INDEX.

WITNESSES FOR DEFENDANT.

TESTIMONY IN REBUTTAL.

PETITIONER'S EXHIBITS.

Citation.

Filed Dec. 7, 1927.

10

New Jersey, to wit: *The State of New Jersey to*

John Pahy

Greeting: You are hereby cited to answer the petition of Irma Pahy, a copy of which petition is herewith served upon you, by filing your answer in writing in the office of the Clerk of the Court of Chancery at Trenton, within twenty days after the 9th day of December, 1927; and in default of your so doing such order or decree will be made against you as the court shall think equitable and just.

(Seal)

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Witness, his Honor EDWIN ROBERT WALKER, Chancellor of our said State, at Trenton, the 29th day of November, 1927.

THOMAS BARBER,
Clerk.

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SILBERMAN & GROSMAN,
Solicitors.

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Amended Petition.

Filed May 19, 1928.

IN CHANCERY OF NEW JERSEY.

66-268.

To his Honor EDWIN ROBERT WALKER,
Chancellor of the State of New Jersey:

10 The amended petition of Irma Pahy, of the village of South Orange, in the County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to her present husband, John Pahy, the defendant in this suit, on the Sixteenth day of November, 1912, at the City of Elizabeth, Union County, in this State, by Rev. Herman W. Hortsath, a Minister of the Gospel.

20 2. The defendant after his said marriage, and on or about the 28th day of May, 1925, went through a pretended ceremony of marriage with a woman named Jennie Romanack, at the Borough Hall, in the County of Richmond, in the State of New York; since which time the said defendant and the said Jennie Romanak, have lived together as man and wife; that the said defendant since his marriage to your petitioner, and on the 30 28th day of May, 1925, committed adultery with the said Jennie Romanak and from thence and during each of the months of the years 1925, 1926, and 1927, has habitually committed adultery with her at Tottenville, Staten Island, in the State of New York, and at other places unknown to your petitioner.

3. Petitioner was a bona fide resident of the State of New Jersey at the time this cause of ac 40 tion arose, and has continued so to be down to the

time of the commencement of this action, and for more than two years next preceding the commencement of this action, residing in the City of Newark and City of Irvington, in the County of Essex and that the defendant from the time of their marriage to the 28th day of May, 1925, was a citizen of the State of New Jersey, and his true place of residence, to the best of this petitioner's knowledge and belief, was the City of Newark, aforementioned, and since the said 28th day of May, 1925, the residence and whereabouts of the defendant have been unknown to your petitioner although she is informed and believes it to be true, that he was living in open adultery with the said Jennie Romanak in Tottenville, Staten Island, in the State of New York.

4. Petitioner has no means of support except from her own exertions; one child was born of the marriage, to wit, Daniel, now fourteen years of age; that said child is in the custody of the defendant, he having by stealth removed said child from the custody of this petitioner on or about the 23rd day of July, 1924, since which time the defendant has kept said child from this petitioner against her will and consent.

5. On or about the 23rd day of July, 1924, the defendant left the State of New Jersey and went into another state, namely, the State of Nevada, in order to obtain a decree or divorce against this petitioner. After remaining in the State of Nevada for a period of about 6 months, defendant did, on the 5th day of February, 1925, file a suit in the Second Judicial District Court of the State

of Nevada, in and for the County of Washoe, entitled:

Department No. 2
No. 21398

In the Second Judicial Court of the State of Nevada, in and for the County of Washoe.

10 John Pahy, Plaintiff
vs.
Irma Pahy, Defendant

For the purpose of dissolving the bonds of matrimony existing between him and this petitioner, upon the ground of extreme cruelty.

5A. Substituted service of the papers in the said Nevada suit was made upon this petitioner
20 in the State of New Jersey on or about the 23rd day of February, 1925. Petitioner did not appear in said suit. On April 6, 1925, the said Nevada Court entered a decree in said proceedings then pending before it, in accordance with the prayer of said petition by the terms whereof it purports to dissolve the bonds of matrimony then existing between the parties hereto on the ground of extreme cruelty.

30 5B. Petitioner charges that the said decree of the said Nevada Court is absolutely null, void and of no effect, for reason of the fact that it runs counter to and violates the provisions of Section 33 of an act of the Legislature of the State of New Jersey entitled: "An act providing for divorces and for decrees of nullity of marriage, and for alimony and the maintenance of children, (revision of 1907)," in the following particulars, to wit:

40 1. Because the defendant, John Pahy, went in-

to another state, namely, the State of Nevada, in order to obtain a decree of divorce for a cause which occurred while the parties hereto, resided in this state.

2. Because the defendant, John Pahy, left the State of New Jersey, and went into the State of Nevada, in order to obtain a decree of divorce for a cause which is not ground for divorce under the laws of this state.

3. Because the defendant, John Pahy, left the State of New Jersey, and went into the State of Nevada to obtain a decree of divorce for causes which are not sufficient grounds for divorce under the laws of this state.

4. Because the defendant, John Pahy, as petitioner in said suit in said Nevada Court, was not, and had not been, a resident of the State of Nevada for two years last preceding the commencement of his said suit in said State of Nevada.

5. Because the defendant, John Pahy, obtained said decree of divorce in the State of Nevada by fraud.

6. Because the defendant, John Pahy, as petitioner in said Nevada suit, in said Nevada court, falsely represented and swore that he was a bona fide resident of the State of Nevada, whereas, in truth and in fact, he was not a bona fide resident of the State of Nevada, but during all of said time, was and still is, a resident of the State of New Jersey; and said false representation as to the bona fideness of his residence, was made by the defendant, in said suit for the purpose of inducing the said Nevada court to grant the defendant

herein, as petitioner in that suit, a decree of divorce.

7. Because jurisdiction of the parties and of the causes of action was not obtained by the Nevada court in the manner and in substantial conformity with the conditions prescribed in Sections 56 and 57 of the Statute of this State above mentioned.

6. This petitioner therefore prays that the decree of divorce so obtained by the defendant, John Pahy, in the State of Nevada be decreed to be of no force or effect in this state; and that it be similarly decreed that said Nevada decree is no bar to the present suit; that the marriage between your petitioner and the defendant may be dissolved, for the causes aforesaid, according to the Statute in such case made and provided; and that the defendant may be compelled by the decree of this honorable court to support her and the said infant child of the marriage; and that she may be awarded the custody of the said child; and that she may have such further relief as may be just.

GROSMAN & GROSMAN,
Solicitors of Petitioner.

Consent is hereby given to the filing of the above amended petition.

HARRY KAY,
Solicitor of Defendant.

Amended Petition.

State of New Jersey, }
County of Essex, } ss.:

Irma Pahy, being duly sworn according to law, upon her oath deposes and says:

1. I am the petitioner named in the foregoing amended petition.

2. My said amended petition is not made by any collusion between me and the defendant, but in truth and good faith, for the causes set forth in the petition.

IRMA PAHY.

Sworn & Subscribed to before me
at Newark this 16th day of May,
1928.

Evelyn E. Woodstein,
A Notary Public of New Jersey.

Order Permitting Amendment to Petition.

Filed May 16, 1928.

IN CHANCERY OF NEW JERSEY.

66-268.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, Etc. Order Permitting Amendment to Petition.

This matter being opened to the Court by Robert D. Grosman of the firm of Grosman & Grosman, Solicitors of Petitioner and Harry Kay, Esq. Solicitor of Defendant, having consented hereto:

It is thereupon, on this 15th day of May, 1928, ORDERED that the petitioner have, and she is hereby given leave to amend paragraph five of her petition for divorce so that it will properly charge that a certain decree, made on the 6th day of April, 1925, by the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, purporting to divorce the parties hereto from the bonds of matrimony, is null, void and of no effect, for reason that it was fraudulently and improperly obtained by the defendant herein, John Pahy, and that such decree be declared to be no bar to the maintenance of the present suit in this Court; and

It is further ORDERED that paragraph six of the petition be amended so as to include a prayer

for a decree, adjudicating that said Nevada decree be declared to be null and void; of no force or effect in this state and no bar to the maintenance of the present suit; and

It is further ORDERED that the Clerk of this Court shall re-engross the original petition for divorce filed in this cause so as to include the amendments hereby authorized; and

It is further ORDERED that a certified copy of the petition in this cause as amended, and of this order be served upon the defendant, John Pahy, either personally or by delivering the same to his solicitor, Harry Kay, Esq., and that the said defendant shall answer the said amended petition within five days from the date of such service upon him or upon his solicitor.

E. R. WALKER,
C.

Respectfully Advised,
ALONZO CHURCH,
V. C.

Consent is hereby given to the making of the foregoing order.

HARRY KAY,
Solicitor of Defendant.

Answer and Answer in Lieu of Plea to Amended Petition.

Filed May 23, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, Etc. Answer and Answer in Lieu of Plea to Amended Petition.

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John Pahy, the above named defendant residing in the City of Newark, County of Essex and State of New Jersey for answer and answer in lieu of plea to the amended petition of Irma Pahy says that:

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1. This defendant admits it to be true that the petitioner and defendant were lawfully married as in the said amended petition is alleged.

2. He denies the allegations contained in paragraph 2 and alleges on the contrary that on May 28th, 1925, the defendant did lawfully marry Jennie Romanak and that said marriage was performed by the City Clerk, in the Borough Hall, County of Richmond, State of New York and that prior thereto a divorce which the defendant obtained from the petitioner was approved by lawful authority of the officials of the State of New York.

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3. He denies the allegations contained in paragraph 3 of the said amended petition and alleges

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that on the contrary that on the 28th day of May, 1925, Irma Pahy, the petitioner was not a resident of the State of New Jersey and has not continued so to be down to the filing of this amended petition and for more than two years last past and preceding the commencement of this action and he further alleges that since the 23rd day of July, 1924, and until the month of October, 1927, defendant was not a resident or citizen of the State of New Jersey and that during all of said time, the residence of said defendant was known to the said petitioner.

4. Defendant admits that one child was born of the marriage who is now of the age of 14 years and that said child is in the custody of the said defendant, but denies that he removed the said child from the custody of the petitioner and on the contrary alleges that said child refused to live with the petitioner.

5. Defendant denies the allegations contained in paragraph 5-5a-5b—subdivision 1-2-3-4-5-6-7, but alleges on the contrary that during the month of November, 1922 the petitioner did not desire to live with said defendant and decided to make a trip to Azore, Hungary and decided to take the child with her and your defendant in order to gain the favor of the said petitioner did give said petitioner $300.00 in cash prior to her departure and during the time intervening between July, 1922 and July, 1924 said defendant did mail to his brother in Azore, Hungary for the use of said petitioner cash and money orders amounting to more than $1500.00 but that nevertheless while said petitioner was in Hungary, defendant re

ceived several letters from his brother with whom she was wherein she expressed a desire to return to the United States and was disgusted with life in Hungary and wherein she called your petitioner various vile names which letters defendant is ready to produce into evidence upon the trial of this cause and said defendant further alleges that in one of said letters, the petitioner said of and concerning the defendant the following:

> "Poor simp, if he thinks I will force the issue of living with him, he is greatly mistaken, for my part, he can run a race with the winds. You know if we consider it well, it does not pay to worry over the child"

and your defendant further alleges that during the entire period of his married life with the petitioner, petitioner was very cruel to his child and severely beat said child for no reason at all and was very cruel and hostile to said defendant and made his life very unhappy and your defendant further alleges that during the entire period of his married life, defendant did give to the petitioner his entire salary and said petitioner did give him $2.50 each week for the purpose of buying clothing, etc. and your defendant further alleges that the petitioner desired to return to the United States and said defendant mailed to her a ticket for that purpose and a money order for about $75.00 and when said petitioner arrived she began immediately to quarrel with defendant and refused to cease quarreling although the defendant offered to furnish a home for her and your defendant further alleges that on July 23rd, 1924

he requested the petitioner to leave the State of New Jersey and to travel westward where he could obtain employment and start life anew, but that said petitioner refused to do so whereupon the defendant did take his child and did make known to the petitioner that he was leaving for he could not stand her any longer and did travel to Chicago to seek work and then to Salt Lake City and then to the State of Nevada and that while in the state of Nevada, your defendant was employed by the Southern Pacific Railway Company and your defendant further alleges that the child was sent to California and was taken care of by the defendant's sister in said State and that subsequent thereto, defendant mailed the petitioner $20.00 and said petitioner did write a letter to the defendant's sister in San Francisco, California, in which letter the petitioner stated that she did not desire to live with the defendant and did not care for her son and which letter the defendant is ready to produce in evidence at the trial of this cause and the defendant further alleges that since the month of October, 1918 until November, 1922 petitioner refused to have sexual intercourse with the said defendant and refused to cohabit as man and wife and refused to have anything to do with said defendant.

Defendant further alleges that on April 6th, 1925 the Second Judicial District Court of the County of Washoe in the State of Nevada did decree that the aforenamed marriage between the petitioner and the said defendant be dissolved. Defendant expressly denies that said defendant left the State of New Jersey and went into the State of Nevada in order to obtain a decree of di-

vorce for a cause which is not ground for divorce under the laws of this State and defendant further denies that said decree of divorce was obtained by fraud, false representation, or any other falsity; that this petitioner had full knowledge of all of the proceedings and failed to file any pleadings in said cause. Defendant further alleges that on the contrary the said defendant was a bona fide resident of the State of Nevada and was not a resident or a citizen of the City of Newark, County of Essex and State of New Jersey respectively and that the said defendant did not without the knowledge or consent of the said petitioner desert said petitioner and fraudulently make his residence in the City of Reno, in the State of Nevada for the purpose of securing a divorce and the defendant further says that the said decree of divorce was not fraudulently obtained by said defendant and without the knowledge of the said petitioner but that said petitioner had full knowledge thereof and was duly served with notice to appear and that thereafter upon such default in petitioner's appearance, such decree was made as was proper in the cause and this defendant was divorced from the bonds of matrimony with the said petitioner and the marriage existing between them was dissolved.

FIRST SEPARATE DEFENSE.

1. For a separate defense to the amended petition herein, defendant says that the petitioner ought not to have or maintain her aforesaid action because this defendant before the commencement of this action, to wit, on or about April 6th, 1925 this defendant filed his petition for divorce

a vincula matrimonii against this present petitioner in the Second Judicial District Court of the County of Washoe, in the State of Nevada, said Court being a court of record and having jurisdiction over the subject matter of the petition; that this defendant was then and had been over 6 months next preceding the commencement of that action a resident of the State of Nevada and within the jurisdiction of Second Judicial Court of the County of Washoe in the State of Nevada; that the present petitioner was duly served with notice to appear and that thereafter such proceedings were duly had and taken in the said Second Judicial Court of the County of Washoe, that on or about the 6th day of April, 1925 by a decree made and entered in the said cause, this defendant was divorced from the bonds of matrimony with the present petitioner and the marriage existing between them was dissolved.

SECOND SEPARATE DEFENSE.

1. It is not true that the petitioner was a bona fide resident of the State of New Jersey on May 28th, 1925 when this supposed cause of action is alleged in the amended petition to have arisen, nor is it true that ever since said supposed cause of action arose as alleged in the amended petition that the petitioner has continued to be such a resident down to the commencement of the said supposed action and for more than two years next preceding the commencement of this action but on the contrary this defendant says the petitioner has never had a bona fide residence and permanent home in the State of New Jersey since May 28, 1925 but has resided in and had as her perma-

nent home in the State of New York at No. 435 Riverside Drive, Apartment 112, New York City, and the defendant further alleges that the petitioner did request one Samuel Hornstein to be a witness for her in this cause and gave said Samuel Hornstein a card contained thereon her address and did say to said Samuel Hornstein that she was a resident of the State of New York and had her domicile in that state and said card contained her address as being at No. 435 Riverside Drive, Apartment 112, New York City which card defendant is ready to produce in evidence at the trial of this cause.

This defendant by way of answer in lieu of plea says that:

1. It is not true that the petitioner was a bona fide resident of the State of New Jersey on May 28th, 1925 when this supposed cause of action as alleged in the amended petition to have arisen nor is it true that ever since said supposed cause of action arose as alleged in the amended petition that the petitioner has continued to be such a resident down to the commencement of the said supposed action and for more than two years next preceding the commencement of this action, but on the contrary, this defendant says petitioner has never had a bona fide residence and permanent home in the State of New Jersey since May 28, 1925 but has resided in and had as her permanent home in the State of New York, but the defendant further says that this petitioner has resided since the 28th day of May, 1925 and for at least 2 years last past and upwards in the State

of New York having her permanent home, residence and domicile at No. 435 Riverside Drive, Apartment 112, New York City in the State of New York, and

The defendant further alleges that the petitioner did request one Samuel Hornstein to be a witness for her in this cause and gave said Samuel Hornstein a card containing her address and did say to said Samuel Hornstein that she was a resident of the State of New York and had her domicile in that State and said card contained her address at being at No. 435 Riverside Drive, Apartment 112, New York City, which card defendant is ready to produce in evidence at the trial of this cause.

Wherefore defendant prays that he be dismissed with his costs and charges in this behalf most wrongfully sustained.

JOHN PAHY,
Defendant.

HARRY KAY,
Solicitor and of Counsel with Defendant.

Replication to Answer in Lieu of Plea.

Filed June 9, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Complainant, and JOHN PAHY, Defendant.	On Petition, Etc. Replication to Answer in Lieu of Plea.

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The petitioner joins issue on the answer in lieu of plea of the defendant.

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GROSMAN & GROSMAN,
Solicitors for and Counsel with Petitioner.

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Notice.

Filed Jan. 31, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, Etc. Notice.

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Sir:

Take Notice that on Tuesday, the 17th day of January, 1928, at ten o'clock in the forenoon, or as soon thereafter as the matter can be heard, at the Chancery Chambers in the City of Newark, 1060 Broad Street, in the City of Newark, N. J., I shall apply to the Chancellor for an order requiring you to pay to your wife, Irma Pahy, the above named petitioner, a proper allowance for her support and maintenance, pending this suit, and also a reasonable sum for counsel fees to enable her to prosecute the said suit; also for an order permitting the petitioner to visit and have in her custody at such times as the court may fix, Desederius Pahy, the infant child of the marriage.

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Annexed hereto and served upon you herewith are copies of the petition and affidavit upon wihch the said application will be made.

Dated: December 15th, 1927.

SILBERMAN & GROSMAN,
Solicitors of Petitioner.

To JOHN PAHY, Defendant.
Newark, N. J.

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Petition for Alimony Pendente Lite.

Filed Jan. 31, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, etc. Petition for Alimony Pendente Lite.

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To his Honor EDWIN ROBERT WALKER,
Chancellor of the State of New Jersey:

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The petition of Irma Pahy, the above named petitioner, respectfully shows:

1. She has recently filed her petition for divorce, in this cause, against her husband, John Pahy, alleging therein that her said husband did on or about the 28th day of July, 1925, commit adultery with one Jennie Romanak, and from thence and during each of the months of the years 1925, 1926 and 1927, has habitually committed adultery with her at Tottenville, Staten Island, in the State of New York, and at other places unknown to your petitioner.

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2. Process of citation has been served upon said defendant.

3. The charge made in her said petition is true, as she is ready to maintain and prove, as your Honor shall direct.

4. Defendant deserted your petitioner on or

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about the 23rd day of July, 1924, at Newark, N. J., taking with him their infant son, since which time he has not supported petitioner.

5. After deserting your petitioner, the defendant well knowing that he had no just cause for complaint against your petitioner, fraudulently went to Reno, Nevada, and there falsely represented that he was a resident of the State of Nevada and instituted suit for divorce against your petitioner and your petitioner is informed and believes it to be true that on the 6th day of April, 1925, the said defendant obtained a decree of divorce in the Second Judicial District Court of the State of Nevada, in and for the County of Washoe all of which was and is fraudulent.

6. One child was born of the marriage: to wit, Desederius Pahy, now fourteen years of age who has been and now is in the custody of the defendant.

7. Petitioner is informed and verily believes that her husband has large sums of money saved up; that he has shares in various building and loan institutions; that he has $1500. in cash deposited with the Clerk of the Essex County Court of Quarter Sessions, in this State, as bail for his appearance on a certain indictment; that he has $2000. in cash deposited with the Sheriff of the County of Hudson, in this State, as bail upon a writ of ne exeat issued out of this Honorable Court; that he is employed as a tool maker and machinist by the Worthington Pump Works at Harrison, N. J., and earns a weekly salary of $55. or $60. And petitioner says, that her husband's means are amply sufficient for him to raise and pay such sums as may be necessary for the purpose aforesaid.

8. Petitioner further shows that the defendant has withheld from her the custody of their infant child; that he has had him out of the jurisdiction of this court since about the 23rd day of July,, 1924, and that to the best of the information and knowledge of your petitioner, said child is now living with the defendant and the said Jennie Romanak at Tottenville, Staten Island, in the State of New York.

9. Petitioner further shows that she is altogether dependent upon her own efforts for her support and maintenance and that since she was deserted by the defendant she has been compelled to secure employment as a servant and she is still employed as such at the present time.

Your petitioner therefore prays that an order be made requiring the defendant to pay her a proper allowance for her support and maintenance, until the termination of this suit: and also to pay forth with a reasonable sum for the fees of Counsel in prosecuting this cause for her; that an order be made permitting her to visit and have in her custody at such times as may be fixed, her infant child; and for such other relief as the circumstances of the case may render fit, reasonable and proper.

SILBERMAN & GROSMAN,
Solicitors for and of Counsel
with Petitioner.

Affidavit of Irma Pahy.

State of New Jersey, }
County of Essex, } ss.:

Irma Pahy, the above named petitioner, being duly sworn according to law, upon her oath deposes and says:

1. I have read the foregoing petition and know the contents thereof, and the same is true; and particularly is it true that I have in truth and good faith and without collusion, brought the above entitled suit against my husband for divorce for the cause of adultery, as stated in my petition.

2. On or about the 25th day of November, 1922, the defendant induced me to take our child and go to Europe upon the pretense that he desired the child to be educated in Hungary, our native land. I sought to have him educate our child in America but he insisted that he desired the child educated in Europe. He promised that as soon as certain endowment insurance policies had matured, which he said would take place in about a year or so, he would join us in Europe. It was also his desire to return to Europe because he felt that he could live in luxury there upon the money which he had saved. Most of his savings amounting to approximately $3700. or $4000. he had sent to his brother in Europe with instructions to purchase securities there and it was his insistment that with the investments so made he would probably be able to live the life of a gentleman in the old country.

3. I went to Europe and remained there approximately two years. I sent the child to school and he finished his elementary education. In the meantime I kept corresponding with the defend-

ant. I insisted upon knowing when he was going to join me in Europe. He finally wrote and told me that he would not come to Europe, whereupon I insisted that he send transportation for the child and me to return to America. He finally did so. The child and I returned to this country on or about the 20th day of July, 1924. He did not meet us when we left the boat. It was after we left the pier that I found him present. I asked him why he did not meet us at the boat and his answer was that he could not get in because he did not have a pass. However he was cold and indifferent towards me and did not even kiss me. He had no home to which to take me. He took me to a furnished attic room in a house maintained by a woman named Mrs. Molnar who has made an affidavit in this cause on his behalf. He showed no affection towards me whatever. He refused to occupy the same bed with me and shared the bed with our son. We stayed at this woman's house for two nights. The following day he requested me to dress up our child in his best clothes because he had promised him to take him to the factory where he was employed and show him the plant. I did so and that is the last that I saw either of my husband or my child until I saw him in the custody of the Newark Police on or about the 25th day of October, 1927, when he was arrested on my complaint for desertion.

4. This complaint was made by me to the Newark Police authorities a day or two after he deserted me and a warrant was issued for his arrest on August 2, 1924.

5. A day or two after he left me I received a note from him to the effect that he was satisfied that I hated him and hated the child and that he

had decided to go away. Enclosed with this note was a $20. bill. This is all the money that I had. I was wholly destitute and was compelled to take employment as a servant. I went to work for a family named Eckhouse on Osborne Terrace, and worked for them until the latter part of June, 1925, when I secured employment with Mrs. Sadie Lasdon for whom I keep house at No. 435 Riverside Drive, New York City. I have always maintained a room in the State of New Jersey. Right after my husband deserted me I took a room with a friend of mine at Elizabeth, N. J. Subsequently I made arrangements with Mrs. Esther Evans to rent a room from her. I did rent a room from her which I still occupy at 76 Hillcrest Road, South Orange, N. J. I took possession of this room sometime in December, 1924, and have had it ever since. All my personal belongings consisting of household furniture, bedding, clothes, have been in this room. I have occupied this room at least once and sometimes twice a week. I have received mail at this address and have always considered it my home. I always had a place where I could go because I never knew when I would be out of employment and consequently made the arrangements with Mrs. Evans that I have mentioned.

6. After my husband deserted me in July, 1924, he took our son and went to Reno, Nev. for the purpose of securing a divorce from me. He had no grounds whatever upon which to divorce me either in this State or in any other State. I received notice of his suit for divorce but I had no money with which to go to Reno, Nev. and contest the divorce. He did not send me transporta-

tion or money with which to go there or with which to engage counsel. Subsequently it was urged upon me that I enter an appearance or sign some kind of papers connected with the Reno case but I refused. I was threatened that if I did not consent and sign the papers as my husband demanded, I would never see my child again. I nevertheless refused. Subsequently I understand that a divorce was granted to my husband from me on the ground of extreme cruelty. I deny that I was ever guilty of cruelty towards him or towards our child.

7. Thereafter on or about the 28th day of May, 1925, I am informed and believe it to be true that my husband went through a form of marriage ceremony with a woman named Jennie Romanak in the State of New York and that he has been living with this woman on Surf Avenue, Tottenville, Staten Island, in open adultery since said date. Our child has been with him.

8. I am wholly dependent upon my own efforts for my support and maintenance. Before my husband deserted me he always supported me. I am now compelled to earn my livelihood as a servant.

9. My husband's means are ample to support me and to enable me to prosecute this suit. When he desired, he sent the child and me to Europe and paid our transportation. He has sent large sums of money to his brother in Hungary for him to invest in foreign securities. He has $1500. in cash on deposit with the Essex County Court of Quarter Sessions as bail for his appearance on my complaint of desertion. He has deposited $2000. in cash with the Sheriff of Hudson County as bail

on the writ of ne exeat issued in this cause. He is employed as a machinist or tool maker by the Worthington Pump Works at Harrison, N. J., and earns between $55. and $60. per week. I believe that he has large sums of money saved and invested in other securities concerning which I am ignorant, while I earn but $50. per month at my occupation.

IRMA PAHY.

Sworn and Subscribed to before me
this 7th day of December, 1927.
George A. Early,
Master in Chancery of New Jersey.

Answering Affidavits.

Filed Feb. 2, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition for Alimony Pendente Lite. Answering Affidavits.

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State of New Jersey, }
County of Essex, } ss.:

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W. P. Lawall, being duly sworn according to law upon his oath deposes and says:

I am the employment manager of the Worthington Pump and Machine Corporation, of the Worthington Works, located at Harrison, New Jersey;

John Pahy entered the employ of this corporation on November 21st, 1916 and left because of ill health on July 17th, 1924 and was subsequently re-employed in the year 1927 and is now in our employ and during all of his period of employment, he was a steady and conscientious worker;

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John Pahy earns on the average of $36.00 per week as a tool maker, by working 45 hours per week at .80 per hour.

W. P. LAWALL.

Sworn and subscribed to before me
this 13th day of January, 1928.
Herbert T. Hedden,
(Seal) Notary Public.

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Answering Affidavits.

State of New Jersey, }
County of Essex, } ss.:

Otto Ehrenkranz being duly sworn according to law upon his oath deposes and says:

Upon the behalf of Harry Kay, Counsel for John Pahy I did investigate the residence of the petitioner, Irma Pahy and I did speak to the superintendent of the building, one E. Johnson of 435 Riverside Drive, New York City, who informed me that Mrs. Irma Pahy was employed by Mrs. Sadie Lasdon at said address and that she was so employed for a period of 4 years last past.

I also spoke to Irma Pahy on December 12th, 1927 and on December 19th, 1927 at Apartment 112, No. 435 Riverside Drive, she informed me that she was of Hungarian nationality, weighs 135 pounds, is 42 years of age and that her lawyer is Grosman of 1060 Broad Street, Newark, New Jersey and that she was employed by Sadie Lasdon as a servant girl and that she has been in such services for a period of 4 years;

Irma Pahy also told me that she comes to visit Mrs. J. Evans, of 76 Hillcrest Road, South Orange, once in a while, particularly on Thursdays, which is her day off but that her home and residence is in New York City.

I also spoke to the superintendent, E. Johnson who can corroborate all these statements;

On December 12th, 1927 I did speak to Mrs. J. Evans of 76 Hillcrest Road, South Orange and she told me that Irma Pahy does not reside with

her at that address but merely pays her a visit every so often.

OTTO EHRENKRANZ.

Sworn and subscribed to before me
this 27 day of December, 1927.
Samuel Ehrenkranz,
An Attorney at Law
10 of New Jersey.

State of New Jersey, }
County of Hudson, } ss.:

Samuel Hornstein being duly sworn according to law upon his oath deposes and says:

I am personally acquainted with John Pahy and he is employed by the Worthington Pump Company and has been so employed for a long
20 period of time, approximately, for ten years, except during the three years, except during the three years that he was out of the State of New Jersey;

John Pahy is now employed by the Worthington Pump Company and is working regularly at the said Worthington Pump Company each day;

I know Mrs. Irma Pahy and on November 25th, 1927 she came to see me and asked me to be a witness for her and she gave me a card containing
30 her address and she told me that she was a resident of the State of New York and resides at 435 Riverside Drive,, Apartment 112, New York City;

John Pahy to my knowledge has no intention to leave this State.

SAMUEL HORNSTEIN.

Sworn and subscribed to before me
this First day of December, 1927.
Samuel London,
40 (Seal) Notary Public of New Jersey,
My Commission expires Aug. 9, 1932.

Answering Affidavits.

State of New Jersey, }
County of Essex, } ss.:

John Pahy being duly sworn according to law upon his oath deposes and says:

1. I was married to Irma Pahy on November 16th, 1912 in the City of Elizabeth, State of New Jersey and resided with said Irma Pahy until November, 1922. 10

2. On October 22, 1913 there was a child born, Desiderius Pahy and Irma Pahy and I lived as man and wife from the date of our marriage until the latter part of July, 1924.

3. That during the month of November, 1922 Irma Pahy did not desire to live with me and decided to make a trip to Azore, Hungary and also decided to take the child along with her. I gave Irma Pahy $300.00 cash prior to her departure 20 and during the time intervening between November, 1922 and July, 1924 I sent to Irma Pahy money orders and cash amounting to $1500.00.

4. While Irma Pahy was in Hungary she refused to write to me although I wrote her several letters requesting her to do so.

5. One of the letters addressed by Irma Pahy to a relative of mine and now in my possession contained this expression: "Poor simp, if he 30 thinks I will force the issue of living with him, he is greatly mistaken, for my part, he can run a race with the winds, You know, if we consider it well, it does not pay to worry over the child. In rare cases does the party appreciate it. He shall not fear that I will take the child away from him. He is the father; let him struggle to raise the child."

6. That subsequent to the departure of Irma

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Pahy to Europe, I then learned for the first time that during the entire period of our marriage, Irma Pahy was very cruel and mean to our child in that Irma Pahy beat the child and punished said child severely for no reason while I was at work each day.

10 7. During the entire period of our marriage I gave to Irma Pahy my entire salary and she supplied me with the only suit I ever had and a shirt and kept the money for her own use and during the entire period of our married life, it was a matter of incompatible temper on the part of Irma Pahy, disrupting the family life entirely.

8. That upon receiving the information that Irma Pahy desired to return to America, I obtained a passage ticket for her which cost me about 20 $300.00, and mailed her a money order for about $75.00 and during the month of July, 1924, Irma Pahy arrived with the child from Europe.

9. I met Irma Pahy at the dock upon her arrival and then and there she began quarrelling as usual.

10. I pleaded with Irma Pahy to start life anew and to cease quarrelling and to furnish a home, all of which Irma Pahy did not desire to 30 do and did not do.

11. On July 23rd, 1924 I requested Irma Pahy to leave New Jersey and start life anew in some other state which she refused to do and the deponent, then accordingly not being able to stand the treatment the child and I were getting, I took the child and went to Chicago to seek work and stay there for quite a time and then travelled to Salt Lake City and stayed there for some time.

12. I could not find work in any of these 40 places.

13. I left Irma Pahy about $300.00 in cash upon my departure and took along with me about $100.00.

14. Subsequent to my departure I wrote a letter to Irma Pahy requesting her to go with me to such a place where I could obtain employment and enclosed in that letter a $20.00 goldback. 10

15. I never received a reply to that letter. Irmy Pahy then sent a letter to my sister who lives in San Francisco, which I have in my possession, in which letter, Irma Pahy says that she does not want to live with me and does not care for her son.

16. That subsequent thereto, I did find work in Reno, Nevada and decided to remain in that State and remained there for a long period of time and thereafter I secured a divorce on the 20 ground of extreme cruelty dissolving the marriage between Irma Pahy and myself, which decree for dissolution was granted by the Second Judicial Court of the State of Nevada, County of Washoe and prior thereto, Irma Pahy was duly served with process according to the laws of the State of Nevada and the State of New Jersey.

17. That Irma Pahy took no action whatsoever and filed no proceedings in this divorce proceedings although she had actual and constructive 30 knowledge of same and the deponent was a bona fide resident of the State of Nevada at the time and did not merely become such for the purpose of obtaining said divorce. I was awarded custody of the child.

18. That on the 28th day of May, 1925 the divorce obtained by me was approved by the Courts of New York and I was allowed by the Courts of New York to remarry and I did marry on said 40

date Jennie Romanak, which marriage was performed by the City Clerk in the Borough Hall, in the County of Richmond, State of New York and since said date until the present date I have been co-habiting with said Jennie Romanak as my said wife, pursuant to and according to the law of the State of New York and the State of Nevada in accordance with the decree aforenamed.

19. I further allege that on the 28th day of May, 1925 Irma Pahy was not a resident of the State of New Jersey and at the time any alleged cause of action may have arisen, she was not a resident of the State of New Jersey and that said Irma Pahy has not continued to be a resident of the State of New Jersey from said date down to the commencement of this action and for more than two years next proceeding, said Irma Pahy to my knowledge resides at 435 Riverside Drive, Apartment 112, New York City, in the State of New York and is employed in the State of New York and is not a resident of the State of New Jersey at this time.

20. Since the 23rd day of July, 1924 the date of my departure, I have not been a resident of this State and have continuously resided out of the State of New Jersey until October, 1927 at which time I returned to this State to resume my permanent residence here and that during all this period of time, Irma Pahy knew and had knowledge of my whereabouts.

21. I further allege that to my knowledge Irma Pahy is now employed and earns about $45.00 a week and that the child who is about 14 years of age at present is in my custody and said child refuses to live with his mother, Irma Pahy, and prefers to live with his step-mother.

Answering Affidavits.

22. I further allege that Irma Pahy and I lived together happily until about the year of 1928, when said Irma Pahy appeared to take an aversion to me, and thereafter treated me in a cruel manner; and that said defendant beginning about the year of 1918 and continuing down to the time when we separated, Irma Pahy treated me with great indifference at all times and frequently while we were living in Elizabeth, New Jersey, without any cause or provocation therefor, falsely accused me of adultery, well knowing said accusation to be untrue; that said Irma Pahy frequently, at Elizabeth, New Jersey, in the year of 1918, 1920, 1921, 1922 and 1924 told me that she did not care for me and that she wished I would die and on other occasions during said period of times hereinbefore mentioned, frequently stated that she wished I was in my grave and also stated that she wished our son was in his grave; and she frequently told me that she never had any peace when I was at home and that she hated me and my relatives and that we were all rotten, low down people, and that I was the biggest bum in the whole neighborhood and that she wished I would go away from her; that the said Irma Pahy frequently applied the name of Cain to me and on other occasions, stated that I was big Cain and that our son was little Cain, which greatly grieved me and caused me to suffer great mental anguish.

25. That the said Irma Pahy frequently, without cause or provocation, severely beat and abused our son and became greatly incensed against me when I would protest against her action;

24. That the said Irma Pahy went to Europe

in the year of 1922 and during the time she was in Europe, refused to write to me and refused to tell me about our son, and upon her return home in July, 1924, she refused to have anything to do with me and told me that she had hoped to never see me again; and I being unable to further endure the said treatment of the said Irma Pahy, and fearing that she would injure the said child, I left the said Irma Pahy in the month of July, 1924 and have not since said time, lived with said Irma Pahy, and to do so would be dangerous to my life and detrimental to my health and the health of the child.

25. I am employed by the Worthington Pump & Machine Works, Harrison, New Jersey and earn on an average of $36.00 a week.

26. I have no other means whatsoever and the moneys placed as cash bail to the sum of $1500.-00 and $2,000.00 respectively was placed there by my wife, Jennie Pahy for me and that said moneys represent a mortgage sold by my wife, Jennie Pahy and with the proceeds of such mortgage, I was released from jail.

27. My wife, Jennie Pahy, has no other sums of any kind and I do not earn $60.00 a week as represented by Irma Pahy.

28. My son does not want to live with Irma Pahy.

JOHN PAHY.

Sworn and subscribed to before me
this 26 day of January, 1928.
Samuel Ehrenkranz,
An Attorney at Law of New Jersey.

Answering Affidavits.

State of New Jersey, }
County of Essex, } ss.:

Mrs. Costello, being duly sworn according to law upon her oath deposes and says:

During the month of November, 1922 John Pahy boarded at my home at the request of Irma Pahy, who had gone to Europe and had left John Pahy no clothes whatsoever; 10

Irma Pahy was very anxious to go to Europe and during the entire time that she was away, she did not write to John Pahy;

I wrote to her asking her to let John Pahy know how she was, but I never received an answer to my letter;

Previous thereto, I saw Irma Pahy several times beat her little child and say, I hate you the same as I hate your father. 20

MRS. MAMIE COSTELLO.

Sworn and subscribed to before me
this 30th day of November, 1927.
Louis Fisher,
(Seal) Notary Public.

State of New Jersey, }
County of Essex, } ss.: 30

Desiderius Pahy being duly sworn according to law upon his oath deposes and says:

I am 14 years of age;

I have read the petition filed in this cause by Irma Pahy, particularly with reference to the fact that John Pahy, my father, by stealth removed me from the custody of Irma Pahy;

I desire to say that while my Dad was at work, 40

my mother, Irma Pahy, used to beat me daily and she threatened me not to tell my father, otherwise, she would give me another beating;

I gave her no cause for this;

I voluntarily left my mother, Irma Pahy;

I dislike her and prefer to live with my step-
10 mother;

I do not wish to live with my mother, Irma Pahy, and do not wish to return to her;

I have read the affidavit made by Irma Pahy and I say that when we came to America from Europe, my father, John Pahy did meet us at the boat and that my mother, Irma Pahy is not telling the truth when she says that he did not meet us there;

My mother, Irma Pahy, while we were in Europe never wrote to my father.

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DESIDERIUS PAHY.

Sworn and subscribed to before me
this 25th day of January, 1928.
Oscar Stempler,
An Atty. at Law of New Jersey.

State of New Jersey, }
30 County of Essex, } ss.

Jennie Pahy being duly sworn according to law upon her oath deposes and says:

That on August 3rd, 1927 between 8 and 9 P. M. Irma Pahy visited me at my residence in Staten Island, and asked to see Danny. I said Danny has gone to San Francisco.

I then said, Mrs. Pahy, I wrote to you from San Francisco and sent you Danny's picture in
40 a Scout Boy's suit, her Madam asked, Is it true?

Mrs. Irma Pahy, said, Yes, her madam then said, she can't be so bad, I said, No, I have a mother, too.

Her madam then asked to come in and Mrs. Anna Frohman let her come in.

Irma Pahy then went over to Danny and spoke to him and he refused to speak to her, I then went to Danny and told him not to be afraid and to talk to his mother and tell her what I had taught him and that I had told him to write to his mother, and asked whether he had written to his mother.

Irma Pahy's madam then told me that she could take her son right away and I said, she could have her husband, I would give him a divorce and she could have the boy right away;

Irma Pahy then turned around and said, I don't want the boy, it's up to the father to have the trouble of bringing up the boy, I don't want either the father or the son;

She then said to me, I will make trouble for you, all that I can, you better get a lawyer.

Irma Pahy then kissed Danny and said—You have but one mother and she asked him, who is your mother and he said, My mother is my stepmother.

Irma Pahy then turned again to the boy and said, Some day you will look for me.

JENNIE PAHY.

Sworn and subscribed to before me
this 29 day of November, 1927.
Samuel Ehrenkranz,
An Attorney at Law of New Jersey.

Answering Affidavits.

State of New Jersey, }
County of Essex, } ss.:

Eugene Molnar and Mary Molnar being severally sworn upon their individual oaths depose and say:

We reside at 862 Hunterdon Street, Newark, New Jersey;

On or about July, 1924 we resided at No. 391 Peshine Avenue, Newark, New Jersey;

During the summer of the year of 1922 I (Mary Molnar) met Irma Pahy at a picnic and Irma Pahy told me that she was going to Europe and while there she would play the part of a lady;

Irma Pahy told me that she had enough money that she could invest it and live on the interest;

She further said that the schools in America were not good enough for her boy;

Subsequently thereto, Irma Pahy went to Europe and was there for about one and one-half years;

Upon her arrival in America on Sunday, in July, 1924 John Pahy brought Irma Pahy to our house and asked if it would be satisfactory to stay for about one week until he could get a place to live in; we agreed to it and on the following Tuesday, John Pahy left with his son and Irma Pahy remained at our house and that evening she said to me (Mary Molnar) "I bet Mr. Pahy left me" and I asked her what she meant and she said "We did not get along very well" and in the presence of Mrs. Guttman, Irma Pahy said "I didn't get along well and he left me" and I (Mary Molnar) said to Irma Pahy "If you had treated him right, he would have stayed, he earned enough money but you took all his money and gave him only $2.50 spending money each week." Irma was silent and did not answer.

Irma Pahy then said "I do not care, I have re-

fused to have intercourse with him for a long time and used him for a toy."

Irma Pahy stayed one week with us and then she left;

She cursed John Pahy and his son the entire time she was with us;

January 1, 1925 Irma Pahy called at our home, raised a disturbance and left us and we have not seen her except lately in the Criminal Court at Newark; 10

We have known John Pahy since 1909; Irma Pahy since 1912 and Jennie Pahy since 1915;

We have no interest whatsoever in the outcome of this case and we have refused to be witnesses for Irma Pahy although she requested us to act as witnesses for her at the hearing of this case;

During Irma Pahy's stay at our home, she said that her son had Cain's blood in him like his father and that she did not care for him. 20

MRS. MARY MOLNAR.
EUGENE MOLNAR.

Sworn and subscribed to before me
this 24 day of January, 1928.
Samuel Ehrenkranz,
An Attorney at Law of New Jersey.

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State of New Jersey, }
County of Essex, } ss.:

Julius Frohman and Anna Frohman being severally sworn upon their individual oaths depose and says:

That we reside at 335 Roseville Avenue, Newark, New Jersey and are personally acquainted with John Pahy and Irma Pahy;

That on August 3rd, 1927 at our home at 91 40

Surf Avenue, Tottenville, Staten Island, New York, Irma Pahy accompanied by a uniformed policeman and her employer at about 8:30 P. M. on said date called and requested to see Daniel Pahy, her son;

While in the dining room of our home, Irma Pahy said to Jennie Pahy, "You had better hire a lawyer, I don't want John Pahy or his son, but I am going to cause you a lot of trouble, all the trouble that I can" and shook her finger in Jennie Pahy's face threateningly;

About two weeks later Irma Pahy called again and asked for her son and left without seeing the boy;

Her employer, Mrs. Sadie Lasdon told us in Irma Pahy's presence that Irma Pahy was living with her in New York City at 435 Riverside Drive, New York City and that Irma Pahy came to Sadie Lasdon to work for her in her home since July, 1924;

At the time of Irma Pahy's visit to us she was very hostile to her own son and showed no motherly affection for him and during her entire visit did not question him about his health and was very hostile to all of us;

We are disinterested in the outcome of the case and are not biased in any way;

We know as a matter of fact that Irma Pahy is now domiciled and a resident of the State of New York residing at No. 435 Riverside Drive, Apartment 112, New York City and that said Irma Pahy does not reside in the State of New Jersey.

ANNA FROHMAN.
JULIUS FROHMAN.

Sworn and subscribed to before me
this 24 day of January, 1928.
Samuel Ehrenkranz,
An Attorney at Law of New Jersey.

Answering Affidavits.

Filed Feb 5th, 1925.
E. H. Beemer, Clerk. No. 21398 Dept. No. 2
By A. G. Caughlin, Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

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JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Complaint.

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Now comes the plaintiff above named, by his attorney Le Roy F. Pike, and complaining of the above named defendant, for cause of action alleges:

I.

That the plaintiff is now and for a period of more than six months next preceding the commencement of this action has been a bona fide resident of Reno, Washoe County, Nevada, and has been domiciled therein and physically present in Reno, Washoe County, Nevada, all of said time.

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II.

That the plaintiff and defendant herein, intermarried at Elizabeth, New Jersey, November 16th, 1912, and that ever since have been and now are husband and wife.

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III.

That there is no community property belonging to this plaintiff and defendant.

IV.

That there is one minor child the issue of said marriage, to-wit: Desederius Pahy of the age of about eleven years and now in the custody of the plaintiff in Reno, Washoe County, Nevada, and that the father is a fit and proper person to have the care, custody and control of said minor child.

V.

That the above named defendant, has been guilty of extreme cruelty towards said plaintiff which has caused him to suffer great mental anguish and physical pain, and has greatly affected his health, and that it would be impossible for said plaintiff to further cohabit with said defendant.

That plaintiff and defendant lived together happily until about the year of 1918, when said defendant appeared to take an aversion to said plaintiff, and thereafter treated him in a cruel manner; that said defendant beginning about the year of 1918, and continuing down to the time when plaintiff and defendant separated, treated the said plaintiff with great indifference at all times and frequently while they were living in Elizabeth, New Jersey, without any cause or provocation therefore, falsely accused the said plaintiff of adultery, well knowing said accusation to be untrue; that the said defendant frequently at Elizabeth, New Jersey, in the year 1918, 1920, 1921, 1922 and 1924, told plaintiff that she did

not care for him and that she wished he would die and on other occasions, during said period of times hereinbefore mentioned, frequently stated to said plaintiff that she wished he was in his grave, and also stated that she wished their son was in his grave; said defendant frequently told said plaintiff that she never had any peace when he was at home and that she hated him and his relatives and that they were all rotten, low down people, and that the plaintiff was the biggest bum in the whole neighborhood and that she wished he would go away from her; that the defendant frequently applied the name of Cain to said plaintiff and on other occasions, stated that he was big Cain and that their son was little Cain, which greatly grieved the said plaintiff and caused him to suffer great mental anguish; that the said defendant frequently, without cause or provocation, severely beat and abused the son of the said plaintiff and defendant and became greatly incensed against said plaintiff when he would protest against her action; that the said defendant went to Europe in the year 1923, and during the time she was in Europe, refused to write to said plaintiff and refused to tell him about their son, and upon her return home in July 1924, refused to have anything to do with plaintiff and told him that she had hoped to never see him again; that said plaintiff unable to further endure the said treatment of the said defendant and fearing that the said defendant would injure their said son, he left the said defendant in the month of July, 1924, and has not since said time, lived with said defendant and to do so would be dangerous to his life and detrimental to his health and the health of the child.

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Wherefore, plaintiff prays that he be granted a decree of this Court forever severing and dissolving the bonds of matrimony now and heretofore existing between the parties hereto, and that they be restored to the status of unmarried persons; and that he have the exclusive care, custody and control of said minor child, and that he have such other and further relief as to this Court may appear just and equitable.

LE ROY F. PIKE,
Attorney for Plaintiff.

Answering Affidavits.

Filed Feb 5th 1925.
E. H. Beemer Clerk. No. 21398 Dept. No.
By A. G. Caughlin Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

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JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Affidavit for Publication of Summons.

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State of Nevada, County of Washoe. } ss.:

John Pahy, being first duly sworn, deposes and says:

That he is the plaintiff in the above entitled action; that said action was commenced by the filing of the complaint and the issuance of a summons thereon; that said action was brought for the purpose of obtaining a decree of divorce in favor of the plaintiff and against the defendant upon the ground of extreme cruelty, and that said plaintiff has a good cause of action against said defendant which is fully set forth in his verified complaint on file herein, and which said complaint is hereby referred to and made a part hereof as if fully set forth.

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That the said defendant is a necessary and

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proper party to the complete determination of said action; that the said defendant is not within the State of Nevada, and cannot be served with process within the State of Nevada, for the reason that the said defendant is now outside of the State of Nevada, and resides at 61 Osborne Terrace, Newark, New Jersey, where said defendant may be found; that the said defendant has never been in the State of Nevada and last communicated with plaintiff from Newark, New Jersey.

Wherefore, plaintiff prays that he be granted an Order of this Court for the publication of said summons, as by the Statutes of Nevada in such cases made and provided.

Dated: February 5th, A. D. 1925.

JOHN PAHY.

Subscribed and sworn to before me
this 5th day of February, A. D. 1925.
Le Roy F. Pike,
Notary Public in and for
the County of Washoe, State
of Nevada.
(Notarial Seal).

State of Nevada, }
County of Washoe. } ss.:

John Pahy, being first duly sworn, deposes and says: that he is the plaintiff in the above entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge except as to those matters therein stated on his information and be-

lief and as to those matters he believes it to be true.

JOHN PAHY.

Subscribed and sworn to before me
this 5th day of February, A. D. 1925.
Le Roy F. Pike,
Notary Public in and for 10
the County of Washoe, State
of Nevada.
(Notarial Seal).

Filed Feb. 5th 1925.
E. H. Beemer, Clerk. No. 21398 Dept. No. 2
By J. M. Smith, Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

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In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Order for Publication of Summons.

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Upon reading and filing the affidavit of John Pahy, plaintiff in the above entitled action, and it satisfactorily appearing to the Court from said affidavit that said defendant, Alma Pahy, resides outside of the State of Nevada, and cannot be found within the State of Nevada, and that the 40

present address of defendant is 61 Osborne Terrace, Newark, New Jersey, where defendant now is, and that personal service cannot be made upon the said defendant within the State of Nevada, for the reason that the said defendant resides outside of the State of Nevada; and it further appearing from the verified complaint of the plaintiff herein, that a good cause of action exists in favor of the plaintiff herein, and against the defendant herein, upon the ground of extreme cruelty, and that the said defendant is a necessary and proper party hereto, and it further appearing that said summons have been issued out of this Court in this action;

Now, Therefore, on motion of Le Roy F. Pike, attorney for the plaintiff in the above entitled action, it is hereby ordered that the service of summons in this action be made upon the defendant Alma Pahy, by the publication thereof in the Nevada State Journal, a daily newspaper in Reno, Nevada, and that said publication be made once a week for six successive weeks said paper being the one designated as the one most likely to give the said defendant notice of said action; and it is further ordered that a copy of the summons attached to a verified copy of the complaint herein, be mailed to the last known address of the defendant at 61 Osborne Terrace, Newark, New Jersey, with postage prepaid thereon; and it is further ordered that personal service of the summons upon the defendant shall be the same as service of the summons by publication.

Done in open Court this 5th day of February, A. D. 1925.

JAMES A. CALLAHAN,
District Judge.

Answering Affidavits.

IN THE SECOND JUDICIAL DISTRICT COURT

Of the State of Nevada, in and for the County of Washoe.

JOHN PAHY,
Plaintiff,

vs.

ALMA PAHY,
Defendant.

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No. 21,398
Dept. No. 2
Filed April 3, 1925.
E. H. Beemer, Clerk
By S. W. Longabaugh, Deputy.

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SUMMONS

The State of Nevada Sends Greetings to the Said Defendant:

You are hereby summoned to appear within ten days after the service upon you of this Summons if served in said county, or within twenty days if served out of said county but within said Judicial District, and in all other cases within forty days (exclusive of the day of service), and defend the above-entitled action. This action is brought to recover a judgment and decree of this Court forever severing and dissolving the bonds of matrimony now and heretofore existing between the plaintiff and defendant herein, upon the

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ground of extreme cruelty, all as described in the Complaint.

Dated this 5th day of February A. D. 1925.

(Seal) E. H. BEEMER,
Clerk of the Second Judicial District
Court of the State of Nevada, in and
10 for the County of Washoe.
By A. G. Caughlin, Deputy.

LE ROY F. PIKE,
Attorney for Plaintiff.
My commission expires March 30, 1925.

AFFIDAVIT OF SERVICE.

20 State of New York, }
County of New York, } ss.:

Sam G. Pennamacoor, being first duly sworn, deposes and says: That he is and was on the day when he served the annexed summons, a male citizen of the United States, over the age of twenty-one years, and not a party to the above-entitled action; that he received the annexed summons in said action on the 10th day of February, 1925, and personally served the same upon Alma Pahy, the
30 above-named defendant, on the 23rd day of February, 1925, by delivering to Alma Pahy, the said defendant, personally, in 61 Osborne Terrace, Newark, N. J., County of Essex, State of New Jersey, a copy of the annexed summons attached

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to a duly certified copy of the complaint in the above-entitled action.

SAM G. PENNAMACOOR.

Subscribed and sworn to before me
this 25th day of February, 1925.
Isaac Pennamacoor,
Notary Public in and for the
County of N. Y.
State of New York.
(Seal)
Notary Public, New York County,
N. Y. Co. Clks No. 239, Reg. No. 5352.
Commission expires March 30, 1925.

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Answering Affidavits.

Filed April 6th, A. D., 1925.
E. H. Beemer, Clerk. No. 21,398 Dept. No. 2
By J. M. Smith, Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

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JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Findings and Decree.

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This cause came on regularly for trial before the Court, without a jury, on the 6th day of April, A. D., 1925, the Hon. George A. Bartlett, presiding, the plaintiff appeared in person and with his attorney, Le Roy F. Pike, and the defendant did not appear, the defendant having been personally served with summons and complaint as required by statute, at No. 61 Osborne Terrace, Newark, New Jersey, and having failed to demur, answer or otherwise plead within the time allowed by law after the service of the summons upon her and on motion of the attorney for the plaintiff, the default of the said defendant for failing to plead to said complaint within the time allowed by law, was regularly entered against her and the case came on regularly to be heard.

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Evidence was heard upon the part of plaintiff

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and the same being free of all legal exceptions and objections, and the defendant offering no evidence, and the Court being fully satisfied in the premises, makes the following:

FINDINGS OF FACT.

The Court finds that all of the allegations of the plaintiff's complaint are true, and the Court further finds, that the defendant herein known as Alma Pahy, is sometimes known as Irma Pahy, and that service was made upon the said Alma Pahy, sometimes known as Irma Pahy, at No. 61 Osborne Terrace, Newark, New Jersey, as by statute in such cases made and required.

AS CONCLUSIONS OF LAW FROM THE FOREGOING FACTS.

The Court finds that the plaintiff is entitled to a decree of divorce, as prayed for in his complaint on the ground of extreme cruelty, and the Court further finds that plaintiff should be granted the exclusive care, custody and control of the minor child of the plaintiff and defendant herein, to-wit: Desederius Pahy.

DECREE.

Now, Therefore, the Court being fully satisfied in the premises, it is hereby Ordered, Adjudged and Decreed, and this does hereby Order, Adjudge and Decree, that the plaintiff herein, be granted a decree of this Court forever severing and dissolving the bonds of matrimony, now and heretofore existing between the plaintiff John Pahy, and the defendant, Alma Pahy, sometimes known as Irma Pahy, and the same are hereby wholly dissolved, and the parties and each of them are hereby re-

stored to the status of unmarried persons.

It is Further Ordered, Adjudged and Decreed, and this does hereby Order, Adjudge and Decree, that the plaintiff herein, be granted the exclusive care, custody and control of the minor child of the plaintiff and defendant herein, to-wit: Desederius Pahy.

10 Done in open Court this 6th day of April, A. D., 1925.

GEO. A. BARTLETT,
District Judge.

Recorded in
Judgment Record
Book Z Pages 148-49
E. H. Beemer,
County Clerk.
By A. G. Caughlin,
20 Deputy Clerk.

No. 21398.

IN THE
SECOND JUDICIAL DISTRICT COURT
of the State of Nevada
In and for the County of Washoe

John Pahy,
Plaintiff,
30 vs.
Alma Pahy,
Defendant.

JUDGMENT ROLL
Filed April 6th, A. D. 1925.
E. H. Beemer, Clerk.
By A. G. CAUGHLIN,
Deputy Clerk.
Le Roy F. Pike,
Attorney for Plaintiff
40 Attorney for Defendant.

Answering Affidavits.

In the Second Judicial District Court of the State of Nevada

In and for the County of Washoe

JOHN PAHY,
Plaintiff,

vs.

ALMA PAHY,
Defendant.

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I, E. H. Beemer, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that I have compared the foregoing with the originals thereof, and that I am the keeper of all said originals, keeping same on file in my office as the legal custodian, and keeper of the same under the laws of the State of Nevada, and I further certify that the foregoing copies, attached hereto are full, true and correct copies of the Judgment Roll consisting of the following papers: Complaint; Affidavit for Publication of Summons; Order for Publication of Summons; Summons and Findings and Decree, and now on file and of record in my office.

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I do further certify that the same have not been altered, amended or set aside, but are still of full force and effect.

In Witness Whereof, I have hereunto set my

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hand and affixed the Seal of the said Court this 21st day of December, A. D. 1927.

E. H. BEEMER,
(Seal) County Clerk.

I, Geo. A. Bartlett, one of the Presiding Judges
10 of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that said Court is a Court of Record, having a Clerk and a Seal; that E. H. Beemer, who has signed the annexed attestation, is the duly elected and qualified County Clerk of the County of Washoe, and was at the time of signing said attestation, ex-officio Clerk of said Court.

That said signature is his genuine handwriting,
20 and that all his official acts as such Clerk are entitled to full faith and credit.

And I further certify that said attestation is in due form of law.

Witness my hand this 21st day of December, A. D. 1927.

GEO. A. BARTLETT,
One of the Presiding Judges of
the Second Judicial District Court of
the State of Nevada in and for the
30 County of Washoe.

State of Nevada, }
County of Washoe. } ss.:

I, E. H. Beemer, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that the Honorable Geo. A. Bartlett whose name is subscribed to the preceding Certificate, is one of the Presiding Judges of
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said Court, duly elected and qualified, and that the signature of said Judge to said Certificate is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the said Court this 21st day of December, A. D. 1927.

E. H. BEEMER,
County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe. 10
(Seal)

The People of the State of New York,
By the Grace of God Free and Independent,

To all to whom these presents shall come or may concern, GREETING:

Know Ye, That We, having examined the records and files in the office of the Clerk of the County of Richmond, do find a certain Marriage License of John Pahy to Jennie Romanak, there remaining in the words and figures following, to wit: 20

This is a Marriage License, and not a Marriage Certificate. The Marriage Certificate on the reverse side should be filled out and filed promptly by the Clergyman or Magistrate as required by law, with the Town or City Clerk who issued the License. See that your marriage is thus recorded. 30

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Answering Affidavits.

NEW YORK STATE DEPARTMENT OF HEALTH

Division of Vital Statistics

Marriage License Registered No. 319

Place of Registry: State of New York; County
10 of Richmond; City of New York; Borough of Richmond.

Know all Men by this Certificate, that any person authorized by law to perform marriage ceremonies within the State of New York to whom this may come, he, not knowing any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between John Pahy, of 526½ Lender St., Reno, in the county of Washoe and State of Nevada, and
20 Jennie Romanak, of Surf Ave., in the county of Richmond and State of New York and to certify the same to be said parties or either of them under his hand and seal in his ministerial or official capacity and thereupon he is required to return his certificate in the form hereto annexed. The statements endorsed hereon or annexed hereto, by me subscribed, contain a full and true abstract of all the facts concerning such parties disclosed by
30 their affidavits or verified statements presented to me upon the application for this license.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said city at St. George this 28th day of May, nineteen hundred and twenty-five.

M. J. CRUISE,
City Clerk.

(Seal)

The following is a full and true abstract of all
40 the facts disclosed by the above-named applicants

in their verified statements presented to me upon their applications for the above license:

From the Groom:

Full name: John Pahy.
Color: White
Place of Residence: 526½ Lender Street 10
Reno, Nevada
Age: 41
Occupation: Machinist
Place of birth: Thurzier, Hungary
Name of father: Ignace
Country of birth: Hungary
Maiden name of mother: Rose Lesko
Country of birth: Hungary
Number of marriage: Second
I have not to my knowledge been infected with 20
any veneral disease, of if I have been soinfected within five years I have had a laboratory test within that period which shows that I am now free from infection from any such disease.
Former wife living? Living
Is applicant a divorced person? Yes
If so, when and where and against whom divorce or divorces were granted? Second Judicial District Court Co. of Washoe, Nevada, April 6, 30
1925

I declare that no legal impediment exists as to my right to enter into the marriage state.
Last martial domicile, Newark, New Jersey.

From the Bride:

Full name: Jennie Romanak.
Color: White
Place of residence: Surf Ave., Tottenville, S. I. 40

Age: 46
Occupation: None
Place of birth: Budapest, Hungary
Name of father: John Blcha
Country of birth: Hungary
Maiden name of mother: Eva Blcha
10 Country of birth: Hungary
Number of marriage: Second
I have not to my knowledge been infected with any venereal disease, or if I have been so infected within five years I have had a laboratory test within that period which shows that I am now free from infection from any such disease.
Former husband dead? Dead April 7, 1908, Newark, N. Y.
Is applicant a divorced person? No
20 I declare that no legal impediment exists as to my right to enter into the marriage state.
Original endorsed: Filed Richmond County Clerk's Office, June 16, 1925, at——

J. L. V., Clerk.

The written consent of the Parents Guardians or Person under whose care and government the Minor or Minors may be, has been filed in the office of the City Clerk in the Borough of Richmond, as provided by Section 15 of Article 3 of the Domestic Relations Law.

MARRIAGE CERTIFICATE

To Clergymen and Magistrates

The license and certificate duly signed by the person who shall have solemnized the marriage therein authorized shall be returned by him to the

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office of the town or city clerk who issued the same on or before the tenth day of the month next succeeding the date of the solemnizing of the marriage therein authorized and any persons who shall wilfully neglect to make such return within the time above required shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each and every offense.

I, Herman C. Oechsli, a Deputy Clerk residing at 469 Bloomingdale Rd., in the county of Richmond and State of New York do hereby certify that I did on this 28th day of May, in the year A. D. 1925 at Borough Hall in the county of Richmond and State of New York solemnize the rites of matrimony between John Pahy of 526½ Lender St., Reno, in the county of Washoe and State of Nevada and Jennie Romanak of Surf Ave. in the county of Richmond and State of New York in the presence of Ann Frohman and Maurice Schneidler as witness and the license therefor is hereto annexed.

Witness my hand at Borough Hall in the county of Richmond this 28th day of May A. D. 1925.

In the presence of
Mrs. Ann Frohman
Residence, Tottenville, S. I.
Maurice Schneidler
11 Phelps Pl., S. I.

Herman C. Oechsli
Prince Bay, S. I.

State of New York, }
County of Richmond, } ss.:

I, James L. Vail, Clerk of the County of Richmond, do Hereby Certify, that I have compared the foregoing with the original Marriage License on file in this office, and that the same is a correct transcript therefrom and of the whole of such original.

Witness my hand and official seal this 27th day of December one thousand nine hundred and twenty-seven.

JAMES L. VAIL,
Clerk.

(SEAL)

All which we have caused by these presents to be exemplified, and the Seal of our said County Court to be hereunto affixed.

Witness, James L. Vail, County Clerk of Richmond County, the 27th day of December, in the year of our Lord, one thousand nine hundred and twenty-seven.

JAMES L. VAIL,
Clerk of the County Court and County
Clerk, Richmond County, N. Y.

(Seal)

I, J. Harry Tiernan, County Judge of the County of Richmond, and sole presiding Judge of the said County Court, do hereby certify that James L. Vail, whose name is subscribed to the preceding exemplification, is the Clerk of said County Court, and that full faith and credit are due to his official acts. I further certify, that the seal affixed to the exemplification is the seal of our

said County Court, and that the attestation thereof is in due form, and in conformity with the laws of the State of New York.

Dated, Richmond County, December 27th, 1927.

J. HARRY TIERNAN,
County Judge of Richmond County, N. Y.

(Seal)

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State of New York, }
County of Richmond. } ss.:

I, James L. Vail, Clerk to the County Court of the County of Richmond, do hereby certify that J. Harry Tiernan, whose name is subscribed to the preceding Certificate, is the sole presiding Judge of said County Court, duly elected, sworn, and qualified, and that the signature of said Judge to said certificate is genuine.

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In Testimony Whereof, I have hereto set my hand and affixed the Seal of the said Court, this 27th day of December, 1927.

JAMES L. VAIL,
Clerk of the County Court and County
(Seal) Clerk, Richmond County, N. Y.

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Replying Affidavits.

Filed Feb. 8, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition for Alimony, Etc. Pendente Lite. Replying Affidavits.

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State of New Jersey, }
County of Essex, } ss.:

Irma Pahy, being duly sworn according to law, upon her oath deposes and says:

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1. I am the petitioner in the foregoing case. I have had read to me the answering affidavits filed by and on behalf of the defendant, John Pahy in connection with my application for alimony and counsel fees pendente lite.

2. I was married to the defendant, John Pahy, on the 16th day of November, 1912, at Elizabeth, New Jersey. We took up our residence on Bond Street, Elizabeth, New Jersey and lived there for about four and one-half years. We then moved to Newark, New Jersey, and lived at various places in the City of Newark until November 25, 1922, when I went to Europe, at the solicitation of my husband as I have stated in the affidavit annexed to the petition filed by me in connection with this application. I returned to America about the 20th day of July, 1924. My husband had no home for me but he took me to a furnished

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attic room in the home of Eugene and Mary Molnar at 391 Peshine Avenue, New Jersey. These people are friends of and I believe distantly related to my husband. My husband remained with me until the 22nd day of July, 1924, on which date as stated by me in my preceding affidavits he requested me to dress our son so that he might take him to see the shop where he was employed. I did so and thereupon my husband deserted me and I never saw him again until I found him in the custody of the Newark Police on the 25th day of October, 1927.

3. Engene and Mary Molnar, who were very friendly to my husband then told me that I would have to get out. I was penniless and did not know where to go or what to do. On the 23rd day of July, 1924, I received a note from my husband, which I still have in my possession. The following is a true translation of said note:

Newark, 1924

Irma:

You have acted and shown that you hate us therefore we are going away from you. Be happy.

Jani.

He enclosed a twenty dollar bill with this note and this is all the money I had. It is untrue that he left me with Three Hundred ($300) Dollars in my possession. He left me destitute and subsequently sent me the twenty dollars I now speak of.

4. I appealed for advice and assistance under the circumstances to a lady for whom I had done some work whose name is Mrs. Rose Will and who at that time lived in the neighborhood. She told

me that she would try to secure employment for me and I gave her my proposed address, to wit, No. 452 South Park Street, Elizabethport, New Jersey, care of Mrs. Alex Papernick.

5. On or about the 18th day of August, 1924, through the good offices of Mrs. Will, I secured employment with Mrs. Lillian Eckhouse, at No. 61 Osborne Terrace, Newark, New Jersey, for whom I worked, until June 1st, 1925, at which time I left her employment and I remained without employment until about the 19th day of June, 1925, on which date I accepted my present employment with Mrs. Sadie Lasdon at 435 Riverside Drive, New York City, where I am employed as a housekeeper.

6. I have always considered New Jersey my home. All of this I have previously stated.

7. The following is a tabulation of the places at which I lived since my marriage and the periods:

Married November 16, 1912, at Elizabeth, N. J.

November 16, 1912 to about the end of May, 1917, Bond Street, Elizabeth, N. J.

June 1917 to February 1918, Kent Street, Newark, N. J.

February, 1918 to November 25, 1922, No. 265 Waverly Avenue, Newark, N. J.

November 25, 1922 to July 10, 1924, Ozora, Hungaria, Europe.

July 10, 1924 to July 14, 1924, Hamburg, Germany; awaiting embarkation.

July 14, 1924 to July 20, 1924, crossing ocean.

July 20, 1924 to about Aug. 5th, 1924, No. 391 Peshine Avenue, Newark, N. J.

About Aug. 5th, 1924 to December, 1924, No. 452 South Park Street, Elizabethport, N. J.

December, 1924 to date, No. 76 Hillcrest Road, South Orange, N. J. care Mrs. Esther Evans.

8. The following have been my places of employment and the dates thereof:

August 18, 1924 to June 1, 1925—Mrs. Lillian Eckhouse, 61 Osborne Terrace, Newark, N. J.

June 1, 1925 to June 19, 1925—Out of employment. 10

June 19, 1925 to date—Employed by Mrs. Sadie Lasdon, No. 435 Riverside Drive, N. Y. C.

9. I was particularly anxious not to lose my New Jersey residence because when my husband deserted me in July, 1924, I swore out a warrant for his arrest. I did not know where he had gone to and Detective William R. Thomas of the Newark Police Department told me to be careful and not move out of the State of New Jersey because if I did, it was questionable whether I could have my husband extradited to this state. I have always had this purpose in mind as well as my own desire to continue to reside in this state. This for the further reason of the fact that all of my friends and acquaintances resided and do still reside in Newark. 20

10. I have in my possession a certified copy of the judgment roll in the divorce proceedings instituted by my husband in Reno, Nevada, to which I beg leave to refer and which I am ready to produce at any time that I am required so to do. 30

11. It appears by said judgment roll that my husband, John Pahy, on the 5th day of February, 1925, made an affidavit for the purpose of obtaining an order of publication against me wherein among other things he says this: 40

"That the said defendant is not within the State of Nevada and cannot be served with process within the State of Nevada, for the reason that the said defendant is now outside of the State of Nevada, and resides at 61 Osborne Terrace, Newark, New Jersey, where the said defendant may be found; that the said defendant has never been in the State of Nevada and last communicated with plaintiff from there."

12. Thereupon it appears an order for publication of summons was made in said proceedings, on the 5th day of February, 1925, by James A. Callahan, District Judge, wherein it is ordered, among other things as follows:

"And it is further ordered that a copy of the summons attached to a verified copy of the complaint herein be mailed to the last known address of the defendant at No. 61 Osborne Terrace, Newark, New Jersey * * * * ."

13. It further appears by the affidavit of one Sam G. Pennamacoor, that he received a copy of the summons and complaint in the Nevada divorce action on the 10th day of February, 1925, and that he served the same upon me on the 23rd day of February, 1925, at No. 61 Osborne Terrace, Newark, N. J. This allegation is true.

14. In the findings and decree of the Nevada Court, made on the 6th day of April, 1925, the following appears:

"The plaintiff appeared in person and with his attorney, Leroy F. Pike, and the defendant did not appear, the defendant having been personally served with summons and complaint as required by statute, at No. 61 Osborne Terrace, Newark, N. J."

15. In conclusion I desire to state that I have during all of these years considered Newark, New Jersey, my home. All of wordly possessions have been located at the home of Mrs. Evans, No. 76 Hillcrest Road, South Orange, N. J. I have maintained a savings account at the United States Savings Bank, Newark, New Jersey, which account I opened shortly after my husband deserted me in July, 1924. I secured Two Hundred ($200) Dollars by surrendering a life insurance policy which I had and with this money I opened this account. I have made my deposits in this account from time to time ever since. I have a small balance there now.

16. Replying to the affidavit of Otto Ehrenkrantz, I remember being interviewed by this man about the 12th of December, 1927. He came to the door of my apartment and asked for Irma Pahy. I recognized him as a man whom I saw in the criminal court in Newark with my husband and I told him that Mrs. Pahy was not there and with that I closed the door. He returned about a week later, rang the bell and I came to the door. He asked me whether he could speak with me and I did not speak to him at all on this occasion but I closed the door in his face. I deny that I told him that I was of Hungarian Nationality; that I weigh one hundred thirty-five pounds; that I am forty-two years of age and that my lawyer is Grosman, of 1060 Broad Street, Newark, N. J. and that I was employed by Sadie Lasdon as a servant girl and that I have been in such services for four years.

17. I do not weigh one hundred thirty-five pounds but one hundred twenty-six pounds. I am

not forty-two years of age but forty-four years of age. I am not working four years for Mrs. Lasdon but about two years and seven months.

18. I did not tell Samuel Hornstein that I was a resident of the State of New York but I told him that I worked for Mrs. Lasdon at the Riverside Drive, New York City, address.

10 19. Replying to the affidavit of John Pahy, the defendant, I deny the allegations contained in paragraph ten, that he pleaded with me to start life anew and desist quarreling and furnish a home, all of which I did not desire to do and did not do.

20. I deny the allegations of paragraph eleven that on July 23, 1924, he requested me to leave New Jersey and start life anew in some other

20 state which I refused to do. My husband left me without the slightest warning of his intention to leave.

21. I deny the allegations of paragraph fourteen of the defendant's affidavit. I received a note from him on July 23, 1924, which I still have in my possession. I have quoted the contents of the note in paragraph three hereof. There was Twenty ($20) Dollars enclosed with the letter

30 but not a word about any request for me to join him. I did not know where he had gone to else I would have notified the police at the time I made a complaint of criminal desertion against him.

22. I deny that I earn Forty-five ($45) Dollars a week as charged in paragraph twenty-one of the defendant's affidavit but I earn Fifty ($50) Dollars a month.

23. I deny the allegations contained in the af-

40 fidavits of Mrs. Marie Castello and that of my son

Desiderius Pahy that I did not write to the defendant while I was in Europe. I have about thirty letters in my possession which I have with me and by referring to them it can be easily ascertained that he must have received letters from me. I received many other letters but did not keep them.

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24. At the time that my husband deserted me in July, 1924, our son was a little over ten years of age and I am quite certain that he was entirely too young to know what the situation was all about.

25. Replying to the affidavit of Eugene and Mary Molnar, I deny the allegations contained therein that I told them that I had enough money so that I could live on the interest thereof. I have no money whatever except what I am able to earn by my labor.

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26. I deny the further allegations contained in this affidavit that I refused to live with my husband as his wife.

27. It is untrue that these people have no interest in the outcome of this case. They are very friendly with my husband and have been for a great many years. They are related in some manner by law.

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28. Replying to the affidavits of Julius Froman and Annie Froman, I deny that I am domiciled in the State of New York as stated. I work in New York but my home is in New Jersey as I have stated.

29. It is untrue that these people are disinterested in the outcome of this case and are not biased in any way. They are very close friends of my husband and my husband and his second

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wife live with these people at their home at Staten Island, New York.

IRMA PAHY.

Sworn and subscribed to before me
this 2nd day of February, 1928.
Evelyn E. Woodstein,
10 A Notary Public of New Jersey.

State of New Jersey, }
County of Essex, } ss.:

Elmer L. Eckhouse, being duly sworn according to law, on his oath deposes and says:

1. I reside at No. 61 Osborne Terrace, Newark, New Jersey and have lived at this address
20 for a number of years. I know Mrs. Irma Pahy.

2. She was employed by me as a cook. She came to us at the above address about August 18, 1924 and she remained with us continuously until June 1, 1925.

3. At the time she entered my employ, she gave her address as somewhere in Elizabethport, New Jersey. I do not remember the exact address but I do remember driving down there in my machine and bringing Mrs. Pahy and her per-
30 sonal belongings from Elizabethport to my home on Osborne Terrace.

ELMER L. ECKHOUSE.

Sworn and subscribed to before me
this second day 3rd of February,
1928.
Solomon M. Eckhouse,
Notary Public of New Jersey,
My Commission expires May 5, 1929.
40 (Seal)

State of New Jersey, }
County of Essex, } ss.:

Mrs. Sadie Lasdon, being duly sworn according to law on her oath deposes and says:

1. I live at No. 435 Riverside Drive, New York City. I employ Mrs. Irma Pahy as a housekeeper. She has been in my employ since the latter part of June, 1925. I pay her Fifty Dollars ($50) per month. When she came to me she gave me her address as 76 Hillcrest Road, South Orange, New Jersey, care of Mrs. Esther Evans, and she has never told me of any change in this address. She takes off all day Wednesday and Sunday afternoon of each week. On these occasions she would inform me that she was going to South Orange, New Jersey, and I always understood this to be her place of residence.

2. She has told me about her marital difficulties and I of course sympathized with her. Particularly over the loss of her child.

3. Sometime during the early part of August 1927, Mrs. Pahy told me that her husband had been arrested in Newark, N. J., on a charge of desertion which she had made against him and that she understood her child to be with some woman in Tottenville, Staten Island. She was very anxious to see the child but she was afraid to go there alone so I agreed to go with her. On the 3rd day of August, 1927, I went to Surf Avenue, Tottenville, Staten Island, with Mrs. Irma Pahy. I understood that Mr. Pahy had remarried and was living with his wife and his son somewhere on Surf Avenue. I was afraid to go there alone because the place did not look very inviting. It was also about nine o'clock at night when we reached there so I went to the Police station and asked

that a police officer be sent to accompany us. A police officer named "White" was detailed to accompany us. Officer White and myself located Mr. Pahy's place of residence on Surf Avenue, Tottenville, Staten Island. He was living there with a family named "Froman" and with his alleged second wife. The house we called at was a bungalow and there was a screen door in front which was locked. As we stepped up and were about to knock a woman came to the door. I said, "We came to see Danny Pahy. His mother is here and wants to see him." This woman said, "I am Mrs. Pahy and Danny Pahy is not here. He went to California yesterday."

4. I then told her that I had been informed by neighbors that the child was there and we insisted upon coming into the house. She opened the door and we went in and this woman kept insisting that the child was not there and she demanded to know by what right Mrs. Irma Pahy had caused her husband's arrest. I told her that I was not there for the purpose of discussing that matter. That all we wanted was an opportunity for Mrs. Irma Pahy to see her child.

5. We waited about half an hour and finally I said to the alleged second Mrs. Pahy, "How long do you propose to keep us waiting. I am surprised that any woman should attempt to keep a mother from seeing her own child." She then said, "I don't know where the child is. I think he's out playing." I told her, "You don't mean to tell me that at nine o'clock at night you would let the child go out in a dark country place to play." Finally she went into the back of the house and a few moments later returned and said, "You may see the child. Go into the kitchen."

6. We went into the kitchen and there found Mrs. Irma Pahy's child. He had been there during all of the time that we were present in the house. The child commenced crying and was very, very nervous due to all the excitement. Mrs. Irma Pahy attempted to speak to him but some man who was present kept motioning to the child not to say anything. We remained there for a time and then went away.

7. During our interview Mrs. Jennie Pahy said that she didn't want the child nor the father and that she was going to divorce John Pahy. Mrs. Irma Pahy said that "Before you can divorce my husband you have to marry him. However I did not come here to talk to you about that. All I wanted was to see my child."

8. I have read the affidavit of Jennie Pahy. It is untrue that Danny Pahy refused to speak to his mother. He did speak to her but of course the child was very nervous and frightened. He did not have very much to say because some man who was there kept motioning to the child in a very fierce manner to keep his mouth shut and say nothing.

9. It is untrue that Irma Pahy said to Mrs. Jennie Pahy that she did not want her boy. That it is up to the father to have the trouble of bringing up the boy.

10. It is untrue that Mrs. Irma Pahy said to Jennie Pahy or to anyone else, "I will make trouble for you, all that I can. You better get a lawyer."

11. Mrs. Irma Pahy was very much excited over the meeting between herself and her child and she did practically nothing more than kiss the

child several times and the only remark that I heard her make to Mrs. Jennie Pahy was that before she could divorce her husband she would have to marry him properly.

12. I did hear Mrs. Irma Pahy say to her child, "Love your father sonny but don't forget your mother because the time may come when you will need your mother. Any time you need me you may come to me."

13. Mrs. Irma Pahy has been in my employ since the latter part of June 1925. I have found her to be honest, faithful and industrious. I have never observed the slightest evidence of vile temper on her part nor the least sign of viciousness about her.

SADIE LASDON.

Sworn and subscribed to before me
this 7th day of December, 1927.
George A. Early,
Master in Chancery of New Jersey.

State of New Jersey, }
County of Essex, } ss.:

Mrs. Esther Evans being duly sworn according to law, upon her oath deposes and says:

1. I have had read to me the affidavit of Otto Ehrenkrantz, made in this cause wherein he states that on December 12, 1927, he spoke to me, at 76 Hillcrest Road, South Orange; that I told him that Mrs. Irma Pahy does not reside with me at that address but merely pays me a visit ever so often. That is not true.

2. I do not recognize the name of this man but

sometime about the middle of December, a man called upon me and said that he was looking for Irma Pahy. I admitted him into the house and I asked him what he wanted. He did not answer me at once but commenced looking about the house and wanted to know how much I had paid for the house; how old it was and how much mortgage there was on it. I then said to him, "What business of yours is all this?" I had a Prudential Insurance Company book lying on the table and instead of answering my question he made some remark about "Oh, you belong to the Prudential, that is what I wanted to see Mrs. Pahy about. I want to see her about some dividends on her policy." I then told him that he looked very funny to me; that Mrs. Pahy did not hold any policy in the Prudential Insurance Company; that her insurance book had been with me for a number of years and that she belonged to the Metropolitan Insurance Company. I then said to him, "What do you want anyway. You act very suspicious, and I am afraid of you and I want you to get out." He then said, "You don't have to be afraid of me. Look outside and you will see my automobile. I am a married man and I don't carry any gun with me." I said, "I don't care anything about that and I want you to get out" and with that he left.

3. About a week later a man called me on the telephone. He told me that he was the same man who had been up to see me about the insurance. He told me that he had been up to my house looking for me that day but I was not home. This is not true because I was home all day, and I said to him, "What do you want anyway." He then answered "Don't get excited. I just want to talk

to you about Mrs. Pahy's insurance dividends." I said, "Now don't talk to me about anything. If you want to talk to anyone, call up Mr. Robert Grosman, Mrs. Pahy's attorney and he will give you whatever information you want about Mrs. Pahy's insurance dividends." I gave him Mr. Grosman's name and address and I hung up the receiver.

4. I did not tell him that Mrs. Pahy does not reside with me but merely pays me a visit ever so often.

5. Mrs. Pahy has her home with me and has been with me since December, 1924, as I have stated in a previous affidavit. She works in New York but all her belongings have been in my home since December, 1924, and Mrs. Pahy spends at least one night and sometimes two nights a week with me. She pays rent for the room and she comes and goes at her will.

6. She receives mail at my home. When she first came with me she left her insurance policies and requested me to see that the payments were paid and I did this for a long period of time. I also make her deposits for her in her savings account at the United States Savings Bank, on Broad Street, Newark, New Jersey.

ESTHER EVANS.

Sworn and subscribed to before me
this 2nd day of February, 1928.
Evelyn E. Woodstein,
A Notary Public
of New Jersey.

Replying Affidavits.

State of New Jersey, }
County of Essex, } ss.:

Mrs. Esther Evans, being duly sworn according to law on her oath deposes and says:

1. I live with my family at #76 Hillcrest Road, South Orange, New Jersey, and have lived at this address for four years. I know Mrs. Irma Pahy. I have known Mr. and Mrs. Pahy for about fifteen years. 10

2. About a year before Mrs. Pahy went to Europe Mr. Pahy came to our house. He told me in the presence of my husband that he was going to send his wife to Europe. That he wanted her to become acquainted with conditions over there and that if she found that things were better in Europe than they were here he would join her. He never complained to me about his wife although we have been very good friends for a great many years. 20

3. Sometime in December 1924 Mrs. Pahy came to my home in South Orange, N. J., and asked me whether I could take her in. She told me that she worked in different places but that she never knew how long a job would last and that she had to have a home. She said that she did not require very much room, just some place to sleep when she was out of employment and to store her trunks and other property. I was very glad to take Mrs. Pahy into my home and I accordingly made arrangements with her whereby I rented her one room on the first floor of my home and she has been in possession of this room ever since and at the present time. Most of her clothing has been in this room. Her trunks and other personal belongings including her bedding have been in this room since December 1924 when I made the ar- 30 40

rangements with her. She also has dishes, pictures, a sewing machine and other items of household use in this room. The arrangement I have with her is that when she is occupying the room all of the time she pays me Five Dollars per week. When she is employed and merely uses the room occasionally on her days off she pays me Five Dollars per month.

4. Not a week has gone by since December 1924 that she hasn't been in her room in my home at least once a week, more often at least twice a week. She sews her own clothes and these she makes on the occasions when she is at my home. She used to receive all her mail at my home. I would keep the letters for her and deliver them when she was there.

MRS. ESTHER EVANS.

Sworn and Subscribed before me
this 6th day of December, 1927.
Thea Kreps,
A Notary Public of
New Jersey.

State of New Jersey, }
County of Essex, } ss.:

Mrs. Rose Will, being duly sworn according to law on her oath deposes and says:

1. I live at #19 Fern Avenue, Irvington, N. J., with my husband and children.

2. I know Mr. and Mrs. Pahy, the parties to this suit. In July 1924, I lived at #334 Eighteenth Avenue, Newark, N. J. Mr. and Mrs. Pahy lived on Waverly Avenue, Newark, N. J. I believe the

number was 265 but I am not sure. At any rate it was very near to my home. Mrs. Irma Pahy used to sew clothes for my little girl. I have been in her home while she and her husband lived together any number of times. I would go there for the purpose of having her sew clothes for my little girl and also for myself. Her home was always neat and clean. I would often observe her little son playing about the house. He was neat and clean in his appearance and he acted like any other child would. He seemed to be as fond of his mother as any other child of his years would be.

3. Shortly before Mrs. Pahy went to Europe in November 1922, she told me that she was going to Europe with her little boy so that she could have him educated in Hungary. I said to her that the child could be educated here just as well but she said that her husband wanted her to take the child to Europe and have him educated there and that he would join her in a little while. She asked me if I wanted to buy some of her furniture and I told her that I would come up to the house and look around and see if there was anything that I could use. I went to the Pahy home and Mr. and Mrs. Pahy were both there. We spoke about her coming trip to Europe and Mr. Pahy did not say a single word which might indicate that Mrs. Pahy was going to Europe against his will. He seemed to be very happy over her proposed trip. I looked around the house and there was nothing that I could use except some Hungarian Victrola records. These I bought from Mr. Pahy. I asked him how much he wanted for them and as nearly as I remember he said a quarter a piece and I believe I paid him about a dollar. I still have these records in my possession.

4. During my numerous visits to the Pahy home I never observed any act of cruelty on the part of Mrs. Pahy towards their child. She treated the child just as well as I treated my own children and I have never been accused of being cruel to my children.

10 5. After Mrs. Pahy went to Europe in 1924 I lost track of her and I heard no more from her until sometime late in the summer of 1924 when I learned that Mrs. Pahy had returned to Newark. I sent for her and she came to my home and she cried bitterly and told me that her husband had run away from her and had taken their child with him and that all the money she had in the world was Twenty Dollars ($20) and she showed me a sheet of letter paper which she said she had re-
20 ceived from her husband together with Twenty Dollars. It was written in Hungarian which is also my native language and which I understand. I read it and it stated, as I remember, "I have learned that you hate me and hate the child and I have gone away so as not to be in your way."

6. Mrs. Pahy then told me that the Twenty Dollars which her husband had sent her was all the money that she had in the world; that Mrs.
30 Molnar with whom she had been living for three days since her return to America was going to put her out and that she did not know where to go or what to do. She finally told me that she was going to a friend of hers at Elizabethport, N. J. I told her that I would try to find employment for her and subsequently in August 1924 I secured employment for her as a maid with a family named "Eckhouse" on Osborne Terrace, Newark, N. J., and she worked there for about a year. I know

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this to be so because very frequently I would visit the Eckhouse family with whom I am very well acquainted and I saw Mrs. Pahy there. Very often she would call to see me at my home.

7. After Mrs. Pahy left the Eckhouse family about the middle of 1925 she told me that she had moved all her belongings to the home of Mrs. Esther Evans in South Orange. I have seen Mrs. Pahy quite frequently since her return to this country from Europe. She has always shown herself to be very grateful towards me for what I did for her after her husband deserted her. I knew that after she left the Eckhouse family she secured employment in New York but I always understood from what Mrs. Pahy told me that her home was with Mrs. Evans in South Orange, N. J.

Her
ROSE X WILL.
Mark

Sworn and Subscribed to before me
this 5th day of December, 1927.
Thea Kreps,
A Notary Public of
New Jersey.

Witness:
Evelyn E. Woodstein.

State of New Jersey, }
County of Essex, } ss.:

Emil Kemeny, being duly sworn according to law, upon his oath deposes and says:

1. I am one of the official court interpreters of the County of Essex and I am connected with the Essex County Court of Common Pleas. I speak,

read, write and understand the Hungarian language.

2. I have been requested to translate a batch of letters written in Hungarian allegedly by John Pahy to his wife, Irma Pahy. There are twenty-six letters in this lot written between December 9th, 1923 and April 2nd, 1924, and they are all couched in the most affectionate and friendly terms. I have not translated all of them for reason of the fact that they are practically all along the same lines as the four which I have translated and true copies thereof are hereto annexed and made a part hereof. These letters translated by me are representative of the entire batch.

EMIL M. KEMENY.

Sworn and Subscribed to before me
this 1st day of February, 1928.
Evelyn E. Woodstein,
A Notary Public of
New Jersey.

"A"

June 6th, 1923

Dearest Irma and Sonny:

What shall I start to write about, the climate? well, the heat is so tremendous that we are compelled to stay in-doors. Like lightning from heaven, the heat came upon us and for the past week we can not walk the street without the danger, that the heel of the shoe will not remain stuck in the asphalt paving. Enough about this.

Up till now, I still don't know what your plans

are. Are you coming out or not? And if yes, when?

As to my watch, chain and ring, I promised that to my brother. I hope you will give these to him, I have no use for them.

Sonny's examinations are due now, and I enclose two dollars. I want you to buy him something for it. I hope I will be satisfied how he fared. How are you, write extensively.

Kisses

JANI.

"B"

January 2nd, 1924.

Dearest Irma:

You are complaining, you failed to receive the fashion journal, it is possible it was lost in the mail, I failed to register it, I will send you one by registered mail.

If you write paste your letters well, the last one look very suspicious.

Speak to Dezso and let me know if you are buying a house or not, I would like to turn my money over and I do not know, how much you will need. I am able to send you a thousand dollars immediately. Ask my brother Dezso, why he failed to write me for the last year, is he angry with me? Did my boy have a Xmas tree, and what presents did he receive? If you need money, say so and mention the amount.

Regards to Terez, I will write her.

Replying Affidavits.

"C"

Newark, Febr. 24, 1924.

Dearest Irma!

I nearly forgot to ask you, why you did not want to return in June, you see, we have wasted a whole year for our boy. I am sorry for that, because I do not want to raise a loafer or a factory worker.

Answer this and honestly.

Kisses

JANI.

"D"

Newark, April 2, 1924

Dearest Irma and Dezso!

In my last letter I have written to you, that I will forward the second ten dollars a week later, you shall buy the child clothes, I hope you will do so. If I do not receive a letter from you this week, I will order steamship tickets for you on or about the 10th of this month. God speed to you. I want to write to Dezso and others that is the reason I am so short in my letter.

Kisses

JANI

State of New Jersey, }
County of Essex, } ss.:

William R. Thomas, being duly sworn according to law, upon his oath deposes and says:

1. I am a police officer connected with the Police Department of the City of Newark, New Jersey.

2. I know Irma Pahy and also John Pahy.

3. I was given a warrant for the arrest of John Pahy on a charge of criminal desertion about the 2nd day of August, 1924. I saw his wife, Irma Pahy, on numerous occasions after that date. She did not know where the defendant had gone to. She was living in the City of Newark at the time. I remember very distinctly cautioning her not to move from the State of New Jersey, for reason of the fact that her residence in this State was necessary to the extradition of the defendant if he was located outside of the jurisdiction of this State. 10

4. This woman continued her visits to Police Headquarters for a long time after I was given a warrant for her husband's arrest and to the best of my knowledge and belief she has followed my advise and has continued to be domiciled in the State of New Jersey. 20

5. On the 26th day of November, 1927, I made an affidavit in this cause and I beg leave to refer thereto for a more detailed explanation of my connection with this case.

WILLIAM R. THOMAS.

Sworn and Subscribed to before me
this 3rd day of February, 1928.
Edward I. Croll,
Master in Chancery
of New Jersey. 30

State of New York, }
County of New York, } ss.:

Eric Johnson being duly sworn according to law, on his oath deposes and says:

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Replying Affidavits.

1. I have read the affidavit made by one Otto Ehrenkranz dated December 27, 1927.

2. I cannot corroborate any of the statements contained in this affidavit excepting that Mrs. Irma Pahy has been employed by Mrs. Sadie Lasdon as a domestic on premises 435 Riverside Drive, New York City.

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3. I have been the superintendent of premises No. 435 Riverside Drive, New York City for about two years.

4. I remember some man coming to me sometime in December and he asked me whether I knew Mrs. Irma Pahy and how long she had been employed by Mrs. Lasdon. I told him that I knew her but I did not know how long she has been with Mrs. Lasdon, because I was superintendent of the apartment only about two years and with that the man went away.

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ERIC JOHNSON.

Sworn and Subscribed to before me
this 6th day of February, 1928.
Irving Gordon,
Notary Public.
N. Y. Co. Clerk's No. 189, Reg. No. 9114.
Bronx Co. Clerk's No. 38, Reg. No.——
Commission Expires March 30, 1929.

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State of New Jersey, }
County of Essex, } ss.:

Anton Gaidas being duly sworn according to law upon his oath, says:

1. I live at No. 62 Ridgewood Avenue, Newark, New Jersey.

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2. I know John Pahy, the defendant in this suit, and have known him for about five years. I know Mrs. Pahy, the complainant herein. I met her for the first time this morning.

3. In July, 1924, I was employed at the Worthington Pump Works, Harrison, New Jersey in the tool department. John Pahy was similarly employed. He was a tool maker. I worked with him for about a year. Sometime prior to July 1924 he told me that his wife was coming from Europe and that he did not want to live with her any more; that while his wife was away, he had been living with another woman and that he was going to Reno to get a divorce. Just before he left, he gave me a couple of his tools and told me that he would have no more need for them. I still have these tools at home.

4. He not only told me this, but he told a number of other people in the shop and it was common gossip around the place that John Pahy was going to Reno to get a divorce.

ANTON GAIDOS.

Sworn and subscribed before me
this 7th day of February, 1928.
Dorothy Perkins,
A Notary Public
of New Jersey.

Order for Substitution.

Filed Jan. 17, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	Order for Substitution.

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It appearing to the Court that Silberman & Grosman, the solicitors of record for the Petitioner in the above-stated cause has filed a consent that Grosman & Grosman be substituted in their place and stead, and no cause appearing to the contrary:

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It is thereupon, on this 17th day of January, in the year of our Lord one thousand nine hundred and twenty eight, Ordered that Grosman & Grosman be substituted as solicitors for the Petitioner, in the place and stead of the said Silberman & Grosman.

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E. R. WALKER,
C.

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Substitution of Solicitors of Petitioner.

Filed Jan. 17, 1928.

IN CHANCERY OF NEW JERSEY.
D. 66-268.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	Substitution of Solicitors of Petitioner.

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The undersigned hereby consent to the substitution of Grosman & Grosman, as solicitors of petitioner in the above entitled cause.

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SILBERMAN & GROSMAN,
Solicitors of Petitioner.

We accept the above substitution.

GROSMAN & GROSMAN,
Solicitors.

Dated: January 16th, 1928.

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Order of Substitution.

Filed Nov. 18, 1929.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Complainant, and JOHN PAHY, Defendant.	On Bill. Order of Substitution.

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The consent of Harry Kay, Solicitor for the defendant, appearing hereon, it is on this 13th day of November, 1929,

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ORDERED, that Milton M. Unger be and he hereby is substituted as Solicitor for the defendant in the place and stead of Harry Kay.

E. R. WALKER,
C.

Respectfully Advised,
ALONZO CHURCH,
V. C.

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I agree to the substitution of Milton M. Unger as Solicitor for the defendant in my place and stead.

HARRY KAY.

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Order Denying Alimony Pendente Lite.

Filed Feb. 21, 1928.

IN CHANCERY OF NEW JERSEY.

Between IRMA PAHY, Complainant, and JOHN PAHY, Defendant.	On Petition, etc. Order Denying Alimony Pendente Lite.

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This matter being opened to the Court by Robert D. Grosman of the firm of Grosman & Grosman, solicitors of petitioner, in the presence of Harry Kay, Esq., solicitor of defendant and the Court having read and considered the petition, affidavits, answering affidavits and replying affidavits and having duly considered the argument of counsel for the respective parties:

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It is thereupon, on the 21st day of February, 1928, ORDERED, that the petitioner's application for counsel fees pendente lite be and the same is hereby denied and said application is continued to final hearing; and

It is further ORDERED, that the petitioner's application for leave to visit and have in her custody, from time to time, Desederius Pahy, the infant child of the marriage between the parties hereto, be and the same is hereby continued to final hearing.

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E. R. WALKER,
C.

Respectfully Advised,
JOHN H. BACKES,
V. C.

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Order of Reference.

Filed June 13, 1928.

IN CHANCERY OF NEW JERSEY.

D. 66-268.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, etc. Order of Reference.

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This matter being opened to the Court by Robert D. Grosman, of the firm of Grosman & Grosman, solicitors for and of counsel with the petitioner, and Harry Kay, Esq., solicitor for and of counsel with the defendant, having consented hereto:

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It is thereupon, on this 9th day of June, 1928, ORDERED, that the above stated cause be referred to Honorable Alonzo Church, one of the Vice-Chancellors of this Court, to hear the same for the Chancellor and to report thereon to him and advise what order or decree should be made therein.

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E. R. WALKER,
C.

We consent to the making of the above order.

GROSMAN & GROSMAN,
Solicitors for and of Counsel
with Petitioner.

HARRY KAY,
Solicitor for and of Counsel
with Defendant.

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Designation.

Filed Sept. 24, 1929.

IN CHANCERY OF NEW JERSEY.

66-268.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, etc. Designation.

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This matter being opened to the Court by Robert D. Grosman, Esq., of the firm of Grosman & Grosman, solicitors of the petitioner:

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It is, on this 17th day of September, 1929, ORDERED, that the 13th day of November, 1929, at the hour of ten o'clock in the forenoon at the Chancery Chambers in the City of Newark, be designated as the time and place for the hearing of the above entitled cause.

ALONZO CHURCH,
V. C.

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Final Decree.

Filed Nov. 19, 1929.

IN CHANCERY OF NEW JERSEY.

66-268.

Between IRMA PAHY, Petitioner, and JOHN PAHY, Defendant.	On Petition, etc. Final Decree.

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This cause coming on to be heard in the presence of Robert D. Grosman, Solicitor for and of counsel with petitioner, and Milton M. Unger, Solicitor for and of counsel with the defendant, whereupon, and upon reading the petition for divorce, amended petition for divorce, answer, replication, and hearing the proofs and oral depositions taken in Court, and the arguments of counsel, and the Court being of the opinion and having found that the defendant did on the 6th day of April, 1925, obtain a decree of divorce from the Second Judicial District Court of the County of Washoe in the State of Nevada, divorcing him from the petitioner herein, and that the said Court had jurisdiction over the parties and the subject matter, and that said decree was not procured by the defendant through fraud, and that the defendant did not go into the State of Nevada in order to obtain a decree of divorce against the petitioner herein, and it further appearing to the Court that after the said defendant secured said

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decree he was lawfully married to Jennie Romanak and that by reason of said marriage he did not live in or commit adultery with the said Jennie Romanak, and no cause or reason appearing to the contrary,

It is, on this 19th day of November, 1929, on motion of Milton M. Unger, Solicitor for the defendant, ORDERED, ADJUDGED AND DECREED, that the petitioner's petition for divorce be and the same is hereby dismissed,

And IT IS FURTHER ORDERED, ADJUDGED and DECREED, that the care and custody of Daniel Pahy, the child of the parties hereto be and he is hereby committed to the defendant, John Pahy,

And it further appearing to the Court that by an order heretofore made in this cause on or about the 28th day of November, 1927, a writ of ne exeat issued, and that the said defendant was taken into custody by virtue of the writ issued thereunder on or about November 28, 1927, and was released on or about that day upon payment by one Anna Frohman to the Sheriff of the County of Hudson of the sum of $2,000 in cash, and that said moneys are now deposited with the Clerk of this Court,

And it is further ORDERED that the writ of ne exeat issued in this cause be and the same is hereby discharged and set aside and the Clerk of this Court be and he is hereby authorized and directed to pay to the said Anna Frohman the aforesaid sum of $2,000 so as aforesaid deposited by

her with him, plus any and all accumulations of interest thereon.

E. R. WALKER,
C.

Respectfully Advised,
ALONZO CHURCH,
V. C.

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Notice of Appeal.

Filed March 20, 1930.

IN CHANCERY OF NEW JERSEY.

66-268.

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Between IRMA PAHY, Petitioner-Appellant, and JOHN PAHY, Defendant-Respondent.	On Petition for Divrce. Notice of Appeal.

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The petitioner-appellant hereby appeals from the decree made in this Court, in the above entitled cause, on the 19th day of November, 1929, whereby it is ordered, adjudged and decreed by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, on the advice of his Honor Alonzo Church, Vice Chancellor, that the petitioner's petition for divorce be dismissed, and

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from every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

GROSMAN & GROSMAN,
Solicitors of Petitioner-Appellant.

ROBERT D. GROSMAN,
Of Counsel with Petitioner-Appellant. 10

I conceive there is good cause for appeal in the above stated cause.

ROBERT D. GROSMAN,
Of Counsel with Petitioner-Appellant.

Dated: March 11, 1930.

Service of a true copy of the foregoing notice of appeal is hereby acknowledged this 12th day of March, 1930. 20

MILTON M. UNGER,
Solicitor for and of Counsel
with Defendant-Respondent.

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Petition of Appeal.

Filed March 24, 1930.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between IRMA PAHY, Petitioner-Appellant, and JOHN PAHY, Defendant-Respondent.	On Petition for Divorce. On Appeal from Chancery. Petition of Appeal.

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To the Honorable Court of Errors and Appeals, in the Last Resort in All Causes:

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The petition of Irma Pahy, the petitioner-appellant, shows that:

1. Your petitioner finds herself agrieved by a decree final made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, on the 19th day of November, 1929, on the advice of Honorable Alonzo Church, Vice Chancellor, in that said decree recites and adjudges, that the defendant-respondent did not, on the 6th day of April, 1925, procure by fraud from the Second Judicial District Court of the County of Washoe, in the State of Nevada, a certain decree final divorcing appellant and respondent from the bonds of matrimony; that said Second Judicial District Court of the County of Washoe, in the State of Nevada, had jurisdiction of the parties hereto and the subject matter; that the defendant-respondent did not go in-

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to the State of Nevada in order to obtain said decree of divorce against the appellant; that after the said respondent secured said decree final divorcing him from your appellant from said Second Judicial District Court of the County of Washoe, in the State of Nevada, he was lawfully married to Jennie Romanak and that by reason thereof, did not live in and commit adultery with the said Jennie Romanak, and that no cause or reason appeared why said decree final should not be made by our said Chancellor; and therefore decreed that petitioner-appellant's said petition for divorce be dismissed.

2. Your petitioner appeals from said decree final and from every part thereof on the ground that the same is erroneous, and that the Chancellor should have found and adjudged that the several allegations of petitioner's petition as amended had been proved, and that the respondent, John Pahy, had deserted petitioner-appellant as in said petition for divorce alleged; that he had gone into the State of Nevada for the purpose of obtaining a decree of divorce severing the bonds of matrimony then existing between petitioner-appellant and said respondent; that said Second Judicial District Court of the County of Washoe, in the State of Nevada, had no jurisdiction of the parties hereto and the subject matter; that the Nevada decree was procured by fraud; that the marriage contracted by the defendant-respondent with the said Jennie Romanak was null and void and that the defendant-respondent lived in and committed adultery with the said Jennie Romanak; and that the Chancellor should have ordered and adjudged that petitioner-appellant had sus-

tained the allegations of her petition for divorce and that she be divorced from the bonds of matrimony with the respondent for the cause aforesaid, and that petitioner-appellant should have the other relief prayed for in and by her said amended petition.

10 Your petitioner therefore prays that said decree may be reversed, rescinded and for nothing holden, and that she may have such further relief as shall be just.

Dated: March 11, 1930.

GROSMAN & GROSMAN,
Solicitors of Petitioner-Appellant.
ROBERT D. GROSMAN,
Of Counsel with Petitioner-Appellant.

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Answer to Petition of Appeal.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between IRMA PAHY, Petitioner-Appellant, and JOHN PAHY, Defendant-Respondent.	On Petition for Divorce. On Appeal from Chancery. Answer to Petition of Appeal.

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The answer of John Pahy, the above-named defendant-respondent, to the petition of appeal of Irma Pahy, the above named petitioner-appellant.

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This respondent, not acknowledging all or any of the matters which in the said amended petition of appeal are contained to be true, for answer thereto, nevertheless, says and admits that a decree was, on the 19th day of November, 1929, made and entered in the Court of Chancery of New Jersey, in the cause for that purpose mentioned in the said Petition, as is therein stated; but as to the substance and form thereof this respondent prays to refer thereto when the same shall be produced. And this respondent is advised and believes that the said decree is agreeable to equity, and he prays that the same may be affirmed with costs to be adjudged to this respondent.

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MILTON M. UNGER,
Solicitor for and of Counsel
with Defendant-Respondent.

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Testimony.

IN CHANCERY OF NEW JERSEY.

November 13, 1929.

Between

10 IRMA PAHY,
Petitioner,

and

JOHN PAHY,
Defendant.

Transcript of shorthand notes of testimony taken in the above entitled cause before his Honor, ALONZO CHURCH, Vice Chancellor, at the Chancery Chambers, Newark, N. J., in the presence of ROBERT S. GROSMAN for petitioner; MILTON M. UNGER, for defendant.

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WILLIAM R. THOMAS, sworn for petitioner.

Direct-examination by Mr. Grosman:

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Q. Officer, you are connected with the Police Department of the City of Newark? A. Yes, sir.

Q. And have been for some time? A. Nineteen years.

Q. You know John Pahy, the defendant in this case? A. Yes, sir.

Q. Have you had anything to do with the criminal proceedings instituted against him? A. I have.

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Q. What? A. I arrested him. I received a warrant in August, around August, 1924.

Q. What was the nature of the warrant? A. For desertion. I saw Mr. Pahy's wife several times and tried to locate where he had gone. She couldn't give me very much information. Later on I found out through some friends of Mr. Pahy's that he had gone west, was supposed to have gone to California, and still later on I learned that he was definitely in the state of Nevada. I communicator with the Prosecutor of the Pleas of the county, gave him my information, where this man was and the Prosecutor at that time said nothing to be done to return him to this state, so I let the matter rest for a while and a year or a year and a half later I received the information that he was in this state again. The information was that he was working over in Harrison in the Worthington Pump Works. I went over to Harrison, New Jersey. At that time I did not know Mr. Pahy myself personally. I took a man over there who did know him, a man by the name of Zimmerman, for the purposes of identification. I went to this Worthington Pump Works plant and arrested Pahy at the plant. I was bringing him over to Newark in a trolley car; I had a conversation with him about his difficulties and he started in to tell me his story, how he could not get along with his wife and how he finally decided that he was going to go out west and get a divorce. I let him talk on and he said, on the way over, he wanted to see his lawyer, so I stopped off in a buliding there. I think his lawyer at that time was Mr. Biro. He wanted to see him anyhow. I don't know whether he was in or not, but I brought him to Police Head-

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quarters anyhow and slated him, and he had been indicted. I turned him over to the Prosecutor's office the next day.

Q. Now, will you tell the Court, please, precisely as near as you can remember it, what Pahy said when you were bringing him from Harrison on the trolley car concerning his decision to go west and get a divorce? A. As nearly as I can remember he said his wife—he couldn't get along with her, he said and he decided he was going to go out west, so he said—on the way over—he told me, he says, since he left his wife he got married again. I said, "You got married again? How could you get married?" I said, "You had no divorce from this woman yet. Here is a complaint for desertion." He said, "I got a divorce in Reno and my lawyer told me that was good and I could get married again." I said, "Are you living with your other wife now?" He said, "Yes." I said, "Where?" He said, "Over in Staten Island, Tottenville." I said, "I don't think the divorce you got in Nevada is any good in this state; you are still legally married here," I said, "I suppose if you are indicted for desertion." He said, "My lawyer has advised me I had a right to and I went out there and I got the divorce."

Cross-examination by Mr. Unger:

Q. You volunteered the opinion that his Nevada divorce was no good? A. Did I volunteer? Yes, sir, I did.

Q. Are you a lawyer? A. No, but I have had several cases—

Q. You are familiar, I suppose, with the cases

in New Jersey that hold a Nevada divorce is no good? A. Yes; I have read quite a few decisions.

Q. They have been held to be good? A. Some have and some have not.

Q. And you didn't have any information as to how he had gotten his divorce in Nevada? A. I didn't know on what grounds he got it or anything like that. 10

Q. Yet you decided to advise him he should not be living with anybody else. A. My reason for advising him was that I knew he was indicted in this state for desertion.

Q. He hadn't been convicted yet, had he? A. At that time he was not apprehended, he was not indicted and I figured if he was divorced he would never be indicted in this state.

Q. Based on what you figured then has it appeared unusual to you that he has never been brought to trial? A. I think his trial was set a few times to be tried. I don't know whether he ever was or not. 20

Q. You have never testified in any trial? A. Not in a criminal proceeding.

Q. So far as you know the Prosecutor has never moved it. A. I couldn't say.

Q. Did he tell you that he had asked his wife to go to live with him? A. No, he did not. 30

Q. Any mention of that? A. No, he did not.

Q. Did he tell you that he had gone to California first? A. He said he was thinking about—he said he went out west, he was staying in different places. "Oh," I said, "where were you?" He said, "I was in California and I was in New Mexico and finally went up in Nevada."

Q. So you understood he had first been to Cali- 40

fornia? A. What he first told me was that he went out west to get a divorce.

Q. Did you understand from him that he had first gone to California? A. I don't know whether he said he was in California first or New Mexico or Nevada.

10 Q. You said a moment ago he told you he finally went up in Nevada. A. My information was from a friend of his that he went to California. That was my first information.

Q. Did he tell you he had been to California? A. He told me he was in California, but he didn't say he was there first.

Q. Did he tell you he was in New Mexico? A. He said he had been in New Mexico and California.

Q. Did he tell you he had worked in a mining 20 company in Nevada? A. No; he didn't tell me anything about working in a mining company.

Redirect-examination by Mr. Grosman:

Q. So far as you know, that indictment is still open? A. It still is.

Mr. Grosman: That is all. Mrs. Pahy.

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IRMA PAHY, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mrs. Pahy, you are the petitioner in this case and bring this suit? A. (Witness nods yes.)

Q. When were you married to John Pahy? A. I was married in 1922.

Q. The month and year and date. A. November

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the twenty-sixth down in New Jersey, Elizabeth, I was married.

Q. What year? 1928.

Q. "How old" I am speaking about, when were you married? A. 1922.

Q. Sure about that? Look at this (showing witness paper). A. I went home in 1922, I mean. 10

Q. Talk to us and tell us your story. What is that paper I show you? A. My marriage certificate.

Q. Did you receive that at the time you were married? A. Yes.

Q. Look at it and see if that refreshes your mind. When were you married? A. In 1912.

Q. What date? A. November the sixteenth; on that it is November thirteenth. November sixteenth we were married. 20

Mr. Grosman: I offer the marriage certificate.

(Marriage certificate marked Ex. P-1.)

Q. After you were married where did you go to live? A. I was living in Elizabeth, Elizabethport.

Q. With your husband John Pahy? A. Yes.

Q. How long did you live there? A. I was living there about four—four and a half years and we 30 come down to Newark and we lived in Newark and from Newark I went home to Europe.

Mr. Unger: Can you talk louder, please, so I can hear?

Witness: Here we was living Elizabeth, four and a half years, I guess, and after that we was moved into Newark, New Jersey, and there we lived until 1922, I guess

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November it was when I went home to Europe with the child.

Q. Were there any children born of the marriage? A. That one boy who was living.

Q. You will have to speak slow and louder, because we cannot hear you, Mrs. Pahy. How many children were born of the marriage? A. One. One boy.

Q. What is his name? A. Daniel Pahy.

Q. When was he born? A. He was born in 1913, October the twenty-second.

Q. Who has the child? Who is the child with now? A. With his father.

Q. John Pahy? A. Yes, John Pahy, his father.

Q. Now, you said something about going to Europe in 1924? A. 1922.

Q. 1922. A. 1924 going back.

Q. Who went to Europe? A. I and this boy.

Q. Will you tell the Court under what circumstances you went to Europe? A. We went to Europe because he desired to get out of work from the factory, he thought maybe he could get along better in Europe to work somewhere else and I didn't want to go. I say, "Now, listen, if you come I will go with you. If you don't want to come I won't go," and he said, "Well, it is up to you; if you be satisfied one day they should bring me back from the factory on a stretcher, then you will be all right." I said, "Listen, I don't want them to bring you on a stretcher. You wanted I should go. I pick up myself and go with the child." And then it was settled. He said, "All right," he have to stay a couple of more years because he had some insurance policies and he said if I am there he is able to save more money to pay the insurance

policies before due time and after he going to come home.

Q. Now, did you go to Europe with your son? A. Yes, I went.

Q. And when did you go? A. I went in 1924—1922, November.

Q. How long were you in Europe? A. I came back in—1922 I went and 1924, July, twentieth I landed again. 10

Q. Who gave you the money with which to go to Europe? A. My husband.

Q. How much did he give you? A. My ship card and I had a couple of cents in my pocket is all I took along.

Q. When you returned who paid your passage back? A. My husband, he sent me money.

Q. While you were in Europe did you receive any letters from your husband? A. Sure, I did. 20

Q. I show you these letters, two packages of letters and ask you to look at them and tell us whether they are letters that your husband sent you while you were in Europe. A. Those are all those that I received from him.

Mr. Grosman: I ask they be marked for identification.

(Letters marked P-2 for iden.) 30

Q. Now, when did you return to this country, Mrs. Pahy? A. In 1924, July twentieth.

Q. July twentieth? A. July twentieth was Sunday, noon, twelve o'clock.

Q. When you arrived in America did your husband meet you? A. No; he was out there, but he says he couldn't get in past, he couldn't come in; he sent a sailor after me to find Mrs. Pahy and I 40

come out to the gate because the husband was waiting for the child and the wife, but they had no time to receive a pass. He said, "Come in to meet them."

Q. Just what do you mean by that? You mean he was not on the wharf or on the dock? A. He was on the dock but he couldn't come in because he didn't get no pass.

Q. He met you outside? A. Yes.

Q. How did he receive you? What did he say to you? A. Like a stranger, like the biggest enemy you could think me.

Q. No. Tell us what he did, what he said and what you said. A. Not a word. He was with the child and held the child and cry and squeeze the child and not a word to me. I said, "John, what does that mean?" He didn't say not a word, and I was look at him and he was very ill, very bad looking, he coughed awful.

Q. Was that all that was said between you? A. That was all. After he stood up and he smiled and I went back to check my trunk and take it out and I took my trunks and run out and take a taxi and take me down to a strange place.

Q. Oh, he took you from there. Where did you go with him? A. Where he was living with Mr. Molnar, Peshine Avenue.

Q. What kind of a place did he have there? A. I think it was 391, something like that.

Q. In Newark? A. Newark.

Q. What sort of a place did he have there? A. He had no place. It was a room up in a garret.

Q. A room up in a garret? A. Yes, and that was all it was.

Q. How was this room furnished? A. It wasn't no furniture.

Q. Tell us just what was in it. A. It was in a closet in a house and it was a bed in it and it was an open bed.

Q. Was there a bed in there? A. It was a bed.

Q. Was that all there was in there? A. That is all, and a chair. That is all that was in there.

Q. Now, the first night that you spent— A. Yes, I spent the first night. 10

Q. Wait until I finish. —after you returned to this country on July twentieth— A. Yes.

Q. —did your husband stay with you? Did he occupy the same room and bed with you? A. Yes, he was there.

Q. What? A. He was there, and when I went up and I wanted to kiss him he pushed me on the side and he got very excited because he was mad because I spent the time downstairs and he got up 20 with the child before me and I thought he was asleep. I was hurt because that is my home.

Q. Did you and your husband occupy the same bed when you returned to this country? A. No.

Q. Where did you sleep and where did he sleep? A. He took the child and took that little narrow bed and next to his bed was an open couch, or something.

Q. Couch? A. Yes, and then there I spent my 30 night, because he was very nervous, very excited and very strange.

Q. What happened the next day? A. The next day, early in the morning he got up and ran down and took his breakfast before I could go down with him and he went.

Q. Went where? A. When I got down some friends of his was visiting him who I never saw before.

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Q. Don't tell us about that. When you came down the next morning he was gone? A. And he came downstairs, but he had his breakfast and I was et my breakfast alone and they said—

Q. Don't tell us what anybody else said, only what your husband said. A. He et his breakfast and he was gone, he had some business to attend to and he was gone.

Q. What happened after that? A. And after that there was happened, you know, those friends was visiting him and they was come up to take—Mrs. Molnar's child and my son was down in the yard with Mrs. Molnar and he was there with—(interrupted)

Q. Who is "he"? A. My husband. He was there and Mrs. Molnar.

Mr. Unger: I cannot understand what she is saying, I have not heard anything for ten minutes.

Q. Don't tell us what anybody else there said. We only want to know what you and your husband said, do you understand? A. Yes. I come down the next morning to have breakfast. He had his breakfast already and he was ready. He went to see some friends to take the boy out with him. All right. He went to see some friends.

Q. That was the second day? A. Yes, that was Monday morning. I come back Sunday and Monday morning—

Q. All right. Now, that night did he return? A. Yes, sir.

Q. And did you occupy the same room? A. Yes, sir.

Q. Did you sleep in the same bed with him? A. No, he didn't let me.

Q. What happened? A. He didn't let me in the bed and I didn't force him because I couldn't force him that time just.

Q. You did not occupy the same bed. A. No, I occupied the next bed.

Q. Where did you sleep? A. There was his bed and close to him was another bed. 10

Q. And you slept in separate beds? A. Yes, sir.

Q. Now, the third day after you returned from Europe what happened? A. Monday night he was still strange and I said to him, when we went up to go to sleep, I said, "Listen, John—"

> Mr. Unger: I cannot tell what she is saying.
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> Witness: Monday night, when I went up to sleep I said to him, "Now, listen, John, you act so strange to me." I say, "How long we have to stay here in this hole?" He said, "Keep quiet, because tomorrow morning, Thursday, I am going to look for rooms." 20

Q. Yes? A. That is all it was. And he was awful angry. He was coughing. I said, "Why don't you—"

Q. Never mind about that. Now, the next morning, what happened? A. The next morning, Tuesday morning he got up and went out early in the morning because he said to Mrs. Molnar he wants to go down to see the doctor and come back noon time, and noon time, when he come back he said, "Hurry up. I shall dress up the boy" because he wants to have the lunch and take the boy down in the place he is to work. 30

Q. Yes. A. And he took the boy down and since that I never saw him until I saw him again here. 40

Q. Now, when did you see your husband after that time? A. In July the twenty-second in twelve o'clock I saw him the last time.

Q. Did he tell you where he was going? A. He never said a word. He said he going to take the child to see him, the work, the factory, and that is where I understood he went, but he never re-
10 turned no more back.

Q. Did you receive any letter or communication from your husband after July twenty-second? A. July twenty-second. July twenty-third, morning, the first mail I received mail addressed to me, to Irma Pahy. I opened the mail and a couple of lines, "How you act I understand you hate my child and hate me."

Q. Have you got the letter? A. Yes.

20 Mr. Unger: Objected to, any conversation.

Mr. Grosman: She can tell what happened.

Mr. Unger: I object to her testifying what happened if the instrument is at hand.

The Court: Yes. If you have the instrument you should introduce it.

30 Q. Where was that? A note in the mail from your husband? A. Yes, and I received twenty dollars in the same letter.

Q. I show you this writing and ask you if that is the writing you received in the mail. A. Yes, that is it.

Q. Together with twenty dollars? A. Yes.

Q. What is this (showing witness paper)? A. It was a full sheet. That was the letter, that was a couple of lines and I was tear up a couple of
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lines on the envelope; I didn't know I was going to need the couple of lines. I don't know how it was happen.

Q. What language is that written in? A. Hungarian.

Q. What does he say? A. He says, "You yourself how you act you was showed up you hate me and you hate the child. I suppose you happy, we stay away now and be happier." 10

Mr. Grosman: I will have the interpreter translate it.

Can this be marked?

(Letter marked P-3.)

Q. Did you make a complaint against your husband? A. Yes, I did.

Q. When? A. When he run away, you know; the next day I went up to Police Headquarters and there they said to me I have to wait another week because many they run away and they come back and when I was wait another week I went up again and from there they sent me up—I don't know where, but I went—I was with that policeman. 20

Q. The one that was on the stand? A. Yes. And he was running with me. He run there all over. 30

Q. You made a complaint in the police court against your husband. A. I myself insist on that.

Q. And when did you see or hear from your husband again after that? A. After that when he went away.

The Court: What month is that?

Witness: It was just Jewish Christmas.

Q. Jewish Christmas? A. October or Novem- 40

ber, some time like that I received—he let me known, "I was down in Reno suing for divorce."

Q. How did he let you know he was suing you for divorce? What happened? A. He went 1922nd next morning, 1923rd when I received that letter I called up his boss and his boss said—

10 The Court: No.

Mr. Unger: No.

Q. You cannot tell us what he said—what anybody else said. A. From him I was know first he went to Reno and after that I was sure—(interrupted)

Q. Wait. Let us see if we cannot get along better. You received some divorce papers from Reno? A. Yes, sir.

20 Q. Where were you living then? A. I was down to Mr.—61 Osborne Terrace, Newark.

Q. What were you doing there? A. Doing housework.

Q. You were working for Mr. Eckhouse? A. Yes, sir.

Q. And were you asked to sign any papers? A. They was ask me, the man.

Q. What man? A. The man.

30 Q. Who brought you the divorce papers? A. Yes.

Q. Did you sign them? A. No, I did not.

Q. After that did you receive any more from your husband about signing the divorce papers? A. I received a couple of telegrams.

Q. What did they say?

Mr. Unger: I object.

The Court: Where are they?

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Q. Have you the telegrams? A. No, I lost them.

Q. What became of them? A. I lost them.

Q. Did anybody else see those telegrams? A. Mr. Eckhouse saw them.

Q. Did you speak to Mr. Eckhouse about this situation? A. Mr. Eckhouse— 10

Q. Don't tell us what he said. I am asking you whether you spoke to him. A. Yes, sir.

Q. And you showed him the telegrams? A. Yes, sir.

Q. What did the telegrams say?

Mr. Unger: I object. Objected to on the ground there is no proof of there having been a telegram.

Mr. Grosman: We will connect it up. 20

Mr. Unger: I object to it until it is connected.

The Court: I will allow it.

Q. What did the telegram say? A. It was asking me I should sign for divorce. If I signed for divorce I could see my child and I said, "We will sign the divorce if I see the child right here." Mr. Eckhouse was to take down a bond, they said. "Bring the child down, as soon as we see the child 30 we sign the divorce, but not before that." And I lost the telegram. It was four or five. It said, "Now, if you don't sign that paper we are going to go over there and you can never see your child." And that was the last.

Q. Now, did you sign? A. No.

Q. Did your husband at the time that you went away on, you say, July— A. Yes.

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Q. —twenty-second or twenty-third. A. Twenty-second.

Q. Did he ask you to go along with him? A. Not a word. I did nothing because he said to take the child with him down to show the child the factory and that is how he left.

10 Q. While you were in Europe you received those letters. A. Yes, sir.

Q. From your husband. A. Yes.

Q. Did he ask you to come back to America? A. In the beginning he wants—

Mr. Unger: I object on the ground that the letter—

The Court: State your objection in the proper form.

20 A. In the beginning he said—(interrupted)

Mr. Grosman: All right. Never mind. I will put the interpreter on; he will tell us exactly.

Q. Where do you live now? A. Now I am living still in Jersey, 428—429 Hoyt Street.

Q. What street? A. Hoyt Street.

Q. Newark? A. Yes.

30 Q. With whom? A. With Mrs. Varikowski.

Q. Varikowski? A. Varikowski.

Q. Where do you work? A. I am working in New York.

Q. For whom? A. For Mrs. Lasdon.

Q. What kind of work, what do you do there? A. Housekeeper.

Cross-examination by Mr. Unger:

40 Q. How long have you been working for Mrs.

Lasdon? A. Now four years last nineteenth of June.

Q. Four years? A. Yes.

Q. And you have been working there all the time during the four years? A. Yes.

Q. And you were working there when you started this suit? A. No. I was working here at Mr. Elmer Eckhouse, Mrs. Elmer Eckhouse. 10

Q. You say you have been working in New York for four years? A. For four years.

Q. That would be since November, 1925? A. (Witness nods yes.)

Q. Is that right? A. Yes.

Q. And you say that you were in Newark when you started your suit? A. Yes.

Q. Working for whom? A. For Mrs. Elmer Eckhouse. 20

Q. That is the place you were when the papers were served on you? A. Yes.

Q. There is no doubt, is there, but that you got divorce papers? A. Yes. I got some.

Q. And from Reno?

Mr. Grosman: That is admitted.

Q. Yes. And you knew what was in them, of course. A. Yes.

Q. You read them? A. Yes, they told me, I couldn't read at that time because I couldn't understand. 30

Q. And you did not defend that suit. You didn't fight that case. A. I couldn't because I didn't have with what to do.

Q. You did not? A. No.

Q. Now, you went to Europe in 1924; is that right? A. Come back.

Q. Or, 1922, I mean. A. Yes.

Q. In November. A. Yes. 40

Q. And your husband gave you about three hundred dollars when you went there. A. I can't remember exactly. I know I had some money, but I don't think I had so much because—

Q. Yes. And did you go there to live with relatives of yours? A. Yes. I go to his own brothers.

10 Q. They were wealthy people? A. What is that?

Q. They were well to do people? A. Yes.

Q. And you went there, didn't you, so that you would have a little better living than you had in America. A. There I had to work just as well as in America. In America if I work I get some pennies, but there I was work just to live.

Q. I mean, you were living in a better house in Hungary than you were in the United States? A.

20 I can't say I had a better home than I always had in the United States.

Q. What kind of a home did you have in New Jersey? You had a furnished room somewhere, didn't you? A. Well, we had our own apartment.

Q. How many rooms? A. Four rooms and five rooms.

Q. I mean in this country. A. Here in the United States.

30 Q. And you had better living quarters in Europe, did you? A. I can't say that.

Q. All right. A. I can't say that.

Q. You liked it well enough to stay there for nearly two years. A. I had to like it because he wished the child to learn Hungarian.

Q. And during all the time you were there your husband was sending you money. A. Yes. You know when I would need it I would ask for it.

Q. And do you remember about how much money

40 you got from him during all the time you were in

Europe? A. It isn't too much because I didn't get it.

Q. About fifteen hundred dollars, wasn't it? A. Oh, no, not all together.

Q. All right. Then you wrote him a letter and said you wanted to come home. A. Yes.

Q. And he sent you the ticket to come home. A. Yes, he sent me ticket to come home. 10

Q. And he sent you $75. A. Yes.

Q. And he wrote you some very nice letters while you were away. A. Yes, sir.

Q. And he was not angry at you or mad at you in those letters. A. No. I never thought he was able to do what he done.

Q. And before you had gone away to Europe you and he had not had any trouble. A. Nothing; I went home friendly. 20

Q. There had been a little trouble, hadn't there on account of what you did to the child? A. I can't understand the question what you said.

Q. You and your husband had had a little trouble, hadn't you, on account of the way you treated his child, your child and his child, the boy? A. I never know that, because his child is my own child, too.

Q. You had taken the boy, had you not, and hammered his head on the wall? A. I didn't never do that, because, if a mother loved a child they wouldn't do it. I was love that child, and still I am loving. 30

Q. You never did? A. No.

Q. And when you came back from Europe your husband was on the pier to welcome you, wasn't he? A. Yes.

Q. And did he kiss you? A. No, no. 40

Q. Did you kiss the boy? A. Sure I did kiss my child.

Q. What was the first thing you said to your husband when you met him on the pier? A. You know I was off—I was troubled when I saw that man broken so and coughing. I said, "My God, John—" (interrupted)

10 Q. I don't hear you.

Mr. Grosman: Will you please holler? We cannot hear you. Holler out loud.

Witness: When I saw him, you know, he was so broken down, so bad—

Q. I don't hear you. A. He was awful bad looking.

Q. He looked bad? A. He looked awful.

20 Q. Sick? A. Sick, he coughed.

Q. You mean the boy or the father? A. John Pahy.

Q. Who? A. John Pahy, my husband, he was coughing awful, and he said he got a cold the week before.

Q. What did you do to him when you saw him? A. I was awful sorry.

Q. Did you kiss him and hug him? A. I couldn't kiss because he was over there and I was there

30 for the moment and they was calling me to check my clothes. He said that he loved the child. I said, sure, and when I come I start to talk to him and he start to holler at me.

Q. You told us that. Did you start to curse him? A. I never had the chance on my life; I never done that.

Q. Did you curse the boy? A. Sometimes when he need it.

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Q. Did you curse the boy at that time? A. I never had no reason for that.

Q. Did you start right in at that time to curse your husband and quarrel with him and fight with him about anything? A. Nothing.

Q. And then he took you to Mrs. Molnar's house; is that right? A. Yes.

Q. Mr. Molnar was the man who lived on Peshine Avenue in Newark. A. Yes.

Q. And they gave you a room in their house? A. Yes.

Q. On the top floor, the third floor. A. Yes.

Q. And you went there and your husband went up and the boy? A. Yes, sir.

Q. How old was the boy at that time? A. The boy at that time was ten and a half years, ten and seven months.

Q. About nearly twelve at that time, wasn't he? A. It was not, because it was not past twelve.

Q. Anyway you went to the room and all three of you were in the same room, the boy and you and your husband? A. Yes.

Q. And your husband, you say, did not want to sleep with you in the same bed? A. No; he was sleeping with the boy in a narrow couch when I went upstairs.

Q. Now, did your husband tell you that night or the next day that because he was so sick he had been compelled to quit in the Worthington Pump Works where he was working? A. I can't understand that what you mean.

Q. Did your husband tell you that because he was sick— A. Yes.

Q. —because he had been sick— A. Yes.

Q. —he had to stop work in the Worthington Pump Works. A. He didn't say that to me. He

said he took a vacation because I come home.

Q. You knew he was not working at that time, didn't you? A. He said to me he took a vacation, that is all, because he been working steady.

Q. Did he tell you he had to take the vacation because he was sick? A. No, he didn't mention it.

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Q. Now, either the next night or the night following, do you remember being at the table with the Molnars and having supper, whatever it was, together? A. Yes.

Q. And do you remember your husband telling you that you and he and the boy should go out west to another climate? A. Never said nothing like that, not one word.

Q. You are very sure about that? A. God should help me.

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Q. And at that time you loved your husband very much? A. And I still loving him like I used to.

Q. And the boy you loved very much? A. And the child just as much.

Q. And when your husband went away to California, afterwards you wrote his sister a letter in California? A. Yes, I wrote.

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Q. And when you wrote that letter to his sister in California, did you still love him? A. I still loved him and I still doing—(interrupted)

Q. Wait a moment. Is this the letter you wrote to the sister in California? A. Let's see it.

Q. Look it over and see. A. Let's see it. It is my handwriting.

Q. See if you wrote it, see if it is the letter you sent to her in California. You don't need to read it through. A. I have to read it through to remember something about it.

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The Court: Is that your signature on that letter?

Witness: Yes, that is my writing.

The Court: Well, that is right.

Witness: That is my writing and my signature.

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Q. And that is your letter, is it? A. Yes, it is my letter, and I think I was writing, I think I wrote in the letter how strange he received me, so strange.

Mr. Unger: I offer it for identification.

(Letter marked D-1 for iden.)

Q. At the time you wrote that letter, did you love your child, too? A. I always loved and I still love them.

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Q. In that letter did you say to her that you cared nothing about the child and the father could take— A. I said I don't care much for him because if he is so low to sell himself, but I was suffered for the child like every mother.

Q. Did you tell him in that letter that he should go and struggle and raise the child himself? A. No; I said he have to worry because he is the father—

Q. Did you—

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Mr. Grosman: Let her answer.

Witness: I said in the letter I don't want to take the child out of his life because a boy always needs a father and he should take care of the child.

Q. Did you in that letter tell him that you—tell your sister or his sister— A. His sister.

Q. —that you had had enough of life with your

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husband, that he was worse than death? A. I don't remember. Maybe, I don't remember.

Q. That he was a man that couldn't be trusted? A. He showed if he could not be trusted.

Q. I say, did you write her that? A. I don't think so.

Q. All right. A. I don't think so.

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Q. And did you say in that letter that you were not going to worry over the child? A. I never said that. I never said that.

Q. And did you in that letter call him a traitor? A. I never done that, because that was my husband too.

Q. "Cain, who could be punished by the child"—A. I never said that.

Q. You say that is not in that letter? A. I said "Now you made a mistake, because you are going to pay sometime and you are going to see he is paying to you."

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The Court: Wait a minute; wait a minute. Do you say that those things that Mr. Unger has called your attention to are not in the letter? Those words are not in the letter, are they?

Witness: I don't remember it.

30

Q. Well, do you remember this, that you told him in that letter that you would legally promise him if he comes back you will immediately set him free as you had enough of a life as you had next to him, that it was worse than a death house; do you remember telling her that? A. I don't know.

Q. All right. A. I don't know, I don't know.

Q. Anyway, you loved him at that time, did you? A. I always—

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Q. And you loved the boy. A. —loved him, because if I didn't love him I wouldn't have married him and I wouldn't suffer what I did suffer on account of him, because he was never honest like a man should be to his wife; he knows it.

Q. Don't you remember that night you were in Molnar's house— A. Yes.

Q. —and he told you to go west with him? A. Never said a word. 10

Q. And when you refused he asked the boy what the boy wanted to do whether he wanted to stay with you or go with him and the boy said he would go with his father? A. He said to me the next day, "You are going to look for rooms," but never mentioned nothing he want to live—he said, "We will go to look for rooms" and that is all I know about it. 20

Q. You say you have always loved him, continued to love him. A. God should help me.

Q. You loved him and you had a warrant issued for him? A. I can't hate him.

Q. I say, you loved him and you had a warrant issued for him? A. I loved him. In my heart it was burning.

Q. Is that the way you showed it? A. I had to do it. 30

Mr. Grosman: Wait. Wait. I object.

The Court: Stop.

Mr. Grosman: Mrs. Pahy, you listen to the questions.

The Court: I will overrule that.

Q. Did you love him when you had a warrant issued against him in this state here, what we call a writ of ne exeat? Did you love him when you did that to him? A. I really loved him because I 40

can't say the other way, but I have to do that to have a chance to face him—

Q. I see. A. —and face the child the same way, because they told me I can't face him the other way.

Mr. Unger: That is all.

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Redirect-examination by Mr. Grosman:

Q. Mrs. Pahy, at the time you wrote this letter, D-1 for identification, were you angry, were you mad when you wrote that letter? A. I must have been.

Q. Just answer. Were you mad? A. I must have been.

Q. What is the date of that letter?

20

The Court: Well, the letter speaks for itself.

A. 1924, December 14th.

Q. 1924? A. 1924, December fourteenth.

Mr. Grosman: That is all.

Recross-examination by Mr. Unger:

30 Q. When did you get over being mad? A. When did I get over being mad? You know when.

Q. When did you get over being mad? A. Maybe right after I finished that letter; it was best.

Q. Did you write another letter then saying you were sorry for what you put in that letter? A. I don't think so; I don't think so.

Mr. Grosman: That is all.

Witness: I don't think so.

40 The Court: That is all.

ELMER L. ECKHOUSE, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mr. Eckhouse, do you know Mrs. Pahy? A. Yes, sir.

Q. And did she at one time work for you? A. Yes.

Q. When? A. I can't give you the exact date because I can't remember then, because—but I know it was in the latter—oh, it was after the middle of summer, of 1924 until 1925, something like that. 10

Q. Was she employed in your home? A. Yes.

Q. In what capacity? A. As a cook, general housekeeper.

Q. And do you remember some papers being served upon her entitled "In a Reno Court"? A. Yes. 20

Q. Was there some attempt made to your knowledge to have her enter an appearance or sign some papers to be returned to Reno? A. Not to return to Reno.

Q. No, no, the papers to be returned to Reno. A. Oh, the papers; yes.

Q. And did she consult with you about it? A. She did.

Q. Did she sign the papers? A. No. 30

Q. Was there some talk about the child? A. Yes.

Q. About seeing the child if she would sign the papers? A. Yes. Do you want to know what the talk was?

Mr. Unger: I object.

Q. No, no. Did you see any communications of any kind pertaining to that subject? A. Yes. 40

Q. What? A. I saw a letter; I saw a couple of telegrams; I cannot give you the exact wording, but I can give you the meaning of them.

Q. Can you tell us the substance of them?

Mr. Unger: I object, unless the identity of the telegram and letters is established.

10 Mr. Grosman: I will connect them later on.

The Court: When you make objections you must rise or I won't pay any attention to your objections.

Mr. Unger: I beg your Honor's pardon. My objection at this time is that the author of the telegrams and letters is not established.

20 The Court: I will allow the testimony and if the authorship of the telegrams is not established I won't pay any attention to it.

Q. What was the substance of those telegrams and letters as you remember them now, Mr. Eckhouse? A. The whole substance was that he wanted a divorce and she wanted the boy and he said that the only way that if she would sign the papers that they would send the boy back to Newark and 30 that if she did not sign them she would never see him again.

Mr. Unger: That is what she said to you?

Witness: No; that is what was in the letter, one of the letters that came there.

Q. When did she leave your employ about? A. Around June the following year, somewhere in there. I don't know whether it was May or June, 40 it was somewhere in there.

Mr. Grosman: Cross-examine?
Mr. Unger: No; none.

EMIL KEMMENY, sworn for petitioner.

Direct-examination by Mr. Grosman: 10

Q. Mr. Kemmeny, what is your business? A. Official court interpreter, Common Pleas Court, Essex County.

Q. You understand the Hungarian language? A. I do.

Q. I show you exhibit marked P-3 and ask you what language that is written in and what it says. A. It is in Hungarian dated "Newark, 1924." It says, "Irma: You showed your color—" That is 20 about the translation. "And I notify you for the last time I step aside. Be happy." Signed, "John".

Q. Now, I show you letters marked P-2 for identification—

The Court: Now, you don't intend to have him translate all those letters, do you.

Mr. Grosman: No.

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Q. Have you ever seen those before? A. I did.

Q. Did you translate some of them? A. I did.

Q. Will you just take one or two of those that you have translated, the latest ones?

The Court: Now, if these letters are to be introduced, they must all be introduced. You cannot pick out portions of the letters.

Mr. Grosman: You don't want me to in-

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troduce all of the letters. I want to introduce one entire letter.

The Court: That is all right.

Mr. Grosman: Try to find the latest letter, please.

Witness: The latest?

10 Mr. Unger: I don't know whether counsel wants to establish that these letters are affectionate. If he does, I will admit it.

Mr. Grosman: Yes. That is what I want to prove.

Mr. Unger: These letters are written from the husband to the wife and are all in an affectionate tone.

The Court: All right. That will save a lot of time.

20 Mr. Grosman: All right.

The Court: That is all, sir.

Mr. Grosman: Now, I am going to offer these letters in evidence. Will you agree that those translations I have there by Mr. Kemmeny—

Mr. Unger: I will agree that Mr. Kemmeny can write out his own translation of those and his affidavit of them, of any one

30 that counsel wants to put in.

Mr. Grosman: Those that are already in the pleadings?

Mr. Unger: Yes.

Mr. Grosman: It is admitted that the letters, copies of which were set out in the pleadings of this cause were written by the defendant to the petitioner and that all of the letters referred to as P-2 for identification, representing letters sent by the de-

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fendant to the petitioner while in Europe, are all of an affectionate nature.

The Court: All right.

Mr. Ungar: I will have to put in one letter and I am wondering if I can, with your Honor's consent ask Mr. Kemmeny to remain long enough to interpret this for me?

Mr. Grosman: Suppose we have him do that. 10

Mr. Unger: I thought I would have him write it out.

The Court: If he can read it.

Mr. Unger: Of course, it is on my case.

Mr. Grosman: It is all right. I am perfectly willing.

The Court: If he can read it rapidly he can read it into the record. 20

Mr. Unger: He says he will write it out on a pad.

ANTHONY GAITOS, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mr. Gaitos, what is your occupation? A. Just now I am a sheet metal worker.

Q. Employed by whom? A. Brooklyn Navy Yard. 30

Q. Do you know John Pahy, the defendant in this case? A. Yes, sir.

Q. How long do you know him? A. Around five years.

Q. Did you ever work with him down in the Worthington Pump Works? A. I did.

Q. When? A. Around July, 1924.

Q. Did you have any conversation with him about his proposed departure from this state? A. I did. 40

Q. What did he say to you and when? A. Well, he told me that he was going down to Reno and get a divorce from his wife.

Q. Did you work in the same department with him? A. I did.

Q. How far from his bench was your bench? A. Oh, about two or three machines away, about five feet.

Q. Was there anything else said or done between you about that time? A. Well, there was nothing else said or done. He used to talk a lot to the other fellows in the shop.

Q. Did you hear him? A. I didn't hear him.

Q. All right. Don't tell us about it.

Q. Did he give you anything before he went away? A. Yes, he gave me a few tools.

Q. A few of his tools? A. Yes.

Q. What was his occupation down there? A. He was a tool maker.

Q. What did he say, if anything, at the time he gave you these tools? A. Well, he told me he wouldn't have any more need for them, that he was going away so he couldn't use them any more.

Q. Did he go away after that? A. Well, I left that place shortly after and I heard he left.

Q. Have you ever spoken to Mr. Pahy since? A. No, sir.

Q. Did you ever have any trouble with him? A. Not a bit.

Cross-examination by Mr. Unger:

Q. How did you come to testify for Mrs. Pahy? A. When she found out I used to work next to him, see, when she found out where I lived she came up to me.

Q. When was that? A. That was around February, 1928.

Q. Where were you working then? A. I was working at the Brooklyn Navy Yard at the time.

Q. And you worked with John Pahy in July, 1924? A. Yes, sir.

Q. How do you know that is the month? A. Well, I found out about it. I made sure. 10

Q. How did you make sure of it? A. I went down to the Worthington Pump Works.

Q. When did you work there? A. I worked there—1921, I think was when I started to work there.

Q. When did you quit? A. Around November twenty-four, 1924.

Q. How near to John Pahy did you work? A. About three machines away. 20

The Court: When did this man leave, in July.

Witness: In June.

The Court: The man, Pahy, left in July, this man, and when did this woman come back from abroad, July?

Mr. Grosman: June.

Mr. Unger: February, 1925.

The Court: And when did you say you left? 30

Mr. Grosman: Oh, no, came back from Europe.

Mr. Unger: Came back in 1924.

The Court: She came back in 1924?

Mr. Grosman: Yes.

The Court: What time did he go away?

Mr. Grosman: July twenty—

The Court: She came back in July. 40

Mr. Grosman: And she was back three days when he went away.

The Court: Yes. Now, when did this man leave the Worthington Pump Works?

Witness: I can't tell you the exact date. I wasn't there much longer after he told me that.

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The Court: You left in July, too, the Worthington Pump Works?

Witness: It was only about a week or two after that.

The Court: All right. I wanted to get that.

Q. How did you and John Pahy come to talk about him going to Nevada? A. Well, he was telling me that his wife went to Europe and he didn't want to live with her any more, just as an ordinary conversation, that is all.

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Q. He told you that first? A. Yes, sir.

Q. When was this? A. Oh, I can't tell you the exact date just when it was.

Q. What month? A. Around June.

Q. What year? A. '24.

Q. 1924? A. Just before I left the Worthington Pump Works.

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Q. And did he tell you she was coming back? A. He told me she was coming back shortly.

Q. Did he say when she was coming back? A. No, he didn't tell me that, no.

Q. Go on and tell us the rest of it. A. There is not much more to say. He just told me she was coming back and he didn't want her, that he was going down to Reno to get a divorce and he was living with another woman.

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Q. Oh, you remember that now. A. That is what I told before.

Q. You didn't tell your counsel that. Did you think about that or did you forget it before? A. No, I don't—

Q. Did he say where he was living with another woman? A. No, he didn't tell me. 10

Q. Did he say who she was? A. No.

Q. Without your asking him anything and without your starting any conversation he told you that his wife was coming back and that he was going to Nevada to get a divorce and he was living with another woman. A. Yes, sir.

Q. Did he tell you anything more about himself? A. That is all he told me.

Q. Did he tell you how long he had been living with this woman? A. No, sir. 20

Q. Did he say that he did not want to live with his wife any more? A. He told me he didn't want to be with her any more.

Q. That is something else he told you too. A. I told you that before, he said his wife was coming back and he didn't want to be with her any more so he was going to Reno to get a divorce.

Q. Did he tell you why he didn't go to Reno before his wife got back? A. No, sir; he just said 30 he was going down to get a divorce.

The Court: What did he say when you finally bade him good-bye, what did he say?

Witness: Well, he didn't say nothing to me there.

The Court: He gave you the tools and what else did he say?

Witness: He just told me he wouldn't

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have no more use for them, that he was going away.

The Court: That is all.

Q. He was sick wasn't he? A. No, sir; he didn't say whether he was sick or not.

Q. He was sick, wasn't he? A. I just can't remember.

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Q. He was not discharged? A. No, sir.

Q. He was sick at the time and had to quit? A. I don't remember whether he was sick or not. He didn't say nothing to me about it.

Q. When was it he finally said good-bye to you? A. I can't tell you just when.

Q. What month? A. It must have been around June, I guess.

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Q. June? A. Yes, because I left two or three weeks after he gave me the tools.

Q. Two or three weeks after? A. Yes.

Q. Did he quit before you? A. No, I don't think he did.

Q. Well, he must have, if he had given you the tools. A. I just can't remember about that.

Q. Well, you were there until November, you said. A. July.

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Q. A while ago you said you were there until November, 1924. A. No, sir; I said July.

The Court: He said November. That is the reason I cross-examined him.

Q. Yes. July or November. A. July.

Q. Not November. A. No, sir.

Q. When did you quit in July? A. I can't give you the exact date.

Q. The first? A. No, it was not—I am not

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positive, but it must have been around the second week in July.

Q. About the fifteenth? A. Around that, I guess.

Q. Didn't you know that he did not quit there until after the fifteenth of July. A. No, sir; I don't know when he quit.

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Redirect-examination by Mr. Grosman:

Q. Were you friendly with this man, Pahy? A. Well, just as—not what you call real friends with him, but just as a shop acquaintance.

Q. Just as a shop acquaintance. A. That is all.

Mr. Grosman: Mr. Patirnyik.

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ALEXANDER PATIRNYIK, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mr. Patirnyik, do you know Mr. and Mrs. Pahy? A. Yes, I know them.

Q. John Pahy and Irma Pahy? A. Yes, sir.

Q. How long have you known them? A. I know them from childhood on.

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Q. Know her from childhood? A. No. Know her in Elizabeth when they got married.

Q. And you knew him in childhood. A. We went to school together.

Q. Were you on friendly terms with both of them? A. All the time.

Q. You visited each other's homes? A. Oh, yes.

Q. How often would you go to their home? A. Quite often.

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Q. Speak up, please. A. Quite often.

Q. What kind of a home did she maintain? A. Nice, clean home.

Q. Nice, clean home? A. Oh, yes.

Q. Do you remember when Mrs. Pahy went to Europe? A. Why, they were by us for dinner, farewell dinner.

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Q. How long before she went to Europe was this dinner? A. A couple of days after she left for Europe.

Q. Who left? A. Mr. and Mrs. Pahy and the boy.

Q. Were they on friendly terms then? A. Oh, yes.

Q. Was there anything said about her proposed trip to Europe?— A. Why, it is said—

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Q. —by John Pahy? A. He sent the boy out to have more education in the Hungarian language in Hungary.

Q. That is what he told you? A. That is what I remember.

Q. And did they part with you on friendly terms? A. Oh, yes.

Q. Did you ever see John Pahy after that? A. No.

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Q. And from that day on you have not seen him? A. I don't see him until he came back and I been traveling and get summons to come to court from the lawyer.

Q. What court? You were summoned to come to a lawyer or a court? A. Come to a court.

Q. What court? A. The court up at—I couldn't tell you what it is. I am not very well acquainted in Newark.

Q. Where do you live? A. In Elizabeth.

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Q. Oh, I see. Were you friendly with John Pahy? A. I was.

Q. Did he ever complain to you about the way his wife treated the boy? A. Not that I—

Q. Did he ever complain to you? A. No, not that I know.

Q. At the time you would visit their home, did you ever see any evidence of the boy having been abused? A. Not at the time we were there. 10

Q. Did the home look like a happy ordinary home? A. It looked like a happy, ordinary home.

Mr. Grosman: Cross-examine.

Mr. Unger: None.

The Court: That is all.

Mr. Grosman: Now, is there any question about this lady having lived here? 20

Mr. Unger: She said she had been working in New York five years—four years.

Mr. Grosman: All right. Mrs. Evans.

ESTHER EVANS, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mrs. Evans, do you know Mrs. Irma Pahy, the petitioner in this suit? A. Yes, sir. 30

Q. How long have you known her? A. Well, I knew her about sixteen years, eighteen years all together.

Q. Do you know John Pahy, her husband? A. Yes. My man—my husband's friends was with Mr. Pahy.

Q. Mr. Pahy was your husband's friend? A. Yes, sir.

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Q. Did you ever visit their home when they were living together? A. Oh, yes, sir; I visited her home.

Q. When she was living with her husband, John Pahy? A. Yes.

Q. Yes. How often did you go there? A. I went there every two weeks, many times every week to see her.

Q. Were you ever there when Mrs. Pahy was alone with her child? A. Yes, I was.

Q. When John Pahy was away to work? A. Yes.

Q. Were you over there when all three were present? A. Yes.

Q. What kind of a home did she make? A. She had a nice, plain, working lady's home, see; she had a very clean and respectable home.

Q. Did John Pahy come to visit you in your home? A. Yes.

Q. Did he ever complain to you about the way his child was being treated by his wife? A. No, never.

Q. Did you ever see any evidence while you were in the home, that the child was being abused in any way? A. Just like any mother. Sometimes when he was bad, like any mother.

Q. Do you remember when Mrs. Pahy went to Europe? A. Well, I was not in New Jersey in the meantime, see?

Q. Do you remember when Mrs. Pahy returned from Europe? A. Well, when she came back I saw her about after two weeks.

Q. Did she come to live with you? A. She came and told me about it and I told her she should bring her clothes along in my house.

Q. When was that? A. She had bedding and trunks and dishes.

Q. What year was that? A. 1924.

Q. Do you remember the month? A. June or July, I am not sure—no, December it was, when she came over with her stuff.

Q. December? A. December, yes.

Q. And how long did she continue to occupy a room in your home? A. I don't get you.

Q. How long did she stay with you in your home? A. She stayed with me about four years, 1924 till 1928—oh, how long she was in my house, how oft?

Q. Yes. A. She came every week, two times, many times, and three times and slept over.

Q. Do you know where she worked? A. Well, she worked in Newark, meantime, and after she went over to New York.

Q. And when did she come over, every week? A. Well, every week, once or two times, surely, and sleeps.

Q. Did she have rooms in your house? A. Yes.

Q. Did she pay board? A. Five dollars a week and when she don't sleep over she paid six dollars—no, when she was over she paid six dollars a week and when she don't live with us she paid only her rooms, three dollars a week.

Q. I see. And she left you, you say, in 1928? A. 1928, yes.

Q. What month? A. Well, around summer time, see, June, July, and I can't remember, see?

Q. Did you know where she went? A. Well, I don't know surely. I think she went to Mrs. Will.

Q. Mrs. Will? A. Will, see?

Q. Did you ever visit her? A. No, I don't visit. I have my family and I am ever busy.

Cross-examination by Mr. Unger:

Q. She took a room of you in 1924? A. Yes, sir.

Q. And she brought her furniture there? A. Not furniture, only her belongings; she came from Europe; she don't have any furniture.

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Q. Well, her bed? A. Her bed, pillows, trunks and shoes.

Q. And she kept them in one of your rooms? A. Yes.

Q. And then she went to New York to work for Mrs. Lasdon. A. Yes, sir.

Q. And she worked all the time in New York? A. Well—

Q. During the four years. A. Well, she came Wednesday and Saturday and Sunday at my house, I don't know—

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Q. You mean to visit you? A. To visit me, yes, sleep in my house two times a week.

Q. Where did she sleep? A. Well, I have a room for her.

Q. Did she stay overnight? A. Surely.

Q. She used to come once or twice a week? A. Oh, many times, and many times three times.

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Q. And working in New York all the time? A. Well, before she worked Newark and after she moved to New York.

Q. I am speaking of from 1924 up— A. 1924 she moved in my house and in the meantime she worked in Newark when she moved in, and after she went to New York.

Q. What year did she go to New York? A. I can't remember.

Q. It was before 1928, wasn't it? A. Oh, sure.

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Q. Before 1927? A. I think 1927 or—I don't know. I can't remember, see?

Q. All right. And when she comes to your house it is to visit you? You are a friend of hers? A. Well, it is not a visit; she pays her rent.

Q. She pays six dollars a month for the room?

The Court: No, no. A week. 10

Witness: A week, when she living with me.

Q. And she paid six dollars a week just to keep her room there? A. Well, when she living with me, yes.

Q. Yes. And after she went to work with the other lady, how much did she pay a week? A. She paid five dollars a month.

Q. Five dollars a month? A. Only for her belongings. 20

Q. You say a month? A. Yes.

Q. That was for the privilege of keeping her stuff in your room? A. Oh, sure, see?

Q. Yes. Well, not for board. A. When she is sleeping with me Wednesday, Saturday and Sunday she pays extra for her board, her meals.

The Court: Now, did she pay five dollars a month or five dollars a week? 30

Witness: Well, six dollars a week she paid when she was with me altogether.

The Court: Yes.

Witness: She was out to work and if she worked outside she paid only five dollars a month for her belongings, and extra for the meals.

The Court: I see. That is all, madam.

40

ROSIE WILL, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mrs. Will, do you know John Pahy and Irma Pahy, his wife? A. Yes.

Q. How long have you known them? A. I have known her about fifteen years.

10

Q. How long have you known John Pahy? A. I know him just about that long.

Q. Were you friendly with these people? A. Well, yes.

Q. Did you live in the same neighborhood? A. Yes.

Q. For many years? A. Well, lived about three years.

Q. Did you visit their home? A. Yes, I did, and Mrs. Pahy used to sew for me, for my daughter and also for myself.

20

Q. How often would you go to her home? A. Well, when Mrs. Pahy sewed for me I went quite often; otherwise I didn't go so often.

Q. What do you mean "quite often"? How many times a week or month? A. About twice, when I am fitting clothes.

Q. What kind of a home did she have? A. She had a very nice home, clean.

30

Q. Did you ever see her and her child together? A. Yes, all of us together.

Q. Did you ever observe her abusing the child in any way? A. Never.

Q. Do you remember when Mrs. Pahy went to Europe? A. Yes.

Q. Did you have some conversation with John Pahy about that time? A. Yes.

Q. What was said? A. Well, I went over there

40

and they was selling out and Mrs. Pahy asked me if I needed any thing and I didn't need anything, any furniture, but Mr. Pahy had some very nice Hungarian records, and I bought some of them and Mr. Pahy packed them up for me himself.

Q. What did he tell you, if anything, about his wife going to Europe? A. Well, he told me his wife going to Europe and he wanted me to have the—wanted to have his son educated in Hungarian. 10

Q. Everything all right there? A. Yes, very nice, and I met them the second day. Mr. and Mrs. Pahy was on the corner of Bergen Street and Springfield Avenue buying clothes for the little boy to go home with. I remember that very well.

Q. "Home"? What do you mean "going home"? A. Buying clothes for the little boy. Mr. and Mrs. Pahy was together. 20

Q. Going to Europe. Is that what you mean by "going home"? A. Yes, the day before they left.

Q. You remember Mrs. Pahy returned to this country? A. Yes, I do.

Q. Did you see her? A. I certainly did.

Q. When did you see her after? A. Why, I saw her the third day. I lived that time on Watson Avenue and this Mrs. Molnar lived just around the corner and my daughter met Mrs. Pahy— 30

The Court: No, no. Don't tell us what was said.

A. —my daughter came home and she said.

Q. No. A. No?

Q. You saw Mrs. Pahy about three days after she came back from Europe. A. Yes.

Q. Was her husband with her? A. No.

40

Q. And when did you see her husband after that? A. I never saw Mr. Pahy after that.

Q. Does Mrs. Pahy live with you now? A. Not now she don't, but she did.

Q. When? A. She moved away from me last March because I took in a little orphan child.

10 Q. How long did she live with you? A. Not so long. Mrs. Pahy stayed in my house about a year or two.

Q. About a year? A. Yes. Not—I don't think even that. I couldn't remember just how long.

Q. What arrangements did you have with her about board? A. She paid me only the time she stayed with me, she paid me.

Q. Did she have any property of hers there? A. She did.

20 Q. What? A. She had all her belongings in my cellar; I had no other place for her, really.

Q. How often would she come over there? A. Oh, twice, three times a week.

Q. Do you know where she worked? A. Yes; New York.

Mr. Grosman: Cross-examine.

Mr. Unger: None.

30

SADIE LASDON, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. Mrs. Lasdon, you employ Mrs. Pahy? A. Yes.

Q. In what capacity? A. Housekeeper.

Q. And have employed her for how long? A. Since June the nineteenth, 1925, up to now.

40

Q. And she lives with you in your home? A. Yes, sir.

Q. Did she give you an address when she came to live with you? A. Yes.

Q. As to where her home was? A. Yes.

Q. Where? A. Newark.

Q. How often do you give her off during the week? A. Well, she has almost any day off she wants, because we are very seldom home in the evenings. She has Wednesday afternoon, Saturday afternoon, Sunday afternoon. 10

The Court: An easy job.

Witness: Yes. We have a change of cooking once in a while.

Q. On these occasions does she tell you where she might be found? A. Yes. 20

Q. Where? A. She always runs to Newark.

Q. Did you ever visit her over here? A. No.

Q. Do you know her husband, John Pahy? A. Only by sight.

Q. Did you go with her over to Tottenville some time? A. Yes, I did.

Q. When? A. Oh, it must be about three years ago when John Pahy came back.

Q. And who did you see there? A. I saw a woman who told me she was Mrs. Pahy. 30

Q. Not Mrs. Irma Pahy? A. No.

Q. And did you see the boy there? A. Well, I had a great deal of trouble in seeing him.

Q. Well, did you see him? A. I did.

Q. And did you see John Pahy there? A. No. Oh, pardon me. He was in jail, I think.

Q. Oh, he was in jail. This woman you saw was living there under what name? A. Pahy. 40

The Court: Well, I think this Nevada marriage is admitted.

Mr. Grosman: All right. No further questions.

The Court: Any cross?

Mr. Unger: Just one question.

10 *Cross-examination by Mr. Unger*:

Q. Mrs. Lasdon, when did Mrs. Pahy come to work for you? A. June the nineteenth, 1925.

Q. And is still working for you? A. She is.

Q. She has a room? A. Has she a room?

Q. In your home. A. Yes.

Q. She comes to Newark on her off days? A. Whenever she is at liberty, which is very often.

20 Q. That is all.

The Court: That is all.

Mr. Grosman: I would like to offer in evidence an exemplified copy of the Reno record in the case of John Pahy, plaintiff, vs. Irma Pahy, defendant.

(Exemplified copy marked P-3.)

Mr. Grosman: I also have a certified copy of the marriage certificate of these people.

30 The Court: Which, the second couple?

Mr. Grosman: John Pahy and Irma Pahy, the parties to this suit.

(Certified copy marked Ex. P-5.)

Mr. Grosman: I would like to offer in evidence, although it is admitted, just for the purpose of the record, certified copy of the marriage license—marriage certificate of John Pahy and Jennie Pomanko, dated the eighteenth day of May, 1925.

40

(Marriage certificate marked P-6.)

Mr. Grosman: That is our case, your Honor.

Mr. Unger: Are you going to offer the exemplified copy of the Nevada divorce?

The Court: It is already offered.

Mr. Grosman: I did. 10

Mr. Unger: That record does not show a decree. I read it hurriedly, but I do not see the decree.

The Court: There should be a decree.

Mr. Grosman: "Finding in decree."

Mr. Unger: Oh, I didn't get that far when I read it. I was reading the wrong one. Is that in evidence?

Mr. Grosman: This is in evidence, yes, the entire record. 20

Mr. Unger: You don't offer the testimony?

Mr. Grosman: Not yet.

Mr. Unger: I was reading the testimony before.

The Court: What I want to find out is, what does that show about the jurisdiction of the Court? Does it say the Court having found he was a bona fide resident, and so forth? 30

Mr. Grosman: Oh, yes; this is the finding of the Court here. If you want me to I will

---

The Court: I will look at them myself. I presume it is in the usual form.

Mr. Grosman: "Fnidings and decree. The defendant having been personally served by complainant by statute, #16 Osborne Terrace, Newark, New Jersey, having failed to 40

file demurer or answer within the time," and so forth.

The Court: Now—

Mr. Grosman: At the time they—

Mr. Unger: Are you going to offer the testimony?

10 Mr. Grosman: I will offer it now, if you want me to. I was going to offer it in rebuttal.

Mr. Unger: Well, it is a part of the record.

The Court: Do you object to the testimony?

Mr. Unger: No. I want it to go in now, because, if it is not offered by the other side, I am going to offer it to show that the Court

20 had evidence.

Mr. Grosman: I offer it.

(Testimony marked Exhibit P-7.)

Mr. Unger: Your Honor, I move that you strike from the record all the testimony regarding the contents of the telegrams and letters which were received at the Eckhouse home after the service of the Nevada papers upon the ground that the identity of those

30 has not been proved or anything like it.

Mr. Grosman: Now, if your Honor please, I would ask that you withhold decision on that motion until after the defendant has put his case in.

(Discussion.)

The Court: Very well, proceed.

40

JOHN PAHY, sworn for petitioner.

Direct-examination by Mr. Grosman:

Q. You are the defendant in this case? A. Yes, sir.

Q. And you started the proceedings for divorce in Reno against your wife, Irma Pahy. A. Yes, sir. 10

Q. Now, you remember when you instituted that suit out there? A. The day?

Q. Do you remember when you started the suit out there? A. Yes.

Q. And did you send the papers on out to your wife at Osborne Terrace, Newark? A. The Court did.

Q. Did you have anything to do with that? A. No, sir; the Court. 20

Q. Did you send any telegrams to your wife asking her to sign those papers? A. Never.

Q. Did your lawyer do it? A. No, sir.

Q. Who did it? A. How do I know?

Q. You don't know anything about that? A. No, sir.

Q. You don't know who sent a telegram from Reno to your wife here in Newark asking her to sign some papers in that divorce suit out there? A. I don't know absolutely nothing about it. 30

Q. You had nothing to do with that?

The Court: I am afraid that is the end of the telegram.

Mr. Grosman: All right.

The Court: The testimony will be stricken out.

Mr. Grosman: Concerning the telegrams.

Mr. Unger: I have a couple of short wit- 40

nesses who want to get away and I will put them on first.

The Court: All right.

Mr. Unger: With the defendant last.

The Court: All right.

Mr. Unger: Mrs. Frohman. Anna Frohman.

10

ANNA FROHMAN, sworn for defendant.

Direct-examination by Mr. Unger:

Q. You are Anna Frohman? A. Yes.

Q. Where do you live? A. I live on 335 Roseville Avenue, Newark.

Q. Do you know John Pahy and Irma Pahy? A. I know John Pahy, but I don't know very well Irma Pahy.

20

Q. Yes. And did you see Irma Pahy at any time in August, 1927? A. Yes, sir; she came down to my house.

Q. Where was that? A. Staten Island, Tottenville.

Q. And who was living with you at that time? A. Mrs. Pahy, Johnnie Pahy.

Q. The second wife? A. Yes.

30

Q. And John Pahy? A. And John Pahy and the boy.

Q. That was when? A. That was in 1925.

Q. Twenty what? A. Twenty-five, was it twenty-four or twenty-five—I can't—

Q. 1925? A. Yes, 1925.

Q. I said, 1927, I am wrong. A. 1925.

Q. Was John Pahy living there at that time? A. Yes, sir.

40

Q. Did he have a room with you? A. They lived with me, yes.

Q. Yes. And how long did he live there? A. Since he come from California?

Q. And what month was that? A. Oh, I just can't remember. It was in the springtime, sometime.

Q. Yes, of that same year? A. Same year.

Q. And did he continue to live with you at your home in Tottenville? A. Yes.

Q. Until when? A. Until he was locked up.

Q. Yes. And he was locked up in New Jersey, as you understood? A. In New Jersey, yes.

Q. Where did he work? A. That I couldn't tell you where he worked.

Q. Did he work in New York or New Jersey? A. I don't remember where he worked.

Q. Was his wife living there all the time? A. All the time with me.

Q. And how long did she continue to stay there? A. Well, she lived with me until—I couldn't remember that.

Q. Well, how many months? A. How many months? Oh, she was living with me for years.

Q. Yes? A. Yes.

Q. Now, did Mrs. Irma Pahy, this lady, come to the house in July, 1925? A. Yes, sir.

Q. And did she say anything about her husband or her former husband, the second wife, Jennie Pahy? A. Well, she said a lot of things and she wanted to see the boy and—

The Court: Well, what did she say? That won't do, "a lot of things"; doesn't mean anything.

Witness: They had a little talk, you know,

and then the other Mrs. Pahy said, "You can have your boy, you can have your husband, if you want to." And she said, "Oh, no; I don't want the boy and I don't want the husband; all I want is to make all the trouble I can for yous."

10 Q. Who said that? A. Irma Pahy.

Mr. Unger: That is all.

Cross-examination by Mr. Grosman:

Q. Mrs. Frohman, you are a friend of Jennie Romanko Pahy the second wife? A. Yes.

Q. And have been for a great many years. A. Many years.

20 Q. And she lived out there with you in Tottenville, Staten Island? A. She lived with me in Tottenville, Staten Island.

Q. And when—Mrs. Irma Pahy came out there to see her child, didn't she? A. Yes.

Q. That is how she came to your house? A. Yes.

Mr. Grosman: That is all.

30

MARCEL KUZSMA, sworn for defendant.

Direct-examination by Mr. Unger:

Q. Where do you live? A. Rosedale, New York.

Q. And do you know John Pahy? A. Yes, he is my relation.

Q. And do you know Mrs. Pahy? A. Yes.

Q. The first Mrs. Pahy? A. Both.

40 Q. Yes. Were you present on the boat when

Mrs. Pahy came from Europe? A. Yes, sir.

Q. When she went to Europe or when she came? A. When she went.

Q. Went? A. Yes.

Q. And were you present when she came back? A. No.

Q. On the occasion when she went to Europe was John Pahy there? A. Yes, sir. 10

Q. And his wife was there? A. Yes.

Q. Did you see them together? A. Yes, sir.

Q. What was said at that time? A. Well, all I can say is what Mrs. Irma Pahy said herself.

Q. Well, what did she say? A. Well, that they were—that they departed just the same as anybody else in average.

Q. What? A. You know, they cry and so forth and then they depart. 20

Q. Were they affectionate to one another? A. I guess so.

Q. What did they do or say to one another when they separated? A. That they want to do the best, that is what I understood.

Q. Did Mrs. Irma Pahy say why she went to Europe or anything? A. I didn't pay much attention to that situation, but as I say the situation, but, as I see the situation— 30

Mr. Grosman: Please!

The Court: No.

Q. I don't want what you said. I want you to tell what you saw or heard. A. Well, I seen them both crying, that is all I can say.

Mr. Unger: All right; that is all.

Mr. Grosman: No questions.

Mr. Unger: That is all. 40

Mrs. Costello.

MAMIE COSTELLO, sworn for defendant.

Direct-examination by Mr. Unger:

Q. Where do you live? A. 81 Ellis Avenue.

Q. Do you know John Pahy? A. Yes.

Q. Do you know his first wife, Irma Pahy? A. Yes.

10 Q. And were they living with you in 1922 at any time? A. Yes; she stayed with me before she went to Germany—to Europe.

Q. I don't hear you. A. She went to live with me before she went to Europe.

Q. And what month was that in? A. I don't know, I couldn't exactly tell you that.

Q. What time of the year? A. It was in the fall.

20 Q. Yes? A. November; now I remember.

Q. Was John Pahy living there with his wife? A. Yes, sir.

Q. Were they living together as man and wife? A. Yes.

Q. What did they have, a room with you? A. Yes.

Q. Paying board? A. Yes.

Q. Now, did Irma Pahy tell you why she was go-
30 ing to Europe? A. Why, to get her boy educated, that is what she told me.

Q. Did she tell you whether or not she wanted to go to Europe? A. Yes, she was satisfied.

Q. Yes. And you remember when she left, do you? A. Yes.

Q. Did she leave anything behind, any clothing or wearing apparel? A. No.

Q. Took it all with her? A. Yes.

Q. What about her husband's clothes? A. He
40 had nothing.

Q. What do you mean? What happened to them? A. That I couldn't tell you.

Q. Do you mean she took them with her? A. That I couldn't tell you.

Q. Were they there after she was gone? A. No.

Q. Now, did any letters—how long after she left did John Pahy continue to live with you? A. Well, I couldn't tell you just how long, it was not long. 10

Q. How many months? A. It might have been two months because it was after—

Q. Did any letters come from her during that time? A. No, I don't think any come to my house.

Q. Did you write her any letters? A. I wrote her one.

Q. Did you get any answer to that? A. No. 20

Q. Now this boy, was he living there, too? A. Yes, he was living there.

Q. And how old was he at that time? A. Well, I think he was about eleven, ten or eleven.

Q. Yes. Now, did you ever hear her tell you anything about her feelings toward that boy? A. Well, she passed the remark that she hated the husband and the child done something one day, I don't know just what it was, but he come in and he said —and she said, "I hate you just like I hate your father." 30

Q. Did she say that more than once? A. Not that I know of.

Q. And did she do anything to the boy that you know? A. Why, she pushed him around, up against the door.

Q. Did she injure him in any way? A. No, not that I know of.

Q. What? A. No. 40

Q. Did she ever ask you whether or not you should tell his father? A. No.

Q. Did you tell him? A. No.

Q. Did you ever hear her tell her husband whether or not she cared for him? A. No.

Q. You didn't say anything to him yourself? A. No, I didn't interfere between the two.

10

Mr. Unger: All right.

The Court: Any questions.

Cross-examination by Mr. Grosman:

Q. Well, now, when they left your home, did they leave on friendly terms? A. Seemed so to me, she seemed friendly.

Q. And didn't fight or quarrel any more than the average married couple, did they? A. No.

20

Q. And she did not treat the child any rougher than most mothers treat their children when they become out of patience with them, did she? A. Well, she got—she lost her temper terribly, which I don't think a mother should do.

Q. And you know lots of mothers that lose their tempers with their children. A. Yes, but I don't think they should.

30

Q. You don't approve of that? A. No, because I have four of my own.

Mr. Grosman: That is all.

The Court: That is all, madam.

Mr. Unger: Mr. Molnar, Eugene Molnar.

40

EUGENE MOLNAR, sworn for defendant.

Direct-examination by Mr. Unger:

Q. Live in Newark, Mr. Molnar? A, Yes, sir.

Q. What is your business? A. Cabinet maker.

Q. Do you know John Pahy? A. Yes, sir.

Q. Do you know his first wife? A. Yes, sir.

Q. Irma Pahy. A. Yes.

Q. And where were you living in July, 1924? A. 391 Peshine Avenue.

Q. And do you remember when Mrs. Pahy came back from Europe? A. Yes, sir.

Q. Did Mr. and Mrs. Pahy come to your home about that time? A. Yes, sir; they did come together.

Q. Do you know why they came to your home? A. Yes. Mr. Pahy asked me before he went for his wife to the boat if he can stay or if he can bring his wife to my home for a few days before they decide to get a room or going to go away or something like that.

Q. Yes. Where were you living then? A. 391 Peshine Avenue.

Q. What kind of a place did you have? A. A two-family house; I own that place.

Q. And did you furnish a room for them? A. Yes. We had an extra room in the attic.

Q. And you gave permission for them to come there? A. Yes.

Q. Now, did they come? A. Yes, they did.

Q. And was the boy there with them? A. Yes, the boy was with them.

Q. Now, did they stay in the room together? A. Well, they was in mine room, see?

Q. Where did they take their meals? A. They

eat down on the second floor and they went just up sleeping.

Q. Now, did you at any time take meals with them and they with you? A. First when they came from home we did wait for dinner for them all and we had dinner together.

10 Q. Now, while you were eating together was there any talk about what Mr. Pahy was going to do in the future? A. Mr. Pahy not feel very good that time. I don't know; he was nervous; there was not much talk there. We was talking about to get a flat or they going to go somewhere, or such a thing.

Q. Well, later on— A. Yes.

Q. —did he talk about his plans? A. Yes.

Q. The next day? A. No, the same day, by the

20 dinner there.

Q. Won't you tell us what he said? First of all was Mrs. Pahy there? A. Yes, Mrs. Pahy was there.

Q. Tell us what he said that night. A. Well, they talked about Europe and this and that, and they were going to look for rooms, or they going away. I didn't give any attention to what they said.

30 Q. What? I can't hear a word you say. A. I say, I didn't give so much attention to that thing.

Q. Did Mr. Pahy say anything to his wife that night about her going anywhere with him? A. With him?

Mr. Grosman: Wait a minute. I don't think that counsel ought to lead this witness.

The Court: He is not leading him; he is

40 just asking him if he said anything. The answer is Yes or No.

Mr. Grosman: "About going away with him".

The Court: Yes. Did he or didn't he?

Witness: What is the question?

Q. (Question read as follows: "Did Mr. Pahy say anything to his wife that night about her going anywhere with him?") A. Well, I don't know that night what he talked in the night. I don't know about that. 10

Q. No. I am talking about the time when you were all together at the dinner table. A. Well, what I know so much that they going to get a flat or they going to go away. Mr. Pahy say he want to go away from Newark.

Q. He said that? A. Yes.

Q. What did she say? A. She said, "I don't want to go from Newark. I like to stay in Newark." 20

Q. Did he say why he wanted to go from Newark? A. Well, he didn't say. We four talked with him about his health, talking about it all the time.

Q. He was out of work then? A. Many times he stay home; he was sickly.

Q. Did he leave your home? A. No, he didn't leave for a couple of days after. 30

Q. And did you know that he was going? A. No, sir.

Q. Did he take the boy with him? A. He didn't take the boy.

Q. Did you know whether he was going to? A. No, sir.

Q. Did he tell you afterwards? A. No, sir.

Q. What became of his wife? A. Well, his wife stays in my house for about a week. 40

Q. Well, then, what did she do? A. What she do? That is too much to tell. I didn't sleep that whole night.

Q. Tell what she did after. A. When he went away my wife was on the porch and Mrs. Pahy she said "I think he left me." My wife said, "How do you think so?" "Because right by the bed I expect he going to leave me."

Q. What? A. When we come in she expected right by the bed he going to leave her.

Q. Did she call him any names? A. Well, then, they call up some friends and tell them she thinks he went away and so on, and then she cry and scream and keep the whole neighborhood up the whole night, "I don't care for him or for that father, either. He is a Cain the same as his father."

Q. A what? A. Cain.

Q. Did you understand what she meant by "Cain"? A. I did understand it.

Q. She spoke in Hungarian or English? A. Hungarian.

Q. Yes. And what did she say about how she felt towards the father and the son? A. Oh, she hated them and hated the whole family and such a thing, you know.

Cross-examination by Mr. Grosman:

Q. Mr. Molnar, you are a friend of John Pahy, aren't you? A. I am not so exactly friends, the same as anybody else.

Q. You have known him for a great many years. A. Oh, yes.

Q. And been friendly with him. A. Oh, yes.

Q. This was not a very good room up in the attic. A. Why wasn't it?

Q. I am asking you. A. It was a big room about twenty by twelve wide. There was a bed room and everything there.

Q. Did you have any other rooms in the house? A. I had six rooms on the second floor?

Q. Occupied? A. Occupied in my family.

Q. Somebody living in them? A. With my family. 10

Q. Were there any other vacant rooms that you could let John Pahy have? A. No.

Q. Did he pay you board or rent for this room? A. He paid me board.

Q. How much? A. I think he paid me ten dollars board.

Q. Ten dollars a week? A. Yes.

Q. And at the time that he left your house was his rent paid? A. When he left? 20

Q. When he left, when he finally went away. A. His board was paid, yes.

Q. For how long? A. Well, I don't know for how long it was, not very long, but I know he paid every week, every Saturday or Sunday he paid. Tuesday he went away.

Q. Sunday he paid? A. Most Sunday or Saturday.

Q. Did he pay in advance or did he pay after? A. In advance. 30

Q. What day of the week did he go away? A. Tuesday.

Q. Tuesday? A. Tuesday.

Q. So that his rent was paid until Saturday night? A. Saturday night, something like that.

Q. How did John Pahy act towards his wife after she returned from Europe? A. Well, he not act very good, because he was sickly before already, the same as somebody don't have any—don't 40

feel good; he would talk and say one or two words, and so on.

Q. You think he acted kind of indifferent like a man that does not feel well? A. Yes, sir.

Q. Now, how many days was Mrs. Pahy living with you when John Pahy went away? A. She lived from Tuesday until the next Monday.

10

Q. From Tuesday? A. Yes.

Q. When did she come to your house? A. She come on Sunday.

Q. And she lived until when? A. Until after Monday, eight days.

Q. Tuesday? A. Eight days.

Q. No. I mean, how long did she live there together with her husband, John Pahy? A. Tuesday.

20

Q. Until Tuesday? A. Until Tuesday.

Q. And then he went away? A. He went away.

Q. Up to that time you had been friendly with John Pahy? A. Well, I was all the time friendly.

Q. Did he come and bid you goodbye, tell you he was going away? A. No, no.

Q. Didn't say a word to you? A. Tuesday morning I come down, I went to New York on a bus, we went together to Broad Street and he went to the doctor, I went to New York. Well, that is what he said goodbye on the bus.

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Q. He just said goodbye to you? A. Yes, on the bus.

Q. On the bus? A. On the bus.

Q. But he didn't tell you, "Goodbye, I am going away"? A. No.

Q. "Not to expect me back any more"? A. No, he didn't tell me.

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Q. So, when he left you on that bus to go to the

doctor, you didn't know he was going to leave? A. No.

Q. (Continuing.) His wife in your home and go away himself? A. No, no.

Q. Now, you say that there was some talk there during the two or three days that Mr. and Mrs. Pahy lived with you about his going out to get some rooms? A. He said so. 10

Q. Who said so? A. Mr. Pahy.

Q. He said he was going out to get some rooms? A. Going out to get some rooms.

Q. While Mr. and Mrs. Pahy were living with you, after she returned from Europe did they do any fighting there between them? A. I didn't see any fighting, I can't tell you that.

Q. Everything appeared to be quiet and harmonious? A. Quiet. 20

Q. Did she beat the child while you were there? A. No, not in my presence.

Q. She didn't slam the child up against the wall or anything like that? A. I didn't see that; I can't tell that.

Q. Now, after Pahy went away, Mrs. Pahy carried on? A. Sure she did.

Q. Got excited and cried? A. Got excited and I didn't sleep all night that night. 30

Q. And while she was excited and carrying on she said she hated her husband? A. Yes, sir; she was excited.

Q. She was excited when she said she hated her husband and hated her child? A. Screamed and cried and this and that and cursed and we tried to keep her quiet; we couldn't keep her quiet at all.

Q. And it was during this time she made these remarks about her husband and child? A. Yes. 40

Mr. Grosman: That is all.

PEZIO RONA, sworn for defendant.

Direct-examination by Mr. Unger:

Q. What is your business? A. Steamship ticket agent.

Q. Do you know John Pahy? A. Yes, sir.

Q. Did he give you any money to be sent to Hungary? A. Yes, sir.

Q. Did you send the money? A. Yes, sir.

Q. Did you give him a receipt for the money? A. Yes, sir.

Q. I show you—

The Court: She has already said he gave her money.

Mr. Unger: She has not admitted the amount. I asked if it was not $1500 and she said, "Oh, no."

Q. I show you eight receipts aggregating $750.

The Court: How much?

Mr. Unger: $750.

Q. And ask you if you received this money from John Pahy, or, received the money represented by those receipts, and, if so, to whom you sent the money. A. Yes; they were made out by me.

Q. That is money you transmitted? A. Transmitted to Pahy, care of Dejo.

Q. Pahy. Dejo is who? A. That is Mr. Pahy's brother.

Q. And that was sent out at the times mentioned on the receipts? A. Yes.

Q. On the receipts which run from November, 1922, down to February, 1924, if I am right. Is that right? A. Yes.

Mr. Unger: I offer these.

Mr. Grosman: I object.

Mr. Unger: I will have to make a qualified introduction of them, like Mr. Grosman did and assure the Court I will connect them up. If I do not they will go out.

The Court: All right.

Mr. Unger: Maybe I will have better luck. I offer those in evidence.

(Receipts marked Exhibit D-3.)

Q. I show you another receipt for $280 and ask you if you recognize that, and, if so, what was it given for? A. Yes, sir.

Q. What was that for? A. That was the second steamship ticket to Mrs. Pahy and her son, it was $300.

Q. Three hundred? A. Well, yes.

Q. What is the date of that? A. I could tell you from my—when the ticket was paid.

Q. The date of the receipt? A. The ticket was paid April 9, 1924, second class ticket for Mrs. Pahy and Dejo on the Hamburg-American line.

Q. I show you two more receipts aggregating $54.50, dated 1923, and ask you if those represent moneys sent out by you. A. Yes, that is Roumania. That was sent to Roumania.

Q. Where to? A. To Mrs. Irma Pahy by check, American Express Company, money order check.

Mr. Unger: I offer those.

(Receipts marked Exhibit D-3.)

Witness: I have another $75.

Q. When was that sent? A. May 29, 1924. That was sent by cable. I think that was the last

money that was sent before they started to come back to America.

Q. Who was that cable to? A. Mrs. Irma Pahy.

Mr. Grosman: All this stuff is admitted.

Mr. Unger: If you will admit the amount, I won't waste time. There is about eleven or twelve hundred dollars.

Mr. Grosman: What was that money supposed to be for?

Witness: That was the last money before they started to come back to America. That was just before the sailing.

Mr. Grosman: I will admit this man transmitted money to his brother in Europe. What for, of course, I don't know.

The Court: Is that all?

Mr. Unger: Yes, that is all I can say.

Witness: This seventy-five is for Mrs. Pahy.

Cross-examination by Mr. Grosman:

Q. Mr. Rona, do you remember seeing Mrs. Pahy after she came back from Europe? A. Yes, sir.

Q. And do you remember warning her that you had been told that her husband was going to go away and leave her? A. Three days after they came back Mrs. Pahy came to Mrs. Molnar to me and asked me, "Don't you know Mr. Pahy went to Europe?" "I don't know anything about it, because he didn't buy any ticket from me. If you want to find out go up to the United States District Court or go to the Hungarian Consul, you can find out whether he went to Europe or not. I don't know anything about it."

Q. That is all you know? A. That is all I know.

Q. You didn't tell her he was going away? A. She was crying and screaming.

The Court: Now, we will adjourn until after lunch.

(Noon recess.) 10

LOUISA RASCHEK, sworn for defendant.

Direct-examination by Mr. Unger:

Q. Where do you live, Mrs. Raschek? A. 862 Hunterdon Street.

Q. Newark? A. Newark. 20

Q. Are you married? A. I am widow.

Q. Who lived there with you? A. I am living at the present time with Mrs. Pahy.

Q. Where? A. 862 Hunterdon Street.

Q. You live with them? A. Yes, sir.

Q. How long have you been living there? A. I leased my own home here in Newark; I am a Newarker since 1915 because I am with Mr. and Mrs. Pahy.

Q. This year? A. This year. 30

Q. When you say "Mr. and Mrs. Pahy" you mean, the second Mrs. Pahy? A. That is it.

Q. They live there together as husband and wife, do they? A. Yes.

Q. And does the boy live with them? A. Yes.

Q. Did you know Mr. and Mrs. Pahy before this year? A. You mean, the present Mr. and Mrs. Pahy?

Q. Yes. A. Yes, I know Mr. Pahy about fifteen 40

years and I know Mrs. Pahy since about 1923 or 1924.

Q. Did you ever have a talk with Mrs. Irma Pahy about where she was living? A. Yes.

Q. When was that? A. That was about two years ago. Mrs. Irma Pahy called on me in my business place in New York.

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Q. Yes? A. And I never saw her before.

Q. That was the first Mrs. Pahy. A. That is it.

Q. Yes? A. And then she invited me I should call on her, I should see her in New York where she lived and where she worked.

Q. Did you ask her that time where she lived? A. She told me herself, the address is 435 Riverside Drive.

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Q. Did she say how long she had been there? A. I went to call on her about six months after and I spent the evening with her, about two hours, and then she told me she is living in that place about over two—the third year, over two years.

Q. Did you find her in that place? A. I have been in her bedroom, I have been sitting on her bed.

Q. She had a room there? A. That is it.

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Q. She was in New York City? A. That is it.

Cross-examination by Mr. Grosman:

Q. You called on Mrs. Pahy where she worked? A. Yes, I did.

Q. And you found her where she told you that she worked? A. She told me that she is working and living there around three years already, and then a lady came in the room also and she told

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me that, "I am very fond of Irma and she is living with me around three years."

Q. That is Mrs. Lasdon, who was on the stand here today? A. That is it.

Q. And Mrs. Pahy told you in so many words, "I work here and I live here," that is what she told you? A. That is it.

Q. Did she tell you also that she had a room over in Newark? A. I don't remember.

Q. She may have told it to you and she may not have? A. I don't remember she told me she is living in Newark.

Q. You wouldn't say that she did not tell you that, would you? A. I couldn't say that she told me.

Mr. Grosman: All right. That is all.

The Court: That is all, madam.

Witness: Thank you.

Mr. Unger: That is all. I want John Pahy.

JOHN PAHY, recalled.

Examined by Mr. Unger:

Q. You are John Pahy? A. Yes, sir.

Q. You were married first to Irma Pahy? A. Yes, sir.

Q. This is in 1912? A. 1912.

Q. And you have one son? A. Yes, sir.

Q. And how old is the boy now? A. He is sixteen years old the twenty-second.

Q. Of this month? A. Last month.

Q. Yes. Now, you lived with your first wife, Irma Pahy, did you, in various places in New Jersey, until she went to Europe? A. I was live from

1912, practically, to the middle of 1915, in Elizabeth, New Jersey.

Q. Yes? A. Then from 1915—then I came to Newark and lived with her up to 1922.

Q. And how did it happen that your wife went to Hungary in 1922? A. She never was satisfied in this country; she always said she like to have her own people that she used to been a lady and afterwards she was never satisfied with her husband, the husband was coming home a working man.

Q. Meaning who? A. The husband, John Pahy.

Q. What did you do for a living? A. Machinist and tool maker.

Q. And did you get along well with her? A. For the first eight—I was tried to do everything.

Q. What was the trouble between you? A. She never was satisfied with the husband and lately I find out she used to kick the boy and was promised the boy going to kill him if he ever mentioned anything to the father about it.

Q. Who did you hear that from? A. From Mrs. Costello.

The Court: No.

Q. Don't you say what they told you, but just tell me who you heard it from. Who told you that? A. Mrs. Costello.

Q. Did the boy tell you anything? A. After he told me all about it.

Q. All right. Now, what did you do with your earnings, your wages? A. When I received my wages I was handed it to mine first wife, Irma Pahy, without opening up the envelope.

Q. And where were you living in November of 1922? A. Waverly Avenue.

Q. And that was before she went to Europe? A. Exactly.

Q. Did you want her to go to Europe? A. That was up to her. She was decide she want to go and I never said "Yes" and I never said "No". She just pleased herself.

Q. You gave her money, did you? A. Yes—I can't give her any; she had all my money. 10

Q. How much did you give her when she left? A. When she left, what I know about it, we had approximately about two or three hundred dollars cash, she took every penny with her.

Q. Now, did she take the boy with her? A. Yes.

Q. Was there any agreement between you as to when she would come back? A. I understand she went to look around in Europe if she can't buy something cheap and if it is very satisfactory there, maybe I follow her. 20

Q. Then there was nothing said as to when she was to come back? A. Well, it was said so much, if she don't find anything, come back as quick as possible can, but she refused.

Q. Where did you keep on living? A. First Mrs. Pahy was find a place for me by Mrs. Costello for board and I stayed there approximately two months. 30

Q. Now, did you send her money from time to time while she was away? A. Always and also every mail I sent her money; I sent it in an envelope, the smallest amount was $20.00.

Q. Did you write her letters? A. Yes, sir.

Q. Did she ever answer any of those letters? A. After she left, around November 22nd, the first mail I got hold from her the end of January.

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Q. Yes. And did you get any letters after that from her? A. Yes.

Q. Now, did she ask you to send her money to come back home? A. No; I was out—she should come back and first she refused, 1923 she refused to come back.

10 Q. Did you write that in the letters to her, to come back home? A. Exact.

Q. Is that in the letters she has here? A. I don't know.

Q. I mean, did you write it in the letters? A. I did.

Q. And did she come back at that time? A. No, sir.

Q. How did she happen to come back in 1924? A. After she made all the trouble between my re-
20 lations and me, she decided in 1924 to come back.

Q. What do you mean by "troubles with my relations"? A. Well, she supposed to stay with my brother in Hungary, there she make a disturbance between a man and wife, and she was not welcome there, but they was let her know.

Q. Then you sent her money to come back? A. I sent her money and ticket.

Q. How much money did you send? A. All to-
30 gether?

Q. Yes. A. Approximately fifteen, sixteen hundred dollars.

Q. That is, from the time she left in 1922 down to the time she came back in 1924? A. Yes, sir.

Q. And who did you give the money to? A. Well, mine first wife, as soon as she arrived, she started to give—(interrupted)

Q. No, no. While your first wife was away how did you send her the money? A. By Rona.

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Q. The steamship man? A. The steamship agent.

Q. And he has testified that he sent foreign money orders to Dejo Pahy. A. Yes.

Q. Who is that? A. That is mine brother.

Q. What has she to do with him over there? A. She was awful spender. The money went out of her—(interrupted) 10

The Court: No.

Q. Who is he? Did she live in his home? A. Yes.

Q. And you sent the money to him? A. Yes.

Q. And how do you know whether or not she got the money you sent? A. Well, the money she want she had it and she was write it to me.

Q. How do you know that she received the money you sent to your brother? A. Because she was have it herself. She wrote me herself they give it to her. 20

Q. She told you that? A. Yes, sir.

Q. And did you send any money to her through Mr. Germanus? A. Yes, sir; to Roumania I was send that money.

Q. And I show you a receipt dated December 17, 1927, for fifty dollars, to be transmitted to Irma Pahy. Does that represent money that you gave to Mr. Germanus? A. This money was sent by cable to Hungary. 30

Q. Cable? Was that money for her? A. Those fifty United States dollars.

Q. Do you know whether she got that money or not? A. Exact.

Q. Do you know whether she got that money or not? A. Yes, sir.

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Q. How do you know it? A. She was write me about it.

Q. And what is this thing written in Hungarian for seventy-five dollars? What was that seventy-five dollars for? A. That was sent to Irma Pahy through this bank, what they drew, she was received the money.

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Q. That is their receipt for it? A. Yes.

Q. The bank's receipt? A. The bank's receipt.

Q. And here are three money orders for $106.73 sent to "E. Case", who is that? A. Case? That is a banker in New York.

Q. What was that for? A. To Irma Pahy.

Q. How do you know whether or not she got the money which was cabled and the money on these receipts? A. She was writing me letters that she received the money.

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Q. She was? A. That is all the proof I have.

Q. And you say it was about how much in all? A. Approximately $1500.

Q. All right. Now, come down to the time when she came back to the United States. What month was that? A. June.

Q. June? A. 1924.

Q. And what day of the month? A. I couldn't tell you the date. I think that was a Sunday.

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Q. Did you know she was coming? A. Yes, sir.

Q. And did you meet her at the steamship? A. I met her on the pier.

Q. You were still living in Newark with the boy? A. No; the boy was with her.

Q. You were living alone? A. I living alone by Molnar.

Q. Were you well at that time? A. No, sir.

Q. What had happened to you? A. Run-down condition; overwork.

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Q. Where? A. I was working in Harrison for Worthington Pump Corporation.

Q. Were you laid off? A. I was not laid off; I was not able to work, I quit myself.

Q. How long before you met your wife on the dock was it that you quit? A. Approximately ten or twelve days.

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Q. When you met her on the dock won't you tell us what happened between you and your wife? A. I was standing by the gate on the dock. As soon as they come off the steamer they noticed me and the boy was the first who run to me. I was not able to go through, but I laid through the fence and I kissed the boy and then the wife come and I kissed the wife and she had to go back to check off her suit cases.

Q. Yes. Did she get the suit cases? A. Yes, sir.

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Q. She said you stood there like an enemy towards her. Did you act that way? A. I never was act that way with nobody yet.

Q. After she got the suit cases, did you go together? A. Yes. I was take the suit cases. Then up on the street I got a taxi and up to the Tube and bring her to Newark, New Jersey, to mine home where I was boarding.

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Q. Did the boy go with you? A. Yes, sir.

Q. Now, will you tell us what happened while you were in the taxi? A. Hardly we get off from the steamer, first, Mrs. Irma Pahy would jump on me and want to know how much money I saved and where I was bumming and whatever I was doing.

Q. Whatever you were what? A. Where I was bumming and whatever I was doing, and also told me about Cain and Judas and all such things.

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Q. Did she accuse you of anything there? A. Well, accusing me about the money, what I do with the money and how much money I save. The money was the main thing.

Q. Now, what did you talk about while you were in the taxi? A. That is what we were talking about.

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Q. Did you take her to this house? A. To Molnar's house.

Q. Whose house was that? A. Eugene Molnar.

Q. And had you made arrangements with him that your wife should go there? A. Exact.

Q. Now, she says that you took her to a furnished room in the garret and shoved her one side. Did that happen? A. No, sir; that is not true.

Q. How did you treat her? A. I tried to treat her as a man should treat a wife.

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Q. She says that you had a separate bed from her, refused to occupy the same bed that night and the next night. A. That is exact right. I had to sleep on the next bed where there was plenty of room for me and the boy because the wife was saying she was awful tired, and furthermore she don't want to live with me as husband and wife.

Q. Well, did she say that? A. Exact.

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Q. You are sure about that? A. Exact.

Q. Now, did you have any meals with the Molnar people? A. Sunday dinner, they was wait for us and when I bring her from the Tube in Newark, I bring her on a taxi because I was downhearted because I didn't expect to have a feeling like that when we meet each other.

Q. And when you had your meals with the Molnar people, did you talk about what you were going to do from now on? A. I tell Irma Pahy right

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there and I says, "We got to go away where nobody will know us after all the trouble start, and also I am sick, I have got to go away to a different climate over there from the sea and start a new life."

Q. Were you sick? A. Run-down condition, overwork.

Q. And did you tell her that? A. Exact.

Q. And what did she say when you said you had to go away? A. "We don't have to" and "I don't have to".

Q. She said that? A. Exact.

Q. Was the boy there? A. The boy was there; also Mr. Molnar.

Q. Mr. Molnar there? A. Mr. Molnar was sitting by the table.

Q. Mrs. Molnar? A. She was there, but she is dead now.

Q. She is dead now. What else did you ask her—tell her that you wanted to do, wanted her to do? A. To go with me and live as man and wife.

Q. And did you tell her where you wanted to go? A. I tell her away from Jersey completely, more inland where it is drier air.

Q. And what did she say to that? A. She says to me she don't have to.

Q. Now, did you bring that subject up again? Did you ask her? A. The next day I did.

Q. What did you say to her then? A. I asked her to go because this ain't no life for me and I can't stand much longer.

Q. What did she say? A. The same thing, she don't have to.

Q. And did you tell her what place you wanted

to go to? A. I never had any particular place to get out.

Q. At that time did you have it in your mind or in your heart that you wanted to go to Nevada? A. Not at all.

Q. Did you have any intention at that time of
10 going west to get a divorce anywhere? A. No, sir.

Q. And how did it end between you and your wife at that time? Did she go with you or not? A. She wouldn't come with me.

Q. What did you then decide to do? A. I wasn't know what to do. I was standing there like a lost sheep right on the street. I didn't know what to think or what to do. I had approximately one hundred seventy-five or two hundred dollars
20 in my pocket and I said to the boy, "Now, Sonny, we are standing penniless, broke, sick. Are you want to go with your mother or you were to stay with your father?"

Q. The boy said? A. I asked the boy and the boy said, "I want to go with you, father." And I was put twenty dollar in the envelope because I knowed, I see Mrs. Pahy's pocketbook, she had more money as I had.

30 Q. How much money did she have? A. In the small pocket I see seventy-five dollar check, and I understand she had approximately three hundred dollars.

The Court: No.

Mr. Grosman: No.

Q. No. Only what you saw in the pocket book or what she told you she had. A. Seventy-five dollars.

40 Q. Then what did you do with the twenty dol-

lars? A. Sent it to Mrs. Pahy and with a note, "We cannot stay together; we do not understand each other."

Q. When you wrote that letter which was read here in Court, that is the letter which says, "You have shown your colors; we step aside for the last time; be happy, John." Is that what you said? A. That "color" word I don't understand. I don't think there is anything in here.

Q. Here is the letter. Or, tell me, is this the letter or the note you sent her? A. Well, this ain't exactly translated right.

Q. Is that the note you sent her? A. That is the note.

Q. You translate it that way. A. I can't translate very good from Hungarian to English but this wasn't translated correctly.

Q. It was or it was not? A. It was not.

Q. Give us your translation. A. "With your own knowledge and the way you act, you was let me known you hate me and ours. We stand aside be happy, John."

Q. That is what you gave her with the twenty dollars? A. Yes, sir.

Q. Now, before you left did you tell the boy what you just testified to in her presence, or while she was not there? A. The boy was—one evening the boy was there. The rest of the time the boy don't hear.

Q. I mean, was your wife, Irma, there at that time? A. When?

Q. When you told the boy he should stay whether he stays with his mother or comes with you. A. No, that was on the street.

Q. That was on the street, she was not there.

When did you leave? A. From where?

Q. When did you leave? A. I leave from Newark?

Q. When? A. I can't tell you the exact date.

Q. How many days was it after your wife had come back from Europe? A. Three days.

10 Q. And did you go directly to Nevada? A. Oh, no. I went to Chicago, was looking for a job; I was there two days.

Q. You went from Newark to Chicago? A. Yes.

Q. How long did you stay in Chicago? A. I stayed there two days and I seen my money was short and I was tried to work myself down to Frisco to get the boy home by my sister and mother. I went to—(interrupted)

Q. No; wait a minute.

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The Court: Wait a minute.

Q. How long were you in Chicago? A. Approximately two days.

Q. And what were you doing while you were in Chicago? A. I was in a hotel boarding and looking for a job.

Q. Did you go to see any lawyers there? A. No, sir.

30 Q. Did you take any legal advice from anybody there? A. Not as I know, no, sir.

Q. And then you went on to San Francisco? A. No; I went to Salt Lake City.

Q. And where did you go in Salt Lake City? A. Salt Lake City I went to employment agency and I was finding work on the copper mines there, and that kind of work I don't understand.

Q. How long did you stay in Salt Lake City? A. About twelve hours.

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Q. About twelve hours? A. That is all; half a day.

Q. And the boy was with you? A. The boy was with me always.

Q. And then where did you go to? A. From there I was working myself down over there, Sparks, Nevada.

Q. Nevada? A. Yes.

Q. Did you stay there? A. I got a job there.

Q. How long did you work in Sparks, Nevada? A. Eight, eight and a half months.

Q. Well, before you got to Sparks, Nevada, were you in California? A. I didn't have no money to take my boy there.

Q. How did you get to San Francisco? A. I was ask money from my sister afterwards.

Q. Did you get to San Francisco yourself? A. Oh, yes, I take the son with me.

Q. Well, where did you take him from? A. From Nevada to San Francisco.

Q. Oh, you took him after you got to Nevada. A. Yes.

Q. And then you went with him to San Francisco? A. Yes, sir.

Q. In what city? A. San Francisco, California.

Q. And how long did you stay there? A. There I was try to locate a job, but in San Francisco for machinists the conditions are very poor.

Q. How long did you stay in San Francisco? A. I was a day, about a day. The machinists was let me know there was nothing to do.

Q. How long did you stay there? A. Frisco?

Q. Yes. A. That time I took the boy there, one day.

Q. Did you leave the boy there? A. Yes.

Q. Who with? A. Mine own sister.

Q. Why did you leave him there? A. Because where I was boarding in Nevada, that was not a place for the boy to stay between the railroad men.

Q. Then did you go from Frisco to Nevada? A. I went back because I had a job over there.

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Q. Well, had you gone to see any lawyer in the meantime? A. No, sir.

Q. Had you thought about getting any divorce yet? A. That is all here in the State, what they are talking about, there I was decide I going to get divorce.

Q. Before you came into the State of Nevada, had you made up your mind to get a divorce? A. No.

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Q. Now, what month was it that you got to Nevada? A. The very first part of July, or August?

Q. I can't tell you. A. July.

Q. About how long after you had left Newark? A. It was take me about eight days to get down.

Q. All right. And then you got—

The Court: Now, wait a minute. If he stayed eight months in Nevada before he went to San Francisco—(interrupted)

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Mr. Unger: I think he is wrong on that. It was eight months after. I will try and straighten him out.

Q. When did you first come into Nevada? A. First I came in Nevada the first part of July.

Q. You did not leave Newark until then? A. Well, July, then it must be the first part of Aug-

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ust when I left here, it took me eight days to get down there.

Q. What I want to know, did you go to Chicago first? A. Yes.

Q. And then you went to Utah next? A. Salt Lake City, Utah.

Q. And from there to Nevada? A. Yes.

Q. And then you took the boy from where you were in Nevada to San Francisco? A. Yes, sir.

Q. And you were at that time working in Nevada? A. Yes, sir.

Q. What was the name of the place? A. Sparks, Nevada.

Q. Now, how long, all together, did you work at Sparks, Nevada? A. Approximately eight months.

Q. And who were you work there for? A. Southern Pacific Railroad Company.

Q. And what kind of work did you do for the railroad company? A. Well, mine trade is tool maker. I had to do the railroad work, what is entirely different from tool work, so I was pretty slow on the job, but I was do my best to stick to the job, and as soon as the season was over, they was let me, you know, on the side, "Your time is up and you can go."

Q. When was that? A. That was in the first part, in 1925.

Q. Yes. Now, while you were in San Francisco, did you work for any concern there? A. How you mean, Lawyer? When I went back?

The Court: No.

Q. At any time.

The Court: Did you work in San Francisco?

Witness: No; I didn't work.

The Court: How long did you stay there?

Witness: There I was stay a day.

The Court: One day or two days?

Witness: One day when I took the boy down.

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Q. Now, were you working for the Southern Pacific, is that the name? A. Southern Pacific.

Q. (Continuing.) All the time while you were in Nevada? A. Exact.

Q. And were you living with railroad men and employees during that time? A. At a season down there when the fruit season and all those things come, they come all railroad men, working from all over the country there and there I had to stay with mine son.

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Q. And after you got to Nevada you decided you would get a divorce. A. After. Right.

Q. And you got your divorce there? A. Yes.

Q. Now, when did you come back to New Jersey? A. In New Jersey, 1925.

Q. Did you come back to live here? A. No.

Q. Where did you come? A. I come to New York State.

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Q. And did you come directly from the west to New York State? A. Yes, sir.

Q. And where did you live after that? A. I come and live by Frohman's in Staten Island.

Q. Yes. Have you ever moved into New Jersey or become a resident of New Jersey since that time? A. No.

Q. You were arrested on a complaint when you came into New Jersey here? A. Exact.

Q. And you were working somewhere in New Jersey? A. Yes.

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Q. Where? A. I was working in Harrison, by Henry R. Worthington.

Q. About how long had you been working there when you were arrested there? A. About a week or so.

Q. Yes. Did you ever move into New Jersey and take up your residence here after you had left Nevada? A. No. 10

Q. No. Now, do you remember what month it was that you left Nevada? A. May.

Q. May? A. Yes, sir.

Q. 1925, was it? A. 1925, yes.

Q. And then you brought with you your divorce papers? A. Yes, and the son.

Q. And then did you get married to your present wife? A. Yes, sir.

Q. Were you engaged to her before you went to Nevada? A. No; nothings. 20

Q. Did you go to Nevada in the first instance with the idea of getting a divorce there? A. No, sir.

Q. Now, where are you living now? A. 862 Hunterdon Street, Newark, New Jersey.

Q. When did you come to 862 Hunterdon Street? A. After I was arrested—868.

Q. And were you advised that you had to come into New Jersey because you had given a bond to stay in New Jersey? A. Exact. 30

Q. Are you working now? A. I working, yes.

Q. Where do you work? A. Henry R. Worthington.

Q. The same place? A. The same place.

Q. Where you were working before you went away? A. Yes, sir.

Q. And you are living with your second wife? A. Yes, sir. 40

Q. And you are satisfied and happy with her? A. Yes. I really can say I am happy.

Q. And the boy, is he living with you? A. Yes.

Q. And what does he do? A. He goes to school; he goes to East Side High School, second year.

Q. How much do you make a week? A. Between thirty-five and forty-two.

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Q. Now, while you were in Worthington's in 1924 and before you went west, did you know a man by the name of Anthony Gaitos, the young fellow that was on the stand? A. I never saw that man before. The first time I saw him on the stand.

Q. Did he work in the tool department with you? A. I never know—can't recognize that man. As I know I never saw that man no place.

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Q. Did you tell him that you were going to Reno to get a divorce from your wife? A. How can I say when I never saw that man.

Q. Did you or did you not? A. What?

Q. Did you talk to him at all? A. The first time I saw this man on this chair.

Q. You never talked to him at all at any time? A. No, sir; not as I know.

Q. You don't know him at all? A. No; I don't know that man.

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Q. Did you discuss your affairs with any people in the shop there? A. No, sir. Mine family affair was mine own.

Mr. Unger: That is all.

Cross-examination by Mr. Grosman:

Q. Now, Pahy, you say that your wife went to Europe against your will? A. I never said against her own will.

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Q. Your will. A. I said—

The Court: No, he didn't say that. He said he didn't say "Yes" or "No".

Q. You were satisfied to have her go to Europe? A. That was up to her.

Q. You did not raise any objection to her going to Europe, did you? A. No. 10

Q. If she wanted to go, it was all right with you. A. Yes, sir.

Q. And you parted on the very best of terms, did you? A. Yes.

Q. You discussed with her plans for her stay in Europe, did you? A. No, sir.

Q. You didn't do that? A. No.

Q. Didn't you know where she was going to go and who she was going to stay with? A. I know she go to mine own brother. 20

Q. Didn't you write to your brother and tell him to expect your wife? A. Oh, sure; they was waiting for her.

Q. Then you did arrange for your people in Europe to receive your wife when she came out there. A. Yes. Also mine wife made arrangement with mine own people.

Q. And you sold out the house, the furniture? A. My wife sold the furniture. 30

Q. Well, you were there; you made no obpection to it, did you? A. I don't make no objection. I was working, she sell everything.

Q. She sold the furniture out while you were at work? A. I was know about it.

Q. Didn't you know that she was going to sell the furniture? A. Yes.

Q. Did she speak to you about it? A. Yes.

Q. So that she did not sell the furniture while 40

you were away at work, did she? A. Well, sure, she had to sell it day times.

Q. Yes. A. But I was know all about it.

Q. Then, while she was in Europe you sent money to her. A. Yes, sir.

Q. And you say that you never received any letters from her? A. Not till the first part of January, 1923, when she left—

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Q. When did she go to Europe? A. 1922, November.

Q. Yes. And you started to receive letters in January, 1923. A. Yes, sir.

Q. Now, didn't you receive enough letters from her to suit you?

The Court: No; that means nothing.

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Q. You wrote her, didn't you? You wrote her all these letters marked P-2, all those letters that you wrote to her while she was in Europe. A. This ain't mine handwriting (indicating).

Q. Well, you wrote her a number of letters, didn't you, Pahy? A. Yes, but some of them ain't mine.

Q. Most of them are yours. A. Most of them I went through so far.

Q. See if you can recognize your handwriting and tell how many you wrote. A. Some here my sister's handwriting and some mine.

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Q. All these your handwriting? A. Yes, sir.

Q. Letters you sent to your wife while you were

The Court: He says some are in his sister's handwriting.

Mr. Grosman: Those he has specified, your Honor.

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The Court: Yes, all right.

Q. These that I hold in my hand? A. Yes.

Mr. Grosman: The witness identifies these twenty-two letters as being his handwriting. Do you want to count these?

Mr. Unger: No. You say there are twenty-two, there are twenty-two.

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Q. Now, you had no fault to find with your wife while she was in Europe, did you? A. Yes, I did.

Q. Well, you never wrote her about it. All the letters you wrote were real nice, inquiry about her health and that of the boy. A. I wanted her to come back to this country and she was refused.

Q. Have you any letter in your possession that you say you received, wherein she said she would not come back to this country? A. I never saved no letters.

20

Q. You throw them away? A. Yes, sir.

Q. You say she wrote you a letter telling you she would not come back? A. Yes, sir.

Q. Now, after that you kept on sending her money, didn't you? A. I had to do it on account of the boy.

Q. You had a brother over there. Why didn't you send your brother enough money to take care of the boy and send nothing to the wife, if she didn't want to come back here? A. Why, I sent money to the brother and also sent some money in an envelope in the Irma Pahy name and also I know she never put the money what she asks for.

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Q. After she told you she would not come back to this country, when you wrote to her and asked her to come back, you still kept on sending her money and writing nice letters to her. A. Nice letters, asking her always to come back.

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Q. And you say that you wrote in some of the letters that you sent to your wife you asked her in so many words, "Please come back to America"? A. I don't say I was put down "Please come back to America", and I was let my wife know I want she should come back.

10 Q. How did you say it? A. I have to read it over.

Q. Well, are you sure that in any letter you sent to your wife while she was in Europe, in any way whatever you told her that you wanted her to come back? A. Exact.

Q. You did write that in the letter? A. Exact. Molnar can prove it.

Q. And after she refused, you still kept on sending her money? A. Yes, on account of the boy's

20 sake.

Q. All right. She finally decided to come back. A. Yes, sir.

Q. You sent her money and ticket and she came back. A. Ticket and money.

Q. You say you did not like the way she treated you when you met her at the boat? A. I didn't like it at all the way she was treat me when we met.

30 Q. Well, what didn't you like about it? A. I don't like when she was call me names and want to know where I was bumming and what I was do with the money I earned. The money was the most interest she have as my love or anything else.

Q. You mean to say as soon as your wife saw you she said, "What did you do with the money you earned and where were you bumming?" A. We hardling was in the taxi. She start arguing with me where I was bumming and where I was

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and what I do with the money, how much money I have.

Q. She started fighting right away? A. She started hardly we was in the taxi.

Q. And that, of course made you angry? A. Well, you wouldn't feel extra good yourself.

Q. It was how you felt. That made you angry, did it? A. I didn't feel very good. 10

Q. When you went over to the boat to meet your wife, you intended to take her back and live with her? A. Yes, sir.

Q. That was your intention at the time? A. Yes, sir.

Q. On the twentieth of July, 1924? A. Yes, sir.

Q. You had no home for your wife except that furnished room there in Molnar's, did you? A. That is all I had, because I was intended to leave 20 the State.

Q. You were intending to leave the State? A. Yes, with the wife to go to a better climate.

Q. Oh, the climate did not agree with you? A. No, sir.

Q. Well, what was there about the climate that did not agree with you? Was it too near the sea level? A. That is what I imagine.

Q. Any doctor tell you that? A. The doctor—I didn't had very much money to pay for doctor. 30

Q. You told us you had one hundred seventy-five or two hundred dollars in your pocket the day you went away. A. Exact.

Q. Did you ever go to a doctor and have the doctor tell you that the climate down here did not agree with you? A. When a man is out of work—

The Court: No.

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Q. Did you ever do that? A. I went to some doctors.

Q. Who? Who is the doctor? A. Dr. Klein.

Q. Who? A. Dr. Klein.

Q. Dr. Klein, where is he? A. He was on 6th Street near to Springfield Avenue.

10 Q. When did you go to him with reference to the date on which your wife got back from Europe? A. I didn't went to see him.

Q. Was it around that time? A. Probably a couple of weeks before.

Q. And did doctor Klein tell you that you had to leave this part of the country? A. Well, he told me, "You overworked".

Q. Did he tell you that you had to leave this part of the country? A. He don't tell me directly
20 I shall leave this part of the country, but he let me know I overwork. "And the change would do you good."

Q. So you decided to go from the eastern coast to the western coast. You went to Frisco, didn't you? A. I didn't decide at that time where I go to.

Q. When did you decide? A. After mine wife was refuse to come with me.

30 Q. You asked your wife to come with you? A. In Molnar's home by dinner time.

Q. What did you say to her? A. I was let her know by the Sunday dinner, "We got to go away from here," and after she started to argue with me I said, "We got to start a new life". She said, "I don't have to."

Q. Why did you tell her you had to go away from here? A. Because I was figuring if I don't make my bread and butter here, she got to go where
40 I make my bread and butter.

Q. You got a good job out at Worthington's didn't you? A. As a sick man I was not able to keep up mine job.

Q. Where did you want this woman to go with you? A. Wherever I find a job, a higher place.

Q. You couldn't work at Worthington's. Did you figure you could work somewhere else? A. I was figuring in a higher climate maybe I could work. 10

Q. Thought you could work in Reno? A. No.

Q. Well, did you tell her, "Here, let us go to Chicago," or, "Let us go to Frisco"? A. I told her maybe we go some place in New York State.

Q. That New York was higher than New Jersey? A. Yes.

Q. Well, did you tell this woman where you wanted her to go with you, or just go traveling? 20 A. Can't travel with one hundred seventy-five dollar. I had to go and look for a job and she was refuse to live with me.

Q. You didn't tell her where you were going to take her, did you? A. Well, I didn't find a job in New York State yet.

Q. Did you want your wife to go traveling with you about the country until you found a job? A. We didn't talk about it, because with one hundred 30 seventy-five you can't go very far with a family to travel.

Q. You told us a little while ago you wanted your wife to go with you. A. Yes.

Q. That you were going to get a job somewhere else. A. Yes.

Q. Now, I am asking you, did you tell your wife where you wanted her to go, where you were going to look for a job? A. I didn't have a job no

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place. A machinist never can tell in which town he is going to find a job.

Q. So you didn't know where you were going to go or where you were going to find a job, did you? A. I was expecting to find a job in New York State.

Q. In New York State? A. Yes; higher up.

10 Q. Did you tell your wife you wanted to go to New York State with her? A. Oh, yes, I was talking to New York State with her by Molnar's dinner table.

Q. And she would not go with you to New York? A. She told me she don't have to.

Q. You didn't go to New York after you left her, did you? A. No; I was lost.

Q. What do you mean, you were lost? A. Well, I don't have no money, didn't have much left, 20 $175, standing out of work with the boy; I was trying to get the boy a home.

Q. Why didn't you go to New York? It would not have cost you as much to go to New York as it did to go to Chicago, would it? A. That is exactly right, but how can I give mine boy this home that I don't know the people.

Q. Well, did you know anybody in Chicago? A. No.

30 Q. Why did you go there? A. I was figure I can work myself down to Frisco with the money I had, so I was decide if I get a job maybe I stay a couple of days.

Q. Did you have any people over in New York State? A. Nobody.

Q. You had the Molnars over there, didn't you, Tottenville? A. I didn't know the Molnars live in Tottenville. Frohman.

Q. How about Frohman? A. Frohman lived in 40 Tottenville.

Q. They lived there then, didn't they? A. Yes.

Q. They were friends of yours for years? A. (Witness nods yes.)

Q. When you came back from Reno to your second wife, you went with the Frohmans in Tottenville. A. When I came back from Reno and I went to Tottenville with my second wife.

Q. And you lived with the Frohmans out there, didn't you? A. Yes. 10

Q. If you were broke and didn't have any money why didn't you take your boy over to the Frohmans where you took your second wife? A. I took the boy and went to Frohmans after I got my divorce in Nevada.

Q. I am asking you why you didn't do that before, when you first left your wife, when you say you were broke and had no money? A. How shall I know Frohmans will take my boy or give him a good home until I working there? 20

Q. You doubted whether the Frohmans would give your son a good home? A. Yes, sir.

Q. So you decided to go to Chicago? A. I decided to go to Chicago and work a couple of days.

Q. Where did you go in Chicago? A. In Chicago, I never was there before, as we arrived to the railroad station there I was ask people where is the first employment office. 30

Q. Yes? A. Well, they—I didn't find a good job; I didn't have enough money; I was—I went farther.

Q. You went down to Salt Lake City. A. Yes, sir.

Q. You had nobody in Salt Lake City, did you? A. No.

Q. Why did you pick out Salt Lake City? A.

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Well, it was to work myself to my sister where I can give my boy a good home.

Q. You didn't find any work in Salt Lake City, did you? A. All copper mines.

Q. All copper mines. You didn't work in the copper mines, did you? A. I never worked in copper mines.

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Q. All right. Now, when you left Salt Lake City, why didn't you go to San Francisco where your sister was and leave the boy there? A. Because I didn't have enough money to work myself all the way down no more.

Q. Did it cost any more money to go from Salt Lake City to Frisco than it did to go to Sparks, Nevada? A. Well, yes.

Q. How much more? A. The difference is about

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five or six hundred miles.

Q. How much money did you have with you in Salt Lake City? A. In Salt Lake City I had about $52 left.

Q. Couldn't you have wired your sister to send you money to Salt Lake City as well as you did to Sparks, Nevada? A. When you ask money from your sister and she has no money, she can't give it to you.

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Q. She sent it to you at Sparks, didn't she? A. She sent it to me after she was able to borrow some money, she helped me out.

Q. How long after you wired your sister for money did she send it to you? A. After—I was in Sparks, Nevada, approximately a week or so before I got money from her.

Q. And you did not think you could wire your sister from Salt Lake City and get the money as well as you could from Sparks, Nevada? A. I

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was ask for money.

Q. While you were in Salt Lake City? A. Yes, I got answer back, "Don't have any". That is all.

Q. So you went on with $52 in your pocket to take the boy up to Sparks, Nevada? A. Fifty or Fifty-two dollars.

Q. And a week later you got money from your sister? A. Right.

Q. Now, when you arrived in Sparks—Sparks is right outside of Reno, isn't it? A. About thirteen miles.

Q. That is where the railroad shops are in, in Sparks, the foundry? A. Yes, repair shops.

Q. You lived in Reno, didn't you? A. I lived in Sparks, I lived for a while.

Q. You lived with a man named Wissman right inside of Reno, but they call that—(interrupted) A. After I was there two months I went to live in Sparks, Nevada—I mean, Reno, Nevada, with Wissman.

Q. You lived in Landers Street in a little cabin, didn't you? A. Yes, a little cabin.

Q. Why did you tell us before that you lived in Sparks? A. Because I was living in Sparks over a month.

Q. How long did you live in Sparks? A. Between a month and two months.

Q. Are you sure about that? A. Yes, sir.

Q. Is Sparks in the same county as Reno? A. Exact. Washo County.

The Court: What?

Witness: Washo.

Q. Don't you remember telling the Court out there in Reno that you had been living in Reno, that you came to Reno on August 1st, 1924, and that you had been there from that time on until

the time of the trial? Do you remember that? A. I told the lawyer where I was living and where I moved to Reno.

Q. No. I am asking you whether you did not tell the Court out there in Reno, you yourself. A. I don't remember exact, but I just tell nothing but the truth there.

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Q. Yes. You didn't tell the Court there anything about living in Sparks, did you? A. The first address was in Sparks, Nevada.

Q. And you lived out there with a man named Wissman. A. Yes.

The Court: That is when he lived at Sparks?

Mr. Grosman: Lived at Sparks and in Reno.

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The Court: Yes.

Q. And Wissman was the man you took to Court with you in Reno? A. Who?

Q. Wissman is the man you took to Court with you in Reno? A. Yes, sir.

Q. And he testified for you, didn't he? A. I was live with him, yes.

Q. I am asking you, he is the man that testified for you in the Reno court. A. Yes, sir.

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Q. How long did you know Wissman? A. I got to know him from the shop.

Q. How soon after you arrived in Reno did you secure employment at the railroad shops? A. In a couple of days I was started to work.

Q. What job did you have out there? A. I was working at the lathe.

Q. You were a machinist, weren't you? A. Machinist.

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Q. That is your trade? A. Yes, but not a railroad machinist; that is a different trade altogether as a tool machine trade.

Q. You are a machinist by trade, aren't you, both a machinist and a tool maker? A. A machinist and a tool maker, that is different things.

Q. What are you, a machinist or a tool maker? A. I am a tool maker. 10

Q. And you were working out there as a machinist? A. As machinist.

Q. And after you made arrangements up there in Sparks to work in the railroad shops, you took your boy from your sister's? A. Because I didn't have—the boy didn't have a decent home between railroad men.

Q. And then came right back. A. Go back.

Q. And you stayed there for eight months; is that correct? A. Yes. I live over eight months, about nine monhts. 20

Q. About nine months. Now then, as I understand you had very little money when you landed in Reno. A. In Sparks?

Q. In Sparks. A. Very little money.

Q. About how much? A. Oh, about five or six dollars.

Q. How much money did your sister send you from San Francisco? A. I think it was forty or fifty dollars. I can't tell you the exact number. 30

Q. What was the fare down to Frisco and back, down for you and the boy and back for yourself? A. Railroad ticket about twenty-two dollars.

Q. For you? A. For me.

Q. How about the boy, one way? A. Ten or eleven dollars.

Q. So that out of the forty dollars your sister 40

gave you, you spent about thirty-two? A. Approximately right.

Q. You had about eight dollars left and five dollars of your own was about thirteen dollars when you finally got settled in Sparks, is that correct? A. Yes.

10 Q. Now, how soon after you came back, after having left your boy in Frisco, did you consult a lawyer about getting a divorce? A. No, sir.

Q. How soon, how many days, weeks, months? A. Weeks; after I was there over six months I went to the lawyer.

Q. You didn't speak to a lawyer or to anybody about your divorce until you had been in the State of Nevada for six whole months; is that what you want to tell us? A. I want to tell so much every-
20 body was talking about divorce and I was say, "I going to see one lawyer myself."

Q. When did you say that? A. I was there about three or four months before I was mentioned, "Maybe I going to get my divorce, too."

Q. So that for three or four months after you landed in the State of Nevada you had no idea whatever of getting a divorce or seeing a lawyer about a divorce? A. No.

30 Q. You didn't give that matter a thought? A. Never thought of it.

Q. Now, everybody up there was talking about divorces? A. Yes, sir.

Q. And that is all you heard around Reno, wasn't it? A. That is all.

Q. Reno itself is just a little bit of a town? A. Oh, no.

Q. No business there except the divorce business. A. Well, Reno is pretty good sized town.

40 Q. Where were these machine shops, these rail-

road shops you were working in? A. Sparks, Nevada.

Q. Why did you move from Sparks into Reno? A. I was unable to stand between those railroad men and workmen mineself.

Q. Oh, you didn't like the people who were living in Sparks and so you moved to Reno? A. No, because they had these drinking parties and I don't drink at all, and that was go against me, that smell.

Q. So there wasn't any place in the town or city of Sparks where you could go and be from the smell of that liquor they were drinking, that is the reason you moved to Reno. A. The whole town has got about seventy-five houses in it.

Q. And there was not any place around there where you could go and get away from the smell of liquor? A. Hotels, all the rest are railroad men.

Q. So that about two months after you moved down, you moved from Sparks to Reno. A. Between one or two months.

Q. It may have been one month? A. Between one and two months I went to Reno.

Q. You stayed there eight months. A. In Reno.

Q. Nine months out there altogether. A. Altogether about nine months.

Q. And during all that time you worked in the car shops, is that right? A. When we had to work.

Q. Well, most of the time you worked, didn't you? A. Mostly time.

Q. And every day during the time that you stayed there, after your having moved to Reno, you traveled thirteen miles to work and thirteen miles back? A. Yes, sir.

Q. And you could have had a place to live in right where the machine shops were. A. Not very well.

Q. If it was not for this smell of liquor. A. Well, there is nothing there to live. Those people they won't take a—an outsider—you have to live in a hotel and I wasn't able to cover the expenses to live in a hotel.

Q. Well, now, how soon after you moved to Reno did you employ your lawyers? A. I was over six months there when I went to the lawyers.

Q. You found out all about how to get a divorce in Reno, didn't you, from hearing people talking on the street? A. You never can find out nothing from the people because none of them is knows the laws.

Q. Well, did you know the laws? A. They were outsiders like myself.

Q. Did you find out what the law was in Reno? A. I went to the lawyer and I tell mine trouble, all mine trouble to the lawyer, and he said, "Well," he said, "take a chance."

Q. And you didn't go to the lawyer until six months were up from the time that you landed? A. Yes, sir.

Q. Is that what you want to tell us? A. Yes, sir.

Q. Leroy F. Pike was your lawyer out there, wasn't he? A. Yes, sir.

Q. Why did you wait exactly six months from the time that you landed in the State of Nevada until you went to the lawyers? A. I was told I was in the State of Nevada about four months before I was decided I going to get mine divorce, I try to get mine divorce.

Q. And it was then that you went to this lawyer? A. After the six months was over I went to the lawyer.

Q. Did you speak to the lawyer before the six months were up? A. No, sir, but you never can tell who is a lawyer there and who are not.

Q. You have to be careful out there, is that it? A. Exactly. 10

The Court: A dangerous place.

Q. You say that after you had been in Nevada four months you made up your mind to get a divorce. What did you do about it, anything? A. Didn't do nothing.

Q. You simply made up your mind you were going to get a divorce? A. Yes, sir.

Q. And then you waited two more months? A. Yes. 20

Q. And went to a lawyer? A. I went to the lawyer.

Q. Nobody told you what the law was up to that point, up until you— A. Well, that is all.

Q. —went to that lawyer. A. That is all you read, those divorce cases in the paper there.

Q. Just answer my question; nobody told you what the law of divorce was in the State of Nevada until you went to see Mr. Pike exactly six 30 months after you landed in Nevada. A. I went to see Mr. Pike after six months was over and I told him of mine troubles and I ask him if I got any show to get my divorce and he said he is going to see.

Q. Now, you did not go to Mr. Pike after the four months when you made up your mind to get a divorce? A. I don't see Mr. Pike until the six months was over, and no lawyer. 40

Q. How was it you waited exactly six months before you went to see Mr. Pike? A. Because I landed there—

Q. You landed there, I think you testified, on the first of August, 1924; your suit was started, according to Exhibit P-3 on the fifth of February, 1925, exactly six months and four days after you reached the State of Nevada. How is that? A. I was there after four months I was decide I going to try to get mine divorce from my first wife.

Q. Who told you it was time to go to the lawyers? A. Well, you read that in the newspapers.

Q. You read in the newspapers? A. Yes, sir.

Q. That it was time for you to go to the lawyer and see about your divorce? A. Not me; everybody they have to stay six months in the State before they become residents and all that.

Q. All right. As soon as you had been in the State six months and four days you went to see Mr. Pike? A. Yes, sir.

Q. And asked him about getting a divorce? A. I told him all mine trouble and I asked him if I can get a divorce.

Q. That was the date on which the suit was started, the fifth of February, 1925? A. I can't tell you the exact date.

Q. How many days after you went to see Mr. Pike did he start your suit? A. How many days after?

Q. Yes. A. I don't remember. He going to let me know when I got to go to him.

Q. And did you go to him after that? A. Oh. I didn't see him after, about a month or two he was writing me letters.

Q. Did you sign any papers for Mr. Pike before that? A. What kind of papers?

Q. Did you sign a petition for divorce? A. He was handing—

Q. No; did you sign a petition for divorce? A. He was handing me a paper to sign. After I was sign the paper about one month later he was call me up to go down to his office.

Q. How soon after you saw Mr. Pike for the first time did he ask you to sign papers in your divorce case? A. The same day. 10

Q. While you waited? A. He called a stenographer in and was dictate.

Q. Your wife at that time was living in Newark, New Jersey, wasn't she? A. As I know it through mine sister.

Q. Now, you read the papers that were made out in the divorce suit in the complaint, didn't you? A. I can't read good English. They was read it to me. 20

Q. Well, you swore to it out there in Nevada that you had read them and they were true.

The Court: They were read to him, he says.

Witness: Yes, sir.

Q. Didn't you swear to this in the State of Nevada, "That he is the plaintiff in the above entitled action, that he has read the foregoing complaint and knows the contents thereof and that the same is true of his own knowledge, except as to those matters therein stated on information and belief and the mass of those letters he believes them to be true, John Pahy."Did you sign that affidavit? A. Will you explain that, the meaning of it? They had to explain a good many thing in that paper; I didn't understand some words. 30

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Q. Do you remember telling your lawyer the story of your case and why you wanted a divorce? A. Yes, sir.

Q. And he prepared a complaint paper setting everything out? A. Yes, sir.

Q. And then you signed an affidavit? A. I signed a paper after.

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Q. What was that paper you signed after he had all the other papers ready? A. What kind of papers?

Q. You say you signed a paper. What was that paper you signed? A. After I told all mine troubles to mine lawyer, the lawyer was call a stenographer in and to put it on a paper and they handed it to me to write my name on there.

Q. Did you swear—do you remember swearing to that to the lawyer? A. Swearing to the lawyer?

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Q. Yes, that everything was true. A. I swear in the Court.

Q. Didn't you swear to the lawyer, after he prepared your papers on the fifth day of February, 1925, that what you had told him and what was contained in your bill of complaint was true? A. I don't remember I had to swear or was swear on the lawyer, but I know I had to swear in the Court.

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Q. Well, did you tell the lawyer out there in Reno that you put into this complaint, shown on Exhibit P-3, this: "That the above named defendant," referring to Irma Pahy, "has been guilty of extreme cruelty toward said plaintiff," meaning yourself, "which has caused him to suffer great mental anguish and physical pain and has greatly affected his health and that it would be impossible for said plaintiff," meaning you, "to further cohabit with the said defendant". Did you tell that to the lawyer out there? A. I told the lawyer she

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was cruel, not only to me, but also to the boy.

Q. Did you tell him that she was so cruel that it would have been impossible for you to live with her any longer? A. I said she hate the boy—(interrupted)

Q. No; just answer my question. Did you tell that to the lawyer out there? A. I said it was impossible to live together. 10

Q. When did you make up your mind as to that? A. What?

Q. When did you make up your mind that it was impossible for you to live with this woman any longer? A. After she came back from Europe the treatment she was giving to me.

Q. That is when you made up your mind you could not live with her any longer? A. Yes, sir.

Q. Why, then, did you ask her to go to live with you somewheres else away from Newark? A. I was try— 20

Q. Wait a minute. If you felt it was impossible for you to live with this woman any longer? A. I was try to take her and start a new life, as I said before, Lawyer, and she was refusing. After she was refusing me I see there was nothing left for me.

Q. Why did you want this woman, whom you swore before the Reno Court that it was impossible for you to live with—why did you want her to go to live with you? A. It was before I was decide; I was trying to do my best to take her along and start a new life, she was refuse to go with me. 30

Q. Didn't you tell me, a moment ago, that you made up your mind it was impossible for you to live with this woman, right after she came back from Europe? A. She was make it impossible for me to stay with her. 40

Q. Were you satisfied of that fact when you left her? A. What fact?

Q. That is was impossible for you to live with her? A. I can't stand her.

Q. You couldn't stand any more, couldn't live with her? A. No; after she refused, I see where she don't want to and she was let me know frankly she don't want to live with me, I ain't good enough for her.

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Q. Well, at any rate you told the Reno Court that you could not live with this woman that it was impossible for you to live with her; is that right? A. Yes.

Q. Was your wife all right with you until she went to Europe? A. Yes, sir.

Q. She was a good wife until she went to Europe? A. With my knowledge she was.

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Q. As far as you knew she was a good wife? A. Yes.

The Court: That is all admitted.

Mr. Unger: It depends on what he means by "good".

Q. Well, you were satisfied with her until she went to Europe? A. She was—

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The Court: They got along perfectly all right until—

Witness: We was get along.

Q. And she went to Europe in 1922. A. 1922.

Q. Do you remember telling the Court out in Reno this: "The plaintiff and the defendant lived together happily until about the year 1918,—" A. Yes.

Q. "—when said defendant appeared to take an

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aversion to the plaintiff, and thereafter treat him in a cruel manner." A. That was happen after that for a while she was refuse to even intercourse with her then was all right again and started back the same trouble again, but I never was—I was take everything, try to take good natural way, on account of the boy's sake.

Q. Now, when was it that she displeased you in 1918 or in 1922 when she went to Europe? A. It was 1918 sometime, 1919, 1920, 1921, pretty near to the last minute, but that just was happen every once in a while, then she was fool me.

Q. Did you ever see your wife beat or abuse your son? A. No.

Q. People told you about that after she went to Europe. Is that right? A. The people told me—the boy told me.

Q. You never saw her do that, did you? A. I saw her once.

Q. Do what? A. Knock the boy down by the stove and make an attempt to kick the boy and I stopped it. I say, "You ain't going to put your hands on that boy when I am around." And then I see the boy black and blue. I say, "What is the matter?" But he didn't tell, and later on he tell me he was promise to get killed by the mother if he mentioned it to the father.

Q. Do you remember telling the Reno Court that your wife frequently without cause or provocation severely beat and abused the son of the plaintiff and the defendant? A. Yes; after mine son told all about it.

Q. "And became greatly incensed against that plaintiff when he would protest against her action." Did you tell that to the Court out there? A. What does that mean?

Q. Whenever you objected to your wife beating your child she would become very angry with you. A. Yes.

Q. Well, you only saw her beat your child once. A. Once.

Q. That was the only time, wasn't it? A. And I stopped it, but she had me and the boy—and the boy used to get lickings right and left, kicked.

Q. Did you tell the Court in Reno that while she was in Europe she used to write you and refused to tell you anything about your son? A. I didn't get a letter from her from November till January, two months, but she supposed to write me right away as soon as she arrived.

Q. You did not say that to the Reno Court, did you? You told the Reno Court that during the time that she was in Europe she never wrote to you? A. I never said that to the Reno Court.

Q. You set up in your petition for divorce that, "Defendant went to Europe in the year 1923 and during the time she was in Europe"— A. During the time she was in Europe, yes.

Q. "—refused to write to said plaintiff and refused to tell him about their son." Didn't you tell that to the Court out there in Reno? A. I said it was—

Q. Didn't you tell that to the Court in Reno? A. I didn't tell it to the Court.

Q. Eh? A. I says to the Court, "I want her back and she refuses to come back to this country."

Q. Did you tell the Court in Reno what I have just read to you? A. Not as I know.

Q. That is not true, is it? A. I can't say Yes or No, because I don't remember it or anything like it.

Q. It is not true that you received no letters whatever from your wife while she was in Europe?

Mr. Unger: That is not what—

A. I received letters.

Mr. Unger: Just a moment. That is not what the allegation of the complaint said. 10

Mr. Grosman: What does it say?

Mr. Unger: It says during the time—it does not say "at no time".

The Court: And it seems to me that all this examination on the testimony is irrelevant. What I have got to consider is the final decree of the Court.

Mr. Grosman: Well, if he obtained that by fraud; if he imposed that on the Court out there, under Section 33 of our Divorce Act, your Honor ought to know it. 20

The Court: All right. I am only suggesting.

Q. You told the Court in Reno that you left your wife, the defendant, in the month of July, 1924, and have not since that time lived with said defendant, and to do so would be dangerous to his life—dangerous to your life? A. Yes. 30

Q. To live with your wife? A. Yes, sir.

Q. That is what you told the Court out there? A. Yes.

Q. And what did you consider being particularly dangerous to your life to live with your wife? A. Because she says to Molnar she was bring poison from Europe and through it put the boy out of the way if I going to say anything.

Q. Your wife told Molnar? What Molnar? A. Eugene Molnar. 40

Q. The man who was on the stand here? A. Yes.

Q. She had the boy in Europe two years, didn't she? A. Yes.

Q. She had the boy all the way over to this country, didn't she? A. Yes, sir.

10 Q. And she had poison with which to poison the boy after she got here? A. I never saw it, never seen no poison.

Q. Did you believe that story? A. I had to believe it. She was act—

Q. Did you believe that story that she would poison the boy? A. I never saw the poison, but the way she was act with me she was liable to do anything.

Q. Did you ever speak to her about the story 20 you had heard about her bringing poison? A. Yes.

Q. That she had brought poison for the boy? A. I wanted to look in her trunk and she wouldn't give me the key to look in.

Q. How long after you obtained your divorce did you leave the State of Nevada? A. About a week later.

Q. Where did you go? A. I gone east.

30 Q. Where? A. Staten Island, New York State.

Q. Where, to Frohmans'? A. Frohmans'.

Q. Mrs. Pomanko, the lady you married the second time was she living— A. She was living—

Q. —with Frohmans in Tottenville? A. —with the Frohmans in Tottenville.

Q. How long after you came to Tottenville did you marry this lady? A. I was proposed to her about a week later and she was refused to marry me then; then I asked her a second time, and she

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says, "All right, I marry you," and I went back to west again.

Q. You married her on the 28th of May, 1925, I believe? A. Yes, sir.

Q. Exactly nine months, was it, from the time that you left Newark. A. It was more than nine months.

Q. Ten months. A. Maybe.

Q. Exactly ten months from the time you met your wife in Newark you went to Reno, established a residence, came back here and married this other lady; is that correct? A. I came back because I didn't have no work there.

Q. Well, you told us that you left this part of the country because it did not agree with your health. A. Yes, sir.

Q. Had your health improved in the meantime? A. Yes, sir.

Q. So you had no further trouble with your health after you came back. A. I ain't so healthy any more, either.

Q. Do you think you have got to go to Reno again? A. Not to Reno, but I like to go back west where I was healthy again, and I just come east for a visit.

Q. Did you leave your wife three hundred dollars in cash when you went away? A. I leave—she had approximately three hundred dollars with her.

Q. You said in your affidavit in this Court— A. Yes.

Q. —on the 26th of January, 1928, this:— A. I said, "Approximately three hundred dollars."

Q. Paragraph 13: "I left Irma Pahy about three hundred dollars in cash upon my departure and

took along with me about one hundred dollars." A. No.

Q. What is the truth? A. $175.

Q. $175. Did you leave your wife with $300? A. Yes.

Q. Now, you say in Paragraph 14 of this same affidavit, this: "Subsequent to my departure I wrote a letter to Irma Pahy requesting her to go with me to such a place where I could obtain employment and enclosed in that letter a twenty dollar gold back." Is that true? A. That is the letter you read it before.

Q. This letter marked P-3, is a letter that you refer to? A. That is a letter I was put twenty dollar in.

Q. Is there anything in that letter about asking your wife to go with you and start life all over again, as you say, in this affidavit? A. Not in this one.

Q. That is the only letter you sent your wife with a twenty dollar bill in it after you left her, isn't it? A. Yes.

Q. Why did you say in this affidavit, Paragraph 14, that you wrote a letter to Irma Pahy requesting "her to go with me to such a place where I could obtain employment"; that was not true was it? A. I was ask her to go with me before I left Newark and she refused. That is what I say. There was a misunderstanding some place.

Q. You think somebody misunderstood your story? A. There must be a mistake some place because I asked her personally before I go.

Q. You didn't write her a letter wherein you asked her to go to such a place where you could find employment, did you? A. I didn't write any, no. Misunderstanding some place.

Q. You say further: "That I never received a reply to that letter." You never received a reply to that letter? A. Never.

Q. You say in this affidavit that, "On the 28th day of May, 1925, the divorce obtained by me was approved by the Courts of New York and I was allowed by the Courts of New York to remarry and I did marry on said date, Jennie Pomanko." Is that true? A. Before I got married I had to take my divorce papers to the New York Court where they O. K. it and say I can get married.

Q. What court in New York O. K.'ed your divorce and told you you could get married? A. In the City Hall.

Q. Do you know the name of the court?

The Court: The City Clerk has to see his divorce papers before he can get married.

Mr. Grosman: He is speaking of the Court

Mr. Unger: The City Hall is a Court in New York.

The Court: That is what he means, to get a license, he showed that he was divorced and produced his Nevada papers and that was sufficient.

Q. You also say in this affidavit in Paragraph 24, that "The said Irma Pahy went to Europe in the year 1922 and during the time she was in Europe refused to write to me and refused to tell me about her son." Was that true? A. For partly time, yes.

Q. You speak of "during the time she was in Europe". Is that true? A. She didn't write me for two months after she left, more than two months.

Q. Now, in this affidavit of January 26, 1928, wherein you explain the circumstance under which you and your wife separated, you speak of having left her because of her cruelty to you and because you considered it to be dangerous to your life and detrimental to your health and that of your child to stay there. You don't say a word about having asked her to go with you, do you? A. I asked her before and she was refuse to go with me.

Mr. Unger: Now, Mr. Grosman, your question is based on the witness' conception. Paragraph 24, you have not read it all.

Mr. Grosman: What didn't I read?

Mr. Unger: You did not read that paragraph which said, "She refused to write to me and refused to tell me about her son and on her return, July 24th, she refused to have anything to do with me and told me she hoped never to see me again." Then follows what you—

Mr. Grosman: Yes. Well, that is preceding the time of the separation he undertakes to explain the separation in those words, "I being unable to endure further the treatment of said Irma Pahy and fearing she would injure the said child, I left the said Irma Pahy in the month of December, 1924, and have not since the said time lived with Irma Pahy and to do so would be dangerous to my life and detrimental to my health and the health of my child."

Now, let me know once again for the last time. Did you leave this woman because you were afraid to live with her, or because she would not go with you?

Witness: I asked her to go with me and start a new life. After she refused I was know my life would not be safe if I would stay with her.

Q. So you went on alone, eh? A. (No answer.)

Q. In your testimony to the Court in Reno, you didn't say anything about asking your wife to come with you and she having refused, did you? 10

Mr. Unger: Now, if your Honor please, I object, and my objection is based on the ground that I think your Honor should exexercise your discretion against further cross examination, which is all tending towards the same answer. He has been over and over that again. What he said to the Court in Reno has no bearing on this case if the Court in Reno had jurisdiction. 20

Mr. Grosman: Oh, yes, whatever the cases hold.

The Court: I don't think it is, either, but I don't want to shut Mr. Grosman off.

Mr. Grosman: There is only one further question.

The Court: I only beg you to make it as short as possible. 30

Q. Did you say anything about that to the Court in Reno, about having asked your wife to live with you and she having refused? A. In the Court in Reno?

Q. In the Court in Reno. Did you tell that Court that the reason you were out there alone for a divorce was because you had asked your wife to

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come west with you and she had refused? A. I told her—

Q. Did you say anything about that to the Court in Reno? A. She refused to live with me.

Q. Did you tell that to the Court in Reno? A. If they was ask me I was answer.

10 Q. Did you tell them? A. I can't remember every word, Lawyer, what I said.

Q. Did you tell your whole story to the Court at Reno? A. What they was ask me I tell them.

Mr. Grosman: That is all.

Mr. Unger: No question.

Mr. Grosman: Oh, pardon me. There is one more question I want to ask.

20 Q. Pahy, did you ever see these dies before? A. Yes, that was stolen away from mine tool box.

Q. Those dies were in your tool box? A. Those was stolen away from my tool box.

Q. When? A. I can't tell you the date or year.

Q. Your initials on those dies? A. Yes, "2 t" on it. I don't know where it came from.

Q. Did you report the theft of those dies at Worthington's or to the police? A. A little thing like that you don't report. I report when they

30 break my tool box and steal my micrometer, my valuable tools.

Mr. Unger: I will be brief, but I will have to call the boy, Daniel.

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DANIEL PAHY, sworn for defendant.

Direct-examination by Mr. Unger:

Q. You are the son of John Pahy and Irma Pahy? A. Yes, sir.

Q. How old are you now? A. Sixteen I was October twenty-second.

Q. Do you go to high school? A. Yes; down at East Side High. 10

Q. How old were you in 1922, just before your mother went to Europe? A. I was around nine, going almost in my tenth year.

Q. Do you remember now clearly the things that happened then? A. Yes; I remember almost everything that went on.

Q. Are you in any way prejudiced against your mother? A. She treated me quite cruelly all the way through; lots of times I didn't know why I got lickings; I was scared to go in the house quite often; I didn't know what to do. 20

Q. What did she do? A. Well, when she didn't feel good she gave me a licking with whatever she got in her hand she kicked me or hit me with. I had kidney trouble later on.

Q. Did this happen many times? A. Yes, quite often. 30

Q. Did she treat you with any exceptional cruelty as you thought? A. So lots of times I didn't know why I got a licking.

Q. What did she do? A. Well, hit me any place she could; kicked me, anything.

Q. With what? A. With her shoes or with anything she got in her hand she hit me with.

Q. Did you ever have an injury to your head? A. Yes, sir; when we—before we went to Europe, 40

she took me and threw me against the door knob and hit my head.

Q. Did that cause any injury to your head? A. I really can't say, but I know I got kidney trouble from whippings I used to get.

Q. You mean, she was cruel to you more than the ordinary—

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Mr. Grosman: Now, wait a minute.

The Court: No, no.

Mr. Unger: Strike it out.

Q. Were you afraid of her? A. Yes, sir.

Q. Did you report any of this to your father? A. No; she threatened to kill me if I reported anything to my father.

Q. What did she say? A. She said, "If you tell anything to your father, I will kill you."

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Q. Did she ever mention your father to you and tell you what she thought about him? A. She said she hates me and hates me like my father. When she came to Staten Island after she had my father arrested she said she didn't care a thing about me or my father and she didn't care what is going to happen; all she wants to do is make trouble all she can.

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Q. Did she call you any names, any particular kind of names? A. She called me everything she could and especially my father, just like Cain and Judas.

Q. What? Gyps? A. Judas.

Q. Did you hear her say that? A. Yes; quite often.

Q. Did she apply any of those terms to you? A. Yes, sir.

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Q. While you were in Europe were you ill-

treated? A. Yes. I got a beating one day while I was doing my homework. One of the books accidently fell down and hit her and she was foaming, she hit me until my uncle found out and stopped her and ever since then—(interrupted)

Q. What do you mean "foaming"? A. She was hitting me until I didn't know nothing and I was so nervous I didn't know what I was doing no more. 10

Q. How long did this keep up? A. Until my godfather stopped it in Europe.

Q. When you came back with your mother were you glad to see your father? A. Yes, very glad.

Q. How did he act towards you when he met you on the steamer at the ship docks A. Like any father would with a son.

Q. What did he do? A. He kissed me and tried to give me some newspapers that I could read there, but I couldn't read, they wouldn't let me, so I was talking to my father. He asked me all questions how my mother was. 20

Q. Did he kiss your mother? A. Yes, when he went over there he leaned over the fence they had over there.

Q. Did you go away with them? A. Yes, we went into the taxi right straight to the Tubes and from the Tubes we got the taxi and went to Molnar's house. 30

Q. How did your father act towards your mother? A. He acted like I imagine any husband should act to a wife and they started to quarrel on the way along on what my father was doing with his money and where he was at night.

Q. What did she say to him? A. Well, started to quarrel right off the reel.

Q. Did you go to Molnar's house? A. Yes, sir. 40

Q. And while you were there was there any trouble between them? A. Yes, sir; Dad asked my mother, as I remember, the first night that he should go away, leave this here part of the country altogether on account of he was not very well.

Q. Did you hear him say that? A. Yes.

10 Q. Are you sure about that? A. Positive.

Q. You know you are under oath now, don't you? A. Yes.

Q. You are sure, you are swearing to tell the truth. A. Yes.

Q. And I want you to tell the Court exactly what he said at that time.

The Court: Well, as near as he can remember.

20 Q. While your mother was there, as near as you can remember it. A. Well, my father first asked my mother that they should leave this part of the country altogether, to a different place, he didn't say exactly where, New York or any place, but he said leave this part of the country altogether.

Q. And what did she say? A. And mother refused; she said she don't have to go if she don't want to.

30 Q. And did he mention it again? A. Yes—not that I know of.

Q. Well, afterward did you know that he was going away? A. He asked me if I wanted to go with him; he told me, "Look what happened to me; I haven't got nothing no more," and he asked me if I wanted to go with him or stay with my mother.

Q. And you made up your mind? A. I made up my mind to go with my father because he always

40 treated me well.

Q. And you have regretted it since? A. Never.

Q. You want to stay with him now? A. Yes, sir.

Q. How do you get along with your step-mother? A. Very well.

Q. Is she kind— A. Yes, sir.

Q. —to you? A. Yes, sir. 10

Q. To him? A. My father just as well as me.

Q. And you are all satisfied? A. Yes, sir.

Mr. Unger: Cross examine.

Cross-examination by Mr. Grosman:

Q Did you talk this over with anybody? A. Never.

Mr. Unger: Excuse me. In my anxiety to hurry along I think I have forgotten the couple of things which I would like to ask with the Court's permission. 20

The Court: All right.

Mr. Grosman: Go ahead.

Redirect-examination by Mr. Unger:

Q. Where did you go to when you left Newark? A. When we left Newark my father intended to go out looking for work when we first went to Chicago. 30

Q. You were with him? A. Yes, sir.

Q. How long did you stay in Chicago? A. We stayed about a couple of days and Dad couldn't get nothing at all.

Q. How do you know that? A. I was going around most of the places with Dad.

Q. Then did he decide to go somewhere else? A. 40

Dad decided to go out further. We went to Salt Lake City. We stayed there for a day. Dad went to the employment agency; I was with him. They told him there would be nothing doing in his line here, so we went to Sparks, Nevada.

Q. And did he get a job there? A. Yes.

10 Q. Did you stay in Sparks, Nevada, with him? A. I stayed at a boarding house about two, two and a half weeks.

Q. What kind of a place was the boarding house? A. It was like every boarding house only it had lots of railroad men there from all over the country and my father didn't like me to stay in there and took me out to my father's sister's in San Francisco.

Q. What did you do out there? A. Out there

20 I went to school.

Q. And were treated there— A. Very well.

Q. And then did you go back at any time to Sparks, Nevada? A. I had to go back when my father was getting his divorce in Reno to testify in the court.

Q. And you testified for him there? A. Yes, sir.

Q. And then did you come here with him or go

30 back to San Francisco? A. Well, first, we went back to San Francisco with my father's sister was there a little while and then we went out here down to Tottenville in New York State.

Q. You came from San Francisco right to Tottenville? A. Yes, sir.

Q. You came from there? A. I came with my father.

Q. Yes. And did you ever live with your father after this in New Jersey until you came here in

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1929? A. Not—I used to live with my father and first mother before I went to Europe.

Q. No. I mean, since your father went west. A. What do you mean just by that?

Q. I want to know whether after you came to Tottenville, Staten Island, from the west, you lived at any other—at any place other than Staten Island. A. Yes. We went out back, after my father got married, he went out to Los Angeles. We stayed there for a while and Dad went up to Frisco where he got a better job and he came out here visiting.

Q. Did you ever live in New Jersey? A. Just on that—

Q. When did you come here? A. In 1927 visiting, when my mother had my father arrested.

Q. Your father was working here then? A. Yes, sir.

Mr. Unger: That is all.

Cross-examination by Mr. Grosman:

Q. Have you discussed this case with anybody? A. No, sir; nobody.

Q. Not with a soul? A. Not a soul.

Q. Haven't talked to your father about it? A. No, sir; my father told me and my mother told me just to tell the whole truth and nothing else.

Q. And you have never discussed this case with your father? A. No, sir.

Q. Nor the testimony you were going to give here? A. No, sir.

Q. Nor your counsel, nor anybody else? A. Nobody else.

Q. So that counsel didn't know until the moment you started talking what you were going to—

Mr. Unger: You overlooked the fact he made an affidavit in the case and I have referred to it.

Mr. Grosman He says he has not spoken to anybody.

Witness: The lawyer did not talk to me what I should say, he just asked me questions.

Q. Did he ask you questions about this case? A. Well, just what was—had to be, who I wanted to stay with; that was about all.

Q. Yes. Now, were you ever treated by a doctor for these terrible beatings that your mother used to give you? A. Yes. In Los Angeles they took me to a doctor and the doctor gave me a prescription and I had to take medicine.

Q. For what? A. For kidney trouble.

Q. Were you ever treated by a doctor while you lived here in Newark? A. Yes, sir.

Q. Went to school every day, did you? A. Yes, sir.

Q. Saw the school doctor, from time to time? A. No school doctor around here.

Q. Never saw him? A. Not out here; except for my ankles.

Q. And were you ever examined by school doctors out here? A. Yes.

Q. For your ankles? A. Yes.

Q. While you were living with your mother? A. My second mother.

Q. No; I am speaking about your first mother. A. No, sir; not that I remember of being treated.

Q. Now, I gather from what you—what was said here today that you have absolutely no use for your

mother whatever. A. I don't care to live with her at all.

Q. And that has been your feeling for some time, has it? A. Yes, sir.

Q. Do you remember writing your mother a letter? A. Yes, sir.

Q. In April, fifteenth, 1927, from San Francisco? A. I don't remember. But my mother sent my first mother a picture and I didn't care for that idea at all; she took a picture of me in my scout uniform. 10

Q. Did you write to your mother on April 15th as follows: "San Francisco, April 15th, 1927. Dear Mother: I am wishing you a Happy Easter. Aunt Jennie had wrote a letter and including was my picture. We never heard if you ever received it or not. Many kisses from your son, Daniel." Did you write that to your mother? A. I couldn't tell you. If you let me see the letter I can tell you. 20

Q. Is that your handwriting? A. Yes, sir.

Q. Did you write that? A. Yes, sir.

Q. Did you mean what you said in that letter? A. Well, I had to—because my mother, my step-mother told me I should send the letter to my first mother.

Q. And you wrote this and didn't mean what you said in there? A. No; I didn't care for my first mother ever since she beat me. 30

Q. I see. And you only wrote this letter I speak of because— A. On account of my step-mother.

Q. Your step-mother insisted that you write it? A. Yes, sir.

Q. You say you testified in the Reno court? A. Yes, sir.

Q. Are you sure about that? A. Positive.

40

Q. Went to court together with your father and Wissman and testified? A. Yes, sir.

Mr. Grosman: That is all.

The Court: Well, is that the case?

Mr. Unger: That is our case.

The Court: I am perfectly ready to decide this case right now, if counsel are satisfied that I should.

10

Mr. Unger: I have your Honor's decision in Cole v. Cole, and despite the case which I say is ruling, the latest decision on it is Stevens v. Stevens, decided a month ago in the Court of Errors & Appeals and they cite your Honor's decision in Cole v. Cole.

(Discussion.)

20

Mr. Grosman: I would like to put on one witness in rebuttal.

The Court: All right.

ANTHONY GAITO, sworn in rebuttal.

Examined by Mr. Grosman:

30

Q. I show you these dies and ask you whether they are your property. A. Yes.

Q. Where did you get them from? A. I got them from Mr. Pahy.

Q. Did you steal them from his locker? A. No, sir.

Q. Those initials on there are whose? A. They are Mr. Pahy's initials.

40

Cross-examination by Mr. Unger:

Q. Do you still say that you worked for this concern? A. Yes, sir.

Q. Now, have you found out the date? A. I called up Worthington Pump Worws and I made a check on my statement before and I left January the seventeenth, 1925.

Q. Did you find out when you started to work there? A. I started there 1922, I couldn't tell you the exact month. 10

Q. Nineteen what? A. '22, I think it is.

Q. 1922? A. Yes, sir.

Q. Do you know what month you started there? A. No, sir; I can't tell you.

Q. And do you know what your job was there? A. Yes, sir.

Q. An apprentice, wasn't it? A. No, sir. called up Worthington Pump Works and I made time, no. 20

Mr. Grosman: That is all; that is our case.

The Court: Now, as I understand—well, have you anything to say?

Mr. Grosman: Well, unless your Honor wants to hear me.

The Court: I am perfectly ready now to give my decision. 30

The cases hold under the full faith and credit clause of the United States Constitution, this Court will have to consider the decisions and decrees of another State, unless there is patent fraud.

Now, the only witness that even suggests fraud in this case is this young man who has been on the witness stand. He says that this 40

man told him that he was going to go to Nevada to get a divorce, and, when he finally went away Mr. Pahy said to him, "Goodbye, I am going away." He didn't say where. Now, he did not go to Nevada. He went to Chicago and then he went to Nevada and then he went to California and then he came back to Nevada.

I cannot see there has been the slightest fraud perpetrated, and you must remember, also, that this woman had full knowledge, not only the publication required by the statute of Nevada, but she had actual personal knowledge that this case was proceeding in Nevada, and she made no effort to enter an appearance or to put in a defense.

I will dismiss the bill.

Mr. Grosman: I ask for an exception.

The Court: You don't have to in Chancery; you know that, Mr. Grosman.

Exhibit P-1.

This Certifies that on the Sixteenth day of November in the year of our Lord 1912 Mr. John Pahy and Miss Irma Simon were by me united in Holy Matrimony at Elizabeth, N. J. according to the Ordinance of God and the laws of New Jersey.

HERMAN W. HORTSCH,
Pastor.

10

Witnesses.
Ignazc Estergomy
John Scabo.

20

30

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Exhibit P-3.

Filed Feb 5th, 1925.
E. H. Beemer, Clerk. No. 21398 Dept. No. 2
By A. G. Caughlin, Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

10

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Complaint.

20

Now comes the plaintiff above named, by his attorney Le Roy F. Pike, and complaining of the above named defendant, for cause of action alleges:

I.

That the plaintiff is now and for a period of more than six months next preceding the commencement of this action has been a bona fide resident of Reno, Washoe County, Nevada, and has been domiciled therein and physically present in Reno, Washoe County, Nevada, all of said time.

30

II.

That the plaintiff and defendant herein, intermarried at Elizabeth, New Jersey, November 16th, 1912, and that ever since have been and now are husband and wife.

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Exhibit P-3.

III.

That there is no community property belonging to this plaintiff and defendant.

IV.

That there is one minor child the issue of said marriage, to-wit: Desederius Pahy of the age of about eleven years and now in the custody of the plaintiff in Reno, Washoe County, Nevada, and that the father is a fit and proper person to have the care, custody and control of said minor child.

V.

That the above named defendant, has been guilty of extreme cruelty towards said plaintiff which has caused him to suffer great mental anguish and physical pain, and has greatly affected his health, and that it would be impossible for said plaintiff to further cohabit with said defendant.

That plaintiff and defendant lived together happily until about the year of 1918, when said defendant appeared to take an aversion to said plaintiff, and thereafter treated him in a cruel manner; that said defendant beginning about the year of 1918, and continuing down to the time when plaintiff and defendant separated, treated the said plaintiff with great indifference at all times and frequently while they were living in Elizabeth, New Jersey, without any cause or provocation therefore, falsely accused the said plaintiff of adultery, well knowing said accusation to be untrue; that the said defendant frequently at Elizabeth, New Jersey, in the year 1918, 1920, 1921, 1922 and 1924, told plaintiff that she did

not care for him and that she wished he would die and on other occasions, during said period of times hereinbefore mentioned, frequently stated to said plaintiff that she wished he was in his grave, and also stated that she wished their son was in his grave; said defendant frequently told said plaintiff that she never had any peace when he was at home and that she hated him and his relatives and that they were all rotten, low down people, and that the plaintiff was the biggest bum in the whole neighborhood and that she wished he would go away from her; that the defendant frequently applied the name of Cain to said plaintiff and on other occasions, stated that he was big Cain and that their son was little Cain, which greatly grieved the said plaintiff and caused him to suffer great mental anguish; that the said defendant frequently, without cause or provocation, severely beat and abused the son of the said plaintiff and defendant and became greatly incensed against said plaintiff when he would protest against her action; that the said defendant went to Europe in the year 1923, and during the time she was in Europe, refused to write to said plaintiff and refused to tell him about their son, and upon her return home in July 1924, refused to have anything to do with plaintiff and told him that she had hoped to never see him again; that said plaintiff unable to further endure the said treatment of the said defendant and fearing that the said defendant would injure their said son, he left the said defendant in the month of July, 1924, and has not since said time, lived with said defendant and to do so would be dangerous to his life and detrimental to his health and the health of the child.

Exhibit P-3.

Wherefore, plaintiff prays that he be granted a decree of this Court forever severing and dissolving the bonds of matrimony now and heretofore existing between the parties hereto, and that they be restored to the status of unmarried persons; and that he have the exclusive care, custody and control of said minor child, and that he have such other and further relief as to this Court may appear just and equitable.

LE ROY F. PIKE,
Attorney for Plaintiff.

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Exhibit P-3.

Filed Feb 5th 1925.
E. H. Beemer Clerk. No. 21398 Dept. No.
By A. G. Caughlin Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

10

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Affidavit for Publication of Summons.

20

State of Nevada, }
County of Washoe. } ss.:

John Pahy, being first duly sworn, deposes and says:

That he is the plaintiff in the above entitled action; that said action was commenced by the filing of the complaint and the issuance of a summons thereon; that said action was brought for the purpose of obtaining a decree of divorce in favor of the plaintiff and against the defendant upon the ground of extreme cruelty, and that said plaintiff has a good cause of action against said defendant which is fully set forth in his verified complaint on file herein, and which said complaint is hereby referred to and made a part hereof as if fully set forth.

30

That the said defendant is a necessary and

40

proper party to the complete determination of said action; that the said defendant is not within the State of Nevada, and cannot be served with process within the State of Nevada, for the reason that the said defendant is now outside of the State of Nevada, and resides at 61 Osborne Terrace, Newark, New Jersey, where said defendant may be found; that the said defendant has never been in the State of Nevada and last communicated with plaintiff from Newark, New Jersey.

Wherefore, plaintiff prays that he be granted an Order of this Court for the publication of said summons, as by the Statutes of Nevada in such cases made and provided.

Dated: February 5th, A. D. 1925.

JOHN PAHY.

Subscribed and sworn to before me
this 5th day of February, A. D. 1925.
Le Roy F. Pike,
Notary Public in and for
the County of Washoe, State
of Nevada.
(Notarial Seal).

State of Nevada, }
County of Washoe. } ss.:

John Pahy, being first duly sworn, deposes and says: that he is the plaintiff in the above entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge except as to those matters therein stated on his information and be-

lief and as to those matters he believes it to be true.

JOHN PAHY.

Subscribed and sworn to before me
this 5th day of February, A. D. 1925.
Le Roy F. Pike,
10 Notary Public in and for
the County of Washoe, State
of Nevada.
(Notarial Seal).

Filed Feb. 5th 1925.
E. H. Beemer, Clerk. No. 21398 Dept. No. 2
By J. M. Smith, Deputy.
20 Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Order for Publication of Summons.

30

Upon reading and filing the affidavit of John Pahy, plaintiff in the above entitled action, and it satisfactorily appearing to the Court from said affidavit that said defendant, Alma Pahy, resides
40 outside of the State of Nevada, and cannot be found within the State of Nevada, and that the

present address of defendant is 61 Osborne Terrace, Newark, New Jersey, where defendant now is, and that personal service cannot be made upon the said defendant within the State of Nevada, for the reason that the said defendant resides outside of the State of Nevada; and it further appearing from the verified complaint of the plaintiff herein, that a good cause of action exists in favor of the plaintiff herein, and against the defendant herein, upon the ground of extreme cruelty, and that the said defendant is a necessary and proper party hereto, and it further appearing that said summons have been issued out of this Court in this action;

Now, Therefore, on motion of Le Roy F. Pike, attorney for the plaintiff in the above entitled action, it is hereby ordered that the service of summons in this action be made upon the defendant Alma Pahy, by the publication thereof in the Nevada State Journal, a daily newspaper in Reno, Nevada, and that said publication be made once a week for six successive weeks said paper being the one designated as the one most likely to give the said defendant notice of said action; and it is further ordered that a copy of the summons attached to a verified copy of the complaint herein, be mailed to the last known address of the defendant at 61 Osborne Terrace, Newark, New Jersey, with postage prepaid thereon; and it is further ordered that personal service of the summons upon the defendant shall be the same as service of the summons by publication.

Done in open Court this 5th day of February, A. D. 1925.

JAMES A. CALLAHAN,
District Judge.

Exhibit P-3.

IN THE SECOND JUDICIAL DISTRICT COURT

Of the State of Nevada, in and for the County of Washoe.

10

JOHN PAHY,
Plaintiff,

vs.

ALMA PAHY,
Defendant.

20

No. 21,398
Dept. No. 2
Filed April 3, 1925.
E. H. Beemer, Clerk
By S. W. Longabaugh, Deputy.

SUMMONS

The State of Nevada Sends Greetings to the Said Defendant:

You are hereby summoned to appear within ten days after the service upon you of this Summons if served in said county, or within twenty days if served out of said county but within said Judicial District, and in all other cases within forty days (exclusive of the day of service), and defend the above-entitled action. This action is brought to recover a judgment and decree of this Court forever severing and dissolving the bonds of matrimony now and heretofore existing between the plaintiff and defendant herein, upon the

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ground of extreme cruelty, all as described in the Complaint.

Dated this 5th day of February A. D. 1925.

(Seal) E. H. BEEMER,
Clerk of the Second Judicial District
Court of the State of Nevada, in and
for the County of Washoe. 10
By A. G. Caughlin, Deputy.

LE ROY F. PIKE,
Attorney for Plaintiff.
My commission expires March 30, 1925.

AFFIDAVIT OF SERVICE.

State of New York, } ss.: 20
County of New York, }

Sam G. Pennamacoor, being first duly sworn, deposes and says: That he is and was on the day when he served the annexed summons, a male citizen of the United States, over the age of twenty-one years, and not a party to the above-entitled action; that he received the annexed summons in said action on the 10th day of February, 1925, and personally served the same upon Alma Pahy, the 30 above-named defendant, on the 23rd day of February, 1925, by delivering to Alma Pahy, the said defendant, personally, in 61 Osborne Terrace, Newark, N. J., County of Essex, State of New Jersey, a copy of the annexed summons attached

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to a duly certified copy of the complaint in the above-entitled action.

SAM G. PENNAMACOOR.

Subscribed and sworn to before me
this 25th day of February, 1925.
Isaac Pennamacoor,
10 Notary Public in and for the
County of N. Y.
State of New York.
(Seal)
Notary Public, New York County,
N. Y. Co. Clks No. 239, Reg. No. 5352.
Commission expires March 30, 1925.

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Exhibit P-3.

Filed April 6th, A. D., 1925.
E. H. Beemer, Clerk. No. 21,398 Dept. No. 2
By J. M. Smith, Deputy.
Le Roy F. Pike, Attorney for Plaintiff.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

10

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Findings and Decree.

20

This cause came on regularly for trial before the Court, without a jury, on the 6th day of April, A. D., 1925, the Hon. George A. Bartlett, presiding, the plaintiff appeared in person and with his attorney, Le Roy F. Pike, and the defendant did not appear, the defendant having been personally served with summons and complaint as required by statute, at No. 61 Osborne Terrace, Newark, New Jersey, and having failed to demur, answer or otherwise plead within the time allowed by law after the service of the summons upon her and on motion of the attorney for the plaintiff, the default of the said defendant for failing to plead to said complaint within the time allowed by law, was regularly entered against her and the case came on regularly to be heard.

30

Evidence was heard upon the part of plaintiff

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and the same being free of all legal exceptions and objections, and the defendant offering no evidence, and the Court being fully satisfied in the premises, makes the following:

FINDINGS OF FACT.

10 The Court finds that all of the allegations of the plaintiff's complaint are true, and the Court further finds, that the defendant herein known as Alma Pahy, is sometimes known as Irma Pahy, and that service was made upon the said Alma Pahy, sometimes known as Irma Pahy, at No. 61 Osborne Terrace, Newark, New Jersey, as by statute in such cases made and required.

AS CONCLUSIONS OF LAW FROM THE
20 FOREGOING FACTS.

The Court finds that the plaintiff is entitled to a decree of divorce, as prayed for in his complaint on the ground of extreme cruelty, and the Court further finds that plaintiff should be granted the exclusive care, custody and control of the minor child of the plaintiff and defendant herein, to-wit: Desederius Pahy.

30 DECREE.

Now, Therefore, the Court being fully satisfied in the premises, it is hereby Ordered, Adjudged and Decreed, and this does hereby Order, Adjudge and Decree, that the plaintiff herein, be granted a decree of this Court forever severing and dissolving the bonds of matrimony, now and heretofore existing between the plaintiff John Pahy, and the defendant, Alma Pahy, sometimes known as Irma
40 Pahy, and the same are hereby wholly dissolved, and the parties and each of them are hereby re-

stored to the status of unmarried persons.

It is Further Ordered, Adjudged and Decreed, and this does hereby Order, Adjudge and Decree, that the plaintiff herein, be granted the exclusive care, custody and control of the minor child of the plaintiff and defendant herein, to-wit: Desederius Pahy.

Done in open Court this 6th day of April, A. D., 1925. 10

GEO. A. BARTLETT,
District Judge.

Recorded in
Judgment Record
Book Z Pages 148-49
E. H. Beemer,
County Clerk.
By A. G. Caughlin, 20
Deputy Clerk.
No. 21398.

IN THE
SECOND JUDICIAL DISTRICT COURT
of the State of Nevada
In and for the County of Washoe
John Pahy,
Plaintiff,
vs. 30
Alma Pahy,
Defendant.
JUDGMENT ROLL
Filed April 6th, A. D. 1925.
E. H. Beemer, Clerk.
By A. G. CAUGHLIN,
Deputy Clerk.
Le Roy F. Pike,
Attorney for Plaintiff 40
Attorney for Defendant.

Exhibit P-3.

In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

Monday, April 6th, -925.
9:30 o'clock A. M.

10 Present: Department No. 2
Hon. Geo. A. Bartlett, Judge.
E. H. Beemer, Clerk.
J. D. Hillhouse, Sheriff.

John Pahy
vs. No. 21398
Alma Pahy.

The above entitled action coming regularly on
20 for trial, the plaintiff and his attorney, Le Roy F. Pike, being present in Court the defendant appearing not; J. Lozano the official Court reporter was present and reported all of the proceedings of the case.

In response to the court the clerk said that no appearance, answer or waiver had been filed by or on behalf of the defendant.

On motion of counsel for the plaintiff it is or-
30 dered that the default of the defendant for failing to appear, answer or otherwise plead to plaintiff's complaint within the time allowed by law be entered.

John Pahy and Fred A. Wissman were sworn and testified on the part of the plaintiff.

The Court being fully advised in the premises ordered that the decree of divorce be granted to the plaintiff as prayed for in his complaint.

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Exhibit P-3.

It is further ordered that the plaintiff be awarded the sole care, custody and control of the minor child of the parties until the further order of the Court, and that the testimony be transcribed and filed.

* * * * * *

Whereupon a recess was taken until the further order of court. 10

. . . . . .

District Judge.

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Exhibit P-3.

In the Second Judicial District Court of the State of Nevada

In and for the County of Washoe

JOHN PAHY,
Plaintiff,

vs.

ALMA PAHY,
Defendant.

10

I, E. H. Beemer, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that I have compared the foregoing with the originals thereof, and that I am the keeper of all said originals, keeping same on file in my office as the legal custodian, and keeper of the same under the laws of the State of Nevada, and I further certify that the foregoing copies, attached hereto are full, true and correct copies of the Judgment Roll consisting of the following papers: Complaint; Affidavit for Publication of Summons; Order for Publication of Summons; Summons; Fndings and Decree: Minutes of April 6th, 1925 and now on file and of record in my office.

20

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I do further certify that the same has not been altered, amended or set aside, but is still of full force and effect.

In Witness Whereof, I have hereunto set my

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hand and affixed the Seal of the said Court this 15th day of August, A. D. 1927.

E. H. BEEMER,
(Seal) County Clerk.

I, Geo. A. Bartlett, one of the Presiding Judges of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that said Court is a Court of Record, having a Clerk and a Seal; that E. H. Beemer, who has signed the annexed attestation, is the duly elected and qualified County Clerk of the County of Washoe, and was at the time of signing said attestation, ex-officio Clerk of said Court. 10

That said signature is his genuine handwriting, and that all his official acts as such Clerk are entitled to full faith and credit. 20

And I further certify that said attestation is in due form of law.

Witness my hand this 15th day of August, A. D. 1927.

GEO. A. BARTLETT,
One of the Presiding Judges of
the Second Judicial District Court of
the State of Nevada in and for the
County of Washoe. 30

State of Nevada, }
County of Washoe. } ss.:

I, E. H. Beemer, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that the Honorable Geo. A. Bartlett whose name is subscribed to the preceding Certificate, is one of the Presiding Judges of 40

said Court, duly elected and qualified, and that the signature of said Judge to said Certificate is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the said Court this 15th day of August, A. D. 1927.

E. H. BEEMER,

10 County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

(Seal)

Exhibit P-5.

CITY OF ELIZABETH

20 UNION COUNTY, STATE OF NEW JERSEY
United States of America.

I, Theo. W. Brokaw, City Clerk of the City of Elizabeth, Union County, State of New Jersey, do hereby certify that the following is a true and correct transcript from the Records of Marriages in my office.

Name of Husband John Pahy.
30 Name of Wife Irma Simon
Place of Marriage Elizabeth, N. J.
Date of Marriage November 16, 1912.

Groom:

Residence Newark, N. J.
Age 27 Color White Single.
Occupation Machinist
Father Ignatz
40 Mother Rosa

Ep P3

Newark 1924.

Irma!

Ta jómagad kijelentéseid és esedékesé-
teid által tudtomra adtad, hogy itélőz-
nünkel. Félre álunk hogyól bíróolog.

Jani.

Mrs.

Irma Páhy
c/o R Molnár

#391

Exhibit P-5.

Bride:

Residence 408 Bond St.
Age 28 Color White Single
Father George
Mother Rosa

Witnesses: 10
Ignatz Estergomy
John Skabo

By Whom Married:
Herman W. Hortsch,
Clergyman.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the City of Elizabeth on this 13 day of November A. D. 1929 20

THEO. W. BROKAW,
City Clerk.

(SEAL)

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Exhibit P-6.

This is a Marriage License, and not a Marriage Certificate. The Marriage Certificate on the reverse side should be filled out and filed promptly by the Clergyman or Magistrate as required by law, with the Town or City Clerk who issued the License. See that your marriage is thus recorded.

10

NEW YORK STATE DEPARTMENT OF HEALTH

Division of Vital Statistics

Marriage License Registered No. 319

Place of Registry: State of New York; County of Richmond; City of New York; Borough of Richmond.

20

Know all Men by this Certificate, that any person authorized by law to perform marriage ceremonies within the State of New York to whom this may come, he, not knowing any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between John Pahy, of 526½ Lender St., Reno, in the county of Washoe and State of Nevada, and Jennie Romanak, of Surf Ave., in the county of Richmond and State of New York and to certify the same to be said parties or either of them under his hand and seal in his ministerial or official capacity and thereupon he is required to return his certificate in the form hereto annexed. The statements endorsed hereon or annexed hereto, by me subscribed, contain a full and true abstract of all the facts concerning such parties disclosed by their affidavits or verified statements presented to me upon the application for this license.

30

In Testimony Whereof, I have hereunto set my

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hand and affixed the seal of said city at St. George this 28th day of May, nineteen hundred and twenty-five.

M. J. CRUISE,
(Seal) City Clerk.

The following is a full and true abstract of all the facts disclosed by the above-named applicants in their verified statements presented to me upon their applications for the above license: 10

From the Groom:

Full name: John Pahy.
Color: White
Place of Residence: 526½ Lender Street
Reno, Nevada
Age: 41 20
Occupation: Machinist
Place of birth: Thurzier, Hungary
Name of father: Ignace
Country of birth: Hungary
Maiden name of mother: Rose Lesko
Country of birth: Hungary
Number of marriage: Second
I have not to my knowledge been infected with any veneral disease, of if I have been soinfected within five years I have had a laboratory test within that period which shows that I am now free from infection from any such disease. 30
Former wife living? Living
Is applicant a divorced person? Yes
If so, when and where and against whom divorce or divorces were granted? Second Judicial District Court Co. of Washoe, Nevada, April 6, 1925

40

Exhibit P-6.

Last martial domicile, Newark, New Jersey.

From the Bride:

Full name: Jennie Romanak.
Color: White
Place of residence: Surf Ave., Tottenville, S. I.
10 Age: 46
Occupation: None
Place of birth: Budapest, Hungary
Name of father: John Blcha
Country of birth: Hungary
Maiden name of mother: Eva Blcha
Country of birth: Hungary
Number of marriage: Second
I have not to my knowledge been infected with any venereal disease, or if I have been so infect-
20 ed within five years I have had a laboratory test within that period which shows that I am now free from infection from any such disease.
Former husband dead? Dead April 7, 1908, Newark, N. Y.
Is applicant a divorced person? No
Original endorsed: Filed Richmond County Clerk's Office, June 16, 1925, at——

J. L. V., Clerk.

30

State of New York, }
County of Richmon. } ss.:

I, James L. Vail, Clerk of the County of Richmond, do Hereby Certify, that I have compared the foregoing with the original Marriage License on file in this office, and that the same is a correct transcript therefrom and of the whole of such original.

Witness my hand and official seal this 12th day
40

of Nov. 1927, one thousand nine hundred and twenty-seven.

JAMES L. VAIL,
(Seal) Clerk.

The written consent of the Parents Guardians or Person under whose care and government the Minor or Minors may be, has been filed in the office of the City Clerk in the Borough of Richmond, as provided by Section 15 of Article 3 of the Domestic Relations Law.

MARRIAGE CERTIFICATE

To Clergymen and Magistrates

The license and certificate duly signed by the person who shall have solemnized the marriage therein authorized shall be returned by him to the office of the town or city clerk who issued the same on or before the tenth day of the month next succeeding the date of the solemnizing of the marriage therein authorized and any persons who shall wilfully neglect to make such return within the time above required shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each and every offense.

Exhibit P-6.

I, Herman C. Oechsli, a Deputy Clerk residing at 469 Bloomingdale Rd., in the county of Richmond and State of New York do hereby certify that I did on this 28th day of May, in the year A. D. 1925 at Borough Hall in the county of Richmond and State of New York solemnize the rites of matrimony between John Pahy of 526½ Lender St., Reno, in the county of Washoe and State of Nevada and Jennie Romanak of Surf Ave. in the county of Richmond and State of New York in the presence of Ann Frohman and Maurice Schneidler as witness and the license therefor is hereto annexed.

Witness my hand at Borough Hall in the county of Richmond this 28th day of May A. D. 1925.

In the presence of
Mrs. Ann Frohman
Residence, Tottenville, S. I.
Maurice Schneidler
11 Phelps Pl., S. I.

Herman C. Oechsli
Prince Bay, S. I.

State of New York, }
County of Richmond, } ss.:

I, James L. Vail, Clerk of the County of Richmond, do Hereby Certify, that I have compared the foregoing with the original Marriage License on file in this office, and that the same is a correct transcript therefrom and of the whole of such original.

Witness my hand and official seal this 27th day of December one thousand nine hundred and twenty-seven.

JAMES L. VAIL,
Clerk.

(SEAL)

Exhibit P-7.

Filed June 2nd, 1928.
E. H. Beemer, Clerk. No. 21,398
By J. M. Smith, Deputy.
In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	Transcript of Testimony.

Be it Remembered, that the above-entitled action came on regularly for trial in Department No. 2 of said Court on Monday, the 6th day of April, 1925, at the hour of 9.30 o'clock A. M. of said day, before Hon. George A. Bartlett, Judge of said Court, sitting without a jury.

The plaintiff was present in person and represented by his attorney, LeRoy F. Pike, Esq., the defendant not appearing.

J. Lozano, Official Reporter of said Court, was present and acting as such, and thereupon the following proceedings were had and testimony taken, to wit:

The Court: Pahy against Pahy. Counsel ready?

Mr. Pike: Yes, your Honor.

The Court: Complaint in this action was filed on the 5th day of February, 1925. The usual affidavit and order for publication of summons were filed on the same date, on which the summons was

issued also. According to the affidavit of Sam G. Pennamacoor, a citizen of the United States, personal service was made upon the defendant, Alma Pahy, on the 23rd day of February, 1925, at Newark, New Jersey. Has any appearance been made by the defendant in this action, Mr. Clerk?

10 The Deputy Clerk: None has been filed.

The Court: You may enter the default of the defendant for failing to appear within the time required by law. Plaintiff may proceed.

TESTIMONY OF

JOHN PAHY, who, being called and duly sworn as a witness on behalf of the plaintiff, testified as

20 follows, to wit:

Direct-examination by Mr. Pike:

Q. Your name is John Pahy? A. Yes, sir.

Q. And, Mr. Pahy, is Alma Pahy, named as the defendant in this action, your wife? A. Yes, sir.

Q. Mr. Pahy, when did you come to Reno, Nevada? A. August 1st, 1924.

Q. And when you came here did you come to

30 Reno to make your home, to Washoe County to make your home? A. Yes, sir.

Q. Since you first came here on August 1st, 1924, have you been out of this county? A. For a day or so, most to see my sister in Frisco.

Q. You went down to San Francisco? A. For one day.

Q. You left here one night and came back the next night, is that it? A. Yes, I was back.

Q. And you had your son down there with your

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sister, did you? A. Yes.

Q. The little boy that is here? A. Yes.

Q. Is he in the Court room now? A. Yes, sir.

Q. With the exception of that time down there you have never been out of Washoe County? A. No.

Q. Have you been working here? A. I am. 10

Q. Where? A. I working for the S. P. Railroad Company in Sparks.

Q. What job have you got down there? A. Machinist.

Q. You are still working there, are you? A. Yes, sir.

Q. Do you know Mr. Wissman down there? A. Yes, sir.

Q. You met him when you first came here? A. I met him August 2nd when I went to look for a 20 job.

Q. When and where were you and the defendant married, Mr. Pahy? When were you married to Mrs. Pahy? A. I was married 1912, Elizabeth, New Jersey.

Q. On November 16th, 1912? A. November 16th, 1912.

Q. You have never been divorced, have you? A. No, sir. 30

Q. You say in your complaint there is one son, Desererius Pahy, the issue of this marriage, is that right? A. Yes.

Q. Do you have any other name for him? A. Daney.

Q. And about how old is he? A. Past eleven.

Q. And he is right here in the Court room with you now? A. Yes, sir.

Q. Should the Court grant you a decree of di- 40

vorce do you want the Court to give you the custody of Daney? A. Yes, sir.

Q. Mr. Pahy, is your wife known by any other name than Alma? She has got some other name? A. Yes, she used often the name of Irma.

Q. Sometimes she used the name of Irma? A. Yes, sir.

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Q. And also the name of Alma? A. Yes, sir.

Q. Do you know where your wife lives? A. Yes, sir.

Q. Where? A. Newark, New Jersey, 61 Osborne Terrace.

Q. You stated that your wife treated you with extreme cruelty, and you stated, among other things, that this started in about 1918. What happened about that time? A. Why, we was live pretty good till about 1918, then she started to make—quarreling with me and everything, she use to claim I go out with different ladies, and so on. And she really made my home miserable for me.

20

Q. You say your wife accused you of being familiar with other ladies? A. Yes, and everything.

Q. And was it false, was it untrue? A. That was untrue.

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Q. And did she do that more than once? A. Oh, right along.

Q. Did your wife ever tell you that she wished you would die and get out of her sight? A. Yes, not only to me, but she says the same thing to the little boy.

Q. Said she wished you would both die? A. Yes.

Q. Did she tell you that more than one time? A. More.

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Exhibit P-7.

Q. From 1918 down to the time you left in 1924 did she say that a number of times? A. She did. She often put it on a paper.

Q. She wrote that to some one else? A. Yes.

Q. You have stated in your complaint that your wife said she wished you and your son were in your grave? A. Yes.

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Q. So she would never see you any more? A. We shouldn't bother her any more.

Q. So you could not bother her any more? A. Yes.

Q. You state in your complaint that your wife said that you were a very rotten, low down person, and that all your people were that way; did she say that to you, Mr. Pahy? A. Yes, sir.

Q. What was her general attitude toward you? Did she treat you kindly, or did she treat you with indifference? A. Why, since 1918 she always treat me worse and worse and make my life miserable.

20

Q. She would not have anything to do with you, is that it? A. No, nothing to do with me.

Q. Never showed you any affection or love? A. Nothing at all.

Q. Did she ever tell you that she thought you were the biggest bum in the neighborhood? A. Oh, yes, not only to me but she used to say it to everybody.

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Q. She would tell everybody that you were the biggest bum? A. Yes.

Q. You say that sometimes your wife said that you were Cain, you were big Cain and your son was little Cain? A. Yes, and then she put that on a paper.

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Q. What did she mean by that? A. She mean we were no good.

Q. That you were a murderer? A. Something like it, I don't know what she means.

Q. That you were no good and that your son was no good? A. Yes.

10 Q. How did your wife treat your little boy? A. She wasn't any good to him at all.

Q. What would she do? A. She get angry for anything, just call the boy in and knock him down and kick him all over. I see the boy many times he was black and blue all over and I asked the little boy what was the matter; he wasn't allowed to tell me.

Q. She would do that frequently? A. Oh, yes.

Q. You say, Mr. Pahy, that your wife went to 20 Europe, to Hungary one time? A. Yes.

Q. How long did she stay over there? A. She was over there about a year and a half.

Q. While she was over there she had the little boy with her? A. Yes.

Q. Did she ever write you any letters? A. Why, she didn't write me a letter for four or five months.

Q. When she came back how did she treat you? Did she seem to have affection for you then, to like 30 you? A. She came back, why, I walk over to her and kiss her, and on the way home she told me already she is out of hell, and come to another one.

Q. She was out of one hell and coming to another one? A. Yes.

Q. Did she tell you then she wished you would get out? A. She told me if she got to stay here she get in the crazy house, she don't care for me at all.

40 Q. And it was after that, then, that you left? A.

Exhibit P-7.

Then I left and I take the little boy with me.

Q. Did her treatment have any effect on your health, Mr. Pahy? A. Oh, yes. I was just a big nervous wreck when I came to this state.

Q. Did you treat your wife all right? A. I did.

Q. Did you give her plenty of money to live on? A. All what I earn, I handed over to her, and out of my wages she was give me $2.50 for car, on the street car, and any newspaper and things like that. 10

Q. And you gave her all the other money? A. All I was earning.

Q. But she did not like you, is that it? A. No.

Mr. Pike: That is all the questions I have, your Honor.

The Court: The Court has no questions; that is all, Mr. Pahy. 20

Mr. Pike: I would like to have the little boy go on the stand if your Honor would take his testimony.

The Court: Oh, no.

TESTIMONY OF

FRED A. WISSMAN, who, being called and duly sworn as a witness on behalf of the plaintiff, testified as follows, to wit: 30

Direct-examination by Mr. Pike:

Q. Would you please state your name? A. Fred A. Wissman.

Q. Where did you live, Mr. Wissman? A. 526½ Lander.

Q. Reno, Nevada? A. Reno, Nevada.

Q. How long have you lived in this county now? 40

A. I have been in Washoe County two and a half years.

Q. And where are you employed, Mr. Wissman? A. Southern Pacific, down at Sparks.

Q. And you are still employed down there? A. Yes, sir.

10 Q. Do you know Mr. Pahy, Jahn Pahy, the plaintiff in this action? A. Yes, sir.

Q. Would you please state where and when you met him? A. I met him when he came down to the shop looking for employment. I know it was the first part of August but I didn't know exactly the date, but I know it was the first part of August and I have seen him ever since, been coming down right along.

Q. Was it the first day that he came into the 20 shops down there that you saw him? A. The first day he came in the shops.

Q. Then that was the 2nd of August? A. I says I didn't know just what date because I didn't keep tab of it, I know it was the first part of the month.

Q. You have see him every day since that time? A. Yes, sir.

Q. Down to the present time? A. Down to the 30 present, he is living right with me.

Q. He is still working there? A. Still working there.

Q. He does not live at your house? A. Yes, sir, he lives in my place, we live together.

Q. On Lander Street in Reno, Nevada? A. Yes.

Q. And he has lived there ever since you have known him? A. Well, we moved from Sparks over there.

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Exhibit P-7.

Q. You both moved from Sparks up to this place and you still live there? A. Yes, still live there.

Q. What position do you occupy down there? A. Machinist.

Mr. Pike: That is all, if it please the Court.

The Court: That is all, Mr. Wissman. 10

Mr. Pike: That is our case, if it please your Honor.

The Court: Enter judgment for the plaintiff and against the defendant, Mr. Clerk, that plaintiff, John Pahy, is granted an absolute divorce from the defendant, Alma Pahy, dissolving the bonds of matrimony heretofore existing between the parties and restoring them to the status of unmarried persons. 20

It is further ordered, adjudged and decreed that plaintiff be, and he is awarded the sole care, custody and control of the minor child of the parties. You may prepare your findings.

Mr. Pike: Your Honor, in preparing my decree and findings I would like to state in there that she is sometimes known as Irma Pahy, too, as well as Alma, according to the testimony. 30

The Court: Well, service was made upon Alma, also known as Irma. You are quite sure that this man found that lady, are you, Mr. Pahy?

The Plaintiff: I am positively sure.

The Court: 61 Osborne Terrace, Newark, that is where she lives?

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Exhibit P-7.

The Plaintiff: Yes, 61 Osborne Terrace, Newark, New Jersey.

The Court: All right.

State of Nevada, }ss.:
County of Washoe. }

10 *I*, J. Lozano, Official Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, Do Hereby Certify:

That as such Official Reporter, I was present in Department No. 2 of said Court on Monday, the 8th day of April, 1925, at the hour of 9.30 o'clock A. M. of said day, and then and there took verbatim shorthand notes of the testimony given and 20 proceedings had upon the trial of the case of John Pahy, Plaintiff, vs. Alma Pahy, Defendant.

That the foregoing transcript, consisting of pages numbered one (1) to twelve (12), both inclusive, contains a full, true and correct transcription of my said shorthand notes, so taken as aforesaid, and a full, true and correct statement of the testimony given and proceedings had in said Court upon the trial of said above-entitled action, to the best of my knowledge and ability.

30 Dated at Reno, Nevada, May 16th, 1928.

J. LOANZO.

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In the Second Judicial District Court of the State of Nevada in and for the County of Washoe.

JOHN PAHY, Plaintiff, vs. ALMA PAHY, Defendant.	No. 21,398.

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I, E. H. Beemer, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that I have compared the foregoing with the original thereof, and that I am the keeper of all said original, keeping same on file in my office as the legal custodian, and keeper of the same under the laws of the State of Nevada, and I further certify that the foregoing copy attached hereto is a full, true and correct copy of the Transcript of Testimony and now on file and of record in my office.

20

I do further certify that the same has not been altered, amended or set aside, but is still of full force and effect.

30

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the said Court this 2nd day of July, A. D. 1928.

E. H. BEEMER,
(Seal) County Clerk.

I, Geo. A. Bartlett, one of the Presiding Judges of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do

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Exhibit P-7.

hereby certify that said Court is a Court of Record, having a Clerk and a Seal; that E. H. Beemer, who has signed the annexed attestation, is the duly elected and qualified County Clerk of the County of Washoe, and was at the time of signing said attestation, ex-officio Clerk of said Court.

That said signature is his genuine handwriting, and that all of his official acts as such Clerk are entitled to full faith and credit.

And I further certify that said attestation is in due for mof law.

Witness my hand this 2nd day of July, A. D. 1928.

GEO A. BARTLETT,
One of the Presiding Judges of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

State of Nevada, }
County of Washoe, } ss.:

I, E. H. Beemer, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify that the Honorable Geo. A. Bartlett, whose name is subscribed to the preceding Certificate, is one of the Presiding Judges of said Court, duly elected and qualified, and that the signature of said Judge to said Certificate is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the said Court this 2nd day of July, A. D. 1928.

(Seal)

E. H. BEEMER,
County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

Exhibit.

This consists of two dies, with letter "P" stamped thereon.

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New Jersey Court of Errors and Appeals

Between IRMA PAHY, Petitioner-Appellant, and JOHN PAHY, Defendant-Respondent.	On Petition for Divorce On Appeal from Court of Chancery.

BRIEF FOR APPELLANT.

Facts.

Irma Pahy, the appellant, was married to John Pahy, the respondent, on November 16, 1912, at the City of Elizabeth, New Jersey. One child was born of the marriage who is now about sixteen years of age. Appellant and respondent lived together as man and wife in the Cities of Elizabeth and Newark, in this state, about 10 years, until the 25th day of November, 1922, when the appellant went to Europe with her child by agreement with the respondent. There seems to be some dispute as to the purpose of this visit. The appellant contends that she went to Europe upon the respondent's insistment because he wanted the child to be educated in Hungary, his native land; and only upon the respondent's assurance that he would join her there in the near future. The respondent does not admit this version of it. He states that she went to Europe because of her own wish and that he did not oppose it. In any event, he con-

sented to her going. He admits that he raised no objections to her going to Europe. That if she wanted to go it was all right with him. That they parted on the very best of terms. He knew that she was going to his brother's home. He had written to his brother who was waiting for her. The household furniture was sold with his knowledge and consent. While there, he sent her money (S. C., 195). On July 20, 1924, the appellant and her child returned to this country from Europe. The respondent had sent her the necessary passage money to enable her to do so. During the time that the appellant was in Europe she received numerous letters from the respondent. This is admitted. (S. C., 86 & 180). When she returned to this country, the respondent had no home for her. He had engaged an attic room for occupancy by himself, the appellant and their child. He insisted upon occupying a separate bed. They did not live together as man and wife. The appellant states that upon her return to this country, he received her like a stranger. (S. C., 114, l. 10). He took her to a garret room. (S. C., 114, l. 30) He slept with their child on a small couch while she occupied the bed alone. He went to bed with the child shortly before she did and when she entered the room he pretended to be asleep. S. C., 115, l. 20) The following morning the respondent went down stairs before the appellant, ate his breakfast alone and left the house. (S. C., 116, l. 10) The second night, appellant and respondent again slept apart. She testifies that he did not let her sleep with him, (S. C., 116, l. 40) and that she then asked him how long they were going to live in this hole and he replied "Keep quiet, because tomorrow morning, Thursday, I am going to look for rooms." (S. C., 117, l. 20) The third day after the appel-

lant's return from Europe, he left the house early on the pretext of going to see a doctor. He returned at noon and requested the appellant to dress their son because he wanted to take the child to see the factory where he was employed. She did so and the respondent left the State of New Jersey with the child and about eight days later, located himself at a place called Sparks, Nevada, about thirteen miles outside of the City of Reno, in that state. On July 23, 1924, the appellant received a note from the respondent together with a $20 bill. This note is written in the Hungarian language and is in evidence, marked Exhibit P-3. (S. C., 258) There are three translations of this note in the record, to wit, that made by the appellant (S. C., 119, l. 10) to this effect. "You yourself how you act you was showed up you hate me and you hate the child. I suppose you happy, we stay away now and be happier." The official interpreter translates it as follows: (S. C., 135, l. 20) "Newark, 1924. Irma: "You showed your color —and I notify you for the last time I step aside. Be happy." Signed, "John." The respondent admits having sent this note and the $20 to the appellant, which note he translates as follows: "*We cannot stay together; we do not understand each other.*" (S. C., 187, l. 10).

A day or two after the respondent's desertion, the appellant complained to the police authorities of the City of Newark, and on August 2, 1924, a warrant was issued for the arrest of the respondent on a charge of desertion (S. C., 24, l. 30). This warrant was served on the defendant on the 25th day of October, 1927, when the respondent was found within this state.

Within eight days after the respondent's departure from the State of New Jersey, he arrived at Sparks, Nevada. He secured employment in the

railroad shops of the Southern Pacific Railway Company of an altogether different nature than that that at which he was skilled (S. C., 191, l. 20). Immediately ater securing such employment, he took his son to Frisco and left him with his sister because, as he says, the place where he was living in Nevada was no place for the boy to stay (S. C., 189, l. 40; S. C., 190, l. 10; S. C., 207, l. 10). A short time after securing employment at Sparks, Nevada, he removed to Reno, Nevada. Six months and four days after arriving in the State of Nevada, he instituted suit for divorce against the appellant who was then residing in Newark, New Jersey on the ground of extreme cruelty. The complete record of the Nevada suit is before the Court. (Exhibit P-3, S. C., 240). The state of the case discloses that the only testimony submitted to the Nevada Court was that of the respondent himself (Exhibit P-7. S. C., 265) to support the cause of action. One other witness testified that the respondent had resided in the State of Nevada the required period of six months. Upon this state of facts, the Nevada Court found that the appellant had been guilty of extreme cruelty to the respondent and awarded him a decree of divorce as well as the custody of the child. This decree was awarded to the respondent on April 6, 1925. Shortly thereafter, the respondent left the State of Nevada and returned to the State of New York wherein on May 28th, 1925, he married one Jennie Romanak with whom he is now living as man and wife. He returned to his old place of employment in the Worthington Pump Works in Harrison, New Jersey, and was there apprehended on the warrant of arrest issued for him on the appellant's charge of desertion on August 2, 1924. From the time that the respondent left the State of New Jersey, on July 23, 1924 until the date on

which he returned to New York and remarried his present wife on May 28, 1925, a period of merely ten months elapsed. In this period, he had traveled clear across the continent from New Jersey to Nevada, had lived there the necessary six months to comply with the Nevada laws then existing; returned from Nevada to New York, remarried and resumed his old occupation as a tool maker at the Worthington Pump Works in Harrison, New Jersey. A writ of ne exeat was issued for his apprehension and the present suit for divorce instituted against him on the ground that he had secured the Nevada decree by fraud; that the same was void and that he was living in open adultery with his present wife. Two witnesses testified that the respondent had told them that he had gone to Nevada for the purpose of securing a divorce from the appellant, namely, the police officer, William R. Thomas (S. C., 106) who arrested him, and one Anthony Gaitos (S. C., 137 and 143). The latter testified specifically that he had been employed with the respondent at the Worthington Pump Works at Harrison, New Jersey; that the respondent had told him he was going to Reno to get a divorce from his wife and gave him some of his tools for which he said he would have no further need. The respondent denied that he knew the witness, Anthony Gaitos or that he had ever laid eyes on him. Subsequently the appellant again produced the witness Anthony Gaitos on rebuttal (S. C., 236) and he then produced some dies that he claimed the respondent had given him. They bore the respondent's initials. The respondent admitted that these dies had been his property but he claimed that shortly before he left the Worthington Pump Works where he was employed to go on his trip, his tool chest had been broken into and these dies had been stolen therefrom. He ad-

mits having made no complaint either to the police or to the factory authorities of this robbery (S. C., 226, l. 20). The respondent did not, in any manner, contradict the testimony of Detective Thomas as to the statement which Thomas testified the respondent made to him, namely, that he could not get along with his wife; that he finally decided that he was going out West to get a divorce.

The respondent charged the appellant in the petition for divorce filed by him in the Nevada Courts with having been guilty of extreme cruelty towards him which had caused him to suffer great mental anguish and physical pain and had greatly affected his health and that it would be *impossible* for said respondent to further cohabit with the appellant. Then follows with particularity the alleged extreme cruelty charged by the respondent against the appellant. He there states that commencing with the year 1918 the appellant seemed to have taken an aversion to him and treated him in a cruel manner and continued so to do down to and including the year 1924; that during this period (S. C., 241, l. 20) the appellant falsely charged the respondent with having committed adultery, told him that she did not care for him and wished he would die; that she never had any peace when he was at home and that she hated him and frequently referred to him as Cain; that she beat and abused their child and that the appellant became greatly incensed when the respondent protested at her action; that during the time she was in Europe, the appellant refused to write to the respondent and refused to tell him about their son and upon her return home in July, 1924, refused to have anything to do with the respondent and told him she had hoped to never see him again; *that the respondent, unable to further endure the said treatment* by the said appellant and fearing that the said appellant would

injure their son, he left the said appellant in the month of July, 1924, and has not, since said time, lived with the said appellant *and to do so would be dangerous to his life and detrimental to his health and the health of his child* (S. C., 242, l. 10). These allegations contained in his Nevada petition, he testified to before the Nevada Court (S. C., 266, l. 20). His was the only testimony offered in corroboration and upon his word alone, the Nevada Court granted the decree dissolving the marriage.

In the instant proceedings, he offered his own uncorroborated testimony as to these acts of alleged cruelty. These the appellant denies. He further alleges in an affidavit filed in the instant proceedings (S. C., 31, l. 40) that subsequent to the departure of the appellant for Europe, he learned that she had been cruel and mean to their child and had punished him severely for no reason while the respondent was at work. That he had learned this from a woman named Mrs. Costello with whom they made their home shortly before the appellant went to Europe (S. C., 178, l. 20). Mrs. Costello whose testimony will be found at S. C., 162 does not corroborate the respondent in his testimony on this point. She testifies that one day the child did something that made the appellant angry and she passed a remark that she hated the child as she hated its father and she only heard the appellant say this once and that on another occasion, she saw the appellant give her son a push up against a door but that she in no wise injured the child, and that the appellant and respondent left her home seemingly on friendly terms. (S. C., 164, l. 10).

The respondent further sets forth in his affidavits filed in this cause (S. C., 32, l. 10) "it was a matter of incompatible temper on the part of Irma

Pahy, disrupting the family life entirely." At L. 30, notwithstanding all the cruelty and all else allegedly visited upon him by the appellant, he states the following: "On July 23, 1924, I requested Irma Pahy to leave New Jersey and start life anew in some other state which she refused to do and deponent (respondent) then accordingly not being able to stand the treatment the child and I were getting, I took the child and went to Chicago to seek work and stay there for quite a time and then travelled to Salt Lake City and stayed there for some time."

In his testimony (S. C., 180, l. 10) contrary to his sworn testimony in the Nevada proceedings, he admits having received letters from the appellant while she was in Europe and at S. C., 184, l. 20, admits that upon her return that he slept separate and apart. At S. C., 184, l. 40, he testifies that he told the appellant this, "We got to go away where nobody will know us after all the trouble start, and also I am sick, I have got to go away to a different climate over there from the sea and start a new life," and that she refused to go with him. The respondent further testifies at 186, l. 1, that he had no particular place in mind when he asked the appellant to go away with him. When he went to the boat to meet his wife upon her return from Europe, he intended to take her back and live with her (S. C., 199, l. 10) and that he did not have a home for her because he intended to leave the state with his wife and go to a better climate (S. C., 199, l. 20). No doctor told him that the climate affected his health. He merely assumed this. (S. C., 199, l. 30). He was too sick to continue his employment at the Worthington Pump Works and he wanted his wife to go with him to New York State (S. C., 201, l. 10). He also admits that he did not tell his wife, the

appellant where he wanted her to go with him because as he puts it, with $175.00 which he then had in his possession, you couldn't go very far with a family to travel. (S. C., 201, l. 30). Cross-examination failed to secure an intelligent explanation from the respondent. At S. C., 224, l. 40, he was asked this question: "Now, let me know once again for the last time. Did you leave this woman because you were afraid to live with her or because she would not go with you?" Witness: "I asked her to go with me and start a new life. After she refused I was know my life would not be safe if I would stay with her."

Vice-Chancellor Church, who heard the case for the Chancellor, has written no opinion. He gave his conclusions from the bench at the termination of the hearing and they are set out at length at S. C., 237, l. 30. The Court also held that he was bound to dismiss the petition because of his decision in the case of Cole vs. Cole, 96 N. J. E. 206.

The appellant contends that the decree of the Chancellor is erroneous for the following reasons: (italics throughout this brief are mine)

POINT 1.

The Nevada decree is void because the respondent was never a bona fide resident of that state but went there in order to secure a divorce.

The appellant and respondent were domiciled in the State of New Jersey until the 25th day of November, 1922, when the appellant-wife went to Europe with her child by agreement with the respondent. She remained in Europe until the 20th day of July, 1924, when she returned. There is and can be no question that the legal domicile of

the parties was in this State on the 25th day of November, 1922, when she left for Europe. It is equally indisputable that their legal domicile continued to be in this State during the appellant's sojourn in Europe which was of a temporary nature. The respondent-husband continued to make his home in this State so that it necessarily follows that at least until the 20th day of July, 1924, when the appellant rejoined the respondent-husband in this country, the legal and matrimonial domicile continued to be the State of New Jersey. On the 23rd day of July, 1924, the respondent left appellant without informing her where he was going. He wrote appellant a note (Exhibit P-3, S. C., 258) and enclosed therewith a twenty-dollar bill. I will take the respondent's translation of the contents of this note which was written in the Hungarian language: "We cannot stay together; we do not understand each other." (S. C., 187, l. 10). He contends, as record will show (S. C., 184, l. 40), that on the 23rd day of July, 1924, he requested the appellant to go with him and start life anew elsewhere and that she refused, whereupon he went alone, and that he had no particular place in mind to which he wanted the appellant to accompany him (S. C., 186, l. 1). After leaving Newark, New Jersey, three days after the return of his wife from Europe, the respondent went to Chicago (S. C., 188, l. 20) looking for a job. He stayed there two days. From Chicago he went to Salt Lake City (S. C., 188, l. 40) and remained there for about twelve hours. From Salt Lake City he went to Sparks, Nevada, (S. C., 189, l. 10) and secured a job in the Southern Pacific Railroad shops doing railroad work (S. C., 191, l. 20) at which he was wholly unskilled, he being a toolmaker by trade. He remained in the employ of the Southern Pacific Railroad Company until a

few weeks after he had secured his divorce when he was told "on the side", "Your time is up and you can go." (S. C. 191, l. 20). After securing employment at Sparks, Nevada, he immediately took his son to his sister's home in San Francisco and returned to Sparks, Nevada, alone. His reason for doing this was because the place where he was boarding in Nevada was no place for the boy to stay among railroad men. (S. C., 190, l. 2). From the time that he left New Jersey on the 23rd day of July, 1924, until he secured employment in Sparks, Nevada, merely a matter of eight days elapsed (S. C., 190, l. 40). When we consider that of these eight days he spent two days in Chicago and twelve hours in Salt Lake City and the time it must have taken him to travel from New Jersey to Nevada, the conclusion is inescapable that he wasted no time in reaching the State of Nevada which must have been his original destination. He undoubtedly had a definite purpose in going to Nevada because he used his last dollar to reach there. He only had $175.00 or $200.00 in his pocket when he left New Jersey with his son and he realized that he could not go very far on this amount of money (S. C., 201, l. 30). He instituted suit for divorce on the ground of extreme cruelty against the appellant, in the State of Nevada on the 5th day of February, 1925. Assuming he reached Nevada about eight days after he left New Jersey, he must have arrived there on the 1st day of August, 1924. He was required to reside in the State of Nevada for a period of six months before being eligible to institute suit for divorce. (S. C., 210, l. 20). It therefore follows that six months and four days after arriving in Nevada, the respondent instituted his suit for divorce against his wife. He obtained his final decree of divorce in Nevada on April 6, 1925, two months after the

inception of the suit. On May 28, 1925, we find him back in the State of New York going through a marriage ceremony with a woman with whom he is now residing. Apparently, he wasted very little time in the State of Nevada after obtaining his decree because he had to rejoin his son in San Francisco and from there travel clear across the continent to New York.

The police officer who took the respondent into custody, Detective William R. Thomas of the Newark Police Department, testified that the respondent told him that "he went out West to get a divorce." (S. C., 110, l. 1). This testimony was not contradicted by the respondent. Anthony Gaitos who was employed with the respondent at the Worthington Pump Works prior to July 23, 1924, testified that the respondent prior to leaving New Jersey, told him that "he was going down to Reno and get a divorce from his wife" (S. C., 138, l. 1), and that he gave him some of his tools. The witness produced (S. C., 138, l. 20) some of these tools in Court bearing the respondent's initials thereon and the respondent identified these tools as being his. He denied the testimony of the witness Gaitos and sought to account for the tools being in Gaitos possession by stating that shortly before leaving his employment at the Worthington Pump Works his tool chest had been broken into and some of the tools stolen. He admits having made no complaint either to the factory officials or to the police authorities of the theft of these tools. It seems unusual to say the least for a workman to make no complaint that his tool chest had been broken into and some of the tools with which he earnel his livelihood were stolen. Vice Chancellor Church arbitrarily refused to believe the testimony of Gaitos. Why he did so is not apparent.

It is elemental that a citizen of New Jersey will not be permitted to go into another state and secure a divorce for a cause which arose within this State or for a cause which is not recognized as grounds for divorce in this State. Our decisions hold that where a citizen of this State goes into another state for the purpose or in order to secure such a divorce, it is a fraud both upon our courts and upon the courts of the state whose decree he obtains and that such a decree is without extra-territorial effect and void in this State.

In the case of Magowan vs. Magowan, 57 N. J. E. 322, this Court held that:

> "Where the plaintiff in a suit for divorce is required by statute to have been a bona fide resident of the state in which his action is brought for a fixed period of time, in order to enable him to maintain his action, the ascertainment by the court of the fact of such residence necessarily precedes a consideration of the merits of the case, and the determination of that question by the court is final not only in the courts of that state, but in every other jurisdiction where the validity of the judgment comes in question, *unless such determination has been procured by fraud.* When, however, the adjudication has been procured by fraud, it is without extra-territorial effect, and the judgment will be treated as void in the courts of a sister state."

In this case, an Oklahoma decree was interposed in a suit for maintenance. The Oklahoma decree was held fraudulent and void irrespective of the recital contained therein as to jurisdiction and so forth.

Since the decision in the Magowan case (Supra), our courts have made this rule more and more stringent and have scrutinized such decrees with

more minuteness. The mere fact that a citizen of this State has gone to another state and lived there for such period of time as the laws of the foreign state require him to enable him to maintain his action, is merely one element to be considered. The fact that the decree of the foreign court recites that a citizen of this State has been a bona fide resident of the foreign state for the required period of time is not conclusive upon the courts of our State. In the case of Jung vs. Jung, 85 N. J. E. 372, Backes, *V. C.,* in refusing to recognize a Nevada decree, held that the defendant was not a bona fide resident of Nevada for the period of one year required by the statutes and consequently this court determined that the Nevada decree was obtained by fraud and would not be recognized in this jurisdiction He quotes with approval the case of Magowan vs. Magowan (Supra).

In Lister vs. Lister, 86 N. J. E. 30, Stevenson, *V. C.,* holds that the State of New Jersey would not permit the courts of a foreign state to destroy the marriage res and that this State would take it upon itself to decide whether or not the foreign courts acted with propriety in attempting to dissolve the marriage relationship.

At page 37, the court holds that how far New Jersey accepts in her territory the Nevada decree divorcing a spouse resident in Nevada from a spouse resident in New Jersey is a matter which New Jersey has a right to decide for herself.

The court further holds that the full faith and credit clause of the Federal Constitution is inoperative to give validity in New Jersey to a decree obtained by fraud in a foreign state by one of our citizens.

Section 33 of the New Jersey Divorce Act (P. L. 1907, P. 483) after providing that full faith and credit shall be given in our courts to a decree for

annulment of marriage or divorce by a court of another state provides:

> "Provided, that if any inhabitant of this State shall go into another state, territory or country, *in order to* obtain a decree of divorce for a cause which occurred while the parties resided in this State, or for a cause which is not ground for divorce under the laws of this State, a decree so obtained shall be of no force or effect in this State."

It is seldom that one finds a party to a divorce suit in which a Nevada or other foreign decree of divorce is involved, admitting unconditionally that he or she left the State of New Jersey in order to go into the foreign state to secure the decree of divorce. In each instance the intent or rather the purpose to obtain such a decree from a foreign state must be inferred from the circumstances of the case. In the case of Sechlar vs. Sechlar, 94 N. J. E. 47, Leaming, *V. C.* in refusing to recognize the Reno decree, inferred that the defendant had gone to Nevada for the purpose of securing a divorce and this in the face of the defendant's express denial.

In the case of Lister vs. Lister, 86 N. J. E. 30, Vice Chancellor Stevenson inferred that the defendant, being an inhabitant of this State, had gone into the State of Nevada "in order to obtain a decree of divorce for a cause which occurred while the parties resided in this State." At page 45, the court holds:

> "It is unnecessary to discuss the evidence which shows that the defendant went to Nevada 'in order to' do the thing which he did —the only thing which appears to have been attempted or accomplished by him by virtue of his alleged residence in that state."

Vice Chancellor Backes in the case of Thompson vs. Thompson, 89 N. J. E. 70, inferred that the defendant had gone into the State of New York, established her residence there for the period required by law and then instituted suit for divorce. She denied this but the court nevertheless found it to be a fact from the circumstances of the case. At page 75, the court holds:

> "That her program at the time of the separation was to be rid of him and to bring an action to that end, if necessary, there can be little doubt. While it is true that she returned to the place where she had been previously harbored for seven months, it is a fair inference that she was bent upon a divorce and that her return to New York was incidental to its accomplishment. Her conduct was in fraud of our law. The case is within the statute. The term "in order to obtain a divorce" is not quite so limited to a case of actual intent and purpose as if the phrase has been "for the purpose of obtaining a divorce". Lyon v. Lyon, 68 Mass. (2 Gray) 367. It is within the power of the state to forbid the enforcement of such a decree. Andrews vs. Andrews, 188 U. S. 14."

In this same case, Vice Chancellor Backes holds further: (Syllabus 5):

> "The jurisdiction of a foreign court over the parties or subject-matter may be inquired into and determined by the court in which the judgment is sought to be enforced. An adjudication by a foreign court that it has such jurisdiction is of no evidential force in determining whether such jurisdiction existed."

It is a fair inference to be gathered not only from the testimony of Detective Thomas which has not been contradicted, the testimony of the wit-

ness Anthony Gaitos who testified that the respondent told him that he was going to Reno to get a divorce from his wife, and gave him some of his tools, which testimony Vice Chancellor Church did not believe, but also from the facts themselves, namely, the abandonment by the respondent of the appellant, his speedy trip to Nevada, the institution of his suit for divorce four days after the statutory six months period had elapsed and his departure from the State of Nevada so soon after obtaining his decree, his remarriage in New York and his failure to ever return to the State of Nevada after he obtained the decree, that while a citizen of New Jersey, he went to Nevada in order to obtain his decree of divorce. The decree was therefore fraudulently obtained by him, he at no time having been a bona fide resident of the State of Nevada but merely transient therein.

POINT 2.

The Nevada decree is not entitled to recognition in this State because it was obtained contrary to the provisions of Sections 7 and 33 of our Divorce Act (P. L. 1907, P. 483).

Section 33 of our Divorce Act provides as follows:

> "Effect of Decrees of Other States And Countries: Exception: Full faith and credit shall be given in all courts of this State to a decree of annulment of marriage or divorce by a court of competent jurisdiction in another state, territory or possession of the United States when the jurisdiction of such court was obtained in the manner and in substantial conformity with the conditions prescribed in sections five, six and seven of this act. Nothing herein contained shall be

> construed to limit the power of any court to give such effect to a decree of annulment or divorce by a court of a foreign country as may be justified by the rules of international comity; provided, that if any inhabitant of this State shall go into another state, territory or country, in order to obtain a decree of divorce for a cause which occurred while the parties resided in this State, or for a cause which is not ground for divorce under the laws of this State, a decree so obtained shall be of no force or effect in this State."

Section 7, subdivision A of our Divorce Act provides as follows:

> "When, at the time the cause of action arose, the petitioner was a bona fide resident of this State, and has continued so to be down to the time of the commencement of the action, except that no action for absolute divorce shall be commenced for any cause other than adultery, unless the petitioner has been for the two years next preceding the commencement of the action a bona fide resident of this state."

The respondent secured his divorce in Nevada not on the ground of adultery, but on the ground of extreme cruelty. Service was effected upon the appellant while she was domiciled in this State, by publication and by personal service. This is admitted and the record of the Nevada case discloses it (S. C., 244-246-249). No pretence is made that the respondent resided in the State of Nevada for two years prior to instituting his suit for divorce. He resided there but six months and four days. Vice Chancellor Backes held in the case of Thompson vs. Thompson, 89 N. J. E. 70, that a decree of divorce obtained in the manner in which the respondent in the instant case ob-

tained his, was not entitled to recognition in this State.

In paragraph 2 of the syllabus he holds:

> "A foreign decree of divorce is not entitled to enforcement on the principles of comity, unless the court obtained jurisdiction in the manner, and substantial conformity with the requirements, for acquiring jurisdiction in such cases in this state, i. e., the plaintiff for two years next preceding the commencement of the action must have been a bona fide resident of the state in which the divorce was obtained, except in causes for adultery."

In this same case the court holds further:

> "The judgment is not entitled to enforcement on the ground of interstate comity. Before the present Divorce Act was passed, the judicially declared policy of this state was to give full faith and credit to decrees of divorce pronounced by a court of another state, in which the complainant was domiciled and which had jurisdiction of the subject-matter of the suit, notwithstanding that the defendant did not reside within the jurisdiction of the court which pronounced the decree and had not been served with process therein, provided that a substituted service had been made in accordance with the provisions of the statute of that state and that actual notice of the pendency of the suit had been given to the defendant and a reasonable opportunity afforded to put a defense thereto; and provided further, that the grounds upon which the decree rested was one which the public policy of this state recognized as a sufficient cause for divorce. Felt v. Felt, (1899) 59 N. J. E. 606. But in adopting the Uniform Divorce law in 1907 (Comp. Stat. p. 2021) the legislature established an entirely different rule of public policy regarding the force to be given such foreign

decrees. Section 33 provides: "Full faith and credit shall be given in all courts of this state to a decree of annullment of marriage or divorce by a court of competent jurisdiction in another state, territory or possession of the United States when the jurisdiction of such court was obtained in the manner and substantial conformity with the conditions prescribed in sections five, six and seven of this act. Nothing herein contained shall be construed to limit the power of any court to give such effect to a decree of annulment or divorce by a court of a foreign country as may be justified by the rules of international comity; provided, that if any inhabitant of this state shall go into another state, territory or country, *in order to obtain* a decree of divorce for a cause which occurred while the parties resided in this state, or for a cause which is not ground for divorce under the laws of this state, a decree so obtained shall be of no force or effect in this state."

"Section 7, which is the pertinent one, provides that jurisdiction for the purpose of divorce, whether absolute or from bed and board, may be acquired by substituted service: '(a) when at the time the cause of action arose, the petitioner was a bona fide resident of this state, and has continued so to be down to the time of the commencement of the action, except that no action for absolute divorce shall be commenced for any cause other than adultery, unless the petitioner has been for the two years next preceding the commencement of the action a bona fide resident of this state'."

"This new rule was adopted to put a check upon "migratory divorces" and controls the present situation absolutely.

"That a foreign court assumes jurisdiction over the subject-matter within its state, under the provision of its laws, and that its adjudication is there valid and effectual, are matters wholly irrelevant to the test fixed

> by our statute, which necessarily limits the inquiry to the ascertainment of whether the foreign jurisdiction was obtained in the manner and in the substantial conformity with the requirements imposed by the legislature upon this court in acquiring jurisdiction in such cases, of which the principal and governing one is, except in causes for adultery, that the petitioner "has been for the two years next preceding the commencement of the action a bona fide resident of this state." The defendant was, admittedly, not a resident of New York for that period, and, consequently, the judgment is impotent here. It is possible to suppose a case where the rigidity of the statutory rule of comity would be relaxed, but this is not one of them."

To the same effect is the decision of Buchanan, *V. C.* in the case of Fried vs. Fried, 99 N. J. E. 106.

At page 109, last paragraph, the court holds:

> "It seems to me that the disposition of the present case must needs be in accordance with the opinion of Vice Chancellor Backes in Thompson vs. Thompson, 89 N. J. E. 70, wherein are fully set forth the authorities, as well as the principles involved. New York was the last matrimonial domicile; Illinois was never the state of matrimonial domicile neither did the Illinois courts have jurisdiction over the person of the wife. The decree therefore, is not entitled to recognition in this state under the provisions of the federal constitution. Neither is it entitled to recognition on the ground of comity, for it is clear that the alleged jurisdiction of the Illinois court was not obtained 'in substantial conformity with the requirements imposed by the legislature on this court in acquiring jurisdiction in such cases'."

If the cases of Thompson vs. Thompson, and Fried vs. Fried (Supra) are to be recognized by this court, it follows that the Nevada court did not secure jurisdiction of the respondent's matrimonial status in the manner provided by Section 7, Subdivision A, of our Divorce Act and consequently, the Nevada court never had jurisdiction of the case and its decree is ineffectual. It may be effective in the State of Nevada but it is wholly without validity in the State of New Jersey.

POINT 3.

The Nevada decree is not entitled to recognition in this State because the respondent went into the State of Nevada in order to obtain a decree of divorce for a cause which was not ground for divorce in this State at the time that it arose.

The respondent obtained his Nevada decree on the ground of extreme cruelty. He was granted an absolute divorce. His own uncorroborated testimony which he offered in support of the action in the Nevada court, is unworthy of mention. Certainly it would never have won him a divorce in this State, but aside from this, the extreme cruelty complained of, assuming for the sake of argument that it existed, was inflicted upon the respondent by the appellant in this State. They never lived together elsewhere and consequently this conclusion is inescapable. The appellant left for Europe on November 25, 1922. She returned on July 20, 1924. During the time she was in Europe they did not live together so that the offence, if committed at all, must have been committed by the appellant prior to her departure for Europe in Novem-

ber, 1922. The statute permitting the granting of a divorce on the ground of extreme cruelty, commonly termed the "Blackwell Act", was passed by our Legislature in 1923. (P. L. 1923, P. 494). In 1922 extreme cruelty was not a ground for divorce in this State. The respondent therefore went into the State of Nevada and obtained a decree of divorce for a cause which was not a ground for divorce in this State at the time that it arose, contrary to the express provisions of Section 33 of our Divorce Act.

A decree of this nature obtained in the State of of Nevada was held to be void by Stevenson, *V. C.* in Lister vs. Lister, 86 N. J. E. 30. At page 44, the court holds:

> "The decree of the Nevada court is also void in New Jersey under the provisions of section 33 of the Divorce Act of 1907. 1 Comp. Stat. p. 2042.
>
> "The evidence in this case has satisfied this court that the defendant being an inhabitant of this state, went into the State of Nevada "in order to obtain a decree of divorce for a cause which occurred while the parties resided in this state", and also "for a cause which is not ground for divorce under the laws of this state", and the statute declares that "a decree so obtained shall be of no force or effect in this state".
>
> "As we have seen the proof is absolute that the entire cause of divorce set up in this Nevada suit, and attempted to be proved therein, must have arisen while the parties were domiciled in the State of New Jersey, for the wife, the complainant, has never been domiciled in any other state.
>
> "Of course the word "divorce" in the two members of the sentence quoted from the statute, means the same kind of divorce. In other words, it does not help the defendant's case that the cause of absolute divorce which

> he set up in his Nevada suit, while not a cause of absolute divorce in New Jersey, is a cause of limited divorce or mere separation from bed and board. The fact is plain that the defendant obtained an absolute divorce in New Jersey. It is unnecessary to discuss the evidence which shows that the defendant went to Nevada "in order" to do the thing which he did—the only thing which appears to have been attempted or accomplished by him by virtue of his alleged residence in that state.
>
> "It will be seen that our statute is doubly applicable to the defendant's Nevada divorce suit."

At page 46, the court holds further:

> "The statute ordains that in the cases to which it applies, the New Jersey res shall not be transported to a foreign state and shall not be affected in New Jersey by a decree of divorce obtained in a foreign state to which one of the spouses may have emigrated with intent to obtain the divorce, even though the emigrant may become a bona fide resident of such foreign state."

To the same effect is the case of Sechler v. Sechler, 94 N. J. E. 47, where Leaming, *V. C.* holds at page 49 that:

> "In view of these circumstances, it seems impossible to escape the conclusion that defendant went to Reno in order to obtain a decree of divorce, just as he said he intended to do. As already stated, the divorce was procured by defendant was for a cause which occurred while the parties resided in this state, and also was for a cause which is not ground for divorce from the bonds of matrimony under the laws of this state. The case thus comes within the very terms of the statute above quoted, and by the terms of that

> statute the Nevada decree is of no force or effect in this state.
>
> "The sufficiency of the legislation above referred to cannot be said to be an open question in this court." (Cases cited including Thompson vs. Thompson, 89 N. J. E. 70).

To the same effect is the excellently considered case of Hollingshead vs. Hollingshead, 91 N. J. E. 261, wherein Buchanan, *V. C.* held a Nevada decree to be void on the ground that it was obtained in violation of Section 33 of our Divorce Act.

POINT 4.

The Nevada decree is not entitled to recognition in this State because the respondent went into the State of Nevada in order to obtain his decree of divorce for a cause which occurred while the parties resided in this State.

Assuming that the appellant was guilty of having been extremely cruel to the respondent and that the respondent thereupon became entitled to a decree of absolute divorce on this ground, the cruelty charged was inflicted upon the respondent while he and the appellant were domiciled and resided in this State. This conclusion is inescapable because they never lived as husband and wife, or otherwise, elsewhere. She left this country for her European visit November 25, 1922, and returned to this country on July 20, 1924. During this period the respondent-husband continued to reside in this State. His domicile was the legal domicile of the wife although she was then sojourning abroad. Upon her return to this country, she rejoined him in the City of Newark, and they contin-

ued to live together for three days until the 23rd day of July, 1924 when the respondent left surreptitiously for parts unknown and landed in Sparks, Nevada, eight days later. It consequently follows as an inescapable conclusion that if the appellant was guilty of extreme cruelty towards the respondent, her guilt must be predicated upon her conduct prior to November 25, 1922 when she left on her European trip or during the three-day interval between July 20, 1924 when she returned to this country and July 23, 1924, when the respondent left. It is not contended by the respondent that the appellant was cruel to him during this three-day period. This being the fact, the situation comes squarely within the purview of the exception contained in section 33 of our Divorce Act (P. L. 1907, p. 483). It provides, after the declaration that full faith and credit shall be given in all the courts of this State to decrees of annulment of marriage or divorce by a court of another state and so forth, as follows:

> "Provided, that if any inhabitant of this State shall go into another state, territory or country, "in order to" obtain a decree of divorce for a cause which occurred while the parties resided in this state * * * a decree so obtained shall be of no force or effect in this State."

Backes, *V. C.*, in the case of Thompson vs. Thompson, 89 N. J. E. 70, at page 75, holds that:

> "The term "*in order to obtain a divorce*" is not quite so limited to a case of actual intent and purpose as if the phrase had been "for the purpose of obtaining a divorce." Lyon vs. Lyon, 68 Mass. (2 Gray) 367.

He holds further that a decree obtained in the State of New York on the ground of cruel and inhuman treatment which cause of action arose while the parties resided in this State, was void in this State on the ground that it was obtained in contravention of the exception contained in Section 33 of our Divorce Act.

I commend the case of Thompson vs. Thompson (Supra) particularly to the attention of this Court as being expressly applicable to the present situation.

To the same effect is the decision of Stevenson, *V. C.*, in the case of Lister vs. Lister, 86 N. J. E. 30, wherein he at page 44 holds:

> "The evidence in this case has satisfied this court that the defendant being an inhabitant of this state, went into the State of Nevada "in order to obtain a decree of divorce for a cause which occurred while the parties resided in this state," and also "for a cause which is not ground for divorce under the laws of this state", and the statute declares that "a decree so obtained shall be of no force or effect in this state'."

To the same effect is the case of Sechler vs. Sechler, 94 N. J. E. 47, wherein Leaming, *V. C.*, held that a Nevada decree would not be recognized in this State when it was obtained for a cause which occurred while the parties resided in this State.

Assuming further that the respondent did have a cause of action for divorce on the ground of extreme cruelty, that cause of action arose in New Jersey. In the case of Coe vs. Coe, 97 N. J. E. 57, Backes, *V. C.* holds at page 59:

> "The right of action for extreme cruelty is vested when the offense is committed; the right of prosecution is postponed for six

> months. * * * The right of action is fixed and absolute on the commission of the offense as in adultery. The postponement for six months, of the right to sue, is to give the injured party time to calm down and reflect, put the offender on probation, and to forgive if pardon is deserved. Condonation rests exclusively with the offended party."

The decision of the Chancellor in this case was unanimously affirmed by this Court on appeal in 99 N. J. E. 422.

POINT 5.

The case of Cole vs. Cole, 96 N. J. E. 206, cited by Vice Chancellor Church as controlling him in his decision, is inapplicable.

The case of Cole vs. Cole (Supra) was cited by Vice Chancellor Church during the course of the trial of this case before him as being absolutely controlling and requiring him to dismiss the appellant's petition and to recognize the respondent's Nevada decree. I have examined this case very carefully and respectfully urge that it has no bearing upon the issues presented in the case at bar.

In the case of Cole vs. Cole there was no allegation of fraud set up as to the Nevada decree. Fraud of course is never presumed; it must be charged and proven. The Nevada decree not being attacked, it was incumbent upon the Court to recognize it.

In the case at bar, it is specifically charged in the petition for divorce that the Nevada proceedings as well as the decree were fraudulent and the

appellant prays that the Nevada decree be adjudged invalid in the instant proceedings.

The facts in the case of Cole vs. Cole (Supra) are altogether different from the facts in the case at bar. Cole, the defendant in that case, instituted suit for divorce against his wife in the Nevada court in 1918. She filed an appearance, an answer and a cross-bill. The action came on for trial and the defendant's petition in the Nevada court was dismissed and a divorce was granted to the petitioner in the Cole case in accordance with the prayer of her counterclaim. Cole went to California and remained there about two years. He returned to the State of New Jersey in 1920. He remarried in November, 1922 and a year or more thereafter, namely on December 4, 1923, the petitioner filed a suit for divorce in the courts of this State and applied for alimony pendente lite. It will be observed that Mrs. Cole, the petitioner in that suit, secured a decree of divorce in Nevada. Almost six years later, she sought to attack her own decree in the courts of this State and failed to charge that any fraud had been practiced in its procurement. The decree of the court in the Cole case was proper but has no bearing whatever upon the facts in the case under consideration.

Conclusion.

I find no words more apt to describe the situation before this Court than those used by Stevenson, *V. C.*, in the case of Lister vs. Lister, 86 N. J. E. 30, where, at page 35, he states:

> "Without stating further details it is sufficient for present purposes to state the conclusion of fact that this is a typical case of a

> fraudulent Nevada decree based upon a false representation of residence in that state, and the record indicates that practically no effort is made in the Nevada courts to expose and repel these emigrants from other states, who by fraud and perjury impose themselves upon the State of Nevada as bona fide residents, residents animo manendi."

If the respondent had a valid cause of action for divorce against his wife, the courts of this State were open to him for redress. There was no need for him to depart this State, to deprive the appellant of the society and companionship of their infant child, to travel clear across the continent with only $175.00 or $200.00 in his possession and to reach there practically penniless so that he had to call upon his relations for financial assistance. The respondent's conduct has all the earmarks of a desparate attempt made by this man to find a haven three thousand miles away from the place where he had resided for years, in order to enable him to accomplish a purpose which he knew he was unable to accomplish in the State of New Jersey, namely to divorce his wife.

Vice Chancellor Church seemed to lay stress upon the fact that this respondent did not go direct to Nevada but that he spent two days in the City of Chicago and twelve hours in Salt Lake City. How these facts can have any bearing upon the situation is beyond my comprehension. I know of no way of going from Newark, New Jersey to Sparks or Reno, Nevada, direct and without a stop unless it be by a record-breaking transcontinental, airplane flight. If it can be deduced from the fact that a man leaving the State of New Jersey bound for Reno stops occasionally enroute, that he did not go to Nevada in order to secure a divorce, such

a finding can never be made in any case. Every person Nevada-bound must stop time and again enroute.

If Vice-Chancellor Church is correct in his findings in this case, it must follow that every Reno decree, no matter how obtained, must be given full faith and credit in this State. If, from the facts presented in the case at bar, it cannot be deduced with conclusiveness amounting to practical certainty, that the respondent left the State of New Jersey and went into the State of Nevada in order to procure a divorce for a cause of action which arose in this State or for a cause of action which was not recognized in this State at the time that it arose, then I insist the only time that this conclusion may be found by the Courts of this State is if a New Jersey procurer of a foreign decree of divorce, prior to leaving this State to accomplish his purpose, makes a public declaration in the language of the statute, perhaps in a public newspaper, proclaiming to the world that he is about to leave the State of New Jersey, for the purpose of entering another state, in order to secure a divorce for a cause which arose in this state or for a cause which is not recognized as grounds for divorce in this state. Such conduct is not to be expected and the purpose must be found in the conduct.

For all of which reasons hereinbefore stated, it is my insistment that the decree of the Chancellor in this case was erroneous and should be reversed with instructions that the Nevada decree is not entitled to recognition in this state; that the respondent is guilty of having committed adultery with his

alleged second wife and that a decree be entered divorcing the appellant and the respondent from the bonds of matrimony on the ground of adultery committed by the respondent.

Respectfully submitted,

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New Jersey Court of Errors and Appeals

Between IRMA PAHY, *Petitioner-Appellant,* *and* JOHN PAHY, *Defendant-Respondent.*	*On Petition for Divorce.* *On Appeal from Court of Chancery.*

BRIEF FOR RESPONDENT.

History of the Cause.

This appeal presents for review a decree made in the Court of Chancery dismissing the appellant's petition for divorce for adultery. The dismissal was rested upon the fact that the respondent had previously secured an absolute divorce from the appellant in the State of Nevada upon the ground of extreme cruelty. The decree made in the State of Nevada was attacked as having been procured by fraud, but the learned Vice-Chancellor found that this was not so.

Statement of Facts.

Many of the facts have been stated at length in the brief of the appellant. There is considerable dispute in the testimony. No good purpose will be served by recounting great masses of it here. The factual situation developed in the court below, stated in a very abridged form is as follows: The parties were married on November 16, 1912, at Elizabeth, New Jersey. In November, 1922, the appellant

desiring to live no longer with the respondent, went to Hungary, taking the one child born of the marriage with her. Upon her departure, the respondent gave her $300 and while she was away he sent her sums of money totaling about $1,500.

Thereafter she desired to return to this country. Accordingly, the respondent obtained a ticket for her and sent her some money. On her arrival he met her at the dock and she immediately commenced to quarrel, as she had theretofore done. When she made it plain that she did not desire to set up a new home immediately after her arrival from the other side, the respondent sought to have her start life anew in some other state. This she refused to do. Accordingly, the respondent being unable to bear any longer the treatment accorded to him and the child, went to Chicago. He stayed there a while and then went to Salt Lake City. He was unable to find work in either place. He then went to Reno, Nevada, and found some work and while he was away he wrote to the appellant asking her to join him at some place in the west, where he could find employment. To this letter she never replied.

In April of 1925, he secured a decree of divorce in the State of Nevada. The following month he went to New York and re-married. In 1927, he returned to New Jersey, and set up his permanent residence here.

The record abounds with indications that the appellant endeavored to get rid of him, did not desire to live with him, and made life miserable for him.

In answer to the five points made in the brief of the appellant, one point will be made in this brief which is dispositive of the entire case.

The decree for absolute divorce obtained by the respondent in the State of Nevada, was procured bona fide and without fraud and without violation of the provisions of the laws of the State of New Jersey, and interstate comity and our statute require its recognition and enforcement in this State.

With the establishment of this proposition it necessarily follows that the appellant's suit for divorce based upon the ground of adultery is groundless. The respondent having previously obtained a bona fide divorce, his cohabitation with his second wife was lawful and not meretricious. We proceed then, to

The Argument.

The doctrine is firmly established in this State that a decree for divorce granted in a foreign jurisdiction will be recognized in this State, provided the foreign state had jurisdiction over the parties and the subject matter, unless the adjudication was procured by fraud. *Feickert* v. *Feickert,* 98 N. J. E. 444.

Foreign decrees of this class are recognized in this State either because of the provisions of the Federal Constitution, or by force of the doctrine of interstate comity, and the provisions of Section 33 of our Divorce Act.

Where the adjudication of the foreign state rests upon a procurement of jurisdiction over the defendant by actual service within the state, the full faith and credit clause of the Federal Constitution requires the recognition of the decree in this State. Where, however, the foreign state

requires jurisdiction over the defendant by constructive service, then it is that the decree is recognized here pursuant to the rules of interstate comity. *Haddock* v. *Haddock,* 201 U. S. 562.

In the instant case the State of Nevada procured jurisdiction over the present appellant by constructive service. It becomes necessary then to determine the dictates of interstate comity and our Divorce Act respecting such a factual situation as is here presented.

The leading case, of course, is *Felt* v. *Felt,* 59 N. J. E. 606. The present Chief Justice, then a Justice, in writing the opinion of the Court said:

> "There is much contrariety of opinion upon the question, in the courts of the various states, but the weight of authority seems to support the view expressed in Doughty *v.* Doughty, to this extent at least, that interstate comity requires that a decree of divorce pronounced by a court of the state in which the complaint is domiciled, and which has jurisdiction of the subject matter of the suit, shall, in the absence of fraud, be given full force and effect within the jurisdiction of a sister state, notwithstanding that the defendant does not reside within the jurisdiction of the court which pronounced the decree, and has not been served with process therein; provided, that a substituted service has been made in accordance with the provisions of the statute of that state, and that actual notice of the pendency of the suit has been given to the defendant and a reasonable opportunity afforded to put in a defence thereto; and provided further, that the ground upon which the decree rests is one which the public policy of the state in which it is sought to be enforced recognizes as a sufficient cause for divorce."

In endeavoring to apply this doctrine of comity in the controversy at bar, nothing is wanting to require the recognition of the foreign decree. This statement is not mere argument, but is the conclusion indicated by decisions in this State on the subject.

In *Schneider* v. *Schneider,* 6 N. J. A. R. 1222, an opinion by Vice-Chancellor Leaming, it appeared that a decree for divorce was granted in the State of Utah upon the ground of desertion. The petitioner in that state lived there for less than two years. The desertion was for a period of less than two years. In recognizing the decree and giving it effect, the learned Vice-Chancellor said:

> "The inherent force of the decree of a sister state is primarily founded on a bona fide residence—domicile—of the complaining party in the sister state and the conformity of the decree to the laws of that state in a cause for divorce recognized by the laws of this State. The circumstance that this State requires a two year period of desertion, and a sister state awarding a decree of divorce for desertion requires but one year, or that this State requires two years residence in certain causes for divorce, and a sister state may require but one, are matters appropriately conceded to each jurisdiction in legislating remedies for its bona fide residents, and are not matters which may be said to fall within or limit the border rules of interstate comity and define a general policy of either state in matters of interstate comity. This view, I think, must be said to have been assumed in Felt *v.* Felt, in which both the period of desertion and residence in a sister state have been less than two years, and in Gildersleeve *v.* Gildersleeve, 88 Conn. 689, that general view specifically adopted. In the latter case, the Connecticut Divorce Statute required two years desertion. The divorce decree of South Dakota procured by

substituted service and interposed as a defense to a divorce suit in Connecticut, was based on desertion for but one year. The reported opinion says, as to that; 'It has long been the policy of this state to grant divorces for desertion. Surely the period of it is not so much of the essence of the matter, and does not so vitally affect public policy that it reasonably can be said that the granting of a divorce for a period of desertion less than our own is so repugnant to our conception of public policy and of what makes for good morals, as to justify us in refusing to recognize the judicial action of sister states in dissolving marriages under the conditions stated.' And our Divorce Act now, as fully as heretofore, clearly contemplates that faith and credit shall be given to our decrees of divorce in all other states, even though in some such states more than two years' residence may be required of its citizens in like circumstances. It cannot be assumed that our legislature intended in matters of interstate comity to accord to decrees of courts of other states less force than it asks other states to accord to our decrees in like circumstances. That, as I understand it, is the determining factor of state policy in Felt *v.* Felt and equally so at this time. That part of section 33 of our Divorce Act here under consideration is but an affirmative declaration that full force and credit shall be given to divorce decrees of sister states when jurisdiction has been obtained in the manner and in substantial conformity with the conditions there stated. To attribute to this, by implied negative, a legislative intent to radically change an authoritatively settled and recognized policy of our state seems impossible; such a legislative intent may be appropriately sought with greater certainty and precision. The difficulties with which our courts heretofore have been confronted in construing sections 6 and 7 of our Divorce Act have been occasioned by the legislative attempt to unite in those sec-

> tions, obviously for convenience, provisions touching jurisdiction over the litigants and over the cause. It is with the former that interstate comity is primarily concerned; the provision of section 33 protects the latter."

Our Divorce Act sets forth that foreign decrees for divorce will only be recognized when granted in substantial conformity with sections 5, 6, and 7 of the Act. The conformity required relates not to the grounds for divorce nor to the period over which the dereliction of a spouse must continue before it can ripen into a cause for divorce, nor to the period during which an individual must reside in a state bona fide before he will be regarded as domicile in that state. The conformity required relates to the manner in securing jurisdiction over the person of the defendant. If the means adopted in the foreign state are substantially similar to the means which a litigant in this state is permitted to use to acquire jurisdiction over a non-resident defendant, the comity extended by this forum and demanded by it of others, is called upon.

As pointed out by Vice-Chancellor Leaming, the unfortunate co-mingling in sections 6 and 7 of the Divorce Act of provisions relating to jurisdiction over litigants with those relating to jurisdiction over the cause of action, result in confusion until the cardinal requirement of comity, namely, the manner in which jurisdiction over the person is procured, is recalled to mind.

Section 33 of our Divorce Act does not establish a new policy of this State, restrictive of pre-existing doctrines of comity. It does create a new policy in this respect which *extends* the previously declared doctrine of *Felt* v. *Felt*. After specifically pointing out that nothing in the

Act should be construed to limit the power of any of our courts to apply the rules of international comity, the legislature proceeded to insert a proviso. That proviso discusses two subjects: the obtaining of a decree in a foreign state for a cause which occurred while the parties resided in this state, and the obtaining of such a decree for a cause not a ground for divorce under the laws of this State. Both of these are prohibited in effect, for the statute says that such decrees shall be of no force or effect in this State. *But they are only prohibited where an inhabitant of this State goes into another state to obtain such a decree.*

In other words, the statement in section 33, "provided, that if any inhabitant of this State shall go into another state * * *" applies equally to the matter of obtaining a decree for a cause not a ground for divorce in this State, as it does to the matter of obtaining a decree for a cause which occurred while the parties resided in this State. Every elementary cannon of statutory construction requires that the statute be read in the following manner: "provided, that if any inhabitant of this State shall go into another state, * * * in order to obtain a decree of divorce, * * * for a cause which is not ground for divorce under the laws of this State, a decree so obtained shall be of no force or effect in this State."

While it was not necessary for Vice-Chancellor Leaming to go to this extent in *Schneider* v. *Schneider, supra,* the reasoning of his opinion is consistent with the reasoning which results in this view. Vice-Chancellor Backes, of course, came to a conclusion contrary to the one here contended for in *Thompson* v. *Thompson,* 89 N. J. Eq. 70. However, it is for this court to

decide what construction shall be applied to the portion of section 33 of the Divorce Act under discussion. In doing so, there should be kept in mind the needs of an advancing civilization and the complexity of modern conditions of living. An era in which ordinary and usual social and economic activities cause an individual to exert himself, be present in, form relations in and hold property in various parts of the country, which are being more and more closely knit together by advancement in the means of transporting persons, goods and information, is certainly no time in which to contract the doctrine which accords to the decrees of sister states full force and effect.

Construing section 33 as here contended for makes it unnecessary to consider the claims of the appellant that at the time the respondent's cause of action arose which culminated in the Nevada decree, extreme cruelty was not a ground for divorce in this state, the Blackwell Act having been enacted in 1923 and the cruelty, if any, necessarily antedating the year 1922. Consideration of this contention would only be pertinent if section 33 is to be construed to be a narrowing of the rules of interstate comity. Such a construction would violate the plain reading of the Act which clearly indicates that the restriction against obtaining a divorce in another state for a cause which is not a ground for divorce under the laws of this State, is referable to the prior clause "that if an inhabitant of this State shall go into another state * * * in order to obtain a decree of divorce * * *"

Assuming, for the purpose of argument, that the construction opposed to the one claimed by the respondent should be adopted, and that a foreign decree will only be recognized where it

is granted for a cause which is also a ground for divorce in this State, nevertheless, the respondent's decree is entirely valid.

The Blackwell Act is in the following language:

> "Divorce from the bonds of matrimony may be decreed for extreme cruelty in either of the parties, whether the acts of cruelty were committed prior to or after the passage of this act; provided, that no petition for divorce shall be filed until after six months from the date of the last act of cruelty complained of (L. 1923, C. 187, p. 494, supplementing L. 1907, p. 474.) (C. S. p. 2021.)"

It will be noted that no matter when, prior to the passage of the act, the acts of cruelty were committed, the cause of action will lie. If, when the petitioner in Nevada, the present respondent, instituted suit for divorce in that state, he had been desirous of instituting suit in this State upon the ground of extreme cruelty, he could have done so for the very cruelty upon which the decree in Nevada was rested. It would certainly be a harsh rule which would require any more than this. It would indeed be a gross affront to a sister sovereignity to say that the decree of the latter would not be recognized here because although at the time suit was started in the sister sate, a similar decree could have been obtained here, such a decree could not have been obtained here at an earlier date when the conduct which creates the cause of action took place.

To give effect to the requirements of the language used in the Blackwell Act, it is necessary to accord to every act of cruelty antedating its passage, every attribute it would have had, had the statute been in force at the time the act of cruelty was committed. In fact a decree

of a court of *this* State for cruelty committed prior to the passage of the act, is only supportable upon this theory.

Extreme cruelty for many years prior to the passage of the Blackwell Act was a ground for limited divorce. It is significant that although we had two kinds of divorces in this State, absolute and limited, when section 33 of the Divorce Act was enacted, no distinction between them was made in that section of the statute. In the absence of such a differentiation, the requirements of this section are amply met when the decree of a sister state is granted upon a ground which is a ground for divorce of any type in this State. The requisites of this section, if it is to be so construed, are amply met therefore.

The decision of *Fairchild* v. *Fairchild,* 53 N. J. E. 678, points out that the ascertainment by the foreign court of matters relating to jurisdiction necessarily precedes a consideration of the merits of the case by that court. Chief Justice Gummere in writing the opinion of the Court said:

> "Where the plaintiff in a cause is required by statute to have been a bona fide resident of the state in which his action is brought for a fixed period of time, in order to enable him to maintain his action, the ascertainment by the court of the fact of such residence necessarily precedes a consideration of the merits of the case; and the determination of that question by the court is final, not only in the courts of that state, but in every other jurisdiction where the validity of the judgment comes in question, unless such determination has been procured by fraud."

While the excerpt above set forth refers merely to the fact of residence, the doctrine being universal that the state is interested as well as the

litigant in a proceeding for divorce, it is not unwarrantedly extending the statement of the learned Chief Justice to say that it embraces the consideration in the foreign court of the procurement of jurisdiction over the defendant. The *Fairchild* case was quoted with approval in *Cole* v. *Cole,* 96 N. J. E. 206, which is referred to in the opinion filed in the instant case.

That fraud which will warrant this court in holding that the foreign decree under consideration should be denied recognition, was not proved.

In the *Feickert* case, *supra,* the present Chancellor said:

> "Mrs. Feickert assumes to treat the Nevada proceedings and decree as invalid. I am not permitted to indulge any such presumption. In law the presumption is the other way. If they are invalid it is because they are fraudulent, and fraud is never presumed, but always has to be strictly proved."

The doctrine that fraud in suits of this type must be proved is but a generic statement. More definitely the rule has been stated in the following language in *Schneider* v. *Schneider, supra*:

> "* * * But while the evidence establishes that defendant herein deserted petitioner herein in this state and strongly suggests that he subsequently went to Nevada in order to obtain a divorce from her for the cause there alleged by him, which cause (extreme cruelty) necessarily occurred. If at all, in this state, and also strongly suggests that defendant herein did not obtain a bona fide residence in Nevada, I am unable to determine that the evidence establishes either of these material facts with that degree of certainty essential to support an affirmative finding to that effect."

Of much importance in this controversy is the statement of Judge Vroom in the opinion of this court in *Wallace* v. *Wallace,* 65 N. J. E. 359. He said:

> "I concur entirely in the principle laid down by the special master in this case that a person may legitimately move to another state in order to avail himself of the laws of that state, and this includes, necessarily, the right to remove into the jurisdiction of this state for the purpose of procuring a divorce, the only requirements being absolute good faith in the taking up of such residence and the *animus manendi;* in other words, the *factum* of residence and the *animus manendi* proves the domicile."

Another indication of the extensiveness of the burden resting upon a person attacking a foreign decree as fraudulent is found in the decision of Vice-Chancellor Leaming in the case of *Field* v. *Field,* 6 N. J. A. R. 1251. The complainant filed a bill for maintenance and sought an order for support *pendente lite.* The defendant set up as a defense, a decree of absolute divorce granted him in the State of Nevada. The complainant attacked the foreign decree, alleging fraud in its procurement. These averments were denied by the defendant under oath. Under such circumstances, the wife, ordinarily a privileged suitor, was denied relief *pendente lite,* and the Court said:

> "Accordingly the fundamental issue now presented is whether complainant is the wife of defendant at this time. Since a decree of a court of a sister state has admittedly been entered dissolving the marriage the burden is obviously on complainant to establish the alleged infirmities of that decree; but her averments of facts tending to impeach the decree are denied by defendant under oath. In Robinson *v.* Robinson, 82 N. J. Eq. 466, 468, the authorities of this State applicable

> to that situation are collected and are declared to be to the effect that in such case an order for support *pendente lite* may be made, but should not be made if the result of that issue appears to be in substantial doubt. The principles stated in Robinson *v.* Robinson were again applied in Profenius *v.* Profenius, 90 N. J. Eq. 45. Such doubt must be said to exist in this case. In addition to defendant's denial of the material facts averred by complainant, there exists the decree of the court of the sister state which should at least be given *prima facie* force until at final hearing the truth of complainant's averments can be adequately tested."

All of this, it is respectfully submitted, amounts to the establishment of a policy that foreign decrees will not be denied recognition simply because some of the evidence may point to the conclusion that the petitioner in the foreign state removed there for the sole purpose of securing this decree. Rather must the proof indicate clearly and unequivocally and without the possibilities of drawing any other conclusion from it, that such was the purpose.

And in the nature of things, this is as it should be. In this unique association of sovereignities, where all have given up certain attributes of sovereignity in a concerted effort to, among other things, establish justice, insure domestic tranquility and promote the general welfare, it is of the utmost importance that the official acts of each merely quasi-independent government be recognized in the others, as far as it is consistent with the natural justice to do so.

The record discloses a state of affairs which is sufficient to support the findings of the learned Vice-Chancellor that the decree obtained by the respondent in Nevada, was not obtained by

fraud and that he did not go there for the purpose of obtaining it. It is recited in the final decree (S. C. p. 98) that the Court has concluded that the Nevada decree was not procured by the respondent through fraud and that he did not go into that state in order to obtain a decree. The rule is firmly established that where such findings are supported by the record, they will not be disturbed. This Court, as recently as the last preceding term, in the case of *Goldstein* v. *Greifinger,* 107 N. J. E. 52, said:

> "While it is true that the evidence is contradictory in a number of salient points, yet the Vice-Chancellor who saw and heard the witnesses, found the facts in favor of the respondent, and there is such substantial support in the evidence for the conclusion he reached that we are not disposed to disturb the same."

In the testimony offered on behalf of the respondent in the court below, it appears that he had been ailing and desired to go to a drier climate and communicated this desire to his wife when she returned from Europe.

The respondent himself said (S. C. p. 184):

> "Q And when you had your meals with the Molnar people, did you talk about what you were going to do from now on? A I tell Irma Pahy right there and I says, 'We got to go away where nobody will know us after all the trouble start, and also I am sick, I have got to go away to a different climate over there from the sea and start a new life.'
>
> Q Were you sick? A Run-down condition, overwork.
>
> Q And what did she say when you said you had to go away? A 'We don't have to' and 'I don't have to.' * * *
>
> Q And did you tell her where you wanted to go? A I tell her away from Jersey completely, more inland where it is dryer air.

Q And what did she say to that? A She says to me she don't have to.

Q Now, did you bring that subject up again? Did you ask her? A The next day, I did.

Q What did you say to her then? A I asked her to go because this ain't no life for me and I can't stand much longer.

Q What did she say? A The same thing, she don't have to.

Q And did you tell her what place you wanted to go to? A I never had any particular place to get out.

Q At that time did you have it in your mind or in your heart that you wanted to go to Nevada? A Not at all.

Q Did you have any intention at that time of going west to get a divorce anywhere? A No, sir."

His illness was such that it was necessary for him to give up his work. Thus, he testified (S. C. p. 182):

"Q Were you well at that time? A No, sir.

Q What had happened to you? A Rundown condition; overwork.

Q Where? A I was working in Harrison for Worthington Pump Corporation.

Q Were you laid off? A I was not laid off; I was not able to work, I quit myself.

Q How long before you met your wife on the dock was it that you quit? A Approximately ten or twelve days."

Mr. Molnar, referred to in the above excerpt from the record, corroborated this testimony and said (S. C. p. 167):

"Q No. I am talking about the time when you were altogether at the dinner table. A Well, what I know so much that they going to get a flat or they going to go away. Mr. Pahy said he want to go away from Newark.

Q He said that? A Yes.

Q What did she say? A She said, 'I don't want to go from Newark. I like to stay in Newark.'

Q Did he say why he wanted to go from Newark? A Well, he didn't say. We four talked with him about his health, talking about it all the time.

Q He was out of work then? A Many times he stay home; he was sickly."

It is significant to note that the respondent did not go directly to Reno, Nevada. He first went to Chicago then he proceeded to Salt Lake City, and because he could only procure work in the mines there (S. C. p. 188), he went to Sparks, Nevada, where he obtained employment.

On cross examination he testified that he did not think of the matter of divorce until three or four months after he arrived in Nevada (S. C. p. 208). About two months afterwards he went to see a lawyer (S. C. p. 211).

Further corroborative testimony was given by Daniel Pahy, the child of these parties. He testified (S. C. p. 230):

"Q And while you were there, was there any trouble between them? A Yes, sir; Dad asked my mother, as I remember, the first night that he should go away, leave this here part of the country altogether on account of he was not very well.

Q Did you hear him say that? A Yes.

Q Are you sure about that? A Positive.

Q You know you are under oath now, don't you? A Yes."

There was also evidence in the case that the appellant made the statement that she would do all she could to make trouble for the respondent and his present wife. Anna Frohman with whom the respondent and his second wife lived, stated that the appellant called one day at her home and had a talk with the present Mrs.

Pahy. Her testimony in this respect was as follows (S. C. p. 159):

> "Q And did she say anything about her husband or her former husband, the second wife, Jennie Pahy? A Well, she said a lot of things and she wanted to see the boy and—
>
> The Court: Well, what did she say? That won't do, 'a lot of things'; doesn't mean anything.
>
> The Witness: They had a little talk, you know, and then the other Mrs. Pahy said, 'you can have your boy, you can have your husband, if you want to.' And she said, 'Oh, no; I don't want the boy and I don't want the husband; all I want is to make all the trouble I can for yous.' "

The foregoing are but some of the indications of the entire propriety of the action of the lower court in coming to the conclusions recited in the final decree.

It is respectfully submitted that in view of this fact and in view of the nature of the burden resting upon the appellant as disclosed hereinabove, no reason has been advanced upon this appeal which would warrant the Court to reverse it, and the decree should, therefore, be affirmed.

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Solicitor for and of Counsel
with Defendant-Respondent.

LEONARD J. EMMERGLICK,
On the Brief.