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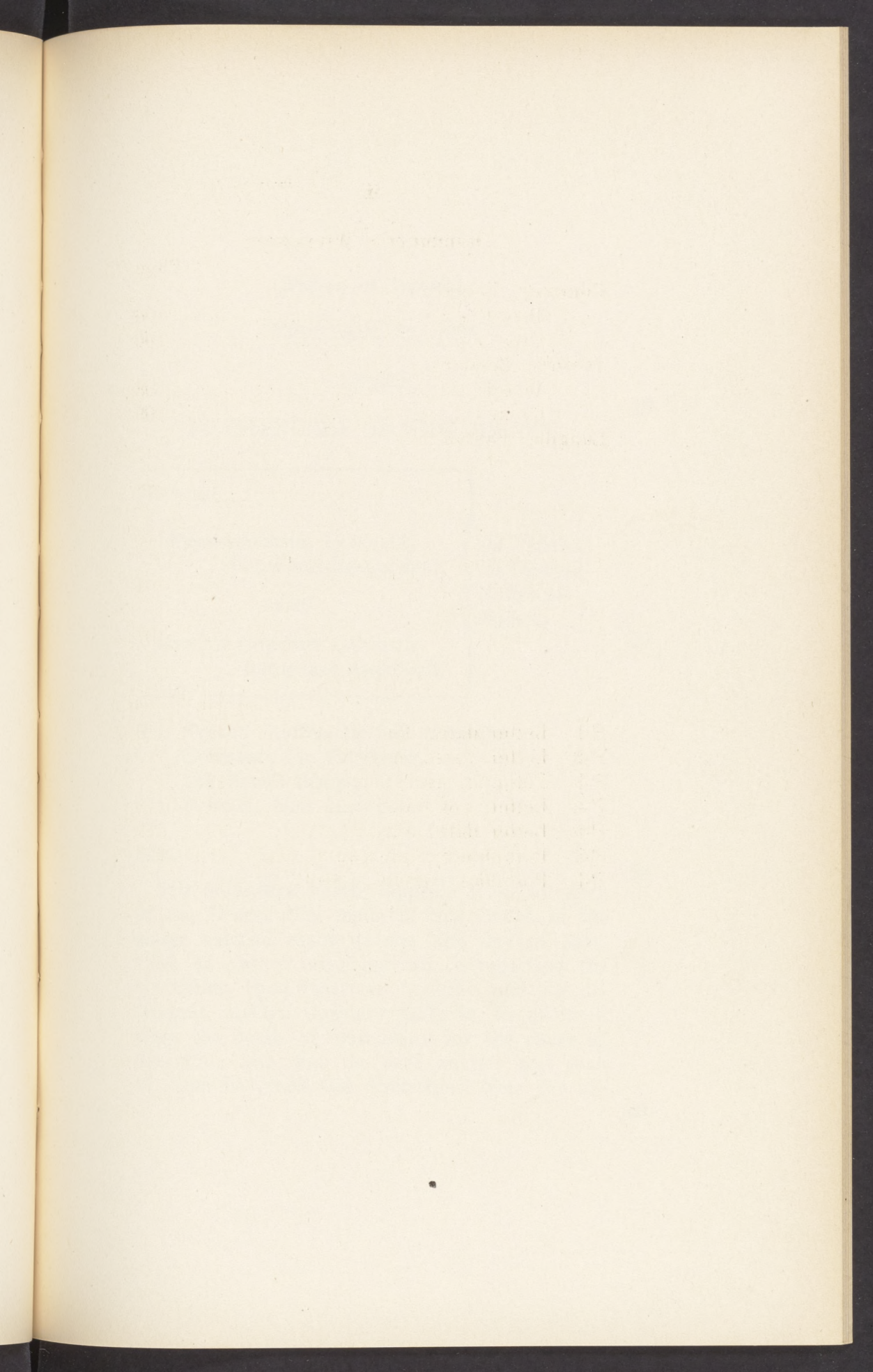
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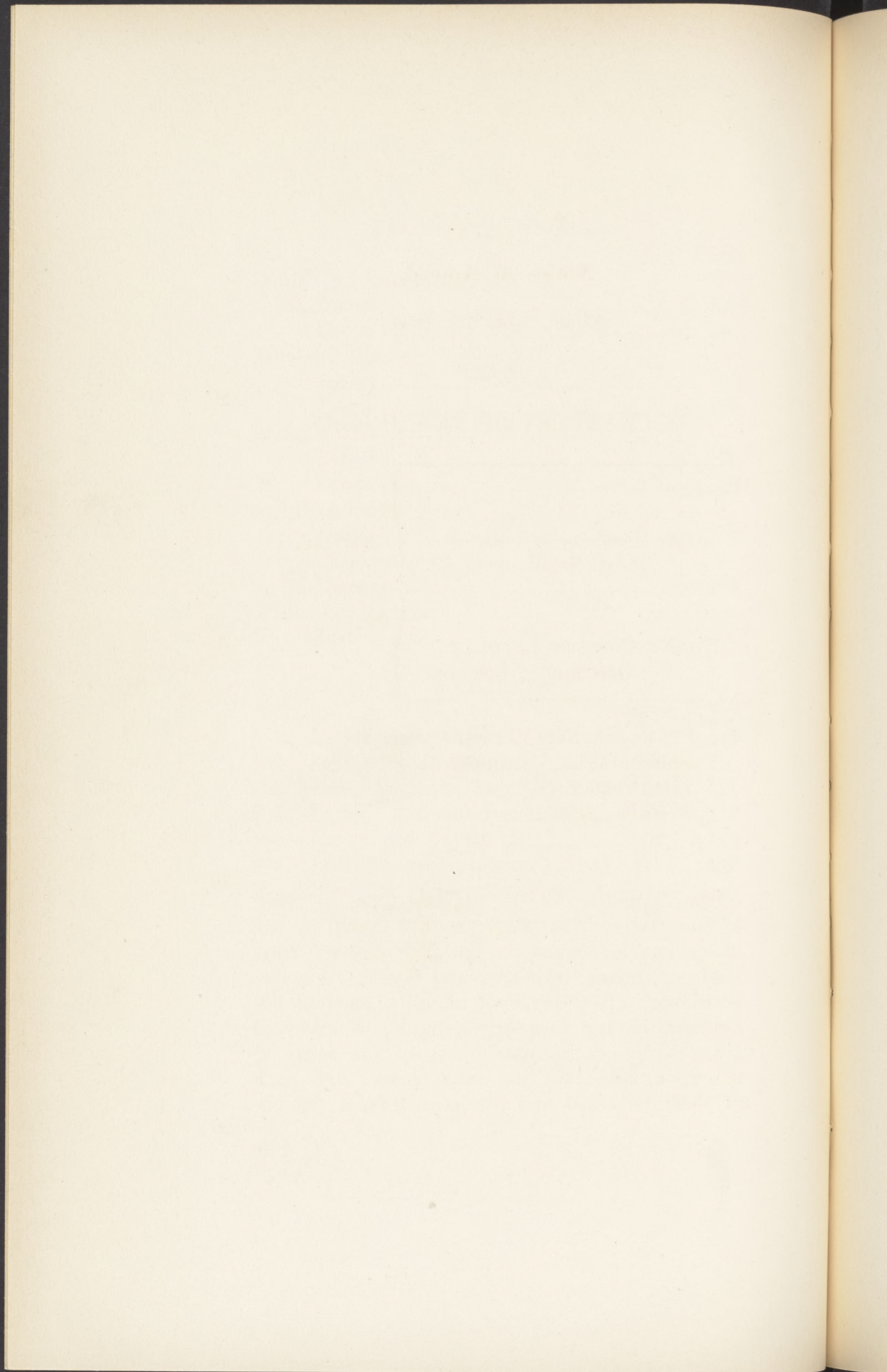
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**Notice of Appeal.**

Filed Sept. 26, 1934.

102/229

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IN CHANCERY OF NEW JERSEY.

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Between

FRED HARRISON LANGILLE,  
Petitioner-Respondent,

and

EVELYN COWDERY LANGILLE,  
Defendant-Appellant.

---

} On Petition  
for Divorce.  
Notice of  
Appeal.

20

To: Frazer, Stoffer, Parnell & Jacobs,  
Solicitors for Petitioner,  
744 Broad Street,  
Newark, New Jersey.

Sirs:

30

The defendant hereby appeals from so much of the Decree Nisi made in this Court, in the above entitled cause on the 20th day of July, 1934, as orders, adjudges and decrees that the petitioner, Fred Harrison Langille, and the defendant, Evelyn Cowdery Langille, be divorced from the bonds of matrimony for the cause of desertion, and that the said parties and each of them be freed and discharged from the ob-

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*Notice of Appeal*

10 ligations thereof, unless within three months from the date thereof sufficient cause be shown why said decree should not be made absolute, and from so much of the said Decree Nisi as orders, adjudges and decrees that the defendant did fail by her proofs to sustain the allegations of her counterclaim and did dismiss the said counterclaim, to the Court of Errors and Appeals in the last resort in all causes.

Dated, Newark, N. J., September 25, 1934.

HARRY UNGER,  
Solicitor for and of Counsel with Defendant.

20 I conceive there are good grounds for appeal in the above stated cause.

HARRY UNGER,  
Of Counsel with Defendant.

Service of a copy acknowledged Sept. 25, 1934.

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## Amended Notice of Appeal.

Filed Sept. 29, 1934.

102/229.

IN CHANCERY OF NEW JERSEY.

10

Between

---

 FRED HARRISON LANGILLE,  
 Petitioner-Respondent,

and

 EVELYN COWDERY LANGILLE,  
 Defendant-Appellant.
 

---

 On Petition  
 for Divorce.  
 Amended  
 Notice of  
 Appeal.

20

 To: Frazer, Stoffer, Parnell & Jacobs,  
 Solicitors for Petitioner,  
 744 Broad Street,  
 Newark, New Jersey.

Sirs:

The defendant hereby appeals from so much  
 of the Decree Nisi made in this Court, by the  
 Chancellor on the advice of Advisory Master  
 Francis Child, in the above entitled cause on the  
 20th day of July, 1934, as orders, adjudges and  
 decrees that the petitioner, Fred Harrison Lan-  
 gille, and the defendant, Evelyn Cowdery Lan-  
 gille, be divorced from the bonds of matrimony  
 for the cause of desertion, and that the said  
 parties and each of them be freed and discharged  
 from the obligations thereof, unless within three  
 months from the date thereof sufficient cause be  
 shown why said decrees should not be made ab-

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*Amended Notice of Appeal*

10 solute, and from so much of the said Decree Nisi as orders, adjudges and decrees that the defendant did fail by her proofs to sustain the allegations of her counterclaim and did dismiss the said counterclaim, to the Court of Errors and Appeals in the last resort in all causes.

Dated, Newark, N. J., Sept. 28, 1934.

HARRY UNGER,  
Solicitor for and of Counsel with Defendant.

I conceive there are good grounds for appeal in the above stated cause.

20 HARRY UNGER,  
Of Counsel with Defendant.

Service of a copy acknowledged Sept. 28, 1934.

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*Petition of Appeal*

10 cated to have been committed by appellant, and that the said parties to said suit and each of them be freed and discharged from the obligations thereof, unless within three months from the date of said decree sufficient cause be shown why the said decree should not be made absolute; said decree did further adjudicate that the appellant had failed by her proofs to sustain the allegations of her counterclaim, and did order, adjudge and decree that the said counterclaim should be dismissed.

Appellant appeals from those portions of the decree, which decree as aforesaid, upon the ground that the same is erroneous, in that:

20 1. The evidence did not warrant the court in finding that appellant was guilty of the charge of desertion, or that appellant was guilty of a matrimonial offense which could be construed as desertion by her; the proof did not conform to the precedents holding that only such conduct as will support an action for divorce or separation, justifies the offended party in treating such act as desertion.

30 2. Evidence of mere misconduct or the appearance of misconduct, not amounting to a matrimonial offense, did not constitute evidence of desertion.

3. The alleged desertion on the part of appellant was not proved to have been willful and intentional.

40 4. The alleged desertion on the part of appellant was not proved to be continuous for the statutory period.

5. The evidence did not prove that appellant

*Petition of Appeal*

was guilty of such misconduct as in itself would have been grounds for divorce in the State of New Jersey.

6. The evidence failed to show that the respondent made any bona fide offer of reconciliation, and failed to show that by his own efforts he undertook to terminate the period of desertion by an offer of reconciliation. 10

7. The evidence showed that the appellant having made offers of reconciliation to the respondent, such offers terminated the period of desertion; and the rejection of such offers of reconciliation, by the respondent, constituted desertion on his part. 20

8. The evidence showed that the conduct complained of by the respondent and relied upon by him as constituting alleged desertion by the appellant, was brought about upon his own instigation and procurement, and the evidence further showed that the respondent failed to use any means to avoid the conduct or behaviour complained of by him.

9. The evidence showed that whatever conduct of which the appellant was guilty was condoned by the respondent by his actions, with full knowledge of all that had previously transpired. 30

10. The respondent failed to sustain the burden of proof upon him, and did fail to prove adequately or sufficiently and by a preponderance of the evidence, the willfulness, obstinacy and continuity of the alleged desertion.

11. The admissions or confessions alone of a defendant in a divorce action, are not sufficient 40

*Petition of Appeal*

to establish marital misconduct, and the decree herein, founded only upon such admissions or confessions, was erroneous.

10 12. The respondent having rejected the appellant's offers of reconciliation, became himself thereby the deserting party, and the court should have granted to the appellant, a decree on her counterclaim.

20 13. The respondent's petition for divorce recites allegations of actual desertion, whereas the proof offered in the case, tended to show constructive desertion, and such variance between the pleading and the proof was fatal to respondent's right to prevail.

14. The respondent's petition for divorce charged the alleged desertion to have occurred in January, 1931, whereas the evidence offered by the respondent showed the alleged desertion to have begun in August of 1931, and such variance between the pleading and proof was fatal to the respondent's right to a decree.

30 15. That the said court should have dismissed the petition filed by the respondent against appellant, and should have granted to the appellant a decree on her counterclaim.

40 Your petitioner (appellant) therefore prays that the said decree of the said Chancellor may be in the particulars aforesaid reversed, set aside and for nothing holden, and that the record may be remitted to the said Court of Chancery with direction to dismiss the petition filed by the said Fred Harrison Langille against appellant, and that the said Court of Chancery be further directed to enter a decree in favor of ap-

*Petition of Appeal*

pellant on her counterclaim against said respondent, Fred Harrison Langille, and that appellant may have such other and further relief in the premises as to this Honorable Court shall seem meet.

EVELYN COWDERY LANGILLE,  
Appellant.

HARRY UNGER,  
Sol'r for and of Counsel with Appellant.

State of New Jersey,  
County of Essex, ss:

Evelyn Cowdery Langille, being duly sworn, according to law, upon her oath, deposes and says: 20

I am the petitioner in the foregoing petition, and the appellant in this cause.

As to the facts recited in the foregoing petition, I depose and say that the same are true, to the best of my knowledge and belief.

I am advised and counseled that I have good grounds for appeal, according to the recitals in the foregoing petition. 30

EVELYN COWDERY LANGILLE.

Sworn and subscribed to before me this  
25th day of September, 1934, at Newark.

Isador Berlin,

A Master in Chancery of New Jersey.

Service of a copy of the within petition of appeal is hereby acknowledged this 25th day of September, 1934. 40

FRAZER, STOFFER, PARNELL & JACOBS,  
Sol'rs for Respondent.

**Petition for Divorce.**

(Filed April 13, 1934.)

## IN CHANCERY OF NEW JERSEY.

10 To his Honor, Luther A. Campbell, Chancellor  
of the State of New Jersey:

The petition of Fred Harrison Langille, residing at 167 North 18th Street, in the City of East Orange, in the County of Essex and State of New Jersey, respectfully shows that:

20 1. He was lawfully married to Evelyn Cowdery Langille, the defendant in this suit, on the 1st day of September, 1915, by Reverend W. Benjamin Reynolds, a minister of the Gospel, at South Royalton, Vermont.

2. Defendant deserted him in the month of January, 1931, ever since which time and for more than two years last past said defendant has willfully, continuedly and obstinately deserted him.

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

4. Defendant resides at 386 Springdale Avenue, East Orange, New Jersey.

40 5. Two children were born of the marriage, to wit: David Azzan Langille, now deceased, and Frederick Cowdery Langille, age 17 years, who is in the custody of petitioner. That the

*Petition for Divorce*

welfare of the said child requires that he should be placed in the custody of petitioner.

6. He prays that the marriage between him and the defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided; that he may be awarded the custody of the said child of the marriage; and that he may have such further relief as may be just. 10

And your petitioner will ever pray, etc.

FRAZER, STOFFER, PARNELL & JACOBS,  
Solicitors of Petitioner.

State of New Jersey, 20  
County of Essex, ss:

Fred Harrison Langille, of full age, being duly sworn, according to law, upon his oath, deposes and says:

I am the petitioner in the foregoing petition. My said petition is not made by any collusion between me and the defendant, but in truth and good faith, for the causes set forth in the petition. The facts, matters and things set forth in the said petition, so far as they relate to my acts, are true, and so far as they relate to the acts of others, I believe them to be true. 30

FRED HARRISON LANGILLE.

Sworn and subscribed to before me this  
11th day of April, 1934.

Rose Serafino,  
Notary Public of New Jersey.

(Seal) 40

**Answer and Counterclaim.**

(Filed May 19, 1934.)

## IN CHANCERY OF NEW JERSEY.

102/229

10

Between

FRED HARRISON LANGILLE,  
 Petitioner,  
 and

EVELYN COWDERY LANGILLE,  
 Defendant.

On petition  
 for divorce.  
 Answer and  
 counterclaim.

20

The answer of Evelyn Cowdery Langille, defendant to the petition of Fred Harrison Langille, petitioner.

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

30

2. She denies that she deserted petitioner in the month of January, 1931, and denies that ever since that time, and for more than two years last past she has willfully, continuedly and obstinately deserted the petitioner, as alleged in said petition.

40

3. She admits that she and the petitioner were bona fide residents of the State of New Jersey, when this supposed cause of action arose as alleged in the petition, and that they have ever since and for more than two years next preceding the commencement of this action, continued to be such bona fide residents.

*Answer and Counterclaim*

4. Defendant admits that she resides at 386 Springdale Avenue, East Orange, New Jersey.

5. Defendant admits that two children were born of the marriage, to wit: David Azzan Langille, now deceased, and Frederick Cowdery Langille, age 17 years, who is in the custody of petitioner. 10

Defendant denies that the welfare of the child, Frederick Cowdery Langille, requires that he continue in the custody of the petitioner, but alleges that the welfare of the child requires that he be placed in defendant's custody. 20

6. She denies that the petitioner is entitled to the relief sought and prays that said petition may be dismissed with costs. 20

This defendant, by way of counterclaim exhibited against the petitioner, says that:

## FIRST CAUSE OF ACTION:

1. The petitioner and defendant were married as in said petition is alleged. 30

2. She and the petitioner cohabited until the month of January, 1932, at which time the said petitioner deserted her, ever since which time and for more than two years last past the said petitioner has willfully, continuedly and obstinately deserted her.

3. Defendant and petitioner have been bona fide residents of the State of New Jersey continuedly since the said desertion, and have ever since and for more than two years next preced- 40

*Answer and Counterclaim*

ing the commencement of this action, continued to be such bona fide residents.

That the residence of defendant is No. 386 Springdale Avenue, East Orange, Essex County,  
10 New Jersey.

That the residence of petitioner is No. 167 North 18th Street, East Orange, Essex County, New Jersey.

4. Two children were born of the marriage, to wit: David Azzan Langille, now deceased, and Frederick Cowdery Langille, age 17 years, who is in the custody of the petitioner. That the welfare of the said child requires that he  
20 should be placed in the custody of defendant.

5. Defendant's maiden name was Evelyn Cowdery.

6. Defendant further says that by order of the Domestic Relations Court in the month of July, 1932, petitioner was required to pay defendant the sum of \$10.00 per week for her support and maintenance; but said sum is insufficient  
30 for the needs of defendant, as petitioner has not paid same regularly and is in arrears to a considerable extent.

## SECOND CAUSE OF ACTION:

1. Defendant and petitioner were married as in said petition is alleged.

2. The petitioner has been guilty of extreme  
40 cruelty towards defendant, which began in the month of August, 1931, as hereinafter complained of.

*Answer and Counterclaim*

3. Particularly specifying the acts of extreme cruelty committed by the petitioner, defendant says:

a) In the month of August, 1931, the petitioner confronted defendant with a letter, of which defendant knew nothing, and defendant asking to see the letter, petitioner struck defendant in the face with his fist, and also struck her in the jaw and on the forehead, rendering her unconscious. 10

b) In the month of October, 1931, the petitioner returned home late for lunch, and when defendant spoke to him about it, he became very angry and struck defendant in the face with his fist. 20

c) Petitioner's cruelty also consisted in the fact that pursuant to an order of the Essex County Domestic Relations Court, the petitioner established an apartment at 386 Springdale Avenue, East Orange, New Jersey, where the defendant was supposed to live, the petitioner to pay the expenses thereof under the order of the said Essex County Domestic Relations Court. Defendant further alleges that on June 1, 1933, the petitioner failed to pay the rent for said apartment, and also failed to pay the bills for gas and electric service therein, as a result of which the gas and electric service to the said apartment was discontinued and the defendant, by reason of the non-payment of the rent was compelled to vacate the said apartment. 30 40

4. That during the course of abuse to which defendant was subjected, she became nervous

*Answer and Counterclaim*

and ill, and her life was rendered one of utter wretchedness and misery, and she was rendered unfit to properly discharge her duties as the wife of the petitioner.

10 5. More than six months have elapsed since the last act of cruelty complained of.

6. Defendant and petitioner have been bona fide residents of the State of New Jersey continuously for more than two years next before filing this counterclaim.

20 That the residence of defendant is No. 386 Springdale Avenue, East Orange, Essex County, New Jersey.

That the residence of petitioner is No. 167 North 18th Street, East Orange, Essex County, New Jersey.

30 7. Two children were born of the marriage, to wit: David Azzan Langille, now deceased, and Frederick Cowdery Langille, age 17 years, who is in the custody of petitioner. That the welfare of the said child requires that he should be placed in the custody of defendant.

8. Defendant's maiden name was Evelyn Cowdery.

9. Defendant has no means of support, except as aforesaid.

40 10. Defendant prays that the marriage between this defendant, as counter-claimant, and petitioner, as defendant to this counterclaim may be dissolved for the causes aforesaid, according to the statute in such case made and provided; that she may be awarded the custody of the

*Answer and Counterclaim*

said child of the marriage; that petitioner may be decreed to support her; that she may be permitted to resume the use of her maiden name, and that she may have such further relief as may be just.

And this defendant will ever pray, etc.

EVELYN C. LANGILLE,  
Defendant.

HARRY UNGER,  
Solr. for and of Counsel with  
Defendant-Counter-claimant.

10

State of New Jersey,  
County of Essex, ss:

Evelyn Cowdery Langille, being duly sworn, according to law, upon her oath, deposes and says:

20

1. I am the counter-claimant in the foregoing counterclaim.

My said counterclaim is not made by any collusion between me and the said defendant therein, but in truth and good faith for the causes set forth in the said counterclaim.

The facts, matters and things set forth in the said counterclaim, so far as they relate to my acts are true, and so far as they relate to the acts of others, I believe them to be true.

30

EVELYN C. LANGILLE.

Sworn to and subscribed to before me  
this 16th day of May, 1934,  
at Newark.

Harry Dudkin,  
Attorney at Law  
of New Jersey.

40

Service of a copy acknowledged May 17, 1934.

**Replication and Answer to Counterclaim.**

(Filed May 31, 1934.)

IN CHANCERY OF NEW JERSEY

102-229.

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Between

FRED HARRISON LANGILLE,  
Petitioner,  
and

EVELYN COWDERY LANGILLE,  
Defendant.

---

}

On Petition  
for Divorce.  
Replication  
and Answer  
to Counter-  
claim

20

Petitioner joins issue in answer of defendant.  
As to the counterclaim filed herein petitioner  
answers as follows:

ANSWER TO FIRST CAUSE OF ACTION:

1. He admits the allegations of paragraph one.
2. He denies that he deserted said defendant  
in the month of January, 1932, and denies that  
ever since that time and for more than two  
years last past he has willfully, continuedly  
and obstinately deserted the defendant.
3. He admits that he and the defendant have  
been bona fide residents of the State of New  
Jersey, and that they have ever since and for  
more than two years next preceding the com-  
mencement of this action continued to be such  
bona fide residents. He admits that the resi-  
dence of the defendant is No. 386 Springdale  
Avenue, East Orange, Essex County, New Jer-

40

*Replication and Answer to Counterclaim*

sey, and that the residence of the petitioner is No. 167 North 18th Street, East Orange, Essex County, New Jersey.

4. Petitioner admits that two children were born of the marriage, to wit, David Azzan Langille, now deceased, and Frederick Cowdrey Langille, age 17 years, who is in the custody of the petitioner. Petitioner denies that the welfare of the child, Frederick Cowdrey Langille, requires that he should be placed in the custody of defendant but alleges that the welfare of the child requires that he continue in petitioner's custody. 10

5. Petitioner admits the allegations of Paragraph 5. 20

6. Petitioner admits that by order of the Domestic Relations Court in the month of July, 1932, he was required to pay defendant the sum of \$10.00 per week for her support and maintenance, upon certain terms and conditions stated in said order to which reference is hereinafter made in Paragraph 3c of the answer to Second Cause of Action. He denies that said sum is insufficient for the needs of defendant. He alleges that he has paid same regularly except for a period when because of confinement in the hospital his entire income was required for the payment of medical and hospital bills. He further alleges that he is now paying said arrearages to the best of his ability. 30

7. Petitioner denies that the defendant is entitled to the relief sought in her counterclaim and prays that said counterclaim may be dismissed with costs. 40

*Replication and Answer to Counterclaim*

## ANSWER TO SECOND CAUSE OF ACTION:

1. Petitioner admits the allegations of Paragraph One.

10 2. He denies the allegations contained in Paragraph Two.

3. As to the particular acts alleged to have been committed by him, petitioner says:

(a) In the month of August, 1931, defendant quarreled with petitioner about a letter and defendant so berated and struck petitioner that petitioner was forced to slap defendant in the face with his open hand to bring her out of  
20 her hysterical condition.

(b) Petitioner denies the allegations of Paragraph 3b.

(c) Petitioner denies that he established an apartment at 386 Springdale Avenue, East Orange, New Jersey, in accordance with any order of the Essex County Domestic Relations Court, the only order of said court in any way relevant to said allegation of the defendant being in words following:  
30

“It is, thereupon, on this 21st day of July, Nineteen Hundred and Thirty-two,

Adjudged and Decreed, that the Complainant, (defendant here) since the 31st day of December, 1931, has willfully, continuedly and obstinately deserted the Defendant (petitioner here) without justifiable cause, and therefore, the Complaint of this Complainant (defendant)  
40 under ‘An Act concerning Juvenile and Domestic Relations Court of 1929,’ Chapter 157, be and the same is hereby dismissed; and it is further

*Replication and Answer to Counterclaim*

Ordered, Adjudged and Decreed that because as of the time of the rendering of the Opinion in this cause the Defendant (petitioner) did not have his own home, and at that very moment could not take her to the home that he then had because the place where he lived was not open to him or to her, due to the refusal of Mrs. Grace Williams, the Landlady, to receive them; that if the Defendant (petitioner) will make a place where the Complainant (defendant) can live with him, and if she refuses to go there, there will be a dismissal of that portion of the complaint made under 'An Act for the settlement of relief of the Poor.' Until that time the Defendant (petitioner) be and he is hereby directed and ordered to continue paying unto the Complainant (defendant) Ten (\$10.00) Dollars a week, temporary allowance, as heretofore, under the aforesaid provisions of 'An Act for the settlement and relief of the Poor,' and thereafter this temporary allowance shall cease and that portion of the Complaint made under the last aforementioned Act shall likewise be dismissed when the Defendant (Petitioner) establishes a home to which the Complainant (defendant) can go."

Petitioner did establish a home at 386 Springdale Avenue, East Orange, New Jersey and continued to live there, and said home was open to defendant, but defendant neglected to return thereto until March 20, 1933, after the accrual to the petitioner of the cause of action herein. On March 20, 1933, of improper acts, statements and demands on the part of defendant, petitioner left said apartment, advising defendant that the apartment was rented only until June 1, 1933.

*Replication and Answer to Counterclaim*

4. Petitioner denies the allegations of Paragraph Four.

10 5. Petitioner admits that more than six months have elapsed since the last so-called act of cruelty alleged.

20 6. Petitioner admits that he and defendant have been bona fide residents of the State of New Jersey continuously for more than two years next preceding the filing of this counterclaim. Petitioner admits that the residence of the defendant is No. 386 Springdale Avenue, East Orange, New Jersey. Petitioner admits that his residence is No. 167 North 18th Street, East Orange, Essex County, New Jersey.

7. Petitioner admits that two children were born of the marriage, to wit: David Azzan Langille, now deceased, and Frederick Cowdrey Langille, age 17 years, who is in the custody of petitioner. Petitioner denies that the welfare of said child requires that he should be placed in the custody of the defendant.

30 8. Petitioner admits the allegations of Paragraph Eight.

9. Petitioner has no knowledge as to the truth of the allegation of Paragraph Nine.

10. Petitioner denies that the defendant-counterclaimant is entitled to the relief sought in the counterclaim and prays that said counterclaim may be dismissed with costs.

40 FRAZER, STOFFER, PARNELL & JACOBS,  
Solicitors of Petitioner.

Service of a copy acknowledged May 29, 1934.

**Replication to Answer to Counterclaim.**

(Filed June 9, 1934.)

IN CHANCERY OF NEW JERSEY

102-229.

10

Between

FRED HARRISON LANGILLE,  
Petitioner,

and

EVELYN COWDERY LANGILLE,  
Defendant.

On Petition  
for Divorce.  
Replication to  
Answer to  
Counterclaim.

20

Defendant, by way of replication to petitioner's answer to counterclaim, says:

1. She joins issue on petitioner's answer to the First Cause of Action.

2. She joins issue on petitioner's answer to the Second Cause of Action, and with particular reference to the allegations in Paragraph 3 of petitioner's answer to the Second Cause of Action, says:

30

a) She denies the allegations in Paragraph 3 (a) of the answer to the Second Cause of Action, and repeats the allegations in her counterclaim.

b) She joins issue on the allegations in Paragraph 3 (b).

c) She joins issue on the allegations in Paragraph 3 (c) and in addition says that the order of the Domestic Relations Court referred to therein is not conclusive on the issues here-

40

*Replication to Answer to Counterclaim*

in, not being based upon a full hearing of all the facts or witnesses available, and was not intended to be determinative of the facts therein recited. Defendant further alleges that the said order was thereafter modified and amended  
10 by the said court, by an order made in open court, to the effect that the petitioner must establish for the defendant a home for her to live in and keep the same open to her, and that if the defendant failed to go to the said home she would then be the deserting party; but defendant alleges that although the petitioner did establish a home at 386 Springdale Avenue, East Orange, New Jersey, that the said  
20 home was not made open to the defendant, and that she repeatedly tried to gain access thereto, but that petitioner refused her admittance or access until finally on March 20, 1933, the defendant resorting to a ruse in order to obtain admittance, did enter the said apartment and did live there by establishing her home there. Defendant further says that as soon as defendant did move into the said apartment by the aforesaid ruse, the petitioner immediately left  
30 and vacated the apartment and refused to live there, and definitely refused to resume relations with the defendant, who represented then and there to him that she was willing to return to him and resume their relations of domesticity. Defendant therefore alleges that she did not wilfully, continuedly and obstinately desert the petitioner.

3. Defendant further denies the other allegations  
40 tions in the said Paragraph 3, and denies that she was guilty of any "improper acts, statements or demands" whatever they may have

*Replication to Answer to Counterclaim*

been, as is alleged in the said paragraph. Defendant further alleges that the petitioner refused to give her the key to the said apartment, or to notify the superintendent of the said building to admit her; but on the other hand, he refused her admittance and instructed the superintendent of said building to exclude her from the said apartment, and also instructed their son who was living in the apartment to refuse defendant admission to the apartment in case she attempted to come in. 10

4. Defendant joins issue on the allegations in Paragraph 4.

5. Defendant joins issue with the petitioner on all of the other allegations in the answer to the Second Cause of Action. 20

HARRY UNGER,  
Solicitor for and of Counsel  
with Defendant.

30

40

**Conclusions of Advisory Master.**

(Filed July 20, 1934.)

The petition filed by the husband in this case sets out desertion in the month of January, 1931. About this time he says that the wife abandoned the common bedroom and went to her own room or to another room. Apparently, however, these people lived together, or at least were on friendly terms, until about the first of August, 1931. On or about the first of August, 1931, there was a violent quarrel, as a result of which the husband admits having struck his wife, but says the quarrel arose out of certain letters that he had discovered, and one in particular which he found, from a man by the name of Bollenbach, who was then in the west and had left for the west on May 4th, 1931, or thereabouts. The husband, while admitting the blow, says that there was a free-for-all fight throughout the house. The wife became furiously angry and hysterical, and he slapped her face at this time, after having received blows himself. Anyway, from this time on they ceased to live with one another, although they remained in the same house for some considerable time thereafter.

There were two letters produced that show the underlying cause of the difficulty and of the separation in July or August, 1931. One letter, partially written by the defendant wife, on a Sunday, was addressed to "Dear Chester," which was the name of this man who had been corresponding with her. In this letter, which was evidently written immediately after the quarrel, she among other things, says:

"All I know is that Fred (the husband) went

*Conclusions of Advisory Master*

up to your father's house and showed the letters he got somewhere. I wonder if Flora gave him those letters or he may have got two from under the couch. I didn't keep them here, but I did go to Flora to burn some of them. I don't know where or how he got them, but he got one, I know, from my purse which I had hid under the pillow." 10

The rest of this letter or parts of it seems to refer to some divorce project that was on foot, whereby the recipient was to obtain a divorce from his wife. The most significant letter is a letter which the defendant denies receiving, but which the husband says he found in her purse at the time of the row on or about August 1st. This letter is from the same man from whom she admits receiving many letters. It is headed: "July 29th, 1931—Dearest," and it goes on with much advice of an intimate nature in regard to the defendant wife's health exhorting her to be careful of herself. It refers to the kind of shoes that he wishes her to buy and refers to shoes or stockings that she had bought before. Among other things, he says: 20 30

"There is nothing in this whole world I want as much as you, dearest. I need you more than anything I can think of."

He encloses a check for \$5.00 to buy the shoes, and in this letter, which is some ten pages long, he says:

"Dearest, I don't want you to share any room with Fred. You wouldn't and couldn't and be to me what you say you are, in the eyes of God." 40

*Conclusions of Advisory Master*

Previously the defendant wife is being quoted as having said that in the eyes of God they were man and wife. Again:

10 "If you share a room with him (meaning the husband) I will know that you do not love me, as you will not do a thing to displease me if you really love me, which I feel you do and have faith in you. As my wife would you share a room with another man? The same thing applies to Fred. You are his wife only in man-made law. You are my wife before God and I am going to keep you and protect you all my life."

20 I am satisfied from the testimony, that this letter fully corroborates the charge of desertion made by the husband. The reason is there, which is as plain as anything can possibly be. If these letters were proper letters, why was it necessary to burn them and to receive them clandestinely? I am satisfied that this defendant wife made up her mind never again to share her husband's bed some considerable length of time before the letter of July 29th was received. Her  
30 letter to him couples up closely with the letter of July 29th from him to her. It may be that this man has not made strenuous efforts to get his wife to return. I don't think any more strenuous efforts are required, than he made, when the wife is the recipient of letters such as these.

40 I will advise a decree for the petitioner on the ground of desertion. The counterclaim will be dismissed.

I will allow an additional \$150.00 counsel fee to the solicitor of the defendant, payable \$50.00 a month.

**Decree Nisi.**

(Filed July 20, 1934.)

IN CHANCERY OF NEW JERSEY.

102-229.

10

Between:

FRED HARRISON LANGILLE,  
Petitioner,  
and

EVELYN COWDERY LANGILLE,  
Defendant.

On Petition  
for Divorce.  
Decree Nisi.

20

This cause coming on to be heard in the presence of Frazer, Stoffer, Parnell & Jacobs, of counsel with the petitioner, and Harry Unger, Esq., of counsel with the defendant, upon petition, answer, counterclaim and answer thereto, and upon proofs being taken in open court, and the Court having heard and considered the pleadings and proofs in this cause, and the argument of counsel and it appearing that the petitioner and defendant were lawfully married on the 1st day of September, 1915, as alleged in said petition; and that the defendant has been guilty of willful, continued and obstinate desertion of the petitioner for the term of two years, as alleged in the said petition, and that at the time the cause of action for divorce for the said desertion arose the petitioner and defendant were bona fide residents of this state, and that the said petitioner and defendant have continued so to be down to the time of the commencement of this action, and that the petitioner and defendant have been, for the two years next pre-

30

40

*Decree Nisi*

ceding the commencement of this action, bona fide residents of this state; and

10 It further appearing that jurisdiction herein has been acquired by personal service of process upon the defendant within this state, as well as the appearance and answer of the defendant, and her counterclaim filed against the petitioner, and it further appearing that the defendant has failed by her proofs to sustain the allegations of her counterclaim, and that the same should be dismissed;

20 It is, thereupon on this 20th day of July, 1934, by his honor, Luther A. Campbell, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, that the said counterclaim of the said defendant, Evelyn Cowdery Langille, be dismissed and that the petitioner, Fred Harrison Langille, and the said defendant, Evelyn Cowdery Langille, be divorced from the bond of matrimony for the cause aforesaid, as charged in the petition of the said Fred Harrison Langille, and that the said parties and each of them be freed and discharged from the obligations thereof, unless within three 30 months from the date hereof sufficient cause be shown why this decree should not be made absolute.

40 It is further ORDERED, ADJUDGED and DECREED that the petitioner, Fred Harrison Langille, do pay to the solicitor of the defendant, Evelyn Cowdery Langille, the sum of One Hundred Fifty (\$150.00) Dollars as counsel fee, said sum to be payable in monthly installments of \$50.00 each.

LUTHER A. CAMPBELL,  
C.

Respectfully advised.

FRANCIS CHILD,  
A. M.

## Depositions.

IN CHANCERY OF NEW JERSEY.

#102-229.

Between:

FRED HARRISON LANGILLE,  
 Petitioner,  
 and

EVELYN COWDREY LANGILLE,  
 Defendant.

On Petition,  
 &c.

10

Depositions taken before me, Francis Child,  
 Advisory Master, at Chancery Chambers, #1060  
 Broad Street, Newark, New Jersey, on July 6th,  
 1934, at 10:00 o'clock in the forenoon, pursuant  
 to an order designating said time and place.

20

Appearances:

Frazer, Stoffer, Parnell & Jacobs, solicitors  
 for petitioner, #744 Broad Street, Newark, New  
 Jersey; by Spaulding Frazer, Esq.

Harry Unger, Esq., solicitor of defendant, #207  
 Market Street, Newark, N. J.

30

40

## Stenographer's Oath.

IN CHANCERY OF NEW JERSEY.

#102-229.

10 Between:

FRED HARRISON LANGILLE,  
 Petitioner,  
 and

EVELYN COWDREY LANGILLE,  
 Defendant.

On Petition,  
 &c.

20 State of New Jersey,  
 County of Essex, ss:

I, Anne M. Heger, of Newark, New Jersey,  
 do solemnly swear that I will, as stenographer,  
 carefully, faithfully and truly take stenographi-  
 cally, the evidence of the witnesses produced and  
 examined before Francis Child, Advisory Mas-  
 ter in Chancery of New Jersey, in the above-en-  
 titled cause, and that I will make a true and  
 correct transcript of the said evidence to the  
 30 best of my skill and understanding.

ANNE M. HEGER.

Subscribed and sworn to before me this  
 26th day of March, 1935.

Frederick C. Waldron,  
 An Attorney at Law of New Jersey.

*Petitioner's Witness Fred Harrison Langille,  
Direct*

FRED HARRISON LANGILLE, petitioner,  
duly sworn:

*Direct-examination by Mr. Frazer:*

Q. Mr. Langille, you are the petitioner in this cause? A. Yes, sir. 10

Q. When, where and by whom were you married? A. September 1st, 1915, in Vermont, Mr. Reynolds.

Q. After your marriage, you took up your domicile together? A. Yes.

Q. Where? A. Cushing Avenue, Dorchester, Massachusetts.

Q. How long did you stay there? A. I think 20  
we were there about a year.

Q. And from there where did you go? A. To Saven Hill Avenue, Dorchester.

Q. When did you move to New Jersey? A. In September, 1921.

Q. Where did you go then? A. I came down first. I left my wife in Salem, Massachusetts, well provided for, and she was living with some people who were in the house with us. She was 30  
about to have another baby at that time, and she stayed there until I came down here, and she had the child in the Salem Hospital.

Q. And you did establish yourself here and send for her? A. Yes.

Q. Where? A. On Melville Place, in Orange, I think it was.

Q. From that time did you continue to reside in New Jersey? A. Yes, I have up until the present time. 40

Q. In the year 1931, where were you living? A. 1931—I was living at No. 359 N. Maple Avenue, in an apartment.

*Petitioner's Witness Fred Harrison Langille,  
Direct*

Q. Where? A. East Orange.

10 Q. Now, tell the Court what happened at No. 359 in your relations with your wife? A. Well, my relations with my wife, they were beginning around 1930 to become kind of cool and distant, and on January 17th, 1931, that happened to be a Saturday or Saturday noon, I remember it distinctly because I made a memorandum of it, in the afternoon I was to have a rehearsal of a play that I was in, and that afternoon I came home early, and I was preparing to go to that rehearsal around one o'clock, and my wife was having a bath. She came from the bath and  
20 into the bedroom while I was there, and at that time something occurred, after which she said that that would be the last time she would have anything to do with me, and from that time on she was cool and distant and absolutely refused to have anything to do with me as my wife.

Q. What kind of an apartment was it? A. A three-room apartment.

30 Q. What arrangements did you make in relation to sleeping? A. Previous to that time she and I slept in the bedroom and my son slept on the couch in the living room. We had a large living room, and bedroom and kitchen and foyer.

Q. After that, what happened? A. After that my wife insisted on me sleeping in the bedroom with the boy and she on the couch.

Q. How long did that continue? A. Straight through 1931.

40 Q. How long did you continue to live at No. 359 N. Maple? A. Until sometime in September, 1931.

Q. Where did you go after that? A. I moved

*Petitioner's Witness Fred Harrison Langille,  
Direct*

across the street to No. 364 N. Maple Avenue, took rooms.

Q. How many? A. Two, with the privilege of cooking.

10

Q. What arrangements did you have there as to your sleeping? A. My son and I had the front second floor room, and she had the room just next door to us and then moved from there to the room in the rear. There were other roomers in the house too.

Q. How long did you stay at No. 364? A. From around the first of September until I established the apartment at No. 386 Springdale Avenue, on August 3rd, I believe, of 1932.

20

Q. Did your wife continue to live at No. 364 N. Maple Avenue all during this period? A. She did up to December 31st, 1931, when she left me. She also left me for at least two weeks while we were at No. 359 N. Maple Avenue.

Q. In the year 1931? A. Yes, in August.

Q. Where did she go then? A. To stay with a Mrs. Roberts at No. 200 N. Maple Avenue.

30

Q. In August, 1931? A. Yes.

Q. What were the circumstances of her going there at that time? A. Well, the second time we got in difficulties over her receiving correspondence that I objected to, and not being able to come to any understanding, she was continually forcing arguments with me and causing disturbances.

Q. Is that a diary you have there? A. Yes.

Q. Of notes you made yourself? A. Yes. On August 10th was when she left the house first.

40

Q. And went to Mrs. Roberts? A. Yes.

*Petitioner's Witness Fred Harrison Langille,  
Direct*

10 Q. And did she subsequently return to the house? A. Yes, off and on she would come back, sometimes during the daytime, and I would find things she had left, some things to eat, and she would go away again.

Q. During this time you had no sexual relations with her? A. No.

Q. Did you ask for it? A. I tried it.

Q. She refused? A. Yes.

Q. You say that in December, 1931, she finally left? A. Yes.

Q. What happened then? Did you continue to live there? A. Yes.

20 Q. Where was the son? A. With me.

Q. How long did that condition last? A. What condition?

Q. Living at No. 364 N. Maple Avenue? A. Until I established the residence at No. 386 Springdale Avenue.

30 Q. And what were the circumstances under which you came to establish the other residence? A. After a trial in the Domestic Relations Court, which was brought by her on the charge of non-support against me, which was held sometime in July, and the testimony of Mrs. Williams, who owned the apartment at No. 364, the Court ruled that I should establish another residence.

The Court: When was that?

Witness: July, I believe.

The Court: What year?

Witness: 1932.

40 Q. And it was in compliance with the ruling that you established the new home? A. Yes, and I was to notify her when that was established.

*Petitioner's Witness Fred Harrison Langille,  
Direct*

Q. Did you so notify her? A. I did.

Q. Did you request her to come? A. She understood that, because when she left for Vermont from Mrs. Roberts' house after the trial, which happened sometime in the early part of July, I believe it was, I drove her over to Jersey City to Journal Square and kissed her good-bye, and our understanding was that I should establish the residence. She called me and asked whether she could go to Vermont, and I said it was all right, and I would notify her when it was ready. 10

Q. And you did, on August 3rd, 1932? A. Yes, I wrote her the same day I established the residence. 20

Mr. Frazer: Have you that letter?

Mr. Unger: I never saw it.

The Court: Ask your client, Mr. Unger, if she has it.

Mr. Unger: She says that there were three lines written by him and that her former counsel has that.

Mr. Frazer: Have you any objection to my using a copy? 30

Mr. Unger: Mrs. Langille says that is not the letter.

The Court: Did she receive a copy of that letter?

Mr. Unger: No, sir.

Mr. Frazer: Mr. Langille, I show you a writing, and ask you if that is a copy of the letter which you sent to your wife? 40

The Court: When?

*Petitioner's Witness Fred Harrison Langille,  
Direct*

Mr. Frazer: On or about August 1st, 1932.

Witness: Yes, sir, that is a copy.

10 Mr. Frazer: In view of the fact that  
Mr. Unger says that there is no such letter,  
I would like to offer the copy as P-1.

Mr. Unger: I object on the ground that  
my client denies that this is a copy of  
the letter that this man refers to.

The Court: She denies ever having gotten  
it.

Mr. Unger: She said she did receive a  
letter of three lines.

20 The Court: She said she didn't receive  
this letter. It is up to him to prove the  
mailing of it.

Q. Did you receive a reply to that letter? A.  
I did.

Q. Is that the reply (indicating a letter)? A.  
Yes, that is the reply.

30 Mr. Unger: May I see that letter? (Examines  
letter.) That's her handwriting.  
No objection.

Received, marked P-2.

The Court: Read it.

---

"Tuesday, Aug. 2d, I guess.

Dear Fred:

40 I received your letter last night.  
Thank you for the money, but you still owe  
me another ten.

Have you got the letters from Mr. Parnell  
and Gorden? You are foolish to take the apart-

*Petitioner's Witness Fred Harrison Langille,  
Direct*

ment unless you get the letters. I told Mr. Nelson and I told you several times. You took the apt. because the Judge told you to.

I did not have any idea Frederick would either write or come to Vermont. I guess he did not want to see me after all. 10

I have no plans, Fred, until you get the letters also.

Where is the little apt.? What is it near?

Very sincerely,

EVELYN."

20

Q. Did she come to the new home that you established? A. No, sir.

The Court: Did you tell her where it was?

Witness: Yes, it was in the original letter. I told her it was No. 386 Springdale Avenue, and that the furniture was being moved into the apartment, asking her what her plans were.

The Court: You moved into the apartment yourself, then? 30

Witness: Yes, sir.

Q. And you continued to live there for how long? A. Until about March 21st, 1933.

Q. What happened then? A. Well, I received a notice from the office of Parnell & Gorden, that that day Judge Siegel had made an order stating that unless my wife came back to the apartment by March 30th, that I would be liable for no further payments under the Poor Act, to her. 40

Q. That was what year? A. 1932.

*Petitioner's Witness Fred Harrison Langille,  
Direct*

Q. Are you accurate on that? A. No, it was 1933.

Q. And you then left the apartment? A. Yes.

10 Q. With your son? A. With my son. Wait a minute. Previous to that time my wife came down from Vermont or wherever she was. I never checked up on her—never knew positively where she was.

The Court: Where did she come to?

20 Witness: To Mrs. Roberts, sometime in October. On September 1st, which was our anniversary, I sent her a telegram and also sent some money. I told her in reply to her letter that she had given me nothing definite as to her plans. I would have to refresh my memory. There is a copy of that telegram.

Mr. Frazer: Have you a copy of that telegram?

Mr. Unger: The telegram was received and is in the hands of her former attorney.

30 Mr. Frazer: I have a copy of it.

The Court: Why are not these papers in your hands, Mr. Unger?

Mr. Unger: She had some difficulty and cannot get the papers.

Q. Is that a copy of the telegram? A. Yes.

The Court: Read it.

40

---

“Seventeen years. I remember. Your letter indicated nothing definite.

FRED.”

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Received and marked P-3.

Q. On March 21st, 1933, in company with your boy, you left the Springdale Avenue apartment? A. Yes, my boy had left off and on previous to that time; sometime in November. 10

Q. Where had he gone? A. He had a chum that lived at No. 167 N. Maple Avenue, and he, with his chum, would get their lessons done together.

Q. Did you join your son afterwards? A. On March 21st.

Q. Where did you move to? A. No. 167 N. 18th Street. 20

Q. Boarding or apartment? A. Boarding.

Q. Been there since? A. Yes.

Q. You and your son? A. Yes.

*CROSS-EXAMINATION by Mr. Unger:*

Q. Now, after the marriage, you made your home at Dorchester, Massachusetts? A. Yes.

Q. And from time to time you moved to various places in Dorchester? A. Twice, in Dorchester. 30

Q. And in 1920 you came to New Jersey? A. 1921.

Q. You came here alone? A. Yes.

Q. Why didn't you bring Mrs. Langille with you? A. She was pregnant, and the arrangement I made with her was that she was to stay there. The doctor that was attending her was a personal friend and she wanted to stay there until the baby was delivered. She was in good hands. There was a five or six-room house. 40

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

She was satisfied. She said nothing to the contrary when I visited her.

Q. Up to this time she had never opposed any of your plans that you had made for her? A. I would not say she didn't.

Q. When you decided to come to New Jersey and leave her in Massachusetts, she said nothing? A. It was through her, a friend of hers, that she had suggested I see this friend's father in New Jersey, a man by the name of Yatman, who she had met at Lake George the year previous, and this man said he couldn't get any man to handle his plant the way he wanted it handled, and then Evelyn suggested that I might.

Q. What is your business? A. My business now is commercial representative for the American Telegraph Company.

Q. What was it then? A. Store manager for the Smith Albott Company.

Q. Were you employed at the time you came to New Jersey? A. Yes, I left the Smith Albott Company.

Q. And you went to start here in New Jersey for this other man? A. Yes.

Q. You had Frederick at that time? A. Certainly.

Q. Did you leave your boy with Mrs. Langille? A. Certainly, he was a baby.

Q. And Mrs. Langille was then pregnant with the other son? A. Yes.

Q. He is dead now, isn't he? A. Yes.

Q. When did you bring on Mrs. Langille? A. It was in May, 1922.

Q. Did you have an apartment at that time? A. I had the best I could afford. It was a room on Melville Place in East Orange.

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Q. One room? A. Yes, with the privilege of kitchen.

Q. What were you earning? A. \$50 a week.

Q. That was 1922? A. Yes.

Q. What did she say when she arrived, seeing the one room? A. It was the best I could do.

10

Q. She didn't object, did she? A. No.

Q. Where did you all sleep? A. In that room.

Q. And your son Frederick too? A. Yes.

Q. How long did you stay there? A. Two or three months.

Q. And then where did you go? A. To a place in Caldwell.

20

Q. What sort of a place? A. A little cottage house setting off the road.

Q. And Mrs. Langille attended to the household duties? A. Yes.

Q. Was everything all right at that time? A. Certainly.

Q. How long did you stay there? A. Until we were burned out.

30

Q. When was that? A. I can't recall how many months. I think we were there at least two or three months.

Q. Then where did you go? A. Back to the place on Melville Place.

Q. To the one-room apartment? A. Yes.

Q. And there were four of you in that apartment? A. Yes.

Q. Two boys, is that right? A. Yes.

Q. How long did you live there again in that room? A. For possibly two or three months; then we went out looking for an apartment and we finally found one in Irvington.

40

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Q. How many rooms were there? A. Five rooms and bath.

Q. Apartment house? A. No, cottage house.

10 Q. After that where did you go, and when?  
A. To No. 963 Grove Street.

Q. How long were you there? A. We were there over a year.

Q. Up to this time was the relationship still friendly between you and your wife? A. Certainly.

Q. That was what year when you moved to Grove Street? A. I think it was around '24 or '25.

20 Q. When did you move down to the shore?  
A. We went from the Grove Street apartment up to a place on 40th Street before we moved to the shore.

Q. And then to the shore? A. Yes.

Q. How long were you there? A. Until my son was killed; about nine months.

Q. What year was that? A. Around 1926.

30 Q. Then you lived at several other places, did you not, up to 1931? A. Wait a minute. In 1926, after the boy died or was killed in Keyport, my wife decided she didn't want to stay there. I was having difficulty with my business and was not satisfied, and she insisted that I send my boy Frederick up to his grandmother.

Q. She insisted upon that? A. Yes.

Q. Where was his grandmother living? A. Up in Massachusetts.

40 Q. As a matter of fact, wasn't it your will that the boy should go there? A. No.

Q. You are positive? A. Yes.

Q. Whose idea was it to send the boy to

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

school there? A. Naturally, if he was there he should go to school there.

Q. Isn't it a fact that Mrs. Langille insisted that the boy remain here and go to school in New Jersey? A. She did not; not at that time. 10

Q. Mr. Langille, when did you have the party where a number of your friends were invited and you exhibited a letter that supposedly had come from someone that you both knew? A. In what apartment? What party? I don't know what you are talking about, about exhibiting a letter.

Q. Do you recall when you smashed her in the face? A. Yes, I recall that. 20

Q. Wasn't it at a party and in the midst of the party when you did that? A. It was not.

Q. And wasn't it at that party that you held up a letter and said, "I have a letter from your boy friend"? A. No.

Q. When was it? A. That happened in August or the latter part of July, 1931, and there was nobody in the apartment except a Miss Ann Lasser, and my wife had told me that afternoon that she had received some letters from the west, and she showed me one addressed to herself and myself, and showed me pamphlets, one October and one November, that were sent to her, in which certain details were underscored by this party, and also a piece of a published song which said, "I Surrender, Dear." I asked her if that was all the correspondence she received and she said "No," and I asked her to let me see the correspondence and she said "No." I saw her pocketbook on the bed. I opened it and took out this letter. When she 30 40

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

10 saw me doing that she tried to get it away. She battled with me down through the house and pounded me in the face, and I brought her back into the house in the hall, and after this fit of temper she turned around to me again, and in order to bring her out of the hysterics, I hit her in the face.

Q. And you knocked her to the floor? A. I didn't.

Q. And you said that she was doing all the battling? A. Yes.

20 Q. Who sent this letter? A. I didn't intend to bring this subject in, but the man's name was Chester G. Bollenbach.

Q. He was your friend, was he not? A. Supposed to be.

Q. You told him to correspond with you and your wife when he was away? A. With my wife and myself, certainly.

30 Q. And when a letter came, you got furious? A. Why shouldn't I get furious, when it was directed to her and came through a private box.

Q. Wasn't that letter addressed to you directly? A. It was not.

Q. How many of these letters came? A. A great many.

Q. Have you got them? A. I haven't got them all. I returned some to her.

40 Q. Mr. Langille, you have been rather harsh and cruel with your wife, haven't you, even years before this? A. I would say absolutely not.

Q. You are rather of a nervous and quick temperament yourself, aren't you?

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Mr. Frazer: I object—

The Court: I will permit it.

Witness: No, sir.

Q. Did you supply all necessities to your wife? A. To the limits of my means. 10

Q. You made pretty good money? A. I made on an average of \$40 a week.

Q. You made \$175 a month? A. I am making that now and also commissions. I was making some commissions at that time.

Q. Besides, you were singing and you made some money there? A. About \$250 a year.

Q. And when she asked you to buy her clothing, did you do it? A. To the limit of my means. 20

Q. Did you ever refuse? A. Not that I recall, no.

Q. When did you send your boy up to Massachusetts? A. Which time do you mean?

Q. The first time? A. He went along with us at the time of the funeral, I believe in October, 1926, or something like that. The boy was left there. 30

Q. How long did the boy stay there? A. He was there a year.

Q. Did he come back? A. Yes.

Q. How old was he at that time? A. I think around twelve years.

Q. Then when did you send him to school in Massachusetts? A. The year he went up.

Q. What year? A. 1926.

Q. Did you ever take Mrs. Langille up to see him after that? A. Yes, we went up. 40

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Q. This apartment that was at #359 N. Maple Avenue, East Orange, what did that consist of?

A. Of a living room, long foyer hall, bedroom, bathroom and kitchen.

10 Q. Did you have any misunderstanding or any argument with your wife when you decided to take the furniture and move across the way in one room? A. There was quite a bit of dis-sension on account of this letter business.

Q. What year was that? A. 1931.

Q. Was that the same time? A. Certainly, between May and September, 1931.

20 Q. Isn't it a fact that you told her one day in this three room apartment at #359 N. Maple Avenue, using these words, "I am going to take the furniture out of here, put it in storage, move across the street with the boy, and you can go where you like." Isn't that so? A. Yes.

Q. Did you take out the furniture then? Answer it yes or no. (No answer.)

The Court: Did you take it out?

Witness: Yes.

30 Q. What did you do with it? A. Part of it I put in storage and part of it I took to #364.

Q. Who conducted that place across the street, #359? A. Mrs. Milman.

Q. You were very friendly with her? A. I knew her for three years.

Q. And you took one room there? A. You said No. 359.

Q. You left No. 359, didn't you?

40 The Court: You asked about No. 359. What you probably meant was No. 364.

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Q. Now, you took one room in the house known as No. 364? A. Two rooms with the privilege of cooking.

Q. And who would do the cooking? A. My wife. 10

Q. You told her that she was going to stay at No. 359, didn't you? A. Oh, no! Before the furniture was moved to No. 364 N. Maple Avenue, the Sunday previous to when it was moved, she agreed to come over to No. 364 and forget the differences.

Q. How many days did Mrs. Langille, your wife, remain at the house at No. 359 before you finally sent for her? A. I didn't send for her; it was understood, but she was there for two days and that was due to the fact that the moving men could not get the couch that she insisted on moving, up the stairs, and Mrs. Williams didn't have a bed. 20

Q. Isn't it a fact that you moved all your furniture, took your boy across the street, and left Mrs. Langille in the empty apartment? A. She slept in that empty apartment on a couch that I got from Mrs. Milman to cover this emergency. She agreed to stay there and come over the next morning and she cooked over there. I wanted to stay there, but she would not do it. She insisted on staying there. 30

Q. And when you did take a room— A. I took two.

Q. When you did take her across to the house known as No. 364, you took another room, did you not? A. Sure. I had the other room before she came across. 40

Q. That was not a connecting room? A. It

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

was right next door. No, it couldn't be. There were no connecting rooms there.

10 Q. Why did you insist upon going into a boarding house? A. After the situation that was caused by these letters and the dissension that it caused with my wife, I could do nothing else to get myself straightened out, except to move into another place where I could get on my feet.

Q. You were working then? A. Yes.

20 Q. Didn't you have enough money to hire a decent, respectable suite of rooms? A. It was not a boarding house. It was an apartment. We had the same privileges we would have in our own home.

Q. And Mrs. Williams didn't like Mrs. Langille, did she? A. She certainly did.

Q. You remember the little Christmas tree that she planted for her boy?

The Court: Whose boy?

Mr. Unger: Their boy.

30 Q. And didn't this woman run into the boarding house and say that she must take up this Christmas tree? A. No, I was not there.

Q. And when Mrs. Langille said to this other woman that she would not do it, that she was cooking at that time for her husband, and she would remove it some other time, she said, "You leave this house at once." You knew that? A. No.

40 Q. When did you find out? A. When I came home at noon.

Q. What did you do? A. I tried to find out what it was all about. My wife had left the

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

house. I went around the corner to a beauty parlor conducted by a friend of my wife, and I saw her there. I asked her what it was all about.

Q. Was she crying? A. Not that I recall. 10

Q. And she told you that she was ordered out of the house by Mrs. Williams? A. Yes.

Q. And she asked you immediately to get an apartment so that she could live in peace and comfort? A. No.

Q. What did she say? A. She just said that Mrs. Williams had ordered her out of the house; that she got in a row on account of the Christmas tree, and she was going to leave. 20

Q. Did she leave? A. Yes.

Q. Did you go with her? A. No.

Q. Why didn't you take an apartment? A. Because I was not able at that time to move.

Q. With commissions, and \$175.00, and a commission for singing? A. How much is that a week?

Q. I am not going to argue with you. I am asking you why you couldn't move? A. I had other bills to pay and debts that I had been running up, and with a salary of about \$40.00 a week you can't jump around. 30

Q. And the truth of the matter is that you intended to drive her away out of your house? A. That is absolutely not so.

Q. She didn't come back to Mrs. Williams' house, did she? A. Once that I recall.

Q. How long did she stay? A. Long enough to have another argument and get out. 40

Q. She wanted you to rent an apartment, didn't she? A. Yes.

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

Q. And you refused? A. I did not.

Q. Why didn't you do it then? A. Because I said that as soon as I could, I would.

10 Q. What were you in the habit of paying for the apartment at No. 359? A. \$62.50.

Q. And it was reduced to \$50.00, was it not? A. It was not.

Q. Why didn't you take another apartment for \$50.00 or \$60.00? A. As a matter of fact, she insisted that I take another apartment in some place for \$70.00. She worked, too. She insisted on working ever since the child died.

Q. You both worked? A. That's so.

20 Q. With all the money coming in, you were unable to take an apartment of about three rooms, isn't that so? A. I said no.

Q. But the fact remains that you didn't take an apartment? A. No.

Q. You also at times called her some vile names, did you not? A. Vile names, no. I called her a name—I will tell you the exact date.

30 Q. Tell us, what names did you call her? A. I called her a "hellion" one Sunday afternoon, because she was continually fighting with me.

Q. Did you call her a "son of a b—"? A. No.

Q. Did you call her a "whore"? A. No. Not that I recall.

Q. But you might have called her that, when you got mad and lost your temper? A. I don't recall doing it.

40 Q. Mr. Langille, you also told the boy, your son, Frederick, and her son, not to be friendly with his mother. Is that right? A. I will let

*Petitioner's Witness, Fred Harrison Langille,  
Cross*

the boy answer that for himself. My answer is no.

Q. You know that the boy lost all his love for her. You know that? A. That's her own fault. 10

Q. I am asking you if he has? A. I believe he has.

Q. Were you in this court room before his Honor arrived? A. Yes.

Q. Did you see, when Mrs. Langille went to that boy and attempted to embrace him, did you see what he did? A. He is privileged to do as he wishes to do. I have not attempted to control his feelings. 20

The Court: Did you see what he did?  
Witness: Yes.

Q. In 1932, July, your wife made a complaint against you at Domestic Relations Court? A. Yes.

Q. You had a hearing? A. Yes.

Q. And Judge Siegler entered an order which I believe is attached to one of your pleadings, ordering you to take an apartment and support her, or pay her so much per week, is that right? A. Yes. 30

Q. You did take an apartment? A. Yes.

Q. You know whether she went to that apartment? A. No, she didn't. The first time that I knew anything about her even seeing the apartment was in October, 1932, sometime around the 13th, I should imagine, when I saw she and Mrs. Roberts looking at the apartment. As a matter of fact, she objected to the location. 40

*Petitioner's Witness, Fred Langille, Jr., Direct*

Q. She went, nevertheless, didn't she? A. Not that I know of.

10 Q. Do you know that Frederick, your son, told her that nothing in the apartment belongs to her and that she was undesirable? A. I never knew of any such statement.

Q. You walked in and she said, "Hello, Fred," and you walked on and would not talk to her?

A. When?

Q. In October, 1932? A. No, sir.

Q. You gave up that apartment afterwards?

A. I gave up that apartment in June.

Q. And you came before Judge Siegler again?

A. Yes.

20 Q. And that was the time that he entered an order that you pay so much to your wife?

A. Yes, under the Poor Act.

Q. So the truth of the matter is that your wife has never left you on her own accord?

A. The truth of the matter is that she absolutely did.

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30 FRED LANGILLE, JR., duly sworn for the Petitioner.

*Direct-examination by Mr. Fraser:*

Q. You are the son of Fred H. Langille and Evelyn Langille? A. Yes.

Q. Do you remember living at No. 359 N. Maple Avenue, East Orange? A. Yes.

40 Q. Do you remember what the room arrangement was at that apartment house in the year 1931? I mean how many rooms you had? A. We had three rooms, bedroom, front room and long hall.

*Petitioner's Witness, Fred Langille, Jr., Direct*

Q. In 1931 what were the sleeping arrangements? A. I don't exactly remember the time when Dad and I started sleeping together. We slept practically all of that year together.

Q. You slept in the bedroom? A. Yes.

Q. And your mother slept in the front room on the couch? A. Yes.

10

Q. When you moved across to No. 364, do you remember going over there to Mrs. Williams'? A. Yes.

Q. How many rooms did you have there? A. Two.

Q. What were the sleeping arrangements there? A. Dad and I slept together in the front room and mother took the room in back.

20

Q. Was there any connection between those rooms? A. No, there was no connection between any rooms.

Q. Do you remember an episode of a Christmas tree? A. Yes.

Q. Tell us what happened? A. It seems that the week after Christmas, New Year's Day, to be exact, the needles kept falling off the tree, and they fell on the floor; the tree was in the front room—

30

Q. In your front room? A. Downstairs.

Q. Who had put the tree there? A. Dad and I put the tree there. The needles kept falling off, and I cleaned them up once myself. Mrs. Williams was perfectly right.

Q. What did Mrs. Williams do? A. She wanted it taken down.

Q. Did she speak to your mother? A. She asked her very kindly. Mother got mad, took the tree, picked it up and heaved it down the cellar, ornaments and everything.

40

*Petitioner's Witness, Fred Langille, Jr., Cross*

*CROSS-EXAMINATION by Mr. Unger:*

Q. That was in what year? A. 1931.

Q. Were you home at that time? A. Yes.

10 Q. Were you home when Mrs. Williams asked your mother to throw the tree out? A. My mother picked it up herself.

Q. I asked you if you were there when Mrs. Williams asked your mother to throw it out? A. She didn't ask her to throw it out. She asked her to clean it up and take it down.

Q. And what did your mother reply? A. She said, "It is all right here, it should stay up until after New Year's Day."

20 Q. And Mrs. Williams was satisfied? A. Of course not. You would not want your own front room all messed up.

Q. You were there all the time? A. Yes, all morning, until dinner time.

Q. Isn't it a fact that your mother told Mrs. Williams that just as soon as she finished the cooking, she would throw away the tree? A. No, she was cleaning house.

30 The Court: Who was?

Witness: My mother.

Q. She was not cooking? A. No.

Q. Was she doing something? A. Yes.

Q. And she told Mrs. Williams that she would do away with the tree just as soon as she was finished? A. No.

Q. What did Mrs. Williams say? A. She said, "Take it out now."

40 Q. And your mother refused? A. My mother got so mad, she took it up and threw it down the cellar.

*Petitioner's Witness, Fred Langille, Jr., Cross*

Q. You don't like your mother, do you? A. Not now, no.

Q. But you did like your mother? A. I have.

Q. You caused her a lot of trouble, didn't you? A. No. 10

Q. You sassed her? A. I have not; if I did, I got my mouth clipped.

Q. Your mother wrote you letters, didn't she? A. When.

Q. When you were at school in Massachusetts? A. Yes.

Q. And you would return those letters? A. I think I received four letters.

Q. What did you do with them up there? A. I don't know what I did with them. 20

Q. Did you return any of them? A. I wrote back.

Q. Did you return the letters to your mother that you received from her? A. Of course not.

Q. Did you answer letters to her? A. Yes.

Q. Did she go up to see you? A. Yes, Dad and Mother came up one Christmas.

Q. Did she go up alone? A. No. 30

Q. You told his Honor that you answered those letters, did you not, and the truth of the matter is that you never answered those letters. A. I beg pardon, but I did.

Q. You never did—

The Court: He has answered your question.

Q. Your mother attempted to embrace you this morning? A. Yes. 40

Q. You pushed her aside? A. No, she touched me, and I ducked.

*Petitioner's Witness, Florence Roberts, Direct*

Q. What did you say? A. I said, "Go away."

Q. Why? A. If she loves me, she should have stayed with me in 1931. All she does is hinder my school work. How can a fellow get an education?

10 Q. She has always been good to you, hasn't she? A. She was good sometimes. My father and I are pals.

Q. You go out together? A. Yes.

Q. You live where? A. No. 167 N. 18th Street.

Q. With whom? A. With Mrs. Stevens.

Q. Who is she? A. Francis Stevens is a chum of mine, her son. She runs the boarding house.

20 Q. How old is she? A. How do I know?

Q. When your father takes you out, Mrs. Stevens goes out, too, doesn't she? A. No.

Mr. Frazer: I object.

The Court: It is outside of the scope of your examination.

30

MRS. FLORENCE ROBERTS, duly sworn for the petitioner.

*Direct-examination by Mr. Frazer:*

Q. Mrs. Roberts, you are acquainted with Mr. and Mrs. Langille? A. I am.

Q. And have been for a number of years? A. Yes.

40 Q. Did Mrs. Langille at any time stay with you? A. She did.

Q. When was that? A. It was 1932, sometime that year.

*Petitioner's Witness, Florence Roberts, Direct*

Q. Do you know where Mr. Langille was living at that time? A. Yes.

Q. Whereabouts? A. He was living, I believe it was across the street from the apartment, No. 359.

Q. No. 364—Mrs. Williams' house? A. Yes. 10

Q. During the period that Mrs. Langille was staying with you, did she stay there regularly? A. No, she came and left.

Q. How long would she stay with you? A. Perhaps two or three days.

Q. Do you know where she came from? A. Sometimes from relations from out of town.

Q. But she didn't at any time come from Mr. Langille? A. No. 20

Q. Now, while Mrs. Langille was staying with you, did Mr. Langille ever call? A. Yes.

Q. Did you ever hear any conversations between them? A. Yes.

Q. Do you remember any of them? A. Yes, I recall one conversation. Mr. Langille came over on Mrs. Langille's birthday. I remember that conversation.

Q. What was said then? A. He just brought her flowers and a bit of cash. I don't remember the conversation, but I remember the flowers and money. 30

Q. Was he courteous and friendly? A. Yes, I should say so.

Q. Was anything said in your presence about Mrs. Langille returning to him? A. Yes.

Q. Do you remember generally what that was? A. In a general way he said that the apartment he was supposed to have gotten, was ready, and any time she was ready, it was there. 40

Q. Did she say anything? A. I don't recall Mrs. Langille's reply.

*Petitioner's Witness, Florence Roberts, Cross*

*CROSS-EXAMINATION by Mr. Unger:*

Q. Mrs. Roberts, you live where? A. No. 87 Chestnut Street, East Orange, N. J.

10 Q. How long have you known the Langilles?  
A. I think it was 1921 that I met them.

Q. You used to visit them frequently? A. Yes.

Q. And did you ever have occasion to visit at No. 359 N. Maple Avenue, East Orange? A. Yes.

20 Q. Did you come in the apartment immediately after a dinner where some friends were invited? A. Immediately after a dinner? I believe I was there at the dinner.

Q. Was there anything unusual between Mrs. Langille and her husband? A. Not while I was there. I left shortly after dinner to go on an errand.

Q. Did you return? A. I returned to the building, but not upstairs.

30 Q. Isn't it a fact that you took Mrs. Langille out of the house? A. I did not. She was already out.

Q. You took her to your own house at that time, didn't you? A. She went to my house with me, but I didn't take her from her house.

Q. She complained to you at that time about her husband assaulting her, didn't she?

40 Mr. Frazer: I object to statements which were made by Mrs. Langille to this witness. They are self-serving declarations.

The Court: I think that under the ruling of our Court that these statements are admissible. *Re Haskell vs. Haskell.*

*Petitioner's Witness, James Mooreman, Direct*

Q. Did she complain to you about her husband having assaulted her? A. She said that he had struck her.

Q. And you took her to your own house? A. She went to my house with me.

Q. How long did she stay? A. I don't remember how long at that time. 10

The Court: When she told you that her husband struck her, what did you say to her?

Witness: I really don't remember.

The Court: Did you ask her why?

Witness: I don't remember.

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20

DR. JAMES MOOREMAN, duly sworn for the petitioner:

*Direct-examination by Mr. Frazer:*

Q. Where do you live, Dr. Mooreman? A. No. 56 Warrington Place, East Orange, N. J.

Q. What is your profession? A. Chiropractor.

Q. Are you acquainted with the parties to this suit? A. I am. 30

Q. How long have you known them? A. About eight or nine years.

Q. Were you on terms of some intimacy with them? A. I knew them very well.

Q. Did you know anything about their domestic relations? A. Naturally, I would know something about them.

Q. Did you know anything about their sleeping arrangements? A. No. 40

Q. Did you ever have any conversation with

*Petitioner's Witness, James Mooreman, Direct*

Mrs. Langille about her relations with her husband? A. Just what do you mean?

Q. Did she ever discuss her matrimonial affairs with you? A. I would not say she ever did.

10 Q. Did you ever have any talks with her alone? A. There was some discussion about just how they were getting along toward the latter part.

Q. When? A. About the last six months of 1930, there seemed to be a rift of some kind.

Q. Did you have any occasion to discuss that rift? A. I did.

20 Q. When was that? A. I don't keep a diary. I seen there was something happening in the Langille home and I talked to the two of them.

The Court: What did you say to Mrs. Langille, and what did she say to you?

Witness: Mrs. Langille suggested that she was going to leave Fred; I don't know just what time that was. There was some talk about it, and after it happened. Most of the talk was after this happened.

30 Q. After the separation? A. Yes.

Q. When they were occupying separate houses? A. I don't know where Mrs. Langille was. I would see her once in a while. One time I learned that she was with Mrs. Roberts. I was more interested in the boy's welfare.

The Court: What did Mrs. Langille say?

40 Witness: I told her that I couldn't understand why there should be any trouble between these two people. There never had been any trouble before. There seemed to be something that came up and there was not very much explaining about it.

*Petitioner's Witness, James Mooreman, Direct*

Q. What did she say to you about the cause of the trouble? A. She didn't say what the cause was. She said she would not go back.

Q. And you urged her to go back? A. Yes. She said she would not live on Springdale Avenue, among niggers. 10

Q. Were you present on the occasion which counsel has referred to as a dinner party? A. No.

Q. Do you remember an occasion when you brought young Fred, the son, over, when she was at Mrs. Robert's? A. I sent him over from school one time. I called at the school.

The Court: Did you go with Fred to see his mother? 20

Witness: No, I sent him over to see his mother.

Q. You were friendly with the two of them? A. Supposed to have been a friend of the two of them.

Q. Mrs. Langille was pretty nice to you? A. Mrs. Langille, I thought, was nice to everybody.

Q. You knew that Mrs. Langille was beat up, didn't you? A. I can't say whether Mrs. Langille was beat up. The time I examined her face, I didn't see that she was hurt in any way. 30

Q. Were you at that party? A. No, they came up about a half hour after that.

Q. She came to your office? A. I don't recall that, but I examined her face.

Q. How soon after the assault took place? A. I didn't know there was an assault.

Q. Did she tell you? A. She said so.

Q. And you didn't see any marks? A. I didn't see any marks. 40

*Petitioner's Witness, James Mooreman, Direct*

Q. Where did you examine her face, at the office? A. I don't think so. I think it was at the house.

Q. You were at the party? A. I didn't know there was a party.

10 Q. You said on direct-examination that you talked to Mrs. Langille with reference to the relationship between herself and her husband, and she said that she would leave Fred? A. Words to that effect, yes.

Q. How did she come to say that? A. I can't tell you just how it came out.

20 Q. Just try to think and let us have the complaint that she made to you, and why this was said. A. I think that was after this so-called fight that they had. It seemed that everything started from that.

Q. What did she say? A. I don't recall exactly. The substance of it was that she would not live with him any more.

Q. What did you say to her when she said that? A. I have always endeavored to be a peacemaker in that family.

30 Q. What advice did you give her? A. I talked along the lines that she owed a debt to her son.

Q. What did she say about her son? A. I would not say that Mrs. Langille was very much interested in her son.

Q. What did she say? A. I don't know.

Q. Was that all the conversation you had? A. It was enough, wasn't it?

40 Q. Did you have any other conversation with her subsequently? A. I think there was a time when she came to me. I don't know whether that was the same time or not. You can't remember these details like a lawyer would. It

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

seems to me that I did take Mrs. Langille to have an X-ray taken of her face. This face condition had happened some time before, as I understood it. She had a tooth causing trouble and if there was any injury, it was that. 10

Q. You seem to be troubled about that assault. A. Not a bit.

Q. You see, I asked you if she talked to you about her husband after that. A. The only thing I know of is the assault.

Mr. Frazer: The petitioner rests.

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MRS. EVELYN COWDREY LANGILLE,  
duly sworn, defendant:

*Direct-examination by Mr. Unger:*

Q. Where do you live? A. No. 173 Center Street, Nutley, N. J.

Q. With whom? A. Mrs. Bessie Jacobus.

Q. How long do you live there? A. I have lived there since the divorce papers were served. 30

The Court: How long, please.

Witness: Since the first of June.

Q. After the marriage, Mrs. Langille, you took up your residence with your husband, at Dorchester? A. Yes.

Q. And you lived at various places? A. Yes.

Q. And what year was it that your husband decided to come to New Jersey? A. 1921 or 1922.

Q. Will you kindly tell the Court under what circumstances did he leave Dorchester, Massachusetts, to come to New Jersey? A. He came 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

for a job which I had told him about. I was left alone in the house and finally I found another family to come to live with me, because I didn't have money enough.

10 Q. What were the arrangements between you and he with reference to you coming on? A. I should come down to New Jersey just as soon as he thought the job was to be permanent.

Q. Was this job permanent? A. Yes.

Q. How long after he left for New Jersey was it that you came here? A. I came down in May, 1922.

20 Q. How old was Frederick? A. Five years old. I think he was about five years old.

Q. When you came here, did your husband take an apartment for you? A. No.

Q. Where did you stay? A. No. 71 Mitchell Street, East Orange.

Q. What sort of place was this? A. Rooming house.

Q. Who conducted that rooming house? A. Mrs. Kelly.

30 Q. How many rooms did you have? A. One room and kitchen privileges so many hours of the day.

Q. Did you have your second boy at that time? A. Yes, he was three months old.

Q. You brought him with you? A. Yes.

40 Q. At this stage, what was the treatment accorded to you by Mr. Langille? A. The conduct started before I come down, because he didn't want me to come here; until my family said, "You have got to go."

Q. Did he tell you to come? A. No. He said he would send me money, but it never came. My cousin said, "You have got to go."

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. Who gave you the money? A. He finally sent it to me.

Q. While you were living in this house owned by Mrs. Kelly, my question was, "What treatment did he accord to you"? A. He didn't come near me as a wife for six weeks. 10

Q. Why? A. I don't know why. I didn't like to ask questions like that.

Q. Will you explain just what you mean? A. We didn't have intercourse, and I had been away from him for a whole year.

Q. Why didn't you? A. I don't know. I didn't ask him.

Q. But you lived with him when you came to New Jersey. You took up your residence with your husband? A. Yes. 20

Q. And you had no sexual intercourse for about a year? A. Six weeks.

Q. But you lived there how long? A. A few months.

Q. Then what happened? A. We went to Caldwell because I wanted a house.

Q. What sort of place was this? A. It was all right if we had had furniture, but we didn't have furniture. 30

Q. Was he working? A. Yes, but our furniture was in storage at Salem, and he was going to bring the furniture down, but the house caught on fire. It was not our furniture that burned. Then we came back to Mitchell Place. Then we found another place in an apartment house, friends of ours wanted to give it up, and then Mr. Langille and I and Frederick took a day and found a place at No. 963 Grove Street, Irvington, and we stayed there, I should say, 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

about a year, and then Mr. Langille thought it was too much rent.

Q. How much rent was it? A. \$60.00 at that time.

10 Q. You lived on Grove Street for a while, and then where did you go? A. Melville Place, No. 78. That was a little cottage house.

Q. How many rooms? A. Six.

Q. What was the rent there? A. \$35.00, because I took care of a man. He lived with us. He gave us the rent for \$35.00.

Q. And you took care of him? A. Yes. He turned out to have tuberculosis.

20 Q. How long did this last? A. I think until fall.

Q. Then where did you move? A. No. 810 Lyons Avenue.

Q. How long were you there? A. I should think about a year perhaps.

Q. During all this time were you on friendly relations with your husband? A. Certainly.

30 Q. Then what happened? A. Then Mr. Langille lost his job because the company failed, and we went to Union, Morris Avenue, and then Mr. Langille started to work again, and it was purely commission. We were put out because we didn't have the rent just at the moment.

Q. Who paid the rent? A. Mr. Langille.

Q. Who bought the necessities for the house? A. I did. I charged it.

Q. Who paid for it? A. He did, eventually.

40 Q. Did he buy you clothing? A. No, at that time my family sent clothes which I made over.

Q. Did you ask him to buy clothes, shoes, and hats? A. Yes.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. Did he do it? A. Never seemed to have money.

Q. Did he buy any clothing, shoes, or hats, for the boys? A. They had some, but I had to wash the clothes at night so they would have them the next day. 10

Q. Where did you move to from there? A. To 40th Street.

Q. And where did you live in September, 1931? A. At No. 359 N. Maple Avenue.

Q. Will you kindly tell us what happened there? A. Mrs. Florence Roberts and Dr. Mooreman and Miss Ann Lasser had dinner with us. 20

Q. Was your husband there? A. Yes. We had dinner, and Florence, Mrs. Roberts, said she wanted to post a letter to her daughter. Dr. Mooreman offered to take her to post the letter. We were planning to play cards, and Ann was sitting by the radio and I was clearing the table off, and Fred came out and said, "Did you get a letter from your boy friend?" and I said, "No," and he said, "Try and get this one," and we started to argue about it, through the house and down the stairs, out of the house, and he knocked me unconscious by hitting me on an infected tooth. Dr. Mooreman and Mrs. Roberts came around the corner, and Mrs. Roberts said, "You had better come with me." Dr. Mooreman stayed with Fred that night; at least he said he did. 30

Q. So he was at this party? A. Certainly.

Q. When he hit you in the jaw, did anyone interfere? A. No. 40

Q. Were you knocked to the floor? A. Cer-

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

tainly. He was shaking me and he said, "Don't pull any of that stuff off on me."

10 Q. From whom was this letter? A. From Chester Bollenbach.

Q. Was he a friend of Mr. Langille? A. Yes, of both of us.

Q. Was this letter that your husband held up and said, "Try and get this one," was it addressed to you or to him? A. I don't know. I never got it.

Q. Did you get it? A. No.

Q. Did you ever receive that? A. No.

20 Q. Was that letter ever opened by anyone and read to you? A. No.

Q. Did this man ever correspond with you before that or after that? A. Yes, before that.

Q. Why did he correspond with you? A. He corresponded with me and with Fred; both of us.

Q. When he would correspond, would he address it to the two of you? A. No, sometimes just to me and sometimes to Fred.

30 Q. He was a friend of both of you? A. Yes.

Q. How many letters did he send to you and your husband—many? A. Yes.

Q. Did he send any letters to you afterwards? A. He tried to, by way of Mrs. Roberts. She gave me the letter and I sent it back, and she told Fred that I had received the letter.

Q. Did this man, Bollenbach, ever send letters to you and mail them General Delivery, in a post-office? A. No.

40 Q. Up to this point, up to the point of this assault, 1931, how did you treat your husband? A. Well, I was terribly humiliated and hurt.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. I mean up to that time. Were you good to him? A. I cooked for him and kept his house clean.

Q. And you lived as man and wife steadily? A. Yes, sir. 10

Q. And how did you treat the boy Frederick? A. Of course I loved him. I was good to him.

Q. After that assault, what happened? A. Mr. Langille took rooms at No. 364 N. Maple Avenue. He came to me in September, and he said, "Evelyn, I want you to have Frederick's clothes all washed and ironed." I said, "What for?" He said, "Because I am taking him to Massachusetts." I said, "What does he need all his clothes for?" He said, "Because I am going to leave him there." I said, "What for?" I said, "Fred, he is a big boy; you can't tell him what he must do." Frederick came to me and said, "I don't want to go there." I said, "Frederick, you have to mind what your mother and father says," and he said, "I am coming back," and I said, "You bet you are, if you want to!" Then I said to Mr. Langille, "What am I going to do?" and he said, "Go west." I said, "I have no money, what am I going to do?" and he took some money and threw it on the couch and I stayed over Labor Day in the apartment. 20 30

Q. What did he tell you with reference to moving? A. I didn't know he was going to move until the furniture people came for the things at No. 359 N. Maple Avenue.

Q. What did you say? A. I didn't know what to say, I was so humiliated. I didn't know what to do. 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. Did you say anything to your husband?

A. I said, "Where am I going?" This was after the furniture had gone.

10 Q. Where had the furniture gone? A. To the storage rooms.

Q. What was the conversation between you and your husband after the furniture was taken?

A. I said, "Where am I supposed to go?" and he said, "I don't care what in hell you do."

Q. Was anybody else in the apartment? A. No. Then he went to Mrs. Millman and got an army cot, and I stayed there two or three nights.

20 Q. Did you know where he went? A. To No. 364 N. Maple Avenue.

Q. Did he ask you to go there with him? A. Not until later.

Q. How many days did you stay in this apartment known as No. 359 N. Maple Avenue? A. I slept there two nights.

Q. Where did you eat? A. There was some left.

Q. Why didn't you go next door? A. There was no place to go.

30 Q. How many rooms did he have? A. He only had one.

Q. After two days, what happened? A. He said, "There is a little room over there, will you take it," and I said, "Yes."

Q. When your furniture was being taken away, how did you feel? A. Humiliated and hurt.

Q. Was Mr. Langille there? A. Certainly.

40 Q. Did you make any effort to stop the men from taking the furniture? A. I didn't know what to do.

Q. After the two days, did you talk to Mr.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Langille? A. Certainly. He came over and asked me if I would occupy a room.

Q. Was that the first time he had been there since the furniture was taken away? A. No, he was there the night he brought the cot. 10

Q. Did you talk with him at that time? A. No. He just came in and set the cot down and walked out.

Q. Didn't you ask him? A. I couldn't. I was so humiliated and hurt. He has hurt me all my life.

Q. When he took this other room, Mrs. Langille, did you go across? A. Certainly.

Q. Was this room that he hired for you connected in any way with the room he occupied? A. No. 20

Q. Was this room that he hired for you, furnished? A. It had a few things in it, a water bowl and pitcher, and he brought the army cot.

Q. And you slept on the army cot, in this room conducted by Mrs. Williams? A. Yes.

Q. And he slept where? A. In the front room, in bed.

Q. With the boy? A. Yes. 30

Q. How long did you sleep on the army cot? A. Several weeks.

Q. How did you feel about that? Did you complain? A. I caught a terrific cold. I had been used to sleeping with a mattress, and I caught cold. When he did come in to see me, he put his cold hands all over me. He let the water run over his hands and put his hands over me.

Q. How long did you stay there? A. Eventually, Mrs. Grace Williams came to me, and she 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

10 said, "I have a prospect for renting the room. I have two rooms, and they want yours. They want your room." I said, "Mrs. Williams, I didn't take this room. You will have to take it up with Mr. Langille." I went up to the store, and when I came home, the furniture was moved out, in the same building.

Q. How many rooms away from Mr. Langille was that? A. One room and the bathroom, and the stairway.

Q. During this time, did Frederick come to see you? A. He lived with us. He used to come in my room a lot, and I helped him with his lessons.

20 Q. Did you do the cooking? A. All the cooking. Mrs. Williams ate with us.

Q. You did the cooking for the whole house? A. Yes.

Q. Were you being paid for it? A. No, that was the arrangement Mr. Langille made.

Q. How long did this continue? A. Until December 31st.

30 Q. What happened then? A. We had spoken about a Christmas tree, and I said I thought we had better wait until next year, and Frederick was satisfied. Then Frederick said, "Mrs. Williams and I are going to get a tree," and they got a tree and the trimmings did fall on the floor. Mrs. Williams was cleaning the house. I was cooking at the time and Mrs. Williams came in and said, "I want this Christmas tree taken out," and I said, "I will take it out, but let me finish my cooking first," and she grabbed the tree and was going to take it away, and I said, 40 "Let me have it," and walked into the kitchen and threw it into the cellar.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

- Q. Were you angry? A. Certainly.
- Q. Was Frederick there? A. Certainly. He had been in school. He was not there all morning.
- Q. Did Mrs. Williams demand that you leave the house? A. Yes. She said, "It would be just as well if you were not here." 10
- Q. How did she come to tell you to get out? A. She was mad about the tree.
- Q. When did you leave the house? A. December 31st, 1931.
- Q. Where did you go? A. To Mrs. Florence Roberts.
- Q. Yes, and you did what? A. I called Mr. Langille at his office, and I said, "Will you please get an apartment?" and he said he was not going to get an apartment and I could go to hell, and slammed the telephone down. 20
- Q. What happened that evening? A. I was at Mrs. Roberts'. Frederick came up and said, "Mother, are you all right?" He said, "Don't tell dad I have been here or he will punish me."
- Q. What happened afterwards? A. I went to Glens Falls, New York, to my aunt, because I didn't have any money, and while I was there, Mr. Langille sent all my clothes, which I didn't ask for, and didn't want; all sorts of clothes. She sent them back, and eventually he sent them to Maryland, to my aunt. 30
- Q. What is the name of the aunt that you went to see? A. Mrs. M. C. Davis.
- Q. How long were you there? A. A week or ten days. 40
- Q. Then you came back? A. Yes, to Mrs. Roberts.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. After how many days? A. After ten days.

Q. And your husband knew? A. I told him I would be at No. 14 S. Munn Avenue.

10 Q. Did he come to see you? A. No.

Q. Did he telephone to you? A. I called him. I asked him what we were going to do. He said, "I don't know what you are going to do."

Q. What did you want him to do? A. Get an apartment. He said he was not ready.

Q. Did he tell you he was going to stay at the Williams house? A. He didn't tell me anything.

20 Q. Did you tell him you were coming back?  
A. Certainly. I wanted to live with him.

Q. After ten days you came back and went to Mrs. Roberts'? A. Yes.

Q. Did you notify your husband that you were there? A. I needed money, and in January my aunt said I should come to her for a visit in Maryland.

Q. You left in December? A. Yes.

30 Q. You stayed there about ten days. So then it was around the ninth or tenth of January when you came back to Mrs. Roberts', 1932? A. Yes.

Q. And your husband knew that you came back and knew that you were at Mrs. Roberts'? A. Certainly.

Q. Did he come to see you? A. No.

Q. Did the boy? A. No.

Q. You looked for work? A. Yes.

Q. Do you know if Mrs. Roberts had talked to him around that time? A. I don't know.

40 Q. Did you find work? A. No.

Q. What did you do? A. I went to Maryland.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. What was the date you left Mrs. Roberts' home and went to Maryland? A. I don't know as I can tell. It was still in the month of January.

Q. How did you get along? A. My aunt gave me money. 10

Q. Did your husband know that you went to Maryland? A. Yes, because he called me up there.

Q. On the telephone? A. Yes, twice, and swore at me over the telephone.

Q. What was the first conversation? A. I had written to him for money.

Q. How did you ask him for money? A. In a letter. 20

Q. What did you say? A. I said that I wanted some money to get back, and that my aunt couldn't take care of me, and that we should be together. The whole thing was a friendly letter, and I wanted to get back and didn't have money.

Q. Did he answer? A. By telephone.

Q. Relate the telephone call? A. He said that he doubted that that was my handwriting, but if I would rewrite the letter he would send the money, but he never did. 30

Q. He knew that was your aunt? A. Yes.

Q. Did he phone again? A. Yes.

Q. After the first telephone call, you rewrote that letter? A. Yes.

Q. What was in the second letter? A. Just the same.

Q. Did you ask for money? A. Yes. 40

Q. Did you ask him to take an apartment? A. I think I did. He called up instead of answering the letter.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. What did he say in the second telephone call? A. He swore at me. He said he didn't believe that I wrote that "damn letter."

10 Q. What else? A. That I should "go to hell."

Q. Anything further? A. No, I shut off.

Q. Did you come back from Maryland? A. Certainly.

Q. How long were you there? A. Three or four months.

Q. And you came back to East Orange? A. Yes, to Mrs. Florence Roberts, No. 14 S. Munn Avenue.

20 Q. Did you notify your husband? A. Certainly.

Q. Did he come to see you? A. I came to the Domestic Relations Court, and went to Judge Siegler, and I said, "I didn't come for a divorce, but I wish you would get hold of my husband so I could talk to him."

Q. Did your husband come up there? A. No. We got a letter from Mr. Parnell.

Q. Then you made a complaint? A. Yes.

30 Q. Did he come up there then? A. Certainly.

Q. Who presided? A. Judge Siegler.

Q. What was the result of the complaint, and his answer? A. The result was that Judge Siegler said that Mr. Langille should get an apartment or pay me \$10 a week. If he got the apartment, he should invite me into it and take me out and be seen with me.

Q. Why did he say that, that he should be seen with you? A. I don't know.

40 Q. Did he do that? A. No; I went back to Mrs. Roberts'.

Q. You say he didn't take an apartment? A. No.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. In spite of Judge Siegler telling him to do it? A. No.

Q. Did he give you any money? A. He had to.

Q. How much? A. \$5.

10

Q. And he paid \$10 after that? A. Not very much.

Q. Did the boy come to see you? A. For a while.

Q. Did you come to court again? Judge Siegler's court? A. Yes, it was put off.

Q. The next time you got there, what did the Court say? A. Wait a minute. I am getting mixed up. I wanted to tell you something. The proceedings took up most of the day and I said to Fred, "Where is Frederick?" I had tried to get hold of him and finally I said, "I would like to see Frederick," and Judge Siegler said, "You are to see Frederick any time you want to," and I went to Mrs. Grace Williams, and Fred came in while I was there, and I said, "Dad said he is going to get a divorce," and he said, "Don't I know it, and didn't I tear up the papers." He was getting ready to go to his grandmother that summer, and I gave my permission for him to go, and while we were there, Mr. Langille came in, and I don't know what the fuss was all about, something about my moving a trunk out. I couldn't move a trunk downstairs. And he said, "You get to hell out of here and stay out."

20

30

Q. Where was this? A. No. 364 N. Maple Avenue.

Q. Was this after you returned from Baltimore? A. Yes, in the middle of the court proceedings.

40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. You went back to him? A. Yes, and there was no room there. I was sleeping in the dining room anyway when I left there.

10 Q. So you were in his room, and he told you to get out? A. Yes. I went back to No. 14 S. Munn Avenue.

Q. Who lived there? A. Mrs. Roberts. And then she was going to the shore and had to give up that.

Q. Then where did you go? A. To Vermont.

Q. Who lived there? A. My mother and father.

20 Q. Did Mr. Langille send you money? A. He sent me \$10 at one time and \$10 at another time, and there was no letter.

Q. I show you, Mrs. Langille, this letter which is marked P-1, dated 8/1/32, and ask if you received the original of this? A. (Witness takes it and examines it) No, this is not the letter. He said, "Dear Evelyn: I have taken the furniture from the warehouse to Springdale Avenue. Make your plans." And there was no money in it.

30 Q. Where is that letter? A. I couldn't get my papers from my former attorney because I didn't pay him.

Q. Here is a copy of a telegram marked Exhibit P-3. Did you receive that? A. Yes.

Q. Do you know what he meant by that? A. I don't know what it means.

40 Q. When you returned from Vermont, did you talk to him? A. Certainly. He asked me how I got down. I worked down.

The Court: Didn't your husband send you any money?

Witness: No. I earned my money.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. Mrs. Langille, you earned some money which you used for fare coming down from Vermont?  
A. Yes.

Q. When you arrived here, where did you go?  
A. To the apartment, and couldn't get in; went to No. 386 Springdale Avenue; then I went to No. 14 S. Munn Avenue. 10

Q. Where was Mr. Langille living? A. No. 386 Springdale Avenue, East Orange, I suppose. I don't know.

Q. Was that the house you were trying to get in? A. Yes.

Q. Was his name on the door bell? A. Yes.

Q. Was that an apartment house? A. Yes. 20

Q. You found his name there on the bell. What did you do? A. Rang the doorbell.

Q. What was the date? A. September, 1932.

Q. Did you talk to your son? A. No. He was not around.

Q. How did you get in? A. Because Judge Siegler helped me to get in.

Q. Please explain? A. Can I start where I left off?

Q. Yes. A. I left off at the Domestic Relations Court. Judge Siegler told Mr. Langille in court that he had to get an apartment or give me \$10. Mr. Langille went back to No. 364 N. Maple. I went to No. 14 S. Munn Avenue. Then I called Mr. Langille up and he said he was not able to get an apartment. I said, "What am I supposed to do?" He said, "I don't know." Then I asked him if I could meet him and talk to him about it, and he said, "Yes." He came in a car and would not come up to Mrs. Roberts' apartment. He rang the bell and spoke to me 30 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

through the speaking tube, and then I went down, out of the apartment and across the street to the car, and I stood there waiting for him to open the door, and I got in, and he said, "Let's go for a ride." I said, "Let's get an apartment. I don't want to go for a ride." We talked a while, just actual conversation, and I said, "What are we supposed to do?" He said, "I have no money now to get an apartment." I said, "I have been invited to go to Vermont." He said, "I think that's the place for you to go." Two or three days afterward I sent word to him and he took me to Journal Square, kissed me goodbye, and I went on to Vermont.

20 Q. Why, you have just returned from there?

A. No, this was while the case was going on, in court, in July, 1932.

Q. You say he did not find or did not want to find an apartment? A. I don't think he wanted to find an apartment.

Q. Did he tell you he would not get an apartment? A. Yes.

30 Q. And then you left for Vermont? A. Yes.

Q. How long did you stay there? A. Until September, 1932, sometime in the middle of September.

Q. Now, you have returned from Vermont. What happened when you came back? A. I went to No. 14 S. Munn Avenue.

Q. Who lived there? A. Mrs. Florence Roberts. Mrs. Roberts and I went to see the apartment.

40 Q. Where? A. No. 386 Springdale Avenue.

Q. Did you finally get in the apartment? A. Yes.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. How long did you stay? A. Until Mr. Langille gave up the apartment. Then I took a room in the same building.

Q. When did he take that apartment? A. I don't know. He said in August. 10

Q. August, 1932? A. I don't know.

Mr. Frazer: August, 1932.

Q. Did you have any trouble getting into that apartment? A. Yes.

Q. Will you please explain that? A. Well, the door was locked and I went to school to get hold of Frederick to take me there and he refused. 20

The Court: Well, did you finally get into the apartment?

Witness: Yes.

The Court: How long did you stay there?

Witness: Until Mr. Langille gave up the apartment.

The Court: When was that?

Witness: June 1st.

The Court: What year? 30

Witness: 1933. In 1932 I returned from Vermont and I went to the apartment and I stayed there until Mr. Langille gave up the apartment.

Q. How long did you stay? A. A few months.

Q. Did Mr. Langille stay with you in that apartment? A. No, he didn't.

Q. When you came in, was he there? A. No.

Q. What happened? A. I called him at his office and he was not in, and I went to the school to get Frederick to let me in. 40

Q. You are in the apartment.

*Defendant's Witness, Evelyn Coudrey Langille,  
Direct*

The Court: How long after you got back there from Vermont did you stay in the apartment?

Witness: A few months.

10 The Court: Did your husband occupy that apartment with you?

Witness: No.

Q. Was he there at all? A. No. He came in and left that night.

Q. What did he say to you when you met him there? A. I said, "Hello," and he didn't say anything.

20 Q. And then what? A. He went out in the kitchen with a package of food and started to eat.

Q. During that time did he talk to you? A. No.

Q. Did you talk to him? A. He would not talk to me.

Q. But you did talk to him? A. I did, but he would not.

Q. How long did he stay? A. Until about 11:00 o'clock that night.

30 Q. Did he say where he was going? A. He said he was going to play cards with Mrs. Lottie Stevens.

Q. Is that where he lives now? A. Yes.

Q. Did you stay in the apartment? A. Yes.

Q. Did he return? A. He returned some time during the night. He left the next morning and said if I stayed he was not going to stay.

Q. What did you say? A. I said I was going to stay.

40 Q. He never came back? A. Not to stay.

Q. Did you ever see him after that? A. When he came back for his clothes.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. And during the time that you were there, he did not stay there? A. He came in one day, but he didn't stay there.

Q. Did you talk to him? A. Certainly.

Q. What did he say? A. He said he had other plans. 10

Q. What plans? A. He said he found somebody else who was not so fussy as I was.

Q. What happened with the apartment? A. He didn't pay the rent, and I couldn't hold it, because I didn't have any money, so he gave it up and I took a room in the same building.

Q. Who owned that building? A. Mr. Tropp of 4th Avenue. 20

Q. Did he serve notice on him? A. Yes.

Q. Then what happened? Did he take out the furniture? A. No. I kept the furniture.

Q. During the time that you remained, was Frederick there? A. He sent Frederick out of the apartment and would not let him come back again, but Frederick came back several times and seemed glad to see me. He has poisoned his mind against me, and that Mrs. Stevens has, too. 30

Mr. Frazer: Your Honor, I object—

The Court: That does not influence me at all.

Q. Who stayed with you in the apartment? A. I stayed alone.

Q. Were you put out of that apartment? A. No, Mr. Tropp did not put me out, but he said he would have to if I didn't go, because he said Mr. Langille had stopped paying the rent. 40

Q. Did he also tell you that Mr. Langille had served notice upon him? A. Yes.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. Where did you go? A. In the same building, a room at Mrs. Anderson's.

Q. How long were you there? A. I stayed there until these papers were served on me.

10 Q. The present suit? A. Yes.

Q. Then where did you go? A. Then I went to Mrs. Jacobus'.

Q. You know Mrs. Roberts, don't you? A. Yes.

Q. And you lived with her several times, as I understand? A. Yes.

Q. Do you recall that dinner that you had at No. 359 N. Maple Avenue, East Orange, in 1931?

20 A. Yes.

Q. Was she there at that time? A. Yes.

Q. Was Mrs. Roberts there when you were punched in the face? A. No.

Q. Where was she? A. She went to post a letter to her daughter.

Q. Did she return? A. She returned, but I was on the sidewalk.

30 Q. Did you talk to her? A. Yes. She put her arms around me and took me home to her house, No. 200 N. Maple Avenue.

Q. You know Dr. Mooreman? A. Yes.

Q. Was he at that dinner? A. Yes.

Q. Did you have a talk with him at any time after that dinner concerning matters between your husband and yourself? A. No.

40 Q. Did you ever tell him that you were going to lease Fred? A. Never. Dr. Mooreman told me that Fred would not give me another cent, and the only thing for me to do was to go west, and that Fred did not have any use for me. Mr. Langille told me that Dr. Mooreman was to blame for this whole trouble.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Direct*

Q. Some time ago you were stricken with acute appendicitis? A. Yes.

Q. You were taken to the hospital? A. Yes, Orange Memorial.

Q. How long were you there? A. Not quite 10  
two weeks.

Q. Did your husband come to see you there?  
A. No.

Q. Did your son come to see you? A. No.

The Court: When was that?

Witness: The latter part of last August, 1933.

Q. Will you kindly relate to the Court when  
your husband had the gas and electric shut  
off? A. I think it was April 1st, along in there. 20

Q. Will you kindly tell the Court about that?  
A. I asked the man why it was turned off, and  
he said on account of moving. I called Mr.  
Langille, and he said, "What of it, get it turned  
on again."

Q. What did you say? A. I called the Public  
Service, and they said because he had had it,  
I couldn't have it put on unless I paid a deposit  
of \$10 or \$15. 30

Q. How soon did this occur before you finally  
left that apartment? A. I should think perhaps  
three or four weeks.

Q. How did you get along without gas and  
electric? A. I had canned heat and candles  
for lighting, and my neighbors were very nice  
and gave me things to eat, and I went to Mrs.  
Jacobus'.

Q. Did she help you? A. Yes, she gave me  
some money and I didn't have any coal and the  
coal man over there gave me coal. 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

10 Q. You are not employed now? A. No. When we were talking in the apartment, No. 386 Springdale Avenue, I asked Mr. Langille where his wedding ring was, and he flung it across the table to me.

Q. That was the first time he met you in the apartment? A. Yes. He flung it across the table.

Q. Who bought it? A. I did. Gave it to him.

*CROSS-EXAMINATION by Mr. Frazer:*

20 Q. Mrs. Langille, I show you Exhibit P-2. You wrote that letter? A. Yes.

Q. That letter is dated August 2nd? A. Yes.

Q. And it was in reply to the letter which you have testified to, which you say is in your former attorney's possession? A. This letter is not in answer to that letter.

Q. You stated that the letter which your former attorney has contained no money and had no reference to money? A. Yes.

30 Q. How do you explain that in your letter of August 2nd, you said: "I received your letter last night. Thank you for the money, but you still owe another ten." Was the money enclosed? A. No. He had sent me \$10 after I had been up there a few days.

40 Q. I call your attention to this letter which Mr. Langille has testified to be a copy of the letter he sent you. A. (Witness examines same, P-1) That is not the letter; where he says, "Enclosed is \$10," it is not the letter.

Q. But at that time you did receive \$10? A. Not at that time, but after I had been up there two or three days.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

Q. You say that you never refused to live with Mr. Langille? A. No. I am willing to now.

Q. Why was it you denied him sexual relationship? A. I have never denied him. I would like to know what sexual relationship I have had with him. 10

Q. The fact remains that you did not have relations after some time in January, 1931? A. I had sexual relations with him in August, 1931, when we were invited to a friend's house.

Q. Stay over night? A. Certainly.

Q. Whose house? A. Mr. Carey Hudson. He is an officer in the Underwriters Insurance.

Q. Now, do you recall getting the telegram? A. Yes, I did. 20

Q. Do you remember that on one occasion, an anniversary, that your husband sent you flowers? A. Yes.

Q. Where? A. At No. 359 N. Maple Avenue.

Q. When? A. I think that was 1932.

Q. Where were you living then? A. No. 359 N. Maple Avenue. It was the same year he struck me.

Q. When was your anniversary? A. September 1st; that was September 1st, 1932. 30

Q. That was the time the telegram was sent? A. No, then it was 1931.

Q. You had already left him? A. No, I never left him.

Q. Is this your letter? A. (Witness examines letter) Yes.

Q. I would like to offer that.

Received and marked P-4.

40

Q. You say you were living with him? A. Yes.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

Q. Why did you write a letter to him, then?

A. The flowers came and they were beautiful. I was working at that time on Orange Street, where I had worked before, just for the day, and I did want him to know that I got the flowers.

Q. Do you remember saying, "I did love you." A. Yes, but you don't love people that strike you.

Q. Do you remember saying, "So let me go, please, and know I shall never forget you and truly love Frederick so much I can't stay with you because you say I disgraced him and I did not, and I love him and please let me help him from the outside and please know I shall want to help you, too; but I can't stay." A. I wanted to go to Lake George.

Q. You said: "I have gone to work again; please don't discuss this anymore and know I liked the flowers. But if you love me let me go and go in the right way and try and understand."

The Court: You say that was in reference to your going to Lake George. What do you mean by the "right way."

Witness: I wanted to have things straightened out.

Q. Do you remember saying:- "Anyhow, dear, it is better to have loved and lost, than never to have loved at all. We will be friends and share Frederick, please, as I worked hard to save him, but you do what your heart says. I will understand and I don't hate you and will never forget you." Is that just a little farewell

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

note? A. I asked him for some money and he said he has no money to let me go.

Q. But you wrote that letter?

Mr. Unger: Your Honor, please, while looking over these letters, may I suggest that while I have no objection to having these letters offered or read into the record, it is not fair to Mrs. Langille that certain parts of these letters be taken and questioned and other parts omitted. 10

Mr. Frazer: I will offer all of them.

Received and marked P-5 and P-6, for identification. 20

Q. Now, this "Chester" mentioned in these letters, was he the gentleman about whom the dispute occurred, as to a letter? A. That letter had no postmark.

Q. How do you know? Do you have that letter in your possession now? A. I never had it. And Dr. Mooreman told me there were plenty of letters I have never seen.

Q. Have you ever seen this letter, this photostat (indicating to a photostat)? A. I can't tell. 30

P-6 for identification.

Q. The original of that letter was delivered to you at your request. A. No letters were ever returned to me. The committee said they should be returned. They were using letters against me. Dr. Mooreman said they had letters which I had never seen. 40

Q. Now, have you ever seen this letter? A. No.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

P-5 for identification.

10 Q. I show you the conclusion signed, "From your lover, Chester." Do you remember that handwriting? A. I can't remember that handwriting now.

Q. Now, I will read the letter addressed to "Dear Chester."

P-6 for identification.

20 "Enclosed find card which came yesterday. I don't get a lot of this little game you seem to be all playing and I trust you are all having a good time as I am not.

20 All I know is that Fred went up to your father's house and showed the letters he got some while."

Q. What letters are those? A. I don't know.

"I wonder if Florence gave him those letters or he may have got them from under the couch."

30 Q. Under what couch? A. Our couch.

30 Q. That's where you put these letters for safekeeping? A. No.

"I did not keep them here but I did go to Florence to burn some of them. I do not know where or how he got them but he got one I know from my purse which I had hid under the pillow."

40 Q. That one under the pillows was the one which caused the rumpus; that one he got out of your purse is the letter which has been marked Exhibit P-5 for identification. Here's

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

the letter which he got out of your purse, marked P-5 for identification, isn't that it? A. I don't know.

Q. You won't say it was not? A. I don't know. 10

"I was staying at Florence at the time as Fred and I had a scrap over the letters. We had a hand to hand scrap. Before this he had asked for my rings and slapped me and hit me so I had black and blue marks."

Q. That same occasion. A. No, another occasion.

"The next morning Nell and Ellis the two Fred's were moving your things before 8:30. When I came in Nell seemed excited and told me I was not to hear from you for three months and at the end of three months if you still cared, I was to go West to some friend of hers." 20

Q. Who is "Nell"? A. Mr. Bollenbach's sister.

"and I was to get a divorce and that you and I were to be married and God help you if you were not true to me. 30

If I did not promise this she would wash her hands of the whole thing and you.

I was to take care of Fred in the meantime, says, 'Yes, please' and 'no please' and live here at home and do my part, which I consider I was doing anyway. Now, your sister was trying to please Fred and straighten things out as she said he made the plan as he did not believe you loved me. I think your sister has her doubts as she said she doubted some one 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

10 sincerities and in the excitement and confusion I do not just recall. Anyhow the Bollenbachs were to see if you loved me that I was divorced and truly married or legally married as she put it.

That is why you did not hear from me, and it seems to me if I am so important as to cause your relations and mine to get so excited I think I shall have a little to say myself when I see the right moment. You know I am no child and I resent being treated as such or as having a "diseased mind," as I have been told I have.

20 I certainly had no intentions of causing you any trouble or your family any more worries"  
\* \* \*

Q. Now, that letter you were writing to Mr. Bollenbach? A. Yes.

Q. And you tore it up when Mr. Langille came in? A. I don't know how that got torn.

30 Q. The real reason you did not want any further relations with your husband was the fact that you were in correspondence with Mr. Bollenbach? A. No.

Q. What was the number of your post office box? A. I didn't have any.

Q. You received letters from Mr. Bollenbach at Mrs. Roberts' house? A. She gave me a letter and then told Fred I got it.

Q. But you did get letters there, didn't you? A. Yes, and I didn't want them.

40 Q. Do you remember Mr. Bollenbach suggesting that you open a post office box? A. He did.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

Q. Was it post office box No. 18, in Ampere Station? A. It was not in my name.

Q. But you got mail? A. I thrashed this all out in the Domestic Courts.

Q. You said a great deal about what Judge Siegler said. Did you get a copy of the opinion of the Court? Look over that and tell me. A. I know what he said, I was there. 10

Q. Will you look that over and tell me if that is what he said? (Witness examines same.)  
A. Yes.

Mr. Unger: I object to that. You can't put in a transcript that way to the witness. 20

The Court: I don't think that is proper. I think you can ask her anything you want out of that paper.

Q. Do you remember at that time the Court said: "If the defendant will make a place where complainant can live, there will be a dismissal of the second count." A. Yes.

Q. Do you remember also that as far as the desertion is concerned, the Court said: 30

"I find as a fact that the complaint is not sustained by the evidence; that the complainant is the deserter."

and that there was an order entered dismissing one phase of the complaint? A. Yes.

Q. And there was another order which said that until he had established a home for you he should supply you enough money under the Poor Act? A. I know what Judge Siegler said. 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

10 Q. You did receive a letter from Mr. Langille, in which he enclosed \$10.00 and advised you that he had taken an apartment? A. No. He said, "Dear Evelyn: I have taken the furniture from Ralph Vanderhoof's store house to #386 Springdale Avenue. Make your plans and let me know." That's all. Judge Siegler said he had to ask me to come in.

Q. I will read now Exhibit P-1. A. That letter is not the letter.

"Dear Evelyn:

20 Enclosed find money order for \$10.00 Ralph Vanderhoof is moving the furniture from the Warehouse to 386 Springdale Ave., Aug. 3rd, into a four room apartment."

Q. Did he write that? A. That's not the same.

30 "I went to see Frederick over the Week-end. He talked with Cassie and does not want to go to Vermont but is glad to go to Cassie's for a week before he goes to camp. I understand Cassie will return Aug. 7th and he plans to go there the 8th.

You were going to write me from Vermont? Make your plans and let me know what you intend to do.

With best regards to all in Vermont with you.

Yours truly,

40

FRED."

A. That is not the letter and he knows it is not the letter.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

The Court: Where is the letter?

Witness: My former attorney has it. He didn't even have a copy of the letter in Domestic Relations; where does he get it now?

Q. In August, 1932, there was a letter written, saying he was moving the furniture to Springdale Avenue? A. Yes.

10

Q. And asking what your plans were. You did get that? A. Yes.

Q. You didn't go to that Springdale Avenue apartment then? A. I had no money.

Q. You didn't go into the apartment until some time after this hearing in the Domestic Relations Court. A. I couldn't get in; I had to get a cop, to open the door.

20

Q. Didn't Judge Siegler say—

Mr. Unger: I didn't say anything in the beginning, but I am going to object now. Cross-examination from a transcript is absolutely improper.

The Court: He is using it for a memorandum. How are you harmed by it.

Mr. Unger: I am not harmed by it because Judge Siegler's final order is attached to the pleadings.

30

Q. Didn't Judge Siegler say:

"The case leads to the conclusion that Mrs. Langille must avail herself of the home."

A. I don't understand it.

Q. Did Judge Siegler on that occasion say:

40

"Unless Mrs. Langille, within ten days of March 20th, 1933, accepts and returns to the

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

home at #386 Springdale Ave., then the order of \$10.00 will be vacated."

10 Did he say that? A. He did not. He didn't even use the word, "unless." Judge Siegler said to tell Mr. Langille to get the apartment or give me \$10.00, and if I didn't go into the apartment I would be a deserter. I went into the apartment as soon as I could get there, and I broke my way in.

20 Q. That was the first time under the statement by Judge Siegler that you showed such energy in getting into the apartment. You say you didn't get money regularly from your husband? A. I didn't for a while. I have not gotten money from him regularly. I have that same record you have.

Q. You are familiar with it. Is that an accurate statement of the money? A. Mr. Frazer, Mr. Langille did not give me any money except \$20.00 from the time the case was closed until the case came up in February, regularly. This record is not accurate.

30 Q. You say that from the institution of the case until it came up in February, 1932, he had not been paying regularly? A. No.

Q. Has he been paying regularly since then? A. No, he was behind.

Q. Since then has he been paying regularly? A. No, he was supposed to pay \$10.00 in the month of March; there is five weeks; he never paid any bills anyway.

40 The Court: Did you receive this \$10.00 up to Vermont in the form of money order or in cash?

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

Witness: One in money order.

The Court: How long before your letter of August 2nd was it that you received that \$10.00 that you referred to in your letter of August 2nd. 10

Witness: I think perhaps a week or ten days.

The Court: Was that the first money that you had received since you had gone to Vermont?

Witness: Yes.

The Court: How much money in all did you receive while you were in Vermont?

Witness: \$20.00.

The Court: And the first \$10.00 was received when? 20

Witness: When I was first up there. Along in August.

The Court: You just told me that you had received \$10.00 about a week before you wrote that letter of August 2nd?

Witness: Your Honor, this first payment he made the money was not enclosed with the letter.

The Court: When you, in your letter of August 2nd thank him for the money, what did you refer to, a money order or money? 30

Witness: I don't remember, but he sent me \$10.00 before he sent me this letter about No. 386 Springdale Avenue.

Q. It came some few days before? A. I don't remember.

Q. Mrs. Langille, I show you a receipt or money order which says, "Sent to Evelyn, South Royalton, Vt." And that you got? A. Yes. 40

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

Received and marked P-7 for identification.

Q. August 1st, 1932? A. Yes.

10 Q. And your letter was dated August 2nd, 1932? A. I said, "August 2nd, I guess."

Q. I call your attention to this one: "E. Langille, South Royalton, Vt., dated Sept. 1, 1932." Is that right? A. Yes.

Received and marked P-8 for identification.

Mr. Unger: It costs \$15.00 or more to come to East Orange. Who paid for it, did he?

20 Witness: No.

Mr. Unger: Under the order made by the Domestic Relations Court, what was he supposed to pay you?

Witness: Ten dollars a week.

Mr. Unger: From that time on, right down to this day, how much did he pay or how much does he still owe you?

30 Witness: When it came up in Domestic Courts he owed me \$250.00.

Mr. Unger: Did he pay that?

Witness: No. Judge Siegler said it should be paid. He also said Mr. Langille had not made proper advances.

Mr. Unger: On cross-examination, Mrs. Langille, to one of Mr. Frazer's questions, you said, "I couldn't get in; I had to get a cop to open the door." What did you mean?

40 A. I called Mr. Langille's office and he was not there, and I had been at that place so many times and been humiliated that this time I went

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

to school and waited for Frederick to come out, and I said, "I came up to get into the apartment. Give me the key." And he said, "Oh, no, you don't get any key."

10

Q. Did you get the officer? A. Yes, and finally got in.

Q. Now, Mrs. Langille, a number of these letters, exhibits, were read to you. These letters have been written by you? A. Yes.

Q. Did Mr. Langille know that you wrote these letters? A. He must have, or else they would not have been on his side of the evidence.

Q. In the beginning he encouraged you to write? 20

Mr. Frazer: I object—

The Court: I will permit it.

Witness: He certainly did.

Q. This man was a good friend of your husband? A. He was friendly enough.

Q. Tell the Court just how Mr. Langille consented or rather encouraged the writing of those letters. A. He wrote letters himself to him. We wrote letters together to him. I would write part and he would. 30

Q. In one letter? A. Yes.

Q. You would write, and then he would, on the same paper? A. Yes.

Q. Did you receive these letters (indicating exhibits)? A. I don't know whether I received those or not. He wrote a lot of letters.

Q. Did you have a box in the Ampere station? 40  
A. No.

Q. In your name or any other name? A.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

There was a box there under a company's name.

10 Q. Whose box was it? A. His box, Mr. Bollenbach's. His sister got mail and so did his brother.

Q. Did you ever have any mail in that box? A. Yes.

Q. And who would turn those letters over to you? A. Whoever got them.

Q. Did he address the letters to Mr. Langille or to you? A. Both.

Q. Did some of these letters written by this man come directly to the office of your husband? 20 A. He wrote letters there. Mr. Langille told him to send letters, to write letters to No. 15 Clinton Street, and he would guaranty delivery.

Q. Did you hear your husband say that? A. I saw the letter.

The Court: Why was it necessary for you to keep Bollenbach's letters under the couch?

Witness: It fell down.

The Court: Didn't you say on cross-examination that you did not have a letter in your 30 pocketbook that your husband took out?

Witness: I didn't have a letter in my pocketbook. It didn't come through the mail.

The Court: How did you get it?

Witness: I don't know what letter they are talking about.

The Court: Your husband found a letter in your pocketbook.

40 Witness: No, he didn't.

The Court: You say you did have a letter in your pocketbook.

Witness: No, really I didn't.

*Defendant's Witness, Evelyn Cowdrey Langille,  
Cross*

The Court: You say in this letter marked P-6 for identification, "I don't know where he got them, but he got one, I know, from my purse which I had hid under the pillow." I ask you if you had Bollenbach's letter in your purse and your husband got it? 10

Witness: I still don't know whether it was that letter.

The Court: Why was it necessary for you to receive mail, from another address?

Witness: It was not necessary.

The Court: Why did you take letters to Florence to burn?

Witness: There were so many letters coming that I got scared. 20

Mr. Frazer: As a matter of fact, you did receive from Mr. Bollenbach letters at your home of the kind that you could show?

Witness: I didn't think so.

Mr. Frazer: But there were letters addressed to you at No. 359, and those letters you could show to your husband? They were not dangerous letters you had to burn up? 30

Witness: When they got dangerous, I didn't write any more.

Q. Did you keep any letters hidden? A. They were filthy.

Q. Why didn't you ask Mr. Langille to write to him? A. I have asked him many times.

Q. You did tell him? A. Yes.

Q. And these letters kept on coming? A. Certainly, I didn't write. 40

Q. But you did answer some? A. After a while I didn't answer such letters.

*Defendant's Witness, Herman Tropp, Direct*

Q. How many times did you talk to Mr. Langille about these letters, that you did not want them any more? A. They all came in a bunch and that was the end.

10 Q. Where was he at that time? A. In the west. Fred told me to go out to him. He said, "Go on out there."

The Court: You were planning to marry this man?

Witness: I should say not.

The Court: What did you mean then in your letter?

20 Witness: I didn't refer to that. I was telling him what Mr. Langille and Mr. Bollenbach's sister were planning for me.

Q. Planning what? A. That I should go out and marry Mr. Bollenbach.

Q. You were married to Mr. Langille? A. Certainly.

Q. Did you have any love for this man Bollenbach? A. Certainly not.

30 Q. Were you ever out with him? A. We both had been out with him.

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HERMAN TROPP, duly sworn for the defendant.

*Direct-examination by Mr. Unger:*

Q. Mr. Tropp, you know Mr. and Mrs. Langille? A. Yes.

40 Q. And what is your business? A. Cleaning and dyeing establishment.

Q. In 1931-32, were you the owner of No. 386 Springdale Avenue? A. Yes.

*Defendant's Witness, Herman Tropp, Direct*

Q. Did you have occasion to rent an apartment to Mr. Langille? A. Yes.

Q. When? A. End of July, and he moved in in August, 1932.

Q. When did you rent it? A. In July, 1932, and he moved in in August, the first, 1932. 10

Q. Did you have a talk with him as to who would move in the apartment? A. No.

Q. How much was the rent? A. \$40.00, four-room apartment.

Q. How many months did he live there? A. Until the end of May.

Q. The following year? A. 1933.

Q. Did you receive a notice from Mr. Langille that he would vacate the premises? A. He sent me a notice and said he would not be responsible for the rent any more, and I sent him back a letter that he would have to give me thirty days' notice and pay for my rent, and he did. He sent me another letter and paid the rent. I went over to the apartment, and Mrs. Langille was there and she said, "Mr. Tropp, do you know anything about the gas and electric being shut off?" I said I didn't know anything about it. 20 30

Q. That was in what month? A. May.

Q. And you received a notice before that that he would not be responsible for any rent? A. Yes.

Q. And Mrs. Langille got out of the apartment when? A. June 4th. She moved in next door.

Q. That was 1933? A. Yes.

Q. That's all. 40

Mr. Frazer: No questions.

*Defendant's Witness, Robert Courtney, Cross*

ROBERT COURTNEY, duly sworn for defendant:

*Direct-examination by Mr. Unger:*

10 Q. Where did you live in 1932 and 1931? A. No. 462 Thomas Street, Orange.

Q. What business were you in? A. Manager of National Grocery Company store.

Q. Do you know Mrs. Langille? A. Yes.

Q. How long? A. Six years.

Q. Do you know Mr. Langille? A. Yes, the same length of time.

Q. Did the Langilles deal with you? A. Yes.

20 Q. Sometime in the month of August, 1931, did you see Mrs. Langille? A. Yes.

Q. Will you kindly tell the Court just what her physical condition was? A. One morning I was in the store and Mrs. Langille came in and was crying, and said Mr. Langille had struck her and she had black and blue marks on her arm and her face had red marks.

*CROSS-EXAMINATION by Mr. Frazer:*

30 Q. When was that? A. 1931.

Q. What time of the year? A. In September; I don't remember just the dates.

Q. Did you inquire about the cause of these marks, or did she tell you? A. I said, "What happened to you," and she said Fred hit her in the face; that the night before they had had an argument and he hit her.

40 Q. That was the only time in this long acquaintance that you saw this? A. Yes.

*Defendant's Witness, Martha Williams, Direct*

MRS. MARTHA WILLIAMS, duly sworn for defendant:

*Direct-examination by Mr. Unger:*

Q. Where do you live? A. No. 50 N. 7th Street. 10

Q. Do you know the Langilles? A. Yes.

Q. For how long? A. For three years or more.

Q. Did you have occasion to visit them while they were living together? A. Yes, and they came to my house.

Q. Did you observe the conduct of Mr. Langille toward his wife? A. I never saw anything until he came to my house. I never knew anything about it, but he came one night, and I asked where his wife was. 20

Q. When was that? A. I don't think it was this last winter. I think a year ago, winter before last. He was going to sing over the radio. He wanted to practice some songs. I asked him where his wife was and he said she was down in Baltimore keeping house for her aunt.

Q. And what else happened? A. Well, there wasn't anything else much, because I said I would not believe anything against her. 30

Q. Did you ask where he was staying? A. I asked if he was still at Mrs. Williams', and he said he was going to stay there and help her out.

Mr. Frazer: No questions.

*Defendant's Witness, Bessie Jacobus, Direct*

MRS. BESSIE JACOBUS, duly sworn for defendant:

*Direct-examination by Mr. Unger:*

10 Q. Where do you live? A. No. 173 Center Street, Nutley, N. J.

Q. Do you know Mr. and Mrs. Langille? A. I do.

Q. How long have you known them? A. About six months after they came to Jersey.

Q. Then you know them many years? A. Yes.

Q. Were you in the habit of visiting at their home? A. Yes.

20 Q. And they you? A. Yes.

Q. Now, Mrs. Jacobus, can you kindly tell his Honor as to what you observed with reference to Mr. Langille's conduct toward his wife? A. Whenever I was there, Mr. Langille was very loving toward Mrs. Langille, and Mrs. Langille was always very sweet, whenever I was there.

30 Q. Did that same conduct continue all the time? A. All the time I knew them. Mrs. Langille visited my home on the average of two or three times a week until they left Irvington and went to Keyport, and she came to me after they left Keyport.

Q. Did you know about this trouble in August, 1931? A. No, the first I heard was when Dr. Mooreman called me. He told me about it.

Q. Did Mrs. Langille go to see you after that? A. Mrs. Langille came to me in January.

40 Q. What year? A. 1932. And asked me if she could come to my home; she had no place to sleep, no money, and no food, and I told her she certainly could.

*Defendant's Witness, Bessie Jacobus, Cross*

Q. Did you see Mr. Langille after that? A. I have not seen him until today.

Q. Do you remember when Mrs. Langille went to the hospital? A. I do.

Q. What did you do? A. Mrs. Langille came to me last August from Springdale Avenue, and was sick all day. I took her back home so she could see her doctor, and the doctor ordered her to the hospital at once, and I came home, and the hospital called me, and I asked if I could be of any assistance. They called me back at 10:30 and said they were taking Mrs. Langille to the operating room for acute appendicitis, and I called Mr. Langille and Frederick answered the phone, and I said, "Frederick, this is Auntie Bess," and I said, "Is your father there?" I said, "Please put him on the wire." And I said, "Fred, Evelyn is in the Orange Memorial Hospital, critically ill; they are operating on her." I said, "Now, Fred, I think it is almost time you came to your senses," and he said, "You shut your damn mouth," and hung up.

Q. When was that? A. August 28th, 1933.

*CROSS-EXAMINATION by Mr. Frazer:*

Q. The time of the operation was August 28th, 1933? A. Yes. Mrs. Langille came to me in January and stayed with me from January 12th until March 21st, when she went back to Springdale Avenue.

*Petitioner's Witness, Fred Langille, Direct*

MR. FRED LANGILLE, rebuttal:

*By Mr. Frazer:*

10 Q. I show you two letters, one marked P-5 for identification, and the other a photostatic copy of a letter, marked P-6 for identification, and ask you in whose handwriting it is?

Mr. Unger: That photostat, is that the same as this other letter?

Mr. Frazer: No, it is a separate letter.

Mr. Unger: Well, I object to the use of those letters, your Honor, please.

Mr. Frazer: I have not offered them yet.

20 Mr. Unger: You cannot use them. The original is the best evidence.

The Court: Where is the original?

Witness: The original was returned to Mrs. Langille at No. 364 N. Maple Avenue.

The Court: Why?

30 Witness: The understanding was that she wanted me to give her back the letters of Mr. Bollenbach, and I gave them to her. I asked her at that time to go over them with me, and she said "No" she was going to burn them up. I don't know what she did with them, but both of these letters, the original of this, and this original, I took from her purse.

The Court: I will exclude the photostat. Referring to Exhibit P-5, in whose handwriting is that?

Witness: Mr. Bollenbach's.

40 The Court: You obtained this from her purse?

Witness: Yes.

*Petitioner's Witness, Fred Langille, Direct*

The Court: When?

Witness: 1931.

The Court: Was that the letter that caused the row in the house?

Witness: Yes.

The Court: How did it come when you returned Bollenbach's letters that you retained this one? 10

Witness: I had a photostatic copy made of those originals and took them up to Mr. Bollenbach's people and his father and his two brothers and his sister.

The Court: I am asking you if you returned all of his letters, how it is that you have one original? 20

Witness: I didn't return all of them.

Q. I show you two postal money order receipts, Exhibit P-6 and P-7, and ask you whether those are the receipts for the money orders which you sent to your wife in Vermont? A. Sure.

Q. And the one dated August 1st, 1932, was it or was it not enclosed in the letter marked P-1? A. It was enclosed in it, and that's a copy of the original letter I sent to her (indicating to P-1). 30

Q. I would like to offer these in evidence.

Received and marked P-6 and P-7.

The Court: Let me see that letter of Mr. Bollenbach (P-5).

By Mr. Unger:

Q. There is no year on that letter, Mr. Langille (indicating to P-5). What year was this? 40  
A. 1931.

*Petitioner's Witness, Fred Langille, Direct*

Q. Did you receive this letter? A. I didn't receive it. She received it, and I took it out of her pocketbook.

Q. Did you tell her about it? A. Certainly, she knows that I got the letter.

10 Q. When? A. I told her that I got that letter and others. She knew it at the time.

Q. When? A. She got the letter sometime around the 1st of August. It was somewhere around that time when I got the letter.

Q. Do you know where this letter came from? A. I believe it came from Reno, Nevada.

Q. The letterhead is marked "San Francisco." A. I believe it was written in Reno, Nevada.

20 Q. You say you took this letter from your wife's pocketbook? A. Yes.

Q. You were on good terms, weren't you? A. No, we were not.

Q. Was there an envelope there? A. No, I took the letter as is.

Q. Was there an envelope there? A. I believe there was.

30 Q. Why didn't you take that? A. I was interested in getting the letter.

Q. Were you in the habit of going through her pocketbook? A. No, not until she began to receive these letters.

Q. These letters came to her or to you by your consent? A. They did not.

Q. This man was your good friend, wasn't he? A. He was not after May 18th.

40 Q. You and your wife and some other people took him to the Pennsylvania Railroad station when he went to Reno, didn't you? A. Yes, on May 4th.

*Petitioner's Witness, Fred Langille, Direct*

Q. Was it that time when you told him that he should send letters to you and your wife and you would guaranty that they would be turned over to her? A. No, I never said that.

Q. And you had letters photostated? A. I photostated two letters and took them to his people. 10

Q. What did you have in your mind; trying to lay a foundation for a divorce? A. I photostated those letters and took them to his people to try and stop him from writing to her.

Q. Do you know a lady by the name of Miss Donnegan, an investigator in the Associated Charities? A. I don't know whether that was her name. She came to the hospital when I was there. 20

Q. Did you ever tell her that you were going to get a divorce? A. Certainly.

Q. When was that? A. Between October 16th or November 16th.

Q. Was that the reason that you refused to stay with her in the apartment on Springdale Avenue? A. No.

Q. Why didn't you stay there? A. After receiving her letter of September 1st, which is in evidence, stating that she wanted to go away and wanted to take care of Frederick from the outside, what was I to expect? 30

Q. So that's the reason you didn't stay? A. Yes.

Q. Did you remain there from August 1st, 1932 until June 1st, 1933? A. No.

Q. The owner of the apartment testified that he rented that apartment in July and that you moved in in August 1st, 1932, and Mrs. Langille stayed there until June 4th, 1933? A. My 40

*Defendant's Witness, Evelyn Langille, Direct*

wife didn't come in until March 20th, 1933. The last time I saw my wife was at Mrs. Robert's house in November.

10 Q. What year? A. 1932. My son and I went up there and I distinctly said to her, "Why don't you forget this business and come back." She began talking to me about Vermont and she said she would not come back until she got those letters. Her entire attitude was that she would do nothing until she got those letters. I also told her that she had to show her good intentions by forgetting those letters and I was willing for my son's sake to have her come back and I pleaded with her once in October and  
20 twice in November and the last time in November I got sick and tired of it.

Q. You lived with her for seventeen years, didn't you? A. No.

Q. That telegram that you sent said "seventeen years, I remember," what did you mean? A. I meant to indicate that I knew it was our anniversary.

30

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MRS. EVELYN LANGILLE, recalled:

*By Mr. Unger:*

Q. I want to show you a letter marked P-5 and ask you was this exhibit in the other court? A. I don't know, but there was a letter there. I don't know whether it was that letter.

40 Q. Take this letter in your hand please. I ask you if you saw that letter before in this court or in the Domestic Relations Court? A. No.

*Defendant's Witness, Evelyn Langille, Direct*

Q. Was that letter in your purse when you were living with your husband? A. No.

Q. Did you receive this letter? A. No, I don't know anything about it.

Q. Did you receive this letter? A. No. Judge Siegler said I was framed. 10

Mr. Frazer: I object.

The Court: Strike it out.

Q. Did your husband tell you that he was going to get a divorce no matter how, but he was going to get it? A. He told me all along.

Q. When did he tell you? A. He told me several times. The first time he told me was when I called him after the Domestic Court, on the telephone. 20

Q. Did you say to your husband that you would not move into the Springdale Avenue apartment unless he would let you have those letters? A. No.

Q. Did you know that he had those letters? A. I knew he had letters, because Dr. Mooreman told me they had letters I never saw.

Q. When did you move into the Springdale Avenue apartment? A. March 21st. I pushed my way in. 30

Q. The evidence says that he hired this apartment August 1st. Did you know about it? A. I only got that letter saying he moved the furniture to No. 386 Springdale Avenue, but nothing was said about my coming in.

Q. Did he ask you? A. Never, and I never refused.

Mr. Frazer: Do you remember saying, "Where is the little apt. What is it near." That was in the letter that you wrote in an- 40

*Exhibit P-1*

swer to his letter of August 1st, in which he said he was moving the furniture into a four-room apartment and asked you what your plans were?

10      Witness: That statement was not in answer to that letter at all.

Mr. Unger: You never refused to move in, did you?

Witness: No, I got in under the most humiliating conditions.

---

**Exhibit P-1.**

20

8/1/32

Dear Evelyn:

Enclosed find money order for \$10.00. Ralph Vanderhoof is moving the furniture from the Warehouse to 386 Springdale Ave. Aug. 3rd. into a four room apartment.

30      I went to see Frederick over the Week end. He talked with Cassie and does not want to go to Vermont but is glad to go to Cassies for a week before he goes to camp. I understand Cassie will return Aug. 7th and he plans to go there the 8th.

You were going to write me from Vermont?

Make your plans and let me know what you intend to do.

With best regards to all in Vermont with you.

40

Yours truly,

FRED.

**Exhibit P-2.**

Tuesday  
 Aug. 2d  
 I guess.

Dear Fred,

I received your letter last night. 10

Thank you for the money but you still owe another ten.

Have you got the letters from Mr. Parnell and Gordon? You are foolish to take the apartment unless you get the letters. I told Mr. Nelson and I told you several times. You took the apt. because the Judge told you to. Now, please get the letters because I ask you to.

I did not have any idea Frederick would either write or come to Vermont. I guess he did not want to see me after all. 20

I have no plans Fred until you get the letters also.

Where is the little apt. What is it near.

Very sincerely

EVELYN.

30

**Exhibit P-3.**

(Not dated but sent Sept. 1/32)

WESTERN UNION

Received at Newark N. J. 8 41 AM

Mrs. Evelyn Langille. Cowdrey Place. 40  
 So Royalton Vermont.

Seventeen years I remember your letter indicated nothing definite

FRED

**Exhibit P-4.**

Dear Fred,

Your roses were and are beautiful and I thank you very much. Do you know one rose in yrs. gone by for each anniversary would  
 10 have done more than all of them today.

You did recall this day which is something and more power to you for doing it.

You never truly loved me or your own heart would have told you what to do in the past and not have to be told or shown.

Love Frederick and do all things for him you would like to do for me and do it for him. If you love me as you say you do.

20 I *did* love you.

You have condemned me and called me a Heller and told me to go to hell that I have disgraced your name.

You condemn me for things I have not done. I am not what you call me or wicked and I *won't* go to hell. I forgive you everything but I don't and can't forget.

30 So Fred let me go *please* and know I shall never forget you and truly love Frederick so much I can't stay with you because you say I disgraced him and I did not and I love him and please let me help him from the outside and please know I shall want to help you too; but I can't stay. Please be a true friend instead of a failure of a husband but not a failure as a man.

40 I have gone to work again please don't discuss this anymore and know I like the flowers. But if you love me let me go and go in the right way and try and understand. Perhaps Dr. Sandbach would help you to see.

*Exhibit P-5*

Please don't be hurt as I don't want to hurt you but I can't forget.

Anyhow dear, it is better to have loved and lost than never to have loved at all. We will be friends and share Frederick please as I worked hard to save him but you do what your heart says. I will understand and I don't hate you and will never forget you. 10

EVELYN.

---

**Exhibit P-5.**

20

HOTEL WHITCOMB

SAN FRANCISCO

10 P. M.  
July 29th

Dearest:

While I went to P. O. to mail a letter to you in ans to the one where clipping of Dr. Balentine was in the one you wrote and mailed in E. O. at 10 P. M. came here at about 9:15 P. M. very good time from the East. 30

All I want is a *Nevada Divorce* as to my Jersey property I haven't any I want a *divorce* be it good or bad in N. J. I am not much interested. You see she may contest it here and if she does it will be good all over that is just a *little trick* in the Law. His wife didn't contest the degree or divorce, but I am hoping mine will, we expect her to fight me here. 40

*Exhibit P-5*

Dearest, you certainly worry me to death, I am sorry to hear of your misfortune Sunday, it is your nerves you have got to *rest* and take things easy and from now on I will do my part to help *calm those nerves of yours*.

10 I suppose weakness and the *little old lady* was working on your system and you haven't done any swimming, it was too much for you, please for *my sake* be careful. Your nerves won't permit you to do all you want, so my advise to you for the present *Dont go Swimming*.

Now as to *Hutsons*—Dearest you have to use your *own* good judgment about going *if it will help Fred and his job by all means go*.  
 20 I don't want to stand in Fred's way from making his living and if Mr. Hutson can help there's nothing left for you to do but go, but be *very careful of yourself*, I don't think I *would go in bathing* after last *Sunday's experience* while at *Hutsons* and *NO Liquor* of any kind *not even* a taste as far as your concerned, please. It may be hot there and the best thing to *do is ease down & rest and no riding*. Quietness is  
 30 the best thing for the nerves and plenty of sleep. Enjoy yourself but *watch your step* and have a good time. Let me know results dearest please.

*As to Friedmann*

I will write Fred. I'll think your suggestion over before doing anything and Let you know results, the only thing I want to get the truth  
 40 just what he told Nell.

What was wrong with car?

How much did he cost to fix, and how was it Nell loaned Fred money.

*Exhibit P-5*

It *displeases* me to have Fred take *Elsie* in that car. Why should I furnish a car for her or any of his women. I don't like it at all— She is nothing to me except a damn fresh over bearing *squaw*. You can tell Fred when he *owns* car he can take her or *any other woman* but up until then *She has got to stay out* as Im not a *fool* or a succor furnishing a car for another guy's girl or *concubine*. Let Bill or Fred buy a car to take this *thing* out. I had a feeling this rotter was out in the car Sunday when I wrote yesterday. It *just burns me up*. 10

I have to write long hand because my brother-in-law and Sister both go to bed right after 9:30 I can hear both *snoring*. 20

Mrs. B was served on July 13th and has 30 days to ans. or August 14th. Why did you ask?

Fred know I write you at Box 18—

Evelyn dear, maybe I was a little unreasonable to ask you to wear ring on *left hand*, but with my *brothers troubles*, yours and my own sometimes I wonder whether I am *going* or *coming*. You wear it on your right hand the ring is yours for *keeps* with a *true lovers wishes* and this lover will always be true and faithful to *one just one* and that is you my *dear girl*. I will always just be *satisfied* with you *dearest*. I will always be the *lover* to you as I am today I cant be any different As it is I only see and think of you. It drives me wild When I dont get a letter *each* day from you. I didn't eat hardly a thing this morning or noon because I had no letter, worse than that I left S. F. yesterday and rode 90 *miles* to get disappointed. Then I watched the clock 30 40

*Exhibit P-5*

—8-8.30 for *Specials*—then 11-11:30 for Mail man—what a hollow feeling.

10 Their is nothing in this whole world I want as much as you *dearest*. I need you more than anything I can think of and I will have you as soon as you will come and when you do come, *Never No Never* will you *want to leave* me. You have made *your* place in *my* life and you have to always fill that *place*. Until you do it will be *empty*.

Why do you say you cant *promise* as *much* as *you would like*— I wouldn't interfere with Frederick Schooling. Never have I even suggested it.

20 Their *no good reason* why you can't promise, what I want—it may be a question of time but you can promise. Any promise made has got to be kept. I have kept mine and will keep each and every one.

30 You say when Frederick is out of school and are patient things will be different. What do you mean? Please explain. I am not unmindfull of your duty as a Mother, but I am as a *wife to Fred*. *You owe Fred nothing*.

The big question now and has been between us and will be until you say "yes" *When will you marry me?* That is the answer *I want please* I cant see or think anything else but you as my "*Wife*" *Let us settle When*. You have to decide eventually and their is no time like the present.

40 Dearest, I am the last person in the world to boss you, anything I have ever wanted I asked you to do.

*I am no boss* and dont intend to be one. So, please be *fair about things* and dont threaten

*Exhibit P-5*

because that dont sound like *you to me*. I dont like it. I care and dont say I dont please because you hurt me when you do.

As to meaning what I ment when I said it is *just to bad for you*. Well, when I am not wanted anymore why Ill just disappear from sight and you wont hear from me or anyone else. 10

But why talk both of us about disappearing from each other when and what we are each truly after is each others love truthfulness and loving and honest sincere companionship.

As I wrote you today.

We should plan on our future to make it pleasant, bright and *very happy*. We have got to *live for one another* we need each other more every day. *Plan it, live it think it—* Dearest that my promise to you. 20

Let me have your promise by return mail.

12 P. M.—My Sister says to bed she heard me in dining room and just came to see what I was doing—

How I would love to call you it would be 4 A. M. May be tomorrow honey I will. 30

How I would love to be always with you—

Thursday 2 P. M.

Went to bed last night at about 12 30 up at 730 A. M.

Help with dishes, went to store and polished dining room table. Had lunch—I forgot I read your sweet letter only (4) *Four times this morning*. 40

Dearest I have *faith* in *you* and how *much more* and *better* I *understand* you from this letter. I think it cleared up a lot of things.

*Exhibit P-5*

And the biggest one is Where you say "I  
*am your wife before God and he is the one who*  
*counts."* That is your feeling in your heart  
 then why didnt you say it before and why did  
 you say *No* when I said you are placing ring  
 on your future *husband*. If you feel & know  
 you are my *Wife* before God then why are I  
 not your husband. You should have said  
 "Yes"

10

The only question you refuse to answer is  
 about divorcing Fred. It will have to be and  
 come.

Dearest I love you and do not want to tear  
 your home apart while Frederick is at School—  
 Ive told you that before.

20

I hope you will now make promises I want  
 please.

I will write Fred re apartment to-morrow or  
 Sunday a good suggestion on your part.

I want to live with you.

As to Mr. Mindnick if I write I will send it  
 to you dear *Many thanks*. I am glad he cashed  
 check.

30

Please mail enclosed letter you can read it.

Also, please pay Insurance I only got *one re-*  
*ceipt* for 1 policy—there were (2) more. Did  
 you pay them; I hope so—Together with *new*  
*address*.

Dearest. Here is check for \$5.00 buy yourself  
 a new *pair of shoes and stockings to match*, the  
 kind you got when I was with you—I am ex-  
 acting a promise from you—to *Buy Shoes Re-*  
*member Low heels*

40

How is your hair is it *long* or did you have it  
 cut?

Do you want some more cream I will send  
 some if you do deary.

*Exhibit P-5*

*As to going to Asheville*

Do you remember what you wrote?

You never invited me to go to Asheville or even suggested I meet you there.

You said Fred want you to go now and you won't on account of his stomach, then you said you would go in September to have a wonderful time. I never was mentioned or asked if I would care to go or not. 10

As to the apartment you never asked me one word but said after you knew you hurt me and I asked about where Fred & Frederick were going to sleep—You said Frederick to have a room & you and Fred—*Twin Beds*

Dearest I don't want you to share any room with Fred—You won't and couldn't and be to me what you say you are in the eyes of "God"—Fred & Frederick will have to share their room and you a room to yourself. Remember, I am asking you not to share a room or anything else with Fred I telling you now so latter on you said I didn't say anything. 20

Frederick sharing room with Fred works no hardship on him.

But you sharing a room with Fred is something I don't want you to do Under No Condition—Why place yourself where he can get at you. You know he tries now to come near you What do you think he would do then—He walks around now without any clothes. You would have to undress and dress in front of him, if you share a room with him I will know you don't love me as you will not do a thing to displease me if you really love me which I feel you do and have felt and have faith in you— 30 40

I wouldn't do a thing to displease you dearest.

*Exhibit P-5*

10 *As my wife would you share a room with another man—The same thing applies to Fred. You are his wife only in Name by man made Law. You are my wife before God and I am going to keep you as such and fight and protect you all your life.*

Remember my wishes please and be governed with them. I know you won't do anything that displeases me.

20 *Dearest—Here is a clipping in a paper here, so you see a Reno divorce is good in California. It is good in N. J. the only thing they can do is to make trouble but a divorce is a divorce. I have No property—No papers were served on me—So I dont owe alimony or Consul fees.*

I dont know whether I told you this or not but anyway here goes

When I return it will be by the way of New Orleans or Hauston Texas—

From either point by Boat.

Why cant you plan to come down their and return with me by boat—I will write and suggest this a compensation for a trip for all things you did for me—Think it over

30 My Sister is waiting and I want to mail this letter which is long.

Think boat ride over *dearest*.—I will pay all expenses.

From your lover

Lovingly

CHESTER

**Exhibit P-6.**

500195

## RECEIPT

Dollars		10
10	_____	
	Cents	

For Remitter  
 To Detach and Hold  
 Must be presented at  
 Office of Issue When  
 Inquiry is Made Re-  
 garding Order 20

Issuing Office  
 Newark N. J.  
 Aug 1 1932 M. O. B.

(Back of Receipt)

Hold this receipt until sure the Order has been  
 paid 30

Sent to Evelyn  
 Address So. Royalton Va.

**Exhibit P-7.**

510337

**RECEIPT**

10	Dollars	10		Cents
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For Remitter  
 To Detach and Hold  
 Must be presented at  
 Office of Issue When  
 Inquiry is Made Re-  
 20 regarding Order

Issuing Office  
 Newark N. J.  
 Sep 1 1932 M. O. B.

(Back of Receipt)

30 Hold this receipt until sure the Order has been  
 paid  
 Sent to E. Langille  
 Address So. Royalton Va.

Rec'd 5/9/35

## New Jersey Court of Errors and Appeals

Between

FRED HARRISON LANGILLE,  
Petitioner-Respondent,

and

EVELYN COWDERY LANGILLE,  
Defendant-Appellant.

On Appeal  
from Court  
of Chancery.

### BRIEF OF DEFENDANT-APPELLANT.

#### Statement.

This is an appeal from a decree *nisi* advised by an Advisory Master, decreeing that the appellant and the respondent be divorced and that the appellant's counterclaim be dismissed because of failure of proofs.

This action was brought by the husband-respondent for an absolute divorce on the ground of actual desertion. The wife-appellant filed her counterclaim also for absolute divorce against the respondent on the grounds of actual desertion and extreme cruelty. The decree advised and entered is erroneous, in that:

(1) The respondent's evidence did not prove (a) the alleged charge of desertion; or (b) any act which could be construed as desertion on the part of appellant.

(2) The respondent's proofs failed to sustain

the charges that any alleged desertion by the appellant was (a) willful and (b) continuous for a two-year period, and (c) obstinate.

(3) The respondent's proofs failed to show that he made an honest effort at reconciliation.

(4) The proofs show that the respondent rejected the appellant's offer of reconciliation and continued so to do during the entire two year period, and because of such action respondent was guilty of willful, continued and obstinate desertion.

(5) The proofs show that the respondent connived and participated in the letters allegedly disclosing the appellant's deserting intent.

(6) The alleged act of appellant's desertion and any other such act was condoned by the respondent with full knowledge thereof.

(7) The respondent's proofs fail to sustain the burden of proof upon him in proving the essential elements of the alleged desertion.

(8) The appellant's proofs disproved the respondent's charge and sustained the desertion charge in her filed counterclaim, and the appellant should have been granted a decree thereon.

These points will be contended in the memorandum following, and in the first part of the memorandum Points 1, 2, 5 and 7 will be considered; in the second part Points 3, 4, 6 and 8 will be considered.

### Memorandum.

FIRST PART: The charge of the respondent's petition was that the appellant deserted in January, 1931 (see S. of C., p. 10, l. 23 to l. 27). This charge is denied (S. of C., p. 12, l. 29 to l. 34). The respondent's direct testimony discloses on January 17, 1931, something occurred and the wife stated that that would be the last time that she would have anything to do with the respondent (S. of C., p. 34, l. 8 to l. 25). This is the sole evidence in proof of the time of the separation and its quality thereat. To constitute desertion such as gives a right to relief, there must be a purpose existing in the mind of the appellant to desert her husband—not for a temporary separation, but a purpose to abandon him, stay away from him, and not associate herself with him. It must be the result of her own wish (see *Loux v. Loux*, 57 N. J. E. 561, at page 564). A careful analysis of the evidence shows that the alleged cessation of cohabitation on January 17, 1931, was not of the quality required by the cases and consequently could not have begun any period of actual desertion.

Referring to his marital relations prior to 1931, the respondent, on cross-examination, testified that in 1922, everything was all right (see S. of C., p. 43, ll. 26 and 27); that around 1924 or 1925 the relationship was still friendly (see S. of C., p. 44, l. 14 to l. 16). Because of the absence of evidence to the contrary, it is fair to assume that from 1925 until at least 1930, this friendliness with his wife continued (see S. of C., p. 34, l. 8 to l. 10). The respondent testi-

fied that on January 17, 1931, his wife's manner in the performance of one duty of their marital relation suddenly cooled and from that time on she was distant and absolutely refused to perform this duty (see S. of C., p. 34, l. 19 to l. 25); that he had no sexual relations with her, although he tried, and was refused (see S. of C., p. 36, l. 12 to l. 15).

There is not a scintilla of evidence of any fact or circumstance on or prior to January 17, 1931, to indicate a purpose for the wife's sudden refusal in the performance of her duty on the latter date. In agreement with this statement, the Court below, in its opinion (see S. of C., p. 26 to p. 29, incl.) refers throughout to certain occurrences dating in July and August, 1931, from which it deduced the quality of cessation on January 17, 1931. Such facts or circumstances must, therefore, be sought from events and occurrences taking place subsequent to January 17, 1931, and these must logically contain the deserting reason for the wife's sudden action on January 17, 1931, and an indication of a purpose not to return; and necessarily so to the respondent's case, because without disclosure of such reason there can be no conjecture or uncertainty as to the quality of the cessation alleged on January 17, 1931. If, therefore, the respondent's proofs of such occurrences cannot furnish either directly or inferentially the deserting reason as of January, 1931, then the cessation, if one took place, must be concluded to have been one that was within her legal rights and for just reasons (see *Gordon v. Gordon*, 89 N. J. E. 535, at page 537; *Sheerin v. Sheerin*, 115 N. J. E. 75). The re-

spondent on his direct case proved that about August 1, 1931, the wife received a letter (Exhibit P-5, S. of C., p. 119, l. 20 to p. 126, l. 36) out of the contents of which, it is contended, appears sufficient reason for the wife's sudden change on January 17, 1931.

Disregarding its contents for the moment, the letter is dated July 29, 1931, or more than six months after the alleged commencement of the deserting period. Nothing appears in evidence that this letter was one of a series which ran back as early as the deserting date, unless the respondent's testimony on cross-examination forms a basis for such inference. He stated that between May and September, 1931, there was quite a bit of dissension on account of this "letter business" (see S. of C., p. 48, l. 14 to l. 18). Accepting this statement, there is no proof of the existence of any such letters prior to May, 1931. This being so, it must necessarily follow that the letter dated July 29, 1931, from which the Court gathered the reason for the wife's desertion on January 17, 1931, could not be the basis for any such reason, because of the utter factual impossibility thereof. It might be the underlying cause of a difficulty and separation in August, 1931, but not in January, 1931. Because of this impossibility, such conclusions of the lower Court as were based on this letter and contained the determinations of the deserting reason as of January 17, 1931, must necessarily be erroneous.

As to the contents of this letter, standing alone and unconnected, it could not evidence the wife's mental state in January, 1931, or at any other time, for the very obvious reason

that it is neither her letter nor her expression. To conclude otherwise would be to open the door for the perpetration of great frauds in evidential matters.

Assuming, but not granting, that the letter is connected, it contains no fact and refers to no circumstance as of January 17, 1931, out of which the vital quality of the cessation could be determined. It is true that the Court below excerpted parts thereof to furnish certain necessary proofs against the respondent, but it is submitted that certain other parts of this same letter might just as readily be excerpted to disprove those conditions and favor the wife. On page 122 of the State of the Case, line 16 to line 30, the writer is referring to some promise which he desires of the recipient and which he cannot obtain, because, as he charges it, of the recipient's duty to her husband. On page 124 of the State of the Case, lines 21 and 22, the writer is again seeking the promise, after apparently receiving a letter which failed to give it. The most significant part, which is complete evidence of the lack of a deserting state of mind on the part of the wife on the date of the letter, and which can be under the same reasoning of the Court below referred back to January 17, 1931, is this excerpt (see S. of C., p. 125, l. 15 to l. 20) "as to the apartment, you never asked me one word, but said after you knew you hurt me and I asked about where Fred and Frederick were going to sleep \* \* \* you said Frederick to have a room and you and Fred \* \* \* twin beds" (Fred is the husband and Frederick is the son). It is this statement of the wife which prompts the writer to the expressions which are referred to in the

conclusions of the Court below. It is elementary that a writing in evidence must be considered in its entire context. It is submitted that the contents of the letter when so considered, is in entire disproof of any reason on the appellant's part for cessation of cohabitation of the quality necessary at the commencement of a period of desertion.

The second letter to which the Court below referred in its conclusions is a letter not in evidence as an exhibit, but partially read into the record on the cross-examination of the appellant, and which begins at State of Case, page 92, line 12, and ends at page 94, line 21. The letter is admittedly the appellant's and was written after August 1, 1931, but never sent (see S. of C., p. 94, ll. 23 and 24). It is admittedly unfinished. The only purpose that this proof could serve was to demonstrate that the appellant kept some of her correspondence to herself and that Exhibit P-5 was obtained in the manner as stated by the respondent. The appellant readily admitted the receipt of letters from this source, which she kept from her husband and everyone else, because, as she stated it, "they were filthy" (see S. of C., p. 103, ll. 33 and 34); that when the letters got dangerous, she did not write any more (see S. of C., p. 103, ll. 31 and 32); and even though she told her husband about them and had asked him to write to the sender many times, the letters still came (see S. of C., p. 103, l. 35 to l. 42). The fact that the respondent was a good friend of the writer of these letters (see S. of C., p. 46, l. 21, and p. 101, ll. 26 to 27) and himself corresponded with the writer and wrote letters to him together with

his wife (S. of C., p. 102, l. 31 to l. 33) is very important to note. Although charging the appellant with receiving these letters clandestinely, it is proven that the respondent himself received letters from the writer through the same sources (S. of C., p. 102, l. 17 to l. 19) and at his office (S. of C., p. 102, l. 18 to l. 24), all of which emphatically indicates a connection between the respondent and the writer, which he could and did use to his own sinister purpose on an innocent wife and to his own desired advantage by encouragement to the writer. It is respectfully submitted that the respondent put his wife in the indiscreet position which she found herself in August, 1931, as a result of the letters, and that he did nothing to shield, guard or assist her from the result which he knew and should have anticipated, but proceeded to turn the facts to his own selfish advantage. The Courts have always refused to give relief to such a claimant and have openly condemned such practices (see *Rosengren v. Rosengren*, 115 N. J. E. p. 283). The respondent should not now be permitted to urge the results, which he aided, as furnishing the proof of a deserting mind.

Assuming that there was a cessation of cohabitation on January 17, 1931, of the quality required, it was not continuous for the two-year period.

A mere separation for the period does not constitute this element (see *Moak v. Moak*, not officially reported, 48 At. Rep. 394). If there was a resumption of marital relations at any time during the two-year period by the appellant and respondent as husband and wife, the

period of time preceding the resumption cannot be considered a part of the two-year period (see *Hyer v. Hyer*, 91 N. J. E. 147).

The proofs disclose that the parties lived under the same roof, even after the date of the alleged desertion, up to December 31, 1931, excepting therefrom about ten days in August, 1931 (see S. of C., p. 35, l. 22 to l. 30). It is manifest, without argument, that there was not a physical separation from under the same roof for a continuous two-year period after January 17, 1931. Returning, therefore, to the alleged act of desertion as of January 17, 1931, and giving full credence to the testimony of the respondent with reference thereto, we find the period which began in January, 1931, to have stopped after the letter incident in August, 1931, when the respondent testified that his wife agreed to come over to No. 364 "and forget the differences" (see S. of C., p. 49, l. 12 to l. 16). Referring to the December 31, 1931, separation, he said that after returning home and ascertaining that his wife left, he spoke with his wife who told him that she was ordered out of the house by the landlady, and despite the fact that she left and immediately gave him that reason therefor, he did nothing to assist his wife in any manner until compelled to do so in July, 1932, on a complaint filed by his wife to the Essex County Domestic Relations Court, which ordered him to support his wife (see S. of C., p. 53, l. 23 to l. 33). After this trial he drove his wife to Jersey City, from where she left for Vermont with his complete acquiescence, kissing her goodbye, and with the understanding that he was to establish a residence (see S. of C., p. 37, l. 17 to l. 18).

From the foregoing respondent's testimony there can be no question but that a continuous two-year period was not shown by the proofs. By way of adding force to this argument, the wife testified that up to August, 1931, she lived as man and wife steadily (see S. of C., p. 71, ll. 9 and 10). On her cross-examination, her testimony is forceful and uncontradicted as to an August, 1931, occurrence of sexual relationship with her husband at a friend's house in Long Branch, where they stayed overnight (see S. of C., p. 89, l. 1 to l. 19). It is a revelation of the fact that the difficulty lay with the respondent and not with the appellant. In this connection, is it reasonable to suppose that two healthy married people, living under the same roof, did not resume marital relations? In the light of the foregoing circumstances, it must be reasonably concluded that there was a resumption, and therefore proof of the continuity of the requisite two-year period was lacking. It was so held in the case of *Loux v. Loux* (cited *supra*), which is almost parallel in facts with the instant case.

That the separation, if one existed, was not obstinate on the part of the appellant, in either its commencement or continuity, is demonstrated from the previous arguments. May we not spell out of the testimony a reasonable interpretation for the change in sleeping arrangements in January, 1931, in order to show that it was not due to any obstinacy on the part of the appellant? At this time, the family consisting of the parents and their son, *age 14*, occupied three rooms—bedroom, front room and long hall (see S. of C., p. 54, ll. 42

and 43). If the boy slept in the front room, as he must have been doing prior to January, 1931, surely his rest would be interfered with, not only under ordinary circumstances, but more so when visitors entered the household and were entertained. Was not this the reason for the sleeping arrangement which was brought about by mutual agreement between the respondent and the appellant and is not this compatible with the lack of any assigned reason by the husband for the alleged desertion? Is not this fact thereupon colored to produce the necessary proof for the act of desertion charged, just as the respondent charged the circumstances in the "letter business" to suit his sinister purpose? Coupling this with the argument hereinbelow contained, which will demonstrate, without question, a divorcing and deserting intent on the part of the husband, there can be no doubt that every necessary element in desertion is lacking credible proof and definite corroboration, and that the respondent has failed to sustain the burden put upon him under the case of *Gordon v. Gordon* (cited *supra*) and a long line of cases of similar import.

SECOND PART: It is incumbent upon the respondent to have made an honest effort to bring about a reconciliation, even though the original desertion was not justified (*Sheerin v. Sheerin*, 115 N. J. E. 75); and particularly and ordinarily is this compliance required with greater efforts when the husband has by his conduct toward his wife, contributed in any degree to her original desertion (*Van Wart v. Van Wart*, 57 N. J. E. 598; *Hall v. Hall*, 60 N. J. E. 469, and *Baxter v. Baxter*, 101 N. J. E.

236, at page 239); and these efforts must be continued during the entire period of alleged desertion, unless it is manifest that his efforts would be useless or that the wife is unchaste (see *Goldberg v. Goldberg*, 101 N. J. E. 284); and any claim that the wife's attitude toward him was such as to show that overtures would have been futile, was the husband's burden to show (see *Laing v. Laing*, 110 N. J. E. 411, at p. 415); and all uncertainties of fact (including doubt as to his efforts), must be resolved against him (*Sheerin v. Sheerin*, cited *supra*). His efforts must be such as to reasonably bring about his wife's return and his wife's desertion is not obstinate until she resists his efforts to end it (see *Baxter v. Baxter*, *supra*).

Assuming the wife did desert, the record is replete with her efforts to effect a reconciliation. She has more than fulfilled the principle laid down in *Loux v. Loux*, 57 N. J. E. 561, at page 566, which is stated as follows: "If, during the period, she manifested to him a disposition to resume relations and put herself in such position that he ought to have undertaken with her the duties of husband and wife, then her desertion ceased to be obstinate and continuous, and, if during that period, be it ever so short, *if it were only one day*, she came to him and showed him that she desired to resume the relations of a wife, the continuity of a period of desertion, which is absolutely essential, fails and consequently the relief which the husband seeks, which is dependent upon that continuity, also fails," and by this very statement her desertion was not shown.

What about the respondent's efforts? Did they in fact exist and did he fulfill the practical test of this duty, stated in *Rogers v. Rogers*, 81 N. J. E. 311, at page 313, to be as follows:

“Our law has refrained from laying down any hard and fast rule in regard to the duty which is imposed upon a husband whose wife is separated from him where she is to blame, on inviting her to return. It would be difficult to frame any hard and fast rule when the question comes before the Court whether a husband was under a duty to invite his wife to come back to his home before her continued separation could be adjudged to be obstinate on her part, the only test of any practical value in a large number of cases is the test of a reasonably kind and just man. Taking all the conditions and all the circumstances into consideration, the question is, has this man acted like a just man?”

It is noteworthy, in passing that the Court below concluded that the respondent's efforts were not strenuous to get his wife to return and then the Court excused the respondent for not making his efforts more strenuous, giving as its reason therefor the mere fact that the appellant was the recipient of the letters in the case (see S. of C., p. 28, l. 32 to l. 37). Under the case of *Goldberg v. Goldberg* (cited *supra*) the husband, in order to justify ceasing his efforts, must show that they would be futile or that his wife was unchaste. He presented no proof of the appellant's unchastity and therefore it is pertinent to inquire into the testimony in order to ascertain whether he has demonstrated in line with the test set out in *Rogers v. Rogers* (*supra*) that his efforts

would be futile. The inquiry should be directed to testimony concerning the wife's actions toward her husband at the time of the alleged commencement and during the period of the alleged two years, and subsequently thereto, and also to the acts of the husband during the alleged two-year period, which it is alleged constituted his alleged efforts. It is submitted that the actions of the wife for the periods indicated should be scrutinized, since they will either bear out or not the Court's contention that any reconciliation efforts on the part of the husband would strike an unresponsive chord in the wife. Considering the alleged act of desertion, no fact or circumstance is therewith shown in order to prove that the wife was unresponsive at that time. When the wife left the husband for ten days or two weeks in August, 1931, returning to the household from day to day (see S. of C., p. 35, l. 40 to p. 36, l. 10), the cause of this desertion was contributed to in large measure by the husband striking her in the face, as is evidenced by his own admission contained in his answer to the counterclaim (see S. of C., p. 20, l. 15 to l. 20) and by his testimony on cross-examination, when he admitted smashing her in the face (see S. of C., p. 45, ll. 19 and 20) and (S. of C., p. 46, l. 6 to l. 12). As a result of a mutual agreement at this time to "forget the differences," the separation ended until December 31, 1931. On the latter date, the wife again left the roof of the respondent under circumstances which are directly attributable to the respondent. It was at his insistence that the family lived in a boarding house. (see S. of C.,

p. 50, l. 7 to l. 15) although he was earning \$175 monthly, including commissions and extra earnings from singing work (see S. of C., p. 51, ll. 25 and 26); and was well able at this time to maintain a separate apartment. It was such circumstances that gave rise to the quarrel over a trivial matter, between the appellant and the landlady, as a result of which the appellant was ordered out of the house (see S. of C., p. 51, ll. 11 and 12) and stayed out, insisting the respondent rent an apartment (see S. of C., p. 51, ll. 41 and 42) which he failed to do (S. of C., p. 52, l. 20 to l. 23). Respondent thereupon did nothing about this separation until July, 1932, when, as is shown above, on complaint of the wife to the Domestic Relations Court, he was ordered to take an apartment and support her (see S. of C., p. 43, l. 25 to l. 33). This determination indicates that the respondent contributed to some degree to the original desertion. His action after this decision against him is best proof of this deduction. He drove his wife to Jersey City, from where she left for Vermont, with the understanding that he should establish a residence (see S. of C., p. 37, l. 6 to l. 18). This respondent thereupon proved that he established the residence, moved in and sent a letter to his wife, which is Exhibit P-1, in the State of the Case, on page 116. This letter he calls an invitation. An examination of the contents of this letter shows that it is nothing more than mere statements wound up by a cold "yours truly." In answer to this letter is Exhibit P-2 (S. of C., p. 117), a letter sent by the wife, signed "very sincerely." Its contents lays down one condition to the wife's return at this time, which is a fair and

just one and permissible under the case of *Driver v. Driver* (28 N. J. E. 393). She wants the husband to get the letters from his solicitors. This request, we can take it, was for the express purpose of ascertaining the good faith of the husband in the resumption contemplated. These were the letters that caused and were causing the difficulty between the two. There is no refusal contained in this letter to return on the part of the wife. Does the husband assure and secure her in any form concerning these letters? He knew that she was making this a condition of her return (S. of C., p. 114, l. 8 to l. 21). There is no further correspondence other than a money order for support on September 1, 1932, and a short telegram (Exhibit P-3, S. of C., p. 117). In response to this telegram, wherein the husband accuses the wife of having no definite plans, the appellant writes a letter (Exhibit P-4, S. of C., p. 118) the contents whereof indicates a severe hurt of heart which she attributes to the respondent. This presents a wonderful opportunity for the husband to show that his efforts were really and truly sincere and were those of a just man, and there he fails. He fails again on or about March 21, 1933, when, after difficulty, the wife gets into his apartment (S. of C., p. 83, ll. 15 and 16) with a cop (S. of C., p. 97, ll. 20 and 21); and on his return from work, finding her there, he left the same night (see S. of C., p. 84, ll. 13 and 14) and this is admitted by him (S. of C., p. 39, l. 34 to p. 40, l. 10); and took his clothes out (S. of C., p. 84, ll. 41 and 42). The wife stayed in this apartment alone until June 4, when her husband stopped paying the rent and served a notice on the landlord (S.

of C., p. 85, ll. 36 to 43). He also had the gas and electric turned off. In this she is corroborated by the landlord (S. of C., p. 105, l. 20 to l. 25). Thereupon she moved to a room in the same building, where she was when served with the divorce petition. In line with the foregoing testimony, evidencing unequivocally the divorcing intent of the respondent, the husband admits that in August, 1931, he said to the wife that he was putting the furniture in storage and that she could go where she liked and that in fact he moved out, leaving his wife in practically empty rooms (S. of C., p. 48, l. 19 to l. 31). The wife's version of this event is that after the furniture was moved out and she asked him where she was supposed to go, he said, "I don't care what in hell you do" (S. of C., p. 72, l. 12 to l. 16). Again when the difficulty arose with the landlady in December, 1931, and the wife asked her husband to get an apartment, he told her that she could "go to hell" (S. of C., p. 75, l. 21 to l. 25). On two different occasions he sent her all her clothes, once up to New York State, and the second time to Maryland, although she had not asked for them (see S. of C., p. 75, l. 31 to l. 36). There was an occasion when the appellant was with an aunt in Maryland and needed money to get back to Newark and when she wrote to the respondent concerning this he telephoned to her and told her to "go to hell" (S. of C., p. 77, l. 5 to p. 78, l. 10). Sometime prior to August 1, 1932, the appellant was ordered to "get the hell out and stay out" (see S. of C., p. 29, ll. 37 to 38) and finally when the respondent was advised by Mrs. Jacobus in August, 1933, that his wife was in the hospital critically ill, she was told by the

husband to "shut her damn mouth" (see S. of C., p. 109, l. 27 to l. 30). As early as October 16th or November 16, 1932, the respondent planned a divorce proceeding (see S. of C., p. 113, l. 12 to l. 25) and this plan he communicated to his wife all along (see S. of C., p. 115, l. 15 to l. 20).

It is impossible, under those circumstances, to believe that it was not the husband's purpose to be rid of his wife and that his attempts at reconciliation cannot fulfil the test of the cases.

On the other hand, the appellant has admitted her indiscretion, which she attributes to the respondent; she has endeavored to have the cause of the indiscretion eradicated through her husband, who has control thereof; she makes such honest attempts to this end that a self-respecting woman can make, and is met at all times by a divorce planning husband who is selfishly, and apparently on legal advice, rejecting her proposal to eradicate the cause. It is submitted that the husband was guilty of willful, continued and obstinate desertion and that the lower Court's decree in granting the relief to the respondent instead of the appellant was erroneous, for the reasons indicated, and should be reversed.

STÉPHEN P. PIGA,  
Solr. for and of Counsel  
with Defendant-Appellant.

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Service of three (3) copies of the within Brief of Defendant  
Appellant is acknowledged this 7<sup>th</sup> day of May 1935.

Fuzyer, Stoffer & Jacobs  
by S. J. Mac Intosh  
Solicitors for Petitioner - Resp

7 MAY. 1 1935

## New Jersey Court of Errors and Appeals

Between

FRED HARRISON LANGILLE,  
Petitioner-Respondent,

and

EVELYN COWDERY LANGILLE,  
Defendant-Appellant.

On Petition  
for Divorce.  
On Appeal  
from Chan-  
cery.

### BRIEF FOR PETITIONER-RESPONDENT.

#### Preliminary Statement.

This is an appeal from a decree *nisi* advised by Advisory Master Francis Child granting petitioner-respondent's prayer for a divorce on the grounds of desertion and dismissing defendant-appellant's counterclaim.

The undisputed facts show that appellant and respondent were married on September 1, 1915. In 1922 the parties hereto became residents of New Jersey and have ever since been residents here. Two children were born of the marriage, David Azzan Langille, now deceased, and Frederick Cowdery Langille, age 18 years, who is now and has been in the custody of respondent.

Respondent's petition for divorce alleged a desertion commencing in January, 1931. Appellant by counterclaim alleged a desertion in January, 1932, and also acts of extreme cruelty beginning in August, 1931.

Separate  
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(3) copies of the  
Brief of Defendant

Appellant contends that in granting respondent's prayer for divorce the Advisory Master committed error on a number of grounds. They involve two issues:

1. Whether the facts adduced warranted the Advisory Master's finding of wilful, obstinate and continued desertion by the appellant;

2. Whether the facts warranted a finding of sufficient efforts of reconciliation by the respondent.

#### POINT I.

**The conclusion of the Advisory Master as to wilful, continuous and obstinate desertion by the appellant is supported by the evidence.**

The respondent's charge of desertion against the appellant is predicated upon a denial of sexual intercourse. This first occurred according to respondent's testimony on January 17, 1931 (S. C. p. 34, ll. 8-25). Prior to that time the relations between the parties had become "cool and distant" (S. C. p. 34, l. 9). To Dr. Mooreman, a mutual friend, it became obvious that "about the last six months of 1930, there seemed to be a rift of some kind" (S. C. p. 62, ll. 14-15).

The denial of intercourse caused a change in sleeping arrangements at the insistence of the wife (S. C. p. 34, ll. 30-37). This is corroborated by the son who frankly testified that he did not "exactly remember the time Dad and I started sleeping together. We slept practically

all of that year (1931) together" (S. C. p. 55, ll. 6-8). Appellant's suggestion that this change was for the convenience of the son is ingenious but fails to explain the continuance of the arrangement after removal to different quarters, where the same reasoning would logically suggest that the son occupy the separate bedroom. That the same arrangement of separate sleeping quarters for respondent and appellant continued after moving to other rooms is charged by the husband (S. C. p. 35, ll. 11-14), corroborated by the son (S. C. p. 55, ll. 19-20) and admitted by the wife (S. C. p. 73, ll. 20-30).

This was no mere cessation of intercourse by agreement. Despite respondent's attempts to resume sexual relations the appellant persisted in her refusals (S. C. p. 36, ll. 11-14). The logical explanation for such conduct on her part is found in Exhibits P-4 and P-5 (S. C. pp. 118-126). Exhibit P-4 is an undated letter written by appellant to respondent while the parties resided in the apartment from which they moved in September, 1931 (S. C. p. 89, l. 29, to p. 90, l. 12; p. 34, ll. 39-41), in which she acknowledged flowers sent by respondent on their wedding anniversary, September 1, 1931. In her letter the state of mind of the parties is clearly revealed by appellant who quotes respondent as saying he loves her (S. C. p. 118, l. 18) but follows by saying of herself "I *did* love you" (S. C. p. 118, l. 19). After stating respondent to be "a failure of a husband" appellant continues, "But if you love me let me go and go in the right way and try and understand" (S. C. p. 118, ll. 40-41). Ap-

pellant summarizes the situation concisely when she says in conclusion, "it is better to have loved and lost than never to have loved at all" (S. C. p. 119, ll. 8-9).

The underlying reason for appellant's attitude is found in Exhibit P-5 (p. 119) which is a letter from one Bollenbach to the appellant dated July 29th, 1931 (S. C. p. 111, l. 6 and l. 42). It was an answer to two letters from appellant which arrived before Bollenbach completed his lengthy letter (S. C. p. 119, ll. 31-33; S. C. p. 123, ll. 38-43). The appellant is quoted as saying in one of her letters to Bollenbach: "I am your wife before God and he is the one who counts" (S. C. p. 124, ll. 6-8). The correspondent, after telling her how to wear his ring, discussing their great love, reporting on the status of his Reno divorce proceedings, and inquiring when she will be ready to marry him, advises appellant not to share a bedroom with her husband:

*"But you sharing a room with Fred is something I dont want you to do Under No Condition—Why place yourself where he can get at you. You know he tries now to come near you What do you think he would do then \* \* \*"* (S. C. p. 125, ll. 30-35).

*"As my wife would you share a room with another man—The same thing applies to Fred. You are his wife only in Name by man made Law. You are my wife before God and I am going to keep you as such and fight and protect you all your life"* (S. C. p. 126, ll. 6-9).

Appellant contends that inasmuch as Exhibit P-5 is dated more than six months after the commencement of the desertion it cannot show

the basis of the desertion, and that the dissension over the correspondence did not begin until May as respondent testified (S. C. p. 48, ll. 14-18). Bollenbach did not leave for Reno until May 4th (S. C. p. 112, ll. 39-42). The status of a "wife in the eyes of God" and the intimacy revealed in Exhibit P-5 could only have been achieved by continued close association for some time prior to May. Appellant further suggests that this letter is an isolated episode unconnected with a series. This is refuted by a reading of Exhibit P-5, from which we have quoted but briefly. In view of the fact that Bollenbach refers to three letters from appellant and a prior reply by himself (S. C. pp. 119-126); all within the space of a few days, it is more reasonable to conclude that there was an extensive correspondence. This is partially admitted by the appellant who says: "There were so many letters coming that I got scared" (S. C. p. 103, ll. 20-21). A partially written letter from appellant to "Dear Chester" (Bollenbach) admits that she hid and burned earlier letters received from him. The following quotation impressed the Advisory Master (S. C. p. 26, l. 41 to p. 27, l. 13):

"All I know is that Fred (the husband) went up to your father's house and showed the letters he got somewhere. I wonder if Flora gave him those letters or he may have got two from under the couch. I didn't keep them here, but I did go to Flora to burn some of them. I don't know where or how he got them, but he got one, I know, from my purse which I had hid under the pillow."

The Advisory Master in his conclusions ob-

served with reference to this correspondence (S. C. p. 28, ll. 20-30):

“I am satisfied from the testimony, that this letter (Exhibit P-5) fully corroborates the charge of desertion made by the husband. The reason is there, which is as plain as anything can possibly be. If these letters were proper letters, why was it necessary to burn them and to receive them clandestinely? I am satisfied that this defendant wife made up her mind never again to share her husband's bed some considerable length of time before the letter of July 29th was received.”

The parties continued to live under the same roof until December 31, 1931, at which time the appellant admits leaving (S. C. p. 75, ll. 16-17). Her actual departure was precipitated by a quarrel concerning disposal of the family Christmas tree (S. C. p. 74, ll. 29-43) in which the son testified the landlady acted properly and the appellant's temper caused the ill-feeling (S. C. p. 55, ll. 27-42). The departure, however, was no sudden event but rather the culmination of the purpose engendered by the correspondence referred to. A mutual friend testified that “Mrs. Langille suggested that she was going to leave Fred; I don't know just what time that was” (S. C. p. 62, ll. 24-26).

The appellant's absence from the respondent's home from December 31, 1931, to March, 1933, is admitted by her presence in Baltimore until July, 1932 (S. C. p. 76, l. 42), East Orange (S. C. p. 80, l. 11), Vermont until September (S. C. p. 81, l. 23) and East Orange with Mrs. Roberts (S. C. p. 82, l. 35). During this time appellant persisted in remaining away from the respond-

ent. Although respondent established a new home on August 3, 1932 (S. C. p. 37, ll. 20-21), and advised appellant of that fact (S. C. p. 37, ll. 20-21), she did not return (S. C. p. 39, ll. 21-22). A mutual friend, Dr. Mooreman, testified that during this separation the appellant stated "she would not go back" (S. C. p. 63, l. 7).

Therefore, the facts in this regard show direct testimony of the respondent as to a denial of intercourse preceded by a gradual estrangement according to Dr. Mooreman, substantial corroboration by the son, a clear, underlying reason expressed in correspondence with Bollenbach, a purpose to leave followed by actual departure and an expressed intention not to return.

Justice Perskie in the most recent pronouncement of this Court on this subject in *Haviland v. Haviland*, 114 N. J. E. 96 (1933) said (at p. 101):

"The unjustified refusal of sexual intercourse by the wife persisted in willfully, obstinately and continuously for the statutory period of two years is a ground for divorce for the cause of desertion. *Rector v. Rector*, 78 N. J. E. 386 (at p. 404); *Parmly v. Parmly*, 90 N. J. E. 490; *McLain v. McLain*, 91 N. J. E. 530; and *Haskell v. Haskell*, 99 N. J. E. 399."

See also *Gilson v. Gilson*, 113 N. J. E. 32 (E. & A. 1933); *Becker v. Becker*, 113 N. J. E. 286 (Ch. 1933).

It is respectfully submitted, therefore, that the Advisory Master's findings (Conclusions, S. C. pp. 26-28) of wilful, continuous, and obstinate desertion for the statutory period on the part of appellant are supported by the documentary evidence and testimony.

## POINT II.

**The conclusion of the Advisory Master that proper and sufficient efforts of reconciliation were made by respondent is supported by the evidence.**

The initial desertion occurred in January, 1931, since which time the appellant denied the respondent intercourse (S. C. p. 34, ll. 11-25). During the time the parties continued to live in the same house the respondent attempted to resume marital relations and was repulsed (S. C. p. 36, ll. 13-14).

Subsequent to appellant's departure on December 31, 1931, she lived intermittently with a friend, Mrs. Roberts (S. C. p. 58, ll. 40-43 and S. C. p. 75, ll. 41-42). This witness testified that the respondent called upon the appellant at her residence (S. C. p. 59, l. 22) in a courteous and friendly manner (S. C. p. 59, ll. 34-35). On one occasion the respondent brought "flowers and a bit of cash" to the appellant (S. C. p. 59, ll. 30-31). At that time conversation was had in the presence of Mrs. Roberts relative to appellant's return to respondent in which the respondent said "that the apartment he was supposed to have gotten, was ready, and any time she was ready, it was there" (S. C. p. 59, ll. 39-41). In line with the recollections of the friend with whom appellant was living the respondent testified that he called upon appellant at the home of Mrs. Roberts and said: "Why don't you forget this business and come back" (S. C. p. 114, ll. 8-10). This occurred once in October and twice in November of 1932 (S. C. p. 114, ll. 19-20).

These requests to return were made in reference to an apartment obtained by respondent and about which there is a sharp contradiction of testimony. Respondent testified that in compliance with a ruling of the Essex County Domestic Relations Court he established a residence on Springdale Avenue, East Orange, and notified appellant of that fact (S. C. p. 36, l. 40 to p. 37, l. 6). Appellant denies receipt of this notification which is Exhibit P-1 (S. C. p. 116, ll. 23-42) and states the letter to be a terse note containing no address (S. C. p. 80, ll. 22-28). Immediately thereafter appellant testified that upon her return from Vermont she "went to No. 386 Springdale Avenue" (S. C. p. 81, l. 11). Appellant's denial of receipt of Exhibit P-1 is not substantiated by the documentary evidence. The letter says: "Enclosed find money order for \$10.00" (S. C. p. 116, l. 25). Appellant denies receipt of the money (S. C. p. 88, ll. 40-42) and yet in her reply (Exhibit P-2, S. C., p. 117, ll. 5-28) acknowledges receipt of respondent's letter and says, "Thank you for the money" (S. C. p. 117, ll. 10-11). In addition, respondent's letter is dated August 1, 1932, and receipt of the enclosed money order is dated August 1, 1932 (Exhibit P-6, S. C. p. 127, l. 25).

Such contradictions in testimony involve a question of credibility. Inasmuch as the findings of the Advisory Master are primarily factual, it is pertinent to examine some of the more obvious contradictions which influenced the Master's conclusions. The receipt of Exhibit P-1 with the enclosed money order was the subject of examination by the Master himself (S. C.

p. 98, l. 40 to p. 99, l. 36). Despite appellant's insistence that the money was received by her a week or ten days prior to August 2 (S. C. p. 99, ll. 7-11) the receipt is dated August 1 (S. C. p. 127, l. 25).

The record reveals other differences in testimony. The appellant stated that "he (the son) used to come in my room a lot, and I helped him with his lessons" (S. C. p. 74, ll. 18-19) and yet the son felt that "If she loves me she would have stayed with me in 1931. All she does is hinder my school work" (S. C. p. 58, ll. 7-8). Again, the appellant in testifying about the Christmas tree incident said, "He (the son) had been in school. He was not there all morning" (S. C. p. 75, ll. 7-9). The son says in response to a question as to his presence there, "Yes, all morning, until dinner time" (S. C. p. 56, l. 24). In view of the fact that the incident admittedly occurred on December 31st during the Christmas vacation the son's version seems more probable.

Appellant testified that she did not talk to Dr. Mooreman, a mutual friend of some nine years' standing, concerning her marital affairs (S. C. p. 86, ll. 33-35). The witness in question testified not only to the fact of such conversations but also to the subject-matter (S. C. p. 62, l. 23, p. 63, l. 10).

This contradiction of the appellant is not confined to the testimony. Exhibit P-4 (S. C. p. 118, l. 5 to p. 119, l. 15) is admittedly a letter written by appellant (S. C. p. 89, ll. 36-37). Although appellant testified that the letter was a request for permission to go to Lake George

(S. C. p. 90, ll. 22-23) the letter significantly says: "But if you love me let me go and go in the right way and try and understand" prior to which it says: "I shall never forget you \* \* \* but I can't stay" (S. C. p. 118, ll. 29-41).

Appellant was examined in regard to an unfinished letter she admittedly wrote to Bollenbach (S. C. p. 94, ll. 25-26). In the letter she states that respondent may have obtained letters "from under the couch" (S. C. p. 92, ll. 26-27) although upon examination by the Master on this point she naively suggests that "it fell down" (S. C. p. 102, l. 28). Again in the letter she states "he got one I know from my purse which I had hid under the pillow" (S. C. p. 92, ll. 35-37), and during examination by the Master insists that she did not have a letter in her purse nor did the husband obtain a letter there (S. C. p. 102, l. 29 to p. 103, l. 13).

Despite these obvious contradictions appellant now contends that she is the innocent victim of a divorce-seeking husband who encouraged the indiscreet correspondence. The record itself furnishes adequate answer. Bollenbach left for Reno in May, 1932, until which time he was outwardly friendly to both respondent and appellant (S. C. p. 112, ll. 35-42). As a friend of both parties correspondence addressed to both was naturally permissible (S. C. p. 46, ll. 21-26). Apparently, this type of correspondence was continued for a short time (S. C. p. 101, ll. 28-36). However, the duplicity of the appellant is revealed not only in her testimony but also the exhibits. Although denying that she herself had a post office box at Ampere Sta-

tion, East Orange (S. C. p. 101, ll. 40-41), she admits that Bollenbach suggested opening a box (S. C. p. 94, ll. 40-42), that there was such a box under a company's name (S. C. p. 102, ll. 6-7), and that she did receive mail there (S. C. p. 102, ll. 11-12). This is corroborated by the inquiry in Bollenbach's letter (Exhibit P-5) whether "Fred know I write you at Box 18" (S. C. p. 121, l. 24). The appellant not only co-operated with this arrangement but apparently suggested to her correspondent some activity along this line when he replied: "I will write Fred *re* apartment tomorrow or Sunday a good suggestion on your part. I want to live with you" (S. C. p. 124, ll. 23-26). Further evidence of this two-toned correspondence is found in the statement that Bollenbach would write suggesting a boat trip as compensation to the appellant for all that she had done (S. C. p. 126, ll. 26-30). The Advisory Master was influenced by appellant's active and clandestine participation in the affair as evidenced by his question to her as to the necessity of receiving mail from another address (S. C. p. 103, ll. 14-15). Nevertheless, despite her duplicity appellant now suggests that respondent is at fault.

The factual findings involved are partly predicated upon the credibility of the witnesses. Appellant contends that *Loux v. Loux*, 57 N. J. E. 561 (Ch. 1898) is parallel on the facts to the instant case. In that case the wife left the family home for what the Vice Chancellor concluded to be an unjustifiable cause—the interference of the husband's relatives. Then, as Vice Chancellor Grey stated "from this point on in the narration of the relation of these par-

ties, there is a wide divergence of the statements" and the initial question was one of credibility. That question was resolved in favor of the wife, but the credibility of the wife in the case at bar obviously failed to impress the Advisory Master. Nor was there in the *Loux* case any documentary evidence evincing a predetermined and consistent state of mind as here.

Recent decisions in this court and the Court of Chancery are conclusive of the issues raised in the instant case. *Haviland v. Haviland, supra*, was also an appeal from a decree advised by Advisory Master Child dismissing the wife's petition and granting the husband a divorce on the grounds of desertion. Upon reviewing the evidence this Court after adverting to the great weight given to finding of fact below concluded the Advisory Master's findings were justified. The primary question in the *Haviland* case was credibility and in commenting upon certain contradictions in the wife's testimony similar to those previously mentioned herein this Court said:

"It is not difficult to understand why the master believed the husband and not the wife."

The case of *Becker v. Becker, supra*, is also in point. There the question was one of corroboration. Although only one witness corroborated the husband's charge, Vice Chancellor Stein found in favor of the husband basing his conclusion on the fact that the wife's testimony was not worthy of credence and stated:

"Corroboration need not be the testimony of witnesses; it may be furnished

by surrounding circumstances adequately established." *Robinson v. Robinson*, 83 N. J. E. 150; *Rogers v. Rogers*, 89 N. J. E. 1; *Parmly v. Parmly*, 90 N. J. E. 490; *Meek v. Meek*, 92 N. J. E. 23."

The appellant contends that the respondent had not made proper efforts to terminate the breach between the parties. The rule applicable in this regard was stated by the late Chief Justice Gummere in *Hall v. Hall*, 60 N. J. E. 469 (E. & A. 1900) wherein he said:

"The husband is bound to make such advances and concessions only where there is reasonable ground to suppose that such action on his part will terminate the wife's desertion. Where it is manifest, from the circumstances under which the desertion took place, or from her temper and disposition, or from any other fact in the case, that honest effort on the husband's part to terminate the separation would be unavailing, or, if successful in bringing the desertion to an end, would be so only temporarily, the duty of making it does not exist."

Quoted with approval by this Court in *Laing v. Laing*, 110 N. J. E. 411 (1932).

The Advisory Master in the principal case found that the respondent had made sufficient efforts. The facts reviewed previously herein substantiate that finding. The language of this Court in the recent case of *Jarvie v. Jarvie*, 116 N. J. E. 46 (1934) is particularly applicable. In a brief *per curiam* opinion this Court said in part:

"Plainly, the wife was unwilling to meet the obligations of married life—in fact, she said so distinctly and in writing; and

if the husband's later letters grew cold and formal, the master was still fully justified in concluding that he had done all that a self-respecting man was required to do by way of inducement to return; and that further effort would be futile."

### Conclusion.

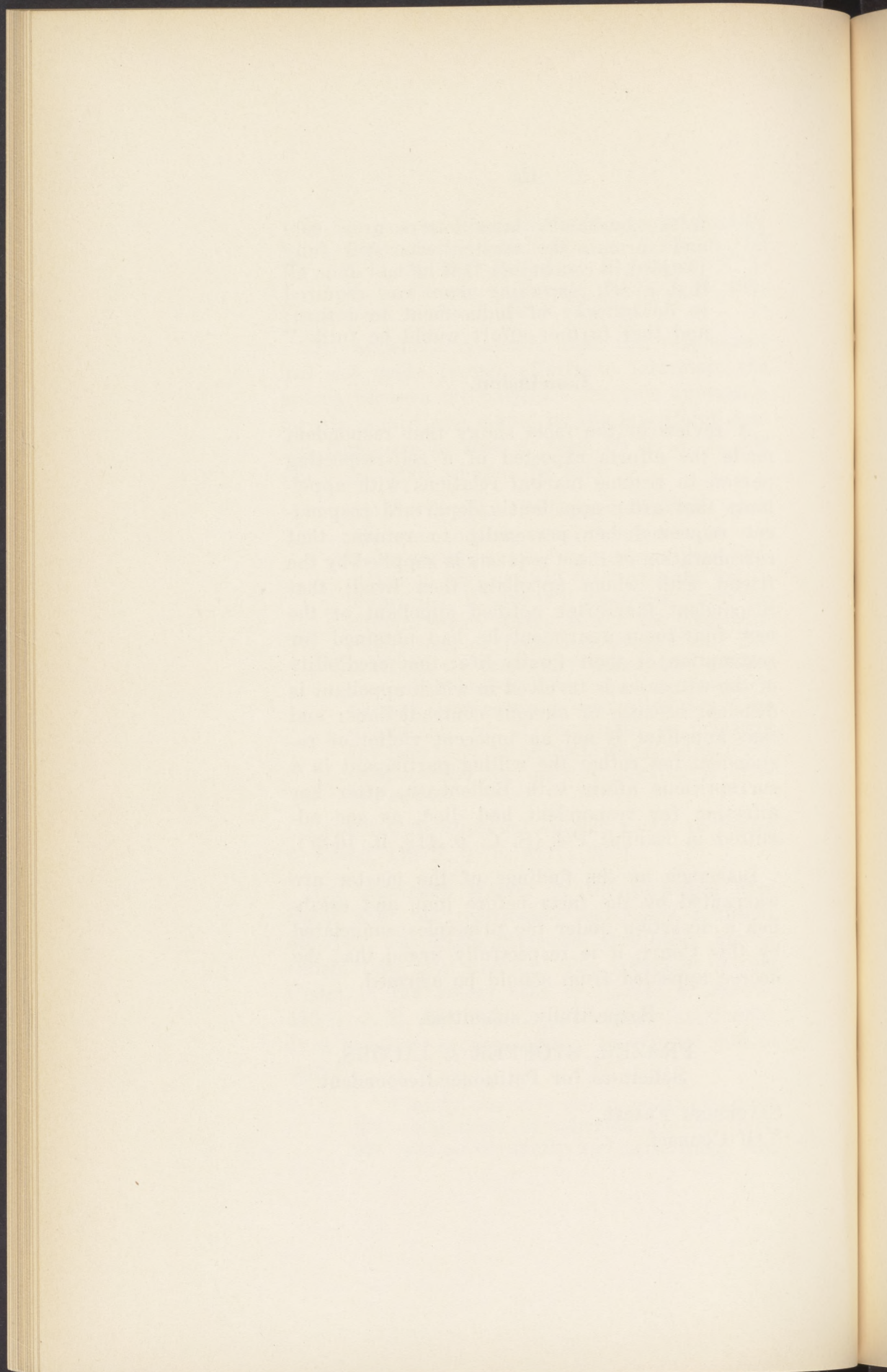
A review of the facts shows that respondent made the efforts expected of a self-respecting person to resume marital relations with appellant; that after appellant's departure respondent requested her personally to return; that corroboration of these requests is supplied by the friend with whom appellant then lived; that respondent thereafter notified appellant of the new four-room apartment he had obtained for resumption of their family life; that credibility of the witnesses is involved in which appellant is deficient because of obvious contradictions; and that appellant is not an innocent victim of respondent but rather the willing participant in a surreptitious affair with Bollenbach, after her affection for respondent had died, as she admitted in Exhibit P-4 (S. C. p. 118, ll. 16-37).

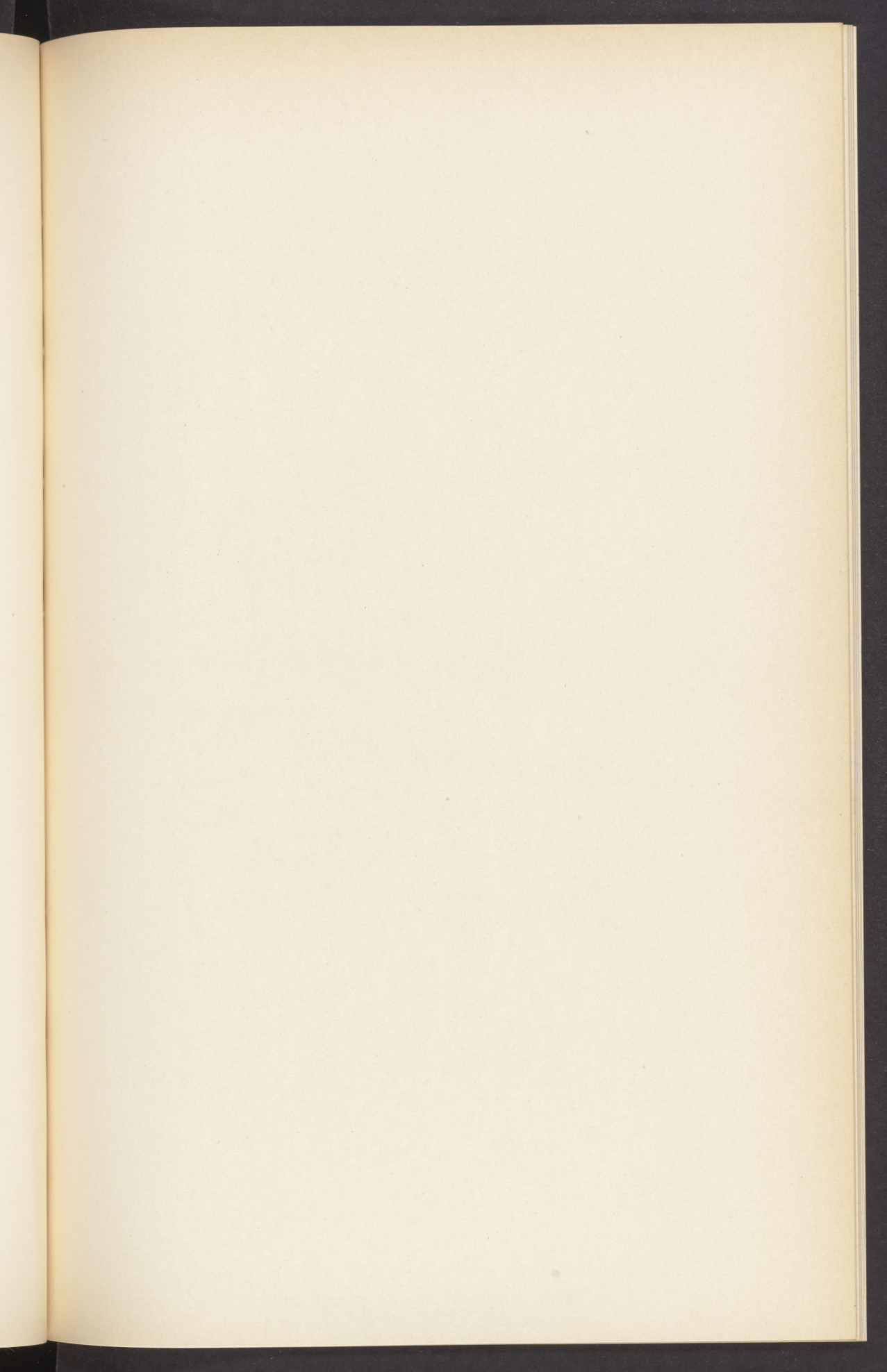
Inasmuch as the findings of the master are warranted by the facts before him, and establish a desertion under the principles enunciated by this Court, it is respectfully urged that the decree appealed from should be affirmed.

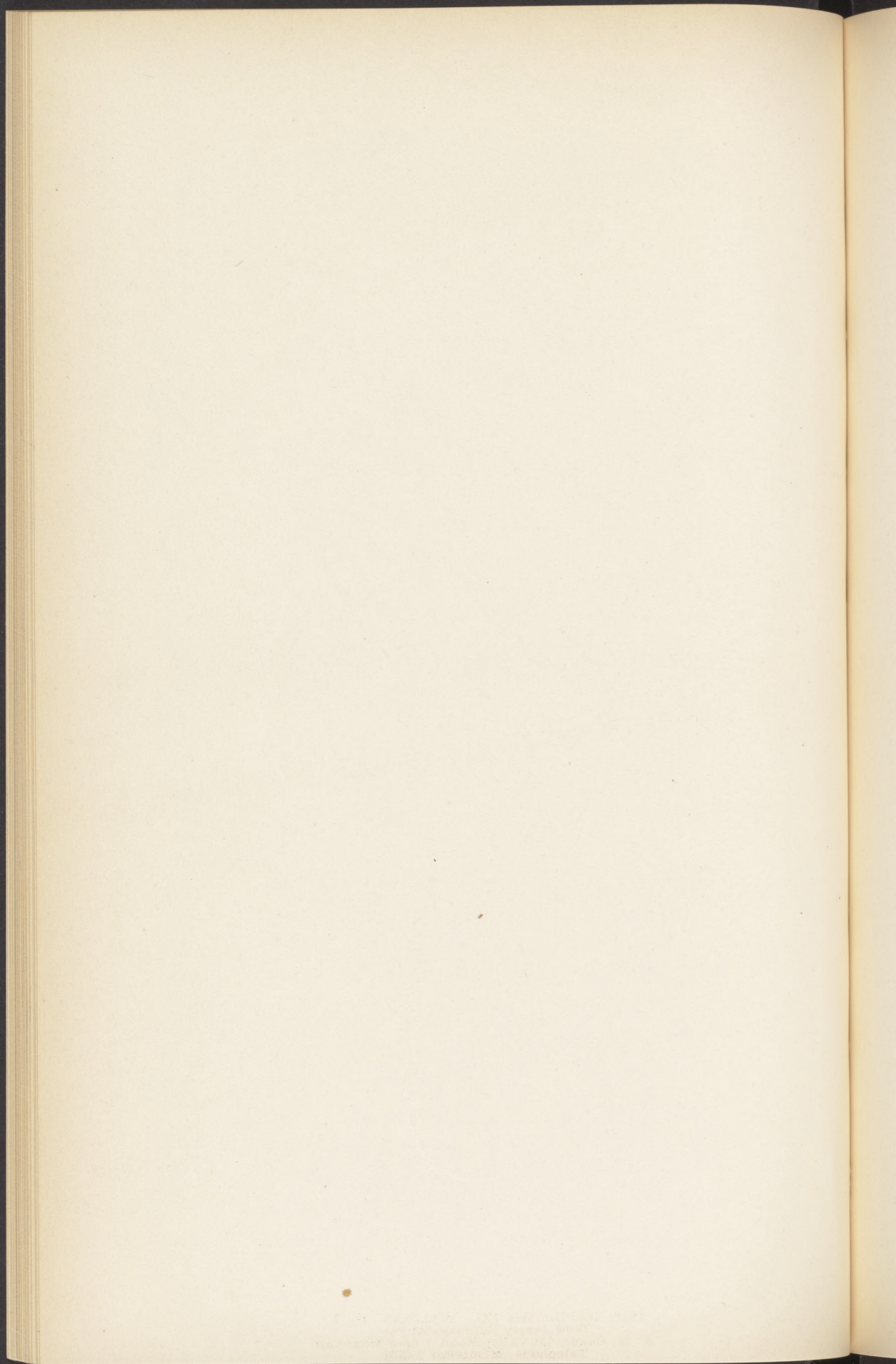
Respectfully submitted,

FRAZER, STOFFER & JACOBS,  
Solicitors for Petitioner-Respondent.

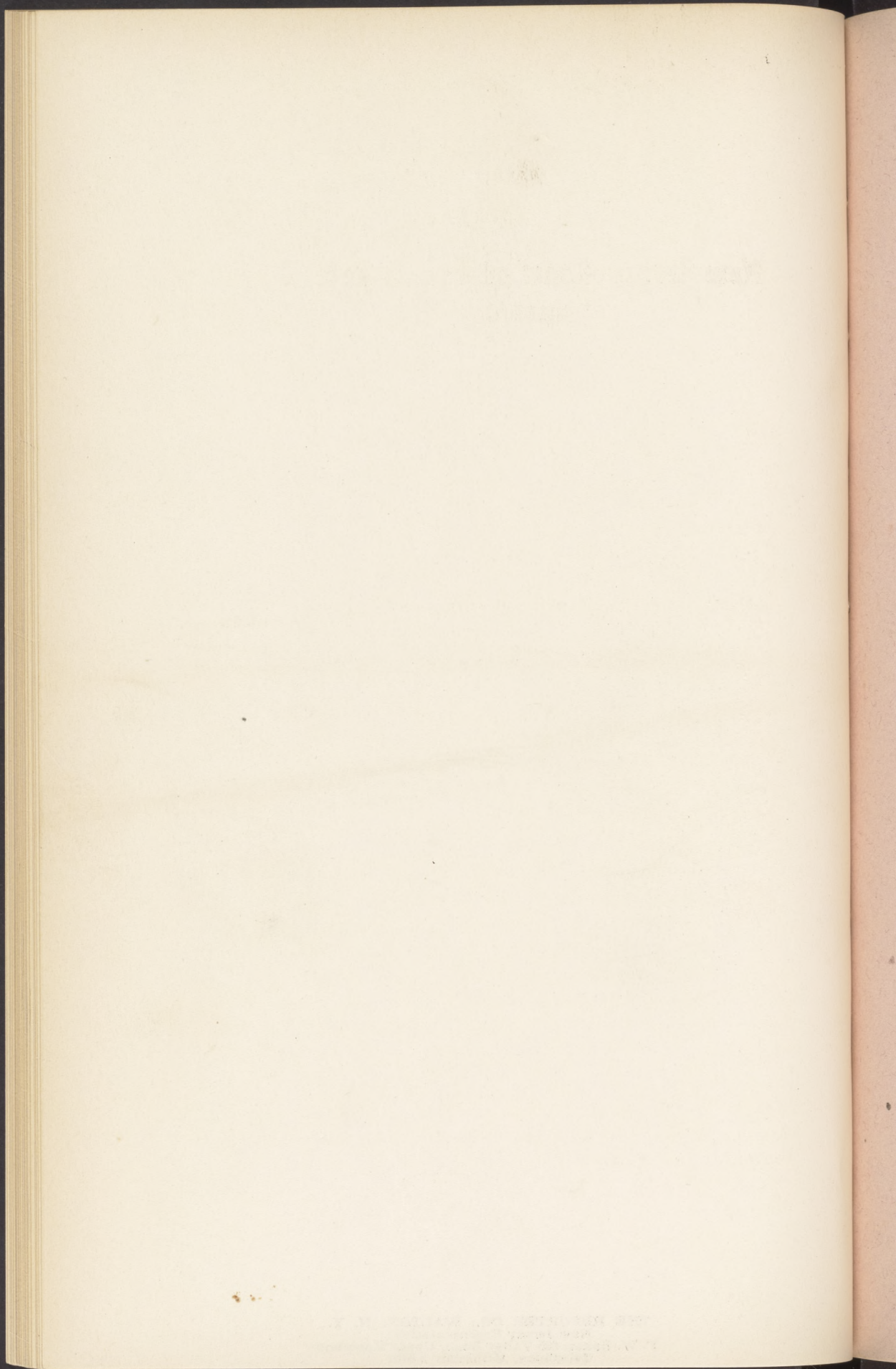
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