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PETITION.

(Filed Nov. 19, 1926.)

IN CHANCERY OF NEW JERSEY.

*To His Honor, Edwin Robert Walker, Chancellor of  
the State of New Jersey:* 10

The petition of Thomas W. Laing, of the City and County of Camden and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Ellen Laing, on November 30th, 1898, at Providence, Rhode 20 Island, by a minister of the gospel.

2. Petitioner and defendant cohabited after said marriage, and on about October 11, 1921, said defendant deserted petitioner, and ever since which time and for more than two years last past said defendant has wilfully, continuedly and obstinately deserted your petitioner.

3. Petitioner resided in the State of New Jersey 30 when this cause of action arose, ever since which time, and for more than two years next preceding the commencement of this action petitioner has continued to be a bona fide resident of the State of New Jersey.

Your petitioner prays that the marriage between your petitioner and the defendant may be dissolved for the cause aforesaid according to the statute in such case made and provided, and that he may have such further relief as may be just.

And your petitioner will ever pray, &c.

THOMAS W. LAING,

10

*Petitioner.*

JOSEPH W. WILSON,

45 N. 3rd St., Camden, N. J.,

*Sol'r for Petitioner.*

STATE OF NEW JERSEY, }  
20 CAMDEN COUNTY, } ss.

THOMAS W. LAING, being duly sworn according to law, upon his oath deposes and says: that I am the petitioner named in the foregoing cause and that my said petition is not made by any collusion between myself and the defendant, but in truth and good faith for the cause set forth in the petition.

\*THOMAS W. LAING.

30 Sworn and subscribed before me this 17th day of November, 1926.

FREDERICK C. BAUER, JR.,

(Seal)

*Notary Public of New Jersey.*

My commission expires July 30, 1929.

ANSWER.

IN CHANCERY OF NEW JERSEY.

Between

THOMAS W. LAING,  
*Petitioner,*

and

ELLEN LAING,  
*Defendant.*

On Petition for  
Divorce.  
Answer.

10

Defendant, Ellen Laing, by way of answer to petitioner's petition, says that:

1. She denies the allegations alleged in paragraph one of petitioner's petition, insofar as same relates to the date of marriage.

2. She denies the allegations contained in paragraph two of the petitioner's petition.

3. She neither admits nor denies the allegations contained in paragraph three of the petitioner's petition, but leaves petitioner to his proof.

CHARLES W. LETZGUS,  
*Solicitor for Defendant.*

[ENDORSED]

Consent is hereby given to the filing  
of the within answer out of time.

Sol'r for Petitioner.

10

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ORDER TO PROCEED.

(Filed July 23rd, 1928.)

IN CHANCERY OF NEW JERSEY.

20

Between

THOMAS W. LAING,

*Petitioner,*

and

ELLEN LAING,

*Defendant.*

} Petition for Divorce.  
} Order to Proceed.

---

30 It appearing that the above-stated cause has been  
suffered to be without substantial prosecution for  
one year and upwards; and the petitioner now ap-  
plying for leave to proceed herein;

And it being further alleged by affidavit that the  
relations of the parties to each other have not  
changed pending this suit, nor the cause of action

alleged in the petition been compromised by the petitioner and that the delay was occasioned by the fact that the petitioner desired to see if his wife, the defendant, would show some change in her attitude toward the petitioner or show some disposition to resume marital relations, and that the suit is not sought to be proceeded with by any collusion between the petitioner and the defendant, but in truth and good faith for the causes set forth in the petition; 10

And the Court being of the opinion that further opportunity should be afforded to the defendant to answer;

It is thereupon, on this 20th day of July, nineteen hundred and twenty-eight, ordered that the defendant do answer the petitioner's petition within 20 days after service upon her of a certified copy of the petition and of this order; or in default of such answer, that the Chancellor may make such further order in this cause as shall be agreeable to law and the practice of this court. 20

E. R. WALKER,  
C.

Respectfully advised,  
NORMAN T. ROGERS,  
A. M.

A true copy.  
THOMAS BARBER,  
Clerk.

REFERENCE TO VICE-CHANCELLOR AFTER  
PLEADING, ETC.

(Filed Aug. 8, 1930.)

10

IN CHANCERY OF NEW JERSEY.

Between

THOMAS W. LAING,  
*Petitioner,*

and

ELLEN LAING,  
*Defendant.*

} Reference to Vice-  
Chancellor After  
Pleading, etc.

20

—  
This matter being opened to the Court by Joseph  
W. Wilson, solicitor for and of counsel with the  
petitioner, and Vincent DeP. Costello, solicitor for  
and of counsel with the defendant; and upon read-  
ing the consent hereto underwritten;

30 It is thereupon, upon this 8th day of August, nine-  
teen hundred and twenty-nine, ordered that the  
above-stated cause be referred to Hon. F. B. Davis,  
one of the Advisory Masters of this court, to hear  
the same for the Chancellor, and to report thereon  
to him and advise what order or decree should be  
made therein.

E. R. WALKER,  
C.

We consent to the making of the above order.

JOSEPH W. WILSON,  
*Solicitor for Petitioner.*  
VINCENT DEP. COSTELLO,  
*Solicitor for Defendant.*

A true copy.

FERD GARRETSON,  
*Clerk.*

10

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ORDER TO AMEND.

IN CHANCERY OF NEW JERSEY.

20

Between

THOMAS W. LAING,  
*Petitioner,*  
and  
ELLEN LAING,  
*Defendant.*

On Petition for  
Divorce.  
Order to Amend.

---

On motion of Joseph W. Wilson, solicitor of the 30  
petitioner, it is, on this 30th day of October, 1930,  
ordered, that the petition of petitioner be amended  
by striking out "30th" in line 2 of paragraph 1 of  
the petition and substituting in place thereof  
"24th," and striking out the word "until" in line  
2 of paragraph 2 of the petition and substituting

in place thereof the word "and," and striking out the word "when" in line 2 of paragraph 2 of the petition.

Respectfully advised,

F. B. DAVIS,  
A. M.

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DECREE OF DISMISSAL.

62-371.

IN CHANCERY OF NEW JERSEY.

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20 Between

THOMAS W. LAING,  
*Petitioner,*  
and  
ELLEN LAING,  
*Defendant.*

} On Petition for  
Divorce.  
Decree of Dismissal.

---

30 This cause coming on to be heard in the presence of Joseph W. Wilson, Esquire, of counsel with the petitioner, and Vincent deP. Costello, Esquire, of counsel with the defendant, on the petition, answer and oral proofs taken in open court, whereupon and upon duly considering the arguments of counsel, and it appearing to the Court that the petitioner has not sustained the truth of the allegations of the

petition and is not entitled to the relief therein prayed;

It is, thereupon, on this 17th day of November, A. D. 1930, ordered, adjudged and decreed that the petitioner's petition be and the same is hereby dismissed;

And it is further ordered, adjudged and decreed that the petitioner pay to the defendant, or her 10 solicitor, the costs of this suit to be taxed, and also a counsel fee of seventy-five (\$75.00) dollars, and that she have execution therefor, according to the practice of this court.

Respectfully advised,

FRANCIS B. DAVIS,

*Advisory Master.*

20

30

PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

10



Between

THOMAS W. LAING,  
*Petitioner-Appellant,*

and

ELLEN LAING,  
*Defendant-Respondent.*

} On Petition for  
Divorce.  
On Appeal from  
Chancery.  
Petition of Appeal.

20



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

The petition of Thomas W. Laing, appellant,  
shows that:

1. Your petitioner finds himself aggrieved by a  
decree final made in the Court of Chancery by his  
30 Honor, Edwin Robert Walker, Chancellor of the  
State of New Jersey, on the 17th day of November,  
1930, in that said decree recites and adjudges that  
the petitioner has not sustained the truth of the al-  
legations in the petition and is not entitled to the  
relief therein prayed for and decrees that your peti-  
tioner's said petition be dismissed.

2. Your petitioner appeals from the said decree and from each part thereof on the ground that the same is erroneous and that the Chancellor should have found and adjudged that the several allegations of petitioner's petition had been proved and that the respondent, Ellen Laing, had been guilty of willful, continued and obstinate desertion, as alleged in the petitioner's petition, and should have 10 ordered, adjudged and decreed that the petitioner be divorced from the bonds of matrimony with the respondent for the cause aforesaid and that the petitioner should have the other relief prayed for in and by his said petition, for the reason that the evidence showed that any effort on the part of the petitioner to induce the respondent to return to him would have been futile and unavailing.

Your petitioner therefore prays that said decree may be reversed, rescinded and for nothing holden 20 and that he may have such further relief as may be just.

JOSEPH W. WILSON,  
*Solicitor for Appellant.*  
JOSEPH BECK TYLER,  
*Of Counsel with Appellant.*

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[ENDORSED]

30

Service hereof is acknowledged this  
1st day of June, 1930.

Vincent DeP. Costello,  
Solicitor for Respondent.

## ANSWER.

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

10

Between

THOMAS W. LAING,  
*Petitioner-Appellant,*

and

ELLEN LAING,  
*Defendant-Respondent.*On Petition for  
Divorce.On Appeal from  
Chancery.  
Answer.

20

The answer of the respondent to the petition of appeal of the appellant:

The respondent admits it to be true that a certain decree, in which it was ordered, adjudged and decreed that the petitioner's petition be dismissed, was on November 17th, 1930, 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 of dismissal as to the matters complained of by the appellant in his petition of appeal is agreeable to law and equity, and

she prays that the same may be affirmed with costs to be adjudged to this respondent.

VINCENT DEP. COSTELLO,

*Solicitor for*

RUDOLPH S. AYRES,

*And of Counsel with Respondent.*

10

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AMENDED NOTICE OF APPEAL.

IN CHANCERY OF NEW JERSEY.

Between

THOMAS W. LAING,  
*Petitioner-Appellant,*

and

ELLEN LAING,  
*Defendant-Respondent.*

} On Petition for  
Divorce.  
Amended Notice of  
Appeal.

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An order was made in the above-entitled cause by the Chancellor on the advice of Advisory Master Francis B. Davis, dated November 17th, 1930, in which it was ordered, adjudged and decreed that the petitioner's petition be dismissed and your petitioner hereby appeals from said order.

30

JOSEPH W. WILSON,

*Solicitor of Petitioner.*

I conceive there is a good cause for appeal in this matter.

JOSEPH BECK TYLER,  
*Of Counsel with Petitioner.*

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10

[ENDORSED]

Service hereof is acknowledged this  
day of June, 1931.  
Solicitor for Defendant.

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20

30

TESTIMONY.

IN CHANCERY OF NEW JERSEY.

————— 10

THOMAS W. LAING,	}	On Petition for Divorce.
<i>Petitioner,</i>		
v.		
ELLEN LAING,	}	
<i>Defendant.</i>		

—————

October 30th, 1930. 20

—————

APPEARANCES:

For the petitioner, JOSEPH W. WILSON, Esq., and  
DEAN STANLEY RENWICK, Esq.  
For the defendant, VINCENT DEP. COSTELLO, Esq.

—————

Before FRANCIS B. DAVIS, Advisory Master. 30

## THE CASE FOR THE PETITIONER.

THOMAS W. LAING, SWORN.

By Mr. Wilson:

10

Q. What is your full name, Mr. Laing?

A. Thomas William Laing.

Q. Are you married?

A. Yes, sir.

Q. What is your wife's name?

A. Ellen Laing.

Q. Is she here?

A. Yes, sir.

Q. Where is she?

20 A. Right here, sir.

Q. When were you married?

A. In 1898, on the 24th of November.

Q. In your petition, you state November 30th.

A. That is an error, sir; it is the 24th.

Q. Have you the marriage certificate?

A. No, sir.

Q. Where is it?

A. Mrs. Laing has it.

Q. How did you come to learn the correct date?

30 A. Why, the date I never would forget.

Q. It was since the filing of the petition that you ascertained the date of your marriage, is that right?

A. Yes, sir.

Q. And at the time that you filed your petition, you made an error in stating the date?

A. Yes, sir.

Q. The month and year in your petition are correct?

A. Yes, sir.

Q. And you made an error in the day?

A. Yes, sir.

Mr. Wilson: I call upon the defendant to produce the certificate of marriage, if they have it. 10

Mr. Costello: We have it, if your Honor please.

Q. The witness is shown a paper and asked what it is.

The Court: What is the date of the marriage?

Mr. Wilson: The 24th of November, 1898. 20

Q. What is that?

A. That is right, sir.

Q. What is it?

A. That is November.

Q. What kind of paper is it?

A. That is a marriage certificate.

Q. Is that the marriage certificate given you at the time of your marriage?

A. Yes, sir. 30

Mr. Wilson: I offer that in evidence.

The Court: Any objection?

Mr. Costello: No, sir.

The Court: I suppose the petition ought to be corrected to show the correct date.

Mr. Costello: We have no objection to that, that it be amended to correspond with the testimony.

The Court: The petition will be amended, paragraph 1, to read "November 24th" instead of "November 30th."

(Said certificate marked Exhibit P1.)

Q. Now, Mr. Laing, after your marriage did you take up housekeeping?

A. Yes, sir.

Q. At what address and place?

A. It was in Thornton, Rhode Island.

20 Q. What kind of place was that?

A. We went in housekeeping with two rooms over a doctor. I was on the road travelling at the time, so that is where we first took our residence.

Q. That was in Thornton, Rhode Island?

A. Yes, sir.

Q. How long did you reside at Thornton, Rhode Island?

A. Until 1906.

Q. With your wife?

30 A. Yes, sir.

Q. After that, where did you go to live?

A. In Philadelphia.

Q. What address?

A. 3142 Custer Street.

Q. You went directly from Thornton, Rhode Island, to Custer Street, Philadelphia?

A. Yes, that is where we were a resident of.

Q. That was in 1906?

A. Yes, sir.

Q. And how long did you live there?

A. Up until 1917.

Q. Did your wife live there with you?

A. She lived there up until 1917 on May the first or the second, and then she went away to Providence, Rhode Island, but she came back, and she was in the house from June first to June second, and she went away and she never lived with me since.

Q. Now, where did you live after that?

A. I lived at 3142 Custer Street.

Q. For how long after your wife went away from the house?

A. I say, up until 1918, I say 1918, on June 14th.

Q. You lived there in that house? 20

A. Yes, sir.

Q. Until June, 1918?

A. 1918.

Q. Where did you live after that?

A. I went to live down at Hog Island.

The Court: June, 1918—where did he live then?

Mr. Wilson: Custer Street.

30

The Court: Camden?

Mr. Wilson: Philadelphia.

Q. Philadelphia, that is, isn't it? You mean Philadelphia?

A. Yes, sir. I took rooms down to Hog Island just for the convenience, because I was just getting over the sickness, and I took rooms. I was there on the 14th, when I come up to get my clothes, and my wife had went to work and moved all the furniture out of my house and took it all away and put it in storage, and I never seen it no more.

10 Q. Why were you living at Hog Island?

A. I was working there, see, and I went in the engineer's department, and I wouldn't have the travel back and forth to Philadelphia, and I used to come up every Saturday night.

Q. You still maintained your residence at Custer Street, and at week-ends went there to live, but on account of your work lived down at Hog Island?

A. Hog Island, yes.

20 Q. How long did you maintain your residence at Custer Street, Philadelphia?

A. Well, that was the end of it. On June 14th, she moved the furniture out, never even left my clothes.

Q. We will come to that later. After that, where did you go to live?

A. I went to live in Frankford with a lady by the name of Mrs. Johnson. She is dead and gone now.

Q. At what address?

A. At 4244, I think, on Archer Street, Frankford.

30 Q. Pennsylvania?

A. Yes, sir.

Q. How long did you live there?

A. I lived there from August up to 1919, around, I think it was May or June, I went to live with Mrs. Seibert on North 7th Street.

The Court: August, 1919, to June when?

The Witness: Somewhere around, I think—it was the 15th of June.

The Court: June of what year?

The Witness: Of 1919. 10

The Court: August, 1918, to June, 1919.

Q. Now, you went to live with a party by the name of Seibert?

A. Yes, sir.

Q. At what address? You said on 7th Street. What number?

A. Seventh Street, I know it was somewhere around the twenty hundred North Seventh Street. 20  
I couldn't just say what —

Q. Was that in Philadelphia?

A. Yes, sir.

Q. Pennsylvania?

A. Yes, sir.

Q. How long did you live there?

A. I lived there three months.

Q. Did your wife live there with you?

A. No, sir.

Q. And then where did you live? 30

A. I went to live on Silver Street.

Q. Philadelphia?

A. Yes, sir.

Q. At what address?

A. At 1022 Silver Street.

Q. And how long did you live there?

A. I lived there up to 1920, on May—I think it was May the first. Yes, May the first; that is right.

Q. And then where did you go?

A. Then I was working in Atlantic City, see, I was working down at Atlantic City for a year, and I didn't have no residence in Philadelphia, not for that time, and then on May of 1922, I came back  
10 to Philadelphia and went to live at 3142 Custer Street, in my own home.

Q. Now, are you sure of that date that you gave, 1922?

A. 1922.

Q. Let's get it straightened out. When did you go to Atlantic City?

A. I went to Atlantic City around in 1920.

Q. And how long were you there?

A. I was down there for a year and a half.

20 Q. And what date in 1920, what month and day?

A. Well, what month? In May the first I come up from Atlantic City.

Q. No, I asked you when you went to Atlantic City, when you first went there to live. What date? You say in 1920. I asked you what date in 1920. Was it in the summer or spring?

A. No, it was going on toward the spring of the year.

30 Q. You originally stated that; I think you said May, May the first.

A. I say I went down there first, but I still held my residence in Philadelphia, you know, see, up until May the 20th in Silver Street. See, I used to go back and forth.

Q. And you lived in Atlantic City—or rather,

worked there and commuted back and forth for a year and a half?

A. Yes, sir.

Q. That would bring you to the middle of 1921, wouldn't it?

A. 1921, yes, somewhere around there.

Q. Where did you go to live at that time?

A. 3142 Custer Street.

10

Q. That would bring you to 1921. You said before 1922—is that right or wrong?

A. 1921 is the correct date, Mr. Wilson.

Q. Did you stay at Custer Street when you came back?

A. Yes, sir, I stayed there from May up until October 11th.

Q. Nineteen what?

A. 1921.

Q. Where did you go after that?

20

A. Well, then, when I came home one night at eleven o'clock, after working all day, I came home and went to the front door and put my key in and I couldn't get it in. I looked and seen a light in the house, and I was wondering, so I went around the back and when I went around the back, I heard voices, and Mrs. Laing and a cop was in the house. They opened the back door and he took me in, wouldn't even let me have a word to say, but he says, "You got to come with me." He says—I says, "What is the idea?" Well, he says, "You got no right in here at all, and you aren't going to stay here," and she had put the furniture back which she put out, and put it back in and she was there and had me locked up and taken to the patrol box and taken to the front the next morning.

30

Q. Let's clear up the question of residence. After that visit, where did you go to live?

A. Then I went over to Camden.

The Court: When was that date?

Mr. Wilson: October 11th, 1921, he said.

10

The Witness: Yes, sir.

The Court: I see.

Q. After that visit that took place at that time, where did you then go to live?

A. I went to live at 104 North 25th Street.

Q. Where?

A. Camden.

20

Q. New Jersey?

A. Yes, sir. That was on the 12th.

Q. How long have you lived there?

A. I have lived there ever since.

The Court: 104 what?

The Witness: North 25th Street.

30 Q. Then, from October 11th, you have lived in New Jersey?

A. Yes, sir.

Q. At 104 North 25th Street?

A. Yes, sir.

Q. Camden?

A. Yes.

Q. Now, what did you go to the house for on that day, at Custer Street?

A. I was living there.

Q. Well, with what idea in mind?

A. Well, it was my own home and I didn't feel like—I thought when I would go there, well, she would come and come back, and as long as we had no divorce and no settlement, we would live there again. I thought we would make up and live together, and when I came home this night, why, there is what I got. I never even got a civil word, but just the officer, he wouldn't let me speak. 10

Q. What were you arrested for?

A. I was arrested for going to live in my own house.

Q. What was the charge against you?

A. I couldn't say.

Q. What did they charge you with? 20

A. On account of going to live in my own home.

Q. Did you have a hearing in the matter?

A. It come up in front the next morning and I was bound over in \$500 bond for to keep clear of my own place, to keep clear, not to go near.

Q. Was your wife present at the hearing?

A. Yes, sir.

Q. What did she say?

A. She signified that is what she wanted. 30

Q. What did she say?

A. She said she wanted me to be kept clear of the home.

The Court: Pardon me; who owned the house?

Mr. Wilson: The house is in the name of the defendant.

The Court: That particular house?

The Witness: Yes, sir, I bought it and paid for it, but it was in her name.

10

Q. You tried to get a divorce before, didn't you?

A. Yes, sir.

Q. In Philadelphia?

A. Yes, sir.

Q. You didn't succeed?

A. No, sir.

Q. You lost the case?

A. Yes, sir.

20 Q. It was after this case was lost you attempted to become reconciled with your wife?

A. Yes, sir.

Mr. Wilson: I offer in evidence an exemplified copy of the disposition of the divorce case that the petitioner refers to.

(Said papers marked Exhibit P2.)

30 Q. Now, what became of this case after you were put under bail?

A. It came up in court and it was dismissed, but I was still kept under bond to keep clear of the home.

Q. Were you in court, in any other court than where the hearing was held?

A. I was there at the hearing but there was no hearing and the Judge dismissed the case.

Q. I mean, when the case came up in the higher court?

A. That is what I say, I was there at the hearing and the defendant didn't file no defense and the case was dismissed.

Q. Was your wife present?

10

A. Yes, sir.

Mr. Wilson: I offer in evidence an exemplified copy of that matter.

(Said papers marked Exhibit P3.)

Q. Now, do you support your wife?

A. Yes, sir.

Q. By reason of what direction?

20

A. \$6.00 a week to the Municipal Court.

Q. You pay your wife support through the Municipal Court of Philadelphia?

A. Yes, sir.

Q. There was no alimony order or anything against you in the divorce proceedings, was there?

A. No, sir.

Q. Just a Domestic Relations Court order over there against you?

A. That is all, sir.

30

Q. Have you supported her down to the present time?

A. Yes, sir.

Q. Did you ever make any attempts to see your wife after this time you were put under bond to stay away from the premises?

A. No, sir, I never went there only when I got a note from her attorney for to go and get my clothes and my tools.

Q. Did you ever attempt to become reconciled with her again?

A. I never had not a word with her since.

Q. Why?

10 A. Well, I knowed it was no good; I was bound underneath the law to keep away from my home, and I wasn't looking for no court trouble. She had me arrested on several occasions.

Q. Since?

A. Yes, sir, she had me arrested, had a bench warrant out for me a month ago.

Q. For what reason?

A. For non-payment of my alimony, and I was paid up in the Municipal Court.

20 Q. What happened to that case?

A. Why, when I went to the court, I was straight on the books and I got a receipt in full up to the present date.

Q. How many times has she had you arrested for not paying the order?

A. She has had me arrested three times.

Q. Were you ever in arrears that justified the arrest?

A. No, sir.

30 Q. What method did you use to pay her support?

A. I pays her every month either \$25.00 or \$30.00 every month. It is according to what comes down, I send it by money order.

Q. When you went to the Municipal Court, how did you straighten out the fact you had been arrested?

A. They had received the money and didn't carry it on the books. They had received it but they didn't carry it on the books and had me put in arrears \$51.00.

Q. Were you in arrears, actually?

A. No, sir.

Q. Are you in arrears today?

A. Well, I owes this month's dues. 10

Q. What is your custom in paying that?

A. I pays it about the first of every month or the fifth of every month. That is the way I go, because I can't get a chance to go to a post office, the way I am working out of town and going away, and that is the way I pay it.

Q. To what reason do you attribute your wife's refusal to live with you? Why is her affection gone for you?

20

Mr. Costello: If the Court please, I think that calls for a conclusion.

Mr. Wilson: The petitioner is always asked to state why he thinks his wife —

The Court: You better produce the facts. In an uncontested case, it is often asked.

Mr. Wilson: All right. 30

Q. Now, how long did you live happily as man and wife?

A. Nineteen years, sir.

Q. And what started any discord between you?

A. Why, her brother affairs. He got into a bug-

gery case and I let him go to work and get the money out of the bank to pay him, and then he wanted to skip to England to get out of it.

Q. What was this money?

A. \$700.00 to go bond for him so he wouldn't skip, and he wanted to skip, and I put my foot down on it, and from that day on until they left me, there  
10 was always contention until I had the accident.

Q. What was the nature of your disagreements after that, what took place?

A. Well, there was always an attempt—Do you want me to go into that about the accident?

Q. Yes.

A. Well, after I had an accident, I had the base of my skull fractured. I was laid up for two years, one month and two days, never done a tap.

20 The Court: When was this accident?

The Witness: On May 2nd, 1916.

The Court: All right.

Q. Well, how did your wife treat you after you had this argument over the brother?

A. Well, there was always—I don't know, there was some kind of nagging or cold, because she  
30 wanted her brother to go to England and get out of the case, but anyhow, he stayed the case and wasn't found guilty. Then he took an oath on the Bible to me that he wouldn't bother with any more drink, but after the case was out and he was free, he started on the drink just as much as ever.

Q. Did this talk to the brother take place in front of the wife?

A. Yes.

Q. I see; go on and describe your difficulties that led up to your trying to get a divorce, etc.

A. Well then, after eleven months after the accident, she was down to my attorney's office in the city in the Land Title Building and she seen the papers on the lawyer's desk that Judge Gordon, Professor Gordon, had said there was no hopes for me to recover from my illness, and she goes home

Mr. Costello: If your Honor please, I object to that; I don't know what proof he has that the wife saw that. Were you there at the time?

The Witness: I was down at my lawyer's and he said so, too.

Q. Was your wife there?

A. My wife was there.

Q. The time you were there?

A. Not the time I seen it, but she was there and seen it.

Q. Then you must not testify to that; you didn't see her. Tell what you said and what she said when you were both present or when anybody talked to you in her presence, anything that happened that way?

A. When she came home from the attorney, she came home and she says, "I think you ought to make a will." I says, "I got nothing to make a will for," and about three days afterwards my New

England Order of Protection papers came and they had an assessment put on me, and I saw it was not necessary for me to carry that insurance along and I took it and tore it up and threw it in the fire, and from that day to the day the woman left me, there wasn't a pleasant word. If I was laying upstairs, she would turn the heat off so I couldn't  
10 keep warm; that is what a contempt she was. She went away in April and didn't say where she was going or anything, she took every paper and everything out of the house, took it away and took it over to a friend's house over on Ford Street.

Q. Wait; you didn't see her take it, did you? You didn't see her take it?

A. Oh, no.

Q. Well, only tell what you saw and what she said; don't put any conclusions. Go ahead.

20 A. Well, she went away and was gone a month and she came back. She didn't come back to her own home, she lived on Ford Street from May 30th up until June 1st. June 1st she came back. I was out in Frankford. They pried off the shutters and got in the house, her and her nephew, and when I come home, that was on Saturday, she was there. So she said she was barred from her home. I says, "No, you wasn't. You went away and I didn't know what was the idea of it." So she never even went  
30 to get anything to eat on Saturday. So I wasn't eating anything, because I couldn't eat nothing only milks and such as that. So Sunday morning I got up and I went to church and I came home from church around quarter past twelve, nobody in the house, so I laid around all day. I went over in the square and I sat in the square in the sun a while

and I came back, and in the evening I went to the services of the church again right on the corner, and I got home from church about half-past ten. I sat in the front room reading the Bible until half-past eleven, no sign of her. I says, "I guess she has taken another flight and she has gone." I went to bed, I locked the door, and about quarter past twelve she came and she rang the door bell. I came 10  
down and let her in. I went upstairs and when I went upstairs and went in the front room, she started, and there is nothing under the sun that that woman didn't call me, and I had a fever of one hundred and four and my pulse was beating fast and I had vomiting spells, and I went in the bathroom and she swore I chased her out of my own home, which I never did, and from that day up until on May, she never come near the house. She wanted the clothes, she sent people to the house, 20  
she wouldn't come to the house to get them, as she went to John R. Scott and she held John R. Scott. They couldn't fix the thing up. They took it to the Municipal Court and they wouldn't fix it up, and they took me in and had a court order put on me. I had three dollars a week coming in from lodges. They even took the three dollars and put it on her support, and on the last day of 1917 they took me into court. I had seventy-seven dollars against me. I had to go to work. I either had to go to work 30  
or go to jail. I had a fever that day of one hundred and four and my pulse beating forty-eight. The doctors wouldn't operate on me and they took me into court and she gave me a sneer when the Judge said from July up to that time. So the attorney says to me, "Mr. Laing, you got any furniture?"

I says, "Yes." He says, "You take the furniture and get a loan on it and pay the order." I went to work and I took a bedroom suite and the piano and talking machine and I got the loan of the money and I paid her the order, and then she went to work two weeks afterwards, she found out where it was at, she got the sheriff and took it out. I got the  
 10 sheriff and made him put it back again into the house where they got it from, and it stayed that way until it come up in court, and it was settled in court that the furniture belonged to me. I couldn't pay storage. I went to my place in Jersey and I put it in Jersey and that is how I come to Jersey. I had to go to work and take my furniture to raise money to pay her alimony.

Q. This furniture was in the Custer Street house and she had it taken out?

20 A. I had it taken out.

Q. In the first —

A. No, no, I took it out for to get the money, see; I was sick; I was only getting three dollars a week coming in from my lodges. That is every cent I had.

Q. When did this trouble with the brother—what date was it that that took place?

A. That was in 1917.

Q. That was previous to your accident?

30 A. Well, that case took place, but then he lived with us right then until after the accident.

Q. The accident took place after the trouble with the brother, or before?

A. The accident took place after the trouble with the brother.

Q. And this domestic trouble with your wife and

arguments and trouble about the furniture and court order took place while you were convalescing from this injury?

A. Yes, sir.

Q. What kind of injury did you have?

A. I had the bone in the base of my skull broken.

Q. How did that happen?

A. I was working at Remington Arms and I was 10 underneath an air compressor and a piece of timber come down on my head and broke the bone in the base of my skull.

Q. What is your trade?

A. Journeyman steam fitter.

Q. Did you always work?

A. Yes, sir, always worked.

Q. Did you always supply your wife with food and clothing and shelter?

A. Yes, sir, I never broke my envelope for nine- 20  
teen years until I got the accident. She will tell you there that she never had my envelope broken. If there was two hundred in it, she got it; if there was four hundred in it, she got it.

Q. Did you make good wages?

A. I did make good wages.

Q. How much did you average a week at the time?

A. My average week's pay was fifty cents an hour at that time, and we used to work an awful lot over-  
time.

30

Q. Were you regularly employed?

A. Yes, sir.

Q. Was there ever any trouble between you about money or support?

A. No, sir, never.

Q. You gave all your wages to your wife?

A. Yes, sir. In 1911, she went to England. She was in England for five months. She had money to go around and come back, her passage paid back and everything. That was 1911.

Q. Now, this time that she went away while you were sick, where did she go?

A. She went to Providence, Rhode Island.

10 Q. Why did she go?

A. I couldn't tell you the reason she went.

Q. Did you approve of her going?

A. I didn't know she was going, not before she was gone, didn't know where she was at.

Q. Did she tell you afterwards?

A. No, she never told me afterwards. When she come back, she wouldn't have nothing at all to say. She never come home.

20 Q. When she went, did she take anything with her?

A. Took every particle of every paper out of the house. She even got Mrs. Jones to go to the bank before she went to Providence, Rhode Island, and money in bank, she went to the bank and took it out.

Mr. Costello: Do you know that of your own knowledge? I object, if your Honor please. He has no proof of that.

30 The Witness: Yes, sir, I have proof, a witness, too.

Q. Did you have a bank account?

A. I had one bank account that was there in both names at Seventh and Walnut.

Q. How much did you have in that account?

A. There was somewheres around fourteen or fifteen hundred dollars in that bank.

Q. What happened to that account?

A. That stayed there.

Q. Did she draw any of it out?

A. She went to work and got a letter from a doctor unknown to me and went to get two hundred dollars out of that bank, because I went down and 10 stopped any money going out of the bank.

Q. Did she get any more of it?

A. Well, she got it all. I never bothered with it afterwards. She got the whole thing.

Q. When did she get it?

A. She is getting it now, I guess.

Q. I mean, did she draw the money out of the bank?

A. I don't know whether it is drawn out. I couldn't say, because I never got a nickel of any- 20 thing I earned in nineteen years, not a nickel.

Q. Who did the banking?

A. She did the banking. I trusted her to do the banking for nineteen years.

Q. Were there any children born of your marriage?

A. Yes, sir.

Q. What became of it?

A. It died three weeks after it was born.

Q. I see; no other children? 30

A. No, sir.

Q. Now, since the time you were put under bond to stay away from the house, have you heard from your wife?

A. There is not hardly a month or week that I

didn't have slang letters and slang cards come through the mail.

Q. How often?

A. Well, you might see there.

Q. Well, approximate it?

A. Approximate it? I think about every other month.

10 Q. Since you were put under bond to stay from home, is that right?

A. Yes, sir.

Q. What would be the nature of these letters?

A. Well, I don't know that the letters—I never read some, I never opened them.

Q. What you did open and read, what was the nature of them?

A. Well, it was nothing but just slang.

Q. What was the slang about?

20 A. I don't know; it was trying to —

Mr. Costello: If your Honor please, I think the letters are here; they speak for themselves.

Mr. Wilson: Will you introduce this bundle of letters?

Mr. Costello: I am not going to agree to anything until I see it.

30

Q. Witness is shown a piece of paper and asked what it is?

A. That is a postal card.

Q. She sent it?

A. Yes, sir.

Q. It is in her handwriting?

A. Yes, sir.

Q. Here is another one. What is this?

A. That is the same thing. That is her handwriting, that postal card.

Q. Here is another one?

A. That is the same thing.

Mr. Wilson: Witness has been shown three postal 10  
cards. One dated August 25th, 1930; another one  
May 2nd, 1930, and another one postmarked May  
9th, 1930, and I offer them in evidence.

(Said postal cards marked Exhibit P3.)

Q. Witness is shown another piece of paper and  
asked what that is?

A. That is the time she notified me about my  
clothes. 20

Q. Is that in her handwriting?

A. Yes, sir.

Q. This has another date on it. Can you tell me  
about when you got that?

A. I got it somewhere around 1921, I got that.

Mr. Wilson: I offer that.

(Said postal card marked Exhibit P4.)

Q. Here is another little piece of paper. What  
is that? 30

A. That is when, after she moved in the house on  
1921, put my clothes and tools out.

Q. That is the time you were arrested?

A. Yes, sir, that is the time.

(Said paper marked Exhibit P5.)

Q. Here is another one?

A. Yes, sir, that is her handwriting.

Mr. Wilson: I offer this.

10 (Said paper marked Exhibit P6.)

Q. I have about fifty communications here alleged to be sent by the defendant to the petitioner. I will let defense counsel look them over, and if he wants to, of course, we will have to introduce them separately, but they are all in her handwriting, we charge, and they all contain similar stories on them and I just want to offer them for the purpose of showing the attitude of the defendant towards the  
20 petitioner.

Mr. Costello: If your Honor please, instead of going through all the trouble of that, we will admit that the defendant has at various times written different communications to the petitioner.

The Court: They cover a period of how long, these letters?

30 Mr. Wilson: Some of them antedate the time he was arrested; some of them are from the time they had the first quarrel with the brother.

Mr. Costello: If your Honor please, I presume these are all in the defendant's handwriting, so we won't waste all that time.

The Court: You have examined all of these letters, haven't you?

The Witness: No, sir, there are some there I didn't open.

Q. The envelopes —

A. Yes, sir, I have examined all the envelopes. 10

Q. They are in the handwriting of your wife?

A. Yes, sir, every one of them.

Q. Did you receive them?

A. Yes, sir.

Q. What did you do with them?

A. There are some, Mr. Wilson, I didn't open at all.

Q. I mean, you gave them to me?

A. Yes, sir, I gave them all to you. There is some I didn't open at all. 20

Q. They are all in her handwriting?

A. Yes, sir, all in her handwriting, every one.

(Bundle of letters marked Exhibit P7.)

Cross-examination.

By Mr. Costello:

Q. Mr. Laing, you were married on November 30 24th, 1898?

A. Yes, sir.

Q. And you lived in Rhode Island until when?

A. Until 1906.

Q. Sure it is 1906?

A. Yes, sir.

Q. You didn't move to Philadelphia in 1905, did you?

A. No, sir, 1906.

Q. 1906?

A. Yes, sir.

Q. Where did you first move to when you moved to Philadelphia?

10 A. With a lady by the name of Mrs. Dobb, on Orlean Street.

Q. What street?

A. Orlean Street.

Q. Orlean Street?

A. Yes, sir.

Q. On direct examination, you said you first moved to 3142 Custer Street?

A. No, that is my residence.

20 Q. Now, when Mr. Wilson asked you when you moved from Thornton, Rhode Island, you said you moved to Philadelphia at 3142 Custer Street?

A. No, no; well, if I did, I was mistaken. I went to board with Mrs. Dobb until our furniture come from Rhode Island.

Q. You moved to Philadelphia first, didn't you?

A. Yes.

Q. You moved to Philadelphia, then Mrs. Laing came down with you?

A. Yes, sir.

30 Q. You didn't move to 3142 Custer Street?

A. Not direct, no.

Q. Did you move there when Mrs. Laing first came to Philadelphia?

A. No.

Q. Where did you live?

A. We lived on Clementine Street.

Q. When did you live there, do you remember?

A. Yes, 1906.

Q. 1906?

A. Yes.

Q. How long did you live at Clementine Street?

A. We were there until somewhere around May; then we bought this property and moved into the property.

10

Q. When did Mrs. Laing come from Rhode Island?

A. She came up in October.

Q. October of what year?

A. 1906.

Q. October of 1906?

A. Yes.

Q. You and Mrs. Laing lived, as I understand it, at 1842 Clementine Street until sometime in April, 1907, is that it?

20

A. Yes, Mrs. Laing lived there but Mr. Laing was in New York, working in New York.

Q. You were working there?

A. Yes, I was working in New York. I wasn't living there. I was in New York and only came over twice while I was in New York, and then I came over and went to live right in Custer Street.

Q. When did you move into Custer Street?

A. Moved into Custer Street somewhere around May or June. I won't say what date. 1906.

30

Q. Well, now, let's get this straight, Mr. Laing.

A. I think it is 1906. I haven't seen the date for so long —

Q. We don't need the date; you were pretty positive on direct examination. When did you move to

Philadelphia, when did Mrs. Laing first come to Philadelphia?

A. Well, she came to Philadelphia on a visit.

Q. I mean, when she came to live there?

A. She came 1906.

Q. What month of the year?

A. In October.

10 Q. October, 1906?

A. I think it is, but I am not going to swear on that, because I am not positive, but I think it was 1906.

Q. Well, anyhow, Mrs. Laing lived in Philadelphia from October of whatever year it was until February of the following year, lived on Clementine Street?

A. Yes.

20 Q. Now, maybe if I show you the deed, it will refresh your memory a little bit. Do you remember when that house was bought?

A. I do not, not the date.

Q. If you see the deed, it will refresh your memory. Did you ever see that deed before?

A. Yes, I seen it when it was stolen from me, too.

Mr. Costello: That is not the answer; I ask that be stricken out, if the Court please.

30

The Court: Yes, strike it out.

The Witness: 1906.

Q. Well, now, do you want to change your testimony?

The Court: Is that important?

A. Well, 1905 it was; I came up in the following year.

The Court: Is there any dispute they started to live there about the time of the date of the deed?

10

The Witness: That is when I went to live on Custer Street, 1906.

Mr. Renwick: That is all prior to the alleged desertion, anyhow; it is hardly material.

The Court: Well, they went to live —

The Witness: 1905, there is the date. I thought 1906. Well, that makes me a year longer in Philadelphia than I thought it was. 20

Q. You are willing to change your testimony that you went to Philadelphia at that time?

A. Yes.

The Court: 1905 instead of 1906?

The Witness: Yes, sir, a year ahead.

30

Q. Who bought that property?

A. Why, Mr. Laing's money bought it, but it was

put in the wife's name.

The Court: You mean your money?

The Witness: Yes, sir, my money bought it.

Q. Were you ever taken sick with typhoid fever, Mr. Laing?

A. Yes, sir.

Q. Who took care of you when you were sick?

A. My wife was there and a trained nurse.

10 Q. A trained nurse?

A. Yes, sir, a trained nurse. She was there two weeks.

Mr. Costello: If your Honor please, I ask that be stricken out; there is no question.

The Court: All right, strike it out.

20 Q. Now, Mr. Laing, you testified that you and your wife lived together up until October 11th, 1921, is that correct?

A. No, sir, I did not.

Q. Well then, the petition in this matter is wrong, is that right?

A. No, sir, I didn't testify to that. 1917.

Q. Is that your signature?

A. Yes, sir, but 1917 —

Q. Wait a minute. I asked you if that is your signature?

30 A. Yes, sir.

Q. You were there and took an affidavit to this, didn't you? That is your signature there, isn't it?

A. Yes, sir.

Q. You wish to change your testimony that you and your wife cohabited until 1917, is that correct?

A. 1917?

Q. 1917?

A. Yes, sir.

Q. Then, as you stated in your petition, you and your wife did not live together until 1921, did you?

A. No, 1917 she went away.

Q. Who started the divorce action in Philadelphia, Mr. Laing?

A. Mr. Laing.

10

Q. Where were you living then?

A. I was living on Silver Street.

Q. You weren't living at 3142 Custer Street, at that time, were you?

A. No, sir, I was not.

Q. Mr. Laing, you remember when Mrs. Laing left you, don't you, in May of 1917?

A. Yes, sir.

Q. You were sick at that time, weren't you, or just recuperating?

20

A. I wasn't recuperating. I was still down when she went away. My pulse was only beating —

Q. Who was your attending physician at that time?

A. Dr. Oliver Stout and Dr. Gordon, Professor Gordon.

Q. Didn't Dr. Stout, in your presence, tell Mrs. Laing she had better go away for a while?

A. Never did, never uttered a word.

Q. You are sure of that?

30

A. Yes, sir, I certainly am.

Q. Anyhow, your wife was away about three weeks to a month, is that correct?

A. She was away over a month and I didn't know where she was at.

Q. Anyhow, she returned somewhere around May 30th or June 1st, 1917, is that correct?

A. No, sir, she didn't. She didn't return home not before June 1st. June 1st she came to Philadelphia but she didn't come near her own home, never come there. She was in Philadelphia for four or five days before she ever come near her home.

10 Q. When did she first come to her home, back to her home again?

A. On June 1st.

Q. Didn't you testify on direct examination it was May 30th and she stayed there —

A. No, sir, I did not. I said she come to Philadelphia but she didn't come home.

Q. Well, when Mrs. Laing did come home, what was the condition of the house?

20 A. The house? Why, I had a lock put on the door.

Q. You had the lock changed, didn't you?

A. No, sir, I didn't. I only had a Yale lock. There was nobody in the house and I had a Yale lock put on, because any key could unlock the other lock, and I had a Yale lock put on.

Q. When did you notice Mrs. Laing back in your home?

A. On June 1st.

Q. What time of the day was that?

30 A. When I came from Frankford, I guess it was eleven o'clock.

Q. Around noontime?

A. Somewhere around there, yes, sir.

Q. What was your attitude towards Mrs. Laing?

A. When I come in, I seen that my shutters was ripped off the back of the house, and I said, "If I

know who done that, I would make them pay for it." She was in Philadelphia, why didn't she come as a woman and come home?

Mr. Costello: That is not the thing. I ask that be stricken out.

Q. We will get along a lot better, Mr. Laing, if you will answer my question. When you came home, what did you say to your wife? 10

A. I never said nothing to her. I asked her what was her idea. That is what I asked her. She never said a word hardly, only she mumbled something under her breath and she said she would soon settle it all. That is what she said.

Q. Well, all the time you were married, didn't Mrs. Laing work off and on? 20

A. No, sir, never, only just for about six months when I was on the road in Fall River, where I worked.

Q. When was that, Mr. Laing?

A. That was in 1898, 1899.

Q. Did Mrs. Laing ever work at the Y. W. C. A.?

A. Not while she worked for me. That was after she left me.

Q. After she left you?

A. Yes, sir, after she left me, she went to the Y. W. C. A., she went to work there. 30

Q. On that Sunday, that was June 2nd, wasn't it, Mrs. Laing came back on Saturday, which was June 1st, and on Sunday, June 2nd, didn't you tell your wife to get out?

A. No, sir.

The Court: What year is this?

Mr. Costello: 1917.

The Witness: No, sir, I didn't tell her to get out. I comes down stairs, got up at quarter after twelve and come unlocked the door, if God will strike me  
10 dead.

Q. Now, wait; just answer the question. We don't want a sermon here.

A. I want to tell the truth about it.

Q. All right, you can tell the truth and answer my question. On June 3rd, 1917, did Mrs. Laing try to get in your house that night?

A. No, sir, she didn't.

Q. Did you ever come down and open the door  
20 and refuse to let her in?

A. No, sir, I did not.

Q. Never told her to get the hell out —

A. No, sir, I did not.

Q. Never threatened Mrs. Laing?

A. No, sir, I did not.

Q. You knew that Mrs. Laing, while you were living at 3142 Custer Street, that she lived with a Mrs. Thornton at 3139 Custer Street?

A. I didn't, never knowed it.

30 Q. You didn't know that?

A. No, sir, I didn't, and she didn't stay there, either without she might have stayed one night, because she stayed over on Ford Street.

Q. So Mrs. Laing left you, as you testify, in 1917?

A. Yes, sir.

Q. Did you live together after that, up until this time?

A. No, sir, never.

Q. Well, you started a divorce again in 1919 against her in Philadelphia, didn't you?

A. Yes, sir.

Q. And that divorce was refused you, that is correct, isn't it?

10

A. Yes, sir.

Q. And from that time on, you never asked Mrs. Laing to come back and live with you, did you?

A. I went back into my own home.

Q. You went back?

A. With the intention of trying to make up.

Q. Wait a minute. Was Mrs. Laing there at the time?

A. No, she wasn't.

Q. Did you ever ask her back at that home?

20

A. I asked her, yes, I asked her to go back, but she refused to go back.

Q. Where was Mrs. Laing living at that time?

A. At what time?

Q. Well, you say after the divorce again was refused?

A. She lived after she left me to Mrs. Street, then she went to Mrs. Kearney and she went to Mrs. Ammenatis, and then she went to the Y. M.

Q. She did work at the Y. W., didn't she?

30

A. Not while she was living with me. It was after she deserted me, while I was sick.

Q. She came back, didn't she?

A. No, sir, she never came back.

The Court: What was that date in 1917?

Mr. Costello: May or June 1st, if your Honor please.

Q. Were you ever brought up before Magistrate Costello in Philadelphia?

A. Yes, sir.

Q. Do you know when that was?

10 A. I won't say what date, but I know it was around 1919.

Q. Are you sure that wasn't October 11, 1921?

A. No, sir, it wasn't.

Q. Well, in the year 1921, who was in possession of 3142 Custer Street?

A. Why, there was a party by the name of Goldman was living in it.

Q. Who was receiving the rents from that, do you know?

20 A. Mrs. Laing was.

Q. Mrs. Laing?

A. Yes.

Q. You never bothered about paying taxes or anything on that, did you?

A. Why should I?

Q. I asked you a question; that is not an answer. Yes, or no, please?

A. No.

30 Q. Mr. Laing, you were stating in your direct examination that Mrs. Laing was always nagging you, this and that, and you couldn't get along together, is that correct?

A. Not before; only just after the accident.

Q. After the accident?

A. After the accident, yes, sir, after the accident.

Q. Do you know the reason why? What was your

attitude toward Mrs. Laing? Were you a homelike man, always home at night time?

A. I certainly was; I never was away from my home.

Q. You weren't away?

A. No, sir, only when my work called me.

Q. You had a great habit of going to church, didn't you? 10

A. I used to go to church Sunday night and Sunday morning.

Q. Did you ever walk home with anybody from church?

A. No, sir, never did.

Q. You are sure of that?

A. I certainly am sure of it.

Q. You know Marion Seibert, don't you?

A. I know Marion Seibert, yes.

Q. Did you ever live at her home? 20

A. I boarded with her son.

Q. Boarded with her son?

A. Yes, sir.

Q. Do you know when that was?

A. Yes, sir, 1919.

Q. 1919?

A. Yes, sir.

Q. Now, when did you live in Atlantic City, Mr. Laing?

A. Why, there around 1920, I was working down 30 there and then I was working off and on over there, but I lived on Silver Street after 1919—1920 on Silver Street, Philadelphia.

Q. Did you ever live in Delaware?

A. No, sir, never down in Delaware.

Q. Sure you never went to Delaware on a vacation or anything?

A. I went down of a Sunday, but that is all, if I went to Delaware; never went to live there.

Q. This letter that was introduced in evidence, P7, you received that letter, didn't you, Mr. Laing?

A. I received it, yes.

10 Q. Who is Mrs. Dorey?

A. That is George Seibert's mother-in-law.

Q. What is she to Marion Seibert?

A. She is nothing, only just George married her daughter.

Q. Who is George Seibert?

A. Mr. Seibert's son.

Mr. Renwick: If the Court please, I think it is immaterial as to the relationship of a person so  
20 remotely connected with correspondence. We will never get through if we are going into relationships.

Mr. Costello: If your Honor please, what I was attempting to show is this man's attitude toward other women.

The Witness: No, sir, never had any other women.

30

Mr. Costello: Now, just a minute, please.

The Court: All these letters have gone into evidence. I think it is proper cross-examination, in view of the fact that all these letters have gone into

evidence, cross-examination with reference to them. I don't know just what the purpose is.

Mr. Costello: If your Honor please, the purpose is to show that this man had lost his affection and that it was through him going with these other people that he had left his wife. That is what I want to show, and to discredit his testimony on direct examination. I think I have a legitimate right in doing that. 10

Mr. Renwick: I have no objection to his asking any questions on the letters, but when he comes to asking relationships about people that may be mentioned incidentally, I don't see that has any bearing in the case.

The Court: This particular letter, as I recall it, 20 is sent to some address in care of a certain person, isn't it?

Mr. Costello: It is addressed to a Mrs. Dorey.

The Witness: I say it was given to me through Mr. Seibert giving it to me. She is trying to black my character, that is all, that letter.

Mr. Costello: What I was trying to bring out, if 30 your Honor please, is whether this letter was ever delivered to Mr. —

The Witness: No, it wasn't delivered —

The Court: Wait a minute, now.

Q. Where did you get that letter?

A. I had it given to me by Mr. Seibert.

Q. By Mr. Seibert?

A. Yes, sir, by Mr. Seibert.

Q. And that is the man you boarded with?

A. Yes, sir.

Q. Did Marion Seibert live with him, too?

10 A. Yes, sir.

Q. She did?

A. Yes, sir; and she is his mother.

Q. Was George Seibert a married man?

A. Yes, sir.

Mr. Renwick: I object, irrelevant and immaterial. It has no bearing on these letters.

20 Mr. Costello: If your Honor please, I want to find out who was running this house. He testifies that the house was being operated by George Seibert, and I want to find out who was really conducting that house where Mr. Laing went to live.

Mr. Renwick: You have a right to make your own case in your own case, but it is not proper cross-examination to go into matters not connected with the correspondence in any way.

30 Mr. Costello: I think that is connected with the correspondence, if your Honor please.

The Court: Of course, the question arises as to the petition for desertion, and I assume what Mr. Costello was trying to do is to show lack of desertion on the part of the defendant and desertion on

the part of petitioner. I assume that is what the question is based on. I think I will let him answer the question.

Q. Who did you pay your board to?

A. I paid it to Mr. Seibert.

Q. Mr. Seibert?

A. Yes, sir.

10

Q. How long did you live in that house, Mr. Laing?

A. Until somewhere around October.

Q. Somewhere around October?

A. Yes, about six months.

Q. October of what year?

A. Of 1919.

Q. October of 1919?

A. Yes, sir.

Q. Where did you go to live after that?

20

A. Mr. Seibert went to Delaware, moved to Delaware.

Q. I see; I am not talking about Mr. Seibert?

A. I went to live at Silver Street.

Q. Who was your landlord there?

A. Let me see—what is his name? Mr. Cash.

Q. What is the name?

A. Cash, George Cash.

Q. How long did you live there, Mr. Laing?

A. I lived there for over a year, sir.

30

Q. Over a year?

A. Yes, sir, I lived there all the while the divorce case was going on.

Q. When did you move to Atlantic City?

A. I was going down, as I told you, working down

in Atlantic City at the new Princess Hotel and I was still living at Silver Street.

Q. You only lived at Silver Street six months, is that right?

A. I lived at Silver Street for over that year.

Q. For over a year?

A. Yes, sir, for over a year.

10 Q. Mr. Laing, did you ever know that your wife, Mrs. Laing, was employed at a Detention house or House of Correction in Philadelphia?

A. Yes, sir.

Q. Did you ever go to see her while she was there?

A. No, sir, I did not.

Q. When was the last time, Mr. Laing, that you ever asked Mrs. Laing to come back and live with you?

A. The last time?

20 Q. Yes.

A. Well, let's see, it is somewhere around—right before I started the divorce case. Somewhere around 1919, before I started the divorce case, I asked her and she blank said no.

Q. You never asked Mrs. Laing to come back and live with you from the time this divorce action was started in 1919 in Philadelphia, is that correct?

A. That is correct.

30 Q. What did you sue Mrs. Laing for divorce for in Philadelphia?

A. I sued on desertion, because she deserted me.

Q. All right; on desertion?

A. Yes.

Mr. Costello: That is all.

By Mr. Wilson:

Q. Mr. Laing, about your allegation of desertion in your petition—you state that you cohabited until on or about October 11th, 1921. By that statement that you signed your name to, you didn't mean you actually lived together, did you?

A. No, sir, I did not.

10

Q. All that time?

A. All that time, yes, sir.

Q. As you understood the petition, you were trying to resume married life with your wife, and she wouldn't?

A. That is in 1921.

Q. Yes; and by that, you mean you were cohabiting in the sense that you were man and wife up until that time—is that what you mean?

A. Yes, sir.

20

Mr. Wilson: That is all.

By Mr. Costello:

Q. I want to get one thing straight, Mr. Laing. The divorce action was started in July, 1919, that is correct, isn't it?

A. Yes, sir.

Q. And the Master's hearing and report was on May 31st, 1921, is that correct?

30

A. Yes, sir.

The Court: May what?

Mr. Costello: May 31st, 1921.

Q. And the rule was filed against you on June 21st, 1921, that is correct, isn't it?

A. I couldn't say, because I never got the report, what date it was signed on.

Mr. Costello: That is all.

10 By the Court:

Q. Have you ever talked to your wife since October, 1921?

A. No, sir.

Q. And it is October 11, 1921, when you went back to the house?

A. No, sir, that is on May, I say, May, 1921, I went back to the house. I went back in May.

Q. When were you arrested?

20 A. I was arrested in October. I was living on Custer Street from May up until October.

Q. I thought you said in your testimony that you went back there on October 11, 1921, and there was a policeman there?

A. Oh, yes, but I was living there then. I was living there from May up to that night, and I came home from my work—I had to work that night until around eleven o'clock, and I came down from Glenside, and when I come in to go to the house, she was  
30 there and had the furniture what she had taken out in 1907 put back and had a cop there and had me arrested and taken right out. They wouldn't even leave me go upstairs to change my clothes.

Q. Did you ever go back to the house since that time?

A. I went back and got my clothes and got my tools, and I have never been near the house since.

Q. Have you ever talked with your wife since then?

A. No, sir.

Q. Never written to her?

A. No, sir.

10

Mr. Renwick: If your Honor please, I desire to amend paragraph two by striking out the word "until" and inserting the word "and," and strike out the word, "when." I want the paragraph to read, "Petitioner and defendant cohabited after said marriage and on or about October 11, said petitioner deserted," etc.

Mr. Costello: I have no objection.

20

The Court: No objection?

Mr. Costello: No, sir.

The Court: All right, the amendment will be made.

By Mr. Wilson:

Q. At the time that you came into the house and your wife had the policeman, did you attempt to talk to your wife? 30

A. I asked them what was the idea and she said, well, she said she didn't want him here and she wanted him taken out, and they wouldn't even leave me go upstairs to get clean clothes.

Q. Mr. Laing, who was renting that house at that time?

A. At the time, Goldman was renting it, up to that time, until I went to live there, and then after that there was nobody renting it.

Q. Mr. Laing, just one minute. Was or was not Goldman living at 3142 Custer Street during May 10 up and until October, 1921?

A. No, sir, they moved out two weeks before I was arrested, two weeks they moved out.

Q. Two weeks before you were arrested?

A. Yes, sir.

Q. Well, then, Goldman moved out the latter part of September of 1921, is that correct?

A. Yes, sir.

20 Mr. Costello: That is all.

By the Court:

Q. I thought you said you lived in that house from May —

A. Yes, sir, I say I lived there with Goldman.

Q. You lived there with Goldman?

A. Yes, sir, yes, sir, right up until October 11th.

30 Q. You continued to stay there after Goldmans moved out?

A. Yes, sir, I did.

Q. Had the Goldmans moved out all their furniture?

A. Yes, sir, I bought a bed and put in there myself.

By Mr. Costello :

Q. Now, just a minute, Mr. Laing. You claim that you lived with Goldman from May, 1921, up until the time you were arrested, which was October 11, 1921?

A. Yes, sir.

Q. Now, I also understood you to say that you 10 went to Atlantic City in 1920, you went down there to work, and you worked for about a year and a half?

A. Yes, sir.

Q. Now, as I understood you, you went down there about the summer of 1920, isn't that correct?

A. Around May.

Q. After you left Silver Street?

A. I didn't leave Silver. I was working in Atlantic City when I was living at Silver Street, I was 20 working in Atlantic City.

Q. For about a year and a half?

A. Until 1920. 1920 I was living at Silver Street and after I come up from Atlantic City, from 1921 I went to live at Custer Street.

Mr. Costello: All right, that is all.

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30

JOHN F. MONAGHAN, SWORN.

By Mr. Wilson:

Q. Where do you live, Mr. Monaghan?

A. 713 East Clearfield Street, Philadelphia.

Q. Do you know Mr. Laing, the petitioner in this case?

A. Yes, sir.

Q. Do you know the defendant, Mrs. Laing?

A. Yes, sir.

Q. Were you present when a hearing was held involving Mr. Laing and his wife?

10 A. Yes, sir.

Q. When was that?

A. It was October 12th, 1921.

Q. Where was that?

A. Thirtieth Police District, Front and Westmoreland Street, Philadelphia.

Q. What was said by Mr. Laing, the defendant, at that time, at that hearing?

A. Well, now, that is quite a while ago. I know that the complaint was, I understand Mrs. Laing  
20 wanted Mr. Laing to keep away from her. It was one of those cross complaints between husband and wife, and the Magistrate held Mr. Laing under four hundred dollars bail for court and I became his bondsman.

Q. What was the charge against him?

A. Forcible entry.

Q. And what did Mrs. Laing say about the matter at that time, exactly, if you recollect? What did she want done? What did she complain about

30 or what did she want?

A. Well, to the best of my knowledge and belief, she wanted him to keep away from the premises.

Q. Did you ever talk to Mrs. Laing since?

A. Oh, yes, Mrs. Laing and I have conversed over the matter several times, but as I say, it was so long I cannot say with any positiveness.

Q. What has been her attitude since that time toward her husband, from your observation of her?

Mr. Costello: If your Honor please, that would have to be in the presence of both of them.

The Court: Not necessarily in his presence. He may testify to any conversations that he may have had with her with reference to the trouble. 10

Q. What would she say about her husband when you talked to her since that time?

A. Well, the times I conversed with Mrs. Laing was shortly after the arrest in 1921. She had told me her entire side of the story and I thought possibly if there was any way at all that I could be of any assistance to maybe bring about a reconciliation of this dispute, I would be only too glad, but her disposition of the case was putting up with abuses, and the next time I seen Mr. Laing the story was just the opposite. 20

Q. Did she express a willingness to live with her husband or say anything about living with her?

A. I don't think we ever approached that question at all.

Q. You have known both of these parties for a considerable time, haven't you?

A. About twenty-three years, I guess; twenty-two or twenty-three years. 30

Q. You lived in the neighborhood of this Custer Street house, have you not?

A. I have, a square away.

Q. You don't know anything about the residence

of the petitioner, do you, since that time? Do you know where Mr. Laing lives?

A. In Camden somewhere, but I don't know what address.

Q. Do you know where Mr. Laing lived previous to this date he was arrested?

A. No, I only know of him having a residence of  
10 3142 Custer Street.

Q. At the time, what was your occupation?

A. Well, I was what you might term a Republican Division Committeeman, which necessarily brought me through all that division, and in contact with all the residents, and both Mr. and Mrs. Laing lived in that division.

Q. That is how you come to know them?

A. Yes.

20 Mr. Wilson: I guess that is all.

(No cross-examination.)

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MRS. ALICE KEARNEY, SWORN.

By Mr. Wilson:

30 Q. Where do you live, Mrs. Kearney?

A. 2918 North Sixth Street, Philadelphia.

Q. Do you know Mr. Laing?

A. Yes, sir.

Q. Do you know Mrs. Laing?

A. I do.

Q. How long have you known them?

A. Well, I should say about fifteen years.

Q. How did you come to know them?

A. I got acquainted with them through a friend of mine, Mrs. Jones.

Q. Do you know anything about the trouble between Mr. and Mrs. Laing?

A. I knew there was a lot of contention for a long while.

10

Q. Were you present at any arguments that they had?

A. Well, I have, in our own home. Mrs. Laing lived with us for a short time.

Q. When was that?

A. I think that was the fall of 1917, but I cannot say accurately. I just don't recall. It was after she left Mr. Laing.

Q. While living with you, did she make any statements in reference to her husband, about living with him?

20

A. She was always talking about her husband and the trouble they had.

Q. What would be the statements she would make?

A. She said they could not get along and they could not live together.

Q. What would she say about herself, about living with him?

A. As far as I remember, she said they were always having a little trouble and she wouldn't go back.

30

Q. She would not go back?

A. Yes.

Cross-examination.

By Mr. Costello:

Q. Did you testify, Mrs. Kearney, in the other divorce action between Mr. and Mrs. Laing?

A. Yes, I did. Not in the divorce action, I didn't.

10 Q. Didn't you testify before?

A. No, sir.

Q. Didn't you appear before John L. Burns?

A. No, sir.

Q. Now, Mrs. Kearney, you say Mrs. Laing lived with you for a while?

A. With my mother and father.

Q. Well, where you lived?

A. Yes, sir.

20 Q. And that she said that they could not get along together and had trouble. Now, just tell us exactly what that conversation was. What did Mrs. Laing tell you?

A. She kept telling us how they were always quarreling about different things, over her brother and different things.

Q. What other different things, now, Mrs. Kearney?

A. Well, I just don't recall everything.

30 Q. You don't? Ever any trouble about him going out with anyone else, that she ever told you?

A. Well, I guess she has said different things.

Q. The reason that they couldn't get along together was on account of he was going out with other women—that is the truth, isn't it?

A. Well, I don't remember anything about other women.

Q. But you do remember talking about her brother, that they could not get along about her brother?

A. Yes.

Q. But you don't remember her saying that Mr. Laing was losing his affection and going out with other women?

A. Well, she may have said that to me, I don't know.

Q. Are you subpoenaed here today, Mrs. Kearney?

A. Yes.

Mr. Costello: That is all.

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WILLIAM NORMAN KEARNEY, SWORN.

20

By Mr. Wilson:

Q. Mr. Kearney, do you know the parties to this suit?

A. Yes, sir.

Q. How long have you known them?

A. About fourteen years.

Q. Where do you live?

A. 2918 North Sixth Street, Philadelphia.

30

Q. And Mrs. Laing at one time lived with you?

A. Yes, sir.

Q. Was her husband living there with her?

A. No, sir.

Q. Did she ever talk about her husband?

A. Yes, sir.

Q. What would she say about him?

A. Well, she was talking on various occasions in reference to the case and she made remarks at one time she would never live with him and she wasn't living with him as long as she could get the money from him.

10 Q. Did she tell you what the nature of the difficulties were between them, what the subject of the quarreling was?

A. Why, he claimed—I am only taking this from her remarks—claimed there was a woman in it and stuff like that.

Q. Did she make any reference to her brother?

A. She spoke about her brother.

Q. What did she say about that?

A. Spoke about her brother being in trouble.

20 Q. Did she make any statements about any arguments about that?

A. Why, yes, she has spoken in reference to her brother being there, because he wanted to live there, or something about it. It has been so long I don't just recall all.

Q. Am I correct about that, that she said she wouldn't live with him any more as long as she got the money?

A. Yes, sir.

30 Q. Did she tell you what she meant by that, about the money?

A. That I cannot answer, unless it had reference to money he had or what it was. I couldn't answer that part of it.

Cross-examination.

By Mr. Costello:

Q. You didn't know how much Mrs. Laing was getting from Mr. Laing at that time?

A. I didn't know.

Q. You don't know whether it was three and a 10 half, four dollars or five or what, but you do remember Mrs. Laing stating there was another woman in the case? She said that in your presence?

A. Oh, yes, she has made that remark.

Mr. Costello: That is all.

By the Court:

Q. Mr. Kearney, when was the last conversation 20 you had with Mrs. Laing in which she said she wouldn't live with her husband?

A. She lived with us; just before she left.

Q. When was that?

A. That was in the fall of 1917.

Q. In the fall of 1917?

A. Yes, sir.

Q. And have you ever conversed with her since that time with reference to her husband?

A. No, I have not.

30

Q. That is the last time she has mentioned it, in the fall of 1917?

A. Yes, sir.

The Court: All right.

ANNIE JONES, SWORN.

By Mr. Wilson:

Q. Mrs. Jones, where do you live?

A. 2918 North Sixth Street.

10 Q. Do you know Mr. and Mrs. Laing?

A. Yes, sir.

Q. Did Mrs. Laing at one time live in the same house with you?

A. Yes, sir.

Q. Where was that?

A. On Fourth Street.

Q. What is it?

A. I forget the number on Fourth St.

Q. Philadelphia?

20 A. Philadelphia.

Q. When was that?

A. 1919.

Q. Were you aware of any trouble between Mrs. Laing and her husband?

A. Yes.

Q. You say you knew there was some trouble between them?

A. They did not seem to get along together.

30 Q. Did you ever hear her complain about her husband?

A. Yes, she was always saying she never wanted to live with him. She told me many a time she would rather die in the gutter than live with him.

Q. Why did she say that?

A. They didn't get along together, I guess.

Q. Did you ever hear Mrs. Laing talking to anybody else about her husband in that house?

A. In my house where I lived?

Q. Yes?

A. Yes, told all the family.

Q. Did her brother come there to see her while she lived there?

A. No, I didn't see her brother.

10

Q. Did you overhear a conversation between Mrs. Laing and her brother at any time?

A. Oh, yes, at their house.

Q. You were there?

A. Yes.

Q. What was this conversation?

Mr. Costello: If your Honor please, I object; I don't see where any conversation between the defendant and the brother has any bearing on this 20 divorce case.

The Court: Well, I cannot tell; it might be.

Mr. Wilson: I will strike it out.

The Court: It might or might not be. I cannot tell.

Q. This conversation that you heard Mrs. Laing 30 have with her brother, you say you were at her home, Mrs. Laing's home?

A. Yes, sir.

Q. Her brother was there?

A. Yes, sir.

Q. Did you know her brother?

A. Yes.

Q. What did Mrs. Laing say in that conversation to her brother, if anything, relating to her husband, Mr. Laing?

A. Well, she was always talking about different things.

10 The Court: Direct your attention, Mrs. Jones, to the conversation that took place between Mrs. Laing and her brother, not what she was always saying. Get down to what she actually said, not what she was always saying, what she said at that time.

Mr. Costello: If your Honor please, I would like to have the time.

Mr. Wilson: All right.

20

Q. When was this time that you called and overheard a conference or conversation between Mrs. Laing and her brother—when was that, what date?

A. Well, it was so long I really forgot all the dates.

Q. I mean, what year, then?

A. I could not tell you the year.

Q. Well, how many years ago was it, about?

A. It was 1917 when she came to our house.

30

Q. Was it after that that you called at the house?

A. No, never went near her after that.

Q. Well, this conversation that you overheard was previous to her leaving your house, is that right?

A. I didn't get your question.

Q. This conversation you overheard, was it previous to the time she lived with you?

A. No, it was when we visited her at her home.

Q. Had she left your house then?

A. No, she hadn't come to our house then, when I heard her talking about Mr. Laing.

Q. This conversation you heard was before she lived with you, when you visited her?

10

A. Yes.

Q. When did she live with you?

A. 1917. 1919 she come to us. 1917.

Q. You want to try to be exact in your dates?

A. Yes.

The Court: In 1917, was that?

The Witness: I think that was 1917.

20

Q. Now, what was this conversation about?

A. Well, she was always fighting about Mr. Laing doing this, and she didn't want to live with him, and "I want to get away from him."

Q. You overheard these words in the talk with her brother?

A. Yes, sir.

The Court: That is back in 1917; that was prior to this other divorce suit, wasn't it, on the ground 30 of desertion?

Mr. Wilson: Yes.

The Court: What effect would that have here?

Mr. Wilson: Only for the purpose of corroboration, not as an element itself.

The Court: All right. What did she say about the conversation?

(Answer repeated.)

10

The Witness: Her brother said, "You don't want to live with him. You got everything in your name. What do you want to bothered with him for?"

Q. What did she say to that?

A. She said she would. She said, "I will never live with him again; I am done."

20 Q. Do you remember a time when she went away on a trip or something to Providence, Rhode Island?

A. Yes, she was at our house then when she went away.

Q. Did she tell you anything about that trip?

A. No, she didn't say a thing.

Q. Did you go with her on any errands?

30 A. She came with me on an errand to go to the bank with her. She come to the mill where I was working and got me off. She said she wasn't going to live with Mr. Laing and she wanted to get the money, and the Court wouldn't know how much money she had in the bank, she could get more support from Mr. Laing.

Q. Did you go with her to the bank?

A. I went with her to the bank.

Q. What did she do at the bank?

A. She just got money out and come over to where

I was living and she buried it in our cellar so nobody could get it and nobody would find it.

Q. Do you know how much?

A. No, she didn't tell me how much she had; and she had a building and loan, but I couldn't tell you how much money was really in there.

Q. She buried money in the cellar of the house where you lived that she drew out of the bank? 10

A. Yes.

Q. Did you see her get it out of the bank?

A. Yes, I was with her, sir, when she got it out.

Q. Why did she say she was burying the money in the cellar?

A. You know.

Q. What did she say?

A. She wanted to bury it because there was somebody broke in our house at the time.

Q. Whose house? 20

A. Where I lived, you know.

Q. I see?

A. And of course, we notified Mrs. Laing, when she had gone away, she thought she better get it all buried in the cellar.

Q. In whose cellar?

A. In my sister's house.

Q. Who is your sister?

A. Mrs. Seibert.

30

Cross-examination.

By Mr. Costello:

Q. Is it Miss or Mrs. Jones?

A. Miss Jones.

Q. Miss Jones, were you a witness in the last divorce case between Mr. and Mrs. Laing?

A. No, sir.

Q. Are you sure?

A. No.

Q. Didn't you ever go before John L. Burns, a Master, and testify in the divorce case?

10 A. No.

Q. Now, recall?

A. No, I don't think I was.

Q. Did you ever go and testify in any matter for Mrs. Laing?

A. Oh, yes. Now, I remember. There is so much to this trouble I got mixed up.

Q. Yes; you testified for Mrs. Laing that time, didn't you; you were her witness at that time?

20 A. Yes, I was her witness at that time. Now, I know what you are talking about, yes.

Q. Do you remember what your testimony was at that time?

A. No, I don't remember.

Q. You don't remember; but anyhow, you testified in behalf of Mrs. Laing when Mr. Laing was suing her for divorce before, didn't you?

A. Well, I wasn't called up; I was with Mrs. Laing.

Q. You weren't sworn in or anything?

30 A. I don't remember that.

Q. Now, just try and think, Miss Jones; just try and think.

A. Maybe I did.

Q. You aren't positive whether you did or not, is that right?

A. I remember going.

Q. You remember going?

A. Yes.

Q. But you are not sure whether you testified or not. Now, Miss Jones, when you said that Mrs. Laing went to live with you, how long did she live with you at that house on—was it 2918 North Sixth Street, she went?

A. Fourth Street.

10

Q. How long did Mrs. Laing stay with you?

A. Well, I don't think she stayed any longer than about six or seven weeks, because there was no convenience. She had to lie on a couch.

Q. What time of the year was that, Miss Jones?

A. I really couldn't tell you.

Q. Are you sure it wasn't only a day or two?

A. Oh, no, she stayed with us quite a while before she left us and went away to Providence, Rhode Island. Then we notified her about the breaking in.

20

Q. Had Mrs. Laing ever borrowed any money from you and your sister, Jennie?

A. No, if she did from Jennie, but she didn't from me.

Q. She borrowed it from your sister?

A. If she did. She didn't from me.

Q. Did Mrs. Laing tell you at the time you went down to the bank to get the money what it was for?

A. Yes.

Q. She said it was to pay your sister Jennie what she owed her?

30

A. No.

Q. She didn't?

A. It was so she didn't want the Court to know how much money she could get.

Q. She told you that?

A. Yes, sir.

Q. Miss Jones, I want you to think now. Didn't you testify at that other divorce hearing that—maybe this will refresh your mind—did you testify that you heard Mr. Laing state that if Mrs. Laing didn't put her coat on, he would have choked her that time?

10

Mr. Renwick: Wait a minute. I object, if the Court pleases. If the defendant wishes to introduce such testimony, he must read the question and answer that was given at the former trial.

The Court: I think probably that is the proper way to prove it. She really doesn't know yet whether she testified or not.

20 Q. Did Mr. Laing ever, in your presence, state that he would have killed Mrs. Laing that time if it hadn't been for putting on her coat?

A. No, I never heard of that.

Q. You never heard of that?

A. No.

Mr. Costello: That is all.

By the Court:

30

Q. Now, Miss Jones, when was the last conversation you had with Mrs. Laing with reference to her troubles, domestic troubles, of any kind?

A. Well, I don't think I have spoken to Mrs. Laing, I should think, about—

Q. When, what year?

A. Nine years I haven't spoken to her.

Q. Have you talked to her about her—what year was it she was living in the same house with you, what year was that?

A. 1917. That is when she came to us, when she left Mr. Laing.

Q. Have you talked with her since that time?

A. Yes, I have talked to her since. 10

Q. When?

A. When she come up to Mrs. Davis'.

Q. When was that, what year?

A. She used to visit Davis.'

Q. What year?

A. Right after then. She was keeping friends all the time.

Q. When was it, what year was that? You say the other time is 1917. Now, after that, when was it you talked to her? 20

A. I haven't really been talking to her at all, when she left our house.

Q. When was that?

A. About 1918.

Q. Have you talked to her about anything with reference to her husband since 1918?

A. No, sir, I haven't.

The Court: All right.

JOSEPH HILL, sworn.

By Mr. Wilson:

Q. Mr. Hill, where do you live?

A. I live at 208 West Atlantic Avenue, Audubon,  
10 New Jersey.

Q. Do you know Mr. Laing?

A. Yes, sir.

Q. Do you know where he lives?

A. Yes, sir, he lives at 104 North Twenty-fifth  
Street, Camden, New Jersey.

Q. How do you know he lives there?

A. Well, I lived with Mr. Laing for approximate-  
ly six years.

Q. Where?

20 A. At 104 North Twenty-fifth Street, Camden.

Q. When did you first become acquainted with  
him?

A. I became acquainted with Mr. Laing about fif-  
teen years ago, when we lived at 712 East Clearfield  
Street, Philadelphia, about half a square from  
where he lived at 3142 Custer.

Q. To your knowledge, how long has Mr. Laing  
lived at Twenty-fifth Street, last past? How long  
has he lived there?

30 A. How long has he lived at 104 North Twenty-  
fifth?

Q. Yes.

A. I would say about three—Well, it is eight and  
a half or nine years; eight to nine years.

Q. In Camden or Philadelphia?

A. In Camden, 104 North Twenty-fifth Street, Camden.

Q. When was the first time that you went to that house, to your recollection, and saw Mr. Laing there?

A. At Twenty-fifth Street in Camden?

Q. Yes.

A. Why, the first time, when we moved there. 10

Q. When did you move there?

A. That was in 1923.

Q. When you say "We moved there," who do you mean by "WE"?

A. There was my mother, my two brothers—that is, my brother and I. We moved to 104 North Twenty-fifth Street, Camden.

Q. And Mr. Laing lived there at that address?

A. Mr. Laing lived there with us.

Q. You moved away later? 20

A. Yes, we moved away in 1929.

Q. 1929?

A. Yes, sir.

Q. Who boarded there with you?

A. Yes, sir.

Q. Prior to 1923, when you went to live there with your mother, where did Mr. Laing live previous to that, at the same address?

A. Why, yes.

Q. How do you know that? 30

A. He lived there before we went there.

Q. How do you know he lived there?

A. We knew Mr. Laing, we had known him for years, and naturally, he was an old friend of ours and we would see him from time to time.

Q. Were you ever in the house before you moved there?

A. Yes.

Q. How many times?

A. I couldn't say.

Q. Well, how often?

A. It wasn't very often.

10 Q. Once a month?

A. No, it wasn't that often. About once every six months, we would see Mr. Laing.

Q. When was the first time that you visited Mr. Laing there before you went there to live?

A. When was what?

Q. The first time you visited Mr. Laing in that house before you lived there?

A. Well, I couldn't just say when that time was. The first time we visited her before moving there.

20 Q. That was 1923 you moved there?

A. Yes, sir.

Q. And to your knowledge, how long did Mr. Laing live there previous to that, from your knowledge based on your visits?

A. Oh, about a year and a half or two years, to my knowledge.

Cross-examination.

30 By Mr. Costello:

Q. Mr. Hill, did you move to 104 North Twenty-fifth Street when your mother first moved there—did you move with your mother?

A. Yes, sir, I did.

Q. Is that your mother's signature?

A. Yes, sir, it is.

Q. That is your mother's signature. Now, you stated you moved there in 1923, is that correct?

A. Yes, sir, to my knowledge, that is the year we moved there.

Q. Isn't it a matter of fact that you moved there some time during May of 1922?

A. May, 1922? Well I thought it was the year 10 of 1923. I know it was in the spring of the year that we moved there.

Q. In the spring of the year?

A. When we moved there.

Q. Now, as a matter of fact, Mr. Hill, you are not positive when you moved away, are you? You don't know whether it was 1928 or 1929, do you?

A. Well, now, I can tell you, figuring back this way. I moved from 104 North Twenty-fifth Street to 249 Morse Street in Camden and I was married 20 in February of 19—it was June, 1928, when I moved away, because I was married in February, 1928.

Q. Who still stayed at 104 North Twenty-fifth Street, your mother and Mr. Laing also?

A. No, sir, my mother went with me.

Q. Your mother went with you?

A. Yes, sir.

Q. Did Mr. Laing come to live with you?

A. No, sir, he didn't.

30

Q. He didn't?

A. No.

Q. But all the time you were living those years at 104 North Twenty-fifth Street, do you know who owned that property?

Mr. Wilson: Objected to as not being cross-examination.

The Court: 104 what?

Mr. Costello: 104 North Twenty-fifth Street.

10 The Court: I think that is a proper question; I will admit it.

Q. Who did you rent that property from, do you know?

A. Thomas W. Laing.

Q. Thomas W. Laing?

A. Yes, sir.

Q. Then, as a matter of fact, you lived with Mr. Laing instead of Mr. Laing boarding with you, isn't  
20 that correct?

A. Well, we paid the rent to Mr. Laing, yes, but Mr. Laing was a boarder in the house. He had his meals with us, and that is the way we arranged it. They were the arrangements we made.

Q. Is your father living, Mr. Hill?

A. Yes, sir.

Mr. Costello: That is all.

30 By the Court:

Q. Mr. Hill, where has Mr. Laing lived since you left there in June of 1928?

A. At the same address, 104 North Twenty-fifth Street.

Q. How frequently did you see him?

A. I would see Mr. Laing, I would say, at least twice a week.

By Mr. Wilson:

Q. What is your business, Mr. Hill?

A. Why, I am a solicitor at the present time for a laundry business. 10

Mr. Wilson: I see; that is all.

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THOMAS A. MARSHALL, SWORN.

By Mr. Wilson:

Q. Mr. Marshall, where do you live? 20

A. 401 Middlesex Street, Gloucester, New Jersey.

Q. Do you know Mr. Laing?

A. Yes, sir.

Q. How long have you known him?

A. I would say in the neighborhood of twenty-one or twenty-two years.

Q. Do you know where he lives?

A. Yes, sir.

Q. Where is he living?

A. 104—I just heard that number, but I know it 30  
is on Twenty-fifth Street, right there on the corner. I believe the number is 104, but I can go right to the house. I have been there several times.

Q. How long has he lived there, to your knowledge?

A. Well, I figure around about eight or nine years.

Q. How would you know that?

A. Well, only by being out there. I could not say exact.

Q. Well, you visited him there, knew he lived there, that is where you always saw him?

A. Yes, sir.

Q. How often would you see him?

10 A. Well, we have saw him pretty often. I would say maybe once a month or two or three times a month, something like that.

Mr. Wilson: That is all.

(No cross-examination.)

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20 GRACE BROWN, SWORN.

By Mr. Wilson:

Q. Miss Brown, where do you live?

A. I live at 302 North Broadway, Gloucester.

Q. Do you know Mr. Laing?

A. I do.

Q. Do you know where he lives?

30 A. Well, I just didn't know the number until I heard it today. I knew he lived on Twenty-fifth Street in Camden.

Q. How do you know he lives there?

A. Because we have been personal friends with him for at least thirty-five years.

Q. When you say "we," who do you mean?

A. Our family.

Q. Did you visit him there?

A. Yes, quite often.

Q. Who with?

A. Well, my sisters and his niece, my brother-in-law.

Q. And how long has he lived there to your knowledge?

A. Nine years, I think, about nine years. I am most sure it is nine years, if not—Well, I know it is nine years.

Mr. Wilson: That is all.

Cross-examination.

By Mr. Costello:

Q. Now, Miss Brown, were you ever visiting Mr. Laing's house when Mrs. Laing was there? 20

A. Never.

Q. You never heard—Mrs. Laing never stopped at that house during your presence?

A. Never.

Mr. Costello: That is all.

THOMAS W. LAING, recalled.

By Mr. Wilson:

Q. Mr. Laing, at the time that you went to this Custer Street house and you say you lived there for  
10 some weeks and your wife had you arrested, during  
the time that you lived there, did you know where  
your wife was?

A. No, sir.

Q. What was the idea of going there to live in  
that house? Why didn't you live somewhere else?

A. Well, my attorney, he advised me——

Q. Don't tell what the attorney said.

A. To go there to see when she come and try to  
make it up and try to settle things up to get the fur-  
20 niture back and try to live together again.

Q. Why didn't you go and try to find her some-  
where else?

A. I didn't know where to find her. I was work-  
ing every day and I didn't know where to find her  
and I didn't know where she lived at. All I know is,  
she was working up in the Holmesburg Prison or up  
in the Correction.

Q. What was your idea in going there, that you  
would run into her?

30 A. I come there, I thought she might come and we  
would make it up and live together, and they just  
blackened everything, because when I come home  
at night and went to go in the front door, she had  
changed the lock. I didn't know she had an officer  
in the house, and when I tried to go in the front and  
couldn't, I went around to the back. The officer

opened the door, and I went in through the house and he took me and I says, "Well," I says, "this is my own home," I says, "I don't know what right you got." She says, "No, I don't want him here," and they wouldn't let me even go upstairs to get a change of clothes. My working clothes I had on, that is what I had, and that is what they took me over to the box and took me to Front and West- 10  
moreland Street at quarter past twelve at night.

Cross-examination.

By Mr. Costello:

Q. What did you say you went back there for?

A. I went back with the intention of trying to make it up and live together.

Q. When was this? 20

A. That was in May I went there.

Q. May of what year?

A. Of 1921.

Q. May of 1921?

A. Yes, sir.

Q. You are sure of that?

A. Yes, I went there with Goldman, I told you, May, 1921.

Q. All right; I just asked you. Well, now, do I understand you correctly that while this other suit 30  
had been adjudicated, you went back while this was pending and asked your wife to live with you?

A. The case was over, the case was dismissed.

Q. You asked your wife in May of 1921?

A. I went back, yes, and thought we might make

it up, as long as the divorce didn't come, and we would live together.

Mr. Costello: All right, that is all.

By Mr. Wilson:

10 Q. And you lived there with a tenant for a while, and then lived there——

A. Alone.

Q. Two weeks or so after they had moved out?

A. Yes, sir.

Q. Until this time when you came home from work and your wife was in the house and she had you arrested?

A. Yes, sir.

Q. For breaking and entering, wasn't it?

20 A. That is what they said it was, breaking and entering, but I didn't go in. They had the lock changed. I had my keys and I had gone in and they had the lock changed and was in the house and had the furniture moved back that I never seen from 1917 up to that date. She had the furniture moved back. She took the furniture out, even took beds and everything else, and even give part of my clothes away, when she took it out of the house when I was living down at Hog Island. She broke  
30 the home up.

Q. Let's try to get this straightened out. You say you were arrested on the 11th?

A. Yes, sir.

Q. In her complaint or charge before the Magistrate, did she say when you broke and entered into the house?

A. No, said she didn't want me around the house.

Q. Did she make a statement when it was that you had broken in?

A. That night, that was the night they had the officer and arrested me. I wasn't breaking; I was going in with a key.

Q. She made a charge against you. Did the Judge read to you what you were charged with? 10

A. I was charged that they didn't want me around the house and I had to keep away from it.

Mr. Wilson: I see, that is all.

By the Court:

Q. You went back there in May of 1921 and went to live in this same house?

A. Yes, sir. 20

Q. You say your wife was where at that time?

A. I think she was working in Holmesburg Prison. I don't know whether she was living there or not.

Q. During this time, did you go see her?

A. I didn't see her; I didn't know where she was at.

Q. Did you write to her?

A. No, sir.

Q. Make any efforts to find her? 30

A. No, I never saw nothing of her at all.

Q. Did you make any effort to find her? You said she was working at Holmesburg Prison.

A. That is what I think.

Q. Did you go out to tell her?

A. No, sir, because I was working.

Q. You say you went back in May of 1921, thinking that your wife and you could go together? Now, what did you do to bring about any reconciliation?

A. I was hoping she would come while I was there, but she never come there.

Q. Did you tell her you were there?

A. She knowed I was there.

10 Q. How do you know that?

A. Well, she come there that night after Goldman went away, and I let her in.

Q. You let her in?

A. Yes, sir, I let her in the house.

Q. When was that?

A. The night Goldman left, about two weeks before she had me arrested.

Q. Did you talk to her then?

20 A. Yes, sir. She wouldn't have anything at all to do with me, she wanted to get the custody of the house. That is all she wanted, she wanted to get the custody of the house. She didn't have anything to say. She wanted to get the custody of the house.

Q. That was after Goldman had gone?

A. Yes, sir.

Q. Prior to that time, you hadn't talked with her?

A. No, sir.

Q. When you went to Goldman's, you didn't try to find her?

30 A. No, sir.

By Mr. Wilson:

Q. This house was in her name?

A. Yes, sir.

Q. And you knew she valued and prized the house

very much, didn't you, and it was a very nice home, wasn't it?

A. Yes, sir.

Q. You naturally assumed that she would come to that house sometime and you would have a chance to talk to her—isn't that it?

A. Yes, sir; that was the idea when I went back there. 10

Q. Exactly what would your wife say to you when you would make any suggestions to her on these two occasions or attempt to make suggestions about living together again? Did she give you a chance to talk to her about it or anything?

A. No, I say, all she wanted was her brother. As long as her brother was living with her, she was all right, but I could swear —

The Court: Pardon me. This question, as I understand it, was directed at sometime during this period. Repeat the question. 20

(Question repeated.)

Q. That is the Custer Street house?

A. She just ignored what I was saying, that is all, only she wanted to get —

The Court: Tell the conversation. 30

The Witness: When she and the two officers come to the house after Goldman went away, she come to the house, I opened the door and let her in.

The Court: There were two officers then?

The Witness: There was two officers, yes, and so I says to her then, "What are you going to do with the furniture?" She says, "I don't care about the furniture," she says, "I want to get the house and get you out, that is all." Well, I says, "I don't know, I worked too hard for this to let it go this way." I says, "I am going to still live here," and  
10 with that, she and the officers went out and they never said no more, and about two weeks after that one, I came home this night and the furniture was put in the house, and when I come to the door, she wouldn't even hardly speak to me or wouldn't even leave me go up stairs to get my clothes. I had to go in my working clothes, as I come from work, and then they took me to Front and Westermoreland and bound me over.

20 Q. These two times you attempted to talk to her about reconciliation, on both occasions she had officers of the law with her?

A. Yes, sir, ignored it.

Q. She had officers with her?

A. Yes, sir, she had the officers with her both times. She had an officer when they arrested me and an officer when they come to the house both times.

30 Q. You lived very happily for a period of about nineteen years?

A. I carried her around in my arms the same as I carried a baby. I cared for her. She was just like an infant baby. I used to carry her up in my arms until I got her back to her health, yes, sir, and when I got her back to health, that is where the trouble started.

Q. There was no trouble between you until you had this argument about the brother, the time you went bail for him?

A. Not a thing. It was her brother, her two brothers had brought the argument on and brought the trouble. I brought three of her relations to this country and paid their way and never got a nickel. I got an accident on February— 10

Q. Don't go into that?

A. This is another one; I never brought this accident in. On February 8th, 1909, her brother got out two weeks preparatory to that. I took him and got him a job as foreman. I went out to one o'clock in the morning to show her brother how to run pumps and engines and the Monday morning I had the accident I had thirty-one hundred fall on me. I was taken to the hospital. This brother, he was a drunken brother, and when I come home from the hospital— 20

The Court: When was this?

The Witness: 1909, sir. That is where it was all through, her own brothers and her own relations, and when I came home from the hospital, why, this brother was going to beat me up. My leg was in a plaster cast, because I told him if he took another drink I would throw him out of the house, and he come home ten o'clock after I give him the orders, and I throwed him out, and from that day she had a nagging against me because I wouldn't let her brothers just run my house. For everything else, 30

I never broke my envelope from the day we were married until 1916, when I had the accident.

Mr. Wilson: That is all; that is enough.

Cross-examination.

10 By Mr. Costello:

Q. Just one question, Mr. Laing. What was the last date that Mrs. Laing's brother lived with you?

A. I couldn't tell you the last date. 1917.

Q. Wasn't it in about October, 1916?

A. I couldn't say. I know it was short after I had the accident.

Q. Mr. Laing, why did you move from Providence, Rhode Island?

20 A. Why, I moved up here, I come here on a vacation. I got a better job, and that is the reason I moved here.

Q. Didn't have trouble there, did you?

A. No, sir, I didn't, never had no trouble wherever I went.

Q. Did you ever have a niece by the name of Jennie Hankins?

A. No, sir, it wasn't my niece, it was my wife's niece, and we paid her way out, too. Her own flesh  
30 and blood.

Q. Mr. Laing, isn't it the truth that you went to 3142 Custer Street on these different times only to get your tools and clothing?

A. No, sir, I did not. I went there to get my tools, I went with the note after she had me arrested.

Q. You went there to ask her to come back and live with you?

A. I went there with the intentions of living there.

Q. You didn't go there with the intentions of asking her to live with you—you just went there to live there?

A. No, I wanted to get the furniture back and her live with me. Yes, that is what I wanted to do, but I didn't get an opportunity. 10

Q. Well, Mr. Laing, any time during your married relation, when you and Mrs. Laing were living together, did she ever accuse you of running around with other women?

A. No, she never had the opportunity.

Q. I say, did she accuse you?

A. No, she never did, because she never had the opportunity.

20

Mr. Costello: That is all.

Mr. Wilson: That is all. That is the petitioner's case.

PETITIONER RESTS.

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Mr. Costello: If your Honor please, at this time I am going to make a motion for the dismissal of the petition on the ground that in the first place, they state that on or about October 11th, 1921, said defendant deserted petitioner, since which time and for more than two years last past, said defendant has wilfully, continuously and obstinately deserted 30

your petitioner. Your Honor will recall from the testimony here that on July 14th, 1919, the petitioner started a divorce action against the defendant in Philadelphia, and that case was hanging fire up until June 7th, 1921, when the petitioner's suit was dismissed. Then he went back, he claims, to ask the defendant to live with him. There is no corroboration of that, and the law states that it must be two years wilful, continuous and obstinate desertion, and where the petitioner is a man, that he must make some overtures to his wife, and I think they have fallen down in every iota in this respect, and that the defendant has a right to have the petition stricken out.

(After further argument.)

20 The Court: There is no testimony he made any overtures at all. There is testimony he went to his wife's house, at least, the house where there was a tenant by the name of Goldman. He never made any effort during that period to get in touch with his wife or talk to her, and then after the tenant moved out, he got a bed and continued to live there, still without making any effort. Where is there in the testimony any effort at all at a reconciliation? In this case, we have, according to his testimony, a  
30 separation in 1919, and afterwards, there were divorce proceedings instituted in Philadelphia, which resulted—at least the Master's report was filed May 31st, 1921, and the report was made on June 7th, 1921. Now, he testified he went there in May of 1921. I assume that that decree for divorce—I don't know what your contention is—but it apparently

disposed of the matters prior to the conclusion of that divorce proceeding. At least, it wouldn't seem he could start another divorce proceeding based upon the same facts or at least unless something came in after this divorce proceeding. Now, we are down to that point.

(After further argument.)

10

Mr. Wilson: Would you care to hear the petitioner again on the question of overtures?

The Court: I don't think it is necessary. The petitioner has been on the stand on two different occasions, and the last time he went on the stand he referred to one additional meeting which he had with his wife, where he said she came with a policeman at the door, but the difficulty is, he alleges desertion in October of 1921. Now, according to the papers, the suit was not filed until November, 1926. There is absolutely no testimony of his ever attempting to get in touch with his wife from that time down to the filing of the suit. Now, if he had made, when he went back to live in the house, if he had made some honest effort to get in touch with his wife, attempted to talk to her and tried to get her to come back and live with him or made some effort — He made no effort at all, according to his own testimony, until these visits with reference to getting possession of the house. Now, the house was in Mrs. Laing's name. He put it in her name; she was the owner of the house and was entitled to receive the rents. The house was rented and these other people moved out, and during all these months,

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30

he said he lived there with the Goldmans, he made no effort. He says he knew where his wife was, working at some Correction Institution. He didn't write her, didn't try to see her, as far as the testimony goes. There is no reason to assume that his wife would know he was even living there. I mean, there is no testimony that he sent any messages to  
10 her. There is a pile of letters here that she has written to him in the course of years but there is absolutely no testimony he ever replied to one of them. This divorce intervening here practically disposes of anything that may have taken place between the parties prior to the commencement of that suit, as I take it. It certainly is an adjudication of the same charge, the ground of desertion. You have got to base your additional charge on what took place after that time. However, I am perfectly  
20 willing to listen to counsel.

(After further argument.)

Mr. Renwick: If the Court please, I didn't have an opportunity to examine Mr. Laing before the trial, but I have just now learned some facts that I think ought to be produced in evidence, and if the Court will permit the case to be opened for the purpose of two or three minutes' examination, I think  
30 we can arrive at a solution of the situation.

The Court: Well, I don't know that the case ought to be opened after it has been closed. He has been recalled on the stand and a motion has been made to dismiss. Of course, if Mr. Costello has no objection, you can open it.

Mr. Costello: If your Honor please, I have objection to the opening of the case.

The Court: After a witness has been off the stand and back on the stand again and then consulted by counsel after testifying, I am not so sure he ought to be called back again.

Mr. Renwick: Of course, it is within the discretion of the Court. 10

The Court: The witness has been back there.

Mr. Renwick: Counsel did not know something that the witness has just informed counsel, and, therefore, we were not in a position to examine him as we should on that particular point. I think it is usually the custom in these matrimonial matters for the Court to allow more latitude in order to ascertain the truth. 20

The Court: I know, but after all this discussion goes on between counsel and the Court in reference to this motion for dismissal, and in the presence of the petitioner, it seems to me it is a bad time to ask for that. If you had asked for it immediately when the motion for dismissal was made, before this discussion between counsel, it seems to me it would have been a proper time. 30

Mr. Renwick: Of course, we didn't know it then.

The Court: Well, you probably wouldn't know it until the petitioner ——— There has been abun-

dant opportunity for counsel to find out everything in relation to the case from the petitioner that might be evidential, and he has been examined quite completely. The suit was filed in 1926. There has been nearly four years' time for ample preparation. If this request had been made before the discussion had taken place, I might entertain it, but I don't  
10 think it is fair at this time to put the petitioner back on the stand, under the conditions.

(After further argument.)

The Court: Well, I feel that the petition should be dismissed for the reasons I have already expressed, and I will advise a decree dismissing the petition.

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EXHIBIT P2.

10/30/30. JCK

No. 131

COMMONWEALTH OF PENNSYLVANIA 10  
IN THE COURT OF COMMON PLEAS NO. 2.  
of Philadelphia County

THOMAS WILLIAM

LAING,

vs.

ELLEN LAING.

} June Term, 1919,  
No. 3728.

BE IT REMEMBERED, That I, John M. Scott,  
Prothonotary of the Court of Common Pleas, No. 2,  
for Philadelphia County, do hereby certify that on 20  
May 31, 1921, Master's Report Recommending  
Dismissal of the Libel, was filed in  
above case.

And that on June 7, 1921, Report was Approved  
by Norris S. Barratt, President Judge  
of Common Pleas Court No. 2.

IN TESTIMONY WHEREOF, I have hereunto  
set my hand and affixed the seal of said Court, this  
26th day of September in the year of our Lord one  
thousand nine hundred thirty (1930). 30

JOHN M. SCOTT,

(Seal)

Prothonotary.

By T. F. Riordan.

## EXEMPLIFICATION.

PHILADELPHIA COUNTY. }  
 State of Pennsylvania. } Sct.

10 Among the Records and Proceedings of the Court of Common Pleas, No. 2 for the County of Philadelphia State of Pennsylvania, the following may be found as matter of File and of Record, at No. 3728 June Term, 1919, to wit:

## DOCKET ENTRIES.

20	HEPBURN, CARR & KRAUSS 3728 T. J. NORRIS 9-24-19	THOMAS WILLIAM LAING vs. ELLEN LAING July 14-1919—Libel filed. Eo Die—Rule to ap- pear and to Answer filed. Sept. 24-1919—War- rant of Atty to THOMAS J. NORRIS, Esq. filed. Sept. 29-1919—Answer of Respondent filed.	Subp. in Div. A. V. M. Exit July 14-1919. Ret. 1 Mon. Sept. 1919. Served Aug. 23-1919. Sept. 23-1919—Rule for Counsel fee and ali- mony. Eo Die—Petition filed. Sept. 29-1919—Rule absolute for Counsel fee \$35.00 Sept. 29-1919—Rule for alimony withdrawn. Dec. 12-1919—Depos- ited \$75.00 on acct of costs and fee of Master. Dec. 15-1919—John L. Burns, Esq., appointed Master. May 31-1921—Master's Report filed. June 1-1921—Rule upon Libellant for \$250.00 additional Coun- sel fee. Eo Die—Petition filed. June 20-21—Rule ab- solute \$150.00 Counsel fee. June 7-1921—Report approved.
30			

CERTIFIED FROM THE RECORD THIS 15th  
 DAY OF JULY, A. D. 1925.

(Seal)

T. F. Riordan,  
 PRO PROTHY.

No. 2097

THE COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF PHILADELPHIA, ss.

I, JOHN M. SCOTT, Esquire, Prothonotary of the  
Courts of Common Pleas of the County of Philadel-  
phia, acting by my Principal Deputy, Meredith 10  
Hanna, or my Second Deputy, John J. Hoerr, DO  
CERTIFY that the foregoing is a true copy of the  
Part of Docket Entries, and Whole Docket Entries,  
THOMAS WILLIAM LAING, Libellant, Plaintiff,  
and ELLEN LAING, Respondent, Defendant, of  
June Term, 1919, Number 3728, as full, entire and  
complete as the same remains on file in Court of  
Common Pleas No. 2, of the County of Philadelphia  
aforesaid, in the case above stated.

IN TESTIMONY WHEREOF, I have hereunto 20  
set my hand and affixed the seal of the said Court,  
this 26th day of September in the year of our Lord  
one thousand nine hundred thirty (1930).

JOHN M. SCOTT, Prothonotary.

By John J. Hoerr

Second Deputy Prothonotary

Durante Absentia, Secundum

Legem.

(Seal)

COUNTY OF PHILADELPHIA, ss.

30

I, HORACE STERN, Presiding Judge of the  
Court of Common Pleas No. 2, for the County of  
Philadelphia, DO CERTIFY that the foregoing  
Record, Certificate and Attestation made by JOHN  
J. HOERR, Second Deputy Prothonotary of the said

Court, whose name is thereunto subscribed, and the seal of the said Court affixed, are in due form and made by the proper officers.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26th day of September, in the year of our Lord one thousand nine hundred and thirty (1930).

10

Horace Stern  
President Judge, Court of  
Common Pleas No. 2.

COUNTY OF PHILADELPHIA, ss.

I, JOHN M. SCOTT, Esquire, Prothonotary of the Courts of Common Pleas of the County of Philadelphia, acting by my Principal Deputy, Meredith Hanna, or my Second Deputy, John J. Hoerr, DO CERTIFY that the honorable HORACE STERN,  
20 by whom the foregoing Certificate and Attestation were made, and whose name is thereto subscribed, was at the time of making thereof and still is, Presiding Judge of the Court of Common Pleas No. 2, of the County of Philadelphia duly commissioned and sworn; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Courts,  
30 this 26th day of September in the year of our Lord one thousand nine hundred thirty (1930).

JOHN M. SCOTT, Prothonotary.

By John J. Hoerr

(Seal)

Second Deputy Prothonotary  
Durante Absentia, Secundum  
Legem.

EXHIBIT P3.

10/30/30 JCK

IN THE COURT OF QUARTER SESSIONS OF  
THE PEACE, OF THE COUNTY OF PHILADELPHIA. 10

November SESSIONS, 1921  
COUNTY OF PHILADELPHIA, ss:

THE GRAND INQUEST of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That

Thomas William Laing, 20

late of the said County, yeoman on the sixth day of October in the year of our Lord one thousand nine hundred and twenty-one, at the County aforesaid, and within the jurisdiction of this Court, together with divers other evil disposed persons to the number of four or more, whose names are to the Jurors aforesaid as yet unknown, with force and arms, and with a strong hand, unlawfully, violently, forcibly and injuriously did enter into the certain building and dwelling house situate and numbered thirty-one hundred forty-two Custer street, in the city of Philadelphia, then and there being in the peaceable possession of Ellen Laing, and of which the said Ellen Laing was then the owner in fee: and that 30

with the said evil disposed persons, then and there,

with force and arms, and with a strong hand, unlawfully, violently, forcibly and injuriously, did expel, remove, and put out the said  
 from the possession of the said premises, with the appurtenances; and the said  
 so as aforesaid expelled, removed, and put out from the possession of the same, with force and arms, and  
 10 with a strong hand, unlawfully, violently, forcibly and injuriously, have kept out from the same, from the day and year aforesaid, until the taking of this inquisition, and still do keep out; and other wrongs to the said  
 then and there did, to the great damage of the said Ellen Laing: contrary to the form of the Act of General Assembly in such case made and provided and against the peace and dignity of the Commonwealth of Pennsylvania.

20

Samuel P. Rotan  
 District Attorney.

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(On Back)

AND NOW, June 7, 1922, the District Attorney with leave of Court enters a nolle prosequi on the within  
 30 bill of indictment ——— Request of Prosecution.  
 E. V. Alessandrone,  
 Asst. Dist. Attorney

6-7-22

approved

John E. Walsh

Judge

WITNESSES:

Ellen Laing  
3142 Custer St.

Bail, \$400.

John Monaghan  
713 E Clearfield

COSTS, \$

Deitz 10  
Magistrate.

No. 36

November SESSIONS, 1921  
COMMONWEALTH

vs.

Thomas William Laing  
3142 Custer St,

FORCIBLE ENTRY AND  
DETAINER

TRUE BILL 20

Nov. 9th 1921

Robert Sweeney

Foreman

The Defendant being arraigned, plead

Dist. Atty, sim. et issue

6-7-22: Nolle Prossed

see inside

30

THE COMMONWEALTH OF PENNSYLVANIA  
CITY AND COUNTY OF PHILADELPHIA, ss.

I, BLAKELY D. McCaughn, Esquire, Clerk of  
the Court of Oyer and Terminer and General Jail  
Delivery and Quarter Sessions of the Peace, for the

City and County of Philadelphia, DO CERTIFY, that the foregoing is a true copy of the whole Record in the cause wherein the

COMMONWEALTH OF PENNSYLVANIA,  
Plaintiff and  
THOMAS WILLIAM LAING, Defendant ;  
of November Term, 1921, Number 36 as full, entire,  
10 and complete as the same remains on file in the  
Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the City and County of Philadelphia, in the case there stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 28th day of October in the year of our Lord one thousand nine hundred and thirty

Blakely D. McCaughn

20 (Seal)

Clerk.

CITY AND COUNTY OF PHILADELPHIA, ss.

I, Edwin O. Lewis, Presiding Judge of the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, in and for the City and County of Philadelphia, DO CERTIFY, that the foregoing Record and Attestation, made by Blakely D. McCaughn, Esquire, Clerk of the said Court, whose name is thereto subscribed and seal of office  
30 affixed, are in due form, and made by the proper officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 28th day of October in the year of our Lord one thousand nine hundred and thirty.

Edwin O. Lewis,

J.

CITY AND COUNTY OF PHILADELPHIA, ss.

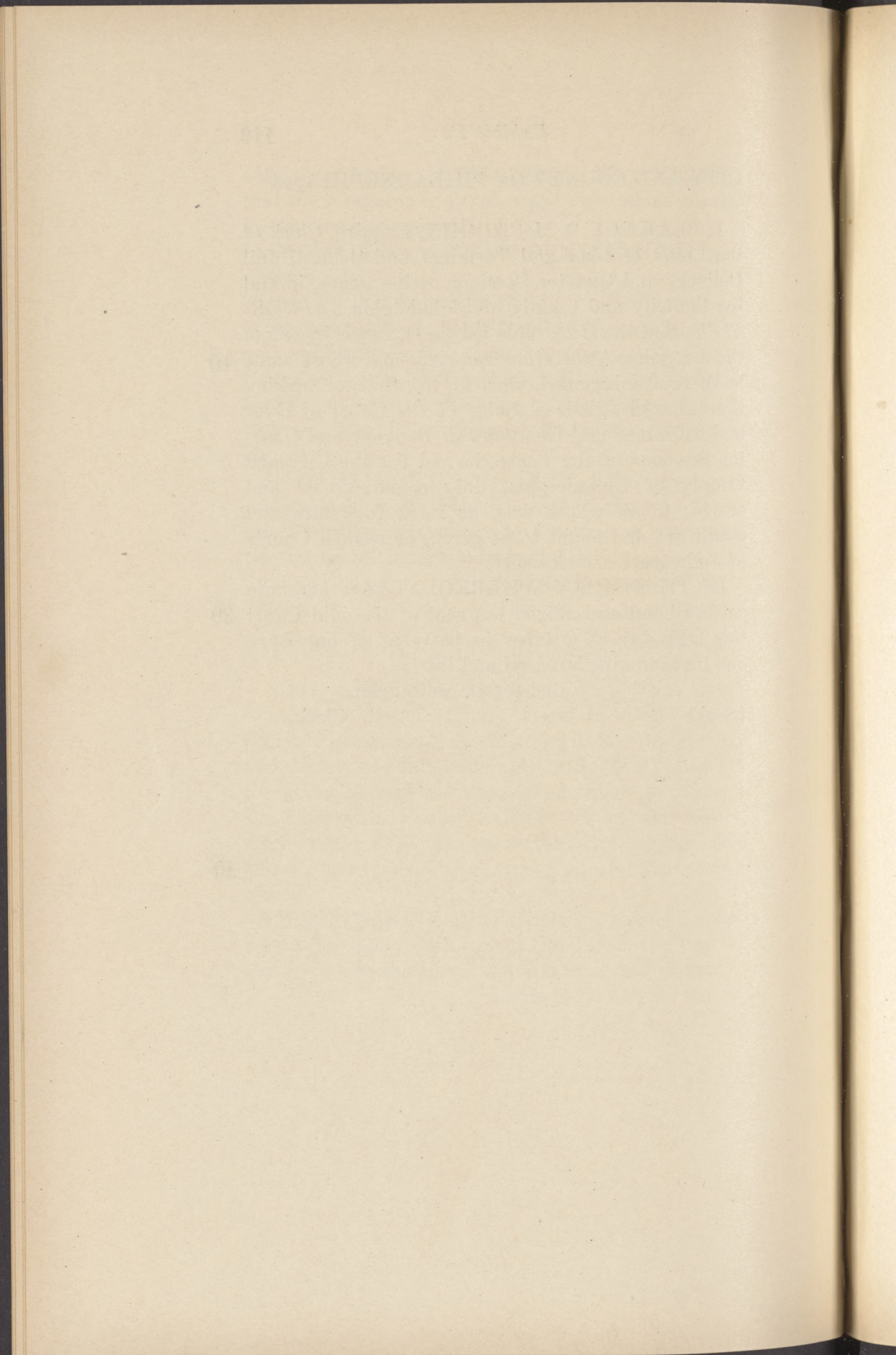
I, BLAKELY D. McCAUGHN, Esquire, Clerk of the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, in and for the City and County of Philadelphia, DO CERTIFY, that the Honorable Edwin O. Lewis by whom the foregoing Attestation was made and whose name is thereto subscribed, was, at the time of making thereof, and still is a Judge of the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, in and for the City and County of Philadelphia, duly commissioned and sworn; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere. 10

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 28th day of October in the year of our Lord one thousand nine hundred and thirty. 20

Blakely D. McCaughn,

(Seal)

Clerk.



NEW JERSEY COURT OF ERRORS  
AND APPEALS.

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Between

THOMAS W. LAING,  
*Petitioner-Appellant,*  
and

ELLEN LAING,  
*Defendant-Respondent.*

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BRIEF FOR DEFENDANT-RESPONDENT.

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The statement of the case in the brief for appellant is erroneous in several particulars. The testimony shows that the house at No. 3142 Custer Street, Philadelphia, was owned by the defendant and was not in the name of both parties (State of Case, p. 25):

“The Court: Pardon me, who owned the house?”

Mr. Wilson: The house is in the name of the defendant.”

The testimony further shows that there was a separation on June 2, 1917, and the parties never

lived together after that (State of Case, p. 19, Testimony of Thomas W. Laing):

“Q. Did your wife live there with you?

A. She lived there up until 1917 on May the first or the second, and then she went away to Providence, Rhode Island, but she came back, and she was in the house from June first to June second, and she went away and she never lived with me since.”

On May 1, 1921, the petitioner returned to 3142 Custer Street, Philadelphia, as a boarder with tenants named Goldman who rented the property from the defendant. These tenants moved from the house about two weeks prior to October 11, 1921. Petitioner did not go with the Goldmans but continued to occupy the house, obtaining a bed and sleeping there alone until October 11, 1921, when the defendant took possession of her house. The petitioner was arrested when he returned to 3142 Custer Street later on that day, October 11, 1921, on a charge of forcible entry and detainer which was later *nolle prossed*.

The brief for the appellant overlooks the main issue raised by the proofs which was whether there was a desertion of the petitioner by the defendant. It is stated in the brief for appellant (State of Case, p. 10), “The Master found that all necessary jurisdictional facts had been proven. The desertion took place in October, 1921.” There is no finding in the conclusions of the Special Master of any desertion by the defendant. The Special Master does find (State of Case, p. 101) that there is absolutely no

testimony of petitioner ever attempting to get in touch with his wife from October, 1921, down to the filing of this suit in November, 1926.

After the separation of the parties, on June 2, 1917, the petitioner began a suit for divorce against defendant in the Court of Common Pleas of Philadelphia County, Pennsylvania. That divorce case was begun on July 14, 1919, and was pending from then until June 7, 1921, when the said Court approved the report of a Master and dismissed the case (see Exhibit P2, State of Case, p. 105). The ground alleged by the petitioner in that case was desertion (State of Case, p. 58):

“Q. What did you sue Mrs. Laing for divorce for in Philadelphia?

A. I sued on desertion, because she deserted me.

Q. All right; on desertion?

A. Yes.”

The dismissal of the Philadelphia case cleared the defendant of any charge of desertion prior to June 7, 1921. The Special Master in his conclusions (State of Case, p. 101) said: “At least, it wouldn't seem he could start another divorce proceeding based upon the same facts or at least unless something came in after this divorce proceeding.” Therefore, if there was a new desertion of the petitioner by the defendant it must have occurred between June 7, 1921, and October 11, 1921. It is admitted by the testimony of the petitioner and found in the conclusions of the Master that the petitioner made no effort to communicate with the defendant per-

sonally or by letter subsequent to the last mentioned date.

Between June 7, 1921, and October 11, 1921, the petitioner's testimony shows that he only saw his wife on two occasions. The first occasion was the day about two weeks prior to October 11, 1921, when the defendant came to 3142 Custer Street, Philadelphia.

Testimony of Thomas W. Laing (State of Case, p. 94):

“Q. You let her in?

A. Yes, sir; I let her in the house.

Q. When was that?

A. The night Goldman left, about two weeks before she had me arrested.

Q. Did you talk to her then?

A. Yes, sir. She wouldn't have anything at all to do with me, she wanted to get the custody of the house. That is all she wanted, she wanted to get the custody of the house. She didn't have anything to say. She wanted to get the custody of the house.

Q. That was after Goldman had gone?

A. Yes, sir.

Q. Prior to that time, you hadn't talked with her?

A. No, sir.

Q. When you went to Goldman's, you didn't try to find her?

A. No, sir.”

Nothing whatever occurred at that meeting upon which to base a charge of desertion against the defendant. The testimony shows that the defendant

wanted custody of the house which she had been renting to Goldman, the fair inference being that she wanted to re-rent the house to some other person and thus obtain revenue from the rental. The petitioner made no request at that meeting for his wife to live with him. He made no suggestion to his wife of any plan or arrangement for their living together again. Nor did anything occur at this interview, so far as petitioner's testimony discloses, which would indicate that petitioner had any sincere desire or made any *bona fide* offer for his wife to return to live with him.

The second meeting of the parties took place on October 11, 1921. The testimony of the petitioner shows that he had occupied 3142 Custer Street for two weeks prior to that time with no furniture in the house except a bed to sleep in. This prevented the defendant from re-renting the house for revenue or making any other use of it. To remedy this situation she took possession of the house on October 11, 1921. It is this fact and the events which took place upon the return of the petitioner to the house, which the petitioner alleges constituted a desertion of him by the defendant. Furthermore, the petitioner relies upon the happenings at that time to excuse him from making any attempt at reconciliation which the law generally requires of the husband.

What did take place at the meeting on October 11, 1921? The testimony of defendant is as follows (State of Case, p. 60):

“Q. I thought you said in your testimony that you went back there on October 11, 1921, and there was a policeman there?

A. Oh, yes, but I was living there then. I was living there from May up to that night, and I came home from my work—I had to work that night until around eleven o'clock, and I came down from Glenside, and when I come in to go to the house, she was there and had the furniture what she had taken out in 1907 put back and had a cop there and had me arrested and taken right out. They wouldn't even leave me go upstairs to change my clothes."

On October 11, 1921, he made no request for his wife to return to live with him, for his previous testimony is as follows (State of Case, p. 58):

"Q. When was the last time, Mr. Laing, that you ever asked Mrs. Laing to come back and live with you?

A. The last time?

Q. Yes.

A. Well, let's see, it is somewhere around—right before I started the divorce case. Somewhere around 1919, before I started the divorce case, I asked her and she blank said no.

Q. You never asked Mrs. Laing to come back and live with you from the time this divorce action was started in 1919 in Philadelphia, is that correct?

A. That is correct."

The defendant said nothing on this occasion which would lead her husband to believe that any further attempts at reconciliation would be unavailing. It

is true she wanted to prevent her husband from occupying the house at 3142 Custer Street, but he had not, since June 7, 1921, lived in that house as her husband but only as a boarder with Goldman. She had no knowledge from any of his words or acts other than that he wished to continue his occupation of the house alone and separate from her. He had made no effort to communicate with her after June 7, 1921, the date of the dismissal of his Philadelphia divorce suit. When she went to the house two weeks prior to October 11, 1921, he only gave as a reason for staying in the house that he had worked hard for it.

Testimony of Thomas W. Laing (State of Case, p. 95):

“The Court: There were two officers then?

The Witness: There was two officers, yes, and so I says to her then, ‘What are you going to do with the furniture?’ She says, ‘I don’t care about the furniture,’ she says, ‘I want to get the house and get you out, that is all.’ Well, I says, ‘I don’t know, I worked too hard for this to let it go this way.’ I says, ‘I am going to still live here,’ and with that, she and the officers went out and they never said no more, and about two weeks after that one, I came home this night and the furniture was put in the house, and when I come to the door, she wouldn’t even hardly speak to me or wouldn’t even leave me go up stairs to get my clothes. I had to go in my working clothes, as I come from work, and they took me to Front and Westmoreland and bound me over.”

Believing that the petitioner intended to stay in the house and thus deprive her of the rental and use of her property, there is nothing extraordinary in the use by defendant of legal means to obtain possession of her house. There was no more compulsion upon her to permit her husband to remain in possession of her house from which she had hitherto been receiving rent, than there would have been had he withheld personal property, such as clothing or jewelry, from her. Believing herself to be justifiably separated from her husband and having recently successfully defended the divorce suit which he had brought against her, it was a natural means for the defendant to use the officers of the law to recover possession of her house peaceably, rather than risk a physical encounter without such legal means. Had the parties to this suit been living together at 3142 Custer Street, Philadelphia, on October 11, 1921, and the defendant used officers of the law to eject the petitioner from the house, an entirely different situation would be apparent and a desertion by defendant could be predicated upon such a state of facts.

Even in that case, there would be no excuse for the defendant's failure to attempt a reconciliation. The cases where an attempt at reconciliation has been excused because it would be unavailing, are cases where the husband by his fault has contributed to his wife's desertion. In *Hall v. Hall*, 60 N. J. Equity 469, Mr. Justice Gummere delivering the opinion of the Court of Errors and Appeals said:

“That a desertion, in order to be obstinate, must be persisted in against the willingness of

the injured party to have it concluded, is declared by our cases, and ordinarily when the husband has by his conduct toward his wife contributed in any degree to her original desertion, the law requires that he should evidence that willingness by making advances or concessions to his wife as might be reasonable to induce her to return to him."

In the present case there is a much stronger reason why the husband should make those advances. The defendant had been justifiably separated from him, and the Philadelphia court by its dismissal of his suit for divorce on the ground of desertion had absolved her of fault in the separation. She had every reason to believe that she was justified in living apart from him. He had acquiesced in the separation by keeping away from her. If her action on October 11, 1921, for the sole purpose of recovering her property can be construed into desertion, there can be no sound reason for depriving defendant of a *locus poenitentiae* by requiring petitioner to make just advances for the return of his wife.

The petitioner produced no corroboration whatsoever of his testimony as to the desertion alleged on October 11, 1921. The witness, John F. Monaghan, testifying as to what took place at the hearing on October 12, 1921, at the Magistrate's Court in Philadelphia on the charge for forcible entry and detainer, said (State of Case, pp. 64 and 65):

"Q. And what did Mrs. Laing say about the matter at that time, exactly, if you recollect? What did she want done? What did she complain about or what did she want?"

A. Well, to the best of my knowledge and belief, she wanted him to keep away from the premises.

Q. Did she express a willingness to live with her husband or say anything about living with her?

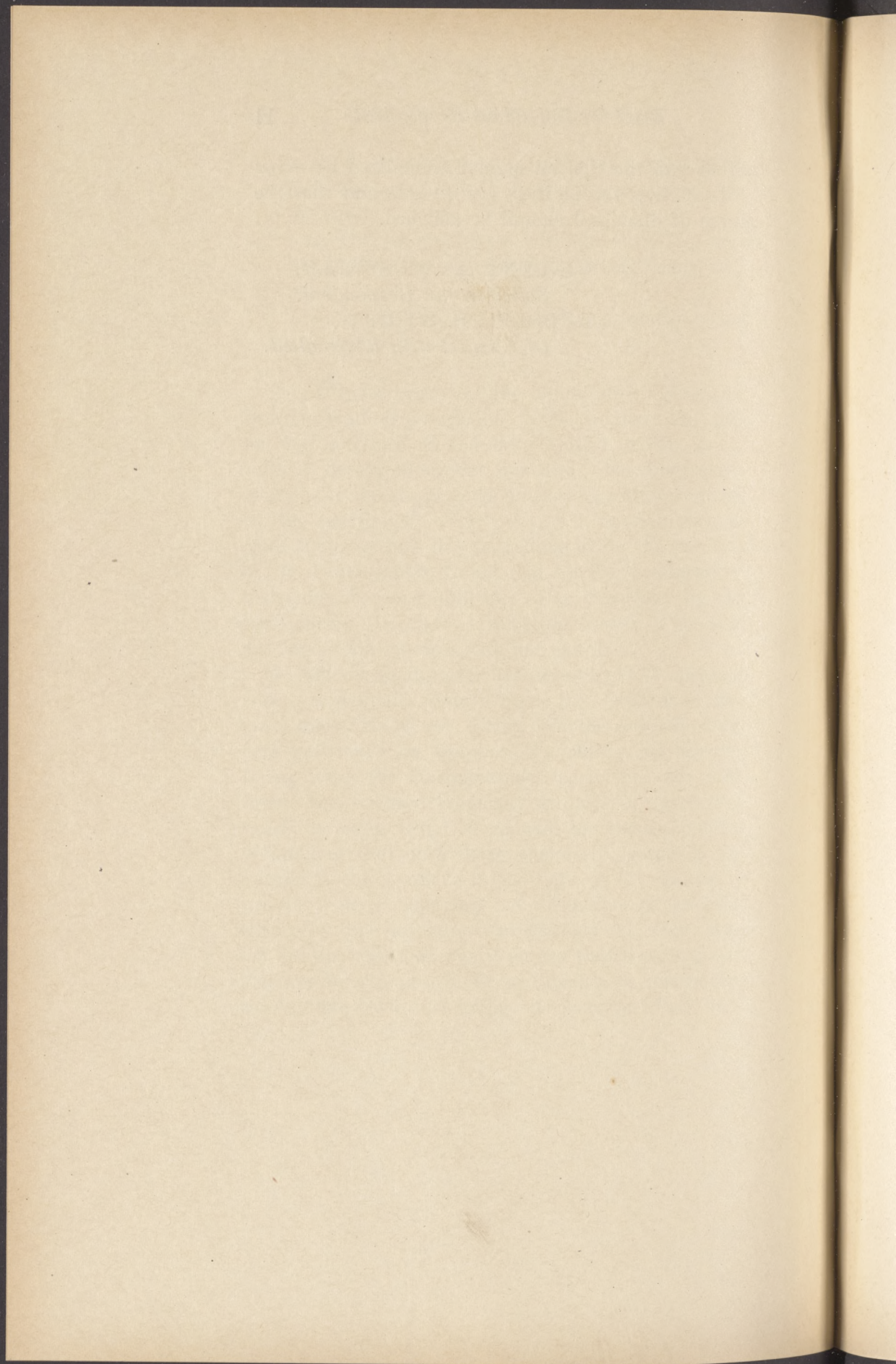
A. I don't think we ever approached that question at all."

This witness bears out the defendant's contention that she wanted possession of the property and that nothing occurred on October 11, 1921, which constituted a desertion of her husband. No other testimony as to the happenings on that day was produced by the petitioner. The petitioner having been at fault prior to that day as indicated by the decision of the Philadelphia Court and having produced no testimony in corroboration of a desertion by the petitioner on October 11, 1921, the status of the separation of the parties was not changed.

No difficult legal points are involved in the present case. It depends mainly upon the decision of two main questions of act: First, Did the defendant desert petitioner on October 11, 1921? and Second, If so, were the circumstances such that the petitioner was excused from any attempt at reconciliation? It is the belief of counsel for the defendant-respondent that both these questions should be answered in the negative in the light of the testimony produced at the hearing. A desertion of the petitioner by the defendant on October 11, 1921, was not shown. Neither was it shown that a subsequent attempt by the petitioner to effect a reconciliation would have been unavailing. It is respectfully sub-

mitted that the Special Master committed no error in dismissing the petition for divorce and that the decree of dismissal should be affirmed.

VINCENT DEP. COSTELLO,  
*Solicitor for Respondent.*  
RUDOLPH S. AYRES,  
*Of Counsel with Respondent.*



NEW JERSEY COURT OF ERRORS AND  
APPEALS.

---

Between

THOMAS W. LAING,  
*Petitioner-Appellant,*

and

ELLEN LAING,  
*Defendant-Respondent.*

---

BRIEF FOR APPELLANT.

---

The petitioner and defendant were married November 24th, 1898, at Providence, Rhode Island. They lived in Rhode Island until 1906 and after that in Philadelphia, Pennsylvania.

They owned a house at No. 3142 Custer Street, Philadelphia, where they lived together until May 1st, 1917.

After May 1st, 1917, the defendant left her husband from time to time and the petitioner was away by reason of his employment off and on until May 1st, 1921, your petitioner returned to No. 3142 Custer Street, Philadelphia, and lived there until October 11th, 1921, when the defendant took posses-

sion, had him arrested and put under bond to keep away from her home.

The defendant, from about May 1st, 1917, had not lived with the petitioner as his wife, and on June 14th, 1918, she moved all the furniture out of the house and put it in storage. In June, 1919, the petitioner made application for a divorce in Pennsylvania. This application was dismissed on June 7th, 1921 (Exhibit P2, page 105). Why this was dismissed does not appear. But the cause for this application arose since that time.

Prior to the dismissal of said petition the petitioner herein was living at No. 3142 Custer Street, Philadelphia, and on returning home October 11th, 1921, found that his wife had taken possession of the property, had the lock changed on the front door so that the petitioner could not get in and had an officer inside who arrested him for entering the house.

This matter came up in the Court of Quarter Sessions of Philadelphia County and the petitioner was indicted for unlawfully and forcibly entering the premises No. 3142 Custer Street, Philadelphia, then being in the possession of Ellen Laing, the defendant (Exhibit P3, page 109). This indictment was *nolle prossed* on the petitioner furnishing a bond for \$500.00 not to go near the place where his wife was living. This is covered by testimony at page 25, as follows:

“Q. Now, what did you go to the house for on that day, at Custer Street?

A. I was living there.

Q. Well, with what idea in mind?

A. Well, it was my own home and I didn't

feel like—I thought when I would go there, well, she would come and come back, and as long as we had no divorce and no settlement, we would live there again. I thought we would make up and live together, and when I came home this night, why, there is what I got. I never even got a civil word, but just the officer, he wouldn't let me speak.

Q. What were you arrested for?

A. I was arrested for going to live in my own house.

Q. What was the charge against you?

A. I couldn't say.

Q. What did they charge you with?

A. On account of going to live in my own home.

Q. Did you have a hearing in the matter?

A. It come up in front the next morning and I was bound over in \$500 bond for to keep clear of my own place, to keep clear, not to go near.

Q. Was your wife present at the hearing?

A. Yes, sir.

Q. What did she say?

A. She signified that is what she wanted.

Q. What did she say?

A. She said she wanted me to be kept clear of the home."

On June 14th, 1918, when the defendant moved all of the furniture out of the house and put it in storage (S. of C., page 20), the petitioner was working at Hog Island and later worked at Atlantic City, but kept the Custer Street property as his resi-

dence and went back and forth and returned there to live permanently in May, 1921.

Page 23 of S. of C. says:

“A. Yes, sir, I stayed there from May up until October 11th.

Q. Nineteen what?

A. 1921.

Q. Where did you go after that?

A. Well, then, when I came home one night at eleven o'clock after working all day, I came home and went to the front door and put my key in and I couldn't get it in. I looked and seen a light in the house, and I was wondering, so I went around the back and when I went around the back, I heard voices, and Mrs. Laing and a cop was in the house. They opened the back door and he took me in, wouldn't even let me have a word to say, but he says, 'You got to come with me.' He says—I says, 'What is the idea?' Well, he says, 'You got no right in here at all, and you aren't going to stay here,' and she had put the furniture back which she put out, and put it back in and she was there and had me locked up and taken to the patrol box and taken to the front the next morning.”

Petitioner further said as to his ejectment from the Custer Street property by his wife on October 11th, 1921 (S. of C., page 60):

“Q. I thought you said in your testimony that you went back there on October 11, 1921, and there was a policeman there?

A. Oh, yes, but I was living there then. I was living there from May up to that night,

and I came home from my work—I had to work that night until around eleven o'clock, and I came down from Glenside, and when I come in to go to the house, she was there and had the furniture what she had taken out in 1907 put back and had a cop there and had me arrested and taken right out. They wouldn't even leave me go upstairs to change my clothes.

Q. Did you ever go back to the house since that time?

A. I went back and got my clothes and got my tools, and I have never been near the house since."

This is corroborated by John F. Monaghan, page 64, as follows:

"Q. Were you present when a hearing was held involving Mr. Laing and his wife?

A. Yes, sir.

Q. When was that?

A. It was October 12th, 1921.

Q. Where was that?

A. Thirtieth Police District, Front and Westmoreland Streets, Philadelphia.

Q. What was said by Mr. Laing, the defendant, at that time, at that hearing?

A. Well, now, that is quite a while ago. I know that the complaint was, I understand Mrs. Laing wanted Mr. Laing to keep away from her. It was one of those cross-complaints between husband and wife, and the magistrate held Mr. Laing under four hundred dollars bail for court and I became his bondsman.

Q. What was the charge against him?

A. Forcible entry.

Q. And what did Mrs. Laing say about the matter at that time, exactly, if you recollect? What did she want done? What did she complain about or what did she want?

A. Well, to the best of my knowledge and belief, she wanted him to keep away from the premises."

This was also corroborated by a Mrs. Kearney at page 67:

"Q. While living with you, did she make any statements in reference to her husband, about living with him?

A. She was always talking about her husband and the trouble they had.

Q. What would be the statements she would make?

A. She said they could not get along and they could not live together.

Q. What would she say about herself, about living with him?

A. As far as I remember, she said they were always having a little trouble and she wouldn't go back.

Q. She would not go back?

A. Yes."

This was also corroborated by a Mrs. Annie Jones, page 72:

"Q. Did you ever hear her complain about her husband?

A. Yes, she was always saying she never wanted to live with him. She told me many a

time she would rather die in the gutter than live with him.

Q. Why did she say that?

A. They didn't get along together, I guess."

And on cross-examination, page 75, referring to a conversation between Mrs. Laing and her brother, she said:

"Q. Now, what was this conversation about?

A. Well, she was always fighting about Mr. Laing doing this, and she didn't want to live with him, and 'I want to get away from him.'"

On page 76 her brother said:

"'You don't want to live with him. You got everything in your name. What do you want to bother with him for?'

Q. What did she say to that?

A. She said she would. She said, 'I will never live with him again; I am done.'"

She had already withdrawn all of their savings from the bank amounting to about \$1400.00.

As to the petitioner being put under bond to keep away from his wife, he says:

"Q. Did you ever make any attempts to see your wife after this time you were put under bond to stay away from the premises?

A. No, sir, I never went there only when I got a note from her attorney for to go and get my clothes and my tools.

Q. Did you ever attempt to become reconciled with her again?

A. I never had not a word with her since.

Q. Why?

A. Well, I knowed it was no good; I was bound underneath the law to keep away from my home, and I wasn't looking for no court trouble. She had me arrested on several occasions."

Again at page 61:

"Q. At the time that you came into the house and your wife had the policeman, did you attempt to talk to your wife?

A. I asked them what was the idea and she said, well, she said she didn't want him here and she wanted him taken out, and they wouldn't even leave me go upstairs to get clean clothes."

This testimony was not denied by the defendant nor was the testimony, page 70, that what she wanted from the petitioner was money, but did not want to live with him.

The defendant offered no proofs and made no denial of the facts proven by the petitioner, but at the conclusion of the case counsel for defendant made an application to dismiss the petition and it was dismissed because, in the opinion of the Master, petitioner had a duty to make overtures to his wife to return.

It appears that the petitioner was a journeyman steam fitter and always gave his pay envelopes to his wife without even opening them (page 35). His wife kept the money in her name. She bought the house No. 3142 Custer Street, Philadelphia, and put the title in her name and did the banking (State of Case, page 37).

There seems to have been no trouble until after the petitioner had a serious accident (page 34):

“Q. And this domestic trouble with your wife and arguments and trouble about the furniture and court order took place while you were convalescing from this injury?

A. Yes, sir.

Q. What kind of injury did you have?

A. I had the bone in the base of my skull broken.

Q. How did that happen?

A. I was working at Remington Arms and I was underneath an air compressor and a piece of timber come down on my head and broke the bone in the base of my skull.

Q. What is your trade?

A. Journeyman steam fitter.”

The defendant stated to a Mr. Kearney in the fall of 1917 that she would never live with the petitioner as long as she could get money from him (page 70):

“Q. What did she say about him?

A. Well, she was talking on various occasions in reference to the case and she made remarks at one time she would never live with him and she wasn't living with him as long as she could get the money from him.”

From 1917 until the present time the petitioner has been paying his wife \$6.00 a week alimony (page 27).

It is submitted that it sufficiently appears from the proofs that petitioner's efforts or overtures for

reconciliation would be unavailing, and therefore the duty to make such effort does not exist. Your petitioner, of course, has the burden of showing the futility of such an effort but it is submitted that the facts are sufficient to cover that.

The Master found that all necessary jurisdictional facts had been proven. The desertion took place in October, 1921, and this suit for divorce was filed in November, 1926, and the Special Master was of the opinion that overtures for the wife's return should have been made during that period (Conclusions of Special Master, pages 100-104).

The question presented is whether the defendant, having had the petitioner arrested and put under bond to keep away from her, is required to make overtures for her return.

#### CITATIONS.

Francis Child on the Law of Divorce in New Jersey, page 123, says:

“If it appears from the facts that if the husband made such effort that it would be unavailing or if successful in bringing the desertion to an end, it would be only temporary, the duty to make such effort does not exist. The burden is upon the husband of showing the futility of such an effort; and it will not be presumed, in the absence of proof, that the wife will persist in continuing her desertion against the honest effort of the husband to terminate it.

Where there have been repeated desertions by the wife, followed by her return at the hus-

band's request, it would appear from the decisions that the husband is under no duty to make further advances to induce his wife to return and that her return should be with the bona fide intention of living with the petitioner."

In *Lammertz v. Lammertz*, 50 Eq. 649, 45 Atl. 271, this Court said:

"The only point upon which there is a color of defense in the conduct of the husband, after she left him the second time, is his failure to seek her and urge her to return. But the manner in which she left, following her prolonged preparation for leaving, left little hope that she would return, or that, if she would return, it would be more than a temporary matter. The lady who saw him about a possible reconciliation was not sent by his wife upon this errand, nor did she tell the husband that she was authorized by the wife to act as an intermediary. His wife had at no time expressed her willingness to return. In this posture of affairs, 'I am constrained to the conclusion that her desertion is obstinate, and confers upon the husband the right to a divorce.'"

In *Purnell v. Purnell*, 70 Atl. 187 (not in State reports), this Court adopted the opinion of Vice-Chancellor Stevenson, in which he said:

"I kept this case under advisement in order to consider whether the husband was guilty of a violation of duty in not subsequently, after

this interview, inviting his wife to return. It was upon that point alone that I kept the case for consideration, and now, having considered it, I am thoroughly satisfied that the husband was relieved of any duty to again invite his wife. The rule in this class of cases is laid down in the case of *Hall v. Hall*, 60 N. J. Eq. 469, 46 Atl. 866, by the Court of Errors and Appeals. I read from the opinion of Mr. Justice Gummere, on page 470 of 60 N. J. Eq., and page 866 of 46 Atl.: 'That a desertion, in order to be obstinate, must be persisted in against the willingness of the injured party to have it concluded, is declared by our cases; and ordinarily, when the husband has by his conduct towards his wife contributed in any degree to her original desertion, the law requires that he should evidence that willingness by making advances or concessions to his wife as might be reasonable to induce her to return to him.' It will be observed that the Chief Justice here is dealing with the case where the husband was in part responsible for the separation, whereas the case before this Court now is one where the conclusion of fact is reached beyond doubt that the husband was not responsible, in any degree whatever, for the separation. Chief Justice Gummere proceeds: 'But the law does not impose this duty upon the husband, in every case, rigidly and without regard to the facts and circumstances by which it is surrounded. The husband is bound to make such advances and concessions only where there is reasonable ground to suppose that such action on his part

will terminate the wife's desertion. Where it is manifest from the circumstances under which the desertion took place, or from her temper and disposition, or from any other fact in the case, that honest effort on the husband's part to terminate the separation would be unavailing, or if successful in bringing the desertion to an end, would be so only temporarily, the duty of making it does not exist'—citing cases. That is the rule which I think disposes of the present case. In my judgment, under the circumstances, this husband had no reason to suppose that any bona fide invitation on his part to the wife would bring her back. She had persistently, during a long period of time, obstinately maintained the position that she would not come to him. She wanted him to provide for her somewhere else. She had his letter, which was a standing invitation to return.

'The conclusion is that a decree for divorce will be advised.' "

The Vice-Chancellor in the above case further said that, the wife being in the wrong, the burden is upon her to show that she changed her attitude and notified her husband of her willingness to return. The letter referred to was written several years prior, in which he had told her that he was willing to support her at his home but not elsewhere.

*Hall v. Hall*, 60 Eq. 469, 46 Atl. 866, is a case also in point, citing numerous authorities, and refers to *Lammertz v. Lammertz*, above cited.

In this case there was a petition for divorce filed by the wife and a cross-petition filed by the husband, and decree entered dismissing both petitions and appeal by the husband. The decree dismissing the wife's petition was affirmed and the decree dismissing the husband's petition was reversed and divorce granted to him. It was said:

“But the law does not impose this duty upon the husband in every case, arbitrarily, and without regard to the facts and circumstances by which it is surrounded. The husband is bound to make such advances and concessions only where there is reasonable ground to suppose that such action on his part will terminate the wife's desertion. Where it is manifest, from the circumstances under which the desertion took place, or from her temper and disposition, or from any other fact in the case, that honest effort on the husband's part to terminate the separation would be unavailing, or, if successful in bringing the desertion to an end, would be so only temporarily, the duty of making it does not exist. *Trall v. Trall*, 32 N. J. Eq. 231; *Lammertz v. Lammertz* (N. J. Err. & App.), 45 Atl. 271. The burden rests upon the husband of showing the futility of making the effort which the law ordinarily requires of him; for it will not be presumed, in the absence of proof, that the wife will persist in continuing her desertion against the honest attempt of the husband to bring it to a conclusion. Whether or not the defendant in the present case is entitled to a decree upon his cross-petition depends, therefore, upon

whether it can fairly be inferred from the proofs that advances or concessions made by him with an honest purpose to put an end to their separation would have been unsuccessful. The testimony in the case is very voluminous. A full analysis of it cannot be made within the proper limits of an opinion, and a partial one would be valueless. Our examination of it has led us to the conclusion that when the petitioner left her husband she did so with a fixed determination not to return to him, and that any effort on his part to induce her to do so would have been unavailing. This being so, her desertion was obstinate, notwithstanding her husband's failure to take steps looking to its termination. That portion of the decree which dismisses the petition of the wife should be affirmed. The dismissal of the cross-petition of the husband should be reversed, and the record remitted to the Court of Chancery, in order that a decree of divorce may be there entered in favor of the husband."

In *Marsh v. Marsh*, 86 Eq. 419, 99 Atl. 409, this Court said:

"Second, the next and only other point in the case is what advances or concessions, if any, the law exacted from the husband to the wife to induce her to return. The rule of law applied to that class of cases, where the wife's desertion is induced, though not justified, by his conduct to her, is stated in the case of *Bowlby v. Bowlby*, 25 N. J. Eq. 406, affirmed 25 N. J. Eq. 570, and restated in the case of

VanWart v. VanWart, 57 N. J. Eq. 598, 41 Atl. 965. The rule is the husband is bound to do those things which might reasonably be expected to remove the trouble and induce the wife to return. This Court, in the case of Hall v. Hall, 60 N. J. Eq. 470, 46 Atl. 866, formulated the rule on the subject and said:

‘But the law does not impose this duty upon the husband in every case, arbitrarily, and without regard to the facts and circumstances by which it is surrounded. The husband is bound to make such advances and concessions only where there is reasonable ground to suppose that such action on his part will terminate the wife’s desertion. Where it is manifest from the circumstances under which the desertion took place, or from her temper or disposition, or from any other fact in the case, that honest effort on the husband’s part to terminate the separation would be unavailing, or, if successful in bringing the desertion to an end, would be so only temporarily, the duty of making it does not exist’ (citing Trall v. Trall, 32 N. J. Eq. 231; Lammertz v. Lammertz, 59 N. J. Eq. 649, 45 Atl. 271).

It would serve no useful purpose to state the evidence in detail, showing the wife’s attitude toward her husband. It is sufficient by way of illustration to cite a passage from one of the wife’s letters, known as the ‘Hound of Hell’ letter, Exhibit P3, which reveals the attitude of her mind and the promptings of her heart, toward her husband. It demonstrates, to our satisfaction, the utter futility of any attempted

reconciliation by him. In view of this letter, which is in accord with much of the testimony in the case, on this point under discussion, any attempted reconciliation on the part of the husband, it seems to us, would have been a meaningless formality. In this case, no such duty existed on the part of the husband. In cases of this kind, the law exacts no such formality.

We think the decree of the Court of Chancery should be reversed, and the case remitted to that Court to enter a decree of divorce, in favor of the appellant and against the respondent, in accordance with the views expressed in this opinion."

I have quoted at length the proofs appearing in the state of case relating to the sole question on appeal, and while the whole proofs are not voluminous a restatement giving dates, etc., avoids the confusion of witnesses which were none too clear in their statements. These proofs show, however, that the necessary facts are present for reversal on appeal.

There is the major fact that the defendant had the petitioner arrested and put under bond to keep away from her and not to go near her place of residence.

There is the fact that this was accomplished through force and the petitioner was taken into custody by an officer without even the privilege of taking his clothes with him.

In *Foster v. Foster*, 93 Eq. 182, 114 Atl. 333, this Court held that where a wife drove her husband

from their home with an iron poker, called him abusive names and had him arrested for assault and battery, which charges were dismissed for failure of proof, and changed the lock on the door so that her husband could not get in it was willful, continued and obstinate desertion by her, and his efforts to live with her being repulsed, there was no duty upon the petitioner to effect a reconciliation.

It is apparent from the proofs above quoted that the temper and disposition of the defendant and her attitude towards her husband was such as to show that overtures for reconciliation would be futile.

There is the fact that the defendant left their home and removed all of the furniture, and when the petitioner returned and was living in the house she again took possession in his absence and changed the lock.

There is the statement by her that she did not want to live with him and wanted to get away from him and that she would never live with him again and said, "I am done."

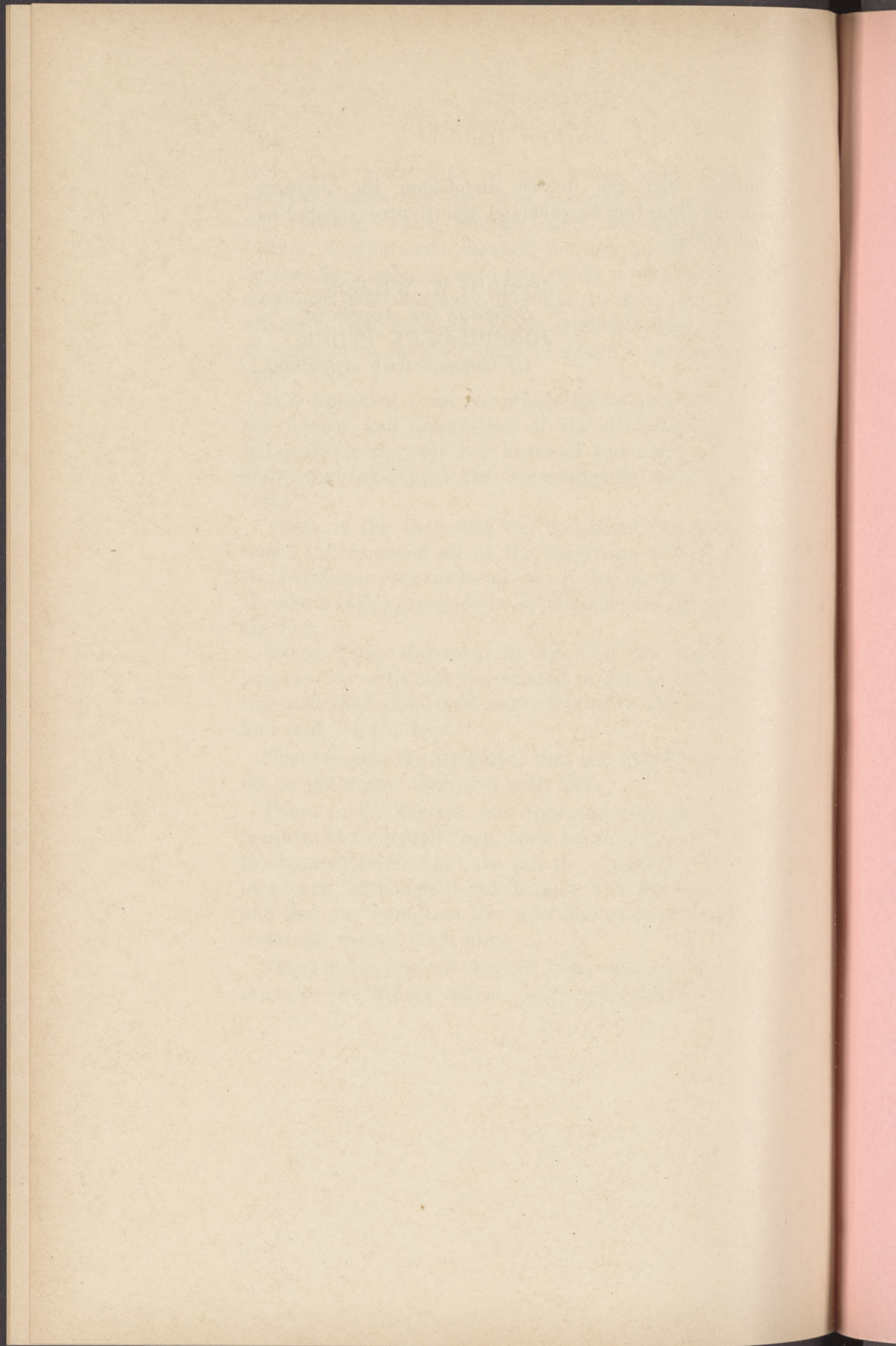
There is also the statement that she would rather die in the gutter than live with him.

There is the further fact that she took and appropriated to herself their bank account amounting to about \$1400.00; that she put the property in her own name, although it was bought with his money, and that she would not live with him as long as she could get money from him.

These facts are not denied. She offered no defense to the proofs taken. It is respectfully sub-

mitted that the decree dismissing the petition should therefore be reversed and divorce granted to petitioner.

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