anonymous letter received by her father which he believed I had written, and as she had to go home I should go with her. He was very angry at that time.

*Cross-examined.*—He did not tell me anything in regard to the general course of my life. I believe I have told the substance; it was very late. I judge he was angry from his manner and from what he had to say, he came up to the table very hastily where I was sitting. I was writing to my parents in Illinois, by the side of me was laying a letter, finished and directed to my sister in Albany, he took up my letter already finished and went down to our private parlor, he came back and told me he was convinced that I had written that anonymous letter, he drew the letter I was writing from under my hand and returned and said there was nothing he could object to in that and put the other one in his pocket, the one to Mrs. Foster. My husband in his first conversation told me I must go home. He was angry when he told me that, I think it was about the anonymous letter to Mr. Williams. Miss Williams had been in New York at that time about a week, her sister was married October 13th, they were married on Tuesday, in the other conversation my husband was angry at the contents of that letter which I had written to my sister at that time, it was before or in the act of taking the letter that he told me I should go home. When I showed him the receipt at Carmenville he was angry, all I said was that I had seen the ring but was not going to make a fuss about it. I told him I had seen the ring on her finger at Lansing's house and he asked me why I had not spoken of it before; he became angry because I made a reply. I don't recollect what I said, I think there was no quarrel—don't recollect any.

*Mary Brennan, called by defence being sworn, said:*—I lived some time ago at Mr. Williams. I left there February 16th, last, I lived there ten months, I went in April. I know David Groesbeck and Miss Emma. Emma lived at home while I was there. I have seen him in company with Miss Emma. *I have seen his miniature in her possession.* I had been there but a little while when she showed me it and Mar-

garet showed me Mr. Davis' miniature. Miss Emma said when she showed me David's miniature *that was her beau's miniature*, and asked who was the handsomest. Margaret was going to get married in the spring, Miss Emma said she was going to be in the fall. Margaret did not say to whom she was to be married, immediately before she told me she showed me the miniature and said that was her beau's. Miss Emma showed me her miniature and asked me which was the handsomest, and said that was her husband. I have seen Emma *and her beau* in the room several times together, the two have been several times alone, once Miss Williams told me to get a fire in the parlor, to clean the hearth and hurry, she told me Mr. Groesbeck was coming there. Mr. G. came and rang the bell, I opened the door, it was in the forenoon. I opened the door and let him in; he asked if Miss Emma was in, I told him yes. I went up stairs and told Emma that Mr. G. was in the parlor. She came down stairs and I came down with her, I was cleaning the hall. She went into the parlor and *the key of the door was turned, Mr. G. was in the room at the time.* I was cleaning in the hall and Mrs. Williams spoke to me. Miss Emma came to the door, she turned the key and opened the door, she asked her mother in, when Mrs. Williams spoke to me she spoke easy, when Miss Emma asked her mother in, her mother shook her head and went up stairs. Miss Emma went in the parlor, the door was shut as before and the key turned, they had not been in very long when Mrs. Williams came down stairs, after she went in the second time I remained in the hall until I got it cleaned and dusted, and the stairs swept down. I don't remember seeing Mr. Groesbeck go away, I recollect seeing them together several times, can't tell where I saw them, always either in the parlor or in the basement where they dine. I have seen them in the basement alone, often with others. When I saw them there alone, they were both sitting together on chairs, as near together as they could sit. I don't remember how long they were there, they were a good while, all the family came into the room when they wanted anything, it was not the sitting-room, they had a light in the room, this was last winter when they were sitting in the parlor. I have often seen them sitting on chairs beside each other, the chairs close to one another. I have seen them walk together, I saw them walk on New Year's Day last; walk backwards and forwards in the parlor *with his arm around her waist.* I did not observe where her arms were, I was walking through the hall to open the hall door. I only observed this once; once before he had hold of her arm by the folding doors. When they were walking in the parlor her three younger sisters were present, when he had hold of her arm I don't recollect any one was present. I have seen them sit on the sofa in the parlor when no one else was present, they were sitting close by each other and Emma asked me to bring a pitcher of water. I did it; a did not notice how long they were together, Mr. Groesbeck spent a I good deal of time sitting on the sofa. When Emma gave me the

order to make the fire, it was a little after breakfast. I made the fire as soon as I could, I made had the fire before Mr. Groesbeck came in. When Mr. G. came sometimes he would walk into the parlor and sometimes he would ask for Emma. *Emma always received his visits.* I was in Henry's room once when Emma told her mother *she would keep company with David*, if Abe should never speak to her. That's all I heard. Dr. Groesbeck is the one they usually call Abe. Heard another conversation between Emma and her mother, had been in my room dressing. I heard Mary telling her mother there would be no luck in it. Her mother *said she didn't care but it was such a disgrace to the family* and she didn't want any of her daughters to be getting bastards. Miss Emma spoke up and told her mother *folks would not take it in the same light as if he were a stranger*; she said, *he was a great deal in the family.* He visited them so often he was like one of themselves, and if she would go in a strange country with him they could *get into good society.* When Miss Emma came up from New York, she said he was going to Europe. I was there at the time Margaret was married. Emma left with her. I am at Mr. G. W. Stanton's now.

*Cross-examination.*—When I went to live with Mrs. Williams, they lived in Patroon street. I was chambermaid there. It was in April that the minature affair took place. I had been there about a week or more. It was in Miss Margaret's bed-room that we were talking. I don't recollect what the young ladies were doing then. They had the minature in their hands when they came in. I came in because one of them called me in on some errand; don't remember what the errand was. I did it before I saw the minature. Some of the ladies said, "Look at this." After that I looked out of the window. Miss Margaret called me to look at the minature. She said, "Look at them. I looked, and took them both in my hand. Miss Margaret asked me which was the handsomest. I told them Mr. G.'s was the handsomest. Miss Emma said that was the handsomest. That's all I heard. The minatures were daguerreotypes. I have seen Davis often since. Never seen the other since. The other looked like Mr. Groesbeck. I drew it from his looks. I never saw Mr. Groesbeck until after I saw the minature. I recognized him as soon as I saw him afterwards. The parlor doors shut pretty easy; they open middling easy. The noise of the lock sounded to me as if the key was turned. I did not see the key turned, but I thought that at the time; I am pretty sure. I wont say whether it was the catch or the lock that turned. I don't remember the number of the house in Patroon street. It was in the winter time that David came there, and was locked up with Miss Emma; a year ago this winter. I don't know how many times he was up from New York. He was many a time at Miss Williams'. He was up from New York at New Year's; don't recollect when he was up again. I can't tell whether he was up

before New Year's. He came there on New Year's day; it was in the forenoon both times; early in the forenoon. He came there in a carriage. Don't remember whether any one came with him. We had a great many calls that day. Miss Emma and her three younger sisters received the visitors. Mrs. Williams was up stairs. It was on New Year's day that I saw him walking with his arm around her; it was also on that day that I saw him have hold of the arm at the folding door. I don't remember whether it was before New Year's day that I cleaned the hall. I told this story to Mr. Groesbeck's girl that I have told here in Court, and to no one else. Have not been asked anything about it. Mr. Wheaton has not spoken to me about it. I never saw him till I saw him here. I told this story to Mr. Groesbeck's girl immediately. None of these ladies have spoken to me about it. I told it to Mr. Smith to-day. I told the story to Mrs. Stanton to-day. I told the story to Mr. Smith coming up here to-day. I can't tell how many times I saw Mr. Groesbeck at Mrs. Williams'; as much as twice, if not more. I had seen him there before New Year's. Before Miss Margaret was married I saw him there a good deal in the summer season; I can't tell what time in the summer season. Seen him there more than ten times. It was in the winter that they were locked into the room. It was in the winter time that I saw him in the basement. In the evening I went into the basement to see about the fire. I saw them sitting there; the door was on a crack. It was after tea; can't say how long after. It was after I got the tea-things out of the basement. I staid there only while fixing the fire. All that I heard him say was, "He knew what he was about." This was to Miss Emma. They were both sitting on chairs. There was a light in the room. I was in my own bedroom when I heard Mrs. Williams and somebody else talking about their going into a strange country. Mrs. Williams, Emma and Mrs. Dr. Groesbeck were in the hall. My bedroom was on the third story over the hall. I was dressing myself. My door was open. I stood in the door. It was late in the afternoon when I heard them talking. I could not shut my ears; I did not want to. I don't remember whether it was before or after New Year's when Mrs. Williams was telling about having bastards in the family. She was in the hall. The first I heard in the hall, Mrs. Groesbeck said to Miss Emma she was afraid there would be no luck in it. Mrs. Williams said she didn't care, but it was such a disgrace in the family, and "I would not have any one say that any of my daughters should get bastards." Miss Emma said, "The people will not take it in the same light as if he was a stranger; he was a great deal in the family, and is like one of ourselves; we can go into a strange country and get into good society." When I wanted to come down stairs I lifted my chair and made a noise, and they went out of the hall. They were not in the hall when I came down. I went out of the room to the bannisters,

and saw the three. I then went back to my room. I went to the bannisters to please myself. I had to go but two or three steps. I knew their voices, so that I could have told them if I had not seen them.

THE DEFENCE HERE RESTED.

Prosecution called on, for want of space and interest, omitted in these papers.

Defence resumed.

*Mrs. Margaret Foster*—I am a sister of Mrs. Mary Groesbeck; am the wife of Ezra Foster, Jr., and reside at 76 Division Street. The counsel for the defence proposed to prove that Doctor Abraham Groesbeck had stated to her that Emma and David had threatened to go to Europe together, and he believed that they would carry that threat into effect; also, that Mrs. Robinson remonstrated with the Doctor, on account of the disgrace to her daughter and her family, by the conduct of Emma and David, and that the Doctor replied, "that the disgrace to the Williams family, through the conduct of David and Emma, was greater than the disgrace of her daughter or to Mrs. Robinson." (The evidence was excluded by the Court, and the counsel for the defence excepted.)

*Mrs. Mary Groesbeck recalled*—David did not sit with his arm around my waist from the Blazing Star to Woodbridge; I recollect when we first took our seats, he had one arm over Emma, and the other over me; he did not continue in that position long; I don't recollect that his head was on me all the way; there was a back to Margaret's seat; there was a leather strap up about as high as the shoulders.

At the time Emma and her sister called upon me, at Bunker's, I did not send for them; I never sent for them, I did not tell them that I had sent for them; the first time they came into the parlor, my husband came in company with them, directly behind them; my husband did not tell them to go home, in my presence; I was there all the time; he did not go to the door; I did not send for them, or propose it; he proposed it, and I consented; I recollect the difficulty with my husband, when we lived in Allen Street; my husband at that time whipped my child badly—my husband took the child out of the crib and said it should go to sleep, without rocking or nursing; I remonstrated about so young a child being forced to go to sleep; he whipped the child three distinct times; the child was about nine months old; he ordered me out of the room; don't recollect his touching me; I think he locked the door, for I tried it; I recollect knocking once at the door, not more. Dr. Groesbeck did not give me a daguerreotype likeness of my husband—his wife did; it had a black hat on; she said I had best right to it; it was while he lived where he now lives; it was a year ago last October.

*On her cross-examination she said* :—I had a servant girl, while at Bunkers ; I do not know that she went to Greenwich Street for Miss Williams ; they came entirely unexpected ; to me there was not a word said, the first time they came, about making up a quarrel ; my husband then locked the door—he then commenced about the ring and letter ; he said, because Emma had been sent for, in consequence of her father having received the anonymous letter, he said, with an oath, I should go with her ; I remarked I had never spread the reports which were in circulation about her, and I had not written the letter.

*Mary Brennan recalled by the defence.*—The counsel for the defence proposed to show by this witness that Margaret held conversation with her frequently and repeatedly, and was in the habit of talking with her familiarly.

The court excluded the evidence and the counsel for the defendant excepted.

*Catherine McDonald recalled by defence said* :—I know the lounge was moved from the back room into the front room. I don't recollect how long it was before the day Mr. Grosebeck was there. When I moved it to sweep, it would not remain in the front room the whole day at the time. When we swept it was very common to move it into the front room. At one time the sofa was closer to the window than at another. A chair used to stand between the door and sofa.

*On her cross-examination she said* :—The lounge generally stood between the windows in the back room. I generally swept those carpets. I carried into the front room to prevent the dust from getting into the velvet.

Here the defence closed and the people recalled

*Dr. Abraham Groesbeck, who said* :—I have not measured the distance from the parlor door to the front wall. It was three or four feet from the hall to the sofa. The sofa was about two feet wide. The partition is as wide as my two hands. I cannot see the whole outline of the sofa from the middle of my hall when it is two feet from the window.

*Cross-examined.*—The reason I would not let the two gentlemen you sent go in and examine my sofa was because you had selected them. The hall is two and three-fourth feet between the bannisters. It is long enough to hold four men. I reside 82 North Pearl street.

The testimony was here closed.

The counsel for the defendant then proposed to the counsel for the prosecution to submit the cause to the jury without summing up. But the counsel for the prosecution refused to accede to this proposition, and thereupon the counsel for the respective parties proceeded to sum up the cause to the jury, after which the court having charged the jury, the jury retired, and after an absence of eight hours agreed upon a verdict of

NOT GUILTY,

which verdict was duly rendered to the court on the morning of the 25th of December, 1847.



## SUPREME COURT.—IN EQUITY.

*To the Justices of the Supreme Court in Equity :*

Humbly complaining, shows unto this Court your oratrix, Mary W. Groesbeck, of the City of New York, now wife of said Groesbeck, of said city, that on or about the seventh day of November, in the year one thousand eight hundred and thirty-seven, your oratrix intermarried with the said David Groesbeck, in the City of Albany, State of New York, and has continued to live with the said David Groesbeck from such period until on or about the latter part of October, in the year one thousand eight hundred and forty-six, as his wife, and that from the period of such marriage they have been, and at the time and times of the commission of the adultery hereinafter mentioned and set forth, were and now are inhabitants of this State, and that the said David Groesbeck is now a resident of the City of New York.

And your oratrix further shows, that during the marriage with the said David Groesbeck she has had five children by him, one of whom is since deceased, and four, whom are now living, viz., Mary R. Groesbeck, of the age of eight years and upwards; Charles E. Groesbeck, of the age of six years and upwards; James R. Groesbeck, of the age of three years and upwards, and Alfred William Groesbeck, of the age of ten months and upwards; and your oratrix further shows unto this Court that she is informed and believes and charges the truth to be that the said David Groesbeck, disregarding the solemnity of the marriage vow, hath, since the said marriage of your oratrix with him, the said David Groesbeck, committed adultery at divers places, and especially that the said David Groesbeck on some day or days, during the month of January, in the year one thousand eight hundred and forty-seven, but on what day in particular your oratrix is ignorant, at the City and in the County of New York, did commit adultery and had carnal connection with one Frances Fleming Charles, and that the said David Groesbeck had, at various other times during the months of January and February in such year, committed carnal connection with the said Frances Fleming Charles, at the City and in the County of New York.

And your oratrix further shows, that she is informed and believes, and therefore charges that the said David Groesbeck did also, at the said City and County of New York, and during the year one thousand eight hundred and forty-seven, commit adultery and had carnal connection with divers other persons, but whose names are wholly unknown to your oratrix.

And your oratrix further shows, that during all the time mentioned in this bill the said defendant, David Groesbeck, has resided in the said City and County of New York.

And your oratrix further shows, that she had been wholly ignorant

of the commission of the aforesaid acts of adultery, or either of them, or of any other acts of adultery by the said David Groesbeck, until after the month of May, 1847, previous to which time and on or about the latter part of October, 1847, she had been sent to the City of Albany by the said David Groesbeck to the house of her relations, under the pretense that he was going to Europe; but, in fact, such pretense was wholly untrue, and was made for the purpose of getting your oratrix away from the City of New York, where she had resided with the said David Groesbeck for about nine years previous thereto.

That five years have not elapsed since the discovery by her of the fact of such adultery; that she has not voluntarily cohabited with him since the discovery thereof, and that such adultery was committed without her consent, connivance, privity, or procurement.

In consideration whereof, and to the end that the said David Groesbeck may full, true, direct and perfect answer unto all, and singular the premises, and that as fully and particularly as if the same were herein repeated, paragraph by paragraph, and he interrogated thereto, and that the marriage between your oratrix and the said David Groesbeck may be dissolved, and a divorce decreed according to the statute in such case made and provided, and your oratrix may have such further or other relief in the premises as shall be equitable.

May it please this Court to grant unto your oratrix the people's writ of subpœna, issuing out of and under the seal of this honorable Court, directed to the said David Groesbeck, thereby commanding him, at a certain day, and under a certain penalty therein to be expressed, to be and appear before this Court, then and there to answer the premises, and to stand to and abide such order and decree therein as to this Court shall seem meet, and shall be agreeable to equity, and your oratrix will ever pray, &c.

MARY W. GROESBECK.

R. M. STRONG,

*Complainant's Solicitor and of Counsel.*

*State of New York, City and County of New York, ss.:*

Now, on this 20th day of October, 1847, before me came Mary W. Groesbeck, who being by me duly sworn, did depose and say that she had read the foregoing bill of complaint, and knows the contents thereof, and that the same is true of her own knowledge, except as to the matters which are therein stated to be on her information or belief, and as to these matters she believes it to be true.

JAMES MONCRIEFF,

*Commissioner of Deeds.*

## SUPREME COURT.—IN EQUITY.

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 MARY W. GROESBECK

*vs.*

 DAVID GROESBECK,
 

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*City and County of New York, ss. :*

Robert M. K. Strong, the solicitor for the plaintiff on this cause, being duly sworn, says that the bill of complaint filed herein seeks a divorce between the complainant and the defendant on the sole ground of adultery on the part of the defendant; that the bill of complaint was filed on the 22d day of October, A. D. 1847, and that on the same day this deponent served the subpoena issued in this cause upon David Groesbeck, the defendant named therein, by delivering a copy of the same to him personally, at the same time showing him the original subpoena, with the seal of this Court impressed thereon, by which said subpoena the said defendant was commanded to appear in this Court on the 23d day of October, 1847, at the suit of the said named Mary W. Groesbeck; that such copy subpoena was subscribed Robert M. K. Strong, Solicitor, and inscribed "copy;" that on the 23d day of said October deponent received notice of the appearance of the defendant herein by Stephen Merrihew, Esq., as his solicitor; that on the 23d day of October an order was duly entered herein requiring the defendant to answer the said bill of complaint in forty days after service of a copy of the bill and notice of said order, and on same 23d day of October deponent personally served a copy of said bill and notice of said order on Stephen Merrihew, Esq., defendant's solicitor; that on the        day of November instant the said solicitor for the defendant delivered to defendant a written consent that the bill of complaint herein be taken as *confessed* by the defendant, and that on the 6th day of November instant an order was duly entered (on filing said consent in writing) that the said bill of complaint be taken as confessed by the defendant.

ROBERT M. K. STRONG.

Sworn before me November }  
 15, 1847.                        }

JAMES MONCRIEFF,

*Commissioner of Deeds.*

At a Supreme Court in Equity, held at the City Hall, in the City of New York, in and for the City and County of New York, on the        day of November, A. D., 1847.

Present: HENRY P. EDWARDS, *Justice*.

MARY W. GROESBECK

*vs.*

DAVID GROESBECK.

On reading and filing due proof that the bill of complaint in this cause has been taken as confessed by David Groesbeck, the defendant, and in reading and filing the affidavit of regularity required by the one hundred and twelfth rule of this Court. On motion of Robert M. K. Strong, solicitor for complainant, ordered that it be referred to Ogden Edwards, Esq., a fit person as referee, residing in the City of New York, to take proof of all the material facts charged in the said bill, and to report such proof to the Court with his opinion thereon.

SUPREME COURT—IN EQUITY.

MARY W. GROESBECK

*vs.*

DAVID GROESBECK.

Please to take notice that on Monday, the 15th day of November, 1847, we shall move this honorable Court, at a special term thereof, to be held at the City Hall, in the City of New York, at the opening of the Court on that day, or as soon thereafter as counsel can be heard, that it be referred to William McMurray, Esq., of the City of New York, or some other proper person to take proof of all the material facts charged in the bill of complaint herein, and to report such proof to the court with an opinion, and which motion will be founded on due proof of the regularity of the proceedings to take the said bill as confessed.

November 6th, 1847.

Yours, etc.,

R. M. K. STRONG,

*Plaintiff's Solicitor.*

J. MERRIHEW, Esq,

*Defendant's Solicitor.*

## NEW YORK SUPREME COURT—IN EQUITY

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 MARY W. GROESBECK

vs.

DAVID GROESBECK.

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*To the Supreme Court of the State of New York, in Equity.*

In pursuance of an order of this Court, made in the above cause, and dated the 15th day of November, A. D., 1847, by which it was referred to me, Ogden Edwards, Esq., a fit person as referee, residing in the City of New York, to take proof of all the material facts charged in the said bill, and to report such proof to the Court with my opinion thereon.

I, the subscriber such referee, residing in the said City of New York, to whom the execution of said order was confided, do hereby certify and report, that I have taken proofs in this cause on the part of the complainant, and that such proofs are hereto subjoined and made a part of this my report.

And I do further certify and report as required by the said order, that in my opinion all the material facts charged in the complainant's bill in this cause are true, and have been sufficiently proved before me, and that the said defendant has committed the several acts of adultery charged in the said bill of complaint.

All of which is respectfully submitted.

Dated New York, November 18th, 1847.

(Signed),

OGDEN EDWARDS.

At the Supreme Court in Equity, held at the City Hall, in the City of New York, in and for the City and County of New York, on the fifteenth day of November, A. D., 1847.

Present: HENRY P. EDWARDS, *Justice.*

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 MARY W. GROESBECK,

vs.

DAVID GROESBECK.

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On reading and filing due proof that the bill of complaint in this cause has been, as confessed by David Grosbeck, the defendant, and on reading and filing the affidavit of regularity required by the 112th rule

of this Court, on motion of Robert M. K. Strong, solicitor for the complainant ordered, that it be referred to Ogden Edwards, Esq., a fit person as referee residing in the city of New York to take proof of all the material facts charged in the said bill and to report such proof to the Court with his opinion thereon.

A COPY.

(Signed,) JAMES CONNER,

*Clerk.*

SUPREME COURT.—IN EQUITY.

MARY W. GROESBECK

*vs.*

DAVID GROESBECK.

Reference before Ogden Edwards, Esq., a referee appointed by the Court, under an order made in this cause, dated the 15th day of November, 1847, to take proof of all the material facts charged in the said bill, and to report such proof to the Court, with his opinion thereon.

A. J. Smith appears for the complainant, and Stephen Merrihew, Esq., for the defendant.

The examination of Agneta Charles, a witness produced, sworn and examined on the part and behalf of the plaintiff, deposes and says:—

Q. Do you know the plaintiff, Mary W. Groesbeck, and the defendant, David Groesbeck?

A. I do not know the plaintiff; I know the defendant, David Groesbeck, here present.

Q. How long have you known him?

A. I have known him since last December.

Q. Do you know Frances Fleming Charles?

A. I do.

Q. Have you known her during all the past year?

A. Yes.

A. Where did she reside in the months of January and February, 1847.

A. At No. 417 Houston street, in the City of New York.

Q. At what time did she go there to reside?

A. On the 22d of January, 1847.

Q. Did any person reside in the same house with her?

A. Yes, a great many people.

Q. Did you reside in the same house with her?

A. A part of the time I did.

Q. What part of the time?

A. When she first went up there, I went there and continued there about two weeks, then went away and returned about the end of February.

Q. Was Frances Fleming Charles acquainted with Mr. Groesbeck, the defendant.

A. She was.

Q. At what time did she become acquainted with him?

A. About the same time that I did.

Q. Did you occupy the same rooms with Frances White while you were at No. 417 Houston street?

A. Yes, I did.

Q. Who hired the rooms?

A. Frances Fleming Charles hired them.

Q. Who purchased the furniture?

A. Mr. Groesbeck, the defendant.

Q. How many rooms had Frances at that house?

A. Three rooms.

Q. Upon which floor of the house?

A. The second floor.

Q. How were these rooms situated?

A. There was a front room, a parlor, and back of it two rooms, one of which opened into the parlor, and the other had a door opening out of this second room, and also a door into the hall.

Q. Where did Frances sleep?

A. She slept sometimes in one bed and sometimes the other—mostly the outer room. By the outer room I mean the one that opened into the hall.

Q. How many persons occupied these rooms?

A. Three persons occupied them—Frances, myself and Catherine Charles.

Q. Is Catherine now present?

A. She is not.

Q. Is Frances here?

A. She is.

Q. Where did you sleep?

A. I slept in the room that went off the parlor.

Q. Did you sleep with Catherine usually?

A. I slept by turns with both of them.

Q. Was Mr. Groesbeck in the habit of visiting the house?

A. Yes. He used to visit us, then.

Q. How often have you seen him there?

A. Very often.

Q. At what time of the day?

A. In the evening.

Q. Were those times you speak of in the months of January and February, 1847?

A. They were.

Q. Were his visits to any one in particular?

A. They were mostly to Frances.

Q. What time did he usually leave?

A. I don't know when he left.

Q. Have you seen Mr. Groesbeck and Frances retire to her bedroom together?

A. Not that I know of.

Q. Were you in the habit of going to bed before he went away?

A. Sometimes.

Q. After you had seen him there in the evening have you found him there next morning at any time?

A. I have seen him there in the morning sometimes, when I first went there, after having seen him there the night before.

Q. How early in the morning was this?

A. It was before 9 or 10 o'clock.

Q. Were you up before he was?

A. I don't know.

Q. Did Mr. Groesbeck come there in the mornings you speak of, or had he remained all night?

A. I don't know.

Q. Did you ever see Mr. Groesbeck go into the bedroom of Frances?

A. I have seen him go in there often.

Q. Was this during January and February, 1847?

A. Yes.

Q. Did he go in there with Frances?

A. I never saw them go in together.

Q. Had Frances already retired on these occasions?

A. None that I know of.

Q. Where was Frances on these occasions?

A. Sometimes in the parlor and sometimes in the other bedroom.

Q. At what time in the evening was it usually when you saw him go into the bedroom?

A. At different times.

Q. Did he sometimes go in when you did not see him again that night?

A. I don't remember.

Q. Did you ever sit down to breakfast with the defendant there?

A. Very often.

Q. Did you ever sit down to breakfast before Mr. Groesbeck came to the table?

A. No.

Q. From what room did Mr. Groesbeck come when he came to breakfast?

A. I never saw from what room he came.

Q. Did he not come from the bedroom of Frances?

A. I never saw him.



Q. How many beds had you there ?

A. Two beds.

Q. Did you ever sleep with Frances when Mr. Groesbeck stayed there ?

A. No.

Q. When Mr. Groesbeck was there did you and Catherine sleep together always ?

A. Yes.

Q. Which room did you and Catherine sleep in on these occasions ?

A. The first one that went off the parlor.

Q. Where did Frances sleep ?

A. She slept in the other room.

Q. Did you see her go in there ?

A. Very often.

Q. How long after you had seen the defendant go in there did she go ?

A. I can't say how long, we mostly left Mr. Groesbeck in the parlor.

Q. Did Frances usually go to her bed about the time you went to bed when defendant was there ?

A. Yes.

Q. After Frances had gone to bed as you have said, leaving Mr. Groesbeck in the parlor, did you frequently see him there at breakfast next morning ?

A. Yes.

Q. Out of which room did he come to breakfast ?

A. I can't say. I always found him in the parlor.

Q. When Mr. Groesbeck was there what time did you usually retire to bed ?

A. About eleven.

Q. When you went to bed at the same time with Frances, she going to her own room, was any one left in the parlor with the defendant ?

A. No.

Q. Have you seen Frances go into her bedroom after the defendant had gone in in the evening ?

A. I have seen Frances go into the bedroom after Mr. Groesbeck had gone in, and have then seen them in the parlor together next morning when I got up, and ate breakfast.

Q. At what time was this ?

A. Sometimes about eleven in the evening.

AGNETA CHARLES.

Subscribed and sworn to this 17th day }  
of November, 1847, before me. }

OGDEN EDWARDS.

The witness being cross-examined says —

Q. Where do you now live?

A. At No. 665 Houston street.

Q. Is it the same house you spoke of?

A. No.

Q. Are you related to Frances and Catherine Charles?

A. Yes—a sister.

Q. Of what country are you a native?

A. Of England.

Q. When did you come here?

A. About three or four years ago.

Q. Where have you resided since you came to this country?

A. In New York.

Q. Have you parents?

(Question withdrawn).

AGNETA CHARLES.

Subscribed and sworn to this 17th }  
of November, 1847, before me, }

OGDEN EDWARDS.

Examination of Frances Fleming Charles, a witness produced, sworn and examined on the part of the plaintiff.

Q. Do you know Mary W. Groesbeck and David Groesbeck?

A. I do not know the plaintiff, I know the defendant.

Q. Did you know the defendant in January and February, 1847?

A. Yes.

Q. Where did you then reside?

A. At No. 417 Houston street.

Q. Is the defendant now present?

A. Yes.

Q. Who furnished the rooms?

A. Mr. Groesbeck.

Q. Did Mr. Groesbeck visit you there?

A. Yes.

Q. How often during the months of January and February?

A. He used to come in the evenings pretty often, sometimes every evening.

Q. Did Mr. Groesbeck remain all night?

A. I do not like to answer that question.

Q. Did Mr. Groesbeck usually stay to breakfast when he came?

A. Yes, sometimes he did.

Q. When he came, at what time did you usually retire to bed?

A. At different times.

Q. Where did you usually sleep ?

A. In the outer room.

Q. When Mr. Groesbeck was there, where did you sleep ?

A. In the same place.

Q. Where did your sisters sleep, when Mr. Groesbeck was there ?

A. I think they slept in the middle room.

Q. Did Mr. Groesbeck pass the night in the parlor ?

A. No. I do not think so.

Q. Now then, were there two beds in your room ?

A. Only two.

Q. After you had retired, did Mr. Groesbeck come into your room ?

A. Yes.

Q. Did he remain there till morning ?

A. Yes.

Q. Did you ever go with Mr. Groesbeck to Mr. Edgar's, the grocer ?

A. Yes.

Q. Where was it ?

A. In the Bowery.

Q. Did Mr. Edgar supply you with groceries, etc., upon Mr. Groesbeck's account ?

A. Yes.

Q. Did Groesbeck supply you with money beside ?

A. Sometimes.

#### FRANCES FLEMING CHARLES.

Subscribed and sworn to before)  
me this 17th day of Nov. 1847. )

OGDEN EDWARDS.

Thursday, Nov. 14th, 1847, before me, Ogden Edwards, Esq., referee appointed as aforesaid, appeared Aug. T. Smith for the plaintiff. Stephen Merrihew appeared for the defendant.

James Edgar, a witness produced, sworn and examined on the part and behalf of the plaintiff.

Q. Do you know Mary W. Groesbeck, the plaintiff, and David Groesbeck, the defendant ?

A. I know both of them.

Q. Did you, in January and February last furnish groceries to Frances Fleming Charles, then residing at 417 Houston Street, in this city, near Crosby Street ?

A. Yes sir.

Q. At whose request and upon whose credit did you so furnish the groceries?

A. David Groesbeck's (the defendant).

Q. Did he at any time call at your store and introduce her, Frances, to you, as Mrs. Charles, and tell you to furnish her with the groceries on his account?

A. Yes; I think it was early in January last. It was cold weather.

Q. For about how long a time did you so furnish her with groceries?

A. It was through January and a part of February I think; I can't state precisely.

Q. Were these groceries sent to her residence in Houston Street?

A. Yes, sir.

Q. Who paid you for such groceries, and to what amount?

A. David Groesbeck paid me; there were two bills; can't recollect amount; they were in the neighborhood of \$100 or more,

Q. Did David Groesbeck pay you for all the groceries you furnished to her?

A. Yes sir.

JAMES EDGAR.

Subscribed and sworn to before me, }  
the 18th of November, 1847, }

OGDEN EDWARDS.

Being cross-examined.

Q. How long have you known the defendant?

A. About five years.

Q. Has he always resided in New York?

A. Yes, he has, during that period.

Q. Where does Mrs. Mary W. Groesbeck, the plaintiff, reside?

A. She resided on New York Island several years; she resided in Albany last winter.

Q. What is your business, and where do you keep your store?

A. I am a grocer; 389 Bowery.

Q. How long have you kept there?

A. Between 5 and 6 years in that store.

JAMES EDGAR.

Sworn and subscribed to this 18th day }  
of November, 1847, before me }

OGDEN EDWARDS.

William B. De Forest, a witness produced, sworn and examined on part and behalf of the plaintiff.

Q. What is your profession?

A. Physician.

Q. Do you know Mary W. Groesbeck, the plaintiff, and David Groesbeck the defendant?

A. I know the defendant, but not the plaintiff.

Q. Did you know Francis Fleming Charles?

A. Yes, sir.

Q. Did you know her during the last winter or early part of spring.

A. Yes, sir.

Q. Did the defendant speak to you upon the subject of calling upon said Frances Fleming Charles, and if so, for what purpose.

(Question waived.)

Q. Was Frances Fleming Charles a woman of ill-fame?

A. I consider her so, sir, from the manner in which she and her two sisters lived together in their rooms in Houston street. I have no doubt of the fact.

Q. Has the defendant sent money to Francis Fleming Charles by you?

A. Yes, sir, I have taken it for him on several occasions.

Q. For what purpose was the money sent?

A. It was professedly to pay for her support and to pay house rent.

Q. How long have you known the defendant?

A. About one year—knew him before last January.

Q. Has he resided in New York since you knew him?

A. All the time to my knowledge.

WILLIAM B. DE FOREST.

Sworn to and subscribed before me, }  
this 18th of November, 1847, }

OGDEN EDWARDS.

*Being cross-examined:*

Q. Where you ever at the place in Houston street, where these three sisters resided?

A. Yes, several times.

Q. Did you ever see these three sisters together?

A. I have seen two of them together at different times. I have seen them all there.

Q. Do you know the names of the sisters?

A. I do of two—one is Francis Fleming Charles, the other is Agneta.

Q. Do you know of what country they are natives?

A. I do not.

WILLIAM DE FOREST.

Subscribed and sworn to before me, }  
this 18th of November, 1847, }

OGDEN EDWARDS.

*Direct examination resumed :*

Q. About what is the age of the three sisters—particularly the age of Francis Fleming Charles?

A. I should say that Francis Fleming Charles was from 20 to 22 years of age; Agneta from 22 to 25; the third sister from 18 to 20 years.

WILLIAM B. DE FOREST.

Subscribed and sworn to before me, }  
this 18th of November, 1847, }

OGDEN EDWARDS.

James D. Robinson, a witness produced, sworn and examined, on part and behalf of the plaintiff:

Q. What is your occupation?

A. I am a clerk in a broker's office.

Q. Do you know Mary W. Groesbeck, the plaintiff, and David Groesbeck, the defendant, and how long have you known them?

A. Mary W. Groesbeck, the plaintiff, is my sister, and I have known her all my life. I know the defendant, David Groesbeck, and have known him since his marriage with the plaintiff.

Q. When were the plaintiff and defendant married, and at what place?

A. About the 7th day of November, 1837, at Albany, in the State of New York.

Q. Were you present at the marriage?

A. Yes sir.

Q. Were they married at your father's house in Albany, and by whom?

A. Yes, they were married at my father's house, in Albany, by a clergyman, the Rev. Mr. Holmes, of Albany.

Q. Up to about what time did the plaintiff and defendant continue to live together?

A. Up to about October, 1846.

Q. Where did they reside all of that time ?

A. In the city of New York.

Q. Has she resided in the State of New York ever since that separation ?

A. Yes, sir.

Q. Where has the defendant resided since the separation ?

A. In New York City, where he is now resident.

Q. When they separated in October, 1846, where did Mrs. Groesbeck, the plaintiff, go and reside ?

A. In Albany, State of New York.

Q. Has she resided in the City of New York at all, since ?

A. No, sir ; she was in the city about three weeks, preparatory to moving from Albany to Flushing, L. I.

Q. At whose instance did she go to Albany, and was it upon any pretense of the defendant that he was going to Europe ?

A. At the defendant's instance she went to Albany, as he alleged he was going to Europe for his health.

Q. Did he go to Europe ?

A. No, sir.

Q. Has your sister, Mary W. Groesbeck, lived with the defendant since their separation in October, 1846 ?

A. No, sir.

Q. Was your sister, Mary W. Groesbeck, in the City of New York at all, during January or February last ?

A. No, sir.

Q. Were there any children of this marriage ? if so, how many, their names, ages and sex ?

A. There were five, of whom four are now living : Mary R. Groesbeck, aged four years and upward ; Charles Edward Groesbeck, over six years ; James R. Groesbeck, aged three years and upwards, and Alfred William Groesbeck, aged about one year.

JAMES D. ROBINSON.

Subscribed and sworn to before me, }  
this 18th of November, 1847, }

OGDEN EDWARDS.

*Being cross-examined.*

Q. Is the brother's office, in which you are clerk, in this city ?

A. Yes, sir.

Q. How long have you resided in the City of New York ?

A. It will be three years next May.

JAMES D. ROBINSON.

Subscribed and sworn to before me, }  
 this 18th of November, 1847, }

OGDEN EDWARDS.

At a term of the Supreme Court in Equity,  
 held at the City Hall, in the City of New York,  
 on the twentieth day of November, in the year of  
 our Lord, one thousand eight hundred and forty-  
 seven.

Present: HENRY P. EDWARDS, Esq., *Justice.*

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MARY W. GROESBECK

*vs.*

DAVID GROESBECK.

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This cause having been brought on to be heard upon the bill of complaint filed herein, taken as confessed by the defendant and upon the report of Ogden Edwards, Esq., referee, to whom it was referred, among other things to take proof of the facts stated in the bill of complaint, from which said report it appears that all the material facts charged in the said bill are true, and that the defendant has been guilty of the several acts of adultery therein charged.

On motion of R. M. Strong, Esq., solicitor for the plaintiff, it is adjudged and decreed, and this court by virtue of the power and authority therein vested, and in pursuance of the statute in such case made and provided, doth adjudge and decree that the marriage between the said plaintiff Mary W. Groesbeck, and the said defendant David Groesbeck, be dissolved, and the same is hereby dissolved accordingly; and the said parties are and each of them, freed from the obligations thereof; and it is further adjudged and decreed that it shall be lawful for the said plaintiff Mary W. Groesbeck, to marry again in the same manner as though the said defendant David Groesbeck was actually dead; but it shall not be lawful for the said defendant David Groesbeck, to marry again until the said plaintiff Mary W. Groesbeck is actually dead.

And it is further ordered, adjudged and decreed that the said defendant pay to the plaintiff the sum of six hundred dollars per annum from the date of this decree, in equal monthly payments, for the support and maintenance of the plaintiff, and pay to the said



plaintiff the further sum of seven hundred dollars per annum from the date of this decree, in equal monthly payments, during the respective minorities of the children of the said marriage named in the said bill of complaint for the support and maintenance of the said children during their respective minorities.

And it is further ordered, adjudged and decreed that the said plaintiff have the care, custody and education of the said children of the marriage until the further order of this Court.

And it is further ordered, adjudged and decreed that the defendant pay to the solicitor for the plaintiff the costs of this suit to be taxed, and the sum of two hundred and fifty dollars counsel fee herein, and that execution issue therefor.

[Copy.]

JAMES CONNOR,

*Clerk.*