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BILL OF COMPLAINT.

(Filed Oct. 26, 1926.)

IN CHANCERY OF NEW JERSEY.

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

Complainant, Julia L. Taylor, of Atlantic City,
New Jersey, respectfully shows that:

1. On the 9th day of March, 1926, she was married to her present husband, Edward Jay Taylor, in Philadelphia, Pennsylvania, since which time both have resided in Atlantic City, New Jersey.
2. For a long time before said marriage, her husband, the defendant, had suffered from a venereal disease and this fact was known to him at the time of the marriage but was withheld from her and was unknown to her at the time she contracted said marriage. 20
3. On or about the 12th of April, 1926, she was taken ill and on or about May 9th following was informed by Dr. Garfield C. Burrows that she was infected with a venereal disease. In consequence it became necessary for her to have a serious operation performed, which was performed at the Atlantic City Hospital by Dr. David B. Allman. 30
4. At the time said marriage was contracted complainant was free from venereal disease and the in-

fection she received was in consequence of having intercourse with her husband.

5. After learning the cause of her illness and undergoing said operation which was very serious and which left her in a feeble condition and upon being advised by her physician that it would be unsafe for her to resume marital relations with her husband, she refused to longer live with him.

10 6. Because of said facts complainant claims that she was justified in leaving her husband and in refusing to longer live with him and that his conduct amounts to an abandonment on his part and separation from her in law.

20 7. Since leaving the hospital her husband promised to pay her \$100 a month in advance for her support and maintenance and on or about the 20th of May, 1926, paid that amount, but has not paid anything since notwithstanding that demand has been made upon him to do so.

8. She is without income and any means of supporting herself and is now wholly dependent upon her mother.

30 9. The defendant on several occasions before her marriage and since, told her that he was quite well to do and well able to support her. He owns and maintains an automobile and has a driver for it. She believes that he is worth at least \$100,000.

Complainant is without adequate remedy in the courts of law and therefore prays:

(1) That Edward Jay Taylor, who is the defendant to this suit, may answer this bill of complaint with oath and each statement therein made;

(2) That he may be ordered and decreed to provide such suitable support and maintenance to be paid and provided by said defendant or to be made out of his property, and for such time as the nature of the case and circumstances of the parties render suitable and proper, and that the said defendant may be compelled to give reasonable security for such maintenance and allowance, and to pay the same from time to time under the compulsory orders of this Honorable Court, as provided by the statute, and in case the defendant cannot be found in this State to be served with process, that this estate, property and effects in this State may be sequestered to compel his appearance and performance as shall seem fit and that the defendant may be required to pay the complainant proper amount for counsel fees and that she may have such other equity as shall be just; 10

(3) That a writ of subpoena may issue commanding said defendant to answer this bill of complaint and abide by such decree as this Court may make in the premises. 20

COLE & COLE,
Solicitors for and of Counsel
with Complainant.

STATE OF NEW YORK, }
COUNTY OF } ss.

JULIA L. TAYLOR being first duly sworn according to law upon her oath deposes and says: 30

I have read the attached bill of complaint and say that the statements therein so far as they are within my own knowledge are true, and otherwise I believe

Bill of Complaint

them to be true. Particularly is it true that I had no information from the defendant before our marriage that he was afflicted with a venereal disease and did not know it until I was advised by my doctor that my condition as set forth in the bill was due to a venereal infection which I saw I contracted by having intercourse with my husband. I received from him only \$100 for my support and maintenance since I left the hospital and I am unable to work at this time, have no income, and am wholly dependent upon my mother for support and maintenance.

JULIA L. TAYLOR.

Sworn and subscribed to before me this 9th day of July, nineteen hundred and twenty-six.

ROSE GREENBERG,
Notary Public.

(SEAL)

Notary Public, New York County, New York County Clerk's No. 514. Register's No. 8584. Commission expires March 30th, 1928.

ANSWER.

(Filed Nov. 12, 1926.)

IN CHANCERY OF NEW JERSEY.

Between

JULIA L. TAYLOR,

Complainant,

and

EDWARD JAY TAYLOR,

Defendant.

On Bill, etc.
Answer.

Defendant, a resident of the City of Atlantic City, County of Atlantic and State of New Jersey, answering the bill of the complainant, says

1. He admits the first paragraph except that he says the complainant is a resident of the City of New York, in the State of New York.

2. He denies paragraph 2, and says that in fact he had a venereal disease in the year 1900 and had no other venereal disease until April 14, 1926, when he became infected with a new acute case.

3. He has no knowledge as to the truth of paragraph 3 of the complaint except that he admits that the operation was performed as therein set out.

4. He denies paragraph 4 and says in fact the complainant was suffering from a venereal disease in

consequence of intercourse with some person unknown to defendant at sometime either prior to or early in her married life with defendant.

5. He denies paragraph 5 except that he admits that the complainant refused to live with him, but says in fact that her refusal was not based upon the grounds alleged, but upon her continual desire from the date of her marriage to escape her marital responsibilities and to obtain money from this defendant by any means.

6. He denies paragraph 6.

7. He denies paragraph 7 except that he admits that he made the payment as therein set out.

8. He denies paragraph 8, and says that the complainant, prior to her marriage was self-supporting and has been self-supporting for four or five months last past; that she can earn enough from her own means to support herself and her mother and is now fully recovered from her indisposition.

9. He denies paragraph 9.

EDWARD JAY TAYLOR,
Defendant.

WILLIAM CHARLTON,
Solicitor of Defendant.

ORDER TO SHOW CAUSE.

(Filed Oct. 26, 1926.)

IN CHANCERY OF NEW JERSEY.

Between

JULIA L. TAYLOR,

Complainant,

and

EDWARD JAY TAYLOR,

Defendant.

On Bill for Maintenance, &c.
Order to Show Cause.

10

Upon reading and filing the bill of complaint with affidavit thereto; 20

It is on this 26th day of October, 1926, on motion of Cole & Cole, solicitors of complainant,

Ordered that the defendant show cause before the Chancellor at Chambers, Law Building, Atlantic City, on Tuesday, the ninth day of November, 1926, at the hour of ten o'clock in the forenoon, why he should not be required to make an allowance for the support and maintenance of the complainant pending the suit, and also pay a counsel fee.

It is further ordered that complainant be allowed to produce testimony before the Court on the return of this order in support of the application for support and maintenance and counsel fee and that the defendant be allowed to produce counter testimony at the same time. 30

It is further ordered that a copy of said bill, affidavit and of this order none of which need be certified but marked as true copies by solicitors of complainant, be served upon the defendant within five days from the date hereof.

E. R. WALKER,
C.

Respectfully advised,
R. H. INGERSOLL,
V. C.

10

PETITION.

(Filed Jan. 31, 1927.)

IN CHANCERY OF NEW JERSEY.

20

Between		
JULIA L. TAYLOR,	}	On Bill for Maintenance. Petition, &c.
Complainant,		
and		
EDWARD JAY TAYLOR,		
Defendant.		

30 To the Honorable Edwin Robert Walker, Chancellor
of the State of New Jersey:

Your petitioner respectfully shows that the defendant has not complied with the terms of the final decree in this cause dated the 7th day of January, 1927, in that he has not paid anything on account of

maintenance, nor has he paid counsel fees or costs as provided.

Notice of an appeal and petition of appeal have been filed by him and Mr. William Charlton, his counsel, has stated that the defendant does not intend to pay pending the appeal and is not required to do so.

Petitioner prays that defendant may be required to show cause why he should not be attached in contempt in not performing the decree in the respects aforesaid and punished accordingly.

10

And your petitioner will ever pray, &c.

COLE & COLE,
Solicitors for Complainant-
Petitioner.

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

C. L. COLE being first duly sworn according to law upon his oath says: 20

I am of counsel with the petitioner. Notice of appeal and petition of appeal have been filed and served by the defendant. William Charlton, solicitor of defendant, informed me that the defendant had not paid maintenance as provided and that his client would not pay pending the appeal. Counsel fees and costs have not been paid.

C. L. COLE.

30

Sworn and subscribed to before me this 28th day of January, 1927.

WILLIAM M. CLEVINGER,
M. C. C.

ORDER TO SHOW CAUSE.

(Filed Jan. 31, 1927.)

IN CHANCERY OF NEW JERSEY.

Between
 10 JULIA L. TAYLOR,
 Complainant,
 and
 EDWARD JAY TAYLOR,
 Defendant. } On Bill, &c.
 On Petition, &c.
 Order to Show Cause.

Upon reading and filing the petition of complainant;

It is on this 31st day of January, 1927, on motion
 20 of Cole & Cole, solicitors of complainant, ordered that the defendant show cause before the Chancellor at Chambers, Atlantic City, on the eighth day of February, 1927, at the hour of 10 o'clock in the forenoon, why he should not be attached in contempt for failure to pay maintenance and counsel fees and costs as provided in the final decree and punished accordingly.

It is further ordered that a copy of the petition and affidavit thereto and of this order, none of which need
 30 be certified but marked as true copies by solicitors of complainant, be served upon the defendant within three days from the date hereof.

E. R. WALKER,
 C.

Respectfully advised,
 R. H. INGERSOLL,
 V. C.

TESTIMONY.

IN CHANCERY OF NEW JERSEY.

Between
 JULIA L. TAYLOR,
 Complainant,
 and
 EDWARD JAY TAYLOR,
 Defendant. } On Bill, &c.
 On Order to Show
 Cause.

10

Atlantic City, N. J., November 9, 1926. 20

TESTIMONY.

Before HON. R. H. INGERSOLL, Vice-Chancellor.

30

APPEARANCES:

For complainant, MESSRS. COLE & COLE.
 For defendant, WILLIAM CHARLTON, ESQ.

DR. GARFIELD C. BURROWS, sworn for complainant.

Direct examination.

By Mr. Cole:

Q. You are a practicing physician in Atlantic City?

10 A. I am, sir.

Q. How long have you practiced?

A. Since 1915.

Q. Do you know Mrs. Julia L. Taylor, the complainant in this case?

A. I do.

Q. Do you know her husband, Edward J. Taylor?

A. I do.

Q. Do you know whether or not an operation was performed upon her in the Atlantic City Hospital?

20 A. I do.

Q. About when was that?

A. May I refer to my notes?

Q. Yes.

A. That was on the sixteenth of April.

Q. Of this year?

A. Of this year, 1926.

Q. Who performed the operation?

A. Dr. David B. Allman.

Q. Were you present?

30 A. I was.

Q. What was the operation?

A. An abdominal section.

Q. Give us the details?

A. The details were the removal—you mean the removal?

Q. Yes.

A. The removal of the ovarian tubes, at least the

tubes, the removal of the appendix, the removal of the right ovary and a curettage.

Q. What was the cause of the operation?

A. They were infected tubes, pus tubes.

Q. What was the character of the infection?

A. Thick pus, inflammatory reaction.

Q. What caused that?

A. An infection.

Mr. Charlton: If the Court please, I object to that. I think he ought to be limited to describing facts, results of the examination, and so forth.

Q. Give us the whole story, Doctor, won't you, please?

A. The tubes were infected and full of pus and, therefore, were necessary to be removed. The nature of that infection I am not able to positively state, as I did not examine the tubes. That was sent to the laboratory at the Atlantic City Hospital. 20

Q. Did you talk with the defendant about this matter?

A. Mrs. Taylor?

Q. No, Mr. Taylor.

A. The defendant?

Q. Yes.

A. I did.

Q. State when it was and what the conversation was?

A. Well, I talked to him on several occasions. The first occasion was on the twelfth of April when I was first called in to see his wife. At that time I explained the nature of her illness and that it was necessary for her to be removed to the Atlantic City Hospital for treatment and operation. 30

Q. You said you explained the nature of her ailment; what did you tell him?

A. I told him that she had a peritonitis, lical peritonitis, due to an infection of the tubes. I made that diagnosis, the tubal infection, and also the acute appendicitis.

Q. What was his attitude?

A. At first it was adamant about her being removed. I explained to him that on account of conditions at the house and conditions under which I found his wife, alone in bed, and practically no heat in the place, and the temperature 103, she was a
10) mighty sick person and it was necessary, in order to save her life, that she be removed. At first he demurred and finally I pressed him to be allowed to remove her and he agreed.

Q. Did he give any reason for objecting?

A. No, not particular except on general principles..

Q. Just what did he say if you recall?

A. Well, he said "I don't think it is necessary."
20) He said "I am not a doctor, but I don't think it is necessary for her to go," as much as to infer "You don't know your business" and things like that, that attitude, and finally I explained to him, as best I could, that in my opinion it was absolutely necessary in order to save her life, it was a question of life.

Q. Who sent for you?

A. Mr. Taylor came to my house for me.

Q. Had you ever prescribed for him before this?

A. I had not.
30)

Q. Was that the first occasion of his ever calling on you?

A. Yes, sir.

Q. Now then did you after that time talk with him about the nature of the wife's trouble?

A. I did.

Q. Tell us when it was, as near as you can recall and what the conversation was?

A. I saw him practically daily from the day that Mrs. Taylor went into the hospital for the first three weeks possibly, or two weeks, he came to me for two reasons, the first was to learn first-hand just exactly how his wife was and secondly to consult me about a condition with which he was suffering at that time.

Q. Tell us all that was said, Doctor; tell us all the talk you had?

A. Well, it was professional most of it.

Q. We want that too.

A. I explained to him on each occasion about the condition of his wife, that things were satisfactory and all, and about his condition, he had a discharge from the urethra and this discharge, of course, worried him considerably and I advised him and took a slide and I had it examined and about—I gave him treatment for it—about two weeks later
20) he came to me again, at least he came to me, I remember distinctly at that time he came to me and said that he had also checked up, in other words he had had slides made by two or three other technicians, he gave me the reports verbal reports of those examinations.

Q. What did he say?

A. He said one was negative and the other was positive for gonorrhea.

Q. Tell you about how long he had had it?

A. He gave a history of previous infection.
30)

Q. Tell us what he said about the previous infection?

A. If I recall—

Mr. Charlton: Refer to your notes, Doctor, and have it correct.

A. I haven't my notes on that, as my notes are locked up, unable to gain access to them. They are in storage.

Q. Give us your best recollection.

A. The best recollection that I have is this, that he suffered from a gonorrheal infection early in life, he had also had it on two or three occasions previous to this and he was at a loss to understand why he should have it just at this time.

10 Q. Where did you send the smear you had?

A. I sent it to Myers, 917 Pacific.

Q. Where were you and where was he, of course, when this smear was taken by you?

A. He was in my office at 708 Pacific Avenue.

Q. How long was it, according to your best recollection, between the time you took that and the time he came back and reported that he had also a smear taken?

A. Two weeks.

20 Q. Doctor, is it clear to you that he told you that one smear came back positive or rather one report came back positive and the other negative?

A. Yes, sir.

Q. Did he tell you where he had the examination made?

A. I don't recall.

Q. I call your attention, Doctor, to a letter you sent me under date of June fifth and ask you to look at that, please, and say whether after reading
30 it you still think that he told you that one report was positive and the other negative? What does the letter say?

A. The letter says that he had taken it to the laboratory, the Arleth Laboratory, also the Hunt Laboratory, and they both had come back positive. I recall that.

Q. Then do you want to correct—

A. I do.

Q. Was this a serious operation?

A. It was, sir.

Q. How long was Mrs. Taylor in the hospital?

A. From April the thirteenth until May the twentieth.

Q. What was the amount of your bill?

A. My bill was \$118.

Q. Have you been paid?

10

A. I was. I accepted a reduction on that, on the day that I left, I left on the tenth day of May for Richmond, Virginia, to make my permanent home there, and on that morning I met Mr. Taylor in the Guarantee Trust Building and he paid satisfactory.

Q. He paid you?

A. Yes, sir.

Q. When did you first suspect that the cause of this infection, if you ever did, might have been gonorrhea?

20

A. I don't understand, sir, just—

Q. Was there ever a time when you suspected gonorrhea was the cause of this trouble?

A. I suspected gonorrhea when I first saw the patient.

Q. Now what were the indications to you that it was gonorrhea?

A. The indications were the nature and the symptoms, the nature of the symptoms, from which Mrs. Taylor was suffering at that time.

30

Q. Was that the most likely cause?

A. It is the most common cause.

Q. Can you think of any other thing that would have brought about that condition other than gonorrhea?

A. One other thing and that is what is commonly

called fluid infection but those cases are comparatively in the minority as compared to the cases of gonorrheal origin.

Q. What is your opinion as to the cause in this case?

A. I think it was gonorrheal.

Q. Now after you suspected that it might be gonorrheal did you talk with him?

A. I did.

10 Q. What did you say to him?

A. I told him that I suspected that it was gonorrheal there was hardly any doubt in my own mind and there was no answer.

Q. He didn't answer it?

A. He did not.

Cross-examination.

By Mr. Charlton:

20 Q. No doubt in your mind at all, Doctor, she had gonorrhea on the twelfth of April, is there?

A. I rather think so; that is my diagnosis.

Q. In your medical experience did you ever know of a woman to be in her condition with gonorrhea contracted for a period of thirty days?

A. It is very possible, I say.

Q. It is possible?

A. Yes, sir.

30 Q. What condition were her tubes and ovaries in?

A. Very much inflamed and full of pus. I didn't mean the ovaries. I mean the tubes were. The ovaries were very much—

Q. The tubes lie up above the ovaries, don't they?

A. No, sir; alongside of.

Q. Alongside?

A. Yes, sir.

Q. Slightly above, aren't they?

A. No, the ovaries are above the tubes in the normal position, although there is no set position.

Q. You knew that these people had been married on the ninth of March, didn't you?

A. I didn't learn it until later.

Q. Knowing that they had been married on the ninth of March are you prepared to say that her condition was the result of gonorrhea contracted from her husband when you examined her on April 10 twelfth?

A. To state positively is almost an impossibility. To conjecture and take from the symptoms and the history of the case, yes.

Q. What experience have you had with gonorrhea, Doctor?

A. I might tell the time.

Q. Are you practicing actively in it?

A. I am.

Q. Do you profess to be a specialist?

A. I do not.

Q. As a matter of fact you sent Mr. Taylor for treatment to Dr. Shivers, didn't you?

A. I did.

Q. And Dr. Shivers is an expert in gonorrhea?

A. He is a specialist.

Q. Of men and women?

A. Yes.

Q. What kind of gonorrhea was Mr. Taylor suffering from, chronic or acute ? 30

A. Acute gonorrhea.

Q. Acute?

A. Acute upon a chronic.

Q. Acute means new, fresh gonorrhea, doesn't it?

A. It may not. It may mean a sudden lighting up of the old infection.

Q. How old can gonococci be and come back to life again acutely as Mr. Taylor had it?

A. I have known it for thirty years.

Q. You have known it for thirty years?

A. I have.

Q. In other words you want us to believe that a man who had gonorrhea thirty years ago can, without any new infection or exposed to any new contagion, contract acute gonorrhea?

10 A. I certainly do.

Q. Those germs are so alive that they can come back and infect acutely?

A. Absolutely.

Q. Without any new exposure?

A. Absolutely.

Q. And you also tell us that Mrs. Taylor in thirty-four days could have reached the condition she was in?

A. Absolutely.

20 Q. Now, Doctor, is it true that a woman may have gonorrhea and have the germs in her tubes and ovaries and be perfectly all right for normal intercourse at times other than around, at and during her period?

A. I think that is possible.

Q. But before, during and after her period she is liable to infect someone, isn't she?

A. I don't think any more than any other. I think a gonorrheal infection can be obtained at any time except, other than at the menstrual period.

30 Q. Can be obtained at any time?

A. Yes, sir.

Q. But it is more likely to be contracted if intercourse is had just before, during or after her period?

A. I don't think so. I think that had to do with the liability of pregnancy.

Q. Mr. Taylor gave you a history of gonorrhea twenty-five years before, didn't he?

A. He did.

Q. Did Mr. Taylor come to you professionally?

A. He did.

Q. And after he had come to you professionally you went and told his wife that he had gonorrhea, didn't you?

A. On cross-examination by his wife I did.

10

Mr. Cole: If the object of this is to criticise the doctor, I object to it. You are under subpoena here, Doctor, aren't you?

A. I am, sir.

Mr. Charlton: You allege in the bill that he told it.

Q. Doctor, Mr. Taylor paid all the bills, didn't he? 20

A. I know nothing other than my own bill.

Q. Did he pay Dr. Allman?

A. Not that I have any knowledge of.

Q. Did he pay the hospital?

A. Not that I have any knowledge of.

Q. Did Mr. Taylor, before this operation, tell you that he didn't want his wife operated on?

A. He did.

Q. He told you he was worried about operations? 30

A. Yes, sir.

Q. Seemed to care for his wife, didn't he?

A. Yes.

Q. But she wanted the operation, didn't she?

A. She didn't—I called in a consultant, Dr. Allman, and Dr. Allman explained to Mr. Taylor that

it was absolutely necessary, just as I had told him, and at that time, that was in the hall of the hospital and what Mr. Taylor told Dr. Allman was nothing gentlemanly about it, and Dr. Allman left him and at that time refused to operate on his wife, he could get whoever he pleased.

Q. Doctor, how old is Mrs. Taylor?

A. Mrs. Taylor, I cannot tell you right off-hand without my notes.

10 Q. About how old?

Mr. Cole: She is here and can speak.

Mr. Charlton: How old is she, Judge?

Mr. Cole: I don't know; put her on the stand.

A. Twenty-nine according to hospital record.

20 Q. Did she have any previous history of gonorrhea?

A. None that I received.

Q. Did you ask her if she had?

A. I did.

Q. Did you tell her that her condition was probably due to gonorrhea?

A. I did not.

Q. When did you tell her that?

A. I beg pardon?

30 Q. When did you tell her that her condition was probably due to gonorrhea?

A. After a conversation when she was convalescent, possibly around the first of May or the latter part of April.

Q. That is all.

By the Court:

Q. Is it the history of what you might term latent gonorrhea, that it is more likely to flare up, become chronic, after a change in sexual habits? In other words—

A. There are two causes for that, the most common cause, of course, is a new infection, and the other cause is just a flare up due to lowered vitality or increased sexual, increased excitement. 10

By Mr. Cole:

Q. Does the incessant use of intoxicating liquor have anything to do with it?

A. Very much, sir.

Q. That helps it along, doesn't it?

A. Oh, yes.

20

MRS. JULIA L. TAYLOR, sworn for complainant.

Direct examination.

By Mr. Cole:

Q. You are the Julia L. Taylor in this cause?

A. Yes, sir.

Q. How old are you?

A. Twenty-nine.

Q. When were you married to the defendant?

A. On March the ninth.

Q. This year?

A. This year.

Q. Up to the time you were married what had been the condition of your health? 30

A. Perfect health.

Q. Had you ever had any chronic disease?

A. Never.

Q. Ever had any occasion to have a doctor for any chronic disease?

A. Never at any time.

Q. When after your marriage were you taken sick?

A. On the twelfth of April.

10 Q. How did it affect you?

A. I was stricken acutely, I was driving my car and I was taken ill.

Q. Pains?

A. Terrific pains. I was unable to walk.

Q. Where were the pains?

A. In my abdomen.

Q. Were you later operated upon?

A. Yes, sir.

20 Q. Did your husband want you to have the operation?

A. No, he fought against it.

Q. What did he do or say?

A. He just simply almost went insane.

Q. Give any reason for opposing it?

A. He simply didn't want me to be operated on. It seemed as though he had a fear of something being revealed, as I think it over now.

Mr. Charlton: I object and ask that it be stricken.

30

The Court: Yes, let that be stricken.

Q. We don't care what you think. We want the facts. Had Mr. Taylor told you before marriage that he had ever had gonorrhea?

A. No, sir.

Q. Had you ever had gonorrhea before your marriage?

A. Not to my knowledge.

Q. You would certainly have known it if you had had, wouldn't you?

Mr. Charlton: If the Court please, I think that is leading.

The Court: Yes.

10

Q. Had you led a pure life up to the time of this marriage with your husband?

A. Yes, sir; I had.

Q. How long were you in the hospital?

A. Very nearly six weeks, five and a half weeks, I believe.

Q. Did your husband see you after you removed from the hospital?

A. Never.

20

Q. Where did you go from the hospital?

A. I went to 116 St. James Place. I was unable to be removed to my mother's home and I had to be taken care of until I was able to make the trip.

Q. How long were you there?

A. Two weeks.

Q. Did he come to see you while you were there?

A. No, sir; he didn't.

Q. Has he paid Dr. Allman?

A. I doubt it.

30

Q. Did you get a bill from Dr. Allman?

A. I received a bill from Dr. Allman.

Q. How recently?

A. I don't recall whether in June or July.

Q. Has he given you any support since you were in the hospital?

A. He gave me one hundred dollars beginning, the statement which he made he would pay monthly, and that was the only receipt of money—

Mr. Charlton: Ask to be stricken as not responsive. Question is how much had he given you?

A. One hundred dollars for two months' board according to the statement he made.

10

Mr. Charlton: Ask it be stricken.

The Court: Yes.

Q. Do you know anything about his financial position?

A. Only upon his word.

Q. What did he tell you?

A. He told me he was well able to take care of himself, also to take care of me without ever having to work.

20 Q. Does he have an automobile?

A. He had and made me a present of one.

Q. Did he have a driver?

A. When I wasn't able to drive the car he had a chauffeur.

Q. Now what is the condition of your health today?

A. Today I believe I am in perfect health.

30 Q. Did you have to have the doctor at any time after you went back to New York?

A. Yes, sir.

Q. For how long?

A. I had a doctor on several occasions, not for any length of time, simply as a safeguard for my condition.

Q. Now after you came out of the operation did you and Mr. Taylor have any talk about the operation or the cause of it, anything of that sort?

A. Never.

Q. No discussion at all?

A. No, sir.

Q. Were you afterwards told what was the cause of your trouble?

A. Yes, I was afterwards.

Q. By whom?

10

A. Dr. Burrows.

Q. You have any means of livelihood? Have you any income?

A. No, sir; I have no income.

Q. Are you presently employed?

A. No, sir.

Q. Are you dependent upon your husband for support?

A. I am. I am dependent upon my mother at the present time.

20

Q. After you learned from Dr. Burrows the cause of your trouble have you lived with your husband since?

A. No, sir. I haven't seen him since.

Q. Are you willing to live with him?

A. Under the circumstances, no.

Q. What do you mean by the circumstances?

A. I would fear for my life.

Q. You refer to his trouble?

A. Not only that, but temper and his liquor, his 30 habits.

Mr. Charlton: If the Court please, I don't find that in the bill. I think that ought to be stricken.

The Court: No.

Q. Did he use liquor?

A. Plenty.

Q. After your marriage?

A. Yes, sir; after the marriage.

Q. To what extent did he use it? I mean did he get drunk, was he under the influence?

A. Yes, he was steadily under the influence for a
10) time.

Q. What?

A. He was steadily under the influence for a time.

Q. Was that before or after the operation?

A. Before.

Q. Do you know what he drank?

A. Drank anything.

Q. What?

A. He drank everything.

Q. Did you see him drink?

20) A. Yes, sir; he brought the liquor into the house.

Q. What was his treatment of you?

A. At first it was—I have no complaint.

Q. Later what? How was it later?

A. Well, it just gradually grew to be unbearable.

Q. Now you recall when Dr. Burrows came to the
home?

A. Do I recall?

Q. Yes.

A. The day?

30) Q. Yes.

A. Yes, it was the evening of the twelfth.

Q. Was your husband there?

A. He was there. He brought Dr. Burrows in, I
believe.

Q. Did the doctor call the next day?

A. The next morning, yes, sir.

Q. Now on either of those visits did Dr. Burrows and your husband leave your room?

A. Yes, sir; they went into an adjoining room and closed the door.

Q. On which occasion was that?

A. I believe it was the morning I was to be taken to the hospital.

Q. How long were they out of your room?

A. Quite some time.

10

Cross-examination.

By Mr. Charlton:

Q. Mrs. Taylor, when were you first married?

A. On the ninth—do you mean to Mr. Taylor?

Q. No, to your first husband?

A. On April—

Q. What year?

A. 1920.

20

Q. Where were you married?

A. In Washington, D. C. ?

Q. What were you doing at the time?

A. What do you mean, what was I doing?

Q. What were you working or doing?

A. I was employed in the government service.

Q. What service?

A. I was with the Federal Trade Commission.

Q. What capacity?

A. As a clerk.

Q. As a clerk?

30

A. Yes, sir, typist clerk.

Q. Now you divorced or your husband did?

A. Divorced.

Q. When were you divorced?

A. I believe it took effect 1925 in October.

Q. What time in 1925?

A. October.

Q. Did you know Mr. Taylor at that time?

A. I met him shortly after that.

Q. Shortly after the divorce?

A. Yes.

Q. At the time you met Mr. Taylor were you still working?

A. Yes, sir; I was.

10 Q. Where?

A. I wasn't still working. I was working again.

Q. How long had you been working the last time?

A. Since the time I left my husband in Washington.

Q. When was that?

A. It was in, 1922, I believe. I am not sure.

Q. But you had been working over three years when you met Mr. Taylor?

A. Yes.

20 Q. As a clerk?

A. As a clerk.

Q. Or as a stenographer?

A. As a clerk.

Q. And what salary were you getting?

A. I was getting fifteen hundred.

Q. Fifteen hundred a year?

A. Per annum.

Q. Now after you met Mr. Taylor, where did you go to work, where were you working?

30 A. I was working still in the government service.

Q. But working in New York?

A. Yes, different branch.

Q. When did you stop working?

A. Just a few days before I was married to Mr. Taylor.

Q. Your health has recovered perfectly again?

A. Yes, sir.

Q. Why aren't you working again?

A. Because I have only really felt myself, able to work.

Q. When?

A. Within the last month.

Q. But you haven't gotten work in that time?

A. No, because I would have to be called here and there is no use to take a good position to be called away here.

Q. It isn't because you thought Mr. Taylor had a lot of money?

A. No, sir; I never thought of that.

Q. You never thought of that?

A. No, sir; I am not a gold digger.

Q. Didn't you inquire of Mr. Taylor's wealth before you married him?

A. I may.

Q. Do you know Margaret Hill Nelson?

A. Yes.

Q. Did you ever ask her what she thought of Mr. Taylor's wealth?

A. I never asked her. I got all the information voluntarily, anything she may have told me was voluntary.

Q. Do you know a lawyer named Mr. Salsburg?

A. Salsburg?

Q. He is your lawyer in New York?

A. Yes, he is connected with Judge Cole.

Q. Before you went to the hospital had you threatened to leave your husband?

A. No, I did not.

Q. When did you know that he had had gonorrhea?

A. I didn't know until, I believe it was on Mother's Day, if I recall rightly, when I was informed.

Q. You say in your bill the ninth of May, is that correct?

A. I don't recall whether the ninth or tenth; I know it was Mother's Day. That was the last day I saw Mr. Taylor.

Q. Had you been quarreling with your husband before that time?

A. Each time he came into the hospital he quarreled with me.

10 Q. What was the nature of the trouble between you then?

A. Still over the operation and my condition.

Q. After you had been operated on?

A. Absolutely; he still resented it, and money matters.

Q. What was the trouble over the money questions?

A. Ask Mr. Taylor.

Q. Ask you for what?

20 A. Ask Mr. Taylor.

The Court: If you know you may answer. You may answer, if you know.

A. Simply a few dollars I had in the bank he wanted me to turn over to him in order to pay the doctors.

Q. Did you tell Mr. Schlugsberg prior to the ninth of May that you were going to leave your husband?

30 A. I did. I didn't tell him I was going to leave. I asked his advice on the matter.

Q. What was the ground that you gave him?

A. Ill treatment while in the hospital.

Q. What was the nature of the ill treatment?

A. I don't like to go into details here.

Q. Let's have it.

A. Mr. Taylor threatened me when he would get me home he would fix me for all the trouble and money he had had to spend.

Q. Fix you how?

A. That was inferred, ill treatment, abuse.

Q. How did you infer it?

A. I inferred perhaps my life was in danger.

Q. Mr. Taylor ever made a threat against your life?

A. Yes, he did while I was in the hospital. 10

Q. What did he say?

A. He didn't say; he just simply lunged in action; his action was enough.

Q. Lunged?

A. Yes, he lunged at me.

Q. While you were lying in bed?

A. While I was lying in bed on my back. I was unable to even sit up.

Q. Did he have a fist made?

A. He certainly had more than a fist; he went at 20 me in this manner.

Q. About what?

A. Simply I imagine his hatred toward me.

Q. And you had then been married thirty-two days, hadn't you?

A. Don't know the number of days.

Q. You were married the ninth of March.

A. Since the ninth of March.

Q. This must have happened some time in April?

A. While I was in the hospital, the end of April, 30 while I was still unable to sit up.

Q. And what did Dr. Burrows tell you was the reason, was the cause of your trouble at the time you were operated on?

A. They believe it was an infection.

Q. An infection?

- A. Yes.
- Q. Did he say from what?
- A. No, sir.
- Q. You told us that you never had any pains or trouble before you married Mr. Taylor?
- A. Never except the usual menstrual period. That is the only pain I ever knew.
- Q. You know Mr. Schligsburg's signature?
- A. Yes, sir.
- 10 Q. Is that it?
- A. Yes, that is it.
- Q. You are now able to work, aren't you?
- A. Yes, I believe I could hold a position now.
- Q. Don't you know that you could?
- A. I haven't tried. Not in the capacity I have always been employed, no.
- Q. Mr. Taylor ever tell you why he didn't send you any more than one hundred dollars?
- A. I have heard nothing from Mr. Taylor.
- 20 Q. Have you tried to hear anything from him?
- A. Only through my attorney.
- Q. You haven't tried to see him yourself?
- A. No, because I was advised not to.
- Q. Yes or no.
- A. No, I haven't tried.
- Q. Have you written him a letter?
- A. No, sir.
- Q. You knew where he was all the time?
- A. Not positively.
- 30 Q. Has he changed his habits or his address?
- A. I know nothing about it.
- Q. You haven't made that much inquiry?
- A. No, I haven't inquired.
- Q. Where have you been living since last June?
- A. I have been stopping with my mother in New York City.

- Q. Mr. Taylor know where you were?
- A. He did.
- Q. How do you know he did?
- A. Because, well, he knew that my mother took me out of the hospital; I was with my mother; he knew that.
- Q. He never told you why he didn't send you any money?
- A. No, sir; never.
- Q. This drinking that you say he did, you drank 10 with him, didn't you?
- A. I drank some, yes.

EDWARD J. TAYLOR, defendant, sworn.

Direct examination.

By Mr. Cole:

20

- Q. Are you the defendant?
- A. I am.
- Q. What is your business?
- A. Real estate.
- Q. How long have you lived in Atlantic City?
- A. Six years.
- Q. Has that been your business ever since you have been here?
- A. Yes, sir.
- Q. What are you worth financially? 30
- A: I couldn't positively say.
- Q. Mind guessing?
- A. It is hard thing to guess when stocks fluctuate the way they have.
- Q. Give us your best judgment?

- A. I suppose seven or eight thousand dollars.
 Q. What?
 A. Seven or eight thousand.
 Q. Were you ever worth more than that?
 A. I should say I was.
 Q. You got some legacies or what not from somebody?
 A. Yes, I have.
 Q. From whom?
 10 A. From my deceased wife.
 Q. To what amount?
 A. In the neighborhood of twenty thousand dollars.
 Q. When was that?
 A. Well, during a period of fifteen months.
 Q. How long ago?
 A. I had a settlement in August.
 Q. This year?
 A. This year.
 20 Q. How much money have you in bank?
 A. About two thousand dollars.
 Q. What are the securities you own?
 A. I have—real estate securities?
 Q. What are they? What is it?
 A. Pinehurst, proposition called white horse—White Way Land Company.
 Q. Own the real estate or have stock in the company?
 A. Have stock in the company.
 30 Q. What is the name of the company?
 A. White Way Land Company.
 Q. How many shares have you?
 A. I have a hundred shares outright and I have three hundred and sixty-one shares in litigation.
 Q. What is the par of that stock?
 A. A hundred dollars.

- Q. What else do you possess?
 A. Nothing very much.
 Q. Well, whether it is very much or very little, we can't tell; what is it? What else do you have?
 A. I have a speculative account in a broker's office.
 Q. Tell us what is in that account?
 A. There was——
 Q. Not was, now; what is there now?
 A. What do you mean the present value of the 10 securities now or what I bought them at? Is that what you want to know, Mr. Cole?
 Q. Give us the whole story, Mr. Taylor.
 A. There is no story about it, either one or the other. Do you want the time I bought the securities or the present value? That is when I want to know.
 Q. Both?
 A. Well, they have fluctuated, probably fifteen or eighteen hundred dollars.
 Q. What is the value of that now? 20
 A. Something like twenty odd hundred dollars, twenty-two hundred dollars, possibly.
 Q. Do you have any books of account?
 A. No, sir.
 Q. Ever have any?
 A. No, sir.
 Q. Don't keep books of account?
 A. No, I don't think I did enough business for that.
 Q. Where is your place of business? 30
 A. 1520 Pacific Avenue.
 Q. And you don't keep any record of your business at all?
 A. No, there isn't enough business.
 Q. I didn't ask you that. You don't keep any records at all?

- A. No, sir.
 Q. Never have?
 A. Never have.
 Q. Own an automobile?
 A. I have an interest in an automobile. It is mortgaged.
 Q. Mortgaged?
 A. Yes, sir.
 Q. Is that the automobile Mrs. Taylor said you
 10 gave to her?
 A. I didn't give her an automobile.
 Q. Is that the only automobile you have had?
 A. No, I have had more than one.
 Q. Is the automobile you now have the one she is talking about?
 A. No, it isn't.
 Q. What did you do with the one one she says you gave to her?
 A. I traded that in.
 20 Q. When did you do that?
 A. Couple of months ago.
 Q. What is the name of the automobile you have now?
 A. Buick.
 Q. What did you pay for it?
 A. Nineteen hundred dollars.
 Q. How much cash did you put up?
 A. Altogether three hundred dollars.
 Q. And you have a mortgage on it?
 30 A. Yes, sir.
 Q. Who holds the mortgage?
 A. General Motors.
 Q. How much is that?
 A. Must be—you know they charge for financing.
 Q. How much is the mortgage?
 A. Well, I am trying to tell you truthfully what it was, now I think it might be—

The Court: Tell us.

- A. I think it is twelve hundred dollars.
 Q. Have a driver?
 A. Yes, sir.
 Q. What do you pay him?
 A. Fifteen a week.
 Q. Do you need that in your business?
 A. Yes, sir; absolutely, that is all I use it for. I
 never go out at night. I only hire him to drive me 10
 daytime.
 Q. You think your business is extensive enough to have a driver to pay fifteen dollars a week?
 A. I do that account of my eyes; I can't see myself.
 Q. How much have you paid your wife for her support since the operation?
 A. You know that I gave her a hundred dollars.

The Court: Answer the question.

20

- A. A hundred dollars.
 Q. How did you come to pay that?
 A. On your solicitation.
 Q. Did you make any promise as to the future?
 A. No, sir; positively not. You told me I didn't have to.
 Q. Will you produce a letter of June twenty-fifth, 1926 from me to you?
 A. I remember you had a copy of it and you gave
 me a copy. 30

Mr. Charlton: If the Court please, been no notice to produce.

Mr. Cole: Give it now. Produce the letter, will you, on June 25, 1926?

Mr. Charlton: If the Court pleases, I am unable to comply. I had no notice.

The Court: Not necessary to have a notice of this sort, you are here in reply.

Q. I show you a copy of a letter from Cole and Cole under date of June 25, 1925, to Mr. E. J. Taylor which reads: "Dear Sir: This morning we have a
10 letter from your wife saying that she has not received check for one hundred dollars which was due on the twentieth of this month pursuant to your agreement with me. Please advise what reply I shall make to her." Did you receive that letter?

A. I did.

Q. Did you answer it?

A. No, sir.

(Letter offered, admitted in evidence and marked
20 Exhibit C1.)

Q. You said I told you you didn't have to pay it?

A. Oh, no.

Q. Didn't you say that?

A. No, sir; I didn't.

Q. Is that your signature?

A. It is.

(Paper offered, admitted and marked Exhibit
30 C2.)

Mr. Charlton: If the Court please, I can't see the materiality of this. The issue here is did Mr. Taylor give her gonorrhea or did she give it to him? And the question is, if you believe her, how much? What difference does it make whether the defendant

made promises to pay or not. I can't see it is material on that ground.

Mr. Cole: Except he made the statement I told him he didn't have to pay any more. This is a contradiction.

Mr. Charlton: He already changed it.

Q. Have you paid Dr. Allman's bill \$125? 10

A. No, sir.

Q. Why haven't you?

A. I never got a bill from him.

Q. Did you ever ask him for one?

A. I told him I would pay him. He didn't seem to be in any particular hurry about it.

Q. Have you paid a bill of Mr. Glatteer, \$12?

A. Yes, sir.

Q. When did you pay that?

A. As soon as you sent it to me. 20

Cross-examination.

By Mr. Charlton:

Q. Mr. Taylor, when you said the reason you didn't pay any more was because someone told you not to, what did you mean by that?

A. Oh, maybe I misinterpreted—

Q. Tell us what you meant?

A. I understood from our learned counsel— 30

The Court: No, that won't do.

A. All right. I understood from him that I could pay this hundred dollars and then use my judgment afterwards. That is the way I understood it from him, positively.

COMPLAINANT RESTS.

DEFENDANT'S TESTIMONY.

EDWARD J. TAYLOR, recalled.

Direct examination.

By Mr. Charlton:

10

Q. Mr. Taylor, how long have you known your wife before you married her?

A. About five or six months.

Q. Now, where were you living at the time?

A. Atlantic City.

Q. Where was she living?

A. New York City.

Q. Working in New York?

A. Yes, sir.

20

Q. Had you been married before, you?

A. I had.

Q. How long had you been a widower?

A. Since the previous August, August, 1925.

Q. You were married on the ninth of March, were you, 1926?

A. I was, yes, sir.

Q. Where were you married?

A. In Philadelphia.

Q. Had you ever had gonorrhea in your life prior to your marriage?

30

A. Twenty-five years ago nearest to my recollection.

Q. How old are you now, Mr. Taylor?

A. Fifty-one.

Q. Fifty-one?

A. Yes.

Q. Did you have treatment for that other gonorrhea, medical treatment?

A. I did.

Q. Pronounced cured, were you?

A. Pronounced cured.

Q. How long had you been married and lived with your first wife at the time of her death?

A. Close on to five years.

Q. She ever have any complaint of any trouble?

A. None whatever.

Q. On the day you married your wife, March 10
ninth, 1926, did you have gonorrhea, to your knowledge?

A. No, sir; I did not.

Q. When did you first notice any indication that you had gonorrhea?

A. On the fifteenth day of April.

Q. Fifteenth of April?

A. Yes, sir.

Q. Where was your wife at that time?

A. She was in the Atlantic City Hospital. 20

Q. Had been there for how long?

A. Since the thirteenth day of April.

Q. She had been there two days?

A. Two days.

Q. Now what did you notice on the fourteenth or fifteenth of April respecting gonorrhea?

A. I noticed a discharge.

Q. Discharge from your penis?

A. Yes.

Q. Did you consult a physician? 30

A. I consulted a physician?

Q. Who was that?

A. Dr. Burrows.

Q. Did he treat you?

A. He treated me.

- Q. For gonorrhea?
 A. For gonorrhea.
 Q. Did you afterward see any other physician?
 A. He left—yes.
 Q. Who did you see?
 A. Shivers.
 Q. Dr. Shivers?
 A. Yes, sir.
 Q. Did you see any other physician?
 10 A. Dr. Scott.
 Q. Dr. Carl Scott?
 A. Dr. Carl Scott.
 Q. And those doctors treat you for gonorrhea?
 A. They did.
 Q. Are you still being treated?
 A. No, sir.
 Q. Pronounced cured?
 A. Pronounced cured.
 Q. Mr. Taylor, when Dr. Burrows told you he
 20 wanted to take your wife to the hospital and operate
 on her were you surprised?
 A. I was surprised.
 Q. And were you agreeable to having her taken
 there?
 A. Well, after he spoke to me I was. We had
 very nice surroundings.
 Q. Now just let me question you, what did
 Burrows say was the matter with her?
 A. Well, he said he couldn't determine until he
 30 took her to the hospital but he thought there was
 something, I don't know, I couldn't exactly say
 what he did say, but he said she ought to be re-
 moved to the hospital where she got proper treat-
 ment.
 Q. What did he say was the reason she needed an
 operation?

- A. Well, I couldn't positively say.
 Q. Did he mention the word gonorrhea?
 A. Never was mentioned.
 Q. Had you and Dr. Burrows ever used the word
 gonorrhea until after you became infected?
 A. No, sir; positively not.
 Q. Had you ever used that word with your wife?
 A. No, sir.
 Q. Until you became infected?
 A. No, sir. 10
 Q. Before she was taken to the hospital did your
 wife complain of any pains or sickness?
 A. On the Sunday previous.
 Q. Sunday previous?
 A. Yes.
 Q. Was that the first time since your marriage?
 A. She might have complained a day or two before
 but it was rather noticeable on that day because, as
 I remember, we had been to the theatre and she
 complained that evening. 20
 Q. And you had no gonorrheal discharge at that
 time?
 A. None.
 Q. Mr. Taylor, do you remember when Mrs. Tay-
 lor menstruated in April?
 A. Well, the nurse of the hospital told me that
 she—
 Mr. Cole: I object.
 Q. Do you know of your own knowledge? 30
 A. Put that question again.
 Q. Do you remember when Mrs. Taylor had her
 menstrual period in the month of April?
 A. I think it was the end of March.
 Q. End of March?

A. No, it couldn't have been. No, it was about the second or third of April.

Q. Is that the beginning of it?

A. I believe that was the beginning of it.

Q. Did you have any relations with her just prior to that period?

A. I would say yes.

Q. Did you have any after the period?

A. No, sir.

10 Q. When, in your judgment, was the last time you had sexual relationship with her?

A. Previous to—

Q. About what date?

A. Well, first part of April, probably first week in April; I couldn't say that.

Q. Mr. Taylor, did you go to see your wife when she was in the hospital?

A. Continuously.

Q. Did you ever threaten to take her life?

20 A. No, sir.

Q. Ever make a hostile gesture toward her with your hands?

A. No, sir.

Q. What did you and she talk about in the hospital?

A. Well, I was continuously worried about her condition and my own condition.

Q. Did you quarrel over money?

30 A. Well, there was several hundred dollars which I had given her and I asked her if she would let me have that in order to help me pay the bills which were very heavy at that time.

Q. You had given her this money?

A. I had.

Q. It wasn't her money except in the sense you had given it to her?

A. I had given it to her with the best of feeling.

Q. Did you quarrel about that?

A. She quarrelled over that.

Q. She didn't want to give it up?

A. She didn't want to give it up, or give up.

Q. She didn't give it up?

A. No, sir.

Q. Do you know a Mr. Schlignsburg?

A. No, sir.

Q. What else did you—did your wife ever tell you she wasn't going to live with you again while she was in the hospital? 10

A. She made some remark to that effect, not so much to me as to others.

Q. Did she ever complain of the difference in your ages?

A. No, none at all.

Cross-examination.

By Mr. Cole:

20

Q. You spoke about the bills being heavy; what did they amount to?

A. I forget, about two thousand dollars.

Q. What was that for?

A. Hospital, nurses, doctors.

Q. I suppose you are very fond of your wife?

A. Positively very much in love with her.

Q. Still are? I say you still are very much in love with her, are you? 30

A. I can't say that now.

Q. Why don't you give her some support?

A. No.

Q. Why don't you give her some support?

A. She didn't treat me right.

- Q. That is the reason, is it?
 A. Positively.
 Q. Did you ever write and tell her that?
 A. No, sir.
 Q. Did you ever tell her that at all?
 A. No, sir.
 Q. Mr. Taylor, you said something about your former wife had never complained against you?
 A. Yes, positively.
 10 Q. What was her name?
 A. Georgiana Coles before I married her.
 Q. Did you ever have a wife by the name of Blanche?
 A. Yes, sir.
 Q. Is that another one?
 A. That was another one.
 Q. How many times have you been married?
 A. Third time; three times.
 Q. Blanche divorced you, didn't she?
 20 A. She did.

DR. CHARLES H. SHIVERS, SWORN.

Direct examination.

By Mr. Charlton:

- Q. Doctor, you are a practicing physician in Atlantic City?
 30 A. Yes,

Mr. Charlton: Admit his qualifications?

Mr. Cole: Yes.

- Q. Doctor, you specialize in any particular branch of medicine?
 A. Diseases of the genito-urinary tract.
 Q. How long have you been so specializing?
 A. Specializing since 1917.
 Q. Do nothing else?
 A. Nothing else.
 Q. Did you treat Edward J. Taylor?
 A. I did.
 Q. Will you tell us what you treated him for and 10 when?
 A. He reported to my office on the eighth of May, 1926, with a sub acute gonorrheal urethritis, with a duration, the duration of the disease was since April fourteenth. I saw him on May the eighth.
 Q. Now, Doctor, did you get his history?
 A. I did.
 Q. What was that history?
 A. The history was this, in brief, that he had gonorrhea first twenty-five or thirty years ago, and 20 he was treated for it at that time but he had seen nothing in the interval from twenty-five or thirty years ago up to the time, April fourteenth.
 Q. 1926?
 A. Yes. He had seen no evidence of infection.
 Q. Now, Doctor, is it your opinion as a specialist in gonorrhea that he had a recurrence of the old chronic twenty-five year old gonorrhea or was this a brand new case?
 A. This was a new infection. 30
 Q. A new infection?
 A. Absolutely.
 Q. It wasn't a recurrence of the old disease?
 A. Absolutely no.
 Q. Did the new case respond to treatment readily?
 A. Well, it responded fairly readily, yes. He had a very good result.

Q. Doctor, what is the period of incubation of gonococci, if that is the correct name for it?

A. Well, if case reports have been correct and the patients have been correct in their statements to me I have seen incubation period as short as forty-eight hours.

Q. And as long as what?

A. As long as fifteen to sixteen days.

Q. That is the general period of incubation?

10 A. Yes, the average period is from three to six days.

Q. Is it your opinion from Mr. Taylor's case that he got that gonorrhea that he suffered from, presuming it appeared on the fourteenth of April, between the thirty-first of March and twelfth of April of 1926?

A. I can only say this. I can't answer that question directly. I can say that it was a case that had only involved the urethra for a short period of time
20 but the history reads that he was, infection first made its appearance on April fourteenth.

Q. Presuming that to be true?

A. Presuming that to be true—

Q. That he was first infected on April fourteenth?

A. Yes, well, he first showed evidence of infection on April fourteenth.

Q. First showed a discharge on April fourteenth, is it your opinion that it must have been contracted between fifteen days prior to that down to two days
30 prior to that?

A. Yes.

Q. Doctor, have you had a great deal of experience with gonorrhea in women?

A. A great deal.

Q. Where does the gonococci—is that the correct term for it?

A. Yes.

Q. Where does the gonococci lodge principally in women?

A. Principally in the glands of the cervix.

Q. Where, Doctor?

A. In the glands of the cervix that is the opening into the uterus.

Q. Is that near the Fallopian tubes?

A. No that is some distance from the Fallopian tubes.

Q. It stays in that vicinity, does it? 10

A. Usually, yes.

Q. Is it possible for a woman to have gonorrhea and yet be safe for intercourse at times?

A. Oh, yes.

Q. Now, presuming that a woman had gonorrhea, latent gonorrhea, at what time would a man having intercourse with her be more susceptible to it?

A. Just before or just after the period.

Q. Or during the period? 20

A. Or during the period.

Q. Doctor, presuming a woman to be free from gonorrhea, a clean woman, married on March the ninth, presume that she contracted gonorrhea between the thirty-first of March and the twelfth of April, in your judgment would it be possible for her to have become so diseased as to require a surgical operation removing two tubes and one ovary?

A. Between the thirty-first of March and the first of May?

Q. Yes, sir, and the twelfth of April. 30

A. That is twelve days. Of course she could have some involvement in her tubes in twelve days, that is possible, but very unlikely.

The Court: How are we interested in that question?

Mr. Charlton: If the Court please, the date she was operated on was the twelfth of April. I think I have established by Dr. Shivers that the infection Mr. Taylor had could not have come earlier than the thirty-first of March nor later than the twelfth of April. If the petitioner is correct then she must have become infected by him within that period.

10 Q. Doctor, you have seen cases where women had to have tubes removed and ovaries removed for gonorrheal reasons?

A. Yes.

Q. What generally is the duration of that disease before it is necessary to remove those organs on account of pus?

A. It may be necessary four weeks after infection; depends upon the virulence of the organism and the rapidity with which it extends.

Q. May be, but what is the general rule?

20 A. General rule is several months afterwards.

Q. Several months afterwards?

A. Yes; it is pretty hard to set a definite time because a case is a rule unto itself.

Q. Is it possible for a woman to have gonorrhea and not know it?

30 A. Oh, yes, absolutely. A woman, she has a gonorrheal infection in her tubes, she has gonorrhea in her tubes, and nature is very apt, if she gets over an acute attack, to wall off those tubes, sterilize them, therefore she is not apt to infect, that is the reason I said most women infect from the glands of the cervix. I don't mean they are not in the tubes. They are in the tubes.

Q. The organs of the tubes?

A. The organs of the tubes.

Q. Do they in time sterilize?

A. In women all tubes sterilize and they are not so apt to infect.

Cross-examination.

By Mr. Cole:

Q. Is it possible that gonorrhea may recur after the period of twenty-five years?

A. I have never seen it, no, sir. 10

Q. Is there any records in the books of such cases?

A. The records we find gonococci in the smear of a prostate thirty years after infection, but I have never seen a recurrence in the acute form. The organism is of too low a virulence.

Q. How long after once infected with gonorrhea have you known it to recur where there has been no cure, of course, I assume, how long have you known that?

A. After five years it is rare. 20

Q. Of course in all these statements you rely very largely upon what the patient tells you after all?

A. And upon the statement of men who have had large experiences; men differ on that; various men differ on the time of recurrence.

Q. Of course experts have written upon this subject, haven't they?

A. Yes.

Q. And you have read what they had to say about it? 30

A. Yes.

Q. What do the books say about the period in which it may recur?

A. Well, some men claim it is very rare for gonorrhea to occur after two years of infection. Other men claim that there is no definite period at which time it may recur.

Q. May recur at any time?

A. May recur at any time within a reasonable period.

Q. What do they say within a reasonable period?

A. Very few men will extend the period over ten years.

Q. Does anybody extend it beyond ten years?

A. Not to my knowledge, no.

Q. Now whose books have you read upon the sub-
10 ject?

A. I have read a good many books. Keyes of New York.

Q. A good many? Now, is there any one book in which the author expresses the opinion that it may recur after ten years?

A. Not any that I have read, no.

Q. Where does it recur what is the cause of it?

A. The cause is either due to excessive exercise or
20 drinking, drinking alcoholic liquors or excessive intercourse.

Q. Is a genuine case of gonorrhea ever cured?

A. Absolutely.

Q. You know that, do you?

A. I do.

Q. What did you say he told you when he came to see you about his condition?

A. He told me that he had had a discharge since
30 April the fourteenth from his urethra, 1926, and he gave a previous history of having had gonorrhea twenty-five or thirty years ago and the interval from that time up until April the fourteenth he had seen no evidence of infection. That is a pretty sure proof that he was cured.

Q. But he did have a genuine case of gonorrhea?

A. He had a new case of gonorrhea, absolutely.

By the Court:

Q. Doctor, you say that you have found, by taking a smear, evidence of gonorrhea in the prostate twenty-five years after the acute attack?

A. Yes, sir.

Q. Would it be possible for that man to infect a woman by intercourse?

A. This man was a married man and did not in-
10 fect his wife.

Q. That doesn't answer my question. Can you tell?

A. The organism is of so low virulence and so rarely found at that stage, so rarely found it is a curiosity to find it after a few years. It is very difficult to find the organism in chronic cases after a year, extremely difficult. This was just a very exceptional case.

Q. Would it be possible?

A. I would say no.

20

DR. KARL SCOTT, sworn for defendant.

Direct examination.

By Mr. Charlton:

Q. Dr. Scott, you are a practicing physician in
30 Atlantic City?

A. Yes, sir.

Q. A specialist in any particular branch of medicine?

A. Genito-urinary diseases.

Q. As I say specializing or doing nothing but genito-urinary?

A. I do nothing else.

Q. Do you know Edward J. Taylor?

A. I do.

Q. Did you treat him?

A. I did.

Q. For what? Have you your records with you?

A. Yes, sir. I treated him for what I took to be the subsiding stages of acute gonorrhea.

Q. Subsiding stages?

10 A. Yes, sir.

Q. When did he come to you?

A. June fourth, 1926.

Q. Doctor, how much experience have you had with gonorrhea?

A. I have been in this line of work exclusively since 1919 and had some sporadic experience before that, but exclusively since 1919.

Q. You have been specializing specifically in gonorrhea?

20 A. Yes.

Q. Did you examine Mr. Taylor with respect to his history?

A. I did.

Q. What did he tell you?

A. He told me that he had had this previous attack about twenty-five years ago and that he had had this acute urethral discharge some time in April and he had been under treatment with Dr. Shivers; that is the only history I have.

30 Q. Did he tell you he had had any trouble in the interim of twenty-five years?

A. He said he had not. He told me he had had none.

Q. Doctor, what is the period of incubation of the gonococci?

A. From two days to two or two and a half weeks.

Q. From your examination of Mr. Taylor and your treatment of him and from your experience in genito-urinary work, was Taylor's a new case or a recurrence of an old case?

A. I would say it was the subsiding stages of an acute gonorrhea.

Q. When you say acute gonorrhea what do you mean?

A. Acute gonorrhea.

Q. A new case or recurrence?

10

A. Oh, yes, new.

Q. A new case?

A. Yes, when I say acute.

Q. Would you say then he had a new infection?

A. I would say so.

Q. Doctor, have you ever heard of gonococci twenty-five years old recurring in an acute form?

A. I have not.

Q. You familiar with gonorrhea in women? You have treated them?

20

A. Some yes, not on the surgical side of it.

Q. Have you known of women to have gonorrhea and be immune, so far as being carriers at given times, I mean women who had it, it was possible for men to have intercourse with them without getting it at given times?

A. Yes.

Q. Presuming that a woman has gonorrhea in some form, is there any period at which she is more dangerous, more likely to infect a man than any other?

30

A. There is.

Q. What is that period?

A. Just prior to, during and after her menstruation.

Q. Doctor, what, generally is the length of time

it would require to pass for a woman to require an operation leading to have two tubes and one ovary removed, presuming she was infected with gonorrhea?

A. I would say a matter of some months, even up to years.

Q. Now if a woman were infected, and infected acutely, would she be fit to be operated on then?

A. It would be with grave risk of results.

10 Q. If she had been infected for a long period of time or some months or a year would she then be fit for operation?

A. Oh, yes, quite.

Cross-examination.

By Mr. Cole:

Q. What makes for the difference between the
20 time of two days and two or three weeks?

A. I will say two factors, the virulence of the infecting organism and the quantity, the amount of them present in the carrier.

Q. That also holds true with respect to the condition of the woman, doesn't it? If she is infected, the tubes and the ovary, as to the progress of the disease?

A. I would imagine so, yes.

Q. Now you said that you never knew of a case of
30 a recurring gonorrhea after twenty-five years in an acute form? Does the acute form have any significance? You put that in the answer.

A. The question was answered that way. I answered no.

Q. Does it have any significance?

A. An acute form, yes.

Q. Can it recur at all after twenty-five years?

A. Not to my knowledge, no.

Q. When is the longest period you ever heard of it recurring? By the way, had any practical experience?

A. Yes, sir.

Q. All right, tell us.

A. I have one case, two, that is about twenty years duration, where the organism resembling gonococci was found.

Q. Twenty years?

A. Without any gonorrhea, symptoms of gonorrhea being present.

Q. Tell me what books have you read on the subject?

A. Quite a number, Keys, White, Martin, Young, Urology, a good many more I can't recall.

Q. What do they say about the longest period that it is recorded?

A. Keyes made the statement several years back that he thoroughly believed that the gonococci was
20 not living after three years speaking of the male, he made that statement.

Q. Now is that all there is on the subject?

A. I don't believe it myself.

Q. Is that all there is on the subject?

A. No, indeed, you asked me what they assumed.

Q. What is the longest period any authority you have read has stated it may recur?

A. They will give a liberal period of five or six years, possibly, but nobody can state.

Q. Is that the longest any authority has said it
30 may recur?

A. That is all I recall.

Q. Never heard any of them saying it may recur in twenty or twenty-five years?

A. No.

DEFENDANT RESTS.

Atlantic City, N. J., December 3, 1926.

(Order of reference entered on November 30, 1926, and by consent case tried today.)

Mr. Cole: I understand, may it please your Honor, that the evidence that was had at the preliminary hearing is to be considered a part of this record.

10

Mr. Charlton: I have the record here. What did you say, Judge?

Mr. Cole: I say the understanding here that the evidence taken at the preliminary hearing is to be considered on final hearing.

Mr. Charlton: Yes.

20 The Court: You may file the transcript and that will be taken as part of the testimony.

MRS. JULIA L. TAYLOR, SWORN.

Direct examination.

By Mr. Cole:

30 Q. Do you recall, if so state, the date of the last intercourse, sexual, you had with Mr. Taylor?

A. It was the Friday night before I was taken away. I recall this distinctly because Saturday morning—

Q. Give us the date?

A. I don't know the date unless I think. I believe it was the ninth.

Q. Of what month?

A. Of April.

Q. You were married on the ninth of March, was it?

A. Yes, sir.

Q. How soon after the marriage did you have sexual intercourse?

A. The same night.

10

Q. Had you ever had any examination made of you by any doctor with a view to ascertaining whether you had had gonorrhea?

A. No, sir.

Q. Who first communicated to you that your condition had been brought about by gonorrheal infection?

A. Dr. Burrows, after I had questioned him a great deal.

Q. He is the one who first—

20

A. Yes, sir.

Q. Did your mother tell you?

A. No.

Q. Now was that while you were yet in the hospital that Dr. Burrows told you?

A. Yes, I was still in the hospital.

Q. Did you and Mr. Taylor attend upon the granting of the license? Were you together?

A. Yes, sir.

Q. Where was it granted?

30

A. In Philadelphia.

Q. Were any questions propounded to him on that occasion?

A. Yes, both of us were questioned.

Q. I ask were any propounded to him?

A. Yes, sir.

Q. Any propounded to you?

A. Yes, sir.

Q. Was any question asked him concerning any previous, his previous condition of health or any disease he might have had?

A. I don't recall the question exactly but I took it to mean——

Mr. Charlton: If the Court please, if there was
10 any written question, I think we ought to have it.

The Court: Yes.

Q. Do you remember any question was asked? If you don't, say so?

A. There were questions asked, yes, sir, of both of us.

Q. What questions do you remember were asked him?
20

Mr. Charlton: If the Court please, if that was in writing, I think we ought to have a copy.

The Court: Yes, you are entitled to that, if it was in writing.

A. If you know the laws of Pennsylvania you might know that.

Q. Mrs. Taylor, pardon me. You answer the ques-
30 tions, please.

Cross-examination.

By Mr. Charlton:

Q. Mrs. Taylor, when you were here last you testified as follows: "Now what is the condition of your health today? A. Today I believe I am in perfect health." That was November ninth?

A. Yes, sir.

Q. In the interim between then and now have you 10 attempted to get a position?

A. Have I attempted to get a position?

Q. Yes.

A. I have attempted, yes.

Q. Been successful?

A. No, sir, I haven't.

Q. Where have you tried?

A. Your Honor, is it necessary to answer all these questions?
20

The Court: Yes. Not objected to.

A. I tried for a position as a hostess in Schrock's store and I am now waiting to hear from that.

Q. Did you try to get a position doing the same work that you were doing before your marriage?

A. No, sir.

Q. This position as hostess is all you tried to get?

A. That is all I have tried to get, yes, sir.

Q. On the previous examination I showed you this 30 letter purporting to be from Seligsberg and Lewis?

A. Yes, sir.

Q. New York lawyers, signed by W. N. Seligsberg, and ask you if you identify that signature as Mr. Seligsberg's and the stationery as his?

A. Yes, sir, I do.

Q. Did you ever see that letter before?

A. Yes, sir, I know this letter and I don't know what this has to do with gonorrhea.

Mr. Charlton: If the Court pleases, I think the witness ought to be held down just to answer the questions.

The Court: Yes, Mrs. Taylor, just answer the 10 questions.

A. I don't see the reason for this letter.

The Court: Let that be stricken out.

Q. Who is Mrs. Helena Lehman?

A. That is my mother.

Mr. Charlton: I want to have this marked for 20 identification.

(Letter marked D1 for identification.)

Q. At that time did Mr. Seligsberg occupy any confidential capacity in respect to you and was he your lawyer?

Q. Just what do you mean confidential?

Q. Was he your lawyer?

A. He was called in for legal advice.

30 Q. By you?

A. By me.

Q. Not by Mr. Taylor?

A. No, sir.

Q. By you strictly?

A. By me.

Q. You talked to Mr. Seligsberg?

A. I spoke to Mr. Seligsberg in the hospital.

Q. This was before Dr. Burrows told you anything about your husband's gonorrhea?

A. Yes, sir.

Q. Were you complaining at that time that you wanted to leave your husband?

A. With his cruel treatment, I was complaining and I asked legal advice.

Q. Cruel treatment?

A. Yes, sir.

Q. Did you complain before you went to the hos- 10 pital?

A. No, sir.

Q. Then his course of cruel treatment started in the hospital?

A. Of his real cruel treatment, yes. This was aside from any sexual intercourse, which I saw—

Q. What was his cruel treatment?

A. His flaring up at me when I was in absolutely no condition to be flared at, his attack on me while 20 I was still unable to sit up.

Q. You want us to believe your husband attacked you while you were lying in bed in the hospital?

A. Yes, sir, absolutely, I felt that he was attacking me, yes.

Q. Do you know Dr. Margaret Hill Nelson?

A. I saw Dr. Hill Nelson.

Q. Did you talk to Dr. Nelson before you went to the hospital about your husband?

A. In what respect?

Q. In respect to what you thought of him and 30 what you were going to do regarding him?

A. No, sir, I don't recall. The only time—

Q. Did you ever tell Dr. Nelson you were going to leave your husband and going to New York—

A. After I was in the hospital, perhaps.

Q. —and that you were going to make him give you fifty thousand dollars or you were going to sue him?

A. No, sir.

Q. Never told her that?

A. No, sir.

Q. You lived at Dr. Nelson's house, did you, you and Mr. Taylor?

A. We rented an apartment from Dr. Nelson.

10 Q. In the operation that was performed on you at the hospital your appendix was taken out, wasn't it?

A. They said so.

Q. You heard Dr. Burrows testify to that, didn't you?

A. Yes.

Q. You heard him say that you had acute appendicitis, didn't you, when you went to the hospital?

A. Yes.

20 Q. Did you have pains in your stomach?

A. When?

Q. Before you went to the hospital?

A. The day I was taken ill, yes, I had abdominal pains.

Q. High temperature?

A. He said I had a high temperature.

Q. Pain on what side?

A. No, sir, not pain in one side; I had abdominal pains.

30 Q. Right in the front?

A. Right in the abdomen.

Q. Low down?

A. Yes.

Q. Now, Mrs. Taylor, I am going to ask you a very pertinent question. From the time that you last had intercourse with your first husband until

the day you married Mr. Taylor did you have intercourse with any other man or men?

A. No, sir; I did not.

Q. Didn't have intercourse with a man in the Hotel Marlborough-Blenheim, this city?

A. No, sir.

By Mr. Cole:

Q. That has been opened, the question of what you 10 referred to as cruel treatment by Mr. Taylor. Will you please now state everything that Mr. Taylor did or what he didn't do after you were taken sick which you think was cruel treatment on his part. Give it to us in detail, every circumstance you can recall.

A. His attitude toward me, when I was unable to reason——

Mr. Charlton: If the Court pleases, I think she 20 ought to say what he said.

The Court: Yes.

Q. That is what I am asking her to do.

A. You don't give me a chance.

The Court: Proceed.

Q. Mrs. Taylor, you are not helping your case any 30 by these side remarks.

A. I am so nervous, Judge Cole.

The Court: Just tell us the facts, not your conclusions of the facts. What did he do or what did he say?

A. He was hounding me all the time that I was in the hospital. He threatened my life. He said if he ever got me home he would finish me and fix me right. He complained about the money. He tried to take the few dollars that were left in the bank in my name which he gave me for my personal use. He lunged at me one time, in fact in such a way that the doctors forbid him to come in my room. Each time the records in the hospital will show that my temperature arose due to undue excitement.

Mr. Charlton: I think we ought to have what he did.

The Court: Yes, what he did. Proceed.

Q. Proceed, Mrs. Taylor, and tell us.

A. That is all I have to say on that.

Q. Is that all you have to say about that?

20 A. Yes, sir.

Cross-examination.

By Mr. Charlton:

Q. Mrs. Taylor, in the month you were married from March ninth when you were taken sick how much money did your husband give you that you put in the bank in your own name?

30 A. Mr. Taylor gave me a wedding present of five hundred dollars, it was supposed to have been a thousand but he told me he would give me this now five hundred dollars—

Q. Won't you please tell me the amount?

A. Five hundred dollars.

Q. Wasn't it seven?

A. No, sir; it wasn't seven hundred dollars.

Q. You had that in bank in your own name?

A. Yes, sir.

Q. And you were reluctant to—

A. I have a book to show it.

Q. —help pay any of the two thousand dollars expenses of the sickness?

A. Don't forget I have spent twenty—

The Court: No.

10

A. I didn't have five hundred dollars in bank at the time I was in the hospital.

Q. How much did you have?

A. I don't recall; it wasn't much more than about two hundred or a hundred and fifty.

Q. What did you spend the difference for?

A. For supplies for the house.

Q. You want us to believe that you paid anything for supplies for your house?

20

A. I certainly did and Mr. Taylor knows it.

Q. Out of your own money?

A. Out of the five hundred dollars he gave me.

Q. Didn't you buy clothing with it, did you?

A. No, sir; I never bought a stitch since I am married to him.

30

MRS. HELEN LEHMAN, SWORN.

Direct examination:

By Mr. Cole:

Q. Are you the mother of Mrs. Taylor?

A. I am.

10 Q. Did you live with her in Atlantic City after her marriage to Mr. Taylor?

A. No, I had not been to their home until I was called after she was in the hospital. Up until that time I had not been in their home excepting on the wedding day.

Q. Well, after she was taken to the hospital where did you go, where were you staying?

A. I stayed in her and Mr. Taylor's home.

20 Q. Then you were living in their home, weren't you, after they were married?

A. Well, as I explained, after she was in the hospital I was called. I had never seen them together. I had never been with them in their married life.

Q. Did anything occur at the home where you and Mr. Taylor were while she was in the hospital that drew your attention to Mr. Taylor?

A. Yes.

Q. Answer yes or no, did anything occur?

A. Yes.

30 Q. How long was that after your daughter was in the hospital?

A. The first night.

Q. Where were you when your attention was attracted?

A. I was in my bedroom.

Q. And where was Mr. Taylor?

A. He was in the living room.

Q. Tell what you heard Mr. Taylor say and what you saw him do?

A. I heard him very much excited. I heard him continually, I would say, swearing and profane language, and I could hear him in an excitable way pounding the furniture and I got so nervous that I got up and I didn't know what was going on, I knew I was alone in the home with Mr. Taylor and finally I got up and then I heard him in the kitchen where 10 he was cracking ice, taking a drink, and I could hear him talking to himself, naturally I got so nervous that I could hardly get into my clothes, but finally I did and then I opened the door and I was afraid, at first, to have him know that I was awake, and I heard him say that "If she was going to ruin him and that, she and that Jew,"—he will remember what he said—

Q. Do you know who she was referring to when she said that Jew? 20

A. Not at that time.

Q. All right.

A. "But before she would ruin him or be the means of ruining him he would see her in the gutter," those were the words I heard and then I heard him in the kitchen again.

Q. Just a moment; you said you opened a door. What door did you open?

A. To my bedroom, in the hall was this way, that way and there was the living room. 30

Q. What time was this?

A. That must have been between two and three in the morning.

Q. Now proceed and tell us anything more you heard?

A. Then I went, I called to him, as I was afraid, because I have had a great deal of experience—

Mr. Charlton: If your Honor please, can't we be limited to what she did rather than personal observations?

The Court: Yes, should be limited.

A. Then I called to him, I said "Harry" and he answered and then I thought by his voice that he was——

10

Mr. Charlton: I object to that.

The Court: Yes.

A. I can't tell otherwise.

Q. Mrs. Lehman, counsel objects——

A. I went out to him, Mr. Taylor, and I just spoke with him, I said "Can you not sleep?" or something like that, anyway he went to bed, he promised to be
20 quiet and go to sleep and then we both retired and that night there was nothing more.

Q. What was he drinking?

A. He had brandy there and whiskey.

Q. Do you know whether he was under the influence of drink at that time?

A. Well, just to the extent of keeping his nerves going, I presume.

Q. Was there any one else in the room at the time he was doing this talking than himself?

30

A. No, just himself.

Q. Now did he say anything to you on any occasion about the cause of your daughter's illness?

A. Not until after the hospital, after Dr. Burrows had stated that she should, that he had this infection.

Q. What did he say to you?

A. I said, we were talking it over and I told him what Dr. Burrows said and then he said to me——

Q. Wait a moment, you say you were talking it over; who do you mean by "we?"

A. Mr. Taylor and I were.

Q. Did you say anything to him as to what Dr. Burrows had said?

A. Yes.

Q. What did you tell him?

A. I told him that Dr. Burrows had, in fact he
10 knew it himself, I think.

The Court: What you said.

Q. Tell us, please, what you say you told him Dr. Burrows said?

A. That he was the cause of the trouble and that he had told me that, as a mother I should take care of my daughter, and then Mr. Taylor told me that his wife had infected him.
20

Q. Now is that all the conversation took place?

A. At that time.

Q. Did you have any other conversation with him about the cause of your daughter's condition?

A. He had asked me frequently whether she had been ill at any time or whether any condition and I couldn't recall that my daughter had ever been ill. I told him that I never knew of a woman going to a man more healthy than she, as far as I knew.
30

Q. Did you see the treatment at any time that Mr. Taylor accorded your daughter while she was ill in the hospital?

A. Yes.

Q. Tell us what you saw and what you heard?

A. He cursed her and he told her that he would

fix her when she got out and he was, he lunged over the bed in a way that, while I was looking, her face went red, white and red, and I told him afterwards, in the room downstairs, I said, "Harry, if anything happens of this," I said "I will hold you responsible."

Q. Was this while she was in the hospital?

A. In the hospital.

10 Q. How long after the operation?

A. That was only a few days after.

Q. Do you recall what word he used, you say he cursed, if you can recall what he said, tell us?

A. He called her a son of a b. and that he was going to fix her when he got her out and in every way showed his intense——

Mr. Charlton: I object and ask it be stricken.

20 The Court: Yes.

Q. That is all I care for. Who were in the room at that time?

A. Just myself and Mr. Taylor.

Q. Had you in fact ever heard that your daughter had gonorrhea or any other venereal disease?

A. Never had knowledge of the case at all, didn't know what it meant for a woman to have it.

Cross-examination.

30

By Mr. Charlton:

Q. What did Dr. Burrows tell you he put her in the hospital to be operated on for when she first went there?

A. I wasn't there at the time.

(Question repeated.)

A. Well, appendicitis and he expected that there would be some further development.

Q. Acute appendicitis, wasn't it? Was that his diagnosis?

A. I don't remember whether that was or not.

Q. What day did you come, the day she went to the hospital?

A. Yes, that same evening.

10

Q. That same day?

A. That same evening.

Q. Did you talk to him that day?

A. To Dr. Burrows?

Q. Yes.

A. Oh, no.

Q. When did you talk with him with respect to the operation?

A. I don't know as I spoke to him at all about the operation.

20

Q. Didn't you ask the doctor what was the matter with your daughter, a girl who had been in perfect health up to this time now had to be operated on? Didn't that surprise you that she had to be operated on?

A. Anyone can be taken with appendicitis.

The Court: No, answer the question.

(Question repeated.)

30

A. Well, Mr. Taylor, when I came——

Q. Please answer the question.

A. I cannot answer it any other way, pardon me; he wanted me to say——

The Court: Too many questions.

Q. Didn't you ask Dr. Burrows what was the matter with your daughter that she required an operation?

A. I went to his office——

Q. No.

A. I don't remember the question.

Q. Yes or no, did you ask him or not?

A. I went to his office, must have been for that purpose to talk over the——

10 Q. Did you talk to him?

A. I did talk to him but I cannot remember.

Q. You can't remember what he told you was the matter with her that she needed an operation?

A. She was very seriously ill and there was nothing else to do but take her to the hospital to be under the supervision——

Q. Did you tell me a moment ago that he told you it was appendicitis and other complications?

20 A. Appendicitis was the thing that they suspected.

Q. When did he tell you that?

A. He didn't tell me that.

Q. Who told you that?

A. I think Harry—Mr. Taylor.

Q. And you want us to believe that you never asked the doctor what was the matter with your daughter?

A. At that time, no.

30 Q. Did you ever ask him what was the matter with her?

A. We had a consultation—I had a consultation with him and he couldn't tell me what was the matter with my daughter.

Q. Did he ever mention gonorrhea to you?

A. No.

Q. Did he ever mention that there was any possibility of gonorrhea to you?

A. No.

Q. Never?

A. No.

Q. Did you see Mr. Taylor come to the hospital with flowers for your daughter?

A. Yes.

Q. He seemed to be in a good humor when he came with the flowers, didn't he?

A. Yes, he took them with the best of intentions.

Q. When did the trouble start, after she had talked to him on the occasions he came with the flowers?

A. No, the trouble started when Mrs. Taylor was taken to the hospital, then is when the trouble started.

Q. I am talking, please, after the operation, on these occasions when Mr. Taylor came to the hospital with flowers, for your daughter, he didn't rush into her room and frighten her, did he, with the flowers in his hand?

20

A. No.

Q. He came in nicely, didn't he, when he first came in?

A. Yes.

Q. When did the trouble come, after he and she had talked together in the room?

A. The trouble came when the next morning or the next day I had spoken to my daughter——

Q. The next day it came? Pardon me, is that your answer?

30

A. But I am the one to show to you how it came.

Q. I will find that out. It came the next morning?

A. Yes.

Q. Did he ever go to the hospital at any time that he didn't take her flowers?

A. He didn't take flowers each time.

Q. You are sure of that?

A. I am sure of that.

Q. You remember that he took her wine and champagne at the doctor's orders?

A. Yes.

Q. Now when he took the wine there was a big fight that time, wasn't there, between him and her?

A. I wasn't present.

10 Q. Weren't you there when the wine fight took place?

A. No.

Q. What was your daughter's attitude toward him when he came to the hospital?

A. Her attitude was not as friendly as it could be had circumstances been different.

Q. I understand; whatever difficulties there were between them might have been as much her fault as his in these hospital spats?

20 A. No, it was my fault rather than her fault.

Q. Your fault?

A. Yes, because I tried to find out from her what Mr. Taylor meant by the actions, his actions in the house.

Q. What did he mean anyway? Who was the Jew he talked about?

A. In the first place, the Jew, Dr. Allman, who had operated.

Q. Dr. Allman?

A. Yes.

30 Q. Then his remark that night was more about being ruined financially, wasn't it?

A. No.

Q. By the expenses of the operation?

A. He wouldn't put anyone in the gutter if it was a financial ruin.

Q. Did you and your daughter, in the absence of

Mr. Taylor, talk to Mr. Seligsberg the New York lawyer?

A. Yes.

Q. And this was before you even heard of gonorrhea, wasn't it?

A. Yes.

Q. As the cause of the illness?

A. Yes.

Q. Your daughter tell Mr. Seligsberg of the complaints she had against her husband when she talked to him?

A. I don't know.

Mr. Cole: How can she tell that? I object.

The Court: Sustain the objection.

Q. Your name is Mrs. Helena Lehman?

A. Yes.

Q. Did you ever see this letter before (D1 for 20 identification.)

A. That was——

Q. Pardon me. You asked me in the hospital——

Q. I ask you did you ever see that before?

A. That has nothin gto do with the hospital.

The Court: Madam, answer the questions, please.

(Question repeated.)

A. Yes; this is a true state of the facts.

30

The Court: Let that be stricken.

Mr. Cole: I ask that be stricken.

Q. Was this letter sent to you by Mr. Seligsberg?

A. Addressed to me, yes.

Q. Received by you from him?

A. Care of Mrs. Taylor. Yes, because I had to remain—

Q. Was it received shortly after May seventh, 1926?

A. Couldn't tell you the date, but it is correct, however.

10 The Court: Let that be stricken.

RUDOLPH LEHMAN, sworn.

Direct examination.

By Mr. Cole:

20 Q. Are you a brother of Mrs. Taylor?

A. I am.

Q. Were you in Atlantic City during the time she was ill this year?

A. Part of the time I was.

Q. Were you ever in the hospital?

A. Yes, sir; I was.

Q. While she was there?

A. Yes, sir.

30 Q. Did Mr. Taylor call at any time you were there?

A. Yes, sir.

Q. How many times were you at the hospital in her room when Mr. Taylor was there?

A. I couldn't say exactly but I think several times.

Q. Did you ever notice his treatment toward her at the time she was in the hospital?

A. Yes, sir; I couldn't help notice.

Q. Did you hear him say anything or do anything that you thought was improper to her then condition?

Mr. Charlton: I object.

Mr. Cole: He can say yes or no, and state what it was.

10

The Court: Yes.

A. Yes, sir; I noticed.

Q. What did you hear him say and see him do?

Mr. Charlton: If your Honor please, I think ought to have her conversation as well.

Q. Tell us all that took place, Mr. Lehman?

A. I noticed on one morning he brought a birth- 20 day present to her, a Sunday morning, and in her weakened condition she couldn't raise her arms to receive it, or anything, and she could barely open her eyes, and because she wouldn't jump right up and grab it and thank him he threw it at her and says "I don't care what you do with it" and it hit her right in the abdomen where the laceration was.

Q. Day or night?

A. In the morning.

Q. What else did you see or hear that impressed 30 you, if anything?

A. Why he was very excitable in talking to my sister, refused to do anything, wanted him to sit down or be quiet, he was very restless, and he paced the room continually, wouldn't never sit down and be quiet.

Q. Is that all you recall impressed you?

A. That was all.

Cross-examination.

By Mr. Charlton:

Q. When your sister was in the hospital, Mr. Taylor visited her every single day, didn't he?

A. I am positive, not every day.

10 Q. Visited her every day you were here, didn't he?

A. Not every day.

Q. Sure of that?

A. Yes, sir.

Q. See him bring her flowers?

A. On one occasion I did.

Q. He brought her the birthday present, didn't he?

A. Yes, sir.

Q. He remembered her birthday?

20 A. Yes, sir.

Q. And brought her a gift?

A. Yes, sir.

Q. How long was that after she had been operated on? When was her birthday?

A. I believe the twenty-fourth of April.

Q. Twenty-fourth of April?

A. I believe so.

Q. And you say that twelve days after the operation she was too weak to lift her arms?

30 A. She had a relapse due to Mr. Taylor.

Q. And she couldn't lift her arms?

A. She was very weak, in a very weakened condition.

Q. Couldn't lift her hand enough to receive a present?

A. That was a heavy article.

Q. What was it he bought?

A. It was a heavy kimona, some kind of kimona.

DR. LEWIS T. MANN, SWORN.

Direct examination.

By Mr. Cole:

10

Q. Doctor, where do you live?

A. I live at fifty West Eighty-fourth Street, New York City.

Q. What is your business or profession?

A. I am a physician.

Q. Are you practicing?

A. I am practicing, yes, sir.

Q. When were you admitted to practice?

A. 1916 in June.

20

Q. From what institution did you graduate?

A. College of Physicians and Surgeons, Columbia University, 1916.

Q. Have you been in constant practice ever since?

A. As an interne first, in the army, and then I practiced in civilian practice.

Q. How long were you an interne in the army?

A. I was an interne at Mt. Sinai Hospital. I was in the army approximately a year after my internship at Mt. Sinai Hospital.

30

Q. Had you had any experience in treating gonorrhea?

A. I am specializing in urology.

Q. Have you been doing that since you were admitted to practice?

A. Yes, sir.

Q. Have you read books upon the subject?

A. Yes, sir.

By Mr. Charlton:

Q. Are you now specializing solely in urology?

A. Yes, sir, in urology.

Q. Doing no general practice?

10 A. Doing no general practice.

Q. For how many years have you ben a urologist solely?

A. I will have to answer that in this way: I served an internship in urological surgical service in Mt. Sinai from 1917 until late 1918, I did urology in the army until late 1919, and on leaving the army I have done nothing but urology.

Q. Nothing but?

20 A. I assisted Dr. A. Hiley for four years in his office, 1920, 1921, 1922 and 1923. He is a urologist.

Q. Nothing but urology?

A. Urology. Urological surgery is included in that.

By Mr. Cole:

Q. Now what is the period incubation of gonorrhea?

30 A. Generally three to five days and I should say up to about two weeks.

Q. What is the cure administered?

A. That depends upon the involvement. That is hard to answer directly. That would take some time. It is according to the involvement.

Q. Depends upon the condition, does it?

A. Upon the condition, yes, sir.

Q. Is it possible that one having had gonorrhea for twenty or twenty-five years that it would remain latent—

Mr. Charlton: If the Court please, I object to that. The testimony is that he had it twenty-five years ago and was cured.

The Court: Yes.

10

Mr. Cole: He thought he was.

Mr. Charlton: The question implied it was continuing.

The Court: I will sustain the objection as to the form of the question.

Q. Is it possible for a man to believe himself cured of gonorrhea and not be cured?

20

A. Yes, sir.

Q. Is it possible for the germs of gonorrhea to be in the system and not be discovered after a most careful examination?

A. Yes, sir.

Q. How can that happen?

A. By a closed focus in either the glands of the urethra, prostate or in the seminal vesicle. This is the male I am referring to.

Q. Yes, I am referring to the male too. What are 30 the tests to ascertain whether the germ is in the system?

A. By evacuation of contents of prostate and vesicles by repeated massage, by evacuation of the anterior urethra, and the posterior urethra, dilatation of the posterior urethra, injections of nitrate of

silver or some other irritant, taking of alcohol and bringing out gonococci in that manner. Then smears are taken to ascertain their presence or not and finally, if there are no pus cells present or shreds, and smears are negative, personally I have cultures taken for gonococci on repeated occasions at intervals say of a month.

Q. And you have yourself applied such tests?

A. Yes, sir.

10 Q. And may the germs still be there and undiscovered after all those tests?

A. Yes, sir, if there be a focus that one has not opened by such manipulation.

Q. In your opinion within how long a period may the germ assert itself and gonorrhea be shown after one has been infected?

Mr. Charlton: If the Court please, I object to that because that is an incorrect hypothesis. The testimony here was Mr. Taylor had it twenty-five years 20 ago and was cured, at least he had medical attention to the extent that he was informed he was cured and I think that ought to be applied to the history.

The Court: Permit the question. You may answer.

A. My opinion, from what I have read from various authorities, that gonorrhea may be present, as one author states forty-four years after the first 30 infection. That is the longest time that I could find reported.

Q. And between that longest time and the shortest time what periods have been stated?

A. I don't understand your question.

Q. (Repeated) "And between that longest time

and the shortest time what periods have been stated" that it may recur?

A. Well, any time in that interval.

Q. Assume a woman to be pure, that is not infected with gonorrhea, and married on the ninth of March, 1926, and that on April eleventh it appears that she is infected with gonorrhea and has peritonitis as the result and assume sexual intercourse on the ninth of March with a man who has gonorrhea, I ask whether in your opinion, this condition 10 of gonorrheal infection and peritonitis could have resulted so as to require, in the opinion of the surgeon, operation during that period?

Mr. Charlton: If the Court please, I object to that because that is hypothetically wrong on the evidence. The evidence here is that the most that Taylor could have had on the ninth of March would have been a chronic gonorrhea. The medical testimony was that he had acute gonorrhea showing for 20 the first time on April fourteenth. Now, if you take the period of incubation agreed on by all doctors, he couldn't have had it earlier than, at the earliest, March thirty-first, acute gonorrhea, now I think the doctor ought to be limited to testifying as to whether the symptoms could come from chronic gonorrhea twenty-five years old on March the ninth?

The Court: I will permit the question.

(Question repeated.)

30

A. Answer that?

Q. Yes.

A. Yes.

Q. Have you had any practical experience on that phase?

A. Yes, sir.

Q. Will you state your experience?

A. I have seen quite a few cases at the hospital of such and the last case I saw had an intercourse, a woman who had never had an infection before, had intercourse on Saturday and Sunday and I saw the case on Wednesday and on Wednesday that woman had urethritis, as infection of the urethra, cervix and the womb, both tubes and a violent peritonitis, with temperature of 104, and so forth.

Q. Now, Doctor, what is it that affects the slowness or rapidity of that disease upon the woman?

A. On one hand we have the resistance of the individual, that is the ability of that individual to kill off germs and on the other hand we have an organism with its virulence. Now there can be a variation of virulence on the part of the organism and a resistance on the part of the individual, and according to the combination of the two, whether one be strong and the other be weak, and the other one be weak and the other be strong, or both be strong and both be weak, depends upon the severity of the infection and the speed of development.

Q. What is it that arouses this germ and causes a recurrence after it has lain dormant for so long a period?

A. Excess in the form of alcohol, exercise, sexual intercourse, or any irritant, such as essential oils in the form which occur in the different spices, ginger ale, and so forth, as taken by mouth.

Q. Is the use of alcohol one of the prominent causes of recurrence?

A. Yes, sir. I can quote a case to that effect from the literature.

Q. What?

A. I can quote a case to that effect from the literature, if you want it.

Q. Do the books record this case of forty-four years that you have stated, recurrence?

A. Yes, record a case of forty-four years of recurrence.

Q. Recent authority?

A. The volume was published in 1926, Lehrbruch.

Q. Never mind. You will probably be cross-examined about that. Now there has been reference in this case to a sub-acute attack. What are the degrees of attack, what are they called?

A. Acute, sub-acute and chronic.

Q. What is the definition?

A. That is a period of time rather than anything else. The thing is acute is new, sub-acute has gone on a while and chronic is the word chronic, itself.

Q. If a man had gonorrhea years ago which was not in fact wholly cured, and lay dormant for a number of years and it does not recur, by reason of any of the causes you have stated, may it be a virulent case?

A. According to the authorities the gonococci retain their virulence.

Cross-examination.

By Mr. Charlton:

Q. Will you produce me an authority that says that?

A. Yes, sir. This is a volume in German.

Q. Written in German?

A. Which I have translated.

Q. I can read it. Read the whole article.

A. In German or English?

Q. No, in the English. Who wrote this?

A. This book is written by two men. It is a sum-

mation of the work of various men in Berlin. These two men are A. Buschke, who is professor at the Vircho Krankinhaus and E. Langer, is also professor, and in conjunction with quite a few other men. Do you want those recited?

Q. No.

A. Now this reference comes from—this book was published in 1926, page 275, Buschke and Eric Langer said that. "There are latent cases of gonorrhea which, after many years of apparent health, suddenly light up, occurring as exacerbation after coitus and infecting the woman, the gonococci being fully virulent. This is not to be accepted as being based on theory but is proven practically by the investigations of Moro"—the reference being to another paper which is Eba de Bestandigkeit des gonococcus in dere prostate uno de kleinischen folgen dere blenorragien beitrage zu klinisha chirurgia Bd. 71, H. 2. 1911. That book I was

20 unable to obtain from the Academy of Medicine because they have moved their stacks and couldn't find it.—who undertook systematic search on cases who had gonorrhea previously. He found that after ordinary prostatic massage in thirty-one per cent of his patients gonococci in the prostatic secretion of cases from one to forty-two years after infection and in an additional seven per cent after installation of nitrate of silver and prostate massage he found gonococci nine to forty-four years after infection.

30 Q. Did he find gonococci or form of gonococci?

A. Pardon me?

Q. Gonococci or form of gonococci?

A. He found gonococci.

Q. How did he do it, Doctor, by a smear or how?

A. Not stated. He found them. I assume by a smear.

Q. What is the longest that you have seen a gonococci?

A. In my practice?

Q. Yes.

A. After the initial infection?

Q. Yes.

A. Seven years.

Q. That is the longest you have ever seen it?

A. In my personal practice.

Q. Was that gonococci living?

10

A. Yes.

Q. Was it acute?

A. Now we are not talking the same language. It was an exacerbation.

Q. How alive was it?

A. Very alive.

Q. Fully developed?

A. Fully developed a virulent creamy discharge developed—this patient—may I tell the circumstance?

20

Mr. Cole: You can explain it.

Q. I can explain that thing. This patient came to me suffering from total impotence. He had not had intercourse with a woman for six months or been with a woman because he couldn't and on examination, after examining him, suppressing his prostate and vesicles two or three times, he suddenly developed a violent discharge with posterior inflammation, also, and I was able to suppress pus from his seminal vesicles and demonstrate in a smear from the vesicles by first cleaning out his anterior urethra with salt solution after getting his blood.

30

Q. Did he get gonorrhea?

A. It was an exacerbation of an old gonorrhea.

Q. It was not a new acute case?

A. It was not a new case, no, it was an acute exacerbation.

Q. What do you mean by exacerbation?

A. An exacerbation is this, if the germ be present in the individual, not having been conveyed anew from an outside source, that is an exacerbation.

10 Q. Then this was an acute case of gonorrhea coming from a latent germ?

A. The germ wasn't latent. A latent focus of germs.

Q. A latent focus?

A. Focus, yes.

Q. Were the germs there?

A. Surely, gonococci.

Q. Gonococci?

A. Yes.

20 Q. Of course in this case you had only the word of the patient?

A. That is what we have in all of these.

Q. You don't know whether it was a new case or not?

A. I knew that he could not indulge in sexual intercourse. He was totally impotent. By that I mean he could get no erection at all.

Q. Are you familiar with the great American authorities on gonococci and urology?

30 A. Who?

Q. Martin, Thomas, Morehead.

A. Yes, sir; I have read them.

Q. Bandler?

A. Yes.

Q. Graves?

A. Graves, no.

Q. Not Graves?

A. No.

Q. Read their books?

A. Some time ago, not lately. I am not familiar at the present moment with the text.

Q. Do you yourself believe that a man can have gonorrhea twenty-five years ago, be treated medically, told that he is cured, and twenty-five years later he can have a new acute case of gonorrhea?

10

Mr. Cole: I object to that question. He says, told he was cured. How does that give him a basis for opinion? Somebody told him he was cured. He may have been told he was and not cured.

The Court: I will permit the question.

(Question repeated.)

A. Yes, sir, if he is exposed or do you mean— 20 that is a question I can't answer directly. Do you mean by an acute case, an acute exacerbation of the old condition?

Q. I mean can he have a new acute gonorrhea—

A. Due to the old infection?

Q. Yes.

A. Well, that is an exacerbation. That is what you mean? Yes, I believe it possible.

Q. You do?

A. Yes, sir.

Q. Have you ever seen it medically? 30

A. Seven years is my limit.

Q. Ever heard of it?

A. Yes, sir.

Q. From these books?

A. From books, yes, sir.

Q. That is all. Have you ever seen it in any of your medical experience?

A. No, sir.

Q. Ever had any colleague of yours that has seen it?

A. The longest time any colleague has seen it has been ten years, of my personal acquaintance, an acquaintance, of personal acquaintance. Here is one colleague who I know personally who has seen it 10 twenty years after. (Indicating book.)

Q. Do the colleagues you know, eminent men—

A. This man is eminent and a colleague, and I know it twenty years.

Q. Can you tell whether a man who comes to you with gonorrhea has a new acute case from a new infection or whether it is an exacerbation of an old case?

A. That is very hard to tell.

Q. Well, is it possible to tell?

20 A. Well, in examining the man, if you find signs of chronic involvement of the urethra by an old chronic infection, with hardening of the follicles, infiltration of the anterior urethra, with a hard indurated prostate and indurated seminal vesicles, you can assume, if that man has had no exposure that can be proven, and has only indulged in excess of say alcohol, has not been exposed, has taken proper precaution not to be exposed, used cundrums which have not perforated, you can assume that that 30 man has an exacerbation, if he has had gonorrhea in the past.

Q. But is it possible to tell or not?

A. Well, on the basis of that evidence that the man presents, I should say that it is one way or the other.

Q. What is the course of a recurrence or an exacerbation as you call it?

A. What is the course?

Q. Yes.

A. It may be mild or it may be severe, it may involve the anterior urethra, it may involve the anterior-posterior, according to where the focus is, the initial focus from which the exacerbation occurs.

Q. Does the period of urethral discharge last as long in an exacerbation as in a new case?

A. Depends upon the virulence of the organism. It may. Most times not.

Q. Most times not? 10

A. It may. Most times not.

Q. Couldn't you tell when you treat the patient whether it was a new acute case or an exacerbation?

A. No.

Q. You couldn't?

A. No, not on those grounds.

Q. Well, then?

A. Because a new case can clear up in a week or a day.

Q. Then all this that you have read about cases 20 recurring after so many years is all guess work, isn't it?

A. No, it is not guess work on their part. These men haven't come in with gonorrhea.

Q. What have they come in with?

A. These men have been examined, had their prostate's examined. Gonococci were not present.

Q. Can virulent gonococci—

A. There is one case here of a man who developed arthritis— 30

Q. Answer my question, have active virulent gonococci been found?

A. When, where, how?

Q. In these men reported in that book.

A. Gonococci?

Q. Active, virulent, gonococci?

A. Gonococci has and they state.

Q. By that you mean something resembling a gonococci?

A. No, gonococci.

Q. The real thing?

A. A gonococci.

Q. Now may a gonococci be sub-virulent or virulent? It may be both, may it not?

10 A. Organism varies in its virulence, any organism.

Q. Can women have gonorrhea without infecting men, have gonorrhea present in the system?

A. If it is a closed focus.

Q. Don't the authorities agree that nearly all women have some gonococci in their systems?

A. No.

Q. They do not?

20 A. No, not unless they have been infected. You mean women who have been infected with gonorrhea or all women?

Q. Isn't a woman who has been infected once, doesn't she always have gonococci in her body?

A. Where has the infection been? Tell me.

Q. Doctor, I don't know medicine.

A. Where are they?

Q. You understand my question.

A. Are they in the Fallopian tubes, uterus, neck of the womb, glands of the urethra?

30 The Court: If they are anywhere?

A. If they are anywhere they can be eradicated. There are cases cured.

Q. Totally cured?

A. Yes, sir.

Q. Gonococci?

A. Yes, sir.

Q. Then gonorrhea can absolutely be cured in either men or women?

A. It can.

Q. And if it is cured it never comes back, does it?

A. Not if it is cured. If the gonococci are absent, they are absent.

Q. Doctor, in these old cases you read us from the German book, were those gonococci able to be 10 cultured?

A. Don't know. They stated they found gonococci.

Q. What is the oldest gonococci you have ever found that could be cultured?

A. Seven years. I cultured it.

Q. You cultured it yourself?

A. Yes, sir; I cultured that.

Q. The case that you have told us of the woman who developed peritonitis, she and the man not only 20 had intercourse the Saturday and Sunday before but she had had intercourse with that man or other men long before that, hadn't she?

A. I don't know. I didn't ask. She was a married woman. She had been away from her husband working in a different city and had intercourse with him on meeting him again on this Saturday and Sunday.

Q. You don't know how much other she had with him previous to that?

A. I asked no questions. 30

Q. How long had she been away from him?

A. Don't know.

Q. Now isn't the general rule that if a woman becomes infected with a sub acute gonococci?

A. There is no such thing.

Q. Chronic gonococci?

A. There is no such thing.

Q. Suppose a woman is subjected to a sub acute or chronic gonorrhea, how long would it take before her tubes and ovaries would become so diseased as to give her a high temperature and require an operation?

10 A. If she is infected with gonococci it may take place in a very short time, within three to five days, the gonococci can go through the uterus, up through the tubes and infect the peritoneum. I have seen it.

Q. Is that the ordinary case?

A. Cases are individual. You can't say ordinary.

Q. What is the majority?

A. The majority is an infection of the cervix and urethra alone without tube infection.

Q. I am asking you about—

A. That is within three to five days you mean?

20 Q. That is the period of incubation of acute gonorrhea?

A. Just a moment. May I ask you what you mean by that question?

Q. I mean this, how long will it take an ordinary woman's organs, her tubes and ovaries, to get so infected as to give her a high temperature and require an operation from being subjected to chronic gonorrhea?

A. She may have peritonitis with the incubation of the disease, go right through the whole tract.

30 Q. From chronic gonorrhea?

A. From chronic gonorrhea, from the presence of gonococci, doesn't matter if it is chronic, sub acute or acute, gonococci, the germ.

Q. Is that true with the majority of cases?

A. The germ retains its virulence according to the authorities.

Q. You say that a woman subjected to a man suffering from chronic gonorrhea could within three days be required to have a surgical operation?

A. You said a man there—you said a man just then, not a woman?

(Question repeated.)

A. A woman subjected to a man suffering, you mean exposed? 10

Q. Exposed, yes.

A. Three days later could have peritonitis. I wouldn't say that she would require an operation because she had peritonitis, but she could have peritonitis.

Q. You have read the authorities on it?

A. Yes, sir.

Q. And you say that is the result of reading authorities?

A. Yes, sir.

Q. Wouldn't that be a very acute attack that 20 caused peritonitis?

A. It is an acute attack, yes.

Q. It would be a very acute attack?

A. Acute peritonitis, gonococcic peritonitis.

Q. You told me you are familiar with Bandler?

A. Yes, sir; I have read what Bandler says.

Q. Samuel Wyllis Bandler?

A. I know Dr. Bandler.

Q. You are familiar with his book?

A. This is the 1924 edition—may I see when it was 30 written; this is the fourth edition, is it not? I haven't seen the fourth edition. I have never seen this edition.

Q. Dr. Bandler is quite an authority, isn't he, in gonorrhea?

- A. Dr. Bandler is a gynecologist.
 Q. Quite an authority in this country on it?
 A. He is not a urologist. He is a gynecologist.
 Q. Is his book widely used among able physicians with gonorrhea?
 A. It is not one of the best text books known.
 Q. I ask you to turn——
 A. Not one of the best books known.
 Q. —to page 613 and just read what he says there.
 10 A. He quotes Doderlein which says that "acute gonorrhea in the female"—do I have to read this aloud?
 Q. Yes.
 A. "Comes from acute gonorrhea in the male and sub acute gonorrhea in the female comes from a chronic condition in the male. The latter has none of the symptoms of the acute form often only presenting a discharge"—is that all you want?
 Q. Yes. Is that true?
 20 A. That may be true and may not be true according to the virulence of the male and resistance of the female.
 Q. Did you ever know of a woman to get acute gonorrhea from a chronic condition of the male?
 A. Yes.
 Q. Then this statement is not true?
 A. I say it—I won't say that statement is not true. I will qualify this. I saw a case and he didn't. You cannot say that statement is not true.
 30 Q. How many cases have you ever seen of it?
 A. Let me think, please. Off-hand I can't say how many but I have seen cases. I cannot qualify that by saying how many.
 Q. Where acute gonorrhea was caused?
 A. From a chronic infection from gonococci.
 Q. Sub-acute gonorrhea?

- A. Yes.
 Q. Is it possible?
 A. Yes, it is possible.
 Q. The case or cases that you saw were based on what the patients said, wasn't it?
 A. That is all we have, the doctor has. He can't be with the patient all the time.
 Q. May a woman have gonorrhea which would effect her tubes and ovaries and have it for quite some time without knowing it? 10
 A. She might.
 Q. And in the course of time that might require an operation, might it?
 A. It might. You can't say yes or no.
 Q. Well, is it possible?
 A. Just according to what happens to the gonococci. If they die or live, if they live they may go on and cause more trouble. If they die then she won't.
 Q. Doctor, I show you a book by William P. 20 Graves, A. M., M. D., F. A. C. S., Professor of Gynecology at Harvard Medical School, Surgeon-in-Chief to the Free Hospital for women, Brookline; consulting physician to the Boston Lying-in Hospital, called "Gynecology" and ask you to read from page 210 for the purpose of the record.
 A. "Probably the most common form of acute gonorrheal salpingitis is that which represents an acute exacerbation of a chronic process. It does not necessarily mean that there has been a previous 30 acute attack, because, as we shall see later, salpingitis may start and continue for some time without acute symptoms. Acute secondary salpingitis is apt to be more severe and more destructive than a primary attack. This is due to the fact that the preceding chronic process has been causing slow

damage to the pelvic organs, which have become permanently dislocated and distorted by adhesions. Thus, a tube which has become adherent to an ovary is more likely to impart a destroying inflammation to the ovary than in a fresh case where the organs are normally separated."

Q. What is salpingitis?

A. Salpingitis is inflammation of the Fallopian tube.

10 Q. You agreed to what Dr. Graves said?

A. I read that aloud. Let me get it for my own information. Well, this can be true.

Q. It is possible?

A. It is possible to be true. That is his opinion.

Q. If this is true then it differs from what you have just told us, doesn't it?

A. Dr. Graves and I perhaps differ.

Q. You differ with Dr. Graves?

A. Yes, sir; on that statement there, as stated
20 there. That is true. I mean that can happen. We do not differ in that respect. I admit it is possible, but also say that you can have an acute salpingitis and peritonitis from initial infection. It is possible.

Q. From a chronic infection?

A. From chronic, from the process of gonococci, whether it be acute, sub-acute or chronic, from the male.

Q. You can get acute?

A. Yes, sir.

30 Q. Salpingitis?

A. Yes, sir. That is my opinion.

Q. That differs from what Dr. Graves says, doesn't it?

A. Not in toto.

Q. Well, in the most, in ninety per cent?

A. In part, yes, sir. Only a quotation from an article, part only. We haven't read the rest of it.

Q. When a doctor puts a quotation in a book published by him doesn't he accept that as his opinion?

A. He may discuss that later on. I haven't read the rest of it. I don't know what the rest of it is.

By Mr. Cole:

Q. Is what the writers put in these text books merely their opinion?

A. Generally it is their own opinion, and opinion 10 that they have gotten too from the reading of books of others, from the experience of others, a book is generally written after one has read the experience of others and then states his own opinion.

Q. Is there anything unusual about men in the active practice of medicine speaking out of their experience differing from text writers?

A. Nothing unusual. A man may have an entirely different experience from another individual.

Q. You started to speak of a book of your college 20 chum I think where he referred to a twenty-year case. What does that book say?

A. This is not a college chum. He is an acquaintance that I met here. Mr. Frank Kidd of London, Assistant Surgeon London Hospital, Surgeon in charge Urological department London Hospital, member of various societies. This is taken from a course of lectures delivered at the London Hospital and also in a report to the Royal Commission on Venereal Diseases, England.

Q. How recent is that?

A. This book was published in 1917.

Q. What does he say?

A. I have various references. I have one report here of latency, a case report.

Q. That is the one I have reference to, the latency of the disease.

A. Case on page 97, under the title 37, "Latency. A doctor had urethritis twenty years before he came under my care. Some years"——

Mr. Charlton: If your Honor please, I object because he said "urethritis." I want to know whether the same.

Q. What is that?

10 A. In this book he refers to urethritis. This is under the heading of Gonorrhea: "Some years later he got married. Neither he nor his wife ever had any trouble. One evening many years later he had a very good dinner to celebrate some occasion and a few days later developed arthritis of the elbow. He developed arthritis of both knees. A week later he suddenly developed profuse urethral discharge full of gonococci. The cause of the arthritis then became clear. There is little doubt that he had had
20 gonococci shut up in one vesicle for many years and that he had stirred up the trouble with alcohol which became virulent, and being closed got into the blood. Later the closed sac burst and re-infected the urethra." This, of course, is a résumé of his case history.

Q. Is it your opinion that is possible?

A. Yes, sir.

Q. You spoke of the post, something I have forgotten, and the anterior, what did you mean?

30 A. Anterior urethra and posterior urethra.

Q. What is the significance of those two with respect to this disease we are talking about?

A. One may have a pure anterior infection or a peculiar posterior infection. With the posterior generally there is an infection of the seminal vesicle and creep into the prostate gland.

Q. Can you determine which is involved?

A. By an examination, yes.

Q. Now is it the gonococci that does the damage? Is that the thing that does the damage after all?

A. Yes, sir; that is the cause.

Q. Is it so that as long as that is present in the system it is possible that trouble may ensue?

A. Surely.

Q. Is it possible for it to remain in the system for years without doing any damage? 10

A. Yes, sir.

Q. Is that true both with respect to the man and the woman?

A. Yes, sir.

Re-cross examination.

By Mr. Charlton:

Q. Doctor, cannot other bacteria, particularly the colon bacillus resemble the gonococci in smear examinations? 20

A. Colon bacillus, not to a trained bacteriologist, no. You mean in smear alone?

Q. If they are differentiated must be made by the cultures, mustn't it?

A. The final differentiation, of course—well, I will answer it; I can't answer it yes or no. It is impossible to answer it yes or no. Do you want me to answer it in my way? 30

Mr. Cole: Explain it.

Q. Don't try it if you can't answer it.

A. I can't say yes or no to that question.

Mr. Cole: Why can't you say yes or no?

A. Because that involves the question of bacterial authorities and whole system of differentiation by smears and that class where you do depends upon the situation and the cultural possibilities sometimes. Usually a gonococcus is located, though, by a smear and it is only when one wants to do bacteriology that he cultures, but generally or ordinarily a man does not culture a fresh case or a case that he sees for the first time. He makes a smear for his differential diagnosis.

DR. DAVID B. ALLMAN, sworn.

Direct examination.

By Mr. Cole:

20 Q. You practice surgery, Doctor?

A. Yes, sir.

Q. How long have you practiced here in Atlantic City?

A. Twelve years.

Q. Do you recall operating on Mrs. Taylor, the complainant here?

A. Yes, sir.

Q. What occasioned the operation?

30 A. The patient was admitted to the hospital as a patient of Dr. Burrows with abdominal pain and I was called in consultation and found her to be suffering from a gynecological condition, which in my opinion needed an operation.

Q. What operation did you perform?

A. Well, I like to refer to my record if you want it exact.

Q. Yes.

A. I curetted her uterus and removed both tubes, her right ovary and her appendix.

Q. Did you think that was necessary?

A. Absolutely.

Q. Was that a serious operation?

A. Yes.

Q. What was her condition shortly after the operation? That is I mean was she a pretty sick woman?

A. Yes, she was sick after the operation.

Q. Now from what you saw what is your opinion as to the cause of the condition?

A. I am of the opinion that it was a gonococcic infection.

Q. Now in your opinion was it possible for Mrs. Taylor to be in the condition you found her, assuming that she herself was free from the gonorrheal germ, if for the first time she had intercourse with Mr. Taylor on March ninth, 1926, preceding the day of the operation, he himself having gonorrhea at that time?

A. Yes, it was entirely possible, a woman having intercourse with one having gonorrhea on March the ninth should have the condition I found on April sixteenth, yes.

Q. That was the date of the operation, April sixteenth?

A. Yes, sir.

Q. In your opinion is it possible for the gonorrheal germ to lie dormant for a period of twenty, twenty-five or thirty years?

A. I don't qualify as a urologist.

Cross-examination.

By Mr. Charlton:

Q. Doctor, if a man showed acute gonorrhea on April fourteenth, is it your opinion that his wife could have gotten into the condition she was in when you operated on her as a result of intercourse with him?

10 A. I didn't get your date.

Q. April fourteenth?

A. April fourteenth, 1926?

Q. Yes, sir.

A. If that was the first—it didn't make any difference when he showed the gonorrhea. It is when the intercourse occurred. There is no connection between the first part of your question and the last part.

Q. Presuming that the first time that he showed
20 acute gonorrhea was April fourteenth and that there was intercourse prior to that could she have reached that condition on April sixteenth and you operated on her as a result solely of intercourse with him?

A. Yes, because he might have had it before it was shown.

Q. What is the period of incubation of gonorrhea, Doctor?

A. I don't qualify as a urologist.

Q. If the experts say the highest is two weeks,
30 then could she have gotten gonorrhea from him from March thirteenth to the day you operated on her and being in the condition she was?

A. I don't understand your question.

Q. What was the condition of the tubes, Doctor?

A. The tubes showed an acute inflammation. There was some pus in them showing a recent infection, not a long standing case of gonorrhea where we

have many adhesions, and an old chronic condition. It was an acute condition that had recently occurred, acutely inflaming those tubes with the creamy characteristic gonococci pus in the tubes without many adhesions such as we would have if the case had been long standing.

Q. Couldn't have been an exacerbation?

A. No, not on this woman, in this particular case we are talking about. The inside of this woman which I saw was not an old case of gonorrhea. 10

Q. When you mention an old case, how old would you say, Doctor?

A. Months, four or five or six months, because in that time adhesions form, holding down the tubes, and causing a walling off of the parts, forming localized abscesses. This was an acute condition, divested proposition at first, which localized. In a few days we operated on her, at which time this acute condition was found.

Q. How long might it have existed? 20

A. Oh, it might have existed for eight to ten weeks at the outside.

Q. What is the shortest time it might have existed?

A. A week.

Q. From eight to ten weeks down to one week?

A. Yes, from one week to eight weeks.

By Mr. Cole:

Q. Doctor, is it the knowledge of the husband
30 that he has acute gonorrhea or is the presence of the germ in his system that causes trouble?

A. The germ is there whether you know it or not.

Q. In other words, if the germ was in his system and he had intercourse with this woman on March ninth that may have led to this trouble?

A. Yes, sir.

Q. Irrespective of when it finally developed itself on him?

A. Yes, sir.

EDWARD J. TAYLOR, SWORN.

10 Direct examination.

By Mr. Cole:

Q. I asked your counsel to have you produce this morning evidence of your financial condition. Are you prepared to do that?

A. No, sir.

Q. Why not?

A. I didn't get word to that effect.

20 Q. What?

A. I haven't got word to that effect.

Q. You are not prepared this morning to do it?

A. No, sir.

Q. Do you have a legacy or interest in your wife's estate that comes to you periodically?

A. I did.

Q. I mean your former wife's estate?

A. I did.

Q. Do you have it now?

30 A. No.

Q. You don't have any income from that estate at all?

A. None.

Q. Is there any that is coming later under her will?

A. None.

Q. Have you got a copy of her will?

A. No.

Q. Your former wife, Blanche Taylor, as you testified before, divorced you?

A. No, sir—yes, sir.

Q. On the ground of extreme cruelty?

A. Well, that is the way she put it.

Q. That is what she charged you with, wasn't it?

A. That is right. She married another doctor.

Q. Now wait a minute.

A. I am telling you that.

10

The Court: Answer questions.

Q. That was the charge she made against you, wasn't it?

A. Yes, that was the charge.

Q. Did you defend it?

A. No, sir. Wanted to get rid of her. She wanted to marry this doctor.

20

The Court: You have answered the question. Let that be stricken.

Mr. Charlton: There is no question, Mr. Taylor.

Q. She didn't have any ground for divorce?

A. No, sir.

Q. And you didn't defend it?

A. No, sir.

Q. You were willing to stand under the charge of extreme cruelty, were you?

30

A. I did.

Q. Do you know whether or not among the cases of cruelty she charged were you charged with having gonorrhea?

A. No, sir.

Q. You mean she did not or you don't know?

A. She never did.

Q. Now when did your second wife die?

A. August twentieth, 1925. Died under an operation. Died under an operation of cancer.

The Court: There is no question.

10 Mr. Charlton: There is no question, Mr. Taylor.

Q. I will ask you the question, did you have intercourse, sexually, with any woman, after your wife's death before you married this present wife?

A. Nobody but my wife Mrs.—

Q. When will you be able or when will you give us the statement of your financial condition?

A. About the middle of the week.

20 Mr. Charlton: Maybe he can give it now.

By Mr. Charlton:

Q. Can you give a statement now of your financial condition?

A. I think Mr. Cole is asking—

Q. Do you keep any books?

A. I keep no books.

Q. You keep no books?

30 A. My business don't warrant it.

Q. Are you able to tell him now?

A. I told him at that time, I think I told him I was worth around seven or eight thousand dollars.

Q. Are you able to add anything to what you said to him before?

A. No. Well, I may say an extra thousand dollars more.

Q. Thousand dollars more?

A. Yes, thousand dollars more; some securities I had increased in value a thousand dollars since then.

COMPLAINANT RESTS.

DEFENDANT'S TESTIMONY.

EDWARD JAY TAYLOR, recalled.

10

Direct examination.

By Mr. Charlton:

Q. Mr. Taylor, you heard your wife say that between the time she left her first husband and the time she married you she had intercourse with no man. Hear her say that?

20

A. Yes, sir.

Q. Is that true?

A. But me.

Q. She had intercourse with you?

A. Yes.

Q. Before marriage?

A. Will I have to answer that question?

Q. I am asking you before marriage?

A. Yes.

Q. She did?

A. Yes.

Q. How many times?

A. Several times.

Q. And when was the first as near as you can say?

A. Probably October or November.

Q. October or November?

30

A. Yes.

Q. When did you meet her?

A. October. I am not so sure about the dates. If you will hold me down to dates, I am not so sure.

Q. How long was it after you met her that you first had intercourse with her?

A. I tell you I don't like to talk that way. I would say ten days.

Q. Ten days after you met her?

10 A. Yes, sir.

Q. When you met her were you a total stranger?

A. Yes, sir.

Q. Now, Mr. Taylor, when you went to the hospital to see her did you take flowers to her?

A. Yes, sir.

Q. How did she receive you at the hospital?

A. At first very nicely, after that she took a sudden dislike to me for reasons unknown to me. On one occasion she, I brought her flowers, she

20 threw them at me and told me——

Q. Threw them back at you?

A. Told me to get the hell out of here and never come back.

Q. In that language?

A. Yes, sir; in that language. Dr. Burrows was present when she did it. On another occasion I brought her a bottle of wine and I sat the wine on the floor and told her how it was to be handled regarding temperature and she, from my efforts she

30 taken out a hot water bottle and threw it at me.

Q. That is in the hospital?

A. That was in the hospital.

Q. Mr. Taylor, had you been a drinking man all your life?

A. I have been a drinking man all my life.

Q. You didn't start to drink suddenly after you were married, did you?

A. No. My wife drank with me and I drank with her.

Q. You drank your whole life through?

A. I drank my whole life through.

Q. Have you drank all the time in the last twenty-five years?

A. Only, well, I have stopped occasionally, I have gone up in the woods to shoot and so forth where I wouldn't drink anything maybe a couple of months.

Q. Most of the time you have drank steadily? 10

A. Steadily.

Q. All kinds of liquor?

A. All kinds of liquor, yes, sir.

Q. Did you ever have any discharge from your penis in twenty-five years down until this April?

A. Absolutely not.

Q. Did you ever have any pains in your back?

A. No, sir.

Q. Pains in the testicles?

A. Perfectly healthy all my life. I have never 20 had one day of sickness in my life.

Q. This drinking then was nothing new?

A. Nothing new to me.

Q. Did you have intercourse with any woman other than your present wife from the time your second wife died?

A. Absolutely not.

Q. I show you a letter from a Mr. Seligsberg written to your wife's mother and ask you if you have seen that before? 30

A. I have.

Q. Where did you get it?

A. Mrs. Lehman gave it to me.

Q. Mrs. Lehman?

A. My mother-in-law.

Q. Gave it to you?

A. Yes, sir.

Q. You have read it?

A. Yes, sir. I think my mother-in-law had the best intentions in the world towards me and my wife.

Mr. Charlton: I offer it.

Mr. Cole: I object to it.

10

Mr. Charlton: Call the Court's attention to the fact it is dated two days before the complainant says she had knowledge of the gonorrhea.

The Court: I will permit it to be marked at this time. I may strike it out.

(Letter marked Exhibit D1.)

20

Q. Mr. Taylor, what was the episode of the birthday present that you took to your wife?

A. Well, that was merely thoughtlessness on my part. I went to a great deal of trouble to secure this present. In fact I had asked my mother-in-law to come with me, as I called her "mother" to come with me and select this present, and we selected a present and I brought it to the hospital with the best of intentions and I laid it on the bed, but I might have laid it down thoughtlessly, and it might have went down off my hand, but I didn't throw it at her, because if I give a present I give it from my heart, and I don't throw it at people.

30

Q. Was there quite a scene about the present?

A. Well, she flared up, but I didn't know I hurt her, but I have since found out that in her condition if a person was even to drop a hand to her she might

have been irritated, but I wouldn't knowingly had done anything which would irritate her or hurt her.

Q. Did you make the remark your mother-in-law says you made?

A. What was that?

Q. Something about a Jew?

A. I don't recall that.

Q. You don't recall that?

A. No, I don't recall that.

10

Cross-examination.

By Mr. Cole:

Q. You ever been convicted of crime?

A. No, sir.

Q. Weren't you convicted of crime in the state of California?

A. No, sir.

20

Q. Sure about that?

A. Positive.

Q. You never had sexual intercourse with a woman from the time your second wife died until you had intercourse with your present wife?

A. Yes, sir; absolutely.

Q. And then you had intercourse with her then before you were married?

A. Yes, sir.

Q. In Atlantic City?

30

A. Yes, sir.

Q. When?

A. October, November, December.

Q. Where?

A. Marlborough-Blenheim.

Q. Were you then engaged?

A. No, sir.

Q. So that, notwithstanding the fact you had kept pure from the time your wife died, never had intercourse with any other woman, with this woman before you were even engaged with her you were having promiscuous intercourse, is that right?

A. That is right.

Q. Who cured you of your previous gonorrhea?

10 A. Dr.—I couldn't tell you that. It is over twenty-five years ago.

Q. What doctor did you have?

A. If I could recall his name—he has since died.

Q. Where did he live?

A. In New York City.

Q. Don't recall his name?

A. I would have to think very hard.

Q. Where in New York City did you visit him?

A. On Ninety-third Street.

20 Q. What number do you know?

A. No, I couldn't tell you. I think something like, well so long ago, pretty hard for me to tell.

Q. How long were you under his care?

A. Well, I would say about six weeks or two months.

Q. What did he—what treatment did he give you?

A. He gave me regular treatment.

Q. What was it?

A. Injection.

Q. Is that all?

30 A. That is all.

Q. Just injection?

A. Yes, sir.

Q. Did he tell you you were cured?

A. Yes, sir.

Q. And you believed him?

A. I believed him, yes, sir.

Q. Now you noticed your recent trouble on what date?

A. On April the fourteenth.

Q. You went to Dr. Shivers on May the ninth?

A. Yes sir.

Q. What were you doing in the meanwhile?

A. Dr. Burrows was treating me.

Q. For gonorrhea?

A. Yes, sir.

Q. He told you you had it?

10

A. Beg pardon?

Q. Did he tell you you had it?

A. Yes, sir.

Q. You knew it?

A. I positively did.

Q. Why did you leave him and go to Dr. Shivers?

A. Because Dr. Burrows was leaving for Richmond, Virginia, and he had been dunning me for a bill, in fact he dunned me in the street for a bill.

Q. Is that the reason you left him?

20

A. No; that is one of the reasons.

Q. Why did you add he dunned you for the bill?

A. Because I think it was so unprofessional and I had very little faith in him after that.

Q. You owed him money, didn't you?

A. I owed him money, but you don't generally dun a man in the street for bills.

Q. You owed him money, didn't you?

A. Yes, I admitted it. I paid it too.

Q. Now you say this was the Marlborough-Blenheim?

30

A. Yes, sir.

Q. How did you get in there?

A. I walked in.

Q. Did you register?

A. Yes, sir.

- Q. You registered?
 A. Yes, sir.
 Q. Register this lady as your wife?
 A. I did.
 Q. And she wasn't?
 A. She wasn't.
 Q. How many times did you do that?
 A. Twice.
 Q. Did you tell anybody at the desk that this
 10 lady wasn't your wife?
 A. No, sir.
 Q. Were you in the habit of doing that sort of
 thing?
 A. No, sir.
 Q. First time you ever did it, was it?
 A. I don't know.
 Q. Don't know?
 A. No.
 Q. Did you do that in, that is go take some woman
 20 to a hotel and register as your wife at the time you
 got gonorrhea before?
 A. No, sir.

By the Court:

- Q. Under what name did you register at the
 Marlborough?
 A. J. Taylor and wife.
 Q. What residence?
 30 A. I think New York. I couldn't recall.

By Mr. Cole:

- Q. That wasn't true was it?
 A. No.
 Q. So you lied both times, both as to your mar-
 riage and place you were from?

- A. Yes, sir.
 Q. Why did you do that?
 A. I couldn't say.
 Q. What?
 A. I couldn't say.
 Q. Don't you know why you did it?
 A. No.
 Q. Now didn't you do it to deceive?
 A. Well, I wasn't deceiving anybody but myself.
 Q. Weren't you deceiving the Marlborough-Blen- 10
 heim people? Didn't you consider them in the trans-
 action?
 A. No, I didn't; absolutely not. I paid for what I
 got.
 Q. What do you mean you paid for what you got?
 A. At the hotel.
 Q. That is all.

20

DR. MARGARET HILL NELSON, SWORN.

Direct examination.

By Mr. Charlton:

- Q. Doctor, you are an osteopathic physician?
 A. Yes.
 Q. Practice in Atlantic City?
 A. Yes.
 Q. Do you know Mr. and Mrs. Taylor? 30
 A. Yes.
 Q. When they lived together?
 A. Yes.
 Q. They lived at your house?
 A. Yes.

Q. Did you talk to Mrs. Taylor during the time she and Mr. Taylor were together?

A. Oh, yes.

Q. Did she ever say anything to you about leaving Mr. Taylor?

A. Not at my house.

Q. Well, did she ever at any place say that?

A. At the hospital.

Q. At the hospital?

10 A. Yes.

Q. Was that before there was any question of gonorrhea?

A. Yes.

Q. What did she say, Doctor?

A. Well, I went to see her every day and I was talking to her and I was very fond of her and she says "I don't think I will come back to the apartment, I am going to New York" and she made the remark that "he will give me fifty thousand dollars or I will sue him." That is all she ever said to me about money or about it.

Q. She give any reason why?

A. No, I was surprised because I didn't want her to go.

Q. And that was before there was any mention of gonorrhea?

A. Yes, I didn't know anything about it then.

Cross-examination.

30

By Mr. Cole:

Q. Were you friendly with her?

A. Very friendly.

Q. How did you come to be here today?

A. I was subpoenaed to come here and I refused to come before I was subpoenaed this time.

Q. How did counsel know about this incident? How did he come to find it out?

A. Well, I think I talked with him about it. He is my attorney and I was talking one day.

Q. And you knew he was attorney for Mr. Taylor too, didn't you?

A. Yes.

Q. As a friend of Mrs. Taylor you thought it was a nice thing to tell the lawyer for Mr. Taylor that his wife had contemplated leaving him unless he gave her fifty thousand dollars? Did you think that was a friendly act? Answer that yes or no. Did you? 10

A. No, it wasn't friendly.

Q. It wasn't friendly?

A. No.

Q. Are you still a friend of hers?

A. I hope to be. I wouldn't do her any harm if I could help it.

Q. Did you talk to Mrs. Lehman's mother about this? 20

A. Many times. Mrs. Lehman lived there.

Q. Did you talk to her about what was the cause of the daughter's condition?

A. Yes, we talked a great deal about it.

Q. How did you find it out?

A. I don't remember whether it was she told me or whether it was Mr. Taylor.

Q. Didn't Mr. Taylor tell you what the trouble was? 30

A. I think he did.

Q. And he having told you what the trouble was you went and told Mrs. Lehman, this girl's mother, didn't you?

A. No, I didn't tell Mrs. Lehman.

Q. Who did you tell?

A. I don't know that I told anyone outside.

Q. How did Mr. Taylor come to tell you what the trouble was?

A. Mr. Taylor was living at our house.

Q. What did he tell you?

A. You mean what did he tell me?

Q. That is the question. You said he told you about what was the cause of her trouble?

10 A. I can't just recall the time but it was talked about many times, Mrs. Lehman, Mr. Taylor, my husband and I talked about it and he told us this condition and it was talked about many times, I don't remember just what was said about it, but I knew it.

Q. Knew what?

A. Knew that he had this condition.

Q. What condition?

20 A. He told me he went to Dr. Burrows and he found that he had gonorrhea.

Q. Is that all he told you about it?

A. I think it was about all amounted to anything.

By Mr. Charlton:

Q. Mr. Taylor at no time ever told you that he had given his wife gonorrhea, did he?

A. No, I knew Mr. Taylor's first wife and treated her quite a long while.

30 Mr. Cole: That is not the question.

A. No.

Q. Doctor, you say you knew Mrs. Taylor, second Mrs. Taylor?

A. Yes.

Q. You treated her?

A. Yes.

Q. Did she have gonorrhea?

A. No.

Q. Any symptom of gonorrhea?

A. No.

Q. In all the time she lived with Mr. Taylor?

A. No.

Q. Did you ever know him to have gonorrhea?

A. Never knew anything about it; never heard anything about it until this happened. 10

Mr. Charlton: In connection with that I want to read this letter (D1.)

Mr. Cole: I haven't seen the letter. What is the purpose of that letter?

Mr. Charlton: The purpose is to show Mrs. Taylor, before she ever heard her husband had gonorrhea was trying to get a separation from him. 20

Mr. Cole: I don't see it makes any difference whether she intended to leave him or not, question is whether she was justified in leaving on account of this condition. That is this case.

The Court: That is this case but any evidence which shows she contemplated leaving him because of some other cause might affect her testimony concerning the cause of this leaving.

I will admit the letter and will give counsel notice 30 I may strike it out.

(Mr. Charlton then starts to read the letter.)

Mr. Cole: This letter, of course, is coming not from this defendant but a third party.

The Court: How are you going to connect it with this present petitioner?

Mr. Charlton: It refers to her in here.

Mr. Cole: Suppose it does by a third party.

The Court: I will sustain the objection, by a lawyer to another person.

10

Mr. Charlton: He refers to conversations had with complainant.

Mr. Cole: I can't cross-examine on that.

The Court: Sustain the objection. You can't get the statements by a third party in the record, statements made by a third party to another third party, without counsel having an opportunity to cross-examine.

20

Mr. Charlton: Talks about what her lawyer has talked to her about and has written to her mother to discuss with her.

The Court: Until connected with the petitioner I overrule it.

Mr. Charlton: If I recall I asked her if she had talked with Mr. Seligsberg about this matter and I think she said she had.

30

The Court: Yes.

Mr. Cole: Suppose she had a conversation, she may have had; he can examine her about it, the lawyer's letter wouldn't be contradictory.

The Court: Sustain the objection at the present time.

Mr. Charlton: Her name is certainly Julia. He is not writing about——

The Court: What is the purpose, to show that this woman told Mr. Seligsberg certain things?

Mr. Charlton: The purpose of this letter is not what she said to Seligsberg as indicated in this letter but to show that on May seventh, and prior to the date before she ever heard of gonorrhea, she was trying to get away from her husband on any possible pretense.

The Court: What is the proof of that, a letter written by a third person to another third person?

Mr. Charlton: That is my proof, written by her lawyer, her agent.

The Court: Not necessarily so. I will sustain the objection.

Mr. Cole: Confidential relation may become involved there too.

The Court: If you desire you can place her on the stand and examine her as to whether those facts were stated to him.

30

DR. KARL SCOTT, SWORN.

Direct examination.

By Mr. Charlton:

Q. Doctor Scott, you testified previously in this case? You remember testifying here before?

10 A. I do.

Q. You saw Mr. Taylor and treated him, didn't you?

A. I did.

Q. What you told us is actual experience in his own case?

A. It is.

Q. Not theory?

A. No.

20 Q. I ask you again, Doctor, is it possible to tell a new acute case from a recurrence of an old chronic condition?

Mr. Cole: I object to asking the question. By stipulation this evidence goes in, unless something new is put to it.

The Court: If it is simply repeating the question, objection sustained.

30 Mr. Charlton: Strike out the word again.

Mr. Cole: It will be again whether you put the word in or not.

(Mr. Charlton then read an excerpt of Dr. Scott's testimony on the preliminary hearing.)

Q. Doctor, will you take these books—I really don't know enough medically to talk about the subject. What books have you there, Doctor?

A. I have "Gynecology" by Dr. William P. Graves, Professor of Gynecology Harvard Medical School, published in 1923. Medical Gynecology by Dr. Samuel Wyllis Bandler, Professor of Gynecology, New York Post-Graduate School and Hospital, edition of 1924, and White and Martin's Genito-Urinary Surgery and Venereal Diseases, also Thomas, Martin 10 and Moorehead, published presumably in 1920.

Q. Are those books standard American authorities, Doctor?

A. White and Martin has been considered standard for I think many years. The others—I am no gynecologist,—I take from the standing of the men who wrote them.

Q. They are noted professors?

A. They are gynecologists at Harvard and New York Post Graduate School. 20

Q. They teach the subject?

A. They teach the subject.

Q. To medical students?

A. Yes.

Q. Now, Doctor, you heard the New York doctor testify this morning. Can you tell us your experience with gonorrhea and recurring gonorrhea?

Mr. Cole: I object. They had him on the stand before on this very phase of the case and stipulation 30 is that the testimony is to stand. Of course, if they want to contradict something specifically that Dr. Mann said, I don't object to that, but I do object to taking this testimony over again. That is, I object since I don't like to take the time; otherwise I don't care.

The Court: I will permit it. I hardly know where it can be limited.

Q. Will you read us what the American text books say?

Mr. Cole: I object.

The Court: Sustain the objection.

10

Q. Discussing gonorrhea in women, Doctor, does gonorrhea attack a large number of reputable women?

A. Yes.

Q. If it does so attack them are the symptoms very pronounced or can they lie latent?

A. In both—you mean the married women?

Q. Yes.

A. The great majority of the cases it would—

20

By Mr. Cole:

Q. These books that you have referred to are works on what?

A. Two of them are works on gynecology, which is diseases of women, and the other is on genito-urinary surgery and venereal diseases, which takes in both men and women.

Q. Gynecology, is that the way you pronounce it?

30

A. Gynecology.

Q. That treats only women?

A. Only women.

Q. Counsel appears to be reading his questions from the book; do you know whether he is or not?

A. No. It is not in the form of questions. No, sir.

By Mr. Charlton:

Q. Doctor, from these authorities have you ever seen or is there anywhere that you have ever read any case of a recurrence of gonorrhea in an acute form after twenty-five years?

Mr. Cole : He said no before.

A. I said no before.

10

Q. How do you test gonococci, by smears?

A. The usual method is by a smear with a special stain.

Q. Can you actually prove if they are gonococci without cultures?

A. The accepted criteria of bacteriology is—

Mr. Cole: Yes or no.

A. I will say no.

The Court: You mean that in all cases, Doctor, or in some cases? 20

A. Well, there are other evidence which is enough to make your decision on which you will be right but for absolute theoretical grounds you could answer that no; you must culture them.

Q. Are you familiar with the German book that our friend quoted from?

A. I am not.

Q. Never read it or heard of it?

30

A. Never read it.

Cross-examination.

By Mr. Cole:

Q. No doubt about its existence, is there?

A. None at all.

Q. So far as you know it is reputable authority?

A. So far as I know.

Q. Right up to date?

10 A. So far as I know.

Q. More recent than anything that you have read?

A. Yes.

Q. Have you read a recent journal, I don't remember the date, article by a doctor, whose name I don't remember, but who I think is on the staff of the Johns Hopkins University, in which he says, in concluding his article, that we have at last concluded that the duration of that disease is much longer than we heretofore thought; have you seen that?

20 A. I have.

Q. You dispute that as being true?

A. I don't know what he means. I don't know what he formerly thought or what he thinks now.

Q. Have you heard of Kirby on gonorrhea? He is on the Pennsylvania Hospital, or was?

A. Dr. Kirby, Philadelphia, yes.

Q. He has a French quotation in his book which runs like this "Clap commences but God only knows where it ends." Did you ever see that?

30 A. I said—I misunderstood you. I know of Dr. Kirby; I don't know his book.

Q. In that book he has that translation from the French "Clap commences but God only knows where it ends." Did you ever see that?

A. No.

Q. Did you ever hear of it?

A. No.

Q. Do you subscribe to it?

A. No, I do not.

By Mr. Charlton:

Q. Can gonorrhea be cured absolutely, Doctor?

A. Absolutely it can.

By Mr. Cole:

Q. Doctor, let me ask you, how long have you been practicing? 10

A. I am a graduate of 1912, University of Michigan.

Q. How long in Atlantic City?

A. Atlantic City since 1922.

Q. General practitioner?

A. No, genito-urinary only.

Q. Have you yourself ever undertook to culture these germs?

A. I have. Not here. Not in private practice because it is very difficult. 20

Q. How many cases of gonorrhea in men have you actually been since you have been in Atlantic City, how many people?

A. Well, it is in the hundreds.

Q. All right, that is all.

By Mr. Charlton:

Q. How many in women, Doctor?

A. Fewer of those. 30

Q. Those in the hundreds, too?

A. No, I would say that would be in the dozens.

DEFENDANT RESTS.

TESTIMONY CLOSED.

Argument adjourned to December 10, 1296, at 1.30 P. M.

CONCLUSIONS.

(Filed December 29, 1926.)

IN CHANCERY OF NEW JERSEY.

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Between:

JULIA L. TAYLOR,

Complainant,

and

EDWARD JAY TAYLOR,

Defendant.

On Bill for Maintenance.

On Final Hearing.
Conclusions.

20

These conclusions are not to be published in the official or unofficial reports.

MESSRS. COLE & COLE for the complainant.

MR. WILLIAM CHARLTON for the defendant.

30

INGERSOLL, V. C.:

The complainant and defendant were married on March 9th, 1926. Each had been divorced previously. The complainant had divorced her husband in October, 1925. The defendant's first wife had divorced him for extreme cruelty, and his second wife died in August, 1925.

The defendant insists that he had intercourse with his present wife on several occasions prior to their marriage during October, 1925. On April 16th, 1926, she was operated on at the Atlantic City Hospital and her ovarian tubes, appendix and right ovary removed. That the cause of her condition was a gonorrheal infection. She testified she never had had gonorrhea prior to her marriage with Taylor, and that intercourse with him had infected her.

Taylor admitted having gonorrhea about 25 years ago; that he had been entirely cured; that he had no evidence of any recurrence thereof until April 14th, 1926; that he then had gonorrhea and had been treated therefor.

Much expert testimony has been given upon this disease, its effect, its recurrence, and the possibility of an absolute cure. There also was testimony of cruel treatment by him of her, while she was at the hospital. Upon leaving the hospital, she did not return to her husband, and has since lived apart.

Prior to her marriage the complainant was employed in governmental service as a clerk at a salary of \$1500 per annum. She is now in perfect health. Taylor refrained from giving any details as to his financial standing.

I will advise an allowance of \$20 per week, and a counsel fee of \$100.

Determined: December 28th, 1926.

30

FINAL DECREE.

(Filed January 6, 1927.)

IN CHANCERY OF NEW JERSEY.

10

Between:

JULIA L. TAYLOR,

Complainant,

and

EDWARD JAY TAYLOR,

*Defendant.*On Bill for Maintenance.
Final Decree.

20

This cause having been heard in the presence of C. L. Cole, of counsel with complainant, and William Charlton, of counsel with defendant, on pleadings, proofs and oral arguments, and the Court having considered the same and being of the opinion that the defendant is guilty of the acts charged and that complainant was justified in leaving him by reason thereof, and is therefore entitled to support and maintenance;

It is on this sixth day of January, 1927, on motion of Cole & Cole, solicitors of complainant, ordered and decreed that until the further order of the Court the defendant pay to the complainant as an allowance for her support and maintenance the sum of twenty dollars a week from the 10th day of December, 1926, together with payment of costs to be taxed which shall include a counsel fee of \$100 to be col-

lected in accordance with the practice and rules of court.

E. R. WALKER,
C.

Respectfully advised.

R. H. INGERSOLL,
V. C.

10

NOTICE OF APPEAL.

(Filed January 19, 1927.)

IN CHANCERY OF NEW JERSEY.

Between

JULIA L. TAYLOR,

Complainant,

and

EDWARD JAY TAYLOR,

*Defendant.*On Bill, etc.
Notice of Appeal.

20

The defendant, Edward Jay Taylor, hereby appeals from the final decree made in the above entitled cause on 7th day of January, 1927, by the Honorable Edwin Robert Walker, Esq., Chancellor of our State of New Jersey, as advised by the Honorable Robert H. Ingersoll, Esq., one of the Vice-Chancellors, and from the whole and every part

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

Dated January 15th, 1927.

WILLIAM CHARLTON,
Solicitor for Defendant.

[ENDORSED]

10

Due and legal service of a copy of the within notice of appeal hereby acknowledged.

Cole & Cole,
Sol'rs for Compl't.

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PETITION OF APPEAL.

(Filed January 19, 1927.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

10

Between	}	On Appeal from Chancery. Petition of Appeal.
JULIA L. TAYLOR, Complainant-Respon-		
dent,		
and		
EDWARD JAY TAYLOR, Defendant-Appellant.		

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

The petition of Edward Jay Taylor, the appellant in the above entitled cause, respectfully shows that:

Petitioner finds himself aggrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, advised by his Honor, Robert H. Ingersoll, one of the Vice-Chancellors, bearing date the 7th day of January, 1927, in a certain cause in said Court of Chancery wherein Julia L. Taylor was complainant and the said Edward Jay Taylor was defendant, and the whole and every part thereof;

30

And petitioner appeals from the whole and every part of said decree of the Chancellor upon the ground that the same is erroneous in that it grants the relief prayed for in the bill of complaint when it should have denied it and dismissed the bill.

Petitioner, therefore, prays that the said decree of the said Chancellor may be wholly reversed, set aside and for nothing holden, and that petitioner may have such further relief in the premises as to
10 this court may seem proper.

WILLIAM CHARLTON,
Solicitor of Defendant-Appellant.

—
[ENDORSED]

20 Service of within petition of appeal
acknowledged this 17th day of January
1927.

Cole & Cole,
Sol'rs of Compl.-Respdt.

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ANSWER TO PETITION OF APPEAL.

(Filed January 29, 1927.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

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Between	}	On Appeal, &c. Answer to Petition of Appeal.
JULIA L. TAYLOR, Complainant-Respon- dent,		
and		
EDWARD JAY TAYLOR, Defendant-Appellant.		

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The answer of the above-named respondent to the petition of appeal of the above-named appellant. This respondent, Julia L. Taylor, not acknowledging any or all of the matters which in the said petition of appeal are contained to be true, for answer thereto, nevertheless, says and admits that a decree was on the 6th day of January, 1927, made and entered in the Court of Chancery in the cause for the
30 purpose mentioned in the said petition, as is therein stated; but as to the substance and form thereof this respondent prays to refer thereto when the same shall be produced, and this respondent is advised and believes that the said decree is agreeable to

equity and she prays that the same may be affirmed with costs to be adjudged to this respondent.

COLE & COLE,
*Solicitors for and of Coun-
sel with Complainant-Re-
spondent.*

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NEW JERSEY COURT OF ERRORS
AND APPEALS.

Between
JULIA L. TAYLOR,
Complainant-Respondent,
and
EDWARD JAY TAYLOR,
Defendant-Appellant.

BRIEF OF DEFENDANT-APPELLANT.

STATEMENT OF FACTS.

This was a bill for maintenance alleging extreme cruelty charging that the complainant had contracted a venereal disease from the defendant who had been afflicted with it at and before the time of their marriage. The exact language of the complaint follows:

“For a long time before said marriage, her husband, the defendant, had suffered from a venereal disease and this fact was known to him at the time of the marriage, but was withheld from her and was unknown to her at the time she contracted said marriage.”

This averment was denied by the defendant in his answer; paragraphs 2 and 4 as follows:

“He denies paragraph two and says that in fact he had a venereal disease in the year 1900

and had no other venereal disease until April 14, 1926, when he became affected with a new acute case. He denies paragraph 4 and says that in fact the complainant was suffering from a venereal disease in consequence of intercourse with some person unknown to defendant at some time either prior to or early in her married life with defendant."

The sole issue raised by the pleadings were infection of defendant at time of marriage and his knowledge thereof. Considerable testimony was offered by complainant without objection regarding other acts of alleged cruelty on the part of the defendant and not set forth in bill of complaint and therefore no part of the pleadings and issue. This extraneous evidence is referred to by the Court in the conclusions and appears to have been considered by him to be material.

These acts of alleged cruelty were designated by complainant and her witness as violent and abusive language and threatening gestures addressed and directed to complainant and denied by defendant. In the absence of an amendment to the complaint incorporating these allegations this evidence was entirely irrelevant and not material to the issue and cannot be considered as a basis for any finding of fact against the defendant.

In relation to the issue raised by the pleadings the complainant offered no direct proof; her knowledge of defendant's conduct is confined to information conveyed to her by the defendant's physician, Dr. Burrows, while she was in the hospital (p. 27, l. 7; p. 21, l. 6). No admission by defendant tending to show knowledge of his condition at time of marriage is alleged, nor is there any evidence offered to

show his promiscuous association with other women, stains upon his undergarments, etc., to lay ground for a presumption of guilty knowledge on his part at the time of marriage.

The complainant relies entirely upon the presumption of his knowledge of his condition by defendant, because of infection discovered after marriage, or, in the alternative, that he should be charged with knowledge of the fact that an infection from which he had suffered twenty-five years prior to his marriage to complainant, and of which he was pronounced cured, could at any time recur after being dormant for that period.

As to the presumption of knowledge of his condition at the time of marriage, the defendant offered the following testimony in rebuttal.

That he had gonorrhea twenty-five years ago (p. 42, l. 29) and had been pronounced cured (p. 43, l. 3); that to his knowledge he did not have the disease at the time of his marriage to complainant and that he first noticed any indication of such condition on April 15th, two days after the complainant entered the hospital (p. 43); that he had been pronounced cured of this last attack (p. 44), and that he had sexual relations with complainant about April 2nd or 3rd, just prior to her last menstrual period (pp. 45 and 46).

The allegation of defendant that he did not have gonorrhea at the time of his marriage was corroborated by two physicians who had treated him after April 15th, Dr. Charles H. Shivers and Dr. Karl Scott, who were, admittedly, qualified to testify as specialists in the treatment of venereal diseases.

Dr. Shivers first treated defendant on May 8th and found a *new infection*, and not a recurrence of the old condition (p. 49); the urethra had been involved for only a short period of time (p. 49). The con-

dition found by this witness must have been contracted within a period of fifteen days prior to April 14th. The doctor also testified that if a woman had latent gonorrhea, a man having intercourse would be more susceptible to infection just before or after her menstrual period (p. 51).

Dr. Scott began to treat the defendant upon June 4th, 1926, and found him suffering from the subsiding stages of a *new* acute case of gonorrhea (p. 57). The witness had never heard of the disease recurring in acute form, such as he found, after twenty-five years (p. 57). This witness also confirmed the opinion of Dr. Shivers of the greater danger of infection from intercourse immediately preceding the menstrual period (p. 57).

The evidence of these physicians it will be noted is based upon personal observation and professional treatment of the defendant's condition.

Three physicians testified on behalf of the complainant; of these but one, Dr. Garfield C. Burrows, had examined defendant, and he, not being a specialist, sent defendant for treatment to Dr. Charles H. Shivers (p. 19); Dr. David B. Allman, who was the operating surgeon at the hospital, admitted that he did not qualify as a urologist or specialist (p. 108).

The remaining physician produced by complainant, was Dr. Lewis T. Mann of New York City, who qualified as a urologist and cited or produced medical works to sustain his theory that gonorrhea, having once been developed, could reappear after long periods of apparent absence and its continued presence would be unknown to one who had suffered and believed himself cured. After citing exceptional cases of recurrence, including one after 44 years, cited from a German authority (p. 89) the witness admitted that in an extensive practice as a urologist he had known of no case where a new acute gonor-

rhea, such as testified by the attending physicians, Dr. Shivers and Dr. Scott, had developed after seven years as an exacerbation of old condition (pp. 91 and 93).

Upon this feature of the case, Dr. Charles H. Shivers testified on cross-examination that he had never seen a recurrence after twenty-five years (p. 53) and that defendant's condition was not due to a recurrence, being absolutely new. Dr. Karl Scott testified to the same effect as to condition of defendant in relation to recurrence and new case (p. 57).

It is apparent from an analysis of the medical testimony that the only witnesses competent to testify as to the facts of defendant's actual condition, were the two physicians who examined and treated him and who found a new and acute case of infection that must have developed after his marriage to complainant (pp. 49, 57). As this testimony is unimpeached, all consideration of exacerbation and recurrence of old condition should be eliminated as of no probative force.

The defendant had been told that he had been cured of his first infection (p. 43) and there had been no evidence of existence of such condition thereafter until April, 1926 (p. 115). Defendant further testified that he had been married to his former wife, who had died in August, 1925, for a period of five years and that she had no trouble of this nature (p. 43) in which statement he is corroborated by Dr. Margaret Hill Nelson, who had treated his former wife (p. 124).

That the disease is curable is admitted by complainant's specialist, Dr. Lewis T. Mann (p. 97).

To overcome this affirmative proof on the part of the defendant that at the time he married complainant he was not afflicted with venereal disease, nor

had reason to believe that he might be so infected, the complainant relies solely upon the theories of Dr. Lewis T. Mann, that defendant may not have been cured as he was told, and that there was a possibility that the affliction remained dormant for twenty-five years and then reappeared in the form of an exacerbation or recurrence. To arrive at such an opinion, this witness was compelled to disregard the testimony of Dr. Shivers and Dr. Scott, the defendant's attending physicians, who found a new and acute case and not a recurrence, and to rely upon the citation from alleged authorities of a few cases of recurrence after twenty-five years, which cases were so rare as to indicate that they were considered to be infrequent exceptions and by no means the rule.

While a presumption of knowledge of his condition by the husband arises from infection of wife, yet where this presumption is rebutted by the corroborated denial of husband, the burden of proving condition is shifted to the wife and is not sustained by theories as opposed to affirmative proofs by him offered.

The defendant may have been infected by complainant and the evidence justifies such presumption. The complainant had been married before and divorced in October, 1925; she assented to intercourse with defendant on several occasions in Atlantic City prior to her marriage to him and before the engagement (p. 117) and she may well have been infected by her former husband, or, as a result of promiscuous intercourse. When specific evidence was offered as to time and place of illicit intercourse with

defendant, before marriage, the complainant offered no denial.

There are, of course, no children. Up to a few days before her marriage to defendant, complainant

was employed as a clerk in the Government service at a salary of \$1500 per year (p. 30). She admitted upon cross-examination that she had recovered her health completely and that she had not returned to work because she would be called to Atlantic City to attend the hearings in this proceeding (pp. 30 and 31). It would therefore appear that the earning power of complainant remains as before marriage and that after the hearings, which she alleged as a temporary obstacle, she could have obtained employment.

LAW.

The question here is, has the complainant sustained the burden of proof required of her under the cases: "When a wife separates from her husband and claims maintenance, she must justify the separation by proof of extreme cruelty upon the part of the husband to the same extent as she would be compelled to prove it if she were suing for divorce *a mensa* or *a vinculo* and where the husband denies knowledge of disease at the time of intercourse, the complainant must produce substantial proof that he had reason to know that such condition existed at such time." *Cook v. Cook*, 32 Eq. 475; *Taylor v. Taylor*, 73 Eq. 745; *Mount v. Mount*, 15 Eq. 162 and *Earl v. Earl*, 79 Eq. 517.

The defendant admittedly has no personal knowledge tending to show that defendant was suffering from the disease at the time of his marriage, or before; no testimony was offered by her to show any association with lewd women prior thereto. There is no admission of the existence of such disease by him nor observation of any condition that would lead her to believe that he was suffering from such

trouble; her allegation is based solely upon the statement made to her by Dr. Burrows at the hospital (p. 3). So far as the other acts of extreme cruelty testified to, but not pleaded, they are obviously single acts and cannot be the basis of a decree. There must be satisfactory proof that there has been or will be real injury or danger to the life or health of complainant from the past or probable future conduct of defendant: *Sanders v. Sanders*, 82 Eq. 491; *English v. English*, 27 Eq. 579.

The situation here seems to be clearly one of a young woman marrying an elderly man for money with the desire uppermost at all times to accomplish a dual purpose; first: to stop living with him, and second: to get from him money with which to live alone and enjoy the society of others.

Taylor had a chauffeur and an automobile. He dressed well and the complainant, by her testimony, believed him to be a wealthy man and still believes him to be such. She was 26 and he 51. Within a month of the marriage she had left him and within four months, files this petition on what we consider flimsy proof.

The Court has said in maintenance suits, the Court looks into the merits of the application and when the *bona fides* of the wife's application is questionable, relief will be denied: *Glasser v. Glasser*, 28 Eq. 22; *Suydam v. Suydam*, 79 Eq. 144.

It is argued that certainly Mrs. Taylor's application was not *bona fide*. It was made with one purpose in mind as hereinabove indicated and so far has been successful.

Therefore the defendant prays that the decree may be reversed.

WILLIAM CHARLTON,
Solicitor for and of Counsel with
Defendant-Appellant.

14 OCT. 1. 1927

New Jersey Court of Errors and Appeals

Between
JULIA L. TAYLOR,
Complainant-Respondent,
and
EDWARD J. TAYLOR,
Defendant-Appellant.

BRIEF FOR RESPONDENT.

STATEMENT.

Bill for maintenance charging extreme cruelty, among other acts, and specifically, the concealment of the fact that he was infected with a repulsive venereal disease. Respondent had a favorable decree from which appeal was taken.

ARGUMENT.

The evidence supports the charges.

We shall discuss, primarily, the question of venereal disease. Appellant admitted that he once had the disease, but claimed he had been cured, and that the returning of it, after marriage to the respondent,

was due to her being infected with it. That the disease developed in her after marriage, necessitating a serious operation, is conceded. There is no direct testimony that she had the disease before marriage; the attempt was to establish it by indirect testimony, based upon the mere conjecture of two physicians, whose opinions were grounded upon assumptions.

The contention was that his condition was acute, and could not have been a recurrence of the original infection of more than twenty years ago. To the contrary is the opinion of Doctors Burrows and Mann, equally, if not more convincing. So far as the Record discloses the respondent was not an immoral woman. As to the appellant the Record is just the opposite.

Admittedly he had contracted the loathsome disease; admittedly his first wife divorced him upon the charge of extreme cruelty (48-111); admittedly he registered at a prominent beach front hotel in Atlantic City with respondent before marriage and fabricated as to marriage and residence (113-117-118).

His attitude toward the doctor, who urged the necessity of an operation, when he discovered the perilous condition of the respondent, indicated the proverbial guilty conscience. He protested the operation (13-14-24).

Significantly, he did not deny the testimony of Doctor Burrows, who spoke of appellant's having told him of previous infection (p. 15) and at page 16 testified as follows:

"The best recollection I have is this, that he suffered from gonorrheal infection early in life, he had also had it on two or three occasions previous to this and he was at a loss to understand why he should have it just at this time."

The opinion of appellant's physicians, that he contracted, what they called an acute condition, from the respondent was based largely, if not entirely, upon the assumption that he had been infected only once, and then more than twenty years ago. In fact, he had been infected two or three times before he met respondent.

The recognized causes of the recurrence of the disease, if not fully cured, were present in appellant's case (p. 88).

Without evidence to warrant it, appellant's brief innuendos that respondent was "promiscuous" in her relation with men, and avers her failure to deny her illicit relation with appellant, before marriage, as a justification for the statement.

At page 66, counsel asked this question:

"Now, Mrs. Taylor, I am going to ask you a very pertinent question. From the time that you last had intercourse with your first husband until the day you married Mr. Taylor did you have intercourse with any other man or men?"

A. No, sir, I did not.

Q. Didn't have intercourse with a man in the Hotel Marlborough, this city?

A. No, sir."

These answers bear the earmarks of a denial of the story later told by the appellant which indicates, to put it mildly, that he was somewhat "promiscuous" himself. Taking him as a whole his conduct does not commend itself to upright folks. Certainly he should not be believed upon any material aspect of the case. His conduct toward the respondent, independent of the disease question, was well nigh brutal. See testimony of Mrs. Lehman. He was indecent, to say the least, when he charged respondent

with improper relations with him before marriage, in order to disparage her, forgetting, as so many men do, that by the same token he had revealed his own filth.

If his story had been true he could have made it certain by causing the production of the records of the hotel.

Counsel was not warranted in charging that respondent married appellant for his money, and that she used her condition as a mere pretext to leave him and force support.

The Vice-Chancellor had the benefit of the presence and conduct of all the witnesses; he treated the case as one of fact, which it is, and resolved in respondent's favor. The proofs justify the conclusion he reached, and the decree should not be disturbed.

Respectfully submitted,
COLE & COLE,
*Solicitors for and of Counsel
with Respondent.*