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Notice of Deposit of Security.

In Chancery of New Jersey

67/47

10

*Between*

STELLA AMBROSE,  
Petitioner,

*and*

JOHN W. AMBROSE,  
Defendant.

On Petition, Etc.  
Notice of  
Deposit of  
Security.

20

*To Rene P. F. VonMinden, Esq.,  
Solicitor for Defendant:*

PLEASE TAKE NOTICE that we have this day filed in the Court of Chancery of New Jersey, \$100.00 as security for costs on appeal in the above matter.

Dated December 6th, 1929.

30

LEVENSON, COMEN & LEVENSON,  
Solicitors for Petitioner.

40

**Petition.**

## IN CHANCERY OF NEW JERSEY.

*To his Honor, Edwin Robert Walker, Chancellor  
of the State of New Jersey:*

10 The petition of Stella M. Ambrose, of the City  
of Jersey City, County of Hudson, and State of  
New Jersey, respectfully shows :

1. Your petitioner was lawfully joined in the  
bonds of matrimony to her present husband, John  
W. Ambrose, the defendant in this suit, on the 2nd  
day of September, 1917, by the Reverend Snud-  
rowsick, at Jersey City, New Jersey.

20 2. Petitioner and defendant cohabited together  
at Arbor, in the County of Middlesex, and State  
of New Jersey, from the time of their marriage  
until the middle of May, 1927, when she was com-  
pelled to separate from defendant finally because  
of his extreme cruelty of her as hereinafter set  
forth. Almost from the beginning of her married  
life, her husband treated her unkindly, and she  
was the subject of his ungovernable temper and  
vile language. On numerous occasions he fell into  
a rage and struck her, threw various objects at her,  
and told her to get out of the house and stay out.

30 On the 5th of May, 1927, the defendant flew into  
a violent rage, cursed at the petitioner, and choked  
and assaulted her, severely injuring and wound-  
ing her, making it necessary for her to have med-  
ical attention, she being attended by Doctor Bas-  
sett, at which time defendant drove the petitioner  
and her two children out of the house. During the  
long course of abuse to which petitioner was sub-  
jected, she became nervous and ill, and was ren-  
dered unfit to discharge her duties as a wife, yet  
40 she continued to live with her husband, trusting  
that she might regain his love, and reclaim him

*Petition.*

to a sense of duty, until the last day mentioned, when it appearing that further cohabitation with defendant must be attended with grave danger to her life, and being in great fear, anguish and discomfort, she left the defendant's house on said day, since which time she has lived apart from the defendant, who has never sought her to return to him. Defendant, by the true intent and meaning of the statute in such case made and provided, has, ever since the 5th day of May, 1927, wilfully, continued and obstinately deserted your petitioner. 10

3. Petitioner and defendant were bona fide residents of the State of New Jersey when this action arose, and have ever since, and for more than two years next preceding the commencement of this action continued to be such residents. 20

4. Petitioner has no means of support except from her own exertions; two children were born of the marriage aforesaid, to wit, Helen Ambrose, age 9 years, and Evelyn Ambrose, age 4 years; that said children are in the custody of the petitioner and are now supported by her.

Your petitioner prays that the marriage between your petitioner and the defendant may be dissolved for the cause aforesaid, according to the statute in such ———— made and provided; and that the defendant may be compelled by the decree of this Honorable Court to support her and the said infant children of the marriage, and that she may be awarded the custody of said children; and that she may have such further relief as may be just. 30

And your petitioner will ever pray, etc.

ROBERT NEWTON CRANE, 40  
Solicitor of Petitioner.

*Petition.*

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

10      STELLA M. AMBROSE, being duly sworn according to law, upon her oath deposes and says, that she is the petitioner named in the foregoing petition; and that her said petition is not made by any collusion between her and the defendant, but in truth and good faith, for the causes set forth in the petition.

STELLA M. AMBROSE.

Sworn and subscribed to before me }  
 this 21st day of January, A. D. 1928. }

20      (L. S.) CHAS. J. DONOHUE,  
           Notary Public of New Jersey.  
 Comm. expires June 2, 1930.

A true copy.

FERD GARRETSON,  
 Clerk.

30

40

## Description.

IN CHANCERY OF NEW JERSEY.

67/47

*Between:*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.On Petition for  
Divorce.  
Description.

10

*To William S. Hannah, Esq., Sheriff of Middlesex  
County.*

20

*Sir:*

With the citation and certified copy of petition in the above entitled cause, I herewith deliver to you the following description of John W. Ambrose, the defendant, upon whom service of process is to be made, viz.:

Age—37 years.

Residence—Arbor, Middlesex County, New Jersey, with brother, Joseph Ambrose.

Occupation—Proprietor of Ambrose's Garage,  
Arbor, N. J. 30

Dated January 30, 1928.

Respectfully,

ROBERT NEWTON CRANE,  
Solicitor of Petitioner.

A True Copy.

FERD GARRETSON,  
Clerk.

40

*Description.*

NEW JERSEY, to-wit: The State of New Jersey to John W. Ambrose, GREETING: You are hereby cited to answer the petition of Stella M. Ambrose, a copy of which petition is herewith served upon you, by filing your answer in writing in the office of the Clerk of the Court of Chancery at Trenton, within twenty days after the 10th day of February, 1928; and in default of your so doing such order or decree will be made against you as the court shall think equitable and just.

WITNESS, his Honor Edwin Robert Walker, Chancellor of our said State, at Trenton, the 28th day of January, 1928.

THOMAS BARBER,  
Clerk.

A True Copy.

FERD GARRETSON,  
Clerk.

ROBERT NEWTON CRANE,  
Solicitor.

30

40





**Affidavit of Inquiry.**  
 IN CHANCERY OF NEW JERSEY.  
 (64/47)

*Between*

STELLA M. AMBROSE,  
 Petitioner,

*and*

JOHN W. AMBROSE,  
 Defendant.

On Petition for  
 Divorce.

Affidavit of  
 Inquiry.

10

STATE OF NEW JERSEY }  
 COUNTY OF UNION } ss.:

ROBERT NEWTON CRANE, being duly sworn according to law, upon his oath deposes and says:

20

1. I am the solicitor of the petitioner herein. That before the delivery of process to the sheriff in this matter, I inquired of the petitioner as to the defendant's age, residence and occupation. She informed me that her husband was 37 years of age, resided with his brother, Joseph Ambrose, at Arbor, in Middlesex County, State of New Jersey, and by occupation was a garage keeper. I am satisfied that the above facts were fully and personally known to the petitioner.

30

2. Thereupon I delivered the citation and certified copy of the petition, together with description of defendant, to the Sheriff of the County of Middlesex.

ROBERT NEWTON CRANE.

Sworn and subscribed to }  
 before me this 3rd day }  
 of March, 1928. }

(LS) ELIZABETH HOGAN  
 Notary Public of N. J.

40

A true copy.

FERD GARRETSON  
 Clerk.

**Affidavit.**

## IN CHANCERY OF NEW JERSEY.

10	<p><i>Between</i></p> <p>STELLA M. AMBROSE, Petitioner,</p> <p style="text-align: center;"><i>and</i></p> <p>JOHN W. AMBROSE, Defendant.</p>	}	<p>On Petition for Divorce.</p> <p>Affidavit.</p>
----	--	---	---

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

20 STELLA M. AMBROSE, being duly sworn according to law, upon her oath deposes and says:

1. That she is the petitioner in this cause. Her husband, John W. Ambrose, the defendant in this suit, is 37 years of age, and by occupation is a garage keeper. He resides at Arbor, in the County of Middlesex, State of New Jersey, with his brother Joseph Ambrose.

STELLA M. AMBROSE.

30 Sworn and subscribed to }  
 before me this 21st day }  
 of January, 1928. }

(LS) CHAS. J. DONOHUE,  
 Notary Public of New Jersey.  
 Com. expires June 2, 1930.

A true copy.

FERD GARRETSON  
 Clerk.

**Designation.**

IN CHANCERY OF NEW JERSEY.

67/47

*Between*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.On Petition for  
Divorce. 10  
Designation.

This matter having been, by order of the Chancellor dated the 2nd day of May, 1928, referred to Honorable Malcolm G. Buchanan, one of the Vice-Chancellors of this Court, to hear the same for the Chancellor, and to report thereon to him and advise what order or decree should be made therein, and application having been made for an order designating the time and place of said hearing; 20

It is, on this twenty-ninth day of May, 1928, on motion of Robert Newton Crane, Solicitor of the Petitioner, ORDERED that Thursday, the sixth day of December, 1928, at the Chancery Chambers at the Court House in the City of Elizabeth at 10:30 o'clock A. M. (Daylight Saving Time) be and the same is hereby designated as the time and place for the hearing of the above stated cause. 30

MALCOLM G. BUCHANAN,  
V. C.

I hereby consent to the making and entry of the foregoing order.

RENE P. F. VON MINDEN,  
Solicitor of Defendant.

A True Copy.

FERD GARRETSON,  
Clerk. 40

## Order of Reference.

IN CHANCERY OF NEW JERSEY.

67/47

10

*Between*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.On Petition for  
Divorce.Order of  
Reference.

20 This matter being opened to the Court by Robert Newton Crane, Solicitor and of counsel with the petitioner, and upon the written consent of R. P. F. Von Minden, Esquire, Solicitor and F. J. Blatz of counsel with the defendant;

IT IS, on this 2nd day of May, A. D., 1928, ORDERED that the above entitled matter be referred to the Honorable M. G. Buchanan, one of the Vice-Chancellors of this Court, to hear and report and determine what order or decree should be made in the premises.

30

E. R. WALKER,  
C.

I consent to the making and entry of the foregoing order.

RENE P. F. VON MINDEN,  
Solicitor of Defendant.

A True Copy.

40

FERD GARRETSON,  
Clerk.

**Memorandum.**

IN CHANCERY OF NEW JERSEY.

67/47

*Between*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.

10

Memorandum.  
(Not to Be  
Printed.)

ON FINAL HEARING.

20

BUCHANAN, V. C.

The wife petitions for divorce, alleging extreme cruelty. She testifies to three acts, only of physical violence in a period of three years. The first two the husband denies. The third he does not deny, but says it was provoked by a physical attack on him by the wife. This she denies. Neither is corroborated. I find the allegations of the petition not sufficiently proven. The petition will be dismissed.

30

A true copy.

FRED GARRETSON,  
Clerk.

40

**Notice of Hearing.**

IN CHANCERY OF NEW JERSEY.

(67/47)

10

*Between*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.On Petition for  
Divorce.Notice of  
Hearing.*Sir:*

20

TAKE NOTICE that Honorable Malcolm G. Buchanan, the Vice Chancellor to whom, the above-entitled matter has been referred for hearing by the Chancellor, has fixed Thursday, December 6th, 1928, at 10:30 o'clock in the forenoon of that day, as the time, and the Chancery Chambers at the Court House in the City of Elizabeth, New Jersey, as the place for the hearing of the above-entitled matter.

Dated June 6, 1928.

30

Respectfully yours,

ROBERT NEWTON CRANE,  
Solicitor of Petitioner.

To:

RENE P. F. VON MINDEN, Esq.,  
Solicitor of Defendant,  
Park Avenue,  
Plainfield, N. J.

A true copy.

40

FERD GARRETSON  
Clerk.

### Amended Petition.

#### IN CHANCERY OF NEW JERSEY.

*To His Honor, Edwin Robert Walker, Chancellor  
of the State of New Jersey.*

The amended petition of Stella M. Ambrose of  
the City of Jersey City, County of Hudson, and 10  
State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the  
bonds of matrimony to her present husband, John  
W. Ambrose, the defendant in this suit, on the  
2nd day of September, 1917, by the Reverend  
Snudrowsick, at Jersey City, New Jersey.

2. Petitioner and defendant cohabited together  
at Arbor, in the County of Middlesex, State of 20  
New Jersey, from the time of their marriage until  
the 5th day of May, 1927, when she was compelled  
to separate from defendant finally because of his  
extreme cruelty to her as hereinafter set forth.  
Almost from the beginning of her married life  
her husband treated her unkindly, and she was the  
subject of his ungovernable temper and vile lan-  
guage. On numerous occasions he fell into a vio-  
lent rage and struck her and threw various ob-  
jects at her and told her to get out of the house  
and stay out. In September, 1925, while having 30  
a dispute with the petitioner as to who should  
have the family automobile, defendant pointed a  
loaded revolver at her and threatened to kill her.  
About the middle of October, 1926, he complained  
because he said that she was going out too much,  
and he beat and struck her in the stomach with a  
box filled with five pounds of candy, severely in-  
juring and hurting the petitioner. Almost daily  
he fell into a violent rage and cursed and swore  
at her and accused her of wrongdoing with other 40

*Amended Petition.*

men. On May 5th, 1927, the defendant flew into a rage and choked petitioner, and threw a flower pot at her, striking her in the side, which rendered her unconscious, making it necessary for her to have medical attention, she being treated by Dr. Bassett, at which time defendant drove petitioner and her two children from the house. During the long course of abuse to which petitioner was subjected, she became nervous and ill and was rendered unfit to discharge her duties as wife, yet she continued to live with her husband, for her children's sake, until the last day mentioned, when it appearing that further cohabitation must be attended with grave danger to her life, and being in great fear, anguish and discomfort, she left the defendant's house, since which time she has lived apart from the defendant, who has never sought her to return to him. Petitioner says that this petition was filed six months from the date of the last act of cruelty complained of.

3. Petitioner and defendant were bona fide residents of the State of New Jersey when this action arose and have ever since, and for more than two years next preceding the commencement of this action continued to be such residents.

4. Petitioner has no means of support except from her own exertions; two children were born of the marriage aforesaid, to wit, Helen Ambrose, age 9 years, and Evelyn Ambrose, age 4 years; that said children are in the custody of the petitioner and are now supported by her.

Your petitioner prays that the marriage between your petitioner and the defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided; and that the defendant may be compelled by the decree of

*Amended Petition.*

this Honorable Court to support her and the said infant children of the marriage, and that she may be awarded the custody of said children; and that she may have such further relief as may be just.

And your petitioner will ever pray, etc.

ROBERT NEWTON CRANE,  
Solicitor of Petitioner.

10

STATE OF NEW JERSEY }  
COUNTY OF UNION } ss.:

STELLA M. AMBROSE, being duly sworn according to law, upon her oath deposes and says, that she is the petitioner named in the foregoing amended petition; and that her said amended petition is not made by any collusion between her and the defendant but in truth and good faith for the causes set forth in the petition.

20

STELLA M. AMBROSE.

Sworn and subscribed to }  
before me this 9th day }  
of April, A. D. 1928. }

30

(LS) ELIZABETH HOGAN,  
Notary Public of New Jersey.

A true copy.

FERD GARRETSON  
Clerk.

40

**Answer to Amended Petition.**

IN CHANCERY OF NEW JERSEY.

67/47

10

*Between*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.On Petition for  
Divorce.Answer to  
Amended  
Petition.

20 The answer of John W. Ambrose, defendant, to the amended petition of Stella M. Ambrose, petitioner, respectfully shows:

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

30 2. This defendant denies that he ill-treated, abused, or was cruel to the petitioner, as is alleged in the petition, and he further denies that he willfully, continuedly and obstinately deserted the petitioner, but, on the contrary, has requested her to return to him, which she has failed and refused to do.

3. This defendant admits it to be true that the petitioner was a bona fide resident of this State, when this supposed cause of action arose, as alleged in the petition.

40 4. This defendant admits it to be true that two children were born of his marriage aforesaid, whose names and ages are stated in the petition. The defendant admits that the petitioner has the

*Answer to Amended Petition.*

custody of the said children, and that they are being supported by the petitioner, but this defendant states that he has endeavored to contribute towards the support and maintenance of the said children, and that the petitioner has refused to accept any funds from the defendant.

This defendant prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained. 10

JOHN W. AMBROSE,  
Defendant.

RENE P. F. VON MINDEN,  
Solicitor of Defendant.

A true copy.

FERD GARRETSON,  
Clerk.

20

**Answer.**

IN CHANCERY OF NEW JERSEY.

67/47

*Between*

STELLA M. AMBROSE,  
Petitioner,

*and*

JOHN W. AMBROSE,  
Defendant.

On Petition  
for Divorce.  
Answer.

30

The answer of John W. Ambrose, Defendant, to the petition of Stella M. Ambrose, Petitioner, respectfully shows: 40

*Answer.*

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

10 2. This defendant denies that he ill-treated, abused or was cruel to the petitioner, as is alleged in the petition, and he further denies that he wilfully, continuedly and optionally deserted the petitioner, but on the contrary has requested her to return to him, which she has failed and refused to do.

3. This defendant admits it to be true that the petitioner was a bona fide resident of this state, when this supposed cause of action arose, as alleged in the petition.

20 4. This defendant admits it to be true that two children were born of his marriage aforesaid, whose names and ages are stated in the petition. The defendant admits that the petitioner has the custody of the said children, and that they are being supported by the petitioner, but this defendant states that he has endeavored to contribute towards the support and maintenance of the said children, and that the petitioner has refused to accept any funds from the defendant.

30 This defendant prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

JOHN W. AMBROSE,  
Defendant.

RENE P. F. VON MINDEN,  
Solicitor of Defendant.

A true copy.

40 FERD GARRETSON,  
Clerk.

## Decree.

IN CHANCERY OF NEW JERSEY.

67/47

*Between*STELLA M. AMBROSE,  
Petitioner,*and*JOHN W. AMBROSE,  
Defendant.

10

On Petition  
for Divorce.  
Decree.

This cause coming on to be heard before this Court and in the presence of Robert Newton Crane, of Counsel with the petitioner, and Rene P. F. Von Minden and Francis J. Blatz, of Counsel with the defendant, whereupon, and upon duly considering the petition of petitioner and answer of defendant, and the evidence offered to sustain the allegations thereof.

20

It is, thereupon, on this twenty-fourth day of December, 1928, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, that the petitioner's petition be dismissed.

30

Respectfully advised,

E. R. WALKER,  
C.MALCOLM G. BUCHANAN,  
V. C.

A true copy:

FERD GARRETSON,  
Clerk.

40

**Notice of Appeal.**

IN CHANCERY OF NEW JERSEY

10	<i>Between</i> <div style="text-align: center;">           STELLA AMBROSE,            Petitioner,    <i>and</i>            JOHN W. AMBROSE,            Defendant.         </div>	<i>On Petition for            Divorce.            Notice of            Appeal.</i>
----	---	--

20 The Petitioner, Stella Ambrose, hereby appeals from the final decree made in the above entitled cause on the 26th day of December, 1928, and from the whole and every part thereof, to the New Jersey Court of Errors and Appeals in the Last Resort in All Causes.

Dated December 28th, 1928.

ROBERT NEWTON CRANE,  
 Solicitor for and of Counsel with  
 Petitioner, Stella Ambrose.

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

ROBERT NEWTON CRANE,  
 Of Counsel with the Petitioner,  
 Stella Ambrose.

The decree appealed from was made by Walker, C., on the advise of Buchanan, V. C.

A true copy:

40 FERD GARRETSON,  
 Clerk.

*Notice of Appeal.*

STATE OF NEW JERSEY, }  
 COUNTY OF UNION, } ss.:

CHARLES MCGINLEY, being duly sworn according to law, upon his oath deposes and says: That he is a clerk in the office of Robert Newton Crane, solicitor of the appellant; that on January 7, 1929, I served a copy of the within Notice of Appeal on Rene P. F. Von Minden, solicitor for the respondent, by leaving the same with the clerk in charge of his office at #203 Park Avenue, Plainfield, N. J., and informing her of the contents thereof. 10

CHARLES MCGINLEY.

Sworn and subscribed to before me }  
 this 8th day of January, 1929. } 20

ELIZABETH HAGAN,  
 Notary Public of N. J.

(L. S.)

A true copy.

FRED GARRETSON,  
 Clerk. 30

**Petition of Appeal of Stella Ambrose.**

NEW JERSEY COURT OF ERRORS  
AND APPEALS.

10

STELLA AMBROSE,  
Appellant,

*vs.*

JOHN W. AMBROSE,  
Respondent.

On Appeal  
from Court of  
Chancery.

Petition of  
Appeal of Stella  
Ambrose.

20

*To the Honorable the Court of Errors and  
Appeals in the last resort in all causes:*

The petition of Stella Ambrose, the Appellant  
in the above entitled cause, respectfully shows  
that:

30

1. Your petitioner finds herself aggrieved by  
a final decree made in the Court of Chancery by  
his Honor Edwin Robert Walker, Chancellor of  
the State of New Jersey, on the 26th day of De-  
cember, A. D. Nineteen Hundred and Twenty-  
eight, in that said decree recites that your peti-  
tioner has not sustained the allegations of her  
petition and is not entitled to the relief therein  
prayed; and doth decree that your petitioner's  
said petition should be dismissed.

40

2. And your petitioner appeals from said de-  
cree and every part thereof on the ground that  
the same is erroneous in that the Chancellor  
should have found and adjudged the several alle-  
gations of your petitioner's petition to have been  
proved, and the respondent, John W. Ambrose, to

*Petition of Appeal of Stella Ambrose.*

have been guilty of the cruelty alleged in your petitioner's petition, and should have ordered, adjudged and decreed that your petitioner be divorced from the bonds of matrimony with the respondent, for the cause aforesaid, and that your petitioner should have the other relief prayed in and by said petition.

10

Your petitioner therefore prays that the said decree may be reversed, rescinded and for nothing holden, and that your petitioner may have such further relief as shall be meet.

ROBERT NEWTON CRANE,  
Solicitor and of Counsel with Petitioner.

STATE OF NEW JERSEY, }  
COUNTY OF UNION, } ss.:

20

CHARLES MCGINLEY, being duly sworn according to law, upon his oath deposes and says: That on January 7, 1929, I served a copy of the within Petition of Appeal on Rene P. F. Von Minden, Solicitor of the respondent, by leaving the same with the Clerk in charge of his office at #203 Park Avenue, Plainfield, N. J., and informing her of the contents thereof.

30

CHARLES MCGINLEY.

Sworn and subscribed to before me }  
this 8th day of January, 1929. }

ELIZABETH HOGAN,  
Notary Public of N. J.

[SEAL.]

40

**Notice of Application for Leave to Proceed  
With Appeal as Within Time.**

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

10

STELLA AMBROSE,  
Appellant,

*vs.*

JOHN W. AMBROSE,  
Respondent.

On Appeal  
from Court of  
Chancery.

Notice of  
Application for  
Leave to Proceed  
with Appeal as  
Within Time.

20

*To Rene P. F. Von Minden, Esq., Solicitor for re-  
spondent:*

30

PLEASE TAKE NOTICE that we will apply to the Honorable Court of Errors and Appeals in the last resort in all causes, on Friday the 15th day of November, A. D. nineteen hundred and twenty-nine, at ten o'clock in the forenoon, at the State House, in the City of Trenton, County of Mercer, for an order granting leave to the appellant to proceed with her appeal as within time and annexed hereto is a copy of the petition and affidavit which will be read upon the said motion.

Dated October 30th, 1929.

Respectfully,

LEVENSON, COMEN & LEVENSON,  
Solicitors for Appellant Stella Ambrose.

40

**Testimony.**

IN CHANCERY OF NEW JERSEY.

(67/47)

<i>Between</i> STELLA M. AMBROSE, Petitioner,  <i>and</i>  JOHN M. AMBROSE, Defendant.	}	On Petition, &c. Testimony.	10
---	---	--------------------------------	----

Testimony taken in the above entitled cause, at the Union County Court House, Elizabeth, New Jersey, on Thursday, the sixth day of December, 1928, at 12:45 P. M. 20

Before:

Hon. MALCOLM G. BUCHANAN,  
 Vice Chancellor.

Appearances:

ROBERT NEWTON CRANE, Esquire, for the petitioner;

RENE P. F. VAN MINDEN, Esquire, and FRANCIS J. BLATZ, Esquire, for the defendant. 30

---

STELLA M. AMBROSE, the above-named petitioner, being duly sworn in her own behalf, testifies as follows:

*Direct examination by Mr. Crane:*

Q. Mrs. Ambrose, you were married to your husband on the second day of September, 1917? 40  
 A. Yes.

*Stella M. Ambrose, for Petitioner—Direct.*

Q. By a minister at Jersey City, were you not?

A. A priest.

Q. At Jersey City? A. Jersey City.

Q. How long did you live in Jersey City after your marriage, Mrs. Ambrose? A. One year.

Q. From there where did you move? A. To  
10 Dunellen, N. J.

Q. How long did you continue to live with your husband? A. About, I think it was ten years.

Q. And during that time how many children were born? A. Two.

Q. What are their names and ages? A. Helen Ambrose; she is ten; Evelyn, four.

Q. Now, then, when you moved from Dunellen you moved to Arbor, didn't you? A. Yes.

Q. What business was your husband in? A.  
20 The garage business.

Q. Did he have a garage business there? A. Yes, and a road stand.

Q. In conjunction with the garage? A. Yes.

Q. Where did you live with relation to the garage and road stand? A. First we had our home, and he lost the home.

Q. Where was your house? A. Near the garage—a temporary home we had there.

Q. Now, then, did you help your husband in the  
30 running of his garage? A. Yes, sir.

Q. And in connection with the running of the garage did you also have a contract to take the children in the township to school? A. Yes, sir; two routes.

Q. What? A. Two routes.

Q. Who attended to those routes—who drove the trucks? A. I did.

Q. What year was it that you first had the contract for driving the children to school? A. That  
40 I just couldn't remember.

*Stella M. Ambrose, for Petitioner—Direct.*

Q. How many years ago was it? A. I think in 1925.

Q. How did you and your husband get along together? A. Well, he was very mean to me.

Q. Well, what did he do? A. In 1925, when I was minding the stand there he had an argument over the car. 10

Q. Over which car? A. The car—

Q. A car you owned? A. Yes; and he was taking people down to vote, and he had an argument with me over this car, and I took the switch key out, and he demanded me to give him the key, the switch key; I told him no, and he pointed the revolver at me, and he said, "If you don't give me that switch key I'll kill you." I stared him right in the face and said, "Go ahead and do it." And with that he went back, and I went back home. 20

Q. Did he have a revolver then? A. Yes, sir.

Q. Did you see it? A. Yes.

Q. Did you go back to your house? A. Yes.

Q. Then what happened? A. Mr. Barrett came over.

Q. Did you send for him? A. No, sir; he called up Mr. Barrett.

Q. He is a police officer of the township? A. Yes, sir. 30

Q. What was this argument over? A. Over the switch key.

Q. He wanted to take the car and you didn't want him to take it? A. No, sir.

Q. Well, how was that? Was that finally straightened out—the argument you had the time he pointed the revolver at you? A. Yes, sir.

Q. Then, immediately following that, after that had been straightened out, how did you get along together then? A. That was all right, until he started cursing and swearing and carrying on. 40

*Stella M. Ambrose, for Petitioner—Direct.*

Q. At whom? A. At me.

Q. What did he say to you? A. Shall I come out with the curse?

10 Q. Let it go. Go ahead. A. Well, when I used to go out after the school route to do my shopping and he wanted me to mind the store, and when I didn't, he called me all the whores and bastards, and everything he could think of. I would stand there and cry. I said, "Please don't call me all those things." He said, "That's all you are, is a whore."

Q. Who was present when he called you these names? A. No, sir; just myself and him.

Q. How about the children? A. Well, I don't just remember whether the children were there or not?

20 Q. Next after the incident you have just told us about, of the automobile switch key, what next was there about your husband's conduct towards you that offended you? A. Well, in 1926, I was going to the store, and he wanted me to mind the store. Then I said no; so he pushed me and I pushed him, and there was a five-pound box of candy on the desk, and he took one of those and struck me in the stomach. I fell back and started to cry and went back home.

30 Q. When he struck you with this five-pound box of candy, did it hurt you? A. Yes.

Q. What next in the time that you lived with him, what event stands out as being in your mind? A. Then, in 1927, he—I just can't think of what that was; I just can't think what it was.

Q. You can't think what date, do you mean? A. Yes.

Q. Well, was it some time in 1927 that you are talking about? A. Yes.

*Stella M. Ambrose, for Petitioner—Direct.*

Q. Tell us of the incident; maybe the date can be fixed later? A. Well, in 1927, we had an argument home and he turned around—

Q. What was the argument over? A. I really don't know what it was; I know he fought with me over something— Oh, yes, I do now; it was my grandmother. She was fixing his dinner and then his supper, and she made the meat the way he didn't want it to be done, and she said: "Why, this is the only way I can fix it", and he called her a God damned son of a bitch, and I looked at him, and I said: "You call my grandmother a God damned dirty son of a bitch?" and he said yes; and he had a carving knife, and he laid it down and he come to me and he got my throat and was choking me, and that drawed me back in the other room, and my grandmother was trying to get his hands off me when he let go of me, and froth was in my mouth, and he knocked my grandmother down and tripped, and when he ran out I ran after him; I was excited, and when I ran after him I grabbed a pot—a cup of coffee and threw it at him, and he picked up a flower pot, and I seen it coming, and I raised my hands up and it hit me on the breast.

Q. It hit you? A. On the breast.

Q. At this time when he choked you did it hurt you? A. Yes.

Q. Did the flower pot hurt you? A. Yes.

Q. Did you then go to a doctor? A. Yes.

Q. What doctor did you go to? A. Dr. Bassett.

Q. With relation to the time you were hit with the flower pot, when did you go to Dr. Bassett's?  
A. The next day.

Q. Now, then, during any of the time that you have been talking about, these various cruelties being made upon you by your husband, did you

*Stella M. Ambrose, for Petitioner—Direct.*

leave him at any time before you finally left him?

A. No, sir.

Q. Did you consult anyone with reference to his conduct toward you? Did you go to see any lawyer about it? A. Just to you, Mr. Crane.

10 Q. Do you remember when you first came to see Mr. Crane? A. It was sometime—I don't know the dates, but it was near the end of the year I know.

Q. 1926? A. I just couldn't tell you, but I guess it was.

Q. And do you recall that as a result of a letter that your attorney sent to your husband, that he came to your attorney's office and met you there?

A. Yes, sir.

Q. You remember that? A. Yes.

20 Q. Do you recall what your husband said to you at that time about what he would do if he went back and lived with him? A. He said he would be a different man and try to do the best he could.

Q. Then you went back to him again? A. Yes, sir.

Q. And what was his conduct after you got back to live with him again? A. He wouldn't trust me any place; if I went to the store he would call me thieves. He said he would trust outsiders more than he would me.

30 Q. How long after your meeting with your husband at your attorney's office was it that he began cursing and swearing at you again? A. After New Year's.

Q. And from that time on until the time you finally left him as a result of his treatment, did you consult your attorney again? A. Yes, sir.

40 Q. About when was that, do you remember, keeping in mind the first of the year, 1927? A. I just can't remember.

*Stella M. Ambrose, for Petitioner—Cross.*

Q. Well, now, then, at the time that your husband struck you with this box of candy, what did it do to you? A. Well, it hurted my stomach, of course.

Q. Well, I have in mind the time one of your neighbors came to your assistance. What was that incident? A. When he struck me with the flower pot. 10

Q. What happened to you when he struck you with the flower pot? A. I lay there unconscious.

Q. Did one of the neighbors come to your assistance? A. When I opened my eyes and come to I found Mrs. Hughes.

Q. When was it you finally left your husband? A. I believe it's a year and a half now.

Q. Can you give me the month? A. June 8th. 20

Q. 1927? A. '27.

Q. Why did you leave your husband? A. Because he would beat me up and was very mean to me and nagged at me all the time. I just couldn't stand it.

Q. When you left him where did you go? A. Over to my mother's.

Q. In Jersey City? A. Yes.

Q. Did you take the children with you? A. Yes.

Q. And that is where you now live, is it? A. Yes. 30

*Cross-examination by Mr. Blatz:*

Q. When did you first come to Dunellen or Arbor to live? A. When was it the first time we came to Arbor to live?

Q. Yes. A. A year after my marriage; I don't remember the date.

Q. You were married in 1917? A. Yes.

Q. You went there in 1918? A. Yes. 40

*Stella M. Ambrose, for Petitioner—Cross.*

Q. And you and your husband built up quite a business? A. No, it wasn't a business; he had a house first.

Q. But when did you start building up the garage business? A. 1925.

10 Q. From 1925 up until the time you left him you were doing a very nice business? A. Yes.

Q. And you took care of part of the business and he took care of part of the business? A. I took care of almost everything, not a part of it.

Q. He didn't do anything? A. Yes.

Q. You both drove the children to and from school? A. Yes.

Q. You had the contract to do that? A. Yes.

Q. And you did do that? A. Yes.

20 Q. Up until 1925 everything was all right between you and your husband? A. Yes.

Q. What happened in 1925 that should change the attitude of your husband toward you? A. Change it?

Q. Didn't it change? A. I didn't quite get you.

By the Court:

Q. You said that up until 1925 your husband had treated you all right; everything was all right between you and your husband? A. Yes.

30 Q. And that in 1925 he began to treat you cruelly? A. Well, he did.

Q. What caused him to change in that respect? A. I really don't know; that's what I want to know myself.

By Mr. Blatz:

Q. You don't know? A. No, I don't.

40 Q. Do you know a man by the name of Henry Moyer? A. Yes.

*Stella M. Ambrose, for Petitioner—Cross.*

Q. Where does he live? A. Walnut Street, I believe.

Q. How close is that to your home? A. About five or six doors away.

Q. And you went out with Mr. Moyer? A. No, sir.

Q. Never? A. Yes, I did when my husband was with me. 10

Q. Never alone? A. No, never.

Q. Didn't your husband find fault with you because you were going around with Mr. Moyer? A. Not that I know of.

Q. Well, you know whether he did or not. Didn't he find fault with you because you were going around with Mr. Moyer? A. Not that I know of.

Q. Never spoke to you about Mr. Moyer? A. No, sir. 20

Q. When did you go to Coney Island with Mr. Moyer? A. I have never been to Coney Island with Mr. Moyer.

Q. You were not? A. No, sir.

By the Court:

Q. How old are you? A. Thirty-two.

Q. How old is your husband? A. Thirty-eight, I believe; I don't know. 30

By Mr. Blatz:

Q. Didn't you go to Coney Island and stay over night? A. No, sir.

Q. And when you came back, isn't that the time your husband had trouble with you? A. No, sir; that was the night I was to my mother's. I rented rooms; I was over there and cleaned them.

Q. You were with your mother? A. Yes. 40

*Stella M. Ambrose, for Petitioner—Cross.*

Q. Where? A. Jersey City.

Q. You spoke about trouble you had with your car. Your husband purchased that car for you, an automobile; your husband purchased an automobile for you? A. Yes.

10 Q. And you kept it in your garage? A. The car that I have?

Q. Yes. A. In my garage?

Q. Yes. A. No, I kept it in his garage.

Q. Whose garage? A. Both of us.

Q. At times you kept it in Mr. Moyer's yard, too? A. It's Mrs. Kelly; I asked her for permission—the mother.

Q. Did you have it there? A. No; I had it right alongside of the house, because he demanded me to get the car out.

20 Q. Who did? A. My husband.

Q. He told you he didn't want it there? A. Yes, he said that.

Q. That he didn't want it in Moyer's yard? A. No, that he didn't want it in his garage.

Q. When was that? A. Just before I was leaving.

Q. When was that? A. I just can't remember; I think June 8th; no, June 8th was when I left. I just don't remember the dates.

30 By the Court:

Q. How long before you left? You say you left on June 8th, 1927. How long before that was it that he told you he didn't want the car in his garage? A. Two or three weeks, I guess.

Q. Was it before or after the time he struck you with the flower pot? A. Before that.

40 Q. Before he struck you with the flower pot, did he tell you he didn't want the car in his garage? A. Yes, sir.

*Stella M. Ambrose, for Petitioner—Cross.*

By Mr. Blatz:

Q. Where were you keeping your car when you left home? A. He said that he leased that there in the garage, and he told me to get the car out of that garage. I said, "This is my property just as much as you." I took it out of the garage and put it on the side where I lived, that property. I had it stand there, and he would take and wash all the cars and make a big pool of water before my car, pust swashing in that water; so I took the car right out of there and asked Mrs. Kelly would she give me permission would I leave my car outside of her house. She said yes. I had it over night and I took it to a garage and paid rent for it. 10

Q. Now, in 1925, you said you had an argument about your car and your husband pointed a pistol at you? A. Yes. 20

Q. Where did that take place? A. On Seventh Street, right at the—

Q. Who was present? A. Just Mrs. Kelly.

Q. No one else? A. Not that I remember.

Q. You would remember if there was anybody else there, if he did a thing like that? A. I didn't take notice; I was excited.

Q. You were excited? A. Yes. 30

Q. The reason he pointed the revolver at you was because you refused to give him the key to your car? A. Yes.

Q. Had he asked you for the car? A. No, sir.

Q. Then why— A. Well, the key was in the car when he started arguing with me, and he went over and I pulled the key out of the switch, and I said, "No, you wouldn't get this key", and that's what he argued about.

Q. Where did he get the gun from? A. I just don't know. 40

*Stella M. Ambrose, for Petitioner—Cross.*

Q. Was there a revolver around the garage? A. Yes, he always has one.

Q. Where? A. In the drawer.

Q. Did he get inside of the drawer and get it?

A. Yes.

10 Q. Did you see him do that? A. Yes.

Q. Then why did you say you didn't know where he got it from, then? A. (No answer.)

Q. After 1925, after he was supposed to have pointed a pistol at you, everything was all right till 1926? A. No, sir; he was always nagging at me.

Q. What do you mean? A. He found fault with everything I done.

Q. Did you find fault with everything he did?

20 A. No, sir.

Q. You didn't? A. No, sir.

Q. Did he strike you or hit you from 1925 to 1926? A. No, he didn't; but that——

Q. Did he——

By the Court:

Q. What is your answer? A. From 1925 to 1926, that's the time he struck me with the five-pound box of candy.

30 Q. Between the time he pointed the pistol at you and the time he struck you with the box of candy, he didn't strike you? A. He hit me with the box of candy.

Q. Up until that time he didn't strike you? A. No, sir.

By Mr. Blatz:

40 Q. Now, in 1926, you say you had an argument in the house, or was that in the garage where the candy was? A. That was right in the store.

*Stella M. Ambrose, for Petitioner—Cross.*

Q. You had several boxes of candy in the store?

A. I don't know how many boxes.

Q. You sold candy? A. Yes, this was Christmas candy in boxes.

Q. And you had an argument? A. Yes.

Q. What was that argument? A. He wanted me to run the store for him, and I was going to the grocery store to get some stuff. He pushed me and I pushed him and he struck me with the candy. 10

Q. You didn't want to stay there and that started an argument between the two of you and one pushed the other and the five-pound box of candy fell to the floor. Is that it? A. No, he struck me.

Q. Did he throw it at you? A. Yes.

Q. How close were you to him? A. No more than from the desk here to Mr. Crane. 20

Q. Where were you going? A. Down to get a chicken to make a little broth for the baby.

Q. You had an argument and he threw the candy? A. Yes.

Q. Did you push him or punch him or shove him? A. No; he shoved me first and I shoved him back; then he struck me.

Q. It was a five-pound box of candy? A. Yes.

Q. How do you know it was five pounds? A. Because it's marked on the box. 30

Q. What happened after that; anything happen till 1927? A. 1927 was when he struck me with the flower pot.

Q. Did anything happen between 1926 and 1927? A. No, not that I know of.

Q. You got along the same as you had been getting along? A. We weren't on good terms; he wouldn't speak to me or anything. 40

*Stella M. Ambrose, for Petitioner—Cross.*

Q. And you wouldn't speak to him? A. No; he wouldn't speak to me.

Q. 1927, in May; that is the time the flower pot episode took place? A. Yes, sir.

Recess until 2 o'clock.

10

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AFTER RECESS.

Q. (After the stenographer reads last question and answer.) Wasn't that the day that your husband brought home some meat or food for you to cook for him and you refused to cook it and had your grandmother cook it? A. No, sir; I wasn't home.

20

Q. You weren't home? A. No; what date?

Q. The day of the flower pot episode; you were home that day, weren't you? A. No, he didn't bring any meat home.

Q. He didn't? A. For me to do it?

Q. Yes. A. No.

Q. Didn't he ask you to cook some meat? A. No, he asked my grandmother.

30

Q. He asked you why you didn't cook it, and didn't you say you wouldn't cook any meat for him or for a skunk like him? A. No.

Q. Didn't you call him names at that time? A. No; the only time I called him a skunk was when he cursed my grandmother.

Q. You did call him a skunk? A. Yes, but not over the meat.

Q. What was it over? A. Over the curse.

Q. That is when it took place? A. Yes.

40

Q. After you called him a skunk, what happened? A. He put the knife down and grabbed my by my throat.

*Stella M. Ambrose, for Petitioner—Cross.*

Q. Where did you grab him? A. By the hair, to protect myself.

Q. You grabbed him by the hair? A. Well, he grabbed me.

Q. And you grabbed him? A. Yes, to protect myself.

Q. And you went out of the door together? A. He pushed me towards the other room. 10

Q. Then what? A. He ran and he happened to knock my grandmother, and he hadn't tripped over her, and I was so nervous I picked up the coffee and threw that at him.

Q. After you let go of his hair he let go of your throat? A. Yes.

Q. And he ran out of the house? A. Yes.

Q. And in doing that he touched against your grandmother and did— A. Yes. 20

Q. Did it knock her down? A. Yes.

Q. And then you threw the hot coffee at him? A. No; cold coffee.

Q. And he went out of the front door? A. Out of the back door.

Q. And you followed him out of the door? A. Yes.

Q. And you tripped and fell? A. No.

Q. Didn't you? A. No, I didn't; I stood there, and with that he picks up the flower pot, and I raised my hand up to protect my head, and he struck me with the flower pot. 30

Q. Were you facing him? A. I was sideways; I turned around and held my head this way (indicating).

Q. How far were you from him when he threw the flower pot? A. From here to you; I don't know how many feet is that.

Q. And you fell? A. I was unconscious.

Q. Were you on the porch? A. No, there's just a step. 40

*Stella M. Ambrose, for Petitioner—Cross.*

Q. Were you on the ground? A. Yes.

Q. He came back to you, didn't he, and asked you if you wanted the doctor? A. No; I don't remember; I was unconscious.

Q. You don't remember him saying anything to you? A. No.

10 Q. And you said you didn't want the doctor?  
A. No; not a thing.

Q. You don't remember that? A. No.

Q. Now, that was on May 5th. Did anything else happen between May 5th and June 8th when you left? A. May 5th and June 8th?

Q. Yes. A. No, not that I know of. No, June 8th was the day I left him.

20 Q. Nothing whatever happened between those dates? A. He was always cursing and mumbling to himself.

Q. Did he do anything to you? A. No, he didn't hit me.

Q. Why did you leave? A. Because he beated me up and made me in a nervous condition.

Q. He hadn't touched you since May 5th? A. Well, no, but he had been cursing all the time, and I had got in a nervous condition. I couldn't stand it any more then.

30 Q. During the years of your married life there were three different times that he had touched you? A. Yes.

Q. And that is all? A. He had been cursing.

Q. But he didn't beat you? A. No.

Q. Is that correct? A. Yes.

Q. You talk about the time he had the revolver. Wasn't that election day? A. Yes, that was around—

Q. And that was not at your garage, but that was over in Prospect Avenue? A. No, it wasn't.

40 Q. Didn't Officer Barrett get the key from your

*Stella M. Ambrose, for Petitioner—Cross.*

house and get the key for him? A. Yes, but it was at the garage where he got that revolver, and he pointed the revolver at the air.

Q. You say that was the day when you wouldn't give him the key for your car? A. Yes.

Q. And that was election day? A. Yes.

Q. Wasn't it in Prospect Avenue and not at the garage? A. I lived at Prospect Avenue with his mother then. 10

Q. Isn't that where it took place? A. I lived there a couple of months, yes.

Q. This day that he pointed the revolver at you, wasn't that on Prospect Avenue? A. No, Seventh and Walnut Street.

Q. He pointed the revolver at you? A. At the air.

Q. What time in the morning was it? A. I think around ten o'clock, or nine. 20

Q. Didn't Officer Barrett get the key from you? A. Yes, but then I ran back home and stayed there, and then he got Mr. Barrett.

Q. Wasn't Mr. Barrett around to your place around half-past six or seven o'clock in the morning? A. No.

Q. You were in your room? A. Why, no, not six or seven o'clock in the morning.

Q. Now, since you have left in June, your husband has endeavored to see you, hasn't he? A. He wanted to see me. 30

Q. Has your husband tried to see you in Jersey City? A. Yes, he did.

Q. And you wouldn't see him? A. No, I wouldn't.

Q. He also sent you a hundred dollars for the children? A. Yes, he did.

Q. And that you wouldn't accept? A. No.

Q. And you sent it back to him; is that right? A. Yes. 40

*Stella M. Ambrose, for Petitioner—Re-direct.*

Q. And you refused to see him? A. I was too nervous to see him; I was afraid of him.

Q. Why, you were not afraid of him? A. I certainly was afraid of him; I closed myself in the room; I was afraid of him; I couldn't stand it any longer.

10 Q. Well, he tried to get you to go back? A. Yes, but I couldn't; I was afraid of him.

Q. You say you were afraid of your husband? A. Yes; I told you that. My God, I was afraid of him.

The Court: Now, don't use profanity here.

*Re-direct examination by Mr. Crane:*

20 Q. Mrs. Ambrose, following the incident of your being hit with the flower pot, did you go to the magistrate in Dunellen or New Market? A. In Dunellen.

Q. Was there a complaint— ( A. I think it was in New Market.

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

Q. As a result of the complaint, was your husband there? A. Yes.

30 Q. What did your husband say in the presence of the magistrate about the incident of this flower pot? A. The Justice told him it is against the law, that he couldn't hit anybody like that; it was against the law.

Q. I meant to ask you on direct examination, what was your physical condition when you left your husband in June, 1927? A. My condition?

Q. Yes, your condition? A. I was nervous, very nervous.

40 Q. What is your condition today as to your nervousness, since you have been away from your husband? A. I feel very good now.

*Stella M. Ambrose, for Petitioner—Re-cross.*

*Helen Hughes, for Petitioner—Direct.*

*Re-cross-examination by Mr. Blatz:*

Q. There was never any trouble between you and your husband until Mr. Moyer's name was mentioned? A. No, sir, never mentioned in front of me. 10

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HELEN HUGHES, a witness produced on behalf of the petitioner, being duly sworn, testified as follows:

*Direct examination by Mr. Crane:*

Q. Mrs. Hughes, where do you live? A. Arbor, Dunellen. 20

Q. How long have you lived at Arbor? A. Six years past.

Q. Do you know Mr. and Mrs. Ambrose, the parties to this suit? A. Yes, just by seeing them, you know, and coming in contact with them once in a while.

Q. And where did you live with reference to where they lived in May or in the spring of 1927?

A. There must be about three lots between us.

Q. One evening, during the spring of 1927, when you were out around your property, did you see the form of a woman lying on the ground? A. Yes, sir. 30

Q. And about what time in the evening was that? A. It must have been between seven and eight.

Q. And did you see Mr. Ambrose there at that time? A. No; I went right into my home and I came out again, and I looked across, and Mr. Ambrose was standing there and seemed to be talking to his wife. 40

*Helen Hughes, for Petitioner—Direct.*

Q. Where was his wife? A. Across the lots. Mr. Ambrose went away as if he was going to the store; and Mrs. Ambrose said, "Will you help me up, Mrs. Hughes?" I helped her up. She said, "Look at my breast; Mr. Ambrose struck me with a flower pot."

10 Q. Did she show you her breast? A. Yes.

Q. What did you see? A. Well, it seemed to be inflamed as if it had been struck with something.

Q. For what length of time—what length of time passed between the time you first saw her on the ground and went into your house and came back to where she was? A. It was quite a short time; it couldn't be ten minutes, anyhow.

Q. But it was a considerable space of time? A. I walked into my kitchen and came out again; then  
20 I decided I would go over; I naturally thought she had taken a fainting spell or something.

Q. How near were you to her when you saw her husband standing there over her, talking to her?

A. The same distance, the three lots.

Q. About 150 feet? A. I imagine it would be.

By the Court:

Q. How wide were the lots, 25 feet lots or 50 feet lots? A. No, each of those lots are double,  
30 25 feet.

Q. 50 feet? A. Yes.

By Mr. Crane:

Q. And when you started to walk towards where Mrs. Ambrose lay on the ground, was it then that Mr. Ambrose started as though going to his store?

A. No, he seemed to have turned around to move away before I got there.

*Helen Hughes, for Petitioner—Cross.*

*Minie Kelly, for Petitioner—Direct.*

By the Court:

Q. Did you see anything of the flower pot? A. Yes, I saw the flower pot.

*Cross-examination by Mr. Blatz:*

Q. How close were you to Mrs. Ambrose? A. 10  
Before I went across?

Q. Yes. A. It must have been 150 feet.

Q. Did you see Mr. Ambrose strike Mrs. Ambrose? A. No, sir.

Q. You saw Mrs. Ambrose on the ground? A. Yes.

Q. And she seemed to be talking to her husband? A. No, I couldn't say she was talking to her husband?

Q. What did you say? A. I said her husband 20  
seemed to be talking to her.

Q. Was he talking loud? A. No.

Q. When you got to her, her eyes were open? A. She just opened her eyes, and she made no effort to get up; she asked me to help her up.

Q. After she got up, what did you do? A. I helped her into her home.

Q. You went in with her? A. I helped her to her home.

30

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MINIE KELLY, a witness produced on behalf of the petitioner, being duly sworn, testified as follows:

*Direct examination by Mr. Crane:*

Q. Mrs. Kelly, where do you live? A. I live in Arbor, about seven houses down.

Q. And how long have you lived there? A. 40  
About six or seven years.

*Minie Kelly, for Petitioner—Direct.*

Q. And have you known Mr. and Mrs. Ambrose for about that length of time? A. No, sir, about five years.

Q. And since you have known them for the past five years, during that time, while they lived together, did you have occasion to go to their house?

10 A. Only twice, but Mrs. Ambrose used to come to the store and stop in to see me once in a while.

Q. On the two occasions you were at the house, was Mr. Ambrose there? A. No, sir.

Q. He wasn't there? A. No, sir.

Q. Now, then, as a result of what Mrs. Ambrose asked you to do in the early summer of 1927, did you go with her to her home? A. She sent down for me to come up and help her pack her things, and I helped her pack the dishes.

20 Q. When you were there helping her pack her dishes, did you see Mr. Ambrose, the defendant, there? A. Yes.

Q. What did he say to you, Mrs. Kelly? A. He just simply said, I'll open my eyes later on, that he was a true friend to me but not her.

Q. What else did he say about Mrs. Ambrose going away?

Mr. Blatz: That is objected to as leading.

The Court: Objection overruled.

30

A. He just simply said, he wouldn't support the children only by law.

Q. Now, then, during the packing up of Mrs. Ambrose's things, where did Mr. Ambrose go?

A. He went outside and went up to the upper story, up on a ladder, and he handed her a few things, and he had a file up his sleeve; but I don't know what he had it for.

40 Q. But he had the file up his sleeve? A. He had the file up his sleeve.

*Minie Kelly, for Petitioner—Cross.*

Q. Now, then, during the time you were living there and knew the Ambroses, did you ever hear Mr. Ambrose curse and swear at his wife? A. I certainly did. One time he threw a candy box outside and he struck her in the side; and I didn't want to be in trouble, and I hid myself.

Q. Did you hear him swear at her? A. I certainly did. 10

Q. What have you to say as to Mrs. Ambrose's appearance when she was living with her husband, just before she went away, while you were there helping her to pack her things up? A. Well, he seemed to be angry at her and nasty to her.

Q. How did she look? A. She looked upset, she did, crying.

*Cross-examination by Mr. Blatz:* 20

Q. What relation are you to Henry Moyer? A. I am his mother; he is my stepson.

Q. He is still living? A. He is still living.

Q. With whom is he living? A. With me.

Q. And Mrs. Ambrose put her car into the Kelly property; that was your property? A. That's my property, yes.

Q. You say that no time while you visited Mrs. Ambrose was Mr. Ambrose at home? A. No, sir, he wasn't; only once in a while he used to send 30 for my Henry to help him.

Q. The day that Mrs. Ambrose was moving; the day she was taking out her furniture, Mr. Ambrose helped her? A. Told her what to take out.

Q. He helped her? A. Yes, sir.

Q. And helped her to take it out? A. No, he told her what to take.

Q. Wasn't one of the officers called at that time? A. Yes.

Q. So there would be no misunderstanding? A. 40 Yes.

*Mary Smolka, for Petitioner—Direct.*

Q. And you were there? A. I was there.

Q. During the time that Ambrose ran his place, the garage, I mean, Mr. and Mrs. Ambrose got along very nicely, didn't they? A. They did for three or four years past.

10 Q. Did you ever hear anything said by Mr. or Mrs. Ambrose, about your stepson? A. No, sir, I didn't, only that he did bad things; he's a very jealous man.

Q. Who? A. Mr. Ambrose.

Q. He is jealous? A. Yes.

Q. And at times he was jealous because your stepson was in company with Mrs. Ambrose? A. Yes, and not my son alone, but there was other fellows, also.

20 Q. Where? A. At the garage.

Q. He was jealous of these men being with his wife? A. Yes, and the ones helping him, too.

Q. That was the general talk around there? A. Yes, sir.

Q. Did you know that your stepson, Henry, had gone out with Mrs. Ambrose? A. No; he was always home.

Q. And that they would go to the movies together? A. No, sir, if he goes to the movies he goes with my daughter.

30

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MARY SMOLKA, a witness produced on behalf of the petitioner, being duly sworn, testified as follows:

*Direct examination by Mr. Crane:*

Q. Where do you live? A. I live in Staten Island.

40 Q. You are the sister of Mrs. Ambrose? A. Yes, sir.

*Mary Smolka, for Petitioner—Cross.*

Q. The summer of 1926, did you visit her at her home in Dunellen? A. It was around 1926 or 1925; I am not sure.

Q. How long were you there? A. Two or three days; it was my vacation time.

Q. During the time you were there on your vacation, was Mr. Ambrose home? A. Yes, he was. 10

Q. What was his attitude towards his wife? A. He was always grouchy.

Q. What did you hear him say? What did you hear him call his wife, if anything? A. He always said to me, she was dead from the neck up. I don't know what the argument was about, but they had a fight; he was in the store with me and she was there, and he started cursing at her and calling her a "God damned son of a bitch"; excuse me. 20

Q. Did you have occasion to see your sister in the early summer of 1927, shortly after she left her husband? A. No, she come over to my mother's; I don't remember seeing her; I don't think I went there at all; I don't remember.

Q. Didn't you see her at your mother's? A. Yes.

Q. What was her condition then? A. In a terribly nervous condition.

Q. And compared with that condition, what is her condition today? A. Oh, her condition is 100% better. 30

*Cross-examination by Mr. Blatz:*

Q. You only visited your sister once? A. No, sir, I very seldom went there, but I used to go like—well, to tell you the truth, when she was living in Dunellen I must have visited her about five times altogether, because he was so grouchy he would never look at me, for no reason at all, 40

*Stella M. Ambrose, Recalled—Direct.*

he would never say "Hello" to us, for no reason at all; he was always fighting with her when I was there.

Q. What do you mean? A. Cursing at her every time I went there.

10 Q. Did he ever say anything pleasant to her?  
A. Never; not that I know of; not while I was there.

Q. He always provided for her? A. He always provided for her?

Q. Didn't he? A. He never gave her any money that I know of.

Q. How was the home? A. It isn't in fit condition for anybody to live there, the doctor told us; the home was terrible, it was awful.

20 Q. What was the matter with it? A. It was awful; I wouldn't want to live in it.

Q. Dirty? A. No, she kept it clean.

Q. Was it a small place? A. No, it wasn't built right; it was just plastered up.

Q. And that's the reason you didn't want to live in it? A. Yes, sir.

Mr. Crane: May I recall Mrs. Ambrose, your Honor? I want to show that the grandmother is now deceased.

30 The Court: Yes.

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STELLA M. AMBROSE, being recalled in her own behalf, testified as follows:

*Direct examination by Mr. Crane:*

40 Q. Mrs. Ambrose, at the time that you were living with your husband at Arbor, who else besides yourself and your husband and the children lived there? A. Grandmother.

*Elmer Barrett, for Defendant—Direct.*

Q. Where is your grandmother now? A. She is dead now.

Q. When did she die? A. Last month, the 30th.

Mr. Crane: We rest, with the exception of Dr. Bassett.

10

ELMER BARRETT, a witness produced on behalf of the defendant, being duly sworn, testified as follows:

*Direct examination by Mr. Blatz:*

Q. Mr. Barrett, you are the police officer, or chief of police? A. At Piscataway Township.

Q. Are you acquainted with Mr. and Mrs. Ambrose? A. I am. 20

Q. How long have you known them? A. About six years.

Q. Do you remember in the—I think in 1925, at the time there was an argument between Mr. and Mrs. Ambrose relative to her taking the key from the car? A. I do, sir.

Q. That was election morning? A. Yes, sir.

Q. What did you have to do with obtaining the key for Mr. Ambrose, if anything? A. He came to my house and woke me up. 30

Q. About what time? A. About a quarter past six in the morning; he said Mrs. Ambrose—

Mr. Crane: I object to what he said.

Q. By reason of what he said, what did you do? A. I got up and dressed.

Q. Then what? A. Then I went to Mr. Ambrose's house on Prospect Avenue, the mother and father's home, and Mrs. Ambrose was in the 40

*Elmer Barrett, for Defendant—Direct.*

back room on the second floor with her children, in bed. I rapped the door and she asked me to come in; I came in; she got up and cried a little bit, and finally, after I talked to her, as I had several other times, she gave me the key. Mr. Ambrose stayed outside and I gave it to him and he got the car, which he was employed to bring voters in.

10

Q. Where was the car? A. At the garage, Seventh Street and Walnut.

Q. Did she say anything to you at that time about a gun or a revolver? A. No, sir.

Q. Nothing? A. No.

Q. Now, were you present at the time that Mrs. Ambrose was moving from her home? A. I was.

20

Q. Going to Jersey City? A. Yes.

Q. What took place at that time? A. I got a call from Judge Von Minden to see that there would be no disturbance there in reference to taking out the furniture.

Q. Well, was the furniture taken out? A. I finally told Mrs. Ambrose that if there was anything there she had in the line of wedding presents or things she purchased with her own money, she could take; otherwise, she would have to leave the other stuff there.

30

Q. Did she take everything? A. Mr. Ambrose and I got talking with her and finally John consented that she could have everything. I went through the house with John at my side and pointed out the articles, if she could have that, and he said "Yes". And she took everything but one bed and a chiffonier.

Q. Did you ever see Mrs. Ambrose and Mr. Moyer together, either in company with others—  
A. No, sir.

40

*Elmer Barrett, for Defendant—Cross.*

*Alexander Herrlich, for Defendant—Direct.*

*Cross-examination by Mr. Crane:*

Q. You say, when you got over there with the automobile key, she was crying? A. She cried.

Q. What about? A. On account of the little argument that her and John had. 10

Q. She was very nervous, too, wasn't she? A. Well, she was, of course, nervous and worked up, yes.

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ALEXANDER HERRLICH, a witness produced on behalf of the defendant, being duly sworn, testified as follows:

*Direct examination by Mr. Blatz:*

20

Q. Mr. Herrlich, are you an official in Piscataway Township or New Marker? A. Yes.

Q. Which is it, Piscataway Township? A. Piscataway Township.

Q. What office do you hold? A. Well, several.

Q. Are you a police officer? A. Yes, a special officer.

Q. Arbor, where Mrs. Ambrose resided, is in Piscataway Township? A. Yes, sir.

Q. Were you acquainted with Mr. and Mrs. Ambrose? A. Yes, very well acquainted with them. 30

Q. How long have you known them? A. Oh, eight years, anyhow.

Q. Do you remember Mrs. Ambrose talking to you about the day she and her husband had the fight over the cooking of some meat or something in the house? A. Yes.

Q. And did she say anything to you at that time relative to what took place? A. Well, she told me about what had taken place. 40

*Alexander Herrlich, for Defendant—Direct.*

Q. What did she say? A. Why, she said that her husband come home with some meat he wanted cooked, and her grandmother was doing the cooking and didn't cook it to suit him, and he made some remark she didn't like, and they got in a rumpus.

10 Q. Then what? A. They evidently had a battle of some sort.

Mr. Crane: I move to strike that out.

The Court: Strike it out.

Q. What did she say that she had done to Mr. Ambrose at that time? A. She said she threw a cup of coffee at him.

20 Q. What did she say about the flower pot? A. And he picked up the flower pot and hit her with it and knocked her down.

Q. That's what she said? A. Yes, sir.

Q. Do you know whether, during the time they resided in Arbor, they got along very nicely, or were they always in trouble? A. Well, I don't think they got along so bad; they had rumpuses now and then, but nothing serious.

Q. And those differences were caused, by virtue of the information you obtained—

30 Mr. Crane: That is objected to.

The Court: Objection sustained.

Q. Do you know Mr. Henry Moyer? A. Yes.

Q. Did you ever see Mrs. Ambrose and Mr. Moyer together? A. I have seen them going out in parties and to the theatre.

Q. Without Mr. Ambrose? A. Yes.

40 Q. How many times did you see them together? A. I would hardly know; I paid no particular attention; I know they would go to the theatres, a party of them together four of them.

*Alex. Herrlich, for Defendant—Cross—Re-direct.*

*Anthony Kays, for Defendant—Direct.*

*Cross-examination by Mr. Crane:*

Q. These times you saw Mrs. Ambrose going to the theatre, it was with other people from the neighborhood, wasn't it? A. Yes.

10

*Re-direct examination by Mr. Blatz:*

Q. Mr. Moyer was with her, however? A. Yes, sir.

---

ANTHONY KAYS, a witness produced on behalf of the defendant, being duly sworn, testified as follows:

20

*Direct examination by Mr. Blatz:*

Q. Where do you live, Mr. Kays? A. I live in Arbor, on the outskirts of Arbor there.

Q. How long have you lived in Arbor? A. For over eight years.

Q. Do you know Mr. and Mrs. Ambrose? A. I have known Mr. and Mrs. Ambrose from about the year 21st.

Q. What? A. The 21st.

Q. Do you work around their garage? A. No, I did help Mr. Ambrose sometimes when he was across the way from where he is now.

30

Q. Did you ever stop in and talk to them both? A. Mostly every evening, if I had no other place to go.

Q. Any time when you talked to Mrs. Ambrose, did she ever say to you that her husband had abused her or beat her? A. Not that I remember; that Mr. Ambrose beat her or abused her or anything?

40

*Anthony Kays, for Defendant—Direct.*

Q. Yes. A. No.

Q. They did have arguments? A. They had family arguments between themselves.

Q. But she never complained to you? A. No, she didn't.

Q. You know Mr. Henry Moyer? A. I do.

10 Q. Did you ever see Mrs. Ambrose with Mr. Moyer? A. Well, one evening I come in and was going to a bowling alley and Mr. Moyer and Mrs. Ambrose were in the candy store; I was the first one, and Mr. Pohaley come in there, he came in there, and it was time for me to go to the bowling alley, and I went away, and I understood Mr. Pohaley—

Q. No, did you ever see them out together? A. Not Mrs. Ambrose and Mr. Moyer alone.

20 Q. In company with anybody else? A. Mrs. Ambrose's brother.

Q. Mr. Ambrose wasn't along? A. No, he wasn't.

Q. How many times did you see Mrs. Ambrose and Mr. Moyer together, even with other people, outside of Mr. Ambrose? A. Only one more time; I seen them across the street talking together between the old garage and the tree that is out on the street.

30 Q. You did see them talking together? A. Yes.

By the Court:

Q. When was that? A. That was in '26, your Honor.

Q. You say you have known them since 1921; is that what you meant? A. About 1921.

Q. Do you know where they have lived during all that time? A. From that time?

40 Q. Yes. A. Well, previous to that—

*Lavern C. Bassett, for Petitioner—Direct.*

Q. No, from that time on? A. Mr. Ambrose had a little house right alongside of—

Q. In Piscataway Township? A. In Piscataway Township.

Q. And he has lived there from that time to now? A. He lost that first house, and when he got up on his feet again, he built a little house on his own ground again— 10

Q. And he has lived in Piscataway Township since that time? A. He has lived in Piscataway Township since that time.

Q. And he still lives there? A. Yes.

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LAVERN C. BASSETT, a witness produced on behalf of the petitioner, being duly sworn, testified as follows: 20

*Direct examination by Mr. Crane:*

Q. Dr. Bassett, you are a practicing physician in Dunellen, New Jersey? A. Yes.

Q. Do you know Mrs. Ambrose? A. Yes, sir.

Q. Now, then, did she call on you professionally on May 6, 1927? A. She was in my office at that time, yes, about that time, I guess.

Q. Did you make an examination of her? A. 30  
Yes, sir.

Q. What did you find? A. Well, she had a bruise on her left chest over the breast and on the side of the eye.

Q. And did you make an examination of her nervous condition? A. I don't recall anything particular about her nervous condition at that time, except she was—

Q. Do you remember whether or not you pre- 40  
scribed any medicine for her? A. I think I pre-

*John W. Ambrose, for Defendant—Direct.*

scribed a liniment or something for this bruise; it was a black and blue bruise on that side, and seemed to be an injury to the chest wall a little bit.

10 Q. And from the bruise were you able to determine whether or not the blow that inflicted the injury or the cause of the bruise, was severe or not? A. You mean as to duration of the trouble?

Q. Yes. A. No, I don't know that I could say how long it would be; those injuries are of a nature that they last sometimes several months; but it seemed to be just a superficial bruise.

---

20 JOHN W. AMBROSE, the above-named defendant, being duly sworn in his own behalf, testified as follows:

*Direct examination by Mr. Blatz:*

Q. You are the defendant in this cause? A. Yes, sir.

Q. And you were married September 2, 1917?

A. Yes.

Q. You came to Piscataway when? A. I came to Piscataway, I bought the lot in 1918.

30 Q. Your wife says that on the—in 1926—no, 1925, that you had an argument with her about removing the key from the car, and that you took a gun and pointed it at her? A. No, sir.

Q. Did you have an argument that morning? A. I did, over the ignition key.

Q. That was election day? A. Yes, sir.

Q. And you were supposed to use the car? A. Yes, for electioneers, to bring to the polls.

Q. Did you ask her for the key? A. I did.

40 Q. What did she say? A. She refused to give it to me, so I called up the officer, Chief Barrett, and he got the key from her.

*John W. Ambrose, for Defendant—Direct.*

Q. Now, she says in 1926, you had an argument in the garage, or in the store—you have a store in connection with the garage, haven't you? A. Yes, with a gasoline station.

Q. That you pushed her and she pushed you, and then you fired a five pound box of candy at her? A. That is not true; the candy was on the counter, and it fell off and it probably touched her. 10

Q. You did have an argument that morning? A. We did, yes.

Q. And she pushed you? A. We both pushed one another, and finally the box of candy fell down.

Q. What was that about? A. I wanted her to watch the place, and she refused, and I told her I had a job which had to be done about 12 o'clock, and she said, "I am going out and that's all there is to it." 20

Q. The next time she says, that in 1927, when you threw a flower pot at her. Tell us about that.

Q. Well, I bought some hamburg steak meat, and I brought it in the house and asked her grandmother if she would make me up a sandwich. She said, "All right." She always did make it for me. It didn't taste very good. I said, "Why didn't you ask her, she would have showed you how to do it?" and she said, "Don't you dare," and she said, "I would soon as cook for any other skunk as him;" and she called me a skunk and other things, and I couldn't stand it any longer, and I slapped her face, and she caught my hair, and I had to get away, and when I did I ran out and she fired the coffee at me as she ran out after me. We were both excited. I don't know whether she tripped over and bruised herself, or whether I really throwed her out; I don't positively re- 30 40

*John W. Ambrose, for Defendant—Direct.*

member, but I don't think I throwed it at her, because I never struck her, as she could say, any time in my life except that day; that was the first time I struck her in eleven years.

Q. That was when you slapped her in the face?

A. Yes.

10 Q. You had an argument pro and con? A. Yes, sir, we had family arguments, and the next day it was all right.

Q. You built up a good business? A. I did.

Q. She helped in the business and you helped in the business? A. We both worked together.

Q. Now, do you know a fellow by the name of Henry Moyer? A. I do.

Q. Where did he live? A. He lived a little ways  
20 down Walnut Street, I imagine about six or seven houses.

Q. Do you know whether your wife was out with him; did you ever see her with Moyer? A. I did.

Q. What did you say to her when you saw her with Moyer? A. I told her it was a wrong thing for her to do, not because I am jealous of her, but that the people are talking about her and it hurts my business; and to think you are running around with somebody else.

30 Q. What did she say? A. She would do as she pleased.

Q. Did she tell you she had gone to Coney Island? A. Yes, sir.

Q. With Moyer? A. Yes, sir.

Q. What did you say? A. I said, "I don't think it's right for you to do that;" she said, "I am going whether you like it or not."

Q. Is that the night the youngster was taken sick? A. No, sir, that is not the night the young-  
40 ster was taken sick.

*John W. Ambrose, for Defendant—Cross.*

Q. What night was that? A. That was the night that we had a little argument, and she went to Jersey City to stay out over night; she come home the next morning about 10 o'clock. The little girl took a toothache, and I was working fixing at a Ford, and the little girl took a toothache, took convulsions, and I said, "Helen, I'll do the best I can," and I tried the best I could, and she screamed and that got me excited; I tried all I could, and I said, "I'll go to Mrs. Corliss and I'll give you some medicine for the toothache;" and she said—

10

Q. Well, what time did your wife come back?  
A. About two o'clock in the morning, on the last train.

Q. Now, since your wife went away in June, have you endeavored to get in touch with her? A. I have tried several times.

20

Q. And wrote letters? A. Yes.

Q. Have you the letters?

The Court: The wife has admitted that.

Q. Now, did you at any time strike your wife more than what you have just testified to, which was once in 19— A. That's the first time I ever really hit her, that is, to amount to any argument.

30

*Cross-examination by Mr. Crane:*

Q. Do I understand you to say, Ambrose, that you didn't know whether you hit your wife with the flower pot or not? A. I don't remember, sir.

Q. You don't remember that? A. No; I was glad that I got her hand from out of my hair. She isn't a light woman; she weighed more than I do, and I had quite a time getting her hands from—

40

*John W. Ambrose, for Defendant—Cross.*

Q. This was in the evening? A. Yes.

Q. Did you leave your wife lying on the ground when— A. I tried to—

Q. Did you leave her on the ground? A. I did; she wouldn't get up for me.

10 Q. Did you see Mrs. Hughes come over? A. Yes, she did come over, and then—

Q. You didn't wait for her? A. When Mrs. Hughes come over I walked away.

Q. Was it the next day that you 'phoned Judge Von Minden? A. Yes.

Q. And did you tell him you had thrown the flower pot at your wife because you were so mad? A. No, sir.

20 Q. And didn't he tell you you had no right to strike your wife? A. No, sir.

Q. And he told you you didn't have any right to strike her again? A. No, sir.

Q. Did you deny you threw the flower pot? A. Nothing of the kind.

Q. Did you admit you threw it? A. No, sir.

Q. That is what you were to answer? A. No, sir; that is what we were brought up for; but I wouldn't be allowed to sleep in that room where we were sleeping together; that's what was brought up.

30 Q. When you had the controversy about the ignition key, did you swear at your wife? A. At that time?

Q. Of course, at that time. A. No, sir.

Q. You didn't? A. No, sir.

Q. You just talked in a conversational tone of voice? A. Yes.

Q. Then you called up the police? A. Yes.

40 Q. Do you know what your wife was crying about when the police officer got there? A. No, sir.

*John W. Ambrose, for Defendant—Cross.*

Q. You had done nothing to make her cry? A. Well, the reason she cried was, because she wanted half the money that was taken in on the job.

Q. Then you do know the reason she cried? A. That's it.

Q. Because she wanted to get half the money? A. Yes, sir. 10

Q. It was nothing you did that made her cry? A. No, sir.

Q. Do you recall having, in response to a letter you received from an attorney in Plainfield by the name of Crane, going to his office? A. Yes.

Q. When was that? A. That was in the year 1927.

Q. Wasn't it in the last part of 1926 or the early part of 1927? A. I think the early part of 1927. 20

Q. And do you recall what took place there at Mr. Crane's office with reference to your wife and yourself? A. No, sir.

Q. Don't you recall that Mr. Crane said to you, that you had no right under any circumstances whatever to hit your wife; do you remember that? A. I don't remember that.

Q. Do you remember at a later date, at your request, that Mr. Crane had your wife at his office in an endeavor to get you straightened out again with her? A. Yes. 30

Q. Do you recall at this conversation, that at the request of Mr. Crane you apologized to your wife for having struck her, and kissed her and told her that if she would go back and live with you, you would never strike her again; do you remember that? A. I remember that I—

Q. Do you recall at that same time and place telling your wife you would never again call her any of the vile names you had called her; do you 40

*John W. Ambrose, for Defendant—Cross.*

remember that? A. Yes, provided she lived as man and wife.

10 Q. She went back to you and you lived together; and do you remember coming back to the same attorney's office in response to another letter you received from him in the spring of 1927? A. Well, that's the time she took the divorce, or claimed the divorce, as far as I remember.

Q. Weren't you at Mr. Crane's office twice as a result of your wife having been there to complain about your conduct towards her?

By the Court:

Q. How many times did you go to Mr. Crane's office? A. Twice, as far as I remember.

20

By Mr. Crane:

Q. You did call your wife vile names, didn't you? "Yes" or "No" will answer that. A. I didn't call her no vile names.

Q. What did you call her? A. Well, I called her "Damn it" many times.

Q. Didn't you call her a whore? A. No, sir.

30 Q. Didn't you admit in Mr. Crane's office to your wife, in his presence, that you had, and you wouldn't do it again? A. I did not.

Q. Didn't you call her a "Son of a bitch?" A. I did not.

Q. Sure of it? A. Positive.

Q. Certain of it? A. Yes.

Q. You hired this boy Moyer to work for you? A. I did not.

Q. He had worked for you? A. He hung around.

Q. Did you pay him any money? A. No, sir.

40 Q. Didn't he work at the garage? A. No, sir.

*John W. Ambrose, for Defendant—Re-direct—  
Re-cross.*

Q. Your wife did as much work at the garage as you did? A. 'Til he butted in.

Q. She drove one of the routes? A. Yes, I paid her \$80.00 a month for driving it.

Q. How much did you get? A. One route \$50.00 and the other \$150.00. 10

Q. And out of that she got \$80.00? A. Yes.

Q. You knew your wife was to see her mother in Jersey City when the child had the toothache?

A. She didn't tell me that's where she went.

Q. You know now that is where she was? A. I know now, yes.

Q. And in order to get home from Jersey City by train to Arbor, the last train comes in so it would get home about two o'clock; isn't that right? A. Yes, sir. 20

*Re-direct examination by Mr. Blatz:*

Q. You say, that when your wife fell at the time on this May 27th, you went to pick her up? A. I went to pick her up.

Q. What did she say? A. She refused to get up for me.

Q. Did you say anything about a doctor? A. Yes; I said, "I'll call a doctor for you:" and she said, "I don't want a doctor." 30

*Re-cross-examination by Mr. Crane:*

Q. You were not very much interested at any rate, because you went over to your garage? A. She wouldn't get up for me; she was stubborn, and that's the cause of her troubles; that's the most of her troubles.

Q. You didn't ask her to have a doctor? A. I did ask her. 40

*John W. Ambrose, for Defendant—Re-cross.*

Q. Why, if she was only stubborn? A. I thought probably she was hurted, and she looked up at me and said "No."

BOTH SIDES REST.

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SUBMITTED WITHOUT ARGUMENT.

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**Petition of Appellant for Leave to Proceed  
With Appeal.**

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

10

STELLA AMBROSE,  
Appellant,

*vs.*

JOHN W. AMBROSE,  
Respondent.

On Appeal  
from Court of  
Chancery.

Petition of  
Appellant for  
Leave to Proceed  
with Appeal.

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*To the Honorable the Court of Errors and Ap-  
peals in the last resort in all causes:*

The petition of Stella Ambrose, the appellant in the above entitled cause, respectfully shows that:

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1. Your petitioner finds herself aggrieved by a final decree made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey on the 26th day of December, A. D., nineteen hundred and twenty-eight, in that said decree recites that your petitioner has not sustained the allegations of her petition and is not entitled to the relief therein prayed; and doth decree that your petitioner's said petition should be dismissed.

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2. On or about January 8, 1929, your petitioner, as appellant filed a petition of appeal in this Honorable Court, a copy of which is annexed hereto and made a part hereof.

*Petition of Appellant for Leave to Proceed  
With Appeal.*

3. Your petitioner believed that the said appeal had been prosecuted by her solicitor of record, the said Robert Newton Crane, now deceased, and about April, 1929, learned that her said solicitor had departed this life and then went to his office and obtained and paid for the transcript of the testimony taken in this cause before Hon. Malcolm G. Buchanan, Vice Chancellor. 10

4. Your petitioner further says she went to a law firm in Jersey City with intention of proceeding with her appeal and ascertained that nothing was done towards this end and now desires leave from Court to be permitted to prosecute her appeal within time.

5. Petitioner further and charges that her present solicitors have endeavored to secure the consent of the solicitor for the respondent and annexes hereto a copy of a letter sent to her solicitors by the solicitor of respondent dated September 19, 1929. 20

6. Your petitioner has been advised and believes that she has a just cause for appeal and respectfully prays this Honorable Court to permit her to prosecute this appeal as within time and for such other and further relief as may be just in the premises. 30

LEVENSON, COMEN & LEVENSON,  
Solicitors of Appellant.

ABE D. LEVENSON,  
Of Counsel.

*Petition of Appellant for Leave to Proceed  
With Appeal.*

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

10 STELLA AMBROSE, being duly sworn according to  
law on her oath deposes and says: That she is  
the appellant in the above entitled cause and that  
she has read the foregoing petition and the facts  
therein contained are true to the best of her knowl-  
edge, information and belief.

STELLA AMBROSE.

Sworn and subscribed to before me }  
this 23rd day of October, 1929. }

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GEORGE T. BORRACK  
Attorney at Law  
of New Jersey

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**Petition of Appeal of Stella Ambrose.**

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

<p style="text-align: center;">STELLA AMBROSE, Appellant,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">JOHN W. AMBROSE, Respondent.</p>	}	<p>On Appeal from Court of Chancery.</p> <p>Petition of Appeal of Stella Ambrose.</p>	10
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*To the Honorable the Court of Errors and Appeals in the Last Resort in All Causes:*

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The petition of Stella Ambrose, the appellant in the above entitled cause, respectfully shows that:

1. Your petitioner finds herself aggrieved by a final decree made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, on the 26th day of December, A. D. nineteen hundred and twenty-eight, in that said decree recites that your petitioner has not sustained the allegations of her petition and is not entitled to the relief therein prayed; and doth decree that your petitioner's said petition should be dismissed.

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2. And your petitioner appeals from said decree and every part thereof on the ground that the same is erroneous in that the Chancellor should have found and adjudged the several allegations of your petitioner's petition to have been proved, and the respondent, John W. Ambrose, to have been

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*Petition of Appeal of Stella Ambrose.*

10 guilty of the cruelty alleged in your petitioner's  
petition, and should have ordered, adjudged and  
decreed that your petitioner be divorced from the  
bonds of matrimony with the respondent, for the  
cause aforesaid, and that your petitioner should  
have the other relief prayed in and by said peti-  
tion.

Your petitioner therefore prays that the said  
decree may be reversed, rescinded and for nothing  
holden, and that your petitioner may have such  
further relief as shall be meet.

ROBERT NEWTON CRANE,  
Solicitor and of Counsel with Petitioner.

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STATE OF NEW JERSEY, }  
COUNTY OF UNION, } ss.:

CHARLES MCGINLEY, being duly sworn accord-  
ing to law, upon his oath deposes and says: That  
on January 7, 1929, I served a copy of the within  
Petition of Appeal on Rene P. F. Von Minden,  
solicitor of the Respondent, by leaving the same  
with the Clerk in charge of his office at #203 Park  
30 Avenue, Plainfield, N. J., and informing her of the  
contents thereof.

CHARLES MCGINLEY.

Sworn and subscribed to before me }  
this 8th day of January, 1929. }

ELIZABETH HOGAN  
Notary Public of N. J.

40 (Seal)

*Petition of Appeal of Stella Ambrose.*

Law Offices of  
R. P. F. VON MINDEN  
203 Park Avenue,  
Plainfield, New Jersey

September 19, 1929.

Levenson, Comen & Levenson,  
Counselors at Law,  
Hoboken, N. J.

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Gentlemen:

Your favor of the 16th instant *in Re*: Ambrose divorce matter duly received and in reply beg to say Mr. Ambrose feels that this case was thoroughly tried upon its merits before Vice Chancellor Buchanan and that there is no merit to an appeal and he certainly cannot consent or waive his rights in this matter.

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I may say Mr. Blatz and myself very strongly hold the same opinion and we cannot therefore consent to going on with the appeal at this late date.

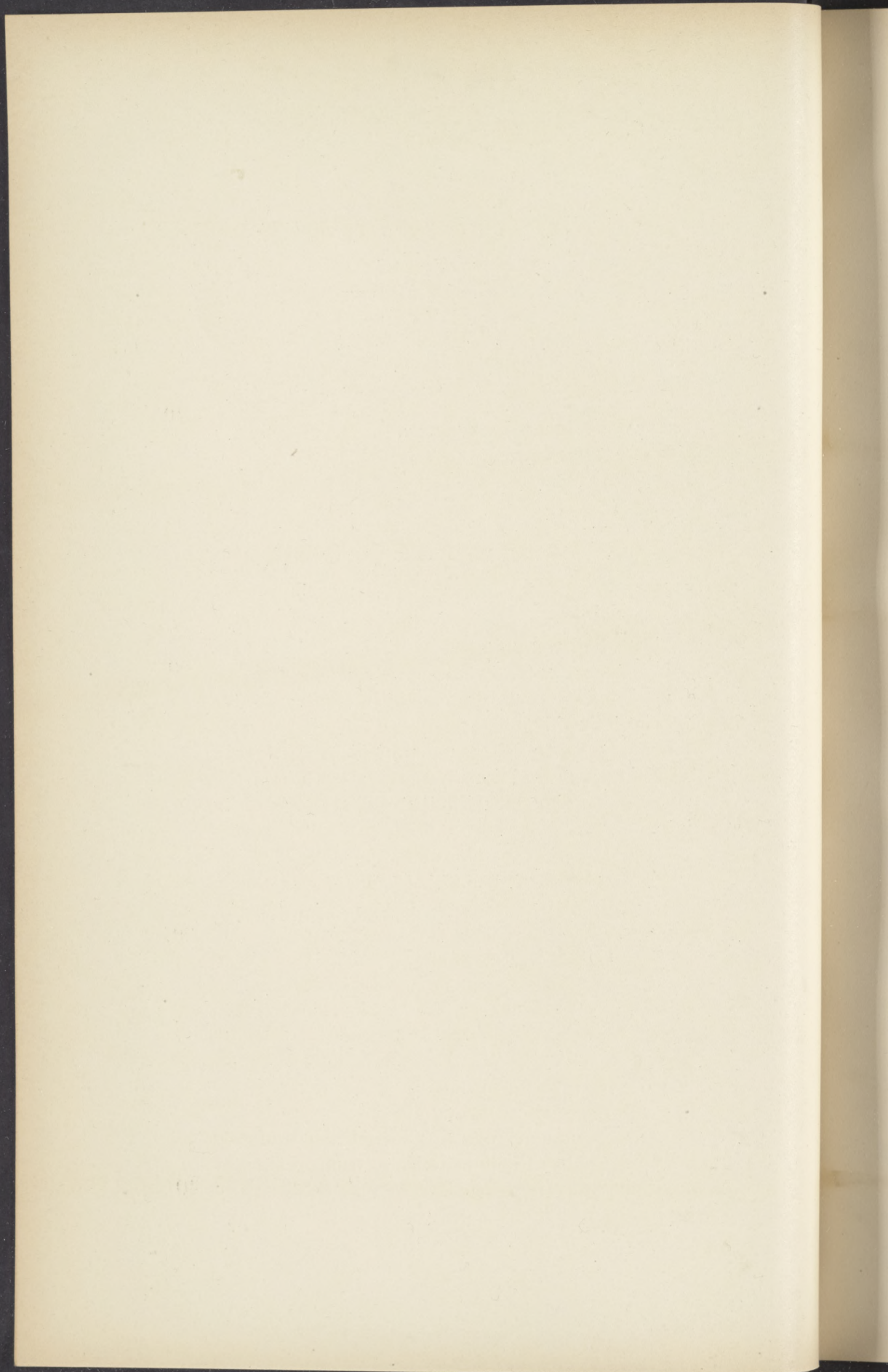
Yours very truly,

R. P. F. VON MINDEN.

RPFVonM/EF

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## New Jersey Court of Errors and Appeals

*Between*

STELLA M. AMBROSE,  
Petitioner-Appellant,

*and*

JOHN M. AMBROSE,  
Defendant-Appellee.

On Appeal  
From Decree  
In Chancery.

BRIEF.  
67-47.

### BRIEF IN BEHALF OF PETITIONER- APPELLANT.

#### Statement of the Case.

This is an appeal from a final decree of dismissal made by his Honor, Edwin Robert Walker, Chancellor, on the 24th day of December, 1928, on the advice of his Honor Malcolm G. Buchanan, Vice-Chancellor. The case was heard upon an amended petition (Case, p. 15), answer to amended petition (Case, p. 18) and testimony taken December 6th, 1928 before the Vice-Chancellor.

The amended petition was under the Blackwell Act, and set forth that the parties were married on September 2nd, 1917, and cohabited together at Arbor, New Jersey, until May 5th, 1927, when the wife was compelled to leave the husband because of his extreme cruelty. After charging that almost from the beginning of her married life, her husband had treated her unkindly and that she was the subject of his ungovernable temper and vile language, and that on numerous occasions he fell into a violent rage and struck her and told her to get out of the house and stay out, petitioner particularizes the acts of cruelty as follows:

(1): In September 1925, defendant pointed a loaded revolver at her and threatened to kill her.

(2): About the middle of October, 1926, he beat and struck her in the stomach with five pounds of candy.

(3): On May 5th, 1927, he flew into a rage and choked her and threw a flower pot at her, striking her in the side, which rendered her unconscious, making it necessary for her to have medical attention, she being treated by Dr. Bassett, at which time defendant drove petitioner and her two children from the house.

The amended petition then recites that during this long course of abuse she became nervous and ill, unfit to discharge her duties as wife, but stayed with defendant for her children's sake until May 5th, 1927, when it appearing further cohabitation must be attended with grave danger to her life, and being in great fear, anguish and discomfort, she left defendant's house, since which time she has lived apart from defendant, who has never sought her return, and that the petition was filed six months from the date of the last act of cruelty complained of, that there are two children of the marriage, age 9 and 4 respectively now in custody of petitioner and supported by her.

The prayer is for a dissolution of the marriage, that defendant be compelled to support her and the children, and that she have custody of the children.

Defendant, answering (Case, p. 18) admits the marriage, denies the ill-treatment and cruelty, denies he deserted her, but asserts he has requested

her to return to him, which she has refused to do. He admits the two children were born of the marriage, admits petitioner has custody of them, and that she supports them, but says he has tried to support the children, but petitioner refuses to accept any funds from him.

On the above pleadings, the matter came on to be heard before Vice-Chancellor Buchanan on December 6th, 1928, who, after hearing the witnesses, advised that the petition be dismissed. The Vice-Chancellor's opinion is on page 13 of the State of Case, is very brief, and is as follows:

“The wife petitions for divorce alleging extreme cruelty. She testifies to three acts only of physical violence in a period of three years. The first two the husband denies. The third he does not deny, but says it was provoked by a physical attack on him by the wife. This she denies. Neither is corroborated. I find the allegations of the petition not sufficiently proven. The petition will be dismissed.”

### Ground of Appeal.

The decree appealed from, dismissing the petition, is erroneous, because petitioner's allegations of cruelty were sufficiently proved and corroborated to entitle her to a decree, dissolving the marriage, under and by virtue of the Blackwell Act (P. L. 1923, p. 294) on the ground of extreme cruelty.

## ARGUMENT

**Petitioner's evidence was corroborated, and the allegations of her petition sufficiently proved to entitle her to a decree dissolving the marriage.**

As to proof of marriage and the jurisdictional requirement as to residence of both parties, there is no controversy, and we will pass those questions by. The controversy is as to whether there was before the Court below, sufficient proof of the acts of cruelty complained of. There is no doubt that the last act of cruelty, if otherwise proved, occurred more than six months before the filing of the petition. So that the sole question is, were the acts of cruelty sufficiently proved and corroborated?

What does the rule of corroboration in these cases require?

The case of *Wines vs. Wines*, 97 N. J. E. p. 55, holds:

“Where testimony of petitioner in a divorce case makes out a case of extreme cruelty, the rule of corroboration only requires that belief in its truthfulness must find support in the testimony of others, or of surrounding established circumstances. If certain acts of cruelty are corroborated, it is fair to assume that testimony of petitioner of other acts of cruelty, for which corroboration is lacking, is true.”

And in *Lasker v. Lasker*, 91 N. J. E. 352, at page 353, Chancellor Walker says:

“And corroboration, in order that a divorce may be decreed, need not be testimony given by another or other witnesses to all of the same identical facts to the minutest particulars, but only such facts and circumstances

as will make the petitioner's testimony believable. *Orens v. Orens*, 88 N. J. E. 29. And corroboration need not be by the testimony of witnesses; it may be furnished by surrounding circumstances adequately established. *Rogers v. Rogers*, 89 N. J. E. 1."

And *Smith v. Smith*, 96 N. J. E. p. 59, holds in syllabus #2:

"Corroboration in such cases may be slight, and may be furnished by surrounding circumstances, adequately established, to justify a decree."

And in *Coe v. Coe*, 97 N. J. E. 57, the Court said:

"It is contended that, though the petitioner be believed, a decree should be denied because her testimony is not corroborated in accordance with the rule in divorce cases. That rule requires that the truthfulness of petitioner's testimony be verified by other witnesses to the occurrences, or by surrounding established circumstances. If they bear witness to some of the material things sufficient to satisfy the conscience of the court that the petitioner's testimony as a whole is credible and worthy of belief, that is enough. *Lasker v. Lasker*, 91 N. J. E. 352, 110 A. 27; *Meek v. Meek*, 92 N. J. E. 23, 112 A. 509; *Orcutt v. Orcutt*, 94 N. J. E. 303, 119 A. 377; and *Smith v. Smith*, (N. J. Ch.) 124 A. 777. Such corroboration is found in the testimony of the two daughters, who, as already remarked, witnessed their father's conduct at home, and saw one of the assaults made on their mother."

There is no question but that the acts of cruelty alleged and testified to by petitioner were of such a nature as to constitute extreme cruelty. We take it, the problem is solely one of proof and corroboration.

Let us see what acts of cruelty the petitioner testified to. The parties were married September

2nd, 1927, in Jersey City, N. J., by a priest, and lived there for one year, then moved to Dunellen, N. J. and then to Arbor, N. J., and lived together about ten years, having two children, one age 10, the other age 4. The husband was in the garage business at Arbor, N. J., and also conducted a road stand in conjunction therewith. They had the contract to take the children of the township to school, and the wife says she drove the trucks (Case, p. 28, l. 37). She says (Case, p. 29, l. 8) that in 1925 they had an argument over the switch key of one of the cars and that he pointed a revolver at her (Case, p. 29, l. 17) and said "If you don't give me that switch key I'll kill you." That she said "Go ahead and do it". The wife went into the house. The husband telephoned for a police officer named Barrett, and Barrett came over. On cross-examination (p. 38, l. 1) she says he always had a revolver in a drawer in the garage, that she saw him go inside the drawer and get the revolver.

Barrett, the police officer, says (p. 53) he recalls the argument over the switch-key, that it happened on Election morning, that defendant came to Barrett's house and woke him up at 6:15 A. M., that Barrett went to the Ambrose home. That the wife was in the back room on the second floor with her children in bed, that Barrett rapped on the door, that she asked him to come in, that she got up, and cried a little bit, and finally gave Barrett the switch-key. That the husband stayed outside, that she said nothing to Barrett about a revolver.

Defendant's story of the incident is found on page 60, line 30, etc. He denies pointing any gun at her, admits they had an argument over an ignition key that she refused to give it to him, so he called up the officer and got the key from her. It will be observed that defendant says

he called up the officer, while the officer says defendant called at his house and woke him up.

On cross-examination (p. 64, l. 40, etc.), defendant admitted summoning the officer, admitted his wife was crying when the police officer got there and said the reason she cried was because she wanted half the money that was taken in on the job.

This offers an entirely different reason for the quarrel than the switch-key, and a different explanation for her crying. If petitioner was crying over money, it seems strange that petitioner has, as defendant himself asserts and admits in both his answer and testimony, refused to accept any money from him for the support of her children.

The reason given for the wife's crying that she wanted money contradicts the story of everyone else that the quarrel was over a switch-key. It also seems strange that if the quarrel was not a savage one, involving gun-play, that the defendant should wake the officer up at an early hour in the morning just to get his switch-key for him. And if the quarrel was over the switch-key, there was no need to call in the police, unless the quarrel was on the brink of violence as petitioner says it was and resulted in gun-play on defendant's part.

There is no doubt but what the pointing of the revolver, if it happened, was an act of extreme cruelty. No further act was needed, for the next act would have been probably murder. Barrett, the police officer, corroborates the happening of the incident, although the gun-play was not called to his attention. It is clearly not a figment of petitioner's imagination. And it will be observed that the officer found her shut in her room with the children, crying, when he arrived.

There are no direct witnesses to this incident, but the police officer corroborates the fact that there was a quarrel and that he was called in, out of his bed, and says he found the wife crying and upset, which would indicate that there had been something more than a quarrel over money or a switch-key, and that the wife had been threatened by her husband, as she said she was, and the verity of the wife's description of this incident, will find, under the rule in these cases, ample corroboration from other incidents to follow.

The next cruel incident is found in petitioner's testimony at page 30, line 20. She says they were in their store in 1926, and defendant took up a five-pound box of candy and struck her in the stomach, that she fell back and started to cry and went home.

Defendant (p. 61, l. 10) admits they had an argument, but says the candy was on the counter and it fell off and finally the box of candy fell down, that they both pushed one another and finally the box of candy fell down.

He offers a very lame explanation of this incident, the usual explanation to the effect that he did not hit her with the candy, but that it fell on her. Corroboration of the fact that he did hit her with the candy comes from an eye-witness, whose testimony the Vice-Chancellor must have overlooked, for at page 49, line 8, Minnie Kelly, a witness for petitioner, was asked:

“Q. Now, then, during the time you were living there and knew the Ambroses, did you ever hear Mr. Ambrose curse and swear at his wife? A. I certainly did. *One time he threw a candy box outside and he struck her in the side; and I didn't want to be in trouble, and I hid myself.*”

Here we have the direct testimony of an eye-witness to this assault, who says she saw the

assault, but hid to keep out of trouble. If this kind of corroboration does not more than satisfy the rule, we are at a loss to understand what kind of corroboration will.

The next cruel incident is the third one found in petitioner's testimony at page 30, lines 32, etc. Some time in 1927, she says, they had an argument home about her grandmother who was fixing defendant's dinner, and that he called her grandmother a "God-damned son of a bitch" in petitioner's presence, and petitioner took him to task, and he got her throat and was choking her, and drew her back in another room, and the grandmother was trying to get his hands off his wife and he knocked the grandmother down and ran out and petitioner ran after him, that petitioner grabbed a cup of cold coffee and threw it at him and he picked up a flower pot and hit petitioner on the breast with it, and that the next day petitioner went to Doctor Bassett. (The grandmother was dead at the time of the trial, p. 53, l. 1, etc.)

On cross-examination (p. 41, l. 39) petitioner states the blow of the flower pot rendered her unconscious. (This flower pot incident happened May 5th, 1927. Petitioner left defendant June 8th, 1927).

On re-direct examination of petitioner, (p. 44, ll. 20, etc.) petitioner says that following the incident of being hit with the flower pot, she went to a magistrate in Dunellen and made a complaint, that her husband was brought there, and that the Justice told her husband it was against the law, that he couldn't hit anybody like that. No attempt whatever was made by defendant to deny this.

Petitioner produced a Mrs. Helen Hughes (p. 45, ll. 20, etc.), a near neighbor, who lived three lots away, and who said that one evening in the Spring of 1927, she saw a woman's form lying

on the ground on her property, between seven and eight in the evening, and that at first she did not see defendant, but went in and came out of the house right away and saw defendant standing there and he seemed to be talking to his wife, and defendant went away when the witness approached. That the witness helped petitioner up and petitioner said (p. 46, l. 8), "Look at my breast; Mr. Ambrose struck me with a flower pot," and showed witness her breast, which seemed inflamed as if it had been struck by something, that defendant seemed to have turned around to move away before witness got there, and (p. 47, l. 1) witness saw the flower pot there. That petitioner had just opened her eyes when witness got there, and witness helped her up and into petitioner's home.

This complaint of having been struck by a flower pot, made by petitioner to Mrs. Hughes, was in itself sufficient corroboration under the case of *Smith v. Smith*, 96 N. J. E. 59, which holds:

"In cases of extreme cruelty there being no eye witnesses to the acts alleged, the presence of the wife, flushed, excited and in tears, crying out the reason therefor, has been considered as a corroborating 'surrounding circumstance.'"

And the above excerpt is of some significance with respect to the revolver incident, when the officer called and found the wife shut in her room and in tears.

To resume the flower pot episode. Alexander Herrlich, police officer, a witness for the defendant (p. 56, l. 17, etc.), said petitioner told him she threw a cup of coffee at defendant and he picked up a flower pot and hit her with it and knocked her down.

Dr. Bassett, a witness for petitioner, testified (p. 59, l. 20, etc.) that on May 6th, 1927, petitioner called at his office, he examined her and found a bruise on her left chest over the breast and on the side of the eye.

Defendant (p. 61, l. 25, etc.) describes the flower pot episode as follows: The grandmother did not prepare the food properly, that an argument started, that petitioner called him a "skunk," and THAT HE SLAPPED HER FACE (l. 35), that she caught his hair and he ran out and she fired coffee at him. He says he doesn't know whether she tripped over and bruised herself or whether HE REALLY THREW HER OUT (l. 40), that he never struck her any time in his life, except that day.

On cross-examination (p. 63, l. 31, etc.) defendant says he doesn't know whether he hit his wife with the flower pot or not. That (p. 64, l. 8) he left his wife lying on the ground, she wouldn't get up for him, that he saw Mrs. Hughes come over and walked away.

There is no question but what the flower pot incident happened. Petitioner describes it fully and followed it up at once by a complaint to a magistrate. It is uncontradicted that the magistrate told defendant he could not hit anybody like that, it being against the law, which admonition defendant does not deny. Then we have a neighbor, Mrs. Hughes, an entirely disinterested witness, who found petitioner on the ground with a bruised chest, and that petitioner told her defendant had struck petitioner with a flower pot; that Mrs. Hughes saw the marks on petitioner's chest; that Mrs. Hughes saw defendant move away when she approached petitioner's prostrate form, and that Mrs. Hughes saw the flower pot there. Herlich, the police officer, also corroborates petitioner's accusation as to the flower pot episode, which clearly indicates it was no trumped-up

charge. The doctor treated her the day after the assault and describes the injury to her chest.

When we come to defendant's version of the episode, we find corroboration there. He says his wife called him a "skunk" and that he slapped her in the face. This, in itself, admitted by him, is an act of cruelty, as words alone are no justification for an assault, especially as he was dealing with his own wife. He admits himself that he struck the first blow in the altercation, and that it was only after he had slapped her face that she threw the coffee at him. If, as he admits, he struck the first blow when he slapped her face, and that she then threw the coffee at him, and a chase ensued, it is not likely he would stop at anything to come out the victor. Mrs. Hughes says the flower pot was there. Petitioner certainly wasn't carrying it around with her in the chase, nor was defendant. The wife was unconscious on the ground. What she says happened, must have happened, namely, that he struck her with the flower pot.

Peculiarly enough, he is very vague on whether he threw the flower pot at her or not. He says he doesn't know whether she tripped and bruised herself, or, significantly enough, WHETHER HE REALLY THREW HER OUT (p. 61, l. 40), and that he never struck her in his life except this one slap in the face.

At this point, the language in *Wines v. Wines*, 97 N. J. E. 55, is pertinent:

"If certain acts of cruelty are corroborated, it is fair to assume that testimony of petitioner of other acts of cruelty, for which corroboration is lacking, is true."

The wife did not call him a "skunk" until he had cursed her grandmother. Until then no blow had been struck. He then says he slapped her face. She says he grabbed her by the throat. Her

version is more likely, as he would naturally give a modified version of what he did.

If he admits slapping her, it is more likely he made such a violent assault on her as she describes.

Here we have an act of cruelty, slapping her face, not in self-defense, but as the first blow, not only corroborated, but admitted by defendant, and his only excuse is that she called him a "skunk", and this, after he had cursed her grandmother. The defendant, in view of the particularity of his recollection of other aspects of this incident, ought to know whether he hit his wife with a flower pot or not. His recollection as to all other acts of cruelty is very precise, but on the one incident which is abundantly corroborated in her behalf, and in the face of testimony against him, he takes refuge in a lapse of memory and says he doesn't recall whether he hit her with the flower pot or not.

We respectfully beg to differ with the learned Vice-Chancellor, who in his opinion says, referring to this incident:

"The third he does not deny, but says it was provoked by a physical attack on him by the wife."

True enough, he does not deny it, but neither does he admit it, and does not attempt to justify it by a physical attack on him by his wife, because (p. 63, l. 31, etc.) he says he doesn't remember whether he hit his wife with a flower pot or not. He does admit he struck the first blow, that he slapped her face, and that he does not attempt to justify, except by saying she called him a "skunk". We submit that, on his own admission, he assaulted her, that she threw cold coffee on him to fend off the assault, which was much more violent than he admits, and that he struck and knocked her unconscious with the flower pot, and

that she was found unconscious, as Mrs. Hughes describes, with defendant standing over her prostrate form, with the flower pot there, and that he stole away when Mrs. Hughes approached.

The parties separated on June 8th, 1927, after this incident of May 5th, 1927.

Scanning the record generally, we find this couple married some ten years, the wife industrious and helping out in the business, until 1925 when the revolver incident occurred, the husband thereafter swearing and carrying on, calling the wife (p. 30, l. 10) all the whores and bastards he could think of. Then comes, in 1926, the incident of the assault with the candy box. Then, in 1927, the flower pot incident. The wife continued to live with him during these assaults, and in 1926 consulted an attorney. The attorney sent for the husband, who said he would be a different man and try to do the best he could (p. 32, l. 20). That in 1927 she left and went to her mother's in Jersey City with the two children.

On cross-examination an attempt was made (p. 34, l. 40) to show that the defendant's actions were caused by petitioner's friendship for a man named Moyer, who frequented the husband's garage. This attempt proved utterly abortive. Not one of the three assaults set out was ascribed by anybody to Moyer. The revolver incident was the result of a quarrel over an ignition key, or as the husband puts it, over a division of money. The candy box incident was, the husband said, caused by an argument over her refusal to watch the store for him (p. 61, l. 19). The flower pot episode was over the grandmother's faulty preparation of the meal. In no instance was the assault the result of a quarrel about Moyer. The Moyer situation was injected in the case, without any foundation, merely to give the husband some plausible background for his seeming temper and

rage. In every instance that the wife was in Moyer's company, others were present, and the wife necessarily had to meet Moyer around the garage. The husband does not give as a reason for any quarrel that led to an assault, any controversy about Moyer. The husband's lame and unsuccessful attempt to introduce Moyer obliquely into the domestic scene, as a cause of discord, was utterly discreditable to him, was utterly alien to the disputes between the couple, had no basis in fact whatever, and because of its utter collapse as a defense or explanation of his cruelty and an attempt to show him the injured party, lends corroboration to the wife's charges.

Minie Kelly, a witness for petitioner, was a neighbor, and knew the parties for five years. She testifies (p. 48, l. 20, etc.) that when petitioner was packing up in the witness's presence, to leave in 1927, defendant had a file concealed up his sleeve. She also says that during the time she knew them, she heard defendant curse and swear at his wife. She then goes on, quite accidentally, to corroborate the fact that he struck his wife with a candy box (p. 49, l. 8), but that the witness did not want to get into trouble so she hid herself. She says that while petitioner was packing up to leave, defendant was angry with and nasty with her, and she looked upset and was crying.

Mary Smolka, witness for petitioner, and a sister of petitioner, says (p. 51, l. 20) defendant called petitioner a "God damned son of a bitch"; that petitioner while living with defendant was in a terribly nervous condition, but is one hundred per cent better now.

Defendant was asked on cross-examination (p. 65, l. 15, etc.) about going, in late 1926 or early 1927, to the wife's lawyer's office and being told by the wife's lawyer that he had no right to hit his wife. Defendant says he doesn't remember that.

He does not deny it. He recalls that later he was at the lawyer's office again, and was on cross-examination asked:

“Q. Do you recall at that same time and place telling your wife you would never again call her any of the vile names you had called her; do you remember that? A. YES, PROVIDED SHE LIVED AS MAN AND WIFE.”

Here we have a clear admission by defendant that he had called her vile names, which she said were “whore” and “bastard”, and her sister said was a “God damned son of a bitch”. He admits that he called her vile names and admits he promised he would never call her them again. Under the case of *Hill vs. Hill*, 97 N. J. E. 237, verbal abuse of this character constitutes extreme cruelty. Here, we have an unjust, malicious and wanton accusation by defendant that his wife was a “whore”.

The defendant goes on later to deny that he called her a “whore”, but says the vile names were “damn it” and the like. This is so patently an evasion as to be utterly convincing that when he called her vile names, and admitted he called her vile names, he meant what everybody means by vile names, and what his wife and sister say he called her, “whore”, “bastard”, “bitch”.

We submit that there was abundant corroboration of the revolver, candy box and flower pot episodes. We submit that under the rule of corroboration governing these cases, the truthfulness of petitioner's story finds support in the testimony of others; in the testimony of petitioner and Officer Barrett as to the revolver episode; in the testimony of petitioner and Mrs. Kelly as to the candy box assault; in the testimony of petitioner, Mrs. Hughes, Doctor Bassett and Officer Herlich as to the flower pot episode, also the fact that the

wife made a complaint to the magistrate about it, and that shortly after she left her husband.

Petitioner is also corroborated by her sister as to the vile names defendant called her.

Turning to defendant, we find him summoning a police officer over a dispute, as he says, about how money should be divided, and denying he displayed a revolver, although his wife had shut herself in a room with the children and was crying when the officer arrived. As to the candy box episode, he makes the lame explanation that it fell while they were struggling, although Minie Kelly testifies defendant hit petitioner with the candy box. As to the flower pot episode, he admits that after his wife had called him a skunk he assaulted her by slapping her face, and she then, in retaliation, threw coffee at him, and he ran out of the house, and his wife probably tripped or fell chasing him, but he doesn't remember striking her with the flower pot, although Mrs. Hughes saw her lying unconscious on the ground, with defendant standing over her, the flower pot nearby, and defendant went away when Mrs. Hughes came over; and the witness saw marks on petitioner's breast, and she was unconscious when witness arrived, and she helped petitioner into the house; and the next day petitioner saw a doctor, who described the marks on petitioner's breast; yet, in the face of all this, the best defendant can do is admit he struck the first blow by slapping her face, but cannot remember whether he threw the flower pot or not; and yet, the Court below says the third incident was not corroborated. It is difficult to imagine what kind of corroboration is required, unless it is absolutely necessary to produce eye witnesses to the assault, which is not the rule. These kind of assaults are usually committed privately in the domestic scene, and, in the

nature of things, can only be proved circumstantially.

Then we have his admission at the conference with her lawyer that he called her vile names and would stop it, tapering the vile names off with an absurd "damn it", which refutes him on its very face.

### **Conclusion.**

We submit that there is ample corroboration in the record of all three acts of cruelty, and, coupled with the other testimony and defendant's testimony, there was ample proof and corroboration furnished so as to require the lower Court, under the statute and cases, to grant petitioner the decree she prayed for, and to make it error to dismiss her petition.

**It is therefore submitted that the decree below, dismissing the petition herein, should be reversed.**

Respectfully submitted,

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