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**Petition for Divorce.**

Filed June 3, 1915

To his Honor, EDWIN ROBERT WALKER,

10

Chancellor of the State of New Jersey.

The petition of William J. Fraser, of the City of Jersey City, County of Hudson and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Mary M. Fraser, the defendant in this suit, on the twelfth day of July, in the year One thousand Nine hundred and ten, at the Church of St. Francis De Chantal in Brooklyn, Kings County, New York, by M. P. McMahan, a Minister of the Gospel of the State of New York.

20

2. Defendant deserted petitioner in the month of May, in the year One thousand Nine hundred and eleven, ever since which time, and for more than two years last past, said defendant has wilfully, continuedly and obstinately deserted your petitioner.

3. The petitioner has been a bona fide resident of the State of New Jersey continuedly since the first day of April, Nineteen hundred and Thirteen, residing at 119 Magnolia Avenue, Jersey City, New Jersey.

30

4. One child was born to the marriage aforesaid, to wit, Margaret Fraser, who is now in the custody of the defendant, and who has remained so from the time of the desertion of the defendant.

40

*Petition for Divorce.*

5. Your petitioner prays that the marriage between your petitioner and the defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided.

And your petitioner will ever pray, etc.

JAMES A. SULLIVAN,

Solicitor of the Petitioner.

10

JOHN FRANCIS GOUGH,

Of Counsel.

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

20 WILLIAM J. FRASER, being duly sworn according to law, upon his oath deposes and says, that he is the petitioner named in the foregoing petition; and that his said petition is not made by any collusion between him and the defendant, but in truth and good faith, for the causes set forth in the petition.

WILLIAM J. FRASER.

Sworn and subscribed before me at Jersey City, N. J., this 27th day of June, A. D. 1915.

CHARLES M. EGAN,

Master in Chancery of New Jersey.

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40

**Answer**

Filed January 14, 1916

**IN CHANCERY OF NEW JERSEY.**

Between

WILLIAM J. FRASER,

*Petitioner,**and*

MARY M. FRASER,

*Defendant.*On  
Petition, 10  
etc.,  
Answer.

The answer of MARY M. FRASER, the above named defendant, respectfully shows to the Court:

FIRST: She admits she was married to the petitioner on July 12, 1910, in the City of Brooklyn, State of New York. 20

SECOND: She denies that she deserted the petitioner in May, 1911, or at any other time.

THIRD: She admits that one child, Margaret Fraser, was born of the marriage.

FOURTH: The defendant admits that she left her husband in about the month of May, 1911, and avers that it was because of his extreme cruelty that she was forced to leave.

FIFTH: That the petitioner required the defendant to live with his mother and that during all the time they were living together whatever differences arose the petitioner supported his mother as against this defendant. At one time in the month of November, 1910, the defendant told the petitioner that either his mother would have to leave or she would. To this he answered, "You can go as far as you like." 30

SIXTH: That shortly after the birth of the child the said petitioner's mother threatened to 40

*Answer.*

strike the defendant with a milk bottle; that at the time defendant was on the front porch of the house in sight of anyone who might be passing. That petitioner's mother then said to the defendant that she would "break her dirty face."

SEVENTH: That petitioner has never requested this defendant to return to him except in a  
10 letter in which he says that her return must be under the same conditions she had lived previously.

EIGHTH: That defendant in October, 1914, wrote to the petitioner telling him that she still loved him and, if it were possible, would like to see him. That petitioner never acknowledged the receipt of the letter in any way.

NINTH: That defendant is ready and willing  
20 at any time to return to the petitioner whenever he shall provide a proper home for her and their infant child.

TENTH: That petitioner has never contributed or offered to contribute anything toward the support of defendant or the child since the separation.

WHEREFORE, the defendant prays that she may be hence dismissed with her reasonable costs and charges wrongfully sustained.

30

EDWARD MAXSON,  
Solicitor and of Counsel with  
Defendant.

40

**Testimony.****IN CHANCERY OF NEW JERSEY.**

Between

WILLIAM J. FRASER,

*Petitioner,**and*

MARY M. FRASER,

*Defendant.*On  
Petition,  
etc.

10

A true and complete transcript of the shorthand report of the testimony and proceedings taken in the above stated cause, at the Chancery Chambers in Jersey City, on Friday, February 18, 1916, at two o'clock in the afternoon, before His Honor, Charles J. Roe, Advisory Master.

20

## A p p e a r a n c e s :

JAMES A. SULLIVAN, Esq., Solicitor,

JOHN F. GOUGH, Esq., of Counsel,

For the Petitioner.

EDWARD MAXSON, Esq.,

For the Defendant.

WILLIAM J. FRASER, sworn in his own behalf, testified as follows:

30

## D I R E C T E X A M I N A T I O N B Y M R . S U L L I V A N :

Q. Mr. Fraser, are you the petitioner in this suit? A. I am.

Q. Where do you now reside? A. 119 Magnolia avenue, Jersey City.

Q. How long have you resided there? A. Nearly three years: since the 29th of March, 1913.

Q. Where did you come from when you moved there? A. 183 Decatur street, Brooklyn.

40

*William J. Fraser—Direct.*

Q. And who is living with you now? A. My mother and son.

Q. How long has your mother lived with you?  
A. At that address?

Q. At all times? A. Why, since 1906.

Q. Has she been living with you since you came to Jersey City? A. Yes, sir.

10 Q. Where are you now employed? A. Trade News Publishing Company, corner of Elm and Duane streets, New York.

Q. How long have you been working for that concern? A. Four years.

Q. What salary are you getting? A. \$30 a week.

Q. And have you been getting that salary during all of that time? A. Yes, sir.

Q. Now, you were married about what time?  
A. July 12, 1910.

20 Q. Where? A. In Brooklyn, N. Y.; I can't recall the name of the church.

Q. If I showed you the marriage certificate would you know it? A. I would, yes, sir.

Q. Is that the marriage certificate which you received at the time of your marriage (exhibiting paper to witness)? A. No, that isn't the original; that is a duplicate.

Q. Where did you get that duplicate from?  
A. From a parson of that church.

30 Q. You were married by Rev. M. P. McMahon, at the St. Francis de Chantal church, 57th street and 13th avenue, Brooklyn, New York? A. Yes, sir.

MR. SULLIVAN: I offer this certificate in evidence.

(The same is marked Exhibit P-1).

40 Q. Mr. Fraser, after your marriage to your wife where did you go to live? A. 1675 Seventy-second street, Brooklyn.

*William J. Fraser—Direct.*

Q. And she went with you? A. Yes, sir.

Q. Who occupied the house at that time? A. My mother and son were with me at the time.

Q. Your mother and son? A. Yes, sir.

Q. And how long did you remain there? A. Until January 1, 1913.

Q. Are you sure about that date? A. No, it was 1912, January first. 10

Q. Did your wife know at the time of your marriage that you had a son? A. Yes, sir.

Q. Did she know your mother was alive? A. Yes, sir.

Q. Did she object to their living with you? A. No, sir.

Q. While you were calling upon your wife, prior to the marriage, did you have any conversation with your wife concerning the fact that your mother was going to live with you? A. I did. 20

Q. What did she say? A. Why, my mother proposed going somewhere else to live and trying to get into an old lady's home if possible, or something of that nature, and my wife said, "If your mother leaves us we will not get married."

Q. If your mother leaves whom? A. If she left my home.

Q. She seemed to insist upon it? A. Yes. 30

MR. MAXSON: I object to that, may it please the Court, and move that that be stricken out.

THE COURT: Yes, that may be good rebuttal when we come to the defense, but you are anticipating the defense now.

Q. During your married life, Mr. Fraser, was there a child born? A. There was.

Q. How long after? A. April 24, 1911.

Q. What is the name of that child? A. Margaret. 40

*William J. Fraser—Direct.*

Q. During the time that you were married up to the birth of the child did your wife have any objection to your mother? A. No, sir.

10 MR. MAXSON: Just a moment. I move that that be stricken out as not proper evidence. He is not proving any conversation or admissions on the part of the defendant; he says, "Did she have any objection." It calls for a conclusion of the witness.

THE COURT: As I understand your claim it is, that the wife couldn't live with him on account of the mother living with him. I think you had better go on with your main case and let them bring in their defense without your anticipating it.

20 Q. Now, Mr. Fraser, about what time did your wife leave you? A. May 13, 1911.

Q. Did she tell you, at the time she was leaving, why she was going away? A. She spoke about the matter, yes; I didn't take it seriously, though.

Q. Prior to the marriage was there any indication that she was going to desert you? A. Why, yes.

30 Q. Prior to the desertion, I mean. A. Yes, she spoke about leaving, but that was the only evidence. There was no evidence which I saw that she was going to leave.

Q. Did she give any cause why she was going to desert you? A. Yes, because she had trouble with my mother.

Q. Did she say what the nature of that trouble was? A. There was constant quarrels over different matters. I don't know--I didn't hear any quarrels personally.

40 Q. Now, Mr. Fraser, at the time of your marriage how much salary did you earn? A. Why, I

*William J. Fraser—Direct.*

wasn't working steady at that time. Oh, at the time of the marriage? Yes, I was working steady then; I was getting \$30 a week then.

Q. What did you do with your salary? A. Maintained the home.

Q. To whom did you give the money? A. Before the marriage?

Q. No, after you were married. A. To my wife. 10

Q. Now, on the day that your wife left you, go on and explain to the Court what circumstances existed. A. The day of the desertion?

Q. The day of the desertion, yes. A. I was out mowing the lawn, and the van backed up to the door; that was the first intimation I had of action taking place.

Q. About what time was that? A. Why, it was about 3:30 in the afternoon.

Q. Where were you at the time? A. I was mowing the lawn. 20

Q. You say your wife backed a van up to the house? A. No, the man.

Q. For what reason? A. And then they went in and commenced to take out what furniture she had put in there.

Q. Did you see your wife at that time? A. I did.

Q. What did she say? A. I asked her what she was going to do and she said it was none of my business. 30

Q. Do you know where she went? A. I didn't at that time, no sir.

Q. Did you afterwards find out? I learned where she went, yes.

Q. Where did she go? A. To her mother's.

Q. Where did her mother live? A. 6507 15th avenue.

Q. Brooklyn. A. Yes, sir.

Q. After she moved to her mother's house did 40

*William J. Fraser—Direct.*

you receive any information from her? A. No, sir.

Q. As to where she was located? A. No, sir.

Q. Where did you get that information that she was at her mother's house? A. Why, it came through neighbor's talk; that is all I knew.

10 Q. Now, when your wife left you did you remain in the house with your household effects afterwards? A. Yes, sir.

Q. For how long? A. Until the first of January, 1912.

Q. For a period of how many weeks? A. Well, a period of seven months and about two weeks—seven months and a-half.

Q. From there where did you move? A. To 183 Decatur street, Brooklyn.

20 Q. And you remained there how long? A. A year and three months—until the 29th of March, 1913.

Q. Your wife had no communication with you during that period? A. At the time I was in Brooklyn?

Q. Yes. A. I received no letter from her, no.

Q. Did she know where you were living? A. Why, I wrote to her the first of February, 1913. That was the first letter I had written.

30 Q. Did you receive a reply to that letter? A. No, sir.

THE COURT: How long did you say you lived at Decatur street—until when?

A. Until the 29th of March, 1913.

Q. If I showed you a copy of the letter which you wrote to your wife from 183 Decatur street, Brooklyn, would you recognize it? (Counsel hands paper to the witness). A. That is a copy of the letter, yes, sir.

40 Q. You recall the contents of it, do you? A. Yes.

*William J. Fraser—Direct.*

MR. SULLIVAN: Is there any objection to this printed copy going in evidence?

MR. MAXSON: We would prefer to have the original letter. We haven't been called upon to produce it.

MR. SULLIVAN: Well, I will offer this in evidence.

MR. MAXSON: I object to it. 10

THE COURT: Hadn't you better call on them to produce the original letter?

MR. GOUGH: Yes. We ask them now to produce the original letter.

(The letter is produced by defendant's counsel).

Q. Mr. Fraser, is that the original letter, of which this is a copy?

MR. MAXSON: We will admit that. 20

A. It is.

MR. SULLIVAN: I offer the letter in evidence.

(The same is marked Exhibit P-2).

MR. SULLIVAN: I will now read this letter, marked Exhibit P-2.

(The letter is as follows:)

EXHIBIT P-2: 30

183 Decatur Street, Brooklyn, N. Y.  
February 1, 1913.

My dear Mamie:

As it is now nearly two years since you left me I would like to learn if possible what your intentions for the future may be—whether you expect to live in the present manner for the balance of our lives, whether you intend to return to my home, or whether you are going to get a divorce.

If the first, it will be a cheerful existence; 40  
if the second, the home is just the same as it

*William J. Fraser—Direct.*

always was—I never told you to go or debarred you from returning and you can re-enter under the same conditions as you originally came to it; if the latter, you can have a divorce from me at any time without any contest.

Hoping that Margaret and yourself are happy, I am,  
Yours,

10

Your husband Will.

Q. After you wrote this letter, Mr. Fraser, did you receive any reply? A. No, sir.

Q. Did you write another letter to your wife? A. Not very soon after that I did not.

Q. About how soon after? A. Why, it was in the first part of March—I don't remember the date, the first part of April, I should say, 1913, after I moved to Jersey City, to inform her of my new location.

20

(Counsel calls for the production of the original letter of April 14, 1914, and the same is produced).

Q. If I showed you this letter, Mr. Fraser, would you know it? Is that the letter (exhibiting paper to the witness)? A. Yes, sir.

MR. SULLIVAN: I offer the letter in evidence.

30

(The same is marked Exhibit P-3, and is as follows:)

Jersey City, N. J., April 1., 1913.  
Mrs. William J. Fraser,  
6507 Fifteenth avenue,  
Brooklyn, N. Y.

My dear Wife:

I write you at this time for the purpose of notifying you that I have moved from my residence at 183 Decatur street, Brooklyn, and am now residing at 119 Magnolia avenue, Jersey City, N. J.

40

*William J. Fraser—Direct.*

My house is still open to you to return and to resume our marital relations the same as prior to the time you left me and your home at Brooklyn.

I assure you that all matters which transpired prior to the time you left, and subsequent to the time that you shall return, shall be forever forgotten.

Trusting that you shall listen to my appeal, I remain, 10  
Wm. J. Fraser.

Q. Did you receive any reply to that letter, Mr. Fraser? A. Yes, sir, I did.

Q. Would you know the letter if I showed it to you? A. Yes, sir.

Q. Is that it (exhibiting paper to the witness)?  
A. Yes.

MR. SULLIVAN: I offer the letter in evidence. 20

MR. MAXSON: No objection.

(The same is marked Exhibit P-4, and is as follows:)

Brooklyn, Apr. 26, 1913.

My dear Husband:

You must surely know how impossible it is to expect me to return to your home while the condition still exists for which I left it. Life is too short, as I've said often to you, to live in an atmosphere of daily strife, bickering and misery. For your happiness as well as everybody's concerned it is better that we live apart while your mother lives with you. 30

I did not leave for any trivial reason as you know. Humiliations kept piling up until I could stand them no longer and then I left with a baby not three weeks old. You probably remember also, that your mother said she "would never look at the baby's face." She has never had to.

I could begin all over again with you and forget and forgive everything, but not with 40

William J. Fraser—Direct.

your mother, which I suppose is just human.

Margaret is strong and sweet and happy as she should be with so many loving and doing for her.

Your wife,

Mary G. Fraser.

Q. Was there any correspondence after this from you, Mr. Fraser? A. No, sir.

10 Q. Did you write another letter after this letter dated April 26, 1913, from your wife? A. No, I didn't write any more letters.

Q. Did you receive any letters from your wife? A. Yes, I received another one; I think it was along about October that same year.

Q. About what year was that? A. About 1913.

Q. Are you sure that it was the year 1913 or the fall of 1914? A. No, I couldn't say positively what year it was.

20 Q. I show you this letter and ask if you recognize it? A. That's the letter.

MR. SULLIVAN: I offer this letter in evidence.

MR. MAXSON: No objection.

(The same is marked Exhibit P-5, and is as follows:)

October 7, 1914.

My dear Husband:

30 After deliberating and debating with myself for a long time I've decided to write this for two reasons. One, because Margaret is getting older and pretty soon will be wanting to know about her father and I want to be able to answer her. I have tried to bring her up as I always admired you for doing with Charley, never deceiving her even in little things. Then I think after three and a half years separation we surely ought to know just how much we love each other. At the end of fifty years I could feel just the same. Fickleness in *big* things is not one of  
40 my many faults, in smaller things—perhaps.

William J. Fraser—Direct.

I'll admit it has taken me all this time to see things in a sane, right manner, although I still think I did the right thing but might have done it in a different way.

Nothing can be undone, however, but the future can be made less of a bungle than the past. Understand, I do not want to live with you while your mother lives and *never* again if you really and truly love someone else. What a crime that would be just because we are husband and wife, and all the while you would be hating the sight of me. If you really don't love me, I hope you will be honest, particularly for Margaret's sake. If I did not love you any longer, I wouldn't hesitate for a second to say so. It means nothing to me so far as a divorce or support goes because I could not get either from you. (And be sure I would never look for either).

If you write will you send the letter to P. S. No. 176, Bay Ridge Av., between Thirteenth and Twelfth Ave? You must know how they feel towards you at home yet, you see, they have not been able to *influence me against you*. They are absolutely foolish about Margaret, who is the "apple of their eyes."

Your wife,

Mary G. Fraser.

Q. Do you recall whether there was any other correspondence between you and your wife? A. I think there was another letter after that.

Q. Written by you or written by your wife? A. By my wife.

Q. Do you recall when you received that letter—about what time? A. No, sir. I think it was in the spring of last year; I can't recall the date.

Q. If I showed you the letter would you recognize it? A. Yes, sir.

Q. Is that the letter (exhibiting paper to the witness)? A. That's it.

MR. SULLIVAN: I offer the letter in evidence.

William J. Fraser—Direct.

MR. MAXSON: I admit that exhibits P-4, P-5, and P-6 were written by the wife.

(The same is marked Exhibit P-6, and is as follows:)

May 2, 1915.

My dear Husband:

10 I wrote to you last October but you did not see fit to answer my letter. Always, it seems to me, you are afraid to commit yourself. You are so careful you make a wreck of not only your own life but other's as well.

Two years ago in the "Anonymous" letter which you wrote you said "I roped you (five feet ten and only thirty-nine years old) into marriage" & that if I had let you alone you would have married the "girl you were going with & are still going with according to all reports."

20 Can't you decide now? I have left you alone for four years & surely, if ever, you must have made up your mind by this time. Why don't you get a divorce? Are you so chivalrous you want me to do it? *Anytime* you pay the lawyer you can have your legal freedom. Every cent that I earn goes towards my future support and to the daughter you helped bring here, but whom you have never seen since she was three weeks old. Only the lowest of animals desert their young.

30 The change from cannibalism to civilization occurred when the male recognized his duty to the female because she was the mother of his off-spring. That was the change from polygamy to monogamy. Some men never reach that stage of civilization.

I have been very busy, so busy at times that I forgot you. I have studied a great deal about the "Origin of the Race" & many other things. I am *very much wiser* than when you saw me last.

40 Of course if you care to live in adultery the sins are yours. I have offered you your freedom. I want no alimony & no support for Margaret. I wouldn't be bothered to look you up to collect it.

William J. Fraser—Direct.

I have been permanently *reappointed* Since Nov. 1913 & I assure you I appreciate my salary, hours, vacation, etc. as I never did before. I can *remarry* and *keep my job* also which is not to be overlooked.

I suppose I should say I hate you. The one galling fact is that I don't. A legal separation is, it seems to me to be, the only way to untangle this mess. I want you to understand that I always considered you deceived me about your Mother because you had exactly the same trouble before but said nothing about it. Your friends were better friends to you than you gave them credit for. 10

I hope you will see that the only decent clean way for the future lies in a divorce.

Mary G. Fraser,  
6507 Fifteenth Avenue.  
Telephone 3233 Bath Beach.

I have kept for future reference, all the anonymous communications which I have received concerning you & your "flames." I hadn't troubled to investigate their charges, because I did really believe in you, *absolutely*, until you disregarded my letter of October. I have since lost almost all the faith I had in you. 20

Q. Mr. Fraser, did you write any anonymous letters to your wife? A. I never did, no sir.

Q. Or any letters you didn't sign your name to? A. I never did. 30

Q. Did you write any letters which are not accounted for up to the present time? A. No, sir.

Q. Did you see your wife at any time after the last letter which you received from her? A. No, sir.

Q. Did you see her at any time during the time that she left up to the present time? A. Yes, I saw her twice.

Q. Where did you see her the first time? A. I saw her on New Utrecht avenue. 40

*William J. Fraser—Direct.*

Q. Where is that, in Brooklyn? A. Why, it is the street that runs diagonal with 72d Street; it is about two blocks from where we used to live.

Q. Well, was it near your residence at the time you saw her? A. My residence? Why, it was, I should say, five blocks from there.

10 Q. Where was she when you saw her? A. On the opposite side of the street.

Q. Did she see you? A. I couldn't say; I didn't catch her eye.

Q. How long was that after the time of the desertion? A. That was in the summertime, I don't know the date—the summer following that May.

Q. When did you see her again? A. I saw her on 15th avenue once, while I was passing on a train.

20 Q. Fifteenth avenue, Brooklyn? A. Yes, sir.

Q. Now, Mr. Fraser, when you saw your wife was she alone or in company with somebody? A. Alone both times.

Q. Could you explain to the Court what happened during those occasions when you saw her? A. The first time I was standing at the station. The station was on the street level—the station of the El. there at 69th street, and there are stairs on the opposite side of the street, and she  
30 was coming up from Fifteenth avenue towards 69th street, and she got almost opposite to me and turned around and went back the same way she came. The second time, of course, I was in the train and the train was moving at the time. Those are the only two times I did see her.

Q. Can you recall any reason, or any cause, why your wife really left you? A. Why, the quarrels, and bickering, and fighting which both  
40 my mother and my wife told me they were having.

*William J. Fraser—Cross.*

I didn't hear them nor did I witness them. Each one had their stories.

Q. Shortly before your wife left you did you say anything to her? A. Why, she spoke about it two or three times. I didn't really think she meant to. The last time she spoke of it—well, I said, "That is up to you."

Q. Did you say anything else? A. No, sir. 10

## CROSS-EXAMINATION BY MR. MAXSON:

Q. Where did you meet Mrs. Fraser the second? A. The first time?

Q. Yes. A. Why, it was at the house of a friend. I think it was Mr. Fred Anderson's house.

Q. When was that, Mr. Fraser? A. Why, I think it was about two years before our marriage; I don't recall the date. 20

Q. Was your first wife living at that time? A. No, sir.

Q. When were you first married?

MR. GOUGH: I object to this. What difference does it make in this case?

THE COURT: He wasn't married before, was he?

MR. GOUGH: Yes.

THE COURT: I think I will allow the question. These cases are tried on the facts, you know. 30

Q. Did you mother live with you during your first married life? A. Yes.

Q. All the time? A. No, sir.

Q. How long after your first marriage did your mother leave? A. Why, about a year and three months.

Q. Where did you live after you were first married to the second Mrs. Fraser? A. 1675 Seventy-second street, Brooklyn. 40

*William J. Fraser—Cross.*

Q. And was that in the neighborhood of her family's residence? A. Why, it was within about five blocks or so.

Q. How long did you continue to live there?

A. Until the first of January, 1912.

Q. And during that time did you visit your wife's relatives? A. No, sir.

10 Q. Had you had some trouble with them? A. Why, yes, in a way. We were on speaking terms.

Q. Were you on speaking terms with them from the time of your marriage until you moved away from that residence to Jersey? A. Oh, yes, we were on good terms at first.

Q. How long did that continue? A. Why, it was about—I think it was in the fall, along about November of 1910.

20 Q. What caused the break, if you know? A. Why, between the relatives, you mean?

Q. Between you and Mrs. Fraser's family? A. That started over some trouble with the boys; I didn't think much of it. I asked my wife what it was about and she didn't tell me, said she didn't know; so I was going to let it go, and then I thought I would go over and see Mrs. Ferguson—

30 Q. That is Mrs. Fraser's mother? A. No, her sister-in-law—to see if there was anything serious the matter. I did it in a gentlemanly manner; I didn't want to start anything—any trouble—and I came away without any words, but she followed me over to the house and started it all over again.

Q. Well, did that interview, or difference, result in a break between you and the Fergusons? A. Yes.

40 Q. And from that time on you didn't speak to them during the time you lived there? A. Why, I did at the time our child was born.

*William J. Fraser—Cross.*

Q. You had an interview at one time with Mr. Ferguson, did you not? A. Mr. James Ferguson?

Q. Yes. A. Yes, sir.

Q. At Mrs. Hardy's residence? A. Yes.

Q. At whose suggestion was that interview had?

A. Mrs. Hardy telephoned to me, asking me to come up.

Q. And about when did that take place? A. 10  
Oh, that was the latter part of November, I think, as near as I can remember, of 1910.

Q. How long prior to the time that Mrs. Fraser left? A. Why, she left the 13th of May, 1911.

Q. And this was in the previous November that you had the interview? A. Yes, sir.

Q. At the time Mrs. Hardy called you up did she tell you what the purpose of the interview was? A. Well, not to the fullest extent; she didn't explain very much. She wanted me to  
20 come up and talk the matter over; she didn't say who would be there.

Q. Did you understand that she was asking you to come in Mrs. Fraser's interest? A. Yes, I took it that way.

Q. And you did go? A. Yes, sir.

Q. When you arrived there, Mr. Ferguson, Mrs. Fraser's brother, was there? A. Mr. Ferguson was there, yes.

Q. Now what happened at that time? A. Why, 30 we had a long talk over matters, to see if we couldn't fix everything up properly, which we did.

Q. Did the conversation relate principally to your mother and her relations with your wife?

A. No, it was particularly about myself. Of course, my mother was part of the subject.

Q. Was anything said at that time about a letter that your mother had written to a fortune teller? A. No, sir.

Q. Did you have any other interviews with Mr. 40

*William J. Fraser—Cross.*

Ferguson or Mrs. Hardy? A. Why, we were friendly for a time after that.

Q. You are quite sure, are you, that neither Mrs. Hardy nor Mr. Ferguson, at that interview, told you about part of the contents of a letter written by your mother to a fortune teller? A. Why, the recollection that I have of that letter is, that my wife told me about it; that is all I know about it.

Q. And did she tell you what the letter said in reference to her? A. She said there was something in the letter about her, yes, sir.

Q. Do you recall what it was? A. No, sir.

Q. Wasn't it that she was a bad, wicked woman? A. She didn't say that to me.

Q. She didn't tell you that? A. No, sir.

Q. What did she tell you the letter contained?  
 20 A. She told me about the matter, that my mother had written to a fortune teller, speaking about her and slurring her.

Q. She didn't tell you what it said, in words? A. No, sir.

Q. Did you ever hear from anybody that that is what it contained? A. No.

Q. Now, you testified on your direct examination that you didn't know Mrs. Fraser was going to leave at the time she did; it came as a surprise to you? A. No, I wouldn't say it was a surprise. She said she was going to leave.

Q. How long previous to her going did she tell you she was going to leave? A. Oh, it was in the spring; I don't know what date it was.

Q. Well, as nearly as you can, place the time. A. She spoke about it before the child was born, and again afterwards.

Q. About when was it that she told you she was going to leave and you told her it was up to her? A. Why, I think that was three or four days before she did leave.

*William J. Fraser—Cross.*

Q. Is that all you said to her about her suggestion that she leave? A. Yes, sir.

Q. Between the time you told her that, that it was up to her, and the time she left did you have any other conversation with her at all? A. Nothing more than necessary.

Q. You noticed that the pictures had been taken down from the wall two or three days, or one day, perhaps, before she left? A. She didn't have any pictures there. 10

THE COURT: He asked you the question whether you noticed the pictures had been taken down from the wall.

A. (continuing) There might have been one or two pictures taken down, but she didn't have many.

Q. Did you notice that some had been taken down downstairs? A. Yes. 20

Q. You saw that they had been taken down? A. Yes.

Q. Did you speak to your wife at all from the time you saw that those pictures had been removed until she left? A. Only as to routine matters.

Q. Have you ever spoken to her since? A. No, sir.

Q. When did the differences between your mother and your wife begin? A. Why, you understand, I didn't witness any. 30

Q. I mean so far as your knowledge of the differences go—when did you first know about them? A. I think about November; I think about that time.

Q. And who told you about them, if anybody? A. They each told me—both my wife and my mother.

Q. And what did you do? A. I tried to pacify 40

*William J. Fraser—Cross.*

them both—tried to smooth matters over and keep them quiet.

Q. How long did that sort of thing continue?

A. It continued from that time on until she left.

Q. Did you ever hear about your mother threatening to hit Mrs. Fraser with a milk bottle? A. Only gossip.

10 Q. Who told you about it? A. Why, when I came home that night my wife was the first one to tell me.

Q. What did you do about that, if anything?

A. I asked my mother about it, and she said it was just the other way.

Q. Said Mrs. Fraser threatened to hit her?

A. Yes, sir.

Q. With a milk bottle? A. Yes, sir.

20 Q. Did Mrs. Fraser tell you anything about a conversation or differences that brought about this altercation? A. Why, yes, it was over the child's clothes in my Morris chair.

Q. Will you relate what happened? A. As I understand it—this is only hearsay—my mother picked them up and put them in another chair and went out and sat on the porch; my wife came out and grabbed her by the arm, and they had words.

30 Q. Well, what was said, if you recall? A. What I heard?

Q. Yes.

MR. GOUGH: And state who told it. I understand you did not hear this yourself?

A. No, sir.

MR. MAXSON: I will bring that out if you will give me an opportunity.

40 A. (continuing) There was a discussion over the fact that my mother had taken the clothes,

*William J. Fraser—Cross.*

and my mother said she wanted to use the chair, or something or other—she wanted to use the chair, and so she was going out on the porch to empty a milk bottle and one was going to hit the other, I don't know which.

Q. Your mother told you that Mrs. Fraser was going to hit her with it and your wife told you the other side? A. Yes. 10

Q. Did your wife tell you about it just as soon as you came home that night? A. Yes, sir.

Q. When did Mrs. Fraser, or anybody else, first tell you about the contents of this letter to the fortune teller? A. I believe it was the same time—not that she got the letter but found the letter, wherever she got it.

Q. You knew how the letter came into her possession, did you not? A. No, sir.

Q. Never were told about that? A. No, sir— 20  
oh, I believe there was something about being returned because of lack of postage.

Q. It was returned by the Post Office Department? A. I believe that was it, yes.

Q. Did Mrs. Fraser tell you what was on the letter—the return mark on it? A. No, sir.

Q. Or how she came to open it? A. She said it was returned to Mrs. Fraser and that is why she opened it.

Q. Did you express any opinion about her having opened it? A. I thought she was liable to get into trouble with the postal authorities for doing it. 30

Q. Did you tell her it was a criminal offense to open a letter? A. Yes, unless she did it by mistake. I don't know whether she knew it was for her or was not for her.

Q. Didn't she tell you that the letter said Mrs. Fraser at that address and for that reason she opened it? A. It was addressed to another party, 40

*William J. Fraser—Cross.*

and I don't see how she could think it was hers.

Q. Didn't she tell you that she opened it because it had "Mrs. Fraser" with her address on the back? A. Yes, she said that was the reason.

Q. And you told her it was a criminal offense? A. Yes.

10 Q. Did you at that time make any threat to have a criminal proceeding instituted? A. No, sir.

Q. How long is it since you have seen your little girl? A. Not since my wife left 72d street.

Q. And that was when the baby was three weeks old? A. Yes, sir.

Q. Have you ever made an effort to see her? A. No, sir.

20 Q. (By the Court) Why not? A. Because my wife took her away and I had no chance to love the child.

Q. You mean, you lost affection for it?

A. Yes, sir.

Q. I show you a letter, addressed "Mr. and Mrs. Ferguson," dated the 12th day of October, 1912, and ask you whether you recognize the handwriting in that letter. A. No, sir, I don't recognize the handwriting; I don't know whose it is.

Q. You have examined it carefully, have you? A. Yes.

30 Q. You say you never saw the handwriting?

A. No, sir.

MR. MAXSON: I ask to have the letter marked for identification.

(The same is marked D-1 for identification).

40 Q. I show you a card, addressed to Mrs. Fraser, with no date, and ask whether you recognize that handwriting? A. I never saw that handwriting, no, sir.

*William J. Fraser—Cross.*

Q. Do you know Betty Harris? A. No, sir.

Q. You have examined it carefully, have you?

A. Yes.

Q. You are sure it does not resemble any writing you have seen? A. No, sir.

MR. MAXSON: I ask to have that marked for identification.

(The same is marked D-2 for identification). 10

Q. You recall this letter of February 1, 1913, Exhibit P-2? A. Yes, sir.

Q. At the time you wrote this letter did you consult with your attorney about the prospect of a divorce? A. No, sir.

Q. You say in it: "I never told you to go nor debarred you from returning and you can re-enter under the same conditions as you originally came to it"; now, what did you mean by "the same conditions under which you originally came to it"? 20

A. The conditions then were just the same as before we were married. My mother and son were still with me.

Q. You referred to your mother, did you not, in that clause of the letter? A. Not to her any more than to my son.

Q. Mrs. Fraser never objected to your son, did she? A. No, sir. 30

Q. Well, then that wasn't one of the things you had in mind when you spoke of the conditions under which she could return? A. The conditions were just exactly the same as before; that is all.

Q. Didn't you have in mind the fact that your mother still lived with you, and the fact that there were differences between your wife and your mother when you wrote that? A. Yes, my mother was still there.

Q. Did you ever offer, from the time your wife 40

*William J. Fraser—Cross.*

left up to the present time, to provide a home separate and apart from your wife? A. No, sir.

Q. You remember receiving the letter dated "Brooklyn, April 26, 1913," Exhibit P-4? A. Yes, sir.

Q. Did you ever answer it? A. No, sir.

10 Q. Do you remember that that letter refers to what your mother said about the baby, that she would never look at that baby's face? A. I remember of her speaking of it, I believe, yes.

Q. And that the letter called your attention to the fact that you knew she had said that? A. I did not know it.

Q. But you never denied it, did you, after receiving this letter? A. I didn't know that she said it. I couldn't deny anything I didn't know.

20 Q. You knew that she was charged with saying it in this letter? A. Yes, at that time when that letter was written.

Q. And you never answered the letter? A. No, sir.

Q. Did you have no sentiment about this letter when you received it? A. I did, yes, but I couldn't see any use.

Q. Why couldn't you see any use? A. I knew that she didn't care for me, so why should I bother with her.

30 Q. Didn't this letter indicate that she cared for you? A. I thought it was bait.

Q. For what purpose, to catch what? A. So that I could write her letters.

Q. I don't quite understand what you mean by that. What use could any letter written by you in reply to this be to Mrs. Fraser? A. That was after I had talked about getting a divorce.

Q. With whom? A. Mr. Sullivan.

40 Q. Well, had you informed Mrs. Fraser about that? A. I had.

*William J. Fraser—Cross.*

Q. When? A. I notified her as to where I lived.

Q. When had you given notice? A. I hadn't given her any notice; that was in my mind when I—

Q. (interrupting) How could you assume that Mrs. Fraser knew about your conference with your attorney if you didn't inform her about it? 10

MR. SULLIVAN: He didn't say that he did so assume.

Q. Did you think that she knew, Mr. Fraser? A. No, I didn't think that she knew it.

Q. She had no way of finding out unless you told her, or your attorney told her? A. No.

Q. Well, will you explain why you thought she might use a reply to this letter as bait? A. It was my idea of moving over to New Jersey— 20

Q. For the purpose of getting a divorce? A. Yes, sir.

Q. Now, you said in your direct examination that Mrs. Fraser had threatened to go; did you refer to her threat when you told her it was up to her? A. No, I didn't refer to any threats. That was the time she told me she was going.

Q. Previously, had she discussed leaving? A. Yes, sir.

Q. And were those discussions at times when she and your mother had had their differences? A. No, they were different times. I don't know what the occasions were. They were up in our own room. 30

Q. Did you and Mrs. Fraser ever have any differences arising from your marital relations, leaving your mother out of the question entirely? A. No, we never had any trouble personally.

Q. Did Mrs. Fraser ever make any objection to your little boy in any way? A. No, sir. 40

*William J. Fraser—Cross.*

Q. She appeared to be fond of him, didn't she?

A. No, sir, she did not.

THE COURT: He says she made no objection to him but didn't appear to be fond of him.

Q. What led you to think she wasn't fond of  
10 him? A. She wouldn't provide him with shoes. I gave her all the money——

Q. You have testified on your direct examination that at the time when you were first married you got \$30 a week? A. Yes, sir.

Q. And that you gave all your money to Mrs. Fraser? A. With the provision that I was to have not more than \$10 in my pocket.

Q. Then you gave her, as a matter of fact, \$20  
20 a week out of the \$30, didn't you? A. I gave her from ten to thirty-five dollars a week. There was once I gave her \$35. That only happened once.

Q. Didn't you give her the same amount of money each week? A. No, sir, it varied with my earnings.

Q. Sometimes you earned more than \$30 a week? A. I did, at that time when I gave her \$35, yes, sir.

Q. How much did you earn when you gave her \$35? A. I think it was \$40 I made that week.

30 Q. When you were getting \$30 a week how much did you give Mrs. Fraser? A. It was around \$20—about that.

Q. And out of that \$20 what did she have to provide? A. She was to run the house entirely.

Q. For all of the family of four? A. Yes, sir.

Q. Did she buy any clothing out of it? A. She didn't buy any clothes, no, not to my knowledge.

Q. Did you pay for the boy's clothing? A. No, sir.

40 Q. Who paid for that? A. I don't think he got any during the time.

*William J. Fraser—Cross.*

Q. Well, you have said that she didn't buy the boy's shoes; was it understood that she was to buy the boy's shoes out of the \$20 a week that you gave her? A. She was to buy everything.

Q. I have asked you that previously what she was to purchase, whether it included clothing?

A. Yes, if there was a necessity for it.

Q. Did that include clothing for your mother? **10**

A. No.

Q. Who bought her clothing? A. She did.

Q. Your mother? A. Yes, sir.

Q. Well, did you ever object to Mrs. Fraser that she hadn't bought the boy shoes? A. I did once, yes, sir.

Q. What did she say in reply to that? A. She said she had no money.

Q. Did she keep an itemized book of expenses?

A. No, sir. **20**

Q. Are you sure about that? A. I am.

Q. Well, you are sure she didn't keep it, are you? A. She may have kept it privately, but I didn't know of it.

Q. She never displayed it to you at any time?

A. No, sir.

Q. Now, I show you this letter, dated Jersey City, April 14, 1913, Exhibit P-3, and ask you where that letter was written? A. I had it typewritten and had a copy made of it. **30**

Q. Where did you have it typewritten? A. Stenographer's office.

Q. And at whose suggestion? A. At the suggestion of my attorney.

Q. Now, you said in your direct examination when your wife told you she was going to leave you didn't take it seriously; did you mean by that that you didn't consider the differences between your mother and your wife as serious?

A. I hoped all along that we could keep up all **40**

*William J. Fraser—Cross.*

together and I could smooth matters down and live together as we should.

Q. Well, did that condition of mind with you continue after you heard what the letter of the fortune teller contained about your wife's character? A. Oh, yes, that was one of the first incidents.

10 Q. And you still thought that she was not serious about going away? A. Yes, sir.

Q. Do you know what inspired that letter of the fortune teller? A. I haven't the slightest idea.

Q. Did you make any effort to find out? A. No, sir.

Q. Did you ask your mother about it? A. I don't remember whether I did or not, now.

Q. Did you testify that you didn't know what the letter contained? A. I did.

20 Q. And you were told that it charged your wife with being a bad, wicked woman? A. My wife said that.

Q. Then it had been related to you? A. Yes, it had been.

Q. You didn't ask your mother whether she had written such a letter? A. I don't recall asking her about it.

30 Q. Now, other than the letters which have been introduced in evidence here have you ever made any effort to have a reconciliation with your wife? A. No, sir.

Q. Have you ever made a personal appeal of any kind? A. No, sir.

Q. Have you had any inclination to do it? A. Why, yes, I did.

Q. Why didn't you do it? A. Because I felt she didn't care for me.

40 Q. What made you think that? A. Why, she never was loving and affectionate, as a wife is supposed to be. She never called me by my first name.

*William J. Fraser—Cross.*

Q. You say your relations were pleasant during your married life?

MR. SULLIVAN: I object; he hasn't said any such thing.

Q. I will ask you, were your relations with your wife pleasant? A. They were at first, but on account of the quarreling I couldn't stand it. 10

Q. Didn't you say that you never had any differences with your wife during your married life? A. I have never had any personal quarrels. There was always a third party—

Q. Any difficulty that arose of any kind happened because of some difficulty with some third party? A. Yes, and it wasn't always my mother, either.

Q. Did you ever see your wife on the train with the little girl? A. No, sir. 20

Q. Did you know that it was after the occasion when she and the little girl were on the train after they had seen you on the station platform that she wrote this letter of October 7, 1914, Exhibit P-5? A. No, I didn't know that I had been seen.

MR. SULLIVAN: The witness may not know the contents of the letter of that date; I suggest that you show it to him. 30

Q. Did you answer this letter of October 7 (exhibiting paper to the witness)? A. No, sir.

Q. After receiving this letter did you still believe that your wife had no sentiment about you—that she didn't care for you? A. No.

Q. Did you have the same idea with reference to this letter that you did with reference to the previous one, that you say you thought it might be bait? A. Yes, sir.

Q. Your wife was a Catholic, was she not, by faith? A. Yes, sir. 40

*William J. Fraser—Cross.*

Q. Did you have an idea that your wife might want to get a divorce? A. She said so in her letter.

Q. Not up to that time she hadn't had she? A. No, not up to that time.

Q. Well, it was in 1915 that the letter came about the divorce, wasn't it? A. I don't recall  
10 what date it was.

Q. The letter I called your attention to is dated October 7, 1914, Exhibit P-5; the letter which discusses the possibility of a divorce is dated May 7, 1915, P-6, is it not?

MR. GOUGH: One moment. These letters all speak for themselves. What is the use asking what they are about?

THE COURT: Let him answer the question.

20 A. Yes.

Q. Now you have in mind the date of those two letters? A. Yes.

Q. Up to the time of the receipt of the letter of October 7, 1914 (Exhibit P-5) had you ever had any expression from your wife, either in writing or verbal, that indicated to you that she wanted you to get a divorce or that she wanted to get a divorce herself? A. No.

Q. So that when you say a reply to these letters  
30 might be used as bait it wasn't because of anything that your wife had said to you or written to you? A. Because she didn't answer my first letter I thought she didn't want any reconciliation.

Q. And was that the reason why you didn't answer her letters? A. Yes, sir.

Q. Did you ask her to be reconciled to you in the first letter? A. I asked her what she was going to do.  
40

MR. GOUGH: I object. The letter speaks

*William J. Fraser—Cross.*

for itself. He has testified that he had no conversation with her; now Mr. Maxson's question is, "Did you ask her in the first letter to be reconciled with you."

Q. Did you intend in the letter of February 1st to offer a reconciliation? A. I did.

Q. Will you indicate to me in what part of the letter you intended to offer it? A. It was my intention back of the letter; I wanted to know what she intended to do. I couldn't see any use living the way we were. 10

Q. You had a divorce in mind, of course, at the time you wrote the letter? A. Not that one, no sir.

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

Q. What did you mean by saying, "whether you intend to return to my home or whether you intend to get a divorce"? A. If she wanted to get the divorce let her go ahead. 20

Q. How did you expect her to get it? A. That was up to her how she got it.

Q. It was a month after this that you moved to New Jersey—February 1, 1913? A. Nearly two months.

Q. And how soon after this letter was written February 1, 1913, did you confer with your attorney with reference to this proceeding? A. I think it was about April 1st, I conferred with him. 30

Q. You conferred with him before you moved to New Jersey, did you not? A. No, sir.

Q. Haven't you testified that you did? A. I did not confer with him until after I moved to Jersey City.

Q. With whom did you confer? You have testified that you conferred with somebody and you moved over here for the purpose of getting a divorce. 40

*William J. Fraser—Re-Direct.*

MR. SULLIVAN: I object. He hasn't so testified.

Q. You said you moved over to New Jersey for the purpose of getting a divorce? A. Yes, sir.

Q. And you never conferred with anybody about it before you did it? A. I conferred with an attorney in New York.

10 Q. Did Mrs. Hardy call on you after your wife left? A. No, sir—why, I believe she did; I believe she was in there for a few minutes one day.

Q. And do you know what her purpose was in calling on you? A. No; I was outside and she spoke to me and went inside and came right out and went away.

Q. Did she say anything to you about your wife? A. No, sir, I don't recollect of her saying anything.

20 Q. You don't remember what her purpose was in coming there at all? A. No, sir.

## RE-DIRECT EXAMINATION BY MR. GOUGH:

Q. I understood Mr. Maxson to ask you if, after the receipt of a certain letter, you believed that your wife's sentiments toward you were still the same, and your answer was no. A. What do you mean, her feelings towards me about her love for me? Her feelings towards me were never loving.

30 Q. Well, now, let me ask you after you had received P-5 did you still think that the attitude of your wife towards you was the same or different from what it had been upon the separation? A. Why, the same as it was at the time of the separation.

Q. After your marriage, Mr. Fraser, did Mrs. Fraser's mother come to see you? A. No, sir.

40 Q. When did she first come to the house? A.

*William J. Fraser—Re-Direct.*

I believe she was there one night after the child was born, while I wasn't home.

Q. To your knowledge, she was not in your house at any time before that? A. No, sir.

Q. Did her father come to see you? A. Yes.

Q. Very often? A. He came about two or three Sunday afternoons, I forget exactly how many. I know it was twice. 10

Q. When was that? A. During that summer; I don't recall the date at all.

BY THE COURT:

Q. Mr. and Mrs. Fraser's father and mother were living at that time? A. Yes.

Q. And living in Brooklyn? A. Yes.

Q. And where is your native place? A. Ohio.

Q. Had you ever lived in New Jersey before?

A. No, sir. 20

BY MR. GOUGH:

Q. How long did you live in Ohio? A. I was born there and lived there until I was twenty-nine years old.

Q. Where did you go when you left there? A. To Pittsburgh.

Q. And how long did you stay there? A. About one year.

Q. Where did you go then? A. To New York. 30

Q. How long have you lived in New York?

A. I have never lived in New York; I have lived in Brooklyn all the time.

Q. For how many years? A. From July, 1900, until March 29, 1913.

Q. Have you ever lived in any other place except Ohio, Pittsburgh, Brooklyn, and Jersey City? A. That's all.

Q. Now, Mrs. Fraser had brothers and sisters?

A. One sister and two brothers that I knew of. 40

*William J. Fraser—Re-Direct.*

Q. Did the sister ever call at your house? A. No, sir, not while I was there.

Q. What about the brothers? A. Yes, they were there while I was there.

Q. Did their visits continue up to the time she left? A. No, there was a lapse between November—about the latter part of November until just  
10 the time the child was born.

Q. And the beginning of that lapse was the trouble about the boy, concerning which you have testified? A. That was the first trouble up to that time.

Q. With whom was that trouble, Mr. Fraser? A. Why, James Ferguson has two boys; one was younger than mine and one was older, and I understand they had some little difficulty outside; my boy had trouble with the little one and then  
20 the big one took part in it. I never could get the details of it, the why and wherefore, but it was a small matter, and there was no necessity for any trouble over it.

Q. Well, whom did you see about it? A. Mrs. Jim Ferguson.

Q. Did you see Mr. James Ferguson about it, too? A. No.

Q. Never said anything to him about it? A. No.

Q. Nor he to you? A. No.

Q. Was he unfriendly with you after that? A. Well, we didn't have much in common.

Q. Was his wife unfriendly after that? A. Yes.

Q. Where did they live? A. About three doors; I don't remember the number—three doors from us on the same side of the street, on the same street.

Q. Do you know whether your wife continued to be friendly with James Ferguson after that incident? A. She did.

Q. But you and Mrs. James Ferguson had  
40

*William J. Fraser—Re-Direct.*

little or nothing in common after that? A. Until the child was born; previous to the time the child was born.

Q. Then what happened? A. She came over and wanted to know if she could come in, and I said "certainly" and she went upstairs.

Q. Did you see her after that? A. I saw her upstairs. 10

Q. Were you friendly with her? A. No, not friendly; we spoke and that is about all.

Q. There was no quarreling or trouble about that? A. No.

Q. What occasioned this interview at Mrs. Hardy's? A. Why, that was started over some underclothes. My mother took my suit of underwear—union suit—and washed it and hung it out on the line, and my wife came along and took the clothes prop and knocked it off. 20

MR. MAXSON: I move that that be stricken out—all of it—unless this witness was there and saw it and knows about it, or unless the information came from the defendant.

Q. Did you see this? A. No, sir.

Q. Did your wife tell you about it? A. Yes.

Q. Was that her statement of it? A. It was her statement, although my mother told me practically the same thing. 30

Q. Is that your wife's statement of the situation? A. Yes.

Q. Did she say she had knocked the clothes off the line? A. Yes.

Q. Your wife told you that? A. Yes.

Q. And was that matter discussed at Mrs. Hardy's? A. Yes, because we weren't on very good terms after that.

Q. Your recollection is that it was discussed at Mrs. Hardy's? A. It was, yes sir. 40

*William J. Fraser—Re-Direct.*

Q. And when was that? A. I don't remember the date at all.

Q. Who was Mrs. Hardy? A. Why, a friend of the Ferguson family.

Q. And you went up to her house, where? A. Why, it was uptown; I don't remember the name of the street. It was along about 106 or something.

10 Q. In New York City? A. Yes, sir.

Q. And you went up, I understood you to say on your cross-examination, upon her invitation by telephone? A. Yes.

Q. Who was there? A. Mrs. and Mr. James Hardy and Mr. James Ferguson.

Q. Was your wife there? A. No, sir.

Q. Do you know whether your wife had anything to do with bringing about that meeting?

20 A. I do not, no sir.

Q. About this letter to the fortune teller, will you tell us whether or not you ever saw the letter? A. I did not see it, no sir.

Q. Who spoke to you about it? A. My wife.

Q. You say you never had any talk with your mother about it? A. No, I didn't ask her about it.

Q. What was it your wife said to you about it and when was it she said it? A. Oh, I don't recall when it was.

30 Q. Well, in reference to the meeting at Hardy's, which I understand was in November, 1910; how far, in point of time, was it in advance of that? A. Well, it might have been early in October, but I don't remember what time it was.

Q. Well, I understood you to say that at Hardy's that letter wasn't mentioned at all?

MR. SULLIVAN: He said just the opposite, according to my recollection.

40 Q. (By the Court) Did you say that? A. I don't think I did. That wasn't why we met there.

*William J. Fraser—Re-Direct.*

Q. My recollection is that you stated it wasn't discussed at Hardy's; now was it or was it not?

A. It might have been; I don't know whether it was discussed then or not. The clothes incident was the main topic.

Q. But your recollection is that your wife told you about the fortune teller letter before the meeting at Hardy's? A. It was before that, yes. 10

Q. What did your wife tell you about that letter? A. She told me about the letter and said that there was a phrase in it regarding my wife.

Q. Did she tell you what the phrase was? A. Something about a bad woman.

Q. Did she tell you what the exact phrase was? A. My recollection of it was "a bad, wicked woman."

Q. And did your wife show you the letter? A. No, I don't think she did; I didn't see it. 20

Q. (By the Court) This was a letter written by the mother to somebody, in which the mother had used this expression, as I understand it? A. Yes.

Q. Do you know who wrote the letter? A. No, I don't know.

Q. Did your wife say that your mother wrote the letter? A. She said so.

Q. Did you ask your mother if she did write it? A. No. 30

Q. Well, why didn't you? A. I am not sure whether I asked her or not.

Q. Did you have any reason to believe that your mother had written her a letter? A. No.

Q. Except your wife's statement? A. That's all.

Q. When did your wife first tell you that she was going to leave? A. Why, I think she spoke of it before the child was born. 40

Q. How long before? A. I couldn't say.

*William J. Fraser—Re-Cross.*

Q. Well, about how long? A. Perhaps a month.

Q. And what did you say to her at that time?

A. Why, I told her not to do it; it wasn't advisable.

Q. What did she say? A. She said she would try and get along.

10 Q. Did she speak again about leaving before the child was born? A. I think she said—no, I don't recollect her speaking of it before the child was born, but she did right afterwards.

Q. How long after the child was born? A. Well, about ten days—might have been ten days or two weeks.

Q. (By the Court) What reason did she give for it? A. Said that she couldn't stand the quarrelling.

20 Q. With you? A. With my mother.

## RE-CROSS EXAMINATION BY MR. MAXSON:

Q. You say you assumed all the time during your married life that Mrs. Fraser didn't care about you? A. Yes, sir.

Q. You didn't at the time you married her, did you? A. No, it became evident soon afterwards.

30 Q. At the time she married you she had a position as school teacher? A. Yes.

Q. You knew she was getting \$75 a month? A. I didn't know what her salary was.

Q. You knew she gave up her position to marry you? A. Yes, sir.

Q. And, of course, at that time you assumed that she cared for you? A. Yes, sir.

40 Q. And what brought about the change in your ideas in that respect? A. Why, her manner more than anything else; she was always distant and cold.

Q. Was it for that reason that you told her

*William J. Fraser—Direct.*

that she might do as she pleased about going when she spoke of going away? A. Yes, I didn't think she cared to stay there.

Q. And was it for that reason that you made no personal effort to have her return? A. Yes, sir.

BY MR. GOUGH:

10

Q. Mrs. Fraser knew what your earnings were when you married her? A. Yes.

Q. She had been in the house you occupied after you were married? A. Yes.

Q. In that same house with your mother? A. Yes.

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(At 4 P. M. the further hearing is adjourned to Wednesday, February 23, 1916, at ten o'clock in the forenoon).

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Wednesday, February 23, 1916, 10 A. M.  
Counsel present as before.

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WILLIAM J. FRASER, recalled in his own behalf, testified as follows:

EXAMINATION BY MR. SULLIVAN:

30

Q. Mr. Fraser, on cross-examination by Mr. Maxson you stated that you came to Jersey City for the purpose of getting a divorce. Now, is that the only reason why you came here? A. No, sir.

Q. What were the other reasons that you know of? A. A great deal more convenient for my business. I could get back and forth a great deal quicker, and the school system is a great deal better—on account of my boy. He is getting along very much faster than he was, and he likes it over here. The neighborhood is better, the living is cheaper, the surroundings are better in

40

*William J. Fraser—Cross.*

every way. I intended to stay here and voted here.

Q. Well, did I understand you to say you voted here? A. Yes, sir.

Q. How often? A. Twice.

Q. Have you any intention of returning to Brooklyn? A. No, sir.

10 Q. Or to New York? A. No, sir.

Q. Have you any intention of making any other place than Jersey City your home? A. No, there is no indication of anything turning up that would make it advantageous for me to do so.

Q. Mr. Fraser, since you left Brooklyn to live in Jersey City have you lived in any other place outside of the State of New Jersey? A. No, I have been at the same address constantly.

20 CROSS-EXAMINATION BY MR. MAXSON:

Q. Where do you live now, Mr. Fraser? A. 119 Magnolia avenue, Jersey City.

Q. And do you keep house there? A. Yes, sir.

Q. Do you have a lease? A. No lease, no—no lease asked for.

Q. What is the character of your tenancy there? You pay your rent by the month? A. By the month, yes sir.

30 Q. So that you can leave at the expiration of any month? A. No, I never have a lease anywhere.

Q. Never have a lease anywhere? A. No.

Q. You know what a lease on real estate is? A. Yes, sir.

Q. You never had one anywhere? A. No, sir.

Q. How long did you live in Brooklyn previous to coming over here in Jersey City? A. From 1900 to 1913—thirteen years.

40 Q. And when did you discover that the school system in Jersey City was better than that in Brooklyn? A. After I got over here.

*William J. Fraser—Re-Direct.*

Q. Where is your business located? A. In New York, down in the lower section.

Q. Where in New York? A. Why, within two blocks of the City Hall, north of the City Hall.

Q. And it is more convenient, is it, to live in Jersey City? A. Yes, sir.

Q. (By the Court) What is your business?

A. Printer. 10

Q. How do you get from Jersey City to your place of business? A. On the H. & M. Tube.

Q. Did you notify Mrs. Fraser of your change of address in Brooklyn? A. Yes, sir, I did.

Q. How long after you made the change was it before you notified her? A. When I moved from Decatur street; it was a month afterwards.

Q. Wasn't it one year and one month? A. Yes, it was. 20

THE COURT: Isn't there a letter of some kind written in New Jersey?

MR. GOUGH: Yes, Exhibit P-2 is from 183 Decatur street, dated February 1, 1913.

Q. (By the Court) When did you come here, April 1st or May 1st, 1913? A. March 29, 1913.

RE-DIRECT EXAMINATION BY MR. GOUGH:

30

Q. What was the street number of the house in which you lived at the time that Mrs. Fraser left you? A. 1675 Seventy-second street.

Q. How long after she left you did you remain in that house? A. She left on May 13, and I was there until the first of January following.

Q. And then you moved to Decatur street? A. Yes, sir.

Q. And it was about January 1st, 1912? A. 1912 that I moved to Decatur street. 40

*William J. Fraser—Re-Cross.*

Q. Now, how long does it take you to get to your place of business from your house now? A. The running time of the trains is ten minutes.

Q. How long does it take for you to get to your place of business? A. It don't take five minutes from the house to the station—say, three minutes, and about eight minutes on the other end.

10 Q. All told, how long does it take you? A. About twenty minutes.

Q. How long did it take you from your house in which you lived when Mrs. Fraser left you? A. To New York?

Q. Yes. A. The running time was very bad. It took from 50 to 60 minutes to get to Seventy-second street from Park Row.

20 Q. And from Decatur street? A. Thirty-five minutes.

Q. Do you go back and forth daily? A. Yes.

Q. And every day in the year except Sundays and holidays? A. Yes, sir.

## RE-CROSS-EXAMINATION BY MR. MAXSON:

Q. Now, will you state what the leading incentive to you was in moving over to New Jersey?

30 A. Well, the principal idea was that I couldn't see any other way of doing but to come over here and get a divorce. There was seemingly no reconciliation in sight.

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MR. GOUGH: I understood Your Honor to say the other day that this matter of quarrels between the women was a matter that you would let us keep until we came to the rebuttal?

40 THE COURT: Yes, perhaps that is the better way, unless there is objection from the other side.

MR. GOUGH: Then the petitioner rests.

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(Mrs.) *Mary M. Fraser—Direct.*

(Mrs.) MARY M. FRASER sworn in her own behalf, testified as follows:

DIRECT EXAMINATION BY MR. MAXSON:

Q. Where do you now reside? A. 6507 Fifteenth avenue, Brooklyn.

Q. And how long have you lived there? A. Since May 13, 1911. 10

Q. Where did you live previous to May 13, 1911? A. 1675 Seventy-second street.

Q. How long had you lived there? A. From July, 1910, to May 13, 1911.

Q. And what was the date of your leaving your husband's home? A. May 13, 1911.

Q. You have lived continuously, then, at your present residence since you left him? A. Yes.

Q. What, if anything—beginning at the beginning of your difficulties—first caused you to object to the manner in which the house was run? 20

MR. GOUGH: I object as leading.

THE COURT: No, I don't think it is leading. Ask her whether a difficulty arose and what it was.

MR. MAXSON: I will withdraw the question.

Q. Did you have any difficulties at home during the time you were living with your husband? A. Yes, practically all the time, but not directly with my husband. 30

Q. When did they start; what brought them about? A. Sometime in September—I was married in July—and in September Mr. Fraser's little boy came to me one day and asked me if I would buy him a pair of shoes, and up to that time my husband had been giving me only \$20 a week, and I kept an itemized account-book, and my expenses were two or three dollars over the money 40

(Mrs.) Mary M. Fraser—Direct.

he allowed me, that is, without any clothing at all, and I told him—told the boy—that I didn't really have the money; and, besides that, when we were married my husband asked me if I would be satisfied that his mother should get \$2.50 a week, and I said "certainly," because he said out of that \$2.50 she had never kept that directly  
 10 for herself but she had bought lots and lots of things for Charley. So the first summer my husband wasn't working steadily and I was satisfied to take \$20 when he didn't get any more, and when he got \$30 I wasn't satisfied with \$20, because I couldn't get along very well on that.

Q. You say the fact that the boy wanted a pair of shoes which you would have to purchase started the difficulty? A. Yes.

Q. In what respect? A. He came to me and  
 20 asked me for the shoes and I said he couldn't have them, and I knew that the mother of my husband sent the boy—

Q. How did you know that? A. Because she had been talking and hinting about it, but didn't ask me directly. And I heard no more about it until my husband came home and asked me if I wasn't going to get the boy some shoes, and I said I hadn't any money to buy any extras with at all, and after that it was one continuous  
 30 trouble over the money, and my husband allowed me \$10 a week with which to run the house, and he expected me to pay the gas bill out of that, and the insurance for his mother—small insurance premium every week—and I couldn't pay the gas bill and as it was I didn't have one penny over \$10 to support four people with.

Q. Out of that \$10 were you obliged to pay all the household expenses? A. All the household expenses.

40 Q. When did you begin keeping your account?

(Mrs.) Mary M. Fraser—Direct.

A. Sometime in September, and it was in November that we had the quarrel over the money, and I told my husband I had this book, and I took it out and asked him to look at it, and he said he didn't care to see it at all; that he had given me all the money he had to give. He didn't look in the book at all, but he saw the book.

Q. He didn't look inside? A. No, he didn't look at the inside of the book at all. 10

Q. Now after this occurrence about the shoes in September, when next did you have any difficulty? A. It was continuously after that.

Q. Do you remember an occasion when you and your mother-in-law were on the porch of your house? A. Yes, that was just before I left—the Wednesday before I left, and I left on Saturday.

Q. What brought about that difference? A. She was continually telling me it was her son's house and she could do just as she pleased in it, and before the baby came it wasn't very hard to listen to it, but after the baby came I had to stay in the house and make it a home. I had put some of the baby's things on the Morris chair that belonged to Mr. Fraser—it was given to him as a present, I understand—and she came in and removed them while I wasn't there, and when I came back I found them on the floor, and I picked up everything and put them back on the chair without saying anything about it. Then again that afternoon I found them removed once more, and she said that was her son's chair and she wanted nothing put on it; "how could he sit on it when I had shawls on it," is what she said, and it seemed to make her angry and she took a milk bottle that she had in her hand and attempted to hit me and said she would break my dirty face with it. I told my husband about it and he said she claimed that I attempted to hit her, which was not so. 20 30 40

(Mrs.) Mary M. Fraser—Direct.

Q. Now, sometime previous to that had you seen a letter written by Mrs. Fraser to a fortune teller?

A. Yes, it was then that I knew her sentiments towards me.

Q. But you saw the letter? A. Yes.

Q. How did it happen that you saw it? A. The postman came to the door one morning—

10 Q. The postman came to the door one morning—

MR. GOUGH: Is the letter in existence, Mr. Maxson?

MR. MAXSON: I don't know about that; I am not asking for the contents of the letter.

A. (continuing) The postman came to the door one day and I had known him before I was married, and he said, "Why are you writing letters to yourself?"

20 MR. GOUGH: I object to this conversation with the postman.

Q. Never mind about the conversation. A. That is how I came to open it.

Q. (By the Court) He handed you a letter and you opened it. A. It was what he said that made me open it.

30 Q. What became of the letter? A. I gave it back to my husband.

MR. MAXSON: Will you produce the letter?

MR. GOUGH: We haven't any such letter.

Q. Did you tell your husband what it contained? A. I did, afterwards.

Q. What did you tell him? A. I told him that his mother had said I was a bad, wicked woman.

Q. In the letter? A. In the letter.

40 Q. What did he say to that? A. He didn't say anything.

Q. Now, did you tell him on any occasion that you were going to leave? A. Yes, I told him in

(Mrs.) Mary M. Fraser—Direct.

November before I left, and he said I could go as far as I liked; that my mind should be settled on one point, that his mother was going to stay with him; and then again Wednesday before I did leave I told him I thought it better I should go; and Friday morning I told him I was going.

Q. What did he say to that? A. Just couldn't I stand it a little while longer. 10

Q. Did he then say anything about making a change in the household arrangements? A. No, none whatever. I gave him from Wednesday until Saturday.

Q. Did you go and take the baby with you? A. I took the baby with me.

Q. And have you been supporting it since you left? A. Ever since.

Q. (By the Court) What is the baby's name? A. Margaret. 20

Q. Has he provided anything towards its support? A. No, not even offered it.

Q. Has he seen the baby since he left? A. No, not once.

Q. Has he requested to be permitted to see it? A. No, I have never spoken to my husband since; at least, he has never spoken to me or attempted to.

Q. Now, have you written him any letters? A. I wrote three that I recall just now. 30

Q. I show you Exhibit P-4 and ask you if you remember the occasion when that was written? A. Yes, I remember that.

Q. Do you remember what caused you to write it? A. Yes, Mr. Fraser had written to me from Jersey City, asking me if I would come back home.

MR. GOUGH: I object. The letter speaks for itself.

Q. Was your letter in answer to this letter in typewriting, of April 14? A. Yes. 40

(Mrs.) Mary M. Fraser—Direct.

Q. (By the Court) In answer to this letter marked P-3? A. Yes.

Q. Were you willing at the time your husband wrote this letter to return to your husband? A. Certainly, at any time.

Q. And why didn't you do it? A. Because I knew the same conditions existed as when I left.

10

Q. (By the Court) That is, you weren't willing to return under the same conditions? A. No.

Q. What I mean by under those conditions is that you wouldn't return if he kept his mother with him and the little boy? A. No, not the little boy. I had no objections to the little boy; only his mother.

Q. What were your relations with the little boy?  
20 A. I was very friendly with him up until the time his grandmother interfered, and at one time she blew a whistle downstairs and the boy was in my room and I was amusing him, and Mr. Fraser went downstairs and asked her what she blew the whistle for and she said she wanted Charley, and he said to let Charley stay where he was.

Q. I show you this letter of October 7, 1914, Exhibit P-5, and ask you what brought about the writing of that letter, if you remember? A. Well,  
30 I had seen my husband on the West End train. I had the little girl with me and it was sometime in August, and I had always wanted to go back to him—to him alone, of course—and I thought I would write and see whether he was willing to make a home for me, and he didn't answer that letter at all.

Q. Are you now willing to live with him? A. At any time—but with him.

40

Q. (By the Court) You mean by that, you are not willing to live with him with his mother? A. No.

(Mrs.) Mary M. Fraser—Cross.

CROSS-EXAMINATION BY MR. GOUGH:

Q. Mrs. Fraser, why didn't you answer the first letter that your husband wrote you? A. Because it was very cold and distant; it seemed to be a business letter—no affection in it whatever.

THE COURT: What letter do you refer to?

MR. GOUGH: P-2.

10

A. (continuing) And he offered me three alternatives in the letter and of the three there was no choice, and it was a year and a-half after he had moved away—a year and two months, rather—and I had not known where he went to and didn't expect a letter.

Q. Did you tell him where you were going?

A. No.

Q. Why didn't you? A. Because he hadn't asked me to stay and I didn't think it concerned him where I was going; I didn't think it concerned him.

20

Q. You realized he was your husband? A. Yes, but he hadn't treated me as such.

Q. He had asked you to stay? A. No, he had not.

Q. Didn't you testify on your direct examination that he said "don't go; wait awhile"? A. No, he said, couldn't I stand it a little while longer.

Q. But you couldn't? A. No, I couldn't—couldn't bring up children in such an atmosphere; it was impossible.

30

Q. You thought that the best thing for everybody was for you to go away and not tell your husband where you were going? A. I thought it was best that I should go away, as long as he hadn't bothered to ask me to stay. He knew I was only going home.

Q. You went on Saturday? A. I went on Saturday.

40

(Mrs.) Mary M. Fraser—Cross.

Q. When was it that he asked you if you couldn't stand it a little while longer? A. On Thursday.

Q. When was it that you had told him before that that you were going? A. I told him Thursday.

10 Q. When did you arrange to go? A. I arranged right after I spoke to him on Thursday. Friday morning I packed everything and Mr. Fraser went downstairs and saw everything packed and never spoke to me.

Q. When had you ordered the van? A. On Saturday morning.

Q. You didn't know Thursday where you were going? A. No, I was waiting for him to decide.

Q. You went to your parents' house? A. I went to my parents' house.

20 Q. When did you make your arrangements to go there? A. Well, up until the last minute they didn't really expect that I would come there.

Q. When had you spoken to them about coming back to them? A. Not until after Margaret was born.

Q. And you made up your mind when you spoke to them that you were going to leave? A. No, not until the last minute. If he had shown the least bit of anxiety about my going I would have stayed.

30 Q. When did you begin to pack? A. On Friday.

Q. Hadn't you done any packing before that at all? A. Not that I remember now.

Q. Had you taken down any pictures? A. Yes, Friday morning.

Q. Not before Friday morning? A. No, not before Friday.

40 Q. As I understand it, you wanted him to entreat you to stay? A. No, not at all; I wanted him to decide whether I should stay or his mother should stay.

(Mrs.) Mary M. Fraser—Cross.

Q. Originally it had been agreeable for you to have his mother a part of the household? A. Only before I married him, and, of course, I didn't know her then.

Q. And you told him you wouldn't marry him if his mother wasn't a part of the household? A. Yes, I did so because we were very friendly before our marriage. 10

Q. Now, you have mentioned some difficulty with the mother about the boy's clothes, and the difficulty that arose on account of the purchase of the boy's shoes; will you state what other difficulties there were? A. Well, there were many in six years that I have forgotten now.

Q. Can't you remember any of them, Mrs. Fraser? A. No, I don't remember now.

Q. Mr. Fraser didn't drink, did he? A. No, not at all. 20

Q. He didn't use any profane language? A. No, never.

Q. Did he ever strike you? A. No.

Q. Did he ever offer to strike you? A. At one time—he didn't offer to strike me but he pushed me; but it was in temper.

Q. Just tell us about that.

MR. MAXSON: I submit, may it please the Court, that that isn't cross-examination and isn't a part of this case. It is admitted on both sides that the relations between these parties were pleasant. 30

THE COURT: I think so. I don't think it is necessary to go into that. She has stated herself that the relations between herself and her husband were pleasant. You can bring out about the pushing if you think it is against you.

MR. MAXSON: We don't set it up as a matter of defense in this case. 40

(Mrs.) *Mary M. Fraser—Cross.*

Q. I want you, Mrs. Fraser, to tell us what was the first unpleasantness that you had with your mother-in-law. A. The one in the fall about the shoes. There had been a little bit of feeling when any of the people came to see me; she would go upstairs, and I asked my husband about that, and he asked his mother, and she said she wasn't dressed, and she had always been the same in the house.

10

Q. Who did the cooking? A. I did.

Q. All the time? A. No, not all the time.

Q. When did you begin to do the cooking?

A. In September.

Q. Up to that time your mother-in-law had done it? A. Yes.

Q. And after September who did it for everybody? A. I did.

20

Q. Including your mother-in-law? A. Yes; that is, the one general meal. But not the meal when he worked at night; he wasn't home in the evening, and so I cooked the general meal at noon-time.

Q. Now, wasn't the general situation this after September: You and your mother-in-law avoided each other as much as possible? A. Yes.

Q. And there were no words between you except what you have testified to in May after the baby was born? A. Yes. Well, you see my mother-in-law couldn't hear, and in order to make her hear I would have to go right up to her, and I avoided as much trouble as possible, but it was all done in a quiet, underhanded way.

30

Q. By the mother-in-law? A. Yes.

Q. Now, what did she do that was underhanded? A. Oh, she was always making trouble. I thought she made trouble about the money, in the first place.

40

Q. In what respect? A. Well, I felt—she used

(Mrs.) Mary M. Fraser—Cross.

to say if I had her husband he would make me hit the mark.

Q. She never said that, did she? A. Yes, she said that.

Q. When? A. Sometime in August—and that my husband was too easy.

Q. Would make you hit the mark in regard to what? A. In everything; that I would have to stay in the house; that I would be a drudge, I suppose. I didn't know what else. 10

Q. How much rent did you pay? A. We paid \$26 rent.

Q. And that was net from month to month? A. That wasn't the net rent; he was allowed \$2.50 out of that for tickets.

Q. Then the rent was \$23.50? A. Not at first.

Q. But out of his money? A. Yes.

Q. And the tradesmen's bills were paid as they accrued? A Yes. 20

Q. And you want us to believe that your husband assumed a very patient attitude in regard to his mother, don't you?

MR. MAXSON: I object to the form of the question.

THE COURT: That asks for a conclusion.

MR. GOUGH: Well, it is a leading question and it is cross-examination. 30

MR. MAXSON: "And you want us to believe" is what I object to.

MR GOUGH: I want to find out what her husband's attitude was.

A. I take it that he didn't want any trouble at all, but when he said in November that I should make up my mind on one question, that his mother was going to stay, of course there wasn't any doubt about how he felt; that I should go as far as I liked. 40

(Mrs.) Mary M. Fraser—Cross.

Q. Did you ever ask him to set up an establishment— A. That was conclusive when he said that to me.

Q. Did you ever ask him? A. No, I never did.

Q. Why didn't you? A. Why, that was tacitly understood, I thought, when he said that to me.

10 Q. You mean when you said you wanted a separate establishment? A. No, when he said he was going to keep his mother and that I could go; that he wasn't going to put up a separate establishment.

Q. What time in November was that? A. That was sometime around election time.

Q. And where did you spend the Thanksgiving, in the home? A. Yes.

Q. And Christmas? A. Yes.

20 Q. Well, between election day and May there was no talk about your leaving at all, was there? A. No, I never said anything.

Q. You had, however, thought of the matter? A. Yes, but always I really didn't intend to go if things were adjusted.

30 Q. Did you say in November that you intended to go? A. No, I said that he would have to choose either his mother or me; things had come to such a pass that it would have to be either one or the other, and he said I could rest assured on one point, that his mother was going to stay, and that I could go as far as I liked.

Q. When was that? A. Sometime around election time, I think.

Q. Was there anybody else present? A. No, nobody.

40 Q. Then you didn't start the matter, or didn't refer to it again, until the week you left? A. Well, we had another misunderstanding in December and a very serious one, and I wanted to reason with my husband and he walked out, and when

(Mrs.) *Mary M. Fraser—Cross.*

he came in that night his mother was waiting for him, and he stayed with Charley for a whole week. I didn't speak to him nor see him again, and it was at that time that Mrs. Hardy sent for my husband to see what could be done about a reconciliation, and I asked her to do that.

Q. And there was a reconciliation? A. Yes.

Q. Now what led to that rupture, Mrs. Fraser? 10  
A. Well, way down, I think the fact that my husband wouldn't give me enough money. When I married him his mother said that she wasn't able any longer to wash and I agreed with her, and there were four in the family and I didn't certainly expect that she should do the washing for four and so I had hired a woman, and when he only gave me \$20 a week and kept \$10 every week I hadn't enough to pay a woman, and so I didn't know what I was going to do with the washing, 20  
and in the meanwhile his mother came and took the clothes and washed them, and, of course, there was nothing to be done, she was taking it right out of my hands.

Q. Now, just tell us what led up to the break between you and your mother-in-law at that time; what did you do and what did she do? A. I told him when he came in about it.

Q. What did you say? A. I told him that his mother had come and taken the clothes and washed them, and I said she had no right to do it, I was his wife, that it seemed it was my business; and he said it was his mother and she could do as she pleased. 30

Q. Had the mother washed the clothes? A. Yes.

Q. Had she put them on the line? A. Yes.

Q. What did you do? A. I took them off.

Q. Did you knock them off? A. No, I took them off.

Q. Were they dry? A. No, they were still wet. 40

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Q. Why did you want to take them off if they weren't dry? A. Because she had taken it on herself to interfere.

Q. Had you seen her do the washing? A. Yes.

Q. Had you asked her not to do the washing?  
A. No; I hadn't seen her in the act of washing his clothes, because she washed her own things,  
10 naturally, and I didn't know what she was doing.

Q. The mother always washed her own clothes?  
A. After that?

Q. Before that? A. No, we had a woman.

Q. And that was when? A. That was the latter part of November, because it was the 6th of December that Mrs. Hardy sent for him. It was a week after that before we spoke or had anything to say to each other.

Q. What did you say to your husband about the  
20 clothes when he came home? A. Well, I don't know; I don't remember that.

Q. How long did you talk to him about it? A. I talked to him as long as he stayed, and then he went up stairs and went out.

Q. How long was that? A. About half an hour, I should say.

Q. And you followed him upstairs, did you?  
A. Yes.

Q. And he tried to pacify you? A. No, not at  
30 all; he was in very bad temper and wouldn't even listen to me.

Q. He listened to you for half an hour downstairs? A. Yes, sir.

Q. What did he say to you? A. That was the gist of it; I don't remember exactly.

Q. What was the gist of it? A. That his mother had a right to take the clothes; she was his mother.

Q. And where did he go after he left you and  
40 went upstairs? A. He went out; I don't know where he went.

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Q. What time was that? A. About eight o'clock.

Q. What time did he come back? A. About half past eleven.

Q. And then there was no conversation between you and him? A. No.

Q. For a week? A. No. When he came in he didn't come near me.

Q. What was it you wanted him to do? A. I 10  
wanted him to decide between his mother and me.

Q. As to what? A. As to everything—whose house it really was. She kept claiming to me it was her son's house and she could do as she pleased. When I would speak to him about it he said it was his mother and she could do as she pleased.

Q. The washing had to be done? A. Yes.

Q. What was the objection to her doing it? A. 20  
Because I imagined that she knew why she had to wash his clothes and why I hadn't let the woman wash them. She was angry when I didn't bring in the wash-woman that week, and of course I didn't tell her the reason was that my husband didn't allow enough money for it, and she took the attitude that I wasn't going to have his clothes washed.

Q. But why did you object to her washing them? A. It seemed to me that she should have found out about it before she did the washing. 30

Q. It was necessary, of course, to wash the clothes, wasn't it? A. Yes, certainly; I wouldn't have had any objections to her doing it at all, but it was her attitude.

Q. And you secured the good offices of Mrs. Hardy in the matter? A. Yes.

Q. Did you do that directly or through a member of your family? A. Directly. I was up to Mrs. Hardy's on a Sunday morning.

Q. And this talk about the clothes happened 40  
when? A. Monday, I guess, of that week.

(Mrs.) *Mary M. Fraser—Cross.*

Q. You went up to Mrs. Hardy's the following Sunday? A. The following Sunday. What angered me most was, when he came in he went in with his mother and stayed there for a whole week, and they took their meals together.

Q. You say he went into his mother's? A. Yes, his mother had a separate room and his boy had a separate room.

10 Q. Didn't he go in with Charley? A. No, but his mother waited at the stairs when he came in, and I thought if she hadn't been there he would have probably come in to me.

Q. (By the Court) Your child was born the following April, wasn't it? A. Yes, April 24th.

Q. You prepared the meals for your husband during that following week, didn't you? A. Well, I don't remember now. Yes, I think I did.

20 Q. You would simply lay them on the table for him and go upstairs? A. Certainly; it was a terrible atmosphere. I couldn't eat. The baby was born in the April after that; that was in December.

Q. Why didn't you stay down and eat with your husband? A. That was impossible. I would eat with my husband if he was alone.

Q. But his mother wasn't eating downstairs at that time? A. Oh yes, she was.

30 Q. At that time? A. Yes, at the general meal where my husband was, and my mother-in-law sat there.

Q. Up to that time? A. After that, at the general meal.

Q. And the other two meals she took upstairs? A. No, she used to come down.

Q. But you wouldn't eat together? A. No, not alone.

40 Q. The mother-in-law prepared her meals up-

(Mrs.) Mary M. Fraser—Cross.

stairs, to some extent, didn't she? A. I don't know.

Q. Did she prepare all her meals downstairs?  
A. I don't know about that.

Q. You were not interested in ascertaining? A. No, only when my husband was home. I considered it a place where she was welcome; I never considered it my home. All the furniture, when we went there, belonged to them and it was made very plain that I didn't belong there. 10

Q. When your husband wasn't there where did you spend your time? A. Sometimes at my mother's. The day that I left the house she said—the Friday before I left the house, she said I had no more right in that house, and she was coming downstairs and my nephew and I were going upstairs, and she pushed me down.

Q. Whom did you talk with that was a member of your family about going home? A. Oh, I talked with almost everybody. 20

Q. When? A. My father didn't know; my one brother didn't know.

Q. When did you talk to your mother about it? A. Why, I don't remember. I had said something about it in December, at that time that we had the quarrel. I hadn't seen him for a week and when we were reconciled everything was all right, and I said nothing more about it. 30

Q. You didn't intend then to go? A. No.

Q. You are quite sure you had no intention of going at that time when the baby was born? A. No, if things were adjusted in a satisfactory way to me.

Q. Well, were things satisfactory to you? A. Well, the week before Margaret was born my mother-in-law was very sick in bed, and of course I really had the house as a home—considered it at such—and everything was quiet at the time. 40

(Mrs.) *Mary M. Fraser—Cross.*

Q. Now, when was Margaret born? A. The 24th of April, on Monday.

THE COURT: 1911? A. Yes.

Q. And you were up at the end of ten or twelve days? A. Yes. At the end of ten days I was up for awhile and was completely about two weeks afterwards.

10 Q. It was about two weeks before you could get around? A. Yes.

Q. During those two weeks did you have any trouble with your mother-in-law? A. No. I had a nurse, and the nurse had trouble with her. She was always doing little things, such as taking the cream off the top of the bottle of milk.

Q. Had the mother-in-law been in to see the baby? A. No, never.

20 Q. Not at all? A. No. She said she didn't want to see its face.

Q. Did she say that to you? A. No, not to me.

MR. GOUGH: I move to strike it out.

THE COURT: It may be stricken out.

Q. Was the baby kept in the same room with you during your confinement? A. Yes.

Q. You are quite sure that she never went in to see it? A. Yes.

30 Q. Now, when was it that you first saw your mother-in-law after your confinement? A. Why, I saw her on Sunday, two weeks afterwards.

Q. And that was the Sunday before you left? A. Yes.

Q. Did you have any conversation with her? A. No.

Q. No exchange of greetings at all? A. No.

Q. You didn't make any advances to her and she didn't make any to you? A. No, because she said I was a bad, wicked woman.

40

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MR. GOUGH: I move to strike the last part of the answer out.

THE COURT: Motion granted.

MR. MAXSON: I will bring that out on the redirect.

Q. What was the first conversation you had with your mother-in-law after your confinement?

A. Out on the porch, when I told her—I asked her what she moved the things for from the chair, and she said that was her son's chair and there should be no clothing on it, and that was her son's house. 10

Q. Now then, your mother-in-law was sitting on the porch? A. Yes.

Q. In a chair? A. Yes, rocking-chair.

Q. And she was hard of hearing? A. Yes, very hard.

Q. Very hard of hearing? A. Yes. 20

Q. Did it occur to you that she might have understood that you were telling her to get up out of that chair? A. No.

Q. Is it possible? A. No, it didn't strike me at all that way, because she answered me.

Q. You talked about a chair? A. No, about the baby's clothes.

Q. Being removed from the chair? A. Yes, sir.

Q. And she was sitting in a chair? A. Yes. 30

Q. And she said that that was on her son's chair? A. No, the morris chair.

Q. Are you sure about that? A. Yes, she said the morris chair was her son's chair, because she was sitting in a rocking chair.

Q. Did she use the words "morris chair"? A. I am not sure of that, but that is the chair she meant.

Q. How long had she been sitting out there on the porch? A. I don't know.

Q. What did you say when she said it was her 40

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son's chair? A. I don't remember that now. I said that she shouldn't touch any of the baby's clothes, anyway; that is, she shouldn't move them off the chair. She didn't say very much, just picked up the milk bottle.

Q. What did she do with the milk bottle? A. She attempted to hit me, and said she would break  
10 my dirty face.

Q. What made her do that? A. Well, I suppose I was in a temper when I went to her; she had angered me very much.

Q. You say you were in a temper? A. And that was only for two or three days, and I saw she was starting right in with the child the way she was starting in with me.

Q. You say you suppose you were in a temper?  
A. Yes.

20 Q. Did you touch her? A. Yes, I took her by the sleeve, that is all, to attract her attention.

Q. You didn't shake her? A. No, not one bit, because I don't do those things.

Q. You are quite sure you didn't strike her?  
A. Positive.

Q. You were in a temper? A. I could see by her face that there was something very serious the matter with her.

30 Q. How far away was the milk bottle? A. She just leaned back and picked it up.

Q. What did she do with it? A. She lifted it as if to strike me.

Q. What part of your body was she going to strike? A. I don't know what part; the nearest part, I suppose.

Q. What did she finally do with the milk bottle? A. She put it down.

Q. Did you touch the milk bottle? A. No.

40 Q. What did you do when she offered to strike you? A. I just stood there.

Q. And said nothing? A. No.

(Mrs.) Mary M. Fraser—Cross.

Q. (By the Court) How old a woman is the mother? A. I understood she was 65 then.

Q. In answer to Mr. Maxson's question, Mrs. Fraser, you said that you were willing now to live with your husband on condition that his mother was not a part of the household? A. Yes.

Q. And that has always been your attitude? 10  
A. Always.

Q. Was it your attitude when you left him?  
A. Yes, certainly.

Q. You had no real difficulty with your husband at all? A. No, none.

Q. You considered he was a pretty decent fellow? A. I did.

Q. Why didn't you say to him before you left, Mrs. Fraser, that you wanted him to set up an establishment in which his mother should not be? 20  
A. Because when I married him he spoke about his mother being there and I agreed that she should stay, and then in November, when I said either she or I would have to go, he said that she was going to stay; I couldn't set my mind to rest on that, his mother was going to stay and I could go as far as I liked, and all through it he didn't seem to care whether I went or didn't.

Q. And then the topic didn't come up again until the Wednesday before you left? A. Yes. 30

Q. And you had adjusted yourself to the situation in the meanwhile? A. Yes. It was horrible; it wasn't living at all.

Q. Except for the period during which his mother was sick? A. Yes.

Q. Then you felt yourself master? A. No.

Q. Then you felt as though the house were your own? A. No, I felt as if it was at least like a home; but, you understand, all the things were 40  
there.

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Q. I ask this maybe by way of repetition, but I do not want the answer again: When was it in May, 1911, that you first spoke to your mother about coming back? A. I don't remember. She didn't think that I would come, even until the minute I came back.

10 MR. GOUGH: I move to strike out everything after "I don't remember."

THE COURT: It may be stricken out.

Q. The question is, when you spoke to your mother about coming back. Now, I want your recollection on that. What was the conversation between your mother and yourself?

MR. MAXSON: I think that is objectionable.

20 THE COURT: If she spoke to some third person about coming back it may have some bearing on the case. I will note the objection and let it go in.

A. Well, after Wednesday, as far as I can remember now.

THE COURT: And you left on Saturday?

30 A. No, after Wednesday this milk bottle affair happened; that was Wednesday afternoon, I think, and I don't remember whether it was Thursday morning or not that I spoke to my mother.

Q. Now, are you quite sure that you hadn't spoken to her before Wednesday? A. No, I am not quite sure. I hadn't spoken to her until after the confinement.

MR. MAXSON: There was no suggestion on the direct about any conversation between this witness and her mother.

40 THE COURT: It bears upon the case, and if counsel makes this his testimony I will allow you to cross-examine.

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Q. Now, had you spoken to anyone? A. No, not until after Wednesday.

Q. What day did you speak to her? A. I am not sure whether it was Thursday morning or not; I think it was Thursday morning, however.

Q. (By the Court) How long after you went back did you secure a position as teacher? A. Nearly two years. I substituted for awhile, but not steadily. 10

Q. When did you begin substituting again? A. In 1912, I think—January, 1912—no, January, 1913, that was it, and I was appointed in November, 1913.

Q. Now, do you remember whether it was in the morning of Thursday that you went to see your mother about going back? A. No, I don't remember that. 20

Q. Didn't she advise you to stay? A. Certainly, to stay with my husband always.

Q. Did you consult any other members of your family? A. I may have told my sister-in-law.

Q. Mrs. Ferguson? A. Yes.

Q. What did she tell you? A. She told me to stay.

Q. Did you talk to your brother? A. No.

Q. Did you talk to your sisters? A. No. I have only one sister. 30

Q. Did you talk to your father? A. No.

Q. Did you take any other advice? A. I don't remember.

Q. Both Mrs. Ferguson and your mother told you to stay with your husband? A. Yes.

Q. Why didn't you? A. It wasn't possible to stay with his mother.

Q. Do you think that your mother and your brother's wife would tell you to do impossible 40

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things? A. Yes; they hadn't lived the life that I had lived for ten months.

Q. I show you Exhibit P-4, being the letter of April 26, 1913, and call your attention to the end of the first paragraph, the last sentence in it, Mrs. Fraser: "For your happiness as well as everybody's concerned it is better that we live apart while your mother lives with you"; you didn't want your husband at that time to set up a separate establishment, did you? A. At what time?

Q. When you wrote that letter? A. Why, I always wanted it, way back from November.

Q. Did you at that time? A. Certainly, I always did; he knew that.

Q. And you say that you would have gone back to live with him while his mother was alive?

20 A. In a separate house.

Q. While his mother was alive? A. Certainly. Not with his mother, though.

Q. Why didn't you say so? A. Why, he knew that.

Q. How could he know it; you have never said anything about it? A. Didn't he say I could go as far as I liked but he was going to keep his mother, and he wasn't a man that would say one thing and mean another.

30 Q. You evidently meant another. A. I meant that I would live with him, certainly.

Q. Why didn't you say so?

MR. MAXSON: She has answered that three or four times.

Q. Why didn't you say "it is better that we live apart while your mother lives with you"? A. I thought then that I would live with him but not with his mother.

40 Q. What do you give as a reason for not answering his first letter? A. Because there was no affection in it whatever. It was purely busi-

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ness in tone, and there were three alternatives in it and none of them were worth bothering with. I didn't want to go back to him with his mother there, and I didn't want a divorce, and the other one was to live as we were living.

Q. Now, I show you Exhibit P-5, written by you on October 7, 1914; where was that letter sent? A. I sent this to Jersey—to his address in New Jersey. 10

Q. Look at the end of the first paragraph of that letter, the last sentence, where we find these words: "I'll admit it has taken me all this time to see things in a sane right manner, although I still think I did the right thing but might have done it in a different way." You hadn't seen things in the right manner? A. Yes, I think I had, but I don't think I had seen any wrong from them. 20

Q. Why do you say it has taken you all this time? A. That is what I had in mind, that I hadn't broken entirely from him.

Q. Why hadn't you broken entirely from him? A. Because I liked him.

Q. That was no reason for breaking from him; that was a reason for keeping with him. A. Yes, without his mother, but he wouldn't give me that chance.

Q. Now then, going on to the second paragraph of that letter, you say, "Understand, I do not want to live with you while your mother lives"; tell us why you said that if you were willing to live with your husband? A. I didn't mean the way you take it; I meant while his mother lived with him. 30

Q. (By the Court) Well, you had that settled idea, that you wouldn't live with him as long as his mother lived with him? A. Yes. 40

(Mrs.) Mary M. Fraser—Cross.

Q. You didn't state that to him? A. Yes, in November.

Q. After November things had gone along well enough up to the Wednesday before you left home—a matter of four months—and there had been no talk about leaving, and you simply told him you were going to leave? A. I told him, yes.

10 Of course, I took it that he knew as long as he was willing to keep his mother then it was better that I should go.

Q. Now, the Saturday that you left, he asked you where you were going, didn't he? A. No, he didn't speak to me at all on Saturday.

Q. Do you remember the time the van drove up to the door? A. Yes.

Q. Did he talk to you then? A. Not a word; he stood there while the things were going out.

20 Q. Did you speak to him? A. No, he hadn't come near me after he went downstairs and found that I had started to pack. That was on Friday at noon.

Q. What was the last conversation you had with him? A. Just before he went downstairs on Friday I said to him, "I am going"; and he said, "where are you going?" and I said I didn't think that concerned him.

30 Q. Why didn't it concern him? A. Because he was willing to let me go from the house with the little baby; he didn't say "stay" at any time.

Q. (By the Court) If he had told you to stay would you have stayed there at that time? A. Yes.

Q. With the mother there? A. If he had made other arrangements.

40 Q. That is, you mean if he had put his mother out? A. I didn't care whether he put her out or not; he has a brother that could very well help along with her support.

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Q. Did you ever discuss with him the advisability of his mother going to his brother's? A. No.

Q. Or contributing to his mother's support at all? A. No, I thought he knew that.

Q. Now, Mrs. Fraser, isn't the real situation this: You did not want yourself to be the cause of Mr. Fraser putting his mother out? A. I don't know that he could very well afford a separate home for her, and I didn't want any old person put out. 10

Q. Did you say that you thought he could well afford it? A. With the help of his other brother.

Q. You didn't know what the other brother was doing? A. Yes.

Q. Did you know whether that other brother contributed to the support of the mother at all? A. I understood that he didn't contribute anything. 20

Q. Did you state to your mother the cause of your leaving? A. Yes, sir.

Q. What did you say it was? A. I told her about the milk bottle; that I had only been up a day when it started in again.

Q. Now, at the time you were married how long had you been teaching? A. Six years.

Q. At what salary? A. I was getting \$75 a month.

Q. Did you contribute to your home? A. Yes. 30

Q. Regularly? A. When I was home, you mean?

Q. Yes. A. Regularly, yes.

Q. What is your salary now? A. \$90.

Q. And has been since when? A. Since the first of May. I got a raise every year.

Q. What was it before that? A. \$85 a month.

Q. You have a life position, as I understand it? A. Yes.

Q. And you appreciate your salary and your hours? A. Yes. 40

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Q. As you never did before? A. Yes, I certainly do; but I am willing to give them up at any time to have my husband if I was forced to do that.

Q. Why did you say in your letter of May 2d, that the only decent, clean way for the future was in a divorce? A. Because I had received two  
10 anonymous letters and they said something about his flames—he had found another flame—and I understood from those that he probably was going with somebody else. In one of the anonymous letters it said that I roped him into marriage.

MR. GOUGH: I object to the voluntary statement of the witness and ask that it be stricken out.

MR. MAXSON: It is in response to the  
20 question.

THE COURT: Yes, I think that is proper.

A. (continuing) And it said, according to all reports he is going with that girl and if we had let him alone he would have married her.

Q. And it was because you got these anonymous letters that you put that statement in your letter? A. Partly.

Q. What was the other reason? A. Because I had written to him in October a conciliatory letter  
30 which he hadn't answered.

Q. That letter in October was the one in which you said you didn't want to live with him while his mother lived? A. No, that was the May letter.

Q. Well, the conciliatory letter of which you speak is the letter written in October? A. Yes, October.

Q. And that is the letter in which you say you didn't want to live with him while his mother lives? A. Lives with him.

40 Q. You didn't say that. A. That is what I meant.

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Q. Why didn't you say what you meant? A. I don't know that we always do; that was the undercurrent all along.

Q. And in that conciliatory letter of October 7th, as you style it, why did you say it meant nothing to you so far as a divorce or support goes because you couldn't get either from him? A. Because I am a Catholic. **10**

Q. That is the reason you said that? A. Yes, and along with it what that means, being a Catholic.

Q. (By the Court) Is he a Catholic?

A. No.

Q. Your understanding of the situation is that a Catholic cannot have a legal separation? A. Yes. Of course, in the eyes of the law that is all right, but not according to my belief. **20**

Q. Isn't it only a question of remarriage? A. I couldn't remarry.

Q. But still, at the same time, there could be a divorce? A. Yes, but I don't believe that it is as much——

Q. You may be mistaken about that; you don't know, do you? A. Well, according to my belief, that's all.

Q. Were you talking about a church divorce when you said: "It means nothing to me so far as a divorce or support goes, because I could not get either from you"? A. No, I had no idea of a divorce. **30**

Q. What were you talking about then? A. Because I had received these anonymous letters.

Q. You hadn't received these anonymous letters at that time? A. Yes, I had received a letter in December, 1911.

Q. But you didn't mention it in this letter? A. No, I didn't say anything about it until last May. **40**

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Q. (By the Court) Did you call your husband's attention to these anonymous letters you speak about? A. I didn't pay any attention to them until he didn't answer my own letter. I said that in the letter of May that I didn't believe them at all when they had come to me.

10 Q. You accused him of having written the anonymous letters to you? A. Yes, because nobody else knew the facts.

Q. But it wasn't his writing, was it? A. No.

Q. Did you make any investigation to see who sent them? A. No, I didn't pay any attention to them at the time.

Q. You thought that your letter of October 7, 1914, was a conciliatory letter? A. I did.

20 Q. Now, will you just tell us what you meant by that clause, "It means nothing to me so far as a divorce or support goes, because I could not get either from you"? A. I said, because I am a Catholic.

Q. You realized you had no cause against him for divorce, did you? A. I didn't consider a divorce at all; I didn't think of such a thing.

Q. You realized that you had no cause for divorce against him? A. I didn't think about it.

30 Q. You wrote about it without thinking about it? A. No, but I had received these letters about these women, and it looked then to me as if he were looking for a divorce and he wanted me to go and get it.

Q. And yet you didn't mention those letters in this letter of October 7? A. No.

40 Q. I call your attention to the last paragraph of the letter of October 7, 1914: You speak of the people at home, and you say, "You must know how they feel towards you at home, yet, you see, they have not been able to influence me against

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you." They couldn't influence you in his favor, could they? A. No.

Q. Why not? A. Because there was nothing in his favor that they could say. I always liked him and was perfectly willing to live with him. He knew that.

Q. When did you first hear that this suit was pending, Mrs. Fraser? A. In July. 10

Q. And how did you hear it? A. The papers were sent by mail.

Q. And then afterwards by about three months you received personal service? A. Yes, in November.

Q. Now, did you do anything in July after you got notice through the mail in regard to defending the divorce? A. Yes, I went to a lawyer, and his fee was so entirely outside of my purse that I didn't hire anybody. 20

Q. And you let the matter drop? A. Yes.

Q. You say you loved your husband at that time? A. Yes.

Q. And wanted to live with him? A. I certainly did, but didn't have money to defend the case unless I burdened my parents once more.

Q. Why didn't you have somebody seek out your husband and patch this matter up? A. I did; Mrs. Hardy called there one Sunday afternoon. 30

Q. I mean after you got notice of the divorce?

THE COURT: After July.

A. I thought there wasn't any use.

Q. And you made up your mind because you couldn't pay the lawyer you would let the thing go by the board? A. I did.

Q. And what changed your mind? A. The case came up again. I got the second notice in the papers, and I wrote to the Chancellor, and asked 40

(Mrs.) Mary M. Fraser—Cross.

him if I could at least be present at the hearing, and he said certainly; that there wouldn't be any hearing on that day but my answer should be in on December 30th, and I sent in my answer and he referred me to Mr. Maxson.

Q. Why didn't you set up in your answer that you were always ready and willing to live with  
10 your husband? A. I thought he knew that.

THE COURT: She says, as I understand her, that she was always ready and willing to live with him under the conditions that she mentioned, but as long as he had his mother with him she wasn't willing to live with him. That is qualified all the way through. A. Yes.

THE COURT: And that was a settled determination in her mind at the time she left.  
20 A. Yes.

Q. Referring again to Exhibit P-6, Mrs. Fraser, you say in there you asked him why he doesn't get a divorce and that any time he pays the lawyer he can have his legal freedom; do you think that was a desire to live with him? A. Well, he hadn't answered this letter that I wrote to him, and it certainly showed that he wanted something.

Q. Do you want us to believe that at that time  
30 you were willing to live with him? A. Yes, at any time—now.

Q. If that was so why did you write him this letter? A. Because I waited nearly seven months for an answer to this letter, and I showed I was willing to live with him.

Q. Now, going back again to the letter of October 7, 1914, where you say you'll admit it has taken you all this time to see things in a sane, right manner; what had you seen in the matter  
40 that wasn't sane? A. Well, when he decided that

(Mrs.) Mary M. Fraser—Cross.

he was going to keep his mother; and I made up my mind that he would never see me again, but social life doesn't go on that way, and he is the father of Margaret and my husband just the same, and I thought I had made a mistake in breaking completely with him.

Q. You had broken completely? A. Yes. He hadn't even come near me and I hadn't seen him. 10

Q. It was your determination when you left him not to have anything more to do with him?

A. Yes, because he hadn't treated me in a decent way, but I changed my mind after that.

Q. Had you meanwhile consulted a lawyer?

A. No, never at any time.

Q. Until after the notice sent to you in July?

A. Yes.

Q. Why did you, in November, 1910, get Mrs. Hardy to come into the situation to adjust matters? A. Because she was the only one that would do it as I wanted it done. 20

Q. And you say after your separation you sent her to Mr. Fraser's house? A. Yes, one Sunday afternoon.

Q. When was that? A. About three weeks after I left, I think.

Q. What was that for? A. She went in and asked him about me—

Q. No, what did you send her for? A. I wanted to see how he felt toward me; I wanted to see if he cared, because he hadn't shown any evidence of it. 30

Q. You really wanted to go back to him? A. Certainly.

Q. You changed your mind then as to keeping away from him? A. Yes.

Q. Inside of three weeks? A. Yes, it was shorter than that.

Q. Although you had moved out, bag and bag- 40

(Mrs.) Mary M. Fraser—Cross.

gage? A. Yes. But I hadn't changed my mind about living with his mother, you understand, and I wouldn't have moved out, bag and baggage, if he had done anything about it.

Q. What did you think he meant when he asked you if you couldn't stand it a little longer? A. I imagined that he thought his mother—she had  
 10 been very sick and he probably thought she wouldn't live forever. That is what I imagined he thought.

Q. When was that conversation? A. That was either Wednesday or Thursday before I went.

Q. And yet, in spite of the fact that the mother had been sick and in four months you had had this little dispute? A. It wasn't little at all.

Q. This dispute with her about the baby's clothes, and in spite of the fact that she was  
 20 hard of hearing and you were in a temper at that time you thought you were justified in packing up, bag and baggage, and leaving? A. It was a daily occurrence; it didn't happen once. It was her general attitude. That was their home and "my son's house," as she used to say, and I was an intruder in the home.

Q. The mother didn't handle any money in the house? A. No, only \$2.50.

Q. Did she give any orders? A. Yes, while I  
 30 was in bed.

Q. But none while you weren't in bed? A. No.

Q. You came and went as you pleased? A. Not as I pleased.

Q. Well, you were able to, in your condition? A. Yes.

Q. And your husband never criticised you for going out, or anything like that? A. Not directly.

Q. That isn't the question; did he ever criticise you? A. No, not directly.

40 Q. Did anybody in his presence ever criticise you? A. Yes, his mother did.

(Mrs.) Mary M. Fraser—Cross.

Q. In his presence? A. No, not in his presence.

Q. You never said to his mother that you would like it very much if she would leave? A. No, I never did.

Q. Why didn't you? A. Because I didn't want to.

Q. Why didn't you want to? A. Because I thought that was his business. 10

Q. How many times did you ask him to provide a home in which you and he could be alone and have the boy with you? A. Twice, directly.

Q. In so many words you said it to him? A. Yes; once in November and once in May.

Q. Now, what were the exact words in November? A. I remember I said that either his mother or I would have to leave.

Q. That was in November? A. That was in November, and he said I could rest my mind on that point, that his mother was going to stay, and that I could go as far as I liked. 20

Q. And when in November was that? A. Around election time; I don't remember just when.

Q. Was there anybody else present? A. No.

Q. Now, in May what was it you said to him? A. I was telling him about the milk-bottle affair and I said it was better—didn't he think, it was better that I should go, and he asked me if I couldn't stand it a little while longer, and I said no. 30

Q. And that was the time you told him it was no concern of his where you were going? A. No, that was the next day, when he knew that I was going.

Q. How did he know? A. Because there were evidences all around.

Q. What evidences were there? A. I had packed a few things that belonged to me. 40

(Mrs.) *Mary M. Fraser—Cross.*

Q. When had you packed them? A. On Friday morning.

Q. Was that the first indication he had that you were going? A. Yes.

Q. Friday morning? A. Yes, that is, definite.

Q. What indefinite indication? A. I told him on Thursday if he didn't think it was better I  
 10 should go, and he said couldn't I wait a little while longer, and he didn't say that I should go or shouldn't go.

Q. What did you say in answer to his question, couldn't you wait a little while longer? A. I said no.

Q. Why couldn't you? A. I couldn't bring up children in such a place. My little girl Margaret was born and trouble began.

Q. Now, what were the first definite indications  
 20 that you were going? A. Friday morning, when I moved the things.

Q. What did you do in the way of moving them? A. I took some of the pictures down and packed some of the things.

Q. What time Friday? A. Before 12 o'clock.

Q. Where was he? A. In bed.

Q. What time did he get up? A. Around 12.

Q. Where were these pictures? A. Downstairs  
 in the dining-room.

Q. Did you see him in the dining-room after  
 30 the pictures were taken down? A. No, but I did see him in the kitchen.

Q. There were no pictures in the kitchen? A. But he used to eat in the kitchen.

Q. You didn't see him in the dining-room at all? A. No.

Q. What time did he leave the house that day? A. I don't know, about three or four; I don't know.

Q. And nothing had been moved out of the  
 40 house up to that time? A. Not on Friday.

(Mrs.) Mary M. Fraser—Cross.

Q. Where were these pictures that were taken down? A. I am not sure whether I brought them upstairs or left them in the dining-room.

Q. Don't you take down pictures to clean them?

A. No, certainly not.

MR. MAXSON: This testimony is all accumulative. He has admitted on cross-examination that he knew she was going. Counsel is attempting to show that he didn't know that she was going. 10

THE COURT: Yes, I don't see that it bears very much upon the case, Mr. Gough.

Q. Who is the man that moved you? A. It was a man from the Pioneer Warehouse, down on Fulton street, and I stored my furniture. It was a few pieces.

Q. When did you hire him? A. On Saturday morning. 20

Q. What time? A. I telephoned him about twelve o'clock.

Q. What time was it you began to move things on Friday? A. Friday morning before ten o'clock.

MR. MAXSON: That is the fourth time she has testified to that.

Q. What time did you tell the man to come? A. I told the men to come sometime Saturday afternoon. 30

Q. After three o'clock? A. Yes.

Q. After four o'clock, rather? A. No, I wouldn't say that.

Q. You wanted to move while your husband was away? A. Yes, of course, but he knew I was going.

Q. What difference would it make? A. Because it would have avoided a little bit of unpleasantness for both of us, and there was enough 40

(Mrs.) Mary M. Fraser—Cross.

of that anyway with a small child three weeks old, and I wasn't in any condition to put up with it.

Q. What time did the man come? A. About half past three or a quarter to four.

Q. Did you say anything to the man about coming too early? A. Yes, I did; and my mother-in-law stood and told them not to move the rug in the dining-room; that that didn't belong to me, that belonged to her. I turned and said, "don't mind; that is only my mother-in-law" and laughed, and my husband stood outside of the window.

Q. And he said nothing to you? A. Not a word.

Q. Nor you to him? A. No.

Q. And you had last spoken to him when?  
20 A. On Friday morning. When he came in Friday night he never came near me. When he came in from work he didn't come into the room to see the child and myself, and I thought it was an unfit place for me to stay.

Q. Into what room did he come? A. In his room.

Q. And slept there that night, didn't he? A. No.

Q. And he wasn't in your room at all that Friday? A. Yes, at noontime, when I spoke to him.

30 Q. And how about the night before; he had been in there, hadn't he? A. Yes, he came in to see me.

Q. It was your complaint that he hadn't been in to see you at some time? A. Friday night when he came home.

Q. What time? A. One o'clock, or two o'clock.

Q. In the morning? A. Yes.

Q. He had gone right to his bed? A. Yes.

Q. He was sleeping with Charley? A. Yes.

40 Q. Were you awake? A. Yes, I was awake

(Mrs.) Mary M. Fraser—*Re-Direct.*

and up. It was four o'clock when he came in that morning.

Q. Are you quite sure you were awake? A. Positive. He is thinking of another night that he came in and spoke to me and I was asleep, but that wasn't the night, for I was up with baby.

Q. Meanwhile you had arranged with your mother that you were coming back to her house? 10

A. No, not until the last minutes.

Q. When was that? A. Saturday when the things came there. She didn't know until the last minute that I would come; she thought surely he would make some decision.

Q. She thought there was some misunderstanding? A. No misundertsanding; we were waiting for him to decide whether I should stay or not, and he didn't speak to me.

Q. Nor you to him? A. No. 20

REDIRECT EXAMINATION BY MR. MAXSON:

Q. You were asked regarding a reconciliation with your mother-in-law and you began to tell why you didn't; now will you state why you didn't? A. She had said I was a bad, wicked woman, and I thought that was very serious.

Q. After one of the differences that you had with your husband you testified that he stayed away for a week? A. Yes. 30

Q. When did that happen? A. In December.

MR. GOUGH: I object. There is no testimony that he stayed away a week.

MR. MAXSON: Yes.

MR. GOUGH: From the house?

THE COURT: No, separate room.

Q. Where did he stay at that time? A. He slept with Charley. 40

Q. In a separate room? A. Yes.

(Mrs.) Mary M. Fraser—*Re-Direct.*

Q. Do you recall when you and your nephew were moving the trunk out, about the time you left? A. Yes.

Q. And you met your mother-in-law? A. Yes, and she said I had no more right in that house.

10 Q. Did she say anything else? A. She started to push down the stairs a table, and my nephew was in between us, with a trunk between us, and we had to move very quickly to get out of the way.

Q. Did your mother-in-law make any remark about your going out of the house? A. Yes.

Q. To you? A. Not to me.

Q. Did you ever hear of her making remarks to somebody else? A. Yes.

MR. GOUGH: I object.

20 Q. Did you ever tell your husband what you heard?

MR. GOUGH: I object to what she heard.

THE COURT: Why, that is proper. It can be answered by yes or no, but don't say what the remarks were.

MR. GOUGH: I object on the ground that it is leading.

A. About what?

30 Q. About your mother-in-law having spoken about your going out of the house? A. No, I don't think I told him about that.

DEFENDANT RESTS.

THE COURT: I am going to call the petitioner's attention to the fact that they haven't corroborated the testimony at all.

40 MR. GOUGH: Mrs. Fraser, the mother, is very hard of hearing and it is almost impossible to have any communication with her

*Charles William Fraser—Direct.*

except through the medium of the grandson, whose voice seems to penetrate more clearly than ours would, and so I am going to suggest that there could be no objection to the oath being administered to her through the grandson.

(An attempt is here made to communicate the oath to Mrs. Jane Fraser through the boy Charley, but it was not successful). 10

MR. MAXSON: I don't see why, under these unfortunate circumstances, we can't have the questions reduced to writing, and then let her answer them.

MR. SULLIVAN: The only objection to that is it takes so much time. I have had no difficulty in communicating with Mrs. Fraser through her grandson.

THE COURT: Maybe you can agree on her statement. It seems impossible to make her hear. How are you going to examine her, anyhow, if you can't administer the oath? Have you got any other witnesses? 20

MR. GOUGH: None except the boy. I will have the boy sworn.

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CHARLES WILLIAM FRASER is therefore called as a witness on behalf of the petitioner, in rebuttal, and examined by the Court as follows: 30

Q. How old are you, little boy? A. Twelve.

THE COURT: Any objection to swearing him?

MR. MAXSON: No, I haven't any objection to his testimony.

(The witness is sworn, and testified as follows):

DIRECT EXAMINATION BY MR. GOUGH: 40

Q. Where do you live? A. 119 Magnolia avenue.

*Charles William Fraser—Cross.*

Q. With whom do you live? A. My father and my grandmother.

Q. How long have you lived there? A. About three years.

Q. Where do you go to school? A. No. 11.

Q. How far from the house is that? A. Six or seven blocks.

10 Q. That is in Bergen Square, Jersey City, isn't it? A. Yes.

Q. Where did you live before you lived there? A. 183 Decatur street.

Q. Where did you go to school then? A. No. 35.

Q. Did you see your father go off to work every morning? A. Every morning but Saturdays.

Q. He slept in another room? A. It is kind of between a partition.

20 Q. And for the last three years both you and he have been living there with your grandmother? A. Yes.

Q. He eats his meals there? A. Yes.

Q. And you do, too? A. Yes.

Q. Who keeps house for you? A. Grandmother does.

## CROSS-EXAMINATION BY MR. MAXSON:

30 Q. Have you lived there right straight along, Charles, during the three years? A. Yes.

Q. Never lived anywhere else? A. No, sir.

Q. During any of the time? A. Only vacation one time we went to Toledo.

Q. You just went there for a vacation? A. Yes.

Q. You left the furniture in the house while you were there? A. Yes, sir.

40 Q. Did your father have all the furniture there during all of the three years? A. All that I know of.

*(Mrs.) Jane Fraser—Direct.*

THE COURT: Of course, I don't want to decide the case without all the testimony, and it is unfortunate that some way cannot be found to get the testimony of the mother. But I don't see how you are going to examine her, even if you can manage to make her understand the oath.

MR. GOUGH: I suppose we will have to prepare a list of questions in the form of interrogatories. 10

MR. MAXSON: I don't want that to be taken outside of the court; I want to have it done in the presence of the Court, naturally.

THE COURT: Yes, I think if you want to get the benefit of your witness's testimony you should examine her here. How do they communicate with her? 20

MR. GOUGH: Through the boy. Of course, on some days she hears better than on others.

THE COURT: Suppose you let the mother take the stand and let the boy try again.

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(MRS.) JANE FRASER takes the stand, and after being sworn, the oath being repeated to her by the boy Charles Fraser, testified as follows:

DIRECT EXAMINATION BY MR. GOUGH: 30

Q. Where do you live? A. 119 Magnolia avenue, Jersey City.

Q. How long have you lived there? A. About three years.

Q. When did you begin to live there? A. We moved there the first of March; it will be three years this next March.

Q. And who moved there with you? A. (The witness couldn't understand this question and did not answer it). 40

(Mrs.) Jane Fraser—Cross.

Q. Who makes up the household there? A. Just three of us.

Q. And you have all lived there since three years ago this March? A. Yes, sir.

Q. And your son has slept there every night? A. Yes, sir.

Q. And eaten there daily? A. It is his home  
10 and he is there and eaten there daily.

Q. And he eats there every day? A. Yes sir, he does.

Q. Did you ever offer to strike your daughter-in-law? A. Not until she struck me.

Q. When was that? A. I was very sick and I was sitting on the porch.

Q. When was that? A. About a week before she left. I was sitting on the porch and all at once I felt a blow across my arm. I turned  
20 around quickly and saw it was her, and what she hit me with I don't know, but my arm was black and blue; and I said, "If you strike me again you will be sorry" and she said "I ain't afraid of you." I said, "You struck me," and I got hold of one of the bottles standing there and I said what I would do. "Oh," she says, "I will have you put out in the street." I says, "Be careful you ain't the first to go out," and those were the only words I ever had with her.

Q. Had you ever had words with her on any  
30 other occasion? A. No sir, I didn't; she abused me but I never answered her back. I had promised my son that I would never have words with her and I kept that promise until she struck me. I was struck by her once and I would not let her strike me again without giving it to her back.

CROSS-EXAMINATION BY MR. MAXSON:

Q. Did you ever write a letter to a fortune  
40 teller? A. Yes, sir.

(Mrs.) Mary M. Fraser—Direct.

Q. And did your daughter-in-law see it? A. She tore open that letter and four other letters belonging to me, and she and her sister-in-law read them.

Q. In one of those letters to the fortune teller did you say that she was a bad, wicked woman? A. I did, and I would like to tell you why I said it—because she bragged how she abused her mother and sister; she abused them shamefully and gloried in it, and I thought a woman that would do that must be a bad woman. And she also told me how she abused the principal of the school and the principal had her arrested and put out of the school. If she had let my letters alone everything would be all right. I never forgave her for that. They were my letters, and they didn't have nothing to do with her at all. I want to speak a word of my son: He was one of the noblest and kindest men in the world.

Q. That is all.

PETITIONER RESTS.

(Mrs.) MARY M. FRASER, recalled in her own behalf, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. MAXSON:

Q. Did you strike your mother-in-law on the occasion that that difficulty arose? A. Certainly not.

Q. Did you ever tell her that you had been arrested for abusing the principal of the school? A. That is still impossible, because I am still in school.

Q. Were you ever arrested? A. No sir, of course not.

(Mrs.) *Mary M. Fraser—Cross.*

CROSS-EXAMINATION BY MR. GOUGH:

Q. Did you have any trouble with the principal? A. Yes.

Q. What was it you said to your mother-in-law about the principal? A. Oh, I don't remember; we were very friendly at first.

10 Q. No, that isn't the question. I move to strike out the answer as not responsive. What was it you said to your mother-in-law about your principal? A. I don't remember now.

Q. What was it? Did you say anything about the teachers? A. Yes, I used to amuse all of them with the stories about what went on in school.

Q. Did you say anything about the trouble that you had with the teachers? A. Oh, I don't remember now. It was very trivial.

20 Q. You have had trouble with the principal? A. Yes.

Q. And with the teachers? A. Not with the teachers.

Q. And you have had trouble with your mother and sister? A. Yes, we have had.

Q. And you told Mrs. Fraser about it? A. Yes.

30 Q. And you told Mrs. Fraser how you abused your mother and sister? A. Oh, I don't remember anything of that kind.

Q. What did you tell her about your sister and mother? A. I don't remember now.

CASE CLOSED.

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**Memo. of Opinion.**  
**IN CHANCERY OF NEW JERSEY.**

Between

WILLIAM J. FRASER,

*Petitioner,*

*and*

MARY M. FRASER,

*Defendant.*

Memo.  
of  
Opinion.     **10**

Memoranda of conclusions in the above-stated cause, on final hearing at the Chancery Chambers in Jersey City, February 18 and 19, 1916, stated by His Honor, Charles J. Roe, Advisory Master.

The parties were married June 12th, 1910. They lived together as husband and wife in Brooklyn until May 13th, 1911, when the defendant left the home of her husband with a three weeks' old child of the marriage. 20

The husband maintained in their home his mother with whom the defendant says she could not agree, and has ever since absolutely refused to return to her husband's home so long as the husband's mother were kept by him in that home.

The husband's mother is an elderly woman, physically infirm, and has since 1906 lived with and been supported by her son, the petitioner. At the time of the marriage of the parties the defendant insisted that the home of her husband should not be disturbed, but that his mother should form part of the family. The first few months after the marriage everything appeared agreeable. 30

That, in about September, after said marriage, there were some trifling disputes between the defendant and her mother-in-law. These differences were of the most trivial character, and 40

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were provoked by the defendant, who was dissatisfied with the money she received and with the mother-in-law's efforts to economize expenses.

The case presents but one feature and that is, whether a wife can leave the home provided by the husband and charge him with abandonment, because she finds it disagreeable to have a mother-in-law in that house.

10

In this case it is clear that the mother is indigent; that the husband's income is not sufficient to provide a home for her elsewhere. The husband was compelled to ask his wife to make the best of the situation, and I think that because the wife failed to do this she, and not the husband, is the deserting party. This was decided in *Keery v. Keery* (32 N.J.L.J., 135).

20

The husband is obliged to provide a home for his wife. He has a right to select the place of residence, and the wife, on the other hand, should be recognized as mistress of the house.

30

If the husband, actively or passively, permits another to usurp her place he may be charged with driving her from his home, but if no such intent can be discoverable—and this case is entirely devoid of such—then to justify the wife in leaving there must be legal evidence of cruelty—such cruelty where the husband permits such annoyance and dissensions to exist that they become dangerous to the health or safety of the wife, then he becomes chargeable with desertion.

40

This would be characterized as constructive desertion, but I am not willing to subscribe to the doctrine that a wife is justified in deserting the home of her husband simply because she dislikes the presence of her mother-in-law or any other kin of her husband, or because she has formed a dislike to her husband's kin.

The doctrine that the wife can control or

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direct a husband's choice with regard to a home has no place in the jurisprudence of New Jersey. If a wife, because she is dissatisfied with what her husband provides, can leave his home and charge him as a deserting party, the result would be that it would offer a great inducement for the multiplication of suits for divorce. It has been held in this State that a husband's inability to support his wife does not amount to constructive desertion even though he is grossly intemperate or a gambler. 10

The only way in which a wife can charge her husband with her act in leaving his home is in those cases where he drives her out or exercises such acts directly or indirectly against her as that her remaining longer with him would impair her life or her health. In this case the wife, in her correspondence with her husband and upon the witness stand, expressed herself as loving her husband and being willing to live with him provided he would change the conditions of their home, that is, drive his mother away. This clearly shows that she attributes to him no cruelty, directly or indirectly, that justifies her in leaving him. The fact that she makes the condition that he must drive away his mother, giving only the paltry reason that she dislikes her and does not want her in the household, makes her the deserting party. 20 30

There is evidence in the case that leads me to believe that there are other reasons why the wife does not care to assume the obligations of a wife: She was a school teacher when she married, getting a large salary, and since she has left him she still continued in that employment, earning a larger salary than her husband could possibly provide for her maintenance, and that the duties of wife destroyed the freedom she wanted 40

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to enjoy; and the other reason, of her being of a different religious faith, may have contributed to her leaving her husband. I must, therefore, hold her as the deserting party.

The husband has never seen her since she left the house. There has been a series of letters passing between them, beginning in 1913 and ending in 1915. In all of these letters the wife has reiterated that it is useless for her husband to ask her to return so long as her mother-in-law lives, or, as she interprets it, so long as she lives in the family. In view of this settled determination so often repeated by the wife I think it comes in that class of cases laid down in *Hall v. Hall* (60 N.J.Eq., 469) and *Rogers v. Rogers* (81 N.J. Eq., 479) where the law does not impose on the husband arbitrarily the duty to make advances where it is manifest from the temper of disposition of the wife that such effort on the part of the husband would be unavailing.

The defendant insists that the petitioner is not entitled to relief because he is not a bona fide resident of this State. The separation took place in Brooklyn in 1911, and before the desertion became complete, in April, 1913, the husband removed to New Jersey where he has since continued to reside, and he stated on cross-examination that he came to New Jersey for the purpose of getting a divorce, but on re-direct examination he further explains that he came to New Jersey because it was more convenient for his business—he could get to his place of business a great deal quicker; that the school system was better, and that his boy attending such school was getting along faster and much better than in Brooklyn; that living was cheaper and the surroundings better; and that he intended to stay here and had voted in New Jersey. After that he again reiterates that his principal idea in coming to New

*Memo. of Opinion.*

Jersey was to get a divorce. I do not think that this necessarily proves that he, as a non-resident, was availing himself of the laws of this State for the purpose of securing a divorce. It may have been his original purpose, but it is clear that he did acquire a bona fide residence in the State of New Jersey, and that he intends to remain.

10

What may have been his original motive in changing his domicile is immaterial, if an actual change of residence is made, and there is an intention to fix the permanent home there indefinitely. As stated in *Harral v. Harral* (39 N.J. Eq., 279-285) "There must be a voluntary change of residence; the residence of the place chosen for a domicile must be actual; to the factum of residence there must be added the *animus manendi*; and that place is the domicile of a person in which he has voluntarily fixed his habitation not for a mere temporary or special purpose but with a present intention of making it his home, unless or until something which is uncertain or unexpected shall happen to induce him to adopt some other permanent home." It is not the motive that induced him to change his residence that is material, but it is his state of mind after he has changed such residence; and it seems to me clear in this case that the state of mind of the petitioner was to make this State his permanent home.

20

30

I think, therefore, he is a bona fide resident of the State and has been such resident for the required period, and is entitled to the relief afforded to residents of this State. I shall, therefore, advise a decree for divorce; but before such decree is signed it must be submitted to the defendant's solicitor, who will be permitted to make any proper application with regard to the terms of said decree.

40

**Decree Nisi.**

(Filed )

## IN CHANCERY OF NEW JERSEY.

Between

WILLIAM J. FRASER,

*Petitioner,**and*

MARY M. FRASER,

*Defendant.*On  
Petition,  
Decree  
Nisi.

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This cause coming on to be heard in the presence of JOHN FRANCIS GOUGH, of counsel with the petitioner, and of EDWARD MAXSON, of counsel with the defendant, on petition, answer, and oral proofs taken in open court; whereupon, and upon duly considering the said pleadings and proofs, and hearing, and considering the arguments of counsel, from all of which it now appears satisfactory to the Chancellor, that the petitioner and the defendant were lawfully joined in the bonds of matrimony on or about the twelfth day of July, A. D., Nineteen hundred and ten, and that the defendant has been guilty of wilful, continued and obstinate desertion of the petitioner for the term of two years, as alleged in the said petition, and that at the time the cause of action for divorce for the said desertion arose, the petitioner was a bona fide resident of this State, and that the said petitioner has continued so to be down to the time of the commencement of this action, and that the petitioner has been for the two years next preceding the commencement of this action, a bona fide resident of this State.

And it further appearing that the defendant

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*Decree Nisi.*

could not be served personally with process within this State, and that the petitioner being at the time of the commencement of this action, a bona fide resident of this State, jurisdiction herein has been acquired by publication of notice to the defendant in this suit, followed by notice to the defendant without this State, as service substituted for personal service within this State, pursuant to the orders heretofore made by the court in this cause for that purpose, and as prescribed by law and the rules of this court, as well as by the appearance and answer of the defendant. 10

It is thereupon, on this twenty-ninth day of March, Nineteen hundred and sixteen, by His Honor, EDWIN ROBERT WALKER, Chancellor of the State of New Jersey, Ordered, Adjudged and Decreed, and the said Chancellor, by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby Order, Adjudge and Decree that the said petitioner, WILLIAM J. FRASER, and the said defendant, MARY M. FRASER, be divorced from the bonds of matrimony for the cause aforesaid, and the said parties and each of them be freed and discharged from the obligations thereof, unless sufficient cause be shown to the court why this decree should not be made absolute within six months from the date hereof. 20 30

E. R. WALKER, *Chancellor.*

Respectfully advised,

CHARLES J. ROE, *Advisory Master.*

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**Petition on Appeal.**

(Filed June 9, 1916)

**NEW JERSEY COURT OF ERRORS AND APPEALS.**

10	Between	MARY M. FRASER, <i>Appellant,</i> <i>and</i> WILLIAM J. FRASER, <i>Respondent.</i>	} Petition on Appeal.
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The petition of Mary M. Fraser, the appellant in the above-stated cause, respectfully shows that your petitioner finds herself aggrieved by a decree nisi, made in the Court of Chancery by His Honor Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the 29th day of

20 March, in the year 1916, wherein the said William J. Fraser was petitioner and the said Mary M. Fraser was defendant, in this respect, to wit: that the said decree adjudges that the said William J. Fraser be divorced from the bonds of matrimony for the cause of desertion from the said Mary M. Fraser.

30 And your petitioner humbly appeals from that part of the decree granting said divorce and also from the whole decree upon the ground that it is not in conformity with the evidence taken in said cause, and for that the said respondent is not entitled on the evidence adduced to any relief in the Court of Chancery.

And your petitioner therefore prays that the said decree may be, in all particulars, reversed, set aside and for nothing holden. And that your petitioner may have such relief in the premises as the court shall seem meet.

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EDWARD MAXSON,  
Solicitor and of Counsel with  
Appellant.

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**Answer on Appeal.**

(Filed July 5, 1916)

**NEW JERSEY COURT OF ERRORS AND APPEALS.**

Between

MARY M. FRASER,

*Appellant,*

and

WILLIAM J. FRASER,

*Respondent.*On  
Appeal  
from  
Decree **10**  
in  
Chancery.  
Answer.

The answer of the respondent to the petition of appeal of the appellant.

The respondent admits it to be true that a certain decree nisi was on March twenty-ninth, 1916, made and entered in the Court of Chancery, as in the petition of appeal is 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 said decree as to the matters complained of by the appellant in her petition of appeal is agreeable to law and equity, and he prays that the same may be affirmed, with costs to be adjudged to this respondent. **20**

JAMES A. SULLIVAN, **30**

Solicitor of Respondent.

JOHN FRANCIS GOUGH,

Of Counsel with Respondent.



NEW JERSEY  
Court of Errors and Appeals

NOVEMBER TERM, 1916.

Case No. ~~153~~ 155

WILLIAM J. FRASER,  
*Petitioner-Appellee,*

*vs.*

MARY M. FRASER,  
*Defendant-Appellant.*

*On Petition for  
Divorce.*

ON APPEAL FROM COURT OF CHANCERY.

**Brief for Petitioner-Appellee.**

The conclusions of Advisory Master Roe are found on pages 93 to 97 of the printed case. To them we refer generally as to the determined facts. With this preliminary statement we come to consider *seriatim* the points stated in the appellant's brief.

**POINT I.**

**The petitioner-appellee was not responsible for the separation.**

To begin with, he did not support his mother in any controversies between her and his wife, nor does the appellant point out any evidence in support of her statement that he did so support the mother. On the contrary, he testifies (page 23, line 30; page 24, line 4) that upon their joint complaints he tried to pacify them both and tried to smooth matters over and keep them quiet. In none of the letters from the wife to the husband

(pages 13, 14 and 15) is there a charge by the wife that the husband supported the mother against her. That the appellee was a good, decent man wholly mindful of all his obligations is shown by what the appellant herself says. She says (page 14, lines 35-36) she admired him for the manner in which he brought up her stepson; (page 15, lines 1 to 5) she did not see things in a sane right manner; (page 15, lines 17 to 19) she could not get a divorce from him; (page 57, lines 10 to 20) the tradesmen's bills were paid as they accrued; (page 55, lines 10 to 25) her husband did not drink, used no profane language, and never struck her, and (page 55, lines 35 to 40) the relations between herself and her husband were pleasant.

She also testifies, and this is very important, that *both her own mother, and her brother's wife told her to stay with her husband* (page 69, line 15 to page 70, line 2). It passes comprehension, how, in the face of this testimony, and the expressions by the wife herself, it can, with any show of reason, be contended that the appellee was responsible for the separation.

The unreasonable attitude of the appellant is shown, not only by the fact that she would not take her own mother's advice, but is also clearly evidenced by her flying in a temper, as she herself admits, with her mother-in-law, who (pages 65, 66 and 67), was sixty-five years of age, and very hard of hearing. The imperious nature of the appellant is shown by her own testimony, as to the family washing. Her version of it appears on pages 59 and 61, and the incident explains a rupture between the parties in November, preceding the desertion. The husband, it will be noted, out of his wages, never had, at one time, more than ten dollars. His mother, on this occasion, washed the clothes be-

cause the usual washerwoman was not hired, and it was the silly objection of the appellant that before washing the clothes, the mother should have consulted her. The mother put the clothes out to dry on the line, and the wife, while they were still wet, took them off the line. If there was reason in the wife's attitude, it does not seem discernable. Moreover (page 60, line 20, etc.), the wife complained to the husband about the situation for about a half hour down stairs, and when he went upstairs, apparently to escape the conversation, the wife followed him upstairs. Then he went out.

## POINT II.

**There was a plain intention on the part of the wife to abandon and permanently renounce the obligations of the marriage relations.**

Her letters, we submit, show this. Again (page 72, lines 20 to 30) she told him the day before she left him, that she thought it did not concern him where she was going. His first letter to her brought no answer, and in her answer to his second letter (page 13), she states that it is impossible for him to expect her to return, while his mother lived with him; and again (page 15), she says that she does not want to live with him while his mother lives.

As to the point that the husband answered none of the wife's letters, it is submitted that Exhibit P 4 (pages 13, 14), required no answer, for it was a flat refusal upon the wife's part to live with him while his mother was alive, and the wife's second letter, Exhibit P 5 (page 14), was written by the wife more than two years, or as she herself stated in it, three and one-half years after the separation. The statutory period has then elapsed, and her intentions at that time were irrelevant and immaterial. There will not be found anything the wife said or

did, before the date of that letter, indicative of anything except the intention to abandon and permanently renounce the obligations of the marriage relations so long as his mother lived.

### POINT III.

#### The husband was not required to make any advances.

As the Advisory Master says, the disputes between the appellant and her husband's mother *were trifling; of the most trifling character*, and were provoked by the defendant who was dissatisfied with the money she received and with the mother-in-law's efforts to economize expenses.

What is to be said of a wife who, under such circumstances, against the advice of her own relatives, with absolutely no criticism to direct against her husband, who is everything a man should be, deliberately makes preparations, quits his roof, and takes with her their child of only three weeks? Does the law in such a case require that the deserted husband should seek out his wife, especially when at the moment of going she tells him that it is none of his business where she is going? If such is his duty, the law is topsy turvy. But the law is not topsy-turvy; it requires the husband only to do what any just man would do. The law requires a husband to make advances only when he has contributed to cause his wife's desertion. They must be those of a reasonable man, and they must be such efforts and advances as would be reasonably fruitful and not manifestly unavailing. The very event in this case showed that no effort on the husband's part would terminate the desertion, for his first letter went unanswered, and his second (page 12) showed the wife still to be adamant.

We respectfully submit, that under these circumstances, it was manifest, not only from the circumstances under which the wife left, and, but also from her temper and disposition, that any effort on the husband's part to terminate the separation would result in nothing. The legal consequence, of course, is that there was no duty to make any effort. The authorities supporting the above statements are set forth in *Rogers vs. Rogers*, 81 Equity, page 485, in which Chancellor Walker spoke for this Court. For the sake of convenience, we here list them: *Hall v. Hall*, 65 N. J. Eq., (20 Dick), 709; *Sterling v. Sterling*, 71 N. J. Eq., (1 Buch), 59; *Purnell v. Purnell*, 70 Atl. Rep., 187.

#### POINT IV.

We consider it unnecessary to deal with this point.

#### POINT V.

We also consider it unnecessary to deal with this point, except to state that it was clearly proved that the husband's wages, at the time of the wife's desertion, averaged about thirty dollars a week, (page 30).

#### POINT VI.

#### **There is corroboration of the wilfulness, continuedness and obstinacy of the desertion.**

The letters of the wife show her obstinacy; they show her wilfulness. Her attitude in not taking her mother's advice not to leave, shows both wilfulness and obstinacy. There is no element in the case, which indicates, however slightly, that the desertion was not continued. The cases cited by the appellant under this point were undefended, so far as we have been able to locate them.

The evidence in this case, as the Advisory Master

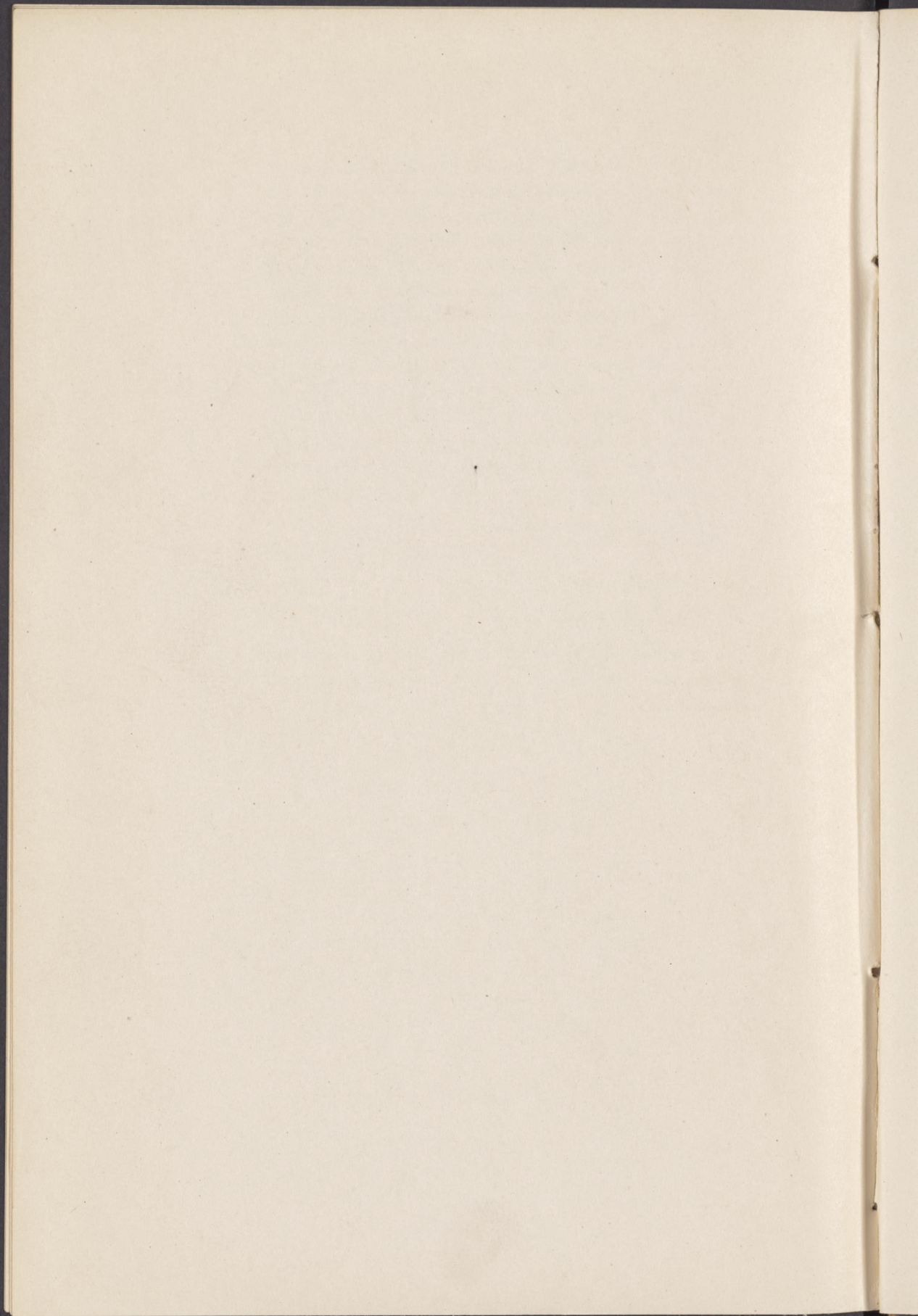
stated, shows the real reason why the wife did not care to continue her obligations as wife. She testifies (page 73) that when she married she was getting seventy-five dollars a month, and, at the time of the trial, ninety dollars. As she lives with her own family, we suppose it may be inferred that her household duties are not so onerous for her as they were when she was living with her husband. She expresses herself (page 17, lines 1 to 5), as appreciating her salary, hours, vacation, etc., as she never did before. We think that with her it has been a case of not being able to realize that marriage, with its adjustments, its trials, its troubles, is more important than mere creature comforts.

It is respectfully submitted that the decree in this case be affirmed.

JAMES A. SULLIVAN,  
Solicitor of Appellee.

JOHN FRANCIS GOUGH.  
Of Counsel.





# New Jersey Court of Errors and Appeals.

WILLIAM J. FRASER,  
*Petitioner-Appellee,*

*against*

MARY M. FRASER,  
*Defendant-Appellant.*

On Petition for  
Divorce.

*On Appeal from Court of Chancery.*

## **BRIEF FOR DEFENDANT-APPELLANT.**

This is an appeal from a decree of the Court of Chancery granting a divorce for desertion.

### **POINT I.**

**The petitioner-appellee was responsible for the separation.**

He supported his mother, who lived with him, in all controversies between her and his wife. He was well aware that these difficulties were continually going on. He testifies of "The quarrels, and bickering, and fighting which both my mother and my wife told me they were having" (p. 18).

Shortly before his wife left him, she suggested to him that she was going, and he testifies that he said, "That is up to you" (p. 19), and when he is asked,

"Did you say anything else?" he answers, "No, sir" (p. 19).

He made no real effort in good faith to keep her from leaving him. He says he had no more conversation with her than was necessary, and admits that he has never spoken to her since she left (p. 23).

When the wife discovered, shortly before the birth of her child, that her husband's mother had written a letter to a fortune-teller, in which the wife was characterized as a "bad, wicked woman", she complained to her husband, and was informed by him, that the opening of the letter was a criminal offense (p. 25).

After one of the difficulties between the wife and the mother-in-law, the husband left the wife and, as she testifies, "went with his mother and stayed there for a whole week, and they took their meals together" (p. 62).

In November of 1911, and a few months before the separation, he told his wife that "he was going to keep his mother and that I could go" (p. 58).

The mother-in-law continually told the wife it was her "son's house" and that she "could do as she pleased in it" (p. 49). The mother-in-law, although the baby was born in the house where they were living at the time, refused to go in and see it; she said "she did not want to see its face" (p. 64).

It was with knowledge of these things, and within a few weeks of the birth of this child, that the husband told his wife "she could go as far as she liked" about leaving.

He was at home when she with his baby, then only three weeks old, went away and he made no objection.

The petitioner-appellee therefore by implication consented to the separation at the time when his wife most needed his tender care and consideration. This consent has never been revoked.

## POINT II.

**There was no intention on the part of the wife to abandon and permanently renounce the obligations of the marriage relations.**

The wife's three letters, written April 1st, 1913, Exhibit P-3 (p. 12) ; April 26th, 1913, Exhibit P-4 (p. 13) ; October 7th, 1914, Exhibit P-5 (pp. 14-15), clearly show an earnest desire on her part to be reconciled. The husband answered none of these letters.

## POINT III.

**The husband made no vigorous and bona-fide effort to bring about a reconciliation.**

The wife wrote the three letters referred to under Point II, the husband neglected to answer any of them, and when he is asked "why he did not answer the letters", he says, "I thought it was bait" (p. 28).

He admits that he never saw or made an effort to see his wife personally after she left him, neither did he see the child or make an effort to see it, the only communication he had with his wife was in the form of two letters, Exhibits P-2 (p. 11) and P-3 (pp. 12-13).

In the language of the Court, "mere writing of letters unaccompanied by a single practical act, amounts to nothing".

*Coe v. Coe*, 59 Alt. Rep., 1059.

It is well settled in this State that an attempt or offer to accomplish a reconciliation must be made in good faith, and not to establish ground for suit.

See

*Arrowsmith v. Arrowsmith*, 71 Alt. Rep., 702.

In this case the Chancellor writing the opinion says, referring to letters similar to those written in this case:

“This studied attempt to put himself in right and absolve himself from the consequences of a situation of his own creation is unavailable” (p. 704).

This case is cited with approval by this Court in

*Corduan v. McCloud*, 93 Alt. Rep., 724, at p. 726.

It is fair to infer, although the record is not entirely clear on the point, that the first letter (Exhibit P-2) was written after the husband had consulted with a New York attorney and before, under such attorney's advice, he had established a residence in this State for the purpose of getting a divorce (p. 36).

The second letter (Exhibit P-3) was written in his solicitor's office in New Jersey.

It is apparent from the reading of these letters, that neither one of them was intended as a whole-hearted and generous invitation to his wife to return; in fact, they plainly show that he did not wish her to come back. Had they been written in good faith, he would not have stirred up the old antagonism by referring to “the same conditions”. He explains what he meant by “the same conditions”, and says that they referred to his mother and son being still with him (p. 27).

He admits that he made no personal effort to have his wife return, and says “that I did not think that she cared to stay there” (p. 43).

He testifies that his wife first spoke of leaving about a month before the child was born, and when asked what he said to her on that occasion replies, "Why I told her not to do it, it was not advisable", to which she replied, "She would try and get along". Nothing more was said about her leaving until about ten days or two weeks after the child was born (p. 42), and it appears from the records that it was at that time he told her "she could go as far as she liked".

#### **POINT IV.**

**From the record the inference is plain that the husband had the same experience with a former wife.**

See wife's letter, Exhibit P-6, and the testimony that his mother lived with him and his former wife about one year and three months (p. 19).

#### **POINT V.**

**The Court erred in finding that the husband's mother was indigent, and that his income was not sufficient to provide a separate home for her. (See opinion; p. 94.)**

The burden of proof of the mother's indigence and the son's inability to provide a separate home for her was with the petitioner in the Court below. He clearly has not sustained this burden, the only testimony on this subject is found on pages 72-73 of the record. It appears from this testimony that the husband had a brother, who was amply able to assist in the mother's support. It also appears that before the marriage he discussed the question as to

a separate home for his mother with his wife. All the evidence therefore indicates that he was able to provide a separate home. If he were able to do so and did not, the wife was justified in leaving him.

See

*Keery v. Keery*, 32 N. J. L. J., 135.

### POINT VI.

**There is no corroboration of the willfulness, continuance or obstinacy of the alleged desertion.**

The advisory master directs counsel's attention to this on the trial (p. 86).

That there must be corroborative evidence of the cause of the separation is well settled in this State.

*Foot v. Foot*, 61 Alt. Repl., 90; aff'd. 65 Alt. Rep., 205.

In the case of *Garrett v. Garrett*, 98 Atl. Rep. 848, the Chancellor holds that:

"It is an inflexible rule in this State that a divorce will not be granted upon the uncorroborated testimony or admission of a party to the suit. Not only does this apply to the cause, but every element in the proofs necessary to sustain it."

*Williams v. Williams*, 77 N. J., Eq., 17;  
*Hague v. Hague*, 97 Alt. Rep., 579.

It is also respectfully prayed that the motion by the appellant for a counsel fee, held in abeyance until the determination of this appeal, be decided.

Respectfully submitted,

EDWARD MAXSON,  
*Solicitor and of Counsel with*  
*Defendant-Appellant.*