

*POINTS on question whether a Party  
in a Divorce Suit where Adultery is  
charged, can be a Witness on his or  
her own behalf to disprove the Charge  
of Adultery.*

I

The first Act making parties competent to be witnesses was passed in 1849, and allowed party to testify when called by adverse party.

*P. L. 1849, page 265, sec. 2.*

The proviso concerning suits for divorce was not in this Act—it only applied to courts of law.

In June, 1852, the Act of 1849 was extended to suits in the Court of Chancery, except in cases of divorce.

*P. L. 1852, page 256, sec. 7.* 10

This allowed parties to be used as witnesses when called by the opposite party only, except in suits for divorce.

A broader ground was taken in 1859, and parties could be sworn on their own behalf.

“No person shall be disqualified as a witness in any  
“suit or proceeding at law or in equity by reason of his or  
“her interest in the event of the same as party or other- 20  
“wise; \* \* \* provided that no female shall be admit-  
“ted as witness for or against her husband, except  
“when the suit or proceeding is between her and her  
“husband.”

*P. L. 1859, page 489, sec. I.*

Under this law husband or wife were admitted as witnesses in chancery in divorce suits, when adultery was charged, on his or her own behalf. The right of either husband or wife to testify depended on this law. It repealed the Common Law dissability by reason of being a 30

party; and also on account of the marital relation of the wife testifying for or against her husband, or husband against wife.

The limitation prevented the wife from being a witness except in suits against the husband by her, or by him against her.

So the law rested until 1870.

*P. L. fr.* 1859.

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During the interim in divorce suits both husband and wife were competent witnesses on his or her own behalf.

The evidence of the husband or wife in close cases was sufficient to turn the scale.

Since passage of 1859 husband has been admitted against wife and wife against husband.

*Metlar v. Metlar*, III. C. E. G. 270.

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Defendant denies adultery under oath. Bill dismissed.

*Larrison vs. Larrison* V. C. E. G. 100.

Bill charged adultery by husband, husband was examined, denied charges, divorce refused.

*Mount vs. Mount* II. *McC.*, 164, 165.

Testimony of one witness to adultery not sufficient to establish charge against the explicit counter testimony of accused.

*Berckmans v. Berckmans*, 1 C. E. G. 122.

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Same case in Court of Appeals, 2 C. E. G. 453. To same effect.

*Reed vs. Reed*, II. C. E. G. 101.

Unsupported evidence of wife's anti-nuptial incontinence not sufficient to overcome her positive denial.

*Hedden vs. Hedden*, 6 C. E. G. 61.

Divorce refused, although defendant had confessed 40 prior to suit, and she on her examination denied the adultery.

*Derby vs. Derby*, VI. C. E. G. 36.

The Court in this case held it to be suspicious circumstance that the complainant did not tender himself for examination.

1 *Ibid.*

The Court even went so far as to use the fact of a party not putting himself on the stand as against him.

C. J. Beasley in his opinion, where defendant did not, in good faith, tender himself for examination, says: I think it absolutely necessary for the party charged to attest his own innocence. It was the only direct evidence 10 in the way of negation in his power.

*Adams vs. Adams*, II. C. E. G. 341.

These decisions show that under the statute husband and wife were competent witnesses in divorce suit, where adultery was charged.

In suits between husband and wife and other parties, all parties were incompetent witnesses.

That being the law and the construction, what mischief 20 was the Act of 1870 intended to remedy, and how far did it change the law.

The Married Woman's Act had allowed her to hold property, make contracts in relation to it, to buy and sell, to transact business generally, making her and her husband liable for unsatisfied claims at law.

*Nixon* 548. See 1 *sec. of Law*, 1862.

While the wife and husband were so liable, she could 30 not be a witness for herself on account of the marital relation, her husband being a necessary party to the suit. (Act of 1862.)

This dissability prevented the opposite party also from being a witness.

To remedy this defect the law of 1870 was enacted. This provides that the husband or wife of any person interested, whether as party or otherwise, shall be competent and compellable to give evidence the same as other wit- 40

nesses on behalf of any party to such suit, action, or proceeding.

*P. L. 1870, p. 59.*

This part of the act enabled the opposite party to call the husband and wife, or one of them, to testify for such opposite party.

It did not affect the right of husband or wife to testify where they hold antagonistic positions as parties to the  
10 suit.

That right depended on the law of 1859.

## II.

The law of 1870, so far as read, repealed the proviso of the law of 1852, which prevented the opposite party from being called in actions for divorce; and the first  
20 part of the Act would permit a husband to file a bill for divorce, and call the wife to prove the adultery, or *vice versa*.

To prevent this scandalous power, the proviso was added, and by it the Act was limited, so that nothing HEREIN shall render any husband or wife competent or compellable to give evidence for or against the other \* \* in any action or proceeding for divorce on account of adultery, except to prove the fact of marriage.

30 Nothing HEREIN limits the competency to the power or right granted in the section.

It does not repeal either by express word or implication the right of husband or wife to testify on his or her own behalf under the law of 1859.

It is in effect a re-enactment of the proviso of 1852, which prevented husband and wife from being called by the OTHER SIDE in suits for divorce on the grounds of  
40 adultery.

## III.

The proviso does not prevent either husband or wife from being sworn and giving evidence; it restricts the testimony to such as is not against the opposite party.

The Court may rule out such evidence as is against the opposite party.

It does not follow that testimony for one side is against the other. 10

A case will illustrate the distinction :

Two defenses are set up in answer—

1st—Denial of adultery on the part of the defendant.

2d—Counter charges of adultery on the part of complainant.

The defendant is competent to disprove the charge of adultery against her—that is testimony for herself. She may be incompetent to prove the adultery charged against her husband—that is evidence against the other party. 20

## IV.

The Act does not disqualify a person from being a witness, it only renders certain testimony incompetent. 30

*Rev L (Stewart) Mag., 378, sec. 3 and 5.*

The object of the proviso, sec. 5, was to prevent a husband or wife filing a bill for divorce for adultery and calling the party charged with crime to prove his or her guilt.

It does not, either in word or spirit, prevent the alleged criminal from denying guilt.

The proviso does not, either in terms or by implication, 40

repeal the Act of 1859, under which party could be a witness.

This proviso is limited to the section Nothing HEREIN Contained, *i. e.*, in section 5.

This cannot affect the right of parties to testify in their own behalf under the Act of 1859, section 3 of law relating to evidence.

*Rev L (Stewart) Dig., 378.*

10 The proviso is simply a limitation of the authority conferred by the Act.

*Lanning vs. Lanning, H. C. E. G., 233 & 3.*

The proviso in the Act of 1870, which is the same as Section 5 of Evidence Law (Stewart's Digest, page 378) is a limitation to that Act or Section, and prevents only husband or wife, in action for divorce for adultery, from being called and compelled to testify when called by opposite party.

20 The right of husband or wife to testify in his or her own behalf depends on law of 1859, page 489, which is Section 3 of Evidence Act.

*Rev L (Stewart) Dig., 378.*

That section is not affected by the proviso to section 5, which by its words, "Nothing herein," is confined to the mischief and remedy provided by Section 5.

30 We, therefore, insist that under the law of 1859, P. L., p. 489, which is section 3 of the Revision, the decision thereon and constant practice, a husband or wife as party is a competent witness in a suit for divorce where adultery is charged to testify in denial of the adultery, when called and examined on his or her own behalf.

J. FLEMMING,

*Counsel.*

# New Jersey Court of Errors and Appeals.

Between

MALINDA J. MARSH,

Appellant,

and

GEORGE W. MARSH,

Appellee.

} On Appeal from  
Final Decree of  
the Court of  
Chancery.

## POINTS FOR APPELLEE.

### I.

The decree appealed from is fully sustained by the evidence and should be affirmed.

### II.

The evidence establishes the fact that the appellant committed adultery at Jersey City, with one Herman Vanderbeck on the thirteenth day of July, 1876, and on divers other days and times, before and after that date.

S. B. RANSOM,  
of Counsel with the Appellee.

Between

MALINDA J. MARSH,  
Appellant,

and

GEORGE W. MARSH,  
Appellee.

On Bill for  
Divorce.

Points for  
Appellee.

WM. D. DALY,  
Solicitor.

# In Chancery of New Jersey.

Between

GEORGE W. MARSH,

Comp't,

and

MALINDA J. MARSH,

Def't,

On Bill for  
Divorce.

WILLIAM D. DALY, Sol'r. 10

Filed July 26, 1876.

*To the Honorable THEODORE RUNYON, Chancellor of the State  
of New Jersey :*

Humbly complaining, showeth unto your Honor, your orator, George W. Marsh of the city of Jersey City, in the county of Hudson, and State of New Jersey, That your orator was lawfully joined in the bands of matrimony to his present wife, Malinda J. Marsh, on the seventeenth day of April, in the year eighteen hundred and seventy-three, 20 in Brooklyn, in the county of Kings and State of New York.

And your orator further shows that he has been an inhabitant of Jersey City from the first day of June in the year eighteen hundred and seventy-five until the filing of this bill.

And your orator further showeth unto your Honor that the said Malinda J. Marsh since her said marriage with your orator, and on different days of the months of May, June, July in the year eighteen hundred and seventy-six, 30 until the filing of this bill, and at divers other times, wickedly disregarding the solemnity of her vows and the sanctity of the marriage state, hath committed adultery with one Herman Vanderbeck, at No. street,

in Jersey City, in the county of Hudson and State of New Jersey, and also with divers persons, whose names are at present unknown to your orator.

And your orator further shows unto your Honor, that by means of the said several premises above set forth, the domestic peace and happiness of your orator has been entirely destroyed, in tender consideration whereof, and to the end that the said Malinda J. Marsh may true, full and  
 10 perfect answer make to the matters and things herein charged and set forth, as fully as if the same were herein again repeated, and she interrogated thereto ; and particularly, that she may set forth and discover whether your orator and the said Malinda J. Marsh were not joined in wedlock as aforesaid, and whether since her marriage with your orator she has not committed adultery, and with whom, and under what circumstances, or how otherwise, and particularly in one or more of the months of May, June and July, in the year eighteen hundred and seventy-six,  
 20 aforesaid at No. — street, in the city of Jersey City, county and State aforesaid, with the said Herman Vanderbeck ; and that the marriage between your orator and the said Malinda J. Marsh may be dissolved according to the statute in such case made and provided, and that your orator may have such other and further relief in the premises as may be agreeable to equity and good conscience, may it please your Honor, the premises considered, to grant unto your orator the State's most gracious writ of subpoena, issuing out of and under the seal of this honorable Court, to be  
 30 directed to the said Malinda J. Marsh, commanding her on a certain day, and under a certain pain therein to be expressed, personally to be and appear before your Honor in this honorable Court, then and there to make true, full and perfect answer to all and singular the premises, and to stand to abide by and perform such other direction and decree as to your Honor shall seem meet, and according to the statute in such case made and provided.

WM. D. DALY,  
 Sol'r of Compl't, and  
 J. GARRICK,  
 of Counsel with Compl't.

STATE OF NEW JERSEY, }  
 HUDSON COUNTY, } ss.

Personally appeared before me the subscriber, a Master in Chancery in and for said State, George W. Marsh, the complainant in the foregoing bill, and who, being by me duly sworn, saith that his bill of complaint is not made by any collusion between him and the defendant in said bill for the purpose of dissolving their marriage, but in truth and good faith for the cause set forth in the bill of complaint.

GEO. W. MARSH.

Sworn and subscribed before me }  
 this 25th day of July, A. D. 1876. }

EDWARD B. COX,  
 Master in Chancery of New Jersey.

A true copy :  
 H. S. LITTLE, Cl'k.

## IN CHANCERY OF NEW JERSEY.

Between

GEO. W. MARSH,

Coml't,

and

MELINDA J. MARSH,

Deflt.

On Bill for  
Divorce.

Answer.

10 The several answer of Melinda J. Marsh, defendant, to the bill of complaint of George W. Marsh, complainant.

This defendant now and at all times hereafter, saving and reserving to herself all and all manner of benefit and advantage of exceptions to the many errors and insufficiencies in the said complainant's bill of complaint contained for answer thereto, or unto so much thereof as this defendant is advised is material or necessary for her to make answer unto, she answers and says :

That it is true as stated in said bill of complaint that she was lawfully married to the said complainant on the seven-  
20 tenth day of April, in the year eighteen hundred and seventy-three, in Brooklyn, in the county of Kings, and State of New York, and that said complainant and this defendant resided in Jersey City from the first day of June, eighteen hundred and seventy-five, to the date of filing his said bill in this Honorable Court.

And this defendant in further answering denies, that she ever did on different days of the months of May, June and July, eighteen hundred and seventy-six, or in either of  
30 those months, or at any other time during her said inter-marriage with said complainant, commit adultery with the said Herman Vanderbeck in the said bill mentioned, or with any other person or persons whatever, either in the city of Jersey City or elsewhere ; and that the charge of adultery made in the said complainant's bill against her is wholly untrue, and a most unfounded and cruel imputa-

tion, and on the contrary thereof, this defendant avers the truth to be that she always since her intermarriage with the said complainant faithfully regarded towards him her marriage vows, and was true and faithful to his bed and her obligations as his lawful wife.

All which matters and things this defendant is ready to aver, maintain and prove as this Honorable Court shall direct, and humbly prays to be hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained.

LINN & BABBITT,  
Sols. and Counsel of Deft.

## IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. MARSH,  
Comp't,

and

MALINDA J. MARSH,  
Def't,

10 Before Vice-Chancellor VAN FLEET.

DALY, for Complainant.

LINN &amp; BABBITT, for Defendant.

Complainant's counsel called *Martin Marsh*, sworn :

Q. You are the brother of the complainant ?

A. I am.

Q. Where do you reside ?

Q. 44 Lexington avenue, Jersey City Heights, or Bergen,  
as it is called.20 Q. Do you know Malinda J. Marsh, the wife of your  
brother ?

A. I do.

Q. How long have you know her ?

A. Something like two weeks previous to the marriage ;  
I cannot tell the exact time. I saw her once or twice be-  
fore the marriage—that was the 17th of April the marriage  
took place.

Q. 1873 ?

A. 1873.

30 Q. Since that time have you been intimate with her ?

A. I have, sir, as my brother's wife.

Q. Up till what time ?

A. She stayed at my house something like six weeks—  
my brother and his wife—and I have seen her several

times since, up to something like the latter part of July, 1876—that is to speak to her.

*Q.* Do you know how long your brother had lived in Jersey City?

*A.* I think it was first of June, 1875; it was something near that.

*Q.* Do you know Herman Vanderbeck?

*A.* I do.

*Q.* How long have you been acquainted with him?

*A.* I was introduced to him either the last part of June 10 or the first week of July.

*Q.* Prior to the commencement of this divorce suit?

*A.* Yes, sir.

*Q.* Do you know anything of his relations between himself and your brother's previous wife?

*A.* I know that I have followed him—[Interrupted.]

*Q.* If so, just state in detail all you know in reference to that?

*A.* On the morning of the 5th July, my brother came down to our factory in Jersey City, 46 M—— street. I 20 received certain information from him that there was to be a meeting that night, that he would follow them, and so forth; but the first time that I followed them, or went to look after them, was on the night of the 8th, and I missed them—again on the 11th on Tuesday night.

I knew from information received from my brother that Herman Vanderbeck and his wife were to meet on such a night.

On the night of the 11th I sat on the steps of the Second Presbyterian Church, Jersey avenue, within about 100 30 yards of the house.

*Q.* Well, what did you see?

*A.* I arrived there about eight o'clock, a few minutes after Mrs. Marsh came out of the house, and walked on the opposite side of the street. I recognized her as Mrs. Marsh. She then went down to Erie street, and through the street and so on. I was in company with Mr. Calahan and Mr. Stymus, and also my brother; she seemed to be aware after awhile that somebody was following her. I had on a straw hat—and after walking around some time she 40

went back to the house without meeting any one.

I then received information from my brother that she would go out with Mr. Vanderbeck on the 13th, so as after I sat on the church steps in company with Mr. Calahan and Mr. Stymus, she then went on the opposite side of the street down Third street to Erie street; I followed her down; she turned the corner and went toward Fourth street, and when near Fourth street she met Mr. Vanderbeck just near Fourth street and Erie. I was on the opposite side of the street; they then went into the drug store on the corner—northwest corner—they took some liquid which looked very much like soda water. I was very near them and saw both of their faces; after that they went down 3d street to Grove, and within a few steps of 5th street they took the Hoboken car going in the direction of Hoboken. Mr. Stymus also took the same car. Mr. Calahan and I followed after the car, and at times compelled to run considerably, and we kept up to the car, the other cars having the right of way this car had to wait for them. We kept up to it until we arrived at the junction in Hoboken, where they got out and waited for the cars going upon the elevator to Jersey Heights car. As soon as the car came up I saw them get in the car; Mr. Stymus got on the front of the car and Mr. Calahan got in the rear of the car. I waited to take the next car some 15 minutes after, and when I got up the heights I received information that they were to go to Ditmar's Park, a ball was going on. I went there to meet the other parties, but they were not there. I got out on Palisade avenue; I got out there and walked up; I got out on Palisade avenue; I got out there and walked to Ditmar's Park, and I bought a ticket and went in to see if I could see anything of these parties. I could find nothing out. I came back and walked towards the car, and met Mr. Stymus and Mr. Calahan who had been with me previous to going up on the elevator.

They gave me information, on which I went with them way down to the place that crosses the Del., Lack. & Western R. R. bridge, the Ravine road; and there is a large open space where the hundred steps run from, it is a winding path and they showed me a certain rock on this open

space ; the common is on the brow of the hill, a very large common.

This rock was, I should judge, 150 feet from the steps and perhaps the same distance or a little less from Palisade avenue, right on the brow of the hill.

*Q.* Are there any houses there?

*A.* No, sir, no houses there, it is a very large open space.

*Q.* What time was this?

*A.* Something like half past nine ; between half past nine and ten o'clock. 10

I was led there by Mr. Calahan and Mr. Stymus ; they pointed out this rock.

*Q.* How long did you stay there, and what did you do there?

*A.* We examined the rocks and the ground, that is, I examined it, so I would know it and could form a diagram of it from memory. We then, after staying there for a short time went down the steps, and so on the road round to the Hoboken cars ; we then took the Hoboken cars.

*Q.* Did you meet them afterwards? 20

*A.* No, sir, I did not.

*Q.* Have you any information as to——?

*A.* Yes, sir ; when we came to the foot of the steps we stepped into a lager beer saloon and we received information that the parties had walked along—just come down the steps and preceded us about 15 minutes.

*Q.* Do you know the handwriting of your sister-in-law?

*A.* I do.

*Q.* Is that it? [shown letter dated Jersey City, July 4th, 1876,] do you know that? 30

*A.* I do, sir.

*Q.* Whose is it?

*A.* Mrs. Marsh.

*Q.* How do you know?

*A.* Because she has directed a good many letters at my house, and I have seen the envelopes and writing on the letter.

*Q.* How often have you seen her writing?

*A.* She wrote very often in the time she was at our house ; she was there six weeks, and I should judge she wrote two or three times a week. 40

Q. Do you know the handwriting of that? [shown letter dated September 12th, 1876.]

A. Yes, sir—that is the same.

Q. Do you know that to be the handwriting of your sister-in-law?

A. I do, sir.

Q. [Envelope shown witness.] Look at the directions—Are those in her handwriting?

A. Yes, sir.

(Letters directed to Herman Vanderbeck.)

10 Q. Do you know anything in reference to it—what occurred after the 13th of July?

A. I met her in August but she did not recognize me. I also saw her in the 6th January, 1877—[stopped.]

THE COURT. Not since the commencement of this suit.

Q. Have you seen her after the commencement of this suit to have any conversation with her?

A. Yes, sir. I have seen her since.

Q. But had no conversation with her?

20 A. Not particular—no, sir.

Q. From information received, you went this night to where you have designated?

A. Yes, sir.

Q. Have you any knowledge on your own part of how your brother received this information, excepting what he said to you, which led you to go to Hoboken—of your own personal knowledge?

A. I cannot understand the question.

30 Q. You say you went to this place you designated from information received from your brother; now then, did you know from your own knowledge from what source he received the information that led you to go there—except what your brother stated?

A. No, sir, I did not.

*Cross-examined :*

Q. You say Mrs. Marsh and your brother lived at your house six weeks?

40 A. Yes, sir. I was living in Bright street, the number I

cannot remember, but it was right near the corner of Var-  
ick.

*Q.* When did they leave there?

*A.* They left there in June, 1875.

*Q.* They were boarding with you?

*A.* They were staying with me; my brother was out of work; they were supposed to be boarding with me; I was occupying part of the house.

*Q.* Was it during that time that you saw her write these 10 letters?

*A.* I saw her write letters in June, 1875.

*Q.* To whom did you see her write letters?

*A.* I saw her write letters to her grandmother, Mrs. Collins, of Westchester, Pa., and to a cousin of mine, Mrs. Marsh, of \_\_\_\_\_, Mass.

*Q.* Who else?

*A.* That is all that I remember.

*Q.* You said you saw her write two or three letters a week? 20

*A.* I have; and she was writing to her grandmother quite often. I saw her, to the best of my knowledge, two or three times a week.

*Q.* Did she show you her letters?

*A.* She did not show me those letters; I saw her writing; we were writing in the same room.

*Q.* Did you look over her shoulder to see what she was writing?

*A.* I stood on the side.

*Q.* Did she invite you to look what she was writing? 30

*A.* She did not.

*Q.* Did you see what she was writing?

*A.* I did not see.

*Q.* How many letters did you see her write to her grandmother?

*A.* I cannot tell the number.

*Q.* How many to your cousin?

*A.* I cannot tell the number.

*Q.* You did not see the words so as to see what she was writing?

*A.* As far as perhaps dear so-and-so, and to see words 40  
here and there, but not so as to gather any information.

- Q.* You just casually saw them ?
- A.* That is all.
- Q.* You did not want to peep into her letters to see what she was writing to her grandmother ?
- A.* No, sir.
- Q.* You did not want to enquire into her business ?
- A.* No, sir.
- Q.* It was a mere casual glance at her letters ?
- A.* Perhaps I was right by her, sitting or standing up.
- 10 *Q.* How many times did you look over her shoulder ?
- A.* I cannot tell.
- Q.* What time was it when you saw her writing them letters ?
- A.* It was always at night.
- Q.* Did she have anything special to do in the day time ?
- A.* I don't know that she had.
- Q.* Was any one else present in the room at these times ?
- A.* My mother was present in the room, my wife and my brother, her husband.
- 20 *Q.* And you were all five of you in the same room ?
- A.* In the same room.
- Q.* What were the rest of you doing ?
- A.* I cannot tell their occupation ; they were engaged in conversation—talking and so forth.
- Q.* That is all the knowledge you have of her handwriting ?
- A.* She has often handed me the envelope to post for her.
- Q.* Did you examine them ?
- 30 *A.* I examined them carefully to scrutinize the handwriting. I always do it. I am very fond of writing, and very fond of different handwritings.
- Q.* And when you have seen a handwriting once you know it again ?
- A.* When I have seen a handwriting several times, I can tell it again.
- Q.* That is the only knowledge you have of this lady's handwriting ?
- A.* Yes, sir.
- 40 *Q.* You say you was led to watch Mrs. Marsh in com-

pany with Mr. Vanderbeck on the night of the 13th of July?

A. That was one of the nights—that is the principal night.

Q. By direction of your brother?

A. By direction of my brother.

Q. You went by direction of your brother?

A. Yes, sir.

Q. And you have no knowledge of where he received his information that they were to meet that night, except what he told you? 10

A. Nothing further, no, sir.

Q. Do you know this Mr. Vanderbeck?

A. I know him from an introduction, and from seeing him. I was introduced in Newark avenue on a Sunday by my brother.

Q. How long had your brother been acquainted with him?

A. I know nothing but from hearsay.

Q. What is Mr. Vanderbeck's business? 20

A. I understand he is an engraver, something of that sort; he resided in 68½ Bright street.

Q. Was he a married man?

A. I have understood he was not, but I don't know positive.

Q. Was he an intimate friend of your brother?

A. Not that I am aware of.

Q. Where is his business?

A. I understood—I cannot say where it is from my own personal knowledge. 30

*Re-examined:*

Q. Do you know that handwriting? [shown letter without date addressed to George W. Marsh.]

A. Yes, sir.

*Re-cross-examined:*

Q. Where is your brother living now?

A. At my house, 44 Lexington avenue, Jersey City Heights, now known as Bergen.

(Complainant's counsel offered to call George W. Marsh, the complainant.)

(The Court overruled the offer on the ground that the testimony of either of the parties was not admissable except upon the question of marriage, which was not at issue in this case.)

Complainant's counsel called *Mary Hardenburg*, sworn :

- 10 Q. Where do you live?  
 A. 44 Lexington avenue.  
 Q. Are you married or single?  
 A. Single.  
 Q. With whom do you live?  
 A. Martin Marsh.  
 Q. How long have you been living there?  
 A. Six months the 29th of this month.  
 Q. You went to live there in what month?  
 A. Twenty-ninth of July, 1876.
- 20 Q. Prior to that time where did you live?  
 A. I lived with Mrs. Linny Marsh.  
 Q. The defendant in this case?  
 A. Yes.  
 Q. In what street?  
 A. South Second street, Jersey City.  
 Q. How long did you live with them?  
 A. Three months.  
 Q. You went to live there in the month of April, latter  
 part of April?
- 30 A. Yes, sir, the 27th.  
 Q. And lived there until the 29th of July?  
 A. Yes.  
 Q. You know this gentleman here, George Marsh—Mrs.  
 Marsh?  
 A. Yes, sir.  
 Q. He is the husband of the lady you lived with?  
 A. Yes, sir.  
 Q. They lived together at that place, South Second  
 street?
- 40 A. Yes, sir.

*Q.* Do you know Herman Vanderbeck?

*A.* Not to speak to him, but to see him.

*Q.* How do you know him to see him?

*A.* He used to come a great deal to the house, down stairs, and I have seen notes thrown from the window, and by that means I know it was Mr. Vanderbeck.

*Q.* Who would drop these notes?

*A.* Mrs. Marsh.

*Q.* Any other means by which you know him?

*A.* I have seen her go out with him.

10

*Q.* How did you know it was Mr. Vanderbeck?

*A.* I am sure he could not change every night different; it would be very funny if I did not know him when I seen him.

And every time she would do anything like that she told me it was Mr. Vanderbeck.

*Q.* From the latter part of April to the time you left them and went to live with Mr. Martin Marsh, how often did you see Mr. Vanderbeck at that house?

*A.* He used to be there every night in the week, down 20 stairs.

Mr. and Mrs. Cook lived down stairs, and Mr. Marsh lived on the top floor.

*Q.* What did you see between Mr. Vanderbeck and Mrs. Marsh?

*A.* She used to send letters to him.

*Q.* How do you know that?

*A.* Because on the 5th of July, the day after the 4th, she handed Mr. Cook a letter.

*Q.* Did you recognize the envelope?

30

*A.* I could not tell the writing.

*Q.* Could you tell the envelope it was in?

*A.* No, sir, I could not, but she says to Mr. Cook, you please hand that to Mr. Vanderbeck.

*Q.* Do you know what Mr. Cook's first name was?

*A.* Jim Cook.

*Q.* How often during these months you say he would be there every night at Mr. Cook's?

*A.* Yes, sir.

*Q.* What would Mrs. Marsh do, if anything?

40

A. If Mr. Marsh was home, she would stay in her own room ; but if he was out, she would go down stairs and they would go out together.

Q. How often would Mr. Marsh be away from home ?

A. Used to be three nights in a week—used to be Tuesday nights, Thursday nights, and Saturday nights.

Q. Where would he be, if you have any information ?

A. At his work over in New York ; he worked late at nights three nights a week.

10 Q. Have you any knowledge of where they would go ?

A. Yes, sir ; they used to go Ditmar's park, a place where balls and picnics and parties are kept.

Q. Night picnics ?

A. Yes, sir.

Q. Well ?

A. There was a picnic in the afternoon, and she told me he said to bring Mary and the baby in the afternoon, and he would call up there in the evening and bring us home. Mr. Vanderbeck told Mrs. Marsh so and she told me.

20 Q. How often did you receive information from her that they went to Ditmar's park ?

A. Three times.

Q. Would there be anything unusual about her when she would go out with Mr. Vanderbeck ?

A. She used to change clothes and borrow clothes.

Q. To what extent did she change her clothes ?

A. Her clothes was not fit—

Q. What clothes would she change, to what extent would she change, would she wear her own clothes when she went  
30 out with Mr. Vanderbeck ?

A. No, sir ; she generally wore mine.

Q. What articles of your clothing did she wear ?

A. My chemise and white skirts.

Q. And what else ?

A. My drawers.

Q. What would be their condition when they came home ?

A. I cannot explain colors that was on the things, but they were not fit for any decent person to wash.

Q. What do you mean by that answer ?

By the COURT :

*Q.* Counsel wants you to describe if you observed the condition of these articles of clothing when they were returned to you ?

*A.* They were all stained, sir.

*Further examined :*

*Q.* How often would she wear your clothes ? 10

*A.* She had to change her clothes every night.

*Q.* Would she say anything why she did ?

*A.* No, sir ; she never apologized at all, what she wore my clothes for, or anything else.

*Q.* Did she ever have any conversation with you in reference to this man Vanderbeck ?

*A.* Yes, sir ; she used to say to me, “ May, you need never be surprised if ever there comes a young Vanderbeck.”

*Q.* You say you were in the habit of carrying letters for her ; have you ever received any communication from her to deliver to any person, and if so to whom ? 20

*A.* No, sir ; she never gave me any letters, but she sent me to the post-office for letters to Mrs. Linny Russell.

*Q.* How often did she send you to the post office during the time you was there ?

*A.* Two or three times almost every week I was there—two or three times a week.

*Q.* And she would tell you to enquire for letters to Mrs. Linny Russell ?

*A.* No, sir, but when we would go to picnics—Mr. Vanderbeck gave her tickets twice to picnics—and she told me to call her Mrs. Vanderback. 30

I made a mistake once and called her Mrs. Marsh at a picnic, and a lady says, how is it you call her Mrs. Marsh, and she gives her name as Mrs. Vanderbeck.

I forgot where it was, it was some beach ; we get in a boat, and then go on a pleasure ground for a couple of hours.

*Q.* How often did this occur.

*A.* Twice. 40

*Q.* And this was a picnic?

*A.* Yes, sir.

*Q.* Who accompanied her to these picnics?

*A.* She went herself, and expected Mr. Vanderbeck to come up in the next train.

I went with her on two occasions; I had to go to take care of the baby.

*Q.* Do you know from whom she got those letters in the name of Linny Russel?

10 *A.* No, sir.

*Q.* Did you have any conversation with her at any other time to Mr. Vanderbeck, except what you have stated—in these months?

*A.* I cannot say.

*Q.* Have you seen her since the commencement of this suit to have any conversation with her?

*A.* No, sir.

*Q.* Latterly, I mean?

*A.* I seen her last Saturday night, and she came up to me  
20 and lays her hand on my shoulder and says, "Now I have got you."

*Q.* When did you see her?

*A.* The sixth—Saturday night.

*Q.* Go on?

*A.* And she placed her hand on my shoulder, and her brother—I could not say it was her brother, but I am most sure it is—he says, "hold on, Mary, if you don't appear agin my sister, I'll give you—"[interrupted.]

*Q.* You met her on the night of the sixth. State what  
30 occurred at the time to which you refer when you met Mrs. Marsh and the person you supposed to be her brother; go on and state all that occurred.

*A.* She comes up and puts her hand on my shoulder and she says "now I have got you;" her brother steps up and says, "hold on, I will give you \$100 if you don't appear agin my sister Linny."

*Q.* This occurred where?

*A.* Bergen avenue.

*Q.* Near where you reside?

40 *A.* Yes, sir; between Oxford avenue and Lexington avenue, between half past seven and eight.

Q. What did you say to her ?

A. Oh, she says—her brother says, “the only way you can do is to subpoena her.” I said, you don’t need trouble yourself to subpoena me because I am subpoenaed already.

Q. Anything else ? When he offered you the \$100, what did you say ?

A. I said I did not want the \$100.

Q. Do you read or write ?

A. I can read, but I cannot read writing.

Q. Would you be able to discern her handwriting if it <sup>10</sup> was shown to you ?

A. No, sir ; I often seen her write, but I never looked at her writing at all.

*Cross-examined :*

Q. When did you say you met Mrs. Marsh and her brother on the street ?

A. On Bergen avenue, on the 6th of January, Saturday <sup>20</sup> night between half past seven and eight o’clock.

Q. On Jersey City Heights.

A. Yes, sir.

Q. About how far from the ferry ?

A. I could not tell you.

Q. Two miles ?

A. I have not heard the distance how far it was.

Q. What were you doing, where were you going when you met her ?

A. I came out of Mr. L’s store with some orders. 30

Q. For whom ; what had you ?

A. I had eggs, some soap, starch, yeast cake, and some soup vegetables.

Q. Did she meet you on the street, or did she overtake you ?

A. I don’t know ; the first thing I knew, she grabbed me by the shoulder.

Q. And her brother was with her ?

A. I cannot say positively, but I think it is. I have seen him once, and only once.

Q. What kind of a looking man was it ? 40

*A.* A young man with a black mustache.

*Q.* How do you know it was Saturday night?

*A.* Because I went out to get things to do my washing, Monday.

*Q.* How do you know it was the 6th day of January?

*A.* I should think I was old enough to know when the days come in the week.

*Q.* What day of the week did the first of January come on?

*A.* Monday.

*Q.* Was this the Saturday after that, or two Saturday's after that?

*A.* It was on the Saturday of that same week.

*Q.* And that makes you know it was the Saturday night of the sixth of January?

*A.* Yes, sir.

*Q.* That you met her?

*A.* Yes.

*Q.* Near where you were working?

20 *A.* Yes.

*Q.* When did you go to work for Mrs. Linny Marsh?

*A.* In April—on the 27th.

*Q.* And they were living then on the upper floor of the house?

*A.* When I first went to live with them, she was living, I think, in Third street; they only lived there about four days.

*Q.* Who employed you?

*A.* Mrs. Marsh.

30 *Q.* You went with them from that place to the other place?

*A.* To Second street.

*Q.* And lived with them there up to what time?

*A.* Twenty-seventh July.

*Q.* Where did you go then?

*A.* I stayed downstairs two (2) days to Mrs. Cook, my month was up then I got my wages.

*Q.* Who paid you your wages?

*A.* Mr. Marsh gave me my wages and she was to stay  
40 downstairs and sleep with Mrs. Cook that night, her hus-

band was away somewhere's; and this night she sent me to borrow some things of my aunt, and I got my aunt's waterproof and veil, I believe.

*Q.* During the time you lived there, what business was George Marsh engaged in?

*A.* Tobacco business, same he is now.

*Q.* Where.

*A.* New York; I cannot say the street.

*Q.* He was in the habit of staying out late nights, two or three nights in the week? 10

*A.* When his business called him?

*Q.* How do you know his business called him?

*A.* From his wife; that he stayed out to do work.

*Q.* How long would he stay out?

*A.* Sometimes until 10 and sometimes until 12.

*Q.* Did he ever come home at 2 or 3 o'clock in the morning?

*A.* Not to my knowledge.

*Q.* Do you know that he did not often come home two or three o'clock in the morning? 20

*A.* I never knew him to be out later than 12 o'clock when I was with him.

On other nights he would come home at half past seven, and eat his supper and do some writing, or go and lay down. He never went out after that, never went out late except these three nights.

*Q.* Mr. and Mrs. Cook were living on the floor below?

*A.* Yes, sir.

*Q.* Have they any children?

*A.* Yes, sir; they had three. 30

*Q.* They are living there still?

*A.* No, sir.

*Q.* Do you know where they are?

*A.* She lives down town, but I don't know where he is.

*Q.* How old was Mrs. Marsh's child when you were living there?

*A.* Thirteen or fourteen months old, I could not say.

I used to help her in doing the work, washing and ironing, and taking care of the baby. They occupied three rooms. 40

*Q.* When she went to these picnics, who went with her?

*A.* I went to two picnics with her, but not the rest?

*Q.* How many times did you ever see Mr. Vanderbeck?

*A.* That is more than I could tell you.

*Q.* Did you ever speak to him?

*A.* Once, when she told me to ask him if that was him in the park, and she thought she seen him, and she did not know whether it was him or not, and next day he came in, and then I asked him.

10 *Q.* Where did Mr. Vanderbeck live?

*A.* In Bright street.

*Q.* What is his business?

*A.* I could not tell what his business was.

*Q.* Do you know where he is now?

*A.* No, sir.

*Q.* On these occasions you speak of, Mrs. Marsh went out with Mr. Vanderbeck, she dressed herself in your clothing?

20 *A.* Yes, sir, put on my under clothing most every time she went out. She used to go out three times in the week, and every time she used my clothing, and when she returned, and the clothes were returned to me, they were not in a fit condition to be used at all.

*Q.* And that was so in every instance?

*A.* Yes.

*Q.* Did you ever say anything to her about the condition of her clothes?

30 *A.* I spoke to her once about it, and I asked her why it was that way all the time; and she said she did not know, sometimes it would stop, and come out again.

*Q.* That was all the information you got?

*A.* Yes.

*Q.* Had not she clothing of her own?

*A.* Yes, sir; she had a great deal more than I had.

*Q.* Why did not she wear them?

*A.* I don't know.

*Q.* Then you had a pretty large washing, hadn't you?

*A.* Yes, sir, I had a pretty large washing.

*Q.* How many suits of underclothing did you have?

40 *A.* Three.

*Q.* If she wore three of yours in a week, you would not have any to wear yourself, would you ?

*A.* I never put on my best clothes to do house work ; if I hadn't them I did without them.

*Q.* What time did she come home ?

*A.* She would generally come home before her husband ; I used to stay home in the mean time, and take care of the baby.

I never went out with her but these two times when I went to picnics. 10

*Q.* You say she sent you to the post office for letters ?

*A.* Yes, sir.

*Q.* Did you ever get letters for her ?

*A.* No, sir.

*Q.* Not at all ?

*A.* No, sir.

*Q.* Did you ever take letters for her to the post office ?

*A.* No, sir, she generally took her own letters.

*Q.* You say that she said to you that you must not be surprised if there was a little Vanderbeck ? 20

*A.* Yes, sir.

*Q.* When did she say that ?

*A.* She said that two or three days before my month was up ; and she told Mrs. Cook at the same time.

*Q.* The same thing ?

*A.* Yes, sir.

*Q.* You and Mrs. Cook were together ?

*A.* Yes, sir.

WITNESS : They got to talking of Mr. Vanderbeck between her and Mrs. Cook, and she acknowledged and said, 30  
" You need not be surprised if there is a young Vanderbeck comes."

*Q.* Who did you first tell that Mrs. Marsh was in the habit of wearing your underclothing, and it came back in this soiled condition ?

*A.* I told Mrs. Cook so.

*Q.* Did you ever tell anybody else so ?

*A.* I told Mr. Marsh's sister-in-law and she told her husband, and her husband told Mr. Marsh.

*Q.* Did you ever talk to Mr. Marsh about it ? 40

*A.* No, sir; I never did.

*Q.* How did you come to tell Mrs. Cook about it?

*A.* Because the day before I left she took a petticoat and threw it out of the window and said, "you good for nothing hussy, you can have that."

*Q.* Who said that?

*A.* Mrs. Marsh.

*Q.* Had you any difficulty with her before you went  
10 away?

*A.* She wanted me to go upstairs, and it was dark and I did not care to go because I was afraid, and I told her I did not want to go; and she says you got to go, if I go upstairs I wont come down again, and I says I am not going; so with that she took the baby and went upstairs.

*Q.* Then you said she threw down this petticoat and said you good for nothing hussy you can take this?

*A.* She took my clothes out in the entry, and this petticoat was to be left out of the washing, and she threw it out  
20 of the window; that was Saturday evening.

*Q.* Where was George Marsh when you left?

*A.* He was in New York; I don't know where he was, he had been away, I think, three nights, I am not positive.

*Q.* Prior to that, had he been home as usual every night the night before the three nights that he was away just before you left, had he been home the week before that?

*A.* Yes, sir.

*Q.* Day after day just the same as usual?

*A.* Yes, sir.

30 *Q.* When he was home, what room did Mr. and Mrs. Marsh occupy for their sleeping department?

*A.* The front room.

*Q.* And which room did you occupy?

*A.* The little room off the kitchen.

*Q.* And the third room was the kitchen?

*A.* Yes, sir.

*Q.* And there you did your work and used for cooking and eating and everything?

*A.* Yes, sir.

*Q.* And when he was there they occupied the front room  
40 together?

A. Yes, sir.

Q. They occupied the same bed—didn't they have more than one bed in the room?

A. No, sir, they did not sleep together. He generally laid on the floor, and she laid in the bed.

Q. How do you know that?

A. Because she used to tell me that herself.

Q. She told you that?

A. Yes, sir. 10

Q. How did she come to tell you that?

A. She used to get mad at her husband, and she used to tell me his faults.

Q. Did she tell you that they never occupied the same bed together?

A. No, sir; she said it was in the time of hot weather, and he did not sleep with her but slept on the floor.

Q. There was no lounge in the room and nothing for him to sleep on, but the bed?

A. No. 20

Q. You were not in their sleeping apartment after they retired?

A. No, sir.

Q. So far as you know, during the time you lived there with them, they occupied the same room together?

A. Yes, sir.

Q. You don't know anything but what they told you, whether they used to occupy the same bed?

A. No, sir.

Q. Now, you say her brother offered you \$100 if you would not appear against her?

A. Yes, sir.

WITNESS: I think it was her brother—it was a dark night.

Q. What language did he use?

A. He said, "If you don't appear against my sister, Mrs. Linny Marsh, I will give you \$100." I says, "I don't want your \$100."

She stood close by and heard it.

Q. And that was all that was said?

A. Her brother said, "the best thing we can do now is 40

to subpoena." I said, "You need not trouble yourself to subpoena, I am already subpoenaed."

*Q.* You knew her brother by sight very well, didn't you?

*A.* I never saw him but twice in my life; it seemed to be her brother because he said "my sister."

*Q.* How did you recognize Mrs. Marsh?

*A.* She wore a veil over her face and a striped shawl and black suit.

*Q.* Are you as certain that it was her brother as you are  
10 that it was she herself?

*A.* I cannot say positive that it was her brother.

*Q.* Can you say positive that it was she?

*A.* I cannot say positive, but I think it was her—on account of her veil being over her face.

*Q.* Do you say now you are sure it was her?

*A.* I don't know whether it was or not.

*Q.* You are sure, however, that it was some one who spoke to you in that way?

*A.* Yes.

20 *Q.* What time did her husband go away from home in the morning to work?

*A.* He used to go away about half past six.

*Q.* Did he come home in the middle of the day?

*A.* No, sir.

*Q.* He never came home until night?

*A.* No, sir.

*Q.* What did Mrs. Marsh do during the day time, had she anything especial to do there?

*A.* She used to do sewing and read.

30 *Q.* Did she have dinner when her husband came home?

*A.* Yes, sir.

*Q.* What was the dinner hour?

*A.* Between half past seven and eight o'clock; he was there at dinner time, except these three nights in the week.

*Q.* These three nights in the week he was generally out very late?

*A.* Yes, sir.

*Q.* You cannot be mistaken about this meeting having taken place on Saturday night, the sixth of January?

40 *A.* No, sir.

*Q.* Who first talked to you about coming here as a witness?

*A.* Mrs. Linny Marsh asked me "If you stay with me and be on my side—papa said you are the only witness I have." And her brother said "If you want to know what to say, my father will tell you what to say on her side."

*Q.* When was that?

*A.* I cannot tell you; it was on Monday when he went over to Brooklyn.

*Q.* Of what month was it?

10

*A.* In July.

*Q.* Before you left her?

*A.* Yes, sir.

*Q.* It was before the 27th of July?

*A.* I cannot say what date.

*Q.* It was before you went to live with Martin Marsh?

*A.* Yes, sir, it was the week before I left her—it was in the same week I left.

*Q.* And you were going to Brooklyn with her?

*A.* Yes, sir; and her aunt, Mrs. N.——. I think she lives in Broome street—I cannot say exactly what street she lives in.

*Q.* What did Mrs. Marsh say to you?

*A.* She did not say anything until we got over to her brother's.

I went to her brother's with her; that is the first time I ever seen her brother.

At that time her brother said, "Mrs. Linny Marsh, Mary is the only best witness you have," and with that he looked at me, and I did not say nothing to him; then he says to me, she being present, he says, all that would be good on her side, that he would tell me what to say that would go against Mr. Marsh, her father would tell me.

*Q.* Was her father there also?

*A.* No, sir, her father was not there.

*Q.* What did you say to that?

*A.* I did not say anything at all.

*Q.* Where was this?

*A.* At her brother's store, in the back of the liquor place, that they call the office.

40

Q. Did you ever tell any one of that?

A. No, sir.

Q. When did Mr. Marsh—George Marsh—first speak to you about giving evidence here?

A. He did not speak about it until I was going to his house to live. I had no other place; she put me right out into the street.

He asked me what I was going to do; I told him I did not know what to do, and he said, either decide with me or her, George Marsh said, and I said I would see about it.

10 Q. What did he say about employing you?

A. Nothing.

Q. Had you gone to his house yet?

A. Yes.

Q. Who employed you to go to Martin Marsh to work for him?

A. Mr. Martin Marsh.

Q. When?

A. On the 27th.

20 Q. When did you go to his house?

A. The night I left Mrs. Marsh.

Q. Was George Marsh there when Martin Marsh employed you?

A. Yes, sir.

Q. Where was he?

A. He was down in Mrs. Cook's.

Q. And then it was that George told you you had got to decide with him or his wife?

A. Yes, sir.

30 Q. And you did not say what you would do?

A. No, sir.

Q. Had you told him anything about Mrs. Marsh wearing your clothing?

A. No, sir; I did not tell anybody because I did not think it was fit to tell any man; I told Mr. Martin Marsh's wife; I told Mrs. Cook first, and then I told Mrs. Martin Marsh.

Q. When did you tell her?

40 A. On Monday, when I went to soak the clothes, I showed her this skirt.

*Q.* You said something about letters—notes being flung out of the window ; who did you see throw any out ?

*A.* Mrs. Linn<sup>y</sup> Marsh.

*Q.* When ?

*A.* I cannot see the notes, I don't remember the dates of the nights at all ; it was between seven and eight o'clock in the summer when it was light yet, you could pick up a note by the window.

*Q.* Do you know to whom those notes were adressed ? 10

*A.* To Mr. Vanderbeck, because he would pick them up, and she used to tell me. Then she would get dressed and go out.

*Q.* Did you see the address on those notes ?

*A.* No, sir.

*Q.* Did Mr. Vanderbeck come into the house upstairs ?

*A.* No, sir ; he never came upstairs at all.

*Q.* When he came to the house he always stopped in Mrs. Cook's room ?

*A.* Yes, sir. 20

*Q.* You did not see the address—the direction on these notes ?

*A.* No, sir.

*Q.* How many times did you see her throw notes out of the window ?

*A.* Two or three times.

*Q.* Where would you be ?

*A.* At her side, sitting by the window, watching the children of the Catholic school.

She would not say anything to me, but sometimes she 30 would have no pencil and she asked me to go to the bureau and get her a pencil and paper, and I used to do so, and she used to write on the window sill, and he would come through the back yard—

*Q.* Who would ?

*A.* Mr. Vanderbeck.

*Q.* This note was thrown then in the back yard and not in the street ?

*A.* No, sir, in the back yard.

*Q.* Where was he coming when he would come into the back yard ? 49

A. To Mrs. Cook's.

Q. You saw him come in there ?

A. Yes.

Q. How many times did you see him come in there that way ?

A. He used to come in the front way and go out the back way. I don't know how many times he would come in and out.

When she would tell anything, she always used to think Mrs. Cook used to carry it to his sister's.

Q. Did she tell you that she was throwing notes out to Mr. Vanderbeck ?

A. Yes.

Q. She made you a confidant, and told of everything she  
10 did ?

A. Yes, sir.

*Re-examined :*

Q. The night you say of the 27th July, Mr. Martin Marsh and Mr. George Marsh went to this house and asked you to go and live with them ?

A. Yes, sir.

Q. What was said ?

A. He said to me what are you going to do ; I said, I am  
20 going to live here now, I have no place to go ; and his brother says, come and live with me.

He asked me whether I was going to side with him or Mrs. Marsh.

Q. And then he asked you to come and live with him ?

A. Yes, sir.

Q. His brother, Martin ?

A. Yes, sir.

By the COURT :

30 Q. It was Mr. George Marsh who asked you whether you were going to side with him or Mrs. Marsh, wasn't it ? It was not Martin ?

A. No, sir.

*Further re-examined:*

Q. Where was Mrs. Marsh the night that Martin Marsh and George was there?

A. That night she was going to the park to meet Mr. Vanderbeck.

WITNESS: I could not say what park she went to, it was down near the Catholic Church.

Q. In Brooklyn or Jersey City?

A. Jersey City.

Q. She was going to meet him at a park—how do you know that?

A. Because she told me she was going to meet him at the park.

Q. Are you positive when George Marsh left his wife?

By the COURT:

Q. How long before Mrs. Marsh discharged you—told you to go away, was it Mr. Marsh left her?

A. Three nights before that.

Q. And counsel wants to know whether you are sure it was just three nights, longer or shorter? 20

A. It was longer.

Complainant's counsel also called *Isaac Stymus*, sworn:

Q. Where do you live?

A. 251 West Sixteenth street, New York.

Q. What is your business?

A. Truckman.

Q. In the employ of whom?

A. On my own account.

Q. Do you know Martin Marsh and George W. Marsh?

A. Yes, sir.

Q. Are you acquainted with his wife? 30

A. Only by sight.

Q. Do you recollect this night of the 19th of July last, spoken of by Mr. Marsh?

A. I do sir.

Q. State to the Court now what you did that night—tell all you know?

*A.* I know Mr. Vanderbeck by eyesight.

*Q.* He was the man you followed that night?

*A.* Yes.

*Q.* Well, go on.

*A.* I sat on the church step in Third street, the other side of Jersey avenue, between seven and eight o'clock in the evening—near eight, I presume. Mrs. Marsh came out of the house and went up Third street, and turned up Erie street, near Third and Fourth street; a gentleman came  
10 alongside of her and spoke, and they turned round and walked off together. About Fourth street, Mrs. Marsh and Mr. Vanderbeck—Mr. Calahan was with me at that time, and Mr. Martin Marsh—went into a drug store and went to the soda water counter and took soda water; I am not positive what they did take; then they came out and walked down Fourth street to Grove, between Fourth and Fifth, and then took a car and went up to Newark street, I think it is, to the best of my knowledge.

*Q.* You heard Mr. Marsh testify about the street?

20 *A.* The junction, I called it. They got out and stood on the corner until a car came and they got on the elevator; they sat near the back part of the car; they got out on the west side, or north side you might call it, of the avenue along the top of the hill, Palisade avenue I think it is. They walked down I should judge about a block, and they crossed on the opposite side of the walk, the dark side of the street.

*Q.* Who did?

*A.* Mrs. Linnie Marsh and Mr. Vanderbeck.

30 I left Martin Marsh down by the junction; he was supposed to get on the car following.

Mr. Calahan and me was on the car together; I followed them down to this dark spot there.

*Q.* Was Mr. Vanderbeck and Mrs. Marsh in the car you got on?

*A.* Yes, sir.

*Q.* The same persons you tracked from Jersey City?

*A.* Yes, sir.

40 I tracked them down to this dark spot. I was very close on to them. They turned off the sidewalk to the path with-

in about 150 feet ; there was a large rock there.

*Q.* They got off of the elevator, you say ; where did you get out ?

*A.* Just as the car started, on the same side they did. I followed on behind them down Palisade avenue until they turned off to this place ; they was on one side of the walk and I was on the other, and from there I was looking round for Mr. Marsh. I expected to find him and did not. I went back to the street to see if I could see Mr. Marsh, and Mr. Calahan was in some other direction. I did not know about. 10

*Q.* How far is this rock you speak of from the elevator ?

*A.* Some distance from the elevator, some two or three blocks, I should judge.

*Q.* What kind of a place is it where this rock is ?

*A.* A very dark, dismal place, a sort of common, no houses on that side of the way.

*Q.* What time of night was this ?

*A.* Between nine and ten I should judge. 20

*Q.* How far away from them were you when they turned in the direction of this dark spot you speak of ?

*A.* About 20 feet.

WITNESS : They were ahead of me all the time ; they turned off this path and I followed on behind, and the last I saw of them they were on the opposite side of the walk.

*Q.* What did you do then ?

*A.* I went back to look for Mr. Marsh, and found him after a certain time, perhaps  $\frac{1}{2}$  or  $\frac{3}{4}$  of an hour, perhaps not as long as that ; I found him down by Ditmar's park, he was looking for me and Mr. Calahan. 30

*Q.* Where did you leave Mr. Calahan at this time ?

*A.* He parted from me when I went on the opposite side of the street.

*Q.* Where did you next see Mr. Calahan ?

*A.* After I started to go down from this dark place, Mr. Calahan gave a sort of whistle and then I recognized him and waited until he came up to me.

*Q.* What did you see them do at this dark spot, if anything.

*A.* I saw them sit down, that is all I seen. 40

*Q.* Behind the rock ?

*A.* They were on one side the rock and I the other.

*Q.* Could they see you ?

*A.* No, sir.

I got up near the rock by crawling on my hands and knees.

*Q.* How high is this rock ?

*A.* I should say from three to four feet high.

*Q.* And there is rocks on the left of it, is there not ?

10 *A.* There was a great many.

*Q.* What was there to the right of you ?

*A.* On one side there was a few houses on the right of the street, on the left was the common.

*Q.* From the rock, what is on the right of you and the left of you when you were on your hands and knees ?

*A.* It is all open space.

*Q.* About how much ?

*A.* One hundred or 150 feet ; I am speaking from the sidewalk to the place where it was.

20 *Q.* And it was directly east of the sidewalk ?

*A.* Exactly.

*Q.* What was north and south of you ?

*A.* Nothing but commons that I could see.

*Q.* You crawled upon your hands and knees until you saw them, and what did you see ?

*A.* Merely saw them sitting there.

*Q.* What were they doing ?

*A.* Talking ; I could not understand what they said, nor any conversation whatever ; then I went back to the street.

30 From there I went to search for Mr. Marsh, and after I got turned on the sidewalk I heard a peculiar whistle from Mr. Calahan, and I waited until he came up to me, and he and I went together to look for Mr. Marsh.

*Q.* Did Mr. Calahan go up to the rock where you was ?

*A.* I could not say but from information that he did.

*Q.* Before you went to find Mr. Marsh or afterwards ?

*A.* Before.

*Q.* How did he come to go there, if you know ?

*A.* I suppose with the same purpose I did, to see if any-  
40 thing was going on wrong.

Q. You were there together ?

A. Not at the rock, we was not ; we separated. I think it was two blocks before we came to the common.

Q. By agreement ?

A. No, sir.

Q. You say by information you received, that Mr. Calahan got up there ?

A. Yes, sir.

Q. Did you see him there yourself ?

A. No, sir, not by the rock.

10

*Cross-examined :*

Q. By whose direction was it ?

A. Mr. Marsh's.

Q. George Marsh ?

A. No, sir, Martin Marsh.

Q. Had you ever seen Mrs. Marsh before ?

A. I had seen her on two occasions.

Q. Had you ever seen Mr. Vanderbeck before ?

20

A. Oncè.

Q. Where had you seen Mrs. Marsh ?

A. On the 11th of July, I think it was, that she came out of the house.

Q. Then you were there at the time spoken of by Martin Marsh, on the 11th of July also ?

A. Yes, sir.

Q. Are you related to any of these parties ?

A. Merely a friend, that is all, sir.

Q. How long have you been acquainted with George and 30 Martin Marsh ?

A. With Martin Marsh some twelve or thirteen years.

Q. Are there any special relations of intimacy existing between you and any member of that family ?

A. No, sir, nothing more than friendship.

Q. How did they come to get you to get over to Jersey City ?

A. I cannot answer that question direct.

*Re-examined :*

Q. What part of the car were you on, and what part of the car was Mr. Calahan on?

A. I was on the front, and Mr. Calahan on the rear.

Q. Do you know whether he got off at the same point you did?

A. He got off before, I think, before they crossed the avenue.

Complainant's counsel also called *Hugh Calahan*, sworn :

10 Q. You live in New Jersey?

A. Yes, sir.

Q. What is your business?

A. Teamster.

Q. In the employ of whom?

A. Charles F. Gausen & Co.

Q. Jersey City?

A. They have a place in Jersey City; their office is in New York.

Q. Do you recollect this night of the 13th July?

20 A. Yes, sir.

Q. Just state—

A. I recollect two nights previous to that also.

Q. Tell us all you know?

A. I received information from Mr. Marsh, Mr. George Marsh, that he accused his wife of not acting fair towards him, and he asked me, on account of him not getting home from business to do it himself, if I would go to a place that night and watch for them; I said yes; he directed me to the corner of Third and Jersey avenue—this is on the 11th  
30—and I stopped there in company with Martin Marsh, and the last witness, Mr. Isaac Stymus, and she came out of the house.

Q. When was this?

A. About eight o'clock.

Q. On the 11th?

A. Yes, on the 11th; she came out—this is the night that she went around two or three blocks, and went back to the house; nothing occurred.

Q. On the 13th?

A. On the 13th, in company with Martin Marsh and Mr. Stymus, I went to the same place, corner of Third and Jersey avenue, at a church there; a few doors to the east side of Jersey avenue; we stopped there; I saw Mrs. Marsh, that is George Marsh's wife, come out of her house; she walked down the street on the south side of Third street; she went to Erie street; she turned on the east side of Erie street until she went to near Fourth street and Erie; 10 she met a young man there and they went across the road on the other side of the street to a drug store.

Q. Who was that young man?

A. It was Mr. Vanderbeck.

Q. How do you know?

A. I got an introduction to him previous to that on Newark avenue, Jersey City.

Q. By whom?

A. By Mr. George Marsh, and Mr. Cook was with him at the time.

Q. Well?

20

A. They went into a drug store and had a glass of something, I don't know what; they came out and crossed the south side of the street to Grove street, turned up the east side of Grove street, and when a car came up going towards Hoboken, they hailed the car and got into it, and I followed them until we went, I presume, to the end of Grove street at the junction, where they changed cars anyhow, and they got out there and had to wait a little length of time.

Mr. Stymus and Martin Marsh were with me. They had 30 to wait a little time for a car going towards the hill, and when it came up, Mrs. Marsh and Mr. Vanderbeck were the last two that got into the car with the exception of me.

Mr. Stymus was in the front part of the car; we left Martin to follow us, I understood, at least I did not see him get on the car; we went on the car to the elevator, and then took the elevator to the top of the hill, I believe it is Palisade avenue.

Mr. Stymus and I parted there and I went looking out for myself then; they traveled off together until there is a 40

place, a road, a railroad or something runs underneath the ground; I was on the opposite side of the way. They traveled on a distance of four or five blocks after they got out of the car, to this large plot of ground; there are houses on the right side, but none on the other; about half way where this lot is there is a pathway turns westerly down the foot of the hill, goes down towards the steps going down the hill; and they turned off this path and went down about 100 yards, or might be more, 150, off a road  
 10 where the rock is, and then there was about might be the same distance from where the steps go down, and they got to the rock and sat down.

*Q.* Anything else, what did they say and do?

*A.* He seemed to sit on the rock before her, and she was facing him.

*Q.* Describe the position?

*A.* The rock is an inclined stone, I guess about three feet high or so.

*Q.* Describe just what you saw?

20 *A.* I saw he was next the rock and she was in front of him, and I could not swear that I saw them do anything.

*Q.* Were they close to each other?

*A.* Yes.

*Q.* Up to each other?

*A.* Yes.

*Q.* How far away from them were you?

*A.* About eight or nine yards.

*Q.* Lying down or standing up?

*A.* Lying down.

30 *Q.* This rock—you speak of an inclined position?

*A.* You go down to the rock, it is not so high in the back as where they were, it is facing the hill down.

*Q.* Were their arms around each other?

*A.* They looked to be embracing each other.

*Q.* That is it your judgment?

*A.* Yes, I believe so.

*Q.* From what you saw there?

*A.* Yes.

*Q.* Did you know Mr. Stymus was there at the time?

40 *A.* I did not, I came back looking for him there, and left them there in that place.

Q. Left him and her there ?

A. Yes ; and I went back there afterwards again with the others after meeting, and they were gone.

Q. What time of night was it ?

A. Between half-past nine and ten o'clock, might be half-past nine.

Q. Was it dark ?

A. Yes, sir, dark as usually summer nights.

Q. From the position where you lay could they see you ?

A. I don't know, unless they suspected some person was there, I don't believe they could. 10

Q. How did you get up to that position ?

A. When they turned round I went in advance of them down the side of the steps and came up.

Q. You lay on your stomach ?

A. Yes, sir.

Q. Was there any travel there that night at all ?

A. There was two others.

Q. It was a lonely road ?

A. Yes, sir. 20

WITNESS : There was another party went right down the steps after they had turned off to the place where they stopped.

Q. How long were they behind the rocks ?

A. I left them there.

Q. How long did you stop there watching them ?

A. About eight minutes.

Q. Watching them ?

A. Yes, sir. 30

Q. After you left them where did you go ?

A. Back towards the elevator, towards where they got out of the car.

Q. What did you see or hear ?

A. I went back looking to see if I could find Mr. Stymus, and I met Mr. Stymus, and we went looking for Mr. Marsh, and we met him at Ditmar's garden.

Q. After you three met again, what did you do ?

A. We told Mr. Marsh what we seen, and we came back to the same place again, and there was no parties there. 40

Q. About how many minutes elapsed before you went back ?

A. It might be twenty or twenty-five minutes.

Q. You looked round by the rock?

A. We went right to the place, and then we took down the steps towards home; we went into a lager beer saloon there and had a glass of lager.

Q. Then you went home?

A. Yes, sir.

Q. Did you see George Marsh that night?

A. I won't swear that I saw him; but we went back to  
10 her house; got out of the car Third street to see if she was at home, but could not find out.

*Cross-examined:*

Q. How near were you to those persons when they were by the rock, and you were watching them?

A. I guess six or seven yards—might be about that.

Q. Was it a moonlight night or a dark night?

A. The usual darkness for a summer night.

20 Q. How long did you remain there?

A. About eight minutes.

Q. Will you please tell me now when two minutes are up, just from this minute, I want to get your opinion of time?

A. [After pausing a while] I stopped about eight times that length.

Q. That was about a minute. In what position were you?

A. On my stomach, about eight or nine yards away.

30 Q. Were they on one side of the rock and you the other?

A. They were on one side the rock and I was on one side of them.

Q. The rock was not perpendicular but standing?

A. Yes, sir.

Q. And they were on the side of the rock?

A. Yes, sir.

Q. Did you hear them talk while you were there?

A. I did not; I can imagine they were talking but could not hear what they said.

40 Q. Were they talking in a low tone?

*A.* I wont say I heard them talk, I say I imagined so that they were.

*Q.* How far did you crawl on your hands and knees to get in that closeness to them ?

*A.* I crawled pretty near 50 feet, I should think.

*Q.* And then you were in about 50 feet of them ?

*A.* I was nearer than that, I was about 22 or 24 feet, I should think.

*Q.* When you went away did you get up immediately ?

*A.* No, sir ; I crawled back.

10

*Q.* About 50 feet again ?

*A.* Not so far back.

*Q.* Was it still ?

*A.* Yes, sir ; quite still.

*Q.* So that a person could be heard walking ?

*A.* You could not hear yourself walking, because it was all grass.

*Q.* When had you seen Mrs. Marsh before that night ?

*A.* I wont swear to the day, but I think it was the Sunday previous, in her own house.

20

I went there on a visit ; I used to frequent there three or four times ; I was acquainted with her husband.

*Q.* How long had you been acquainted with him ?

*A.* The time they moved to Jersey City.

*Q.* How many months or years ?

*A.* I guess it is all of two years I have been acquainted with him.

*Q.* Had you ever been to his house previous to this Sunday ?

*A.* Yes, sir.

30

*Q.* Had you ever seen Mrs. Marsh when you were there ?

*A.* Yes, sir.

*Q.* Then you had seen her more than once before ?

*A.* Yes, sir.

*Q.* You knew her well by sight ?

*A.* Yes, sir, and had conversation with her.

When I went to his house, I would see him in his room ; as far as I understand, they only had three rooms, one was used for a kitchen, and one for a sitting room and bed room ; I saw him in both.

40

- Q. Which room fronted on the street ?  
 A. The sitting room.  
 Q. Not the kitchen ?  
 A. No, the kitchen is in the rear.  
 Q. The kitchen fronted on the back yard ?  
 A. Yes, sir ; there was only two rooms and a side room—  
 may be one or two side rooms—I don't know.  
 Q. When had you seen Vanderbeck before ?  
 10 A. In the latter end of June or beginning of July, I  
 think ; I was introduced to him on a Sunday about noon  
 time.  
 Q. How did you come to see him ?  
 A. I was in company of Mr. Martin Marsh and Mr.  
 George Marsh, and we were coming on the avenue, when  
 we met this Mr. Vanderbeck and Mr. Cook, I think it was.  
 I am acquainted with Mr. Cook.  
 Q. What was his business ?  
 A. I cannot say, sir.  
 20 Q. Where is he now ?  
 A. I cannot say. I only saw him twice altogether. Mr.  
 Cook introduced me to Mr. Vanderbeck.  
 Mr. Marsh was with me, but Mr. Cook gave me the in-  
 troduction.  
 Q. Did you go anywhere together then ?  
 A. No, sir.  
 Q. Had you seen Mr. Vanderbeck since that time prior  
 to the 13th of July ?  
 A. No.  
 30 Q. Then this time when you followed Mr. Vanderbeck  
 and Mrs. Marsh, was the second time you saw him ?  
 A. Yes.  
 Q. Was he an intimate friend of George Marsh's ?  
 A. I could not say that.  
 Q. You don't know that ?  
 A. No, sir.  
 Q. It was at Martin Marsh's request you went with him  
 on that occasion ?  
 A. No, sir, George Marsh came to my place in the morn-  
 40 ing and told me.

By the COURT :

Q. Let me understand about the character of this night, was it cloudy, or clear, or don't you remember ?

A. It was not cloudy, just like a summer night ; no moonlight ; the lamps were lit along the roads.

Q. Were there any lamps in the neighborhood of this rock ?

A. There is a few going down the steps.

Q. How near the rock ?

10

A. About 150 or 200 feet from the rock—or yards, I should say.

A. So that a person in the neighborhood of the rock would have no benefit of the light ?

A. No, sir.

Q. Do you remember observing whether the stars were shining, or not ?

A. No, sir.

I have no recollection on that subject.

Q. You don't recollect taking notice of the character of 20 the night, as to whether the stars were hid by clouds, or shining ?

A. No, sir, I don't remember anything about that.

Q. You say, while laying upon your belly, Mr. Vanderbeck was sitting upon the rock ?

A. Yes, leaning against it.

Q. What part of his person was brought in contact with the rock, the whole of his back, or that part upon which persons usually sit ?

A. From that up was in contact with the rock. 30

Q. Now, what was the relation, or the connection, so far as you could see, the position of the other person to him, how near to him ?

A. They could not be any closer to each other than they were.

Complainant's counsel also called *Nancy Jane Kent*, sworn :

Q. Where do you live ?

A. I live in Seventh street.

40

Q. Jersey City ?

A. Yes, sir.

Q. What number ?

A. I don't know ; I believe it is 222 $\frac{1}{2}$ , I think, Seventh street.

Q. Did you ever live in the house with Mr. and Mrs. Marsh ?

A. Yes, sir.

Q. What time—when was this ?

A. It was last Winter.

Q. The Winter of 1875-6 ?

10 A. Yes.

Q. Do you know if Mrs. Marsh in the absence of Mr. Marsh, was in the habit of receiving gentlemen callers ?

The Court overruled the evidence as having no significance.

Complainant's counsel offered in evidence letter to Herman Vanderbeck, dated July 4th, 1876, marked Exhibit 1 for complainant.

20 Also letter to Herman Vanderbeck dated September 13, marked Exhibit 2 for complainant.

Also letter from Mrs. Linny Marsh to George Marsh, without date, marked Exhibit 3 for complainant.

Complainant rests.

Defendant's counsel called *Henry C. Foster*, sworn :

(Examined by Mr. LINN.)

30 I am the father of the defendant. Her mother is dead. I know where she was January 6, 1876. In the evening she was at my home, No. 64 Hicks street, Brooklyn. My son was at the office making up the books. The office is in the rear of the house.

Q. Had you any friends at your house that night ?

A. Yes, my wife's mother was there, and a sister of my mother's was also there.

*Q.* Was your daughter or son away from the place that night, from early in the evening until late at night?

*A.* I can positively swear they were not out of the house from six o'clock in the evening until bedtime.

*Q.* Have you looked at these letters which have been marked as Exhibits in this case?

*A.* I have; I read them and looked at the style of writing.

*Q.* Are you acquainted with your daughter's hand-writing? 10

*A.* I was previous to her marriage with Mr. Marsh. I have seen her writing often, she corresponded with me.

*Q.* From the knowledge which you have of her hand-writing, do you or not believe that these Exhibits marked 1 and 2, are in her hand-writing?

*A.* As regards Exhibit No. 1, it is different from her hand-writing, the signature in particular is different?

*Q.* Well, No. 2?

*A.* No. 2 is rather more like her hand-writing, but from its general appearance I should think it was not her hand- 20 writing; there is no signature to it, I am more particularly taking notice of her signature.

*Q.* Are you acquainted with her husband's hand-writing?

*A.* No, sir; I have seen his hand-writing, however; his is poor and a good deal representing this, No. 2; portions and points of letters, I think, is a good deal like his hand-writing.

*Q.* Do you know whether Mr. Marsh has provided for the maintenance of his wife since her marriage with him, always? 30

*A.* I know that he has not done so half the time; she has lived upon her friends most of the time since she was married.

(Complainant's counsel objected.)

The COURT: I think the testimony is competent.

*Q.* Did he ever make any request to you to furnish him with money?

*A.* He did. 40

Q. How soon after her marriage ?

A. About 30 days afterwards.

Q. What did he want ?

A. \$2,000 to start him in business.

Q. Did you furnish it ?

A. I did not.

Q. Was his conduct anything different after that ?

(Complainant's counsel objected.)

10 The Court overruled the question.

Q. Did you observe any difference in his conduct to his wife after that, and if so, what ?

A. I did, very material difference.

Q. In what respect ?

A. His general conduct was such as to lead me to believe that he wished to get rid of her.

*Cross-examined :*

20 Q. Your business is what ?

A. Brewing.

Q. How long have you been engaged in that business ?

A. Thirty years.

Q. In the city of Brooklyn ?

A. Not all the time.

Q. Where at ?

A. 163 Crosby street, New York.

Q. Did your daughter live with you up to the time she was married ?

30 A. Yes, sir.

Q. Without ever being away from you ?

A. Yes, sir.

WITNESS : Her mother is dead ; she died in 1864.

Q. Are you now married ?

A. I am.

Q. How often have you been married since your first wife died ?

A. Twice.

Q. Is your second wife living ?

A. No, sir.

Q. What became of her ?

A. She died.

Q. She died prior to the time you married your third wife ?

A. No, sir.

Q. What became of her ?

A. I got a divorce from her ; I was divorced from her.

Q. And you married again ?

A. I did.

Q. And your present wife is living and in the city of 10 Brooklyn ?

A. Yes.

Q. When last did your daughter go to your house to reside permanently ?

A. When she was turned out of doors in Jersey City. I had a telegram she was left penniless.

Q. When ?

A. I think it would be sometime about September.

Q. And since that time she has lived with you ?

A. Since that time—yes, sir.

20

Q. Do you recollect where your daughter was on the night of the 13th February, last ?

A. I do not.

Q. Were you at home on that night ?

A. I was at my country house at Greatneck.

Q. When did you return ?

A. In the early part of November.

Q. Your daughter was not in your company then from September until November ?

A. Not continually, I saw her occasionally.

30

Q. As to being in your society all the time, she was not ?

A. No, sir.

Q. When was she permanently in your company—from the time you came home ?

A. From the time that I received the telegram that she was thrown on the street, and in the Police Station.

I have not the date of the telegram, but I received a telegram to the effect that the constable turned her out of doors.

40

I think it would be somewhere along in September.

*Q.* When did she come to be permanently in your company?

*A.* Since November.

*Q.* The time you don't recollect?

*A.* It would be the early part of November; I have not the date exactly—sometime in the early part of November.

*Q.* Have you any other friends living in the family with you besides your daughter, son, and wife?

10 *A.* My wife's mother.

*Q.* Then it was no unusual circumstance for your daughter to be in your house that night?

*A.* No, sir.

*Q.* It is no unusual circumstance for them to be there?

*A.* No, sir.

*Q.* Then that is no criterion for you to judge of the fact that she was home that night?

*A.* I recollect distinctly that she was home that night, because it was so near New Year's.

20 *Q.* It was no unusual circumstance for all of them to be in the house.

I can say I am positive of that from the circumstance that she was in the office and had interrupted my son while he was writing up some books.

*Q.* Do you recollect where your daughter was on the night of the 23d of December?

*A.* Yes, sir.

*Q.* Where was she?

30 *A.* The night of the 23d December she was at home at my house.

*Q.* What makes you think so?

*A.* I saw her—she was at the dinner table.

*Q.* She is generally at the dinner table, isn't she?

*A.* Yes.

*Q.* That is no unusual circumstance?

*A.* It would be to miss her from the table.

*Q.* She was home to dinner last night?

*A.* She was.

*Q.* What time?

40 *A.* About half-past six.

Q. She was not home in time to take dinner with you ?

A. Not with me ; on account of difficulty between her and her step-mother, we made arrangement to give her a room upstairs to provide for herself.

Q. Then she takes dinner alone ?

A. For all I know she does.

Q. I understood you to say it was an usual circumstance for her to be at the dinner table ?

A. Up to certain period it was ; I cannot name the exact date. 10

Q. Your mind is rather uncertain about these things on account of being an unusual circumstance for you to meet her ?

A. It is not so unusual as might be supposed ; it would be very unusual to miss her from the table.

Q. Is there no other circumstance whatever excepting the fact that your son that night was looking over his account in the office, and your mother-in-law was there, and your daughter-in-law was there, which would lead you to suppose she was home on that night ? 20

A. My mother-in-law was sick—but she was not continually in the room, but backwards and forwards between that room and the office.

Q. Why should that fact connect your daughter with being home ?

A. I don't really know, only her presence and my seeing her there ; and if she were out I would enquire for her.

Q. You did not enquire for her ?

A. There was no necessity for me to enquire because I saw her almost continually in my presence. 30

Q. It was after New Year's, wasn't it ?

A. Yes, sir ; it was considered holiday week though.

Q. You say *that* looks more like her hand-writing, but you don't think it is her hand-writing on account of the signature ? [showing witness a letter.]

A. I paid more attention to the signature than the body of the note.

Q. You draw the conclusion that is not her writing on account of the fact that is not her signature ?

A. There are three or four different sorts of writing in 40

that letter; I don't pretend to be an expert, but there are different ways of forming the capitals.

*Q.* Look at that now, that is a letter written personally by your daughter to Mr. Marsh?

*A.* I would not swear that is hers.

*Q.* Then you cannot swear that is hers?

*A.* I should rather doubt it; I don't profess to be an expert, but this certainly is a different hand-writing from Exhibit No. 2; there is a discrepancy in the forms of the  
10 letters, so what I know about writing I would not say they are in the same hand-writing.

*Q.* Don't that look rather like your daughter's signature?

*A.* No, sir; it does not.

*Q.* Wherein is the difference?

*A.* The "Linny" especially is different in formation, and the "L" is different from anything I ever saw her write.

*Q.* How is it with the "H," there is a "D" and there is an "H," they look something like, don't they?

*A.* Yes, there is a resemblance between the two.

20 *Q.* And a sort of resemblance between the "Oh" again, ain't there?

*A.* No, that "H" is of different formation entirely from the other one.

*Q.* I mean this one here?

*A.* That is totally different from the one at the head of the letter.

*Q.* I am talking with reference to this one and that one, they look alike, don't they?

*A.* No, they don't.

30 *Q.* This looks more like your daughter's writing than anything you have seen yet?

*A.* This looks more like it, yes, sir.

*Q.* Than that or this?

*A.* Than that or this.

*Q.* You think that signature there, and this one here, look alike, don't they?

*A.* No, sir, that is much better written than this—the capital.

*Q.* What do you think about that "Y," "Your's only,"  
40 and "Your Wife," that looks kind of alike, don't it?

A. No, sir, the "Y" in this is much better.

Q. Well, they are made upon the same principle?

A. That looks more like a Z.

Q. It don't look as though the person writing this letter was trying to counterfeit that, does it?

A. I should think so.

Q. And you say neither one of these three looks like her's?

A. No, sir.

Q. Your general impression is—would not you form the 10 conclusion from looking at all those letters—that the same person who wrote one wrote the other?

A. I should think that No. 1 was totally different?

Q. How about the person who wrote this one, No. 2?

A. That is nearer like.

Q. And you would form the opinion that the person who wrote one, wrote the other?

A. I should.

The defendant's counsel offered the defendant as a witness in her own behalf. The Vice-Chancellor overruled the offer, and refused to allow her to testify to any other matter than as to the fact of marriage. To this ruling, exception was taken by the defendant's counsel.

Adjourned to Thursday, January 25, 1877.

## IN CHANCERY OF NEW JERSEY.

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 Between

 GEORGE W. MARSH,  
 Comp't,

and

 MALINDA J. MARSH,  
 Def't,
 

---

10 Before Mr. Vice-Chancellor VAN FLEET.

W. D. DALY, Esq., of counsel with complainant.

LINN &amp; BABBITT, Esqs., of counsel for defendant.

Transcript of testimony taken in above cause on the  
 25th day of January, A. D. 1877, at the Chambers of the  
 Vice-Chancellor, Newark, N. J.

Complainant's counsel called as a witness and examined  
*Herman Vanderbeck*, sworn :

I reside in Jersey City and board with my sister, and  
 have since last May. I know the parties to this suit and  
 20 have since June ; I was introduced to Mrs. Marsh by  
 Mrs. Cook ; Mrs. Cook lived in Third street in the same  
 house with Mrs. Marsh ; I knew Mrs. Marsh two weeks  
 before I was introduced to her husband ; I used to visit the  
 Cook's ; I went there quite frequently, two or three nights  
 a week, probably more ; I saw Mrs. Marsh while I was at  
 Mr. Cook's ; I saw her two or three nights of each week ; I  
 went to Cook's whenever I felt like it ; Mrs. Marsh and I  
 walked out together frequently at night ; I have probably  
 went out with her twice a week, probably oftener ; we went  
 30 to no particular place ; we once walked down Montgomery  
 street ; I went with her to Summer nights' festivals ; I  
 went with her to Pohlman's park on Jersey City Heights  
 near the elevator, adjoining Ditmar's park ; I was never at

Ditmar's park with Mrs. Marsh ; I went with her to Pohlman's park on the fifth of June last—it might have been later than that. I became acquainted with her on Decoration day ; I never went to any other picnic with her than to Pohlman's park ; I did intend to go with Mrs. Marsh to Summer Lodge excursion ; I intended to meet her but did not ; the arrangement was, that Mrs. Marsh and Mrs. Cook should go with me ; the excursion was up the Hudson river ; I received a letter, but I don't know who from.

(Being shown the two exhibits, letter and envelope, 10 marked No. 2.) I received this letter at my house from the post man ; when I received it I supposed Mrs. Marsh had written it ; I showed the letter to the complainant, he said he knew who wrote it. I have never seen Mrs. Marsh's write ; I received a number of notes from Mrs. Marsh in lead pencil, which were delivered to me by a man I did not know ; I had never seen him before. I read the notes and then handed them back to the person who delivered them to me ; this man requested that I should hand them back ; they merely stated that she had been at her father's and had 20 returned ; they were written in October ; I did not get any notes from her in June or July that I know of, which were thrown to me from the window ; I have no recollection of getting notes from her which were thrown into the yard ; no notes from Mrs. Marsh were delivered to me by Mr. Cook.

(Witness is shown the two exhibits being letter and envelope, marked Number 1.) I never saw this before. I went to Jersey City myself with Mrs. Marsh, July 13th, or about that time ; we went up in the horse cars to the eleva- 30 tor and went up on the elevator to Palisade avenue ; we sat down on the common there ; we sat there fifteen or twenty minutes ; may be we were sitting say one hundred feet or more from the elevator—it is probably a quarter of a mile from the elevator. (Witness stated here the boundaries and situation of the common where he and the defendant were.) We were sitting a hundred and fifty or two hundred feet from the hundred steps ; we sat on the brow of the hill. I have never had criminal intercourse with Mrs. Marsh ; I never told any one I had. I was at Mr. Daly's house on 40

a Sunday ; Mr. Daly, Mr. Marsh, the complainant, and Henry Puster were there with me ; I don't recollect saying there that I had been advised of my rights by a New York lawyer, and that when I was asked the question whether I had had sexual intercourse with Mrs. Marsh, I intended to say, I decline to answer.

I can not say positively that I did not say so ; I said I would testify under subpœna. I swear I did not say Mrs. Marsh had offered my sister a bribe ; I was at my father's  
 10 house in Bergen county on the eighteenth January instant. I went away from my sister's because they had the small-pox there. I saw Mrs. Marsh at my father's house on Friday last ; I think it was on the fifth of July last when Mrs. Marsh and I were at Pohlman's park. I have no recollection of an engagement to meet her on the ninth of July or the eleventh, which I did not keep. I have not met Mrs. Marsh in Brooklyn ; I had hemmorrhage from my lungs in August, 1876 ; Mrs. Marsh knew it ; she did not call on me ; she sent me no message while I was suffering  
 20 from hemmorrhage. I think the complainant knew I was with his wife on one occasion, he met us ; we returned about eleven o'clock that night ; I can not say what night it was. I don't know where Mr. Cook now is ; he said he was going to Providence, Rhode Island. I don't recollect saying to the complainant that I had had sexual intercourse with his wife. I did not ask him not to prosecute me. The complainant said if I did not swear I had had committed adultery with his wife he would send me to State Prison, and my being afraid that he might do so, I told him I did  
 30 not want him to prosecute me. Under the fear of his threats I confessed to him I had had sexual intercourse with his wife.

I am twenty-nine years of age ; I am a divorced man ; I never gave the defendant tickets to go to a picnic that I remember of. On the night of July the thirteenth we met on the corner of Grove street by previous appointment ; I cannot say when the appointment was made ; it was made verbally and not by note, at the residence of Mrs. Cook ; we did not arrange to go to any particular place, we were  
 40 merely to take a walk ; there was no necessity that we

should take the horse cars. We went on the common to hear the music ; we did not stop and hear the music. There was a house about a hundred and fifty feet from where we were sitting. We were sitting on a rock, and another house about the same distance and in another direction ; there were persons walking about in the neighborhood of where we were sitting ; we went off to this spot at Mrs. Marsh's request to look at the city by gas light ; we were sitting on a rock ; we reached home that night about half past ten or eleven o'clock ; we went directly home from this rock. We 10 walked very slowly, it took us an hour or an hour and a half to go from the rock home.

*Cross-examined by Mr. LINN :*

The rock is about one foot high, and she sat on the rock too ; I was smoking. Mrs. Marsh came to me last Friday at my father's house with Mr. Babbitt ; my relations with Mrs. Marsh have been friendly. The complainant had hard feelings against me because I went with his wife at 20 nights ; I suppose he was not willing that she should go out with me at night ; I will admit that he was opposed to her going out with me at night ; Mr. Cook told me the complainant was angry with me ; my recollection is that I was told this after July the thirteenth. I think complainant met me on one occasion when I was out walking with his wife at night, before July the thirteenth ; when we met on this occasion Mrs. Marsh returned home with the complainant, and I left her there and went to home. When the complainant told me he would send me to State Prison 30 he said he had four witness to swear against me that I had committed adultery with his wife ; he said that they would swear that they saw me commit adultery with her. The complainant said to me he would not prosecute me if I said, " I decline to answer."

(Being again shown letter and envelope marked Exhibit 1.) The complainant told me that Mr. Cook had given him this letter and envelope. I had no reason for supposing Mrs. Marsh had written the letter given me by the postman. I did not know her hand-writing, and had 40

never received any letter from her before. The notes which were handed to me by the man I did not know, were handed to me in October last, not in July or June. I did receive a little ball of paper from Mrs. Marsh in Mr. Cook's yard on one occasion, on which there was written, "I want to see you before you go home." I saw Mrs. Marsh on that occasion at Mrs. Cook's before I left; she wanted to make an arrangement with me to go out walking with her.

Complainant's counsel also called *Henry Puster*, sworn:

10 (Examined by Mr. DALY.)

Q. You live in Jersey City?

A. Yes, sir.

Q. Have you lived there all your life-time?

A. Yes, sir, all my life.

Q. Your business is what?

A. Clerk in the office of William D. Daly.

Q. How long have you been there?

A. I have been there two years on the twenty-ninth of April.

20 Q. Do you recollect two weeks ago Sunday last?

A. Yes, sir.

Q. Where were you on that day?

A. At Mr. Daly's house.

Q. Do you recollect seeing Mr. Vanderbeck there?

A. Yes, sir.

Q. And Mr. Marsh?

A. And Mr. Marsh.

Q. How long had you been at my house that day?

A. I had been there from 10 o'clock in the morning.

30 Q. And at about what time did they come?

A. Between two and three o'clock.

Q. Do you recollect of a conversation had between Mr. Vanderbeck and myself?

A. Yes, sir.

Q. In relation to this question?

A. Yes, sir.

Q. Do you recollect what he stated?

A. I do, sir.

*Q.* If so, state to the Court what you recollect hearing him state?

*A.* He said that the first he got acquainted with Mrs. Marsh he was out with Mr. Cook; I think he said in the afternoon, and when they come back they walked through into the yard; and Mr. Vanderbeck went in first, and he was introduced by Mr. Cook to Mrs. Marsh as Mrs. Russel.

*Q.* Well?

*A.* Then he said he was consulting with his lawyer in New York about this case. 10

*Q.* Well?

By the VICE-CHANCELLOR :

*Q.* Give the whole conversation—state all that was said by all the parties—not merely what Mr. Vanderbeck said, but all the parties?

*A.* Well, Mr. Marsh asked Mr. Daly if he had the subpoenas out; he said, no, but he was going down to see the Chancellor tomorrow, and would have them over to his place of business on Tuesday; and then Mr. Marsh, I think, asked Mr. Vanderbeck about consulting with his lawyer; 20 and then Mr. Vanderbeck said, that he had consulted with his lawyer, and he said that if he had committed any crime such as adultery with Mrs. Marsh, that he could decline to answer; and he said he would be down here on that day with Mr. Marsh, that is, by writ of subpoena.

*Further direct :*

*Q.* Any thing else?

*A.* And Mr. Daly asked him if he had any intercourse, and he commenced to smile, and looked up and said, "Who told you so?" Mr. Daly said, "Did not you?" And he said 30 "Yes, looking at the stars," said he.

*Q.* Go on?

*A.* He said he was out to Ditmar's park, or Pohlman's, I don't know which. He was up there on the 13th of July.

*Q.* Go on. Did he say where he went on the 13th of July?

*A.* Yes, sir; he said he took the cars, and at the junc-

tion took the elevator cars and started up to Ditmar's park, Palisade avenue, and then walked over to—I don't know what place it was that he said—I don't recollect that—and he said they sat down near a rock somewhere about the 100 steps; and that is about as far as I recollect of what was said.

Q. What's that?

A. That's about as far as I recollect what was said.

Q. What did he say as you recollect, if anything, in refer-  
10 rence to him having anything to do with Mrs. Marsh?

A. Well, he said he went up with her, and went up on the elevator.

Q. That's all.

*Cross-examined* by Mr. LINN :

Q. Was Mrs. Marsh there during that time?

A. Mrs. Marsh?

Q. No—Mr. Marsh?

A. Yes, sir.

Q. He was present during this time?

20 A. He was, and Mr. Daly was there too.

Q. Did he say anything?

A. Mr. Marsh asked him if he would be over and have the subpoena with him on Tuesday. Mr. Daly said, yes, that he was going down to the Chancellor tomorrow, and would have them over to his place of business by Tuesday.

Q. Did Mr. Marsh and Mr. Vanderbeck come there together?

A. They did.

Q. You had been there on that day?

30 A. Yes, sir, until six o'clock in the evening.

Q. What for?

A. I went there in the morning to recite, and Mr. Daly and I went out?

Q. You went where?

A. He went to the barber shop.

Q. You say you went to recite?

A. Yes, sir.

Q. Recite what?

A. Blackstone.

*Q.* Had you been there reciting all day?

*A.* No, sir; I had been there in the morning.

*Q.* Well, after you had been in the barber shop, what then?

*A.* He came back, and in about 15 minutes Mr. Marsh and Vanderbeck came in.

*Q.* What time of the day did they come in?

*A.* Between two or three.

*Q.* Had you had dinner yet?

*A.* No, sir, we had not had dinner yet. 10

*Q.* You have stated all that you recollect was said, have you?

*A.* Yes, sir.

*Q.* That's all.

(Adjourned.)

## OPINION.

### THE VICE-CHANCELLOR.

The complainant seeks to be divorced from his wife on the ground of adultery. The adultery is alleged to have been committed while the parties resided in Jersey City. 20 The husband's business kept him in New York City three nights of each week until near midnight. The other four were spent at home. The defendant and her alleged paramour became acquainted about the 1st of June, 1876. From about that time they were together two or three evenings of each week, generally, if not always, when the complainant was absent. They met either in the rooms of Mr. Cook, who occupied the lower part of the house, in the upper part of which the complainant had three rooms, or on the street. He never visited her in her own rooms. 30

A servant girl, who lived in the complainant's family during the whole period of the intimacy, swears that the person with whom the adultery is charged to have been committed, came to Mr. Cook's almost every night; if the complainant was at home, the defendant would stay in, but

if he was away she would go down and they would go out together; that she threw notes to him out of the window; that she attended evening picnics with him, and on one such occasion, when she was with them in charge of the defendant's babe, the defendant told her to address her as the wife of the alleged paramour, by calling her Mrs. —, mentioning his name. She further testified, when the defendant went out with this person in the evening, she borrowed her under-garments, and returned them so soiled  
 10 as not to be fit to be used. This witness also swears to declarations by the defendant, fully admitting the adultery.

It is undisputed that on the evening of July 13, 1876, these parties met, by previous appointment, on a street corner in Jersey City, walked a short distance together, then took a street-car to the elevator, by which the ascent to Jersey City Heights is made, ascended by the elevator and passed along a public way for nearly a quarter of a mile, then turned into a pathway and went to a rock  
 20 situated in a secluded spot, distant from one hundred to one hundred and fifty yards from the public way. The husband had requested three persons to watch them on this occasion, two of whom pursued them up to near the rock. One of them swears, after they reached the rock, he crawled up to within eight or nine yards of them, and saw them in a position which, if his evidence is believed, establishes their guilt beyond all doubt.

The alleged paramour has been examined as a witness on behalf of the complainant. He swears he never had criminal  
 30 intercourse with the defendant, but admits that he confessed to the complainant he had had, but says the confession was made under fear of a threat that he could be sent to State Prison, the complainant representing to him that he could prove the adultery by four witnesses. He also admits he knew the complainant was unwilling he should associate with his wife, and had "hard feelings" against him for doing so. He also admits, that since this suit was commenced, the defendant has written several notes to him, which were delivered by an unknown man, and that after  
 40 reading them they were returned to the unknown person, at his request. He also says, in September last, the post-

man left at his residence a letter addressed to him, without signature, dated Brooklyn, September 12, 1876, in which the writer says :

“ You poor, dear darling, you looked so pale and thin, when I saw you last, my heart ached for you. It made a cold chill run through me, for if any thing should happen to you, I should not care to live another minute, for I love you so. My life would be a blank without you. If I was sure I was all in all to you, I would be happy and reconciled to what may come. I have several times tried to get 10  
out of you what your intentions are towards me, but I never could get you to tell me plainly what you intended to do after this thing is over. Now, why do you not speak plain, right out, and put my mind at ease, for if this uncertain affairs goes on much longer I shall yield to a great temptation put before me. You know that I love you, for I have proved it to you in many ways. \* \* \* \* \*

\* I am anxious to see you. Answer this right away, and speak your mind to me in your letter ; it will reach no other hands but mine, and I will return it to you Thursday 20  
evening if you come over, and I shall expect you to return mine. It is the safest and best way. Oh ! how my arms are aching to be around your neck, my precious darling.  
\* \* \* \* \* I remain as ever, yours till death.”

He further says, he has never seen the defendant write, but he subsequently stated he had received notes from her, both before and after this letter was received, and that when he received this he supposed she had written it. If their intercourse had been pure and innocent, it would have been impossible for such a thought to enter his mind. He could 30  
not have supposed she wrote it unless he knew her mind and heart were utterly depraved. It contained a plain demand upon him to declare whether, when this divorce suit was over, he intended to marry her or not ; and also a declaration, as plain as language could make it, that their relations had been criminal. A wife who writes to a man, not her husband, and with whom she has associated nightly at other places than her home, in the absence of her husband, “ You know that I love you, for I have proved it to you in many ways.” “ My arms are aching to be around 40

your neck, my precious darling," assures him of a lustful love, and reminds him that he has had many proofs of it in their licentious enjoyments. The letter reminded the paramour of the repeated attempts the writer had made to find out what were his intentions towards her; it confessed a lecherous love for him, and appealed to his recollections for the many proofs that had been given of it. It was impossible for him to believe the defendant had written it, unless  
 10 all these were to him internal evidences of its authenticity. It spoke of secret transactions in which they alone were the actors, and unless its statements were known to him to be truthful, he could not have supposed she had written it.

The complainant's brother, who swears he is acquainted with the defendant's hand-writing, says he believes the letter was written by the defendant. Her father swears he does not think she wrote it, while the person to whom it was sent, and who had been in the habit of receiving notes from her, says, when he received it he supposed she had written it. I have compared it again and again with a letter in  
 20 evidence admitted to have been written by the defendant, and I am compelled to say I cannot get rid of the conviction they were both written by the same hand.

Civilized government everywhere rests upon the marriage relation. The courts should never dissolve this relation except upon full, clear and conclusive proof of the cause of divorce. A judgment of divorce should never be pronounced upon doubtful proofs. If mistakes are committed, they should be committed in favor of the continuance of the relation, no matter how painful the consequences are to the  
 30 immediate parties concerned. Suitors should understand the marriage tie is sacred and inviolable in the eye of the law, and will never be broken by the courts, except the proofs make the path of duty plain and clear. I have considered this case with an earnest desire to ascertain the truth. I confess, I have examined it with a hope that I might be able to reach the conclusion that the conduct of the defendant had been only imprudent, but not criminal. But the proofs will not permit it. They force me to the conclusion that the defendant is an adulteress, and I must  
 40 so declare. A divorce *a vinculo* will be advised.

## IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. MARSH,  
Comp't,  
and  
MALINDA J. MARSH,  
Def't,

} Final Decree of  
Divorce.

This cause coming on to be heard before the Court in the 10  
presence of John Garrick, of counsel with the complainant,  
and of John Linn, of counsel with the defendant, on plead-  
ings and proofs; and it appearing, on due consideration  
thereof, that complainant was an actual resident of this  
State at the time of the injury complained of, and at the  
time of exhibiting the bill of complaint, and that the defen-  
dant, Malinda J. Marsh, has been guilty of the crime of  
adultery charged against her in said bill of complaint, it is  
thereupon, on this thirty-first day of March, eighteen hun- 20  
dred and seventy-seven, by Theodore Runyon, Chancellor  
of the State of New Jersey, ordered, adjudged and decreed,  
and the said Chancellor by virtue of the power and author-  
ity of this Court, and of the acts of the Legislature in such  
case made and provided, doth hereby order, adjudge and  
decree that the said complainant, Geo. W. Marsh, and the  
said defendant, Malinda J. Marsh, be divorced from the  
bond of matrimony, of the cause of adultery; and the  
marriage between the said complainant and the said defen-  
dant is hereby dissolved accordingly, and the said par-  
ties and each of them are and is hereby freed and discharg- 30  
ed from the obligations thereof.

THEODORE RUNYON, C.

I hereby advise the signing of the above decree.

A. V. VAN FLEET, V. C.

## EXHIBIT No. 1.

JERSEY CITY, JULY 4, 1876.

DEAR HERMAN :

Why is it I must always ask you to meet me instead of you asking me to meet you? I would not ask you to meet me if I did not want to see you so bad. It seems a century since I saw you last—O, Herman, how I do love you, and how I do wish I had my arms around your neck. Darling, believe me, you are ever in my thoughts day and night—Do you ever think of me? Now, don't frown or look cross,  
 10 when I say I doubt your love for me. Why? because you have neglected me lately, perhaps for Louisa. Herman, I am jealous. Will you meet me to-morrow evening corner of Coles and Fifth streets, at 8:30 precisely, and without fail? Answer this and Mr. Cook will give it to me, I know if you ask him, and let me know if you will be there.

I am, now and forever,

Yours only,

LINNIE.

Tear this up—Good night. Dream of me. Let this be  
 20 seen by no one but yourself, for my sake.

## EXHIBIT No. 2.

BROOKLYN, SEPTEMBER 12, 1876.

MY DEAR HARM :

I hope this letter will find you stronger than you were when I last saw you. You poor, dear darling, you looked so pale and thin my heart ached for you. It made a cold chill run through me; for, O, Harm, if anything should happen to you, I should not care to live another minute—  
 for I love you so, my life would be a blank without you. If I were sure that I was all in all to you, I would be happy and reconciled to what may come. I have several times  
 30 tried to get out of you what your intentions are towards

me, but I never could get you to tell me plainly what you intended to do after this thing is over. Now, why do you not speak right out, and put my mind at ease? for if these uncertain affairs go on much longer, I shall yield to a great temptation put before me. You know that I love you, for I have proved it to you in many ways. I am worried to death about you, for I know that you are very careless of your health. You must take the best care of yourself. You were not feeling so well as you pretended to feel, when I saw you the other evening. Harm, do stay in at night, and take good care of yourself with your sister's help. I could see she was worried about you. I shiver at the possibility of your leaving me. These hemorrhages you have are not to be trifled with. <sup>10</sup>

If you are strong and well enough, come over to see me Thursday evening, September 14, I am anxious to see you. Answer this right away, and speak your mind to me in your letter. It will reach no other hands but mine, and I will return it to you Thursday evening if you come over, and I shall expect you to return mine; it is the safest and best way. O! Harm, how my arms are aching to be around your neck. My precious darling, I hope to see you Thursday evening. <sup>20</sup>

I remain, as ever,  
Yours till death,

---

P. S. Do not laugh at this letter, for I want you to know how much I love you.

BROOKLYN, SEPTEMBER 13, 1876.

DEAR HARM :

I am called to Jersey City this morning, what for, I do not know. My brother gave me the devil this morning, and I am getting desperate, and out of this I will go. I wont stay here with them, and have them throwing it up in my face every time I do not happen to please them. They are determined I shall give the child up, and I am determined I shall not if I go to the devil to support her. They are willing to take care of me, but they will not take care  
10 of her while she has a father.

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EXHIBIT No. 3.

GEORGE :

For Heaven's sake come home and see me. I am prostrated with nervousness and weakness. I cannot stand this suspense any longer. I believe I am going crazy. Why do you not come home like a man and tell me what you intend to do? You know I am in Jersey City, without money, without friends and powerless to send for  
20 them. I called to see you yesterday and was told you were not in the store, but I knew all the time that you were there, but supposed you would keep your word and come home at night. Come home right away, I ask you for baby's sake. If you have ceased to have feeling for me, have some for her. You know she gets her nourishment from me, and the state of nervousness I am in now, will injure her. If you are going to get a divorce from me, give me a chance to get a friend to stand by me. This is all at present.

30

I remain your wife,

LINNIE.







