NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

Julia C. Engelhardt, Apellant, and **Rudolph Engelhardt,** Respondent.	On Bill for Divorce. On Appeal. Brief of Appellant.

Appellant was a good wife and had three children by her husband, the respondent, of which Elsa is the only one surviving.

Respondent is a jeweler, residing in Riverside, Burlington County, N. J., and uses intoxicants. He never gave his wife a home, except with his mother or sister, and failed to properly provide for and support her.

Appellant's case is shown by the following taken from the testimony printed on this appeal:

Book, Page 8.—Wife got sore breasts through lack of care and attention when first child was born.

Page 9.—March 20, 1899, second child born, and wife's sister had to nurse her. Husband did not provide proper medical treatment. He went for a doctor about 1 or 1.30 P. M., and, although there were several in the neighborhood, did not return until about 5.30 P. M., and the doctor did not get to the house until about 6 P. M., and the child was born about 5.45 P. M.

Page 11.—Husband, having gone to bed with his wife and new-born child, refused to get a doctor when requested

and begged to do so by the wife, although the child was dying. Wife suffered from chills, but no doctor or nurse was gotten by the husband, and her sister came the next morning at 8 o'clock and told complainant that her child was dead. Instead of staying with his wife, he had gone to the city (Philadelphia).

Page 13.—Wife was weak in health and could not take the right care of herself, hadn't enough clothes, and was unwell many a time when should not have been.

Page 14.—Husband had intercourse with wife when she was unwell and he forced her. Wife protested and husband told her "That if he thought I would never get any better than I was, I might just as well go home, because I would never be any good to him."

Page 15.—Wife was taken sick at the husband's sister's home, in Philadelphia, during the Peace Jubilee, in 1898, and husband told complainant's sister that he did not care whether he ever saw her any more or not; that he didn't care whether she came back.

Page 15.—Against the objection of the wife, the defendant would take their daughter, Elsa, out for long walks, which, coupled with a fall, brought on knee or hip trouble.

Page 16.—He did not give wife and child enough to eat nor clothes enough to wear.

Page 19.—Wife left her husband because she was so miserable and was dying. Hardly able to be on her feet any more. Dying by inches.

Page 20.—Defendant ordered wife to get up out of bed ten days after the birth of a child, saying that his moth-

er and sister were raising hell downstairs because she did not get up.

Page 26.—Defendant took her child and went to her mother's home for protection, because she knew she would not live very long if she stayed with her husband.

Page 26.—He wanted intercourse every night, whether complainant was able or not, and would force her to it, and she suffered under it.

Page 28.—Wife never was asked to return, except by a note, which the defendant himself testified to, read about as follows:

Q. How did you have it worded? A. I really don't know; I don't think I put any heading to it; I believe I said, "I hereby request you to come back and take up your duties as my wife. Rudolph Engelhardt." I believe that is true. Book, page 80.

Page 29.—Wife went to husband's home and got her clothes—took some of them—but husband never asked her to return.

Page 36.—Dr. Richardson did not hear defendant ask wife to return.

Page 38.—Mrs. Lizzie Maute, a sister of complainant, was present at the birth of one of the children and saw complainant's suffering and no doctor or nurse present.

Page 39.—Wife did not have proper food or clothes. Husband told Mrs. Maute that there was nothing to eat.

Page 40.—He told Mrs. Maute that wife was sick all the time, and if he could not have connection with her as

much as he liked, that she was no good to him and might as well go home.

Page 41.—He told Mrs. Maute that complainant had gone down to his sister-in-law's, in Philadelphia, and said that she had a "miss," and he did not care whether he ever saw her again; didn't care whether she died; didn't care whether he would ever see her again. All of which Mrs. Maute told complainant.

Pages 41 and 42.—Defendant told Mrs. Maute, just a short time before the separation, that when he used his finger on her he could make her come, and then afterwards she was no good to him.

Page 46.—Mrs. Mary Klinger, a sister of complainant, speaking of the time when complainant was sick in Philadelphia, says that defendant said that he was going to the city to get some jewelry, and she said, "Are you going to see Julie?" and he said, "No, I ain't going to see her; I don't care if I never see her again; I don't care if she dies." September, 1898.

Page 47.—Wife had gone to Philadelphia to do some shopping for husband, and was taken sick at his sister's, with hemorrhage of the womb, and it was on this occasion that the above statements were made by the husband.

Page 48.—He said that wife was no good to him, and that she might as well go home.

Page 48.—He told Mrs. Klinger how he took the child, Elsa, walking and that she begged him to carry her.

Page 49.—Wife objected to the long walks that husband forced upon Elsa.

Pages 49 and 50.—Husband did not properly provide for his wife. Shoes with soles worn out, bare sole of wife's foot showing.

Page 50.—CROSS EXAMINATION. Mrs. Klinger testifies that defendant said wife was no good; that she just laid there, like a log.

Page 51.—He said, "No, I do not care whether I ever see her again; I do not care if she dies."

Page 53.—Mrs. Jennie Waldis says that complainant never was the boss of the children. It was either the sister or his mother.

Pages 65 and 66.—Rudolph Engelhardt, the defendant, admits that about the time of the birth of the last child he slept by the side of the mother, his wife, and that she woke him in the night; that he did not get a doctor, and that the child was dead when he left to go to work, but that he did not know it until afterwards.

Page 66.—Admits that his wife nursed Elsa for about one and one-half years.

Page 69.—Admits that he spoke to Mrs. Maute and Mrs. Klinger, and says, "Yes, I wanted them to console and bring her (his wife) back to her senses and do differently from what she had been treating me." (He does not deny the foul and cruel deeds and statements they accuse him of.)

Page 71.—On being asked by his counsel if he ever forced his wife to have intercourse, he answers, "I would not dare to use the word force, but I would persuade her until she would consent. He spoke of it to her sisters.

Pages 73 and 74.—Defendant admits that he did not speak with his wife about her coming back to live with him.

Page 74.—He testifies that he sent a registered letter requesting her to come back and take up her duties as his wife. (Contents hereinabove set forth.)

Page 77.—He testifies that wife just gave him one reason: that she was going to have it better than what she did; her living; her treatment.

Page 77.—Also says that she told him that she could not get along with his mother and sister.

Page 77.—He says that wife never threatened to leave before this.

Page 77.—He admits that wife was complaining of sore breasts upon the occasion of Elsa's birth; also that she willingly helped him in the store.

Page 78.—Admits that he makes $11 or $12 per week above his expenses.

Pages 79 and 80.—Defendant, when he wrote his wife, did not say that he would treat her with more consideration if she came back, but did say: "I hereby request you to come back and take up your duties as my wife."

It is not necessary that actual violence be shown, to entitle the party to a divorce on the ground of extreme cruelty.

Graecen v. Graecen, 2 N. J. E. 459.

It is not the amount or degree of personal violence actually used by which the court is governed in forming its judgment, but it is the apprehended danger which the actual violence committed may reasonably excite, against which

the court will extend its protection to the injured party.

A single act of personal violence standing alone is not sufficient ground for the court to decree a divorce; but the question is, whether the act was committed under circumstances to furnish a reasonable apprehension that the continuance of the cohabitation would be attended with further personal injury.

Cook v. Cook, 11 N. J. E. 195.

Where the husband has been guilty, or there is reasonable ground to apprehend that he will be guilty of any actual violence which will endanger the safety or health of the wife, or where he has inflicted upon her any physical injury accompanied by such persistent exhibition of ill feeling and opprobrious epithets as will endanger her health, or render her life one of such extreme discomfort and wretchedness as to incapacitate her to discharge the duties of a wife, the decree of separation should be pronounced.

No rigid rule can be presented to define the extent of the injury, actual or apprehended, which will justify judicial interference.

Close v. Close, 10 C. E. Gr. 526. (Ct. E. & A.)

A divorce a mensa et thoro for extreme cruelty will be granted where there is a gross abuse of marital rights.

A separation is not decreed as a punishment for past misconduct only, but mainly as a protection against future probable acts of cruelty; this probability being based upon the former conduct and the character and disposition of the parties.

English v. English, 12 C. E. Gr. 579. (Ct. E. & A.)

If a husband treats his wife with such extreme and persistent cruelty that her existence is rendered intolerable and her life endangered, and she for that cause separates herself from him, such treatment on his part amounts to desertion by him.

It is no excuse for such cruel treatment that it is caused by habitual intoxication voluntarily indulged in, unless the wife induces or consents to the habitual intoxication.

If the husband so far reforms as to render it reasonably safe for his wife to resume cohabitation, it is his duty to seek her out and manifest his reformation, and if he fail to do so, and voluntarily prolongs the separation for the statutory period after his reformation, his wife, being ignorant of the change, he is guilty of desertion for the statutory period, and a fresh ground of divorce arises.

McVickar v. McVickar, 1 Dick. 490.
Jerolaman v. Jerolaman, 54 Atl. Rep. 166.

If a husband permits those under his authority so to conduct themselves toward his wife as seriously to impair her health, it constitutes cruelty on his part entitling her to a divorce.

14 Cyc. 602.

If a husband maltreats the children solely to give the mother pain, and, as a result, her health is impaired, it is legal cruelty.

14 Cyc. 605.

Also failure to provide medical care, medicines and a nurse.

14 Cyc. 669.

Also sexual excess.

14 Cyc. 610 & 627.

We contend that the husband's treatment was such as to destroy the peace of mind and happiness of the wife and to break her down in health, and rendered further cohabitation absolutely intolerable. The husband took their daughter, Elsa, a very young child, out for exceedingly long walks, against the protests of the mother, solely to give the

mother pain and worry. He was cruel and brutal in the extreme, and cared for no one but himself and the satisfaction of his sexual desires, and in this he appears to have been abnormal.

Under all the circumstances of this most revolting case, we feel that the final decree of the Court of Chancery should be set aside and reversed, and a decree of divorce entered for the appellant.

Respectfully submitted,

GEORGE M. BACON,

G. DORE COGSWELL,

Of Counsel with Appellant.

IN CHANCERY OF NEW JERSEY.

Between

JULIA C. ENGELHARDT, Compl't,
And
RUDOLPH ENGELHARDT, Defd't

On Bill, Answer and Cross-Bill. Testimony.

CAMDEN, N. J., February 7, 1907. 10

Transcript of testimony, etc., given in the above-stated cause at the final hearing before his Honor E. B. Leaming, one of the Vice Chancellors of this State, at the Chancery Chambers in the city of Camden.

Mr. G. Dore Cogswell and Mr. George M. Bacon, for complainant.

Mr. G. M. Hillman for defendant.

JULIA C. ENGELHARDT, sworn for complainant. 20

Direct examination by Mr. Cogswell:

Q. Where do you live?
A. Riverside.
Q. What county and State?
A. Burlington County, State of New Jersey.
Q. How old are you?
A. 31.
Q. Do you recollect when you were married to your present husband, Rudolph Engelhardt? 30
A. May 31, 1894.
Q. Where did that marriage take place?
A. At my mother's home.
Q. In what town?
A. Riverside.
Q. After your marriage where did you reside with your husband?

A. At Riverside.

Q. Have you continually resided there since your marriage?

A. Yes, sir.

Q. How many children have you?

A. I have one at the present time, but I had three; I have lost two.

Q. How many children have you as the result of the marriage, how many were born?

10 A. Three.

Q. Just give their names and the dates when they were born.

A. 27th of May, Paul was born, 1895; 8th of February, 1897, Elsa was born; 20th of March, 1899, Lily was born.

Q. Which of these children are living?

A. Elsa.

Q. Where did your husband reside?

A. No. 9 Scott street, Riverside.

20 Q. Do you know how long he has lived in Riverside?

A. I can't tell just exactly how long.

Q. Since the marriage?

A. He has always resided in Riverside since his marriage.

Q. I would like you to state to the Court, Mrs. Engelhardt, what your treatment by your husband has been, beginning back with the first unpleasantness. How did you get along up till the birth of the first child?

A. We got along pretty well the first year.

Q. Did anything occur about the time of the birth of your

30 first child?

A. Not so very bad to speak of just now.

Q. Whatever there was, did you have any conversation with your husband about his liquor habits about this time?

A. Yes, sir; I did.

Q. State it.

A. Before he was married he promised, he had said that he would never drink any intoxicating drinks; he had

promised me that before we married, and he kept it up for a while after we were married, and then he started in.

Q. With whom did he start in to drink?

A. With his mother and sister.

Q. After the marriage where were you taken to live with him?

A. At his mother's home.

Q. Who were there besides you and your husband?

A. His mother and sister.

Q. Who were boarding there at that home with you and your husband? 10

A. My husband and I were boarding there.

Q. How long did that arrangement continue?

A. For about four and a half years.

Q. Was there any other arrangement ever made?

A. About the last year we kept house for ourselves.

Q. At the same place?

A. At the same place that he is now living.

Q. What became of the mother and sister then? 20

A. His mother and sister were still there.

Q. (By the Court.) You mean they came to live with you?

A. They still lived there.

Q. After you began to keep house by yourself did the mother and sister of your husband come to live with you?

A. Yes, sir.

Q. At once?

A. Well, you see, we boarded there and they stayed right in the house with us; we stayed right in the same house 30 where they were living, and we kept house and they stayed with us.

Q. (Further direct.) By agreement you simply changed the relationship of boarder and tenant?

A. Yes; the sister was supposed to pay, I think, $2.00 per week, but I never knew whether she paid it or not; she never gave it to me and I never saw a cent of it.

Q. Who carried the money and did the marketing when you boarded with them?

A. You mean the money for the house?

Q. Yes.

A. His mother carried the money.

Q. And when the change was made who carried the money and took charge of the affairs of the house?

A. My husband had the money, but he would give it to his mother as she needed it, and when I had to get anything I would have to ask him for it, and sometimes he would tell her to give it to me.

Q. Who paid the rent of the house when they were boarding with you?

A. My husband paid it.

Q. When you were boarding with them, who paid it?

A. So far as I know, my husband was supposed to pay it.

Q. Now how much money did your husband allow you to keep house with?

A. He allowed me $2.00 per week to keep house.

Q. How many were there in the house to feed?

A. Sometimes there would be four of us.

Q. Who were they?

A. His mother, his sister and him and I.

Q. Did you have any trouble to get money to run the house?

A. Yes, sir; I did.

Q. In what way did you have trouble?

A. When I needed anything for the house, any victuals, I would ask him for it, and if he seen fit he would give it to me, and if not, he didn't.

Q. Did your husband complain about the way the money was spent?

A. Yes; he would complain.

Q. What would he say?

A. He thought I was spending too much, and I always seen that I got along with $2.00 per week for the table, and sometimes he would buy something Saturday evenings for

Sunday, and he would tell me if we had a good dinner on Sundays I could do with a dollar and a half the following week.

Q. Did your husband limit you in the purchase of meat and supplies?

A. Yes, sir; he told me I should get a pound of meat, and when it was gone that was enough, I didn't need to get any more. And he told me also if I got enough it didn't make any difference, just so he got enough. He said he had to go out working and make a living, whether I got enough it didn't make any difference, I was home all day, I could eat at any time; but many a time I had nothing in the house to eat.

Q. Now, as to clothing; did you have any trouble about clothing?

A. Yes, sir; when I needed clothing many a time I could not get it, and when I asked him for the money he would tell me that he could not get it for me, and he would not give me the money to get it with.

Q. What was his business at this time?

A. He was a jeweler; he had a jewelry store.

Q. Did you ever pay rent for him?

A. I paid rent at one time, he had promised to pay it himself. He told a man to come after it that Saturday evening; he told him to come Sunday morning; he had promised to pay it Sunday morning, and the man didn't come; he came on Monday and he asked me for the rent, and there was only six dollars, and I gave it to him, and I said I would see if he had any more with him, and if he had he would bring it over.

Q. What was the amount of the rent?

A. Ten dollars at the time.

Q. Do I understand that included both the house and store?

A. Yes, sir.

Q. Where you were living?

A. Yes, sir; we had a store in the same house where we were living.

Q. A jewelry store?

A. Yes, sir.

Q. Did you ever perform any services for your husband in the way of attending store?

A. Yes, sir; I attended store and helped him with his repairs and did what I could.

A. Were you attending store at the time you paid this
10 rent?

A. Yes, sir.

Q. Is there any other jewelry store in Riverside?

A. I don't think there is. There are other stores that keep jewelry, but I don't think there is another jewelry store.

Q. That is, strictly a jewelry store?

A. No, sir.

Q. Can you tell us about what your husband was making as a jeweler there?

A. When I was there he was earning two dollars per
20 week in the factory, and then I could not say what he made in the store.

Q. Is your statement correct, two dollars per week in the factory?

A. Two dollars per day in the factory.

Q. Now, about the store; you say you don't know about that; was he doing a good business?

A. I don't know exactly what, but I know he was making out well.

Q. Was his business so great that he worked Sundays?

30 A. Yes, sir; he worked many times on Sundays. He made as high as $5.00 sitting at his bench Sundays, and many times I helped him with his work. I helped him one Sunday afternoon when I was not hardly able to sit on the chair, and in the evening at eight o'clock I lay down because I was sick, and I stayed there until eleven o'clock, and then I got up and had to fix my bed. My daughter Elsa was lying on a cot bed and I fixed my bed with her and the next

evening I was around all day, and I was feeling so bad I could hardly do the work, and the next evening at eight o'clock I lay down again, and he came to me and asked me whether I was lazy cr whether I was really sick.

Q. What did you do then?

A. I told him I was sick.

Q. Do you remember just prior to the birth of Elsa what took place?

A. Elsa was born on the 8th of February, it was in the morning, and in the evening my mother-in-law, she laid the child down in bed and she laid it alongside of me and told me to keep the child with me, to leave it lay on my arm, and if she would take the child away from me the child would cry and she would have to carry it during the night, and she said she didn't care——

Counsel for the defendant objects to conversation with somebody else other than the defendant.

The Court: It is not competent unless the husband was present and heard what was said.

Mr. Cogswell: I understand it was in the presence of the husband.

Q. Was he present?

A. My husband was present at the time.

Q. Go on.

A. And she told me she didn't care to get up during the night and mind the child, and if I didn't get it she would have to do it. As I laid there I could not cover myself the way I should, because if I did I would have smothered my child, and I laid there with the covers that I hadn't covered myself with, and I caught cold during the night and the next day I was——

Q. Did the cold which you caught interfere with the uursing of the child?

A. Yes, sir; it did. My breasts felt sore and I had it sore

for eleven weeks, and the other was seven weeks, and my child nursed all the time.

Q. Did you tell your husband about this cold in the breast?

A. I told him I had cold in my breast and that it would be better to take the child and let the child have the bottle; I thought I would be relieved a little, that my breast could have time to get well; but he said no, my child should not have the bottle; no children in that house should have the bottle; that I should nurse it.

Q. What was the results?

A. I got sore breasts.

Q. How long?

A. I had one for seven weeks and the other for eleven.

Q. When was Elsa weaned?

A. When she was 19 months old.

Q. Why was she not weaned sooner?

A. Because my husband and my mother-in-law told me that I should not wean her any sooner; that as long as I had milk to nurse her I should nurse her.

Q. Did you try to wean her or feed her a great deal before weaning?

A. I told my husband that it was the right thing to wean my child when she was a year old, but he said no, as long as I had milk I should nurse her, and I nursed her until she was 19 months old, and when I spoke about giving her something to eat he said no, and the child didn't get anything to eat from the time she was born until she was 19 months old. My husband even didn't want her to have water to drink; he forbid me to give her water; he said it would give the child cramps.

Q. Did you wean her gradually?

A. No, sir; she was not weaned until she was 19 months old, and then they tried to feed her.

Q. Who?

A. My mother-in-law and husband.

Q. How did they try to?

Mr. Hillman: It does not appear whether both the mother-in-law and the husband were present, and I object to it.

The Court: Yes, I think your objection is well taken.

A. They were both present at the time.

The Court: I want to say that you are making an issue that will lead to an interminable investigation if you go into every detail of this nature. You are dealing with a period that was several years before the separation, and going into almost every detail of their married life that is not a pleasant one. I do not want to limit you except that I make the suggestion that if you will get down to particular cases you will expedite matters very much.

Q. What doctor did you have at the birth of these various children, the first child, for instance, Paul?

A. I had Dr. Small at the first child, and the second, Dr. Small, and the third, Dr. Emma Weeks Metzer.

Q. When was your next child born?

A. 20th of March, 1899.

Q. What happened when that child was born, who nursed you, &c.?

A. My sister nursed me.

Q. Did your husband provide medical treatment at that time?

A. No, sir.

Q. Won't you state in detail, did you ask your husband to go for a doctor?

A. I did, and he went for a doctor after dinner, and he went away about one or half-past one, and he didn't return home until about half-past five in the afternoon, and he knew I was waiting for a doctor and waiting for somebody to come and help me. My sister came there about four o'clock, and I then had to go in the store and wait on the

store, and I was not hardly able to be on my feet, but I had to go there just the same. There was nobody else there, and I said to my sister, "I have to go upstairs"——

Objected to.

The Court: You will not repeat conversation that occurred in the absence of your husband; you can state what you did.

10

A. I went upstairs and I was suffering greatly at the time, and he came in at half-past five and told me that the doctor was not home. I told him I had to have help, I had to have a doctor. He said he would go again, and he went and came back and told me that the doctor would not be home until ten minutes past six, and it was then about twenty minutes of six or a quarter of, and I told him I had to have help, I was suffering so. There was nobody there but my sister with me, and I would not allow her to leave
20 the room, because I was afraid if she did I would have no help there at all. My husband came back and he told me the doctor was not home, and I told him he had to go for another doctor, and he then went for Dr. Weeks Metzer, and when the doctor came there the child was born.

Q. What time did the doctor get there?

A. About six, and the child was born about a quarter to six.

Q. Did the doctor treat you?

A. Yes, sir.

30 Q. How were you fixed for that evening?

A. After the doctor left the child began to be sick.

Q. Did the doctor leave any instructions as to the child?

A. The child seemed to be all right while the doctor was there, and after the doctor left the child seemed to get sick and was suffering, and during the evening I knocked to come to me; I was upstairs alone with the baby and I knocked for them and they came; his mother came to me—

his sister same at first, and I told her that the child was sick, and it was then, froth was coming out of its mouth, and I told her something had to be done to the child, and she wiped the mouth off and she said it was all right.

Objected to.

The Court: Yes, conversation cannot be admitted.

Q. Was your husband present? 10

A. He was not upstairs at the time.

Q. State what you communicated to your husband.

A. Later on he came upstairs and I told him that the child was sick, and he went to bed later on about eleven o'clock; he didn't go for no doctor and didn't get no help for that child. He went to bed at eleven o'clock, and about twelve o'clock the child suffered so that I woke him and begged him to go for a doctor, and he told me he would go and wake his mother, and I begged him to take the keys and go for a doctor. I told him, I said "Hurry!" and he woke 20 his mother and she came over and she said it was no use to go for the doctor, he could not do anything, would not come at that hour of the night, and she carried the child for about half an hour, and laid the child down, and told me the child was warm; but it was not, it was cold and blue; they went to bed and slept again.

Q. Where was your husband sleeping?

A. With me in the same bed, and he laid there, and my child was dying at the time; he slept on and I suffered all night, and I had to lay there with my child. 30

Q. (By the Court.) Did you tell him that the child was dying, or didn't you know that?

A. I didn't know whether it was dying or not, but I knew that the child was very sick.

Q. And you had requested him to get a doctor?

A. I had begged him to get a doctor.

Q. (Further direct.) Did he do it?

A. No, sir; he did not.

Q. Had the doctor left word whether or not she might be sent for?

A. The doctor would have come if she had been sent for.

Q. Had she left word to that effect, do you recall?

A. I don't remember whether she left word or not.

Q. What occurred next, so far as you know, in relation to the child; who got up first in the morning?

A. I don't remember, but during the night I suffered so
10 that I was afraid every minute the child was going to die, and early in the morning I was so excited I dropped over; I didn't know anything for awhile. When I did get awake they were around the room walking downstairs, but I don't know who got up first.

Q. Did you call them or say anything to them?

A. The next morning they came and told me that the child was resting well and that it was better, and I was not able to move and see whether the child was or not, because I was
20 taken so with a chill every time I would move I would shake for a quarter of an hour afterwards. They told me the child was better and was resting, and he came there and he was going to the city.

Q. Did he get the doctor for you for those chills?

A. No, sir.

Q. Did he get a nurse?

A. My sister came there at eight o'clock the next morning and she told me the child was dead.

Q. Where did your husband go?

30 A. To the city, and then they went to the doctor and the doctor came and said then that the child had been dead about a couple of hours.

Q. What time did the doctor come?

A. I don't know exactly what time she came.

Q. Was it in the morning, the following morning?

A. Yes, sir; my sister came there about eight o'clock, and when she came she told me that the child was dead.

Q. (By the Court.) Had your husband gone to the city when the doctor came?

A. Yes, and after he had gone, I think it was either seven or after seven, and my sister came at eight and she told me that the child was dead.

Q. And later the doctor came?

A. They sent then for the doctor.

Q. Who sent?

A. I think my sister.

Q. (Further direct.) Had your husband kept his promise not to drink any more? 10

A. No, sir; he had not.

Q. Do you recollect an occurrence while you were sick about some beer?

A. When the first child was born they had, they wanted me to drink some beer, and I refused it. I didn't drink any intoxicating drinks at all, and when I was in bed with my first child and they came to my bedside and brought a kettle of beer, sat at the bedside and drank it, and I was so thirsty 20 I wanted something to drink and I asked whether I could have a little beer; I was willing to take anything at all for my thirst. He said no, I could not have it then; he had to ask the doctor first whether I was allowed to have it, and before that he wanted me to take it, begged and coaxed me to take it before. He even promised me a dollar if I would take a teaspoonful, if I would take it.

Q. What was the condition of your health during the last two or three years that you lived with your husband?

A. The last year I was very poorly in health. 30

Q. Will you tell us something of the ailments, what was the matter with you, how it came about?

A. Well, I was weak in health because I could not take the right care of myself, I hadn't enough clothes to take care of myself, and I was unwell many a time when I should not have been.

Q. Why were you in that condition, from what cause?

A. Because my husband had connections with me when I was unwell.

Q. Was this a frequent matter or not?

A. Well, every once in a while.

Q. Did you protest against it?

A. I used to refuse him, and I know he has forced me to it.

Q. Did you protest against it?

A. Yes, sir; I did.

10 Q. Did you ever refuse him when you were in health and clean?

A. Not when I was able to.

Q. What did he ever say to you upon some of these occasions about your worth to him?

A. He told me that if he thought I would never get any better than I was I might just as well go home, because I would never be any good to him.

Q. (By the Court.) When was this when he told you that?

20 A. I can't say just exactly the time it was.

Q. With reference to the birth of your children, when was it?

A. It was during the last year.

Q. During the last year you were with him?

A. Yes, sir.

Q. (Further direct). Do you remember when you left your husband, about when?

A. We parted the 29th of November, 1899.

Q. Do you remember a visit to your sister-in-law in
30 Philadelphia?

A. Yes, sir.

Q. Will you kindly state that?

A. I went down and was at his sister's at the Jubilee.

Q. What year was that?

Mr. Bacon: It was the Peace Jubilee in 1898.

A. Yes; it was the year 1888.

Q. 1888 or 1898?

A. 1898.

Q. It was the Spanish War Jubilee, Peace Jubilee?

A. Yes, sir.

Q. What did you do or what did he do?

A. I was taken sick while I was down there, and he went and told my sister that he didn't care whether he ever saw me any more or not; that he didn't care whether I came back.

10

Objected to unless it was said in her presence.

A. It was not told in my presence, but my sister came and communicated it to me.

The Court: It may be stricken out if it was a statement not brought to the knowledge of defendant.

Q. What was the treatment of Elsa by your husband, coming down from the time of her birth?

A. Used to take her out for long walks.

20

Q. Did you object to these long walks?

A. I many times said I didn't think it was very good for that child, as young as she was, to take her out so far; she was a very young child at the time.

Q. How far would he take her?

A. To Bridgeboro and back again.

Q. How far is that?

A. I suppose it is a mile or two miles, a mile there and back again, and then he would take her to Cambridge and back again.

30

Q. Did it injure the child's health; did you notice any physical results?

A. The child, at the time she would be out with him, she would beg him to carry her, and he would tell her——

Mr. Hillman: Objected to. Was this done in the presence of the witness?

The Court: It would seem that it was impossible that it could be done in the presence of the witness.

A. Yes; sometimes I would be along.

The Court: I think you are going into pretty minor details.

Q. What was your husband's conduct just before you left
10 him in November, 1899, toward you and Elsa?

A. One thing, he would not give us enough to eat; he would not allow us enough so that we could get what we really needed, and I didn't have enough clothes to wear.

Q. How about bed clothes?

A. At the time my Elsa was troubled with her leg and I had to keep her downstairs on a cot bed, and I had to lay alongside; I stayed down there with her, and a blanket and two quilts that my mother gave me he had on his bed, and I lay downstairs on the lounge with a thin bedspread.

20 Q. What was the matter, did you ask him for more covers?

A. Yes; I told him I was cold; that I was cold every night; many a night I could not sleep for the cold. It was in November at the time, and he told me he could not get them.

Q. Did you finally get them?

A. No, sir; I did not get any more covers. I went the night before and asked my mother to loan me a blanket to cover myself with, and when I brought it home he thought
30 I had bought it, and he gave me a scolding, and I told him I had borrowed it from my mother.

Q. What was the matter with Elsa's leg?

A. She had trouble with her knee, and the doctor said if we didn't take care it would go to her hip and she would be a cripple for life.

Q. How did she come to get that trouble; what did the doctor say?

Objected to.

A. She had a fall, and then after that my husband took her to the city and walked her for a whole day, and when the child came home she cried and said her knee hurt her.

Objected to.

Mr. Cogswell: I think this was in the presence of the husband. 10

Q. Was it?

A. It was in the presence of my husband.

Q. Did she say anything further?

A. We sent for the doctor and the doctor then told me I should take her to the hospital and have her knee treated.

Q. What did your husband say about that.

A. He said I should the first time, and after I came back and told him how it was he said it was not any use to take 20 her down there any more; that they would not do her any good. He said it would only be expensive, and he said there was no use taking her down any more, but I insisted upon taking her down, because I was afraid my child would be a cripple.

Q. Did you have the facilities to treat her there at your husband's home; did you have the proper appliances?

A. We had her treated there at home.

Q. What was her treatment; what did it consist of?

A. I had to take her every once in a while to the hospital; 30 then there was a doctor to treat her at home.

Q. Did you finally take the child away from your husband's home?

A. I took her to my mother's home because I or my child neither had the right care.

Q. (By the Court.) When was that?

A. That was November 29, 1899.

Q. (Further direct.) What kind of a bed did you sleep on, the child Elsa?

A. She slept on a cot bed.

Q. Was there any certain arrangements on account of her injured limb, or appliances, any special treatment of that?

A. Yes, sir.

Q. How was it?

A. They treated her, they had her there fixed on a cot bed, counter-extension and a 2½-pound weight on the
10 bottom of the foot to keep her leg, to stop crying, and she had a sand bag on each side of her leg so that she could not move her leg at all.

Q. How long did she remain in that posture or position?

A. I can't say exactly how long that lasted.

Q. Was it a week or two weeks?

A. Altogether the way she—as long as she had treatment was just about 30 weeks.

Q. (By the Court.) This was after you left him?

A. Part of the time there and when I took her to my
20 mother's she still had to be fixed in the counter-extension and cot bed.

Q. (Further direct.) How long?

A. About thirty weeks altogether.

Q. How much of the time was at your home, that is, at your mother's home, do you suppose?

A. I don't remember.

Q. Possibly it would be easier the other way. How long was she in that condition at your husband's home?

A. Well, I don't remember just when she started; maybe
30 the doctor will tell you that.

Q. How long was she sick after you took her to your new home, do you recollect that?

A. No; I can't remember just the time either.

Q. Did she finally improve and recover?

A. Yes, sir; after she was there about two or three weeks she began to improve.

Q. What is her present condition?

A. She is very well at the present time; she has good health.

Q. Who cares for her and looks after her?

A. My mother.

Q. What do you do?

A. I work.

Q. Employed in Riverside?

A. Yes, sir.

Q. Are you at home every night?

A. Yes, sir. 10

Q. You also help take care of the child?

A. Yes, sir; my mother and myself help to take care of the child.

Q. You are supporting her now?

A. Yes, sir; I support myself and Elsa and have been ever since I have been to my mother's.

Q. How much money have you had from your husband for support of either yourself or of your child since November 29, 1899? 20

A. Not one cent.

Q. Has he ever visited you there at the house personally, come to see you and talk with you about the child?

A. He has never come to visit me; he was there once at the house right after I came there, but he didn't speak one word to me.

Q. How did you come to leave your husband on November 29, 1899; what determined you finally to go?

A. Because I was so miserable and I was dying; I was not hardly able to be on my feet any more; I was dying by inches. 30

Q. Did your husband say anything about going; did he try to stop you?

A. At the time when I went he was not in the house, but he told me I could go; he also told me if I went I don't need to come back any more.

Q. But you felt to save your life you had to go ?

A. Yes, sir; I did.

Objected to.

The Court: I think the question is one that does not benefit the case and ought not to be asked. It carries no weight when an answer is made that way. It is more prejudicial than beneficial.

10 Q. Now, shortly after the birth of the last child, tell us about an effort to get you on your feet again; what was said to you then by your husband?

A. When my daughter Elsa was born I was not very well; I was not as strong as I should have been I suppose, and on the tenth day he told me I should get up. I had promised him I would and at noontime I didn't feel as if I was able to get up, and he came to me——

The Court: That was the day after the birth of your child?

20

A. The tenth day; he came and told me I should get up. I said I was not able, and he told me that I should get up if it was for a half an hour; I should get up and dress because his mother and sister was raising hell downstairs because I didn't get up; said I should get up and if I only sat up for half an hour just to please them, and if you don't feel well enough then you can stay dressed and lie on the bed.

Q. What did you do?

30 A. I got dressed and I sat up, but I suffered.

Cross-examination by Mr. Hillman:

Q. I understand that your husband was employed in one of the factories in Riverside?

A. Yes, sir.

Q. And he conducted a jewelry store at the same time?

A. Yes, sir.

Q. And did you wait on the counter in the store during his business?

A. Yes, sir.

Q. The money drawer was there?

A. Yes, sir; right next to the store.

Q. You had access to the money drawer?

A. The money drawer was there, but he forbid me to take any money unless he said so.

Q. Didn't you have access to the money drawer? 10

A. Explain that, please.

Q. When people would come into the store and buy something, did you sell it to them?

A. Yes, sir.

Q. Would you take the money for it?

A. Yes, sir.

Q. And put it in the money drawer?

A. Yes, sir.

Q. And if they required change you would take change 20 from the money drawer?

A. Yes, sir.

Q. Didn't you take money from this drawer to make purchases at the stores?

A. I did to allow the two dollars per week; I would only take as much as two dollars a week. He said that I should take two dollars and that is all I would take.

Q. You had it in your power to take more?

A. He forbid me to take it.

Q. That is the only thing that prevented you from taking 30 more than two dollars?

A. At some of the time, but later on I could not take it, because every night he would take the money from the drawer, and he would leave in it four, five or six pennies, and I don't know where he put the money.

Q. Did you do all the buying, or did he do part?

A. He done part of it, of the groceries, and when he

did anything he said I was only allowed a dollar and fifty cents.

Q. Didn't you take out of this drawer more than two dollars per week?

A. Yes, sir.

Q. When did he first limit you to two dollars per week?

A. When I started to keep house.

Q. And he never increased that?

A. No, sir; he did not.

10 Q. And you never spent more than two dollars per week?

A. I never allowed myself more than two dollars per week.

Q. Were you able to provide for the family on two dollars per week?

A. I done my best, although I didn't get enough to eat myself; I always tried to get him enough.

Q. Did you complain to him about it?

A. I did.

20 Q. When did you last say anything to him about not having enough to eat?

A. I told him I could not get enough to eat on two dollars, but he said that was all he would allow.

Q. How about your clothing ?

A. Well, when I needed any clothing, I would go to him and tell him, and he would tell me if he felt like giving me the money, he would tell me to go and buy it, and if he didn't he would say that he could not afford it.

Q. That was the real excuse he gave, that he could not afford it?

30 A. He could afford it, because he had the money.

Q. Is that the excuse he gave?

A. Sometimes.

Q. You have spoken of one time that you helped him on Sunday; did he ask you to help him or did you offer to do it?

A. He would ask me to help him.

Q. Did you object to doing it?

A. Not when I was able to, but when I was not able I would, and he would then tell me I was lazy.

Q. When this third child was born, that was a premature birth?

A. What is that?

Q. When this third child was born, that was a premature birth?

A. What?

Q. A premature birth was it not, an eight months' child?

A. That is what the doctor said. 10

Q. You didn't expect to be sick as soon as you were sick?

A. No, sir.

Q. You hadn't made preparations for it?

A. In what way?

Q. Had you engaged a nurse?

A. Well, no; we hadn't engaged any nurse.

Q. Had you engaged a physician?

A. No, sir; I don't think he had.

Q. When you were first taken with pains did you expect that the child was to be born then? 20

A. Yes, sir.

Q. Right away?

A. I thought it would be that day the way I felt.

Q. Didn't you know your time was not up?

A. I didn't know; no, sir.

Q. Was your husband home at the time when you first commenced to suffer distress?

A. Well, I can't say just exactly whether he was home at the time, but he was home at 12 o'clock.

Q. What did he do? 30

A. He didn't do anything.

Q. Didn't he go for a doctor?

A. He went after dinner, about one or half-past one, he promised me he would go for a doctor, but he didn't come back until half-past five.

Q. What were you doing in the meantime?

A. I was suffering all that time.

Q. He came back about half-past five?

A. Yes, sir.

Q. Did he have a doctor with him?

A. No, sir; he told me then that the doctor was not at home.

Q. How soon did the doctor come?

A. He said then that he would go back for the doctor, and he went for the doctor; at least, he told me he did, and he came back and said the doctor would not be home until ten minutes after six, and I was suffering so much then I didn't know what I was doing.

Q. What time was the child born?

A. About a quarter to six he went for the doctor, and he said he would go for another doctor.

Q. He went for the doctor the last time before the child was born?

A. Yes, sir; right after he had gone the child was born.

Q. How long after the child was born did the doctor arrive?

A. About a quarter of an hour.

Q. Who was with you when the child was born?

A. My sister.

Q. Had she been with you when the other children were born?

A. No, sir.

Q. You say that that night when you went to sleep the child lay on your arm?

A. Yes, sir.

Q. Did the child seem all right then?

A. That was Elsa; that was the second child.

Q. Did you say anything to your husband that night about the child?

A. He was not with me that night; he slept in a different room.

Q. Who slept in the room with you?

A. His mother.

Q. Did you call to your husband any time during the night?

A. No, sir.

Q. Ask him to do anything?

A. No, sir; I didn't call.

Q. When did the doctor come to see you, in the morning?

A. Which child are you speaking of?

A. The last child.

A. Well, she came at six o'clock, and then she left after everything was all right; she left there and she was to come the next day. 10

Q. What time the next day?

A. Well, I didn't know just exactly what time she was to come, but she was to come the next day.

Q. What time did she come?

A. My sister came there at eight o'clock the next morning and the child was dead.

Q. Did you send for the doctor?

A. I don't remember who sent; I think it was my sister sent when she found the child was dead. 20

Q. Who first found that the child was dead?

A. My sister.

Q. What time was it?

A. About eight o'clock she came there.

Q. Did your husband ever become intoxicated?

A. Yes, sir.

Q. Did he ever become violent when he was intoxicated?

A. Yes, sir.

Q. Did you tell him that you were going to leave when you did leave in November? 30

A. I told him the night before that it was best for us to part, because I was not able to stay there and do as I have done.

Q. You told him that?

A. I spoke with him the night before and he told me I could go.

Q. And he was not home when you left?

A. He had just left the house just before that.

Q. And you left while he was away?

A. I took my child and went to my mother's home for protection, because I knew I would not live very long if I stayed there.

Q. Why not?

A. Because I was sick all the time and he wanted to have connection with me when I was really unwell, and he more than once forced me to it.

10 Q. When was the last time that he had forced you to it?

A. I can't just remember that.

Q. Shortly before you left?

A. It was not so very long, and I don't know just exactly how long.

Q. How frequently did he force you to have connection when you were not able?

A. He would want it every night, whether I was able or whether I was not, and when I would refuse him when I was not able I would sometimes refuse him, and sometimes I 20 would suffer under it.

Q. When you would refuse him, what would happen then?

A. Then he would tell me that it was only an excuse; that I didn't want to do as I should do.

Q. Then what, would you permit him to do it?

A. Sometimes I could not really stand it, and sometimes I would bear the pain.

Q. When you say that he forced you, it was because he coaxed you; that is what you mean?

30 A. No, he didn't coax me; he would force me.

Q. Use physical violence as persuasion?

A. No, he would not persuade me.

Q. Do you mean he used physical force?

A. He would take me and force me to do it.

Q. Didn't you just say that you would refuse him and then he would reproach you for not doing it, and then you would permit it?

A. Sometimes he would take hold of me and force me to do it.

Q. And sometimes he would request this and you would refuse, and then he would say that you ought to do it, and finally you would consent; is not that the fact?

A. Sometimes I would consent, but many times I would bear a great deal of pain, but I did it because he would only tell me that it was only an excuse and that I didn't want to, but I suffered a great deal under it many a time.

Q. After you left him he came over to your father's house, didn't he? 10

A. He came there—I don't know; it was just a few days afterwards.

Q. And didn't he request that you return?

A. No; he didn't speak a word to me.

Q. You were in the room?

A. Yes, sir.

Q. To whom did he speak?

A. He brought the doctor there; the doctor came with him. 20

Q. Which doctor?

A. Dr. Richardson.

Q. What did your husband say in your presence?

A. He said he was losing a great deal of money by my being away.

Q. Didn't he want you to return?

A. He didn't ask me to return.

Q. Didn't he tell your father that he wanted him to let you return?

A. I didn't hear him say so. He said to my father that he was losing a great deal of money by my going away; he said "you don't know what I am losing; I am losing a great deal of money by her going away," but he didn't say I should come back. My father said, "What do you do with all your money?" He said, "You don't pay your bills." 30

Q. Didn't your father order him out of the room?

A. And he said, "It is none of your business," and my father said, "If it is none of my business——

Q. Please answer the question.

A. Yes; my father told him that he could get out.

Q. Didn't he get a gun?

A. No, sir.

Q. Your father didn't take hold of the gun ?

A. No, sir.

Q. You are sure of that?

10 A. Yes, sir.

Q. Several times didn't your husband write to you and ask you to return to his house?

A. He did write a note.

Q. You received a note?

A. No; let me see—I did receive a note.

Q. From your husband?

A. I don't know whether it came from him directly.

Q. It was signed by him?

A. It was his name on it, but I think it came from the

20 lawyer.

Q. It was signed by him?

A. Yes, sir; his name was at the bottom.

Q. And this requested you to return to his house?

A. Yes, sir; it requested me to return and take up my duties as his wife?

Q. Did you do it?

A. No, sir.

Q. He still has the same house that he had when you left there?

30 A. Yes, sir.

Q. Did you ever go there and ask him to take you in?

A. I never did; I went there for my clothes and things.

Q. He was not at home then?

A. He was home at different times.

Q. Was he home when you went and got your clothes?

A. Yes, sir.

Q. You got your clothes?

A. Yes; I took some of them.

Q. You didn't ask to return?

A. No, sir.

Q. You have never asked to return?

A. No, sir; and he never asked me to return; he never came to me personally and asked me to return.

Q. He didn't ask you to return the day he came over to your father's house?

A. No, sir.

Q. You took Elsie away; when you took her away she was lying on this cot, was she not? 10

A. Yes, sir.

Q. And you had to cut some of the arrangements?

A. I had to undo the cords and take the weights from her foot.

Q. You took her away while she was in that condition?

A. Yes, sir.

Q. And you never sent the child to school?

A. I have sent her to private school—not to private school, but a private teacher. 20

Q. Who is the private teacher?

A. Laura Bailey.

Q. How long have you sent her there?

A. I can't just remember.

Q. Do you send her every day?

A. It was during the evening.

Q. She keeps an evening school?

A. She taught her privately.

Q. Did she have any other scholars?

A. No, sir. 30

A. How long has it been since you sent her to Laura Bailey?

A. I don't just remember that, either.

Q. About how long?

A. It was last year some time.

Q. Then she has not had any school since last year?

A. She has teaching at home.

Q. Who?

A. My mother and father and I teach her as much as we can.

Q. Do you give her regular lessons?

A. We have books there and teach her.

Q. Regular school books?

A. Yes, sir.

Q. Do you give her lessons every day?

A. Not every day, but when I can.

10 Q. About how often?

A. Whenever I can spare time I teach her.

Q. You have public schools at Riverside?

A. Yes, sir.

Q. Why don't you send her to the public schools?

A. Because I would not like Elsa to be taken from me.

Q. Is that the only reason you have for not sending her to the public schools?

A. Yes, sir.

Q. How old is she?

20 A. She will be ten years next birthday.

Q. And she has never been to public school at all?

A. No, sir; but she has been taught.

Q. And all the teaching she has received is such as she got from Laura Bailey and such as you and your mother and father give her?

A. Yes, sir.

Q. And how long did she go to school to Laura Bailey?

A. I don't remember that.

Q. Every night?

30 A. Three nights a week.

Q. You don't know how many weeks?

A. No, sir.

Q. When was the last time she went there?

A. During the last year some time.

Q. What time during the last year?

A. I can't remember that.

Q. Last fall, last summer or last spring?

A. I don't just remember when it was.
Q. That is all.

Re-direct:

Q. Can you tell why it was that you didn't send the child to public school?
A. Because I was afraid she would be taken away from me.
Q. By your husband?
A. Yes, sir. 10
Q. How did you receive the note that you testified about?
A. I received it through the mail.
Q. What became of it; what did you do with it?
A. I showed it to the lawyer at the time and he said he didn't think it would be very much account; that it would not be very much.
Q. That is all.

Doctor Emma Weeks Metzer, sworn for Complainant: 20

Direct examination by Mr. Cogswell:

Q. Where do you reside and practice?
A. At Riverside, N. J.
Q. How long have you practiced medicine?
A. Thirteen years.
Q. You are a graduate of what?
A. The Woman's Medical College of Pennsylvania.
Q. You are acquainted with the complainant and defendant?
A. Yes. 30
Q. Do you remember being called in at the birth of a child?
A. Yes, sir; I remember it.
Q. Do you recollect about what year this was?
A. I remember simply because I have the stubs, marked 1899.

Q. Who called you?

A. Mr. Englehardt; I was not engaged for the case at all, but he came for me.

Q. What time did you get there?

A. I don't remember the time of the day at all or anything about that; I simply remember he came hurriedly and said Dr. Small was out, and Dr. Small and I work together a great deal, and I responded. I remember Mr. Engelhardt was out of breath. He said Small was away, so I responded. And when I got there I remember anyhow the child was born. It is a long time ago, but I remember that, but I don't remember who the nurse was, and the child was what is commonly called a blue baby, the heart action was insufficient. The mother said it was all right; she was apparently so to the laity, but I remember the child was a blue baby, and I remember leaving word if anything should occur to send for me.

Q. Who did you leave that word with?

A. I don't remember, whoever the nurse was, I would not remember, having so many cases I would not remember, and I was asked the next morning to go there, and found the baby dead. I don't remember that they sent for me at all, but I know when I got there making my subsequent visit, the child was dead, and I have on my stub here that the child lived 14 hours, so whenever it died, I probably would have stated that at that time; I don't remember about that. The child had been dead several hours when I got there.

Q. Do you know anything at this time about the fitness of this woman to take care of a child?

A. No, sir; I know nothing about that at all.

Q. Did you ever treat Elsa?

A. No, sir; this is the only time I was ever in the house professionally, to treat Mrs. Engelhardt.

Q. That is all.

Cross-examination by Mr. Hillman:

Q. When Mr. Engelhardt came after you, did you accompany him?

A. I think so; whether he went on ahead I don't remember, but I remember he was very much hurried when he came and very much out of breath at the time.

Q. Do you remember whether or not he urged you to come?

A. He said it was very necessary; he said they were in need of a physician immediately. 10

Q. You spoke of a blue baby?

A. Yes, sir.

Q. Does a blue baby often live?

A. Not often, but sometimes I have had them to live.

Q. It is a general thing that they will not live?

A. Yes; that is the general opinion.

Q. That is the general experience?

A. Yes, sir.

Q. About what proportion? 20

A. I don't know that I can tell you exactly the statistics.

Q. You saw the condition of this child?

A. Yes, sir.

Q. Were you surprised when you learned that the child was dead?

A. The only thing that surprised me was, that I remember, was that I hadn't been called, but I was surprised that it had died and had passed away several hours without my knowledge.

Q. How far is your office from Mr. Engelhardt's? 30

A. I judge it would be about eight minutes' walk, eight to ten.

Q. (By the Court.) Was this baby and the mother in a condition for you to leave then when you left?

A. I thought so.

Q. Did you anticipate at that time that the baby would probably not live?

A. I must have or I would not have said "if anything should occur, if you see any ill-turn more than at the present time exists, send for me." I know I said that.

Q. How do you remember that?

A. I simply remember it; I am not interested in the case at all, but I remember that.

Q. Did you communicate the fact to any one, that the baby was not likely to live?

A. I don't remember communicating that; I told someone at the house if anything should occur to let me know.

10

Q. How long does a blue baby live?

A. I have them going to school.

Q. But you say they usually don't live; how long do they usually when they do not grow up?

A. I don't think there is any stated time; they are very uncertain. I can't tell.

Q. That is all.

Doctor Joseph Richardson, sworn for Complainant:

Direct examination by Mr. Cogswell:

20

Q. Where do you now reside?

A. Camden.

Q. Practice in Camden?

A. Yes, sir.

Q. Where did you reside prior to your coming to Camden?

A. Riverside.

Q. How long have you been practicing?

A. Nearly 22 years.

Q. You are a graduate of what university?

30

A. Jefferson.

Q. Are you acquainted with the complainant and defendant?

A. I am.

Q. Have you ever been called in to treat the daughter Elsa?

A. Yes, sir.

Q. How long ago was that, about?

A. I think the 23rd of October, 1899—yes, that is right.

Q. What did you find to be the matter with the child, if anything?

A. Threatened coxalgia.

Q. What is that in ordinary language?

A. It is tuberculosis of the head of the femar or ligament around the joint.

Q. Did you prescribe any treatment?

A. Yes, sir.

Q. What was the physical appliance? 10

A. We placed upon the child an extension and counter-extension; that is, we generally raised the foot of the cot or bed, put a bat under it, put adhesive strips down the leg with a block across the heel with a cord through that with weights playing over a pulley at the foot of the bed, and put a little roller around it and tied the child's head to the head of the bed so that it cannot move.

Q. What would cause such a condition as you found this child in?

A. There are numerous causes? 20

Q. Would excessive walking?

A. Let me give you the causes: Blows, sprains, cold and chill, also following diphtheria, scarlet fever, measles. It is considered a tuberculosis. Now, the answer to your question is, that when the physician is satisfied, that is, after he has made his diagnosis, the patient should have absolute quiet and rest. Will you allow me to make a few comments on that, on the disease?

Q. Go ahead.

A. It is a disease that is a little hard to diagnose on the 30 start, and 99 cases in a hundred the pain will be in the knee when the disease is located in the hip, and if the doctor is not very careful as to his examination he will many times think that the child is troubled with rheumatism, but I have had it in my own family, and, knowing the mistakes that the doctors made, which ultimately was the cause of the death of my boy, invariably when I am called to see a child

and find the pain in the knee, I make it my business to examine him thoroughly so that I can treat him properly.

Q. Do you know about the distance from Riverside to Bridgeboro?

A. It is called a mile.

Q. And from Riverside to Cambridge?

A. I suppose that is about three-quarters, probably.

Q. Would walks to these different places be the proper thing for this child in that condition ?

10 A. Under the circumstances, a child suffering from that, it would not be the proper thing to do; that is, if it was known, but a child will play around for two or three weeks and have that disease before the proper thing is done for it.

Q. Do you know what was the result of this treatment?

A. The child recovered its health.

Q. Do you know the present condition of the child?

A. I consider the child in first-class condition.

Q. How about its home surroundings now?

A. As far as I know, they are all right.

20 Q. Do you know anything about the mother's physical condition at the time you were called in?

A. No, sir.

Q. That is all.

Cross-examination by Mr. Hillman:

Q. Did you form any opinion as to what had caused the illness of the child?

A. No, sir; you can't form any opinion; it is due to

30 different causes.

Q. Who engaged you?

A. A Mr. Engelhardt, and paid me.

Re-direct:

Q. Did you hear Mr. Engelhardt ask his wife to return the day you were there?

A. I did not, I don't remember that he did; I remember the old man driving him away.

Re-cross:

Q. Did you accompany Mr. Engelhardt to the home of his wife's parents?

A. He accompanied me; he got me to come around there and went with me.

Q. Who was present in the room? 10

A. I think Mrs. Engelhardt was there, and her mother and father.

Q. What did Mr. Engelhardt say?

A. I don't remember hearing him say much, if anything.

Q. He did say something?

A. Yes, sir; what I remember was, it was a little unpleasant place for a man to be, because the old gentleman was ordering him away.

Q. What did he do?

A. I don't know as he did anything, only ordered him 20 away.

Q. Did he take anything in his hands?

A. Not to my knowledge.

Re-direct:

Q. Do you know the time when that occurred?

A. Where?

Q. At the house?

A. According to my notes, it was on the 1st of December, 30 1899, that was around at Mr. Josephs. I attended the child at the father's house from the 23rd of October until the first of December, and then I attended the child at Mrs. Engelhardt's mother's house from the first of December till the 23rd of December, about nine weeks.

Q. That is all.

LIZZIE MAUTE, sworn for Complainant:

Direct examination by Mr. Cogswell:

Q. Where do you reside?
A. Riverside.
Q. What relation are you to the complainant?
A. Sister.
Q. You are acquainted with the defendant, are you?
10 A. Yes, sir.
Q. Were you present when Lily was born?
A. Yes, sir.
Q. What occurred at that time between the parties?
A. I don't know, they had some trouble; his mother was supposed to nurse her, and they called on me to help them out, and I was called right after dinner and as soon as I could get away I went there, and she was suffering, and it seems after I got there she suffered pretty bad. We went upstairs, there was no doctor there, and there was nobody
20 downstairs but his sister, Elsa Engelhardt, and I went upstairs and she seemed to be suffering an awful lot.
Q. Did the doctor finally come?
A. No, sir; there was no one in the room but her and I, and she was in bed and suffered something terrible.
Q. Was the child born?
A. No, sir; not then yet; she suffered from then until about six o'clock; she almost pulled me to pieces, and it is a wonder the neighbors didn't come in the way she went on and suffered; nobody to help her.
30 Q. What time was the child born?
A. Around six o'clock.
Q. Who was present?

The Court: Do you claim that the husband didn't try to get a doctor—the evidence does not justify that conclusion.

Mr. Cogswell: I don't think he used the proper care to get a doctor:

The Court: I should not think the complainant's testimony warrants that conclusion, and it seems to me following up the details that do not go to the point whether or not he exercised proper diligence, adds but little to your case. I will permit you to put in what you have, but from the testimony as it stands, I could not reach the conclusion that the proof shows that the husband did not make diligent effort to get a physician that afternoon. As it stands now, that would be my conclusion. I should say it would be a case of cruelty if the husband would refuse to get a doctor, but it does not seem to me that the evidence given so far justifies that conclusion.

Q. What time did the doctor finally come?

A. About six o'clock, about twenty minutes to six when they went after this doctor and she begged him to go, she said "For God's sake get a doctor," she could not suffer that way.

The Court: Strike that out.

Q. Which doctor?

A. Dr. Weeks, and when the doctor came the doctor said the child ought to have been born three hours sooner.

Objected to.

The Court: I think the physician's statement is competent when made at the time of the examination.

Q. How long did you stay there after that?

A. Until eight o'clock in the evening, and the doctor and I attended to the baby after it was born, between us, this doctor that was here.

Q. Did Mr. Engelhardt come home?

A. I am most sure he was around the house, I don't remember seeing him in the room.

Q. What about proper food and clothing? Do you know anything about that, for your sister?

A. Well, I don't know so much about that, only I know when I came down he said there was nothing to eat, after my staying until after dinner, until eight o'clock, there were a few crackers brought in for the sick person, and tea made, and they gave me some of the tea and crackers, and he stood alongside of me and told me not to eat too many, that is what he said to me, he said there was nothing else to eat in the house.

Q. Did you ever have any conversation with the defendant relative to your sister?

A. The defendant?

Q. With Mr. Engelhardt, did he ever tell you things?

A. Yes, sir; he came to the house and said that she was sick all the time, and if he could not have connection with her as much as he liked that she was no good to him and might as well go home.

Q. Did you tell your sister this?

A. Yes, sir.

Q. (By the Court) Did he tell you this?

A. Yes, sir.

Q. When was that?

A. Just a short time before they parted.

Q. (Further Direct) Did he say whether she made excuses or not?

A. He said that she was always unwell and he could not have anything to do with her, and said if she was no good to him she might as well go home, that he had no use for her.

Q. Did he say whether or not he really believed she was unwell, or was just making believe, do you recollect anything about that?

A. That I can't answer.

Q. Do you know what was the matter with your sister?

A. I think it was through flooding, through hemorrhage of the womb, in confinement with the last child—if you know what that is.

Q. Had you on previous occasions, for instance, about the time that she went to his sister-in-law's in Philadelphia, had he had any conversation with you?

A. He came down at that time, she had gone away, and I don't suppose I would know that she had gone, but he came down and said she was down there, and he said she had a miss and he didn't care whether he ever saw her again, 10 didn't care whether she died, didn't care whether he would ever see her again, and it worried me, I could not get away, I had small children and I didn't know where she was, but she was at his sister's.

Q. Did you tell her that?

A. He said he got a letter that she had a miss, and that was just about five months before this last child was born, she was about three months gone.

Q. From whom was that letter?

A. I think it was from his mother, either mother or sis- 20 ter, one of the two wrote it, it came from the place where the sister had been staying.

Q. Did you tell your sister what he said?

A. I did.

Q. When was the last time, if you recollect; can you place the last time when you had conversation with the defendant?

A. No; that I can't remember; the last time that I ever knew that I spoke to him was when he came down and asked me about how the child was, not the last child, but the one that was sick, that they buried, and he said the child would 30 never get better, and I don't remember him talking to us about anything else.

Q. Did Mr. Engelhardt, have any other conversations with you about his wife's weakness or sickness?

A. The only thing I know he did say, he used to say to me, I thought it was a wrong thing, but I think I ought to tell it, he said when he used his finger on her he could make

her come, and then afterwards she was no good to him, why I don't wonder.

Q. (By the Court) He told you this?

A. Yes, sir.
Q. Where?
A. At my own door.

10 Q. (Further Direct) How long before the separation?

A. It was just a short time before.
Q. Did you communicate that to your sister?
A. Yes, sir; I did.

Q. (By the Court) What were the circumstances of his telling you that?

A. I don't know really, because I never say anything like that to anybody, but that is what he told me.
20 Q. In what connection did he say it?
A. He said if she was no good to him she might as well go home, it was just toward the last.

Q. (Further Direct) What his Honor wants to know, is how he came to come to you and say this?

A. I don't know; that is what he said.
Q. Where was the place?
A. Right at my door.
30 Q. What time in the day was it?
A. That I can't tell you; I never thought it was coming to this.
Q. Anybody else present?
A. No, sir; just me and my children, and they were right small then.
Q. Did he appear to have been drinking?
A. No, sir.

Cross-Examination.

By Mr. Hillman:

Q. The day that this child was born, what time was it that you said you went to the house?
A. Right shortly after dinner.
Q. What time was that?
A. I guess between one and two.
Q. Was Mr. Engelhardt there? 10
A. At his home?
Q. Yes.
A. No, sir; he was the one that called for me.
Q. Then he went on somewhere else?
A. Yes, sir.
Q. When did you next see him?
A. At about twenty minutes of six, at his home, from that time.
Q. What did he say?
A. Why, he said the doctor was not in when he went 20 there right after dinner, the doctor was not in. Then he came home and then he went back to the doctor's and he still was not in.
Q. He came home?
A. He came home about twenty minutes of six.
Q. Didn't he come home before that?
A. No, sir.
Q. Why do you say he came home?
A. He came home about twenty minutes of six, from the time that he left my door, he came after me. 30
Q. And you didn't see him again until when?
A. Twenty minutes of six.
Q. Did he come back to his house or not, do you know?
A. No, sir.
Q. When you went over to your sister's was she in bed?
A. No, sir; downstairs.
Q. How long before she went upstairs?

A. Right after I got there.

Q. Went upstairs right away?

A. A short time afterwards.

Q. You didn't see him until about twenty minutes before six?

A. Yes, sir.

Q. And then he went out again after another doctor?

A. The same doctor he went back to.

Q. This child was born, as I understand, a little after six?

10 A. Yes, sir.

Q. And you and the doctor stayed there until after eight o'clock?

A. I don't know whether the doctor did, but I was there that long.

Q. Then where did you go?

A. I went back home.

Q. With whom did you leave your sister and her child?

A. His sister was there at the house and his mother.

20 Q. You have detailed several conversations you had with the defendant. When you say he came to your house and complained that he could not have connection with his wife; you say you don't know when that conversation took place?

A. No, sir.

Q. Can you say when it was you told your sister?

A. I told her as he told me.

Q. When?

A. A few days later.

Q. You don't remember when it was?

30 A. No.

Q. Before or after she left home?

A. It was before.

Q. Are you certain of that?

A. Yes, sir.

Q. Why are you certain of that?

A. It was before they parted.

Q. You say you don't know when it was, how long before?

A. It was right after he had told me this, I didn't know it was coming to this.

Q. You are certain he told you this before they parted?

A. Yes, sir.

Q. Why?

A. Because I feel sure.

Q. You don't know when it was?

A. No.

Q. You are certain it was before they parted?

A. Yes, sir. 10

Q. How long?

A. I could not tell you.

Q. You say that he came to you and told you his wife had had a miss?

A. That is what he told me, that was around Jubilee time.

Q. Didn't you say this was about five months before the last child was born?

A. Yes, sir.

Q. That he told you?

A. Yes, sir. 20

Q. And he told you that she had just had a miss?

A. That he had got a letter from his mother or sister, from one of them.

Q. That she had a miss?

A. Yes, sir; and he didn't care whether he ever saw her again.

Q. And five months after that this child was born?

A. Yes, sir.

Q. That is all.

30

MARY KLINGLER, sworn for Complainant.

Direct Examination.

By Mr. Cogswell:

Q. Where do you live?

A. At Ardsmore, Pennsylvania, at the present time.

Q. Are you a married woman?

A. Yes, sir.

Q. You are acquainted with complainant and defendant?

A. Yes, sir.

Q. Did you ever live at Riverside?

A. Yes, sir.

Q. Do you know of any conversations had between the complainant and the defendant, or with yourself and the defendant, Mr. Engelhardt?

10

A. I know that he came down to me, he had been in a tavern, and he came down and pulled out a handful of money, "look here, what money I got, it just cost me two dollars for one treat."

Q. Where were you living then?

A. I was living on Madison street, Riverside. On his way to my house there was a tavern about half-way between his and mine, and he stopped there.

Q. What other conversations did you have with the defendant?

20

A. When my sister was sick in the city—

Q. The complainant is your sister?

A. Yes, sir. He said he was going to the city to get some jewelry, and I said, "Are you going to see Julie?" and he said, "No, I ain't going to see her; I don't care if I never see her again; I don't care if she dies."

Q. Did he go to the city, do you know?

A. Yes, sir, he went; at least, he said he was going, I was not with him, I don't know whether he went.

30

Q. (By the Court) When was this?

A. That was in September, 1898.

Q. (Further Direct) When he was talking to you at this time, did he say why it didn't make any difference to him whether she died?

A. Yes; he said it didn't make any difference to him whether she died, didn't care whether he ever saw her again.

Q. Did he say why that was?

A. It was on account of her being sick. He said she went to do shopping for him and he wanted her to stay over night, and she was taken sick in the meantime and went to his sister's.

Q. Do you know what her sickness was?

A. She had hemorrhage of the womb. 10

Q. Do you know what caused it; did he say anything?

A. Weakness. He didn't say anything, but she had come to me before that and asked me—

Objected to; objection sustained.

Q. When next did you have any conversation with Mr. Engelhardt about his wife, if you recollect?

A. He told me that she was not much good to him and 20 she might as well go home.

Q. About when was this?

A. It was in the same year, during the same time.

Q. In 1898?

A. During the latter part of the summer.

Q. When again did he have anything to say to you about his wife?

A. I don't know, he said a good bit about her, I could not say what all he said.

Q. Did he talk with you again within a year from September, 1898? 30

A. He told me I should have a talk with her, and she was not the same as she was when he first married her, and when I came to talk with her I found out that she was not well, that she was sick.

Q. What other conversation did he ever have with you about his wife?

A. I don't just remember what else.

Q. Did the husband, Mr. Engelhardt, say anything about her physical condition, make any complaint about that?

A. Only what I told you, that she was not the way she was when he married her.

Q. Did he say how that affected him?

A. He said she was no good to him and she might as well go home.

Q. Did you tell your sister?

10 A. Yes, sir. (The rest of the answer was ordered stricken out by the Court.)

Q. Did he ever tell you anything about his wife making excuses?

A. He told me that she would say she was sick, but he didn't believe it, that he thought she was only playing off.

Q. Did he ever say anything as to what he did or anything?

A. I don't remember that; he told my husband in my presence that it cost him $75.00 for three months for liquor, 20 beer and whisky; it was along in February and March.

Mr. Hillman: I move to strike that out.

The Court: The motion will be denied. It has relevancy on another point, if the Court makes an order touching alimony.

Q. (By the Court) What year was that?

A. 1899.

30

Q. (Further Direct) Are there any other conversations you think of at present?

A. Well, he told me how he took Elsa walking; he had walked her down to Cambridge one day and back again, and he said she stood in front of him and begged him to carry her, and he said "If you can't walk now I won't take you

again." He said the next day he took her to Russ, and that is two miles from there, and back again, and he said she walked all the way, and that was shortly before she was taken with her leg.

Q. About that same time did you have any other conversation with Mr. Engelhardt about the condition of his wife?

A. I don't remember, we had so many conversations that I didn't pay much attention to them.

Q. In any of them was anything said about the physical condition of his wife? 10

A. Only what I told you, that she said she was sick and he didn't believe it.

Q. Did he ever tell you that he took the child walking to Bridgeboro?

A. No; but he told me about Cambridge and to Russ; that was two days in sequence. Then he told me about taking her to the city and walking her so far.

Q. Did he tell you whether or not his wife objected to these walks? 20

A. He didn't tell me that, but she did.

Objected to.

A. It is not likely that he would tell me that.

The Court: What she told her must be stricken out.

Q. Do you know how your sister came to leave her husband?

30

The Court: I do not think that is competent. Let her state what she knows.

Q. What do you know about the circumstances surrounding the separation?

A. Well, in November, 1899—it was some months before they parted, I went to the house and she had a pair of

shoes on that the soles were all through and showed the bare sole of her foot, and I said—

(Objected to, and the balance of the answer is ordered stricken out by the Court.)

Q. Did you say anything to Mr. Engelhardt about it or in his presence?

A. He was not present at the time, but the following Sunday I was there, and in his presence I asked her whether
10 she got a new pair of shoes yet, and she said "No." And then I don't know whether it was the next evening or two evenings after, I was there when he wanted her to go to the city, and she said she would have to have the shoes, could not go with the torn shoes, and he went and got her a pair.

(At this point a recess of one hour was taken.)

Cross-Examination.

20

By Mr. Hillman:

Q. When Mr. Engelhardt had spoken to you concerning his wife in the manner you have detailed, was it not coupled with a request on his part that you should try to persuade his wife to perform the duties of a wife with him?

A. He said she was no good, that she just laid there like a log.

Q. Didn't he request you to speak to her about it?

A. He said, "I wish you would talk to her about it."

30

Q. And that was the reason that he made this statement to you.

A. I don't know, he talked a good bit about her.

Q. These statements were coupled with the request that you should speak to your sister?

A. That one statement was.

Q. Did he make more than one statement?

A. He spoke about her several times.

Q. Didn't he on each occasion ask you to use your influence with her?

A. On one occasion he did.

Q. Didn't he on the other occasions?

A. I don't remember.

Q. You did speak to your sister about it?

A. Yes, sir.

Q. At the time that he spoke to you about his wife being sick in Philadelphia, did he say what was the trouble with her? 10

A. No; he didn't say what the trouble was, but I knew what the trouble was.

Q. What was it?

A. Hemorrhage of the womb. He did say that he had sent her down to buy jewelry, that he had a lot of shopping for her to do, and she was taken sick, and that she was at his sister's, and then he said he didn't care whether she came there. When I asked him whether he was going to see her, "No; I don't care whether I ever see her again;" he said, "I don't care if she dies." 20

Q. Did he say to you what was the matter with her?

A. No.

Q. Did either of you say what had caused her illness?

A. No; not then, but before that he knew and so did I know what caused it.

Q. What did cause it?

A. Simply weakness.

Q. Was that the reason he gave to you? 30

A. No; he didn't give me any reason at all, he simply said he didn't care whether he ever saw her again or not.

Q. How long was she sick?

A. Two or three days.

Q. Can you fix the date of these conversations which Mr. Engelhardt had with you?

A. I could not fix the dates, but he had conversation with

me about October, 1899, and then previous to that in the summer time several times.

Q. All these conversations were in the year 1899?

A. No; not all of them, before that, too.

Q. How many conversations?

A. I could not say, every time he came to me he would talk about it, and I got so used to hearing him that I didn't pay any attention.

Q. When was the first conversation that he had with you?

10 A. The first, I guess, was about two years before they parted.

Q. Were not nearly all these conversations in the year 1899?

A. There were more in that year than before.

Q. (By the Court) I did not understand whether you are any relation or not?

A. She is my sister.

Q. That is all.

20 Mrs. Jennie Waldis sworn for the Complainant.

Direct Examination.

By Mr. Cogswell:

Q. Where do you live?

A. Moorestown, N. J.

Q. Are you acquainted with Mr. and Mrs. Engelhardt?

A. Yes, sir.

30 Q. Also with Elsa?

A. Yes, sir.

Q. Do you know anything of Mrs. Engelhardt's home life?

A. All I know, I went down town with her, and there were some bargains, and she wanted to buy—

(Objected to.)

Q. Mr. Engelhardt was not present?

A. No; but she loaned the money off me and put the skirt on in a dressing room at Lit's, and the little things for Elsie I carried home and handed to her; there were two little pajamas.

Q. Do you know about Elsie's treatment by her father?

A. No, sir; all I know is that Julia was never boss of the children, it was either the sister or mother, every time she put her hands on the child it was "Mamma, come, she don't know anything." 10

Q. Have you seen the child since she has been living with Mrs. Engelhardt at her mother's home?

A. Yes, sir; every week.

Q. What are her home surroundings there?

A. Very nice; her grandmother and grandfather idolize her, and also her cousin, her little cousin takes quite an interest in her, and to tell you the truth, Mrs. Maute has a child 13 years old, and the child knows as much as that child does. 20

Q. Which?

A. Elsa.

Q. Can she read and write?

A. Yes, sir; two years ago I bought her a little book with Bible stories in it, and she read them as well as I did.

Q. What sort of business is Mr. Engelhardt in?

A. The jewelry business.

Q. At Riverside?

A. Yes, sir.

Q. Is he the only jeweler in town? 30

A. As much as I know outside of Mathias's, they sell jewelry, but he is the only jeweler there.

Q. Have you ever heard him say anything as to how much he makes?

A. No, sir; I know he had quite a business there; I have seen him work Sundays, and I have taken work there myself on Sundays for him to repair.

Q. Do you know anything about walking Elsa great distances?

A. No, sir.

Q. That is all.

Cross-Examination.

By Mr. Hillman:

10 Q. How often did you ever see Elsa at Mr. Engelhardt's house before he and his wife separated?

A. About three years.

Q. How many times did you see her there?

A. Sometimes twice a week, but surely every week, and then he would get his wife ready and child to come to my house with me.

Q. How often did you ever see them interfere with Mrs. Engelhardt taking care of the child?

A. The first Sunday I visited them I came there on Sunday morning, my father-in-law was going to church, and 20 he had a watch to repair, and I went in and she had her hair down her back, long plait, and she had the child, and he said: "Give it to my mother and let her take a bath," and she went down to the cellar and brought up three bottles of beer.

Q. Didn't you assist Mrs. Engelhardt in moving from her husband's house?

A. Yes, sir.

Q. You went there to help her take her things away?

A. Yes, sir; only her own things.

30

Mrs. Nancy Horn sworn for Complainant.

Direct Examination.

By Mr. Cogswell:

Q. Where do you reside?

A. Riverside, New Jersey.

Q. Are you acquainted with Mr. and Mrs. Engelhardt, the parties to this suit?

A. I am acquainted with Mrs. Engelhardt.

Q. Are you acquainted with the daughter Elsa?

A. Yes, sir.

Q. How long have you been acquainted with Elsa?

A. I have been acquainted with her seven or eight years.

Q. That is, you have known the little girl?

A. Yes, sir. 10

Q. How many children have you of your own?

A. I have seven.

Q. What is the home life of Elsa now?

A. It is fine, I think; as far as I know she has a good home.

Q. Have you stopped there and visited?

A. Yes, sir; we live neighbors there.

Q. Then you have seen Elsa in and about there?

A. Yes, sir; I have heard her read.

Q. She can read? 20

A. Yes, sir; as good as my little boy that has been going to school six years.

Q. Have you seen Elsa write?

A. No; I have heard her read.

Cross-Examination.

By Mr. Hillman:

Q. Does she go to school? 30

A. No, sir.

Q. Do you know whether she ever has gone?

A. Yes; I think she went private, had a private teacher.

Q. Who was the private teacher?

A. Laura Bailey.

Q. Did she have other schooling?

A. I think so.

Q. Are you sure?

A. I am not acquainted with that; I have heard her mother speak about it.

Q. Whose mother?

A. Elsa's mother speak of the teacher.

Q. Do you know Laura Bailey?

A. Yes, sir.

Q. She still goes to school herself?

A. I don't know.

10 Q. How old was she?

A. I guess 18.

Q. Does she still not attend school?

A. I don't know.

Q. When did you hear Elsa read?

A. I heard her last week, just before coming down here before.

Q. You went to hear her read?

A. No; I heard her; she was over at our house.

Q. You paid particular attention to how she read, so that
20 you could testify here to-day?

A. No; but she could read very nice.

Q. How did she happen to read?

A. She had a story book and she read for us.

Q. Is that the only time you heard her?

A. Yes, sir.

Q. That was over at your house?

A. Yes, sir.

Q. Just before you came down here at the last meeting?

A. Yes, sir.

30

MRS. JENNIE WALDIS recalled for Complainant.

Direct Examination.

By Mr. Cogswell:

Q. Have you ever received any letters from little Elsa?

A. Yes, sir; I did; but I forgot to bring them, and I also got several postal cards, sometimes two a month, from Elsa.

Cross-Examination.

By Mr. Hillman.

Q. Do you know whether she wrote them herself?
A. I think I can tell an older person and a child's writing. I know when I was a schoolgirl I didn't write as well as I do now. 10

Re-Direct:

Q. Did you ever talk to Elsa about letters she sent you?
A. Yes, sir; she said she sent them. I received these souvenir postal cards, she always has "Your little Elsa" on them. You can tell a child's writing from a grown person, I know.

20

Mrs. Josephine Flynn sworn for Complainant.

Direct Examination.

By Mr. Cogswell:

Q. Where do you live?
A. Riverside, New Jersey.
Q. Are you acquainted with the parties to this suit?
A. I am; not Mr. Engelhardt, I am not very well acquainted with him. 30
Q. You know little Elsa?
A. Yes, sir.
Q. How long have you known her?
A. I have known her for about six or seven years.
Q. Do you know where she is living now?
A. Yes, sir.

Q. Where?

A. She is living in her grandmother's home.

Q. What are her home surroundings there?

A. Well, they are rather nice; she has a good home.

Q. Do you know whether she can read or write?

A. Yes, sir; I have got postal cards that she addressed to me and had my name on them, and I have heard her read.

Q. How long ago is this?

10 A. That is the winter a year ago; I received postal cards from her.

Q. How long ago was it you heard her read first?

A. I don't know whether I heard her read two weeks ago or not, she was reading over at our house that day.

Cross-Examination.

By Mr. Hillman:

20 Q. Who brought her to your house about two weeks ago?

A. She came over alone.

Q. Who suggested that she read?

A. I don't know that; she was over to our house.

Q. Came over frequently?

A. Yes, sir.

Q. How many times does she read?

A. She don't always read; we had books there and we wanted to hear her read.

Q. Did you suggest it or she?

30 A. She was looking at the book and I said for her to read us a story; she likes to read the stories.

Q. Do you remember what the story was?

A. I don't know that I do.

Q. She does not go to school?

A. Not at the present time.

Q. Has she ever gone to school?

A. Not as I know of.

Q. Who composes the family where she lives?
A. Her mother, grandmother and grandfather.
Q. What is the grandfather's business?
A. I think he is a night watchman.
Q. That is all.

COMPLAINANT RESTS.

10

RUDOLPH ENGLEHARDT sworn for Defendant.

Direct Examination.

By Mr. Hillman:

Q. Where do you live?
A. Riverside, N. J.
Q. What is the number of your house?
A. 9 Scott street. 20
Q. How long have you lived in that house?
A. Somewhat over thirteen years.
Q. Where did you live prior to your marriage?
A. I lived three doors above my wife's home.
Q. At Riverside?
A. Yes, sir.
Q. You are the husband of Mrs. Julia Engelhardt, complainant in this case?
A. Yes, sir.
Q. When were you married? 30
A. 21st of May, 1898.
Q. Do you mean that?
A. 1894.
Q. When you were married what was your occupation?
A. Watchman at the Philadelphia Watch Case Company.
Q. Where is their factory?
A. Riverside, New Jersey.

Q. What wages did you make?

A. I was getting $12 per week at first.

Q. Was there any change in the wages you received?

A. One time I left the factory, and in order to get back again, as things didn't go quite right without working, I went back and got a lower position in the factory, and I had to be satisfied with $9.00 per week.

Q. How long after you were married was it that you left the factory?

10 A. Several years.

Q. What was your idea in leaving?

A. To take care of my own place, of my own business, which I had started in after our marriage.

Q. You had started a business of your own?

A. Yes, sir.

Q. What sort?

A. Jewelry business.

Q. Where did you conduct the store?

A. At No. 9 Scott street, where I live to-day.

20 Q. In part of the building occupied by you as a dwelling?

A. Yes, sir.

Q. You afterwards went back to work at the factory?

A. Yes, sir.

Q. Who took charge of the store in your absence?

A. I had my mother, sister and wife living there.

Q. At the time your wife left you were you still employed in the Watch Case Factory?

A. Yes, sir.

Q. What wages were you receiving then?

30 A. $8.00 a week; at that time I was putting springs in cases.

Q. Did you work steadily there?

A. We didn't have very steady work, I would be home some afternoons, sometimes days.

Q. Who proposed that you should keep a store of your own?

A. My wife.

Q. Did she give any reason for proposing it?

A. She said that she would love to have a little store and take care of it.

Q. How did you and your wife get along together after you were married?

A. As happy as ever a couple did for years.

Q. When you started to keep this store did you ever have any capital of your own?

A. We had a few hundred dollars to buy the fixtures and the safe and so on. 10

Q. What plans did you adopt with regard to your mode of living?

A. Well, we knew that we would have to pull together to get along, because the income was small.

Q. How were your expenses?

A. The expenses were—in detail?

Q. Were they light?

A. The expenses were large, on account of the light stock that we had; whatever we were making had to go right back in the store again in order for us to keep up. 20

Q. Was it necessary for you to economize?

A. Oh, my, yes! with the intention of increasing the store.

Q. Did you tell your wife this, that it was necessary to economize?

A. Yes, sir.

Q. Did she object?

A. No, sir; she was satisfied as long as I was satisfied.

Q. Did you give your wife any stated amount to live upon during the week?

A. I would go out Saturdays and buy $1.50, $2.00, $2.35, fine nice roasts, and would go to work and say, "Now, with what we have here, I guess that two or three dollars would be sufficient, you know so and so has to be paid, and the money has to be raised, so we can keep our little place." 30

Q. Did you pay her the money outright, or how?

A. She generally knew more about the money than I did, because she would take it before I came from the factory;

she was the one to handle it in case somebody would come in and buy something.

Q. Did she have charge of the money drawer?

A. There was no one had charge of it; the drawer was there and we would use the money according to our business.

Q. Where did she get the money that she used to purchase groceries and provisions?

A. She would tell me about it and go over and take it.

10 Q. She would go?

A. Sometimes she did, and sometimes my mother would go marketing, and she would ask me for it.

Q. Did you limit your wife to any specific sum?

A. We would agree that we could get along with so much, and other weeks it was less, according to what we had in the store.

Q. Did you tell your wife at any time that she must live on two dollars per week?

A. No, sir.

20 Q. Did you ever tell her that she could only have one dollar for one week?

A. No; maybe I gave her a dollar and a half to go to the grocer's, and say, this ought to be enough for one purchase.

Q. Did your wife ever complain that she didn't have enough to provide the provisions?

A. No, sir; she was always glad and willing as long as it would reach, to help us along in our store. We had very hard times to get along.

Q. With regard to clothing your wife, did you give her

30 the money for that, or did she cover that from the money from the store?

A. Sometimes she would have to wait awhile to get a new dress, but she always had it when she needed it real bad.

Q. What excuse did you give her when she asked for it if you could not do it?

A. There were some bills to be paid that were more pressing than the present expenditures.

Q. You were starting this store, and you found it necessary to economize?

A. Ever so much, upon her request I started the store, as I had an idea of buying a house at first.

Q. Do you remember the occasion of the birth of your last child?

A. In regard to what?

Q. Do you remember when the child was born?

A. Yes, sir.

Q. Were you home that day or at work? 10

A. I happened to be off in the afternoon.

Q. At what time did you come home?

A. I came home at twelve o'clock.

Q. Did you learn anything as to your wife's condition?

A. No, sir; when I left her in the morning she was just as well as I was.

Q. She appeared to be all right when you left?

A. Yes, sir; she told me herself.

Q. After you got home did you learn anything relative to her condition? 20

A. She said: "Get Lizzie, because I want to show her all the things, in case I do get sick, when it is that far that she is at home."

Q. Did you expect her to be sick at that time?

A. No, sir; neither did she.

Q. Did you expect her to be sick any time in the near future?

A. We knew that something was coming, but we had a full month yet to wait.

Q. And she told you to go and get Lizzie, who was that? 30

A. Mrs. Maute.

Q. What did she tell you to get Mrs. Maute for?

A. She wanted to show her about the room and clothes and everything else, in order to be prepared when she needed her.

Q. Did you go and get Mrs. Maute?

A. Yes, sir.

Q. When did you next hear anything concerning your wife's condition?

A. Somewhat after two o'clock.

Q. What did you hear then?

A. That she had pains, and I should better go for the doctor. Doctor Small was the only doctor she wanted.

Q. Who attended your wife on the occasion of the birth of the other children?

A. Dr. Small.

10 Q. Did he attend her for other illness?

A. Never; I don't know that she ever had a doctor while she was with me.

Q. Had she expressed a preference for any special doctor when this last child was born?

A. Yes, sir; Dr. Small.

Q. What did you do when you heard your wife had pain and wanted a doctor?

A. I ran or walked from the office to Dr. Small's; no, I went to Pine's to 'phone to Dr. Small.

20 Q. Who is that?

A. The leading pharmacy.

Q. Could you get him on the 'phone?

A. I could not; the girl was there and said the doctor was not at home.

Q. What did you do then?

A. I ran over to the house.

Q. Which house?

A. Our house, and told them of it, and went right to Dr. Small's house on the advice of my mother.

30 Q. Did you make any inquiries of him?

A. Yes, sir; I told the girl it was a case of confinement, and she said: "The Doctor is not around; I don't know whether he is in town, but you can call again."

Q. Did you make any search for him about town?

A. On the way up I asked people, and coming back I asked people on the street, "Have you seen the doctor?" and they were all unable to help me out.

Q. Then where did you go?

A. I went home and told them the doctor was not at home, and I was advised to try again to see whether he had come home, because my wife was particular to have that one doctor.

Q. Then where did you go?

A. Lizzie sent word down, I believe she informed my sister, that we had to have a doctor, could not wait any longer; Mrs. Maute was upstairs, she could not see me come back, and then my sister informed me she had to have a doctor, and I ran out after Dr. Weeks, and I said, "For goodness' sake, Doctor, you have to come," and she said, "Is she laboring very hard?" I said, "Yes, ma'am, very hard, you have to hurry all you can." 10

Q. She came back with you?

A. Yes, sir; she came right in back of me. She was not four minutes later than I was.

Q. Do you know what time it was when your wife went upstairs that afternoon?

A. I don't know when she went to bed. She was upstairs with Lizzie between two and three o'clock. 20

Q. Did you see her after that?

A. I saw her after the child was born and everything was over.

Q. You didn't see her when you would come back to the house?

A. No; I didn't go upstairs.

Q. And word was sent down to you?

A. Yes, sir.

Q. Did you do everything in your power to get a physician for your wife? 30

A. I did.

Q. Where did you sleep that night?

A. Alongside of my wife.

Q. Did she awaken you in the night?

A. Yes, sir.

Q. What did she say?

A. She said, "You had better see how that child is, it is moaning and sighing so much," and the little thing had done it right after birth all evening, so I didn't know what to do, and I went to work and called my mother, and I said, "Julia, maybe we had better see Grandmother, maybe she knows," and my mother says, "You can't do anything much for a child at that age; it is all right. It is moaning a little, showing that life is there." So I didn't go after a doctor.

Q. Did your wife ask you to?

10 A. She seemed to be content.

Q. Do you know when the child died?

A. I do not know, the first news I heard of the death of the child was when Mrs. Maute came upstairs, I didn't hear that—

Q. You didn't learn it until after the child had been dead some time?

A. Yes, sir; the child was dead when I left to go to work, and I didn't hear of it until afterwards.

Q. When your daughter Elsa was born, how long was

20 she nursed; how long did your wife nurse her?

A. Quite a while, a year and a half or so.

Q. Do you know whether or not any other nourishment was given to the child?

A. Yes, sir.

Q. How do you know?

A. She was sitting alongside of me at the table when we were eating.

Q. Did your wife say anything about weaning her?

A. Yes; she didn't want to wean her on account of get-

30 ting in trouble so soon again, that was the expression to me.

Q. That was the reason she gave to you?

A. Yes, sir.

Q. Are you a drinking man?

A. Of moderate habits.

Q. You are a German, are you not?

A. Yes, sir.

Q. Are there many Germans in Riverside?

A. They call it "Germany," quite many.

Q. Do you drink more than is customary among the Germans in Riverside?

A. No, sir.

Q. Do you get intoxicated?

A. Never.

Q. Did you drink before you were married?

A. Yes, sir.

Q. Do you know whether your wife drank before your marriage? 10

A. She would take a glass of wine, but she was not used to beer.

Q. You speak of drinking wine at home. Is it customary or not among some of the farmers around there to raise grapes and manufacture wine?

A. Yes, sir; that is what they did.

Q. Is that the kind of wine that she drank?

A. Yes, sir.

Q. On the occasion of the birth of your first child, do you remember the circumstances of your wife drinking any 20 beer?

A. She wanted me from about half-past ten, she sent word downstairs that she wanted to see me, and later on, about a half hour afterwards, she wanted me again, and then about twelve o'clock she asked, "Didn't he come home?"

Q. Were you home?

A. No; I was in the factory, and when I came home my mother said, "You had better go upstairs right away, Julia wants you." I went upstairs, she made me stoop down and whispered in my ear, "I have such a desire for beer." 30

Q. What did you say?

A. I don't know what pet name I gave her, I said, "You can't have it in your present condition," and she said, "Yes, just a little bit; I feel like having just a little bit." But she could not have it on account of her health.

Q. Did you ever persuade her to drink?

A. No, sir; she would take a glass with us now and then,

but never drink it at all times, but she took a glass regularly in a decent way.

Q. Did you ever tell Mrs. Klingler's husband that you spent $25.00 per month for beer and whisky?

A. I don't remember.

Q. Did you ever spend any such amount?

A. No, sir.

Q. Why do you say you don't remember having told him that?

10 A. I don't remember ever speaking about what I spent to him anyway.

Q. Did you ever spend that much money?

A. No, sir.

Q. How much did you spend for beer?

A. Maybe a dollar or a dollar and a quarter per week, maybe $50.00 per year, that is for the family.

Q. Do you remember the time you came by Mrs. Klingler's with a handful of money and said something about having treated?

20 A. Yes, sir.

Q. Do you know what you had reference to?

A. Yes, sir; I had spent that amount because I had made a good haul, a good collection in a saloon, one of the saloonkeepers, he had paid me a good bill, and, of course, I was looked upon as spending a dollar or two with him also.

Q. This saloonkeeper was a customer of yours?

A. Yes, sir.

Q. Had purchased something of you?

A. Yes, sir.

30 Q. And you went and collected the money and had a treat?

A. Yes, sir; I do that to-day.

Q. Do you have many customers among the hotelkeepers and saloonkeepers at Riverside?

A. Yes, sir.

Q. You have to go to their place and collect their money?

A. Yes, sir.

Q. Is not that customary when you go to such places to spend some money there?

A. They look for it.

Q. Before your wife left you, how did you live, what kind of meals did you have?

Q. We had plain meals, well cooked for all of us, such as working people can afford.

Q. Did your wife ever complain that there was not enough?

A. No, sir; in fact, whenever her company would come there was always a quarter or so to buy a few extra refreshments for them, and I don't believe they ever left the place unless they had some refreshments. 10

Q. Do you remember the time that your wife had to sleep downstairs with Elsa?

A. Yes, sir.

Q. Do you know anything about her not having sufficient bed covers?

A. No, she prepared the bed herself; if she didn't take enough—I helped to move the couch because Elsa needed somebody with her, so she didn't move the sand bags. 20

Q. In the room in which they slept there was a stove?

A. Yes, sir, and the adjoining room also.

Q. What was said of your wife's health during the time you were married until she left.

A. She was a skinny girl when I first married her, but she picked up nicely, and was a well-built woman when she left me.

Q. Is she any stouter than when she left you?

A. I would not say that, but just about the same.

Q. Did you ever speak to Mrs. Maute or Mrs. Klingler concerning your wife's treatment of you? 30

A. In regard to what?

Q. You heard what they said?

A. Yes; I wanted them to console and bring her back to her senses, and do differently from what she had been treating me.

Q. What was the difficulty with her?

A. She didn't seem to have the right affection for me as she had the first two or three years.

Q. When you were first married did she seem to have the proper affection?

A. Yes, sir.

Q. When did you first notice any change?

A. It started about last year, the last six or seven months before she left, four or five months.

10 Q. Do you remember any particular events that occurred about the time you noticed a change in her treatment of you?

A. Yes, sir; I do.

Q. State what it was.

A. Well, on a certain Fourth of July I was out on a little picnic with myself and family at Mrs. Walter's place, near Centreton, and it seemed to me that ever since that that she has not cared for me as much as she did before.

Q. Did you see her with anyone that day?

20

Mr. Cogswell: There is no allegation of any wrongdoing on the part of the complainant.

The Court: I do not understand that there is going to be an application for divorce on any ground but desertion.

Q. Did you see her with anybody?

A. I saw her lying in a hidden space under a tree with a young man, and he had his hand on her.

30 Q. Where?

A. On the upper part of her leg, just that way, lying there talking.

Q. Do you know who that man was?

A. His first name was Ira, and I suppose his last name is Jacobs, he used to come to the house quite often.

Q. Did he used to come after this or before?

A. I guess he stopped once or twice, but they were re-

ceived with such coldness after that, that he did not come any more.

Q. In what year was this?

A. The last year I lived with her, 1899.

Q. Before that time, Mr. Engelhardt, had your wife refused to have sexual intercourse with you?

A. Very seldom, unless she had good cause on account of not feeling right.

Q. You mean by that that she had her monthly sickness?

A. Exactly.

Q. Did she ever refuse to have intercourse with you at any other time? 10

A. No, sir.

Q. How was it after the Fourth of July?

A. It was just as stated, she didn't at all care for me any more.

Q. Did she ever give any reason for refusing you?

A. No, sir; she said she was not feeling well and she said this and that, but apparently she got up and done her work as much as she could and all that. 20

Q. Did you ever force her to have intercourse?

A. I would not dare to use the word force, but I would persuade her until she would consent.

Q. Did you ever use physical force to have intercourse with her?

A. No, sir.

Q. Did she ever give any reason why she didn't want to have intercourse with you?

A. She said that she didn't want to wash diapers all her life.

Q. Did she complain to you of being sore or ill in the private parts? 30

A. No, sir; she would not give any cause.

Q. You spoke of this to her sisters?

A. I did.

Q. Did you ask them to speak to her?

A. I said, "Won't you try to persuade her to bring her

back to some of the old times that were between us before?"

Q. How had your life been?

A. We were considered the happiest father and mother in town, and to-day yet.

Q. When did you and your wife cease to live together?

A. On the 28th of November, 1899.

Q. Were you home that day?

A. No, sir; I came home at twelve o'clock from the factory.

10 Q. And what was your wife doing then?

A. I have to mention here, which is not proper perhaps—my mother told me—

Q. Never mind.

A. I was informed she was packing up.

Q. Did you see your wife?

A. Yes, sir.

Q. Where was she?

A. She was upstairs.

Q. What did you say to her?

20 A. I said, "Are you crazy, the idea to put a decent man, going away from a decent home out of a decent family, when you don't know what you are doing, you must be insane." So I gave her a good strong sermon to persuade her and try to prohibit her from leaving the place.

Q. What did she say?

A. She said she would have it better and she could not get along with my mother and sister.

Q. Were your mother and sister living with you at that time?

30 A. No, sir.

Q. Who was living with you?

A. My mother was living with me at that time, but she had just come back a few weeks ago upon my wife's strong request to have her in the house.

Q. Was your sister living there?

A. No; she was out of town, not living with us.

Q. How long had your sister ceased to live with you?

A. Several months, four months, if I am right.

Q. And your mother had just returned to the house?

A. My mother had very much against her own wish, had given up a good position as housekeeper at a minister's place; she had homelike treatment there.

Q. At whose request did she return?

A. My wife's.

Q. Why did she want her?

A. I found fault with the way things looked around the house; I said, "Julia, things can't go on the way things are; we keep a clean store and look what these rooms look like; if you are too weak, we will have to get a hired girl to help us;" and she said, "Don't get any stranger, try to get your mother back again." I said, "As soon as the old woman is here, then there will be the same old thing again, and I think too much of my mother." She said, "No; it is better to have her here than anybody else, because she is true and we can trust her in regard to the store or anything else, money matters, no matter what she hears."

Q. Where is your mother now?

A. She is in Kansas City; she went to that minister.

Q. Have you written to her requesting her to come as a witness?

A. Yes, sir; I sent her two registered letters and a letter by other mail, and she said——

Q. Never mind, has she returned?

A. No.

Q. Now, after your wife had left you, did you go to her house?

A. Yes, sir.

Q. Whom did you see there?

A. I saw her mother, Mrs. Josephs, and the old gentleman, and little Elsa lying at the window on a sofa, and my wife.

Q. How long after your wife had left was this?

A. The day afterwards, if I am right.

Q. Did you say anything to your wife there?

A. No, sir; I did not.

Q. To whom did you speak?

A. I said to "Pop," as we called him, and call him to-day, "What do you think of this, is it not a shame, why don't you make her come back?" But I had to run away, and he got very angry.

Q. What did he do?

A. He reached for a gun, and then he put it down again, and then he wanted to put me out, and then I told him to take his hands off me, "you don't have to do that." He told me that everything would be fixed for me; that I sling my money away, and that is what he told me.

Q. Did you afterwards send any communication to your wife?

A. I sent a registered letter to her.

Mr. Hillman: Have you that, Mr. Cogswell?

Mr. Cogswell: No.

Q. Can you tell what you said in that letter ?

A. I requested her to come back to her home and take up her duties as my wife.

Q. Did you ever receive any reply to that letter?

A. No.

Q. Did she ever come back to you?

A. No.

Q. Have you maintained your home there ever since?

A. Ever since, in the same place.

Q. Who keeps house for you?

A. At present my sister.

Q. What is her name?

A. Elizabeth Engelhardt.

Q. Are you working in the factory at this time?

A. No, sir.

Q. What do you do?

A. I am conducting my own business.

Q. You devote your time entirely to your business?

A. Yes, sir.

Q. Do you know what caused your daughter Elsa's illness?

A. She was running to and from her mother to her grandmother, my mother in the yard, they were playing out in the yard, and the little thing fell down and kind of complained about her knee hurting her. She always would say, "There, there," she was not three years old. So I consider that the cause of her sickness.

Q. Did you have her treated by a physician?

A. Dr. Richardson.

Q. A while before this illness of your daughter did you ever take her out walking?

A. Yes, sir.

Q. Did you make her walk all the way to Bridgeboro and back alone?

A. No, sir.

Q. Would you take her walking?

A. I would take her as long as it would please her; sometimes take a coach along, and if she got tired put her in the coach and wheel her awhile.

Q. Did you take her to Cambridge?

A. We went all over; I suppose I did.

Q. Did you make her walk all the way to Cambridge?

A. No, sir; not unless the child consented to walk.

Q. Did you ever make the child walk to Mr. Russ' and walk back?

A. I could not say; I was out a good bit with her.

Q. On these occasions when you went out with the child, what was your idea, to go out?

A. The little child was so anxious, would meet me at the door at six o'clock; she said, "Never mind, mamma, you wash the dishes, I'll go out with papa."

Q. And you took a walk on her account?

A. Yes, sir; mostly.

Q. Do you ever see this child now?

A. I saw her several times.

Q. See her to speak to?

A. No, sir; I never would get a chance to speak to her.

Q. Do you want to speak to her?

A. I would like to, but there were several efforts; we were laying for the child to speak to her, but we were stopped by attendants to the child. I could mention one instance, if you want me to.

Q. Who stopped you?

10 A. About three doors above where the child is now used to live a French lady, and I took a clock there to repair it, and, strange to say, I never thought about the child being in the neighborhood, absolutely not aware of it, and I saw a little girl looking like my little Elsa, and I saw her playing out in front of Mrs. Maute's house, and all at once while I stopped and knocked at the door of that French lady's, I saw a woman run across the street very strangely attired; she had nothing on prepared to go out, and Mrs. Maute 20 came out, and apparently they were afraid I would snatch the child, and they led her in the house in a very showy way.

Q. Are you able to provide a comfortable home for this child?

A. I am.

Q. If you should have her, who would have the care of her?

A. My sister would have the care of the child, and I would see to her education.

Q. What is your average income from your business?

30 A. We are very much pinched all the time on account of the increase in the stock.

Q. What is your average income?

A. About eleven or twelve dollars per week; our rent has been raised from eight to twenty dollars.

Q. Do you mean that is after paying your rent?

A. Yes; after taking those twenty dollars off I have about that much.

Q. Did your wife give you any other reasons for leaving other than the ones you have stated?

A. She just gave me that one reason, that she was going to have it better than what she did.

Q. (By the Court.) What was the reason?

A. To have it better than what she had it.

Q. To have what better ?

A. Her living, her treatment. 10

Q. (Further direct.) What did she say about your mother and sister?

A. She said she could not get along with them, absolutely not.

Q. Did she ever threaten to leave you before this?

A. No, sir; I was astonished when I first heard the news.

Q. Do you remember anything of your wife taking cold in her breasts upon the occasion of the birth of your daughter Elsa? 20

A. I believe she was complaining of sore breasts.

Q. Did you know anything about it at the time?

A. No; we didn't pay much attention to it because it didn't seem to amount to anything.

Q. Did your wife request you to furnish her bed covers at night and you refused?

A. No.

Q. Now, on the occasion of your wife helping you in the store on Sunday and other times, how did she come to do this? 30

A. Well, I suppose she wanted to make herself useful around the house, and she thought I had to work very hard, and she helped me willingly.

Q. Did she complain of being tired?

A. No, sir.

Q. Did you ever insist upon her working, continuing to work after she complained of being tired?

A. No, sir; most Sunday afternoons we always had time to take a stroll to her father's and mother's house; that was quite the custom, as Mr. Klingler can testify.

Q. That is all.

Cross-examination by Mr. Cogswell:

10 Q. You say you are capable of taking care of the child, supporting the child?

A. That I am.

Q. Yes?

A. Yes, I am.

Q. That is, you make enough money to do that?

A. I could if I had to; I would have to.

Q. What sort of an education did you contemplate giving her?

A. I would see that she would be sent to a decent school 20 at first, as I know it is hard for anybody to grow up without any education.

Q. Do you think that the schools around Riverside would be decent enough?

A. A few years at the Riverside school would be decent enough, and then there are higher schools near to it—Beverly School, Farnum School, and there are other schools; that was our plan.

Q. You would be able to, you have the funds to send her to the Farnum School?

30 A. So far, I don't know; but we were planning that.

Q. You are making a success in the jewelry business?

A. It is not such a great one; Mr. Bacon has a claim against me now.

Q. You figure that above your expenses you make eleven or twelve dollars per week?

A. About that?

A. About $3200.00.

Q. Do you own any real estate?

A. No.

Q. You just rent that?

A. Yes, sir; and there is a heavy indebtedness on that, over $2100.00 notes on that this year.

Q. Do you own any real estate?

A. No—yes, I do; a lot in the cemetery which I bought when the first child died.

Q. Is there any other personal property like bonds or mortgages or jewelry? 10

A. No.

Q. How did you come to write this registered letter to your wife; how did you come to send that?

A. Because as I wanted her to come back at that time, and I wanted to be sure that she received the letter, and could not find any excuse that she says, "Why didn't you write to me," and I wanted to be certain that she received the letter yourself.

Q. Did you do anything else; send any more letters to your wife? 20

A. No.

Q. How is it you didn't go and talk with her at this time instead of sending the letter?

A. Yes, sir, but she didn't seem as if she felt like talking to me.

Q. How did you know that?

A. She would keep herself out of my reach as much as possible.

Q. When you and your wife's father met there at the house a day or two after the leaving, didn't you fall into a discussion as to how much money you were making? 30

A. I don't remember; I remember him saying, "You fling your money away;" that is all he said.

Q. (By the Court.) I want to ask whether in the letter you wrote her you told her you would treat her with more consideration if she came back?

A. I didn't say that; I said what I mentioned.

Q. What did you say?

A. "I hereby request you to come back and take up your duties as my wife."

Q. And made no promise as to how you would treat her?

A. No; because then I didn't know why she left; in fact, I don't know it up to this day; I don't know what I did for her; she could not get along with my mother and sister; I got them out very much against my own wish, but I wanted to have peace in my house, and my mother had a good proposition to go to the minister's, and she went and said "It is better you two be happy than have an old woman like me interfere," and she went against my wish.

Q. (Further cross.) How did you address that letter?

A. "Mrs. Rudolph Engelhardt, Riverside, New Jersey."

Q. What did you have at the top inside, this same thing, Mrs. Julia C. Engelhardt?

A. No.

Q. How did you have it worded?

A. I really don't know; I don't think I put any heading to it; I believe I said, "I hereby request you to come back and take up your duties as my wife. Rudolph Engelhardt." I believe that is true.

Q. You said that you had been laying for your child Elsa on several occasions; when was the last occasion you lay for her?

A. We would happen to see her come across the lot; we would say, my sister would say, that "Here comes our little Bibbe," as we called her, and we would try to talk to her and she would be between two women, or she would cross on the other side to prevent us from seeing her.

Q. That is, the little girl would cross on the other side?

A. With her caretakers.

Q. Did you speak to a lady named Beatrice Wood about getting Elsa away from her mother?

A. Who is that?

Q. Mrs. Charles Joseph, her name is now; do you recollect that?

A. I made several remarks, that if I could not have the child in a legal way I would not make any attempt toward getting her, because I would only have to give her up, and I would not want to go through that again after the child being taken away from me once.

Q. At the time of the birth of Lily, where was your mother that day?

A. She was keeping house for the minister—no; she was at our house downstairs—the last child, that is the little infant what died, she was downstairs. 10

Q. Is it not a fact that she was over at the minister's that day?

A. I could not tell you; there was nothing to indicate anything serious that day.

Q. How far away was the minister?

A. You might call it a block, a small block, about 200 yards.

Q. Your mother may have been over there that day? 20

A. Yes; she would always call over there when she went to the post office.

Q. Now, the occasion of talking to the father there a couple of days after the leaving, where did the father get this gun from?

A. Right in the same room where we were; he didn't point it at me, but he got hold of it.

Q. Where was it?

A. It was near a closet in the corner toward the Rancocas River. I went in——

Q. What was it, a shotgun or rifle? 30

A. I don't know, it was a regular gun.

Q. Don't you know the difference between a shotgun and a rifle?

A. No, sir, I do not; I never had one in my hand.

Q. Was it a gun with one barrel or two barrels?

A. I could not tell you; he has more than one.

Q. You saw more than one in the corner?

A. No; I know that he has more than one; I only saw that one in that room. Mr. Joseph used to be a soldier; he is an old veteran.

Q. He was a soldier?

A. Yes, sir.

Q. What sort of a home does he have?

A. A plain home, but a nice clean home.

Q. You say he just put his hand on this gun?

10 A. Yes, sir; just about got hold of it and cursed me at the time.

Q. Was Dr. Richardson in a position to have seen it?

A. Yes, sir; he was attending to the child; he had his back turned toward me, as I well remember.

Q. What sort of refreshments, you say when the people would come there you would give your wife a quarter to get refreshments, what sort of refreshments were they?

A. Would be some crackers and cheese, and sometimes ten or fifteen cents worth of beer, off and on, and we all

20 would help to eat it up.

Q. How far from your home is Dr. Small's office, how many blocks?

A. Well, I think four blocks is not too much.

Q. How far was Dr. Metzer?

A. About a little over two blocks we would call it, I think.

Re-direct:

Q. Did you ever say to your wife that it didn't make any

30 difference whether she would get enough to eat, as long as you got enough?

A. No, sir; we ate at the same table whatever was put, all of us.

Q. That is all.

ELIZABETH ENGELHARDT, sworn for Defendant.

Direct examination by Mr. Hillman:

Q. Where do you live?
A. 9 Scott street, Riverside.
Q. What relation are you to Mr. Engelhardt?
A. His sister.
Q. Do you make your home with him?
A. Yes, sir. 10
Q. How long have you lived with him?
A. For seven years, and before he was married I lived with him.
Q. When he was married did you make your home with him?
A. Yes, sir.
Q. Who ran the house?
A. My mother.
Q. Who paid the rent?
A. I think my brother paid the rent. 20
Q. Did Mr. Engelhardt pay any board?
A. Yes, sir.
Q. What board did he pay for himself and his wife?
A. Six dollars a week.
Q. And after that arrangement had continued for awhile, was any change made?
A. Yes, sir.
Q. What change?
A. Then she was keeping house, she was doing the cooking. 30
Q. Did you board with her?
A. Yes, sir.
Q. How long did you continue to reside with him?
A. I resided with him until the last day in July, before she left in 1899, the last Sunday in July.
Q. While you resided there did you pay board?
A. Yes, sir.

Q. Were you engaged in any separate occupation?

A. I paid a dollar and a half a week, and then I helped as much as I could around the house; I tried to do a little of everything.

Q. Did you have a separate business?

A. Yes, sir; I took in dressmaking.

Q. You sewed at the house?

A. Yes, sir.

Q. Did you eat at the same table with Mr. and Mrs. Engelhardt?

A. Yes, sir.

Q. What was the nature of the meals that were provided?

A. We ate regular German meals, well-cooked victuals.

Q. Plenty of it?

A. Yes, sir; always plenty of it.

Q. Did Mrs. Engelhardt ever complain of not having enough to eat?

A. No, sir; I never heard her say anything.

Q. How did the meals that were furnished while Mr. Engelhardt was conducting the house and you paying board compare with the meals that were furnished while he was paying board?

A. About the same, only she cooked her way, and before that my mother cooked her way.

Q. How was Mrs. Engelhardt dressed?

A. She had about as much clothes to wear as he could afford to buy.

Q. Did she look shabby?

A. She never wore rags, although she had to wear her clothes out well.

Q. Did you ever hear her complain to him about not having sufficient clothing?

A. Many times she wanted a new dress and he could not afford it.

Q. How would she ask him about it?

A. "I would like to have a dress."

Q. And how would he refuse?

A. He would say, "I can't afford it now, you will have to wait," and when he did have the money he would give it to her.

Q. Do you remember the time the last child was born?

A. Yes, sir.

Q. Were you home the day the child was born?

A. Yes, sir; I was.

Q. Did you expect it to be born then?

A. No, sir.

Q. Was Mr. Engelhardt home that day? 10

A. He was working in the factory until twelve o'clock, then he came home, and after dinner his wife said, "Go down and get Lizzie, I want to show her everything around the house in case anything happens, so that she can find everything," and so she came.

Q. Did Mr. Engelhardt come back with her?

A. Yes, he came home; I don't know whether he came in the house with her, but he was downstairs at his bench; he was not working in the afternoon; he didn't have much work. 20

Q. He was in the store?

A. Yes, sir.

Q. Did you have occasion to give him any directions?

A. Yes, sir.

Q. What?

A. Lizzie said, "I think we ought to have the doctor, Julia went to bed." I said, "Rudolph, you better go for the doctor," and he went. That was after two o'clock, and he was gone a good while and came back again, and he said, "I can't find the doctor, he is not at home." And then 30 Lizzie would say, I told her that, and Lizzie would say, "She ought to have a doctor," and he went out again, and he went to Dr. Small's; he was not gone very long, and he came in and said, "Dr. Small is out of town," and while he was gone Lizzie called me upstairs, and she said, "Ain't Rudolph back yet?" and I said, "No;" and she handed me a new-born baby, and she said, "You hold the baby and I

will go for a doctor," and I said, "No, I won't stay with her alone," and when I went downstairs Mr. Engelhardt came in the front door, and I said, "You better run for any doctor, because she must have a doctor," and he ran out and got Dr. Weeks, and came back again.

Q. Who was in the house when the child was born?

A. Her sister and I.

Q. Her sister was upstairs with her?

A. Yes, sir; all the afternoon.

10 Q. Which sister?

A. Mrs. Maute.

Q. A married woman?

A. Yes, sir.

Q. Had she children of her own?

A. Yes, sir.

Q. When did you see this child again?

A. In the evening I went up several times.

Q. Did you notice anything about its breathing?

A. The little child was moaning all the time.

20 Q. Did you notice whether it did that when it was first born?

A. I could not tell you; the doctor and Mrs. Maute were upstairs, and after supper I put little Elsa to bed, and the little thing kept on moaning all the time, and yet it didn't get any worse.

Q. Did you see the baby while the doctor was there?

A. That evening?

Q. Were you in the room?

A. No; I was not there when the doctor was there, but

30 I know the baby had no fingernails, just little blue spits.

Q. Were you awakened in the night?

A. I was not.

Q. Did you see the baby again before morning?

A. In the morning about seven o'clock I came in the room and I asked Julia if she wanted anything, and she said, "I believe the baby is sleeping," and I walked around and felt its hands, and its little hands were ice-cold, and I

thought maybe it was dead, and she said, "I believe it is sleeping." And I said, "Yes, she is sleeping." And her sister came.

Q. Why did you tell her that the baby was sleeping?

A. Because I was in the house all alone and she was awake.

Q. You wanted to save her the shock?

A. Yes; I thought it was time enough when her own sister came and told her.

Q. While you were living in the house did you notice the treatment that your brother gave to the little child Elsa? 10

A. Why, yes.

Q. How was it, did he neglect the child?

A. No; he loved her dearly; he seemed fond of her; he was the talk of the town with that child; everybody would remark the way he would go around with that child.

Q. Did you notice how he and his wife got along together?

A. They got along together all right.

Q. Did you hear her make complaint about his treatment of her? 20

A. No, sir; never.

Q. They seemed to get along all right, as far as you could see?

A. Yes, sir.

Q. Do you know about the child Elsa being nursed?

A. Yes, sir; a year and a half or nineteen months, maybe.

Q. Was any other nourishment given her?

A. Yes, sir; she would get mashed potatoes and butter and sometimes an egg, and a little bread and butter and tea. 30

Q. Did you ever hear her mother say anything about weaning her?

A. Then when she wanted to wean her we helped.

Q. What did you hear her mother say about weaning the child?

A. She said it was time to wean her.

Q. Did her husband object?

A. I never heard him say anything.

Q. Did you ever object ?

A. No.

Q. Did you hear your mother object?

A. No; mamma would say, "Nurse her as long as you can, it will be good for the child."

Q. Was your brother in the habit of coming home intoxicated?

A. I never saw him come home drunk.

10 Q. Do you know whether his wife drank?

A. She would drink a glass, the same as I will.

Q. Is that the custom in the house?

A. Yes, sir.

Q. You lived there, you say, the last of July; when did you return?

A. The last Sunday in July I left, and I came back, once in between, when my mother was sick, I came up there on Sunday afternoon; that was in October, and little Elsa was laying, and I said, "What is the matter?" and they said,
20 "She had a fall and hurt her knee."

Q. When did you return there?

A. To stay there?

Q. Yes.

A. I came back two days after she left, on Saturday, and then, of course, it was towards Christmas; I had no work, and I said I would come back, and the following week I came back.

Q. Have you been there since?

A. Yes, sir; ever since.

30 Q. Do you know where your mother is?

A. Kansas City.

Cross-examination by Mr. Cogswell:

Q. You say you left the last of July of what year?

A. The last Sunday in July, 1899.

Q. How did you come to leave?

A. Julia and I could not agree any more.

Q. Could your mother and Julia agree?

A. My mother was not home at that time; she was at the minister's.

Q. Did they hit it very well?

A. No, sir; the first three or four years everything was all right, then it would not go any more.

Q. How did you come to leave, by request of your brother?

A. No, sir; my brother didn't know; I didn't tell him; she ordered me out of the house. I could not leave the same day because I had work to finish. 10

Q. When you were living at this house with the complainant and defendant, where was your room?

A. My room, which room, where I slept?

Q. Yes.

A. The front room.

Q. Where was their room?

A. The back room.

Q. Did you ever hear any words after you retired between them? 20

A. No, sir; never.

Q. Did you ever hear any noise?

A. No.

Q. Did you as a general rule retire before or after they did?

A. I generally went up later than they, because I would sit upstairs in the middle room, upstairs, and sew every evening.

Q. About what time did they go to bed?

A. Between ten and eleven, sometimes before; it was not just a certain time; Saturdays it would always be later. 30

Q. Did you ever hear your brother make any complaint to his wife about her?

A. No.

Q. Did you ever hear him say anything against her?

A. No; I always took them to be very happy, and when

I received the notice that she had left I didn't know what to make of it.

Q. What sort of shoes did Mrs. Engelhardt wear?

A. Sometimes old ones, sometimes new ones, just as she had them. When she needed new ones he would buy them if he had the money. When she had to go to town she always had shoes so she could go to town.

Q. On the day of the birth of Lillie, do you recollect where your mother was?

10 A. Yes; when Mrs. Maute came she was home, she was sitting downstairs, and a little before four o'clock she went away as she always did in the afternoons, to go to the minister's house.

Q. Was she living at home or away?

A. She would sleep home and she would not be home all day; she didn't have work all day over there.

Q. Where do you mean when you say she would sleep home, at the minister's?

A. No; at our home.

20 Q. Then she would go over there and do her work?

A. Yes, sir.

Q. That is all.

CHARLES H. BORTON, sworn for the Defendant.

Direct examination by Mr. Hillman:

Q. Where do you live?

30 A. Riverside.

Q. What is your occupation?

A. Officer, constable.

Q. In Riverside Township?

A. Yes, sir.

Q. Are you acquainted with Rudolph Engelhardt?

A. Yes, sir.

Q. And with his wife, Mrs. Engelhardt?

A. Yes, sir.

Q. Do you remember the circumstance of Mrs. Engelhardt leaving her husband?

A. No, sir, I do not; I remember it, but I was not so well acquainted with them at that time.

Q. Since that time have you ever seen Mrs. Engelhardt on the street?

A. Yes, sir.

Q. Have you ever seen her in company with a man?

A. One night.

Q. Can you state what they were doing? 10

Mr. Cogswell: I think this subject is objectionable.

The Court: I think it is competent. It goes but little to the questions at issue, but it affects them more or less.

A. It was raining one night, and I saw a young man and Mrs. Engelhardt standing at her parents' gate under an umbrella.

Q. What was the position of the man's arm?

A. I think he had his hand on her shoulder, and seemed to be whispering to her.

Q. Had his hand and arm on her shoulder? 20

A. No; just his arm.

Q. Do you know who this man was?

A. I know him by name.

Q. What was his name?

A. Austin, I think, was his last name.

Q. Are you acquainted with the reputation of Mr. Engelhardt in that township for temperance and sobriety?

A. I have never saw him intoxicated.

Cross-examination by Mr. Cogswell:

Q. What sort of a home does Mr. Joseph keep? 30

A. I guess one of the best in Riverside, that is, for quietness and nice people.

Q. That is where Mrs. Engelhardt lives?

A. Yes, sir.

Q. That is all.

DEFENDANT RESTS.

MRS. JENNIE WALDIS, recalled in rebuttal on the part of the Complainant.

Direct examination by Mr. Cogswell:

Q. Do you recall the Fourth of July about which Mr. Engelhardt spoke?

A. Yes, sir; very well. The day before I had been down with Mr. Jacobs, and I said, "Can you come up to spend the Fourth?" and I said, "Julia is getting ready now," and I said, "You come, too." He said, "No, I would rather make a five-dollar note than go." I said, "Julia, you and the baby go and Engelhardt won't go," and I said—we were eating dinner—"I wish Engelhardt would be here to enjoy dinner," and no more than said that than he came, but he didn't surprise us, so we rested awhile and Julia went to get him a drink of water, and he had dinner with us, and we had apples there, and all went out and picked up some "Maiden Blushes," and that is all the harm I seen done.

Q. Do you mean Mr. Jacobs?

A. The one that was talking to her, that had his hand on the knee; he always went down with me; my husband does not care about going out nights, and I did my shopping Saturday afternoon, because we lived out in the country—at that time we did.

Q. Then Mr. Jacobs lived with you?

A. Yes, sir; for seventeen years.

Q. Did you notice any impropriety in his conduct with Mrs. Engelhardt that day?

A. No, sir; not any more than they would joke with one another; they had a surprise at our house and we returned it, and never saw anything out of the way at all, just company.

Q. That is all.

NOT CROSS-EXAMINED.

COMPLAINANT RESTS.

CASE CLOSED.

IN CHANCERY OF NEW JERSEY.

To His Honor, William J. Magie, Chancellor of the State of New Jersey:

Humbly complaining, shows unto your Honor, your oratrix, Julia C. Engelhardt, of the Township of Riverside, in the County of Burlington and State of New Jersey, that on or about the thirty-first day of May, in the year eighteen hundred and ninety-four, your oratrix was married to Rudolph Engelhardt, her present husband, at the said town of Riverside, Burlington County, this State, by the Reverend T. F. Fluke, a Moravian Minister of the Moravian Church, and that they immediately took up their residence in the town of Riverside, County of Burlington, this State.

And your oratrix further shows that her husband lived with her in the said town of Riverside, Burlington County, this State, for more than five years after their said marriage, until on or about the Twenty-ninth day of November, eighteen hundred and ninety-nine, when he deserted her, and continued to reside, and still does reside, at the time of the filing of this bill, in said town of Riverside, Burlington County, this State, but separate and apart from her.

And your oratrix further shows that for more than two years last past, her said husband has wilfully, continuedly and obstinately deserted her, and during all that time has wholly neglected to make any provision for her support.

And your oratrix further shows that she has one child, by her said husband, Elsa, aged nine years.

And your oratrix further shows that her maiden name was Julia C. Josephs, and that she has no means of support, except from her own exertions.

And your oratrix further prays that she may be divorced from her husband, and that he may be compelled by the order and decree of this honorable court, to provide for and support her and her said child, and that she may have such further or other relief as may be equitable and just.

May it please your Honor, the premises considered to

grant unto your oratrix the State's writ of subpoena, issuing out of and under the seal of this honorable court, to be directed to the said Rudolph Engelhardt, commanding him on a certain day and under a certain penalty therein to be expressed, personally to be and appear before your Honor, in this honorable court, then and there to answer the premises and to stand to, abide by and perform such order, direction and decree as to your Honor shall seem meet, and as shall be according to the statute in such cases made and
10 provided.

G. Dore Cogswell,
Solicitor for and of Counsel with Complainant.

State of New Jersey,
Burlington County, ss.

Julia C. Engelhardt, of full age, being duly sworn according to law, upon her oath says, that she is the complainant in the foregoing bill; that her complaint in said bill is not
20 made by any collusion between her and the defendant in said bill, for the purpose of dissolving their said marriage, but in truth and good faith, for the causes set forth in the bill of complaint.

Julia C. Engelhardt.

Sworn and subscribed at the County aforesaid this second day of February, A. D. 1906, before me.

John C. Kreps,
[Seal] *Justice of the Peace.*

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IN CHANCERY OF NEW JERSEY.

Between

JULIA C. ENGELHARDT, Complainant, vs. RUDOLPH ENGELHARDT, Defendant.	On Bill for Divorce. Answer, &c.

The Answer of Rudolph Engelhardt, Defendant to the Bill of Complaint of Julia C. Engelhardt, Complainant. 10

This Defendant for answer to said Bill of Complaint or unto so much and as such parts thereof as he is advised is material and necessary for him to make answer unto, answers and says, that it is true as stated in the said Bill of Complaint that he was lawfully married to the said Complainant on the thirty-first day of May in the year of our Lord, one thousand eight hundred and ninety-four, at the town of Riverside, in the County of Burlington and State of New Jersey, and that they immediately took up their residence in the town of Riverside, aforesaid, and have continued to reside there until the present time. And this Defendant further answering denies that on or about the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and ninety-nine, or at any other time, he deserted his wife, the said Complainant, as set forth in said Bill of Complaint, and avers the fact to be, that on or about the said twenty-ninth day of November, in the year of our Lord, one thousand eight hundred and ninety-nine, the said Complainant deserted this Defendant and left his home in Riverside aforesaid, contrary to his wishes and against his will, and refused and still refuses to reside with him. And this Defendant further answering, denies that for more than two years, last past, he has wilfully, continuedly and obstinately deserted the said Complainant and during all that time has wholly neglected to make provision for her support as set forth in said Bill of 20 30

Complaint, but avers the fact to be, that ever since the said Complainant deserted him, as aforesaid, and at all times during the two years, last past, he has maintained and provided in Riverside, aforesaid, a comfortable home for his said wife and offered to support her and maintain her, and that said Defendant has requested her, the Complainant, to return to his said home, but that said Complainant has refused and still refuses so to do. And this Defendant humbly prays to be hence dismissed with his reasonable
10 costs and charges in this behalf, most wrongfully sustained.

And this Defendant, by way of Cross-bill against the Complainant, says that he resides in the village and township of Riverside, in the County of Burlington, and State of New Jersey. That on or about the thirty-first day of May, in the year of our Lord, one thousand eight hundred and ninety-four, he was married to Julia C. Engelhardt (formerly Julia C. Josephs), his present wife, in the town of Riverside aforesaid, by the Rev. T. F. Fluke, an ordained minister of the Gospel of the Moravian Church, and that
20 they immediately took up their residence in the town of Riverside aforesaid; and this Defendant further shows that his said wife lived with him in Riverside aforesaid for more than five years after their marriage, all of which time he provided for her a good and comfortable home, supplied all her necessary wants and supported and maintained her in a manner commensurate with his circumstances. That on or about the twenty-ninth day of November, in the year of our Lord, one thousand eight hundred and ninety-nine, his said wife, Julia C. Engelhardt, without any just cause,
30 against his will and contrary to his wishes, deserted him and continued to reside, and still does reside, at the time of the filing of this Cross-bill, in the township of Riverside aforesaid, but separate and apart from him; that ever since his said wife deserted him, as aforesaid, he has maintained a comfortable home in Riverside and has requested his said wife to return thereto, and has at all times been ready and willing to receive her at his said home and to support her

and provide for her, as his wife, but that his said wife has refused and still refuses so to return to him. And this Defendant further shows that for more than two years last past his said wife has wilfully, continuedly and obstinately deserted him. And this Defendant further shows that he has one child by his said wife, namely, Elsa Engelhardt, a girl, aged nine years; that when his said wife deserted him, as aforesaid, she took with her the said child and refuses to restore the said child to this Defendant or to allow him to see the child or hold intercourse with her; that the said Julia C. Engelhardt is not a proper person to have the custody and control of said child; that said child has never been sent to school nor received any education, and is growing up in ignorance and is suffering from the lack of education. And this Defendant further prays that he may be divorced from his said wife for the cause aforesaid, and that he may be granted the custody and control of his said child, the said Elsa Engelhardt, and that he may have such further or other relief as may be equitable and just.

And this Defendant will ever pray, &c.

G. M. HILLMAN,
Solicitor of Defendant.

STATE OF NEW JERSEY,
BURLINGTON COUNTY, SS.

Rudolph Engelhardt, of full age, being duly sworn according to law, on his oath, saith that he is the Defendant named in the foregoing answer and Cross-bill. That his said complaint is not made by any collusion between him and said Julia C. Engelhardt for the purpose of dissolving their marriage, but in truth and good faith, for the causes set forth in said Cross-bill.

Sworn and subscribed to before me this ———— day of ————, A. D. 1906.

IN CHANCERY OF NEW JERSEY.

Between
JULIA C. ENGELHARDT,
Complainant,
and
RUDOLPH ENGELHARDT,
Defendant.
} On Bill for Divorce, Replication, &c.

The complainant joins issue on so much of the defendant's answer as is not in the nature of a cross-bill, and as to that part of said answer, which is in the nature of a cross-bill, she says:

That on or about November twenty-ninth, eighteen hundred and ninety-nine, by reason of the unbearable treatment and extreme cruelty of her said husband, the defendant, our oratrix, was compelled to leave said husband. That as to defendant maintaining a comfortable home in Riverside for your oratrix, by reason of such unbearable treatment and extreme cruelty in the past, your oratrix denies that said defendant's home would have been comfortable for your oratrix, and leaves the defendant to his proofs.

Your oratrix further says that although her said husband has requested her in writing to return to him, she has been afraid to do so, on account of the said unbearable treatment, physical and mental, and extreme cruelty of her said husband while your oratrix was living with him.

Your oratrix further says that by reason of such treatment and extreme cruelty, said defendant caused your oratrix to leave defendant without any fault at all on the part of the Complainant, your oratrix, and therefore your oratrix avers and charges that the said defendant, Rudolph Engelhardt, wilfully, continuedly and obstinately deserted your oratrix for a period of more than two years last past, and that the said desertion is not a desertion by the complainant, but is a desertion of the complainant by the defendant, as your oratrix is advised by counsel.

That your oratrix, being a competent and proper person,

is entitled to the care and custody of the child of said marriage, Elsa, aged nine years; and that the said child has been and is now going to school and is receiving a proper education, and is not growing up in ignorance through the lack of proper schooling.

And this cross-bill defendant humbly prays to be hence dismissed, with her reasonable costs and charges in this behalf most wrongfully sustained.

G. DORE COGSWELL,
Solicitor for and of Counsel with Complainant. 10

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IN CHANCERY OF NEW JERSEY.

To His Honor, William J. Magie, Chancellor of the State of New Jersey:

Humbly complaining, shows unto your Honor, your oratrix, Julia C. Engelhardt, of the Township of Riverside, in the County of Burlington and State of New Jersey, that on or about the twenty-first day of May, in the year eighteen hundred and ninety-four, your oratrix was married to Rudolph Engelhardt, her present husband, at the said town of Riverside, Burlington County, this State, by the Reverend T. F. Fluke, a Moravian Minister of the Moravian Church, and that they immediately took up their residence in the town of Riverside, County of Burlington, this State.

And your oratrix further shows that her husband lived with her in the said town of Riverside, Burlington County, this State, for more than five years after their said marriage, until on or about the twenty-ninth day of November, eighteen hundred and ninety-nine, when he deserted her and continued to reside, and still does reside, at the time of the filing of this bill, in said town of Riverside, Burlington County, this State, but separate and apart from her.

And your oratrix further shows that for more than two years last past her said husband has wilfully, continuedly and obstinately deserted her, and during all that time has wholly neglected to make any provision for her support.

And your oratrix further shows that she has one child by her said husband, Elsa, aged nine years.

And your oratrix further shows that her maiden name was Julia C. Josephs, and that she has no means of support, except from her own exertions.

And your oratrix therefore prays that she may be divorced from her husband, and that he may be compelled by the order and decree of this honorable court, to provide for and support her and her said child, and that she may have such further or other relief as may be equitable and just.

May it please your Honor, the premises considered to grant unto your oratrix the State's writ of subpoena, issuing out of and under the seal of this honorable court to be directed to the said Rudolph Engelhardt, commanding him on a certain day and under a certain penalty therein to be expressed, personally to be and appear before your Honor, in this honorable court, then and there to answer the premises and to stand to, abide by and perform such order, direction and decree as to your Honor shall seem meet, and as shall be according to the statute in such case made and provided. 10

G. Doré Cogswell,
Solicitor for and of Counsel with Complainant.

State of New Jersey,
Burlington County, ss.

Julia C. Engelhardt, of full age, being duly sworn according to law, upon her oath says, that she is the complainant in the foregoing bill; that her complaint in said bill is not made by any collusion between her and the defendant in said bill for the purposes of dissolving their said marriage, but in truth and good faith for the causes set forth in the bill of Complaint. 20

Julia C. Engelhardt.

Sworn and subscribed at the County aforesaid this second day of February, A. D., 1906, before me.

John C. Kreps,
(Seal) *Justice of the Peace.*

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IN CHANCERY OF NEW JERSEY.

Between

JULIA C. ENGELHARDT, Complainant, and RUDOLPH ENGELHARDT, Defendant.	**On Bill for Divorce and Alimony, &c. Final Decree.**

This cause coming on to be heard in the presence of G. Dore Cogswell, solicitor and of counsel with the complainant, and George M. Hillman, solicitor and of counsel with the defendant, and the pleadings and proofs having been read and the arguments of the respective counsel having been heard and considered, and the Court having duly considered the said pleadings, proofs and arguments, and it appearing to the Court that the complainant is not entitled to the relief sought and prayed for by her in her bill of complaint, and it also appearing to the Court that the defendant is not entitled to the relief sought and prayed for by him in his cross-bill of complaint filed in the above stated cause:

IT IS on this nineteenth day of February, A. D. nineteen hundred and seven, by his Honor William J. Magie, Chancellor of the State of New Jersey, ordered, adjudged and decreed that the complainant's bill be, and the same is hereby dismissed.

And it is further ordered, adjudged and decreed that the defendant's cross-bill of complaint filed in the above stated cause, be and the same is hereby dismissed.

And it is further ordered, adjudged and decreed that no costs be taxed or allowed to either party, but that the defendant pay to the complainant's said solicitor the sum of thirty dollars as counsel fee, and that execution issue therefor according to the practice of this Court.

W. J. MAGIE, C.

Respectfully advised.

E. B. LEAMING, V. C.

Between

JULIA C. ENGELHARDT, Compl't, And RUDOLPH ENGELHARDT, Defd't	On Bill, Answer and Cross-Bill. Opinion.

Camden, N. J., February 7th, 1907.

Messrs. G. Dore Cogswell and George M. Bacon for complainant.

Mr. G. M. Hillman for defendant. 10

Leaming, V. C.: I will not take this case under advisement. The testimony in behalf of complainant, especially when considered in connection with the denials of defendant, fails to convince me with that degree of certainty which is necessary to form the basis of an affirmative decree that defendant was guilty of that cruelty necessary to justify her in leaving his home. On the other hand, I am unable to conclude that defendant has made any reasonable effort to bring about a reconciliation and induce his wife to return to him. The only satisfactory conclusion which I have been 20 able to reach through the conflicting testimony is that neither of the litigants have been sufficiently free from fault to entitle them to the relief sought. Under these conditions I think it the duty of this Court to leave the parties where they are found. I will advise a decree to that effect.

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Between

JULIA C. ENGELHARDT, Complainant, and RUDOLPH ENGELHARDT, Defendant.	On Bill for Divorce and Alimony. Notice of Appeal.

The complainant hereby appeals from so much of the final decree made in this Court, in the above stated cause as declares that the complainant is not entitled to the relief sought and prayed for by her in her bill of complaint in said cause, and that the complainant's bill be and the same is thereby dismissed, thereby denying the right of complainant in said cause to an absolute and final decree of divorce, and alimony for the support of complainant and her child, Elsa, nine years of age, the issue of the marriage between complainant and said defendant, Rudolph Engelhardt.

Because the said final decree in that particular is unjust, inequitable, contrary to statute and against public policy—to the Court of Errors and Appeals in the Last Resort in all Causes.

Dated February 25, 1907.

G. DORE COGSWELL,
Solicitor for and of Counsel with Complainant.

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

GEORGE GILBERT,
Of Counsel with Complainant.

To the Honorable, the Court of Errors and Appeals in the Last Resort in All Causes:

The petition of Julia Engelhardt, the appellant in the above stated cause, respectfully shows that your petitioner finds herself aggrieved by a final decree made in the Court of Chancery of New Jersey, by his Honor, William J. Magie, Chancellor, bearing date February 19, 1907, wherein the said Julia Engelhardt was complainant and the said Rudolph Engelhardt was defendant, in this respect, to wit: That the said decree adjudges "that the complainant is not entitled to the relief sought and prayed for by her in her bill of complaint," and "that the complainant's bill be and the same is hereby dismissed."

Your petitioner further shows that in her said bill she prayed that she might be divorced from her husband, said respondent, and that he might be compelled to provide for and support her and her child, and that she might have such further or other relief as might be equitable and just.

And your petitioner humbly appeals from that part of said decree of the Chancellor which decrees as aforesaid, upon the ground that the same is erroneous, for that upon the evidence presented, your petitioner should have been granted an absolute and final decree of divorce; and alimony for the support of petitioner and her child, Elsa Engelhardt, nine years of age, issue of said marriage between petitioner and respondent.

Your petitioner further says that said final decree is unjust, inequitable, and contrary to the statute, and against public policy.

Your petitioner therefore prays that the said final decree of the said Chancellor may be in the particulars aforesaid, reversed, set aside and for nothing holden.

And that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

G. DORE COGSWELL,
Solicitor of Appellant.
GEORGE M. BACON,
Of Counsel with Appellant.