

IN CHANCERY OF NEW JERSEY.

Between
 WILLIAM W. BOWLBY,
Complainant,
 and
 ELIZABETH BOWLBY,
Defendant.

} *On Bill, &c.*

To his HONOR THEODORE RUNYON, Chancellor of the State of New Jersey:

Humbly complaining showeth unto your Honor, your 10
 Orator, William W. Bowlby, of the city of Newark, in the
 county of Essex, and State of New Jersey, that some time
 in the month of February (the exact day of the month your
 Orator cannot now tell), in the year of our Lord eighteen
 hundred and sixty-one, at the city of New York, in the
 county and State of New York, your Orator was lawfully
 married to his present wife, Elizabeth Bowlby, whose
 maiden name was Elizabeth Stark, by a Presbyterian clergy-
 man, whose name your Orator has now forgotten, and who
 then resided in the said city of New York. That immediately 20
 after the said marriage, in the year eighteen hundred and
 sixty-one, your Orator and his said wife, came to the said
 city of Newark to reside, where they have ever since their
 said marriage resided, and where they now reside.

And your Orator further showeth unto your Honor, that
 immediately after their said marriage, he and his said wife
 came to the said city of Newark and boarded together as man
 and wife, with the father of your Orator; that he so con-
 tinued to board with his said wife until the first day of April.
 in the year eighteen hundred and sixty-three, when he hired 30

house in Warren street, in said city of Newark, and furnished it, and he and his said wife commenced living there, and continued to live there until the first day of August, in the year eighteen hundred and sixty-three, when your Orator entered the United States army as an Assistant Surgeon of Volunteers; that when your Orator, as aforesaid, entered the United States army, he and his said wife broke up housekeeping, and his said wife, together with their child, returned to your Orator's father's house to live, your Orator having made provisions for his wife's living there during his absence in the army; that on or about the first day of June, in the year eighteen hundred and sixty-five, your Orator returned from the said army, and went to live with his said wife and child at his said father's house; that he and his wife and child continued to live at his said father's house until the month of March, in the year eighteen hundred and sixty-seven, when his said wife, without any cause whatever, left and deserted your Orator and wholly refused to live with him, and ever since then has remained away from and has deserted him, and wholly refused to live with him, as she still does.

And your Orator further showeth unto your Honor, that said Elizabeth Bowlby has, from the said month of March, in the year eighteen hundred and sixty-seven, to this time, a period of more than three years, wilfully, continuedly and obstinately deserted your Orator, her said husband, and still continues said desertion.

And your Orator further showeth unto your Honor, that in the said month of March, in the year eighteen hundred and sixty-seven, said Elizabeth Bowlby left the said house of your Orator's father, where your Orator and his said wife were at that time boarding, against your Orator's consent.

And your Orator further showeth unto your Honor, that on the seventeenth day of March, in the year eighteen hundred and sixty-two, as the fruit of said marriage, a female child was born to your orator and his said wife, which child is still living and named Jennie Bowlby; that when your Orator's said wife, so as aforesaid, deserted him, she took the said child with her, and refused to allow your Orator to have the custody of said child until on or about the first day

of October, in the year eighteen hundred and sixty-nine, when your Orator's said wife sent or left the said child at the house of your Orator's father, where your Orator was at that time residing, and your Orator has ever since said time, and still has the exclusive charge and custody of the said child.

And your Orator further showeth unto your Honor, that at the time his said wife so deserted him, she told your Orator that she never would live with him again.

And your Orator further showeth unto your Honor, that 10
by reason of his wife's said desertion of him, his domestic peace and happiness have been and are wholly destroyed, and that he is entitled by virtue and force of the statute in such case made and provided, to be divorced from his said wife.

In tender consideration whereof, and inasmuch as your orator can only have relief in the premises in this Honorable Court, wherein alone matters of this sort are cognizable, and your orator is entitled to the relief in the premises hereinafter prayed for.

To the end therefore that the said Elizabeth Bowlby, may true and perfect answer make to all and singular the premises, as fully and particularly as if the same were herein again repeated, and she thereto particularly interrogated, paragraph by paragraph, sentence by sentence, and line by line, according to the best of her knowledge, information, remembrance, hearsay and belief, and that for the desertion aforesaid, the marriage between your Orator and the said Elizabeth Bowlby, may be dissolved, and your Orator be divorced from her, according to the statute in such case made and 20
30 provided.

May it please your Honor, the premises considered, to grant unto your Orator the State's writ of subpœna issuing out of and under the seal of this Honorable Court, to be directed to the said Elizabeth Bowlby, therein and thereby commanding her, on a certain day, and under a certain penalty therein to be expressed, personally to be and appear before your Honor, in this Honorable Court, then and there to answer all and singular the premises, and to abide by and perform such order, direction, and decree therein, as to your 40

Honor shall seem meet, and shall be according to the statutes in such case made and provided.

And your Orator will ever pray, &c.

LEONARD & COULT, *Solicitors, &c.*

F. W. LEONARD, *of Counsel.*

A true copy :

H. S. LITTLE, *Clerk.*

NEW JERSEY, ESSEX COUNTY, ss :

10 WILLIAM W. BOWLBY, the complainant in the foregoing bill of complaint named, being duly sworn, according to law, on his oath saith :

That his complaint in the said bill contained and set forth, is not made by any collusion between him and his wife, the defendant therein named, for the purpose of dissolving their marriage, but in truth and good faith, for the purpose set forth in said bill of complaint.

Sworn and subscribed before
me, this — day of
A. D. 1873, at Newark, } WILLIAM W. BOWLBY.

In Chancery of New Jersey.

WILLIAM W. BOWLBY, <div style="text-align: right;"><i>Complainant,</i></div> <div style="text-align: center;"><i>and</i></div> ELIZABETH BOWLBY, <div style="text-align: right;"><i>Defendant.</i></div>	}	<i>On Bill, &c.</i>
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ANSWER.

The answer of ELIZABETH BOWLBY, defendant, to the bill of complaint of WILLIAM W. BOWLBY, complainant.

This defendant, now and at all times hereafter, saving 10
 and reserving to herself all manner of benefit and advantage of exception to the many errors, insufficiencies and other imperfections in the said bill of complaint contained, for answer thereto, or to so much and such parts thereof as this defendant is advised it is material or necessary for her to make answer to, answering, says, that she admits that she was lawfully married to the complainant, at the time and place in the said bill stated, and that from that time the said complainant and herself continued to reside in the city of Newark, where they now reside; but although it may be 20
 true, in a sense, that they lived together as man and wife, yet this defendant denies that, during any considerable portion of that period or interval she enjoyed the society or company of the said complainant, and she says that, prior to the said month of March, in said bill mentioned, he absented himself and kept aloof from her purposely and almost continually; seldom took his meals with her or came home until very late at night, if at all; spent his leisure hours in dissipation; contributed as little as possible towards her comfort and support, and nothing whatever to her happiness; 30
 and obliged this defendant to earn the means of clothing herself with decency, by taking in sewing and

other work ; and this defendant, further answering, admits that, at the time in the said bill in that behalf mentioned, she left the residence of the complainant's father, where the complainant and herself boarded, from which time she has earned her own living by means of her trade of dressmaking ; but this defendant denies that she left her husband without his consent, or without cause, or that she has absolutely refused, or then absolutely refused, to live with him ; and she says that the defendant never behaved towards her

10 or treated her as a husband should, but that he always, from the time of their marriage, treated her with indifference, neglect and abuse, abstained from her society, did nothing for her support except to furnish her with board and lodging at his father's residence, and, as this defendant believes, at his father's expense, except the three or four months when they kept house ; and that not only the defendant, but also his parents, instead of endeavoring to promote her comfort and happiness, seemed to study and conspire, and to employ every opportunity to make her life as misera-

20 ble as possible and coerce her to leave—treating her continually and designedly with coldness, indifference, neglect, contempt and cruelty. And she further answering, says, that the complainant, almost from the commencement of their married life, and especially upon, and even after his return from the army, in said bill referred to, lived an intemperate, sensual and dissolute life, and consorted and habitually had criminal sexual intercourse with lewd and vile women, in the city of Newark or the city of New York, and, as a consequence thereof, was almost constantly

30 afflicted with the venereal disease, arising from such illicit intercourse, and communicated the same to this defendant some time before she finally left his father's residence, and of which she was unable to cure herself until nearly eight months after her departure, and then only by the aid of a New York physician whom she consulted. And this defendant says that she does not know, and has never been able to ascertain the names of the individuals with whom, or the particular times or occasions when, or the places where, such criminal intercourse was had by her said husband, and

40 cannot specify the same.

And she further answering, says, that in consequence of such cruel treatment of, and conduct towards her, on the part of the complainant and his parents, and of his shameful and wicked habits and practices, continued persistently and in spite of her remonstrances, and without hope of reform or change for the better, and because of her life of misery occasioned thereby, from which she could see no escape except by leaving him, she thereupon left him, after full notice and warning, and not only, with his knowledge, his full and cordial consent, but also with his assistance, he 10 having, with unusual and unexpected liberality and alacrity, provided this defendant with fifteen dollars to defray her moving expenses, and to aid in what he, in his said bill, calls her desertion.

And this defendant denies that she wilfully deserted the complainant, or that she has refused to live with him, provided he would reform and treat her with decency, and behave towards her as a husband should; and she says that she always faithfully fulfilled towards him her marriage vows, as his lawful wife. 20

And this defendant further answering, says, that it is true that she took with her, her child, in said bill mentioned, as the fruit of her said marriage, and supported it until her attention and care could be dispensed with, and reluctantly and with pain, acceded to the offer of the complainant's mother to take charge of it; but that she would not have parted with its custody but for her inability, unaided, to support and maintain it. And she further says, that she is desirous of retaining the custody of said child, and that she has endeavored to visit it, and enjoy occasionally its society, 30 but that she has for months been denied all access to the child.

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

ELIZABETH BOWLBY, *Defendant.*

JOHN W. TAYLOR,

Sol. and of Counsel for the Defendant.

A true copy :

H. S. LITTLE, *Clerk.*

In Chancery of New Jersey.

<p style="text-align: center;"><i>Between</i></p> <p>WILLIAM W. BOWLBY,</p> <p style="text-align: center;"><i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p>ELIZABETH BOWLBY,</p> <p style="text-align: center;"><i>Defendant.</i></p>	}	<p style="text-align: center;"><i>On Bill</i></p> <p style="text-align: center;"><i>for Divorce.</i></p> <p style="text-align: center;"><i>Replication.</i></p>
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This replicant, saving and reserving to himself all and all
 manner of advantage of exception to the manifold insuffi-
 10 ciencies of the said answer, for replication thereunto, saith
 that he will aver and prove his said bill to be true, certain,
 and sufficient in the law to be answered unto, and that the
 said answer of the said defendant is uncertain, untrue and
 insufficient to be replied unto by this replicant, without that
 that any other matter or thing whatsoever in the said answer
 contained, material or effectual in the law to be replied unto,
 confessed and avoided, traversed or denied, is untrue; all
 which matters and things, this replicant is and will be ready
 to aver and prove as this Honorable Court shall direct, and
 20 humbly prays as in and by his said bill he has already
 prayed.

LEONARD & COULT,
Solicitors for and of Counsel with Complainant.

A true copy:

H. S. LITTLE, *Clerk.*

In Chancery of New Jersey.

Between

WILLIAM W. BOWLBY, <i>Complainant,</i>	}	<i>On Bill, &c.</i>
and		
ELIZABETH BOWLBY, <i>Defendant.</i>		

Testimony taken in the above case before the HON. AMZI DODD, Vice-Chancellor, at his chambers, on Monday the 10th day of November, 1873.

10

MR. LEONARD, *for Complainant.*

MR. TAYLOR, *Contra.*

Complainant's counsel called PROF. BUMSTEAD, sworn :

Q What is your name ?

A Freeman J. Bumstead.

Q Where do you reside ?

A New York.

Q You are a Professor in an institution ?

A I was recently Professor of venereal diseases in the College of Physicians and Surgeons, in New York.

20

Q How long were you in that institution ?

A I was six years lecturer, three years professor, and have been a practicing physician since 1852.

Q And made venereal diseases a specialty ?

A I have.

Q Can a person contract constitutional syphilis without having connection with a female ?

A Yes.

Q Be good enough to state how and under what circumstances and the probability of a person contracting that disease, without connection with a female ?

A Nearly all the secretions of a person affected with, even the blood of a person affected with it is syphilitic, and may, and often does communicate the disease. The most frequent mode in which it is communicated, aside from sexual intercourse, is in the exercise of the profession of medicine or surgery, in which a physician or surgeon in handling
 10 the sores or a wound of a person affected with syphilis, becomes inoculated with the disease. There are frequent other instances. A child born with hereditary syphilis, or having communicated from its nurse, that of course without sexual intercourse. There are other cases in which the common use of some utensil, as a pipe, will convey it from the mouth of one person to another ; and the use of utensils in various trades, such as glass-blowing, in some parts of the world especially. In France, special laws have been enacted to prevent the same pipe used in glass-blowing passing
 20 directly from one person to another, after being applied to the mouth of one person, taken into the mouth of another. The first symptom of constitutional syphilis, is a chancre.

Q At what part of the person ?

A At the point where the virus has been applied.

Q If the disease was caused by copulation, where would the chancre first make its appearance ?

A On the genital organs.

Q Would or would not, a physician upon whom a chancre appeared on the genital organs, understand what
 30 that was ; would he be mistaken in the disease ?

A That would depend upon his knowledge of his art.

Q Would or would not a physician finding a sore upon those parts, suppose it to be a chancre ?

A I should suppose that he would.

Q Can syphilis be contracted by a physician in dissecting ?

A Certainly.

Q I mean in a surgical operation ?

A Certainly ; inasmuch as I have already said the blood itself of a syphilitic person will convey the disease.

40 Q Is or is not a physician or surgeon who has been in

the army for several years as surgeon, liable to contract this disease?

(Objected to.)

Q Have you any knowledge whether the disease is greater in the army than it is in society?

(Objected to.)

A It is undoubtedly greater in the army than it is in general practice at home; there is no question as to that.

Q Is or is not the liability of the physician practicing, greater than a person not practicing medicine, and do you know of any physicians who have contracted this disease in the practice of their profession? 10

A I know of a number; I have had them under my care, and have such at present.

Q Do you know a Dr. Scott, of New York?

A Yes.

Q What is his Christian name?

A I know of a Dr. Scott; I don't know what his Christian name is; Dr. Scott, at the corner of University place and Eighth street, I think it is; I am sure of it; he is connected with an establishment calling itself the University Medical Institute. 20

Q Is his name Walter?

A I think it is; I will not be positive.

Q What is his business now?

(Objected to.)

A I don't know.

Q Are skin diseases ever confounded with constitutional diseases?

A Yes. 30

Q By physicians, sometimes?

A Yes.

Q Who understand their profession?

A In some cases in which a diagnosis is extremely difficult. As a general thing the diagnosis is easy to one who is posted on the subject.

Q Physicians are sometimes mistaken?

A Certainly.

Q Are they not more in this particular disease than others—venereal? 40

A It strikes me so.

Q Doctor, do you know of any case where a person has been inoculated with syphilis intentionally?

A In some countries, especially in former times, inoculations were made upon sound persons with the matter from diseased persons; such a course is not recognized as legitimate in this country by the profession.

Q But it has been resorted to?

A Yes, sir.

10 Q For what purpose?

A For the advancement of science—to determine various points connected with syphilis.

Q Do you know of a case where a person has contracted syphilis by using a towel—where the towel was the actual medium of communication?

A I can't say; I have seen a chancre commence on the under surface of the upper eyelid, when I could imagine no other way of its being communicated except by a towel or by the finger.

20 Q Are there not cases where the disease has been communicated by kissing?

A Quite a number; I have had them under my care.

Q If the disease was contracted by a physician by an abrasure upon the finger coming in contact with the virus from a diseased person, might it not pass unnoticed?

A I have known instances in which it passed unnoticed.

Cross-examined:

Q Why do you think there is a greater liability to this disease in the army than out of the army?

30 A It is shown by statistics; all the statistics of sick cases in the army will show a greater proportion of cases of venereal disease than will be found in general practice at home; the army life is not conducive to morality.

Q What is the reason of this greater liability to this disease in the army?

A It is owing to the immorality of the soldiers.

Q Do you refer to the standing or the volunteer?

A Both; in our last war the prevalence of venereal disease was so great that I was applied to to go down and
40 investigate the subject.

Q Is it more common to officers or men ?

A It is more particularly among the soldiers, and during our war it was especially the case where the Southern army and the Northern army occupied the same ground at short intervals of time from one another, the men of both armies having connection with the same women, and under these circumstances the disease is particularly rife.

Q Was it among the officers in proportion as much as among the men ?

A I don't think it was. 10

Q What do statistics show upon that point ?

A I don't know : I have not looked it up ; the statistics are made up from those who are reported sick—who are on the sick list—without referenee to whether they are officers or men.

Q I ask you whether, in an army like our volunteer army, as it was during the war of the rebellion, there is any greater prevalence of the disease than there is among men generally in populous cities like New York ?

A I should say that there was. 20

Q Why ?

A For the reason that the exposure is greater ; the men having more time on their hands, they are more inclined to lead that kind of life.

Q They have not more opportunities ?

A Their opportunities are quite as great.

Q Do you say that in the city of New York, where houses of prostitution are almost numberless, there is less opportunity for disease than there is in a large army, composed entirely of men whose only opportunity for intercourse with women would be their proximity to some small town or village ? 30

A I understood your question to be in regard to the fact relatively. The opportunities are more great in the city of New York, but the men are less inclined to run after women.

Q Take the ordinary average of men in the army ; would there, with the opportunities that they have for sexual intercourse with females, be as great a prevalence of the disease as among that same class of men in a populous city like New York ? 40

A What do you mean by the same class of men ?

Q I mean the same class of men as men.

A Your question is whether there would be more venereal diseases among them. Yes, sir; there would be, not because they would have greater opportunities for sexual intercourse. They would have sufficient opportunities.

Q In an army like our army during the rebellion, were the opportunities of sexual intercourse as great as they would be among the same class and condition of men in a
10 populous city like New York ?

A Probably greater.

Q How do you make it out ?

A For the reason that the women are more accessible and can be had for less money, and less inconvenience, than they could be in the city of New York.

Q Why more accessible ?

A Women who are in the condition of poverty in which they were in, would sell themselves for very a small sum.

Q Do large armies generally sit down by the side or in
20 the heart of large cities ?

A Sometimes they did and sometimes they did not.

Q Was that the case in the rebellion ?

A Perhaps not as a general thing.

Q Did they come in contact with any such large city as
New York ?

A They perhaps didn't come in contact with so large a city as New York.

Q Can syphilis be taken, for instance, by blowing the same pipe as is done in France in glass blowing ?

30 A Yes.

Q Where does it first manifest itself ?

A At the point at which the virus entered the system. The chancre would be shown at the mouth if it was taken at the mouth first.

Q How virulent would that sore be? Would it have anything of the virulence of on the private parts ?

A It depends upon whether it is of the serious type or not; it does not necessarily fix itself upon the private parts
40 if taken from the mouth.

Q Will it usually?

A It depends upon the sex of the person; in a woman it does, as a general thing—in a man not; it might or might not, but in the majority of cases, probably not.

Q Would it probably be confined to the part where it was taken?

A By no means: it shows itself in other parts; on the body and on the chest; manifestations are shown on the skin.

Q Then it prevails in the greatest virulence in the place where the contact was had?

A It shows itself first there; it does not necessarily follow that its greatest virulence was there.

Q You say it does not necessarily extend to the private parts so as to become seated there?

A In women it generally does; in men sometimes it does, and sometimes it does not.

Q What is the more common fact in regard to that, if taken first in the mouth or elsewhere?

A In the majority of cases there would be nothing perceptible in the private parts.

Q Can it be taken except by actual contagion or contact? Can it be taken by breath?

A Not by breath; by the person coming in contact with the virus of diseased persons, or with something that has been in contact with it.

Q And in another way by kissing?

A Yes.

Q Well, how would a physician take that disease by kissing?

A Well, if he kissed any one he would be exposed like anybody else.

Q What do you mean by any one?

A Any woman affected with syphilis, and having what is called mucous patches about her mouth.

Q Well, if he kissed a man?

A Man or woman; it does not make any difference.

Q Do you know what statistics show about the origin in most cases of this syphilitic disease, whether surgeons or physicians in the army ever take it from contact by apply-

ing a pipe, or by using somebody else's towel, or by kissing, or by copulation?

A I don't know the statistics.

Q If a disease was taken by contact with some instrument or utensil that had been in contact with a person having the disease, or by wiping upon some towel or by kissing, would it be likely in a man first to manifest itself in the private parts?

A It would not first manifest itself in the private parts.

10 *Re-examined :*

Q Might not a primary sore be so small that even a physician might not observe it?

A Certainly.

Q Are there any statistics which show that men contract it from one another in the army?

A I have known of its being contracted by a pipe passing from one person to another; whether they were in the army or not, I can't say.

20 Q Are there not cases where it is known that men have contracted it by drinking from the same canteen, or using the same spoon, knife or fork?

A There are.

Further cross examined :

Q You were asked whether where the disease was brought on by contact with the mouth of a person, or with an instrument, it would not manifest itself there in so mild a form that a physician himself would not notice it. Is it probable that he would not notice it?

30 A The probability is that he would notice it, but the exceptions that have come under my observation are so frequent that I should not place any importance on the probability.

Q Would not he be likely to notice it before it got to his private parts?

A It is likely he would notice it.

Q If he were a physician attending to that kind of disease, would not he be likely to know of its manifestation on his mouth before it got to his private parts, especially when

you say that the disease in a man, when taken in any other part of the system, does not usually manifest itself in the private parts?

A He would very likely overlook it, from the very fact that its situation would not lead him to suspect it. He might notice it, and it would not be unlikely that he should overlook it.

Q Would he not be more likely to gain a knowledge of it if it was on himself?

A He would be less likely to notice it on himself than if 10 he saw it on a patient.

Q Do you mean to say this, that a physician or a surgeon does not have so good an opportunity to judge of symptoms, when those symptoms exist on himself, as when they exist in another person?

A I don't say about the opportunity, I say about the taking advantage of it. The probabilities are that he would notice it on a patient sooner than he would on himself.

Q In the mouth?

A Yes. 20

Q Would not he feel it in his own mouth, whereas he would not feel it in another person's mouth?

A It is the character of the chancre that it excites very little sensation and does not attract attention.

Q Suppose it is a chancre; it was a chancre in Dr. Bowlby; he says it eventually manifested itself in his private parts. Now if it came from his mouth and eventually became virulent on his private parts, would not he be likely to notice it before it fixed itself on his private parts?

A I make the same reply that I did before. I don't see 30 how this question differs from the previous one. I think it is probable that he didn't notice it, because he is a physician.

Q Do you think the probabilities are that in case of its manifestation upon his mouth, that it could be so mild as not to be noticeable by the person, especially a doctor who had it, until it finally broke out on his private parts?

A It is very likely.

Q But you don't think there is a probability that a person would have it in his private parts, if it had been conducted by contact with his mouth. 40

A I said that from the majority of cases in males, that when taken in the mouth that it did not show itself upon the genital organs.

Q Well, if this disease was contracted by contact with the mouth, and it finally manifested itself in a virulent form upon his private parts, don't you think the probability is, that that person, especially if a physician and surgeon, conversant with the disease and making it his business to cure that kind of disease, would be likely to notice the existence
10 of it before it got to the private parts ?

A He would very likely not.

Q Give us the theory of that ?

A The sore upon the mouth is of a very superficial character—the chancre is. It excites very little, if any pain or uneasiness, and in this way readily passes unnoticed, or goes into the blood ; the virus finds its way into the blood immediately at the time of exposure, and the sore appears after such inoculation of the blood has taken place.

Q Is there anything about the condition of the blood
20 that would lead a person to suppose that there was anything the matter with him ?

A Not at the time.

Q Would it show any uneasiness ?

A Not until secondary symptoms made their appearance. It would be about six weeks after ; the secondary symptoms might be in various places—eruptions upon the skin.

Q Does not this eruption on the skin precede, as a general thing, the manifestation of it in a virulent form on the privates ?

30 A It does, if I understand you, meaning of virulence. Yes.

Q Now do you say that a person who was conversant with this disease, who had studied it and who practiced among patients that were affected with this disease, would not be likely to know when the chancre appeared on the mouth, or when the eruption appeared on the body on his own person, that the probability is that he would not know that he had it until it finally fastened on his private parts ?

A The chances are that he would notice it before.

40 Adjourned till Friday, 14th.

Testimony taken in the above cause before the Hon. AMZI DODD, Vice Chancellor, at his chambers in the city of New-ark, on Friday, the 14th day of November, 1873.

Mr. LEONARD and Mr. McCARTER *for complainant*.

Mr. TAYLOR *per contra*.

Complainant's counsel called JOSEPH D. OSBORNE, sworn ;

Q Where do you reside?

A In this city.

Q How long have you resided here?

A Twenty-five years, except when I was in the army. 10

Q What is your business?

A I am a practicing physician.

Q How long have you practiced?

A About fourteen years.

Q Have you ever had any experience in treating syphilis?

A Some.

Q Do you know, of your own knowledge, any physician or physicians who have ever been affected with this disease? 20

A Yes.

Q Do you know how it was contracted by them? Be good enough to state.

(Objected to.)

Q As a physician are you able to say whether or not the disease can be contracted in any other way than by sexual intercourse?

A It can—it may be communicated by a cut on the hands coming in contact with the blood of a person infected; it has been communicated by contact by the physician with the person in handling; it may be contracted by kissing, and is contracted that way frequently; it is contracted by a physician handling a patient in confinement; the system of a person so infected being poisoned, any secretion from the system coming in contact with an abraded surface or mucous membrane will communicate it. 30

Q Were you ever in the army?

A I was, as surgeon—three years and about three months. 40

Q. Was there any of this disease of syphilis in the army?

A. A great deal of it among the soldiers—to a very large extent.

Q. You, as a physician, know in what manner it is contracted by the soldiers?

A. Generally from bad habits, when they were on furlough.

Q. Do you know if it was contracted in any other way?

A. From persons coming into camps—I mean from bad
10 women coming into camps.

By the Vice Chancellor :

Q. Is the army apt to be followed by any considerable number of these women?

A. They come from villages and towns surrounding; sometimes they are in isolated houses; the houses are very few, but in the towns surrounding there are a good many.

Cross-examined :

Q. Officers in the army ever have it?

A. Yes, sir.

20 Q. Do they take it, as a general thing, from the soldiers, or the soldiers from them?

A. They both usually take it from the same source.

Q. What is your theory of the origin of the disease in this particular case?

(Objected to.)

Q. Is there any difference in the symptoms and progress of the disease in man and woman?

A. No difference.

30 Q. If the disease is taken through the mouth by means of the mucous membrane, how, in males, does it usually manifest itself?

A. By an ulcer at the seat of where the poison was communicated—that is called a chancre; that is confined merely to the cuticle to the mucous membrane.

Q. That appears how soon?

A. In a period varying from fourteen days to six weeks.

Q. Does not it always appear between three and ten days?

- A* No, sir—never, scarcely.
- Q* Is it noticeable by a sore at that time?
- A* A person would have a chancre—that is the first symptom.
- Q* Would he be likely to know it as soon as it appeared?
- A* He might mistake it for something else.
- Q* Does it create any sensation—itching?
- A* Very little.
- Q* What is the next manifestation?
- A* The next will be, probably, a general feeling of in- 10
disposition and a low condition of the body generally.
- Q* Is there not some external manifestation?
- A* Only as connected with the adjacent glands; it will show itself, probably, there.
- Q* What is that called?
- A* Bubo; that is an inflammation or sympathetic action of the glands near the sore; if it is in the mouth, it may come in the neck—if in the penis, it may be in the groin; if it is in the hands, it may be in the arm; it will be tender, though not always very noticeable. 20
- Q* How soon after contact does that appear?
- A* The time is various, as the period of incubation is from fourteen days to six weeks.
- Q* A physician or surgeon would be likely to know what that was, would not he?
- A* That depends upon where it was taken. A chancre upon the penis followed by an inflammation of the glands, he would know what that was; but if, without suspecting, the disease had been contracted in some other way, it might be sometime before his attention was attracted to it. A sore 30
mouth might give him a slight disturbance about the other glands which would not in this case be noticeable.
- Q* Is there any difficulty to a practicing physician in making a diagnosis of this disease when it reaches the stage of bubo?
- A* He does not often discover it yet. It is often overlooked.
- Q* How soon may it be detected?
- A* Probably a month to two months there will be an eruption on the gland from the time of the sore showing 40
itself.

Q Where would the eruption take place if the infection was taken in the mouth?

A Generally in the chest, shoulders and arms.

Q At the time it reaches that stage it is easily discernible?

A Yes, it is very rarely mistaken. You have now gone nearly three months from the time of the contact.

Q When it is taken from the mouth or from an abraded surface of the hand, will it in males generally reach the private parts?

A Not generally?

Q How is it in females?

A I don't remember, except as I heard Dr. Bumstead say. He said it was more apt to in females.

Q Well, the last stage is the worst, I suppose?

A The last stage is what has been supposed to be incurable, but it is proven of late, I think, to be curable.

Q How long is it in this stage generally?

A In this stage—secondary—it depends a good deal upon the medicine. It may be put off for a good while.

Q If a patient of yours should present the manifestation of this secondary stage upon his private organs, and it didn't appear that there had been any other manifestation upon his mouth or arm or arm-pit, what would you say as to the mode in which the disease originated?

A The probabilities are from impure sexual intercourse.

Q And you say that if the disease was taken by contact with the mucous membrane of the mouth, or somewhere on the upper surface of the body, you say the probabilities are in such a case that it would not reach in a male the private parts?

A That is the probability.

Q Well, if it should reach the private parts on a male you would say at once that it was taken through sexual intercourse?

A Yes, sir.

Re-examined :

Q The disease is contracted much more frequently that way than in any other?

A Yes, sir.

Q And in the absence of any knowledge as to the mode of communication the only inference would be that it originated in that way?

A Yes, sir.

Q Without inquiring as to any other cause?

A Yes, sir. Ninety-four per cent. contract it in the ordinary way, and six per cent. from virus sores and exceptional modes.

Q May a primary sore be so small and insignificant as not to be noticed? 10

A It often is. Those who are skilled in that branch now make a distinction between two diseases, which usually had been classed together, of sores of that kind. Now the weight of authority is that the chancre and chancroid are two distinct diseases, and the chancre, which is so small as not to be perceived sometimes, is the one that does the mischief, while the other, though it is destructive while it lasts, does not become constitutional. The disease which becomes constitutional is generally a small affair in the beginning. 20

Q Is there a symptom or form or manifestation of this disorder entitled syphilitic disorder or entitled syphilitic ecthyma?

A Yes.

Q What is the character of that?

A I can't answer that question. I have not seen it lately and I have not refreshed myself at all for the question.

Further cross-examined :

Q Did you attend Mr. Bowlby? 30

A Yes, sir.

Q There is at one of the stages of this disease of which we have spoken, a general pain in the bones. What is that?

A That is tertiary, not generally in the bones, but in the legs and shin bones—inflammation of the lining membrane of the bones.

Q At the stage when this disease gets into the blood is there not a very distinct sensation felt by the patient?

A No, it is indefinite; you hardly know what it is.

Q Would not a physician be more likely to detect the presence of the disease in his own system than a person not a physician?

A I think not, if he had not reason to expect it.

Q If a physician had been practicing among patients with this disease, and coming in contact with them, would he not be more likely to observe those manifestations upon himself?

10 A I think not.

Q How is that?

A Because in going about as we do, and risking all the time, we get careless and thoughtless, and if something of that kind should come and we didn't have reason to anticipate it, we would, perhaps, overlook it.

Q Have you known cases in the army where officers, surgeons, have received this disease in an innocent manner?

A I have known them to have sore hands, but I could not answer for the subsequent development of the disease.

20 Q Did you ever know a physician or surgeon in the army to have this disease upon his private parts, except from sexual intercourse?

A I never knew a physician in the army to have it; as a rule they didn't get it. The dread of it, if not from any other cause, kept them.

Complainant's counsel called DR. BOWLBY, sworn:

Q You are the complainant in this cause?

A I am.

Q Where were you married?

30 A In New York, to the defendant in this suit, in February, 1861.

Q By whom?

A By a Presbyterian clergyman; I have forgotten his name.

Q Did you then commence living with the defendant?

A Not immediately; we were married in April, about the first of April she came out with me to live at my

father's; his name is Samuel C. Bowlby; he lives in Walnut street, Newark; at the time we came out here to live with him he lived in Ferry street. I lived there until nothing of any note occurred until 1863, with my father until that time with my wife in Ferry street. In April, April 1st, 1863, I moved into Warren street; rented a house there and furnished it and commenced the practice of medicine. I lived there until August, when it was mutually decided that I should go into the army; I had been in the army previous to this; I had gone out in the 26th New Jersey Infantry-- 10 a nine months regiment; it was in 1862; I think I went out in the fall of 1862; I think I was out about three months; In August, 1863, I received a commission as assistant surgeon of the Second New Jersey Cavalry. I went down to Trenton and took my position, and was located in Trenton same two or three months, and the regiment went out into service. I was two or three months with that regiment and was promoted; that was the Second New Jersey Cavalry; I was promoted to the surgeonship of the Third New Jersey Cavalry; I returned home and recruited that regiment; in 20 1865, I returned, having served in the army until the close of the war; it was about June--sometime in June, when I returned; immediately after my return, I invested in a patent rectifying machine, for rectifying spirits by centrifugal process, and was engaged in bringing that patent forth the whole of the year, acting in the meantime as a traveling agent for a mercantile house in New York. I was with that house, W. E. ; I was with that house until about December, will be two years, a year ago last December. At the time I married the defendant, I was a student of medi- 30 cine; I was licensed to practice medicine in 1862. The defendant came to Newark with me before I was licensed; I commenced to practice medicine almost immediately after I was licensed in the camp--camp Frelinghuysen, in the summer of '62, under Dr. Nichols; I practiced there until the Twenty-sixth New Jersey left, two or three months. At that time I was living at my father's in Ferry street; when the regiment left, I accompanied it as assistant surgeon; the Colonel was Colonel Morrison. That regiment was a nine months regiment, but I only staid three months; I re- 40

turned to my father's; my wife was, during this time that I was away, at my father's, boarding there; I provided for her boarding there; after I returned home, I remained home until 1863—August, 1863, and went to live in Warren street in the meantime. The following spring after I returned I rented a house in Warren street; I kept house there about four months, my wife lived with me during that time; I then broke up house-keeping that I might accept of this position in the army; my wife thoroughly understood that I was
 10 going to accept this offer; she did not object to it at all. I accepted this second commission to go in the Second New Jersey Cavalry in August, '63, and then broke up house-keeping; my wife lived then at my father's; I provided for the home at my father's for my wife; I paid for her board there; my wife never objected at any time to living with my father's family; she never made any serious objection; she would sometimes feel rather unpleasant, but then again she would undo it; she would take back what she had said and consider it perfectly agreeable; withdraw her opposi-
 20 tion; she continued to live with me till March, 1867; we had one child; it was born in March, 1862; it is living yet.

Q Under what circumstances did your wife leave you?

A I don't know what made her leave.

Q Describe the circumstances of her leaving the morning she left?

A In the latter part of March, '67, she asked me if I had any money, and I gave her some, how much I don't know; I gave her money when she asked for it if I had it; I was dressing when she said she was going away; said I, where?
 30 She said she was going to leave me; I spoke to her and remonstrated with her; she however had talked in this way several times before, but I had always, as in this instance, spoken of the disgrace upon the family and upon herself; she said it never would bring any disgrace upon her; she would go away, where I never would see her again, or the child either; I had no idea, though, she was going that morning; I thought it was merely an idle threat, as she had made oftentimes before; and I went to my business in New York as usual, and on my return in the afternoon or evening, she had
 40 disappeared; I don't know where she went to. After I

returned from the army at the close of the war, I was a traveling agent for a mercantile house in New York, and was also engaged in bringing out a patent for rectifying whiskey.

Q Did your business take you away from home much?

A Very considerably, sir.

Q During the time that the defendant lived with you how much did you contribute for her support?

A I could not state exactly how much; I contributed all that was necessary. She had no means of support outside of what I furnished; I furnished all that was necessary. She had no means of support outside to my knowledge. My wife often threatened to leave me before the morning she left. I could not name the number of times; it commenced very early after our marriage; she seemed to be dissatisfied. When she threatened to leave she never gave any reason for it; she would as often apologize as she would threaten to leave. 10

Q During the course of your married life, what were your ordinary relations with each other?

A We were agreeable together; I never used a harsh word to her in my life. 20

Q On these occasions when she would threaten to leave, were they intended, or were they parts of disagreeable occurrences between you?

A I never could attribute it to any cause; there were occasions when disagreeable circumstances arose between us.

Q When she lived at your father's, how were her relations with your father's family?

A So far as I know, entirely agreeable; she desired to live with them. When they moved out into the country the summer before, when we were occupying the house on the corner of Ferry street, that was in 1866, I believe, my wife and myself took the house that they moved out of and they moved up into Warren county; she went up into the country and stopped there four or five months with them, instead of living here in Newark in the house that I provided for her, and she insisted upon their moving down, and wished me to use my influence to get them to move back to Newark again; and it was at her suggestion that my father and mother moved back that fall, and we all 30 40

went to living together in the same house; that was in '66, and we lived there until the spring—until March—when it was decided that we should take another house. Father went to see some houses that were advertised and made a selection of some three or four, and told my mother and my wife to go and see them and select the house that would suit themselves; this I believe was in March, as we were to move on the 1st of April, if I remember correctly; they selected a house that we afterwards moved into, and she was very
 10 much delighted with it, and we were all very much delighted with it; nothing of any unpleasant character occurred at all so far as I know: it was understood we were to move and occupy that house together.

Q But you never moved in that house together?

A No, sir; she left the latter part of March, before we occupied that house.

Q When she left, did she take the child with her?

A She did.

Q Prior to the separation of which you have spoken, was
 20 the health of your wife and your family afflicted with any disorder?

A Yes, sir; shortly after my return from the army I noticed an eruption upon my body, and it kept growing worse and worse; this was in 1865. I noticed an eruption upon my body and upon my lower extremities; I had first soreness of the mouth, and an eruption also upon the hand that attracted my attention, and I went and saw two physicians, who like myself were unable to diagnose it, and I went over to New York—my business was calling me to
 30 New York every day—and called on Dr. Draper, and he told me I had secondary syphilis, to my astonishment. I returned home and isolated myself from every member of the family, calling for separate towels and vessels of every description, so that they might not come in contact with it. Knowing the disease, and the manner in which it could be communicated, I thought I had provided against it, but I noticed its appearance in my wife—not until it had assumed a secondary form, however; I commenced treating myself immediately for the purpose of eradicating the disease, if
 40 possible, saying nothing to my wife, however, because I knew that would not cure me, so I said nothing to her.

Q When did you first make known this disorder to her?

A As soon as ever I discovered that she had it.

Q How long before your separation?

A About fifteen or eighteen months.

Q What explanation did you give her of the mode of its contraction?

A I told her I contracted it in the service in some way, what way I didn't know; I was entirely unable to tell. I had no recollection of any primary chancre or anything approaching one. I made no discovery of this affliction 10 until it was thoroughly seated as a secondary disease.

Q In what way were you exposed to contagion of the disease?

A I was exposed in various ways, in performing surgical operations. I was the medical director of the division and had the direction of the division hospital during the engagement. I was also treating individuals who were afflicted with the disease; I was also drinking from soldiers' canteens that came along when I was thirsty; I would also smoke pipes that other individuals were smoking; I made 20 myself liable in so many ways that I have not the least idea how I contracted it; I have not been exposed to it by illicit intercourse; I have given myself no cause for expecting the disease at all.

Q During the time that elapsed between the time when you informed your wife of the nature of the disease and the time of your separation, did you still cohabit together as man and wife?

A Yes.

Q When you explained the cause of it to her, what did 30 she say about it?

A I don't remember her exact language; I remember that she expressed herself that she did not believe anything of the sort; she believed it was taken in an illegitimate mode.

Q You have said that unpleasant scenes occurred between you sometimes, but that you never spoke a harsh word to her. I observe in the answer that you are charged with cruel treatment, habits of intoxication, and various things. I wish you would state to the Court what were the ordinary 40

relations between you—whether there is any foundation for the statements in the answer?

A Our relations were very pleasant and very agreeable; she was inclined sometimes to be rather pettish, but not seriously so; I think my character in regard to temperance is good; I would rather some one else testified to that.

Q What consent did you give to her leaving you?

A No consent whatever. On the contrary I objected to it, speaking of the disgrace; I never failed to bring that
10 before her attention.

Q On the last occasion when she did leave you, what conversation occurred between you?

A Nothing further than that she said she was going away.

Q When she asked you for money, didn't she request it with reference to her intention to leave you?

A Not at all. It was not given for that purpose, at all.

Q On those previous occasions when she threatened to leave you, and you and she would talk about it, did she give
20 any reason for deserting you?

A She has told me she was sorry she ever married me, and that she hated me; that was before I went in the army, when we were living in Warren street; it was occasionally breakfast-table talk.

Cross examined :

Q You say she occasionally threatened to leave?

A Yes, sir.

Q What ground did she allege for leaving?

A Stated no ground particularly, at all.

30 Q You say she complained occasionally?

A Yes; but about nothing definite.

Q Well, she made complaints of something—if she made complaints, what were they?

A She told me on one or two occasions, I believe, that my father and mother were not entirely agreeable.

Q In what respect were they not agreeable?

A She didn't state; she didn't specify, sir, not to me.

Q Did she to anybody?

A Not that I am aware of.

Q She never alleged any specific cause of complaint against you or your parents ?

A No, sir.

Q On one or two occasions you say she alleged that. On other occasions what did she allege ?

A Well, it seemed to be a sort of general dissatisfaction.

Q With whom, or with what ?

A Well, with herself, as well as anybody else.

Q Well, with anybody else in particular ?

A No, sir. I was always unable to attribute the cause 10 to anything.

Q You never asked her what her complaint was grounded on ?

A Yes, sir.

Q What did she say ?

A It seemed to be a general dissatisfaction with herself as well as with everybody else.

Q Did she say why she was dissatisfied with herself ?

A No. She seemed to be dissatisfied.

Q She said she was, didn't she ?

20

A On one or two occasions ; but on other occasions she didn't give me any cause.

Q Did you ask for the cause ?

A Yes, sir.

Q Did you know what the cause was ?

A I didn't.

Q Did you have any idea what the cause was ?

A I did not.

Q When she threatened to leave you, didn't she say why she would leave you ?

30

A No, sir.

Q And you didn't ask her.

A No, sir.

Q Can you tell what her trouble was ?

A No, sir.

Q You say you hadn't any idea on the day she left that she was going to leave that day ?

A Not until she told me on the morning of that day.

Q Was there any complaint preceding her leaving ?

A Not that I am aware of. There was no complaint. 40

Q On the morning she left, and prior to your going to New York, she said that she was going to leave?

A Yes, sir.

Q Did she say when she was going?

A She said that morning.

Q Did she say why?

A No, sir.

Q Did you ask her?

A Not that I remember.

10 Q Is it not a strange thing that she threatened to do so greivous an act as that, and not give any reason for it, and you not inquire about the cause of it?

A She threatened to leave me so often before that I made up my mind that it was simply an idle threat that morning.

Q How often did she threaten to leave you before?

A Half a dozen times?

Q When she first threatened to leave, did she assign any cause?

20 A No particular cause.

Q She was sorry that she had married you. Why?

A I don't know why?

Q Didn't you ask her why?

A I don't recollect that I did.

Q Did she allege any cause generally or specifically?

A Not to me.

Q The second time she threatened to leave you, did she allege any cause?

A Not that I am aware of.

30 Q Did you ask for any?

A It was on two or three occasions when she threatened to leave, she said she was dissatisfied with my mother.

Q The first time she didn't assign any cause, and you did not ask for any. The second time —

A I don't remember any specific occasion when she did assign any specific cause.

Q Did she ever assign any cause?

A It was the only cause she assigned to me.

Q What was that cause she assigned?

40 A She said my mother was disagreeable.

- Q When was that ?
- A During her stay at our house.
- Q When ?
- A Well, it was while we were living together. I could not state the date.
- Q Can you state the year ?
- A I don't know that I could tell you the year.
- Q Had not there ever been a difficulty between you and her ?
- A No, sir. 10
- Q Did you spend your nights home, invariably ?
- A No, sir ; my business called me away.
- Q When you were in Newark ?
- A Yes, sir.
- Q You spent your evenings with her ?
- A Not the whole evening.
- Q Usually were you at home ?
- A Yes, sir.
- Q Did she ever complain of your habits ?
- A No, sir. 20
- Q Never complained of your habits to you ?
- A No, sir.
- Q Did she ever allege anything that she considered disagreeable in you or your habits or conduct ?
- A Not that I am aware of.
- Q Do you remember one occasion when a lady from Trenton called at your house, and had a conversation with you ?
- A I do, sir ; that was the winter I returned from the war — the winter of 1865. 30
- Q What was the occasion of her calling ?
- A I had come home from New York, and was informed that there was a lady up in the parlor. I went up to see who she was, and didn't recognize her until she told me who she was.
- Q Who was it ?
- A It was a Mrs. Rowley from Trenton.
- Q What did she have to say ?
- A I disremember her language.
- Q What in substance did she say ? 40

A That I don't remember. I could not positively say what she stated at all. My impression is that my wife related to me what she said, but that she did not say it to me herself. She was charging me with living an irregular life in Trenton?

Q In what respect?

A Well, I don't remember that she said it to me, but the idea that she conveyed to me was this: that I had been having sexual intercourse with women in Trenton, all of which I positively and flatly denied there and then, which she apologized for, and left the house. I remember that that was the idea she conveyed to me.

Q You didn't recognize her?

A No.

Q How did you find out her name was Mrs. Rowley?

A She said so.

Q Doctor, don't you know who that lady was?

A I didn't.

Q When she went there?

20 A I didn't.

Q Didn't you know her name?

A No, sir; not until she mentioned it.

Q You said she complained of irregularities—of intercourse with other women?

A Yes, sir.

Q Why did she do that?

A I don't know.

Q Didn't she complain of irregularities on your part with her daughter?

30 A Not to me.

Q Didn't she make a complaint of that specific thing?

A I remember that that was one of the ideas; she did not complain to me; I think it was my wife that she went to.

Q Didn't she complain to you?

A Not that I remember; whatever she charged me with I then and there satisfied her, and she left the house.

Q What did she say?

A I don't remember.

40 Q You said you flatly denied it; what was the charge which you flatly denied?

A Having illicit intercourse with other females ?

Q What females ?

A Any females.

Q What females did she allege ?

A I don't remember.

Q Why should she complain of your conduct ?

A I don't know.

Q Why should she come and complain of your conduct ?

A I don't know.

Q Did you explain to your wife how that woman hap- 10
pened to come to see you afterwards ?

A I said that she was a woman of bad reputation in
Trenton.

Q Did you tell her how you knew it ?

A I had heard it in hotels.

Q What hotel ?

A The American Hotel.

Q From whom ?

A It was Dr. Joline, the proprietor of the hotel.

Q How did you come to speak of that thing ? 20

A I don't know ; her name was brought in question by
different ones.

Q Did you know the woman before Dr. Joline spoke to
you ?

A No, sir.

Q Did you see her afterwards ?

A I saw her in Trenton once ; I was at her house ?

Q Where was that ?

A In Warren street, Trenton.

Q What was the business of the lady ? 30

A I don't know that she had any business.

Q Did she keep house ?

A They were keeping house—she was keeping house.

Q You said they ; who else ?

A Her husband.

Q Who else ?

A She had daughters.

Q How old were they ?

A I don't know their ages—nineteen, twenty, or twenty-
one.

Q How many were there ?

A Two.

Q What were their names ?

A One's name was Lucy ; the other I disremember.

Q Were you ever there more than once ?

A Maybe two or three times ; not more.

Q When ?

A It was during the recruiting of the Third New Jersey Cavalry.

10 Q What was her husband's name ?

A Rowley ?

Q You saw her more than once there—Mrs. Rowley ?

A No, sir ; I don't know that I did.

Q What time did you go to see them ?

A In the early part of the evening ?

Q This woman had seen you there ?

A Yes, sir.

Q Don't you consider it a mysterious thing that a woman that you could not recognize should come up from Trenton
20 to Newark and call at your house and address you by name, and complain that you had been having illicit intercourse with other people ?

A I didn't recognize her because I had not seen her but on one or two occasions.

Q How long had it been since you had seen her ?

A I had not seen her since before the Third New Jersey Cavalry went out.

Q Did she complain that you had illicit intercourse with one or more of her daughters ?

30 A I don't distinctly remember.

Q Don't you remember that ?

A No, sir, if I had I would just as lief state it as not.

Q Didn't she charge you with having illicit intercourse with her daughters ?

A Not that I remember.

Q When she charged you with having illicit intercourse, didn't you ask her to say with whom ?

A Not that I remember ; I was so indignant that I almost immediately ordered her out of the house.

40 Q I want to know if it didn't strike you as being ex-

tremely strange that a stranger to you should come and charge you with having illicit intercourse with people entirely indifferent to her?

A It struck me as strange.

Q Did not you tell your wife that you had a little love affair with one of her daughters?

A No, sir.

Q Or something to that effect?

A I did not.

Q What excuse did you give to your wife for being in 10 such a predicament as that?

A I said she was an impostor and a fraud.

Q Did you tell your wife so?

A Yes.

Q And then on her leaving, didn't you tell your wife on that occasion, that very often married gentlemen would fall in love with other ladies than their wives?

A I never said such a thing to my wife on any occasion.

Q Did that woman make any threats?

A Not that I am aware of—Oh, yes. 20

Q What did she threaten?

A I believe she said parties were lying in wait to take my life, in Trenton.

Q What parties?

A Her son-in-law and husband.

Q Didn't you inquire why they were lying in wait to take your life?

A No, sir.

Q You didn't?

A She stated that it was—I presumed it was—in con- 30 nection with the statement she had made to me.

Q Why were her husband and her son-in-law lying in wait to take your life?

A I don't know, sir.

Q Didn't she say?

A It occurs to me now, for the first time, that there was an inference made by her that I had had intercourse with her daughter.

Q State how she stated that inference.

A I don't remember her language. 40

Q Didn't she make an explicit charge against you that you had had intercourse with her daughter?

A I don't distinctly remember that she did.

Q Will you say that she did not?

A I would not say positively that she did not.

Q Did she state no ground for her intimation?

A No, sir. The next time I met her son-in-law in Trenton, he gave me a private box in the theatre.

Q Cannot you remember anything in relation to this woman's call, and what took place there, more distinct and specific than what you have set forth here?

A I cannot.

Q How long did that interview last?

A Not over five minutes, I think; I know she got out of that house very quick after I got in there.

Q You know she drew an inference that you had had illicit intercourse with her daughter?

A Yes, sir.

Q Did she give the premises from which she drew that inference?

A No, sir.

Q Did you try to persuade her that she must be mistaken?

A No, sir.

Q Did she allege any facts?

A Not that I am aware of.

Q Did she state inferentially that you had had illicit intercourse with her daughter?

A Yes, sir, I think she did.

Q When did she infer that you had had this intercourse with her daughter?

A I don't think she stated any time.

Q I mean the time of the intercourse.

A I don't remember.

Q When was it that you were staying in Trenton?

A It was during the recruiting of the Third New Jersey Cavalry—1863.

Q Were you there after that?

A In 1864.

Q After that?

A We were there when we mustered out the regiment, in 1865.

Q What is the name of the husband of this woman?

A I don't know the first name.

Q Did you know she had a husband?

A Yes, sir.

Q How?

A I heard that she had a husband.

Q Who told you?

A I think it was Dr. Joline. 10

Q When did Dr. Joline tell you that she had a husband?

A At the same time we were talking about her.

Q Was this after or before you had seen the daughters?

A This was before I saw the daughters.

Q You were not acquainted with the daughters then?

A No, I think not. No, sir.

Q Did you go to Mrs. Rowley's house because you had heard Dr. Joline say she was a bad woman, or otherwise?

A No, sir. 20

Q Who took you to her house first?

A A friend took me there. Two gentlemen I was acquainted with were visiting the young ladies, and we called there to have some music.

Q You came away with them?

A Yes, sir.

Q Did you go there afterwards?

A Never, unless I was in company with somebody.

Q Doctor, what was Mrs. Rowley's first name?

A I don't know; I have not the least idea. 30

Q What were the daughters' names?

A One was named Lucy, and the other one I have forgotten.

Q You don't know the other one?

A No.

Q What was the son-in-law's name?

A Taylor.

Q First name?

A I think John Taylor; he owns the opera house there.

Q Did you ask John Taylor, when he invited you to take 40

a seat in the opera house, why he had threatened to lay in wait to take your life?

A He didn't say anything about it.

Q Did not he apologize?

A No, sir.

Q Did not he say anything about the subject to you at all?

A I never heard of it from that day to this.

Q. You have stated that you have never been exposed
10 to this disease by illicit intercourse with other women. I will ask you whether, within a year or two years back, from this time, and subsequently to 1863, you have had illicit intercourse with any women?

A No, sir; I have not.

Q You said that after your visit to Professor Draper, in New York, when you learned that you had syphilis, you isolated yourself from the family as much as possible. What was the date of your consultation with Dr. Draper?

A It was between one and two months after my return
20 from the army; that was about the month of August, in 1865.

Q And you had it from that time until your wife left, didn't you?

A No, sir.

Q Had you recovered from it?

A I had.

Q Had your wife recovered from it?

A So far as I knew she had when she left. It was liable to break out again, though.

30 Q I understood you to say in answer to question of counsel on the other side, that you all the time cohabited with your wife. You cohabited with her when you had the disease?

A No, sir; not that I am aware of.

Q In the month of August, '67, you consulted with Dr. Draper. You say you then kept yourself isolated. How long after that period did you suspend cohabitation with your wife?

A Until the disease had entirely disappeared from me—
40 two or three months.

- Q Did the disease last only two or three months?
- A In me — I think it disappeared in me in about four months, so that I have not seen it since.
- Q Didn't you have any intercourse with your wife before that four months had expired following the date of your interview with Dr. Draper?
- A I don't remember that I did.
- Q When did you tell your wife that you had the disease?
- A When I discovered it upon her. 10
- Q Immediately afterwards?
- A Yes.
- Q How long was that after your interview with Dr. Draper?
- A That I presume was about three or four months after.
- Q Do you know when she took it?
- A I don't.
- Q Do you know how she took it?
- A I do not.
- Q Didn't she take it from you? 20
- A I presume she did.
- Q You don't know when?
- A I don't, sir.
- Q Don't you know she had it when she left?
- A I presumed it was cured on her, sir. There was no evidence of it, so far as I knew.
- Q Did not she assign as a reason for leaving you that you had had that disorder, and had communicated it to her?
- A No, sir; she never made any complaint about that.
- Q Did the child have it? 30
- A Yes, sir.
- Q Did the child take it before or after its mother took it?
- A After.
- Q How long?
- A About six weeks or two months, I think.
- Q You said that she was never satisfied with your reason, or your account of the origin of it. She must have made complaint to you about it?
- A I judge from this — she only conveyed that idea to 40 my mind by her response to my statement.

Q. When she attempted to speak about it, didn't you refuse to listen to her ?

A No, sir.

Q What did you say about it ?

A That I had contracted the disease in the army, innocently and unfortunately.

A How did you know that you contracted it in the army ?

A I never had cause to contract it otherwise.

10 Q A great many contracted it in the army ?

A Yes, sir.

Q Can you state how you contracted it in the army ?

A I have not the least idea.

Q Did you ever come in contact with any body who had the disease ?

A I have. It was my business to be with my hands in blood perhaps all day without washing them.

Q Have you studied the disease ?

A I have not made it a special study.

20 Q You knew its manifestations ?

A Yes, sir.

Q You knew there were ways of taking it besides copulation ?

A Yes, sir.

Q You had patients who had it ?

A Yes, sir.

Q And you knew you were liable to take it from those patients ?

A Yes, sir.

30 Q Did you not feel troubled about that ?

A Never suspicioned it to be that.

Q What is the date of your leaving the army ?

A I cannot give it to you. My impression is it was in the month of June; it might have been in July; it might have been even later than that. I have not the date.

Q Did you visit any other women while you were in Trenton ?

A Well, I visited at the Stocktons and various other families in Trenton, where I was acquainted.

40 Q The same evening that you visited those ladies ?

A I don't remember that it was.

Q You simply made a call on those ladies ?

A Simply a call.

Q Stayed but a few minutes ?

A Yes, sir.

Q Well, you went to the Stocktons. What other families besides—besides the Stocktons and the Rowleys ?

A Several other families ; wherever I was invited to spend the evening.

Q Can't you mention some others ? 10

A Yes ; the Mr. Dickenson. I don't remember about the other families.

Q You said you contributed all that was necessary for the support of your wife. Did you pay for her board all the time that she boarded with your parents ?

A Yes, sir.

Q How much ?

A No stipulated price ; I satisfied my father.

Q Cannot you tell us on the average, how much you paid and how you paid it ? 20

A I paid it in money as I got it ; I sent money from the army.

Q Can't you tell us about how much you paid for your wife's board ?

A I didn't pay any specified price.

Q What did you pay ?

A I paid money.

Q Can you tell us how much you probably paid on the average, while you were away.

A I could not tell anything about it. My father has a 30 full account, I believe.

Q Did you take receipts ?

A I didn't, sir ; trusted to his honesty.

Q You said that your wife had no means of support outside ?

A Not that I am aware of.

Q Didn't she take in sewing ?

A Never saw her do it.

Q Have you any knowledge of it ?

A I have not, sir ; only what my mother has told me, 40 that she took in a few hospital shirts to sew.

Q Didn't you ever hear why?

A That it was disagreeable living there; for this reason, among others.

Q That it was said, or intimated to her by your parents, or one of them, that she was living at their expense?

A No, sir.

Q Never heard her allege that, either in form or substance?

A No, sir; she never made such a complaint—not to me,
10 sir.

Q Do you know whether she made it to any body else?

A I don't know.

Q Do you know of her making such a complaint?

A No, sir.

Q Can you tell how much money you gave her the morning she left?

A I cannot, sir.

Q Was money so plenty with you that you cannot tell?

A No, sir, it was scarce.

20 Q If you paid \$15 on that morning, would you know it, and remember it?

A I would not remember the amount; when I had money, I was in the habit of giving her money, whenever she asked for it.

Q Do you know whether you ever gave her money before that?

A Oh, yes.

Q Had you given her any money for a year before?

A Yes, sir; there was over \$200 in my stand drawer;
30 that I told her to help herself to.

Q Did she take any of it?

A Yes.

Q Did she take all?

A She didn't take it all.

Q How long before her leaving was this?

A It was, I guess, a year before.

Q I asked you whether you had paid her any money within a year before that?

A Yes, sir.

40 Q How much, and when?

A I don't remember the amounts, nor the times.

Q Are you sure you paid her anything within a year prior to that?

A I am positive that I gave her money, because I had it and I didn't spend it all myself.

Q Did she make the threat to leave before she arose in the morning?

A No, sir; after.

Q Before breakfast, or after?

A Before breakfast. 10

Q What was the first thing she said in connection with her threat to leave?

A She said she was going away that day.

Q Well, what else?

A Well, I spoke to her about the disgrace that such a thing would bring upon the family.

Q She said something more than that it was her intention to go away that day; what was the conversation?

A I don't remember; that is the way the conversation happened. 20

Q How long did the conversation last?

A A very short time.

Q She asked you for money that morning?

A She did.

Q In connection with her statement that she was going away?

A No, sir.

Q Before or after?

A Before.

Q You said the first of the conversation that morning was this statement, that she was going away? 30

A That was the first thing she said about going away.

Q What did she say she wanted money for?

A Didn't state any reason.

Q Didn't you give her the money, and didn't she take the money after she had made known to you her intention to leave?

A No, sir.

Q You didn't ask her what she wanted of money?

A I didn't. 40

Q Didn't you give her the money to pay her expenses of moving her things?

A I didn't.

Q Didn't you know she wanted money for getting her things moved?

A No, sir.

Q No idea of that?

A No, sir.

Q You said she objected to living with you frequently, 10 but she would withdraw her objections. Can you give an illustration of those interviews when she would withdraw them? Just state what was said by her—the course of the conversation on her part, and that on your part, especially that which induced her to withdraw her objections?

A She generally withdrew her objections after she was left alone a short time to her reflections.

Q Give us the conversation on her part, and the grievances she alleged?

A I don't remember that she alleged any grievances.

20 Q She was always threatening to leave and never alleged any grievances?

A On one or two occasions, she spoke about my father and mother being unpleasant.

Q In what respect?

A I don't remember that it was any great objection.

Q It must have been a grievous thing, if she threatened to do a grievous thing on account of it; what was it? what do you know about it?

A Never heard any cause assigned.

30 Q You say now that you don't know what the unpleasant and disagreeable feature was that she alleged; you didn't ask her and she didn't tell you, nor give any inkling to you of what it was?

A Except on those occasions that I spoke of.

Q Tell us now how you induced her to withdraw her objections?

A By leaving her to her own reflections.

Q Did she say shortly before leaving—say about two weeks—say that your father told her that it was no accom- 40 modation to him to support her, or something to that effect?

A No, sir.

Q Nothing of the kind?

A No, sir.

Q When did you first discover any symptoms of the disorder referred to?

A Four or six weeks after my return from the army.

Q Had you ever had it before?

A No, sir.

Q What did you discover then first?

A An eruption upon my body. 10

Q Whereabouts?

A Upon my legs and body.

Q Private parts?

Q Yes, sir, there; on my body and arms and legs, and in my mouth and hair.

Q Copper-colored eruptions?

A Yes, sir; it was ecthyma.

Q Was that the first you saw of it?

A The first I suspicioned.

Q That is the first symptom you saw? 20

A Yes, sir.

Q Is that the second or the first period?

A The second stage.

Q Any chancres?

A Not that I remember; I didn't notice any.

Q Are you posted on the nature of this disease?

A I know its mode of communication, symptoms and diagnosis.

Q Dr., when she left you, or about the time she left you, didn't she tell you that if you would behave yourself towards her, and if you would keep house, or even get a little back room by itself, she would be very happy to live with you, or something to that effect? 30

A No, sir.

Q No such intimation?

A No, sir; when she left me and I remonstrated with her, and told her of the disgrace, she said she would go away and I never would see her again; neither her nor the child.

Q Well, you were surprised when you returned from New York and found she had gone? 40

A I was, sir.

Q Did you know where she had gone ?

A No, sir.

Q No idea ?

A No, sir.

Q How soon after did you learn ?

A I don't remember ; it was two or three days afterwards.

Q How did you learn ?

10 A From my father and mother, if I remember correctly.

Q Had not her goods been packed for two weeks before she went ?

A Not that I am aware of.

Q Didn't you know it, or have a reason to believe they were packed for sometime before she left ?

A No, sir.

Q Didn't you see any signs or preparations for her leaving ?

A No, sir.

20 Q Were you home every night ?

A Not every night.

Q What time were you usually home ?

A From nine to eleven o'clock.

Q Not later ?

A Sometimes later ; sometimes my business called me out later.

Q When you discovered where she was, did you ever try to persuade her to come back ?

A I didn't.

30 Q Did you ever do anything towards her support after she left ?

A No, sir.

Q Did you furnish her with the means of purchasing clothing while she lived with you ?

A I did, sir.

Q Do you remember how much you contributed a year towards her clothing ?

A I don't, sir.

40 Q Did you give her that money that morning because she asked for it ?

A Because she asked for it, and I had it to spare.

Q Did she ask you for it?

A She did.

Q Are you sure of that?

A Yes, sir.

Q Are you sure you didn't give it to her before she asked for it?

A I am, sir.

Q Did she say what she wanted to do with it?

A She didn't, sir. 10

Q Didn't she say she wanted it to buy a bonnet or some article of clothing?

A No, sir.

Re-direct :

Q You said, or you were going to say, that you went to see Dr. Coles. What were you going to say?

A I went to see Dr. Coles about these eruptions, and he pronounced it —

(Objected to.)

He said it was *ecthyma*, a skin disease that attends secondary syphilis, and that may be a disease of itself. It sometimes attends secondary syphilis, and sometimes appears alone. The following day I went to Dr. Draper. 20

Q Doctor, you said — on those occasions when she had spoken of leaving you before — what was her — on those occasions, and generally — what was her manner and disposition; her manner of getting along with you and with others?

A She had an uncontrollable temper.

Q I want to know when those threats of leaving were made in regard to the occasions when she was under the influence of this uncontrollable temper? 30

A When anything displeased her; when under the influence of this temper.

Q After her knowledge of the fact that you had been infected with this disease, did you usually have marital intercourse as husband and wife? Up to how recently before your separation?

A The morning she left.

Q You supposed she was entirely cured of it?

A Yes; that is, she was liable to break out, though; there was no evidence of it upon her at the time she left.

Q You said you heard soon after your wife's departure where she was. Did you hear also what she was doing, or what she was saying in regard to you?

A Oh, yes; I heard.

Q Why didn't you go to your wife and ask her to return?

A Because she was circulating reports that I had given
10 her this disease, and she never would live with me again under any circumstances; that she had left me for good; for all time, not for a day or a week.

Q Did such statements as coming from her come to your hearing and knowledge?

A Yes, sir, repeatedly; from that day to the present time.

Q I will ask you why you didn't inquire what her troubles were when she was angry and threatened to leave? You said you left her to her reflections; just explain the
20 course you took?

A I found it to my advantage and to hers to leave the house and let her reflect, and generally came back finding her pleasant.

Q Did she on those occasions, when you returned, say anything about what had happened?

A She would apologize, and often express herself as regretting such exhibitions of temper or passion. I never would quarrel with her a moment. I would rather let her have the inside of the house for a few moments?

30 Q During the time of her affliction with the disorder, who treated her?

A She would not take my medicine.

Q Did you prescribe for her?

A I wanted her to take the same that I was taking. Dr. Osborne prescribed for her, and afterwards she declined to take his medicine, and then I don't know where she went. She never would tell me.

Q It was at your suggestion that Dr. Osborne was called in?

40 A Yes, sir.

Re-cross-examined :

Q What medicine did you prescribe ?

A Protiodide of mercury.

Q What reason did she give for refusing to take your prescription ?

A She didn't want to take mercury ; that was the only reason, so far as I know.

Q Didn't she take some medicine that you gave her ?

A She didn't at first.

Q She declined ?

10

A My impression is she did.

Q Don't you know ?

A I am not positive.

Q Didn't she state as a reason for not taking your medicine, that you gave it to her in large quantities for her to take without any directions from you ?

A No, sir.

Q She didn't ?

A No, sir.

Q Did she ever say why she declined to take Dr. Osborne's prescription ?

A Never heard.

Q Never heard him say or her say ?

A No, sir.

Q Did you never inquire ?

A No, sir.

Q Did she have the disorder very badly ?

A Not very badly.

Q Have you entirely recovered from the disorder ?

A I haven't seen any signs of it for six years.

30

Q You said that you had intercourse with her up to the morning she left :—commencing at what time ?

A After I had discovered that the disease had passed away from her. Some three or four months after I discovered it on her.

Q Didn't you sleep with her within three months after your interview with Dr. Draper ?

A Yes, sir.

Q Did you within two ?

A I don't know that I did.

40

Q Don't you know that you did? Didn't you as a matter of fact sleep with her every night you were home?

A Do you mean have connection, or sleep with her? I slept with her every night.

Q In the same bed?

A Yes, sir.

Q You knew, as a physician, your liability to communicate the disease to her and her liability to take it, did you not?

10 A Not unless I came in contact with her so as to give it to her.

Q Did you sleep in the same bed?

A Yes, sir.

Q The child slept with you?

A Yes, sir.

Q Between you?

A I think it slept on the back side of the bed.

Q You slept close to your wife?

A Yes.

20 Q Didn't you come in contact with your wife in some way?

A Yes, sir; I might have touched her.

Q Didn't you know there was great liability to communicate the disease in this way?

A Not unless there was an abrasion of the skin.

Q Did you have any abrasion of the skin?

A I don't know.

Q After your experience of having received it in the way you did, didn't you consider it important to keep away
30 from your wife, and not sleep in the same bed with her?

A Well, I didn't see any harm in being in the same bed with her.

Q You were asked whether you didn't cohabit with your wife during the three or four months after your interview with Dr. Draper; did you understand from cohabitation staying with her as man and wife—lying with her as man and wife in bed?

A No, sir.

Q You didn't consider that lying in bed was cohabita-
40 tion?

A No, sir.

Q You didn't mean to say you didn't sleep with her as usual?

A I didn't, sir.

Q I will ask you this: didn't you for three or four months following your interview with Dr. Draper, have sexual intercourse with her?

A No, sir; not until all signs had passed away, so far as I had discovered them.

Q Did you kiss your little girl at all? 10

A Not after I discovered it.

Q Did you take it in your arms?

A Not after I had discovered it.

Q Why didn't you take it in your arms?

A I might have taken it in my arms.

Q Didn't you hold the child in your arms?

A I presume I did.

Q And you knew from your own experience, and from your special knowledge as a physician, that there was liability to communicate the disease to the child in that way? 20

A No, sir; there was no danger in my taking my child in my arms unless it came in contact with a sore or secretion.

Q Did you try to ascertain whether those reports that you say were in circulation after your wife left you, were circulated by her?

A Well, the fact of my having the disease—I don't know how it could get out than that she told it; no other person would know it.

Q Didn't Dr. Osborne know it? 30

A He is the only one; but those are professional secrets.

Q Don't you know as a physician, that when a person has this disease with the virulence that you had it, and at the stage in that form you had it, and with what virulence and malignity there was in it, that people can readily detect it?

A No, sir.

Q Is not there anything peculiar about the odor of a person in that condition—with that disease?

A Yes, sir; I believe there is.

Q Readily detected? 40

A Not so very readily.

Q What is the odor; agreeable or otherwise?

A Rather otherwise.

Q Is not there any other mark by which a person can be known to have the disease?

A I don't know of any mark easily distinguishable to ordinary people.

Q Is there no itching or anything of the sort?

A Yes.

10 Q Is there no scratching consequent upon that?

A It generally follows itching.

Q Don't you know that persons with this disease, having it in the form and with the degree of intensity that you had it, will sometimes inevitably scratch in the presence of other people.

A I presume they will.

Q Do you say that you might not have manifested that you had the disease in the same way?

A Really, I don't know; that is something that I never
20 observed.

Q You never thought of that?

A No, sir.

Q Didn't any of your intimate friends or associates know of it?

A Not that I am aware of.

Q Do you know how long your wife had this disease?

A I don't know, sir; I didn't discover it on her until six weeks or two months after I had it.

Q Didn't she complain of it until about the time she
30 left?

A No; as I supposed, she was entirely cured.

Q You had sexual intercourse with her, up to the morning of her leaving?

A Yes, sir.

Q Didn't you know she had the disease up to nearly the time she left?

A She was cured of that, to all appearances, before she left me.

Q How long?

40 A Sometime before.

Q Did you hear that she complained that she was still afflicted with the disorder after she left you?

A Yes; I heard that.

Q How?

A I don't remember now.

Re-direct :

Q When, in point of fact, did you hear on the street or otherwise, rumors of your having had this disorder; before your wife's leaving you or after?

A After she left me it became public; I never heard 10 it before; I never told my most intimate friend anything about it.

Q So far as you know, did anybody excepting those whom you consulted professionally, have any knowledge that either you or your wife, or child, had the disorder up to the time she left?

A No, sir; not a soul that I know of, knew anything about it; I never consulted anyone excepting Dr. Coles and Dr. Osborne in this city.

Complainant's counsel also called SAMUEL C. BOWLBY, 20 sworn :

Q Where do you reside?

A No. 171 Walnut street, Newark; I am the father of the complainant in this suit; I know the defendant.

Q Do you remember when she first came to your house in the spring of 1862; state the circumstances of her coming to your house, and what occurred from that time until the time she left within your knowledge?

A At the end of his second course of lectures, when he came home, he told us that he was married, and that he 30 would like to bring his wife home; that he thought it would be rather pleasant; that she was smart and apt, etc.; that she would assist his mother in her housekeeping, etc.; that he would like to bring her here.

I had no objection, and he brought her on. He then had his third course of lectures and studied, and we lived along about as other families do; I don't recollect that anything

more disagreeable happened, then happens ordinarily in families; I think that I did find out that his wife had an uneven temper, but nothing ever happened that I know of very disagreeable, and when he finished his third course of lectures and came home, he had the desire to go to war; that was my disposition, and so he went and joined the Twenty-sixth and got a commission as Assistant Surgeon of the Twenty-sixth, and that occupied the summer. I don't recollect what time they came on home. He then com-
 10 menced the practice of medicine, and rented a house and furnished it, and commenced keeping house for three or four months, and I believe he found it quite an uphill business to make the medicine go, and then, if I recollect right, he had an offer of being surgeon of the Second New Jersey Cavalry. He came and told me that he would like to go, and his wife came and wanted to come back—to come back to live with us; and he went to war again, and she lived with us and we arranged the matter for her to board with me, and he got a position and went on, and he didn't get back until after the
 20 army had dispersed. Well, we got along pretty well, so far as I know; she never said much to me, but I think there was some little dispute once, I think, when he was in the army, and I made the remark to her that I wanted her to understand that it was no accommodation for me to have her live there; I said it and afterwards was sorry for it. I don't know that there was ever a reference to it afterwards, but otherwise we all lived agreeably, excepting she was sometimes—well I don't know so much about it as my wife did—but for five or six weeks, she hardly spoke to us,
 30 and then when that would go over, she would be sorry for what had taken place, and would be pleasant and clever as other people, and a little more so than some.

When he returned home from the army he went into this rectifying business; that went on until spring, and in the spring he sold his right and took stock in it, and still is concerned in it; in the spring of 1866 we rather concluded to move in the country, and did so—me and my wife; about four or five weeks after that I was down here, and she wanted to go back with me, and I got permission to take
 40 her with me. She came up, and I don't recollect how long

she stayed the first time. I think she was between five and six weeks up at our place; she wanted us to move back to Newark; I didn't care about it, but she was very urgent, and my wife said she would as lief live in Newark as Hackettstown, and we moved back in the same house, and we lived there till spring, when we concluded to get a house with more room; I sent my wife and her out to hire a house, and they selected a house; just before we moved she went out, and of course I was very much surprised about it, and we moved on into the house. 10

Q Where was the Doctor when Mrs. Bowlby moved out?

A He was there in the morning, but he went away quite early.

Q Who furnished Mrs. Bowlby with money, that she wanted?

A I did.

Q Did you give her money whenever she asked for it?
(Objected to.)

A I think I did. 20

Q During the time that Mrs. Bowlby lived with the Doctor, how was she clothed—in what manner?

A I think she was clothed as good as ordinary; she didn't bring much clothing, but she kept getting clothing pretty often.

Q Who furnished the money?

A I did.

Q Why did you furnish it to her?

A There was nobody else here. When he was home I didn't then; then he did; he furnished his own money; 30 while he was in the army I furnished the money; he sent it to me, and wrote very often very kind letters, and desired me to communicate with him very often—as often as I could do so, and give him the state of affairs at home.

Q What was the Doctor's treatment of his wife while they were living in your house?

A I think, kind. I never heard anything else.

Q Did you see them together much?

A Well, as much as ordinary, I think.

Q At whose table did they eat? 40

A We all ate at one table.

Q What were the Doctor's habits during this time?

A He conducted himself about as other gentlemen do. I never saw anything different; never heard any bad language out of him, or anything of that kind, or anything unbecoming.

Q What were his habits as regards sobriety and temperance?

A Well, about as ordinary men, I suppose. I suppose he likely drank a little liquor, but nothing outside of what I believe is very common among men of his class or business.

Q Did you ever see him under the influence of liquor?

A No, sir.

Q And how often were you in the habit of seeing him during this period?

A When he was in New York, it would be probably every night; when he traveled as a traveling agent, then it would be some little time.

20 Q Could the Doctor have intemperate habits and you not observe it?

A I think not.

Cross-examined:

Q Mr. Bowlby, you didn't attend the wedding?

A No, sir.

Q Why not?

A Well, it was a secret to me.

Q Secret to your family?

A Yes, sir.

30 Q Did you know her before he married her?

A No, sir.

Q When did you last give her money?

A Well, I don't recollect the date, but it was a very short time before he came from the war.

Q How much did you give her?

A I could not tell you. I have given her as high as from two or three dollars, up to twenty-five dollars at a time.

Q How did she employ her time while she was living with you ?

A Sometimes pretty smart, and sometimes I didn't see her.

Q What was she smart about ?

A I don't know particularly; I was not a great deal about the house; she was quick.

Q What did she do ?

A It would be pretty hard for me to tell what the house-keepers done. 10

Q Did she do nothing but housekeeping ?

A She sewed a little, I guess.

Q Sewed what ?

A Her own clothes, I guess.

Q Do you guess she sewed for anybody else ?

A I guess nobody else, excepting she made some tents or army shirts, or something of that kind.

Q Didn't she take in sewing or work as long as she was able to do it ?

A I think nothing but that. 20

Q How long, should you judge, was she engaged in this sewing—outside sewing ?

A I should not think it was two weeks.

Q And do you say, Mr. Bowlby, that it was only during these two weeks that she did any sewing outside of the family ?

A I think she never did.

Q How much board did your son pay for her and the child ?

A Well, I charged him along in a lumping way; I didn't particularly, because she generally worked some. He would send me money, and I would give her credit for it. 30

Q How much did you charge her for her board while he was away ?

A I charged her for her board in a lumping way, because she was earning.

Q You kept books of account ?

A Yes, sir.

Q You charged her for her board while he was away; what were the charges you made ? 40

A Sometimes \$50, and sometimes \$100 and settle—whatever we estimated it.

Q \$50 for how much board ?

A I don't know the length of time—it was whatever we thought it was worth ; sometimes I wouldn't charge her anything, because she would earn her board and more too ; sometimes \$2 or \$3, and sometimes nothing. I kept a little memorandum book, and kept putting little things down for a certain time, and then we footed it up and made a regular charge of it ; if she was not satisfied with living with us I never knew it ; I never heard of it from my wife.

VICE CHANCELLOR'S CHAMBER.

Between
 WILLIAM BOWLBY,
Complainant,
and
 ELIZABETH BOWLBY,
Defendant.

*On Bill
 for Divorce.*

Transcript of short hand report of evidence taken in the above cause, before the HON. AMZI DODD, *Vice Chancellor*, Wednesday, December 3d, 1873.

10

MCCARTER and LEONARD, *for Complainant.*

MR. JNO. W. TAYLOR, *for Defendant.*

Plaintiff's counsel also called Mrs. SALINDA BOWLBY, sworn :

Q You are the mother of the complainant in the cause, William Bowlby ?

A Yes.

Q Did he and his wife live at your house prior to their separation ?

A They did.

20

Q Where was your house situated ?

A On the corner of Ferry and Union streets.

Q How long did you live there ?

A Well, we lived there about four years after she came, somewhere near four years.

Q At that house ?

A At that house.

Defendant's counsel : They or the defendant ?

Plaintiff's counsel : I asked how long she and her husband lived there, and she said four years after the defendant came and lived with them.

Witness : We lived there one year before they came, and four years afterwards.

Q Did you live in the country, part of the four years ?

A We did.

Q Where ?

A Near Vienna, in Warren county.

10 Q Was young Mrs. Bowlby staying with you at Vienna, part of the time ?

A After we moved—she came out five and one-half months after, or over that.

Q How long did you live at Vienna ?

A I suppose—I don't remember exactly—eight or nine months.

Q Did you then go back and live in the same place where you had previously lived ?

A Yes, sir ; she persuaded us to go back and said she
20 thought it would be happier to live altogether ; so we came back.

Q Do you remember the occasion of her leaving your house—separating from her husband ?

A I recollect that ; I don't recollect anything to make her separate from him ; I recollect the fact that she went away.

Q Can you tell what time of the year it was ?

A It was the last of March ; she left on Friday as the first of April came on Sunday ; we moved on Monday ; we
30 were preparing to move then.

Q Was your son at home when she left ?

A He was in the morning ; he was living there ; but he left in the morning early to go to his business.

Q Where was his business ?

A In New York.

Q She was there when he went to New York ?

A Yes, sir ; she did not move her things then.

Q What time did she go away ?

A Well, I don't know ; about nine or ten o'clock, I

think; I don't recollect the exact time; it seems to me it was about nine or ten o'clock when she left.

Q Do you know whether she took part in the selection,— what arrangements had been made with reference to your son and his wife continuing to live with you after that—this next first of April?

(Defendant's counsel objected.)

(Plaintiff's counsel proposed to show that the defendant in this case had assisted in choosing the house that they were about to live in together.)

10

(The Vice Chancellor allowed the question.)

Q Did Mrs. Bowlby, your son's wife, take any part in the selection of the house in which you were about to move?

A She took a very active part, and went with me to hunt a house, but we could not find anything that would answer. My husband went out and hunted for a place; he thought he would rather buy one where he could live. Mrs. Dr. Bowlby and I went out together and looked over the house my husband had picked out. My husband had picked out two or three. We looked all through the one in Walnut street, and she said it was just as cosy and nice as could be, and that that house would make them perfectly happy, and was just what they wanted, — she said.

20

Q Did your husband purchase that house in Walnut street?

A He did.

Q That was the house you prepared to move into, when she went away?

A That is the house; I did not know anything to the contrary, but what she was going with us; that was the house we moved into.

30

Q Do you know of anything that had occurred, prior to her leaving, either between her and her husband, or between her and your husband or yourself, which would cause her to leave the house?

A Nothing at all, sir; I could not say that there was anything, to the best of my knowledge, that had passed or occurred.

Q Did she tell you, on the day of her going away, that she was going?

40

A No, sir, she did not tell me; the express came to the door and she loaded up her goods and went; helped to load them up, and when she got ready to go, she came and said "Good bye," and that is all I know.

Q What did you ask her?

A I asked her no questions—I never was that kind—and she told me nothing. I did not know where she was going.

Q Where did she live during most of the time her husband was in the army?

A She lived together with us, all the time.

Q After her husband returned, how did they get along together?

A Very comfortably, as far as I know; I never heard words between them.

Q What was her disposition, at times, as to pettishness, or—?

A Well, she was sometimes very high, and sometimes very low.

20 Q What do you mean by "high" and "low"?

A Her temper was very much up at times. She would go up stairs and stay—well, I've known her to stay up there six weeks. When the victuals were ready I would ring a bell, and sometimes she would come down, and sometimes she would not; that was about the way she done.

Q Then, when these occasions had passed over, how would she be?

A Very kind and good; *very* kind, and say she was very sorry, and she knew she was wrong, and was sorry, and would not do it again—she would not show that temper again.

30 Q When she went away did she take her child with her?

A She did.

Q On those occasions when she was out of temper—would she at those times say anything to you about what her wishes or feelings were about having married your son?—would she say anything on the subject?

(Defendant's counsel objected—Was that course of examination proper?)

Vice Chancellor: I suppose the only object is to throw light upon the reason why she left.

Plaintiff's counsel: The object was to show that she made threats to leave, and regrets at having married him.

Vice Chancellor allowed question.

Q During those times of her temper, did you hear her say anything about her having married your son ?

A She said she was very sorry, and these were her own words, "She did not know why she was such a fool as to marry him when she could have got others she loved better, 10 and who made her a great many presents."

Cross-examined:

Q When did you last hear her make use of those expressions ?

A Well, I could not say ; she made use of them frequently.

Q When did you last hear them ?

A I suppose it might be a month before she left.

Q Did she ever make use of such expressions in the presence of her husband ? 20

A I never heard her.

Q Did she give you any other cause than that you have stated, for her regret at marrying your son ?

A She often spoke of others that she loved.

Q Did she ever speak of him—of his conduct towards her ?

A She never spoke to me about it.

Q Did you ever hear her speak to somebody else about it ?

A No. 30

Q Did you hear her complain of her husband's conduct ?

A I have heard her complain about his not being as she wished.

Q You have heard her complain of him ?

A Yes ; about his not being just as she wished him to be.

Q When did she make her complaints—make allegations against her husband ?

A She made it shortly after she came to live with him ; subsequent to her marriage. 40

Q .What complaint did she make first ?

A Her complaint was that she would not cook for any man ;—in the manner that I cooked.

Q What other complaint ?

A I don't know that she made any other complaints, more than that.

Q Did you ever hear of any others ?

A I don't know, sir.

Q Did she complain to you of his habits ?

10 A I don't know, sir.

Q Ever hear her complain to you about having a bad disorder ?

A I think I heard that ; that she had a bad disorder.

Q More than once ?

A I don't know.

Q When did you hear her complain of that ?

A Well, I don't know ; a short time after he came home from the army.

Q What did she say ?

20 A I don't recollect.

Q Cannot you tell pretty nearly ?

A No, sir ; I cannot tell what she said.

Q Cannot you give the purport of her language ?

A I cannot, sir. I cannot tell anything about it, sir.

Q Did not the child have the bad disorder ?

A I don't know ; she said it had.

Q Did not her doctor say it had, when he came to visit it ?

A No, sir, he never did.

30 Q How did you know she had it ?

A I did not know it, sir ; I only knew what she told me.

Q When you were in the country, and she was staying with you there, did you not hear her make complaints of her husband, and his treatment of her ?

A No, sir.

Q Never, once ?

A I don't know that I ever heard her say anything, more than about her having something like the bad disorder, or
40 something like that.

- Q You cannot say what she said ?
- A No, sir ; I don't recollect her words.
- Q Those remarks that you referred to, as having been made by her when you were under direct examination, were made while she was in a violent mood ?
- A Well, not always.
- Q On what other occasions ?
- A When she would be in a good humor, she would speak about other young men.
- Q Speak earnestly about other young men ? 10
- A Yes.
- Q Can you mention what she said about other young men ?
- A Nothing more than she loved others, and did not love him.
- Q Did she say what others ?
- A She told of some ; I don't recollect names.
- Q Did she tell why she did not love him ?
- A No, sir.
- Q How is it, it happens that you can recollect the 20 phraseology so nearly of her remarks as to others she had loved, while you cannot remember what she said about the bad disorder ?
- A That was a thing I never paid much attention to.
- Q Did you particularly about the subject of the other lovers ?
- A No, sir ; I paid no attention.
- A My question is, why you remember one so much better than the other ?
- A I did not pay any attention about the other ; she was 30 taking medicine, and had medicine to take ; I don't know whether she took it or not.
- Q Did she complain of her husband often ?
- A I don't know what she did.
- Q Did you ever hear her complain of him, in his presence or hearing ?
- A No, sir.
- Q How did he behave towards her ?
- A Very kind, in my presence.
- Q When she bid you "good-bye," upon the occasion of 40

- leaving you, you say you did not ask her where she was going?
- A No, sir.
- Q Why not?
- A I don't know; because she was going, and I did not ask her any questions.
- Q Why not?
- A I don't know; I had no right to.
- Q Did you suppose she was really going?
- 10 A I don't know, sir.
- Q You did not think it of importance enough to ask her whether she was going for good or not, or where she was going?
- A I asked no questions.
- Q Why not—you were on good terms with her—on very good terms?
- A As pleasant as any one could be; nothing had passed between us, that I know of.
- Q Did you and her ever have differences?
- 20 A No, sir, we never quarreled.
- Q Did you not have hard feelings towards one another?
- A Well, we did not feel pleasant, or she would not have gone up stairs.
- Q Why did she go up stairs?
- A I don't know, sir.
- Q You say she went up for six weeks?
- A Yes, sir.
- Q Without coming down?
- A No, sir; she would come down and take her meals.
- 30 Q What was the cause of her going up stairs?
- A I never asked her.
- Q Did you not know without asking?
- A No, sir.
- Q You say she threatened to leave when in a good humor?
- A Sometimes.
- Q Did she say why?
- A I would ask her, and she would say she could do better.
- 40 Q Do better, how?

A I don't know ; I never asked her.

Q Did she not complain of her husband not making proper provisions for her ?

A No, sir.

Q Did she not complain of her husband doing nothing for her support ?

A No, sir ; she had support.

Q How did she clothe herself—did she wear good clothing ?

A My husband gave her money ; when her husband was 10 in the army he sent home money for her clothing, I am sure ; when her husband was not home my husband gave it to her.

Q Did you see him give it to her ?

A He said so ; I never saw him.

Q Now, Mrs. Bowlby, there was some reason why she was so violent, and absented herself from your society for six weeks at a time ; there must have been some reason ; what do you conjecture to be the reason ?

A I could not tell anything more than temper.

Q She always manifested a good temper towards him, as 20 far as you know ?

A Yes, sir ; they were very comfortable, as far as I know.

Q Did you see her, after she had left, at your house ?

A I did.

Q When ?

A I don't recollect the time—I could not tell.

Q Did she not come back there shortly after she left ?

A Not very shortly.

Q I want about the time, how soon after she left, did she 30 come back to your house ?

A I could not tell ; I suppose— I could not tell you— 05 two or three months.

Q Was it not within three or four weeks ?

A No, sir.

Q Anybody with her ?

A Yes.

Q Where were you living then ; in Walnut street ?

A Yes.

Q Did she go in the house ?

A No, sir.

Q Come to the door?

A Yes.

Q Did she say what she came for?

A She said she was told to go there, but she came there very much against her will; she told me she came there according to law.

Q She said she was told to go there according to law, and so she came?

10 A Yes.

Q What did she say she came for?

A She said that that was her home, and she had to come to it.

Q What did she say—she wanted to come back?

A No.

Q Say she was ready to come back?

A No.

A What did you say to her?

By the Vice Chancellor:

20 Q When was this?

Defendant's counsel: She says she thinks it was two or three months after Mrs. Bowlby left her home.

Further cross-examined:

Q Did she say to you in this language, or to this effect, that that was her home, and she wanted to return?

A No.

Q Nothing like it?

A No, sir.

Q Did you not say, "she could not?"

30 A I told her, says I—

Q Did you not say, "she could not?"

A I answered, says I, "you once had a home with us, Lizzie;" but, says I, "you left us, and you cannot live with me."

Q In that house?

A I meant she could not live with me.

Q In that house?

A I don't know sir, about the house?

Q What do you mean ?

A I mean she could not live with me.

Q She once lived in that house ?

A I had no objections; we got the house for her to live in; I told her she could not live with me.

Q Why ?

A Because I had rather live alone, sir.

Q In answer to what question was that ?

A When she said she was told that was her home.

Q Did she not intimate that she was ready to return, 10 and wanted to ?

A No, sir.

Q Why did you tell her she could not live with you ?

A I said, " You have left us."

Q You supposed, from what she said, that she wanted to come back ?

A I did not suppose anything of the kind.

Q What did you suppose she came there for ?

A I supposed she came there because she had been told she must come, according to law; she said she had been told 20 that was her home; I spoke and says: " You once had your home with us, but you cannot live with me."

Q Then you told her she could not live with you ?

A Yes, sir.

Q You meant in that house ?

A I meant with me—just what I say.

Q Tell us precisely what you mean.

A I mean just what I say, sir—that she could not live with me; then I says—

Q What did you mean—she could not live in your 30 house ?

A No, sir.

Q What did you mean, then ?

A I did not tell her anything.

Q What did you mean ?

A I meant she could not live with me; I lived in that house, and there was room enough for all to live; but I did not want to be annoyed by the family living with me.

Q You did not want another family living in your house ?

A Not in my room.

Q She did not want to sleep with you?

A I did not ask her.

Q I think you are very reluctant to tell us what you mean. What do you mean by saying you did not want her to live with you?

A Just what I told you, sir.

Q Do you mean, you did not want her to live in your house?

10 A I mean it made trouble.

By the Vice Chancellor :

I think it sufficiently plain, that she did not want her to be a member of her family.

Witness : then I called my husband.

Further cross-examined :

Q Can you tell all that passed?

A I says to her, I will call Mr. Bowlby. I called him; he came there, but did not know her. He looked at her, and I says, "Here's a lady wants to see you." He stepped
20 to the door and says, "Who is it?" She says, "I am Wit Bowlby's wife;" and then she says, "I have come here, as I have been told this is my home, and I have come to live here according to law; I had to come to live here;" and says he, "I have nothing to do with it; you each have a lawyer."

Q Did she say she had a lawyer?

A She did not say anything about that; that was Mr. Bowlby said that; she did not tell me she had a lawyer.

Q This was Mr. Bowlby's statement; that each had a
30 lawyer?

A Yes, sir.

Q Did he have a lawyer then?

A I don't know, sir.

Q Did he say whether she could live there or not?

A He did not say, sir.

Q Will you swear that she did not say she desired to live there?

A She said she only came according to law, and that she did not wish to come.

Q Was any one with her?

A A lady with her.

Q You have been very minute and circumstantial in giving that conversation; is your memory good?

A Sometimes.

Q We see that you remember in detail that conversation; but you cannot remember as to her complaining of his having the bad disorder; why does your recollection fail in one case and not in the other? 10

A The bad disorder I never knew anything about; she was afterwards talking about it; I don't recollect what she said about that subject.

Re-examined :

Q Was your son at home at the time she came there with this lady?

A He was traveling.

Q Who was the lady that was with her?

A I think it was Mrs. Anderson; I did not know her. 20

Q Did you know at the time who she was?

A No, sir.

Q There was nothing said to tell who she was?

A No, sir.

Q Did you see her face, or was she veiled?

A Veiled, sir.

By the Vice Chancellor :

Q Did she go in your house?

A No, sir.

Q She stayed where? 30

A She came to the door.

Further re-examined :

Q Do you remember whether, at that time, there were legal proceedings between them about the support of the child?

A I don't know; I most think so; I am not certain; I keep no dates; I could not say.

Q Between the time of her leaving and the time when she returned, as you described, did you hear any remarks made by her about her husband and the disorder; what did you hear?

Defendant's counsel objected.

Vice Chancellor overruled question.

Re-cross-examined :

Q Why did you tell her she could not live with you?

A I did not tell her she could not live with me. Yes,
10 sir; I did say she could not live with me.

Q Very well, now I want to know why you told her so?

A I did not want to have her running in, bothering in my family; I did not tell her she could not be in the house.

Q Why did you not want her to live with you?

A I did not wish her in my family.

Q Why did you not wish her in your family?

A I told you, sir, I did not wish her there—nor want her there.

Q Why did you not wish her there?

20 A I have told you, sir, I did not wish her.

Q Why did you not wish her there; what cause had you for excluding her from your family?

A She excluded herself.

Q Why did you not wish her to live with you; were you on bad terms with her?

A Not at all.

Q Did you like her?

A I had nothing against her, sir.

Q Well, why did you not want her to live with you then;
30 just because you did not?

A I told you, sir, just why I did not.

Q Was she disagreeable to you? you say you did not want her going in and out, every day or two; but she never deserted you, or left before?

A No, sir.

Q Never left, but once, did she?

A No, sir.

Q Now she had not done it every day, and that could

not be your reason. Tell me why you were determined she should not live with you ?

A I do not know, sir ; I said I did not wish her.

Q Why did you not want her to live with you. Her husband was living with you, was he not ?

A Yes, sir.

Q Why did you not want his wife to live with you at the same time as her husband was with you ?

(No answer.)

By the Vice Chancellor :

10

Q If you have any answer to that question, answer it.

A I have no answer, sir ; no more than I have given.

Plaintiff's counsel also called —

REBECCA CARTER, sworn :

Q Where do you reside ?

A No. 93 Prospect street.

Q Your husband's name ?

A Spencer Carter.

Q How long have you resided there ?

A Since April.

20

Q Where did you reside before that ?

A I came from Washington, Warren county.

Q Do you know the defendant in this suit ?

A Yes, sir.

Q Are you well acquainted ?

A I could not say for how long a time.

Q How often have you met her ?

A I have not seen her three or four years.

Q From the first time you became acquainted with her ?

A Frequently.

30

Q Did you ever visit her house ?

A I did.

Q And she your house ?

A Yes, sir.

Q And had conversation with her regarding her leaving the Doctor ?

A She said she was going to leave her husband.

Q When did she tell you this ?

A About the time of her leaving.

Q Do you remember what she said at that time ?

A She said she was going to leave him.

Q Did you have any conversation with her upon the subject after she left him ?

A I think not.

Q At the time that you had this conversation with her,
10 did she ever say whether she intended to return to him or not ?

A She said she did not.

Q Did she assign any reason for leaving him ?

A Non-support.

Q Be good enough to state, Mrs. Carter, what reason she assigned for leaving him ?

A She said she left him for good and for all, and had not left him for a day.

Q Now at that time, what reason did she assign ?

20 A On account of a certain complaint that he had, and that he did not support her.

Q Was this before or after she left him ?

A About the time that she left him.

By the Vice Chancellor:

Q Cannot you say whether it was before or after ?

A No, sir; I don't remember.

Further examined:

Q Where did this take place ?

A At my mother's; where I board.

30 Q Any more present ?

A Several.

Q Who ?

A My mother was one.

Q What is her name ?

A Mrs. Hopper.

Q She here ?

A Yes.

Q Who else beside ?

A An aunt of mine.

Q What name?

A Mrs. Post.

Q She here?

A No.

Q Any one else?

A

Q Where live?

A In Market street.

Cross-examined :

10

Q Mrs. Carter, she told you shortly before she left her husband, that she was going to leave?

A Yes, sir.

Q Did she state why she was going to leave him?

A Nothing more than what I have just stated.

Q At that time?

A I don't remember.

Q Did you not ask her?

A I don't know whether I did or not; I don't remember.

Q Why did you not ask her?

20

A I don't know why I did not.

Q Were you not surprised?

A Yes, sir.

Q Did you know her reason?

A I did not.

Q Did she not tell you?

A Why, she said she was going to leave him, because he did not support her, and because of this complaint.

Q This was before she left him?

A Or about the time of her leaving.

30

Q But I understood you that this was when she made a visit to your house, before she left him, and told you she was going to leave?

A I don't remember whether this was before, or just after.

By Plaintiff's counsel :

Q Did what you say occur more than once, or at only one interview?

A I only remember one interview.

Further cross-examined :

Q You only remember one interview ?

A Only one on that subject.

Q But you cannot say whether before, or after she left ?

A I don't remember.

Q What is your best recollection ?

A I have no recollection about the time at all.

Q Did she tell you she was going to leave or had left ?

A I think she said she was going to leave.

10 Q Then it must have been before, and she said she was not going to return ?

A Yes, sir.

Q Did you ask her whether she was going to return or not ?

A I did not.

Q What language did she use ?

A She said she had left him for good and for all.

Q This was after then ?

A That was, when she said that.

20 Q But you say there was only one interview ?

A I say it might have been before or after—I don't recollect the exact time.

By the Vice Chancellor:

Q Is your recollection distinct as to whether she said she had left him or was going to leave him ?

A Well, I don't know.

Q Your recollection is not distinct ?

A I recollect that she said that she had left him, I think; as near as I can recollect now, she had left him.

30 *Further cross-examined :*

Q What did she say about his not supporting her ?

A I don't recollect any more than that,—that he did not support her.

Q In what respect—did she say ?

A She did not.

Q Did you ask her ?

A No.

Q Did you know ?

A I did not.

Q Had you heard of any differences between her and her husband, before that ?

A No, sir.

Q Yet you did not enquire about the matter ?

A No, sir ; I did not.

Q She mentioned as one reason for her leaving, the bad disorder ?

A Yes, sir.

Q What did she say about that—I don't want unnecessary details—what did you hear her say in reference to that ?

A I don't remember the exact language.

Q Did she not say he communicated it to her ?

A Yes, sir.

Q Did she say anything about her having consulted a physician in New York about it ?

A I don't remember.

Q Did she say whether the child had got it, too ?

A I believe so. 20

Q Did she say how badly her husband had it ?

A No, sir.

Q Say how badly she had it ?

A No, sir.

Q Did she not tell you there was danger of it destroying life ?

A I believe she did say something of that kind.

Plaintiff's counsel also called—

Mrs. TABITHA N. HOPPER, sworn :

Q You are mother of the last witness ? 30

A Yes.

Q Do you know the defendant in this suit ?

A I don't know ; I never saw him until I saw him here.

Q No. I mean Mrs. Bowlby ?

A Yes, sir ; I've seen her.

Q How long have you known her ?

A I could not tell.

Q About how long?

A I guess a year; I don't know exactly. For two or three years she called at our house.

Q Called there for what purpose?

A To visit my daughter.

Q Did you hear the testimony of your daughter,—just given here?

A Yes.

Q Were you present during the interview between Mrs. 10 Bowlby and your daughter,—that she spoke of?

A I was, I believe—some part of it.

Q Do you remember the conversation that took place between Mrs. Bowlby and your daughter?

A Some of it.

Q Be good enough to state it?

A Well, she left Mr. Bowlby on account of his giving her a disease, and she would not live with him.

Q Do you remember what she said?

A I could not say that she said she would not live with 20 him; but she would not live with his folks—with his father and mother.

Q Do you know whether this was before or after she had left him?

A Well, I think it was about the time of her leaving; I think it was, if I recollect right, after she had left, very soon after she had left.

Q Just state, as near as you can, the language that Mrs. Bowlby used at that time, and the reason that she gave for leaving, and what she said about the nature of her intentions?

30 A Well, I don't know; she said she had left him for non-support. He got drunk, I believe, and so forth; well, that's as near as I can say; I did not pay any great attention to what she said.

Q Was that all she said?

A I cannot recollect, exactly.

Q Did she say anything about what she intended to do in the future.

A No, sir; I don't recollect; yes, she intended to dress-make.

40 Q Did she say anything about living with him again?

A She said she did not think she would live with him again, and that she had left him for good.

Cross-examined :

Q Were you not surprised when she stated she had left, or intended to leave her husband ?

A Well, I don't know, I don't think I was surprised ; I knew nothing about it ; it did not concern me ; I was not surprised at anything.

Q You certainly considered it an important event, did you not ? 10

A Yes ; I did think it a bad state of things.

Q And she said that one reason for her leaving, was that he did not support her ?

A Yes.

Q Did she say in particular, where he failed—in what respect—to support her ?

A I don't recollect that she did.

Q She stated also as a reason for her leaving him—or her intending to leave him—that he got drunk ?

A Yes ; I recollect she said that. 20

Q What was her language ?

A Well, I couldn't say anything more than that ; that he got drunk.

Q Did she say how often he got drunk ?

A No, sir.

Q Did she say whether he habitually got drunk ?

A No, sir ; I don't know that she did.

Q Did it surprise you to hear that ?

A It did not surprise me ; I did not know him at all.

Q You were not well acquainted with her ? 30

A No ; I had seen her at our house several times.

Q She said that one cause of her leaving was that he had the bad disorder ?

A She said he had a complaint.

Q That is what you understood ?

A Yes ; to draw an inference, it was that.

Q Did she say whether he communicated it to her ?

A She said she got it from him.

Q Did she say it was communicated to the child ?

A I don't recollect.

Q Did she say whether he or she had it severely?

A I don't remember that she did.

Q Did she not say, she considered it was endangering to her life?

A I don't think I remember that.

Q Your daughter said that?

A Yes; but I don't remember hearing her say so; I was not present all the time.

10 Q Where do you live at this time?

A In Elm street.

Plaintiff's counsel also called—

MRS. FRANCESCA LAWSHE, sworn:

Q Are you acquainted with Mrs. Bowlby, the defendant?

A Yes.

Q How long?

A Nine years.

Q Do you remember the time that she left Dr. Bowlby?

20 A I do.

Q Were you acquainted with her at that time?

A Yes, sir.

Q Was she in the habit of visiting your house?

A Calling occasionally.

Q Do you remember about the time she left her husband, her language at any conversation with you, in regard to her leaving?

A She came in my house a few days before she left, and said she intended to leave.

30 Q What reason did she assign at that time for her leaving?

A Well, she said she was discontented, and named the reason that others have spoken of,—the disease her husband had,—and her father-in-law had had some words with her; and her husband did not seem competent to support her, so she was going to leave.

Q Was that all she said at this time?

A That was the amount of what she said. I don't remember of anything else.

Q Did she say what her intentions were in leaving; whether she intended to return or not?

A Well, I think she said she did not intend to return; I would not be positive.

Q Do you remember whether she said anything about her intentions about her living with the Doctor again?

A Well, I think she said that if she went away, she would never return to him; I think so.

10

Cross-examined:

Q How long was this before she left?

A I don't remember exactly; it was a few days before.

Q How long was she at your house on that occasion?

A I believe about an hour.

Q Any one with her?

A No, sir.

Q Do you know what her errand was at your house?

A She said she was going to leave, and that she had come in to tell us, and say, "good bye."

20

Q Was not that surprising to you?

A Very much a surprise.

Q You enquired the reason?

A I did.

Q And you talked over the matter about an hour?

A I should judge it was about an hour.

Q She, of course, went into details, in an hour's conversation?

A I don't remember speaking about that all the time.

Q What seemed to be on her mind most, as the cause of her leaving?

A Well, I think as near as I can remember, it was this complaint that she was suffering from.

Q Did she say whether she was suffering severely or not?

A I think she did.

Q Did she say whether she had consulted any physician or not?

A Yes.

Q Say whom she had consulted?

A. I think she said she had Dr. Osborne; I have that impression.

Q. Did she speak of it as likely to endanger her life, if continued there, that disorder?

A. Yes; I think she did.

Q. Then what other cause did she give?

A. None other that I can remember.

Q. Non-support?

A. I don't think she did speak of that.

10 Q. Did she say in what respect he was deficient in supporting her?

A. She wished to go to house-keeping by herself, I believe.

Q. Did she say by whom she was clothed; at whose expense?

A. She did not.

Q. Did she say anything about his habits; as to drunkenness, or otherwise?

A. No, sir.

Q. Did she mention his drunkenness to you?

20 A. I don't remember.

Q. Did she say absolutely that she did not intend to return, or did not intend to return until he had reformed?

A. I don't recollect.

Q. Did not she speak about his reformation?

A. I don't remember, sir.

Q. Was anybody else present at that interview?

A. I think not.

Plaintiff's counsel also called —

Mrs. ANNIE E. LAWSHE, sworn :

30 Q. You reside in this city, Mrs. Lawshe?

A. Yes, sir.

Q. How long have you resided here?

A. Eight years.

Q. Do you know the defendant?

A. Yes, sir.

Q. Were you and she in the habit of visiting one another?

A. Yes, sir.

Q Do you remember about the time she left her husband?

A Yes.

Q Had you any conversation with her about that time?

A Not until after she left him.

Q How long after she had left him?

A The same evening.

Q You had conversation about what, on that evening?

A I don't remember any more than she had left him because he could not support her.

10

Q Any other reason assigned?

A Because of the disorder.

Q Any other?

A Because of being compelled to live with his people.

Q Was that all that was said?

A I believe that was all, that evening.

Q Did you have another conversation with her?

A I had conversations at our house frequently with her?

Q Now be good enough to tell us all that was said about her leaving her husband, and about what her intentions and feelings were in regard to it.

A I don't know whether I have heard her say whether she intended living with him again or not. She said he did not support her; and the way she had had to live with him, she would be happier without him, than with him.

Cross-examined :

Q She mentioned this bad disorder as one of her reasons for leaving?

A Yes, sir.

Q Did she say she had it?

30

A Yes, sir.

Q From him?

A Yes, sir.

Q Did she say she had it seriously and dangerously?

A She said it affected her health.

Q Did she say whether it endangered her health at seasons?

A I don't know whether she said it had; she was afraid it would.

- Q She spoke of his failure to support her ?
 A Yes, sir.
 Q Give any particulars ?
 A No, sir.
 Q Say anything about her husband getting drunk ?
 A No, sir.
 Q How long was your interview with her ?
 A Oh, well, sometimes she would be there quite a good while ; sometimes a great while.

10 *Re-examined :*

- Q Were these conversations also frequent ?
 A Not so very.
 Q When she came she would repeat this to you ?
 A Sometimes.
 Q You understood by a disorder, a disgraceful disorder ?
 A Yes, sir.

Plaintiff's counsel also called--

Dr. EDWARD A. OSBORNE, sworn :

- Q You know of these parties, complainant and defend-
 20 ant ?
 A Yes, sir.
 Q Do you recollect generally the fact of a separation
 having taken place between them ?
 A Yes, sir.
 Q Did you see the parties together, shortly after that
 separation ?
 A Yes, sir ; I don't know how long after, it was not very
 long after the separation ; a month or so.
 Q Where was it ?
 30 A In my office.
 Q What occurred between them ?
 A Well, the Doctor and I were seated, talking, when
 Mrs. Bowlby came in very excitedly and commenced abusing
 him and berating him. I told her that was no place for dis-
 play, and if they had any dispute she should settle it in some
 other place ; I don't remember her language ; we were
 taken quite by surprise, at least, I was.

Q What part in the altercation did the Doctor take ?

A He said nothing.

Q Made no reply ?

A No reply.

Q What was the character of the statements she made, what complaints did she make ?

A I cannot repeat the language at all.

Q State as nearly as you can the substance ?

A I remember the circumstances, but not the words ; she was violent and berated him and abused him. 10

By the Vice Chancellor :

Q About what was the substance of it ?

A I suppose in relation to some difference had before ; I don't know what the trouble was ; I stated to her that that was no place to settle disputes, and she should choose some other place for it ; in fact, I interrupted the scene.

Further examined :

Q Do you remember the nature of the complaint made against him ; what accusation or charge ?

A Well, it seemed to be general abuse. 20

Q How long was the interview ?

A It did not last but a few minutes.

Q You had known her before ?

A Oh, yes.

Q You and the Doctor—her husband—were acquaintances, friends ?

A Yes.

Cross-examined :

Q It made an impression on your mind, did it ?

A Yes, sir. 30

Q Are you clear in your recollection about it ?

A Yes, sir.

Q What time of the day was it ?

A In the evening.

Q In your office ?

A Yes ; in the early part of the evening.

Q What was the Doctor doing there ?

- A He sat there talking.
- Q What was his errand ?
- A I don't know,
- Q You are a practicing physician ?
- A I am.
- Q Were you treating him ?
- A I was not.
- Q Did you not know he had a bad disorder ?
- A I know it, from having heard him say so.
- 10 Q You heard him say so when ?
- A I could not say.
- Q Was he ever there consulting you professionally ?
- A No, sir.
- Q He was an intimate friend of yours ?
- A Not particularly.
- Q He often came in your office ?
- A I cannot say he was there often, but occasionally, as any one else would stop in.
- Q Was not he, about that time, under treatment by you
- 20 professionally ?
- A No, sir ; he never was ; I don't think I ever treated him ?
- Q You knew his wife had a bad disorder about the time of that interview ?
- A I did not know she had it then ; I knew she had had it.
- Q When ?
- A About—some time previous, I treated her.
- Q Did her child have it too ?
- 30 A The secondary symptoms ; yes.
- Q She had it severely ?
- A I thought not.
- Q You did not treat her, after she left her husband, for that disorder ?
- A No, sir.
- Q Do you know why she called at your office, at this time ?
- A No, sir.
- Q Doctor, cannot you tell what she said ?
- 40 A No, sir.

Q Did she not complain of any particular thing on his part; or refer to any particular thing on his part, as a cause of complaint?

A I don't recollect the substance of the conversation.

Q Did she not refer to some report she had heard to the effect that he accused her of stealing his jewelry?

A No, sir.

Q Nor allude to it?

A No, sir.

Q Did she not refer to his having given her the bad dis- 10
order?

A I don't think she did; indefinitely she might have done so—in general terms.

Q What did she abuse him for; that is to say, what did she say?

A I don't remember any particular thing. Her abuse seemed to be generally against him.

Q How long was she there, Doctor?

A A very few minutes.

Q Did she say more than twenty words, while she was 20
there?

A I think she did.

By the Vice Chancellor :

Q Did she make any distinct charges against him?

A I don't think she did.

Witness : It seemed to me that she had seen him in passing, and rushed in and gave him a blowing up, and went out.

Further cross-examined :

Q Now, with reference to what took place inside: she 30
was abusive and violent, and did she not accuse him of anything in particular?

A She might have done it; I don't recollect.

Q Well, cannot you recollect?

A I cannot; it was sometime since.

Q What makes you know it was abuse?

A I knew it by her violent manner.

Q Was her language violent?

- A. It was.
- Q. Can you give a specimen of the language?
- A. I cannot.
- Q. Give a specimen of the some of words of abuse?
- A. I don't know that I can.
- Q. Was there any vulgar language?
- A. No, sir.
- Q. Any profane language?
- A. No, sir.
- 10 Q. Did she call him anything in particular, or in general?
- A. I don't recollect the language at all.

Re-examined :

- Q. Was her manner violent?
- [Defendant's counsel objected.]
- [Vice Chancellor overruled question.]
- Q. Where was your office, Doctor?
- A. 34 Ferry street.
- Q. At that time?
- A. Yes, sir.
- 20 Q. Right on the street, was it?
- A. Yes, sir. Well, the office was set back.
- Q. Anybody else there?
- A. No, sir.
- Q. Did she have, apparently, any errand or business there?
- A. No, sir.
- Q. She was alone—she came alone?
- A. Yes, sir.

Re-cross-examined :

- 30 Q. Doctor, did she after this interview closed, hand you a shirt that she had made—on this occasion?
- A. No, sir.
- Q. Had not she made shirts for you?
- A. I don't know. I supposed my wife made them for me.
- Q. Do you not know whether she made them for you or not?
- A. I don't know.

Q Had you not some conversation like this: "There, Doctor, there's the last shirt, and send me the pay for them, for I shall not call for it"?

A I don't think she addressed her conversation to me. She came with the object only of abusing Dr. Bowlby, until I stopped her, and said I would not allow it.

Q Did she ever send any bill to you for shirts?

A If she did she got her pay for them.

Q I have no doubt of that; did not she send any bills for shirts? 10

A Not that I know of.

Q I would like to know this, whether any of her language on that occasion, which you term abusive and violent, was improper language?

A I thought it was improper.

Q What do you mean by that?

A I don't think I would allow any woman to talk to me in that way?

Q Was the language improper for a lady to use? 20

A I think it was.

Q Or was it only her excited manner?

A Her manner was excited; her whole manner was abusive.

Q Can you recollect any conversation she used?

A She spoke very excitedly, but her language was addressed to Dr. Bowlby.

Q Can you recollect any particular words or phrase, which you considered improper?

A I cannot.

Plaintiff rests. 30

Defendant's counsel, without opening, called—

ISABELLA ANDERSON, sworn:

Q Do you know the defendant in this suit?

A I know Mrs. Bowlby.

Q Do you know Dr. Bowlby?

A No, sir.

Q How long have you known Mrs. Bowlby?

A About five years.

Q How soon after that separation did you become acquainted with her; within what time, about, after the separation?

A I could not exactly say.

Q Do you remember going with her to Mrs. Bowlby's, her mother-in-law?

A Yes, sir.

Q Will you state when that was, and state why, so far
10 as you know, she went there, and what was said and done there?

[Plaintiff's counsel objected to that part of the question as to "Why, so far as the witness knows, she went."]

Q What did she go for?

[Plaintiff's counsel objected.]

By the Vice Chancellor:

Q Did you go at Mrs. Bowlby's request?

A Yes, sir. She asked me to go with her.

Further examined:

20 Q You went with her?

A Yes.

Q You were with her all the time she was there?

A Yes, sir.

Q She went to her mother-in-law's house: state what took place?

A She asked if she might come in, and come back to her home.

Q Where did this take place?

A In Walnut street, I think, on the stoop.

30 Q Did Mrs. Bowlby come to the door?

A Yes.

Q What did Mrs. Bowlby, her mother-in-law, reply, if anything?

[Plaintiff's counsel objected. Was it competent?]

[Vice Chancellor allowed question.]

Q What was said between the parties. First, what was said by Mrs. Dr. Bowlby; then, what was said in reply by

her mother-in-law, as near as you can remember the language?

A All she said was, "I have come back to my home; may I come in?" and as far as I can remember the reply, the words were, "I cannot allow you to come in."

Q Did she say why?

A I cannot remember anything more at all; it was so long ago, I remember nothing more.

Cross-examined:

Q How long have you known Mrs. Bowlby? 10

A About five years.

Q Prior to that—before that time—how long before that time?

A Before May; this was in May or June.

Q Where did you make her acquaintance?

A Next door to where I lived.

Q Where do you live?

A In Ingram street.

Q She lived next door?

A Yes. 20

Q With whom?

A Mrs.

Q How came you to go with her?

A She asked me.

Q For what purpose?

A She did not say.

Q What was she going to do?

A She said she was going back to see if she could go home.

Q Did she tell you why? 30

A No, sir.

Q Did she tell you she had seen a lawyer who advised her to go?

A She did not tell me anything about the law.

Q She had law affairs at that time?

A Yes.

Q Who was her lawyer?

A She did not say.

Q Mr. Stone, was it?

- A It might have been.
- Q Was she not engaged in a law-suit ; about the support of her child,—with her husband ?
- A I think so.
- Q Did not she say her lawyer advised her to go there ?
- A She did not.
- Q She wanted you to go as a witness ?
- A No ; she did not say so.
- Q Had you ever been with her before anywhere ?
- 10 A Been in the street.
- Q Do you know her family ?
- A No.
- Q Are you an acquaintance ?
- A No.
- Q Did you go in the house ?
- A No.
- Q Did you take any part in the conversation ?
- A No.
- Q You said nothing ?
- 20 A Nothing.
- Q Then she did not tell you what she wanted of you ?
- A No, sir.
- Q But said she was going to offer to go back ?
- A Yes.
- Q Did she not say a lawyer advised her to do it ?
- A She did not.
- Q Was it before or after the law-suit between them was tried,—about the support of the child,—that she went with you ?
- 30 A Before.
- Q She had told you about her affairs.
- A No, she had not.
- Q You knew of her living separate from her husband ?
- A I knew of that.
- Q And you knew the reason ?
- A I did not.
- Q Did you know her before she left him ?
- A No.
- Q Did she tell you the reason that she left him ?
- 40 A No ; I heard some things about it, but only from hearsay.

- Q Heard it from her?
- A No.
- Q Did she tell you the reason why she left her husband?
- A No.
- Q Did she tell you about the bad disorder?
- A No.
- Q You knew of that?
- A I did.
- Q Who did you hear it from?
- A From the neighbors. 10
- Q It was circulated in the neighborhood?
- A Yes.
- Q She did not tell you why she left her husband?
- A I knew very little about her at all.
- Q You were not living in the same house with her?
- A No, sir.
- Q And you went with her just because she asked you to go?
- A Yes, sir.
- Q Did she request you to remember what took place? 20
- A No.
- Q Did you see Mr. Bowlby, the old gentleman?
- A No.
- Q Did you ever go there more than once?
- A No; only but once.
- Q And you did not see old Mr. Bowlby?
- A No.
- Q Were you on the stoop, or on the sidewalk?
- A On the stoop.
- Q Did she go in the house? 30
- A No; she remained on the stoop.
- Q Where was old Mrs. Bowlby?
- A In the door-way.
- Q Have you told us all you can recollect of the conversation?
- A All I can think of.

Re-examined :

- Q When were you first spoken to about this suit, about coming here to-day?

A Yesterday.

Q When were you first spoken to about coming to testify in this suit, at all?

A Yesterday.

Defendant's counsel also called—

MRS. ELIZABETH BOWLBY, sworn :

Q You are the defendant in this suit?

A Yes, sir.

Q When did you leave Dr. Bowlby?

10 A It will be seven years this March.

Q Why did you leave him?

A On account of his refusing to support me, and feeling that I would die of the very filthy disease he communicated to me.

Q Did you tell him before you left, that you should leave?

A I did, sir.

Q When?

A About two weeks before I left the house.

20 Q What did you say to him?

A I told him that he knew how unpleasant it was for me to live with his mother, for she did not like me, nor did I like her; we could not agree upon anything, and it would be so much more pleasant if he would furnish me a home; I did not care if it was only a garret room, if he could give me two dollars a week to live on.

Q Was any thing said about this disorder?

30 A I could not talk very much about it; I think I said something about it—yes, I told him in the forepart—“when he returned from the army, that I was afraid of him.” He replied that it was simply the army itch, and that I need not fear; that he knew what such disorders were, and he would not bring such a thing into the family.

Q Did he say how he got it?

A He said he got it in the army.

Q On the morning of the day you left, before he went to the city of New York, did you say you intended to go; did you tell him whether you intended to go?

A I don't recollect that I did; but he gave me money to go with.

Q Did he know what you wanted money for?

A He gave it to me to move my effects.

Q Who spoke to him about moving your effects?

A I don't know.

A How did he know you wanted to move?

A They had been preparing for two weeks.

Q Did he know it?

A Yes, sir; some one took my marriage certificate out of my trunk and destroyed it.

Q Did he know why your goods were packed?

A He did.

Q Did you tell him?

A I told him that if he refused, and would not do for me, I could not live there; I would prefer taking care of myself.

Q You asked him for the money?

A No, sir.

Q When he gave you the money, what did he say it was for; what was his reason for giving it you?

A He said he would give me twenty dollars, for he supposed I would need some.

Q Was he aware that you intended to go away?

A He was.

Q Did he ask you where you were going?

A I don't think he did.

Q Did you tell him?

A I did not know myself.

Q Where did you go?

30

A I stopped with a cousin of his a short time, and then I would look about to see what I could do; and then I packed my things to go to the house here in Newark.

Q You took your child with you?

A I did.

Q Did you and his mother live happily together?

A We did not.

Q What was the trouble?

A Well, she disapproved of nearly everything I did; she did not like me any way; there were a great many

unpleasant little things, taken altogether, which made it unpleasant ; I was disagreeable to her, and she was disagreeable to me.

Q Did you ever say anything to her about your intention to leave ?

A I did ; on one or two occasions.

Q When last, before you left ?

A I cannot state the exact time ; but I spoke to her while living in the country ; I told her then that if my husband knew all I knew about this disease, and all I felt about
10 his treatment of me, I could not live with him a day.

(Witness repeated answer.)

That if he knew what I knew about this disease, for he simply said I was suffering from scrofula ;—if he knew that I knew about this disease, and if he knew how I felt about his conduct towards me, I could not live with him one day ; my feelings—

Q This was in Warren county, where they lived one year ?

20 A Yes.

Q Did you say anything afterwards to her ; about your reasons for your intention to leave ?

A Very little.

Q She says that you were “ high ” and then “ low,” and would live up stairs six weeks at a time in a sullen condition. State what the fact are about that, and what was the cause ?

A Well, I was suffering from this disease, and my husband advised that I should have different food from what
30 they provided for me ; and that I should keep from being overheated, and such things ; but Mrs. Bowlby did nothing to lighten my burdens.

Q That was while you had this disorder ?

A It was. I did my own washing, and did everything about the house with Mrs. Bowlby, as far as she would allow me.

Q When you talked with her about your intention to leave. what reply, if any, did she make ?

A I don't know that I ever told her positively that I
40 was going ; I don't think I did ; I told her I would be obliged to go at some time, if things could not be different.

Q Do you remember what day of the week it was that you left?

A Are you speaking of going to see a house? I never went to see more than one house with Mr. Bowlby, and that one did not suit. In speaking of getting a house convenient for both of us—and I said I should like it better—he said it was no accomodation for those two to support me. Mr. Bowlby, the old gentleman, told me.

Q While you were with them, how were you treated by old Mrs. Bowlby? 10

A Not pleasantly.

Q While the Doctor was in the army, and afterwards, how were you supported?

A I lived with the family. I never heard from him, only what little I heard through his father; I had nothing only my board while he was gone.

Q Who clothed you?

A I don't know that I had anything—only shoes, and that—that was absolutely necessary.

Q Who furnished you with dresses? 20

A I don't know that; I think Mrs. Bowlby did.

Q Furnished you with dresses and clothes?

A She furnished all I had.

Q How did the Doctor provide for you after he came back?

A The same as before.

Q Did he clothe and support you, and feed you, or not?

A I had no more money than I ever had.

Q Did he ever give you money?

A Yes, sir; two or three times. 30

Q Do you remember going to Dr. Osborne's, after you left your husband, and meeting your husband in his office?

A I do, sir.

Q What led you to go to Dr. Osborne's on that occasion?

A I was at that time doing work for Dr. Osborne; I was making him shirts; I was going with the last of half a dozen that evening, and I had heard remarks that my husband had said I had stolen his jewelry; in the first place, he had none to steal, only an old chain, which he gave me for my daughter; that I took with me; that was the only article of jewelry 40

I had with me. I requested him never to say such a thing.

Q Did you know before you went in Dr. Osborne's your husband was there ?

A I saw him.

Q Did you go there because he was there ?

A I did not; I was there on business.

Q Dr. Osborne says you were violent and abusive, so that he had to stop you. What language did you use
10 towards your husband on that occasion ?

A I requested him not to make scandal, and reports of that kind—that I had stolen things belonging to him.

Q How severely did you have this bad disorder ?

A Well, I thought I had it badly.

Q How long before you left, did you have it ?

A Months—I don't know how many.

Q How long after you left ?

A I was treated eight months constantly.

Q Who was your physician ?

20 A A Doctor in New York.

Q You say you did not talk much to your husband about this disorder ?

A No, sir.

Q Do you remember the occasion of a Trenton lady calling at your house, after the Doctor had come home from the army ?

A I do, sir.

Q Did you see the lady ?

A I did.

30 Q Did you hear her talk to him, and him to her ?

A I did.

Q What conversation passed between them ?

A She accused him—at the time I was so surprised, and felt so badly, that really I cannot state a great deal—she accused him of trying to elope and had been up a trip to Philadelphia, with her daughter, and she said that if he made his appearance about her premises again he would be shot; he replied that very often married gentlemen fall in love with young ladies, and on the other hand, young ladies saw married
40 men that they would fancy.

Q Did you talk it over after she left?

A I had a nervous chill, and he said if I chose to make a fool of myself, I could do so.

Q Did he make any explanations?

A He said she was a woman of bad repute, and the reason she came there was that she found he had a wife, and was going to separate us.

Q What were the doctor's habits while you lived with him, particularly for the four years preceding your separation?

10

A I saw very little of him.

Q Did he spend his evenings home?

A Never.

Q Did he come home nights?

A No; he generally came home mornings?

Q Where did he spend his nights?

A I am not able to say.

Q Did you ask him?

A I did on one occasion; he said I must never ask him a question of that kind, for he would not answer it.

20

Q Did he say why he would not answer?

A No.

Q Was this his habit, or only now and then the case?

A It was a habit.

Q What were his habits as to sobriety?

A He would come home intoxicated occasionally; not so much so but that he could get home.

Q Occasionally. How often?

A I am not able to say; I was not always awake when he came home.

30

Q Did you and he ever have any talk about your separation?

A Yes, sir.

Q About his habits?

A Yes, sir.

Q Well, what were those conversations; did you ever make complaints to him about his habits?

A I did; I told him I should have to leave if he would not provide me any other home; I offered to take up with anything he was willing to provide for me; he said he lived

40

with his mother, and that I could do so if I chose to do it, or I could go, and if I went I should never come back.

A Was that conversation had more than once, or only once?

A Only once.

Q When was that?

A The last conversation.

Q How long before you left?

A I cannot state the exact time; I think about two
10 weeks: it was on a Sunday afternoon.

A What did you tell him as to your intention of returning or remaining away, when you left?

A I told him I would go.

Q As to your intention to return again?

A Nothing was said particularly about that.

Q Did you go to his home after you separated from him?

A I went upon one occasion.

Q When was that; how long after you had been separated?
20 rated?

A I think it was about two or three months?

Q State what you did; what took place between you and his mother?

A I returned to my home. (Remainder of answer lost.)

Q Did you go to see him?

A Yes; I expected he was there; I did not go to see any one in particular.

Q Who went with you?

A Mrs. Anderson.

30 *Q* You went to the house and asked permission to stay; what did you say—give the language, as near as you can?

A I said I have come back to the home, or my home; I had returned home; Mrs. Bowlby refused me.

Q What did she say?

A She said I could not come there; I had left it.

Q Did you tell her you had come according to law?

A I don't recollect that.

Q What induced you to go there?

40 *A* I did not see any way to make an honest living; and I thought I was obliged to go back, and I did so; I went back reluctantly.

- Q Are you ready to live with him now ?
- A Yes, sir.
- Q Had you had a lawsuit at that time ?
- A Yes ; a lawsuit for a settlement about my child.
- Q What did you do ?
- A I went to see Mr. Stone about it—the lawyer—about the child.
- Q Do you know what year that was ?
- A The same year as I left him—shortly after I left him.
- Q Well, I have no objection to ask, if counsel have no objection, as to what the advice was. What was his advice to you ? 10
- A His advice ? I cannot recollect at all what his advice was.
- Q Were you trying to make him support the child ?
- A I was.
- Q What did he advise you ?
- A No. It was not for the child, it was for myself ; but from mismanagement, or intentionally so, they gave me the support for the child. 20
- Q Who gave it you ?
- A The gentlemen decided it that way. They did nothing for me, but simply made it out for the child.
- Q Did you go to the Overseer of the Poor ?
- A I did.
- Q Mr. Stone was the city counsel, then ?
- A Yes, sir.
- Q Did he tell you anything about going back ?
- A After that I was trying to get means of support, and my friends advised me to take that course of getting something, as I had no means of support. 30
- Q What did Mr. Stone advise you about going back ?
- A I think he said I would be obliged to go back, in order to make a claim.
- Q Did he advise you as to whether you could claim support from him if you lived away from him ?
- A He thought I could ; but he thought I had better go home, so I went.
- Q When you informed your husband—or you made him aware—on the day you left, of your intentions, did he ask you why your goods were packed ? 40

A Yes, sir; he said, "you are going?" I told him "yes."

Q When was this?

A Some time before I left; I could not say exactly when.

Q Not the day you left?

A No, sir.

Q What did he say when you told him "yes?"

A He did not say anything.

Q Did he make any objections to your going on the
10 morning he gave you the money?

A No, sir; not any.

By the Vice Chancellor:

Q How old was your child at that time?

A Five.

Q Still living?

A Yes, sir.

Q Boy, or a girl?

A Girl.

Q Living under your charge?

20 A No, sir.

Cross-examined:

Q What was your maiden name?

A Elizabeth Stark.

Q Where did you get acquainted with your husband?

A In New York.

Q At what place in New York?

A In the house where I lived; in our family.

Q Was he a boarder in the family?

A He was.

30 Q With your parents?

A No, sir.

A Whose family was it?

A They were the persons who brought me up—who adopted me.

Q Was your marriage a private one?

A It was.

Q What was the name of that family?

A Ells.

Q Mr. and Mrs. Ells ?

A No, sir ; a widow.

Q Did she keep a boarding house ?

A She did.

Q Had she children ?

A She had.

Q How many ?

A Three,—two boys and one girl.

Q How long did you live with her ?

A Ever since I was a little child of five or six. 10

Q She took you to bring up ?

A Yes, sir.

Q Were you a servant in the family ?

A I assisted in the family ; I did what I was bade to do by them ?

Q How long did you remain there after your marriage ?

A I remained three months.

Q Did you disclose your marriage at first to the family with whom you lived ?

A I did not. 20

Q Where did you first live with your husband ?

A At his home here in Newark, at the corner of Ferry and Union streets.

Q How long did you live there ?

A Four or five years.

Q Until he went to the war ?

A Altogether six years ?

Q You went to housekeeping once in Walnut street ?

A Yes, sir.

Q Was that before or after the Doctor went to the war ? 30

A Before he went the last time.

Q After he had been once, and before he went the last time ?

A Yes, sir.

Q How long did you keep house ?

A Three or four months ?

Q Then you returned and lived with his father again ?

A Yes, sir.

Q What was the Doctor's business at that time ?

A I think it was whiskey. 40

Q Was not he a practicing physician, or attempting to practice?

A Yes, sir.

Q Did he succeed in getting a livelihood from his practice?

A I don't think he did; I never knew much about his business.

Q From that you went to his father's?

A I did.

10 *Q* Did you break up housekeeping before he went to the war the last time, or break up in consequence of that?

A In consequence of that.

Q Then you went to live at his father's?

A Yes.

Q And after that, he returned and went into the liquor business with Mr. Bourne, in New York?

A Yes, sir.

Q That business required him to travel?

A I presume so.

20 *Q* Was he not a traveling agent for that house?

A He was away nearly all the time.

Q How long after his return from the war, the last time, was it before you were afflicted with the disease, which has been spoken of?

A Very shortly; I cannot say how long.

Q How old was your little child when he came back from the war the last time?

A Very nearly five years; she was five when I left.

30 *Q* You left in March—this, then, when he came back from the war, was the summer or fall previous—and during that season you had lived at his father's?

A Yes, sir.

Q Prior to his going to the war the last time, had you and he occasionally disagreed?

A Well, we had— No, sir, I cannot say that we had any differences.

Q Everything was pleasant up to that time?

A I think so, as far as—yes, sir, as far as I can—I lived very pleasantly; my relations with the Doctor
40 were always pleasant.

- Q Where was the Doctor when you went to Vienna ?
 A I don't know.
- Q Was not that while he was in the war ?
 A No, sir.
- Q You say you don't know where he was ?
 A I don't.
- Q Did he know of your going there ?
 A I presume he did.
- Q Don't you know that he did ?
 A He knew I was at his father's. 10
- Q And saw you there occasionally ?
 A Yes, occasionally.
- Q He was then traveling ?
 A I don't know ; I never knew any thing about his business.
- Q He made that his home, did he not ?
 A Yes, sir.
- Q And came there when at home ?
 A I presume he did.
- Q How did you come to go there ? 20
 A His father insisted on my taking my little girl out, after he moved away ; he wanted her to make them a visit ; at first, I refused to do so, because I had made up my mind to have nothing to do with the family, unless compelled by sickness.
- Q Where were you living at that time ?
 A At their old house, corner of Ferry and Union streets ; I was keeping house there ; he came to take her out there to make a visit ; I finally consented to let her go, with the promise that he should bring her back in two weeks ; he came back without the child, and insisted on my going out there, telling me my health was failing and it would do me good to go out there ; so I thought I would overlook my troubles and go, and being alone I agreed to go, and I went there. 30
- A How did they come to move back ?
 A Mrs. Bowlby did not feel any better satisfied, and was unhappy and uncomfortable, so I invited her to go back ; her husband was not disposed to make any change, but I urged them to go back, and so they came with us, and she took 40

charge of the house. Mrs. Bowlby took it again, and I lived as I had before, unpleasantly.

Q With whom was this unpleasantness?

A With Mrs. Bowlby; my health being poor, this made it more so.

Q What did you tell your husband, during these times, about leaving him?

A I told him of all the unpleasant things I was subjected to, and that any thing his mother chose to say or do, I was obliged to put up with, and that my home was very
10 I was obliged to put up with, and that my home was very uncomfortable altogether, so much so, that I would prefer living in a tent, away from home.

Q Then you asked him to let you go and get rooms and live by yourself, if he would give you two dollars a week, and he refused?

A Yes, sir.

Q Did you make any other proposition?

A I did; I said I would live in the house with his mother, if he would provide her a servant, and give me a
20 room.

Q Then you wanted to live as a boarder, and not as one of the family?

A I was not particular; I would have taken a few rooms. Mrs. Bowlby and I talked it over very pleasantly, and I said "you will feel better if you consent to it;" but the family must have talked it over afterwards, for she seemed willing at that time.

Q What did you say to him about leaving him?

A I told him it was impossible for me to live with his
30 mother.

Q When did you first tell him that?

A I cannot remember.

Q About when—before you went to Warren county?

A Yes, sir.

Q Did not these unpleasant relations between you and his mother, become a constant source of complaint between you and the Doctor?

A No; I made very few complaints, because he would not listen to me; and another thing, he said if he could not
40 live pleasantly at home and I thought as

he was away so much; so I made very few complaints to him.

Q When did you first tell him you would not live any longer with him?

A I cannot remember.

Q How many times?

A Not more than three or four.

Q You had, however, previous to this last occasion, threatened to leave him?

A Yes, sir. 10

Q Then the occasion passed over and you did not do it?

A Things would be pleasanter at the time, and I would be better contented.

Q You say it was some two weeks before you went, that you told him you were going?

A Yes.

Q Was it not longer?

A I don't remember.

Q What did you tell him then?

A I told him his mother disliked me, and I did her, and 20
her treatment of me was not agreeable, and I could not be pleasant towards her; and if he would provide me with any sort of a home I would live in it; but he refused to do anything.

Q Would you describe what you would do—wanted to do?

A I said if two dollars a week was not sufficient I would do other work, and in that way take care of myself.

Q That was your proposition, that you should take care of yourself? 30

A Yes, sir.

Q He was not willing to let you do that?

A He did not say.

Q Did you pack your goods at that time?

A No, I think not; I don't know how soon after; I know I packed them some time before I left.

Q Were the goods about the house packed up?

A No; I recollect I told him I could not make a permanent change to live with his mother again.

Q Had you not gone and helped select this house? 40

- A I never saw the house, only on the outside one evening; Mrs. Bowlby told me where it was.
- Q Had you not expressed approval of it?
- A I thought it was a nice looking house.
- Q What things did you have packed up?
- A My clothing.
- Q Where did you keep your clothing, as an ordinary thing?
- A In my bedroom.
- 10 Q Where?
- A In closets—a bureau.
- Q What had you done with them?
- A Put them in two trunks.
- Q How long had that been done, before you left?
- A Nearly two weeks.
- Q Did you pack any furniture?
- A No, sir; my husband told me I might take a bedstead, and I took it with a few other articles, but I had not enough to furnish a room when I left him.
- 20 Q When did your husband tell you you might take that?
- A Sometime before I left, probably a week.
- Q Then did you tell him when you were going?
- A He knew I was going.
- Q Had you told him?
- A I don't know.
- Q Told his mother?
- A I don't recollect saying anything much about it; I knew we were not on pleasant terms; if she spoke, I simply answered her questions.
- 30 Q When did you say you were going?
- A Before that, I said I should not move with them.
- Q Do you say that he gave you furniture to go with?
- A Yes; a bedstead and a few other articles.
- Q When?
- A Just before I left.
- Q In whose presence?
- A I don't think any one's.
- Q How came he to give you them?
- A He said I would need them.
- 40 Q And did you take those things he gave you?

A I did.

Q Any thing else ?

A Nothing but what he gave me.

Q When you went away, did you expect to return ?

A I did not.

Q The last conversation had between you, was, you say, two weeks before ?

A I think so.

Q Was it then he gave you the things ?

A It was after that. 10

Q Then he did talk about going after that ?

A Well, he gave me the things.

Q When he gave you these things, did he say any thing about your going away ?

A Yes, he said I would need them.

Q Then he did talk about it, afterwards ?

A Yes, sir.

Q What did he say ?

A He said I might have those things, for I might need them. 20

Q Well, did he give them to you for your use, any more than for use in the same family ?

A He said, " Take them with you."

Q Then you did talk about going away after that time, two weeks before ?

A I talked to him again.

Q Did he object to your leaving, and say it would give rise to scandal and disgrace ?

A That was on my own part altogether.

Q What was upon your own part ? 30

A The feeling of disgrace.

Q When you did go, you intended to make it a permanent separation ?

A I did.

Q Where did you go to.

A I went to one of his cousins, Mrs. ———, in Jersey City.

Q How long did you remain there ?

A From four to six days.

Q Did you tell her you left him, not intending to go back ? 40

A I presume I did.

Q Where did you go next?

A I was advised to come back here to Newark to live ; she said she would do a great deal to help me, as my adopted mother was dead, and her children were all dead, and of course I had no one to go to, and I was advised to come back to Newark and live down the disgrace ; she thought I could do it easily ; she found this lady, Mrs. Moore, and got me in her house.

10 Q Did you furnish your own room ?

A I did.

Q Did you board with Mrs. Moore ?

A I did ; and I went out to work by the day.

Q Did your husband not know where you were ?

A I don't know.

Q Did you never hear ?

A No, sir : as I told you, I had no means at the time, except the money he gave me to go away with.

Q Well, then matters remained in that condition until
20 you applied to Mr. Stone ?

A Yes, sir.

Q Did you go first to the Overseer of the Poor ?

By the Vice Chancellor :

Q Did you have the child with you at this time ?

A I did.

Further cross examined :

Q Did you go first to the Overseer of the Poor ?

A I don't know.

Q When did you first find out about Mr. Stone ?

30 A Mrs. Dr. Colburn said I ought to have something to assist me, and if she were in my place, she would see the authorities about it ; some one said I had better not do that, but had better see Mr. William Kinney and inform him of the circumstances, and that he would use his influence in getting me work or a place, or something, or see that something was done for me.

Q How came you to go to Mr. Stone ?

A Mr. Kinney advised me to go and see a lawyer.

Q You narrated your history to Mr. Stone ?

A I did.

Q You told him you wanted your husband to support you ?

A I did.

Q Did he tell you that before he could do so, you would have to try and go back ?

A I think he did.

Q What did you take Mrs. Anderson for ?

A He told me I had better take some one over there, 10 and then if they would not let me in, my claim would be better.

Q Immediately after you had made the attempt, what did you do then ?

A I don't remember.

Q You went back to Mr. Stone ?

A I did.

Q Did you not have your husband arrested ?

A I presume he was.

Q He was out of town when you went to his mother's ? 20

A I don't know.

Q Did you not know he was arrested as soon as he came back ?

A I don't know.

Q Did you know any thing of the proceeding under which he was arrested ?

A I don't know that I did.

Q Was there a trial between you, before two Justices of the Peace, over the railroad ?

A There was.

30

Q And a jury ?

A Yes, sir.

Q Mrs. Bowlby, immediately after you left your husband did you not communicate to your friends, and to persons with whom you came in contact, your reasons for leaving ?

A I did to a few.

Q Did you mention the disorder you had as one reason ?

A I did.

Q Did you state your belief that he had got that disorder in a wrong way ?

40

A I suppose that there was not any other way.

Q Was not that your general conversation with the persons with whom you talked on the subject of your separation ?

A I talked very little upon that subject, sir.

Q But when you did talk with your friends about it, was not that the reason you gave for your separation ?

A It was one of the reasons.

Q Did you not talk quite freely about it ?

A I did not. I said I would live with him, knowing as
10 much as I did about his character, if he would provide me with a room, with a place to live in.

Q Then that was not one of the reasons for your leaving him ?

A No; it was because he refused to furnish me a room,—a place.

Q To whom did you say you would live with him, but for that ?

A I said it to a number of people. I could not say to who in particular.

20 Q When did you determine to go on that particular day ?

A I don't know.

Q Do you remember what day of the week it was ?

A I do not.

Q You say he gave you money two or three times : do you mean to say it was only two or three times during your married life, that he gave you money ?

A I do.

Q How much did he give you ?

30 A He gave me fifty dollars at one time, and then four dollars, and ten dollars.

Q When ?

A At the time I left.

Q The other times ?

A One time he gave me ten dollars ; I think that was before he went out with his regiment, while he was staying in Trenton, on short furlough ; and he gave me four dollars sometime before that ; I cannot state the time ; and he gave me fifty dollars just before,— I cannot say when he gave me
40 that.

Q The night you saw him at Doctor Osborne's, was it not evening; after dark?

A I think so.

Q How did you come to go there?

A I had been doing work for Dr. Osborne.

Q What work?

A Making shirts.

Q How many did you make?

A I had the last of half a dozen with me.

Q What had you done with the previous ones? 10

A Sent them home?

Q Where?

A To his house; I took them myself; I always took them to his office; I had nothing to do with his wife.

Q You did not send them to the house?

A I transacted all my business with the Doctor.

Q Did his wife know you had this employment from him?

A She did.

Q How do you know? 20

A At one time she was speaking of the work I was doing for them, in his back parlor.

Q You were there once when the two were together?

A I was.

Q You were taking all the shirts to his office?

A I did.

Q Where did you live at that time?

A Union street.

Q Where is his office?

A Just at the corner. 30

Q Where is his house?

A In the same building.

Q What was the name of the Doctor in New York you consulted, as your physician?

A Dr. Scott.

Q How long did the child remain with you, in your care?

A About a year and a half, I think.

Q Until seven years old?

A No, sir.

Q Shortly before—six and one half years? 40

A Yes, sir.

Q Since then the child has been in his custody?

A Yes, sir.

By the Vice Chancellor :

Q How did it come to be transferred?

A By a proposition made by Dr. Bowlby's father.

Q State what that was?

A He said that I was aware that he could take the child at the age of seven, and I told him I was; he said that if I
 10 would let the child go with them—that was in the fall—if I would let her go and spend the winter with them, they would allow her to visit me always; and I should not have any trouble about their taking her from me—to keep her away from me. They had not the child in their possession more than two or three months, before I found I could not see her or have anything to do with her; and since that time, I have not been allowed to see her, or speak with her for ten minutes.

Further cross-examined :

20 Q Was this treatment you underwent in New York, for some disorder you had had previous?

A Yes, sir.

Q How came you to go to a New York doctor?

A Mr. Kinney said I had better; it would be better for me, as they treated it differently, and probably I would get entirely rid of the disease.

Q Which Mr. Kinney?

A The hardware merchant.

By the Vice Chancellor :

30 Q How old were you when you were married?

A Sixteen.

Re-examined :

Q I want you to state some instances, or particulars of the conduct or behaviour, of old Mrs. Bowlby, towards you?

A Upon one occasion I was about to do something with my little girl, when she snatched her out of my arms, and said I had no right to her, and I had no right to do it.

Q What did you propose to do?

A I proposed to change her clothing, and she would not let me do it; and she was going to take her out in the back yard.

Q What else was a cause of disagreement between you?

A She thought I did not know any thing, and told me so a number of times; she told me that her judgment was better than mine, and that I did not think so; we were always contending.

Q Whose fault was it?

10

A A little on both side.

Q You stated that while your husband was in the liquor—or in connection with New York man in the liquor business—in answer to a question by counsel, that your husband was away nearly all the time from the city; what were his habits as to the manner in which he spent his evenings; and habits of coming home and retiring?

A He never was at home at the proper time.

Q When he was not in the army?

A He was nearly always away.

20

Q When you told him, or made him aware of your intention of going away, did he say any thing about the child being taken?

A He said I should not have her.

Q Was any thing said about this on that morning, before you went away?

A No; before, when I talked to him of my intention to go away.

Q Did he, or not, before, consent to the child's going with you?

30

A I don't recollect; I know he allowed me to take her; I said I would not go if he did not.

Q Did you take the bedstead and other articles?

A Yes, sir; he gave them to me.

Q I wish to ask you this, when the Doctor came from the army with that disease, how long after he returned was it the most severe?

A In a few days.

Q Did you and he occupy the same bed while he had that disorder?

40

A Yes, sir.

Q All the time?

A Yes, sir.

Q He stated he isolated himself?

A He did not.

Q And did you occupy the same bed up to the time of the separation?

A Yes, sir.

Q He said, however, there was no intercourse between
10 you?

A That is false.

Q You said that one of the reasons of your leaving— you gave as one of the reasons that your husband had this disorder, and gave it to you?

A Yes, sir.

Q I understood you to say afterwards, in answer to a question put by counsel on the other side, that that was not one of the causes of your leaving?

A It was one of my causes for leaving; but I would
20 have stayed if he would have provided me with a place to live in.

Q You stated that your husband gave you fifty dollars at one time, ten dollars at another, and four dollars at another, in addition to money he paid you when you left; what was that given to you for?

A I really don't know; but part of it went toward buying things for our house that we lived in.

Q If that was the only money he gave you, at whose expense did you clothe yourself?

30 A Well, what I had came through his mother.

Q Did you take in army work while you were living there?

A Yes, sir.

Q What?

A Army work.

Q Why?

A Mrs. Bowlby said I was no better to work for my living than my husband.

Q How long was that before you left?

40 A During his absence in the army; I cannot tell how long.

Q Counsel asked you something about your condition in life, and as to your marriage being secret; was that ever alluded to in your conversation with his mother, or not?

A No, sir, only at one time; I expressed a desire to have something in the way of clothing, and she said I had as much as I had when I came to their house.

Q Did you have all the clothing that you needed?

A I did, sir.

Q What was the general manner of old Mr. Bowlby and wife towards you, while you lived there? 10

Q Well, indifferent as to my comforts; I don't think they ever did any thing to make it pleasant for me.

Q Did they ever do, or say any thing to make it unpleasant for you?

A Well, I thought so; I cannot say exactly the things that were said; there was very little said any way; it was mostly actions.

Q In regard to your return to your father-in-law's house, after you left, did you go merely to overcome a legal difficulty, or intending to stay if they would take you? 20

A I intended to stay if they would take me.

Q Did you go to the Overseer of the Poor, before you went to Mr. Stone's?

A No; I went to see Mr. Stone, and he sent me to the Overseer of the Poor?

Q Who was he?

A I don't know.

Q Where was his office?

A It was on one of those streets up town—in New street.

Q George Taylor? 30

A Yes, sir.

Q Did you ever see your husband after you left there?

A Yes, sir; and spoke to him on one occasion?

Q Where was that?

A On Market street.

Q When?

A I cannot tell you when.

Q What did you say?

A I called him by name.

Q Whereabouts in Market street? 40

A I think between Mechanic; I cannot tell you exactly; it was below Mulberry street.

Q You passed him?

A Yes, sir.

Q Did you speak to him?

A Yes, sir.

Q What did you say?

A I called him by name.

Q Did he stop?

10 A No, sir.

Q That was the only time you ever met him, except in Dr. Osborne's house?

A I have met him once, since this business has been going on, and one or two occasions before that.

Q Ever send him any message?

A Never did.

Q Ever receive any message?

A No, sir.

Q Would you have lived with him if he came after you?

20 A I said a great many times since, it would be very pleasant, if he would do differently, I would live with him; but as long as he refused to take care of me, I could not help it; I would like to live with him, but I should never like to live with him again under the same circumstances.

Q You say you met him in Market street; cannot you tell us exactly how you addressed him?

A I called him by his name, "Will," to stop him.

Q Did he see you?

A He did.

30 Q Take any notice?

A No.

Q Why did you call him by name?

A I don't know; it just came to me; I did it without thinking.

Q How long after that was it you went to his house?

A Oh, a long time; I don't exactly know how long.

By the Vice Chancellor:

Q A year?

A Yes; longer than that.

Further re-examined :

Q Are you ready to live with him now?

A Yes, sir.

Q You have called there to see the child, you say?

A Yes, sir.

Q How many times?

A Two or three.

Q How lately?

A The last time I went, I took a number of birthday presents; at first I was allowed to see my child, and I gave her the choice of a present, and she accepted of one; I purchased the articles, a number of them and they refused me seeing the child that time, telling, in a very disagreeable tone, that they did not want any thing from me.

Q Was the Doctor there all the time?

A I don't know.

Re-cross-examined :

Q Mrs. Bowlby, when you spoke to your husband, in Market street, it was shortly after the law-suit, in the Justice's office?

A I think so.

Q At the time of the law-suit, and before that, and while it was going on, had there not been a great deal of angry feeling between you and your husband?

A No, sir.

Q Had you not made very bitter complaints about him to his friends, and persons that he knew?

A I did not any more so, than I should at this time; I felt the same then as now.

Q Did you not, in fact, go to his friends and tell your story, and endeavor to prejudice them against him?

A Never; if I meet his friends, I would say the same things as I say now.

Q Mrs. Bowlby, you say you would be willing to live with him on certain conditions; but you would not be willing to live in the old condition, as you lived before?

A Oh, yes, I will live with him.

Q Then you would be willing to go back, just as you were before?

A Yes, sir.

Q Have you ever said that before?

A I have.

Q When you asked him, while living at your father-in-law's, to give you another place to live, did he not tell you that his means would not permit him to occupy a house, or to board?

A He did say so.

Q You say that their disagreeable attacks towards you, 10 were mostly in actions; what actions? Now describe them, so that we may understand how it was?

A If you could tell me how, I would.

Q If I knew how, I would try and tell you.

A Well, I don't know; I can scarcely describe them to you, but I felt it.

Q Can you tell us of something; some outward thing they did, that made it so disagreeable?

A No, sir.

Q You cannot remember any particular thing?

20 A I stated one.

Q What? that about the child?

A Yes, sir; it was principally about her, we had these differences.

Q You say they were indifferent as to your comfort?

A My husband would order me food, such as I should eat at times when I was being treated for this disease; but they fed me on salt food, such as they ate; I don't know that they refused to do it; but they did not do it.

Q How came she to speak to you about your being no 30 better to work for your living, than your husband?

A I expressed a wish to have some articles of clothing, and she then said I was no better to work for my living, than he was to do it for me.

Q Then you got some army work?

A Yes, sir.

Q How much?

A I could not say.

Q Did you not do that for the purpose of offending the old people?

40 A I did not.

Q Did not they object?

A No; they advised me to do it.

Q How much did it amount to altogether?

A Not more than six dollars.

Q That was while he was in the army?

A Yes, sir.

Q Did he know anything about it?

A I don't know that he ever knew anything about it.

By the Vice Chancellor:

Q Did you correspond by letter?

10

A I never had one word from him while he was there.

Further re-cross-examined :

Q Did you write to him?

A I did not; I had no address; because I was very nervous in signing my statement, you think I could not write.

(Such intention disclaimed.)

Q I ask you if you knew the regiment he was connected with?

A I presume I did.

Q Regiments don't stay long in one place in the army; 20
you could have communicated with him?

A If it had been his wish I could.

Q If it had been *your* wish you could?

A I did not wish to do what my husband did not want me to do.

Q He never did anything to cause you to think he did not care for you?

A His general treatment of me was such as to cause me to think so; I am not aware that we had any actual quarrels; he came in and went out as usual, and I found no fault 30
with him; I did the work he desired me to do for him, and we each went on our own way.

Q But you fancied he had no affection for you?

A I don't believe he has, sir.

Q How long after your marriage did you come to that conclusion?

A After his return to New York city.

Q What do you mean?

A To his second course of lectures.

Q When were you married ?

A During his second course.

Q Then you remained at Mrs. Ells' until he came back ?

A No ; we were married the last month of his second course, and then he left for his home, and left me at mine, and I heard from him occasionally while he was at his home, and he returned for me at the stated time.

Q Did he come where you were living ?

10 A He took me to his home.

Q Was it at that time you thought he had no affection ?

A No, sir ; not until after we had lived together.

Q Well, how long was it before you came to that conclusion ?

A I lived with him from May until the fall months at his father's, here in Newark, and then he returned to New York in the fall to take his last course of lectures, and it was at that time I discovered that he did not care for me, and treated me with no deference to my comforts and necessities.

20 Q From that time to your separation, that state of feelings existed between you ?

A Yes, sir.

Defendant's counsel also called—

Mrs. SALINDA BOWLBY, sworn :

Q Where was your son at the time Mrs. Dr. Bowlby called, with Mrs. Anderson, at your house ?

A I don't know, sir ; he was not at home.

Q How soon did he return ?

30 A I don't know.

Q Did you ever tell him about her calling there ?

A Yes, sir.

Q What did he say ?

A Not anything ; and afterwards his trial came on—I don't recollect how it was.

Q Was he willing that she should come home ?

A I did not ask him.

Q Did you hear him say ?

A I did not hear anything.

Q Did he ever express a desire to live with his wife again, if she was willing to come and live with him? you told him his wife came there, and spoke about her?

A I did; she said she was advised to come according to law, and that she came there very much against her feelings.

Q Did he say anything?

A I don't recollect what he did say.

Q Why did you refuse Mrs. Bowlby access to the child?

A I did not refuse her access; I always, when she called, 10
let her see the child.

Q Always?

A Always when I went to the door.

Q Did you not send Mr. Bowlby to the door?

A I did not.

Q Did he not go to the door?

A I don't know.

Q Did he not refuse her access to her child?

A I don't know.

Q Mr. Bowlby is your husband? 20

A Yes.

Q You live in the house together?

A Yes, sir; but did not always stay together.

Q Sometimes, at least on one occasion when she called, you were present, in the house?

A I was.

Q Did you never hear of her calling?

A Afterwards.

Q Who told you?

A My husband. 30

Q What did he say?

A Not anything; only that she called.

Q What did he tell her?

A I don't know.

Cross-examined:

Q Mrs. Bowlby, Mrs. Dr. Bowlby said that she asked you for some necessary article of dress, and you replied that she was no better to work for her living than her husband was, and consequently she took in army work; state the circumstances about that? 40

A I have no recollection, any more than I know one of my brothers, they were taking in army work, and she went to them and asked them to let her have some; I saw my sister-in-law and said, I don't want you to let her have it; and I said to Mrs. Bowlby, I says, "Liz., what's the use of you taking in work—you are having every thing comfortable, and besides," I says, "it is very uncalled for; it keeps a great muss and dirt around the house;" and I done every thing I could that she should not take it, but she would
10 take it.

Q She says that you were indifferent of her comfort in this respect; that when the doctor ordered special cookery for her, you neglected, or did not furnish her with it, but fed her upon salt meat, such as the family had?

A I don't recollect any thing about it; she had money; my husband told her that he would give her money for any thing she wanted, separate from us.

Q Did you refuse to provide her with the things your son had directed she should be provided with during her sickness?
20

A No, sir.

Q Did she ever complain that she did not have the things to eat, which were recommended for her?

A No, sir.

Q Were you aware she had a complaint of that character?

A No, sir; I never heard of it—not a word of it; I always done every thing I thought was for her comfort.

Re-examined :

30 Q Did she say why she took that army work?

A She never told me.

Q Did you ever ask her?

A I don't think I ever asked her.

Q You heard the remark that she attributed to you?

A I heard it; but never heard anything of the kind before; she always said she would rather live with me.

Q You never had any quarrel together?

A No.

Q Did you ever have any difficulty about the discipline
40 of the child?

A Never; I never took the child out of her arms, although I used to think she corrected it too severely.

Q You say that what she said upon the stand, about the difficulty between herself and you, about the child, is untrue?

A Yes, sir; the child had the scarlet fever, and she was going to wash it, and I told her she must not wash it.

Q Did not Dr. Bowlby, while his wife was afflicted with this disorder, request you to give her a kind of food different from that which the family had?

10

A I don't recollect anything of the kind?

Re-cross-examined:

Q She spoke about one occasion when you wanted to take the child out, and she objected to it; just state what this was?

A One day the child was crying, and I told her to be quiet, and when her mother came in she should go out in the yard with me; her mother came in and asked me what I was going to do with the child; I said, "Take her out in the yard with me;" she said, "You aint going to do it;" "Why not?" says I; "The sun's too warm," she says, "it will make her sick;" I says, "It will not hurt her;" she says, "You take her if you dare," and she shook her fist at me; I made no reply, but took her out with me.

Q Then you did disobey her?

A Yes; but this was the only time I disobeyed her orders.

Adjourned until Friday morning, December 12th, 1873, at eleven o'clock.

In Chancery of New Jersey.

BOWLBY,

vs.

BOWLBY.

} *Opinion.*

MR. LEONARD and MR. McCARTER, *for Complainant.*

MR. TAYLOR, *for Defendant.*

THE VICE CHANCELLOR :

I must advise in this case that the complainant's bill be dismissed with costs. He sues for a divorce from his wife
 10 on the ground of desertion. A separation has existed between them since the month of March, 1867. She left in that month, the house of his parents where he lived, but it is clear from the evidence, that the continuation of the separation then begun is chargeable to him, more than to her. Whether the beginning of the separation was not by his consent and by his aid, is a question in respect to which the evidence is conflicting. She swears that it was, and he swears that it was not. They were both examined as witnesses before me, and, after hearing and considering their testimony
 20 in connection with the other evidence, I am quite unable to say that his testimony is entitled to more weight than hers. But the relative weight or credibility of their testimony on this point may be allowed to go undeclared, because I cannot doubt that, assuming the separation to have been begun, without his express consent, and without such legal reasons for it as would have enabled her to obtain a decree of divorce against him, yet his subsequent conduct shows that

he concurred in the separation, and did in fact make it compulsory against her. His omission to do any thing whatever to invite, or encourage, or permit her to return, was manifestly due to his purpose to have her absence become a cause for divorce. All the circumstances point to this conclusion, not the least of which, is the fact that a few weeks after she left him, she went back under the pressure of poverty and the wants of her child, as well as her own, to the complainant's home at his father's, and sought admission in vain. He was not there, but his mother met her at the door, and his mother's conduct and words were in effect a refusal to give her admission; and the fact that this attempt of his wife to return to him became known to him that evening, or shortly after, and his practical approval and adoption of his mother's refusal by acquiescing in it, must prevent him, aside from other features of the case, from successfully maintaining that her absence has been on her part, a desertion. Whether it has been a desertion on his part, need not now be considered. This view of the case is the most favorable to the complainant that the evidence admits of, and I adopt it in advising the decree mentioned above.

The parties were married in New York, in February, 1861. He was attending lectures as a student of medicine, and boarding in the family of a widow who had adopted the defendant when an orphan of five or six years. The defendant was a member of the family at her marriage, and about sixteen years old. The complainant's age does not appear from the testimony, but is manifestly much greater than his wife's. The marriage was private and not disclosed to their friends till weeks afterwards, when he took her to his father's in Newark, in whose house she remained, with the exception of a few months, till the time of the separation, in 1867. Her situation of dependence was not agreeable to her feelings; and while no contentions or differences of importance appear to have arisen between her mother-in-law and herself, it is plain that their association did not conduce to the happiness of either. The mother testifies to the defendant's temper, that it was variable and capricious, but no serious misconduct is alleged, nor does the defendant allege any against the mother. There was a lack of sympathy

between them, and a lack of complacency in the mother with her son's marriage. The suggestion occurs in the case that the defendant was a servant at the time of her marriage, but if true, it could hardly add any thing to the merits of his case, and does not appear to be true.

So far as inferences can be drawn from the defendant's testimony and demeanor as a witness, there is no disparity between the parties unfavorable to her in respect to either intelligence or culture, nor anything to indicate an inequality of social positions. In 1862 the complainant joined the army as an assistant surgeon, and was in at the close of the war. After his return he was infected with the venereal disorder, which he communicated to his wife and child, and which she testifies was one of the reasons of the separation. Much of the testimony on his side relates to this disorder, and is to prove that the existence of it in himself was not due to his criminal conduct. The presumptions and proofs are adverse to him on this point; but he swears to his innocence in positive terms, and I accept his testimony in regard to it as true. But accepting it as true, and admitting the allegations of the answer against him not to be established by the proofs, the case is yet clearly against him. The sickening calamity thus brought on his wife entitled her to consideration from the complainant widely different from that which he seems to have conceived to be her due. She was not cured, she says, till several months after she had left him. He says she was cured when she left; but whatever her true state then was, it is certain that her nerves were unsettled and her constitution affected by a loathsome disease communicated by him. It need not be said that he was bound to exercise corresponding forbearance, not to say kindness in his care and protection of her. He was bound under all the circumstances of her leaving to look after her and not abandon her to the consequences of her mistake, if mistake she committed. The evidence showing these circumstances in detail need not be presented in this opinion. My judgment is that there is an entire failure to make out what the statute describes as a wilful, continued and obstinate desertion. Wilful in the first instance it may be conceded to have been, under the favorable view I assume for the complainant.

Obstinate it was not, because not persisted in against effort or influence on his part to bring it to an end. On the contrary, he repelled her advances. His excuse is that she had complained to her friends, after leaving him, of the disease she had taken from him, and had charged him with cruelty and the offences alleged in her answer; but he did nothing when he found her gone to bring her back before these complaints could be made, and he had given too much occasion for them to justify this excuse or make it available in his defence.

10

The charges of cruelty and adultery contained in the answer, may as before stated, be admitted not to be established by the proofs. Desertion or separation by the wife may be excused on grounds short of those which would be sufficient on her side to obtain a divorce. In *Cornish vs. Cornish*, 8 C. E. G., 208, it was held that where the husband has not made the advances or concessions which a just man ought to make to put an end to his wife's desertion, induced though not justified by his conduct to her, the desertion, though wilful and continued, is not obstinate. This rule is 20 in accordance with previous decisions in this Court by the late Chancellor and his predecessors, and applied to this case disposes of it against the complainant, and makes it unnecessary to discuss or decide other controverted points presented by the pleadings and proofs.

In Chancery of New Jersey.

<p><i>Between</i> WILLIAM W. BOWLBY, <i>Complainant,</i> <i>and</i> ELIZABETH BOWLBY, <i>Defendant.</i></p>	}	<p><i>On Bill for Divorce. Decree.</i></p>
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This cause having been referred to the Vice Chancellor, and coming on to be heard before him at his Chambers, in the city
 10 of Newark, on the third day of December, eighteen hundred and seventy-three, in the presence of counsel of the respective parties, and the pleadings having been read, the evidence adduced by the respective parties, heard and considered, and counsel having been heard thereon, and the Vice Chancellor, upon consideration of the premises, being of the opinion that the allegations of the bill are not sustained, and that the bill should be dismissed, and having advised the Chancellor accordingly,

It is thereupon, on this twenty-second day of January, in
 20 the year eighteen hundred and seventy-four, ordered, adjudged and decreed by his Honor, the Chancellor, that the said bill be dismissed, with costs to be taxed.

And it is further ordered, that the said complainant do continue to pay to the said defendant, the sum of six dollars per week, at the termination of each and every week, as heretofore ordered, for the maintenance and support, until the further order of the court in the premises.

It is further ordered, that the said defendant be permitted to have access to, and visit her child in the said bill named,
 30 and in the custody of the said complainant, and to remain

with, and enjoy, without molestation or hindrance, of said child, between the hours of nine o'clock in the forenoon and twelve o'clock, noon, every Saturday; or take the said child to her (the defendant's), temporary residence, at or after nine o'clock in the forenoon of every Saturday, and to have and retain the custody, and enjoy the society of said child, until an hour not later than six o'clock in the afternoon of such day, at or before which hour she is to return the said child to the custody of the complainant.

And it is further ordered, that either party may apply to 10 this Court for any modification of the order herein made, in relation to the custody of said child.

THEODORE RUNYON, C.

I respectfully advise the above decree.

January 26, 1874.

AMZI DODD, V. C.

A true copy:

H. S. LITTLE, *Clerk.*

and keep, without interruption, in the afternoon and
and between the hours of nine o'clock in the forenoon and
between six o'clock and eight o'clock in the afternoon;
and to her, the defendant, temporary residence at or about
five o'clock in the forenoon of every Saturday, and to have
and retain the custody and enjoy the society of said child
until an hour not later than six o'clock in the afternoon of
each day, at or before which hour she is to return the said
child to the custody of the complainant.

And it is further ordered, that either party may apply to
the Court for any modification of the order herein made, in
relation to the custody of said child.

THEOPHILUS R. WYOM, C.

I respectfully advise the above decree.

January 28, 1874.

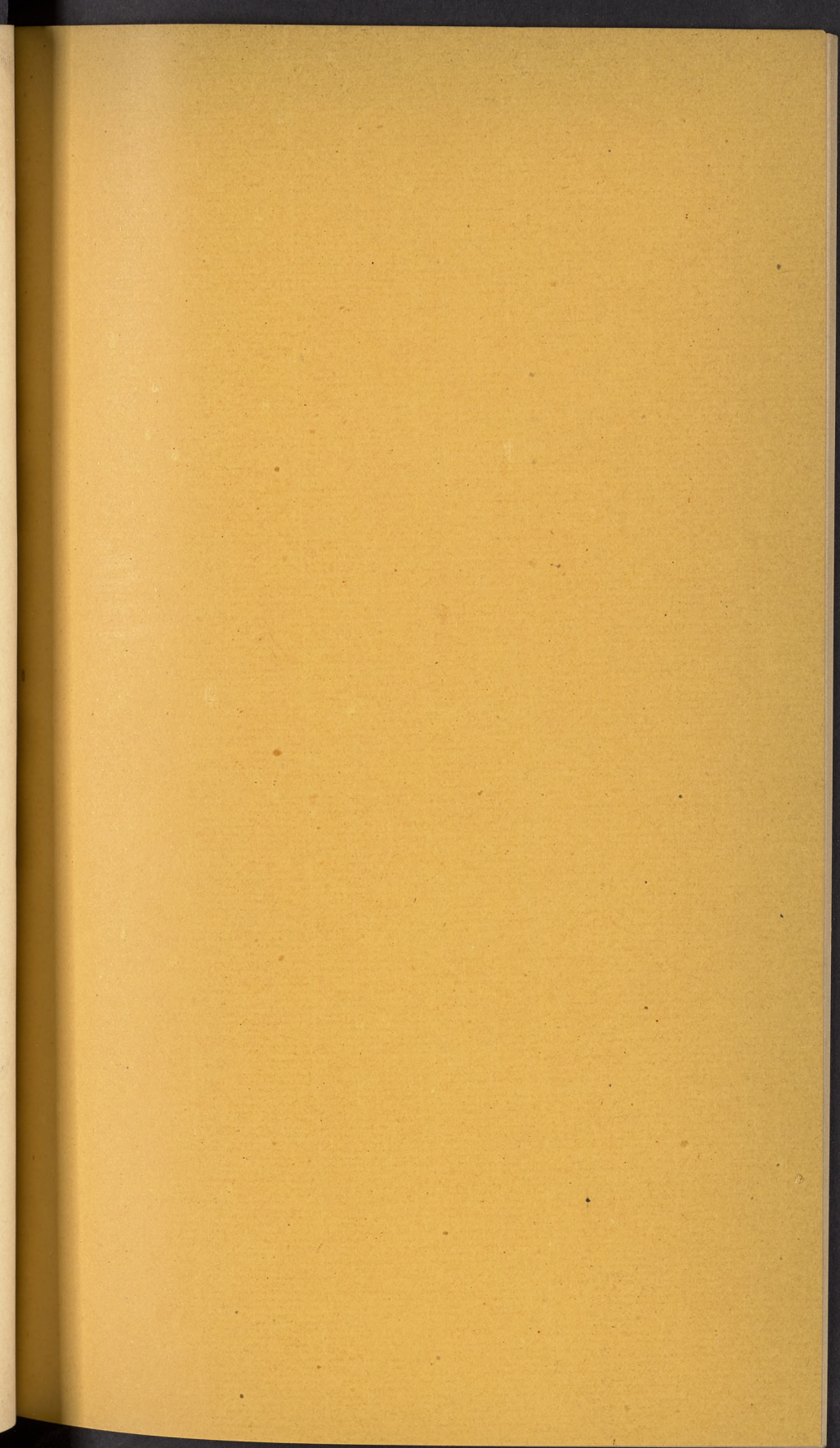
ANNI DORR, N. C.

A true copy:

H. S. LITTLE, Clerk.

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